



# 2005 NGWA Ground Water and Environmental Law Conference

July 21-22, 2005/Wyndham Baltimore Inner Harbor/Baltimore, Maryland

## Program

This is the 3rd NGWA conference on ground water litigation and environmental law. The conference agenda features presentations from attorneys, consultants, and regulators covering a number of topics from current court cases to changes in regulations and the use of ground water models in the courtroom. The conference is the ideal setting to learn more about ground water law and make contacts with some of the nation's leading expert witnesses and attorneys. The conference features a number of court cases and will include an explanation of the combination into federal court of a number of MTBE product liability lawsuits including *State of New Hampshire v. Amerada Hess et al.* Attendees will gain valuable information and receive a full proceedings which will serve as a desk reference to respond to the changes in the landscape of environmental law.

- Ground Water Contamination Cases
- Ground Water Law
- Science in the Courtroom
- Ethics for Attorneys and Expert Witnesses
- Data Quality Act
- International Ground Water Pollution
- Expert Witness Workshop
- Emerging Contaminants
- Daubert Challenges
- Data Visualization for Litigation
- Defensibility of Ground Water Models
- MTBE in Federal Court
- New Well Construction Regulations

### Ground Water and Environmental Law Exhibitors

Daniel B. Stephens & Associates, Inc.

Groundwater & Environmental Services, Inc.

Ted B. Lyon & Associates, PC

Zephyr Environmental Corporation

Conference Contributor

**TED B. LYON  
& ASSOCIATES**

Thursday, July 21

7:30 a.m. – 4:00 p.m. *Registration*

## PLENARY SESSION

- 8:30 – 9:00 a.m. Keynote: Allocation of Liability Based on Ground Water Modeling; City of Wichita vs. Trustees of the Apco Oil Corporation Liquidating Trust  
Neal H. Weinfield, Esq., Bell, Boyd and Lloyd LLC; Douglas Soutter, Conestoga Rovers and Associates
- 9:00 – 9:20 a.m. The Impact of the Data Quality Act on Environmental Regulatory Science  
Dallas A. Wait, Ph.D., Gradient Corporation
- 9:20 – 9:40 a.m. Expert Opinions in Environmental Litigation: Current Developments  
David G. Ries, Esq., Thorp Reed & Armstrong, LLP
- 9:40 – 10:00 a.m. Break

## Thursday, July 21

### CONCURRENT SESSIONS Expert Testimony

Moderator: George Losonsky, Ph.D.  
CH2M Hill

- 10:00 – 10:20 a.m. Lessons Learned in Representing the City of Dallas Against the Oil Industry in the Aftermath of the Largest MTBE and Gasoline Release into a Public Water Supply in U.S. History  
Ted B. Lyon, Ted B. Lyon & Associates
- 10:20 – 10:40 a.m. What Am I Protecting? Recognizing the Resolving Ethical Dilemmas in Environmental Practice and Litigation  
George Losonsky, Ph.D., CH2M Hill; Bradford C. Hanson, Louisiana Dept. of Transportation and Development; William H. Schramm, Louisiana Dept. of Environmental Quality; Michael Losonsky, Ph.D., Colorado State University
- 10:40 – 11:00 a.m. Risk Assessment and Risk Characterization: Does It Work?  
N. Kathleen Strickland, Holland and Knight LLP
- 11:00 – 11:20 a.m. Wholesale Returns of Conjecture: Defensible Scientific Opinions in Court?  
David R. Hargis, Ph.D., and Leo S. Leonhart, Hargis + Associates Inc.

### CONCURRENT SESSIONS Expert Witness Workshop

Moderator: Anita Highsmith, Highsmith Environmental Consultants Inc.

- 10:00 – 10:20 a.m. Environmental Law and Toxicological Data  
Stephen Margolis, Ph.D., Rollins School of Public Health, Emory University
- 10:20 – 10:40 a.m. Confidentiality and Conflict Issues for Environmental Attorneys and Experts  
Michael Downey, Fox Galvin LLC and Adjunct Professor, Washington University School of Law
- 10:40 – 11:00 a.m. The Value of Microbiologic and Epidemiologic Consultation on Waterborne Disease Cases  
Anita K. Highsmith, Highsmith Environmental Consultants Inc.
- 11:00 – 11:20 a.m. Flawed Geoscience in Forensic Environmental Investigations: Part II, How Daubert Affects the Scope and Bases for Expert Opinions  
Richard C. Bost, P.G., CGWP, P.E., Environmental Resources Management Inc.; Michael D. Campbell, P.G., P.H., and M. David Campbell, P.G., M.D. Campbell and Associates LP; Tana R. Eckols, Environmental Resources Management Inc.

	<p><b>Environmental Regulations</b>  Moderator: William S. Schramm,  Louisiana Dept. of Env. Quality</p>		<p><b>Environmental Regulations</b>  Moderator: Anita Highsmith, Highsmith  Environmental Consultants Inc.</p>
11:20 – 11:40 a.m.	<p>Coordinated Zoning Overlay District as  Watershed and Ground Water Planning  Tools  George A. Rodenhausen, Raport,  Meryers, Whitbeck, Shaw and  Rodenhausen LLP; Russell B. Urban-  Mead, C.P.G., Chazen Environmental  Services Inc.</p>	11:20 – 11:40 a.m.	<p>Part III: How Daubert Is a Surrogate for  Ethical Questions Regarding Expert Opinions  Richard C. Bost, P.G., CGWP, P.E.,  Environmental Resources Management  Inc.; Michael D. Campbell, P.G., P.H.,  and M. David Campbell, P.G.,  M.D. Campbell and Associates LP;  Tana R. Eckols, Environmental  Resources Management Inc.</p>
11:40 – 1:00 p.m.	<i>Lunch (on your own)</i>	11:40 – 12:00 p.m.	<p>Panel Discussion (with open microphone)  Anita Highsmith, Michael Downey,  Stephen Margolis, Ph.D., Richard C. Bost,  P.G., CGWP, PE</p>
		12:00 – 1:00 p.m.	<i>Lunch (on your own)</i>
			<p><b>Court Room Data Presentations</b>  Moderator: David G. Ries, Esq.,  Thorp Reed &amp; Armstrong, LLP</p>
1:00 – 1:20 p.m.	<p>Legal Limitations to State Water  Permitting Statutes  Jesse J. Richardson Jr., J.D., and  Elisabeth Chaves, J.D., Virginia Tech</p>	1:00 – 1:20 p.m.	<p>Three Dimensional Visualization of High  Definition Data Enhances the Validity  and Audience Understanding of Site  Conceptual Models  John Sohl and Ned Tillman, Columbia  Technologies</p>
1:20 – 1:40 p.m.	<p>Residential Well Construction  Inspection and Certification by the  County: A New Public Health Program  for Bucks County, Pennsylvania  Amleto A. Pucci Jr., Ph.D., P.E., CGWP,  Bucks County Department of Health</p>	1:20 – 1:40 p.m.	<p>Use of Electronic Databases In  Environmental Regulation, Policy  Making and Public Participation  Matt Hagemann, Soil/Water/Air  Protection Enterprise</p>
1:40 – 2:00 p.m.	<p>Mandatory Connection in the Courts  and the State Legislatures  Jesse J. Richardson Jr., J.D., and  Elisabeth Chaves, J.D., Virginia Tech</p>	1:40 – 2:00 p.m.	<p>A Successful Data Visualization Technique  Applied to Resolve Litigation  Douglas Beal, P.G., and Donald  Richardson, C.P.G., BEM Systems Inc.</p>
			<p><b>International Ground Water  Pollution</b>  Moderator: David G. Ries, Esq.,  Thorp Reed &amp; Armstrong, LLP</p>
2:00 – 2:20 p.m.	<p>EPA All Appropriate Inquiry and  Maryland's Voluntary Cleanup Program  Donald E. Jones, CGWP, Quality  Environmental Solutions Inc.</p>	2:00 – 2:20 p.m.	<p>Petroleum Pollution of Ground Water in  the Chirchik River Basin, Uzbekistan  Ayubov Kobil, Ph.D., and  Shahobiddinov Muminjon, Ph.D., Water  Problems Institute of Academy of  Sciences of Uzbekistan</p>
2:20 – 2:40 p.m.	<p>Ground Water Act of South Korea  Jeongsang Hahn, Ph.D., CGWP, C.G.D.,  P.E.</p>	2:20 – 2:40 p.m.	<p>Nitrogen Ammonia Removal from  Ground Water by Nitrification:  Denitrification Process with a Novel  Acryl Biofilm Carrier Material  Nguyen Viet Anh, Ph.D., Hanoi University  of Civil Engineering</p>

2:40 – 3:00 p.m.	Public Drinking Water Protection Litigation: Removing Chemicals Using Toxic Tort Remedies and Federal Citizen Suit Statutory Remedies, Including RCRA Stanley N. Alpert, Esq., The Alpert Firm	2:40 – 3:00 p.m.	Arsenic Poisoning: A Catastrophe on Human Health in Bangladesh Sara Ferdousi, Tokyo Institute of Technology; Ismail Md. Mofizur Rahman, University of Chittagong; Khaled Abdullah, Bangladesh Engineering and Technological Services; Tarik-ul-Islam, UNDP-Dhaka
3:00 – 3:20 p.m.	<i>Break</i>	3:00 – 3:20 p.m.	<i>Break</i>
	Court Room Data Presentations Moderator: William S. Schramm, Louisiana Dept. of Env. Quality		Emerging Contaminants Moderator: David G. Ries, Esq., Thorp Reed & Armstrong, LLP
3:20 – 3:40 p.m.	Data Visualization Tools for Litigation: Practical Uses and Ethical Considerations Brad Cross, R.G., and Eric Rogoff, R.G., C.E.G., LFR Levine Fricke	3:20 – 3:40 p.m.	Brominated Flame Retardants in Ground Water: Pathways to Human Ingestion, Toxicology, and Remediation Navreet Auja and James Clark, Ph.D., Soil/Water/Air Protection Enterprise; Paul Rosenfeld, Ph.D., Soil/Water/Air Protection Enterprise and UCLA Environmental Science and Engineering Program
3:40 – 4:00 p.m.	Two and Three Dimensional Data Visualization for Litigation Support Mary Ann Parcher, Pramod Thota, and Dave Bennett, ES&T/GES	3:40 – 4:00 p.m.	Fate, Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals Paul Rosenfeld, Ph.D., Soil/Water/Air Protection Enterprise and UCLA Environmental Science and Engineering Program; James Clark, Ph.D., Naveet Auja, and Lisa Cuellar, Soil/Water/Air Protection Enterprise

## Thursday Afternoon, July 21

### PLENARY SESSION

- 4:00 – 4:20 p.m. Applying Visual Technology to Document Multiple Release Locations and Migration Pathways of NAPL  
Jeffrey A. Johnson and Meng Ling, The RETEC Group Inc.
- 4:20 – 4:40 p.m. Application of a Web-Based System with Scalable Vector Graphics for Management and Visualization of Data in Support of Court Ordered Remedy at a Large Chromium Remediation Project, Hudson County, New Jersey  
Todd Peirce, Ph.D., Locus Technologies Inc.; Dak Patel, MWH American; Joshua Jaffe, Parsons; Chris French, Honeywell International Inc.; Helen Fahy, Fahy Associates; John Morris, Honeywell International Inc.
- 4:40 – 5:00 p.m. Use of Graphics for Environmental Litigation Support: Examples from Real Cases  
Nathan Epler, Ph.D., Neil M. Ram, Ph.D., and Mitchell A. Wiest, Roux Associates Inc.
- 5:00 – 6:30 p.m. Ice Breaker Reception (refreshments provided, cash bar)

8:00 a.m.–3:30 p.m. *Registration*

8:30–8:50 a.m. **In re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation (MDL #1358, S.D. N.Y.): Mega-Combined MTBE Litigation in Federal Court** — Victor Sher, Sher Leff LLP

8:50–9:10 a.m. **Daubert Challenges** — N. Kathleen Strickland, Holland and Knight LLP

9:10–9:30 a.m. **Critical Failures of Proof and Theory in MTBE Litigation** — Richard E. Morton, Esq., Womble, Carlyle, Sandridge and Rice PLLC; Steven C. Hart, P.G., Hart and Hickman PD.; Stanley B. Green, Esq., Womble, Carlyle, Sandridge and Rice PLLC

## **GROUND WATER MODELING IN THE COURTROOM**

Moderator: Stanley N. Alpert, The Alpert Firm

9:30–9:50 a.m. **Integrated Modeling of Water Rights Diversion, Recharge, and Return Flow**  
Gordon McCurry, Ph.D., Camp Dresser and McKee Inc.

9:50–10:10 a.m. *Break*

10:10–10:30 a.m. **A Ground Water Modeler's Guide to Survival in the Courtroom**  
Peter J. Randazzo, P.G., Brown and Caldwell

10:30–10:50 a.m. **Calculating MODFLOW Analytical Sensitivities Using ADIFOR for Effective and Efficient Estimation of Uncertainties** — Amir Gamliel, U.S. Army Corps of Engineers; Mike Fagan, Rice University; Maged Hussein, U.S. Army Corps of Engineers

10:50–11:10 a.m. **Uncertainty and Defensibility in Modeling**  
Gary H. Hall, Vern Bennett, and John Church, Ph.D., GHH Engineering Inc.

11:10–11:30 a.m. **The Role of Model Prediction Uncertainty in Resolving Water Resource Conflicts Associated with Mine Development** — Vikas Tandon, Ph.D., and James Kilburg, Shaw Environmental Inc.

11:30–1:00 p.m. *Lunch Provided*

## **CONTAMINATION LITIGATION CASES**

Moderator: Stanley N. Alpert, The Alpert Firm

1:00–1:20 p.m. **Concentrated Agricultural Impacts on Water Resources: Litigation Update**  
Randy Miller, Miller & Keffer, LLP

1:20–1:40 p.m. **Success in Securing Site Closure for an Industrial Facility, Including a CERCLA Site, Using Technical and Legal Strategies in Gnadenuhthen, Ohio** — Walter R. Hufford, P.G., Atlantic Richfield; John C. Laager, Esq., Ballard, Spahr, Andrews and Ingersoll LLP; John F. Bolakas, P.G., and Oren Gottlieb, P.G., SECOR International

1:40–2:00 p.m. **Is Blasting Responsible for Perchlorate Contamination in Ground Water? Massachusetts Site Case Studies** — Bruce A. Hoskins, P.E., L.S.P.P., CPI Environmental Services Inc.; Brent J. Tardif, P.G., and Paul "Dutch" Kretschmer, Continental Placer Inc.

2:00–2:20 p.m. **Effective Graphical Display of Ground Water Model Results for Environmental Litigation and Regulatory Negotiations** — Karen E. Kelley and Brendan M. Harley, CDM Inc.

2:20–2:40 p.m. *Break*

## **CONTAMINATION LITIGATION CASES CONTINUED**

Moderator: David G. Ries, Esq., Thorp Reed & Armstrong, LLP

2:40–3:20 p.m. **Plaintiff Lawyers and Environmental Litigation** — Evan K. Nyer, Joe Darby, and Carol Mowder, ARCADIS

3:20–3:40 p.m. **Ground Water Contamination Litigation Under Pennsylvania's Storage Tank and Spill Prevention Act: A Case of Clear and Convincing Evidence (Sort of)** — Jeffrey R. Hale, P.G., Geologic Services Corporation; Randall G. Hurst, Esq., Mette, Evans, and Woodside

3:40–4:00 p.m. **Technical Evaluation of Natural Resource Damage Assessment (NRDA) Claims for Ground Water Resources** — John A. Connor, Richard L. Bowers, and Farrukh Ahmad

4:00–4:20 p.m. **Methods for Characterization of Exposure to Volatile Chemicals Due to Vapor Intrusion**  
Thomas E. McHugh, Ph.D., and John A. Connor, P.E., Ground Water Services Inc.

4:20–4:40 p.m. **Cleaning Up the Cold War: The Use of State and Federal Remedies to Address Groundwater Contamination at Formerly Used Defense Sites**  
Steven G. Jones, Esq., Marten Law Group PLLC, Seattle, Washington

4:40–5:00 p.m. **The Downfall of the Resource Conservation and Recovery Act in the Wake of September 11th Homeland Security Initiatives**  
Jocelyn Cornbleet, J.D., The Misorowski Law Group LLC

# NGWA 2005 Course and Conference Calendar/

Call Customer Service at 800 551.7379 or visit [www.ngwa.org](http://www.ngwa.org) for more information.

## August/

17 ○ *Costa Mesa, California*

Safe Practice at Petroleum Drilling Sites #417

17 ○ *Costa Mesa, California*

The Microbiology and Chemistry of Environmentally Active Well Sites #127

17 ○ *Costa Mesa, California*

Ground Water Data Management: Developing and Implementing Standards for Data Integration, Analysis, and Reporting #402

17 ○ *Costa Mesa, California*

Workshop: Evaluating Monitored Natural Attenuation of MTBE and TBA #5040

17 ○ *Costa Mesa, California*

Workshop: Vapor Intrusion (a.m.)/  
API Interactive LNAPL Guide (p.m.) #5040

17 ○ *Costa Mesa, California*

Petroleum Hydrocarbons Preconference Field Trip #5040

18–19 ○ *Costa Mesa, California*

Petroleum Hydrocarbons and Organic Chemicals in Ground Water: Prevention, Assessment, and Remediation Conference #5040

## September/

23–26 ○ *Tahoe City, California*

This Conference – Fall #5101

26–27 ○ *Portland, Maine*

2005 NGWA Focus Conference on Eastern Regional Ground Water Issues #5081

29–30 ○ *Westerville, Ohio*

Introductory Statistics for Environmental Professions #176

## October/

3–4 ○ *Denver, Colorado*

Low-Cost Remediation Strategies for Contaminated Soil and Ground Water #142

4–5 ○ *Orange, California*

Fundamentals of Ground Water Geochemistry #235

5–6 ○ *New Orleans, Louisiana*

Estimating Times of Remediation Associated with Monitored Natural Attenuation and Contaminant Source Removal #157

5–7 ○ *Denver, Colorado*

Natural Attenuation for Remediation of Contaminated Sites #148

6–7 ○ *Orange, California*

Applications of Ground Water Geochemistry #485

17–18 ○ *Columbus, Ohio*

Ground Water Data Management: Best Management Practices and Procedures #403

17–18 ○ *Columbus, Ohio*

MODAEM and MODFLOW Using the Groundwater Modeling System (GMS) #252

17–19 ○ *Albuquerque, New Mexico*

An Introduction to Ground Water #133

18–19 ○ *Dublin, Ohio*

Construction Dewatering and Ground Water Control – Design and Application #351

19–20 ○ *Columbus, Ohio*

GIS Data Management for Ground Water Modelers: Site Characterization with HydroGeo Analyst #205

25–28 ○ *Princeton, New Jersey*

The MODFLOW Course: Theory and Hands-on Applications using MODFLOW-2000, MODPATH, MT3D, and WinPEST #259

26–27 ○ *Westerville, Ohio*

Assessment of Free Phase LNAPL Volume, Mobility, and Recoverability – Data Analysis and Modeling Techniques for Recovery System Design and Risk-Based Corrective Action #314

## November/

1–4 ○ *State College, Pennsylvania*

Fracture Trace and Lineament Analysis: Application to Ground Water Resources Characterization and Protection #241

2–4 ○ *New Orleans, Louisiana*

Understanding Migration, Assessment, and Remediation of Non-Aqueous Phase Liquids (LNAPLs and DNAPLs) #311

7–8 ○ *New Orleans, Louisiana*

NGWA Remediation Conference: Site Closure and the Total Cost of Cleanup #5010

## December/

13–16 ○ *Atlanta, Georgia*

2005 NGWA Ground Water Expo #6010

