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EXPERTISE

Class Action Litigation, Environmental Law, Natural Resources, Oil & Gas Industry, and Toxic Tort Litigation

EDUCATION

University of Colorado School of Law, J.D. *Order of the Coif*, 1999

University of Wyoming, M.S., 1990

Cornell University, B.A., 1986

ADMITTED IN

Colorado

Adam Cohen assists the clients of Davis Graham & Stubbs LLP with matters involving hazardous substances and hazardous wastes, mining impacts, water quality, natural resource damages, and other environmental concerns. His practice focuses on: environmental litigation, including toxic tort, personal injury, property damage, and CERCLA or "Superfund" cases; defending clients in administrative enforcement proceedings, including water quality and hazardous waste management proceedings; environmental due diligence in association with corporate and real estate transactions; and working long-term with clients facing complex compliance questions or problems associated with environmental statutes, regulations, and administrative proceedings. Mr. Cohen has over 20 years of experience in environmental litigation and administrative practice involving CERCLA, RCRA, the Clean Water Act, state environmental laws, and toxic torts. He defends clients in federal and state courts and administrative proceedings by and against government entities and private parties. Beyond litigation, Mr. Cohen specializes in working with clients responsible for implementing CERCLA cleanups and negotiating administrative settlements and consent decrees. His technical background makes him particularly adept at working with scientific experts and consultants in litigation and devising cost-effective remedial investigations and cleanup strategies.

Working with other DGS attorneys, Mr. Cohen recently tried a CERCLA contribution case in federal district court

in Montana, obtaining a highly favorable allocation award for the firm's client, and successfully defended a toxic tort jury trial in Nevada, receiving a complete defense verdict. He helped obtain dismissals and significant costs awards or highly favorable settlements in nearly 30 environmental class action, property damages, and personal injury lawsuits within the past 15 years. He was a key player on trial teams that: litigated an environmental contamination case in tribal court; successfully defended two large class action lawsuits alleging damages to residential neighborhoods in Denver and Colorado Springs from contamination of groundwater and indoor air; obtained summary judgment dismissing a lawsuit seeking damages for a major groundwater cleanup effort; successfully defended approximately 20 related lawsuits alleging personal injury due to environmental exposure to cleaning solvents (all cases dismissed); and obtained summary judgment dismissing a lawsuit alleging liability for municipality's groundwater treatment costs.

Through this litigation, he has developed particular expertise in defending claims alleging environmental harm and personal injury due to groundwater contamination from releases of chlorinated solvents and petroleum products. He is also working on cleanup projects at several abandoned hard-rock mining sites, some of which involve litigation under the federal Superfund law or its state equivalent. In connection with this litigation, as well as at other sites where litigation has not occurred, Mr. Cohen works with clients to facilitate

compliance with administrative cleanup requirements relating to groundwater, soil, indoor air, and hazardous waste and to monitor the progress of site remediation activities under state and federal administrative orders. He has helped clients assess the need for and obtain environmental liability insurance coverage and insurance recoveries where environmental remediation costs have been incurred. He has also worked to establish site-specific water quality standards that were incorporated into industrial and mine-site effluent discharge permits; obtain administrative approval of plans for soil and groundwater cleanup projects under Colorado's voluntary cleanup statute; and complete remediation efforts at several leaking underground storage tank (LUST) sites (in Colorado, Indiana, New Jersey, and Florida) under state oversight.

Mr. Cohen's current practice focuses primarily on mine site cleanups, CERCLA enforcement and CERCLA litigation, and remediation oversight and compliance. Mr. Cohen has successfully negotiated numerous CERCLA consent orders, consent decrees, and settlements with state and federal environmental agencies; and he works closely with his clients and their environmental consultants and engineers in developing cost-effective site investigations, response actions, and compliance strategies.

Mr. Cohen also has counseled a number of the firm's clients on Clean Water Act and hazardous waste permitting and compliance matters, including enforcement proceedings involving oil and gas sites, residential construction sites, utility installations, and industrial facilities. Mr. Cohen is familiar with the major environmental regulatory programs, having spoken on these topics and participated the stakeholder engagement process. He has also performed field audits of clients' facilities to identify potential deficiencies in their stormwater and waste management practices.

Mr. Cohen received his B.A. in Biological Science from Cornell University and his M.S. in Environmental Toxicology from the University of Wyoming. Prior to law school, Mr. Cohen spent seven years working as an environmental consultant with a national firm's office in Fort Collins, Colorado. His areas of expertise included ecological risk assessment, aquatic toxicology, derivation of water quality standards, and spill-related emergency response. His technical background makes him particularly adept at working with scientific experts and

consultants in litigation and devising cost-effective remedial investigations and cleanup strategies.

Mr. Cohen is a member of the American Bar Association Environmental and Litigation Sections, as well as the Colorado Bar Association Environmental Law Section.

PUBLISHED ARTICLES & PRESENTATIONS

- The Role of Indian Tribes In Recovering Natural Resource Damages Under CERCLA and the Oil Pollution Act
- The Rio Tinto Mine Site, Elko County, Nevada: A CERCLA Case Study
- Stormwater Permitting Update
- Navigating Post-Spill Enforcement Actions by COGCC and CDPHE
- Some Remediation Costs Deductible
- Cleaning Up: IRS Decisions Offer Financial Incentives for Environmental Remediation
- Total Maximum Daily Load under the Clean Water Act
- Ninth Circuit Excludes Passive Soil Migration from Definition of "Disposal" Under CERCLA
- Stormwater Permitting and Compliance in Colorado: Considerations for Construction Companies and Real Estate Developers