AGENDA: Colorado Water Issues and Options: The 90's and Beyond: Toward Maximum Beneficial Use of Colorado's Water Resources

University of Colorado Boulder. Natural Resources Law Center

Colorado Water Resources Research Institute. Cooperative Extension Service

Follow this and additional works at: http://scholar.law.colorado.edu/colorado-water-issues-and-options-nineties-and-beyond

Part of the Administrative Law Commons, Constitutional Law Commons, Contracts Commons, Courts Commons, Hydrology Commons, Judges Commons, Land Use Planning Commons, Law and Economics Commons, Legal History, Theory and Process Commons, Marketing Commons, Natural Resource Economics Commons, Natural Resources and Conservation Commons, Natural Resources Law Commons, Natural Resources Management and Policy Commons, Property Law and Real Estate Commons, Public Policy Commons, State and Local Government Law Commons, Technology and Innovation Commons, Urban Studies Commons, Water Law Commons, and the Water Resource Management Commons

Citation Information

http://scholar.law.colorado.edu/colorado-water-issues-and-options-nineties-and-beyond/1

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.
AGENDA
Tuesday, October 8, 1985

8:45-9:00 Welcome
Lawrence J. MacDonnell, Natural Resources Law Center
William L. Ratey, Colorado Water Resources Research Institute

9:00-10:00 Meeting Colorado’s Water Requirements: An Overview of the Issues
David H. Getches, Executive Director, Colorado Department of Natural Resources
Colorado has an abundance of water. The supply problem has always been how to meet water needs that are usually separated from supplies by time and space. Achieving maximum beneficial use of Colorado’s water in the future demands ingenuity in searching for new legal and institutional arrangements and developing greater technical expertise. The paper will discuss anticipated water demands in the state in relation to available supplies. It will include an evaluation of Colorado’s system of water law and administration as a means of assuring that the state’s water requirements are met.

10:00-10:15 Break

10:15-11:00 Administering Colorado’s Water: A Critique of Alternatives
Clyde O. Martz, Davis, Graham & Stubbs, Denver, Colorado
The paper will examine the role of the state in water administration, evaluate the strengths and weaknesses of the Colorado system, compare practices in other Western states, and suggest changes that might make the Colorado system more effective, less costly to the water user, and more suited to the conservation and maximization of beneficial use of available water supplies.

11:00-11:45 A Market-Based Approach to Water Rights: Evaluating Colorado’s System
Stephen F. Williams, University of Colorado School of Law
This paper will focus on the necessary conditions for efficient use of water, particularly the requirement that property rights in water be clearly defined, permanent, fully transferable, and reasonably free from externalities. It will also examine the special cases of rights to instream flows and to nontributary groundwater, as well as the conditions under which public subsidies for water development might be appropriate.

11:45-1:15 Luncheon Program: The Development of Colorado’s Water Law
Raphael Moses, Moses, Wittenmyer, Harrison & Woodruff, Boulder, Colorado

1:15-2:00 The Problems and Promise of Improving Efficiency Under Colorado Water Law
Steven J. Shupe, Consultant and Water Attorney, Denver, Colorado
The Colorado doctrine for allocating water in accordance with historical priorities is not always consistent with the recent move toward “maximum utilization” of this limited resource. The speaker will discuss the impediments to optimum use that exist within state water law, and present ideas for updating the legal framework to accommodate improved efficiency. Current developments within Colorado will also be discussed, including the move toward water salvage legislation, enforcement of abandonment lists, and recent court decisions that provide for greater administrative flexibility within the prior appropriation system.

2:00-2:45 Nontributary Groundwater
William A. Paddock, Mathis, Reed and Paddock, Montrose, Colorado
This paper will discuss the evolution of groundwater law in Colorado and, in particular, trace the development of the current controversies with respect to nontributary groundwater. A brief summary will be given of the proceedings before the Governor’s Groundwater Committee and the points of view expressed in that proceeding. New legislative developments will be discussed. Finally, the long-term impacts of the management of the resource under the present regimen will be considered.

3:00-5:00 Concurrent Workshops
Water Administration (Martz Paper):
John Huyler—Discussion Leader
Fred Anderson
Judge Robert Behman
Jeris Danielson
Hester McNulty
George Vranesh
Bart Woodward

Efficiency Disincentives (Shupe and Williams Papers):
Tom Glass
Don Luecke
Manuel Pineda
Michael Walker

Nontributary Groundwater (Paddock Paper):
Norman Evans—Discussion Leader
Mort Bittinger
David Getches
David Harrison
Chris Paulson

5:15-6:00 Reception
Wednesday, October 9, 1985

9:00-9:45  Plans for Augmentation: Are They Really A License To Steal?
Jeris A. Danielson, Colorado State Engineer

Since the adoption of the doctrine of prior appropriation by the framers of Colorado's constitution, water users in the state have been seeking ways to avoid the harsh realities imposed by such a doctrine. In recodifying Colorado's water laws in 1969, the General Assembly created the opportunity for development of plans for augmentation, which were intended to allow users of junior groundwater rights to continue their operation, but repair the injury to senior surface water users caused by the diversion of groundwater. Since passage of the 1969 act, the use of such plans has been extensive by all types of water users to justify the taking of water out-of-priority. This use is often decried by senior water rights holders as a license to steal. This paper will address the history of plans for augmentation, applications and administrative problems created by their use.

11:30-1:00  Luncheon Program: The Judicial Role In Colorado Water Law
Justice George E. Lohr, Colorado Supreme Court

1:00-1:45  Factual Issues in Water Right Changes and Augmentation Plans
Leonard Rice, Leonard Rice Consulting Water Engineers, Denver, Colorado

This paper will focus on the engineering issues raised by changes in water uses. Problems of proof in considering the matter of injury as well as other related issues are addressed.

2:30-2:45  Break

2:45-4:45  Concurrent Workshops

Plans for Augmentation (Danielson and Rice Papers):
Aaron Clay—Discussion Leader
Wayne Allard
Felicity Hannay
Jack Oder

Innovative Water Management (Grigg, Porzak, and Rice Papers):
Robert Kerr—Discussion Leader
William Brown
Tom Cech
Gregory Hobbs
Jim Lochhead
Charles L. Thomson

Interstate Transfers (Holme/Wright Paper):
George Radosevich—Discussion Leader
Bill Hillhouse
Bill McDonald
John Musick

Conference Summary