

## Environmental, Energy & Land Use

### ATTORNEYS

- Carlos J. Fernández-Lugo (Chair)
- Jorge J. García-Díaz (Vice-Chair)
- Rosa Corrada
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- André J. Palerm-Colón
- Manuel Quintana-Soler

### AREAS OF CONCENTRATION

- Energy
- Environmental & Land Use Litigation
- Environmental Regulation
- Land Use Regulation

### RELATED PRACTICE AREAS

- Class Actions
- Construction Litigation
- Hospitality
- Housing Development
- Litigation
- Retail

More often than not, today's sophisticated business transactions include an environmental component. McConnell Valdés -- unlike other Puerto Rico law firms -- has an entirely self-standing Environmental, Energy & Land Use Practice group to address these needs.

We bring our extensive experience to bear on the full spectrum of environmental, energy and land use challenges confronting our clients -- from domestic and international corporate transactions to project permitting and regulatory representation, from environmental litigation to legislative and rule-making affairs.

We work closely with our clients to help them minimize potential exposure to environmental liabilities by anticipating and managing risk. Recognizing that ours is one of today's most rapidly changing fields, we offer clients responsive, up-to-the-minute advice on relevant statutory, regulatory, and case law developments in environmental, energy, land use and zoning, as well as planning and construction issues.

Highly respected leaders in the field, our "deeply knowledgeable, experienced and responsive" team has received top rankings from *Chambers & Partners Latin America* for our "good working relationships with the environmental regulators in Puerto Rico." *Chambers & Partners Latin America* has also ranked several members of our team among the leading attorneys in the Environmental field, noted for their commitments to our clients, as well as their exceptional diligence and creativity. Additionally, a number of our team members have been selected by their peers as *The Best Lawyers in Puerto Rico 2016 and 2017*.

Knowledgeable about all facets of zoning and planning laws and regulations, we provide clients constructive counsel on everything from location approvals and construction permitting to re-zoning procedures. Our team includes attorneys who hold degrees in engineering and who are members of the Puerto Rico College of Engineers and Land Surveyors, enabling us to offer insightful counsel based on a deep understanding of both the legal and technical issues at hand.

We not only know the law -- we help to make it. A case in point: we participated in the drafting of Acts 82 and 83 of July 19, 2010, which created the Puerto Rico renewable energy portfolio standard, and the renewable energy incentives regime, respectively. We also worked on the net metering chapter of the Energy

Transformation and RELIEF Act, Act 57 of May 27, 2014. And we work together with colleagues in our Government Affairs & Public Policy group to see that our client's interests are represented before the executive and legislative branches of government.

McConnell Valdés clients benefit from outstanding counsel on:

### **Energy**

The McConnell Valdés Energy Practice team is fueled by a singular commitment to our clients: to share our considerable legislative and regulatory experience and substantial knowledge of the laws involved in establishing and operating a successful energy company. [Read more...](#)

### **Environmental & Land Use Litigation**

When preventive measures are not enough, our Environmental & Land Use Litigation team mounts vigorous defenses on behalf of clients who face complex challenges in courts and in administrative proceedings. [Read more...](#)

### **Environmental Regulation**

Our Environmental Regulation Practice draws on a proven record of success and deep bench of experience to help clients handle the full complement of environmental law issues. [Read more...](#)

### **Land Use Regulation**

Our experienced Land Use attorneys are exceptionally well equipped to help clients navigate the complex, and ever-shifting tides of zoning and permitting laws and regulations. [Read more...](#)

## **REPRESENTATIVE CLIENTS & MATTERS**

- In the first proceeding of this kind in Puerto Rico, we are representing a client before the Puerto Rico Energy Commission in administrative proceedings concerning the first Integrated Resource Plan ("IRP") being prepared by the Puerto Rico Electric Power Authority. The Energy Commission is a government agency of recent vintage, created pursuant to Act 57-2014, which has the power to approve electricity rates and regulate energy companies. The IRP, as required pursuant to Act 57-2014, will establish a long-term (20-year) strategy for meeting energy demands in Puerto Rico based on current and attainable technologies and infrastructure, combined with energy

conservation and diversification efforts.

- Representation of a client in the development of 101.2 MW wind farm. Our work involved environmental, land use, permitting, real estate, tax exemption, construction and regulatory matters.
- Representation of a client in connection with financing, tax and, separately, regulatory issues before the Puerto Rico Electric Power Authority and the Energy Commission. With thousands of customers in Puerto Rico, our client is the largest residential solar company active on the Island. Residential solar is a new business in Puerto Rico; accordingly, our work involves novel issues and often breaks new ground.
- Continued representation of a client in multi-district products liability and natural resource damages litigation involving the use of Methyl Tert Butyl Ether in gasoline.
- Successful representation of the owner and operator of a landfill in the environmental impact statement and land use proceedings related to the expansion of the facility.
- Representation of a major pharmaceutical company in connection with its Title V air permit.
- Representation of a client in connection with the development of a 40 MW grid-scale solar photovoltaic project. Our representation involves environmental, land use, permitting, real estate, tax exemption and contractual aspects.
- Successful negotiation of power purchase agreements for two behind-the-meter solar photovoltaic projects with a capacity of 2.7 MW AC and 3.1 MW AC, respectively, at different manufacturing facilities.
- Representation of a group of companies that discharged into a wastewater treatment plant in two consolidated toxic tort and nuisance actions filed by residents of communities surrounding a wastewater treatment plant, one of which requested the certification of a class. Plaintiffs claimed over \$600 million dollars in damages as a result of alleged noxious odors claimed to be generated by the wastewater treatment plant over a period of many years.
- Handling several appeals from state agency decisions concerning the environmental impact statement and pre-construction permits for a San Juan hotel and resort. We represented the developer in all of the petitions for judicial review, ultimately resulting in a showdown before the Supreme Court of Puerto Rico.
- Representation of the plaintiff in a civil action against the operator of a quarry bordering a pharmaceutical facility in connection with illegal dust

emissions and a geologically unstable limestone hill caused by quarrying operations at the site. Our client obtained an injunction against the quarry operator.

- Representation of an oil company in a toxic tort action filed by the owners of a property allegedly contaminated by storm waters and fuel releases originating from a gas station. The litigation also involved a parallel administrative enforcement action initiated by the Environmental Quality Board (EQB) in connection with alleged violations to the agency's underground storage tank regulations.
- An administrative enforcement action initiated by the EQB against a filter membrane manufacturer. The agency sought more than \$90 million in administrative fines for alleged mishandling of filter membrane wastes that the EQB considered to be hazardous due to the ignitability characteristic. EQB's action was the direct result of a lawsuit filed by the owner of an incinerator that was destroyed by a fire allegedly caused by the filter membrane wastes. We represented the filter membrane manufacturer in both the administrative enforcement action and in the state court litigation.
- Representation of an oil company defendant in a civil action initiated by the Commonwealth of Puerto Rico in connection with an oil spill at a metropolitan area hospital. A United States Coast Guard investigation preceded the litigation. The government demanded \$2 million dollars in damages and the restoration of natural resources affected by the spill.
- A civil cost recovery and contribution action filed pursuant to the Comprehensive Environmental Response Compensation and Liability Act against twenty-seven (27) defendants concerning the \$20 million dollar remediation of an old Juncos landfill. The litigation also involved separate administrative proceedings related to two unilateral administrative orders by the Environmental Protection Agency (EPA). Under a common defense agreement, we represented several companies that allegedly disposed of hazardous substances at the old Juncos landfill. We handled both the litigation in federal court and the administrative proceedings before EPA.
- A citizen suit under the Clean Water Act involving alleged violations to a National Pollutant Discharge Elimination System permit in which we represented one of the tuna canneries that discharged into the wastewater treatment plant.