



2020 National Clean Water Law & Enforcement Virtual Event
November 17 - 19, 2020 | 2:00 pm – 4:00 pm ET

Tuesday, November 17

2:00 – 2:45

SESSION I

Keynote Address

What Will Clean Water Law Look Like in 2021?

With a major national election in November that has the potential to significantly change the balance of power in the White House and in Congress, not to mention the ongoing environmental and economic impacts of the COVID-19 pandemic, the future of clean water law is very much up in the air as we approach the 50th Anniversary of the Clean Water Act in 2022. Join us for this keynote presentation on how recent developments, including a needed and growing focus on environmental justice issues, will impact clean water law implementation and practitioners in 2021 and beyond.

John Cruden*

Principal

Beveridge & Diamond, PC

Washington, DC

2:45 – 4:00

SESSION II

Panel Presentation

COVID-19 Legal Considerations for Clean Water Utilities

The COVID-19 pandemic has created a series of unique legal challenges for clean water utility lawyers, both in terms of in-house legal issues and environmental compliance. On the in-house front, legal questions around accommodating health requests for certain employees, setting up new telework policies, and ensuring appropriate return to work protocols are all pressing concerns. At the same time, ensuring compliance with existing Clean Water Act legal requirements has become more complicated. And the emerging science around COVID-19 surveillance testing in wastewater is raising novel legal considerations around liability and privacy concerns. This panel will help unravel many of these COVID-19 related questions and provide helpful considerations for utility lawyers.

*Confirmed Speaker

Participants

Emily Jackson*

Co-Chair, NACWA's Legal Affairs Committee
General Counsel
Metro Wastewater Reclamation District
Denver, CO

Gerald Linder*

General Counsel
Clean Water Services
Hillsboro, OR

Eric Luckage*

Chief Legal Officer
Northeast Ohio Regional Sewer District
Cleveland, OH

Jan Millington*

Deputy City Attorney
City of Springfield
Springfield, MO

Wednesday, November 18

2:00 – 3:00

SESSION III

Panel Presentation

What's Next in the Nutrient Wars – Current Litigation and Legal Developments

Nutrient impairment continues to be among the leading water quality regulatory and legal challenges facing public clean water utilities and their lawyers. Current federal litigation in Montana and Missouri involving clean water agencies have the potential to set national precedent, EPA has just released new nutrient criteria for lakes and reservoirs that will have nationwide impact, EPA Region I recently proposed a general permit to address nutrient discharges from wastewater facilities in the Great Bay watershed, and developments continue around nutrient water quality trading. This panel will examine how all of these various factors are impacting the public clean water sector.

Participants

Fred Andes*

Partner
Barnes & Thornburg LLP
Chicago, IL

*Confirmed Speaker

Jordan Wimpy*
Counsel
Mitchell Williams PLLC
Little Rock, AR

Amanda Waters*
Attorney
AquaLaw PLC
Richmond, VA

3:00 – 4:00

SESSION IV

Panel Presentation

PFAS & Clean Water –

What Clean Water Lawyers Should Know

The class of chemicals in the per- and polyfluoroalkyl substances (PFAS) family continues to garner increasing attention as efforts in Congress to further address them ramp up and EPA advances its regulatory processes. These chemicals pose unique legal and regulatory challenges for clean water utilities given their ubiquitous presence in treated wastewater and biosolids. But since POTWs are passive receivers of these chemicals, and have no role or responsibility in producing them, it is critical that public utilities not be subjected to strict legal liability mandating costly treatment. Legal experts on this panel will explain the current state of play around PFAS and what clean water utility lawyers need to know.

Participants

James Slaughter*
Principal
Beveridge & Diamond, PC
Washington, DC

Jeff Kray*
Partner
Marten Law LLP
Seattle, WA

Jane Luxton*
Partner
Lewis, Brisbois, Bisgaard & Smith LLP
Washington, DC

*Confirmed Speaker

Erica Spitzig*
Attorney
Taft Stettinius & Hollister LLP
Cincinnati, OH

Thursday, November 19

2:00 – 2:45

SESSION V

Panel Presentation

The Supreme Court Has Created a New CWA Permitting Test...Now What? And Does Anyone Actually Know What a “Functionally Equivalent” Discharge Is?

The Supreme Court’s May 2020 decision in *County of Maui v. Hawaii Wildlife Fund* created a new “functional equivalent” test to determine whether discharges that indirectly reach “waters of the US” require National Pollutant Discharge Elimination System permits. That test has sparked a whole new level of uncertainty around the scope of the NPDES program that will challenge clean water lawyers for years to come. Litigation is percolating in lower courts around the country over what this new test means, and EPA is considering providing additional clarity at the national level. This panel of experts will briefly review the current lay of the land following the High Court’s decision and discuss ramifications for the municipal clean water community.

Participants

Hilary Meltzer*
Co-Chair, NACWA's Legal Affairs Committee
Chief, Environmental Law Division
New York City Department of Law
New York, NY

Sam Brown*
Partner
Hunton Andrews Kurth, LLP
San Francisco, CA

David Chung*
Partner
Crowell & Moring LLP
Washington, DC

*Confirmed Speaker

2:45 – 4:00

SESSION VI

Panel Presentation

Developments in Clean Water Law Enforcement

The COVID-19 pandemic may have taken the national spotlight during 2020, but that doesn't mean clean water enforcement issues have left the stage. EPA and states continue to pursue enforcement actions against utilities, and even though EPA issued a temporary policy to address the challenges faced by permittees related to COVID-19, that policy has since expired while the impacts of the pandemic are still being felt. However, proposed new affordability guidance from EPA may provide important new flexibility for communities in enforcement negotiations. Round out the 2020 Virtual Law Seminar with this panel of clean water enforcement experts as they discuss recent developments all clean water lawyers should know and how to best protect your clients in today's uncertain enforcement climate.

Participants

Paul Calamita*

Chairman
AquaLaw PLC
Richmond, VA

Erika Powers*

Partner
Barnes & Thornburg LLP
Chicago, IL

Lou McMahon*

Partner
McMahon DeGulis LLP
Cleveland, OH

Nathan Vassar*

Principal
Lloyd Gosselink Rochelle & Townsend, PC
Austin, TX

*Confirmed Speaker