

**New York State Bar Association  
Environmental Law Section  
Executive Committee Meeting  
The Sagamore, Bolton Landing  
Sunday, September 25, 2005**

Attendees:

Louis Alexander	John French	Telisport Putsavage
Michael Altieri	Paul Gallay	Kevin Reilly
Vincent Altieri	Carl Howard	Virginia Robbins
Jeff Baker	Bob Kafin	Peter Ruppap
Terresa Bakner	Alan Knauf	George Rusk
Lisa Bataille	Maureen F. Leary	Daniel Ruzow
Kevin Bernstein	Joan Leary Matthews	Kevin G. Ryan
Charlotte Biblow	Jean McCarroll	Joel Sachs
Paul M. Bray	Luis G. Martinez	Arthur Savage
Mark Chertok	Bernard Melewski	Laurie Silberfeld
Jeanne Compitello	Walter Mugdan	Howard Tollin
Philip Dixon	Michael Naughton	Miriam Villani
David Freeman	Gail S. Port	

1. **Call to Order/Opening Remarks.** Section Chair Miriam Villani called the meeting to order at 9:10 a.m. She thanked Joan Matthews for a great job on the morning program on Saturday, and Nick Robinson on a great job on the evening presentation. Chair Villani noted that we had 14 sponsors for the program.
2. **Approval of Minutes from April 13, 2005 Executive Committee Meeting.** Peter Ruppap moved to approve the minutes of the April 13, 2005 meeting. George Rusk seconded the motion and the minutes were unanimously approved.
3. **Treasurer's Report.** Joan Leary Matthews distributed the Section's income and expense report as of July 31 and August 31, 2005. By August 31, the Section had raised over \$80,000 in income, and spent only \$36,306.05. Treasurer Matthews projected a \$38,000 surplus for the end of the year, consisting of about \$21,000 carryover, and \$17,000 additional surplus from 2005. The goal is a \$50,000 surplus by December 2008. Walter Mugdan and Joan Leary Matthews were thanked for saving the Section money by providing audio visual equipment and by Walter Mugdan operating the AV equipment.
4. **Executive Committee.** Chair Villani announced the following appointments to Committees:
  - Young Lawyers' Liaison - Rob Panasci (who will be doing the "Ask the Lawyer" column).
  - Section Cabinet - Gail Port.
  - House of Delegates Alternate - John Greenthal (Phil Dixon is the Delegate).

- Air Quality - Flaire Mills from EPA will be Co-Chair.

Chair Villani also noted that Christopher Dow was resigning as Co-Chair of the Task Force on Petroleum Spills because he was moving out-of-state. She also noted the following were interested in serving on the Executive Committee: Howard Tollin, Tom West, and Doug Zamelis.

5. **House of Delegates Report.** Phil Dixon reported that the last meeting of the House of Delegates was less contentious. A pictorial directory was discussed. There was also a discussion of opposing the proposed prohibition on judges referring to other nations' laws.
6. **Membership.** Lou Alexander gave a report on membership. He stated that membership was on the decline, peaking several years ago at about 1,900, and was now down to about 1,168. He was launching an initiative to recruit members from larger firms of over 50 where only one person from the firm was on the Executive Committee. Kevin Reilly and Maureen Leary suggested that we look at term limits for committee chairs, which could be waived in appropriate circumstances. This would be a tool to recruit new people by requiring turnover. At the suggestion of Lou Alexander, Chair Villani stated that the Cabinet would take up this issue. Joel Sachs suggested that the threshold be lowered to 25-person firms, to which Lou Alexander agreed.
6. **Minority Fellowship Program.** Jeanne McCarroll gave a report on the Minority Fellowship Program. The New York Community Trust was covering most of our expenses with a \$100,000 grant over two years. The ABA will administer the grant and has certain requirements. While John Greenthal is working on proposing changes to the program (including possibly placing Fellowship recipients with law firms and corporation), we will leave the present format in place due to our commitment to the grant. Luis Martinez, Co-Chair of the Environmental Justice Committee, was introduced. McCarroll stated that four interns had been selected last January, and the Committee had worked all Spring to place them. Two worked last Summer with EPA Region 2, and two with the New York State Attorney General (one in New York City, and one in Buffalo). The Committee had a dinner with the interns during the Summer, and acted as mentors.
7. **Ad Hoc Committee on Diversity.** Joan Matthews presented the Guidelines for Selecting Speakers for Section Programs which she had distributed, and which were accepted. It was suggested that the Guidelines be circulated to the membership.
8. **Ad Hoc Committee to Review Section Policy on Commenting on Governmental Action.** Maureen Leary presented a white paper on this issue. The Ad Hoc Task Force on the issue will meet and comment on their recommendations and the issue. Others were invited to comment on the white paper and/or submit their own comments. This issue will be discussed at the January Executive Committee Meeting.

9. **Task Force on Part 621 Revisions.** Dan Ruzow presented draft comments on proposed revisions to the Part 621 regulations. Comments are due October 3. He stated that the changes were somewhat confusing, and it had taken him a long time to analyze them and prepare comments. Chair Villani stated that any comments should be submitted to Dan Ruzow by October 1. Gail Port moved that the Cabinet authorize the Chair to submit comments on the proposed regulations. Jean McCarroll seconded the motion, and it was passed, with all in favor except Maureen Leary, who voted no, and Vincent Altieri, Michael Altieri, Michael Naughton, Lou Alexander, and David Quist, who abstained.
10. **Section Journal.** Kevin Reilly reported on the Section Journal. His deadlines are December 1, March 1, June 1 and September 1. He encouraged Committees to submit articles to him for publication in the Journal. Ginny Robbins suggested that the Cabinet talk to committee chairs and encourage them to submit articles.
11. **Annual Meeting.** The Annual Meeting will be held on Friday, January 27, 2006. Lou Alexander reported that the program will be on climate change, and the program Co-Chairs will be Kevin Healy and Antonia Bryson. Marla Rubin is working on an ethics component. We are trying to invite Al Gore as a speaker for lunch.

Gail Port stated that Proskauer Rose, LLP would be happy to host the Executive Committee Cocktail Reception again on Thursday night January 26. She reported that last year the Section budgeted \$4,000 for the cocktail party but it only cost \$3,100. This year she is requesting \$4,250, which would be paid for by sponsorships by law firms. Gail Port moved that the \$4,250 be budgeted for the cocktail party at Proskauer Rose, LLP. Jeanne McCarroll seconded the motion, and it was unanimously carried.

Chair Villani stated that the Awards Committee and Nominating Committee will be convened shortly.

12. **Fall Meeting - 2006.** The 2006 Fall Meeting will be held October 13 to 15, 2006, at the Otesaga Hotel in Cooperstown. Walter Mugdan reported that he needs program co-chairs for this event.
13. **Fall Meeting - 2007.** Lou Alexander reported that the 2007 Fall Meeting will be held October 12 through 14, 2007, at the Gideon in Saratoga Springs. He hopes to highlight officials from the new governor's administration.
14. **Agency Reports.** Lou Alexander distributed his DEC Report, a copy of which is appended to the minutes. Lou Alexander will let us know if his report can be circulated outside of the Executive Committee.

There was a discussion of updating the Environmental Law Index, which the law firm of Whiteman Osterman & Hanna had previously prepared. Teresa Bakner will discuss this with

Lou Alexander.

Walter Mugdan gave a report on developments at EPA. Alan J. Steinberg had been appointed the new Region 2 Administrator. EPA is pushing two voluntary programs. The first is the Northeast Diesel Collaborative, involving Regions 1, 2 and the states in those Regions. The Collaborative is promoting limits on diesel emissions. The second initiative is the Resource Conservation Challenge, which is pushing the use of less toxic chemicals, and encouraging green manufacture, purchase and disposal of electronic products. The Challenge is promoting beneficial reuse of waste, including coal ash, demolition debris and foundry sand in concrete. The Challenge is also pushing a goal of 35% recycling from municipal solid waste, which states like New Jersey and New York are at or near. Mugdan also reported that EPA is proposing new regulations on hazardous waste incinerator MACT standards, and that the Army Corps is coming up with new guidance on wetland mitigation. He noted that in practice, it has been found that it is difficult to maintain new wetlands, particularly for freshwater areas.

Maureen Leary gave a brief report from the Attorney General's Office. She noted that the Attorney General was submitting *amicus* briefs in various cases, including on CERCLA contribution issues.

15. **Committee Reports.**

- CLE Committee. Maureen Leary reported that the program scheduled for last Spring did not attract a sufficient number of sign-ups, and was canceled. In November, a Practical Skills program will be held. The plan now is to do an update on the Environmental Law Impact on Real Estate and Commercial Transactions, since similar titles have been popular programs in the past, and to incorporate materials from last Spring. The CLE Committee is also considering a bankruptcy program.
- Environmental Justice Committee. Jeanne McCarroll reported that, as previously stated, the Minority Fellowship Program is being kept in the same form for the two-year grant program. The Committee will look into future diversity initiatives.
- Hazardous Waste/Remediation Committee. Dave Freeman reported that the Committee had met, and was working on the following initiatives: (1) Part 375 regulations; (2) upcoming cleanup standards; (3) status of sites rejected from the BCP; and (4) post-*Aviall* issues.
- Pollution Prevention Committee. Chair Miriam Villani gave the report of this Committee. The Committee Co-Chairs are making efforts to circulate their pollution prevention program as a statewide curriculum. We will plan to put it on our website.
- Essay Contest. Chair Villani reported that the essay contest winners will be presented

at the January meeting. There were 16 entrants, resulting in a two-way tie for first place and a two-way tie for second place. The winning essays will be published in the Journal. She thanked the judges.

- International Law Committee. The Committee will be having a conference in Shanghai on October 19, 2007, in conjunction with the International Law Section of the State Bar, which is holding a conference there.
- Soil Vapor Intrusion Guidance. Gail Port stated that she was concerned that this was in the form of guidance only rather than a formal regulation. EPA had recently issued a revised draft of its guidance on the issue. The Hazardous Waste/Site Remediation Committee will look at this issue, and report back to either the Cabinet or the Executive Committee.

16. **Old, New and Other Business.**

- Speaker Reimbursement. Chair Villani reported that in the past the Section had paid the expenses of non-Section members from out-of-town to come to meetings to speak, but generally if they worked for private firms, they paid the cost. She stated that we need some flexibility on this issue. Ginny Robbins volunteered to draft a policy on speaker reimbursement, and whether we will waive registration fees. She will coordinate this policy with the new Speaker Diversity Guidelines.
- Subsidization Program. Chair Villani reported that we may modify the Subsidization Program to include professors and various hardship cases. We will discuss this at our January meeting. Marla Rubin and John Greenthal will follow up on this issue. Twenty people used the program in January, and eleven for the Fall meeting.
- EIS on the Web Bill. Chair Villani reported that the Section had commented favorably on this bill, and had it was passed by the State Legislature and signed by the Governor. There was a discussion whether it was practical to post voluminous comments on the Web.
- NYSBA Request for Recommendations for Legislative Proposals for 2006. Chair Villani suggested that we look into a legislative initiative to prevent conservation easements from being extinguished by modification. Phil Dixon moved that this issue be referred to a Task Force on Conservation Easements. Terresa Bakner seconded the motion, and it was unanimously passed.
- Idling School Bus Initiative. Joan Matthews reported that the materials on this initiative were on the Section web site, and the Section had received media coverage on this initiative.

- Announcement of Westway Program. The Section will be co-sponsoring a program on Westway with the City Bar on October 18, 2005.
  - Hurricane Katrina. Maureen Leary moved that we contribute \$500 to the State Bar's Hurricane Katrina Fund. Peter Ruppard seconded the motion and it was unanimously carried.
17. **Adjournment.** Lou Alexander moved that the meeting be adjourned. Walter Mugdan seconded the motion, and it was unanimously carried. The meeting was adjourned at 11:27 a.m.

Respectfully submitted,

*Alan J. Knauf*

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Secretary