

ENVIRONMENTAL

Environmental issues continue to pose unique and complex challenges for businesses and public entities of all types, compounded by regulatory uncertainties and a growing emphasis on how environmental policies impact occupational safety and public health. As science advances and public policy priorities change, the challenges for those operating in the regulated community will likewise shift and increase.

Armstrong Teasdale's environmental practice has in-depth, long-standing experience in virtually every facet of environmental law. From environmental transactions to litigation and regulatory compliance, our lawyers have assisted clients in dealing with regulators, activists, lenders and other diverse stakeholders. Our team excels at finding creative solutions to our clients' environmental issues.

ENVIRONMENTAL ISSUES IN TRANSACTIONS

We have navigated environmental issues in national and international transactions, such as corporate and real estate transactions with environmental components, Brownfield redevelopment projects, and the use of environmental insurance and risk transfer strategies to manage environmental exposure. We advise clients from multiple perspectives and have experience performing due diligence inquiries, environmental audits and environmental liability assessments in connection with mergers and acquisitions, financings, debt acquisitions, governmental investigations and real estate transactions throughout the United States, and in Europe and South America.

Our lawyers are experienced in handling environmental risk transfer transactions. They have designed and implemented dozens of risk transfer transactions involving former power plants, mining sites, refineries and various manufacturing sites. They also provide tactical advice on the management of portfolios of impaired properties. Our lawyers are skilled in developing alternative risk transfer mechanisms and using nontraditional insurance-based solutions.

ENVIRONMENTAL LITIGATION

Our lawyers regularly litigate environmental claims and lawsuits in state and federal courts and before administrative law judges. We have successfully argued challenges to permits and regulations under the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Resource Conservation and Recovery Act, oil spill response actions and natural resource damages matters. We have also successfully defended environmental lawsuits brought by public interest groups and environmental activists. We frequently represent parties in complex, multiparty cases relating to insurance coverage for environmental losses, as well as counsel senior officers and executives in criminal investigations and cases relating to environmental laws.

We regularly litigate cases involving the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) and analogous state statutes. We have counseled potentially responsible parties, lenders, developers, corporations and investors about potential liability under CERCLA, including issues relating to successor liability, lender liability, cost allocation, indemnification, *de facto* mergers, contribution protection, natural resource damages and the innocent landowner defense.

We are also involved routinely in environmental exposure litigation and toxic tort litigation, including personal injury and property damage actions.



REGULATORY COMPLIANCE AND PERMITS

Armstrong Teasdale's Environmental lawyers regularly counsel clients on regulatory compliance matters, including matters involving air, water, waste, land use planning and natural resource development. Our experience includes handling matters under the National Environmental Policy Act, the National Historic Preservation Act and similar state statutes and local land use planning ordinances. We assist clients in permit applications, negotiations and permit appeals, and have particular experience in the state of Missouri. The firm's lawyers also are well-versed on the regulatory requirements related to so-called emerging contaminants and "forever" chemicals, such as PFAS.

SAFETY AND HEALTH

We represent clients in actions, investigations and cases addressing work conditions and occupational safety, including matters under the federal Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Department of Transportation (DOT), U.S. Chemical Safety and Hazard Investigation Board (CSB) and their state counterpart agencies. Our U.S. lawyers work closely with clients to review occupational safety and health practices, and have networks of engineering, chemical, safety and industrial hygiene experts to enlist as required to address client needs. We have handled matters involving employee fatalities and serious injuries, and we have served as counsel in hundreds of contested OSHA cases throughout the country, including trials of OSHA willful citations.

EXPERIENCE

Favorable Settlement for Client in Environmental Violations Case

The state of Missouri sued our client for environmental regulatory violations and illegal hazardous waste dumping, seeking nearly \$3 million to settle the case. Developed evidence through an internal investigation that directly contradicted the state's primary evidence, resulting in a favorable settlement of only \$10,000 for our client.

Renegotiation of Nearly 1,000 Retail Leases for Men's Clothing Retailer

Completed a two-phase renegotiation of nearly 1,000 retail leases across the United States and Canada for a men's retail clothing client in connection with COVID-19 impacts and the client's emergence from Chapter 11 bankruptcy proceedings. In the first phase, we negotiated rent deferral agreements for nearly 400 retail locations in connection with the impact of COVID-19 and related government-mandated closures on the client's operations; and assisted with nearly two dozen litigation matters relating to closures in several states. In the second phase, following the client's declaration of Chapter 11 bankruptcy, we renegotiated nearly 850 retail leases assumed by the client in connection with the bankruptcy proceedings, successfully finalizing and obtaining full execution of nearly 99% of renegotiated leases submitted for legal review, nearly three times the success rate the client had originally anticipated.

Defense of Client in Contested Sentencing Proceeding

Successfully defended the president of an engineering consulting firm and his company in a contested sentencing proceeding in a criminal environmental case in the Middle District of Pennsylvania. The U.S. Environmental Protection Agency sought substantial jail time plus fines and restitution in a Clean Water Act prosecution. The Court accepted defense arguments and sentenced the client to time served with a three-year period of probation and no fine or restitution. The company received a five-year probationary term and a \$10,000 fine, a fraction of the amount sought, and no restitution.

Defended Company Performing Cleanup at Superfund Site



Defended company who performed \$28 million environmental cleanup of PCBs, asbestos and TCE at Superfund site, formerly used for automotive manufacturing, under Administrative Settlement Agreement and Order on Consent. The site is located in a residential area and will be transformed into a recreational facility.

Multimillion-Dollar Environmental Litigation for Fortune 150 Company

Representation of Fortune 150 petroleum and pipeline corporation in third-party multimillion-dollar environmental litigation arising out of operation of petroleum refinery in Illinois. Claims involve assessment of damages and assignment of third-party liability under the Illinois Environmental Protection Act and Illinois Contribution Act.

\$35 Million Sale of Industrial Site

Represented the seller in the complex sale of a 1,300-acre industrial property for \$35 million. The firm also represented the client in its purchase of the site three years earlier, which included handling several lawsuits inherited in the purchase.

Defended Publicly Traded Company in Cleanup of VOCs, Lead

Represented publicly traded company performing environmental cleanup of VOCs and lead under the Unilateral Administrative Order at a wildlife refuge in Illinois that was a WWII ordnance plant.

Risk Transfer for Two Former Coal-Fired Power Plants

Represented the risk transfer buyer of two former coal-fired power plants and negotiated the collateral package with insurers.

Successful Outcome in Cases Related to Misinterpretation, Misapplication of Lockout/Tagout Standard

Defended numerous employers in cases in which OSHA was persuaded that it misinterpreted or misapplied the lockout/tagout standard.

Trial and Appellate Representation of National Home Builder in Contract, Environmental Disputes

Represented a national home builder in contract and environmental disputes at both trial and appellate levels.

No Negligence in MSHA Fatality

Persuaded MSHA to make a determination of no negligence in a mine fatality in which an employee became pinned inside a piece of equipment.

Citations Vacated for Client in Fatality Involving Construction Crane

Defended company in an OSHA evidentiary hearing involving a fatality on a crane. At the conclusion of the hearing, the Administrative Law Judge vacated all citations.

Reduced Penalties for Dairy Farm in Fatalities Following OSHA SVEP Placement

Defended dairy farm in two separate fatality cases that resulted in repeat OSHA citations and placement on OSHA Severe Violator Enforcement Program (SVEP). At conclusion of negotiation, company was removed from SVEP and penalties were cut by 75%.

No Willful Violations for Publicly Traded Company

Defended publicly traded company in a two-week OSHA evidentiary hearing involving multiple alleged willful violations at a meat plant. At the conclusion of the hearing, the Administrative Law Judge determined there were no willful violations.

No Prosecution for Client in Multiple Fatality Case Referred to the U.S. Attorney

Defended a company in a multiple fatality case that resulted in an OSHA referral to the U.S. Attorney for prosecution. After meeting with the U.S. Attorney, no prosecution resulted.

No Willful Violations in Case Involving Availability of Rescue Boat

Defended company in OSHA evidentiary hearing involving facility and availability of rescue boat. The Administrative Law Judge determined violation was not willful.

Multimillion-Dollar Settlement for Publicly Traded Railroad Facing Environmental Claims

Obtained multimillion-dollar settlement for a publicly traded railroad in environmental claims involving diesel fuel and PCB spills, and numerous signal battery disposal sites against predecessor in interest.

Favorable Result for Company Cited in Violation of OSHA Silica PEL

Defended company that received citation alleging exceedance of OSHA's silica PEL. Convinced OSHA the sample results were invalid, resulting in withdrawal of citation.

Six Citations Vacated for Electrical Equipment Manufacturer

Defended manufacturer of electrical equipment in OSHA evidentiary hearing where issues all involved possible electrocution hazards associated with high voltage equipment. The Administrative Law Judge vacated all six citations that were issued.

Defended Magnesium Recycler in EPA Cost Recovery Action

Defended magnesium recycler in EPA cost recovery action in Pennsylvania including negotiating consent decree and private party allocation.

Successfully Resolved Matter for Company in OSHA Severe Violator Enforcement Program

Defended company placed in OSHA Severe Violator Enforcement Program (SVEP) involving combustible dust explosion and serious injuries. The case was settled with no willful violations and the company was removed from SVEP.

No Negligence in MSHA Mine Fatality

Persuaded MSHA to make a determination of no negligence in a mine fatality in which the employee was struck by equipment being hoisted.

Representation of Manufacturing Company in Soil and Groundwater Cleanups

Represented manufacturing company in soil and multi-plume groundwater cleanups of PCBs and solvents in Missouri. Persuaded EPA to pursue separate source of groundwater contamination. Site is located in close proximity to drinking water wellfield.

Sale of Superfund Site

Counseled a mining company through the rare sale of a federal Superfund site, an 1,800-acre former cobalt mine. This included securing a collateralized walk-away indemnity for the client, handling the real estate components and assisting with the relationship with another responsible party for the cleanup during the transaction.

Secured Withdrawal of OSHA Citations for Manufacturing Client

Defended company that received two willful citations under OSHA lead standard when manufacturing with leaded brass. OSHA withdrew both willful citations.

Secured Withdrawal of OSHA Citations Relating to Hexavalent Chrome Standard

Defended company that received 14 citations under OSHA's hexavalent chrome standard, including alleged exceedance of PEL. OSHA withdrew 12 of 14 citations.

Citations Vacated for Client in OSHA Evidentiary Hearing

Defended company in OSHA evidentiary hearing in which company asserted that installation of wood trusses constituted steel erection. Administrative Law Judge agreed and vacated the citations.

Successfully Defended Used Oil Recycler Following Alleged Sale of Contaminated Oil

Defended used oil recycler in sale of alleged contaminated oil to customer. Jury awarded recycler all costs for unpaid shipments of oil, and awarded \$3,000 to customer after four-day trial.

Successfully Defended Contractor in Arbitration Against Seven-Figure Claim



Defended general contractor in seven-figure claim brought by an asbestos contractor in arbitration. Arbitrator's award to asbestos contractor was 5% of the amount sought and was less than the general contractor had offered in settlement.

Defended Client in Waste Regulation Action Affirmed on Appeal

Defended client in an action against the Missouri Air Conservation Commission. The judge invalidated Missouri medical waste, industrial waste and sewage sludge incinerator regulations in the first of the "no stricter than" cases brought under the Missouri Clean Air Act. The decision was affirmed on appeal by the Missouri Court of Appeals.