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Representing the Water Client [outline]

David W. Robbins

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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

DWR: CU SPEECH

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