



919 Congress Ave.
Suite 1305
Austin, TX 78701

ANDREW S. "DREW" MILLER
drew.miller@kempsmith.com
512.226.0002

October 21, 2019

VIA Email (aday@brazosvalleygcd.org) and FedEx

Brazos Valley Groundwater Conservation District

Attention: Alan M. Day
112 W 3rd Street
Hearne, TX 77859

Re: Letter of Interest of Kemp Smith LLP to Brazos Valley Groundwater Conservation District's Request for Qualifications for Legal Counsel Services (RFQ No. 01-2019); Kemp Smith's Response to RFQ; Statement of Qualifications of Kemp Smith

Dear Mr. Day:

Introduction/Statement of Interest

Enclosed please find the Statement of Qualification ("SOQ") of Kemp Smith LLP ("Kemp Smith" or the "firm") submitted to the Brazos Valley Groundwater Conservation District ("District") in response to the District's Request for Qualifications for Legal Counsel Services (RFQ N0. 01-2019) ("RFQ"). This letter serves as Kemp Smith's Statement of Interest with respect to the RFQ.

Principals of Kemp Smith

The principals of Kemp Smith are as follows:

Caralyn Banks
Richard A. Bonner
James W. Brewer
Clara "C.B." Burns
Ernesto L. "Ernie" Cisneros
Darcy A. Frownfelter
Allan M. Goldfarb
Jose "Abe" Gonzalez
Mark Hedrick
Charles C. High, Jr.
Terry L. Johnson
Bobby Maddox
Gregory E. Martin

Michael D. McQueen
Andrew S. "Drew" Miller
Rachel C. Moreno
Mark N. Osborn
Shelly W. Rivas
Carl E. Ryan
Gilbert L. Sanchez
Mitzi L. Shannon
Ken Slavin
Deborah C. Trejo
Sean C. White
Gene Wolf

Bios for each of the above listed principals (as well as all other Kemp Smith lawyers) can be found at the firm's website at www.kempsmith.com.

Name and Title of Person Authorized to Negotiate and Obligate Kemp Smith

Drew Miller – who is a partner, resident in our Austin office, and chairman of the firm's Public & Environmental Law Department – is authorized by Kemp Smith to contractually negotiate and obligate the firm with respect to any engagement with the District.

Name, Title and Telephone Number of Person Being Proposed as Legal Counsel

The following person is proposed to serve as Legal Counsel:

Drew Miller
Partner
Chair, Public & Environmental Law Department
Tel. 512-320-5466

Name, Title and Telephone Number of Person to be Contacted for Clarification

For clarification of any statement in this letter or in the enclosed SOQ please contact:

Drew Miller
Partner
Chair, Public & Environmental Law Department
Tel. 512-320-5466

Brazos Valley Groundwater Conservation District

October 21, 2019

Page 3

Kemp Smith is pleased to be able to submit this Statement of Interest and SOQ, and we thank you in advance for your consideration. Please let me know if you have any questions.

Sincerely,

KEMP SMITH LLP

By: 
Andrew S. "Drew" Miller

Enclosures

**STATEMENT OF QUALIFICATIONS
OF KEMP SMITH LLP**

**IN RESPONSE TO THE BRAZOS VALLEY GROUNDWATER
CONSERVATION DISTRICT'S REQUEST FOR
QUALIFICATIONS FOR LEGAL COUNSEL SERVICES
(RFQ NO. 01-2019)**

KEMP SMITH LLP

919 Congress Avenue, Suite 1305
Austin, Texas 78701

Submitted by:



Drew Miller, Partner



Gene Wolf, Managing Partner

Point of Contact/Proposed Legal Counsel

Drew Miller

512-320-5466

drew.miller@kempsmith.com

October 21, 2019



Introduction

The Brazos Valley Groundwater Conservation District (“District”) has issued a Request for Qualifications for Legal Counsel Services (RFQ No. 01-2019) (“RFQ”), requesting responses from law firms with the capability and expertise to provide Legal Counsel services to the District. This document serves as the Statement of Qualifications (“SOQ”) of Kemp Smith LLP (“Kemp Smith”) in response to that RFQ.

General Information

(Responsive to RFQ § 3.1, II.A)

Brief History of Kemp Smith

Founded over 150 years ago, Kemp Smith is the second oldest law firm in Texas. The firm serves a full range of public and private sector clients. With offices in Austin and El Paso, Texas, and Las Cruces, New Mexico, the depth of our experience and knowledge is well-established. For more information on Kemp Smith generally, we invite you to visit our website at www.kempsmith.com.

Public & Environmental Law Department

Kemp Smith’s Austin office is home to the firm’s Public & Environmental Law Department. Collectively, the lawyers in our department have several decades of experience in water, environmental, and regulatory law. We have built a strong reputation representing governmental entities including water districts, in a broad variety of matters, including water and environmental law, litigation, employment law, government contracting and procurement, and real estate transactions. Through our Public & Environmental Department, the firm is an active member of Texas Water Conservation Association and the Texas Alliance of Groundwater Districts.

Kemp Smith’s Other Departments, Practice Areas and Team Approach

Kemp Smith includes a business department (whose members include specialists in business transactions and government contracts), a litigation department, and a labor and employment department. Our practice areas include the following:

- Water Law and Utilities
- Public Law
- Trial
- Real Estate
- Labor and Employment

Importantly, we employ a team approach, in which lawyers from our various departments and practice areas work in teams on particular matters, assist one another, and provide support on an as needed basis for firm clients. In this manner, we maximize efficiency and bring the highest level of expertise of our various lawyers to bear when and where it is needed in order to best serve our clients.

Persons Who Would Provide Legal Counsel Services

Kemp Smith anticipates and proposes that the following lawyers would provide Legal Counsel Services to the District:

- Drew Miller
- Deborah Trejo
- Darcy Frownfelter
- Mark Hedrick
- Mark Osborn
- Sergio Estrada
- C.B. Burns

Included with this SOQ at Tab A are the Individual Attorney Profiles for these lawyers.

Location and Listing of Resources of the Local Office

(Responsive to RFQ § 3.1, II.B)

If Kemp Smith is selected by the District, the engagement would be handled primarily out of the firm's Austin office. The Austin office has three partners and one clerical staff person. That said, the resources (including the partners, associates, paralegals, and clerical staff) resident in all of Kemp Smith's three offices are available to the District whenever needed. Kemp Smith's Austin office is only 88 miles from the District's office.

Professional Memberships, Certifications, Licenses and Other Qualification for Key Individuals Assigned to the District

(Responsive to RFQ § 3.1, II.C (including 1 and 2))

The professional memberships, certifications and licenses for the key lawyers to be assigned to the District are set forth in the Individual Attorney Profiles included at Tab A. Other qualifications for each of the key lawyers to be assigned to the District are set forth below.

Drew Miller and Kemp Smith are members of the Texas Alliance of Groundwater Districts and Texas Water Conservation Association. Drew is a founding member and Vice President of the National Water Law Forum. Drew is also a member of the American Bar Association's Section on Energy, Environment and Resources.

Drew Miller and/or Kemp Smith have represented many groundwater conservation districts in various matters including matters involving groundwater rights. Drew Miller and Kemp Smith have represented El Paso Water and other private and public entities in connection with transactions involving groundwater rights. Drew Miller and Kemp Smith have represented governmental entities and at least one private entity in contested cases before groundwater conservation districts. Further details regarding these engagements may be made available upon request.

Drew Miller – Proposed to Serve as Legal Counsel

Drew Miller, who is being proposed to serve as Legal Counsel for the District, is a partner of the firm and the Chair of its Public and Environmental Law Department. Drew – who has been with Kemp Smith for more than 20 years – has served as counsel to water districts (including but not limited to groundwater conservation district), and has provided advice and representation to other governmental entities including municipalities, municipally-owned water utilities, regional water authorities, and counties. He represents private and public entities across Texas in the areas of water, environmental and administrative law, often in matters involving water rights, groundwater regulation, and environmental permitting and enforcement. Drew’s areas of specialty also include compliance with Texas’ open government laws; he regularly counsels his governmental entity clients in connection with the Texas Open Meetings Act and the Texas Public Information Act. He has written articles and made presentations on groundwater regulation and regulatory takings.

Prior to joining Kemp Smith, Drew served more than five years as an Assistant Attorney General for the State of Texas, representing numerous state agencies (both as plaintiff and defendant) in litigation in state and federal courts. Drew earned his Juris Doctorate with High Honors from George Washington University Law School and a Bachelor of Science Degree in Biological Science from Cornell University.

Drew has worked on surface water and groundwater permitting matters, and on many types of water and water rights transactions. He has also had many years of experience in water rights and environmental litigation. He served as lead counsel for groundwater districts in several cases before federal and state courts including the Texas Supreme Court. Drew also served as lead counsel for governmental entities in a contested case hearing before a groundwater conservation district on the application of groundwater user and marketer for a groundwater production permit and transport authorization, and as lead counsel for those and additional governmental parties in the resulting litigation in state district court and the Court of Appeals.

Drew currently represents Montgomery County and City of Conroe in a lawsuit challenging an order of the Texas Commission on Environmental Quality (“TCEQ”) issuing four underground injection control permits which allow the commercial disposal of industrial waste. Drew has also represented a large Texas city in a major environmental case against a chemical manufacturer for the recovery of costs for the investigation and remediation of hazardous wastes under the Texas Solid Waste Disposal Act.

Drew currently represents a conservation and reclamation district as an amicus party in *Texas v. New Mexico*, an original jurisdiction case currently before the United States Supreme Court regarding the failure of New Mexico to comply with the Rio Grande Compact. Drew also represented the Texas Water Conservation Association as an amicus party before the United States Supreme Court in *Tarrant Regional Water District v. Herrmann*, 569 U.S. 614 (2013), in which Tarrant Regional (and other Texas entities) had alleged that Oklahoma violated the Red River Compact and the U.S. Constitution by preventing out of state entities from diverting water in Oklahoma.

Drew represented a groundwater district client in connection with a several years long conflict over groundwater planning, including by defending against a petition challenging the reasonableness of Desired Future Conditions adopted by the joint planning committee for a groundwater management area, and another petition filed before TCEQ. He also represented another groundwater district client in a lawsuit challenging its management approach.

Drew has attended and provided comment and testimony at State legislative and agency hearings and proceedings, and has worked on providing comments in rulemakings before federal agencies.

Drew's full resume is included with this SOQ at Tab B.

Other Key Lawyers

Deborah Trejo. Deborah has had extensive experience representing groundwater conservation districts as General Counsel and as lead attorney on numerous litigation matters. She has guided district clients through rulemakings and enforcement, permitting, open government, contracting, litigation, constitutional one-person/one-vote, and elections issues. She recently represented the Edwards Aquifer Authority in *League of United Latin American Citizens (LULAC) v. Edwards Aquifer Authority*, 937 F.3d 457 (5th Cir. 2019), in which the Fifth Circuit held the EAA to be a special purpose district and therefore the EAA's single member district apportionment plan does not violate the one person, one vote requirement of the United States Constitution..

Darcy Frownfelter. Darcy is a Partner in the firm's Public and Environmental Law Department and has served as General Counsel for the Edwards Aquifer Authority in San Antonio since 1997. In that role, he counseled and represented the EAA through its critical rulemaking and permitting phases. Included among the areas of Darcy's practice are water rights, water districts, environmental law, endangered species, administrative law, public law, permitting, enforcement, and compliance counseling. Darcy has authored numerous articles in the area of water and environmental law and is a frequent speaker at conferences.

Mark Hedrick. Mark is a partner in the firm's Business Department. Mark served as lead transactional attorney for a large municipally-owned water utility with respect to its acquisitions of tens of thousands of acres of land including water rights to be used for long-term regional water supply. He has also handled numerous other real estate transactions for that same municipal water utility and numerous water districts. He has also worked on a wide variety of other water and water rights transactions. He regularly advises water district clients with respect to contracts of various types.

Mark Osborn. Mark is a partner and chair of Kemp Smith's Trial Department. He has over 30 years of experience representing clients in lawsuits and appeals in state and federal courts and in arbitrations. A substantial portion of his practice is in the areas of finance, real estate, contract, class action, environmental, trademark, copyright, trade secret, and unfair competition litigation, and trademark and copyright registration. Mark has represented numerous governmental entities including municipalities and water authorities in litigation in state and federal courts and

on subject matters that include water law and permitting, regulatory takings, and civil rights. He has also represented water districts in contested case hearings and in water permitting matters.

Sergio Estrada. Sergio Estrada is an associate in the firm's trial department. Before joining Kemp Smith, Mr. Estrada was an Assistant City Attorney in El Paso, Texas for over six years, and represented the City in numerous civil lawsuits ranging from personal injury to wrongful death cases, contract disputes, code enforcement matters, and also served as a municipal prosecutor. Mr. Estrada's practice focuses on commercial litigation, the representation of local, regional and state-wide governmental bodies, and assisting clients in connection with their interactions with governmental bodies in both litigation and administrative matters. He currently represents a water district in a rate appeal before the Public Utility Commission of Texas. Mr. Estrada brings to the firm significant insight and experience in the area of governmental law.

C.B. Burns. C.B. is a partner and chair of the firm's Labor & Employment Department. C.B. will be available to provide legal services to the District in employment law. C.B. represents employers in federal and state courts in Texas and New Mexico. She focuses her practice on all aspects of employment law including defending discrimination and retaliation claims and wage and hour disputes. C.B. is a frequent speaker on employment law topics at local employment law seminars.

Kemp Smith's Experience and Qualifications for Similar Types of Engagements

(Responsive to RFQ § 3.1, II.D)

Kemp Smith's Experience as General Counsel

Kemp Smith has served as general counsel (and therefore chief legal advisor) to numerous water districts which, like the District, are created under Section 59, Article XVI of the Texas Constitution throughout Texas. We currently serve as general counsel to nine water districts (including six groundwater conservation districts). As general counsel, we provide general legal services and meet *all* of the legal needs of these clients, including in the areas of water law, groundwater management and regulation, contracting and procurement, rulemaking, permitting, litigation, utility law, enforcement, state and federal funding, labor and employment, elections, open meetings, public information, legislative advocacy, and real estate.

Kemp Smith's Experience as Special Counsel to Governmental Entities on Water and Other Matters

Kemp Smith is also frequently retained by governmental entities, including water districts and other districts created under Section 59, Article XVI of the Texas Constitution, as special counsel for particular projects, often focusing on water and environmental law. Matters for these clients have included contract negotiation and implementation; litigation involving groundwater management and regulation, regulatory takings, hazardous waste remediation, and mineral rights; rulemakings; contested case hearings before groundwater districts; and matters before TCEQ and other state agencies. Such "project based" relationships with many of these clients repeat and are ongoing.

Kemp Smith's Experience Representing Groundwater Conservation Districts

Kemp Smith has represented and advised groundwater conservation districts for over twenty-two years in a wide variety of areas including: groundwater regulation and management, rulemaking, enforcement, permitting, state and federal funding, litigation, joint planning/DFC development, proceedings before state agencies, legislative advocacy, open government, elections, contracting and procurement, labor and employment, and real estate. The volume and nature of our work, and our active participation in professional organizations and at conferences, has allowed us to develop and foster good relationships with lawyers and staff at various levels and branches of government including Texas Water Development Board, the Texas Commission on Environmental Quality, and the Texas Legislature.

Water Law: Kemp Smith lawyers are experienced with and expert in all areas of water law including groundwater and surface water rights, water permits, water and water rights transactions, waste water discharge, water utility law; and takings litigation involving regulation of water rights. In the area of groundwater regulation, we are fortunate that the needs of our clients have allowed us to work at the center of this area of the law and to become leading experts in this dynamic and challenging field.

Rules and Rulemakings: Kemp Smith has guided numerous groundwater district clients through major rulemaking projects including to revamp their rules, and to adopt or amend district rules in specific areas or to comply with legislative changes. We have worked with clients during critical start up phases and helped them create and implement rules regarding permitting and registration requirements, enforcement, metering and the regulation of spacing and production.

Litigation: Kemp Smith has defended the rules and actions of our groundwater conservation district clients in a broad array of matters in federal and state court, including in many of the significant lawsuits that have shaped the recent development of Texas groundwater law. We have prosecuted numerous civil lawsuits enforcing groundwater district rules and permit requirements. We have represented groundwater districts in connection with contested case hearings on permit applications.

Permitting and Hearing Procedures: We have counseled and represented groundwater conservation districts in establishing and refining their permitting programs, and in connection with numerous individual permitting matters. We have created and fine-tuned hearing procedures for a number of our groundwater district clients. We are expert regarding the baseline requirements and with regard to SOAH procedures as well.

Operational Procedures: We regularly field and answer questions, and advise our groundwater district clients in connection with district operations and procedures. We assist districts in establishing and improving procedures through the adoption and amendment of rules and bylaws.

Legal advice: Of course, we regularly provide legal advice to our groundwater district clients in matters large and small, and in formal and informal contexts, so as to best meet the needs of our clients in any given situation.

Policy approach: At times we are called upon to assist our groundwater district clients – particularly the board of directors – in identifying policy options, and assessing the legal ramifications of particular options. That said, we are always conscious and careful of the fact that we, as legal counsel, do not establish or set policy. Rather, determining district policies is the responsibility of the board of directors of the district. We strive to serve as an important resource to our boards of directors so as to facilitate their ability to make informed policy decisions.

Employment Law: Kemp Smith’s has a large and highly experienced group of labor and employment lawyers who are among the leaders in their field. They have worked on a wide variety of issues and claims for our water district clients, and have counseled and offered trainings to many of them.

Training: When requested we develop and deliver training to the board of directors and management and staff of our district clients, for example in the areas of open records and employment law.

Opinions to the Board of Directors: When requested, we issue formal opinions on legal issues to the boards of directors of our clients. We have issued many such opinions over the course of the last 20 years.

Oversight of litigation: As experienced litigators, we are comfortable not only representing our clients in state and federal courts at all levels, in hearings before the State Office of Administrative Hearings, and in arbitration, but also with overseeing such matters.

Attendance at Board Meetings: Legal Counsel expects to attend regular and special meetings of the Board of Directors of the District whenever requested and will be available for consultation as needed. On the rare occasion that the person who serves as Legal Counsel cannot attend a meeting or is not available, another Kemp Smith attorney will fill in.

Additional Legal Reports and Advice: We expect to provide any additional legal reports and advice as requested by the District’s board of Directors.

Our Clients’ Best Interests: As we do with all our clients, Kemp Smith will always work to insure that legal services are provided in an efficient manner that serves the District’s best interests.

Wide Range of Involvement with Groundwater Law and Groundwater Districts For Different Types of Clients

Although the majority of Kemp Smith’s experience in the area of groundwater regulation and permitting comes from representing groundwater conservation districts throughout Texas (as both general and special counsel), our client base is not limited to districts. We have also represented parties in proceedings before, or business with, groundwater districts, including municipally-owned water utilities, governmental entities interested in permit proceedings before the districts, private landowners, a state-wide university system, and water providers.

Research Tools and Support Staff

The firm subscribes to Westlaw, LexisNexis products, and other electronic research services. The firm also employs a highly skilled and full-time law librarian. We have support staff throughout our three offices who are available to work on projects for the District as needed.

Conclusion Regarding Qualifications to Serve as Legal Counsel

Kemp Smith is expert in the area of groundwater regulation and permitting and is highly experienced in handling the legal affairs of groundwater districts. As demonstrative above, we are more than able to meet all of the requirements of the RFQ with our existing resources. We can provide the District with prompt and responsive Legal Counsel services of the highest quality.

Cases/Matters and Outcomes, if Applicable, for Water Law Clients that have been Handled by Kemp Smith

(Responsive to RFQ § 3.1, II.E)

A partial listing of cases and outcomes for water law clients that have been handled by Kemp Smith is included with this SOQ at Tab C.

Statement Regarding Conflicts of Interest

(Responsive to RFQ § 3.1, II.F)

The attorney submitting this SOQ and Kemp Smith are not aware of any existing conflicts of interest with the Brazos Valley Groundwater Conservation District or its Board of Directors.

Rate/Fee Schedule

(Responsive to RFQ § 3.1, III.A, B & C)

Kemp Smith charges fees based on hourly rates for our attorneys and other legal professionals (in 1/10th hour increments). These rates are set on the basis of years of experience and level of professional attainment. Our standard rates are often discounted for governmental entities and entities that will provide the firm with a substantial amount of work over a period of time. Subject to further discussion, refinement, specification and agreement, we propose that the firm bill for legal services at the following range of hourly rates:

- partners – \$260 to \$350 per hour;
- associates – \$190 to \$250 per hour; and
- law clerks and paralegals - \$90 to \$130 per hour

At times, it is necessary for the firm to incur expenses for items such as courier or messenger services, telephone calls, reproduction expenses, travel expenses, recording and certifying documents, filing fees and related costs. Additionally, sometimes ancillary services such as computerized legal research may be necessary. In order to allocate these expenses fairly and keep billing rates as low as possible for those matters which do not involve such expenditures, these items are separately itemized on our statements. Some expense advances represent out-of-

pocket costs, some represent an allocation of overhead costs associated with the items described above, and others represent a combination of both factors. No costs will be charge for fax transmission/receiving.

Normally, Kemp Smith bills for the time of each of its legal professionals based on a uniform hourly rate for each professional. In other words, there are normally no special hourly rates for telephone consultation, court litigation and administrative proceedings, attendance at board meetings, and travel time. That said, we can discuss such details and consider making accommodation ns along such lines.

Certificate of Non-Discrimination
(Responsive to RFQ § 3.1, IV)

A completed, signed, and dated Certificate of Non-Discrimination (Exhibit A) is included with this SOQ at Tab D.

References
(Responsive to RFQ § 3.1, V)

A completed References Form (Exhibit B) is included with this SOQ at Tab E.

Proof of Professional Liability Insurance

Kemp Smith's proof of professional liability insurance is included with this SOQ at Tab F.

Signature by Authorized Individual

This SOQ has been signed (*see* cover page) and submitted by Drew Miller, and by Gene Wolf, Kemp Smith's Managing Partner, both of whom are authorized to do so.



Andrew S. "Drew" Miller

drew.miller@kempsmith.com
919 Congress Ave., Suite 1305, Austin, TX 78701

Phone: 512.320.5466
Fax: 512.320.5431

PRACTICE AREAS

Appellate
Environmental
Government Relations
Public Law
Water Law and Utilities

EDUCATION

George Washington University
School of Law, J.D., *high honors*,
1989

Cornell University, B.S., Biological
Science, 1984

BAR & COURT ADMISSIONS

Texas, 1993
U.S. Supreme Court
U. S. Courts of Appeals for the
following circuits: 5th Circuit; and
10th Circuit
U.S. District Court, Western District of
Texas
U.S. District Court, Northern District
of Texas

Drew Miller is a partner in the firm's Austin office where he practices environmental, water and general regulatory law, and serves as Chairman of the firm's Public and Environmental Law Department. He regularly represents industrial and commercial entities, political subdivisions, and individuals including landowners in litigation, compliance, enforcement, permitting, and due diligence matters. He has particular experience in litigation involving groundwater management, contaminated property and environmental permitting. He has also guided clients through Texas' Brownfields redevelopment programs. Mr. Miller was recognized by Best Lawyers in America 2019 and 2020. Drew also represents private parties and groups before the Texas Legislature and state agencies.

PROFESSIONAL AFFILIATIONS

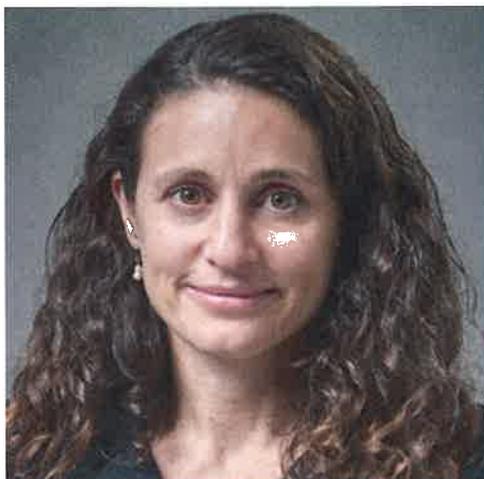
American Bar Association Section of Environment, Energy and
Resources
American Bar Association
Austin Bar Association
State Bar of Texas - Environmental and Natural Resources Law
Section
State Bar of Texas

CERTIFICATIONS

Board Certified, Administrative Law - Texas Board of Legal
Specialization

PROFESSIONAL & CIVIC INVOLVEMENT

Mr. Miller is the author of Chapter 11 (Texas Superfund) of the two-volume treatise on Texas Environmental Law published by Thomson Reuters. He is a regular contributor to the Year in Review publication of the American Bar Association Section on Environment, Energy & Resources on the subject of water law in Texas. Mr. Miller serves on the Advisory Board of Bloomberg BNA Water Law & Policy Monitor published by Bloomberg BNA. He is on the planning committee for the annual Water Law Conference of the American Bar Association Section on Environment, Energy & Resources.



Deborah C. Trejo

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919 Congress Ave., Suite 1305, Austin, TX 78701

Phone: 512.320.5466
Fax: 512.320.5431

PRACTICE AREAS

Appellate
Environmental
Government Relations
Public Law
Trial
Water Law and Utilities

EDUCATION

Tulane University Law School, J.D.,
magna cum laude, *Certificate in
Environmental Law, Environmental
Law Clinic, McCarthy Environmental
Law Award for the Outstanding
Student in Environmental Law*, 1998

Southern Oregon State College,
Teaching Certification, 1993

Reed College, B.A., 1991

Deborah C. Trejo is a partner in the firm's Public and Environmental Law Department focusing on representing governmental entities and private clients in environmental, water and administrative matters. Ms. Trejo specializes in groundwater issues, open government, regulatory takings, endangered species, elections, water quality, and constitutional issues. Ms. Trejo represents clients in administrative proceedings, including contested case hearings, and in trial and appellate proceedings before state and federal courts.

Ms. Trejo has consistently been selected for inclusion by Best Lawyers in America in the area of Administrative/Regulatory and Environmental Law.

Prior to joining Kemp Smith, Ms. Trejo worked on the Texas-Mexico border as an Assistant District Attorney for Cameron County, Texas, where she was involved in extensive litigation in state courts. During law school, Ms. Trejo held clerkships in the law firm of Clifford Chance in London, the Texas Office of the Attorney General in Austin, and El Centro Legal Campesino in New Mexico and served as an attorney in the Tulane Environmental Law Clinic representing clients in state trial and appellate proceedings and before state and federal administrative agencies. She was also part of a special Tulane delegation to Havana where she worked with members

BAR & COURT ADMISSIONS

Texas, 1998

U.S. District Court, Western District of Texas

U.S. Court of Appeals, Fifth Circuit

U.S. District Court, Northern District of Texas

of Cuba's Ministry of Science, Technology, and the Environment to translate Cuba's Law No. 81 on the Environment.

PROFESSIONAL AFFILIATIONS

Austin Bar Foundation Fellow

Texas Water Conservation Association Water Laws Committee

Hispanic Bar Association of Austin

Travis County Women Lawyers Association

American Bar Association - Section of Environment, Energy and Natural Resources

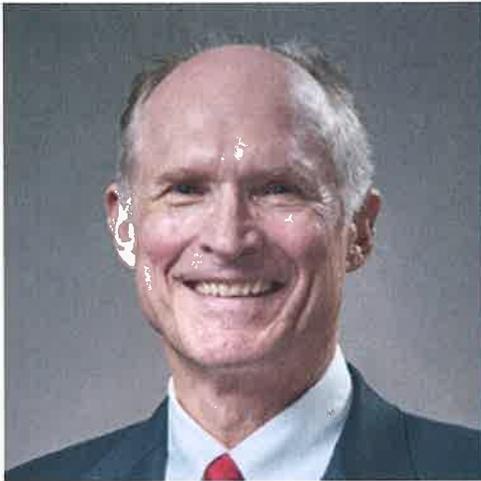
Austin Bar Association

State Bar of Texas - Environmental and Natural Resources Law Section

PROFESSIONAL & CIVIC INVOLVEMENT

Ms. Trejo is the author of several publications and a frequent speaker on environmental and water law, including a chapter on groundwater conservation districts and subsidence districts in the State Bar of Texas' Essentials of Texas Water Resources.

Ms. Trejo is a founder and board member of VCFS Texas, Inc. (22Q Texas) and spearheaded the effort to get the Texas Legislature to pass the first legislation in the world to increase awareness of Velocardiofacial (22q11.2 deletion) syndrome, the second most common genetic abnormality. Ms. Trejo was a member of Leadership Austin's 2008 Essential Class. She serves on the Austin Mayor's Committee for People with Disabilities, the Austin Independent School District's Boundaries and English Language Learners Advisory Committee, on the Campus Advisory Committee of Becker Elementary and is active in the Becker and Fulmore Middle School Parent Teacher Association. She is also a founding board member of Think Bilingual Austin and is a volunteer with the Down Syndrome Association of Central Texas and the Texas Parent to Parent Network. Ms. Trejo was named Co-Chair for the State Bar of Texas' Environmental and Natural Resources Law Section's Changing Face of Water Rights Conference for 2017 and 2018.



Darcy Alan Frownfelter

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Fax: 512.320.5431

PRACTICE AREAS

Environmental
Water Law and Utilities

EDUCATION

University of Texas School of Law,
LL.M., 1989
University of Idaho, J.D., 1979
Texas A&M University, B. Environ.
Design, 1976

BAR & COURT ADMISSIONS

Idaho
Texas
U.S. District Court, District of Idaho
U.S. District Court, Western District of
Texas
U.S. Courts of Appeals, Fifth Circuit;
Ninth Circuit
U.S. Supreme Court

Darcy is a Partner in the firm's Public and Environmental Law Department. Darcy's practice focuses on serving as General Counsel to the Edwards Aquifer Authority in San Antonio, Texas. Included among the areas of Darcy's practice at the EAA are water rights, water districts, environmental law, endangered species, administrative law, public law, permitting, enforcement, and compliance counseling. Other positions that Darcy has held are Deputy Attorney General to the Idaho Department of Water Resources (Boise), Hearings Examiner for the Texas Water Commission (Austin), and Legal Advisor to the United States Section of the International Boundary and Water Commission (El Paso). Darcy has authored numerous articles in the area of water and environmental law and is a frequent speaker at conferences.

Contact:

c/o Edwards Aquifer Authority
900 E. Quincy Street
San Antonio, TX 78215
Phone: 210-222-2204 Fax: 915-546-5360

- Environmental
- Administrative Law
- Water Law and Utilities
- Water and Wastewater Utilities

PROFESSIONAL AFFILIATIONS

Texas Water Conservation Association, Water Laws Committee



Idaho State Bar
State Bar of Texas



Mark Hedrick

mark.hedrick@kempsmith.com
221 N. Kansas, Suite 1700, El Paso, TX 79901

Phone: 915.533.4424
Fax: 915.546.5360

PRACTICE AREAS

Corporate and Business

Real Estate

EDUCATION

University of Texas School of Law,
J.D., 1979

Southwestern University, B.A., *cum
laude*, 1973

BAR & COURT ADMISSIONS

Texas, 1979

U.S. District Court, Western District of
Texas

Mark Hedrick has practiced law in El Paso since 1979 and is a partner in the firm's Business Department. Mr. Hedrick represents a variety of businesses and individuals, and works primarily in the areas of business transactions, business sales, business entity formation and reorganization, real estate transactions, contracts, estate and business planning, and estate administration.

PROFESSIONAL AFFILIATIONS

State Bar of Texas District 17 Grievance Committee, Chair 2010,
2005-2011

El Paso Probate Bar Association

(Director 1999-2002, Vice President 2003-2004, President
2005-2006)

El Paso Bar Association

(Member President's Task Force on Lawyer Mental Health Issues
2006-2007)

State Bar of Texas

PROFESSIONAL & CIVIC INVOLVEMENT

Mr. Hedrick is a member of the State Bar of Texas Business Law Section, and the Real Estate, Probate and Trust Law Section. He formerly served on the Continuing Legal Education Committee of the State Bar of Texas, and more recently on the SBOT President's Task Force on Lawyer Mental Health Issues. Locally, he is a member of the El Paso Bar Association, formerly as both a director and as its President, and the El Paso Probate Bar Association. Mr. Hedrick has spoken to numerous professional and lay groups, including the State Bar of Texas, on business, real estate and estate planning topics and is the author of several papers on those subjects. He has served on the board of directors of The Visiting Nurse Association of El Paso, Hospice of El Paso, the Community Advisory Board of the public television station KCOS, as a member of the Advisory Board of the El Paso Museum of Art (2000-2004, Chair 2004; 2008-2010), and on the El Paso Museum of Art Foundation Board.



Mark N. Osborn

mark.osborn@kempsmith.com
221 N. Kansas, Suite 1700, El Paso, TX 79901

Phone: 915.533.4424
Fax: 915.546.5360

PRACTICE AREAS

Appellate
Intellectual Property
Trial

EDUCATION

Texas Tech University School of Law,
J.D., *cum laude*, 1984
Rice University, B.S.M.E., 1981

BAR & COURT ADMISSIONS

Texas, 1984
U.S. Court of Appeals, Fifth Circuit
U.S. District Court, Western,
Southern, Eastern and Northern
Districts of Texas

Mark Osborn is a partner and department chair of Kemp Smith's Trial Department. He has over 30 years of experience representing clients in commercial lawsuits and appeals in state and federal courts. A substantial portion of his practice is in the areas of finance, real estate, contract, class action, environmental, trademark, copyright, trade secret, and unfair competition litigation, and trademark and copyright registration. He is a member of the Litigation, Intellectual Property, Antitrust and Business Litigation, and Appellate Sections of the State Bar of Texas and the Litigation and Intellectual Property Sections of American Bar Association. Mr. Osborn has authored articles, lectured and organized continuing legal education programs for the American Bar Association, the State Bar of Texas, and local professional and business groups on litigation in Mexico, legal ethics, using technology in the practice of law, antitrust law, intellectual property law, state and federal debt collection law, litigation involving the FDIC, and pro-bono death penalty representation.

PROFESSIONAL AFFILIATIONS

El Paso Bar Foundation, Fellow
American Bar Foundation, Life Fellow
Texas Bar Foundation, Sustaining Life Fellow
El Paso Bar Association
American Bar Association
State Bar of Texas

PROFESSIONAL & CIVIC INVOLVEMENT

Mr. Osborn is currently serving as Chair of the Texas Supreme Court's Professional Ethics Committee for the State Bar of Texas. Locally he is serving on the Board of the Christian Women's Job Corps. In 2006, Mr. Osborn received the Professionalism Award from the El Paso Bar Association. In 2004, he was chosen as the Outstanding Lawyer of El Paso. In 2009 and 2004, he received Presidential Citations from the State Bar of Texas for providing leadership to the State Bar including with respect to its technology plan and on the development of its website. From 2002-2005, Mr. Osborn served as a Director on the Board of the State Bar of Texas including serving on the Board's Executive Committee and serving as chair of the Board's Technology Oversight Subcommittee. He also served as Chair of the Web Services Committee of the State Bar of Texas from 2005-2008, as a member of the State Bar's Task Force on Insurance Disclosure in 2007-2008, and as Chair of the State Bar's Executive Director Selection Committee in 2008. Mr. Osborn served on the Texas Bar Foundation Board of Trustees from 2008-2011. In 2011 he was appointed to serve on a committee to review and recommend changes to the civil section of the Local Federal Court Rules for the Western District of Texas. Mr. Osborn also served on the El Paso Bar Foundation Board of Trustees. Mr. Osborn has served as president and director of the El Paso Bar Association and the El Paso Young Lawyers Association, and as a director of the Texas Young Lawyers Association and the El Paso Legal Assistance Society. In 1990, he was chosen as the Outstanding Young Lawyer of El Paso. Mr. Osborn is a Deacon and Sunday School teacher at Coronado Baptist Church. A 1981, mechanical engineering graduate of Rice University, he went on to graduate from the Texas Tech University School of Law in 1984, cum laude and Order of the Coif.



Sergio M. Estrada

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221 N. Kansas, Suite 1700, El Paso, TX 79901

Phone: 915.533.4424
Fax: 915.546.5360

PRACTICE AREAS

Trial

EDUCATION

Rutgers School of Law, 2010

University of Texas at El Paso,
Political Science, 2007

BAR & COURT ADMISSIONS

Texas, 2012

U.S. District Court, Western District of
Texas

Sergio M. Estrada is an associate in the firm's trial department. He is an El Paso native and proud graduate of El Paso High School.

Before joining Kemp Smith, Mr. Estrada was an Assistant City Attorney in El Paso, Texas for over six years, and represented the City of El Paso in numerous civil lawsuits ranging from personal injury to wrongful death cases, contract disputes, code enforcement matters, and also served as a municipal prosecutor.

Mr. Estrada's practice focuses on commercial litigation, including both trials and appeals, in matters involving contract issues and disputes, representation of local, regional and state-wide governmental bodies and assisting clients in connection with their interactions with governmental bodies in both litigation and administrative matters. He brings to the firm significant insight and experience in the area of governmental law and dealing and working with municipal governments.



Clara (C.B.) Burns

clara.burns@kempsmith.com
221 N. Kansas, Suite 1700, El Paso, TX 79901

Phone: 915.533.4424
Fax: 915.546.5360

PRACTICE AREAS

Labor and Employment

EDUCATION

Texas Tech University School of Law,
J.D., *magna cum laude*, 1990

At Texas Tech, C.B. served as the
Managing Editor of the Texas Tech
Law Review and authored the
comment, [The Prima Face Case of
Age Discrimination in
Reduction-in-Force Layoffs: A
Flexible Standard.](#)

McMurry College, B.A., *summa cum
laude*, 1987

BAR & COURT ADMISSIONS

Texas, 1990

New Mexico, 1994

U.S. District Court, Western District of
Texas and Northern District of Texas

U.S. Court of Appeals, Fifth Circuit

District of New Mexico

Clara (C.B.) Burns is a Partner in the Firm's Labor and Employment Law Department and a member of the Firm's Management Committee. She is Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization and is also licensed in New Mexico. C.B. represents employers in all aspects of workplace law, including advice and counseling, workplace investigations, handbook and policy reviews, and litigation defense of discrimination, discharge, and other employment matters in the federal and state courts of Texas and New Mexico and before numerous governmental agencies.

Some of C.B.'s recent successes include:

- Defense verdict in a disability discrimination case in the Western District of Texas
- Defense verdicts in cases involving workers' compensation retaliation, sexual harassment, and retaliation in El Paso County
- A permanent injunction, a monetary judgment and an award of attorney's fees on behalf of an employer in a non-compete case
- Defense awards in employment arbitration cases on behalf of clients, including a national hospital company, a major retailer, a global manufacturer of automotive products, and a national manufacturer of food safety products, involving age, national origin, race, and sex discrimination claims and FMLA claims

- Summary judgment on behalf of a regional banking operation in Bernalillo County (Albuquerque, NM) in a multi-plaintiff sex and age discrimination and breach of contract case
- Representation of the Texas Association of Business, which along with other business associations, obtained an injunction in the Northern District of Texas against the United States Department of Labor from implementing its "Persuader Rule"
- Successful argument before the United States Court of Appeals for the Fifth Circuit in which the Court affirmed dismissal of state law discrimination claims against a federal contractor operating at Fort Bliss, Texas, based on the Federal Enclave Doctrine.
- A reverse and render judgment by the Texas Supreme Court, unanimously reversing a jury verdict against an El Paso employer in a workers' compensation retaliation lawsuit
- Amici briefing before the Texas Supreme Court successfully advocating against extension of the federal Lilly Ledbetter Act to existing Texas state law

In addition to her practice, C.B. is the editor of the Family and Medical Leave Act chapter in the Texas Association of Business' Texas Employment Law Handbook, and the author of the Texas Human Resources Manual, published by the American Chamber of Commerce Resources. She also speaks frequently at national, state and local employment law seminars, including the annual Labor and Employment Advanced Practices Symposium and the University of Texas Labor and Employment Law Conference.

RECOGNITIONS

C.B. is a fellow in the College of Labor and Employment Lawyers and is ranked in the top tier of Labor and Employment Lawyers in Texas by Chambers USA. Chambers USA has recognized her as an "indefatigable litigator who is very thorough, tenacious, and effective in jury and bench trials" and as a "phenomenal employment attorney." She has been recognized as a Texas "Super Lawyer" and listed in Best Lawyers in America. Best Lawyers in America has selected her



as a Lawyer of the Year for El Paso on several occasions, including as its Labor Law - Management "Lawyer of the Year" for 2018 and 2020.

C.B. also has been quoted on employment law matters by a number of media outlets, including the PolitiFact Texas, the Waco Tribune, and El Paso Inc.

PROFESSIONAL AFFILIATIONS

Labor & Employment Law Commission of the Texas Board of Legal Specialization

El Paso Society for Human Resource Management

Texas Association of Business

Federal Bar Association

Texas Bar Foundation

El Paso Bar Association

State Bar of New Mexico

State Bar of Texas

CERTIFICATIONS

Board Certified, Labor and Employment Law - Texas Board of Legal Specialization

PROFESSIONAL & CIVIC INVOLVEMENT

C.B. was the 2014-15 Chair of the State Bar of Texas Labor and Employment Law Section, and currently chairs the Texas Association of Business' Employee Relations Committee and serves on its Board of Directors. She is a member of the Management Labor and Employment Roundtable, the American Employment Law Council and serves on the Labor and Employment Law Commission of the Texas Board of Legal Specialization.

C.B. also has served on the Board of Directors of the YWCA El Paso Del Norte Region, the Paso Del Norte Children's Development Center, the YWCA of El Paso Foundation and the El Paso Symphony Orchestra. She is a Fellow of the Texas Bar Foundation and is a graduate of Leadership El Paso.

Andrew S. “Drew” Miller

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919 Congress Avenue, Suite 1305
Austin, Texas 78701
Tel. (512) 320-5466; Fax (512) 320-5431
email: drew.miller@kempsmith.com

Legal Employment

Partner and Department Chair (since 2009) - Public & Environmental Law Department

Kemp Smith, LLP - Austin, Texas November 1998 - present
Environmental, water, natural resources, and administrative law practice. Represents industrial and commercial clients, and political subdivisions in litigation, compliance, enforcement, permitting, and environmental due diligence matters. Represents political subdivisions in challenges to governmental actions. Advises and represents private and governmental entities in matters relating to administrative law, water law, environmental permitting, investigation and remediation of property impacted by hazardous substances, and brownfields redevelopment.

Assistant Attorney General, Natural Resources Division

Office of the Attorney General, State of Texas June 1993 - November 1998
All aspects of litigation in administrative law and enforcement matters for state agencies in state and federal courts. Defense of agency action in areas of environmental and utility regulation including environmental permitting and electric, telecommunications and water utility regulation. Representation of the State of Texas before the Federal Communications Commission and the Federal Energy Regulatory Commission. Lead counsel responsibility for a litigation docket of 30-40 cases. Areas of practice include: administrative law; hazardous and solid waste; municipal solid waste; telephone, electric and water utility regulation; drinking water; and fisheries/wildlife. Practice area coordinator for municipal solid waste enforcement cases and enforcement cases representing the Texas Department of Health (April 1995-March 1996).

Associate Attorney - Environmental Law Department

Piper & Marbury - Washington, D.C. September 1989 - May 1993
Environmental practice concentrating in hazardous waste litigation. Various responsibilities in connection with private and government initiated CERCLA and RCRA actions including negotiating consent decrees, trial preparation, discovery, motion practice, trial, and post-trial briefing. Member of the Love Canal litigation team. Compliance counseling on hazardous waste and clean air issues.

Law Clerk

Miller & Chevalier - Washington, D.C. October 1988 - January 1989
Legal research and brief writing in connection with environmental and tax matters.

Piper & Marbury - Washington, D.C. June 1988 - August 1988; January 1989 - June 1989
Legal research and brief writing in connection with environmental, government contracts, and federal election matters.

Legal Employment (continued)

Galloway & Greenberg - Washington, D.C. September 1987 - May 1988
Assisted attorney on environmental and fisheries cases before federal courts, including challenges to Commerce Secretary's failure to censure Japan for violations of an international whaling moratorium, NMFS' closure of a commercial fishery, and EPA's failure to regulate toxic air pollutants.

Legal Intern

The Trust for Public Land - New York, N.Y. May 1987 - August 1987
Conducted research and prepared memoranda recommending Trust action. Analyzed property tax exemptions. Researched property ownership and land values in areas targeted for Trust acquisition.

Education

George Washington University - National Law Center

J.D., 1989 (High Honors)
Trustee Scholarship Recipient 1986-1988

Cornell University

B.S., 1984 (major: Biological Science)
Activities/Employment: Lecture Programming Chairperson; Resident Advisor
Honors: Distinguished Service Award; Outstanding Service Award.

Bar/Court Admission

Texas (1993); District of Columbia (1991); Maryland (1989)

Courts admitted to practice before include: the Supreme Court of the United States; the Supreme Court of Texas; the United States Court of Appeals, District of Columbia Circuit; the United States Court of Appeals, Fifth Circuit; the United States Court of Appeals, Tenth Circuit; the United States District Court for the Western District of Texas; the United States District Court for the District of Maryland; the Court of Appeals of Maryland; the District of Columbia Court of Appeals.

Certification and other Training

Board Certified in Administrative Law

Texas Board of Legal Certification

The Eli Broad Graduate School of Management, Michigan State University

Annual Regulatory Studies Program - National Association of Regulatory Utility Commissioners, Institute of Public Utilities (July 28 - August 9, 1996)

Community Involvement, Honors, Bar Offices and Activities

National Water Law Forum

- Founding Organizer and Vice President (2015-current)

Cambridge Water Law Forum

- Planning Committee (2014)

American Bar Association/Section on Environment, Energy & Resources

- Water Law Conference Planning Committee (2014-15)

Texas Water Conservation Association - Water Laws Committee

- Chair (2012-13)
- Vice Chair (2011-12)

Texas Water Conservation Association - Groundwater Issues Committee

- Member (2010 - current)

Named one of “The Best Lawyers in America”- for the specialty of Water Law

- 2007 Edition
- 2008 Edition
- 2009 Edition
- 2017 Edition

Named one of “The Best Lawyers in America”- for the specialty of Environmental Law

- 2019 Edition
- 2020 Edition

Named one of “The Best Lawyers in Texas”- for the specialty of Environmental Law

- 2018 Edition

Save Barton Creek Association

- 2007-2008 Teamwork Award

Sustainable Food Center

- Board of Directors (2008-2011)

Leadership Austin

- Class Member (2005-06)
- Alumni Association - Member

University of Texas Law School - Environmental Law Clinic Advisory Board

- Member (2005-2011)

Water and Wastewater Commission, City of Austin

- Member (January 2002-December 2004)

Community Involvement, Honors, Bar Offices and Activities (continued)

State Bar of Texas' Changing Face of Water Rights (Advanced Water Rights Course & Water Rights 101)

- Course Director (2011 and 2012)

Environmental and Natural Resources Law Section, State Bar of Texas

- Immediate Past Chair - 2007-08
- Chair - 2006-07
- Chair-Elect - 2005-06
- Vice Chair - 2004-05
- Member - Planning Committee - Environmental Superconference - 2005
- Treasurer - 2002-04
- Member, Executive Committee - 1999-2002
- Annual Meeting Program Chair – 1998
- Member - Planning Committee - Water Law Course - 2001, 2003, 2019, 2020

Friends of Deep Eddy

- Member (2005-08)

Congregation Beth Israel

- Trustee (2006-08)

Meals on Wheels

- Volunteer Deliverer (1996-2009)

Administrative Law Section, State Bar of Texas

- Member - Planning Committee - Advanced Administrative Law Course – 2000

Partial List of Reported Decisions

Edwards Aquifer Authority v. Day, 369 S.W.3d 814 (Tex. 2012)

Edwards Aquifer Authority v. Chemical Lime, Ltd., 291 S.W.3d 729 (Tex. 2009)

In re Edwards Aquifer Authority, 217 S.W.3d 581 (Tex. App.–San Antonio 2006, no pet.)

Edwards Aquifer Authority v. Peavy Ranch, 199 S.W.3d 312 (Tex. App.–San Antonio 2006, no pet.)

Bragg v. Edwards Aquifer Authority, 71 S.W.3d 729 (Tex. 2002).

Edwards Aquifer Authority v. Bragg, 21 S.W.3d 375 (Tex. App.–San Antonio 2000), *aff'd*, 71 S.W.3d 729 (Tex. 2002).

Robbins Chevrolet Co. v. Motor Vehicle Board, 989 S.W.2d 865 (Tex. App.-1999, petition denied).

Cellular Telecommunications Industry Association v. Federal Communications Commission, 168 F.3d 1332 (D.C. Cir. 1999).

Elizondo v. Texas Natural Resource Conservation Commission, 974 S.W.2d 928 (Tex. App.–Austin 1998, no petition).

Sprint Spectrum, L.P. v. State Corporation Commission of Kansas, 149 F.3d 1058 (10th Cir. 1998).

GTE Southwest, Inc. v. Public Utility Commission, 978 S.W.2d 161 (Tex. App.–Austin 1998, petition denied).

Quick v. City of Austin, 7 S.W.2d 109 (Tex. 1999).

Power Clearinghouse, Inc. v. Public Utility Commission, 968 S.W.2d 537 (Tex. App.–Austin 1998, no petition).

In re Petition of Pittencrief Communications, Inc., 9 *Communications Reg.* (P & F) 1041, 1997 WL 606233 (Fed. Communications Comm'n Oct. 2, 1997).

City of Plano v. Public Utility Commission, 953 S.W.2d 416 (Tex. App.-Austin 1997, no writ).

City of Lancaster v. Texas Natural Resource Conservation Commission, 935 S.W.2d 226 (Tex. App.–Austin, 1996, writ denied).

C.O.N.T.R.O.L. v. Sentry Environmental, L.P., 916 S.W.2d 677 (Tex. App.–Austin 1996, writ denied), *cert. denied sub. nom.*, 520 U.S. 1264, 117 S. Ct. 2432, 138 L. Ed. 2d 193 (1997).

Publications and Presentations

Case Law Update presented at Texas Alliance of Groundwater Districts' Groundwater Summit, August 22, 2019, Hyatt Regency Hill Country Resort, San Antonio, Texas

Texas v. New Mexico: A Friendly Update By Amici, Part I – Case Overview and the Texas Amici, Law of the Rio Grande, CLE International Water Law Institute, April 11-12, 2019, La Fonda, Santa Fe, New Mexico

Suing and Defending Groundwater District Directors, State Bar of Texas' 20th Annual Course, Changing Face of Water Rights, February 21-22, 2019, Hyatt Regency Hill Country Resort, San Antonio, Texas

The Year in Review 2018 - Water Resources 2018 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Groundwater Regulation in Texas and Regulatory Takings presented at the 30th Annual Texas Environmental Superconference, August 2, 2018, Four Seasons Hotel, Austin, Texas

The Year in Review 2017 - Water Resources 2017 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Board Member Responsibility and Liability presented at Texas Alliance of Groundwater Districts' Groundwater Summit, August 30, 2017, Embassy Suites, San Marcos, Texas

The Year in Review 2016 - Water Resources 2016 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Author - Texas Practice Series, Texas Environmental Law - Chapter 11 (Texas Superfund) (Thomson Reuters 2015-2019)

The Year in Review 2015 - Water Resources 2015 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Case Law Update presented at Texas Rural Water Association/Texas Water Conservation Association Water Law Seminar: New Directions, January 22-23, 2015, Omni Austin, Austin, Texas

The Year in Review 2014 - Water Resources 2014 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Joint Planning 101, presented at Texas Alliance of Groundwater Districts & High Plains Water District Board Member Training Course, September 16-17, 2014, Lubbock, Texas

Emerging Trends in Groundwater Management: Legislative and Rule Changes Regarding Desired Future Conditions and Managed/Modeled Available Groundwater; Petition Process Update, State Bar of Texas' Changing Face of Water Rights Advanced Course 2014, February 27-28, 2014, Hyatt Hill Country Resort, San Antonio, Texas

Publications and Presentations (continued)

Author - Texas Practice Series, Texas Environmental Law - Chapter 11 (Texas Superfund) (Thomson Reuters 2013-2014)

The Year in Review 2013 - Water Resources 2013 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Recent Changes to Desired Future Conditions (DFCs) and Modeled Available Groundwater (MAG); DFC Petition Process Update, presented at Water for the Future: Texas at the Crossroads, Texas Rural Water Association/Texas Water Conservation Association Water Law Seminar, January 24-25, 2013, Omni Austin, Austin, Texas

Two Recent Developments in Interstate Water Compact Litigation Before The United States Supreme Court Involving Texas: Tarrant Regional Water District v. Herrmann and Texas v. New Mexico, Confluence (Newsletter of the Texas Water Conservation Association) (March 2012)

The Year in Review 2012 - Water Resources 2012 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Edwards Aquifer Authority v. Day: An Overview, 15th Annual Conference on Litigating Takings Challenges to Land Use and Environmental Regulations, November 9, 2012, UC Hastings Law School, San Francisco, California (presented by Vermont Law School and Georgetown University Law Center)

Case Law Update, Texas Water Conservation Association Fall Meeting, October 26, 2012, San Antonio, Texas

New Lawsuit Against TWDB Highlights Physical and Legal Relationship Between Groundwater and Surface Water, Confluence (Newsletter of the Texas Water Conservation Association) (October 2012)

Texas Supreme Court Case Resolves Ownership Issue, Questions On How Chapter 36 Groundwater Conservation Districts May Regulate Remain, The Fountainhead (Newsletter of the Texas Ground Water Association) (October 2012)

Takings Litigation Against the Edwards Aquifer Authority After the Day Case, Confluence (Newsletter of the Texas Water Conservation Association) (June 2012)

Water Issues Update: Current Issues Involving Groundwater, Texas City Attorneys Association Summer Conference, South Padre Island (June 6-8, 2012)

The Year in Review 2011 - Water Resources 2011 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Publications and Presentations (continued)

Presentation and Discussion: Groundwater and Takings in Texas and Elsewhere, The 14th Annual Conference on Litigating Takings Challenges to Land Use and Environmental Regulation: Intergovernmental Regulatory Takings Forum (organizer: Vermont Law School) (November 18 - 19, 2011 at Georgetown University Law Center)

DFC Litigation Update, Meeting of the Texas Alliance of Groundwater Conservation Districts, Austin, Texas (March 30 -31, 2011)

Administrative Appeals of Planning Decisions by Groundwater Conservation Districts, Texas Water Conservation Association's 66th Annual Convention, Dallas, Texas (March 3 - 5, 2010)

The Year in Review 2009 - Water Resources 2009 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

The Petition Proceedings of Chapter 36, Water Code, Meeting of the Texas Alliance of Groundwater Conservation Districts, Corpus Christi, Texas (July 27 -29, 2009)

Regulatory Takings Litigation - A Focus on Groundwater: Background and History, the Vested Rights Issue and Beyond, Changing Face of Water Rights Advanced Course 2009, State Bar of Texas (April 2-3, 2009); and presentation - "Takings Claims: Litigation"

The Year in Review 2008 - Water Resources 2008 Annual Report - State Developments, Texas, Section of Environment, Energy, and Resources Law, American Bar Association

Motions, Orders, Resolutions, Regulations and Rules, Meeting of the Texas Alliance of Groundwater Districts, Austin, Texas (July 28, 2008)

Groundwater Regulation and Regulatory Takings (paper and presentation), Litigating Takings and Other Constitutional Challenges to Land Use and Environmental Regulations (Georgetown Environmental Law and Policy Institute) (October 14-15, 2004)

Author - West's Texas Practice Series, Texas Environmental Law - Chapter 11 (Texas Superfund) (2nd edition 2004) (2005 pocket part) (2006 pocket part) (2007 pocket part) (2008 pocket part) (2009 pocket part) (2010 pocket part) (2011 pocket part) (2012 pocket part)

Update Editor - West's Texas Practice Series, Texas Environmental Law - Chapter 11 (Texas Superfund) (2003 Pocket Part)

Chapter 28: *Environmental Law, Doing Business in Texas, A Guide for Foreign Investors Doing Business in the Lone Star State*, International Law Section, State Bar of Texas (2nd Ed. 2003)

Defending and Challenging the Groundwater Conservation District, The Changing Face of Water Rights in Texas, State Bar of Texas, Professional Development Program (February 13 and 14, 2003)

Publications and Presentations (continued)

Environmental Law: Houston Court of Appeals Decides Private Cost Recovery Issues Under Texas' Solid Waste Disposal Act, Vol. 66, No. 1 Texas Bar Journal at 58 (January 2003)

The Texas Private Real Property Rights Preservation Act After Seven Years: Unfulfilled Dreams and Unrealized Fears, 33 Texas Env. Law J. 5 (Fall 2002)

Federal Case Notes Editor, *State Bar of Texas, Environmental Law Journal* - (Spring 1999 through Fall 2002)

The Property Rights Act: How it May Affect Your District, Texas Water Conservation Association 5th Annual Convention (March 8 and 9, 2001)

Regulatory Takings - Point/Counter-Point, The Changing Face of Water Rights in Texas, State Bar of Texas, Professional Development Program (February 1 and 2, 2001)

A Practical Guide to Corporate Due Diligence in Acquisitions: Assessing Potential Environmental Liability, International Business Transactions, University of Texas at El Paso, Center for Law and Border Studies (January 11 and 12, 2001)

Administrative Law at the Local Level: Selected Issues, Advanced Administrative Law Course, State Bar of Texas, Professional Development Program (October 26 and 27, 2000)

Update Editor - West's Texas Practice Series, Texas Environmental Law - Chapter 24 (Environmental Compliance and Risk Reduction Programs) - 2000 and 2001 Pocket Part

Government Code Provisions and Agency Rulemaking: An Update, Advanced Administrative Law Course, State Bar of Texas, Professional Development Program (September 24 and 25, 1998)

The National Environmental Policy Act (NEPA): An Overview - Executive Enterprises (several presentations from January 1992 through May 1993)

EPA's Interim CERCLA Policy, WASTE AGE, August 1990

Stricter Controls Likely on Municipal Ash, WASTE AGE, April 1990

Other Employment

Team Leader

City Volunteer Corps - New York, N.Y. June 1985 - September 1985
Responsible for 15 City Volunteers in an urban "peace corps" program.

Urban Park Ranger

New York City Dept. of Parks and Recreation June 1984 - June 1985; summers 1982, 1983
Developed and implemented educational programs on park flora, fauna, history and design.
Patrolled and provided a uniformed presence in New York City Parks and at special events.

Other Employment (continued)

Administrative/Research Aide to Professor Carl Sagan

Laboratory for Planetary Studies at Cornell University

November 1983 - June 1984

Ithaca, N.Y.

Various office and library tasks; made billions and billions of copies.

**Partial list of cases and outcomes
for water law clients handled by Kemp Smith**

Case	Outcome
<i>State of Texas v. State of New Mexico</i> , No. 141-Original (USSCT filed 1/8/2013)	Represents amicus party conservation and reclamation district in original jurisdiction action before US Supreme Court alleging violations of Rio Grande Compact; case pending
<i>Dyer et al. v. Texas Commission on Environmental Quality et al</i> , No. 03-17-00499-CV, in the Third Court of Appeals	Represents governmental entities in judicial challenge to TCEQ order issuing permits for underground injection of industrial wastes; district court affirmed TCEQ order and case is currently on appeal
<i>Wells v. Edwards Aquifer Auth.</i> , No. 97-13983 (345th Dist. Ct., Travis Cty., Tex. Aug. 14, 2000)	Case against client dismissed for want of prosecution
<i>Living Waters Artesian Springs, Ltd. v. Edwards Aquifer Auth.</i> , No. 9802644 (353rd Dist. Ct., Travis Cty., Tex. Dec. 17, 1998)	Initial rules adopted by client (before client was represented by Kemp Smith) held invalid for failure to comply with procedural requirements
<i>Bragg v. Edwards Aquifer Auth.</i> , 71 S.W.3d 729 (Tex. 2002)	Texas Supreme Court rendered judgment in favor of client holding that its rules and actions of were exempt from Property Rights Act
<i>Dorazio v. Edwards Aquifer Auth.</i> , No. 1999-CI-02462 (57th Dist. Ct., Bexar Cty., Tex. Oct. 26, 1999)	Case against client dismissed due to mootness
<i>Edwards Aquifer Auth. v. Haymore</i> , No. 2002-CI-05080 (288th Dist. Ct., Bexar Cty., Tex. June 13, 2003)	Case against client nonsuited
<i>Edwards Aquifer Auth. v. Johnson</i> , No. 2002-CI-05081 (407th Dist. Ct., Bexar Cty., Tex. July 15, 2002)	Judgment entered in favor of client
<i>Edwards Aquifer Auth. v. Bracken Indus. Park Owner's Ass'n, Inc.</i> , No. 2002-CI-05852 (285th Dist. Ct., Bexar Cty., Tex. July 15, 2002)	Judgment entered in favor of client

<i>Edwards Aquifer Auth. v. Chemical Lime, Ltd.</i> , 291 S.W.3d 392 (Tex. 2009)	Texas Supreme Court rendered judgment in favor of client, affirming statutory deadline for filing of groundwater permit applications
<i>Edwards Aquifer Auth. v. White</i> , No. 2003CI01580 (150th Dist. Ct., Bexar Cty., Tex. Dec. 5, 2005)	Case against client dismissed due to settlement
<i>Edwards Aquifer Auth. and State of Texas v. Day</i> , 369 S.W.3d 814 (Tex. 2012)	Texas Supreme Court affirmed decision of client, held that plaintiff possessed a property right protected by the takings clause of the Texas Constitution and remanded case for trial of takings claim; case settled
<i>Elm Creek Owners Ass'n v. Edwards Aquifer Auth.</i> , No. 2004-CI-10234 (408th Dist. Ct., Bexar Cty., Tex. May 24, 2006)	Case against client dismissed based on settlement
<i>Edwards Aquifer Auth. v. Peavy Ranch</i> , 199 S.W.3d 312 (Tex. App.—San Antonio 2006, no pet.)	Court of Appeals rendered judgment in favor of client, holding that plaintiff's due process rights were not violated
<i>Edwards Aquifer Auth. v. Milberger Landscaping, Inc.</i> , No. 2004-CI-17559 (37th Dist. Ct., Bexar Cty., Tex. Mar. 1, 2007)	Case against client dismissed based on settlement requiring defendant to pay civil penalty
<i>Edwards Aquifer Auth. v. Abdelhak</i> , No. 2005-CI-05608 (408th Dist. Ct., Bexar Cty., Tex. Mar. 13, 2006)	Case against client dismissed based on settlement requiring defendant to pay civil penalty
<i>Edwards Aquifer Auth. v. Lawns of Beauty, Inc.</i> , No. 2005-CI-05609 (37th Dist. Ct., Bexar Cty., Tex. Feb. 28, 2007)	Default judgment entered in favor of client
<i>777 Operating Co. v. Edwards Aquifer Auth.</i> , No. 05-10-17660-CV (38th Dist. Ct., Medina Cty., Tex. Dec. 13, 2007)	Case against client dismissed based on settlement
<i>Edwards Aquifer Auth. v. Boyd</i> , No. 2005-CI-17842 (224th Dist. Ct., Bexar Cty., Tex. Apr. 18, 2008)	Final judgement in favor of client entered requiring payment of penalties by defendant
<i>In re Edwards Aquifer Auth.</i> , 217 S.W.3d 581 (Tex. App.—San Antonio 2006, orig. proceeding)	Court of Appeals held that the permitting decisions of client must be reviewed under the deferential substantial evidence rule
<i>Edwards Aquifer Auth. v. Bragg</i> , 421 S.W.3d 118 (Tex. App.—San Antonio pet. denied)	Takings judgment entered against client

<i>Edwards Aquifer Auth. v. Horton</i> , No. 04-09-00375-CV, 2010 WL 374551 (Tex. App.—San Antonio 2010, pet. denied) (mem. op., not designated for publication)	Court of Appeals rendered judgment in favor of client, dismissing all claims
<i>Willoughby v. Edwards Aquifer Auth.</i> , No. 07-03-25690-CV (38th Dist. Ct., Uvalde Cty., Tex. Dec. 15, 2009) –	Case against client dismissed based on settlement
<i>Edwards Aquifer Auth. v. Taylor</i> , No. 2007-CI-09077 (150th Dist. Ct., Bexar Cty., Tex. Apr. 20, 2008)	Default judgment entered in favor of client
<i>Edwards Aquifer Auth. v. Villanueva</i> , No. 2007-CI-10731 (166th Dist. Ct., Bexar Cty., Tex. Apr. 20, 2008)	Default judgment entered in favor of client
<i>Edwards Aquifer Auth. v. Courtney</i> , No. 2007-CI-16598 (73rd Dist. Ct., Bexar Cty., Tex. Apr. 20, 2008)	Default judgment entered in favor of client.
<i>Frank & Emma Persyn Family Ltd. P’ship v. Edwards Aquifer Auth.</i> , No. 2007-CI-18500 (407th Dist. Ct., Bexar Cty., Tex. Mar. 13, 2008) –	Summary judgment granted in favor of plaintiffs requiring client to process application to convert base irrigation permitted right
<i>Edwards Aquifer Auth. v. 211 Investments, LP.</i> , No. 2008-CI-19336 (57th Dist. Ct., Bexar Cty., Tex. Jan. 29, 2009)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Mt. Laurel Invs., LP</i> , No. 2008-CI-19337 (73rd Dist. Ct., Bexar Cty., Tex. Jan. 29, 2009).	Default judgment entered in favor of client
<i>Edwards Aquifer Auth. v. Jaffe</i> , No. 2008-CI-20186 (150th Dist. Ct., Bexar Cty., Tex. June 14, 2010)	Court granted judgment in favor of client for civil penalties and injunctive relief regarding defendant’s failure to plug well
<i>Edwards Aquifer Auth. v. Davila</i> , No. 2008-CI-20184 (73rd Dist. Ct., Bexar Cty., Tex. Apr. 15, 2009)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Taylor</i> , No. 2008-CI-20185 (131st Dist. Ct., Bexar Cty., Tex. May 28, 2009)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Mead</i> , No. 2009-CI-01456 (407th Dist. Ct., Bexar Cty., Tex. Oct. 18, 2010)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Metal Contractors</i> , No. 2009-CI-01455 (288th Dist. Ct., Bexar Cty., Tex. Dec. 17, 2009)	Default judgment entered in favor of client
<i>Edwards Aquifer Auth. v. C & E Collins Family Partners, Ltd.</i> , No. 2009-CI-01453 (225th Dist. Ct., Bexar Cty., Tex. Apr. 17, 2009) –	Case dismissed based on settlement
<i>Zumwalt v. San Antonio Water Sys.</i> , No. 03-11-00301-CV, 2012 WL 1810962 (Tex. App.—Austin May 17, 2012, no pet.)	Plaintiff settled with client, requiring plaintiff to pay response costs

<i>Edwards Aquifer Auth. v. Sandoval</i> No. 2009-CI-02111 (131st Dist. Ct., Bexar Cty., Tex. Oct. 6, 2010)	Default judgment entered in favor of client
<i>Edwards Aquifer Auth. v. BRTC Investments, LP.</i> , No. 2009-CI-02914 (131st Dist. Ct., Bexar Cty., Tex. May 16, 2011)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Rash</i> , No. 2009-CI-02915 (150th Dist. Ct., Bexar Cty., Tex. dismissed Dec 17, 2010)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Stovall</i> , No. 2009-CI-04906 (224th Dist. Ct., Bexar Cty., Tex. Sept. 8, 2010)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Barnard</i> , No. 10-1845 (274th Dist. Ct., Hays Cty., Tex. filed Oct. 6, 2010)	Case dismissed based on settlement
<i>In re Southwest Packaging I</i> , No. 10-54515 (Bankr. W.D. Tex. Sept. 20, 2011)	Agreed judgment entered
<i>Edwards Aquifer Auth. v. JAI Sunnydev, Ltd.</i> , No. 2011-CI-09045 (131st Dist. Ct., Bexar Cty., Tex. Aug 12, 2011)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Lattimore</i> , No. 11-07-20641-CV (38th Dist. Ct., Medina Cty., Tex. Jan. 22, 2013)	Case dismissed based on settlement
<i>Edwards Aquifer Auth. v. Bribiescas</i> , No. 2014-CI-06681 (285th Dist. Ct., Bexar Cty., Tex. July 23, 2014)	After default judgment entered, defendants plugged well and paid client's costs
<i>GG Ranch, et al. v. Edwards Aquifer Auth.</i> , No. 15-50505, 2016 WL 2609800 (5th Cir. 2016) (per curiam)	5th Circuit affirmed dismissal of plaintiffs' takings, due process and equal protection claims based on statute of limitations
<i>Uvalde Cty. Underground Water Conservation Dist. v. Edwards Aquifer Auth.</i> , No. 2018-01-31972-CV (38th Dist. Ct., Uvalde Cty., Tex. Sept. 6, 2019)	Case dismissed based on legislative amendment of the EAA Act validating EAA Rules challenged in the case.
<i>League of United Latin American Citizens (LULAC) v. Edwards Aquifer Authority</i> , 937 F.3d 457 (5th Cir. 2019)	U.S. Court of Appeals for the Fifth Circuit held in favor of the EAA, affirming the Western District of Texas' opinion: that the EAA is a special purpose district and therefore its single member district apportionment plan does not violate the one-person, one-vote requirement of the United States Constitution.

<i>Southern Trinity Groundwater Conservation District v. John L. Moore and John C. Moore d/b/a Moore Water System</i> , No. 2012-4736-5 (414 th Dist. Ct., McLennan County, Texas Dec. 5, 2012)	Enforcement case filed by client; judgment for district.
<i>Southern Trinity Groundwater Conservation District v. Lehigh Cement Company LLC and Lehigh Hanson, Inc.</i> , No. 2017-2266-5 (414 th Dist. Ct., McLennan County, Texas Sept. 26, 2017)	Enforcement case filed by client; case settled
<i>In re: Petition of G&J Ranch, Inc. and Mesa Water LP</i> , before the Texas Water Development Board (2009)	TWDB ruled in favor of client, concluding that GMA 1 DFCs were reasonable
<i>Request for Inquiry and Selection of Review Panel Under § 36.108(f). Texas Water Code, Filed by Mesa Water, L.P.</i> , before the Texas Commission on Environmental Quality (filed Sept. 17, 2010)	TCEQ ruled in favor of client dismissed petition
<i>Joel Navar v. El Paso County Water Control & Improvement Dist. No. 4</i> , Cause No. 2010-1789 (243rd Dist. Court, El Paso County)	Case against client dismissed based on settlement
<i>Petition by Out of District Ratepayers Appealing the Water Rates Established by the El Paso Water Control and Improvement District No. 4</i> , PUC Docket No. 49367, SOAH Docket No. 473-19-5831.WS (before the Public Utility Commission of Texas, filed Mar. 22, 2019)	Proceeding before utility commission appealing the water and sewer rates of water district; pending.
<i>In re: Application of Electro Purification LLC</i> , SOAH Docket 951-13-4182, before the Bluebonnet Underground Water Conservation District (2013)	Represented governmental entity opposed to application for operating permit; application withdrawn.
<i>Application of Fort Stockton Holdings, L.P for Production Permit and Transport Authorization before the Middle Pecos Groundwater Conservation District</i> (filed Jul. 1, 2009)	Represented governmental entities opposed to application in contested hearing before groundwater conservation district; groundwater conservation district denied application; parties ultimately settled and permit has been issued
<i>Fort Stockton Holdings L.P. v. Middle Pecos Groundwater Conservation District, et al.</i> , No. 08-15-00382 (El Paso Court of Appeals)	Represented governmental entities supporting groundwater conservation district's denial of application for production permit and transport authorization in litigation challenging district's denial; parties ultimately settled and lawsuit was dismissed

<i>John Duke et al v. North Plains Groundwater Conservation District</i> , No. CVO4949 (84th District Court, Hansford County, Texas) (filed Jun. 24, 2008)	Case against client challenging groundwater management approach; plaintiffs nonsuited case
<i>In re: Petition filed by John Duke pursuant to § 36.1072(g), Water Code, regarding the Management Plan of the North Plains Groundwater Conservation District</i> , before the Texas Water Development Board (2008)	Petition challenging groundwater management plan of client; petition dismissed by TWDB
<i>Application for Production Permit and Transport Authorization of Pecos SS LLC</i> , before the Middle Pecos Groundwater Conservation District (2014)	Application of client water marketer seeking production permit and transport authorization from groundwater conservation district was granted and permit issued
<i>In re: Contested Case Hearing of Flying “L” Guest Ranch, Ltd.</i> , SOAH Docket No. 955-16-2056, before the Bandera County River Authority and Groundwater District (2016)	Represented General Manager of District in contested hearing regarding District’s adjustment of groundwater permit; District affirmed adjustment of permit in part
<i>Flying “L” Guest Ranch, Ltd. v. Bandera County River Auth. and Groundwater Dist.</i> , Cause No. CVOC-18—0000015, (198th Dist. Court., Bandera County) (filed Jan. 12, 2018)	Lawsuit against client groundwater conservation district challenging permit decision and for a taking; case nonsuited.
<i>Bexar-Medina Atascosa Counties Water Control and Improvement Dist. v. Bandera County River Authority and Groundwater Dist.</i> , No. 04-16-00536-CV, 2017 WL 4014703 (Tex. App.–San Antonio Sept. 13, 2017, no pet), and remanded case <i>Bandera County River Authority and Groundwater Dist. v. Bexar-Medina Atascosa Counties Water Control and Improvement Dist.</i> , No. CV-13-351 (198th Dist. Court, Bandera County)	Client filed lawsuit against water district regarding scope of authority and whether district is acting in an ultra vires matter; following judgment for client and appeal; case is pending on remand.
<i>Tarrant Regional Water District v. Herrmann</i> , 569 U.S. 614 (2013)	Represented amicus party – a state-wide association of entities interested in water resources - in appeal to the U.S. Supreme Court in support of Appellant. USCCT affirmed decision of Circuit Court of Appeals

EXHIBIT A

CERTIFICATION OF NON-DISCRIMINATION

**TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH
STATEMENT OF QUALIFICATIONS**

Proposer hereby certifies in performing work or providing services for the District, there shall be no unlawful discrimination in its hiring or employment practices, and Proposer shall comply with applicable federal and Texas anti-discrimination laws.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Non-Discrimination this 18th day of October, 2019.

PROPOSER:

Kemp Smith LLP

(Type or print complete legal name of firm)

BY:



(Signature)

NAME:

Andrew S. "Drew" Miller

(Type or Print)

TITLE:

Partner

(Type or Print)

ADDRESS:

919 Congress Ave. Suite 1350

CITY Austin, STATE TX, ZIP 78701

EXHIBIT B

REFERENCES	
Proposer shall provide a minimum of three (3) References with three (3) or more years' experience with the Proposer.	
REFERENCE #1	
NAME	Hemphill County Underground Water Conservation District
ADDRESS	906 S. 2nd St.
CITY, STATE ZIP CODE	Canadian, TX 79014
TELEPHONE #	806-323-8350
CONTACT	Janet Guthrie, General Manager
DATES OF SERVICE	2003 - present
DESCRIPTION OF SERVICES	General Counsel, Rulemaking, Permitting, Enforcement, Employment Law, water law, real estate
REFERENCE #2	
NAME	El Paso Water Utilities
ADDRESS	1154 Hawkins Blvd.
CITY, STATE, ZIP CODE	El Paso, Texas 79925
TELEPHONE #	915-594-5607
CONTACT	Lee Ann Koehler, General Counsel
DATES OF SERVICE	1999 - Current
DESCRIPTION OF SERVICES	Environmental law, water law, water rights, groundwater regulation, utility law.
REFERENCE #3	
NAME	Montgomery County
ADDRESS	501 N. Thompson, Suite 300
CITY, STATE, ZIP CODE	Conroe, TX 77301
TELEPHONE #	936-538-8202
CONTACT	B.D. Griffin, County Attorney
DATES OF SERVICE	2007 - current
DESCRIPTION OF SERVICES	Litigation, Environmental Law, Regulatory Takings Law

(ATTACH ADDITIONAL SHEETS IF DESIRED)

**PREMIER LAWYERS PROFESSIONAL LIABILITY INSURANCE
POLICY DECLARATIONS**

NOTICE: PLEASE READ CAREFULLY. This is a claims-made and reported Policy. Except as otherwise provided herein, this Policy covers only **Claims** first made against the **Insured** during the **Policy Period**. Please read the Policy carefully.

The Limits of Liability available to pay insured **Damages** shall be reduced by amounts incurred for **Claim Expenses**, unless the Policy is otherwise endorsed. Amounts incurred for **Claims Expenses** and **Damages** shall also be applied against the self-insured retention, unless the Policy is otherwise endorsed.

POLICY NUMBER: LPL10012828301

PRIOR POLICY NUMBER: LPL10012828300

Item 1. **Producer:** HUB International Midwest Limited
Address: 55 East Jackson Blvd
Suite 1400
Chicago, IL 60604

Item 2. **Named Insured:** Kemp Smith LLP
Address: 221 North Kansas
Suite 1700
El Paso, TX 79901

Item 3. **Policy Period:** From: April 01, 2019 To: April 01, 2020
(12:01 AM Standard Time on both dates at the address of the **Named Insured**.)

Item 4. **Limits of Liability:** (Including **Claims Expenses**)
(A) Each **Claim:** \$5,000,000
(B) Maximum Total **Policy Period** Aggregate: \$5,000,000

Item 5. **Self-Insured Retention:**
\$125,000 Each **Claim**

Item 6. **Premium:**

Item 7. **Prior & Pending Litigation Date:** 04/01/2018

- Item 8. **Retroactive Date:** Full Prior Acts
- Item 9. Forms and Endorsements Applicable to Coverage at Inception of Policy:
See attached Forms and Endorsements Schedule, Form Number: IL 0101
- Item 10. Address Notice of Claims or Potential Claims To:

<u>E-Mail</u>	<u>Mail</u>
Insuranceclaims@sompo-intl.com	Sompo Pro Attn: Claims Department 1221 Avenue of The Americas New York, NY 10020

Submission of Notice of Claims by email is preferred.

- Item 11. **Disciplinary Proceeding** Coverage:
 - (A) Each **Disciplinary Proceeding:** \$25,000
 - (B) **Policy Period** Aggregate: \$25,000

Item 12. Choice of Law and Jurisdiction: This insurance shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., and each party agrees to submit to the exclusive jurisdiction of any competent court within the United States of America.

These Declarations, the completed and signed **Application**, and this Policy with Endorsements shall constitute the contract between the **Insured** and the **Insurer**

The **Insurer** hereby causes this Policy to be signed on the Declarations page by a duly authorized representative of the **Insurer**.



Authorized Representative

May 13, 2019
Date