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Representing the Water Client [outline]

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REPRESENTING THE WATER CLIENT

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WESTERN WATER LAW IN TRANSITION

A short course sponsored by the Natural Resources Law Center
University of Colorado School of Law
June 3-5, 1985
Representing the Water Client

I. The Nature of the Representation

A. Client contact and control

B. Type of service rendered
   1. Governmental entity
   2. Agricultural interest
   3. Industrial interest
   4. Development interest

C. Explaining what can be done
   1. Common misunderstandings
   2. Time and cost estimates -- the impossible dream

II. The Ethical Dilemma

A. The difficulty with "One-Shot" representation
   1. What are your on-going obligations?
   2. When are you free to represent others?

B. How many water clients can you have?
   1. Identification of the problem
   2. View of the outer limits
   3. Some potential means for reducing problems

C. The water lawyer and the obligation to adhere to the Code of Professional Responsibility.

III. The Expert Witness

"Tales of Joys and Sorrows"

A. Who is the client?
   1. The decision on how to proceed
   2. Problems of communication and timely performance
B. Case preparation
1. What should the engineer be asked to do?
2. Is the engineer the client?
   a. Discovery
   b. Attorney-client privilege, or lack thereof
   c. The "in-house" engineer, can he/she successfully function as an expert?

C. The end of the age of mysticism
1. Are experts really experts any more, or does too much familiarity breed contempt?
2. The effect a "water court" has on the use of experts
3. The use of the computer
4. Have things gone too far in the use of the expert to introduce everything from facts and opinions to legal theories?

IV. CONCLUSION