



Mining



OVERVIEW

Modrall Sperling is privileged to represent a broad range of mining enterprises from some of the world's most substantial multinational resources development companies and mid- and small-sized mining and exploration concerns. Although primarily focused on New Mexico activities, our services to mining industry clients have extended to other parts of the United States and also address international issues. The challenges faced by participants in this heavily regulated and scrutinized industry are complex and often daunting. We draw on our diverse set of skills and depth of experiences, work closely with client representatives and often team with a wide range of technical consultants, to provide effective representation in court, before agencies, in public hearings, and in dispute resolution forums, and offer thoughtful insights and creative solutions to assist clients in meeting their business, contractual, permitting, environmental compliance, litigation and employment challenges.

EXPERIENCE

While all cases differ given the particular facts and circumstances, some examples of our work include the following:

- Represented Phoenix-based Freeport McMoRan Copper & Gold Corporation in regard to its Tyrone Copper Mine in complex adjudicatory hearings before the New Mexico Environment Department and its oversight agency, the Water Quality Control Commission. Obtained a ruling by the New Mexico Court of Appeals that the Department was arbitrary and capricious in requiring that ground water quality standards be met throughout the entire mine permit area. On remand, we represented the company with the help of technical experts in a 21-day hearing before the Commission and subsequently (along with co-counsel) negotiated with the Department and an interested Non-Governmental Organization in achieving a complex, multi-year settlement involving both Water Quality and Mining Act issues allowing for the dismissal of a second appeal in the Court of Appeals.
- Assisted the Santa Fe-based Burrell Resources Group with agreements and due diligence in connection with its acquisition of mining assets in regard to an industrial-grade garnet deposit in the Oro Grande Mining District within the Jarilla Mountains in Otero County, New Mexico. We have also provided comprehensive organizational, transactional, public lands, permitting, water and environmental representation in connection with the ongoing project.
- Conducted comprehensive due diligence services for Denver-based Resources Capital Funds in connection with ongoing mining projects in New Mexico and Michigan. The services included title, permitting, Indian lands, public lands and environmental reviews and advice.
- Vancouver-based Goldcorp and its silver mining subsidiary operating near Zacatecas, Mexico, Minera Peñasquito, entered into a multi-million dollar international contract for the purchase of large mining equipment tires during a period of limited



international rubber and tire supply relative to demand. When the seller failed to deliver the tires or return advances, we initiated litigation in the United States District Court for the District of New Mexico and ultimately obtained judgments in favor of the company and a stipulated settlement requiring installment payments.

- Represented St. Louis-based Peabody Energy Company and its coal mining subsidiaries with operations in New Mexico faced a directive from the Environment Department to the Mining and Minerals Division suggesting imposition of certain surface water quality standards based on hypothetical aquatic life and human recreational uses of man-made mine impoundments that are slated for a post-mine land use of livestock watering. We initially challenged the directive through an administrative appeal and sought to negotiate a resolution of the issues with the Department and an interested Non-Governmental Organization, then pursued a regulatory change by the Water Quality Control Commission under a Clean Water Act-mandated Triennial Review proceeding leading to helpful findings of fact that set the stage favorably for further negotiations between Peabody and the Department.
- Providing counsel regarding tribal consultation and cultural resources management compliance relating to mineral development and exploration, including consideration of issues under the National Historic Preservation Act, the Native American Graves Protection and Repatriation Act, and related statutes, regulations and Executive Orders for Barrick Cortez, Inc., a subsidiary of Barrick Gold Corporation, for its present operations and proposed exploration in and near Crescent Valley, Nevada.
- Represent California-based Rio Grande Resources Corporation (RGRC) is in the early stages of preparing for further uranium mining operations at Mount Taylor Mine near Grants, New Mexico. The mine, which was one of the largest producers of uranium worldwide from the 1970s into the 1990s, has been on standby since approximately 1993 and is now poised to take advantage of projected market conditions for uranium. In addition to our decades-old representation of the mine, more recently we are assisting RGRC in proceedings to renew a Water Quality Act discharge permit for the mine and return the mine to active status.
- Represented the Denver-based Newmont Mining Company in state and federal regulatory proceedings and lobbying related to Newmont's New Mexico holdings, most notably in connection with legacy issues relating to the Northeast Church Rock Mine and operations conducted on SFPG and Navajo trust split-estate properties by United Nuclear Corporation. This representation is a continuation of the work the firm performed for the Santa Fe Pacific Gold Corporation (SFPG), which included representing SFPG, which merged with Newmont, in numerous joint venture transactions throughout the West, in antitrust and environmental litigation in federal and state courts in New Mexico, and in tax proceedings arising from the like-kind exchange.
- Assisted various clients and their technical consultants in obtaining exploration and minimal impact permits under the New Mexico Mining Act, having participated in legislative and rulemaking proceedings surrounding New Mexico's reclamation permitting regime administered by the Mining and Minerals Division and the Mining Commission.

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