

Energy MVP: Orrick's Mark Weitzel

By **Roxanne Palmer**

Law360, New York (December 07, 2011, 5:55 PM ET) -- Orrick Herrington & Sutcliffe LLP's Marc Weitzel has had a busy year serving as lead counsel to EIF Renewable Energy Holdings LLC in its acquisition of Innovative Energy Systems — a deal that created one of the largest landfill gas-to-energy companies in the U.S. and landed Weitzel among Law360's Energy MVPs.

Last Valentine's Day, EIF closed its acquisition of IES, a privately held company with a portfolio of 11 landfill gas-to-energy projects in New York state and Vermont, which altogether generate 72 megawatts — enough energy to meet the needs of more than 42,000 homes, according to Orrick.

Landfill gas-to-energy projects create energy by using the vast amounts of methane gas produced by the decomposition of trash. Previously that energy locked in those gases had gone to waste, according to Weitzel.

"It used to be that landfills would just burn the waste gas into the atmosphere to get rid of it, but many landfills now have electrical generating plants right on top of them, using the gas to produce clean renewable energy," he said.

EIF now holds the rights to 45 landfill gas-to-energy projects in 16 states, with a total production of over 200 megawatts of energy. The output of these projects reduces carbon dioxide emissions by over 9 million tons per year, equivalent to emissions from 1.7 million cars, according to Orrick.

Weitzel said the EIF-IES deal was interesting for him because he usually works in wind or solar projects rather than landfill gas-to-energy, and is often involved in project financing rather than deals to acquire whole companies.

But even when working in familiar territory, Weitzel has found that the ever-accelerating pace of renewable energy technology development brings new challenges along the way, he said.

He represented solar energy company Bright Source Energy Inc. in obtaining \$2.2 billion in financing for the company's Ivanpah project. In April, the financing round closed after BrightSource finalized \$1.6 billion in loans from the U.S. Department of Energy, and Google Inc. put up \$168 million alongside \$300 million from NRG Solar LLC and \$115 million from Bright Source.

The Ivanpah project, a 392-megawatt facility that Bright Source bills as the largest solar project under construction in the world, uses a new kind of technology to capture solar energy: huge arrays of mirrors in the California desert that shine light on receivers fixed on towers.

“One of the unusual elements was getting the equity investor comfortable with the new technology — which they did,” Weitzel said.

Because of the ongoing testing procedures for the technology and on-site visits for the investors, the Ivanpah negotiations stretched out a bit longer than usual. Whereas solar project financing deals typically take about three months to close, Bright Source was in talks with Google for about six months, and with NRG for about a year, according to Weitzel.

“It took a long time — not because there were particularly contentious issues, but because it was a very complicated deal which raised groundbreaking issues,” he said.

Bright Source is now raising another \$750 million in cash and tax equity for the Ivanpah project, and Weitzel is on board to represent them for this next round as well.

Weitzel also worked on another major solar industry deal in 2011: MEMC Holdings' \$235 million acquisition of Spanish company Fotowatio Renewable Ventures' U.S. subsidiary.

That deal, which closed in September, added a slew of projects to MEMC's portfolio — 1.4 gigawatts of utility-scale projects under development, and 42 megawatts of projects in operation, positioning the company to capture a leading position in the U.S. utility market, according to Orrick.

Though he majored in political science at Stanford University, Weitzel — who also earned a Master's of Business Administration and a law degree from UCLA — has always had a history with energy. His father was an electrical engineer, and his idea of fun was to take Weitzel for tours of power plants.

As a young lawyer in the 1980s, Weitzel got involved with some of the original wind farms built in California's East Bay, which led to other energy projects involving gas, coal, biomass, geothermal and other fuels.

Weitzel said that he was lucky to start in the energy practice early, because he now knows the sector quite well, but that renewables are a hotter topic now than ever before.

“The great thing about energy these days is that it is truly the issue of our time,” he said.

Years ago, Weitzel said, if he turned to someone sitting next to him on a plane and told them he helped finance \$400 million power plants, they'd go back to watching the in-flight movie. But now they perk up and tell him all about how they're putting solar panels on the roof, he said.

“With renewable energy being so important now, my kids understand what I do for the first time!” he said.

--Editing by Chris Giganti.