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

November 12 - 14, 2008
Fairmont Hotel, Washington, DC

Agenda Current as of 10/3/08

Wednesday, November 12
Morning
8:30 – 4:30   Registration

8:30-9:30   Continental Breakfast

9:00 - 12:00   GENERAL SESSION I

Opening Remarks
Christopher M. Westhoff
NACWA Past President
Assistant City Attorney
Public Works General Counsel
City of Los Angeles, CA

2008 Seminar Overview
Lisa E. Hollander
Chair, NACWA Legal Affairs Committee
Deputy Director of Law
Northeast Ohio Regional Sewer District
Cleveland, OH

9:15 – 10:30   Keynote Address: The Elections Are Over: Now What?
Amy Walter, Editor-in-Chief of The Hotline

Amy Walter’s appearance is sponsored in part through the generous support of Beveridge & Diamond.

Dubbed one of the most powerful people in politics for her insights into the mechanics that make the political machine run. She has served as a political analyst for CNN and as a panelist and commentator on CBS’ Face the Nation, Meet the Press (NBC), Washington Journal (C-SPAN), The NewsHour with Jim Lehrer (PBS), and the CBS Early Show.
10:30 - 10:45

**Break**

10:45 – 12:00

**Nutrients: I Thought They Were Good For You?**

While all living things do require nutrients to be healthy, excessive nutrients can degrade water quality by producing harmful algal blooms and even hypoxia. Recently, there has been a call for national numeric nutrient limits. This opening panel will discuss the possible consequences of such new regulation for clean water utilities and their lawyers, and suggest legal strategies for addressing this national issue.

**Speakers:**

Avis Russell  
General Counsel  
D.C. Water & Sewer Authority  
Washington, DC

Erika Powers  
Partner  
Barnes & Thornburg  
Chicago, IL

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

*Afternoon*

12:00- 1:30

**Luncheon**

*Announcements*

Keith J. Jones  
General Counsel  
NACWA  
Washington, DC

1:30 - 5:00

**GENERAL SESSION II**

*Opening Remarks and Speaker Introduction*

Keith J. Jones  
NACWA General Counsel

1:30 – 2:00

**Keynote Address:**

*Thought, Persistence, and Monk Units*

David A. Katz  
Deputy Water Commissioner  
Philadelphia Water Department  
Philadelphia, PA
2:00 – 3:30

**Stormwater: When It Rains It Pours**

Many CSO and/or SSO communities and stormwater utilities are struggling with the legal consequences of trying to best manage the first inch of stormwater runoff, which is known to carry the majority of pollutants from streets, parking lots, and rooftops. This panel will discuss the legal impediments that face the clean water community in trying to manage stormwater runoff in an environmentally beneficial manner and how municipal utility attorneys can overcome them.

*Speakers:*

- David Burchmore  
  Partner  
  Squire Sanders  
  Cleveland, OH

- Chris Pomeroy  
  Partner  
  AquaLaw  
  Richmond, VA

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

- Theresa A. Dunham  
  Of Counsel  
  Somach Simmons & Dunn  
  Sacramento, CA

3:30 – 3:45

**Break**

3:45 - 5:00

**Climate Change: The Hottest Topic in Town**

Whether you believe in Climate Change or not, you can believe that there is going to be national Climate Change legislation, regulation, and eventually litigation. The final panel of the day will discuss what Climate Change legislation and regulation will most likely mean for the clean water community and what legal issues it will present.

*Speakers:*

- Benjamin Grumbles  
  Assistant Administrator, Office of Water  
  U.S. Environmental Protection Agency  
  Washington, DC
Thursday, November 13

Morning

8:30 - 4:30   Registration

8:30 - 9:30   Continental Breakfast

9:00 - 12:00   GENERAL SESSION III

   Opening Remarks
   Roberta L. Larson
   Vice Chair, NACWA Legal Affairs Committee
   Somach Simmons & Dunn
   Sacramento, CA

9:00 - 10:30   Biosolids: It All Has To Go Somewhere

 Experts predict that the population of the United States will hit one billion by the year 2100. The one thing all these people will have in common is the need to dispose of their bodily waste. This first panel of the day will discuss how clean water agency attorneys can best protect their utility clients’ ability to decide how they will dispose of their biosolids.

 Speakers:

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

10:45 – 12:00

Green Infrastructure: It’s Not Easy Being Green

For the past several years, there has been a lot of talk about Green Infrastructure. EPA and state permitting and enforcement agencies are at the point of incorporating Green Infrastructure into permits, enforcement orders, and long-term control plans. This panel will discuss the legal opportunities and challenges this presents for clean water agencies and their attorneys.

Speakers

Amanda Waters
General Counsel
Sanitation District No. 1
Ft. Wright, KY

Jenny Molloy
Water Permits Division
U.S. Environmental Protection Agency
Washington, DC

Chris Kloss
Senior Environmental Scientist
Low Impact Development Center
Beltsville, MD

Afternoon
12:00 – 2:00

Lunch on Your Own

2:00 – 5:00

GENERAL SESSION IV

Opening Remarks
Lisa E. Hollander
Chair, NACWA Legal Affairs Committee
Top Ten CWA Cases of the Year
This year we have seen a number of important Clean Water Act cases decided in the courts. An expert in Clean Water Act Jurisprudence will review the most significant cases of the year and will provide insight into what these precedents mean for clean water utilities and their counsel.

Featured Speaker:

William A. Anderson, II
Partner
Williams Mullen
Washington, DC

Break

Regulatory Deference: Whose Line Is It Anyway?
The Chevron decision tells us that a reviewing court should grant a great degree of deference to an agency’s reasonable interpretation of an ambiguous regulatory statute. What about interpreting the meaning of “reasonable bacteria criteria” or even “best professional judgment?” This final panel of the day will discuss the legal issues clean water agencies and their counsel need to understand regarding regulatory deference.

Speakers:

Roberta L. Larson
Vice Chair, NACWA Legal Affairs Committee

LaJuana Wilcher
Partner
English, Lucas, Priest & Owsley
Bowling Green, KY

Brooks Smith
Partner
Hunton & Williams
Washington, DC

Closing Remarks/Announcements
Lisa Hollander
Chair, NACWA Legal Affairs Committee

Reception
Friday, November 14

Morning
8:30 - 10:00 Registration

8:30 – 9:30

Continental Breakfast

9:00 - 12:00

GENERAL SESSION V

Opening Remarks
Lisa Hollander
Chair, NACWA Legal Affairs Committee

9:00 – 10:15

Ethics: Please Do The Right Thing
Even clean water agency attorneys need to keep up to date in the area of professional responsibility. A leading legal ethics scholar will use a series of hypothetical situations to explore legal and ethical issues related to practicing Clean Water Law including confidentiality, candor, and diligence.

Featured Speaker:

Professor Heather Bupp-Habuda
Adjunct Faculty of Legal Ethics
American University
Washington, DC

10:15 – 10:30

Break

10:30 – 12:00

Enforcement: We Can Make You Do the Right Thing
The New Year will bring both a new Presidential Administration and a new Congress to Washington DC. There is a strong expectation that they will produce legislation that will increase regulatory demands on clean water agencies. Failure to comply with these new demands will undoubtedly result in enforcement actions. This final panel of the program will discuss what clean water agencies and their counsel should expect in the coming year in the realm of enforcement.

Speakers:

Granta Nakayama
Assistant Administrator, Office of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency
Washington, DC

Laurie Horridge-Bissonette
General Counsel
Narragansett Bay Commission
Providence, RI
Paul Calamita  
Partner  
AquaLaw  
Richmond, VA  

Michael McCabe  
Director of Legal Services  
Milwaukee Metropolitan Sewerage District  
Milwaukee, WI  

Closing Remarks/Adjourn  
Lisa Hollander  
Chair, NACWA Legal Affairs Committee