27th Fall Conference

September 11-14, 2019

The Westin Copley Place

Boston, MA

AMBAR.ORG/SEERFALL

American Bar Association
Environment, Energy, and Resources Section
27th Fall Conference
The Westin Copley Place • Boston, Massachusetts
September 11-14, 2019

WHO WE ARE
The American Bar Association Section of Environment, Energy, and Resources is the premier forum for environmental, energy, and resources lawyers: a meeting place where practitioners can find the most current and sophisticated analyses of the complicated issues facing their practice.

KEYNOTE SPEAKERS

September 12, 2019

HON. JEFFREY B. CLARK
Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

HON. MATTHEW Z. LEOPOLD
General Counsel, U.S. Environmental Protection Agency

HON. MARY B. NEUMAYR
Chairwoman, White House Council on Environmental Quality

September 13, 2019

ALICIA BARTON
President and Chief Executive Officer, New York State Energy Research and Development Authority

HON. MAURA HEALEY
Attorney General, Commonwealth of Massachusetts

ALEXANDRIA MCBRIDE
Chief Resilience Officer, City of Oakland, California

Welcome to Boston, a quintessential blend of colonial history and cutting-edge innovation. From the charming cobblestones of Beacon Hill, to the historic landmarks along the Freedom Trail and the Black Heritage Trail, to Harvard Yard and Fenway Park, Boston is a treasure trove of Americana.

Please visit ambar.org/seerfall for the most up-to-date information.
2019–2020 SECTION CHAIR
KAREN A. MIGNONE, Arrowsic, ME

CONFERENCE PLANNING CHAIR
SHELLY H. GEPPERT, Eimer Stahl LLP, Chicago, IL

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SARAH CLARK, Pennsylvania Department of Transportation, Harrisburg, PA
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RICHARD J. ERICSSON, Cole Schotz P.C., Hackensack, NJ
PAMELA R. ESTERMAN, Sive, Paget & Riesel, P.C., New York, NY
RONNIE A. GOSSELIN, Alston & Bird LLP, Atlanta, GA
R. JUGE GREGG, Washington, DC
CHAD W. HIGGINS, Bernstein Shur Sawyer & Nelson, Portland, ME
CHRISTINE A. JOCHIM, Brownstein Hyatt Farber Schreck LLP, Denver, CO
KYLE H. LANDIS-MARINELLO, Vermont Public Utility Commission, Montpelier, VT
TOM LINDLEY, Perkins Coie LLP, Washington, DC
MANISHA PATEL, WSP USA, St. Louis, MO
MARGARET E. PELOSO, Vinson & Elkins LLP, Washington, DC
R. JUSTIN SMITH, Washington, DC
GARY E. STEINBAUER, Babst, Calland, Clements and Zomnir, P.C., Pittsburgh, PA
MATTHEW D. THURLOW, BakerHostetler, Washington, DC
MATTHEW J. TODARO, Verrill Dana LLP, Portland, ME
JESSICA A. WALL, Anderson & Kreiger LLP, Boston, MA

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## Wednesday, September 11, 2019

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>12:00 p.m. – 4:00 p.m.</td>
<td>Public Service Project</td>
</tr>
<tr>
<td>6:00 p.m. – 6:30 p.m.</td>
<td>New Attendee Reception (Invitation Only)</td>
</tr>
<tr>
<td>6:30 p.m. – 8:00 p.m.</td>
<td>Welcome Reception</td>
</tr>
</tbody>
</table>

## Thursday, September 12, 2019

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>6:30 a.m. – 7:30 a.m.</td>
<td>Sunrise Yoga with SEER</td>
</tr>
<tr>
<td>7:00 a.m. – 8:00 a.m.</td>
<td>Registration Opens and Continental Breakfast</td>
</tr>
<tr>
<td>8:00 a.m. – 9:00 a.m.</td>
<td>Opening Remarks and Keynote Presentation</td>
</tr>
<tr>
<td>9:15 a.m. – 10:45 a.m.</td>
<td>Opening Session</td>
</tr>
<tr>
<td>10:45 a.m. – 11:15 a.m.</td>
<td>Networking Break</td>
</tr>
<tr>
<td>11:15 a.m. – 12:45 p.m.</td>
<td>Breakout Sessions</td>
</tr>
<tr>
<td>12:45 p.m. – 1:45 p.m.</td>
<td>Committee Interest Area Luncheon</td>
</tr>
<tr>
<td>1:45 p.m. – 2:15 p.m.</td>
<td>Expert Insight Panels</td>
</tr>
<tr>
<td>2:30 p.m. – 4:00 p.m.</td>
<td>Breakout Sessions</td>
</tr>
<tr>
<td>4:00 p.m. – 4:30 p.m.</td>
<td>Networking Break</td>
</tr>
<tr>
<td>4:30 p.m. – 6:00 p.m.</td>
<td>Breakout Sessions</td>
</tr>
<tr>
<td>6:00 p.m. – 7:30 p.m.</td>
<td>Cocktail Reception</td>
</tr>
<tr>
<td>9:30 p.m. – 12:00 a.m.</td>
<td>After-Hours Mixer – Sponsored by Bloomberg Environment</td>
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<tr>
<td>Time</td>
<td>Event</td>
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<tr>
<td>6:30 a.m. – 7:30 a.m.</td>
<td>SEER Run Club – Sponsored by Eimer Stahl</td>
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<tr>
<td>7:00 a.m. – 8:00 a.m.</td>
<td>Continental Breakfast</td>
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<tr>
<td>8:00 a.m. – 9:00 a.m.</td>
<td>Opening Remarks and Keynote Presentation</td>
</tr>
<tr>
<td>9:15 a.m. – 10:45 a.m.</td>
<td>Opening Session</td>
</tr>
<tr>
<td>10:45 a.m. – 11:15 a.m.</td>
<td>Networking Break</td>
</tr>
<tr>
<td>11:15 a.m. – 12:45 p.m.</td>
<td>Breakout Sessions</td>
</tr>
<tr>
<td>12:45 p.m. – 2:00 p.m.</td>
<td>Awards Luncheon</td>
</tr>
<tr>
<td>2:15 p.m. – 3:45 p.m.</td>
<td>Breakout Sessions</td>
</tr>
<tr>
<td>3:45 p.m. – 4:15 p.m.</td>
<td>Networking Break</td>
</tr>
<tr>
<td>4:15 p.m. – 5:45 p.m.</td>
<td>Ethics Session</td>
</tr>
<tr>
<td>6:30 p.m. – 9:30 p.m.</td>
<td>Taste of SEER</td>
</tr>
</tbody>
</table>

**Saturday, September 14, 2019 | Leadership Day**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:00 a.m. – 9:00 a.m.</td>
<td>Continental Breakfast</td>
</tr>
<tr>
<td>9:00 a.m. – 10:30 a.m.</td>
<td>Committee Chairs Meeting</td>
</tr>
<tr>
<td>10:30 a.m. – 11:30 a.m.</td>
<td>Vice Chair Working Groups</td>
</tr>
<tr>
<td>11:45 a.m. – 5:15 p.m.</td>
<td>Council Meeting</td>
</tr>
<tr>
<td>7:30 p.m. – 9:30 p.m.</td>
<td>Leadership Dinner</td>
</tr>
</tbody>
</table>
Wednesday, September 11, 2019

12:00 p.m. – 4:00 p.m.  
PUBLIC SERVICE PROJECT  
Support the Boston community by joining fellow conference attendees on our public service project. Volunteers will help The Charles River Conservancy with maintenance, horticulture, and conservation along the Charles River. To participate in the public service project, please sign up when registering for the conference.

6:30 p.m. – 8:00 p.m.  
WELCOME RECEPTION  
Welcome to Titletown! Our welcome reception pays homage to America’s favorite pastime, in honor of the 2018 World Series champions. (Yankees fans, be prepared for some good-natured rival banter!) Enjoy small bites and drinks as you mix and mingle with friends old and new. You are encouraged to wear gear from your favorite team regardless of the sport. Meeting registration will be open for you to pick up your name badge and conference materials.

Thursday, September 12, 2019

6:30 a.m. – 7:30 a.m.  
SUNRISE YOGA WITH SEER  
Awaken your mind and body with sunrise yoga. Be sure to sign up when registering.

8:15 a.m. – 9:00 a.m.  
KEYNOTE PRESENTATION  
Join our esteemed panelists as they discuss the Trump administration’s environmental, energy, and resources agenda; implementation of this agenda; and what’s in store for the remainder of 2019 and beyond.

HON. JEFFREY B. CLARK, Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC  
KELLY JOHNSON, Holland & Hart LLP, Washington, DC  
HON. MATTHEW Z. LEOPOLD, General Counsel, U.S. Environmental Protection Agency, Washington, DC  
HON. MARY B. NEUMAYR, Chairwoman, White House Council on Environmental Quality, Washington, DC

9:15 a.m. – 10:45 a.m.  
THE TRUMP ADMINISTRATION AND REGULATORY BURDENS: PAST AND FUTURE  
The Trump administration has undertaken an ambitious agenda to reduce regulatory burdens, particularly with respect to the environment and development of natural resources. This panel will update you on the latest developments regarding these efforts. Attendees will learn about the status of the Waters of the United States and Affordable Clean Energy Rules, the administration’s enforcement priorities, and how the administration is confronting climate change litigation.

PANELISTS
MEGAN CERONSKY, Executive Director, Center for Applied Environmental Law and Policy, Boulder, CO  
RONALD J. TENPAS, Vinson & Elkins LLP, Washington, DC  
CATHY S. WOOLLUMS, Senior Vice President, Chief of Sustainability Officer, Berkshire Hathaway Energy, Davenport, IA

11:15 a.m. – 12:45 p.m.  
CONCURRENT BREAKOUT SESSIONS  
AMBIENT ERROR: AIR QUALITY REGULATION AND ENFORCEMENT IN A BRAVE NEW WORLD  
Now, more than ever, EPA is requiring stationary sources to generate data on fence line emissions as part of the agency’s enforcement or information-gathering authority. Nongovernmental organizations are also deploying technologies that quantify and map methane emissions, and the public has access to low-cost portable air monitoring devices. Although emissions data from these technologies are publicly available, there are quality assurance and control concerns, including the understanding of potential health effects resulting from such emissions. Understanding the significance of ambient air monitoring networks and methods for criteria pollutants, air toxics, methane, and other emissions is necessary in today’s dynamic regulatory landscape. Through an interactive discussion, attendees will learn how advancements in monitoring technologies and science are affecting air quality regulation and enforcement.

PANELISTS
CYNTHIA GILES, Guest Fellow, Environmental & Energy Law Program, Harvard Law School, Cambridge, MA  
ADAM M. KUSHNER, Hogan Lovells, Washington, DC  
VICKIE PATTON, General Counsel, Environmental Defense Fund, Boulder, CO  
TIMOTHY K. WEBSTER, Sidley Austin LLP, Washington, DC
CREATIVE DEALS: HOW TO GET BUYERS EXCITED ABOUT THE REDEVELOPMENT OF CONTAMINATED PROPERTIES

When the Phase I and Phase II reports reveal environmental conditions, such as soils impacted with petroleum and chemicals, vapor intrusion into existing buildings, or a plume of contaminated groundwater migrating off-site, how do buyers get comfortable moving forward with the purchase and protect their investment? This panel will focus on creative ways that buyers have taken contaminated sites that were once fenced off and left barren and transformed them into new commercial, residential, and industrial developments. The panelists will discuss achieving and protecting bona fide prospective purchaser status, the value of state voluntary cleanup programs, environmental insurance, contractual indemnities, EPA comfort letters, and the use of engineered and institutional controls. Community engagement will also be addressed, including gaining acceptance of project plans for sites where there is a local stigma regarding the contaminated property being redeveloped. After experiencing stories from those who have successfully turned brownfields green, attendees will be better equipped to advise clients on similar matters.

PANELISTS

THOMAS BARRASSO, Director of Energy and Environment, City of Amesbury, Amesbury, MA
PAMELA K. EKOW, Carmody Torrance Sandak & Hennessey LLP, Stamford, CT
CARL GARVEY, General Counsel, RACER Trust, Detroit, MI
RANDALL JOSTES, Chief Executive Officer, Environmental Liability Transfer, Inc., St. Louis, MO
DEBORAH J. SCHMALL, Paul Hastings LLP, San Francisco, CA

HIGHLIGHTS AND PREDICTIONS: RECENT SUPREME COURT DECISIONS ON ENVIRONMENTAL, ENERGY, AND RESOURCES LAW

During its 2018–2019 term, the U.S. Supreme Court tackled questions of critical species habitat, property rights, uranium mining, public lands, and more. This panel of leading Supreme Court scholars and practitioners will discuss the key environmental, energy, and resources cases decided in the Court’s 2018–2019 term, and how these decisions may affect your practice. The panel will also forecast major cases likely to be decided in the beginning of the Court’s October 2019 term, and other cert-worthy issues on the horizon.

PANELISTS

ERIC A. GRANT, Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC
PETER HSIAO, King & Spalding LLP, Los Angeles, CA
RICHARD LAZARUS, Howard and Katherine Aibel Professor of Law, Harvard Law School, Cambridge, MA
CHUCK MCCUTCHEON, Editor, Bloomberg Environment, Washington, DC

ALTERECO

Feds on First, States on Second…but Who is Really on Third? Adjusting to the Shift

An increasing number of state environmental agencies are taking a closer look at sharpening their regulatory regimes, while Federal regulators continue to refine their own enforcement approaches. AlterEcho’s experts are in the bullpen, ready to sort through regulatory balls and strikes in order to help attorneys avoid agency curveballs.

PANELISTS

MARK HEANEY, Vice President, Regulatory Expert, AlterEcho, New York, NY
ROB YOUNG, PG, Remediation Expert, AlterEcho, Chicago, IL

GEOSYNTEC CONSULTANTS, INC.

PFAS – Beyond Impacts to Water

To date, the vast majority of efforts to characterize PFAS exposure have focused on drinking water ingestion. Methods are in development to help characterize the nature and extent of exposures via additional pathways (e.g., inhalation of ambient air, recreational exposures related to surface water contact and ingestion of recreationally caught fish, and ingestion of home-grown fruits and vegetables). As analytical methods develop, the limiting factors to inform effective characterization of current and potential future conditions become the lack of understanding regarding the driving pathways of concern and their significance based on the absence of applicable toxicity criteria. This presentation will characterize the relative expected ranking of PFAS concern, based on complete exposure pathway, the options for development of provisional toxicity factors, and methods to focus investigation needs, reduce project expenditures, and inform defensible site and risk management.

PANELIST

TRAVIS KLINE, MEM, Senior Principal Toxicologist, Geosyntec Consultants Inc., Washington, DC

2:30 p.m. – 4:00 p.m.

CONCURRENT BREAKOUT SESSIONS

ERA OF A CHANGING CLIMATE

A FORESEEABLE FUTURE: PLANNING IN AN ERA OF A CHANGING CLIMATE

Billions of dollars in public and private investment, property, and infrastructure are at risk due to the impacts of climate change. Severe flooding, droughts, extreme temperatures, wildfire, rising sea levels, and more intense storms are impacting businesses, industries, and communities globally. This panel will examine the role lawyers have in preparing their clients for the consequences of climate change and discuss key issues in prevention, response, and long-term resilience. Topics to be addressed include assessment of risk, decision-making, government and corporate obligations, and strategies to mitigate and protect businesses and communities from future impacts.

PANELISTS

SALLY R. K. FISK, Assistant General Counsel, Pfizer Inc., New York, NY
MICHAEL B. GERRARD, Andrew Sabin Professor of Professional Practice, Columbia Law School, New York, NY
ALICE C. HILL, Research Fellow, Hoover Institution, Stanford University, Stanford, CA
MATTHEW STRICKLER, Secretary of Natural Resources and Chief Resilience Officer, Commonwealth of Virginia, Richmond, VA

Section of Environment, Energy, and Resources
THE STATE OF CERCLA FOLLOWING EPA REFORM: MORE OF THE SAME OR SOMETHING SUPER?

New England and the Mid-Atlantic region are home to the largest concentration of Superfund sites in the country. Many of these sites are the nation’s most complex, involving the largest number of potentially responsible parties, with technically challenging and costly remedies taking decades to remediate. The Trump administration launched its “Superfund Task Force” in May 2017, and it was charged with restructuring, incentivizing, accelerating, and generally reinvigorating EPA’s Superfund Program. A culminating report is scheduled for release in July 2019. This panel, featuring leading perspectives from the current administration, private practice, and state government, will discuss progress made and opportunities missed by EPA’s reform efforts, key lessons from some of the region’s largest megasites, and challenges posed by emerging contaminants, such as perfluorooctane sulfonate—PFOS—and perfluorooctanoic acid—PFOA. By learning about the critical developments from the legal landscape known as Superfund, attendees will be prepared to handle these challenging sites.

PANELISTS

STEVEN D. COOK, Deputy Assistant Administrator, Office of Land and Emergency Management, U.S. Environmental Protection Agency, Washington, DC

SHOSHANA (SUZANNE ILENE) SCHILLER, Manko Gold Katcher Fox LLP, Bala Cynwyd, PA

MARTIN SUEBERG, Commissioner, Massachusetts Department of Environmental Protection, Boston, MA

ROBERT VARNEY, President, Normandeau Associates, Bedford, NH

PESTICIDES: DO LITIGATION PRESSURES EFFECTIVELY SUPERSEDE GOVERNMENT SAFETY DETERMINATIONS AND THREATEN TO EXTERMINATE IMPORTANT PRODUCTS?

Pesticide products undergo considerable regulatory scrutiny before reaching the market. The federal government and states share oversight of pesticide licensing and use. Nevertheless, pesticides have become the focal point in scores of law suits. Litigation encompasses challenges based on the Endangered Species Act, toxic tort claims, and claims asserting property damage from exposures resulting from misuse. Claims that were once considered preempted are no longer barred. Plaintiffs and defendants, alike, include environmental groups, private parties, government agencies, and the producers and users of pesticides. Federal and state statutes and the common law are brought to bear in such cases. Scientific evidence can determine outcomes while faulty technical assessments are often alleged to be the foundation for litigants’ claims. Educate yourself by hearing firsthand accounts and interacting with a panel of litigants involved in groundbreaking cases in which pesticides were on trial.

PANELISTS

TRENTON H. NORRIS, Arnold & Porter Kaye Scholer LLP, San Francisco, CA

STEPHANIE PARENT, Senior Attorney, Center for Biological Diversity, Portland, OR

ROBERT PERLIS (INVITED), Assistant General Counsel for Pesticides, U.S. Environmental Protection Agency, Washington, DC

SARA BETH WATSON, Steptoe & Johnson, LLP, Washington, DC

4:30 p.m. – 6:00 p.m.

CONCURRENT BREAKOUT SESSIONS

GO BIG OR GO HOME: FAST LANES AND ROAD BLOCKS FOR MAJOR INFRASTRUCTURE PROJECTS

Before the first shovel of dirt is moved, major infrastructure projects must clear a myriad of legal hurdles and complete numerous procedural requirements. The environmental review process mandated by the National Environmental Policy Act serves as an umbrella for considering issues such as tribal law and consultation requirements, permit requirements under the Clean Water Act, air pollution, noise reduction, environmental justice, endangered species, and cultural and historic resources. Navigating these separate but related legal processes can be a daunting task. Panelists will use regional megaprojects and lessons learned from recent litigation to identify best practices and pitfalls, aiding those attendees handling their first big project as well as experienced practitioners.

PANELISTS

JAMES M. AUSLANDER, Beveridge & Diamond P.C., Washington, DC

ANGELA COLAMARIA, Permitting Team Lead, White House Office of Management and Budget, Washington, DC

GERALDINE E. EDENS, Morgan, Lewis & Bockius LLP, Washington, DC

MARNA MCDERMOTT, Deputy Director and Counsel, Conservation Litigation Project, Washington, DC

NEW FRONTIERS IN CLIMATE LITIGATION

Plaintiffs concerned about climate change have pioneered a host of innovative legal theories under federal and state law. This encompasses public trust, climate change nuisance, and new applications of federal statutes, including the National Environmental Policy Act, Resource Conservation and Recovery Act, and Clean Water Act. Even international and transnational legal theories are part of the arsenal. Litigants are citing new scientific evidence, including the Fourth National Climate Assessment, in support of these claims. Plaintiffs include not only individuals and nongovernmental organizations, but numerous states, tribes, and municipalities. Defendants include both private businesses and government at all levels. Cases increasingly focus not only on the defendant’s role in causing or preventing climate change, but also on an alleged failure to plan for, or adapt to, climate change effects. This wave of new cases will have significant bearing on existing legal doctrines. Panelists will assess these various theories, including other types of claims that may be on the horizon, their likely viability, and potential impacts on their clients’ business.

PANELISTS

DANIEL D. DROOG, Managing Counsel, Chevron U.S.A. Inc., Houston, TX

KATE KONSCNIK, Director, Climate and Energy Program, Nicholas Institute for Environmental Policy Solutions, Duke University, Durham, NC

AMANDA COHEN LEITER, Professor and Director, Program on Environmental and Energy Law, American University Washington College of Law, Washington, DC

VIC SHER, Sher Edling LLP, San Francisco, CA
HANDCRAFTING ENVIRONMENTAL INSURANCE: THE MARKET IS HOT AGAIN!
After a lull that roughly corresponded with the “Great Financial Downturn” and its long ensuing recovery, environmental insurance carriers are once again competing for business and taking risks that can tip the dynamics of transactions and critical brownfield redevelopments. Covering environmental risks with insurance does not come easily, as this is not the first rodeo for underwriters, who are specialists in managing their company’s exposure and charged with assessing these risks. In addition to presenting the most innovative uses for environmental insurance, panelists will walk you along the tightrope of negotiating policy language, identify the most common mistakes that can make coverage worthless, and teach you how to wind up with a bound policy that makes a difference.

PANELISTS
CATHERINE E. BOSTOCK, Cole Schotz P.C., Hackensack, NJ
JAYNE CUNNINGHAM, Environmental Focus Group Leader and Underwriter, Beazley Group, New York, NY
GENE DEVINE, Regional Director of Environmental, Arthur J. Gallagher & Co., Jenko, NY
ANNE E. VINER, Corporate Law Partners, PLLC, Chicago, IL

6:00 p.m. – 7:30 p.m.
COCKTAIL RECEPTION
Join us for a fun-filled evening under the stars in beautiful Boston.

9:30 p.m. – 12:00 a.m.
AFTER-HOURS MIXER – SPONSORED BY BLOOMBERG ENVIRONMENT
The party is not over yet! Our after-hours mixer offers you a chance to kick back and catch up with your fellow attendees.

Friday, September 13, 2019

6:30 a.m. – 7:30 a.m.
#SEERRUNCLUB – SPONSORED BY EIMER STAHL LLP
Take in the fresh air and join us for a morning run/jog/walk. All participants will receive a commemorative t-shirt. Please sign-up when registering for the conference.

8:15 a.m. – 9:00 a.m.
KEYNOTE PRESENTATION
Join our esteemed panelists as they discuss the role of government in promoting an equitable transition to renewable energy, the growth of renewable energy, and the use of renewable energy to mitigate climate change.

ALICIA BARTON, President and Chief Executive Officer, New York State Energy Research and Development Authority, Albany, NY
HON. MAURA HEALEY, Attorney General, Commonwealth of Massachusetts, Boston, MA
MARISA ANN MARTIN LEWANDOWSKI, Baker & McKenzie LLP, Chicago, IL
ALEXANDRIA MCBRIDE, Chief Resilience Officer, City of Oakland, CA

9:15 a.m. – 10:45 a.m.
A JURY OF YOUR PEERS
Our all-star team of litigators will present live opening arguments in a case asserting property and personal injury claims from an alleged chemical release. In addition to the attendees, a mock jury will listen to and evaluate the arguments. What trial themes will come out on top? You may be surprised! Sharpen your trial prep skills with practice pointers from our litigators and jury consultant, and benefit from the valuable feedback that only a live jury can provide.

PANELISTS
NADIRA CLARKE, Katten Muchin Rosenman LLP, Washington, DC
JOHN D. GILLELAND, Vice President, DecisionQuest, Chicago, IL

11:15 a.m. – 12:45 p.m.
CONCURRENT BREAKOUT SESSIONS
THE PRICE OF POWER: PROMOTING POWER PRODUCTION AND PROGRESS
Federal, state, tribal, and local governments often seek to promote specific forms of power production (such as renewable energy) and progressive innovations (such as electric vehicles). In recent years, states have become even more active in requiring stringent energy efficiency standards, by setting renewable fuels requirements, subsidizing zero-emissions energy production, promoting electric vehicles, and working to meet international climate goals. This panel will examine recent legal and policy developments and court decisions involving power production and consider whether these types of state actions will survive Commerce Clause and preemption challenges. Attendees will improve their understanding of states’ authority to implement energy initiatives.

PANELISTS
SARAH HOFMANN, Commissioner, Vermont Public Utility Commission, Montpelier, VT
TRAVIS KAVULLA, Director of Energy, Policy Team, R Street, Washington, DC
CLARE KINDALL, Solicitor General, Connecticut Office of the Attorney General, New Britain, CT
HARVEY L. REITER, Stinson Leonard Street LLP, Washington, DC

JESSICA L. GRANT, Venable LLP, San Francisco, CA
LOIS J. SCHIFFER, Environmental Attorney, Former Assistant Attorney General, Environmental and Natural Resources Division, U.S. Department of Justice, Washington, DC, and General Counsel, National Oceanic and Atmospheric Administration, Washington, DC
THE CLEAN WATER ACT: WHAT ARE WE FIGHTING ABOUT?
Today’s unprecedented controversy surrounding the Clean Water Act will shape your practice for decades. Stakeholders are fiercely litigating competing administrative efforts to define the scope of federal jurisdiction, to address groundwater conduit arguments, to define point sources, to clarify 401 Water Quality Certifications, to ease or limit inter-basin water transfers, and more. Further, as President Trump’s federal government attempts to shrink its jurisdiction, states and citizen plaintiffs fill the void. This panel will both explain the latest Clean Water Act developments in practical terms and answer your questions about how these developments should impact your real-world legal advice.

PANELISTS
ROBIN CRAIG, James I. Farr Presidential Endowed Chair of Law, University of Utah S.J. Quinney College of Law, Salt Lake City, UT
DEIDRE G. DUNCAN, Hunton Andrews Kurth LLP, Washington, DC
CRAIG JOHNSTON, Professor, Lewis & Clark Law School, Portland, OR
KAREN M. MCGAFFEY, Perkins Coie LLP, Seattle, WA

CORPORATE ENVIRONMENTAL LEADERSHIP AND INNOVATION
American companies are preparing for a world where there will be ever-increasing, consumer-driven, environmental accountability. Corporations are not limiting themselves to maintaining compliance with environmental laws; they are voluntarily setting new benchmarks in environmental stewardship, energy efficiency, and sustainability. Potential exposure to climate change, product liability, and environmental litigation are forcing American companies to rethink the manufacturing, packaging, and transportation of goods and services. Attendees will gain insight into corporate environmental decision-making today and moving forward.

PANELISTS
SONYA H. BISHOP, Managing Counsel, Phillips 66, Houston, TX
MARISA BLACKSHIRE, Senior General Attorney, BNSF Railway, Los Angeles, CA
ROGER R. MARTELLA, Director and General Counsel, BNSF Railway, Portland, OR
YESENIA VILLASEÑOR, Managing Environmental, Health and Safety Counsel, Tesla, Palo Alto, CA

2:15 p.m. – 3:45 p.m.

CONCURRENT BREAKOUT SESSIONS
NAVIGATING THE WIND AND WAVES OF CHANGING OFFSHORE RESOURCES REGULATION
While oil extraction from offshore resources has been ongoing for decades, there is a significant evolution as policies and markets converge around the possible role renewable offshore resources may play in serving our energy needs. The number of stakeholders is staggering, from federal, state, and local regulators, to the conservation and preservation communities, to tribal interests, to commercial users of marine resources. There is great potential for clashes between these interests, and equal potential for cooperation towards renewable generation of sufficient capacity to serve the load centers along coasts. This panel will focus on such conflicts and how they are being addressed both in the United States and internationally. You will learn the key players and the landscape of both the obstacles and solutions, as well as the legal tools you can use to resolve conflicts for your commercial, environmental, energy, or resources clients.

PANELISTS
CLARKE BRUNO, President and Lead Partner for Transmission, Anbaric Development Partners, Wakefield, MA
ANNIE HAWKINS, Executive Director, Responsible Offshore Development Alliance, Washington, DC
KATHERINE A. JOYCE, Bernstein Shur Sawyer & Nelson, Portland, ME
NOAH C. SHAW, General Counsel and Secretary, New York State Energy Research and Development Authority, New York, NY

CONSTITUTIONAL FRONTIER: FEDERALISM, SEPARATION OF POWERS, AND HOW FEDERAL, STATE, AND TRIBAL GOVERNMENTS ARE RESHAPING ENVIRONMENTAL LAW
The U.S. Constitution recognizes three separate and distinct sources of domestic sovereign authority: the federal government, states, and Indian tribes. The interplay among these sovereigns is reshaping the constitutional frontiers of environmental, energy, and resources law. Recent federal rulemaking may diminish the geographical authority of federal agencies while broadening states’ regulatory powers. Reinterpretation of the president’s power under the Antiquities Act has federalism implications while recent U.S. Supreme Court cases (U.S. v. Washington; Herrera v. Wyoming) pit states’ interests with tribes’ assertions of federally based treaty obligations. Panelists will take deep dives into whether the Court’s treatment of Chevron deference may affect the federal regulatory authority vis-à-vis states, tribes, or both, and how executive branch initiatives to promote economic development may affect the separation of powers between the National Environmental Policy Act, National Historic Preservation Act, and other procedural statutes. This session will allow attendees to navigate the constitutional give-and-take within the federal government, and among the three domestic sovereigns.

PANELISTS
ROBERT ANDERSON (INVITED), Charles L. Stone Professor of Law, Director, Native American Law Center, University of Washington School of Law, Seattle, WA; Oneida Visiting Professor of Law, Harvard Law School, Cambridge, MA
RACHEL HERON, U.S. Department of Justice, Washington, DC
MONTE MILLS, Assistant Professor and Co-Director, Margery Hunter Brown Indian Law Clinic, University of Montana – Alexander Bellowit III School of Law, Missoula, MT
DAVID C. SMITH, Legal Services Director, Southern Ute Indian Tribe, Ignacio, CO
LIVING IN INTERESTING TIMES: CHINA’S IMPACT ON ENVIRONMENTAL AND ENERGY LAW

China’s importance on the global stage is indisputable. It is already the world’s second largest economy and may soon become the largest. But what about the immediate importance of China to your practice? As the world’s largest trading nation, China is likely a source of your client’s inputs, a destination for your client’s products, or both. Thus, environmental and energy decisions made in Beijing can radically impact your client’s business model. They can also shift, create, or destroy markets for environmental products such as solar panels, electric vehicles, recycled electronics, and energy technologies. Beijing’s decisions can also have important impacts on international environmental issues ranging from climate change to wildlife trafficking. Moreover, tensions between China and the United States can erupt in ways that disrupt your client’s business. This panel will explore such issues while providing a solid understanding of China’s legal and regulatory framework governing environmental and energy issues.

PANELISTS

BARBARA FINAMORE, Senior Strategic Director, Asia, Natural Resources Defense Council, Washington, DC

JAY MONTEVERDE, Director, Global Environmental Programming, American Bar Association Rule of Law Initiative, Washington, DC

STEVE WOLFSON (INVITED), Senior Attorney, Office of General Counsel, U.S. Environmental Protection Agency, Washington, DC

HONGJUN ZHANG, Holland & Knight LLP, Washington, DC

4:15 p.m. – 5:45 p.m.

ETHICS: WORKING WITH SCIENTISTS AND OTHER NONLAWYER PROFESSIONALS: ETHICAL CHALLENGES FOR ENVIRONMENTAL AND ENERGY LAWYERS

Environmental and energy lawyers routinely work with environmental scientists, engineers, and other non-lawyer professionals. An interactive panel comprised of environmental lawyers and an engineer will discuss the ethical challenges that relate to a lawyer’s interactions with professional consultants. Panelists will discuss ethical issues that may arise in both litigation and transactional settings. Topics will include the retention process, communications with non-lawyer professionals, and report preparation. Attendees will learn tips on how to avoid making mistakes when working with non-lawyers. Model Rules 1.6, 1.7, 3.3, 4.1 and 5.3 will be discussed.

PANELISTS

RUSSELL ABELL, Vice President, Sanborn Head, Concord, NH

MEAGHAN BOYD, Alston & Bird LLP, Atlanta, GA

COLIN G. VAN DYKE, Anderson Kreiger LLP, Boston, MA

6:30 p.m. – 9:30 p.m.

TASTE OF SEER (DINE-AROUNDS)

Sign up to participate in Dutch-treat dinners (each person pays for their own meal). Dinner reservations have been made at several restaurants in Boston near the conference hotel. Each dinner will be organized by a Section leader and will have a conversation theme. This is a great opportunity to meet new people, eat great food, and have lively discussions. Information about how to sign-up will be sent to conference registrants by email.

*Additional speakers to be confirmed, speakers subject to change
Saturday, September 14, 2019
Leadership Day

Whether you hold a Section leadership position or not, everyone is welcome to attend Leadership Day events. Attending any of the meetings is the best way to learn about the Section, its committees, and opportunities for involvement.
Register for Leadership Day when you register for the Fall Conference.

8:00 a.m. – 9:00 a.m.
CONTINENTAL BREAKFAST

9:00 a.m. – 10:30 a.m.
COMMITTEE CHAIRS MEETING
Committee chairs will join Section leadership and Council liaisons to discuss strategies for the year and plan cooperative initiatives.

10:30 a.m. – 11:30 a.m.
VICE CHAIR WORKING GROUPS
Committee vice chairs will meet with their peers in the same committee leadership role: committee articles, communications, membership, programs, and The Year in Review. Leadership responsibilities will be outlined and there will be time for questions and group discussion.

11:45 a.m. – 5:15 p.m.
COUNCIL MEETING
Everyone is welcome to attend.

7:30 p.m. – 9:30 p.m.
LEADERSHIP DINNER
A dinner for all participants in Leadership Day will be held at an off-site location. The cost of the dinner is included in the Leadership Day registration fee. Guest dinner tickets are available for purchase.
CONFERENCE HOTEL
Experience one of Boston’s most celebrated neighborhoods from The Westin Copley Place. Located in the heart of historic Back Bay, the hotel places you near Faneuil Hall, Fenway Park, and more, all minutes away. A block of rooms has been reserved at the discounted rate of $299 plus tax for single/double rooms. A limited number of government rate rooms are also available for $273 plus tax (or the current government rate). A valid government ID will be required upon check in.

The deadline for room reservations at the discounted rate is Tuesday, August 20, 2019, at 5:00 p.m. (CST). To book our contracted rate, call hotel directly at (888) 627-7216 or (617) 262-9600 and mention the ABA Section of Environment, Energy, and Resources 2019 Fall Conference or reserve online at bit.ly/27thFallRooms or at bit.ly/27thFallGovRooms for government employees.

ROOM SHARE PROGRAM
Are you interested in sharing a room at The Westin Copley Place? Head to the travel and lodging page at ambar.org/seerfall to learn more and complete our room share questionnaire.
## REGISTRATION RATES

<table>
<thead>
<tr>
<th>Category</th>
<th>Early Bird</th>
<th>After 7/12/2019</th>
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</thead>
<tbody>
<tr>
<td>Section Member</td>
<td>$745</td>
<td>$795</td>
</tr>
<tr>
<td>ABA Member</td>
<td>$820</td>
<td>$870</td>
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<tr>
<td>General Attendee</td>
<td>$915</td>
<td>$965</td>
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<tr>
<td>Gov’t, Public Interest, Academic</td>
<td>$675</td>
<td>$725</td>
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<tr>
<td>Law Student</td>
<td>$50</td>
<td>$50</td>
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<tr>
<td>Fall Council Meeting</td>
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<tr>
<td>Council Members</td>
<td>$200</td>
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<tr>
<td>Non-Council Members</td>
<td>$100</td>
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<tr>
<td>Guest Dinner Ticket</td>
<td>$100</td>
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</tbody>
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The conference registration fee includes tuition and online course materials developed especially for this conference. In addition, your fee covers Wednesday’s public service project, and reception, Thursday’s continental breakfast, breaks, lunch, and reception; and Friday’s continental breakfast, breaks, and lunch.

The Council Meeting fee covers Saturday breakfast, breaks, lunch, and dinner.

## MORE WAYS TO SAVE

### Group Discount

Organizations registering three or more attendees are eligible for a group discount of 20% off each attendee’s registration. Please email environ@americanbar.org for more information.

### Day Rates

Day rates are available for $450 each day.

## HOW TO REGISTER

We encourage you to register online at ambar.org/seerfall. If you want to register by mail visit ambar.org/seerfall to download a registration form. Please mail the form with your payment to:

American Bar Association, Attn: Section of Environment, Energy, and Resources, 321 N. Clark St., Fl. 18, Chicago, IL 60654.

All attendees must be preregistered for this conference to participate.

## ATTENTION ABA MEMBERS!

If you are an ABA member but not a member of the Section of Environment, Energy, and Resources, your conference registration fee now includes Section membership, a $75 value! You will be automatically enrolled in the Section. ABA membership is a prerequisite of Section membership. If you are not already an ABA member, please call (800) 285-2221. Free membership only applies to individuals who have not been a member of the Section during the past two years.
ACHIEVING CARBON NEUTRALITY
Calculated with great care, the Section estimates that the average 27th Fall Conference attendee's participation will generate approximately one metric ton of carbon emissions. Help offset your carbon footprint by adding the cost of a one-ton carbon credit from a verified offset project that will reduce greenhouse gases. Contributions to The Fund for Justice and Education (FJE) are tax deductible to the full extent allowed by law. Purchase your carbon offset when you register.

CONFERENCE SPEAKER SUPPORT
The Section strives to provide programming representing a unique depth of perspectives on all issues. We consistently work to include speakers that represent tribal interests and NGO's, as well as academics. To assist these speakers with the expense of participating in our conferences the Section offers a limited number of travel reimbursements. To assure that the Section can continue to offer travel assistance to such speakers please consider donating to our Program Support Fund. Donations are tax deductible to the full extent allowed by law. Make your donation of $25 (or more) when you register.

EARLY BIRD DEADLINE
The deadline to receive the early bird registration rate for the 27th Fall Conference is Friday, July 12, 2019. The final cutoff date for advance registration is Tuesday, August 27, 2019. After this date, registrations must include an additional $25 for processing.

CANCELLATION POLICY
Registrants who are unable to attend the conference will receive a refund less a $50 administrative fee if written notice of cancellation is received by Tuesday, August 27, 2019. No refunds will be granted after this date. Cancellations may be emailed to environ@americanbar.org or faxed to (312) 988-5572, attn.: Associate Director. Registration fees are not transferable to other section or ABA programs. Substitute attendees for the program are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

TUITION ASSISTANCE
A limited number of registration fee waivers are available for government employees, public interest lawyers employed with nonprofit organizations, and academics. For programs with tuition costs over $500, qualifying lawyers will receive at least a 50 percent reduction in the course fee(s). To apply, complete the online application by visiting bit.ly/27thFallTuitionWaiver by Friday, July 12, 2019.

LAW STUDENT SCHOLARSHIP OPPORTUNITY
A limited number of scholarships are available to law students interested in attending the entire conference and helping ensure our conference runs smoothly. To be considered, you must be a member of the ABA Section of Environment, Energy, and Resources. Your application and resume must be submitted by Monday, August 12, 2019, to be considered. This scholarship does not include lodging or transportation. Visit ambar.org/seerfall for additional meeting information. Questions? Contact environ@americanbar.org.

CONFERENCE COURSE MATERIALS
Course materials and related background information will be provided to attendees online prior to the conference. You may wish to bring a device to view the materials on-site; complimentary Wi-Fi access will be available.

CLE CREDIT
The ABA will seek 12 hours of CLE credit in 60-minute states, and 14.4 hours of CLE credit for this program in 50-minute states. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit the conference website at ambar.org/seerfall for program CLE details or visit www.americanbar.org/mcle for general information on CLE at the ABA.

DRESS
Section conferences are business casual. Suggested dress includes slacks, skirts, polo-type shirts or blouses, sweaters, and comfortable shoes. The hotel will be cool, so please pack a jacket or sweater.

DIETARY RESTRICTIONS
If you have any dietary restrictions, please indicate so during registration or by email to environ@americanbar.org by Tuesday, August 27, 2019, so that your needs are noted.

AMERICANS WITH DISABILITIES ACT
If any special arrangements are required for a person with a disability to attend this conference, please call Allison Read at (312) 988-5641 by Tuesday, August 27, 2019. Questions? Contact environ@americanbar.org with all conference related questions.
EARLY BIRD REGISTRATION DEADLINE
Friday, July 12, 2019

HOUSING DEADLINE:
Tuesday, August 20, 2019

DOWNLOAD OUR EVENT APP!
Download the app by searching for “Convene (Thomson Reuters)” in your app store, register with your email address, and search for ABA SEER 27th Fall Conference.