

2008

# TEXAS WATER LAW INSTITUTE

Earn up to 14.50 Hours of Credit Including 1.50 Hours of Ethics Credit  
CEP Credit for Professional Engineers Available



December 3\*, 4-5, 2008  
Radisson Hotel and Suites on Town Lake  
Austin, Texas

\*Wednesday Evening Session—Included in Registration

Special \$350 Registration Fee for State Employees and  
Texas Alliance of Groundwater Districts

# 2008 TEXAS WATER LAW INSTITUTE

December 3\*, 4-5, 2008 • Radisson Hotel and Suites on Town Lake • Austin, Texas

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## \*OPTIONAL SESSION WED., DEC. 3, 2008

6:00 p.m. 1.50 hrs

### Texas Water Law Overview

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, Austin, TX  
Jim Mathews, Austin, TX

7:30 p.m. Adjourn

## THURSDAY MORNING, DEC. 4, 2008

Presiding Officer: Jim Mathews, Austin, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

*Legislative Issues & Development*

9:00 a.m. .50 hr

### What to Anticipate: Water Issues in the 81<sup>st</sup> Legislative Session

What issues are likely to receive the Legislature's attention in the coming session?

Sen. Glenn A. Hegar, Katy, TX

9:30 a.m. .67 hr

### Uses & Abuses of Water Districts

The Texas Water Code provides for many different types of water districts that provide different types of services. While all types of districts have worked as a matter of policy, recent debate has centered on the ability of these districts to function within the broader rubric of regional—or even state—water policy.

Rep. Bill Callegari, Katy, TX  
Sen. Robert Duncan, Austin, TX

10:10 a.m. Break

10:20 a.m. 1.00 hr

### Environmental Flows

The panel will explore the requirements and implementation of 2007 state legislation that is designed to result in environmental flow standards for every major river system in Texas.

Moderator: Suzanne Schwartz, Austin, TX  
Additional Speakers TBD

11:20 a.m. .50 hr

### Water Conservation in Texas

What role can water conservation play in reducing Texas' demand for water, and how has the Water Conservation Advisory Council addressed these issues?

Mary Elizabeth Kelly, Austin, TX  
Bill Mullican, Austin, TX

## THURSDAY AFTERNOON

Presiding Officer: Doug G. Caroom, Austin, TX

### LUNCHEON PRESENTATION

11:50 a.m. Break to Pick Up Lunch

Included in conference registration fee.

12:05 p.m. .50 hr

### Agriculture Water Use and Conservation Initiatives

Determination of historic agricultural water use and methods for implementing conservation.

Al Blair, P.E., Austin, TX

12:35 p.m. Break

1:00 p.m. .50 hr

### Eminent Domain Issues

This topic will cover the power of districts to condemn, and discuss issues relating to the application of eminent domain to water rights.

Robert B. Neblett III, Austin, TX

1:30 p.m. .50 hr

### 81<sup>st</sup> Legislature Water Policy Issues for the Texas Water Development Board

The Texas Water Development Board will be submitting its Report to the 81<sup>st</sup> Legislature. The report will underscore the importance of the board's appropriation request for continued funding of water supply and water and wastewater planning, development and construction. The report also will identify specific policy matters that may be considered.

Kenneth L. Petersen Jr., Austin, TX

*Groundwater Issues & Development*

2:00 p.m. .67 hr

### Ownership of Groundwater: Who Owns It? Can Anyone?

An overview and discussion of the doctrines of absolute ownership and the rule of capture.

Susana Elena Canseco, Austin, TX  
Dylan Owen Drummond, Austin, TX

2:40 p.m. Break

2:55 p.m. .50 hr

### Interstate Water from Oklahoma

Tarrant Regional Water District's and Other Proceedings to Secure Water from Oklahoma: Tarrant Regional Water District filed Federal Court proceedings to declare Oklahoma's Embargo against acquisition, use and transfer of water from Oklahoma to be in violation of the US Constitution's interstate commerce clause and supremacy clause. At least one other suit employing the same arguments has also been filed.

This session will provide an update on the litigation which could result in the addition of significant water supplies to the Dallas-Fort Worth metroplex.

Kevin L. Patrick, Aspen, CO

3:25 p.m. .50 hr

### Survey of Regulatory Approaches Used by Groundwater Conservation Districts

Different aquifers and different local consideration produce different regulatory approaches.

Hunter W. Burkhalter, Austin, TX

3:55 p.m. .50 hr

### Administrative Law Practice before Groundwater Conservation Districts

Groundwater Conservation Districts (GCDs) adopt rules, issue well permits, and initiate enforcement actions. Because the Texas Administrative Procedures Act does not apply to most GCDs, Texas Water Code chapter 36 provides the general procedures for such actions. The procedural details, however, vary from district to district. This presentation will address chapter 36 requirements and discuss practice tips for participating in rulemaking, permitting, and enforcement actions before GCDs.

Mary Sahs, Austin, TX

4:25 p.m. .50 hr

### Groundwater Contracting—Not the Oil and Gas Model

The topic will look at issues to be considered in contracting for the production and development of groundwater resources, and why reliance upon the traditional "oil and gas model" and "Producer's 88 Lease form" does not always work. Particular attention will be paid to factors and circumstances where the oil and gas model does not fit the requirements for groundwater contracts.

Ed McCarthy, Austin, TX

4:55 p.m. Adjourn

## FRIDAY MORNING, DEC. 5, 2008

8:30 a.m. Conference Room opens

Includes continental breakfast.

Presiding Officer:  
Doug G. Caroom, Austin, TX

*Water Development - Big Picture Issues*

9:00 a.m. .50 hr

### A Texas - New Mexico Success Story—the Rio Grande Project Operating Agreement

Overview of water issues relating to the Rio Grande and Rio Grande Project. Discussion of the key issues of the Rio Grande Project Operating Agreement, including background and ideas for water division operating agreements.

Patrick R. Gordon, El Paso, TX

9:30 a.m. .50 hr

### DFCs (Desired Future Conditions) Impact & Effect on Regional Water Planning

What's coming down and how it may impact you.

Gregory M. Ellis, League City, TX

10:00 a.m. Break

10:15 a.m. .75 hr

### Thirst for Power — Nexus of Energy and Water

Increasing energy requirements produce significant new water demands.

Michael E. Webber, Austin, TX

11:00 a.m. .50 hr

### Municipal Powers to Regulate Drilling for Water, Gas, or Oil

A review of public policy issues involving the municipal regulation of drilling for water, gas, or oil; municipal authority to regulate drilling in the State of Texas; relevant Texas statutes affecting a municipality's ability to regulate drilling, including a discussion of preemption issues; and the consequences when a municipality regulates in a manner that bars access to water, gas, or oil interests, including a discussion of regulatory takings in this context.

Jeff King, Fort Worth, TX  
Melissa Lindelow, Fort Worth, TX

11:30 a.m. .50 hr

### Recreational Amenity Ponds—When Groundwater and Surface Water Law Collide

The laws relating to surface water and groundwater are wholly different. This topic explores the laws relating to each.

Timothy L. Brown, Austin, TX

## FRIDAY AFTERNOON

Presiding Officer: Jim Mathews, Austin, TX

### LUNCHEON PRESENTATION

12:00 p.m. Break to Pick Up Lunch

Included in conference registration fee.

12:15 p.m. .50 hr ethics

### Conflict Between Clients - How to Deal With Their Competition for Common Resources

Conflicts, fees & confidentiality—how deep is the pool?

Thomas H. Watkins, Austin, TX

12:45 p.m. Break

1:00 p.m. 1.50 hrs

### Hot Water Issues Around the State

A discussion on significant factors that are influencing water development and use in various regions of the state.

Alejandro Acosta Jr., El Paso, TX  
Joe B. Allen III, Houston, TX  
Glenn Jarvis, McAllen, TX  
Russell S. Johnson, Austin, TX  
Marvin W. (Marty) Jones, Amarillo, TX  
Mark McPherson, Dallas, TX  
Caroline R. Runge, Menard, TX

2:30 p.m. .50 hr

### Re-Use: Legal Issues and Status

The reuse of water rights has increasingly been viewed as a means by which a water supplier can supplement its water resources. This presentation will focus on permitting and legal challenges for direct and indirect reuse projects.

Michelle Maddox Smith, Austin, TX

3:00 p.m. Break

3:15 p.m. 1.00 hr ethics

### Ethics: Attorney Ethics and Technology

A practical ethics discussion of the rising use of Internet tools such as Google to conduct informal discovery of an opponent, as well as the evolving ethical obligation to preserve and produce electronically stored information. The Texas Disciplinary Rules of Professional Conduct and the amended Federal Rules of Civil Procedure will be covered.

Jason Boulette, Austin, TX

4:15 p.m. Adjourn

## REGISTRATION FOR WL08

**Mail this registration form to:** The University of Texas School of Law, Attn. WL08  
P.O. Box 7759, Austin, TX 78713-7759 **or fax a copy to: (512) 475-6876**  
**Online registration available at [www.utcle.org](http://www.utcle.org)**

### PLEASE PRINT CLEARLY

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Assistant's Email (optional) \_\_\_\_\_

Invoices, confirmations and receipts are emailed to these addresses.

### REGISTRATION – Includes Course Binder, Wednesday Evening Primer, and Thursday and Friday Lunch Presentations

☐ Early Registration Fee due by Wed. November 26, 2008..... \$435.00

☐ Registration Fee after Wed. November 26, 2008 ..... \$485.00

☐ State Employee or Texas Alliance of Groundwater Districts  
Fee due by Wed. November 26, 2008..... \$350.00

☐ State Employee or Texas Alliance of Groundwater Districts  
Fee after Wed. November 26, 2008..... \$400.00

### CONFERENCE PUBLICATIONS AND MEDIA

**Allow 2-4 weeks from conference date for delivery.**

☐ Course Binder ..... \$225.00

*Note: Conference registration includes Course Binder.*

☐ Audio CD Set ..... \$175.00

☐ eBinder on CD (PDF format) ..... \$225.00/\$50.00  
(*\$225 purchased alone, \$50 with registration or purchase of Course Binder or Audio CD Set*)

### In-House CLE: Bring the conference in-house and learn at your convenience.

**Allow 2-4 weeks from conference date for delivery.**

☐ In-House CLE for 2 includes Audio CD Set and 2 Course Binders .... \$750.00

\_\_\_\_\_ Add participants (includes Course Binder) for \$225 each ..... \$ \_\_\_\_\_

### METHOD OF PAYMENT

TOTAL ENCLOSED ..... \$ \_\_\_\_\_

☐ Check (make checks payable to: The University of Texas at Austin)

☐ Purchase Order ☐ VISA or ☐ Mastercard (sorry, no AMEX or Discover)

P.O. or Card #  -  -  -

**X** \_\_\_\_\_  
Authorized Signature Exp. Date (mm/yy)

## AUSTIN

December 3\*, 4-5, 2008

### CONFERENCE LOCATION



### Radisson Hotel and Suites on Town Lake

111 E. Cesar Chavez Street  
Austin, Texas 78701  
512-478-9611

#### SPECIAL ROOM RATE \$129

good through November 3, 2008  
(subject to availability)

**Parking:** \$5 self-parking, \$17 valet  
(subject to change)

#### KEY DATES

##### Registration & Cancellation

November 26, 2008–5 p.m.

*last day for early registration*  
add \$50 for registrations  
received after this time

November 26, 2008–5 p.m.

*last day for full refund*

December 1, 2008–5 p.m.

*last day for partial refunds*  
\$50 processing fee applied

December 3, 2008–6 p.m.

*optional Wednesday evening session*

December 4, 2008–9 a.m.

*Institute begins*

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\*Optional Wednesday Evening Session on December 3, 2008

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