



New York State Bar Association
Environmental & Energy Law Section



EXECUTIVE COMMITTEE MINUTES



October 18, 2022 – 3:00 PM

Present: J. Rigano; Y. Hennessey; M. Hecker; A. Kendall; A. Jasiewicz; J. Almanzar; S. Amron; M. Baker; T. Bakner; M. Bogin; H. Carlock; P. Casper; G. Cavaluzzi; P. Dixon; D. Freeman; D. Gamils; A. Guida; R. Hallman; K. Healy; C. Howard; J. O'Sullivan; Zackary Knaub; A. Knauf; J. Kublick; K. Kuh; C. Leas; S. Lobe; J. Martin; H. Mauch; M. McDonald; D. Mussio; W. Mugdan; J. Parker; J. Periconi; T. Putsavage; D. Quist; A. Reichhart; D. Richmond; D. Riesel; V. Robbins; N. Robinson; D. Ruzow; A. Sargent; L. Schnapf; M. Schoonmaker; L. Shaw; J. Simpson; A. Stolorow; J. Stravino; H. Tollin; S. Wyner

Special Guest: Sherry Levin Wallach

Welcome- J. Rigano

President Sherry Wallach joined us. She acknowledge the importance of our programming in light of New York's ambitious clean energy goals. Her motto is investing in the future of our profession and EELS is doing that from the standpoint of the environment and energy. She acknowledged and thanked us for the work done by the Section in mentoring law students; diversity and inclusion scholarship through essay contest. She emphasized the importance of cooperation and collaboration and looks forward to collaborating with the Section. programming important and well received. She highlighted her initiatives that have energy implications including the metaverse, web3 and emerging digital currency. She thanked us for being forward thinking and encouraged any suggestions or comments we might have.

Approval of Minutes: All in favor. Approved

Budget: (J. O'Sullivan): Last year we ended with surplus of 89,000. We are allowed to use surpluses for specified things. We plan to use some of the surplus for diversity and membership initiatives. We submitted the budget in August and expect to hear about it in November.

House of Delegates: (A. Sargente) Attended the House of Delegates meeting virtually and provided an overview of report which is attached to the minutes. He indicated that ; more to engage new members

Fall Meeting: Amy Jasciewicz reports that 90 people registered. We could not schedule for a weekend due to weddings and other events. The focus will be on energy topics. We raised about \$11,000 in sponsorships. Jim R. thanks everyone for their generosity.

Annual Meeting: M. Hecker is planning the event. We were given the option to hold it virtually or in person and the cabinet selected the in person option. This will be January 18-19, 2023. Currently, the presentations include (1) ORES; (2)a Supreme Court update with two law professors; (3) ESG featuring a consultant and a private practitioner, (4) Environmental Audits, and (5) DEC update. The schedule will be locked down in the next couple of weeks.

Awards: If you have any suggestions for the awards, please send them to the cabinet.

Diversity fellowships: (S. Lobe) There are two awardees; Samia Shell who worked at EPA Region 2 and Catherine Louie who worked in DEC Region 2. Their articles are coming out in NY Environmental Lawyer. We hope they will be joining us at the annual joining us in January.

This year is the 30th year of providing scholarships. Hope to ask all the past scholarship winners to attend in January and put a notice in the mention in the journal; Reminder that diversity guidelines exist for our section for CLEs and please refer to them in planning. It helps enrich our section.

Diversity CLE : L. Shaw: At the Fall Conference last year, she put together what she believed was a diversity CLE. It was an all African-American panel of developers, including lawyers; discussing brownfields development projects and challenges. We did not get diversity credit because it was not aspirational enough. L. Shaw asks for a vote to request NYSBA re-evaluate the program and grant diversity credit. A. Kendall reports that after the program she witnessed clients crying, which she believes is evidence that it was aspirational. Sherry Levin Wallach suggested contacted Kathy and to ask for more specific guidelines; have to be accredited. A. Knauf made a motion to as NYSBA to correct this issue and grant diversity credit. J. Kublick seconds. All in favor; motion passes.

Podcast: Jim R. reports that EELS podcast; bar is supportive; He had a conference call with Amy J. and Associate Director who said if we put it together they will help with graphics and sound enhancement; etc. Hope to bring formal details and perhaps an example to the executive committee in January. It has to be interesting. Volunteers: Linda Shaw; Nick Robinson; Hayley Carlock.

DEC rulemaking: J. Rigano: DEC has lots of rulemaking; Part 624, 375, 360, SEQRA; petroleum reporting. Some topics to be addressed at January meeting.

M. Hecker: For Part 624 we was a subcommittee; DEC came to us as asked for input. Did not get that on Part 621, but we did get information on some of the choices made.

M. Bogin: after a long saga with NYSBA, we were able to submit comments on 360 regs. Thanks for pushing through comments went in late but they are in.

L. Shaw: Part 375: met with DEC staff in August; Andy Gugliemi said they feel they have a deadline of December to reissue those regs. Brownfield Committee will be working on that again. Very important parts to those regs that need to be addressed. Tax and Finance not allowing cost recovery; can't count costs toward tax credits. This does not comply with the law; they cannot interpret the law that way.

CLCPA: V. Robbins: Thanks given to L. Shaw who was supportive of comments on draft scoping plan. They want to publicly thank contributors to the comments; a terrific group of authors who met every two weeks to make sure their approach was similar. Thanks to Kevin Healy, Jose Almanzar, Linda Shaw, Will Kellermeyer; Amy Turner; Haley Carlock; Greg Brown and Marty Baker; Carl Howard; Roberto Gordon, Jan Kublich, Steven Cass; Dan Ruzow. Parts will be reproduced in the NY Environmental Lawyer. M. Gerrard print other sections in NY Environmental Law. Final document on the website. Final scoping plan: January 1, 2023. We will read plan and determine what other comments; not expecting request for comments on final plan. A. Kendall reached out to discuss how to get the big bar to weigh in on the subject.

Kevin H. emphasized how much work next year if bar is actively participating; can comment on final scoping plan; DEC are going to be turning it into rules—we are going to need to comment on regulations; big year in terms of effort.

Annual Earth Day Event: Carl Howard and Matt Sinkman will be planning; ask for volunteers.

CLE: (J. Rigano) We are planning a program at law schools; free food and dinner. We can use surplus money to promote membership initiatives.

Future programming: Spring: Oil Spill Symposium; Energy webinar. December 7 is the annual Brownfield/Superfund Program (D. Freeman): good program lined up; amended the statute this year to

extend deadlines; added new/enhanced credits for affordable housing; election coming up, so Keynote Julie Tighe will be speaking on the elections. Discussion was had on virtual v. in-person events. A. Jasiewicz: when they are hybrid, people cancel at the last minute and switch to virtual and it impacts planning. There was general support for hybrid options.

Essay Contest: J. Rigano: 10 entries; first, second and third place all from Columbia.

PFAS Committee: J. Rigano proposes to create a PFAS Committee and asks about interest: Amy Kendall; Alan Knauf; Linda Shaw; Al Sargente; Howard Tollin replied that they are interested. J. Rigano hopes to formally create the PFAS Committee at Annual Meeting.

Adirondack Committee: 50th Anniversary of the APA review of what's new or should be; need to pick it back up; hoping to enlist help from other committees.

New business: T. Putsavage: Report on cannabis section. Delay in office of CM; conditional licenses getting off the ground limited to justice affected; it will be well into 2023 before dispensaries open. It is anticipated that board may issue cultivation regs. He chairs environmental committee for that section and will contact people to provide comments. Drafting a statement to be issued by bar condemning scam of gifting. Kevin Healy: cultivation extremely energy intensive; energy is a big issue—conditional licenses issued grow outdoors. Massachusetts compelled max energy – compel LED lights; pesticide use; water not so much an issue here; packaging—conflict between sustainable packaging but need to make it child resistant; very difficult to meet both objectives. He will circulate something to comment on the regulations.

Next meeting: January 18, 2023