



Chapter 6

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The Integral Relationship Between the Federal Technology Transfer Act and Natural Resources

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§ 6.01. Introduction and Overview.

In a recent opinion, Judge Lamberth of the District Court for the District of Columbia commented on the “integral relation” between the Federal Technology Transfer Act of 1986 (FTTA)¹ and natural resources law.² The specific case had nothing at all to do with mining but rather with “bioprospecting” and the innovative use of a Cooperative Research and Development Agreement (CRADA), a creature of the FTTA. The U.S. Department of the Interior had used a CRADA in connection with a

¹ 15 U.S.C. Sections 3701 – 3717.

² *Edmonds v. Babbitt*, 93 F. Supp. 2d 63 (D.D.C. 2000).

specimen research permit to authorize specimen collection by a private company in the Yellowstone hot springs, to craft an arrangement for profit sharing by the national parks in the commercialization of any products resulting from such research.

The case is striking for several reasons. First, despite significant initial skepticism, Judge Lamberth agreed that the term “laboratory” – a key ingredient of the FTTA CRADA authority – was broad enough to include Yellowstone National Park. Second, it is the first case to our knowledge to describe an “integral relation” between the FTTA and the natural resources law. The idea of this “integral relation” has a great deal of power – as it coincides with increased attention to the use of natural resources, modified through the application of genetic modification, to effect environmental remediation, grow ingredients and materials for pharmaceuticals and industrial materials, and secure greater crop yields.³ The power has a strong economic base – the ability to leverage research and development dollars through partnerships which provide both the private and government partners with intellectual property rights of mutual benefit.

Lawyers may well be able to add increased business value to their mining client representations through greater understanding of the FTTA, and creative application of FTTA tools to a variety of circumstances. An analysis of the provisions of the FTTA, the *Edmonds* decision, and the potential application of this emerging integral relationship to the mining industry is provided in this chapter.

§ 6.02. The Federal Technology Transfer Act.

[1] — Goals and Purposes of the Law.

The Federal Technology Transfer Act (FTTA) was enacted to ensure the exchange of commercially valuable information between federal

³ Examples of such products, in commerce and on the drawing board, and an in-depth analysis of the federal natural resource, health and safety laws which apply to them have recently been published by the Office of Science and Technology Policy. These can be accessed at <http://www.ostp.gov/html/012201.html> (last visited September 21, 2001).