

ENVIRONMENTAL TRANSACTIONS

Environmental law is a rapidly-growing practice area as concerns regarding the environment continue to increase. Environmental transactions are an increasingly complex process open to several challenges and obstacles. To find out more, *Lawyer Monthly* speaks exclusively to Greg DeGulis, co-founder of McMahan DeGulis LLP and the Environmental Law Network (ELN).

You have been in environmental law for around 30 years, how has this practice area changed during that time? Do you think they have been positive or negative changes?

Many years ago environmental law was dominated by a hazardous waste statute involving former landfills and areas where hazardous material has been dumped. That practice has diminished over time and the big focus now is related to water usage, the regulation of sewers and the elimination of contamination going into waterways. This is mainly a positive change, although sometimes the EPA can be a little over aggressive in enforcing certain regulations, which can often be a negative point for businesses here in the U.S.

How complex can environmental transactions become and how open are they to dispute?

Transactional documents have gotten much better over time and the number of disputes related to the buying and selling of real estate has probably gone down because the drafting has improved. The other aspect that helps is that environmental insurance in many cases has become part of the transaction, so if there is a dispute the insurance will take the liability as opposed to one of the contracting parties.

You are the co-founder of the Environmental Law Network (ELN), can you tell me a little about it?

We started in the late 1990s when several firms that are now members of the network met in Chicago for an American Bar Association (ABA) meeting. We all looked at each other and it was like looking in the mirror – we all had similar practices. So we set up a meeting outside of the ABA to discuss forming a network of environmental law firms and we went from there.

What challenges do you face within your role in the ELN?

The challenges really are getting everyone on the same page with regards to marketing the network firms. We all have slightly different practices and different geographical areas and so one challenge is to try and speak with one voice with regard to the marketplace.

So would you say the ELN has proved to be a successful venture?

Yes, it has been very successful. We market the ELN all the time to corporate clients that have matters across the country. We even have international affiliates in countries such as Brazil, Argentina, Italy, UK, Spain, Mexico and Canada, so it is becoming fairly global and I do believe that it will keep growing.

From listening to your member firms, what would you say is the biggest difficulty or challenge facing them when working on environmental transactions?

With regards to work, the biggest challenge for all of us is that we tend to compete against the larger law firms. On the business side, the ability to generate business and compete with the biggest law firms in the country, and even the world, is probably the biggest challenge. Many of our firms don't have the brand name that some of the international law firms have, though essentially we do the same type of work.

How can these challenges be overcome?

Business is done through relationships so to an extent we can have individual relationships with those that are consumers of legal services; that is really how we are able to compete. The other is our body of work. Many of us have been around a long time and we have a good history of work and have worked with larger clients and we practice in the same space of the larger law firms.

Current ELN member firms include:

Pritchett Environmental & Property Law, LLC
 Jordan Brischoff & Hiser, PLC
 Chisenhall, Nestrud & Julian, PA
 Hanna and Morfon, LLP
 Somach Simmons & Dunn
 Kaplan, Kirsch & Rockwell LLP
 Bergeson & Campbell, PC
 Lewis, Longman & Walker, PA
 Kazmarek Mowrey Cloud Laseter LLP
 Nijman Franzetti LLP
 Plews Shadley Racher & Braun, LLP
 Harrison Law, LLC
 Rich & Henderson, PC
 McGregor & Legere, PC
 Zausmer, Kaufman, August, Caldwell & Tayler PC
 The Environmental Law Group, Ltd
 Manko, Gold, Katcher & Fox, LLP
 Montgomery & Andrews
 Sive, Page & Riesel, PC
 McMahan DeGulis LLP
 McDowell Rackner & Gibson PC
 Leath, Bouch & Seekings, LLP
 Guida, Slavich & Flores, PC
 Smith Hartvigsen, PLLC
 Cascadia Law Group PLLC
 Rattagan Macchiavello Arocena & Pena Robirosa
 Parigot Solere
 Wilms & Shier Environmental Lawyers LLP
 Nascimbene & Partners
 Pontones & Ledesma, S.C.
 Rodríguez Molnar and Associates
 Macfarlanes LLP

Finally, how would you alter the regulatory framework surrounding this area if you could?

I think at times there is a lack of flexibility shown by the governmental entities. In other words, instead of solving the problem sometimes they can be too rigid in enforcing regulations, particularly when there's no money available under the current regulatory scheme to fix the problem. To give you an example there is a former landfill here in the Cleveland area which is in receivership. There is a possibility of re-opening the landfill to generate revenue, which in turn would allow someone to fix the issues that currently exist. But the barriers to re-opening that landfill are significant which means that the landfill will remain closed with no one to pay for anything. If the regulators were more flexible someone could reopen it and generate revenue and jobs and have money to fix the issues that currently exist. **LM**



Greg DeGulis

Co-founder of McMahan DeGulis LLP and the Environmental Law Network (ELN)

www.elnonline.com | www.mdllp.net



**McMahan
DeGulis^{llp}**