

**Featuring Speakers From:**

- Barghausen Consulting Engineers, Inc.
- Capitol Land Trust
- Forterra
- Foster Pepper PLLC
- King County Department of Natural Resources
- Konrad J. Liegel, Attorney-at-Law, PLLC
- L. C. Lee & Associates, Inc.
- Phillips Wesch Burgess PLLC
- Soundview Consultants LLC
- Talasaea Consultants, Inc.
- Van Ness Feldman, LLP
- Washington State Department of Ecology

**Who Should Attend:**

*Attorneys, environmental, real estate and land use professionals, and governmental officials*

*The Thirteenth Annual Seminar On*

# Wetlands in Washington

Evolving regulations, opportunities, and best practices

October 2, 2013

Seattle, Washington

Renaissance Seattle Hotel

**Credits:** WA 7 CLE (call about others)

**Quick when/where:** 8:30 a.m., 515 Madison St.

**Wetlands in Washington Seminar**  
October 2, 2013 | Seattle, Washington  
Renaissance Seattle Hotel

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**8:00 Registration Opens**

**8:30 Wetlands 101 (optional): Federal, State, and Local Regulation of Wetlands**

Development of the regulatory structure and which agency has jurisdiction over what; current agency review and permitting processes; key recent developments and pending issues

**Duncan M. Greene, Esq.**  
Van Ness Feldman, LLP ~ Seattle, WA

**9:25 Introduction to the Main Program**

**Heather L. Burgess, Esq., Program Co-Chair**  
Phillips Wesch Burgess PLLC ~ Olympia, WA

**Brent R. Carson, Esq., Program Co-Chair**  
Van Ness Feldman, LLP ~ Seattle, WA

**9:30 Jurisdictional Issues in Regulation of Shoreline Wetlands**

Decision tree factors for determining when the Shoreline Management Act (SMA) applies; recent guidance from Ecology’s review of shoreline master plans; tips for adapting your development strategies

**Kelly T. Wood, Esq.**  
Phillips Wesch Burgess PLLC ~ Olympia, WA

**10:00 Now You Have It, Now You Don’t: Implications of the DC Circuit’s Recent Decision in Mingo Logan Coal Co. vs. U.S. Environmental Protection Agency (EPA)**

How can an applicant achieve certainty after the court’s ruling that EPA can change, or even revoke, Section 404 “dredge-and-fill” discharge permits that have already been approved and issued by the U.S. Army Corps of Engineers?

**Brent R. Carson, Esq., Program Co-Chair**

**10:30 Break**

**10:45 New Developments in Alternative Wetland Mitigation**

Update after another year under the belt for King County’s fee-in-lieu wetland mitigation program; the ins-and-outs of implementing a fee-in-lieu strategy

**Michael Murphy, Land Conservation Program Manager**  
King County Department of Natural Resources ~ Seattle, WA

Tips for more effectively using a wetlands bank

**Brad J. Murphy**  
*Environmental Specialist 5 & Alternative Mitigation Lead*  
Washington State Department of Ecology ~ Olympia, WA

Mitigation in advance of site selection: Update on the Corps’ recent guidance and new options to explore

**William E. Shiels, Principal**  
Talasaea Consultants, Inc. ~ Woodinville, WA

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

**1:30 Other New State & Federal Regulatory Developments**

Case Law Update

**Joseph A. Brogan, Esq.**  
Foster Pepper PLLC ~ Seattle, WA

Tips for defending Clean Water Act (CWA) enforcement actions, such as unauthorized fills, from a technical consultant’s perspective

**Jeremy Downs, Principal Biologist / Environmental Planner**  
Soundview Consultants LLC ~ Gig Harbor, WA

**3:15 Break**

**3:30 Conservation Easements & Wetlands**

Tips for finding the right sponsor and drafting an easement that effectively addresses the situation

**Konrad J. Liegel, Esq.**  
Konrad J. Liegel, Attorney-at-Law, PLLC ~ Seattle, WA

**Laurence Reeves, Ph.D., Conservation Program Manager**  
Capitol Land Trust ~ Olympia, WA

**Liz Johnston, Conservation Transactions Director**  
Forterra ~ Seattle, WA

**4:30 Practical Tips for Assessing the Financial Impact of Wetlands Issues & Smoother Sailing Through the Permitting Process**

Overview scenario of problematic issues

**Heather L. Burgess, Esq., Program Co-Chair**

A real estate developer’s perspective of what is most problematic in making a deal

**Thomas Barghausen, Principal Engineer**  
Barghausen Consulting Engineers, Inc. ~ Kent, WA

Consultant’s perspective

**Lyndon C. Lee, Ph.D, PWS, President and Principal Ecologist**  
L. C. Lee & Associates, Inc. ~ Seattle, WA

**5:30 Evaluations & Adjourn**



### About the Seminar

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*The regulation of wetlands by local, state and federal agencies continues to evolve and create challenges for public and private development. The scope of federal control of wetlands and streams continues to be debated in Congress, the courts, and by federal agencies. Federal, state, and local governments continue to develop new guidance and programs for review and mitigation of wetland impacts.*

*This seminar will address these emerging regulatory issues and their effect on government, business and the environment. Our distinguished faculty will discuss developments in the federal regulatory program; examine the implications of the recent Mingo Logan Coal case on U.S. Environmental Protection Agency (EPA) permits, review regulatory programs at the federal, state, and local levels, explain new developments in using banking, fee-in-lieu programs, and other conservation strategies to satisfy the Endangered Species Act (ESA) and wetland permitting requirements; and discuss practical strategies for navigating development projects through the federal, state, and local permit process.*

*This outstanding seminar will provide legal and professional environmental practitioners with an in-depth understanding of business opportunities and best practices concerning wetlands regulation. This year we are also pleased to offer an optional “boot camp” introduction at the start of the seminar, specifically designed for new practitioners.*

**~ Program Co-Chairs: Heather L. Burgess, Esq., Phillips Wesch Burgess PLLC, and Brent R. Carson, Esq., Van Ness Feldmann, LLP**



**Heather L. Burgess**, *Program Co-Chair*, founding member, Phillips Wesch Burgess PLLC, practices in all phases of real estate development, from pre-acquisition due diligence, through local permitting and administrative, or judicial appeals associated with the permit process under the Growth Management Act (GMA), the State Environmental Policy Act (SEPA) and the Shoreline Management Act (SMA).

**Brent R. Carson**, *Program Co-Chair*, partner, Van Ness Feldman, LLP, is experienced in local, state and federal land use and environmental entitlements processes. His practice includes defense of environmental enforcement actions and development approvals before local and state administrative tribunals and in court, as well as resolving real property disputes. He is listed in *The Best Lawyers in America*.

**Thomas Barghausen**, Principal Engineer of Barghausen Consulting Engineers, Inc., is experienced in civil engineering, land use planning, and environmental analysis related to a variety of construction projects and has prepared complete environmental impact statements.

**Joseph A. Brogan**, Chair of Foster Pepper PLLC's Land Use Practice Group, focuses on water rights, land use and environmental permitting and litigation. He was a Program Coordinator at the King County Department of Natural Resources, Surface Water Management Division, and was also a Research Fellow with EPA Region 10, Office of Water and has worked at EPA's Office of Regional Counsel in Seattle. He was a Regulatory Performance Advisor to the Washington State Department of Ecology.

**Jeremy Downs**, Soundview Consultants LLC, is a Principal Biologist and Environmental Planner with experience in land use, site planning and design, project coordination, permitting and management, marine and wetland ecology, habitat restoration, wetland, stream, and eelgrass delineations and assessments, biological assessments, benthic surveys, stream assessments, underwater and terrestrial monitoring programs, and mitigation planning.

**Duncan M. Greene**, partner at Van Ness Feldman, LLP, is experienced in land use, environmental, real estate, and water rights issues. His practice covers planning, zoning, permitting, and environmental review matters at the local, state, and federal levels, including National Pollutant Discharge Elimination System (NPDES) permitting and Stormwater Pollution Prevention Plan (SWPPP) development.

**Liz Johnston**, Conservation Transactions Director at Forterra, is leading land conservation efforts and oversees department implementation of conservation projects. She is lead manager of Forterra's conservation effort

of nearshore and forestland, working in cooperation with state and local agencies, Tribes, and other non-profits.

**Lyndon C. Lee, Ph.D, PWS**, is President and Principal Ecologist, L.C. Lee & Associates, Inc., whose emphasis is on the application of good science and design to projects that interact with federal, state, and local programs regulating activities in wetland, river, and forested ecosystems.

**Konrad J. Liegel**, Attorney-at-Law, PLLC, has advised on groundbreaking wetland mitigation bank projects for business and land trusts, including Hobson Yard (Nebraska) and Narbeck and Snohomish Basin (Washington State), dam removal and stream restoration (Goldsborough Creek, Washington State) and wetland conservation (Hazel Wolf Wetlands Preserve, Washington State).

**Brad J. Murphy**, Alternative Mitigation Lead, Washington State Department of Ecology, provides guidance and technical assistance to federal and state agencies, local governments and citizens on the state's Clean Water Act (CWA), Shoreline Management Act (SMA) and wetland issues as they pertain to the Wetland Banking Rule, Fee-in-lieu program, Growth Management Act (GMA), Shoreline Master Programs and local critical area ordinances. He also is Co-Chair on fee-in-lieu and wetland banking interagency review teams (IRT's).

**Michael Murphy**, Land Conservation Program Manager, King County Department of Natural Resources, manages the County's fee-in-lieu wetland mitigation program and works with the Transfer of Development Rights Program.

**Laurence Reeves, Ph.D**, Conservation Program Manager, Capitol Land Trust, focuses on all phases of land acquisition projects and oversees the stewardship and management of the Trust's conserved properties.

**William E. Shiels**, principal, Talasaea Consultants, Inc., works closely with the firm's ecologists, landscape architects, and technical staff in support of all phases of a project, from initial ecological assessments and development planning, through regulatory analysis, permitting, and mitigation final design.

**Kelly T. Wood** of Phillips Wesch Burgess PLLC, focuses on environmental and land use litigation, including: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Model Toxics Control Act (MTCA), CWA, the Clean Air Act (CAA), SMA, and GMA. He has been awarded the Marshall Memorial Fellowship.



## Registration & Other Seminar Information

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Registration is complete when we receive payment or agree to later payment.

**Tuition:** Regular tuition for this program is \$695 with a group rate of \$520 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$465. For students and people in their job for less than a year, our rate is \$347.50. 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 Thursday, September 26, 2013. 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 Renaissance Seattle Hotel at 515 Madison St. in Seattle, WA 98104. Call the hotel directly at (206) 583-0300 for reservations at the special negotiated rate of \$205.00 and ask for the Law Seminars International corporate rate. You can also make reservations online at www.RenaissanceSeattle.com and enter the corporate/promo code L64. Rooms are on a first come, first served basis.

### Continuing Education Credits:

Live credits: This program qualifies for 7 WA CLE credits. Upon request, we will apply for, or help you 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, is available for \$705. 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.

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 Seattle, Washington

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 (206) 583-0300

## You Will Learn About:

- *Wetlands 101 (optional)*
- *Jurisdictional issues in regulation of shoreline wetlands*
- *The DC Circuit's recent decision in Mingo Logan Coal Co. vs. U.S. Environmental Protection Agency (EPA)*
- *New developments in alternative wetland mitigation*
- *New state and federal regulatory development*
- *Tips for defending Clean Water Act (CWA) enforcement actions*
- *Conservation easements and wetlands*
- *Practical tips for assessing the financial impact of wetlands issues and smoother sailing through the permitting process*

### Watch for our TeleBriefings on major legal developments.

Members of our distinguished faculties will present analyses of major decisions and other developments as soon as they happen in a one-hour telephone conference.

If you wish to receive announcements for TeleBriefings that affect you, please make sure we have your email address—send it to me, H. Kate Johnson, President:

[kate@lawseminars.com](mailto:kate@lawseminars.com)

## Law Seminars International News:

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Model Toxics Control Act (MTCA)	September 20, 2013	Seattle, WA
Water in Real Estate Transactions	September 23 & 24, 2013	Seattle, WA
Gamer Technology Law	October 7 & 8, 2013	Seattle, WA
Energy Exports in the Northwest	October 24 & 25, 2013	Seattle, WA
Wireless Communications and Advanced Services	October 28 & 29, 2013	Seattle, WA
Growth Management Act (GMA)	November 7 & 8, 2013	Seattle, WA
Commercial Real Estate Leases	December 5 & 6, 2013	Seattle, WA

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