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- Washington Rivers Conservancy
- Washington State Department of Ecology
- Washington State Environmental Hearings Office
- Washington State Office of the Attorney General
- Washington Water Trust
- WestWater Research LLC

The Eighteenth Annual Conference on

Washington Water Law 2009

New and Evolving Policy Priorities, Rules and Litigation



June 4 & 5, 2009

Seattle, Washington

Washington State Convention and Trade Center

Credits: WA CLE 12.25 inc 1 ethics | WA RE pending | AICP pending (call about others)
Quick when/where: 8:30 a.m., 800 Convention Place

Washington Water Law 2009 Conference

June 4 & 5, 2009 | Seattle, Washington
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8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

Kathryn L. Gerla, Esq., Program Co-Chair
Seattle City Attorney's Office ~ Seattle, WA

Sarah E. Mack, Esq., Program Co-Chair
Tupper Mack Brower PLLC ~ Seattle, WA

8:45 **Special Opening Address: The Department of Ecology's Water Resources Policy Agenda for the Coming Year**

Jay J. Manning, Esq., Director
Washington State Department of Ecology ~ Olympia, WA

9:30 **Legislative Update**

Ecology's water banking and adjudication bills; other legislative proposals; what passed and what did not pass

Kathleen Collins, Government Relations Consultant
Capitol Strategies ~ Olympia, WA

10:00 **Break**

10:15 **Municipal Water Law Litigation and Policy**

Municipal water law litigation: Overview of the Superior Court decision and parties' arguments in the Supreme Court

Kathryn L. Gerla, Esq., Program Co-Chair

Ecology's interim policy guidance on municipal water rights: policy impetus and anticipated consequences

Clifford D. (Doug) Rushton, Policy Analyst, Water Resources Program
Washington State Department of Ecology ~ Olympia, WA

Plaintiffs' and water purveyors' perspectives

Adam W. Gravley, Esq.
GordonDerr LLP ~ Seattle, WA

Kristen L. Boyles, Esq.
Earthjustice ~ Seattle, WA

12:15 **Lunch (on your own)**

1:30 **Exempt Wells Seven Years After *Campbell & Gwinn***

Historical origins of the groundwater permit exemption; background of *Ecology v. Campbell & Gwinn*; current issues in domestic and stockwater consumption; the Easterday Ranches controversy

Jeff B. Kray, Esq.
Marten Law Group ~ Seattle, WA

Ecology's Kittitas exempt well rule and its approach to implementation of *Campbell & Gwinn*

Brian V. Faller, Esq., Assistant Attorney General, Ecology Division

Washington State Office of the Attorney General ~ Olympia, WA

Developers' perspectives on exempt wells and domestic water supply

Bill Clarke, Esq.
Attorney at Law ~ Olympia, WA

3:15 **Break**

3:30 ***Knight v. City of Yelm*: Water Availability and Ecology's Role in Local Land Use Decision Making**

Overview of the case and the underlying issues: How should water availability be determined and who should decide?

Richard L. Settle, Esq.
Foster Pepper PLLC ~ Seattle, WA

4:15 **Water Rights Case Law Update**

Pollution Control Hearings Board: Recent decisions and pending cases to watch

Kathleen D. Mix, Esq., Chair
Washington State Environmental Hearings Office ~ Lacey, WA

Superior and Appellate Courts: Recent judicial decisions and pending cases to watch

Alan M. Reichman, Esq., Assistant Attorney General, Ecology Division

Washington State Office of the Attorney General ~ Olympia, WA

5:30 **Continue the Exchange of Ideas: Reception for Faculty & Attendees Sponsored by Tupper Mack Brower PLLC**

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About the Conference

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The legal, policy and environmental landscape for Washington water law continues to evolve. Building on prior years' Washington Water Law conferences, we will explore current policy priorities in Olympia, new developments in the municipal water law litigation, initiatives relating to exempt groundwater wells, current issues in water marketing and transfers, and recent developments in the legislature, the courts, and the Pollution Control Hearings Board.

This conference brings together experts from a variety of perspectives and disciplines to share their experiences, challenges, and success stories regarding this evolving landscape, as well as other pressing issues. The program also includes critical updates and thought-provoking discussions for water law practitioners, water users and resource managers.

~Program Co-Chairs: Kathryn L. Gerla, Esq. and Sarah E. Mack, Esq.



8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

Kathryn L. Gerla, Esq., Program Co-Chair
Sarah E. Mack, Esq., Program Co-Chair

8:45 Water Marketing and Transfers

Water markets in the Western United States: Overview and examples of what is and is not working

Georgina A. Moreno, Ph.D., Economist
Analysis Group, Inc. ~ Los Angeles, CA

The role of relinquishment in water right transfers: Statutory forfeiture, excuses, and exemptions

Sarah E. Mack, Esq., Program Co-Chair

Acquisition of water rights through condemnation: Case study of the Olympia Brewery litigation

Marisa Velling Lindell, Esq.
Graham & Dunn PC ~ Seattle, WA

10:15 Break

10:30 How Should the Laws Governing Water Right Transfers Be Changed?

Panelists share their different perspectives on necessary changes to the laws and rules

Clay Landry, Managing Director and Principal
WestWater Research LLC~ Vancouver, WA

M. Patrick Williams, Esq., Staff Attorney
Center for Environmental Law & Policy ~ Seattle, WA

David Monthie, Esq., Regional Water Policy Analyst
King County Department of Natural Resources and Parks
Seattle, WA

Peter H. Dykstra, Esq., Washington State Director
The Trust for Public Land ~ Seattle, WA

12:15 Lunch (on your own)

1:30 Innovative Approaches to Trust Water Right Transactions

The role of nonprofits in water banking, leasing programs, and other water management alternatives

Susan Adams, Executive Director
Washington Water Trust ~ Seattle, WA

Lisa Pelly, Executive Director
Washington Rivers Conservancy ~ Wenatchee, WA

2:30 Ethical Issues for Lawyers in Water Rights Litigation and Transactions

Terese (T.C.) Richmond, Esq.
GordonDerr LLP ~ Seattle, WA

3:30 Evaluations and Adjourn

Upcoming Seminars:

Table with 3 columns: Seminar Title, Date, Location. Includes seminars on Climate Change Litigation, Natural Resource Damages, Model Toxics Control Act, New Issues in Solid and E-Waste, and Shoreline Development and Permitting.

See more at www.lawseminars.com



Registration & Other Conference Information

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Walk-ins are welcome, subject to space availability.

Registration is complete when we receive payment or agree to later payment.

Tuition: Regular tuition for in-person or webcast attendance for this program is \$995 with a group rate of \$845 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$695. For students and people in their job for less than a year, our rate is \$49750. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

Substitution & Cancellation:

You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, May 29, 2009. After that time, we will credit your tuition toward attendance at

another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

Seminar Location: The conference will be held at the Washington State Convention and Trade Center at 800 Convention Place in Seattle, WA 98101. Call the hotel directly at (206) 694-5000 for questions related to the location. A special negotiated rate of \$209/nt is available at the Renaissance Seattle Hotel, just four blocks away, for on-line reservations only on a first come, first served basis. Go to http://marriott.com/hotels/travel/seasm-renaissance-seattle-hotel to reserve. Use Corporate Code L64. If you have any additional questions for

the hotel, please contact them directly at (206) 583-0300.

Continuing Education Credits:

This program qualifies for 12.25 WA CLE credits including 1 ethics. Upon request, we will apply for CLE credits in other states and other types of credits.

If You Cannot Attend: Our complete Homestudy Course, consisting of a DVD recording and the written course materials, is available for \$1005. The written course materials, binder or searchable CD are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

Faculty: Washington Water Law 2009 Conference

Kathryn L. Gerla, *Program Co-Chair*, Attorney at the Seattle City Attorney's Office, practices land use and environmental law. Previously, she was a Senior Assistant Attorney General with the Washington State Attorney General's Office, where she represented the Departments of Ecology and Natural Resources.

Sarah E. Mack, *Program Co-Chair*, partner at Tupper Mack Brower PLLC, focuses on land use, natural resources and environmental law, with an emphasis on project permitting and environmental review, water rights, and administrative and judicial appeals. She was named a "Super Lawyer" by *Washington Law & Politics*.

Jay J. Manning, *Special Address*, is Director of the Washington State Department of Ecology. Previously in private practice, he focused on water resources, water quality, ESA issues, Brownfields redevelopment and environmental cleanup. He was President of the Washington Environmental Council and an Assistant Attorney General, where he was chief counsel for the Washington State Department of Ecology.

Susan Adams, Executive Director at Washington Water Trust, focuses on executive management, policy development, facilitation and negotiation with private, public and nonprofit organizations working on natural resource issues.

Kristen L. Boyles, Staff Attorney at Earthjustice, focuses on protection for Pacific Northwest salmon, the Klamath River Basin, other endangered species, water quality and quantity, and forest ecosystems in Idaho, Oregon and Washington.

Bill Clarke, Attorney at Law, former member and Chair of the Pollution Control Hearings Board and Shorelines Hearings Board, practices natural resource, environmental and land use law and advises private, public and nonprofit clients in permitting, regulatory matters and appeals.

Kathleen Collins, Government Relations Consultant at Capitol Strategies, provides lobbying and policy development services for private and public clients focusing on water resources.

Peter H. Dykstra, Washington State Director of The Trust for Public Land, leads the conservation efforts across the state. He is also an adjunct faculty member at Seattle University, teaching environmental law and policy, and the Founding Chair of Washington Rivers Conservancy.

Brian V. Faller, Assistant Attorney General in the Ecology Division of the Washington State Office of the Attorney General, focuses on water resource and hydropower licensing issues. He recently argued the exempt withdrawal appeal, *Ecology v. Campbell & Gwinn*, to the Supreme Court.

Adam W. Gravley, partner at GordonDerr LLP, focuses on water rights and resources and infrastructure needs of business, local government and individual clients. He was named a "Super Lawyer" by *WA Law & Politics*.

Jeff B. Kray, partner at Marten Law Group, focuses on water resources, water quality, and environmental, civil and appellate litigation. Previously, he was an Assistant Attorney General with Washington Attorney General's Office. He was named a "Super Lawyer" by *WA Law & Politics*.

Clay Landry, Managing Director and Principal at WestWater Research LLC, negotiates and advises on major water transactions throughout the U.S.

Marisa Velling Lindell, shareholder at Graham & Dunn PC and member of the Condemnation Team, represents governmental agencies, property owners and lenders involved in condemnation and relocation actions.

Kathleen D. Mix, Chair of the WA State Environmental Hearings Board, is on the board of the Pollution Control Hearings Board, Shorelines Hearings Board and Environmental and Land Use Hearings Board. Previously, she was Chief Deputy Attorney General for Attorney General Chris Gregoire.

David Monthie is Regional Water Policy Analyst in the Regional Water Unit of the Office of the Director of King County Department of Natural Resources

and Parks. He has helped develop and implement King County policies on a variety of water resource management issues.

Georgina A. Moreno, Ph.D., Economist at Analysis Group, Inc., specializes in the application of economic and statistical principals to litigation, regulation, and business matters. Her experience includes economic evaluation, assessments of economic damages, and public policy analysis, with a specialization in environmental issues, particularly water resources and land use.

Lisa Pelly, Executive Director of Washington Rivers Conservancy, works with local communities to enhance stream flows through voluntary and market-based solutions. She is on the board of Washington Wildlife and Recreation Coalition, Washington Conservation Voters and Washington Environmental Council.

Alan M. Reichman, Assistant Attorney General in the Ecology Division of the Washington State Office of the Attorney General, is section manager for the Water Resources Section and lead counsel to the Department of Ecology's Water Resources Program.

Terese (T.C.) Richmond, partner at GordonDerr LLP, focuses on environmental law, land use and water law, with an emphasis on policy.

Clifford D. Rushton is Ecology's Water Resources Program senior planning and policy lead. He led development of Ecology's implementation of the 2003 municipal water law and the co-management agreement with the DOE.

Richard L. Settle, of counsel at Foster Pepper PLLC, focuses on land use, environmental and municipal law and represents landowners, municipalities and citizen groups. He is Professor Emeritus at Seattle University School of Law, where he teaches land use, environmental, real property, and tort law.

M. Patrick Williams, Staff Attorney at the Center for Environmental Law & Policy (CELP) focuses on water law and policy. CELP is dedicated to the protection of Washington's waters through education, legislation, and litigation.

June 4 & 5, 2009
Seattle, Washington

Washington State Convention and Trade Center

800 Convention Place
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Who Should Attend:

Attorneys, environmental and real estate professionals, corporate managers, governmental officials, tribal representatives, resource managers and planners

You Will Learn About:

- Ecology's new water resources policy agenda
- Water banking and adjudication, a legislative update
- Municipal Water Law litigation and impacts
- Exempt wells following *Campbell & Gwinn*
- Water availability and Ecology's role in local land use decision making
- Water rights case law
- Water markets and transfers
- Potential changes to laws governing water right transfers
- New approaches to trust water right transactions
- Ethical issues for lawyers in water rights litigation and transactions

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