

Agenda

Understanding Montana Surface Water and Groundwater Rights

B. Story

- Use of Montana's water:
- Public waters, private rights and prior appropriation
- Surface water rights:
- Regulation of surface waters
 - Obtaining new surface water rights
 - Amending existing surface water rights
 - Current issues in surface water rights
- Groundwater rights:
- Regulation of groundwater rights
 - Obtaining groundwater rights
 - Current issues in groundwater rights

Water Well Drilling Laws and Regulations

A. Robinson

- Licensing compliance
Well drilling construction standards

Managing Finite Water Resources

D. Stephenson

- Historic usage and current trends
New appropriations and mitigation for new water uses
Variations in various parts of the state – open vs closed basins, regional specifics/issues
Water right transfers including leases and sales to meet mitigation and/or new water use needs
Ideas from other states on meeting mitigation needs and planning for new uses

Agricultural Water Use

P. Taylor

- Wells for agricultural use
Irrigation law
Water quality and agricultural runoff
Groundwater impacts

Key Water Quality Legislation Passed (2023 Session)

A. Knuteson

- Overview of MDEQ rulemaking efforts and key changes
Water quality-related case law update

Clean Water Act-2023 Wetlands Updates

L. Guercio

- Review of *Sackett v. EPA* case and implications for CWA 404 jurisdiction
USACOE and EPA's new rule for wetlands promulgated recently under Water of the United States (WOTUS) Rule and related litigation, including by State of Montana, against EPA related to 2023 WOTUS Rule's implementation

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Montana Water Rights and Regulation

Live, Interactive Webinar - Wednesday, January 24, 2024

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Learning Objectives

You'll be able to:

- Discuss** the interplay of public water rights, private rights and prior appropriation law with respect to Montana waters.
- Review** water well drilling laws and regulations.
- Explore** options for managing finite water resources, including mitigation needs and planning for new water uses.
- Examine** irrigation law and preserve water quality in agricultural areas.
- Review** MDEQ rulemaking efforts and discuss water quality-related case law.
- Get** an update on developments to the Waters of the United States Rule, including the impact of the Sackett decision.



HalfMoon Education Live Webinars

Montana Water Rights and Regulation

Live, Interactive Webinar - Wednesday, January 24, 2024



- Understand** Montana surface water and groundwater rights
- Review** water well drilling laws and regulations
- Manage** finite water resources
- Explore** laws and regulations impacting agricultural water use
- Consider** key water quality legislation passed in the 2023 session
- Discuss** Clean Water Act developments, including the implications of *Sackett v. EPA*

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| Professional Engineers
7.0 PDHs | Attorneys
7.0 General Credits (MT) |
| Geologists
7.0-Hour Learning Opportunity | Certified Planners
CM 7 |



Webinar Information

Log into Webinar

8:00 - 8:30 am MST

Break

12:30 - 1:00 pm MST

Morning Session

8:30 am - 12:30 pm MST

Afternoon Session

1:00 - 4:30 pm MST

Tuition

\$319 for individual registration.

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Credit Information

This webinar is open to the public and is designed to qualify for 7.0 PDHs for professional engineers in Montana for whom this subject matter is professionally relevant.

The Montana Board of Professional Engineers and Professional Land Surveyors does not pre-approve continuing education activities.

This webinar provides a 7.0-hour learning opportunity to geologists in Montana.

This webinar has been approved by the Montana Commission of Continuing Legal Education for 7.0 General Credits.

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Faculty

Betsy Story *Parsons Behle & Latimer, Helena*

Prior to joining Parsons Behle & Latimer, Ms. Story worked as an associate attorney at the Bloomquist Law Firm, P.C. for three-and-a-half years, serving clients across the state of Montana in Water Court, State District Court and Federal Court. Ms. Story received her J.D. degree from the University of Montana School of Law in 2019. During her time as a law student, Ms. Story served as president of the Federalist Society Student Chapter and was the recipient of the Dean of Students Award for Highest Academic Achievement in Land Use & the Environment. Ms. Story holds an undergraduate degree in Political Science with minors in Russian and Arabic Studies. She often returns home to Emigrant, Montana, to help on her family's cattle ranch and enjoys rafting, long distance running and skate skiing, and mountain lion hunting.

Art Robinson *Montana Department of Natural Resources and Conversation*

Mr. Robinson was born in Wyoming, and at a young age, his family moved to Utah. He spent his summers working on various ranches in Southwest Wyoming and attending high school in Utah during the winters. He has worked various jobs which include mining, logging, and communications. He worked for a consulting firm doing work in the coal bed methane arena which included sampling and inspecting water wells that are located near methane wells. He graduated from Montana State University-Billings with a BA degree in Environmental Studies. Mr. Robinson has been the program manager for the Montana Board of Water Well Contractors for 16 years.

Deborah Stephenson *DMS Natural Resources, Bozeman*

Mrs. Stephenson founded DMS Natural Resources in 2011. DMS is an advisory firm specializing in water right management, water right technical services, water valuation, water investment advisory, and water transaction services. Mrs. Stephenson manages large water right portfolios across the Western United States for which she provides water right database and inventory management, historical research and document interpretation, GIS mapping and aerial photo interpretation, change application and permitting services, adjudication support, due diligence in property transactions, and expert witness support in water right lawsuits. Mrs. Stephenson also has 15 years of experience helping entities across the western United States acquire or sell water assets. From identifying water assets suitable for purchase, to negotiating terms, and through the administrative permitting process, Mrs. Stephenson helps clients navigate the entire water right transactional process. An in-depth technical understanding of water rights combined with a business and economics background makes Mrs. Stephenson one of the country's leading experts in water valuation and water investment advisory. Mrs. Stephenson maintains detailed water market transaction data and performs water valuations based on multiple valuation techniques. Lastly, Mrs. Stephenson advises investors in making decisions regarding water-related investments. Prior to forming DMS Natural Resources LLC, Mrs. Stephenson worked as a senior associate at WestWater Research (WWR). While at WWR, she worked on a variety of projects including water right appraisals, market research reports, water investment due diligence and water right portfolio management. At WWR, Mrs. Stephenson managed projects and teams of Associates. Mrs. Stephenson graduated with a BS degree in Agricultural Business and Economics from the Montana State University in 2001 and a Master's of Business Administration from Stanford Graduate School of Business in 2005.

Peter Taylor *Lund Law, Bozeman*

Prior to entering the practice of law, Mr. Taylor spent 16 years in production agriculture, operating a commercial cow-calf operation with his wife, parents, and brothers. The ranch's unique location in Southcentral Montana provided Mr. Taylor with valuable insights into how several different areas of law play out on the ground, which gives him a leg up as he tackles complicated land use issues for his clients. Mr. Taylor expanded on his practical experience when he attended law school and focused his legal studies on those areas of law with the greatest impact on Montana's farms and ranches. While in law school, Mr. Taylor was privileged to clerk for both the Chief Judge of the Montana Water Court, the Honorable Russel McElyea, and the Honorable Dana L. Christensen, who was then serving as Chief Judge for the United States District Court for the District of Montana.

Amanda R. Knuteson *Knuteson Law, PLLC, Bozeman*

Ms. Knuteson has worked in a variety of land use and conservation-oriented positions in the Rocky Mountain west for more than 23 years, including a collaborative National Park Service/US Forest Service archaeological internship where she served as a surveyor/topographical and vegetative mapper, followed by years-long internships with a Bozeman-based consulting engineering and land development firm and a Bozeman-based law firm where she researched and performed extensive document review on toxic tort claims related to tetrachloroethylene pollution in the Yellowstone River. Ms. Knuteson earned her JD degree from University of Montana School of Law in 2012. During law school Ms. Knuteson worked on Missoula County's comprehensive zoning update and various land trust and conservation matters through the Land Use Clinic and performed in-depth water rights and water quality permitting research through summer internships. Ms. Knuteson also began her 6-year tenure with a Missoula-based environmental law firm, first as a law clerk, then as co-counsel, where she gained valuable experience representing local, state and national environmental law groups and individuals challenging agency actions related to projects with potential significant impacts to water quality and water rights, including water-related nuisance and trespass claims. Ms. Knuteson's current practice focuses on assisting Montana businesses and property owners with land use and permitting issues through comprehensive due diligence research services, regulatory compliance guidance and also general day-to-day business, contract and transactional matters. Ms. Knuteson serves as chair of the Montana Water Pollution Control Advisory Council (WPCAC), a statutorily-authorized group representing a diverse array of interests across Montana that serves in an advisory capacity to MDEQ.

Lara D. Guercio *Crowley Fleck Attorneys PLLP, Bozeman*

Ms. Guercio is senior counsel in Crowley Fleck's Bozeman office. She is a member of the firm's Environmental & Energy Practice Group, and her environmental practice includes environmental litigation, permitting and compliance work, as well as CERCLA/Superfund, natural resource damages, and Clean Water Act related issues. Ms. Guercio has worked on renewable energy development matters, as well as public utility infrastructure upgrades and transmission line developments. She is a member of the firm's Commercial Department. Her commercial transactions practice focuses on general commercial real estate matters, including acquisitions/dispositions, development, financing, land use and leasing. Ms. Guercio received her Master of Laws (LL.M.) degree in Environmental Law, summa cum laude, in 2010 from Vermont Law School. While at Vermont Law, she was a research fellow, published several law review articles and earned several academic excellence awards. Ms. Guercio received her J.D. degree, *cum laude*, in 2008 from the University of Michigan Law School. She holds an Environmental Studies degree from Middlebury College and worked as an environmental scientist for several years before attending law school. Prior to joining Crowley Fleck, Ms. Guercio was an associate in the Boston office of Goulston & Storrs.

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