

This year marks two decades since the State Water Resources Control Board issued its landmark decision on water diversions affecting Mono Lake and its tributaries. Known as Decision 1631, it amended the Los Angeles Department of Water and Power's water rights, setting flows for Mono Basin streams and a level of 6,392 feet for Mono Lake. It was the first decision in the state's history to integrate the Water Code, Fish and Game Code, and the common law of public trust, to address the ecosystem effects of water diversions.

UC Berkeley School of Law's Wheeler Institute for Water Law and Policy, joined by stakeholders in the Mono Lake Cases, convened this symposium to address several fundamental questions on this 20th anniversary of D-1631. What are the actual results of implementation of D-1631? What does the decision mean for other water rights, particularly those involving the Delta and the Central Valley? What does the future hold for the Mono Basin? How well is the water rights system working to manage conflicts between beneficial uses?

This symposium brings panelists from multiple perspectives to distill lessons learned from 20 years of concerted effort to implement the Mono Lake decisions, and from efforts elsewhere to implement environmental flows by regulators who are confronting public trust issues.

WE HONOR PROFESSOR JOE SAX, WHOSE SCHOLARSHIP CONTRIBUTED GREATLY TO THE DEVELOPMENT OF THE PUBLIC TRUST DOCTRINE.

### About the Center for Law, Energy & the Environment

The Center for Law, Energy & the Environment (CLEE) at Berkeley Law educates the next generation of environmental leaders and develops policy solutions to pressing environmental and energy issues. The center's current initiatives focus on reducing greenhouse gas emissions, advancing the transition to renewable energy, and ensuring clean water for California's future.

The Wheeler Institute for Water Law & Policy is a CLEE program. It develops interdisciplinary solutions to ensure clean water for California. Established in 2012, the institute conducts projects at the intersection of law, policy and science.

#### STEERING COMMITTEE

**Art Baggett** *former Chair, State Water Resources Control Board*

**Ginny Cahill** *retired, California Department of Justice*

**Martha Davis** *Inland Empire Utilities Agency*

**Holly Doremus** *UC Berkeley School of Law*

**Harrison Dunning** *UC Davis*

**David Edwards** *Los Angeles Department of Water and Power*

**Geoffrey McQuilkin** *Mono Lake Committee*

**Buzz Thompson** *Stanford University*

#### PLANNING GROUP

**Michael Hanemann** *UC Berkeley*

**Michael Kiparsky** *UC Berkeley School of Law*

**Richard Roos-Collins** *Water and Power Law Group PC*

**Peter Vorster** *The Bay Institute*

#### CO-SPONSORS



CENTER FOR LAW, ENERGY AND THE ENVIRONMENT  
UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW  
2850 TELEGRAPH AVENUE BERKELEY, CA 94705 | 510-643-5005 | CLEE@LAW.BERKELEY.EDU  
WWW.CLEE.BERKELEY.EDU

PHOTO BY WINDSOR RILEY

# MONO LAKE AT 20: Past, Present and Future

NOVEMBER 17, 2014

Byron Sher Auditorium  
State Water Resources Control Board  
Sacramento, CA

BerkeleyLaw  
UNIVERSITY OF CALIFORNIA

Center for Law, Energy &  
the Environment



# AGENDA

PHOTO BY MIRZA ASAD BAIG

8:00 AM	Arrival
8:30 AM	Introduction and Welcome <b>Dean Keith Gilless</b> <i>UC Berkeley</i> <b>Michael Kiparsky</b> <i>UC Berkeley</i>
8:45 AM	Opening Remarks <b>Felicia Marcus</b> <i>State Water Resources Control Board</i>
9:00 AM	<b>SESSION 1. Retrospective on Mono Lake Cases and their Meaning</b>  <b>MODERATOR</b> <b>Mark Del Piero</b> <i>Attorney, former member State Water Resources Control Board</i> <b>SPEAKERS</b> <b>Scott Stine</b> <i>CSU East Bay</i> <b>Hap Dunning</b> <i>UC Davis</i> <b>Tom Birmingham</b> <i>Westlands WD; former counsel to Los Angeles Department of Water &amp; Power</i>
10:30 AM	Break
10:50 AM	<b>SESSION 2. Outlook for Mono Lake and its Creeks</b>  <b>MODERATOR</b> <b>Mary Scoonover</b> <i>Resources Legacy Foundation; formerly Attorney General's Office</i> <b>SPEAKERS</b> <b>Mark Drew</b> <i>California Trout</i> <b>Marty Adams</b> <i>Los Angeles Department of Water &amp; Power</i> <b>Geoff McQuilkin</b> <i>Mono Lake Committee</i> <b>Peter Vorster</b> <i>The Bay Institute and consulting hydrologist</i>

12:25 PM	A Brief Tribute to Joe Sax <b>Tony Rossmann</b> <i>Rossmann and Moore, LLP and UC Berkeley</i>
12:30 PM	Lunch
1:25 PM	<b>SESSION 3. Implications of Changes since 1994 in California's Water Rights System</b>  <b>MODERATOR</b> <b>Buzz Thompson</b> <i>Stanford University</i> <b>SPEAKERS</b> <b>Andy Sawyer</b> <i>State Water Resources Control Board</i> <b>David Aladjem</b> <i>Downey Brand</i> <b>Chuck Bonham</b> <i>California Department of Fish and Wildlife</i> <b>Dan Fuchs</b> <i>Office of the Attorney General</i>
3:00 PM	Break
3:20 PM	<b>SESSION 4. The Future: Applying the Public Trust to the rest of California</b>  <b>MODERATOR</b> <b>Lester Snow</b> <i>California Water Foundation</i> <b>SPEAKERS</b> <b>Mike Lauffer</b> <i>State Water Resources Control Board</i> <b>Richard Roos-Collins</b> <i>Water and Power Law Group PC</i> <b>Tim Quinn</b> <i>Association of California Water Agencies</i> <b>Matt Kondolf</b> <i>UC Berkeley</i> <b>Martha Davis</b> <i>Inland Empire Utilities Agency</i>
5:10 PM	Closing Remarks <b>Dee Dee D'Adamo</b> <i>State Water Resources Control Board</i> <b>Justice Ronald Robie</b> <i>CA Court of Appeal, 3rd Appellate District</i>
5:30 PM	Reception

# SESSION INFO

1

## Retrospective on Mono Lake Cases and their Meaning

What motivated the Mono Lake Cases? Which of the legal, political, and physical factors drove the cases, and specifically, contributed to the creative approaches to squaring water supply and public trust? Why were the cases a turning point in California water law?

2

## Outlook for Mono Lake and its Creeks

What progress has been made to restore public trust uses of Mono Lake and its tributary creeks? How well have the monitoring programs worked to inform adaptive management of the flow schedules and other restoration measures? What does the future hold for the Mono Basin? How will the 2013 Settlement affect the continued implementation of D-1631?

3

## Implications of Changes since 1994 in California's Water Rights System

Following the Mono Lake Cases, how have the SWRCB and courts implemented this precedent in regulating other existing water rights or granting new rights? How well is the water rights system working to manage conflicts between beneficial uses?

4

## The Future: Applying the Public Trust to the rest of California

The Mono Lake Cases involved a single water right holder controlling the affected waters. Does the precedent of these cases work effectively in the much greater scale and complexity of the Central Valley and other watersheds in the State? If so, how? Is the public trust doctrine a useful authority to address climate change and other non-stationary stressors for our aquatic ecosystems?