

OSB ENVIRONMENTAL AND NATURAL RESOURCES SECTION

EXECUTIVE COMMITTEE MEETING

Friday, March 16, 2018 – 12:00 Noon

LOCATION

In person: Dunn Carney
851 SW 6th Ave, 15th Floor
Portland, OR 97204

By phone: Dial 1-888-891-0496 and enter 150048

MINUTES

In person: Caylin Barter, Dave Becker, Maura Fahey, Lawson Fite, Tiffany Johnson, Sarah Liljefelt, David Rabbino, Mark Strandberg, Dustin Till

By telephone: Dominic Carollo, Devin Franklin, Michael Freese, Kirk Maag, Stacy Owen (Bar liaison)

Quorum (9 minimum of 17) reached

Excused: Ashley Carter, Caroline Lobdell, Kate Moore, Ryan Shannon

Approval of Minutes:

February minutes approved by unanimous vote.

Chair's report (Lawson):

The Bar service was corrupted and the E&NR Section website went down. We confirmed that it was restored and working correctly as of Friday morning.

We have received the reports on new members and members that didn't renew – Lawson will send a blast email to everyone that didn't renew to encourage them to renew. We used a similar email last year to good effect. Everyone on the ExCom should also reach out to non-renewers that they know personally. There are many Oregon DOJ lawyers on non-renewers – is this a new policy at ODOJ? Stacy also noted that some people she sees in her professional capacity have other things going on in their lives which may cause a few drop-offs

The Section gave a plaque to Dustin in shape of state of Oregon in appreciation of his service as Chair, along with a card and funds enough to buy pair of Timbers tickets.

Bar Liaison Report (Stacy):

Stacy reminded us that the deadline for materials for next swearing in is May 4th, and that an email regarding this was sent to Lawson on March 5th.

The E&NR Section prepared a flyer for distribution last year. Consensus that it is a good idea to do again this year. Dustin has a copy of last year's flyer, he will send to Lawson who will update and submit it.

Treasurer's Report (Sarah):

As of the end of February, paid membership was up by five, and complimentary membership by three. The end-of-February fund balance is \$15,833.

The invoice for food for the February meeting was \$126. We don't have a specific line item in the budget for this. In 2017 we budgeted \$1000 for "Miscellaneous" but spent nothing. In the 2018, the "Miscellaneous" budget is \$1000, and the budget for the Executive Committee is \$400 (for which 2017 expenses also were \$100). We may exceed our budget for executive committee meeting costs in 2018.

Stacy will ask about the procedures for amending our budget. We may want to increase the line item for the Executive Committee and budget the remaining lunches.

Publications:

ENR Deskbook (Kirk/Mark)

Kirk and Mark met with Linda Kruschke, Director of Legal Publications at the Bar. The Bar's feedback was that the E&NR Deskbook has been a frustrating process. It was first published in 2002, then updated in 2006, and then around 2011 an effort began to rewrite the E&NR Deskbook in five volumes. The intention was to release a new volume every two years. The Bar has found it frustrating for our Section and authors because of missed deadlines and communication failures.

The Bar has also been frustrated that the editorial position has been tied to service on the E&NR ExCom and then rotating. In the future, there is a need for commitment by the same person/people to stick with the same volume until it is complete.

Volume 1 of the latest revision was published in 2015. Volume 2 was supposed to be published in 2017, and about half of the chapters are on the publications website, but it has since bogged down.

Kirk's recommendation if we want to continue to invest time in the Deskbook is to get two-three people to be on the editorial board for Volume 3 who (a) know that their editorial service is *not* tied to their term on the ExCom but will continue until Volume 3 is complete and (b) know that they have *no* responsibility for Volume 2.

Kirk and Mark are willing to serve on the Volume 3 editorial committee – Kirk and Mark will look for a third person from outside the ExCom. These editors will address what topics to include, big-picture issues, flagging large omissions, but *not* do deep cite checks (that is the Bar Publication section's responsibility).

The first step will be to decide what topics to be included, and then identify authors – Bar wants us to go back to person who authored it last time first, then look for others. The ExCom should not get bogged down in micromanaging it. There is no decisions yet on what will be in Volume 3 – the Bar's tentative list of topics for Volume 3 are NEPA, Wildlife Protection, Water Resources, Cultural Resources, Coastal Resources, Land Based Resources.

There is less certainty about what to do about the incomplete Volume 2. The Bar seems to want E&NR Section to tackle Volume 3 to prove we can do a Volume before going back to Volume 2.

The Bar was concerned that the editors of Volume 2 were working directly with the authors without looping in the Bar editorial staff. The Bar is also concerned that, in the past, the E&NR Section viewed the Deskbook as a *Section* publication, whereas the Bar sees it as a *Bar* publication. The Bar wants to be copied on all communications with authors and wants to be driving time frames and deadlines—the Bar Publications staff are very available to help with the process and are willing to take care of following up with authors on deadlines and missed deadlines.

To do a printed volume, we'd need to ask authors to update previous chapters. The Bar makes some money off the sale of printed volumes, but there is not a lot of demand.

Dustin asked whether the E&NR ExCom should be involved in the Deskbook at all. Mark's impression is that, if the E&NR ExCom is *not* involved, the Deskbook will not get published at all. Dustin suggested that perhaps the proper role of the ExCom is not have a dedicated committee, but instead get regular updates and go back to the Bar if it is not doing what ExCom wants.

Dominic recently authored chapter in the Litigation Deskbook – he got a survey from the Bar that led to his involvement – his impression is Bar has a sophisticated process for casting a net for authors.

Is the E&NR Deskbook a resource that people are using? 26 people have downloaded the whole thing, but the Bar has no numbers on downloads/clicks of individual chapters. More popular Sections (e.g. Litigation, Real Estate/Land Use) get about 500 downloads annually.

The E&NR Deskbook may be useful for newer attorneys. Some comments that it is confusing; some topics, such as state cleanup law, don't have a lot of the relevant litigation issues (which may be in the Litigation Deskbook). Dominic has used Bar

Books for lots of his practice (because he practices in several different areas of law), but doesn't think quality of ENR books were very good in general.

The Bar's tentative list of topics for Volume 4 are Environmental Management, Audits, and Environmental Aspects of Transactions, all of which involve updating old chapters. For Volume 5, the Bar's tentative list of topics includes Permitting, Tax Credits and Financing, and Emissions, Carbon Banking, Carbon Trading—all of which are new chapters.

Case Notes (Devin)

Devin published Case Notes Vol. 32 on February 27th – it was a little late due to a lack of volunteers. She is collecting cases to put the next volume together and hopes to publish it in April. She has received emails from other ExCom members with recommendations for potential volunteers, and will send out an email call for volunteers in early April. We should all feel free to send her further suggestions.

E-Outlooks (Tiffany)

Tiffany has been working on an E-Outlook regarding the Court of Federal Claims determination that the 2001 shut-off of irrigation water to protect ESA-listed salmonids was not a taking for which compensation is owed. Tiffany has been working with an author who has now had the article published with another journal, so it can now be published as an E-Outlook. She will work on putting it in our format and work with Dave to get it published.

Tiffany also will work with Mike and David re: legislative update, and will forward the list of potential authors she (and Mike?) got from Sarah Hackbart to the whole ExCom.

Lawson wrote article on the Antiquities Act that was published in the ABA newsletter that could be updated/repurposed for a future E&NR E-Outlook

Education/CLE

Brownbags (Maura/Caroline/Ryan)

The next Brownbag is Thursday, March 22nd, at Stoel Rives – Mac Lacy (Oregon Natural Desert Association) and Scott Horngren (Western Resources Legal Center) will be speaking about Greater sage-grouse planning and predator control issues.

Maura will get brownbag materials from the speakers prior to the next brownbag and email them to all attendees, and also email them to Sarah to post on the website.

Maura wants to plan the next Brownbag for June and is still looking for a topic. One suggestion is “emerging contaminants” – the environmental consulting firm that

Mark shares an office with might be willing to present. Also maybe reach out to the Diversity Section regarding a potential intersectional Brownbag on an environmental justice topic.

Maura continues to plan a Brownbag/CLE for September with Josh Newton and the Indian Law Section, ideally in Bend or on the Warm Springs Reservation. There was an Access to Justice credit for a CLE at the recent Public Interest Environmental Law Conference on “Best Practices for Working with Tribes”—we could potentially seek the same for the September event. William Barquin, Attorney General of the Kootenai Tribes of Idaho (but located in Portland) was suggested as a potential speaker.

It appears that Lewis & Clark Law School will now do a Food Justice event in 2019 – Lawson suggested that the E&NR Section could co-sponsor it.

Field Trips (Caylin/Michael/Tiffany)

Lawson put Caylin in touch with a couple of potential contacts at the Forest Service for an Eagle Creek Fire field trip. Caylin reached out but has not received a response.

Karen Moynihan has calendared mid-April to get dates for Bull Run Trip, at which point we can decide what date we want.

Discussion of a Portland Harbor boat tour in September. We might roll the August “social” at the Lucky Lab into the harbor tour event (e.g. do the boat tour, followed by the social). Caylin will reach out to Portland Spirit reservations to see if there’s a mid/late afternoon during a weekday in early September that might work – she will get the dates and circulate them to the ExCom. Potential speakers include Kevin Parrett (Oregon DEQ), Courtney Johnson (Crag Law Center – counsel for Nez Perce Tribe on Portland Harbor), Julie Weis (Haglund Kelley, LLP).

Annual CLE (Kate)

Kate send around an email to ExCom members interested in helping plan the Annual CLE last week to set up a group call next week. She has reserved October 19th tentatively with Edgefield. Discussion that October 19th conflicts with ABA Section meeting in San Diego. The consensus was to hold the Annual CLE on Thursday, October 11th. Kate should send out a “save the date” email to the whole section.

Legislation (Michael/David Rabbino)

No updates.

Committees:

Pro Bono (Ashley/Lawson/Devin/Ryan)

Ashley, Ryan and Lawson met to discuss preliminarily how to organize. Ashley will reach out to the California Bar for details about what they did in support of people affected by wildfires as a potential model for E&NR pro bono activities, e.g. helping people apply for FEMA benefits. Ryan suggested, as an alternative, that the Section sponsor a service project instead, e.g. volunteering with Friends of Trees.

Technology (Dave Becker/Sarah)

Sarah will post materials for brown bags on the “Events” website prior to the event for downloading by participants, in coordination with Maura. No other update at this time.

Diversity (Dave/Ashley/Maura/Caroline/Kate)

Dave circulated notes regarding 2017 meetings and activities of the Diversity Committee to other members, and committee will meet in early April.

Maura noted that the Civil Rights Section is hosting a Brownbag on Implicit Bias and Workplace Harassment at Noon on Wednesday, April 25, at Tonkon Torp (888 SW 5th Ave, Ste 1600). Maura will circulate the invitation to the rest of the ExCom.

Executive Committee Membership

No update at this time.

Annual Award/Meeting (Dave Becker, Dominic)

No update at this time.

8. Other/New Business (Lawson)

None.

OREGON STATE BAR
Environmental & Natural Resources - 813
Statement of Revenue and Expense
For the Two Months Ending February 28, 2018

Description	February 2018	YTD 2018	Budget 2018	% of Budget	February Prior Year	YTD Prior Year
REVENUES						
Membership Fees	\$100	\$9,700	\$10,300	94.2%	\$140	\$9,940
Registrations - Conferences/Seminars			3,000	0.0%		
Total Revenue	100	9,700	13,300	72.9%	140	9,940
EXPENSES						
Annual Meeting			2,200	0.0%		
Case Law Summaries			600	0.0%		
Committee - Executive			400	0.0%		
Committee - Subcommittee			200	0.0%		
Computer - Internet / Web			100	0.0%		
Conferences / Seminars Expense			5,000	0.0%		
Education			2,200	0.0%		
Gifts & Awards			600	0.0%		
Telephone - Conference Calling	14	14	200	7.1%	19	19
OSB Support Services Assessment	40	3,880	4,120	94.2%	56	3,976
Miscellaneous Expense		35	1,000	3.5%		
Total Expense	54	3,929	16,620	23.6%	75	3,995
Net Revenue (Expense)	46	5,771	(3,320)		65	5,945
Beginning Fund Balance		10,063				
Ending Fund Balance		15,833				
Section Member Count - Paid	5	485				497
Section Member Count -	3	5				9
Section Member Count - Total	8	490				506

E & NR Detail

Account Numbe	Account Description	Date	Vendor Reference	Debit Amoun	Credit Amount
813-4405-000	Membership Fees	2/9/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	2/12/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	2/12/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	2/13/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	2/22/2018	DUES	\$0.00	\$20.00
813-7745-000	OSB Support Service Assessment	2/28/2018	Feb Sec Admin Fee	\$40.00	\$0.00
813-7885-000	Telephone - Conference Calls	2/16/2018	Feb 2018 PGI Billing	\$14.22	\$0.00
813-U001-000	Environmental & Nat'l Resource Section Member Co	2/28/2018	Feb Sec HC adj	5	0
813-U004-000	Environmental & Nat'l Resource Sect Comp Member	2/28/2018	Feb Sec HC adj	3	0