

Environmental Litigation

Miller Canfield's Environmental Litigation Team includes experienced attorneys and litigators who have defended public- and private-sector clients in trial court and appellate litigation brought by federal, state and local authorities, national environmental groups and private citizens. Our group serves all manner of entities and individuals, from small family businesses to Fortune 50 companies.

We defend against the complex permitting and regulatory actions our clients face, helping to mitigate the political and financial impact of such actions. We have successfully 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. We provide litigation services ranging from Superfund cost recovery and EPA-related actions to federal and state environmental enforcement defense and compliance work, including criminal environmental defense.

Our experience includes:

- Chemical contaminations (PFAS, PFOS, lead, mercury)
- Chemical emissions (benzene, carbon monoxide, hydrogen sulfide, methyl ethyl ketone, sulfur dioxide, volatile organic compounds)
- Class actions
- Clean Air Act (CAA)
- Clean Water Act (CWA)
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Fires
- Gas field unitization and drainage
- Groundwater contamination
- National Environmental Policy Act (NEPA)
- Oil well development
- Pipeline failures
- Resource Conservation and Recovery Act (RCRA)
- Royalties
- Storage tank (under- and above-ground) issues
- Trade secrets
- Upstream natural gas production
- Waste water disposal

We also have a strong background in counseling and defending manufacturing, utility, construction, retail, university and other clients in Occupational Health and Safety and workplace safety and health matters. We have handled cases involving over 50 workplace fatalities and many significant injury cases, including fire and explosion, crush injuries and

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exposure injuries, as well as alleged "willful" and "repeat" violations/citations. We have substantial experience with both federal OSHA and state plan OSAs, such as Michigan OSHA (MIOSHA).

In addition, we have represented utility and energy clients in litigation before the Michigan Public Service Commission (MPSC) and have worked on behalf of our electric clients with the Midwest Independent System Operator. We have also defended our telecommunications clients in litigation before the MPSC, Federal Communications Commission, and state and federal courts.

Representative Matters

Manufacturing

- Successfully defended various industries in putative class action cases brought under nuisance and negligence theories from purported industrial emissions from various chemicals (benzene, carbon monoxide, hydrogen sulfide, methyl ethyl ketone, sulfur dioxide, VOCs).
- Defended various industries in differing chemical contamination (PFAS, lead, mercury) against allegations of groundwater contamination.
- Successfully represented water treatment facility in connection with injury, commercial and cost recovery claims from waste water disposal and alleged environmental contamination.
- 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.

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.

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- Successfully defended major oil companies in complex litigation matters concerning upstream natural gas production involving application of foreign and state laws.

Utilities

- Obtained dismissal for Michigan's largest public energy company in overriding royalty dispute concerning allegations of breach of fiduciary duty, alter ego, fraudulent drainage and lack of unitization of a gas field.
- Assisted an electric utility to obtain a New Source Review construction permit for a \$2 billion coal-fired power plant and defended the permit against citizen suits. Also assisted utility in obtaining multiple local, state, federal permits involving wetlands, floodplains, private and county drains, floodplains, endangered and threatened species, and navigable waters for the plant.