



# 2023 National Clean Water Law & Enforcement Seminar

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

*Current as of September 22, 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

### **2023 Seminar Overview**

**Devon Goodrich**, *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.

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

**10:45 – 11:00 Networking Break**

### **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.

**12:15 – 2:00 Luncheon**

Salon A

**2:00 – 4:30 Registration**

Ballroom Foyer

**2:15 – 5:00 Plenary Session II**

Salon B & C

**2:15 – 3:15 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.

**Patrick Bradley**, Director – Water Quality Program Development  
Resource Environmental Solutions (RES) | Richmond, VA

**3:15 – 3:30 Networking Break**

*Roundtable Discussion*

**3:30 – 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

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

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

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

**Closing Remarks**

**6:00 – 7:00 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 – 11:45** **Registration**

*Ballroom Foyer*

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

*Salon B & C*

Opening Remarks

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

General Counsel

Metro Water Recovery | Denver, CO

### **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

### **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?

**Andrew Silton, Principal**

Beveridge & Diamond PC | Washington, DC

**David Chung, Partner**

Crowell & Moring LLP | Washington, DC

**11:15 – 11:30** **Networking Break**

### **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*

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!

**Erica Spitzig**, Partner

Taft Stettinius & Hollister LLP | Cincinnati, OH

**Alexandra Dapolito Dunn**, Partner

Baker Botts LLP | Washington, DC

**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, PC | Washington, DC

**Amanda Waters**, Counsel

McGuire Woods LLP | Tysons, VA

**Jordan Wimpy**, Member

Mitchell Williams PLLC | Little Rock, AR

**Closing Remarks**

**6:00 – 7:00 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

*Ethics Session*

**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.

**10:30 – 10:45 Networking Break**

**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.

**Jared Voskuhl**, Manager of Regulatory Affairs

California Association of Sanitation Agencies | Sacramento, CA

**Closing Remarks**