

TBA Environmental Law Forum 2022

December 2, 2022

Bass, Berry & Sims
150 3rd Avenue South
Nashville, TN 37201



Program Producer: Courtney Keehan, Chambliss, Bahner & Stophel, P.C.

Total Credits: 3 General, 1 Dual

This year's Environmental Law Forum offers timely information on legal issues including a brownfields update, a session that covers the scope of the recent West Virginia v. EPA decision, a panel on vapor mitigation, and an ethics update focused on environmental topics.

9:30 a.m. – 10:00 a.m.
CDT

Registration/Breakfast

10:00 a.m. – 11:00 a.m.
CDT

Brownfields Update

In this session, experienced attorneys discuss common issues that come up in a brownfield agreement request and negotiation. Ellery Richardson will give the regulator perspective, while Scott Thomas will give the regulated party perspective. Issues covered include, among others, who can participate in a brownfield agreement, what is covered by the agreement, and what is required of the participant.

11:00 a.m. – 11:15 a.m.
CDT

Scott Thomas, Bass, Berry & Sims

Ellery Richardson, Tennessee Department of Environmental Conservation

Networking Break

11:15 a.m. – 12:15 p.m.
CDT

Major Questions and *West Virginia v. EPA* (Elephants, Mouseholes, Climate Change and the Clean Air Act)

The presentation centers on the key decision from the Supreme Court of the United States in June 2022 in West Virginia v. EPA using the controversial “major questions” doctrine to strike down the Obama EPA’s Clean Power Plan regulations promulgated through CAA section 111(d). The decision invalidated a sweeping set of regulations based on a broad statutory interpretation premised on shifting the generation of electricity away from coal-fired plants and toward natural gas and renewable energy. The figure of speech associated with the “major questions” doctrine as it has evolved is clever, very popular, but also clichéd. So, the presentation will try to delve into the opinions for the majority as well as the concurring and dissenting opinions to gain perspective on just how significant the opinion is for the future of the regulation of greenhouse gases by EPA. to curb climate change and for administrative law more broadly.

**Steven Stout, Tennessee Department of Environmental Conservation
Khurshid Mehta, Tennessee Valley Authority**

12:15 p.m. – 1:00 p.m.
CDT

Lunch (provided)

1:00 p.m. – 2:30 p.m.
CDT

Vapor Intrusion & Mitigation in Tennessee

Experts take a close look at vapor intrusion and mitigation in Tennessee. Ahmet Bulbulkaya will provide an introduction to vapor intrusion and an overview of the new TDEC Vapor Intrusion Guidance for Tennessee Brownfield projects. Tom Hatton will follow up on ways to comply with Tennessee’s Vapor Intrusion Guidance through a four-step process: Diagnosis, Design, Build, and Operations Maintenance & Monitoring (OM&M).

**Ahmet Bulbulkaya, Tennessee Department of Environmental Conservation –
Department of Remediation
Tom Hatton, CEO – Clean Vapor**

2:30 p.m.– 2:45 p.m.
CDT

Networking Break

2:45 p.m.– 3:45 p.m.
DUAL

Ethics Update

Current developments from the Board of Professional Responsibility, including recent rule changes by the Supreme Court and an in-depth review of a selection of recent disciplinary cases considered by the court.

Eileen Burkhalter Smith, Tennessee Board of Professional Responsibility