Drought: Conflicts Ahead?
While California got its first significant storm this month, its drought continues. Ten towns remain less than 60 days away from running out of water. The State Water Resources Control Board relaxed salinity standards in the Delta, to allow more water to remain in upstream reservoirs for the summer. The Department of Water Resources reduced deliveries of State Water Project water to 0% – a 1\textsuperscript{st} in history. President Obama showed up in Fresno to provide emergency relief to those suffering from the ravages of drought.

The U.S. Drought Monitor shows much of the West in serious drought conditions, with most of Oregon (site of upcoming conference) in “severe drought.” The New York Times said: *Officials are girding for the kind of geographical, cultural and economic battles that have long plagued a part of the country that is defined by a lack of water: between farmers and environmentalists, urban and rural users, and the northern and southern regions of this state.* DTW members may see some of those conflicts in court.

Montana and Maine: Access to Rivers and Coast
Two states have affirmed public access to their waters, but reached that conclusion by different paths.

The Montana Supreme Court affirmed well-settled law that recognizes the public’s right to access their water. In *Public Lands Access Association v. Madison County*, the Court in affirmed its “expansive interpretation of the uses of public highways,” allowing use of a road/bridge to access the river for recreation. The Court also held that the property owner’s takings claim against the Montana Stream Access Law “holds no water.” In rejecting his claim to control access to non-navigable waters, the Court affirmed the state’s public trust, Stream Access Law, and the public’s “broad use right to surface waters.” Public access takes no property interest.

In Maine, the Supreme Judicial Court vacated a lower court judgment that granted a prescriptive easement for public recreational use of the beach, in *Almeder v. Kennebunkport*. The court denied the easement based on the longstanding presumption that the landowner has given permission for recreational use, consistent with Maine’s “open lands tradition.” The court remanded the case to the lower court for further proceedings. Given the court affirming the public’s recreational use, the outcome of landowners’ claim for declaratory judgment remains to be seen.

Pre-Conference Fundamentals Webinar – for Law Clerks
If you or your law clerk (or attorney) is new to water adjudication, then *Dividing the Waters* offers just what you need to prepare for the upcoming conference—a webinar on the fundamentals of western water rights law. To sign up, contact Rebecca Bluemer@judges.org. Remember, the conference is May14-17, in Eugene, Oregon.

In Focus: Terese “TC” Richmond, Board of Advisors
When *Dividing the Waters* Convener Ramsey Kropf called Terese (T.C.) Richmond to invite her to join the Board of Advisors, Richmond did not hesitate. Her answer was “of course!” Richmond had known about *Dividing the Waters* since her days in Arizona, when she served as Chief Counsel to the Arizona Department of Water Resources and the fact-finder for the Gila River Adjudication.

Richmond has a long history serving state and regional water agencies, in Arizona and Washington. After clerking for the Washington Supreme Court, she joined the Attorney General’s Office working on environmental issues. She also assisted the Governor in Washington’s Yakima River Basin, to obtain federal funding to increase instream flows. When she returned from Arizona in 1997, Richmond rejoined the Attorney General’s Office, advising on environmental and land-use law.

Today, as a partner at Van Ness Feldman in Seattle, Richmond serves as general counsel for Cascade Water Alliance, a municipal corporation composed of 8 Puget Sound cities and special-purpose districts. Richmond serves as Vice-Chair of the National Climate Assessment Development and Advisory Committee and as an author of the Water Resources Chapter.

T.C. participated in the 1996 conference in Taos and the 2002 conference in San Antonio. In Taos, she spoke on Tribal settlements, while in San Antonio she spoke on the Endangered Species Act. She remembers the value to all participants in visiting Acoma Pueblo, learning about the acequia system of sharing water shortages in Santa Fe, and experiencing the remoteness of the head waters on the Taos Pueblo. “The discussions among the participants at both conferences have been highlights of my legal career.”

Richmond received her B.A. in Biology from Whitman College (Walla Walla) and her J.D. magna cum laude from Gonzaga University School of Law (Spokane). She lives in Edmonds, Washington with her family.

Profile on you? Recent court decision? Something to share? ALFIII@sbcglobal.net

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