

Tad J. Macfarlan

Partner

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OVERVIEW

Tad Macfarlan is an experienced environmental lawyer with a focus on the energy sector. Tad's practice includes project development, transactional, litigation, and government enforcement matters (both civil and criminal). His clients include developers and operators of solar, wind, battery storage, natural gas and coal-fired electric generation facilities; data centers and associated power infrastructure; oil and gas production and transmission facilities; water and wastewater utilities; mine and quarry operators; hazardous waste processing facilities; and lenders and investors in such facilities. Tad regularly provides advice regarding federal and state environmental laws governing air emissions (including greenhouse gases); wetland and stream protection; wastewater and stormwater discharges; water withdrawals; hazardous wastes and materials; threatened and endangered species; cultural resources and historic properties; and local land use and zoning requirements.

Tad currently serves as the Water Subcommittee Co-Chair for the Pennsylvania Chamber of Business and Industry's Environmental Policy Council, and on the Central Pennsylvania Conservancy's Board of Directors.

PROFESSIONAL BACKGROUND

Prior to joining the firm, Tad was a law clerk for the US Environmental Protection Agency Region III Office of Regional Counsel. He also worked as a legal intern for the National Wildlife Federation Great Lakes Regional Center.

ACHIEVEMENTS

- Recognized by *Chambers USA* for Environment in Pennsylvania, 2025-2026
- Recognized by *The Legal 500 United States* as a Recommended Lawyer for Environment: Regulatory, 2025-2026
- Recognized by *The Best Lawyers in America*® for Environmental Law in Harrisburg, PA, 2027
- *The Best Lawyers in America*® “Ones to Watch” - Energy Law, 2021-2022, Environmental Law, 2022, and Land Use and Zoning Law, 2021-2023

PROFESSIONAL / CIVIC ACTIVITIES

- Energy & Mineral Law Foundation – Board of Trustees, Trustee at Large, 2025-Present
- Central Pennsylvania Conservancy – Board of Directors, March 2025-Present
- Pennsylvania Chamber of Business and Industry, Energy & Environmental Policy Council – Water Subcommittee Co-Chair, 2025-Present
- American Bar Association, Section on Environment, Energy, and Resources, Vice Chair of Constitutional Law Committee, 2017-2021
- Pennsylvania Bar Association, Environmental and Energy Law Section, Public Utility Law Section
- Dauphin County Bar Association

SPEAKING ENGAGEMENTS

- Data Center Environmental Permitting for Water, Air, and Land Use, BARBRI/Strafford CLE Webinar, 27 October 2026
- Data Centers In Pennsylvania: Key Legal and Regulatory Concerns, ACC Central Pennsylvania In-House Lawyer All Day CLE Program, 22 October 2026
- Air Permitting for Data Centers 101, Marcellus Shale Coalition Annual Meeting, 9 June 2026
- Litigation over Federal Administration Initiatives, PBI Environmental Law Forum, 23 April 2026
- New Pennsylvania Permitting Reforms and Federal/State Wetland Permit Program Updates, Pennsylvania Asphalt and Pavement Association (PAPA) 2026 Environmental Seminar, 15 April 2026
- The New Frontier: Data Centers, AI, and Insurance Implications, ABA 2026 Insurance Coverage Litigation Committee CLE Seminar, 6 March 2026
- Streamlining Permitting and Regulatory Alignment, Data Center Power eXchange,28 October 2025
- US and Pennsylvania Supreme Court Roundup, Association of Corporate Counsel (ACC) CLE Program, 16 October 2025
- Drilling Down on Pennsylvania's Environmental Rights Amendment, Shale Insight, 17 September 2025
- Environmental Regulations and Policy Changes Under Trump 2.0: Renewables Industry Update, K&L Gates Webinar, 10 July 2025
- Threatened and Endangered Species Protections and Energy Development, Pennsylvania Bar Association, Environmental and Energy Law Section, Energy Law Committee Webinar, 24 February 2025
- Threatened and Endangered Species Policy Update, Pennsylvania Association of Environmental Professionals (PAEP) Webinar, 12 November 2024

- Streamlining Permits for Economic Expansion and Development (SPEED) Program, Pennsylvania Aggregates and Concrete Association (PACA) Members Forum Webinar, 10 October 2024
- Endangered Species Act Update, National Stone, Sand & Gravel Association (NSSGA) Legislative & Policy Forum, 24 September 2024
- Waters of the United States Post-Sackett: Current Regulations, Pending Litigation, and the Path Ahead, Strafford Webinar, 14 May 2024
- Environmental Policy Update, 2024 PAPA Environmental Seminar, 10 April 2024
- New NEPA Amendments and CEQ Phase 2 Proposed Rule: Impacts on Federal Project Planning, Strafford Webinar, 14 November 2023
- Waters of the United States (WOTUS) and Beyond, National Stone, Sand & Gravel Association (NSSGA) Water Update Webinar, 25 July 2023
- Municipal Storm Water Charges (and a Pennsylvania Environmental Policy Update), 2023 PAPA Environmental Seminar, 12 April 2023
- Redefining WOTUS, Strafford Webinars, 4 April 2023
- Agency Regulation After West Virginia v. EPA: Climate Change, Major Questions Doctrine, Future of Chevron, Strafford Webinars, 27 September 2022
- Crypto Mining Energy and Environmental Policy Developments, Bank of America Virtual Crypto Mining Conference, 29 September 2022
- Endangered Species Act Update, National Stone, Sand & Gravel Association (NSSGA), 22 June 2022
- Environmental Justice: What You Need to Know About Recent State and Federal Policy Updates, 2022 PAPA Environmental Seminar, 13 April 2022
- WOTUS: Current Status and the Path Ahead, Strafford Webinars, 28 September 2021
- Preparing for Change: Federal and State Environmental Law, Policy and Enforcement, 2021 PAPA Environmental Webinar, 14 April 2021
- Hot Topics in Water Law and Regulation, 2020 Annual Environmental Conference, PA Chamber of Business and Industry, 28 October 2020
- EPA's New Navigable Waters Protection Rule: Taking Advantage of a Reduced Federal Role, Strafford Webinars, 6 May 2020
- Current Issues Under the Clean Water Act, Halfmoon Education, Pennsylvania Water Laws and Regulations Seminar, 2 February 2020
- Environmental and Local Permitting Process for Energy Generation Projects, Halfmoon Education, Issues in Pennsylvania Energy and Electric Utility Regulation Seminar, 15 January 2020

- MS4s and Stormwater Fees: Emerging Challenges, 2019 Pennsylvania Aggregates and Concrete Association (PACA) Annual Meeting, 14 November 2019
- Waters of the United States – Recent Actions and What's Next, National Water Supply Alliance 2019 Annual Meeting, 3 October 2019
- Environmental Enforcement Actions and Company Response, 2019 PAPA Environmental Seminar, 9 April 2019
- Air Update: State and Federal Regulatory Developments Impacting the Oil and Gas Midstream Sector in Pennsylvania, Pennsylvania Bar Institute Pipeline & Midstream Update 2018, 7 November 2018
- Energy Production: Potential Water Supply and Quality Issues, Halfmoon Education Water Laws and Regulations Seminar, 20 February 2018
- Current Issues with the Clean Water Act, Halfmoon Education Water Laws and Regulations Seminar, 20 February 2018
- Water Issues Update, Environmental Compliance Issues Conference, PA Chamber of Business and Industry, 29 October 2015
- Waters of the US: Key Issues and Implications, Law Seminars International, 11 June 2015

EDUCATION

- J.D., University of Michigan Law School, 2011 *(cum laude; University of Michigan Journal of Law Reform, Contributing Editor)*
- B.A., Pennsylvania State University, 2006 *(Political Science and Philosophy; with distinction)*

ADMISSIONS

- Bar of New Jersey
- Bar of Pennsylvania
- United States Court of Appeals for the Third Circuit
- United States District Court for the District of New Jersey
- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Middle District of Pennsylvania

THOUGHT LEADERSHIP *POWERED BY HUB*

- 29 October 2026, Data Center Deep Dives: From Industrial Site to Data Center

- October 2026, Facing a Federal Lawsuit, Texas County Repeals Blanket Pause on Data Center Construction, Adopting New Approval Procedures Instead, *The Real Estate Finance Journal*
- October 2026, Pennsylvania Public Utility Commission Adopts Model Interconnection Tariff for Large Load Customers, *The Energy Law Report*
- 19 August 2026, Pennsylvania Data Center Executive Order Adds New Development and Permitting Requirements
- 24 June 2026, Environmental Protection Agency Proposes Flexibility for Pre-Permit Construction Under Clean Air Act New Source Review
- 10 June 2026, Facing a Federal Lawsuit, Hill County Repeals Blanket Pause on Data Center Construction, Adopting New Approval Procedures Instead
- June 2026, Data Center Deep Dives: Navigating Water, Air, and Other Environmental Considerations
- 29 May 2026, Pennsylvania Public Utility Commission Adopts Model Interconnection Tariff for Large Load Customers
- 19 May 2026, People vs. Machines: Texas County Pushes Pause on Data Center Construction as Project Risks Expand Nationally Amid Public Opposition
- 7 May 2026, PA Supreme Court Holds That Municipal Stormwater Charge Is a Tax, Not a Fee
- 2 February 2026, New EPA Proposal Seeks to Adopt a More Restrictive Section 401 Framework
- 8 January 2026, Pennsylvania Department of Environmental Protection Releases Final Environmental Justice Policy
- 8 December 2025, "Waters of the United States" Once Again in Flux
- 17 November 2025, Pennsylvania Budget Institutes New Permitting Reforms, Abrogates Pennsylvania RGGI Rule
- 29 September 2025, Permitting Reform Ahead: EPA Targets Preconstruction Rules and Retires Reactivation Policy
- 25 August 2025, Department of the Interior Issues Flurry of Actions Targeting Wind and Solar Energy Projects
- 5 August 2025, More Federal Agencies Streamline NEPA Procedures to Expedite Review and Permitting
- July 2025, Environmental Regulations and Policy Changes under Trump 2.0: Renewables Industry Update
- 3 July 2025, FERC and DOE Roll Back NEPA Rules to Accelerate Permitting
- 22 November 2024, Governor Shapiro Fast Tracks Critical Infrastructure Project Permitting
- 6 May 2024, EPA's New Strategic Civil-Criminal Enforcement Policy: Will Enhanced Coordination Lead to More Criminal Enforcement?
- 20 September 2023, Pennsylvania DEP Publishes Final Interim Environmental Justice Policy

- 14 September 2023, Following Sackett, Another New Final WOTUS Rule
- 5 June 2023, US Supreme Court Issues Landmark Clean Water Act Decision, Significantly Narrowing the Scope of "Waters of the United States" Under Federal Law
- 10 January 2023, A New Final (But Not the Final?) WOTUS Rule
- 22 December 2022, Carbon Quarterly – Special Edition
- 7 October 2022, Taking a New Approach: USFWS Proposes Streamlined Eagle Take Permit Program
- 20 September 2022 , Pennsylvania's Growing Electric Vehicle Charging Network: What's All the Buzz About NEVI Plans?
- 7 July 2022, Carbon Quarterly – Volume 6
- 6 July 2022, Supreme Court Advances Major Questions Doctrine and Limits EPA's Authority to Regulate Power Plant Carbon Emissions
- 31 March 2022, U.S. Fish and Wildlife Service Proposes "Endangered" Listing for Northern Long-Eared Bat
- 15 March 2022, PADEP Releases Updated Environmental Justice Policy for Public Comment
- 28 January 2022, NEPA: The Old Becomes New
- 11 January 2022, Carbon Quarterly – Volume 5
- 15 November 2021, EPA Gets Serious About Environmental Justice
- 20 September 2021, Back to the Drawing Board on WOTUS: Federal Court Vacates Trump Administration's Navigable Waters Protection Rule
- 2 September 2021, Carbon Quarterly – Volume 4
- 22 April 2021, Carbon Quarterly – Volume 3
- 24 February 2021, D.C. Circuit Grants EPA's Request to Keep Clean Power Plan on Ice
- 4 February 2021, Carbon Quarterly – Volume 2
- 8 October 2020, Carbon Quarterly – Volume 1
- 28 April 2020, UPDATED: The Nation Goes the Way Montana Goes? Nationwide Permit 12 Vacatur and Injunction
- 25 March 2020, COVID-19: Businesses Face Supply Chain Challenges as Pandemic Triggers State ‘Stay at Home' and Business Curtailment Orders
- 14 January 2019, Trump Administration Begins "Round 4" in the Battle Over Clean Water Act Jurisdiction
- 14 August 2018, EPA to “Veto” Its Own Veto Authority under the Clean Water Act?
- 13 August 2018, EPA to "Veto" Its Own Veto Authority under the Clean Water Act?

- 15 June 2017, To Disclose or Not to Disclose? D.C. Circuit Resolves Clash Between FOIA's Exemption 4 and Section 308 of the Clean Water Act
- 1 July 2016, Federal Judge: Authority Lacking for Regulation of Hydraulic Fracking
- 6 June 2016, Supreme Court Authorizes Judicial Review of Clean Water Act Jurisdictional Determinations Over Federal Government's Objection
- 20 May 2016, Full Court Press: EPA Issues Final Rulemakings and a Draft Information Collection Request in Its Ongoing Effort to Reduce Methane Emissions from the Oil and Gas Industry
- 27 January 2016, The Beat Goes On: Pennsylvania Takes Aim at Reducing Methane Emissions from the Oil and Gas Industry
- Fall 2015, Environmental Policy Quarterly
- 14 October 2015, Clean Water Rule Stayed Nationwide
- 18 September 2015, EPA Publishes Regulatory Proposals that Would Further Curb Methane and VOC Emissions from the Oil and Gas Sector
- 15 July 2015, EPA's Chesapeake Bay TMDL Survives Legal Challenge: Stricter Water Quality Regulation of Farms, Municipalities, Industry, and Business May Follow
- Spring 2015, Environmental Policy Quarterly
- 19 June 2015, EPA and the Army Corps Issue Final Clean Water Rule, but Does This New "Line in the Water" Clarify, Expand or Narrow Clean Water Act Jurisdiction?

OTHER PUBLICATIONS

- "U.S. Supreme Court Issues Landmark Clean Water Act Decision, Significantly Narrowing the Scope of 'Waters of the United States' Under Federal Law," *Thomson Reuters Westlaw Today,* 8 June 2023
- "Vacatur Of Trump Water Rule Means More Uncertainty Ahead," *Law360*, 29 September 2021
- Pennsylvania Environmental Law and Practice, Ch. 6 (Wetlands) and Ch. 23 (A Practical Guide to Obtaining Wetland Permits), The Pennsylvania Bar Institute
- Pennsylvania Environmental Laws and Regulations, Ch. 5 (In Depth Guide to PA Water and Wastewater Issues), PA Chamber of Business and Industry
- "Noise Regulation of the Shale Oil & Gas Extraction and Production Industry," 6th Law of Shale Plays Conference, Institute for Energy Law, Center for American & International Law, Energy & Mineral Law Foundation, 10-11 September 2015

NEWS & EVENTS

- 4 June 2026, K&L Gates Receives Nearly 235 Firm, Individual Rankings in 2026 *Chambers USA* Guide

- 14 January 2026, K&L Gates Advises Kyuden in its Investment in Spearmint Energy Regarding Two Battery Energy Storage Projects
- 9 December 2025, "Under the Wire" CLE Seminar | Powering Progress: Navigating Energy Policy, Judicial Deference, and Data Center Infrastructure
- 21 November 2025 , K&L Gates Represents Bluestone Bank on Strategic Partnership With Mutual Bancorp
- 10 November 2025, K&L Gates Advises Albemarle on Sale of a Controlling Stake in Ketjen to KPS Capital Partners
- 28 October 2025, Data Center POWER Exchange: Streamlining Permitting and Regulatory Alignment Panel, Hosted by POWER
- 17 March 2025, K&L Gates Receives Excellence Award for Representation of Wabtec in Acquisition of Bloom Engineering
- 28 January 2025, K&L Gates Advises Universal Stainless and Alloy Products in its Acquisition by Aperam
- 14 November 2023, New NEPA Amendments and CEQ Phase 2 Proposed Rule: Impacts on Federal Project Planning, Hosted by Strafford
- 9 May 2023, K&L Gates Advises SPX Technologies on Agreement to Purchase Electrical Heating Solutions Leader
- 4 April 2023, Waters of the U.S. (WOTUS) Updated & Redefined, Hosted by Strafford
- 27 September 2022, Agency Regulation After West Virginia v. EPA: Climate Change, Major Questions Doctrine, Future of Chevron, Hosted by Strafford CLE
- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 28 September 2021, Waters of the United States (WOTUS): Current Regulations, Pending Litigation, and the Path Ahead, hosted by Strafford
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch
- 21 July 2021, K&L Gates Advises Reliant Bancorp on $517 Million Merger With United Community Banks
- 11 June 2021, K&L Gates Advises SPX Corporation on Agreement to Sell SPX Transformer Solutions to GE-Prolec Transformers
- 23 February 2021, K&L Gates Advises Sinch AB on $1.14 Billion Acquisition of U.S. Telecom Provider Inteliquent
- 24 February 2020, K&L Gates Names 41 New Partners Across Global Platform
- 3 August 2018, K&L Gates Advises innogy on Acquisition of More Than 2,000 MW Onshore Wind Projects

AREAS OF FOCUS

- Environment and Energy
- Construction and Infrastructure
- Energy Assets and Transactions
- Land Use, Planning, and Zoning

INDUSTRIES

- Energy
- Manufacturing
- Oil and Gas
- Power
- Power Generation and Transmission
- Renewables
- Utilities
- Water and Wastewater

EMERGING ISSUES

- Data Centers and Energy Intensive Infrastructure

REPRESENTATIVE EXPERIENCE

Project Development

- Represented a lender group in the more than US$20 billion financing of 10 data centers with a total capacity of over 1,300 MW in Abilene, Texas.
- Advised developers of multiple utility-scale wind and solar projects on all aspects of federal, state and local environmental and land use permitting and related project financing matters.
- Advised investors in data center projects with respect to state and local permitting and environmental requirements.
- Advised the developer of a 1,000 megawatt combined-cycle natural gas-fired power plant in Western Pennsylvania on all aspects of federal, state and local preconstruction environmental permitting requirements.

- Advised the developer of a petrochemical complex in Western Pennsylvania on compliance with major source air permitting requirements under the federal Clean Air Act and Pennsylvania Air Pollution Control Act.
- Advised the developer of a cross-border electric utility line project regarding environmental permitting requirements and condemnation authority under state and federal public utility laws.
- Advised a rare-earth metals refiner undertaking facility upgrades regarding environmental permitting requirements under the federal Resource Conservation and Recovery Act, federal Clean Water Act, Pennsylvania Solid Waste Management Act and Pennsylvania Clean Streams Law.
- Advised midstream oil and gas operators on pipeline permitting requirements under the Clean Water Act and Pennsylvania Clean Streams Law, including ancillary requirements relating to the protection of endangered species, historic properties and cultural resources.
- Advised a bottled water production company regarding compliance with local zoning and land-use requirements in potential siting of new spring water development facilities.
- Advised a shale gas exploration and production company in relation to local permitting matters in several Western Pennsylvania municipalities.

Corporate Transactions

- Served as environmental counsel for buyers in a corporate transaction involving the purchase of multiple steel fabrication facilities operating in several states.
- Advised an investor-owned public utility company during its acquisition of municipal water and wastewater treatment systems, including advice with respect to environmental, public utility and municipal law issues.
- Served as environmental counsel for the operator of multiple battery recycling facilities and legacy liability sites in several states through the course of a multi-step corporate restructuring and divestment of operational assets.
- Served as environmental counsel for sellers in a corporate transaction involving the sale of the capitol services business segment of an international engineering, procurement and construction (EPC) company.
- Served as environmental counsel for foreign buyers in its acquisition of an American robotics production company.

Enforcement Defense and Litigation

- Represented a coalition of coal-fired power plant owners in litigation challenging the Pennsylvania Department of Environmental Protection's CO2 Budget Trading Program, which is designed to implement the Regional Greenhouse Gas Initiative (RGGI) in Pennsylvania.
- Advised an operator of multiple hazardous waste incinerator facilities with regard to US Department of Justice and US Environmental Protection Agency civil enforcement actions, Consent Decree implementation, and Clean Air Act information requests.

- Represented a major North American energy company with respect to multiple environmental criminal investigations.
- Represented oil and gas industry clients in defending against administrative enforcement actions involving alleged wetlands encroachments, erosion and sediment control issues, waste disposal requirements and well permitting violations.
- Represented a bottled water production company in a contested special exception hearing before a municipal zoning hearing board in Northeastern Pennsylvania, as well as subsequent appeals before the Court of Comon Pleas and Commonwealth Court.

Public Comments

- Drafted public comments on the US Environmental Protection Agency's Clean Power Plan.
- Drafted public comments on the Pennsylvania Department of Environmental Protection's CO2 Budget Trading Program.
- Drafted public comments on the New York Department of Environmental Conservation's proposed regulations and environmental impact statement on high-volume hydraulic fracturing.
- Drafted public comments on the Susquehanna River Basin Commission's low-flow protection policy and technical guidance.
- Drafted public comments on the Pennsylvania Department of Environmental Protection's general permit for air emissions from natural gas processing and production facilities (GP-5).

Pro Bono

- Counseled a nonprofit nature conservancy regarding interpretation and enforcement of conservation easement requirements.
- Obtained a precedential opinion from the United States Court of Appeals for the Third Circuit in representation of a Salvadorian national in his appeal of a deportation order issued by the Board of Immigration Appeals. See Mayorga v. Attorney General, 757 F.3d 126 (2014).
- Successfully represented a domestic abuse victim in an appeal from the issuance of a Protection from Abuse (PFA) order before the Pennsylvania Superior Court.