

Judge Bonnie Sudderth

From: Nathan Hecht
Sent: Monday, April 4, 2022 11:10 AM
To: Judge Bonnie Sudderth
Subject: RE: Thank You and A Question
Attachments: Pages from CCJ MY 2022 GBM Materials Book.pdf

Thanks for going to the NJC, Bonnie. Keith Fisher has been singing your praises.

A little history. In January 2020, there was a big climate/conservation/environment conference in Honolulu. Hawaii CJ Recktenwald was a principal host, and CA CJ Cantil-Sakauye was a speaker. After that, CJ Recktenwald proposed a new joint committee of the Conference of Chief Justices and Conference of State Court Administrators (CCJ/COSCA). After study, CCJ approved the proposal this past January. The study report is attached.

I think the NJC program grew out of that. The main idea is to provide state courts more resources in handling energy, environmental, and natural resources cases. Now with your work at NJC, I hope you can aid that. I don't think we yet need to undertake a judicial effort, but it would be helpful for you to be a resource to TJC and OCA, as well as the two law schools, and maybe others. So much work like this suffers from being done in silos without communication. CCJ/COSCA would like to make all the states aware of efforts and resources that the National Center for State Courts can organize and support, and if appropriate, fund. I hope you can be part of the communication/resource process. I don't want to burden you, but I think that would be a great start.

Thanks for your willingness to attend.

■ Nathan

From: Judge Bonnie Sudderth [REDACTED]
Sent: Thursday, March 31, 2022 10:02 AM
To: Nathan Hecht [REDACTED]
Subject: Thank You and A Question

Chief Justice Hecht,

First, I want to thank you for sending me to the Leadership and Climate Science course at the NJC in Reno earlier this month. I was an excellent conference. I learned a lot and thoroughly enjoyed the process.

I have a question, though. A big aspect of the conference is an expectation that the participants will use the information learned and develop and promote a judicial climate science curriculum or course offering in our state. In the interim between the first session (in March) and the second session (in September), we are tasked with developing a plan with the idea of

implementing an educational course in our state. So, my question is: what is your vision for me in this regard? After I finish up this conference in September, do you want me to spearhead some sort of effort to offer a judicial educational in climate science to the Texas judiciary? Or do you just want me to be a resource if a judicial education agency wants assistance in developing such a course? Either way, do you have a preference as to which agency or agencies I should approach to either promote such a project or to simply let them know that I am a resource if they should desire to provide this educational opportunity? As I see it, the obvious possibilities would be the TCJ or the OCA, and quite, possibly, UT Law or A&M Law (both of which have quite active Environmental Law sections that offer similar courses to attorneys and law students).

Please let me know your thoughts on this. And thank you again for this opportunity.

Bonnie Suddeth

J.D., LL.M.

Chief Justice, Second Court of Appeals
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Texas Bar College
Professionalism Through Education

REPORT of the WORKING GROUP

Recommendation to Establish a Committee to Assist State Courts with Managing Dockets That Involve Energy, Environmental & Natural Resource Issues

In 2020, the Conference of Chief Justices met in Hawaii to discuss various environmental law issues that are increasingly confronting state courts. The results of the surveys from this meeting indicated that the topics covered were well received and informative with requests that the Conference explore other legal and procedural topics in this area of law. Some of the observations and suggestions included:

- Ways in which Chief Justices can take a leadership role concerning management of environmental cases;
- More opportunities to examine practical perspective on litigating environmental cases;
- More opportunities to hear different perspectives on the methodology of adjudicating environmental matters;
- An interest in current trends and topical issues, e.g. U.S. Supreme Court cases;
- Further discussion of current water law and air law;
- Further opportunity to understand the distinctions between states on water law issues;
- More information and discussion concerning the concept of “scientific uncertainty”.

Over the past several years, state courts have played an increasingly significant role in helping to resolve not just environmental disputes but those that cut across a wide-range of closely related and often intertwined issues including air, water and waste, public and private land use, energy, chemicals, justice and equity, infrastructure and transportation. Most of these disputes involve civil actions, but criminal cases are also represented including water contamination, hazardous waste management and disposal, and wildlife trafficking.

The role of state courts in adjudicating state and federal energy, environmental and natural resource (EENR) laws is recognized and grounded in the principles of cooperative federalism and concurrent jurisdiction. Many EENR laws function through cooperative federalism where the federal government sets national standards that states implement within their borders, subject to continuing federal oversight. Further, state and federal courts share jurisdiction over these matters requiring state courts to navigate potential jurisdictional, procedural and substantive issues. In addition to sharing responsibility for implementation and enforcement of federal laws, states have their own robust EENR laws. Thus, state courts play an essential role in adjudicating disputes that embrace state, interstate, and federal law.

To assist with managing the increasing dockets involving EENR issues, some states have established special environmental courts, tribunals or dockets. Judges on courts of general jurisdiction are increasingly confronting an expanding number of cases involving EENR laws.

As state courts continually improve internal processes and procedures, litigation involving EENR issues present unique challenges with opportunities to explore administrative models, evidentiary and expert testimony rules, and case management tools such as the use of alternative dispute resolution to improve court efficiency and streamline delivery of court services. The Chief Justices, as leaders of state courts, have common interests in better understanding the complex issues confronting their courts, and how best to share knowledge, practices and procedures in this area to promote efficiency and justice within their states.