



**LAW SEMINARS
INTERNATIONAL**

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The 16th Annual "Santa Fe" Advanced Conference on
Natural Resource Damages

Featuring national NRD experts to bring you critical updates on key legal and policy developments, evolving roles for states and Tribes, successful restoration solutions, and litigation tips and strategies

September 14 & 15, 2023

La Fonda Santa Fe Hotel and Live Online

Agenda – Day 1

9:00 Introduction & Overview

Sarah Peterman Bell, Esq., *Program Co-Chair*
Farella Braun + Martel ~ San Francisco, CA

William J. Jackson, Esq., *Program Co-Chair*
Kelley Drye & Warren ~ Houston, TX

9:15 Special Opening Addresses: Legislative and Administrative Environmental Policy Developments

Environmental and natural resource policy updates from the Biden Administration and the Environmental Protection Agency; significant proposed rules and administrative actions, and Congressional actions on environmental laws and oversight.

John C. Cruden, Esq.
Beveridge & Diamond ~ Washington, DC

Jordan Diamond, President
Environmental Law Institute ~ Washington, DC

10:15 The Department of the Interior's NRDA Modernization Proposal

Update on the proposal to simplify NRDA's for "Type A" standardized assessments using equivalency models in lieu of site-specific data collection at many NRD sites: To what extent can we expect faster resolution and restoration at lower cost?

Brian D. Israel, Esq.
Arnold & Porter ~ Washington, DC

10:45 Break

11:00 Supreme Court Review

A roundtable discussion of *Sackett* and other key United States Supreme Court cases from this term impacting environmental enforcement, Natural Resource Damages, and State/Federal cooperative federalism and environmental policy

Tracy D. Hester, Esq.,
Professor of Environmental Law
University of Houston Law Center ~ Houston, TX

John T. Dema, Esq.
Law Offices of John K Dema ~ Christiansted, VI
Donald E. Sobelman, Esq.
Farella Braun + Martel ~ San Francisco, CA

12:15 Lunch Break

1:30 The Growing Importance of State and Tribal Jurisdiction: How States and Tribes View Changing Roles Going Forward

A roundtable discussion among counsel and experts for leading Western State and Tribal Trustees on NRD matters, priorities, and increased activity ahead, especially given Sackett's substantial curtailment of federal jurisdiction over waters of the US

William J. Jackson, Esq.,
Program Co-Chair, Moderator
William G. Grantham, Esq.,
Assistant Attorney General
New Mexico Environment Department
Santa Fe, NM

Katherine Hausrath, Esq.,
Assistant Attorney General
Montana Natural Resource Damage Program
Helena, MT

Connie Sue M. Martin, Esq.
Schwabe Williamson & Wyatt ~ Seattle, WA
Nadia Martin, Principal
Industrial Economics, Incorporated
Cambridge, MA

3:00 Break

3:15 What's Next for PFAS: CERCLA "Hazardous Substances", Federal and State MCLs, and Looking Ahead

A close look at the current landscape of Federal and State PFAS regulations, including what to expect regarding NRD and cost recovery claims following "hazardous substances" designations

Sarah P. Bell, Esq., *Program Co-Chair*
Nancy Archer Yanochik, Esq.
Kelley Drye & Warren ~ Houston, TX
Kristin R. Robrock, Ph.D., P.E.,
Managing Engineer
Exponent Inc. ~ Oakland, CA

4:30 Patterns and Takeaways from Federal NRD Consent Decrees

Amanda G. Halter, Esq.
Pillsbury Winthrop Shaw Pittman ~ Houston, TX

5:00 Reception for Faculty and Attendees

Sponsored by Farella Braun + Martel and Kelley Drye & Warren

Agenda – Day 2

9:00 Climate Change and NRD

The potential for NRD claims from aquifer depletion and water scarcity due to climate change, as well as extreme weather events and other climate impacts and including the impact of these issues on NRD Assessments and restoration decision-making

Tanya C. Nesbitt, Esq.
Thompson Hine ~ Atlanta, GA
Robert Percival, Esq.,
Director, Environmental Law Program

University of Maryland School of Law
College Park, MD
Theodore Tomasi, Ph.D., *Managing Principal*
Integral Consulting Inc. ~ Moorestown, NJ

10:30 Break

10:45 Environmental Justice Considerations in NRD Matters

Environmental Justice considerations in environmental and natural resource damages matters from federal activities in the Pacific Islands, Alaska and the Mountain West; creative solutions and approaches from States across the country

Jennifer Barks, Esq.
Kelley Drye & Warren ~ Houston, TX
Leevin Taitano Camacho, Esq.
Camacho & Taitano ~ Hagatna, GU
Cody Doig, Esq.,
Senior Assistant Attorney General
Alaska Department of Law ~ Anchorage, AK

12:00 Special Closing Address

State of Natural Resource and Environmental Justice Policies from New Jersey

The Hon. Shawn M. LaTourette, Esq.,
Commissioner
New Jersey Department of Environmental Protection
Trenton, NJ

12:30 Evaluations & Adjourn

Who Should Attend

In-house and private attorneys, consultants, corporate managers, Tribal and governmental representatives, State Attorneys General, and others who are involved in natural resource damage claims

About the Conference

When the Biden Administration came into office in 2021, the United States Environmental Protection Agency announced three environmental priorities: Climate Change, PFAS, and Environmental Justice. All three of these broad topics have a significant influence on Natural Resource Damages matters, impacts, and restoration solutions, and in this year's program, we will delve into these issues and the potential outsized impact of the United States Supreme Court as a potential foil to the Biden Administration's priorities.

On Thursday, we will open with John Cruden, Beveridge & Diamond, and Jordan Diamond, Environmental Law Institute, broadly discussing the Biden Administration's efforts and impacts on the significant environmental issues of our day, followed by Brian Israel discussing the Department of Interior's proposed rule to simplify Natural Resource Damages Assessments.

We will then have a panel discussing recent happenings at the Supreme Court, including the future of Chevron deference and the long-awaited opinion in Sackett v. Environmental Protection Agency, expected to set forth new guidance on the jurisdiction of the US EPA and whether wetlands are "waters of the United States" under the Clean Water Act.

Turning from the Supreme Court, Co-Chair Bill Jackson will be joined by state and Tribal representatives to discuss the increasing powers and roles of states and Tribes for addressing Natural Resource Damages, including the explosion of PFAS litigation across the country. Co-Chair Sarah Bell will then join with other industry practitioners to examine the significance of PFAS regulations at the federal level, from proposed Hazardous Substance designations to the lowest proposed drinking water standards (MCLs) in the country. Thursday's program will close with a timely discussion of settlement processes and patterns of federal NRD Consent Decrees, and a happy hour with faculty and attendees to continue the dialogue and discussions of the day.

On Friday morning, we have two panels that will focus on the other two Biden Administration priorities: Climate Change and Environmental Justice. First, we will have a program that will consider academic and practical issues relating to the intersection of climate change and Natural Resource Damages including aquifer depletion and water scarcity as well as extreme weather events, NRD Assessments, and restoration planning.

Finally, we will close the conference with an in-depth discussion of Environmental Justice considerations in environmental and NRD matters. We are fortunate to have former Guam Attorney General Leevin Camacho and counsel from the Alaska Attorney General's office discussing the injury and impacts of historical federal and military activities in the Pacific Islands, Alaska and Mountain West. Likewise, we are privileged to have Shawn LaTourette, Commissioner of New Jersey Department of Environmental Protection, in person to present on environmental justice considerations in restoration solutions and New Jersey's groundbreaking Environmental Justice law. The plan is to have this year's conference largely in person, though we will still have a remote option. We hope you will join us for what promises to be an exceptionally interesting and informative day and a half in Santa Fe!

The historic La Fonda hotel is holding a block of rooms for our participants. Register soon to make your reservation at the special conference rate.

~ Sarah P. Bell, Esq. of Farella Braun + Martel and
William J. Jackson, Esq. of Kelley Drye & Warren, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$995 with a group rate of \$895 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$745. For Tribal members, public interest NGO's, students, and people in their job for less than a year, our rate is \$497.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International. As a value-added bonus, attendees 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, September 8, 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 9.20 NM, 9.50 CA, 9.25 TX, and 9.25 WA MCLE, plus 9.25 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 \$100.

Faculty

Sarah Peterman Bell, *Program Co-Chair*, is a partner at Farella Braun + Martel focusing on environmental and natural resources litigation in state and federal courts. Her practice includes environmental enforcement actions, cost recovery, citizen suits, water quality, and complex toxic tort matters.

William J. Jackson, *Program Co-Chair*, is co-chair of the National Environmental Law practice group at Kelley Drye & Warren. He is currently serving as counsel for a dozen states and territories, in addition to private-sector clients, in significant remediation and natural resource damages across the country.

Jennifer Barks is Special Counsel at Kelley Drye & Warren. She represents states, sovereigns, and private companies in complex environmental and civil litigation, pursuing contamination-related and natural resource damage claims under CERCLA, products liability, and other tort theories.

Leevin Taitano Camacho, Camacho & Taitano, is former Attorney General of Guam. As Attorney General, he led several historic efforts in the areas of public safety, consumer protection, environmental law, and national multi-jurisdictional litigation. This includes a unanimous victory before the Supreme Court of the United States in *Guam*

v. *United States*, requiring the U.S. Navy to compensate Guam for costs incurred in cleaning up Ordot Dump under CERCLA.

John C. Cruden is a principal at Beveridge & Diamond. For more than two decades, he served as a senior leader on environment and natural resource matters at the United States Department of Justice (DOJ), where he supervised some of the department's most significant litigation, including the Exxon Valdez oil spill, Love Canal, and Bunker Hill litigation.

John T. Dema, Law Offices of John K Dema, represents individuals, small businesses, and public entities harmed by environmental contamination and consumer fraud. He is dedicated to helping individuals and public clients stand up to companies responsible for drinking water contamination, toxic chemical exposure, hazardous waste releases, and unfair or misleading business practices.

Jordan Diamond is President of the Environmental Law Institute. She previously served as Executive Director of UC Berkeley's Center for Law, Energy & the Environment and co-directed the Law of the Sea Institute at UC Berkeley. From 2018-2023 she served on the California Ocean Protection Council.

Cody Doig is Senior Assistant Attorney General at the Alaska Department of Law. He previously practiced public lands and natural resources law in Denver.

William G. Grantham is Assistant Attorney General assigned to the New Mexico Environment Department.

Amanda G. Halter is managing partner for Pillsbury Winthrop Shaw Pittman's Houston office. She represents domestic and global industrial clients on complex U.S. regulatory and environmental liability matters.

Katherine Hausrath is an Assistant Attorney General assigned to the Montana Natural Resource Damage Program.

Tracy D. Hester is an Instructional Associate Professor of Law at the University of Houston Law Center. He co-directs the Law Center's Environment, Energy & Natural Resources Law Center and the University of Houston's Center for Carbon Management in Energy. In Fall 2019, he taught the first U.S. law school course on Climate Intervention Law, which focused on emerging climate engineering technologies and legal challenges.

Brian D. Israel is a partner at Arnold & Porter, Chair of the firm's Environmental Practice Group, and co-lead of the firm's Environmental, Social and Corporate Governance (ESG) working group. He served as lead counsel to BP in relation to the Deepwater Horizon NRD claim and as one of the trial attorneys at the Deepwater Horizon Clean Water Act penalty trial.

The Hon. Shawn M. LaTourette is New Jersey's Commissioner of Environmental Protection. He has led initiatives that prioritize environmental justice while facilitating greenhouse gas emissions reductions, climate change resilience and adaptation, renewable energy deployment, water infrastructure enhancement, brownfields redevelopment, community renewal, and natural resource conservation and restoration.

Connie Sue M. Martin is a shareholder at Schwabe Williamson & Wyatt and helps Indian Tribes and companies address environmental contamination and restore injured natural resources. She is one of the country's most experienced practitioners of environmental Native American law, with over 20 years of experience representing Tribes.

Nadia Martin is a Principal at Industrial Economics, Inc., where she specializes in restoration planning and the assessment of natural resource injuries and ecological and cultural impacts resulting from contamination. She has provided technical and management support across a wide range of cases including mining sites, complex legacy hazardous waste sites, inland and coastal oil spills, and catastrophic wildlife assessments.

Tanya C. Nesbitt is a partner at Thompson Hine. Prior to joining Thompson Hine, she served as a trial attorney for the U.S. Department of Justice's Natural Resources Section of the Environment and Natural Resources Division.

Robert Percival is the Director of the Environmental Law Program at the University of Maryland School of Law. He formerly served as a senior attorney for the Environmental Defense Fund. Since 1992 he has been the principal author of the most widely used casebook in environmental law in the U.S.: *Environmental Regulation: Law, Science & Policy*, now in its eighth edition.

Kristin R. Robrock is a Managing Engineer for Environmental and Earth Sciences at Exponent Inc. She specializes in biodegradation and the fate and transport of chemicals in the environment and has expertise in emerging contaminants, including brominated flame retardants, such as PBDEs, and PFAS, as well as conventional contaminants such as chlorinated solvents, specifically PCE and TCE, perchlorate, metals, PCBs, and petroleum hydrocarbons in soil and groundwater.

Donald E. Sobelman is a partner at Farella Braun + Martel. He focuses his practice on helping clients navigate the complexities of federal and California environmental law. His practice also routinely involves advising clients on the purchase, sale, and redevelopment of contaminated properties.

Theodore D. Tomasi, Ph.D., is a natural resource economist and Managing Principal at Integral Consulting. He specializes in the valuation of natural resources and environmental changes, risk management in the context of use

decisions regarding resource use, and benefit-cost analysis. He previously served as an advisor and economic expert for NOAA's Damage Assessment Center.

Nancy Archer Yanochik is special counsel at Kelley Drye & Warren focusing on environmental, tort, and commercial litigation. She represented the State of Louisiana and the Louisiana Oil Spill Coordinator's Office in pursuing natural resource damages arising from the Deepwater Horizon Oil Spill in the Gulf of Mexico. She also represented the Commonwealth of Puerto Rico in multidistrict litigation pursuing environmental claims including remediation, natural resource damages, tort claims, and state and federal claims associated with contamination of the water resources of the Commonwealth.