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*An Advanced Conference on Litigating*

# Natural Resource Damages: The Ground, Groundwater and the Gulf

New developments and best strategies

If you  
cannot attend  
-Live Webcast Available-  
for this program

January 20 & 21, 2011

Miami, Florida

Hotel InterContinental Miami

**Credits:** FL CLE 14 (call about others)

**Quick when/where:** 8:30 a.m., 100 Chopin Plaza

**Natural Resource Damages in the Gulf Conference**

January 20 & 21, 2011 | Miami, Florida  
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11NRDFL WS



8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

John M. Barkett, Esq., Program Co-Chair  
Shook, Hardy & Bacon L.L.P. ~ Miami, FL

James A. Bruen, Esq., Program Co-Chair  
Farella Braun + Martel LLP ~ San Francisco, CA

8:45 Federal Perspectives on NRD Issues

Federal trustee perspective

John C. Cruden, Esq., Deputy Assistant Attorney General  
Environmental and Natural Resources  
U.S. Department of Justice ~ Washington, DC

Rachel Jacobson, Principal Deputy Solicitor  
U.S. Department of the Interior ~ Washington, DC

10:00 Break

10:15 A Short History of Natural Resource Damage Litigation

Pending litigation related to the Deepwater Horizon; other significant NRD actions brought under the OPA and CERCLA statutes and state equivalents

Bradley M. Marten, Esq.  
Marten Law PLLC ~ Seattle, WA

10:45 Potential for NRD Claims With a Focus on the Deepwater Horizon Incident

Types of restoration (primary and compensatory), multi-state issues, developments and litigation, long term goals

Allan Kanner, Esq.  
Kanner & Whiteley, L.L.C. ~ New Orleans, LA

What sort of NRD claims can be made in the wake of the Deepwater Horizon spill and in what forums?

Stephen J. Darmody, Esq.  
Shook, Hardy & Bacon L.L.P. ~ Miami, FL

12:00 Lunch (on your own)

1:15 Strategies for the NRD Assessment Process

Recent developments in cooperative assessment processes in sites around the country

Bradley M. Campbell, Esq.  
Bradley M. Campbell, LLC ~ Trenton, NJ

David A. Chapman  
Principal and Director of Resource Economics Group  
Stratus Consulting ~ Boulder, CO

2:30 Break

2:45 The Fund v. the Courts: Resolution of Non-NRD Claims from the Deep Water Horizon Spill

The status of federal litigation, the BP Fund and ongoing litigation matters: Maximizing recoveries and potential theories and claims

Ervin A. Gonzalez, Esq.  
Colson Hicks Eidson ~ Coral Gables, FL

Teri T. Wyly, Esq.  
Balch & Bingham LLP ~ Gulfport, MS

4:00 Estimation of Damages

The evolution of methodologies for estimating NRD; linkages between human use and ecological losses and gains from restoration projects; the relationship between NRD and other losses under OPA; litigation challenges; approaches for resolving disputes

Robert F. Copple, Esq., Ph.D.  
Copple & Associates, P.C. ~ Scottsdale, AZ

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

Theodore D. Tomasi, Ph.D., Vice President and Technical Director, Resource Economics  
ENTRIX, Inc. ~ New Castle, DE

5:30 Continue the Exchange of Ideas: Reception for Attendees and Faculty

Sponsored by Farella Braun + Martel LLP and Shook, Hardy & Bacon L.L.P.



About the Conference



Live Seminars

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This seminar will bring you up to date on the law, strategy and tactics of handling Natural Resource Damages administrative claims and lawsuits. The Deepwater Horizon oil spill will be a theme in several of the presentations. However, the NRD teaching will go beyond this incident and will cover the gamut of issues facing practitioners. You will hear from the most knowledgeable NRD lawyers at the Justice Department and the Department of Interior as well as a geographically diverse group of skilled NRD practitioners and experts. Wisdom, knowledge and judgment--that is what you will see on display in two legal power-packed days.

~ Program Co-Chairs: John M. Barkett, Esq. and James A. Bruen, Esq.



8:00 Continental Breakfast

8:30 Lessons Learned in Complex NRD Litigation

The pitfalls for both plaintiffs and defendants: Common interest agreements; pleading issues; statute of limitations; discovery issues; e-discovery; litigation holds

Donald W. Stever, Esq.  
K&L Gates LLP ~ New York, NY

9:15 Defenses to NRD Claims

Strategies for defending federal and state statutory and common law NRD actions

James A. Bruen, Esq., Program Co-Chair

10:00 Break

10:15 Strategies for Determining Baseline

Historical and ecological research to define the quality of the resource absent the contamination event

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

11:00 Settlement of NRD Litigation

The factors are different and so are the actors: Where litigation is the best alternative to a negotiated resolution, settlements can still make sense

John M. Barkett, Esq., Program Co-Chair, Moderator

Cynthia Drew, Esq., Associate Professor of Law  
University of Miami School of Law ~ Coral Gables, FL

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

12:15 Caselaw Update Plus What's New in NRD Litigation

The potential impact of the Deepwater Horizon spill on NRD litigation; where NRD litigation is today and what to expect in the future

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

David G. Mandelbaum, Esq.  
Greenberg Traurig, LLP ~ Philadelphia, PA

1:30 Evaluations and Adjourn

Upcoming Seminars:

Social Media Law	Nov. 10, 2010	Chicago, IL
Natural Resource Damages	Nov. 15-16, 2010	Newark, NJ
State Environmental Policy Act (SEPA)	Jan. 12, 2011	Seattle, WA
Writing the Legal Thriller For Lawyers	Jan. 19, 2011	Miami Beach, FL
Environmental Challenges for Energy Project Development	Jan. 27-28, 2011	Arlington, VA
Getting Value from Patents in the Corporate World	Feb. 21-22, 2011	San Francisco, CA
Social Media Law	Mar. 2, 2011	Boston, MA
Ocean Development and Management in New England	March 3-4, 2011	Boston, MA
Contaminated Groundwater	March 14-15, 2011	New York, NY

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Friday, January 14, 2011. 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.

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**Faculty: Natural Resource Damages in the Gulf Conference**

*Expert insights to help you prepare for the future*

**John M. Barkett, Program Co-Chair**, partner at Shook, Hardy & Bacon L.L.P., is an environmental litigator (CERCLA, RCRA, Clean Water Act, NEPA, and toxic tort), counselor at major Superfund sites, and advisor on environmental issues and assessments. He is listed in *Best Lawyers* and *Chambers*.

**James A. Bruen, Program Co-Chair**, senior partner at Farella Braun + Martel LLP, is experienced in counseling and litigating complex NRD matters throughout the U.S. He was lead trial counsel for General Electric Company in its successful defense of over five billion dollars State of New Mexico v General Electric Company NRD litigation. He is a Fellow of the American College of Environmental Lawyers.

**Bradley M. Campbell**, President at Bradley M. Campbell, LLC, focuses on energy and environmental matters including carbon sequestration and renewable energy to Brownfields redevelopment and natural resource restoration. Previously he was the Commissioner of the New Jersey Department of Environmental Protection.

**David A. Chapman**, Principal and Director of Resource Economics Group at Stratus Consulting, leads natural resource valuation and NRDA projects for both state and federal clients. He is currently leading resource valuation projects to determine the value of protecting coral reefs, right whales and improved weather forecasts.

**Robert F. Copple, Ph.D.**, partner at Copple & Associates, P.C., focuses on arbitrations involving the environment, energy and natural resources. He is a trained alternative dispute resolution neutral and is listed in *Best Lawyers*.

**John C. Cruden**, Deputy Assistant Attorney General of the Environment and Natural Resources Division at the U.S. Department of Justice, supervises the Environmental Enforcement and Environmental Defense Sections.

**Stephen J. Darmody**, partner at Shook, Hardy & Bacon L.L.P., focuses on cases involving the release of pollutants into the environment, the cross border transportation of contraband, the release of hazardous materials during transportation and challenging unlawful land use decisions. He is listed in *Who's Who in American Law*.

**Cynthia Drew**, Associate Professor of Law at the University of Miami School of Law, teaches Natural Resources & Energy Law and Administrative Law. Previously she was a trial attorney in the Environmental & Natural Resources Division of the U.S. Department of Justice.

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

**Ervin A. Gonzalez**, partner at Colson Hicks Eidson, focuses on products liability, class action, business litigation, medical malpractice and personal injury litigation. He is listed in *Best Lawyers*.

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

**Rachel Jacobson**, Principal Deputy Solicitor for the U.S. Department of the Interior, is currently leading the DOI's effort on the Deepwater Horizon oil spill.

**Allan Kanner**, founder and senior member of Kanner & Whiteley, L.L.C., focuses on environmental law, toxic tort, commercial litigation, first-party insurance, consumer fraud and complex class action suits, and represents states and tribes in NRD matters, including representing trustees in NRD litigations and negotiations.

**Mark S. Laska, Ph.D.**, CEO and President at Great Ecology and Environments, Inc., is experienced as an ecologist, focusing on

terrestrial and wetland biology and ecological strategy for private sector clients. He also concentrates on NRD projects, helping clients leverage existing assets to offset financial penalties.

**Eric G. Lasker**, partner at Hollingsworth LLP, specializes in environmental and toxic tort litigation. He has litigated issues involving Daubert, the federal preemption defense, and NRD claims, and is experienced in international law and the defense of environmental terrorism claims.

**David G. Mandelbaum**, shareholder at Greenberg Traurig, LLP, focuses on air, water and waste regulation, superfund and contamination, climate change, oil and gas development, and water rights. He is listed in *Chambers* and *Best Lawyers*.

**Bradley M. Marten**, founder and Managing Partner of Marten Law PLLC, is consistently ranked by his peers as one of the nation's top environmental lawyers. He is listed in *Best Lawyers*, *Chambers* and the *International Who's Who of Environmental Lawyers*.

**Donald W. Stever**, partner at K&L Gates LLP, focuses on air, water, solid and hazardous waste, CERCLA, noise, environmental impact assessment, NRD, environmental torts and constitutional environmental litigation, oil spill counseling and litigation, and maritime environmental compliance counseling. He is listed in *Chambers* and *Best Lawyers*.

**Theodore D. Tomasi, Ph.D.**, Vice President and Technical Director at ENTRIX, Inc., is a natural resource economist whose research has been directed to measuring the value of natural resources and environmental change. He is experienced in valuation methods in benefit-cost analysis and NRD assessments.

**Teri T. Wyly**, partner at Balch & Bingham LLP, practices in the Environmental and Natural Resources Section. She focuses on wetlands permitting and preparation of environmental assessments for large scale developments. She is listed in *Best Lawyers* and *Chambers*.

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**Who Should Attend:**

*In-house and private attorneys, consultants, corporate managers and governmental representatives, and others who are involved in natural resource damage claims*

**You Will Learn About:**

- Federal perspectives on NRD issues
- Potential for NRD claims
- Defenses to NRD claims
- Strategies for the NRD assessment process
- *The Fund v. the Courts: Resolution of non-NRD claims from the Deepwater Horizon spill*
- Estimation of damages
- Lessons learned in complex NRD litigation
- Strategies for determining baseline
- Settlement of NRD litigation
- Caselaw update plus what's new in NRD litigation

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