



Key Environmental Issues in U.S. EPA Region 4

May 17, 2007

Omni Hotel at CNN Center, Atlanta, GA

About the Program:

The EPA Region 4 states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee continue to face many cutting-edge issues in the arena of environmental law and enforcement. This conference will feature speakers who will address these issues with in-depth presentations and discussions. The conference will also be a perfect forum to interact with key federal and state agency personnel, as well as catch up on the most important environmental issues within the Region.

Welcome Reception:

Wednesday, May 16, 2007

5:30 p.m. – 7:00 p.m.

Mark your calendar to take advantage of this pre-meeting networking opportunity. The meeting registration table will also be open for attendees to check in and pick up registration materials.

Program Agenda:

7:00 a.m.

Registration and Continental Breakfast

7:15 a.m. – 8:15 a.m.

Optional Ethics Program: The “No-Contact Rule” – Attorney Contacts with EPA Program Employees in Enforcement Cases

Moderator:

Steven R. Stout, *Environmental Legal Counsel, Tennessee Department of Environment & Conservation, Nashville, TN*

Panelists:

Leif Palmer, *Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA*

Carl A. Pierce, *Al Separk Distinguished Professor of Law, University of Tennessee College of Law, Knoxville, TN*

8:15 a.m. – 8:30 a.m.

Networking Break

8:30 a.m. – 9:45 a.m.

Welcome and Keynote Address

Introduction:

Douglas S. Arnold, *Program Co-Chair, Alston & Bird, LLP, Atlanta, GA*

Philip G. Mancusi-Ungaro, *Program Co-Chair, Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA*

Welcoming Remarks:

Regional Counsel, *U.S. Environmental Protection Agency, Region 4, Atlanta, GA*

Keynote Address:

Roger R. Martella, Jr., *General Counsel, Office of General Counsel, U.S. Environmental Protection Agency, Washington, DC*

9:45 a.m. – 10:00 a.m.

Networking Break

10:00 a.m. – 11:45 a.m.

(Breakout Session 1) Whose Water is it, Where is it Going, and What Can it be Used for?: The Latest on Water Allocation, Transfer and Designated Uses

Moderator:

Philip G. Mancusi-Ungaro, Program Co-Chair, Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

Panelists:

Permitting Water Transfers – Update on Water Transfer Litigation

Dione Carroll, General Counsel, Miccosukee Tribe of Indians of Florida, Miami, FL

Interstate Water Allocation, Whose Water Is It?

Teri L. Donaldson, Squire, Sanders, & Dempsey L.L.P., Tallahassee, FL

Intrastate Water Transfer and Riparian Issues in Region 4

Mullen Taylor, Willoughby & Hoefler, P.A., Columbia, SC

EPA Policy on “Subcategorization” of Designated Uses

Jim Keating, Office of Science and Technology, U.S. Environmental Protection Agency, Washington, DC

10:00 a.m. – 11:45 a.m.

(Breakout Session 1A) Clean Air Act: Update on New Rules, Enforcement, and Recent Case Law

Moderator:

New CAIR (Clean Air Interstate Rule) and CAMR (Clean Air Mercury Rule): Requirements for Power Plants and New Technology

Vera Kornylak, Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

Panelists:

CAMD Overview on National Trading Programs

Kevin Culligan, Clean Air Markets Division, U.S. Environmental Protection Agency, Washington, DC

Summary of Tennessee Rule and Innovative Ideas

CAMR Negotiation in Georgia from a Stakeholder’s Perspective

Jim Grode, Director, Turner Environmental Law Clinic, Emory University School of Law, Atlanta, GA

Controls TVA Is Implementing to Address Mercury

John W. Myers, Air Program Manager, Tennessee Valley Authority, Chattanooga, TN

CAA Litigation Update

Additional topic to be covered by panel.

Panelists:

Massachusetts v. Environmental Protection Agency

Chuck D. Barlow, Assistant General Counsel – Environment, Entergy Corporation, Jackson, MS

SCAQMD v. EPA (Ozone Implementation)

Vera Kornylak, Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

United States v. Duke Energy Corp.

Alan Dion, Acting Chief, Office of Air, Toxics, and General Law, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

12:00 p.m. – 12:30 p.m.
Luncheon

12:30 p.m. – 1:15 p.m.
Featured Speaker

Matthew J. McKeown, Acting Assistant Attorney General, U.S. Department of Justice, Environment and Natural Resources Division, Washington, DC

1:30 p.m. – 3:15 p.m.
(Breakout Session 2) Preserving Liquid Assets: Clean Water Act Regulation in Light of Recent Developments

Moderator:
Beverlee Silva, Alston & Bird LLP, Atlanta, GA

Panelists:
Muddy Waters: Uncertain Times for the Section 404 Program after *Rapanos* and the Invalidation of the *Tulluch I* Rule
Thomas N. Griffin III, Parker, Poe, Adams & Bernstein LLP, Charlotte, NC

That's a Wetland? Really?: Section 404 Jurisdictional Determinations and the Administrative Appeals Process
Michelle Diffenderfer, Lewis Longman & Walker, P.A., West Palm Beach, FL

Fallout from Feedlots: EPA's Latest CAFO Rule
Gregory "Greg" W. Blount, Troutman Sanders, Atlanta, GA

1:30 p.m. – 3:15 p.m.
(Breakout Session 2A) Teaching Old Dogs New Tricks: Areas of New Emphasis in Hazardous Waste Law

Moderator:
John E. Milner, Brunini, Grantham, Grower & Hewes, PLLC, Jackson, MS

Panelists:
Financial Assurance Requirements – Highlighting the New Enforcement Priority at RCRA, CERCLA, and TSCA Sites
Christine McCulloch, Chief, Waste Identification & Enforcement Policy Branch, RCRA Enforcement Division, U.S. Environmental Protection Agency, Washington, DC

Institutional Controls – Giving Them Teeth and Making Them Last
Virginia M. Baker, Attorney-Manager, Kentucky Environmental and Public Protection Cabinet, Frankfort, KY
Matthew Hicks, Attorney-Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

Superfund Alternatives Sites – Evaluating the Pilot Program for Conducting Voluntary Remedial Actions Without NPL Listing
Anne Berube, Attorney-Advisor, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, Washington, DC
Edward "Skip" Kazmarek, McKenna, Long & Aldridge, Atlanta, GA

3:15 p.m. – 3:30 p.m.
Networking Break

3:30 p.m. – 5:00 p.m.

(Breakout Session 3) In Deep Water – Issues Surrounding Permitting of Offshore LNG Facilities

Moderator:

Ellen Rouch, Attorney-Advisor, Office of Environmental Accountability, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

Panelists:

Permitting and Licensing at Deepwater Ports – How Many Federal Agencies Does it Take?

Mark L. Lumen, Attorney Advisor, Deepwater Ports Standards Division, Environmental and Real Property Law Division, Office of the Judge Advocate General, Office of Environmental and Real Property Law, U.S. Coast Guard, Washington, DC

LNG in Deep Water – Stakeholders' Concerns

Jill Witkowski, Staff Attorney, Tulane School of Law Environmental Law Clinic, New Orleans, LA

Representing Industry – Pleasing All of the People All of the Time

David A. Savage, Baker Botts, LLP, Austin, TX

3:30 p.m. – 5:00 p.m.

(Breakout Session 3A) Hot Issues in Environmental Crimes and Enforcement

Criminal prosecution continues to be a critical component of federal environmental enforcement. In 2006, U.S. EPA initiated more than 300 criminal cases, of which 278 were referred to U.S. Department of Justice for prosecution. These prosecutions resulted in 154 years of prison sentences and \$71 million in criminal fines and judicially mandated environmental projects. This program will provide an update on environmental criminal prosecutions in Region 4 and around the country. The panel will also provide prosecutorial and defense perspectives on criminal investigations, factors for determining when enforcement will be criminal versus civil, and enforcement trends and priorities for 2007.

Moderator:

W. Bruce Pasfield, Alston & Bird, LLP, Washington, DC

Panelists:

Fred Burnside, Special Agent in Charge, Criminal Investigation Division, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

Simon Miller, Regional Criminal Enforcement Counsel, Office of Environmental Accountability, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

James Morgulec, Senior Counsel, Environmental Crimes Section, U.S. Department of Justice, Washington, DC

Registration Information
Key Environmental Issues in U.S. EPA Region 4 ♦ May 17, 2007
The Omni Hotel at CNN Center

Location and Lodging

The site of the program is The Omni Hotel at CNN Center, 100 CNN Center, Atlanta, GA. The Section has reserved a block of rooms for this meeting with rates of \$229 single and \$249 double occupancy. The block of rooms will be held until April 24, 2007. Please reference the ABA Region 4 program when calling the hotel reservations line at (800) 524-0500.

Registration

We request that all registrations be made in advance by completing the attached form and mailing it with your payment to the ABA Section of Environment, Energy, and Resources, Attn.: Key Environmental Issues in U.S. EPA Region 4, 321 N Clark Street, Chicago, IL 60610. The deadline for receipt of all registrations is May 11, 2007. Should you miss the deadline and need to register onsite, please call (312) 988-5724 to insure that space is available.

Onsite Registration

Onsite registration will be at 7:00 a.m. on May 17, 2007. If you plan to register at the door, you must call (312) 988-5724 at least 72 hours before the conference to confirm that space is still available. Failure to call in advance may result in not being admitted to a sold out program. Onsite registrations will be accepted when accompanied by a check, money order, government purchase order, or government training form. Visa, MasterCard, and American Express are also accepted onsite. No registration will be accepted without payment.

Registration Confirmation

If you have not received a written confirmation by May 14, 2007 please call (312) 988-5724 to verify that your registration form and payment were received.

Cancellation Policy

Registrants who are unable to attend the conference will receive a refund less a \$50 administrative fee if a written cancellation is received by May 10, 2007. Cancellations may be faxed to (312) 988-5572, attn.: Program Registrar. No refunds will be granted after May 10, 2007. Substitutions are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

Tuition Waivers

Tuition waivers and group discounts are available for this program. Please contact the Section's Assistant Director for additional information.

Fee Information

Fee covers registration to the program, printed course materials, continental breakfast, networking breaks and lunch.

CLE Credit

CLE accreditation has been requested for this program from every state with mandatory continuing education requirements for lawyers. Please be aware that each state has its own rules and regulations, including its definition of "CLE." Check with your state agency for confirmation of this program's approval. States with lawyer specialization programs have not been requested to certify this program. Certificates of attendance will be available in the registration materials at the program. **Please note: New York licensed participants are required to sign-in and sign-out on a special attendance sheet at each session.** The Section will not have the approved number of credit hours until the time of the program. If you would like information on specific state the requirements, please visit the section website <http://www.abanet.org/environ/> . To obtain information on the number of credits that have been applied for, please contact the Section's Program and Membership Coordinator at (312) 988-5577.

Special Needs

If any special arrangements are required for a disabled individual to attend this program, please contact the Section at (312) 988-5724.

Program Planning Chairs

The ABA Section of Environment, Energy and Resources would like to thank the co-chairs of this program:

Douglas S. Arnold, Alston & Bird, LLP, Atlanta, GA
Philip G. Mancusi-Ungaro, Attorney Advisor, U.S. Environmental Protection Agency, Region 4, Atlanta, GA

ABA and Section Membership

This program has been organized by the State and Regional Environmental Cooperation Committee of the ABA Section of Environment, Energy, and Resources. To learn more about the benefits of membership in the American Bar Association, Section or one of our substantive committees, visit <http://www.abanet.org/environ>.

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I cannot attend this program. Please send me the course materials available after this meeting at the price of \$70, which includes postage and handling.

Registrant Information:

ABA Membership #: ____/____/____/____/____/____/____/____/____/____

Name _____ Preferred First Name for Badge _____

Organization _____

Address _____

City, State, Zip _____

Daytime Phone Number _____

Fax _____ E-mail _____

Fees and Payment

(Payment and/or P.O. must accompany registration or registration form will not be accepted).

Program Registration Fees:

- | | |
|---|-------|
| <input type="checkbox"/> Section/Sponsoring Members | \$275 |
| <input type="checkbox"/> Other ABA Members | \$300 |
| <input type="checkbox"/> General Attendance | \$350 |
| <input type="checkbox"/> Government, Public Interest, Academics | \$200 |
| <input type="checkbox"/> Law Students | \$100 |

- I am licensed to practice in the state of New York.
 Do not list my name/contact information in the registration roster distributed to all participants on site at the meeting.

PAYMENT: (check one; complete all information.)

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ABA Section of Environment, Energy, and Resources
321 N Clark Street
Chicago, IL 60610
Fax: (312) 988-5572

Questions? (312) 988-5724

American Bar Association
Section of Environment, Energy, and Resources
321 N. Clark Street
Chicago, IL 60610



Visit our website @ www.abanet.org/environ/

Don't delay, register today!

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Registration Deadline:

May 11, 2007

Lodging Deadline:

April 24, 2007