



1-1-1986

## Foreword.

Editorial Board St. Mary's Law Journal

Follow this and additional works at: <https://commons.stmarytx.edu/thestmaryslawjournal>

 Part of the [Environmental Law Commons](#), [Health Law and Policy Commons](#), [Immigration Law Commons](#), [Jurisprudence Commons](#), [Law and Society Commons](#), [Legal Ethics and Professional Responsibility Commons](#), [Military, War, and Peace Commons](#), [Oil, Gas, and Mineral Law Commons](#), and the [State and Local Government Law Commons](#)

---

### Recommended Citation

Editorial Board St. Mary's Law Journal, *Foreword.*, 17 ST. MARY'S L.J. (1986).

Available at: <https://commons.stmarytx.edu/thestmaryslawjournal/vol17/iss4/1>

This Article is brought to you for free and open access by the St. Mary's Law Journals at Digital Commons at St. Mary's University. It has been accepted for inclusion in St. Mary's Law Journal by an authorized editor of Digital Commons at St. Mary's University. For more information, please contact [egoode@stmarytx.edu](mailto:egoode@stmarytx.edu), [sfowler@stmarytx.edu](mailto:sfowler@stmarytx.edu).

# ST. MARY'S LAW JOURNAL

---

VOLUME 17

1986

No. 4

---

## FOREWORD

There is no doubt that Texas' water resources continue to be a key ingredient in its ever growing and prospering economy. Despite the obvious economic benefits associated with water, preservation of Texas' water is also essential to the protection of fish and wildlife habitats, aquatic life, and recreational uses. Therefore, it comes as no surprise that there is a genuine concern among water law practitioners, as well as the general public, about the importance of Texas' limited water resources. As Texas continues to grow and prosper, so will the demand placed upon its limited water supply. As Texas' water becomes more limited, the emergence and adjudication of water law rights in Texas will play an increasingly important role in the future. Thus, remaining firm in our goal to provide thoughtful and progressive discussions of important legal issues, the *St. Mary's Law Journal* found it only fitting that we dedicate this year's Symposium issue to a discussion of selected topics on water rights law.

Although the *St. Mary's Law Journal* traditionally dedicates the fourth issue of each volume to a symposium discussion on a particular legal topic, this volume's Symposium represents a new beginning for the *Journal*. For the first time, the Editorial Board chose to sponsor and host a Water Rights Law Conference in conjunction with our Water Rights Law Symposium. Our hope was that the Water Rights Law Conference would provide a forum for the discussion of water rights, and would encourage thoughtful debate on a myriad of issues involving this important natural resource. We believe that, together, our Conference and Symposium offered the best possible forum to achieve these goals. Furthermore, the *Journal* was privileged to inaugurate its sponsorship of an annual conference with the Conference on Water Rights Law, so as to contribute to the difficult task of ensuring the development and preservation of a valuable state resource.

Since the *St. Mary's Law Journal* strives to be a "practitioner's journal," the Symposium issue deals almost exclusively with key Texas water law issues. The contributing authors to this year's Symposium are among the most respected and well known scholars, academicians, and legal practitioners in the field of Texas water law. For example, one of the contributing authors to the Symposium is University of Texas School of Law Professor Corwin W. Johnson, a noted scholar in the area of water law. He discusses the complex nature of dealing with groundwater and its attendant problems. Professor Johnson's article identifies the present voids in Texas groundwater law and suggests that complex concepts and terminology are to blame for these voids in the law. The article also emphasizes the need for judicial and legislative action and makes valuable suggestions to these bodies on how to overcome the present shortcomings in groundwater law.

A common thread which binds all of the articles contributed to this Symposium is that Texas' water is a vital and valuable resource to its vibrant and growing economy. The value of one's right to use surface water in Texas is ever increasing. If one fails to exercise his appropriate right by beneficially using the surface water, a loss of this valuable right can result, in other words, "use it or lose it." R. Lambeth Townsend reviews and analyzes the cancellation of water rights and permits due to non-use of surface waters as governed by the Texas Water Code. In addition to addressing the legal issues involved in cancellation of water rights, Mr. Townsend offers advice to the practitioner in dealing with cancellation problems and procedures before the Texas Water Commission. Frank R. Booth, one of the most respected water law attorneys in Texas, discusses the problems associated with the ownership and control of developed water. Appropriators in Texas have traditionally assumed the right to control the disposition of their developed water; however, Mr. Booth asserts that this valuable right is now being challenged by agency rules which seek to impose administrative authority over an appropriator's ability to recycle and reuse developed water. Further, Mr. Booth advocates that the vested right in the use of developed water should not be arbitrarily destroyed and urges that new administrative rules be adopted that will encourage water reuse and further conservation efforts.

As water resources in Texas become more limited, the just and equal apportionment of water from the rivers and streams that flow through Texas and other states becomes increasingly necessary. The

State of Texas is a member of five interstate water compacts that have a great impact on the supply and use of surface water. Texas' interstate water compacts all have the same principal purpose—the equitable apportionment of interstate waters. Texas Assistant Attorney General Paul Elliott examines these interstate water compacts, their unique provisions, the events giving rise to such compacts, the effectiveness of the compacts, and the willingness of the states to comply with the provisions of the applicable compact.

Due to time constraints and publishing deadlines, an article authored by Professor Hans W. Baade of the University of Texas School of Law, tracing the historical background of Texas water law, was unable to be included in the Symposium issue. Professor Baade's article, however, will appear early next fall in Volume 18:1 of the *St. Mary's Law Journal*.

Finally, a student written commentary on the environmental significance of instream flows authored by James W. Johnston, concludes our Symposium. Mr. Johnston's article explores the legal justification for protecting instream flows so as to ensure the stability of the natural environment. The commentary also traces the impact of the 1985 amendments to the Texas Water Code as they relate to the protection of wildlife habitats and the availability of water for recreational uses. Lastly, Mr. Johnston advances legislative proposals which could be adopted to rectify the voids in the current Texas Water Code so as to protect minimum stream flows necessary to preserve Texas' natural environment.

In conclusion, we at the *St. Mary's Law Journal* hope that this Symposium on water rights law will encourage further debate on one of the most important issues facing our State. The development, conservation, and rightful use of water throughout Texas must be addressed if our State and its citizenry are to enjoy continued economic growth and recreational benefits. We at the *Journal* would like to express our sincere thanks to all of the contributing authors that supplied their valuable time and effort to make this Symposium issue possible. It is our hope that the *Journal's* efforts will aid the legal community in the difficult task of ensuring the continued development and preservation of Texas' valuable water resources.

*EDITORIAL BOARD 1985-86*  
*ST. MARY'S LAW JOURNAL*