

Litigation Support and Expert Testimony



Environmental litigation involves complex technical issues and often requires expert consultation and testimony to clarify issues, to develop sound technical positions, and to provide supporting quantitative evidence.

LimnoTech has an established reputation for successfully representing client interests in environmental disputes. LimnoTech provides expert testimony on behalf of industrial, municipal, and regulatory clients. Our experience has been that successful outcomes depend upon several factors:

- Nationally recognized expertise in a range of environmental fields.
- A comprehensive understanding of the technical requirements of all relevant laws and regulations.
- Effective communication and presentation.

LimnoTech's Expert Services

LimnoTech provides expert consultation, litigation support, and expert testimony on a wide range of environmental issues. LimnoTech's registered professional engineers, doctoral scientists, and technical staff have successfully prepared and presented testimony relating to:

- Source, Fate and Transport of Contaminants in Soil, Groundwater, Surface Water and Air
- Regulatory Compliance
- Hazardous Waste Site Remediation
- Effluent Permit Limit Development
- Environmental Impacts
- Public Health Risks

LimnoTech's experts provide testimony based on existing project work, assist counsel in identifying strategies and critical new issues, building well-supported cases, and critiquing opposing expert testimony. Products include:

- Expert opinions
- Affidavits
- Depositions
- Testimony at trials
- Reviews of opposing experts' opinions and affidavits



Nationally Recognized Expertise

LimnoTech's staff includes nationally recognized experts in vital engineering and scientific disciplines, including Fate and Transport Modeling, Environmental Engineering, Civil Engineering, Chemical Fingerprinting, Hydrology/Hydrogeology, Geostatistics, and Environmental Economics.

In addition to our in-house staff, LimnoTech draws upon nationally recognized experts in academia at numerous nationally prominent universities, including the University of Michigan.

Our experts are backed by highly skilled technical staff with experience in the careful project work and thorough documentation required for litigation projects.

Understanding of Regulations

Environmental disputes may relate to compliance with effluent permits under the Clean Water Act; or hazardous waste site remediation under CERCLA, RCRA or equivalent state laws; or selecting sites for waste disposal facilities. LimnoTech staff have a thorough understanding of the technical requirements of environmental laws and regulations, gained through 35+ years of experience in the environmental field.

Communication and Presentation

The issues surrounding environmental disputes are often highly complex and challenging to understand. LimnoTech's experience has been that all parties respond favorably to a well-researched solution, especially when it is clearly communicated through effective presentation. LimnoTech staff receive extensive training in technical communication from the day they join LimnoTech, and practice these skills through internal and external activities including presentations at seminars and professional technical conferences.

We use computer-based presentations and data visualization to support negotiations and testimony. Technical details that otherwise would be difficult to comprehend are conveyed with understandable graphics. Computer-mediated presentations can also explain concepts interactively and visually demonstrate complex dynamic interactions through animation.

LimnoTech's Experience

LimnoTech's success in litigation support reflects our scientific expertise, our responsiveness to our clients' needs, and our commitment to clear communication. Some examples include:

A lead acid battery manufacturing facility discharged noncontact cooling water and stormwater. The facility's existing NPDES permit included lead limitations that were difficult to meet, and the company was involved in litigation related to alleged past violations of both the NPDES and Industrial Waste Pretreatment (IWP) permits. In support of negotiations to resolve the litigation, LimnoTech compiled and analyzed water quality and effluent data, evaluated past exceedances of the permit limits, assembled and evaluated information demonstrating that the past exceedances did not cause significant harm to the environment, and assisted counsel in preparing materials. LimnoTech also recommended stormwater control alternatives and management practices that were incorporated in a compliance plan submitted to resolve the pending litigation. The facility was able to meet new limits without process changes or additional treatment. The alleged violations could have resulted in millions of dollars in fines.

The Maine Department of Environmental Protection (DEP) placed Gulf Island Pond on its 303(d) list because of low dissolved oxygen concentrations. DEP subsequently developed a total maximum daily load (TMDL) for the Pond requiring pollutant load reductions as well as the installation of an oxygen diffuser. FPL Energy Maine Hydro (FPLE), the owner of Gulf Island Dam, was required to provide the majority of the funding for the oxygen diffuser. FPLE filed an appeal to the Maine Board of Environmental Protection alleging multiple factual and legal errors in the TMDL and subsequent permits. FPLE contracted LimnoTech to provide expert consulting services. LimnoTech discovered a serious

error in the model application. LimnoTech demonstrated that the model inputs used for the TMDL did not provide an acceptable calibration. LimnoTech provided expert testimony on behalf of FPLE for the Maine Board of Environmental Protection. The testimony was fully accepted by the Board, who directed that the TMDL be redone with the corrected model.

A ferroalloy manufacturing facility discharges treated wastewater into the Ohio River under a National Pollutant Discharge Elimination System (NPDES) permit. A Natural Resource Damage Assessment (NRDA) claim was brought by the trustees, U.S. Fish and Wildlife Service and the states of West Virginia and Ohio, alleging that wastewater discharges caused harm to mussels, fish and snails in the Ohio River, and violated the Clean Water Act (CWA). LimnoTech was retained by the defendants to provide consulting and

litigation expert witness services. LimnoTech reviewed hydrometeorological, water quality and living resources data, and numerous expert and rebuttal reports produced by the plaintiffs. They also reviewed hydrodynamic and sediment transport models developed by the plaintiffs' experts, conducted test runs with the models, and

investigated comparisons of model results to actual data. LimnoTech prepared expert and supplemental reports, sat for deposition by opposing counsel, and attended the deposition of the plaintiffs' expert witness. A settlement decision resolved claims and represented a significant cost savings for the defendants.

The Illinois EPA (IEPA) developed a Use Attainability Analysis to change the aquatic life and recreational use standards for the Chicago Area Waterway System (CAWS). The water quality standards changes that IEPA proposed could have cost the District several billion dollars. The District needed expert assistance to develop an alternative proposal that would protect the current uses of the CAWS and support the highest attainable uses. LimnoTech worked with the District, attorneys, and consulting team to define an alternative proposal and to provide testimony before the Illinois Pollution Control Board. Our role in the testimony before the Board was to explain why the agencies' Use Attainability Analysis was insufficient, and to explain why alternative, unconventional dissolved oxygen and bacteria standards were needed for the system. Expert reports were prepared and testimony provided.

