



A resource for judges resolving water conflicts

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THE NATIONAL
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Fundamentals Workshop: May 17-18 (Reno)

In the next few weeks, you will receive an e-mail announcing the opening of registration for this May's Water Fundamentals Workshop, which will be held at **NJC in Reno on May 17-18**. This workshop will be especially helpful for newer members and other colleagues who recently saw a water case show up on their docket. NOW is the time to encourage colleagues to participate in the workshop so they can gain from the knowledge and experience of the judicial network that celebrates its 25th birthday this year.

MT v WY: Special Master Issues Final Report

US Supreme Court Special Master Barton "Buzz" Thompson has submitted his final report on *Montana v. Wyoming* to the Court. Thompson, a leading member of *Dividing the Waters*, addressed both factual and legal issues in his final report.

Montana and Wyoming have a long-standing conflict over interpreting their 1951 compact on the Yellowstone River, which starts in Wyoming and flows into Montana. This case focused on a tributary, the Tongue River, which includes a reservoir and forms a border for the Northern Cheyenne Indian Reservation in Montana. (Tribe was not involved.) Montana complained that Wyoming had not allowed enough water to flow downstream to fulfill its compact obligations.

In 2016, the Supreme Court held that Wyoming violated the Compact in 2004 and 2006 by withdrawing 1356 acre-feet of water from the Tongue River that should have gone to pre-1950 water right holders in Montana. This year, Thompson observed: "The size of Wyoming's liability, however, is an indicator of neither the importance of this case to the two states nor the depth of their legal disagreements."

This final report addresses remedies. Thompson recommend \$20,340 in damages, plus interest, and \$67,280 in costs. He also recommends granting Montana declaratory relief while denying injunctive relief. The declarations clarify some issues in the compact, including granting water rights to store up to the original capacity of Tongue River Reservoir. Thompson asserts, however, that "effective implementation of the Compact and avoidance of future disputes will depend on both Montana's and Wyoming's good-faith cooperation."

Next General Conference at Stanford in March 2019

The Conveners have accepted Buzz Thompson's invitation to take the next *DTW* general conference to Stanford Law School in Palo Alto in March 2019. Stay tuned for more information!

Two New Conveners for *Dividing the Waters*

After recent departures, the Conveners have invited two more judges to join them in leading *Dividing the Waters*. Former Colorado Justice Allison Eid was confirmed to the 10th Circuit Court of Appeals (during the Texas conference), and Susan Joseph Taylor decided to retire from both the Nevada State Engineer and *DTW*. In response, two new judges have accepted invitations to become Conveners:

- Judge Kate A. Toomey, Utah Court of Appeals
- Chief Judge Matthew G. Reynolds, NM 7th Judicial Dist.

In Focus: NV Chief Hearing Officer Kristen Geddes

The Nevada State Engineer's Chief Hearing Officer, Kristen Geddes, grew up in northern Nevada, surrounded by water conflicts, on the Truckee and Carson Rivers. Still, not until after her work in the Nevada Attorney General's office did she discover her passion for adjudicating water conflicts.

After graduating from UNLV's Boyd School of Law, Geddes returned to northern Nevada for a clerkship and private practice. In 2007, she joined the Nevada Attorney General's Office, representing a diverse group of state agencies including natural resource and wildlife agencies, mining, military and corrections. In that position, she served State Engineer Jason King and discovered her interest in her home state's water conflicts. When then-Convenor Susan Joseph-Taylor got promoted in 2013, Geddes joined the office as Chief Hearing Officer.

Geddes thrives on her water work, which offers the challenge she seeks. She finds fulfillment in the complexity of the science, law, growing demands, limited supplies, and the state and communities she serves. Nevada's drier hydrology makes its water conflicts a constant in state agency activity and legislative debate in her region. She hears water cases large and small, urban and rural, and from all parts of Nevada.

Dividing the Waters offers Geddes the resources she needs to address the evolving water conflicts in Nevada. She uses conference materials, but has found her connections with water judges in other western states the most helpful. "Just hearing from and speaking to individuals from other states at the conferences helps me to know we are not alone in our state in these challenges, and that others are trying to work through the same issues." After attending the last three conferences, the recent one at Baylor has become her favorite, particularly the modeling segment and the field day seeing how Texas deals with its groundwater.

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