

Sent: Friday, January 11, 2008 3:41 PM
Subject: Supreme Court Water Committee

Members of the Water Bar

As most of you are probably aware, the Chief Justice has appointed a special Supreme Court Water Committee charged with exploration of various issues pertaining to water law and proceedings. Justice Hobbs is the chair of the committee. I am the representative of the water judges on this group. There are various water lawyers on the committee as well, and some of them appear in Water Division 3 on a regular basis. The actual charge and full membership of the committee are listed below. The Court website also contains various documents related to the committee work.

<http://www.courts.state.co.us/supct/committees/waterctcomm.htm>

Justice Hobbs has appointed several subcommittees including one on expert witnesses. Justice Hobbs has named David Robbins as chair of this subcommittee and Bill Hillhouse is also a member. Bill Paddock is not a member of the committee, but I understand the water bar has asked him to monitor the committee work. Justice Hobbs has appointed me to the committee as well. Other members of the subcommittee are Andrew Jones, Hal Simpson, and Doug Clements.

This subcommittee will address issues and suggestions identified in the Mariam Masid Phd Thesis which has been circulated fairly widely and other concerns regarding expert witnesses. It will not involve discussions of issues in pending cases that would constitute an ex parte communication.

Before the subcommittee begins meeting, I thought that I would inform the water bar here in Water Division 3 that I have been asked to serve on this subcommittee with some of your colleagues. This is a very important committee for all of us. If any of you wish to express ideas concerning the organization and functioning of our water courts to the committee as a whole, or wish to share thoughts on the use of expert witnesses, I will be happy to convey your ideas and concerns. By the same token, it seemed appropriate to share my participation in

the committee and subcommittee with all of you before the work begins.

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Charge to the Committee (from press release of Colorado Judicial Branch announcing appointment of the members of the Water Court Committee of the Colorado Supreme Court):

“Water resource and usage issues are of utmost importance to all Coloradans,” Chief Justice Mullarkey said. “I have empowered a committee of the court to review water court processes and identify ways in which we may improve them.”

Starting in 1879, the Colorado General Assembly assigned state courts the authority to adjudicate the priorities of water rights. In a major reform, Colorado’s Water Right Determination and Administration Act of 1969 established seven regional water courts with direct appeal to the Supreme Court.

Justice Greg Hobbs, who was appointed to chair the committee, said during the past year, several organizations and reports have suggested that the Supreme Court examine possible methods of streamlining water court processes.

Joining Justice Hobbs on the Water Court Committee will be:

- Water Judge O. John Kuenhold
- Water Referee Lain Leoniak
- Justice Michael L. Bender
- State Court Administrator Jerry Marroney
- Retired Water Judge Rebecca Kourlis
- Ms. Casey Shpall, Office of the Colorado Attorney General
- Ms. Alexandra Davis, Deputy Director for Water, Colorado Department of Natural Resources
- Mr. Dick Wolfe, State Water Engineer
- Mr. Steve Witte, Division Engineer, Water Division No. 2

- Ms. Jennifer Gimbel, Executive Director, Colorado Water Conservation Board
- Mr. Robert Sakata, water rights owner and user
- Mr. Bill Trampe, water rights owner and user
- Mr. Doug Clements, practicing water engineer
- Mr. Hal Simpson, practicing water engineer
- Ms. Sherry Caloia, water attorney
- Mr. Mark Hermundstad, water attorney
- Mr. Andy Jones, water attorney
- Mr. David Robbins, water attorney
- Mr. Michael Shimmin, water attorney
- Mr. Jim Witwer, water attorney

“I am confident this committee will work hard over the coming months to identify the issues most critical to the fairness and efficiency of the water court process, and make appropriate recommendations,” Chief Justice Mullarkey said. The Water Court Committee is charged with reviewing the water court process; identifying possible ways through rule and/or statutory change to achieve efficiencies in water court cases while still protecting quality outcomes; and ensure the highest level of competence in water court participants. Under the Chief Justice’s order, the committee cannot alter or impair existing water use rights of any public agency or private person.

The order requires the committee to make its recommendations to the Chief Justice by Aug. 1, 2008. The Chief Justice will then make the report available to the Colorado General Assembly and Governor Bill Ritter.