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# Lake Michigan States Section Air & Waste Management Association Newsletter<sup>®</sup>

*Upon being confirmed, new EPA Administrator, Lisa P. Jackson sent the following memo to the employees of EPA. The LM-A&WMA congratulates Ms. Jackson on her appointment.*

DATE: January 23, 2009

TO: All EPA Employees

FROM: Lisa P. Jackson, Administrator-designate

I can think of no higher calling or privilege than rejoining EPA as your Administrator. I am grateful and humbled that President Obama has given me this honor. With his election and with my appointment, President Obama has dramatically changed the face of American environmentalism. With your help, we can now change the face of the environment as well.

During my 21 years in public service, I have witnessed firsthand the dedication and professionalism of EPA's workforce. Thousands of committed, hard-working and talented employees for whom protecting the environment is a calling, not just a job, have made EPA a driving force in environmental protection since 1970.

EPA can meet the nation's environmental challenges only if our employees are fully engaged partners in our shared mission. That's why I will make respect for the EPA workforce a bedrock principle of my tenure. I will look to you every day for ideas, advice and expertise. EPA should once again be the workplace of choice for veteran public servants and also talented young people beginning careers in environmental protection – just as it was for me when I first joined EPA shortly after graduate school.

In outlining his agenda for the environment, President Obama has articulated three values that he expects EPA to uphold. These values will shape everything I do.

Science must be the backbone for EPA programs. The public health and environmental laws that Congress has enacted depend on rigorous adherence to the best available science. The President believes that when EPA addresses scientific issues, it should rely on the expert judgment of the Agency's career scientists and independent advisors. When scientific judgments are suppressed, misrepresented or distorted by political agendas, Americans can lose faith in their government to provide strong public health and environmental protection.

The laws that Congress has written and directed EPA to implement leave room for policy judgments. However, policy decisions should not be disguised as scientific findings. I pledge that I will not compromise the integrity of EPA's experts in order to advance a preference for a particular regulatory outcome.

EPA must follow the rule of law. The President recognizes that respect for Congressional mandates and judicial decisions is the hallmark of a principled regulatory agency. Under

*Continued on page 5.*

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# Upcoming Events

*Mark your calendars and reserve a spot...*

## Vapor Control Case Study and Technical Presentation

**Wednesday, May 13, 2009**

LM-AWMA will host a case study and technical presentation on vapor control. Bill Elwell, PG of Bureau Veritas, will present a case study about the remediation of The Lockformer Company manufacturing site in Lisle, Illinois to mitigate TCE contamination in the soil. Lockformer was a *metal fabricating* company that used TCE for degreasing operations.

Highlights of the case study presentation will include discussions on Electrical Resistive Heating (ERH), Soil Vapor Extraction (SVE) with Activated Carbon (AC,) air monitoring for: personnel exposure, indoor air quality within the manufacturing facility on site, ambient air, fugitive emissions, process control, stack emissions and carbon saturation. Air monitoring equipment, similar to that as used at Lockformer, will be on display.

A technical presentation, by Russ Chadwick, PG of Bureau Veritas, will discuss planning site investigations, pathway evaluations, and institutional/engineering controls associated with vapor management, presented in the context of proposed Illinois regulations on vapor intrusion.

**Location:** Bureau Veritas  
2211 Butterfield Rd,  
Downers Grove, IL 60515 (west of I-355)

**Lunch:** 12:30 pm (Boxed lunch will be provided)

**Presentations:** 1:00-3:00 pm;.

**Cost:** \$50 member, \$75 non-member

Registration is limited to the first 35 paid registrants. Contact Robin Pelsis at Robin@LMAWMA.org or (847) 202-0418 to register.

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# Upcoming Events

## Environmental Crimes Seminar

**June 11, 2009  
Union League Club  
8 am to noon**

- Did you know that almost every environmental violation is subject to possible criminal prosecution?
- Do you know what factors may lead the government to prosecute a matter criminally rather than handle it administratively or civilly?
- Did you know that real estate development, maintenance and demolition makes up a large part of environmental criminal prosecutions?
- Do you know what to do if you or the facility for which you are responsible is subject to a search warrant or you are served with an arrest warrant?
- Do you know what to do if you are served with a grand jury subpoena?
- Do you know what penalties you may be subject to and how they are determined if you are convicted of an environmental crime.

**SPEAKERS:** *James T. Harrington Esq.*

Retired Partner, McGuireWoods L.L.P.  
(40 years experience representing industry in environmental matters including criminal investigations and related matters)

*Jeffrey L. Rogers*

Partner, McGuireWoods L.L.P.  
(Former Assistant United States Attorney who has represented industry and individuals in environmental criminal investigations and prosecutions)

*David M. Taliaferro Esq.*

Criminal Enforcement Counsel  
Team Leader for Criminal Enforcement, Region V, U.S. E.P.A.

*Timothy Chapman Esq.*

Assistant United States Attorney, Northern District of Illinois  
(Formerly with U.S. EPA and lead prosecutor on many environmental criminal cases)

*Mitchell L. Cohen Esq.*

Assistant Attorney General and Chief of the Environmental Crimes Bureau  
Illinois Attorney General's Office

**COST:** \$50 member, \$75 non-member

Contact Robin Pelsis at [Robin@LMAWMA.org](mailto:Robin@LMAWMA.org) or (847) 202-0418 to register.

## Upcoming Events

### Come Join LM-A&WMA at the Chicago White Sox Game June 8th at 7:11 p.m.



The first 25 members/non-members to respond will receive the following ticket prices:

\$5.75 for A&WMA (national) members and  
\$11.50 for non-members.

*All are welcome!*

Attendees will be responsible for own food and beverages



RSVP BY MAY 1ST  
Laura: [Laura\\_mammer@yahoo.com](mailto:Laura_mammer@yahoo.com)  
Checks payable to: Laura Mammoser

**Platt Environmental Services, Inc.** is currently looking for both experienced and entry level emissions testing personnel to join a rapidly growing firm staffed with experienced personnel and new state of the art equipment.

Please contact Jim Platt or Eric Ehlers at 630-521-9400 or fax your resume to 630-521-9494 or e-mail us at [hr@plattenv.com](mailto:hr@plattenv.com).



*If your company has openings you're looking to fill, send us your want ad. We'll gladly post it on our website and include it in the next issue of our newsletter.*

## EPA ADMINISTRATOR MEMO (con't.)

our environmental laws, EPA has room to exercise discretion, and Congress has often looked to EPA to fill in the details of general policies. However, EPA needs to exercise policy discretion in good faith and in keeping with the directives of Congress and the courts. When Congress has been explicit, EPA cannot misinterpret or ignore the language Congress has used. When a court has determined EPA's responsibilities under our governing statutes, EPA cannot turn a blind eye to the court's decision or procrastinate in complying.

EPA's actions must be transparent. In 1983, EPA Administrator Ruckelshaus promised that EPA would operate "in a fishbowl" and "will attempt to communicate with everyone from the environmentalists to those we regulate, and we will do so as openly as possible."

I embrace this philosophy. Public trust in the Agency demands that we reach out to all stakeholders fairly and impartially, that we consider the views and data presented carefully and objectively, and that we fully disclose the information that forms the bases for our decisions. I pledge that we will carry out the work of the Agency in public view so that the door is open to all interested parties and that there is no doubt why we are acting and how we arrived at our decisions.

We must take special pains to connect with those who have been historically under-represented in EPA decision making, including the disenfranchised in our cities and rural areas, communities of color, native Americans, people disproportionately impacted by pollution, and small businesses, cities and towns working to meet their environmental responsibilities. Like all Americans, they deserve an EPA with an open mind, a big heart and a willingness to listen.

As your Administrator, I will uphold the values of scientific integrity, rule of law and transparency every day. If ever you feel I am not meeting this commitment, I expect you to let me know.

Many vital tasks lie before us in every aspect of EPA's programs. As I develop my agenda, I will be seeking your guidance on the tasks that are most urgent in protecting public health and the environment and on the strategies that EPA can adopt to maximize our effectiveness and the expertise of our talented employees. At the outset, I would like to highlight five priorities that will receive my personal attention:

**Reducing greenhouse gas emissions.** The President has pledged to make responding to the threat of climate change a high priority of his administration. He is confident that we can transition to a low-carbon economy while creating jobs and making the investment we need to emerge from the current recession and create a strong foundation for future growth. I share this vision. EPA will stand ready to help Congress craft strong, science-based climate legislation that fulfills the vision of the President. As Congress does its work, we will move ahead to comply with the Supreme Court's decision recognizing EPA's obligation to address climate change under the Clean Air Act.

**Improving air quality.** The nation continues to face serious air pollution challenges, with large areas of the country out of attainment with air-quality standards and many communities facing the threat of toxic air pollution. Science shows that people's health is at stake. We will plug the gaps in our regulatory system as science and the law demand.

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# 2009 Governor's Sustainable Technology Award

Managing chemical risks. More than 30 years after Congress enacted the Toxic Substances Control Act, it is clear that we are not doing an adequate job of assessing and managing the risks of chemicals in consumer products, the workplace and the environment. It is now time to revise and strengthen EPA's chemicals management and risk assessment programs.

Cleaning up hazardous-waste sites. EPA will strive to accelerate the pace of cleanup at the hundreds of contaminated sites across the country. Turning these blighted properties into productive parcels and reducing threats to human health and the environment means jobs and an investment in our land, our communities and our people.

Protecting America's water. EPA will intensify our work to restore and protect the quality of the nation's streams, rivers, lakes, bays, oceans and aquifers. The Agency will make robust use of our authority to restore threatened treasures such as the Great Lakes and the Chesapeake Bay, to address our neglected urban rivers, to strengthen drinking-water safety programs, and to reduce pollution from non-point and industrial dischargers.

As we meet these challenges, we must be sensitive to the burdens pollution has placed on vulnerable subpopulations, including children, the elderly, the poor and all others who are at particular risk to threats to health and the environment. We must seek their full partnership in the greater aim of identifying and eliminating the sources of pollution in their neighborhoods, schools and homes.

EPA's strength has always been our ability to adapt to the constantly changing face of environmental protection as our economy and society evolve and science teaches us more about how humans interact with and affect the natural world. Now, more than ever, EPA must be innovative and forward looking because the environmental challenges faced by Americans all across our country are unprecedented.

These challenges are indeed immense in scale and urgency. But, as President Obama said Tuesday, they will be met. I look forward to joining you at work on Monday to begin tackling these challenges together.

The Illinois Sustainable Technology Center (ISTC) (formerly the IL Waste Management & Research Center (WMRC)) is now accepting applications for the 2009 Governor's Sustainable Technology Award. [http://www.istc.illinois.edu/info/govs\\_awards.cfm](http://www.istc.illinois.edu/info/govs_awards.cfm)

ISTC has changed the name of the award from the Governor's Pollution Prevention Award to the Sustainable Technology Award. The new name better fits the mission and goals of the agency (ISTC) and of the State. In addition, we have updated the award criteria to better coincide with the variety of sustainable activities and projects that improve our environment that applicants may have implemented.

We will not have a separate Sustainable Technology award this year. Instead companies who have developed a sustainable technology or product are encouraged to apply for the one award.

The deadline for application submittal will be May 29th.

The award ceremony will be held in Champaign. A final date has not yet been set, however we are targeting the second half of October 2009.

# Counting Carbon: Scope and Implications of EPA Green House Gas Registry Rule

By: Patricia Sharkey, Jane Seller and Brad Daniels  
McGuireWoods, LLP

On Tuesday March 10th, EPA released its highly anticipated proposed rule for mandatory reporting of greenhouse gases (GHG). The rule is considered to be a critical first step towards providing a factual background for a comprehensive federal climate change regulation program, which EPA Administrator Lisa Jackson stated “must be guided by the best possible information.”

## Scope of the Proposed Rule

The potential impact of this rule is both broad and immediate. EPA estimates the rule will draw data from approximately 13,000 facilities, estimated to cover 85-90% of total United States greenhouse gas emissions. Affected sources include upstream fossil fuel suppliers, industrial gas suppliers, and vehicle and engine manufacturers, as well as multiple categories of downstream manufacturing facilities. Under the proposal, those 13,000 facilities would be required to begin monitoring and record keeping starting January 1, 2010 with their first annual report required on March 31, 2011 for calendar year 2010. Motor vehicle and engine manufacturers would be required to begin reporting for model year 2011.

The rule specifies methods for calculating or measuring GHGs as

well as requirements for record-keeping and annual reporting for over 40 industrial sectors. It also applies to any other type of facility that operates combustion sources emitting greater than 25,000 tpy of CO<sub>2</sub> equivalent (CO<sub>2</sub>e) annually.

The lengthy proposed rule establishes five potential applicability triggers — the first three of which are to be determined on a *facility*, rather than corporate wide, basis.

First, twenty industries believed to be large GHG emitters are specifically targeted for reporting, with some having capacity or emission based thresholds and others having no reporting thresholds. These industries are required to report emissions from any source that is included in any subcategory of the rule. Many of these are specified types of chemical production facilities. Other large sectors include coal mines, aluminum, lime and cement manufacturers, and petroleum refineries. In addition, electrical generating facilities, landfills, and manure management systems that emit over 25,000 tpy CO<sub>2</sub>e are subject to this requirement.

Second, facilities that are not covered by the reporting requirements applicable to the first 20 source categories must determine whether they emit over 25,000 metric tons of CO<sub>2</sub>e per year from one or more of 16 different categories of emission sources such

as metals production, electricity generation, wastewater treatment or industrial landfills.

The third group of affected facilities includes any type of facility that emits 25,000 metric tons of CO<sub>2</sub>e per year from stationary combustion sources (e.g. boilers or process heaters). These facilities are only required to report emissions from their stationary fuel combustion devices. According to the EPA literature, facilities that solely contain stationary fuel combustion units would not be required to submit a report if their aggregate maximum rated heat input capacity from all stationary fuel combustion units is less than 30 mmBtu/hr. The EPA contends that approximately 30,000 facilities would have to assess whether or not they had to report under this subsection and that approximately 13,000 facilities would likely meet the threshold.

Fourth, upstream manufacturers and suppliers of fossil fuels must report the volume of fuel placed into the economy and the *emissions associated with complete oxidation of the fuel*. There is no threshold quantity for the applicability of these sources.

Finally, all producers and importers or exporters of industrial GHGs that emit greater than 25,000 metric tons per year *with the*

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# COUNTING CARBON (con't.)

*complete release of the product* must comply with the new rule. These sources must report the volume of product placed into the economy and emissions associated with the complete release of the product.

## Implications of the Proposed Rule

Intended primarily as a federal tool to gain comprehensive and accurate GHG emissions data for future climate change policy, this rule is also likely to have a number of other immediate and near term consequences—including both risks and opportunities for businesses.

This rule will be the first federal regulation to explicitly require the reporting of GHGs and to create a uniform approach for quantifying those emissions. Even the proposal of this rule is likely to trigger a flurry of boardroom questions about the costs and requirements necessary to gear up to meet these new compliance obligations in a relatively short time frame. Although this rule does not regulate or limit GHG emissions, it can be expected to spur corporate GHG reduction programs as smaller emitters strive to reduce emissions to avoid the 25,000 tpy reporting threshold and larger emitters strive to avoid the inevitable “carbon dirty dozen” lists that are certain to be published by climate change activists following the release of this information.

Historically, there have been serious questions as to whether corporate securities laws require the disclosure of GHGs and climate change-related risks and liabilities. The SEC has not provided guidance on the issue, so the standard in effect

is one of materiality and requires an ability to make sufficient determinations about future impacts and legislative or regulatory actions to assess materiality. A McGuireWoods LLP survey of 2008 SEC filings discovered that the vast majority of major corporations have never disclosed in their SEC filings whether they have calculated their GHG emissions levels or evaluated any risk associated with those emissions. Similarly, while they may have reported with or without quantification (or third-party verification) to various voluntary collectors of data and risk assessments, such as climate registries or the Carbon Disclosure Project, or provided similar information in sustainability reports they have made publicly available to interested stakeholders via their websites or in hard copy, recipients of this information have little ability to judge the comparability of the information provided and in many cases it is not provided in comparable form. With the advent of this rule, vast amounts of comparable GHG data will be made easily accessibly public for the first time, allowing for direct comparisons of different facilities and companies’ GHG emission levels and, to some extent, over time, comparisons of the effectiveness of corporate sustainability programs.

In anticipation of carbon cap-and-trade legislation, the market is likely to react to this new information and its cost implications for large carbon emitting sectors. Lenders, investors, shareholders, and potential purchasers can be expected to couple GHG data with the anticipated future price of carbon when making financial decisions. As the

rule prescribes methods for calculating and reporting GHGs in each affected sector, this data should be deemed more reliable than the data generated under existing voluntary programs—and will hopefully provide a “level playing field” for competing businesses.

On the opportunity side, the identification and analysis of GHG emissions can be a catalyst for opportunities to commercialize new products and services; generate additional income from emissions reduction programs; and, attract and retain institutional money.

While the adoption of a uniform GHG methodology should normalize the ability to evaluate and monetize carbon emissions, it may have the additional effect of undercutting existing carbon exchanges. Some of these have been criticized for failing to adopt a sufficiently rigorous method for evaluating GHG emissions, and the value of their transactions has been diminished accordingly. This new federal rule should provide for a more robust market. At the same time, the quality of the data may not be uniform. EPA has proposed itself as the verification agent for the self-reported data, yet that data will be so voluminous that the EPA may lack the resources to do anything more than spot check submissions. This may diminish EPA’s ability to enforce the “level playing field” for GHG reporting.

EPA states that it intends the federal GHG Registry will supplement and complement existing state and regional based programs. There are currently 17 states that have developed or are developing their

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## COUNTING CARBON (con't.)

own mandatory GHG reporting program. In some states like California, a state rule is already in effect and regulated entities are currently reporting GHG emissions. Whether more states and regions will join the California bandwagon and create their own registries is questionable. Given the breadth of EPA's proposed rule, the value of differing local GHG reporting regimes is small and differing requirements are not only costly to the affected industries, but also confusing to the public. Indeed, as the federal program becomes viable, individual states may choose to repeal their programs entirely.

### Next Steps

The proposed rule was published in response to the FY2008 Consolidated Appropriations Act (H.R. 2764; Public Law 110-161), which also requires a final rule to be published by June 26, 2009. In order to expedite the promulgation of the final rule, the EPA has set a 60 day comment period after the mid-April publication of the proposed rule in the Federal Register. The EPA has scheduled two public hearings at which the public can register to speak. The first hearing was held on April 6 and 7 in Washington, D.C. The second hearing will be held on April 16 in Sacramento, CA.

*The following article is a follow-up to the two Vapor Intrusion articles that appeared in the last issue of the LM-A&WMA newsletter.*

## The Proposed Soil Vapor Intrusion Amendments and the Future of the Illinois Site Remediation Program

*By: James Vroman, Jenner & Block LLP*

The Illinois Pollution Control Board ("PCB") is in the midst of hearings on the Illinois EPA's proposed "Soil Vapor Intrusion" ("SVI") amendments to the Tiered Approach to Corrective Action Objectives ("TACO") regulations. The PCB held hearings on the proposed SVI amendments on January 27, 2009, and is scheduled to resume these hearings on March 17, 2009.

The SVI amendments to the Illinois EPA's TACO regulations may have a profound impact not only on properties that are, or will be, enrolled in the Illinois Voluntary Site Remediation Program, but also on properties that adjoin such properties and on properties that have already received No Further Remediation ("NFR") letters from the Illinois EPA. The SVI amendments, if adopted by the PCB, will impose more stringent cleanup criteria on properties enrolled in the Site Remediation Program that have been subjected to a release of "volatile chemicals," as defined in the SVI amendments. The Illinois EPA has proposed the SVI amendments because the volatile chemicals identified in the amendments can pose a health risk to those who occupy or inhabit, buildings that are located on soil impacted by a release of such chemicals.

This risk arises when vapors from these chemicals migrate through the soil, "intrude" through cracks or fissures in the building's foundation and collect in the confined areas of the building. The confined vapors can create an inhalation health risk to the building's occupants. If the concentrations of volatile chemicals in the property's soil or groundwater exceed a specified threshold, the owner of the property enrolled in the Site Remediation Program will have to implement one of several soil vapor control measures specified in the SVI amendments before the property can qualify for a NFR Letter.

The means of calculating the threshold concentration of volatile chemicals in a property's soil or groundwater that will trigger the requirement to implement the soil vapor control measures is the key element of the proposed SVI amendments. The proposed SVI amendments specifies the "Johnson &

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## Proposed Soil Vapor Intrusion Amendments (con't.)

Ettinger Model” for vapor intrusion calculations as the mathematical model a property owner must use to determine if the property presents a soil vapor intrusion risk. The SVI amendments do provide alternatives to calculate the SVI risk. However, before an owner can use these alternatives, the owner must incur the expense of collecting extensive site specific data to establish that the property does not pose a SVI risk.

The Illinois EPA’s decision to use the Johnson & Ettinger Model has generated substantial controversy. A number of parties to the PCB hearings contend that the use of Johnson & Ettinger Model results in overly conservative, i.e. stringent, cleanup criteria that will require property owners to implement costly vapor intrusion control measures to qualify for the NFR letter, when, in reality, such a risk is not present. These parties argue that the Illinois EPA simply incorporated the Johnson & Ettinger Model into the proposed SVI amendments without calibrating the Model to reflect real world conditions. If the Illinois EPA would calibrate the Model appropriately, these critics contend, the use of the properly calibrated Model would result in a more accurate, and, presumably, more narrow, determination of which properties actually pose an SVI health risk and require soil vapor control measures to qualify for a NFR letter.

Even if the Illinois EPA should calibrate the Johnson & Ettinger

Model, as the critics of the SVI amendments have proposed, the SVI amendments may still have a profound impact on future property transactions in Illinois. Although the Illinois EPA has gone on record and represented that, if the PCB adopts the SVI amendments to TACO, it will not reopen sites that have previously received a No Further Remediation Letter unless “new site-specific information indicates a vapor intrusion problem,” properties that have received NFR letters prior to the adoption of the SVI amendments, nevertheless, may still be subject to future SVI assessments. If the current owner of a property, with a history of volatile chemical releases, who obtained a NFR letter issued before the SVI amendments became effective, decides to sell the property, the financial institution financing the purchase may insist that an SVI assessment of the be performed to confirm that its potential collateral is not impaired with a SVI risk. If the assessment uncovers “new site-specific information” indicating a vapor intrusion problem, the parties to the transaction may have to re-enroll the property into the Site Remediation Program to address the SVI issue and obtain a new NFR letter, which will allow the purchaser to qualify for the financing that will allow the transaction to close.

The SVI amendments may also require many owners of properties with a history of volatile chemical releases, and who have enrolled their properties in the Site Remediation

Program, to assess the SVI risks the volatile chemicals released on their properties may have created on a neighbor’s property. If the sampling data that the owner of the enrolled property has collected establishes a probability, under the Johnson and Ettinger Model, that the chemicals have migrated onto the neighbor’s property at a sufficient concentration to create an SVI risk, the owner of the enrolled property may have to address and resolve the SVI risk that exists on the neighbor’s property. The Illinois EPA has stated that such a property will not receive an NFR letter unless the owner satisfies one of two conditions. Either the property owner must show that the concentrations of the volatile chemicals on the neighbor’s property does not create a SVI risk or, if an SVI risk exists, the owner must convince the neighbor to accept an Environmental Land Use Control (“ELUC”) that will remove, or address, the SVI risk on the neighbor’s property. This requirement presents the owner of property with a history of volatile chemical releases, but who wants an NFR letter, with a difficult choice. Does such an owner proceed to enroll the property in the Site Remediation Program knowing that, if the soil and groundwater data collected from his property reveals that released volatile chemical have migrated, the owner may have an obligation to convince his neighbor to accept an ELUC on her property? The proposed SVI amendments certainly do not provide an answer to this dilemma.

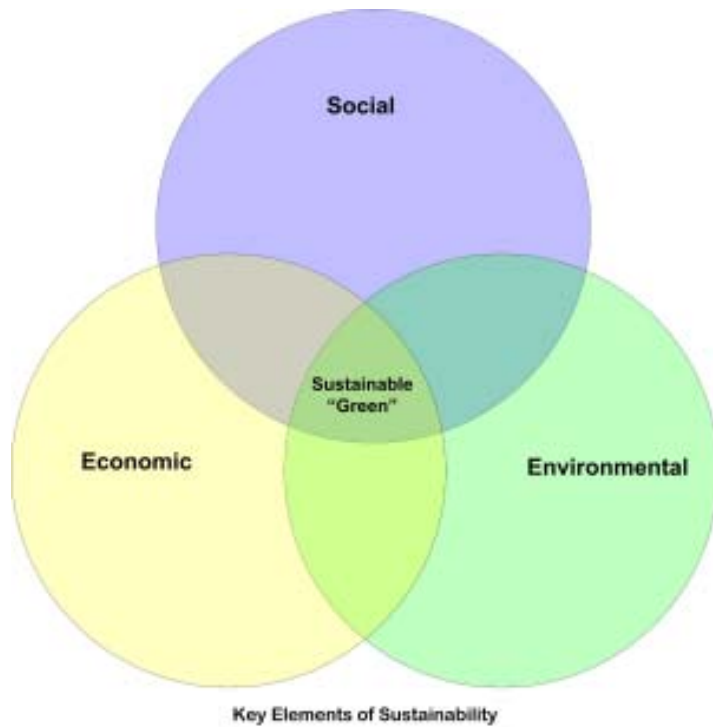
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# Green Demolition and Sustainable Deconstruction

*Contributed by: Lawrence L. Fieber, PG  
Burns & McDonnell Engineering Company, Inc.*

Construction materials amount to 60% of the total materials used in the US economy (Guy 2005, Wagner 2002). Alone, this statistic provides a significant incentive to consider Green Demolition methods to maximize reuse and recycling. This article attempts to define Green Demolition, analyzes the advantages of selecting Green Demolition versus traditional demolition methods, and provides a basic outline of how to implement Green Demolition projects.

## What Is Green Demolition?



Green Demolition is the practice of considering environmental, social, and economic effects of a demolition project and the selection and implementation of demolition methods that maximize the net social and environmental benefits while minimizing costs.

## Why Perform Green Demolition?

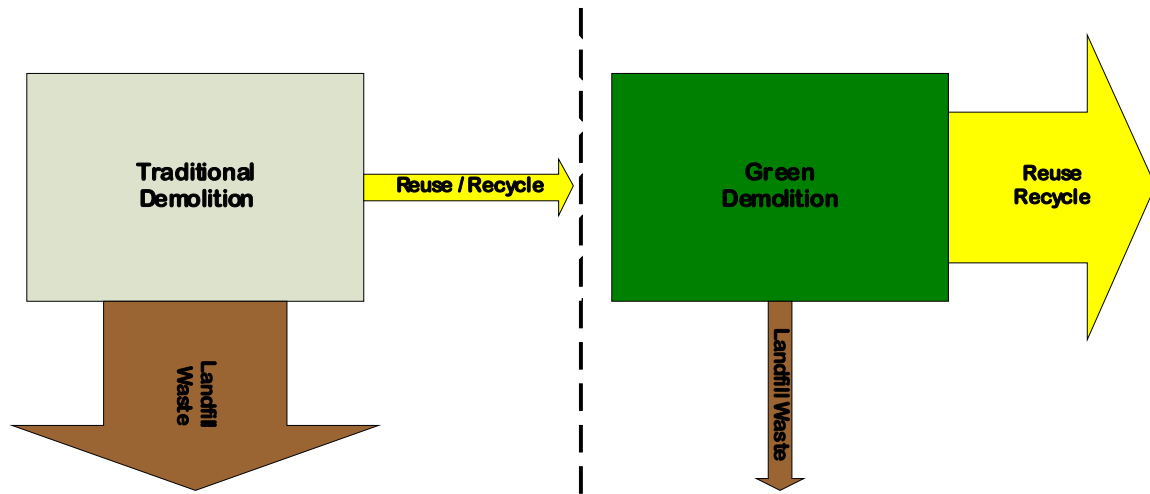
The reasons for performing Green demolition are numerous, but generally center on the following primary goals:

### ***Waste Minimization***

Traditional demolition projects commonly reuse or recycle less than 20% of all demolition materials. Green demolition projects expressly focus on identifying, cataloging, and establishing measurable metrics to enhance reuse and recycling of demolition materials thereby minimizing waste generation.

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# Green Demolition and Sustainable Deconstruction (con't.)



Comparison of Traditional vs Green Demolition

## ***Maximizing Reuse and Recycling***

Many building components can be reused with little or no additional effort. Green demolition projects enhance reuse potential by identifying local reuse partners in advance of planned demolition or deconstruction projects.

## ***Environmental Impact Reduction/Minimization***

Careful advance planning of demolition work helps reduce fugitive dust emissions, green house gas emissions, water quality degradation, water use, and erosion and sedimentation while preserving landfill space and enabling planned abatement of building contaminants such as lead-based paint, mercury, refrigerants, paint and oil.

## ***Minimize Negative Social Impacts***

Traditional demolition projects are disruptive to communities – they increase noise, snarl traffic, pollute streams, destroy vegetation and aggravate the affected community. Green demolition projects reduce unwanted noise, minimize traffic impacts, control storm water runoff and unwanted sedimentation, preserve valuable vegetation, and are executed with full community involvement.

## ***Reduce Unrenewable Fuel (Fossil Fuels) Usage***

Fossil fuel powered equipment emit carbon and other greenhouse gases, which are believed to be detrimental to the environment. Green demolition projects identify ways to minimize or eliminate fossil fuel burning equipment and maximize usage of renewable energy sources such as biofuel, wind and solar energy sources.



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# Green Demolition and Sustainable Deconstruction (con't.)

## How to Implement a Green Demolition Project?

### *The Deconstruction Survey*

Green demolition projects begin with a deconstruction survey. The deconstruction survey identifies the types and quantities of materials that are easily reused and recycled, hazardous substances and pollutants that should be abated prior to demolition, natural storm water flow patterns, and social characteristics that require special consideration.

The kinds of materials identified for reuse and recycling commonly include:

- Furniture
- Appliances
- Hardware
- Fixtures
- Windows
- Doors
- Trim
- Rare Wood
- Cables
- Piping
- Telephone Equipment
- Steel Building Members
- HVAC Components
- Stone
- High-Quality Brick



Materials commonly identified for pre-demolition abatement include:

- Asbestos
- Lead-Based Paint
- Mercury
- Paint
- Oil
- Solvents
- Refrigerants
- Unused Maintenance Material
- Waste Material
- Underground Storage Tanks
- Waste Treatment Areas



### *Establish Project Goals and Metrics*

Information gathered during the deconstruction survey should be used to establish Project goals for reuse and recycling and to establish metrics to measure performance.

Common performance metrics include:

- Percent Recycled
- Percent Reused
- Tons Recycled
- Tons Reused
- Percent GHG Emissions Reduction
- Percent Storm Water Runoff Reduction
- Percent Vegetation Retained
- Water Quality Standards
- Percent Renewable Fuel Usage
- Acceptable Safety Statistics
- Allowable Noise Level
- Community Outreach Frequency

*Continued on page 14.*

## Green Demolition and Sustainable Deconstruction (con't.)

Only after the establishment of project goals and metrics is it possible to begin preparation of demolition plans and specifications.

### *Prepare Plans and Specifications*

Demolition plans and specifications that consider the social, environmental and economic goals of the project and the establish metrics must be prepared. Well considered plans and specifications enable robust, successful quality based selection with accurate cost comparisons. Plans and specifications also enable the project owner to ensure that established goals and metrics are considered for every aspect of the project.



### *Monitor Project Progress / Audit Performance*

Plans and specifications are only of value if they are implemented. Successful Green demolition projects require construction monitoring and performance auditing. Monitoring and auditing results need to be evaluated regularly in order to identify opportunities for continued performance improvement and project optimization.

## Consider Opportunities for Green Remediation and Building Design

Environmental, social, and economic benefits do not end with demolition. Owners should consider sustainable/green opportunities for soil and groundwater remediation and new building design aspects each time they begin a new phase of a demolition or construction project.

*Lawrence Fieber can be reached at LFieber@BurnsMcD.com or 312-223-0920 ext. 2239.*



## New Members

***Sam Baushke***

Horizon Environmental Corp

***Lee Canel***

IIT Stuart Env Mgt & Sust

***Todd Colon***

AECOM

***Kim Cukierski***

Critical Glass Corporation

***Anita Doepke***

RMT, Inc.

***Jennifer Dunn***

URS Corporation

***Heather Eliff***

***Michael Fox***

Gallery Construction

***Judy Freeman***

Gabriel Environmental

***Kevin Givens***

Cook County Dept of Env Control

***Fred Gordon***

Herman Miller, Incorporated

***Olga Irene Guevara Montemayor***

IIT - Stuart School of Business

***Mark Hall***

Lakeside Energy

# PNEAC Offers Industrial Stormwater Permit Guide

The Printer's National Environmental Assistance Center (PNEAC) is one of EPA's Compliance Assistance Centers and works to support various state and local environmental agencies as they help companies reduce pollution and understand their compliance requirements. The PNEAC website (<http://www.pneac.org/>) now offers **The Industrial Stormwater Permit Guide** to assist businesses in complying with federal stormwater regulations.

Many industrial and commercial facilities that discharge wastewater are regulated under the Clean Water Act. Industrial stormwater permitting requirements are one of the provisions of the Clean Water Act. These provisions address discharges of contaminated stormwater to navigable waterways. These types of discharges fall under the National Pollution Discharge Elimination System (NPDES). Industrial and commercial facilities that discharge contaminated Stormwater to a waterway may have to obtain a discharge permit. Under certain circumstances, a No Exposure Certification Waiver can be obtained in lieu of a stormwater discharge permit. "No Exposure" means that there is no condition at an industrial facility where any industrial materials and activities are exposed to rain, snow, snowmelt or runoff. A more detailed regulatory definition is found within the guide.

PNEAC has developed an easy to use on-line tutorial about the Industrial Stormwater Permitting requirements. This program explains federal stormwater regulations for business, and the options available for compliance. It also provides detailed guidance on which states have permitting authority and links to state and/or federal forms that industrial facilities must submit to be in compliance with the regulations.

The tool walks the user through the regulations in order for the user to determine whether they must obtain a Stormwater Permit or is exempt from permitting requirements and then walks the user through the process of completing and submitting the "No Exposure Certification". It is an easy to use tool utilizing a lesson format which also provides a visual guide for understanding compliant vs. non-compliant stormwater situations.

This new tool was modeled after the EPA Hazardous Waste Manifest Compliance Assistance tool that PNEAC previously developed. Users can find the full compliment of compliance assistance tools at <http://pneac.org/videotraining/>.

For more information contact Deb Jacobson, PNEAC Director at [djacobson@istc.illinois.edu](mailto:djacobson@istc.illinois.edu).



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Check out full conference information at <http://www.awma.org/ACE2009/>



# Environmental Auditing in a Recession

Contributed by: Philip L. Comella, Seyfarth Shaw LLP

Over the past twenty-five years environmental auditing has evolved from an oxymoron to become an integral part of the business world. Many reasons underlie this transformation, including

1. An increasingly complex web of environmental regulations and the corresponding difficulty of keeping track of – much less following – all of them;
2. The risk of being on the receiving end of penalty assessments where the per-day fine now reaches \$32,500 for even “minor” violations;
3. The minimal misconduct required for criminal penalties;
4. Regulatory schemes and permits that require the self-reporting of deviations from a legal norm;
5. The ability to mitigate a penalty if it arose from the self-reporting of a violation uncovered during the performance of a systematic audit program.
6. The growth of good character laws and the heightened value of having a “clean” record; and
7. The social and economic benefits of being perceived as a “good corporate citizen” which uncovers and corrects its own miscues.

Each of these reasons – and there are no doubt others – provides compelling justification for the countless environmental management control systems, programs, departments, and professionals in the environmental and safety field. Environmental audit programs serve the valuable function of self-detecting incipient issues before they can grow into something of legal or environmental significance.

It is also common practice for individual companies, including many of the world’s largest, to custom design an environmental audit program to go “beyond the law.” If the regulations require weekly inspections, a company may do them daily; if a permit condition requires testing for twenty parameters, they test the full list in Appendix VIII to 40 C.F.R. part 261; if the legally required secondary containment requires holding a spill from the largest container, they install one to handle double the largest volume; if the regulations require record to be retained for 5 years, they keep them forever; and so on. Again, this practice is commendable as it is never illegal to do more than the law requires, and there are

undoubtedly intangible, if not environmental, benefits for going beyond the law.

The problem, however, is that in a severe recession, no one and no program is completely immune from getting trimmed down to size. Despite the high priority placed on environmental compliance, it must share space with other important concerns such as health care, retirement benefits, and job security. As the current economic climate drives companies to become more lean, many U.S. companies will necessarily be looking to cut “soft” training as well as activities that do not produce an immediate economic return. This may mean reductions in environmental and safety management programs. With this outcome inevitable, it might be helpful to set forth a few guidelines for how a company may cutback on an environmental auditing program while not at the same time not exposing itself to the very risks these audits were intended to eliminate.

So here are a few general guides:

1. As an initial matter, it is important to separate what the law requires from what may have seemed like a good idea at the time. It does no good to have a program that goes “beyond the law” if one does not in practice achieve the law. Moreover, if one commences trimming an audit program before making this threshold division, the baby may indeed go out with the bath water: you may trim a legal requirement and keep as company policy something that is not required. Not good. Distinguish the two.
2. As part of this recession-driven evaluation, one must also come to grips with the surprising reality that while self-inspections and self-reporting are common, many environmental programs do not in fact require audit programs. An example is RCRA’s hazardous waste generator rules. Those rules impose all sorts of labeling, storage, shipping, and paperwork requirements, but they do not require an audit program. Of course, without some means of self-checking, it is hard to know how to ensure compliance with the generator 90-day accumulation

*Continued on page 17.*

# Environmental Auditing in a Recession

requirement or manifesting rules, but it makes sense to take a look at the governing regulatory scheme to define the architecture for the audit program.

3. An overlay that should be considered are “beyond the law” practices that serve a company-specific purpose of limiting environmental or safety risks. These practices may be placed into two general categories: First, there are undoubtedly some “beyond the law” practices that may sound good, but that in fact yield no practical benefit of any kind. Examples may be the cost of monitoring for non-required constituents that are never found; or achieving clean-up standards beyond voluntary or risk-based standards; treating an entire “waste pile” or contaminated area as uniformly hazardous rather than tailoring the remediation to hot-spots; performing inspections more frequently than required; retaining records far beyond the legal norm, making every record request a lengthy and costly search for historical archives, and so on. Second, there may also be a set of company-specific “beyond the law” practices that serve a demonstrated purpose of offering increased protection to human health and the environment. These serve the underlying purpose of environmental and safety programs of correcting conditions conducive to harm. Examples might be requiring worker “fall-protection” where not strictly required under OSHA, providing secondary containment where not needed, installing extra leak detection devices or warning systems, and instituting more rigorous or broader training. Now might be a good time to conduct a company-specific environmental risk assessment to ensure the audit program is in fact tailored to areas posing the greatest threat to health and the environment, as well as the company’s compliance record.
  4. Fix what you find. Some audit programs are so extensive and searching that they find more problems that can be timely corrected. With the goal of designing an efficient and effective audit program, it might make sense to double-check the procedures for ensuring that identified problems are timely corrected. Of all practical problems with an audit program, particularly in the day of self-reporting, this may be the biggest concern: if you find a problem, report it, but then do not timely correct it, you may soon be spending more time than scheduled with your local regulatory agency.
  5. Have the right people do the work. An audit program is only as good as inquisitive skills of the auditor. If you do not know what to look for, you will not find it. Environmental auditing, like other technical investigations, benefits greatly from experienced, trained, technicians. If the idea is to “go lean” then have an experienced auditor do the job right the first time.
  6. Streamline the paperwork. Toss out unnecessary forms and protocols. Use checklists wherever possible. Conform the paper to the current law. Because of the heightened importance of environmental and safety concerns, it is an all too common occurrence for sheer volume to replace effectiveness. (e.g., see Title 40 of the Code of Federal Regulations.) More forms and procedures do not translate into a more effective audit program. The plan is to know what you are looking for and devise the most direct way to uncover it.
  7. Employee lay-offs also may have repercussions in the environmental and safety areas. These issues range from potential increases in environmental whistle-blower cases and the need to train new auditors, to the worst case scenario: acts of sabotage from disgruntled employees. Make sure you understand the state of your company’s compliance with environmental and safety laws.
  8. If you decide to streamline an environmental audit program, make sure a message is delivered internally that any reduced measures do not signal a diminished commitment to environmental compliance, but is designed to make the program more efficient and therefore more effective.
- So the point is to use the recession as an opportunity to streamline audit programs to first, comply with the law, and second, to ensure it is relevant and responsive to the risks actually posed by the company’s practices. Regardless of the economic climate, the old adage “an ounce of prevention is worth a pound of cure” remains not only true in the environmental and safety field, but one of its most compelling illustrations.

# SPILL PREVENTION HIGHLIGHTS

*Submitted by: William K. Graham, P.E., Bureau Veritas*

**Stimulus and Spill Prevention** - Stimulus funds and administration directives may ‘stimulate’ enforcement regarding oil spill prevention and Spill Prevention, Control and Countermeasure Plans at regulated facilities, according to a USEPA Region 5 official. This may be accomplished with additional resources to address facilities where inspectors report deviations; at present, deviations are generally resolved without referrals.

**On Again/Off Again** – A new effective date of 1/14/2010 is set for the amendments proposed 12/5/2008; but until 5/1/2009 USEPA is taking comments on a further delay. The administration may roll back some of the eased restrictions proposed last fall in response to stakeholder comments. At potential risk are the proposed Tier 1 qualified facility (<10,000 gallons) with SPCC template, and some extended milestones. None of these changes affect the overall SPCC Plan compliance date of July 1, 2009

<http://www.epa.gov/OEM/content/spcc/index.htm>

## **SPCC Plan Compliance Deadline remains as July 1, 2009**

<i>A facility (other than a farm) starting operation...</i>	<i>Must...</i>
On or before August 16, 2002	Maintain its existing Plan Amend and implement the Plan no later than July 1, 2009
After August 16, 2002 through July 1, 2009	Prepare and implement a Plan no later than July 1, 2009
After July 1, 2009 before beginning operations	Prepare and implement a Plan

### **Michigan SPCC Workshop**

On April 15, 2009, A&WMA’s Western Michigan Section hosted a USEPA workshop presentation on a ‘virtual’ SPCC inspection. The presentation was based on an actual facility where deviations were noted, changes were implemented, and the facility was re-inspected 18 month’s later.

*William K. Graham, P.E. can be contacted at [billgraham@us.bureauveritas.com](mailto:billgraham@us.bureauveritas.com)*



## **New Members**

*Neena Hemmady*  
ComEd

*Don Isaacs*  
Geneva Energy

*Kevin Kyrias-Gann*  
RMT, Inc

*Sarah Liddell*

*Jonathon Merrick*  
Horizon Environmental

*Kathleen Morrone*  
O’Shea Environmental Assoc., Inc.

*Mughis Naqvi*  
Lechler

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*Beth Schwartz*  
Bureau Veritas North America

*Robert Simmons*  
DTE Energy

*Steve Stretchberry*  
We Energies

*Fabiola Villa*

*Marla Westerhold*  
Stuart Graduate School

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## Dearborn Country Club

The 2009 Air & Waste Management (A&WMA) Scholarship Open will be held at the historic Dearborn Country Club in Dearborn, Michigan. The private 160 acre, 18-hole championship golf course was founded and built by Henry Ford in 1925. This Donald Ross gem was a British Open qualifying site last summer and has hosted LPGA, Champions Tour, and national amateur events in its storied past.

The golf fee of \$130 (or \$500 for a foursome) includes; practice range balls, greens fee, golf cart, après golf party, plenty of door and skill prizes, and soft drinks available throughout the course. We are incorporating sustainable practices into the golf tournament again this year, including providing mass transportation to the golf course.

## Support Scholarship...Make Important New Business Connections

The main goal of this tournament is to raise money for scholarships awarded through the A&WMA which helps students pursue studies in environmentally related disciplines. This is also a great opportunity to raise awareness about your business. Because the outing is associated with the annual International conference and exhibition this established event has proven to be an exceptional venue for sponsors to receive exposure to regional and national businesses and for participants to network. Sponsors at all levels will be advertised at the tournament and acknowledged at the awards party after golfing. Also, all sponsors will be listed on golf tournament webpage of the A&WMA website.

For more information or to become a sponsor, please contact either:

- Bob Niemi at rniemi1@ford.com, 313.206.8034 or
- Tony Percha at anthony.percha@gza.com, 248.926.1199

## Event Details

- Transportation to and from the headquarters hotel (depart at Noon)
- 2:00 PM Shotgun start - scramble format
- Closest to the pin, longest drive, longest putt
- Dinner/Awards ceremony
- Handout awards and door prizes
- Prizes for 1st, 2nd, 3rd and second to last teams
- After-golf pitching challenge (grand prize TBA)

## Registration

- Register Online at: <http://www.awma.org/ACE2009/inside.php?pg=reg>

## A&WMA Scholarship Golf Tournament June 15, 2009



## LM-A&WMA 2009 OFFICERS & DIRECTORS

- Chair:** **Ferdinand Alido**  
Navistar, Inc.  
ferdinand.alido@navistar.com
- Vice-Chair:** **Christopher Perzan**  
Navistar, Inc.  
chris.perzan@navistar.com
- Secretary:** **James Harrington**  
McGuireWoods LLP  
jharrington@mcguirewoods.com
- Treasurer:** **William Seith**  
Total Environmental Solutions, P.C.  
wdseith@tespc.com
- Membership:** **Laura Mammoser**  
laura\_mammoser@yahoo.com
- Outgoing  
Chair:** **Christopher Blume**  
GaiaTech, Inc.  
cblume@gaiatech.com

### Directors:

**Teri Dykhuis**  
Fermilabs  
dykhuis@fnal.gov

**Bill Franek**  
Illinois EPA  
bill.franek@illinois.gov

**Perry Fisher**  
Environmental Resources Mgmt.  
perrywf@aol.com

**Debra Jacobson**  
University of Illinois Sustainable Technology Center  
djacobson@istc.illinois.edu

**Dale Kalina**  
Environmental Partners  
dale.kalina@enviro-partners.com

**George Nassos**  
IIT Stuart School of Business  
george.nassos@iit.edu

**Chris Newcomb**  
CITGO Petroleum  
cnewco1@citgo.com

**David Ozawa**  
Platt Environmental Services, Inc.  
dozawa@plattenv.com

## Member News

### William K. Graham, P.E. Joins Bureau Veritas NA

Bill Graham has joined the Bureau Veritas Environmental Services Group as Principal Engineer. Bill is a Past Chair of LM-AWMA. Bill led environmental compliance and remediation efforts for numerous industrial and governmental entities. His expertise includes environmental management systems, auditing, compliance, permitting, engineering design and litigation support for matters involving air, waste and water media. Bill has previously been with ERM, TRC and IT Corporation. He is a degreed engineer from SUNY at Stony Brook and holds a Masters in Civil Engineering from New Jersey Institute of Technology and a Masters in Management from Kellogg at Northwestern. Bill can be reached at 630-795-3200 and bill.graham@us.bureauveritas.com. Bill has lived in Glen Ellyn for over 20 years.

### FTC&H and WCR Announce Corporate Merger

Fishbeck, Thompson, Carr & Huber, Inc. (FTC&H) and Wetland and Coastal Resources (WCR) have announced the two companies merged in January 2009. WCR principals and staff joined FTC&H in their Lansing, Grand Rapids, and Farmington Hills offices.

FTC&H is a professional engineering, environmental, architectural, and construction management firm. WCR is an environmental consulting firm specializing in ecological services. Founded in 1999, WCR is dedicated to the management, protection, and restoration of wetlands, surface waters, and natural resources; specifically, wetland delineations, wetland mitigation design and monitoring, coastal assessments, lake studies, streambank stabilization and erosion assessments, floodplain and river restoration, natural features inventories, threatened and endangered species assessments, aquatic assessments, and watershed management.

Tom Bennett and Mike Nurse, both principals of WCR, join FTC&H in key positions of senior environmental scientists; Aaron Snell and Cheryl Pitchford are members of FTC&H's Water Resources Group.