

Water Rights in Utah

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ONE-DAY SEMINAR

Salt Lake City, Utah
April 15, 2016

FACULTY

Kirsten R. Allen
Rachel S. Anderson
Rosemary J. Beless
Matthew S. Brahana
H. Michael Keller
Jim Riley
Jason D. Steiert
Artemis D. Vamianakis

CONTINUING EDUCATION

CLE - 6.0 incl. 1.0 ethics
IACET - 0.6
AAPL - 6.0 (pending)
Real Estate - 7.0 (pending)
See inside for details!



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SEMINAR OUTLINE

I. PRIOR APPROPRIATION WATER LAW MADE SIMPLE

9:00 - 9:50, *Rosemary J. Beless*

- A. Water Law Fundamentals - A Brief Overview
- B. The Doctrine of Prior Appropriation
- C. Determination/Allocation of Water Rights
- D. Beneficial Use
- E. Water Law Terminology for Attorneys
- F. Characteristics of Water Rights
- G. Overview of the Administrative System

II. LEGISLATION, REGULATION AND CASE LAW UPDATE

9:50 - 10:40, *Kirsten R. Allen and Jason D. Steiert*

- A. State and Local Water Law Update
- B. Recent Case Law

III. WATER RIGHTS EVALUATIONS

10:55 - 11:45, *Jim Riley*

- A. Determining Validity/Ownership and Due Diligence Reviews
- B. Inspections
- C. Expert Witness Tips - Consulting with a Water Resources Engineer and Other Water Experts
- D. Applying Hydrology, Groundwater Modeling and Nanotechnology to Litigation Strategies
- E. Proving How Much Was Used, How Much They Need to Use and When They Started Using it
- F. Determining Future Supply

IV. HANDLING THE APPLICATION, LEASE, TRANSFER AND SALE OF WATER RIGHTS

11:45 - 12:35, *Rosemary J. Beless*

- A. The Initiation of a Water Right
- B. Modifications
- C. Exchanges
- D. Leases
- E. The Transfer of Title and Purchase/Sale of Water Rights
 1. by Deed
 2. by Assignment
 3. by Assignment of Contract
- F. Transferring Shares of Stock and Mutual Water Companies

- G. Recording Requirements
- H. Report of Conveyance
- I. Water Rights Addendum
- J. Transfer by Appurtenancy

V. HANDLING WATER RIGHTS DISPUTES: ADJUDICATION PROCEDURES AND LITIGATION TIPS

1:35 - 2:25, *Rachel S. Anderson and Artemis D. Vamianakis*

- A. The Adjudication Process
- B. Filing Protests
- C. Ownership Disputes
- D. Opposing an Application for New Water Rights
- E. Modification Disputes
- F. Easement Disputes

VI. CURRENT ISSUES, LEGAL CHALLENGES AND RECENT TRENDS

2:40 - 3:30,

Rachel S. Anderson, Matthew S. Brahana, H. Michael Keller and Jason D. Steiert

- A. Federal Reserved Water Rights
- B. Hydraulic Fracturing - Water Use in the Oil and Gas Industries
- C. Location and Acquisition of Water Rights for Oil and Gas Development
- D. Drought Challenges
- E. District Projects

VII. ETHICS AND WATER LAW

3:30 - 4:30, *Matthew S. Brahana and H. Michael Keller*

- A. Multiparty Representation and Ethical Challenges
- B. Compliance Issues and Ethical Risks
- C. Avoiding Ethical Pitfalls

*If needed, the above agenda may be changed to best accommodate all of our attendees.

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OUR DISTINGUISHED FACULTY

KIRSTEN R. ALLEN is an attorney at Fabian VanCott, with a practice focusing on complex litigation, employment, energy and utilities, environment/natural resources and product liability. She brings to the firm the perspective of having previously worked in the field of sustainable energy policy research. Ms. Allen is able to team her skills with those of other attorneys with expertise in the firm's areas of core competency.

RACHEL S. ANDERSON is an attorney with Fabian VanCott. Her practice focuses on natural resources transactions and litigation, and Utah local district and special service district law, as well as the general areas of real property and contract law. Ms. Anderson's natural resources practice specifically focuses on the areas of water, environmental, mining, and oil and gas law. She also is able to team with other attorneys with expertise in the firm's core competency areas to handle complex litigation issues.

ROSEMARY J. BELESS is a shareholder at Fabian VanCott, where she has more than 30 years of experience in natural resources and environmental law, representing clients in the areas of water, mining, oil and gas, public lands, condemnation, and environmental law. Ms. Beless conducts comprehensive title analyses for the acquisition of large blocks of mining claims, oil and gas leases, and water rights for industrial and municipal development.

MATTHEW S. BRAHANA is an attorney with Fabian VanCott, where his practice involves representing upstream oil and gas exploration and production companies, coal companies, and mine operators in all aspects of their legal needs, including title opinions, title curative, litigation, transactions, regulatory matters, and mine safety.

ARTEMIS D. VAMIANAKIS is an attorney with Fabian VanCott, where her practice focuses on complex commercial litigation in the areas of energy, utilities and real property. She has experience handling contract disputes, breach of warranty claims, commercial torts, premises liability, and mechanics liens. Ms. Vamianakis also has been part of Fabian VanCott trial teams pursuing complex litigation in federal court.

H. MICHAEL KELLER is a shareholder with Fabian VanCott, where his practice focuses on environmental and natural resources law. He represents a wide variety of clients, including electrical power producers, natural resource companies, industrial clients, Indian Tribes, municipalities, landowners, and developers. Mr. Keller's environmental practice includes counseling on environmental permits and compliance; developing internal compliance policies; negotiating consent decrees; and conducting administrative proceedings before state and federal agencies, involving air and water quality, hazardous wastes and materials, toxic substances, radioactive materials, underground storage tanks, NEPA, endangered species, and migratory birds.

JIM RILEY, P.E. is the founder and manager of Jim Riley Engineering, LC. He has more than 30 years of experience in civil engineering and is widely recognized for water rights consulting and finding solutions to his clients' specific water rights needs. Mr. Riley worked for the State of Utah Division of Water rights for 25 years, 3 years as regional engineer for the Weber Office, and 15 years as regional engineer for the Utah Lake/Jordan River Office. He has prepared many water right studies and evaluations for individual clients, farms, land developers, and municipalities.

JASON D. STEIERT is an attorney with Fabian VanCott, where he practices in environmental and natural resources law, and has experience in business and general litigation, including real estate, family, probate, criminal, medical malpractice, and employment law. His primary focus is transactional and litigation work related to natural resource extraction and upstream services. Mr. Steiert also helps clients manage water acquisition, use, and production associated with natural resource extraction. He is licensed to practice in Utah's state and federal courts.

Detailed biographies can be found on our website at www.nbi-sems.com.

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SCHEDULE

REGISTRATION TIME 8:30 — 9:00 am

SEMINAR TIME 9:00 am — 4:30 pm

Complimentary snacks and refreshments are provided.
Lunch is on your own.

TUITION

\$349 for the first registrant

\$339 for each additional registrant

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