

District Court Water Judges

This rule provides for the specialized education and appointment of district court judges adjudicating Nevada water law cases in a fair, just, and timely manner.

Rule _____. **District Court Water Judges.**

- 1. Water Law Cases defined:** As used in this rule, a “water law case” is a case filed in the district court relating to a petition for judicial review or action pertaining to an adjudication of pre-statutory claims of vested water rights brought pursuant to NRS 532 through NRS 536.

- 2. Appointment of district court judges to water law cases by the chief justice:** Pursuant to Nev. Const. art. 6, § 19, as the administrative head of the Nevada court system, the chief justice shall assign district judges to adjudicate water law cases within their judicial district or to adjudicate such cases in other judicial districts.
 - (a) In making the appointment, the chief justice shall consider:
 1. the knowledge, education, and experience of the district court judge in relation to cases involving water law, the adjudication of water rights, and other water related issues; or
 2. the judge’s participation in specialized continuing education in the area of water law as proscribed and approved by the supreme court.
 - (b) A district court judge shall seek appointment to adjudicate water law cases by submitting a written application on a form approved by the supreme court. The approved application form shall be available at the supreme court clerk’s office. The supreme court may refer an applicant to the administrative office of the court for investigation into the education and background qualifications of the applicant necessary to satisfy section (a)(1) above.

¹**Nevada Constitution Art. 6 § 19**

1. The chief justice is the administrative head of the court system. Subject to such rules as the supreme court may adopt, the chief justice may:
 - (a) Apportion the work of the supreme court among justices.
 - (b) Assign district judges to assist in other judicial districts or to specialized functions which may be established by law.
 - (c) Recall to active service any retired justice or judge of the court system who consents to such recall and who has not been removed or retired for cause or defeated for retention in office and may assign him to appropriate temporary duty within the court system.
2. In the absence or temporary disability of the chief justice, the associate justice senior in commission shall act as chief justice.

3. Filing and assignment of a water law case. Upon the filing or first responsive pleading of a water law case, a party to the action shall inform the court that the case must be assigned to a district court judge within the judicial district appointed to adjudicate water law cases. In the event no district court judge within the district has been appointed to adjudicate water law cases, the chief justice shall assign a district court judge qualified to adjudicate water law cases to hear and decide the case. In any event, the case shall be adjudicated in the district in which the action was filed subject to any separate determination of venue.

4. Assignments and Reporting. Assignment of cases involving water law to a water judge shall be made on a random rotating basis.

4.1 A water law case **shall** be transferred to a water judge when the matter relates to a petition for judicial review or action arising under Title 48 of the Nevada Revised Statutes or pertaining to an adjudication of pre-statutory claims of vested water rights brought pursuant to NRS 532 through NRS 536.

4.2 A water law 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;
- (b) 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 and the request is approved by the presiding district judge; or
- (c) The presiding district judge, in their discretion and after consultation with the parties, finds that a water judge is better suited to preside over the case. A request to have the case assigned to a water judge may be considered and granted at any time in the discretion of the presiding district judge.

4.3 Each judicial district shall provide an annual report to the supreme court as proscribed in the Uniform System of Judicial Reporting that describes the filings, assignments to district court judges, dispositions, settlements, and such other information as may be necessary to describe the adjudication of water law cases.

- 5. Peremptory Challenge of a district court water judge.** In those instances where one of the water judges is peremptorily challenged pursuant to [SCR 48.1](#), or recuses or is disqualified, the case shall be assigned to another water judge. If all water judges in the judicial district are ineligible to sit, then the case shall be assigned by the chief justice to an appointed water judge from another judicial district.
- 6. Posting Decisions.** If a water judge files a final order or judgment in a water law case, the water judge shall cause the order or judgment to be transmitted to the administrative office of the courts and the state engineer for posting on the website. Such an order or judgment may be cited for persuasive authority in future proceedings.
- 7. Term.** Water judges shall serve only so long as they are district court judges and continue to satisfy educational requirements approved by the supreme court. Water judges may, however, resign their special assignment as a water judge, at their own request or the request of the chief justice, while still serving as district court judges.
- 8. Caseload.** If a water judge does not have a full workload of water law cases, the judge shall hear non-water law district court cases to maintain a full workload of cases.
- 9. Venue.** Nothing in this rule affects venue.
- 10. Review.** This rule implements a pilot program for at least two years. Within 36 months of the effective date of this rule, the supreme court shall conduct a review of this rule and the use of water judges to adjudicate water law cases.