

MINING & MINERALS

Our clients are leading the metals and coal mining industries into the future. Even as U.S. demand for coal decreases and electricity generation shifts to other sources, demand remains robust for coal in export markets and for metals domestically and globally.

Whether advising on environmental compliance and permitting, OSHA and MSHA issues, contract negotiations, strategic transactions, or mine development on public lands, our mining law and mineral rights attorneys are a valued resource to clients in the surface and underground mining industry.

Visit our Safety Law Matters blog to stay current with legal context on OSHA & Workplace Safety and MSHA & Mine Safety law.

Representative Experience

Defended Surface Mining Control and Reclamation Act (SMCRA) and National Pollutant Discharge Elimination System (NPDES) permits against environmental group challenges in cases involving a new underground coal mine, new coal-fired powered plant, coal combustion waste disposal facilities, and operating coal mines.

Achieved favorable outcome in defense of three lawsuits against national coal company involving claims by approximately 75 neighbors of blasting damage due to low



“I can’t imagine attempting to navigate through the complex legal processes of our industry without the expertise and advice that our Husch Blackwell team brings to the table. They understand our business and possess the vision to consistently achieve ‘best possible results’ for all involved.”

— Joe Vendetti,
Mine Operations,
Solvay Chemical —

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amplitude but low frequency vibrations at distances of up to five miles from three different mines, under theories of trespass, nuisance, negligence, and ultra-hazardous activities, plus statutory SMCRA claims.

Handled all strict liability blasting litigation with neighbors of surface mines in two Midwestern states for major national coal company, defending nine cases to judgment and securing dismissals in nine others.

Defended national coal company against challenge by neighbor to SMCRA permit extension, involving water rights and possible subsidence issues arising out of planned de-watering of old underground works and novel issues of alleged effects of low magnitude but extremely low frequency vibrations having nationwide implications for SMCRA program.

Defended national coal company against several dozen alleged violations of state fugitive dust rules by which state environmental agency sought the imposition of penalties far in excess of any ever imposed up to that time.

Defended coal company in an enforcement case brought by the Indiana Department of Environmental Management in which the agency alleged more than 50 violations of Indiana's fugitive dust violations at client's mine and sought more than \$1.3 million in penalties.

Prosecuted federal civil rights lawsuit against state governor, lieutenant governor and head of environmental agency based on a theory of violations of constitutional equal protection and commerce clause rights in the denial of

a rural electric generating cooperative's application to construct a new coal-fired power plant.

Defended coal company in an Illinois state lawsuit brought by public water supply district alleged contamination of its production wells by sulfates generated and released in the groundwater at client's closed mine.

Represented first-of-its-kind, \$1.4 billion near-zero emissions commercial-scale coal-fired power plant being developed in Illinois by a consortium of coal producers and users in partnership with the U.S. Department of Energy. Our representation has included a power purchase agreement with the Illinois Power Agency and Illinois Commerce Commission (ICC); the first CO₂ pipeline application filed with the ICC in state history; assistance with financing, including discussions with the Illinois Finance Authority; analysis of state public utility and energy legislation; and development of liability management legislation.

Represented newly established coal mine owner in connection with initial permitting and Illinois state economic incentives.

Engaged by large Asian conglomerate to assist with Illinois coal export issues.

Represented leading company involved in development and commercialization of coal mine methane capture and conversion technology, with operational facilities processing methane for natural gas pipeline delivery in Pennsylvania and for power generation for the Aspen ski resort.

Negotiated co-ownership, construction agent, operating and other agreements supporting the development of 85-megawatt and 100-megawatt mine-mouth coal-fired power plants in Wyoming on behalf of power generation affiliates of coal mine owner, including the sale of undivided ownership interests in the power generation facilities to three utilities.

Assisted client in its tax-free spinoff of subsidiary holding eight coal mines, two joint venture mines, and numerous contractor-operated mines serviced by eight coal preparation facilities along with 1.2 billion tons of proven and probable coal reserves.

Represented lender in secured credit facilities consisting of term loans, revolvers, and capital expenditure lines of credit for multiple operators of surface and underground coal mines in Kentucky, Ohio, West Virginia, and Colorado.