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Instream Flow Protection in the Western United States: A Practical Symposium (March 31-April 1)

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### AGENDA: Instream Flow Protection in the Western United States: A Practical Symposium

University of Colorado Boulder. Natural Resources Law Center

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# INSTREAM FLOW PROTECTION IN THE WESTERN UNITED STATES: A PRACTICAL SYMPOSIUM

Thursday, March 31

8:30 **Registration and coffee**

9:00 **Welcome and Introduction, Lawrence J. MacDonnell, Director, Natural Resources Law Center**

9:15 **An Overview of Instream Flow Programs and Strategies**

As the economic, recreational, and aesthetic values of free-flowing waters gain increased recognition in the West, more states, federal agencies, Indian tribes, and private organizations are working to protect instream flows. The speaker will provide an overview of the various strategies taken in the western states for maintaining water levels in natural streambeds, and the controversies that are arising as a result of these efforts.

Speaker:

**Steven J. Shupe**, Shupe & Associates, Santa Fe

10:30 **Break**

10:50 **Establishing the Quantity of Necessary Flow**

Stream transects, computer models, and judgment calls typically go into estimating the amount of flow needed to protect fish, recreation, and other benefits supported by free-flowing waters. The speaker and panelists will discuss the criteria used for establishing instream flow levels, and the strengths and weaknesses of the quantification methodologies currently used in western states.

Speaker:

**Berton L. Lamb**, U.S. Fish & Wildlife Service, Fort Collins, Colorado

Panelists:

**Bill Horton**, Idaho Dept of Fish & Game

**Tom Annear**, Wyoming Game & Fish Dept.

**Jay Skinner**, Colorado Division of Wildlife

**Clair Stalnaker**, U.S. Fish & Wildlife Service

**John L. Turner**, California Dept. of Fish & Game

**Christopher C. Estes**, Alaska Dept. of Fish & Game

12:15 **Lunch**

1:30 **Practical Aspects of Enforcement**

Establishing instream flow rights merely on paper does little to help protect free-flowing waters from new diversions and changes in water use along the rivers. The speakers and panelists will discuss attempts to translate paper rights into effective protection of instream flows through various enforcement strategies.

Speakers:

**Kenneth Slattery** and **Bob Barwin**, Washington Dept. of Ecology

**Eugene Jencsok** and **Randy Seaholm**, Colorado Water Conservation Board

Panelists:

**John Borden**, Oregon Dept. of Water Resources

**Cindy Deacon Williams**, Chief of Staff for Assemblyman Robert Campbell, California Legislature

**Bob Tuck**, Consultant to the Yakima Indian Nation, Washington

**Liter E. Spence**, Montana Fisheries Division

5:00 **Reception**

Friday, April 1

8:45 **Federal Instream Flow Claims Under State Law**

The federal government has asserted claims for instream flows both in conjunction with its reserved rights and with its general management responsibilities. The panelists will discuss a number of related issues including instream flow rights associated with wilderness areas, integrating federal instream flow rights with state systems, and interstate implications of instream flow rights.

Panelists:

**John R. Hill, Jr.**, U.S. Department of Justice, Denver  
**Christopher H. Meyer**, National Wildlife Federation, Boulder  
**Richard A. Simms**, Hinkle, Cox, Eaton, Coffield & Hensley, Santa Fe  
**Harry W. Swainston**, Deputy Attorney General, Nevada

10:40 **Break**

11:00 **Controversies Over Private Instream Flow Appropriations**

Private organizations and individuals have attempted, with limited success, to appropriate instream flows in a number of western states. The speakers will look at these attempts and discuss the pros and cons of establishing private instream flow rights.

Speaker:

**Herb Dishlip**, Arizona Dept. of Water Resources

Panelists:

**Gary J. Prokosch**, Alaska Dept. of Natural Resources  
**Lori Potter**, Managing Attorney, Sierra Club Legal Defense Fund, Denver  
**David Robbins**, Colorado Water Conservation Board

12:15 **Lunch**

1:30 **Transferring Senior Water Rights to Instream Flow Protection**

In many areas of the West, attempts are being made to enhance natural streamflows by dedicating senior irrigation rights to the stream. The panelists will look at current attempts to acquire such rights, including an assessment of the economic and legal issues involved in transferring senior rights to instream flow protection.

Panelists:

**Robert F. Wightington**, The Nature Conservancy, Boulder  
**Bonnie Colby**, Dept. of Agricultural Economics, University of Arizona  
**Tom Simmons**, Waterwatch of Oregon  
**Phil Wallin**, River Trust Alliance, Santa Fe  
**David Harrison**, Moses, Wittemyer, Harrison & Woodruff, Boulder

2:50 **Break**

3:10 **Instream Flows, The Public Trust, and the Future of the West**

Are current efforts at instream flow protection sufficient to meet the challenges of increasing water competition? Two noted commentators will conclude the conference with an update on the Public Trust Doctrine and their perspectives on the future of free-flowing waters in the western landscape.

Speakers:

**Professor Harrison C. Dunning**, University of California School of Law, Davis  
**Professor Charles F. Wilkinson**, University of Colorado School of Law, Boulder

5:00 **Adjourn**