



# Environmental Practice Group

## *Alternative Energy/Landfill Gas*

Alternative Energy issues have moved from the environmental periphery to the corporate mainstream. From General Electric's "Ecomagination" to BP's alternative energy emphasis, corporations are realizing that investing in alternatives to fossil fuels such as coal, oil and natural gas makes economic and environmental sense. Recently, the "perfect storm" of Gulf Coast hurricanes, terrorist threats, and high energy prices have focused the nation's attention on energy alternatives. The link between greenhouse gas emissions and global warming has further intensified the need to produce power from sources other than fossil fuels. The Energy Policy Act of 2005 also provides new incentives to encourage the development of alternative energy sources such as solar, wind, and landfill gas.

## Seyfarth Shaw Service Capabilities

Seyfarth Shaw attorneys have a wide variety of experience with alternative energy projects. Our environmental attorneys have teamed with attorneys practicing in the tax, corporate, finance (public, equity and debt), bond, real estate and bankruptcy areas on projects involving landfill gas-to-energy, ethanol, waste-to-energy, biomass and wind.

Over the past five years, we have spent substantial time on landfill gas related matters. Landfills are the largest manmade source of methane emissions in the United States, accounting for roughly 35% of the nation's total. Since 2000, we have represented four different landfill owners on various matters stemming from the bankruptcy of one of the first and most notorious landfill gas collection enterprises, and have gained valuable experience in all phases of the landfill gas area, including regulatory

compliance, contracting and litigation. In addition, we have negotiated contracts for landfills, gas collection companies, and end-users; evaluated tax incentives and financing mechanisms; and assisted landfill operators with the numerous regulatory and political issues stemming from the generation and control of landfill gas. While only large landfills must currently install gas collection systems, many smaller landfills want to recover methane due to concern over emissions and the wasted energy opportunity.

We have worked with clients on a variety of non-landfill gas alternative energy projects as well. Our representative projects include:

- Evaluating financing alternatives as well as siting and regulatory requirements for ethanol plants
- Obtaining air and waste permits for a tire burning waste-to-energy facility
- Advising a chemical manufacturer on the propriety of switching processes to provide for biodiesel manufacturing capacity
- Serving as tax, bond, underwriter's and special tax counsel on various alternative energy projects

We assist clients with all environmental aspects of alternative energy/landfill gas projects, including developing alternative energy production plants, either to produce alternative fuels (such as hydrogen and ethanol) or electricity from wind/solar/geothermal and other non-fossil resources. In addition, we work with clients with regard to permitting, emissions trading and offsetting, regulatory compliance, finance and negotiations. Clients who have alternative energy resources to sell (such as landfills, grain companies, and animal waste generators) or who wish to purchase such resources

need help with contract negotiations, compliance and litigation. For lenders and other investors, we help with due diligence, deal structuring, negotiation, contract drafting and counseling on tax and other financial incentives. In particular, our alternative energy attorneys assist in:

- Advising on environmental regulatory compliance and permitting
- Evaluating creative approaches to financing alternative energy projects using a variety of tax and financial incentives, including the Clean Renewable Energy Bonds, Section 29 and 45 tax credits, Greenhouse tax credits and various state and voluntary emission credit programs
- Negotiating the various agreements relating to alternative energy projects, including development, supply and distribution agreements

- Structuring projects to achieve the maximum tax benefits and liability protections
- Resolving disputes through mediation, litigation and alternative dispute resolution mechanisms

## About Seyfarth Shaw

Seyfarth Shaw was founded in 1945 by three lawyers and has grown to more than 750 lawyers across ten offices, including Atlanta, Boston, Chicago, Houston, Los Angeles, New York, Sacramento, San Francisco, Washington, D.C. and Brussels, Belgium. We handle issues for our clients in all key areas, including environmental, labor and employment, real estate, construction, corporate and finance, litigation, intellectual property and employee benefits, among others.



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