

## Site Cleanup and Compliance

Kaplan Kirsch & Rockwell assists clients in a broad range of environmental compliance matters. We are best known for work on unusually complex compliance and cleanup projects. Our attorneys routinely represent clients with respect to their rights and responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), and other federal and state statutory schemes for the cleanup of contaminated sites and contribution claims for remediation costs. We also represent private parties as well as cities, counties, and other public jurisdictions negotiating and implementing administrative orders, voluntary cleanup plans, and consent orders; responding to compliance orders; and acting on notices of violation.

### Representative Cases

*Board of County Comm'rs of La Plata County, Colorado v. Brown Group Retail*, C.A. 08-CV-00855 (D. Colo. 2008) (provided expert testimony on reasonableness of remediation costs)

*Brown Group v. Hathaway et al.*, C.A. No. 01-AJ-0917 (D. Colo. 2001) (represented potentially responsible party (PRP) in CERCLA cost recovery, contribution, and common law tort action)

*U.S. v. IBM Corp.*, C.A. No. 01-B-1017 (D. Colo. 2001) (represented PRP in CERCLA cost recovery action)

*Colorado School of Mines v. AK Steel et al.*, C.A. No. 99-N-1863 (D. Colo. 2001) (represented third-party defendant/PRP in CERCLA cost recovery action)

*Colorado School of Mines v. Teck Corp.*, C.A. No. 99-M-1310 (D. Colo. 1999) (represented assignor of claimant in CERCLA cost recovery and common law tort action)

*Mathews v. Dow et al.*, 947 F. Supp. 1517 (D. Colo. 1996) (represented PRP in CERCLA cost recovery, contribution, and common law tort action)

### Representative Experience

- Represented a Utah municipality in negotiation of a settlement agreement and administrative order on consent with the U.S. Environmental Protection Agency to conduct an engineering evaluation/cost analysis and removal action.
- Represent a nonprofit corporation that owns a contaminated parcel of property near Denver, Colorado, that has undertaken a more than 20-year effort to remediate site conditions associated with its former use as a mining experimental facility and to implement a redevelopment strategy. We have assisted this client in issues under CERCLA, Toxic Substances Control Act (TSCA), radioactive materials licensing, the state Voluntary Cleanup Act, the Clean Water Act, and other authorities.
- Represented the master developer of portion of a former gunnery range in negotiating a consent agreement with the state health department and developing an insurance program and cost recovery approach to address potential ordinance contamination encountered during a phased development process.
- Represented an environmental consulting firm in negotiating a fixed-price remediation agreement, an associated cost cap, and a pollution legal liability policy for remediation and redevelopment of a former defense manufacturing site under a RCRA order.
- Assisted a nonprofit corporation in negotiating a consent order for the closure of a construction and demolition landfill and purchasing the site to protect views from an historic property.



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- Represented a recycling company in responding to a 104(e) information request and associated negotiations under CERCLA related to former operations on a mining site listed on the National Priorities List. No enforcement action was taken.
- Assisted a public entity in a complex transaction involving the conveyance of a municipal landfill site from the federal government and negotiation and implementation of a state-supervised voluntary cleanup and redevelopment before the adoption of a state voluntary cleanup program. Issues included identification of CERCLA-compliant cleanup standards for closure and waste management and evaluation of remediation alternatives.
- 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 site. 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 craft an administrative record supporting the client’s preferred remedy if a challenge became necessary.

See Brownfields for other project examples.