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Second Annual Colorado Bar Association Water Conference

**SECOND ANNUAL
COLORADO BAR ASSOCIATION
WATER LAW CONFERENCE**

Steamboat Springs, Colorado June 17-18, 2005

The Second Annual Colorado Bar Association (“CBA”) Water Law Conference, sponsored by the Water Law Section of the CBA, took place at the Sheraton Steamboat Resort and Conference Center for the second year in a row. The Agricultural and Rural Law Round Up, sponsored by the Agricultural and Rural Law Section of the CBA, and an Environmental Law Conference, sponsored by the Natural Resources and Energy Section of the CBA, were held simultaneously with the Water Law Conference. Speakers gave presentations consistent with these three topics. Conference organizers allowed and encouraged conference participants to attend presentations on all three topics.

DAY ONE: FRIDAY, JUNE 17, 2005

The day began with a General Session entitled *Purchase and Sale of Real Property: A Case Study*. The session focused on the various due diligence requirements involved in the purchase or sale of land. Joseph B. Dischinger moderated the session, and John L. Watson presented the water-related portion of the session. Mr. Watson identified and discussed five major water-related due diligence issues: (1) assessment of legal and physical water supply; (2) water rights title and conveyance; (3) recreational access to streams running through private property; (4) water rights and wetlands issues involving fish habitat enhancements; and (5) possible construction in marshy areas.

After the General Session, each of the three sections of the conference held three subsequent presentations relating to their specific section. The first Water Law Section presentation was the Legislative and Case Law Update presented by David A. Bailey. Mr. Bailey identified and summarized both Colorado water case law and pertinent federal cases involving water issues. Mr. Bailey also discussed legislation recently passed or rejected by the Colorado Legislature. Dave Akers, the Water Quality Protection Manager of the Colorado Department of Public Health and Environment, presented the second Water Law Section presentation, *Water Quality, Including Brine Disposal*. Mr. Akers discussed the different methods, requirements, and challenges involving the discharge of water containing high total dissolved solids.

Dr. Ali Harivandi from the University of California Davis, presented the third and final Water Law Section presentation of the day, *Challenges Involved in the use of Recycled Water for Irrigation Purposes*. Dr.

Harivandi is an environmental horticulturist who specializes in turf, soil, and water. His presentation focused on the advantages, disadvantages, and challenges of using recycled wastewater to irrigate golf courses, which is becoming a common practice as the availability of water decreases.

Day one concluded with a Water Law Section Awards Banquet Dinner. This dinner included the induction of the Ancient and Honorable Order of the Water Buffaloes, which recognizes and honors individuals who have made special contributions to the area of water law. Colorado Supreme Court Justice Gregory J. Hobbs, Jr. oversaw the event and entertained banquet attendees by reading selections of his original poetry.

DAY TWO: SATURDAY, JUNE 17, 2005

The second day of the conference began with breakfast, followed by two presentations from each of the sections represented. The first water law section presentation was *State Engineer Policies—Agency Legislation or Legislative Interpretation?* The presenters included: Hal D. Simpson, State Engineer for the Colorado Division of Water Resources; Alexandra L. Davis, Assistant Attorney General, Natural Resources Division; and David S. Hayes, Esq. Mr. Simpson went over many of the various policies, guidelines, and rules and regulations of the Division of Water Resources. Mr. Hayes discussed important administrative legal issues, including the differences between a rule and policy, and the differences between specific rulemaking authority and general rulemaking authority of the State Engineer. There was some discussion that the Engineer's Office should possibly adopt a formal process for public comment before adopting policies. Currently, the Attorney General's Office is the only entity that allows input before adopting a policy.

Peter Ampe, Assistant Attorney General, Natural Resources and Environmental Law Section and Mary "Mooney" Hammond, Esq. presented the second and final Water Law Section presentation, *Status of Groundwater Regulations on the Republican, Rio Grande, South Platte, and Arkansas River Basins*. Mr. Ampe discussed the rules governing the Rio Grande and Republican River Basins. He went over the history that lead to the current rules, and discussed rules that are likely to become effective in the near future, including rules on measurement for the Rio Grande River Basin. Ms. Hammond gave an overview of the rules governing well regulation in the South Platte and Arkansas River Basins. She discussed the historical legislation and case law that has formed the modern rules and regulations of the basins. This concluded the Second Annual CBA Water Law Conference.

Andrew L. Ellis