

# LEGAL CONTROL OF WATER RESOURCES

CASES AND MATERIALS

Fourth Edition

Joseph L. Sax  
Barton H. Thompson, Jr.  
John D. Leshy  
Robert H. Abrams

---

*American Casebook Series*®

THOMSON

— ★ —  
WEST

# LEGAL CONTROL OF WATER RESOURCES CASES AND MATERIALS

**Fourth Edition**

By

**Joseph L. Sax**

*James H. House & Hiram H. Hurd  
Professor of Environmental Regulation Emeritus  
Boalt Hall School of Law  
University of California at Berkeley*

**Barton H. Thompson, Jr.**

*Robert E. Paradise Professor of Natural Resources Law  
Stanford Law School  
Director  
Woods Institute for the Environment at Stanford University*

**John D. Leshy**

*Harry D. Sunderland Distinguished Professor of Law  
University of California, Hastings College of the Law*

**Robert H. Abrams**

*Professor of Law  
Florida A&M University College of Law*

**AMERICAN CASEBOOK SERIES®**

**THOMSON**  
—★—™  
**WEST**

Thomson/West have created this publication to provide you with accurate and authoritative information concerning the subject matter covered. However, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. Thomson/West are not engaged in rendering legal or other professional advice, and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

*American Casebook Series* and West Group are trademarks registered in the U.S. Patent and Trademark Office.

COPYRIGHT © 1986, 1991 WEST PUBLISHING CO.

© West, a Thomson business, 2000

© 2006 Thomson/West

610 Opperman Drive

P.O. Box 64526

St. Paul, MN 55164-0526

1-800-328-9352

Printed in the United States of America

ISBN-13: 978-0-314-16314-1

ISBN-10: 0-314-16314-X



TEXT IS PRINTED ON 10% POST  
CONSUMER RECYCLED PAPER



## **West's Law School Advisory Board**

---

**JESSE H. CHOPER**

Professor of Law,  
University of California, Berkeley

**DAVID P. CURRIE**

Professor of Law, University of Chicago

**YALE KAMISAR**

Professor of Law, University of San Diego  
Professor of Law, University of Michigan

**MARY KAY KANE**

Chancellor, Dean and Distinguished Professor of Law,  
University of California,  
Hastings College of the Law

**LARRY D. KRAMER**

Dean and Professor of Law, Stanford Law School

**WAYNE R. LaFAVE**

Professor of Law, University of Illinois

**JONATHAN R. MACEY**

Professor of Law, Yale Law School

**ARTHUR R. MILLER**

Professor of Law, Harvard University

**GRANT S. NELSON**

Professor of Law,  
University of California, Los Angeles

**JAMES J. WHITE**

Professor of Law, University of Michigan

*To the Memory of*  
*Benjamin H. Sax*  
*Barton H. Thompson*  
*John & Dolores Leshy*  
*and*  
*Hyman & Fay Abrams*

\*

## Preface

---

Beginning with the first edition of this case book, the distinctive and fascinating character of water as property that is both public and private, individual and common, has provided a unifying theme. While much has changed in the water field since the first edition was published in 1986, these unique characteristics of water law have not.

In American law, property almost always means private property. Water law is (among other things) a branch of property law, but the first rule of water law is that water is not private property in the usual sense. Neither, however, is it public property. Water is different, and in that difference lies the charm, the interest, the fascination, and the complexity of water law as an area of study.

Because water has always been thought special, and specially precious, a central tenet of water law has been that no one can own water in the way that property is usually owned. The public retains an interest in practically every water right, and water rights are usually defined in terms of the public interest. The right one obtains is a right of use, and that use must be "reasonable" or "beneficial," which usually means that the water must be put to some use that benefits the community as a whole, rather than just the owner. Water law, moreover, discourages "wasteful" use. As Michael Meyer has noted, "[A] man might allow his crops to rot in the field while his neighbor went hungry and contravene no principle of property law, but he could not waste his water if his neighbor's fields were dry."<sup>1</sup> Water law also prohibits speculation: water may not be held unused as an investment with the hope that its value will rise in the future. Under western appropriation doctrine, water that is not put to a beneficial use is forfeited and goes back to the public. Some public rights are so strong that all private claims remain subservient to them: among these are the right of free public navigation and fishing, and (more recently) certain public claims to protection of natural ecosystems in water.

Water is also a shared property. Rights to sell or lease surface water, for example, are conditioned on the protection of the uses of others who have previously relied on a supply flowing down to them. The recreational interests of homeowners on a lake are defined in terms of the mutual interests of others on the lake.

In the pages that follow, you will see these and other rules about public rights in water, beneficiality, and sharing spelled out in great detail. While trying to illuminate the doctrines that you need to know as practic-

1. Michael Meyer, *Water in the Hispanic Southwest* 108 (1984).

ing lawyers, we have tried also to stimulate you to ask, again and again in different contexts, why water rights have evolved so differently from other property rights. Is it because water is physically distinctive, flowing from place to place, and reused many times? Is it because it is especially scarce? Because it is a fundamental necessity?

Or is water simply a setting in which the interests of the public were recognized earlier, and treated as more central, than in other areas of property law? Is water law at the leading edge of a new conception of property that is elsewhere only beginning to be recognized?

One useful way of bringing such broad inquiries down to earth is to ask, as to each case and doctrine you study, what the legal result would have been if the property in question was not water, but a sack of potatoes. Or, alternatively, to ask whether water should be considered as just another raw material for a business, like fertilizer or steel. By making these inquiries, you ultimately may be able to answer the following key questions: Is water really different from everything else? Does water law provide legal answers different from those given when other commodities or resources are in controversy? What interests and values are legislatures, executive branch officials, and judges trying to advance in formulating rules to govern the use of water? What sort of water policy is appropriate to a society that seeks to be prosperous, just, and protective of its natural endowment?

This edition is fully revised to include discussions of the most recent cases and issues in water law. Growing environmental concerns have increased the importance to water law of modern environmental statutes such as the Endangered Species Act and the Clean Water Act. New demands and worries have led to changes in the law of groundwater, water marketing, and other doctrines. As the law has evolved, water right holders in recent years have increasingly brought takings challenges, arguing that the changes in their rights are unconstitutional absent the payment of compensation. This edition delves in depth into such cutting edge issues.

We are grateful to many people who have helped us in the preparation of this edition and take this opportunity to acknowledge their special contribution. We particularly thank our student assistants: Heather Barnett (Boalt School of Law, University of California at Berkeley), who not only provided invaluable research assistance but checked all of the citations in this book for form; Chris Giovinazzo (Harvard Law School); Doug Obegi (U.C. Hastings School of Law); and Hobie Thompson (Occidental College). We also appreciate the comments and suggestions that we have received from faculty who used earlier editions of this book, and from consulting hydrologist Dan Luecke of Boulder, Colorado.

Special thanks are due to Professor Darin Jensen, of the Geography Department at the University of California at Berkeley, who designed and greatly improved many of the illustrations in this book. Legal texts are

not traditionally known for the quality of their illustrations, and Darin has brought this book into the 21st century.

In editing excerpted materials we have in most cases retained without notation any errors in the original. The omission of text from excerpts is marked by ellipses, but the omission of footnotes and citations is typically not indicated. In some cases, we have also provided fuller citations in cases for clarity. Formatting sometimes has been changed.

We also have created a website for users of this book at [www.lcwr4.org](http://www.lcwr4.org). At this site, you will find major updates and a selection of supplementary materials.

We continue to find that water law poses fascinating questions that never lose their importance and vitality. We hope that this book reflects the underlying excitement of the issues.

JOSEPH L. SAX  
BARTON H. THOMPSON, JR.  
JOHN D. LESHY  
ROBERT H. ABRAMS

April 2006

\*



## Acknowledgements

---

We are indebted to the following authors and publishers for their generosity in giving us permission to reprint excerpts from copyrighted materials:

Robert Abrams, Setting Regional Policy on Diverting Great Lakes Water to the Arid West: Scaling Down the Myths, *The Wayne Lawyer* (Fall 1982).

Robert Abrams, Water Allocation by Comprehensive Permit Systems in the Eastern United States: Considering a Move Away From Orthodoxy, 9 *Virginia Environmental Law Journal* 255 (1990).

American Law Institute, Restatement of the Law Second, Torts (1979). Copyright © 1979 The American Law Institute. Reprinted with permission.

William Blomquist, Dividing the Waters: Governing Groundwater in Southern California (ICS Press 1992).

Jesse A. Boyd, Hip Deep: A Survey of State Instream Flow Law (2003). Reprinted by permission of the author and the *Natural Resources Journal*, University of New Mexico Law Review.

Williamson Chang, Water: Consumer Commodity or Government Subsidy?, in *Water Values and Markets: Emerging Management Tools* (Freshwater Foundation 1986).

Colorado River Users and Water Facilities, in *Western Water* (July/August 1985).

McKinley Conway and Linda L. Liston, eds., Normal Annual Total Precipitation, in the *Weather Handbook* (rev. ed., 1990).

The Regulated Riparian Model Water Code, Joseph Dellapenna, 1997, the American Society of Civil Engineers Press. Reprinted by permission of ASCE Press.

Charles DuMars and Michele Minnis, New Mexico Water Law: Determining Public Welfare Values in Water Rights Allocation, 31 *Arizona Law Review* 817 (1989). Copyright © 1989 the Arizona Board of Regents. Reprinted by permission.

P.H. Gleick, G. Wolff, E.L. Chalecki, R. Reyes (2002). *The New Economy of Water: The Risks and Benefits of Globalization and Privatization of Fresh Water. A Report of the Pacific Institute for Studies in Development, Environment and Security*, Oakland, California. Reprinted by permission.

Robert Glicksman and George Coggins, Groundwater Pollution I: The Problem and the Law, 35 *University of Kansas Law Review* 75

- (1986). Copyright © 1986 by Kansas Law Review, Inc. Reprinted by special permission of Kansas Law Review, Inc.
- Robert Gottlieb, *A Life of Its Own: The Politics of Water* (1988). Copyright © 1988 by Robert Gottlieb. Reprinted by permission of Harcourt, Inc.
- Ellen Hanak, *Water for Growth: California's New Frontier*. Copyright 2005 by Public Policy Institute of California. Reprinted by permission.
- Arthur Littleworth and Eric Garner, *California Water* (1995).
- Edward Lotterman and John Waelti, Efficiency and Equity Implications of Alternative Well Interference Policies in Semi-Arid Regions, 23 *Natural Resources Journal* 323 (1983).
- Michael McIntyre, The Disparity Between State Water Rights Records and Actual Water Use Patterns: "I Wonder Where the Water Went?", 5 *Land & Water Law Review* 23 (1970).
- Taylor Miller, Gary Weatherford, and John Thorson, *The Salty Colorado* (World Wildlife Fund 1986).
- A New Era for Irrigation* (1996). Reprinted with permission. Copyright © 1996 by the National Academy of Sciences. Courtesy of the National Academy Press, Washington, D.C.
- William Pedersen, Turning the Tide on Water Quality, 15 *Ecology Law Quarterly* 69 (1988). Copyright © 1988 by Ecology Law Quarterly. Reprinted from *Ecology Law Quarterly*, Vol. 15, No. 1, pp. 69–102, by permission.
- Donald Pisani, *From the Family Farm to Agribusiness* (1984). Copyright © 1984 by the Regents of the University of California.
- Leonard Rice and Michael D. White, Legal Doctrines for Surface Waters, in *Engineering Aspects of Water Law* (1987). Copyright © 1987 by John Wiley & Sons, Inc. Reprinted by special permission of John Wiley & Sons, Inc.
- Ronald Robie, The Public Interest in Water Rights Administration, 23 *Rocky Mountain Mineral Law Institute* 917 (1977). Copyright © 1977 by Matthew Bender & Co., Inc. Reprinted with permission from Rocky Mountain Mineral Law Institute. All rights reserved.
- Joseph Sax, The Constitution, Property Rights, and the Future of Water Law, 61 *University of Colorado Law Review* 257 (1990).
- Joseph Sax, The Limits of Private Rights in Public Waters, 19 *Environmental Law* 473 (1989).
- Joseph Sax, The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention, 68 *Michigan Law Review* 471 (1970). Reprinted with permission of the Michigan Law Review.
- Steven Shupe, Waste in Western Water Law: A Blueprint for Change, 61 *Oregon Law Review* 483 (1982). Reprinted by permission. Copyright © 1982 University of Oregon.

- Jack Sterne, *Instream Rights and Invisible Hands: Prospects for Private Instream Water Rights in the Northwest*, 27 *Environmental Law* 203 (1997).
- Barton Thompson, *Institutional Perspectives on Water Policy and Markets*, 81 *California Law Review* 671 (1993). Copyright © 1993 by California Law Review, Inc. Reprinted from *California Law Review*, Vol. 81, No. 2 (May 1993), pp. 671–764, by permission.
- Barton Thompson, *Water Markets and the Problem of Shifting Paradigms*, in *Water Marketing—The Next Generation*, Terry Anderson & Peter Hill, eds. Reprinted with permission.
- John Thorson, *Water Marketing in Big Sky Country: An Interim Assessment*, 29 *Natural Resources Journal* 479 (1989).
- United States Water Supply and Consumption by Region, in *America's Water: Current Trends and Emerging Issues* (1984). Originally published by The Conservation Foundation. Copyright transferred to World Wildlife Fund.
- Todd Votteler, *The Little Fish that Roared: the Endangered Species Act, State Groundwater Law, and Private Property Rights Collide Over the Texas Edwards Aquifer*, 28 *Environmental Law* 845 (1998).
- Water Transfers in the West: Efficiency, Equity, and the Environment* (1992). Reprinted with permission. Copyright © 1992 by the National Academy of Sciences. Courtesy of the National Academy Press, Washington, D.C.
- Gary Weatherford and F. Lee Brown, *New Courses for the Colorado River: Major Issues in the Next Century* (1986). Copyright © 1986 University of New Mexico Press.
- Stephen Williams, *The Requirement of Beneficial Use as a Cause of Waste in Water Resource Development*, 23 *Natural Resources Journal* 7 (1983).
- Donald Worster, *Rivers of Empire: Water, Aridity, & the Growth of the American West* (1985).

\*

## Table of Cases

The principal cases are in bold type. Cases cited or discussed in the text are roman type. References are to pages. Cases cited in principal cases and within other quoted materials are not included.

- A-B Cattle Co. v. United States, 196 Colo. 539, 589 P.2d 57 (Colo.1978), 167
- Aberdeen-Springfield Canal Co. v. Peiper, 133 Idaho 82, 982 P.2d 917 (Idaho 1999), 249
- Ace Equipment Sales, Inc. v. Buccino, 273 Conn. 217, 869 A.2d 626 (Conn.2005), 69
- Acquisition of Real Property by Fulton County, Matter of, 136 A.D.2d 115, 525 N.Y.S.2d 948 (N.Y.A.D. 3 Dept.1988), 87
- Acton v. Blundell, 153 Eng. Rep. 1223, 1843 WL 5768 (Ex. Chamb. 1843), 393, 413, 420
- Adair, United States v., 723 F.2d 1394 (9th Cir.1983), 851, 908, 974, 986, 987
- Adair, United States v., 187 F.Supp.2d 1273 (D.Or.2002), 988
- Adams v. Lang, 553 So.2d 89 (Ala.1989), 429, 489
- Adams v. Portage Irr., Reservoir & Power Co., 95 Utah 1, 72 P.2d 648 (Utah 1937), 263
- Adirondack League Club, Inc. v. Sierra Club, 684 N.Y.S.2d 168, 706 N.E.2d 1192 (N.Y.1998), 561, 574
- Adjudication of the Existing Rights to the Use of All the Water, In re, 311 Mont. 327, 55 P.3d 396 (Mont.2002), 141, 155
- Adjudication of the Water Rights of Upper Guadalupe Segment of Guadalupe River Basin, In re, 642 S.W.2d 438 (Tex.1982), 366, 372
- Adjudication of Water Rights of Brazos III Segment of Brazos River Basin, In re, 746 S.W.2d 207 (Tex.1988), 256
- Ahtanum Irr. Dist., United States v., 236 F.2d 321 (9th Cir.1956), 974
- Alabama v. United States Army Corps of Engineers, 424 F.3d 1117 (11th Cir. 2005), 97
- Alabama Power Co. v. Federal Power Commission, 128 F.2d 280, 75 U.S.App.D.C. 315 (D.C.Cir.1942), 673
- Alameda, City of v. Todd Shipyards Corp., 632 F.Supp. 333 (N.D.Cal.1986), 603
- Alameda County Water Dist. v. Niles Sand & Gravel Co., 37 Cal.App.3d 924, 112 Cal.Rptr. 846 (Cal.App. 1 Dist.1974), 490
- Alaska v. United States, 545 U.S. 75, 125 S.Ct. 2137, 162 L.Ed.2d 57 (2005), 524
- Alaska, State of v. Ahtna, Inc., 891 F.2d 1401 (9th Cir.1989), 527
- Albuquerque, City of v. Reynolds**, 71 N.M. 428, 379 P.2d 73 (N.M.1962), **456**
- Alger, Commonwealth v., 61 Mass. 53 (Mass.1851), 522
- Alhambra Addition Water Co. v. Richardson, 72 Cal. 598, 14 P. 379 (Cal.1887), 263
- Allegretti & Co. v. County of Imperial, 42 Cal.Rptr.3d 122 (Cal.App. 4 Dist.2006), 660
- Allstate Ins. Co. v. Hague, 449 U.S. 302, 101 S.Ct. 633, 66 L.Ed.2d 521 (1981), 877
- Alpine Land & Reservoir Co., United States v., 174 F.3d 1007 (9th Cir.1999), 950
- Alpine Land & Reservoir Co., United States v., 919 F.Supp. 1470 (D.Nev.1996), 878
- Alpine Land & Reservoir Co., United States v., 878 F.2d 1217 (9th Cir.1989), 775
- Alpine Land & Reservoir Co., United States v., 697 F.2d 851 (9th Cir.1983), 775, 878
- Alpine Land & Reservoir Co., United States v., 503 F.Supp. 877 (D.Nev.1980), 762
- Altus, Oklahoma, City of v. Carr, 255 F.Supp. 828 (W.D.Tex.1966), 880, 881
- Amador, County of v. El Dorado County Water Agency, 91 Cal.Rptr.2d 66 (Cal. App. 3 Dist.1999), 244
- American Water Development, Inc. v. City of Alamosa, 874 P.2d 352 (Colo.1994), 410, 413
- American Wildlands v. Browner, 260 F.3d 1192 (10th Cir.2001), 1044
- Anderson v. Beech Aircraft Corp., 237 Kan. 336, 699 P.2d 1023 (Kan.1985), 495
- Anderson v. Bell**, 433 So.2d 1202 (Fla. 1983), **62**, 67, 68, 69

- Anderson, United States v., 736 F.2d 1358 (9th Cir.1984), 985, 986, 989
- Antioch, Town of v. Williams Irr. Dist., 188 Cal. 451, 205 P. 688 (Cal.1922), 1013, 1014, 1041, 1071
- Appalachian Elec. Power Co., United States v., 311 U.S. 377, 61 S.Ct. 291, 85 L.Ed. 243 (1940), 525, 553, 672
- Application for Water Rights of United States, In re, 101 P.3d 1072 (Colo.2004), 953
- Application of (see name of party)**
- Application U-2, In re**, 226 Neb. 594, 413 N.W.2d 290 (Neb.1987), **491**, 495
- Argyelan v. Haviland**, 435 N.E.2d 973 (Ind.1982), **119**, 122
- Ariyoshi v. Robinson, 477 U.S. 902, 106 S.Ct. 3269, 91 L.Ed.2d 560 (1986), 391
- Arizona v. California, 530 U.S. 392, 120 S.Ct. 2304, 147 L.Ed.2d 374 (2000), 970
- Arizona v. California, 466 U.S. 144, 104 S.Ct. 1900, 80 L.Ed.2d 194 (1984), 830
- Arizona v. California, 460 U.S. 605, 103 S.Ct. 1382, 75 L.Ed.2d 318 (1983), 830, 969, 970
- Arizona v. California, 439 U.S. 419, 99 S.Ct. 995, 58 L.Ed.2d 627 (1979), 830, 973
- Arizona v. California**, 376 U.S. 340, 84 S.Ct. 755, 11 L.Ed.2d 757 (1964), 505, 830, **831**, 835, 837, 967
- Arizona v. California**, 373 U.S. 546, 83 S.Ct. 1468, 10 L.Ed.2d 542 (1963), 760, 806, **821**, 859, **909**, 917, 926, 928, 930, 931, 957, 958, 967, 968, 970, 975, 980, 994
- Arizona v. California, 298 U.S. 558, 56 S.Ct. 848, 80 L.Ed. 1331 (1936), 806, 859
- Arizona v. California, 292 U.S. 341, 54 S.Ct. 735, 78 L.Ed. 1298 (1934), 806
- Arizona v. California, 283 U.S. 423, 51 S.Ct. 522, 75 L.Ed. 1154 (1931), 806
- Arizona v. San Carlos Apache Tribe of Arizona, 463 U.S. 545, 103 S.Ct. 3201, 77 L.Ed.2d 837 (1983), 948, 949, 955
- Arizona Center For Law In Public Interest v. Hassell, 172 Ariz. 356, 837 P.2d 158 (Ariz.App. Div. 1 1991), 533
- Arizona Public Service Co. v. Long**, 160 Ariz. 429, 773 P.2d 988 (Ariz.1989), 140, 196, **201**, 499, 991
- Arkansas v. Oklahoma, 503 U.S. 91, 112 S.Ct. 1046, 117 L.Ed.2d 239 (1992), 850, 1062, 1063
- Arnold v. Mundy, 1821 WL 1269 (N.J.1821), 522
- Artesian Water Co. v. Government of New Castle County, 659 F.Supp. 1269 (D.Del. 1987), 1078
- Ashford, Application of, 50 Haw. 314, 50 Haw. 452, 440 P.2d 76 (Hawai'i 1968), 604
- Ashland Oil & Transp. Co., United States v., 504 F.2d 1317 (6th Cir.1974), 553
- Aspen Wilderness Workshop, Inc. v. Colorado Water Conservation Bd., 901 P.2d 1251 (Colo.1995), 147
- Aspen Wilderness Workshop v. Hines Highlands, 929 P.2d 718 (Colo.1996), 220, 231
- Atchison v. Peterson, 87 U.S. 507, 22 L.Ed. 414 (1874), 1013
- Atchison, T. & S. F. Ry. Co. v. Kings County Water Dist., 47 Cal.2d 140, 302 P.2d 1 (Cal.1956), 693
- Avery v. Johnson, 59 Wash. 332, 109 P. 1028 (Wash.1910), 728
- Axtell v. M.S. Consulting, 288 Mont. 150, 955 P.2d 1362 (Mont.1998), 264
- Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, 515 U.S. 687, 115 S.Ct. 2407, 132 L.Ed.2d 597 (1995), 651
- Bach v. Sarich, 74 Wash.2d 575, 445 P.2d 648 (Wash.1968), 37
- Badgley v. City of New York, 606 F.2d 358 (2nd Cir.1979), 873
- Baker v. Ore-Ida Foods, Inc., 95 Idaho 575, 513 P.2d 627 (Idaho 1973), 485, 486
- Baldwin v. County of Tehama, 36 Cal. Rptr.2d 886 (Cal.App. 3 Dist.1994), 236
- Ball v. James**, 451 U.S. 355, 101 S.Ct. 1811, 68 L.Ed.2d 150 (1981), 695, **696**, 700, 701, 702, 703
- Bamford v. Upper Republican Natural Resources Dist.**, 245 Neb. 299, 512 N.W.2d 642 (Neb.1994), **450**, 453
- Bank of America v. State Water Resources Control Bd., 42 Cal.App.3d 198, 116 Cal. Rptr. 770 (Cal.App. 3 Dist.1974), 234
- Barcellos and Wolfson, Inc. v. Westlands Water Dist., 899 F.2d 814 (9th Cir.1990), 787
- Barnes & Tucker Co., Commonwealth v., 455 Pa. 392, 319 A.2d 871 (Pa.1974), 45
- Barney v. City of Keokuk, 94 U.S. 324, 24 L.Ed. 224 (1876), 564
- Barr v. First Taxing Dist. of City of Norwalk, 151 Conn. 53, 192 A.2d 872 (Conn. 1963), 715
- Barstow, City of v. Mojave Water Agency, 99 Cal.Rptr.2d 294, 5 P.3d 853 (Cal. 2000), 262, 511, 517
- Basin Elec. Power Co-op. v. State Bd. of Control, 578 P.2d 557 (Wyo.1978), 188, 276
- Basinger v. Taylor, 36 Idaho 591, 211 P. 1085 (Idaho 1922), 172, 188
- Bass River Associates v. Mayor of Bass River Tp., 743 F.2d 159 (3rd Cir.1984), 584
- Baumann v. Smrha, 145 F.Supp. 617 (D.Kan.1956), 366, 373
- Beacham v. Lake Zurich Property Owners Ass'n, 123 Ill.2d 227, 122 Ill.Dec. 14, 526 N.E.2d 154 (Ill.1988), 69, 576
- Bean v. Morris**, 221 U.S. 485, 31 S.Ct. 703, 55 L.Ed. 821 (1911), 868, **874**, 876, 877

- Beaver Park Water, Inc. v. City of Victor**, 649 P.2d 300 (Colo.1982), **249**, 251, 252
- Beckendorff v. Harris-Galveston Coastal Subsidence Dist., 558 S.W.2d 75 (Tex. Civ.App-Hous (14 Dist.) 1977), 490
- Bell v. Northside Finance Corp., 452 N.E.2d 951 (Ind.1983), 122
- Bell v. Town of Wells, 557 A.2d 168 (Me. 1989), 603, 604
- Bell, United States v., 724 P.2d 631 (Colo. 1986), 955
- Belle Fourche Irr. Dist. v. Smiley, 84 S.D. 701, 176 N.W.2d 239 (S.D.1970), 366
- Beneficial Water Use Permit Numbers 66459-76L, Ciotti: 64988-G76L, Starner, Matter of, 278 Mont. 50, 923 P.2d 1073 (Mont.1996), 941
- Bennett Bear Creek Farm Water and Sanitation Dist. v. City and County of Denver, 928 P.2d 1254 (Colo.1996), 715
- Benton City, City of v. Adrian, 50 Wash. App. 330, 748 P.2d 679 (Wash.App. Div. 3 1988), 123
- Benz v. Water Resources Com'n, 94 Or.App. 73, 764 P.2d 594 (Or.App.1988), 140
- Bergen Ditch & Reservoir Co. v. Barnes, 683 P.2d 365 (Colo.App.1984), 68
- Bergh v. Hines, 44 Mass.App.Ct. 590, 692 N.E.2d 980 (Mass.App.Ct.1998), 537
- Berkeley, City of v. Superior Court, 162 Cal.Rptr. 327, 606 P.2d 362 (Cal.1980), 603
- Berman v. Parker, 348 U.S. 26, 75 S.Ct. 98, 99 L.Ed. 27 (1954), 82
- Big Cottonwood Tanner Ditch Co. v. Shurtliff, 56 Utah 196, 189 P. 587 (Utah 1919), 171
- Bijou Irr. Dist. v. Empire Club, 804 P.2d 175 (Colo.1991), 68, 575
- Binning v. Miller, 55 Wyo. 451, 102 P.2d 54 (Wyo.1940), 198
- Birchwood Lakes Colony Club, Inc. v. Borough of Medford Lakes, 90 N.J. 582, 449 A.2d 472 (N.J.1982), 1015
- Bjornestad v. Hulse, 229 Cal.App.3d 1568, 281 Cal.Rptr. 548 (Cal.App. 3 Dist.1991), 701
- Bjornestad v. Hulse (Sierra Lakes County Water Dist.), 223 Cal.App.3d 507, 272 Cal.Rptr. 864 (Cal.App. 3 Dist.1990), 700, 701
- Black v. Williams, 417 So.2d 911 (Miss. 1982), 69
- Black Hawk, City of v. City of Central, 97 P.3d 951 (Colo.2004), 220
- Bloodgood v. Ayers, 108 N.Y. 400, 15 N.E. 433 (N.Y.1888), 28
- Board of Com'rs of Jefferson County v. Rocky Mountain Water Co., 102 Colo. 351, 79 P.2d 373 (Colo.1938), 150
- Board of County Com'rs of Arapahoe County v. Denver Bd. of Water Com'rs, 718 P.2d 235 (Colo.1986), 715
- Board of County Com'rs of County of Arapahoe, Matter of, 891 P.2d 952 (Colo. 1995), 140, 219
- Board of County Com'rs v. United States, 45 P.3d 693 (Colo.2002), 496
- Bonham v. Morgan, 788 P.2d 497 (Utah 1989), 269
- Boomer v. Atlantic Cement Co., 309 N.Y.S.2d 312, 257 N.E.2d 870 (N.Y. 1970), 45
- Boone v. Kingsbury, 206 Cal. 148, 273 P. 797 (Cal.1928), 603, 605
- Boone v. United States, 944 F.2d 1489 (9th Cir.1991), 554
- Boquillas Land & Cattle Co. v. Curtis, 213 U.S. 339, 29 S.Ct. 493, 53 L.Ed. 822 (1909), 346
- Borax Consolidated v. City of Los Angeles, 296 U.S. 10, 56 S.Ct. 23, 80 L.Ed. 9 (1935), 534
- Borough of (see name of borough)**
- Boston Waterfront Development Corp. v. Commonwealth, 378 Mass. 629, 393 N.E.2d 356 (Mass.1979), 603
- Bott v. Commission of Natural Resources of State of Michigan Dept. of Natural Resources**, 415 Mich. 45, 327 N.W.2d 838 (Mich.1982), **564**, 574, 575, 576, 608
- Botton v. State**, 69 Wash.2d 751, 420 P.2d 352 (Wash.1966), **585**, 589
- Boulder, City of v. Boulder & Left Hand Ditch Co., 192 Colo. 219, 557 P.2d 1182 (Colo.1976), 208
- Bowen v. Public Agencies Opposed To Social Security Entrapment, 477 U.S. 41, 106 S.Ct. 2390, 91 L.Ed.2d 35 (1986), 787
- Bower v. Big Horn Canal Ass'n**, 77 Wyo. 80, 307 P.2d 593 (Wyo.1957), **197**, 198, 199, 499
- Boynton v. Gilman, 53 Vt. 17 (Vt.1880), 28
- Bradshaw v. Milner Low Lift Irr. Dist., 85 Idaho 528, 381 P.2d 440 (Idaho 1963), 728
- Brady v. Abbott Laboratories, 433 F.3d 679 (9th Cir.2005), 428
- Branch v. Oconto County, 13 Wis.2d 595, 109 N.W.2d 105 (Wis.1961), 589, 590
- Branch v. Western Petroleum, Inc., 657 P.2d 267 (Utah 1982), 1071
- Brendale v. Confederated Tribes and Bands of Yakima Indian Nation, 492 U.S. 408, 109 S.Ct. 2994, 106 L.Ed.2d 343 (1989), 989
- Bridges v. California, 314 U.S. 252, 62 S.Ct. 190, 86 L.Ed. 192 (1941), 391
- Briggs v. Golden Valley Land & Cattle Co., 97 Idaho 427, 546 P.2d 382 (Idaho 1976), 409
- Brinkerhoff-Faris Trust & Savings Co. v. Hill, 281 U.S. 673, 50 S.Ct. 451, 74 L.Ed. 1107 (1930), 391
- Bristol v. Cheatham, 75 Ariz. 227, 255 P.2d 173 (Ariz.1953), 486

- Broder v. Natoma Water & Mining Co., 101 U.S. 274, 25 L.Ed. 790 (1879), 333, 334
- Brown v. Chase, 125 Wash. 542, 217 P. 23 (Wash.1923), 350
- Bryan v. Itasca County, Minnesota, 426 U.S. 373, 96 S.Ct. 2102, 48 L.Ed.2d 710 (1976), 955
- Bryant v. Yellen, 447 U.S. 352, 100 S.Ct. 2232, 65 L.Ed.2d 184 (1980), 751
- Buffalo River Conservation and Recreation Council v. National Park Service, 558 F.2d 1342 (8th Cir.1977), 576
- Building Industry Assn. v. Marin Mun. Water Dist., 235 Cal.App.3d 1641, 1 Cal. Rptr.2d 625 (Cal.App. 1 Dist.1991), 711
- Burger v. City of Beatrice, 181 Neb. 213, 147 N.W.2d 784 (Neb.1967), 82
- Burgett v. Calentine, 56 N.M. 194, 242 P.2d 276 (N.M.1951), 199
- Burr v. Maclay Rancho Water Co., 154 Cal. 428, 98 P. 260 (Cal.1908), 431
- Burt v. Munger, 314 Mich. 659, 23 N.W.2d 117 (Mich.1946), 36
- Buttrely v. United States, 573 F.Supp. 283 (E.D.La.1983), 553
- Cache LaPoudre Water Users Ass'n v. Glacier View Meadows, 191 Colo. 53, 550 P.2d 288 (Colo.1976), 459
- California v. Federal Energy Regulatory Commission, 495 U.S. 490, 110 S.Ct. 2024, 109 L.Ed.2d 474 (1990), 762
- California v. United States**, 438 U.S. 645, 98 S.Ct. 2985, 57 L.Ed.2d 1018 (1978), 195, 199, 242, 649, **753**, 759, 760, 761, 762, 775, 779
- California ex rel. State Lands Commission, State of v. Superior Court, 44 Cal. Rptr.2d 399, 900 P.2d 648 (Cal.1995), 537
- California Fish Co., People v., 166 Cal. 576, 138 P. 79 (Cal.1913), 533
- California ex rel. State Lands Com'n v. United States, 457 U.S. 273, 102 S.Ct. 2432, 73 L.Ed.2d 1 (1982), 537
- California Oregon Power Co. v. Beaver Portland Cement Co.**, 295 U.S. 142, 55 S.Ct. 725, 79 L.Ed. 1356 (1935), **352**, 354, 904, 908, 986, 997
- California-Oregon Power Co. v. Beaver Portland Cement Co., 73 F.2d 555 (9th Cir.1934), 366
- California Packing Corp., State v., 105 Utah 182, 141 P.2d 386 (Utah 1943), 1013
- California, State of v. Superior Court (Lyon), 172 Cal.Rptr. 696, 625 P.2d 239 (Cal.1981), 535, 603
- California, State of, United States v., 332 U.S. 19, 67 S.Ct. 1658, 91 L.Ed. 1889 (1947), 524
- California, State of, United States v., 694 F.2d 1171 (9th Cir.1982), 759, 762
- California Trout, Inc. v. State Water Resources Control Bd., 90 Cal.App.3d 816, 153 Cal.Rptr. 672 (Cal.App. 3 Dist.1979), 141
- California Trout, Inc. v. Superior Court, 218 Cal.App.3d 187, 266 Cal.Rptr. 788 (Cal.App. 3 Dist.1990), 621
- Cantwell v. State of Connecticut, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940), 391
- Cappaert v. United States**, 426 U.S. 128, 96 S.Ct. 2062, 48 L.Ed.2d 523 (1976), 465, 505, **912**, 916, 925, 926, 928, 930, 940, 954, 972
- Carabell v. United States Army Corps of Engineers, 391 F.3d 704 (6th Cir.2004), 639
- Cargill, Inc. v. United States, 516 U.S. 955, 116 S.Ct. 407, 133 L.Ed.2d 325 (1995), 553
- Carnahan v. Moriah Property Owners Ass'n, Inc., 716 N.E.2d 437 (Ind.1999), 576
- Cartwright v. Public Service Co. of N.M., 66 N.M. 64, 343 P.2d 654 (N.M.1958), 356, 365
- Cason v. Florida Power Co., 74 Fla. 1, 76 So. 535 (Fla.1917), 448
- Catherland Reclamation Dist., In re Applications of**, 230 Neb. 580, 433 N.W.2d 161 (Neb.1988), **287**
- Catskill Mountains Chapter of Trout Unlimited, Inc. v. City of New York, 273 F.3d 481 (2nd Cir.2001), 1040
- Causby, United States v., 328 U.S. 256, 66 S.Ct. 1062, 90 L.Ed. 1206 (1946), 495
- Central and West Basin Water Replenishment District v. Southern California Water Co., 135 Cal.Rptr.2d 486 (Cal.App. 2 Dist.2003), 497
- Central Delta Water Agency v. State Water Resources Control Bd.**, 20 Cal. Rptr.3d 898 (Cal.App. 3 Dist.2004), **223**
- Central Platte Natural Resources Dist. v. City of Fremont, 250 Neb. 252, 549 N.W.2d 112 (Neb.1996), 502
- Central Vermont Ry., Inc., State v., 153 Vt. 337, 571 A.2d 1128 (Vt.1989), 603
- CF & I Steel Corp. v. Rooks, 178 Colo. 110, 495 P.2d 1134 (Colo.1972), 274
- Challis, City of, United States v., 133 Idaho 525, 988 P.2d 1199 (Idaho 1999), 929
- Chance v. BP Chemicals, Inc., 77 Ohio St.3d 17, 670 N.E.2d 985 (Ohio 1996), 494
- Chandler-Dunbar Water Power Co., United States v., 229 U.S. 53, 33 S.Ct. 667, 57 L.Ed. 1063 (1913), 541
- Chatfield East Well Co., Ltd. v. Chatfield East Property Owners Ass'n, 956 P.2d 1260 (Colo.1998), 413
- Chemical Waste Management, Inc. v. Armstrong World Industries, Inc., 669 F.Supp. 1285 (E.D.Pa.1987), 1077
- Cherokee Nation of Oklahoma, United States v., 480 U.S. 700, 107 S.Ct. 1487, 94 L.Ed.2d 704 (1987), 524, 545



- Chicago Park Dist., *People ex rel. Scott v.*, 66 Ill.2d 65, 4 Ill.Dec. 660, 360 N.E.2d 773 (Ill.1976), 605
- Chino Valley, *Town of v. City of Prescott*, 131 Ariz. 78, 638 P.2d 1324 (Ariz.1981), 454
- Choctaw Nation *v. Oklahoma*, 397 U.S. 620, 90 S.Ct. 1328, 25 L.Ed.2d 615 (1970), 524
- Choudhry *v. Free*, 131 Cal.Rptr. 654, 552 P.2d 438 (Cal.1976), 703
- Cities Service Co. *v. State*, 312 So.2d 799 (Fla.App. 2 Dist.1975), 1070
- City and County of (see name of city)**
- City of (see name of city)**
- City of Las Vegas, *State ex rel. Martinez v.*, 118 N.M. 257, 880 P.2d 868 (N.M.App. 1994), 365
- City of Las Vegas, State ex rel. Martinez v.**, 135 N.M. 375, 89 P.3d 47 (N.M.2004), 357
- Clark *v. Nash*, 198 U.S. 361, 25 S.Ct. 676, 49 L.Ed. 1085 (1905), 125
- Clark Fork River Drainage Area, *Matter of*, 274 Mont. 340, 908 P.2d 1353 (Mont. 1995), 252
- Cleaver *v. Judd*, 238 Or. 266, 393 P.2d 193 (Or.1964), 199
- Clinchfield Coal Corp. *v. Compton*, 148 Va. 437, 139 S.E. 308 (Va.1927), 412
- Cline *v. McDowell*, 132 Colo. 37, 284 P.2d 1056 (Colo.1955), 729
- Clough *v. Wing*, 2 Ariz. 371, 17 P. 453 (Ariz.Terr.1888), 355
- Coffin v. Left Hand Ditch Co.**, 6 Colo. 443 (Colo.1882), 335, 339, 340, 342, 346, 351
- Colberg, Inc. *v. State ex rel. Dept. of Public Works*, 67 Cal.2d 408, 62 Cal.Rptr. 401, 432 P.2d 3 (Cal.1967), 546
- Cole *v. Richards Irr. Co.*, 27 Utah 205, 75 P. 376 (Utah 1904), 141
- Coleman *v. Forister*, 514 S.W.2d 899 (Tex. 1974), 584
- Collens *v. New Canaan Water Co.*, 155 Conn. 477, 234 A.2d 825 (Conn.1967), 466, 467
- Collier *v. Arizona Dept. of Water Resources*, 150 Ariz. 195, 722 P.2d 363 (Ariz.App. Div. 1 1986), 463, 464, 467
- Collins *v. Gerhardt*, 237 Mich. 38, 211 N.W. 115 (Mich.1926), 575
- Collins *v. Town of Goshen*, 635 F.2d 954 (2nd Cir.1980), 702
- Collins Bros. *v. Dunn*, 114 Idaho 600, 759 P.2d 891 (Idaho 1988), 231
- Colorado v. New Mexico (II)**, 467 U.S. 310, 104 S.Ct. 2433, 81 L.Ed.2d 247 (1984), 168, 862
- Colorado v. New Mexico (I)**, 459 U.S. 176, 103 S.Ct. 539, 74 L.Ed.2d 348 (1982), 859, 873, 877, 892
- Colorado River Water Conservation Dist. *v. City and County of Denver*, 640 P.2d 1139 (Colo.1982), 301
- Colorado River Water Conservation Dist. *v. Municipal Subdistrict, Northern Colorado Water Conservancy Dist.*, 198 Colo. 352, 610 P.2d 81 (Colo.1979), 236
- Colorado River Water Conservation Dist. v. United States**, 424 U.S. 800, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976), 943, 948, 1002
- Colorado River Water Conservation Dist. *v. Vidler Tunnel Water Co.*, 197 Colo. 413, 594 P.2d 566 (Colo.1979), 301
- Colorado Springs, *City of v. Board of County Com'rs of County of Eagle*, 895 P.2d 1105 (Colo.App.1994), 236
- Colorado Springs, *City of v. Kitty Hawk Development Co.*, 154 Colo. 535, 392 P.2d 467 (Colo.1964), 714
- Colorado, *State of v. Kansas*, 320 U.S. 383, 64 S.Ct. 176, 88 L.Ed. 116 (1943), 859, 877
- Colorado Water Conservation Bd. *v. Upper Gunnison River Water Conservancy Dist.*, 109 P.3d 585 (Colo.2005), 147
- Colorado Wild, Inc. *v. United States Forest Service*, 122 F.Supp.2d 1190 (D.Colo. 2000), 1041, 1062
- Columbia River Fishermen's Protective Union *v. City of St. Helens*, 160 Or. 654, 87 P.2d 195 (Or.1939), 1012
- Colville Confederated Tribes *v. Walton*, 752 F.2d 397 (9th Cir.1985), 967, 985, 986
- Colville Confederated Tribes v. Walton**, 647 F.2d 42 (9th Cir.1981), 980, 985, 986, 987, 989
- Colvin Cattle Co., Inc. *v. United States*, 2005 WL 2108695 (Fed.Cl.2005), 1007
- Commonwealth v. \_\_\_\_\_ (see opposing party)**
- Commonwealth of (see name of Commonwealth)**
- Confederated Salish and Kootenai Tribes of Flathead Reservation, *State ex rel. Greeley v.*, 219 Mont. 76, 712 P.2d 754 (Mont. 1985), 995
- Confederated Salish and Kootenai Tribes of the Flathead Reservation *v. Stults*, 312 Mont. 420, 59 P.3d 1093 (Mont.2002), 941, 954, 971
- Conley *v. Amalgamated Sugar Co.*, 74 Idaho 416, 263 P.2d 705 (Idaho 1953), 1012
- Connecticut, *State of v. Commonwealth of Massachusetts*, 282 U.S. 660, 51 S.Ct. 286, 75 L.Ed. 602 (1931), 88, 871
- Consejo de Desarrollo Economico de Mexico *v. United States*, CV-S-05-0870 KJD-PAL (D. Nev.), 200, 810
- Consolidated People's Ditch Co. *v. Foothill Ditch Co.*, 205 Cal. 54, 269 P. 915 (Cal. 1928), 728
- Contests of City of Laredo, to Adjudication of Water Rights in Middle Rio Grande Basin and Contributing Texas Tributaries, *In re*, 675 S.W.2d 257 (Tex.App.-Austin 1984), 356



- Cook v. Evans, 45 S.D. 31, 185 N.W. 262 (S.D.1921), 351
- Corona City Water Co. v. Public Utilities Commission, 54 Cal.2d 834, 9 Cal.Rptr. 245, 357 P.2d 301 (Cal.1960), 703
- County of (see name of county)**
- County of El Dorado, People ex rel. Younger v., 96 Cal.App.3d 403, 157 Cal.Rptr. 815 (Cal.App. 3 Dist.1979), 585
- Crandall v. Woods, 8 Cal. 136 (Cal.1857), 330, 340
- Crow v. Carlson, 107 Idaho 461, 690 P.2d 916 (Idaho 1984), 264
- Dallas Creek Water Co. v. Huey, 933 P.2d 27 (Colo.1997), 132, 220
- Danielson v. Kerbs Ag., Inc., 646 P.2d 363 (Colo.1982), 274
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993), 411
- Day v. Armstrong, 362 P.2d 137 (Wyo. 1961), 574
- Deadman Creek Drainage Basin in Spokane County, Matter of, 103 Wash.2d 686, 694 P.2d 1071 (Wash.1985), 350
- Defenders of Wildlife v. Hull, 199 Ariz. 411, 18 P.3d 722 (Ariz.App. Div. 1 2001), 533
- Defenders of Wildlife v. United States Environmental Protection Agency, 415 F.3d 1121 (10th Cir.2005), 1044
- DeKay v. U.S. Fish & Wildlife Serv., In re, 524 N.W.2d 855 (S.D.1994), 155, 1000
- DeLoreto v. Goleta County Water Dist., 234 Cal.App.2d 164, 44 Cal.Rptr. 137 (Cal. App. 2 Dist.1965), 693
- Delta Wetlands Properties v. County of San Joaquin, 16 Cal.Rptr.3d 672 (Cal.App. 3 Dist.2004), 149, 236
- Denver, City and County of v. Bergland, 695 F.2d 465 (10th Cir.1982), 651
- Denver By and Through Bd. of Water Com'rs, City and County of v. Fulton Irrigating Ditch Co., 179 Colo. 47, 506 P.2d 144 (Colo.1972), 208
- Denver, By and Through Bd. of Water Com'rs, City and County of, United States v., 656 P.2d 1 (Colo.1982), 928, 930, 935, 941, 956, 957
- Denver By and Through Board of Water Com'rs, City and County of v. Board of County Com'rs of Grand County, 782 P.2d 753 (Colo.1989), 89
- Denver, City and County of v. Northern Colorado Water Conservancy Dist., 130 Colo. 375, 276 P.2d 992 (Colo.1954), 705
- Denver, T. & Ft. W.R. Co. v. Dotson, 20 Colo. 304, 38 P. 322 (Colo.1894), 141
- Department of Ecology v. Adsit, 103 Wash.2d 698, 694 P.2d 1065 (Wash. 1985), 383
- Department of Ecology v. United States Bureau of Reclamation, 118 Wash.2d 761, 827 P.2d 275 (Wash.1992), 199
- Department of State Lands v. Pettibone, 216 Mont. 361, 702 P.2d 948 (Mont. 1985), 619
- Desert Irr., Ltd. v. State, 113 Nev. 1049, 944 P.2d 835 (Nev.1997), 255
- Diack v. City of Portland, 306 Or. 287, 759 P.2d 1070 (Or.1988), 671
- Diamond Bar Cattle Co. v. United States, 168 F.3d 1209 (10th Cir.1999), 1007
- District Court In and For Eagle County, Colorado, United States v., 401 U.S. 520, 91 S.Ct. 998, 28 L.Ed.2d 278 (1971), 943, 949
- District Court For Water Division No. 5, Colorado, United States v., 401 U.S. 527, 91 S.Ct. 1003, 28 L.Ed.2d 284 (1971), 943
- District of Columbia v. Air Florida, Inc., 750 F.2d 1077, 243 U.S.App.D.C. 1 (D.C.Cir.1984), 605
- District 10 Water Users Ass'n v. Barnett, 198 Colo. 291, 599 P.2d 894 (Colo.1979), 412
- Dodge v. Ellensburg Water Co., 46 Wash. App. 77, 729 P.2d 631 (Wash.App. Div. 3 1986), 215
- Doherty v. Oregon Water Resources Director, 308 Or. 543, 783 P.2d 519 (Or. 1989), 486
- Doherty v. Pratt, 34 Nev. 343, 124 P. 574 (Nev.1912), 167
- Dolan v. City of Tigard, 512 U.S. 374, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), 604
- Douglaston Manor, Inc. v. Bahrakis**, 655 N.Y.S.2d 745, 678 N.E.2d 201 (N.Y. 1997), 561
- Dovel v. Dobson, 122 Idaho 59, 831 P.2d 527 (Idaho 1992), 285
- Drake v. Earhart, 2 Idaho 716, 23 P. 541 (Idaho Terr.1890), 346
- Duckworth v. Watsonville Water & Light Co., 150 Cal. 520, 89 P. 338 (Cal.1907), 141
- Dugan v. Rank, 372 U.S. 609, 83 S.Ct. 999, 10 L.Ed.2d 15 (1963), 943
- Duro v. Reina, 495 U.S. 676, 110 S.Ct. 2053, 109 L.Ed.2d 693 (1990), 990
- East Bay Municipal Utility Dist. v. Department of Public Works, 1 Cal.2d 476, 35 P.2d 1027 (Cal.1934), 247
- East Bench Irr. Co. v. Deseret Irr. Co., 2 Utah 2d 170, 271 P.2d 449 (Utah 1954), 188
- East Jordan Irrigation Co. v. Morgan**, 860 P.2d 310 (Utah 1993), 721, 729, 734, 735
- East Twin Lakes Ditches and Water Works, Inc. v. Board of County Com'rs of Lake County, 76 P.3d 918 (Colo.2003), 248
- Eddy v. Simpson, 3 Cal. 249 (Cal.1853), 330
- Elder v. Delcour, 364 Mo. 835, 269 S.W.2d 17 (Mo.1954), 574, 576