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The Sixth Annual Comprehensive Seminar on Tribal Natural Resource Damages Assessments

Current best strategies and tactics for conducting Tribal NRD Assessments

November 17, 2020

Via Interactive Zoom Broadcast

Agenda

9:00 Introduction & Overview

Jack Bell, *Program Co-Chair,*
Director ERWM

Nez Perce Tribe ~ Lapwai, ID

Connie Sue M. Martin, Esq., *Program Co-Chair*
Schwabe Williamson & Wyatt ~ Seattle, WA

9:10 Invocation

Anthony Smith, *Environmental Specialist*
Nez Perce Tribe ~ Lapwai, ID

9:15 Case Law Update

Lessons from recent cases including *Atlantic Richfield vs. Christian* which shows that litigation in state court may be an option when federal CERCLA processes are not adequately protecting Tribal interests

Connie Sue M. Martin, Esq., *Program Co-Chair*

10:00 Post-Election Developments

The new political dynamics: The potential impact on the regulatory reform movement, prospects for adding new chemicals, such as PFAS to the list of substances compensable under NRDA; and Tribal natural resource damages assessment strategies

Rachel Jacobson, Esq.
WilmerHale ~ Washington, DC

10:45 Break + Speaker Evaluation Poll

11:00 Covid-19 Realities: Best Strategies for Approaching Virtual Trustee Council and Technical Workshop Meetings

What to do when lawyer and client are not in the same room: Impact on end-game client concerns re issues like developing consensus on facts, closing negotiations and hammering out specific language for a restoration plan or financial settlement

Jack Bell, *Program Co-Chair*

Legal ethics: The overlay of lawyer/client relationship issues with potential ethical issues including protecting attorney client privilege, preventing coaching during virtual trials, and problems arising from lack of privacy in at-home work workspaces

Christopher Howard, Esq.

Schwabe Williamson & Wyatt ~ Seattle, WA

12:00 Lunch Break + Speaker Evaluation Poll

1:15 Enhancing Bargaining Power in Reaching Settlements

Melody L. Allen, Esq., Tribal Attorney
Suquamish Tribe ~ Suquamish, WA

Daryl Williams, Natural Resources Liaison
The Tulalip Tribes of Washington ~ Tulalip, WA

2:15 Addressing Problematic Issues with Long Term Monitoring Plans

Issues and approaches for long-term monitoring & adaptive management as part of a restoration plan in the face of scientific, negotiated settlement, and administrative challenges (including site closure)

David A. Hanson, Principal
HansonRM ~ Blaine, WA

Avoiding or resolving conflicts with state or federal trustees whose constituents are not tied to the land:
Making effective use of Reservation Homeland Treaty Rights to ensure quiet enjoyment of Tribal homelands

Richard A. Du Bey, Esq.
Ogden Murphy Wallace ~ Seattle, WA

3:15 Break + Speaker Evaluation Poll

3:30 Pathways to Successful Restoration Projects

Technical and Tribal Leader perspectives on steps from closure of the site to project completion

Robert E. Unsworth, Principal
Industrial Economics, Incorporated
Cambridge, MA

The Hon. Leonard Forsman, Chairman
Suquamish Tribe ~ Suquamish, WA

4:30 Coming Over the Horizon: "Forever Chemical" PFAS Contamination

PFAS claims and the interplay with water quality regulatory standards: The science and tips for using scientific analysis for developing water quality standards

Susan C. Paulsen, Ph.D., P.E.,
Principal Scientist & Practice Director
Exponent ~ Pasadena, CA

5:00 Evaluation Poll + Adjourn

Who Should Attend

Tribal, in-house and private attorneys, consultants, corporate managers, governmental representatives, Tribal water system managers, and others who are involved in Tribal natural resource damages assessments

About the Conference

In this extraordinary year, the sixth annual Tribal Natural Resource Damages Assessments seminar has adapted to the times to continue to bring you cutting-edge information. Rather than in-person in beautiful Seattle, we will hold the seminar virtually via Interactive Zoom Broadcast to keep our faculty and attendees safe. We are also moving up the date, and this year's seminar will take place two weeks after the election.

We are pleased to include on our faculty, from the other Washington, Rachel Jacobson, Special Counsel at Wilmer Cutler Pickering Hale and Dorr, who previously handled some of the largest environmental cases in US history and held senior positions at DOJ, DOI and DOD. She will bring us her inside the beltway insights and discuss the new political dynamics, regulatory reform and Tribal NRDA strategies.

You will hear from our distinguished panelists about the wave of PFAS litigation that is rolling across the country. PFAS (and PFOS) are forever chemicals and found in 99% of the US population and in the environment, and yet there are very few applicable cleanup standards. You will also hear perspectives about best strategies for approaching virtual trustee council and technical workshop meetings as we navigate the new normal; litigation as a tool in reaching settlements; issues with long term monitoring plans; technical and Tribal leader perspectives on pathways to successful restoration projects; and the annual litigation update.

Register soon to hear from leading Tribal representatives, attorneys and consultants. We hope to see you (virtually) at this important event.

Jack Bell, of Nez Perce Tribe and
Connie Sue M. Martin, Esq. of Schwabe Williamson & Wyatt
Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$695 with a group rate of \$625 each for two or more registrants from the same firm. For government employees and Tribal members, we offer a special rate of \$520. 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 program sessions and course materials. Make checks payable to Law Seminars International.

Covid-19 discount: We recognize that being in the same Zoom isn't the same as being in the same room. When you register, we will deduct \$100.00 from the price you otherwise would pay. And as an added value bonus, you'll receive access to audio and video recordings of the program at no extra charge.

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 Wednesday, November 11, 2020. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 6.0 Washington MCLE and 6.0 ABCEP environmental professional credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$75.

Faculty

Jack Bell, *Program Co-Chair*, is the Director of the Environmental Restoration and Waste Management (ERWM) program for the Nez Perce Tribe. In that role, he serves as the Tribe's NRDA Coordinator for the Hanford cleanup.

Connie Sue M. Martin, *Program Co-Chair*, is a shareholder at Schwabe Williamson & Wyatt. She helps Indian tribes, ports, companies of all sizes and individuals address environmental contamination and restore injured natural resources.

Melody L. Allen is a Tribal Attorney for the Suquamish Tribe working in the areas of Environmental, Land Use, and Indian Law.

Richard A. Du Bey is a member at Ogden Murphy Wallace and serves as chair of the firm's Tribal Government Practice Group. His practice focuses on environmental and natural resources law and tribal government matters.

The Hon. Leonard Forsman is Chairman of the Suquamish Tribe. He has worked as a professional archaeologist and is the former Director of the Suquamish Museum. President Barack Obama appointed him to the Advisory Council on Historic Preservation in 2013 and 2016 where he currently serves as Vice-Chairman.

David A. Hanson, founding Principal of HansonRM, has provided consulting services on challenging environmental issues across the U.S. He has been involved in complex water quality, habitat restoration, river system operation, endangered species recovery, protection of old-growth forests, climate resilience and much more.

Christopher Howard is a shareholder at Schwabe Williamson & Wyatt. He co-leads Schwabe's Ethics Hour Series and is a frequent speaker on ethics and risk management topics for professionals.

Rachel Jacobson is special counsel at WilmerHale. She joined the firm following more than two decades in the federal government, where she handled some of the largest environmental cases in US history and held senior positions at the US Department of Justice (DOJ), Department of the Interior (DOI) and Department of Defense (DoD).

Susan C. Paulsen is a Principal Scientist & Practice Director at Exponent. She provides scientific and strategic consultation on matters involving Superfund (CERCLA) and Natural Resources Damages (NRD). She also has expertise designing and implementing field and modeling studies of dilution and analyzing the fate and transport of organic and inorganic pollutants.

Anthony Smith is an Environmental Specialist for the Nez Perce Tribe. He works to protect, preserve and perpetuate retained Treaty Rights and resources in aboriginal lands of the Tribe.

Robert E. Unsworth is a Principal at Industrial Economics, Incorporated and focuses on applied natural resource and environmental economics. He has served as an expert witness in the context of environmental damage claims and has assisted various public commissions on topics in environmental valuation.

Daryl Williams is the Natural Resources Liaison for the The Tulalip Tribes of Washington.