

AGENDA
NYSBA Environmental Law Section
Executive Committee Meeting
January 25, 2014

1. Secretary's Report: Approval of the minutes of the Executive Committee meeting at the Fall meeting: Laurie Silberfeld
2. Chair's Report: Kevin A. Reilly
3. A brief summary of the Treasurer's Report provided at the business meeting: Mike Lesser
4. House of Delegates Report: Howard Tollin
5. Membership: Jason Kaplan
6. Diversity Initiatives: John Greenthal and Joan Leary Matthews
7. Journal: Miriam Villani
8. Report on Brownfields Cleanup Program: David Freeman, Larry Schnapf
9. Revision of DEC Hearing regulations: Lou Alexander
10. Subsidization: Lou Alexander
11. Acknowledgment of the passing of Art Savage, a founding member of the Section: Ginny Robbins
12. Committee Reports
13. New Business

NYSBA Environmental Law Section
Executive Committee Meeting
October 27, 2013

1. Call to Order by ELS Kevin Reilly at 9:15am. Personal introductions made by all. In attendance at meeting:

Lisa Bataille
Laurie Silberfeld
Dave Quist
Walter Mugdan
Miriam Villani
Carl Howard
Jason Kaplan
Joel Sachs
John Greenthal
Rosemary Nichols
Alan Knauf
Phil Dixon
Michael Lesser
Terresa Bakner
Kevin Reilly
Howard Tollin (by phone)
Dominic Cordisco (by phone)
Keith Hirokama (by phone)
Lou Alexander (by phone)

Motion to accept committee minutes of May 15, 2013 meeting by Walter Mugdan seconded by Miriam Villani, motion carried by voice vote.

2. Chair's Report by Kevin Reilly.

- Discussed appointments to the nominating and awards committees:
Nominating- Laurie Silberfeld (chair), Gail Port, Lou Alexander, Walter Mugdan, and Phil Dixon. Awards—Barry Kogut (chair), Janice Dean, Steve Russo, and Kevin Ryan
- Phil Dixon to serve as liaison to Section Council.

- Chair reported that he has asked Kevin Healy (and Kevin agreed) to serve as Section representative on the planning committee for the next EPA Region 2 conference at Columbia University. All agreed with the selection.

3. Budget (Mike Lesser):

- Reported that September 30th state reflects a \$2058.54 surplus thus far this budget year. But bottom line is the Section will have a severe revenue problem in 2-3 years if things stay as is. Discussed ways to increase membership; decrease expenses and increase revenues- (CLE and annual spills programs as well as the fall meeting are all revenue generators, will talk with Jim Rigano and Maureen Leary about doing more CLE programs). Also discussed

doing more webinars and adding an annual Brownfields program (similar to the Spills update) to the schedule. All agreed it is a good idea.

- Discussed publishing an E-book of the annual enforcement update as another low-cost means of generating revenue
- Discussed possible dues waiver policy as a way to encourage and retain new attorneys. Jason Kaplan (membership committee co-chair) reported on his ideas and efforts to increase membership particularly amongst younger attorneys. Lisa will provide Jason with report that typically comes out in February listing the members who have not paid their renewal dues. Discussed reaching out to such members with a letter (was done last year) asking if there is anything the Section can do differently to encourage them to rejoin. Also discussed new members outreach and recognition as well as regional networking meetings (brown bags) as ways to encourage and cement involvement.
- Discussed the one time savings the Section will experience at the upcoming January meeting due to the 2014 Superbowl. Discussed whether to, in turn, reduce fees for January meeting and luncheon or use the \$\$ to offset other expenses in 2014. General agreement around setting the luncheon price at \$95 next year to allow for some passing along of the savings from the Superbowl without creating a sticker price issue in 2015 when the Section will not have the same cost savings for the January program.
- Also discussed redirecting sponsorships monies to instead fund the minority fellowship program, which runs approximately \$6000 per year. Phil will send out a letter to the sponsors to ask if they would be willing to support the fellowship program instead of the cocktail party.
- Talked about instituting a cash bar and cutting out food for the Thursday evening cocktail party as a way to contain expenses.

4. House of Delegates (Howard Tollin):

- Reported on the launch of the new NYSBA website
- Discussed NYSBA recommendation that each Section have a "budget officer", someone who serves one than a one year term, to preserve institutional knowledge on fiscal matters. There was recognition of the value of having someone having a longer perspective on revenue and expenses, to identify and catch trends, spot increases over time.
- Discussed adding an additional position to the Section Cabinet for such role. Question was raised whether it would diminish the role of the treasurer.
- Discussed whether there was any progress with the NSYBA regarding the subsidization issue. It appears to be dead for now, at least respecting state and local government attorneys. Discussed whether might still be able to provide for federal attorneys.
- Also, discussed the possibility of encouraging younger members by providing for one or two slots on the executive committee, or creating a non-voting class of executive committee member, as a way to encourage and secure their long term involvement

5. January Meeting:

- Wendy Marsh and Kevin Bernstein to chair the program. Proposed topics include energy transport through NYS; Mike reported that Port of Albany already serves as a major port of collection of natural gas from points west with shipment down the Hudson to NYC and beyond. Proposed wind and LNG projects are also under consideration as topics. Walter suggested addition chemical bulk storage safety concerns as a topic given recent events.

- Kevin Reilly reported that he plans to ask for an update from all committees. Teresa volunteered to reach out to all committee co-chairs before the meeting to give them the heads up. Discussion ensued about how to encourage more activity by committees. One suggestion was to identify possible replacements where the committee has been inactive for a long time and to use the committee chair appointment as a means of encouraging more involvement by newer members.

6. Cabinet Retreat and Section History/Recognition of Founders:

- Reporting on the Cabinet Retreat discussions was covered in the course of the other agenda items at the executive committee meeting
- Kevin Reilly led a discussion on compiling a Section history with the idea of honoring the living not just the dead. Was suggested that Kevin speak with Gail Port about what the Section has done previously in this regard.

7. Publication of Journal (Miriam Villani):

- Miriam reported that the latest issue of the Journal is out now and another issue is going to the printers shortly so that it will be out prior to the January meeting.
- Discussed the costs of the Journal and whether it should be published 3x per year instead of the current 4x. Discussion ensued regarding possible topics- having all committees provide items for the Journal and/or the Blog at least once a year.

8. Committee reports were provided by Carl Howard (Global Climate Change), Dominic Cordisco (Wetlands), Alan Knauf (petroleum spills) and Jason Kaplan (membership). Kevin Reilly earlier advised the executive committee that he would be following up with all committee chairs in the advance of the January meeting in an effort to encourage more activity.

9. New Business:

- Walter Mugdan proposed funding NYCELI again this year. The Section has previously provided \$1500 in funding for the program which has been used to cover the costs of 2 networking functions for the participants (one at the start of the year long program and one at the end). He noted, however, that the main person behind the program (Chris Zaperstein) intends to step down and is looking for a replacement. Walter asked for a vote that would authorize the funding with the understanding that if Chris doesn't find a replacement that the funding would not be provided. Discussion ensued about whether participants in the program later become members of the Section. Mike Lesser seconded the motion for the funding with caveat that Walter proposed. The motion passed with a voice vote.
- Discussion was had about the location of the fall meeting for next year. A straw poll of those present favored the Gideon. Lori Nichol will call about availability.

There being no further business, the meeting was adjourned at 11:30am.

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New York State Bar Association
Environmental Law Section
For the Twelve Months Ending Tuesday, December 31, 2013

	2013 Budget	2013		2012 Budget	2012		Percent	2011		Percent	2010	
		December	Year To Date		Year To Date	Year To Date		Year To Date	Year To Date			
Income												
Dues	\$36,500.00	\$113.75	\$33,886.67	\$36,500.00	92.84%	\$33,905.42	92.89%	\$36,122.08	92.89%	\$36,516.58		
Meetings	41,000.00	(95.00)	32,127.78	45,000.00	78.36%	39,421.00	87.60%	36,282.50	87.60%	38,712.75		
Sponsorship	4,000.00		10,400.00	6,000.00	260.00%	4,500.00	75.00%	3,250.00	75.00%	5,250.00		
Newsletters	500.00	165.00	885.00	500.00	177.00%	515.00	103.00%	1,505.00	103.00%	785.00		
Publications					0.00%	100.00	0.00%	25.00	0.00%			
Prior Years Surplus Used	10,500.00			7,750.00	0.00%		0.00%		0.00%			
Total Income	92,500.00	183.75	77,299.45	95,750.00	83.87%	78,441.42	81.92%	77,184.58	81.92%	81,264.34		
Expenses												
Postage & Shipping	3,000.00	26.57	1,938.68	2,800.00	64.62%	2,111.16	75.40%	3,282.34	75.40%	2,822.06		
Awards & Grants	5,000.00		6,564.25	3,000.00	131.28%	7,832.20	261.07%	10,100.78	261.07%	3,277.10		
Diversity	6,000.00		3,000.00	6,000.00	50.00%		0.00%		0.00%			
Meeting Rooms			158.82		0.00%		0.00%		0.00%			
Catering & Banquets	42,000.00		46,407.93	34,400.00	110.50%	49,319.86	143.37%	32,384.60	143.37%	31,008.34		
Beverage Service & Receptions	11,000.00		7,376.21	11,000.00	67.06%	9,985.16	80.87%	10,974.61	80.87%	8,625.07		
Speaker & Guest Expense	2,000.00		538.83	2,000.00	26.94%	792.96	39.65%		39.65%	1,899.82		
Audio/Visual Expense	5,000.00		2,076.95	5,500.00	41.54%	3,737.24	67.95%	3,495.30	67.95%	2,423.02		
Promotional Costs	1,000.00				0.00%		0.00%	241.79	0.00%	4,960.00		
Activities & Entertainment	1,000.00			500.00	0.00%		0.00%		0.00%	15.00		
Gratuities	300.00			300.00	0.00%	225.00	75.00%	280.00	75.00%	409.00		
Section Executive Committee Meetings	500.00		306.47	300.00	61.29%	302.94	12.12%	28.32	12.12%	409.00		
Officers Expense	1,200.00	21.77	1,794.59	2,500.00	149.55%	786.94	31.88%	1,062.65	31.88%	2,243.50		
Miscellaneous Meeting and Program Costs	2,500.00	33.63	1,398.53	15,000.00	55.94%	3,405.62	22.70%	1,068.75	22.70%	14,008.31		
Section Subcommittee Meetings	1,500.00	18.58	108.62	2,000.00	7.24%	3,727.47	186.37%	1,341.75	186.37%	2,787.47		
Newsletters	8,000.00	831.30	3,293.08	7,500.00	41.16%	7,773.58	103.65%	12,399.11	103.65%	6,321.73		
Graphic Department Allocations	2,500.00	0.63	1,330.40	750.00	53.22%	2,387.59	318.35%	2,560.07	318.35%	1,946.23		
Total Expenses	92,500.00	932.48	76,293.36	95,750.00	82.48%	92,407.72	96.51%	79,222.07	96.51%	83,756.65		
Net Income over Expense		(748.73)	1,006.09		0.00%	(13,966.30)	0.00%	(2,037.49)	0.00%	(2,492.31)		

Accumulated Surplus (Deficit) 20,636

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ENVIRONMENTAL LAW - DETAIL

01/01/2013 - 12/31/2013

Jan 23, 2014

DRAFT

624-5100	Postage & Shipping	\$1,938.68
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624-5100		
1/31/2013	Postage	\$42.76
1/31/2013	To rec CAPS Activity	\$406.44
2/5/2013	SETRON ASSOCIATES	\$176.77
2/28/2013	Postage	\$127.35
5/31/2013	Postage	\$22.19
6/30/2013	Postage	\$10.15
7/31/2013	Postage	\$10.15
8/31/2013	Postage	\$21.54
9/17/2013	Rcls:CAPS from Section Mailing	\$24.62
9/17/2013	Section mail.rcls:recruitment	\$35.88
9/24/2013	SETRON ASSOCIATES	\$289.37
9/30/2013	CAPS Activity	\$697.69
9/30/2013	Postage	\$49.59
10/30/2013	To reclass section	\$43.94
10/30/2013	Back Out JE 312401 wrong acct	(\$43.94)
10/31/2013	Postage report	\$16.94
10/31/2013	JV Allocation-Postage-env/mun	(\$464.51)
11/30/2013	Postage Meter Report--Nov.2013	\$445.18
12/31/2013	Postage	\$26.57
Subtotal For Postage & Shipping		\$1,938.68

624-5160	Awards & Grants	\$6,564.25
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624-5160		
2/5/2013	NYCELLI	\$1,106.25
4/2/2013	NYCELLI	\$393.75
4/2/2013	BROADWAY MARKETING, LTD	\$53.17
8/16/2013	Zaheer H. Tajani	\$3,000.00
10/22/2013	Frank Piccininni	\$500.00
10/22/2013	Robert P. Wilson	\$125.00
10/22/2013	Edward Hyde Clarke	\$1,000.00
10/22/2013	Paul J. Brown	\$125.00
10/31/2013	To acc balance of J. Peak inv	\$261.08
11/1/2013	To acc balance of J. Peak inv	(\$261.08)
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$261.08
Subtotal For Awards & Grants		\$6,564.25

624-5371	Environmental Law Section-Diversity Expense	\$3,000.00
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624-5371		
6/28/2013	Zaheer H. Tajani	\$3,000.00

ENVIRONMENTAL LAW - DETAIL

01/01/2013 - 12/31/2013

Jan 23, 2014

Subtotal For Environmental Law Section-Diversity Expense		\$3,000.00
624-5400	Meeting Rooms	\$158.82
624-5400		
10/31/2013	To acc balance of J. Peak inv	\$158.82
11/1/2013	To acc balance of J. Peak inv	(\$158.82)
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$158.82
Subtotal For Meeting Rooms		\$158.82
624-5410	Catering & Banquets	\$46,407.93
624-5410		
3/31/2013	AnnMtg	\$11,127.82
3/31/2013	AnnMtg	\$10,975.61
3/31/2013	AnnMtg	\$14,800.84
4/9/2013	ELEGANT TOUCH CATERING COMPANY	\$500.00
4/30/2013	ELEGANT TOUCH CATERING COMPANY	\$1,659.00
5/29/2013	ELEGANT TOUCH CATERING COMPANY	\$1,444.10
5/31/2013	To amortize ppd exp other	\$500.00
10/31/2013	To amortize ppd exp other	\$500.00
10/31/2013	To accrue expenses	\$4,900.56
11/1/2013	To accrue expenses	(\$4,900.56)
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$4,900.56
Subtotal For Catering & Banquets		\$46,407.93
624-5415	Beverage Service & Receptions	\$7,376.21
624-5415		
3/31/2013	AnnMtg	\$3,218.01
3/31/2013	AnnMtg	\$728.62
3/31/2013	AnnMtg	\$728.62
4/9/2013	ELEGANT TOUCH CATERING COMPANY	\$1,000.00
10/31/2013	To acc balance of J. Peak inv	\$1,700.96
11/1/2013	To acc balance of J. Peak inv	(\$1,700.96)
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$1,700.96
Subtotal For Beverage Service & Receptions		\$7,376.21
624-5420	Speaker & Guest Expense	\$538.83
624-5420		
3/31/2013	AM Accommodations	\$277.75
10/31/2013	To acc balance of J. Peak inv	\$261.08
11/1/2013	To acc balance of J. Peak inv	(\$261.08)
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$261.08
Subtotal For Speaker & Guest Expense		\$538.83

ENVIRONMENTAL LAW - DETAIL

01/01/2013 - 12/31/2013

Jan 23, 2014

624-5425	Audio/Visual Expense	\$2,076.95
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624-5425

3/31/2013	AnnMtg	\$694.06
3/31/2013	AnnMtg	\$847.50
3/31/2013	AnnMtg	\$317.64
3/31/2013	AnnMtg	\$217.75

Subtotal For Audio/Visual Expense \$2,076.95

624-5465	Section Executive Committee Meetings	\$306.47
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624-5465

3/31/2013	AnnMtg	\$251.78
6/14/2013	MEETINGBRIDGE LLC	\$23.70
11/14/2013	MEETINGBRIDGE LLC	\$30.99

Subtotal For Section Executive Committee Meetings \$306.47

624-5475	Officers Expense	\$1,794.59
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624-5475

1/31/2013	MEETINGBRIDGE LLC	\$11.39
2/5/2013	GIRLS EDUCATION COLLABORATIVE	\$200.00
2/5/2013	PACE UNIVERSITY SCHOOL OF LAW	\$200.00
2/14/2013	MEETINGBRIDGE LLC	\$12.59
3/12/2013	MEETINGBRIDGE LLC	\$4.80
4/23/2013	MEETINGBRIDGE LLC	\$17.64
5/14/2013	MEETINGBRIDGE LLC	\$60.93
7/2/2013	HENRY F CLAS FLORIST LLC	\$159.30
8/20/2013	MEETINGBRIDGE LLC	\$30.85
9/17/2013	MEETINGBRIDGE LLC	\$19.68
9/17/2013	JAMES P. RIGANO	\$600.00
10/17/2013	MEETINGBRIDGE LLC	\$22.58
10/31/2013	To acc balance of J. Peak inv	\$414.66
11/1/2013	To acc balance of J. Peak inv	(\$414.66)
11/14/2013	MEETINGBRIDGE LLC	\$18.40
11/21/2013	JIMINY PEAK MOUNTAIN RESORT	\$414.66
12/31/2013	MEETINGBRIDGE LLC	\$21.77

Subtotal For Officers Expense \$1,794.59

624-5480	Misc Meeting & Program Costs	\$1,398.53
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624-5480

1/8/2013	Sam Capasso	\$100.00
2/5/2013	Sam Capasso	\$100.00
3/5/2013	Sam Capasso	\$100.00
3/26/2013	Sam Capasso	\$100.00

ENVIRONMENTAL LAW - DETAIL

01/01/2013 - 12/31/2013

Jan 23, 2014

3/31/2013	AnnMtg	\$164.90
5/7/2013	Sam Capasso	\$100.00
6/25/2013	Sam Capasso	\$100.00
7/23/2013	Sam Capasso	\$300.00
10/29/2013	Sam Capasso	\$300.00
12/10/2013	W.B. MASON, INC.	\$33.63

Subtotal For Misc Meeting & Program Costs **\$1,398.53**

624-5485	Section Subcommittee Meetings	\$108.62
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624-5485

2/14/2013	MEETINGBRIDGE LLC	\$48.41
3/12/2013	MEETINGBRIDGE LLC	\$16.60
4/23/2013	MEETINGBRIDGE LLC	\$0.42
6/14/2013	MEETINGBRIDGE LLC	\$14.10
7/23/2013	MEETINGBRIDGE LLC	\$0.46
9/17/2013	MEETINGBRIDGE LLC	\$10.05
12/17/2013	MEETINGBRIDGE LLC	\$9.71
12/31/2013	MEETINGBRIDGE LLC	\$8.87

Subtotal For Section Subcommittee Meetings **\$108.62**

624-5540	Newsletters	\$3,293.08
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624-5540

3/8/2013	UPS MAIL INNOVATIONS	\$61.92
9/30/2013	september 2013 workorders	\$1,671.00
10/22/2013	SETRON ASSOCIATES	\$126.68
10/31/2013	CAPS activity - Oct	\$513.65
10/31/2013	Postage report	\$88.53
12/5/2013	UPS MAIL INNOVATIONS	\$81.30
12/31/2013	Keith Hirokawa	\$750.00

Subtotal For Newsletters **\$3,293.08**

624-5700	Graphics Department Allocations	\$1,330.40
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624-5700

1/1/2013	To defer graphics charges	\$1.90
1/1/2013	To defer graphics charges	\$28.00
1/31/2013	january 2013 workorders	\$270.07
2/28/2013	february 2013 workorders	\$17.79
4/30/2013	april 2013 workorders	\$140.00
6/30/2013	june 2013 workorders	\$8.00
7/31/2013	july 2013 workorders	\$9.07
8/30/2013	august 2013 workorders	\$419.54
9/30/2013	september 2013 workorders	\$36.50

ENVIRONMENTAL LAW - DETAIL

01/01/2013 - 12/31/2013

Jan 23, 2014

10/31/2013	JV-Allocation-Graphics.env/mun	(\$537.84)
10/31/2013	Allocate:Section Recruitment	\$45.00
10/31/2013	ocotober 2013 workorders	\$798.05
11/30/2013	november 2013 workorders	\$93.69
12/31/2013	december 2013 workorders	\$49.03
12/31/2013	To defer 2014 income AM&Sect.	(\$48.40)
	Subtotal For Graphics Department Allocations	\$1,330.40
	Total For Account Group ENVIRONMENTAL LAW - DETAIL	\$76,293.36

NYSBA Environmental Law Section
Membership Committee Report

Prepared by:

Robert A. Stout Jr.
Jason Kaplan
Membership Committee Co-Chairs

Introduction

Environmental Law Section membership has declined for 14 of the last 21 years. Of the 7 years that saw ELS gains, three were low single digit gains and only one period (2008-2009) posted a gain of above 15 members, when the Section increased its ranks by 35.

During that same timeframe, collective membership across all sections has declined by approximately 2,000 (notwithstanding the introduction of three new sections, Dispute Resolution [1,495], Health Law [1,337] and Senior Lawyers [2,692]) while ELS membership has declined by 820. Fourteen sections have lower membership numbers today than they did in 1993. Of those sections that experienced growth, only the Young Lawyers Section is notable, having gained over 3,000 members. Among the few others that grew, gains were modest, with the highest achievers all under growth of 1,000.

From the end of 2011 through the end of 2013, the Environmental Law Section is down 135 members. There does not seem to be a pattern, at least recently, from where we are losing members, which would help us determine which segment of our membership base is being under-served. From June 2011 to January 1, 2014, the period for which we have such data, we lost 24 members who identified their practice setting as “other”, 17 law students, and single digit amounts of nearly all other categories. With respect to office size, our largest drop was 24 members from offices with 2-5 attorneys. Other categories had single digit losses, while offices with 100 plus attorneys added 25 members to our ranks. Law firm support might have increased, as 357 members report being fully funded by their firm, school or organization in 2013, while 332 did in 2011. However, that statistic is of little value, since 41% of our membership does not report who pays their dues.

Given these historical patterns, we believe a reasonable goal for 2014 is to increase membership by 50 members over the final membership count for 2013. This goal, while modest on its face, would represent the largest Section growth in over 20 years.

Unleashing Synergy – Recruiting Existing NYSBA Members from Related Sections

The ELS has successfully partnered with the Municipal Law Section on meetings and programs, as exemplified in our Fall Meeting. The synergy is evidenced by the fact that the ELS shares 214 common members with the MLS, more than any other section. Total MLS

membership is 1,029. These efforts should continue to maintain and grow this common membership base.

There is huge untapped potential for collaboration with the Real Property Section, which has 194 members in common with ELS and a total membership of over **4,400** individuals. As such, the upside potential of partnering with Real Property far exceeds that of the MLS. For that reason, environmental programming should be developed that appeals to transactional real property attorneys, and an effort to host a joint meeting should be explored. Such programming would also appeal to our existing members, as 26% report concentrating in real property law, the third highest area of concentration amongst our members. Such programs could include topics on the recent brownfield tax credit changes, land banks as a mechanism for redevelopment, AAI updates, and SEQRA EAF forms training.

Significant upside potential also exists with the Business Law Section, as 103 of its 4,505 members are ELS members, and the Young Lawyers Section, as 109 of its 4,356 members are ELS members. Internal recruiting from other sections could well be an easier task than recruiting from those who are not currently active NYSBA members. We should be mindful of our programming topics and actively engage other section members, whether from the Municipal Law, Real Property, or Young Lawyers Sections, and invite them to attend our programs.

Attracting Newer Attorneys

22.39%, or 642 of our members have been admitted less than 10 years. As compared to other sections, we are right in the middle in this category. The Entertainment, Arts and Sports Law Section and Intellectual Property Law Section lead the Association with 38.91% and 35.57% respectively of their members having been admitted less than 10 years. This year, we will reach out to those sections (and similarly situated sections) to assess what they are doing differently than we are to attract younger members.

Revitalize Law Student and Young Attorney Recruitment.

It is not surprising that EASL, the section with the greatest percentage of members admitted less than 10 years, also has the largest number and concentration of law student members, other than the Young Lawyers Section. Accordingly, we need to revitalize law student recruitment to establish such a pipeline. To that end, there are several action items we intend to pursue in the coming year. We will begin to engage career service departments in law schools throughout the State to promote our programs and meetings. We discovered through our past actions that there was a high turn-over rate among law students in executive positions in their respective environmental law societies. This task will be taken on by our Section liaison to the Young Lawyers Section. Their objective will be to actively promote our Section and inform the career services departments of our Section's current activities and networking events. We will also continue to send Section representatives to speak to law schools and represent the section in any New York State Bar Association law school fairs and activities.

We will also begin to develop young lawyer training programs through environmental law webinar "primers." We have spoken with the technical support at NYSBA and they have

confirmed that NYSBA has a Webex account that can serve up to 100 people at a time for Webex programming. In addition, NYSBA has a new private online professional communities resource which would allow our Section to record these Webex sessions and store them in the Community Resource Library (reserved just for our Section members). This bank of webinars would be a benefit to all section members, not just the law student and young lawyers. It would be a great resource for our members and would highlight the Sections advancement in using technological resources.

Implementing Diversity Plan

We will continue to evaluate and implement the Section's diversity plan. While self-reported information on race, ethnicity and sexual orientation is lacking (43% of Section members provide no information on race and ethnicity and 64% provide no information on sexual orientation) we have near 100% reporting on gender. Only 30% of our members are female. We must redouble our efforts at increasing speaker diversity at events and appointing diverse members of our leadership. We also should consider programming that may attract a more diverse attendance, with topics including environmental justice. We need to do better.

Former Section Member Engagement

As described earlier in this report, there has been a steady decline in our Section's membership for some years now. Nevertheless, it did not appear that our Section made significant efforts to recapture these members, and there now might be opportunity to personally engage these former members. Our plan is to recapture these former section members by taking a more personal approach, i.e. not the standard NYSBA email/ mailing inquiring about membership, but a personal email/ mailing from the Section letting them know that we miss them, but more importantly detailing the current activities of the section, including a report on the Annual Meeting, the recent letters sent by the Brownfield Task Force and Oil Spills Committee to the Governor concerning the Brownfield Cleanup Program, and other news/updates from ELS committees. In addition, we will send a similar personal email to those current members who have yet to renew. This pool of former members should be a great starting place to boost membership.

Conclusion

Our success as a section depends on a vibrant membership base. We ask that you join our efforts by setting a personal goal of recruiting one new section member per year. While former section member engagement efforts and increased programming for young lawyers has the potential to boost membership numbers within the next few months, we believe collaborating with other sections and studying their successful membership programs will yield medium and long term success. We look forward to a successful year.

NYSBA Section Profile Report for Environmental Law Section

Total Number of (REG, NRES, STU) Members: 1,094

	Count	Percent	Valid Percent
A) Gender			
F	336	30.71%	31.49%
M	731	66.82%	68.51%
X (no data)	27	2.47%	
	1,094	100.00%	100.00%
B) Practice Setting			
Government	22	2.01%	2.44%
Government - Federal	13	1.19%	1.44%
Government - Local	19	1.74%	2.11%
Government - State	32	2.93%	3.56%
In-House Counsel	55	5.03%	6.11%
Judiciary	3	0.27%	0.33%
Law School - Faculty	11	1.01%	1.22%
Law School - Student	26	2.38%	2.89%
Legal Services	13	1.19%	1.44%
Non-Law Related	11	1.01%	1.22%
Non-Profit	28	2.56%	3.11%
Other	47	4.30%	5.22%
Part-Time Attorney	7	0.64%	0.78%
Private Practice	581	53.11%	64.56%
Public Interest	10	0.91%	1.11%
Retired	9	0.82%	1.00%
Trade/Professional Association	4	0.37%	0.44%
Unemployed	9	0.82%	1.00%
X (no data)	194	17.73%	
	1,094	100.00%	100.00%
C) Office Size			
Fifty to 99	89	8.14%	10.11%
One Hundred and greater	226	20.66%	25.68%
Six to Nine	58	5.30%	6.59%
Solo Practitioner	171	15.63%	19.43%
Ten to Nineteen	93	8.50%	10.57%
Twenty to 49	125	11.43%	14.20%
Two to Five	118	10.79%	13.41%
X (no data)	214	19.56%	
	1,094	100.00%	100.00%
D) Position			
Academic	17	1.55%	2.34%
Administrative Law Judge/Hearing Officer	4	0.37%	0.55%
Associate	117	10.69%	16.14%
Court Personnel	1	0.09%	0.14%

	Count	Percent	Valid Percent
Judge	3	0.27%	0.41%
Managing Partner	46	4.20%	6.34%
Of Counsel	34	3.11%	4.69%
Other	126	11.52%	17.38%
Partner	291	26.60%	40.14%
Senior Associate	26	2.38%	3.59%
Solo Practitioner	18	1.65%	2.48%
Staff Attorney	42	3.84%	5.79%
X (no data)	369	33.73%	
	1,094	100.00%	100.00%
E) Age			
24 and Under	3	0.27%	0.29%
25 to 35	183	16.73%	17.55%
36 to 45	152	13.89%	14.57%
46 to 55	244	22.30%	23.39%
56 to 65	298	27.24%	28.57%
66 and Over	163	14.90%	15.63%
X (no data)	51	4.66%	
	1,094	100.00%	100.00%
F) Race/Ethnic Group			
Asian/Pacific Islander	12	1.10%	1.85%
Black/African American	7	0.64%	1.08%
Decline to Answer	27	2.47%	4.17%
Hispanic	13	1.19%	2.01%
Multiple Race/Ethnic Group	5	0.46%	0.77%
Native American	1	0.09%	0.15%
Other	7	0.64%	1.08%
White/Caucasian	576	52.65%	88.89%
X (no data)	446	40.77%	
	1,094	100.00%	100.00%
G) Who Paid For Membership Dues			
Collectively by Firm and Member	21	1.92%	3.26%
Fully by Firm, School or Organization	357	32.63%	55.35%
Member	254	23.22%	39.38%
No Dues Paid	13	1.19%	2.02%
X (no data)	449	41.04%	
	1,094	100.00%	100.00%
H) Number of Years Admitted to Bar			
0 (Less than 1)	0	0.00%	
1 to 3	99	9.05%	9.63%
4 to 5	63	5.76%	6.13%

	Count	Percent	Valid Percent
6 to 7	44	4.02%	4.28%
8 to 14	116	10.60%	11.28%
15 to 19	82	7.50%	7.98%
20+	624	57.04%	60.70%
X (no data)	66	6.03%	
	1,094	100.00%	100.00%

I) Disability

Decline to Answer	121	11.06%	18.82%
No	515	47.07%	80.09%
X (no data)	451	41.22%	
Yes	7	0.64%	1.09%
	1,094	100.00%	100.00%

J) Sexual Orientation

Decline to Answer	58	5.30%	13.21%
Heterosexual	374	34.19%	85.19%
Lesbian/Gay/Bisexual/Transgender	7	0.64%	1.59%
X (no data)	655	59.87%	
	1,094	100.00%	100.00%

K) Areas of Concentration

Administrative Law	248	22.67%
Agriculture	39	3.56%
Antitrust and Trade	10	0.91%
Appellate Law	89	8.14%
Arbitration/Mediation	60	5.48%
Banking	27	2.47%
Bankruptcy/Insolvency	23	2.10%
Business Law	103	9.41%
Civil Rights	42	3.84%
Commercial Litigation	137	12.52%
Communication	8	0.73%
Computer Law	3	0.27%
Construction	105	9.60%
Contracts	77	7.04%
Corporate Law	108	9.87%
Creditors' Rights and Collections	4	0.37%
Criminal Law	31	2.83%
Derivatives and Structured Products	2	0.18%
Elder Law	26	2.38%
Employee Benefits	6	0.55%
Entertainment, Arts and Sports	10	0.91%
Environmental Law	800	73.13%
Family Law	26	2.38%
Finance and Securities	25	2.29%
Food, Drug & Cosmetics	18	1.65%
Franchise Law	3	0.27%

	Count	Percent	Valid Percent
General Practice	87	7.95%	
Government	140	12.80%	
Health Law	23	2.10%	
Immigration Law	13	1.19%	
Insurance	88	8.04%	
Intellectual Property and Copyrights	40	3.66%	
International Law	30	2.74%	
Labor and Employment Law	60	5.48%	
Law Office Economics and Management	11	1.01%	
Leases And Leasing	55	5.03%	
Libel	2	0.18%	
Litigation - General Civil	241	22.03%	
Medical Malpractice	15	1.37%	
Municipal Law	257	23.49%	
Personal or Property Injury	75	6.86%	
Product Liability	76	6.95%	
Professional Liability	13	1.19%	
Public Contract	37	3.38%	
Public Utility	98	8.96%	
Real Property Law	285	26.05%	
Social Security Law	2	0.18%	
Tax - Corporate Business	17	1.55%	
Tax - Personal	5	0.46%	
Transportation	27	2.47%	
Trust and Estates Law	73	6.67%	
Workers Compensation	13	1.19%	
Zoning, Planning And Land Use	316	28.88%	
	4,129	377.42%	100.00%

NYSBA Membership Profile Report

Total Members: 74,672

	<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>		<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>
A) Gender				Partner	11,574	15%	31%
F	25,109	34%	36%	Practice Management/Technology	70	0%	0%
M	45,224	61%	64%	Senior Associate	1,378	2%	4%
X (no data)	4,339	6%		Solo Practitioner	2,537	3%	7%
	74,672	100%	100%	Staff Attorney	1,609	2%	4%
				X (no data)	37,726	51%	
B) Practice Setting					74,672	100%	100%
Government	481	1%	1%	E) Age			
Government - Federal	491	1%	1%	24 and Under	163	0%	0%
Government - Local	743	1%	2%	25 to 35	19,172	26%	26%
Government - State	750	1%	2%	36 to 45	12,752	17%	18%
In-House Counsel	4,148	6%	9%	46 to 55	12,210	16%	17%
Judiciary	802	1%	2%	56 to 65	13,023	17%	18%
Law School - Faculty	337	0%	1%	66 and Over	15,353	21%	21%
Law School - Student	1,442	2%	3%	X (no data)	1,999	3%	
Legal Services	1,234	2%	3%		74,672	100%	100%
Non-Law Related	867	1%	2%	F) Race/Ethnic Group			
Non-Profit	583	1%	1%	Asian/Pacific Islander	1,582	2%	5%
Other	2,940	4%	6%	Black/African American	1,052	1%	3%
Part-Time Attorney	789	1%	2%	Decline to Answer	1,176	2%	3%
Private Practice	31,412	42%	65%	Hispanic	785	1%	2%
Public Interest	303	0%	1%	Multiple Race/Ethnic Group	222	0%	1%
Retired	1,156	2%	2%	Native American	86	0%	0%
Trade/Professional Association	104	0%	0%	Other	392	1%	1%
X (no data)	26,090	35%		White/Caucasian	28,507	38%	84%
	74,672	100%	100%	X (no data)	40,870	55%	
C) Office Size					74,672	100%	100%
Fifty to 99	2,556	3%	5%	G) Who Paid For Membership Dues			
One Hundred and greater	10,626	14%	23%	Collectively by Firm and Member	1,149	2%	3%
Six to Nine	3,127	4%	7%	Fully by Firm, School or Organization	14,881	20%	44%
Solo Practitioner	13,141	18%	28%	Member	17,335	23%	51%
Ten to Nineteen	3,661	5%	8%	No Dues Paid	652	1%	2%
Twenty to 49	4,223	6%	9%	X (no data)	40,655	54%	
Two to Five	9,718	13%	21%		74,672	100%	100%
X (no data)	27,620	37%		H) Number of Years Admitted to Bar			
	74,672	100%	100%	0 (Less than 1)	0	0%	
D) Position				1 to 3	19,329	26%	27%
Academic	447	1%	1%	4 to 5	5,309	7%	7%
Administrative Law Judge/Hearing Officer	162	0%	0%	6 to 7	3,841	5%	5%
Associate	6,922	9%	19%	8 to 14	8,778	12%	12%
Court Personnel	233	0%	1%	15 to 19	5,187	7%	7%
Judge	578	1%	2%	20+	29,598	40%	41%
Managing Partner	2,766	4%	7%	X (no data)	2,630	4%	
Of Counsel	1,580	2%	4%		74,672	100%	100%
Other	7,090	9%	19%	13			

	<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>
I) Disability			
Decline to Answer	5,872	8%	18%
No	26,838	36%	80%
NO,NR	2	0%	0%
X (no data)	41,327	55%	
Yes	633	1%	2%
	74,672	100%	100%
J) Sexual Orientation			
Decline to Answer	2,304	3%	10%
Heterosexual	19,939	27%	87%
Lesbian/Gay/Bisexual/Transgender	597	1%	3%
X (no data)	51,832	69%	
	74,672	100%	100%
K) Areas of Concentration			
Administrative Law	3,100	4%	
Agriculture	252	0%	
Antitrust and Trade	1,492	2%	
Appellate Law	3,717	5%	
Arbitration/Mediation	3,925	5%	
Banking	3,348	4%	
Bankruptcy/Insolvency	2,941	4%	
Business Law	9,752	13%	
Civil Rights	2,401	3%	
Commercial Litigation	7,365	10%	
Communication	542	1%	
Computer Law	873	1%	
Construction	2,779	4%	
Contracts	5,772	8%	
Corporate Law	11,123	15%	
Creditors' Rights and Collections	595	1%	
Criminal Law	5,149	7%	
Derivatives and Structured Products	308	0%	
Elder Law	4,575	6%	
Employee Benefits	1,801	2%	
Entertainment, Arts and Sports	2,423	3%	
Environmental Law	2,179	3%	
Family Law	6,024	8%	
Finance and Securities	3,902	5%	
Food, Drug & Cosmetics	679	1%	
Franchise Law	381	1%	
General Practice	7,645	10%	
Government	2,317	3%	
Health Law	2,405	3%	
Immigration Law	2,327	3%	
Insurance	4,798	6%	
Intellectual Property and Copyrights	4,729	6%	
International Law	3,015	4%	

	<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>
Labor and Employment Law	5,332	7%	
Law Office Economics and Management	810	1%	
Leases And Leasing	2,072	3%	
Libel	539	1%	
Litigation - General Civil	11,545	15%	
Medical Malpractice	2,423	3%	
Municipal Law	2,645	4%	
Personal or Property Injury	7,084	9%	
Product Liability	3,250	4%	
Professional Liability	1,062	1%	
Public Contract	714	1%	
Public Utility	540	1%	
Real Property Law	12,611	17%	
Social Security Law	725	1%	
Tax - Corporate Business	3,700	5%	
Tax - Personal	3,056	4%	
Transportation	524	1%	
Trust and Estates Law	9,807	13%	
Workers Compensation	1,747	2%	
Zoning, Planning And Land Use	2,080	3%	
Zz (no data)	2	0%	
	186,902	250%	100%

	ANTI	BUS	CORP	CRIM	DRS	EASL	ELD	ENVI	FAM	FED	FOOD	GEN	HLS	ILP	IPS	JUD	LABR	MUNI	REAL	SLS	TAX	TICL	TRIA	TRUS	YOUN
ANTI	0	79	55	20	27	36	15	20	16	99	26	23	25	51	74	13	27	14	19	32	17	23	47	16	54
BUS	79	0	568	56	176	166	176	103	99	296	38	291	145	420	215	17	153	98	560	260	248	107	139	356	516
CORP	55	568	0	32	50	100	51	41	30	110	55	90	107	160	157	16	134	33	163	89	61	79	42	70	182
CRIM	20	56	32	0	40	47	69	23	204	97	15	134	39	53	32	53	57	46	80	83	31	102	185	73	203
DRS	27	176	50	40	0	54	77	53	109	266	13	77	45	193	70	26	243	47	77	108	28	119	152	92	89
EASL	36	166	100	47	54	0	37	22	48	78	24	71	26	81	445	14	69	27	70	51	49	34	48	78	294
ELD	15	176	51	69	77	37	0	38	214	33	16	364	149	36	32	24	69	100	506	305	209	85	84	1,804	93
ENVI	20	103	41	23	53	22	38	0	22	58	19	52	30	57	28	16	35	214	194	90	27	61	57	41	109
FAM	16	99	30	204	109	48	214	22	0	56	16	267	45	48	29	53	63	54	197	166	47	77	163	269	197
FED	99	296	110	97	266	78	33	58	56	0	34	110	67	140	143	42	183	50	110	135	30	175	330	80	300
FOOD	26	38	55	15	13	24	16	19	16	34	0	28	56	28	55	12	21	15	19	29	14	32	31	19	33
GEN	23	291	90	134	77	71	364	52	267	110	28	0	74	77	78	27	117	127	483	227	77	192	212	453	305
HLS	25	145	107	39	45	26	149	30	45	67	56	74	0	36	44	15	93	30	75	93	40	115	87	106	109
ILP	51	420	160	53	193	81	36	57	48	140	28	77	36	0	122	19	69	22	74	80	93	45	53	102	302
IPS	74	215	157	32	70	445	32	28	29	143	55	78	44	122	0	15	68	21	63	68	39	39	62	56	293
JUD	13	17	16	53	26	14	24	16	53	42	12	27	15	19	15	0	14	20	21	25	13	29	35	34	16
LABR	27	153	134	57	243	69	69	35	63	183	21	117	93	69	68	14	0	131	77	129	53	121	154	81	245
MUNI	14	98	33	46	47	27	100	214	54	50	15	127	30	22	21	20	131	0	241	94	30	83	74	110	62
REAL	19	560	163	80	77	70	506	194	197	110	19	483	75	74	63	21	77	241	0	363	139	110	146	816	254
SLS	32	260	89	83	108	51	305	90	166	135	29	227	93	80	68	25	129	94	363	0	129	197	193	366	9
TAX	17	248	61	31	28	49	209	27	47	30	14	77	40	93	39	13	53	30	139	129	0	40	33	593	178
TICL	23	107	79	102	119	34	85	61	77	175	32	192	115	45	39	29	121	83	110	197	40	0	843	115	192
TRIA	47	139	42	185	152	48	84	57	163	330	31	212	87	53	62	35	154	74	146	193	33	843	0	123	197
TRUS	16	356	70	73	92	78	1,804	41	269	80	19	453	106	102	56	34	81	110	816	366	593	115	123	0	235
YOUN	54	516	182	203	89	294	93	109	197	300	33	305	109	302	293	16	245	62	254	9	178	192	197	235	0

NYSBA Section Members in other Sections

1/1/2014

NYSBA Section Membership by JD

1/1/2014

	<u>JD 1</u>	<u>JD 2</u>	<u>JD3</u>	<u>JD4</u>	<u>JD5</u>	<u>JD6</u>	<u>JD7</u>	<u>JD8</u>	<u>JD9</u>	<u>JD10</u>	<u>JD11</u>	<u>JD12</u>	<u>JD13</u>	<u>OOS</u>	<u>No JD</u>	<u>Total</u>
ANTI	269	21	17	5	6	0	7	5	18	13	7	2	2	153	0	525
BUS	1,580	104	196	73	104	48	128	191	304	366	93	20	22	1,276	0	4,505
CORP	489	32	70	28	40	12	31	54	145	138	39	9	6	590	1	1,684
CRIM	313	98	119	61	44	49	63	103	183	154	81	36	21	181	0	1,506
DRS	533	57	84	17	32	12	33	58	147	149	43	12	9	309	0	1,495
EASL	721	135	41	6	10	3	9	14	101	106	60	10	8	425	1	1,650
ELD	360	118	185	124	151	100	150	169	397	634	139	41	61	164	0	2,793
ENVI	216	27	151	35	62	14	41	51	152	102	17	6	3	217	0	1,094
FAM	539	108	183	120	108	96	143	153	417	461	90	35	37	171	0	2,661
FED	1,140	65	104	12	64	12	70	104	153	215	41	18	5	372	0	2,375
FOOD	66	11	9	4	2	1	4	13	21	22	2	2	4	91	0	252
GEN	319	108	156	107	106	59	112	163	270	310	116	29	22	271	0	2,148
HLS	252	49	164	54	58	28	44	84	128	227	27	9	10	203	0	1,337
ILP	635	50	34	15	9	13	19	32	86	66	52	8	2	847	2	1,870
IPS	773	96	62	19	29	17	36	38	126	140	50	11	6	685	0	2,088
JUD	64	24	50	22	20	9	16	27	37	39	7	9	9	5	0	338
LABR	716	101	205	61	108	41	96	132	215	334	67	17	8	368	0	2,469
MUNI	95	12	138	68	78	67	78	86	204	148	5	4	2	44	0	1,029
REAL	1,161	166	227	153	144	97	218	183	616	729	193	30	65	427	0	4,409
SLS	759	72	151	69	119	56	106	130	354	380	92	17	35	352	0	2,692
TAX	1,123	63	58	20	36	15	37	62	182	198	47	9	12	716	2	2,580
TICL	498	94	192	62	125	67	90	253	310	447	94	33	32	264	2	2,563
TRIA	486	65	217	68	124	68	100	205	241	339	64	28	12	271	0	2,288
TRUS	1,208	175	224	153	179	117	209	214	583	835	185	31	61	623	2	4,799
YOUN	1,170	339	202	67	86	43	91	159	213	394	241	50	36	1,264	1	4,356

New York State Bar Association: Section Admission Year Comparison

1/1/2014

Section	Admitted 10 years or more		Admitted less than 10 years		Students	
	Count	Percent	Count	Percent	Count	Percent
Antitrust Law Section	361	68.76%	147	28.00%	17	3.24%
Business Law Section	3,029	67.22%	1,258	27.92%	219	4.86%
Corporate Counsel Section	1,122	66.63%	497	29.51%	65	3.86%
Criminal Justice Section	996	66.14%	403	26.76%	107	7.10%
Dispute Resolution Section	1,225	81.94%	188	12.58%	82	5.48%
Entertainment, Arts and Sports Law Section	781	47.33%	642	38.91%	227	13.76%
Elder Law Section	2,350	84.11%	392	14.03%	52	1.86%
Environmental Law Section	783	71.57%	245	22.39%	66	6.03%
Family Law Section	2,043	76.75%	545	20.47%	74	2.78%
Commercial & Federal Litigation Section	1,716	72.25%	602	25.35%	57	2.40%
Food, Drug & Cosmetic Law Section	177	70.24%	68	26.98%	7	2.78%
General Practice Section	1,483	69.04%	621	28.91%	44	2.05%
Health Law Section	983	73.52%	296	22.14%	58	4.34%
International Section	1,070	57.16%	659	35.20%	143	7.64%
Intellectual Property Law Section	1,164	55.72%	743	35.57%	182	8.71%
Judicial (Courts of Record) Section	331	97.93%	6	1.78%	1	0.30%
Labor and Employment Law Section	1,748	70.77%	625	25.30%	97	3.93%
Municipal Law Section	888	86.30%	123	11.95%	18	1.75%
Real Property Law Section	3,519	79.80%	820	18.59%	71	1.61%
Senior Lawyers Section	2,619	97.29%	73	2.71%	0	0.00%
Tax Section	1,835	71.12%	683	26.47%	62	2.40%
TICL Section	2,139	83.42%	372	14.51%	53	2.07%
Trial Lawyers Section	1,831	80.03%	365	15.95%	92	4.02%
Trusts and Estates Law Section	3,900	81.25%	756	15.75%	144	3.00%
Young Lawyers Section	127	2.91%	3,586	82.29%	645	14.80%
	38,220		14,715		2,583	



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January 10, 2014

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Re: New York State Brownfield Cleanup Program

Dear Governor Cuomo:

We are writing you on behalf of the Environmental Law Section of the New York State Bar Association. The Section is comprised of approximately 1100 New York State-licensed attorneys who concentrate their practice in the area of environmental law. Many of us have significant experience in brownfields and with the State Brownfield Cleanup Program.

The Section has a longstanding interest in brownfields legislation, dating from its October 1999 Report on Superfund Reform, which laid out the essential elements of a State brownfields statute. In the intervening years, the Section has provided comments on numerous aspects of the Brownfield Cleanup Program.

The Section has reviewed the December 27, 2013 letter sent to you by representatives of Environmental Advocates of New York, the Environmental Defense Fund, the New York League of Conservation Voters, the New York State Business Council, the Real Estate Board of New York, New Partners for Community Revitalization, and the Environmental Justice Alliance. Their proposals for revising and extending the State's Brownfield Cleanup Act are similar to, and consistent with, the Section's *Report and Recommendations To Revitalize the Brownfield Cleanup Program*, dated November 9, 2011 ("Section Report"). A copy of the Section Report is enclosed.

The December 27 letter is remarkable in that organizations from the full range of the political spectrum, whose members have very different constituencies and fields of expertise, have coalesced around a common set of recommendations. Their recommendations closely parallel those made in the Section Report, which was also the result of a collaborative process in which many viewpoints were represented and expressed. The Section respectfully suggests that these similarities speak powerfully to the value of the Program and the merits of these recommendations.

In short, it is clear that a broad consensus has developed among key stakeholders that

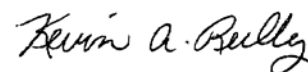
the Brownfield Cleanup Program is very important to New York State;

the sunset date for the tax credits under the Program should be extended or eliminated;
and

the Program can and should be improved in certain very defined and specific ways that will make it even more effective in addressing the many remaining brownfield sites in New York State.

The Section remains committed to working with you and your staff, members of the Legislature, representatives of NYSDEC, and the signatories to the December 27 letter, to develop and support the legislation and policies necessary to achieve these goals. Please do not hesitate to call on us to assist in that effort.

Sincerely,



Kevin A. Reilly

Cc: Mr. Joe Martens, NYSDEC Commissioner
Ms. Julie Tighe, Director, State Legislative Affairs, NYSDEC
Mr. Cesar Perales, NYS Secretary of State
Mr. George Stafford, NYS Deputy Secretary of State
Mr. Basil Seggos, NYS Deputy Secretary for the Environment
Ms. Andrew Kennedy, NYS Assistant Secretary for Economic Development
Ms. Anne Tarpinian, NYS Assistant Secretary for the Environment
Maureen Coleman, Esq., NYS Assistant Counsel for Energy and the Environment

Mr. Kenneth Pokalsky, New York State Business Council
Ms. Katherine Nadeau, Environmental Advocates of New York
James Tripp, Esq., Environmental Defense Fund
Mr. Eddie Bautista, Environmental Justice Alliance
Ms. Jody Kass, New Partners for Community Revitalization
Ms. Marcia Bystry, New York League of Conservation Voters
Mr. Steve Spinola, Real Estate Board of New York

Report and Recommendations to Revitalize the Brownfield Cleanup Program

Environmental Law Section

Environmental Report #1

November 9, 2011

Earlier this year, the Environmental Law Section of the New York State Bar Association (“NYSBA”) reconstituted its Brownfield Task Force and charged it with reviewing the current status of pending legislation related to the New York State Brownfield Cleanup Program (“BCP” or “Program”) and making recommendations for revitalizing the Program.

The Task Force worked diligently over several months to fulfill this mandate. It established six subcommittees to evaluate various components of the BCP and to identify areas that could enhance existing incentives to clean up contaminated sites. The six subcommittees were tasked with evaluating, inter alia, the BCP eligibility criteria; alternative voluntary programs; cleanup standards; coordination with renewable energy incentives; and “lessons learned” from the New York City Brownfield Cleanup Program.

This memorandum, which has been approved without dissent by the Environmental Law Section’s Executive Committee in accordance with the Section’s advocacy policy, summarizes the recommendations of the Task Force.*

Eligibility Criteria

“Brownfield site” is currently defined as “real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant.” ECL §27-1421(5). This definition derives from federal law, but was the subject of extensive litigation based upon restrictive interpretations by the New York State Department of Environmental Conservation (“NYSDEC”). Eventually, the term was broadly interpreted by the Court of Appeals to create a “low eligibility threshold” so that “real property qualifies as a ‘brownfield site’ for purposes of acceptance into the BCP so long as the presence or potential presence of a contaminant within its boundaries makes redevelopment or reuse more complex, involved, or difficult in some way.” *In Matter of Lighthouse Pointe Prop. Assoc. LLC v. NYSDEC*, 14 N.Y.3d 161, 177, 897 N.Y.S.2d 693, 703 (2010).

Since the BCP tax credits, and in particular the tangible property tax credits, are very substantial, 2008 amendments to the law capped the tax credits, and there has been a push further to limit eligibility in order to reduce the Program’s cost to the state treasury. A bill introduced earlier this year in the State Senate by Senator Grisanti, S5228, proposed additional criteria to the statute to limit eligibility for the BCP.

* No State employees have participated in the drafting of this memorandum.

The Task Force has determined that it is best to leave the broad statutory definition of a “brownfield site” in place, but to add a list of eligibility criteria, similar to those in the Grisanti bill, for parties who wish to seek the tangible property tax credit. However, the Task Force supports the use of such new criteria in any legislation to limit eligibility only for tangible property tax credits, and not, like the Grisanti bill, for the BCP as a whole.

Further, some of the most contaminated sites in the State, including Class 2 Superfund and enforcement sites, are not eligible for the BCP. While responsible parties should not be able to reap the benefits of the program, true volunteers should be allowed to take these sites through the BCP. Therefore, the Task Force agrees with the provisions of a bill drafted for introduction by a member of the Assembly (but not yet introduced) that the current list of ineligible sites (*i.e.*, Class 2 and enforcement sites) should be eliminated provided a true volunteer enters the BCP and is willing to clean up and redevelop the site. Any additional state financial exposure for tax credits would be offset by the proposed limitation of eligibility for tangible personal property credits and the benefits of addressing these highly contaminated sites. However, National Priorities List sites would remain ineligible, since they are best addressed by the U.S. Environmental Protection Agency (“EPA”).

The Task Force also agrees with the draft Assembly bill that the law be amended to clarify that historic fill sites are eligible provided the contaminant levels exceed soil cleanup objectives (SCOs).

In addition, the Task Force supports provisions in the Grisanti and/or draft Assembly bills for creation of a new expedited cleanup program for minimally contaminated sites, the elimination of uncertainty in terms of oversight costs, and elimination of the sunset provisions. The Task Force believes that enactment of these provisions would serve to stimulate site remediation in both the BCP and new expedited remediation program.

Accordingly, the Task Force recommends:

Eliminating site ineligibility for Class 2 State Superfund sites and sites subject to enforcement actions where true volunteers are prepared to step in to perform not only any remaining site cleanup or ongoing operation and maintenance work, but also to redevelop the sites. Ongoing enforcement actions, other than emergency response actions or the collection of response costs, would be stayed upon execution of a BCP Agreement. This would allow volunteers to acquire and remediate these sites, and put them into productive use.

Including the term “contaminated historic fill” within the definition of “contaminant” to clarify that sites with historic fill that includes contaminant levels in exceedance of the unrestricted SCOs are eligible for the BCP. Currently, NYSDEC often considers sites contaminated by historic fill to be ineligible, even if contaminants exceed their respective SCOs.

For applications made after July 1, 2012, limiting the tangible property component of the tax credits to sites that meet certain objective criteria related to underutilization, blight and market conditions.

Restoring the County en-zones, which terminated last year, and which are principally located in Upstate New York, Long Island and in rural communities that need extra incentives to redevelop brownfields.

Establishing an expedited remediation program for minimally contaminated sites, which does not provide tax credits, but upon successful completion results in a liability release from the State.

Providing that the tax credit and liability release provisions would be contractually enforceable. Such a provision would alleviate applicant concerns that these important incentives could be retroactively limited or eliminated by future administrative or legislative actions, and allow brownfield developers and funding sources to rely upon these incentives. Otherwise, they may serve merely as unneeded bonuses, rather than incentives that are critically necessary to spark brownfield redevelopment.

Capping state oversight costs at a percentage of site preparation costs.

Eliminating the sunset provision of the current BCP that requires sites to obtain a Certificate of Completion by March 31, 2015, to qualify for tax credits.

Voluntary Cleanup Program (“VCP”)

Prior to the 2003 enactment of the Brownfield Cleanup Act, NYSDEC operated what many considered to be a rather successful Voluntary Cleanup Program (“VCP”) based on NYSDEC’s plenary powers with respect to cleanup of environmental contamination. Upon establishment of the BCP, this program was closed to new applications, and existing sites were given the option of transferring to the BCP.

As noted above, the Task Force supports the legislative authorization of a new expedited cleanup program for minimally contaminated sites. In case such a program is not legislatively established, NYSDEC should proceed to establish such a program administratively. However, since there is some doubt as to NYSDEC’s current authority to do so (see *Lighthouse Pointe*, 14 N.Y.3d at 178, 897 N.Y.S.2d at 704) the Task Force recommends the more prudent course of obtaining specific statutory authorization for a VCP.

Whether established statutorily or administratively, the goal of such a program would be to provide a non-tax-credit, simplified and legally enforceable path for remediation of minimally contaminated sites. The remediation would be undertaken by private parties under the supervision of NYSDEC. The sites would have to meet applicable cleanup standards, but the process would be simplified and administrative costs would be lower than for sites receiving tax credits and liability releases from the State under the BCP.

Soil Cleanup Objectives

At this time, it is unclear whether the currently underway NYSDOH and NYSDEC review of the SCOs will result in regulatory or guidance document changes. The Section's Task Force will continue to monitor this review, identify any proposed deviations from accepted risk assessment methodologies and exposure assumptions supported by mainstream scientific studies, and address any deviations by developing comments for submission during the applicable public comment periods.

Renewable Energy

The Task Force has reviewed the two pending solar renewable energy credit bills and strongly encourages the Legislature to continue to pursue incentives for solar renewable energy projects in New York. However, the Task Force is also strongly in favor of encouraging renewable energy projects on brownfield sites. To date, the solar bills do not contain any provisions to encourage use of brownfield sites.

Many brownfield sites remain industrially zoned and are typically located closer to grid-congested areas where additional sources of distributed power are needed. Industrial zoning should enable new green industrial projects to be constructed on industrially zoned brownfields with fewer local approvals. However, the added burden of remediation for a new renewable project could make the project economically infeasible. As a result, the Task Force recommends that either the pending solar bills or, alternatively, the tax code, be amended to provide additional incentives in the form of BCP tax credits for such projects. For example, electrical generating projects currently do not fall under the enhanced manufacturing incentives (six times the site preparation tax credits and tangible property tax credits, up to \$45 million). If renewable projects can qualify as manufacturing uses, there would be a strong financial incentive to construct such projects on brownfields, as opposed to greenfields.

New York City Brownfield Cleanup Program

The Task Force believes that the following features of the New York City Brownfield Cleanup Program could usefully be administratively adopted by NYSDEC as a means of improving predictability on budgetary and timing issues for sites in the BCP:

Expanding the use of templates for investigatory and remedial work plans and reports;

Providing interim and continuous feedback on applicant submissions rather than relying on formal correspondence after review of completed submissions; and

Providing greater guidance on qualification for admission, and likely remedial requirements, prior to submission of a site's application to the BCP.

In light of the limited scope of the New York City Brownfield Cleanup program, the Task Force recommends that consideration be given to providing that liability releases granted under that program have the same force and effect as those provided by NYSDEC under the BCP.

Oil Spill Fund

The Task Force has identified a number of obstacles to brownfield redevelopment that arise under the Navigation Law. It will work with the Section's Oil Spill Committee to develop a set of recommendations to present to the Section's Executive Committee to address those issues, which include:

Revising the interpretation of "discharger" with respect to the ability of purchasers of sites with abandoned petroleum tanks to recover the cost of cleanups from the Oil Spill Fund when completed under NYSDEC oversight and in compliance with NYSDEC requirements;

Clarifying the ability of the Spill Fund to waive recorded spill liens for purchasers who agree to clean up petroleum-contaminated brownfield sites under NYSDEC supervision; and

In coordination with NYSBA's Municipal Law Section, clarifying the contours of the exemption from Environmental Conservation Law Title 13 liability where municipalities have taken title through tax foreclosure, including extending the exemption for such acquisitions to Navigation Law Article 12, and clarifying the extent, if any, to which oil spill liens survive tax foreclosure.

Section Chair: Philip H. Dixon, Esq.

PROPOSAL FOR RE-ESTABLISHING THE ENVIRONMENTAL LAW SECTION SUBSIDIZATION PROGRAM

I. Background

At the January, 2000 meeting of the Environmental Law Section Executive Committee, a pilot program was established to encourage participation of government and not-for-profit attorneys by defraying some of the costs in attending Environmental Law Section meetings. The Environmental Law Section set aside \$5,000 per meeting per year for the pilot program.

The program was open to Environmental Law Section members only. The reimbursement was intended to cover the cost of meeting registration fee, transportation, meals and/or lodging expenses, for members only (not family members).

Up to 20 full-time government or not-for-profit attorneys were eligible for reimbursement per meeting on a first-come, first served basis. Attorneys had to register for the subsidization program in writing or by e-mail in advance of the meeting for which reimbursement was sought. Eligible recipients were reimbursed for no less than \$250 for his or her documented expenses, except where the recipient's actual documented expenses were less than that amount. If fewer than 20 eligible attorneys seek reimbursement, a participant was allowed to apply for reimbursement above the \$250 level but in no event greater than \$600.

This pilot program continued for several years. In 2007, the subsidization program was broadened beyond government and not-for-profit attorneys to include all attorneys who made \$130,000 or less annually, provided that such attorneys would not be eligible for subsidization if their firm, organization or agency was providing reimbursement. That revised program continued into 2008.

Following concerns raised by the NYSBA in 2008 in light of NYSBA lobbying status and recently enacted state ethics rules governing state employees (including state attorneys), the subsidization program was discontinued. Note: The NYSBA continued its general dues reduction program for NYSBA members, including state government attorneys, at that time. I am not familiar with the current status of that program.

II. Proposed Re-Establishment of the Subsidization Program

Although the primary concern that led to the discontinuance of the program was the NYSBA's lobbying status and state ethics rules, discussions at that time did not suggest that there were problems associated with a subsidization program that would apply to other categories of eligible attorneys (federal attorneys, private firm attorneys, environmental organization attorneys, etc.). However, with the discontinuation of the program, those other attorneys had no opportunity for subsidization.

Pros of re-instituting the program:

--establishing an appropriate subsidization program that could be utilized for eligible attorneys;

--targeting the subsidization program to younger and lower income attorneys to assist in broadening the Environmental Law Section's membership; and
--assisting in achieving Environmental Law Section diversity goals.

Cons:

--re-established program may still raise NYSBA concerns re its lobbying status. Recognizing that state attorneys would not be eligible at this time, program could be evaluated based upon other attorney categories. The NYSBA general dues reduction program could be considered in setting forth appropriate parameters if that program still exists.

--Environmental Section budgetary situation. Based upon the current budget situation, the program could not be funded. However, if the program were re-established, nothing would require funding at this time. Having a program in place for implementation at a future time when Environmental Section coffers are replenished makes sense.

III. **Proposed Program Parameters**

--program would apply only to the annual and fall meetings

--an overall reimbursement cap would be established per meeting

--eligible costs for reimbursement would be restricted to registration, program fees and annual meeting lunch. (The former program included transportation, meals and lodging expenses but I am not proposing that broad of a reimbursement)

--program eligibility would be limited to ELS members (not non-members, and not family members)

--program eligibility would be limited to (a) ELS members earning less than \$100,000 per year, (b) ELS members who can receive this money without violating any ethics or other restrictions that may be applicable to the NYSBA or to the entities for which those ELS attorneys work, and (c) ELS members whose eligible program costs are not being reimbursed by their firms, organizations or agencies

--preference for subsidization would be given to attorneys who have graduated from law school within the last ten years; otherwise, reimbursement would be on a first come, first served basis

IV. **Proposed Steps**

--consideration of re-establishing a subsidization program by ELS Executive Committee, or by a special subsidization task force/committee appointed by the ELS Executive Committee

--assuming ELS Executive Committee approval for re-establishing the program and the relevant parameters, discussion with NYSBA representatives regarding permissible scope of program

--Assuming NYSBA support, final consideration by the Environmental Law Section of subsidization program with any NYSBA recommended program revisions

----- Original Message -----

Subject:BioNanoTech Committee

Date:Mon, 27 Jan 2014 08:12:31 -0500

From:David Quist <davidquist@earthlink.net>

To:Bataille, Lisa <Lbataille@NYSBA.ORG>

Lisa -

with apologies for the delay, I offer the following update for the activities of the BioNanoTech committee.

As you may know, I have been somewhat on my own in trying to organize the Committee's activities, an effort made more complicated by the need to ensure that its actions are not perceived as biased. There is plenty of advocacy on all sides of the various issues associated with bio/nano tech, and I think we make our best contributions to the profession, and any associated legal discussions, by making assiduous efforts to be an "honest broker."

Given available resources, I think the best course moving forward is to take advantage of the Section's website by establishing and maintaining a Committee page containing updates on developments in the Committee's subject areas. Whether that effort evolves into an actual blog will remain to be seen, but at the very least it can be developed into an online resource beyond the few links already posted (and which I updated within the last couple of months). I understand the current process for establishing that is to work through you, and I will plan to do so during the next few months.

Articles for the section newsletter may also be a possibility, but given the nature of the subject matter on-line efforts seem a better place to start.

I am unable to physically attend the Executive Committee meeting and, given the unavailability of teleconference options, will be unable to attend. Nonetheless, please feel free to contact me should you wish to discuss any of this.

Thanks.

From: [Cavaluzzi, Gerard P.](#)
To: knreilly@courts.state.ny.us
Cc: [Bataille, Lisa](#); [Dan Morrison](#); [Plog, Kathy](#)
Subject: NYSBA Committee Report : Environment Insurance: Environmental Law Section Executive Committee Meeting 1/31/14
Date: Sunday, January 26, 2014 1:40:19 PM

RE: NYSBA Committee Report : Environment Insurance

Key 2014 Activity: We are again delivering the Emerging Issues in Environmental Insurance program sponsored by the NYSBA in NYC. Planning for this Fall 2014 conference is underway and October 30 and November 6 (both of which are Thursdays) have been identified as preferred dates.

In the past, this program has featured speakers from the major insurance carriers presenting today's emerging issues in the environmental insurance field. Once again this year, we will have speakers from Chartis, Zurich, Chubb and XL sharing their views on environmental insurance trends, coverage issues and key risk areas. This program was well attended in 2012, and with the addition of a webinar option this year, it is expected to draw an even larger audience. To help boost attendance, we are also considering identifying a potential Keynote Speaker and welcome suggestions from the Executive Committee.

FYI--I will be attending the meeting on 1/31.14. Looking forward to seeing you there.

Best,
Jerry
