

Ports

Kelley Drye represents the legal interests of its port clients in a wide variety of transactions, litigation, policy, regulatory, and environmental matters.

About

We have significant experience in representing our port industry clients in environmental and land use. For almost 25 years, Kelley Drye's port industry team has provided creative counsel to help solve port clients' complex legal and business challenges.

Our significant experience representing port industry clients as outside counsel—and as “in-house” general counsel for more than 20 years—has given us tremendous insight into the issues impacting ports.

For two decades, our lawyers have been active members in the American Association of Port Authorities, the Gulf Ports Association, and state port associations, such as the Texas Ports Association and the Ports Association of Louisiana, so that we can better understand the business of ports.

We regularly present on matters impacting ports in fields including environmental, dredging and navigation, energy, insurance, trade and litigation. We have been representing ports in almost every conceivable transaction and dozens of litigation matters, ranging from condemnation and incredibly complex environmental matters down to simple breach of contract or personal injury matters. Through it all, we have endeavored to learn the business of our port clients so that we can better serve them.

Environmental and Land Use Matters

Experience

Representative Ports Litigation Experience

The attorneys at Kelley Drye have represented the interests of our port clients in significant litigation matters for decades, regularly achieving remarkable results. Here is a sampling of the types of matters we have litigated for our port clients.

Contaminated Sediments Litigation

Our lawyers represented a port client in litigation against a series of chemical companies seeking property damages, economic and navigational impacts, remediation and natural resource damages arising from a historical pesticides plant's contamination of the Port's waterways and dredge disposal areas with DDT, arsenic, chlordane, and a variety of hazardous substances. Following two years of intense litigation and a nine-month mediation, our lawyers were part of a team that recovered a settlement valued at over \$100 million for our client. Importantly, the settlement required the defendants to purchase hundreds of acres of contaminated land, construct a lined

dredge disposal facility, remediate DDT-impacted sediments, and dispose of and cap those contaminated sediments in the land they had purchased. Other features of the settlement paid the Port District tens of millions in lost revenues and increased costs caused by the impacted sediments and interference with navigation and commerce, provided indemnities to protect against future costs, and required the purchase of tail insurance to protect the port from future costs caused by the Defendants.

Historic Contamination of Port Properties

Following almost a decade of stalled litigation, we were brought in to prosecute or settle two separate cases for a California port stemming from World War II-era contamination from Lockheed Martin and General Dynamics. In short order, we were able to get the litigation back on track and quickly pivoted to a mediation footing. We were able to secure a tremendous settlement for our port client, including an agreement that the Defendants assume all responsibility to remediate the site, the Port's lands, and the sediments in the area, and protect the Port from all past and future economic impacts to dredging and navigation in the nearby waterbody.

Hydrocarbon Contamination

Kelley Drye's attorneys represented a Texas port in response to TCEQ's discovery of a mixed hydrocarbon plume releasing into the nearby bay adjacent to the port's docks. The port's slip had been used to transport crude oil and refined petroleum products since the 1920's. There were hundreds of active or abandoned pipelines running under the port's property to the docks in question. Many of the pipelines had been abandoned long before, and several were not located within the boundaries of the easements granted to the pipeline operators. When settlement negotiations failed, the port retained Kelley Drye attorneys to bring suit against six then-current pipeline operators in the area. Kelley Drye coordinated an extensive investigation of the lines in place and the characterization of the plumes of various refined hydrocarbons at the site and was able to identify the source of most if not all of the plumes. Following months of negotiation and mediation, the team was able to structure six individual confidential settlement agreements with each of the defendants (i.e., they did not know what the others were doing), which collectively: (1) paid all of the port's past and future costs and property damages sought in the matter; (2) paid the port tens of millions for the complete remediation of the mixed plume and for the construction of a containment wall around the south slip; (3) provided that one defendant assume the remediation of a discrete plume of gasoline and MTBE; and (4) with the excess funds recovered above all past and future remediation costs and damages, funded an Environmental Remediation Trust to cover future environmental matters at the port.

Ongoing PCB Contamination

Since 2015, we have served as counsel for a California port, in an action arising from PCB contamination polluting the port's waters and sediments against a major chemical company and its successors. In the litigation, the port has sought to abate the public nuisance created by PCBs, remove the impediments to navigation in the bay, and recover costs it has expended to address PCB contamination in and around the bay. Our lawyers drove this nationally significant litigation, ultimately encouraging the chemical company to resolve the port district's case together with similarly situated water districts, municipal governments and ports plagued by its long-lasting PCB contamination. The Port District's case is currently stayed as it evaluates settlement opportunities as part of the proposed \$550 million class settlement.

Texas Superfund Litigation

Our lawyers represented a Texas port in a matter that involved a tract of land owned by the Port and operated by an oil and gas company and its predecessors in interest since at least 1945. In this litigation, the oil company sought contribution under the Texas Superfund statute and injunctive relief under RCRA from several PRPs, including the federal government, for the World War II-era operations on the land, several operators of neighboring facilities and activities, and from the port. On behalf of our port client, we counterclaimed that the Plaintiff/oil company had assumed all responsibility for contamination of the Port's property in its lease and easement agreements and that Plaintiff had agreed to indemnify the port from the very claims it had asserted against the Port. This matter was successfully resolved during arbitration, with the Plaintiff assuming all responsibility for the site remediation and future remedial efforts stemming from the its operations and that of its predecessors.

Claims Assessment

Our lawyers have been retained by a South Texas port in confidential assessment of claims and potential impacts arising from a former tenant's operations.

Oil Spills and Petrochemical Contamination

Our lawyers were retained by an East Texas port in a confidential matter related to the investigation and resolution of matters related to contamination emanating from neighboring petrochemical facility. As a result of our work, the Port's interests were completely protected, the claims settled, and its costs were reimbursed, confidentially and without litigation being filed.

Related Services

Rail
Environmental Litigation

Contacts

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