

New York State Bar Association
Environmental and Energy Law Section
Executive Committee Annual Meeting Agenda
January 25, 2018

1. Introductions (K. Bernstein)
2. Approval of Minutes for Fall Executive Committee Meeting (N. Ward-Willis)
3. Financial Report (H. Tollin)
4. Membership (R. Stout)
5. 2018 Programs (J. Rigano)
 - Legislative Forum
 - Oil Spill Symposium
 - Environmental Overview
6. FFEP Task Force Report (Freeman/Healey/Port)
7. Social Media (M. Colligan)
8. New York Environmental Lawyer (M. Villani)
9. Minority Fellowship (V. Robbins)
10. Committee Manual Revisions (V. Robbins)
11. Committee Reports
 - Corporate Counsel
 - Environmental Transactions Committee
 - Petroleum Spills Committee
 - Environmental Insurance
12. Renewed Involvement of DEC
 - Meeting with DEC General Counsel
 - Commissioner Participation in Programs
 - DEC Updates
 - AG Updates (A. Gershon)
13. New Business
14. Motion to Adjourn

NYSBA

MINUTES OF THE OCTOBER 22, 2017 EXECUTIVE COMMITTEE MEETING OF THE NYSBA ENVIRONMENTAL AND ENERGY LAW SECTION

A meeting of the NYSBA Environmental and Energy Law Section Executive Committee was convened on October 22, 2017 at the Section's Fall Meeting in Saratoga, New York. A list of the meeting attendees is attached at the end of the Minutes.

1. Approval of Minutes

Kevin Bernstein ("KB") called the meeting to order, welcomed all and extended appreciation to the Co-Chairs and the speakers, Lisa Bataille and Lori Nicoll for all of their hard work in making the Fall meeting a wonderful event. Kevin also noted the attendance of the NYSBA's liaison to the Section, Sandra Rivera. The Minutes from the Executive Committee's May 3, 2017 meeting were unanimously approved.

2. Financial Report

Treasurer Howard Tollin provided an overview of the Section budget. Compared to year to date, net income over expenses was in the amount of \$10,257.31 as of October 1, 2017. Howard indicated there were 16 sponsors of the Fall meeting and the Section would be looking to increase upon that for the Annual Meeting. There was general discussion about providing more opportunities for sponsors at the Annual Meeting for networking on Thursday and Friday.

3. Membership Report

Rob Stout reported on behalf of the Membership Committee that membership remains stable at just under 1,000 members. He indicated the goal is to reach 1,000 by June 2018. The Committee will be focusing on retention as it noted there appear to be a fair number of members who drop off and do not renew their membership each year. Frank Piccinni and Rob are also reaching out to new members to welcome them to the Section and to connect them with a committee. There was then an extended discussion on focusing efforts on recruiting energy lawyers to emphasize the addition of energy to the Sections' title.

4. Section Scholarship

There was an extended discussion regarding how to increase outreach to law school students to encourage them to participate in the Section's Annual Essay Contest. Miriam Villani provided an overview of past outreach efforts and noted recruiting students would be more successful if there were individual liaisons to the law schools to promote the essay. After further discussion, it was agreed that the following individuals would be liaisons to the law schools to promote the students to participate in the essay contest: 1) NYU – Michael Bogin; 2) Pace – MacKenzie Shoonmaker; 3) St. John's – Miriam Villani; 4) Fordham – Eric; 5) Albany – Rob Stout; 6) Hofstra – Frank Piccinni and Howard Tollin; 7) University of Buffalo – Amy Kendall; 8) Syracuse – Ginnie Robbins; and 9) Brooklyn Law School – Nicholas Ward-Willis. It was agreed that Nick and Miriam will work in early 2018 to work with liaisons in promoting the essay contest.

5. Overview of Addition of Energy to the Section Title

Kevin provided an overview of the Sections' rebranding itself as the Environmental and Energy Law Section. Kevin noted there needs to be a marketing campaign addressed towards energy lawyers. There was a discussion about prior programs offered by the Section that focus on energy and that now lawyers looking to market themselves have a forum to further their strategy. It was noted the Section will continue its outreach to encourage energy lawyers to participate in the Section.

6. Future Federal Environmental Policy Task Force

David Freeman provided an overview of the group's membership and its activities. David noted that the task force convenes via conference call once a month and reviews policies as they are rolled out. It was noted the letter to President Trump drafted by the Task Force on behalf of the Section concerning the Paris Treaty was the first time the NYSBA has sent a letter to the President and therefore it had to be sent by the Bar President and not the Section Chair. It was discussed the letter should be circulated to Section members and posted in the State Bar magazine. There was discussion of the benefits to the Section from establishing liaisons with the AG Office, the EPA Administrator and the correctional delegation regarding changes to Federal Environmental and Energy Laws. The goal is to find out what is being developed and the best way to convey comments. There was a general recognition the Task Force should be highlighted by the membership committee to attract young lawyers and that membership is open to anyone interested in the task force, who should contact David Freeman. Kevin noted the Task Force is currently working on comments on the proposed Clean Power Plant Act repeal. The Task Force will make recommendations to the Section on how best to respond.

7. House of Delegates Report

Linda Shaw and Sandra Rivera provided a report to the group and referenced Linda's letter report previously circulated to the Executive Committee. Linda noted the Section's letter to President Trump was a first for the State Bar. Linda noted the main support of the Constitutional Convention was due to the need for criminal justice reforms. It was noted there was overwhelming support for calling the constitutional convention. It was also reported the Marijuana Committee has been formed. Sandra Rivera noted the NYSBA President is committed to working with the EELS with respect to concerns about federal environmental law. The Sections' climate change report was unanimously approved and the NYSBA Executive Committee will be meeting on November 23rd and the House of Delegates meet on November 4th.

8. Committees

Kevin noted he would be continuing the tradition started by Larry at the last Annual Meeting of Committees providing an annual report to the Executive Committee. There would also be time set aside at the Annual Meeting for committees to meet and hopefully, attract new members.

9. Committee Manual Update

Ginny Robbins provided an overview of the focus of updating the committee manuals which were last updated in 2008 and welcomed comments from Committee Chairs and Executive Committee members to be emailed to her at vrobbs@bsk.com. The intent is to have the Committee Manual revised by January to be discussed at the Executive Committee meeting at the Annual Meeting.

10. Social Media Task Force

Kevin read the Committee's report and noted the Twitter handle has been created for the Section and a unique one would be created for each Section event. The goal is to have live tweets from the Section events and there were a fair number of tweets during the Fall meeting. It was noted the intent of the tweets are to be informative and not advocacy. Kevin also noted the Social Media Task Force will be provided with time at the Annual program to explain the Section's social media outreach and how members can effectively participate.

11. 2018 Annual Meeting

Kevin provided an overview of the meeting and Howard noted the structure change with having a lunch being held off-site on Friday and having the Executive Committee meeting

and committee meetings on Thursday afternoon before the EPA update and the Business Section meeting. It was noted the cost of holding the Friday lunch off-site would be a reduction of approximately \$50.00. Amy Reichart provided an overview of the draft agenda for the Annual Meeting and Howard encouraged all to participate in recruiting sponsors for the Annual Meeting.

12. 2018 Fall Meeting

Marla provided an overview of the location for the Fall Meeting at the Emerson Resort and Spa at Mt. Tremper in the Catskills from October 19 – October 21, 2018. She noted the facility is child and pet friendly with trails and attractions for the family. Marla encouraged any members who have suggestions for the program, events or speakers to contact her.

13. NYCELLI Funding

Walter Mugdan provided an overview of the New York City Environmental Law Leadership Institute and noted there are approximately 164 alumni from the Institute's training with 23 being from the Section. A motion was made for the Section to provide a grant to the Institute in the amount of \$1,500.00, motion made by Walter Mugdan and seconded by Howard Tollin with all in favor.

14. Expense Reimbursement for Speakers

Kevin noted that Lisa will circulate the current policy to the Cabinet but that Kevin wanted thoughts as to reimbursement request for speakers. It was agreed that there needs to be guidelines and that the fee should not be waived for Section members as members are expected to participate and give back to the Section. It was noted the Cabinet should have the discretion to decide on reimbursements to non-Section member speakers on a case by case basis.

15. Report of the Task Force on Environmental Aspects of the NYS Constitution

Rosemary Nichols provided the Task Force report and noted the report will be published in the Section Journal and the Pace Environmental Law Review.

There being no further business, the meeting was adjourned.

ATTENDEES

Kevin Bernstein
Marla Wieder
Howard Tollin
Nicholas Ward-Willis
Susan Amron
Lisa Bataille
Michael Bogin
Claudia Braymer
Jerry Cavaluzzi
David Freeman
Alita Giuda
Bob Glennon (observer only)
John Greenthal
Kevin Healy
Amy Kendall
Alan Knauf
Walter Mugdan
Donna Mussio
Rosemary Nichols
David Quest
Amy Reichhart
Sandra Rivera
Mackenzie Schoonmaker
Adam Schultz
Linda Shaw
Keith Silliman
Rob Stout
Melissa Valle
Miriam Villani

New York State Bar Association
Environmental Law Section
For the Eleven Months Ending Thursday, November 30, 2017

	2017 Budget	November	2017 Year To Date	Percent	2016 Budget	2016 Year To Date	Percent	2015 Year To Date	2014 Year To Date	2013 Year To Date
Income										
Dues	\$30,000.00		\$28,656.25	95.52%	\$32,000.00	\$29,287.50	91.52%	\$31,440.42	\$32,353.75	\$33,772.92
Meetings	35,000.00		39,284.50	112.24%	33,000.00	37,700.00	114.52%	53,722.00	28,801.00	32,222.78
Sponsorship	8,000.00		27,800.00	347.50%	10,000.00	7,100.00	71.00%	7,800.00	8,200.00	10,400.00
Newsletters	200.00	370.00	740.00	370.00%	1,000.00	330.00	33.00%	555.00	720.00	720.00
Publications				0.00%			0.00%	25.00	30.00	
Prior Years Surplus Used	5,100.00			0.00%	3,500.00		0.00%			
Total Income	78,300.00	370.00	96,480.75	123.22%	79,500.00	74,507.50	93.72%	93,542.42	70,104.75	77,115.70
Expenses										
Postage & Shipping	2,000.00		1,332.79	66.64%	1,500.00	1,335.70	89.05%	2,632.94	1,268.18	1,912.11
Awards & Grants	3,500.00	20.58	2,442.26	69.78%	3,500.00	4,175.53	119.30%	3,630.70	9,354.90	6,864.25
Diversity	6,000.00			0.00%	6,000.00		0.00%	6,000.00		3,000.00
Membership Initiative	2,500.00			0.00%			0.00%			
Meeting Rooms				0.00%			0.00%			158.82
Catering & Banquets	35,000.00		38,233.79	109.24%	40,000.00	20,987.01	52.49%	28,961.82	16,342.32	46,407.93
Beverage Service & Receptions	12,000.00		9,402.36	78.35%	10,000.00	5,963.95	59.64%	10,291.79	9,162.57	7,376.21
Speaker & Guest Expense	1,500.00		380.30	24.02%	1,500.00	2,167.90	144.53%	1,515.15	1,515.15	538.83
Audio/Visual Expense	5,000.00		5,281.45	105.63%	5,000.00	6,865.12	137.30%	4,125.51	4,384.52	2,076.95
Activities & Entertainment				0.00%	500.00	500.00	100.00%			
Gratuities	300.00		10.00	3.33%	300.00	1,449.46	483.15%		160.00	
Section Executive Committee Meetings	2,500.00	23.39	3,264.06	130.56%	1,500.00	1,238.34	82.56%	2,585.89	501.33	306.47
Officers Expense	500.00	4.52	165.75	33.15%	1,000.00	868.43	86.84%	1,048.88	118.75	1,772.82
Miscellaneous Meeting and Program Costs	2,000.00	6.23	9,412.34	470.62%	1,000.00	6,118.26	611.83%	1,241.77	1,100.00	1,364.90
Section Subcommittee Meetings	500.00		274.67	54.93%	1,000.00	74.18	7.42%	213.80	419.20	90.04
Newsletters	3,000.00	2,902.67	6,751.99	225.07%	5,500.00	10,184.75	185.18%	2,690.01	5,105.01	2,461.78
Graphic Department Allocations	2,000.00		1,548.69	77.43%	1,200.00	1,671.45	139.29%	1,680.10	959.33	1,329.77
Total Expenses	78,300.00	2,957.39	76,480.45	100.23%	79,500.00	63,610.08	80.01%	64,159.21	50,401.26	75,360.88
Net Income over Expense		(2,587.39)	18,000.30	0.00%		10,897.42	0.00%	29,383.21	19,703.49	1,754.82

Accumulated Surplus (Deficit) 86,974

2018 Budget Worksheet

Section Name: **Environmental & Energy Law Section**

Account Name: **2018 Proposed Budget**

Dues:	29,450.
Meetings:	35,000.
Newsletters:	350.
Sponsorship:	20,000.
Total Income:	\$84,800.

Postage and Shipping:	1500.
Awards & Grants:	3500.
Diversity	3500.
Membership Initiatives:	1500.
Catering/Banquets:	35000.
Beverage Service/Receptions:	12000.
Speaker/Guest Expenses:	1500.
Audio/Visual:	7500.
Activities & Entertainment:	1000.
Gratuities:	300.
Section Exec Committee Mtgs.	2500.
Section Subcommittee Mtgs.	500.
Officer's Expense:	1000.
Mtg. & Program Costs:	7000.
Newsletters:	5000.
Graphics Allocations:	1500.
Total Expenses:	<u>\$84,800.</u>

NYSBA Section Profile Report for Environmental Law Section

Total Members: 1,005

			Valid	
			Count	Percent
			Count	Percent
A) Gender				
F	291	28.96%	31.63%	
M	629	62.59%	68.37%	
X (no data)	85	8.46%		
	1,005	100.00%	100.00%	
B) Practice Setting				
Government	8	0.80%	1.07%	
Government - Federal	14	1.39%	1.88%	
Government - Municipal	21	2.09%	2.82%	
Government - State	31	3.08%	4.16%	
In-House Counsel	56	5.57%	7.52%	
Judiciary	3	0.30%	0.40%	
Law School - Faculty	11	1.09%	1.48%	
Law School - Student	3	0.30%	0.40%	
Legal Aid	3	0.30%	0.40%	
Non-Law Related	14	1.39%	1.88%	
Non-Profit	21	2.09%	2.82%	
Other	16	1.59%	2.15%	
Part-Time Attorney	5	0.50%	0.67%	
Private Practice	512	50.95%	68.72%	
Public Interest	4	0.40%	0.54%	
Retired	9	0.90%	1.21%	
Trade/Professional Association	6	0.60%	0.81%	
Unemployed	8	0.80%	1.07%	
X (no data)	260	25.87%		
	1,005	100.00%	100.00%	
C) Office Size				
Fifty to 99	87	8.66%	12.17%	
One Hundred and greater	184	18.31%	25.73%	
Six to Nine	51	5.07%	7.13%	
Solo Practitioner	108	10.75%	15.10%	
Ten to Nineteen	76	7.56%	10.63%	
Twenty to 49	100	9.95%	13.99%	
Two to Five	109	10.85%	15.24%	
X (no data)	290	28.86%		
	1,005	100.00%	100.00%	
D) Position				
Academic	14	1.39%	2.12%	
Administrative Law Judge/Hearing Officer	2	0.20%	0.30%	
Associate	96	9.55%	14.52%	
Court Personnel	1	0.10%	0.15%	
E) Age				
24 and Under	37	3.68%	3.91%	
25 to 35	167	16.62%	17.63%	
36 to 45	126	12.54%	13.31%	
46 to 55	170	16.92%	17.95%	
56 to 65	264	26.27%	27.88%	
66 and Over	183	18.21%	19.32%	
X (no data)	58	5.77%		
	1,005	100.00%	100.00%	
F) Race/Ethnic Group				
Asian/Pacific Islander	10	1.00%	1.72%	
Black/African American	7	0.70%	1.20%	
Decline to Answer	42	4.18%	7.22%	
Hispanic	12	1.19%	2.06%	
Multiple Race/Ethnic Group	2	0.20%	0.34%	
Other	1	0.10%	0.17%	
White/Caucasian	508	50.55%	87.29%	
X (no data)	423	42.09%		
	1,005	100.00%	100.00%	
G) Who Paid For Membership Dues				
Collectively by Firm and Member	25	2.49%	4.31%	
Fully by Firm or School or Organization	308	30.65%	53.10%	
Member	242	24.08%	41.72%	
No Dues Paid	5	0.50%	0.86%	
X (no data)	425	42.29%		
	1,005	100.00%	100.00%	
H) Number of Years Admitted to Bar				
0 (Less than 1)	15	1.49%	1.49%	
1 to 3	85	8.46%	8.46%	
4 to 5	38	3.78%	3.78%	

		Valid	
		Count	Percent
6 to 7	36	3.58%	3.58%
8 to 14	104	10.35%	10.35%
15 to 19	71	7.06%	7.06%
20+	550	54.73%	54.73%
No Admit Date	106	10.55%	10.55%
X (no data)	106	10.55%	10.55%
	1,111	110.55%	100.00%
I) Disability			
Decline to Answer	89	8.86%	15.40%
No	478	47.56%	82.70%
X (no data)	427	42.49%	
Yes	11	1.09%	1.90%
	1,005	100.00%	100.00%
J) Sexual Orientation			
Decline to Answer	61	6.07%	14.32%
Heterosexual	356	35.42%	83.57%
Lesbian/Gay/Bisexual	1	0.10%	0.23%
Lesbian/Gay/Bisexual/Transgender	8	0.80%	1.88%
X (no data)	579	57.61%	
	1,005	100.00%	100.00%
K) Dues Billing Category			
a) NY Admitted 8 Plus Years	567	56.42%	56.42%
b) NY Admitted 6-7 Years	30	2.99%	2.99%
c) NY Admitted 4-5 Years	25	2.49%	2.49%
d) NY Admitted 2-3 Years	48	4.78%	4.78%
e) NY Newly Admitted	24	2.39%	2.39%
f) NY Sustaining	16	1.59%	1.59%
g) OOS Admitted 8 Plus Years	102	10.15%	10.15%
h) OOS Admitted 6-7 Years	6	0.60%	0.60%
i) OOS Admitted 4-5 Years	9	0.90%	0.90%
j) OOS Admitted 2-3 Years	17	1.69%	1.69%
k) OOS Newly Admitted	13	1.29%	1.29%
l) OOS Sustaining	5	0.50%	0.50%
n) Complimentary	23	2.29%	2.29%
o) Law Student	64	6.37%	6.37%
p) Over 70, 25 yr Member	11	1.09%	1.09%
z) Mis-Marked	45	4.48%	4.48%
	1,005	100.00%	100.00%
L) New Section Members (This Month)			
a) NY Admitted 8 Plus Years	1	0.10%	10.00%
b) NY Admitted 6-7 Years	1	0.10%	10.00%
d) NY Admitted 2-3 Years	1	0.10%	10.00%
e) NY Newly Admitted	2	0.20%	20.00%
g) OOS Admitted 8 Plus Years	2	0.20%	20.00%
k) OOS Newly Admitted	2	0.20%	20.00%

		Valid	
		Count	Percent
p) Over 70, 25 yr Member	1	0.10%	10.00%
	10	1.00%	100.00%
M) Judicial District			
01	181	18.01%	18.01%
02	24	2.39%	2.39%
03	152	15.12%	15.12%
04	31	3.08%	3.08%
05	61	6.07%	6.07%
06	22	2.19%	2.19%
07	51	5.07%	5.07%
08	57	5.67%	5.67%
09	145	14.43%	14.43%
10	95	9.45%	9.45%
11	14	1.39%	1.39%
12	3	0.30%	0.30%
13	3	0.30%	0.30%
99	166	16.52%	16.52%
	1,005	100.00%	100.00%
N) Sections			
Antitrust Law Section	26	2.59%	0.99%
Business Law Section	87	8.66%	3.32%
Commercial & Federal Litigation Section	59	5.87%	2.25%
Corporate Counsel Section	50	4.98%	1.91%
Criminal Justice Section	33	3.28%	1.26%
Dispute Resolution Section	55	5.47%	2.10%
Elder Law and Special Needs Section	45	4.48%	1.72%
Entertainment, Arts and Sports Law Section	31	3.08%	1.18%
Environmental Law Section	1,005	100.00%	38.39%
Family Law Section	33	3.28%	1.26%
Food, Drug & Cosmetic Law Section	36	3.58%	1.38%
General Practice Section	57	5.67%	2.18%
Health Law Section	36	3.58%	1.38%
Intellectual Property Law Section	37	3.68%	1.41%
International Section	64	6.37%	2.44%
Judicial (Courts of Record) Section	27	2.69%	1.03%
Labor and Employment Law Section	47	4.68%	1.80%
Local and State Government Law Section	219	21.79%	8.37%
Real Property Law Section	193	19.20%	7.37%
Senior Lawyers Section	95	9.45%	3.63%
Tax Section	34	3.38%	1.30%
Torts, Insurance & Compensation Law Sectic	64	6.37%	2.44%
Trial Lawyers Section	56	5.57%	2.14%
Trusts and Estates Law Section	49	4.88%	1.87%
Young Lawyers Section	180	17.91%	6.88%
	2,618	260.50%	100.00%

	Valid		
	Count	Percent	Percent
O) Member/Non-Member			
Member	1,005	100.00%	100.00%
	1,005	100.00%	100.00%
P) State, City (Top 25)			
*Non-US			
DC, Washington	15	1.49%	2.41%
NJ, Englewood Cliffs	20	1.99%	3.21%
NJ, Florham Park	5	0.50%	0.80%
NJ, Morristown	4	0.40%	0.64%
NJ, Newark	8	0.80%	1.28%
NY, Albany	6	0.60%	0.96%
NY, Binghamton	111	11.04%	17.82%
NY, Brooklyn	5	0.50%	0.80%
NY, Buffalo	24	2.39%	3.85%
NY, Buffalo	42	4.18%	6.74%
NY, Delmar	5	0.50%	0.80%
NY, Garden City	9	0.90%	1.44%
NY, Glens Falls	6	0.60%	0.96%
NY, Ithaca	6	0.60%	0.96%
NY, Melville	5	0.50%	0.80%
NY, New City	5	0.50%	0.80%
NY, New York	181	18.01%	29.05%
NY, Poughkeepsie	8	0.80%	1.28%
NY, Rochester	41	4.08%	6.58%
NY, Rockville Centre	5	0.50%	0.80%
NY, Saratoga Springs	6	0.60%	0.96%
NY, Syracuse	44	4.38%	7.06%
NY, Tarrytown	6	0.60%	0.96%
NY, Uniondale	11	1.09%	1.77%
NY, White Plains	45	4.48%	7.22%
	623	61.99%	100.00%
Q) New Members (based on Join Date)			
01-January	5	0.50%	7.14%
02-February	7	0.70%	10.00%
04-April	4	0.40%	5.71%
05-May	3	0.30%	4.29%
06-June	2	0.20%	2.86%
07-July	1	0.10%	1.43%
08-August	8	0.80%	11.43%
09-September	5	0.50%	7.14%
10-October	23	2.29%	32.86%
11-November	10	1.00%	14.29%
12-December	2	0.20%	2.86%
=	70	6.97%	100.00%
R) NY Law Schools			
Albany Law School	87	8.66%	14.92%

	Valid		
	Count	Percent	Percent
Brooklyn Law School	25	2.49%	4.29%
Columbia University	33	3.28%	5.66%
Cornell University	24	2.39%	4.12%
CUNY - City University of New York	9	0.90%	1.54%
Fordham University	29	2.89%	4.97%
Hofstra University	32	3.18%	5.49%
New York Law School	24	2.39%	4.12%
New York University	34	3.38%	5.83%
Pace University	114	11.34%	19.55%
St. Johns University	27	2.69%	4.63%
SUNY at Buffalo	64	6.37%	10.98%
Syracuse University	50	4.98%	8.58%
Touro College	12	1.19%	2.06%
Yeshiva University - Benjamin N. Cardozo S	19	1.89%	3.26%
	583	58.01%	100.00%

S) Non-NY Law Schools (Top 25)			
American University	4	0.40%	1.96%
Boston College	3	0.30%	1.47%
Boston University	7	0.70%	3.43%
California, University of - Los Angeles	2	0.20%	0.98%
Catholic University of America	5	0.50%	2.45%
Chicago, University of	3	0.30%	1.47%
Duke University	3	0.30%	1.47%
Foreign (outside of United States)	6	0.60%	2.94%
Franklin Pierce Law Center	3	0.30%	1.47%
George Washington University	6	0.60%	2.94%
Georgetown University	11	1.09%	5.39%
Harvard University	20	1.99%	9.80%
Michigan, University of	4	0.40%	1.96%
Northeastern University	4	0.40%	1.96%
Out Of State	38	3.78%	18.63%
Pennsylvania, University of	5	0.50%	2.45%
Rutgers University - Camden	5	0.50%	2.45%
Rutgers University - Newark	12	1.19%	5.88%
Seton Hall University	5	0.50%	2.45%
Vermont Law School	36	3.58%	17.65%
Villanova University	3	0.30%	1.47%
Virginia, University of	9	0.90%	4.41%
Western New England	3	0.30%	1.47%
X (no data)	141	14.03%	3.43%
Yale University	7	0.70%	3.43%
	345	34.33%	100.00%

Z) Areas of Concentration			
Administrative Law	220	21.89%	
Agriculture	31	3.08%	
Antitrust and Trade	13	1.29%	

	Valid			Valid	
	Count	Percent		Count	Percent
Appellate Law	90	8.96%			
Arbitration/Mediation	48	4.78%	Transportation	21	2.09%
Banking	25	2.49%	Trust and Estates Law	69	6.87%
Bankruptcy/Insolvency	18	1.79%	Workers Compensation	9	0.90%
Business Law	96	9.55%	Zoning, Planning And Land Use	281	27.96%
Civil Rights	42	4.18%		3,629	361.09%
Commercial Litigation	116	11.54%			100.00%
Communication	7	0.70%			
Computer Law	7	0.70%			
Construction	85	8.46%			
Contracts	98	9.75%			
Corporate Law	101	10.05%			
Creditors' Rights and Collections	6	0.60%			
Criminal Law	37	3.68%			
Derivatives and Structured Products	2	0.20%			
Elder Law	27	2.69%			
Employee Benefits	11	1.09%			
Entertainment, Arts and Sports	12	1.19%			
Environmental Law	593	59.00%			
Ethics	14	1.39%			
Family Law	32	3.18%			
Finance and Securities	25	2.49%			
Food, Drug & Cosmetics	22	2.19%			
Franchise Law	6	0.60%			
General Practice	93	9.25%			
Government	118	11.74%			
Health Law	26	2.59%			
Immigration Law	21	2.09%			
Insurance	66	6.57%			
Intellectual Property and Copyrights	33	3.28%			
International Law	36	3.58%			
Labor and Employment Law	49	4.88%			
Law Office Economics and Management	16	1.59%			
Leases And Leasing	48	4.78%			
Libel	7	0.70%			
Litigation - General Civil	196	19.50%			
Medical Malpractice	18	1.79%			
Municipal Law	201	20.00%			
Personal or Property Injury	62	6.17%			
Product Liability	64	6.37%			
Professional Liability	13	1.29%			
Public Contract	35	3.48%			
Public Utility	74	7.36%			
Real Property Law	250	24.88%			
Social Security Law	7	0.70%			
Tax - Corporate Business	21	2.09%			
Tax - Personal	11	1.09%			

New York State Bar Association: Section Admission Year Comparison

12/31/2017

Section	Admitted 10 years or more		Admitted less than 10 years		Students	
	Count	Percent	Count	Percent	Count	Percent
Antitrust Law Section	337	63.95%	129	24.48%	61	11.57%
Business Law Section	2,529	70.48%	719	20.04%	340	9.48%
Corporate Counsel Section	971	60.73%	415	25.95%	213	13.32%
Criminal Justice Section	892	54.42%	255	15.56%	492	30.02%
Dispute Resolution Section	1,309	83.54%	164	10.47%	94	6.00%
Entertainment, Arts and Sports Law Section	769	50.83%	437	28.88%	307	20.29%
Elder Law Section	2,205	82.96%	405	15.24%	48	1.81%
Environmental Law Section	698	69.45%	203	20.20%	104	10.35%
Family Law Section	1,863	73.81%	469	18.58%	192	7.61%
Commercial & Federal Litigation Section	1,548	77.01%	372	18.51%	90	4.48%
Food, Drug & Cosmetic Law Section	183	68.28%	57	21.27%	28	10.45%
General Practice Section	1,469	68.87%	485	22.74%	179	8.39%
Health Law Section	945	70.42%	287	21.39%	110	8.20%
International Section	1,058	60.35%	414	23.62%	281	16.03%
Intellectual Property Law Section	958	60.75%	419	26.57%	200	12.68%
Judicial (Courts of Record) Section	433	97.96%	9	2.04%	0	0.00%
Labor and Employment Law Section	1,564	74.90%	439	21.02%	85	4.07%
Municipal Law Section	907	80.77%	167	14.87%	49	4.36%
Real Property Law Section	3,310	76.13%	852	19.60%	186	4.28%
Senior Lawyers Section	3,214	97.31%	84	2.54%	5	0.15%
Tax Section	1,621	73.32%	524	23.70%	66	2.99%
TICL Section	1,777	83.39%	301	14.12%	53	2.49%
Trial Lawyers Section	1,527	79.41%	296	15.39%	100	5.20%
Trusts and Estates Law Section	3,646	82.45%	708	16.01%	68	1.54%
Young Lawyers Section	136	1.12%	3,359	27.71%	8,629	71.17%
	35,869		11,969		11,980	

	ANTI	BUS	CORP	CRIM	DRS	EASL	ELD	ENVI	FAM	FED	FOOD	GEN	HLS	ILP	IPS	JUD	LABR	MUNI	REAL	SLS	TAX	TICL	TRIA	TRUS	YOUN
ANTI	0	82	51	29	34	42	25	26	26	99	33	32	38	78	65	23	36	25	26	49	24	32	49	24	105
	82	0	494	64	177	148	144	87	84	272	44	293	141	364	173	33	165	112	559	333	208	79	120	275	586
BUS	51	494	0	34	86	122	57	50	40	95	63	127	132	165	146	26	166	57	168	114	79	83	54	61	333
	29	64	34	0	52	45	73	33	184	99	25	123	46	60	37	80	64	70	110	102	34	96	151	79	612
CORP	29	64	34	0	52	45	73	33	184	99	25	123	46	60	37	80	64	70	110	102	34	96	151	79	612
	34	177	86	52	0	65	87	55	121	303	26	106	55	204	77	43	264	65	101	158	47	141	155	84	427
CRIM	42	148	122	45	65	0	53	31	41	83	40	99	33	101	330	24	77	35	88	74	50	42	46	84	427
	25	144	57	73	87	53	0	45	184	45	25	352	142	46	46	43	67	108	449	394	198	78	90	1,734	147
ENVI	26	87	50	33	55	31	45	0	33	59	36	57	36	64	37	27	47	219	193	95	34	64	56	49	180
	26	84	40	184	121	41	184	33	0	71	24	239	42	50	39	75	58	64	181	187	52	82	132	231	334
FAM	99	272	95	99	303	83	45	59	71	0	40	115	67	129	125	50	174	61	124	190	42	162	288	94	260
	33	44	63	25	26	40	25	36	24	40	0	30	72	38	61	22	35	23	24	45	22	37	34	25	66
FOOD	32	293	127	123	106	99	352	57	239	115	30	0	87	81	92	38	132	135	493	262	80	172	177	415	368
	38	141	132	46	55	33	142	36	42	67	72	87	0	38	49	26	99	50	86	121	47	113	78	94	210
HLS	78	364	165	60	204	101	46	64	50	129	38	81	38	0	124	28	79	32	76	116	105	50	55	96	415
	65	173	146	37	77	330	46	37	39	125	61	92	49	124	0	27	79	34	72	117	43	43	69	54	320
IPS	23	33	26	80	43	24	43	27	75	50	22	38	26	28	27	0	28	46	39	47	24	48	46	48	22
	36	165	166	64	264	77	67	47	58	174	35	132	99	79	79	28	0	166	95	168	52	114	122	71	218
LABR	25	112	57	70	65	35	108	219	64	61	23	135	50	32	34	46	166	0	259	124	43	90	75	115	125
	26	559	168	110	101	88	449	193	181	124	24	493	86	76	72	39	95	259	0	441	152	119	141	775	449
REAL	49	333	114	102	158	74	394	95	187	190	45	262	121	116	117	47	168	124	441	0	184	285	231	488	30
	24	208	79	34	47	50	198	34	52	42	22	80	47	105	43	24	52	43	152	184	0	35	33	534	189
SLS	32	79	83	96	141	42	78	64	82	162	37	172	113	50	43	48	114	90	119	285	35	0	700	95	192
	49	120	54	151	155	46	90	56	132	288	34	177	78	55	69	46	122	75	141	231	33	700	0	109	250
TAX	24	275	61	79	116	84	1,734	49	231	94	25	415	94	96	54	48	71	115	775	488	534	95	109	0	236
	105	586	333	612	154	427	147	180	334	260	66	368	210	415	320	22	218	125	449	30	189	192	250	236	0
TICL	32	79	83	96	141	42	78	64	82	162	37	172	113	50	43	48	114	90	119	285	35	0	700	95	192
	49	120	54	151	155	46	90	56	132	288	34	177	78	55	69	46	122	75	141	231	33	700	0	109	250
TRIA	24	275	61	79	116	84	1,734	49	231	94	25	415	94	96	54	48	71	115	775	488	534	95	109	0	236
	105	586	333	612	154	427	147	180	334	260	66	368	210	415	320	22	218	125	449	30	189	192	250	236	0
TRUS	32	79	83	96	141	42	78	64	82	162	37	172	113	50	43	48	114	90	119	285	35	0	700	95	192
	49	120	54	151	155	46	90	56	132	288	34	177	78	55	69	46	122	75	141	231	33	700	0	109	250
YOUN	24	275	61	79	116	84	1,734	49	231	94	25	415	94	96	54	48	71	115	775	488	534	95	109	0	236
	105	586	333	612	154	427	147	180	334	260	66	368	210	415	320	22	218	125	449	30	189	192	250	236	0

NYSBA Section Membership by JD

12/31/2017

	<u>JD01</u>	<u>JD02</u>	<u>JD03</u>	<u>JD04</u>	<u>JD05</u>	<u>JD06</u>	<u>JD07</u>	<u>JD08</u>	<u>JD09</u>	<u>JD10</u>	<u>JD11</u>	<u>JD12</u>	<u>JD13</u>	<u>OOS</u>	<u>No JD</u>	<u>Total</u>
ANTI	248	22	28	1	5	9	5	4	18	22	7	2	3	153	0	527
BUS	1,117	105	169	52	88	79	116	155	242	335	87	16	17	1,010	0	3,588
CORP	366	57	84	27	36	28	42	49	124	156	55	12	11	552	0	1,599
CRIM	296	141	144	56	53	46	54	107	164	209	109	38	20	202	0	1,639
DRS	528	53	82	19	48	29	43	62	149	169	36	9	6	334	0	1,567
EASL	554	125	34	7	9	12	15	24	102	124	58	14	13	422	0	1,513
ELD	328	115	194	111	145	88	150	148	392	612	122	38	55	160	0	2,658
ENVI	181	24	152	31	61	22	51	57	145	95	14	3	3	166	0	1,005
FAM	527	113	183	103	100	84	135	149	394	388	116	34	32	166	0	2,524
FED	865	52	100	10	55	14	69	104	141	231	36	6	4	323	0	2,010
FOOD	72	7	19	1	1	0	2	13	17	26	5	1	2	102	0	268
GEN	343	111	155	80	97	64	103	119	289	322	124	36	31	259	0	2,133
HLS	239	50	201	38	53	24	43	89	108	230	32	16	13	206	0	1,342
ILP	508	61	30	7	8	32	13	42	53	55	51	7	5	881	0	1,753
IPS	548	73	64	13	24	20	27	35	99	105	43	6	10	510	0	1,577
JUD	73	37	57	29	28	8	15	33	57	60	11	15	12	7	0	442
LABR	590	69	196	54	101	39	76	115	177	286	40	11	3	330	1	2,088
MUNI	101	28	176	63	83	58	83	91	187	160	21	8	4	60	0	1,123
REAL	1,065	199	250	142	150	100	232	200	564	713	203	39	63	428	0	4,348
SLS	877	78	210	74	130	64	119	152	417	478	71	24	34	575	0	3,303
TAX	940	55	63	17	32	12	33	67	139	177	41	4	14	617	0	2,211
TICL	412	69	183	55	109	54	72	210	255	404	66	23	20	199	0	2,131
TRIA	411	49	178	54	94	62	79	164	203	305	50	25	18	231	0	1,923
TRUS	1,067	157	236	131	172	115	187	199	540	797	153	34	56	578	0	4,422
YOUNG	1,907	1,075	516	163	635	376	221	510	662	1,688	973	171	153	3,073	1	12,124

New Members of the Environmental Law Section for December 2017

<u>Name</u>	<u>Phone</u>	<u>Admit Date</u>	<u>Email</u>
<u>Judicial District: 01</u>			
Nicholas C. Ognibene Allen & Overy LLP 1221 Avenue of the Americas 22nd Floor New York, NY 10020 <i>Dues Billing Category: NY Newly Admitted</i>		01/19/2017	ncognibene@gmail.com
Walter Williamson, MD, JD Walter Williamson, M.D., J.D. 15 West 84th Street Penthouse D New York, NY 10024 <i>Dues Billing Category: Over 70, 25 yr Member</i>	2127875170	01/01/1974	walterwilliamson@rcn.com
<u>Judicial District: 02</u>			
Olena Maniliah 4406 3rd Ave Apt.2 Brooklyn, NY 11220 <i>Dues Billing Category: Undetermined</i>			malena1000987@gmail.com
<u>Judicial District: 03</u>			
Emily Perks Quinlan, Esq. Whiteman Osterman & Hanna LLP 1 Commerce Plaza Albany, NY 12260 <i>Dues Billing Category: NY Admitted 6-7 Years</i>	(518) 487-7675	01/31/2011	equinlan@woh.com
<u>Judicial District: 04</u>			
Michael A. Brandi 58 Phila Street Apt. 3 Saratoga Springs, NY 12866 <i>Dues Billing Category: NY Admitted 2-3 Years</i>	5187451400	01/22/2015	mbrandi2389@gmail.com
<u>Judicial District: 05</u>			
Amy G. Rhinehardt Bond Schoeneck & King PLLC 1 Lincoln Center 110 West Fayette Street Syracuse, NY 13202 <i>Dues Billing Category: NY Newly Admitted</i>	(315) 218-8000	01/11/2017	arhinehardt@bsk.com
<u>Judicial District: 09</u>			
Denise J. D'Ambrosio, Esq. 66 Greenridge Avenue White Plains, NY 10605-1618 <i>Dues Billing Category: NY Admitted 8 Plus Years</i>	(212) 841-0713	06/01/1980	denisedambrosiolaw@gmail.com

New Members of the Environmental Law Section for December 2017

<u>Name</u>	<u>Phone</u>	<u>Admit Date</u>	<u>Email</u>
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Judicial District: 10

Adam L. Browser, Esq.	(516) 663-6559	03/25/1992	abrowser@rmfpc.com
Ruskin Moscou Faltischek, PC 1425 RXR Plaza East Tower, 15th Floor Uniondale, NY 11556-1425			
<i>Dues Billing Category: Undetermined</i>			

Judicial District: 11

Ben Handy			g.handy17@stjohns.edu
172-27 Highland Avenue Apt. 1H Jamaica, NY 11432			
<i>Dues Billing Category: Undetermined</i>			

Judicial District: 99

Kristen Connolly McCullough	(202) 467-6370	01/25/2006	kc@dwgp.com
Duncan, Weinberg, Genzer & Pembroke, PC 1615 M Street, NW Suite 800 Washington, DC 20036			
<i>Dues Billing Category: OOS Admitted 8 Plus Years</i>			

Yuichi Kagami, Esq.	+81(0)3-6837-0783	03/01/2005	yuichi_kagami@hotmail.com
Takanawa 1-22-3-1201 Minato-ku Tokyo, 108-0074 JAPAN			
<i>Dues Billing Category: OOS Admitted 8 Plus Years</i>			

Peter R. Viola, Esq.	(202) 637-2304	01/19/2017	prviola@gmail.com
3921 8th Street NW Washington, DC 20011			
<i>Dues Billing Category: OOS Newly Admitted</i>			

Shengzhi Wang	(504) 810-9395	01/19/2017	shengzhi.wang.5@gmail.com
Beveridge & Diamond PC 1350 I St NW, Ste 700 Washington, DC 20005			
<i>Dues Billing Category: OOS Newly Admitted</i>			

Total New Members: 13

Basics of Environmental Law 2018

Buffalo – Thursday, April 12, 2018 – Classics V Banquet Center
2425 Niagara Falls Blvd., Amherst, NY 14228

NYC – Thursday, April 12, 2018 – CFA Society New York
1540 Broadway, Suite 1010, New York, NY 10036

Long Island – Thursday, April 19, 2018 – Melville Marriott
1350 Walt Whitman Road, Melville, NY 11747

Albany & Webcast – Thursday, April 19, 2018 – NY State Bar Association
One Elk Street, Albany, NY 12207

Program Description

This full-day seminar, presented in four locations throughout the state, is designed for practicing attorneys and newly admitted attorneys who would benefit from a fundamental overview of New York and federal environmental law. The seminar will provide practical information on the structure and procedures of the U.S. Environmental Protection Agency, the New York State Department of Environmental Conservation, and other state and federal environmental regulators. The seminar will focus on federal and state environmental quality review and various aspects of challenging agency action. It will provide practical information related to developing contaminated real estate and working with regulators to remediate hazardous waste sites. Attendees will leave the seminar with a solid understanding of the application of federal and New York State environmental laws and with strong practical skills related to the more commonly encountered aspects of those laws.

Program Chairs

James P. Rigano
Rigano LLC
Melville, NY

Genevieve Trigg
Whiteman Osterman & Hanna
Albany, NY

Agenda

8:30 – 9:00 a.m. Registration

9:00 – 11:00 a.m.	<p>Federal and State Programs</p> <p>Overview of State and Federal Environmental Statutes and Regulations</p> <ul style="list-style-type: none"> a. Hazardous Waste Site Cleanup: State Superfund and Brownfield Programs b. Oil Spills c. Tidal and Freshwater Wetlands d. Endangered Species Acts e. Solid Waste f. RCRA and Chemical Bulk Storage <p>Federal Environmental Programs</p> <ul style="list-style-type: none"> a. Comprehensive Environmental Response Compensation and Liability Act (CERCLA) b. RCRA c. Clean Water Act d. Toxic Substance Control Act
11:00 – 12:00 noon	Cost Recovery for Contaminated Property Redevelopment under Federal and State Law
12:00 noon – 1:00 p.m.	Lunch (on your own)
1:00 – 3:00 p.m.	<p>State and Federal Regulators</p> <p>State Environmental Regulators and Law Enforcement</p> <ul style="list-style-type: none"> a. Department of Environmental Conservation <ul style="list-style-type: none"> • Office of General Counsel (formerly Division of Legal Affairs and Environmental Enforcement) • Other Divisions and Programs • Office of Hearings and Mediation • Law Enforcement b. Department of Health c. Office of the Attorney General d. Department of State <p>Federal Environmental Regulators</p> <ul style="list-style-type: none"> a. EPA: Structure and Procedure; Federal Administrative Procedure Act; Federally Delegated State Programs and EPA Oversight b. United States Attorney c. Army Corps of Engineers: Clean Water Act and Wetlands Jurisdiction

- | | |
|------------------|--|
| 3:00 – 4:00 p.m. | <p>Challenging Final Agency Actions: Article 78 Proceedings and Citizen Suits</p> <ul style="list-style-type: none"> a. Strategies in Obtaining Information b. Statute of Limitations c. Standing d. Commencing the Action, Venue and Service of the Petition e. Causes of Action f. Answers, Objections in Point of Law/Defenses, and Return Documents g. Standard of Review h. Substantial Evidence and Transfer Cases |
| 4:00 – 5:00 p.m. | <p>Completing a Successful Transaction Involving Contaminated Property</p> |



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

JAN 02 2018

Mr. Ronald F. Kennedy, Director
Department of Governmental Relations
One Elk Street
Albany, New York 12207

Dear Mr. Kennedy:

Thank you for your letter, dated November 3, 2017, to the U.S. Environmental Protection Agency (EPA) Administrator, in which you shared a copy of a letter from Sharon Stern Gerstman, President of the New York Bar Association to President Donald J. Trump. Your e-mail has been referred to my office for response.

In your thoughtful letter, you expressed the Association's objection to have the United States withdraw from the Paris Agreement, and also noted the recent report, *Taking Action on Climate Change in New York: 2017 Update Report*.

On August 15, 2017, the Administrator sent letters to Representatives Donald S. Beyer Jr. and Alan Lowenthal regarding the Administration's actions on the Paris Agreement and climate change. In these letters he noted the decision of the Administration to exit from the Paris Agreement was based on its determination that the Agreement put our country at a disadvantage economically. However, the Administration is considering whether to reengage on the Agreement on more favorable terms or potentially begin negotiations on a new agreement. We are hopeful that this process will result in a beneficial outcome that can focus on protecting the public health and environment of our country.

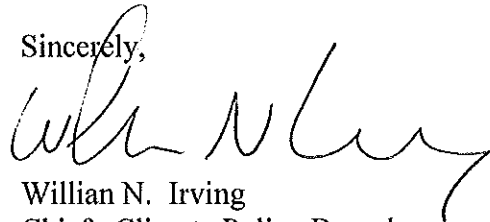
The Administrator also noted that the withdrawal from the Paris Agreement does not mean that we will stop taking action to reduce greenhouse gas emissions. The EPA's latest annual greenhouse gas inventory shows that U.S. net total greenhouse gas emissions have decreased by 11.5 percent since 2005 levels¹. We will continue to take action as we focus on using innovative technologies to keep emissions low in all areas while growing the economy.

If you are interested in learning more about how the EPA's programs protect human health and the environment, please visit our website at <https://www.epa.gov/>.

Thank you again for your letter. We appreciate your comments and concerns.

¹ https://www.epa.gov/sites/production/files/2017-02/documents/2017_complete_report.pdf
Internet Address (URL) • <http://www.epa.gov>

Sincerely,

A handwritten signature in black ink, appearing to read 'William N. Irving', written in a cursive style.

William N. Irving
Chief, Climate Policy Branch
Climate Change Division

State Bar objects to Paris Agreement withdrawal



Gerstman

Citing climate change as "an outright crisis," State Bar President Sharon Stern Gerstman recently wrote to U.S. President Donald Trump to express the Association's objection to his decision to withdraw the United States from the Paris Agreement.

The letter is in its entirety, below:

Dear President Trump:

I am writing on behalf of the New York State Bar Association to register the Association's objection to your decision to have the United States withdraw from the Paris Agreement. The Association's membership of 72,000 attorneys includes approximately 1,000 attorneys in our

Environmental & Energy Law Section practicing in the public and private sector, who have devoted their careers to the field of environmental law. We are acutely aware that climate change has evolved from an issue that initially merited further study to an outright crisis demanding prompt and effective action.

We have examined carefully the facts and circumstances set forth in the endangerment finding on greenhouse gas emissions issued by the Environmental Protection Agency. It makes a clear and compelling case for national action on climate change. The symptoms of climate change predicted by scientists—in the form of prolonged droughts, extraordinary heat waves and storm events, wildfires, widespread retreat of glaciers and arctic ice cover, range shifts of plants, animals and insects, ocean acidification, and readily measurable sea level rise—are now unmistakable.

Significantly, numerous studies warn of the devastating impact of cli-

mate change in the U.S. in a few decades if effective measures are not soon taken to reduce carbon emissions. Such predictions led the 2016 report of the World Economic Forum to identify the “failure of climate change mitigation and adaptation” to be the *top risk* facing society – ahead of weapons of mass destruction, terrorism and the increasing scarcity of potable water. The Paris Agreement aims to mitigate such risks by holding the increase in global average temperatures to a level that “would significantly reduce the ... impacts of climate change.”

We still have the chance to achieve the goals of the Paris Agreement, but doing so will require society-wide mobilization on a scale not seen since World War II. Such a massive undertaking would require that *all* levels of government, and all sectors of society do their part in reducing our nation's greenhouse gas emissions. It also would require the U.S. to engage with other

nations to ensure that they meet the commitments they already have made in the Paris Agreement.

With regard to activity at the state level, here-with for your consideration is a link to our Association's report, *Taking Action on Climate Change in New York: 2017 Update Report*, approved by our House of Delegates in June 2017. <http://www.nysba.org/ClimateChangeReport>

We respectfully urge you to reconsider the decision to withdraw the United States from this landmark international accord, and that you reverse the course your administration has followed thus far on climate change. In doing so, we note that until recently bipartisan efforts have devised common solutions to critical environmental problems. Indeed, many of our bedrock environmental laws—such as the National Environmental Policy Act, the Clean Air Act (“CAA”) and the 1990 CAA amendments—were enacted into law during Republican administra-

New York State Bar Association

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SHAMON STEIN CHRISTIAN
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October 20, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Trump:

I am writing on behalf of the New York State Bar Association in support of your decision to have the United States withdraw its signature from the Paris Agreement, the international treaty on climate change that was signed in Paris in 2015. The Paris Agreement is a landmark agreement in our Environmental Protection Agency's (EPA) history. It is the first time that climate change devoted their case to the field of environmental law. We have seen a dramatic change in the way that the world is approaching climate change, and we are proud to be a part of this movement. We have seen a dramatic change in the way that the world is approaching climate change, and we are proud to be a part of this movement.

We have examined previous and effective action. We have seen a dramatic change in the way that the world is approaching climate change, and we are proud to be a part of this movement. We have seen a dramatic change in the way that the world is approaching climate change, and we are proud to be a part of this movement.

Specifically, numerous studies warn of the devastating impacts of climate change in the United States. The Paris Agreement, by doing so, will reduce the risk of catastrophic climate change. The Paris Agreement, by doing so, will reduce the risk of catastrophic climate change.

We still have the chance to achieve the goals of the Paris Agreement, but doing so will require significant action. We must take the steps that we have taken in the past, and we must take the steps that we have taken in the past.

Thank you for your leadership and commitment to the Paris Agreement, and we look forward to working with you to achieve the goals of the Paris Agreement.

Sincerely,
Shamon Stein Christian
President, New York State Bar Association

tions, with bipartisan support from Congress. January, 2017.

We also note that new industries providing hundreds of thousands of well-paying jobs could be fostered by a national program aimed at reducing greenhouse gas emissions. The explosive employment growth experienced over the last few years in the wind

Respectfully,

Sharon Stern Gerstman
President, New York
State Bar Association ♦

tions, with bipartisan support from Congress. We also note that new industries providing hundreds of thousands of well-paying jobs could be fostered by a national program aimed at reducing greenhouse gas emissions. The explosive employment growth experienced over the last few years in the wind and solar industries well illustrates the employment opportunities that result from clean energy initiative, as pointed out in the U.S. Department of Energy's *U.S. Energy*

Comments by the NYSBA Environmental and Energy Law Section on 82 Fed. Reg. 48035 (October 16, 2017)

Environmental #5

December 19, 2017

The New York State Bar Association Section of Environmental and Energy Law (“SEEL”) submits these comments to the proposed rule, published in the October 16, 2017 Federal Register,¹ regarding the intention of the U.S. Environmental Protection Agency (“EPA”) to repeal the Clean Power Plan.²

SEEL urges EPA not to finalize this proposed rule unless and until it devises an equally effective alternative plan for the reduction of greenhouse gas emissions from existing power plants. If finalized, EPA’s proposal would leave greenhouse gas emissions from existing power plants—the largest domestic stationary source of carbon dioxide emissions³—unregulated for an indefinite period of time. As the *Climate Science Special Report* (“CSSR”) recently published by the U.S. Global Change Research Program makes clear, the U.S. cannot afford such delays in the mitigation of greenhouse gas emissions.

Our principal comment is that repeal of the Clean Power Plan without such a substitute plan is unacceptable and unlawful. The proposed rule would simply push the decision of how—or even whether—to regulate greenhouse gas emissions from existing power plants down the road. As explained below, this deferral of action contravenes EPA’s statutory obligations.

Human-induced climate change poses significant risk to the environment and public health and welfare. The CSSR provides an alarming compendium of the impacts that our historical emissions are already having, and of the environmental havoc that is projected in the absence of prompt and effective measures to reduce emissions. It reports that annual average temperatures in the U.S. increased by 1.2°F for the 1986–2016 period relative to the period from 1901 to 1960, and projects with high confidence that record-setting temperature years may be “common” over the next few decades.⁴ The concentration of carbon dioxide in the atmosphere now exceeds 400 parts per million—a level that last occurred 3 million years ago—and continued emissions growth could lead to concentrations that exceed anything experienced in *tens of millions* of years.⁵

¹ 82 Fed. Reg. 48035 (Oct. 16, 2017).

² 80 Fed. Reg. 64662 (Oct. 23, 2015).

³ See 80 Fed. Reg. at 64664.

⁴ U.S. GLOBAL CHANGE RESEARCH PROGRAM, CLIMATE SCIENCE SPECIAL REPORT: FOURTH NATIONAL CLIMATE ASSESSMENT, VOLUME I, at 17 (2017) [hereinafter CSSR].

⁵ *Id.* at 31.

The CSSR also indicates that human activities are “extremely likely” to have been the “dominant cause” of warming since the mid-20th century.⁶

The environmental risks identified in the CSSR are enormous: increasing frequency and intensity of extreme heat and heavy precipitation events; increasing risk of “chronic, long-duration hydrological drought” under higher-emission scenarios; increased incidences of forest fires in the western U.S. and Alaska; sea level rise of one to four feet by the end of the century, in addition to the seven- to eight-inch rise that has occurred since 1900; increases in the depth, frequency, and extent of tidal flooding; and an “unparalleled” rate of ocean acidification that threatens marine ecosystems.⁷

The physical impacts of climate change are only part of the story: they will necessarily lead to social and economic impacts as well. These threats to public health, agriculture, indigenous peoples, and urban and rural communities were well documented in the U.S. Global Change Research Program’s Third National Climate Assessment in 2014.⁸

Appreciation of the seriousness of climate change is not a recent phenomenon. It has been at the forefront of national and international dialogue for decades. In 1965, a report of the Environmental Pollution Panel of the President Lyndon B. Johnson’s Science Advisory Committee warned that carbon dioxide emissions from the burning of fossil fuels might “produce measurable and perhaps marked changes in climate” that “could be deleterious from the point of view of human beings.”⁹ In 1990, the United Nations Intergovernmental Panel on Climate Change published its First Assessment Report. In the U.S., the First National Climate Assessment was published in 2000, 10 years after enactment of the Global Change Research Act of 1990.¹⁰

Most relevant to these comments, however, is EPA’s 2009 endangerment finding issued pursuant to the Clean Air Act, in which EPA formally recognized the dangers posed by greenhouse gas emissions.¹¹ EPA concluded “that the body of scientific evidence compellingly supports” the finding “that greenhouse gases in the atmosphere may reasonably be anticipated both to endanger public health and to endanger public welfare.”

Having issued the endangerment finding, EPA has an affirmative, non-discretionary obligation to regulate greenhouse gas emissions from power plants. Section 111(b) requires EPA to issue new source performance standards (“NSPS”) for categories of sources that contribute significantly to air pollution that “may reasonably be

⁶ *Id.* at 14.

⁷ *Id.* at 14, 19, 22, 25, 27–28.

⁸ *National Climate Assessment*, GLOBALCHANGE.GOV, <http://nca2014.globalchange.gov/> (last visited Nov. 15, 2017).

⁹ ENVTL. POLLUTION PANEL, PRESIDENT’S SCIENCE ADVISORY COMM., RESTORING THE QUALITY OF OUR ENVIRONMENT 126–27 (Nov. 1965).

¹⁰ U.S. GLOBAL CHANGE RESEARCH PROGRAM, CLIMATE CHANGE IMPACTS ON THE UNITED STATES: THE POTENTIAL CONSEQUENCES OF CLIMATE VARIABILITY AND CHANGE (2000).

¹¹ 74 Fed. Reg. 66496 (Dec. 15, 2009).

anticipated to endanger public health or welfare.”¹² EPA has done so,¹³ and those standards remain in place.¹⁴ Section 111(d) requires EPA to regulate existing sources that would be subject to an NSPS if they were new sources.¹⁵ These Section 111 provisions employ the verb “shall” and therefore impose a mandate that EPA may not neglect so long as the endangerment finding remains in effect.¹⁶

EPA states in the proposed repeal that the Agency “has not determined the scope of any potential rule under [Clean Air Act] section 111(d) to regulate greenhouse gas (GHG) emissions from existing [electric generating units], and, if it will issue such a rule, when it will do so and what form that rule will take.” The proposal indicates that EPA “is intending to issue an Advance Notice of Proposed Rulemaking (ANPRM) in the near future.”¹⁷

The Clean Air Act does not allow such a failure to act in the face of the clear and present danger that is posed by climate change. As the CSSR emphasized, “[c]hoices made today will determine the magnitude of climate change risks beyond the next few decades.”¹⁸ Substantial emissions reductions *in the near term* are essential to any realistic plan for keeping the increase in global average temperature below 3.6°F (2°C) above preindustrial levels.¹⁹ The Clean Power Plan is a step towards those necessary reductions (though not sufficient by itself to achieve them). Any repeal of the Clean Power Plan must be accompanied by a proposal for an equally effective substitute plan for regulating greenhouse gas emissions from existing power plants.

SEEL appreciates the opportunity to submit these comments on this issue of crucial importance to the future of our planet.

¹² 42 U.S.C. § 7411(b).

¹³ 80 Fed. Reg. 64510 (Oct. 23, 2015).

¹⁴ At this time, EPA has not proposed to repeal the performance standards for greenhouse gas emissions from new, modified, and reconstructed power plants, although EPA did identify withdrawal of the NSPS as a long-term action in the most recent Unified Agenda of Federal Regulatory and Deregulatory Actions. Even if EPA were to repeal the current NSPS, however, it would be very difficult to argue that power plants do not require a NSPS for greenhouse gas pollution given their status as the largest domestic stationary source of such emissions.

¹⁵ 42 U.S.C. § 7411(d).

¹⁶ See *Coal. for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, 126 (D.C. Cir. 2012) (“By employing the verb ‘shall,’ Congress vested a non-discretionary duty in EPA.”).

¹⁷ 82 Fed. Reg. 48035, 48036 (Oct. 16, 2017).

¹⁸ CSSR, *supra* note 4, at 31.

¹⁹ See *id.* (“Stabilizing global mean temperature to less than 3.6°F (2°C) above preindustrial levels requires substantial reductions in net global CO₂ emissions prior to 2040 relative to present-day values before 2040 and likely requires net emissions to become zero or possibly negative later in the century.”).

	Environmental?	State	Notes:
2015 Tyson-Lord Gray	Yes	NY	Teachers Env courses at NYU and Pace - Minister, Professor, Activist, Attorney
2014 Levan Thomas	No	OH	Thomas Levan Aigler?
2013 Zaheer H. Tajani	Yes	DC	General Environmental Litigation and Regulatory Practice
2012 Sanjeevani S. Joshi	Yes	NY	NYPA Regulatory Affairs Analyst, Albany
2012 Rosemary Spring Ortiona	Yes	NY	Trial Attorney
2011 Noelle Diaz	No	NY	NYC Agency Attorney
2011 Priya Murthy	Was	NY	Environmentalism; Web Developer; formerly Sive Paget Env Associate 2013-16
2011 Letecia Whetstone	No	CA	Education Law
2010 Jose A. Almanzar, Esq.	Yes	NY	Periconi, LLC; Associate, Environmental Due Diligence, regulatory, litigation; experience in zoning, land use and environmental law
2010 Shikha Singhvi, Esq.	No	DC	Attorney at Federal Reserve Board
2010 Marjorie Yang	No	NY	Assistant Vice President at Morgan Stanley; some env intern previously
2009 Dan-Feng Mei	No	NY	IP, Patents
2009 Kelly Gaines Whiten, Esq.	No	NY	Now Kelly Whiten Perez - Court Attorney at NYS Unified Court System
2009 Vanessa Young, Esq.	No	CA	Formerly EnvPolicy Intern; now CA Public Utilities Commission
2008 Osafo Vibert Barker, Esq.	No	NY	Government Attorney
2008 Andrew T. Jhun	No	CA	PI
2008 Kyu-ah Julia Kang, Esq.	No	NJ	Divorce & Family Law
2008 Erika Vanessa Selli, Esq.	No	NY	Patent
2007 Jorge Figueroa	No	CO	
2007 Jennifer Summer Hsia, Esq.	No	NJ	NJ Attorney General's office
2007 Sheila Jain, Esq.	No	TX	Now Sheila Jain Kaushik
2007 Harriet Wong, Esq.	No	NY	Executive Agency Counsel - NYC Transit
2006 Denise Leong	Yes	NY	Environmental and natural resources; current Sr. Financial Planning Consultant for The Hobart Group
2006 Winston Martindale	No	NY	
2006 Christina Miranda	No	CO	
2006 Manuel Ronquillo, Esq.	Yes	DC	Attorney-Advisor at US EPA
2005 Amy Choi	No	CA	Team Lead, Discovery Staff Attorney at Google - FUN!!
2005 Harven Deshield	No	IL	
2005 Vanessa Marie Facio-Lince, Esq.	No	NY	Brooklyn Family Court
2005 Sharonda Chaitanya Williams, Esq.	?	NY	Rochester; license shows delinquent in June 2017
2004 Karen T. Beltran, Esq.	No	NY	Family Court
2004 Genesis R.A.C. Fisher, Esq.	No	NY	Mediation, Criminal
2004 Rekha Valluru Rao, Esq.	No	NY	Estate, Elder, Probate
2003 Jessica Ortiz, Esq.	No	NY	Civil Litigation
2003 Cindy Pean	No	MA	Litigation
2003 Andre Shiromani	?	NM	
2002 LaVonda S. Collins, Esq.	No	NY	Public Defender
2002 Christine Mary Simon, Esq.	No	NJ	NJ Manu Ins Group
2002 Tara K. Torno	No	Indonesia	
2002 Daniel J. Yohannes, Esq.	No	NJ	
2001 Amanda Corinne Gonzalez, Esq.	No	NY or NJ	
2001 Kimberlee D. McGrath	No	IL	Real Estate
2001 Yelann L. Momot, Esq.	No	NY	Staff Consultant; Bergmann Associates
2001 Amelia E. Toledo, Esq.	No	NY	
2001 Frederick Hongyee Wen, Esq.	No	NY	Office of the Attorney General
2000 Marie Chery Sekhobo	No	NY	Office of the Attorney General
2000 Nadine Nicola Parkes, Esq.	No	NY	Disbarred due to a felony!
2000 Jorge Pozo	?	?	

	Environmental?	State	Notes:
1999 Mauricia M.M. Baca, Esq.	No	NV	Exec Dir AHS Alliance; formerly US Dept of Justice, Environment & Natural Resources Division, DC
1999 Deborah A. Harper, Esq.	No	IL	Family Law
1999 Sara A. Wells, Esq.	No	MA	Morgan, Lewis Partner - Estates
1998 Diane Bui	No	DC	Deputy Assistant General Counsel
1998 Stephanie Okpiabhele	No		CPS
1997 Epin Hu	No	MI	Now Epin Hu Christensen - law clerk
1997 Ayanna J. McKay, Esq.	No	NJ	Criminal Defense Attorney
1997 Danielle D. Solomon	No	DC	Now Danielle Solomon Nkojo; Dept of Energy & Environment
1996 Kedari P. Reddy, Esq.	No	NY	Sr Exec Dir, Office of Env Compliance Assessment at NYC DOT
1996 Tamika A. Coverdale, Esq.	No	NY	General Practice
1996 Monica Pelaez, Esq.	No	NY	Investment Management and Advisory Law
1995 Raquel Centeno	No	AZ	Attorney at Office of the Legal Advocate
1995 Joseph J. Hill, Esq.			? Can't find him online
1995 Donald Rencher	No	MI	Director of Housing, City of Detroit Housing & Revit.
1995 Jude Usera			? Can't find him online
1994 Cambrea L. Ezell, Esq.	No	NY	American Indian Law Alliance
1994 Grant Wade Jonathan, Esq.	No	FL	US EPA
1994 Kristin Jones, Esq.	No		Common name - none are environmental
1993 Sandra J. Hill, Esq.		NY	No info online
1993 Fernando J. Ramirez, Esq.	No	NY	Contracts
1993 Effie J. Chan	No	MA	Counsel at Partners HealthCare
1993 Melissa McClary			? Can't find her online
1992 Michael Heninburg, Jr.	No	NJ	Corporate Attorney
1992 Ricardo Soto-Lopez	No	FL	Urban Planner-Community Developer
1992 Arlene Rae Yang, Esq.	No	CA	Employment Law and Litigation

DRAFT DATED 11/28/2017 FOR EELS CABINET REVIEW AND COMMENT

**NEW YORK STATE BAR ASSOCIATION
ENVIRONMENTAL & ENERGY LAW SECTION**

COMMITTEE CHAIR MANUAL

~~2005~~

2018

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INTRODUCTION

Congratulations upon becoming a committee chair of the Environmental & Energy Law Section (the “Section”) of the New York State Bar Association (“NYSBA”)!

The purpose of this Manual is to assist you by setting forth the goals and responsibilities that accompany the position of committee chair and the opportunities and resources that are available to you. The vitality of the Section depends upon the vigorous participation of its committees and, through its committees, of the Section’s membership at large. The effectiveness of that participation depends, in significant part, upon the chairs of the Section’s committees.

This Manual is divided into three chapters. Chapter I describes the responsibilities of committee chairs. Chapter II describes the structure and governance of the Section and its committees. Chapter III summarizes the resources that are available to committee chairs. In addition, the various attachments to the Manual -- Section By-Laws, sample committee agenda, report and mission statement, NYSBA contact list -- provide more detailed information and examples relating to certain subjects.

CHAPTER I

RESPONSIBILITIES OF COMMITTEE CHAIRS

The Section functions in large part through its various committees. There are several different types of Section committees. Continuing or standing committees mostly are structured (with periodic revision, to reflect changes in the various fields) to cover the major media-specific or other substantive areas of environmental law. A few standing committees, such as Membership and Continuing Legal Education (“CLE”), have function-specific roles. In addition to these standing committees, special and other ad hoc committees and task forces are also created from time to time to address specific issues. Although this manual is primarily focused on the Section’s substantive law committees, it provides useful information for chairs of other committees, as well.

Generally, each of the Section’s committees has two co-chairs. The roles of these co-chairs is to see ~~to it~~ that the functions of their committee are achieved. The specific responsibilities of the chairs and their committees are described in this chapter. Procedures governing committees are also set forth in the Section’s By-Laws, a copy of which is contained in Attachment A to this Manual.

A. Substantive Expertise

A core function of each committee is to serve as a source of knowledge in the

relevant substantive area of environmental law and to ensure that the committee maintains an expertise and familiarity with current developments in the committee's substantive area. This is critical to the effective functioning of the committee in all other respects. At a minimum, this involves keeping abreast of new regulatory and legislative developments, case law and agency policies. It also involves the prospective identification, wherever possible, of new trends or areas of the law in need of clarification or correction.

Efforts should be made to involve as many committee members as possible in this work. The use of subcommittees or assignments to individual members or teams is encouraged. It is hoped that this will add to the cohesiveness of the committee and contribute to the effective functioning of the Section. As is discussed in Chapter III ("Resources Available to Committee Chairs"), NYSBA staff and the Section itself have a number of resources that are available to committee chairs to assist them in this regard.

B. Section Activities

The effectiveness of the Section depends upon the vitality of its committees. The Section looks to its committee chairs to promote this vitality, and also to take an active individual role in Section activities. The Section expects each committee chair, at a minimum, to:

(1) Convene a Committee Planning meeting between October and December

each year.

- (2) Establish the committee's ~~annual agenda~~ Annual Planning Agenda, to be submitted by ~~June 1~~ January 15 of each year to the Section's officers. The agenda should be ~~in a form similar to the sample~~ formatted based on the [Sample Committee Annual Planning Agenda](#) contained in Attachment B to this Manual.
- (3) Hold at least three meetings (by teleconference, videoconference, internet chat room, or in person) during each year, two of which meetings may be at the NYSBA meeting in January and the Section's Fall Meeting.
- (4) Maintain active written or electronic communication with committee members.

As discussed in Section III ("Resources Available to Committees"), NYSBA staff assistance is available to facilitate such communication.

- (5) ~~(4)~~ Attend the Executive Committee meetings, and provide written (and, if appropriate, oral) reports of committee activities at these meetings. The Executive Committee generally meets during the NYSBA meeting in January, once during the spring, and at the Section's Fall Meeting. If a committee chair cannot attend an Executive Committee meeting, the chair shall notify the Section Chair. If a committee chair misses three consecutive Executive Committee meetings without an excuse deemed acceptable by the Section Chair, or fails to maintain NYSBA and Section

membership, that committee chair will be deemed to have resigned from his or her position.

- (6) Contribute periodic (at least once per year) reports of committee activities to the Section's publication, The New York Environmental Lawyer (the "Section Journal"), in a form similar to the sample contained in Attachment C to this Manual. Ideally, committees should submit to the Journal brief reports of all activities such as conferences, symposia or other programs.
- (7) ~~Submit and update annually a mission statement for the committee, to be published in the Section Journal and/or the Section's web site. An example is~~
Submit in December of each year to the Section's officers the Committee Year-End Report using the sample report format contained in Attachment D to this Manual.
- (8) Solicit articles relevant to the committee's subject area for publication in the Section Journal. The articles may be written by committee members, other Section members or others. While it is recognized that topical issues do not arise on a regularly scheduled basis, the goal is the publication of at least one article every two years.
- (9) Conduct, or have committee members conduct, at least one Section program, activity, or CLE program each year.
 - A. The Section conducts CLE programs at its January and Fall Meetings. It also regularly conducts CLE programs throughout the

year. The Section's Officers may request committees to participate in planning CLE programs on a rotating basis. Topics for such programs are generally developed approximately six months before the programs are held, and committee chairs are expected, when requested by the Officers, to assist in coordinating and participating in such programs. Assistance from the able staff of NYSBA with respect to procedures and logistics is available, and coordination with the NYSBA staff is encouraged. As is described in Chapter III ("Resources Available to Committees"), with respect to CLE programs, the Section has a CLE Committee that works with substantive committees on developing such programs. NYSBA itself has a CLE staff that coordinates these programs.

- B. If a committee does not participate in a Section CLE program in a particular year, it may fulfill its responsibility through participation in other activities, such as: (i) forums; (ii) teleconferences; (iii) academic symposia; (iv) joint presentations with local bar associations, other committees of the Section, other NYSBA Sections or non-legal professional groups; or (v) preparation of an educational document such as a legal update, "hot topic" alert or "white paper."
- C. Work with, and respond to inquiries and requests from, Section

Officers and the Executive Committee.

3. Membership Involvement and Growth

Committee chairs are responsible for the inclusiveness and growth of their committees. The Section's effective functioning depends upon its committees being more than mere static repositories of technical expertise. The Section relies upon its committees' abilities to involve the general membership of the Section in its activities and to expand the involvement of the committees' currently active members. Among the important methods of expanding membership and involvement are the following:

(1) Outreach to Committee Members

Often, increasing such involvement requires reaching out to committee members who are on the periphery of active membership. Each committee chair is provided, several times each year, with an updated list of Section members who have joined that committee. The chairs of each committee should, at least annually and preferably more frequently, contact each member of their committee to ascertain the member's degree of interest and to invite that member to participate as actively as possible in the workings of the committee.

It should be emphasized that the involvement of committee members, while initially requiring time and effort on the part of committee chairs, ultimately results in an organically strong committee. This, in turn, provides a structure for delegating many of

the responsibilities that might otherwise fall upon the chairs. And this delegation, with the attendant responsibility and recognition, encourages further participation by the membership and helps groom future committee chairs and Section leaders.

There is a natural tendency to concentrate involvement, and work assignments, upon the comparatively few members of each committee who are most active at any point in time. While the importance of a core of devoted members should not be underestimated, it is also critical to the future of the Section that new persons be recruited into the active body of each committee. Thus, it is important to attempt to draw members into positions of responsibilities within the committee. This is not always easy and, as is discussed in Chapter III (“Resources Available to Committees”), assistance from former committee chairs and Section Officers is available to help you.

One way to facilitate committee members’ involvement is to delegate some of the responsibilities described in this chapter. Thus, for instance, one committee member could be delegated to act as liaison or subcommittee chair to coordinate submission of materials with the Section Journal. Another member could be delegated to work with the Section’s CLE Committee. A third could be asked to monitor legislative activities in conjunction with the Legislation Committee.

(2) Recruitment of Committee and Section Members

Committee chairs should also look for opportunities, in cooperation with the

Membership Committee, to add new members to their committees, from within the Section or without. Many committee chairs, for example, work on a regular basis with environmental attorneys who could contribute as committee members, but who do not yet belong to NYSBA or the Section. These are prime candidates for recruitment. Making a committee and its activities more attractive to non-committee members will enhance the committee's usefulness. It is equally important to engage in these outreach activities to counteract the natural tendencies toward inertia and complacency, to which all humans and organizations are susceptible. Each committee chair owes a responsibility to the Section to increase the involvement of lawyers in the Section's work – the furtherance of and improvement in the practice of environmental law.

(3) Expansion of Diversity

It is also important that the Section seek to expand the diversity of its membership. This can be accomplished in several ways. At the Section level, various initiatives, such as sponsoring the Section's annual minority fellowships, are undertaken. Many such efforts, however, can be taken effectively by the Section's committees. Thus, at the committee level as well as at the Section level, efforts should be made to ensure diversity in programs (both in selection of speakers and topics). Committees should reach out to minority and women lawyers, through partnerships with other bar associations, law schools, law student associations, civic groups and others.

This will expose the Section and its activities to others outside of what would traditionally be considered the environmental law/land use communities.

CHAPTER II

STRUCTURE AND GOVERNANCE OF THE SECTION

This chapter presents a brief overview of the history of the Section and a summary of its structure and governance. Many of those involved in the founding of the Section continue to be actively involved, and these members can provide a wealth of additional information and perspective on the growth of the Section. Should questions arise regarding the structure or functioning of the Section, you should not hesitate to contact one of the Section's Officers. The By-Laws contained in Attachment A are also a helpful reference source.

A. History of the Section

The Section's origins stem from the efforts of a number of attorneys, many of them among the pioneers in the field, to organize a forum within NYSBA to discuss issues in the emergent field of environmental law. In 1974, NYSBA created the Special Committee on Environmental Law, chaired by Arthur Savage, who would later become the first Chair of the Section. Three years later, the Special Committee became a standing committee of NYSBA. The Committee on Environmental Law, after thorough discussion and study, subsequently voted to apply to NYSBA's House of Delegates for elevation of the Committee to full section status. In late 1980, the House of Delegates

approved the creation of the Environmental [and Energy](#) Law Section. Arthur Savage, Nicholas Robinson, Ernest Ierardi, John Hanna, Jr. and Martin Baker were elected as the Section's first Officers, and 19 standing committees were created.

Since 1980, the Section has achieved a stable membership of approximately ~~1,300~~ [1,000](#) lawyers. While many of the Section's original committees remain in existence, the total number of committees and task forces now stands at approximately 30.

Among the "youngest" sections of NYSBA, the Section has since its inception adopted an open and flexible posture. This has shown itself in the Section's willingness to reach out to practitioners in other areas of law, as well as to other, non-legal, disciplines. The Section has also maintained a continuing goal of bringing diversity to its membership. To promote ethnic and racial diversity, the Section sponsors a minority fellowship program to expose minority law students to the practice of environmental law. ~~To encourage the participation of public service attorneys, the Section offers financial assistance and special recognition.~~ The Section also attempts to recognize the importance of including as many relevant perspectives as feasible – whether related to gender, race, income or other aspect – in its programs and functioning.

In furthering these efforts, the Section's committees are critical. Thus, it is important for committee chairs to be sensitive to the need to involve as many people as

possible in committee activities, and to be proactive and imaginative in finding opportunities to expand such participation through membership outreach and program cosponsoring.

B. The Officers and their Roles

The Officers of the Section consist of the Chair, the ~~First Vice-Chair, the Second Vice-Chair~~, the Treasurer, and the Secretary. Officers are elected by the Section membership at the Section's annual meeting in January and serve one-year terms, commencing on June 1 of the year in which they are elected.

The Chair and other Officers are responsible for the day-to-day functioning of the Section. The specific powers and responsibilities of the Officers are set forth in the Section's By-Laws, a copy of which is contained in Attachment A to this Manual. Generally, the Officers do not serve as committee chairs while they are Officers, although all of the current and past Officers have had lengthy prior experience as committee chairs.

As is discussed in Chapter III ("Resources Available to Committees"), the Officers frequently designate among themselves individual officers to serve as liaisons to the various committees. These liaisons help with oversight of the various committees, and also serve as a focal point for committee chairs' inquiries and/or

requests for assistance.

C. The Executive Committee

The Section's Executive Committee is comprised of the Officers, the chairs of the various committees and task forces, members of the Section Council, the Section's Delegate and Alternate Delegate to the NYSBA House of Delegates, and a number of Members-at-Large. The functions of the Executive Committee include facilitating the establishment of Section policies, approving the Section's annual budget, creating and revising the standing committees of the Section and advising the Officers on Section affairs.

D. The Section Council

The Section also has a Section Council, made up of past Chairs of the Section. Its members serve on the Executive Committee and act as a resource for the Section's leaders to draw upon. Section Council members are also available as mentors to the committees (see Section III -- "Resources Available to Committees").

E. The Section Cabinet

The Section Cabinet consists of the Section's Officers, the Section Delegate to the NYSBA House of Delegates and a member of the Section Council designated by the Section Chair. The Section Cabinet exercises general supervision and control of

the Section's affairs. It is responsible for the authorization of the expenditures of Section funds.

F. The Appointment and Removal of Chairs, Creation of Committees

Committee chairs are appointed by and serve at the pleasure of the Section Chair. Permanent standing committees may be created, consolidated and eliminated by the Executive Committee. These decisions are made periodically, in response to evolving changes in topical areas of environmental law or the organizational needs of the Section. Special and other ad hoc committees and task forces may also periodically be created.

Committee chairs form the leadership pool from which future Section Officers are drawn. There are no preestablished "term limits" for committee chairs. Nonetheless, it is a general goal of the Section to encourage participation by newer members and to match current chairs' strengths with the evolving needs of the Section.

G. Committee Oversight by Officers

The Officers exercise oversight over the various committees. Generally, each Officer acts as the liaison for several committees. The Officers are responsible for ensuring the effective functioning of the committees. As such, they monitor the

performance of committee chairs and, where the Section Chair deems it appropriate, changes in chairs are made to increase the effectiveness of committees. These decisions are based upon the criteria previously set forth with regard to the responsibilities of the committees and their chairs. Demonstrated performance by a committee chair will lead to positions of more responsibility, and lack of performance will lead to removal.

CHAPTER III

RESOURCES AVAILABLE TO COMMITTEES

A variety of resources are available to the Section's committees and committee chairs. These range from technical assistance with setting up internal communications and organizing programs to more substantive advice and mentoring. This chapter is intended to provide a brief overview of the types of resources that are available, but it is not intended to be exhaustive. Should a committee chair have any questions or concerns, the chair is encouraged to contact a Section Officer.

1. Section Officers

The Officers of the Section are the first line of resources that committee chairs should tap. They have served for many years as committee chairs themselves, and are familiar with the challenges and opportunities that these positions present.

As previously noted, the Section's Officers generally delegate among themselves individual Officers to serve as liaisons to the various committees. These Officer liaisons are designed to provide oversight over the committees' activities, and also to create a "contact person" to serve as the focus for any questions or concerns that the respective committee chairs may have. Officers liaisons are expected to periodically contact their

respective committee chairs. Irrespective of the oversight roles of the liaisons, ~~however,~~ it must be emphasized that the responsibility for each committee's implementing its duties remains that of the committee's chairs.

When committee chairs are planning programs or other activities where the expenditure of Section funds may be involved, the Officer liaison to the committee or the Section Chair must be consulted prior to any commitment of funds being made. Also, programs that fall within the formal NYSBA CLE system require specific procedures to be followed and financial approvals, with which the CLE Committee and Officers are familiar. Other, less formalized, programs, to the extent that they may commit Section resources, must also be cleared with a Section Officer. The Officers will be able to provide you with guidance about setting up such programs.

From time to time, a committee may identify a regulatory or legislative initiative (or an issue that cries out for such an initiative) that it believes the Section should pursue. These initiatives should be brought to the attention of the relevant Officer liaison or the Chair. Some such initiatives are governed by NYSBA's protocols, while others may be reviewed and authorized by the Section's Officers and/or the Executive Committee. In addition, the chairs of the Section's Legislation Committee should also be contacted, and that committee may provide assistance in monitoring the relevant initiatives or in coordinating a program.

B. Committee Mentors

As previously discussed, mentoring is available to committees and committee chairs. Mentors may come from the Officer liaisons or other of the Section's Officers, members of the Section Council, or other experienced members of the Section, such as former chairs of your committee. Each of the Officers and Section Council members has had lengthy experience as chair of one or more committees, as well as in the functioning of the Section as a whole. Such assistance is most often made available at the request of a committee chair, but it may from time to time also be suggested by the Officers. Mentoring is, by its nature, flexible and oriented toward specific situations. It may involve generalized advice with respect to such issues as how to energize committee members and establish and implement agendas, or it may involve more specific matters such as the organization and implementation of a symposium. The goal of all such mentoring is to enable the committee chairs and, thereby, the committees, to succeed in carrying out their functions.

C. NYSBA Staff

The staff at NYSBA's Albany headquarters are an invaluable resource to the Section and its committees. As with other sections of NYSBA, there is an individual member of the headquarters staff who serves as liaison to the Section. This person should be the initial contact with respect to inquiries and requests for assistance. The

NYSBA liaison may refer you to other NYSBA staff, as appropriate. The current liaison and relevant contacts at NYSBA headquarters are contained in Attachment E to this Manual.

Among the areas in which NYSBA can provide assistance are the following:

- Facilitating communications among committee members. NYSBA maintains a current roster of the membership of each committee, and distributes an updated copy to each committee's chairs several times each year. NYSBA also can set up teleconferences and internet list-serves. NYSBA also maintains, ~~with the Section's Internet Coordinating Committee,~~ the Section's website, [in consultation with the Section's Social Media Committee](#), to which the Section's committees may post items of interest. NYSBA also coordinates and conducts Section mailings.
- Setting up meetings, symposia and conferences. The staff handles the logistical work behind the Section's annual January, spring and fall meetings. The staff also is available to assist in a similar fashion with committee and task force meetings and conferences. In addition, NYSBA can make space available for meetings at its Bar Center in Albany.

- Assisting with CLE programs. The staff coordinates scheduling and logistics and helps prepare the requisite written program materials for CLE programs. Committees involved in such programs should work closely with the Section's CLE Committee, which has extensive experience in working with NYSBA in this regard.

NYSBA can provide other specialized assistance, and also offers a wide array of services to its membership at large. Whenever a committee chair has a question about potential assistance that may be available, the chair should contact the Section's NYSBA liaison, who also generally attends the Section's Executive Committee meetings.

D. The Section Journal

While each committee has a responsibility to submit material on a regular basis to the Section Journal, the Journal also serves as a resource to the committees by providing an excellent opportunity for expanding the visibility and membership of the committees. The Journal is generally published four times per year, and is sent to all Section members. It should be viewed as a vehicle for informing the Section at large of your committee's activities, as well as for attracting potential new committee members. The Journal also provides an opportunity for committee members to gain individual recognition, and to promote their growth within the committee and the Section.

Committee chairs may wish to delegate to one or more committee members responsibility for coordinating committee submissions to the Journal. The Editor-in-Chief of the Journal welcomes inquiries with respect to potential submissions. Some helpful criteria for submission that the Editor-in-Chief has prepared are included in Attachment F to this Manual.

E. Other Section Committee Chairs

Other resources that should not be overlooked are the Section's other committees. Although most of the Section's committees are set up to cover specific substantive areas of environmental law, it is not intended that this structure lead to a balkanized approach to environmental law. To the contrary, committees are encouraged to work together in setting up programs or addressing timely issues that affect more than one area of law.

Furthermore, a number of committees are set up specifically to coordinate certain activities, such as the Membership, CLE and Legislation Committees. With respect to initiatives in any of these areas, the chairs of the relevant committees should be contacted.

F. Committee Members

Finally, committee members themselves are also an important resource. As was

previously discussed, a committee functions best when a broad spectrum of its members are actively involved. Experience has shown that one way to encourage such participation is to maintain regular communication with the membership. Another method is to delegate specific functions, such as serving as subcommittee chair or liaison to work with the Journal, the Membership Committee or the Legislation Committee or coordinating a forum or special project. In this way, the committee's members have more of an "ownership" of the committee's work, and the burdens on the committee's chairs are eased.

CONCLUSION

Again, congratulations on becoming a committee chair! Yours is a critical role in the future success of the Section. Your Officer liaison will contact you shortly, if she or he has not already done so, to ensure a strong beginning to your tenure as a committee chair. Should you have any questions before that time, feel free to contact your Officer liaison or any of the other Section Officers.

~~Date: June 1, 2005~~

[Adopted on January 25, 2018](#)

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Comparison Details	
Title	pdfDocs compareDocs Comparison Results
Date & Time	11/28/2017 12:54:05 PM
Comparison Time	3.45 seconds
compareDocs version	v4.2.100.13

Sources	
Original Document	[#3042335] [v1] NYSBA EELS Committee Chair Manual
Modified Document	[#3042335] [v2] NYSBA EELS Committee Chair Manual

Comparison Statistics	
Insertions	15
Deletions	9
Changes	7
Moves	0
TOTAL CHANGES	31

Word Rendering Set Markup Options	
Name	
Insertions	
Deletions	
Moves / Moves	
Inserted cells	
Deleted cells	
Merged cells	
Formatting	None.
Changed lines	Mark outside border.
Comments color	By Author.
Balloons	True

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after Saving	General	Always
Report Type	Word	Formatting
Character Level	Word	False
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Include Footnotes / Endnotes	Word	True
Include List Numbers	Word	True
Include Tables	Word	True
Include Field Codes	Word	True
Include Moves	Word	True
Show Track Changes Toolbar	Word	True
Show Reviewing Pane	Word	True
Update Automatic Links at Open	Word	False
Summary Report	Word	End
Include Change Detail Report	Word	Separate
Document View	Word	Print
Remove Personal Information	Word	False
Flatten Field Codes	Word	True

2017 Environmental Energy Law Section Committee Year-End Report

Committee Name: Corporate Counsel

Committee Co-chairs: George A. Rusk; Michael J. Hecker

Date of Report: December 29, 2017

Committee Activities- Please summarize activities completed by the Committee during 2017.

Planning activities/discussions to revitalize dormant committee, including discussions with L. Schnapf (prior to his leaving office as Chair); and, discussions with representatives from the Corporate Counsel Section on a half day CLE program to be co-sponsored by the two sections, including Jeffrey Lanier (former chair) and Jana Behe (then-current chair). Ms. Behe unexpectedly passed away at the end of the summer of 2017, and no formal discussions have been held since. We expect to reengage after the annual meetings with the in-coming chair for a potential 2018 program.

Judicial or Administrative Decisions- Please summarize significant decisions issued in 2017 that involve the jurisdiction of the Committee.

(1) Ongoing PFOA (perfluorooctanoic acid) administrative and enforcement matters associated with Hoosick Falls properties that involve certain Potentially Responsible Parties (“PRPs”) (e.g. DuPont, Honeywell, etc), the United States Environmental Protection Agency (“USEPA”) and the New York State Department of Environmental Conservation (“NYSDEC”). Recent actions have been taken by the NYSDEC and NYSDOH associated with the enforcement, and USEPA listed the site located at 14 McCaffrey Street on the National Priorities List;

(2) The restoration settlement between the United States Department of Justice (“US DOJ”), the Federal government, Onondaga County, and Honeywell International, regarding the Onondaga Lake cleanup;

(3) The October 2017 Exxon Mobil Corporation/ExxonMobil Oil Corporation Clean Air Act settlement with the US DOJ and the Louisiana Department of Environmental Quality that resolved allegations of failing to properly operate and monitor industrial flares at several petrochemical facilities; and,

(4) In a pending lawsuit filed by 16 states against the USEPA, the agency agreed in August 2017 to drop its decision to delay Obama administration-era regulations on ozone.

Legislation- Please summarize significant state or federal legislation enacted in 2017 that involve the jurisdiction of the Committee:

(1) The Trump Administration's use of the Congressional Review Act to repeal certain pieces of legislation enacted at the end of the Obama administration's tenure, including revoking the Stream Protection Rule that eliminated stream protections from mining waste coal, and requiring overseas oil producers to disclose payments to foreign governments, amongst others.

Regulations- Please summarize significant state or federal regulations proposed or adopted in 2017 that involve the jurisdiction of the Committee:

- (1) New York State's adoption of the amendments to 6 NYCRR Part 597 to include certain PFOA and perfluorooctane sulfonic acid ("PFOS")-based materials as being categorized as hazardous substances, which came into effect as of March 3, 2017;
- (2) The adoption of the revisions to the 6 NYCRR Part 360 regulations, which came into effect as of November 4, 2017;
- (3) The U.S. EPA's October 10, 2017 Notice of Proposed Rulemaking ("NPRM") proposing to repeal the Clean Power Plan;
- (4) The Trump Administration's overturning of 29 rules, including, but not limited to, rules pertaining to flood building standards, freezes on new coal leases on public lands, the banning of a pesticide, offshore drilling bans in the Atlantic and Arctic Oceans, and, royalty regulations for oil, gas, and coal; and,
- (5) The U.S. EPA's publication of the final rules for prioritization and risk evaluation under the Toxic Substances Control Act ("TSCA").

Guidance Documents- Please summarize significant state or federal guidance documents or policies issued in 2017 that involve the jurisdiction of the Committee.

- (1) The Trump Administration's decision to remove the United States of America from the Paris Climate Agreement. Formal action cannot be taken to withdraw until November 2019;
- (2) The NYSDEC revised guidance document DER-32 (Brownfield Cleanup Program Applications and Grants) as of July 28, 2017;
- (3) The issuance of the Superfund Task Force recommendation by the USEPA on July 25, 2017;
- (3) The USEPA's publication of updated guidance on its nanoscale materials information gathering rule in August 2017; and,
- (4) The USEPA's publication of guidance in June 2017 to assist interested persons in developing and submitting draft risk evaluations under TSCA.

Please return completed report to: BernstK@bsk.com

Hi Lisa and Kevin,

Jon Brooks and I (co-chairs of the Environmental Transactions Committee) weren't sure if we needed to provide you with a Committee report (see highlighted language below). The only item we have to report is that the Environmental Law Section (spearheaded by the Environmental Transactions Committee) and the Real Property Law Section co-hosted a half-day program on Halloween titled "The Art of the (Brownfields) Deal."

Regards,

Donna

Donna Mussio

Donna.Mussio@friedfrank.com | Tel: +1 212 859 8147

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One New York Plaza, New York, NY 10004

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2017 Environmental Law Section Committee Year-End Report

Committee Name: *Petroleum Spills Committee*

Committee Co-chairs: *Douglas H. Zamelis, Gary S. Bowitch, Melissa M. Valle*

Date of Report: *1/3/2018*

Committee Activities- Please summarize activities completed by the Committee during 2017.

8th Annual Oil Symposium, Wednesday June 7, 2017

Judicial or Administrative Decisions- Please summarize significant decisions issued in 2017 that involve the jurisdiction of the Committee.

State v. Ronnen, Index No. L-00055-14 (Sup. Ct. Albany Co., Jan. 23, 2017 and Mar. 30, 2017, Hon. Michael H. Melkonian, J.). In a cost recovery action for two spills at a former major oil storage facility, the court held that the theory of unjust enrichment by double recovery was inapplicable even though the State received \$223,312 from federal ARRA LUST Stimulus Funding for the cleanup. The court did not address the Defendant's claim that Navigation Law §193 (providing that "no person," defined by Navigation Law §172(14) to include the State, "who receives compensation for damages or cleanup and removal costs pursuant to any other state or federal law shall be permitted to receive compensation for the same damages or cleanup and removal costs under this article") bars recovery by the State.

In a second decision, Judge Melkonian held that the State failed to meet its burden in seeking a protective order for two Investigative Summary Reports ("IRSs") regarding the spills, and a Transmittal Memorandum which transmitted one of the IRSs between employees of NYSDEC. The court rejected the State's argument that the attorney-client privilege applied to any of the documents because the contents were not confidential communications in the context of legal advice, and specifically did not apply to the IRSs because they were not communications with the Attorney General. The court found these documents were simply factual.

Zincke v. P. Energy Corp., 146 A.D.3d 923, 45 N.Y.S.3d 510 (2d Dep't 2017). The Second Department affirmed an order that found that a home heating oil provider failed to raise a triable issue of fact on summary judgment, and thus, was liable under the Oil Spill Act when its employee overfilled a homeowner's basement heating oil tank, causing oil to discharge out of a valve at the bottom of one of the tanks onto the cellar floor, which contained several floor drains that emptied directly into the soil. The court held that it was insufficient for the Defendant to "merely demonstrate that the oil spill . . . did not actually reach the surface or groundwater," rather "[i]t was required to also demonstrate that the oil spill could not have done so."

Zahav Enterprises, Inc. v. Martens, 2017 N.Y. Slip Op. 03522, 1, 2017 WL 1657221 (2d Dep't May 3, 2017). The Second Department affirmed an order denying a hybrid Article 78 challenge seeking to set aside a stipulation by which the Petitioner agreed to remediate, rejecting allegation of bad faith. Further, the Petitioner illegally discharged petroleum, failed to contain

petroleum, and failed to comply with the stipulation, in violation of the Oil Spill Act, so the \$60,000 penalty imposed by the Commissioner (reduced from \$112,500 sought by NYSDEC) was not excessive, and was properly assessed even if the Petitioner was an “innocent owner.”

Legislation- Please summarize significant state or federal legislation enacted in 2017 that involve the jurisdiction of the Committee:

N/A

Regulations- Please summarize significant state or federal regulations proposed or adopted in 2017 that involve the jurisdiction of the Committee.

N/A

Guidance Documents- Please summarize significant state or federal guidance documents or policies issued in 2017 that involve the jurisdiction of the Committee.

N/A

2017 Environmental Law Section Committee Report

Committee Name: Environmental Insurance

Committee Co-chairs: Gerard P. Cavaluzzi and Michele Schroeder

Date of Report: December 30, 2017

The Committee is now preparing to offer a half day CLE program in the Fall of 2018.

The Committee will again sponsor the highly regarded CLE program entitled “Emerging Issues in Environmental Insurance”. The program, which will be held in New York City and by webinar. The topics will include an overview of the market for environmental insurance products and trends from the perspectives of insurers, policy holders and brokers, and practical tips for utilizing environmental insurance products in transactions. The program has been well-attended in the past, both online and in person. The program continues the series of programs hosted by our Committee every two years.

Significant legislation or market developments affecting our committee specialty in the current year includes:

Legislation aimed at addressing recent legionella outbreaks contemplates mandatory inspections and monitoring of cooling towers. Additionally, coverage may be limited to new conditions with sub-limits of insurance, and subject to maintenance and monitoring plans associated with water delivery and filtration systems and pathways i.e.: piping infrastructure, HVAC systems, fountains, pool and spa facilities, sprinkler systems, etc.

Contingent business interruption coverage demand associated with pollution releases at locations in proximity to the insured location that result in loss at the insured location. Events such as severe weather conditions/hurricanes, floods, and wildfires resulting in pollution releases having consequential interruption in normal and customary business operations at separate locations due to stigma or denial of access have led to this broker request for coverage. Markets have responded with varied terms and conditions.

Owned property exclusion prohibits all property damage on, at or under an insured location except for damage incurred as a result of remediating a pollution condition, which is commonly referred to as restoration costs or replacement costs. Demand grew for broader restoration costs coverage in an effort to achieve expansion of property damage coverage in the form of replacement costs vs. actual cash value of the property and/or broader coverage not directly caused by a remediation but casually connected to the pollution release. Markets have responded with varied terms and conditions.

Insurance coverage demand conditioned on the failure of an indemnity or failure of an assumption of the responsibility for a cleanup at a location that is the subject of a real estate transaction. The demand for this coverage is from the party receiving the indemnity benefit as a

backstop to non-performance by the party giving the benefit. Select markets have responded with manuscript policy language and varied terms and conditions.

Demand for Remediation Stop Loss coverage continues and in combination with discovery of new pollution conditions. Select markets have refined products with varied terms and conditions and underwriting restrictions.

Significant regulations affecting our committee specialty in the current year includes:

Recently, the New York State Department of Health (NYSDOH) lowered the indoor air guideline for trichloroethene (TCE) from 5 micrometers per cubic meter ($\mu\text{m}/\text{m}^3$) to 2 $\mu\text{m}/\text{m}^3$. TCE is a man-made chemical which is used as a solvent to remove grease in adhesives, in paint stripper, and in manufacturing. The main source of exposure to TCE is through indoor air.

The NYSDOH set this guideline at a concentration that is significantly below levels that are known to have direct negative impacts on human health. When TCE levels exceed this guideline, actions should be taken to reduce exposure. The guideline is used to determine how urgently actions are needed to reduce exposure. As with any chemical found in indoor air, the NYSDOH, along with CA RICH, recommend taking steps to reduce exposure whenever levels are detected above background concentrations (typically 1 $\mu\text{m}/\text{m}^3$ for TCE).

Significant court decisions affecting our committee specialty in the current year includes:

1. The Third Circuit U.S. Court of Appeals on December 14, 2017 affirmed a New Jersey federal judge's ruling in favor of Indian Harbor Insurance Company in an environmental contamination dispute after determining that Indian Harbor's failure to exclude coverage to certain insured's involved in the contamination dispute clearly was a mistake or "scrivener's error". (Indian Harbor Insurance Co. v. NL Environmental Management Services Inc. et al., Nos. 16-3262, 16-3293, 3rd Cir., 2017 U.S. App. LEXIS 25277).
2. The United States District Court for the District of Minnesota on September 12, 2017 decided a motion for summary judgment brought by Illinois Union Insurance Company interpreting the extent of recovery of losses resulting from an outbreak of highly pathogenic avian influenza (HPAI or "bird flu"). The court interpreted the term "replacement costs" in the pollution legal liability policies definition of remediation costs to include certain costs but not others. (Rembrandt Enters. V. Ill. Union Ins. Co. Civ. No. 15-2913 (RHK/HB), 2017 U.S. Dist. LEXIS 147030).
3. The United States District Court for the Northern District of California on March 29, 2017 granted summary judgment to American Guarantee and Liability Insurance Company, Steadfast Insurance Company and Zurich American Insurance Company deciding that the deductible in an environmental impairment liability insurance policy was applicable to the costs of defense. (American Guarantee and Liability Insurance Company, et al., v. Technichem, Inc. Case No. 15-cv-03611-VC, 2017 U.S. Dist. LEXIS 47103).

4. The Commonwealth of Massachusetts, Suffolk, Superior Court on September 7, 2017 denied summary judgment to Steadfast Insurance Company on the basis that material facts existed as to whether a Department of Environmental Protection claim arose from a pollution event existing prior to the policy period. Steadfast argued that coverage applied only for a “new pollution event” and there were no material facts to indicate that pollution event was a “new pollution event”. (Casella Waste Systems, Inc., et al. v. Steadfast Insurance Company, Commonwealth of Massachusetts, Suffolk, ss. Superior Court Civil Action No. 2016-2521 BLS 1, Lawyers Weekly No. 09-008-17).
5. The U.S. District Court for the Western District of Missouri denied Illinois Union Insurance Company’s motion for summary judgment interpreting language associated with a Remediation Cost Cap policy associated with a remediation plan and coverage for new pollution conditions provided by endorsement. The Court rejected Ill. Unions position that costs associated with pollution conditions covered by one policy are necessarily excluded by the other coverage. (Sunflower Redevelopment LLC v. Illinois Union Insurance Co., No. 15-577, W. D. Mo., 2017 U.S. Dist. LEXIS 66466.

**New York State Bar Association
Environmental & Energy Law Section
Committee Year-End Report
For Calendar Year _____**

Committee Name:

Committee Co-chairs:

Date of Report:

Committee Activities – Please summarize activities completed by the Committee this year.

Judicial or Administrative Decisions – Please summarize significant decisions issued this year that involve the jurisdiction of the Committee.

Legislation – Please summarize significant state or federal legislation enacted this year that involve the jurisdiction of the Committee:

Regulations – Please summarize significant state or federal regulations proposed or adopted this year that involve the jurisdiction of the Committee.

Guidance Documents – Please summarize significant state or federal guidance documents or policies issued this year that involve the jurisdiction of the Committee.

Please return completed report by December 15 to the Section Officer who is the Committee's Liaison.