



# Water Considerations in Land Development in Maryland

This one-day seminar is designed for attorneys, presidents, vice presidents, engineers, developers, hydrologists, project managers, environmental professionals, planning and zoning officials, government and municipal administrators, public works and utility directors, architects, contractors and subcontractors.

**Baltimore, MD**  
**November 15, 2007**

**Moderator:**

**Timothy R. Henderson**

*Rich & Henderson, P.C.*

**Andrew Der**

*Loiederman Soltesz Associates, Inc.*

**Mark W. Eisner, P.G.**

*Advanced Land and Water, Inc.*

**Mark F. Gabler**

*Rich & Henderson, P.C.*

**John A. Sheehan**

*AquaLaw PLC*

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*See inside for details.*

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# Critical Issues on the Agenda

9:00 AM – 10:40 AM

## **The Developer's Role in Municipal Water Supply Capacity Expansion**

— Mark W. Eisner, P.G.

### **Primer on Maryland Water Law**

- The Reasonable Use Doctrine and MDE Permitting
- Limits on Water Availability: Capacity and Allocability
- Interrelation of Planning, Zoning and Water Capacity

### **Water Supply's Role in Governing Exurban Growth**

- Connection Between Water Capacity and Development Approvability
- Recent History: Past Disappointments Set Stage for Strict Controls
- Role of Geology, Topography and Hydrology

### **Municipal Water at Developer Expense: Risks and Rewards**

- Scientific Advances in Sustainable Yield Prediction
- Water Recharge Easements and Their Transference
- Water Conservation Measures; Making Existing Capacity Go Further

### **Recommendations Going Forward**

- Address Agency and Municipal Concerns Early and Continually
- Plan Carefully and Project Conservatively
- Do Great Science and Consider Fiduciary Issues

10:40 AM – 10:55 AM

## **Break**

10:55 AM – 12:30 PM

## **An Overview of Storm Water and Wetland Regulatory Issues**

— Andrew Der

- Watershed Case Study
  - How Projects Pass Through the Storm Water Management and Wetland Permitting Processes
- Storm Water Regulatory Processes
  - Types of Storm Water Management Strategies
  - Impact on Construction

12:30 PM – 1:30 PM

## **Lunch (On Your Own)**

1:30 PM – 3:30 PM

(Break 2:30 PM – 2:45 PM)

## **Impact of Maryland Sewer and Water Planning on Development**

— Mark F. Gabler

- State and Local Approval
- Process Requirements
- Smart Growth Requirements

### **Case Examples and Practical Application**

#### **Role of Water Resource and Habitat Protection Laws in Shaping Developments**

— Timothy R. Henderson

- Maryland Critical Area Law – State Authority and Local Implementation
- Wetlands and Waterways
  - Effect of Avoidance, Mitigation, No Net Loss and Water Dependant Use Limitations
  - Waterway Construction Limits (e.g., Pier Limits and Water Access)
- Floodplain Construction Limits
- Incorporation of Habitat Protection Requirements and Guidelines

### **Case Examples and Practical Application**

3:30 PM – 4:30 PM

## **Wastewater Issues Impacting Land Development in Maryland**

— John A. Sheehan

- Obtaining the Permit for Discharges to Surface Water
  - New Nutrient Effluent Limits in Permits
  - When Is Offsetting Required?
  - How Are Offsets Obtained?
- Other Issues and Obstacles
  - Lessons From the Kent Island Four Seasons Development Project
  - The Maryland Storm Water Management Act of 2007
  - Local Comprehensive Planning Requirements – House Bill 1141

*Lorman Education Services reserves the right to modify the agenda and the faculty when circumstances are beyond our control.*

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# The Benefits for You

This seminar focuses on the various state and federal water-related laws regarding water usage and how they affect land use and development, including wetland, storm water, state law governing zoning, surface water and groundwater permitting, water supply in general, and water protection.

## In One Day, You'll Learn To:

- Master Maryland water law, including the interrelation of planning, zoning and water capacity
- Explore solutions to water challenges, such as water conservation measures
- Address agency and municipal concerns early and continually
- Navigate the storm water regulatory process
- Confront wastewater issues impacting land development

## Learning Objectives:

- The attendee will be able to identify the roles of geology, topography and hydrology in exurban growth.
- The attendee will be able to discuss the role of water resource and habitat protection laws in shaping developments.
- The attendee will be able to review the lessons from the Kent Island Four Seasons Development Project.

## Professional Manual:

You will receive a professionally prepared manual compiled by the faculty specifically for this seminar. The seminar will be recorded. Your registration constitutes your consent to such recording. If you cannot attend, you may order a set of CDs and the accompanying manual from this program by using the registration form on the back panel.

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## Our Distinguished Faculty

**Andrew Der** is associate and director of environmental services for Loiederman Soltesz Associates, Inc.'s six offices throughout Maryland and Virginia. He manages the team of environmental scientists and specialists in the assessment and inventory of on-site resources, including stream, wetland, forest habitat, water quality and NPDES monitoring to assure sustainable environmentally compliant land development and conservation as well as consistency with local, state and federal environmental laws, regulations and policies for public and private clients. Mr. Der has extensive knowledge of monitoring, bioengineering, construction inspection, remedial design for wetland mitigation, stream restoration and evaluation of environmental, economic and social aspects of proposed alternatives and practices. His expertise includes design and evaluation of watershed improvement projects, including the restoration of floodplain, stream and wetland systems and nonpoint source pollution management retrofit projects. He brings with him 23 years of expertise in water resource regulation, management and mitigation, including NEPA project review and participation in the development of the *Maryland Stormwater Manual* and wetland regulations, policy and guidance documents, such as the interagency *Maryland Compensatory Mitigation Guidance*.

**Mark W. Eisner, P.G.**, is president of Advanced Land and Water, Inc. Possessing more than 21 years of experience in environmental and hydrogeological consulting, Mr. Eisner directs hydrogeologic and hydrologic investigations for both private and public sector clients. His foremost technical expertise is in matters relating to water resources, including the occurrence, movement, use and management of both groundwater and surface water as a natural resource, its susceptibility and properties when contaminated, and in methods for its safe and sustainable development, and when necessary, its remediation. He is a licensed professional geologist in the Mid-Atlantic states that have such regulatory licensure and certification programs (Delaware, Pennsylvania and Virginia). On numerous occasions, Mr. Eisner has testified as an expert on matters related to groundwater resources, surface water resources, hydrogeological conditions, environmental contamination and due diligence studies. Specific areas of his technical expertise include mathematical modeling of hydrogeologic systems, pumping tests and the prediction of sustainable well yields, and groundwater contamination investigation and remediation. Presently, his consulting practice concentrates on water resources exploration and development, environmental investigation and remediation, and project management. He received a B.S. degree from the University of Maryland and an M.S. degree from the University of Delaware. Mr. Eisner's certifications and memberships include being certified for potable water sampling by MDE; certified hazardous waste site worker supervisor by OSHA; a member of the Geological Society of America; and a member of the National Groundwater Association.

**Mark F. Gabler** is an attorney with Rich & Henderson, P.C., and has practiced law in Maryland since 1995, focusing his practice on complex litigation in various areas, including commercial law, environmental litigation, construction law, land use and zoning law, administrative law, contracts and tort law. Mr. Gabler has worked extensively with developers, land owners and contractors, providing representation in a variety of regulatory and business matters, and has a comprehensive knowledge of subdivision and development processes in Maryland. Mr. Gabler also has an active appellate practice before the Court of Special Appeals and the Court of Appeals for the state of Maryland. He received his B.A. degree in English from the University of Delaware and his J.D. degree from Whittier Law School in Los Angeles, California. Mr. Gabler is admitted to practice in Maryland and the U.S. District Court for the District of Maryland.

**Timothy R. Henderson** is co-founder of Rich & Henderson, P.C. He worked in 1980 at the Environmental Law Institute in Washington, D.C., and then worked as an assistant regional counsel at EPA Region II in New York City. In 1987 Mr. Henderson moved to private practice, first in New York then in Washington, D.C., and, since 1993, in Maryland. He has a thorough understanding of the interrelationships between water quality protection and water appropriation laws at the federal, state and local level as they relate to development. Mr. Henderson received both his law and master's degrees from the University of Wisconsin-Madison. He is admitted to practice in the states of Maryland, Washington, D.C., New York and Wisconsin; before the Federal District Courts of Maryland, the Eastern and Southern Districts of New York; the U.S. Court of Appeals for the 4th Circuit; and the District of Columbia Circuit Court of Appeals. Mr. Henderson is the past chair of the Maryland State Bar Association's Environmental Law Section.

**John A. Sheehan** joined AquaLaw PLC, a law firm representing municipal, industrial and residential builder clients on water and wastewater matters, in June of 2004. Prior to joining AquaLaw, Mr. Sheehan was a senior attorney for 13 years at the Department of Justice in Washington, D.C., in the Environment and Natural Resources Division. At the Department of Justice, he represented the EPA in both enforcement and defensive matters in a wide range of environmental issues. Mr. Sheehan also represented the United States in challenges brought by environmental groups against Department of Defense facilities for alleged violations of environmental laws. AquaLaw concentrates on water issues and advises clients on water quality laws and storm water laws, defends against enforcement actions, and represents clients on these issues in the legislative process. A graduate of Georgetown University and the Georgetown University Law Center, Mr. Sheehan can be reached by e-mail at [john@aqualaw.com](mailto:john@aqualaw.com) or by phone at 804-716-9021.

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**Lunch Break: 12:30 pm – 1:30 pm (On Your Own)**

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**The Development Approval Process – Basic Zoning Principles – Regulations of Land Use and Density; Public Hearing Process; Litigation Issues in Development Approval Process; Unique Regulatory Issues in Development Process; Regulatory Takings and Nexus to Development.**

**Faculty:** John B. Gontrum, Whiteford, Taylor & Preston LLP; Jason M. Divelbiss, Miller, Oliver, Baker, Moylan & Stone; Dino C. La Fiandra, Whiteford, Taylor & Preston LLP. ©2007. 96 pages.

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371338EMN	E-Manual Only	\$69

**Real Estate Development From Beginning to End – Financing Issues; Title Issues; Payoffs, Releases, Transfer and Recording; Environmental Risk Management and Insurance With Real Estate Development.**

**Faculty:** Brian Roberts, Hailey Development, L.C.; Lynn Jenkins, Esq., Marsh USA Inc.; John M. Richa, American Business Enterprise, Inc.; Eric M. Schneider, Fidelity National Title Insurance Company. ©2007. 176 pages.

<b>Item:</b> 360956MAN	Manual Only	\$79
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**Eminent Domain – Selected Judicial Rules Governing Valuation in Condemnation Cases; How Do the Kelo Case and Post-Kelo Developments Impact Your Case; Preparing Your Condemnation Case: How to Obtain More Than the Condemnor's Offer; Pre-Condemnation Planning; How to Successfully Settle a Condemnation Case; Relocation Assistance.**

**Faculty:** Kurt J. Fischer, DLA Piper Rudnick Gray Cary US LLP; Janet Bush Handy, Maryland Office of the Attorney General; John C. Murphy, The Law Offices of John C. Murphy; Joseph P. Suntum, James L. Thompson, Miller, Miller & Canby, Chartered. ©2007. 208 pages.

<b>Item:</b> 371440MAN	Manual Only	\$69
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