

Mining and Reclamation

The western United States is dotted with active, inactive, and abandoned mining sites that present a vexing array of environmental impacts and that are regulated under a complex structure of federal, state, and local laws. The firm is experienced in advising clients interested in buying, selling, and redeveloping these sites, and with respect to regulatory compliance and cleanup requirements under mine reclamation and environmental statutes and regulations.

Representative Projects

- Representing California state agency defendants in connection with complex state environmental litigation concerning remediation of the Leviathan Mine Superfund Site, an inactive sulphur mine discharging acid mine drainage into surface waters; work included prevailing on key motions and successful settlement of the case on the third day of a scheduled five-week jury trial (*Atlantic Richfield v. State of California, et al.*, Case No. BC380474, Superior Court of the State of California, County of Los Angeles). Kaplan Kirsch & Rockwell currently advises these clients regarding two remedial investigations, feasibility studies and other compliance with the national contingency plan, among other issues.
- Advised a reservoir operator regarding what reservoir maintenance activities would trigger mine permitting requirements in Colorado.
- Represented the current owner in due diligence and acquisition of the Schwarzwald Mine Site, Golden, Colorado, and negotiation of the associated terms and conditions of the transfer of permits, bonding, and orders governing closure and cleanup; currently represent the owner with respect to the ongoing reclamation and disposition of this site.
- Represented the current owner in due diligence and acquisition of a former gravel quarry in Cañon City, Colorado, including the transfer of bonds and land use, mining, and Colorado Discharge Permit System permits for the site; currently represent the owner with respect to completing reclamation and terminating the mining permit and discharge permit to allow long term recreational use.
- Represented a Utah municipality in negotiation of a settlement agreement and order on consent for engineering evaluation/cost analysis and removal action related to discharges from drainage infrastructure constructed within historical mine tailings; currently represent the client in implementation of the agreement and order and various cleanup and development related matters associated with historical mining operations in and around the city.
- Firm attorney assisted a private responsible party in implementation of a comprehensive package of zoning, development guidelines, and public amenities intended to contribute to a more cost-effective remediation of a large Superfund mining site in Montana. This representation also included the preparation of extensive public comments, analyses of “applicable or relevant and appropriate” cleanup requirements, and “shadow” assessments designed to facilitate the remedy selection process and to craft an administrative record supporting the client’s preferred remedy if a challenge became necessary.
- Firm attorney represented EPA as the principal architect and lead federal negotiator for one of the largest and most innovative settlements in the history of the Superfund program; negotiated environmental cost overrun insurance, a finite risk policy, indemnities, corporate guarantees, bonds, and other insurance and finance tools to secure perpetual treatment of acid mine drainage pollution containing toxic metals, which if left untreated, would threaten critical spawning habitat for a number of endangered species. Followed successful litigation on the merits (*U.S. v. Iron Mountain Mines, Inc.*, 987 F. Supp. 1277 (E.D. Cal. 1997); *U.S. v. Iron Mountain Mines, Inc.*, 987 F. Supp. 1263 (E.D. Cal. 1997); *U.S. v. Iron Mountain Mines, Inc.*, 987 F. Supp. 1233 (E.D. Cal. 1997)).



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- Firm attorney represented California state agency in negotiating and overseeing a consent agreement for long term mine remediation addressing both discharges to surface water and groundwater and management of historical mine tailings.