



**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

Breezeway

Registration

8:30 - 9:30

Breezeway

Continental Breakfast

9:00 - 12:00

Zuni Ballroom

GENERAL SESSION I

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

10:15 - 10:30

Break

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

Afternoon

12:00- 2:00

Chaco Ballroom

Lower Level

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

Tim Houghton
Executive Assistant
City & County of Honolulu
Kapolei, HI

3:15 - 3:30

Break

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
Tesuque Ballroom

Welcoming Reception

Thursday, November 18

Morning

8:30 - 4:30

Breezeway

Registration

8:30 - 9:30

Breezeway

Continental Breakfast

9:00 - 12:00

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

2:00 – 5:00

Zuni Ballroom

Lunch on Your Own

GENERAL SESSION IV

Opening Remarks

Lisa Hollander

Chair, NACWA Legal Affairs Committee

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

New Mexico Museum of Art

107 West Palace Ave.

Reception

Friday, November 19

Morning

8:30 - 10:00

Breezeway

Registration

8:30 – 9:30

Breezeway

Continental Breakfast

9:00 - 12:00

Zuni Ballroom

GENERAL SESSION V

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

10:00 – 10:15

Break

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