Welcome to New NJC President Schmucker

Dividing the Waters welcomes the new NJC President, Chad Schmucker, to our work in water law and conflict. President Schmucker joins NJC from his service as the Michigan State Court Administrator. For more information on his appointment, please see the NJC Announcement.

DTW’s Dan Luecke Decides to Moves On

After more than a decade serving as our Science Consultant, Dan Luecke has decided to take the next step in life and spend more time in the world beyond water. The science panel for the upcoming conference in Oregon will be his last. Luecke has done so much for the Program over the years – from science to fundraising. Dividing the Waters will never be quite the same without Dan Luecke.

PA Supreme Court Overturns Fracking on Public Trust

Just days after Dividing the Waters held its webinar on fracking and water resources, the Pennsylvania Supreme Court struck down the state’s fracking law, in Robinson Township v. Pennsylvania, as a violation of the state constitution’s “Environmental Rights Amendment.”

In 2012, Pennsylvania Governor Corbett signed “Act 13” to promote development of natural gas in the Marcellus Shale, through the new technology of hydraulic fracturing. Act 13 limited local jurisdictions’ zoning authority to regulate fracking. The limitations included an entitlement for drillers to obtain a waiver of setback requirements from streams.

Based on exhaustive analysis of the state’s environmental and legal history, the 162-page opinion held that “several core provisions of Act 13 violate the Commonwealth’s duties as trustee of Pennsylvania’s public natural resources under the Environmental Rights Amendment,” which includes the people’s “right” to pure water. The decision discussed, at length, the people’s environmental rights.

In coming to this conclusion, the court addressed a wide range of legal issues – standing, political question, right to pure water, and the public trust (including a citation to California’s Audubon decision). The court noted that “permitting industrial uses as a matter of right in every type of pre-existing zoning district is incapable of conserving or maintaining the constitutionally-protected aspects of the public environment,” and “economic development cannot take place at the expense of an unreasonable degradation of the environment.”

Oregon Conference Taking Shape – Pre-register Now

Dividing the Waters will convene on May 14-17 at the University of Oregon’s law school in Eugene. This year’s general conference will address the connection between water and land use, with attention to how both change over time. The sessions also will include the role of Indian tribes in land-water adjudications and the challenges of administrative adjudications. If you are considering attending this year’s conference, please tell Rebecca Bluemer@judges.org of your interest, so that you will be among the first to receive the registration materials when they become available.

For travel planning purposes, you may choose to fly into either Eugene or Portland (a 2-hour drive away). Also, FYI, the hotel is only 2 blocks away from the Amtrak station.

In Focus:
New Mexico Judge Lorenzo F. Garcia

When Dividing the Waters Convener Vickie Gabin retired as Special Master in several federal water adjudications, Magistrate Judge Lorenzo F. Garcia succeeded her. Garcia gained appointment based on experience as a special master in a state waters rights adjudication case and 36 years as a judge.

Recognizing the importance of training with other judges and water professionals, Garcia participated in the 2011 Dividing the Waters conference. He found the conference stimulating, enriching and a most valuable experience. “The concept of judges helping judges gain access to information and resources necessary to understanding complex issues, and even more difficult water law, proved to be remarkably beneficial in managing my own cases.”

Garcia is no stranger to litigation or courtrooms. Indeed, he is one of New Mexico’s longest serving judges, with his judicial service dating back to 1978. He has served on the state trial court and the Court of Appeals, with extensive service on the New Mexico Supreme Court as a Designated Justice. He joined the federal bench in 1992, and served as the New Mexico District Court Chief Magistrate Judge for many years.

Judge Garcia is a popular speaker and presenter at national legal conferences, CLEs and workshops. He currently serves on the visiting faculty of the National Advocacy Center at the University of South Carolina. He served for many years as an adjunct professor at the University of New Mexico School of Law’s Clinical Law Program, and has previously served on the NJC’s visiting faculty.

Profile on you? Recent court decision? Something to share? ALFIII@sbcglobal.net