

2010 Texas Water Law Institute
December 1*, 2-3, 2010 • AT&T Conference Center • Austin, TX

Wednesday Evening, Dec. 1, 2010

5:30 pm	Optional Session - Registration Opens Included in conference registration fee.
6:00 pm 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 Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Jim Mathews, Mathews & Freeland LLP - Austin, TX
7:30 pm	Adjourn

Thursday Morning, Dec. 2, 2010

Presiding Officer:

Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX

8:00 am	Registration Opens Includes continental breakfast.
8:50 am	Welcoming Remarks
9:00 am 0.75 hr	Water Legislation in the 82nd Session What water issues are likely to be receiving the legislature's attention in the upcoming session? Bill Callegari, Texas House of Representatives - Houston, TX Troy Fraser, Texas Senator - Austin, TX
9:45 am 0.50 hr	Overview of the Sunset Process The State's two major water agencies, the Texas Commission on Environmental Quality and the Texas Water Development Board, undergo Sunset Review this session. How does the process work and what can we anticipate? Sarah Kinkle, Texas Sunset Advisory Commission - Austin, TX
10:15 am	Break

10:30 am 1.00 hr	<p>Texas Environmental Flows Process: Where We Are and Where We Are Going</p> <p>Senate Bill 3 from the 80th Legislature set out a new process for determining environmental flows. Stakeholders for four basins have sent their recommendations to the TCEQ for rulemaking. The TCEQ rules could have a major impact on the environment and development of new water projects.</p> <p>Todd D. Chenoweth, Texas Commission on Environmental Quality - Austin, TX Myron J. Hess, National Wildlife Federation - Austin, TX James Lee Murphy III, Guadalupe-Blanco River Authority - Seguin, TX</p>
11:30 am 0.50 hr	<p>State Water Plan: Who Is Going to Pay for It?</p> <p>New water projects in the 2007 State Water Plan total more than \$30 billion. Is that a realistic plan that can be implemented? How?</p> <p>Larry R. Soward, Austin, TX</p>

Thursday Afternoon, Dec. 2, 2010

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

12:00 pm	<p>Pick up Box Lunch</p> <p>Included in conference registration fee.</p>
	LUNCHEON PRESENTATION
12:15 pm 0.50 hr ethics	<p>Conflicts of Representing Multiple Clients</p> <p>Lawyers often represent multiple clients or have matters adverse to former clients. The Supreme Court has posted proposed new rules for comment including new conflict rules. A discussion of what the new rules try to fix, and the dangers in the old rules.</p> <p>Thomas H. Watkins, Brown McCarroll, L.L.P. - Austin, TX</p>
12:45 pm	Break
1:00 pm 0.50 hr	<p>Case Law Update</p> <p>A comprehensive overview of groundwater, surface water, and water and sewer utility law cases decided in the last two years.</p> <p>Robin A. Melvin, Graves Dougherty Hearon & Moody - Austin, TX</p>

1:30 pm 2.00 hrs	<p>The Texas Water Development Board's Role in Implementing Desired Future Conditions</p> <p>September 1, 2010, was the statutory deadline for the State's sixteen Groundwater Management Areas (GMAs) to adopt Desired Future Conditions (DFCs). The Texas Water Development Board is responsible for the next steps in the state's groundwater planning and management arena, including development of Managed Available Groundwater (MAG) volumes to be used by local groundwater districts to make permitting decisions, and considering appeals of the DFCs from disgruntled districts within the respective GMAs and affected landowners.</p> <p>Panelists: Michael Allan Gershon, Lloyd Gosselink Rochelle & Townsend PC - Austin, TX</p> <p>Panelists: Marvin Winston Jones, Sprouse Shrader Smith PC - Amarillo, TX</p> <p>Panelists: Kenneth L. Petersen, Texas Water Development Board - Austin, TX</p>
3:30 pm	Break
3:45 pm 0.75 hr	<p><i>Edwards Aquifer Authority v. Day: Impact on Groundwater Management</i></p> <p>A point/counterpoint on the potential impact of the Texas Supreme Court's decision in <i>Edwards Aquifer Authority v. Day</i> on groundwater management.</p> <p>Gregory M. Ellis, Attorney at Law - League City, TX Russell S. Johnson, McGinnis Lochridge & Kilgore - Austin, TX</p>
4:30 pm 0.50 hr	<p>The Intersection of Texas Water Law and the Endangered Species Act in the Edwards Aquifer</p> <p>The tension between the demand for water for human needs and the need for water to protect federally-listed species is once again at issue with respect to the use of the Edwards Aquifer. Specifically addressed is how the conflict is being resolved, if at all, by the Edwards Aquifer Recovery Implementation Program.</p> <p>Myron J. Hess, National Wildlife Federation - Austin, TX</p>
5:00 pm	Adjourn

Friday Morning, Dec. 3, 2010

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

8:00 am	<p>Conference Room Opens</p> <p>Includes continental breakfast.</p>
8:30 am 1.00 hr	<p>Lessons Learned from the 2008-2009 Drought</p> <p>From the regulator's perspective and from the supplier's perspective.</p> <p>Greg Graml, Lower Colorado River Authority - Austin, TX Carlos Rubinstein, Texas Commission on Environmental Quality - Austin, TX</p>

9:30 am 1.00 hr	<p>Federalization of Texas Water Law?</p> <p>Continued state primacy in management of water resources is threatened on several fronts. What are those threats and how likely is continued state primacy in the long run?</p> <p>J. Tom Ray, Lockwood, Andrews & Newnam, Inc. - Waco, TX George William Sherk, Sullivan & Worcester LLP - Washington, DC</p>
10:30 am	Break
10:45 am 1.25 hrs	<p>Regional Plan Process: Is It Working?</p> <p>This panel reviews the effects of changes to regional water planning mandated by HB 1763 (2006) in the context of the current regional planning efforts.</p> <p>Panelists: James B. Blackburn Jr., Blackburn Carter, P.C. - Houston, TX Panelists: Carolyn Brittin, Texas Water Development Board - Austin, TX Panelists: Con Mims, Nueces River Authority - Uvalde, TX</p>

Friday Afternoon, Dec. 3, 2010

Presiding Officer:

Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX

12:00 pm	<p>Pick up Box Lunch</p> <p>Included in conference registration fee.</p>
	LUNCHEON PRESENTATION
12:15 pm 0.75 hr	<p>Role of Endangered Species in Water Management—Which Is More Endangered: Texas' Autonomy over State Water Resources or the Whooping Crane?</p> <p>The <i>Aransas Project v. Shaw, et. al.</i>, a.k.a. the "Whooping Crane Case," is potentially a landmark case for Texas water rights law. This is the first time an environmental plaintiff has sought to use the Endangered Species Act in order to force the State of Texas to fundamentally reallocate existing, allocated state water rights. The outcome of this case could determine whether Texas will retain its autonomy over state water resources in the San Antonio-Guadalupe River basin and could provide a precedent for other basins throughout the state.</p> <p>David P. Smith Jr., Barrett & Smith PLLC - Austin, TX</p>
1:00 pm	Break
1:15 pm 0.50 hr	<p>Voting Rights Impact on Texas Water Districts</p> <p>Discussion of election and voting topics, including the consequences of the 2010 census, that may affect water districts, such as voter ID, early voting by mail and election worker eligibility.</p> <p>Anne Melanie Huff, Texas Secretary of State's Office - Austin, TX</p>

1:45 pm 1.00 hr	<p>Water Supply Alternatives</p> <p>Regulatory processing time, endangered species and public opposition to the development and construction of new large-scale conventional water supply reservoirs are among the factors driving water suppliers to develop alternative, environmentally sensitive, cost-effective water supply sources. Aquifer storage and recovery technology (ASR), wastewater reuse, desalination and storm water represent potential alternative strategies available to water planners.</p> <p>Panelists: Kathy Alexander, TCEQ - Water Rights Permitting and Availability Section - Austin, TX</p> <p>Panelists: Fred M. Blumberg, Malcolm Pirnie, Inc. - Austin, TX</p> <p>Panelists: Ellen T. McDonald, Alan Plummer Associates, Inc. - Fort Worth, TX</p>
2:45 pm	Break
3:00 pm 0.50 hr	<p>Results from Carrizo-Wilcox Aquifer Study Directed by the 81st Texas Legislature</p> <p>The study focuses on groundwater management and adequacy of science used in the regulatory decision-making process for the Carrizo-Wilcox Aquifer, one of the largest and most prolific groundwater resources in Texas.</p> <p>William F. Mullican, Mullican and Associates - Pflugerville, TX</p>
3:30 pm 0.50 hr	<p>A Percolating Dilemma: Sovereign Immunity and Water Supply Contracts</p> <p>Will sovereign immunity impact the ability to contract for water supplies?</p> <p>Hon. Craig T. Enoch, Winstead PC - Austin, TX</p>
4:00 pm 1.00 hr ethics	<p>Recent Ethics Opinions and Implications</p> <p>Opinion No. 587 caused a stir among some attorneys. What have been the reactions?</p> <p>Dudley D. McCalla, Jackson Walker - Austin, TX</p>
5:00 pm	Adjourn