



pillsbury

Environmental

Uncompromising Excellence

The Pillsbury Difference

Leading Lawyers, Focused Experience

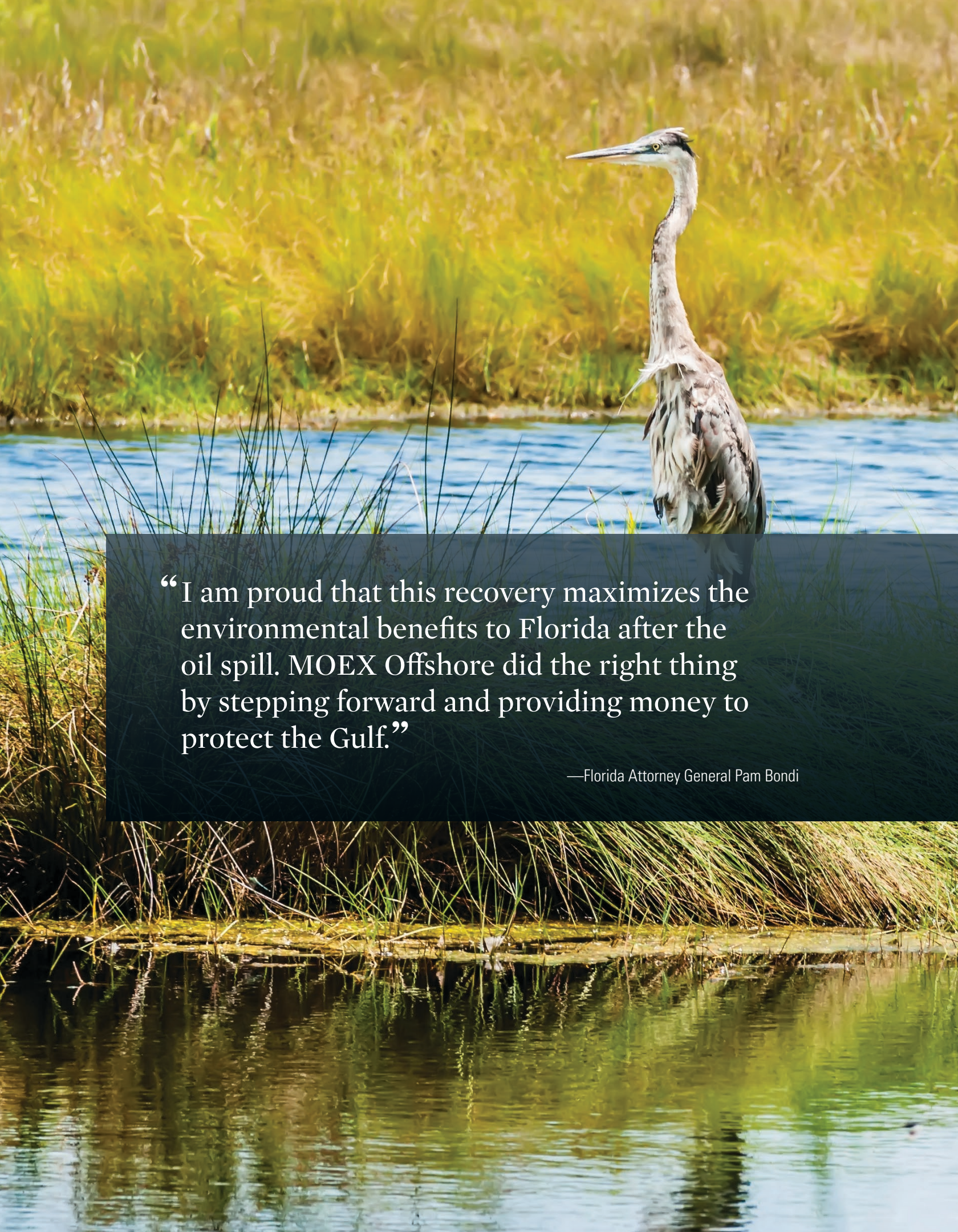
Pillsbury has had a preeminent environmental practice since the birth of environmental law itself, experience that pays dividends to clients seeking to control compliance costs, manage litigation risk or speed regulatory approvals. Our lawyers are leaders in environmental law, as measured by legal ranking guides like *Chambers* and *Best of the Best*. With a team of 40 lawyers working full-time on environmental matters, Pillsbury is home to one of the largest dedicated environmental practices in the United States. Our lawyers combine high-level perspective with focused insight into specific legal issues, from best practices for navigating renewable energy project approvals to preparing toxic tort litigation defense (with a litigation team that has handled hundreds of such cases).

Successful Outcomes in High-Stakes Scenarios

Environmental liabilities are among the highest potential costs facing many businesses. Pillsbury has a track record of success helping clients assess risk and navigate transactional, regulatory and litigation scenarios involving significant liabilities and novel legal issues. We are a leading advisor on such issues as air emission and water discharge, climate change, hazardous waste management, Superfund, toxic tort, endangered species and environmental impact analysis.

Global Reach

Pillsbury's Environmental team is based in the United States' most active environmental law centers: Washington, DC, California and Texas, and has longstanding relationships with local law firms in other states and around the world. These resources and relations allow us to advise on multijurisdictional issues anywhere in the world, creating efficiencies for our clients that scale with the size and complexity of their cross-border matters.



“I am proud that this recovery maximizes the environmental benefits to Florida after the oil spill. MOEX Offshore did the right thing by stepping forward and providing money to protect the Gulf.”

—Florida Attorney General Pam Bondi

Client:	MOEX Offshore 2007 LLC (subsidiary of Mitsui Oil Exploration)
Industry:	Energy
Area of Law:	Environmental
Matters and Advisements:	Implemented Supplemental Environmental Projects (SEPs) required under Macondo Well settlement by identifying, acquiring and delivering to environmental custodians \$20 million worth of environmentally sensitive real estate parcels

MOEX Offshore 2007 LLC

Maximizing Environmental Benefits in the Gulf

Finding the silver lining in the aftermath of the 2010 Deepwater Horizon oil spill in the Gulf of Mexico is difficult. But for one Pillsbury client that incurred liability, a novel solution was developed to benefit several Gulf states and advance the region's environmental recovery.

MOEX Offshore 2007 LLC (MOEX Offshore), a 10 percent non-operating investor in the lease on the Macondo Well, became the first defendant to resolve Clean Water Act (CWA) claims from the disaster when it entered into an \$80 million settlement with state and federal regulators last year. At the time, the settlement was the largest ever under the CWA, but it was soon eclipsed by the \$1 billion penalty paid by Transocean.

Unlike Transocean, the MOEX Offshore's settlement allowed it to conduct "Supplemental Environmental Projects" (SEPs) in lieu of penalties. MOEX Offshore agreed to fund the acquisition for permanent conservation of \$20 million worth of real property containing ecologically significant habitat in the states affected by the spill that participated in the settlement. The client turned to Pillsbury first to negotiate the settlement, then to draw on its combination of environmental and real estate expertise in order to quickly execute the SEPs.

With the completion of an acquisition of a significant portion of Cat Island, Mississippi, and the conveyance of the parcel into state ownership, MOEX Offshore satisfied the last of its SEP obligations under the settlement. All told, MOEX Offshore bought and delivered to environmental custodians some 15,399 acres. In addition to the Cat Island acquisition, the company funded, and the Pillsbury team closed, five other transactions in Louisiana, Texas and Florida.

One of the Texas properties, known as Big Tree Ranch, is considered a critical habitat for endangered whooping cranes that spend the winter near the South Texas coast. MOEX Offshore paid approximately \$2 million for the 78-acre parcel and deeded it over to Texas Parks and Wildlife.

“A California state appeals court on Friday upheld a lower court’s decision greenlighting the California State Lands Commission’s approval of Chevron USA Inc.’s 30-year lease renewal.”

—Law360



Client:	Chevron USA Inc.
Industry:	Energy
Areas of Law:	Environmental, regulatory
Matters and Advisements:	Resolved regulatory and citizen challenges to a lease extension on a San Francisco Bay Area oil terminal, a vital component of Chevron's U.S. operations

Chevron USA Inc.

Continuing 100 Years of Investment in the San Francisco Bay Area


Covering 1,600 square miles in Northern California, the San Francisco Bay is the largest Pacific estuary in the Americas and an unparalleled environmental, aesthetic and economic treasure. Maintaining any commercial presence on the Bay must therefore take into account the region's strict environmental laws and concerned environmental activists.

When Chevron USA faced a challenge in renewing the lease on a vital bayside marine terminal, the company turned to Pillsbury for its command of litigation involving the California Environmental Quality Act (CEQA) and the Public Trust Doctrine. Chevron uses the marine terminal for deep-water docking of ships that off-load crude oil for processing and take on refined products for transportation to domestic and international markets. The terminal has been operated on the Bay since at least 1905 by Chevron and its predecessor, the Standard Oil Co., and received a major seismic upgrade in 2004.

This long history meant that the terminal existed decades before CEQA passed in 1970. Thus, when Chevron sought to renew its lease with the state, the State Lands Commission had to consider the first-ever CEQA analysis of a preexisting property. After closely examining the environmental impact of the operations under current conditions, the Commission approved a new lease.

Environmental activists still sued, however, arguing that the analysis should have compared the impact of the terminal operations versus no terminal operations, conditions that haven't existed in more than 100 years. That argument was rejected in every court in favor of the position advocated by Pillsbury.

"The Lands Commission and Chevron maintain the California Supreme Court has made it clear the baseline for a CEQA analysis must reflect current conditions at a project site, and the baseline selected by the commission was both legally proper and supported by substantial evidence," wrote the state appellate panel. "We agree with the Lands Commission and Chevron." The court also rejected all challenges under the Public Trust Doctrine, finding the terminal an appropriate public trust use.



“Pillsbury delivered an excellent result for us in this case. The team did a superior job researching and briefing numerous complex legal issues and their attention to detail, superb witness preparation and overall resolve in this protracted litigation made the difference.”

—Matthew A. Sokol, Chemtura's Associate General Counsel

Client:	Chemtura
Industry:	Chemicals
Areas of Law:	Environmental, contracts
Matters and Advisements:	The plaintiff was awarded only \$1.6 million of the \$30.6 million sought

Chemtura


Neutralizing a \$30 Million Risk in the Damages Phase

One challenge in environmental litigation is marshaling complex technical evidence in support of legal defenses to chart a path to success. That was the dilemma for our client Chemtura, successor-in-interest to the seller of an oil refinery in Bakersfield, California.

Tricor Refining LLC sued Chemtura, claiming that Chemtura had breached an environmental agreement relating to the former Golden Bear Refinery. Tricor was the assignee under the contract and stood in the shoes of the company that had purchased the refinery from Chemtura. Tricor alleged that Chemtura had failed to obtain a “no further action” (NFA) letter as required by the contract and was therefore liable for damages equal to the cost of environmental remediation to the point where an NFA letter could be obtained from the appropriate government environmental agency. Following Phase I of a bifurcated trial on liability, Tricor elected to recover damages in lieu of specific performance of the contract.

Tricor claimed that it would cost more than \$30 million to sufficiently evaluate and remediate the refinery site. With prejudgment interest, Tricor’s damages claim exceeded \$50 million. To rebut these claims, Chemtura drew upon Pillsbury’s deep understanding of federal and state environmental laws, regulations and protocols, as well as the support of a highly qualified expert witness.

Evidence presented by Pillsbury showed that existing site data was sufficient for a human health risk assessment and that the specific corrective actions identified by Chemtura’s expert, based on the risk assessment, would be sufficient to support issuance of an NFA letter. That cost was a small fraction of what Tricor claimed was necessary. Tricor’s proposed remediation plan was held to be “excessive and unnecessary,” with the judge trimming Tricor’s \$30 million request down to the \$1.6 million that Chemtura’s expert said was necessary.

An aerial photograph of a wastewater treatment plant. The image shows several large, circular concrete clarifiers filled with dark water. A central concrete walkway with a metal railing runs between the clarifiers. The surrounding area is grassy with some low-lying vegetation and a black metal fence. The lighting suggests a bright, sunny day.

“Our Pillsbury lawyers vigorously advocated our position through all stages of NACWA’s effort to fix this flawed and unnecessarily expensive regulatory burden on the nation’s municipal clean water agencies.”

—Nathan Gardner-Andrews, General Counsel of the National Association of Clean Water Agencies

Client:	National Association of Clean Water Agencies
Industry:	Municipal sanitation
Areas of Law:	Environmental, Clean Air Act
Matters and Advisements:	The court remanded the air quality standards to EPA for reconsideration

National Association of Clean Water Agencies: Rolling Back Federal Regulatory Overreach

In 2011, the U.S. Environmental Protection Agency (EPA) promulgated stringent new standards under the Clean Air Act setting the maximum amounts of certain emissions that publicly owned water treatment facilities could discharge into the air when incinerating sewage sludge. Seeing the standards as flawed and inadequately supported, the National Association of Clean Water Agencies (NACWA) retained Pillsbury to fight back on behalf of the nation's municipal clean water agencies, whose interests NACWA represents.

Among other challenges to the rule, Pillsbury argued that EPA failed to set standards as required by the statute when the agency used data from an insufficient number of incinerators and did not take variation in sewage sludge content into consideration. The firm's attorneys represented NACWA from the outset through the duration of the controversy, which included rulemaking comments, suing EPA over the flawed rule, pursuing a petition for reconsideration, lobbying EPA at several stages, a motion for stay of the final rule, merits briefing and then oral argument.

In August 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued a unanimous opinion in favor of NACWA. The three-judge panel concurred with Pillsbury's arguments about EPA's lack of technical support for the standards and remanded the rule to EPA for reconsideration. The result was an important victory for NACWA and its members.

Capabilities

Litigation & Enforcement

We represent individuals, companies and other entities in civil, criminal and administrative cases under all of the major federal environmental statutes. Our partners have substantial experience litigating highly complex groundwater and airborne emission issues, as well as Superfund, cost recovery, divisibility, enforcement and mandamus cases. For cases that demand an appeals process, we are one of the few firms with an appellate team with experience under virtually every federal environmental statute.

Industrial Permitting and Regulatory Compliance

Among the primary focuses of our Environmental practice is legal and regulatory compliance. Much of this work involves assisting industrial clients in obtaining, renewing and complying with permits and regulatory requirements for facility construction and operation. Our industry experience covers the full spectrum of environmental regulation—including air and water quality, hazardous waste, and endangered species—for some of the world's most heavily regulated industries, such as oil and gas production, refining, transport and marketing, power generation, transportation, automobile and consumer product manufacturing, mining and waste management.

Crisis Management

Clients rely on us to manage the legal aspects of a corporate crisis, including initial crisis response, release reporting, incident investigation, and representing clients in subsequent enforcement by federal and state agencies and civil litigation by affected parties. We frequently help clients with their response to major accidents such as release of hazardous substances, fires, explosions and worker fatalities. We are experienced in managing simultaneous reviews by multiple regulatory agencies and have helped clients respond to investigations by the FBI, EPA, NTSB, DOT/PHMSA, OSHA, FAA, DOI, the Chemical Safety Board, Nuclear Regulatory Commission and numerous state regulatory agencies.

Rulemaking & Public Policy

Pillsbury is active in rulemaking and administrative proceedings before the EPA, NRC, FAA and other federal, state and local administrative bodies. We help clients prepare advocacy documents on proposed air emissions, water discharges, hazardous and toxic substance, and nuclear regulations. Our lawyers assist in developing and presenting positions to Congress and state legislatures and advise governments on the development of environmental legislation and standards. Pillsbury's experience covers the 1990 Clean Air Act amendments, Toxic Substances Control Act amendments, Endangered Species Act endangerment proposals and work on the California programs on climate change. We have related experience representing trade associations and individual companies in federal court litigation.

Land Use, Natural Resources & Real Estate

We represent developers, lenders, investors and public authorities in dealing with land use laws affecting planning and zoning, environmental impact review, the coastal zone, wetlands, timber lands, solid and municipal waste, public lands and endangered species. We are experienced in brownfields development projects including unexploded ordinance properties, infrastructure financing and development for projects including offshore oil and gas development, oil refineries, power plants, pipelines, transmission lines, resource recovery and waste facilities, mines and quarries, airports, office buildings, shopping centers, residential subdivisions, college campuses, and transportation and transit systems. Our land planning experience includes watershed planning and Total Maximum Daily Loads for large watersheds, bays and estuaries under the federal Clean Water Act, as well as Habitat Conservation Plans under the federal and state Endangered Species Acts.

Water Resources

Pillsbury lawyers advise on securing, managing and transferring water rights and in resolving conflicts over access to water supplies through regulatory proceedings, litigation and transactions. For municipalities, our lawyers advise on specific statutes like the Safe Drinking Water Act and on resolving water-related conflicts and embedding water considerations into long-term planning. For desalination projects, we offer experience in the legal areas critical to the success of a desal project: project finance, environmental law, construction and energy regulation. Real estate and industrial clients turn to Pillsbury for advice on adapting development projects to a locality's water-use statutes and obtaining reliable water sources, and for our experience shepherding development proposals through state and local regulatory review. We also have extensive experience advising on wetlands regulation and the design, operation and maintenance of wetlands mitigation banks and related conservation tools.

Climate Change & Sustainability

Pillsbury was one of the first law firms to form a dedicated Climate Change & Sustainability practice, working from firm offices in the policy and industry centers of Washington, DC, California and Texas. The group's attorneys enjoy strong national and international reputations for our work on the most critical issues driving climate change policy. Some of our attorneys have served as top officials in the EPA, NOAA and the Departments of Justice and the Interior, and have negotiated international climate treaties, served in Congress, and forged relationships as lobbyists.

Compliance Programs & Management Systems

We facilitate the design and implementation of environmental compliance programs at state, federal and international levels. We also work with clients to evaluate the strength of their environmental, health and safety culture and implement recommendations regarding corporate oversight of their environmental, health and safety performance. Our audit advice identifies areas of potential benefit, achieving full legal compliance with a minimum of cost. In addition, we have extensive experience in deployment of integrated environmental, health and safety management systems. We have registered more than 30 industrial installations in Europe, North America and Asia to the ISO 14001, BSI 7750 and IS 310 environmental management system standards.

Chemical & Biotechnology Regulation

We assist businesses that produce chemical and biotechnology products in managing regulatory obligations and achieving business objectives. Our lawyers advise on the Toxic Substances Control Act, counseling on everything from premanufacture notification review to negotiation of agreements and consent orders. We also help manage requirements under the Federal Insecticide, Fungicide and Rodenticide Act; the federal Food, Drug and Cosmetic Act; the Toxics Release Inventory Program; the Persistent Bioaccumulative and Toxic Chemical Program; and the Children's Health Chemical Testing Program.

Distinguishing Experience

- A primary outside law firm to Chevron Corporation and other Fortune 100 companies for 30 years, advising on all aspects of environmental law and designing one of the first environmental compliance programs.
- Handling half of all current applications to the Nuclear Regulatory Commission, covering all aspects of nuclear power generation licensing and nuclear power plant siting.
- General Counsel to the Western States Petroleum Association (WSPA), advising on all environmental, public policy and climate change issues affecting the oil and gas industry in the Western United States.
- Counsel to the San Francisco Bay Area Rapid Transit District since its formation in 1957, advising on the environmental review of each of its major infrastructure expansion projects.
- Represented the American Forest and Paper Association in a successful challenge to EPA's revised nitrogen oxides New Source Performance Standards for industrial, commercial and institutional steam-generating units.
- Litigated hundreds of toxic tort, CERCLA, Clean Water Act and other cost-recovery actions representing billions of dollars in potential liabilities.
- Advised companies, associations and governments on more than 100 climate change matters.
- Lead counsel to a major water district in the Southwestern United States for 20 years, recently securing a landmark permit from the State Water Resources Control Board that required negotiations with local governments, other water districts and environmental groups.
- Conducted internal investigations of, and offered compliance support for, safety culture and safety management systems attendant to accidents and events including hazardous substance releases, fires, and transportation failures resulting in worker fatalities, whistleblower complaints and government investigations.
- In the landmark case *American Trucking Associations v. Browner*, Pillsbury lawyers led the first successful challenge to EPA's national ambient air quality standard for particulate matter and played a leading role in challenging ozone standards, on behalf of a consortium representing almost all of U.S. industry.

RECOGNIZED INDUSTRY LEADERS

Pillsbury is home to two of the world's Top 25 Environment lawyers, according to *Euromoney's* 2013 Best of the Best.

“Environmental Law Firm of the Year”

—US News and Best Lawyers

ONLY AT PILLSBURY

Oil & Gas Environmental Working Group

Simply staying current can be a major challenge for environmental attorneys and technical/managerial environmental professionals who are laboring on urgent matters in several states.

Pillsbury administers an Oil & Gas Environmental Working Group designed for in-house legal, technical and managerial environmental professionals who focus on issues affecting the upstream and midstream segments of the onshore oil and gas industry. The Working Group is designed to help you synthesize the voluminous amount of environmental information that now comes from many sources, including federal and state environmental legislation, regulations, judicial developments and benchmark issues.

DEPTH OF EXPERIENCE

Nearly 100 Pillsbury lawyers firmwide have served at federal regulatory agencies, including those overseeing environmental regulation:

- Environmental Protection Agency
- Department of Energy
- Department of the Interior
- Department of Justice
- Federal Energy Regulatory Commission
- National Oceanic & Atmospheric Administration

ABOUT PILLSBURY

Pillsbury Winthrop Shaw Pittman LLP is an international law firm with offices around the world, and a particular focus on the technology, energy & natural resources, financial services, real estate & construction, and travel & hospitality sectors. Recognized by legal research firm BTI as one of the top 20 firms for client service, Pillsbury and its lawyers are highly regarded for their forward-thinking approach, their enthusiasm for collaborating across disciplines and their unsurpassed commercial awareness.

LEARN MORE

For more information about our Environmental practice and other services, please visit us at pillsburylaw.com/enviro.

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“A fantastic firm—we were very happy with their work.”

“A super-strong environmental firm.” —*Chambers* 2013

“... exceptional in all areas”

“... the ability to take a global view on all aspects of potentially significant claims” —*Legal 500* 2013

“Professional, polished, timely. You feel like you are their number-one client when you are working with them.”

“They are extremely familiar with the oil and gas industry and have a very strong practice group in this area.” —*Chambers* 2012

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