



831 F Street
Sacramento, CA 95814
Telephone (916) 553-3111
Fax (916) 553-3250

Dufour Law Group



Legal & Regulatory Representation and Compliance Services

Statement of Qualifications

Dufour Law Group

Philosophy of Our Practice

The Dufour Law Group provides environmental/OSHA defense representation and regulatory compliance and loss prevention-related advice and counsel services to clients. The high standards of Dufour's professional services are due to unique talents, a wealth of experience and hard work on behalf of clients.

The legal/regulatory focus and discipline of the practice provides extremely authoritative and current regulatory knowledge that serves to enhance every work product.

The preventative service emphasis of Dufour's practice helps clients avoid liability and expensive defense costs by preventing violations, inappropriate environmental, product or workplace conditions. Such services can be offered at fees that are affordable for most businesses and substantially less than typical law firm charges. In many cases, costs of Dufour services are competitive with consultants operating in the same areas due to Dufour's experience and expertise, which leads to project performance efficiency and minimization of requirements through expert interpretation of regulations.

As the information in this Statement of Qualifications indicates, the Dufour philosophy is being recognized by major companies and other organizations as demonstrated by our clientele and the volume of repeat work performed for leading businesses in the state.

Our commitment to the business community goes beyond the traditional standards of client service. We are dedicated business advocates and have fought for reasonable regulatory standards and a more common sense approach to regulations. Dufour is also involved in compliance programs and educational activities once a regulatory program is in effect. This is why leading business organizations such as the California Chamber of Commerce, California Hotel and Lodging Association, the California Dental Association, the California Apartment Association and others have retained Dufour to devise compliance programs for their members.

Regulatory Compliance and Risk Management Service Areas

The key to compliance with environmental and workplace safety requirements is the recognition that these subjects are regulation driven, and therefore each project must begin and end with a thorough examination of regulatory applicability and compliance obligations. Regardless of whether an informal question is asked, a formal opinion letter, a compliance project or analysis of compliance status in an

audit capacity, the response to the client must be based on accurate and current knowledge of all applicable federal, state, and local regulatory criteria to be useful. Anything less is not a service to the client. Dufour Regulatory Compliance Services is founded on detailed understanding of environmental and workplace safety, regulatory and liability law, as well as the technical skills to match this knowledge with our client's service needs.

Administrative Law and Litigation Services

Dufour's legal and technical credentials and experience in environmental and workplace safety regulations uniquely qualifies the firm to effectively represent clients before enforcement agencies and legislative bodies. In this regard, Dufour has a highly regarded record of achievement before the Cal/OSHA Appeals Board, air district hearing boards, the State Air Resources Board, the Department of Toxic Substances Control, and the U.S. EPA and Department of Transportation. Dufour also works effectively with local agencies around the state including Certified Unified Program Agencies (CUPAs), Sanitation Districts and Fire Departments. Dufour also provides litigation services in selected areas, for example Proposition 65 and hazardous waste civil/criminal cases. The firm also provides litigation support in the form of consultation and expert witness services to litigation counsel in other matters. In this capacity, Dufour has devised effective hazardous waste, air pollution and Proposition 65 defense strategies and has secured for its clients highly cost-effective defenses or settlements when warranted.

Property and Business Acquisition Transactions

One area of Dufour Law Group services of particular value to clients is its unique insight into assessment of liability associated with industrial property and asset sales and acquisitions, and advice and counsel on how to best manage such liability or structure the transaction to allow it to proceed but fully account for environmental issues. Dufour brings rare expertise in both environmental and property law and remediation project management to accurately forecast risks and benefits of transactions involving compromised or apparently compromised properties.

Regulatory Compliance Advice and Counsel

Dufour services in the area of assisting clients to effectively and efficiently manage environmental and OSHA compliance issues are highly regarded and rewarded with longstanding relationships with our clients. Our truly innovative services provide solutions including government relations, identification of responsible parties and insurance coverage, project management, compliance program development and implementation, waste management advice, and product stewardship. The range of activities within this service area includes preparation of opinions and interpretation of regulations in virtually every aspect of business subject to an environmental or workplace safety regulatory requirement: hazardous waste management, air/water permits, federal/state OSHA standards, property/business acquisition due diligence and product regulations like Hazard Communication, DOT requirements, TSCA, FIFRA and Proposition 65. We offer a highly regarded "hot line" service to clients that need prompt and authoritative responses to regulatory questions.

Environmental and OSHA Compliance Reviews/Audits

Compliance reviews (or audits) are performed for clients interested in an independent evaluation of compliance status for performance assessment, planning or as part of a risk prevention strategy. Dufour provides comprehensive or selective topic reviews that evaluate practices with respect to regulatory requirements and provides as output concise findings (and recommendations, if requested) under attorney-client privilege. These reviews have been instrumental in avoiding compliance problems and improving environmental and safety program management in many cases and have frequently reduced costs of compliance; for example, by advising strategies minimizing waste generation or management expenses or advising dovetailing duplicative compliance programs.

Environmental and OSHA Training: Dufour Seminars

To augment its regulatory compliance and representation practice, Dufour Seminars hosts group training in selected regulatory topics on an annual schedule, including: Cal/OSHA Management, Environmental Crash Course, Hazardous Materials Train-the-Trainer and Hazardous & Universal Waste Management. These classes are one-day events, affordable and conveniently located in six regional venues. They provide the opportunity for companies and public sector employees to obtain cost-effective practical training on California regulatory requirements and enforcement trends and establish a relationship with the Dufour Group. Some of these classes meet regulatory requirements for mandatory annual training. All attendees receive course material in the form of a useful reference manual and a Certificate of Successful Completion.

Professional Qualifications

Dufour Law Group operates with the direct involvement of its founder and principal, James T. Dufour, in every client matter being handled. This ensures the high quality and cost effectiveness of the work our clients demand.

James T. Dufour is an environmental and OSHA attorney, Certified Industrial Hygienist, and Registered Environmental Assessor. His decades of environmental and OSHA compliance experience with a major chemical company, federal government, and private practice equip Dufour with the practical experience to provide clients with a complete package of environmental and occupational health and safety services. He has also served as project manager on major environmental projects, including hazardous waste site cleanups, with responsibility for hazardous waste classification, transportation, and disposal requirements. In addition, Dufour is the author and editor of widely acclaimed publications on environmental and OSHA compliance published by the California Chamber of Commerce. Literally thousands of business and governmental managers and employees and consultants have benefited from Dufour's training presentations and publications on environmental and OSHA compliance.

Dufour utilizes the services of skilled and specialized independent contractors to perform tasks at the direction of Dufour that are more effectively or efficiently performed by such contractors. In this manner, virtually all Dufour managed

environmental and workplace investigations that require sampling or testing are performed at a significantly reduced cost compared to alternative service firm strategies.

In addition to our competent and professional staff, Dufour Law Group has the support services necessary to provide the highest quality programs for your association and business clients:

- Located in Sacramento near the State Capitol and most government agency headquarters.
- Highly qualified administrative and paralegal staff.
- State of the art processing, production and communications equipment.
- Use of Internet information sources to augment its complete environmental law library, including California codes, regulations and periodical subscriptions to help keep clients informed of current developments in these important areas.

Dufour Law Group has established an extraordinary reputation in a short period, helping hundreds of clients meet complicated environmental and workplace safety requirements and to effectively address environmental problems, including enforcement actions.

Recent Highlights in Practice Areas

AIR POLLUTION: Represented Hambro Forestry Products, Inc., a Title V Major Source before the North Coast Unified Air Quality Management District. What could have been a significant Air District and even Federal enforcement action was practically resolved as a Stipulated Order to Abate with favorable terms issued in July 2005.

PROPERTY TRANSACTIONS: Assisted Hubbard Enterprises in January through October 2005 in relocating its San Diego County operations from a leased San Dimas site to Vista. Performed Phase I Environmental Assessment on both properties, directed a Phase II investigation and remediation project and provided advice and counsel in negotiations with the property owner.

PROPOSITION 65: *McKenzie Group v. California Hotel & Lodging Association*, Consent Judgment entered in August 2003, and *McKenzie Group v. California Apartment Association*, consent Judgment entered in October 2004. These are industry-wide “global” resolutions of Proposition 65 cases before Judge Carl West in Los Angeles Superior Court. Served as expert witness in conducting the industry-wide chemical exposure studies that established the scope of required warnings in these two industries. Made technical presentations and participated in negotiations with the Plaintiffs, Deputy Attorneys General, and the Court.

PROPOSITION 65: *As You Sow v. Roger Fieldman, D.D.S. and Citadel Dental, Inc.*, San Francisco Superior Court, nearly three-year matter resolved with entry of consent Judgment in January 2003. Served as lead defense counsel for intervenor California Dental Association. Case required extensive negotiations and technical presentations to the Plaintiff, the Deputy Attorney General, and the Court.

HAZARDOUS WASTE: *People v. Larry Carlton dba American Plating*, Sacramento Superior Court, April-May 2001. Prosecution of metal finishing business owner for multiple felony violations of the Hazardous Waste Control Law. Served as defense investigator and expert witness, and assisted criminal defense counsel Bill Portanova in all aspects of case resulting in acquittal on all felony charges at trial.

Environmental Representation

- 1999 to present. Assisted transaction counsel in acquisition of a coatings manufacturer (US Cellulose) by a client. Acquisition due diligence indicated significant questions regarding potential liability for groundwater contamination at plant to be acquired and superfund liability for past disposals at a defunct site. Directed environmental investigations that showed manageable groundwater contamination and potential of a de minimus settlement that allowed the transaction to proceed. Negotiated a very cost-effective de minimus settlement of superfund liability with other PRPs and the State. Retained environmental contractors to perform soil and ground water investigations that resulted in a 'no further action/site closure' letter from the Regional Water Board in November 2003.
- December 2002. Assisted litigation counsel in obtaining a nearly \$200,000 CERCLA cost recovery for a small business client from a major aerospace conglomerate.
- November 2002. Representing a not-for-profit religious organization in cost recovery action against contractors that mishandled asbestos-containing construction materials.
- September 2002. Assisted corporate counsel and litigation counsel in planning strategy and drafting complaint for CERCLA/HSAA cost recovery action for contamination left by previous owner on client's property.
- May 2001. Served as co-counsel and investigator in defense of American Plating, which was being prosecuted by the Sacramento district Attorney for 11 hazardous waste related offenses, including six HSC § 25189.5 felony charges. Defendant was acquitted on all felonies.
- 1999 to present. Advisor and counsel to a major building materials manufacturer in two product liability/environmental matters that were successfully resolved. One involved an allegation by a Seattle TV station that child play sand manufactured by Basalite and sold by Toys 'R Us

contained asbestos and that sheetrock containing vermiculite contained asbestos. Based on testing performed on behalf of the client and written reports, both allegations were disproved to the satisfaction of EPA, CPSC and other interested parties.

- 1999 to present. Co-counsel and remediation project manager for misuse of plant cementitious debris for levee reinforcement that allegedly caused water quality, endangered species, and other concerns according to the San Joaquin District Attorney. Based on a prompt and fully successful remediation, criminal allegations are being withdrawn in favor of a modest civil settlement.
- 1998 to present. Negotiated a compliance plan in lieu of enforcement and obtained a variance from the BAAQMD Hearing Board and advised client regarding compliance project for VOC control for a large candy manufacturing plant. Represented client before EPA and Department of Justice regarding federal Clean Air Act over-filing – matter has recently settled.
- 1999 to present. Representing a second candy manufacturer before the local district and EPA regarding VOC emissions. Matter settled in August 2001 for a \$19,000 administrative penalty to US EPA after negotiating an 85% reduction in the proposed penalty. Presentations before the Confectioner's Association in Chicago and San Francisco to advise candy-makers of federal and state enforcement actions in this area and how to comply/respond to enforcement initiatives.
- 1998. Assisted transaction counsel in sale of a printed circuit board manufacturing plant, Progressive Circuit Products. Resolved significant environmental issues regarding site contamination, liability for closure of treatment unit and other matters. Directed an environmental investigation that proved de minimus soil contamination and drafted contingency language in agreement which allocated future environmental responsibilities between the parties.
- 1999 to present. Representation and advice/counsel to client Precision West involved in a PCB containing transformer release. Scope of work includes advice on emergency response and post response cleanup activities, obtaining cost-effective disposal and transportation bids, and representation before Sacramento County EMD and US EPA. In support of litigation counsel, provided expert and consultation services during a response cost recovery action against previous property owner.
- 1999 to present. Representation of former Compton Foundry's owner before the LA County Fire Department Site Mitigation Unit and acted as owner's agent for all matters related to environmental investigation/remediation necessary prior to sale transaction. Complete closure and a successful sale transaction were accomplished with only six months of work.

OSHA Representation

- October 2003. Represented an excavation contractor facing a ‘serious willful’ citation and ‘serious’ citations for alleged improper guarding of an excavation with proposed penalties of \$76,000. Matter settled pre-hearing as a serious violation with substantial penalty reductions.
- 2001 to present. Represent a major waste management firm and its subsidiaries in OSHA matters. July 2001, achieved tentative settlement of a fleet-wide compaction vehicle guarding violation and serious accident-related citations, achieving compliance and reducing penalties from \$64,000 (4 serious violations) to \$19,000 (1 serious violation). July 2001, achieved settlement of serious accident-related violations (11 violations, 4 serious) to 1 accident related serious the remainder being either reduced or withdrawn, and reduction of 90% of discretionary penalties and in February 2002 obtained withdrawal of all violations (2 general, 4 serious) after an accident-related inspection. Advised client’s representative (Regional Safety Personnel) in informal conferences in non-accident case resulting in withdrawal of all contested citations.
- 2001. Represented ABCO Laboratories, which received 18 non-serious and 2 serious citations with proposed penalties of nearly \$8,000 at an informal conference and achieved withdrawal of 10 citations, including 1 serious, and reduction in classification of 1 serious to a general and total penalties reduced to \$750. Represented several other employers in similar situations (with comparable results).
- 2001. Represented American Racing Equipment in a multiple serious injury lock-out/tag-out matter. Settled matter at an informal conference resulting in 1 serious citation, all other citations were reduced or withdrawn. Penalty reduction of 90% obtained, except for the accident-related non-discretionary serious violation.
- 2000. Represented AIRCO Mechanical at a hearing to contest Cal/OSHA serious citations for serious accident caused by a fall through another contractor-erected roof safety barrier; prevailed in vacating a general violation and negotiated reduction in classification from serious to general for another.
- June 2000. Obtained withdrawal of two general citations with proposed penalties of \$600 resulting from a serious injury in a palletizer machine accident with significant worker’s compensation implications. In February, 2000, obtained a reduction in classification from a serious-accident related citation and a proposed penalty of \$5,000 resulting from an amputation accident involving a depalletizer machine in a food processing plant to a general citation with a penalty of \$300. Client in these matters is a major central valley food processor. Also advised client during Cal/OSHA investigation and subsequent proceedings of a fatal accident in 1999 which resulted in a general citation and \$400 fine which was not appealed and have

in the past 5 years represented this client in several matters including successful defense of a repeat citation at a hearing by proving the independent negligent act of an employee. Assisted in the design of the client's Injury and Illness Prevention Program in 1991.

- January 2000. Obtained withdrawal of serious citation relating to not having an emergency eyewash for exposure to severely irritating and corrosive substances and substantial reductions in classification and penalties for other citations. Client was a Burger King restaurant franchisee and its cleaning chemical supplier (Kay Chemical/Ecolab). Previously achieved withdrawal in a similar case in 1995. Served on the Cal/OSHA advisory committee in 2001 to address problems with this standard.
- December 1999. Obtained substantial reductions in classification and penalties from 8 serious accident related and 2 serious citations with proposed penalties of \$49,750 resulting from an explosion in an underground storage tank which seriously injured two workers to 2 serious-accident related, 1 serious, 3 general and 4 withdrawn citations, for a total penalty of \$16,025 payable over one year. Client was a UST service contractor, SEMCO, Inc.
- January 1999. Prevailed in an appeal against Cal/OSHA serious accident-related citations against my client, a tunneling contractor, due to a fatal accident. Substantial expert testimony and demonstrations and physical evidence were presented at the hearing. Prevailing on appeal was important to influence the results of a Serious & Willful workers compensation claim as well as the civil suits filed over the accident.

Proposition 65 Representation

- Current. Represented California Dental Association in a private Proposition 65 enforcement action brought by As You Sow and Shawn Khorrami, Esq. against 81 individual dental office members of the association. Worked with the Attorney General and As You Sow to obtain a statewide compliance system and coverage for other dental offices that are CDA members and a "buy-in" provision for other parties in the dental industry. Also advised CDA on various hazardous waste (e.g., amalgam disposal) and environmental issues (assisted LA Bureau of Sanitation to devise a reasonable sewer ordinance amendment that addresses dental offices).
- 2001 to present. Represented ten businesses that were served improper 60-day notices to evade SB 471 reforms. Met with Attorney General and staff and coalition that eventually quashed the notices. Devised self-assessment guidelines and stand-by litigation strategy for "defendants" to fend-off future claims.
- 2000. Assisted a Burbank cinema photo finishing laboratory's counsel in a Proposition 65 enforcement case brought by As You Sow. Designed

compliant warning system, managed supporting computer modeling contractor, and provided public relation support for this client.

- 1998 to 2000. Represented eight of 95 defendants in *People v. Ace Hardware*, a major Proposition 65 case brought by the Attorney General against manufacturers of building materials which contain crystalline silica, the manufacturers of tools used to cut building materials and retailers. Obtained a dismissal for two defendants and through settlement negotiations with other defendants and the AG, obtained a \$2000 per defendant settlement with no warning obligation.
- 1998 to 2000. Represented a fertilizer and soil amendment manufacturer in a Proposition 65 matter being negotiated with Mateel Environmental Justice Foundation. After providing a risk assessment, a positive outcome (no filing of civil complaint) was achieved.
- Current. Successfully represented a Tennessee-based paint products manufacturer in ongoing negotiations with David Roe, Senior counsel of the Environmental Defense Fund and Proposition 65 author, over *EDF v. W.M. Barr*, previously settled in 1992 by other counsel, which limited current business practices. Obtained complete relief from trade restrictions for a small contribution to EDF. Provided advice and counsel in related compliance issues including VOC content of consumer products subject to state regulation.
- 1998. Defended and favorably settled on behalf of four roofing tile manufacturer defendants a private plaintiff's (Mateel Environmental Justice Foundation) Proposition 65 case for \$7,500 per defendant.
- 1998. Defended and favorably settled a private Proposition 65 case against a retailer (\$5,000) and a resin system manufacturer (\$15,000).
- 1999 to present. Obtained a withdrawal of 60-day notice of violation against three clients (cement manufacturer, paint manufacturer and sports equipment manufacturer) based on technical presentations and positive relationship with private enforcers based on previous litigation.
- 1994. Represented American Brass and Iron (AB & I) foundry in *People United for a Better Oakland v. American Brass and Iron*. Even after intervention by the Attorney General was able to obtain cost effective settlement of \$50,000 in plaintiff's costs.