

Featuring Speakers From:

- Aspect Consulting LLC
- Cascadia Law Group
- Columbia Bank
- Forsberg & Umlauf PS
- Foster Pepper PLLC
- Perkins Coie LLP
- Pollution Liability Insurance Agency
- Washington Environmental Council
- Washington Public Ports Association
- Washington State Attorney General's Office
- Washington State Department of Ecology

Who Should Attend:

Attorneys, land use and environmental professionals, corporate managers, planners, engineers, architects, city and county officials, real estate professionals and anyone involved with developing contaminated property

A Comprehensive Seminar on the 27th Anniversary of the

Model Toxics Control Act

Evolving issues in implementation, litigation, and legislation

September 28, 2017

Seattle, Washington

Mayflower Park Hotel



Credits: 6.5 WA CLE | AICP pending (call about others)
Quick when/where: 8:30 a.m., 405 Olive Way

Model Toxics Control Act Seminar
September 28, 2017 | Seattle, Washington
Mayflower Park Hotel

Yes! Please register me:

Name: _____

Email: _____

What type of credits do you need? _____

For which state(s)? _____

Register my colleague:

Name: _____

Email: _____

What type of credits do you need? _____

For which state(s)? _____

Firm: _____

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City: _____ **State:** _____ **Zip:** _____

Phone: _____ **Fax:** _____

If you cannot attend in person, check boxes to order:

- Live Homestudy Webcast Homestudy Replay
 Course Materials



8:00 Registration Opens

8:30 Introduction & Overview
Ken Lederman, Esq., Program Co-Chair
 Foster Pepper PLLC ~ Seattle, WA
Josh M. Lipsky, Esq., Program Co-Chair
 Cascadia Law Group ~ Seattle, WA

8:45 Legislative Update
 Environmental and industry perspectives on recent legislative activity including the hot topic of MTCA funding
Darcy Nonemacher, Esq., Legislative Director
 Washington Environmental Council ~ Seattle, WA
Gerry O’Keefe, Senior Director, Environmental Affairs
 Washington Public Ports Association ~ Olympia, WA

9:45 Ecology’s Perspective on the State of MTCA
 Impact of Washington State legislative changes; impact of the federal government doing a policy about face and expected cut-backs at the federal EPA; Ecology’s policy priorities moving forward
James J. Pendowski, Toxics Cleanup Program Manager
 Washington State Department of Ecology ~ Olympia, WA

10:30 Break

10:45 NFA Determinations under the Voluntary Cleanup Program (VCP): Policies, Procedures, and the Path Forward
 Overview of the key pending issues and private sector perspective
Josh M. Lipsky, Esq., Program Co-Chair, Moderator
 What is working and not working from Ecology’s perspective
Robert Warren
 Northwest Region Manager, Toxics Cleanup Program
 Washington State Department of Ecology ~ Bellevue, WA
 Environmental perspective
Jessica Smith, Senior Geologist
 Aspect Consulting LLC ~ Seattle, WA
 Lender perspective
Michael Wearne, Vice President
 Columbia Bank ~ Tacoma, WA

12:15 Lunch (on your own)

1:30 The Evolution and Expansion of the Pollution Liability Insurance Agency (PLIA)
 Heating oil tanks, gas stations, and similar sites: Legal and agency management perspectives on coverage, remedies, and case resolutions
Russell E. Olsen, MPA, Executive Director
 Pollution Liability Insurance Agency ~ Olympia, WA
Ivy Anderson, Esq., Assistant Attorney General
 Washington State Attorney General’s Office ~ Olympia, WA

2:30 Model Remedies and Empirical Demonstrations
 Standards for use of empirical demonstrations to show the effectiveness of the employment of model remedies
Mark E. Gordon, P.E., Engineer, Toxic Cleanup Program
 Washington State Department of Ecology ~ Olympia, WA

3:15 Break

3:30 Cost Recovery: Post-Gull Industries Update on Insurance Coverage for MTCA Claims
 Recent cases affecting the scope of environmental insurance coverage, including Xia v. ProBuilders Specialty Insurance Co where the Supreme Court, for the first time, applied the “efficient proximate cause” rule to a third-party liability case
Carl E. Forsberg, Esq.
 Forsberg & Umlauf PS ~ Seattle, WA
John P. Zahner, Esq.
 Foster Pepper PLLC ~ Seattle, WA

4:15 Brownfield Redevelopment Opportunity Zones: Case Study of the Mt. Baker Gateway Project
 Lessons from pioneering work with Ecology, the City of Seattle, and local stakeholder groups to obtain NGO funding under the state’s Brownfield Redevelopment Trust Fund to revitalize the Mt. Baker neighborhood in Rainier Valley
Michael L. Dunning, Esq.
 Perkins Coie LLP ~ Seattle, WA
David Cook, LG, CPG, Principal Geologist
 Aspect Consulting LLC ~ Seattle, WA

5:00 Evaluations & Adjourn



About the Seminar



What previous attendees have said:

“Great panel to get perspective from legal, regulatory and private”

“Awesome law seminar. Great Speakers!”

“Thank you. Great seminar.”

News about and potential changes to Superfund and EPA's cleanup program is coming fast and furious. While state developments don't get the same media coverage, they have a greater impact on the day-to-day work of most developers, consultants, attorneys, regulators, and other environmental professionals in Washington.

Legislative developments, funding for Model Toxics Control Act (MTCA) programs, Ecology's response to expected EPA cuts, and the expanding role of the Pollution Liability Insurance Agency (PLIA) are just a few examples of issues that we will explain and explore during our bi-annual MTCA Seminar. Other important topics we will cover include significant policy changes within the Voluntary Cleanup Program, new case law impacting environmental insurance coverage claims, and a report on the development and implementation of Model Remedies. And, we are excited to offer a case study on the first cleanup project designated as a Redevelopment Opportunity Zone.

We have expert representatives from the government, the private sector, the environmental community, and the lending community to discuss key issues. We believe there is something here for everyone, and look forward to having you join us.

~ Program Co-Chairs: **Ken Lederman, Esq. of Foster Pepper PLLC** and **Josh M. Lipsky, Esq. of Cascadia Law Group**



Ken Lederman, *Program Co-Chair*, of Foster Pepper LLP, provides counseling and litigation support on environmental issues in real estate transactions and property redevelopment. A former Assistant Attorney General for the Washington State Department of Ecology, he has successfully facilitated the remediation and redevelopment of dozens of contaminated properties.

Josh M. Lipsky, *Program Co-Chair*, is a partner at Cascadia Law Group. He represents major industrial clients, commercial and real estate businesses and local municipalities. He focuses on hazardous waste cleanup and liability, including representing clients at Northwest Superfund sites, in contaminated property transactions and in cost recovery disputes.

Ivy Anderson, Assistant Attorney General, Washington State Attorney General's Office, negotiates and enforces consent decrees and agreed orders on cleanup of hazardous substance sites under the Model Toxics Control Act. She is lead attorney for the Department of Ecology's Toxic Cleanup Program and the Pollution Liability Insurance Agency.

David Cook is a Principal Geologist with Aspect Consulting, LLC. He is sought after for his technical acumen and innovative application of financing and risk management tactics to help business owners and communities develop cost effective solutions that put distressed sites back to productive use.

Michael L. Dunning, Perkins Coie LLP, focuses on solving challenges arising from land, water, and air pollution, with particular depth in the area of contaminated sites. Previously, he served for more than a decade as an assistant attorney general in Washington State and acted as lead counsel on some of the State's most challenging and complex contaminated sites and cases.

Carl E. Forsberg of Forsberg & Umlauf PS, emphasizes insurance defense, first and third-party coverage opinions/litigation, extra contractual matters, the defense of alleged bad faith claims as well as environmental defense claims.

Mark E. Gordon is an Environmental Engineer in the Toxic Cleanup Program at the Washington State Department of Ecology. He oversees the development of model remedies. Previously, he worked for the Wisconsin Department of Natural Resources.

Darcy Nonemacher is a Legislative Director for the Washington Environmental Council. She has more than a decade of experience in environmental law and policy issues including land and water conservation, renewable energy development, water law, toxic pollution cleanup and prevention, salmon and steelhead recovery, and budgeting.

Gerry O'Keefe is Senior Director for Environmental Affairs at the Washington Public Ports Association. Previously, he served closely with four Governors, beginning at the Office of Financial Management, moving into the Department of Ecology and, finally, serving as the Executive Director of the Puget Sound Partnership.

Russell E. Olsen is the Executive Director for the Washington State Pollution Liability Insurance Agency. Previously, he was the Northwest Regional Voluntary Cleanup Program Unit Supervisor for the Department of Ecology's Toxic Cleanup Program.

James J. Pendowski, Program Manager for the Toxics Cleanup Program at the Washington State Department of Ecology, focuses on waste management, cleanup and redevelopment issues at the state and local government level.

Jessica Smith is a Senior Geologist for Aspect Consulting LLC. She is an environmental project manager with particular experience leading complex, high profile, multi-disciplined projects for both private and public sector clients.

Robert Warren is the Northwest Region Manager, Toxics Cleanup Program, for the Washington State Department of Ecology. He leads a program covering King, Snohomish, Skagit, Kitsap, Island, San Juan and Whatcom counties.

Michael Wearne, is Vice President at Columbia Bank, where he is responsible for Environmental Risk Management. He is on the Board of the Environmental Bankers Association, and previously served Gov. Locke in development of the Area-Wide Soil Contamination Task Force Report.

John P. Zahner of Foster Pepper PLLC, concentrates on insurance coverage from the policyholder's perspective. He has resolved insurance disputes including large first-party property losses, as well as third-party liabilities and lawsuits stemming from environmental contamination.



Registration & Other Seminar 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 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, people in their job for less than a year, and public interest NGO's, our rate is \$347.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Materials will be available for download and review a few days before the seminar. Make checks payable to Law Seminars International. Financial aid is available to those who qualify. Contact our office 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 Friday, September 22, 2017. 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 seminar will be held at the Mayflower Park Hotel at 405 Olive Way in Seattle, WA 98101. Call the hotel directly at (206) 623-8700 for reservations.

Continuing Education Credits: Live credits: This program qualifies for 6.50 WA MCLE credits and we have applied for AICP planner 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 course materials, are available for \$695. The course materials alone are available for \$100. Replays will be available within three business days after the seminar or from the date we receive payment.



Our Co-Chairs:



Ken Lederman, Esq.
Foster Pepper PLLC



Josh M. Lipsky, Esq.
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