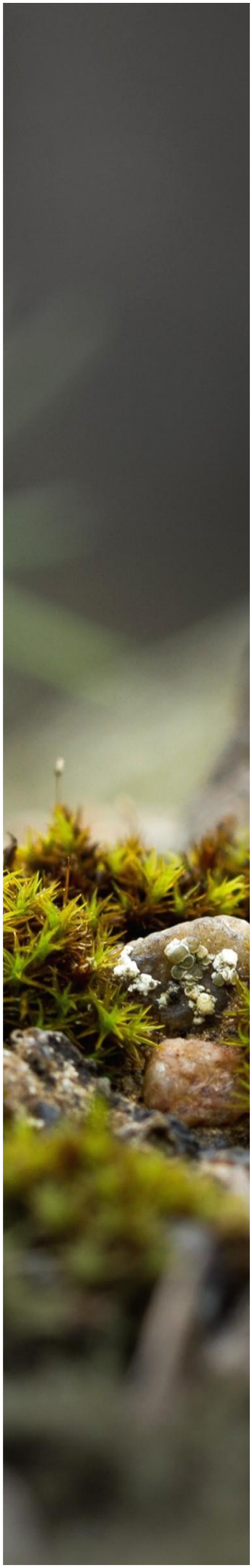
MAYER | BROWN

Environmental Capabilities



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ENVIRONMENTAL CAPABILITIES

Clients large and small rely on our environmental team surrounding innovative solutions related to litigation, navigating enforcement concerns, implementing regulatory compliance programs, and tackling issues that arise in transactions. The team has deep experience advising clients regarding the application of environmental laws, litigating major cases in state and federal courts across the United States, and providing preeminent appellate services.

Clients choose our team in such high-stakes matters as emerging torts relating to greenhouse gas emissions; site-based mass tort claims such as the Flint, Michigan water cases and PFAS litigation; issues of first impression under the Clean Water Act, Clean Air Act, Endangered Species Act, National Environmental Policy Act (NEPA), and other environmental statutes and regulations; and complex environmental cleanup projects involving the application of cutting-edge remediation technologies. Additionally, we are very familiar with the constitutional, statutory, and regulatory provisions under which many industries, companies, organizations, and agencies operate.

We litigate and win significant cases in courts at every level, and we have unparalleled experience handling high-profile environmental cases. Our team includes some of the most distinguished environmental lawyers in the country. Indeed, two of our partners were recently named "Energy & Environmental Trailblazers" by *The National Law Journal*, which recognizes lawyers who "continue to make their mark in various aspects of legal work in the areas of energy and environmental law." Additionally, we were honored to be named a *Law360* "Environmental Practice Group of the Year" for four of the past five years. We are continuously recognized by *Chambers USA* and *Legal 500 USA* as a top environmental practice. *Chambers USA* reports, "The team is very strong and has responsive advisers. They produce top-notch quality work." *Legal 500* quoted clients who said, "[they have] 'both depth and breadth' and 'a consistent track record of providing high quality representation.'"

Sophisticated businesses across the country rely on Mayer Brown every day to advise on complex deals and challenging disputes. No matter the issue, industry, or sector, we can call on environmental lawyers across US offices to advise on local, state, and federal permitting, regulatory, and litigation issues.

We are confident our cohesive, seamless, and integrated client-centered culture, built to ensure achieve their business goals, is an ideal fit for your needs with environmental matters and beyond.

LITIGATION, ENFORCEMENT, AND COMPLIANCE

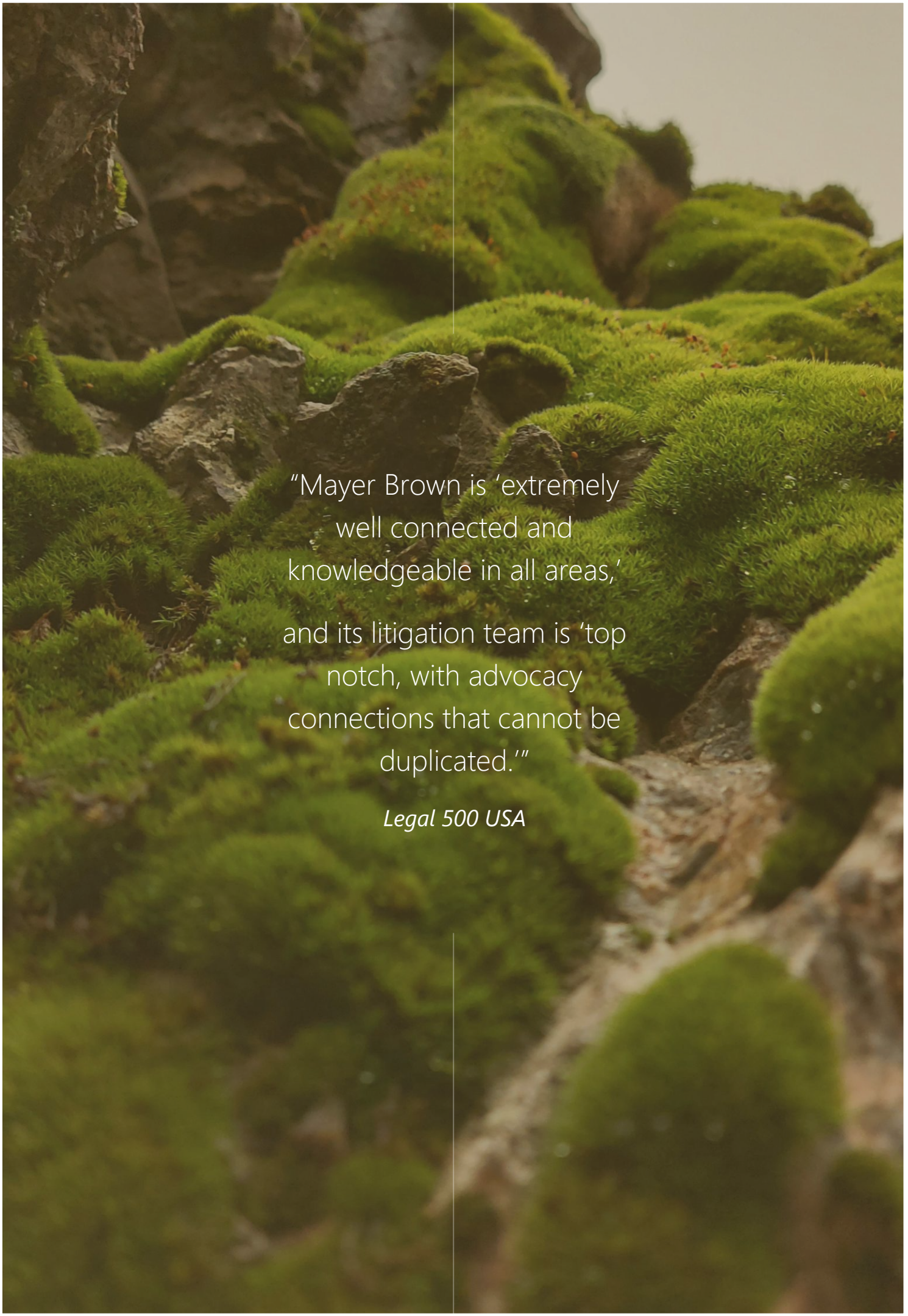
No matter the court or forum, Mayer Brown is renowned for protecting clients' interests in environmental matters. We have represented clients in trial and appellate courts throughout the United States, Europe, and Asia, and before domestic and international alternative dispute resolution forums. Our litigation approach combines aggressive representation at trial, effective argument on appeal, and skilled negotiation to achieve competitive goals. The same skills enable us to represent clients effectively in contested hearings for air, water, and waste permits, as well as in EPA enforcement and rulemaking proceedings. And our advice on the scope and meaning of environmental laws aids our clients in complying with the law and avoiding unnecessary litigation.

Similarly, our preeminent Supreme Court & Appellate lawyers are highly experienced in handling environmental cases in the US Supreme Court and all other federal circuit courts. Most recently, we obtained certiorari over the United States' opposition in National Association of Manufacturers v. Department of Defense and prevailed 9-0 on the merits on the issue of where challenges to EPA's "Waters of the U.S." Rule may be litigated. Notably, the case was featured in Law360's "Biggest Environmental Rulings of 2018." We obtained another unanimous Supreme Court victory in 2018, persuading the Court in Weyerhaeuser Corp. v. U.S. Fish & Wildlife Service that federal regulators had taken too broad a view of their powers under the Endangered Species Act. The unparalleled volume of our environmental-related appellate experience ensures effective and efficient counsel for clients at every level of the appellate process. Our appellate lawyers also work hand-in-hand with trial lawyers as an integral part of the trial team. Examples include the significant matters for 3M and Veolia North America described below. We know what it takes to build an appellate team that can provide robust support for the trial team and get the job done on appeal.

Mayer Brown's appellate team has a thirty-year relationship with the Postal Service. That relationship dates to 1993, when the Firm represented the majority of the Postal Service Board of Governors in high-stakes litigation involving a threat by the President to remove members of the Board. Since then, Mayer Brown has assisted the Postal Service in several appeals, including a successful challenge to an order of the Postal Regulatory Commission that limited its provision of non-postal services. Over the years, Mayer Brown has advised the Postal Service on a wide variety of matters, including in the areas of executive compensation, privacy, bankruptcy, antitrust, environmental compliance, and the interpretation of various provisions of its governing statute.

Unlike many competitors who use general litigators for environmental work, Mayer Brown has dedicated environmental litigators who work almost exclusively on environmental cases, leading to a greater technical understanding of the law and issues involved in each case. Clients have noted that this model significantly reduces learning curves and expenses. And our comprehensive understanding of federal, state, and local environmental laws and regulations enables us to advise on compliance issues before any litigation arises.

We have significant experience handling important cases in US venues that are among the nation's most hostile to defendants. We also draw on our network of many of the world's leading experts in fields relevant to environmental law, including geologists, hydrologists, toxicologists, pathologists, microbiologists, and engineers in order to better identify and attack "junk science" claims to counter plaintiffs who seek to take advantage of gaps in the scientific literature.


"Mayer Brown is 'extremely well connected and knowledgeable in all areas,'
and its litigation team is 'top notch, with advocacy connections that cannot be duplicated.'"
Legal 500 USA

SELECT REPRESENTATIVE ENVIRONMENTAL EXPERIENCE

- Veolia, a French transnational company, and its US subsidiary in connection with the Flint Water Crisis—one of the highest-profile cases in the United States. Veolia was hired by the city to assist with issues—other than lead—associated with the water supply. Even though governmental investigations have identified governmental actors—not Veolia—as the source of the problem (leading to criminal charges against 15 current or former government employees), the plaintiffs and the Michigan Attorney General, have targeted Veolia. We represent Veolia against these unwarranted allegations of wrongdoing amidst a volatile political environment and successfully defended the company through a 6-month trial in federal court that resulted in a mistrial.
- Charter Communications and its subsidiary, Spectrum, were successfully defended in multiple cases alleging that Spectrum, which has cables attached to some of Hawaiian Electric's poles, partially caused or contributed to the fires that destroyed the town of Lahaina and severely damaged several other areas on Maui.
- 3M Company, as national counsel, in significant high-stakes litigation, which includes thousands of claims pending nationwide alleging personal injury, property damage and environmental harm associated with per- and polyfluorinated alkyl (PFAS) substances. The claims include actions by various state attorneys general, the Aqueous Film-Forming Foam Multidistrict Litigation pending before the Honorable Richard Gergel, and numerous additional claims. These matters have been covered extensively by national and local news and media outlets.
- U.S. Sugar Corporation, in claims seeking property damages and medical monitoring related to the practice of pre-harvest sugarcane burning. We secured a victory in the putative class action filed in the Southern District of Florida. The court dismissed plaintiffs' claims for lack of standing because they had not connected their alleged injuries to particular defendants. The court allowed them an opportunity to amend, after which it again dismissed plaintiffs' claims based on visible ash for lack of standing, but allowed plaintiffs to move forward on negligence, strict liability and medical monitoring claims. Plaintiffs however voluntarily dismissed all remaining claims, handing U.S. Sugar a complete victory, after additional discovery and briefing. We also represent U.S. Sugar in litigation involving compliance with NEPA and federal water laws.
- Nicor, a major natural gas supplier, against claims by the City of Evanston, Illinois, alleging that contamination caused by Nicor migrated a half mile into the city and contaminated its water mains, putting the health of the city's 77,000 residents at risk. The city demanded an injunction that would require Nicor to conduct a detailed study and to prepare to replace miles of aging city water mains at a cost of hundreds of millions of dollars. After a two-week trial that included more than 10 experts, a federal trial court ruled in favor of Nicor, determining that there was no evidence that the water mains were contaminated by Nicor and no evidence that the city's water posed a risk to its residents.
- Joseph T. Ryerson and Son Inc. in connection with its status as a Potentially Responsible Party under CERCLA at the Portland Harbor Superfund Site. The Portland Harbor Superfund Site is one of the largest and most complex Superfund sites in the country. The site consists of a 10-mile stretch of the Willamette River in Portland, Oregon. Contamination at the site is connected to industrial operations dating back over 100 years. EPA has identified over 150 Potentially Responsible Parties, including both private, state, and federal entities. Although final costs have yet to be determined, EPA's Record of Decision estimated the final remedy to cost over $1 billion, making it one of the most expensive Superfund clean-ups in history.

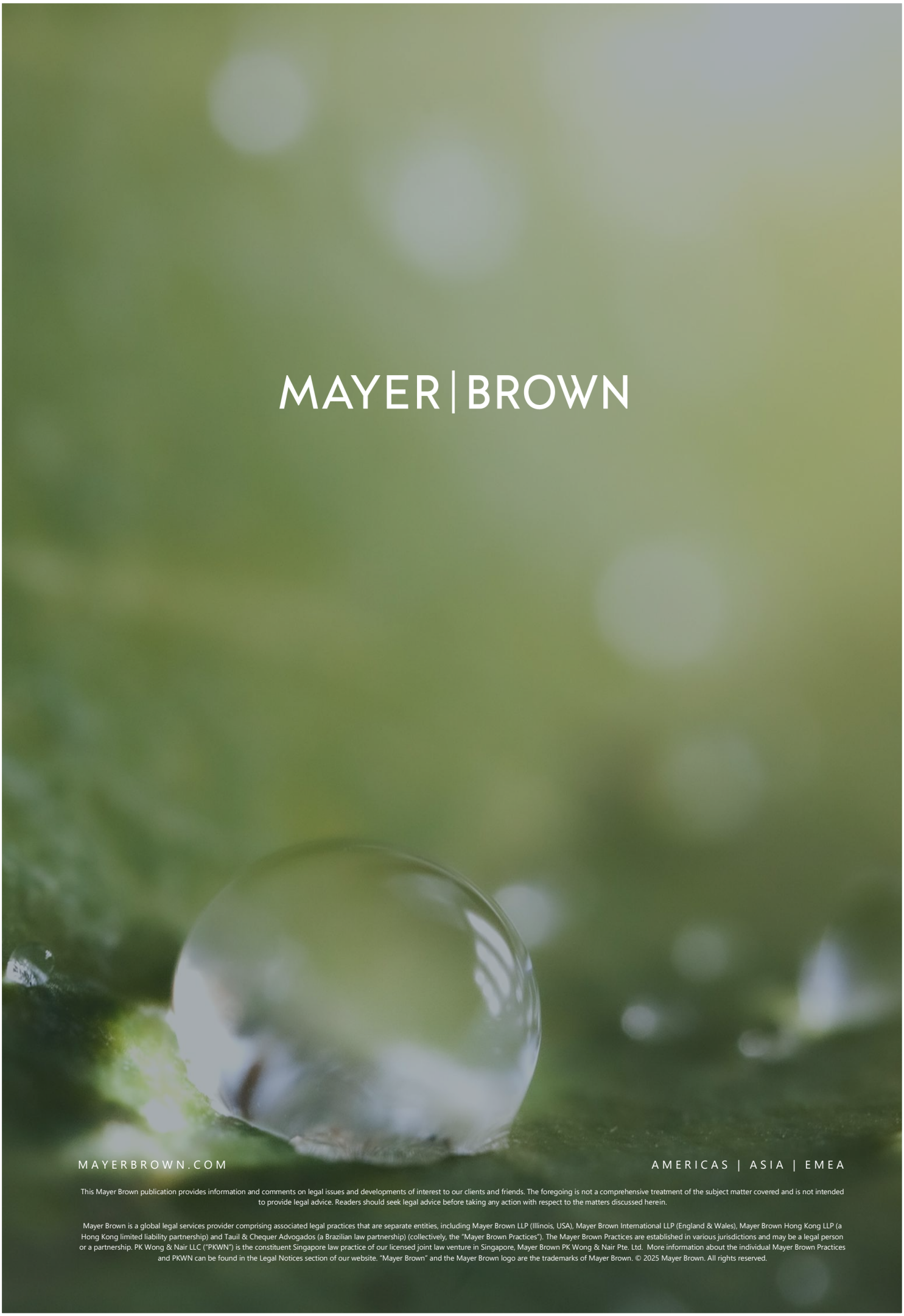
- Arkema, a specialty chemicals company, in an appeal from an order certifying a class of property owners in a case arising out of airborne and waterborne releases of substances following flooding caused by Hurricane Harvey. In the aftermath of the hurricane, Arkema's facility in Crosby, Texas lost power. Chemicals that needed to be kept cool then combusted. When the dust settled, residents brought a class action, alleging property damages and seeking medical monitoring. A federal district court certified a class of property owners within a seven-mile radius of Arkema's facility. The Fifth Circuit granted our petition for leave to appeal under Fed. R. Civ. P. 23(f), and, after plenary briefing and oral argument, vacated the class-certification order. In its published decision, the court made clear that the district court had abused its discretion by not adequately scrutinizing the reliability of plaintiffs' expert witnesses under Fed. R. Evid. 702 and by failing to consider how the class it had certified could actually be tried.
- Weyerhaeuser Company securing a unanimous victory in the US Supreme Court by obtaining reversal of a Fifth Circuit decision holding that the US Fish and Wildlife Service properly designated private land in Louisiana as "critical habitat" for the endangered Dusky Gopher Frog under the Endangered Species Act, even though there are no frogs on the land and radical changes would have to be made in the land before the frog could live there. The Court held that "critical habitat" must first be "habitat" for the endangered species and that the agency's decision whether to exclude property from a critical habitat designation is reviewable in court for abuse of discretion. The Court remanded the case to the lower courts, which ruled for Weyerhaeuser.
- Foster Poultry Farms when the Animal Legal Defense Fund (ALDF) filed suit against our client in state court in California, naming the City of Livingston as the real party in interest. ALDF alleges that water Foster Farms purchases from Livingston for use in its poultry processing plant in the City constitutes waste and unreasonable use in violation of article X, section 2 of the California Constitution. We are representing Foster Farms in responding to the suit. Article X, section 2 of the California Constitution addresses rights as between owners of water, not the use of water purchased from a municipality. Were that not the case, every end-user of water in the State potentially would be subject to suit by anyone who thinks that water could be put to better or more efficient use. Here, ALDF's avowed goal has no relation to water use: it seeks to force packing plants to process chickens in ways that ALDF perceives as more humane. ALDF seeks a vast and legally unjustified expansion of judicial oversight of water use that would upset California water law and invite abuse.
- Fourteen major industry groups were successfully represented by Mayer Brown in challenging the legality of the United States Environmental Protection Agency's 2015 regulation defining "the waters of the United States" within the meaning of the Clean Water Act. We served as lead counsel and obtained certiorari over the United States' opposition and prevailed 9-0 on the merits on the issue of where challenges to EPA's "Waters of the U.S." rule may be litigated. The case was featured in Law360's "Biggest Environmental Rulings of 2018." Subsequently, on remand, we persuaded two district courts that the 2015 Rule violates the Administrative Procedure Act. We now represent a dozen industry groups in challenging the 2023 waters of the United States rule in district courts in Texas and North Dakota in a continuing legal effort to ensure that that "Waters of the U.S." under the Clean Water Act are reasonably defined by EPA and the Army Corps of Engineers.
- Cargill with respect to a CERCLA site in Grand Island, Nebraska involving soil and groundwater contaminated with chlorinated solvents. EPA listed the site on the National Priorities List under CERCLA and initiated remedial action. Working with a team of experts, we commented on the proposed remedial action and defended the company against claims by approximately 300 residents who alleged extensive personal injuries and property damages. Plaintiffs alleged that the majority of the solvents originated

from a former Cargill facility. Plaintiffs' counsel used Erin Brockovich to recruit clients and obtain favorable local publicity. After extensive expert work, including additional investigation in the field and carefully targeted fact discovery, we prevailed on summary judgment on grounds that Cargill did not cause the contamination and did not have a duty to investigate the property to discover subterranean contamination. In addition, we used the summary judgment to establish that there was insufficient evidence for EPA to identify Cargill as a PRP for the site.

- U.S. Sugar Company, as a Mayer Brown appellate team in Chicago persuaded the DC Circuit to stay the effective date of a new EPA rule that seeks to retroactively apply significantly more stringent emission limits for "new" industrial boilers to a U.S. Sugar boiler constructed in 2016. Retrofitting the boiler to meet the updated standard for "new" sources would cost tens of millions of dollars. A DC Circuit panel of three Democrat-appointed judges granted the stay, holding that we had demonstrated a likelihood of success on the merits and satisfied the court's "stringent requirements" for a stay.
- Frontier Communications Corp. as lead counsel for a decade in multi-party litigation over sediment contamination in Maine's Penobscot River. The litigation, initiated by the City of Bangor against our client, sought to hold Frontier solely responsible for cleanup costs of over $100 million and for punitive damages of over $50 million due to polycyclic aromatic hydrocarbon (PAH) contamination allegedly discharged from a manufactured gas plant that began operations in 1851. The dispute presented complex issues of causation and involved a score of third and fourth-party defendants who had operated along the waterfront. Following extensive discovery and a three-week trial, we negotiated a settlement that allowed Frontier to limit its cleanup costs to $7.625 million, while requiring the City to conduct all cleanup and to indemnify Frontier without limitation. The settlement, embodied in a consent decree with the State of Maine, also allowed Frontier to recoup its costs from third parties, who challenged the arrangement as unreasonably favorable to Frontier. The US Court of Appeals for the First Circuit unanimously approved the settlement. Frontier subsequently has recovered almost all its cleanup costs through third-party settlements, and the litigation is substantially complete.
- Nicor Gas in the process of investigating and remediating its historic manufactured gas plant (MGP) sites and defending the significant litigation that has arisen at a number of sites. Thousands of MGPs were built nationwide in the late 19th and early 20th centuries to supply manufactured gas—made from liquefying coal—to nearby communities to use for light and heat. These facilities became outmoded by approximately 1945 with the advent of relatively inexpensive natural gas supplied via interstate pipelines. When the facilities were closed, the liquid tar byproduct (coal tar) and other chemicals were often left behind, typically in underground storage facilities. Nicor is in the process of investigating and remediating its MGP sites and defending the significant litigation that has arisen with respect to some of these sites. These MGP matters are significant because these sites are large and involve remedial costs exceeding $50 million; in some cases, over $200 million, and include difficult issues involving rivers and river sediments, fractured bedrock, and related air emissions and risk assessments. Litigation has also been significant, involving class action claims by neighbors as well as cost recovery claims under CERCLA and claims for injunctive relief under RCRA. Most of the sites are located on third-party property and involve protracted negotiation and potential litigation with property owners, including municipalities, park districts, state government, and private parties.
- Tarkowsi, in a matter where EPA, its authority under CERCLA Section 104(e), sought to enter private property to conduct a CERCLA removal action. On behalf of the property owner, we brought an action challenging the 104(e) order. At trial, our team defeated EPA and the US Department of Justice. The win was affirmed on appeal to the 7th Circuit. The victory achieved was so decisive that the trial court

subsequently required the US government to pay Mayer Brown's attorneys' fees. This case is the first recorded instance of EPA losing a demand for access under CERCLA Section 104(e).

- In Comer v. Murphy Oil Co., plaintiffs—Mississippi property owners harmed by Hurricane Katrina—sued oil, coal power, and chemical companies for public nuisance, alleging that the defendants' emissions of greenhouse gases caused the oceans to warm, which caused Hurricane Katrina to be stronger than otherwise would have been the case, which increased the damage the hurricane caused to plaintiffs' properties. The District Court dismissed the suit on grounds that it presented a non-justiciable political question and that plaintiffs lacked standing to pursue the claims, but a Fifth Circuit panel reversed. After we persuaded the Fifth Circuit to rehear the case en banc, the en banc Court lost its quorum to decide the case due to a recusal, leaving the favorable District Court decision controlling. Plaintiffs then filed a petition for mandamus in the US Supreme Court seeking to reinstate the panel decision instead. We persuaded the Supreme Court to deny mandamus, leaving the District Court decision dismissing the suit as the controlling law of the case. After the plaintiffs refiled their claims, we obtained dismissal of their suit on res judicata and other grounds.
- Dow Agrosciences in a class action in Madison County, Illinois, in which the plaintiffs alleged that a common herbicide, atrazine, had contaminated dozens of community water supplies. This litigation involved cutting-edge science regarding toxicity endocrine disruption, and also involved complex expert investigation regarding the fate and transport of alleged contaminants as they relate to both product identification and alleged causation. Issues related to atrazine, and EPA's decision to conduct multiple scientific advisory panel hearings regarding the compound, have been covered by the New York Times, Wall Street Journal, and other national media outlets.
- BNSF in numerous cases stemming from historic railroad operations. The complaints allege BNSF contaminated the soil and groundwater in Livingston, Montana, damaged plaintiffs' properties, and that plaintiffs are entitled to monetary awards to fund further "restoration" above and beyond the cleanup BNSF is already implementing subject to state oversight. Over 100 plaintiffs are involved in the various suits filed in both state and federal court.
- A natural gas provider against claims that allegedly leaking gas pipelines created an imminent and substantial endangerment to public health and the environment under RCRA, in connection with company's work to retire and replace gas lines under authority of PHMSA.
- An aluminum manufacturer around hazardous waste permitting and RCRA corrective action obligations. In connection with an acquisition, our client took over a moribund cleanup process at a plant site in the Southeastern U.S. With our help, client investigated the facility, obtained a new hazardous waste permit, and developed corrective action plans. Remediation is now ongoing. Contaminants of concerns include chlorinated solvent, petroleum, and hexavalent chromium. In addition, we have been representing our client in efforts to obtain indemnification for the associated costs pursuant to its business transaction.
- A metals recycler surrounding compliance with RCRA regulations and responses to RCRA investigations.



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