IMLA 2018 Annual Conference
Environmental Law Section

Too Many Problems, Too Little Time: Tips on Handling Environmental Liability in Transactions and Litigation

Gene Tanaka and Rebecca Andrews
Best Best & Krieger LLP

ANOTHER 100-YR STORM

- 100-year Storm
- Flooding and damage to City WWTF and Maintenance Yard
- Flood waters overwhelm storm sewer system
- Sewage and toxics flood residential neighborhood
- Lawsuits follow

AVOIDING LIABILITY– DUE DILIGENCE IS PRICELESS

- Insurance
- Environmental Compliance Programs
  - Permits
  - Ordinances
- City Staff
  - Preventative maintenance
  - Analysis of performance

LITIGATION IS MISERY– CITIZEN SUITS AND REGULATORS

- Standing
- Notice of Violation
- Mootness
- Enforcement policies
- Emergency immunities
- Insurance
- Settlement

NOVEL CASES, NOVEL IDEAS

- Stay current
  - Rulemaking
  - Public information requests
  - NGOs
- Climate change litigation
- Daily satellite photography
- Unfunded mandates
- Inter/Intra state pollution