

## CLIENT ALERT

### CFC Rejects Taxes Clause as Basis for Recovering Environmental Remediation Costs

January 25, 2013

On January 13, the Court of Federal Claims in *Shell Oil Co. v. U.S.* held (1) the government was not liable for CERCLA environmental cleanup costs under the "Taxes" clause in certain World War II-era contracts; and (2) even if the "Taxes" clause had provided for indemnification, any indemnification rights were not preserved after contract termination. The "Taxes" clause and the absence of a reservation of rights to pursue indemnification in *Shell* is in contrast with the explicit "hold harmless" clauses in the facilities contracts cases in which the contractor reserved its rights to pursue indemnification (*Ford* and *DuPont*) and indemnification clauses authorized under Public Law 85-804, which contain explicit post-contract termination provisions.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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