

Sustainability at Law Firms

By

William R. Blackburn

Conference and Webinar:

***Sustainability: How values-driven law firms
are surviving tough times and prospering over the long term***

The American Bar Association's
Section of Environment, Energy and Resources (SEER)
and the
Chicago-Kent College of Law
November 3, 2010,
Chicago, IL

Defining Sustainability Obligations

--Global Multistakeholder Perspective

- **Going beyond *Brundtland* definition**
- ***Implied expectations*** (GRI, CSR Reports)
- ***Express expectations*** of global stakeholders
 - **2008 Conference Board study**
 - **Voluntary standards** (UNGC, ISO 26000, Ethos Indicators, STARS, Star Community Index, industry standards, etc.)
 - **Mandatory integrated reporting standards** (UK, S. Africa, France, Sweden, Denmark, et al.)

Defining Sustainability Obligations

—Common Topics*

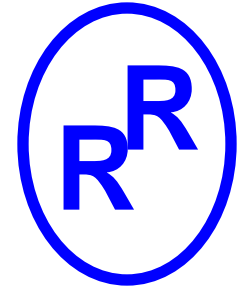
- Governance** (oversight structures for legal and ethical compliance and risk control)
- Human Rights** (civil rights, nondiscrimination, etc.)
- Labor Practices** (wages, working conditions, etc.)
- Environmental Issues** (pollution, energy and resource conservation, biodiversity, etc.)
- Fair Operating Practices** (anti-corruption, fair competition, etc.)
- Consumer Issues** (fair marketing, consumer safety, etc.)
- Community Involvement & Development**
- Economic Viability of the Organization**



*Based on the GRI reporting guidelines and ISO 26000 SR standard

General Definition of Sustainability

“The 2 Rs”



Values-driven management based on---

- **Respect:** for people and other living things
- **Resources:** the wise use of economic and natural resources

—for the purpose of sustaining and promoting the long-term well-being of the organization and society (including the environment).

Some Observations About Sustainability

- Sustainability is not about one thing.
- The business case for sustainability is really the business case for a process that looks at sustainability trends and issues and prioritizes among the opportunities and threats to an organization to select those for action that contribute the most value.

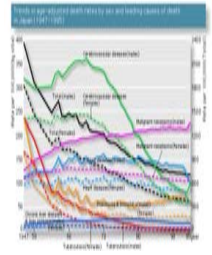


Common Business Threats & Opportunities

Threats	Opportunities
-Legal	-Productivity, cost
-Financial	-Employee relations
-Reputational	-Reputation
-Competitive	-License to operate, community appeal
-Operational	-Sales, new markets, customer appeal
	-Innovation, new products and services



Sustainability Trends



Conditions

- Growth in Global Business Competition
- Speed of Communications/ Digital Divide
- Widening Prosperity Gap (Health, Income, Services)
- Population Growth
- Serious Disease
- Mental Health Problems
- Increased Immigration; Lower Fertility in Industrialized Nations
- Hunger and Malnutrition
- Child and Forced Labor
- Education Needs for the Disenfranchised
- Urbanization
- Over-consumption of Resources
- Obesity; Poor Food Nutrition
- Fossil Fuel Depletion
- Climate Change
- Deforestation
- Threats to Biodiversity
- Fresh Water Depletion/Water Contamination
- Wetlands Destruction
- Fish Depletion
- Coral Reef Destruction
- Spread of Hazardous Pollutants
- Declining Soil Quality
- Ozone Depletion
- Declining Corporate Credibility

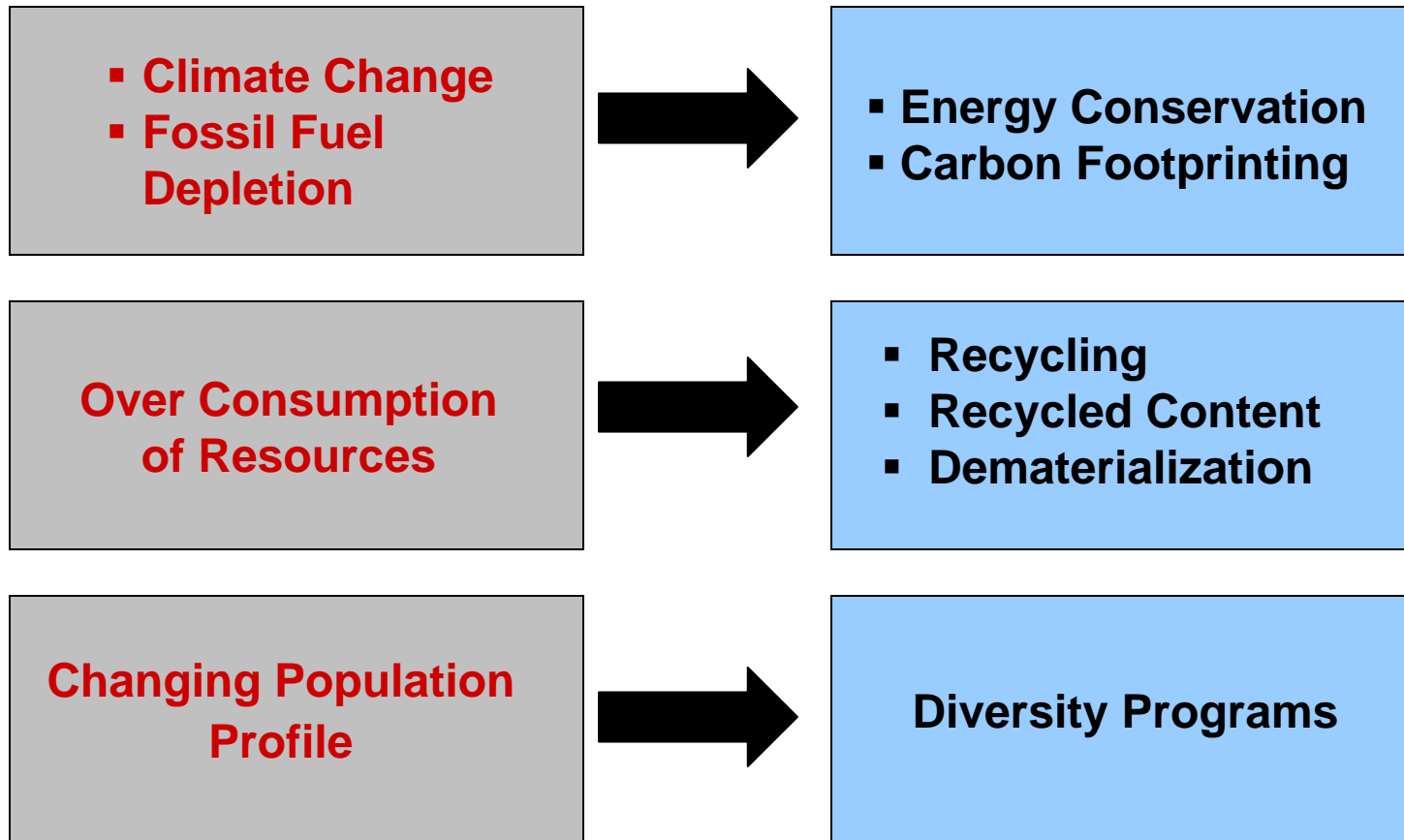
Responses

- **Opposition to Globalization**
- **Extended Producer Responsibility**
- **Green Products**
- **Green Marketing/Labeling**
- **Green Product Certification**
- **Rise in Socially Responsible Investing**
- **Investor Concerns about Corporate Governance**
- **Increased Demands for Transparency/ Public Reporting**
- **Growing Power of NGOs/CSOs**
- **Increasing Global Terrorism**

Sustainability Trends Drive Response of Organizations

Trend

Response



Why are companies/clients going Green??



Top Reasons For Increased Focus on Sustainability by Companies

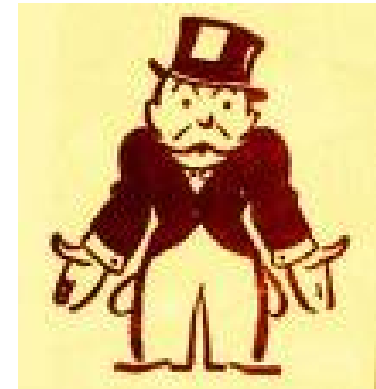
(Source: 2007 Conference Board study of 18 major corporations.)

1. Reputation, brand
2. Stakeholder pressure (esp. customers)
3. Reduce waste (and costs), increase productivity
4. Employee morale, motivation and recruitment
5. Peer pressure (competitors, high-visibility companies)

WHY?

Sustainability Issues in Tough Economic Times

- Financial viability** of the organization, its suppliers and key customers
- Waste/energy reduction** (cost)
- Cost-efficient products**
- Employee relations**
- Safety**
- Ethics**
- Support for the unfortunate**

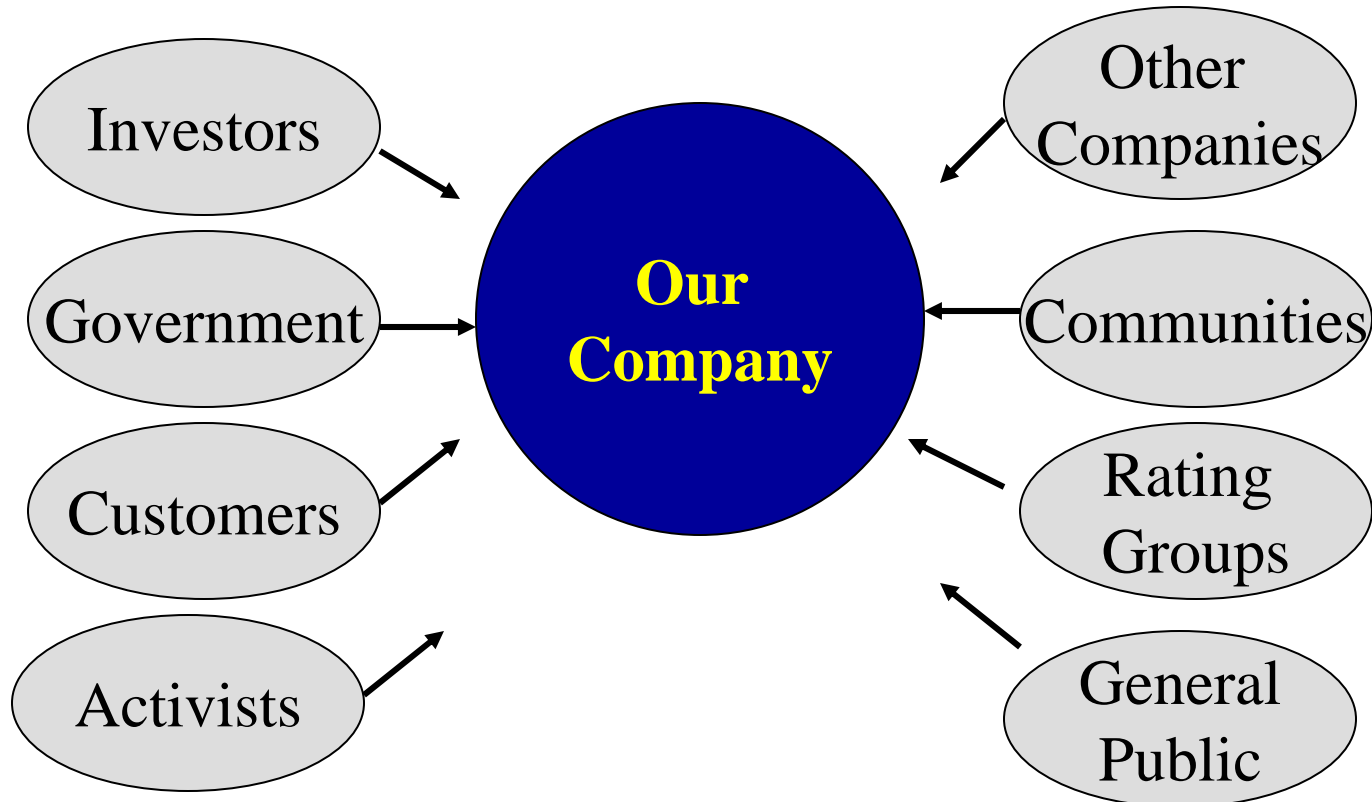




Two Benefits for Organizations in Proactively Seeking Sustainability

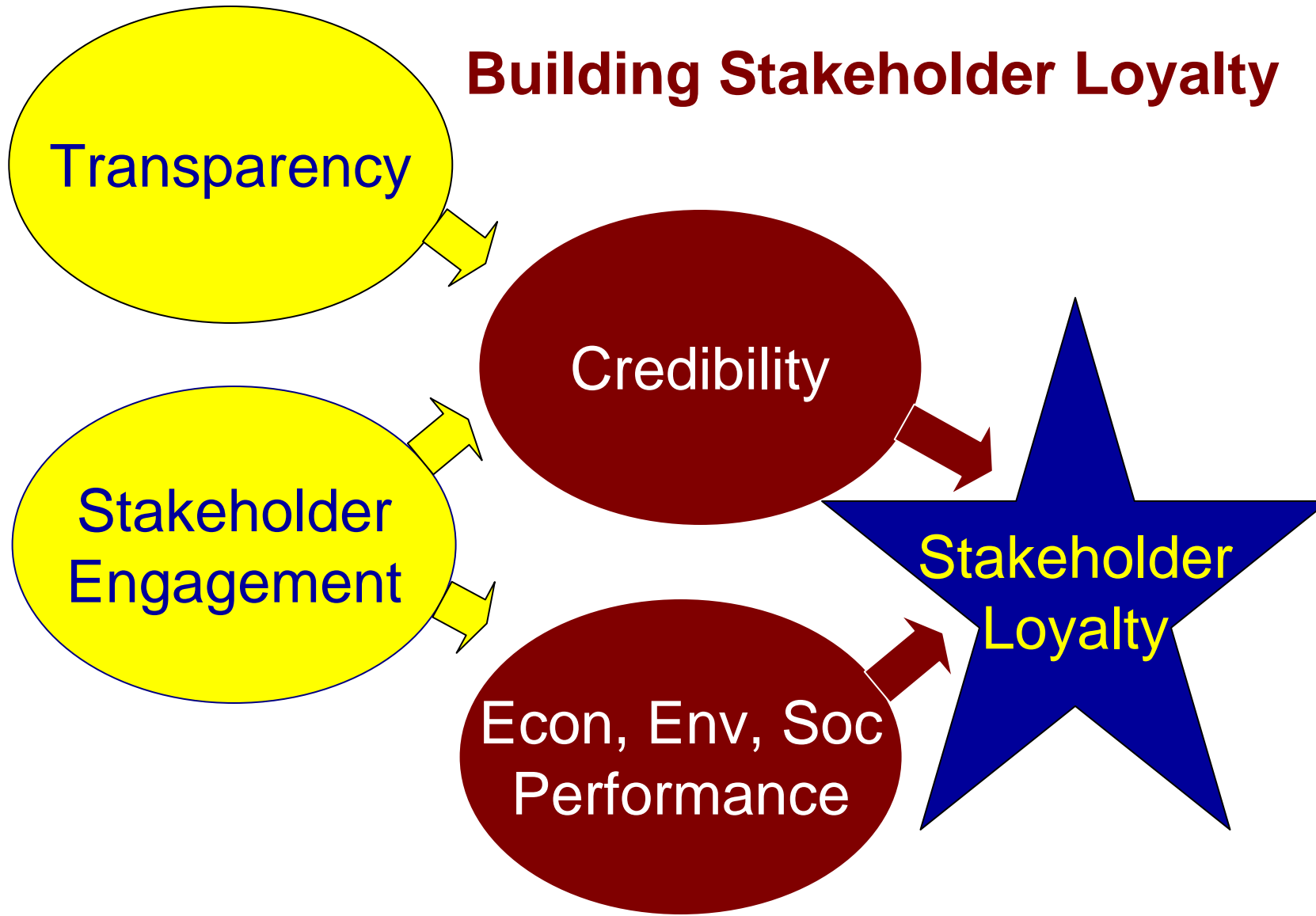
1. Long-term financial viability
2. Loyalty of key stakeholders

Business Needs the Loyalty of Key Stakeholders to Be Successful





Building Stakeholder Loyalty



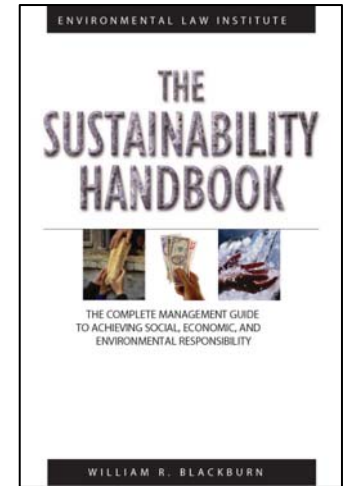
Large corporations are beginning to see the strategic importance of sustainability.

e.g., Wal-Mart vice president of strategy & sustainability, 2005; senior vp, 2007

WAL★MART®

***The Sustainability Handbook—
The Complete Management Guide
to Achieving Social, Economic and
Environmental Responsibility***

(See www.WBlackburnConsulting.com)



What can your law firm do?



1. Read “*Sustainability: How values-driven law firms are surviving tough times and prospering over the long term*” (ABA Law Practice Today website)
2. Endorse the ABA SEER Sustainability Framework
3. Encourage your state/local bar to link with the ABA Multi-state Forum
4. Promote sustainability practices
5. Develop own tools as needed

Why Firms Want a Model Policy?

WHY?

- ❑ Personal values of partners, employees
- ❑ Progressive management planning structure
(e.g., Levenfeld Pearlstein, LLC)
- ❑ Save money; improve productivity
- ❑ Elevate “brand” with clients, recruits, public, using an approach from a respected third party (ABA)
- ❑ Align with clients
 - Client public reporting and standards (corporate, city, university)
 - Product standards (sustainable agriculture, fisheries, forestry, etc.)
 - Socially responsible investing

ABA SEER Sustainability Framework for Law Organizations: Contents

See <http://www.abanet.org/environ/committees/climatechange/>

1. **FAQs, background, rationale**
2. **Model sustainability policy**
(TBL: economic, social, environmental)
3. **Implementation guidelines** (suggested processes)
4. **Practices ideas**
 - a. **Shared Ideas List** (from firms, etc.)
 - b. **References** (includes ABA and state bar tools, city-developed lists of practices and other resources)



Model Sustainability Policy for Law Organizations

Vision: It is in the best interests of our law organization and society as a whole that our organization move along the path to sustainability, that is, the so-called Triple Bottom Line of social, economic and environmental responsibility. To that end, we will strive to achieve the following vision of performance, publicly communicate this commitment, and periodically report our progress and challenges in fulfilling it.

To identify practices and programs to help implement this policy, we will give due consideration to the relevant policies, programs and other tools of the ABA and state and local law and governmental organizations, and will publicly cite in our policy below or elsewhere those major initiatives we embrace.

1. Economic success: the wise use of financial resources

a. Organization's Economic Prosperity. Our organization will be positioned to survive and prosper economically.

b. Community's Economic Prosperity. We will help our community survive and prosper economically through the taxes, salaries, and suppliers we pay, and through our civic and philanthropic efforts.



2. Social responsibility: respect for people

- a. **Respect for Employees.** We will treat those within each level of our workforce in a respectful way, especially with regard to compensation and benefits; promotion; training; open, constructive dialogue with management; working conditions that are safe and healthy; employment-termination practices; and encouraging wellness and appropriate work-life balance.
- b. **Diversity, Fair Hiring Practices.** We will promote diversity and use hiring practices for our employees, management board, and suppliers that are fair and responsible and do not discriminate on the basis of factors such as gender, sexual orientation, religion, age, disability, ethnicity or race, that are unrelated to the requirements of the job,
- c. **Responsible Governance; Professional Courtesy.** We will manage our risks properly, use our economic power responsibly, and operate our organization in a way that is ethical and legal. We will treat with due respect others who are involved with us in the discussion of legal issues and resolution of legal claims.



2. Social responsibility: respect for people-cont.



- d. **Dealing With Clients.** We will embrace our primary legal and ethical duty to serve our clients honestly and effectively. We will compete fairly for their business, respect their privacy and confidentiality, and provide them efficient and effective services under the conditions we promise.
- e. **Awareness and Advice.** We will help raise the awareness of our employees about sustainability issues in the primary fields of our legal practice, and include consideration of such issues in the advice we provide our clients.
- f. **Well-being of Stakeholders.** We will work collaboratively with stakeholders in our community to enhance the well-being of others through pro bono legal services, other voluntary efforts, philanthropy, and/or other ways.

3. Environmental responsibility: respect for life; the wise management and use of natural resources



- a. **Resource and Energy Conservation.** We will conserve our use of natural resources and energy to the extent practicable.
- b. **Waste and Pollution Prevention and Management.** We will reduce to the extent practicable the quantity and degree of hazard of the wastes we generate from our operations, and handle them in a safe, legal, and responsible way to minimize their environmental effects. We will also reduce to the extent practicable the direct and indirect emissions of greenhouse gases and other harmful air pollutants from our operations and travel.
- c. **Reduction of Supply Chain Impacts.** We will work with others in our supply chain to the extent practicable to help reduce adverse environmental impacts and risks associated with our operations and optimize environmental benefits,

ABA SEER Framework Tool Development Process

- ❑ Conference Board corporate model policy; 16 drafts
- ❑ CCSDE Working Team
(approx 20 lawyers)
- ❑ 12 pilot firms; 2008 workshop
- ❑ ABA, state bar, and city implementation tools
- ❑ Other feedback from ABA & state bar groups,
sustainability experts, et al.
- ❑ CERES statement of support October 2010



Supporting ABA Groups

❑ **Climate Change, Sustainable Development & Ecosystems Committee of the Section of Environment, Energy & Resources (leader)**

❑ **Key supporters:**

- SEER Council
- Standing Committee on Environmental Law
- Law Practices Management Section



❑ **Other involved groups (tools, review & comment, etc.)**

- Pro Bono Legal Services
- Diversity; Women in the Profession
- Professional Responsibility/Ethics
- Labor
- Business
- Science & Technology
- Young Lawyers, Law Students

How to become a listed endorser?

1. **Submit request to be listed to CCSDE Committee**
2. **Adopt model policy (default) or comparable TBL policy**
3. **Evaluate current status** (see References tools and Shared Ideas List)
4. **Develop action plan** identifying what you intend to improve
5. **Periodically report progress, programs** starting within 2 years (link to own website?)
6. **Publicize on ABA SEER website**

HOW?

Framework Pilot Firms/Endorsers

- Ballard Spahr LLP
- Berg Hill Greenleaf & Ruscitti LLP
- Giarmarco, Mullins & Horton
- Holland & Knight LLP
- Levenfeld Pearlstein, LLC
- Manko, Gold, Katcher & Fox, LLP
- McMahon DeGulis, LLP
- Nixon Peabody LLP
- Porter Wright Morris & Arthur LLP
- Robinson & Cole LLP
- Schwabe Williamson & Wyatt
- Smith Freed & Eberhard P.C.
- Sonnenschein Nath & Rosenthal, LLP



Action by State and Local Law Orgs

- ❑ **California Bar's *Lawyers Eco-Pledge* and *Green Guidelines*:** Practices
- ❑ **Massachusetts Bar's *Lawyers Eco-Challenge* and *Green Guidelines*:** Practices
- ❑ **Pennsylvania Bar's *Pennsylvania Lawyers United for Sustainability (PLUS)* Program:** Environmental practices (being developed)
- ❑ **Oregon Lawyers for a Sustainable Future:** Miscellaneous law office environmental tools
- ❑ **Michigan, Texas, Oregon, Washington, and NY City bars:** Exploring various sustainability initiatives
- ❑ **ABA SEER:** Multi-state Law Sustainability Practices Forum (see report on ABA CCSDE website)



Some ABA Resources

<http://www.abanet.org/>

- ❑ **Allen Pusey**, managing editor, ABA Journal (facilitator)
- ❑ **Pamela McDevitt**, director, ABA Law Practices Management Section
- ❑ **John Dernbach**, professor and director, Environmental Law Center, Widener University Law School; member, ABA Environment, Energy & Resources Council
- ❑ **Robin Rone**, director, ABA Council for Racial and Ethnic Diversity in the Educational Pipeline and the ABA Commission on Sexual Orientation and Gender Identity
- ❑ **George Kuhlman**, ethics counsel and associate director, ABA Center for Professional Responsibility
- ❑ **Cheryl Zalenski**, director, ABA Center for Pro Bono