Join *Dividing the Waters* at Baylor (Texas)  
**November 1-4, 2017**

Registration Opening Soon for Texas *DTW* Conference  
*Dividing the Waters* hopes to open registration soon for the November conference at Baylor Law School. Stay tuned in the coming weeks for a special e-mail, which will provide a link to the registration webpage. For planning purposes, it would be helpful to know about your plans to participate as soon as possible, including whether you will need a scholarship to pay for your travel expenses.

**Texas: “Accommodation” Doctrine for Groundwater**  
The Texas Supreme Court held, in *Coyote Lake Ranch v. City of Lubbock* that an owner of groundwater severed from the surface estate must accommodate an existing surface use.

Coyote Lake Ranch lies in the Texas panhandle above the Ogallala Aquifer. The Ranch severed its groundwater from the surface estate and sold it to the City of Lubbock in 1953, subject to a reservation for the ranch’s water needs. The deed expressly granted the City broad rights to use the surface to drill wells to explore and pump groundwater.

In 2012, the City announced plans to expand its groundwater pumping from the ranch, with 20 new exploratory wells and 60 additional wells spread across the Ranch. The Ranch objected that drilling activities would increase erosion and injure the surface unnecessarily. The Ranch sued the City and obtained a temporary injunction to stop the drilling program.

The Texas Court of Appeals reversed the trial court and dissolved the temporary injunction. It rejected the Ranch’s argument that the “accommodation doctrine” from Texas oil and gas law applied, requiring the groundwater owner to accommodate the surface owner’s existing uses. It held that the accommodation doctrine did not apply to groundwater.

The Texas Supreme Court reversed the appellate court, holding for the first time that the accommodation doctrine applied to groundwater owners, as it did to owners of the mineral estate. It held that the “accommodation doctrine applies to resolve conflicts between a severed groundwater estate and the surface estate that are not governed by the express terms of the parties’ agreement.” The Court remanded to the trial court for further proceedings as to accommodation.

Comparing Stream Adjudications to Bankruptcy  
Check out this [2015 article](http://www.ucdavislawreview.org/2015/articles/162.php) in the UC Davis Law Review comparing general stream adjudications to bankruptcy proceedings and recommending reforms.

**In Focus: Water Court Referee Susan Ryan (Colorado)**  
Susan Ryan recently achieved what many a young Colorado water lawyer aspires to become – part of the Colorado water court system. Of course, her 2016 appointment as Water Referee for Division 5 in Glenwood Springs comes as no surprise to our members. She clerked for now-retired Colorado Supreme Court Justice – and *DTW* Convener – Greg Hobbs. Serving as Editor-in-Chief of the Water Law Review at the University of Denver set her on the path to join the ranks of leading water judges in *Dividing the Waters*.

Ryan grew up in rural Pennsylvania, where a lack of water wasn’t much of an issue, but she did gain an understanding of the importance of land use. The water world attracted Ryan when she moved to Colorado to attend college in Boulder. As a journalism major at University of Colorado, she began to appreciate water’s part in the Colorado story. In law school at the University of Denver, Ryan focused on water law, joining the Water Law Review and going to the ABA Water Law Conference in 2004. She went on to join one of Denver’s leading water law firms – Ryley Carlock & Applewhite – where she became a partner and earned the “Rising Star” honor from SuperLawyers.com. Ryan recently chaired the ABA Water Law Conference and co-taught a water court practice seminar class with Justice Hobbs at her alma mater.

With less than one year in service, Ryan already has received public attention for one of her water decisions, finding it legal to issue a water right to grow marijuana. The issue was whether a water right could lawfully be appropriated under state law, if the ultimate beneficial use, marijuana cultivation, is illegal under federal law. Ryan concluded: “Establishing a valid appropriation does not require an analysis of the legality of the subsequent use of the water right. Because water-right appropriations are governed exclusively by Colorado law, there is no conflicting provision in the CSA.”

Accepting the appointment to Division 5 meant moving her family from Boulder to the Roaring Fork Valley, in the Colorado River Basin of western Colorado. With a husband and young children, she still tries to find time to enjoy the Rockies all around her by skiing, running and hiking.