



# Maria O'Brien Shareholder

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## Related Practices

Energy, Environment and Natural Resources

Energy

Environment

Public Lands

Utilities and Infrastructure

Water Rights and Water Quality

Real Estate

## Related Industries

Business in Indian Country

Energy

Mining

Ranching and Agriculture

## OVERVIEW

Maria has practiced in the areas of Natural Resources, Environmental and Utility law for over twenty years. Her primary focus is on water resources, water quality, and related regulatory matters including National Environmental Policy Act (“NEPA”) and Endangered Species Act (“ESA”) compliance. She represents clients from both the public and private sectors before the Office of the New Mexico State Engineer, the New Mexico Public Regulation Commission federal agencies, and in state and federal court. Maria’s experience has been centered on resolution of complex disputes regarding water use and allocation. Her experience includes negotiation of multi-party water agreements, permitting of water and energy projects, the purchase and lease of water rights, water utility matters, litigation involving protection and acquisition of water resources, water planning and water quality issues.

*Chambers USA* has recognized Maria in the area of Water Law, and reported in 2018, “*Maria O'Brien has an excellent legal mind and is great at dealing with clients. She is very collaborative and a great problem solver,*” say sources. O’Brien is widely acknowledged as a top choice in water law matters, including water quality and water use and allocation disputes.” Maria has been selected as “Lawyer of the Year in Water Law – Albuquerque” by *Best Lawyers of America*® three times, and has also been recognized by *Benchmark Litigation* and *Southwest Super Lawyers*®.

Maria regularly addresses a complexity of issues relating to water supply and related regulatory matters regarding the permitting and siting of energy and water projects. Maria currently represents the State of Oklahoma with regard to conflicts over water resources as between the State and several Oklahoma Indian Tribes. She represented the City of Albuquerque (now the Albuquerque Bernalillo County Water Utility (“ABCWUA”)) in protection of its municipal water supply with regard to ESA claims involving the endangered Rio Grande Silvery Minnow. She continues to represent the ABCWUA on ESA and water quality matters. She represents the Pueblo de Pojoaque in the context of the *Aamodt* general stream adjudication, which involves the water rights claims of four Pueblos, various governmental entities and thousands of non-Indian defendants. She participated in the decade-long effort to draft a settlement agreement which received congressional approval and funding and was signed into law by President Obama as the Claims Resolution Act in December 2010. She continues to work with the Pueblo on implementation of the settlement including approval of the Partial Final Decree for the Pueblo rights.

Prior to joining the firm, Maria served as law clerk to the Honorable James A. Parker of the United States District Court for the District of New Mexico.

Maria previously served as Head of the firm’s Natural Resources and Environment Department and was long time Chair of the Water Resources Group and former Chair of the Energy & Utilities Group.



Maria is an avid runner and hiker. When not lawyering or running, she spends time with her two children, husband of 27 years and three Rhodesian Ridgebacks.

### Education

University of New Mexico School of Law, J.D., 1991, *magna cum laude*

University of Rhode Island, M.S. Thesis in Botany, 1988, *magna cum laude*

Connecticut College, B.A. in Human Ecology, 1984, *cum laude*

### Bar Admissions

New Mexico

U.S. Court of Appeals for the Tenth Circuit

U.S. District Court for the District of New Mexico

United States Supreme Court

## EXPERIENCE

### Representative Matters

- Representation of the State of Oklahoma with regard to litigation and negotiations relating to the water claims of the Choctaw Nation of Oklahoma and the Chickasaw Nation to water in twenty-two counties in Oklahoma.
- Representation of El Paso County Water Improvement District No. 1, the Texas and downstream irrigation district in the Rio Grande Project, including in the context of ongoing interstate litigation *Texas vs. New Mexico*, No. 141, Orig.
- Representation of the Pueblo of Pojoaque in the settlement of Indian claims in the longest running federal court case in the country. A settlement agreement was enacted into law when it was signed by President Obama on December 8, 2010 as the Claims Resolution Act of 2010. Continued representation of the Pueblo on implementation of the settlement related to water and environmental matters.
- Ongoing and long-term representation of several municipalities and regulated water suppliers including the City of Carlsbad, City of Rio Rancho, and New Mexico Water Service Company with regard to water planning, acquisition and negotiated and litigated water supply matters.
- Assisted numerous energy projects with water and siting related matters as well as continuing to advise BHP New Mexico Coal Company on all of its water matters related to its coal mining operations in the San Juan River Basin.

### Representative Clients

- BHP New Mexico Coal Company
- Carlsbad Irrigation District
- City of Carlsbad
- City of Rio Rancho
- El Paso County Water Improvement District No. 1



- New Mexico Water Service Company
- State of Oklahoma

## NEWS & ARTICLES

### News

#### **Chambers USA Honors 19 Modrall Sperling Attorneys**

Posted on April 25, 2019 By Daniel Schueler

#### **Super Lawyers® Names 31 Modrall Sperling Attorneys to 2019 List; Four Named Top 25 New Mexico Super Lawyers**

Posted on April 15, 2019 By Daniel Schueler

#### **Modrall Sperling Attorneys Recognized by Best Lawyers® 2019**

Posted on August 15, 2018 By Daniel Schueler

#### **Super Lawyers Names 32 Modrall Sperling Attorneys to 2018 List; Four Named Top 25 New Mexico Super Lawyers**

Posted on April 23, 2018 By Alexandra Schexnayder

#### **Monumental Final Decree in Santa Fe County Water Rights Suit**

Posted on July 20, 2017 By Modrall Sperling

#### **Modrall Sperling Plays Key Role in Historic Water Rights Pact**

Posted on September 21, 2016 By Modrall Sperling

#### **Modrall Sperling Announces New Department Heads**

Posted on March 15, 2015 By Modrall Sperling

### Articles

#### **Indian Water Rights Settlements – Issues for Consideration From a State and Water User Perspective**

December 20, 2017

By Maria O'Brien

#### **A Historic Moment in Indian Water Rights in New Mexico: Entry of the *Aamodt* Final Decree**

August 29, 2017

By Maria O'Brien and Sarah M. Stevenson

#### **Don't Let the Well Run Dry: Management and Use of Groundwater in Times of Scarcity**

*Rocky Mountain Mineral Law Foundation Annual Institute Proceedings 2015,*

Vol. 61, ch. 23, Maria O'Brien and Sarah M. Stevenson, October 7, 2015

By Maria O'Brien

#### **Indian Reserved Water Rights: Groundwater Included**

June 19, 2015

By Maria O'Brien and Sarah M. Stevenson

## DISCOURSE



## Presentations

- Panel Discussion: “State Management of Groundwater: Perspectives from New Mexico and Colorado”, *Law of the Rio Grande Conference “Protecting and Enhancing Our Water Resources,”* April 6, 2018.
- *CLE International Oklahoma Water Law Conference*, Oklahoma City, Oklahoma, February 23 and 24, 2017
- Indian Water Rights Settlements – Issues for Consideration from a State and Water User Perspective, *American Bar Association 35th Water Law Conference*, Los Angeles, California, March 28, 2017
- Panel Discussion: Land, Wind, and Water, *Oklahoma Sovereignty Symposium*, Oklahoma City, Oklahoma, June 7, 2017
- Panel Discussion: Identifying Parties and Issues and How Negotiations Bind Larger Groups, *Symposium on the Settlement of Indian Reserved Water Rights Claims* Native American Rights Fund and Western States Water Council, Great Falls, Montana, August 7 – 10, 2017
- Panel Discussion: Texas v. New Mexico, *New Mexico Water Judges Seminar*, Albuquerque, New Mexico, November 3, 2017
- Update on Issues Relating to the Rio Grande Project, *New Mexico Water Law: The Latest Updates on Litigation, Legislation & Collaboration*, Santa Fe, New Mexico, September 15 – 16, 2016
- Don't Let the Well Run Dry: Management and Use of Water in Times of Scarcity, *61st Annual Rocky Mountain Mineral Law Institute*, Anchorage, Alaska, July 17, 2015
- **Water and Renewable Energy Generation in the Western United States: An Overview of Current Challenges and Opportunities**, *Rocky Mountain Mineral Law Foundation Special Institute on the Water-Energy Nexus*, Denver, Colorado, September 14, 2012, **Maria O'Brien** and **Christina C. Sheehan**
- The Rio Grande Project: Federal & Interstate Obligations, *Law of the Rio Grande CLE*, Santa Fe, NM, March 30, 2012
- Hydrologic First Principles: The Interface Between the Technical and Legal in Water Resource Regulation, *57th Annual Rocky Mountain Mineral Law Institute*, Santa Fe, NM, July 23, 2011, Maria O'Brien and Cynthia Ardito, Vice President and Senior Hydrologist, Intera
- Endangered Species Act and its Application to Energy Project Development, *Law Seminars International Eighth Annual Conference on Energy in the Southwest*, July 11-12, 2011, Santa Fe, NM, Maria O'Brien and Deana M. Bennett
- Overview of New Mexico Indian Water Rights Settlements, *CLE International*, Santa Fe, NM, June 17, 2011

## Other

- Testimony before Senate Indian Affairs Committee on behalf of Western States Water Council, March 15, 2012, oversight hearing on Indian Water Rights; promoting the negotiation and implementation of water settlements in Indian Country.

## HONORS

- Best Lawyers Lawyer of the Year in Water Law – Albuquerque, 2019
- Best Lawyers Lawyer of the Year in Water Law- Albuquerque, 2016
- Best Lawyers Lawyer of the Year in Water Law – Albuquerque, 2013
- *Best Lawyers in America*® in Water Law, 2007-present
- *Chambers USA Directories of America's Leading Lawyers for Business* and Environment in



Natural Resources & Regulated Industries: Water Law, 2006-present

- *Martindale-Hubbell* BV® Distinguished Peer Review Rated
- *Southwest Super Lawyers*® (derived from a lawyer survey), 2014, 2016-present