

**Environmental Law Section Council**  
**Minutes**  
**November 9, 2006**

Present:

In Person: Peter Holmes, Dustin Ordway, John Byl, Lee Johnson, Jim O'Brien, Chris Bzdok, Scott Hubbard, Pat Paruch, Susan Topp, John Tatum, Anna Maiuri, Charles Toy, Ernest Chiodo, Mike Caldwell, Charles Denton, Joe Quandt, Kurt Brauer, Matthew Eugster, Kurt Kissling, Grant Trigger, Bob Schroder

Meeting called to order at 12:00 p.m.

1. **Minutes.** The minutes for the September 2006 Council meeting were approved by motion.
2. **Secretary-Treasurer's Report:** Barbieri presented preliminary figures provided by the State Bar showing a balance in the Section's account of \$40,739.63 as of September 30, 2006.
3. **Standing Committee Reports:**
  - A. **Membership.** Report by Chris Bzdok and Dustin Ordway. Discussions centered on an environmental law survey, which would be circulated by Survey Monkey. Bzdok also discussed the opportunity for members of the Section to sign up for committees.
  - B. **Program Committee.** Susan Topp and Kurt Brauer jointly presented a report. A winter program to be held at a northern resort is planned tentatively for February 24-25 and will focus on transactional/litigation topics.
  - C. **Michigan Environmental Law Journal.** Lee Johnson was welcomed as the new editor of the Journal. He noted that a few articles have been submitted; however, he requested new material. Discussion also centered on distribution of the Environmental Law Journal to environmental law libraries and environmental law societies.
  - D. **Technology Committee.** John Tatum reported that the State Bar website will change in the future. Discussion also included consideration of adding additional Michigan Department of Environmental Quality proposals for decisions on the section's website. Tatum also reported about a 1-day seminar offered for students at the University of Detroit, which covered environmental negotiation of air permits. A motion was approved for expenditures of about \$125 associated with that 1-day seminar.

- E. **Desk Book.** Jeff Haynes indicated that the chapters of the Desk Book are beginning to arrive. He anticipates a 2007 publication. He has not decided on the format (electronic, hard copy, combination of both) for the publication and future supplements. The possibility of an electronic distribution was discussed. ICLE may have an interest in this effort.

#### 4. **Subject Matter Committee Reports:**

- A. **Air.** Report by Lee Johnson. Johnson indicated that a conference call is being scheduled among members of the group which would focus on developing ideas for discussion in 2007.
- B. **Environmental Litigation and Administrative Practice.** Ernest Chiodo provided an overview of the presentations made during the past year. During the first quarter, this committee offered a presentation about the admissibility of expert testimony. During the second quarter, this committee conducted a seminar on mold: medicine, law and science. The third quarter had a presentation on carbon monoxide: medicine, law and science. Chiodo reported that a panel discussion involving lawyers, American Industrial Hygiene Society, the Occupational and Environmental Medicine for Metal Working was planned for noon on November 14, 2006. The session also focused on whether environmental litigation includes the administrative practice (*i.e.*, contest the cases).
- C. **Hazardous Substances and Brownfields.** Charles Denton reported that the committee had met on October 21, 2006. Patty Brandt of the MDEQ Remediation and Redevelopment Division was present to describe the workgroups focusing on possible changes to Part 201 of NREPA, as amended, and its rules. The committee also discussed post-Aviall contribution litigation. Denton expressed hope for more memoir participation at the committee's next meeting. Denton also promised to provide MDEQ workgroup attachments and minutes to Council members.
- D. **Natural Resources.** Joe Quandt reported that this committee in May 2006 considered the topic of surface water impact from water withdrawals. He also noted the various programs (February 2006 and September 2006) that covered wetland permitting in light of the Rapanos Supreme Court decision.
- E. **Water.** John Byl provided a committee report on water. He noted the water withdrawal discussion which was also mentioned by the Natural Resources Committee. He also mentioned the Part 201 workgroup, which is considering the integration of Part 201 and GSI requirements.

#### 5. **Liaison Reports.**

- A. **Real Estate Section.** Pat Paruch reported that the Real Estate Section's quarterly overview is available online. It is only available for one year. She noted that an upcoming seminar for this group was planned for Orlando. She also discussed the challenge of attracting younger members to the Real Estate Section.

**6. Chairperson's Report.** Report by John Byl.

- A. Byl made special notice of the Environmental Law Section's 25<sup>th</sup> celebration being held today. He noted that Charles Toy, on behalf of the State Bar, Board of Commissioners, had provided the Section with a resolution of congratulations for the 25<sup>th</sup> anniversary of the Environmental Law Section.
- B. Byl recognized outgoing chair, Peter Holmes, for his dedication and effective leadership over the past year.
- C. Byl indicated that he intended to focus on promoting more active involvement of law students. He hoped that the use of available Environmental Law Section funds might assist this outreach. He noted the number of law students that attended the February 2006 meeting at Ava Maria. This year, the program is planned for Cooley Law School. Chris Shafer, a professor at Cooley, will be contacted about that program. Topics may include discussion on mining cases, update on the Part 201 workgroups, and several issues associated with new source review.
- D. Byl noted that the amendments to the bylaws (which provided among other things for a reduction in Council members) will become effective on November 17, 2006.
- E. Byl indicated that the program committee should begin planning the Higgins Lake program for 2007.

**7. Vice-Chair's Report.** No report.

**8. Other New or Old Business.** None.

Meeting adjourned at approximately 1:00 p.m.

Submitted by:

Charles E. Barbieri