

Mr. Algae Goes to Washington:

Ternion Bio's Victory for CO₂ Innovation



Client:	Ternion Bio Industries
Matter:	Secured a favorable provision in the American Recovery and Reinvestment Act of 2009 (ARRA) for an emerging growth algae company
Area of Law:	Public Policy
Result:	Incorporated new language into the federal stimulus bill that changes how funds for carbon capture technology will be awarded

The Challenge

Historically, government funding for carbon sequestration and capture projects has primarily supported traditional geologic methods, in which carbon emissions are captured and stored underground. California-based startup Ternion Bio Industries (Ternion Bio) has developed an innovative technology that uses algae to recycle CO₂ into beneficial products, through its proprietary Photo BioReactor system. This emerging technology provides gas-emitting facilities—such as coal-burning plants, ethanol plants, petroleum refineries and manufacturing plants—a cost-effective alternative to geologic carbon capture and sequestration. Funding from the Department of Energy (DOE) would help the company advance its technology, but as an emerging growth company, competing for that funding had proven difficult.

In December 2008, Ternion Bio turned to Pillsbury's Public Policy team to help promote its innovative technology to decision makers in Washington and obtain funding under ARRA. Provisions in the original House bill discouraged innovation and cost savings by allowing only geologic forms of carbon sequestration and capture to compete for funding from the DOE's Carbon Capture and Sequestration Research, Development, and Demonstration Program. While Senate provisions allowed for DOE funds to support diverse carbon capture technologies, the language was narrow and did not give priority consideration to projects outside of the geologic sphere.



The Solution

Pillsbury, which has advised on more than 100 cleantech projects since 2007, was faced with significant time constraints in order to meet Ternion Bio's objectives. The team—working in conjunction with our Climate Change & Sustainability lawyers—lobbied both Congress and DOE, eventually submitting to Congress an outline of a proposal to amend the carbon sequestration and capture R&D provisions to include cost-effective and innovative technologies. The strategy also included reaching out to a number of influential House and Senate leaders in the final days before Congress was expected to vote on the bill.

The Result

Recognizing the challenge in getting new language added to a bill on behalf of a startup, Pillsbury lawyers added a media relations component to the campaign strategy in order to draw public attention to Ternion Bio's efforts. The strategy paid off when a story on the significance of including carbon recycling in the stimulus bill appeared in several key publications, including *The Hill*, *Politico* and *BusinessWeek*.

Two months after Pillsbury's team began representing Ternion Bio in Washington, D.C., the House and Senate passed a version of ARRA that included a modest, but key change in how funds for carbon capture would be awarded. The bill made clear that a portion of the \$1.5 billion set aside for carbon capture and energy efficiency improvements would be allocated to carbon recycling projects developed by companies like Ternion Bio through a competitive process at DOE.

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