



**Developments in Clean Water Law:
A Seminar for Public Agency Attorneys & Managers**

**Presented in Cooperation With:
American Bar Association, Section of Environment, Energy & Resources
New England Water Environment Association**

November 15 -17, 2006
Sheraton Boston, MA

Current to October 20, 2006

* = Confirmed Speaker

Wednesday, November 15

Morning

7:00 - 4:30

Registration

7:15 - 8:45

Continental Breakfast

The Clean Water Act: A Conference Primer

For new practitioners & those who would like a refresher, this early session will provide an overview of those Clean Water Act statutory provisions and regulations which are relevant to the key topics and issues that will be discussed during *Seminar* presentations.

Featured Speaker:

Erika K. Powers*
Partner
Barnes & Thornburg
Chicago, IL

9:00 - 12:00

GENERAL SESSION I

Opening Remarks

Dick Champion*
NACWA President
Director
Independence Water Pollution Control Department
Independence, MO

2006 Seminar Overview

Lisa E. Hollander*
Chair, NACWA Legal Affairs Committee
Assistant General Counsel
Northeast Ohio Regional Sewer District
Cleveland, OH

Panel Discussion

Defending Your Agency: How Many Arrows in Your Quiver?

A public agency lawyer's efforts often are focused on playing defense – ensuring that available tools to protect their client are maximized and utilized effectively. This dynamic panel will explore both traditional and non-traditional defensive tools, including: upset, bypass, permit shield, lab error, force majeure, common law defenses, and others. During this panel, attendees will hear from some of the nation's top lawyers about the tools they have employed to get results for their clean water agencies and clients. The panelists also will discuss the pitfalls and promise of these various options.

Speaker/Moderator:

James J. Dragna*
Partner
Bingham McCutchen
Los Angeles, CA

Speakers:

Gary B. Cohen*
Special Counsel
Hall & Associates
Washington, DC

Amy Woodis*
Governmental/Legislative Liaison
Metro Wastewater Reclamation District
Denver, CO

William A. Anderson*
Partner
Williams Mullen
Washington, DC

10:30 - 10:45

Break

Roundtable

Building an Effective Team: In-House and Outside Counsel Collaboration

Innovation in the structuring of relationships between in-house and outside counsel is critical to successful representation of a public agency. This

roundtable will bring public utility in-house counsel together with representatives from outside firms to discuss strategies for successful pairings and how these techniques have achieved success for the client.

Roundtable Moderator:

Avis Marie Russell*
General Counsel
District of Columbia Water and Sewer Authority
Washington, DC

Roundtable Members:

Allen Garner*
City Counselor
City of Independence, MO

Lee A. DeHihns*
Partner
Alston & Bird
Atlanta, GA

Laurie Horridge*
General Counsel
Narragansett Bay Commission
Providence, RI

Susan H. Richardson*
Partner
Kilpatrick Stockton
Atlanta, GA

Afternoon

12:15 - 1:45

Luncheon

Introductory Remarks

Alexandra Dapolito Dunn*
NACWA General Counsel
Washington, DC

Keynote Address— *Local Governments & Environmental Progress: Leading the Way*

Professor Freeman's scholarship focuses on public-private collaboration in governance, regulatory innovation, modular environmental regulation, negotiated approaches to regulation, and dispute resolution. Previously, Professor Freeman taught for 10 years at the University of California Los Angeles (UCLA), and helped found UCLA's Environmental Law and Policy Program. In her *Keynote*, Professor Freeman will focus the role local governments can play in fostering environmental – particularly clean water – progress, and how they can help overcome barriers to modular environmental regulation (e.g., political boundaries, inflexible statutes, silo-thinking, fragile

infrastructure, and an aggressive public presence in the form of citizen suits). She also will address how local governments can advance modular environmental regulatory concepts.

Jody Freeman*
Professor of Law
Director of Environmental Law Program
Harvard Law School
Cambridge, MA

2:00 - 5:00

GENERAL SESSION II

Panel Discussion – Providing Treatment to Satellite Systems: Allocating Liabilities and Improving Relationships

In many cases, a regional or centralized clean water utility will provide wastewater services to many surrounding jurisdictions. It often can be difficult to determine which entity is responsible for overflows, maintenance, flow control, and the implementation of new regulatory programs. This panel will discuss how, through contract and other mechanisms, regional facilities have worked with satellite systems to overcome obstacles and make environmental progress.

Speaker/Moderator:

David W. Burchmore*
Partner
Squire Sanders & Dempsey
Cleveland, OH

Speakers:

Ross Schlobohm*
Director of Interceptors
Hampton Roads Sanitation District, VA

F. Paul Calamita*
AquaLaw
Richmond, VA

Michael J. McCabe*
Director, Legal Services
Milwaukee Metropolitan Sewerage District, WI

Christopher M. Westhoff*
Assistant City Attorney
Public Works General Counsel
City of Los Angeles, CA

3:30 - 3:45

Break

3:45 - 5:00

Panel Discussion

Records Retention: Should I Delete That?

Between e-mail, electronic records, and traditional paper documents, managing, storing, and destroying information is taking more and more time in the day of many utility lawyers. Careful management of electronic information is key in a litigious climate. This discussion is certain to offer practical answers to tough questions in this evolving arena.

Moderator:

Jennifer Harrington*
Counsel
Narragansett Bay Commission
Providence, RI

Speakers:

Stephan M. Prignano*
Partner & Co-Chair, E-Discovery Team
Edwards, Angell, Palmer & Dodge
Providence, RI

Robert Thomas*
Director, Legal Department
Metro Wastewater Reclamation District
Denver, CO

Closing Remarks/Announcements

Lisa E. Hollander*
Chair, NACWA Legal Affairs Committee

6:00 – 7:00

Welcoming Reception

Thursday, November 16

Morning

8:30 - 4:30

Registration

9:00 - 12:00

GENERAL SESSION III

Opening Remarks

Terry J. Satterlee*
Vice Chair, NACWA Legal Affairs Committee
General Counsel, Little Blue Valley Sewer District
Kansas City, MO

Panel Discussion

Citizen Suit Trends

Citizen suits under the Clean Water Act and now the Endangered Species Act are filed almost weekly against public entities. These cases raise several important questions -- What is the law on standing today? When can a citizen group collect

attorneys fees? What limits are there on citizen suits under the CWA or ESA? Where are citizen suits heading? This panel will focus on the complex and always controversial issue of citizen suits and related issues.

Speaker/Moderator:

Richard A. Horder*
Partner
Kilpatrick Stockton
Atlanta, GA

Speakers:

Hilary Meltzer*
Senior Counsel
New York City Law Department
New York, NY

Roberta Larson*
Director of Legal and Regulatory Affairs
California Association of Sanitation Agencies
Somach, Simmons & Dunn
Sacramento, CA

Michael Murphy*
Associate
Gibson Dunn
Washington, DC

10:30 – 10:45

Break

Panel Discussion

Paying for Progress: Making an Affordability Argument Stick

This session will focus on how agencies have successfully made their case to enforcement officials and the public regarding their ability to pay for new controls.

Moderator:

Lisa E. Hollander*
Chair, NACWA Legal Affairs Committee

Speakers:

Robert C. Weaver*
Kelly & Weaver, P.C.
Washington, D.C.

Jodi Perras*
Perras & Associates
Indianapolis, IN

Joe Ridge*
CDM
Cambridge, MA

Jan V. Betz*
Deputy City Attorney
City of Portland, OR

12:15 - 1:45

Luncheon

Introductory Remarks

Ken Kirk*
NACWA Executive Director
Washington, DC

Address – Pandemic Preparedness for Public Utilities

Ms. Downing is a national expert on pandemic preparedness. She will discuss with Seminar attendees the key issues associated with pandemics, planning, and their possible impacts on public agencies. Time will be reserved for questions and answers on this cutting-edge topic.

Jane Downing*
Chief
Drinking Water Unit
U.S. Environmental Protection Agency, Region 1
Boston, MA

Afternoon

2:00 - 5:00

GENERAL SESSION IV

Roundtable Discussion

Who's On First? Negotiating with States, the Feds, NGOs, and Regulators

The number of public agencies facing negotiations and litigation with a combination of federal, state, and citizen parties continues to rise. The outcome of these negotiations can have dramatic effects on municipal operations for decades into the future. This panel will explore techniques for making such high stakes negotiations both productive and focused on environmental benefit.

Roundtable Moderator:

Susan Myers*
Office of General Counsel
Metropolitan St. Louis Sewer District, MO

Roundtable Members:

Fredric Andes*
Partner
Barnes & Thornburg

Chicago, IL

D. Randall Benn*
Partner
LeBoeuf, Lamb, Green & MacRae
Washington, DC

Terry J. Satterlee*
Vice Chair, NACWA Legal Affairs Committee

Christopher M. Kilian*
Vermont Advocacy Center Director
Clean Water and Healthy Forests Program Director
Conservation Law Foundation
Montpelier, VT

3:15 - 3:30

Break

3:30 - 5:00

Panel Discussion

All Models are Wrong; Some are Useful: How to Make a Model Work for Your Case

The National Research Council reported recently that while there are many water quality models, their true usefulness has not yet been proven. In fact, many have not been in use long enough to know how closely they can represent actual conditions. This expert panel will explore issues associated with choosing the right model, model accuracy, and model management. The panelists will focus on modeling for pollutants of particular concern to public agencies – bacteria, nutrients, and toxics.

Moderator:

Gerald P. Linder*
General Counsel
Clean Water Services
Hillsboro, OR

Speakers:

John C. Hall*
Owner
Hall & Associates
Washington, DC

Adrienne Nemura*
Senior Manager, Permits & Discharges
Limno-Tech, Inc.
Ann Arbor, MI

Karen M. Hansen*
Director
Beveridge & Diamond, PC

Washington, DC

Closing Remarks/Announcements

Lisa E. Hollander*

Chair, NACWA Legal Affairs Committee

Friday, November 17

Morning

8:00 - 10:00

Registration

8:30 - 12:00

GENERAL SESSION V

Opening Remarks

Alexandra Dapolito Dunn*

NACWA, DC

8:45 - 9:15

Closing Address— *The U.S. Department of Justice: An Insider's Perspective*

Mr. Cruden is a senior official at the U.S. Department of Justice (DOJ), serving as the career deputy assistant attorney general of the Environment and Natural Resources Division. He recently completed a term as president of the D.C. Bar, the first government attorney to serve as Bar president. Mr. Cruden will discuss how political winds impact DOJ's priority setting and provide insights into the arena of municipal Clean Water Act enforcement.

John C. Cruden*

Chief, Environmental Enforcement

U.S. Department of Justice

Washington, DC

9:15 - 10:30

Panel Discussion

Trick or Trade? Legal Aspects of Watershed Based Trading

Trading continues to be mentioned as a way for public utilities to achieve watershed goals. This discussion will bring together some of the nation's utility leaders for a conversation about challenges faced when setting up a trading system, creating a market, memorializing trades legally, and how court decisions such as the D.C. Circuit's "daily" opinion can threaten an existing program.

Speaker/Moderator:

Charles Logue*

Director, Technical Services Department

Clean Water Services

Hillsboro, OR

Speakers:

Lisa Bacon*

Principal

CH2M Hill

Chantilly, VA

John A. Sheehan*
AquaLaw, PLC
Richmond, VA

Dan McLawhorn*
Associate City Attorney
Raleigh, NC

10:30 – 12:00

Panel Discussion

What is the “Point” of Compliance?

According to the U.S. Environmental Protection Agency, “[c]ompliance simply means conformity with environmental laws and regulations. EPA uses various methods to achieve compliance, including compliance assistance, compliance monitoring and compliance incentives.” The gathered experts will explore innovative ways that “compliance” can be viewed, measured and ultimately reached for public agencies.

Moderator:

Karen Mignone*
Partner
Pepe & Hazard
Hartford, CT

Speakers:

LaJuana S. Wilcher*
English, Lucas, Priest & Owsley
Bowling Green, KY

Richard S. Davis*
Director
Beveridge & Diamond, PC
Washington, DC

Rosemary G. Spalding*
Spalding & Hilmes, P.C.
Indianapolis, IN

Beth Card*
Chair, ASIWPCA Legal Affairs Committee
New England Interstate Water Pollution Control Commission
Lowell, MA

Closing Remarks/Adjourn

Lisa E. Hollander*
Chair, NACWA Legal Affairs Committee