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Dr. Kays is Senior Environmental Scientist with specialty in soil and groundwater science, and Senior Planner with specialty in land use, regulation, and development. Dr. Kays serves as an expert witness in federal and state courts in toxic tort, environmental damage, environmental and land use regulation, construction, land condemnation, land development, and malpractice cases. Dr. Kays assists attorneys and clients in confidential investigations, preparation of expert reports, coordination of experts, valuation of damages, assistance in discovery, depositions, evidentiary issues, mediation, and preparation of exhibits and court testimony.

EDUCATION

Ph.D. Degree, Honors, North Carolina State University, 1979. *Studies focused in soil science and geology with emphasis in chemical, physical, and mineralogical characterization, hydrology, and forensic analysis of highly disturbed sites. Elected to Gamma Sigma Delta (1979) academic honorary society.*

M.L.A. Degree, Honors, North Carolina State University, 1973. *Studies focused in site analysis, environmental planning of urbanizing areas, and government environmental and planning regulation and control. Elected for Certificate of Honor as outstanding graduate student.*

B.S. Degree, Honors, Oklahoma State University, 1971. *Studies focused in agriculture, chemistry, and biological sciences. Elected to Phi Eta Sigma (1967), Alpha Zeta (1968), and Phi Kappa Phi (1970) academic honorary societies.*

PROFESSIONAL HISTORY

Soil & Groundwater Consultant, Landis, Inc., Raleigh, NC, 1999-present.

***Soil & Groundwater Consultant, Barrett Kays & Associates, PA, Raleigh, NC,
1983-1999.***

***Planning & Environmental Consultant, Paton, Kays & Zucchini, PA, Raleigh, NC,
1982-1983.***

***Planning & Environmental Consultant, Sunbelt Planning Associates, PA, Raleigh, NC,
1979-1982.***

PROFESSIONAL REGISTRATION

Licensed Professional Soil Scientist, State of North Carolina, Lic. # 1005, 1996-present.

Certified Professional Soil Scientist, North Carolina, Cert. #10, 1983-1996.

***Registered Professional Soil Scientist, Commonwealth of Virginia, Reg. # 96, 1994-
present.***

Certified Professional Soil Scientist, ARCPACS, Cert. # 1501, 1983-present.

Registered Landscape Architect, State of North Carolina, Reg. # 304, 1976-present.

Registered Landscape Architect, Commonwealth of Virginia, 2002-present.

Registered Landscape Architect, State of New York, Lic. # 1467, 1992-present.

Licensed Real Estate Broker, State of North Carolina, Lic. # 189321, 2001-present.

Certified Commercial Investment Member Candidate, CCIM, 2001-present.

PROFESSIONAL AFFILIATIONS

Board of Directors, North Carolina Agricultural Foundation, North Carolina State University.

Past Board of Directors, Greater Raleigh Chamber of Commerce.

Past Board of Trustees, North Carolina Engineers for Better Government.

Member, Wake County Economic Development Department Board.

Member, North Carolina Economic Developers Association.

Member, North Carolina Citizens for Business and Industry.

Past Chairman, Wetlands Task Force, NCCBI.

Member, North Carolina Design Guild, North Carolina State University.

Member, American Society of Landscape Architects.

Member, Groundwater Professionals of North Carolina.

Member, National Association of Environmental Professionals.

Member, North Carolina Association of Environmental Professionals.

Member, Soil Science Society of America.

Member, Soil Science Society of North Carolina.

Member, American Society of Agronomy.

Member, Crop Science Society of America.

Member, North Carolina Biotechnology Center.

Associate Member, American Bar Association.

Associate Member, North Carolina Bar Association.

LITIGATION EXPERIENCE

Toxic Tort Cases

JLM Terminals, Inc. v. Southern Metals Recycling, Inc. and Metals USA Shapes and Plates Southeast, Inc.: Before Superior Court, New Hanover County, North Carolina; on behalf of plaintiff re: allegations of damages from contamination of chemicals and hazardous materials discharged and flowed onto plaintiffs property, deposition from air due to explosion and fire, discharge to groundwater, and subsurface migration into soils. Prepared expert reports, proof of causation, breach of duty, negligent acts, coordinated other experts, prepared expert witness statements, and deposition testimony. Case is pending.

Waid Investments, Inc. and Robert and Sonja Cox v. Marshall Oil Company: Before Superior Court, Wake County, North Carolina; on behalf of plaintiffs re: allegation of damages from soil and groundwater contamination of petroleum from leaking underground storage tanks on adjacent property. Prepared expert reports, proof of causation, exhibits, presented deposition testimony and court testimony. Case settled after testimony in court.

Hugh Y. and Sylvia S. Hightower v. Cooke's Well Drilling: Before Superior Court, Granville County, North Carolina; on behalf of plaintiffs re: allegations of failure to properly construction domestic water wells and contamination of water supply. Prepared expert report and presented court testimony.

William J. and Myrna Godfrey, Hugh Y. and Sylvia S. Hightower, Chris and Cynthia P. Shackelford and Darryl and Debra H. Whitlow v. Thompson & Willette Development Company: Before District Court, Granville County, North Carolina; on behalf of plaintiffs re: allegations of failures of wastewater facilities and groundwater contamination of domestic water wells of plaintiffs. Prepared expert reports and court testimony.

Environmental Damage Cases

The Board of Supervisors of Fairfax County, Virginia v. Governors Run, L.P. and Airston Group III, Inc.: Before District Court, Fairfax County, Virginia; on behalf of defendant re: allegations of damages from off-site sedimentation, off-site stream channel erosion, construction of inadequate outfall, and submittal of inadequate plans, after construction of project. Prepared expert report, coordinated other experts, assisted in mediation, assisted in preparation of experts' statements, and assisted in affidavits for spoliation motion and evidentiary challenges. Case dismissed by plaintiffs after submittal of defendants expert reports.

Roy H. James and Summerfield Farms, Inc. v. United States of America: Before United States Court of Federal Claims, Washington, DC; on behalf of defendant re: allegation of damages from inverse condemnation of land due to reduction in groundwater drainage adjacent to U. S. Fish & Wildlife Service's Pocosin Lakes National Wildlife Refuge. Prepared expert reports and deposition testimony; case settled with acquisition of property.

Piedmont Triad Airport Authority v. Charles G. Sims and Karen L. Sims: Before Superior Court, Guilford County, North Carolina; on behalf of defendants re: valuation of property that was condemned, allegations of flood plain, wetlands and non developable land by plaintiff. Prepared expert report, deposition testimony, assisted in deposition of plaintiff's experts, and court testimony; defendants were award a substantial increase in the value for the property by the jury.

Caswell County Board of Education vs. North Carolina Department of Environment and Natural Resources: Before North Carolina Industrial Commission, Raleigh, North Carolina; on behalf of plaintiff re: allegations of damages from failure of large subsurface wastewater disposal system and improper permitting. Prepared expert report, valuation of damages, and statement of alleged wrongful acts. Case settled.

Larry Davis, et al. v. City of Mebane, City of Graham, and W.M. Piatt & Company: Before Superior Court, Alamance County, North Carolina; on behalf of plaintiffs re: allegation of damage due to downstream flooding caused by municipal construction project. Assisted in expert report, deposition testimony, and prepared affidavits. Case was dismissed upon summary judgment and affirmed by North Carolina Court of Appeals.

North Carolina Department of Transportation v. James M. and Jasper C. Williams: Before Superior Court, Cumberland County, North Carolina; on behalf of defendants re: valuation of property condemned for new roadway, and allegations of devaluation due to wetlands in the taking. Prepared expert report; case pending for trial.

Piney Mountain Homeowners Association v. North Carolina Department of Environment, Health and Natural Resources: Before Superior Court, Wake County, North Carolina; on behalf of plaintiffs re: allegations of improper permitting and inspection of wastewater system. Prepared expert report, valuation of damages, statement of alleged wrongful acts, and assisted in deposition of defendant's regulatory staff. Case settled upon award to plaintiffs.

Piney Mountain Homeowners Association v. Piney Mountain Partnership, Withers & Ravenel, P.A., North State Utilities, Inc. and EF-TEK Services, Inc.: Before Superior Court, Wake County, North Carolina; on behalf of plaintiff re: damages resulting from alleged improper design, permitting, and construction of wastewater system. Conducted investigation, prepared expert report, and assisted in settlement agreement with award to plaintiff.

Valentino, Patrick v. MacGregor Development, Inc.: Before Superior Court, Wake County, North Carolina; on behalf of plaintiff re: allegation of sedimentation damage to lake. Prepared expert report and valuation of damages. Case settled with award to plaintiff.

Dr. J.D. Robinette v. Alexander County Health Department and North Carolina Department of Environmental Health and Natural Resources: Before Superior Court, Alexander County, North Carolina; on behalf of plaintiff re: alleged damages resulting from termination of permits after filing of false documents by State and County regulatory agents. Conducted investigation, prepared expert report, and presented court testimony. Superior Court ordered substantial award to plaintiff, which was overturned by North Carolina Court of Appeals.

H&W Development, Inc. v. Durham County Health Department: Before Superior Court, Durham County, North Carolina; on behalf of plaintiff re: damages due to allegations of failure to permit wastewater facilities. Conducted investigation, prepared expert report, valuation of damages, deposition testimony, and presented court testimony. Case settled after court testimony for substantial award to plaintiff.

Environmental Regulation Cases

Lincoln County Health Department and North Carolina Department of Environmental, Health, and Natural Resources v. Hideaways Homeowners Association: Before North Carolina Administrative Court; on behalf of defendant. Prepared expert report and assisted in preparation of agreement for dismissal of alleged violations.

Richmond County, North Carolina v. State of North Carolina Low Level Radioactive Waste Disposal Authority and Chem-Nuclear Systems, Inc.: Before Superior Court, Richmond County, North Carolina; on behalf of plaintiff re: allegations of improper siting and due process. Prepared expert report and presented court testimony.

Dial Call, Inc. v. City of Raleigh, North Carolina: Before Quasi-judicial hearing of City Council; on behalf of plaintiff re: standards and facts in permitting of telecommunication tower adjacent to Umstead State Park. Prepared expert report and presented testimony, which resulted in permitting of facility.

North Carolina Department of Environment, Health, and Natural Resources v. Evergreen Construction Company, Inc.: Before North Carolina Administrative Court; on behalf of defendant re: alleged violations and fines for off-site sedimentation damages. Conducted investigation, prepared expert report, and presented court testimony. The court substantially reduced the fines.

W.B. Fowler v. Thomas M. Singleton: Before Superior Court, Carteret County; on behalf of defendant re: land partition of complex coastal development property including areas of environmental concern. Conducted investigations, prepared expert report, and presented partition findings in court testimony.

Friendship Baptist Church v. City of Raleigh, North Carolina: Before quasi-judicial hearing before City Council; on behalf of plaintiff re: water quality permit for development project in water supply watershed. Provided expert report and presented court testimony.

Wells Management, Inc. v. Town of Carrboro, North Carolina: Before quasi-judicial hearing before Town Board of Aldermen; on behalf of defendant re: water quality permit for development project in water supply watershed. Provided expert report, testimony, and preparation of standards for project compliance.

Phillip Szostak Associates v. Town of Carrboro, North Carolina: Before quasi-judicial hearing before Town Board of Aldermen; on behalf of defendant re: water quality permit for development project in water supply watershed. Provided expert report, testimony, and preparation of standards for project compliance.

Amberly Associates v. Town of Carrboro, North Carolina: Before quasi-judicial hearing before Town Board of Aldermen; on behalf of plaintiff re: special use permit for development project wastewater system in water supply watershed. Provided expert report and testimony.

Construction Cases

The Board of Supervisors of Fairfax County, Virginia v. Governors Run, L.P. and Airston Group III, Inc.: Before District Court, Fairfax County, Virginia; on behalf of defendant re: allegations of damages from off-site sedimentation, off-site stream channel erosion, construction of inadequate outfall, and submittal of inadequate plans, after construction of project. Prepared expert report, coordinated other experts, assisted in mediation, assisted in preparation of experts' statements, and assisted in affidavits for spoliation motion and evidentiary challenges. Case dismissed by plaintiffs after submittal of experts reports.

Battery Park City Authority, Inc. v. Carr, Lynch, Hack & Sandell, Inc., Oehme van Sweden & Associates, Inc., and Ebasco, Inc. (now subsidiary of Raytheon, Inc.): Before Supreme Court, Borough of Manhattan, New York, New York; on behalf of plaintiff re: allegations of damages from construction resulting in inadequate drainage and contaminated soils, failure to properly design, failure to properly supervise construction. Prepared expert report and exhibits, assisted in discovery, and assisted in deposition of defendants. Case settled with award to plaintiff in 2001.

Condemnation Cases

North Carolina Department of Transportation v. James M. and Jasper C. Williams: Before Superior Court, Cumberland County, North Carolina; on behalf of defendants re: valuation of property condemned for new roadway, and allegations of wetlands devaluing the taking. Prepared expert report; case pending for trial.

Roy H. James and Summerfield Farms, Inc. v. United States of America: Before United States Court of Federal Claims, Washington, DC; on behalf of United States Department of Justice re: allegation of damages from inverse condemnation of land due to groundwater drainage adjacent to U. S. Fish & Wildlife Service's Pocosin Lakes National Wildlife Refuge. Prepared expert reports and deposed by plaintiff's attorney; case settled with acquisition of property.

Piedmont Triad Airport Authority v. Charles G. Sims and Karen L. Sims: Before Superior Court, Guilford County, North Carolina; on behalf of defendants re: valuation of property that was condemned, allegations of flood plain, wetlands and non developable land by plaintiff. Prepared expert report, deposed by plaintiff's attorneys, assisted in deposition of plaintiff's

experts, testimony in court; defendants were award a substantial increase in the value for the property by the jury.

North Carolina Department of Transportation v. Beacham Associates, Ltd.: *Before Superior Court, Onslow County, North Carolina; on behalf of defendant re: valuation of condemned property. Prepared expert report.*

North Carolina Department of Transportation v. Donald Smith, et al.: *Before Superior Court, Chatham County, North Carolina; on behalf of defendants re: valuation of condemned property. Prepared expert report and assisted in settlement.*

North Carolina Department of Transportation v. Donald Smith, et al.: *Before Superior Court, Chatham County, North Carolina; on behalf of defendants re: valuation of condemned property. Prepared expert report, master plan, and basis for highest and best use; case pending for trial.*

Jean P. Beck, Trustee, et al. v. North Carolina Department of Transportation: *Before Superior Court, Franklin County, North Carolina; on behalf of plaintiffs re: basis of inverse condemnation. Prepared expert report and testified in court establishing basis for inverse condemnation.*

North Carolina Department of Transportation v. Broadreach Investments: *Before Superior Court, Wake County, North Carolina; on behalf of defendant re: valuation of condemned property. Provided expert report and assisted in settlement.*

Orange County v. Duke University: *Regarding pre-compliant intervention; on behalf of prospective defendant re: potential condemnation of Duke Forest, Blackwood Division for sanitary landfill. Prepared expert reports for siting commission and assisted in establishing federal easements, relating to federally funded research on property, preventing condemnation.*

City of Raleigh v. NationsBank Trust: *Before Superior Court, Wake County, North Carolina; on behalf of defendant re: valuation of condemned property. Provided expert report and testimony.*

United States of America v. Robert Blackwood: *Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.*

United States of America v. Wade Parrish: *Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.*

United States of America v. Bennett Roberts: *Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.*

United States of America v. Bobby L. Parrish: Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.

United States of America v. Elizabeth P. Roberts: Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.

United States of America v. William A. MacFarland: Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report and technical analysis of comparable sales; settlement.

United States of America v. William R. Biggs: Before United States Federal Court, Middle District, North Carolina; on behalf of plaintiff re: valuation of condemned property. Provided expert report, technical analysis of comparable sales, and testimony.

Malpractice Cases

Battery Park City Authority, Inc. v. Carr, Lynch, Hack & Sandell, Inc., Oehme van Sweden & Associates, Inc., and Ebasco, Inc. (now subsidiary of Raytheon, Inc.): Before Supreme Court, Borough of Manhattan, New York, NY; on behalf of plaintiff re: allegations of damages from construction resulting in inadequate drainage and contaminated soils, failure to properly design, failure to properly supervise construction. Prepared expert report and exhibits, assisted in discovery, and assisted in deposition of defendants. Case settled with award to plaintiff in 2001.

Caswell County Board of Education v. Dewberry & Davis: Before Superior Court, Wake County, North Carolina; on behalf of plaintiff re: allegations of damages from failure of large subsurface wastewater disposal system and improper permitting, Prepared expert report, valuation of damages, statement of wrongful acts. Case settled with award to plaintiff.

Larry Davis, et al. v. City of Mebane, City of Graham, and W.M. Piatt & Company: Before Superior Court, Alamance County, North Carolina; on behalf of plaintiffs re: allegation of damage due to downstream flooding caused by municipal construction project. Assisted in expert report, deposed by defendants' attorneys, and prepared affidavits Case was dismissed upon summary judgment and affirmed by North Carolina Court of Appeals.

Piney Mountain Homeowners Association v. Piney Mountain Partnership, Withers & Ravenel, P.A., North State Utilities, Inc. and EF-TEK Services, Inc.: Before Superior Court, Wake County, North Carolina; on behalf of plaintiff re: damages resulting from alleged improper design, permitting, and construction of wastewater system. Conducted investigation, prepared expert report, and assisted in settlement agreement with award to plaintiff.

INDUSTRIAL FACILITY SITING & PERMITTING

- *Carolina Food Processors Plant, Tarheel, North Carolina*
- *Durham Technology Park, Research Triangle Park, North Carolina*
- *Durham Tech Warehouse Complex, Research Triangle Park, North Carolina*
- *Greenfields Business Park, Garner, North Carolina*
- *Huntersville Business Park, Huntersville, North Carolina*
- *Motorola Silicon Chip Manufacturing Plant, Richmond, Virginia*
- *Park East Industrial Park, Goldsboro, North Carolina*
- *Park Central Industrial Park, Richmond, Virginia*
- *Perstorp Flooring Systems Plant, Garner, North Carolina*
- *Sandoz Chemical Plant Site, Raleigh, North Carolina*
- *Virginia Center Business Park, Glen Allen, Virginia*
- *West Creek Business Park, Richmond, Virginia*

COMMERCIAL FACILITY SITING & PERMITTING

- *Bridgeport Mall, Bridgeport, New Jersey*
- *Cary Commons Shopping Center, Cary, North Carolina*
- *Centrum Shopping Center, Pineville, North Carolina*
- *Chesterfield Plaza Shopping Center, Chesterfield, Virginia*
- *Oak Hollow Shopping Center, High Point, North Carolina*
- *Prince William Fashion Mall, Woodbridge, Virginia*
- *Raleigh Fashion Mall, Raleigh, North Carolina*
- *University Plaza Shopping Center, Charlotte, North Carolina*
- *Virginia Commons Shopping Center, Glen Allen, Virginia*

LITERATURE AUTHORED

Kays, Barrett L. 2000. *Environmental Site Assessments: Site Characterization Methodologies*, Chapter 3, p. 69-91. In Randall Brown, J. Herbert Huddleston, and James L. Anderson (ed.) *Managing Soils in an Urban Environment*. American Society of Agronomy, Inc., Crop Sciences Society of America, Inc., and Soil Science Society of America, Inc. Monograph Series, Madison, WI.

Kays, Barrett L., David Lazzo, and Elizabeth Powell Yerxa. 1998. "Urban Redevelopment of Brownfield Sites," Session presentation to 41st Annual North Carolina Planning Conference, Greensboro, NC.

Kays, Barrett L. 1998. "Environmental Site Assessments: Site Characterization Methodologies," Paper to 41st Annual Meeting, Soil Science Society of North Carolina, Raleigh, NC.

Kays, Barrett L. and Amos C. Dawson. 1997. "Environmental Issues: What to Do When The Government Shows Up at Your Door," Talk to Agribusiness Law Conference, Campbell University, Buies Creek, NC.

Kays, Barrett L. 1995. "Wetland Regulatory Issues in North Carolina," Talk to 1995 Agribusiness Law Conference, Campbell University, Buies Creek, NC.

Kays, Barrett L. 1994. "Environmental Challenges to New Regulatory Issues," Talk to Environmental Regulation in North Carolina Seminar, Raleigh, North Carolina, Institute of Business Law at California State University, Los Angeles, CA.

Kays, Barrett L. 1993. "Water Quality Issues Facing Industrial Siting in North Carolina," Paper to Environmental Seminar: Hot Topics and Current Developments Affecting Industry, School of Environment, Duke University, Durham, NC.

Kays, Barrett L. 1986. "Protecting North Carolina Surface Drinking Water Sources," Talk to Spring Conference, North Carolina Water Resources Association and University of North Carolina Water Resources Research Institute.

ATTORNEY REFERENCES

Allen, Charlton L., Partner, Litigator, Seay Law Firm, LPP, 519 Market Street, Wilmington, North Carolina 28402-2027, Tel. 910-763-2525.

Brenner, Alan, Senior U.S. Attorney, Environment & Natural Resources Division, U.S. Department of Justice, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20004, Tel. 202-305-0466.

Case, Charles D., Partner, Senior Environmental Attorney, Hunton & Williams, LLC, One Hanover Square, Raleigh, North Carolina 27602-0109, Tel. 919-899-3045.

Grubin, John F., Partner, Litigator, Wasserman Grubin & Rodgers, LLP, 1700 Broadway, New York, New York 10019, Tel. 212-581-3320.

Slone, Daniel K., Partner, Senior Environmental Attorney, McGuire Woods Battle & Boothe, LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030, Tel. 804-775-1041.

Webster, Steven T., Litigator, Reed Smith Hazel & Thomas, LLP, 44084 Riverside Parkway, Suite 300, Leesburg, VA 20176-5102, Tel. 703-729-8500.