



# LAW SEMINARS INTERNATIONAL

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

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

**May 19 & 20, 2022**

Live Online via Interactive Broadcast

### *Agenda—Day 1*

#### **9:00 Introduction & Overview**

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

#### **9:15 Washington Water Law Refresher**

The structural foundation for water rights in Washington: The 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 New Developments in Water Conservation Requirements**

**Margaret Franquemont, Esq.**, *Staff Attorney*  
Center for Environmental Law & Policy  
Seattle, WA

#### **10:45 Break**

#### **11:00 Conservancy Boards**

Purpose of the boards and how they work; Ecology's review processes.

**Benjamin C. Carr**,  
*Conservancy Board Coordinator*  
Washington State Department of Ecology  
Yakima, WA  
**Chuck Brushwood, Esq.**,  
*Senior Fish and Wildlife Policy Analyst*  
Colville Confederated Tribes ~ Nespelem, WA

**12:15 Lunch Break**

**1:15 Relinquishment and the Applicability of Exemptions**

Update on Ecology's policy guidance relating to relinquishment, recission, and abandonment of water rights; lessons from recent cases involving asserted exceptions under RCW 90.14.140

**Matt Janz, Esq.**, *Assistant Attorney General*  
Washington State Attorney General's Office  
Olympia, WA

**2:00 Water Right Changes and Transfers**

Changes in use and other problematic areas; what to expect for challenges; legal and technical tips for preparing successful applications and challenges

**Chelsea Jefferson**, *Hydrogeologist*  
Washington State Department of Ecology  
Bellevue, WA

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

**3:15 Break**

**3:30 Water Code Enforcement**

Statutory provisions and Ecology's processes for enforcing conducting enforcement actions

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

What to do if you receive a "Technical Assistance" letter

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

**5:00 Adjourn Day 1**

*Agenda—Day 2*

**9:00 After Acquavella VI**

Overview of actions to be taken and issues to be resolved

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

**9:45 Tribes as Sovereigns with Senior Water Rights: Consultation Requirements for Water Permitting Decisions**

Consultation policies at the Attorney General's office, including recognition of customary Tribal law plus traditional religious and other practices that may make some things nonnegotiable.

**Asa K. Washines**, *Tribal Liaison*  
Washington State Attorney General's Office  
Olympia, WA

Yakama Nation v. Ecology (Lund Solar) settlement agreement and communication protocol.

**Shona Voelckers, Esq.**, *Staff Attorney*  
Yakama Nation ~ Toppenish, WA  
**Stephen H. North, Esq.**,  
*Assistant Attorney General*  
Washington State Attorney General's Office  
Olympia, WA

**11:00 Break**

### 11:15 Legislative Rollout

Bills in the 2022 session and how the political dynamics played out; expectations for legislative initiatives in 2023

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

Update on implementation of Stream Recovery Act pilot projects

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

### 12:15 Lunch Break

### 1:15 Case Law Update

Recent noteworthy judicial and administrative cases

**Alan Reichman, Esq., Senior Counsel**  
Washington State Attorney General's Office  
Olympia, WA

### 2:00 PCHB and Appellate Jurisdiction

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

### 2:45 Break

### 3:00 Ethical Issues in Appellate Litigation and Brief Writing

Obligations under RPC 3.1/RAP 18.9(a); client explanation of issues on appeal; requirements regarding citing authorities and extra-record material; other problematic issues

**Philip A. Talmadge, Esq.**  
Talmadge/Fitzpatrick ~ Tukwila, WA

### 4:00 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 and policy in Washington State continues to evolve despite the unprecedented societal disruptions over the past year or so. Population growth and economic development continues to drive demand for water. At the same time, climate change and land management decisions have resulted in increased pressure on instream resources.

This year's seminar will address recent changes and hot topics in Washington water law. The program will cover the status of water rights adjudications, relinquishment of water rights and the applicability of exemptions, legal and technical tips for preparing successful water right change applications, insights regarding Water Code enforcement, and consultation requirements involving tribal senior water rights.

Water law practitioners will not want to miss the practice tips panel, brought to you by the Honorable Neil Wise from the Pollution Control Hearings Board. The Water Law Refresher and the annual Case Law Update and Legislation Rollout will also be valuable resources for anyone involved in water management in Washington.

You will have an opportunity to hear perspectives on the current issues from state, local, and Tribal officials, water law practitioners and consultants who specialize in these areas. We will also hear from former Washington State Supreme Court Justice Philip Talmadge on the topic of ethical issues in appellate litigation and brief writing.

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

## *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.

Make checks payable to Law Seminars International.

As an added value bonus, you will 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, May 13, 2022. 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 (1 Ethics included) Washington MCLE, 11.75 ABCEP environmental professional, and 11.75 AICP land use planner 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.

**Chuck Brushwood** is a Senior Fish and Wildlife Policy Analyst for the Colville Confederated Tribes and advises the Tribe on matters relating to fish and wildlife management, harvest, enforcement, and jurisdiction with a particular emphasis on the Endangered Species Act and salmon and steelhead recovery. He currently serves on the Upper Columbia Salmon Recovery Board and as Chair of the Okanogan County Water Conservancy Board.

**Benjamin C. Carr** is the Central Region Conservancy Board Coordinator for the Washington State Department of Ecology. In that role, he supports seven County Boards in making water right change decisions.

**Kathleen Collins**, Owner of Capitol Strategies Consulting, represents local governments on environmental issues. Before founding Capitol Strategies, she lobbied for the Association of Washington Cities.

**Margaret Franquemont** is Staff Attorney for the Center for Environmental Law & Policy (CELP). She has focused her legal career on Environmental & Natural Resource Law as well as Ocean & Coastal Law.

**Dan Haller** is a Principal Engineer at Aspect Consulting focusing on water rights and systems. His background includes management of storage and conservation projects; water banking and water rights transfers; and water system design, planning, and financial planning.

**Matt Janz** is an Assistant Attorney General at the Washington State Attorney General's Office.

**Chelsea Jefferson** is a Hydrogeologist for the Department of Ecology and formerly served as a permit writer. She formerly worked as a hydrogeologist in private practice.

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

**Stephen H. North** is an Assistant Attorney General at the Washington State Attorney General's Office

**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.

**Philip A. Talmadge**, Talmadge/Fitzpatrick, served in the Washington State Senate from 1979 to 1995 and on the Washington Supreme Court from 1995 to 2001. He has taught appellate advocacy at the Seattle University and University of Washington Law Schools.

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

**Shona Voelckers** is a Staff Attorney for the Yakama Nation. Her practice focuses on protecting Yakama Nation's Treaty-reserved cultural and natural resources through litigation and collaborative land use planning with local jurisdictions and state and federal agencies.

**Asa Washines** is the Tribal Liaison for the Washington State Attorney General's Office. He is a former Yakima Nation Councilmember and recently served as Policy Advisor to the Navajo Nation.

**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.