

# Annual Water Law CLE

University of Nebraska College of Law

October 6, 2017

## Agenda

<u>Title</u>	<u>Speaker</u>
7:30-8:15 Water Law 101	Anthony Schutz
<p>Professor Schutz will provide an introductory presentation on water law in Nebraska. For those unfamiliar with the subject, this provides an excellent opportunity to familiarize yourself with the subject and may help you situate the specific topics that will be discussed over the course of the day's coverage. For those who are familiar with the topic, it may be a helpful refresher.</p>	
8:30-8:45 Annual Update	Anthony Schutz
<p>Professor Schutz will provide an overview of significant, judicial, statutory, and regulatory changes that have occurred in Nebraska over the last year.</p>	
8:45-9:45 Keynote - Colorado's Plight	Dick Wolfe
<p>Mr. Wolfe will discuss lessons that he has learned as State Engineer and Director of the Colorado Division of Water Resources. His comments will focus on water planning and equity issues associated with access to water resources.</p>	
9:45-10:15 Takings Litigation	Justin Lavene
<p>Mr. Lavene will discuss the Nebraska Supreme Court's recent cases dealing with compensation for water users that are adversely impacted by water management decisions made at the state and local levels. Mr. Lavene represented the State in defending these lawsuits.</p>	
10:15-10:45 Memphis's Fight	Don Blankenau
<p>Mr. Blankenau will discuss the evolving litigation involving Memphis, Tennessee, in its fight against Mississippi over groundwater.</p>	
<b>10:45-11:00 BREAK</b>	
11:00-12:30 Nebraska and the Trump Administration	Jesse Bradley Jim Macy Jerry Kenny

These three panelists will discuss how the new Trump administration has impacted state-level water projects and management. Mr. Bradley will discuss the impacts this new administration is having on the Department of Natural Resources. Mr. Macy will discuss the impacts this administration is having on the Department Environmental quality. And Mr. Kenny will discuss impacts on the Platte River Recovery and Implementation Program. In addition, these speakers will discuss new developments their organizations are undertaking.

**12:30-1:15 LUNCH**

1:15-2:15 Water and Taxes

Vanessa Silke  
Jesse Sitz

This panel will discuss the tax implications of water modifications. Ms. Silke will cover the means by which NRDs have come to make and accommodate changes in irrigation rights. Mr. Sitz will provide a tax analysis these various changes. Those changes that impact the value of property raise a number of unanswered tax questions. So too does anything that involves the payment of money for a set of rights, property or otherwise.

2:15-3:15 NRD Practice and Procedure

Jon Schroeder  
Steve Mossman  
Dave Barga

This panel will discuss the evolving nature of practice before Natural Resources Districts. Though they once operated as local governments that did not wield much regulatory authority, they have now become much more like land-use (or water-use) regulators. As such, they are learning the ins and outs of legislative and quasi-judicial actions before large multi-member boards. This has resulted in some reported case law, as well as efforts to figure out what the best approach to filling this role may be. All of the presenters have experience advising NRDs or challengeing the actions NRDs have taken.

**3:15-3:30 BREAK**

3:30-4:00 Keystone XL

Ken Winston  
Jane Kleeb (invited)

Mr. Winston and Ms. Kleeb have been busy in the summer and fall before the Nebraska Public Service Commission in helping it rigorously evaluate the Keystone XL pipeline route proposal. They will offer their thoughts on the process, the outcome if it has be reached, and the larger story associated with the proposal.

4:00-5:00 Ethics and Water Law

Mike Klein

Mr. Klein will round out the day's coverage by discussing the various ethical dilemmas that face those practicing water law. From client identification and governmental entity representation to conflicts of interest, this area has a number of ethical pitfalls that practitioners must be ready to handle.