

Q&A With Stradley Ronon's Andrew Levine

Law360, New York (April 05, 2013, 4:22 PM ET) -- Andrew S. Levine is a partner in Stradley Ronon Stevens & Young LLP's Philadelphia office and chairman of the firm's environmental practice group. He handles a variety of environmental transactional, regulatory, enforcement and litigation matters. He provides extensive counsel on statutory and regulatory developments in the energy, solid waste, land development, water and air programs of several states and frequently assists major companies in developing compliance programs that carefully coordinate both regulatory systems and bottom-line productivity.

Levine's practice concentrates on working with large-scale developers and investors on a variety of energy-related projects throughout the mid-Atlantic region, including CHP plants, large-scale energy efficiency and renewable power and chemical projects, pipeline development and landfill gas facilities.

Before his career at Stradley Ronon, Levine was senior environmental counsel and assistant general counsel for Waste Management Inc.; senior assistant regional counsel at EPA Region III; and a special assistant U.S. attorney for the Eastern District of Pennsylvania.

Q: What is the most challenging case you have worked on and what made it challenging?

A: One of the most ambitious gas-to-energy projects I have worked on over the years also turned into one of the most blatant examples of an investment-led brownfield redevelopment project gone horribly awry. I was (and still am) representing a Canadian energy company that had acquired all of the landfill gas rights to the Meadowlands landfills, the veritable Saudi Arabia of landfill gas. Just as my client was about to upgrade the various gas systems in place, it was notified by the state of New Jersey that the primary landfill had been sold to a company known as Encap, owned by Cherokee Investments, and that they would undertake at their expense a far more expensive gas well upgrade.

For reasons beyond my control, and many people's explanation, the project ran out of funding just as almost all of the gas wells had been disconnected by Encap's construction company. The gas spewed into the atmosphere, and drifted over Giants stadium as the then-governor and commissioner of the New Jersey Department of Environmental Protection were enjoying a home game. An extremely aggressive enforcement action ensued, Encap went bankrupt and forfeited the landfill back to the state, its lobbyist was indicted (and later died of cancer), and a state senator was prosecuted.

Q: What aspects of your practice area are in need of reform and why?

A: Energy production and generation needs to be greatly simplified. There are far too many regulations governing the construction of new power sources, and while air permitting is needed, the regulatory burdens are often absurdly convoluted. I believe that creating a self-sufficient energy market in the United States should be one of our highest national security priorities, and the military savings we could enjoy far outweigh the vague and theoretical risks.

Right now the regulations are biased heavily toward solar and wind development, which, while interesting and promising, are still not fully ready for large-scale deployment. Our newly discovered national oil and gas reserves must be given the highest priority so that we can sever or deeply cut back on our ties with radical Middle Eastern countries, such as Saudi Arabia, and Latin American nations, such as Venezuela.

Q: What is an important issue or case relevant to your practice area and why?

A: Aggregation of air sources is a highly pressing issue. EPA and Big Enviro Inc. are exceptionally focused on this issue as a tool to kill or limit our domestic production of critical gas reserves, as well as certain renewable energy projects. Recently, the EPA went to tremendous lengths to aggregate emissions at an industrial site with a landfill because the former entity had the foresight and creativity to agree to buy all of the renewable gas from the landfill and use that gas to generate onsite power. The EPA tortured the regulations to find that the landfill, power plant and industrial facility were to be aggregated for air emissions, a development that could threaten, if not kill, many ambitious landfill gas projects. So, on the one hand, the EPA is reaching out to the regulated community to develop these types of renewable energy projects through its Landfill Methane Outreach Program, but biting the hand reaching out for innovation with its air regulations.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I have to name three lawyers because they worked with me together at the U.S. Attorney's Office. I have always viewed them as the three muses of my career: Kathy Votaw, Joan Garner and Sue Bricklin. In the relatively short time that we all worked together at the Eastern District, I learned lessons from them that are relevant every day of my career. It was their level of ethics in thinking through not only the merits of their cases, but also, as an attorney for the U.S., what the potential moral implications of the matter were. They brought a sense of rigorous enforcement of the law with an overlay of sympathy and practicality that reflected the fact that many trying in good faith to comply still fail.

Q: What is a mistake you made early in your career and what did you learn from it?

A: Margins. I learned a bitter lesson about following appellate court requirements with respect to pagination, and in this case I exceeded the allowable margins on the page by $\frac{1}{4}$ inch on each side. Because of multiple reviews, the brief was submitted on the final day of the appeals period, and the federal court rejected the brief for failing to meet its technical requirements. I had to fight tooth and nail to get the brief accepted, and it was a humiliating experience to say the least. I learned not to type my own material. More seriously, I learned the greater object lessons that in law you only get to move forward on your substantive position once you've met the technical requirements; but also with enough passion and desperation, you can move an immovable bureaucrat: don't be afraid to beg if it helps a client.

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