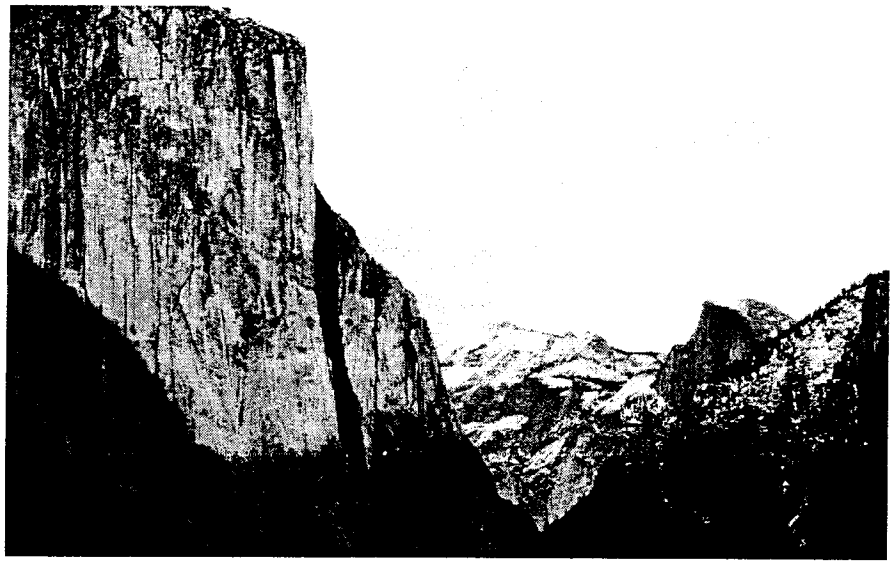
THE ENVIRONMENTAL LAW SECTION OF THE STATE BAR OF CALIFORNIA



YOSEMITE 2000

ENVIRONMENTAL LAW CONFERENCE AT YOSEMITE

OCTOBER 12 - 15, 2000

TENAYA LODGE, FISH CAMP

(GATEWAY TO YOSEMITE)

2000 Program
Planning Co-Chairs:

Richard M. Frank
California Attorney General's Office
(Sacramento, CA)

Gregory R. McClintock
Mayer Brown & Platt
(Los Angeles, CA)

Earn up to 12.5 Hours MCLE Credit

The State Bar of California and the Environmental Law Section are State Bar of California MCLE Approved Providers

SCHEDULE OF EVENTS & SPEAKERS

The Environmental Law Conference at Yosemite is nationally recognized as one of the largest and most prestigious gatherings for the leaders in environmental, land use and natural resources law. Join us and some of the nation's top environmental officials, lawyers and other professionals, and their families, in the spectacular fall setting of Yosemite. Note: Topics, speakers and schedule are subject to change.

The Environmental Law Section of the State Bar of California would like to thank the following for their financial support of the 2000 Environmental Law Conference at Yosemite:

Sidley and Austin
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THURSDAY, OCTOBER 12, 2000

3:00 - 8:00 p.m.
Registration

6:00 - 8:00 p.m.
Reception - For All Attendees
Hosted Hot and Cold Hors D'Oevres, No-Host Bar

8:00 - 9:30p.m.
Environmental Law Section Executive Committee Meeting and Dinner

FRIDAY, OCTOBER 13, 2000

7:30 - 8:00 am.
MCLE Sign-In & Continental Breakfast

8:00 - 9:00 am.
Welcome - 2000 Environmental Law Conference at Yosemite
Peter Hsiao, Chair Environmental Law Section, Morrison & Foerster (Los Angeles, CA)
Richard M. Frank, California Attorney General's Office (Sacramento, CA)
Gregory R. McClintock, Mayer Brown & Platt (Los Angeles, CA)

PLENARY SESSION (1.0 hour MCLE credit)
Phil Angelides, California State Treasurer (Sacramento, CA)

State Treasurer Angelides is one of California's most thoughtful spokespersons on the subjects of public financing and `smart growth.' He will address a major policy initiative--`The Double Bottom Line: Investing in California's Emerging Markets'--that will direct more than $8 billion in investment capital to spur economic growth and development in California's struggling communities.

9:00 - 9:15 am.
Break & MCLE Sign-In

9:15-10:45 am.
First Split Sessions

Panel #1 (1.5 hours MCLE credit)
Car Wars - The Battle Over Diesel-Fueled Vehicles in California

Both the California Air Resources Board and local air districts in California have recently taken action to regulate emissions from diesel-fueled vehicles. Fleet rules recently passed by the South Coast Air Quality Management District are tantamount to a ban on the purchase of such vehicles. At the same time, Europe and other markets are looking to new lower-emitting diesel vehicles as a solution to the problem of global warming. This panel will discuss these competing views regarding the merits of diesel-powered vehicles and offer some predictions regarding the future of this basic type of fuel.

Moderator: **Gregory R. McClintock,** Mayer Brown & Platt (Los Angeles, CA)
Speakers: **David Smith,** BP Amoco (Los Angeles, CA)
Peter Venturini, California Air Resources Board (Sacramento, CA)
Jack Broadbent, South Coast Air Quality Management District (Diamond Bar, CA)

Panel #2 (1.5 hours MCLE credit)
Experience from the Field: Dealing with Inclusion, Technical Uncertainty and Implementation in Environmental Dispute Resolution

This panel will address the circumstances under which ADR is helpful in the environmental context. The panel will examine how to successfully convene mediated negotiations, how to tailor the negotiations to meet the needs of the parties, and how parties are identified and recruited to participate in the process. The panel will also discuss how to avoid the pitfalls of "adversary science" and examine the role of the mediator in reconciling competing "ways of knowing." Finally, the panel will consider how mediators work with negotiators to craft and implement voluntary agreements.

Moderator: **Jane B. Kroesche,** Skadden, Arps, Slate, Meagher & Flom LLP (San Francisco, CA)
Speakers: **John Jostes,** Interactive Planning & Management (Santa Barbara, CA)
Lucy Moore, Lucy Moore Associates (Santa Fe, NM)
Scott McCreary, Concur (Berkeley, CA)

Panel #3 (1.5 hour MCLE credit)
Writ Practice and Environmental Litigation: A View from the Bench

Litigating writs of mandate under CEQA and other environmental statutes can vary greatly throughout the courts of California. This panel will assist both new and experienced practitioners by providing valuable insight and perspective from experienced jurists at the Superior and Appellate Court level.

Moderator: **Tim Taylor,** Somach Simmons & Dunn (Sacramento, CA)
Speakers: **Hon. Robert O'Brien,** Los Angeles County Superior Court, Retired (Los Angeles, CA)
Hon. David Yaffe, Los Angeles County Superior Court (Los Angeles, CA)
Hon. Coleman Blease, California Court of Appeal, Third Appellate District (Sacramento, CA)

9:15 - 12:30 pm

Panel #4 (3 hours MCLE credit)
Roundtable Topic
Proposition 65: Making It Work Better for Our Clients and the Public
(35 person limit for Roundtables. Registration based on "first come/first served" basis. Please review the Roundtable participation requirements set forth under "Registration Information.")

This interactive roundtable will focus on how lawyers can take practical, effective steps in our day-to-day practice to achieve better results, more efficiently, in Proposition 65 cases. Rather than debating the merits of the law or changes that could be made to it, discussion will focus on what works – and what doesn't – from a variety of perspectives.

Moderators: **Edward G. Weil,** California Attorney General's Office (Oakland, CA)
Evelyn F. Heidelberg, Latham & Watkins (Los Angeles, CA)

10:45 - 11:00 am.
Break & MCLE Sign-In

11:00 - 12:30 pm.
Second Split Sessions

Panel #5 (1.5 hours MCLE credit)
The Clean Water Act is About to Get Cleaner: The Application of TMDLs

This panel will focus on the most recent nationwide water-related environmental initiative – attempting to attain clean water standards through the mandatory TMDL provisions of the Clean Water Act. Composed of some of the foremost TMDL experts in California, the panel will address not only the status of TMDLs and the related federal regulations, but also provide commentary on the rash of national legislation spawned by the TMDL requirements. It will also provide insight into how these complex and costly regulations will be implemented.

Moderator: **Colin Lennard,** Fulbright & Jaworsky (Los Angeles, CA)
Speakers: **Mike Lozeau,** Earthlaw Environmental Clinic (Stanford, CA)
Craig Johns, Kahl-Pownall Companies (Sacramento, CA)
Alexis Strauss, U.S. Environmental Protection Agency (San Francisco, CA)
Tess Dunham, California Farm Bureau (Sacramento, CA)

Panel #6 (1.5 hours MCLE credit)
Converting Brownfields to School Sites – Is there Life after Belmont?

With school districts facing a dire shortage of suitable new school sites while Brownfields continue to litter the California landscape, a marriage of convenience may be inevitable, even in the aftermath of Belmont. This panel will look at how past mistakes can be avoided, real risks can be separated from the perceived, and political resistance can be overcome to allow for safe and efficient recycling of Brownfields into school sites.

Moderator: **Peter Weiner,** Paul Hasting & Janofsky (San Francisco, CA)
Speakers: **Sen. Richard Alarcon,** California State Senator (Sacramento, CA)
Hamid Saebfar, Department of Toxic Substance Control (Glendale, CA)
Barry Groveman, Musick Peller & Garrett (Los Angeles, CA)

Panel #7 (1.5 hours MCLE credit)
Ballot Box Planning: Local Control or Mob Rule?

Initiatives to impose voter control over land use decisions are gaining popularity and momentum statewide. This panel will analyze the impact these initiatives have on local land use. CEQA. affordable housing and regional growth and infrastructure issues from the perspective of the affected municipalities, builders and community interest groups.

Moderator: **Dan Selmi,** Loyola Law School (Los Angeles, CA)
Speakers: **Margaret Sohagi,** Fox & Sohagi (Los Angeles, CA)
Roger Grable, Paone Callahan McHolm & Winton (Irvine, CA)
Robert Perlmutter, Shute Mihaly & Weinberger (San Francisco, CA)
John Krist, California Planning & Development Report (Ventura, CA)

1:00 - 5:00pm.
HIKES: LED BY ENVIRONMENTAL LAW SECTION MEMBERS
(See Registration Desk for Sign-up)

6:30 - 9:00 pm.
FAMILY BARBECUE (Ticketed Event)
Tickets are $25 Adults and $10 Children (10 and under)

9:00 - 10:30 PM.
WINE TASTING RECEPTION
Hosted by: Sidley & Austin

SATURDAY, OCTOBER 14, 2000

7:30 - 8:00 am.
MCLE Sign-In & Continental Breakfast

8:00 - 9:00 am.
PLENARY SESSION (1.0 hour MCLE credit)
Barry Hill, U.S. Environmental Protection Agency (Washington, D.C.)

Mr. Hill, who heads up U.S. EPA's Environmental Justice program, will provide an update on the progress that has been made by that agency with respect to incorporation of environmental justice principles into its various programs and identify the areas where progress still needs to be made.

9:00 - 9:15 am.
Break & MCLE Sign-in

9:15-10:45am.
First Split Sessions

Panel #8 (1.5 hours MCLE credit)
CEQA and NEPA Compared: Experts Assess the Differences and Similarities

The California Environmental Quality Act and National Environmental Policy Act have developed along distinct judicial paths over three decades. A panel of experts on both CEQA and NEPA will discuss some of the key distinctions and similarities between these two cornerstone environmental statutes. This panel is a must for those who work closely with environmental impact reporting laws.

Moderator: **Nicholas C. Yost,** Sonnenschein Nath & Rosenthal (San Francisco, CA)
Speakers: **Jennifer L. Hernandez,** Beveridge & Diamond (San Francisco, CA)
Joel R. Reynolds, Natural Resources Defense Council (Los Angeles, CA)
Antonio Rossmann, Law Offices of Antonio Rossmann (Berkeley, CA)

Panel #9 (1.5 hours MCLE credit)
Urban Storm Water Mitigation at a Crossroads: Where to from Here?

Urban storm water pollution has become one of California's most hotly debated environmental problems. The Legislature and the Governor have weighed in. A panel consisting of top EPA and State policy-makers, as well as attorneys representing a range of stake-holders, will debate where California is headed next as it grapples with one of its most serious water quality issues.

Moderator: **David S. Beckman,** Natural Resources Defense Council (Los Angeles, CA)
Speakers: **Alexis Strauss,** U.S. Environmental Protection Agency (San Francisco, CA)
Art Baggett, California State Water Resources Control Board (Sacramento, CA)
Steve Fleischli, Santa Monica BayKeeper (Santa Monica, CA)
Howard Gest, Burhenn & Gest (Los Angeles, CA)

Panel #10 (1.5 hours MCLE credit)
The Green Internet Revisited

The members of the well-received 1995 panel, that discussed and dissected the subject of environmental assets and research on the Internet, return to reprise that topic and to note and comment upon the awesome developments which have occurred in the last five years.

Moderator: **Bill Kammer,** Gray Cary Ware & Freidenrich (San Diego, CA)
Speakers: **Peter Krakaur,** Brobeck Phleger & Harrison (San Francisco, CA)
James Wheaton, Environmental Law Foundation (Oakland, CA)

9:15 - 12:30 pm.
Panel #11 (3 hours MCLE credit)
Roundtable Topic
Birds, Bunnies and Beach Days: The Developing Procedures for Resolution of Natural Resource Damage Claims Under CERCLA and OPA
(35 person limit for Roundtables. Registration based on "first come/first served" basis. Please review the Roundtable participation requirements set forth under "Registration Information.")

An advanced discussion of the approaches developed by Federal, State and Tribal trustees and PRPs to value and resolve natural resource damage claims, and the strengths and weaknesses of those strategies, including the practical implications for PRPs and for the environment.

Moderators: **Gerald F. George,** Campbell George & Strong (Walnut Creek, CA)
William Brighton, U.S. Department of Justice (Washington, D.C.)

10:30a.m.- 12:30 PM
YOUTH ENVIRONMENTAL HIKE AND LUNCH
(Ages 10 and up)

This special youth hike will follow a ridge to the local Pack Station off of Jackson Road, a former logging railroad track, located just below the Tenaya Lodge. Participants will be lead by an experienced guide who will help the participants learn to identify wildlife tracks and learn about animal life in th area. Also included in this hike will be Native American games, survival tips while hiking in the forest and tree rubbings. Lunch will be provided.

10:45 - 11:00 am.
Break & MCLE Sign-in

11:00 - 12:30 pm.
Second Split Sessions

Panel #12 (1.5 hours MCLE credit)
From Here to Sustainability: An Introduction to Environmentally Responsible Business Practices

Companies of all sizes are increasingly attentive to business practices and concepts that are "environmentally responsible," meaning practices which prevent pollution and environmental impacts and that conserve energy and materials. This panel will introduce the concepts and terminology of so-called "green business" and of industrial ecology, with an emphasis on examples in the high-tech and consumer goods markets.

Moderator: **Bruce S. Klafter,** Orrick Herrington & Sutcliffe (San Francisco, CA)
Speakers: **Joel Makower,** Green Business Letter (Oakland, CA)
Erin Craig, Sun Microsystems (Mountain View, CA)
Maria Moyer-Angus, Private Consultant, The Gap (Oakland, CA)

Panel #13 (1.5 hours MCLE credit)
Environmental Justice: Update on Federal and State Law and Market Trading

This panel examines significant new developments in the law of environmental justice, including EPA's new Title VI guidance and recent legislation requiring Cal/EPA to incorporate environmental justice principles in its programs. It also looks at the growing controversy over whether reliance on marketable permits instead of command & control regulation will worsen inequities in the distribution of environmental harms.

Moderator: **Anne Eng,** Environmental Law & Justice Clinic (San Francisco, CA)
Speakers: **Richard Drury,** Communities for a Better Environment (Oakland, CA)
Eileen Gauna, Southwestern Law School (Los Angeles, CA)
Ellen Peter, California Attorney General's Office (Sacramento, CA)
Michael Carroll, Latham & Watkins (Costa Mesa, CA)

Panel #14 (1.5 hours MCLE credit)
Environmental Enforcement at the State and Local Levels: Priorities of the Davis Administration and California District Attorneys

Learn first-hand from Governor Gray Davis' top environmental attorneys about the Administration's key environmental priorities and initiatives. This panel will also address recent accomplishments and current litigation being handled by the California District Attorneys Association's innovative "Environmental Project" (aka "Circuit Prosecutors Program").

Moderator: **Richard Frank,** California Attorney General's Office (Sacramento, CA)
Speakers: **Michael Valentine,** California Resources Agency, Department of Fish & Game (Sacramento, CA)
Deborah Barnes, California Environmental Protection Agency (Sacramento, CA)
Gale Filter, California District Attorneys Association (Sacramento, CA)

1:00 - 5:00pm
Outdoor Presentations
Enrollment is limited. Space will be allocated based on sign-up sheets posted at the Registration Desk. Some hiking required.

Panel #15 (.5 hour MCLE Credit)
Let It Flow: The Merced River Wild and Scenic River Plan

A field presentation in Yosemite Valley on issues related to the Merced River Wild and Scenic River Plan, including the proposed removal of historic bridges that impede the free flow of the river and the effect of the plan on visitor facilities near the river.

Moderator: **Andrew H. Sawyer,** California State Water Resources Control Board (Sacramento, CA)
Speaker: **David Siegenthaler,** Yosemite National Park Ranger (Yosemite, CA)

Panel #16 (.5 hour MCLE Credit)
USFS Sierra Nevada Framework Plan DEIS: NEPA Meets Adaptive Management

A field presentation in the Sierra National Forest on issues related to the Sierra Nevada Forest Plan Amendment Environmental Impact Statement, which reviews alternatives addressing old forest ecosystems; aquatic, riparian and meadow ecosystems; fire and fuels management; noxious weeds; and hardwood ecosystems in the National Forests of the Sierra Nevada.

Moderator: **Sally Knox,** California Attorney General's Office (Sacramento, CA)
Speaker: **Robert Twiss,** University of California at Berkeley (Berkeley, CA)
Pat Manley, U.S. Forest Service (Sacramento, CA)

Panel #17 (.5 hour MCLE Credit)
A Burning Issue: Prescribed Fires in the National Parks and Monuments

A field presentation in the Mariposa Grove about fire management in Yosemite and other National Parks and Monuments.

Moderator: **Nini Redway,** California Attorney General's Office (Sacramento, CA)
Speakers: **Jan Van Wagtendonk,** U.S. Geological Survey (El Portal, CA)
Ed Duncan, National Park Service (Yosemite, CA)

6:00 - 7:00 pm
COCKTAIL RECEPTION
No-Host Bar

7:00 - 8:30 pm
Children's Party (Available through Kid's Kamp)

7:00 - 9:00 pm
SATURDAY BANQUET (Ticketed Event)
Tickets $40 Adults and $25 Children (10 and under)
Keynote Speaker: Ambassador Alberto Szekeley (Mexico City, Mexico)

Ambassador Szekeley is one of Mexico's leading environmental experts, an attorney who has negotiated many of Mexico's treaties, including the Law of the Sea Convention, and a proponent of greater cooperation between the United States and Mexico on cross-boundary environmental issues. He will speak on the dynamic changes that are occurring as a result of the ascendency of the new Fox Administration in Mexico, its implications for administrative and environmental law in that country, and the likely impacts on bilateral cooperation and international relations, particularly as they affect Mexico's immediate neighbor, California

9:00 - 10:30 pm
DESSERT & ENTERTAINMENT
Hosted by: Hanna & Morton LLP
Remy Thomas & Moose LLP
Somach Simmons & Dunn

SUNDAY, OCTOBER 15, 2000

7:30 - 8:00 am.
MCLE Sign-In & Continental Breakfast

8:00 - 9:00 am.
PLENARY SESSION (1.0 hour MCLE credit)
David Hayes, Deputy Secretary, U.S. Department of the Interior (City, State)

Deputy Secretary Hayes will recap some of the more significant environmental challenges that have faced the Department of the Interior under the Clinton/Babbitt Administration and identify the major policy issues that will need to be addressed by the incoming Administration.

9:00 - 9:15 am.
Break & MCLE Sign-in

9:15 - 10:45 am.
First Split Sessions

Panel #18 (1.5 hour MCLE credit)
Trans-boundary Issues Under The Endangered Species Act: The Lower Colorado River Delta

This panel will examine the jurisdictional reach of the federal Endangered Species Act as it relates to the Colorado River Basin ecosystem. It will include a discussion of recently filed litigation, the ongoing development of a multi-species habitat conservation plan, and the growing international issue of how to protect and manage shared watersheds.

Moderator: **Tara Mueller,** California Attorney General"s Office (Oakland, CA)
Speakers: **Jeff Kightlinger,** Metropolitan Water District of Southern California (Los Angeles, CA)
Bill Snape, Defenders of Wildlife (Washington, D.C.)
Susan Lieberman Goodwin, U.S. Department of the Interior (Washington, D.C.)

Panel #19 (1.5 hour MCLE credit)
State/Tribal Cooperation in Environmental Protection and Natural Resource Management Efforts

This panel will briefly summarize environmental and jurisdictional issues in California Indian Country, then focus more specifically on cooperative efforts between Tribal governments, on the one hand, and state and local governments, on the other, to enhance environmental protection and natural resource management efforts. Utilizing federal, state and local cooperative agreements as models, the panel will seek to foster a dialogue regarding problem areas and how to achieve successful partnerships between Tribal and non-Indian environmental regulators and resource managers.

Moderator: **Carol Goldberg,** UCLA Law School (Los Angeles, CA)
Speakers: **L. Robert Ulibarri,** Hoopa Valley Tribe (Hoopa, CA)
Paul Hagen, California District Attorneys Association (Eureka, CA)
Daniel Rey-Bear, Nordhaus Law Firm (Albuquerque, NM)

Panel #20 (1.5 hours MCLE credit)
Water Planning: Is It an Oxymoron?

This panel will explore current developments regarding California's water supply, as well as how to integrate water demand projections and land use planning. In this context, CALFED and the recent Newhall Ranch decision will be discussed.

Moderator: **Antonette Cordero,** Office of County Counsel (Ventura, CA)
Speakers: **Randele Kanouse,** East Bay Municipal Utility District (Sacramento/Oakland, CA)
Tom Hagler, U.S. Environmental Protection Agency (San Francisco, CA)
James Moose, Remy Thomas & Moose, LLP (Sacramento, CA)

9:15 - 12:30 pm.
Panel #21 (3 hours MCLE credit)
Roundtable Topic
The Delicate Balance: Environmental Federalism -- The Tenth and Eleventh Amendments, the Commerce Clause and the Allocation of Power under the Environmental Statutes
(35 person limit for Roundtables. Registration based on "first come/first served" basis. Please review the Roundtable participation requirements set forth under "Registration Information.")

This interactive roundtable will explore recent federalism decisions by the Supreme Court and federal courts and their impact on environmental litigation. What are the limits of federal authority to regulate? What areas of regulation are reserved for the states? How does this delicate balance impact litigation under the Clean Water Act, Clean Air Act and other environmental statutes?

Moderators: **John Dwyer,** Boalt Hall School of Law (Berkeley, CA)
Gail Ruderman Feuer, Natural Resources Defense Council (Los Angeles, CA)

10:45 - 11:00 am.
Break & MCLE Sign-in

11:00 - 12:30 pm.
Second Split Sessions

Panel #22 (1.5 hour MCLE credit)
NAFTA Chapter 11: A Challenge to Environmental Lawmaking?

An examination of the $1 Billion Canadian company request for arbitration under NAFTA, claiming expropriation compensation is required for the ban on MTBE in California.

Moderator: **Mark J. Spalding,** Graduate School of International Relations and Pacific Studies, University of California (San Diego, CA)
Speakers: **Azibuki Acaba,** Communities for a Better Environment (San Francisco, CA)
Sanford Gaines, University of Houston Law Center (Houston, TX)

Panel #23 (1.5 hour MCLE credit)
Super Fun With Superfund

This panel will discuss the recent developments in superfund law and litigation including the federal recycling amendments, the impact of California insurance cases on superfund litigation and other developments of interest.

Moderator: **Margarita Padilla,** California Attorney General's Office (Oakland, CA)
Speakers: **Kathleen Johnson,** U.S. Environmental Protection Agency (San Francisco, CA)
Sally Knox, California Attorney General's Office (Sacramento, CA)
Sherri Kirk, The Kirk Law Firm (Sacramento, CA)

Panel #24 (1.5 hour MCLE credit)
Venturing into a Parallel Universe: Parallel Civil and Criminal Proceedings, Simultaneous Federal and State Enforcement, and Joint Task Force Investigations

This panel will focus upon key issues in federal enforcement of environmental laws, with a particular emphasis on the challenges presented by joint state-federal prosecutions and multi- agency task forces. Issues that will be addressed include the Harmon ("overfiling") question, and the strategic considerations involved in choosing to pursue environmental violations criminally versus civilly.

Moderator: **Erica Martin,** U. S. Environmental Protection Agency (San Francisco, CA)
Speakers: **William Carter,** U.S. Attorney's Office, Central District of California (Los Angeles, CA)
Gary Alan Meyer, Parker Milliken Clark O'Hara & Samuelian (Los Angeles, CA)
John Cruden, U.S. Department of Justice (Washington, D.C.)

Conference adjourns