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*The Fifth Annual Advanced Conference on*

# Natural Resource Damages

New developments and emerging strategies

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**November 12 & 13, 2009**

Newark, New Jersey

Hilton Newark Penn Station Hotel

**Credits:** NY CLE 14.5 (non-transitional | PA CLE 12.5 (call about others)

**Quick when/where:** 8:30 a.m., Gateway Center at Raymond Boulevard

**Natural Resource Damages Conference**  
 November 12 & 13, 2009 | Newark, New Jersey  
 Hilton Newark Penn Station Hotel

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09NRDNJ WS



- 8:00 Registration and Continental Breakfast**
- 8:30 Introduction and Overview**  

**Ira Gottlieb, Esq., *Program Co-Chair***  
McCarter & English, LLP ~ Newark, NJ

**Stephen T. Parkinson, Esq., *Program Co-Chair***  
Groff Murphy, PLLC ~ Seattle, WA
- 8:45 Elements of Federal Claims Under CERCLA, CWA and OPA**  

**Loren R. Dunn, Esq.**  
Riddell Williams P.S. ~ Seattle, WA
- 9:30 Counterclaims and Third Party Claims**  

**Lanny S. Kurzweil, Esq.**  
McCarter & English, LLP ~ Newark, NJ
- 10:15 Break**
- 10:30 Defenses to Claims of Natural Resource Damages**  

New twists on conflict preemption; CERCLA 113(h), CERCLA 107 defenses and state claim defenses

**James A. Bruen, Esq.**  
Farella Braun + Martel LLP ~ San Francisco, CA
- 11:15 Update on NRD Case Law and NRD Claims Around the Country**  

A survey of cases with implications for NRD litigation

**Paul N. Singarella, Esq., P.E.**  
Latham & Watkins LLP ~ Costa Mesa, CA
- 12:00 Lunch (on your own)**

- 1:15 New Developments in NRD Cases Involving Tribal Claims and Participation in Suits by State Trustees**  

**Steven M. Jawetz, Esq.**  
Beveridge & Diamond PC ~ Washington, DC
- 2:00 New NRD Regulations: How Are They Being Implemented?**  

**Richard O. Curley, Jr., Esq.**  
Curley & Associates LLC ~ Golden, CO
- 2:45 Break**
- 3:00 Passaic River Developments**  

Developments related to the Passaic River litigation and other litigations

**William J. Jackson, Esq.**  
Jackson Gilmour & Dobbs, PC ~ Houston, TX

Update on cleanup activities; developments with respect to NRD and other perspectives on future developments

**William H. Hyatt, Jr., Esq.**  
K&L Gates LLP ~ Newark, NJ
- 4:15 In-House Perspectives on Managing Complex NRD Cases**  

**Ira Gottlieb, Esq., *Program Co-Chair, Moderator***

**Fern Fleischer Daves, Esq., *Senior Counsel***  
ITT Corporation ~ White Plains, NY

**David S. Rifkind, Esq., *Vice President and General Counsel***  
Buzzi Unicem USA, Inc. ~ Bethlehem, PA
- 5:30 Continue the Exchange of Ideas: Reception for Attendees and Faculty Sponsored by McCarter & English, LLP and Groff Murphy, PLLC**



## About the Conference

### LAW SEMINARS INTERNATIONAL

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*Natural Resource Damage litigation is at the cutting edge of environmental law. NRD claims in state and federal courts across the United States, and associated state statutory and common law claims, present complex strategic, tactical and substantive issues for both natural resource trustees and potentially responsible parties.*

*What are the latest trends in NRD law? What are the limits of NRD claims? What legal principles will trustees rely upon? How will trustees use statutes to avoid recent federal and state NRD decisions? How can trustees and responsible parties best position themselves during the natural resource injury assessment process? What are the most effective (and least effective) NRD claims? What are the most effective (and least effective) defenses to NRD claims? How are NRD injuries monetized? What are the best strategies and tactics to handle large, complex NRD litigation? What innovative strategies are available for settling NRD claims?*

*These and other questions will be discussed at this conference. Our faculty is drawn from senior environmental leaders across the country. They come from affected industry, federal and state government, nationally recognized plaintiff and defense firms, and environmental and economic consultant practices directly involved in the precedent-setting NRD lawsuits resolved in the last five years.*

*Serious environmental practitioners will not want to miss this event.*

*~ Program Co-Chairs: Ira Gottlieb, Esq. and Stephen T. Parkinson, Esq.*



**8:00 Registration and Continental Breakfast**

**8:30 Restoration Banking, Habitat Equivalency and Other Innovative Settlement Strategies**

Restoration Banking: Evolving trustee perspectives on upfront restoration, how it works; how credit system might be established

**Mark S. Laska, Ph.D., CEO and President**  
Great Ecology and Environments, Inc. ~ New York, NY

Case study on the use of ADR techniques at Hylebos Waterway near Tacoma; economic incentives for PRPs to construct compensatory wetlands and trade credits for excess ecological value

**William J. Hengemihle, Managing Director**  
LECG, LLC ~ Wayne, PA

Land preservation and restoration; current issues in settlements; quantifying damages; settlement case studies: Tabernacle Drum, Hatco, South Jersey Industries

**Michael Catania, President**  
Conservation Resources Inc. ~ Chester, NJ

**10:00 Break**

**10:15 Economics of NRD**

Valuating claims; economic methodologies; surveys; update on DOI regulations; random utility models; conjoint analysis; Are the numbers appropriate?

**Rick Dunford, Ph.D., Owner**  
Environmental Economics Services, LLC ~ Raleigh, NC

**Jason C. Kinnell, Principal Economist**  
Veritas Economic Consulting, LLC ~ Cary, NC

**Robert E. Unsworth, President**  
Industrial Economics, Incorporated ~ Cambridge, MA

**11:45 What's Next in NRD?**

Future trends and developments

**Brian D. Israel, Esq.**  
Arnold & Porter LLP ~ Washington, DC

**12:15 Lunch (on your own)**

**1:30 Update on Rule 702: Perspectives on Key Daubert Issues in NRD Cases**

The use of Daubert to challenge plaintiffs' NRD experts and expert theories

**Eric G. Lasker, Esq.**  
Hollingsworth LLP ~ Washington, DC

**2:15 New Developments in the Cooperative Assessment Process**

Recent developments in cooperative assessment processes in Portland Harbor, Newark Bay and other sites around the country

**Stephen T. Parkinson, Esq., Program Co-Chair**

**Mark Barash, Esq., Senior Attorney**  
U.S. Department of the Interior ~ Boston, MA

**Rachel DelVecchio, Senior Associate**  
Industrial Economics, Incorporated ~ Cambridge, MA

**3:30 Evaluations and Adjourn**

**Upcoming Seminars:**

Wind and Solar Project Development & Permitting	October 23, 2009	Chicago, IL
Stormwater Regulation in New England	November 6, 2009	Boston, MA
Energy in the Northeast	November 9 & 10, 2009	Boston, MA
Commercial Real Estate Workouts & Remedies	November 11, 2009	Chicago, IL

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**Tuition:** Regular tuition for in person or webcast attendance for this program is \$995 with a group rate of \$845 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$695. For students and people in their job for less than a year, our rate is \$497.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

**Substitution & Cancellation:** You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by

5:00 p.m. on Friday, November 6, 2009. After that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

**Seminar Location:** The conference will be held at the Hilton Newark Penn Station Hotel at Gateway Center at Raymond Boulevard in Newark, NJ 07102. Call the hotel directly at (973) 622-5000 for reservations at the special negotiated rate of \$209 and mention that you are attending a Law Seminars International conference. Rooms are on a first come, first served basis.

**Continuing Education Credits:** This program qualifies for 14.5 NY (non-transitional) CLE and 12.5 PA CLE credits. Upon request, we will apply for CLE credits in other states and other types of credits.

**If You Cannot Attend:** Our complete Homestudy Course, consisting of a DVD recording and the course materials (either a binder or searchable CD), is available for \$1005. The course materials alone are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

## Faculty: Natural Resource Damages Conference

**Ira Gottlieb**, *Program Co-Chair*, partner at McCarter & English, LLP, focuses on environmental law, NRD assessments, superfund surface water sediment and other site remediation matters, and insurance coverage on behalf of policyholders. He is co-author of a book chapter, "A Practical Guide to Litigating Natural Resource Damages Claims," in *Environmental Litigation: Law and Strategy*.

**Stephen T. Parkinson**, *Program Co-Chair*, partner at Groff Murphy, PLLC, focuses on environmental law including contaminated properties, cleanup and cost recovery actions under state and federal Superfund law, NRD claims, and stormwater and wetlands issues. He has been named by *Washington CEO Magazine* as one of "Washington's Most Amazing Attorneys" and is listed as a "Super Lawyer."

**Mark Barash**, Senior Attorney with the U.S. Department of the Interior, focuses on development of natural resource damages policies and case approaches. He manages claims of national significance, such as Hudson River PCBs and Passaic River /Newark Bay Complex, along with other CERCLA NRD cases, oil spills, and National Park Service 19jj claims covering a 13-state region.

**James A. Bruen**, partner at Farella Braun + Martel LLP, specializes in representation of industry, universities and governmental institutions in complex domestic and international products and environmental counseling and litigation. He was an Enforcement Attorney for the FCC and named one of the top 25 environmental lawyers in the country.

**Michael Catania** is President and founder of Conservation Resources Inc., a non-profit conservation group which provides financial and technical assistance to the conservation community in New Jersey.

**Richard O. Curley, Jr.**, founder of Curley & Associates LLC, specializes in CERCLA and state law equivalent remediation matters and advocacy relating to legislative and regulatory reform of CERCLA, natural resource damages, cost recovery litigation, and criminal and civil litigation concerning claims under RCRA, the Clean Water Act and TSCA.

**Fern Fleischer Daves**, Senior Counsel of Environment, Safety and Health at ITT Corporation, focuses on regulatory compliance, legacy site remediation, litigation, product safety, contracts and corporate transactions.

**Rachel DelVecchio**, Senior Associate at Industrial Economics, Incorporated, focuses on the science behind natural resource damage assessment, the generation of supporting evidence for environmental litigation, and the application of technical information to support environmental policy and regulation.

**Rick Dunford, Ph.D.**, is the owner of Environmental Economics Services, LLC, a consulting firm specializing in NRD assessment. He specializes in groundwater and re-creation damages, and was co-founder of Triangle Economic Research.

**Loren R. Dunn**, principal at Riddell Williams P.S., and Chair of the Environmental and Natural Resources Group, handles projects involving hazardous waste and large multi-party toxics cleanup sites, water sediment sites and NRD claims. He is listed in *Chambers*.

**William J. Hengemihle**, Managing Director at LECG, LLC, provides arbitration and mediation for environmental cleanup, restoration projects and NRD claims at urban rivers and waterways. He worked as a mediator for NRD claims at the Hylebos Waterway portion of the Commencement Bay Nearshore/Tideflats Superfund Site.

**William H. Hyatt, Jr.**, partner at K&L Gates LLP, concentrates on environmental law and related litigation, with extensive Superfund experience. He is listed in *Chambers* and *Euromoney's Guide to the World's Leading Environmental Lawyers*.

**Brian D. Israel**, partner at Arnold & Porter LLP, specializes in environmental litigation and counseling, including contaminated properties, toxic tort lawsuits and natural resource damages claims. He wrote the "Natural Resource Damages" chapter in the *Environmental Law Practice Guide*.

**William J. Jackson**, President and founding shareholder of Jackson Gilmour & Dobbs, PC, focuses on representing states, governmental entities, ports and transportation sector clients in NRD, cost-recovery and remediation claims.

**Steven M. Jawetz**, principal and Chair of the CERCLA/Contaminated Properties Section in the Environmental Practice Group at Beveridge & Diamond, PC, focuses on matters under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) and the Resource Conservation and Recovery Act.

**Jason C. Kinnell**, Principal Economist at Veritas Economic Consulting, LLC, specializes in the application of environmental economic analysis to 316(a) & (b) compliance strategies, restoration evaluation and planning, natural resource damage assessments and exposure assessments.

**Lanny S. Kurzweil**, partner at McCarter & English, LLP, handles cost recovery actions in cases involving landfills, groundwater, soil contamination, underground storage tanks and counsels on NRD issues.

**Mark S. Laska, Ph.D.**, CEO and President at Great Ecology and Environments, Inc., is an experienced ecologist focusing on habitat restoration and ecological strategy for private sector clients and on NRD cases, to leverage existing assets to offset financial penalties.

**Eric G. Lasker**, partner at Hollingsworth LLP, focuses on environmental and toxic tort litigation involving Daubert, the federal pre-emption defense and NRD claims, and is experienced in international law and defense of environmental terrorism claims.

**David S. Rifkind** Vice President and General Counsel of Buzzi Unicem USA, Inc., was part of the team managing the *State of New Mexico v. General Electric Co* NRD case.

**Paul N. Singarella, P.E.**, partner at Latham & Watkins LLP, is Chair of the Environment, Land & Resources Department in the Orange County office. He is experienced in environmental, water, natural resources and land use.

**Robert E. Unsworth**, President of Industrial Economics, Incorporated, specializes in natural resource economics and damage assessment, environmental benefits assessment and policy analysis. He has provided support to the U.S. Department of Justice, NOAA, U.S. Department of Interior, states and tribal governments.

November 12 & 13, 2009

Newark, New Jersey

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### Who Should Attend:

*Attorneys, consultants,  
corporate managers and all  
governmental or private practice  
environmental professionals*

### You Will Learn About:

- Elements of federal claims under CERCLA, CWA and OPA
- Counterclaims and third party claims
- Defenses to claims of NRD
- NRD case law updates and NRD claims around the country
- Rule 702 update and the use of Daubert
- Implementation of new NRD regulations
- Passaic River developments
- In-house perspectives on managing complex NRD cases
- Restoration banking; habitat equivalency; valuating claims
- New developments in the cooperative assessment process
- Cases involving tribal claims and state trustees

### To Register:

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