

STATES' RIGHTS AND THE CONTROL OF GROUNDWATER IN THE WEST

State Bar of New Mexico, 5121 Masthead NE, Albuquerque, NM 87109



July 17th – 9:00am – 4:45pm
July 18th – 8:30am – 4:05pm



The American Ground Water Trust's Annual summer groundwater conference in Albuquerque will focus on States' rights and legal issues surrounding the control of groundwater in the west. The program will include insights to management and ownership of groundwater on tribal lands. The conference will bring together attorneys, federal, tribal and state water-resources managers, engineers, scientists, planners, and water end users (utilities, irrigators etc.) to discuss past and current cases, legal challenges, primacy and jurisdictional authority over groundwater management. Presentations will also include the scientific studies and groundwater modeling results that have informed decision-making.

For many states in the Western US, primacy for administration of groundwater is held by the states. However, recent legal challenges have brought the extent of state control of groundwater into question. Chief amongst these are the Texas v New Mexico case before the US Supreme Court and the Coachella v Agua Caliente case in California. In the case of Texas v New Mexico, one of the issues is groundwater use within the state of New Mexico between the point of delivery under the Rio Grande Compact at Elephant Butte and the Texas state line. In the Coachella v Agua Caliente case in California, the court has backed the Agua Caliente tribe's claim that it holds a federally granted reserved right to groundwater beneath the tribe's reservation. Two local water agencies, the Coachella Valley Water District and the Desert Water Agency, have argued unsuccessfully that the tribe has the same right to use groundwater under state law as other landowners. Recently in New Mexico, the US Forest Service attempted to assert its authority to manage groundwater on its lands, contrary to New Mexico water law. This conference will explore the changing landscape of states' rights and the administration of groundwater.

Continuing Education

The AGWT will issue Certificates of Attendance:
Approved by State Bar of NM – 12 MCLE hours



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Day One – Tuesday, July 17th

8:00 – 9:00 REGISTRATION (Coffee, pastries and network with exhibitors)

9:00 – 9:10

INTRODUCTION – COMMUNICATION, EDUCATION AND THE CHALLENGE OF SCIENCE AS THE BASIS FOR POLICY
Andrew Stone, Executive Director, American Ground Water Trust, Concord, NH

9:10 – 9:45

NEW MEXICO'S PRIMACY OVER GROUNDWATER AND THE CONTROVERSY REGARDING THE U.S. FOREST SERVICE'S PROPOSED DIRECTIVE ON GROUNDWATER MANAGEMENT

Scott A. Verhines, PE, Senior Principal, OEI (Stantec), Santa Fe, NM and Greg Ridgley, JD, Lead Counsel, NM Office of State Engineer, Santa Fe, NM

9:45 – 10:20

HYDROLOGY AND LAW - FEDERAL & STATE NEGOTIATIONS OVER TRIBAL WATER RIGHTS: THE CHOCTAW-CHICKASAW WATER PLAN AND THE OKLAHOMA WATER SETTLEMENT

Barney Austin, PhD, PE, President and CEO, Aqua Strategies Inc., Austin, TX and Duane Smith, Lead Consultant, Duane Smith and Associates, Oklahoma City, OK

10:20 – 10:55

AAMODT WATER RIGHTS SETTLEMENT: CHARACTERIZATION OF TWO ARROYOS FOR MANAGED AQUIFER RECHARGE AS A WATER STORAGE OPTION IN THE POJOAQUE RIVER BASIN, NEW MEXICO

Andrew Robertson, Supervisory Hydrologist, USGS New Mexico Water Science Center, Albuquerque, NM

10:55 – 11:15 BREAK

11:15 – 11:50

GROUNDWATER MANAGEMENT IMPLICATIONS OF AGUA CALIENTE INDIAN TRIBE V. COACHELLA VALLEY WATER DISTRICT AND DESERT WATER AGENCY

Roderick Walston, JD, Of Counsel, Best Best & Krieger, Walnut Creek, CA

11:50 – 12:25

OVERVIEW OF TRIBAL GROUNDWATER ISSUES IN THE LITTLE COLORADO RIVER ADJUDICATION, ARIZONA

T. Neil Blandford, PG, Principal Hydrologist/Senior Vice President, Daniel B. Stephens & Associates, Inc., Albuquerque, NM

12:25 – 1:35 LUNCH

1:35 – 2:10

RIO GRANDE TRANSBOUNDARY INTEGRATED HYDROLOGIC MODEL: MODELING CONJUNCTIVE USE IN THE RINCON VALLEY, NEW MEXICO AND THE MESILLA/CONEJOS-MÉDANOS BASIN, NEW MEXICO AND TEXAS, UNITED STATES AND CHIHUAHUA, MEXICO.

Andre Ritchie, Hydrologist, USGS New Mexico Water Science Center, Albuquerque, NM

2:10 – 2:45

GROUNDWATER MANAGEMENT CHALLENGES IN ARIZONA RELATED TO DEFINITIONS OF THE LEGAL CATEGORY OF WATER, CALLED "SUBFLOW"

Doug Bartlett, RG, CHG, Principal Hydrogeologist, Clear Creek Associates, Scottsdale, AZ

2:45 – 3:20

INTERSTATE STREAM LITIGATION ISSUES: MANAGEMENT AUTHORITY OVER GROUNDWATER WITHDRAWALS

Jeff Wechsler, JD, Attorney, Shareholder, Montgomery & Andrews, Santa Fe, NM

3:20 – 3:35 BREAK

3:35 – 4:10

CONJUNCTIVE WATER RESOURCES MANAGEMENT AND CONTROVERSIES OVER THE RIGHT TO USE UNDERGROUND WATER IN NEVADA

Jason King, PE, Nevada State Engineer, Water Resources, Dept. of Conservation & Nat. Resources, Carson City, NV

4:10 – 4:45

A JOURNALIST'S PERSPECTIVE ON NEW MEXICO WATER POLICY

Laura Paskus, Journalist, The NM Political Report, Albuquerque, NM

4:45 – 6:25 RECEPTION (Hosted by Intera Inc.)



Day Two – Wednesday, July 18th

7:30 – 8:30 REGISTRATION (Coffee, pastries and network with exhibitors)

8:30 – 8:45

SUMMARY OF DAY ONE PRESENTATIONS

David Jordan, PE, Intera Inc. Albuquerque, NM

8:45 – 9:25

AN OVERVIEW OF WATER RIGHTS AND GROUNDWATER MODELS IN AN OVER-APPROPRIATED BASIN IN COLORADO

Shaden Musleh, PE, Intera Inc., Boulder, CO

9:25 – 10:05

A REVIEW OF COURT DECISIONS AND REGULATIONS AFFECTING THE RIGHTS OF PRIVATE WELL OWNERS AND SMALL GROUNDWATER BASED WATER SYSTEMS IN WESTERN STATES

Jesse J. Richardson, Jr., JD, Attorney, Policy and Research Advisor for Water Systems Council, Washington DC

10:05 – 10:45

OVERVIEW AND UPDATE ON THE NAVAJO GALLUP WATER SUPPLY PROJECT

Dennis Romero, Water and Sanitation Director, City of Gallup, NM

10:45 – 11:00 BREAK

11:00 – 11:40

HYDROGEOLOGIC MAGIC: THE ABEYTA WATER RIGHTS SETTLEMENT IN THE TAOS VALLEY

John W. Shomaker, PhD, John Shomaker & Associates, Inc., Albuquerque, NM

11:40 – 12:20

TRIBAL PERSPECTIVES ON GROUNDWATER

Peter Chestnut, JD, Attorney, Chestnut Law Offices, Albuquerque, NM

12:20 – 1:20 LUNCH

WHO HAS CONTROL OVER LOCAL GROUNDWATER? WHERE POLITICS AND GOVERNMENT REGULATIONS INTERSECT: THE CADIZ WATER PROJECT EXPERIENCE

1:20 – 1:55

Part 1: History of the Cadiz Water Project: Politics v. Science

Samantha Waterman, JD, Attorney, VP, Project Management, Cadiz, Los Angeles, CA

1:55 – 2:30

Part 2: Deeper Dive Into Cadiz Water Project Legal Challenges: Overcoming Federal and State Agency Roadblocks and Legal Hurdles

Amy M. Steinfeld, JD, Attorney, Shareholder, Brownstein Hyatt Farber Schreck, Santa Barbara, CA

2:30 – 3:10

GROUNDWATER MANAGEMENT IN ARIZONA: THE PRICE OF UNCERTAINTY

Sarah Porter, JD, Director, The Kyl Center for Water Policy, Arizona State University, Phoenix, AZ

3:10 – 3:50

CONCLUSIONS FROM THIS CONFERENCE ABOUT THE CHANGING LANDSCAPE OF GROUNDWATER ADMINISTRATION

Estevan López, PE, Senior Engineer, OEI (Stantec), Santa Fe, NM

3:50 – 4:05

WRAP-UP AND FINAL Q & A

ADJOURN 4:05

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- ~ **Facilitate stakeholder participation in water resource decisions**

