



# 2023 National Clean Water Law & Enforcement Seminar

November 8 - 10 | Renaissance Asheville Downtown Hotel  
Asheville, NC

*Current as of November 8, 2023*

*All meeting spaces are on the Lobby Level unless otherwise noted.*

## Wednesday, November 8

**8:00 – 12:00 Registration**

Ballroom Foyer

**9:00 – 12:00 Plenary Session I**

Salon B & C

Welcoming Remarks

**Oluwole 'OJ' McFoy**, NACWA President

General Manager

Buffalo Sewer Authority | Buffalo, NY

### **2023 Seminar Overview**

**Devon Goodrich**, NACWA Legal Affairs Committee Co-Chair

Senior Counsel, Environmental Law Division

New York City Department of Law | New York, NY

### **What to Expect When You're Expecting...AI: Legal Issues Utilities Should Consider Before Launching Artificial Intelligence Within Their Organizations**

We lawyers need to give credit where credit is due: nobody knows how to build hype quite like engineers. And with respect to artificial intelligence (AI), advanced machine learning capabilities and predictive software technologies really do seem to have the potential to transform the water sector. But the law has notoriously not always kept pace with technology, so understanding your legal obligations regarding issues such as standard of care, insurance coverage, accident liability, and employment law can be tricky. In this session, a panel of experts will help utilities navigate these thorny topics.

#### *Panelists*

**Mahesh Lunani**, Founder and Chief Executive Officer  
Aquasight | Troy, MI

**Patrick McShane**, Senior Environment & Product Regulation Attorney  
Kilpatrick, Townsend & Stockton, LLP | Atlanta, GA

**10:45 – 11:00 Networking Break**

**11:00 – 12:00 Delivering Projects in the Age of Price Escalation, Labor Shortages, and Congressional Budget Cuts**

As utilities face consistently increasing costs and the inability to self-fund critical infrastructure projects, many are looking to public-private partnerships (P3s), alternative delivery approaches, and other non-traditional solutions. But there can be challenges, especially when the private sector assumes the financing, construction, and/or maintenance of public assets. This session's panel will discuss the types of clean water utility projects that may be suitable for P3s and other collaborative delivery approaches, and the legal challenges utilities face in getting such projects to the finish line.

**Emily Jackson**, *Legal Affairs Committee Co-Chair*  
General Counsel  
Metro Water Recovery | Denver, CO

**Emily Van Deraa**, Senior Staff Attorney  
Milwaukee Metropolitan Sewerage District | Milwaukee, WI

**12:15 – 2:00 Luncheon**

*Salon A*

Opening Remarks

**Adam Krantz**, Chief Executive Officer  
National Association of Clean Water Agencies | Washington, DC

**Keynote Address: A Bird's-Eye View from the State Regulator Perspective**

**Benjamin Grumbles**, Executive Director  
Environmental Council of the States | Washington, DC

**2:00 – 4:30 Registration**

*Ballroom Foyer*

**2:15 – 5:00 Plenary Session II**

*Salon B & C*

Opening Remarks

**Amanda Aspatore**, General Counsel  
NACWA | Washington, DC

**2:15 – 2:45 EPA Enforcement Activities Impacting Clean Water Agencies**

*Salon B & C*

*Featured Speaker*

**Joe Theis**, Associate Director of the Water Enforcement Division  
Office of Enforcement and Compliance Assurance  
US Environmental Protection Agency | Washington, DC

**2:45 – 3:00 Networking Break**

**3:00 – 4:00 Between a Rock and a Hard Place: How the Dormant Commerce Clause and Pretreatment Regulations Can Force Utilities Into the Political Hotseat**

NIMBY – it seems so easy. If utilities want to avoid the public backlash and political pressures of handling pollution from per- and polyfluoroalkyl substances (PFAS) or train derailments, just refuse to accept it into your system, right? That plan sounds great until EPA comes knocking on your door saying your refusal to take out-of-state waste violates the U.S. Constitution, or you are served with a lawsuit from industry claiming you are legally required to accept their wastewater under your pretreatment program. This session will explore the limits utilities face in controlling what comes into their treatment works, and methods utilities can employ under the pretreatment program to try to minimize legal risk and harm to public perception.

*Panelists*

**Patrick Bradley**, Clean Water Act Specialist  
Michael Baker International | Richmond, VA

**Nathan Gardner-Andrews**, Chief Advocacy & Policy Officer  
NACWA | Washington, DC

**Robert L. Griffin**, Vice President - North Carolina  
CDG, Inc. | Charlotte, NC

*Roundtable Discussion*

**4:00 – 5:00** **Top Clean Water Enforcement and Permitting Developments of the Year**  
*(Closed to Press and Regulators)*

This roundtable discussion among a group of legal experts and utility leaders will evaluate the latest trends in permitting and enforcement activities, including EPA's most recent enforcement priorities, PFAS and nutrients permitting, financial capability assessments, and...wait for it...a major consent decree modification success story! Whew, we're glad we could sneak in some good news there!

*Panelists*

**F. Paul Calamita**, Chairman  
AquaLaw PLC | Richmond, VA

**Fredric Andes**, Partner  
Barnes & Thornburg LLP | Chicago, IL

**Kieran Fahey**, Director, Combined Sewer Overflows,  
Long-Term Control Plan  
City of South Bend Wastewater Treatment Plant | South Bend, IN

**Closing Remarks**

**Devon Goodrich**, *Legal Affairs Committee Co-Chair*

**5:30 – 6:30** **Welcoming Reception**

*Outdoor Patio*

**Thursday, November 9**

**8:00 – 9:00** **Women's Water Network Breakfast** *(Separate RSVP Required)*

*Top of the Plaza,  
12<sup>th</sup> Floor*

**8:30 – 12:00** **Registration**

*Ballroom Foyer*

**9:00 – 12:30** **Plenary Session III**

*Salon B & C*

Opening Remarks

**Emily Jackson**, *Legal Affairs Committee Co-Chair*

**9:05 – 10:15** **Clean Water Act Primer**

New to the Clean Water Act and want to learn some of the basics from a pro? Been stuck in a CERCLA black hole trying to figure out how someone is a PRP just by owning property next to a spill (spoiler alert: CERCLA makes no sense!), and now can't even remember what an ELG is anymore? Just want to escape the madness and nerd out on TMDLs and designated uses with your fellow legal eagle friends? Come get your CWA fix from one of the best in the business!

**Erika Powers**, Partner  
Barnes & Thornburg LLP | Chicago, IL

**10:15 – 11:15 To “Cause or Contribute” or Not To “Cause or Contribute,” That Is the Que...Wait, You Can NOT “Cause or Contribute?” How Do We Do That?! We Choose That One!**

What does it mean for a discharge to “cause or contribute to the violation of a water quality standard?” How – and, critically, when – do regulators make that determination? Where do citizen groups and the CWA Section 402(k) “permit shield” fit into that discussion? In this session, a panel of experts will discuss the latest court decisions and permitting actions impacting a question that was never supposed to be as philosophical as it has become: what do the terms of a utility’s NPDES permit actually mean?

*Panelists*

**Andrew Silton**, Principal  
Beveridge & Diamond P.C. | Washington, DC

**David Chung**, Partner  
Crowell & Moring LLP | Washington, DC

**11:15 – 11:30 Networking Break**

**11:30 – 12:30 Wet Weather Permitting: You Did It! You’re Finally Reaching the End of Your Long-Term Control Plan. Now What?**

As municipalities reach the end of their combined sewer overflow (CSO) long-term control plans (LTCPs), questions loom about what requirements will be included in post-LTCP NPDES permits. This panel will discuss EPA’s upcoming guidance document for post-LTCP permit writers, the potential impact of recent court decisions on permitting terms, and what EPA Region 1’s latest climate change proposal might mean for utilities as they look to pivot their focus away from CSO controls towards more pressing water quality issues.

**Chris Kloss**, Director, Water Permits Division  
US Environmental Protection Agency | Washington, DC

**Devon Goodrich**, *Legal Affairs Committee Co-Chair*

**Louis McMahon**, Partner  
McMahon DeGulis LLP | Cleveland, OH

**12:30 – 2:00 Lunch on Your Own**

**1:45 – 4:30 Registration**

*Ballroom Foyer*

**2:00 – 5:00 Plenary Session IV**

*Salon B & C*

**2:00 – 3:30 PFAS and WOTUS: You Knew They Were Coming.**

PFAS and WOTUS. WOTUS and PFAS. Two topics where *so much* is always happening that it seems impossible to keep up and inevitable to burn out. Luckily, this panel of experts will provide attendees with a breakdown of the latest major happenings that utilities should be aware of so that you don’t have to spend all your free time scouring EPA’s website.

From the Supreme Court's *Sackett* decision and EPA and the Corps' new WOTUS rulemaking, to the latest PFAS regulatory and litigation updates, to what the states are doing in response to all of it. This panel will cover it all in one fell swoop!

*Panelists*

**Erica Spitzig**, Partner  
Taft Stettinius & Hollister LLP | Cincinnati, OH

**Alexandra Dapolito Dunn**, Partner  
Baker Botts LLP | Washington, DC

**Justin Curtis**, Attorney  
AquaLaw PLC | Richmond, VA

**Julia Anastasio**, Executive Director & General Counsel  
Association of Clean Water Administrators | Washington, DC

**3:30 – 3:45** **Networking Break**

*Roundtable Discussion*

**3:45 – 5:00** **Top Clean Water Legal Developments of the Year**  
*(Closed to Press and Regulators)*

Wondering why courts never seem to mention *Chevron* deference these days? Confused about what a “major question” is? Just don't have the heart to read through SCOTUSblog anymore? Come listen to a panel of top clean water lawyers review the most important court decisions and legal developments of the past year and analyze the impacts they could have on your utility's operations.

*Moderator*

**Hilary Meltzer**, Chief - Environmental Law Division  
New York City Law Department | New York, NY

*Panelists*

**Jack Zietman**, Associate  
Beveridge & Diamond, P.C. | Washington, DC

**Amanda Waters**, Counsel  
McGuire Woods, LLP | Tysons, VA

**Jordan Wimpy**, Member  
Mitchell Williams | Little Rock, AR

**Nathan E. Vassar**, Principal  
Lloyd Gosselink Rochelle & Townsend, P.C. | Austin, TX

**Closing Remarks**

**Emily Jackson**, *Legal Affairs Committee Co-Chair*

**5:30 – 6:30** **Reception**

*Top of the Plaza, 12<sup>th</sup> Floor*

## **Friday, November 10**

**8:30 – 10:30 Registration**

*Ballroom Foyer*

### **9:00 – 12:00 Plenary Session V**

*Salon B & C*      Opening Remarks

**Amanda Aspatore**, General Counsel  
NACWA | Washington, DC

*Ethics Session*

### **9:05 – 10:30 DE&I In the Wake of the Supreme Court's Affirmative Action Decision**

Clean water utilities have worked hard to incorporate diversity, equity and inclusion (DE&I) considerations into their hiring and management practices. But the U.S. Supreme Court recently ruled that goals such as promoting diverse outlooks and ideas and training future leaders may not be enough to justify practices that include race as a factor. This session will explore what the Supreme Court's decision in *Students for Fair Admissions v. Harvard* might mean for utility DE&I programs.

**Shannon Gilreath**, Professor of Law  
Wake Forest University School of Law | Winston-Salem, NC

### **10:30 – 10:45 Networking Break**

### **10:45 – 11:45 The Clean Air Act and Water Utilities: What Are We Getting Ourselves Into?**

In light of its potential to destroy "forever chemicals," as well as the dwindling availability of landfill and land application biosolids management options, more and more clean water utilities are becoming "incineration curious." And utilities throughout the country are grappling with demand response and renewable energy generation. This panel of experts will explore a host of Clean Air Act issues facing utilities today, including those related to sewage sludge incinerators (SSIs), climate change, risk and resilience, and environmental justice.

*Panelists*

**Ann McIver**, Director, Environmental Stewardship  
Citizens Energy Group | Indianapolis, IN

**Edward 'Skip' Kropp**, Of Counsel  
Steptoe & Johnson PLLC | Charleston, WV

**Jared Voskuhl**, Manager of Regulatory Affairs  
California Association of Sanitation Agencies | Sacramento, CA

### **11:45 – 11:55 Closing Remarks**

**Emily Jackson**, *Legal Affairs Committee Co-Chair*