

ENERGY, CLIMATE & CARBON MANAGEMENT

Companies that produce and use energy face a variety of challenges related to the regulation of industrial carbon dioxide and other greenhouse gas (GHG) emissions. At the federal level, such emissions are now regulated by the U.S. Environmental Protection Agency. At the state level, California and the New England states already regulate emissions of GHGs.

These developments have spun out overlapping regulatory and transactional issues. And KMCL lawyers were early participants on both fronts, and remain at the forefront of the legal and regulatory impacts of GHG controls on companies doing business in the United States. We provide carbon management advice to all manner of clients, including conventional energy companies, infrastructure developers, renewable energy developers, airlines, and owners of fleet vehicles.

Areas of expertise include:

- Conventional energy (coal, oil & gas, enhanced oil recovery, pipelines)
- Coal and petcoke gasification
- Mining
- Refining
- Renewable energy (geothermal, biomass, hydropower, wind)
- Transportation (ground, rail, aviation, maritime)
- Unconventional energy (shale, tar sands)
- Utilities (coal, natural gas, nuclear, integrated gasification combined cycle)

We are nationally recognized for our unique expertise in carbon capture and storage (CCS), a major carbon mitigation technology. Our CCS expertise extends to carbon dioxide enhanced oil recovery, a proven technology that enables the simultaneous storage of industrial carbon dioxide emissions and production of conventional oil and gas. Based upon our CCS expertise, KMCL lawyers have been asked to: (1) testify before various federal and state legislative bodies on matters pertaining to the stewardship of storage sites; (2) serve on California's Blue Ribbon Panel on CCS; and (3) participate in the Interstate Oil & Gas Compact Commission's working group for CCS regulations.

Also, we provide the following carbon-related transactional services: (1) representing investors in and developers of carbon-reduction projects worldwide under the Kyoto Protocol's Clean Development and Joint Implementation mechanisms; (2) negotiating emission reduction purchase agreements; (3) structuring carbon finance transactions; (4) representing clients in carbon trades (in both regulated and voluntary markets); and (5) providing clients with technical, economic and policy advice related to renewable energy and carbon reduction projects.

KMCL is a leader in assisting clients with carbon-driven transactions under the Kyoto Protocol. Our lawyers have worked on monetization strategies, project development, carbon finance and trading, and joint development agreements. We have assisted clients with strategy, development, and trading of carbon credit assets in the U.S., the E.U., and other jurisdictions since the onset of the concept of carbon markets. We understand the techniques best suited to recognize carbon mitigation value, which can result in cash flow crucial to project viability and success. KMCL also understands the

array of existing and fast-developing regulatory issues that uniquely create both risk and opportunities in this arena. And we have done cutting edge legal work related to the tax treatment of carbon credits and obtaining security interests in such units.

KMCL lawyers have completed carbon-related transactions in the United States, China, Peru, Mexico, Argentina, Brazil, the United Kingdom, Hungary, Bulgaria and Africa. KMCL lawyers represented one of the world's most highly regarded carbon investors on CER/allowance swaps under the EU-ETS, and provided the same services to one of the world's largest chemical companies.

Representative Matters:

- Represent the North American Carbon Capture and Storage Association.
- Represent the Coalition for Commodity CO₂, the major trade advocacy organization active in the space. Representation in commercialization of coal-to-liquids technology, whereby anthropogenic carbon dioxide streams are sold for use in oil recovery applications.
- Provide carbon management advice to a major coal producer.
- Provide carbon management advice to a major CCS project developer and CCS credit aggregator.
- Represent a major utility trade association on CCS issues.
- Drafted a major federal climate bill for a major oil & gas company.
- Represented investors in a 250 MW run-of-the-river hydropower project in Peru, a project intended to generate Certified Emission Reductions (CERs) under the Kyoto Protocol's Clean Development Mechanism (CDM).
- Represent the developer of a pipeline that will transport industrial carbon dioxide from a gasification facility for use in enhanced oil recovery.
- Represent oil & gas interests in pore space acquisition transactions.
- Drafted easements for carbon dioxide storage in deep saline pore space.
- Drafted carbon commodity swap agreements.
- Drafted carbon loan agreements.
- Advise a Fortune 50 chemical company on carbon reduction projects, including projects under consideration in Brazil, Russia, and Eastern Europe.
- Represented investor in coal-bed methane clean energy project in the Ukraine.
- Negotiated Emission Reduction Purchase Agreements under the CDM and the representation of buyers and sellers of credits on a bilateral and exchange basis, including for matters in Korea, Brazil and China.
- Represent joint venture partner in a major coal to liquids facility deal in Texas.
- Representation of investor in precedent-setting landfill projects in the United States and abroad involving a credit facility for both CERs and voluntary credits.
- Represented local government in landfill gas deal utilized as part of strategy by major University to become "carbon neutral."