



# GROUNDWATER LAW CONFERENCE

## Los Angeles, California

Tuesday, April 26, 2016 - Loyola Law School

Merrifield Hall, 919 Albany Street, Los Angeles, CA 90015

An American Ground Water Trust Conference



### 7.5 General CLE Credits for Attorneys

This activity has been approved for MCLE credit by the State Bar of California in the amount of 7.5 credits. Best Best & Krieger LLP certifies that this activity conforms to the standards of approved educational activities prescribed by the rules and regulations of the State Bar of California governing MCLE.

### EVENT SPONSORS



### BACKGROUND TO THE CONFERENCE

This year's American Ground Water Trust California Groundwater Law Conference is back in Los Angeles. Water management has become a key focus for elected officials, water managers, end-users, technical consultants, and attorneys. This conference will provide perspectives from top legal and technical experts about effective ways to approach and resolve some of the most current and critical groundwater resources and groundwater quality issues being faced in California. The target audience for this event includes elected officials, managers and staff of water agencies, cities and counties, state and federal regulators, growers, irrigation districts, consultants, attorneys, academics, environmental NGOs, and anyone else interested in the regulatory, legal, financial, and practical issues affecting California's groundwater.

The Sustainable Groundwater Management Act (SGMA) requires local agencies to establish groundwater sustainability agencies (GSAs) by the year 2017, adopt groundwater sustainability plans (GSPs) by 2020 or 2022, and to have sustainable groundwater management in place by 2040 or 2042. The process for implementing SGMA's requirements has begun, yet many issues remain unresolved. Throughout the state, new tensions exist between existing water rights and the authority to regulate them, and the issues will be fiercely contested. Moreover, while the drought has brought "quantity" issues to the fore, groundwater "quality" issues continue to present a major and evolving challenge. The impact of groundwater contamination on human health and the environment, the high cost of the remedies, uncertainty over responsibility, and the allocation of costs can all result in protracted litigation at these areas.

## CONFERENCE AGENDA

### 8:30 – 8:45 AMERICAN GROUND WATER TRUST MISSION - SCIENCE AS THE BASIS FOR POLICY

Andrew Stone, Executive Director, American Ground Water Trust, Concord, NH

### 8:45 - 10:15 SGMA AND THE CHANGING COURSE OF CALIFORNIA GROUNDWATER MANAGEMENT

**Moderator:** Eric Garner, Partner, Best Best & Krieger, Los Angeles, CA

Anthony Brown, CEO, and Principal Hydrologist, Aquilogic, Costa Mesa, CA

#### DE-MYSTIFYING HYDROLOGY AND IDENTIFYING KEY ISSUES

Joseph Byrne, Chair, California Water Commission; Partner, Best Best & Krieger, Los Angeles, CA

#### KEY SGMA DEVELOPMENTS

Roger Moore, Partner, Rossmann and Moore, LLP Berkeley, CA

#### GROUND ZERO, GROUNDWATER MANAGEMENT IN THE CENTRAL VALLEY

### 10:15 – 10:30 BREAK

### 10:30 – 12:00 SGMA BATTLE LINES

**Moderator:** Amy Steinfeld, Shareholder, Brownstein Hyatt Farber Schreck, Santa Barbara, CA

#### Keynote Presentation:

Andrew Sawyer, Assistant Chief Counsel, State Water Resources Control Board, Sacramento, CA

#### SURFACE WATER & GROUNDWATER: FACT AND LEGAL FICTION

Steve Anderson, Partner, Best Best & Krieger, Riverside, CA

#### COMPETING GROUNDWATER SUSTAINABILITY AGENCIES

Harriet Steiner, Partner, Best Best & Krieger, Sacramento, CA

#### WHO PAYS AND HOW?

### 12:00 – 1:00 LUNCH (Provided)

### 1:00 – 2:30 EVOLVING GROUNDWATER LAW AND POLICY

**Moderator:** Roger Moore, Rossmann and Moore, LLP Berkeley, CA

Rod Walston, Of Counsel, Best Best & Krieger, Walnut Creek, CA

#### DO FEDERALLY RESERVED WATER RIGHTS APPLY TO GROUNDWATER?

Christopher M. Sanders, Partner, Ellison, Schneider & Harris L.L.P., Sacramento, CA

#### STREAMLINED ADJUDICATIONS

Christian Marsh, Partner, Downey Brand LLP, San Francisco, CA

#### DOES THE PUBLIC TRUST DOCTRINE APPLY TO GROUNDWATER?

### 2:30 – 2:40 BREAK

**2:40 – 4:30 THE WATER QUALITY PARADIGM**

**Legal Strategies to Address Major Groundwater Contaminant Plumes**

Moderator: Anthony Brown, CEO and Principal Hydrologist, Aquilogic, Costa Mesa, CA

John Fiske, Senior Trial Attorney, Gomez Trial Attorneys, San Diego, CA  
THE PLAINTIFF BAR AND COMMON LAW CAUSES OF ACTION

Steve Hoch, Partner, Morris Polich & Purdy, Los Angeles, CA  
THE PLAINTIFF BAR AND STATUTORY CLAIMS (e.g. CERCLA)

Kimberly Bick, Partner, Bick Law Group, Newport Beach, CA  
DEFENSE STRATEGIES TO STATUTORY CLAIMS

Jim Meeder, Partner, Allen Matkins, San Francisco, CA  
DEFENSE STRATEGIES TO COMMON LAW CAUSES OF ACTION

Ryan Hiete, Partner, Musick Peeler & Garrett, Westlake Village, CA  
NON-LEGAL STRATEGIES TO HELP ADDRESS CONTAMINATION (i.e. regulatory, legislative, public relations)

Bret Stone, Founding Partner, Paladin Law Group, Santa Barbara, CA  
USING HISTORICAL INSURANCE POLICIES TO FUND GROUNDWATER CLEAN-UP

**4:30 – 4:45 SUMMARY OF ISSUES AND CONFERENCE WRAP - UP**

Katherine Trisolini, Professor of Law, Loyola University, Los Angeles, CA

**4:45 – 6:00 RECEPTION (Hosted by Aquilogic and Best Best & Krieger)**

**Professional Background of Presenters’  
(Listed in presentation order)**

**Andrew Stone, Executive Director, American Ground Water Trust, Concord, NH**



Andrew Stone studied hydrogeology at University College London, and between 1974 and 1989 was a lecturer at Rhodes University, South Africa. Since 1989 he has worked in the United States as a private-sector groundwater consultant, as adjunct professor (teaching groundwater protection policy at Antioch New England University) and as groundwater educator, advocate and outreach specialist for the non-profit AGWT.

His work with the AGWT has involved convening over 200 “information-exchange” conferences and workshops dealing with groundwater issues. He has organized over 70 “Groundwater Institutes” that have trained 1,800 science teachers and educators on water resources issues and the basics of hydrology. He is a recipient of the National Ground Water Association “Oliver Award” in for his work in promoting groundwater education.

**Eric Garner, Partner, Best Best & Krieger, Los Angeles, CA**



Managing Partner Eric Garner has practiced water law for more than 25 years at Best Best & Krieger LLP. For the past two decades, he has worked extensively on groundwater matters. He was involved in the Mojave Groundwater adjudication and represented the lead parties in the Santa Maria and Antelope Valley groundwater adjudications. He has advised clients throughout California on groundwater issues and was involved in the drafting of the Sustainable Groundwater Management Act. He has worked on surface water issues throughout the state and has drafted water laws in South Africa, Trinidad and Pakistan.

Eric co-authored “California Water” and “California Water II,” and is an adjunct law professor at the University of Southern California Gould School of Law. He has also been named a California Lawyer of the Year by *California Magazine*, one of the Top 100 Lawyers in California by the *Daily Journal* and the Water Law Lawyer of the Year in Los Angeles by *Best Lawyers*.

**Anthony Brown, CEO, and Principal Hydrologist, Aquilogic, Costa Mesa, CA**



Anthony Brown is the founder of aquilogic. Prior to aquilogic, he was Senior Vice-President of Strategy & Development at WorleyParsons, and the global sector leader for their Environment business. He was previously the CEO and one of the founding principals at Komex Environmental, a global environmental consulting company. Anthony has over 25 years of experience in many aspects of infrastructure engineering and environmental consulting, with a focus on hydrologic science, water resources, environmental engineering, and water treatment & supply.

He has conducted and managed groundwater resources projects, including: resource evaluation, development and management; water balance, storage capacity and safe yield analysis; and aquifer storage and recovery (ASR). He has also implemented numerous hazardous waste site investigations, including sites with multiple potentially responsible parties (PRPs), complex hydrogeology and fate and transport, fractured rock, multiple contaminants, and co-mingled plumes. Anthony received his Master of Science degree in Engineering Hydrology from Imperial College London in 1988.

**Joseph Byrne, Chair, California Water Commission; Partner, Best Best & Krieger, Los Angeles, CA**



Joseph Byrne is a partner in the Los Angeles office of Best Best & Krieger and is a member of the firm's Environmental Law & Natural Resources, Special Districts, Municipal and Business Services practice groups. He advises both public and private sector clients on water law, public law and government and legislative strategies, with additional experience in general business law. Joseph has considerable experience advising public and private clients on various issues related to water, including helping clients secure water supply, negotiating and drafting many types of water-related agreements, analyzing water rights, and advising on regulatory and policy issues.

Joseph is also very familiar with California's legislative process as well as water policy issues. He worked on water policy issues at the State Capitol for a number of years and recently taught a water policy class at the University of California, Los Angeles School of Public Policy. In May 2010, Joseph was appointed by Gov. Arnold Schwarzenegger to serve on the California Water Commission, where he serves as chair. He was re-appointed to another term by Gov. Jerry Brown in July 2014. The Commission has a number of important statewide responsibilities related to water.

**Roger Moore, Partner, Rossmann and Moore, LLP Berkeley, CA**



Roger B. Moore has practiced land use, water, natural resources, constitutional, environmental and administrative law with the firm since 1992. He has served as a partner since 2003, when Rossmann and Moore became a partnership. As a litigator, negotiator, and advisor, Mr. Moore is a veteran of major disputes involving the regional and statewide consequences of water projects, water transfers and development decisions.

He has expertise in the enforcement of environmental, transportation, energy and nuclear waste laws, and in the interface of water supply, water quality, land use and climate change planning. On issues of neighborhood and national concern, he advises clients on meeting the complex demands of modern planning in a lawful, productive and environmentally sustainable manner.

**Amy Steinfeld, Shareholder, Brownstein Hyatt Farber Schreck, Santa Barbara, CA**



Amy Steinfeld is a member of the Water & Public Lands Group. She has specialized experience in Colorado River Issues and Endangered Species Act compliance. She represents public water agencies, special districts, private landowners and water utilities in both litigation and transactional matters. Amy works on a broad range of water and land use issues, including California Environmental Quality Act (CEQA) compliance, water rights permitting, administrative proceedings, complex groundwater adjudications, and water supply planning under SB 610/2210.

Prior to attending law school, Amy gained valuable experience in the environmental field, serving as the environmental director and an environmental consultant and analyst for the California Safety Compliance Corporation. She traveled to 37 countries to conduct social and environmental audits of factories for large manufacturing companies. She also developed an environmental audit tool and a forestry chain of custody audit. In addition, Amy has worked with the National Wildlife Federation and Environmental Defense.

**Andrew Sawyer, Assistant Chief Counsel, State Water Resources Control Board, Sacramento, CA**



Andy Sawyer is an Assistant Chief Counsel at the State Water Resources Control Board (State Water Board) in Sacramento, California, where his responsibilities include managing the activities of the Office of Chief Counsel involving the State Water Boards water right and underground storage tank programs. Mr. Sawyer has worked for the State Water Board since 1977, following a clerkship with Justice Samuel J. Roberts of the Supreme Court of Pennsylvania.

Mr. Sawyer is a former chair of the Environmental Law Section of the State Bar of California, and a former chair of the Environmental Law Section of Sacramento County Bar Association. Mr. Sawyer received his J.D. in 1976 from the University of California at Berkeley (Boalt Hall), and his A.B in 1973 from Harvard.

**Steve Anderson, Partner, Best Best & Krieger, Riverside, CA**



Steve Anderson works on water rights, groundwater, wetlands, in-lieu fee program, endangered species, environmental mitigation, conservation easements and other natural resource law matters. As a partner at Best Best & Krieger LLP, Steve is a member of the firm's Environmental Law & Natural Resources, Special Districts and Municipal Law practice groups.

Steve is regularly involved in water issues faced by public agencies and private clients across California, including water rights disputes, groundwater, recycled water, water diversions and reporting, drought impacts on water supply, implementation of the Sustainable Groundwater Management Act, water bonds (Proposition 1), water supply assessments, wastewater and integrated water planning. Steve routinely drafts water rights opinions and contracts involving water supplies

Steve serves as general counsel to water districts, court-appointed watermasters, resource conservation districts and other special districts. In this capacity, Steve works on Brown Act, conflict of interest, contracting, grant funding, employment, transactional and other public agency governance issues, in addition to natural resource law matters.

**Harriet Steiner, Partner, Best Best & Krieger, Sacramento, CA**



Ms. Steiner's practice focuses on public law, representing cities, special districts and joint powers agencies as city attorney, general counsel and special counsel. Her areas of specialty include land use, environmental law, telecommunications law and cable television franchising, wastewater and municipal water, and public financing. Ms. Steiner has worked on air quality and transportation matters, including the Clean Air Act and federal transportation requirements and funding, agreements between local governments and Indian tribes, and agricultural and habitat conservation easements.

In addition, Ms. Steiner advises public agencies on land use approvals, including negotiation of development agreements, compliance with the California Environmental Quality Act, public financing and Proposition 218 compliance. She has represented public agencies in CEQA and land use litigation, election challenges, public financing and development impact fee challenges, and Proposition 218 litigation.

### **Rod Walston, Of Counsel, Best Best & Krieger, Walnut Creek, CA**



Roderick E. Walston is at the center of many of the region's most impactful and landmark water rights cases. Especially in times of drought, these cases and decisions affect everyone in California and beyond — from homeowners and developers to farmers and businesses. As of counsel in Best Best & Krieger LLP's Litigation and Environmental & Natural Resources practice groups, and previously during his long career in the California Attorney General's office, Rod has litigated many of California's most important natural resources and environmental cases, particularly at the appellate level and seven before the U.S. Supreme Court.

His practice includes:

- State Water Rights and Water Quality Laws
- Federal Reclamation Laws
- The Clean Water Act
- The Endangered Species Act
- Public Trust Issue
- Land Use Regulation
- Constitutional Taking Issues

### **Christopher M. Sanders, Partner, Ellison, Schneider & Harris L.L.P., Sacramento, CA**



Chris has been involved in the water industry for more than 25 years, and joined Ellison, Schneider & Harris in 1998 after working for more than 10 years as an environmental engineer with the State of California, EPA. He possesses extensive experience concerning water use and management in California including water right permitting, adjudications, water transfers, conjunctive water use, water quality, and reclamation. He routinely handles matters pursuant to the Porter-Cologne Water Quality Control Act, California Environmental Quality Act (CEQA), Endangered Species Act, and Clean Water Act. Chris represents private companies, municipalities, special districts, and individual landowners with transactional negotiations, litigation, and administrative agency proceedings.

Chris has significant experience problem solving and developing strategies to resolve complex water-related issues. he routinely appears before administrative agencies such as the State Water Resources Control Board, Regional Water Quality Control Boards, Department of Fish and Wildlife, and National Marine Fisheries Service, and also in superior court.

### **Christian Marsh, Partner, Downey Brand LLP, San Francisco, CA**



Christian provides advice on matters related to endangered species, water rights, water quality, wetlands, environmental review, and the public trust doctrine. With a particular emphasis on matters pertaining to NEPA and CEQA review, Christian represents clients in state and federal court, and represented the prevailing parties in two appeals before the California Supreme Court.

Before practicing law, Christian served as an assistant to the Director of the White House Office on Environmental Policy and as special assistant in the U.S. Department of the Interior, where he advised the Deputy Secretary and the Assistant Secretary for Water & Science on endangered species and water policy in the Columbia River basin, the California Bay-Delta, and the U.S.-Mexico border region. He is regularly called upon to represent clients on administrative matters before the U.S. Army Corps of Engineers, Fish & Wildlife Service, NOAA Fisheries, Bureau of Reclamation, California State Water Resources and Regional Water Quality Control Boards, Department of Fish & Wildlife, State Lands Commission, Coastal Commission, Bay Conservation & Development Commission, and local governments.

### **John Fiske, Senior Trial Attorney, Gomez Trial Attorneys, San Diego, CA**



John is an environmental lawyer who strives to bring justice to polluters and manufacturers of known pollutants. He manages the Gomez Complex Litigation practice group, including Mass Torts, Class Actions, and Environmental Litigation. He represents the cities of San Diego, San Jose, Oakland, Berkeley, and Spokane as plaintiffs in environmental and public nuisance actions against Monsanto for polluting America's waterways with PCBs. John's projects also include groundwater contamination lawsuits, such as against a multi-billion dollar aerospace company, which created the largest chlorinated solvent plume in the state of California, endangering teachers and children at an elementary school.

John led an investigation in San Luis Obispo, uncovering many drinking wells contaminated with TCE and other toxic chemicals and represented the families affected by the contaminated drinking water.

He earned his law license at age 23 after attending California Western on a full-ride scholarship and serving as Associate Editor of the Law Review.

### **Steve Hoch, Partner, Morris Polich & Purdy, Los Angeles, CA**



Steven Hoch is the chair of the firm's Environmental Law Group. Steven has over 40 years of experience with both federal and state environmental laws and regulations in the context of permitting, regulatory proceedings, litigation, enforcement actions, water supply, public policy formation, and advice. His work includes contamination of land and ground and surface water. Steven has critical experience in the areas of environmental law and the federal and state Safe Drinking Water Acts, Title 23, water supply, and the mechanics of water distribution

Steven has in-depth experience working with numerous public water systems throughout the state. He has also established a sterling reputation for his work with the Regional Water Quality Control Boards, the Department of Toxic Substance Control, and the United States Environmental Protection Agency both in the administrative and litigation. His clients range from the country's largest municipal water agency to individuals selling or buying contaminated sites. Steven often takes primary roles in many environmental trials, and has served as liaison counsel for groups or parties at the request of fellow counsel. He has

been involved in several landmark cases, including acting as PG&E's counsel in the case made famous by the movie /Erin Brockovich.

### **Kimberly Bick, Partner, Bick Law Group, Newport Beach, CA**



Kimberly Leue Bick is an experienced attorney practicing environmental law since graduating from Stanford Law School. with distinction, in 1990. Her B.S. in Earth Sciences and M.S. in Civil Engineering from Stanford, plus her pre-law work as an environmental engineer in charge of compliance and CERCLA cleanups at McDonnell Douglas Corporation, provide unique experience in this practice area.

After graduating from Stanford Law School, Kim clerked for the Honorable Patricia M. Wald of the U.S. Court of Appeals, District of Columbia. Before starting Bick Law, Kim worked as an Associate at Morrison & Foerster, Of Counsel at Gibson, Dunn & Crutcher, and most recently as Senior Counsel at Irell & Manella, where she was the head of the Environmental Law Practice Group.

Kim's clients are national and transnational Fortune 50 companies and her work spans the globe, including Washington, Oregon, California, Hawaii, Arizona, New York, Vermont, Maine, Minnesota, Washington, D.C., the EU, Mexico, Indonesia, Hong Kong and China.

### **Jim Meeder, Partner, Allen Matkins, San Francisco, CA**



James L. Meeder is a partner, resident in the firm's San Francisco office, where he practices civil and criminal trial and appellate work. James has 30 years experience in complex civil and criminal environmental cases involving hazardous waste disposal, soil and groundwater contamination, surface water pollution, water quality, discharge permitting, air quality and permitting, land use, Proposition 65, NEPA/CEQA, CERCLA, RCRA, nuisance and trespass, contract disputes, indemnity claims, and toxic torts. James also has significant experience in complex business trial and appellate work. He practices in state and federal courts throughout California and in many Western states. As an experienced trial lawyer, James also offers advice and counseling in connection with potential civil lawsuits, enforcement actions, and criminal prosecutions in these areas.

Prior to joining Allen Matkins in 2000, James was a partner at Beveridge & Diamond LLP (1991-2000) and Brobeck, Phleger & Harrison (1980-1991). Before joining Brobeck in 1975 as an associate, James was a Law Clerk to the Honorable Robert J. Kelleher, United States District Court for the Central District of California (1974-1975) and Senior Research Librarian United States Supreme Court (1972-1974).

### **Ryan Hiete, Partner, Musick Peeler & Garrett, Westlake Village, CA**



Mr. Hiete's practice covers the full spectrum of regulatory and environmental law, including compliance, governmental reviews and investigations of corporate and individual activities, administrative hearings, real property transactions involving environmentally impacted sites, due diligence, litigation and alleged "white collar" crimes.

Mr. Hiete represents a wide variety of private entities, including private water companies, property owners and developers, large international corporations, maritime-based entities, oil and gas entities, industrial/manufacturing companies, commercial enterprises, private member organizations, family trusts and national banking institutions

Mr. Hiete also extensive experience surface and groundwater pollution cases, contaminated soil and soil gas-related issues, storm water discharge, climate change/global warming-related issues, hazardous waste management, energy, environmental insurance, brownfields, real estate development and construction projects (including CEQA analysis and litigation), landfills, asbestos, access issues, above and underground storage tank cases, zoning and land use planning and drafting legislation

### **Bret Stone, Founding Partner, Paladin Law Group, Santa Barbara, CA**



Mr. Stone has been working on environmental issues for over 20 years. The depth of his experience includes responding to environmental problems (e.g., pollution or other forms of environmental contamination), risk management and regulatory compliance, cleantech and green businesses, green building, climate change, and sustainability. Mr. Stone's client base is equally diverse: from emerging startups to multinational Fortune 500 companies, to municipalities and special districts. His focus on sustainable development includes carbon, greenhouse gas emissions, cap-and-trade, water, renewable energy, social and human impacts, and the business acumen to make the project financially viable. Mr. Stone's work includes Brownfields redevelopment, real estate transfers, corporate mergers and acquisitions, and litigation. Mr. Stone has worked on sites involving manufacturing, metal finishing, dry cleaning, printing, ship building, and oil exploration and production. He is also recognized for his success in representing insurance policyholders and, through insurance archaeology, bringing historical insurance assets to the table to

cover environmental, asbestos, and products liability claims.

### **Katherine Trisolini, Professor of Law, Loyola University, Los Angeles, CA**



Prior to joining the Loyola faculty, Trisolini was an Environmental Law Fellow at UCLA School of Law from August 2007 to July 2009. At UCLA, in addition to conducting research on climate change policy, she taught environmental law, a seminar on local governments and the environment, the environmental law clinic, and seminars on the judicial process.

Trisolini practiced environmental law as an Associate Attorney at Chatten-Brown & Carstens in Santa Monica from March 2004 to July 2007 and as a Fellow at Shute, Mihaly & Weinberger in San Francisco. She clerked for then Chief Judge Consuelo B. Marshall of United States District Court for the Central District of California and for the Honorable A. Wallace Tashima of the United States Court of Appeals for the Ninth Circuit.

Trisolini graduated with distinction from Stanford Law School where she was a teaching assistant for Dean Paul Brest's course on Decision making and Professional Judgment and for Professor Laurence Friedman's undergraduate political science course on the American legal system. She served on the Stanford Law Review and the Stanford Journal of International Law. While in law school she worked for the Natural Resources Defense Council, the Environmental Protection Agency's Office of General Counsel, and the American Civil Liberties Union Immigrants' Rights Project.

