State-Specific Judicial Program from *Dividing the Waters*?
In recent discussions with state governments, some have proposed that *Dividing the Waters* develop programs that help fulfill state-specific needs. Nevada has an interest in a water adjudication fundamentals workshop, based on a “Nevada Drought Forum” recommendation. Utah may develop water law programs in conjunction with regular judicial conferences. Water lawyers in Denver suggested a workshop on mediation in water disputes, in response to the Chief Justice appointment of Justice Greg Hobbs (Ret.) as a mediator in water court.

Texas: Health & Safety Do Not Trump Seniority
The Texas Supreme Court, in *TX Comm’n on Environmental Quality vs. TX Farm Bureau*, let stand a lower court ruling that the state cannot allow cities to continue taking water when farmers with senior rights are ordered to stop in a drought.

In 2011, the Texas Legislature enacted a statute clarifying TCEQ’s authority to administer water rights in times of drought. In 2012, TCEQ adopted “Drought Rules” and got a senior call on the Brazos River. TCEQ ordered junior water right holders to suspend use of their water rights. It did not suspend use by municipalities and power generators, requiring them to show reasonable efforts to obtain alternative water supplies. The Farm Bureau and certain seniors sued.

On summary judgment, the trial court declared Drought Rules invalid because TCEQ had exceeded its statutory authority and the general police power did not give TCEQ authority to exempt junior water rights. TCEQ appealed.

The Court of Appeals affirmed the trial court, on both counts. It concluded that the statute was NOT ambiguous in requiring compliance with the water right priority system. The orders could not impinge on that priority system. It also rejected the agency’s claim of police power, noting that the Legislature had limited the agency’s police power by requiring compliance with the water rights priority system. This month, the Texas Supreme Court refused to hear TCEQ’s appeal.

In Focus: Judge Kate A. Toomey (Utah)
Growing up amidst the natural beauty of Utah and with an early career in anthropology, taking environmental law in law school seemed only natural to Utah Judge Kate A. Toomey. Her training, however, offered limited relevance in Utah, as she attended law school at the University of Maryland, which did not teach much about western water rights and conflict.

When the Utah Lake/Jordan River adjudication showed up, in 2012, on her active docket as a trial judge, Toomey recognized she had much to learn about water. But Utah offered no programs on water law. When Toomey searched the web, she learned about *Dividing the Waters*. She participated in the Program’s conference at UC Davis that very year. There, Toomey found judicial colleagues with a wide range of experience in water, from both the state and federal bench. She learned the vocabulary of water law and the science of groundwater-surface water interactions. “That conference really saved me and helped me with the adjudication.”

More recently, she has worked with the Program to develop judicial education on water law and science, hoping to bring her experience to her Utah colleagues. Since her appointment to the Court of Appeals in 2014, Toomey has continued to hear water cases. She finds she understands the challenges of adjudicating water conflicts because of her *DTW* training.

Toomey started her professional career at the Utah Museum of Natural History, after getting her MA at the University of Utah (also her undergraduate alma mater). She worked on incorporating computers into the Museum’s work, developing an interactive database management system for its vast archeological collections. In 1981, computers were still a relatively new tool for museums, making Toomey a pioneer as the Museum’s Data Manager.

Utah eventually lured Toomey back, and she joined a litigation firm in 1993. Her interest in public service, however, led her to work at the Utah State Bar in the Office of Professional Conduct. In 2007, she took the bench in the Third Judicial District Court (Salt Lake City), where she served until her move to the appellate bench in September 2014. Throughout her judicial career, she has served on judicial committees, helping to improve the judiciary for her colleagues and the people of Utah. She lives with her family in Salt Lake City.

**Interested in a Dividing the Waters Visit to Your State?**
In recent years, the *DTW* Executive Director has visited six states to introduce the Program to the water law community, judicial officers, and state government. In some cases, Justice Hobbs joined the trip. Would you like the Program to visit your state to discuss how it might help? If so, please contact the Executive Director, Alf W. Brandt.

**Recent court decision? Something to share?** ALFIII@sbcglobal.net
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