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

In Association With the Western Coalition of Arid States

November 17 - 19, 2010
Inn at Loretto, Santa Fe, New Mexico

All Rooms are on the Lobby Level of the Inn at Loretto unless otherwise indicated.

Wednesday, November 17

Morning
8:30 – 4:30 Registration
Breezeway

8:30 - 9:30 Continental Breakfast
Breezeway

9:00 - 12:00 GENERAL SESSION I
Zuni Ballroom

Opening Remarks
Jeff Theerman
NACWA President
Executive Director
Metropolitan St. Louis Sewer District
St. Louis, MO

2010 Seminar Overview
Lisa Hollander
Chair, NACWA Legal Affairs Committee
Deputy Director of Law
Northeast Ohio Regional Sewer District
Cleveland, OH

Keynote Address
Current Clean Water Legal Issues:
A DOJ Perspective
Robert G. Dreher
Principal Deputy Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice -- Washington, DC
The New Regulatory Framework: Stormwater, SSOs, and Nutrients, Oh My!
EPA is hard at work on a host of new regulatory initiatives that will directly impact clean water agencies. A post-construction stormwater rule is in the works that will be released next year and significantly impact how stormwater runoff is managed. EPA has also announced intentions to pursue a national sanitary sewer overflow (SSO) rule. And if all that wasn’t enough, additional regulations are coming down the pike involving nutrients. This first panel of the day will look at the legal implications these new regulations could have on clean water agencies and explain why POTWs really aren’t in Kansas anymore.

Beth Card
Director of Water Quality Programs
New England Interstate Water Pollution Control Commission
Lowell, MA

Fredric Andes
Partner
Barnes & Thornburg
Chicago, IL

Stephen Haughey
Partner
Frost Brown Todd LLC
Cincinnati, OH

Luncheon

Introduction
Ken Kirk
Executive Director
NACWA
Washington, DC

Keynote Address
Western Water Issues:

Hot Topics In Western Water Law
Water law issues in the West, particularly in the arid Southwest, are especially challenging due to a combination of geographic,
climactic, and legal factors. This presentation, provided by a veteran practitioner of western water law, will cover the most important current legal issues impacting utilities in the West and will be valuable not only to clean water professionals practicing in western states but also to those from other parts of the country seeking to understand how western water issues could have national implications.

**Harlan Agnew**  
Deputy Civil County Attorney  
Pima County Regional Wastewater Reclamation Department  
Tuscon, AZ

2:00 - 5:00  
Zuni Ballroom

**GENERAL SESSION II**

**Opening Remarks**

**Hilary Meltzer**  
Vice Chair, NACWA Legal Affairs Committee  
Senior Counsel, Environmental Law Division  
New York City Department of Law  
New York, NY

**Consent Decrees and Affordability, Part I:**  
**Stories From the Front Lines**

Wet weather consent decrees continue to be a fact of life for clean water agencies, and many are either currently negotiating decrees or concerned about negotiating a decree in the future. However, recent developments in response to the current economic environment indicate that the landscape may be shifting for clean water attorneys negotiating these decrees on behalf of municipal clients, particularly with regard to affordability issues. This panel will present case studies from clean water agencies recently returned from the battlefield of consent decree negotiations, including lessons learned and advice on making affordability arguments.

**Lisa Hollander**  
Chair, NACWA Legal Affairs Committee

**Louis McMahon**  
Partner  
McMahon DeGulis, LLP  
Cleveland, OH
Consent Decrees and Affordability, Part II:
Where Do We Go From Here?
In Part II of our discussion on consent decrees and affordability, we will move beyond the lessons of recent or imminent decrees and look at the legal options for cities already under decree. Specifically, we will look at how clean water utilities are addressing affordability issues as they implement existing decrees. The panel will also explore efforts by the larger clean water community to gain more legal and regulatory flexibility for utilities as they look to meet Clean Water Act mandates and prioritize needed clean water investments.

Susan Richardson
Partner
Kilpatrick Stockton, LLP
Atlanta, GA

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

George Hawkins
General Manager
DC Water
Washington, DC

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

Evening
6:00 – 7:00
Welcoming Reception
Tesuque Ballroom
Thursday, November 18

Morning
8:30 - 4:30   Registration
Breezeway

8:30 - 9:30   Continental Breakfast
Breezeway

9:00 - 12:00   GENERAL SESSION III
Zuni Ballroom

GENERAL SESSION III
Opening Remarks
Nathan Gardner Andrews
General Counsel
NACWA
Washington, DC

Federalism 101:
Federal, State, and Local Interactions
Under the Clean Water Act
The Clean Water Act was envisioned as a partnership between the federal, state, and local governments to achieve improvements in water quality. Unfortunately, more often than not, the feds ride roughshod over their state and local partners. This panel will examine how the relationship is supposed to work as well as provide examples in both the wastewater permitting and stormwater fee context where the relationship is on the rocks. The panel will also discuss the legal ramifications of a breakdown in the federal-state-local partnership on clean water utilities.

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

Lauren Kalisek
Principal Attorney
Lloyd Gosselink Rochelle & Townsend, P.C.
Austin, TX

Joe Rochelle
Senior Deputy Prosecuting Attorney
King County Department of Natural Resources and Parks
Seattle, WA

10:15 – 10:30   Break
Coming Soon to a Permit Near You? Legal Implications of Regional Clean Water Developments

While much attention has been focused in recent months on EPA’s many national rulemaking efforts, there are also a number of regional developments occurring in different parts of the country that could be equally important for the national clean water community. This panel will focus on emerging issues involving total maximum daily loads, Clean Water Act permitting, and other issues in the Chesapeake Bay, Great Lakes, and California regions that could have significant legal and regulatory implications for the rest of the nation.

Bruce Keyes  
Partner  
Foley & Lardner LLP  
Milwaukee, WI

Chris Pomeroy  
President  
AquaLaw PLC  
Richmond, VA

Roberta Larson  
Managing Shareholder  
Somach Simmons & Dunn  
Sacramento, CA

Julie Lemmon  
Attorney At Law  
Tempe, AZ

Afternoon  
12:00 – 2:00  
Lunch on Your Own

2:00 – 5:00  
Zuni Ballroom  

GENERAL SESSION IV

Top Clean Water Act Legal Cases of the Year

Courts around the nation are constantly interpreting the Clean Water Act and issuing legal decisions that impact the operations of clean water utilities. This panel of legal experts will review the most important Clean Water Act cases of the past year and provide critical insights for both clean water attorneys and managers on
how these cases could affect your utility.

Hilary Meltzer  
Vice Chair, NACWA Legal Affairs Committee

Erika Powers  
Partner  
Barnes & Thornburg  
Chicago, IL

Lee DeHihns  
Partner  
Alston & Bird, LLP  
Atlanta, GA

3:15 – 3:30  
Break

Shifting Regulatory Requirements: Not All Change Is Good

Nothing is more frustrating for clean water agencies than making significant investments in infrastructure and management programs based on existing EPA regulations, only to then have the Agency suddenly change the rules and shift the regulatory landscape. Unfortunately, these kinds of regulatory changes are occurring more and more frequently in the clean water arena. Speakers on this panel will examine the legal implications for utilities of three specific regulatory changes, including the potential for new stormwater management standards, efforts to redefine some biosolids as solid waste, and possible revisions to EPA’s water quality standards regulation.

David Burchmore  
Partner  
Squire, Sanders & Dempsey, LLP  
Cleveland, OH

James Slaughter  
Principal  
Beveridge & Diamond  
Washington, DC

Brooks Smith  
Partner  
Hunton & Williams LLP  
Richmond, VA
Closing Remarks/Announcements

Lisa Hollander
Chair, NACWA Legal Affairs Committee

Evening
5:30 – 7:00
Reception
New Mexico Museum of Art
107 West Palace Ave.

Friday, November 19
Morning
8:30 - 10:00
Registration
Breezeway

8:30 – 9:30
Continental Breakfast
Breezeway

9:00 - 12:00
GENERAL SESSION V
Zuni Ballroom

Opening Remarks
Lisa Hollander
Chair, NACWA Legal Affairs Committee

Ethics:
Going Beyond the Model Rules
Now more than ever before, clean water agency attorneys need to keep up to date in the area of professional responsibility. A team of legal ethics experts will use a series of hypothetical situations to explore legal and ethical issues related to practicing Clean Water Law.

Allan Gates
Partner
Mitchell, Williams, Selig, Gates & Woodyard, PLLC
Little Rock, AR

Charles “Kip” Purcell
Partner
Rodey, Dickason, Sloan Akin, & Robb, PA
Albuquerque, NM

Hilary Meltzer
Vice Chair, NACWA Legal Affairs Committee
Impacts of the 2010 Mid-Term Elections
The outcome of the 2010 Mid-Term Elections will have a significant impact on the clean water community's legislative agenda in the coming year. The speakers on this panel will discuss the potential impact of the election results on municipal clean water utilities as well as outline NACWA’s likely legislative priorities for the coming year.

Jeff More  
Principal  
The Accord Group  
Washington, DC

Patricia Sinicropi  
Director, Legislative Affairs  
NACWA  
Washington, DC

Enforcement:  
What Every Clean Water Agency Should Know
An enforcement action is something no clean water agency wants to go through, but something every clean water utility should be prepared for. This final panel of the Seminar will present important legal information valuable to both clean water attorneys and managers related to enforcement issues, including an overview of current clean water enforcement developments and a discussion of the role of citizen suits in enforcement actions.

Larry Liebesman  
Partner  
Holland & Knight, LLP  
Washington, DC

Lori Terry Gregory  
Member  
Foster Pepper PLLC  
Seattle, WA

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