

**2007 Texas Water Law Institute**  
**December 5\*, 6-7, 2007 • Radisson Hotel and Suites on Town Lake • Austin, TX**

**Wednesday Evening, Dec. 5, 2007**

6:00 pm 1.50 hrs	<b>Texas Water Law Overview</b>  An overview of Texas water law cases, statutes, and regulations, including vocabulary and acronyms necessary to understanding Texas water law. This session is designed for practitioners unfamiliar with the subject area, as well as non-lawyers, governmental officials, and engineers.  Doug G. Caroom, Bickerstaff, Heath, Delgado & Acosta, LLP - Austin, TX Jim Mathews, Matthews & Freeland LLP - Austin, TX
7:30 pm	<b>Adjourn</b>

**Thursday Morning, Dec. 6, 2007**

**Presiding Officer:**

**Jim Mathews**, Matthews & Freeland LLP - Austin, TX

8:00 am	<b>Registration Opens</b>
8:50 am	<b>Welcoming Remarks</b>
9:00 am 0.50 hr	<b>Water Policy Evolution in Texas</b>  Comments from the chairman of the Senate Natural Resources Committee on recent developments and the future for water policy in Texas.  Kip Averitt, Texas Senate - Waco, TX
9:30 am 1.00 hr	<b>Water Legislation From the 80th Session</b>  A comprehensive review of water legislation adopted during the 80th Legislative Session and discussion of the potential impact.  Timothy L. Brown, Attorney at Law - Austin, TX Ed McCarthy, Jackson Sjoberg McCarthy & Wilson LLP - Austin, TX Arturo D. Rodriguez Jr., Russell, Moorman & Rodriguez, L.L.P. - Georgetown, TX
10:30 am	<b>Break</b>

10:45 am 1.00 hr	<p><b>Increasing the Cap-Amendments to the Edwards Aquifer Act: Implementation and Implications</b></p> <p>SB3 addressed existing and future regulation of the Edwards Aquifer and the perspectives of key stakeholders.</p> <p>Joseph E. Cole, San Antonio Water System - San Antonio, TX  Velma R. Danielson, Edwards Aquifer Authority - San Antonio, TX  Darcy A. Frownfelter, Kemp Smith LLP - Austin, TX  Mark Taylor, Edwards Aquifer Authority - San Antonio, TX</p>
11:45 am	<b>Pick up Box Lunch</b>

## Thursday Afternoon, Dec. 6, 2007

### Presiding Officer:

**Jim Mathews**, Matthews & Freeland LLP - Austin, TX

12:00 pm 0.50 hr	<p><b>Water Law Policy in Texas</b></p> <p>The chairman of the House Natural Resources Committee comments on legislative policy developments during the interim.</p> <p>Robert R. Puente, Texas House of Representatives - San Antonio, TX</p>
12:30 pm	<b>Break</b>
12:45 pm 0.50 hr	<p><b>The Edwards Aquifer Recovery Implementation Program: Overview of the Recovery Implementation Program process and considerations for the Edwards Aquifer</b></p> <p>What are the prospects for development of RIP for the Edwards Aquifer endangered species.</p> <p>Anna Munoz, Department of Wildlife and Fisheries Sciences - College Station, TX</p>
1:15 pm 0.50 hr	<p><b>Update on Recent Case Law</b></p> <p>Where the TCEQ Notice is following the <i>Uncertain</i> case, and continuing developments in the law of groundwater and groundwater regulation.</p> <p>Deborah Clarke Trejo, Kemp Smith, LLP - Austin, TX</p>
1:45 pm 0.75 hr	<p><b>Oral Argument in <i>Guitar v. Hudspeth Co. UWCD No. 1</i></b></p> <p>A potentially landmark case on groundwater regulation will be argued before the Texas Supreme Court on December 5th. In this presentation, we will show a video of this oral argument followed by a discussion of the argument and its implications.</p> <p>Moderator:  Hon. Jan Patterson, 3rd Court Of Appeals - Austin, TX</p>
2:30 pm	<b>Break</b>

2:45 pm 0.50 hr	<p><b>Unique Permitting Issues</b></p> <p>A practical discussion of water right issues which may arise in unique permitting situations, including river authority system operating permits, power plant cooling reservoirs, subdivisions with amenity lakes, environmental flows, and water reuse projects.</p> <p>Leonard H. Dougal, Jackson Walker L.L.P. - Austin, TX</p>
3:15 pm 0.75 hr	<p><b>Flooding-Legal and Practical Issues</b></p> <p>Legal theories of recovery for property damage and personal injury due to flooding, drainage, and water damage.</p> <p>Lyn E. Clancy, Lower Colorado River Authority - Austin, TX</p>
4:00 pm 0.75 hr	<p><b>Retail Water Service Issues: Municipal Regulation of Investor-Owned Utilities, Franchise, and the Power to Condemn</b></p> <p>A debate regarding the scope and limits of municipal regulatory authority and other powers over investor-owned utilities inside the corporate boundaries and ETJ, including rates, franchises, and condemnation.</p> <p>C. Joe Freeland, Matthews &amp; Freeland, L.L.P. - Austin, TX Mark H. Zeppa, Law Offices of Mark H. Zeppa, PC - Austin, TX</p>
4:45 pm	<p><b>Adjourn</b></p>

## Friday Morning, Dec. 7, 2007

### Presiding Officer:

**Doug G. Caroom**, Bickerstaff, Heath, Delgado & Acosta, LLP - Austin, TX

9:00 am 0.50 hr	<p><b><i>Fastrill Reservoir Case</i></b></p> <p>How a viable reservoir site can be derailed by the U.S. Fish and Wildlife Service.</p> <p>S. Cass Weiland, Patton Boggs LLP - Dallas, TX</p>
9:30 am 0.67 hr	<p><b>Reservoir Siting and Site Reservation After SB3</b></p> <p>The pros and cons of our current approach.</p> <p>Edward C. Small, Jackson Walker, LLP - Austin, TX J. Kevin Ward, Texas Water Development Board - Austin, TX</p>
10:10 am 0.50 hr	<p><b>Challenges in Developing Out-of-State Water Supplies</b></p> <p><i>Tarrant Regional Water District v. Herrmann, et al</i>: litigation challenging Oklahoma's efforts to prohibit the export of water to Texas.</p> <p>Kevin L. Patrick, Patrick, Miller &amp; Kropf, PC - Aspen, CO</p>
10:40 am	<p><b>Break</b></p>

10:55 am 0.50 hr	<p><b>Varying Approaches to Groundwater Regulation</b></p> <p>A survey of the issues being addressed and regulatory approaches taken by groundwater conservation districts throughout the state.</p> <p>Gregory M. Ellis, Attorney At Law - League City, TX</p>
11:25 am 0.50 hr	<p><b>Desired Future Conditions</b></p> <p>Groundwater conservation districts are required by 2010 to establish the "desired future condition" for each aquifer, upon which future management will be based. The speakers will examine the issues, problems and progress toward this goal.</p> <p>William D. Dugat III, Bickerstaff, Heath, Delgado &amp; Acosta, LLP - Austin, TX Robert Mace, Texas Water Development Board - Austin, TX</p>
11:55 am 0.33 hr	<p><b>Is Local Control of Groundwater Viable?</b></p> <p>A discussion of the evolution and potential future direction of groundwater regulation in Texas.</p> <p>P. Steven Kosub, San Antonio Water System - San Antonio, TX</p>

## Friday Afternoon, Dec. 7, 2007

### Presiding Officer:

**Doug G. Caroom**, Bickerstaff, Heath, Delgado & Acosta, LLP - Austin, TX

12:15 pm	<b>Pick up Box Lunch</b>
12:30 pm 1.00 hr	<p><b>Rules of Capture: History, Evolution and Alternatives</b></p> <p>An out-of-state perspective on Texas groundwater law and groundwater management.</p> <p>Hon. Gregory J. Hobbs Jr., Colorado Supreme Court - Denver, CO</p>
1:30 pm	<b>Break</b>
1:45 pm 0.50 hr	<p><b>Groundwater Transactions: What's Transferred, What's Reserved, and What Are the Rules?</b></p> <p>Texas is awash in recent times in land sales and other land deals specifically addressing groundwater in place. Sometimes the deals occur inside the boundaries of a groundwater regulatory district, and sometimes in areas still under the common law regime. Not much of this activity has ended up in court yet, but it will. This presentation will survey issues likely to crop up when that happens.</p> <p>Lynn E. Blais, UT School Of Law - Campus Mail Renea Hicks, Attorney at Law - Austin, TX</p>
2:15 pm 0.50 hr	<p><b>Groundwater Transaction: Another Perspective</b></p> <p>Although some see legal uncertainty, if not outright mystery, in the law applicable to groundwater transactions, the law is actually well established and has been relied upon in its current state by both property owners and water suppliers.</p> <p>Michael V. Powell, Locke Liddell &amp; Sapp LLP - Dallas, TX</p>

2:45 pm  
1.00 hr ethics

### **The Ethics of Negotiation**

Discussion of ethical dilemmas lawyers face when advocating positions on behalf of clients. When does "bluffing" become an act susceptible to professional censure? Are there ethical differences between telling a lie and withholding the truth? Who between the client and the lawyer controls the content or the means of advocacy?

Lawrence L. Foust, San Francisco, CA

3:45 pm

### **Adjourn**