AGENDA: Boundaries and Water: Allocation and Use of a Shared Resource

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Boundaries and Water: Allocation and Use of a Shared Resource  
June 5-7, 1989

Monday, June 5, 1989

AM  LEGAL PRINCIPLES AND ISSUES
8:00  Registration and Coffee
8:30  Welcome

8:40  Allocation of the Nation's Rivers: the Constitutional Framework
Prof. Charles F. Wilkinson, University of Colorado School of Law
The constitutional premises for allocating interstate and international watercourses have undergone considerable evolution and clarification in recent years. Topics will include the state ownership doctrine; navigability for title; state police power; federal regulatory power under the Commerce Clause; relationships among state, federal, tribal, and foreign governments; state and federal court jurisdiction; and interstate compacts and international treaties.

9:40  Allocation of International Rivers: Recent Developments in International Law
Prof. Daniel B. Magraw, University of Colorado School of Law
Non-navigational use of international water courses is one of the most political issues facing many countries today. This talk will summarize existing international norms, describe the U.N. International Law Commission’s work in developing and codifying law in this area, and discuss the Canadian-U.S. International Joint Commission’s recent ruling on the Cabin Creek Coal Mine controversy.

10:10  Break

10:20  Interjurisdictional Water Quality Issues
Prof. Michael C. Blumm, Lewis & Clark, Northwestern School of Law, Portland, Oregon
Water quality concerns, including instream flows, can affect water allocation decisions from an interjurisdictional perspective. This talk focuses on intra-federal and federal-state relations under the Clean Water Act, the Endangered Species Act, and the Federal Power Act, as well as interstate conflicts under the equitable apportionment doctrine, state/tribal relations under Indian treaty rights, and international water quality issues.

11:00  Interjurisdictional Groundwater Allocation, Emerging Principles and Policies
Ann Berkley Rodgers, Attorney, Albuquerque
Public awareness of groundwater as a resource distinct from a jurisdiction’s land base is relatively new. Approaches to allocation at the international level and within the U.S. will be discussed, focusing on the principles and policies that guide decision-makers in allocating and regulating groundwater resources.

11:45  Lunch

International Environmental Mediation—The Human Element
David LaRoche, Secretary, United States Section, International Joint Commission, Washington, DC

PM  BASIN STUDIES
1:15  The Colorado River Compact: A Breeding Ground for International, National and Interstate Controversies
John U. Carlson, Carlson, Hammond & Paddock, Denver
This paper will describe the present and future controversies inherent in the law of the Colorado River. The super-imposing of international goals and national environmental policies upon a contract to share common supplies is propelling those dependent on the River towards a show-down.
Managing the Upper Rio Grande: Old Institutions, New Players
Steven J. Shupe, Shupe & Associates, Santa Fe, New Mexico
The Upper Rio Grande Basin has been managed for irrigation and flood control for much of this century under interstate compact and federal laws. These institutions, however, have been tested in recent years by a far more complex set of interests, including fisheries, recreation, river corridor protection, wildlife, Indian rights, water marketing, water quality concerns and others. This presentation looks at possible mechanisms for forming policy and resolving disputes about these issues.

Interstate Allocation of the Platte River
Prof. J. David Aiken, Dept. of Agriculture & Economics, University of Nebraska
Early interstate disputes regarding allocation of Platte river water focused on irrigation uses. These conflicts resulted in a U.S. Supreme Court decree on the North Platte between Nebraska and Wyoming, and an interstate compact between Nebraska and Colorado on the South Platte. More recent conflicts have focused on environmental protection in the central Platte River in Nebraska.

The Arkansas River Controversy
David W. Robbins, Hill & Robbins, P.C., Denver
In December 1985, Kansas filed a lawsuit against Colorado alleging material depletions of the Arkansas River in violation of the Arkansas River Compact. Colorado filed a counterclaim alleging various violations of the same compact by Kansas. This presentation will describe the issues involved in the lawsuit and the current status of the litigation.

Tuesday, June 6, 1989
AM  BASIN STUDIES (con’t)
8:45  Coordinated Water Management in a Basin with Erratic Surface Supplies: the Law North and South of the Pecos
Prof. Charles T. DuMars, University of New Mexico School of Law
This paper will explore the hydrology of the Pecos River Basin, the Interstate Compact regulating that basin and the implications for state and national water planning strategies.

9:35  The Delaware River Basin: Courts, Compacts & Commissions
R. Timothy Weston, Kirkpatrick & Lockhart, Harrisburg, Pennsylvania
Delaware River waters serve the four-state region of the northeast megalopolis. The 50-year experience of litigation and compact commission programs provide a paradigm of maturing interstate management of shared resources. A former Commissioner reflects on the lessons offered for other basins and regions.

10:45  The Missouri River: River of Promise or Peril?
John E. Thorson, Doney & Thorson, Helena, Montana
The Pick-Sloan Plan, authorized by the Flood Control Act of 1944, was the charter for natural resource development in the Missouri River Basin. The promise of that charter has not been fulfilled and recent controversies—most notably the ETSI Pipeline Project litigation—have resulted. This presentation reviews the shortcomings of the Pick-Sloan Plan and describes recent efforts of the ten basin states, 27 Indian tribes, and federal agencies to develop new water management approaches for the river.

11:35  Lunch (on your own)
INTERJURISDICTIONAL TRANSFERS

1:05 Unique Legal Issues Raised by Long Distance Water Transfer Proposals: ETSI, the Columbia River, NAWAPA
Prof. Ralph W. Johnson, University of Washington School of Law, Seattle, Washington
Out-of-state, out-of-basin water transfer proposals such as ETSI, the Columbia to the Southwest, and NAWAPA, raise unprecedented legal and policy issues, which the speaker will identify and analyze.

1:50 ETSI Pipeline: the Future of an Illusion
William Janklow, former Governor of South Dakota, Sioux Falls, South Dakota
With the ETSI Pipeline, South Dakota attempted to set its own economic agenda by selling Missouri River water for industrial purposes outside the Missouri River basin. This paper will examine the history and aftermath of the ETSI venture which, in light of the squabbles over western water, was an invitation to disaster.

2:35 State Resource Sovereignty in a Post-Sporhase World: the Case of the Hueco Bolson
Prof. A. Dan Tarlock, Chicago-Kent College of Law, Illinois Institute of Technology, Chicago
The presentation will examine the efforts of El Paso, Texas, to secure future water supplies by appropriating groundwater in New Mexico and will focus on New Mexico’s efforts to avoid sharing this resource in the face of the Sporhase case.

3:20 Break

3:40 Montana’s Response to Interjurisdictional Marketing Challenges
Deborah Beaumont Schmidt, Executive Director, Montana Environmental Duality Council
In 1985 Montana changed its water policy to respond to interjurisdictional marketing challenges and opportunities. Four years later, this attempt to integrate public interest and market approaches awaits stronger economic demand for implementation of these innovations.

4:15 Marketing of Indian Reserved Water Rights
Jeanne Whiteing, Whiteing, Thompson & White, Boulder, Colorado
Considerable controversy and uncertainty exists about marketing of Indian reserved water rights. This presentation will focus on the reasons for the controversy and recent developments in the area as reflected in water rights settlements and federal policy.

5:00 Reception

Wednesday, June 7, 1989

AM INTERJURISDICTIONAL COOPERATION

John M. Volkman, Senior Counsel, Northwest Power Planning Council, Portland, Oregon
Since 1980 the Northwest states have developed regional energy, fish and wildlife policy through an interstate compact agency, the Northwest Power Planning Council. The Council’s conservation-oriented power plan and its innovative fish and wildlife program attempt to balance the region’s power and conservation needs. The Northwest’s experience may offer lessons for integrating water policy in other interstate basins.

9:30 The Northwest Power Planning Council—A Model for Cooperative Planning in the Missouri Basin?
Gerald Mueller, Consultant, Helena, Montana
The Northwest Power Planning Council is the outstanding example of cooperative regional planning in the country today. What are the factors key to its success, and how transferable are they to the Missouri River Basin?

10:15 Break
10:35  Panel: **Opportunities for Cooperation in the Missouri Basin**  
*David L. Pope,* Chief Engineer, Division of Water Resources Kansas State Board of Agriculture, Topeka  
*John E. Thorson,* Doney & Thorson, Helena, Montana  
*Arvid L. Thomsen,* Army Corps of Engineers, Omaha District, Omaha, Nebraska

11:40  Lunch

**Water Transfers: Shoot-Out at LaPaz County**  
*Bruce E. Babbitt,* Steptoe & Johnson, Phoenix, Arizona

PM

1:10  **Opportunities for Cooperation in the Colorado River Basin**  
*Prof. David H. Getches,* University of Colorado School of Law  
The Colorado River is the nation's most developed and intensively managed. The interest of the public in the river's bounties—hydroelectricity, fish and wildlife, recreation, irrigation, municipal water, aesthetics—is tremendous. Yet today, management of the river and its profits is virtually monopolized by the federal Bureau of Reclamation. Could fuller state, regional, and national benefits be enjoyed under a Basin authority?  
Panel: *Maggie Fox,* Sierra Club Southwest Regional Office, Boulder, Colorado  
*Linda Lazzerino,* Attorney, Platte River Power Authority, Fort Collins, Colorado  
*J. William McDonald,* Director, Colorado Water Conservation Board  
*Weston J. Hirschi,* Acting Regional Director, U.S. Bureau of Reclamation, Salt Lake City, Utah

3:00  End of program
CONFERENCE ORGANIZERS

DAVID H. GETCHES (A.B. Occidental College, '64; J.D. University of Southern California Law School, '67) is Professor of Law at the University of Colorado School of Law. From August 1983-January 1987 he was on leave from the School of Law to serve as Executive Director of the Colorado Department of Natural Resources. Previously he practiced law in Boulder and San Diego, and for several years was an attorney for the Native American Rights Fund, of which he was the Founding Director. His publications include Water Resources Management (with Meyers, Tarlock and Corbridge); Cases and Materials on Federal Indian Law (with Wilkinson); Water Law in a Nutshell, and several articles on water law.

LAWRENCE J. MacDONNELL (B.A. University of Michigan, '66; J.D. University of Denver College of Law, '72; and Ph.D. Colorado School of Mines, '74) became Director of the Natural Resources Law Center in November 1983. Previously he was a research economist at the Denver Research Institute and Adjunct Professor at the Graduate School of Business and Public Management at the University of Denver, 1980-83. He was a Special Consultant to the Interior and Insular Affairs Committee of the U.S. House of Representatives, and an instructor and course director for the Colorado Outward Bound School. He has edited NRLC books: Tradition, Innovation & Conflict: Perspectives on Colorado Water Law (1987) and Instream Flow Protection in the West (in progress). Recent articles include "Federal Interests in Western Water Resources: Conflict and Accommodation," Natural Resources Journal (1989) and "Colorado's Law of 'Underground Water': A Look at the South Platte Basin and Beyond," Univ. of Colorado Law Review (1988).
CHARLES F. WILKINSON (B.A. Denison University; LL.B. Stanford University) joined the law faculty at the University of Colorado School of Law in June 1987. He was formerly Professor of Law at the Oregon Law School and has been Visiting Professor at the Michigan and Minnesota Law Schools. He has written numerous books and articles on western resources law and on Indian law. A former staff attorney with the Native American Rights Fund, his books include Federal Public Land and Resources Law (1987) (with Coggins); Cases and Materials on Federal Indian Law (1986) (with Getches); Land and Resource Planning in the National Forests (1987) (with Anderson) American Indians, Time and the Law - Native Societies in a Modern Constitutional Democracy (1987); and The American West - a Narrative Bibliography and a Study in Regionalism (1989). He has received teaching awards from students at Colorado, Michigan, and Oregon. In 1986 he received the University of Oregon's Faculty Excellence Award for distinguished research and teaching.

FACULTY: BOUNDARIES AND WATER

J. DAVID AIKEN (B.A. cum laude, English, Hastings College , 1972; J.S. with honors, George Washington University, 1975) is Associate Professor of Agricultural Economics at the University of Nebraska. His publications include "Ground Water Mining Law and Policy," "The National Water Policy Review and Western Water Rights Law Reform," "Ground Water Mining and Western Water Rights Law: The Nebraska Experience," as well as numerous technical reports. He is also the editor of Nebraska Water Law Update and the Nebraska Reporter for Rocky Mountain Mineral Law Foundation's Water Law Newsletter. Mr. Aiken has given several invited presentations on water issues at various conferences during the past three years. He was a member of the Nebraska Governor's Water Independence Congress in 1983. He was a member of the Executive Committee for the Natural Resources Section of the Nebraska State Bar Association from 1978 to 1984, and served as its chair from 1982 to 1984.

MICHAEL C. BLUMM (B.S. '72, Williams College; J.D. '76, LL.M. '79, George Washington) is Professor of Law at Lewis & Clark Law School in Portland, Oregon, teaching Property, Environmental Law, and other natural resources courses. He has edited the Anadromous Fish Law Memo for the last ten years. He has written extensively on fish and wildlife protection in the Columbia Basin, federal and regional hydroelectric policy making and federal wetlands regulation, including a forthcoming article in the Colorado Law Review. His most recent article is "Public Property and the Democratization of Western Water Law: A Modern View of the Public Trust Doctrine," 19 Environmental Law no. 3 (forthcoming, 1989).

JOHN U. CARLSON (University of Montana, B.A. '62; Oxford University, B.A. '64; Yale Law School, LL.B. '67) is a partner with the Denver law firm Carlson, Hammond & Paddock where he specializes in water rights matters. Previously he was a partner with Carlson, Elliott & Land and with Holland & Hart (1973-85). He has taught as an adjunct professor at the University of Colorado School of Law and is a Fellow of the American College of Trial Lawyers. He has had a long-standing interest in interstate and intrastate water problems on the Colorado, Rio Grande and Arkansas Rivers and was once Colorado Commissioner for the negotiation of a compact with New Mexico regarding the waters of the Vermijo River.
CHARLES T. DuMARS (B.S. University of Oregon, '66; J.D. University of Arizona, '69) is a Professor of Law at the University of New Mexico, specializing in courses on water law, mining law, constitutional law, and comparative private international law. Previously he was counsel for the New Mexico Legal Rights Project, 1973-76, and counsel for the Mexican American Legal Defense and Education Fund, Inc., 1972-73. He is the author of numerous books and articles in the areas of water law, constitutional law, and private international law. He has been a member of the Western States Water Council and the Bureau of Land Management Advisory Board for New Mexico. He is one of the state investigators for the Natural Resources project.

MARGARET L. FOX has been the Sierra Club Southwest Regional Representative with an office in Boulder since 1983. In 1982 she was a Legal Intern with the National Wildlife Federation Clinic at the University of Colorado School of Law, and she interned with the Native American Rights Fund in 1982. She has a B.A. (English Literature) from the University of North Carolina ('71); Teaching Certification and Graduate Work in Teaching English as a Second Language, Northern Arizona University ('75); a Masters in Education, University of Colorado ('76), and a J.D. with Environmental Law Specialty, Lewis & Clark Law School ('82).

WES HIRSCHI (Utah State Univ. '56, B.S. Civil Engineering) has been Assistant Regional Director in the Upper Colorado Region of the Bureau of Reclamation since 1982. He has been Acting Regional Director since August 1985. He began work for the Bureau of Reclamation at the Weber Basin Projects Office in 1954 while still attending Utah State. In 1965 he moved to the Boulder City, Nevada office, where he worked on stabilization and control of the Lower Colorado from Davis Dam to the International Boundary. From 1970-72 he worked on Environmental Impact Statements for the Navajo Generating Station in Page, Arizona, and the Central Arizona Project. From 1972-75 he was Chief of the Regional Construction Branch before becoming Regional Engineer for the Lower Colorado (1975-82). He is a member of both the National Society of Professional Engineers, and the American Society of Civil Engineers.
WILLIAM J. JANKLOW (B.A. with honors, University of South Dakota; J.D. University of South Dakota Law School) served with South Dakota Legal Services, first as a Staff Attorney (1966-67), then as Directing Attorney and Chief Officer (1967-72). He was Chief Trial Attorney with the South Dakota Attorney General's Office (1973-74) and Attorney General (1975-79) before being elected Governor of South Dakota in 1979. He is admitted to the South Dakota and U.S. Supreme Court Bars. He has served on the Board of Directors of the Legal Service Corporation.

RALPH W. JOHNSON (J.D. University of Oregon School of Law, '49) is a Professor of Law at the University of Washington School of Law, specializing in water and American Indian law, and honored as "Outstanding Teacher" in 1984. He has published numerous articles and is co-author of the book "Cleaning Up Europe's Waters" (with Dr. Brown, economist). He has served as Chief Consultant to the U.S. Senate Committee on Interior and Insular Affairs on national water policy, as consultant to the Committee on Water of the National Academy of Sciences, and the National Water Commission. He has received Ford Foundation, National Science Foundation, and EPA grants to study and write about water management in Europe. He taught water law at Harvard Law School (1981-82) and at UCLA (1986-87), and has lectured in England, Israel, Canada, and China.

DAVID A. LaROCHE is Secretary of the United States Section of the International Joint Commission. As Secretary he is primarily responsible for the overall operation of the Washington, DC office, coordinating activities with the Ottawa office and supervising the execution of Commission decisions. He received a B.S. degree from Boston University ('66) and a Master's in Education from Harvard University ('75). Before he joined the International Joint Commission in 1979 he worked as Administrative Assistant to U.S. Senator Thomas McIntyre.
LINDA M. LAZZERINO (University of Colorado, B.A., Political Science, '67; J.D. '71) has been since 1982 an attorney with the Platte River Power Authority, a public corporation and a political subdivision of the State of Colorado. Her responsibilities include development and review of utility operating and intergovernmental agreements and administrative hearings before various governmental authorities. Previously she was a staff attorney with the Tri-State Generation and Transmission Association, Inc. (1978-82); and Acting Director, Division of Registrations, with the Colorado Department of Regulatory Agencies (1975-77). She is a Steering Committee Member, Board of Directors of the Colorado River Energy Distributor's Association, a 6 state association of federal hydroelectric power purchasers in the Colorado Basin.

DANIEL B. MAGRAW (A.B. Economics, Harvard '68; J.D. Boalt Hall Law School, University of California at Berkeley, '76) teaches international law and international development policy (focusing on natural resources development) at the University of Colorado School of Law. He worked for three years in India as an economist and business consultant, is a consultant for the United Nations and the U.S. Department of State, and chairs committees in the American Bar Association and American Society of International Law. He has published widely in the public and private international law field, including articles regarding international liability for nonprohibited acts (e.g., liability for transboundary pollution). In February 1989 he organized the Doman Colloquium on International Law at the University of Colorado on "Global Change and the Third World."

J. WILLIAM (BILL) MCDONALD (B.S. Chemistry, Colorado College; J.D. University of Chicago Law School; M.S. Natural Resources Management, University of Michigan) is the director of the Colorado Water Conservation Board, a division of the Colorado Department of Natural Resources. When he joined the Department of Natural Resources in 1976, he was responsible for a statewide water policy study and an assessment of the impacts of energy development on the water resources of the Upper Colorado River Basin. Previously he was on the staff of the Great Lakes Basin Commission where his primary activity was as study manager of the first phase of a water
policy study for the Michigan Department of Natural Resources. From 1971-73 he was a policy analyst for the U.S. Army Corps of Engineers where he dealt with a wide range of legislative and administrative matters pertaining to all aspects of the Corps' civil works programs.

GERALD MUELLER (B.A Physics, California State College at Fullerton, '71; M.S. Atmospheric Sciences, Colorado State Univ., '74) went to work the year he graduated as an air analyst with the Montana Department of Natural Resources and Conservation, assessing ambient air standards for proposed coal fired electricity generating plants. In 1978 he became manager of Montana's Facility Siting Program, going on to become an energy policy advisor to the Montana governor. He represented Montana in interstate negotiations which led to the passage of the Northwest Power Act, and he became a charter member of the Northwest Power Planning Council in 1981. After seven years on that body he resigned in 1988 to concentrate on parenting his two children, and in that year established a consulting practice in energy and natural resource policies. He also recently became business manager for the Helena Symphony Society.

DAVID L. POPE (B.S. '70 and M.S. '71, Agricultural Engineering, Oklahoma State Univ.) has been Chief Engineer and Director of the Division of Water Resources, Kansas State Board of Agriculture since 1983, having been Assistant Chief Engineer from 1978-83. Prior to that he was Manager of the Southwest Kansas Groundwater Management District, No. 3 from 1976-78, and an Extension Irrigation Engineer for Kansas State University from 1971-76. He is a member of the Missouri Basin States Association and of four River Compact Administrations: the Kansas-Colorado-Arkansas, the Kansas-Colorado-Nebraska Republican, the Kansas-Oklahoma Arkansas, and the Kansas-Nebraska Big Blue.
DAVID W. ROBBINS (B.A., Stanford Univ., '66; J.D. University of Wisconsin-Madison, '69) is a partner in the law firm of Hill & Robbins, P.C., specializing in the fields of water, natural resources and environmental law. Previously he was Deputy Attorney General (1977-78), and First Assistant Attorney General, Natural Resources Section (1975-77) for the State of Colorado. He is a past member of the Colorado Water Conservation Board and has served as chairman of the Colorado River Salinity Control Forum and Colorado River Salinity Control Advisory Council. He is a member of the Colorado Bar Association (having served as vice-chairman of the Water Law Section); of the American Bar Association (member, Natural Resources Section), and the State Bar of California.

ANN BERKLEY RODGERS graduated from the University of New Mexico School of Law in 1983 and has been a member of the state and federal bars in New Mexico since 1983. She has worked on projects with state and tribal governments and with other organizations for the past six years. The majority of the projects have been in the areas of natural resources law and environmental law at the local, interstate and international levels.

DEBORAH BEAUMONT SCHMIDT is the Executive Director of the Montana Environmental Quality Council, a legislative research agency charged with overseeing the implementation of Montana's environmental laws and programs. She has been the principal staff to the Montana legislature on natural resource policy for the past eight years. A 1970 graduate of Connecticut College, New London, Connecticut, she came to Montana in 1973. She also directs the staff of the legislative Water Policy Committee. She is the author of several publications on water and other environmental issues.
STEVEN J. SHUPE (B.S., Civil Engineering, '74, and M.S. Environmental Engineering '75, Stanford University; J.D. University of Oregon School of Law '82) is president of Shupe & Associates, Inc. Santa Fe, where he combines his legal and engineering background as a water policy consultant. Previously he has been as Assistant Attorney General for Colorado, representing the state in various areas of water law, and an attorney with the Denver law firm of Davis, Graham & Stubbs. He has also worked in the Water and Land Resources Department of Battelle Northwest. Shupe and his associates help private and public sector clients to find solutions to water management, protection, and marketing problems. Shupe & Associates produce the monthly newsletter, Water Market Update.

A. DAN TARLOCK (A.B. and LL.B. Stanford University) is Professor of Law at the IIT Chicago-Kent College of Law. From 1981-87 he served on the Natural Resources Law Center's Advisory Board and was a delegate to the Center's first Sino-American Conference on Environmental Law in Beijing, P.R.C. in August 1987. In 1988 he was appointed to a three-year term on the Water Science and Technology Board of the National Academy of Sciences. Publications include Water Resources and Management 3d (with Meyers, Corbridge & Getches); Law of Water Rights and Resources; and "New Commons in Western Waters," in Water and the American West: Essays in Honor of Raphael J. Moses. He is currently a Vice-Chairman of the ABA Water Resources Committee.

ARVID L. THOMSEN (Bachelor of Engineering, Minnesota Institute of Technology, '65; M.S. Cornell Univ., '73) is Chief of the Planning Division of the Missouri River Division of the U.S. Army Corps of Engineers. He joined the Corps in 1965 and has served in a variety of capacities, including as a hydraulic engineer with the Coastal Engineering Research Center (1965-67), as a Project Manager in the Omaha Dist. (1967-75), as Chief of the Economics & Social Analysis Branch, Omaha (1975-79), as Chief of Special Studies Branch, Omaha (1979-81), as Chief, Planning Division, Omaha (1981-May 1989), before assuming his present duties. His memberships include the American Society of Civil Engineering and the Society of Military Engineers.
JOHN THORSON is a partner in the firm of Doney & Thorson, Helena, Montana. A native of New Mexico, he received his B.A. degree (with distinction) from the University of New Mexico and his J.D. degree from the University of California, Berkeley, where he was Note & Comment editor of the California Law Review. He has been Director of the Conference of Western Governors' Conference. He also serves as Vice Chair of the ABA Water Resources Committee. He is co-author of *The Wet and Wild Missouri* (1985), *Boundaries Carved in Water* (1986), and *The Salty Colorado* (1986). He was the consultant for "Troubled Waters," an hour-long documentary produced by KUED-TV, Salt Lake (1986).

JOHN M. VOLKMAN (B.A. Colorado College, '69; J.D. University of Colorado, '73) is Senior Counsel, Northwest Power Planning Council, Portland, Oregon. He has handled a variety of fish-power conflicts, including negotiations with energy and fishery interests regarding "spill" operations at Columbia and Snake River dams, and the "protected areas" rulemaking, in which more than 40,000 river miles in the Northwest were protected from hydropower licensing. He has published recent articles on legal issues related to the Council's work in the *University of Colorado Law Review, Environmental Law*, and the *Journal of Environmental Law and Litigation*.

R. TIMOTHY WESTON (J.D. Harvard Law School, '72) is a partner in the Harrisburg office of Kirkpatrick & Lockhart, focusing in environmental counseling and litigation, administrative and legislative issues. Previously he served for eight years as Assistant Attorney General providing counsel for a wide range of natural resource and environmental protection programs, including the Pennsylvania State Water Plan and water resource management activities. From 1979-87 he served as Associate Deputy Secretary for Resources Management in the Dept. of Environmental Resources, and as Alternate to Governor Thornburgh as Commissioner on the Delaware and Susquehanna River Basin Commissions. He has published numerous law review articles in water law and natural resources management.
JEANNE WHITEING is a partner in the Boulder law firm of Whiteing, Thompson & White, which specializes in the representation of Indian tribes. Jeanne served as Deputy Director of the Native American Rights Fund from 1975 to 1981. She successfully argued the case of Montana v. Blackfeet Tribe before the U.S. Supreme Court in 1985, challenging state taxation of tribal oil and gas royalties. Jeanne received her bachelors degree from Stanford University in 1972 and her law degree from the University of California, Berkeley in 1985.