

# 2019 Environmental and Land Use Law Section Midyear Conference

**Original Program Date:** May 2 & 4, 2019

**Available Media Types:** Video and Audio MP3

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## REPORTING YOUR CREDIT

This on-demand seminar was originally presented as a live seminar on May 2 - 4, 2019, in Union, WA. If you attended the live seminar and reported CLE credits, you cannot also report credits from watching or listening to this recording.

## DESCRIPTION

Environmental and land use laws continue to shift in response to state and national politics. As the federal government works to roll back certain protections, Washington strives to balance conservation and preservation efforts while maintaining sustainable development and a thriving economy. This on-demand CLE features lively discussions about the shifting legal and political landscape impacting our practices.

## AGENDA

### 1 **Environmental Case Law Update**

This presentation provides an overview of the top federal and state environmental cases of the past year. This update focuses on significant NEPA, ESA, CWA, CAA, Indian law, and climate change case law developments over the past year, and contextualizes the holdings and decisions for Washington practitioners.

*Erica Doctor - Vandeberg Johnson & Gandara, Tacoma, WA*

### 2 **Land Use, Permits, and Politics**

This session addresses developing and managing land use entitlement strategies for complex urban projects. Topics covered include: development agreements; vesting post-*Snohomish County v. PCHB*; affordable housing incentives and opportunities; potential public-private partnership challenges such as gifting of public funds, prevailing wage, community benefit agreements, and labor peace agreements; strategies for council-initiated local improvement districts and other political issues that can arise with large and highly-visible projects.

*Jeremy M. Eckert - Tharsis Law PS, Seattle, WA*

*Ian S. Morrison - McCullough Hill Leary PS, Seattle, WA*

*Agenda continues on the next page.*

**3 Waters of the United States - Implications and Legal Challenges to the Proposed Redefinition**

The scope and coverage of the Clean Water Act has been the subject of litigation and ever-changing regulatory proposals for over a decade following fractured decisions in the Supreme Court in the *SWANCC* and *Rapanos* cases in the early 2000s. That trend continues with a new proposal from the Trump Administration to sharply curtail the number and types of waters that will receive protections under the Clean Water Act. This session provides an overview of what has been proposed, how that may affect ongoing litigation over the 2015 version of the “waters of the U.S.” rule, and what that may mean on the ground.

*Janette K. Brimmer - Earthjustice, Seattle, WA*

**4 State of Water Infrastructure - Dams in Washington**

The Washington State Dam Safety Office, along with several federal entities, regulate more than 1,200 dams within the state of Washington. Nearly 90% of those dams fall under the state’s jurisdiction. What are some of the challenges the state faces in overseeing this many dams? What types of activities require review and approval by the Dam Safety Office? How is dam safety assessed? This presentation addresses these, and many other, interesting dam safety and regulatory issues.

*Stephanie Duvall - Office of the Attorney General, Ecology Division, Olympia, WA*

**5 Hot Topics in Environmental Law**

Over the past two year, environmental policy has changed drastically, with the federal government systematically rolling back longstanding environmental protections and Washington State seeking to maintain, enforce, and enhance federal and state environmental protections and to lead in the fight against climate change. This session covers recent and pending legislation at both the federal and state level as well as important developments in environmental case law.

*Jay J. Manning - Cascadia Law Group PLLC, Olympia, WA*

**6 Climate Change: Adaptation and increasing Resilience and How to Incorporate Climate Science into Decision Making**

Climate change creates new risks and exacerbates existing vulnerabilities. How can we avoid the worst damages? What can be done to prepare for the impacts we can no longer avoid? When damages do occur, how can we recover more quickly and rebuild better? These questions require governments and citizens to integrate science and community values into decision-making. This session explores how that integration is occurring and can be supported.

*T.C. Richmond - Van Ness Feldman LLP, Seattle, WA*

**7 Practice Tips for Shoreline Hearings Board and Pollution Control Hearings Board Appeals**

A Board Member shares practice tips for litigating appeals before the Shoreline Hearings Board and Pollution Control Hearings Board. Employ these strategies and increase your chances of a successful case before the Boards.

*Neil L. Wise - Environmental and Land Use Hearings Office, Tumwater, WA*

*Agenda continues on the next page.*

**8 Emerging Legal and Ethical Issues in Sustainable Design and Development**

Increasing demand for sustainable development and “green” buildings has generated a variety of unique issues, from marketing sustainable attributes to the built environment’s impact on human health and wellness. Learn about the relevant regulatory landscape, explore opportunities and best practices, and consider their own ethical obligations.

*Nicole L. DeNamur – Pacifica Law Group LLP, Seattle, WA*

**9 Ethical Challenges in Environmental and Land Use Practices**

This session explores challenging situations we face in environmental and land use practices, and provides practical pointers on key ethical issues.

*James T. Graves – Stoel Rives LLP, Seattle, WA*

*Andrew T. King – Foster Pepper PLLC, Seattle, WA*