



**LAW SEMINARS
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The Annual Conference on Critical Developments for
Water Law in Washington

*Hear the current most pressing issues in Washington water rights and
resource management from an exceptional faculty*

June 10 & 11, 2021

Live Online via Interactive Broadcast

Agenda—Day 1

9:00 Introduction & Overview

Joseph A. Brogan, Esq., *Program Co-Chair*
Foster Garvey ~ Seattle, WA
Joshua Osborne-Klein, Esq., *Program Co-Chair,*
Assistant Attorney General
Washington State Attorney General's Office
Olympia, WA

9:15 Washington Water Law 101: Western Water Law as it is Implemented in Washington

Origin, development, and current status of Washington's prior appropriation system; interplay between water rights and needs for reallocation, pollution control, wildlife protection, recreation, instream low maintenance, and environmental quality

Courtney J. Throgmorton, Esq.,
Assistant Attorney General - Ecology Division
Washington State Attorney General's Office
Olympia, WA

10:00 Break

10:15 Adjudications: What Next After Acquavella?

Ecology's current list of watersheds that might benefit from adjudication, focusing on basins with senior Tribal water rights, streamflow needs, and challenges caused by water user uncertainty and conflict: What to expect for each basin moving forward

Robin McPherson, Esq., *Adjudication Manager*
Washington State Department of Ecology
Olympia, WA

Case study of the process for the Nooksack Basin

The Hon. Ross Cline, Sr., *Chairman*
Nooksack Indian Tribe ~ Deming, WA
Gary S. Stoyka,
Natural Resources Program Manager
Whatcom County Public Works Department

Bellingham, WA

12:00 Lunch Break

1:15 Watershed Planning: Implementing the New Statutory Criteria

Update on the requirements and newly adopted watershed plans

Dan Haller, *Principal Engineer*
Aspect Consulting ~ Yakima, WA

Case study of the watershed plan for the Nisqually Basin

George Walter,
Environmental Program Supervisor
Nisqually Indian Tribe ~ Olympia, WA
Lisa Dally Wilson, P.E.,
Principal and Owner
Dally Environmental ~ Seattle, WA

3:00 Break

3:15 Community Water Rights and Transfers of Inchoate Water: Water Transfers to or from Municipalities

Municipal establishment of unused "inchoate" water right with priority over subsequent water rights:
Municipal purveyor perspective on the current status of the law

Joseph A. Brogan, Esq., *Program Co-Chair*

State regulatory perspective

Joshua Osborne-Klein, Esq., *Program Co-Chair*

5:00 Adjourn Day 1

Agenda—Day 2

9:00 Case Law Update

Recent noteworthy judicial and administrative cases including the Washington State Supreme Court's August 2020 decision upholding Ecology's minimum instream flow levels for the Spokane River

Alan Reichman, Esq., *Senior Counsel*
Washington State Office of the Attorney General
Olympia, WA

9:45 From Loon Lake to Chuckanut Creek: The Rise and Fall of Environmental Values in Washington's Water Resources Act

The year 2021 marks the 50th anniversary of the Water Resources Act of 1971: What has been effectively implemented and what remains to be done?

Rachael Paschal Osborn, Esq., *Affiliate Instructor*
University of Washington School of Law ~ Vashon, WA

10:30 Break

10:45 Tribal Senior Water Rights

Origin, development, and current status of Tribal water rights; recent legal developments affecting Tribal water rights

Patrick Williams, Esq., *Moderator*
Law Office of M. Patrick Williams ~ Seattle, WA

Tribal options for exercising and protecting their senior water rights in the various basins

Wyatt F. Golding, Esq.
Ziontz Chestnut ~ Seattle, WA
Fawn R. Sharp, *President*
Quinault Indian Nation ~ Taholah, WA

12:15 Lunch Break

1:30 Practice Tips for Administrative and Appellate Litigation

Tips for building a record now that PCHB appeals go directly to the Court of Appeals

The Hon. Neil L. Wise, Esq., *Board Member*
Pollution Control and Shorelines Hearings Board
Olympia, WA

Tips from the bench for participation in appellate cases

The Hon. Debra L. Stephens, Esq., *Justice*
Washington Supreme Court ~ Olympia, WA

2:45 Break

3:00 Legislative Policy: Post-Op on the 2021 Session and What to Expect for 2022

Bills and how the political dynamics played out

Kathleen Collins, *Owner*
Capitol Strategies Consulting ~ Olympia, WA

3:30 Environmental Justice (EJ) and Legal Ethics

Update on the movement, new considerations that need to be addressed, and the ethical implications for water practitioners

Clifford Villa, Esq., *Associate Professor of Law*
University of New Mexico School of Law ~ Albuquerque, NM

4:30 Evaluations and Adjourn

Who Should Attend

Attorneys, environmental and land use professionals, local government and Tribal representatives, planners, ports, public utility districts, landowners, water users, and other stakeholders

About the Conference

Water law has never been more important. Population growth and economic development has led to increased demand for water. At the same time, climate change and land management decisions have resulted in increased pressure on instream resources. Water law provides the tools to manage and prioritize the ever-growing demands on this limited but essential resource.

This year's seminar will address some of hottest topics in Washington water law. These include watershed planning, water rights adjudications, municipal transfers and inchoate rights, and Tribal water rights. Water law practitioners will not want to miss the practice tips panel, brought to you by the Honorable Debra Stephens from the Washington Supreme Court and Honorable Neil Wise from the Pollution Control Hearings Board.

The water law 101 panel and the annual case law and legislation updates will also be valuable resources for anyone involved in water management in Washington. You have an opportunity to hear perspectives on the current issues from state, local, and Tribal officials, water law practitioners and consultants, and academics who research and teach water law topics.

We hope you'll join us for what promises to be a timely and informative program. Register now to save your seat!

~ Joseph A. Brogan, Esq. of Foster Garvey and
Joshua Osborne-Klein, Esq. of Washington State Attorney General's Office,
Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$895 with a group rate of \$805 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$670. For Tribal Members, public interest NGO's, students, and people in their job for less than a year, our rate is \$447.50. All rates include admission to all program sessions and course materials.

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As an added value bonus, you'll receive access to audio and video recordings of the program at no extra charge. Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Friday, June 4, 2021. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 11.75 (inc 1 Ethics) WA MCLE, 11.75 AICP planner, and 11.75 ABCEP environmental professional credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$100.

Faculty

Joseph A. Brogan, *Program Co-Chair*, is a partner at Foster Garvey and one of the leading water rights lawyers in Washington state. He provides strategic advice, permitting and litigation support to water purveyors, public utility districts, ports, industry clients and private property owners.

Joshua Osborne-Klein, *Program Co-Chair*, is an Assistant Attorney General for the Washington State Attorney General's Office. He previously served as a Staff Attorney for the Puget Soundkeeper Alliance and was in private practice where he represented a variety of clients including Indian Tribes.

Patrick Williams, *Moderator*, Law Office of M. Patrick Williams, works with state and local agencies and Tribes on complex environmental regulatory and policy decisions. This includes litigation before tribunals ranging from local hearing boards to the Washington State Supreme Court.

The Hon. Ross Cline, Sr. is Chairman of the Nooksack Indian Tribe. He was raised on a small dairy farm on his great grandfather Kalime's homestead. He earned a BA degree in Urban and Regional Planning from Western Washington University and an MBA from the University of Phoenix.

Kathleen Collins, Owner of Capitol Strategies Consulting, represents local governments on environmental issues.

Lisa Dally Wilson, Dally Environmental, is a water resource engineer and trained facilitator with experience in environmental assessment and facilitation of collaborative, multi-stakeholder processes addressing complex natural resource issues.

Wyatt F. Golding is a partner at Ziontz Chestnut, a Seattle law firm specializing in the representation of Indian Tribes and conservation groups. He works on a variety of water law matters, including protection of instream flows and Tribal water rights, Clean Water Act enforcement and defense, implementation of water quality standards, FERC relicensing, Endangered Species Act litigation, and the intersection of water law and SEPA.

Dan Haller is a Principal Engineer at Aspect Consulting focusing on water rights and systems.

Robin McPherson is the Adjudication Manager for the Department of Ecology. She previously represented the Ecology Water Resources Program as an Assistant Attorney General.

Rachael Paschal Osborn, Affiliate Instructor at the University of Washington School of Law, is a retired public interest water lawyer. Between 1992 and 2019, she practiced water, environmental and climate change law, representing citizens, NGOs and Native American tribes. She co-founded the Center for Environmental Law & Policy in 1993.

Alan Reichman is Senior Counsel at the Washington State Office of the Attorney General. He serves as Section Manager of the Water Resources Section of the Ecology Division and represents the Department in water resources and water quality cases before the Pollution Control Hearings Board and in state and federal courts. He also counsels the Department of Ecology's Water Resources Program and represented Ecology in the Yakima River Basin water rights adjudication.

Fawn R. Sharp is President of the Quinault Indian Nation. She also serves as the 23rd President of the National Congress of American Indians (NCAI), the oldest, largest and most representative American Indian and Alaska Native tribal government organization in the country.

The Hon. Debra L. Stephens has been a member of the Washington Supreme Court since January 2008 and served as the Court's 57th Chief Justice. She previously served as a judge for Division Three of the Court of Appeals and is the first judge from that court to join the Washington State Supreme Court, as well as the first woman from Eastern Washington to do so.

Gary S. Stoyka is the Natural Resources Program Manager for the Whatcom County Public Works Department. Prior to coming to Whatcom County, he was manager of Skagit County's Clean Water Program, where he oversaw salmon recovery, watershed planning, lake management, marine resources committee, the water quality program, and management of closed landfills.

Courtney J. Throgmorton is an Assistant Attorney General in the Ecology Division of the Washington State Attorney General's Office.

Amy Trainer is the Environmental Policy Director for the Swinomish Indian Tribal Community. She previously served as the Deputy Director of the California Coastal Protection Network and as Executive Director of the Environmental Action Committee of West Marin.

Clifford Villa is an Associate Professor of Law at the University of New Mexico School of Law. He previously served as legal counsel for the U.S. Environmental Protection Agency, first with EPA Headquarters in Washington, DC, and later with EPA Regional offices in Denver, Colorado, and Seattle, Washington.

George Walter is the Environmental Program Supervisor for the Nisqually Indian Tribe.

The Hon. Neil L. Wise is the Chair of the Pollution Control Hearings Board and Shorelines Hearings Board. Prior to his appointment to the Boards, he was a Senior Counsel at the Washington Attorney General's Office, where he represented the Washington Departments of Fish and Wildlife and Natural Resources, and the Forest Practices Board.