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Drought Down Under: Australia's Murray-Darling Basin

DROUGHT DOWN UNDER: AUSTRALIA'S MURRAY-DARLING BASIN

Eric Garner, partner at Best Best & Krieger LLP in Riverside, California, moderated the panel and introduced the speakers.

Jennifer McKay, Professor of Business Law for the School of Commerce at University of South Australia, discussed transitions toward sustainability in water management in Australia. She provided an overview by explaining the basin and locations of the Great Artesian Basin and the Murray-Darling Basin. Offering some background about Australia, she noted that the country has transitioned into a more environmentally friendly nation. However, the Australian federal government has no power in its constitution over water, thus it is difficult to pass current laws for sustainability.

McKay next explored the five phases of the evolution of Australian water law. The first phase from 1788 to 1901 was marked by colonial power over water, and it did not focus on sustainability or aboriginal rights. This left a legacy of damaged environments in many areas. The second phase began in 1901 with the Australian Federation. States created administrative allocation systems for surface and groundwater, which repealed the previous riparian doctrine. However, Australians expected to discover an inland sea, which resulted in misguided laws. The third phase began in the early 1980s with enhanced federal power. An increase in community involvement also appeared. The fourth phase, lasting from 1994 to 2007, focused on federal reforms that introduced the Ecologically Sustainable Development requirements and competition into water suppliers. This era also separated land from water to create water markets. The government also enhanced regional delivery methods and provided stricter guidelines to the state for reinforcing the reforms. The fifth phase, commencing in 2007, included expanded federal constitutional powers through judicial interpretations. The "Water Act 2007" required adoption of state "water plans" in the Murray-Darling Basin. Further, the federal government gave funding directly to regional bodies who agreed to regional delivery of federal initiatives. McKay concluded by recognizing hurdles to a sustainable water future including legal, institutional, and capacity challenges.

The second speaker, Scott Slater from Brownstein Hyatt Farber Schreck in Santa Barbara, California, works with private equity investors in Australia. Australia has looked to California for idea in water management. Australia decided to manage water on sustainability ideas, create water markets, and institute water rights training as part of sustainability. In fact, Australia has successfully embraced sustainability management and tried to keep the issue out of the courts. The country has also created a position for the federal government in water management, and is working to integrate common and modern law.

Slater noted that the United States can take lessons from Australia. He recommends a national water policy, rather than the federal government just deferring to the states. He also suggests the adoption

of uniform standards to help manage water, as well as the creation of a standard to guide states in sustainability and tradable property rights in water.

The session ended with a question and answer component. The speakers answered a question by stating that severing water from the land is a means to aid in transferability. Another question revealed that the plan in the Murray-Darling Basin focuses on environmental values and requires state to preserve the environment. The next question asked if forces in California are crystallizing into similarities with Australian reform; the answer was yes and to look to the California Bay Delta.

Danielle Sexton

**COLORADO STATE UNIVERSITY WATER RESOURCES
ARCHIVE, WATER TABLES 2010, ACROSS STATE LINES:
SHARING THE RESOURCE**

Fort Collins, Colorado February 20, 2010

On February 27, 2010, Colorado State University Water Resources Archive held its annual Water Tables fundraiser. As background, the Water Resources Archive is a joint partnership between the Colorado State University Libraries, and the Colorado Water Institute. One of only two water archives in the United States, the Water Resources Archives collects primary documents and materials relating to water development and water history in Colorado and in the western United States. Their collection covers many aspects of water use in Colorado including legislative documents, maps, and even engineering documents.

The Water Resources Archive holds its annual Water Tables events to fundraise for the continued protection and expansion of the archives collection. The Water Tables 2010 event, titled *Across State Lines: Sharing the Resource*, brought approximately 170 guests to the event and raised about \$45,000 for the Archive. The event ended with nineteen tables of water practitioners enjoying a dinner and discussing current water issues. In accord with this year's theme, the general topics of discussion at all the tables related to interstate water use.

At each of the 19 Tables, a table Host led a discussion relating to interstate water use. Some examples of the topics discussed at the event:

- Don Ament, Former Colorado Commissioner of Agriculture, hosted *Is Ag Dry-Up Inevitable?*