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A comprehensive update on new developments for

Wetlands in Washington

Waters of the US and other recent judicial and administrative developments impacting wetlands; strategies and practical tips for dealing with wetlands issues

November 17, 2022

Live Online via Interactive Broadcast

Agenda

9:00 Introduction & Overview

Amanda M. Carr, Esq., *Program Co-Chair*
Plauché & Carr ~ Seattle, WA

Jenna R. Mandell-Rice, Esq., *Program Co-Chair*
Van Ness Feldman ~ Seattle, WA

9:15 Changing Federal Landscape Part 1: Waters of the United States

Litigation update: Sackett v. EPA and its potential implications for federal regulation of activities impacting wetlands

Kelly Wood, Esq.,
Section Chief of Ecology Division
Washington State Attorney General's Office
Seattle, WA

WOTUS rulemaking update: Pendulum swings from the Obama Administration through the Trump Administration and now into the Biden Administration

Ankur K. Tohan, Esq.
K&L Gates ~ Seattle, WA

10:45 Break

11:00 Changing Federal Landscape Part 2: Other Major Changes

Water quality certifications under Section 401

Becky Garnett, Biologist
U.S. Environmental Protection Agency
Seattle, WA

West Virginia v. EPA and the Supreme Court's use of the "Major Questions Doctrine" to limit federal agency regulatory authority

Kyle W. Danish, Esq.
Van Ness Feldman ~ Washington, DC

12:00 Lunch

1:00 Clean Water Act (CWA) Nationwide Permits

Tracking the last versions and key changes to bear in mind

Jesse DeNike, Esq.
Plauché & Carr ~ Seattle, WA

1:45 Strategies for Responding to the Constantly Changing Federal Landscape

Navigating the jurisdictional issues, changes in substantive requirements, and permitting processes as state and local governments attempt to implement new mandates or step into the void left by receding federal involvement with wetlands issues

Duncan M. Greene, Esq.
Van Ness Feldman ~ Seattle, WA

2:30 Break

2:45 Endangered Species Act Compliance: What is the Environmental Baseline?

Recent developments under the ESA for projects involving existing structures

Caitlin B. Imaki, Esq., Attorney-Advisor
NOAA's Office of General Counsel ~ Seattle, WA

3:15 Wetlands Policy and Regulatory Implementation in Washington

What's new in wetlands at Ecology?

Richard Mraz, Wetland Policy Lead
Washington State Department of Ecology
Olympia, WA

Habitat restoration in the marine-freshwater transition zone: Case study of the Duwamish River People's Park and Shoreline (formerly known as Terminal 117) mitigation bank project

Kathleen Hurley,
Senior Environmental Program Manager
Port of Seattle ~ Seattle, WA

Other case studies, issues, problems, and success stories

Mara McGrath, Principal
Ecological Land Services ~ Longview, WA

5:00 Evaluations & Adjourn

Who Should Attend

Attorneys, environmental, real estate and land use professionals, property owners and governmental officials

About the Conference

Local and state regulation of wetlands remains dynamic, particularly in light of federal administrative policy changes for issues arising under the federal Clean Water Act that have occurred with the transitions from Democratic to Republican and back to Democratic presidential administrations. We also have had major cases coming out of the Supreme Court addressing questions that are fundamental to scope of federal regulatory authority under the Act. This program will cover those developments impacting wetlands regulation and their effect on local governments, business interests, property owners, developers, and the environment.

After bringing you up to date on the federal administrative and judicial developments, our distinguished faculty dive into specific state and local issues. You will hear practical advice on issues like updated interagency wetland mitigation guidance from the Department of Ecology; considerations for establishing the environmental baseline for Endangered Species Act compliance; and wetland mitigation, including banking options.

We're planning a very interesting day with an engaging group of speakers. It is a virtual program, so you will be able to join us from anywhere. We hope to "see" you there!

~ Amanda M. Carr, Esq. of Plauché & Carr and
Jenna R. Mandell-Rice, Esq. of Van Ness Feldman, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$695 with a group rate of \$625 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$520. For Tribal members, public interest NGO's, students, and people in their job for less than a year, our rate is \$347.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International. As a value-added bonus, you will receive access to audio and video recordings of the program at no extra charge.

Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, November 10, 2023. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 6.25 Washington MCLE, 6.25 AICP land use planner, and 6.25 ABCEP environmental professional credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$75.

Faculty

Amanda M. Carr, Program Co-Chair, is a named partner at Plauché & Carr. She represents clients in environmental, natural resource, climate, and land use matters. She counsels clients on strategic planning, project permitting, regulatory compliance, and ecosystem markets under environmental statutes including the federal Clean Water Act and Endangered Species Act and Washington's Shoreline Management Act and Growth Management Act.

Jenna R. Mandell-Rice, Program Co-Chair, is a partner at Van Ness Feldman and focuses on natural resources, environmental, and water law. She helps clients navigate complex regulatory, permitting, enforcement and litigation matters under a range of environmental statutes, including the Federal Power Act, the Washington State Environmental Policy Act, National Environmental Policy Act (NEPA), Endangered Species Act, Clean Water Act, and Safe Drinking Water Act.

Kyle W. Danish is a partner at Van Ness Feldman and a nationally recognized expert on energy projects, the energy transition, sustainability, government relations, and environmental regulation. He has decades of experience assisting his clients, including energy companies, manufacturers, financial institutions, think tanks, NGOs and coalitions, on navigating complex issues at the intersection of business and government policy.

Jesse DeNike is a partner at Plauche & Carr. He represents clients throughout the state of Washington on land use and environmental matters, guiding them through the land use permit and entitlement process and representing them before administrative and judicial bodies.

Becky Garnett is a biologist with the Environmental Protection Agency Region 10 focusing on wetlands and water quality protection Clean Water Act Sections 404 and 401. While at EPA, she also has had experience in stormwater management, tribal coordination, and regulatory enforcement.

Duncan M. Greene is a partner at Van Ness Feldman. He provides strategic advice and support to clients in planning and permitting large, complex projects in the energy, transportation, and natural resource sectors. This includes compliance with state and federal environmental laws such as NEPA/SEPA, the Clean Water Act, the Endangered Species Act, and the Migratory Bird Treaty Act.

Kathleen Hurley is a Senior Environmental Program Manager for the Port of Seattle. She leads the Port's initiatives related to nearshore habitat restoration, alternative bank line stabilization, blue carbon, reduction of ocean acidification, and orca conservation.

Caitlin B. Imaki is an Attorney-Advisor in the Northwest Section of NOAA's Office of General Counsel. She advises the National Marine Fisheries Service on a broad range of matters arising under the Magnuson-Stevens Fishery Conservation and Management Act, Endangered Species Act, Marine Mammal Protection Act, and other substantive and procedural statutes applicable to federal agencies. In 2021, she detailed as Acting Central Puget Sound Branch Chief, supervising ESA Section 7 consultations, recovery planning, and listed species' status reviews.

Mara McGrath is a Senior Ecologist, Professional Wetlands Scientist, and Principal at Ecological Land Services where she manages all aspects of permit compliance related to critical areas. This includes experience in designing mitigation sites, preparing mitigation plans, and conducting mitigation site monitoring and reporting.

Richard Mraz is the Wetland Policy Lead for the Washington Department of Ecology. He is a certified Professional Wetland Scientist who began his career in the wetlands field in Lee County, Florida in 1987. He has worked as a naturalist, field biologist and environmental planner with local, state and federal agencies since 1980.

Ankur K. Tohan is a partner in K&L Gates' Seattle office and a practice group coordinator for the firm's global Environment, Land, and Natural Resources practice group. Prior to joining K&L Gates, he was an assistant regional counsel for the EPA Region 10 and served as the lead Clean Water Act attorney in wetland enforcement actions and jurisdictional issues.

Kelly Wood is the Section Chief of Ecology Division at the Washington State Attorney General's Office. Before joining the Attorney General's office, he was in private practice focusing on toxics, water quality, air quality, shoreline management, and natural resource damages.