

**Environment & Energy Law Section**  
2010-2011 Year-End Report  
Submitted by: Shawn Gallagher

This letter serves as the year end report of the activities, events and achievements of the Environment & Energy Law Section.

## **A. Programs**

One of the primary purposes of our Section is to provide regular and meaningful programs for our Members. Thanks to the hard work of our Co-Program Chairs Dana M. Adipietro and John J. Walliser, and our ACBA Liaison, Joanna Taylor Stone, we had a very successful year of programs, which briefly described, were as follows:

- October 12, 2010: *Ethics For Environmental & Energy Lawyers - 2010 Update*

This program explored developments in professional responsibility of interest to environmental and energy lawyers, including BA Model Rules developments, doing business with clients, special fee arrangements, multi-jurisdictional practice, and confidentiality. Speaker: David G. Ries, Esq.

- November 17, 2010: *Environmental Crimes Task Force*

Presenters Glenn Parno of the Pennsylvania Attorney General's Environmental Crimes Section and Nelson Cohen of the U.S. Attorney's White Collar Crime Section discussed state and federal environmental criminal law and offered their perspectives on the prosecution of environmental crimes.

- December 8, 2010: *Roundtable Discussion with the Environmental Hearing Board & Annual Holiday Party*

Select Pennsylvania Environmental Hearing Board Judges and the Board's Senior Assistant Counsel provided tips for effective Board practice and an update on the Rule Committee's Agenda for 2011.

- January 19, 2011: *Environmental Law 2010 - Year In Review*

Presenters Brandon D. Coneby of Dinsmore & Shohl, LLP and Mary Martha Truschel of the Department of Environmental Protection (“DEP”) explored significant Federal and state developments in environmental law in 2010.

- March 10, 2011: *“Marcellus Shale 101” For The Western Pennsylvania Lawyer*

This program offered a scientific and technical overview of the Marcellus shale gas extraction process, explained the general regulatory framework applicable to most aspects of the practice, and discussed issues specific to municipalities in their efforts to regulate the practice. Speakers: John A. Harper, P.G., Pennsylvania Geologic Survey, PA Department of Conservation and Natural Resources, Chief, Geologic Resources Division; Carl J. Carlson, Director of Government Affairs, Range Resources - Appalachia, LLC; Alan Eichler, PA Department of Environmental Protection, Regional Program Manager, Oil and Gas Program; Michael G. Forbeck, P.E., PA Department of Environmental Protection Regional Program Manager, Waste Program; Scott A. Hans, US Army Corps of Engineers, Chief, Regulatory Branch; Michael R. Lettrich, Esq., Meyer Darragh Buckler Bebenek & Eck, P.L.L.C.; Blaine A. Lucas, Esq. Babst, Calland, Clements and Zomnir, P.C..

The Section put together this comprehensive program at the request of certain ACBA Board of Governors. This was a very significant undertaking for all involved to put this program together. It may have been the most well attended and successful programs in the Section’s history.

- May 12, 2011: *Environment And Energy Law Section Hosts Agency Chief Counsels*

Diana Stares, Regional Counsel (SWRO), on behalf of David J. Raphael, Chief Counsel, Pennsylvania Department of Environmental Protection and Marcia E. Mulkey, Regional Counsel (Region III), U.S. Environmental Protection Agency, presented important news relating to current and future agency initiatives in Pennsylvania and the region.

- June 9, 2011: *Second Annual Think Green Scholarship Fundraiser*

This event, held this year at the National Aviary, raises money to support the Section’s scholarship fund in the Allegheny County Bar Foundation. It was a casual and catered event for a great cause.

## **B. Events, Activities & Achievements**

### **1. Name Change**

One of the more significant events for our Section this past year was to amend our by-laws and formally rename our Section from “Environmental” to “Environment & Energy.” The purpose of our Section has always been to provide a forum for information and education in the areas of environmental

and natural resources law and to foster the development of professional relationships among the members of our Section. As evidenced by the overwhelming majority vote of our Members, we believe the name change better reflects the original purpose of our Section.

## **2. Scholarships**

Education has always been an important part of our mission. Each year we ask Pitt and Duquesne Law Schools to nominate three students who have expressed an interest in pursuing a career in the field of environmental law. Our Scholarship Committee then conducts interviews of the candidates and recommends the scholarship award winner from each school. As we have done for the past decade, we awarded one law student from Pitt and one law student from Duquesne two \$1,000 scholarships who demonstrated an interest in the practice of environmental and energy law.

## **3. ACBA Letter in Support of Funding The Environmental Hearing Board**

Over the past few years the funding levels for the Pennsylvania Environmental Hearing Board (“EHB”) have been substantially cut and have led to significant impairment in the orderly functioning of the EHB, including its ability to promptly hold hearings, issue opinions and adjudications and manage pending disputes.

Governor Corbett’s FY 2012 Budget proposed funding the EHB at \$1.744 Million, which would have enabled the EHB to restore funding for a fifth administrative law judge and hire the Secretary to the EHB, essentially the EHB’s Clerk of Court. However, the Budget bill, as reported out of the Appropriations Committee, would have reduced that amount 19%. This would have prevented the appointment of a fifth administrative law judge and hiring the Secretary of the EHB but may have also necessitated additional staff cuts where the EHB was already cut to the bone.

Our Council Members believed this was a significant issue that needed to be addressed and unanimously voted to petition the ACBA Board of Governors to approve our Section sending a letter to key Senate leaders to support Governor Corbett’s proposed funding over that of the Pennsylvania House. Shortly after the Board of Governors approved our Section’s letters the Senate voted to maintain Governor Corbett’s proposed funding for the EHB.

## **C. Plans For Next Year**

### **1. Programs**

First and foremost, our Section plans to provide our Members with a number of meaningful programs. Programs for next year that have been contemplated include an overview of the most important issues for the Pennsylvania Department of Environmental Protection from Secretary Michael Krancer, an ethics program and additional Marcellus and energy related programs.

Because our Section’s programs over the past couple of years have been well attended we have enjoyed the benefit of a more substantial general fund than we have in years past. As such, we have

contemplated ways to make the best use of our surplus to make our programs better for our Members. Many of our programs are one hour “Lunch & Learn” programs from noon to 1:00 p.m. Next year we plan to pay for lunch for our Members. Also, depending on the circumstances, we may pay for traveling and accommodation for speakers who are making a special trip just to be a presenter for one of our programs.

## **2. Scholarships**

Thanks to Howard Wein and Ron Cusano, a designated fund within the Allegheny County Bar Foundation was established in 2010 in order to enable the Section to administer our scholarships annually with the fund’s income. In the next year, the Section will put together our 3rd Annual Think Green Event to further support our scholarship program. Because of the success of the first two Think Green Events, our Section is considering either awarding more than two scholarships or to increase the amount of our scholarships.

## **3. Increase Membership**

One of the goals for next year is to develop a plan to increase the membership of our Section. We hope that our name change to “Environment & Energy” will increase Section membership, but it is recognized to make this happen that the Section needs to make other members of the ACBA aware that our Section is not solely limited to environmental law.