

2014 Texas Water Law Institute
November 19*, 20-21, 2014 • Radisson Hotel and Suites, Austin-Downtown •
Austin, TX

Wednesday Evening, Nov. 19, 2014

5:30 pm	Registration Opens
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—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, Nov. 20, 2014

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 0.50 hr	Legislative Update: A Look Back and a Look Ahead Given that Texas is suffering through one of the worst droughts in its history, the legislature needs to be proactive on water issues. Take a look at what is on the horizon this coming session to address these issues and the future well-being of our state's economy. Doug Miller, Texas House of Representatives - New Braunfels, TX
9:30 am 0.50 hr	Brackish Groundwater: Legislation and Regulation Current law related to brackish groundwater regulation, methods of management by GCDs and legislative efforts related to streamlining regulation. Stacey Allison-Steinbach, Texas Alliance of Groundwater Districts - Austin, TX

10:00 am 0.75 hr	<p>Brackish Groundwater Desalination and the San Antonio Water System</p> <p>A discussion of the development and ongoing implementation of San Antonio's brackish groundwater project, including a review of the technical and engineering as well as the legal and regulatory aspects of the project.</p> <p>Robert R. Puente, San Antonio Water System - San Antonio, TX Bill Davis, Black & Veatch - Dallas, TX Hope E. Wells, San Antonio Water System - Austin and San Antonio, TX</p>
10:45 am	Break
11:00 am 1.00 hr	<p>Water Conservation: Implementation Challenges in Texas and around the Nation</p> <p>An overview of general implementation issues and the barriers to achieving more effective water conservation, including the perception among many water utility managers that maximizing water conservation means sacrificing financial stability. Examine the recent tools developed by the Alliance for Water Efficiency to address those barriers, as well as recent research by Ceres with bond counsel and the UT School of Law Energy Center on the legality of using enterprise revenue bonds to fund conservation/efficiency projects on private property.</p> <p>Moderator: Myron J. Hess, National Wildlife Federation - Austin, TX Panelists: Mary Ann Dickinson, Alliance for Water Efficiency - Chicago, IL Sharlene Leurig, Ceres - Austin, TX</p>
12:00 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Thursday Afternoon, Nov. 20, 2014

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

Luncheon Presentation

12:20 pm 0.50 hr	<p>Update on the New TWDB and Financing the State Water Plan</p> <p>An update on the changes made over the past year by the new TWDB, its efforts to enhance customer service and an overview of the implementation of HB-4 for financing the State Water Plan.</p> <p>Carlos Rubinstein, Chairman, Texas Water Development Board - Austin, TX</p>
12:50 pm	Break
1:05 pm 0.50 hr	<p>New Texas Water Development Board Financial Rules</p> <p>An in-depth look at the proposed rules for the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT).</p> <p>Todd D. Chenoweth, Texas Water Development Board - Austin, TX</p>

1:35 pm 1.00 hr	<p>Developing the State Water Plan: Balancing Regional and State Interests</p> <p>Developing the State Water Plan requires the individual and collective efforts of 16 regional water planning groups across the state, each with unique needs and perspectives. Success in equitable and long-term planning requires the use of consistent and science-based standards, and appropriate processes for resolving disputes as they may arise.</p> <p>Mary Elizabeth Kelly, Parula LLC - Austin, TX Les Trobman, Texas Water Development Board - Austin, TX</p>
2:35 pm 0.50 hr	<p>Current Issues with the Corps of Engineers and Corps Reservoirs</p> <p>A brief survey of the changes that affect Corps reservoirs and much of the water in the state, and how the Corps is responding to changing and competing demands for water from their reservoirs.</p> <p>Donald L. Howell, Of Counsel, Andrews Kurth LLP - Houston, TX</p>
3:05 pm	Break
3:15 pm 0.50 hr	<p>Redefining Agency Jurisdiction under the Clean Water Act</p> <p>A review of the draft USACE/EPA rule defining "waters of the U.S.," the Connectivity Study on which it is based and new case law.</p> <p>Mark McPherson, Attorney at Law - Dallas, TX</p>
3:45 pm 1.00 hr	<p>The Impact of Endangered Species on Water Rights in Texas</p> <p>A brief overview of the Endangered Species Act with discussion and analysis of whether listed species affect (or could affect) the state's administration of water permits and groundwater management.</p> <p>Moderator: Molly Cagle, Baker Botts - Austin, TX Panelists: Melinda E. Taylor, The University of Texas School of Law - Austin, TX Kathleen Hartnett White, Texas Public Policy Foundation - Austin, TX</p>
4:45 pm 0.75 hr ethics	<p>Conflicts of Interest for Water Lawyers</p> <p>The complexities and possible conflicts of interest in water transactions are magnified when counsel is asked to represent both the seller and buyer or lessor and lessee in the resulting permitting matters before groundwater districts. In addition, <i>ex parte</i> communication and the bygone days of discussing your project with the permitting authority, even before the application is filed, has become a minefield.</p> <p>Ed McCarthy, Jackson, Sjoberg, McCarthy & Townsend, L.L.P. - Austin, TX</p>
5:30 pm	Adjourn

Friday Morning, Nov. 21, 2014

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

8:00 am	Conference Room Opens Includes continental breakfast.
8:30 am 0.50 hr	Historical Looks at Water Law Cases: Where the Courts Got It Wrong A review of important Texas water law cases where the courts failed to envision the problems to be occasioned by their decisions. Timothy L. Brown, Attorney at Law - Austin, TX
9:00 am 0.50 hr	Surface Water Case Law Update Update on significant recent surface water cases including <i>Texas Farm Bureau v. TCEQ</i> and <i>City of Waco v. TCEQ</i> . Joshua D. Katz, Bickerstaff Heath Delgado Acosta LLP - Austin, TX
9:30 am 0.50 hr	Groundwater Case Law Update Update on significant recent cases involving groundwater conservation districts and groundwater generally. Gregory M. Ellis, Attorney at Law - League City, TX
10:00 am	Break
10:15 am 1.00 hr	Groundwater Conservation Districts: Between a Rock and a Hard Place With the conflicting demands of the <i>Day</i> and <i>Bragg</i> cases and the potential limitations imposed by Desired Future Conditions and Managed Available Groundwater, what's a GCD to do? Moderator: Doug Caroom, Bickerstaff Heath Delgado Acosta LLP - Austin, TX Panelists: Robin A. Melvin, Graves, Dougherty, Hearon & Moody - Austin, TX Steven D. Walthour, North Plains Groundwater Conservation District - Dumas, TX Gary Westbrook, Post Oak Savannah Groundwater Conservation District - Milano, TX
11:15 am 0.75 hr	Issues in Implementing Watermaster Administrations Based on a petition of water right holders, the TCEQ is establishing a watermaster for the Brazos River Basin except for the portion of the basin above Possum Kingdom Reservoir. Hear a summary of the hearing and the issues to be addressed in implementing TCEQ's order. Kellye Rila, Texas Commission on Environmental Quality - Austin, TX Fred B. Werkenthin Jr., Booth, Ahrens & Werkenthin, P.C. - Austin, TX
12:00 pm 0.50 hr	Changes for Water Utilities at the PUC Hear how the rate and CCN regulation of water and wastewater utilities is expected to change as a result of the transfer of these programs from TCEQ to the PUC effective September 1, 2014. Thomas S. Hunter, Public Utility Commission of Texas - Austin, TX

12:30 pm	Pick Up Lunch Included in registration.
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Friday Afternoon, Nov. 21, 2014

Presiding Officer:

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

Luncheon Presentation

12:50 pm 0.75 hr	The Texas Drought: Lessons Learned and TCEQ's Response <p>Since 2009, Texas has been in a state of near-constant severe drought. The TCEQ, as the state agency charged with regulating the withdrawal and use of surface water throughout the state, has addressed the myriad challenges arising from the shortage of such a precious resource with innovation and practicality.</p> <p>Bryan W. Shaw, Ph.D., P.E., Chairman, Texas Commission on Environmental Quality - Austin, TX</p>
1:35 pm	Break
1:50 pm 1.00 hr	Energy-Water Nexus <p>A look at the current policies, initiatives and challenges in dealing with the co-dependent link between the energy and water sectors.</p> <p>Carey W. King, Ph.D., The University of Texas Energy Institute - Austin, TX Michael J. Nasi, Jackson Walker L.L.P. - Austin, TX</p>
2:50 pm 0.50 hr	Water Issues for Fracking <p>Explore concerns regarding the potential impacts of hydraulic fracturing on water quality and supply and the technical measures that can be employed to monitor and prevent these impacts.</p> <p>John A. Connor, GSI Environmental Inc. - Houston, TX</p>
3:20 pm 0.75 hr ethics	Let It Snowden! <p>In January 2014, Edward Snowden made the claim that the NSA does not limit data collection to just national security issues. In light of these disclosures, attorneys must balance their professional responsibilities to protect client information against their need to communicate that information in a digital age.</p> <p>Thomas A. Gwosdz, City of Victoria - Victoria, TX</p>
4:05 pm	Adjourn