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OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

The Office of the Property Rights Ombudsman Model

- 1) Overseen by Land Use and Eminent Domain Advisory Board
 - a) *Seven members, representing various land use interests*
 - b) *Makes rules and policies, receives reports, provides appearance of neutrality*
- 2) Attorneys with expertise and understanding of takings, eminent domain, land use law
- 3) Advise property owners about takings, eminent domain, and land use law
 - a) *Publications, brochures, website, etc.*
 - b) *Teaching, seminars, legal education, etc.*
 - c) *One-on-one discussions with property owners*
- 4) Arbitration or mediation
 - a) *For eminent domain or takings*
 - b) *Not optional for government agency*
 - c) *Can act as arbitrator or appoint third party*
 - d) *Can order a neutral second appraisal at the government entity's expense*
 - e) *Standing to request stay of eminent domain proceedings*
 - f) *No cost*
 - g) *Not binding if appealed de novo within 30 days*
- 5) Advisory Opinions
 - a) *\$150 application fee*
 - b) *Not optional for government entity*
 - c) *Only on selected topics*
 - d) *Must include a statement of facts and law supporting opinion*
 - e) *Not binding*
 - f) *Attorneys fees provision*

Suggestions for Adopting the OPRO Model in Other Arenas

- 1) Provide skilled attorneys with real experience.
- 2) Offer information AND solutions.
- 3) Provide authority to achieve solutions.
- 4) Maintain neutrality.

A Sampling of Expected Questions for the Water Rights Ombudsman

1. The appropriation process
2. The change application process
3. Delays in approving/denying applications
4. Failure of notice
5. Application protests
6. Paper water vs. wet water
7. Sole supply / supplemental water rights
8. Title of water rights
9. Segregation of water rights
10. Quantification / Volume of water in a water right
11. Haircuts
12. Consumptive / non-consumptive uses
13. Beneficial uses and proof
14. Perfection of water rights
15. Duties / Equivalent units
16. Abandonment/forfeiture of water
17. Loss of water right through adjudication
18. Non-use applications
19. Priority
20. Wells
21. Dams
22. Streams
23. Surface/groundwater interactions
24. Return flows
25. Mutual water companies
 - Shares / turns
 - Assessments & foreclosures
 - Change applications
 - Stream volume
 - Delivery points
 - Corporate / voting matters
26. Adjudications and Decrees
27. Purchasing/Selling water rights
28. Downstream effects of change applications
29. Pressurized secondary systems / conversions
30. Division of Water Rights Procedures
31. Water quality
32. Section 404
33. Compacts and Agreements