

**BBA ENVIRONMENTAL LAW SECTION STEERING COMMITTEE**  
**Tuesday, March 4, 2008**  
**8:30 a.m.**

**MINUTES**

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Attendees: Ben Ericson, Michelle O'Brien, Fred Augenstern, Ken Whittaker, Gene Benson, Pam Harvey, Carl Dierker, Michael Koehler, Ruth Silman, David Cetola, Carol Iancu, Jim Milkey, Laurel Mackay, Jeff Roelofs, and Stuart Canton and Steve Leonard by phone  
BBA Staff: Karen Douglass

I. Section and Committee Reports

- A. Section: The Section hosted a discussion of the SJC decision in the so-called BU biolab case, *Allen v. Boston Redevelopment Authority*, on February 29, 2008. EEA General Counsel Ken Kimmell, plaintiffs' counsel Doug Wilkins, and Ron Ruth, whose firm submitted an amicus brief on behalf of the Massachusetts chapter of NAIOP, discussed the case and what the decision means for future MEPA practice. On March 10<sup>th</sup> the Section is co-sponsoring a meeting with the Insurance Law Committee regarding environmental insurance. The Section and the Environmental Litigation Committee will jointly hold a discussion of DEP enforcement successes and priorities on April 3<sup>rd</sup>. The Section is also working on getting George Bachrach, new president of the Environmental League of Massachusetts, to speak at a luncheon meeting.
- B. Air Quality and Climate Change: On March 10 the committee will have a joint session with the International Environmental Law Committee on lessons learned from the EU Emissions Trading Program. Now that the RGGI regulations are final, the committee hopes to have a meeting in April to discuss them. The committee will team up with the Litigation Committee for a discussion of the *New Jersey v. EPA* power plant case; the group is working on establishing a meeting date.
- C. Hazardous and Solid Waste: On February 28, 2008, the committee had a joint meeting with the Litigation Committee regarding the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, which regulates the transportation of hazardous materials by air, rail, highway, and water. In March the committee will hold its annual CERCLA update with EPA Superfund attorney Joanna Jerison.
- D. International: See above regarding joint meeting with the Air Quality and Climate Change Committee on EU emissions trading in March. The committee is working on a sustainability topic for its April meeting.
- E. Litigation: On February 7<sup>th</sup> the committee had a discussion of toxic tort and environmental damages claims with attorney Jan Schlichtmann, and on February

28<sup>th</sup> had a joint meeting with the Hazardous and Solid Waste Committee (see above). On April 3<sup>rd</sup> the committee will have a meeting jointly with the Section regarding DEP enforcement, featuring Peg Stolfa, Pamela Talbot and perhaps Commissioner Laurie Burt.

- F. Wetlands, Waterways and Water Quality: The committee did not hold a lunch meeting in February. On March 19 the committee will have a discussion of the new DEP stormwater management regulations.

## II. Public Policy Issues

### A. Legislative update

- i. Homeowner heating oil spill bill – The bill is in House Ways & Means. Steering committee members are encouraged to contact their representative, particularly if (s)he is a member of the Ways & Means Committee. The BBA letter supporting the bill should have been sent to House members by now.
- ii. Environmental bond bill – The bill was filed in January with the support of a Coalition for the Environmental Bond. Carl Dierker has learned that Senator Pam Resor, who is not running for reelection, hopes the bill will be enacted this session, before she retires. Steering committee members noted that MACC Executive Director Ken Pruitt has accepted a management position at ELM.
- iii. Bill regarding the restoration of certain civil rights – H.2235 – Gene Benson reported that he met with representatives of the civil rights and civil liberties section and they noted a number of concerns with the bill. They are going to prepare a redraft of the bill. The Judiciary Committee was holding a public hearing on the bill on March 4<sup>th</sup>.

### B. BBA Principles for Needed Energy Legislation No Report

### C. Proposed Green Office Program

- i. Ben Ericson, Julie Taylor, and Heather Leary are continuing to work on issues surrounding Council endorsement and implementation.

## III. CLEs

### A. February 13, 2008: Green Buildings

The program was well attended and provided some interesting perspectives on green building, both from supporters and skeptics. Many of the attendees were not Environmental Law Section members.

### B. Spring 2008: C. 21E update

Michelle O'Brien and Ken Whittaker will co-chair this program, which will likely be in June. They are beginning to plan the agenda now.

IV. Announcements/Updates

- A. Ski trip to Loon Mountain: Several Section members are planning this inaugural event for Friday, March 7, 2008. For more information contact Ham Hackney.
- B. New Lawyers Section Reception April 29, 2008, 5:30-8:00 p.m., to give BBA new lawyer members and potential members an opportunity to learn about various BBA committees and sections that they can get involved in. The proposed “Speed Networking” session will not take place. The BBA is working on a mentoring program for new lawyers.
- C. Congratulations to Ruth Silman on her promotion to partner at Nixon Peabody.
- D. 2008 marks the 25<sup>th</sup> anniversary of G.L. Chapter 21E – the Section should recognize this in some way. The steering committee discussed having a component of the 21E CLE regarding the milestone, and perhaps having a luncheon program on the achievements under the law.