

2015 Texas Water Law Institute
October 28*, 29-30, 2015 • Radisson Hotel and Suites, Austin-Downtown •
Austin, TX

Wednesday Evening, Oct. 28, 2015

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, Oct. 29, 2015

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

8:00 am	Registration Opens Includes continental breakfast.
8:50 am	Welcoming Remarks
9:00 am 1.00 hr	Waters of the U.S.: Current Developments Even before the new definition for “Waters of the United States” proposed by the Environmental Protection Agency and the United States Army Corps of Engineer could become effective on August 28, 2015, more than 80 individual plaintiffs sued the two agencies over the regulation. Representing a variety of interests that challenge or defend the controversial new definition, hear from Clean Water Act experts about what’s wrong with the new definition, or right about it, the key challenges raised in the district and appellate court proceedings, and predictions on the potential outcome of the lawsuits. Moderator: Molly Cagle, Baker Botts - Austin, TX Panelists: Jay Bragg, Texas Farm Bureau - Waco, TX Jen Sorenson, Natural Resources Defense Council - San Francisco, CA Tucker Henson, U.S. Environmental Protection Agency, Region VI - Dallas, TX

10:00 am 0.75 hr	<p>PUC Update on CCN Decertifications</p> <p>The transfer of retail water and wastewater utility regulation from TCEQ to the PUCT occurred a little more than a year ago. Hear from all sides—landowners, agency, and CCN holders—about the latest issues involving CCN applications and decertifications.</p> <p>Leonard H. Dougal, Jackson Walker L.L.P. - Austin, TX C. Joe Freeland, Mathews & Freeland LLP - Austin, TX Margaret Uhlig Pemberton, Public Utility Commission - Austin, TX</p>
10:45 am	Break
11:00 am 1.00 hr	<p>Water Conservation Considerations for Water Rights Permitting and Water Supply Planning</p> <p>Review recent developments related to water conservation in Texas, with a focus on what is already being done, unrealized potential, and challenges along the way.</p> <p>Moderator: Myron J. Hess, National Wildlife Federation - Austin, TX Panelists: Tom McLemore, Harlingen Irrigation District - Harlingen, TX Jeremy Rice, Freese and Nichols - Fort Worth, TX</p>
12:00 pm 0.75 hr	<p>Impacts of Regional Planning Decisions on Permitting and Financing (Whom Do You Sue?)</p> <p>Explore how desired future conditions (DFC) and water management strategy decisions by regional planning groups affect water project permitting and financing, and consider possible remedies.</p> <p>Trish Erlinger Carls, Carls, McDonald & Dalrymple, LLP - Austin, TX Co-Author: Mark B. Taylor, Attorney at Law - San Marcos, TX</p>
12:45 pm	<p>Pick Up Lunch</p> <p>Included in registration.</p>

Thursday Afternoon, Oct. 29, 2015

Presiding Officer:

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

LUNCHEON PRESENTATION

1:05 pm 0.50 hr	<p>The Texas Water Development Board: Past, Present, and Future</p> <p>A look back at the history of water resource development in Texas, an update on current developments at the Board, and a few opinions on the future from the former Chairman of the Texas Water Development Board.</p> <p>Carlos Rubinstein, Austin, TX</p>
1:35 pm	Break

1:50 pm 0.75 hr	<p>Takings: Overview and Recent Litigation</p> <p>Lynn E. Blais, Co-Director of the Supreme Court Clinic, The University of Texas School of Law - Austin, TX Paul M. Terrill III, The Terrill Firm, P.C. - Austin, TX</p>
2:35 pm 1.00 hr	<p>Groundwater Regulation in Light of Recent Takings Litigation</p> <p>Recent appellate court decisions have prompted strident advocacy about groundwater regulation and property rights. Has rhetoric outpaced the law? Does all regulation require compensation? When does groundwater regulation go too far?</p> <p>Moderator: Steve Kosub, San Antonio Water System - San Antonio, TX</p> <p>Panelists: Gregory M. Ellis, Attorney at Law - League City, TX Billy Howe, Texas Farm Bureau - Waco, TX Christopher S. Kulander, South Texas College of Law and Of Counsel, Haynes and Boone, LLP - Houston, TX</p>
3:35 pm	Break
3:45 pm 0.75 hr	<p>Groundwater-Surface Water Interaction: Implications for Groundwater Planning and Management</p> <p>Groundwater pumping generally results in decreased groundwater storage, induced recharge to the area, and decreased spring flow and stream flow. The nature and timing of these three impacts are dependent on many factors, and require an understanding of local conditions. Explore how groundwater-surface water interaction affects groundwater planning and management.</p> <p>William R. Hutchison, Independent Groundwater Consultant - Austin, TX</p>
4:30 pm 0.50 hr	<p>Environmental Flows and Senate Bill 3: Lessons Learned</p> <p>Bob Brandes, Robert J. Brandes Consulting - Austin, TX</p>
5:00 pm 0.50 hr	<p>The Road beyond Denton: A Current Look at Hydraulic Fracturing Regulation in Texas</p> <p>One of the most hotly contested topics in the 84th Legislature was HB 40—the response to the City of Denton banning hydraulic fracturing. Final legislation reversed the ban, but also significantly altered municipal regulation of oil and gas production in Texas. Explore the background of urban regulation of drilling activities, the Denton ban, and the effect of HB 40, and consider emerging topics regarding water regulation and induced seismicity events associated with fluid waste disposal.</p> <p>James D. Bradbury, James D. Bradbury PLLC - Fort Worth, TX</p>
5:30 pm	Adjourn

Friday Morning, Oct. 30, 2015

Presiding Officer:

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

8:00 am	Conference Room Opens Includes continental breakfast.
8:30 am 0.50 hr	Texas Water Law: A Policy Perspective An inside look at the policy rationale and legislative intent of several pieces of water-related legislation enacted by the 84th Texas Legislature. Sen. Charles Perry, Chairman of the Senate Committee on Agriculture, Water, & Rural Affairs, Texas Senate - Lubbock, TX
9:00 am 0.50 hr	Texas Legislative Update An overview of water legislation in the 84th Session, including discussion of what passed and what did not. Hope E. Wells, San Antonio Water System - Austin and San Antonio, TX
9:30 am 0.75 hr	Case Law Update Evaluate recent groundwater, surface water, and utility cases and their implications. Emily Willms Rogers, Bickerstaff Heath Delgado Acosta LLP - Austin, TX
10:15 am	Break
10:30 am 0.75 hr	The Role of Groundwater Conservation Districts in Water Quality Protection A discussion of the authority and activities of groundwater conservation districts in the regulation of groundwater quality, including district participation in RRC and TCEQ waste management proceedings. Eric M. Allmon, Frederick, Perales, Allmon & Rockwell, P.C. - Austin, TX John J. Vay, Enoch Kever PLLC - Austin, TX
11:15 am 0.50 hr	Threshold for Challenges to Water Quality and Water Rights Permits: Who's "Affected?" Examine water quality and water rights permitting actions, as well as the legal standard and procedures that govern the threshold question of whether a hearing requestor is an affected person in light of recent litigation and legislation. Paulina Olin Williams, Baker Botts - Austin, TX
11:45 am	Pick Up Lunch Included in registration.

Friday Afternoon, Oct. 30, 2015

Presiding Officer:

Jim Mathews, Mathews & Freeland LLP - Austin, TX

LUNCHEON PRESENTATION

12:05 pm 0.75 hr	<p>Climate Change and Its Impact on Water Planning and Management</p> <p>Climate change will affect the use and distribution of Texas water. Surface water availability could be more limited than the 1950s' drought of record, placing greater stress on groundwater resources. Learn how water infrastructure investments and strategies can and should take climate change scenarios into consideration.</p> <p>Ronald A. Kaiser, Professor and Chair, Graduate Water Degree Program, Texas A&M University - College Station, TX</p>
12:50 pm	Break
1:05 pm 0.75 hr	<p>There's No Accounting for Water</p> <p>Review the basics of accounting plans used in water rights permitting and gain insight into recent developments and issues.</p> <p>Kathy Alexander, Texas Commission on Environmental Quality - Austin, TX Tom Gooch, Freese and Nichols - Fort Worth, TX</p>
1:50 pm 1.00 hr ethics	<p>Ethical Issues in Environmental Law—It's Not Easy Being Green</p> <p>Using a series of hypotheticals, explore a number of ethical issues that are especially pertinent to water law practitioners—including who is the client, the duty to disclose, and conflicts—with lessons on how clients and their counsel can minimize ethical, as well as legal, risks.</p> <p>Carrick Brooke-Davidson, Guida, Slavich & Flores, P.C. - Austin, TX Mary S. Mendoza, Haynes and Boone, LLP - Austin, TX</p>
2:50 pm 1.00 hr ethics	<p>The Devil in the Details: An Ethical Journey toward Governmental Approvals</p> <p>Uncover ethical issues related to the regulatory world of water law, including advocacy in and around agencies, representing or speaking to public officials and board members, advocacy on and for both sides, financing and its role in deals or permits, and what to do when it's such a small, small world.</p> <p>Barbara A. Boulware-Wells, Knight & Partners - Austin, TX</p>
3:50 pm	Adjourn