



New Jersey Ramps-Up NRD Program under Governor Murphy

Client Advisories

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Earlier this week, the State of New Jersey initiated six lawsuits that the New Jersey Department of Environmental Protection (NJDEP) and New Jersey's Attorney General are calling part of "a 'new day' for environmental enforcement in New Jersey." In three of the six cases, the State is seeking payment for alleged injury to the State's natural resources - or "natural resource damages" (NRD). These lawsuits follow statements made earlier this year by the Attorney General and the Governor's transition team signaling an intent to bolster New Jersey's NRD program, which did not initiate any new lawsuits during Governor Christie's two terms in office (See <https://archerlaw.wpengine.com/new-jerseys-nrd-program-likely-ramp-governor-murphy/>).

"This is the largest single-day environmental enforcement action in New Jersey in at least a decade," New Jersey Attorney General Gurbir Grewal said during a press conference. "Today is just the beginning - we are going to hold polluters accountable, no matter how big, no matter how powerful, no matter how long they've been getting away with it."

The three NRD cases announced Wednesday involve the Pohatcong Valley Superfund Site in Warren County, the Deull Fuel property in Atlantic City, and the Port Reading Terminal in Woodbridge Township. The timing of the NRD lawsuits is interesting. Unlike the federal government, New Jersey has declined to enact regulations that govern NRD claims. The State therefore pursues NRD on an ad hoc basis, which often leads to complex and protracted litigation. Recognizing this issue, the chair of the New Jersey Senate's Environment and Energy Committee, Sen. Bob Smith, recently convened a NRD Task Force to develop suggestions regarding possible NRD legislation or regulations, including approaches for valuing injury to natural resources. The Task Force includes NJDEP officials, industry representatives, NRD practitioners (including Archer attorneys), and individuals from many of the State's environmental advocacy organizations. This week's NRD lawsuits were filed one day after the first meeting of Sen. Smith's NRD Task Force.

The attorneys in Archer's Environmental Law group have extensive NRD experience in New Jersey. We have been instrumental in nearly all of the State's landmark NRD litigation matters, including the Bayway and Bayonne Refineries litigation, the MTBE case, and the Essex Chemical and Union Carbide cases, among others.

We have also helped clients resolve NRD claims without litigation, including cost-effective strategies that address NRD as part of the regulatory process.

If you have any questions or would like more information on these issues, please contact **Marc A. Rollo**, **Christopher R. Gibson**, or any member of Archer's **Environmental Law Group** in Haddonfield, N.J. at 856-795-2121; Princeton, N.J. at 609-580-3700; Hackensack, N.J. at 201-342-6000; Philadelphia, Pa. at 215-963-3300, or Wilmington, Del. at 302-777-4350.

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Attachments

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