

Litigation Support



SERVICES/ AREAS OF EXPERIENCE

Expert Witness
Data Reduction Analysis
Discharge Permitting

Technical Support
Cost Allocation and Recovery
Contaminant Hydrogeology

Third Party Review
Hazardous Waste Management
Water Quality Analysis

MSE staff members have provided expert witness services, litigation support and assisted legal counsel with document review, disclosure, discovery, and deposition preparation according to Rule 26 of the Federal Rules of Civil Procedure. MSE professionals have provided expert and fact witness opinions and testimony for many cases involving contamination of surface water, groundwater and air from a wide variety of sources. In addition, MSE has assisted in responses to interrogatories, requests for production and admission, preparation of trial exhibits, and private cost recovery actions on behalf of our clients. MSE offers technical assistance for cases involving chemical releases associated with property transactions, affected landowners and insurance claims. Many of our litigation support projects have involved calculation of environmental damages and development of cost allocation models based on timing and location of contaminant releases, costs of remedial effort for individual contaminants, and the relative quantity and toxicity of contamination from various sources. Through these experiences, MSE professionals have developed a working understanding of legal processes and procedures during discovery, deposition, and trial. MSE has strictly enforced policies that address client confidentiality, work product protection, and work quality assurance.

R. Trueblood – Automobile Parking Lot Company

Provided expert witness support for an automobile parking lot company that purchased a property with multiple sources of historical soil and groundwater contamination from years of truck maintenance operations. The magnitude and extent of the contamination was unknown to the buyer and resulted in excess costs associated with the investigation and remediation of the impacted property. MSE provided technical litigation support including oversight and review of the oppositions Corrective Action Plan, estimation of reasonable cleanup costs, and identification of deficiencies in the opposing consultants approach to site cleanup. MSE has conducted investigations on the property to characterize the contamination, and to determine the hydrogeologic parameters of the shallow aquifer that control contaminant migration. MSE provided litigation support for recovery of costs incurred and damages due to the inability of the buyer to develop the property due to the existing contamination. MSE supported the case through deposition, settlement negotiation, and site cleanup.

Appalachian Insurance Company

Provided third party technical support for litigation on an insurance claim involving contamination of a large vehicle maintenance, mining, and RCRA-regulated solvent incineration operation at a cement plant. Work involved reduction of a large volume of technical environmental information, support of testifying experts, and preparation of expert opinion and trial exhibits. Data from numerous consultants collected over a decade were consolidated and organized to allow systematic analysis and preparation of comprehensive solvent and hydrocarbon distribution and hydrogeologic characterization reports.

Nemo Work Center USDA Forest Service/Department of Justice

MSE is currently working on a litigation support project for the USDA Forest Service associated with pesticide and petroleum releases in the area of Nemo, Black Hills National Forest, South Dakota. A property owner is suing the Forest Service for groundwater contamination that he claims the Forest Service caused. MSE evaluated bedrock hydrogeology and data from pesticide and hydrocarbon releases to apportion contamination from respective sources.

Woolverton Spring, USDA Forest Service/Department of Justice

MSE evaluated the interactions between the surface water and groundwater systems to identify the cause of reduced spring flows reported by the opposition to be due to USDA Forest Service field operations. Pertinent data including: historical and current aerial photos, geologic maps illustrating structural features and faults, applicable soil surveys, hydrologic and climatological information, precipitation and snowpack data, spring flow data, characteristics of surrounding vegetation, available ground photos, characteristics of surrounding landforms, and information regarding land use modification were reviewed and evaluated.

MolyCorp Mining Company

Provided third party review and litigation support for a citizens' suit against a precious metals mine in New Mexico which has severely impacted a blue ribbon fishery by discharging acid mine drainage and heavy metals into the adjacent river. Reviewed multiple environmental, site remediation, geologic and hydrogeologic reports regarding the destruction of the biologic communities of a formerly pristine river. Activities included assessing site conditions, evaluating remedial alternatives and proposing implementation of best management practices to mitigate surface water and groundwater contamination from mine discharges.

Contribution: The opposing party has settled in favor of our client who recovered several million dollars in damages and litigation costs. MSE provided oversight of cleanup at the site and has remediated the property.

Contribution: The case settled favorably soon after our initial work products (submitted as attachments to Expert Opinion Reports) were released to the opposition. Our clients later commented that our work had "devastating results to prior theories of coverage".

Contribution: Providing expert reports and supporting mediation proceedings.

Contribution: Provided technical support of selected experts during deposition and support during settlement.

Contribution: Provided expert services and technical support including deposition and review of opposition work products.

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