



A resource for judges resolving water conflicts

Alf W. Brandt
Executive Director



THE NATIONAL
JUDICIAL COLLEGE

Hon. Benes Z. Aldana (Ret.)
President

The Network Note July 2017

Let Us Know You're Coming! **DTW Registration Now Open** **November 1-4, 2017**

Texas Chief Justice Hecht Will Offer Keynote Address

After meeting with Justice Greg Hobbs, Texas Supreme Court Chief Justice Nathan L. Hecht agreed to offer the keynote address at this fall's *Dividing the Waters* conference at the Baylor law school. He will speak at the May 2 dinner.

Help Ensure Diversity in State Water Perspectives

With groundwater conflicts emerging in states across the West, *Dividing the Waters* is working to ensure that judges from all western states can attend this year's conference in Texas. Ensuring that diversity of experience will require knowing *early* who plans to attend, so the Program can invite judges from other states. Registration does NOT require immediate payment, allowing for applications for travel-cost scholarships. Sign up [here](#) today!

NM Federal Court Issues Final Decree in *Aamodt* Case

After 51 years of water rights litigation, federal Judge William Johnson (D.NM) issued the final decree in *New Mexico v. Aamodt*. The decree adjudicates water rights among four Indian pueblos and non-Indian residents in the Pojoaque Basin in northern Santa Fe County, tributary to the Rio Grande.

The *Aamodt* litigation has a long history of disputes, decisions, appeals, and settlements. The order reflects that history. It incorporates a 1986 decision on federal proprietary water rights and a 2012 settlement of four Pueblo Indian tribes' water rights claims. It recognizes previously approved sub-files on non-federal claimants' water rights, and references a summary submitted by the State of New Mexico. With an acknowledgement of the 51-year litigation history, Judge Johnson concludes that "there is no just reason for delay" in the entry of this final judgment.

The timing of this final judgment complies with a federal deadline to provide funding for water projects arising out of a settlement that Congress approved in 2010. State and local agencies also will contribute to paying water project costs. That settlement, however, does not resolve all local party objections to the final decree. Non-federal claimants who had objected did not indicate immediately whether they would appeal the final judgment.

Texas Visit Shows Judicial Need for Water Education

Colorado Supreme Court Justice Greg Hobbs (Ret.) and *DTW* Executive Director Alf Brandt visited Texas, to meet with judges and lawyers, and learn about the state's water litigation. These meetings offered insight into Texas' emerging conflicts over groundwater and its cities' efforts to develop new water supplies for their citizens and further economic development. Stay tuned for further updates from Justice Hobbs.

In Focus: Jon Niermann (Texas Comm. on Env. Quality)

When Greg Hobbs and Alf Brandt recently visited Texas, Jon Niermann impressed them immediately. After an e-mail introduction a few days earlier, Niermann had reviewed his visitors' biographies and asked questions as they sat down for lunch. He showed a judge's talent of preparing for trial, seeking to understand the issues and ask the right questions.

Since 2015, Niermann has served on the Texas Commission on Environmental Quality (TCEQ), where he addresses a range of environmental issues, including the air quality issues that he worked on while he served in the Texas AG's office. At TCEQ, his portfolio has expanded to land and water (quality and supply). His interest in understanding water conflicts, in Texas and across the West, is obvious.

Niermann began his career in environmental regulation before law school, as an environmental manager for a manufacturer in Oregon, resolving its environmental violations. He moved on to the University of Oregon law school in Eugene. With a JD and MBA in hand, he moved to Austin to work for Baker Botts' environmental practice group.

Public service called Niermann to the Texas AG's Office, where he worked on a range of environmental issues, mostly related to Clean Air Act litigation. He also led the AG's Environmental Protection Division and served as Texas' lead negotiator on the *Deepwater Horizon* litigation.

In his current role as TCEQ commissioner, Niermann has applied his "core regulatory philosophy: the combination of industry and agency perspectives, along with the input of all Texans—whether individuals or environmental groups—leads to positive environmental outcomes while also promoting Texas' economic vitality," according to his TCEQ profile.

Niermann grew up in California and attended UC Santa Barbara. He now lives in Austin with his wife and daughter.

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