

**OSB ENVIRONMENTAL AND NATURAL RESOURCES SECTION**

**EXECUTIVE COMMITTEE MEETING**

Friday, July 20, 2018 – 12:00 Noon

**LOCATION**

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

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

**MINUTES**

In person: Caylin Barter, Dave Becker, Ashley Carter, Lawson Fite, Michael Freese, Sarah Liljefelt, Kate Moore, Mark Strandberg, Stacy Owen (Bar liaison)

By telephone: Tiffany Johnson

Quorum (9 minimum of 17) reached

Excused: Dominic Carollo, Maura Fahey, Caroline Lobdell, Kirk Maag, David Rabbino, Ryan Shannon, Dustin Till

Absent Unexcused: Devin Franklin

Guest: Alexa Shasteen

**Approval of Minutes:**

June minutes approved unanimously, after correction of three items (9 members needed for quorum; October 11th as date for CLE; changed “mooted” to “raised” in description of proposal for complementary memberships for new admittees).

Dave will send copy of approved minutes to Sarah Hackbart to request implementation of new complementary membership policy.

**Chair’s report (Lawson):**

Lawson passed along the names of two volunteers from the ENR Section as potential authors for the ADR Section’s chapter on mediation of environmental issues.

Lawson received correspondence from Sarah Hackbart at the Bar regarding the normal obligation for Sections to hold their annual meetings by November 15th; confirmed that ENR Section has regularly received a waiver, so no change to the planned December 11th meeting this year.

Lawson and Mark are beginning the membership committee process. David Rabbino is stepping off; Lawson will send a follow-up to get a complete count of who is staying and how many positions will need to be recruited for.

### **Bar Liaison Report (Stacy):**

Stacy reported that the Bar has posted a survey on the home page of its website seeking volunteers for Bar boards, committees, and other Bar groups. There are over 40 different ways to volunteer, for both lawyers and non-lawyers. The deadline for completing the survey if you want to volunteer (for positions beginning January 2019) is September 7, 2018. The lawyer volunteer survey can be accessed at <http://www.osbar.org/volunteer/volunteeropportunities.html>.

### **Treasurer's Report (Sarah):**

The end-of-June fund balance is \$15,358. Several large checks written lately still haven't cleared in Accounting (possibly due to an audit currently under way). Sarah will follow up with Accounting. The fund balance once those are cashed will still exceed \$10,000. Four new paid members, two new non-paying members since last month – brings our paid membership to 501, with 10 non-paying, for a total membership of 511.

### **Publications:**

#### **ENR Deskbook (Kirk/Mark)**

Mark reported that Kirk emailed Linda at the Bar in June but did not get a response; when they followed up this week, she is out until next week. They will follow up next week.

#### **Case Notes (Devin)**

No update. Devin did circulate a call for volunteers to the Section membership.

#### **E-Outlooks (Tiffany)**

Lawson's article, *Dude, Where's My Congress?: Presidential Action on Monuments Highlights Congressional Abdication of Responsibility*, was published earlier this month. Prior to publication in E-Outlook, Lawson made some updates to the ABA publication to address recent events/decisions and the government's filing of the opening brief in the Klamath-Siskiyou case. Thank you Lawson!

In response to Lawson's article, Tiffany was contacted by attorney Susan Jane Brown with Western Environmental Law Center and Professor Mike Blumm of Lewis & Clark Law School. They are interested in writing an E-Outlook "joint response" to Lawson's article. Professor Blumm has written at length on these

topics, and Susan Jane represented the referenced conservation intervenors in the litigation in which Lawson represented timber and county plaintiffs. It could be interesting, but Tiffany is unclear of the scope of the desired article and whether it fits the scope of E-Outlook. She didn't see Lawson's article as controversial or needing elaboration, so she is unclear what the "response" would address. She will follow up to find out more details on what they have in mind. She told them she'd follow up with the ExCom to find out if this is an option, since she doesn't believe we have published a response column before.

The consensus after discussion was that these authors would be welcome to write an article from a different perspective and include any new developments in the Monuments cases – potentially for publication in Fall 2018 – but that a "response/critique" is not within the scope of the E-Outlooks. Tiffany will follow up with them, and expressly advise that they are welcome to write an article but it should not be styled as a response to a previously-published article.

Tiffany will continue to look for other authors to publish something relatively quickly. One thing that would be interesting is an update on the Our Children's Trust atmospheric trust litigation (following two denials of mandamus, an appeal to the Supreme Court, and motions to dismiss in district court).

Also, thank you Ashley for sending Tiffany contact information for law schools representatives that may help identify students to write E-Outlook articles. Tiffany will be reaching out to Oregon law schools soon.

## **Education/CLE**

### **Brownbags (Maura/Caroline/Ryan)**

Maura submitted a report that the June brownbag on Oregon groundwater regulation went well. There were about 20 people in attendance and 10 or so on the phone. She received positive feedback about the presentations. Thanks to Sarah for presenting. All of the paperwork has been processed and the program was approved for 1.0 general CLE credit.

For the next brownbag, Maura received confirmation that the Indian Law Section is interested in co-hosting the presentation in Bend related to tribal natural resource issues. Their CLE subcommittee offered a few additional suggestions for speakers, including a suggestion to have presenters discuss cultural resource issues as well as natural resources. Maura will be working to finalize speakers, date, and location throughout August and will update the ExCom once she has final details.

To follow up on a point Maura raised at the last meeting: Because we do not have any EC members in or near Bend, she is assuming that she will be expected to attend the Bend CLE as the organizer and as a representative of the ENR Section. She is happy to do so as long as it works with her schedule. At the last meeting she asked

whether we have the budget to cover her expenses for speakers to participate in CLEs, but she also thinks we should consider the expense for ExCom member travel. It looks like the budget for this year has \$200 in the Subcommittee category that could be potentially be used for this. For future budgeting, the ExCom should consider increasing the budget for CLE travel expenses, particularly if we want to expand our geographic reach. While many presenters may have travel expenses covered by their employer, Maura does not think we should have a system in place that makes participation in our CLE programs contingent on or influenced by a potential speaker's ability to pay.

The consensus was that it makes sense for the Section to reimburse Maura, as the coordinator, for travel expenses (at least mileage) for the Bend-based CLE. Regarding future travel reimbursements, Stacy will check whether there is any Bar guidance on the use of Section funds for travel. Mike, Kate, and Mark suggested that we consider some sort of application process or set a few decision criteria for funding travel, so that the ExCom can sign off on individual requests but in a non-arbitrary way. Dave suggested that we should keep discussing this as we budget for next year and increase the amount budgeted to make sure we have funds set aside to meet the goals Maura identified of ensuring diversity and equity for speakers and ExCom members coordinating events in cities outside of their home cities.

### **Field Trips (Caylin/Michael/Tiffany)**

The July 13th Bull Run Watershed tour went well – 10 lawyers attended, along with some additional members of the public. The tour featured a trip inside the dam and a short hike to the headwaters of the Bull Run River. We will be applying for up to six hours of CLE credit, because Karen Moynahan provided essentially non-stop instruction. Sarah is collecting the CLE materials for submission.

Portland Harbor Tour – August 9th – about 40 people are currently registered, 75 spaces available (4 will be for speakers). Caylin will send another email to the Section with the goal of having about 50 to 60 attendees. Caylin confirmed that the bar on board the boat takes credit cards. Caylin may also send a solicitation email to other relevant sections (Sustainable Future, Real Estate/Land Use, Administrative Law) asking for a non-ENR Section member price of \$60 (because it includes CLE credit, and provides an incentive to join the ENR Section).

### **Annual CLE (Kate)**

The Annual CLE committee met after the June 15th meeting and divided up topics and assignments. Topics will include: Aquaculture; Public Trust Doctrine/Atmospheric Trust Cases Update; Update on Changes in the Law Under the Trump Administration; Environmental Justice/Brownfields; CWA/CAA/RCRA Update; Ethics.

Kate will send out a “save the date” email next week, but we should have the registration set up before doing that. The consensus was that the cost should stay the same as last year (\$20 organizer/volunteer; \$75 for government/NGO; \$100 Section member; non-Section member \$125). We are still willing to do discounted rates (\$20) for students, but will note in the registration form that “students are welcome but space may be limited.”

If presentation/panel planners are getting stumped trying to find speakers, they may send out an email to the ExCom soliciting suggestions.

### **Legislation (Michael/David Rabbino)**

No update on legislation, but Mike suggested that the best time for a pre-session CLE in Salem would be in November or December—after the election, but before the start of the session in January 2019. One suggestion is to do a Brownbag about environmental bills that are coming up—Mike said we could potentially do one in Salem after the first major deadline for bill submission (he will get that date for us). Mike thinks a lot of lawyers in Salem would be interested in attending live for CLE credit, and we can also do it simultaneously as a webinar. One idea: have one Democratic and one Republican legislator and two lobbyists present. Mike will touch base with Maura to coordinate.

### **Committees:**

#### **Pro Bono (Ashley/Lawson/Devin/Ryan)**

See last meeting’s minutes for the discussion of the plan for an informational website related to disaster response. The committee will meet further and try to get the website up soon.

#### **Technology (Dave Becker/Sarah)**

Everything on the website is updated.

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

Dave will reach out to Jonathan Puente to try to get some dates he might be available to meet with the whole committee to discuss how the Section can better address diversity and inclusion issues in late August or early September, and then circulate potential dates to the committee to find a good time.

#### **Executive Committee Membership**

Mark and Lawson are beginning this year’s recruitment process (see Chair’s Report above). They reached out to Laura Maffei about joining the committee as the non-ExCom member but have not heard back yet.

### **Annual Award/Meeting (Dave Becker, Dominic)**

Dave circulated the Award nomination form to all ExCom members along with a proposed schedule for (1) constituting the committee, (2) dates for soliciting nominations, (3) a plan to have nominations close around October 12, and then distribute all nominations to the ExCom, (4) have a recommendation from the committee to the ExCom for a vote on November 16, and then (5) advise the awardee (and notify the section of the awardee's name) immediately afterwards, and work on getting a suitable award photograph by the December 11 meeting.

The consensus was that the plan is sound, and no changes to the nomination form were suggested. Dave will work with Sarah Hackbart to send out the first request for nominations the last full week of July. Whether to ask the awardee for direct input on the award photograph was tabled for future discussion.

Ashley volunteered to be on the committee along with Dave and Dominic. Several suggestions for the two non-ExCom members were offered (Jan Neuman, Stephanie Parent, Mary Ann Nash Cooper, Scott Horngren, Martha Pagel). The other members of the committee will decide on two of these to reach out to, with the goal of having the full committee set by September 21.

### **8. Other/New Business (Lawson Fite)**

None

OREGON STATE BAR  
Environmental & Natural Resources - 813  
Statement of Revenue and Expense  
For the Six Months Ending June 30, 2018

Description	June 2018	YTD 2018	Budget 2018	% of Budget	June Prior Year	YTD Prior Year
<b>REVENUES</b>						
Membership Fees	\$100	\$10,020	\$10,300	97.3%	\$40	\$10,120
Registrations - Conferences/Seminars			3,000	0.0%	572	572
Total Revenue	100	10,020	13,300	75.3%	612	10,692
<b>EXPENSES</b>						
Annual Meeting			2,200	0.0%		
Case Law Summaries		155	600	25.8%		
Committee - Executive			400	0.0%		
Committee - Subcommittee			200	0.0%		
Computer - Internet / Web			100	0.0%		
Conferences / Seminars Expense			5,000	0.0%		
Education	40	80	2,200	3.6%		
Gifts & Awards		242	600	40.3%		
Telephone - Conference Calling	16	78	200	39.2%	22	72
OSB Support Services Assessment	40	4,008	4,120	97.3%	16	4,048
Miscellaneous Expense		161	1,000	16.1%		
Total Expense	96	4,724	16,620	28.4%	38	4,120
Net Revenue (Expense)	<u>4</u>	<u>5,296</u>	<u>(3,320)</u>		<u>574</u>	<u>6,571</u>
Beginning Fund Balance		<u>10,063</u>				
Ending Fund Balance		<u>15,358</u>				
Section Member Count - Paid	5	501				506
Section Member Count - Complimentary	1	10				13
Section Member Count - Total	6	511				519

### E & NR Detail

Account Number	Account Description	Date	Vendor Reference	Debit Amount	Credit Amount
813-4405-000	Membership Fees	6/5/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	6/6/2018	DUES	\$0.00	\$40.00
813-4405-000	Membership Fees	6/13/2018	DUES	\$0.00	\$20.00
813-4405-000	Membership Fees	6/27/2018	DUES	\$0.00	\$20.00
813-7320-000	Education	6/29/2018	MCLE Sponsor Fee Fund Transfe	\$40.00	\$0.00
813-7745-000	OSB Support Service Assessment	6/30/2018	June Section Admin Fee	\$40.00	\$0.00
813-7885-000	Telephone - Conference Calls	6/12/2018	Jun 2018 PGI Billing	\$16.09	\$0.00
813-U001-000	Environmental & Nat'l Resource Section Member Co	6/30/2018	June Sect HC update	5	0
813-U004-000	Environmental & Nat'l Resource Sect Comp Member	6/30/2018	June Sect HC update	1	0