

Snell & Wilmer



Graham J. Gilbert

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Main Bio

Graham Gilbert's practice focuses on water, land use and environmental law. He holds a water rights certification from the Rural Water Association of Utah and the Utah Division of Water Rights. Graham regularly works on issues related to appropriation, management and sale of water rights; acquisition, entitlement, development and disposition of commercial and residential real estate; purchase, sale and cleanup of environmentally impaired properties; and water quality permitting.

Before becoming an attorney, Graham worked as a hydrologist with water conservation district, municipal, ski resort, agricultural and energy clients in Colorado. He prepared technical information in support of water rights applications and change applications; developed technical information to support NEPA review of ski area expansion and reservoir development; designed and managed water quality monitoring programs and completed water quality analyses; and prepared and managed stormwater pollution prevention plans. Graham's background as a hydrologist helps him to understand technical issues, to effectively communicate with regulators, engineers and scientists and to develop practical solutions for clients.

Representative Matters

Water Law

- Assisted clients with appropriating new water rights, changing existing water rights and securing related approvals (e.g. requests for reinstatement, requests for extension, requests for reconsideration, reports of conveyance, etc.)
- Represented clients at hearings before the Utah State Engineer/Utah Division of Water Rights
- Completed due diligence for acquisition and sale of water rights, including tribal water rights, for industrial, commercial, ski resort, golf course and residential developments in Utah, Nevada, California, Colorado, and Arizona
- Assisted clients with filing a Statement of Water User's Claim and protecting their water rights in the Utah Lake and Jordan River General Adjudication
- Negotiated water supply agreements for residential, resort, and industrial development projects
- Assisted renewable energy investment company with securing water supply to serve multiple Utah solar projects.
- Managed water rights portfolios for agricultural, commercial, and water improvement district clients
- Assisted lenders with securing an interest in water rights as loan collateral
- Assisted with easements for water diversion and conveyance infrastructure

- Negotiated relocation of water diversion and conveyance infrastructure to accommodate residential and industrial development
- Completed due diligence regarding the design, construction and capacity of a wastewater reclamation facility

Land Use and Real Estate Development

- Assisted with land use entitlements for commercial, residential, and resort developments
- Assisted clients with rezones and master plan amendments for residential and commercial development
- Represented clients before municipal and county boards and commissions, including Planning Commissions, City/County Councils, historic preservation boards, and boards of adjustment
- Worked with counties, cities and local districts on issues related to water supply, land use, zoning enforcement and development agreements
- Completed due diligence on behalf of developers, lenders and a receiver for acquisition or sale of commercial, golf course, resort, residential and school properties
- Assisted developers with Requests for Advisory Opinion to the Utah Office of the Property Ombudsman
- Drafted and negotiated development agreements for commercial, resort, and residential development
- Advised developers regarding impact fees and Utah's Impact Fee Act; Assisted developers seeking impact fee reimbursement
- Defended commercial landowner in code compliance and civil enforcement actions brought by a city and a health department

Environmental Law

- Served as outside general counsel for a large wastewater treatment facility
- Represented clients in the purchase and lease of contaminated properties
- Advised clients regarding establishing Bona Fide Prospective Purchaser (BFPP) liability protection under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Assisted clients with performing All Appropriate Inquiries, including completion of Phase I and Phase II Environmental Site Assessments, to qualify as a Bona Fide Prospective Purchaser (BFPP)
- Advised client with management of liability associated with purchase of property impacted by off-site, leaking underground storage tanks (LUSTs)
- Advised clients regarding contaminated site closure and acquisition of no further action letters and enforceable written assurances
- Assisted industrial clients with Clean Water Act compliance, including seeking Utah Pollutant Discharge Elimination System (UPDES) (the state equivalent of EPA's National Pollutant Discharge Elimination System (NPDES)) and stormwater permits
- Replied to notices of violation from the EPA and Utah Division of Solid and Hazardous Waste
- Assisted oil and gas and commercial clients with voluntary disclosure of permit violations
- Assisted resort client with voluntary disclosure of Clean Water Act violations
- Analyzed hazardous waste, gasoline, and diesel contamination, explored cleanup alternatives, completed corrective action, and negotiated contribution claims

Administrative Law

- Participated in administrative proceedings before the Utah Division of Water Rights; Utah Division of Water Quality; Utah Board of Oil, Gas and Mining; the Utah Office of the Property Ombudsman; and the Utah Department of Alcoholic Beverage Control

Education

- University of Utah, S.J. Quinney College of Law (J.D., highest honors, 2011)
 - Quinney Award Recipient (5th Ranked Student)
 - The Order of the Coif
 - Articles Editor, Utah Law Review
- Lewis & Clark College (B.A., Environmental Studies, with honors, summa cum laude, 2002)

Professional Memberships & Activities

- American Bar Association
 - Planning Committee, Annual ABA Water Law Conference (2013-2018)
 - Environment, Energy, and Resources Section
- Utah State Bar
 - Energy, Natural Resources, and Environmental Law Section
 - Appellate Practice Section
- Salt Lake County Bar
 - Young Lawyers Division
- Rocky Mountain Mineral Law Foundation
- Rural Water Association of Utah
- Utah Water Users Association

Representative Presentations & Publications

- "[New Rules Influence Groundwater Development in Park City, Utah and The Snyderville Basin,](#)" Author, Utah Business (November 18, 2019)
- "[Utah Lake/Jordan River General Water Rights Adjudication: I am on the List of Unclaimed Water Rights, Now What?](#)" Author, S&W Environmental, Natural Resources, Oil and Gas Law Blog (February 19, 2019)
- "[Protests Flow Freely After Utah and Idaho Apply to Appropriate 400,000 Acre Feet of Water From Bear Lake,](#)" Author, S&W Environmental, Natural Resources, Oil and Gas Law Blog (July 10, 2018)
- "[Utah Supreme Court Clarifies Administrative Agencies' Fact Finding Duty and the Standard of Review for Administrative Appeals,](#)" Author, S&W Environmental, Natural Resources, Oil and Gas Blog (December 21, 2017)
"The Water-Energy Nexus in the 21st Century," Presenter, Energy & Environment Symposium (November 8, 2017)
- "The Science Behind Water Quality," Moderator, ABA 35th Annual Water Conference (March 28, 2017)
- "Water Markets and Water Transfers: Critical Water Management Strategies," Moderator, ABA 33rd

Annual Water Conference (June 4, 2015)

- "The Future of Interstate Water Compacts: Is the Compact Era Over?" Moderator, ABA 32nd Annual Water Conference (June 6, 2014)
- "Acquisition of Water Rights for Hydraulic Fracturing," Presenter (May 6, 2013)
- "Stormwater Laws and Regulations," Presenter, Utah Water Laws and Regulations Professional Education Course (March 22, 2013)

Professional Recognition & Awards

- Water Rights Certification, Rural Water Association of Utah and Utah Division of Water Rights (2019)
- Mountain States Super Lawyers®, Rising Stars Edition, Energy & Resources (2019)

Community Involvement

- Mentor U, Mentor of Undergraduate and Law Students at the University of Utah (2016-Present)
- Salt Lake Parks and Recreation Soccer Coach (2017)
- Constitution Day, Volunteer (2016)
- Street Law Clinic, Volunteer (2012-present)
- Choose Law Project, Volunteer (2012)

Other Professional Experience

- Smith Hartvigsen, PLLC, Associate (2012-2013)
- Utah Supreme Court, Judicial Clerk to The Honorable Jill N. Parrish (2011-2012)
- Resource Engineering, Inc., Staff Hydrologist (2003-2008)

Bar Admissions

- Utah

Court Admissions

- Supreme Court of Utah
- United States District Court, District of Utah