

**OSB ENVIRONMENTAL AND NATURAL RESOURCES SECTION
EXECUTIVE COMMITTEE MEETING**

MINUTES

Friday, February 12, 2010, at 9:15 a.m.

The meeting was held at Schwabe Williamson & Wyatt's offices in Portland, Oregon.

The following people were in attendance:

In person: Jas Adams, Laura Maffei, Erin Madden, Karen Moynahan, Susan O'Toole, Patrick Rowe, and Kim Stafford.

Via Telephone: David Ashton, Diane Henkels, Rachel Barton-Russell, Pamela Hardy, and Scott Morrill.

Excused: Hong Huynh, Michael Campbell, Nathan Karman, and John Marsh.

We also had a guest: Dallas DeLuca of the Markowitz Herbold law firm.

1. Minutes

Meeting minutes for January 8, 2010, were discussed, revisions made, and unanimously approved.

2. Chair's Report (David Ashton)

(a) Initial Section Report. We reviewed the final report that David submitted to the Bar. There was a discussion about having twelve brownbags, as reported in the form, and whether that is too ambitious. The report is aspirational, so this should not be a problem. David mentioned that Nathan has offered to collaborate with David on coordination of Brownbags.

David confirmed that the legislative contacts are Diane, who is replacing David, and Michael Campbell.

3. Treasurer's Report (Hong Huynh via Jas Adams)

(a) The tentative year-end figures are as follows: there were approximately \$1,041 in expenses and \$0 income in December, leaving an ending fund balance of **\$12,225** on December 31, 2009. There was a suggestion that our charitable contributions (approximately \$600 in December) be made earlier in the year so we have more timely information about our ending fund balance for the year.

(b) As of the end of December, there were **544** members and **15** complimentary members, for **559** total (same as November).

4. Bar Liaison Report (Scott Morrill)

(a) House of Delegates elections are coming up. David is an ex officio member of the HoD because he is the section's Chair.

(b) Scott mentioned that at the end of February the Bar's accounting office will purge 2009 records and publish the new list of section members for 2010. We also discussed the Bar's policy to publish notices by email only. A member must "opt out" to receive paper notices. Scott will ask for a list of "opt out" members to provide to us.

5. Casenotes (David Ashton)

Micah was not at the meeting and we discussed the need to include him in our meeting notices. David will follow up with him off-line to get an update on the succession planning discussed at last month's meeting.

6. Newsletters

We generally discussed the quarterly publication schedule and agreed it is ambitious, but we are not locked in to this.

(a) Public Trust Doctrine. (Susan O'Toole) The issue is out and has received good feedback. Thank you Susan!

(b) Climate Change and Renewable Energy. (David Ashton/Laura Maffei) David and Laura will meet to discuss the issue within the next two weeks and begin to frame the topics and articles.

(c) Upcoming Outlook Topics. We renewed our discussion about topics for upcoming Outlook editions:

- Dam removal is still at the top of the list with Michael, Don Pyle and Kristen Bonano as potential editors.
- Rachel indicated she is still doing research on her natural law topic, which is roughly a primacy of property vs. primacy of the environmental comparison. She hopes to be ready to present something a little more concrete by next meeting. Rachel plans to brainstorm this to some degree with John Marsh and Diane Henkels.
- Integrated water resources/water quality is still a possibility. Karen reported that there is nothing new at this time.
- David is still interested in an update on Portland Harbor cleanup. He will contact Kim and Erin to discuss further.
- Erin suggested that we should dedicate an issue to the upcoming 40th "anniversary" of NEPA. There was general agreement that this is a good

topic for Outlook.

7. Updating E&NR Deskbook (Laura Maffei)

Laura reported on a meeting of the Deskbook ad hoc committee, including a handout with proposed organization of topics into new volumes for the Deskbook. There was a general discussion of the topics and divisions. We also discussed some of the logistical challenges, such as getting a small group of authors who are committed to completing each volume. Erin Madden and Karen Moynahan both expressed interest in participating in the Deskbook revision.

8. CLEs and Brownbags

(a) Brownbags. (David Ashton) The brownbag on geothermal projects in Oregon will be next Friday, February 19.

David reiterated that new Exec Committee member Nathan Karman has volunteered to work with David as brownbag coordinator. David and Nathan are working on transitioning some of David's responsibilities.

Some new topics for upcoming brownbags are environmental ethics and the University of Portland Triangle Park project. There are various other ideas floating around and David requested that people get in touch with Nathan and David to move things forward.

(b) CLE with RELU. Patrick followed up with Tod regarding the joint CLE with RELU. Tod is currently struggling to get speakers, but they are still definitely interested in teaming up with ENR. The joint CLE could be the UP-Triangle Park project discussed above or something else.

Annual CLE. Pam mentioned that she attended the annual CLE put on by the Environmental Section of the California Bar. They use a different model: rather than picking a topic and planning around that (as we do), they provide updates to the law and hot topics. There was general discussion of this model and we agreed it could be much easier to plan and may increase attendance. We also discussed potential venues, including bringing this year's CLE back to the Portland area. There are options near town (e.g., Edgefield) that may work to get people away from their offices without having to travel across the state to attend.

John Marsh is going to set up a meeting with those interested in helping to plan the annual CLE: Patrick, Susan O., Pam, Kim, Jas and Erin.

9. E-alert Topics

The legislative eAlert went out earlier this week. We were updated on some of the other topics previously discussed:

- The *Zidell* appeal. Oral argument took place January 6 and someone from Miller Nash may be interested in writing about this case.
- Placer mining case: based on the outcome of this case, it is probable that neither DEQ nor the miners will want to report on it. Patrick volunteered to contact NEDC to find out if they want to write on the topic, though it may be too stale at this point for an eAlert.
- BETCs: a longer article on BETCs is being pursued for the next issue of Outlook.
- Clean Water Act/RCRA case involving lead at a firing range: this is in federal court and MSJs were recently denied & the parties are currently preparing for trial. This may be good for an eAlert after the trial.
- An end-of-session eAlert may be useful.
- The NOAA homeport in Newport is still timely.
- MS4 Case: the parties are still waiting for a decision, but it may provide a good eAlert topic.
- Port of Portland & public records: this topic is still live and on the table.
- Hood River Juice case: this is a criminal enforcement case related to process wastewater from a juice manufacturer. Karen raised this as a new possibility for an eAlert, especially because we haven't covered many criminal environmental cases in the past.

10. New Business

Dallas DeLuca from the Markowitz firm discussed the potential for creating a list serve for pro bono opportunities involving environmental issues. There was general support for this idea and discussion of the logistical aspects of creating such a list. For example, who would publish the opportunities and to whom? The committee agreed to put this idea on the agenda for next month's meeting.

Jas adjourned the meeting at 10:30 a.m.

Next Meeting Date: **Friday, March 12, 2010, at 9:15 a.m., at Schwabe Williamson & Wyatt; 1211 SW 5th Ave, 19th Floor; Portland, OR.**