



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

1<sup>st</sup> Qtr. 2002

Vol. 42, No. 1

## Response to Bioterrorism

April 2, 2002

James R. Thompson Center

3:00-5:00 p.m.

In light of the current world situation, don't miss this opportunity to join fellow AWMA members and guests when Lake Michigan States Section hosts a *Response to Bioterrorism Conference*. See pages 6 and 7 for additional information and the registration form.

## The New Regional Director of U.S. EPA

April 23, 2002

Union League Club

Join the Lake Michigan States Section of the Air & Waste Management Association along with the Environmental Group of the Union League Club for a luncheon meeting featuring Thomas V. Skinner. Hear from the new Regional Director what his plans are for the direction of the U.S. EPA. See pages 6 and 7 for more information and the registration form.

## Annual Section Membership Luncheon Meeting

April 26, 2002

Athena's Greek Restaurant



The LM-A&WMA Annual Section Membership Luncheon Meeting is scheduled for Friday, April 26, 2002. This year's meeting will once again be held at Athena's Greek Restaurant.

See pages 6 and 7 for additional information and the registration form.

## Looking to get more involved?



The Board of Directors is currently looking for energetic members who are interested in serving on the Board of Directors. The requirements to serve on the Board of Directors is a strong interest and commitment to participate at a higher level within the organization. Board members are responsible for establishing ideas for upcoming conferences and participating in the preparation of seminars.

Serving on the Board of Directors will give you an excellent opportunity to help plan the type of conferences/seminars you want to see, along with establishing the future direction of **YOUR** organization.

Not sure a position on the Board of Directors is for you? Consider serving on the Advisory Committee. The Advisory Committee allows participants to become active within the current structure of the organization, without the level of commitment required of a Board member.

If you wish to nominate someone (*including yourself*) to the Board of Directors, or would like to consider serving on the Advisory Committee, please contact either:

Deb Jacobson at (630) 472-5019  
djacobso@wmrc.hazard.uiuc.edu

Eric Boyd at (312) 269-8903  
boyder@seyfarth.com

---

# Volunteer Activities

## LM-A&WMA MEMBERSHIP BULLETIN BOARD



The LM-A&WMA Section is seeking *volunteers* to participate in the following activities:

**Environmental Issues Writers:** Our LM-A&WMA Board Secretary, Bob Wells, is always looking for talented writers to contribute articles on current environmental issues to the quarterly Lake Michigan States Section Newsletter. If you have interesting information to share from industry, government, academia or consulting, please feel free to contact **Bob** at 847-228-0707 x103 or bob\_wells@urscorp.com.

**Open Board Meetings:** If you are an interested LM-A&WMA member and would like to get your feet wet, or if you would like to present an issue or idea to our Board, come and attend one of our open Board meetings. Contact LM-A&WMA's Administrative Assistant, **Robin Pelsis**, at 847-202-0418 to find the date and location of the next Board meeting, or to be placed on the meeting agenda.

**LM-A&WMA Advisory Committee:** Our Section formed an Advisory Committee for our members who have demonstrated exceptional commitment by being actively involved with the A&WMA Board and its conference planning activities. Our Advisory Committee Members have been appointed by our Board and we hope that they will become future Board Members. If you are a person who has demonstrated such commitment or would like to learn how to become actively involved, please contact our LM-A&WMA Board Chair, **Deb Jacobson**, at 630-472-5019.

**Teacher Training Workshops:** We are actively seeking volunteers to run training workshops on air quality and pollution prevention topics for elementary and high school teachers as a way to increase their knowledge of environmental sciences. No experience necessary; we will train. For more information, contact **Mark Roach** at 847-991-6200 x2099.

**LM-A&WMA Student Chapter:** A student chapter has been formed at the Illinois Institute of Technology [IIT] and is open to students affiliated with the IIT Chicago Kent College of Law, School of Environmental Engineering and the Stuart School of Business. If you are interested in becoming active in the Student Chapter, please contact LM-A&WMA Membership Chair, **Lawrence Fieber**, at 630-990-0302 x237.

*NOTE: If you are a member and have any volunteer activities that you would like to post in our newsletter, please contact **Bob Wells** at 847-228-0707 x103 or bob\_wells@urscorp.com.*

---

## **YOU** CAN HELP THE LAKE MICHIGAN STATE SECTION OF THE AIR AND WASTE MANAGEMENT ASSOCIATION

The LM-A&WMA Board of Directors recently met to discuss and develop a plan for the future of the organization. During this meeting the following items were discussed as ways that you, the member, could support your organization.

- **Donate** your time
  - Attend one of our programs
  - Help plan a program
  - Write an article for our monthly newsletter
  - Become a member of our advisory board
  - Become a member of the Board of Directors
  
- **Donate** your services
  - Provide printing for the newsletter or program materials
  - Assist with developing our website
  - Provide accounting and other financial assistance
  - Provide a meeting or program location
  
- **Donate** your money
  - Support the Teacher Training Fund
  - Support the Student Education Fund
  - Support the organization's general administrative expenses
  - Become an event sponsor or exhibitor

The LM-A&WMA Board of Directors is also developing additional ways that the organization can help to support its members. If you have any ideas/suggestions to assist with these plans, please contact Eric Boyd at (312) 269-8903 or boyder@seyfarth.com.



### **Environmental Consultants Wanted**

RK & Associates, Inc. is seeking two Environmental Engineers to supplement its multi-media environmental staff in our Glen Ellyn, Illinois office.

We request a minimum of 1 year experience in environmental field for a staff engineer position and 5 to 10 years of experience for a senior engineer position.

Please submit your resume by fax, mail or email.

Attn: Mrs. Rhiana Follett  
**RK & Associates, Inc.**  
739 Roosevelt Road  
Building 8, Suite 301  
Glen Ellyn, IL 60137

630/790-4475 (phone)  
630/790-2966 (fax)

rfollett@rka-inc.com

*If your firm would like to place a help wanted ad in the next issue of the LM-A&WMA newsletter, please contact Robin Pelsis at (847) 202-0418 or e-mail her at lm\_awma@ameritech.net for exact specifications and deadlines.*

## Member News

Steven Klafka and Kurt Jacobsen of Wingra

Engineering, S.C. in Madison, Wisconsin will be presenting four papers at the A&WMA 95th Annual Conference & Exhibition in Baltimore based on projects during the past year.

Influence of Emission Estimates on a BACT Determination for Iron Foundry Core Making Operations

Using a Flexible Compliance Strategy to Issue a Title V Operation Permit

Challenging a Title V Operation Permit with the Part 70(8) Petition Process: An Aluminum Foundry Case Study

Evaluating Local Impacts of a Utility Selective Catalytic Reduction Retrofit Project

Steven Klafka, P.E.,  
Environmental Engineer  
Wingra Engineering, S.C.  
(608) 255-5030 (Fax) 255-5042  
sklafka@wingraengineering.com



**Dr. Janet Vail** of Grand Valley State University Annis Water Resources Institute (A&WMA West Michigan Chapter) serves as co-chair of the U.S. EPA Lake Michigan Forum. This group provides input on the Lake Michigan Lakewide Management Plan (<http://www.epa.gov/glnpo/lakemich/index.html>) which is currently being updated.

## Air Quality Management Conference Luncheon Speaker Recap

Steve Rothblatt, Region 5's Assistant Administrator for Air, spoke at the luncheon in Willowbrook, held during the AWMA Lake Michigan Section annual air quality management conference. Steve was filling in for Bharat Mathur, who was with Governor Whitman in India. Steve had just returned from meetings at USEPA Headquarters. According to Jeff Holmstead, Assistant Administrator for Air Quality, a near term priority will be diesel engine exhaust and rules regarding diesel engine idling while off duty.

Steve addressed four USEPA national priorities for air quality:

1. The multi-pollutant bill
2. Making the best use of existing programs
3. Air toxics, and
4. Voluntary programs

### 1. The Multi-Pollutant Bill:

While there are several proposed versions, Steve profiled Senator Jefford's proposal to develop caps on criteria pollutants such as NOx and SOx and toxics such as Mercury. If successful, caps may allow traditional programs to be phased out. USEPA anticipates that the approval and implementation of the PM 2.5 rule will require reductions in criteria pollutants which contribute to PM 2.5. In addition, the application of the regional haze rule for scenic class areas is anticipated to reach into more populated

areas. Under this rule USEPA has identified yet another pollution control acronym, BART, Best Available Retrofit Technology. In general, however, the USEPA is shifting toward setting goals for emissions reduction rather than permitting and enforcing a piecemeal approach.

2. **Existing Programs:** Steve mentioned the effect of PSD and NSR rules has been a "perverse incentive not to modernize". (Such modifications could have triggered substantial costs for additional pollution controls that would shift a manufacturers cost structure). While USEPA had aggressively pursued enforcement and settlements with major industry groups and firms in past years, they are also negotiating a more practical approach to program implementation which clarifies the types of modifications that will trigger the need for addition source controls and reduction. Internal drafts on revised administration of PSD/NSR are tightly held and Steve was not prepared to comment on them... "stay tuned" he said.

3. **Air Toxics:** USEPA Durham, NC office is nearing the end of its multi-year effort to issue MACT standards in industry groups identified in settlements resulting from litigation under the Clean Air Act. A shift in emphasis is occurring from technology based standards toward residual risk. USEPA is taking

## Air Quality Management Conference (con't.)

advantage of extensive census, emissions and health data to identify and focus on communities subject to higher than average exposure to toxics. Such areas will be further studied to see of the potential for increased health effects. Steve pointed out that data and models suggest that sources of toxics are predominantly areawide, only 11% of toxics are estimated to come from point sources. USEPA will look at what can be done at the State and community level to mitigate effects of elevated air toxics.

#### 4. Voluntary Programs:

Several programs are underway and will be maintained. These include the Energy Star program. USEPA has data on the amount of excess emissions of criteria pollutants which result from the traditional design and operation of consumer appliances, and commercial and industrial users. USEPA will be looking for ways to encourage and recognize reductions, primarily through energy conservation. USEPA will emphasize the Clean Air Counts program which encourages voluntary implementation of alternative landscaping, low emitting architectural coatings, planting of shade trees, two cycle engine trade-in, etc.

Steve also spoke regarding Region 5 Programs and Enforcement. Chicago's attainment of the one hour ozone standard has been

documented using 440 monitoring stations. Routing monitoring at all these stations is expensive. USEPA has performed an evaluation of the data set and found that many of the stations are redundant and provide not data statistically different from a nearby station. USEPA and IEPA hope to reduce the locations monitored and shift funding to higher priority use.

USEPA fully expects to approve the IEPA application for the Chicago area to be redesignated as attainment for ozone and publish it for comment in the Federal Register. Steve felt that this was an important milestone in the overall air program since he started with USEPA over 20 years ago. One undesired outcome of attainment will be a reduction in \$33 Million in Federal funds to Illinois for monitoring and other purposes such as bike paths and prairie walks. If the redesignation is deferred until September, at least 2003 funding will be retained. Region 5 has other challenges with HQ on funding of key programs that they are focusing on. Among these are monitoring and program support if and when the eight hour ozone standard is promulgated and additional non-attainment areas are cited.

Steve emphasized the importance of continuing progress in issuing the last 1/3 of Title 5 permits, especially as the first batch come up for renewal this year and next. (While public interest groups have R5 and States under

significant pressure, no new initiatives are planned other than continuing the strong encouragement).

Enforcement efforts will be targeted for results, especially environmental benefits and response to community needs, citizen complaints and tribal concerns. Under agreements with several States, R5 will support new enforcement initiatives. In particular, the response of some Title 5 permittees to the requirement for periodic compliance certifications has been "pretty poor". Steve mentioned that many had merely responded that they were 'in compliance' with all requirements and that such responses may be 'not credible'. (Region 5 is strongly encouraging States to investigate and enforce and is monitoring their progress.) Lastly, Steve mentioned that the Region's air enforcement resources will continue to be deployed in a focused manner on major sources with the following industrial sectors: Utility, Refining, Automotive, Sulfuric Acid, Iron and Steel, and Wood Furniture. The will also focus on HON regulated firms, Turbine Generators, permittees relying on VOC capture and large sources for CFC's.

#### Contributed by:

William K. Graham, P.E.  
Compliance Partners  
(630) 469-8799  
bill.graham@att.net

## Upcoming Conferences and Luncheons

### Response to Bioterrorism

April 2, 2002  
3:00-5:00 p.m.

James R. Thompson Ctr.  
100 W. Randolph  
Room 2-025  
Chicago, IL

At this conference, you will have the opportunity to hear from keynote speakers who are well versed on this topic. Joining us as speakers will be:

Dr. Robert Sherwood  
Vice President  
IIT Research Institute  
Microbiology and  
Immunology  
*Bioterrorism Threats and  
Lessons Learned*

Mr. Ron Torgerson  
Vice President - Versar, Inc.  
Federal Affairs  
Homeland Defense  
*Force Protection and  
What It Means to You*

Mr. Matt Bettenhausen  
(Invited)  
Special Assistant to  
Governor Ryan

Questions concerning topics to be discussed at this conference should contact Suresh Relwani, RK & Associates at (630) 790-4475.

The cost to attend is \$35.00 for AWMA members and \$55.00 for non-members.

### The New Director and Direction of the U.S. EPA

April 23, 2002  
Union League Club  
65 W. Jackson  
(Jackson at Federal)  
Chicago, Illinois

Join the Lake Michigan States Section of the Air & Waste Management Association along with the Environmental Group of the Union League Club for a luncheon meeting featuring Thomas V. Skinner, Regional Director, U.S. EPA. Hear from the new Director what his plans are for the direction of Region 5.

Thomas V. Skinner was appointed Regional Administrator of the U.S. Environmental Protection Agency Region 5 in June 2001. As Regional Administrator he leads the implementation of federal environmental programs in the Great Lakes states of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

The cost to attend is \$35.00 for AWMA members and \$55.00 for non-members.

### 2002 Annual Section Membership Luncheon Meeting

April 26, 2002  
Athena's Restaurant  
212 S. Halsted Street  
Chicago, Illinois  
11:45 a.m.

This is always an enjoyable time for attendees. It offers a chance to hear what A&WMA, as a National Organization, is planning, to learn who has been elected to the Lake Michigan States Section Board of Directors for the upcoming term and which students have won the Student Paper Scholarship Awards.

Cost to attend is \$40 for A&WMA members, \$60 for non-members and \$20 for students. We will again offer the "Introduce a fellow environmental professional to our organization" rate of \$45 for guests of members.

*In order to hold down costs, no additional mailing will be done for this event. This newsletter and e-mail announcements are the only advertisements for this meeting.*



# Illinois Metal Finishers Implement P2 Technologies

New technologies and new processes can be intimidating. An innovation is only effective if it works in a real application. Manufacturers do not usually gamble on unproven ideas. To diffuse a new technology efficiently, it must be tested, available for review and have been adopted by opinion leaders. The Waste Management & Research Center (WMRC), a state government agency affiliated with University of Illinois, has created the Accelerated Diffusion of Pollution Prevention Technologies Model (ADOP<sup>2</sup>T) that addresses all of these issues and promises to speed the transfer of better environmental technologies and processes from the bench to the plant floor.

Since 1999, 11 companies located in the Chicago area have enrolled in the ADOP<sup>2</sup>T Program. With brief demonstrations, WMRC introduced the companies to innovative Pollution Prevention (P2) technologies that have the potential to minimize waste in their facilities. A company that was favorably impressed with a particular technology was encouraged to pursue a pilot trial at their facility. Next, WMRC assisted the companies in setting up, operating and optimizing the P2 technology. Evaluations of the pilots focused on the technical and economic feasibility of implementing the technologies and addressed compatibility and complexity concerns. The evaluations

and the “hands-on” experience from the pilots provided the site-specific information required to influence the company into adopting the piloted technologies where economically and technically feasible.

The ADOP<sup>2</sup>T Program has been very successful at facilitating the adoption of P2 technologies. The program currently has a 65% adoption rate (i.e. 65% of the pilots have convinced companies to implement the technology in their ongoing operations). An additional 23% of the piloted technologies are currently being considered for adoption by the host facilities. Table 1 lists the technologies that have been piloted and subsequently adopted under the ADOP<sup>2</sup>T Program.

**Table 1: Technologies Piloted and Adopted**

Technology	Pilots Conducted	Technologies Implemented	Technologies Rejected	Rejected Consideration
Conductivity Control	4	3	0	1
Reverse Osmosis	3	0	0	3
Ultrafiltration	15	12	1	2
Bath Filtration	2	2	0	0
Barrel Design	1	1	0	0
Water Reduction	9	8	0	1
Electroless Nickel	1	0	0	1
Acid Diffusion Dialysis	3	0	3	0
Evaporation	2	0	2	0
Microbes	1	0	0	1
<b>Total</b>	<b>41</b>	<b>26</b>	<b>6</b>	<b>9</b>

Summary	
<b>Technologies Adopted =</b>	<b>63%</b>
<b>Technologies Adopted or under consideration =</b>	<b>85%</b>

## Illinois Metal Finishers *(con't.)*

While many of the piloted technologies have been adopted, some trials showed that not all of the technologies were suitable for the host facility's processes. For example, Acid Diffusion Dialysis generated a dilute acid solution byproduct stream. Therefore, to use this technology, the facility's wastewater treatment process would see increased loading. Even these pilots proved to be valuable because they helped prevent the companies from spending money on a technology that wasn't suitable for their processes.

Building on the success of ADOP<sup>2</sup>T, WMRC is currently expanding the program. Staff in the Peoria and Brighton, IL Field Offices will provide ADOP<sup>2</sup>T technical assistance to companies located in those areas. Furthermore, WMRC has begun expanding the ADOP<sup>2</sup>T Program to other industries, such as the Printed Wiring Board and Metal Fabrication industries. Moreover, WMRC is seeking funding for a multiple state Midwest ADOP<sup>2</sup>T Program. To learn more about the ADOP<sup>2</sup>T Program please contact Malcolm Boyle (630 472-5028, mboyle@wmrc.uiuc.edu) or Tim Lindsey (217 333-8955, tlindsey@wmrc.uiuc.edu).

### Contributor:

Riyaz Shipchandler,  
Process Engineer,  
Illinois Waste Management  
& Research Center  
riyaz@wmrc.uiuc.edu

## Member News

### Stratus Environmental Solutions Completes Key Air Quality Projects

Stratus Environmental Solutions, Inc. and its laboratory affiliate, Olver Labs of Virginia, have completed a number of landmark air quality projects. **Mr. W. Dean Kaiser**, QEP managed a fast-track PSD permit application that was permitted only 47 days after final amendments to the PSD application were submitted, or only 76 days from the date of application. Mr. Kaiser also won and completed an air pollution control project for a fiber optics manufacturing plant in Turkey, and Stratus is currently assisting with the RCRA to Clean Air Act transition, MACT compliance, and other regulatory issues for a hazardous waste incinerator in Ohio. Mr. Kaiser can be reached at (847) 507-0607, or by email at StratusEnv@aol.com.

### Compliance Partners

Our mission is to develop and implement compliance practices that contribute to the success and competitive advantage of our clients' interests. **Bill Graham** started this practice after many years of serving clients of large consulting organizations. Bill's experience includes environmental process design, EHS compliance, remediation, brownfield redevelopment, compliance auditing, due diligence and litigation support. He is a registered professional engineer in IL, NY and NJ, is active in the Chemical Industry Council of Illinois and the Air and Waste Management Association.

William K. Graham, P.E.  
bill.graham@att.net  
630-469-8799  
630-650-9999 cell

### ENVIRONMENTAL COMPLIANCE IN ILLINOIS SEMINARS IN SPRINGFIELD AND NAPERVILLE WASTE, AIR AND WATER POLLUTION

*Presented by Illinois Chamber and IEPA*

Over 200 representatives of Illinois businesses listened to thorough presentations by a dozen IEPA managers of waste management programs at the February 21, 2002 seminar held in Naperville. This seminar was one of six sponsored by the Illinois Chamber: one on each of three media in two locations. Remaining dates are for air pollution (Springfield 3/20/02, Naperville 4/10/02), and water pollution (Springfield 5/2/02, Naperville 5/14/02).

Seminar designers created a hypothetical company, ACME Widget, Inc., to use for examples of regulatory applicability and compliance. For the waste media, IEPA speakers addressed RCRA Hazardous waste, Universal waste, potentially infectious medical waste, non-hazardous special waste, Tier II Reports, hazardous waste reports, release reporting, enforcement, and site remediation.

The Chamber has arranged to increase space at Naperville and Springfield so fewer applicants are wait-listed. For announcement and registration, visit IERG web page at <http://www.iERG.org/index.html>

# New Brownfields Law Clarifies Liability of Purchasers of Contaminated Property

Fearing liability under the expansive reach of Superfund, many property developers have steered far and wide of contaminated property. Superfund imposes the threat of joint, several and strict liability upon a broad class of entities (*i.e.*, waste generators, transporters, owners and operators) who have any connection with abandoned hazardous waste sites. Superfund's broad reach, however, often clashes with the goal of today's Brownfields programs, which is to encourage the development of abandoned property. Even though Congress intended Superfund to address only the most serious of the nation's contaminated sites, as opposed to "garden variety" real estate transactions, the U.S. Government's failure to clearly mark-off Superfund's limits continues to chill property development.

After several years of trying to reconcile Superfund's clean-up mandate with Brownfield re-development goals, Congress has finally passed a law, signed by President Bush on January 11th, that makes progress toward a solution. In the "Small Business Liability Relief and Brownfields Revitalization Act," (the "Act") Congress amends certain key provisions of Superfund to clarify how Brownfield developers, purchasers and owners can escape CERCLA's reach.<sup>1</sup>

The Act addresses four types of property Buyers:

- 1) Buyers who unknowingly purchase contaminated property ("Innocent Purchaser")
- 2) Buyers who knowingly purchase contaminated property ("Bona Fide Prospective Purchasers")
- 3) Buyers who purchase property adjacent to contaminated property ("Contiguous Property Purchasers")
- 4) Buyers of residential property

## Innocent Purchasers

The so-called "innocent purchaser defense" has been part of Superfund since 1986. *See* 42 U.S.C. § 9601(35)(B). This defense is based upon the principle that a buyer who unknowingly purchases property contaminated with hazardous substances that someone else released, should not be considered a Superfund "owner." To qualify for this defense, Congress originally required the purchaser to conduct "all appropriate inquiry" into the property. *See* 42 U.S.C. § 9601(35)(B). This statutory directive helped establish pre-acquisition site assessments (or Phase I and II assessments) as an integral part of due diligence in real estate transactions, and also led to the development of assessment guidelines, the most prominent of which are those issued by the American Society for Testing and Materials (ASTM), known as "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process."

The Act directs EPA to issue regulations within two years defining standards for conducting a pre-acquisition site assessment that will satisfy the "all appropriate inquiry" test. Until EPA promulgates these rules, property purchasers seeking to establish the defense must proceed as follows: (1) for property purchased after May 31, 1997, the purchaser must follow the 1997 version of the ASTM guidelines; and (2) for property purchased before May 31, 1997, a court is to consider case-specific factors to determine whether the purchaser met the "all appropriate inquiry" test.

## Bona Fide Prospective Purchasers

The Brownfields Act also defines a new category of purchaser, termed "Bona Fide Prospective Purchaser." These purchasers may escape Superfund liability even if they do not satisfy the Innocent Purchaser criteria. This section of the Act partially codifies EPA's existing policy on "Prospective Purchasers," which the Agency designed for landowners who acquire property knowing of contamination, but who create such significant benefits through the acquisition (such as creating jobs, removing urban blight and performing a partial clean-up) that the Agency agrees not to hold them responsible under Superfund. *See* Fed. Reg. 34,792 (July 3, 1995).

The new Bona Fide Prospective

## New Brownfields Law (con't.)

Purchaser exemption is similarly intended for purchasers of contaminated property who conduct "all appropriate inquiry," but *find* contamination. Since this discovery makes the purchasers no longer "innocent," they may technically be classified as a Superfund owner. Under the new Brownfields law, however, a Bona Fide Prospective Purchaser will not be an owner or operator if he satisfies all the conditions for Innocent Purchaser status, and also "does not impede the performance of a response action or natural resource restoration." 42 U.S.C. § 9607(r)(1).

### Contiguous Property Purchaser

Existing EPA policy exempts (with some conditions) a person from Superfund liability if he owns property overlying groundwater that becomes contaminated with hazardous substances as a result of subsurface migration from an off-site source. See 60 Fed. Reg. 34,790 (July 3,1995).

The Act essentially codifies this EPA policy as well. A "Contiguous Property Purchaser" must satisfy the same tests as Innocent Purchasers and Bona Fide Prospective Purchasers, including conducting a pre-acquisition assessment, to show that someone else caused the contamination. See 42 U.S.C. § 9607(q). If the environmental assessment uncovers contamination, however, the Contiguous Property Purchaser can still qualify as a Bona Fide Prospective Purchaser. See 42

U.S.C. § 107(q)(1)(C). Moreover, the Act makes clear that the Contiguous Property Purchaser need not, as part of the pre-acquisition site assessment, conduct a groundwater investigation, except in limited cases. (*i.e.*, on-site water well affects flow of groundwater contamination) See 60 Fed. Reg. at 34,791.

### Residential Buyers

Just how far Superfund's reach potentially extends is evidenced by a specific provision in the Act covering purchasers of residential property. If these purchasers (*i.e.*, anyone) conducts a facility inspection and title search of residential property that reveal no basis for further investigation, they will not be exposed to Superfund liability.

### Conclusion

The original 1986 version of the Innocent Purchaser defense wound up influencing thousands of real estate transactions as buyers and sellers sought to eliminate the threat — however small in most instances — of Superfund liability. The new provisions of the Brownfields Revitalization Act will likely lead to a further evolution of how real property is assessed, bought and sold.

<sup>1</sup> In this Act, Congress also provides for a federal Brownfields grant program, provides liability relief to small businesses and "de micromis" parties, and makes a number of other changes to Superfund. This *Management Alert* focuses on a Subtitle in the Act, entitled "Brownfields Liability Clarification."

### Contributor:

Phil Comella  
Partner  
Seyfarth Shaw



## New Members

**Lauren Barker**  
Archer Daniels Midland Co.

**David Yang**  
RETEC

**Sandeep Agnihotri**  
University of Illinois at  
Urbana-Champaign

**George Cartwright**  
Roux Associates, Inc.

**Kaushik Deb**  
URS Corporation

**Maria Faban**  
Boelter & Yates

**F. Peter Gabrek**  
Mostardi Platt Environmental

**Eric Gielow**  
Parmenter O'Toole

**Liane Hetherington-Ward**  
LHward, Inc.

**Anthony Lehnen**  
SECOR International, Inc.

**Paul Margherio**  
Kemlite Company

**Charles Martinson**  
The CMM Group, LLC

**David O'Dea**  
Environmental Consulting Group

**Jeff Pope**  
Clayton Group Services, Inc.

**Andrew Risinger**  
Clean Air Engineering

**Mike Schuck**  
Aldrich Chemical Company, Inc.

**Timothy Trapp**  
Wisconsin DNR

**James Williams**  
STS Consultants, Ltd.



Lake Michigan States Section  
Air & Waste Management Association  
11 Pleasant Hill Blvd.  
Palatine, IL 60067

**RETURN SERVICE REQUESTED**

**FIRST CLASS  
U.S. POSTAGE  
PAID  
PALATINE, IL 60067  
PERMIT NO. 282**

**LAKE MICHIGAN  
STATES SECTION  
2001-02 OFFICERS &  
DIRECTORS**

**Chair:** Debra Jacobson  
Waste Management  
& Research Center

**Vice-Chair:** Eric E. Boyd  
Seyfarth Shaw

**Secretary:** Robert C. Wells

**Treasurer:** Dale Kalina  
R. R. Donnelley and Sons

**Membership:** Lawrence Fieber  
Burns & McDonnell

**National Rep:** Paul Farber  
Sargent & Lundy

**Outgoing Chair:** William Graham  
Compliance Partners

**Directors:**

William Forcade  
Jenner & Block

James Harrington  
Ross & Hardies

Diana Jagiella  
Howard & Howard

Mardi Klevs  
U.S. EPA, Region V

George Nassos  
Illinois Institute of Technology  
Stuart Graduate School of Business

Peter Scheff  
Univ of Illinois at Chicago  
Env'l & Occup Health Sciences

Tom Tramm  
Consulting



LM-A&WMA has been working to update its website. Check us out at [www.lmawma.org](http://www.lmawma.org)

In today's ever changing world there have been numerous changes to member e-mail addresses. If you change your e-mail address don't forget to notify us. If you haven't been receiving e-mail notices from us, we probably don't have your e-mail address, or the one we have is incorrect - send your current e-mail address to:

[lm\\_awma@ameritech.net](mailto:lm_awma@ameritech.net).

LM-A&WMA is now utilizing a list server to distribute information electronically to our members. This change in distribution practices should not result in any additional e-mails, it should remain at 1-2 e-mails per month.