

## OVERVIEW

Mr. Kubota has over twenty years of experience advising clients and providing expert testimony support in a variety of matters in the Environmental and Natural Resources, Intellectual Property, and Product Liability sectors. His work has included damages analysis for government and private-party cost recovery and contribution actions, future liability estimation, financial modeling/forecasting, regulatory compliance evaluation, and settlement negotiation strategy.

His consulting practice is focused on the evaluation of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) remediation costs and consistency of cleanup actions with the National Oil and Hazardous Substances Pollution Contingency Plan (National Contingency Plan or NCP) and/or applicable state regulations.

## EXPERIENCE AND REPRESENTATIVE ENGAGEMENTS

### COST EVALUATION AND/OR LIABILITY ALLOCATION

- Investigated, compiled and evaluated both past and estimated future environmental investigation and remediation costs in numerous insurance recovery and private-party litigation matters, including the apportionment of those costs between policy loss events, contaminants of concern and/or individual potentially responsible parties (PRPs). Claims evaluated for individual matters ranged from \$2 million to over \$500 million in total response costs.
- Led the development and analysis of a database containing diverse historical qualitative and quantitative waste information to facilitate the allocation of future remediation cost liability at a former municipal solid waste landfill in California to over forty PRPs.
- Investigated, compiled, and evaluated detailed histories of past operations, due diligence, and remediation activities to assess potential environmental liability exposure in several disputes between former and current property owners. Sites have included a former aluminum manufacturing plant in California and an active petroleum coke calcining and cathode manufacturing plant in Louisiana.
- Developed a database of waste documentation (manifests, bills of lading, etc.) to quantify a major technology manufacturer's liability share of cleanup costs at a hazardous waste collection facility in California.
- Developed an analytical methodology to determine multiple responsible parties' share of past and estimated future liability at one of the largest mining sites in the United States.

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- Led the evaluation of damages arising from alleged infringement of a major beverage marketer and distributor's trademarks and trade dress, including the calculation of revenue from the sale of allegedly infringing products and a reasonable royalty that could have resulted from a lawful licensing agreement.
- Developed an engineering estimate of future cleanup cost liability for a portfolio of coal combustion residual disposal sites to support insurance recovery claims by one of the largest electric utilities in the United States.

## NCP COMPLIANCE EVALUATION

- Led the evaluation of private party CERCLA response actions and their related costs to determine their necessity and consistency under §300.700 of the NCP and/or equivalent state statutes in numerous matters, including a liability dispute between neighboring chemical distribution companies in California, a recovery action against the United States at a former magnesium plant in Nevada, a mediation between former and current owners of a former phosphate plant and mining facility in Florida, and a recovery action by a water purveyor against a PRP at a nearby Superfund site.
- Evaluated a private party remediation conducted at a former grocery store property in British Columbia, Canada for reasonableness, appropriateness, and compliance with provincial requirements in a dispute between the property owner/developer and neighboring property owners and business operators.
- Advised a California municipal water provider in the planning and implementation of cleanup activities designed to address contamination of its groundwater supply in accordance with the requirements of the NCP and supported expert testimony in a subsequent cost recovery action.

## PROBABILISTIC DECISION AND RISK ANALYSIS

- Developed probabilistic models using decision tree analysis to estimate future environmental remediation costs at numerous clients' current or former sites, whose individual liabilities ranged in value from less than \$5 million to over \$200 million, for cost recovery and/or Securities and Exchange Commission filing purposes. Types of sites assessed have included utility substations, manufactured gas plants, manufacturing facilities, mines, hazardous and non-hazardous waste disposal sites, chemical storage or processing facilities, retail/commercial properties, and airport facilities.
- Performed Monte Carlo analysis to quantitatively assess and compare various settlement strategies within a portfolio of ten environmentally impacted sites across

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the United States for the purpose of optimizing future environmental expenditures for a petroleum industry client.

- Completed an analysis of environmental, health and safety (EHS) staff utilization using probabilistic modeling techniques at sixteen remediation sites on concurrent timelines to support future EHS managerial and organizational decisions for a major multinational conglomerate.

## REGULATORY COMPLIANCE PERFORMANCE ASSESSMENT, IMPROVEMENT AND ADVOCACY

- Compiled and evaluated the environmental regulatory compliance data from hundreds of client facilities over several years to support the development and refinement of a comprehensive California-wide corporate EHS compliance management system for a major telecommunications company.
- Analyzed the results of an operational practices survey of dozens of housing developments located around the United States to estimate the overall cost of industry-wide compliance with proposed federal storm water pollution prevention regulations for a group of national homebuilders.
- Analyzed demographic data to estimate the total anticipated costs of various proposed state-wide lead-based paint abatement strategies for a major paint manufacturer and distributor operating in California.

## PENALTY ASSESSMENT

- Developed a detailed dynamic model to evaluate the appropriate enforcement penalty for alleged violations of the Federal Insecticide, Fungicide, and Rodenticide Act incurred by a multinational chemical manufacturer for an entire range of products shipped over a five-year period.
- Evaluated a proposed supplemental environmental project as part of a pending settlement between the United States Environmental Protection Agency (USEPA) and an Alaska-based company for alleged violations of the Clean Air Act and Emergency Planning and Community Right-to-Know Act.

## STRATEGIC ADVISORY SERVICES

- Provided critical and ongoing advisory and advocacy services to an organized group of over seventy PRPs at a regional groundwater plume site in California, including:

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- Development and management of a detailed, dynamic probabilistic model of potential remedy alternative costs that served as the basis of the group's ongoing negotiation strategy with USEPA;
- Development and management of a dynamic liability allocation model to facilitate negotiations with other PRPs in the region as well as discussions with both USEPA and the Regional Water Quality Control Board;
- Detailed cost-benefit analysis of multiple treated groundwater end-uses to aid in discussions with various water agencies and purveyors; and
- Analysis of individual PRPs' ability-to-pay to assist in settlement negotiations.

## EDUCATION AND CERTIFICATIONS

Harvey Mudd College  
B.S., Engineering (Multi-Disciplinary)  
Concentrations in Economics and Psychology  
NCEES Engineer-In-Training (EIT) Certification, California

## PREVIOUS EMPLOYMENT

Nathan Associates, Inc.  
LECG, LLC  
PA Consulting Group (formerly PHB Hagler Bailly)