



# 2004 NGWA Ground Water and Environmental Law Conference

May 5-6, 2004/Congress Plaza Hotel/Chicago, Illinois

This event will feature papers on ground water law and environmental contamination litigation. The conference will feature court cases and the presentation of hydrogeology, contaminant transport, and geochemistry in the courtroom.



## Testimonials from the Litigation, Ethics, and Public Awareness Conference

"I loved the NGWA law conference held in Washington, D.C. I'm excited that it is being held again this year in Chicago. The practical litigation support using expert witnesses has proved to be invaluable. It has had real-world application and made a difference in our business and bottom line. Our company will definitely be sending someone this year!"

—Khan Adams  
Great American Custom Insurance Services

"I found the National Ground Water Environmental Law Conference very useful and one that any environmental professional working on litigation would benefit from."

— Kim Green, Certified Ground Water Professional  
International Bottled Water Association

"I strongly recommend NGWA's Ground Water and Environmental Law Conference to anyone wanting insight into the breadth of legal and ethical issues surrounding ground water litigation."

— Richard B. Adams, P.E., DEE, CGWP  
RB Adams, LLC

Sponsored by/ National Ground Water Association

**About the Sponsor/** The National Ground Water Association (NGWA), founded in 1948, is a nonprofit professional society and trade association for the ground water industry. Our more than 16,000 members, from 70 nations, include the world's leading ground water geologists and hydrologists, engineers, ground water contractors, manufacturers, and suppliers of ground water-related products and services.

NGWA is a leader in education, research, publishing, expositions, and information dissemination. The association is supported by membership dues, revenue from the sale of publications, exposition space, and education program attendance.

For more information, visit the NGWA Web site at [www.ngwa.org](http://www.ngwa.org) or contact an NGWA representative at (800) 551-7379.

Cosponsored by/ Kegler, Brown, Hill and Ritter Co., LPA

**About the Cosponsor/** Kegler, Brown, Hill and Ritter is a full-service law firm with offices in Columbus and Marion, Ohio. Kegler, Brown provides valued counsel in many practice areas, including business and tax law; government and regulatory affairs; health care; international law; labor and employee relations; litigation; real estate and construction law. With more than 60 attorneys, Kegler, Brown's insight stems from legal team members who have held elected and appointed offices at the local, state, and national levels. The firm's diverse client base includes public and private corporations, state and local government agencies, charitable organizations, and closely held family businesses. Kegler, Brown is also a founding member of the State Capital Global Law Firm Group\*, with member law firms nationally and globally. To learn more visit [www.keglerbrown.com](http://www.keglerbrown.com).

\*Member firms of the State Capital Global Law Firm Group practice independently and not in a relationship for the joint practice of law.



## Wednesday, May 5

7:30 a.m.-4:00 p.m. Registration

9:00–9:20 a.m. **Keynote Address: Water Follies: Ground Water Pumping and the Fate of America's Fresh Waters**  
Robert Glennon, Morris K. Udall Professor of Law and Public Policy, University of Arizona, College of Law

### Session 1: The Daubert Challenge to Expert Testimony Moderator: Robert Glennon, University of Arizona

9:20–9:40 a.m. **Flawed Geoscience in Forensic Environmental Investigations: The Effect of Daubert Challenges on Improving Investigations**

Michael D. Campbell, P.G., P.H., M. D. Campbell and Associates  
Richard C. Bost, P.E., P.G., Environmental Resources Management (ERM)  
M. David Campbell, P.G., M. D. Campbell and Associates

9:40–10:00 a.m. **Simply Beating the Daubert Challenge: Contaminant Fate and Transport Modeling in Support of Expert Testimony** — Patrick Hubbard, R.G., Brian Moore, P.E., and Sigrida Reinis, Ph.D., Treadwell and Rollo Inc.

### Session 2: Ground Water Law

Moderator: Honorable William R. Keffer, Texas House of Representatives, Miller and Keffer LLP

10:00–10:20 a.m. **The 2003 Federal Energy Bill and MTBE Liability Protection**  
Scott Summy, P.C., Baron & Budd; Vic Sher, Sher & Leff

10:20–10:30 a.m. *Beverage Break*

10:30–10:50 a.m. **Unregulated and Emerging Chemical Contaminants: Technical and Institutional Challenges**  
Michael Kavanaugh, Malcolm Pirnie Inc.

10:50–11:10 a.m. **Perchlorate History, Source Identification, Remediation, and Costs** — Jon Rohrer, Steve Ross, Anthony Brown, and James Farrow, KOMEX H2O Science Inc.

11:10–11:30 a.m. **Decommissioning an Abandoned Crude Oil Pipeline with Numerous Regulatory Stakeholders Utilizing Multiple Funding Mechanisms**  
Hans A. Johannes and John Valkenburg, Malcolm Pirnie Inc.; Jeffrey D. Spruit, Michigan Department of Environmental Quality

11:30–11:50 a.m. **An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells**  
Anthony Brown, James Farrow, and Andy Gray, KOMEX H2O Science Inc.; Matt Hagemann, Soil Water Air Protection Enterprise (SWAPE)

11:50–1:00 p.m. *Lunch (on your own)*

- 1:00–2:00 p.m. **Environmental Forensic Chemistry Workshop** — James Smith, Trillium Inc. NGWA Instructor
- 2:00–2:20 p.m. **Ground Water Issues in Oilfield Pollution: A Survey of Case Law** — Honorable William C. Keffer, Texas House of Representatives, Miller and Keffer LLC.
- Session 3: Defensible Science**  
**Moderators: Scott MacFabe and Marzi Sharfaei, Malcolm Pirnie Inc.**
- 2:20–2:40 p.m. **Forensic Application of Numerical Flow and Contaminant Transport Models** — Thomas F. Maguire, Forensic Environmental Services Inc.
- 2:40–3:00 p.m. *Beverage Break*
- 3:00–3:20 p.m. **Use of Detailed Profiling Techniques for the Purpose of Liability Separation and Remedial Design of Comingled Ground Water Plumes** Scott MacFabe, Marzi Sharfaei, and Jeff Groncki, Malcolm Pirnie Inc.
- 3:20–3:40 p.m. **Requirements for Defensible Ground Water Modeling** Cynthia Ardito, CGWP, David Jordon, P.E., Greg Ruskauff, CGWP, Phg, and Marsh Lavenue, Ph.D., INTERA Inc.
- 3:40–4:00 p.m. **Use of High Frequency Hydraulic Property and Ground Water Quality Data to Assess Plume Separation and Extents** — Jeff Groncki, Shane McDonald, and Susanne Biteman, Malcolm Pirnie Inc.
- 4:00–4:20 p.m. **Stable Isotope Fingerprinting for Chlorinated Solvents** — Jan Kool, HydroGeoLogic Inc.
- 4:20–4:40 p.m. **Three-Dimensional Visualization Strengthens Defensibility of Environmental Data** — Daniel C. Lang, Malcolm Pirnie Inc.
- 4:40–6:00 p.m. *Ice-Breaker Reception (cash bar)*

"I attended the 2002 NGWA Environmental Law Conference in Washington, D.C. There was just the right blend of technical and legal presentations to "cross-pollinate" the thinking of virtually every attendee I talked with. As a technical consultant, I came away from the conference with a new appreciation of the legal issues, rules, and laws that constrain the technical arguments that I can make during depositions and court testimony. Lawyers I spoke with at the conference said that they gained new appreciation for the uncertainty inherent in the field of contaminant hydrogeology and together we discussed ways to develop arguments and presentations that are both technically and legally effective."

—Murray Einarson  
—Consulting Hydrogeologist  
—2002 NGWA Environmental Law Conference  
attendee and presenter

## Thursday, May 6

8:00 a.m.–1:30 p.m. *Registration*

8:00–10:30 a.m. **Illinois EPA Workshop: RBCA and TACO Training** — Greg Dunn, Illinois EPA; Richard J. Vamos, Ph.D., P.E., DAI Environmental Inc.; Janet Kester, Environ Corp.

Since 1997, the Illinois Environmental Protection Agency has used the Tiered Approach to Corrective Action Objectives (TACO—35 Illinois Administrative Code Part 742) to remediate sites in the Site Remediation Program, Leaking Underground Storage Tank Program, and the Resource Conservation and Recovery Act Program. The purpose of TACO is to determine the appropriate site-specific, risk-based, remediation objectives that will be protective of human health and the environment.

TACO is a dynamic process. As new information is gathered during the administration of the program or on chemicals and their health effects, the remediation objectives can be changed. The change may be less restrictive in some instances, but in others the objective may be more restrictive. The purpose of this workshop is to give a quick review of TACO, update the audience on new changes proposed to TACO, discuss mistakes seen while reviewing site-specific remediation objective requests, and give a brief presentation on the Risk Based Corrective Action equations.

10:30–11:00 a.m. *Refreshment Break*

### Session 4: Litigation Case Studies Moderator: Carol Scholl, URS

11:00–11:20 a.m. **Hydrogeologic Analysis, Transport and Modeling for Environmental Litigation: A Case Study** — Daniel B. Stephens, Ph.D., Daniel B. Stephens & Associates Inc.

11:20–11:40 a.m. **Aragon v. United States: A Liability Case Study** — John B. Robertson, P.G., and Christopher J. Roman, HydroGeologic Inc.

11:40–1:00 p.m. *Lunch (provided)*

1:00–1:20 p.m. **Quantitative Cost Allocation: A Courtroom Perspective or “Who Dunit and How We Convince Them to Pay”** — Muriel Robinette, Haley and Aldrich Inc.

1:20–1:40 p.m. **Use of Ground Water Models in the Courtroom** — Robert A. Cleary, Ph.D., Waterloo Hydrogeologic Inc. and Princeton Groundwater Inc.

1:40–2:00 p.m. **Issues in Settlement of First Party Damage Claim for Environmental Remediation** — David Hargis and Leo S. Leonhart, Hargis and Associates Inc.

2:00–2:20 p.m. **Regulations, Cleanup Costs, and Ground Water Modeling: Litigation of Insurance Claims at a Contaminated Site**  
Suzanne Macaoay, Barbara D. Hayes, Ph.D., P.E., and Marwan M. Sadat, Ph.D., P.E., Sadat Associates Inc.

### Session 5: Water Rights Moderator: Robert Glennon, Morris K. Udall Professor of Law and Public Policy, University of Arizona, College of Law

2:20–2:40 p.m. **Water Wars East of the Mississippi: A Case Study in Southern New Jersey** — Valerie E. Holliday, PG, BBL Inc.; Robert M. Washburn, Professor of Law, Rutgers-Camden School of Law; Joseph J. Hochreiter, CGWP, BBL Inc.

2:40–3:00 p.m. *Refreshment Break*



- 3:00–3:20 p.m.      **Water Rights Dispute: The Effects of a Quarry Dewatering Operation in Northwest Ohio** — Thomas E. Tomastik, Ohio Department of Natural Resources, Division of Mineral Resources Management; Martin D. Van Oort and E. Scott Bair, Ph.D., Ohio State University, Department of Geological Sciences; David A. Hodges, Ohio Department of Natural Resources, Division of Mineral Resources Management
- 3:20–3:40 p.m.      **Seaside Ground Water Basin Adjudication: Send Lawyers, Guns and Money** — Darby W. Fuerst and Joseph W. Oliver, Monterey Peninsula Water Management District.
- 3:40–4:00 p.m.      **Managing a Water Rights Case Using Automated Litigation Support Systems: The State of Colorado in the Republican River Compact Litigation** — David Klataske, HydroGeoLogic Inc.
- 4:00–4:20 p.m.      **Development of a Shared-Vision Groundwater Flow Model for Use in Alternate Dispute Resolution** — Eric Nichols, LFR Inc.; David Peterson, S.M. Stoller Corp.
- 4:20 p.m.              *Conference Adjourns*

## Upcoming Educational Offerings in Chicago

### Environmental Forensics: Methods and Applications (#183)

May 3–4, 2004 • Congress Plaza Hotel

Presented By: James Smith, Ph.D., and Charles F. McLane III, Ph.D, CGWP

Environmental forensics is the systematic investigation of a contaminated site or event focused on defensibly allocating liability for the contamination. This specialized course will include an overview of methods and applications for environmental scientists and engineers, regulators and attorneys. Whether for regulatory compliance or for proving responsibility in the courtroom, forensics plays an important role in hundreds of sites each year.

#### CEUs

1.6 continuing education units

#### Fees

NGWA Member: \$795  
Nonmember: \$945

### Comprehensive Ground Water Sampling (#225)

May 3–4, 2004 • Congress Plaza Hotel

Presented by: John Oneacre

Ground water monitoring is an important element of many environmental programs at industrial sites. Industrial managers, consultants, and regulatory agencies are routinely involved with ground water monitoring programs that range from simple detection programs to sophisticated assessment and corrective action. This course will present data from case studies that will take ground water sampling to a new level of appreciation by the attendees. In addition to providing the fundamentals of ground water monitoring, the course will delve into innovative methods to identify sources of ground water impact. The course will also present discussions on causes of sample bias, identifying biased samples, and best practices for obtaining representative ground water samples. You will learn from actual case studies the high cost of misinterpretation of ground water data due to sample bias. Whether you are gathering ground water samples for site characterization or litigation, this course will teach you how to implement best practices in your ground water sampling program.

#### CEUs

1.6 continuing education units

#### Fees

NGWA Member: \$745  
Nonmember: \$895

# General Information

## Fee Information

NGWA Member	\$350
Nonmember	\$500
Full-Time Student (I.D. required)	\$100

## General Information

Seating is limited. Registrations will be accepted on a first-come, first-serve basis. When you register, you will receive a confirmation packet. Attendees will receive a program containing abstracts of each talk, beverage breaks, and lunch on the first day. Cancellations received less than 21 days prior to the conference will be charged a \$150 processing fee. Cancellations received less than 7 days prior to the conference will forfeit the entire registration fee.

## On-Site Registration

If you plan to register at the member rate, please be sure to bring your current NGWA membership card. You must present your card to verify membership, along with your on-site registration form and payment.

## Hotel

The Congress Plaza Hotel  
520 South Michigan Avenue  
Chicago, IL 60605  
Phone: (312) 427-3800  
Fax: (312) 427-3972  
Room rate: \$119 single/double  
Cutoff date: April 4

NGWA has secured a limited block of rooms on a first-come, first-serve basis at the group rate of \$119 per night single/double for May 4–6. These rates apply to the NGWA room block and are valid until the April 4 cutoff unless our block has been filled before that date. Please mention that you are attending this NGWA program. Remember, you are responsible for securing your own reservations. For guest check-in and checkout times, please contact the hotel directly.

**Special Arrangements** — If you require arrangements for handicap facilities, equipment, or special dietary concerns, please let us know 30 days in advance of the conference.

## Tax Deduction for Educational Expenses

An income tax deduction is permitted for educational expenses (registration fees, cost of travel, lodging, and books) undertaken to (1) maintain or improve skills required in one's employment or business, or (2) meet expressed requirements of an employer imposed as a condition to retention of employment, rate status, or rate of compensation. Meals and beverages may be deductible up to 50%.

## Membership Benefits

Members of National Ground Water Association enjoy the following:

- Advanced notices of opportunities to participate in professional conventions and conferences.
- Registration discounts on progressive continuing education courses, conferences, and trade shows.
- Savings on insurance products, rental cars, equipment financing, and more.
- Free access to NGWA's Web site for members-only information such as trade statistics, forum opportunities, and Ground Water On-Line<sup>®</sup>, the world's largest private library on ground water and wells.
- Depending on division membership, subscriptions to industry publications such as:

*Ground Water*<sup>®</sup>

*Ground Water Monitoring & Remediation*<sup>™</sup>

*Water Well Journal*<sup>®</sup>

# Register Today!



PHONE with credit card  
800 551.7379 or 614 898.7791

ONLINE registration at  
[www.ngwa.org/education](http://www.ngwa.org/education)



FAX completed registration form  
to 614 898.7786  
24 hours a day, 7 days a week.  
We will mail, not fax, your  
confirmation.



MAIL completed registration form  
to National Ground Water Association  
Attn: Registrations #497  
Dept. 73124  
Cleveland, OH 44193  
(allow 3 to 4 weeks for processing)

## 2004 NGWA Ground Water and Environmental Law Conference (#5065)

May 5-6, 2004/ Congress Plaza Hotel/ Chicago, Illinois

NGWA Member \$350  
Non member \$500  
Full-Time Student (I.D. required) \$100



My \$ \_\_\_\_\_ registration fee in U.S. funds is enclosed. (Make check payable to NGWA.)

Name \_\_\_\_\_ Position \_\_\_\_\_

Company/Organization Name \_\_\_\_\_

Business Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Home Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Business Phone \_\_\_\_\_ Fax \_\_\_\_\_

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NGWA member  Yes  No Membership # \_\_\_\_\_

Becoming an NGWA member is only \$105. Call and join today to take advantage of our reduced member rate, saving \$45

Please charge my credit card:

Credit Card # \_\_\_\_\_ Exp. Date \_\_\_\_\_

MasterCard  Visa  American Express  Discover



Signature \_\_\_\_\_

NGWA provides equal access to those with disabilities. If you require assistance, please list your needs here:

Please do not mail your registration form after April 4. After this date, you are welcome to register online, via telephone, fax, and credit card; or plan to register on-site.

If you are not a member of NGWA, but would like to be added to our mailing list, please check this box.

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Cancellations received less than 7 days prior to the conference will forfeit the entire registration fee.