

## The Network Note June 2025

### ***Dividing the Waters 2025 Conference*** **Missoula, MT – September 24-27, 2025**

This year's *Water Law at the Quarter Century* conference will address federal reserved tribal water rights in two panels. One panel will address how tribal water rights have evolved since Y2K and the other will show how states have used different processes to settle tribal water right claims. [Register Now!](#)

#### **TX: Stream Anti-Degradation Policy**

The TX Supreme Court affirmed the discretion of the TX Comm. on Environmental Quality (TCEQ) to assess degradation of overall water quality. In *Save Our Springs Alliance v. TCEQ*, the Court held that TX law and regulation did not require TCEQ to judge degradation on a “parameter-by-parameter” basis.

The City of Dripping Waters applied for a discharge permit for a new water treatment plant. After a comprehensive administrative process, including a 3-day hearing and USEPA Review. TCEQ granted the permit after reviewing several water quality factors and concluding that the permit complied with anti-degradation rules against “lowering of water quality” in Onion Creek.

Save our Springs Alliance (SOS) sued TCEQ, arguing that granting the permit violated US and TX degradation rules. SOS argued for a “parameter by parameter” analysis, while TCEQ had analyzed overall water quality. The trial court “summarily agreed with SOS” on its approach and enjoined the TCEQ order. The Court of Appeals reversed and upheld the permit, approving TCEQ’s “whole water” approach.

The TX Supreme Court affirmed the Court of Appeals and, in effect, TCEQ. The appeal narrowed to one parameter, reduced dissolved oxygen. The Court found “substantial evidence” in its review of the TCEQ decision and affirmed TCEQ’s “whole-water basis” for decision. It rejected SOS arguments on insufficient factual findings and federal law objectives in light of TX law. The Court upheld the permit’s issuance.

#### **NJC Staff for *Dividing the Waters***

Three NJC staffers are now available to you:

- Alf W. Brandt (Lead): [alfb@judges.org](mailto:alfb@judges.org)
- Sheena Britschgi (Digital): [sheena@judges.org](mailto:sheena@judges.org)
- Tahnee Ramirez (Admin.): [tahneeramirez@judges.org](mailto:tahneeramirez@judges.org)

### **Tribal Water Rights Webinar: *Winters* Case History** **Noon PDT – August 27, 2025**

The Prior Appropriation Doctrine makes history central to water rights analysis. Author John Shurts (*Indian Reserved Water Rights*) will join Convener John Thorson in discussing the history that led to SCOTUS’ 1908 *Winters* decision recognizing tribal water rights based on the date of their treaty or reservation. This webinar lays the historical foundation for this year’s conference analysis of the recent evolution of the *Winters* Doctrine. Save the date on your calendar!

#### **IN FOCUS: NJC’s Alf W. Brandt**

The National Judicial College recently called long-time *Dividing the Waters* staffer to serve as its Director of Justice Solutions & Innovation. He will retain his portfolio supporting *DTW* and environmental law programs, but also will lead teams to address emerging judicial challenges, such as judicial independence.

For more than 30 years, Alf has worked in water law and policy. He grew up hearing water war stories from his grandfather, but did not plan to go into water. Still, water kept seeping into his life, at UCLA and Berkeley Law. Legendary Joe Sax taught him water law and inspired him to write a law review note on water.

His water law career kicked off when LA Mayor Tom Bradley appointed Alf to the Metropolitan Water District Board in 1991, during one of CA’s worst droughts. He led the City of LA delegation and in the creation of a legislative committee. His public service convinced him to start his water law career. He served at the US Department of the Interior, where he played a leading role in the CALFED Bay-Delta Program. He moved to the CA State Assembly as the water expert, to rewrite CA flood law, Delta law, and the 2014 Water Bond. He retired in 2023 as the Speaker’s General Counsel and joined NJC full time.

Alf had worked with NJC through *Dividing the Waters* since 2011, as part-time Executive Director and then volunteer editor. When he joined NJC staff, he led on water and the environment, as well as created programs on election law, the Rule of Law, and judicial independence (NJC’s #1 strategic priority). He has supported the Conveners’ leadership in expanding *DTW* to serve state judiciaries and merge into NJC. “I am grateful to be able to continue serving in water, learn new things in my 60’s, and support the judiciary at a critical time in history.”

Court Decision on Water? Profile on *You?* Email [alfb@judges.org](mailto:alfb@judges.org)