



## Gregory A. Fontaine

### **PARTNER**

MINNEAPOLIS, MN

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### **OVERVIEW**

**Greg integrates deep industry knowledge and decades of experience to advise mining clients in complex transactions and regulatory proceedings.**

Greg provides strategic and business-focused advice to guide clients in mining and other natural resources industries in transactions and complex regulatory proceedings. Mining, like many regulated industries, requires a sophisticated understanding of the industry and the significant challenges facing them in an increasingly complicated business and regulatory environment driven by global considerations. With more than three decades of legal experience and deep mining industry knowledge, Greg brings an exceptional combination of transactional and regulatory knowledge and experience that helps companies pursue their opportunities and achieve their business objectives.

Greg assists clients – from major international companies to start-up ventures – in all stages of mining, from mineral exploration through mine, development, operations, and closure. His work for clients includes advice regarding joint ventures and other business combinations, strategic investments, debt and equity financing, royalty and product distribution agreements, and asset purchases, sales and leasing. Greg also advises mining and other natural resources companies on planning for and implementing environmental review, permitting, and compliance, particularly in complex and high-profile regulatory proceedings, including both administrative and litigation contexts.

In connection with both transactional and regulatory matters, Greg has extensive experience in working with professionals in accounting, finance, engineering,

### **Industry**

Energy & Natural Resources

### **Services**

Corporate

Environmental

Mergers & Acquisitions

environmental science, and other fields who inform decision-making with respect to sophisticated business and legal matters.

Prior to entering private practice, Greg was a law clerk for Hon. Gerald W. Heaney, U.S. Court of Appeals for the Eighth Circuit.

## Experience

### REPRESENTATIVE TRANSACTIONAL MATTERS

- Served as lead U.S. counsel for publicly traded mining company in connection with negotiating and drafting of joint venture agreements involving combination of large copper-nickel deposits and related mining projects in the United States controlled by major international mining companies.
- Represented publicly traded mining company in acquiring surface and mineral lands, existing processing facilities and related pipeline, roadway, and rail infrastructure, and in completing permit transfers and associated regulatory processes.
- Represented publicly traded companies in negotiating and drafting share exchange, merger, and spin-off agreements.
- Assisted multiple companies in assembling surface and mineral interests and water rights in connection with mining and renewable energy development projects, including negotiating joint venture agreements, leases and licenses, option agreements, and power supply arrangements.
- Provided legal opinions to mining companies in connection with equity and debt financing transactions.
- Advised multiple clients in negotiating, drafting, and implementing joint venture agreements for mining projects.
- Represented mining companies with respect to various agreements relating to equity and debt financing, including term and revolving loan agreements, loan security agreements, and securities offerings.

## Experience

- Counseled mining companies in negotiating, drafting, and implementing power supply arrangements, including power purchase agreements with utilities, routing of power supply facilities, and evaluating solar power project on existing tailings basin.
- Assisted mining companies in preparing disclosures, including technical reports, required for equity offerings on New York and Toronto Stock Exchanges.
- Represented mining company in negotiating and entering into project development, contract mining, and private and state lease agreements to develop manganese mining project.
- Advised multiple clients in negotiating and drafting royalty agreements and product sales, distribution, and marketing agreements.
- Assisted mining clients with legal issues and risk analyses associated with conceptual studies, prefeasibility studies, and other technical studies and reports.
- Advised mining companies in corporate governance matters involving joint venture participants.
- Represented committee of unsecured creditors in connection with mining company bankruptcy proceedings.
- Advised railroad company in negotiations with private PCB manufacturer and state agency with respect to access, remediation, and indemnification agreements involving cleanup of former PCB manufacturing site.
- Represented pipeline company in negotiating easements and licenses necessary for development of pipeline corridors and facility construction.
- Advised agribusiness company in negotiation of power supply agreement with utility, and in related permitting matters with state agency, loan agreements with lender, and development contracts with consultants in connection with renewable energy project.

## Experience

### REPRESENTATIVE REGULATORY MATTERS

- Represented mining company as part of multiple-firm team that secured federal and state mining and environmental permits for copper-nickel mine, including permits and other authorizations involving federal and state water, wetlands, mining, dam safety and air laws and regulations.
- Represented company in negotiating financial assurance arrangements (involving hundreds of millions of dollars in estimated costs) with governmental authorities and private counterparties for mine project, including bonds, letters of credit, trust and cash arrangements, insurance policies, indemnity and guarantee arrangements, and other agreements.
- Advised petroleum pipeline company in connection with state environmental review and wetland permitting procedures relating to pipeline replacement and expansion project.
- Represented agribusiness company in completing federal environmental review under NEPA, U.S. Bureau of Indian Affairs lease approval procedures, and U.S. Environmental Protection Agency and tribal permitting requirements relating to construction and operation of production facilities located in Indian Country.
- Advised mining companies in securing permits and other authorizations, including NEPA and state environmental review approvals, from federal and state agencies (including U.S. Forest Service, U.S. Bureau of Land Management, and U.S. Army Corps of Engineers) in connection with programs for mineral exploration, environmental monitoring, and other project-development related matters.
- Assisted lead mining company in securing NPDES permit under federal Clean Water Act and completing consultation under federal Endangered Species Act in connection with construction of new tailings impoundment.

## Experience

- Represented numerous companies (including variety of mining, manufacturing, and agribusiness operations and banks and other financial institutions) in undertaking due diligence investigations and in obtaining "brownfield" protections from federal and state agencies in connection with purchase, sale and leasing of real properties and other assets and in loan and other financing and investment transactions.

### **REPRESENTATIVE LITIGATION AND ENFORCEMENT MATTERS**

- Represented railroad company in defending actions by U.S. Environmental Protection Agency, U.S. Department of Justice, and private parties seeking contribution and response costs under CERCLA and state law involving cleanup of Superfund site, including remediation requirements for dredging in Lake Superior.
- Represented railroad company in subsequent indemnity/breach of contract action in federal district court involving above-referenced Superfund site, defeating plaintiff's claims and prevailing on railroad company's counterclaims.
- Represented trade groups for U.S. and Canadian shippers in the Great Lakes in state and federal actions involving challenges by environmental groups to permits and certifications issued pursuant to federal Clean Water Act and state law.
- Advised lead recycling company in defending against enforcement action alleging violation of federal and state air emissions control rules and permits and in negotiating settlement agreement with U.S. Environmental Protection Agency, including penalty reductions through use of EPA-approved supplemental environmental project.
- Assisted agricultural chemical producer and supplier in defending against enforcement action by state agency and in negotiating settlement agreement relating to chemical release claims.
- Advised agribusiness companies in defending and settling federal and state enforcement actions involving alleged violations of permits and rules for confined animal feeding operations, including matters involving pollutant releases and response actions, occupational safety matters, and regulatory violations.

## Experience

- Represented livestock producers in multiple lawsuits in federal and tribal court involving U.S. Bureau of Indian Affairs and tribal entities relating to claims under federal law (including NEPA) and tribal law, all of which were resolved to allow project to be constructed and operated in Indian Country.
- Acted as lead outside environmental counsel for global food manufacturer in defending in over 20 federal and state Superfund and environmental cases principally involving chemical unit operated by company before CERCLA's enactment.
- Represented lender sued under CERCLA after foreclosing on security interests, and defeated claims in one of the first cases successfully applying CERCLA's security-interest safe harbor to avoid lender liability - *Ashland Oil, Inc. v. Sonford Products Corp.*, 810 F.Supp 1057 (D. Minn. 1993).
- Represented major pesticide manufacturers and distributors, and defeated claims by state agency seeking to expand Superfund-type liabilities through cost recovery against manufacturers/distributors in connection with chemical releases caused by their customer - *Tessman Seed and Chemical Co, et al. v. State of Minnesota*, 467 NW2d 625 (Minn. App. 1991).

## Recognition

- *The Best Lawyers in America*®
  - Natural Resources Law, 2022–2026

## Education

- J.D., University of Minnesota Law School
  - *magna cum laude*
  - Order of the Coif
  - Research Editor, *Minnesota Law Review*
- B.A., Northwestern University
  - Economics and Urban Studies
  - with distinction

## Admissions

- Minnesota
- U.S. District Court, District of Minnesota
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Second Circuit



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