

Resolving "Water Wars" : Use of Mediation and Collaboration in Stormwater Conflicts

Webinar, Friday May 15, 2015, 12 noon to 1:30pm ET

To register go to – <https://resolvingwaterwars.eventbrite.com>

- **Is water runoff from off-site, damaging your property?**
- **Are increasing storm intensities creating complaints from other property owners?**
- **Is it going to cost almost as much on legal and expert fees as cost to remediate?**
- **Does court seem like the only place you can get help?**

Overview. Storm water run-off is a condition that can create serious conflicts when changes occur unexpectedly as they are happening more and more frequently today. Coupled with climate change, the conditions created by development and the resulting change in water flow and absorption patterns cause surface flows to increase, creating problems for downstream neighbors. Multiple parties are almost always involved including local governments, storm water management entities, developers, and individual land and home owners. Personal animosity grows quickly when one neighbor's development or renovation of its property creates new or increased flow of surface water that damages its neighbor's property. The end result of these conflicts is often litigation and undying resentments that last for years.

This webinar will show how to save time & money and preserve relationships by using mediation, advisory opinions, collaboration of technical experts and structured negotiations to resolve stormwater disputes. Disputes involving stormwater runoff and damages issues, are perfect candidates for mediation, collaboration and interest-based negotiation focused on problem solving.

What you will learn. After attending this live webinar you will: understand the general legal frameworks for stormwater disputes; understand problems associated with the adversarial approach to stormwater dispute resolution; be able to recognize opportunities to streamline the use of experts; be able to define collaborative methods for mediating and using experts in a solution-focused resolution process; be able to structure new approaches for mediation, advisory panels, dispute review boards and independent expert decisions.

Benefits of Attendance. This webinar is geared to help the participants and the individuals responsible for cost effective and timely resolution of stormwater disputes. It will demonstrate several case studies which show how mediation and collaboration of experts have been used cost effectively in resolving stormwater based disputes. Recommended best practices based on recent experience will help attendees understand new approaches and structures for mediation, advisory panels, and independent expert decisions. The webinar will show how to improve the process in time, cost and the quality of outcomes.



Presenter Christopher Kane, P.E., Esq. Chris is a licensed engineer and attorney and has been a mediator for over 20 years. He participated in the NJ Sandy Mediation Program and is on the panel of mediators for AAA and CPR. His work has involved complex environmental and construction mediations. He has worked in the engineering and construction industry for over 35 years. Prior to receiving his law degree, he spent 5 years as an engineering officer in the U.S. Army Corps of Engineers and worked on several water projects in the Pacific Northwest. Chris graduated from the United States Military Academy where he studied engineering and received his law degree from George Washington University.

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PROGRAM OUTLINE

I OVERVIEW

1. National Climate Assessment – growing stormwater issues
2. Dispute resolution continuum
3. Lawyers and their experts – creation of “water wars”
 - a. Concerns about adversarial experts
 - b. Need for “hot tubbing” experts
 - c. Reform efforts to improve the effective use of experts
 - d. Hot tubbing concepts pre-hearing and during hearing
4. Collaborative methods to resolve stormwater issues

II STORMWATER DISPUTES

1. Legal rights between landowners
 - a. Common enemy “Common Law” rule
 - b. Natural Servitude “Civil Law” rule
 - c. Reasonable Use Rule
2. Potential stakeholders/parties
 - a. Upstream and downstream property owners
 - b. Municipality, County, storm water agency
 - c. Environmental agency, insurance carriers, FEMA

III USE OF MEDIATION

1. Process description
2. Case Study runoff- Dispute between developer and the farmers
3. Case Study insurance - Super Storm Sandy mediation programs
4. Benefits of mediating

IV USE OF NON-BINDING ADVISORY OPINIONS

1. Process description
2. Case Study - Soil conditions claims
3. Gulf Coast Claims Facility Use of Experts
4. Case Study - FEMA's Scientific Resolution Panels
5. Benefits of advisory opinions

V CONCLUSIONS

1. The nature of stormwater disputes
2. The problem with litigating stormwater cases
3. The benefits from collaborative methods
4. Recommendations for the future

QUESTIONS AND ANSWERS

