

Environmental

Miller Canfield has the skill, knowledge and experience to guide businesses, organizations and municipalities through the interlocking network of federal, state and local laws and regulations related to energy and the environment. Our principals average more than 25 years of practical legal experience and include former high-level environment and utility government officials, permit engineers, technical consultants, litigators and appellate advocates. Clients choose Miller Canfield because of our deep connections as well as our effective and efficient processes for assisting with complex and time-sensitive transactions.

We offer comprehensive services in the following areas:

Environmental Litigation

Our attorneys have defended public and private sector clients in trial court and appellate **environmental litigation** brought by federal, state and local authorities, national environmental groups, and private citizens. We have defended clients in judicial actions seeking injunctive relief and penalties, private suits for the payment of damages and compensation, and contribution and cost recovery lawsuits involving the remediation of contaminated sites.

Regulatory Permitting, Compliance and Enforcement

We have assisted clients in obtaining environmental permits in all media (air, water, wetlands, stormwater, solid and hazardous waste, oil and gas), developing compliance and record retention programs, conducting environmental audits and responding to government violation notices and requests for information. We have also represented utility, energy and telecommunications clients in securing licenses, franchises, certificates of necessity and other required authorizations and approvals. We've counseled clients in preparing for government inspections, represented them in settlement negotiations and defended them before courts and government boards. We vigorously represent the interests of our clients while maintaining a professional working relationship with the regulators. The extensive private and public sector experience of our attorneys has allowed us to build an unequalled reputation of trust with regulators.

Real Estate Transaction and Redevelopment Support

Miller Canfield has advised clients on a broad range of environmental and remediation challenges associated with the redevelopment of commercial and industrial properties. Whether it involves environmental due diligence in the purchase of property, the cleanup of a contaminated site, or securing liability protection and necessary government authorizations, our team understands the complexity of these matters. With our experience, we help clients navigate the often overlapping federal and state procedures and requirements. We can review and understand technical and legally relevant reports, engage and oversee environmental consulting and engineering firms, provide post-transaction guidance, and much more.

Natural Resources and Land Use

Clients often encounter a patchwork of environmental and natural resource requirements before they can begin construction and development activities on their properties. Our team has helped clients identify and obtain the necessary site development approvals and permits, including wetlands, floodplains and stormwater management

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permits, and watershed and drain code authorizations. We have successfully represented municipal and private sector clients before state and federal regulators and have negotiated permit conditions and consent decree terms favorable to our clients' interests.

Oil and Gas

We provide advice and legal opinions on a wide variety of oil and gas leasing, operation and production issues; and title examination for exploration and acquisition purposes. We further provide representation for oil and gas clients in administrative proceedings before the MPSC in connection with operating gas wells under vacuum, and the Michigan Department of Environment, Great Lakes, and Energy (EGLE) Supervisor of Wells in connection with well spacing, unitization and statutory pooling.

Emergency Response and Crisis Management

Our attorneys are prepared to provide assistance and legal counsel to clients in responding to environmental crises, ranging from unintended chemical releases to explosions resulting in significant property damage and human injury. We can help coordinate response activities, complete state and federal reporting requirements, oversee and manage post-emergency response actions, facilitate communications between the client, regulatory agencies, neighboring land owners and alleged victims, and provide guidance on minimizing liabilities and reducing exposure should future emergency situations occur.

Environmental and Regulatory Advocacy

For many businesses and organizations, environmental policy development is largely hidden, and the environmental rulemaking process overwhelmingly complex and cumbersome. With our government and private sector knowledge and expertise, our attorneys are uniquely qualified to provide the assistance you need to convey your views on regulatory matters to government decision-makers throughout the entire rulemaking process. Where environmental policy is being established through legislation, we monitor the progress of such legislation, analyze its impacts, and offer guidance on substantive changes to the legislation.

Climate Change

The U.S. EPA has made climate change and the regulation of greenhouse gases its top priority. At Miller Canfield, we are well-situated to meet the demands of this new and developing field. We understand the regulatory landscape and can provide insight into the government's perspective on greenhouse gas regulation and control. Our team includes a former high-level U.S. EPA official and state environmental department director, a former state air quality permit engineer, and a former state utility commission administrative law judge. Our attorneys have helped develop state climate action plans, served on climate change and greenhouse gas work groups and committees, assisted companies in complying with the greenhouse gas reporting rule, and provided counsel on preparing and submitting comments on the proposed U.S. EPA Clean Power Plan rule.

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Representative Matters

Environmental Litigation

- Successfully represented a domestic producer of materials used in the steel industry regarding an EPA investigation. All criminal charges were declined.
- Defended a large manufacturer in a state enforcement action regarding alleged groundwater impacts from wastewater discharges, negotiated administrative consent order and remedy. Defended a civil suit brought by nearby property owners seeking damages for alleged groundwater impacts.
- Defense of automotive supplier in alleged successor liability environmental contamination claim by the State of Michigan.
- Defended various industries in putative class action cases brought under nuisance and negligence theories from purported industrial emissions.
- Represented large oil pipeline in prosecuting claims of breach of contract and violations of the Uniform Commercial Code in relation to faulty additives manufactured by defendant.
- Successfully defended major oil company in putative class action involving allegations of underground storage tank leaks and related groundwater contamination.
- Represented major oil company in putative class action concerning nuisance and negligence allegations arising from an explosion at a refinery.
- Obtained a dismissal on behalf of an energy exploration and natural gas processing company in an action with allegations of nuisance stemming from emissions at a gas processing facility.

Regulatory Permitting, Compliance and Enforcement

- Successfully represented a domestic producer of materials used in the steel industry regarding an EPA investigation. All criminal charges were declined.
- Defended a large manufacturer in a state enforcement action regarding alleged groundwater impacts from wastewater discharges, negotiated administrative consent order and remedy. Defended a civil suit brought by nearby property owners seeking damages for alleged groundwater impacts.
- Represented company in \$200 million+ cleanup of Great Lakes site under CERCLA, Part 201 and Part 31. Assisted client in negotiating with state and federal regulators to end CERCLA removal action and move to long-term remedies under state oversight. Resolved water discharge and disposal permitting issues in connection with the project.
- Represented municipal landfill in state enforcement action and a civil suit by private landowners over groundwater impacts due to migrating solvent plume. Coordinated enforcement response, delineation of impact, and remedy provision of alternative community water supply, with litigation defense to achieve satisfactory settlements for client and community.

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- Achieved favorable settlement for large vegetable cannery concerning accidental release of process water that violated the facility's NPDES permit and allegedly caused a seven-mile "fishkill."
- Assisted Publicly-Owned Treatment Works (POTW) in responding to proposed Administrative Order on Consent (AOC) for alleged violations of the U.S. EPA's Clean Water Act pretreatment program.
- Representation of large agricultural facility with EPA criminal investigation alleging intentional process water discharge violations of the Clean Water Act.
- Assisted large plating facility with self-disclosure to U.S. EPA of alleged environmental criminal regulatory violations for false record-keeping and permit reporting based on alleged actions of 'rogue' employee.
- Obtained favorable settlement with the Illinois Attorney General and the Illinois Environmental Protection Agency on behalf of large soybean processor concerning accidental discharge of contaminated wastewater to creek which allegedly caused an 11-mile "fishkill" and other environmental and natural resources damages.
- Representation of large meat-packing facility to respond to EPA concerns regarding its compliance with U.S. EPA's Clean Water Act pretreatment program.
- Representation of large agricultural facility to invoke agricultural exception to stormwater permit requirements and avoid proposed Administrative Order on Consent (AOC) demanded by U.S. EPA.

Real Estate Transaction and Redevelopment Support

- Local counsel to lender financing construction of natural gas electric generation facility, advising on real estate, environmental permitting and tax matters.
- Provided transaction support to a Chinese-based client in the multi-million dollar purchase of a large float glass manufacturing facility, including retaining a consultant, reviewing reports, assessing environmental risks, and performing environmental due diligence for the site that included Phase I and II Environmental Site Assessments and a Compliance Review of Environmental Permits.
- Represented large natural gas energy company in contract negotiations concerning hot flame, transportation, propane and pricing issues.
- Representation of large multi-national retailer with environmental "all appropriate inquiry" due diligence for leases and acquisitions for "big-box" stores, distribution centers and other developments, including wetlands, endangered species and other issues.
- Represented national online automotive dealer with consideration of property adjacent to active Superfund Site for a new distribution center and property with significant wetland impacts.
- Represent numerous industrial property owners and "Brownfield" redevelopers to assess potential impacts of contaminated sites and obtain regulatory closure through state-based voluntary cleanup programs in various states.

Natural Resources and Land Use

- Assistance with local permitting, zoning and land use, as well as regulatory requirements to confirm project feasibility and compliance

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- Review, analysis and management of action required to resolve issues disclosed as a result of analysis of energy usage and production reports, zoning reports, survey analysis and independent investigation
- Identifying and obtaining necessary site development approvals and permits, including wetlands, floodplains and storm water management permits, and watershed and drain code authorizations
- Coordination of loan document compliance with applicable local law

Oil & Gas

- Represented large oil pipeline in prosecuting claims of breach of contract and violations of the Uniform Commercial Code in relation to faulty additives manufactured by defendant.
- Successfully defended major oil company in putative class action involving allegations of underground storage tank leaks and related groundwater contamination.
- Represented major oil company in putative class action concerning nuisance and negligence allegations arising from an explosion at a refinery.
- Obtained a dismissal on behalf of an energy exploration and natural gas processing company in an action with allegations of nuisance stemming from emissions at a gas processing facility.

Emergency Response and Crisis Management

- Represented large plating facility with emergency response and subsequent enforcement action for accidental release of industrial hydrochloric acid from above-ground storage tank that volatilized and caused the evacuation of nearby residential neighborhood and impacts to adjacent wetlands.