



A resource for judges resolving water conflicts

Alf W. Brandt
Executive Director



THE NATIONAL
JUDICIAL COLLEGE

Hon. Benes Z. Aldana (Ret.)
President

Fundamentals of Water Law & Science **The National Judicial College (Reno) – May 17-18, 2018**

Friday, May 4 (tentative)

11 am PDT Webinar – Fundamentals of Western Water Law – The “Prior Appropriation Doctrine”

Thursday, May 17

8:00 am Welcome and Introductions

- John Thorson (Montana) and Honorable Eric Wildman (Idaho)
Conveners of *Dividing the Waters* Program

8:30 am Fundamentals of Water Law – A Comparative Study

- Apply Prior Appropriation Doctrine and Riparian Rights to Current Water Conflicts
- Evolving Groundwater Laws Across the West and Surface Water Connections
- *Presenters:*
 - Michelle Bryan (University of Montana)
 - Robin Craig (University of Utah)
 - Rick Frank (University of California, Davis)

11:00 am Facilitated Discussions in Small Groups – organized by state

- Discussion Analyzes Hypothetical Situation
- Facilitated by Law Professors and *DTW* Conveners

1:30 pm Water Adjudication Practice: The Many Ways That Water Litigation Arises

- *Getting Started Topics:* Review of Administrative Decisions; Ensuring All Interests Are Represented; Unrepresented Litigants; Organizing the Common Interests/Issues
- *Presenters:*
 - Honorable John Kuenhold (Colorado District Court, retired),
 - Jody Grantham (Colorado State Engineer hearing officer)
 - Todd Votteler (Texas, former federal court special master)

3:30 pm Water Adjudication Practice: Working Through the Issues

- *Case Management Topics:* Organizing the Interests in Groups; Logistics; Special Masters; Referrals to State Agencies/Courts; Preparing Your Water Decision for Appeal; Administrative Review/Deference
- *Presenters:*
 - Honorable John Kuenhold (Colorado District Court, retired)
 - Jody Grantham (Colorado State Engineer hearing officer)
 - Todd Votteler (Texas, former federal court special master)

Dividing the Waters Program
Fundamentals of Water Law & Science Workshop

Friday, May 18

- 8:00 am Fundamentals of Water Science
- *Topics:* Hydrology Fundamentals; Groundwater Flow & Transport; Instream Flow & Fishery Biology; Addressing Climate Change; How Scientists Work in Water Management & Litigation; Uncertainty; Data and Monitoring
 - *Presenters:*
 - Professor Brad Udall, Colorado State University
 - Gary Spackman, Director, Idaho Department of Water Resources
- 10:00 am Adjudicating Science in Water Litigation
- *Topics:* Managing the Science; What Science to Expect (Small vs. Big Cases); Use of Experts (Court Appointments, Committees and Battle of Experts); Administrative Review and Reliance on Agency Science; Professional Standards/Ethics
 - *Presenters:*
 - Honorable Eric Wildman, Idaho District Court
 - Jennifer Gimbel, former Department of the Interior (Water & Science) Official
 - Todd Votteler, former federal court special master (Texas)
- 11:30 am Lunch
- 12:30 pm Federal-State Relationships – Judges, Agencies, Stakeholders
- *Topics:* McCarran Act Adjudications; Legal Deference to States; State Agencies Implementing Federal Law;
 - *Presenters:*
 - Gary Spackman, Director, Idaho Department of Water Resources
 - Jennifer Gimbel, Former Assistant Secretary of the Interior – Water and Science
 - Todd Votteler, former federal court special master (Texas)
- 2:30 pm Judicial-Executive Branch Relationships
- *Topics:* Executive Branch water experts (parties or court assistants), Idaho Experience; Administrative Agencies as Adjudicators;
 - *Presenters:*
 - Gary Spackman, Director, Idaho Department of Water Resources
 - Honorable Eric Wildman, Idaho District Court
- 3:30 pm Adjourn

