

## ENVIRONMENTAL



Our nationally recognized Environmental law team provides efficient, cost-effective representation to companies in the energy, chemical, agricultural, mining, manufacturing, transportation, and real estate industries. Our creative yet practical solutions protect our clients' right to operate, meet their customer expectations, and advance their business interests.

We assist clients with strategic counsel on compliance, permitting, product safety, remediation, liability management, and litigation, including defense of enforcement actions related to federal and state environmental laws. Additionally, our environmental law attorneys often serve as national environmental counsel for clients.

### Case Study

#### **Commonwealth of the Northern Mariana Islands**

The Commonwealth of the Northern Mariana Islands (CNMI) watched with great concern as another U.S. territory (Guam) fought the U.S. Government in court over financial responsibility for a hazardous waste site initially developed and operated by the U.S. Navy. After losing on appeal in the D.C. Circuit, Guam convinced the U.S. Supreme Court to hear its case. Fearing how negative precedent could affect other U.S. states and territories, CNMI's Attorney General approached Husch Blackwell to prepare an *amicus curiae* brief.

*"Thanks for Husch Blackwell's help and great work on Phoebe Solar. Innergex would not have been able to do this complex project without you. We greatly appreciated your expertise on construction and real estate matters."*

— Charles  
Desmeules,  
Director—Legal  
Affairs, Innergex  
Renewable  
Energy Inc. —

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Our compliance guidance to clients includes federal and state environmental laws such as:

Clean Air Act

Clean Water Act

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Endangered Species Act

Federal Insecticide, Fungicide and Rodenticide Act

Mine Safety and Health Act (MSHA)

National Environmental Policy Act (NEPA)

Occupational Safety and Health Act (OSHA)

Resource Conservation and Recovery Act (RCRA)

Surface Mining Control and Reclamation Act (SMCRA)

Toxic Substances Control Act (TSCA)

## Representative Experience

Served as primary environmental compliance counsel to multiple-plant, multiple-state inorganic chemical manufacturer. Representative projects included responding to requests for information on release reports, advising on hazardous waste recycling, resolving notices of violation, Occupational Safety and Health Administration (OSHA) citations and notices of probable violation for rail and truck hazardous materials transportation,

interpreting requirements for risk management programs and chemical safety security, and planning for permit renewal changes.

Prepared comments on EPA's identification of nonhazardous secondary materials that are solid wastes proposed rule on behalf of a company that used a novel technology to reclaim coal from legacy piles. This prompted the Environmental Protection Agency (EPA) to revise its rule and include currently mined and processed coal refuse as a fuel, not a waste, in its final rule.

Represented food products manufacturer in resolution of alleged serious violations of permit effluent limits in local sewer authority discharge in Colorado. Because of Environmental Protection Agency (EPA) involvement, sewer authority was planning to terminate discharge authorization. Resolved matter with no plant shutdown and a provision for orderly treatment plant upgrade.

Mediated settlement, at a fraction of total potential liability, for company in long-running dispute with the EPA over lead-contaminated Superfund site.

Lead counsel on several complex natural resource damages (NRD) involving active mine sites, including the Morenci, Tyrone, Chino, and MolyCorp sites in Arizona and New Mexico.

Advised company that redevelops environmentally contaminated property in acquiring a 340,000-square-foot inactive battery-manufacturing plant in New Jersey. Negotiated a liability and remediation trust fund transfer agreement that involved the previous owner and the state.

Counsel for manufacturing company in complex four-way negotiations regarding transfer and redevelopment of old manufacturing complex, culminating in execution of redevelopment agreement. Redevelopment of property occurred with the manufacturing company's involvement limited to certain known environmental issues, with others participating in newly identified issues and asbestos.

Represented a Fortune 500 manufacturer in a Clean Air Act enforcement case involving Roundup raw materials. The client settled Title V Operating permit violations with the State of Wyoming but the EPA Region 8 found the settlement insufficient. Our client filed a declaratory judgment action against the United States in Wyoming federal court before the U.S. filed its own enforcement action in the same federal court. The court ordered the parties to mediation, where the proposed multimillion dollar penalty was settled for less than a million dollars.

Achieved a favorable outcome in defense of a large petrochemical corporation against several significant claims stemming from alleged product releases and contamination from a pipeline located in Hartford, Ill. As part of representation, Husch Blackwell conducted an analysis of the client's chances of recovery of its defense costs and indemnity against its excess carriers (in the millions of dollars) and potential costs of resolution of the various claims, including claims by Illinois Environmental Protection Agency and the federal Environmental Protection Agency. On Jan. 7, 2013, the trial court in Madison County, Ill., held that Allianz

Underwriters Insurance Co. had breached its duty to defend under Illinois law and that it owed our client its past and future defense costs.

Represented an international manufacturer of components for the energy industry when a temporary worker claimed disability discrimination and retaliation for filing an OSHA complaint. Our team obtained a dismissal with prejudice of all claims for client.

Represented a privately owned cleaning products company with its redevelopment and expansion of a corporate headquarters, including a manufacturing and distribution complex, in St. Joseph, Missouri. Worked with the client and the state of Missouri to develop an environmental risk remediation plan and secure Brownfields Tax Incentives to help with the expense.

Represented developer of 440 MW of solar projects. Provided development, real estate, environmental, electric regulatory, and state tax expertise on all matters.

Represented chemicals company after it was statutorily debarred by the Environmental Protection Agency's Suspension and Debarment Official (SDO). The SDO terminated the debarment without any administrative agreement.

Served as land development counsel and local real estate and financing counsel for real estate investment firm as it acquired three hotels and resorts in Texas (worth \$93 million), each of which were active resorts situated in areas of the state with unique and complicated water, wastewater, and environmental issues.

