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## Vol. 18, no. 1: Editor's Note

William Davis Wert

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## EDITOR'S NOTE

I am pleased to present the first issue of Volume 18 of the *Water Law Review*, and thank you for taking the time to peruse its pages. Whenever I read about some of the current issues surrounding water law—California's recent (and continuing) drought, Colorado's recent draft State Water Plan, and two ongoing United States Supreme Court original jurisdiction cases from different sides (and climates) of the country, to name a few—I can't help but notice that it is an exciting time to be a scholar, practitioner, or just observer of water law. We hope that the *Water Law Review* serves as a valuable source to frame the discussion of many of these contemporary issues, and I thank you again for engaging in the discussion with us!

Before looking forward to the articles in the pages that follow, I must pause to direct you to Bill Caile and Stuart Corbridge's Dedication following this Note that celebrates the life of the late Judge Jonathan Hays. Judge Hays spent almost forty years on the Nineteenth Judicial District Court bench in Weld County, Colorado, and ten years as the water judge for Water Division Number 1. I regret that I never personally met Judge Hays, but through my conversations with Misters Caile and Corbridge, who both served as his law clerks in the early 2000s, it is abundantly evident to me that he was a respected jurist and an even more cherished friend to many people in the water community and beyond. Dedicating this Fall 2014 issue of the *Water Law Review* to Judge Hays's memory therefore seems eminently fitting.

I am pleased to present three excellent articles in the pages that follow. First, *Man v. Mussel, The Gloves are Coming Off: Supreme Court Equitable Apportionment and the Tri-State Water Wars*, written by Mitchell Ashkenaz, lays out the history and legal future of the "water wars" over the Apalachicola-Chattahoochee-Flint River Basin, focusing especially on the ongoing litigation before the United States Supreme Court and an appointed special master in *Florida v. Georgia*. As the Tri-State Water Wars show, increased water consumption, coupled with ecological concerns relating to species protection and climate change, will affect how federal agencies and states operate their water systems and will frame many future water scarcity and allocation issues, even in the relatively wet eastern half of the United States.

Next, Jonathan King, Peter Culp, and Carlos De La Parra offer a comprehensive and enlightening discussion of Minute 319. Minute 319 is a breakthrough agreement between the United States and Mexico that addressed environmental and allocation issues on the Colorado River and that owed much of its success to an inclusive stakeholder process that included the two countries but also a number of water suppliers and environmental organizations. By providing for delivery of a specific amount of water to the previously dried and ecologically depressed Delta region, the Minute is also the first international water-sharing agreement to specifically dedicate water to environmental purposes. The article is a vital resource for understanding the international issues facing the United States and Mexico on the Colorado River, going into meticulous detail not just on the direct water allocation issues under the Colorado River Compact, but also on the myriad other issues that Colorado River water use affects, including environmental restoration, economic

development, and immigration.

Third is David Taussig's article, *The Devolution of the No-Injury Standard in Changes of Water Rights*, which discusses the no-injury standard in Colorado and argues for the need to restore the standard's importance in water rights change cases. Taussig argues that the Court's fixation on quantification can obscure the existence of actual injury to other water users, which should be the major consideration when determining whether a change is permissible. In a period of increasing water scarcity and increased competition for water, Taussig's article serves as a valuable discussion point on the relative merits of the centuries-old no-injury standard and the modern quantification requirement.

In addition, and as always, we hope that you will find our student writing useful in covering the recent cases, literature, and developments in water law around the country. Our printed court reports, book notes, and conference reports, as well as companion content on our online blog, allow our staff to orient themselves in water law, but we also hope that their writing keeps our readers abreast of the major subjects fueling the fast-paced change and dynamism water law continues to exhibit.

Finally, I am also delighted to continue a long tradition of the *University of Denver Water Law Review* by presenting a ninth installment of poetry written by the Honorable Justice Gregory Hobbs of the Colorado Supreme Court. Justice Hobbs' poetry should be a welcome complement to the preceding academic articles, and I hope that you enjoy his writings as one way to enrich your understanding of water's place not just in law, but also in culture and society.

Without further ado, thank you again for supporting the *University of Denver Water Law Review*, and happy reading!

*William Davis Wert*  
Editor-in-Chief