

Environmental Group of the Year: Morgan Lewis

By Jeff Sistrunk



Law360, Los Angeles (January 14, 2015, 8:27 PM ET) -- Morgan Lewis & Bockius LLP in 2014 secured a complete defense verdict for International Paper Co. in a \$1.6 billion suit over alleged contamination of a Texas river and convinced a Louisiana federal court that a Schlumberger Ltd. subsidiary wasn't liable for the Deepwater Horizon disaster, landing the firm a spot among Law360's Environmental Practice Groups of the Year.

In one of the most high-profile, high-stakes environmental enforcement cases of the year, a Morgan Lewis team guided International Paper to victory in a suit brought by Harris County, Texas, with a jury finding in November that the company wasn't responsible for the alleged release of dioxins into the San Jacinto River over several decades.

International Paper prevailed despite the fact that its co-defendants, Waste Management of Texas and McGinnis Industrial Maintenance Corp., settled with the county for \$29.2 million before a verdict was rendered.

Harris County alleged that discharges from a historic disposal site dating back to the mid-1960s represented daily violations of a slew of state discharge laws. However, the disposal was completed before the enactment of the statutes at issue.

"The challenge was to explain why these were novel interpretations of these discharge statutes to a judge with little or no experience with these laws," said Chris Amandes, a partner in and co-chair of Morgan Lewis' environmental practice.

Harris County sued the companies in 2011 over the San Jacinto River Waste Pits Superfund Site, which the U.S. Environmental Protection Agency placed on the Superfund National Priorities List in 2008. The county asked for a penalty of \$25,000 per day, retroactive to the start of disposal operations in 1965, plus statutory attorneys' fees.

The suit stemmed from a 1965 contract between Champion paper mill, now owned by International Paper, and McGinnis over a waste disposal pit built near the river. The agreement between McGinnis and Champion involved McGinnis dumping the paper company's toxic waste byproduct, which included waste materials laced with dioxins.

"I think the jury focused on the common-sense notion of what it means to control the actions of

someone else, and if someone should be held responsible for the actions of an independent contractor under these types of circumstances," Amandes said.

Morgan Lewis also notched a major win in 2014 for Schlumberger subsidiary M-I LLC in the landmark multidistrict litigation over the Deepwater Horizon explosion and oil spill. U.S. District Judge Carl Barbier in September dismissed with prejudice all claims against M-I, which had been BP's drilling-fluids contractor, finding that the company wasn't liable for the explosion or any of its aftermath.

In a related matter, the firm filed an opposition to a U.S. Supreme Court certiorari petition brought by several Louisiana parishes seeking to revive certain state law claims against M-I and others that had been dismissed early in the litigation. The high court declined to hear the case in October, putting an end to those claims.

Elsewhere, Morgan Lewis has been representing Range Resources Corp. for the past several years in one of the first administrative appeals dealing with groundwater contamination allegedly resulting from hydraulic fracturing operations.

In the case, a Washington County, Pennsylvania, landowner filed an appeal with the Commonwealth of Pennsylvania's Environmental Hearing Board, objecting to the state Department of Environmental Protection's determination that his water supply wasn't polluted by Range Resources' activities at a natural gas well site. A merits hearing on the matter began in September.

Morgan Lewis has focused on the science underpinning the case and assembled an impressive group of experts to advance Range Resources' position that it wasn't possible for fracking operations to impact the appellant's particular well, said John McGahren, deputy chair of the firm's environmental practice.

"The firm's work on this matter shows that Morgan Lewis is well-suited to addressing these emerging issues," McGahren said.

Morgan Lewis' environmental practice owes its success to a deep bench and long history in the environmental field, McGahren said. The group's abilities have been enhanced by the firm's addition of a team from Bingham McCutcheon LLP and expansion into the Northeast and New England, as well as growth in traditional strongholds along the East Coast and in Texas, he said.

"We have expanded our ranks, deepened our bench and broadened our expertise," McGahren said.

Amandes echoed McGahren's sentiments, saying that the firm's " 'starters' have been, for the most part, practicing environmental law for many decades and, as a result, there is not much that comes our way that we haven't seen in some form or fashion or addressed in some form or fashion."

--Editing by Patricia K. Cole.