BROWNFIELDS AND BUSINESS TRANSACTIONS

Long before brownfields became a hot topic, McGuireWoods was involved in the cleanup and redevelopment of contaminated sites using the existing regulatory programs and creative private contracting mechanisms. We have also been instrumental in developing state remedial standards based on actual site risks, and in implementing these in government orders and remediation programs. In recent years, we have used developer-friendly state voluntary remediation programs and EPA brownfields initiatives to assist our clients in developing contaminated sites across the country.

Deep Federal and State Specific Experience

Many of the redevelopment opportunities available to developers are on brownfields that fall within the purview of state programs, and those sites remediated under federal law are still subject to a number of state laws. While we have worked across the country on brownfield sites on a federal and state level, we have notable experience in a number of states including Alabama, California, Georgia, Florida, Illinois, Maryland, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia. We have also assisted clients in redeveloping sites subject to corrective action under the Resource Conservation and Recovery Act (RCRA) as well as Superfund sites under the Comprehensive Response, Compensation and Liability Act (CERCLA).

Remediation Strategies

We use our combined land use and environmental experience to assist in adapting the remedial approach to the most favorable development plan for a contaminated site, including extensive experience in sustainable development. We also assist our clients in balancing the present benefit of institutional and land use controls in saving development dollars with the long-term impact of such development restrictions.

We also bring long experience in real estate and environmental transactions by identifying and resolving the liability risks for owners, tenants, contractors and lenders. Although a government agency may issue a letter stating that no further remedial action is required, contamination may remain that could result in substantial disposal costs when excavated, or even present liability for a current or future owner. We understand these development issues and can help clients avoid pitfalls. Our experience includes all aspects of the negotiation of risk allocation for liability for contamination. We have used environmental insurance in many instances as a mechanism for addressing lingering risks.

Financing Remediation and Redevelopment

We bring the ability to seek unique financial resources to support development of brownfields. We work with clients to evaluate the numerous state and federal grants, loans and tax incentives to finance brownfields investigation and remediation. In addition, our experience in municipal finance allows us to work with municipalities and other local entities to use standard development financing tools, including tax-increment financing, special service areas, and special-use districts to redevelop brownfields sites, either as stand-alone projects or as part of larger redevelopment initiatives. In addition, our financial services practice allows us to draw on years of experience in addressing the concerns of lenders regarding environmental risks.

Environmental Aspects of Transactions

Environmental issues have become one of the major components in business and real estate transactions. Whether the concern is the assumption of past liability in the purchase of stock of a company or the mechanics of remediation after closing a real estate transaction, our environmental team has significant depth in these matters and other complex issues. We not only assist in identifying the issues, but we also guide clients in resolving them in a manner that protects our clients and allows realization of the ultimate goal of closing the transaction.

We represent sellers, purchasers, landlords, tenants and lenders in all aspects of due diligence and addressing liability issues. Our lawyers focus on providing value via environmental experience, as well as a thorough understanding of business and real estate transactions.