

New York State Bar Association
Environmental & Energy Law Section (EELS)
Executive Committee Meeting Agenda – January 30, 2020 (12:30 – 2pm)



1. Approval of Minutes from September 22, 2019 Executive Committee Meeting (Handout)
2. Annual Meeting Summary & Thank You to George, Michael and Cheryl
3. Membership Review and Initiatives - About 1,017 as of 1/1/20 (Mike H., Rob S.)(Handout)
 - a. April 22 Earth Day - 50th Anniversary (Handout)
 - b. EELS 40th Anniversary and logo (Amy J.)
 - c. NYSDEC and EPA 50th Anniversary
4. FFEP Task Force (David F., Gail P. and Kevin H.)
5. Dec. 12 Brownfield Superfund Program Summary (David F.)
6. Nomination Committee Report (Jim R.) (Handout)
7. Awards Committee Report (Lou A.)
8. VOTE on Program, Speaker, and Reimbursement Guidelines (Terresa B.) (Handout)
9. SEQRA Statute of Limitations (Dan. R.) (Handout)
10. House of Delegates Report (Amy K.)
11. Financial Report (Linda) (Handout)
12. Liaison Chart and Committee Reports (Handout)
13. Upcoming Programs
 - a. March 2 (6pm – 9pm): LI Drinking Water Alternative Seminar (Nick R.)
 - b. April 15 (Albany): Oil Symposium (Melissa V., Gary B. and Doug Z.)
 - c. May 13 (Albany): Legislative Forum (John P., Charlie G. and Terresa B.)
 - i. GC's of Depts (Health); Regulators and Legislators
 - d. June and beyond (Topics for CLE Programs and/or Climate Change Program) (Matt S., Carl H., Marla W. and Larry S.)
 - e. October 18-20 Fall Meeting (Nick. W)
 - f. October 30 (NYC-Latham & Watkins): Environmental Insurance CLE (Michele S.)
14. Minority Fellowship Status/Diversity Initiatives (Christine L. and Sarah L.)
15. Social Media Report (Drew G. and Rachel P.)
16. Status of Green Amendment Legislation (Katy K. and Nick W.)
17. New York Environmental Lawyer Publication (Miriam V.)
18. Other/Adjourn

*** Please consider volunteering to be part of a membership committee with its goals to locate more in-house corporate environmental lawyers, energy lawyers, eager law students, mentoring of younger lawyers, and assistance with contacting our dropped non-renewed members.

**New York State Bar Association
Environmental & Energy Law Section
Mohonk Mountain House
Minutes of September 22, 2019
(Attendance List Attached)**

- Announcements about activities and programs being offered over the weekend.
- Mohonk is expensive but Bar Association negotiation and sponsorship and creativity helped to make it work.
- Sunday/Monday/Tuesday worked out well
- Thankful for all who helped make Mohonk work

Membership

- Bar wants new ways of attracting membership
- 986, 41 member increase in August, pattern of building up to around 1100 members and dropping to 1000 in spring
- 67% out of law school over 10 yrs, 18% out of law school under 10 years and 14% are law students
- Reach out to law students; ask for law school contact lists; retain retired attorneys;
- Focus on back to school letter, essay and fellowship program and host events at no charge
- Add energy topic to attract energy lawyers, law students, corporate attys and host energy specific conference
- Law student should be added to executive board
- Develop climate change ideas to be implemented by law students

Reimbursement Guidelines:

- \$500 max for reimbursement as a speaker

Green Amendment:

- To be addressed by Bar Association
- Growing opposition base on broad working of amendment
- Nov. 1, go before executive committee of bar association and need to be ready to address concerns
- Amendment could be denied due to broad language

Social Media:

- Create Twitter account; LinkedIn is being worked on

Corporate Sponsors:

- Need more sponsors, perhaps 20; sponsors need to be maintained and grow
- 2015-6300, 2018-23,000, 2019-23,000
- Suggestion to expand sponsorship to renewable energy

House of Delegates

- Website being updated
- Volunteered to be on “Best Practices”

Upcoming Program:

- 12/12 Brownfield Superfund Updates at federal, state and local levels
- Literature will be sent out at NYC Bar Assoc.
- Federal Enviro. Policy task force seeking topics to comment on. Looking to comment on slow down re: offshore wind

Annual Meeting:

- It is called “Risky Business”
- There are 4 co-chairs
- CO2 Regulations; Climate Change (Pfizer); Corporate Leadership Initiatives; Recent toxic tort dev.; Risk Mitigation
- Key note speaker from Honeywell

Minority Fellowship:

- Deadline is 10/4

Energy Contest:

- Received 8 essays which is average

In Attendance:

Katy Kuo
Erin Gershonowitz
Alan Knauf
Melissa Dvalle

Lisa Bataille NYSBA
Amy Jasiewicz NYSBA
Nick Ward Willis
Howard Tollin
Matt Sinkman
Mindy Zoghlin
Linda Shaw
Kevin A. Reilly
James Rigano
David Quist
Jan S. Kublick
Kit K
Rachel Parlington
Telisport Putsavage
David Freeman
Walter Mugdan|
Carl Howard
Rosemary Nichob
Michael J. Lesser
Dan Krainin
John Greenthal
Claudia Braymer
Michael Bogin
Susan Amrlon
Christine Leas
Saral Lobe
Gail Port
Kevin Bernstein
Adam Stolorow
Mike Hecker
Rob Stout
Ginny Robbin
Fred Eisenbud

Terresa Bakner
Marla Weider
Miriam Villani
Martin Baker
Amy Kendall
Dan Richmond
Maggie McDonald

NYSBA Section Profile Report for Environmental and Energy Law Section

Total Members: 1,017

	Count	Percent	Valid Percent	
A) Gender				Court Personnel
F	295	29.01%	33.33%	General Counsel
M	590	58.01%	66.67%	Judge
X (no data)	132	12.98%		Managing Partner
	1,017	100.00%	100.00%	Of Counsel
B) Practice Setting				Other
Government	7	0.69%	1.02%	Partner
Government - Federal	16	1.57%	2.32%	Senior Associate
Government - Municipal	21	2.06%	3.05%	Solo Practitioner
Government - State	34	3.34%	4.93%	Staff Attorney
In-House Counsel	52	5.11%	7.55%	X (no data)
Judiciary	6	0.59%	0.87%	
Law School - Faculty	8	0.79%	1.16%	E) Age
Law School - Student	2	0.20%	0.29%	24 and Under
Legal Aid	2	0.20%	0.29%	25 to 35
Non-Law Related	13	1.28%	1.89%	36 to 45
Non-Profit	17	1.67%	2.47%	46 to 55
Other	16	1.57%	2.32%	56 to 65
Part-Time Attorney	5	0.49%	0.73%	66 and Over
Private Practice	468	46.02%	67.92%	X (no data)
Public Interest	6	0.59%	0.87%	
Retired	10	0.98%	1.45%	F) Race/Ethnic Group
Trade/Professional Association	6	0.59%	0.87%	Asian/Pacific Islander
X (no data)	328	32.25%		Black/African American
	1,017	100.00%	100.00%	Decline to Answer
C) Office Size				Hispanic
Fifty to 99	77	7.57%	11.70%	Multiple Race/Ethnic Group
One Hundred and greater	174	17.11%	26.44%	Other
Six to Nine	44	4.33%	6.69%	White/Caucasian
Solo Practitioner	97	9.54%	14.74%	X (no data)
Ten to Nineteen	75	7.37%	11.40%	
Twenty to 49	92	9.05%	13.98%	G) Who Paid For Membership Dues
Two to Five	99	9.73%	15.05%	Collectively by Firm and Member
X (no data)	359	35.30%		Fully by Firm or School or Organization
	1,017	100.00%	100.00%	Member
D) Position				No Dues Paid
Academic	13	1.28%	2.07%	X (no data)
Administrative Law Judge/Hearing Officer	2	0.20%	0.32%	
Associate	96	9.44%	15.29%	H) Number of Years Admitted to Bar

	<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>	
0 (Less than 1)	29	2.85%	2.85%	d) NY Admitted 2-3 Years
1 to 3	68	6.69%	6.69%	e) NY Newly Admitted
4 to 5	46	4.52%	4.52%	h) OOS Admitted 6-7 Years
6 to 7	31	3.05%	3.05%	j) OOS Admitted 2-3 Years
8 to 14	102	10.03%	10.03%	k) OOS Newly Admitted
15 to 19	67	6.59%	6.59%	z) Undetermined
20+	523	51.43%	51.43%	
No Admit Date	151	14.85%	14.85%	
	1,017	100.00%	100.00%	M) Judicial District
I) Disability				01
Decline to Answer	68	6.69%	12.52%	02
No	466	45.82%	85.82%	03
X (no data)	474	46.61%		04
Yes	9	0.88%	1.66%	05
	1,017	100.00%	100.00%	06
J) Sexual Orientation				07
Decline to Answer	53	5.21%	12.77%	08
Heterosexual	355	34.91%	85.54%	09
Lesbian/Gay/Bisexual	2	0.20%	0.48%	10
Lesbian/Gay/Bisexual/Transgender	5	0.49%	1.20%	11
X (no data)	602	59.19%		12
	1,017	100.00%	100.00%	13
K) Dues Billing Category				99
a) NY Admitted 8 Plus Years	568	55.85%	55.74%	N) Sections
b) NY Admitted 6-7 Years	25	2.46%	2.45%	Antitrust Law Section
c) NY Admitted 4-5 Years	34	3.34%	3.34%	Business Law Section
d) NY Admitted 2-3 Years	43	4.23%	4.22%	Commercial & Federal Litigation Section
e) NY Newly Admitted	6	0.59%	0.59%	Corporate Counsel Section
f) NY Sustaining	12	1.18%	1.18%	Criminal Justice Section
g) OOS Admitted 8 Plus Years	101	9.93%	9.91%	Dispute Resolution Section
h) OOS Admitted 6-7 Years	7	0.69%	0.69%	Elder Law and Special Needs Section
i) OOS Admitted 4-5 Years	9	0.88%	0.88%	Entertainment, Arts and Sports Law Section
j) OOS Admitted 2-3 Years	24	2.36%	2.36%	Environmental and Energy Law Section
k) OOS Newly Admitted	6	0.59%	0.59%	Family Law Section
l) OOS Sustaining	4	0.39%	0.39%	Food, Drug & Cosmetic Law Section
n) Complimentary	15	1.47%	1.47%	General Practice Section
o) Law Student	151	14.85%	14.82%	Health Law Section
p) Over 70, 25 yr Member	10	0.98%	0.98%	Intellectual Property Law Section
y) Non-Member	1	0.10%	0.10%	International Section
z) Mis-Marked	3	0.29%	0.29%	Judicial (Courts of Record) Section
	1,019	100.20%	100.00%	Labor and Employment Law Section
L) New Section Members (This Month)				Local and State Government Law Section
a) NY Admitted 8 Plus Years	4	0.39%	30.77%	Real Property Law Section

	Count	Percent	Valid Percent	
Senior Lawyers Section	87	8.55%	3.43%	07-July
Tax Section	25	2.46%	0.98%	08-August
Torts, Insurance & Compensation Law Section	58	5.70%	2.28%	09-September
Trial Lawyers Section	45	4.42%	1.77%	10-October
Trusts and Estates Law Section	36	3.54%	1.42%	11-November
Women in Law	25	2.46%	0.98%	12-December
Young Lawyers Section	208	20.45%	8.19%	
	2,539	249.66%	100.00%	
O) Member/Non-Member				R) NY Law Schools
Member	1,017	100.00%	100.00%	Albany Law School
	1,017	100.00%	100.00%	Brooklyn Law School
				Columbia University
				Cornell University
				CUNY - City University of New York
				Fordham University
				Hofstra University
				New York Law School
				New York University
				Pace University
				St. Johns University
				SUNY at Buffalo
				Syracuse University
				Touro College
				Yeshiva University - Benjamin N. Cardozo School of
P) State, City (Top 25)				S) Non-NY Law Schools (Top 25)
*Non-US	12	1.18%	1.92%	American University
DC, Washington	29	2.85%	4.65%	Boston College
NJ, Englewood Cliffs	5	0.49%	0.80%	Boston University
NJ, Morristown	7	0.69%	1.12%	Catholic University of America
NJ, Newark	8	0.79%	1.28%	Chicago, University of
NY, Albany	111	10.91%	17.79%	Duke University
NY, Binghamton	5	0.49%	0.80%	Foreign (outside of United States)
NY, Brooklyn	26	2.56%	4.17%	Franklin Pierce Law Center
NY, Buffalo	55	5.41%	8.81%	George Washington University
NY, Delmar	6	0.59%	0.96%	Georgetown University
NY, Garden City	9	0.88%	1.44%	Harvard University
NY, Glens Falls	6	0.59%	0.96%	Houston, University of
NY, Ithaca	9	0.88%	1.44%	Indiana University - Bloomington
NY, Melville	7	0.69%	1.12%	Michigan, University of
NY, Mount Kisco	5	0.49%	0.80%	Northeastern University
NY, New York	175	17.21%	28.04%	Out Of State
NY, Ossining	5	0.49%	0.80%	Pennsylvania, University of
NY, Port Washington	5	0.49%	0.80%	
NY, Poughkeepsie	12	1.18%	1.92%	
NY, Rensselaer	6	0.59%	0.96%	
NY, Rochester	32	3.15%	5.13%	
NY, Syracuse	35	3.44%	5.61%	
NY, Uniondale	9	0.88%	1.44%	
NY, White Plains	45	4.42%	7.21%	
X (no data)	8	0.79%		
	632	62.14%	100.00%	
Q) New Members (based on Join Date)				
01-January	12	1.18%	13.19%	
02-February	11	1.08%	12.09%	
04-April	2	0.20%	2.20%	
05-May	3	0.29%	3.30%	

	Count	Percent	Valid Percent
Rutgers University - Camden	4	0.39%	2.03%
Rutgers University - Newark	12	1.18%	6.09%
Seton Hall University	6	0.59%	3.05%
Vermont Law School	34	3.34%	17.26%
Virginia, University of	10	0.98%	5.08%
Western New England	4	0.39%	2.03%
X (no data)	146	14.36%	
Yale University	7	0.69%	3.55%
	343	33.73%	100.00%

Z) Areas of Concentration

Administrative Law	199	19.57%
Agriculture	28	2.75%
Antitrust and Trade	15	1.47%
Appellate Law	78	7.67%
Arbitration/Mediation	39	3.83%
Banking	22	2.16%
Bankruptcy/Insolvency	13	1.28%
Business Law	89	8.75%
Civil Rights	34	3.34%
Commercial Litigation	115	11.31%
Communication	12	1.18%
Computer Law	10	0.98%
Construction	73	7.18%
Contracts	94	9.24%
Corporate Law	96	9.44%
Creditors' Rights and Collections	9	0.88%
Criminal Law	36	3.54%
Derivatives and Structured Products	3	0.29%
Diversity, Inclusion and Elimination of Bias	4	0.39%
Elder Law	25	2.46%
Employee Benefits	15	1.47%
Entertainment, Arts and Sports	12	1.18%
Environmental Law	559	54.97%
Ethics	13	1.28%
Family Law	27	2.65%
Finance and Securities	22	2.16%
Food, Drug & Cosmetics	23	2.26%
Franchise Law	5	0.49%
General Practice	77	7.57%
Government	121	11.90%
Health Law	25	2.46%
Immigration Law	18	1.77%
Insurance	71	6.98%

Intellectual Property and Copyrights
International Law
Labor and Employment Law
Law Office Economics and Management
Law Practice Management
Leases And Leasing
Libel
Litigation - General Civil
Medical Malpractice
Municipal Law
Personal or Property Injury
Product Liability
Professional Liability
Public Contract
Public Utility
Real Property Law
Social Security Law
Tax - Corporate Business
Tax - Personal
Transportation
Trust and Estates Law
Women and the Law
Workers Compensation
Zoning, Planning And Land Use
Zz (no data)

<u>Count</u>	<u>Percent</u>	<u>Valid Percent</u>
		100.00%

2020 MARKS EARTH DAY'S

50th Anniversary!

Join the Environmental and Energy Law Section (EELS) as we celebrate this milestone with a series of networking events throughout the state.

WHO SHOULD ATTEND?

Newly admitted and experienced attorneys, government attorneys, environmental consultants, contractors, representatives from laboratories and non-profits, local bar association members, NYSBA members, non-members and law students are all encouraged to attend.

EARTH DAY, APRIL 22, 2020

5:30 P.M. - 7:30 P.M.

Please join the Section at one of the following complimentary receptions on **April 22, 2020**:

Albany | Whiteman Osterman and Hanna LLP

Buffalo | Hodgson Russ LLP

Long Island | Sahn Ward Coschignano, PLLC | Uniondale

NYC | Greenberg Traurig, LLP

Rochester | Knauf Shaw LLP

Syracuse | Bond, Schoeneck & King, PLLC

White Plains | Keane & Beane, P.C.

Each event will feature light refreshments, including beer, wine and soda. A notable speaker from the local environmental community will offer brief remarks.

Complimentary registration

However, advance registration is required. Please feel free to bring a colleague. RSVP by April 15, 2020

For more details or to register, go to:
www.nysba.org/EarthDay2020

or call the NYSBA Resource Center to register at:
1-800-582-2452 M – F, 8:30 a.m. – 4:30 p.m.

 **#EARTHDAY20EELS** 

Questions? Contact Amy Jasiewicz at: ajasiewicz@nysba.org

Accommodations for Persons with Disabilities: NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Cindy O'Brien at cobrien@nysba.org. www.nysba.org/CLEProgramPolicies



**REPORT OF THE NOMINATING COMMITTEE
OF THE ENVIRONMENTAL & ENERGY LAW SECTION**

January 2020

The Nominating Committee is pleased to submit its report for consideration by the Environmental & Energy Law Section of the New York State Bar Association at the business meeting to be held in conjunction with the scheduled January 2020 Annual Meeting to be held in NYC.

The Nominating Committee proposes that the current officers, Linda R. Shaw and James Rigano succeed to the office of Vice-Chair and Treasurer, respectively. The Nominating Committee proposes that Yvonne Hennessey be elected to the office of Secretary. Terms for each of these offices will commence on June 1, 2020.

In accordance with the Bylaws of the Environmental Law Section (Article III, Section 1), Nicholas N. Ward-Willis shall become Chair of the Environmental Law Section on June 1, 2020.

In addition, in accordance with Articles IV and V of the Bylaws, the Nominating Committee submits the following nominations for Members-at-Large:

ONE-YEAR TERM

Katherine "Kit" Kennedy
Lemuel M Srolovic
Hayley Carlock
Seth Friedland
Daniel Richmond

NEW THREE-YEAR TERM MEMBER

Aliza Cinamon
Christopher Saporita
Jonathan Binder

As with the Officers, the terms for nominated Members-at-Large shall commence June 1, 2020.

Respectfully submitted,

NOMINATING COMMITTEE

James Rigano, Chair
Linda Shaw
Marla Wieder
Kevin Bernstein
Virginia C, Robbins
Gail Port

EELS Members-At-Large Status as of January, 2020

ONE-YEAR TERM Expires 5/31/21

Katherine “Kit” Kennedy
Lemuel Morris Srolovic
Hayley Carlock
Seth Friedland
Daniel Richmon

3-year terms expiring 5/21/21

Kathleen Bennett
Philip Bousquet
Peter Casper
Dominic Cordisco
Katrina Kuh
Maggie MacDonald

THREE-YEAR TERM EXPIRING 5/31/22

Mindy Zoghlin
Aaron Gershonowitz

THREE YEAR TERM EXPIRING 5/31/23

Aliza Cinamon
Christopher Saporita
Jonathan Binder

2019 Guidelines for Program, Speaker, Diversity and Reimbursement Guidelines for NYSBA EELS

The NYSBA EELS would like to develop a consistent policy with respect to Program, Speaker, Diversity and Reimbursement Guidelines so that these Guidelines can be made available on the NYSBA EELS website and be given to anyone who is assisting with Program development for any conference, meeting or webinar being sponsored and approved by the EELS.

Diversity

These Guidelines take into account established goals of the EELS such as the Commitment to Diversity and Inclusion, adopted on September 22, 2019 by the co-chairs of the Committee on Diversity and Inclusion, and as the Commitment may be amended in the future. Each person developing a program should carefully consider how the program through its choice of invited speakers may help the EELS achieve a greater diversity in our Section. Specifically, the Commitment to Diversity and Inclusion requires each person developing a program to work with the CLE Committee and Program Chairs to encourage the selection of speakers with diverse backgrounds and experiences and to review proposed rosters of speakers and panelists for Section programs, again to achieve the goal of diversity participation. Please, wherever possible, reach out to new speakers and experts for panels and avoid having multiple speakers or panel participants from the same Firm or viewpoint.

Reimbursement of Speaker Registration and Expenses

Generally, reimbursement (or waiver) of speaker registration fees and expenses is to be discouraged for EELS members absent approval under unusual circumstances from the Section Chair. If registration fees are covered by NYSBA, speakers will be notified that their registration fees will be waived. Fees can only be waived by the Section Chair after consultation with the Section Treasurer. However, travel expenses for NYSBA EELS members are discouraged; however, it is perfectly appropriate to cover the travel expenses and fees for the Annual or Fall Meetings for key-note speakers and panel participants who are not EELS members. No agreement should be made to do so, however, without first consulting with the Section Chair in writing.

At the Annual and Fall Meetings, and other Section events, it may be appropriate to cover program expenses and meals for non-member speakers and panel participants. Waiver of registration fees for such speakers and panel participants is encouraged. To encourage participation, the Section may further decide to cover travel costs (transportation and hotel expenses) where the speaker is associated with a not for profit organization or academic institution. Such costs should be no more than \$500 per event and should be approved by the Section Chair and Treasurer in advance of offering such reimbursement. In unusual circumstances, the Section Chair and Cabinet may decide to pay a speaker fee or to reimburse the speaker's expenses at a higher level due to the stature or unusual benefit offered by the speaker's participation to the event. Any such decision should be viewed as extraordinary and should be supported by a cabinet majority and the Section Chair.

For sponsors of any EELS' event, it will be appropriate for the Cabinet, in consultation with the NYSBA representative, to evaluate any benefits to be conferred on sponsors to encourage present and future participation.

In every case, special attention and approval from the Section Chair, after written consultation with NYSBA, must be obtained for requests for reimbursement of any kind for any speakers, panelists or sponsors who are NYS government employees or public officials. Such reimbursement may not be possible due to the State ethics rules.

Wherever it is feasible to do so, EELS should encourage the attendance of law students at Section events at no or reduced cost to the students. Generally, students will be expected to cover their own travel and hotel costs.

**NEW YORK STATE BAR ASSOCIATION
ENVIRONMENTAL AND ENERGY LAW
SECTION**

Commitment to Diversity and Inclusion

Adopted September 22, 2019

**Committee on Diversity and Inclusion
Sarah Lobe and Christine Leas
Co-Chairs**

Introduction

The Environmental and Energy Law Section is committed to having a diverse membership so that those who participate in the Section's activities and the products of the Section's work will be enriched and enhanced by the different perspectives, backgrounds, and experiences of its members.

Data on Section membership indicate that the Section lacks diversity in many respects. As a result, the Section is committed to increasing the heterogeneity of the Section membership from among the many diverse individuals in the environmental and energy legal profession.

Section's Mission Statement

The purpose of this Section shall be to bring together such members of the New York State Bar Association as are interested in environmental, land use, energy, health and safety and related issues and topics, to further the education of the legal community, the public and governmental and elected officials on legal, administrative and policy matters relating to such issues, including by increasing the diversity of Section membership, to facilitate the making of public policy, and to provide networking opportunities between and among attorneys in private practice, government, the not-for-profit sector, corporations and consulting firms.

Committee on Diversity and Inclusion

The Section established the Committee on Diversity first as an ad hoc committee in 2003. The committee later became a standing committee – the Committee on Diversity – in 2015, which became known as the Committee on Diversity and Inclusion (the “Committee”) in 2019. The Committee drafted a Diversity Plan in 2004 – which, in reality, was more of a statement of principles than a plan of action – and updated it in 2011. Rather than update the Diversity Plan again, this document memorializes and represents the Section's commitment to diversity. This

document was originally drafted in May 2017 and was updated in October 2019. To follow up on this commitment, the Committee will propose various targeted actions each year.

Goals

The goals of the Section relating to diversity are to actively recruit attorneys from diverse backgrounds and practice areas to join, and become active members of the Section, to serve on Section committees and to participate in programs to foster an atmosphere of inclusion of these attorneys and to benefit from their perspectives. To this end, the Section seeks a varied membership based on a number of characteristics and factors:

- race
- ethnicity
- gender
- gender identity
- sexual orientation
- age and experience level
- disability
- public sector employment
- not-for-profit sector employment
- private practice
- corporate counsel employment
- geography
- position within a firm or organization
- practice area within environmental law

Tools

To achieve the goals identified above, the Committee has identified a number of tools.

Section Message on Diversity and Inclusion

The Committee will lead the Section's efforts to:

- Amend the Section Mission Statement to include a commitment to diversity and inclusion, as set forth above.
- Ensure that the Section Committees performing nominating functions are informed of the Section's goals for diversity and inclusion.
- Provide a copy of this document and the Section's Speaker Selection Guidelines (see attachment A) to all existing and incoming Committee and Program Chairs.

Outreach Efforts

The Committee will lead the Section's efforts to:

- Conduct outreach to law schools, including Environmental Law Societies and affinity groups, especially through the efforts of Section members who are alumni of a law school.
- Conduct outreach to local and specialty bar associations (e.g., NYCBA, Office of Diversity and Inclusion; Black; Hispanic; Asian; and Women’s Bar Associations).
- Coordinate efforts with those of the NYSBA Committee on Diversity and Inclusion
- Encourage the Section’s Membership Committee to promote diversity and inclusion in its outreach efforts, such as:
 - Review NYSBA corporate counsel list to identify potential Section members.
 - Work with General Counsels and other active Section members from government agencies to attract more members.
 - Work with senior attorneys in law firms to encourage participation by younger and more newly admitted attorneys.
 - Work with Section members who are active in other NYSBA sections to encourage cross-over membership.
- Encourage the Section’s leadership to use Section leaders from underrepresented areas of the State to seek greater participation from attorneys in those areas, including asking Section leaders to speak at County Bar Association meetings.

The Personal Touch

Mindful of the Diversity and Inclusion goals, the Section and its Membership Committee will seek to:

- Ensure that first-time registrants feel welcome even prior to a meeting.
- Establish an Ambassador program to greet new members to Section meetings.
- Continue outreach between meetings so as to encourage continued membership and participation.
- Invite new members to the Executive Committee Reception at each Annual Meeting.

Speakers at CLE Programs and Other Section Events

In coordination with the CLE Committee and Program Chairs, the Committee will:

- Encourage selection of speakers with diverse backgrounds and experiences.
- Review proposed rosters of speakers at and panelists for Section CLEs and programs to oversee diversity participation.

Publicity for Efforts to Obtain Diversity and Ensure Inclusion

The Section and the Editor of the Section’s publication, *The New York Environmental Lawyer*,

will seek to:

- Publicize the Section's efforts at increasing diversity in publications of the Section and NYSBA.
- Publicize the Section's efforts at increasing diversity and inclusion among targets of the Committee's outreach efforts, including law schools, local and specialty bar associations, etc.

[Adopted by the Executive Committee of the NYSBA Environmental and Energy Law Section on September 22, 2019].



Matthew J. Acocella
Kasey A. Brenner
David J. Cooper
Jody T. Cross
Marsha Rubin Goldstein
Daniel M. Richmond
Kate Roberts
Timothy B. Rode
Brad K. Schwartz
Lisa F. Smith
David S. Steinmetz
Michael D. Zarin

MEMORANDUM

To: Howard Tollin, Chair
Environmental & Energy Law Section (“EELS”) of the
New York State Bar Association
From: EELS Land Use Committee
Date: January 22, 2020
Re: Proposed Legislation To Address
SEQRA Statute of Limitations Issue

Also admitted in D.C.
Also admitted in CT
Also Admitted in NJ

The EELS Land Use Committee respectfully requests that the Executive Committee propose legislation for the State Legislature to adopt that would codify when the statute of limitations begins to run for claims under the New York State Environmental Quality Review Act (“SEQRA”). As discussed in the attached article, this idea was precipitated by a decision issued by Second Department on December 12, 2018 in the matter of Stengel v Town of Poughkeepsie Zoning Board of Appeals, 167 A.D.3d 752, 89 N.Y.S.3d 287 (2d Dept. 2018), leave to appeal denied, 33 N.Y.3d 281, 107 N.Y.S.2d 272 (Table) (Sept. 5, 2019).

The Stengel Decision unfortunately clouds what should be a relatively straight forward issue – namely when does a claim regarding SEQRA compliance become ripe for judicial review. Stengel concerned a challenge to a Planning Board’s determination not to require an environmental impact statement under SEQRA (i.e., a negative declaration), which preceded the Board’s issuance of site plan approval for a gas station project. The Stengel Court held that “the statute of limitations began to run with the issuance of the negative declaration . . . as this constituted the Planning Board’s final act under SEQRA.”

The Stengel Court, however, made no attempt to harmonize its decision with the Second Department’s previous holding in Patel v Board of Trustees of Muttontown, 115 A.D.3d 862, 864, 982 N.Y.S.2d 142, 144 (2d Dept. 2014), in which it held that “the issuance of a SEQRA findings statement did not inflict injury in the absence of an actual determination of the subject applications for a special use permit and site-plan approval and, thus, the challenge to the adoption of the findings statement is not ripe for adjudication.”

Thus, while Patel seemed to establish that a SEQRA determination standing alone was not ripe for adjudication, Stengel indicates that a SEQRA determination is. The Court of Appeals denied leave to appeal of this matter in September, which could have provided an opportunity to clarify when SEQRA claims ripen.

As such, it may be time for the State Legislature to definitively resolve this issue so as to provide practitioners with a clear rule and avoid wasting scarce judicial resources.



Outside Counsel

Expert Analysis

SEQRA Statute of Limitations: When Will The Courts Reach Finality on This Issue?

The Second Department's recent decision in *Stengel v. Town of Poughkeepsie Planning Board, et al.*, 2018 WL 6519207 (2d Dept. Dec. 12, 2018), unfortunately seems to confirm that the best advice when it comes to statutes of limitations for determinations issued under the State Environmental Quality Review Act (SEQRA) may simply be to sue "early and often." See also Ward, "SEQRA Challenges and the Statute of Limitations: Sue 'Early and Often,'" 6 Albany L. Envtl. Outlook J. 89, 94 (2002). Conflicting case law has created confusion regarding when SEQRA determinations that conclude the environmental review process—i.e., negative declarations or findings statements—become ripe for judicial review. It shouldn't have to be this way. SEQRA practitioners, their clients, and agencies involved in SEQRA disputes all deserve a clear rule establishing when challenges to such SEQRA determinations ripen in order to avoid unnecessary litigation and motion practice. Legislative action may be required to resolve this issue.

By
Daniel M.
Richmond



Stengel concerned a challenge to a Planning Board's issuance of a determination under SEQRA not to require an environmental impact statement (i.e., a negative declaration). The negative declaration in *Stengel* preceded by several months the Planning Board's issuance of site plan approval for a gas station project. The *Stengel* court held that "the statute of limitations began to run with the issuance of the negative declaration ... as this constituted the Planning Board's final act under SEQRA." *Stengel*, 2018 WL 6519207, at *1. The *Stengel* court made no attempt to harmonize its decision with the Second Department's previous holding in *Patel v. Board of Trustees of Muttontown*, 115 A.D.3d 862, 864 (2d Dept. 2014). In *Patel*, the Second Department held that "the issuance of a SEQRA findings statement did not inflict injury in the absence of an actual determination of the subject applications for a special use permit and

site-plan approval and, thus, the challenge to the adoption of the findings statement is not ripe for adjudication." Thus, while *Patel* seemed to stand for the proposition that a SEQRA determination that concludes the environmental process is not, standing alone, ripe for adjudication, *Stengel* indicates that such a SEQRA determination is.

To be fair to the Second Department, much of the uncertainty surrounding SEQRA statutes of limitations issues can be attributed to the Court of Appeals, which has issued several seemingly conflicting decisions on this issue. For much of SEQRA's history, the Court of Appeals

Ultimately, legislative action may be the best way to resolve this conundrum.

left unchallenged Appellate Court decisions holding that a SEQRA determination that concluded the environmental review process was just "a preliminary step in the decision-making process' and, therefore, not ripe for judicial review." See, e.g., *In re Matter of Town of Coeymans v. City of Albany*, 237 A.D.2d 856, 857 (3d Dept. 1997) (citation omitted), leave to appeal denied, 90 N.Y.2d 803 (Table) (1997).

DANIEL M. RICHMOND is a partner at Zarin & Steinmetz, which concentrates in zoning, land use, and environmental law. Mr. Richmond has spoken on a variety of issues relating to the implementation of the New York State Environmental Quality Review Act (SEQRA).

In 2003, however, in *Stop-The-Barge v. Cahill*, 1 N.Y.3d 218, 223 (2003), the Court of Appeals held that a challenge to a SEQRA determination by the New York City Department of Environmental Protection (DEP) ripened when that agency's "SEQRA review ended," and, accordingly, "to the extent that petitioners challenge the conclusions reached by DEP from its SEQRA review, the period of limitations must be measured at the latest from the time that" its SEQRA determination became final. The Court of Appeals in *Stop-The-Barge* appeared to be influenced by the fact that the petitioners in that case failed to alert DEP to its concerns during the underlying administrative proceeding, as well as the fact that there was a significant time lag between the issuance of DEP's SEQRA determination and the issuance of a challenged air permit by the New York State Department of Environmental Conservation. See *id.* at 223-24.

Regardless, *Stop-The-Barge* suggested that a final SEQRA determination would generally be ripe for review, regardless of whether the agency had actually taken action, such as by issuing the underlying permit or approval. In *Jones v. Amicone*, 27 A.D.3d 465, 469 (2d Dept. 2006), for example, the Second Department, citing *Stop-The-Barge*, affirmed the Supreme Court's dismissal of a SEQRA challenge as time-barred because the respondent City of Yonkers City Council's "adoption of the SEQRA findings statement was a final determination" with respect to that claim.

Just a few months after the Second Department's decision in *Jones*, however, the Court of Appeals held in *Eadie v. Town Board of North Greenbush*, 7 N.Y.3d 306, 316 (2006), that, where a Town Council issued SEQRA Findings before taking a rezoning action, "no concrete injury was inflicted until the rezoning was enacted." The *Eadie* court

distinguished *Stop-The-Barge* because the underlying agency action "did not involve 'the enactment of legislation,'" and because in *Stop-The-Barge* "the completion of the SEQRA process was the last action taken by the agency whose determination petitioners challenged." *Id.* at 317 (citations omitted). Somewhat mysteriously, however, and frustratingly for SEQRA practitioners, the *Eadie* court added that "[t]his does not mean that, in every case where a SEQRA process precedes a rezoning, the statute of limitations runs from the latter event, for in some cases it may be the SEQRA process, not the rezoning, that inflicts the injury of which the petitioner complains." *Id.*

Against this backdrop, in *Patel v. Board of Trustees of Incorporated Village of Muttontown*, 115 A.D.3d 862, 864 (2d Dept. 2014), the Second Department held that a Board's adoption of a findings statement pursuant to its obligations under SEQRA was not, standing alone, final agency action ripe for judicial review. The Second Department held in *Patel* that the SEQRA findings statement at issue "did not inflict injury in the absence of an actual determination of the subject applications for a special use permit and site-plan approval, and, thus, the challenge to the adoption of the findings statement is not ripe for adjudication." *Id.* In *Patel*, the Second Department did not mention, must less distinguish, its seemingly contradictory decision in *Jones*.

The mixed signals coming from the courts may perhaps be understandable, but they still present real and present potential pitfalls to practitioners and their clients. So long as *Stengel* and seemingly contradictory decisions, such as *Patel*, remain unharmonized, the most prudent course for practitioners would appear to challenge final SEQRA determinations, regardless of

whether or not they are accompanied by substantive agency action, such as a site plan or special permit approval. This obviously may cause unnecessary litigation and waste scarce judicial resources.

To avoid the cost and expense of unnecessary litigation where it remains unclear whether an agency will ultimately actually take a concrete action, parties may wish to consider entering "tolling" arrangements to avoid unnecessary litigation. Since it does not appear that parties can actually waive the applicable statute of limitations, (see *John J. Kassner & Co. v. City of New York*, 46 N.Y.2d 544 (1979)), the parties can consider allowing the petitioners to file a bare bones Article 78 Petition, and then adjourning the matter until such time as the agency may take more recognizably concrete action.

Ultimately, legislative action may be the best way to resolve this conundrum. The legislature could adopt legislation clarifying that a SEQRA determination that concludes the environmental review process remains unripe until an entitlement of some form is issued in connection with the action under consideration. Until clarity comes from either the courts or the Legislature, again, the most prudent course appears to remain to sue early and often.

New York State Bar Association
Environmental and Energy Law Section
For the Eleven Months Ending Saturday, November 30, 2019

	2019 Budget	November	2019 Year To Date	Percent	2018 Budget	2018 Year To Date	Percent
Income							
Dues	\$28,200.00	\$11.67	\$27,920.84	99.01%	\$29,450.00	\$28,551.59	96.95%
Meetings	42,000.00		45,405.00	108.11%	35,000.00	27,022.00	77.21%
Sponsorship	27,500.00		34,550.00	125.64%	20,000.00	38,950.00	194.75%
Newsletters	500.00			0.00%	350.00	865.00	247.14%
Publications				0.00%			0.00%
Total Income	98,200.00	11.67	107,875.84	109.85%	84,800.00	95,388.59	112.49%
Expenses							
Postage & Shipping	1,500.00	8.50	1,780.80	118.72%	1,500.00	945.01	63.00%
Awards & Grants	2,400.00		11,641.04	485.04%	3,500.00	3,846.88	109.91%
Diversity	500.00		250.00	50.00%	3,500.00	403.20	11.52%
Membership Initiative	500.00			0.00%	1,500.00		0.00%
Meeting Rooms	1,800.00	43,611.25	43,611.25	2422.85%		1,626.50	0.00%
Catering & Banquets	37,500.00	(56,462.32)	46,162.87	123.10%	35,000.00	39,065.69	111.62%
Beverage Service & Receptions	10,500.00	9,899.37	25,381.69	241.73%	12,000.00	8,207.50	68.40%
Speaker & Guest Expense	1,500.00	370.89	975.74	65.05%	1,500.00	1,712.03	114.14%
Audio/Visual Expense	6,000.00	518.40	5,670.01	94.50%	7,500.00	3,680.26	49.07%
Promotional Costs			1,991.95	0.00%		272.84	0.00%
Activities & Entertainment		567.00	567.00	0.00%	1,000.00		0.00%
Gratuities	50.00		150.00	300.00%	300.00		0.00%
Section Executive Committee Meetings	8,500.00	729.00	7,716.60	90.78%	2,500.00	6,923.57	276.94%
Officers Expense	750.00		134.20	17.89%	1,000.00	386.70	38.67%
Miscellaneous Meeting and Program Costs	8,000.00		2,028.02	25.35%	7,000.00	8,044.42	114.92%
Section Subcommittee Meetings	300.00		46.19	15.40%	500.00	80.76	16.15%
Newsletters	7,200.00		3,696.42	51.34%	5,000.00	3,374.65	67.49%
Graphic Department Allocations	1,500.00	13.04	2,047.44	136.50%	1,500.00	1,508.71	100.58%
Total Expenses	88,500.00	(744.87)	153,851.22	173.84%	84,800.00	80,078.72	94.43%
Net Income over Expense	9,700.00	756.54	(45,975.38)	-473.97%		15,309.87	0.00%

Accumulated Surplus (Deficit) **\$114,463**

ENVIRONMENTAL LAW - Detail

1/1/2019 - 11/30/2019

624-5100	Postage & Shipping		1,780.80
1/3/2019	SETRON ASSOCIATES	Payables Trx Entry	208.12
1/3/2019	SETRON ASSOCIATES	Payables Trx Entry	412.70
1/31/2019	postage- jan 2019		12.95
2/28/2019	CAPS - February 2019		173.57
2/28/2019	pre paid postage -feb 2019		24.61
3/31/2019	postage- march 2019		3.56
4/30/2019	prepaid postage-april 2019		0.50
5/31/2019	prepaid postage- may 2019		16.24
6/30/2019	prepaid postage- june 2019		2.50
7/31/2019	postage-july 2019		7.05
8/30/2019	PPD Adj- AM2019 CAPS		431.31
8/31/2019	prepaid postage-aug 2019		15.84
9/30/2019	prepaid postage-sept 2019		63.65
9/30/2019	Prepaid Other- September 2019		150.09
9/30/2019	Prepaid Other- September 2019		197.00
10/31/2019	prepaid postage- oct 2019		52.61
11/30/2019	prepaid postage-nov 2019		8.50
	Subtotal for Postage & Shipping		1,780.80
624-5160	Awards & Grants		11,641.04
1/31/2019	RACHEL MANNING	eels essay contest winner	500.00
1/31/2019	ECO PROMOTIONAL PRODUCTS, INC	Payables Trx Entry	371.60
2/6/2019	LISA J. BATAILLE	January Expenses (01/01/2019)	19.44
3/31/2019	Environmental & Energy Law		250.00
5/23/2019	ASHA BRUNDAGE-MOORE	fellowship award els-one half	3,750.00
5/31/2019	Ppd Other- May 2019		1,500.00
5/31/2019	Environmental & Energy Law		(250.00)
7/31/2019	ASHA BRUNDAGE-MOORE	2019 minority fellowship	3,750.00
9/23/2019	FREDERICK A MCDONALD III	W. Ginsberg Winner- 1st Pl	1,000.00
9/24/2019	IAN CURRY	W. Ginsberg Essay- 3rd Pl	125.00
9/30/2019	QIDI ZHANG	essay contest 2nd place winner	500.00
9/30/2019	MEGHAN McELIGOTT	W. Ginsberg Contest- 3rd Place	125.00
	Subtotal for Awards & Grants		11,641.04
624-5371	Environmental Law Section-Diversity Expense		250.00
5/31/2019	Environmental & Energy Law		250.00
	Subtotal for Environmental Law Section-Diversity Expense		250.00
624-5400	Meeting Rooms		43,611.25
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	38,402.36
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	5,208.89
	Subtotal for Meeting Rooms		43,611.25
624-5410	Catering & Banquets		46,162.87
1/31/2019	Accrual - January expenses Hol		11,582.52
1/31/2019	Prepaid Other - January 2019		1,000.00
2/1/2019	Accrual - January expenses Hol		(11,582.52)
2/21/2019	AMERICAN EXPRESS	mastros steakhous-1/18/19-lisa	11,582.52
3/31/2019	AM2019 - Food		9,319.55
5/14/2019	ELEGANT TOUCH CATERING COMPANY	catering- 5/8/19	927.04
5/31/2019	Ppd Other- May 2019		1,000.00
6/27/2019	THE HEALTHY CAFE CATERING CO	legislative forum catering6/13	2,764.15

9/30/2019	Holdings Accruals- Sept 2019		71,031.93
9/30/2019	Prepaid Other- September 2019		5,000.00
10/1/2019	Holdings Accruals- Sept 2019		(71,031.93)
10/31/2019	Add'l Accrual (2) - Oct 2019		71,031.93
11/1/2019	Add'l Accrual (2) - Oct 2019		(71,031.93)
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	19,569.61
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	(5,000.00)
		Subtotal for Catering & Banquets	46,162.87
624-5415	Beverage Service & Receptions		25,381.69
3/31/2019	AM2019 - Food		2,035.64
3/31/2019	AM2019 - Food		10,861.18
3/31/2019	AM2019 Beverage		435.00
3/31/2019	AM2019 Beverage		2,150.50
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	9,899.37
		Subtotal for Beverage Service & Receptions	25,381.69
624-5420	Speaker & Guest Expense		975.74
7/30/2019	HOWARD TOLLIN	speaker give aways	104.85
10/16/2019	MEGAN HIGGINS	Fall Mtg. Spkr Travel	500.00
10/22/2019	MEGAN HIGGINS	Fall Mtg. Spkr Travel	500.00
10/29/2019	MEGAN HIGGINS	Void Open Trx	(500.00)
11/30/2019	LIZ BARRY	Fall Mtg. Spkr Travel	370.89
		Subtotal for Speaker & Guest Expense	975.74
624-5425	Audio/Visual Expense		5,670.01
3/31/2019	AM2019 - AV		2,385.75
3/31/2019	AM2019 - AV		2,765.86
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	518.40
		Subtotal for Audio/Visual Expense	5,670.01
624-5430	Promotional Costs		1,991.95
8/31/2019	BROADWAY MARKETING, LTD	Env foldaway reusable bags	1,991.95
		Subtotal for Promotional Costs	1,991.95
624-5445	Activities & Entertainment		567.00
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	567.00
		Subtotal for Activities & Entertainment	567.00
624-5455	Gratuities		150.00
10/22/2019	JENNIFER RYAN	Fall Mtg. Conf. Planner Tip	150.00
		Subtotal for Gratuities	150.00
624-5465	Section Executive Committee Meetings		7,716.60
3/31/2019	AM2019 - Food		5,457.93
3/31/2019	AM2019 - AV		1,370.71
3/31/2019	Section Executive Committee M		79.20
7/16/2019	MEETINGBRIDGE LLC	june 2019	66.15
10/22/2019	MEETINGBRIDGE LLC	MeetingBridge September	13.61
11/21/2019	MOHONK MOUNTAIN HOUSE	Fall Mtg. Final Bill	729.00
		Subtotal for Section Executive Committee Meetings	7,716.60
624-5475	Officers Expense		134.20
2/28/2019	MEETINGBRIDGE LLC	Payables Trx Entry	1.90
6/18/2019	MEETINGBRIDGE LLC	may 2019	9.41
7/16/2019	MEETINGBRIDGE LLC	june 2019	24.74
7/31/2019	MEETINGBRIDGE LLC	Payables Trx Entry	40.07
9/17/2019	MEETINGBRIDGE LLC	Payables Trx Entry	22.18
10/22/2019	MEETINGBRIDGE LLC	MeetingBridge September	35.90
		Subtotal for Officers Expense	134.20

624-5480	Misc Meeting & Program Costs		2,028.02
3/31/2019	AM 2019 - Internet		868.46
3/31/2019	Misc Meeting & Program Costs		803.92
3/31/2019	Misc Meeting & Program Costs		355.64
		Subtotal for Misc Meeting & Program Costs	2,028.02
624-5485	Section Subcommittee Meetings		46.19
7/16/2019	MEETINGBRIDGE LLC	june 2019	28.84
7/31/2019	MEETINGBRIDGE LLC	Payables Trx Entry	13.29
10/22/2019	MEETINGBRIDGE LLC	MeetingBridge September	4.06
		Subtotal for Section Subcommittee Meetings	46.19
624-5540	Newsletters		3,696.42
1/31/2019	caps-jan 2019		561.12
1/31/2019	jan 2019 workorders		1,232.20
1/31/2019	UPS MAIL INNOVATIONS	intl mailngs	139.80
1/31/2019	postage- jan 2019		117.74
2/26/2019	Aaron Gershonowitz	editing-fall/winter 2018	750.00
2/26/2019	Miriam Villani	editing- fall/winter 2018	750.00
2/28/2019	Holdings Accrual - Feb 2019		145.56
3/1/2019	Holdings Accrual - Feb 2019		(145.56)
3/31/2019	Holdings Accrual - March 2019		145.56
4/1/2019	Holdings Accrual - March 2019		(145.56)
4/30/2019	SENTRON ASSOCIATES	Payables Trx Entry	145.56
		Subtotal for Newsletters	3,696.42
624-5700	Graphics Department Allocations		2,047.44
1/1/2019	PPD Workorder Adj - AM19		293.00
1/31/2019	jan 2019 workorders		347.70
2/28/2019	feb 2019 workorders		131.20
4/30/2019	april 2019 workorders		26.00
5/31/2019	may 2019 workordes		72.87
6/30/2019	Reclass to Ppd, Sept '19 Event		(131.20)
6/30/2019	june 2019 workorders		58.38
7/31/2019	july 2019 workorders		866.00
8/31/2019	AUG 2019 WORKORDERS		54.00
9/1/2019	Reclass to Ppd, Sept '19 Event		131.20
9/30/2019	sept 2019 workorders		108.25
10/1/2019	Subledger Reclass- ENVI		22.00
10/1/2019	Subledger Reclass- ENVI		(22.00)
10/22/2019	Reclass W/O per Sections Servi		77.00
11/30/2019	nov 2019 workorders		13.04
		Subtotal for Graphics Department Allocations	2,047.44
		Total for ENVIRONMENTAL LAW	153,851.22

Environmental & Energy Law Section Officer – Committee Liaison Responsibilities: June 2019 – June 2021 – 1/8/19 DRAFT

<u>Nick Ward-Willis</u>	<u>Linda Shaw</u>	<u>James Rigano</u>	<u>Howard Tollin</u>
<p>Brownfields Task Force</p> <p>Co-Chair Lawrence Schnapf Larry@Schnapflaw.com Co-Chair David Freeman dffreeman@gibbonslaw.com</p>	<p>By-Laws</p> <p>Co-Chair Mike Lesser mlessercle.ez@gmail.com Co-Chair Kevin Reilly knreilly@courts.state.ny.us Co-Chair Alita Giuda agiuda@couchwhite.com</p>	<p>Hazardous Waste/Site Remediation</p> <p>Co-Chair David Freeman dffreeman@gibbonslaw.com Co-Chair Amy Lynn Reichhart areichhart@nixonpeabody.com</p>	<p>Environmental Insurance</p> <p>Co-Chair Michele Schroeder mschroeder@enviironrisk.com Co-Chair Jerry Cavaluzzi jerrycavaluzzi@kennedyjenks.com</p>
<p>Environmental Business Transactions</p> <p>Co-Chair Jon Schuyler Brooks jbrooks@mrlp.com Co-Chair Donna Mussio Donna.Mussio@friedfrank.com Co-Chair Helen Mausch hmauch@zarin-steinmetz.com</p>	<p>Agriculture & Rural Issues</p> <p>Co-Chair Elizabeth C. Dribusch (edribusch@nyfb.org) Co-Chair Scott H. Wyner shwyner@gmail.com</p>	<p>Solid Waste</p> <p>Co-Chair Michael S. Bogin mbogin@sprlaw.com Co-Chair Steven C. Russo (russo@stlaw.com)</p>	<p>Continuing Legal Education</p> <p>Co-Chair Genevieve M. Trigg (gtrigg@woh.com) Co-Chair Maria Wieder Wieder.Maria@epa.gov Co-Chair Lawrence Schnapf Larry@Schnapflaw.com</p>
<p>Environmental Impact Assessment</p> <p>Co-Chair Adam Stolorow Astolorow@sprlaw.com Co-Chair Adam Schultz aschultz@couchwhite.com Co-Chair Rick Leland (richard.leland@akerman.com)</p>	<p>Water Quality</p> <p>Co-Chair Philip H. Dixon philiphdixon@gmail.com George A. Rodenhansen grodenhausen@rodenhausenchale.com Nicholas C. Rigano nrigano@riganollc.com</p>	<p>Pesticides</p> <p>Co-Chair Telisport W. Putsavage putsavagelaw@gmail.com Co-Chair Mackenzie Schoonmaker mschoonmaker@bdlaw.com</p>	<p>Corporate Counsel</p> <p>Co-Chair George A. Rusk grusk@roadrunner.com Co-Chair Michael Hecker MHecker@hodgsonruss.com</p>

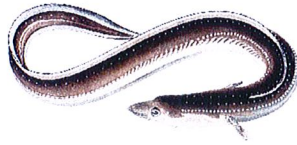
Environmental & Energy Law Section Officer – Committee Liaison Responsibilities: June 2019 – June 2021 – 1/8/19 DRAFT

Legislation	Diversity	Land Use	Enforcement & Compliance
<p>Co-Chair John Parker (parkerjlp@gmail.com) Co-Chair Charles Gottlieb (cgottlieb@woh.com)</p> <p><i>* Legislative Forum in Spring</i></p>	<p>Co-Chair Christine Leas (cleas@sprlaw.com) Co-Chair Sarah Lobe (Sarah.lobe@gmail.com)</p> <p><i>* Coordinate on Minority Fellowship</i></p>	<p>Co-Chair Dan Richmond (dmrichmond@zarin-steinmetz.com) Co-Chair John Kirkpatrick (jkirk@kirklawllc.com) Co-Chair Frank Piccininni (fpiccininni@sterlingrisk.com)</p>	<p>Co-Chair Susan Amron (SAmron@planning.nyc.gov) Co-Chair Matthew Sinkman (matthew.sinkman@aag.ny.gov)</p>
<p>Petroleum Spills</p> <p>Co-Chair Gary S. Bowitch (bowitch@bcalbany.com) Co-Chair Douglas H. Zamelis (dzamelis@windstream.net) Co-Chair Melissa M. Valle (mvalle@nyenvlaw.com)</p> <p><i>* Annual Spills Conference</i></p>	<p>Environmental Justice</p> <p>Co-Chair Jose Almanzar (jialmanzar@periconi.com) Co-Chair Jessica Steinberg Albin (jadinas22@hotmail.com)</p> <p><i>* Coordinate on Minority Fellowship</i></p>	<p>Toxic Torts</p> <p>Co-Chair Cheryl P. Vollweiler (cvollweiler@traudliebberman.com) Co-Chair Dan Krainin (dkrainin@bdlaw.com)</p>	<p>Global Climate Change</p> <p>Co-Chair Carl Howard (howard.carl@epa.gov) Co-Chair Michael Gerrard (michael.gerrard@aportier.com) Co-Chair Kevin Healy (khealy@bryancave.com) Co-Chair Ginny Robbins (vrobbsins@bsk.com)</p>
<p>Mining and Oil & Gas Exploration</p> <p>Co-Chair Alita Giuda (agiuda@couchwhite.com) Co-Chair Kevin Bernstein (bernstkt@bsk.com)</p>	<p>Energy</p> <p>Co-Chair Yvonne E. Hennessey (yhennessey@hbllaw.com) Co-Chair Keith G. Silliman (kgsilliman@gmail.com)</p>	<p>Coastal & Wetland Resources</p> <p>Co-Chair Amy K. Kendall (akendall@nyenvlaw.com) Co-Chair Teresa M. Bakner (tbakner@woh.com)</p>	<p>Membership</p> <p>Co-Chair Robert Stout (rstout@woh.com) C-Chair Hecker, Michael (MHecker@hodgsonruss.com)</p>

Environmental & Energy Law Section Officer – Committee Liaison Responsibilities: June 2019 – June 2021 – 1/8/19 DRAFT

<p>Social Media & Communications</p> <p>Co-Chair Drew Gamils dgamils@kblaw.com Co-Chair Rachel Partington rpartington@nyenvlaw.com <i>* Twitter, LinkedIn & Communities</i></p>	<p>The NY Environmental Lawyer Journal</p> <p>Miriam E. Villani mvillani@swc-law.com <i>* TNYEL + Essay Contest</i></p>	<p>Adirondacks, Catskills, Forest Preserve & National Resource Management</p> <p>Co-Chair Claudia K. Braymer claudia@braymerlaw.com Co-Chair Thomas A. Ulasewicz tau@fmbf-law.com Co-Chair Jan Kublick jan.kublick@gmail.com</p>	<p>Future of Federal Envntl Policy Taskforce</p> <p>David Freeman dfreeman@gibbonslaw.com Gail Port gport@proskauer.com Kevin Healy khhealy@bryancave.com <i>* coordinate response to issues of import</i></p>
<ul style="list-style-type: none"> • Representative to the House of Delegates: • EELS Liaison with Young Lawyers Section • Representative to the NYSBA Executive Committee: • Counsel to Cabinet: • Liaison to NYSBA Cannabis Committee: • Awards Committee: Lou Alexander + rotating members; propose awardees + Coordinate on Minority Fellowship • Nominating Committee: Current Secretary + rotating members (3-5 Total) to nominate next cabinet member + members at large, etc. <p>Amy Kendall Laura Godly and J. Patrick Logan Robert Schofield, Whiteman, Osterman & Hanna Teresa Bakner Telsport W. Putsavage</p>			

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Corporate Counsel Committee

Committee Co-chairs: Mike Hecker and George Rusk

Date of Report: December 18, 2019

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

2019

- Contacted the Corporate Counsel Section regarding coordination on a CLE event, including participation in the EELS Annual Meeting. The Corporation Counsel Section indicated an interest in working on a future CLE event, but not in participating on a panel at the Annual Meeting event.
- Coordinated with the Climate Change subcommittee on corporate and in-house themes and outreach on a planned CLE surrounding the Climate Leadership and Community Protection Act.
- Both co-chairs acted as co-chairs for the Annual Meeting CLE event, including coordinating panels and speakers.
- Provided representation in the monthly Cabinet calls and attended the Fall meeting.
- Brainstormed with the Membership Committee on 2020 event planning to continue to grow in-house counsel involvement.

2020

- Act as co-chairs for the EELS Annual Meeting event.
- Coordinate with the Corporate Counsel Section on the potential for co-sponsoring a CLE event.
- Continue to seek out opportunities to engage in-house counsel as a means of growing membership and interest.
- Seek additional EELS membership and involvement in the Corporate Counsel Sub-Committee.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event

- Continue to work with the Climate Change subcommittee on corporate and in-house themes and outreach on a planned CLE surrounding the Climate Leadership and Community Protection Act.

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

- Consider utilizing some of the materials and/or concepts drawn from the Annual Meeting CLE for The New York Environmental Lawyer, and offer publication to speakers with particularly interesting topics.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

- The widespread development of PFAS-related litigation is significant. Currently, over 120 cases have been consolidated in the U.S. District Court for the District of South Carolina for discovery purposes. New York State filed its third litigation against manufacturers of PFAS-related materials, focusing on aqueous film forming foam (AFFF). Other litigation is pending throughout the country claiming injury to health, drinking water sources, medical monitoring, damage to property, and may other causes of action.

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

- U.S. EPA is considering whether to list PFAS as a hazardous substance under CERCLA. It has also promulgated advance notice of potential rulemaking regarding PFAS being subject to Toxic Release Inventory (TRI) reporting. Congress is also considering independent action to be taken in regard to PFAS.
- Congress has passed legislation regarding hemp usage.

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

- The NYS Department of Health is going to proceed with promulgating regulations regarding PFAS in drinking water, which will result in the potentially lowest standards in the country.

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

- The U.S. EPA establish the PFAS Action Plan, which summarizes proposed actions to be taken in response to the growing issues surrounding the constituent.
- The Superfund Task Force published its final report, dated September 9, 2019, calling for a number of reforms to and areas of focus associated with Superfund projects.
- NYS DEC has further revised the Part 360 Solid Waste regulations, and continues work on further revisions to the Part 375 regulations, which are expected to be released in 2020.

Membership: Describe initiatives to increase section membership and attract younger lawyers.

- Continue to undertake outreach to in-house counsel.

Other: Can be anything which benefits our section which your Committee would like to undertake.

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Environmental Impact Assessment Committee

Committee Co-chairs: Adam Schultz, Adam Stolorow, Richard Leland

Date of Report: 12/30/19

We had a conference call with EIA Committee members in November 2019, and we have generated a few ideas for potential programs that we could put on in 2020, particularly related to climate change and renewable energy in the context of environmental reviews.

Climate change and SEQRA/NEPA

- The NY Climate Leadership and Community Protection Act (CLCPA), enacted in 2019, requires that proposed permits and governmental approvals be reviewed for consistency with the state greenhouse gas limits established under the CLCPA. Will this review take place as part of the SEQRA process even though it is not within SEQRA? Should it? This issue was highlighted in the Gerrard/McTiernan SEQRA year in review article that was published in Sep. 2019:
<https://www.law.com/newyorklawjournal/2019/09/11/annual-review-of-developments-under-seqra/>
- Anecdotally, Committee members reported that there seem to be more projects being reviewed for potential impacts related to climate change (e.g. how increasing intensity of storm events may impact stormwater flows from a project, or how rising water levels may impact the project itself in a flood event). We could look at case studies from a few of these projects to see how lead agencies and attorneys are handling this issue in practice.
- The new draft SEQR Handbook (proposed revisions released Jan. 2019), https://www.dec.ny.gov/docs/permits_ej_operations_pdf/dseqrhandbook.pdf, contains some additional guidance on reviewing impacts related to climate change but where else should practitioners look?
- In January 2020, the Trump administration proposed revisions to the NEPA implementing regulations that would no longer require agencies to consider climate change as part of federal environmental review. As the proposed regulations make their way through notice-and-comment rulemaking in early 2020, the Committee could work with the Global Climate Change Committee to discuss the proposed regulations and potentially submit comments to the White House Council on Environmental Quality.

Environmental review of renewable energy projects

- Steps have been made at all levels of government to try to streamline the environmental review of renewable energy projects (e.g. [Executive Order 13807](#)). We could do a presentation on what some of these steps have been and discuss the pros and cons of streamlining environmental review and whether more should be done and at what level. Particularly if NY State is going to reach its goals of 70% clean energy by 2030 and 100% clean energy by 2050, this will be a topic of significant interest.

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Environmental Justice

Committee Co-chairs: Jose Almanzar; Jessica Steinberg Alpin

Date of Report: Dec. 12, 2019

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

- 2019 Activities: EJ/Climate Change Panel (NYSBA EELS 2019 Annual Meeting, January 2019); nomination of Peggy Sheppard (WE ACT) and Aaron Mair (NYSDOH/ex-Sierra Club President) to NYSBA Haywood Burns Civil Rights Award (July 2019); helped organize (and is co-chairing) a CLE with the State and Local Government and the Civil Rights Sections at NYSBA 2020 Annual Meeting regarding EJ issues concerning lead in drinking water' participation and involvement with NYSBA Minority Fellowship Program planning committee (November-December 2019); increased Committee membership by 3 new members (all under 40) and have new co-Chair (Jessica S.A.).
- 2020 Activities: Co-chairing a CLE at the NYSBA 2020 Annual Meeting called "Environmental Injustice: The Impacts and Implications of Lead in Our Municipal Drinking Water." Speakers include Zoghlin Group Attorney Bridget O'Toole, LaBella Engineer Clem Chung, and David O. Carpenter, Director, Institute for Health and the Environment at U Albany (Jan. 2020); scoping ideas for potential article on climate resiliency and EJ issues; participation in local HS "Career Days" and try to discuss/incorporate EJ topics; more communication between Committee Co-Chairs and membership to increase interest.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event

- Solar power and battery back-up programs for EJ Communities;
- Blood lead test program for children in high-asthma communities in the Bronx;
- Article 10 Law Process and EJ impacts on underserved rural communities and special populations such as the Amish; and

- Redevelopment challenges in urban communities focusing on affordable housing development. Presentation would focus on the effectiveness of Part 360 regs and NYS Brownfields Cleanup Program, especially impacts on project costs and development timelines.

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, *The New York Environmental Lawyer*

- NY Local Law 55 (2018) (concerns requirements for owners of multi-family buildings to maintain tenants' apartments free of mold and pest allergens).
- A summary of the 2019 NY legislature Environmental Justice Bill (A1564/S2385), which would create a permanent NYS Environmental Justice Advisory Board and an Environmental Justice Interagency Council, among other things.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee. [N/A]

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

- In late June 2019, the NYS Legislature passed the Environmental Justice Bill (A1564/S2385), which would create a permanent NYS Environmental Justice Advisory Board and an Environmental Justice Interagency Council, among other things.

The July 18, 2019, NYS Gov. Cuomo signed the Climate Leadership and Community Protection Act (S6599/A8429) ("CLCPA"), which sets out aggressive milestones for reducing greenhouse gas emissions and co-pollutants statewide. Portions of the Environmental Justice Bill requires that the "council" formed under the CLCPA consult and draft a "scoping plan" with the "climate justice working group" established under the Environmental Justice Bill.

There's apparently There is growing concern that because the two bills are linked, the CLCPA will not go into effect until the Environmental Justice Bill is signed. A growing number of community-based organizations are calling on Gov. Cuomo to sign the Environmental Justice Bill ASAP.

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee. [N/A]

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee. [N/A]

Membership: Describe initiatives to increase section membership and attract younger lawyers.

- Promote Section to younger lawyers that we meet during non-NYSBA networking events;

- For 2020: Communicate with the Young Lawyers Section of the NYSBA and Career Development Office from any law schools that we can establish a relationship with

Other: Can be anything which benefits our section which your Committee would like to undertake.

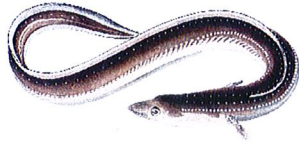
- For 2020: Sponsor a High School Career Day at specific high school(s)
- For 2020: Sponsor a Resume and Cover Letter Drafting Workshop a local college(s)

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Future of Federal Environmental Policy Task Force

Committee Co-chairs: David J. Freeman, J. Kevin Healy and Gail S. Port

Date of Report: December 20, 2019

The Future of Federal Environmental Policy (FFEP) Task Force continued to monitor the activities, policies and proposals of the current Administration to identify any initiatives which are environmentally significant for New York State and as to which the Task Force involvement might be useful or appropriate. We also maintained liaison with our contacts on Capitol Hill, at the New York State Department of Environmental Conservation and the Office of New York State Attorney General. Representatives of these offices have, in the past, provided us with their views as to which issues most affect them and would be particularly worthy of our involvement.

In March, representatives of the Task Force met with EPA Regional Administrator Pete Lopez, Deputy Regional Administrator Walter Mugdan, Regional Counsel Eric Schaaf and other EPA officials to discuss issues of mutual concern. The meeting was cordial, but no specific initiatives were developed as a result of the meeting.

In September, the Task Force considered the possibility of commenting on EPA's proposal to revise New Source Performance Standards under the Clean Air Act with respect to methane emissions from oil and gas production, refining, storage and transmission. After considerable discussion, we elected not to pursue this issue, based on (a) our members' lack of expertise in the technical aspects of the proposed rule, and (b) our belief that many other parties with greater expertise would be commenting on these issues.

We are currently considering becoming involved in an initiative with respect to timely action on offshore wind area lease applications by the U.S. Department of Interior's Bureau of Ocean Energy Management. A conference call of the Task Force has been scheduled for early January to further discuss this issue.

The Task Force will continue to monitor and track the environmental-related initiatives of Congress, the EPA and other Federal agencies and will continue to advise the Section as to whether to weigh in on various issues as they arise.

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Petroleum Spills Committee

Committee Co-chairs: Gary Bowitch, Douglas Zamelis, Melissa Valle

Date of Report: January 20, 2020

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

Since 2011, the Petroleum Spills Committee has organized the Oil Spill Symposium. The Committee is in the process of organizing the eleventh annual Symposium. The date has been set for April 15, 2020.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event.

The Oil Spill Symposium will identify all relevant topics and emerging issues related to the Committee.

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

Spill Reporting is a topic that generates a lot of interest usually.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

The Oil Spill Symposium will identify all significant decisions issued in 2019/2020 in the annual Case Law Update.

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

The Oil Spill Symposium will identify all significant legislation issued in 2019/2020 in the annual Case Law Update.

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

The Oil Spill Symposium will identify all significant regulations issued in 2019/2020 in the annual Case Law Update.

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

The Oil Spill Symposium will identify all significant guidance issued in 2019/2020 in the annual Case Law Update.

Membership: Describe initiatives to increase section membership and attract younger lawyers.

The Oil Spill Symposium held every year since 2011 has helped maintain Committee membership. The Symposium usually has a fair amount of young lawyers and efforts can be made to advertise membership opportunities.

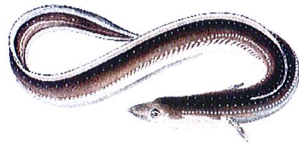
Other: Can be anything which benefits our section which your Committee would like to undertake.

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: TOXIC TORT COMMITTEE
Committee Co-chairs: Cheryl Vollweiler, Daniel Krainin
Date of Report: 11/14/19

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

Dan Krainin organized and moderated a panel on toxic tort litigation relating to emerging contaminants for the 2018-19 Fall Meeting.

Cheryl Vollweiler is co-chairing the Jan. 2020 Annual Meeting and is organizing and leading a panel.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event

1. **Panel or Webinar:** Water contamination cases are proliferating throughout the state, with PFOA/PFOS and 1,4-dioxane being among the contaminants du jour. With the newly extended statute of limitations for public water providers to sue, more litigation over a longer period is expected. However, these suits present challenges for water providers, such as establishing the elements of public/private nuisance claims, proving causation, and offering scientific testimony that will pass Daubert/Frye muster. Our panel will explore these issues with a balanced perspective between plaintiff and defense. These cases also raise tricky insurance coverage issues and therefore this topic lends itself to collaboration with the insurance coverage committee.
2. **Webinar:** Identifying the best testifying expert for your toxic tort case. This webinar will explore how to pick a testifying expert for different situations, including the pros/cons of using as a testifying expert a project manager or engineer who had a lead role in remediating the site and interfacing with regulators, as opposed to an independent expert who did not work on the site but can take a "fresh look."

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

Our committee proposes an article regarding the recent extension of NY statute of limitations (CPLR 214-h) for public water providers to commence suit for water contamination.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

N/A

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

- **CPLR 214-h: New legislation expanding SOL for claims brought by public water providers for contamination of public wells**
- **Climate Leadership and Community Protection Act (CLCPA) - targets net zero carbon emissions by 2050, with an interim target of 40 percent reductions from 1990 emissions by 2030**

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

- **New MCLs proposed for PFOA/PFOS and 1,4-dioxane.**

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

N/A - we are primarily a litigation committee

Membership: Describe initiatives to increase section membership and attract younger lawyers.

We will try again to attract new members at annual meeting with a committee table, attract new members through our programs noted above and our annual meeting which has a toxic tort panel.

Other: Can be anything which benefits our section which your Committee would like to undertake.

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com



Memo

Via E-mail

To: Howard Tollin, (HTollin@sterlingrisk.com); nward-willis@kblaw.com
From: Claudia Braymer, Jan Kublick, Thomas A. Ulasewicz
Date: December 13, 2019
Re: NYSBA EELS Important Actions
Committee on the Adirondacks, Catskills, Forest Preserve & Natural Resource
Management

As directed in your 11/6/19 memo to the three of us, we are providing you with the update on your three requests:

1. **Plan a call with committee members**

Instead of a group call which is quite difficult to coordinate with everyone, we split up our roster among the three of us and we will be contacting the individuals assigned to each of us to discuss continued interest in committee membership and any topics/subject matter they would care to have incorporated into future meetings, briefings, etc. We are in the process of completing this effort and will report back to the two of you upon completion.

2. **Decide on a shorter Committee name**

We will come up with options and would like to run it past our membership at the January, 2020 Annual meeting. We will share these options with the two of you ahead of time.

3. **Preparation of a brief Committee Report**

We are in the early stages of preparing a Committee Report which we will run by the two of you well before we hold a Committee meeting at the January 30, 2020 Annual meeting. (Amy Jasiewicz has already been notified of our intentions to hold such a meeting on Thursday between 2:30 & 3:30pm.) We are in the process of contacting State government executive personnel and a number of organizations to get updates on legislative efforts, Program initiatives, critical litigation, enforcement concerns, rulemaking, new Policy development or amendment, etc. This should lead, as it has in the past, to an informative Report.

We trust this is helpful in keeping you advised of what we are up to. We will make every effort to bring you both up-to-date on our Committee's activities, etc. on a more frequent basis, now that there are three of us. But, as you are well aware, our efforts in this regard are directly commensurate with the demands of our individual Practices.

If we don't contact you sooner, have a great holiday.

SERVICE BY FAX NOT ACCEPTED

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Brownfields Task Force

Committee Co-chairs: David Freeman and Lawrence Schnapf

Date of Report: 12/19/2019

Committee Activities: *The Task Force co-sponsored, with the Hazardous Waste/Site Remediation Committee and the New York City Bar Association, a well-attended and highly successful December 12th Superfund/Brownfield Update Conference in New York City. We also drafted a letter that was submitted on behalf of the Section to the Legislature and the Governor opposing proposed legislation that could have required use of prevailing wages for brownfield sites. The Task Force coordinated with the Brownfield Coalition of the Northeast (BCONE) and the New York City Brownfield Partnership to have those organizations submit their own comment letters opposing the legislation.*

Topics for Panels and/or Webinars: *The Task Force anticipates that NYSDEC will propose revised Part 375 regulations sometime in early 2020. The revised regulations would be a good topic for a webinar or panel discussion at one of the Section conferences. We also expect to organize a Superfund/Brownfield Update conference in the fall of 2020, probably to take place in Albany.*

Publication: *An article analyzing proposed revisions to the Part 375 regulations and changes in DEC policy implementing the BCP might be timely.*

Judicial or Administrative Decisions: None

Legislation: None

Regulations: None

Guidance Documents: EPA issued a revised Common Elements Guidance document.

Membership: *Created a Task Force community page to facilitate timely communication with members.*

Other: N/a

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and nward-willis@kblaw.com

NYSBA EELS – Conferences & CLEs – 2020
Potential topics for a Summer CLE – M. Wieder
1/9/20



I looked at the NYCBA's upcoming programs – nothing on Environmental issues coming up. There are a number of important water topics, 'NYSDEC & EPA at 50' or EJ topics that could be interesting to pull together.

2020 Annual Meeting Program

January 31 | NYC

Topics:

- Corp. strategies for addressing Env'tl & Energy Challenges
- CO2 Reg & Weather Event Risks
- Corp. Leadership Initiatives: Superfund Toxic Torts & Energy
- Transactional Risk Mitigation Strategies
- Corp. Governance & Env'tl Practice Ethical Issues

* *Water Committee: seminar presentation on public water supply on Long Island, March in Mineola?*

* *Climate Change/ carbon pricing workshop - March 5, 2020, NYCBA*

11th Annual Oil Spill Symposium

April 15 | Albany

Earth Day 2020

April 22 | Receptions Around the State

Legislative Forum

May? *Topic(s)?*

Summer in the City CLE on X?

June/July/August? TBD – webinar? Thoughts below...

- **Water**
 - See March seminar noted above
 - Revised federal WOTUS rule
 - PFAS issues / cleanup standards /legislation under debate
 - PFAS / 1,4 Dioxane toxic tort cases (Dark Waters)
 - Lead in drinking Water (*discussed at Jan 2020 meeting / Local & state Gov't Law Section*)
 - Challenges to effective water/wastewater treatment of compounds such as dioxane, PFAS and microplastics by existing treatment technologies. (Water Comm)

- Overview of the status of efforts to “harden” wastewater treatment facilities since Superstorm Sandy (Water Comm)
- **NYSDEC & EPA at 50**
 - Work w/ Future of Federal Environmental Policy Task Force? A forward-looking CLE on policy/enforcement, etc.?
- **Diversity/ EJ Topic** (diversity, inclusion CLE?) (suggestions from EJ Comm.)
 - Solar power and battery back-up programs for EJ Communities;
 - Blood lead test program for children in high-asthma communities in the Bronx;
 - Article 10 Law Process and EJ impacts on underserved rural communities and special populations such as the Amish; and
 - Redevelopment challenges in urban communities focusing on affordable housing development. Presentation would focus on the effectiveness of Part 360 regs and NYS Brownfields Cleanup Program, especially impacts on project costs and development timelines. *(maybe fold into the brownfields Fall program?)*
- **Air**
 - changes to EPA new source review guidance *(boring)*
- **NEPA**
 - NEPA regs being revised.
 - The border wall issues
- **Haz Waste / Redev**
 - DEC is revising haz waste regs
 - CERCLA - Federal common elements guidance for asserting CERCLA landowner liability protections
 - There will be a new ASTM phase 1 standard issued by year end...
 - *Fold into Fall superfund/brownfields conf.*
- **Climate Change**
 - Note: Corp. Counsel Comm is working w/ CC committee on corp. & in-house themes & outreach for a planned CLE on Climate Leadership & Community Protection Act – *when?*

2020 Fall Meeting

Sept/Oct? *Topics?*

Environmental Insurance

October 30 / NYC

Superfund/Brownfields Conf.

Nov.? / Albany

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: EELS Pesticide Committee
Committee Co-chairs: Telisport Putsavage & Mackenzie Schoonmaker
December 13, 2019

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

Because there were not significant developments in 2019, this Committee did not publish or present at the biannual meetings. However, we actively tracked state-related pesticide updates and attended the biannual meetings, and are prepared to address any related topics of itnerest.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event

Given the narrow focus of the Committee it is difficult to create programs that appeal to cross-section of the Section. The last pesticide program was a presentation on cannabis and pesticides at the Section program for the January 2017 annual meeting. We think the developments we have identified might be better suited to publications. (see below).

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

Governor Cuomo recently announced a direction to the Department of Environmental Conservation to commence rulemaking to initially ban the aerial application of chlorpyrifos and ultimately all uses of the ingredient. See <https://www.governor.ny.gov/news/governor-cuomo-directs-dec-ban-use-chlorpyrifos>.

Chlorpyrifos is a highly controversial pesticide which California has banned and multiple states, including New York are suing EPA in the 9th Circuit seeking the full cancellation of its registration. New York is taking a leading role in the litigation. See <https://ag.ny.gov/press-release/2019/attorney-general-james-continues-fight-against-trump-administration-over-toxic>.

NYSBA EELS Pesticide Committee 2019 Report

EPA has received applications to add hemp as a use site to several pesticide products and has solicited public comment on the topic. This is of great interest in the agricultural and cannabis sectors, as previously only a few pesticide products have been registered for use on hemp. See <https://www.epa.gov/newsreleases/epa-seeks-public-comment-pesticide-applications-hemp>. The 2018

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

The herbicide glyphosate (RoundUp®) continues to be the subject of intense controversy both judicial and administrative fronts. Two California state juries and a Northern District of California Multi-District Litigation (“MDL”) decision resulted in major awards against Monsanto (now Bayer) the registrant of glyphosate, on the basis that the chemical caused non-Hodgkin’s lymphoma.

The California Office of Environmental Health Hazard Assessment (“OEHHA”) determined that glyphosate is a possible carcinogen and required that Proposition 65 notices must be provided in conjunction with the sale of such products. Industry sued and prevailed, securing an injunction prohibiting enforcement under Prop 65 for the lack of such notices.

EPA announced its interim conclusion on the carcinogenicity of glyphosate. Contrary to the position of the International Agency for Research on Cancer, EPA concluded it is not a carcinogen. See <https://www.epa.gov/ingredients-used-pesticide-products/proposed-interim-registration-review-decision-and-responses-0>

EPA announced that given its view on the carcinogenicity of glyphosate, it determined that it would contradict EPA’s scientific position and be misleading to allow glyphosate labels to bear a statement that product is carcinogenic. See https://www.epa.gov/sites/production/files/2019-08/documents/glyphosate_registrant_letter_-_8-7-19_-_signed.pdf

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

Congress renewed the Pesticide Registration Improvement Act (“PRIA”) which authorizes a fee-for-service program for EPA’s pesticide registration program. PRIA establishes categories for registration actions and establishes fees for each action and an associated timeline for EPA to complete the action. See Pesticide Registration Improvement Extension Act of 2018 (PRIA 4), <https://www.epa.gov/pria-fees>

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

To implement Governor Cuomo’s direction to immediately ban the aerial application of chlorpyrifos an emergency rule will be required, followed by a standard rulemaking to make the aerial application prohibition permanent and address all other uses.

NYSBA EELS Pesticide Committee 2019 Report

In a rule that took effect March 6, 2017, EPA revised standards applicable to certified pesticide applicators. By March 4, 2020, the New York Department of Environmental Conservation is required to submit its compliance plan for instituting the revised requirements.

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

We not identified any relevant guidance documents issued in 2019.

Membership: Describe initiatives to increase section membership and attract younger lawyers.

Only three other Section members have identified as Committee members. We have reached out to them seeking ideas for the Committee.

2019 Environmental Law Section Committee Report

Committee Name: Environmental Insurance

Committee Co-chairs: Gerard P. Cavaluzzi and Michele Schroeder

Date of Report: December 13, 2019

The Committee will offer a half day CLE program in the Fall of 2020.

The Committee will again sponsor the highly regarded CLE program entitled “Emerging Issues in Environmental Insurance” that will be held in New York City. The topics will include an overview of the environmental insurance product market, trends from the perspectives of insurers, policy holders and brokers, and practical tips for utilizing environmental insurance products in transactions. The program has been well-attended in the past and continues the series of programs hosted by our Committee every two years.

The Committee is now preparing a panel discussion concerning environmental insurance for real estate transactions at the Annual Meeting of the New York State Bar Association. The program which will be held at the Annual Meeting on January 31, 2019 will include an overview of how environmental liabilities are protected and provided for in buy sell agreements or other real estate transactions. The program will also focus on how environmental insurance can be used to mitigate actual and potential pollution loss and risk.

Significant legislation or market developments affecting our committee specialty in the current year includes:

Rulemaking aimed at addressing recent emerging contaminants such as 1, 4 Dioxane, PFOAs, PFOS, Glyphosate (“Roundup”) and a variety of thousands of related chemicals contemplates mandatory inspections, monitoring, and cleanup of groundwater, drinking water supplies, soils, air and other media. Some rulemaking includes causes of action for medical monitoring from exposure to certain emerging chemical contaminants and cleanup of media at very low detection levels. Concern exists that municipalities will be facing lawsuits for liability to third parties associated with exposure to emerging chemical contaminants and out-dated infrastructure i.e.: failure to capture, filter and treat such emerging chemical contaminants and warn of potential harm. Environmental insurance coverage is limited for such exposure with sub-limits of insurance, or specified pollution condition exclusions for such emerging chemical contaminants.

Contingent business interruption coverage demand associated with pollution releases at locations in proximity to the insured location that result in loss at the insured location. Events such as severe weather conditions/hurricanes, floods, and wildfires resulting in pollution releases

having consequential interruption in normal and customary business operations at separate locations due to stigma or denial of access have led to this broker request for coverage. Markets have responded with varied terms and conditions.

Increased property transactions, buildout, and expansion has caused environmental insurance underwriting concerns around property and construction development and redevelopment as a vehicle to discover preexisting site pollution conditions or exacerbation of existing unknown pollution conditions. A variety of exclusions for property development and redevelopment have been added to the pollution legal liability insurance policy on a case by case basis with opportunity to terminate the exclusion upon construction completion, Certificate of Occupancy or other construction clearance standards.

Increased real estate transactions in the marketplace has led to insurance coverage demand conditioned on the failure of an indemnity or failure of an assumption of the responsibility for a cleanup at a location that is the subject of a real estate transaction. The demand for this coverage is from the party receiving the indemnity benefit as a backstop to non-performance by the party giving the benefit. Select markets have responded with manuscript policy language and varied terms and conditions.

Demand for Remediation Stop Loss coverage continues and in combination with discovery of new pollution conditions. Select markets have refined products with varied terms and conditions and underwriting restrictions. However, to date we have no knowledge of any deals binding associated with Remediation Stops Loss this past year.

Significant regulations or claims affecting our committee specialty in the current year includes:

Recently, the EPA set a Federal Health Advisory Level for PFOs and PFOAs at 70 ppt and state agencies setting lower levels i.e.: Vermont at 20ppt. This rulemaking will lead to PFOs and PFOAs and the approximate 4,000 other varieties of such chemicals to be treated as a "hazardous chemical" under EPA rules. The predominant use of such chemicals has been in firefighting foam and waterproofing chemicals, however, the chemical combinations are also prevalent in industrial operations and our environment. Compulsory inspection, monitoring including medical monitoring for exposure will greatly impact the pollution liability underwriting process.

Environmental insurers have seen increased claim activity for State led Natural Resource Damage (NRD) claims. State Attorney Generals in the state of New Jersey have brought NRD claims against potentially responsible parties (PRPs) for pollution in and around riverways. State Attorney Generals in the state of Ohio, New York and New Hampshire have brought claims against PRPs from PFC. The potential cause for this increase in state led NRD claims is the relative inaction of Federal EPA with respect to such litigation, the rise of emerging chemicals not regulated by federal standards and NRD assessments are a revenue generator for states. PRPs have included DuPont, AFFF Cos. Hess, SL Industries and Exxon. There have also been efforts to assign these cases to private lawyers for prosecution in place of state attorney generals. Very

often NRD claims are a second attempt by the government after cleanup is completed. NRD claims can be a source of re-opener claims on the pollution legal liability insurance policies going forward.

Environmental insurers have also seen increased claim activity for site re-opener claims due to development of the site or changes in land use at sites, modification of cleanup standards, “new” media or pathway concerns with respect to closed sites (ie: vapor intrusion within structures), emerging or new chemicals and contaminants (ie: PFOs, PFOAs etc.), natural disaster activity such as severe, extreme or wet weather and other effect of “climate change”.

Mold and legionella claims including allegations of construction defect have also been a consistent source of claims against environmental insurers in 2019.

Product pollution exposure is an increasing issue for underwriters providing products pollution insurance coverage. The recent well-publicized verdicts regarding the makers of Roundup and the chemical glyphosate has been shown to cause various cancers including non-Hodgkin’s lymphoma. Several awards in the hundreds of millions and even billions have been won by individuals. Additional environmental exposure to soil and groundwater resulting from misapplication is possible.

Significant court decisions affecting our committee specialty in the current year includes:

1. November 26, 2019 - A Pollution Exclusion Clause Lets Insurer Escape Suit Over NY Fuel Spill. A pollution exclusion lets General Star Indemnity Co. off the hook for covering a tanker-truck accident that spilled 4,300 gallons of fuel onto a New York road and nearby reservoir, a Massachusetts federal judge ruled. The plaintiffs pointed to a section of the policy styled the special hazards and fluids limitation endorsement, which excluded coverage for accidents and spills but has an exception for fuel spilled as a result of a truck overturning, which is what happened in the accident that spawned the litigation. “Plaintiffs appear to contend that, by adding this exception to the exclusion, General Star agreed to provide insurance for unloading caused by the upset or overturn of an auto,” Judge Hillman wrote. “But an exception to an exclusion does not affirmatively create coverage. It just prevents an exclusion from applying under the specified circumstances.” Judge Hillman’s decision ends a suit claiming breach of an insurance contract and unfair business practices for denying coverage, citing a “total pollution exclusion” in the policy. This case is instructive to show that a standard pollution legal liability insurance policy that provided transportation coverage could have provided the necessary protection. (Performance Trans. Inc. et al v. General Star Indemnity Co., case number 4:19-cv-40086, in U.S. District Court for the District of Massachusetts).
2. November 1, 2019 -- A New York federal judge gave a partial win to Indian Harbor Insurance Co. in its bid to avoid \$5 million in litigation costs over injuries from a Texas oil refinery fire, saying the refinery employees failed to show that the refinery fire and resulting smoke, soot and vapor was caused by its contracting services, as required under the policy, the court said. The plain language of the insurance policy requires that the insured’s services cause the ‘pollution condition’ itself, Judge Oetken wrote. The Judge further said that the plaintiffs

make no showing that the insured played a role in causing the initial fire or the resultant spread of smoke, soot, and vapor. (James River Insurance Co. et al. v. Indian Harbor Insurance Co., case number 1:18-cv-00767, in the U.S. District Court for the Southern District of New York).

3. August 29, 2019 - The California Supreme Court ruled that a policyholder-friendly late notice rule can override an Indian Harbor Insurance policy provision requiring other state's law to apply to coverage disputes, answering a query from the Ninth Circuit in Pitzer College's bid to force Indian Harbor to pay environmental remediation costs for lead remediation on the college's campus. The college's pollution policy with Indian Harbor required the application of New York law. The California Supreme Court agreed with Pitzer's argument that the notice-prejudice rule is a fundamental public policy for the purpose of choice-of-law analyses because, among other things, it protects the state's policyholders from unwarranted "technical forfeitures" of insurance coverage. The California high court also found that the logic of the notice-prejudice rule is equally applicable to consent provisions found in "first-party" policies, which, among other things, cover a policyholder's costs arising from damage to its own property. Therefore, to deny coverage due to a policyholder's breach of a consent provision, a first-party insurer must prove it suffered prejudice, the high court said. (Pitzer College v. Indian Harbor Insurance Co., case number S239510, in the Supreme Court of the State of California).

2019-2020 Environmental & Energy Law Section Committee Report

Committee Name: Social Media Committee

Committee Co-chairs: Rachel Partington and Drew Gamils

Date of Report: December 13, 2019

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

This year we have focused on building the EELS twitter account. We have strived to improve the content of the account and obtain additional followers. We also created an instructional flyer to hand out at all EELS events and activities that provides step by step instructions on how to follow EELS on Twitter. The flyer also highlights the benefits of following the EELS twitter account. There are currently 194 followers. Followers are people who receive our tweets. Our goal is to increase this number next year. Additionally, we are working to bring in younger and more diverse followers through the strategic use of hash-tags, @'s, and by corresponding with top Environmental Law Schools such as Pace Law School and Columbia Law School.

We are currently working on setting up an EELS Facebook page, LinkedIn Group Page and Instagram account. Before we can create the Facebook Page or Instagram account, our committee must submit a business plan to the NYSBA for review and approval. We are developing that business plan and will be submitting in the next couple months. We are also meeting with Jim Rigano to discuss further social media efforts.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at an educational event.

Topics that EELS should consider include the following:

Social Media as a Tool for Environmental Protection- As far as environmental protection is concerned social media can potentially act both as a bullhorn and

tallying system that is needed to show that not only are people demanding change, but it is a multitude compared to just a few.

Effects of Social Media on Environmental Protection - A presentation to evaluate the mechanisms that involve the public in environmental protection and the role of social media in forming environmental concepts.

How should social media be used by environmental NGOs?- A discussion of the intersection between social media use and effects on environmental law non-government organizations. How and why environmental law organizations employ social media, as well how they perceive its usefulness for their organization.

Social Media and Citizen Science- How the new EPA resources on Citizen Science use social media to document sites, their characteristics, historical aspects, and potential hazards.

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

The committee can publish an article any one of the topics mentioned in the previous response.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

There have been no decisions issued in 2019 that involve the jurisdiction of this Committee.

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

There has been no significant state or federal legislation enacted in 2019 or proposed that involves the jurisdiction of this Committee.

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

There has been no state or federal regulations proposed or adopted that involve the jurisdiction of this Committee.

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

There has been no state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of this Committee

Membership: Describe initiatives to increase section membership and attract younger lawyers.

We are currently working on setting up an EELS Facebook page, LinkedIn Group Page and Instagram account. These accounts will increase our ability to increase the amount of information and content we can put out about EELS and EELS events. This should increase membership. Such social media outlets are popular with younger attorneys and should attract such attorneys to our Section.

In addition, EELS currently has a LinkedIn Group. By changing the LinkedIn Group to a LinkedIn Page, we will make the EELS LinkedIn account more open and accessible. More LinkedIn users will be able to view and comment on the page.

LinkedIn, Facebook and Instagram are free.

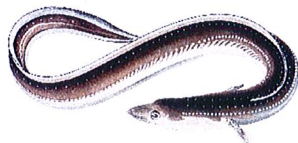
Other: Can be anything which benefits our section which your Committee would like to undertake.

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com

2019-2020 Environmental & Energy Law Section Committee Report



Committee Name: Global Climate Change

Committee Co-chairs: Michael Gerrard, J. Kevin Healy, Carl Howard, Ginny Robbins

Date of Report: December 19, 2019

Committee Activities: Please summarize activities completed by the Committee during 2019 and/or anticipated for 2020

2019 Activities –

To follow up on our CLE program in conjunction with the City Bar Association entitled “How Climate Change Will Affect Non-Environmental Law Practice,” in early 2019 our committee began working with George Rusk and Mike Hecker, Co-Chairs of the Corporate Counsel Committee, on a CLE program relating to business risks arising from climate change impacts. During our discussions, the State Legislature passed the Climate Leadership and Community Protection Act (CLCPA), which was signed by the Governor, and sets a path for New York State to de-carbonization. Our committee determined to pivot from the CLE program on business risks to engaging with NYSDEC leadership on implementation of the CLCPA. Kevin Healy took the lead on contacting Assistant Commissioner for Air Quality Jared Snyder and a conference call was convened with our Co-Chairs, Jared Snyder, and NYSDEC attorney Jonathan Binder. We discussed the implementation of CLCPA and how our Section might provide thought leadership. One outcome of the call is a workshop on March 5, 2020 to be held at the City Bar Assn. on the topic of carbon pricing. We are in the process of inviting participants for the workshop (by invitation only). We anticipate 20 attendees, including Jared Snyder and Jonathan Binder.

Topics for Panels and/or Webinars: Please identify any Committee topics or emerging issues for which EELS should consider a future webinar or panel at educational event

See above.

Also, the Committee has begun preliminary work for a possible Earth Day event and possible webinar commemorating the 50th anniversary of Earth Day (April 22, 2020).

Publication: Please identify a topic for which the Committee can publish an update or article in our publication, The New York Environmental Lawyer

Carl Howard continues to publish his Climate Change blogs on the Section’s Community Page.

Judicial or Administrative Decisions: Please summarize significant decisions issued in 2019 that involve the jurisdiction of the Committee.

Rather than attempting to summarize the exceedingly dynamic state of the law on climate change, we refer you to the litigation updates provided by the Sabin Center on Climate Change Law at Columbia Law School available at:

<http://blogs.law.columbia.edu/climatechange/2019/12/06/december-2019-updates-to-the-climate-case-charts/>

Legislation: Please summarize significant state or federal legislation enacted in 2019 or proposed that involve the jurisdiction of the Committee:

Regulations: Please summarize significant state or federal regulations proposed or adopted that involve the jurisdiction of the Committee.

Guidance Documents: Please summarize significant state or federal guidance documents or policies issued in 2019 that involve the jurisdiction of the Committee.

Membership: Describe initiatives to increase section membership and attract younger lawyers.

As a result of the above-noted activities and increased interest by Section members in climate change policy and action, Committee membership has increased.

Other: Can be anything which benefits our section which your Committee would like to undertake.

Our committee drafted a letter that was sent by Chair Howard Tollin (with Section Executive Committee and Big Bar authorization) to NYSDEC Commissioner Seggos and NYSERDA President Barton in support of an appointment for Michael Gerrard to the Climate Action Council. The Council will be instrumental in the development of the scoping document for CLCPA implementation. We note that Mr. Gerrard did not participate in this recommendation.

Please return completed report to: Howard and Nick:

HTollin@sterlingrisk.com and

nward-willis@kblaw.com

EELS Committee Report

Committee: Water Quality Committee

Co-Chairs: Philip Dixon, Nicholas Rigano, George Rodenhausen

Date: December 4, 2019

The following is a summary of activities planned by the Water Quality Committee for the coming year.

The first planned project involves a seminar presentation on public water supply on Long Island that is targeted for March in Mineola. The three-hour evening program will focus on two issues: (1) contamination of existing groundwater sources on Long Island and treatment process challenges; and (2) potential alternatives including the extension of New York City's public water supply and the use of central Suffolk County water to serve portions of Long Island. We are in the process of obtaining presenters. For further details, please contact Nick Rigano, who is the point person for this project.

The Committee has also identified two other issues that may merit further exploration, either in seminar or written form. The first involves the challenges to effective water/wastewater treatment of compounds such as dioxane, PFAS and microplastics by existing treatment technologies. The second would involve an overview of the status of efforts to "harden" wastewater treatment facilities since Superstorm Sandy. While there was much focus on such efforts in the immediate wake of the storm, there has been limited recent public discussion of this area.

We trust that this report is helpful. If you have any questions, please feel free to contact any or all of the Committee's Co-Chairs.