Working on the frontlines of environmental regulation compliance, Mike Ford, JD/MS ’95, counsels business clients not to let down their guard due to the down economy. Cost-cutting on environmental compliance and related legal counsel can be extremely costly to companies—and even fatal—as the new administration ramps up enforcement.
Without going to court.

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“We have the most comprehensive and complicated envi-
ronmental regulations in the world,” says Ford, “so the biggest
challenge is first knowing what compliance means. Often this
confounds even the regulators. With federal, state, and local
compliance issues—and with overlapping laws—emissions and
discharges could be subject to any number of regulations.”

Ford, a Bryan Cave partner, also helps clients with enforcement
defense when environmental regulators bring actions, providing
litigation support and, in most cases, negotiating a settlement
without going to court.

THE ST. LOUIS NATIVE also provides environmental counsel in real
estate transactions. “The potential liabilities are enormous and
often unforeseen, so it’s prudent to do appropriate due diligence
before acquiring commercial or industrial property,” says Ford.
When properties with environmental issues change hands, he
works to allocate the risks and liabilities between buyer and seller.

Such “brownfield developments” represent a complex portion
of his practice—from project feasibility analysis to participating in
voluntary cleanup programs to obtaining environmental insurance
and regulatory approval. But brownfields often present a potential
Pandora’s box for owners, says Ford: “There are large incentives
not to deal with a contaminated site because you don’t know what
you’re going to open up.”

Which is what happened to a group of Franciscan Friars in
what Ford calls “the most fulfilling case in my short career.” The
case was the subject of a 2007 front-page Wall Street Journal
article, “Friars Who Owned Polluted Mine Get All Sorts of Help:
Prayer and a Good Lawyer; They Risked Costly Fines Over
Arizona Toxic Waste.”

The Friars inherited partial ownership of the Gibson Mine in
Gila County, Arizona, 70 miles east of Phoenix, in 1970. Copper
miners had leased the site sporadically since the 1900s, but the
operations were halted by regulators in the 1990s. Then, in 2003,
the state threatened to sue the Friars over acidic, metal-bearing
runoff from the abandoned mine facilities into a nearby creek.
The Friars, who take a vow of poverty and follow the teachings of
St. Francis of Assisi (who professed man’s kinship with the land),
could not bear the millions of dollars needed for cleanup. Yet, says
Ford, “They had a desire to do what they could for the environ-
ment, as St. Francis had.”

Ford stepped in to organize a solution for his pro bono client. He
urged the Friars to take full responsibility to gain maximum
leverage in negotiations with various state and federal regulatory
agencies and persuaded the other owners to donate their shares
to the Friars in exchange for being let off the environmental
cleanup hook. He got other Bryan Cave clients, including
another mining company and a metal recycler, to pitch in on the
$2.2 million project. Ultimately, the Friars hope to recoup
their share of the cleanup expense by selling the decontaminated
land for development.

Such copper mining issues are abundant in Arizona. “Copper
mining is a cyclical business dependent on market prices,” Ford
says, which historically has led to environmental problems in Ari-
izona and other Western states. The EPA says some 100,000 aban-
donated mines of various sorts there pollute 40 percent of streams.

FORD’S RAPID RISE in the ranks of environmental law got a
jumpstart thanks to his dual Washington University degrees—
a JD combined with an MS that focused on environmental issues
from the School of Engineering & Applied Science. That enabled
him to focus immediately on environmental law when he first
joined Bryan Cave at its St. Louis headquarters.

“It gave me a leg up. I hit the ground running when most
associates are searching about for their niche,” he recalls. “I went
to work right away in the firm’s environmental group.”

In the ensuing years, Ford has written and lectured on renew-
able energy incentives, water quality, real estate due diligence,
brownfields liability, redevelopment of contaminated property,
and the impact of climate change initiatives on business. He
recently was elected 2009 vice president of the Phoenix chap-
ter of the Academy of Certified Hazardous Materials Managers
(ACHMM), having previously served as president.

Ford says he first became interested in environmental law when
taking a survey course during his second year of law school, and
got involved in the Environmental Law Society, where he learned
of the joint-degree program.

“It’s a great program, and I highly recommend it,” says Ford.
“I have no shortage of good things to say about Washington
University. The quality of teaching was, in my estimation,
far superior.”

He also gives ample credit for his preparation to Maxine
Lipeles, senior lecturer in law and co-director of the law school’s
Interdisciplinary Environmental Clinic, and Michael Cannon,
adjunct professor of law and the University’s executive vice chancel-
or and general counsel, with whom he studied environmental
insurance coverage.

He calls Lipeles “a great mentor who really encouraged me
to pursue environmental law,” and says Cannon “manifested a
true concern for students and the subject matter.”