



**LAW SEMINARS
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The 14th Annual “Santa Fe” Advanced Conference on
Natural Resource Damages Litigation

*Impacts of a new political landscape plus ambitious climate, infrastructure, and
social justice agendas on NRD claims, defenses, and selection of remedies*

August 12 & 13, 2021

Live Online via Interactive Broadcast

Mountain Time Zone

Agenda—Day 1

9:00 Introduction & Overview

Sarah P. Bell, Esq., *Program Co-Chair*
Farella Braun + Martel ~ San Francisco, CA
William J. Jackson, Esq., *Program Co-Chair*
Kelley Drye & Warren ~ Houston, TX

**9:15 Special Opening Addresses: A Changing of the Guard in DC and the Implications for
Future Recovery of Natural Resource Damages**

A new political landscape for NRD: The Biden Administration's ambitious climate change and
infrastructure agendas; the growing strength of the environmental justice movement; observations on what
to expect from a Democratic house and evenly split Senate

John C. Cruden, Esq.
Beveridge & Diamond ~ Washington, DC
John Pendergrass, Esq.,
Vice President, Programs and Publications
Environmental Law Institute ~ Washington, DC

10:15 Break

**10:30 Incorporating Environmental Justice (EJ) Considerations into Selection of NRD
Remedies**

State and federal agency implementation

The Hon. Shawn M. LaTourette, Esq., *Commissioner*
New Jersey Department of Environmental Protection
Trenton, NJ
Carlton Waterhouse, Esq.,
Deputy Assistant Administrator
EPA Office of Land and Emergency Management ~ Washington, DC

12:00 Lunch Break

**12:15 Special Address: Infrastructure Project Selection, Permitting, and Getting to Restoration
Faster**

The need to rethink how we prioritize NRD spending, select the most appropriate projects, and get them built

The Hon. Garret Graves, (R) Louisiana
U.S. House of Representatives ~ Washington, DC

12:45 Resume Lunch Break

1:15 New Regulations and the Impact on Claims Involving Per- and Polyfluoroalkyl Substances (PFAS)

Overview

William J. Jackson, Esq., Program Co-Chair
Kelley Drye & Warren ~ Houston, TX

How the political landscape for PFAS litigation has evolved over time

Robert A. Bilott, Esq.
Taft Stettinius & Hollister ~ Cincinnati, OH

Eco Toxicity: Update on the science

Judi L. Durda, Executive Vice President & Principal Toxicologist
Integral Consulting Inc. ~ Annapolis, MD

Update on Biden Administration and state initiatives to regulate PFAS and adopt drinking water and other standards; how that affects NRD claims

Fabio Dworschak, Esq.
Kelley Drye & Warren ~ Houston, TX

Update on litigation strategies for PFAS litigation across the country, products liability and common law tort claims for aqueous form-filming foam (AFFF) cases and industrial discharger cases

Rebecca G. Newman, Esq.
Douglas & London ~ New York, NY

3:00 Break

3:15 Sources of NRD Claims and the Best Defenses

Lessons from recent cases for trustees and PRPs, including new theories for cases involving climate change impacts and the causes of wildfires and flooding from extreme weather events

Scott E. Kauff, Esq.
Law Offices of John K. Dema ~ Rockville, MD
Sarah P. Bell, Esq., Program Co-Chair
Farella Braun + Martel ~ San Francisco, CA

Innovative claims and defenses case study: Portland Harbor

James H. Colopy, Esq.
Farella Braun + Martel ~ San Francisco, CA

5:00 Adjourn Day 1

Agenda—Day 2

9:00 Climate Change and Sea Level Rise: The Advantages of Changing the Focus from Insitu Ecosystem Restoration for Low Lying Sites to Providing Ecosystem Services at Other Locations Over the Long Term

Rethinking restoration from project design to innovative solutions for financing and ensuring cost effectiveness

Mark S. Laska, Ph.D., CEO and President
Great Ecology ~ New York, NY
Kyle Graham, Senior Program Manager
Ecosystem Investment Partners ~ Erie, CO

Trustee and PRP perspectives on putting innovative solutions to work as a way to meet the need for speedy, permanent, and cost-effective replacement of lost ecosystem services

Brian D. Israel, Esq.

Arnold & Porter ~ Washington, DC
Allan Kanner, Esq.
Kanner & Whiteley ~ New Orleans, LA

11:00 Break

11:15 A Report on the Environmental Cases from this Term of the United States Supreme Court

Territory of Guam v. United States regarding the extent to which a non-CERCLA settlement agreement may give rise to a contribution action under Section 113 of CERCLA; other cases of interest to NRD practitioners

John D.S. Gilmour, Esq.
Kelley Drye & Warren ~ Houston, TX
Natalie Watson, Esq.
McCarter & English ~ Newark, NJ

12:30 Evaluations & Adjourn

Who Should Attend

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

About the Conference

From its first days in office, the Biden Administration made clear that it has three priorities for the United States Environmental Protection Agency and the environment more broadly: addressing climate change, environmental justice, and widespread contamination from per- and polyfluoroalkyl substances (PFAS). This year's Santa Fe conference is constructed to address those three priorities and the direct implication they have on natural resource damages practitioners.

We will open with John Cruden and John Pendergrass discussing the changing landscape of environmental law and natural resource damages matters at the federal level. On issues impacting climate change, we will have panels discussing climate change litigation, causes of action, and Supreme Court opinions directly impacting the forum – and potentially the ultimate outcome – of climate change litigation. Additionally, we have an program of experts and counsel from both the trustee and industry perspectives discussing innovative restoration programs and approaches impacting and addressing restoration of climate impacts.

Shifting to Environmental Justice, Shawn LaTourette, Commissioner of the New Jersey Department of Environmental Protection and Carlton Waterhouse (inv), Deputy Assistant Administrator EPA Office of Land and Emergency Management, will lead a panel discussing environmental justice priorities in enforcement, litigation and natural resource restoration projects. Likewise, John Gilmour, counsel for Guam in its case against the United States, will discuss the underpinnings of Guam's recent unanimous victory at the United States Supreme Court regarding the remediation of military waste on the island dating back to pre-World War II era.

Finally, with regard to PFAS, we will have a panel dedicated to the rapidly changing regulatory and litigation landscape of the sprawling PFAS contamination across the country. We will discuss the state of the science and the state of PFAS regulation at both the state and federal level, the implication of the Biden Administration's stated intent to create federal MCLs for certain PFAS, and the implications of a potential CERCLA designation. Likewise, we have leaders in PFAS litigation, both from the trustee perspective in NRD actions for discharger sites, and from the AFFF MDL, to discuss the state of PFAS litigation across the country.

Finally, we have experienced practitioners for both trustees and industry, discussing best practices and strategies for bringing and defending against NRD litigation under both federal and state statutory authorities and the common law. Likewise, our Supreme Court panel will discuss this term's key environmental decisions and how they impact NRD litigation and claims across the country.

You will hear from, interact with, and receive practical tips from leading NRD counsel experts from around the country. We hope you'll be able to join us for the best and longest-running NRD program in the country.

~ Sarah P. Bell, Esq. of Farella Braun + Martel and
William J. Jackson, Esq. of Kelley Drye & Warren, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$995 with a group rate of \$895 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$745. For Tribal members, public interest NGO's, students, and people in their job for less than a year our rate is \$497.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International. As an added value bonus, attendees will 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 Friday, August 6, 2021. 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 9.2 NM, 9.50 CA, 9.25 TX, and 9.25 WA MCLE credits and 9.25 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 \$100.

Faculty

Sarah Peterman Bell, *Program Co-Chair*, is a partner at Farella Braun + Martel focusing on environmental and natural resources litigation. Her practice includes environmental enforcement actions, cost recovery, citizen suits, water quality, and complex toxic tort matters.

William J. Jackson, *Program Co-Chair*, is co-chair of the National Environmental Law practice group at Kelley Drye & Warren. He is currently serving as counsel for several states, territories, and private-sector clients in both litigation and administrative actions related to contamination and natural resource damages from perfluorinated compounds (PFCs).

The Hon. Garret Graves, (R) Louisiana, Special Address, represents Louisiana's Sixth Congressional District in the U.S. House of Representatives. He has been very active in remediation efforts after Deepwater Horizon.

Robert A. Bilott is a partner at Taft Stettinius & Hollister. He brought the very first PFAS environmental exposure case in 1999 and is the author of "Exposure" which served as the basis for the recently released movie "Dark Water".

James H. Colopy is a partner in Farella Braun + Martel LLP's Environmental Law Department. He represents industry and government in complex environmental litigation in federal and state courts across the country.

John C. Cruden is a principal at Beveridge & Diamond. For more than two decades, he served as a senior leader on environment and natural resource matters at the United States Department of Justice, where he supervised some of the department's most significant litigation, including the Exxon Valdez oil spill, Love Canal, and Bunker Hill litigation.

John Pendergrass is Vice President for Programs and Publications at the Environmental Law Institute. This includes leading the Research and Policy Division, which conducts legal and policy research and analyses of pressing environmental and natural resource issues in the U.S. and globally.

Judi L. Durda is an Executive Vice President & Principal Toxicologist at Integral Consulting Inc. She has extensive experience with emerging and yet to be regulated chemicals including per- and polyfluoroalkyl substances (PFAS). In addition, she has extensive experience in the evaluation of ecological risks and natural resource damages potentially associated with chemical release or disposal.

Fabio Dworschak, Kelley Drye & Warren, has represented public and private clients in a diverse array of disputes, including actions arising from the Clean Water Act (CWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

John D.S. Gilmour co-chairs the Environmental Litigation section at Kelley Drye & Warren. His practice encompasses significant tort and environmental matters, including some of the largest contaminated sites in the country.

Kyle Graham is a Senior Program Manager at Ecosystem Investment Partners. He previously served as Executive Director for Louisiana's Coastal Protection and Restoration Authority, implementing large scale coastal restoration projects.

Brian D. Israel is a Partner at Arnold & Porter and chair of the firm's Environmental Practice Group. He served as lead counsel to BP in relation to the Deepwater Horizon NRD claim and as one of the trial attorneys at the Deepwater Horizon Clean Water Act penalty trial.

Allan Kanner, Kanner & Whiteley, has a national environmental and natural resource damage practice. He represented New Jersey in its largest natural resource damages case and was lead counsel for Louisiana in the Deepwater Horizon oil spill litigation. He currently represents New Jersey in several natural resource damages cases, New Mexico in a case against the United States Air Force related to PFAS contamination.

Scott E. Kauff, Law Offices of John K. Dema, focuses on environmental and toxic torts litigation. He represents New Jersey, Maryland, and the Commonwealth of Puerto Rico in their assertion of multi-million-dollar NRD claims including claims against the oil industry concerning the gasoline additive, methyl tertiary butyl ether (MTBE).

Mark S. Laska, Ph.D. is CEO and President of Great Ecology. His technical specialization includes habitat restoration, ecological planning and design, and he is a leading Natural Resource Damage (NRD) practitioner. He is highly experienced in taking projects of all scales and sizes from the conceptual stage through post- construction monitoring.

Shawn M. LaTourette is the Commissioner of the New Jersey Department of Environmental Protection. He is responsible for formulating statewide environmental policy while directing programs that protect public health and ensure the quality of New Jersey's air, land, water, and natural and historic resources.

Rebecca G. Newman, Douglas & London, focuses primarily on the areas of pharmaceutical products liability and environmental toxic tort litigation. For approximately the last five years, she has been integrally involved with representing the firm's clients in the In re E. I. du Pont de Nemours C8 (PFOA) Personal Injury Litigation,

Carlton Waterhouse is Deputy Assistant Administrator for the Office of Land and Emergency Management at the U.S. Environmental Protection Agency. He formerly taught at Howard University School of Law and is an international expert on environmental law and environmental justice, as well as reparations and redress for historic injustices.

Natalie Watson is a partner at McCarter & English. Her practice centers on complex litigation, with a particular focus on multidistrict litigation, class actions, and suits against governmental agencies. This includes defending against claims under CERCLA and similar state statutes.