

## **Rule 10.5. District court water judges.**

### **Intent:**

To commission certain district court judges as water judges.

To establish a procedure whereby district court water cases are heard by water judges in a fair, just and timely manner.

To appoint a supervising water judge.

To provide for the specialized function of a district court water judge.

To provide for specialized education for district court water judges.

### **Applicability:**

This rule shall apply to district court judges.

### **Statement of the Rule:**

**1. Recommendation of prospective water judges to Chief Justice:** The Nevada Judicial Council shall formally recommend to the Chief Justice of the Nevada Supreme Court **at least** three sitting district court judges who voluntarily apply to serve as water judges.

(a) In making the recommendation, the Judicial Council shall consider the knowledge, education and experience of the judge in relation to cases involving water law, the adjudication of water rights and other water related issues, and the willingness of that judge to receive specialized continuing education in the area of water law as proscribed by the Supreme Court.

(b) The Judicial Council shall recommend **at least** one district judge from: (1) the 2<sup>nd</sup> and 8<sup>th</sup> judicial districts; and, (2) the remaining judicial districts of the state.

**2. Commission as a district court water judge:** Upon the recommendation of any district judge by the Judicial Council, the Chief Justice shall review the prospective district judge for assignment in the specialized function as a district court water judge. The Chief Justice shall, within 30 days of receiving the recommendation from the Judicial Council, approve or decline the recommendation. Upon approval, the Chief Justice shall issue a commission, under seal of the Supreme Court, to the district judge assigning the judge as a district court water judge with statewide jurisdiction to decide cases relating to water law in all of the judicial districts of the state. The commission as a district court water judge shall remain in effect so long as the district judge remains in office or is not otherwise decommissioned by the Supreme Court.

(a) A district court water judge may resign their commission as a water judge without resigning their position as a district judge.

(b) Water judges shall serve only so long as they are district court judges with the following exception(s):

(i) The Chief Justice may extend the service of a retired district court water judge as a senior district court water judge on actions previously assigned to the retired district judge while sitting as a district court water judge; or,

(ii) Upon a conflict or stipulation of the parties, the Chief Justice may designate a senior district court water judge to an original action.

This rule shall not prohibit senior district court water judges from serving as special masters or settlement judges when so designated by the presiding district court water judge or district judge.

**3. Assignment of cases to a district court water judge:** Assignment of cases involving water law to a water judge shall be made on a random basis.

**3.1** A water case shall be transferred to a water judge in the following circumstances:

(a) Upon request of a party to the case when the party makes such a request as part of the complaint filed or the first responsive pleading;

(b) When the judge originally assigned has a peremptory challenge filed in the case;

(c) When the matter relates to vested water right adjudications; and,

(d) When the matter relates to stream and river right adjudications.

**3.2** A water case may be transferred to a water judge in the following circumstances:

(a) Following the initiation of the case, upon stipulation of the parties and approval of the district judge presiding over the case; or,

(b) A request to have the case assigned to a water judge may be granted at any time in the discretion of the judge assigned to the case.

**3.3 Peremptory Challenge of a district court water judge.** A peremptory challenge to a district court water judge must be made within 14 days of Notice of Assignment of that water judge.

**4. Supervising Water Judge.** The water judges shall elect one of the water judges to be the supervising water judge. The term of office of the supervising water judge is two years beginning July 1. The supervising water judge shall be primarily responsible for:

(a) The assignment of water law cases to water judges;

(b) The coordination of schedules of water judges and the assignment of courtrooms and facilities in the appropriate venue in conjunction with the court clerks/court administrators and the presiding judge of the district court;

(c) Addressing concerns of water judges, other district court judges, the Judicial Council, and the Supreme Court regarding the management of district court water law cases;

(d) Overseeing the water law education and ensuring compliance with any educational requirements of the water judges provided by the Supreme Court, in conjunction with the Education Committee of the Judicial Council and the Education Division of the Administrative Office of the Courts;

(e) Presiding over meetings of the water judges;

(f) Recommending to the Supreme Court, following consultation with the water judges, the establishment of any procedural rules necessary for the fair, just and timely disposition of water law cases;

(g) The use of law clerk resources to develop water expertise, to assist the water judges, and to facilitate consistency in the development of case precedents in the water law area and otherwise assist in the transition as new water judges are commissioned; and,

(h) Coordinating with the Supreme Court and the Administrative Office of the Courts to implement an appropriate budget to accomplish the purposes of this rule.

**5. Workload of district court water judges.** Water judges shall continue to hear non-water law district court cases in their judicial district as assigned to them through the varying processes of the judicial districts. In the event a water judge needs assistance to adjudicate non-water cases due to the workload of water law cases assigned, the Supreme Court shall designate a senior judge to aid and assist the water judge in adjudicating such matters timely.

**6. Opinions and Orders of district court water judges:** If a water judge decides a water law case of first impression, or one which creates new law or gives new guidance, the water judge shall cause an opinion/order of the case to be published. A published opinion/order of a district court water judge may be cited to for persuasive authority on the issue therein. An opinion need not be published where the case deals with settled rules of law.