

Environmental Transactions

Sullivan & Cromwell provides industry-leading environmental expertise to highly sophisticated clients. The world's top companies, including leaders in the environmentally sensitive manufacturing, chemicals, petroleum and mining sectors, entrust their environmental work to the Firm.

S&C's Environmental Group combines deep knowledge of environmental law and market practice with the Firm's extensive corporate, litigation and finance capabilities. The Group tailors teams to meet clients' particular needs by drawing on lawyers from across Firm practice areas.

The full-service advice S&C offers includes:

- handling a broad array of environmental and toxic tort litigation under a variety of federal and state laws, foreign national and multinational regulations and international conventions;
- practical environmental advice in commercial transactions on risk analysis and reduction;
- negotiation strategies and developing effective protections and efficient cost-sharing structures;
- advising clients on managing environmental risk, compliance strategies for current and pending legislation, structuring relationships with corporate affiliates and developing environmental programs to minimize liabilities;
- assisting with indemnity and insurance issues;
- conducting negotiations with regulatory authorities to resolve environmental issues; and
- working with communities to develop sustainable approaches to natural resource use through innovative project financings.

SELECTED REPRESENTATIONS

Significant Sullivan & Cromwell multidisciplinary environmental matters include representations of:

Volkswagen AG, as lead counsel in numerous federal and state actions, including a multidistrict litigation in San Francisco, as well as regulatory investigations, regarding allegations that its diesel vehicles emitted nitrogen oxides in excess of the limits imposed by applicable U.S. law.

Fiat Chrysler Automobiles, in civil litigation and government investigations regarding its vehicle sales reporting methodologies and disclosures, and civil and government investigations related to emissions levels.

Also advised in connection with complex negotiations involving bankruptcy stakeholders, including the U.S. Treasury Department and current and retired union representatives, and the allocation of environmental liabilities to be assumed by New Chrysler and resolved in bankruptcy and related financing and subsequent representation of Chrysler with respect to asbestos-related bankruptcy and insurance issues and its IPO.

BP plc, in negotiating a global settlement with government authorities in the United States over the Deepwater Horizon oil spill in the Gulf of Mexico. The settlement structure provided BP with liquidity and the ability to return its focus to its core business. It further established a framework for U.S. global resolutions of all federal, state and local government

PRACTICES & CAPABILITIES

General Practice

Capital Markets

Commercial Real Estate

Corporate Governance

Credit & Leveraged Finance

Environmental, Social and Governance (ESG)

Environmental Transactions

Executive Compensation

Financial Services

Foreign Investments and Trade Regulations

Intellectual Property & Technology Transactions

Mergers & Acquisitions

Project Development & Finance

Restructuring

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environmental and economic damage claims. Also advised in connection with litigation, transactions/restructuring, insurance and securities disclosure in the wake of the 2010 Deepwater Horizon incident. Advising on liabilities, transactions, and securities disclosure and representation in multiple state and federal multidistrict litigation proceedings allowed for seamless, consistent and efficient representation with respect to the client's most significant liability challenges.

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Eastman Kodak, in its Chapter 11 restructuring including the resolution of legacy environmental liabilities, in part through sale transactions and a unique public/private economic development/environmental trust settlement. Tasks included negotiations with the U.S. Department of Justice, the U.S. Environmental Protection Agency, the New York Attorney General's Office, the New York Department of Environmental Protection and various private parties concerning claims resolution, bankruptcy procedures and motions, as well as advising Kodak with respect to ongoing compliance obligations.

Recent additional litigation matters include representations of:

Cytec Industries, in a years-long contract dispute concerning environmental liabilities arising out of Cytec's October 2012 sale to Allnex & Cy S.C.A. of its coating resins business for approximately \$1 billion.

ING, in connection with environmental, asbestos and other claims under a U.K. scheme of arrangement pertaining to one of its subsidiaries.

RPM International, in connection with asbestos-related bankruptcy filings by two of its subsidiaries and related claims by asbestos plaintiffs against RPM International as the parent. The case involved numerous complex liability estimation and other bankruptcy issues, as well as the appropriate application of Section 524(g) of the Bankruptcy Code.

John Crane, in asbestos indemnity and insurance litigation in Delaware, which resulted in the pro-policyholder decision by Vice Chancellor Leo E. Strine in *Viking Pump, Inc. v. Century Indemnity Co.*, 2009 WL 3297559 (Del. Ch. 2009).

JPMorgan Chase, in connection with the alleged assumption of environmental liabilities as a result of its acquisition of Washington Mutual.

CSR, in obtaining settlements totaling more than A\$280 million (approximately \$222 million) in asbestos insurance coverage litigation against more than 60 insurers worldwide.

First Manhattan, in a landmark Second Circuit decision holding that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) does not preempt state corporation law.

The Canadian government, as amicus curiae, in connection with the appeal by a Canadian company, Teck Cominco, to the U.S. Court of Appeals for the Ninth Circuit. Canada took the position that disputes concerning discharges by Teck Cominco in Canadian waters should be resolved at the sovereign level by Canada and the United States, rather than by a suit against Teck Cominco in the United States under CERCLA.

Andalex, in obtaining judgment in its favor in CERCLA litigation alleging Andalex's liability on alter ego and successor liability theories.

Inco, in connection with environmental claims against it at various sites, environmental coverage litigation and environmental indemnity litigation.

Mack Trucks, in connection with the litigation and settlement of EPA claims pertaining to alleged violations of engine exhaust emissions.

Recent significant S&C environmental transactional matters include representations of:

Bayer AG, in its acquisition of Monsanto Company with an enterprise value of \$66 billion. Our environmental review required intensive investigation, analysis and negotiation of complex and significant environmental liabilities in the context of a shifting transactional landscape. Upon closing, the transaction is expected to be transformational for Bayer, Monsanto and the agricultural sector in general.

S&C also represented **Bayer** in its sale to BASF SE of Bayer's glufosinate ammonium business, as well as Bayer's canola, cotton and soybean seed assets, for approximately \$7 billion in cash. These divestitures were part of Bayer's acquisition of Monsanto.

Cheniere Corpus Christi LNG, in the \$11.5 billion project financing of its LNG liquefaction project in Corpus Christi, Texas and on several subsequent Rule 144A/Reg S issuances of senior notes to prepay a portion of its debt related to the project.

The deal represents the largest single project financing in the United States and was named as "Americas Deal of the Year" by Project Finance International and "North America LNG Deal of the Year" by IJGlobal in 2015.

Enbridge, Inc., in its stock for stock acquisition of Spectra Energy Corp. valuing Spectra stock at approximately \$28 billion, to create the largest energy infrastructure company in North America and one of the largest globally, based on a pro-forma enterprise value of approximately \$127 billion.

Kinross Gold Corporation, on environmental matters related to the \$500,000,000 offering of its 4.50% senior notes due 2027. Toronto-based Kinross is one of the largest gold producers, with mines and projects in the United States, Brazil, Russia, Mauritania, Chile and Ghana.

Praxair, Inc., a leading global industrial gas company listed on the NYSE, in its \$80 billion merger with Linde AG, also a leading global industrial gas company listed on the Frankfurt Stock Exchange. This complex cross border transaction involved analysis of environmental issues concerning industrial gas manufacturing and refining plants located throughout the world on an accelerated, confidential basis.

Tesoro Corp. (now Andeavor), a leading U.S. independent refiner and marketer of petroleum products, in its \$6.4 billion acquisition of Western Refining Inc., a Texas-based crude oil refiner and marketer operating terminals, storage tanks, pipelines and other assets related to the transportation and storage of crude oil and refined products. Our work for Tesoro included the review and analysis of significant current and legacy environmental compliance issues and risks associated with petroleum sector assets and operations.

International Bank for Reconstruction and Development in issuing \$360 million in "catastrophe bonds" to provide Mexico with protection against financial losses from earthquakes, Atlantic- and Pacific-named storms.

Nippon Steel & Sumitomo Metal, in a joint venture with ArcelorMittal to acquire the ThyssenKrupp Steel USA facility in Calvert, Alabama, one of the most advanced steel processing facilities in the world, with production facilities that include hot rolling, cold rolling, coating and finishing lines. The acquisition involved highly complex permitting, compliance and facility separation issues.

Anglo American, in completing the sale of its iron ore operation in the

state of Amapá in northern Brazil to Zamin Ferrous.

Ares Management and Ontario Teachers' Pension Plan Board, in their acquisition of CPG International, a leading manufacturer of premium building materials for residential, commercial and industrial markets.