Dividing the Waters Collection

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Descriptive Summary

Title: Dividing the Waters collection

Date (inclusive): 1993 - ongoing

Collection Number: WRCA 219

Creator: Dolge, Kathy

Extent: 28.75 linear feet23 cartons

Repository: Rivera Library. Special Collections Department.
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Abstract: A collection of legal and otherwise relevant materials related to western water adjudications and other complex water litigation. The project has focused on case management, alternative dispute resolution, and the sharing of practical experience by a diverse group of judges, masters and referees who have participated in Dividing the Waters activities.

Languages: English.

Access
Collection is open for research. Select items are restricted for a ten year period.

Publication Rights
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Preferred Citation
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Acquisition Information
The collection was donated by the following three co-conveners on behalf of Dividing the Waters.
Justice Gregory Hobbs, Colorado Supreme Court
Judge Dan Hurlbutt Jr. (retired), Idaho District Court (Snake River Adjudication)
John E. Thorson, former Special Master, Arizona General Stream Adjudication

Organizational History
The 'Dividing the Waters Collection' is a collaboration of a network of judges, special masters and referees who preside over western water adjudications and other complex water litigation. The central purpose of the Dividing the Waters project has been to improve the management and outcome of this complex water-related litigation affecting western people and the region’s environment. State trial judges have been most directly served by this project although state appellate judges, federal trial and appellate judges, and U.S. Supreme Court special masters are also involved in project activities.

Since its inception in 1993, the project has pursued five goals:
1. To share information about how the different states and courts have structured and conducted stream adjudications and other complex water law litigation;
2. To discuss some of the major problems judges confront in conducting these adjudications and cases;
3. To discuss what works and what does not work so that others do not have to make the same mistakes;
4. To benefit from the expertise of resource people who are involved in the many subject areas touched by these cases; and
5. To enable judges, masters, and referees to meet one another and develop lasting personal and professional relationships.

The project has focused on case management, alternative dispute resolution, and the sharing of practical experience by a diverse group of judges, masters and referees who have participated in Dividing the Waters activities.

Dividing the Waters has been supported by the Ford Foundation, William and Flora Hewlett Foundation, and General Service Foundation. For more information, see www.dividingthewaters.org.

Collection Scope and Contents
General stream adjudications, Native American reserved rights, law review and periodical articles, manuscripts, state-specific materials, and states water council minutes regarding Western United States water issues, rights, and law collected by a network of judges, special masters and referees who preside over western water adjudications and other
complex water litigation.
The collection is arranged in the order it was kept by Dividing the Waters: General Stream Adjudications and Western Water Materials; Law Review Articles and Periodicals; Books; State-Specific Materials; Interstate Materials.

**Collection Number**

Collection number updated January 2019. Legacy collection number was MS 2003/1. This change was part of a project in 2018/2019 to update the collection numbers for collections in the Water Resources Collections and Archives.

**Indexing Terms**

The following terms have been used to index the description of this collection in the library’s online public access catalog.

**Subjects**

- Interstate agreements -- West (U.S.)
- Riparian rights
- Water -- Law and legislation -- West (U.S.)
- Water resources development -- West (U.S.)
- Water rights -- Law and legislation -- West (U.S.)
- Water rights -- West (U.S.)
- Water-supply

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**General Stream Adjuncations and Western Water Materials**

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**GENERAL STREAM ADJUDICATION MATERIALS A_1_000**

**Box 1, folder A-1-006**

Dividing the Waters I: A Conference for Judges and Masters Involved in Western General Stream Adjudications, Scottsdale, Ariz., October 20-22, 1993

Conditions Governing Access

Access to these items is restricted until 2012.

**Box 1, folder A-1-008**

Dividing the Waters II: A Conference for Judges and Masters Involved in Western General Stream Adjudications, Sun Valley, Idaho, March 22-24, 1995

Conditions Governing Access

Access to these items is restricted until 2012.

**Box 1, folder A-1-009**


Conditions Governing Access

Access to these items is restricted until 2012.

**Box 1, folder A-1-010**

Dividing the Waters IV: A Conference for Judges and Masters Involved in Western General Stream Adjudications, Big Sky, MT, October 1-4, 1997

Conditions Governing Access

Access to these items is restricted until 2012.

**Box 1, folder A-1-011**

Dividing the Waters V: A Conference for Judges and Masters Involved in Western General Stream Adjudications, Ashland Klamath Falls, OR, April 14-17, 1999.

Conditions Governing Access

Access to these items is restricted until 2012.
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Box 2, folder A-1-012
Dividing the Waters VI: A Conference for Judges and Masters Involved in Western General Stream Adjudications, Vail, CO, October 4-7, 2000
Conditions Governing Access
Access to these items is restricted until 2012.

Box 2, folder A-1-013
Conditions Governing Access
Access to these items is restricted until 2012.

Box 1, folder A-1-005
Proceedings of Western States Adjudication Conference, Jackson, Wyo., October 18-19, 1993

Box 2, folder A-1-015

Box 2, folder A-1-016

Box 2, folder A-1-022

Box 1, folder A-1-002

Box 2, folder A-1-018

Box 2, folder A-1-014

Box 2, folder A-1-019
Loble, C. Bruce and Colleen Coyle, Settlement in General Stream Adjudications -- Fairness Standards, Presented at Eighteenth Annual Water Law Conference sponsored by the American Bar Association, San Diego, Cal., February 24-25, 2000

Box 2, folder A-1-020

Box 2, folder A-1-021

Box 2, folder A-1-017

Box 1, folder A-1-003

Box 1, folder A-1-004
Sly, Peter W., Jurisdictional Basis of State Court General Stream Adjudication Settlements, Presented at Conference of Western Attorneys General, San Diego, Cal., February 4, 1987

Box 1, folder A-1-007
Sly, Peter W., Questions of Fealty: Conflicts of Interest in Water Law, Presented at Tenth Annual Water Law Conference sponsored by the American Bar Association, San Diego, Cal., February 6-7, 1992

Box 1, folder A-1-001
Thorson, John E., The Status of General Stream Adjudications in Arizona and Other Western States, State Bar of Arizona, Continuing Legal Education, April 22, 1994

WESTERN WATER ISSUES, WATER RIGHTS, AND LAW A_2_000

Box 2, folder A-2-027
McCarran Amendment, 43 U.S.C. 666 (1952)
Box 2, folder A-2-028
McCarren Amendment Congressional Hearings (1951) and Summary of 1951 Proceedings (prepared in 1994)
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The Globalization and Regionalization of America’s Energy, Environmental, And Resource Policies

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Contract Issues in Forest Management
Higbie, Wesley R. Creating and perfecting security interests in timber
Roberts, Haynes R. Timberland purchase and sale agreements
The Greening of America’s Energy Policy
Hodas, David A view from the states: public utilities and global warming
Miller, Alan S. Global climate change: a current interest for environmental lawyers

Are New Development Projects Becoming An Endangered Species?
Kilbourne, James C. Are new development projects becoming an endangered species?
Raul, Alan Charles Federal regulation of endangered species
Sanseonetti, Thomas L. The exemption process under Section 7
Sullivan, Clark G. Memoranda of agreement to define a landowner’s “take” obligations under the Endangered Species Act
Hammond, Richard E. Trying to beat section 10(a) to the punch: california’s natural community conservation plan effort
Nevola, Roger P. The battle over the Edwards aquifer - excessive pumping threatens more than endangered species
Bean, Michael J. Market-based incentive programs for endangered species conservation: a case study in the sandhills of North Carolina
Brook, David The national Historic Preservation Act and development: current issues

Environmental Law: Latest USEPA Developments in Air, Water, and Hazardous Waste Regulation
Stern, Carol Recent regulatory and judicial developments related to the resource conservation and recovery act
Goldstein, Corrine A. Reauthorization of the clean water act: overview of significant issues
Matthews, Llewellyn Recent developments in water quality laws in the Pacific Northwest

Ethical Responsibilities in Regulatory Practice: Where Does Kaye Scholer Leave Us?
Glancy, Dorothy J. Ethical responsibilities in regulatory practice: where does Kaye Scholer leave us?
Ethical Responsibilities in Regulatory Practice: Who Is The Client?
Wood, Michael B. Ethical responsibilities in regulatory practice: who is the client? Hypotheticals
Anderson, Frederick R. Environmental liability dangers

Multi-Jurisdictional Conflicts In Professional Ethics Rules
Houghton, Thomas W. Multi-state practice under modern rules of ethics
Growth and Development When the Water Runs Short: new Challenges for Eastern Water Law
Abrams, Robert H. Moving water: theory and law
Somerville, George A. Environmental regulation of water supply development
Strand, Margaret N. Federal wetlands law
Cox, William S. Moving water: practice and process
Sherk, George W. Registration and permitting requirements for the use of water in the eastern united states

Community Right-To-Know
Bromberg, Kevin Small business perspective on right-to-know
Coddington, Kipp A. "What's wrong with right-to-know: industry perspectives on environmental information disclosure"

Mergers and Acquisitions/Antitrust
Naeve, Mike FERC merger policy: overview of the merger policy statement and subsequent cases

Transactions in Litigation: Part 1
Lohmann, Walter H. Jr and Sara Beth Watson Representations and warranties
Woods, Kristina M. Transactions involving industrial properties: thoughts on getting organized and getting the deal done

Transactions in Litigation: Part 2
Gray, Peter L. Panel Moderator Description of Presentation and Fact Pattern
Freilich, Irvin M. and John M. Barkett A database analysis of the superfund indemnity case law

Trash in Transition - New Solutions for Old Landfills
Dowden, Lisa G. Sunnyside up?
Sobers, David G An engineering response to a methane gas explosion in a residential subdivision
Strokes, James S. Local government's goal and strategy

Reinvention Roundtable
Wyeth, George - Session Overview Reinvention: where is it headed and is it worth the trip
Geltman, Elizabeth Glass "Reinventing EPA"
Kendall, Sara S. Regulatory Reinvention - project XL
Paddock, LeRoy C. Project XL pilot project

Citizen Suits: Initial Response - Part 1: Initial Response
DeHihns, Lee A. Panel Moderator Panel overview and fact scenario, notice of intent letter from Project Mother Earth
Eggert, Russell Outside counsel letter to Green Company
Eichner, James Hypothetical DOJ letter to citizen suit parties
Pravlik, Carolyn Smith Citizen suit against the Green Company

Citizen Suits: Initial Response - Part 2: Litigation
Wood, Carol M. Panel Moderator Panel overview and summary
Casey, Edward J. Notice requirements, discovery, and other litigation concerns
Ginsberg, Beth S. Citizen suit motion practice
Hecker, James M. Citizen suit jurisdictional issues
Wood, Carol M. Citizen suit fact pattern and draft complaint

Resolving Land Use Issues in Development Projects Involving Federal Agencies
Watson, Rebecca Panel Moderator Accommodation of scared sites and related cultural resource issues
Kalen, Sam Navigating the ESA path
Stern, Walter E. Federal cultural resources management prescriptions: the short version

State Bar Idea Exchange

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Part 1: Identifying, Assessing, and Securing Business Opportunities
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Maryan, N.E. Jr. Structuring the power development deal
Stover-Catha, Peggy Eliminating the environmental roadblock up front

Climate Change Mitigation After the Kyoto Protocol: Initiative and Options for the Private Sector
Bumpers, William M. Climate change mitigation - corporate actions to address GHG emission increases

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Ethical Dilemmas in Criminal Enforcement Actions
Brown, H. Lowell, and Edward L. Dowd, Jr., Joan Krajewski, Michael M. Meloy Outline of ethical issues in criminal enforcement actions Panel submission
Dowd Jr., Edward L. Ethical restrictions on contacts with represented persons where the represented "person" is an organization

Environmental Justice
Weinsoff, David A planning commission meeting to consider the sitting of an Industrial Facility

Technology Impact
Ternes, Marry Ellen How technological Developments have affected the direction of environmental programs and regulated entities' ability to comply: a perspective from the air and water programs

Environmental Implications of Electronic Deregulation
Barr, Michael Environmental implications of electric restructuring

The Development and Integration of Oil, Gas, and Power Projects in Latin America - A 3-Part Case Study
Part 2: Developing the Project
Knapp, George M. Project development - applying advanced project finance techniques
Unger, Timothy J. Structuring construction agreements and operation and maintenance agreements to enhance performance

Habitat Conservation Planning Workshop
Johnson, James R. Introductory materials
Hicks, Lorin L., Submitted by Henning C. Stabins Plum Creek's cascades habitat conservation plan: a corporate approach to ecosystem management

Assessing Risk: The Revolution is Underway
Putzrath, Resha M. Risk assessment and reality
Wilson, James D. PhD. What do we want? More!
Legal Issues in the International Year of the Ocean
Hsiao, Peter Ocean clean-ups through the expanded use of CERCLA Section 106 unilateral administrative orders
Medina, Monica Protecting our oceans from the offshore oil drilling
Von Zharen, Dr. W.M. Emerging issues in governance of the oceans
West, Mary Beth Law of the sea - background and current status

Conducting an Internal Criminal Investigation
Marshall, Raymond C. Panel Moderator Conducting internal investigations - what to do and not to do
Downs, Thomas M. The internal environmental investigation - two case studies
Kelly, Thomas J. Jr. Trends in the criminal enforcement of environmental law

Practical Dispute Resolution - Negotiation Skills, Tips, and Tactics
Collins, Richard C. Negotiation skills, tips, and tactics outline
MacNaughton, Ann L. Strategic use of neutral experts in environmental dispute resolution

The Science and Regulatory Policy on Endocrine Disruptors
Lamb, James C. Session overview

Crisis Management and the Environmental Catastrophe
Bouch, Timothy W. Crisis management and the environmental catastrophe
Pfister, Suzanne Effective crisis communication plans

Superfund Global Settlements: Early Releases and Transfer of Liability to Third Parties
Gray, Kenneth F. Panel overview
Gray, Kenneth F., David P. Littell and John H. Claussen Issues and procedures

Matching the Supply and Demand for Environmental, Energy, and Natural Resources Lawyers
Percial, Robert V. How the environment has changed legal education

Developments in Protection of Water Sources in the East
Odom, F. Perry The ACF compact and modern eastern water law
Wilcher, LaJuana S. The tide returns: developments in holistic water resource protection under federal authorities

Land Use in Clean-Ups
Schnapf, Larry Negotiating and drafting considerations for institutional and engineering controls
Schwenke, Roger D. How federal real estate doctrines and “Whose job is this?” problems can impact the use of institutional controls

Privatization of Public Services
Peters, Scott H. Cash from trash
Ambroso, James and Joseph Minner Solid waste divestiture - San Diego County
Bardsley, Diane Public entity client considerations
Civale, Kevin The elements of a successful privatization project

How to Prepare and Try Complex Energy and Environmental Cases
Honorable Janis Graham Jack

Overview of case management in Lease Oil Antitrust Litig; MDL-1206

Indian Tribal Jurisdiction over Non-Members and Contracting for Indian Land Resources: Recent Developments

Slade, Lynn H. Overview: the changing legal landscape affecting resource development and environmental protection in Indian country

McCoy, Melody Lynn After Strate v. A-1 contractors: exhaustion, Indian lands, consensual relationships, and direct effects

Worthen, Kevin J. Tribal jurisdiction over non-members in Indian country: Supreme Court case law in the 1990s

Generating New Business Opportunities: Energy Deregulation and the Role of the Environmental Lawyer

Kelly, Suedeen G. Mergers and acquisitions in the electric industry: why and where they are happening; what it means to environmental and energy lawyers

Dodson, James R. Sale of fossil fuel power plants - seller’s environmental considerations

Emery, N. Beth Electric utility deregulation and the role of the SONREEL lawyer

Lormon, John J. Acquisition and operation of a power plant: the role of the SONREEL attorney - the Port of Fartown’s perspective

Legal and Business Issues for Firms Contemplating Implementation of ISO 14001 in Mexico

Paez, Ferando Participation of CYDSA in environmental voluntary programs

Wells, Richard P. To sign up or not to sign up? Voluntary programs in Mexico

Multi-Stakeholder Dialogues and Consensus-Based Communication: Skills, Tips, and Tactics

Bleiweiss, Shell J. Panel overview

Abkowitz, Mark A. PhD Environmental information disclosure and stakeholder involvement: searching for common ground

Bingham, Gail Meeting the challenge of complex, multi-party natural resources and environmental disputes

Harley, Keith I. What are the characteristics of a successful multi-stakeholder initiative?

Demonstrating Air Quality Compliance: What’s Behind the Numbers

Martel, Jonathan S. and Julie R. Domike Perspectives from the private bar

Flaherty, Paul Introduction and overview

Autry, Lara The data life cycle/data quality assessment: a tool for data analysis

Libicki, Shari When good data goes bad: what the numbers really mean

Poore, Michael Laboratory data: how good is good?

Weeks, David A. Knowing the basis of your emission estimates can significantly affect your case - not all numbers are equal

Weiss, Malcolm C. Overview of Session no. 2: how to use the numbers you generate

State Bar Idea Exchange

Dehner, Jeffrey S. and G. Van Velson Wolf, Jr. Session outline

San Diego Zoo Lectures

Phillips, John A. Endangered species research challenge in the new millennium

Hatachi Maquiladora Tour

Lesniak, Kimberly Z. Maquiladora/border environmental issues

Alternative to the NPL Cleanup Process: Not a Panacea

Claussen, John H. Liability transfers for contaminated property

Evans, David NPL alternatives: a view from EPA headquarters

Climate Change Mitigation Projects: A View from the Field
Novello, David P. Panel moderator's introduction
Cahn, David S. The cement manufacturing industry: opportunities for energy efficiency
Dr. Bankes, R. Daryl and Fallon, Mark D. Climate change and competitiveness
Rotter, Jonathan C. Legal structure of climate change projects
Animal Ambassadors From Around the World: Today's Legal Practicalities for Endangered and Protected Species
Mallory, Brenda The role of the endangered species act and the marine mammal protection act in protecting at-risk species
About the speakers
About ABA section of environment, energy, and recourses

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Course Materials, 2000 A.B.A. Sec. Env't., Energy, Resources 8th Sec. Fall Meeting (2 vols.)

Volume I:
About the section fall meeting
About the section
Recourse Development and Environmental Protection in a Global Economy

Scope and Contents
No materials were submitted for this publication

People v. Development: Human Rights Mass Tort Litigation and International Resource Development
Herz, Richard L. Litigating environmental abuses under the Alien Tort Claims Act: a practical assessment
Reynolds, John C. Mass tort risks inherent in international resource development

Energy Deregulation: Powering New Business Opportunities for Environmental, Energy, and Resource Lawyers
Hickok, Linda Drisko Mining for gold: asset transactions from the environmental manager's perspective
Barrett, James R. Opportunities for environmental attorneys in the deregulating energy manager's perspective
Arata, John W. Managing environmental liabilities and risks in commercial transactions

Section 4 of the Endangered Species Act: To List or Not to List and Who Decides?
Mallory, Brenda Overview of procedures governing listing and critical habitat designations
Quarles, Steven P. What's the fuss? Does critical habitat really matter?
Glitzenstien, Eric Implementation of Section 4 from the perspective of the environmental community

Brownfields Urban Redevelopment, Part 1: Practicalities Pitfalls (From Drawing Board to Boardwalk)
Limited Only By Your Diseased Imagination: Emerging Toxic Torts in America
Arras, Barbara L. What is this thing called RADS: Reactive Airways Dysfunction Syndrome
Owens, David J. "MTBE"
Gauthier, Wendell H. Global warming: environmental and health problems in the Year 2000
Wise, Kenneth T. Measuring mountains and molehills: property impact claims
**Natural Gas Project Mock Negotiation**
Cogan, John P., Weems, Philip R. Delegates Documentation

**The Future of Timberland Investments: Timber Supply and Demand,**
Cubbage, Frederick W. Southern timber supply and demand
Haney, Harry L. Jr. Environmental issues related to urban sprawl: the proliferation of local ordinances regulating forestry activities and the growing use of conservation easements
Price, Eddie W. Woods products today and tomorrow

**Brownfields Urban Redevelopment, Part 2: Regional Perspective (Postcards from the Provinces—How Brownfields are Working Across the Country)**
Watson, Sara Beth Program overview
Macfarlane, Ross How Brownfields cleanup incentives are working in Washington State
Milner, John E. Brownfields programs in the southeast
Chamberlin, Denise K. Streamlining the process with the Pennsylvania land recycling program

**Developments in Environmental and Toxic Tort Class Actions**
Rudlin, Alan D. Recent developments in environmental and toxic tort class actions
Barriere, Brent B. Certification issues in mass tort class actions: challenges, appeals and settlement

**Implementing Greenhouse Gas Reductions: The Frame, the Nuts and the Bolts**
Brenes, Esteban The prototype carbon found: mobilizing private and public resources to combat climate change

**Engaging the Reluctant Landowner: How is Landowners Encouraged to Participate in an “Umbrella” Habitat Conservation Plan**
Murray, William R. Introducing an overview of endangered species act Glen, Alan M. It’s a permit, stupid: staying focused on the landowner’s role in “umbrella” habitat conservation plans
Lohr, Steven M. The South Carolina safe harbor program: protecting the landowners and preserving the federally engaged red-cockaded woodpecker
Thornton, Robert D. New techniques in habitat conservation planning: engaging the reluctant landowner in the face of regulatory and legislative instability

**Volume II**

**Contaminated Sediments: Science, Law and Politics**
Reed, Larry G EPA’s perspective on contaminated sediments
Hsiao, Peter Contaminated sediment clean-up and liability from the perspective of potentially responsible parties
Bibler, Gregory A Regulatory framework for remediation of contaminated sediments: a functional analysis
Betts, Brett Establishment and use of Washington state sediment cleanup standards
Johnson, Eric D Sediment management and harbor cleanups in Washington state: a postcard from the edge
Palermo, Michael R. Corps of engineers in contaminated sediment management and remediation

**Contaminated Sediments: Is Remedy Selection the Beginning or the End of the NRDA Process?**
Adams, Gregory D. Coordinated approaches to investigation, remedy selection, NRDA and coast allocations at contaminated sediments sites
Connaughton, James L. Developing sensible policy for addressing contaminated sediments based on actual site experience

**Current Issues in Energy Litigation**
Martin, Patrick H. Royalty issues: post-production costs
Haglund, Deborah Bahn, Michael E. Coney, Lawerence P. Simon, Jr. 
Current issues in energy litigation 

Sediment Management Remedial Alternatives and Case Studies 
Nadeau, Steven C. Sediment management issues: the next CERCLA frontier 
Nadeau, Steven C. Manistique harbor, Michigan case study 
Thidoebeaux, Louis J. Environmental dredging: double-edged sword contaminated bed sediment 

Woods, Kristina M. Introductory remarks and case study for discussion 
Jozefiak, Stanly W. Special remedial organizations 
Theiss, John J. Guaranteed business solutions Guaranteed Remediation Program (GRiP) 

Gulf of Mexico Estuaries, Coastal Wetlands Loss and Coastal Restoration 
DeHihns III, Lee A. Moderator's overview 
Gagliano, Sherwood M. Restructuring coastal Louisiana: issues and problems 

Making the Deal: Business Considerations in Analyzing, Acquiring, and Financing Private Timberland Transactions 
Headley, Peter S. Financing a secured timberland transaction: a lender’s perspective 
Molpus, Dick Timberland investing: criteria and friends 
Olson, Scott C Strategic considerations in acquiring timberlands from a forest industry perspective 

Environmental Forensics Part I: Remote Sensing, Aerial Photo Interpretation and Geographic Information Systems (GIS) 
Grip, Wayne M. Applications of photointerpretation and photogrammetry in environmental forensic investigations 
Rusk, George A. Geographic information system applications: adding value to environmental projects and litigation 

Environmental Justice: Strategies and Tools for the New Millennium 
Goode, Ann E. U.S. EPA Draft Title VI guidance documents 
Kuehn, Robert R. Taxonomy of environmental justice 

EPA’s Proposed Rules on Total Maximum Daily Loads: Impacts on Agriculture and Forestry 
Houck, Oliver Introduction to the Clean Water Act TMDL program 
Shanks, Patricia L. The TMDL rule: is EPA asking too much from Clean Water Act Section 303(d)? 

Distributed Generation- A Power Source for the New Millennium 
Alderfer, R. Brent Regulatory policy - opening the market for distributed power 

Criminal Jeopardy - How to Respond to an Environmental Criminal Investigation 
Savit, Mark N, George A Phair, Howard C Parker, Robert N. Habans, Shuan G. Clarke The expanding scope of environmental criminal law: Prosecution and defense perspectives 
Parker, Howard C. Sample document 

Environmental Forensics Part II: State-of-the-Art Field Investigation Techniques 
Moore, Michael B. Innovations in field analysis site characterization techniques for contaminated sites - emphasizing best available technologies data presentation methods 

Firing Line: Enhancing Your Skills in Dealing with the Public and Media on Crisis Management 
Scope and Contents 
No materials were submitted for publication
General Stream Adjuncations and Western Water Materials

WESTERN WATER ISSUES, WATER RIGHTS, AND LAW A_2_000

Dividing the Waters Collection


Current Water Issues

- Strong, Clive, Deputy Attorney General, Idaho Attorney General How does California v. FERC affect state regulation of water?
- Dumars, Charles Professor, University of Mexico School of Law Accommodating federal and state interests in water regulation
- Muys, Jerome C., Will Muys, Washington D.C. Approaches and considerations for allocation of interstate waters

Emerging Trends

- Biographical sketch of Gregory K. Wilkinson
- Biographical sketch of Richard Lazarus
- Lilly, Alan, Bartkiewicz, Kronick Shanahan, Sacramento, California Environmental Protection Agency’s emerging role in water allocation decisions
- Sawyer, Andrew, Assistant Chief Counsel, State Water Resources Control Board, Sacramento California Accommodating state water allocation authority in federal water quality standards

New Developments

- Judge Karlton, Lawrence, U.S. District Court, Sacramento, California Problems lawyers face in handling water rights cases: suggested do’s and don’ts
- Kramer, John, Staff Council, California Department of Water Resources, Sacramento, California Interstate apportionment of water by Congress? The Pyramid Lake–Truckee River controversy


- Underwood, Denis B., Commissioner of Reclamation, U.S. Department of the Interior Federal water transfer policy: some problems limitations
- Potter, Lori, Sierra Club Legal Defense Fund, Denver, CO The Endangered Species Act: emerging source of environmental protection
- Dunn, Sandra K., DeCuir Somach, Sacramento, CA The Endangered Species Act: conflicts with state water rights administration
- Sly, Peter W., Payne, Thompson, Walker Taaffe, San Francisco, CA Questions of fealty: conflicts of interest in water law
- Thompson, Barton H., Jr., Associate Professor of Law, Stanford University, Stanford, CA Judicial taking of private property: limitation on state water regulation?
Stevens, Jan S., Assistant Attorney General, California Attorney General's Office
Arkansas v Oklahoma: a study in interstate water pollution problems
Water Law Conference
Sax, Joseph S. Taking issues: government regulation and private rights
Burling, James S. Protecting property rights in aquatic resources after Lucas
South Carolina Coastal Commission
Hobbs, Gregory J. Jr. Water rights takings in the Post- Lucas era
Sher, Victor M. Takings and wildlife
Lazarus, Richard Reading Lucas: from the government's perspective
Tarlock, Dan A. Reallocation: it really is here
Lennihan, Martha H. The California drought emergency water bank: a successful institutional response to severe drought
Cook, Dennis C. Wyoming's administration of Indian reserved water rights after Big Horn III
Higginson, Keith R. Managing water resources in a continuing drought
Adelsman, Hedia Opportunities for improving drought response in Washington state
White, Michael D. Effective use of computer models in water rights litigation: practical thoughts for the trial lawyer
Papadopulos, Stavros S. Use of modeling analysis in litigation
Ogburn, Robert W. A judicial perspective on hydraulic models in water rights litigation}

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folder A-2-055
Water Law Conference
The Impact of the Endangered Species Act on Water Resource Use and Development
Heyman, Ira Michael Property rights, the Endangered Species Act, and ecosystem approaches
Wilkinson, Gregory K. The impact of the Endangered Species Act on water resource use and development
The Legal Agenda of the Department of the Interior in the Water Resources Field
Scope and Contents
There are no materials for this presentation

Emerging Issues on the Colorado River
Rieke, Elizabeth Ann Emerging issues on the Colorado river - overview of unresolved issues
Weatherford, Gary D. Interstate marketing issues on the Colorado River
Israel, Daniel H. Tribal leasing of Colorado River waters: federal policies and regional realities
Brophy, Michael J. The effect of the Central Arizona Project on the allocation of Colorado River water supplies
The Intersection of Water Law and Land Use Law: The Arizona Experience
Richmond, Terese (T.C.) N. The intersection of water law and land use law: the Arizona experience
New Directions for the Bureau of Reclamation
Somach, Stuart L. Federal reclamation law: the way it ought to be
Candee, Hamilton New directions and old traditions at the Bureau of Reclamation
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Anderson, Witt Modifying reservoir operations to meet changing requirements: a perspective on the Columbia River
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Snake River Basin, Idaho Supreme Court 2000 Opinion No. 18 re Minidoka National Wildlife Refuge, March 9, 2000

Box 15, folder D-ID-10-008
Snake River Basin - Memorandum Decision and Order on Challenge; Order Denying Motion to File Amicus Curiae Brief; Order of Recommitment to Special Master Cushman; April 25, 2000

Box 15, folder D-ID-10-009
Snake River Basin - Idaho Supreme Court 2001 Opinion No. 8, re Fish Wildlife Service, February 22, 2001

Box 15, folder D-ID-10-010
Snake River Basin - Order Disallowing Uncontested Federal Reserved Water Right Claims (Mountain Home Air Force Base), April 6, 2001

Box 15, folder D-ID-10-011
Snake River Basin - Orders re Nez Perce Tribe Instream Flow Claims, November 10, 1999

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Snake River Basin - Repose to United States' Motion for Status Conference and Order on Nez Perce Tribe's Motion to Set aside all Decisions, Judgments and Orders on Instream Flow Claims ... and Motion to Disqualify Judge Wood, March 23, 2000

Box 15, folder D-ID-10-013
Snake River Basin - Nez Perce Tribe's Motion to Set aside all Decisions, Judgments and Orders on Instream Flow Claims ... and Motion to Disqualify Judge Wood, February 4, 2000; and other materials relating to motion to disqualify

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Kansas

**KANSAS - General Information** D_KS_1_000
- General Information

**KANSAS - Statute** D_KS_2_000
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- General Information
  - Dept of Natural Resources Conservation, Water Rights in Montana, November 1993
  - Development of Montana’s General Stream Adjudication Process
  - Map Displaying Montana's Drainage Basins
  - Map Displaying Status of Adjudication Process in Montana (July 1993)
  - Table Displaying Adjudication Basin Status in Montana (May 25, 1994)
  - Public Comment on Adjudication Process in Montana (various letters reports, 1988)
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  - Schmidt, Deborah B., Montana’s Water Policy: Innovations, Realities, and Prospects, PREPARED FOR AMERICAN WATER RESOURCES ASS’N CONFERENCE SYMPOSIUM, NOV. 1987
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  - Montana Water Policy Committee Study, Options, and Proposals (1987-89)
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Memorandum re Information Retrieval, Authorities Cited Key Words; two diskettes containing decisions, summaries, keywords authorities; diskettes may be obtained from the Montana Water Court for $20/set - (406) 586-4364

Pamphlet: Compilation of Montana Water Compacts as of 1997

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Box 16, folder D-MT-4-007
Box 16, folder D-MT-4-008
Box 16, folder D-MT-4-009
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Box 16, folder D-MT-4-019
Box 16, folder D-MT-4-020
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Notice of Entry of Temporary Preliminary Decree and Notice of Availability (May 25, 1994)
Findings of Fact and Conclusions of Law (May 25, 1994) (explain procedures court used in preparing the decree)
Temporary Preliminary Decree (May 25, 1994) (includes computer-printed abstracts of each individual water right)
Index to Claims (May 25, 1994)

Notice That Objections Have Been Filed and Hearings Requested (March 23, 1994)

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- Summary of Nebraska Adjudication Activities Since 1994

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- Statute

**NEBRASKA - Important Published Decisions D_NE_3_000**

Nevada

**NEVADA - General Information D_NV_1_000**
- General Information
  - *Nevada General Adjudications*, summary compiled by Peggy Twedt, August 18, 1994
  - *Status of Stream Adjudication Proceedings in Nevada* (oversize map)

**NEVADA - Statute D_NV_2_000**
- Statute

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- Ruddell v. Sixth Judicial District Court in and for Humboldt County, 17 P.2d 693 (Nev. 1933)
**Nevada**

- United States v. Truckee-Carson Irrigation Dist., 649 F.2d 1286 (9th Cir. 1981)
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- Pacific Live Stock Co. v. Malone, 53 Nev. 118, 294 P. 538 (1931) (Quinn River adjudication) (state engineer empowered to administer only statutory adjudications not adjudications in equity)
- Carpenter v. District Court, 59 Nev. 42, 73 P.2d 1310 (1937), reh'g granted, 59 Nev. 48, 84 P.2d 489 (1938)
- Malone v. District Court, 52 Nev. 270, 286 P. 418 (1930) (water users held in contempt for interference with enforcement of adjudication decree)
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- The Humboldt River Adjudication, 1923-1938 (compilation of orders, decrees opinions)
- In re the Relative Rights to the Waters of the Las Vegas Artesian Basin, Preliminary Order of Determination (September 30, 1996).

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- Proof of Appropriation Forms, Carson City: NV: Nevada State Engineer

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- Humboldt River Adjudication: State Engineer v. United States, Order to Issue Injunction and Injunction (December 15, 1999)

**New Mexico**

**NEW MEXICO - General Information, Assorted pamphlets memos.**

- General Information
- State Engineer Office, Taos Water Rights Adjudication (pamphlet), August 1986
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<table>
<thead>
<tr>
<th>Box 18, folder D-NM-3-015</th>
<th>Order No. 152, In re Proposed Promulgation of Article 1-19 Rules Regulations Governing Drilling of Wells Appropriation Use of Ground Water in New Mexico (N.M. State Engineer February 22, 1995).</th>
</tr>
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<tr>
<td>NEW MEXICO - Important Published Decisions D_NM_4_000</td>
<td>State of New Mexico ex rel. Reynolds v. Lewis, 508 P.2d 577 (N.M. 1973)</td>
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<td>New Mexico ex rel. Reynolds v. Aamodt, 618 F. Supp. 993 (D.N.M. 1985)</td>
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<td>Jicarilla Apache Tribe v. U.S., 601 F.2d 1116 (10th Cir. 1979)</td>
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<td>New Mexico ex rel. Martinez v. City of Roswell, 114 N.M. 581, 844 P.2d 831 (Ct. App. 1992)</td>
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<td>New Mexico ex rel. Martinez v. City of Las Vegas, 880 P.2d 868 (N.M. 1994)</td>
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<td>New Mexico ex rel. Reynolds v. Lewis, 88 N.M. 636, 545 P.2d 1014 (1976)</td>
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<td>United States v. City of Las Cruces et al., 289 F.3d 1170 (10th Cir. 2002)</td>
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<td>NEW MEXICO - Final Decrees D_NM_5_000</td>
<td>Final Judgment Decree on the United States’ Water Rights, No. CIV 9780-SC (D. N.M. June 11, 1992) (Red River adjudication).</td>
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<td>Partial Final Decree Rio Hondo Stream System, No. 7896 (consol.) (D. N.M. September 10, 1976)</td>
</tr>
</tbody>
</table>

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Box 18, folder D-NM-6-003

Box 18, folder D-NM-6-004

Box 18, folder D-NM-6-005

Box 18, folder D-NM-6-006
Special Master's Report to the Court Recommending Adoption of Findings of Fact Pertaining to Hydrology and Denial of the Pueblos' Motion for an Evidentiary Hearing, April 1993. Order Adopting Findings of Fact Pertaining to the Hydrology Segment and Denying, Without Prejudice, the Pueblos' Motion for an Evidentiary Hearing, May 1993

Box 18, folder D-NM-6-008
Order Concerning Special Master's Recommended Conclusions of Law on the Application of the Beneficial Use Quantification Standard to Domestic and Livestock Well Rights, 1994

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### North Dakota


### Oklahoma

**OKLAHOMA - General Information** D_OK_1_000

**General Information**

**OKLAHOMA - Statute** D_OK_2_000

**Statute**

### Oregon

**OREGON - General Information** D_OR_1_000

**General Information**

- Letter from Ass't Att'y General, Natural Resources Section, to Director, Water Resources Dep't, re Klamath Adjudication (March 18, 1996)
- Letter from Ass't Att'y General, Natural Resources Section, to Division Manager, Economic Development Dep't, re Groundwater Rights of Umatilla Tribes (July 19, 1996)
- Scientific Evaluation of Biological Opinions on Endangered Threatened Fishes in the Klamath River Basin (prepublication copy, February 2002)
- Map: Klamath Adjudication Claims (February 27, 1998).

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- United States v. Adair, 723 F.2d 1394 (1983)

**OREGON - Indian Settlements (Proposed or Final)** D_OR_4_000

- Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement (discussion draft, April 6, 1996)
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**SOUTH DAKOTA - General Information** D_SD_1_000
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**SOUTH DAKOTA - Statute** D_SD_2_000
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  - Texas Water Development Board, *Water for Texas: Today and Tomorrow, 1990*
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  - Inadequacies of Existing Texas Procedure for Determination of Water Rights on Major Stream Systems, Presented at Water Law Conference sponsored by School of Law, University of Texas, May 25-26, 1956

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- Board of Water Engineers v. McKnight, *111 Tex. 82* (1921)

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  - Utah Dep't of Natural Resources, 1991-92 Annual Report.

**UTAH - Statute** D_UT_2_000
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**UTAH - Proposed Determinations of Water Rights by the State Engineer** D_UT_3_000
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  - In re Green River Drainage Area, 147 F. Supp. 127 (D. Utah 1956)
Box 19, folder D-UT-4-002  
**East Jordan Irrigation Company v. Morgan, 860 P.2d 310 (Utah 1993)**

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**Ute Indian Compact (1990)**

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**WASHINGTON - General Information, Assorted clippings and notes.**  
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Yakima River Watershed Council (descriptive material).

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- **Memorandum Opinion re: Motion to Join Parties or Dismiss the United States, Yakima River Adjudication**, 1985 (exclusion of groundwater)
- **Memorandum Opinion re: Res Judicata Motions, Yakima River Adjudication**, 1985 (effect of prior decrees)
- **Stipulation Relating to De Minimis Stock and Wildlife Watering--Subbasin 16, Yakima River Adjudication**, 1987
- **Pretrial Order No. 8 re: Procedures for Claims Evaluation (Revised), Yakima River Adjudication**, 1989
- **Memorandum Opinion re: Threshold Issues, Yakima River Adjudication**, undated
- **Memorandum Opinion re: Fish Propagation, Yakima River Adjudication**, 1992
- **Memorandum Opinion re: Off-Reservation Indian Land, Yakima River Adjudication**, 1992
- **Memorandum re: Kittitas Reclamation District Request for Order Pendente Lite, Yakima River Adjudication**, 1993 (temporary transfer).
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- **Memorandum Opinions and Orders re: Limiting Agreements, Yakima River Adjudication**, 1993-94
- **Memorandum Opinion re: Ahtanum Watershed Practically Irrigable Acreage, Yakima River Adjudication**, 1994
- **Memorandum Opinion re: Priority Date - Date of Patent or Date of Entry, Yakima River Adjudication**, 1995
- **Memorandum Opinion re: RCW 90.14 and Substantial Compliance w/claims, Yakima River Adjudication**, 1995
- **Memorandum Opinion and Final Order re: Treaty Water Rights at Usual and Accustomed Fishing Places, Yakima River Adjudication**, 1994-95
- **Conditional Final Order: Subbasin No. 12 (Shushuskin Canyon), Yakima River Adjudication**, 1193
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- **Conditional Final Order as a Final Judgment Pursuant to CR 54(b) and RAP 2.2(d) and Pretrial Order Number 8 as Amended; Yakama Indian Nation Court Claim Nos. 2276 and 7253 (Amendment), Yakima River Adjudication**, 1996

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Fassett, Gordon W., Big Horn River Litigation Experience: The Second Generation - Post Decree Administration, Presented at Innovation in Western Water Law Management sponsored by Natural Resources Law Center, University of Colorado School of Law, June 5-7, 1991

Sly, Peter W., Measuring Indian Water Rights After Big Horn, Presented at American Bar Ass'n Annual Water Law Conference, Palm Springs, Cal., January 19, 1990

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Box 19, folder D-WY-3-001

Statement of Claim for a Walton Right

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Big Horn Adjudication Phase III Procedures, May 15, 1985

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Order to Further Amend Big Horn Adjudications Phase III Procedures, May 8, 1987


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Special Master’s Report Concerning Remand Appellants’ Claims for a Reserved Water Right with an 1868 Priority Date (Walton Rights) (May 4, 1992); Court’s Judgment Decree (July 30, 1992); Court’s Order Partially Amending Judgment Decree (November 6, 1992)

Order Denying Motions for Summary Judgment (Walton claims), September 5, 1995

Order Denying Treaty Priority Date, Etc. (May 15, 1985) (Walton claims; res judicata for administrative determination)

Special Master’s Supplemental and Final Report (June 1, 1984) (disposition of administrative certificates)


Walton Right Proceedings, 1995 (various pleadings and orders)

Box 19, folder D-WY-6-000

WYOMING - Important Published Decisions D_WY_6_000

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**Wyoming**

- **United States v. Powers,** 305 U.S. 527 (1939)
- **Big Horn I,** 753 P.2d 76 (Wyo. 1988)
- **Big Horn III,** 835 P.2d 273 (Wyo. 1992)
- **Big Horn V,** 899 P.2d 848 (Wyo. 1995) (super-Walton rights)

**WYOMING - Material Submitted from the State of Wyoming - Office of the Special Master**

- **Volume I - includes:** Procedural History, Treaties, Summary of Events (1868-1953), Special Master Orders, Interstate Ditch Rules, Sample Forms, Settlement Materials, Amended Judgment and Decree, Order Denying Treaty Priority Date (Walton Claims). (Up through 1985)
- **Volume II - includes:** Big Horn I, Special Master Reports, Walton Procedures, Big Horn II, Walton Criteria, Special Master Instream Flow Report, Judgment and Decree (instream flow administration), Big Horn III, Groundwater Order, Judgment and Decree. (Up through 1994).
- **Special Master’s Report Concerning Remand Appellants’ Claims for a Reserved Water Right With an 1868 Priority Date (Walton Rights), In re General Adjudication of All Rights to Use Water in the Big Horn River System All Other Sources, 1992**
- **Clerk’s Index, In re General Adjudication of All Rights to Use Water in Big Horn River System All Other Sources (1979-1982).**
- **Special Master’s Report and Recommendation Concerning Claims for Federal Reserved Water Rights with an 1868 Priority Date (Walton Right Claims), December 31, 1998, Book One of Two**
- **Special Master’s Report and Recommendation Concerning Claims for Federal Reserved Water Rights with an 1868 Priority Date (Walton Right Claims), December 31, 1998, Book Two of Two**
- **Special Master’s Report and Recommendation, Big Horn Adjudication (Walton Rights), 1997**
- **Judgment and Decree, Big Horn Adjudication, 2000.**
- **Decision Letter, Big Horn Adjudication, 2000**

**WYOMING - Excerpts of Final Decrees**

- **Tabulation of Adjudicated Water Rights, May 14, 1992.**
- **Judgment and Decree, Big Horn, January 28, 1994**
- **Partial Interlocutory Decree and Supporting Documents Regarding the United States’ Non-Indian Claims, Big Horn, February 9, 1983.**

**Interstate Materials**

**ARKANSAS RIVER**

REPUBLICAN RIVER E_2_000

Box 21, folder E-2-001
Republican River Compact (December 31, 1942)
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Water Education Foundation, Colorado River Water Map (oversize)
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Bureau of Reclamation, Lower Colorado Region, Draft Programmatic Environmental Assessment for Proposed Rule Making for Offstream Storage of Colorado River Water and Interstate Redemption of Storage Credits in the Lower Division States (December 1997)