AIR QUALITY EXPERTISE IN THE COURTROOM

AMERICAN METEOROLOGICAL SOCIETY SHORT COURSE ON FORENSIC METEOROLOGY

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THE SEVEN C’S

• Cases: In what settings are you a “forensic meteorologist”?
• Credentials: What do lawyers (and judges) look for in an “expert”?
• Consistency: Have you offered a different opinion before?
• Consulting (vs. Testifying): Are you forming opinions for counsel or the court?
• Collaboration: Do you know your place on the team?
• Care: Are you managing your work like someone’s always looking?
• Context: Are you explaining the significance of your opinions?
CASES: IN WHAT SETTINGS ARE YOU A “FORENSIC METEOROLOGIST”?

- Permit disputes: Will the proposed project cause unacceptable ambient air quality?
- Enforcement: Did noncompliance have any ambient consequence?
- Tort cases: What exposures resulted from a release?
CREDENTIALS: WHAT DO LAWYERS (AND JUDGES) LOOK FOR IN AN “EXPERT”?

• Experience in the task at hand: No jacks of all trades.
• Lack of testimonial experience can be a plus
• Advertise “expertise”?
• Avoid overstatement
CONSISTENCY: HAVE YOU OFFERED A DIFFERENT OPINION BEFORE?

• Review your prior work

• Pick a “side”?
  ➢ Lower risk of inconsistency
  ➢ But greater risk of perceived bias
CONSULTING (VS. TESTIFYING): ARE YOU FORMING OPINIONS FOR COUNSEL OR THE COURT?

- Consultant: Advice to client
- Consulting expert: Advice to lawyer
- Testifying expert: Advice to court
COLLABORATION: DO YOU KNOW YOUR PLACE ON THE TEAM?

- Permit consultant ≠ BACT expert, dispersion modeler, toxicologist. Or lawyer.
- Are you getting the information you need from others?
- Are you getting “peer-reviewed”? 
CARE: ARE YOU WORKING LIKE SOMEONE’S WATCHING?

• Discoverability of communications with counsel: FRCP 26(b)(4)(B) & (C)
  ➢ Fee arrangements
  ➢ Information and assumptions *provided to form opinion*
  ➢ But not draft reports

• List everything you read in the course of an engagement (possibly starting with the application)

• **Do not communicate in writing before you communicate by telephone.**

• Are your opinions well-founded?
Dispersion modeling is not an exact science.

It is inherently conservative.

Model results $\neq$ actual outcomes.

Most regulatory markers of “acceptable” air quality are not bright lines.

Take care in graphics.