



A resource for judges resolving water conflicts

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THE NATIONAL
JUDICIAL COLLEGE

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The Network Note May 2022

Webinar Series: Conjunctive Use in Upper Rio Grande

Dividing the Waters will offer a 4-part webinar series on Colorado's conjunctive management of groundwater and surface water in the Upper Rio Grande basin. In 1969, CO authorized its State Engineer to manage surface and ground water as one interdependent source, and conflict followed. The webinars will start at 10 am PDT and include:

- June 16: *Rio Grande Water Development*
- July 14: *The Decision Support System*
- August 18: *Groundwater Rules/Management*
- September 15: *Roundtable on Lessons Learned*

DTW welcomes all to watch the webinars. **Register [HERE](#).**

AZ: Special Master Completes Hopi Adjudication

AZ Special Master Susan Ward Harris has completed and proposed a comprehensive water rights decree for the Hopi Reservation in NE AZ. Harris adjudicates AZ water rights for the Gila River and the Little Colorado River, as the Maricopa County Superior Court special master.

The Final Report for *In re Hopi Reservation Hydrographic Survey Report* concludes active litigation that began in July 2016, more than 30 years after the US and the Hopi Tribe filed claims in the Little Colorado River adjudication in 1985. The proposed decree applies only to the land and water on the Hopi Reservation, not to claims beyond the Reservation's borders. The claimants include both governments and "allottees" who own land within the reservation.

This Final Report, at 408 pages, comprehensively addresses a wide range of factual and legal issues. It includes 341 findings of fact and 76 conclusions of law. Issues include the scope of Federal Government and tribal water rights, under both federal and state law, to surface and ground water.

Drawing on the AZ Supreme Court's *Gila V* decision, the Final Report applied the standard for water use on the Reservation as a "permanent home and abiding place." The decreed uses included irrigation, domestic, commercial, municipal, industrial, and livestock. It, however, denied a water right for a coal-slurry line, limiting water use for coal mining to support the homeland.

The Final Report set deadlines for objections in November and responses in January. More information on AZ adjudications can be found [HERE](#).

THE NEXT *DTW* CONFERENCE: Colorado River November 30-December 3 in Santa Fe, NM

The agenda for this fall's *Dividing the Waters* conference continues to develop, focused on the Colorado River. The Conveners also are discussing a pre-conference course on the fundamentals of water law, to provide a foundation for new participating judges. If you have ideas for the conference, please contact *DTW* Executive Director [Steve Snyder](#).

In Focus: Judge Bitia Yeager (NV)

Growing up in NY, Judge Bitia Yeager (NV) had never heard about water law. When she moved west for college at Brigham Young University (BYU), she soon learned the importance of water in western states. BYU's founder played a key role in introducing irrigation to the West in 1847, when the Mormons arrived in what would become Salt Lake City.

Yeager's legal career started when she remained at BYU for law school, where she served in the Ombudsman's Office, on the Moot Court Team, and as a rape crisis counselor. After law school, she moved to Las Vegas to clerk for 8th District Court judges and never left. She then spent 19 years doing indigent criminal defense for the Public Defender, taking cases from trial all the way to appeals before the NV Supreme Court. She also represented the office's mentally ill clients.

In 2015, the Clark County Commissioners appointed Yeager to the Las Vegas Justice Court, where she heard civil cases, and led the creation of the Las Vegas Community Court. Two years later, the 8th District Court selected her as the first specialty court hearing master. Every week, she presided over 200 hearings in Clark County's mental health and civil commitment courts. She won election to the Court in 2020.

When Yeager took the bench in Department 1, she inherited the Coyote Springs case, in which eight petitioners sought judicial review of the NV State Engineer's decision to limit groundwater use at a golf course development near Las Vegas. Yeager set a briefing schedule. In April 2022, she vacated the State Engineer's decision.

Yeager has participated in NJC classes, but just learned about *Dividing the Waters* from fellow NV judge and *DTW* Convener John Schlegelmilch. She has had good experience at NJC, so she looks forward to participating in *DTW* programs. She hopes to learn more about water law, which she considers a "niche area of the law."

Ideas for Network Note? Court Decision on Water? Contact ALFIII@sbcglobal.net