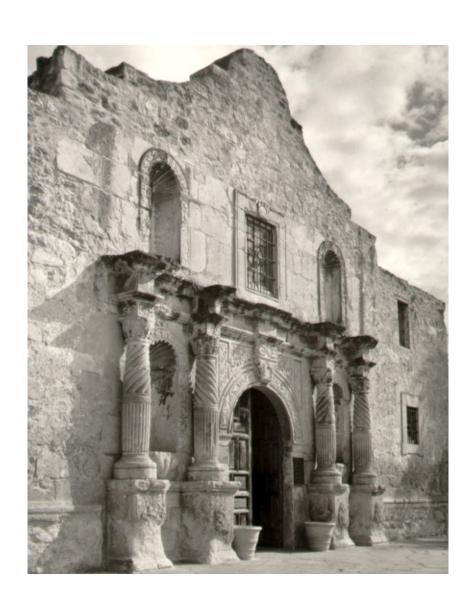
## Landmark Battles



### Council of Industrial Boiler Owners 2009 Annual Conference

October 14<sup>th</sup> – 16<sup>th</sup> San Antonio Texas

Lisa Jaeger, Bracewell & Giuliani LLP

### **ACTUAL**



## CEM Rule UARG/Air Liquide v. EPA

- Protocol Gas Verification Program not in effect
- Cases held in abeyance
- Discussion among parties ongoing

## Startup/Shutdown/Malfunction Sierra Club v. EPA

- SSM General Provisions vacated
- Mandate stayed to October 6 2009
- Industry seeking Supreme Court review



## BMACT/CISWI II NRDC v. EPA (CIBO)

- No emission reduction MACT floor
- CAA §112(d)(4) health-based compliance option
- Sources burning any solid waste as §129 "incinerators"

### **Status**

- Vacated and remanded
- EPA must propose by 4.15.10 finalize by 12.16.10



## Boiler NSPS II New York v. EPA (CIBO)

- "Best system of emission reduction" = energy efficient design & IGCC
- Incremental cost to existing sources cannot be basis for rejecting SCR for NSPS
- PM 2.5 should have separate standard & condensables should be controlled
- NY: low sulfur fuel = system of emission reductionStatus
- EPA voluntary remand
- Environmental Petitioners' bill of costs \$1,500.00



# CAIR II NC v. EPA (CIBO)

- Vacated and remanded
- Court requires reasonable time for CAIR II

# OZONE II MS v. EPA (CIBO)

- Ozone standard set at .075 ppm
- EPA seeking voluntary remand
- EPA plans to stay rule for area designations only



## PSD Johnson Memo Sierra Club v. EPA (CIBO)

- Case in abeyance
- PSD interpretive rule out for comment by 12.17.09

### **FUTURE POTENTIAL**



- MACT Rule Cases
- Boiler MACT Permit Cases
- CO2 Permit Cases
  - Deseret, Desert Rock
- CO2 Nuisance Cases
  - CT v AEP
- Coal Combustion Byproducts (CCB) Rule

## Landmark Battle Launch

	Fall/Winter '09	Spring '10	Summer '10	Fall/Winter '10
BMACT/ CISWI II		Propose 4.15.10 (Court)		Final 12.16.10 (Court)
NSPS II		Propose?	Final?	
Ozone II	Propose (EPA)		Final (EPA)	
CAIR II	Propose (EPA)			Final (EPA)
SSM	Supreme Court Cert?			
NO2 NAAQS	Proposed 7.15.09		Final?	
RCRA CCB		Propose?		Final?
OTHER MACTS				
RICE	Proposed 3.5.09			
HMIWI	Final 10.10.09			
PC	Proposed 5.6.09			
<u>CLIMATE</u>				
Endangerment	Proposed 4.24.09	Final?		
PSD Tailoring	Proposed 9.30.09 Final?			
PSD Interpretive Rule	Proposed 10.7.09 Final?			
GHG Mobile Source	Propose?	Final?		Final?
CAMR		Propose?		Final?



**New Alamo** 



**Battle of San Jacinto**