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Continuing Legal Education

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Presented by Minnesota Continuing Legal Education
and the Environmental, Natural Resources and Energy Law
Section of the Minnesota State Bar Association

The Premier
Environmental
Event of
the Year!

The 8th Annual Minnesota Environmental Institute

CHOOSE ONE: Live Seminar OR Live Webcast of Barbara Freese's Presentation

REGISTRATION / ORDER FORM

The 8th Annual
**Minnesota
Environmental
Institute**
519-12 / mjc
April 19, 2012
Minnesota CLE
Conference Center
Seventh Street &
Nicollet Mall
Third Floor City Center
Minneapolis

PLEASE "✓" APPROPRIATE BOX BELOW:

LIVE: 4/19/12

- \$245 MSBA member \$245 paralegal \$295 standard rate
 I have a Minnesota CLE Season PassSM. Pass # _____

NEW LAWYER DISCOUNT!

- I was first admitted to the bar after April 19, 2009, and have deducted \$60 from the registration fee marked above.

TUITION DISCOUNT!

- Discounted tuition of \$100 is available to persons who work for the government, public institutions, or non-profit organizations.
This tuition discount is sponsored by the MSBA Environmental, Natural Resources and Energy Law Section and is limited to the first 20 qualifying applicants.

Law students may observe the program at no cost.

Check here if address below is new.

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PLEASE "✓" BREAKOUT CHOICES:

SESSION A: #1 #2 #3 #4

SESSION B: #5 #6 #7 #8

SESSION C: #9 #10 #11 #12



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Special Live Webcast Option:

Barbara Freese's Keynote Address:
"Global Warming and the Failure of
Business-As-Usual"

Thursday, April 19, 2012 \$135
9:00 – 10:00 a.m.

1.0 standard CLE credit (applied for)

Includes webcast presentation, session materials and PowerPoint slides.

How do I register?

It's easy. Simply go to www.minncle.org to sign up for the webcast.

For assistance, call customer service at 651-227-8266 or 800-759-8840.

COURSE INFORMATION

CREDITS

Minnesota CLE is applying to the State Board of CLE for 6.0 CLE credits for the live course, including 1.0 ethics credit for breakout session #8 and 1.0 elimination of bias credit for breakout session #4. The maximum amount of credits an attendee may claim for the live course is 6.0.

Minnesota CLE is also applying to the State Board of CLE for 1.0 standard CLE credit for the special webcast presentation. The maximum amount of credits a webcast participant may claim is 1.0.

CANCELLATION POLICY / NO-SHOW POLICY

Paid registrants who cancel their registration at least 72 hours before the program will receive a full credit on their account; if fewer than 72 hours, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the written materials. Passholders may purchase the course materials at 50% of the full retail price.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend this seminar, please contact Minnesota CLE as soon as possible at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call 651-227-8266 or 800-759-8840.

QUESTIONS?

Please call us at 651-227-8266 or 800-759-8840 or visit us online at www.minncle.org.

◆ The 2012 Case Law, Regulatory, and Legislative Update

◆ 12 Breakout Sessions – choose the topics most relevant to your practice!

- The Law and Practicalities of Sustainability
- Renewable Energy and Transmission Challenges
- Biofuels – Past, Present and Future
- Public Interest Law – Leveling the Playing Field
- Environmental Issues at the County Level
- Navigating Soil Vapor Intrusion Issues
- Nonferrous Metallic Mining: Regulatory and Legal Issues

◆ A Basics Track on Water and Wetlands, Business Transactions, and Environmental Review

◆ Ethics and Bias Credits: Multi-Jurisdictional Practice, and Working with Lawyers and Clients from Diverse Cultures

◆ The Annual Environmental Institute Reception

Thursday, April 19, 2012

Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center, Minneapolis

Keynote Address

Barbara Freese
Attorney, Climate Policy
Advocate, and Author

"Global Warming
and the Failure of
Business-As-Usual:
Time to Shift the
Burden of Proof"

Special Webcast
Opportunity!

Can't attend the program?
View Barbara Freese's Keynote
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Schedule

8:15 – 8:45 a.m. CHECK-IN & CONTINENTAL BREAKFAST

8:45 – 9:00 a.m.

Welcome and Presentation of Distinguished Service Award

– *Sara J. Peterson, Chairperson*
MSBA Environmental, Natural Resources and Energy Law Section

9:00 – 10:00 a.m.

KEYNOTE ADDRESS:

Global Warming and the Failure of Business-As-Usual: Time to Shift the Burden of Proof

– *Barbara Freese*
Attorney, Climate Policy Advocate, and Author

10:00 a.m. – 12:10 p.m.

The 2012 Case Law, Regulatory, and Legislative Update

These presentations will highlight key developments during the past year under federal and state environmental statutes, including the Clean Air Act, the Clean Water Act, National Environmental Policy Act, the Minnesota Environmental Policy Act, the Minnesota Environmental Rights Act, CERCLA, MERLA, and the Resource Conservation and Recovery Act.

• 10:00 – 10:30 a.m.

Climate Change and Air Update

EPA has completed its first year of regulating greenhouse gas emissions under the Clean Air Act. At the same time, all of EPA's greenhouse gas emission regulations are being challenged in court. Yet EPA has also recently issued a number of significant rules to reduce emissions of traditionally regulated pollutants, particularly affecting the utility industry and industrial boilers. This session will give you the latest news on early implementation of EPA's greenhouse gas rules and the court challenges to them, as well as the highlights of EPA's other major rulemaking efforts.

– *Ann M. Seha*

• 10:30 – 11:00 a.m.

Water Update

This session will review legislative and regulatory developments and judicial decisions in water law. A brawl over nutrient standards in Florida spilled over into a national discussion about nutrient regulation by EPA, while a Gulf Coast Ecosystem Restoration Strategy was released in October. In Minnesota, a new governor and new legislative majorities put the squeeze on state regulators to step up the environmental review process and address sulfate standards applicable to wild rice waters. Renewal of the state's general stormwater permit(s) slowed down in response to stakeholder concerns, and the state scrambled to stop the migration of Asian carp into Minnesota waters.

– *Steven W. Nyhus*

11:00 – 11:10 a.m. BREAK

• 11:10 – 11:40 a.m.

Environmental Review and Environmental Rights Update

Issues arising under the National Environmental Policy Act (NEPA), the Minnesota Environmental Policy Act (MEPA), and the Minnesota Environmental Rights Act (MERA) continue to challenge environmental practitioners. This session will analyze the most important recent developments in environmental review and environmental rights, including when and how to evaluate greenhouse gas emissions and climate change impacts in environmental assessments and environmental impact statements.

– *Thaddeus R. Lightfoot*

• 11:40 a.m. – 12:10 p.m.

CERCLA/MERLA/RCRA Update

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and its state analog, the Minnesota Environmental Response and Liability Act (MERLA), also referred to as Superfund laws, provide that persons responsible for releases of hazardous substances may be liable for the investigation and cleanup of sites. The Resource Conservation and Recovery Act (RCRA) governs the management of hazardous wastes. This session will review case law developments and trends in the past year as well as developments related to voluntary cleanup programs and natural resource damage claims.

– *Joseph G. Maternowski*

12:10 – 1:00 p.m. LUNCH (on your own)

1:00 – 2:00 p.m.

BREAKOUT SESSION A

1. Water and Wetland Basics

For the attorney who is new to environmental law or who just wants a refresher on the basics, this session will provide an overview of key concepts and the practical aspects of wastewater, stormwater and wetlands regulation. The session will explore the fundamentals of the Clean Water Act, point source regulation for municipal and industrial dischargers, and the permitting process, along with the impact of impaired waters designations. The session will also provide an overview of the complex, integrated effort to protect Minnesota's water resources through stormwater management regulations and wetlands protections at various levels of government. Very few development, redevelopment or land-use projects can be conducted without significant consideration of these protections. Counsel for public and private development and land-use projects will gain familiarity with the structure of stormwater-management and wetlands-protection law in the state.

– *Steven W. Nyhus & Michael J. Welch*

2. The Law and Practicalities of Sustainability

Your clients want to grow and capture the value of sustainability benefits offered by their products and services. Environmental regulations create opportunities and risks for sustainability strategies. This session will provide an overview of trends that affect how a company designs, markets, and manufactures products and practical information about environmental and sustainability management.

– *Steven M. Christenson, Jeffrey J. Hayward, Leona E. Lewis & John D. Ostergren*

3. Renewable Energy and Transmission Challenges

It is impossible to talk about developing renewable energy resources without also talking about developing electricity transmission infrastructure. Throughout the country, there has been a strong emphasis on increasing renewable energy resources, particularly wind power. Each state and regional jurisdiction, however, has taken a different approach to connecting those new renewable resources to the transmission grid that is determined by the jurisdiction's laws governing renewable energy, state and local laws governing the siting of electric transmission lines, the jurisdiction's relationship to a state or regional transmission grid, and the presence of federal lands in the transmission corridor. This session will discuss recent legal and policy developments governing electric transmission infrastructure and siting at the federal, state, and regional levels with a focus on states with significant wind energy potential west of the Mississippi River.

– *Alexandra B. Klass & Elizabeth J. Wilson*

4. Understanding Diverse Cultures and Working with Diverse Lawyers and Clients

(1.0 elimination of bias credit applied for)

As Minnesota becomes increasingly diverse, it is likely that you are, or soon will be, working with lawyers and clients from other cultures. Attorneys representing the African, Latino, Native American, and Muslim communities will describe the unique features of their cultures, discuss the challenges that people from their communities face when working with lawyers, and share practice advice, including cultural sensitivity considerations and communications tips. The panel will also reflect on the effect of greater diversity among lawyers on our profession and our society.

– *Heidi A. Drobnick, Imani Jafaar-Mohammad, Alexander J. Kim & Nelson L. Peralta*

– *Roy S. Ginsburg, Moderator*

2:00 – 2:15 p.m. BREAK

2:15 – 3:15 p.m.

BREAKOUT SESSION B

5. Basic Environmental Issues in Business Transactions

A client asks you to facilitate a business transaction. What are the key environmental issues that must be evaluated and addressed before closing the transaction? This course will explore some of the basic environmental issues faced in business transactions and offer practical solutions.

– *Sara J. Peterson, Jeffery A. Sepesi & Jacob S. Woodard*

6. Biofuels – Past, Present and Future

Biofuels have been part of the U.S. energy scene dating back to the introduction of the first flex-fuel vehicle, the Model T. The production, distribution and proportion of biofuels in the energy mix have fluctuated over the years due to a host of social, political and economic factors. Despite a somewhat tumultuous past for biofuels, a prominent physicist and educator, Steven Koonin, boldly states that "biofuels could eventually supply 20 percent of global motor fuel demand in a manner that is environmentally responsible." This panel will bring together past, present and future biofuel issues with an overview of the legal framework in Minnesota. Biofuel producers operating an advanced first generation facility and exploring second generation will explain the present and future role of biofuels in our energy mix.

– *Randall J. Doyal, Brian Kletscher & Timothy J. Rudnicki*

7. Environmental Public Interest Law – Leveling the Playing Field

Public interest environmental law can involve representing established environmental non-profits, ad hoc grassroots groups, local governments or private citizens. In almost every instance – whether the issue is in a legislative, judicial or administrative setting – environmental advocates are likely to be outnumbered and outgunned. This panel will share pitfalls and strategies for success to assist environmental lawyers and other public interest advocates.

– *Paula G. Maccabee, Steve Morse & Scott R. Strand*

8. If It's Tuesday, This Must Be Omaha: The Ethics of Multi-Jurisdictional Practice

(1.0 ethics credit applied for)

Attorneys who represent clients in other jurisdictions have to be careful not to cross the line into the unauthorized practice of law. This session will provide a map that lawyers can use to avoid crossing into dangerous ethical territory.

– *Eric T. Cooperstein*

3:15 – 3:30 p.m. BREAK

3:30 – 4:30 p.m.

BREAKOUT SESSION C

9. Basics of Environmental Review

This presentation will provide an overview of all aspects of environmental review under federal (NEPA) and Minnesota (MEPA) law, including the standards for determining whether environmental review is required, topics that must be addressed in an environmental impact statement, and issues that frequently arise in the judicial review of agencies' environmental review decisions.

– *Richard A. Duncan & David J. Zoll*

10. Environmental Issues at the County Level

County governments operate at the forefront in environmental protection. Every day, counties address issues of hazardous and solid waste in addition to unique issues such as conservation easements, wind turbines, solar panels, light rail, and transit-oriented development. In this discussion, panelists will look at both day-to-day and unique legal issues confronting Minnesota counties.

– *Michael L. Lynn, Harry D. McPeak, Charles H. Salter & Timothy A. Sime*

11. Navigating Soil Vapor Intrusion Issues

If you are involved in the buying, selling or refinancing of real property, you will likely find it necessary to understand vapor intrusion risk issues and how they may affect the liability assurances you are seeking. Over the past few years, both federal and state regulators have emphasized vapor intrusion as a potential concern at contaminated properties, but several tools are available to navigate this evolving topic. This session will feature a discussion of available MPCA technical guidance for evaluating risks posed by contaminant vapors by exploring the use of intrusion screening values, the use of multiple lines of evidence in decision-making, and assessing the need for and type of remedial strategies when exposure risk is identified. The session will also include a discussion of the types of liability assurances available from the MPCA Brownfield programs and outline typical site scenarios demonstrating how and when soil vapor intrusion issues most commonly arise and can be successfully addressed.

– *Daniel R. Holte, Rick Jolley & Katherine A. Roek*

12. Nonferrous Metallic Mining in Minnesota: Regulatory and Legal Issues

The state of Minnesota has a long history of mining. Until recently, only iron ore mining has been proposed in the state, but high metal prices have made deposits containing copper, nickel and platinum economically viable. In this session, an MPCA expert will discuss and share perspective on the agency's experience with proposed nonferrous mining in the state, including the applicable environmental regulations for nonferrous mining operations and evolving regulatory issues.

– *Suzanne Baumann*

4:30 – 5:30 p.m.

Annual Environmental Institute Reception

The gray shaded box designates the **BASICS track**, designed for attorneys who are in the early years of environmental practice or who may not focus on the specific topics that the sessions address.

Faculty & Planners

◆ **Thaddeus R. Lightfoot**

Course Chair
The Environmental Law Group, Ltd.; Minneapolis

Suzanne Baumann

Minnesota Pollution Control Agency; Saint Paul

Steven M. Christenson

Ecolab; Saint Paul

Eric T. Cooperstein

Law Office of Eric T. Cooperstein, PLLC; Minneapolis

Randall J. Doyal

Al-Corn Clean Fuel; Claremont

Heidi A. Drobnick

Swanson, Drobnick and Tousey P.C.; Woodbury

Richard A. Duncan

Faegre Baker Daniels LLP; Minneapolis

Barbara Freese

Climate Policy Advocate; Saint Paul

Roy S. Ginsburg

Attorney at Law; Minnetonka

Jeffrey J. Hayward

Valspar Corporation; Minneapolis

Daniel R. Holte

Braun Intertec; Minneapolis

Imani Jafaar-Mohammad

MJM Legal; Woodbury

Rick Jolley

Minnesota Pollution Control Agency; Saint Paul

◆ **Eldon G. Kaul**

Retired, Minnesota Attorney General's Office; Blaine

Alexander J. Kim

Hamre, Schumann, Mueller & Larson, P.C.; Minneapolis

Alexandra B. Klass

University of Minnesota Law School; Minneapolis

Brian Kletscher

Highwater Ethanol, LLC; Lamberton

Leona E. Lewis

Best Buy; Richfield

Michael L. Lynn

Dakota County; Hastings

Paula G. Maccabee

Just Change Law Offices; Saint Paul

◆ **Joseph G. Maternowski**

Hessian & McKasy, P.A.; Minneapolis

Harry D. McPeak

Ramsey County Attorney's Office; Saint Paul

Steve Morse

Minnesota Environmental Partnership; Saint Paul

Steven W. Nyhus

Flaherty & Hood P.A.; Saint Paul

John D. Ostergren

3M Company; Saint Paul

Nelson L. Peralta

Peralta and Peralta, Ltd.; Minneapolis

Sara J. Peterson

Parkway Law, LLC; Minneapolis

◆ **Katherine A. Roek**

Lindquist & Vennum PLLP; Minneapolis

◆ **Timothy J. Rudnicki**

Attorney at Law; Edina

Charles H. Salter

Hennepin County Attorney's Office; Minneapolis

Ann M. Seha

Xcel Energy; Minneapolis

◆ **Jeffery A. Sepesi**

Law Office of Jeffery Sepesi; Eden Prairie

Timothy A. Sime

Sherburne County Attorney's Office; Elk River

Scott R. Strand

Minnesota Center for Environmental Advocacy; Saint Paul

Michael J. Welch

Smith Partners PLLP; Minneapolis

Elizabeth J. Wilson

Humphrey School of Public Affairs; Minneapolis

◆ **Jacob S. Woodard**

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Lockridge Grindal Nauen PLLP; Minneapolis MN

◆ **Special Thanks to the Course Planning Committee**