



WYOMING'S BIG HORN
GENERAL STREAM ADJUDICATION
1977 - 2014

UNIVERSITY OF WYOMING
SYMPOSIUM 2014

SEPTEMBER 10-12, 2014

WIND RIVER HOTEL AND CASINO
RIVERTON, WYOMING

I. INTRODUCTION

The *Big Horn River* general stream adjudication was initiated by the Wyoming legislature in January 1977 in response to an assertion of water rights in the Wind-Big Horn River system by the Eastern Shoshone and Northern Arapaho tribes. The adjudication is currently poised to reach its conclusion later this year. On September 5, the Wyoming Fifth District Court will enter a final decree in the adjudication, which reviewed water claims held by over 20,000 parties in the Big Horn Basin. This complex and often contentious proceeding has spanned thirty-seven years. It has been visible regionally and nationally, prompting two seminal opinions by the Wyoming Supreme Court as well as one closely watched decision by the U.S. Supreme Court, all of which involved water rights held by the two tribes located on the Wind River Indian Reservation in the basin's southwest corner. Constituting a landmark in the fields of western water law and American Indian law, the University of Wyoming (UW) College of Law is proud and excited to be hosting a symposium focusing on the *Big Horn River* general stream adjudication from September 10-12, 2014, at the Wind River Hotel and Casino in Riverton, Wyoming.

The symposium will be organized into four parts. First, a **retrospective session** will examine the chronology and features of the *Big Horn River* adjudication. Next, a **comparative session** will consider the *Big Horn River* adjudication alongside general stream adjudications that have occurred in other western states over the past several decades, including in Arizona, Idaho, Montana, and New Mexico. Following these sessions, a **field trip** will familiarize attendees with issues on the Big Horn River system, as illustrated by one stretch of canal. Finally, a **prospective session** will examine the future impacts of the adjudication within Wyoming as well as the future role to be played by general stream adjudications such as *Big Horn* in western water management. Opening and closing addresses will bookend these four parts.

II. OVERVIEW

Opening Panel. The program will begin with an opening panel offering broad-based perspectives on the historical context in which the *Big Horn River* adjudication occurred and its significance today. Federal, state, and tribal viewpoints on the adjudication will be shared in a series of keynote addresses by (1) Jennifer Gimbel, Deputy Commissioner for External and Intergovernmental Affairs, U.S. Bureau of Reclamation; (2) Patrick Tyrrell, Wyoming State Engineer; and (3) John Washakie, Library Cultural Specialist, Fort Washakie School.

Part I: Retrospective Session

Following the opening panel, Special Master Ramsey Kropf will provide an overview of the *Big Horn River* adjudication's three phases—which addressed tribal, federal, and state rights, respectively—and moderate a panel discussion by individuals involved in the litigation.

Part II: Comparative Session

John Thorson will then fit the *Big Horn River* adjudication within the broader pattern of general stream adjudications that have occurred across the American West over the past four decades. Mr. Thorson currently serves as Federal Water Master of the Lummi Decree (W.D.

Wash.), and is a retired Administrative Law Judge from California, as well as the former Special Master in the Gila River and Little Colorado River adjudications. After this overview, Mr. Thorson will moderate a panel composed of individuals involved in adjudications that have taken place in four other western states: the Snake River Basin adjudication in Idaho, the Gila River adjudication in Arizona, and the statewide adjudications in Montana and New Mexico.

Part III: Field Trip

A several-hour narrated trip to the Ray Canal system on the Wind River Indian Reservation will conclude the program on the first day. This canal system hosts three key kinds of water rights recognized in the *Big Horn River* adjudication, with different priority dates and resulting administrative issues. Issues of independent tribal administration, and a comparison of federal investment in non-tribal irrigation, will be highlighted.

Part IV: Prospective Session

An *intrastate panel* will begin the second day, building on the field trip and addressing future challenges that the *Big Horn River* adjudication poses within Wyoming. It will look at management options and possible joint water planning. Then a *regional panel* of academics and water professionals will examine the role general stream adjudications play in contemporary western water management. Panelists will discuss the purposes motivating general stream adjudications, the extent to which these purposes have been achieved, and possible alternative approaches to resolving competing water claims that might better meet present-day needs.

Closing Addresses. Bringing the program to a close will be a keynote address by Judge Gary Hartman. Judge Hartman has retired from the bench and currently serves as a policy advisor to Wyoming Governor Matt Mead. Judge's Hartman's experience with the *Big Horn River* adjudication spans several decades and encompasses all three phases of the proceeding.

III. SCHEDULE & ROSTER

Wednesday, September 10

6:00-8:30 p.m. Welcome Reception

Thursday, September 11

8:00-8:15 a.m. Symposium Introduction

- Philbert McCloud, Eastern Shoshone Tribe
- Nelson White, Sr., Northern Arapaho Tribe
- Debra Donahue, Professor, UW College of Law
- Jason Robison, Assistant Professor, UW College of Law

8:15-9:00 a.m. Opening Keynote Panel

- Jennifer Gimbel, Deputy Commissioner, Bureau of Reclamation
- Patrick Tyrrell, Wyoming State Engineer
- John Washakie, Library Cultural Specialist, Fort Washakie School

9:00-9:15 a.m. *Big Horn River* Adjudication Overview: Special Master Ramsey Kropf

9:15-9:30 a.m. Break

9:30-11:15 a.m. Retrospective Panel

- Moderator: Ramsey Kropf, Special Master, *Big Horn River* Adjudication
- Andrew Baldwin, Attorney, Baldwin, Crocker & Rudd, P.C., Lander, WY
- Gordon W. (Jeff) Fassett, former Wyoming State Engineer
- Nancy McCann, *Big Horn* General Adjudication Manager, Wyoming State Engineer's Office
- John Schumacher, Attorney, White & White, PC, Riverton, WY
- Susan Williams, Attorney, Law Office of Susan Williams, Corrales, NM

11:15-11:45 a.m. Regional Adjudication Overview: Federal Water Master John Thorson

11:45 a.m.-12:45 p.m. Lunch

12:45-2:30 p.m. Comparative Panel

- Moderator: John Thorson, Federal Water Master, Lummi Decree (W.D. Wash.)
- Hon. Bruce Loble, former Chief Water Judge, Montana Water Court
- D.L. Sanders, former Chief Counsel, New Mexico State Engineer's Office
- Clive Strong, Natural Resources Division Chief, Idaho Attorney General's Office
- John Weldon, Salmon, Lewis & Weldon, PLC, Phoenix, AZ

2:30-6:00 p.m. Field Trip: Ray Canal System

- Narrator: Gary Collins, Northern Arapaho Liaison, former Joint Tribal Water Engineer
- Narrator: James Pogue, Tribal Water Resource Technician
- Narrator: Baptiste Weed, Deputy Tribal Water Engineer

6:30-8:00 p.m. Dinner Reception with informal remarks by judicial officials

- Judge Nancy J. Guthrie (retired), Wyoming Ninth District Court
- Judge Robert E. Skar, Wyoming Fifth District Court

Friday, September 12

8:00-10:00 a.m. Prospective Intrastate Panel

- Moderator: Anne MacKinnon, Attorney, Journalist & Adjunct Professor, UW Haub School
- John Anevski, Water Resources Supervisor, Bureau of Indian Affairs, Billings Office
- Amy Cordalis, Attorney and Member of Yurok Tribe
- Baptiste Weed, Deputy Tribal Water Engineer
- Lyle Myler, Deputy Area Manager, Bureau of Reclamation, Wyoming Area Office
- Sara Robinson, former Eastern Shoshone Liaison
- Patrick Tyrrell, Wyoming State Engineer

10:00-10:15 a.m. Break

10:15-11:45 a.m. Prospective Regional Panel

- Moderator: Jason Robison, Assistant Professor, UW College of Law
- Michelle Bryan, Associate Professor, University of Montana School of Law
- Barbara Cosens, Professor of Law, University of Idaho College of Law
- Burke Griggs, Consulting Professor, Bill Lane Center for the American West, Stanford
- Larry MacDonnell, Adjunct Professor, University of Colorado Law School

11:45 a.m.-1:00 p.m. Lunch

1:00-2:00 p.m. Closing Keynote Address: Judge Gary Hartman

2:00-2:10 p.m. Symposium Closing

- Jacquelyn Bridgeman, Interim Dean & Professor, UW College of Law

IV. REGISTRATION & LODGING

A registration fee will not be charged for the symposium. It will be free and open to the public. Online registration is required for all attendees through the symposium website: <http://www.uwyo.edu/law/events/big%20horn%20symposium/>. The event has been approved for 8.75 CLE credits by the Wyoming State Bar. Lodging will be at the symposium facility: Wind River Hotel & Casino (<http://www.windriverhotelcasino.com/>). A nightly room rate of \$77 plus 3% tax has been negotiated for attendees. We hope you will join us!

V. SYMPOSIUM SPONSORS

- UW Department of Agricultural & Applied Economics (<http://www.uwyo.edu/agecon/>)
- UW American Heritage Center (<http://www.uwyo.edu/ahc/>)
- UW American Indian Studies Program (<http://www.uwyo.edu/aist/>)
- UW Department of Ecosystem Science & Management (<http://www.uwyo.edu/esm/>)
- UW College of Engineering & Applied Science (<http://www.uwyo.edu/ceas/>)
- UW EpSCOR Program (<http://www.uwyo.edu/epscor/>)
- UW Department of Geography (<http://www.uwyo.edu/geography/>)
- UW Haub School of Environment & Natural Resources (<http://www.uwyo.edu/haub/>)
- UW Department of History (<http://www.uwyo.edu/history/>)
- UW Hydrology Program (<http://www.uwyo.edu/ware/>; <http://www.uwyo.edu/wrese/>)
- UW College of Law (<http://www.uwyo.edu/law/>)
- UW Stroock Forum on Wyoming Lands & People (<http://www.uwyo.edu/econfin/research/stroockforum/>)
- UW Office of Water Programs (<http://www.uwyo.edu/owp/>)
- UW Water Resources Data System (<http://www.wrds.uwyo.edu/>)



* Generous grant funding to publish a Symposium Issue of *Wyoming Law Review* has been provided by the Rocky Mountain Mineral Law Foundation (<https://www.rmmlf.org/>).

