Environmental, Energy, and Resources Law

# 48th SPRING CONFERENCE

**MARCH 27-29, 2019 GRAND HYATT DENVER**

**DENVER, COLORADO**

AMBAR.ORG/SEERSPRING

Section of Environment, Energy, and Resources

AMERICAN BAR ASSOCIATION

# 48th Spring Conference

# DENVER

COLORADO

March 27-29, 2019

Grand Hyatt Denver

**Who We Are**

The ABA Section of Environment, Energy, and Resources is the premier forum for environmental, energy, and resources lawyers: a meeting place where practitioners can find the most current and sophisticated analyses of the complicated issues facing their practice.

**48th Spring Conference Experience**

Join your colleagues for two days of cutting-edge CLE programming. Session topics include:

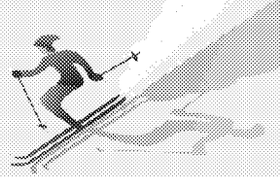
- PFAS: Impacting Site Remediation and Litigation for Years to Come?
- Permit Streamlining for Mineral Exploration and Development
- Frenemies: Federal, State, Tribal, and Local Governments and the Inherent Tension of Cooperative Federalism on the Ground
- International Product Stewardship Regulations: Their Effect on Integrated Supply Chains and Corporate Transactions
- The New Cannabis Industry: Will It Cause the Environment to Go to Pot?

**The Mile-High City**

Denver is where urban sophistication meets outdoor adventure. The Mile-High City is known for its world-class cultural attractions, thriving craft breweries, chef-driven dining, and a red-hot music scene, all within easy reach of the Rocky Mountains. Situated in the South Platte River Valley, this modern city draws openness from the Great Plains to the east and features spectacular Rocky Mountain views to the west.

**Get Current Updates!**

Make sure to check SEER's website for the most up-to-date information including registration, speaker line-up, and more.





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**Rita Bolt Barker,** Wyche, Greenville, SC

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## WED March 27, 2019

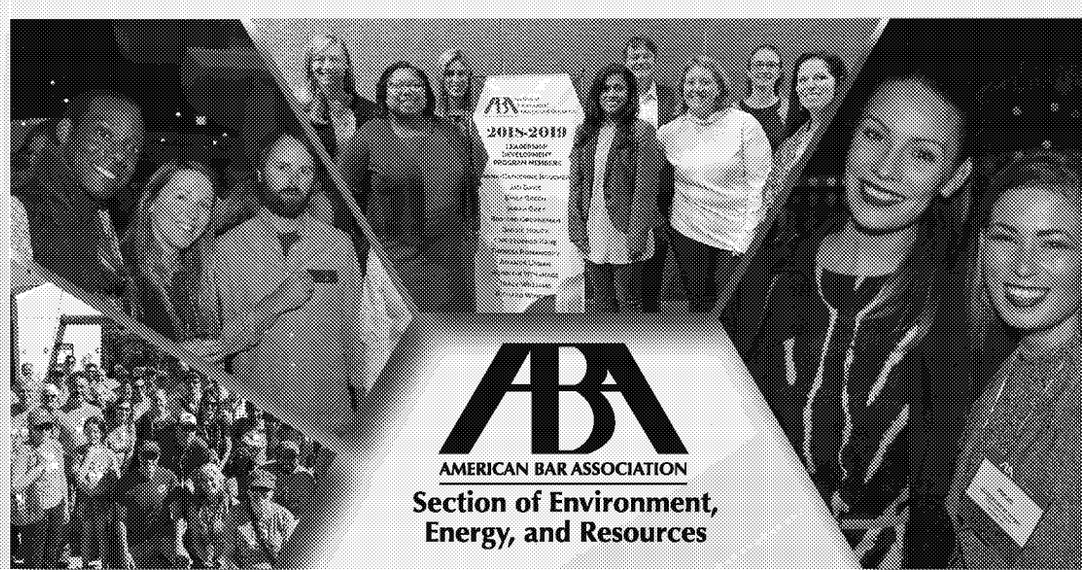
| | |
|---|---|
| 12:00PM–4:00PM | Public Service Project |
| 6:00PM–6:30PM | VIP New Attendee Reception (Invitation Only) |
| 6:30PM–8:00PM | Welcome Reception |

## THU March 28, 2019

| | |
|---|---|
| 7:00AM–8:00AM | Continental Breakfast |
| 8:00AM–8:30AM | Welcome and Keynote Speaker |
| 8:30AM–10:00AM | Opening General Session |
| 10:00AM–10:30AM | Networking Break |
| 10:30AM–12:00PM | Concurrent Breakout Sessions |
| 12:00PM–1:30PM | Luncheon and Keynote Speaker |
| 1:30PM–2:00PM | Expert Insight Panels |
| 2:15PM–3:45PM | Concurrent Breakout Sessions |
| 3:45PM–4:15PM | Networking Break |
| 4:15PM–5:45PM | Concurrent Breakout Sessions |
| 6:30PM–9:30PM | Cocktail Reception and Dinner |
| 9:30PM–12:00AM | After-Hours Social Mixer |

## FRI March 29, 2019

| | |
|---|---|
| 6:30AM–7:15AM | #SEERRunClub |
| 7:00AM–8:00AM | Continental Breakfast |
| 8:00AM–8:30AM | Welcome and Keynote Speaker |
| 8:30AM–10:00AM | General Session |
| 10:00AM–10:30AM | Networking Break |
| 10:30AM–12:00PM | Concurrent Breakout Sessions |
| 1200PM–1:30PM | Luncheon |
| 1:30PM–3:00PM | Concurrent Breakout Sessions |
| 3:00PM–3:30PM | Networking Break |
| 3:30PM–5:00PM | Ethics Session |
| 6:30PM–9:30PM | Taste of SEER (Dine Arounds) |




AMERICAN BAR ASSOCIATION
Section of Environment, Energy, and Resources



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# Wednesday, March 27, 2019

**12PM – 4PM**

### Public Service Project

Support the Denver community by joining fellow conference attendees on our public service project. No prior experience is necessary to participate in this fun networking opportunity. To volunteer for the public service project, please sign up when registering.

**6PM – 8PM**

### Welcome Reception

Kick off the conference with food, drinks, and friends old and new. Meeting registration will be open, so you can also pick up your name badge and conference materials.

# Thursday, March 28, 2019

**8:30AM – 10AM**

### Science & Compliance: Trends in Enforcement

The conference opening plenary is a lively discussion of the latest developments in environmental enforcement. Pollution prevention and compliance assurance have always been central to the mission of regulators' public-sector enforcement program. They are now the subject of a renewed focus at the federal level. In support of these efforts, scientists and enforcement lawyers at EPA's Regional laboratories and at state environmental agencies are collaborating on innovative tools, methods, and management systems to make compliance assurance more effective and replicable. The session will provide essential information about federal-state compliance coordination and implementation and the development of new field testing methods and technologies, as well as update you on federal enforcement priorities and scientific standards. Leave prepared to advise your clients.

MODERATOR

**Todd Parfitt,** Director, Wyoming Department of Environmental Quality, Cheyenne, WY

SPEAKERS

**Suzanne Bohan,** Assistant Regional Administrator for Enforcement, Compliance, and Environmental Justice, U.S. Environmental Protection Agency, Region 8, Denver, CO
**Paul Gallay,** President, Hudson Riverkeeper, Ossining, NY
**Bruce S. Gelber,** Deputy Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC
**Margaret E. Peloso,** Vinson & Elkins, Washington, DC

**10:30AM - 12PM**

### Concurrent Breakout Sessions

### PFAS: Impacting Site Remediation and Litigation for Years to Come?

Per- and polyfluoroalkyl substances, better known as PFAS, are man-made chemicals that are widespread in drinking water. Used in a number of ordinary consumer products, including carpets, clothing, cookware, popcorn bags, and dental floss, PFAS are now considered a health risk in fairly small amounts of water. These small concentrations and the ubiquity of PFAS will influence site remediation and impact how lawyers advise their clients. The preferred methodologies to investigate and remediate these chemicals continue to be developed, and the regulations governing cleanup levels remain in flux at both the federal and state levels. Faced with these uncertainties, some companies have already paid hundreds of millions of dollars to resolve their potential liabilities. This session will explore the legal theories that drive PFAS litigation and discuss how lawyers can effectively advise their clients in due diligence and through the investigation and remediation process.

MODERATOR

**Jeff Kray,** Marten Law, Seattle, WA

SPEAKERS

**Alexandra Dunn,** Assistant Administrator, Office of Chemical Safety and Pollution Prevention, USEPA, Washington, DC
**Chris Higgins, Professor,** Colorado School of Mines, Golden, CO
**Jeremy Jungreis,** Rutan & Tucker, Orange County, CA





Thursday continued...

### Grid Resiliency: Ensuring and Valuing the Ability to Stay Plugged In

The U.S. Department of Energy (DOE) prompted a nationwide discussion about grid resiliency by proposing that the Federal Energy Regulatory Commission (FERC) consider a rule to subsidize electric generating units with onsite fuel—particularly coal and nuclear units—that are in danger of early retirement. As the frequency and severity of natural disasters are increasing along with dependency on reliable electricity to power modern life, grid resiliency is critical. FERC declined to adopt DOE's proposal but opened a docket to explore the issue. This session will explore FERC's docket and tackle key underlying questions. What is resiliency and can only certain traditional resources provide it? What is the role of distributed and renewable resources? What role can evolving technologies such as electric vehicles and storage play? This session will consider how these questions should be answered, as well as describe legal tools that could help appropriately value (and pay for) resiliency.

MODERATOR

**Heather Rosmarin,** Executive Director, InterAmerican Clean Energy Institute, Oakland, CA

SPEAKERS

**Aaron Levine,** Senior Legal & Regulatory Analyst, National Renewable Energy Lab, Golden, CO
**Laura Renger,** Principal Manager, Air and Climate, Southern California Edison, Rosemead, CA
**Avi Zevin,** Attorney, Institute for Policy Integrity, New York University Law, New York, NY

### What the "Frack" is Going On: Emerging Issues in Oil and Gas Law

Horizontal drilling and technological innovation have been game changers for the oil and gas industry, but technological advances, financial pressures, and public perception have created evolving shifts in oil and gas law. This session will review recent trends and developments in the case law and regulatory requirements for oil and gas development. Attendees will gain practical insights on recent case law exploring subsurface fracking as trespass in the rule of capture context, the impact of the Sabine case, which permitted a discharge in bankruptcy of gas gathering agreements that have covenants running with the land, and cases where public or local control efforts clash with oil and gas development in the context of local bans or attempts to use the public trust doctrine or environmental rights doctrines to constrain the exercise of private property rights to develop resources.

MODERATOR

**Matt Lepore,** Strategic Advisor & Legal Counsel, Adamantine Energy, Denver, CO

SPEAKERS

**Leslie Boyle,** Holland & Hart LLP, Denver, CO
**Mark Matthews,** Brownstein Hyatt Farber Schreck, Denver, CO
**Erin E. Murphy,** Senior Attorney, Encana Oil & Gas, Denver, CO

**1:30PM - 2PM**

### Expert Insight Panels (non-CLE)

Strengthen your substantive knowledge of some of the most pressing issues confronting environmental, energy, and natural resources lawyers today. Expert Insight Panels will take you on a deep dive into technical issues from the nation's top environmental consultants and service providers.

*ALTERECHO*

### Beyond the Basics: A Deeper Dive into the PFAS Pool

Much like polychlorinated biphenyls (PCBs) before them, development of processes to characterize and manage per- and polyfluoroalkyl substances (PFAS) is happening at a rapid pace, but is also undermined by data gaps. PFAS compounds are ubiquitous and pervasive in industry and consumer products, with virtually every American exposed to them. As the scientific community refines its understanding of associated uses, environmental releases and human exposure, what will drive administrative authority decisions, compliance standards, and control technology options for PFAS? In this presentation, AlterEcho will address knowns and unknowns regarding PFAS characterization, options for effective control technologies, and risk management strategies to minimize future liability.

SPEAKERS

**Travis Kline**, MEM, Chief Toxicologist, AlterEcho
**Nicole Goers,** PE, Risk Assessor, AlterEcho

*GEOSYNTEC CONSULTANTS, INC.*

### Subsurface (Vapor) Intrusion in the Hazard Ranking System – A Superfund Game-Changer (and What You Can Do About It)

In 2017, EPA published rulemaking to add the subsurface intrusion (SsI) component to the Hazard Ranking System (HRS), allowing EPA to consider human exposure to contaminants that enter structures through SsI when



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determining which sites are placed on the National Priorities List (NPL). We're just beginning to understand how this change impacts both existing and proposed NPL sites. But, it is likely that it will to some extent result in more sites being proposed for NPL listing. It also will present a significant challenge to regulators who will need to harmonize current HRS methodology with the nuanced judgment required to appropriately assess vapor intrusion. This presentation will explain how SsI was incorporated into HRS, site characteristics that may represent a heightened SsI risk, how best to prepare for the increased scrutiny of SsI in future NPL decision making, and how to address other new issues driving vapor intrusion liabilities.

SPEAKERS

**David Folkes**, PE – Senior Principal Engineer, Geosyntec Consultants, Denver, CO
**Chase Holton**, PhD, PE – Senior Environmental Engineer, Geosyntec Consultants, Denver, CO

## 2:15PM - 3:45PM

### Concurrent Breakout Sessions

### The Continuing Evolution of Clean Water Act Jurisdiction

Jurisdiction under the Clean Water Act (CWA) is a moving target. How it will turn out is anyone's guess. On the one hand, WOTUS, the Waters of the United States Rule, is expected to change, through litigation or wholesale regulatory revision, potentially limiting those waters subject to jurisdiction under the CWA. On the other hand, two circuit courts of appeals have extended CWA jurisdiction to discharges to groundwater, where there is a connection between groundwater and surface water. The U.S. Environmental Protection Agency recently waded into jurisdiction over groundwater by taking comments on how it should address relevant court opinions. Given the uncertainty over jurisdiction, lawyers need to assist clients in assessing how changing jurisdiction will affect them. This session will explore ever-changing CWA jurisdiction from various perspectives.

MODERATOR

**Kirsten Nathanson,** Crowell & Moring, Washington, DC

SPEAKERS

**Timothy Bishop**, Mayer Brown, Chicago, IL
**Frank Holleman**, Southern Environmental Law Center, Chapel Hill, NC
**Elbert Lin,** Hunton Andrews Kurth, Washington, DC

### What Happens When Recyclables Become Trash, Wastes Go Astray, or the Status of Naturally-Occurring Materials is Changed?

Recycling markets are in turmoil. China has changed its import acceptance policies, and U.S. communities are becoming less open to accepting urban sewage waste and trash, particularly when shipments get stalled or diverted short of their destination. In addition, recycling takes on a whole new meaning in the battle over what is natural versus what is waste when naturally-occurring radiological materials—NORM—become technologically enhanced—TENORM— during oil and gas extraction and even during drinking water production, requiring disposal. This session will consider the state of recycling, both in the United States and the international arena, and provide attendees with insight into advising clients in the face of emerging legal issues, including regulatory, litigation, community relations, and environmental justice.

MODERATOR

**Cynthia Teel,** Lathrop Gage, Denver, CO

SPEAKERS

**Jennifer T. Opila,** Director, Hazardous Materials and Waste Management Division, Colorado Department of Public Health and Environment, Denver, CO
**James Slaughter,** Beveridge & Diamond, Washington, DC
**Danielle Waterfield,** Senior Director of Government Relations & Assistant General Counsel, Institute of Scrap Recycling Industries, Inc., Washington, DC

### Permit Streamlining for Mineral Exploration and Development

The Trump administration has vowed to streamline the regulatory process for, among other things, mineral-related projects, to ensure the reliability of U.S. mineral production. These efforts include initiatives focused on resources such as critical minerals, revisions to the environmental review and permitting processes, and the prioritization of energy- and infrastructure-related projects needed for mining. Additional efforts address streamlining the leasing processes and other actions to expedite access to federal lands for purposes of mineral exploration, production, processing, and refining. This session will examine the Trump administration's attempt to streamline the permitting process and how it is impacting and will impact clients' future mineral exploration and development projects.

MODERATOR

**Aleava Sayre,** Stoel Rives, Minneapolis, MN

SPEAKERS

**Philip Lowe,** Solicitor, U.S. Department of the Interior, Lakewood, CO
**Laurel Sayer,** CEO, Midas Gold, Boise, ID
**Laura Skaer,** Executive Director, American Exploration & Mining Association, Spokane, WA







## 4:15PM - 5:45PM

### Concurrent Breakout Sessions

### Water 2070: The Future of Drinking Water in the United States, the Nexus Between Water Supply and Water Quality

The U.S. population is expanding and shifting while aging infrastructure is compounding water resource and quality challenges, new contaminants emerge, and competition for in-stream flows grows. Traditional water supplies and distribution systems are becoming strained, and climate change is affecting water supply reliability, timing, and volumes. In the meantime, technologies for treating and optimizing under-utilized or previously infeasible sources are advancing and becoming more cost effective. Water planning for the next 50 years will require cross-state and multijurisdictional improvements in land use and water resources planning, use-efficiency/conservation, stormwater optimization, recharge, direct potable reuse, and infrastructure improvements. This session will provide attendees with perspectives on key water rights and quality laws, major recent water rights litigation, and water supply and quality challenges.

MODERATOR

**Wendy Bowden Crowther,** Parsons Behle & Latimer, Salt Lake City, UT

SPEAKERS

**Robert Abrams,** Professor of Law, Florida A&M University College of Law, Orlando, FL
**Amanda Waters,** General Counsel, National Association of Clean Water Agencies, Washington, DC
**Katherine Zitch,** Manager, Natural Resources, Atlanta Regional Commission, Atlanta, GA

### One Federal Decision and Regulatory Streamlining: Opportunities and Costs for Infrastructure Development

Regulatory streamlining and privatization are major components of the Trump administration's infrastructure initiative, the stated goal being to incentivize and facilitate greater nonfederal participation in infrastructure projects while maintaining robust support for infrastructure where federal investment is warranted. Specific initiatives include the One Federal Decision Memorandum of Understanding, a Notice of Proposed Rulemaking relating to National Environmental Policy Act reforms, provisions of recent Water Resources Development Acts that authorize nonfederal parties to perform federal functions at federal expense, and similar reforms in the energy sector. This session will describe the current state of proposed reforms, identify the new opportunities they create for nonfederal parties and their lawyers, and discuss challenges presented by these reforms, including scientific transparency and environmental justice concerns.

MODERATOR

**Mark Davis,** Director, Tulane Institute on Water Resources Law and Policy, New Orleans, LA

SPEAKERS

**Dinah Bear,** Tucson, AZ
**Edward Bolling**, Associate Director for the National Environmental Policy Act, Council on Environmental Quality, Washington, DC
**Amy W. Larson,** President, National Waterways Conference, Inc., Arlington, VA

### When Financing Goes Bad: Doing Deals and Litigating Cases When Bankruptcy, Workouts, or Ability to Pay for Environmental Liabilities Is at Issue

Companies generally assume that the entities they do business with will remain fiscally viable through the life of a project. In the wake of prominent corporate bankruptcies such as General Motors and Tronox, however, it is evident that this assumption may be incorrect, and this can have significant impacts in the context of environmental compliance and remediation. This session will cover pending and recent bankruptcy and ability to pay cases involving environmental issues, including those impacting Superfund and RCRA parties, as well as consider practical methods for resolving environmental claims short of bankruptcy. Do not miss this opportunity to learn concrete strategies and tactics for how to address the needs and concerns of regulators, affiliates, employees/shareholders, and third parties when everyone is seeking a share of insufficient funds.

MODERATOR

**Jeanne Cohn-Connor,** Kirkland & Ellis LLP, Washington, DC

SPEAKERS

**Mary Koks,** Munsch Hardt Kopf & Harr, PC, Houston, TX
**Andrea Madigan,** CERCLA Supervisory Attorney, U.S. Environmental Protection Agency, Region 8, Denver, CO
**Andrew Otis,** Locke Lord, New York, NY

## 6:30PM – 9:30PM

### Cocktail Reception and Dinner

Join us at the Grand Hyatt's Pinnacle Club, which offers stunning views of downtown Denver and the Rocky Mountains. The reception and dinner are included in the attendee registration fee. Guest tickets are available for purchase.

## 9:30PM – Midnight

### After-Hours Social Mixer

The party is not over yet! Join our informal, after-hours mixer event to relax and hobnob with your fellow attendees. All are welcome!



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# Friday, March 29, 2019

## 6:30AM – 7:15AM

### #SEERRunClub – Sponsored by Eimer Stahl LLP

Start your day off right with a run or walk outdoors in the beautiful Mile High City. As a bonus, you will receive a #SEERRunClub tee shirt to remember the occasion. Everyone is invited to this fitness-minded networking event. Be sure to sign up when you register.

## 8:30AM – 10AM

### The Next Battlegrounds: How the Composition of the Federal Courts Will Shape the Future of Environmental, Energy, and Resources Law

New appointments to the U.S. Supreme Court and other federal courts may determine the outcome of many high-stakes cases shaping national and international environmental and energy policy for years to come. Litigants must chart a course through a changing judiciary. All practitioners need to anticipate the battles ahead and how they will be won or lost. A distinguished panel of practitioners and court-watchers will highlight significant cases making their way through the courts, identify key trends to watch in the courts of appeals, and forecast how the Supreme Court Justices will influence the cases brought and pursued in the federal courts. This panel will provide critical guidance to litigants and non-litigants alike.

MODERATOR

**Justin Pidot,** Professor , University of Denver Sturm College of Law, Denver, CO

SPEAKERS

**David Chung,** Crowell & Moring LLP, Washington, DC
**Sara Colangelo** (invited), Environmental Law & Policy Program Director and an Adjunct Professor of Law, Georgetown Law, Washington, DC
**Erin Murphy,** Kirkland & Ellis LLP, Washington, DC

## 10:30AM - 12PM

Concurrent Breakout Sessions

### Frenemies: Federal, State, Tribal, and Local Governments and the Inherent Tension of Cooperative Federalism on the Ground

Halfway into President Trump's four-year term, shifting goals at the U.S. Environmental Protection Agency (EPA) have thrown the practice of environmental law into flux. EPA has expressed goals of returning to its "core mission" and restoring power to the states "through cooperative federalism." What does that mean on the ground? From its inception, much of environmental law has been premised on cooperative ideals, so what new formulations of law and policy have EPA's goals engendered; what do they mean at the federal, state, tribal and local level; and how might they impact your clients? Speakers will explore current trends of cooperation and conflict in the arenas of environmental, energy, and natural resources law, including impacts on the administration of delegated federal programs and trends in state programs regarding the management of natural resources; inspections and oversight, permitting, and enforcement; the allocation of resources; and the litigation arising from such dynamic relationships.

MODERATOR

**Robert Glicksman,** Professor of Environmental Law, George Washington University School of Law, Washington, DC

SPEAKERS

**Ginny Brannon** (invited), Deputy Director, Colorado Department of Natural Resources, Denver, CO
**James Grijalva,** Professor and Director of Tribal Environmental Law Project, University of North Dakota, Grand Forks, ND
**David Rivkin,** Baker Hostetler, Washington, DC

### East Meets West in the Air Quality Arena: Ozone Attainment, Regional Haze, Electric Vehicles, and More

States are working to tackle complex air quality issues and navigate the U.S. Environmental Protection Agency's unique role in reviewing and approving proposed State Implementation Plans. This session will explore lessons learned from various jurisdictions, including Western and Eastern states. Denver and Colorado's North Front Range, for example, provides a case study for understanding the complexity of ozone formation and ways to control it, as the area has sought to avoid serious nonattainment designation. The Mountain West is also challenged by the reasonable further progress requirements of the regional haze program. Similarly, Massachusetts struggles with ozone attainment and is pursuing electric vehicle program expansion. If you want to learn about different approaches to common air quality challenges facing states to be better equipped to tackle these challenges, this session is for you.





Friday continued...

MODERATOR

**Peter Zalzal,** Special Projects Director and Lead Attorney, Environmental Defense Fund, Boulder, CO

SPEAKERS

**Douglas Benevento,** Regional Administrator, U.S. Environmental Protection Agency, Region 8, Denver, CO
**Melissa Hoffer,** Chief, Energy & Environment Bureau, Massachusetts Attorney General's Office, Boston, MA
**Garrison Kaufman,** Director, Air Pollution Control Division, Colorado Department of Public Health and Environment, Denver, CO

### International Product Stewardship Regulations: Their Effect on Integrated Supply Chains and Corporate Transactions

The United States, the European Union, China, South Korea, and many other countries have their own unique chemical inventory programs impacting supply chains in the global marketplace. This session will provide attendees with an overview of the chemical inventory programs and related classification systems that their clients may face. These requirements, along with their associated supply-chain and regulatory enforcement mechanisms, create complications for corporate mergers and acquisitions, purchase and sale of goods, and joint ventures. Learn the highlights of these regulatory programs, the challenges they pose, and possible solutions.

MODERATOR

**Karna Peters,** Associate General Counsel, 3M, St. Paul, MN

SPEAKERS

**Lucas Bergkamp,** Hunton Andrews Kurth, Brussels, Belgium
**Lydia Duff,** W. R. Grace & Co., Columbia, MD
**Paul Hagen,** Beveridge & Diamond, Washington, DC

## 1:30PM - 3PM

Concurrent Breakout Sessions

### The New Cannabis Industry: Will It Cause the Environment to Go to Pot?

Colorado, California, and six other states have broad laws allowing recreational use of cannabis, and medical marijuana sales are now legal in 30 states. More states are likely to follow. The legalization of marijuana poses new questions for the environmental, energy, and resources lawyer. When a new marijuana industry client walks in the door, should you ask about the water resources available for a water hungry crop, inquire about the pesticides applied to leaves that could end up as part of an edible product, or ask about water drainage from cannabis-oil infused soils? This session will discuss federal and state regulation of cannabis, environmental and local permitting requirements, and other issues lawyers will confront in advising clients on the new "green" industry—marijuana.

MODERATOR

**Sam Kamin,** Vicente Sederberg Professor of Marijuana Law and Policy, Denver University Sturm College of Law, Denver, CO

SPEAKERS

**Meg Collins,** Vice President-Public Affairs, Good Chemistry Nurseries, Denver, CO
**Brenna Finn** (invited), Assistant Attorney General, Colorado Attorney General's Office, Denver, CO
**David Welch,** DR Welch, Los Angeles, CA

### How Prospective Changes to the Endangered Species Act Affect Landowners

U.S. Supreme Court reviews of Endangered Species Act (ESA) critical habitat designations and proposed changes in ESA regulations may impact any client who owns, uses, or develops land. The U.S. Fish and Wildlife Service has proposed three revisions to ESA regulations that would eliminate blanket application of the ESA's "take" prohibition to species newly listed as threatened, revise the standards for designating critical habitat, and revise the procedures for interagency consultation under ESA section 7. This session will review and explain the proposed revisions and their potential impacts. Speakers will also discuss the implications of the Supreme Court's decision, in Weyerhaeuser Co. v U.S. Fish and Wildlife Service, that areas designated as unoccupied critical habitat for listed species must first qualify as "habitat" for the species, and that the Service's decision not to exclude an area from critical habitat based on economic considerations is subject to judicial review. Learn about how these regulatory and judicial actions in the ESA arena may impact landowners, project proponents, and conservation efforts.

MODERATOR

**James Rusk,** Sheppard Mullin, San Francisco, CA

SPEAKERS

**Rachel Jacobson,** Wilmer Hale, Washington, DC
**Tyson Kade,** Van Ness Feldman, LLP, Washington, DC
**Janice Schneider,** Latham & Watkins LLP, Washington, DC

### Turning Brownfields into Green Money: Creative Deals to Boost Contaminated Superfund Site Redevelopment and Streamline Cleanups

Contaminated properties are often a drain on private and public finances, and it is typically many years before a site is repurposed for higher and better use. Yet sophisticated investors who can assess and manage environmental risk increasingly see contaminated properties as profitmaking opportunities. Likewise, regulators and governments see financial incentives as a tool for expediting and improving contaminated site cleanups for public benefit. This session



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### Friday continued...

will discuss creative dealmaking techniques that can turn environmental liabilities into financial gain while furthering cleanup goals. Attendees will learn how recent legal and policy developments, including the BUILD Act and relevant recommendations of the U.S. Environmental Protection Agency's Superfund Task Force, may offer new options for the efficient cleanup and redevelopment of contaminated sites. Economic and scientific trends impacting redevelopment projects, including the use of brownfields for renewable energy development, public-private partnerships, and risks posed by potential re-openers will also be addressed.

MODERATOR
**Letitia D. Moore,** Holland & Knight LLP, San Francisco, CA

SPEAKERS
**Michael Goldstein,** The Goldstein Environmental Law Firm, P.A., Coral Gables, FL
**Patricia Overmeyer,** Acting Deputy Director, Office of Brownfields and Land Revitalization, U.S. Environmental Protection Agency, Washington, DC
**Marian Whiteman, Executive Counsel,** General Electric, New York, NY

### 3:30PM - 5PM

#### Ethics: Tweets, Posts, Snaps, and Chats: Lawyer Ethics and Social Media

In an age of free-flowing tweets, posts, snaps, blogs, and chats, technology and social media affect lawyers' ethical duties in multiple ways—from confidentiality to competency to client solicitation. Social media is not just an issue for millennial lawyers. Utilizing hypothetical scenarios and interactive experiences, learn how social media implicates the ABA Model Rules, including rules 1.6 (confidentiality), 1.7 through 1.9 (conflicts), 3.3 (candor), 3.5 (impartiality), 4.1 (truthfulness), and 4.2 (communication), as well as how to avoid social media pitfalls.

MODERATOR
**Charles F. Luce, Jr.,** Moye White LLP, Denver, CO

SPEAKERS
**Amy DeVan,** Wheeler Trigg O'Donnell LLP, Denver, CO
**Justice Richard Gabriel,** Colorado Supreme Court, Denver, CO
**Jan Jacobowitz,** Lecturer in Law, Director, Professional Responsibility & Ethics Program, University of Miami School of Law, Coral Gables, FL

### 6:30PM - 9:30PM

#### Taste of SEER (Dine Arounds)

We're going Dutch in Denver! Sign up to participate in Dutch-treat dinners (each person pays for his or her own meal). Dinner reservations have been made at several restaurants in Denver near the conference hotel. Each dinner will be organized by a Section leader and will have a conversation theme. This is a great opportunity to meet new people, eat great food, and have lively discussions. Information about how to sign-up will be sent to conference registrants by email.

## CONFERENCE HOTEL HIGHLIGHTS

Treat yourself to an exceptional experience at Grand Hyatt Denver. The AAA Four Diamond hotel welcomes you with beautifully designed guestrooms and premium amenities that make your stay easy and comfortable.

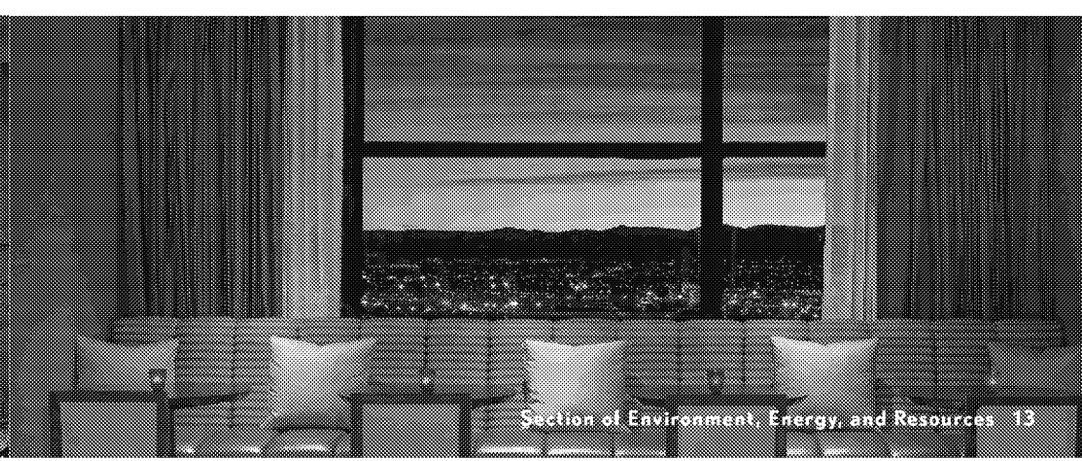
- Enjoy everything exciting that Denver has to offer
- Take a dip in the indoor pool
- Experience a unique Denver dining experience at the downtown restaurants and cafes

A block of rooms has been reserved at the Grand Hyatt Denver, 1750 Welton St., Denver, CO 80202, at the discounted rate of $199 plus tax for single/double rooms. A limited number of government rate rooms are also available for $178 plus tax (or the current government rate). A valid government ID will be required upon check in.

The deadline for room reservations at the discounted rate is **Monday, March 4, 2019** at 5:00 p.m. (CST). To book our contracted rate, call reservations at (800) 223–1234 or the hotel directly at (303) 295–1234 or reserve online at **https://bit.ly/2THKZTV** or at **https://bit.ly/2Ceq7MI** for government employees. Be sure to mention the ABA Section of Environment, Energy, and Resources 2019 Spring Conference.

### Room Share Program

Are you are interested in sharing a room at the Grand Hyatt Denver? Head to SEER's website at **http://bit.ly/48springreginfo** to learn more and fill out our room share questionnaire.







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# 48TH Spring Conference

# DENVER

COLORADO

## March 27-29, 2019

Grand Hyatt Denver

| REGISTRATION RATES | Early Bird 2/11/19 | After 2/11/19 |
|---|---|---|
| Section Member | $745 | $795 |
| ABA Member | $820 | $870 |
| General Attendee | $895 | $945 |
| Gov't, Public Interest, Academic | $675 | $725 |
| Law Student | $50 | $50 |

The registration fee includes tuition and online course materials developed especially for this conference. In addition, your fee covers Wednesday's public service project and reception, Thursday's continental breakfast, breaks, lunch, reception, and dinner; and Friday's continental breakfast, breaks, and lunch.

## MORE WAYS TO SAVE

**Group Discount**

Organizations registering three or more attendees are eligible for a group discount of 20% off each attendee's registration. Please email environ@americanbar.org for more information.

**Day Rates**

*Day rates are available for $450 each day Please email environ@americanbar.org for more information.

***This rate does not include Thursday's dinner.**

### How To Register

We encourage you to register online at ambar.org/seerspring. If you want to register by mail visit ambar.org/seerspring to download a registration form. Please mail the form with your check (payable to the American Bar Association) or credit card information to: American Bar Association, Attn: Service Center—Meeting/Event Registrations Department, 321 N. Clark St., Fl. 19, Chicago, IL 60654 or fax to our secure fax number: (312) 988–5850. All attendees must be preregistered for this conference.

### 37th Water Law Conference

The Section's 37th Water Law Conference will be taking place in Denver prior to the Spring Conference on March 26–27, 2019, at the Grand Hyatt Denver. A special discounted rate is available for attendees of the Spring Conference to attend the Water Law Conference. Make sure to add on the Water Law Conference during the online registration process. For more information about the schedule and speakers, visit ambar.org/seerwater.





### ATTENTION ABA MEMBERS

If you are an ABA member but not a member of the Section of Environment, Energy, and Resources, your conference registration fee now includes Section membership, a $75 value! You will be automatically enrolled in the Section. ABA membership is a prerequisite of Section membership. If you are not already an ABA member, please call (800) 285-2221. Free Section membership only applies to individuals who have not been a member of the Section during the past two years.

### ACHIEVING CARBON NEUTRALITY

Calculated with great care, the Section estimates that the average 48th Spring Conference attendee's participation will generate approximately one metric ton of carbon emissions. Help offset your carbon footprint by adding the cost of a one-ton carbon credit from a verified offset project that will reduce greenhouse gases. Contributions to The Fund for Justice and Education (FJE) are tax deductible to the full extent allowed by law. Purchase your carbon offset when you register.

### CONFERENCE SPEAKER SUPPORT

The Section strives to provide programming representing a unique depth of perspectives on all issues. We consistently work to include speakers on panels that represent tribal interests, nongovernmental organizations, and academia. To assist these speakers with the expense of attending conferences, the Section offers a limited number of travel reimbursements. To ensure that the Section can continue to offer travel assistance to such speakers,y please consider donating to our Program Support Fund. Donations are tax deductible to the full extent allowed by law. Make your donation of $25 (or more) when you register.

### EARLY BIRD DEADLINE

The deadline to receive the early bird registration rate for the 48th Spring Conference is **Monday, February 11, 2019**. The final cutoff date for advance registration is **Monday, March 4, 2019**. After this date, registrations must include an additional $25 for processing.

### CANCELLATION POLICY

Registrants who are unable to attend the conference will receive a refund less a $50 administrative fee if written notice of cancellation is received by Monday, March 4, 2019. No refunds will be granted after this date. Cancellations may be e-mailed to environ@americanbar.org or faxed to (312) 988–5572, Attn.: Program Assistant. Registration fees are not transferable to other Section or ABA programs. Substitutions for the program are acceptable. The ABA reserves the right to cancel any program and assumes no responsibility for personal expense.

### TUITION ASSISTANCE

A limited number of registration fee waivers are available for government employees, public interest lawyers employed with nonprofit organizations, and academics. For programs with tuition costs over $500, qualifying lawyers will receive at least a 50 percent reduction in the course fee(s). To apply, complete the online application by visiting **https://bit.ly/48SpringTuitionWaiver** by **Monday, February 4, 2019.**

### LAW STUDENT SCHOLARSHIP OPPORTUNITY

A limited number of scholarships are available to law students interested in attending the entire conference and helping ensure our conference runs smoothly. To be considered, you must be a member of the ABA Section of Environment, Energy, and Resources. Your application and resume must be submitted by **Monday, February 4, 2019** to be considered. ***This scholarship does not include lodging or transportation.***

Visit **https://bit.ly/48SpringLawStudentScholar** for additional meeting information. Questions? Contact environ@americanbar.org.

### CONFERENCE COURSE MATERIALS

Course materials and related background information will be provided to attendees online prior to the conference. You may wish to bring a device to view the materials on-site; complimentary Wi-Fi access will be available.

### CLE CREDIT

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, contact Yujin Maeng at yujin.maeng@americanbar.org.

### DRESS

Section conferences are business casual. Suggested dress includes slacks, skirts, polo-type shirts or blouses, sweaters, and comfortable shoes. The hotel will be cool, so please pack a jacket or sweater.

### DIETARY RESTRICTIONS

If you have any dietary restrictions, please indicate so during registration or by email environ@americanbar.org by Monday, March 4, 2019, so that your needs are noted.

### AMERICANS WITH DISABILITIES ACT

If any special arrangements are required for a person with a disability to attend this conference, please call Allison Read at (312) 988–5641 by Monday, March 4, 2019. Questions? Contact environ@americanbar.org.



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Section of Environment, Energy, and Resources
AMERICAN BAR ASSOCIATION
321 N. CLARK ST.
CHICAGO, IL 60654

# 48TH Spring Conference

# DENVER

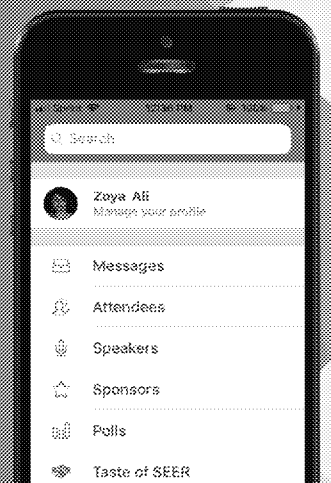
COLORADO

## March 27-29, 2019

SHERI KYAN DENVER

**EARLY BIRD REGISTRATION DEADLINE**
**Monday, February 11th, 2019**

**HOUSING DEADLINE**
**Monday, March 4th, 2019**




## DOWNLOAD THE APP

Visit **http://ambar.org/environapp** or search SEER ABA in the App store or Google Play

Manage your schedule. Engage with other attendees. Grow your network!

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