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Gerry Pels has been one of the leaders of the Texas environmental legal community for over 30 years. His diverse practice focuses on the areas of environmental compliance, counseling, and litigation. During his career, Mr. Pels has consistently lead teams working on cutting edge matters of environmental law, including resolving the well-known *Cooper v. Aviall* litigation and arguing Clean Air Act issues before the 5th Circuit in litigation involving the Texas SIP. Mr. Pels has been consistently recognized in Chambers USA since 2004 as well as in *The Best Lawyers in America* for Environmental Law. He was also an adjunct law professor for seven years teaching both environmental law and an advanced RCRA seminar.

Mr. Pels' wide range of experience includes agency negotiations, assessing and counseling air, water, stormwater, and waste permit compliance, representing clients at contested permit, enforcement, and other hearings. He has also provided comprehensive assistance and representation to potentially responsible parties and steering committees at both state and federal Superfund sites. He has been called upon to lead internal environmental investigations and provide strategic guidance on corporate compliance policies, sustainability initiatives, stakeholder involvement, and community relations planning, as well as corporate risk assessment and mitigation. Regarding Mr. Pels, *Chambers* has quoted an opposing counsel as saying, "You just pray you don't get him opposite you."

HEIGHTENED GEO-POLITICAL INFLUENCE ON REGULATION, ENFORCEMENT REQUIRES 'DIFFERENT FOCUS' FOR COMPLIANCE PROGRAMS

Editor's Note: This is one in a continuing series of Q&As with Locke Lord lawyers on key legal issues confronting companies engaged in industries that have national and global impact.

What are the biggest environmental and associated legal challenges facing companies today? How have they changed since the new millennium?

GJP: There are several important challenges facing the regulated community. Among them are working in a thoughtful manner to address heightened geo-political influence on regulation and enforcement, as well as effectively managing the advent of "informal" regulation. At no time have non-governmental organizations and shareholder groups been better funded and more able to wield influence on corporate policy, the media and even governmental regulatory priorities. Addressing shareholder initiatives and more rapidly evolving regulatory trends requires a different focus than traditional compliance. It is almost like a 3D chess match – not only is compliance an issue, but the manner of compliance and how it is perceived publically is a big issue. In terms of what has changed since the new millennium, I would suggest in light of these trends, it is no longer enough to establish compliance, but proactive protection of corporate brand should be considered as a specific environmental function.

How has technology affected companies trying to remain in compliance with the seemingly always evolving regulation landscape?

GJP: Technology is a twin edge sword. Certainly as to basic compliance functions, it is an asset – when a facility is addressing specific compliance functions like continuous emissions monitoring or fence line monitoring or just generally tracking compliance. On the other hand, technology has also given rise to more intrusive real time agency inspection and monitoring through drones and flyovers, which by the way raises several interesting legal questions. Technology has also allowed for near real time reporting and real time public access to compliance and regulatory information. With this information available "at your fingertips," we should expect more frequent challenges to permits and more citizens' suits.

How has the legal community adjusted to the evolving environmental compliance landscape during the past five, 10 years?

GJP: An important adjustment the legal community is making and must continue to emphasize is moving beyond merely providing counsel about the compliance function or risk assessment of liability. Now, because of the greater and more rapid availability of information, emphasis must be placed on providing overall strategy, corporate, environmental defense and compliance branding.

In other words, how a case or proceeding is managed in one part of the world may very well be known nearly in real time in other jurisdictions. Litigation strategy and factual development is becoming an open book, which may help or be impeached in other proceedings. Similarly, how emergency response or other critical events are handled can be known, posted online and scrutinized in a matter of minutes, if not real time. Preparing key personnel and counsel to understand, coordinate and address these challenges is highly important, right now.