



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

November 16 - 18, 2011
Francis Marion Hotel, Charleston, South Carolina

Note: All Rooms are located on the 2nd Floor of the Francis Marion Hotel unless noted otherwise.

Wednesday, November 16

Morning

7:30 – 4:30

Gold Ballroom Foyer

Registration

7:45 - 9:30

Gold Ballroom Foyer

Continental Breakfast

8:00 – 9:15

Gold Room

Clean Water Act Primer

Back by popular demand, the NACWA Clean Water Act Primer makes a return this year to provide a valuable overview of the environmental law most relevant to clean water practitioners. Designed both for newcomers to the clean water world as well as seasoned veterans, this preliminary session will cover Clean Water Act statutory provisions and regulations related to the key topics and issues that will be discussed during *Seminar* presentations.

Featured Speaker

Erika Powers

Partner

Barnes & Thornburg

Chicago, IL

9:30 - 12:15

Gold Room

GENERAL SESSION I

Opening Remarks

Ken Kirk

Executive Director

NACWA

Washington, DC

Welcoming Remarks

Andrew Fairey

Chief Operating Officer
Charleston Water System
Charleston, SC

2011 Seminar Overview

Lisa Hollander

Chair, NACWA Legal Affairs Committee
Special Liaison for Legislative and Regulatory Affairs
Northeast Ohio Regional Sewer District
Cleveland, OH

Opening Keynote Address

Current Clean Water Legal Issues – A DOJ and NGO Perspective

John Cruden

President
Environmental Law Institute
Washington, DC

10:30 - 10:45

Break

Don't Forget Your Umbrella: The Growing Legal Challenges of Wet Weather Management

Wet weather issues continue to present an increasingly complex set of challenges for municipal clean water agencies, with developments specifically impacting stormwater and sanitary sewer overflows (SSOs). EPA's forthcoming proposal for a national post-construction stormwater rule will mark a paradigm shift in how municipalities deal with urban runoff. At the same time, many communities are facing increased litigation over their stormwater programs. EPA also has refocused on a potential national SSO rule. This panel will explore the legal implications for the clean water community of these developments.

David Burchmore

Partner
Squire, Sanders & Dempsey, LLP
Cleveland, OH

Linda Marousek
Assistant City Attorney
City of Vancouver
Vancouver, WA

Lisa Hollander
Chair, NACWA Legal Affairs Committee

Afternoon

12:15- 2:00

Colonial Room

Lobby Level

Luncheon

Speaker Introduction:

Nathan Gardner-Andrews
General Counsel
NACWA
Washington, DC

Keynote Address

Speaking the Language: The Relationship Between States and Permittees

The growing legal and regulatory challenges of meeting Clean Water Act requirements are impacting both clean water utilities and states in similar ways. Yet at this time of common difficulty, permittees and states often find themselves speaking different languages. Our Keynote Speaker will discuss the causes for this disconnect and examine ways that utilities can improve their dialogue and relationships with state regulators.

Alexandra Dapolito Dunn
Executive Director and General Counsel
Association of Clean Water Administrators
Washington, DC

2:00 - 5:00

Gold Room

GENERAL SESSION II

Opening Remarks

Hilary Meltzer
Vice Chair, NACWA Legal Affairs Committee
Deputy Chief, Environmental Law Division
New York City Department of Law
New York, NY

We'll See You in Court: The Current State of Litigation Over Biosolids Management

The past year has seen the emergence of a number of high profile lawsuits involving biosolids management as the clean water community aggressively pushes back against poorly developed

regulations involving sewage sludge incineration and land application. Central to these issues is EPA's new regulation on sewage sludge incinerators (SSIs) and a revised definition of non-hazardous solid waste that directly impacts biosolids. Speakers on this panel will discuss the most recent legal updates involving these critical issues and their potential implications.

Lee DeHihns, III

Partner
Alston & Bird, LLP
Atlanta, GA

Jimmy Slaughter

Principal
Beveridge & Diamond, P.C.
Washington, DC

Jeff Knight

Partner
Pillsbury Winthrop Shaw Pittman, LLP
Washington, DC

3:15 - 3:30

Break

Excuse Me, Do You Speak Lawyer? How Clean Water Attorneys Can Communicate More Effectively

Being able to successfully communicate with a wide range of audiences is a critical skill for any attorney, but is especially important for clean water law practitioners due to the very complex nature of their practice. This panel will explore how lawyers can better communicate complicated clean water issues, including talking about risk to the public, translating between legal and technical issues for clients and the courts, and communicating with public officials. The panel will also be helpful to non-lawyer clean water professionals looking to improve communications with their in-house or outside counsel.

Elizabeth Toot-Levy

Senior Environmental Specialist
Northeast Ohio Regional Sewer District
Cleveland, OH

Bruce Tobey
Of Counsel
Pannone Lopes Devereaux & West LLC
Providence, RI

Brooks Smith
Partner
Hunton & Williams, LLP
Richmond, VA

Closing Remarks/Announcements

Lisa Hollander
Chair, NACWA Legal Affairs Committee

6:00 – 7:00
Colonial Room
Lobby Level

Welcoming Reception

Thursday, November 17

Morning

8:30 - 4:30
Gold Room Foyer

Registration

8:30 - 9:30
Gold Room Foyer

Continental Breakfast

9:00 - 12:00
Gold Room

GENERAL SESSION III

Opening Remarks
Lisa Hollander
Chair, NACWA Legal Affairs Committee

Nutrients Make Lawsuits Grow: Legal Implications of Increased Nutrient and Non-Point Source Regulations

As EPA and the states ramp up regulation of nutrients, the only thing growing faster than the economic cost to clean water utilities is the number of legal issues and lawsuits surrounding the new regulations. Legal experts on this panel will review the current state of nutrient regulation and litigation from around the country, including an update on the ongoing challenge to EPA's numeric nutrient criteria promulgated late last year for Florida. Also to be addressed is how increased regulation of non-point sources is leading to litigation, especially in the Chesapeake Bay.

Jennifer Abdella

Associate
Beveridge & Diamond, P.C.
Washington, DC

Allan Gates

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

Winston Borkowski

Shareholder
Hopping Green & Sams
Tallahassee, FL

Paul Calamita

Partner
AquaLaw PLC
Richmond, VA

10:30 – 10:45

Break

How Good is Good Enough? The Complex Legal World of Water Quality Issues

Among the most challenging topics confronting clean water attorneys and professionals is the daunting world of water quality issues and understanding when water quality is really “good enough” under the Clean Water Act. To help shed some light in this area, this panel will address a number of complex legal issues such as designated uses, use attainability analyses, and anti-degradation and anti-backsliding requirements, including how these requirements apply if a state seeks to reduce its environmental regulations to the CWA minimums.

Fred Andes

Partner
Barnes & Thornburg
Chicago, IL

John Sheehan

Member
Clark Hill, PLC
Washington, DC

Linda Benfield
Partner
Foley & Lardner LLP
Milwaukee, WI

Afternoon

12:00 – 2:00

Lunch on Your Own

2:00 – 5:00

Gold Room

GENERAL SESSION IV

Opening Remarks:

Nathan Gardner-Andrews
NACWA General Counsel

Roundtable -- Top CWA 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 roundtable of top clean water attorneys 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

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

Roberta Larson
Managing Shareholder
Somach Simmons & Dunn
Sacramento, CA

3:15 – 3:30

Break

Every Utility Needs a Do-over: Pursuing Reopeners in Wet Weather Consent Decrees

More and more utilities currently under wet weather consent decree are seeking to reopen their decrees and make substantive changes to these complex legal agreements. While the reasons for a reopener may vary from utility to utility – including affordability concerns, changed environmental conditions, or emergence of new technologies or the potential for green infrastructure – the legal hurdles facing these efforts are significant. This panel will explore

the challenges and opportunities that come with pursuing a reopener.

Robin Levine

General Counsel

New York City Department of Environmental Protection
Flushing, NY

Randy Hayman

General Counsel

DC Water
Washington, DC

David Sherman

Director

City of Indianapolis Department of Public Works
Indianapolis, IN

Closing Remarks/Announcements

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

6:00 – 7:00

Gold Room Foyer

Reception

Friday, November 18

Morning

8:30 - 10:00

Gold Room Foyer

Registration

8:30 – 9:30

Gold Room Foyer

Continental Breakfast

8:45 - 12:00

Gold Room

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. This presentation by a legal ethic expert will use a series of hypothetical situations to explore legal and ethical issues related to practicing Clean Water Law.

Tim Bouch
Managing Partner
Leath, Bouch & Seekings, LLP
Charleston, SC

Featured Address

Working Towards One Water: EPA Efforts on Integrated Water Planning

Mark Pollins
Director, Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Washington, DC

Deborah Nagle
Director, Water Permits Division
Office of Water
U.S. Environmental Protection Agency
Washington, DC

Enforcement Roundup: Important Developments for Clean Water Attorneys

No issue is of greater importance for clean water lawyers and managers than staying abreast of recent developments involving CWA enforcement. A group of top clean water professionals will wrap up the *Seminar* with a review of some key happenings in the enforcement realm over the past year, including updates on consent decrees, long term compliance schedules, and penalties involving sewer overflows.

Ted Henifin
General Manager
Hampton Roads Sanitation District
Virginia Beach, VA

Susan Myers
General Counsel
Metropolitan St. Louis Sewer District
Saint Louis, MO

Gerald Leatherman
Divisional Deputy City Solicitor/ General Counsel
Philadelphia Water Department
Philadelphia, PA

John Irving
Senior Counsel
Holland & Knight, LLP
Washington, DC

Closing Remarks/Adjourn

Lisa Hollander
Chair, NACWA Legal Affairs Committee