2016
TEXAS WATER LAW INSTITUTE

FUNDAMENTALS
November 2, 2016

INSTITUTE
November 3–4, 2016

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2016
WATER LAW FUNDAMENTALS
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TX Legal Specialization Credit Approved for Administrative Law and Real Estate Law
Credit for TX Professional Engineers Available

WEDNESDAY AFTERNOON, NOV. 2, 2016

Presiding Officers:
Doug Caroom, Bickerstaff Heath Delgado Acosta LLP, Austin, TX
Jim Mathews, Mathews & Freeland LLP, Austin, TX

12:30 p.m. Registration Opens
Includes light refreshments.

1:20 p.m. Welcoming Remarks

1:30 p.m. 1.00 hr
Groundwater Issues
Explore issues unique to groundwater, including
regulation basics, planning considerations, and
other essentials.
Doug Caroom, Bickerstaff Heath Delgado Acosta LLP, Austin, TX
Jim Mathews, Mathews & Freeland LLP, Austin, TX

2:30 p.m. 1.00 hr
Surface Water Issues
Explore issues unique to surface water, including
regulation basics, planning considerations, and
other essentials.
Doug Caroom, Bickerstaff Heath Delgado Acosta LLP, Austin, TX
Jim Mathews, Mathews & Freeland LLP, Austin, TX

3:30 p.m. Break

3:45 p.m. 1.00 hr
Who’s Who When it Comes to Water
Get the basics on who handles what when it comes
to water in Texas.
Lyn E. Clancy, Lower Colorado River Authority,
Austin, TX

4:45 p.m. Adjourn

REASONS TO ATTEND WATER LAW FUNDAMENTALS
The ideal introduction for new entrants to the field or a refresher for seasoned practitioners,
as well as non-lawyers, governmental officials, and engineers, Water Law Fundamentals
provides an overview of Texas water law statutes, regulations, and cases, including
vocabulary and acronyms necessary to understanding Texas water law.

INSTRUCTORS:
Doug Caroom is a partner with Bickerstaff Heath Delgado Acosta LLP and is certified
by the Texas Board of Legal Specializations for Administrative Law. With more than 40
years of experience in Texas, Doug practices in the areas of water and environmental
law, administrative law, and public law. He assists municipalities, river authorities, and
water districts in all phases of regulation and is an adjunct professor of Water Law at The
University of Texas School of Law.

Lyn Clancy is a Senior Water Policy Advisor and the Managing Associate General Counsel
with the Lower Colorado River Authority and is the Editor-in-Chief of the Texas Environmental
Law Journal. With 15 years of experience in water rights and water policy in Texas, Lyn also
serves on the Board of Directors for the Texas Water Conservation Association.

Jim Mathews is a founding partner of Mathews & Freeland, LLP, and has been practicing
law in Texas since 1973. Jim has extensive experience with water rights and water quality
matters, and served as an Assistant Attorney General and the Chief of the Environmental
Protection Division of the Texas Attorney General's Office prior to entering private practice.

FUNDAMENTALS FACULTY AND PLANNING COMMITTEE

Doug Caroom*—CO-CHAIR
Bickerstaff Heath Delgado Acosta LLP
Austin, TX

Jim Mathews*—CO-CHAIR
Mathews & Freeland LLP
Austin, TX

Lyn E. Clancy
Lower Colorado River Authority
Austin, TX

Deborah Salzberg*
The University of Texas School of Law
Austin, TX

*Planning Committee member

Topics are extremely relevant and interesting. It adds a lot to the conference to hear from TCEQ, TWDB and Groundwater
Alliance representatives.

Good structure and format of the program. The speakers are good and provide different sides of the issues.

Very well put together. Good balance of all views. Speakers are engaging and helpful.

Perfect mix of private practice attorneys, agency attorneys and elected officials.

Although this is a law conference, there is enough practical and technical information for engineering types.

All aspects of the program are well done.

Relevant topics covered by experts with hands-on experience.

FUNDAMENTALS MCLE
This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee
on MCLE in the amount of 3.00 hours. The University of Texas School of Law is a State Bar of California approved MCLE
provider (#1944), and an Oklahoma Bar Association MCLE presumptively approved provider (#169).

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### THURSDAY MORNING, NOV. 3, 2016

**Presiding Officer:**  
Jim Mathews, Mathews & Freeland LLP, Austin, TX

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| 7:30 a.m. | Registration Opens  
Includes continental breakfast. |
| 8:20 a.m. | Welcoming Remarks |
| 8:30 a.m. | .50 hr & .25 hr ethics  
Unbundling Water Rights: Piloting Efforts to Apply the Australian Experience in the American West |
| 9:30 a.m. | .50 hr  
Valuation of Water Rights |
| 10:00 a.m. | .50 hr  
Marketing Groundwater Rights |
| 10:45 a.m. | .50 hr  
Marketing Surface Water Rights  
In pursuing the purchase of a water right, a buyer has to consider a number of regulatory steps in order to make the purchased water right beneficially useful. Just what are those steps?  
James Kows, James Kows Consulting, Austin, TX |
| 11:15 a.m. | 1.00 hr  
The Prior Appropriation Doctrine: Still Appropriate for Texas?  
In TCEQ v. Texas Farm Bureau, the Texas Commission for Environmental Equality (TCEQ) stated it needed the authority to amend the “first in time is first in right” rule, in order to protect public health and welfare. This position garnered numerous support from the amici. Hear experienced practitioners weigh in on the statement, and what it might mean for surface water rights in Texas.  
Moderator: Doug Carooh, Bickerstaff Heath Delgado Acosta LLP, Austin, TX  
Panelists: John W. Faite Jr., The Association of Electric Companies of Texas, Inc. (AECT), Austin, TX  
R. Glenn Jarvis, Law Offices of Glen Jarvis, McAllen, TX  
Carlos Rubinstein, RSAH2O, LLC and Former Chairman, Texas Water Development Board, Austin, TX |
| 11:55 a.m. | Break |
| 12:15 p.m. | Pick Up Lunch  
Included in registration. |

### THURSDAY AFTERNOON

**Presiding Officer:**  
Doug Carooh, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

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| 1:20 p.m. | 1.00 hr  
Bush School Capstone Report: Reorganizing Groundwater Regulation in Texas  
Review the regulatory practices of the local groundwater conservation districts, which concludes that Texas has a regulation-induced shortage of groundwater. Learn the four alternative regulatory options—based on four metrics—and find that substantial improvements are possible.  
James M. Griffin, The Bush School of Government and Public Service, Texas A&M University, College Station, TX |
| 2:20 p.m. | .75 hr  
Indirect Reuse of Water |
| 3:05 p.m. | Break |
| 3:15 p.m. | Direct Potable Reuse  
Explore the technical, social, and regulatory issues associated with the implementation of direct potable reuse in Texas, including a discussion of several case studies.  
Ellen T. McDonald, Alan Plummer Associates, Inc., Fort Worth, TX  
Bill Riley, San Angelo Water Utilities Department, San Angelo, TX  
L’oreal W. Stepney, P.E., Texas Commission on Environmental Quality, Austin, TX |
| 4:00 p.m. | .50 hr  
Legal Issues with Permitting Amenity Ponds  
Amenity ponds are often constructed in new subdivisions for aesthetic, recreational, drainage, and irrigation purposes. Depending on the location and source of water for the pond, such as state-owned surface water, groundwater, storm water, or reclaimed water, the permitting requirements can vary greatly. Review the various permitting requirements and the legal hurdles associated with these ponds.  
Emily Williams Rogers, Bickerstaff Heath Delgado Acosta LLP, Austin, TX |

### INSTITUTE MCLE

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 14.75 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).
FRIDAY MORNING, NOV. 4, 2016

Presiding Officer:
Doug Caroom, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

7:30 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .50 hr

Texas Case Law Update
Listen to an update on cases dealing with water-related issues in Texas.
Trey Nesloney, Booth, Ahrens & Werkenthin, P.C., Austin, TX

9:00 a.m. .50 hr

TCEQ: Regulatory Update
Explore the recent rule-makings, actions, and decisions of the Texas Commission for Environmental Quality relating to Water Law.
Ross Henderson, Texas Commission on Environmental Quality, Austin, TX

9:30 a.m. .50 hr

PUC Update
The PUC assumed jurisdiction over water and sewer utility rates and CCNs two years ago. Has the change had the desired impact? Hear a summary of some important updates you will want to know about when managing rate applications, rate appeals, and CCN issues before the PUC.
John J. Carlton, The Carlton Law Firm PLLC, Austin, TX

10:00 a.m. Break

10:15 a.m. 1.00 hr

Texas Legislature: Water Issues in the 85th
Hear a preview of water politics and policy for the 85th Texas Legislature.
Eduardo A. "Eddie" Lucio III, Texas House of Representatives, Brownsville, TX
Charles Perry, Texas Senate, Lubbock, TX

11:15 a.m. .50 hr

Federal Case Law Update
The federal courts have seen significant developments in the water arena, from the U.S. Supreme Court on down this year. Review the latest updates on major federal decisions and litigation, including the status of the Waters of the U.S. litigation, cross-border disputes, and more.
Paulina Williams, Baker Botts, Austin, TX

11:45 a.m. .75 hrs ethics

Communication and the Electronic Age
Considering what we know about government surveillance, can an attorney ethically use electronic communication to discuss confidential client information? Examine legislative responses to the Edward Snowden disclosures and discuss appropriate lawyer communication in the electronic age.
Thomas A. Gwosdz, City of Victoria, Victoria, TX

12:30 p.m. Pick Up Lunch
Included in registration.

FRIDAY AFTERNOON

Presiding Officer:
Jim Mathews, Mathews & Freeland LLP, Austin, TX

LUNCHEON PRESENTATION
12:50 p.m. .50 hr | .25 hr ethics

A Change in Perspective: When the Lawyer Becomes the Client
The Commissioner discusses his experiences in transitioning from representing the Texas Commission on Environmental Quality to being the client of the Office of the Attorney General, including observations on the Open Meetings Act and ex parte issues.
Jonathan K. Niermann, Commissioner, Texas Commission on Environmental Quality, Austin, TX

1:20 p.m. Break

1:35 p.m. 1.00 hr

Desired Future Conditions: Will Process Changes Increase Accountability?
Through SB 660 (2011) and HB 200 (2015), the Legislature imposed new requirements for developing desired future conditions, including a best available science standard, and created an appeal process utilizing the state office of administrative hearings. Explore how these changes may affect groundwater conservation districts and their DFC decisions.
Moderator:
Jim Mathews, Mathews & Freeland LLP, Austin, TX
Panelists:
James A. Beach, LBG-Guion Associates, Austin, TX
Marvin W. “Marty” Jones, Sprouse Shrader Smith PLLC, Amarillo, TX
Robert E. Mace, Ph.D., P.G., Texas Water Development Board, Austin, TX

2:35 p.m. .50 hr

State Water Plan Update
Take a look ahead to the fifth cycle of regional and state water planning.
Matt Nelson, Texas Water Development Board, Austin, TX

3:05 p.m. Break

3:15 p.m. .50 hr

Governmental Immunity: Implications of the Wasson and Wheelabrator Cases
The Supreme Court of Texas issued opinions earlier this year that resolved a split among appellate courts and declared that the proprietary-governmental dichotomy found in the Texas Tort Claims Act applies to waiver of immunity claims in the contract setting. Examine these decisions and their impact on water contracts with governmental entities.
Heather Mahurin Lockhart, Texas Municipal League, Austin, TX

3:45 p.m. .75 hr

Application of Governmental Law Requirement to Public–Private Partnership Projects
What responsibilities and attributes of the government, such as obligations of openness and transparency, does a private business assume when it partners with the government on a project?
C. Robert Heath, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

4:30 p.m. Adjourn

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## REGISTRATION FORM

**Register:**
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Attn. Registration
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Austin, TX 78713-7759

**Fax:**
512.475.6876

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512.475.6700

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Call 512.475.6700 or email service@utcle.org

### REGISTRATION

**FUNDAMENTALS—WLF16**
Includes electronic course materials

1. **Select Registration Type**
   - Individual registration by Wednesday, Oct. 26 ........................................ $115
   - Individual registration after Wednesday, Oct. 26 ........................................ $165
   - TX Alliance of Groundwater Districts Member registration by Oct. 26 .............. $115
   - TX Alliance of Groundwater Districts Member registration after Oct. 26 ........... $165
   - State Employee registration by Oct. 26 ......................................................... $115
   - State Employee registration after Oct. 26 ...................................................... $165

2. **Select Course Materials Format**
   - Electronic Course Binder Download (PDF) ONLY .......................................... $27.06
   - PURCHASE: Printed Course Binder (available through October 26) ............... $27.06
     Price of binder includes 8.25% sales tax
   - Printed Binder for Tax Exempt Registrants (government, nonprofit, etc.) .......... $25

**Fundamentals Registration Total** ....................................................... $____

### SAVE $25 WHEN YOU REGISTER FOR BOTH PRIMER AND INSTITUTE

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Conference Complete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3–5 weeks after conference date. Shipping included.

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- Audio Download (MP3) ........................................................... $75
- Audio CD Set ......................................................................... $125

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**INSTITUTE—WL16**
Includes electronic course materials and Thursday and Friday luncheon presentations

1. **Select Registration Type**
   - Individual registration by Wednesday, Oct. 26 ........................................... $550
   - Individual registration after Wednesday, Oct. 26 ....................................... $600
   - TX Alliance of Groundwater Districts Member registration by Oct. 26 ......... $375
   - TX Alliance of Groundwater Districts Member registration after Oct. 26 ...... $425
   - State Employee registration by Oct. 26 ....................................................... $375
   - State Employee registration after Oct. 26 ..................................................... $425

2. **Select Course Materials Format**
   - Electronic Course Binder Download (PDF) ONLY ........................................ $27.06
   - PURCHASE: Printed Course Binder (available through October 26) .......... $27.06
     Price of binder includes 8.25% sales tax
   - Printed Binder for Tax Exempt Registrants (government, nonprofit, etc.) ...... $25

**In-House CLE for 2** .......................................................... $850

**In-House Total** .......................................................... $____

**INSTITUTE—WL16**
- In-House CLE for 2 .......................................................... $850
  - Additional participant(s) for $275 each ............................................... $____

**Institute In-House Total** .......................................................... $____

**INSTITUTE COMPLETE MATERIALS**
- eBinder Download (PDF) ......................................................... $225
- Printed Binder ........................................................................ $275
- Audio Download (MP3) ........................................................... $175
- Audio CD Set ......................................................................... $225

**Institute ConferenceComplete Materials Total** ....................................................... $____

**ORDER GRAND TOTAL** .......................................................... $____

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AUSTIN
November 2–4, 2016

CONFERENCE LOCATION

Radisson Hotel and Suites Downtown
111 E. Cesar Chavez Street
Austin, TX
512.478.9611 (reservations)

Special Room Rate: $195
good through October 3, 2016
(subject to availability)

Parking:
$6 daily self-parking, $10 overnight self-parking
$26 valet parking

KEY DATES

October 26, 2016
last day for early registration
add $50 for registrations received after this time

October 28, 2016
last day for cancellation (full refund)

October 31, 2016
last day for cancellation (partial refund)
$50 processing fee applied

November 2, 2016, 1:20 p.m.
Fundamentals begins

November 3, 2016, 8:20 a.m.
Institute begins

*Planning Committee member