



Minnesota State Bar Association  
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

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REGISTRATION / ORDER FORM

# Minnesota Environmental Institute

Thursday, April 22, 2010 • Minnesota CLE Conference Center 522-10 / mjc

PLEASE "✓" APPROPRIATE BOX BELOW:

- \$225 MSBA member  \$275 standard rate
- \$225 paralegal
- I have a Minnesota CLE Season Pass<sup>SM</sup>. Pass # \_\_\_\_\_

PLEASE "✓" BREAKOUT CHOICES BELOW:

- SESSION A:  #1  #2  #3  #4
- SESSION B:  #5  #6  #7  #8
- SESSION C:  #9  #10  #11  #12

NEW LAWYER DISCOUNT!

- I was first admitted to the bar after April 22, 2007, 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.

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## Can't Attend?

You can still get the written materials!

I cannot attend.  
Please send me the following:  
\_\_\_\_\_ copy(ies) of the written materials at \$95 each.  
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## Course Information

### CREDITS

Minnesota CLE is applying to the State Board of CLE for **5.75 CLE credits**, including **1.0 ethics credit for breakout session #4**. The maximum amount of credits an attendee may report is **5.75**.

### 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**.

## To Register:

MAIL TO: Minnesota CLE  
2550 University Avenue West  
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St. Paul, MN 55114

FAX TO: 651-227-6262

GO ONLINE: [www.minncle.org](http://www.minncle.org)

OR CALL: 651-227-8266 or 800-759-8840

## The 6th Annual

# Minnesota Environmental Institute

The Premier Event  
for Minnesota's  
Environmental Law  
Professionals!

## KEYNOTE ADDRESS

### Brooke Furio

Region 5 Policy Analyst  
U.S. Environmental  
Protection Agency

*Sustainable  
Development Concepts,  
Land Revitalization Efforts,  
and Environmental  
Protection*

- The 2010 Case Law, Regulatory, and Legislative Update
- 12 Breakout Sessions – choose the topics most relevant to your practice!
- Hot Topics in Green Chemistry and Product Regulation
- The Expanding Role of the PUC in the Clean Energy Transition
- Environmental Public Interest Law
- A Basics Track on Climate Change, Water and Wetlands, and TSCA/REACH and FIFRA/BPD
- The Annual Environmental Institute Reception
- And much, much more!

**Thursday, April 22, 2010**

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

# Schedule

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

8:45 – 9:00 a.m.  
WELCOME REMARKS & PRESENTATION OF  
DISTINGUISHED SERVICE AWARD

– *Joseph G. Maternowski*  
*Chair, MSBA Environmental, Natural*  
*Resources and Energy Law Section*

9:00 – 11:10 a.m.

## The 2010 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, the National Environmental Policy Act, the Minnesota Environmental Policy Act, CERCLA, MERLA, and the Resource Conservation and Recovery Act.

• 9:00 – 9:30 a.m.

### Climate Change and Air Update

This year was one of the most eventful in the long history of the Clean Air Act (CAA). USEPA has made the “endangerment” finding that triggers applicability of the CAA to greenhouse gas emissions and published a variety of related rules, proposed rules, and determinations. Meanwhile, Congress is considering comprehensive CAA amendments to establish a cap-and-trade program. But do not forget those old-fashioned “conventional” air pollutants, because USEPA took plenty of action, with plenty more coming, to revise ambient air quality standards, emission standards, and new source review permit requirements.

– *Ann M. Seha*

• 9:30 – 10:00 a.m.

### Water Update

This session will review recent developments in water law. Minnesota appellate courts issued two decisions on phosphorus and Total Maximum Daily Loads. State wetland rules were adopted; nondegradation and industrial stormwater rules await. The latest installment in the *U.S. v. Gary Bailey* series reveals the Minnesota view on Clean Water Act jurisdiction after *Rapanos*. The federal courts continue to ponder whether an interbasin water transfer is a pollutant discharge subject to Clean Water Act permitting, and the U.S. Supreme Court is asked to reopen a 1922 case to keep Asian carp from Lake Michigan.

– *Charles B. Holtman*

10:00 – 10:10 a.m. BREAK

• 10:10 – 10:40 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 developments in environmental review and environmental rights during the past year, including when and how to evaluate greenhouse gas emissions and climate change impacts in environmental assessments and environmental impact statements.

– *Thaddeus R. Lightfoot*

• 10:40 – 11:10 a.m.

### CERCLA/RCRA Update

This session will discuss significant cases during the past year involving CERCLA, MERLA, and the Resource Conservation and Recovery Act, including the U.S. Supreme Court’s decision in *Burlington Northern & Santa Fe Railway Co. v. United States*, which dealt with the apportionment of CERCLA liability among responsible parties.

– *B. Andrew Brown*

11:10 – 11:20 a.m. BREAK

11:20 a.m. – 12:05 p.m.

### KEYNOTE ADDRESS:

## Sustainable Development Concepts, Land Revitalization Efforts, and Environmental Protection

– *Brooke Furio*  
*Region 5 Program Analyst*  
*U.S. Environmental Protection Agency*

12:05 – 1:00 p.m. LUNCH (on your own)

1:00 – 2:00 p.m. BREAKOUT SESSION A

### 1) Climate Change 2010

In recent years, climate change has moved from policy debate to tangible action in courts, legislatures, and regulatory agencies around the globe. While the long-term outcomes of these efforts remain unsettled in the U.S. and abroad, climate change is firmly established as a central field at the intersection of environmental and energy law. This session will provide an overview of climate change law and policy, including discussion of recent developments and trends.

– *John D. Ostergren*

### 2) Leading by Example: State, Local Government, and Industry Initiatives

How are the state of Minnesota, communities, and private industry incorporating sustainability into their operations and the development of new opportunities? This session will provide an overview of sustainability approaches and the results of implementation on three different scales. Learn how sustainability has changed views toward investment, innovation, and conservation.

– *Andrea M. Carruthers*  
– *Brooke Furio*  
– *Cathy Moeger*

### 3) Environmental Public Interest Law

Whether you represent business interests, local community groups, or government agencies, the outcomes of disputes over environmental matters can have profound implications for the community, economy, and future generations. This session will explore the meaning of public interest law, some hot topics, and opportunities for lawyers to engage with local and regional issues.

– *Timothy J. Rudnicki*  
– *Scott R. Strand*

### 4) You Said I Was Your Favorite Client! – Identifying and Addressing Conflicts of Interest

*(1.0 ethics credit applied for)*

Conflicts of interest arise when lawyers least expect them, such as when a law firm colleague wants to litigate against a firm’s transactional client, when the lawyer represents multiple parties, or when the lawyer tries to settle a case for joint clients. This session will discuss what types of conflicts are waivable and how to write a conflicts waiver that will withstand scrutiny down the road.

– *Eric T. Cooperstein*

2:00 – 2:15 p.m. BREAK

2:15 – 3:15 p.m. BREAKOUT SESSION B

### 5) Water and Wetlands Basics

For the attorney who is new to environmental law or who wants a refresher, this session will provide an overview of key concepts in 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. The session will also address impaired waters regulation and provide an overview of the complex but integrated effort to protect Minnesota’s water resources through stormwater management regulations and wetlands 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*

### 6) 10 Hot Topics in Green Chemistry and Product Regulation

Environmentally preferred products. State-driven green chemistry requirements. End-of-life producer responsibility. Packaging restrictions. Green marketing claims. Customer and government product ingredient disclosure requirements. New requirements, especially at the state level, are increasingly being proposed and enacted to regulate the content of products and packaging, purchase by government entities, management of environmental claims, and disposal. Customer requirements are driving these issues in the absence of government regulation in a particular jurisdiction. This session will provide an overview of trends that affect how a company designs, markets, and manufactures products and practical information about environmental management and regulation of products.

– *Michael A. Nash*  
– *Karna M. Peters*  
– *Nancy E. Walsh*

### 7) Renewables and Environmental Review

Minnesota has an aggressive renewable energy standard that will require additional wind, solar, biomass, transmission, and other facilities over the upcoming decade. In this session, learn the nuts and bolts of environmental review of renewable energy projects: the what, the when, and the tough issues. The session will cover the preparation of environmental reports, environmental assessments, and environmental impact statements. It will also address the role of local governments and the use of public scoping forums, as well as discuss the concerns of state agencies regarding such projects.

– *Alan R. Mitchell*  
– *Christina K. Brusven*

### 8) Strategic Communications in the Environmental Litigation and Regulatory World

Public comments and disclosures can have significant impact on pending or threatened environmental litigation, enforcement actions, and regulatory matters. In this session, learn how to help your clients communicate regarding their critical issues while protecting their legal interests and reputation. Topics will include understanding the media, the Obama administration’s impact on public opinion, strategic communications planning, controlling the message and flow of information, and protecting public relations strategies from the discovery process in litigation.

– *Amy K. Rotenberg*  
– *Stacy Lynn Bettison*

3:15 – 3:30 p.m. BREAK

The yellow 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.

3:30 – 4:30 p.m. BREAKOUT SESSION C

### 9) Basics of TSCA/REACH and FIFRA/BPD

This course will cover the basic requirements of chemical management and pesticide regulation programs in the U.S. and Europe. Given the global impact of the new European Chemicals Agency (ECHA), the comparison provides insight into U.S. regulatory trends. The session will also address U.S. PCB regulations.

– *Steven M. Christenson*  
– *Jeffery A. Sepesi*

### 10) The Expanding Role of the Public Utility Commissioner in the Clean Energy Transition

The Energy Policy Act of 2005 emphasizes a national and regional approach to the governance of electric power grids and markets, while easing restraints on corporate structural borders. State regulators have new opportunities to contribute to regional organizations, collaborative efforts, and federal policy-making. This session will address the expanding role of the state public utility commissioner in green infrastructure development. It will also explore opportunities for states to influence federal policy in this new “cooperative federalism” paradigm.

– *Commissioner Phyllis A. Reha*

### 11) Hot Topics in Environmental Litigation

Landowners, cities, states, and others are turning to the courts with both old and new theories of relief for environmental harm that include the impacts of climate change, soil and water contamination, natural resource damages, wind farms, and Asian carp in Lake Michigan. This session will discuss developments in CERCLA, RCRA, public and private nuisance law, takings, and land use with a focus on the most important case developments in the past year and predictions for the future.

– *Delmar R. Ehrich*  
– *Alexandra B. Klass*

### 12) Current Developments in Stormwater Permitting and Enforcement

This session will focus on the continued regulation of stormwater runoff, including EPA and MPCA stormwater permits and the enforcement priorities in the coming year related to on-site water management. The session will review permitting and compliance requirements for both construction sites and industrial facilities.

– *Daniel S. Schleck*

4:30 – 5:30 p.m.

## Annual Environmental Institute Reception



### You’ll Receive a Helpful Course Book

All attendees at the course will receive course materials, designed to be useful long after the seminar concludes, covering the seminar agenda topics.

Can’t attend? You can still purchase the course book using the attached registration/order form. Or simply call Minnesota CLE at 800-759-8840 or 651-227-8266. The course book sells for \$95 and will be mailed within 3 days of your order. For immediate use, ask for expedited shipment and we’ll rush your order to you.

*(available 5/6/10)*

# Faculty & Planners

**Stacy Lynn Bettison**

Rotenberg Associates LLC; Minneapolis

**B. Andrew Brown**

Dorsey & Whitney LLP; Minneapolis

**Christina K. Brusven**

Fredrikson & Byron, P.A.; Minneapolis

**Andrea M. Carruthers**

Faegre & Benson LLP; Minneapolis

**Steven M. Christenson**

Ecolab; St. Paul

**Eric T. Cooperstein**

Law Office of Eric T. Cooperstein, PLLC; Minneapolis

**Delmar R. Ehrich**

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**Brooke Furio**

Policy Analyst, Region 5  
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**Charles B. Holtman**

Smith Partners PLLP; Minneapolis

**Alexandra B. Klass**

University of Minnesota Law School; Minneapolis

▲ **Thaddeus R. Lightfoot**

The Environmental Law Group, Ltd.; Minneapolis

▲ **Joseph G. Maternowski**

Moss & Barnett PA; Minneapolis

**Alan R. Mitchell**

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**Cathy Moeger**

Minnesota Pollution Control Agency; St. Paul

**Michael A. Nash**

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▲ **Steven W. Nyhus**

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▲ **Planning Committee**