The Utton Center
Model Interstate Water Compact:

Why This Model is Useful Whether or Not Your River Has a Compact –
Advanced Management Principles for Interstate Rivers

9.7 General, 1.0 Ethics, and 1.0 Professionalism CLE Credits

Co-Sponsors:
The Utton Transboundary Resources Center, UNM School of Law,
State Bar of New Mexico Natural Resources, Energy & Environmental Section

Thursday, June 7 and Friday, June 8, 2007
State Bar Center
State Bar of New Mexico, Albuquerque
THURSDAY, JUNE 7

8:30 a.m.  Introductory Remarks
Marilyn O’Leary, Director (outgoing),
The Utton Transboundary Resources Center, UNM School of Law
Sanford E. Gaines, Director (incoming),
The Utton Transboundary Resources Center, UNM School of Law

9:00 a.m.  The Model Compact
Development of Model; Advisory Committee Involvement
Marilyn C. O’Leary

Legal and Practical Foundations for Key Provisions
Jerome C. Muys, Attorney at Law, Washington, DC
George William Sherk, Colorado School of Mines, Golden, Colorado

10:00 a.m. Break

10:15 a.m. Legal and Practical Foundations for Key Provisions (continued)

12:00 p.m. Questions and Discussion

12:30 p.m. Lunch (provided at the State Bar Center)

1:30 p.m. Principles of the Model Compact Applied
Case Study: The Spokane, An Uncompacted River

Facts and Overview
Rachael Paschal Osborn, Columbia Institute for Water Policy, Spokane, Washington

Discussion: Issues of Concern and Applicability of Model Compact by representatives of the two states, Washington and Idaho, and two tribes, Spokane Tribe of Indians and Coeur d’Alene Tribe, that comprise the basin.
David R. Tuthill, Jr., Interim Director, Idaho Department of Water Resources, Boise, Idaho
Shannon Work, Attorney at Law, Coeur d’Alene, Idaho
Brian Cleary, Attorney at Law, Cleary Law Group, Hayden, Idaho

3:30 p.m. Break

3:45 p.m. Principles of the Model Compact Applied to a River Already Subject to a Compact: Discussion of a recent experience on the Colorado River in the context of the 1922 Colorado River Compact, subsequent federal legislation, and the Supreme Court’s decisions and decrees in Arizona v. California
Jerome C. Muys, Moderator
A Lower Basin State Perspective  
James H. Davenport, Colorado River Commission of Nevada, Las Vegas, Nevada

An Upper Basin State Perspective  
James S. Lochhead, Attorney at Law, Brownstein, Hyatt, Farber and Schreck, PC, Glenwood Springs, Colorado

The Federal Perspective  

5:30 p.m. Adjourn

FRIDAY, JUNE 8

8:30 a.m. The Ethical Role of Politics in Compact Negotiations (1.0 E)  
Do attorneys have an ethical obligation to avoid politicizing compact negotiations? Should demonstrated failure to negotiate in good faith on issues under approved compacts preclude litigation in the Supreme Court or justify imposing sanctions?

9:30 a.m. The Professionalism Role of Politics in Compact Negotiations (1.0 P)  
Should there be a higher standard of professional behavior required of attorneys in compact negotiations and administration? The professionalism role of politics will be explored in the context of compact negotiations.  
George William Sherk, Moderator  
Peter Sly, Mellon Fellow on Environmental Affairs, Colby College, Waterville, Maine  
Steve Leitman, Senior Policy Analyst, Florida State University, Tallahassee, Florida  
Ron Kaiser, Professor and Chair of Water Program, Texas A&M University, College Station, Texas

10:30 a.m. Break

10:45 a.m. Applying the Model Compact to Existing Compacts: How Flexible Is the Compact Clause?  
Discussion of: (1) the extent to which states signatory to an interstate water compact may lawfully take actions not expressly authorized by the compact if such actions are in furtherance of the compact purposes and not in conflict with provisions of the compact, e.g., adjust compact water allocations or make new allocations of surplus water, engage in interstate water marketing or banking, exercise project approval and coordinate project operations, establish an advisory committee, establish and enforce water quality standards, and require compliance with mandatory mechanisms for conflict management and preclude litigation until such procedures are exhausted; (2) recent Supreme Court developments; and (3) who might have standing to challenge the validity of such actions.  
Jerome C. Muys and George William Sherk  
Panelists: Douglas Grant, Cord Foundation Professor of Law, University of Nevada, Las Vegas, Nevada  
Kenneth Knox, Chief Deputy State Engineer, State of Colorado, Denver, Colorado  
Maria O’Brien, Attorney at Law, Modrall Sperling, Albuquerque  
Larry Morandi, Director of State Policy Research, National Conference of State Legislatures, Denver, Colorado

1:00 p.m. Adjourn

ABOUT THE UTTON CENTER

As the stresses on all natural resource uses increase, The Utton Transboundary Resources Center remains committed to promoting equitable and sustainable management and utilization of transboundary resources through impartial expertise, multi-disciplinary scholarship, and preventive diplomacy. By bringing together lawyers and scientists to support fact-based decision making for sustainable resource management, the center carries on in the tradition of Professor Albert E. Utton, a native New Mexican and Rhodes scholar, who established an international reputation by using multidisciplinary scholarship to address complex resource issues. The Utton Center, the natural resources center for the UNM School of Law in Albuquerque, New Mexico, works closely with the UNM Water Resources Program as well as with scholars and practitioners from across the U.S. and Mexico.
FOUR WAYS TO REGISTER:
PHONE: (505) 797-6020, Monday - Friday, 9 a.m. - 4 p.m.  (Please have credit card information ready)
FAX: (505) 797-6071, Open 24 hours  INTERNET: www.nmbarcle.org
MAIL: CLE, PO Box 92860, Albuquerque, NM 87199

If you are a NREEL Section Member, Government or Legal Services Attorney, or Paralegal, please call CLE to register

Please Note: For all WEBCASTS, you must register online at www.nmbarcle.org

Name _______________________________________________________ NM Bar # ____________________________
Street ______________________________ City/State/Zip ______________________________
Phone ___________________________ Fax ___________________________ E-mail ___________________________

☐ $309 Standard and Non-Attorney  ☐ $289 NREEL Section Member, Government, Legal Services Attorney and Paralegal
☐ Purchase Order (Must be attached to be registered)  ☐ Check enclosed $ _____________  Make check payable to CLE
☐ VISA ☐ MC ☐ American Express ☐ Discover

Credit Card # ______________________________________________ Exp. Date ___________________________
Authorized Signature __________________________________________________________________________

REGISTER EARLY! Advance registration is recommended as it guarantees admittance and course materials. If space and materials are available, paid registrations will be accepted at the door.

CANCELLATIONS & REFUNDS: If you find that you must cancel your registration, send a written notice of cancellation via fax by 5 p.m., one week prior to the program of interest. A refund, less a $50 processing charge will be issued. Registrants who fail to notify CLE by the date and time indicated will receive a set of course materials via mail following the program.

MCLE CREDIT INFORMATION: Courses have been approved by the New Mexico MCLE Board. CLE will provide attorneys with necessary forms to file for MCLE credit in other states. A separate MCLE filing fee may be required.

ATTENTION PERSONS WITH DISABILITIES: Our meetings are held at facilities which are fully accessible to persons with mobility disabilities. If you plan to attend our program and will need an auxiliary aid or service, please contact the CLE office one week prior to the program.

PROGRAM CANCELLATION: Pre-registration is recommended. Program will be cancelled one week prior to scheduled date if attendance is insufficient. Pre-registrants will be notified by phone and full refunds given.

TAPE RECORDING OF PROGRAMS IS NOT PERMITTED.