



# LIABILITY AND ALLOCATION SERVICES

As one of the most experienced teams in the country, TIG Environmental specializes in the use of sophisticated investigative techniques, evidence gathering, and environmental forensic analyses to support clients involved in complex, multi-party sites with contaminated sediments, soils, or groundwater. We gather historical, factual evidence to establish a basis for cost allocation and then perform forensic analyses to develop defensible, fact-based, and successful cost allocation proposals.

## Investigation and Research

Our private detective pedigree, coupled with our multi-disciplinary forensic approach, allows us to successfully uncover the most salient facts and unwind history as it relates to complex issues. We identify potentially responsible parties, investigate liabilities, and help prepare for litigation by:

- Researching trade, scientific, historical, and regulatory documents to create historical inventories of potential contaminant sources
- Exposing contaminant pathways, including spills and disposal practices, and quantifying contributions to contaminated sites
- Investigating primary and alternative exposure scenarios in toxic tort claims
- Identifying witnesses, unique records, and other factual evidence not uncovered through formal civil discovery or mediation disclosure processes

## Strategy, Advocacy, and Litigation or Mediation Support

TIG Environmental helps clients develop specific legal arguments based on evidence, expert technical analyses, and our strategic understanding of the technical, legal, financial, and social challenges at contaminated sites. We coordinate with clients and their counsel to define offensive and defensive positions in support of allocation negotiations by:

- Using factual historical evidence to identify potentially responsible parties and establish a basis for cost allocation
- Developing strategies for allocation framework methodologies appropriate to site factors
- Modeling different allocation scenarios to understand how fact patterns affect a potential outcome
- Evaluating remedy components and conducting detailed cost evaluations to understand how remedy cost uncertainties should be considered in an allocation strategy
- Assisting counsel in developing allocation strategies that seek to reduce our client's anticipated share of costs
- Evaluating remedy components and appropriateness to support allocation positions
- Conducting technical evaluations and developing expert reports to summarize technical positions or provide factual data, and assisting in developing position papers in support of our client's position
- Providing expert witness testimony to present technical arguments about the who, what, where, and when of contaminated sites

## Evidentiary Services and Analysis

The TIG Environmental team can manage, assess, and prioritize critical evidence to help clients develop strong positions and protect their bottom lines. Our expertise includes:

- Developing evidentiary databases and evaluating evidence using commercial platforms
- Efficiently leveraging technology to triage and prioritize content contained in incoming discovery productions using our Triage and Intelligence Gathering e-Discovery Routine (TIGeR) software solution
- Developing, managing, and vetting witness pools
- Assessing financial viabilities/assets and corporate liabilities of parties
- Tracing and evaluating complex corporate transactions to identify ultimate successors-in-interest
- Locating evidence of general liability insurance coverage from internal, external, public, and private information sources



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## PRP Identification via Corporate Successorship

**Problem:** At a multi-million-dollar cleanup site with multiple owners and operators over a 100-year period, our client was defending a claim for virtually all allocable liability due to the claimed “unidentifiable” status of various historical operating entities.

**Solution:** TIG Environmental investigated the historical owners and operators at the site. Through extensive research covering more than a dozen transactions and corporate restructurings, we determined that the ultimate successor to one of the more significant site operators was, indeed, the plaintiff itself.

**Value Added:** By establishing that the majority of the allocable cleanup cost rested with the plaintiff, our client was able to successfully resolve its liabilities and avoid protracted litigation costs.



## Allocation Strategy Support on an Urban River for a Water-Dependent Business

**Problem:** Our client owned and operated a water-dependent business within a complex contaminated waterway. Remedial action estimates for the site approached several billion dollars, with over 100 parties involved in a private allocation. To remain functional and profitable, our client required allocation support as a small business owner with an upland waterfront property located downstream of several PCB-contaminated areas.

**Solution:** TIG Environmental assessed the origin of contamination in the sediments adjacent to upland properties owned and/or operated by the client through review of relevant historical and operational records, field investigations, and sampling efforts. Based on this investigation, TIG Environmental quantified contaminant transport from upstream hot spots and employed fingerprinting techniques to differentiate sources of the sediment contamination adjacent to the client's waterfront business.

**Value Added:** TIG Environmental's assessment of the history of operations at and surrounding the subject property was partnered with a quantitative technical approach to identify the sources of contamination present in sediment, soil, and groundwater at the site. Using the results of these evaluations, TIG Environmental was able to successfully attribute nearly all of the sediment contamination to other parties and bring two parties into the cleanup of the upland parcel.

## Site Inventory, PRP Prioritization, and Strategic Case Building

**Problem:** Our client was the lone initial potentially responsible party (PRP) identified by the U.S. Environmental Protection Agency (EPA) for an estuarine urban river and harbor complex contaminated with dioxins, polychlorinated biphenyls (PCBs), mercury, and various other hazardous substances. Remedial action estimates for the site ranged up to several billion dollars.

**Solution:** TIG Environmental began by completing a historical inventory of the area to develop a more complete list of PRPs for the site. After prioritizing by contaminant and pre-screening PRPs for financial viability, TIG Environmental investigated and documented the historical operations of the other PRPs that resulted in discharges of hazardous substances to the waterway. In building liability cases against numerous PRPs for this site, TIG Environmental successfully documented cases of hazardous substance discharge from the PRPs to the waterway via direct discharge, sewerage systems including combined sewer overflows, and site runoff. In addition, TIG Environmental also investigated historical upland site operations for the PRPs and identified raw materials and waste streams to facilitate the work of expert witnesses.

**Value Provided:** On behalf of our client, TIG Environmental presented evidentiary cases to EPA that resulted in the issuance of General Notice Letters to more than 100 PRPs.

## Contamination Due to Unidentified Sources

**Problem:** Our client, the owner of a former industrial facility with no known onsite use of chlorinated solvents, faced a multi-million-dollar groundwater cleanup of the chlorinated solvents that were driving the need for remediation.

**Solution:** TIG Environmental investigated historical operations conducted at the site and at neighboring sites. Our team identified three significant historical operations at the site, several operations at neighboring facilities, and the entities responsible for those operations. Following an in-depth investigation of these historical operations, TIG Environmental developed evidence of raw material use, spills, and disposal. To aid in the allocation process, TIG Environmental also conducted extensive investigative research to identify successors-in-interest to the three historical owner/operators of the site.

**Value Provided:** This investigation resulted in a successful recovery for our client. During litigation, our expert testimony regarding successorship overcame a summary motion for dismissal made by one of the defendants, a Fortune 500 company.

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