

**Proposed Draft Minutes for the
NYSBA Environmental Law Section
Executive Committee Meeting**

**NYSBA Offices, Albany, New York
2:15-4:30 P.M.
May 18, 2011**

In attendance: Wendy Marsh, Gary Bowitch, Melody Kight, Alexie Saba, David Freeman, Michael Lesser, Robert Kafin, Jan Kublick, Dominic Cordisco, Telisport Putsavage, Robert Stout, Erica Powers, Lauren Silberfeld, Alan Knauf, Joan Leary Matthews, Dan Ruzow, Andrew Wilson, John Parker, Barry Kogut, Kevin Reilly, Phil Dixon, Lisa Bataille, Bob Feller, Ruth Moore, Miriam Villani, Howard Tollen, Ed Premo, John Marlow, Gerry Cavaluzzi, Carl Howard, Kristen Wilson, Maureen Leary, Dave Quist, and Terresa Bakner.

Proposed Draft Meeting Minutes of the NYSBA Environmental Law Section Executive Committee Meeting NYSBA Offices, Albany, New York, 1:35 to 3:30 p.m. May 18, 2011

1. **Call to Order/Opening Remarks (Barry Kogut).** Welcome by Barry Kogut and thank you to program chairs, Mike Lesser, Andrew Wilson and Jeff Brown for an excellent and well-attended Legislative Forum on Marcellus Shale Drilling.
2. **Approval of Minutes from January 28, 2011 Executive Committee Meeting (Terresa Bakner) (copy attached).** (Copy of minutes of January 27, 2011 Section Business Meeting also attached): The minutes of Annual Meeting and Business Meeting were duly approved.
3. **Section Finances.** Copy of Section Finance Report as of March 31, 2011 attached.

(K. Reilly) – Call for Section Committee Program Budgets by June 20, 2011: **Report by Kevin Reilly on the section finances.** Kevin reported that the Section finances are in good shape. He has not received the information from the Annual meeting as yet. He indicated that there are some issues to work on for next year’s meeting relative to the cost of the reception and the menu. He reported that AV and graphics are using the full budget amount for this year. Kevin requested that each committee provide budget estimates for any proposed programs for next year by June 15. See attached written report. General discussion of holding down AV costs. Dan Ruzow offered to bring a projector for use at the Fall meeting at the Gideon Putnam. Kevin reported a \$36,000 surplus in the budget.
4. **Second Annual Petroleum Symposium.** 47 people attended. They had speakers and had breakout sections on hot topics. Alan Knauf spoke as did a representative from the Oil Spill fund. This format allowed a better dialogue with government attorneys. Will ask for

budget amount. Will try to use webinar so long as it is not only roundtable. May do audio and have a microphone. Mike Lesser found it very worthwhile. Gary and Wendy urged other committees to try the symposium format to enhance the dialogue. Decided not to CLE because they wanted the roundtable format. Try to do it in Albany again.

5. **Report of Section Chair**

- a. Barry thanked the program chairs, Mike, Drew and Jeff for a terrific forum on hydrofracking. He also thanked Drew and Erica for their assistance in preparing materials for the participants. Mike and Drew are going to do a summary of the program with the handouts for the Section Journal. Lisa will post these materials to the website.
- b. DEC General Counsel Visit of May 16, 2011 by Cabinet. DEC General Counsel Steve Russo would like to have informal dialogue on the proposed SEQRA EAF and other SEQRA regulatory changes. Barry will reach out to Mark and Kevin to meet with Steve. Barry will also reach out to brownfields taskforce for a similar meeting. Other issues that could be discussed are storm water, wetlands (freshwater and tidal); this could be addressed by the water quality and/or coastal resources and wetlands committees. There may be an opportunity to comment on guidance issued on the new ESA regulations. As to the SEQRA reform, Dominic Cordisco mentioned that the Mid-Hudson Patterns for Progress group is formulating a set of proposals for SEQRA reform working with Larry Wolinski. The Section Cabinet will continue to meet with the General Counsel and also facilitate contacts with individual committees and the Office of the General Counsel on specific issues. As always the Cabinet will keep the executive committee up to speed on meetings with the General Counsel.
- c. Section website. We are adding contact information on the cabinet to the website so people can contact someone about committee interest and participation. The Section officers are liaisons to the Committee. Goal -- to make access to information easier. Description on the scope of committee very short to be posted on the website. **Section bylaws are up to date.** Membership on the EC was extended to Steve Russo and he accepted. The Plan is to invite Lem Stolof, EPB head to join the EC. **Lexis Nexis award to EnviroSphere Blog by Cullen Howe.** The information will be on the website.
- d. **Brownfield taskforce was reconstituted for a two year term.** Request was made by Dave Feeman and Larry Schnap who will be co-chairs. Barry went over the list of participants so far and requested that an NGO representative be invited

to join the taskforce as well as Lisa Bromberg. The initial topics for report are due no later than October 23, 2011 EC meeting. Current status of program, how to revitalize it, how the eligibility criteria should be changed, whether under the current legislation it would be possible to have a program with the party can waive the tax credits and get a comfort letter to assist in getting financing. With Steve Russo being open to involvement it is a great opportunity to get a list of ideas to him on the program. Dave extended an offer to join the taskforce to anyone in the section. Please email Barry or Dave Freeman to join. Dave will set up a conference call for mid-June. For now Dave advised that it is likely that the LSP topic will be addressed separately.

- e. **Section advocacy update: The deadline for voting on the TIP Legislation was 4 pm today.** The comments on EAF were already submitted to DEC and are going to be posted to the section website.
 - f. **Section** letter of congratulations to John Adams and his follow up letter: both letters are to be posted on the website.
6. **Section Leaders Conference** -- Phil Dixon attended and brought the Executive Committee up to date on several initiatives: use of social media by the Bar Assn, appointing a delegate to the NYSBA Executive Committee to represent the Committees of the Bar. Phil requested a general resolution of support for such a delegate and the resolution was adopted by the executive committee members present the resolution was moved by Phil Dixon and seconded by Ruth Moore and the motion passed unanimously. Phil also handed out information on the diversity challenge. The Bar Assn., would like to see a diversity plan and a diversity person or persons assigned to the task. Joan Matthews previously held this position. The membership chairs are being asked to fulfill this role. The existing Diversity Plan is on the website. The Diversity person needs to reach out to the CLE committee. Phil Dixon will work with the Membership committee on this. Last item -- the Bar Assn. will be meeting in Buffalo in April for the executive committee and the house of delegates meeting. The sections may want to consider holding a program that week.
7. **Section Subsidization Program.** At the annual meeting, representatives from the Bar spoke to us concerning the issues associated with the subsidization program. The program is on hold until the Bar ethics issues are sorted out. At this point Ron Kennedy, Richard Rifkin and Mark Glaser have indicated that there is likely to be a change in the State-wide ethics board, driven by the Legislature. The Section will wait to see if the Legislature does anything, after June 1 during the summer the cabinet will revisit the situation. Funds for the program will be maintained in the budget.

8. **Committee Reports:**

- a. **CLE Committee.** The June 2011 CLE program on hazardous waste and property transactions had to be delayed. Maureen reported that the program will be rescheduled for November 2011. Doug Guvera (NYSBA CLE coordinator) will be asked to join the executive committee at the Fall Meeting to address questions regarding CLE including any need to have corporate sponsorships. Jim Rigano has been working with Doug but it would be helpful if the committee as a whole understood the process for CLE programs. It was suggested that committee reports be given in writing.
- b. **Agricultural and rural issues committee.** Ruth Moore reported on the brown bag program held on April 19, 2011. There were three panelists, Robyn Adair, Jackie Lendrom, and Greg Albrect from Ag and Markets, the subject of the program was water quality and agriculture with a specific emphasis on the Chesapeake Bay TMDLs. The program was not recorded. The panelists prepared a power point presentation which Lisa will place on the website.
- c. **Pollution prevention.** Discussion of hotel certification program and the Green guidelines. Lisa will check to see if the guidelines are on the website. Howard Tollin will bring the guidelines to the House of Delegates' meeting in case any others are interested in the initiative.
- d. **Membership.** Discussion of the need to maintain diversity and increase new members and the difficulties of this given the legal employment situation. Discussion of the benefits of law school campus presentations to enhance law student participation and hopefully membership after graduation. A suggestion was made to raffle off free admission ticket to the fall program. Jason and Rob Stout will make the proposal. Alexis Saba is here from Cornell, and is focused on the Marcellus shale issues. She will be working with the membership committee on law school student involvement in general and Cornell Law School student involvement in particular. Ruth Moore also suggested that the committee consider a speed mentoring breakfast at the Fall meeting.
- e. **Global climate change.** No report

9. **DEC update by John Parker, DEC Regional attorney.** The Department is “recalibrating” now that the agency is a smaller place with fewer employees. The Department is also working on priority assessments for permitting and enforcement. John

went over some of the new faces at DEC: Steve Russo, DEC General Counsel, Venitia Lannon, DEC Region 2 Regional Director, and Aimee Vargas, Director of EJ program. Additional new faces are Michele Crewe, Region 5, regional attorney and Tom Berkman who is heading up an enforcement focus group inside the OGC at the Central office.

10. **Section Journal. Congratulations on the first electronic issue published.** While there were a few glitches it took a lot of effort by bar staff and their efforts were greatly appreciated. The next edition of the Journal will be out in June and items to be published in the fall journal are due by July 15.
11. **NYSBA House of Delegates (report attached).** No discussion.
12. **Upcoming Meetings**
 - a. **Fall meeting. Ginny Roberts and Kevin Reilly are in charge and are working with** their municipal law counterparts. Some of the ideas include addressing nano tech related topics and a bicycle tour around the park. Jan Kublick suggested that hydrofracking would be a great topic given its importance and timeliness. SEQRA reform could also be a topic since this is a joint meeting with the municipal law committee. More details to follow.
 - b. **Annual meeting.** Save the date.
 - c. **Fall meeting in Lake Placid.** Carl Howard is in charge and is choosing between two hotel facilities. The date is 2nd weekend in October 2012. Carl is working with George Rodenhausen on the program and considering focussing on conservation easements.
13. **One piece of new business.** Phil Dixon and the executive committee thanked Barry for doing an incredible job as chair and in particular for his amazing energy level and excellent summer programs to celebrate the section's milestone.
14. **Executive Committee Adjourned.**