



19TH ANNUAL

WATER LAW SYMPOSIUM 2023

DIVERSE NEEDS: SPECIES PROTECTION & WATER SUPPLY

SATURDAY, FEBRUARY 4, 2023

www.waterlawsymposium.com

HOSTED BY

UNIVERSITY OF THE
PACIFIC

McGeorge
School of Law



IN REMEMBRANCE OF **CLIFF LEE**

Clifford T. Lee received his B.A. from UC Berkeley in 1973. He received his J.D. from the UC Davis School of Law in 1976. From 1977 to 1978 he was a staff attorney with the Governor's Commission to Review California Water Rights Law and authored the Commission staff papers "Legal Aspects of Water Conservation in California" and "The Transfer of Water Rights in California." From 1979 through 2019, he was a deputy attorney general with the Natural Resources Law section of the California Department of Justice. He represented the State of California in the State Water Resources Control Board Cases (2006) 136 Cal.App. 4th 674. He was one of the two lawyers awarded the California Lawyer magazine's 2007 Attorney of the Year Award in environmental law. He has authored "Federalism and Water: The California Experience," published in 2020 by the Golden Gate University Environmental Law Journal. In 2021, he received the Lifetime Achievement Award in the field of environmental law from the Environmental Law section of the California Lawyers Association.

ABOUT THE SYMPOSIUM

The California Water Law Symposium is a collaborative, student-run event that consistently brings together leading minds in water law to discuss California's critical water issues. The symposium is led this year by University of the Pacific McGeorge School of Law. Participant schools include USF School of Law; UC College of the Law, San Francisco; UC Berkeley School of Law; Golden Gate University School of Law; Stanford Law School; and UC Davis School of Law.

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PROGRAM

8:00 - 8:45 Check-In & Continental Breakfast

8:45 - 9:00 Introduction

Welcoming Remarks: Jennifer Harder

In Remembrance of Cliff Lee

Water Law Writing Prize, Nikki Kuklo '24, *presented by Jennifer Harder & Nell Green Nylan*

9:00 - 9:30 Keynote Speaker

Rene Henery, PhD, *CA Science Director for Trout Unlimited*

9:30 - 9:45 Break

9:45 - 11:00 Panel 1 - Hydropower & Species

Dana Heinrich, *CA State Water Resources Control Board*

David Rose, *CA State Water Resources Control Board*

Daniel Cooper, *Sycamore Law Group, Co-counsel for San Luis Obispo Coastkeeper*

Paul Kibel (moderator), *Professor at GGU, Counsel for Water and Power Law Group*

11:00 - 11:15 Break

11:15 - 12:30 Panel 2 - Indigenous Peoples, Water Rights, and Species Protection

Stephanie Safdi, *Supervising Attorney, Stanford Environmental Law Clinic*

Kate Poole, *Senior Director, Water Division NRDC*

Gary Mulcahy, *Government Liaison, Winnemem Wintu Tribe*

Marianna Aue, *Staff Attorney, State Water Board Office of the Chief Counsel*

Margaret J. Vick, JD '83, JSD '09 (moderator), *Professor at McGeorge School of Law*

12:30 - 1:15 Lunch

1:15 - 2:30 Panel 3 - Agricultural Land Repurposing: A Gentler Way to Reform Agricultural Water Use

Vicky Espinoza, *Strategic Restoration Project Manager, The Nature Conservancy*

Keali'i Bright, *Division Director, Land Resource Protection Division, CA Department of Conservation*

Rebecca Smith, *Downey Brand*

Felicia Marcus (moderator), *William C. Landreth Visiting Fellow at Stanford University's Water in the West Program, and attorney/consultant for the Water Policy Group*

2:30 - 2:45 Break

2:45 - 4:00 Panel 4 - Innovations in Accommodating Water Supply & Species Protection

Shannon Little, *Attorney, Office of the Chief Counsel, Department of Fish and Wildlife*

Dr. Sarah Null, *Associate Professor at Utah State University*

Dr. Ada Fowler, *Mount Shasta-Klamath Senior Project Manager, Cal Trout*

Kelley Taber, *Attorney, Somach Simmons & Dunn*

Kaitlin Harr, '19 (moderator), *Attorney, Kronick Moskovitz Tiedemann & Girard*

4:00 - 5:00 Reception

2023 CO-CHAIRS



DEVYNN AZEVEDO

Devynn Azevedo is a second-year law student at the University of the Pacific, McGeorge School of Law. She previously interned at Klinedinst, PC. at their Sacramento office. Devynn has a B.S. in Psychological & Brain Sciences with a minor in Philosophy from UC Santa Barbara. Although new to the field of water and environmental law, Devynn finds this area of law both fascinating and integral to the overall well-being of our society. Her passions lie in being an advocate for disadvantaged and minority populations where many intersectional issues arise, including water and environmental disparities.

ALLI CASSING

Alli Cassing is a second-year law student at the University of the Pacific, McGeorge School of Law. She previously interned at The Outdoor Circle, an environmental conservation non-profit in Hawai'i. Alli has a B.S. in Communication, with a minor in Political Science, but she has always been interested in protecting the environment for the benefit of all. Her passion for water and environmental law began while growing up in West Virginia, and she seeks to apply this to water law in California as well.



ALLISON MARCUS

Allison Marcus is a second-year law student at the University of the Pacific, McGeorge School of Law. She previously interned at Nevada County Counsel. Allison holds a B.A. in Biology from Concordia College, Moorhead, MN. Her passion for water and natural resources law stems from growing up in the Sierra Nevada foothills and from her sustainability-focused education.



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Not pictured: Callie Walker,
Stanford Law School

WELCOMING REMARKS

Jennifer Harder, McGeorge School of Law



Jennifer L. Harder is a professor at McGeorge School of Law in Sacramento, where she teaches courses in water law and natural resources practice in McGeorge's Water & Environmental Law program. Jennifer earned her J.D. at UC Davis School of Law in 1998, after which she clerked for Justice Alexander O. Bryner of the Alaska Supreme Court. Following her clerkship, Jennifer worked as an attorney and partner at Downey Brand LLP, Sacramento, where her practice focused on water law, public agency law, and environmental compliance and litigation. Jennifer is author of the water law casebook, *Cases & Materials on Water Law*, 10th Ed.

WINNER OF THE WATER LAW WRITING PRIZE

Nikki Kuklo, 3E, McGeorge School of Law



I grew up in the delta (specifically, Roberts Island) surrounded by water, farmland, and the gentle delta breeze. My primary livelihood for the past 20 years has been training or otherwise working with horses. I have spent most of my time outdoors, riding in arenas, around farmland, through mountain passes, and along the west coast—and loved just about every minute of it. I decided to come to law school after having a number of conversations that challenged my notions, as a farmer's granddaughter, about the intersection of environmental preservation and the health and maintenance of farmland. I have no idea what I would like to do after law school. I do know that I would love to be a part of the conversations that seek to find solutions to the difficult question we must face when it comes to balancing preservation of a healthy environment and feeding a nation. I am interested in water law because I believe it is at the core of the conversation.

Paper Title: "Redesigning the Glass Slipper that is Water Code Section 1707"

KEYNOTE SPEAKER

DR. RENE HENERY

PhD, CA Science Director for Trout Unlimited

Dr. Rene Henery is a deep ecologist, artist, writer and speaker based in Northern California. His work embraces water, diversity, reconciliation, and equity as pathways to resilient ecosystems, coherent communities, and a personal experience of belonging. Rene serves as the California Science Director for Trout Unlimited, the U.S.'s oldest and largest Salmon conservation organization.



Over the last decade, Rene's work in the Western U.S. has focused on cultivating spaces for collaborative engagement around freshwater systems and the diverse life and communities that they connect. He works extensively in California's Central Valley on the science and policy of river and floodplain restoration and in the Sierras and Cascades on the restoration of mountain meadows. Rene is a member of the Water Solutions Network and a co-founder of both the Central Valley Salmon Habitat Partnership and the Sierra Meadows Partnership. Rene's current work includes co-leading the Reorienting to Recovery project (R2R), which he developed in collaboration with the Bay Institute, Metropolitan Water District, Valley Water and the State Water Contractors and which seeks to bring together diverse interests from across the Central Valley to co-vision an approach to Salmon recovery that equitably balances benefits and impacts across the range of participant values.

Rene's work outside the U.S. includes United for Lake Atitlán (Unidos por Lago Atitlán) a multi-national effort to build capacity for the long-term health and resilience of Guatemala's Lake Atitlan Watershed, and participation in the conservation of Mongolia's Eg River and its population of Hucho Taimen, world's largest salmon. Common to all of Rene's work is an orientation towards systemic health and healing, and the application of science and emergent strategy to support a transition from oppositional politics and polarization to coherence and connection.

PANEL I

HYDROPOWER & SPECIES

Organized by Golden Gate University School of Law and UC College of the Law, San Francisco

Climate change in California is challenging lawyers to develop novel approaches that protect species and balance human interests. This panel examines the impacts of the Central Valley Project's network of dams on downstream fisheries in the Friant and Shasta Dams. Panelists will address how the Endangered Species Act, National Environmental Policy Act, California Fish & Game Code, and Temporary Urgency Change Petitions can be utilized to protect species while considering the vast interests, such as indigenous fishing rights and private water rights.



Dana Heinrich

CA State Water Resources Control Board

David Rose

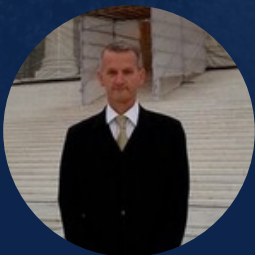
CA State Water Resources Control Board

Daniel Cooper

Sycamore Law Group, Co-counsel for San Luis
Obispo Coastkeeper

Paul Kibel (moderator)

Professor at GGU, Counsel for Water and
Power Law Group



PANEL II

INDIGENOUS PEOPLES, WATER RIGHTS, AND SPECIES PROTECTION

*Organized by University of San Francisco School of Law and University
of California, Davis School of Law*

Our panel begins by examining the colonial history that gave rise to California's unique hybrid water system and shapes Indigenous peoples' present-day water rights in the Bay Delta context. You will hear from tribal advocates about the impacts of their historical exclusion from California's water rights system on native species, food security, and cultural survival. The recent approval of the Klamath Dams removal project is a historic coordination effort and one of the most promising salmon recovery opportunities to date. Still, it raises crucial questions: Why did the approval process take so long? What lessons can tribes and future resource managers learn? Finally, to round out the panel will be a forward-looking presentation on water law reform and the tools available to remedy past inequities.



Stephanie Safdi

Supervising Attorney, Stanford Environmental Law Clinic

Kate Poole

Senior Director, Water Division NRDC

Marianna Aue (not pictured)

Staff Attorney, State Water Board Office of the Chief Counsel

Gary Mulcahy (not pictured)

Government Liaison, Winnemem Wintu Tribe

Margaret J. Vick, JSD (moderator)

Professor at McGeorge School of Law



PANEL III

AGRICULTURAL LAND REPURPOSING: A GENTLER WAY TO REFORM AGRICULTURAL WATER USE

*Organized by Stanford School of Law and University of California,
Berkeley School of Law*

Agriculture makes up 80% of California's water use, but agricultural reform has long been left behind in drought management plans. New land repurposing investment programs, collaborations between state agencies and NGOs, promise to transform water-intensive farmlands into wildlife habitat, parks, and water-limited agriculture. But is this enough? Does it focus too much on water and not enough on ecosystems and endangered species? How do farmers and agricultural interests feel about their livelihood being converted? Should they have to agree for the state to alter their land? Should they retain their historic water rights or be required to accept buyouts? And how much help does this offer species in the end?



Vicky Espinoza

Strategic Restoration Project Manager, The Nature Conservancy

Keali'i Bright

Division Director, Land Resource Protection Division, CA Department of Conservation

Rebecca Smith

Downey Brand

Felicia Marcus (moderator)

William C. Landreth Visiting Fellow at Stanford University's Water in the West Program, and attorney/consultant for the Water Policy Group

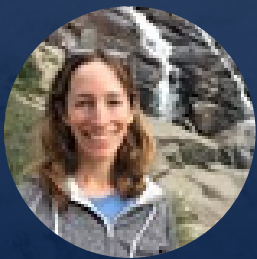


PANEL IV

INNOVATIONS IN ACCOMMODATING WATER SUPPLY & SPECIES PROTECTION

Organized by University of the Pacific McGeorge School of Law

"This panel will explore innovative approaches to reconciling the diverse needs of water supply and species protection such as voluntary landowner/water right holder agreements and storing water for the environment. Panelists will describe their experiences with voluntary water initiatives, assessing challenges and opportunities, and share their thoughts about directions for the future. The panel will also describe a new approach for managing environmental water in reservoirs which involves assignment of storage rights to environmental water and allowing environmental water managers to adaptively direct the timing and volume of storage releases for the purpose of maximizing environmental benefits."



Shannon Little

Attorney, Office of the Chief Counsel,
Department of Fish and Wildlife

Dr. Sarah Null

Associate Professor at Utah State University

Dr. Ada Fowler

Mount Shasta-Klamath Senior Project
Manager, Cal Trout

Kelley Taber

Attorney, Somach Simmons & Dunn

Kaitlin Harr (moderator)

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