



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

November 19 - 21, 2014
The Lowes Don CeSar Hotel
St. Pete Beach, FL

All rooms are located on the 5th Floor of the Loews Don CeSar Hotel unless otherwise noted.

Agenda as of November 7, 2014

Wednesday, November 19

Morning

7:30 – 4:30 Registration

King Charles Foyer

7:45 - 9:30 Continental Breakfast

King Charles Foyer

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

King Charles Ballroom Long one of the most popular elements of the *Law Seminar*, NACWA's Clean Water Act Primer offers a great way to start things off by providing a valuable overview of the environmental law most relevant to clean water practitioners. 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. Whether you are a newcomer to the clean water legal world looking to better understand the CWA or a seasoned veteran needing a refresher, this opening presentation is not to be missed!

Andrea Salimbene

Partner

McMahon DeGulis LLP

Columbus, OH

Erica Spitzig

Associate

McMahon DeGulis LLP

Cincinnati, OH

9:30 - 12:00

King Charles Ballroom

GENERAL SESSION I

Opening Remarks

Karen Pallansch

NACWA President

Chief Executive Officer

Alexandria Renew Enterprises

Alexandria, VA

2014 Seminar Overview

Lisa Hollander

Chair, NACWA Legal Affairs Committee

General Counsel

Northern Kentucky Sanitation District No. 1

Ft. Wright, KY

Keynote Address

Key Clean Water Legal Developments – A Federal Perspective

Ellen Gilinsky

Senior Policy Advisor, Office of Water

U.S. Environmental Protection Agency

Washington, DC

10:30 - 10:45

Break

Confessions of a Middle-Aged CWA – Where Have We Been & Where Are We Going?

The CWA is often called one of the most successful federal environmental statutes in history. And for the municipal clean water community it is certainly the most important, providing the fundamental legal underpinnings for all that we do. But with the fanfare of the CWA's 40th anniversary now behind us the time is ripe to take a more probing look at both the successes and the failures of the Act to date, and also look at many of the challenges facing it in the years to come. A panel of veteran clean water practitioners will examine and discuss the Act's strengths and weakness, and provide key legal insights for clean water lawyers on what to expect going forward.

Ken Kirk

Executive Director

NACWA

Washington, DC

LaJuana Wilcher

U.S. EPA Assistant Administrator for Water, 1989 – 1993

Partner

English Lucas Priest & Owsley, LLP

Bowling Green, KY

Ben Grumbles

U.S. EPA Assistant Administrator for Water, 2004 – 2008

President

U.S. Water Alliance

Washington, DC

Jon Mueller

Vice President, Litigation

Chesapeake Bay Foundation

Annapolis, MD

Afternoon

12:00 – 2:00

Del Prado

Lunch Program

The Evolution of NACWA's Legal Advocacy – A Retrospective

Lisa Hollander

Chair, NACWA Legal Affairs Committee

Chris Westhoff

President & Chief Executive Officer

C.M. WESTHOFF, Partners

Glendale, CA

Alexandra Dapolito Dunn

Executive Director and General Counsel

Environmental Council of the States

Washington, DC

LaJuana Wilcher

English Lucas Priest & Owsley, LLP

Karen Pallansch

NACWA President

2:00 - 5:00

King Charles Ballroom

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

From Plan to Implementation – Making Integrated Planning a Reality

EPA's embrace of integrated planning principles has, at least in concept, provided important new legal and regulatory flexibilities to clean water agencies. But how is it actually playing out on the ground? This panel will explore some real-world case studies of communities that are working to implement integrated planning approaches, including through both a permitting and enforcement approach. Panelists will discuss the legal implications and lessons to be learned from these early adopters, as well as explore continuing legal challenges to integrated planning and ways in which the process could be improved.

Fred Andes

Partner
Barnes & Thornburg LLP
Chicago, IL

Paul Calamita

Chairman
AquaLaw PLC
Richmond, VA

Dave Wagner

Utilities Director
City of Lawrence Department of Utilities
Lawrence, KS

3:30 - 3:45

Break

Legal Considerations for Affordability and Innovative Financing Issues

While integrated planning can provide more flexibility in meeting CWA legal obligations, utilities still must find ways to fund the needed investments. Fortunately, recent developments such as EPA's embrace of more holistic affordability analyses and the emergence of innovative financing techniques like public-private partnerships and creative bond issuances are giving utilities new funding options over longer periods of time. But these new approaches also carry legal considerations that clean water lawyers and utilities must carefully evaluate. This panel will explore the changing affordability and financing landscape for clean water agencies and provide important legal tips to ensure your utility is maximizing opportunity while minimizing risk.

Eric Rothstein
Principal
Galardi Rothstein Group
Chicago, IL

Lisa Hollander
Chair, NACWA Legal Affairs Committee

Pam Lemoine
Principal Consultant
Black & Veatch
Chesterfield, MO

Bruce Tobey
Partner
Pannone Lopes Devereaux & West LLC
White Plains, NY

Closing Remarks/Announcements

Lisa Hollander
Chair, NACWA Legal Affairs Committee

Evening

5:30 – 6:00

South Terrace

Women's Water Network Pre-Reception

6:00 – 7:00

South Terrace

Welcoming Reception & “Appy Hour”

Thursday, November 20

Morning

7:30 - 4:30

King Charles Foyer

Registration

7:30 - 9:30

King Charles Foyer

Continental Breakfast

8:00 – 9:15

King Charles Ballroom

Clean Air Act Primer & Biosolids Primer

Building on the success of the Clean Water Act Primer, NACWA is pleased this year to offer two new “mini-primers” covering other key topics impacting clean water utilities – the Clean Air Act and biosolids. The Clean Air Act “mini-primer” will examine important air legal and regulatory issues that POTWs should be aware of including permitting requirements, odor issues, on-site boilers or stationary engines, and regulation of greenhouse gas emissions. The biosolids “mini-primer” will provide an overview of relevant regulatory and legal requirements related to

biosolids management, including recent developments involving land application and incineration.

Doug McWilliams

Partner

Squire Patton Boggs (US) LLP

Cleveland, OH

Jimmy Slaughter

Principal

Beveridge & Diamond, P.C.

Washington, DC

9:15 – 9:30

Break

9:30 - 12:15

King Charles Ballroom

GENERAL SESSION III

Opening Remarks

Lisa Hollander

Chair, NACWA Legal Affairs Committee

What Happens Now? Stormwater Legal and Regulatory Considerations In the Absence of a National Rule

EPA may have announced that it is “deferring” action on a national stormwater rule, but that doesn’t mean the stormwater regulatory or legal issues facing municipal clean water utilities have gotten any easier. Even without a rule, EPA and states will likely tighten legal requirements on MS4s via ever more stringent “Next Generation” stormwater permits and more robust enforcement actions. Meeting these legal obligations will create obstacles for communities in a variety of ways, including how to form and fund stormwater utilities, how to fend off legal challenges to stormwater fee programs, and how to best coordinate among city agencies or other local or regional government entities to achieve stormwater requirements. Experts on this panel will explore all of these issues and how clean water lawyers and utility managers can best address them.

Chris Pomeroy

President

AquaLaw PLC

Richmond, VA

Jeff Longworth

Partner

Barnes & Thornburg LLP

Washington, DC

Sarah Kogel-Smucker

Senior Counsel, Environmental Law Division
New York City Department of Law
New York, NY

10:45 – 11:00

Break

It's Not Easy Being (Legally) Green – Understanding Legal and Practical Issues Related to Green Infrastructure

The use of green infrastructure (GI) has rapidly become a mainstream, acceptable solution by both the municipal utility community and federal/state regulators to achieve – in conjunction with gray infrastructure – key CWA requirements. But what about the legal considerations associated with “going green?” Utilities must evaluate a number of different legal factors when using green infrastructure - especially on private property - such as zoning and land use regulations, easements with private owners, maintenance agreements, and liability concerns. There is also the issue of what happens if the GI doesn't work the way it is supposed to and permit terms are violated. All these factors can give a utility a legal headache – but the good news is this panel of experts will help set you and your agency straight! In addition, you and your agency will be provided with a concrete example of a way to approach myriad problems through a single flexible program.

Karen Hansen

Principal
Beveridge & Diamond, P.C.
Austin, TX

Kyle Dreyfuss-Wells

Chair, NACWA Stormwater Management Committee
Manager of Watershed Programs
Northeast Ohio Regional Sewer District
Cleveland, OH

Shawn Hagerty

Partner
Best Best & Krieger LLP
San Diego, CA

Afternoon

12:15 – 2:00

Lunch on Your Own

2:00 – 5:00

King Charles Ballroom

GENERAL SESSION IV

Opening Remarks

Hilary Meltzer

Vice Chair, NACWA Legal Affairs Committee

Roundtable Discussion

Top CWA Legal Cases of the Year

Central to any clean water attorney's job is understanding the impact that different court decisions from around the country may have on CWA obligations and the operations of municipal clean water utilities. But how can one keep track of all the various court cases and figure out which ones are truly important? Not to worry, NACWA has you covered! This roundtable of top clean water lawyers 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 LLP

Richmond, VA

Jessica DeMonte

Principal

Squire Patton Boggs (US) LLP

Chicago, IL

Allan Gates

Partner

Mitchell, Williams, Selig, Gates & Woodyard, PLLC

Little Rock, AR

3:30 – 3:45

Break

EPA and State Regulator Hot Topics Roundtable

Ever wonder what EPA and state regulators view as the most important current clean water legal and regulatory issues? Here's your chance to find out, as a group of senior EPA and state regulatory officials will engage in roundtable discussion on the hottest clean water legal topics of the day. Issues to be addressed will include EPA's recent rule proposal on CWA jurisdiction, nutrients, stormwater, water quality standards, TMDLs, blending, and more. This discussion is a must for any clean water attorney or utility manager wanting to better understand the current priorities of federal and state clean water regulators.

Linda Benfield
Partner
Foley & Lardner LLP
Milwaukee, WI

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

Sean Rolland
Deputy Director
Association of Clean Water Administrators
Washington, DC

Robert Brown
Attorney, Office of General Counsel
Massachusetts Department of Environmental Protection
Boston, MA

Closing Remarks/Announcements

Hilary Meltzer
Vice Chair, NACWA Legal Affairs Committee

Evening

6:00 – 7:00
Sunsets's Pavilion
Garden Level

Reception

Friday, November 21

Morning

7:30 - 10:00 Registration
King Charles Foyer

7:30 – 8:30 Continental Breakfast
King Charles Foyer

8:00 - 11:00 **GENERAL SESSION V**
King Charles Ballroom **Opening Remarks**
 Lisa Hollander
 Chair, NACWA Legal Affairs Committee

8:00 – 9:00 **Legal Ethics: Going Beyond the Model Rules**
King Charles Ballroom 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.

Jim Dickson
Partner
Adams and Reese LLP
St. Petersburg, FL

9:00 – 9:30

King Charles Ballroom

Congressional Update & Impact of 2014 Elections

2014 has seen the passage of a number of legislative initiatives that will have direct regulatory and legal impacts on clean water utilities, including changes to federal clean water acting funding options and key new opportunities presented by the 2014 Farm Bill. At the same time, Congressional midterm elections have the potential to alter the political landscape in Washington for the next two years. This presentation will discuss the impacts of recent legislation and the election results on municipal clean water utilities, including potential legal and regulatory ramifications.

Pat Sinicropi
Senior Director, Legislative Affairs
NACWA
Washington, DC

9:30 – 11:00

King Charles Ballroom

Recent Enforcement & Consent Decree Developments

Enforcement issues and wet weather consent decrees continue to be among the most significant challenges facing clean water attorneys and utility managers must consider. Negotiating and implementing consent decrees – or even avoiding an enforcement action in the first place – are the most complex legal tasks that any utility will experience. This past year has seen a number of significant new consent decrees and enforcement issues emerge that hold important lessons for other utilities. Expert speakers on this final panel of the conference will highlight the unique aspects of these decree developments and how they may impact other clean water agencies.

Dale Mullen
Partner
McGuireWoods, LLP
Richmond, VA

Henry Gillman
Assistant County Attorney
Miami-Dade County Attorney's Office
Miami, FL

Jon Salmon
Staff Attorney
East Bay Municipal Utility District
Oakland, CA

William Plache
Senior Counsel
Environmental Law Division
New York City Department of Law
New York, NY

11:00
King Charles Ballroom

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