25th Fall Conference

BALTIMORE

OCTOBER 18-21, 2017

Baltimore Marriott Waterfront

SHOPABA.ORG/ENVIRONFALL
This October 18-21 join your friends and colleagues in Baltimore to celebrate the 25th Anniversary of the ABA Section of Environment, Energy, and Resources Fall Conference. Throughout the past 25 years, the Section has remained the premier forum for dialogue and deliberation of current and emerging environmental, energy, and natural resource issues. The 25th Fall Conference will continue this tradition. We hope to see you in the city of crab cakes, Berger cookies, and Hon culture!

Beginning Wednesday with an afternoon of public service and an evening welcome reception, the conference will offer two full days of cutting-edge CLE programming. The opening Thursday morning plenary session, News from Inside the Beltway: Administration and Congressional Priorities for Environmental, Energy, and Resources Law and Policy will provide attendees with insider perspectives on how the federal government is addressing key issues including public lands, climate change, and conservation. Friday morning will see the return of the indomitable Titans in the plenary session, Titans Teach Skills and Strategies for the Colossal Environmental Case. For those who may not know, “The Titans” is just as it sounds: an all-star team of litigators sharing their skills and strategies for complex environmental cases.

Plenary sessions are just the beginning to full days of discussion of diverse and pivotal developments. Ninety-minute “breakout” sessions will focus on a variety of current and emerging topics including:

- The status of the *Chevron* and *Auer* doctrines and their potential replacements;
- Recent decisions and upcoming cases—how actions by the U.S. Supreme Court might impact your practice;
- The legal landscape of public land management;
- Lessons learned from the Chesapeake Bay Initiative;
- How cities are effectively implementing resilient and sustainable initiatives;
- Practical insights on food law that impacts environmental law; and
- Legal implications of emerging pollution sensors and monitoring technologies.

On Thursday evening, attendees will enjoy historic Baltimore Inner Harbor socializing and dine aboard the Spirit of Baltimore. Friday morning, early risers will have the opportunity to enjoy a fun 5K run with the #SEERRunClub! And Friday evening, meet new friends and make new contacts at the popular Section dine-around dinners.

Saturday morning brings the Section leadership day including Committee leadership training and the Fall Council meeting. All are invited to attend and learn more about the Section and how to get involved.

Plan to join your colleagues in Baltimore this October—whether this will be your 25th Fall Conference or your first!
2017-2018 Section Chair
John E. Milner, Brunini, Grantham, Grower & Hewes, PLLC, Jackson, MS

Program Planning Chair
Jonathan Nwagbaraocha, Xerox Corporation, Webster, NY

Planning Committee
Douglas S. Arnold, Alston & Bird LLP, Atlanta, GA
Sarah Clark, Pennsylvania Department of Environmental Protection, Natrona Heights, PA
Maria Coor, Baker & Hostetler LLP, Washington, DC
Pamela R. Esterman, Sive, Paget & Riesel, P.C., New York, NY
Shelly H. Geppert, Eimer Stahl LLP, Chicago, IL
R. Juge Gregg, 2018 Program Chair, Washington, DC
Christine A. Jochim, Brownstein Hyatt Farber Schreck LLP, Denver, CO
Jonathan W. Kahn, Blake, Cassels & Graydon, LLP, Toronto, Canada
Kyle Landis-Marinello, Vermont Attorney General’s Office, Montpelier, VT
Benjamin Lowenthal, Messner Reeves LLP, New York, NY
Sarah Payne-Jarboe, English, Lucas, Priest & Owsley LLP, Bowling Green, KY
Kelly Poole, Environmental Council of the States, Washington, DC
Gary E. Steinbauer, Babst, Calland, Clements and Zomnir, P.C., Pittsburgh, PA
Kerene Tayloe, WE ACT for Environmental Justice, Washington, DC
Mathew J. Todaro, Verrill Dana, LLP, Portland, ME

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Sonoma Technology, Inc.
Innovative Environmental Solutions
Wednesday, October 18, 2017

1:00 p.m. – 4:00 p.m.
PUBLIC SERVICE PROJECT
Pack your work clothes and gloves to enjoy an afternoon of the great outdoors and networking. Following a short presentation on native tree species, urban ecosystems, best stewardship practices, and the unique challenges facing Baltimore’s tree canopy, participants will team up for tree planting, pruning, mulching, and other maintenance at a locale selected by forestry experts from Blue Water Baltimore. No prior experience is necessary. To volunteer for the public service project, sign up while registering. For more information please contact Jennifer Idrovo at Jennifer.Idrovo@americanbar.org.

6:00 p.m. – 8:00 p.m.
WELCOME RECEPTION
Let’s kick off the conference with food, drinks, and friends old and new. Meeting registration will be open so you can pick up your name badge and conference materials.

Thursday, October 19, 2017

7:30 a.m. – 8:00 a.m.
CONTINENTAL BREAKFAST

8:00 a.m. – 8:05 a.m.
WELCOME AND OPENING REMARKS

8:05 a.m. – 8:30 a.m.
KEYNOTE ADDRESS
Julia Olson, Executive Director and Chief Counsel, Our Children’s Trust, Eugene, OR

8:30 a.m. – 10:00 a.m.
NEWS FROM INSIDE THE BELTWAY: ADMINISTRATION AND CONGRESSIONAL PRIORITIES FOR ENVIRONMENTAL, ENERGY, AND RESOURCES LAW AND POLICY
While the Trump administration’s federal environmental law and policy initiatives have started to take shape over the last months, there are still many unanswered questions that face us as practitioners. Understanding what the administration and congressional representatives see as priorities for environmental, resource, and energy issues is key to successfully advising clients. This session will provide insider perspectives on how the federal government might address issues including public lands, climate change, and conservation. Attendees will have the opportunity to query panelists on specific areas of interest.

MODERATOR:
Alexandra Dapolito Dunn, Executive Director, Environmental Council of the States, Washington, DC

SPEAKERS:
Susan Bodine, Senate Committee on Environment and Public Works, Washington, DC
Kevin S. Minoli, Acting General Counsel, U.S. Environmental Protection Agency, Washington, DC
Christophe A.G. Tulou, Senate Environment and Public Works Committee, United States Senate, Washington, DC

10:00 a.m. – 10:30 a.m.
NETWORKING BREAK

10:30 a.m. – 12:00 p.m.
CONCURRENT CLE SESSIONS

AND THEN THERE WERE NINE: SUPREME COURT ACTION ON ENVIRONMENTAL, ENERGY AND RESOURCE ISSUES
As we meet in Baltimore, a fully-staffed Supreme Court will be grappling with a number of important environmental, energy, and resource issues. While the 2016–2017 term was comparatively quiet, it did include significant cases addressing takings and the Waters of the
United States (WOTUS) rule. This year all signs point to fireworks in cases that may seal the fate of signature initiatives of both the Obama and Trump administrations. Are you ready to get on board for a guided tour of this wild ride? A panel of leading Supreme Court scholars and practitioners will review recent decisions and upcoming cases, highlighting how actions by the nation’s highest court may impact your practice. In addition to analyzing cases that have already reached the Court, the panel members will offer their thoughts on cert-worthy cases waiting in the wings.

**MODERATOR:**
Sam Hirsch, former Principal Deputy Assistant Attorney General, Environment and Natural Resources Division U.S. Department of Justice, Rockville, MD

**SPEAKERS:**
Robin Craig, Professor, S.J. Quinney College of Law, University of Utah, Salt Lake, UT
Theodore Garrett, Convington & Burling LLP, Washington, DC
Robert V. Percival, Professor and Director, Environmental Law Program, University of Maryland, Baltimore, MD

**RESILIENCY AND SUSTAINABILITY CHALLENGES FOR OUR CITIES: THE ROLE OF LAWYERS IN IMPLEMENTING POLICIES OF RESPONSE AND PREVENTION**

Cities are increasingly challenged by the impacts of climate change and extreme, unpredictable weather conditions. While sustainable development may be part of the answer, there is concern about the economics of incorporating innovation and green development into municipal functions. Despite the conflict, many cities have made great strides to incorporate proper emergency response and prevention strategies as well as cost-saving environmentally friendly initiatives that positively impact a municipality’s bottom line. This panel will discuss the intersection of governance, emergency response, and sustainable practices that are currently being implemented by cities nationally and internationally. They will also consider how today’s lawyers can better use existing laws and statutes to meet the future challenges of advocating for cities in times of crisis.

**MODERATOR:**
Jessica Grannis, Adaptation Program Manager, Georgetown Climate Center, Washington, DC

**SPEAKERS:**
Marloes Brans, Houthoff Buruma, Amsterdam, Netherlands
Monique Harden, Assistant Director of Law and Policy, Deep South Center for Environmental Justice, Inc., New Orleans, LA
Stephanie Stuckey, Chief Resilience Officer, City of Atlanta, Atlanta, GA

**THERE’S AN APP FOR THAT: LEGAL IMPLICATIONS OF EMERGING POLLUTION SENSORS AND MONITORING TECHNOLOGIES**

Air and water pollution detection technologies are advancing rapidly and existing technologies are being deployed in new ways. Low-cost, portable air pollution sensors are capable of measuring short-term exposures to a variety of air pollutants. Water sensor technologies that send real-time data on water quality are being deployed throughout the country. Numerous U.S. Environmental Protection Agency enforcement settlements now include requirements to use these advanced monitoring technologies, some of which require companies to post the data on the internet. In addition, EPA regulations and permits either require or give parties the option of using these emerging technologies. These technologies have the potential to greatly enhance our understanding of environmental and public health issues, yet they also raise profound questions. Join this interactive panel as they decipher the legal issues raised by these technologies and help you prepare your clients for a future where crowd-sourced pollution data is the norm.

**MODERATOR:**
Ben Grumbles, Secretary of the Environment, Maryland Department of the Environment, Baltimore, MD

**SPEAKERS:**
Richard Alonso, Sidley Austin LLP, Washington, DC
David Hindin, Director, Office of Compliance, U.S. Environmental Protection Agency, Washington, DC

**12:00 p.m. – 1:30 p.m.**
**AREA OF INTEREST LUNCHEON**

Learn more about the substantive areas of our Section. Join any table to meet committee leadership and other conference attendees practicing in your area of law while enjoying your lunch.
1:30 p.m. – 2:00 p.m.
EXPERT INSIGHT PANELS (NON-CLE)
Strengthen your substantive knowledge of some of the most pressing issues confronting environmental, energy, and natural resource lawyers today by attending one of these focused technical presentations. These 30-minute presentations offer you the opportunity to take a “deeper dive” into the technical issues and learn something new from some of the nation’s top environmental consultants and service providers.

SCIENCE V. POLICY ON EMERGING CONTAMINANTS: INCONSISTENT REGULATIONS AND LEGAL DRIVERS
Bloomberg BNA
The term “emerging contaminants” has been used to describe contaminants with increasing scientific, regulatory, or public concern. These chemicals either lack health-based standards or are subject to existing standards that are being reassessed. The presence of such chemicals in environmental media, especially drinking water, has resulted in rapid regulatory actions, without a full understanding of potential risks to human health and the environment. Variability in regulatory responses at the federal and state levels has resulted in disparate and sometimes conflicting requirements related to monitoring, cleanup levels, and specific contaminants that must be addressed. These regulatory inconsistencies have made compliance a challenge. This panel will examine how emerging contaminants are defined and assessed, explore the current status of EC regulation in the U.S., with a focus on the wide variety of approaches and actions implemented in different states, and offer a framework for stakeholders to understand their environmental and legal liabilities.

MODERATOR:
John Henry Stam, Senior Legal Editor, Bloomberg BNA, Arlington, VA

SPEAKER:
Janet Anderson, Managing Scientist, Integral Consulting, San Antonio, TX

USE OF GROUNDWATER MODELS IN LITIGATION—LESSONS FROM THE COURTROOM
Geosyntec Consultants, Inc.
Groundwater models can provide a number of important benefits in litigation, but also present potential liabilities for an expert. The degree to which the court can understand the model and arguments made relative to its use can determine how much leverage is provided by the model or whether the model is even admitted. This talk uses several case studies to illustrate how the advantages and pitfalls of models can play out in the courtroom.

SPEAKER:
Peter J. Zeeb, Senior Principal Hydrogeologist, Geosyntec Consultants, Inc., Acton, MA

NEXT GENERATION COMPLIANCE: BETTER, FASTER, CHEAPER
Ramboll Environ, Inc.
Advances in monitoring technology and data acquisition, storage and handling offer the potential for novel compliance evaluation. Some of these technologies involve remote sensing and satellite observations that allow measurements to be taken without facility compliance or even knowledge. Other methods combine the power of rapid measurement with powerful data analytics techniques to allow for more efficient operations while remaining in compliance. This talk describes the promise of using new monitoring technologies in lieu of standard methods to evaluate compliance, and addresses the challenges of using non-standard methods to demonstrate compliance. The new methods are briefly described, including optical remote sensors, an array of satellite measurement techniques, microsensors for air quality and water measurement and cavity-ring-down spectroscopy. The potential for crowd-sourcing measurement to evaluate impacts and the use of averages rather than single point values are discussed, along with the compliance challenges this poses.

SPEAKERS:
Michael Keinath, Principal, Ramboll Environ Inc., San Francisco, CA
Shari Beth Libicki, Principal, Ramboll Environ Inc., San Francisco, CA

2:00 p.m. – 2:15 p.m.
NETWORKING BREAK

2:15 p.m. – 3:45 p.m.
CONCURRENT CLE SESSIONS
TRANSACTION JEOPARDY: GETTING THE DEAL DONE
Helping clients avoid and minimize environmental risks in commercial and real estate transactions can be a significant challenge. There are lots of pitfalls and “gotchas” to be avoided and negotiating strategies to employ. This panel will provide practical advice from a seller and buyer’s perspective on how to get the deal done. Categories on this Jeopardy! themed panel include Phase I TrainRECs, Mistakes in Drafting Reps and Warranties, Ambiguous Words and Phrases, Negotiating Contractual Indemnities, The Wonderful World of Environmental Insurance, and Where’s My BFPP Defense? We’ve got the answers; come hear the questions!

MODERATOR:
Channing Martin, Williams Mullen, Richmond, VA

SPEAKERS:
Seth A. Davis, Elias Group LLP, Rye, NY
Pamela Elkow, Carmody, Torrance, Sandak & Hennessey LLP, Stamford, CT
Nandra Weeks, Senior Principal Engineer, Geosyntec Consultants Inc., Jacksonville, FL

THIS LAND IS WHOSE LAND? RENEWED LEGAL CONTROVERSIES OVER PUBLIC LANDS
The U.S. government manages nearly all activities that occur on more than 300 million acres, from recreation and wildlife conservation to mining, grazing, and oil and gas drilling. Federal public land management raises a number of conflicting interests including those of the state, local populations and the interests of Native American Tribes. In the last year we have seen these conflicts brought to the forefront with the armed occupation of the Malheur National Wildlife Refuge and the controversial monument designation of hundreds of thousands of acres of public land including the Bears Ears National Monument. It is clear that the public lands will continue to be a topic of intense debate. Personally and professionally you and your clients are impacted by the management of public lands. Whether your clients do business on these lands or recreate on them it is important to understand the relevant laws, rules, and regulations. Join this panel of legal and policy leaders as they discuss the current legal landscape.

MODERATOR:
Mark Squillace, Professor and Director, Natural Resources, Water and Public Lands Program, University of Colorado Law School, Boulder, CO

SPEAKERS:
Jack Haugrud, Deputy Solicitor, U.S. Department of the Interior, Washington, DC
Donald J. Kochan, Professor and Associate Dean for Research and Faculty Development, Chapman University, Orange, CA
Connie Rogers, Davis Graham & Stubbs LLP, Denver, CO

PARALLEL PROCEEDINGS: TRENDS IN CIVIL AND CRIMINAL ENVIRONMENTAL ENFORCEMENT
With a new administration comes new environmental enforcement initiatives. This panel will evaluate the U.S. Department of Justice’s trends in bringing criminal enforcement actions and the challenges lawyers face in defending parallel proceedings. Clients face parallel proceedings when multiple cases arise from the same set of facts or circumstances and are brought as civil or criminal cases by one or more governmental agencies or by government agencies and private entities. Using U.S. EPA’s enforcement of the Clean Air Act against Volkswagen, DOJ’s worker endangerment enforcement initiative addressing environmental and worker safety initiatives, and other cases as examples, this panel will address the questions, pitfalls, and considerations for lawyers bringing and defending these complex and intertwined cases and what lawyers can anticipate in the future.

MODERATOR:
Michael R. Fisher, Director, Legal Counsel Division, U.S. Environmental Protection Agency, Washington, DC

SPEAKERS:
Deborah Harris, Chief, Environmental Crimes Section, U.S. Department of Justice, Washington, DC
Barry Hartman, K&L Gates LLP, Washington, DC
David Uhlmann, Professor, University of Michigan Law School, Ann Arbor, MI

3:45 p.m. – 4:15 p.m.
NETWORKING BREAK
4:15 p.m. – 5:45 p.m.  
CONCURRENT CLE SESSIONS

REALITY CHECK: WHAT YOU NEED TO KNOW ABOUT TSCA REFORM IMPLEMENTATION  
The new Toxic Substances Control Act (TSCA) is the first major piece of environmental legislation to be passed in more than 30 years. It will impact almost every business that imports, uses or manufactures chemicals and it imposes significant potential liability for those operating, financing or acquiring such businesses. Leading chemical management lawyers will explain what you and your clients need to know about the new TSCA. Topics include the new foundational rules, specific chemicals under review or being regulated, and implications for biotech and nanotech. TSCA is no longer of interest only to chemical manufacturers—this panel will ensure you and your clients are not left behind.

MODERATOR:  
Martha Marrapese, Wiley Rein LLP, Washington, DC

SPEAKERS:  
Wendy Cleland-Hamnett, Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, DC  
Mark Duvall, Beverlye and Diamond, P.C., Washington, DC  
Mike Walls, Vice President of Regulatory and Technical Affairs, American Chemistry Council, Washington, DC

IS THE CHEVRON TWO-STEP GOING THE WAY OF THE JITTERBUG?  
Since the 1984 landmark case of Chevron U.S.A. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984), Chevron deference to an agency’s interpretation of its enabling statute has been a cornerstone of administrative law. This deference was extended to an agency’s interpretation of its own regulations in Auer v. Robbins, 519 U.S. 452 (1997). But recent legislation, scholarship, and judicial opinions suggest that the Chevron two-step analysis and the Auer doctrine for review of agency decisions have outlived their popularity. Federal legislative efforts would scale back the deference granted by the courts to administrative statutory and regulatory interpretations under Chevron. The doctrines have also come under heavy criticism from legal scholars, lower court judges, and even certain U.S. Supreme Court justices. Our distinguished panelists will address where the Chevron and Auer doctrines are most effective, their problematic applications, where they are heading, potential replacement doctrines, and whether now is the ideal time to change the moves on the dance floor of agency deference.

MODERATOR:  
Erica Spitzig, Deputy General Counsel, National Association of Clean Water Agencies, Washington, DC

SPEAKERS:  
Danny Boggs, Senior Judge, Sixth Circuit U.S. Court of Appeals, Louisville, KY  
Kevin Fong, Pillsbury Winthrop Shaw Pittman LLP, San Francisco, CA  
Catherine M. Sharkey, Professor, New York University School of Law, New York, NY

FOOD LAW: WHAT ENVIRONMENTAL LAWYERS NEED TO KNOW ABOUT ONE OF THE FASTEST GROWING AREAS OF ENVIRONMENTAL LAW  
Soil, water, air, waste, plants, and animals: the bedrock of environmental law. Another area of law, just as closely tied to those same bedrock elements, is quickly emerging: food law. The evolution of modern food production – which now includes both factory farms and farm-to-table – has spurred a rapid rate of change within food law that is quickly outpacing change in traditional environmental law. From AquAdvantage® Salmon to federal GMO and organic food labeling to the small and urban farming revolution, how we produce and consume our food - and the resulting impacts on the environment - have created significant amounts of both legal uncertainty and opportunity. This panel will explore the future of the environmental/food law nexus, discussing the changing role of modern food policy and federal and state regulation (and deregulation) and the resulting impacts on food production and consumption. In doing so, this panel will provide environmental lawyers practical insight on the areas of food law that will be impacting and shaping environmental law in the years to come.

MODERATOR:  
Jason J. Czarnezki, Professor, Elisabeth Haub School of Law, White Plains, NY

SPEAKERS:  
Emily M. Broad Leib, Professor and Director, Food Law and Policy Clinic, Deputy Director, Center for Health Law and Policy Innovation, Harvard Law School, Cambridge, MA  
Michael T. Roberts, Executive Director, University of California School of Law, Los Angeles, CA  
Andrew R. Varcoe, Boyden Gray & Associates, Washington, DC
7:00 p.m. – 9:30 p.m.
COCKTAIL RECEPTION AND DINNER
Join us aboard the Spirit of Baltimore docked in the historic Inner Harbor for a night of great food, drinks, dancing, and unbelievable views. Dinner is included in your registration fee; additional guest tickets are available for purchase.

9:30 p.m. – 12:00 a.m.
AFTER-HOURS SOCIAL MIXER
The party’s not over yet! Come join our informal, after-hours reception at Max’s Taphouse (737 South Broadway) to hobnob with your fellow attendees in a relaxed, fun environment. Come as you are, let your hair down, and enjoy the company of your colleagues. All are welcome!

Friday, October 20, 2017

6:45 a.m. – 8:00 a.m.
#SEERRUNCLUB
On Friday morning, join your colleagues and make new friends on a casual and laid back fun run/walk. As an added bonus, you’ll earn a commemorative SEER shirt to remember the occasion and some snacks on your return. All are welcome for this fun networking way to start the day with a run outdoors. After you register, watch for an e-mail about this event and sign up so we can have a T-shirt ready for you.

7:30 a.m. – 8:00 a.m.
CONTINENTAL BREAKFAST

8:00 a.m. – 8:30 a.m.
OPENING REMARKS AND AWARD PRESENTATIONS

8:30 a.m. – 10:00 a.m.
TITANS TEACH SKILLS AND STRATEGIES FOR THE COLOSSAL ENVIRONMENTAL CASE
A must-see panel of some of the nation’s best environmental trial lawyers and a federal judge confront the mega-environmental case, an accidental explosion and blowout at an offshore oil platform. Learn how to litigate a case that seems impossibly complex and strategies to win at trial. This fast-paced presentation will follow the case from its inception, teaching skills about crisis response, coordination with a criminal action, complex case management, preservation of evidence, and obtaining statutory and natural resource damages. The panelists will reveal how they develop their case theories and demonstrate how those theories are woven into an effective advocacy approach with practical advice. Learn trial tactics and tips from experienced litigators who will provide a “best practices in environmental litigation” roadmap, using a real world example, with proven techniques for engaging in the largest environmental cases.

SPEAKERS:
James A. Bruen, Farella, Braun, and Martel, LLP, San Francisco, CA
John C. Cruden, former Assistant Attorney General, U.S. Department of Justice, Washington, DC
Peter Hsiao, Morrison & Foerster LLP, Los Angeles, CA

10:00 a.m. – 10:30 a.m.
NETWORKING BREAK

10:30 a.m. – 12:00 p.m.
CONCURRENT CLE SESSIONS

ENERGY AND THE COURTS: EXAMINING LEGAL TENSIONS THAT SHAPE OUR ENERGY PRODUCTION
The line between federal and state authority is not always clear when it comes to a state’s choice to promote one form of energy production over another. For instance, the Illinois Legislature has passed a bill subsidizing the nuclear industry and New York state recently created a Zero Emissions Credit program to subsidize the nuclear industry. In response to the Zero Emissions Credit, other energy producers from the oil and natural gas sectors sued New York arguing that the state was treading upon an area of exclusive federal authority. The legal challenge involves fundamental legal principles of federal preemption and the Dormant Commerce Clause. Similar legal challenges are being brought against state efforts to promote renewable energy through the creation and implementation of renewable portfolio standards. This panel will review the current litigation over the division between federal and state authority in the energy sector and explore the ramifications of this litigation for the makeup of our energy production.
CHESAPEAKE BAY INITIATIVE: LESSONS LEARNED
The last time the Fall Conference was held in Baltimore, a session focused on the underlying legal authority and challenges of the EPA’s historic Chesapeake Bay Initiative, established in 2010 and, at the time, being challenged in federal court. Now, seven years into the program, a panel of regulators, policy advisors, and lawyers will discuss lessons learned and how they can be applied in other jurisdictions. Panelists will examine the program’s successes and failures; its impacts on industry, agriculture, and communities; and other TMDL implementations nationwide as well as the Trump administration’s approach to water quality restoration and enforcement in general.

MODERATOR:
Sarah Albert, Beveridge & Diamond P.C., Baltimore, MD

SPEAKERS:
Christopher Day, Senior Assistant Regional Counsel, Region 3, U.S. Environmental Protection Agency, Philadelphia, PA
Jon Mueller, Vice President for Litigation, Chesapeake Bay Foundation, Inc., Annapolis, MD

ESSENTIAL SKILLS SERIES: THE ART OF THE WINNING DEPOSITION
Trials can be won or lost at deposition. And yet, it is likely the phase of trial most often overlooked by senior lawyers with tight schedules and junior lawyers with little advance notice. This interactive panel will focus on developing and demonstrating the skills practiced by the ablest of advocates in conducting winning depositions for complex environmental matters. Using a hypothetical scenario, veteran attorneys will divide the room and discuss key techniques and strategies for both taking and defending an environmental case deposition. Attendees will also have the opportunity to observe veteran lawyers sparring in a mock deposition and to participate in a discussion of issues such as how to shine as second-chair, managing client expectations, and tackling expert witnesses.

MODERATOR:
Rita Bolt Barker, Wyche, PA., Greenville, SC

SPEAKERS:
Pamela Barker, Lewis Rice LLC, St. Louis, MI
Kevin Bruno, Blank Rome LLP, New York, NY
Jeffrey M. Pollock, Fox Rothschild LLP, Lawrenceville, NJ

12:00 p.m. – 1:30 p.m.
LUNCHEON ADDRESS
Barry Weintraub, Rueters LLP, 2017-2018 Chair, Canadian Bar Association Environmental, Energy, and Resources Law Section, Toronto, ON, Canada

1:30 p.m. – 2:00 p.m.
EXPERT INSIGHT PANELS (NON-CLE)
These 30-minute Expert Insight Panel presentations will offer you the technical perspective on the legal issues you heard discussed at the conference so far. Select the technical topic that relates best to your interests as presented by the nation’s top environmental consultants and service providers.

2:00 p.m. – 2:15 p.m.
NETWORKING BREAK

2:15 p.m. – 3:45 p.m.
CONCURRENT CLE SESSIONS
WHO’S IN CHARGE? THE EVOLVING ROLE OF TRIBAL, STATE, AND LOCAL GOVERNMENTS IN ENVIRONMENTAL, ENERGY, AND RESOURCES REGULATION AND ENFORCEMENT
During the Obama administration, the federal government played an expanding and active role in regulation and enforcement of environmental, energy, and resources issues. The Trump
administration, on the other hand, has taken a number of measures to reduce the federal role in these areas. As the federal government takes a step back, some tribal, state, and local governments are acting to fill the void in regulation and enforcement. But can they do so? What are the constitutional or other legal and practical barriers to tribal, state, and local regulation and enforcement? This panel will outline the historical division of authority among federal, tribal, state, and local governments; describe the role that lawyers play in challenges to relevant authority; and analyze current trends to reallocate that authority.

MODERATOR:
Lisa Heinzerling, Professor, Georgetown Law, Washington DC

SPEAKERS:
Samantha Dravis, Administrator, Office of Policy, U.S. Environment Protection Agency, Washington, DC
Troy A. Eid, Greenberg Traurig LLP, Denver, CO
Michael J. Myers, Environmental Protection Bureau, New York Attorney General, Albany, NY

THE CLEAN AIR ACT UNDER THE TRUMP ADMINISTRATION
As the Trump administration has worked to establish its identity throughout the first half of 2017, we have seen a dramatically different approach to the identification and development of Clean Air Act regulatory priorities. This panel will review the status and implementation of Trump’s priority initiatives—how the current administration is approaching regulations that were not repealed under the Congressional Review Act and regulations that are currently subject to litigation. Panelists will discuss the current state of the Clean Power Plan, regulations governing methane emissions, the Cross State Air Pollution Rule, and regional haze and ozone rules. Attendees will learn about the rapidly changing area of regulation under the Clean Air Act and how to counsel clients under the changing perspectives of this administration.

MODERATOR:
Fatima Ahmad, Solutions Fellow, Center for Climate and Energy Solutions, Arlington, VA

SPEAKERS:
Emily Fisher, Vice President, Legal and Corporate Secretary, Edison Electric Institute, Washington, DC
John Walke, Director, Clean Air Project, Natural Resources Defense Council, Washington, DC

ADVANCED NEGOTIATION SKILLS: STRATEGIES FOR RESOLVING COMPLEX ENVIRONMENTAL CLAIMS
Hone your negotiation and alternative dispute resolution skills for bringing complex environmental matters to a cost-effective resolution. A panel will address the strategic use of negotiation techniques to reach agreement on complex environmental claims, including those involving scientific issues, large class actions, and Superfund sites. Attendees will learn approaches and practice tips to achieve early settlement (of all or select claims), manage discussions involving numerous participants, and obtain settlement with the federal government as we embark on a new federal administration.

MODERATOR:
David Batson, Mediator/Allocation Specialist, AlterEcho, Washington, DC

SPEAKERS:
Kenneth R. Feinberg, Law Offices of Kenneth R. Feinberg, PC, Washington, DC
Robert Olian, Principal, envADR LLC, Highland Park, IL
Keith T. Tashima, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC

3:45 p.m. – 4:15 p.m.
NETWORKING BREAK

4:15 p.m. – 5:45 p.m.
ETHICS ESSENTIALS FOR ENVIRONMENTAL, ENERGY, AND NATURAL RESOURCE LAWYERS
Ethical decision-making can be extremely puzzling for lawyers. Issues can arise that will challenge even the most experienced practitioner. This session will discuss common challenges that environmental, energy, and natural resource lawyers may face such as conflicts of interest, confidentiality and privilege issues, negotiation ethics, client misconduct, communication with unrepresented persons, ethics in discovery, and issues involving settlement. A lawyer’s
responsibility in the face of “fake news” will also be discussed. Experienced practitioners will highlight the pertinent Model Rules of Professional Conduct, including Rule 1.6, 1.7, 1.9, 3.3, 4.1, 4.2, 4.4, 5.3, and provide guidance on how best to navigate these types of issues.

**MODERATOR:**
Mary Ellen Ternes, Earth and Water Law, LLC, Oklahoma City, OK

**SPEAKERS:**
Basheer Ghorayeb, Winston & Strawn LLP, Dallas, TX
Michael T. Kirkpatrick, Public Citizen, Washington, DC
James Morgulec, Professional Responsibility Advisory Office, U.S. Department of Justice, Washington, DC

7:00 p.m.
**TASTE OF SEER (DINE AROUNDS)**
On Friday evening, you are invited to participate in a Dutch-treat dinner (each person pays for his or her own meal). Dinner reservations have been made at several restaurants in Baltimore 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. Additional information about how to sign-up will be coming soon!

*Speakers subject to change.*

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**Saturday, October 21, 2017**

**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.

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 Council liaisons to discuss strategies for the year. This is an excellent opportunity to meet chairs of other Section committees 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 newsletters, electronic communications, membership, programs, social media, 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.
The 25th Fall Conference will take place at the Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202. A block of rooms has been reserved at the discounted rate of $239 plus tax for single/double rooms. A limited number of government rate rooms are also available for $147 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, September 26, 2017** at 5:00 p.m. (CST). To book our contracted rate, call reservations at (800) 228-9290 or the hotel directly at (410) 385-3000 or online by visiting https://aws.passkey.com/go/ABA2017FallConference. Be sure to mention the ABA Section of Environment, Energy, and Resources 2017 Fall Conference.

**ADVANCE REGISTRATION**

We encourage you to register online at www.shopaba.org/environfall. If you want to register by mail visit www.shopaba.org/environfall to download a registration form. Please mail the form with your check (payable to the American Bar Association) or credit card information to: American Bar Association, Attn: Service Center—Meeting/Event Registrations Department, 321 N. Clark St., Fl. 16, Chicago, IL 60654 or to our secure fax number: (312) 988-5850. All attendees must be pre-registered for this conference to participate.

The deadline to receive the early bird registration rate for the 25th Fall Conference is **Friday, September 8, 2017**. All registrations postmarked after September 8, 2017, must include an additional $50 for processing. The final cutoff date for advance registration is **Wednesday, October 4, 2017**. After this date, registrations must include an additional $25 for processing.

**ATTENTION ABA MEMBERS!**

If you are an ABA member but not a member of the Section of Environment, Energy, and Resources, please note that your conference registration fee ($820 before 9/8/17 or $870 after 9/8/17) now includes Section membership, a $75 value! You will be automatically enrolled in the Section of Environment, Energy, and Resources. ABA Membership is a prerequisite of Section membership. If you are not already an ABA member, please call (800) 285-2221. Please note: Free membership only applies to individuals who have not been a member of the Section during the past two years.

**REGISTRATION FEE INFORMATION**

The registration fee for the 25th Fall Conference includes tuition and online course materials developed especially for this conference. In addition, your fee covers Wednesday’s Public Service Project, Thursday’s continental breakfast, breaks, lunch and dinner; and Friday’s continental breakfast, breaks, and lunch.

**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 **Wednesday, October 4, 2017**. Cancellations may be e-mailed to Jennifer.Idrovo@americanbar.org or faxed to (312) 988-5572, attn.: Program Assistant. No refunds will be granted after **Wednesday, October 4, 2017**. Registration fees are not transferable to other Section or ABA programs. Substitutions for the program are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.
<table>
<thead>
<tr>
<th>REGISTRATION RATES</th>
<th>Before or on 9/8/17</th>
<th>After 9/8/17</th>
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<tbody>
<tr>
<td>Section Member</td>
<td>$745</td>
<td>$795</td>
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<tr>
<td>ABA Member</td>
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<tr>
<td>Gov’t, Public Interest, Academic</td>
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<td>$725</td>
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<tr>
<td>Bar Association of Baltimore City Members</td>
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<tr>
<td>Young Lawyer *</td>
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<tr>
<td>Speaker and Moderator</td>
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<td>Law Student</td>
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* Qualifying young lawyers are under 36 years old or admitted to practice for five years or less.
Day Rates:
Day rates are available for $450 each day. This rate does not include Thursday’s dinner. Tickets for the dinner are available for $95 each.

Take $200 off your Fall Conference Registration Fee!
If you attended the Section’s 46th Spring Conference or the 35th Water Law Conference this year in Los Angeles, you are eligible to receive a $200 discount off your registration fee for the 25th Fall Conference. A promo code will be emailed to you to redeem this discount.

*This offer does not apply to law students, sponsors, planning committee members, speakers, moderators, or any other discounted registrations. The maximum discount is $200.

GROUP DISCOUNT
Law firms and other organizations registering three or more attendees are eligible for a group discount. Prior arrangements must be made with Jennifer Idrovo at Jennifer.Idrovo@americanbar.org or (312) 988-5625. All registrations for a group discount must be received together. Discounts will not be applied retroactively. Discounted rates granted to speakers, sponsors, or tuition waiver candidates do not count toward group discount opportunities.

Bar Association of Baltimore City Members
As a “thank you” to the city of Baltimore for hosting our 25th Fall Conference, we are offering members of the Baltimore City Bar Association the discounted Section member rate of $745 (before 9/8/17) and $795 (after 9/8/17). To receive this rate, select the Bar Association of Baltimore City Member rate when registering.

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 attorneys will receive at least a 50% reduction in the course fee(s). To apply, complete the online application by visiting www.shopaba.org/environfall and clicking Registration or contact Jennifer Idrovo at Jennifer.Idrovo@americanbar.org or (312) 988-5625.

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 Thursday, September 14, 2017 to be considered. This scholarship does not include lodging or transportation. Visit www.shopaba.org/environfall for additional meeting information. Questions? Contact John.Sturk@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 laptop, netbook, or tablet to view the materials on-site; complimentary Wi-Fi access will be available.

CLE Credit
The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WY. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 12.00 CLE credit hours (including 1.50 ethics hours) in 60-minute states, and 14.40 credit hours (including 1.80 ethics hours) in 50-minute states. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit www.shopaba.org/environfall or contact Jennifer Idrovo at Jennifer.Idrovo@americanbar.org or (312) 988-5625.

DRESS AND WEATHER
Section meetings are business casual. Suggested dress includes slacks, skirts, polo-type shirts or blouses, sweaters, and comfortable shoes. The hotel will be cooler, so please pack a jacket or sweater. The average temperature in Baltimore in October ranges from a high of 66 degrees to a low of 45 degrees.

Dietary Restrictions
If you have any dietary restrictions, please indicate so during registration or by e-mail to Jennifer Idrovo at Jennifer.Idrovo@americanbar.org by Wednesday, October 4, 2017, 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 program, please call Jennifer Idrovo at (312) 988-5625 by Wednesday, October 4, 2017.

Achieving Carbon Neutrality
Calculated with great care, the Section estimates that the average 25th 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 on panels that represent tribal interests, NGO’s, and academics. To assist these speakers with the expense of attending 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.
25th Fall Conference

BALTIMORE

OCTOBER 18-21, 2017

Baltimore Marriott Waterfront

EARLY BIRD REGISTRATION DEADLINE
Friday, September 8, 2017

HOUSING DEADLINE:
Tuesday, September 26, 2017

DOWNLOAD OUR EVENT APP!
Visit http://ambar.org/environapp or search for SEER ABA in the App Store or Google Play

Manage your schedule. Engage with other attendees. Grow your network.