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EXPERTISE

Environmental Law, Public Lands, Mining, Indian Law, Wildlife & Endangered Species, and Natural Resources

EDUCATION

University of Colorado Law School, J.D., *Order of the Coif*, 1989

University of Colorado, B.A., 1983

ADMITTED IN

Colorado

Scott Hardt is a partner at Davis Graham & Stubbs LLP, where his practice focuses on environmental and public lands issues arising in connection with natural resources and real estate development activities. He advises clients on permitting and regulatory compliance issues arising under a broad array of federal and state environmental laws, including the National Environmental Policy Act, Clean Water Act, Endangered Species Act, Federal Land Policy and Management Act, the Oil Pollution Act, CERCLA, and the National Historic Preservation Act. He also assists clients in obtaining and maintaining mineral rights and other use and access rights on federal and state public lands. This work involves close coordination with federal land managers and other permitting agencies, including the Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Environmental Protection Agency, and various state agencies. Mr. Hardt has successfully litigated several citizen suits and judicial appeals arising under federal environmental laws, including the Clean Water Act, the National Environmental Policy Act, the Endangered Species Act, CERCLA, and RCRA in courts across the Western U.S. He also regularly handles administrative appeals and hearings before the Department of the Interior, the Department of Agriculture, and various state commissions.

Mr. Hardt received his J.D. from the University of Colorado Law School, where he was a member of the Order of the Coif and an editor for the *University of Colorado Law Review*. Prior to joining DGS, he

practiced at a boutique environmental firm in Denver, various national law firms, and the Colorado Attorney General's Office. Mr. Hardt is admitted to practice in Colorado and before the Ninth and Tenth Circuit Courts of Appeal and the U.S. Supreme Court. Mr. Hardt has been recognized in *The Best Lawyers in America* since 2001.

REPRESENTATIVE MATTERS

Regulatory

- Regularly counsels clients on complex federal and state permitting and environmental compliance issues for mineral exploration, mining operations, oil and gas operations, and real estate development activities on federal, state, and private lands throughout the Western U.S.
- Supervised numerous internal environmental legal compliance audits at mining and mineral processing operations in the U.S. and in overseas jurisdictions, including Australia, Indonesia, Ghana, and Peru.
- Negotiated several CERCLA Consent Decrees and administrative orders for the clean-up of historic mining properties involving multiple PRPs.

Transactional Work

- Negotiated and drafted numerous mining venture agreements for properties situated in the U.S. and in various overseas jurisdictions.

- Negotiated and drafted various mineral leases, exploration agreements, farm-out agreements, rights-of-way, and easements for mineral exploration and development operations.
- Negotiated and drafted purchase and sale agreements, royalty agreements, assignments, and deeds for several transactions involving the sale and purchase of mining properties and related assets in several Western states.
- Negotiated and drafted conservation easements and recreational easements for the protection of and access to private lands.

Litigation

- Lead counsel in defense of the Clean Water Act and RCRA citizen suit related to contamination from a historic mining district in Colorado. The U.S. District Court dismissed the case on motion for judgment on the pleadings.
- Successfully defended claims by tribal organizations seeking to invalidate historic federal land grants throughout portions of Nevada, California, and Utah. The U.S. District Court and Ninth Circuit held that the claims were properly dismissed for failure to state a claim based on Indian title.
- Successfully defended trespass and breach of lease claims by a landowner relating to environmental clean-up activities. The court dismissed the claims for failure to state a claim.
- Successfully defended a fraud case under a mining property purchase and sale agreement. Plaintiff dismissed the case after the District Court granted summary judgment for the client on key property title issues.
- Successfully defended suit that attempted to void several mining leases and exploration agreements. After a three-week jury trial, the District Court granted motion for judgment as matter of law, holding that the leases and agreements were in full force and effect. The Nevada Supreme court affirmed those holdings.
- Lead counsel representing a mining company in defense of the State's issuance of an NPDES permit for a large open-pit mining operation. The Nevada Supreme Court held that the permit was properly issued.
- Successfully represented mining companies before the IBLA and courts in defense of various appeals challenging BLM approval of plans of operations for new mines and mine expansions based on NEPA, NHPA, and CWA.
- Successfully defended a Clean Water Act citizen suit alleging unpermitted discharges at a mining operation in Washington. After trial, the court granted motion for a directed verdict in favor of the mining company.
- Successfully defended trespass action associated with mine construction activities on federal lands in Idaho. The Department of the Interior administrative law judge, the Interior Board of Land Appeals, and the U.S. District Court uniformly held that plaintiff lacked a valid property interest.
- Successfully defended protest action challenging issuance of a Colorado Mined Land Reclamation Board permit for a new gravel quarry operation.
- Successfully defended BLM approvals of various oil and gas exploration activities on federal lands in Wyoming in appeals before the Interior Board of Land Appeals, which challenged NEPA compliance.