

Environmental Group Of The Year: Morgan Lewis

By Elise Hansen

Law360 (January 23, 2020, 5:13 PM EST) -- Morgan Lewis & Bockius LLP was involved in some of the year's biggest environmental disputes, from the ongoing fallout over the Aliso Canyon gas leak to defending against a growing wave of climate change litigation, earning the firm a spot among Law360's 2019 Environmental Groups of the Year.

The environmental practice numbers 44 partners and eight counsel, with outposts on both coasts, including in California, New York, Massachusetts, New Jersey, Pennsylvania and Washington, D.C.

The group's size and its close collaboration with Morgan Lewis' litigation team has enabled the firm to take on complex, sprawling disputes, partner James J. Dragna said. Morgan Lewis has been handling the fallout from the 2015 Aliso Canyon natural gas leak for client Southern California Gas Co., an environmental disaster that has drawn nearly 400 complaints from individual plaintiffs and government entities and prompted investigations at the state and federal levels.



"It's almost like an entire law school year could be devoted to an assessment of this case," Dragna said. "It was something that very few firms could pull off; we're one of them."

One of the firm's recent triumphs came when a California judge decided that the facility should continue operating in the face of charges that it constituted a permanent nuisance. The court in November agreed with SoCalGas that the California Public Utilities Commission was supposed to decide whether the safety issues at the facility had been addressed, rather than the courts.

SoCalGas notched another victory in the California Supreme Court in May. The court dismissed a suit from a group of businesses that claimed SoCalGas owed them damages for income they lost while local residents were relocated because of the leak.

"Those were two very important cases for us that narrowed the scope of plaintiffs as well as narrowed the scope of damages," Dragna said.

Morgan Lewis also made its mark on Superfund site disputes. The firm is representing three Verizon

subsidiaries in New York over groundwater contamination charges worth roughly \$300 million combined.

The firm in September was able to get the claims trimmed in one of the cases, in which property owners are trying to hold the Verizon subsidiaries responsible for various cleanup costs. In the second case, Morgan Lewis helped the Verizon companies negotiate a settlement that led to the claims' dismissal in early fall.

"The biggest challenges that companies involved in these cases face are extraordinarily large remedial obligations, sometimes not that many companies with whom to share the costs, and not a lot of negotiating leverage," Dragna said.

Superfund cases have also evolved over time to tackle a wider range of situations, Dragna noted. "It's become much more subtle, much less visible, and in some people's minds, much less toxic," Dragna said. "The program is expanded to where these cases once again have become bet-your-company kind of cases for some of the companies."

Superfund issues have also been back in the spotlight, which partner Stephanie R. Feingold said can add extra pressure to negotiations.

"With the current administration, one of the areas they have put emphasis on is Superfund, and we've seen some direct impact with some of the cases that we're handling," Feingold said, including "more scrutiny and more pressure to come to a decision quickly."

The firm is also on the forefront of the emerging legal battles over energy companies' responsibility for climate change. The firm is defending Anadarko Petroleum in a string of lawsuits regarding how much the fossil fuel industry knew about the impacts of oil production and refining on the environment.

"It's a fascinating merger of the law, science and justiciability," Dragna said.

The suits are still in the early stage, with the plaintiffs attempting to litigate in state court while Anadarko is pushing for a federal venue. But the cases could set a new precedent for the scope of corporate liability, Dragna said.

"It's almost as if these cases are square pegs trying to be driven into circular holes," Dragna said. "There is federal law that makes clear that worldwide and national issues are better addressed from a legislative perspective, not a judicial perspective."

Looking ahead, partner John McGahren said he expects to see more natural resource damage suits, which he said are "back in a big way," particularly on the East Coast. McGahren leads the Princeton, New Jersey, litigation practice and serves as deputy chair of Morgan Lewis' global environmental practice.

"The cases had kind of dried up under the [former Gov. Chris] Christie administration — and New Jersey was kind of a leader," McGahren said. "Even at the federal level I haven't seen that much activity on the natural resource damage front [in recent years], but it's back."

The group hopes to meet the challenges by continuing to develop strong attorneys at all levels of seniority. "We have the very large cases, but we also handle an array of cases that are not as large and

we're able to give junior attorneys significant experience," Feingold said.

While the group is looking to expand in areas such as utility regulatory practice and renewables, it also plans to hue to the fundamentals that have served it well in the past, Dragna said.

"We're committed to growing over the long term," he said. In addition to bringing in new work and new faces, "Our plan is to continue with the brick-and-mortar stuff we've already done so well," he said.

--Additional reporting by Michael Phillis. Editing by Jack Karp.