

## The Network Note August 2024

### Webinar on Navajo Water Rights Settlement September 12, 11 AM PDT

Hear the latest on the Colorado River, from the Navajo Nation's water rights settlement with the State of AZ!! *Dividing the Waters* Convener John Thorson will lead a conversation between the [Navajo Nation's Bidtah Becker](#) and [AZ DWR's Tom Buschatzke](#) about the settlement and its implications for the Colorado River. [Register today!!](#)

### SAVE THE DATE!

### 2025 DTW Conference: September 3-6, 2025

#### SCOTUS: TX-NM Settlement Rejected, Due to Feds

The US Supreme Court rejected the settlement of TX and NM in their original jurisdiction case under the Rio Grande Compact, based on the US objection that the consent decree would dispose of federal claims against NM under the Compact. In *TX v NM*, the Court sustained the US exception to the Special Master's report recommending the settlement.

Competing claims to the waters of the Rio Grande date back more than a century. In 1906, the US signed a treaty with Mexico promising to provide 60,000 acre-feet of water each year. The US Bureau of Reclamation built Elephant Butte Reservoir 100 miles north of the NM-TX border to deliver that water. The Rio Grande Project also delivered water, pursuant to the "Downstream Contracts," to two irrigation districts, in NM and TX. In 1938, CO, NM and TX entered into a compact approved by Congress to divide the waters, relying on the operation of the Rio Grande Project.

Since the Compact, farmers downstream from Elephant Butte substantially increased groundwater pumping. In 2013, TX filed a complaint that pumping reduced water reaching the border. In 2018, SCOTUS allowed the US to intervene in the interstate original action because the US "has an interest . . . consistent with the Compact's terms." TX and NM then sought approval of a consent decree settling the action, and the US objected.

SCOTUS held that a consent decree cannot dispose of valid claims of non-consenting intervenors, analyzing US claims. It rejected the states' argument that US would unfairly expand the case and US could litigate claims against NM in lower courts. Dissent objected that the Court's opinion expanded original jurisdiction intended for interstate conflict and reversed long-standing deference to states on water.

### Webinar on *TX v NM* SCOTUS Decision

*Dividing the Waters* will convene a webinar discussion of the recent SCOTUS decision in *TX v NM*, at 10 am PDT on **October 3**. Moderated by Steve Snyder, it offers discussion with law professors Buzz Thompson (Stanford) and Burke Griggs (Washburn). [Register today!](#)

#### In Focus: Court Staff Attorney John D. All (WA)

When you review John D. All's 2023 letter applying to be a water referee for the Whatcom County Superior Court (WA) in the Nooksack River basin, you have to wonder, "What took you so long?" His whole life seems to have prepared him for assisting the court on water disputes.

In childhood, All spent time on farms, working with his father (U of GA ag professor). He saw how rainfall could make or break farms. At Duke, he studied pre-law and environmental science. He got a JD at U of GA and then went to U of AZ for a PhD in geography and regional development "because I felt that effective environmental law required an understanding of law, science, and policy." For many years, he taught at universities and did research in water science, law, and management, as far afield as Peru, Nepal, Botswana, and Kentucky. [His website as a mountaineer](#) shares his adventurous story, including falling into a 70-foot deep crevasse.

All's more recent law career seems relatively mundane, but his life story nevertheless leads to water judging. Since 2019, All has summited Mt. Lhotse (Earth's 4th highest peak, near Mt. Everest), lawyered in both GA and WA, and started work for the Whatcom County Public Defender, in 2020. When the court appointed him in 2023, he found his true niche in the judiciary. Working on the Nooksack River water rights adjudication draws on his vast experience and expertise in water law, science, and management and is seemingly the perfect fit.

This year, All's judicial water experience came together. The WA Legislature passed water adjudication legislation. WA filed its adjudication on the Nooksack. Two weeks later, All participated in his first *Dividing the Waters* conference, on the Great Salt Lake, gaining insight into an inland watershed. He found engagement with DTW water judge colleagues the most intriguing. "When I got home, I told my colleagues it was like going to a Star Wars convention – only instead of R2D2, we nerded out over water cases". He looks forward to "engaging with y'all in the years ahead."

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