Emergency Response for the Energy & Natural Resources Sector
Our Global Energy & Natural Resources Practice

Reed Smith is one of the leading providers of global legal services to the energy & natural resources sector.

Our firm’s Energy & Natural Resources (ENR) Group is a single, multidisciplinary team of more than 180 lawyers drawn together by their industry expertise and located in all of our offices across the United States, Europe, the Middle East and Asia.

We therefore have the depth of resource and scale to provide an exceptional global legal platform for businesses engaged in the extraction, production, manufacturing, trading, distribution or financing of energy and natural resources projects, products and services, anywhere in the world.

Our ENR Group is a true, institutional group in the purest sense and not merely a virtual affiliation of disparate practitioners. Our lawyers throughout Reed Smith’s global offices work collaboratively on client matters to ensure a seamless and consistent level of service.

The group draws on practitioners with impressive experience in a range of legal disciplines as illustrated below.
Our Emergency Response Experience

Our ENR lawyers have widespread experience in preparing clients on a global basis to deal with, and guide them through, a wide variety of crises in the sector including:

- On- and offshore pollution and other major environmental incidents
- Explosions and other major industrial incidents
- Maritime emergencies including piracy, vessel sinkings, collisions, fire and large scale loss of cargo
- Health & safety crises
- Dawn raids and investigations by energy sector regulators
- Whistleblower cases
- Product liability and recall scenarios
- Financial crises such as counterparty insolvency, covenant breaches, ratings downgrades, and significant fraud
- Impact of sanctions and other international trade events
- Privacy/data security breaches
- Force Majeure events and natural disasters

A number of members of our ENR team have previously worked in senior roles within energy and natural resources sector companies and many are recognized as being market leaders in their fields. Our team also includes legally qualified Master Mariners and other ex-seafarers from our Shipping Group, one of the world’s leading “wet” shipping and admiralty practices. We also have a market-leading insurance recovery practice to assist with claims against insurers.

In recent years members of our crisis management team have assisted clients that were affected by high-profile incidents such as the Hebei Spirit, Erika and Prestige oil spills, the Buncefield explosion, the Hatfield (UK) rail crash, Hurricanes Katrina and Rita, the California energy crisis, the Hungarian red mud spill, and the total loss of one of the world’s largest offshore oil platforms. Representative matters are set out on the following pages.
Representative Matters

Our experience has included:

- Acting on the high-profile “ERIKA” total loss and oil pollution and related emergency casualty management including on-site work and media relations
- Acting in the high-profile grounding of vessel “SELENDANG AYU” and ensuing pollution accident in Alaska
- Acting for an oil major regarding liabilities arising out of the Buncefield oil storage terminal explosion
- Advising the security agent to various secured lenders on handling the aftermath of an explosion and sinking of a $300 million oil drilling platform off Brazil
- Conducting two separate major internal investigations for a leading public corporation arising out of a major scandal involving senior personnel, and assisting in associated public relations management
- Representing a major nuclear technology company regarding dozens of bodily injury claims stemming from a uranium mine
- Advising clients on an urgent product recall and liability situation concerning goods and parts supplied in large numbers across the EU containing asbestos, including appointing and working alongside media consultants and technical specialists
- Advising commodity producers, consumers and traders and their insurers in relation to the 2008 Ukrainian sunoil crisis, involving contamination of sunflower seed oil destined for the human food chain with mineral oil and the issuance of an EU-wide Rapid Alert
- Establishing a global task force and advising multiple clients affected by the insolvency of MF Global
- Acting for the receivers appointed over oil stocks and receivables of a leading oil supplier based in Europe upon its insolvency
- Providing extensive training to the response team of a world leading petroleum energy company on crisis management principles, underlying legal and commercial imperatives and regular attendance at its international oil spill response projects
• Defending an energy production company against “toxic tort” claims in nuisance and negligence brought by more than 150 separate plaintiffs allegedly impacted by emissions from the defendant’s industrial plant

• Handling extensive loss claims concerning various natural disasters including Hurricane Katrina

• Acting for the owners on all aspects of the “KHALIJIA III” highly publicized marine collision with “MSC CHITRA” leading to closure of the port and a claim in excess of $300 million

• Representing a leading utility company in the successful defense of “bet the company” proceedings in the English High Court relating to industrial emissions

• Acting for cargo owners on North Sudan and South Sudan oil disputes where a diplomatic row caused disputes over cargo ownership (leading to court action involving shipowners, charterers, financing banks and other interests in cargo)

• Acting in connection with the “FORMOSAPRODUCT BRICK” oil tanker fire off Singapore

• Defending various clients faced with whistle blower complaints under Sarbanes-Oxley

• Advising clients in various investigations and dawn raids by competition authorities in various sectors

• Drafting the casualty and crisis response plan for various global companies, including one of the world’s leading commodities trading and logistics companies

• Providing 24-hour response services to numerous clients for immediate worldwide call-out to assist with ship casualties and associated media response, accident and investigation inquiries and other statutory inquiries

• Representing target of an investigation by FERC related to profit sharing and energy management arrangements

• Advising energy company during investigation by ISO into allegations related to bidding behavior

• Representing company on CFTC and Exchange related investigations into anomalous trading activities

• Advising numerous clients related to the termination and liquidation of positions and portfolios and the related bankruptcy issues

• Providing compliance and response training in relation to Regulatory investigations in numerous energy and derivative bankruptcies, including PCA, Enron, Lehman and SemGroup

Ranked by U.S. News Best Law Firms 2013

Tier 1 in Environmental Law (Nationwide)

Tier 1 in Insurance Law

Tier 2 in Energy Law (Nationwide)

“Top Rated for Energy/Environmental Law” by American Lawyer and Martindale-Hubbell

Legal 500 UK says:

“Reed Smith’s advice is ‘prompt, detailed and easy to understand’, and its ‘commitment to service and support is unparalleled.’”

Chambers and Partners U.S. says:

“Excellent: knowledgeable, thorough, efficient and insightful.”
Complexities of Emergency Response

- Customers
- Web pages
- Shareholders
- Press
- Social Media
- Other
- Containment
- Employee Interface
- Support of Management
- Internal Investigation
- Make Persons Safe
- Risk Analysis
- On-Site Operations
- Regain Control
- Internal Investigation
- Document Review
- Privilege Protection
- Witness Interviews
- Litigation “Hold” Measures
- Record Keeping
- Reassurance
- Management of Internal Perception/Concern
- Separate Representation?
- D&O Liabilities
- Fiduciary Duties
- Business Continuity
- Environmental
- Health & Safety
- Financial
- Regulatory
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- Environmental
- Health & Safety
- Financial
- Regulatory
- Victims/Families
- Affected Business/Neighbors
- Counterparties
- Time Limits
- Jurisdictional Choices/Challenges
- Insurers
- Loss Adjusters
- Co-Defendants/Defendants
- Preserved Remedies
- Civil Claims
- Management of Perception
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Proactive Preparation

We provide our clients with an end-to-end emergency response and risk management service, across the globe but tailored to local legal and commercial conditions. We aim to ensure that our clients are fully prepared to deal with an emergency and navigate through its aftermath, while maintaining continuity of normal business operations.

Be Prepared

Anticipate the unexpected – this is the philosophy behind effective emergency response.

Design and implementation of a practical and granular emergency response plan – developed together by internal and external teams based around a wide range of crisis scenarios – is imperative. Far more than just a list of people to contact, an effective plan includes checklists, drill and training schedules, regulatory compliance training, pro-forma materials (press releases, litigation-hold memos etc.) and much more, whilst maintaining the need to be flexible in approach.

Being involved in the preparatory stages alongside your own risk management teams helps us better advise on your legal position when a crisis strikes, and helps us work together with you to mitigate reputational, business interruption and other damage.

Check, Revise and Check Again

It is vital for any emergency management plan to be a “living” document. A static plan will quickly go out of date and will not be fit for its intended purpose.

An effective and forward-looking plan needs to be tested regularly and updated with the involvement of those with responsibilities under the plan.

Practice, Practice, Practice

A sound risk management strategy must not only be communicated extensively across the business – it must be understood by key players. Only by practicing the deployment of the plan – under varying stress levels/scenarios – can gaps be filled and any inconsistencies ironed out.

Global companies must ensure that these drills are conducted on a worldwide basis. Any lessons learned from these drills – good and bad – should be shared across countries and business units and incorporated into new versions of a firmwide strategy.
Rapid Response

The Need for Speed

In an interconnected, multi-media world, news travels quickly. While companies used to have up to 48 hours to deal with a crisis internally before it became public knowledge, the advent of social media often reduces this to less than 24 hours.

We advise clients to map out responsibilities for teams and individuals ahead of time, so that everyone involved has clearly delineated roles and the right information is available to key decision makers.

We always have a response team on standby ready to be deployed with just one phone call at any time of day or night.

Where our team has been fully embedded in a client’s response preparation strategy, we will already have an intimate understanding of the actions that need to be taken and we can match our skills to the client’s needs.

Perception Management

Effective crisis management can be as much about managing the perception of an incident as the reality. Our attorneys have extensive experience of dealing with and responding to government agencies, regulatory bodies and investigators as well as potential plaintiffs and we are regularly involved in many matters that have or acquire a high public profile.

We have experience in a range of creative approaches to print, broadcast and electronic media, and other corporate communication efforts to simultaneously disseminate key messages accurately and consistently, and seek to best influence public perceptions. Our work is always undertaken in collaboration with our clients’ communications teams.

Team Work

Managing an emergency effectively commonly requires input from a variety of professionals, not just attorneys. We expect to work as part of a multi-party team rather than as a one-stop-shop. Our skills in internal investigations and audits, witness interviews, document review and analysis mean we are best placed to gather (generally under the protection of legal privilege) and act as the core custodian of the facts and provide the necessary legal advice in the light of them.
The Business of Relationships

Nothing better encapsulates how we work than our firm’s strapline “The business of relationships.”

- We appreciate the importance of understanding a client’s business first, before advising on how emergency risk management should be approached.

- We understand that no two energy and natural resources businesses are the same. Standard templates created outside the business are less effective than those shaped from within. Our approach always reflects individual clients’ operational and commercial realities, but also deploys our market leading sectoral expertise.

- We see emergency risk management as an ongoing activity. Working with the client to develop, test and roll out the plan is just as important as being on site to assist in execution in times of crisis.

- We understand that a holistic approach requires close coordination with the client’s internal team and, frequently, other external legal counsel.

- The effective management of an emergency and its aftermath is not just about legal issues. We work as a team with experts in other fields (media; scientific; public relations; technical, etc.) to ensure that all aspects of your emergency are handled effectively.
Contacts

For further information, please contact either one of the joint co-chairs of our Global Energy & Natural Resources Group (contact details below) or your usual relationship partner in the first instance.

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