

Environmental Group Of The Year: Manko Gold

By Juan Carlos Rodriguez

Law360 (January 17, 2020, 1:37 PM EST) -- Manko Gold LLP continued its record of success in environmental matters in 2019, defending clients in toxic tort suits, helping shepherd a high-profile Sunoco pipeline project through various challenges in Pennsylvania and representing New York City in two huge Superfund site cleanup proceedings, earning it a spot in Law360's 2019 Environmental Groups of the Year.

The 32-lawyer firm was founded in 1989 and focuses solely on environmental and energy matters. It started out with seven attorneys in Philadelphia and has since opened offices in New York City, New Jersey and Hawaii, where it handles both local and national matters for clients.

Neil S. Witkes, a partner and head of litigation at the firm, said while other similarly sized environmental firms tend to focus on Superfund work, Manko Gold has established itself as a player in a more diverse set of specialties.

"Our environmental litigation practice is much more well-rounded and deeper," Witkes said. "We'll handle insurance litigation and claims on behalf of policyholders. We'll handle difficult commercial or contract disputes that have an environmental component. We'll handle statutory claims. We'll handle permitting claims."

In one of the firm's biggest recent successes, a West Virginia federal judge in December 2018 dismissed class action claims against its client Sabic Innovative Plastics US LLC, which was alleged to have shipped hazardous materials to a warehouse without instructing the facility about how to properly store the stuff. A fire broke out at the warehouse, and the plaintiffs sued Sabic and other defendants for negligence, nuisance and other claims.

The plaintiffs' theory was that Sabic had a duty to warn the public about the potential risks of exposure to the hazardous materials if a fire occurred, Manko Gold partner Robert Fox said.

"This was really an important issue because if you're going to extend a failure to warn theory in a toxic tort case to somebody who has exposure, who is not in direct privity with the party, that's a tremendous expansion of potential liability," Fox said. "Trying to narrow that kind of scope in terms of where your duty is, is pretty important in the environmental context."



The firm also successfully defended Berks County, Pennsylvania, and the Berks County Solid Waste Authority in a lawsuit brought by a landfill owner that was trying to recover millions of dollars in fees. In September a jury sided with the county, showcasing Manko Gold's chops in defending municipalities in high-stakes litigation.

"When you think about a municipality, and that amount of money, that's a significant issue for that kind of a municipal client," Fox said.

On the energy side, Manko Gold represents Energy Transfer unit Sunoco Pipeline LP in its Mariner East 2 and Mariner East 2X pipeline projects in Pennsylvania. The projects have attracted a lot of public opposition and challenges at nearly every step of the permitting and construction processes, Witkes and Fox said. The firm has been with Sunoco since the beginning and recently helped block a lawsuit filed by a state senator who was looking to shut down the projects.

"It's really allowed us to demonstrate how we can bring the necessary resources to bear to handle complexity," Witkes said of the Sunoco work. "We take a lot of pride in the fact that the client has entrusted us with something that is so significant. We have been able to staff it at all levels, so it's really allowed us to showcase the depth of our practice."

New York City is represented by the firm in the slog to figure out who owes how much to clean up the Gowanus and Newtown Creek Superfund sites in the city. Both cleanups will likely run into the multiple billions of dollars, Fox said. The city's liability derives primarily from the discharge of its combined sewer overflows, while other potentially responsible parties, such as Exxon Mobil Corp. and National Grid, face liability from their or their predecessors' operations.

Fox said it's some of the most complex Superfund work he's ever done and again showcases the firm's capabilities in handling very significant matters for municipalities, in this case the largest city in the U.S.

The firm takes pride in growing from the inside, boasting several partners who rose through the ranks. Fox said the firm will continue its growth as its reputation leads it to new lines of work and new clients. He said even now, the firm is seeing growth in the size and importance of the matters it handles.

"There are bigger stakes in terms of project sizes and dollar amounts," he said. "And we have the depth to do that. On any particular matter, we can bring a lot of resources to bear."

--Editing by Jack Karp.