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## Third Annual Water Law Conference Colorado Bar Association

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# **CONFERENCE REPORTS**

## **THIRD ANNUAL WATER LAW CONFERENCE**

### **COLORADO BAR ASSOCIATION**

**Steamboat Springs, Colorado**

**June 30 – July 1, 2006**

#### **INTRODUCTION**

The Third Annual Colorado Bar Association (“CBA”) Water Law Conference took place at the Sheraton Steamboat Resort and Conference Center. For the third consecutive year, the CBA held the Water Law Conference concurrently with the CBA’s Agricultural and Rural Law Roundup and Environmental Law conference, offering attendees the opportunity to cross disciplines and attend sessions hosted by all three CBA sections. The chairs of each section were pleased with this interdisciplinary approach, and plan to continue to grow this larger-scale conference in the future.

#### **DAY ONE: FRIDAY, JUNE 30, 2006**

After a welcome from each of the respective CBA section chairs, four panelists convened a general session and presented a multi-disciplinary case study entitled *A Ditch Runs Through It*. Agricultural section attorney Allen Sparkman presented a hypothetical fact pattern which revolved around the choice of entity, real property, water law, environmental and mineral rights issues surrounding the sale of rural property held by a LLC. First, Mr. Sparkman addressed the management and decision-making considerations practitioners should be mindful of when advising an LLC client. Second, David Halford addressed the representations and warranties, change of water rights, and groundwater aspects of transferring water rights appurtenant to rural property. Third, Deborah Freeman discussed endangered species, wetlands, and “produced water” issues prevalent on rural property. Finally, Jim King addressed mineral and oil and gas rights concerns.

Following the general session, former Colorado Supreme Court Justice Rebecca Love Kourlis delivered the keynote address, entitled *Problems in the Legal System and Possible Solutions*. Justice Kourlis highlighted her efforts to enact long-needed reforms to the American judicial system as Executive Director of the Institute for the Advancement of the Legal System at the University of Denver.

The CBA Water Law Section's first breakout session, entitled HB 1177 One Year Later – The Colorado River Basin Roundtable, featured three members of the newly constituted Colorado River Basin Roundtable: David Merritt, Chief Engineer of the Colorado River Water Conservation District; Lurline Underbrink Curran, County Manager of Grand County, Colorado; and Gregory Trainor, Director of Utilities for the City of Grand Junction, Colorado. The panelists highlighted the roundtable's river basin focused attempt to enable the myriad of smaller tributary basins and smaller municipalities within the Colorado River system to inject their priorities and concerns into Colorado's water supply policy regime, which has long been dominated by Denver and other Front Range cities. Ms. Underbrink Curran very eloquently elaborated the roundtable system's tendency to highlight intra-basin conflicts and sensitivities, and to offer traditionally underdog local governments an opportunity to reclaim some decision-making and policy-setting authority in Colorado's water supply infrastructure.

The second Water Section session featured a discussion of Non-Point Source Water Pollution, presented by EPA Region 8 Water Protection Specialist Marcella Hutchinson. Ms. Hutchinson focused on how Clean Water Act Section 319 addresses non-point source ("NPS") water pollution, as well as the relationship between the Clean Water Act's total maximum daily load ("TMDL") requirements and their implementation ties to EPA's NPS program.

Finally, the conference's first day concluded with the CBA Water Section's annual Awards Banquet. Colorado Supreme Court Justice Gregory J. Hobbs presided over the dinner, which included the induction of several long-standing Colorado water law figures into the honorary "Order of the Water Buffaloes."

#### DAY TWO: SATURDAY, JULY 1, 2006

On its second day, the Water Law Conference concluded with a session entitled Nuts and Bolts of How a Water Call is Administered, presented by Ken Knox of the Colorado Division of Water Resources and Dick Stenzel of the Applegate Group, Inc. Mr. Knox and Mr. Stenzel delivered a thorough overview of the daily administration of both surface and groundwater rights in Colorado. They presented general background on the nature of Colorado water law and of the structure of Colorado's water courts and the State Engineer's department, as well as the communications, documentation, reporting and physical infrastructure components that combine to enable water users to assert and benefit from water calls on a daily basis. This session concluded the third annual CBA Water Law Conference.

*Christopher Jensen*