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*The Fourth Annual Advanced Conference on*

# Natural Resource Damages

New developments and best strategies

If you cannot attend - Live Webcast Available - for this program

**July 15 & 16, 2010**

**Santa Fe, New Mexico**

**La Fonda Santa Fe Hotel**

**Credits:** NM CLE 10.25 (call about others)

**Quick when/where:** 8:30 a.m., 100 E. San Francisco Street

**Natural Resource Damages Conference**

July 15 & 16, 2010 | Santa Fe, New Mexico

La Fonda Santa Fe Hotel

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10NRDNM WS



8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

**James A. Bruen, Esq., Program Co-Chair**  
Farella Braun + Martel LLP ~ San Francisco, CA

**Richard O. Curley, Jr., Esq., Program Co-Chair**  
Curley & Associates LLC ~ Golden, CO

**David J. Lazerwitz, Esq., Program Co-Chair**  
Farella Braun + Martel LLP ~ San Francisco, CA

8:45 **The U.S. Department of Justice's Perspective on Natural Resource Damage (NRD) Claims**

The federal process, key cases and current events

**John C. Cruden, Esq., Deputy Assistant Attorney General**  
*Environmental and Natural Resources*  
U.S. Department of Justice ~ Washington, DC

9:15 **Sources, Nature and Relative Strength of NRD Claims**

What do damages have to do with it? An animated look at the history and jurisprudence of federal and state NRD claims and trends, and practical implications for the real world of NRD practice

**Brian D. Israel, Esq.**  
Arnold & Porter LLP ~ Washington, DC

10:00 **Break**

10:15 **Defenses to Claims of Natural Resource Damages**

Strategies for defending federal and state statutory and common law NRD actions

**David J. Lazerwitz, Esq., Program Co-Chair**

11:15 **Cooperative NRDA's: Fact or Fiction**

A frank discussion by trustee and PRP representatives of the strengths and weaknesses of cooperative NRDA's

**Richard O. Curley, Jr., Esq., Program Co-Chair, Moderator**

**Andrew O. Guglielmi, Esq.**  
*Senior Attorney, Office of General Counsel*  
New York State Department of Environmental Conservation  
Albany, NY

**Kenneth Jenkins, Ph.D., Senior VP, Discipline Director for NRD**  
ARCADIS ~ Petaluma, CA

**Amy L. Horner, Esq., Attorney-Advisor, Office of the Solicitor**  
U.S. Department of the Interior ~ Washington, DC

12:15 **Lunch (on your own)**

1:30 **What's Next in NRD Assessment/Litigation/Settlement?**

An overview of current NRD litigation and its impact on possible future actions; what federal and state trustees may do next

**Ira Gottlieb, Esq.**  
McCarter & English, LLP ~ Newark, NJ

2:15 **Lessons Learned from Managing Complex NRD Cases**

Evaluating the claim for management; establishing the in-house team to manage litigation; selecting counsel and experts; helping, not hindering, in strategy and litigation review; trusting the team

**John Carlucci, Esq., Moderator**  
*Assistant Solicitor for Environmental Restoration*  
U.S. Department of the Interior ~ Washington, DC

**Nathaniel Barber, Esq.**  
*Associate Attorney, Office of General Counsel*  
New York State Department of Environmental Conservation  
Albany, NY

**Ken Frank, Regulatory Affairs Manager**  
Chevron Environmental Management Company  
San Ramon, CA

**Jean Martin, Esq., Senior Attorney, Legal Department**  
BP ~ Houston, TX

3:45 **Break**

4:00 **Case Law Update and NRD Claims Around the Country**

A survey of cases from around the country that have implications for NRD litigation

**John K. Dema, Esq.**  
Law Offices of John K. Dema, P.C. ~ Christiansted, VI

**Bill Jackson, Esq.**  
Jackson Gilmour & Dobbs, PC ~ Houston, TX

**Scott E. Kauff, Esq.**  
Law Offices of John K. Dema, P.C. ~ Rockville, MD

5:00 **Continue the Exchange of Ideas: Reception for Attendees and Faculty**

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## About the Conference

### LAW SEMINARS INTERNATIONAL

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*Natural Resource Damages (NRD) litigation remains at the cutting edge of environmental law. NRD statutory claims in state and federal courts across the United States, and associated state statutory and common law claims, present complex and evolving strategic, tactical and substantive issues for both natural resource trustees and potentially responsible parties. As case law defining NRD claims and defenses continues to develop, trustees and stakeholders have taken new approaches to both prosecuting and defending NRD claims, thereby advancing this dynamic area of the law.*

*What are the nature and limits of NRD claims? How will trustees use other statutes and common law claims to avoid recent federal and state NRD decisions? How can trustees and responsible parties best position themselves during the natural resource injury assessment process? What are the most effective (and least effective) NRD claims and defenses? How are NRD injuries monetized? How can trustees and responsible parties engage in a productive settlement dialogue? What are the best strategies and tactics to handle large, complex NRD litigation?*

*These and other questions will be discussed at this advanced conference. Our faculty is drawn from senior environmental practitioners and experts across the country. They come from affected industry, federal and state government, nationally-recognized plaintiff and defense firms, and environmental and economic consultant practices directly involved in the precedent-setting NRD lawsuits resolved in the last five years.*

*Serious environmental practitioners will not want to miss this.*

*~ Program Co-Chairs: James A. Bruen, Esq. and Richard O. Curley, Jr., Esq. and David J. Lazerwitz, Esq.*



**8:00 Continental Breakfast**

**8:30 Strategies for Determining Baseline**

Historical and ecological research to define the quality of the resource absent defendant's actions

**Michael R. Thorp, Esq.**  
Summit Law Group ~ Seattle, WA

**Paul D. Boehm, Ph.D.**  
Group Vice President and Principal Scientist  
Exponent, Inc. ~ Maynard, MA

**9:30 Bankruptcy and NRD**

Lessons from the Asarco bankruptcy

**Linda R. Larson, Esq.**  
Marten Law PLLC ~ Seattle, WA

**J. Scott Janoe, Esq.**  
Baker Botts LLP ~ Houston, TX

**10:15 Break**

**10:30 Settlement of NRD Litigation**

Trustee's perspective

**Allan Kanner, Esq.**  
Kanner & Whiteley, L.L.C. ~ New Orleans, LA

Defendant's perspective

**Angus Macbeth, Esq.**  
Sidley Austin LLP ~ Washington, DC

**11:30 Estimation of Restoration and Compensable Value Damages**

Tradeoffs between restoration cost-based and compensable value-based damage methodologies; the role of services; reliability standards; the challenges of groundwater; whether or wither CV; where we go from here

**Robert E. Unsworth, President**  
Industrial Economics, Incorporated ~ Cambridge, MA

**Rick Dunford, Ph.D., Owner**  
Environmental Economics Services, LLC ~ Raleigh, NC

**William H. Desvousges, Ph.D., President**  
W. H. Desvousges & Associates ~ Raleigh, NC

**Donald W. Fowler, Esq.**  
Hollingsworth LLP ~ Washington, DC

**12:30 Evaluations and Adjourn**

**Upcoming Seminars:**

Climate Change Regulation	May 20 & 21, 2010	Washington, DC
Water Law	June 3 & 4, 2010	Seattle, WA
Shoreline Development & Permitting	Sept. 15, 2010	Seattle, WA
Idaho Water Law	Sept. 20 & 21, 2010	Boise, ID
California Environmental Quality Act	Sept. 22, 2010	Santa Monica, CA
Stormwater Regulation in New England	Nov. 5, 2010	Boston, MA
Natural Resource Damages	Nov. 15 & 16, 2010	Newark, NJ

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**Tuition:** Regular tuition for in person or webcast attendance for this program is \$895 with a group rate of \$745 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$595. For students and people in their job for less than a year, our rate is \$447.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

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p.m. on Friday, July 9, 2010. After that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

**Seminar Location:** The conference will be held at the La Fonda Santa Fe Hotel at 100 E. San Francisco Street in Santa Fe, NM 87501. Call the hotel directly at (505) 982-5511 for reservations at the special negotiated rate of \$199 and mention that you are attending a Law Seminars International conference. Rooms are on a first come, first served basis.

**Continuing Education Credits:** This program qualifies for 10.25 NM CLE credits. Upon request, we will apply for CLE credits in other states and other types of credits.

**If You Cannot Attend:** Our complete Homestudy Course, consisting of a DVD recording and the course materials (either a binder or searchable CD), is available for \$905. The course materials alone are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

## Faculty: Natural Resource Damages Conference

**James A. Bruen**, *Program Co-Chair*, partner at Farella Braun + Martel LLP, specializes in representation of industry, universities and governmental institutions in complex domestic and international products and environmental counseling and litigation. He was an Enforcement Attorney for the FCC and an Assistant U.S. Attorney for the Northern District of California, and named one of the top 25 environmental experts in the world.

**Richard O. Curley, Jr.**, *Program Co-Chair*, founder of Curley & Associates LLC, specializes in CERCLA and state law equivalent remediation matters and advocacy relating to legislative and regulatory reform of CERCLA, natural resource damages, cost recovery litigation, and criminal and civil litigation concerning claims under RCRA, the Clean Water Act and TSCA.

**David J. Lazerwitz**, *Program Co-Chair*, partner in the Environmental Law Department at Farella Braun & Martel LLP, represents and counsels public and private clients in environmental and natural resources compliance, permitting and litigation matters. Previously he was attorney at the U.S. Department of Justice's Environment and Natural Resources Division.

**John Carlucci**, *Moderator*, Assistant Solicitor for Environmental Restoration in the U.S. Department of the Interior, practices environmental and natural resource law, and represents the Department in CERCLA, OPA and CWA natural resource damage assessment and restoration claims.

**Nathaniel Barber**, Associate Attorney in the Office of General Counsel at the New York State Department of Environmental Conservation, leads the team of attorneys pursuing New York's NRD claims and is Section Chief for NRDs within the Bureau of Remediation and Revitalization.

**Paul D. Boehm, Ph.D.**, Group Vice President and Principal Scientist at Exponent, Inc., is responsible for their environmental business and provides technical support in legal matters involving NRDA, divisibility of contamination, apportionment, cost recovery and allocation of associated liability.

**John C. Cruden**, Deputy Assistant Attorney General of the Environment and Natural Resources Division at the U.S. Department of Justice, supervises the Environmental Enforcement and Environmental Defense Sections.

**John K. Dema**, founder of Law Offices of John K. Dema, P.C., focuses on NRD recoveries on behalf of trustees of natural resources, specializing in groundwater and marine resources.

**William H. Desvousges, Ph.D.**, President of W. H. Desvousges & Associates, has led major NRDA valuations, co-authored the economic handbook for the U.S. Department of the Interior regulations, and is admitted as an expert in measuring NRD in federal court.

**Rick Dunford, Ph.D.**, Owner of Environmental Economics Services, LLC, specializes in NRD assessment and focuses on groundwater and recreation damages.

**Donald W. Fowler**, partner at Hollingsworth LLP, concentrates on the defense of environmental and toxic tort litigation, including actions brought by federal and state natural resource trustees.

**Ken Frank** is Regulatory Affairs Manager at Chevron Environmental Management Company.

**Ira Gottlieb**, partner at McCarter & English, LLP, focuses on environmental litigation, NRD assessments, Superfund surface water sediment and other site remediation matters, and insurance coverage.

**Andrew O. Guglielmi**, Senior Attorney in the Office of General Counsel of the New York State Department of Environmental Conservation, assists in development, pursuit and negotiation of NRD and cost recovery for the Bureau of Remediation and Revitalization.

**Amy L. Horner**, Attorney-Advisor in the Office of the Solicitor at the U.S. Department of the Interior, works in the Environmental Restoration Branch and advises on environmental laws, particularly matters concerning NRDs.

**Brian D. Israel**, partner at Arnold & Porter LLP, specializes in environmental litigation and counseling including contaminated properties, toxic tort lawsuits and NRD claims.

**Bill Jackson**, founder of Jackson Gilmour & Dobbs, PC, is lead counsel in environmental and commercial litigation matters, including state and federal Superfund sites and NRD and remediation claims.

**J. Scott Janoe**, partner at Baker Botts LLP, focuses on environmental litigation, crisis management and compliance counseling.

**Kenneth Jenkins, Ph.D.**, Senior Vice President and Discipline Director for Natural Resource Damages at ARCADIS, provides strategic consulting, expert testimony and litigation support for potentially responsible parties in NRD actions, allocation issues under CERCLA, and sediment and water quality issues under the CWA.

**Allan Kanner**, founder and senior member of Kanner & Whiteley, L.L.C., focuses on environmental law, toxic tort, commercial litigation, first-party insurance, consumer fraud and complex class action suits, and represents states and tribes in NRD matters, including representing trustees in litigations and negotiations.

**Scott E. Kauff**, of counsel at the Law Offices of John K. Dema, P.C., focuses on environmental and toxic torts litigation, and environmental counseling, including prosecuting and defending NRD claims.

**Linda R. Larson**, partner at Marten Law PLLC, focuses on environmental law and land use, managing complex litigation matters and resolving disputes ranging from site remediation to endangered species.

**Angus Macbeth**, senior counsel and former Head of the Environmental Law Practice Group at Sidley Austin LLP, focuses on Superfund and EPA's administration of the Clean Air and Clean Water Acts.

**Jean Martin** is Senior Attorney in the Legal Department of BP.

**Michael R. Thorp**, partner at Summit Law Group, focuses on environmental and natural resource litigation and counseling, NRD cooperative assessments, allocation issues under CERCLA and Endangered Species Act matters.

**Robert E. Unsworth**, President of Industrial Economics, Incorporated, is an expert in natural resource economics and damage assessment, environmental benefits assessment and environmental policy analysis.

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### Who Should Attend:

*In-house and private attorneys, consultants, corporate managers and governmental representatives, and others who are involved in natural resource damage claims*

### You Will Learn About:

- The U.S. Department of Justice process with NRD claims and key cases
- The framework for federal and state NRD claims and trends
- Defense strategies for federal and state statutory and common law NRD actions
- Cooperative NRDA's
- Current NRD litigation and its impact on future actions
- Lessons learned from managing complex NRD cases
- NRD cases from around the country
- Determining baseline: Defining the quality of the resource absent defendant's actions
- Lessons from the Asarco bankruptcy
- Settlement of NRD litigation
- Estimation of restoration and compensable value damages

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