

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

**FINAL MINUTES**

**February 10, 2012, 9:15 a.m.**

The meeting was held at the Port of Portland.

Attendance (A quorum of 13 members attended):

*In person:* Larry Burke, Regina Cutler, Lawson Fite, Hong Huynh, Laura Maffei, John Marsh, Dan Mensher, Kate LaRiche Moore, Scott Morrill, Patrick Rowe,

*Via Telephone:* Sarah Liljefelt, Dustin Till, Kim Stafford, Sarah Winter Whelan

*Others in Attendance:* Ansley Nelson (Port); Matt Preusch (2L, Lewis & Clark), Jared Ogden (Casenotes Editor)

*Excused:* Jas Adams, Nathan Karman, Karen Moynahan

**1. Approval of Minutes from January 2012 Meetings (Patrick)**

Approved, with limited amendments.

**2. Chair's Report (Hong)**

Hong has submitted the Section's Goals and Priorities for the year to the State Bar. One of our primary goals this year is to do more outreach to areas outside of the Portland-metro area. We would like more attorneys from outside the Portland area to be more active in the Section, and would like representation on the Executive Committee from other parts of the state. We may consider a field trip outside of Portland. Hong asked Brett Kenney to provide ideas/suggestions, given that he is currently our only Executive Committee Member from outside of Portland.

Nathan Karman will be leaving the Executive Committee. He led the Section's brownbag lunch program.

Scott Morrill confirmed that, based on Article VI, Section 4 of the Section Bylaws, the Executive Committee may fill any vacancy that arises during the course of the year, with the appointment effective until January 1 of the following year.

Patrick made a motion to appoint Ansley Nelson (Port of Portland) to take Nathan Karman's place on the Executive Committee. It was seconded and passed unanimously.

### **3. Treasurer's Report (John)**

The State Bar provided year-end numbers, but has not provided December numbers.

#### Year end

Annual expenses: \$2,775

Revenue: \$0 in December

Account balance: \$12,781

Total members: 559 (557 paid members, 2 complimentary)

Hong noted that food for the Port tour/lunch will need to be accounted for in our budget. John requested clarification on the source of funding, and Hong pointed out that there is \$2,000 budgeted for social events, from which this will be drawn. There is no need to revise our budget.

### **4. Bar Liaison Report (Scott)**

Scott informed John of the State Bar training program for Section Treasurers. John plans to attend.

### **5. Updating ENR Deskbook (Laura)**

All authors for Volumes 1 and 2 have been assigned and are now working on their chapters. The deadline for submitting chapters has been extended to March 30. Editors will review the draft chapters as they are submitted.

Laura has had people approach her re: writing for Volumes 3 and 4 to be updated in the future.

### **6. Brownbags (formerly Nathan, transitioning to Ansley)**

Hong summarized the brownbag program. These are popular CLES that usually take place downtown with good speakers to address new cases or recent developments. David Ashton started the program. Nathan has been doing it for the last couple years. Ansley Nelson will assume responsibility for this program. She may look for a co-chair.

Hong noted that the most significant task is to locate speakers and ensure CLE accreditation.

Ansley will need assistance in finding hosts for the brownbag lunches. Hong, Larry, Kim, Lawson, Laura, and Kate (?) each offered to host lunches at their respective firms.

John supports Hong's past suggestion that our E-Outlook and Casenote authors lead brownbag lunches on the topics about which they've written. Hong notes that the written article can then

serve as the CLE written materials. Can be time consuming for the attorneys, but can also work out well given that they're usually hot topics.

### Ideas for future brownbags

Matt P. suggests a brownbag on *Sackett v. EPA*: preenforcement review of administrative compliance orders under CWA. Ideally someone from EPA or the Corps would speak. Ansley will coordinate with Matt.

John volunteers to contact Bill Cook or another DOJ attorney to lead a brownbag on wolves. Kate notes that Elizabeth Howard at her office is also working on these issues. Laura notes that there are two bills this legislative session on wolves.

Nathan was considering doing an enforcement brownbag, in coordination with Karen M. Hong asks Jared to look into an attorney at DOJ or DEQ to lead the presentation.

John also suggests a brownbag on the Columbia River Treaty. He can lead the brownbag or find someone from the Corps or Bonneville to lead. Alternatives for treaty features being analyzed; won't have until June, so may be best to wait on this brownbag until late summer, early fall.

Lawson suggests a brownbag analyzing the silvicultural rule case, *NEDC v. Brown*. Believes that cert will be granted, given Circuit split with Ninth Circuit as outlier. We will need to wait if the Supreme Court will grant cert. Dan M. volunteers to make this presentation.

## **7. Casenotes (Jared)**

Casenotes are going well. The next volume is scheduled to be issued in April. Jared encourages Executive Committee Members to serve as authors or to recommend authors. He has recently added authors, but could use more. He regularly searches publications for cases of interest to Section members, and welcomes recommendations for cases to address.

Hong suggests environmental insurance case; *Century Indemnity and Marine Group* case – she volunteers to write a short case note on it.

## **8. E-Outlooks (Sarah L.; Patrick)**

- Cost Recovery Remedies for Portland Harbor (Patrick)
- New ideas

We will no longer refer to E-Newsletters; will call both the shorter articles and longer, more comprehensive articles as “E-Outlooks”.

We will brainstorm ideas for E-Outlook articles and authors at our next meeting. Hong requests that each Executive Committee member bring at least two topic ideas, and if possible, identify potential authors.

### **9. Law School Liaison Reports (Karen, Kim)**

Matt has informed students of ability to join Section complimentary. Several students have expressed interest.

Hong still looking for a U of O liaison. She will follow up with Brett.

### **10. Pro Bono project update (Sarah W.)**

For the past several months, Sarah has been determining if there is any interest among Section members throughout the State to do provide pro bono environmental legal services. The goal is to create a directory of attorneys willing to do such work. Upon her initial inquiry last year, she received a small response, perhaps because it was too hypothetical. She suggests that the Executive Committee establishes the directory first and then asks Section members to sign on. But there has been no clear consensus as the target audience of the directory, what attorneys who could be listed on the directory (e.g., public interest law attorneys only or also attorneys normally representing industries but be willing to provide pro bono services), and , and whether the legal services to be provided would be strictly pro bono, or also “low bono”.

There was much discussion of the topic among Executive Committee Members.

Lawson states attorneys to be listed in the directory could “check boxes” noting what types of cases or specific areas of law they are willing to work on.

Larry states that whether attorneys are willing to do pro bono work will depend on the client and the type of cases. We could leave it as a resource for non-profit groups, and the attorneys signed up would have discretion to discuss with the non-profit if they are willing to do the work on a pro bono or low bono basis. He reiterates the need to categorize the types of work and specific area of law in which that the attorney has expertise and is interested in doing.

Dan states that the directory could get too large and not useful if the questionnaire to the Section members is limited to whether they are interested in providing pro bono legal service because all attorneys are open to that idea. There needs to be a clearer set of inquiries. In his capacity, he fields a lot of calls from individual citizens and non-profit needing legal services but cannot afford it. He welcomes the opportunity to have attorneys that usually represent industry to assist in answering some of these calls

John states that the main goal is determining how we can help people who need help and cannot afford legal representation. That was the original intent of developing a pro bono directory when he first began getting involved in this project a couple of years ago.

Sarah states that it should be up to the attorney and the potential recipient to determine if the work qualifies for pro bono work.

Hong states that distinguishing between pro bono and low bono legal services would be difficult. She suggests that it be limited to attorneys willing to do pro bono work. She agrees that we need to list areas of the law in which the attorney would be willing to do on a pro bono basis.

Our written solicitation/request to attorneys for the directory should include a definition of pro bono, perhaps using the ABA definition, so attorneys understand what it means. We'll likely need to update the directory regularly, at least on an annual basis, and work with the Section's webmaster to post updated information on the Internet. We would like a format that minimizes burden to the Section to administer and oversee once the directory is established.

The general consensus was to make the directory available to non-profits and individuals or groups of limited financial means, with categories denoting the specific types of work or area of law that the attorney is available to do.

Sarah would like other Section Members to assist her with this effort. Hong and Dan volunteer to assist her. Scott recommends contacting George Wolf in the State Bar's Lawyer Referral Services Dept. to obtain his insight on creating the directory.

## **11. Field Trips**

- Bonneville Dam Update (Lawson)

Hong reported that Adam will continue leading the Field Trip effort.

Lawson states that the Corps has agreed to a tour of approx. 35 people. He is wondering if there is a specific date. He will avoid Spring Break, e.g., the last week in March. John suggests the tour take place during the height of the fish migration. Lawson will contact Corps or NOAA to determine a good date.

We will brainstorm ideas for field trips at our next meeting.

## **12. Annual CLE (John)**

John has secured McMenamins for October 5. We have a block of rooms reserved for Oct. 4 and 5. We will not do a Thursday social event this year, but instead are considering Friday evening social activities to replace the Thursday social.

There are now nine people are on the Planning Committee: John, Karen Moynahan, Lawson Fite, Laura Maffei, Patrick Rowe, Duncan Delano, Kristin Gaston, Kate LaRiche Moore and Sarah Winter Whelan.

John will send out a Save the Date to the Section within the next week. The first Planning Committee meeting will be after March 14, as John will be out of the country.

### **13. New Business (Hong)**

Jas inquired whether anyone would like to organize reserving a table for the Oregon League of Conservation Voters annual dinner: April 27 at the Convention Center. 10 people to a table, \$125 per person.

Brett Kenney will take the lead in determining if there is enough interest among Section Members to fill a table.

The meeting was adjourned at approximately 10:45 a.m.

**Next Meeting Date: Friday, March 9, 9:15 a.m. Miller Nash LLP, 111 SW 5th Ave, Ste 3400, Portland. If you will not be able to attend, please notify Patrick Rowe before the meeting via email to be excused.**