

Environmental, Energy, & Resources Law

32nd Fall Conference

October 23-25, 2024

Seattle



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AMERICAN BAR ASSOCIATION

Environment, Energy,
and Resources Section

32nd Fall Conference

October 23-25, 2024 | Seattle

About the Conference

Seattle will be the vibrant host city for the Section of Environment, Energy, and Resources' 32nd Fall Conference, October 23-25, 2024. The conference is an opportunity to hear from leading practitioners and to learn about the challenges and opportunities shaping environment, energy, and resources law. During the conference, you will be able to leverage professional development opportunities, connect with industry experts, and stay informed about trends.

The 32nd Fall Conference features engaging discussions with leaders in environmental, energy, and resources law, including state and federal regulators, leading scholars, and in-house counsel. Each day will kick off with a plenary session, such as exploring the emergence of AI and its implications for environment, energy, and resources law, and the impact of recent Supreme Court decisions.

The conference agenda is diverse, providing updates on the Clean Water Act and Clean Air Act. A hypothetical industrial accident will focus on managing key roles in responding to the accident. Attendees will gain an understanding from energy practitioners as they delve into environmental justice considerations and the permitting process for energy and environmental projects and the strategic siting of renewable energy projects. Climate change remains a pressing concern, and panel discussions will explore recent climate litigation and the ramifications of climate change on water availability. Hear from panelists as they address Tribal considerations in the areas of treaty rights and co-management of state and federal lands and natural resources. Additional topics to be examined include dam removal developments, contaminated waterways cleanups, the impacts of regulatory requirements on supply chain logistics, the emergence of contaminants such as microplastics and 6PPD, and the evolving landscape of Environmental, Social, and Governance (ESG) and climate disclosure practices.

Experience firsthand this enriching event, where you'll gain insights from top practitioners, build valuable connections, and be inspired by peers in the environmental, energy, and resources law community. We'll see you in Seattle!

Section Chair

Jonathan O. Nwagbaraocha, Environment, Health, Safety & Sustainability Counsel and Compliance Leader, Xerox Corporation, Webster, NJ

Education Officer

Kyle Landis-Marinello, Senior Legal Counsel, Vermont Electric Power Company (VELCO), Rutland, VT

32nd Fall Conference Planning Chair

Tracy Y. Williams, Clark Hill PLC, Denver, CO

Fall Conference Planning Committee

Alf Brandt, National Judicial College, Reno, NV

Apple Chapman, W.R. Grace, Columbia, MD

Sean Dixon, Puget Soundkeeper Alliance, Seattle, WA

Norman Dupont, Aleshire & Wynder LLP, Westlake Village, CA

Holli Feichko, Micron Technology, Boise, ID

Denise Fellers, Morgan Lewis & Bockius, Los Angeles, CA

Brian Ferrasci-O'Malley, Nossaman LLP, Seattle, WA

Lawson Fite, Schwabe, Portland, OR

Emily Gonzalez, Puget Soundkeeper Alliance, Seattle, WA

Ronnie Gosselin, Alston & Bird, Atlanta, GA

Kirstin Gruver, Beveridge & Diamond, Seattle, WA

Sarah Jarboe, English, Lucas, Pries & Owsley, Bowling Green, KY

Sean Kelley, Mississippi College of Law, Jackson, MS

Andrew Joseph Kihn, Oregon Bureau of Labor and Industries; Portland, OR

Sarah Roubidoux Lawson, Schwabe, Seattle, WA

Aaron Levine, National Renewable Energy Laboratory, Denver, CO

Christen Maccone, Assistant Corporation Counsel, NYC Law Department, New York, NY

Heather Lee Miller, Historical Research Associates, Seattle, WA

Tanya Nesbitt, Thompson Hine LLP, Atlanta, GA

Christina Puhnaty, Babst Calland, Pittsburgh, PA

Courtney Shephard, Brownstein Hyatt Farber Schreck, Denver, CO

Alyssa Sloan, Crowe & Dunlevy, Oklahoma City, OK

Glenda Valdez, Federal Energy Regulatory Commission, Washington, DC

Hayden Wyatt, Lewis & Clark Law School, Portland, OR

Hannes D. Zetsche, Baird Holm LLP, Omaha, NE

About ABA SEER

The American Bar Association Section of Environment, Energy, and Resources (ABA SEER) fosters the success of a diverse community of environmental, energy, and resources lawyers, advisors, decision-makers, and students and provides a premier forum for the exchange of ideas and information. SEER is a meeting place where practitioners can find the most current and sophisticated analyses of the complicated issues facing their practice.

Diversity, Equity, Inclusion, & Belonging Mission and Goals

The Section of Environment, Energy, and Resources is committed to enhancing and promoting diversity, equity, inclusion, and belonging within the Section and within the environmental, energy, and resources (EER) bar overall. SEER understands that a diverse Section and EER bar—made up of people of color; women; LGBTQ+ persons; persons with mental, physical, and sensory disabilities; younger attorneys; as well as attorneys from the government, non-profit, academia, and solo-practice sectors—add great value to the legal profession. Learn more at Wednesday's Beginnings and Belonging Reception.

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Schedule at a Glance

All times listed in Pacific Time

Wednesday, October 23, 2024

11:30 a.m. – 12:30 p.m. DEIB-in-Action Lunch
1:00 p.m. – 4:00 p.m. Public Service Project
6:00 p.m. – 6:30 p.m. First-Time Attendee Reception
6:30 p.m. – 8:00 p.m. Beginnings & Belonging Reception

Thursday, October 24, 2024

7:30 a.m. – 9:30 a.m. Continental Breakfast
8:15 a.m. – 8:45 a.m. Keynote Address
9:00 a.m. – 10:30 a.m. SCOTUS v. Administrative Agencies: The Continuing Battle of “Who Decides”
10:30 a.m. – 11:00 a.m. Networking Break
11:00 a.m. – 12:15 p.m. Concurrent Breakout Sessions

- Boldt Into the Future? From Treaty Rights to Climate Change: Examining the Evolution and Future Application of the Boldt Decision on Its 50th Anniversary
- Natural Collectors of Industrial Wastes: Questions of Concern for Cleaning up Contaminated Waterways
- Supply Chain Logistics: How to Keep up With Increasing Regulatory Requirements and Restrictions on Global Supply Chains

12:15 p.m. – 1:30 p.m. Committee Interest Area Lunch
1:45 p.m. – 2:15 p.m. Expert Insights Panel (Non-CLE)

- AlterEcho
- Geosyntec

2:30 p.m. – 3:45 p.m. Concurrent Breakout Sessions

- Renewable Energy Projects—Just Not in My Backyard
- A River Runs Through It: Climate & Conflict
- Change in the Air—How EPA is Using the Clean Air Act to Manage Greenhouse Gas Emissions in 2024

3:45 p.m. – 4:15 p.m. Networking Break
4:15 p.m. – 5:30 p.m. Concurrent Breakout Sessions

- Badda-bing Badda-bang Badda BOOM—Managing Key Players During Environmental Fallout
- Here Be Dragons: Perils and Promise at the Frontiers of Climate Litigation
- Woe is Me: WOTUS Fatigue, Sackett Sea Change, and Maui Mayhem

5:30 p.m. – 7:00 p.m. Local Flair Reception
7:00 p.m. – 9:00 p.m. Conference Dine Arouds

Friday, October 25, 2024

7:00 a.m. – 7:45 a.m. SEER Run Club
7:30 a.m. – 9:30 a.m. Continental Breakfast
8:30 a.m. – 9:00 a.m. Keynote Address
9:15 a.m. – 10:45 a.m. An AI Odyssey: How Practitioners Are Leveraging Artificial Intelligence
10:45 a.m. – 11:15 a.m. Networking Break
11:15 a.m. – 12:30 p.m. Concurrent Breakout Sessions

- Something Borrowed, Something Blue: Contaminants Old and New
- A Fish Swims into a Wall and Says... How Dam Removal is Changing the Tides of Law
- Lost at Sea? Navigating the Evolving ESG and Climate Disclosure Landscape

12:30 p.m. – 1:45 p.m. Awards Lunch
2:00 p.m. – 2:30 p.m. Expert Insights Panel (Non-CLE)

- FTI Consultants
- Ramboll

2:30 p.m. – 2:45 p.m. Transition Break
2:45 p.m. – 4:00 p.m. Concurrent Breakout Sessions

- The Changing Landscape of Climate and Environmental Justice Considerations When Permitting Energy and Environmental Projects
- 6PPD in Tires: Developing Regulations, Evaluating Alternatives, and Assessing Suitable End-of-Life Tire Options
- Tribal Co-Management of State and Federal Lands and Natural Resources

4:00 p.m. – 4:15 p.m. Transition Break
4:15 p.m. – 5:15 p.m. The Ethics of Diversity, Equity, Inclusion, and Belonging

Saturday, October 26, 2024

8:00 a.m. – 9:00 a.m. Fall Leadership Day Breakfast (Everyone is welcome to attend)
9:00 a.m. – 11:00 a.m. Fall Leadership Meeting (Committee Chairs and Vice Chairs)
11:00 a.m. – 12:00 p.m. Fall Council Meeting
12:00 p.m. – 1:00 p.m. Lunch
1:00 p.m. – 5:00 p.m. Fall Council Meeting (cont.)
6:30 p.m. – 9:30 p.m. Fall Council Dinner (Ticketed Event)

Conference Agenda

All times listed in Pacific Time

Wednesday, October 23

11:30 a.m. – 12:30 p.m.

DEIB-in-Action Lunch

This is a targeted networking event geared towards diverse law students, recent graduates, and entry-level attorneys interested in environmental, energy, or natural resources law. This lunch provides a unique opportunity for attendees to receive advice and candid insights from diverse attorneys practicing in their field of interest. To attend please [sign up](#) when registering.

1:00 p.m. – 4:00 p.m.

Public Service Project

Support the local Seattle community by joining fellow conference attendees on a public service project! The project will begin with a visit to the Duwamish Longhouse and Cultural Center, where attendees will learn about environmental justice issues impacting communities near the Duwamish River. Then, attendees will assist with a cleanup/landscape maintenance project near the Duwamish Longhouse. Transportation, lunch, and a commemorative t-shirt will be provided. To volunteer for the public service project, please sign up when registering.

6:00 p.m. – 6:30 p.m.

First-Time Attendee Reception

Mingle with Section leaders, fellow first-time attendees, and students from our Environmental Law Society Network, while learning more about Section programs and initiatives.

6:30 p.m. – 8:00 p.m.

Beginnings & Belonging Reception

Kick off the conference with food, drinks, and friends old and new. The reception will also highlight the Section's diversity, equity, inclusion, and belonging work. Meeting registration will be open, so you can also pick up your name badge and conference materials.

Thursday, October 24

8:15 a.m. – 8:45 a.m.

KEYNOTE ADDRESS: Justice Stephens

But I Went to Law School to Avoid Science! How Scientific Literacy Makes Judges Better Decisionmakers

In today's environmental litigation, judges need science. For many years, our keynote presenter, Washington Supreme Court Justice Debra L. Stephens, has led development of science education programs for judges, both in Washington State and nationally through the nonprofit, National Courts and Sciences Institute. Today, she serves as one of the "Conveners" of the National Judicial College (NJC) Dividing the Waters Program. In a conversation with NJC's Alf W. Brandt, Justice Stephens will share her insights on the importance of science to the job of a judge. She will offer her "lessons learned," for both judicial education and environmental lawyers who put scientists on the stand.

Alf W. Brandt (Moderator), Associate Director of Justice Solutions and Innovation, The National Judicial College, Reno, NV

Debra L. Stephens, Justice, Washington State Supreme Court, Tumwater, WA

9:00 a.m. – 10:30 a.m.

SCOTUS v. Administrative Agencies: The Continuing Battle of "Who Decides"

This past year the Supreme Court tackled and trimmed the power of many federal administrative agencies. It ruled on the 40-year-old doctrine of deference to agencies (*Chevron*), on expanding the time period for challenging final agency rules (*Corner Post*), and on the constitutional limits of agency use of administrative law judges (*Jarkesy*). Finally, the Court suggested that it might strike an EPA rule based solely on its lack of application to all states regulated by the "good neighbor" statutory policy (*Ohio v. EPA*). What should a lawyer practicing in federal courts take away from this increased judicial scrutiny of agency power? How might this battle impact lawyers dealing primarily with state-regulatory agencies? The panel will discuss both intellectual and practical implications of the Court's 2023 Term decisions and pending cases in the 2024 Term.

Panelists

Howard Kenison (Moderator), Jones & Keller, P.C., Denver, CO

Sanne Knudsen, Professor of Environmental Law, University of Washington School of Law, Seattle, WA

Kannon Shanmugam, Paul Weiss LLP, Washington, DC

Ethan Shenkman, Arnold & Porter LLP, Washington, DC

Panel Liaison: **Norman Dupont**, Aleshire & Wynder LLP, Westlake Village, CA

11:00 a.m. – 12:15 p.m.

CONCURRENT BREAKOUT SESSIONS

Boldt Into the Future? From Treaty Rights to Climate Change: Examining the Evolution and Future Application of the Boldt Decision on its 50th Anniversary

Dating back to the 1800s, treaties between Indigenous communities and the state of Washington preserved Indigenous economic and cultural interests in fishing. By 1970, however, decades-long tensions between commercial fishing interests and indigenous fishing collided in a lawsuit in the Western District of Washington. In 1974, federal District Judge George Hugo Boldt held that Indigenous communities are sovereign nations, entitled to salmon allotments stemming from treaty agreements signed a century prior. Affirmed by the Ninth Circuit, the “Boldt Decision” set the stage for federal courts, across the nation, to recognize and expand tribal treaty rights, on a wide range of issues, from criminal law enforcement to highways and state taxes. As the impacts of climate change continue to diminish the country’s natural resources, Indigenous communities must continuously work to maintain their stake in resource allocation. This panel will examine the future of Indigenous treaty rights and the application of the decision in a new world order grappling with the impacts of climate change.

Panelists

Nakia Arrington, Van Ness Feldman, Washington, DC

Charlie Galbraith (Moderator), Jenner & Block, Washington, DC

Joe Panesko, Senior Counsel, Washington State Attorney General’s Office, Olympia, WA

Lauren Rasmussen, Law Offices of Lauren P. Rasmussen, PLLC, Seattle, WA

Panel Liaison: **Tanya Nesbitt**, Thompson Hine LLP, Atlanta, GA

Natural Collectors of Industrial Wastes: Questions of Concern for Cleaning Up Contaminated Waterways

Today’s heavily contaminated waterways are the legacy of a century or two of industrial development. Thousands of the country’s largest companies and militarily strategic industries have lined their shores, fueling local, regional, state, and national economies on both the small and large scale. These entities also knowingly or unknowingly dumped, discharged, or spilled into these waterways immeasurable amounts of contaminants of concern new and old. As such, the country’s largest waterways have either been or currently are in the throes of cleanup, typically under the requirements and process of the Comprehensive Environmental Response, Compensation, and Liability Act and other federal laws and local environmental regulations. Panelists at this session will address questions that often arise related to these complex sites: What are the Natural Resource Damage implications of these sediment sites? Should potentially responsible parties participate in allocation proceedings versus litigation? What are the impacts of emerging chemicals on these sites? The panel will address these and other questions that may arise throughout the remediation process.

Panelists

Chris Baird (Moderator), Headwaters Law Group, Seattle, WA

James Graves, Graves Environmental Law PLLC, Seattle, WA

Holly McChesney, Principal Scientist, Arcadis U.S., Inc, Sewickley, PA

Shoshana Schiller, Manko Gold Katcher & Fox LLP, Bala Cynwyd, PA

Panel Liaison: **Heather Lee Miller**, Historical Research Associates, Seattle, WA

Supply Chain Logistics: How to Keep up With Increasing Regulatory Requirements and Restrictions on Global Supply Chains

Increasingly more jurisdictions are imposing regulatory requirements on product materials and product sourcing, which increases and complicates the compliance pathway for many companies. Some jurisdictions are imposing mandatory disclosure and due diligence requirements relating to sustainability, human rights, and responsible sourcing—requirements that have cross-border implications for companies with global supply chains. For example, in 2021, the United States enacted the Uyghur Forced Labor Prevention Act, which is aimed at preventing goods made with forced labor from entering the United States. At the

same time, U.S. state and federal governments are imposing material restrictions on products, which are intended to reduce exposure to certain materials, such as Washington State's Safer Products for Washington law. This law prohibits or limits the use of certain materials in certain products, which can impact product design, sourcing, and availability, as well as disclosures. Jurisdictional differences add yet another layer of complexity, making it vital for companies with global supply chains to understand these different requirements and how they intersect. Attendees will gain a better understanding of the current and future landscape of supply chain due diligence requirements and material restrictions regulations, how these two regulatory schemes interact, and how to navigate compliance with different requirements.

Panelists

Leigh Anne DeWine, Director of Social Responsibility, Amazon, Seattle, WA

Juge Gregg (Moderator), Crowell & Moring LLP, Washington, DC

James Pollack, Marten Law, Seattle, WA

Brian Rybarik, Senior Director, Supply Chain Integrity, Microsoft, Redmond, WA

Panel Liaison: **Kirstin Gruver**, Beveridge & Diamond, Seattle, WA

12:15 p.m. – 1:15 p.m.

Committee Interest Area Lunch

1:45 p.m. – 2:15 p.m.

Expert Insight Panel presented by AlterEcho (Non-CLE)

Good Old-Fashioned Lead: Not as Sexy as PFAS, Still a Big Environmental Headache

Lead doesn't get nearly the ink that PFAS gets these days when it comes to environmental contamination, but don't fret: getting the lead out of soil, water and air at remediation sites is still big business. From contaminated soil to lead dust and tainted drinking water, EPA is refocusing efforts on a persistent pollutant that threatens public health and private development nationwide—including environmental justice communities overburdened by multiple lead sources. AlterEcho scientists talk about new approaches to an old environmental problem.

Presented by:

Mark McDaniel, Expert Chemist, AlterEcho, Denver, CO

Rob Young, PG, Vice President, AlterEcho, Chicago, IL

Expert Insight Panel presented by Geosyntec (Non-CLE)

Transitioning from Fossil Fuels to Low-Carbon Energy: Challenges and Opportunities

Global energy transition from fossil fuels to low-carbon energy is being driven by climate change policy initiatives and environmental sustainability concerns. Billions of dollars are being invested in clean energy solutions. For example, regional clean hydrogen hubs, designed to establish economically viable, and socially equitable clean energy ecosystems, have been funded by the Bipartisan Infrastructure Law and development is underway. Large-scale energy transition projects focused on hydrogen, sustainable and electronic fuels, bioenergy, renewables, and carbon capture, utilization, and storage are being funded and developed to meet market and policy objectives. Opportunities for the legal community include assistance with siting, permitting, environmental justice, community engagement, supply chain challenges, and liability issues. Inevitably, litigation and technical support will be needed as developers, producers, off-takers, and other stakeholders navigate challenging issues through the project lifecycle and into operations. This Expert Insight Panel will explore these challenges and opportunities for our collective environmental community.

Presented by:

Lori Carter, Sr. Principal, Geosyntec Consultants

2:00 p.m. – 2:30 p.m.

Networking Break

2:30 p.m. – 3:45 p.m.

CONCURRENT BREAKOUT SESSIONS

Renewable Energy Projects—Just Not in My Backyard

Efforts to build geothermal, solar, and wind projects face potential litigation and regulatory challenges as renewable energy deployment continues to increase at a rapid pace. Support for and opposition to renewable energy project development can occur whether projects are subject to federal, state, and/or local jurisdiction. This panel will discuss opportunities, challenges, and lessons learned from siting renewable energy projects, which often implicate other infrastructure projects. This panel will address recent issues related to project development on federally-managed lands and waters, as well as navigating state and local considerations in pursuit of electricity sector decarbonization goals.

Panelists

Joe Fitzgibbon, Majority Leader, Washington State House of Representatives, Olympia, WA
Leslie Hill, Senior Advisor, Energy, Minerals and Realty Management Directorate, Bureau of Land Management, Snohomish, WA
Manisha D. Patel (Moderator), Deputy Executive Director, Federal Permitting Improvement Steering Council, Washington, DC
Kat B Savage, Hinckley Allen & Snyder LLP, Providence, RI

Panel Liaison: **Aaron Levine**, National Renewable Energy Laboratory, Denver, CO

A River Runs Through It: Climate & Conflict

Climate change has transformed water management in the West. The snowpack that used to deliver water to agriculture into the summer has disappeared. Columbia River salmon runs relying on spring runoff out to the ocean have suffered. Cities in the Southwest have grown exponentially, taking their full share of the Colorado River as the states carved it up a century ago. Tribes are exercising their water rights. Drought is no longer short-term. As a result, conflict seems constant. On the Columbia, the states, the Tribes, and the Federal government reached a 2023 accord on protecting salmon. In contrast, on the Colorado, the states continue their conflict over their shares of a shrinking water supply, while the Tribes fight for their place in the negotiation. This panel will examine the lessons from these two different rivers and will address how best to resolve inter-governmental conflicts, which can arise on a range of environmental issues. This panel shares the conflict-resolution lessons from the world of water, for people, farms, and the environment.

Panelists

Bob Anderson, Solicitor, U.S. Department of the Interior, Washington, DC
Bidtah N. Becker, Chief Legal Counsel, The Navajo Nation, Office of the President, Window Rock, AZ
Kate Brown, Former Governor of the State of Oregon (2015-23), Salem, OR
John Leshy (Moderator), Professor Emeritus, UC College of the Law San Francisco, San Francisco, CA

Panel Liaisons: **Alf Brandt**, National Judicial College, Reno, NV, and **Hayden Wyatt**, Lewis & Clark Law School, Portland, OR

Change in the Air – How EPA is Using the Clean Air Act to Manage Greenhouse Gas Emissions in 2024

Since the Supreme Court's landmark *Massachusetts v. EPA* decision in 2007, EPA has worked to regulate greenhouse gas emissions across mobile and stationary sources. The agency has recently accelerated those efforts and has published draft and final regulations at a breathtaking rate. This panel will discuss recent major undertakings by EPA to regulate greenhouse gas emissions from oil and natural gas production operations and midstream sources, vehicles, and across the electric generating industry. The panelists will consider the viability of EPA's recent actions in light of the rise of the major questions doctrine after *West Virginia v. EPA*; the loss of *Chevron* deference; and an administration change in 2025.

Panelists

Sam Boxerman, Sidley Austin LLP, Washington, DC
Megan Herzog, Donahue, Goldberg & Herzog, Washington, DC
Cara Horowitz (Moderator), Executive Director, Andrew Sabin Family Foundation Emmett Institute on Climate Change and the Environment; Director, Frank G. Wells Environmental Law Clinic UCLA School of Law, Los Angeles, CA
Catherine Palin, Senior Attorney & Director of Environment Policy, Alliance for Automotive Innovation, Washington, DC

Panel Liaison: **Christina Puhnaty**, Babst Calland, Pittsburgh, PA

3:45 p.m. – 4:15 p.m.

Networking Break

4:15 p.m. – 5:30 p.m.

CONCURRENT BREAKOUT SESSIONS

Badda-bing Badda-bang Badda BOOM—Managing Key Players during Environmental Fallout

Companies managing fallout from environmental catastrophes must maneuver and engage multiple parties on multiple fronts, under the microscope of social media coverage. From initial emergency response and reporting obligations to state and federal agencies, notifying shareholders of potential liabilities, and managing the traditional news and social media cycles, companies must sort through a complex landscape of legal, ethical, and corporate identity issues while ensuring that any lingering environmental issues are managed and closed.

Join the panel in walking through a company's obligations and recommended courses of action when working with key players after a hypothetical industrial accident. This panel will cover basic initial reporting requirements under the major environmental regulatory regimes, best practices on internal disclosures, and ethical obligations and legal concerns when working with and responding to external interested parties.

Panelists

Meg Blackwood, CEO, InCommunity, Atlanta, GA
Drew Brought, Spencer Fane, Kansas City, MO
Jessica Hamilton, Director, Portland Harbor Environmental, Port of Portland, Portland, OR
Carolyn McIntosh (Moderator), Squire Patton Boggs, Denver, CO

Panel Liaison: **Ronnie Gosselin**, Alston & Bird, Atlanta, GA

Here Be Dragons: Perils and Promise at the Frontiers of Climate Litigation

The advent of concerted global action to combat climate change has brought with it new waves of litigation and regulation, some aimed at governments and others aimed at businesses associated with fossil fuels. The path of litigation has diverged in different systems. Litigants in Europe, particularly within civil law jurisdictions, have obtained significant judgments on the basis of the Paris Agreement. In the United States and other common-law countries, the story is different. Although many cases have been filed, few have proceeded past the pleading stage, with preliminary jurisdictional questions consuming the lions' share of legal resources. This panel will explore the challenges and limits of climate change litigation in the United States, including state and federal litigation, regulatory issues, and what these cases reveal about the fundamental role of the legal system in our government.

Panelists

Kristi Disney Bruckner, Law & Policy Director, Initiative for Responsible Mining Assurance (IRMA), Conifer, CO
Sommer Engels, Clinical Instructor at Emmett Environmental Law & Policy Clinic, Harvard Law School, Cambridge, MA

Panel Liaisons: **Lawson Fite**, Schwabe, Portland, OR, and **Andrew Joseph Kihn**, Oregon Bureau of Labor and Industries; Portland, OR

Woe is Me: WOTUS Fatigue, Sackett Sea Change, and Maui Mayhem

A lawyer's work is never done especially when keeping up with the recent sea changes in foundational Clean Water Act (CWA) interpretations. Have no fear, this panel will dive into the most pressing water issues facing practitioners, state and federal regulators, scholars, and the regulated community. Panelists will equip attendees with an examination of the legal landscape following the U.S. Supreme Court's 2023 decision in *Sackett v. EPA*, with a fine lens on Environmental Protection Agency (EPA) and Army Corps of Engineers guidance, implementation in CWA 404 permitting, and litigation over the Waters of the United States definition. The experts will also plumb the depths of CWA jurisdiction over discharges to groundwater and how lower courts, EPA, and the States have implemented the High Court's *County of Maui v. Hawaii Wildlife Fund* decision.

Panelists

Donna Downing, Senior Legal Policy Advisor, National Association of Wetlands Managers, Portland, ME
Matt Leopold, Hunton Andrews Kurth LLP, Washington, DC
Mark Ryan (Moderator), Former Senior Counsel (Retired), U.S. Environmental Protection Agency, Winthrop, WA
Laura Watson, Director, Washington Department of Ecology, Lacey, WA

Panel Liaisons: **Sarah Jarboe**, English, Lucas, Pries & Owsley, Bowling Green, KY, and **Sean Kelley**, Mississippi College of Law, Jackson, MS

5:30 p.m. – 7:00 p.m.

Local Flair Reception

Connect with friends old and new during the Local Flair Reception while enjoying local food and drink favorites.

7:00 p.m. – 9:00 p.m.

Conference Dine Arouds

Participate in Dutch treat dinners (each person pays for their own meal). Dinner reservations have been made at several restaurants near the conference hotel. A Section leader will organize each dinner. This is a wonderful opportunity to meet new people, eat great food, join lively discussions, and even play some trivia. Information about how to sign up will be emailed to conference registrants.

Friday, October 25

7:00 a.m. - 7:45 a.m.

SEER Run Club

Join other conference attendees for a run (or walk!)

8:30 a.m. – 9:00 a.m.

Keynote Address

9:15 a.m. – 10:45 a.m.

An AI Odyssey: How Practitioners Are Leveraging Artificial Intelligence

Prepare for an expedition into the wild frontier of AI and innovation. Our panel of expert explorers, hailing from the realms of law, science, technology, government, and business, will take you on a quest to uncover the transformative potential of AI in conquering the toughest challenges in the practice of environmental, energy, and resources law, including sustainability, compliance, and reporting. Join us as we navigate the rugged terrain of data analytics, environmental stewardship, and energy efficiency amidst the tangled vines of regulatory complexity. Panelists will explore the transformative potential of AI in driving sustainability, ensuring regulatory compliance, and shaping a greener, more resilient future for generations to come.

Panelists

Justice Brooks (Moderator), Foster Garvey, Portland, OR

Heather Demirjian, Cole Schotz P.C., Hackensack, NJ

Raphael Siebenmann, Principal Information Management Specialist, Geosyntec Consultants, Atlanta, GA

Jane Wallace, Acting Director, Office of Enforcement and Compliance, Targeting and Data Division, U.S. Environmental Protection Agency, Washington, DC

Panel Liaison: **Apple Chapman**, W.R. Grace, Columbia, MD

10:45 a.m. – 11:15 a.m.

Networking Break

11:15 a.m. – 12:30 p.m.

CONCURRENT BREAKOUT SESSIONS

Something Borrowed, Something Blue: Contaminants Old and New

Although PFAS is the elephant in the “new” contaminants room, recent and pending regulatory actions address a wide variety of newer contaminants

of concern, such as microplastics, 6PPD, and 1,4 dioxane. Regulation of and litigation around “old” contaminants like lead, arsenic, or PCBs have not gone away, however, despite the current attention on new contaminants. EPA is focused on setting guidelines and rules for chemicals old and new: from the updated Soil Lead Guidance for Comprehensive Environmental Response, Compensation, and Liability Act Sites and Resource Conservation and Recovery Act Corrective Action Facilities to the Integrated Risk Assessment System draft Inorganic Arsenic Assessment and to new regulatory developments addressing PFAS. With these new regulatory actions, it is more important than ever to stay on top of the developments. This panel will discuss the impacts and implications of these new guidelines and rules from the perspective of the EPA, NGOs, and industry.

Panelists

Greg Berlin, Alston & Bird LLP, Los Angeles, CA

Leland Frost (Moderator), Kazmarek Mowrey Cloud Laseter LLP, Birmingham, AL

Kirsten McDade, North Sound Waterkeeper, RE Sources, Bellingham, WA

Cara Steiner-Riley, Senior Attorney-Advisor, Environmental Protection Agency, Office of Enforcement & Compliance Assurance, Office of Site Remediation & Enforcement, Washington, DC

Panel Liaison: **Denise Fellers**, Morgan Lewis & Bockius, Los Angeles, CA

A Fish Swims into a Wall and Says... How Dam Removal is Changing the Tides of Law

With 90,000 dams higher than head-height and over two million smaller dams, less than 2% of rivers in the United States remain free-flowing. In 1999, the removal of the Edwards Dam in Maine became a model for dam removal across the nation. Twenty-five years later, the largest dam removal project in the world is underway on the Klamath River, legislation is being proposed to protect power-generating dams on the Lower Snake River, and advocates from Alaska to Maine are calling for the removal of more dams. Panelists will explore how recent developments and advocacy for dam removal are changing the flow in the bigger field of energy and natural resources law.

Panelists

Russell Hepfer, Vice Chairman, Lower Elwha Klallam Tribe, Port Angeles, WA

Jamie Morin (Moderator), Confluence Law, Spokane, WA

Richard Roos-Collins, Water and Power Law Group PC, Berkeley, CA

Laura Zagar, Perkins Coie LLP, San Francisco, CA

Panel Liaison: **Christen Maccone**, Assistant Corporation Counsel, NYC Law Department, New York, NY

Lost at Sea? Navigating the Evolving ESG and Climate Disclosure Landscape

The mandatory and voluntary Environmental, Social, and Governance (ESG) and climate disclosure landscape continues to evolve at the international, federal, and even state levels, leaving regulators, corporations, investors, and other stakeholders wading through a fragmented morass of standards, practices, and policy considerations. As companies continue to prepare and prioritize to meet these requirements, this panel will offer insight on navigating the conflicts and overlap between the standards, explore the various political and financial pressures shaping and challenging the underlying policies, highlight the enforcement and litigation risks, and offer lessons learned from the implementation of and challenges to other disclosure regimes that may help guide companies in next steps.

Panelists

Aaron Briggs, Gibson, Dunn, and Crutcher LLP, San Francisco, CA

Katayun Jaffari, Cozen O’Conner, Philadelphia, PA

Krisann Kliebacker Lee (Moderator), Senior Corporate Counsel of ESG & Sustainability, Amazon Web Services, Seattle, WA

Valerie Wieman, Partner, PwC, New York, NY

Panel Liaison: **Holli Feichko**, Micron Technology, Boise, ID

12:30 p.m. – 1:45 p.m.

Awards Luncheon

2:00 p.m. – 2:30 p.m.

Expert Insight Panel presented by FTI Consulting (Non-CLE)

Successful Environmental Cost Recovery: Development, Documentation, and Preparation of PRP Cost Claims

A successful environmental cost recovery claim is dependent on balancing and blending forensic accounting expertise with information gleaned across several technical disciplines. This presentation will provide insights from a certified public accountant and an environmental geoscientist on how to compile and organize cost documentation into a cost recovery package that can be analyzed for cost recoverability purposes and, ultimately, submitted to PRPs and courts. It will also offer areas for consideration when

working with clients to compile cost documentation in a manner that maximizes the validity of the costs and, ultimately, the success of the claim.

Presented by:

David Scerbo, FTI Consulting, Inc., Senior Director

Jack Westphal, FTI Consulting, Inc., Managing Director

Expert Insight Panel presented by Ramboll Consulting (Non-CLE)

Strategies for Optimizing Sustainability in Major Project Siting and Development

In an era where sustainability and environmental justice are at the forefront of global discourse, navigating the complex landscape of major project siting demands a forward-thinking approach. Siting considerations must rigorously address energy, water, and air quality, as well as the impacts on local communities and natural habitats, environmental justice, the remediation of contaminated lands including brownfields and PFAS-affected sites, and the integration of biodiversity and natural capital in planning. This panel will discuss the complexities of siting with experts from several different fields including technical due diligence, sustainability, and biodiversity. Participants will gain insights into optimizing environmental and energy parameters, minimizing carbon footprint, and utilizing the mitigation hierarchy to maximize biodiversity without compromising project objectives. Ramboll’s expert consulting panel will use case studies to provide insights on how advanced technical due diligence can be effectively employed in real-world scenarios. The panel will share actionable strategies that harmonize the technical, environmental, and societal aspects of major projects to chart the course for a sustainable and responsible approach to project development.

Presented by:

Scott Shock, P.E., Principal, Ramboll, Seattle, WA

Devon Rowe, LG, LHG, Principal, Ramboll, Seattle, WA

Adriana Reynolds, MPH, Lead Environmental Justice Consultant, Ramboll, Seattle, WA

2:30 p.m. – 2:45 p.m.

Transition Break

2:45 p.m. – 4:00 p.m.

CONCURRENT BREAKOUT SESSIONS

The Changing Landscape of Climate and Environmental Justice Considerations when Permitting Energy and Environmental Projects

This panel will look at how the permitting process for energy and environmental projects is evolving to include more detailed consideration of climate change and environmental justice issues. In addition to state and local requirements, the Council for Environmental Quality recently released its “Phase 2 Rule,” which included a number of key changes in what climate change and environmental justice matters federal agencies must consider when conducting NEPA analyses. What has that meant for permitting energy and environmental projects? And what are agencies doing with the information they gather? This panel will explore how these evolving climate change and environmental justice lenses are impacting permitting for energy projects. It will also provide insights from industry and governmental perspectives on the benefits and challenges of the new Phase 2 Rule. Join us to learn some “best practices” for navigating your environmental project through the permitting landscape as cleanly as possible.

Panelists

Rebecca Hays Barho, Nossaman LLP, Austin, TX
Maxine Segarnick Keefe, Deputy Chief of Staff and Legal Counsel, United States Nuclear Regulatory Commission, Rockville, MD
Tom Sharp, Director of Permitting Intelligence, Arbo, Tucson, AZ
Endre Szalay (Moderator), K&L Gates, Seattle, WA

Panel Liaison: **Brian Ferrasci-O'Malley**, Nossaman LLP, Seattle, WA

6PPD in Tires: Developing Regulations, Evaluating Alternatives, and Assessing Suitable End-of-Life Tire Options

Since the 1960s, the chemical preservative 6PPD has been universally added to tires to protect against degradation and enhance vehicular safety. As tires deteriorate, tire wear particles are dispersed, accumulating on roads, in stormwater, and waterways. These particles contribute to microplastic and particulate air pollution, affecting the environment and human health. In 2020, researchers in Washington State identified a derivative of 6PPD that is toxic to aquatic life. The regulation of 6PPD raises many questions that also arise with other emerging contaminants: What is the most environmentally friendly and environmentally just way to reuse and dispose of a product like tires that has toxic impacts? If a product contains 6PPD or

another toxic chemical, is there an alternative that would have less impact on human health and the environment? The panel will address the evolving policy and regulatory framework for this widespread contaminant. Join us to learn crucial insights for your practice, such as how an emerging contaminant like 6PPD impacts solid waste and industrial stormwater management, transportation planning, land use planning, endangered species protections, human health, and Tribal Treaty Rights.

Panelists

Bill Beck, Lathrop GPM LLP, Kansas City, MO
Madison Rose Bristol (Moderator), 6PPD Stormwater Planner, Washington State Department of Ecology, Lacey, WA
Tracy Norberg, Executive Vice President & General Counsel, U.S. Tire Manufacturers Association, Washington, DC
Tanya Williams, 6PPD Lead Agency Planner, Washington State Department of Ecology, Lacey, WA

Panel Liaisons: **Emily Gonzalez**, Puget Soundkeeper Alliance, Seattle, WA; **Alyssa Sloan**, Crowe & Dunlevy, Oklahoma City, OK; and **Sean Dixon**, Puget Soundkeeper Alliance, Seattle, WA

Tribal Co-Management of State and Federal Lands and Natural Resources

Tribes can be an invaluable partner in the stewardship of land and natural resources, and in some cases may have a right to co-management either through treaty or federal law. This panel seeks to encourage attendees to think about partnering with tribes when developing management plans for lands and natural resources. The panel will explain the various mechanisms used to partner with tribes, including the Indian Self-Determination and Education Assistance Act and Good Neighbor Agreements. We will also discuss tribal perspectives on co-management, successful models for co-management, and explore challenges and opportunities for collaboration between state and local governments and tribes.

Panelists

Diana Bob, Native Law PLLC, Bellingham, WA
Affie Ellis (Moderator), Brownstein Hyatt Farber Schreck LLP, Cheyenne, WY
Monte Mills, Charles I. Stone Professor of Law; Director, Native American Law Center, University of Washington School of Law, Seattle, WA
Mary Neil, Senior Legal Counsel, Muckleshoot Tribe, Auburn, WA

Panel Liaisons: **Sarah Roubidou Lawson**, Schwabe, Seattle, WA; **Hayden Wyatt**, Lewis & Clark Law School, Portland, OR; and **Hannes D. Zetsche**, Baird Holm LLP; Omaha, NE

4:00 p.m. – 4:15 p.m.

Transition Break

4:15 p.m. – 5:15 p.m.

Conscious Counsel: Ethical Considerations in Environmental Justice

Environmental Justice (EJ) is omnipresent. Events such as the Warren County PCB protests marked the start of this important movement. Current policy on EJ issues includes Executive Order No. 12898, as supplemented by EO 14096, and specific initiatives by agencies including EPA, DOI, FEMA, and FERC. To what extent does a lawyer have an ethical obligation to competently learn and apply these principles under ABA Model Rule 1.1? Does the duty of competency require a further layer of expertise in Tribal issues involving sovereign entities? How does one apply the duty of communication to a client that is composed purely of “community members” and an amorphous organizational structure under Model Rule 1.6? Does Model Rule 4.4 on “respect for rights of third parties” have a unique standard in the context of EJ issues? This session will inform attendees of these and other ethical issues arising in the context of EJ policies.

Panelists

Amy L. Edwards, Holland & Knight, Washington, DC
Marianne Engelman-Lado, Deputy General Counsel for Environmental Initiatives, U.S. Environmental Protection Agency, Washington, DC

Jaelyn Lopez (Moderator), Professor, Stetson University College of Law, Gulfport, FL

Michele Okoh, Assistant Professor of Law, Lewis & Clark Law School, Portland, OR

Panel Liaison: **Glenda Valdez**, Federal Energy Regulatory Commission, Washington, DC

Saturday, October 26

8:00 a.m. – 9:00 a.m.

Fall Leadership Day Breakfast

(Everyone is welcome to attend)

9:00 a.m. – 11:00 a.m.

Fall Leadership Meeting

(Committee Chairs and Vice Chairs)

Committee chairs and vice chairs will join Section leadership and Council liaisons to share and learn about the ABA, SEER, and committee initiatives.

11:00 a.m. – 5:00 p.m.

Fall Council Meeting

The Section’s executive committee, council, and committee chairs will gather for its quarterly meeting to hear and discuss officer, council, and committee reports. All are welcome.

12:00 p.m. – 1:00 p.m.

Lunch

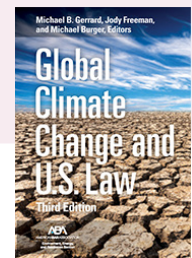
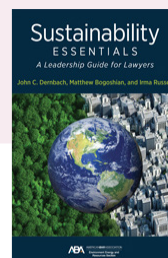
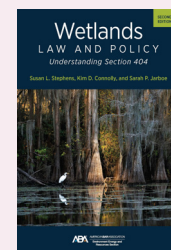
6:30 p.m. – 9:30 p.m.

Fall Conference Dinner

All are invited to join SEER leadership and members for dinner following the conclusion of the Section of Environment, Energy, and Resources’ 32nd Fall Conference and Fall Council Meeting. More information to follow. (Ticketed Event)

Books

Fall Conference registrants can save 20% on books published by the Section. Discount information will be provided after registration and onsite at the Conference. Complete your library with our latest releases!



Conference Information

Conference Registration Rates*

Section Member -----	\$860
ABA Member -----	\$955
General Attendee -----	\$1,050
Law Student -----	\$50

*If you are a council member, committee chair, or sponsor, please contact Section staff regarding potential discounts.

Registration Fees

The conference registration fee includes tuition and online course materials developed especially for this conference. In addition, your fee covers Wednesday's reception (with cash bar), Thursday's continental breakfast, breaks, luncheon, and receptions (with cash bar), and Friday's continental breakfast, breaks, and luncheon. The Fall Council Meeting is complimentary with the exception of the Saturday Council dinner, which is a ticketed event. All are welcome to attend the dinner.

How to Register

We encourage you to register online at ambar.org/SEERFall. All attendees must be preregistered for this conference to participate.

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 Thursday and Friday at the \$500 rate.

Tuition Assistance

A limited number of registration fee waivers are available for government employees, public interest

lawyers employed with nonprofit organizations, and academics. Qualifying lawyers will receive at least a 50 percent reduction in the course fee(s). To apply, complete the online application [here](#) by Thursday, **August 15, 2024**.

Law Student Volunteer Opportunity

A limited number of spots are available to law students interested in attending the entire program and helping ensure it runs smoothly. To be considered, you must be a member of the ABA Section of Environment, Energy, and Resources. This opportunity includes complimentary registration only and does not include lodging or transportation. Learn more and apply [here](#). Applications due by **Thursday, August 15, 2024**.

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 \$95 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.

Conference 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, October 1, 2024**. No refunds will be granted after this date. Cancellations may be

emailed to environ@americanbar.org. Registration fees are not transferable to other Section or ABA programs. Substitute attendees for the conference are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expenses.

Hotel Information Conference Hotel

The 32nd Fall Conference will be held at the Westin Seattle, 1900 5th Avenue, Seattle, WA 98101. A block of rooms has been reserved from October 22-26, 2024, at the discounted rate of \$249 plus tax for single/double rooms. A limited number of government rate rooms are also available at 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, October 1, 2024, at 5:00 p.m. (CT). To book our contracted rate, call the hotel directly at (206) 728-1000 or (800) 937-8461 and referring to the ABA Section of Environment, Energy, and Resources 32nd Fall Conference. Or reservations can also be made online [here](#).

Hotel Cancellation Policy

Individuals with guaranteed reservations must cancel their reservations by 72 hours prior to the scheduled day of arrival to avoid a one-night cancellation charge.

CLE Credit

The ABA will seek 10.25 hours of CLE credit in 60-minute states including 1 hour of ethics specialty CLE credit, and 12.3 hours of CLE credit for this program in 50-minute

states including 1.2 hours of ethics specialty CLE credit. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit americanbar.org/mcle for general information on CLE at the ABA.

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.

Conference Mobile App—Eventsential

The Fall Conference will use the Eventsential mobile event platform, where you can easily view the conference schedule, speakers, sponsors, and more. One week prior to the conference, registrants should watch for an email from American Bar Association (noreply@rdmobile) describing how to log into the event platform.

Book Discount

Fall Conference registrants can save 20% on books published by the Section. Discount information will be provided after registration and onsite at the Conference. Complete your library with our latest releases!

Dietary Restrictions

If you have any dietary restrictions, please indicate so during registration or by email to environ@americanbar.org by Monday, October 14, 2024, so that your needs are noted.

Dress

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

Achieving Carbon Neutrality

The Section estimates that the average Fall Conference attendee's participation will generate approximately one metric ton of carbon emissions. To help offset the conference's carbon footprint, please consider donating \$20 towards the purchase of carbon offsets when registering. The Section will purchase credits from a verified offset project. All contributions are received by ABA's Fund for Justice and Education and are tax deductible to the full extent allowed by law. Donations can be made at the time of registration or anytime online at ambar.org/DonateToSEER.

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 NGOs, 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 when you register or anytime online at ambar.org/DonateToSEER

Health & Safety

The ABA takes the health and safety of our members, guests, and staff seriously. We know that the decision whether to attend a meeting is based upon a variety of personal and business considerations. We will continue to monitor a variety of sources, including the U.S. Centers for Disease Control and Prevention (CDC) and U.S. state and local health authorities for the latest public health updates, as well as applicable restrictions on events

and gatherings. The ABA plans to hold this meeting in person but reserves the right to cancel or reschedule this event or convert it to a virtual event if health and safety restrictions require it. We will update the registrants and the website should the plans for this event change.

As part of the registration process to hold this ABA meeting in person, every attendee is required to affirm their commitment to comply with the in-person meeting guidelines. Please review the requirements carefully prior to registering for the meeting.

ABA Business Conduct Standards

Event attendees are required to review and consent to the [ABA Business Conduct Standards](#).

Photos and Recordings

Photos and recordings may be captured during this event. As part of the registration process, event attendees must review and consent to the event waiver and release of liability of images and recordings.

Americans with Disabilities Act

If any special arrangements are required for a person with a disability to attend this conference, please contact Associate Director, Rachel Rojas-Brennan at rachel.rojasbrennan@americanbar.org by Tuesday, October 1, 2024.

QUESTIONS?

Contact environ@americanbar.org with all conference-related questions.