



OCBA CONTINUING LEGAL EDUCATION

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Important Developments in the Clean Water Act:

The Navigable Waters Protection Rule and *County of Maui v. Hawaii Wildlife Fund*

There are two recent major developments relating to the regulation of wetlands under the Clean Water Act. First, the Army Corps of Engineers and the Environmental Protection Agency published the Navigable Waters Protection Rule which more narrowly defines the scope of what is considered a wetland, provides clear exclusions for many water features that traditionally have not been regulated, and defines terms in the regulatory text that have never been defined before. Second, the United States Supreme Court decided *County of Maui v. Hawaii Wildlife Fund*. In that case, the Court held that a County-run wastewater treatment facility was violating the Clean Water Act where it was discharging pollutants into groundwater that ultimately reached the ocean and in so holding created the “functional equivalency” test for determining when discharges to groundwater are regulated by the Clean Water Act. We will discuss the impact of these developments on the regulated community and project development.



Presenter: Michael Fogel, Esq.

Michael Fogel is the Managing Partner of Brown Duke & Fogel, P.C., where he practices in the areas of environmental law, land use, zoning, real estate development, eminent domain and condemnation law and litigation. Michael represents clients throughout New York State in connection with securing the federal, state and local municipal approvals necessary to develop property into industrial, commercial and residential uses. He is the Co-Chair of the Environmental and Land Use Law Section of the Onondaga County Bar Association. Michael earned his B.A. degree from Binghamton University and his J.D. degree, magna cum laude, from Syracuse University College of Law.

Thursday, June 18, 2020 3:00 to 3:50 p.m.

VIRTUAL, LIVE PROGRAM OFFERED OVER
THE **ZOOM PLATFORM**

**ACCESS LINK/CODE WILL BE PROVIDED TO REGISTRANTS
BY 9:30 AM THE MORNING OF THE VIRTUAL MEETING
PRE-REGISTRATION DEADLINE: Wednesday, June 17.
Pre-Register online at www.onbar.org – or return form below
(fax to 315-471-0705, or email info1@onbar.org)
1.0 MCLE (1.0 credit Professional Practice)**

This is a transitional seminar appropriate for
newly admitted attorneys.

Topics covered include:

Regulation of Wetlands Under the Clean Water Act

The Navigable Waters Protection Rule

- o Definition of “Waters of the United States”
- o Changes from 2015 Clean Water Rule “Significant Nexus” Test
- o Impacts on Project Development
- o Current Status / Legal Challenges

U.S. Supreme Court Decision –

County of Maui v. Hawaii Wildlife Fund

- o “Functional Equivalent” Test
- o Impact on Clean Water Act

The Onondaga County Bar Association is committed to providing Mandatory Continuing Legal Education Programs at an affordable price to its members as well as the bar-at-large. Financial waiver forms are available upon request or may be downloaded when you visit www.onbar.org.

**Important Developments in the Clean Water Act | Thursday, June 18th, 2020 3:00 – 3:50 p.m.
\$20 Member, \$30 Non-Member, FREE Lifetime/Agency/Paralegal/Student**

(checks payable to OCBA –mail to OCBA c/o 307 Albert Road, Syracuse, NY, 13214)

Attendee(s) _____ Phone _____

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