



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

In association with the Texas Association of Clean Water Agencies

November 20 - 22, 2013
Hilton Palacio Del Rio
San Antonio, TX

Wednesday, November 20

Morning

7:30 – 4:30 **Registration**

Prefunction

7:45 - 9:30 **Continental Breakfast is served**

Prefunction

8:00 – 9:15 **Clean Water Act Primer**

Salon del Rey A&B

Start the *Seminar* off right with the NACWA Clean Water Act Primer, which provides 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 (CWA) statutory provisions and regulations related to the key topics and issues that will be discussed during *Seminar* presentations.

Erika Powers

Partner

Barnes & Thornburg LLP

Chicago, IL

9:30 - 12:15

Salon del Rey A&B

GENERAL SESSION I

Opening Remarks & Seminar Overview

Lisa Hollander

Chair, NACWA Legal Affairs Committee

General Counsel

Sanitation District No. 1

Ft. Wright, KY

Welcoming Remarks

Raj Bhattarai

President, Texas Association of Clean Water Agencies

Division Manager

Austin Water Utility

Austin, TX

Keynote Address

EPA Clean Water Legal Priorities

While climate change and air issues are playing a prominent role in the second term of the Obama Administration, water continues to be a priority on EPA's agenda. This includes efforts to clarify the CWA's jurisdiction, draft new national stormwater regulations, and provide additional flexibility and room for innovation to municipal clean water utilities in meeting their CWA obligations. Many of these actions will have direct legal impacts on clean water agencies. Nancy Stoner from EPA will provide an overview of key clean water legal priorities for the Agency and their potential implications for NACWA members.

Nancy Stoner

Acting Assistant Administrator

Office of Water

U.S. Environmental Protection Agency

Washington, DC

10:15 - 10:30

Break

Integrated Planning – Where Are We & Where Are We Going?

Almost 18 months after being officially released, EPA's Integrated Planning Framework is being utilized by clean water utilities across the country to explore new flexibilities and prioritization in achieving legal CWA mandates. And while a number of utilities have successfully used an integrated planning approach within an enforcement and/or consent decree context, fewer have successfully pursued an integrated plan through a permitting framework. This panel – featuring a diverse group of federal, state, and local clean water experts -- will examine where the integrated planning effort stands and how it may evolve in the future, including legal lessons learned and how utilities can better leverage integrated planning through a permit-based approach.

Deborah Nagle

Director, Water Permits Division

Office of Water

U.S. Environmental Protection Agency

Washington, DC

Mark Pollins

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

Shellie Chard-McClary

President, Association of Clean Water Administrators
Water Quality Division Director
Oklahoma Department of Environmental Quality
Oklahoma City, OK

Fred Andes

Partner
Barnes & Thornburg LLP
Chicago, IL

Afternoon

12:15- 1:45

Salon del Rey C

Luncheon

Opening Remarks

Ken Kirk

Executive Director
National Association of Clean Water Agencies
Washington, DC

Luncheon Address

The Utility of the Future at Work – Lessons From the San Antonio Water System

Much attention has been focused over the past year on how municipal clean water agencies are increasingly innovating beyond the four corners of the CWA to enhance their environmental performance, benefit their communities, and improve their financial picture. Many of these innovations are focused on new, cutting-edge practices such as energy production, water reuse, green infrastructure, and resource recovery. The San Antonio Water System (SAWS) is among the leaders in pursuing these “utility of the future” concepts. This presentation will examine some of the pioneering projects SAWS is implementing and what lessons they can hold for other clean water utilities.

Steven Clouse

Senior Vice President, Chief Operating Officer
San Antonio Water System
San Antonio, TX

2:00 - 5:00

Salon del Rey A&B

GENERAL SESSION II

Opening Remarks

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

Deputy Chief, Environmental Law Division

New York City Law Department

New York, NY

The Good, The Bad & The Ugly – Recent Wet Weather Consent Decree Developments

A number of consent decrees have been negotiated over the past year that hold important legal lessons for other clean water utilities and their lawyers, including the use of integrated planning principles. At the same time, developments on affordability issues are impacting existing decrees, and environmental activist organizations and courts are increasing efforts to review proposed decrees and change their terms. All of these developments have legal implications for other utilities currently under decree or facing the prospect of decree negotiations. Speakers on the panel will provide an overview of some of these key developments and their significance for the clean water legal community.

Lisa Hollander

Chair, NACWA Legal Affairs Committee

Karen Hansen

Principal

Beveridge & Diamond, P.C.

Austin, TX

Misty Brown

Assistant Counsel

Unified Government of Wyandotte County/Kansas City, KS

Kansas City, KS

Ronald Hill

General Counsel

Metropolitan Water Reclamation District of Greater Chicago

Chicago, IL

3:30 - 3:45

Break

Did I Learn That in (Clean Water) Law School? Important Non-CWA Legal Issues for Clean Water Professionals

While clean water lawyers and utility managers focus most of their energies on “traditional” areas of CWA regulation, a growing number of legal developments beyond the CWA are requiring attention. These include

continuing developments linking CWA obligations and solid waste/“Superfund” liabilities from sewer overflows that could impact municipal utilities, as well as a federal appellate decision on greenhouse gas regulations that has clean water implications. At the same time, the rapid growth of fracking and other technologies in the oil & gas world are expanding the universe of CWA legal issues that utilities must consider. The expert speakers on this panel will examine these issues in more detail, including important factors all clean water professionals should know.

Dan Greene

Senior Counsel
New York City Law Department
New York, NY

Bernadette Rappold

Partner
McGuireWoods
Washington, DC

Lauren Kalisek

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

Closing Remarks/Announcements

Lisa Hollander

Chair, NACWA Legal Affairs Committee

6:00 – 7:00

Stetson

Welcoming Reception

Generously sponsored by Beveridge & Diamond, P.C.



Thursday, November 21

Morning

8:30 - 4:30

Prefunction

Registration

8:30 - 9:30

Prefunction

Continental Breakfast is served

9:00 - 12:00

Salon del Rey A&B

GENERAL SESSION III

Opening Remarks

Lisa Hollander

Chair, NACWA Legal Affairs Committee

Rainy With a 100% Chance of More Regulation – Emerging Stormwater Legal Issues

A growing array of stormwater regulations and requirements are placing increasing pressures on clean water utilities when it comes to managing urban stormwater runoff. These new legal mandates are coming from both the federal and state level, and are being implemented through a variety of mechanisms including rulemaking, total maximum daily loads, and permits. The collection of stormwater experts on this panel will discuss a number of these critical developments and their potential legal impacts on stormwater and clean water utilities.

Beth Card

Assistant Commissioner

Massachusetts Department of Environmental Protection

Boston, MA

Andre Monette

Associate

Best Best & Krieger

San Diego, CA

Rebecca Hammer

Project Attorney, Water Program

Natural Resources Defense Council

Washington, DC

10:30 – 10:45

Break

Legal Negotiation Strategies for Critical Service Agreements

Negotiating contracts and agreements is part of any attorney's job, and clean water lawyers are no different. But the types of agreements utility lawyers must tackle can be especially challenging, including construction contracts, public-private partnership agreements such as operation and/or management contracts, and union contracts. Often these negotiations can involve multiple parties and the need to coordinate with outside counsel. This panel will explore how best to approach these complex legal agreements and provide valuable tips for both utility attorneys and managers to achieve a successful outcome.

Neal Sweeney
Partner
Kilpatrick Townsend
Atlanta, GA

James Stadler
Member
Clark Hill
Grand Rapids, MI

Scott Schwarz
General Counsel
Philadelphia Water Department
Philadelphia, PA

Afternoon

12:00 – 2:00

Lunch on Your Own

2:00 – 5:00

Salon del Rey A&B

GENERAL SESSION IV

Opening Remarks

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

Roundtable Discussion

Top CWA Legal Cases of the Year

Courts around the nation are constantly interpreting the Clean Water Act and issuing legal decisions that affect clean water utilities – often in ways that may not seem related to issues in the original cases. Always one of the most popular *Seminar* presentations, this roundtable of top clean water attorneys will review the most important CWA 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

Brooks Smith

Partner
Troutman Sanders
Richmond, VA

Larry Liebesman

Partner
Holland & Knight
Washington, DC

3:15 – 3:30

Break

Successful Legal Advocacy With EPA - An Insider's Perspective

Ever wonder how to best advocate your position with EPA, including how to effectively influence the Agency's legal decisions on key environmental and clean water issues? Well, here's your chance to find out. This panel featuring former senior officials from EPA's general counsel, program, enforcement, and regional offices will provide an insider's perspective on how the Agency views key clean water legal issues, how decisions and policies at EPA are really made, and how clean water attorneys can best advocate their positions to impact EPA deliberations.

Scott Fulton

Former EPA General Counsel, 2009 - 2013

Principal

Beveridge & Diamond
Washington, DC

LaJuana Wilcher

Former EPA Assistant Administrator for Water, 1989 – 1993

Partner

English Lucas Priest & Owsley
Bowling Green, KY

Bernadette Rappold

Former Division Director, EPA Office of Enforcement and Compliance Assurance, 2008 - 2013

Partner

McGuireWoods
Washington, DC

Lee DeHihns

Former EPA Regional Deputy Administrator, 1986 - 1990

Partner

Alston & Bird LLP
Atlanta, GA

Closing Remarks/Announcements

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

6:00 – 7:00

Salon del Rey C

Reception

Friday, November 22

Morning

7:30 - 10:00

Registration

Prefunction

7:30 – 8:30

Continental Breakfast is served

Prefunction

8:00 - 11:00

Salon del Rey A&B

GENERAL SESSION V

Opening Remarks

Lisa Hollander

Chair, NACWA Legal Affairs Committee

Legal 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 panel of legal ethics and clean water 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

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

Nathan Gardner-Andrews

General Counsel

NACWA

Washington, DC

9:15 – 9:30

Break

Key Developments in Wet Weather Enforcement & Permitting

Saving some of the best information for last, this closing panel will look at a number of current wet weather enforcement and permitting developments from a municipal perspective that could have legal implications for clean water utilities. Topics for discussion will include an overview of current enforcement and permitting trends, an analysis of significant legal developments involving peak flow blending, and a look at ongoing efforts to reopen existing wet weather consent decrees to provide additional flexibility.

Paul Calamita

Chairman

AquaLaw

Richmond, VA

Carlton Ray

Director, DC Clean Rivers Project

DC Water

Washington, DC

Gary Cohen

Special Counsel

Hall & Associates

Washington, DC

11:00

Salon del Rey A&B

Closing Remarks/Adjourn

Lisa Hollander

Chair, NACWA Legal Affairs Committee