

# Water Law Review

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## EDITOR'S NOTE

As we enter the twenty-first century, we often find uncertainty where we once thought certainty existed. With our ever-growing population, our shrinking supplies of nonrenewable natural resources, and the increasing strain on renewable ones, we must continually re-evaluate the workings of the past in light of competing demands and current economic, social, and political goals. This is particularly true with regard to water in the western United States.

This issue offers three articles addressing various uncertainties surrounding western water rights. In our lead article, Professor Janet Neuman and Mr. Keith Hirokawa examine the question of whether pre-code water rights should be subject to statutory forfeiture provisions. The authors compare and evaluate the western states' application of forfeiture statutes to both pre- and post-code water rights. They conclude that in order to remain true to the central tenets of prior appropriation, western states should apply forfeiture statutes uniformly to water rights, priority notwithstanding.

Mr. Sean O'Day explores Arizona's legislative efforts to protect prior appropriations from competing tribal, federal government, and public water rights claims. The author thoroughly traces the evolution of two Arizona Legislature house bills from their enactment to their ultimate rejection by the Arizona Supreme Court. Mr. O'Day then evaluates the implications of the Arizona decision for other western states.

In our third article, Mr. Marcus Lock addresses the uncertainty of western water rights in the face of federal environmental regulations. The author begins by exploring the nature of a property right in water. He reviews modern Supreme Court takings jurisprudence, and then provides an insightful and probing analysis of the taking of a water right.

The *Water Law Review* welcomes suggestions and comments from our readers. In response to recent suggestions, the *Water Law Review* now offers authors the opportunity to submit articles for anonymous peer review. Our review panel consists of a diverse group of environmental and natural resources practitioners, academicians, and jurists. We invite future authors to consider this opportunity.

The *Water Law Review* staff expresses our sincerest appreciation to the Rocky Mountain Mineral Law Foundation for its generous support of our journal, both financial and advisory. We would also like to thank our faculty advisor, Professor George "Rock" Pring, and Professor Jan Laitos, Chair of the Environmental and Natural Resources Law Program, for their continuing support and guidance. We also appreciate the invaluable guidance and direction from our Advisory Board, and extend a warm welcome to the newest members, Professor Dan Tarlock, Professor Hap Dunning and Dr. Patricia Wouters. Finally, we extend our gratitude to our readers, and hope that you enjoy this issue.

Kris A. Zumalt  
*Editor-in-Chief*