

Clean Water and Stormwater Conference

May 5 & 6, 2014 | Seattle, Washington
Washington State Convention Center



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Featuring Speakers From:

- Bull, Housser & Tupper LLP
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- Columbia Power Corporation
- Confluence Environmental Company
- Duwamish River Cleanup Coalition
- Foster Pepper PLLC
- Gordon Thomas Honeywell LLP
- Graham & Dunn
- GSI Water Solutions, Inc.
- K&L Gates LLP
- King County
- L.C. Lee & Associates, Inc.
- Law Offices of Andrea K. Rodgers Harris
- Marten Law PLLC
- Office of the Washington State Attorney General
- Schwabe Williamson & Wyatt PC
- Smith & Lowney PLLC
- Stoel Rives LLP
- Tupper Mack Wells PLLC
- U.S. EPA - Region 10
- WA State Department of Ecology

The 14th Annual Comprehensive Conference on

Clean Water and Stormwater

Cutting edge developments in water quality litigation,
enforcement, and compliance

May 5 & 6, 2014

Seattle, Washington

Washington State Convention Center

Credits: WA 12.75 CLE (incl. 1 ethics) | AICP 12.75 CM | WA RE 15.5 CH (pending) (call about others)

Quick when/where: 8:30 a.m., 800 Convention Place



8:00 Registration Opens

8:30 Putting the Pieces of a Puzzle Together: How to Develop a Coherent Strategy to Identify and Successfully Resolve Complex Water Quality and Water Resource Issues

Understanding relationships between various surface and ground-water quality statutes and likely triggers for liability; presentation of a factual scenario to provide context for subsequent presentations

Jeff B. Kray, Esq., Program Co-Chair
Marten Law PLLC ~ Seattle, WA

Lori Terry Gregory, Esq., Program Co-Chair
Foster Pepper PLLC ~ Seattle, WA

9:00 Columbia River Treaty Renegotiation: Is it a Potential Game Changer for Water Flows?

Update on the U.S. proposal and current state of the negotiations as they relate to river flows and water quality for fish

Eric L. Christensen, Esq.
Gordon Thomas Honeywell LLP ~ Seattle, WA

Technical perspective on the potential operational changes arising from the proposal

Tim Newton, P.E., Board of Directors
Columbia Power Corporation ~ Castlegar, BC

British Columbia perspective on the issues to be addressed moving forward

David W. Bursey, Esq.
Bull, Housser & Tupper LLP ~ Vancouver, BC Canada

10:30 Break

10:45 Clean Water Policy Priorities at the Primary Enforcement Agencies

Federal level

Edward J. Kowalski
Director Office of Compliance and Enforcement
U.S. EPA - Region 10 ~ Seattle, WA

State level

Donald A. Seeberger, Deputy Water Quality Program Manager
WA State Department of Ecology ~ Olympia, WA

12:15 Lunch (on your own)

1:30 Wetlands Jurisdictional Issues

Overview of issues raised in the EPA/U.S. Army Corps of Engineers' proposed rule to clarify jurisdiction under the Clean Water Act and the underlying scientific report on connectivity of streams and wetlands to downstream waters

Jeff B. Kray, Esq., Program Co-Chair

Key elements in the scientific studies from a technical perspective

Lyndon C. Lee, Ph.D., PWS, President and Principal Ecologist
L.C. Lee & Associates, Inc. ~ Seattle, WA

Practical issues of the proposed rule from a project management point of view

Shane Cherry, Principal Geomorphologist
Confluence Environmental Company ~ Seattle, WA

2:45 Break

3:00 Update on the Lower Duwamish Waterway Cleanup

Overview: What the federal government has done to date and its future plans

Ken Lederman, Esq., Moderator
Foster Pepper PLLC ~ Seattle, WA

State perspective and state/federal integration

Ivy Anderson, Esq., Assistant Attorney General
Office of the Washington State Attorney General ~ Olympia, WA

Economic development perspective

The Hon. Larry R. Phillips, Esq., Councilman
King County ~ Seattle, WA

Potentially responsible party perspective

Douglas J. Steding, Esq.
Graham & Dunn ~ Seattle, WA

Environmental community perspective

BJ Cummings
Policy Advisor and Community Health Project Manager
Duwamish River Cleanup Coalition ~ Seattle, WA

5:00 Adjourn Day One



About the Conference

LAW SEMINARS INTERNATIONAL

What previous attendees have said:

“This was the best CLE - power packed - well planned, interesting, on-point speakers with mix of policy and practical. Thank you!”

“Great mix of topics and speakers.”

The Pacific Northwest is at the forefront of cutting edge environmental litigation involving water quality. The coal train and oil terminal cases are examples of attempts to use the Clean Water Act in novel ways to pursue broader environmental and social objectives. Those cases involve the intersection between energy and clean water, and are part of an emerging debate about moving resources extracted in the center of the country, to the coasts, for distribution around the world. Increasingly, water quality issues are at the center of cutting-edge enforcement actions that involve the intersection of surface and groundwater quality and implicate many laws, including RCRA, the Safe Drinking Water Act, and CERCLA. Changing political dynamics further increase the complexity of issues emerging in the stormwater and water quality universe. Speakers at this year's seminar will help you understand this complex area of the law and will share practical tips to avoid traps that can lead to increased regulatory compliance costs and possible liability. Learn from the experts about the science and how to make it work for you in permitting or litigation. Find out about creative new approaches to water quality issues and what is on the horizon. Understand how to work effectively with experts to achieve your client's objectives. You will also learn about provocative ethical issues facing lawyers involved with water quality issues. We hope you will join us for what should be a very interesting and enlightening discussion.

~ Program Co-Chairs: **Jeff B. Kray, Esq. of Marten Law PLLC** and **Lori Terry Gregory, Esq. of Foster Pepper PLLC**



8:30 The Creative Use of Litigation to Achieve Policy Objectives and Use of the Clean Water Act (CWA) to Pursue other Environmental Issues

Overview of trend-setting litigation in the Pacific Northwest

Jeff B. Kray, Esq., Program Co-Chair

Lori Terry Gregory, Esq., Program Co-Chair

8:45 Update on Fish Consumption Litigation and its Impact on the Rulemaking Process

The novel use of evolving science in the context of CWA litigation against the federal government: Who are the players; what is at stake; and what are the implications for EPA, Ecology, the environment, and the regulated community?

Jason T. Morgan, Esq.
Stoel Rives LLP ~ Seattle, WA

Plaintiff perspective on the implications of the rulemaking process for fish consumption

Connie Sue M. Martin, Esq.
Schwabe Williamson & Wyatt PC ~ Seattle, WA

Defense perspective on procedural positioning and how the science is playing out in the courtroom

James A. Tupper, Jr., Esq.
Tupper Mack Wells PLLC ~ Seattle, WA

10:15 Break

10:30 Update on Resource Conservation and Recovery Act (RCRA) Citizen-Suits in Yakima over Alleged Groundwater Contamination

The creative and precedent-setting use of the RCRA citizen-suit provision in an agricultural setting

Lori Terry Gregory, Esq., Program Co-Chair

11:15 The Use of Science in Identifying Sources of Contamination in Urban Stormwater Runoff

Tracing sources of urban stormwater contamination

Rod Struck, Hydrogeologist
GSI Water Solutions, Inc. ~ Portland, OR

12:00 Lunch (on your own)

1:15 Coal Train and Oil Terminal Cases: A Study in the Creative Pursuit of Environmental Goals

Overview of how larger social issues are driving litigation in the coal train and Grays Harbor oil export terminal cases, including creative theories and procedural positioning

Beth S. Ginsberg, Esq., Moderator
Stoel Rives LLP ~ Seattle, WA

Plaintiff perspective

Andrea K. Rodgers Harris, Esq.
Law Offices of Andrea K. Rodgers Harris ~ Seattle, WA

Defense perspective

John C. Bjorkman, Esq.
K&L Gates LLP ~ Seattle, WA

Local political perspective

The Hon. Gary Jensen, Mayor
City of Ferndale ~ Ferndale, WA

3:15 Break

3:30 Tough Ethical Questions for the Clean Water Act Practitioner

Be sure to stay to the end for this panel, which will address provocative ethical issues facing lawyers involved with Clean Water Act cases

Knoll Lowney, Esq.
and

Elizabeth H. Zultoski, Esq.
Smith & Lowney PLLC ~ Seattle, WA

4:30 Evaluation and Adjourn



Registration & Other Conference Information

To Register:

Call us at: 206-567-4490

Fax the registration form to us at: 206-567-5058

Email us at: registrar@lawseminars.com

Online: www.lawseminars.com

Mail the registration form on the front page.

Walk-ins are welcome, subject to space availability.

Registration is complete when we receive payment or agree to later payment.

Tuition: Regular tuition for this program is \$895, with a group rate of \$670 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$595. For students, people in their job for less than a year, and public interest NGOs, our rate is \$447.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International. Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation:

You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your

cancellation by 5:00 p.m. on Tuesday, April 29, 2014. After that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy.

Seminar Location: The conference will be held at the Washington State Convention Center, at 800 Convention Place, Seattle, WA 98101. For overnight accommodations, call The Roosevelt Hotel at (800) 716-6199 and reserve your room at the special negotiated rate of \$159 (plus taxes). Ask for the Law Seminars rate code: "LAWSEM." Rooms are on a first come, first served basis. For information on The Roosevelt, visit: <http://www.coasthotels.com/hotels/washington/seattle/the-roosevelt>

Continuing Education Credits:

Live credits: This program qualifies for WA 12.75 CLE (incl. 1 ethics); AICP 12.75 CM, WA RE 15.5 CH (pending) credits. Upon request, we will apply for, or help you apply for, CLE credits in other states and other types of credits.

If You Cannot Attend:

Our complete Homestudy Course, consisting of a DVD recording and the course materials, is available for \$905. The course materials alone are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

Faculty: Clean Water and Stormwater Conference

Jeff B. Kray, *Program Co-Chair*, partner at Marten Law PLLC, focuses on water resources, water quality, and environmental litigation, including CERCLA site remediation. He advises on water quality permit compliance and defense matters, stormwater pollution prevention, and transference of water rights.

Lori Terry Gregory, *Program Co-Chair*, partner at Foster Pepper PLLC, focuses on water quality/resources, environmental law, transportation and infrastructure permitting, complex facility siting, and environmental litigation. She is a Super Lawyer.

Beth S. Ginsberg, *Moderator*, partner, Stoel Rives LLP, focuses on environmental, wildlife and natural resource litigation, permitting, and counseling for public and private interests. She has experience in handling matters under all major federal and state environmental and natural resource statutes. She is a Best Lawyer and Super Lawyer.

Ken Lederman, *Moderator*, partner, Foster Pepper PLLC, provides counseling and litigation support to developers, businesses, and landowners in real estate transactions and property redevelopment environmental issues, including federal and state hazardous waste cost-recovery and natural resource damage litigation. He is a Super Lawyer.

Ivy Anderson, Washington State Assistant Attorney General, negotiates and enforces consent decrees and agreed orders requiring site cleanup for hazardous substance contamination under the MTCA. She is lead attorney for Ecology's Voluntary Cleanup Program and the Pollution Liability Insurance Agency.

John C. Bjorkman, partner, K&L Gates LLP, focuses on environmental and hazardous waste fields litigation and arbitration, including cleanup claims for PCBs in marine sediments arising out of airport operations and stormwater discharges.

David W. Bursey, partner, Bull, Houser & Tupper LLP, represents clients before federal and provincial regulatory tribunals, including the National Energy Board on proceedings involving oil and gas pipelines; the BC Utilities Commission on proceedings involving public utilities, and environmental review panels on major project reviews. He advises clients on regulatory, environmental, and aboriginal issues.

Shane Cherry, Principal Geomorphologist, Confluence Environmental Company, designed a watershed-scale habitat restoration plan integrated with basin-wide stormwater management objectives.

Eric L. Christensen, partner, Gordon Thomas Honeywell LLP and Chairman of the Energy, Telecommunications & Utilities practice group, focuses on energy and utility, environmental and municipal law, litigation, and business law.

BJ Cummings, Policy Advisor and Community Health Projects Manager for the Duwamish River Cleanup Coalition/Technical Advisory Group, has worked for environmental and community organizations on CERCLA and CWA issues in Puget Sound and authored/produced articles, books and documentaries.

The Hon. Gary Jensen serves as the Mayor of Ferndale. He is currently in his second term and has served nine years as an elected official.

Edward J. Kowalski, Director, EPA Office of Compliance and Enforcement (OCE) in Region 10 is responsible for most of the EPA direct enforcement, compliance assurance, and state oversight work, and also coordinates enforcement efforts with OECA.

Lyndon C. Lee, President and Principal Ecologist, L.C. Lee & Assoc. and Director of the National Wetland Science Training Co-op., is a national wetland, river science and regulatory expert, emphasizing good science and design to interactive projects regulating federal, state, and local activities in wetland, river, and forested ecosystems.

Knoll Lowney partner, Smith & Lowney, PLLC, focuses on initiative law, public policy, complex land use cases, and consumer class actions. He has experience with individual clients and non-profit organizations to advance progressive causes.

Connie Sue M. Martin, partner, Schwabe Williamson & Wyatt PC, focuses on environmental and natural resource litigation involving Indian tribes, especially resource protection and natural resource damages claims representing clients in environmental matters under CERCLA, CWA, and MTCA, and challenges land use permitting and water rights decisions.

Jason T. Morgan, partner, Stoel Rives LLP, in the Environment, Land Use and Natural Resources group and

the Appellate Law group, focuses on environmental, natural resources, fisheries, and wildlife law.

Tim Newton is a professional engineer and has held various positions at BC Hydro working on the Columbia River Treaty. He has been a member of the Columbia River Treaty oversight body and the Permanent Engineering Board, since nomination by British Columbia in 2003. He was appointed to the Board of Columbia Power Corporation in June 2012.

The Hon. Larry R. Phillips, King County Councilmember, won his seat on the Metropolitan King County Council to represent District Four. He has been a leader on issues in land use and water quality, salmon protection, parks and open space, fiscal management, transportation, clean energy, jobs and the economy.

Andrea K. Rodgers Harris, private practice attorney, focuses on environmental and Indian law and serves as Of Counsel to the Western Environmental Law Center. She previously served at the USDOT and as in-house legal counsel for the Snoqualmie Tribe.

Donald A. Seeberger, Deputy Water Quality Program Manager at the Department of Ecology, oversees facility, site inspections and enforcement, budget and program planning, as well as legislative relations for the program.

Douglas J. Steding, partner, Graham & Dunn, focuses on environmental law representing landowners, real estate developers, construction companies, industrial facilities, and businesses on hazardous waste, contaminated land, regulatory compliance and remediation of contaminated lands and sediments.

Rod Struck, Senior Hydrogeologist with GSI Water Solutions, Inc., specializes in water resources and environmental issues, including problems on high-priority hazardous waste cleanup sites under CERCLA, RCRA, and state programs.

James A. Tupper, partner, Tupper Mack Wells PLLC, focuses on environmental law, emphasizing water quality, water resources, and shoreline development. He has assisted businesses and local governments with resolving stormwater regulation and water resources policy. He is a Super Lawyer.

Elizabeth H. Zultoski, attorney, Smith and Lowney PLLC, focuses on water and wildlife law.

May 5 & 6, 2014
 Seattle, Washington

Washington State Convention Center

800 Convention Place
 (206) 694-5000

Who Should Attend:

Attorneys; governmental officials; urban and rural real estate professionals; environmental professionals, and planners

You Will Learn About:

- *How to develop a coherent strategy to identify and successfully resolve complex water quality and water resource issues*
- *Columbia River Treaty Renegotiation: Is it a potential game changer for water flows?*
- *Policy priorities at the primary enforcement agencies*
- *Wetlands jurisdictional issues*
- *Update on the lower Duwamish Waterway cleanup*
- *The creative use of litigation to achieve policy objectives and use of the CWA to pursue other environmental issues*
- *Update on fish consumption litigation and its impact on the rulemaking process*
- *Update on the Resource Conservation and Recovery Act (RCRA) citizen-suits in Yakima over alleged groundwater contamination*
- *The use of science in identifying sources of contamination in urban stormwater runoff*
- *Coal train and oil terminal cases*
- *Tough ethical questions for the CWA practitioner*

To Register:

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