

**NEW YORK STATE BAR ASSOCIATION
ENVIRONMENTAL LAW SECTION
EXECUTIVE COMMITTEE MEETING: OCTOBER 24, 2009**

MINUTES

Attendance: Alan Knauf, Chair; Barry Kogut, Carl Howard, Kevin Reilly, Rosemary Nichols, Gail Port, Walter Mugdan, Telisport Putsavage, Robert Feller, Miriam Villani, Kevin G. Ryan, Virginia Robbins, Randall Young, John Parker, Joan Leary Matthews, Yvonne Hennessey, Peter Ruppar, Ruth A. Moore, Constantine Sidamon-Eristoff, David Freeman, David Quist, John Kolaga, Neal Madden, Wendy Marsh, Edward Premo, Jan Kublick, Ernest Ierardi, Gary Abraham, Rose Thoma, Dominic Cordisco, John Greenthal, Kathleen Martens, George rodenhausen, Philip Dixon, and Lisa Bataille (for the NYSBA).

Treasurer's report (Carl Howard)

The present financial status of the Section is being examined. Last year, the Section underwent a reduction of approximately \$20,000, in part because of additional charges by the hotel with respect to the Fall meeting. This year, the Fall meeting was carefully budgeted, and the Section may realize a profit. A final accounting must still be discussed with the Municipal Law Section, our co-sponsor for the Fall meeting 2009.

Section Chair's report (Alan Knauf)

The Fall meeting this year experienced a modest drop in sponsorship funding. DEC was particularly helpful in its contributions to the Fall meeting. All commentary indicates that the program was well received. Although the Friday portion of the program, addressing the several issues arising from the Marcellus Shale, was directed more to members of the Municipal Law Section, it also was very useful to members of the Environmental Law Section, especially insofar as a SDGEIS had been issued. The Friday portion of the program was well attended. The Chair thanked Yvonne Hennessey for orchestrating the program.

[Jennifer Grossman expressed various concerns regarding whether environmental issues had been addressed adequately.](#) There may be a follow-up Webinar on the environmental issues relating to the Marcellus shale, particularly hydrofracting, but possibly not before the comment period for the SEIS closes.

[There was a discussion of a possible Webinar.](#)

Kevin Ryan recommended that the Section take a position on extending the SEIS comment period, since the SEIS is very extensive and a longer comment period would be appropriate. After discussion, the motion was made to seek an additional 60 days for the comment period (totaling 120 days). The motion

Deleted: Kevin Ryan offered to help prepare the

carried: 29 ayes (4 by telephone); 2 nays. State employees, as well as Neal Madden, noted their abstention.

The Chair indicated that the relevant committees will be contacted to explore whether the Section should take a position (taking into account the Section's process for deciding whether to take positions) as to endorsing the proposal.

The Chair noted that the Section still needed a point person on diversity issues.

The Chair indicated an interest in updating the Section's website, but noted that such efforts might be constrained by the NYSBA template. In any event, the Chair solicited help from Section members for revamping the website. He also noted that the Section blog seems underutilized, and sought comments on the blog regarding the Fall weekend.

The Chair also noted that the Section's website posts job openings, and suggested that the Section should consider adding a feature for the posting of resumes.

The Nominating and Awards Committee was appointed to discuss nominations for 2010, and awards to be presented at the January 2010 annual meeting. Additionally, a special committee was formed (Jim Pericone, Kevin Reilly, Joel Sachs, Walter Mugdan) to discuss a special recognition for Phil Weinberg.

Minority Fellowships.

In the past, the ABA has funded two environmental fellows, and the Environmental Law Section has funded one fellow. The ABA grant has been extended. The grant from the New York Community Trust has been spent. The City Bar is seeking additional funding. Three fellowships will be funded for next year.

The Committee is examining whether the goal of the fellowships, introducing minorities to the practice of environmental law, is being achieved. It is anticipated that a report will be prepared in time for the annual meeting.

Section journal (Miriam Villani).

Three issue editors, who will work as a team, have been selected. The second issue is being prepared as of the date of the present meeting (deadline November 2). The first issue received accolades.

Oil Spill symposium (Alan Knauf).

The general background and goals of the symposium was discussed, with a view towards discussing relevant issues even if a resolution would not be reached in that venue. The Spill Fund declined to participate.

The Chair noted that DEC General Counsel, Alison Crocker, has been wonderful to work with, and there have been very fruitful discussions on several issues.

Annual meeting (Alan Knauf)

The date and location of the annual meeting were noted. The traditional Thursday evening cocktail party will be held again at Proskauer Rose, with many

thanks to Gail Port for her efforts in this regard. A motion to allocate \$700 for the cocktail party was approved by voice vote. Sponsors will be solicited.

The program chair for the January meeting is Barry Kogut. Barry noted the proposed topic addressing the New Jersey brownfields program.

Future programs (Barry Kogut)

Barry noted that the Fall meeting 2010 will be held at Cooperstown. The meeting will coincide with the Section's 30th anniversary, and DEC's 40th anniversary. As a result, Barry invited proposals for recognizing each event. One suggestion was to conduct a program which would allow different DEC regional offices to have a role.

Global climate change (Ginny Robbins)

The Global Climate Change Task Force report was issued in January 2009. The next step is to examine the results of the report.

A Section-sponsored program for municipal officials was conducted at Pace Law School on October 8th, with approximately 70 attendees. The program was directed at facilitating an exchange of information and proposals among municipalities for addressing problems that will arise as a consequence of global warming (transportation, water quality, land use planning, etc...). Several community representatives discussed action plans that their communities had devised. It is anticipated that the program will be conducted again, in Albany, and possibly in Rochester.

Remediation (Dave Freeman)

DEC has been removing sites from the brownfields program for the failure to make progress. The program had intended to keep parties from "parking" contaminated sites in the program and thereby avoid moving forward. However, the recession has been an unanticipated factor which has impeded some cleanups. DEC reportedly has not demonstrated flexibility in this regard. Dave recommended that the Section communicate with DEC the advisability of flexibility on a case-by-case basis when it can be demonstrated that the lack of progress is a consequence of the recession rather than manifesting intentional delays.

Dave reported that the New York City Mayor's Office has established an office on remediation. The question was raised whether DEC would enter a memorandum of understanding with New York City to allow New York City to orchestrate a brownfields program.

CLE

Alan Knauf suggested that the committee consider addressing future programs, conducted by conference call, for CLE credits, at a modest charge.

Wetlands (Drayton Grant)

Drayton noted the existence of a Wetlands bill, already approved in the Assembly, addressing DEC jurisdiction over one acre or less of a wetland. The Section already took a position, which is posted on the Section's website, in 2007, so that no present action was necessary (the only differences are minor technical adjustments, such as changing the bill number, etc...).

SEORA: statute of Limitations (Kevin Ryan)

Kevin indicated that a conference call may be conducted prior to the January 2010 meeting, and if a consensus developed on the committee, a recommendation might be submitted to the Executive Committee for the Section to take a position.

The Executive Committee extended accolades to Alan Knauf for the successful Fall weekend.

Adjourned.

Submitted: Kevin A. Reilly