

The New York Environmental Lawyer

A publication of the Environmental Law Section
of the New York State Bar Association

A Message from the Chair

The disastrous tsunami in South Asia and the devastating hurricanes in the United States seem to have gotten the general public to begin to acknowledge the practical implications of how we are affecting our environment. Whether one might want to add that this awakening has occurred just in the nick of time, or that it's about time, the fact remains that government officials, regulators, members of the media, educators, and individuals now are paying attention to what many scientists have been trying to alert us to for several years. That is a good, good start.



Greenhouse Gases

Carbon dioxide, nitrous oxide, and certain other greenhouse gases such as methane and ozone occur naturally. Different ones, including hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs), only result from human activity. Although the naturally occurring gases are important to the environment because they retain radiated heat and create a blanket of warm air around the Earth, excessive amounts of the gases—and particularly heat-absorbent ones such as HFCs and PFCs—are causing havoc.

The problem is a big one, to say the least. A recent article in the journal *Science* reported that there is more of three of these heat-trapping greenhouse gases—carbon dioxide, nitrous oxide, and methane—in the atmosphere now than at any time in the past 650,000 years, and that the fastest rate of increase occurred at the same time humans began to clear forests and use

significant amounts of fossil fuels. It also was reported that a Boulder, Colorado, laboratory's annual greenhouse gas index has risen 20 percent in 15 years, from 1.0 to 1.20.

The power of greenhouse gases to affect the environment is reflected in increasing average global temperatures (which, of course, is why a slight late autumn cold snap should not be sufficient to permit us to move on to other problems). Although some scientists reject the global warming analysis, many believe that rising temperatures have a wide range of effects, from raising sea levels and altering habitats—potentially leading to tens of millions of “environmental refugees” within a

Inside

From the Editor	3
The Floodgates Remain Closed: Administrative Appeals Under New York City's Watershed Regulations.....	5
(David Mark Leon)	
Vapor Intrusion: The Next Big Thing	10
(Walter Mugdan)	
When Regulatory Universes Collide: Environmental Regulation in the Workplace.....	16
(Daniel Riesel and Dan Chorost)	
The 2005 Constitutional Violation of New York's Forest Preserve: <i>What Remedy?</i>	31
(Rosemary Nichols and Nicholas A. Robinson)	
EPA Issues Final All Appropriate Inquiries Rule.....	35
(David J. Freeman and Desirée Giler Mann)	
Remediating Contaminated Sites in New York City Under the E-Designation Program	39
(Darryl H. Cabbagestalk and Larry Schnapf)	
Through the Looking Glass: A Reflection on Current Mercury Regulation.....	46
(Wendy Thomas)	

matter of years—to greater health risks due to the increasing geographical range of diseases such as malaria. In recent articles, Andrew C. Revkin of *The New York Times*, who was the keynote speaker at our Section's Annual Meeting in January, has particularly focused on the potential loss of the Arctic tundra as a direct result of global warming. The loss of the Arctic tundra is significant because the tundra absorbs more carbon dioxide than it releases, thereby helping to keep the whole planet healthy. It has been observed that warmer ocean temperatures can affect the number and intensity of tropical storms—emphasizing the significance of the record number of tropical storms and hurricanes this year—and even the duration of the season.

Steps Being Taken

As we discussed at our Annual Meeting, actions have been proposed and some already have been taken to alleviate the global warming problem. On an international level, the United Nations has proposed capturing and storing carbon dioxide from power plants. Scientists from G-8 countries have called for reducing greenhouse gas emissions, and the G-8 itself proposed a joint statement on global warming. Several months ago, the U.S. announced an agreement among China, South Korea, India, Australia, and the U.S. to develop technology to cut the production of greenhouse gases. As I write this message, a United Nations conference is underway in Canada. About 10,000 delegates from 189 governments, environmental lobby groups and businesses are working together to step up the fight against global warming by drawing as many nations as possible into U.N.-led agreements beyond 2012.

Although the Bush administration is reluctant to support mandatory global warming steps, a coalition of 130-plus mayors from cities across America recently expressed their support for the Kyoto Protocol. States are acting as well. Several months ago, California Governor Arnold Schwarzenegger announced a plan to reduce California's emissions in fewer than five years to levels that existed in 2000. More recently, the New York State Environmental Board approved state regulations that require significant reductions in greenhouse gas emissions from motor vehicles. New York and other states also are discussing how to develop a regional effort to reduce carbon dioxide emissions from power plants.

Individuals have begun to take steps, too, from using more insulation in their homes and purchasing energy-efficient products to driving less and encouraging conservation.

The situation remains dire, but knowledge and the marketplace may be starting to have an impact. Of course, what has euphemistically been called "climate change litigation" also may change attitudes, as well as some of the underlying economics contributing to global warming.

There is a long way for environmental lawyers and other environmentally sensitive players to go. But, to paraphrase Winston Churchill, we may, at last, be at the beginning of the beginning when it comes to dealing with the problem of global warming.

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