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The Fifth Annual Advanced Conference on

Natural Resource Damages

Evolving strategic, tactical and substantive issues

Live Webcast Available!

March 10 & 11, 2016

Washington, District of Columbia
 Arnold & Porter LLP Conference Center

Credits: VA 12 CLE (call about others)

Quick when/where: 8:30 a.m., 601 Massachusetts Avenue, NW

Natural Resource Damages Conference
 March 9, 10 & 11, 2016 | Washington, District of Columbia
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16NRDDC WS



- 8:00 Registration Opens**
- 8:30 Introduction and Overview**
Ira M. Gottlieb, Esq., Program Co-Chair
 McCarter & English, LLP ~ Newark, NJ
Brian D. Israel, Esq., Program Co-Chair
 Arnold & Porter LLP ~ Washington, DC
- 8:45 Federal Perspective: NRD Policy Today and Tomorrow**
 What are key lessons learned over the last year or so? How are federal agencies interacting and ensuring efficiency?
Brian D. Israel, Esq., Program Co-Chair, Moderator
Lois J. Schiffer, Esq., General Counsel
 National Oceanic and Atmospheric Administration
 Washington, DC
Hilary Tompkins, Esq., Solicitor
 U.S. Department of the Interior ~ Washington, DC
- 9:45 Break**
- 10:00 Early NRD Settlements: Resolving NRD Cases Before Remedy Selection**
 Using Portland Harbor and other sites across the country, this panel will explore the legal and evidentiary challenges and opportunities for assessing and resolving NRD cases before remedy selection.
Laurence S. Kirsch, Esq.
 Goodwin Procter LLP ~ Washington, DC
Bradley M. Marten, Esq.
 Marten Law PLLC ~ Seattle, WA
Joan P. Snyder, Esq.
 Stoel Rives LLP ~ Portland, OR
Julie A. Weis, Esq.
 Haglund Kelley LLP ~ Portland, OR
- 11:15 NRD Allocation: What's Joint and Several Liability Have to Do With It?**
 The complexity of allocation of NRD amongst multiple PRPs: Review of several case studies, including the Lower Duwamish Waterway
William J. Hengemihle, Senior Managing Director
 FTI Consulting, Inc. ~ Wayne, PA
Laurie Lee, Esq., Deputy Section Chief
 General Counsel Office, Natural Resources Section
 National Oceanic and Atmospheric Administration
 Long Beach, CA
John F. Stillmun, Esq., Assistant General Counsel
 FMC Corporation ~ Philadelphia, PA

- 12:15 Lunch (on your own)**
- 1:30 Special Address - Climate Change and NRD: The Next Frontier?**
 Various NRD theories that could apply to climate change now and in the future
Daniel M. Galpern, Esq.
 Law Offices of Daniel M. Galpern ~ Eugene, OR
- 2:15 The Deepwater Horizon Case: Lessons Learned for the Future of NRD**
William D. Brighton, Esq.
 Assistant Chief, Environmental Enforcement Section
 U.S. Department of Justice ~ Washington, DC
Mimi A. Drew
 Florida NRDA Trustee and RESTORE Council Representative
 Florida Department of Environmental Protection
 Tallahassee, FL
Samuel W. (Billy) Plauché, Esq.
 Plauché & Carr LLP ~ Seattle, WA
- 3:15 Break**
- 3:30 Science and the Law: Admissibility of Scientific Evidence in NRD Cases**
Paul D. Boehm, Ph.D., Group VP, Principal Scientist
 Exponent, Inc. ~ Maynard, MA
Brett Marston, Esq.
 Arnold & Porter LLP ~ Washington, DC
Peter C. Wright, Esq., Managing Counsel
 The Dow Chemical Company ~ Saginaw, MI
- 4:30 Cooperative NRD Assessments: Possible or Passé?**
Thomas Byrne, Esq., Chief Environmental Counsel
 Honeywell International Inc. ~ Morristown, NJ
Robert Haddad, Ph.D.
 Assessment and Restoration Division Chief
 National Oceanic and Atmospheric Administration
 Silver Spring, MD
Edward McTiernan, Esq.
 Arnold & Porter LLP ~ New York, NY
- 5:30 Continue the Exchange of Ideas: Reception & Dinner for Attendees and Faculty**
 Sponsored by Arnold & Porter LLP and McCarter & English, LLP



About the Conference



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Natural resource damages (NRD) claims seek restoration and compensation for natural resource injuries resulting from oil spills and releases of hazardous substances. These claims, which are often quite large, are in addition to site cleanup costs and involve numerous difficult legal and evidentiary issues.

This conference will cover the substantial legal, scientific, economic and policy questions facing government trustees, companies and others, including several cross-cutting topics that have not been addressed in prior conferences. We will bring together a stellar, nationally-recognized faculty including high-ranking government policy-makers, senior corporate in-house counsel, private practitioners with notable expertise in developing effective strategies in NRD litigation, and best-in-class experts including environmental scientists and economists.

This year we are very pleased to open the conference with a special roundtable discussion featuring Hilary Tompkins, Solicitor, U.S. Department of Interior, and Lois Schiffer, General Counsel, NOAA, who will discuss the future of NRD policy at the federal level. Some of the other important topics to be discussed at this advanced seminar include: Incorporating community input and pre-existing restoration plans into restoration planning; early NRD resolutions; allocating NRD liability at multi-party sites; the intersection of NRD liability and insurance coverage; and updates and lessons learned from important NRD cases across the country. We will explore the latest litigation insights from actual NRD trials, both from a defense and prosecution perspective. We will address novel approaches to cooperative NRD assessments as well as practical tips for successfully navigating the complex world of NRD assessment and litigation.

And we are very excited to announce a new feature to our NRD program. This year we will offer, free for seminar participants, a 2-hour "NRD 101" mini-conference on the afternoon preceding the main program. This NRD 101 course will include four experienced practitioners who will address NRD claims, defenses, science and economics.

We hope you can join us to be a part of this important conference. We also invite you to enjoy a special dinner on Thursday evening to continue the conversation and meet others in the field.

We look forward to seeing you.

Program Co-Chairs: Ira M. Gottlieb, Esq., McCarter & English, LLP and Brian D. Israel, Esq., Arnold & Porter LLP



8:30 Restoration Planning: Incorporating Community Input
Michael C. Donlan, Principal
 Industrial Economics, Incorporated ~ Cambridge, MA
Judi L. Durda
Vice President, Corporate Secretary, Principal Toxicologist
 Integral Consulting Inc. ~ Annapolis, MD
Trudy D. Fisher, Esq.
 Butler Snow LLP ~ Ridgeland, MS
Katherine Pease, Esq., Senior Counselor for Natural Resources
 National Oceanic and Atmospheric Administration
 Long Beach, CA

9:45 Break

10:00 Insurance For NRD: Are You Covered?
Ira M. Gottlieb, Esq., Program Co-Chair

10:45 Survey Methods and NRD: Is There Any Value to Contingent Valuation?
 The continuing role played by NRD litigation planning in contingent valuation and other stated preference methods: A debate about the merits of these methods
William H. Desvougues, Ph.D.
 W.H. Desvougues & Associates, Inc. ~ Raleigh, NC
Theodore Tomasi, Ph.D., Partner
Economic & Decision Sciences
 Environmental Resources Management ~ Malvern, PA
Robert E. Unsworth, Principal and Director
 Industrial Economics, Incorporated ~ Cambridge, MA

12:00 Lunch (on your own)

1:15 Creating an NRD Narrative -- How to Really Bring an NRD Case to Trial
James A. Bruen, Esq.
 Farella Braun + Martel LLP ~ San Francisco, CA
Allan Kanner, Esq.
 Kanner & Whiteley, L.L.C. ~ New Orleans, LA

2:30 Thinking Outside the Box: An Open Discussion about the Future of NRD
Ira M. Gottlieb, Esq., Program Co-Chair
Brian D. Israel, Esq., Program Co-Chair

3:00 Evaluations and Adjourn

Pre-Conference Optional: NRD 101 Mini Seminar

To bring people new to the field up to speed, Law Seminars is pleased to provide a mini seminar on Natural Resource Damages 101, free for attendees, \$195 for anyone else on Wednesday, March 9, the day before this annual NRD Conference March 10 & 11.

The mini seminar is two hours, from 3:00 - 5:00 pm. Each 1/2-hour presentation will provide a basic understanding of key elements and defense of an NRD case, including general areas of science and economics. Moderated by Program Co-chairs Ira M. Gottlieb, McCarter English, LLP, and Brian D. Israel, Arnold & Porter LLP, here is a list of the distinguished speakers and topics:

Jean Martin, Esq., Senior Counsel, HSSE BP America Inc., will discuss the claim: Who can bring an NRD case? What are the elements of a claim and what are the types of damages?

Lanny S. Kurzweil, Esq., McCarter & English, LLP, will discuss the defenses: What are the critical defenses applicable in all (or most) NRD cases? How should a company defend against an NRD claim or investigation?

Ann Michelle Morrison, Sc.D., Senior Managing Scientist, EcoSciences, Exponent, will discuss the science: What are the roles of science and scientific experts in prosecuting and defending an NRD claim?

Rick Dunford, Ph.D., Founder and Owner, Environmental Economics Services, LLC, will discuss the economics: Key economic principles in valuing natural resource damages, including everything you wanted to know about an HEA but were afraid to ask.



Registration & Other Conference Information

To Register:

Call us at: 206-567-4490
 Fax the registration form to us at: 206-567-5058
 Email us at: registrar@lawseminars.com
 Online: www.lawseminars.com
 Mail the registration form on the front page.
 Walk-ins are welcome, subject to space availability.
 Registration is complete when we receive payment or agree to later payment.

Tuition: Regular tuition for in person or webcast attendance is \$995 with a group rate of \$745 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$665. For students, people in their job less than a year, and public interest NGO's, our rate is \$497.50. Tuition for the NRD 101 Session on March 9 is free for attendees of the two day conference on March 10 & 11. To attend only the NRD 101 Session on March 9, tuition is \$195; group \$145; government employees \$130; students, etc. \$97.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International. Financial aid is available to those who qualify. Contact us for more information.

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, March 4, 2016. After that time, we will credit your tuition toward attendance at another program or the purchase of a webcast or audio replay.

Seminar Location: The conference will be held at the Arnold & Porter LLP Conference Center at 601 Massachusetts Avenue, NW in Washington, DC 20001. Special thanks to Arnold & Porter LLP for making this space available. Sleeping rooms are available at The Henley Park Hotel at 926 Massachusetts Avenue NW. Call the hotel directly at (800) 222-8474 for reservations at the special

negotiated rate of \$229 and mention that you are attending a Law Seminars International conference. Rooms are on a first come, first served basis.

Continuing Education Credits: Live credits: This program qualifies for 12 VA CLE credits. The NRD 101 Session qualifies for 2 VA CLE credits. Upon request, we will apply for, or help you apply for, CLE credits in other states and other types of credits.

Time Shift Your Content: Webcast and audio replays, with printed or electronic course materials, are available for \$1005. The course materials alone are available for \$100. Replays will be available within two weeks after the seminar or from the date we receive payment.

Faculty: Natural Resource Damages Conference

Ira M. Gottlieb, Program Co-Chair, partner, McCarter & English, LLP, lead's the Environment & Energy Practice Group and focuses on environmental and energy law, NRD, insurance coverage on behalf of policyholders and commercial litigation. Previously, he was Assistant Regional Counsel for the U.S. EPA Region III.

Brian D. Israel, Program Co-Chair, partner, Arnold & Porter LLP, focuses on environmental litigation and counseling, and is the author of the Natural Resource Damages chapter in the Environmental Law Practice Guide. He is lead counsel to BP in the Deepwater Horizon Spill.

Daniel M. Galpern, Special Address, Law Offices of Daniel M. Galpern, is a policy analyst focusing on the climate crisis. He co-authored an article in the Summer 2015 issue of the *Environmental Law Review* entitled *Atmospheric Recovery Litigation: Making the Fossil Fuel Industry Pay to Restore a Viable Climate System*.

Paul D. Boehm, Ph.D., Group Vice President & Principal Scientist, Exponent, Inc., is experienced in environmental forensics as applied to site and sediment investigations, environmental fate of chemicals and NRD assessments for oil spills and contaminated sites.

William D. Brighton, Assistant Chief, Environmental Enforcement Section, U.S. Department of Justice, manages civil environmental enforcement cases under statutes that include the Clean Air Act, Clean Water Act, CERCLA, RCRA and OPA.

James A. Bruen, partner, Farella Braun + Martel LLP, represents industry, universities and governmental institutions, in domestic and international environmental counseling and litigation involving NRD. He is a Regent of the American College of Environmental Lawyers.

Thomas Byrne is Chief Environmental Counsel at Honeywell International Inc.

William H. Desvousges, Ph.D., President, W.H. Desvousges & Associates Inc., focuses on NRDA, property valuation and benefit-cost analyses of regulatory programs, including the USEPA 316(b) rule.

Michael C. Donlan, Principal, Industrial Economics Incorporated, Inc., is an expert in the management of multidisciplinary natural resource and economic damage assessments, and the valuation process.

Mimi A. Drew, Florida NRDA Trustee and RESTORE Council Representative, Florida Department of Environmental Protection, is experienced in technical, supervisory, and administrative environmental issues.

Rick Dunford, Ph.D., Founder and Owner, Environmental Economics Services, LLC, specializes in the recreational impacts of oil spills and hazardous-substance releases, as well as groundwater damages from hazardous-substance releases.

Judi L. Durda, Vice President, Corporate Secretary and Principal Toxicologist, Integral Consulting Inc., is a toxicologist and ecologist experienced in risk assessment, toxicological evaluations, and forensics analysis.

Trudy D. Fisher, Butler Snow LLP, is experienced in environmental law, both counseling and litigation, and government relations.

Robert Haddad, Ph.D., Division Chief, Assessment and Restoration Division, NOAA, co-leads the Damage Assessment Remediation & Restoration Program.

William J. Hengemihle, Senior Managing Director, FTI Consulting, Inc., provides ADR services for problems relating to pollution liability and damages allocation for environmental cleanup and restoration actions.

Allan Kanner, founder, Kanner & Whiteley, L.L.C., focuses on complex litigation and environmental law. He represents the State of Louisiana in the Deepwater Horizon oil spill litigation, and the State of New Jersey against ExxonMobil in an NRD case.

Laurence S. Kirsch, partner and Chair of the Environmental Practice at Goodwin Procter LLP, focuses on air, surface water, groundwater, hazardous waste, sediments, and toxic substances regulation.

Lanny S. Kurzweil, partner, Environment & Energy Practice Group, McCarter & English, LLP, handles cost recovery actions in environmental cases involving landfills, groundwater, and soil contamination, and advises on NRD.

Laurie Lee, Deputy Section Chief, General Counsel Office, Natural Resources Section, NOAA, provides legal advice to the Office of Response and Restoration on the determination of damages to natural resources.

Brett Marston, Arnold & Porter LLP, focuses on NRD, contaminated site remediation, oil spill liability, and litigation under the Clean Water Act and other civil penalty statutes.

Bradley M. Marten, Chairman and Managing Partner, Marten Law PLLC, is principal environmental counsel to over two dozen companies and represents local governments and NGOs. His NRD experience includes Exxon Valdez and Deepwater Horizon oil spills and Fox River.

Jean Martin is Senior Counsel, HSSE, in the Legal Department of BP America Inc.

Edward McTiernan, partner, Arnold & Porter LLP, focuses on state and federal regulatory issues including site remediation, NRD, energy and infrastructure transactions, and environmental permitting. Previously, he was Deputy Commissioner and General Counsel at New York State Department of Environmental Conservation.

Ann Michelle Morrison, Sc.D., Senior Managing Scientist, EcoSciences, Exponent, Inc., specializes in NRDA, environmental causal analysis, and assessments of water quality conditions.

Katherine Pease, Deputy Section Chief and Senior Counselor for Natural Resources, NOAA's Office of General Counsel, works in NRDA, including the Portland Harbor CERCLA NPL site.

Samuel W. (Billy) Plauché, partner, Plauché & Carr LLP, focuses on natural resources, land use and environmental regulations, including wetlands or hazardous waste, NRD actions, and Clean Water Act and Clean Air Act challenges.

Lois J. Schiffer, General Counsel, NOAA, is chief legal officer for all NOAA activities and policy advisor to the Under Secretary of Commerce for Oceans and Atmosphere.

Joan P. Snyder, partner, Stael Rives LLP, and member of the Executive Committee, focuses on natural resources law, environmental and natural resources insurance coverage, and advises clients on state and federal cleanups.

John F. Stillmun is Assistant General Counsel at FMC Corporation.

Theodore Tomasi, Ph.D., Partner, Economic & Decision Sciences, Environmental Resources Management, is a natural resource economist whose research measures the value of natural resources and environmental change, valuation methods in benefit-cost analysis and NRD assessments.

Hilary Tompkins, Solicitor, U.S. Department of the Interior, is Chief General Counsel and represents the Department in administrative and judicial litigation, negotiations and other contracts with Congress, federal agencies, states, Tribes and the public.

Robert E. Unsworth, Principal and Director, Industrial Economics, Incorporated, specializes in natural resource economics and damage assessment, environmental benefits assessment, and environmental policy analysis.

Julie A. Weis, partner, Haglund Kelley LLP, focuses on environmental and natural resources law and litigation. She is Chair of the Trustees on the Portland Harbor Natural Resource Trustee Council.

Peter C. Wright is Managing Counsel at The Dow Chemical Company.

March 10 & 11, 2016

Washington, District of Columbia

**Arnold & Porter LLP
Conference Center**

601 Massachusetts Avenue, NW
(800) 222-8474

Who Should Attend:

In-house, private and government attorneys; policymakers; senior executives and risk managers; consultants and others who are involved in natural resource damage assessments and claims

Our Co-Chairs:



Ira M. Gottlieb, Esq.
McCarter & English, LLP



Brian D. Israel, Esq.
Arnold & Porter LLP

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