



## JOHN D. FOGNANI

Partner

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**PRACTICES:** Energy, Power and Natural Resources, Commodities, Oil and Gas, Midstream, Mining and Metals, Environmental, Oil and Gas Litigation, Real Estate, Energy Litigation, Canada; **TRENDING ISSUES:** Water Rights, USMCA

### DENVER

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### EDUCATION AND CLERKSHIPS

- J.D., Northwestern University School of Law, 1977, *cum laude*, Member and Executive Editor, *Northwestern University Law Review* (1975-1977)
- B.A., University of Colorado at Boulder, 1973, *with distinction*, Phi Beta Kappa

### ADMISSIONS

- Colorado

### COURT ADMISSIONS

- United States Supreme Court
- Supreme Court of Colorado
- U.S. Court of Appeals for the Tenth Circuit
- District of Columbia Court of Appeals
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Ninth Circuit

John Fognani has practiced as a natural resources and environmental attorney with broad experience in natural resources, environmental and real property law, including permitting, counseling and compliance issues, and numerous complex transactions and litigated matters involving natural resources and environmental matters. His practice emphasizes resource project development, public lands issues, surface rights, access and use, project finance, and compliance with federal, state and local mining and oil and gas laws and requirements. Prior to joining Haynes and Boone, John was the original founding partner of Fognani & Faught, PLLC.

John has substantive knowledge of facilities and operations in a wide range of different industries, including the mining, milling, smelting and refining of ores and minerals (including primary and secondary processing), oil and gas (upstream and downstream) and manufacturing industries, and advises clients on complex technical environmental matters.

John's experience has extended to international law and financing, particularly relating to mineral and energy development, with experience in negotiating and preparing exploration agreements; international joint venture and consortium agreements; stability agreements and tax analyses; pre-feasibility and feasibility studies; environmental impact assessments to ensure compliance with national and international requirements; financial instruments; construction and engineering contracts; and project development documents. In that capacity, he has worked on various resource projects in Canada, Mexico, China, Mongolia, Russia, Kazakhstan, Australia, Myanmar, Niger, South Africa, Burkina Faso, the Congo, and Argentina.

For more than a decade, John served as Executive Vice President – Legal and General Counsel for Ivanhoe Capital Corporation and Ivanhoe Mines Ltd. and was instrumental in negotiating and documenting the investment agreement entered into by Ivanhoe Mines Ltd, Ivanhoe Mines Mongolia LLC and Rio Tinto PLLC to define and regulate the relationship for the construction and development of the Oyu Tolgoi copper and gold mining complex.

John has spoken and written extensively on all manner of natural resources and environmental topics, including on numerous topics associated with natural resources law and international law and regarding bilateral investment treaties for mineral, oil and gas and energy projects in North America and various foreign countries. He wrote the original chapters for the American Law of Mining on the Resource Conservation and Recovery Act of 1976, as amended, and on the Comprehensive Environmental Response,

- U.S. District Court for the District of Colorado

Compensation and Liability Act of 1980, as amended. John has been a regular speaker at Rocky Mountain Mineral Law Foundation Institutes and Conferences for the past 25 years.

#### Professional Recognition

- Recognized in *Chambers USA*, *Chambers and Partners*, as a leading lawyer in Natural Resources and Environment (Colorado), 2016-2020.
- Recognized as a Stand-out Lawyer, *Acritas Stars*, *Acritas*, 2019-2020.
- Recognized by *The Best Lawyers in America*, Woodward/White, Inc., for Environmental Law, Energy Law, Litigation - Environmental, Mining Law and Natural Resources Law, 2016-2020.
- Recognized in *Who's Who Legal: Environment*, Law Business Research Ltd., 2020
- Recognized by *Colorado Super Lawyers*, Thomson Reuters, 2006-2015, 2017-2019.
- Recognized as a "2018 Who's Who in Energy" by the *Denver Business Journal*.

#### Professional and Community Activities

- Denver Bar Association
- Colorado Bar Association
- American Bar Association
- Colorado Mining Association
- International Mining Professionals Society
- Rocky Mountain Mineral Law Foundation
- National Mining Association
- Colorado Petroleum Association
- Colorado Oil & Gas Association

#### Selected Publications and Speeches

- "Government Enforcement of Environmental Laws," guest lecturer, Northwestern University Law School, Chicago, Illinois, April 10, 2019.
- "NPDES Permits for Discharges Carried by Groundwater: Is that a Thing?," speaker, ABA Section of Environment, Energy, and Resources' 37th Water Law Conference, Denver, Colorado, March 27, 2019.
- "Environmental Litigation," Speaker, Colorado Bar Association's Environmental Regulation of Colorado Real Property CLE Seminar, Denver, Colorado, December 8, 2016.
- "Getting the Deal Through: [Mining 2016](#) (United States)," co-author, *Getting the Deal Through*, July 6, 2016.
- "SEC Mining Rules Update," Panelist, Haynes and Boone CLE Seminar, New York, New York, October 13, 2016.
- "Chapter 22: Environmental Litigation," chapter author, CBA Real Estate Treatise.