Dividing the Waters Network Note
February 2013

NJC-DTW Board of Advisors Convenes
The newly formed Board of Advisors for the Dividing the Waters Program convened for the first time on February 22 at NJC in Reno. This first Board includes leading water law attorneys from all over the West. NJC and DTW staff briefed the Board on the Program, and the Board discussed the issue of science in the courtroom, as requested by the Conveners.

This Board joins the Law School Network as a support network for the Program. The Board will help raise funding for NJC to fund Dividing the Waters and will advise the Conveners on certain issues when the Conveners seek their advice. Due to ethics rules, the Board of Advisors will remain separate from the Conveners and the judges.

At the first meeting, members showed great enthusiasm for DTW programs, which will make them effective advocates for the Program and judicial education on water disputes. After a presentation from retired Judge John Kuenhold on science in the courtroom, the Board developed recommendations for the Conveners in four issue areas:
- early judicial management of science
- use of tools for incorporating science
- addressing uncertainty in judgments
- judicial education on water sciences
When finished, the Board’s report will be posted on the web.

DTW Co-Sponsors California Water Law Symposium
In January, Northern California law students convened the annual California Water Law Symposium, and Dividing the Waters joined others in co-sponsoring the program. The students had raised the issue of whether California needed water courts like Colorado. Two DTW Conveners, Greg Hobbs and Ron Robie, took opposing positions. DTW member and retired judge Jack Komar joined in the conversation to share alternatives to water-only judges.

From A Colleague in The Network:
Environmental Law Institute: Quality-Quantity Nexus
The Environmental Law Institute recently published an article on the intersection of water quality and water rights. It provides a helpful summary of laws on both water quality and water rights, of both states and the Federal Government. More importantly, it offers ideas of how prior appropriation and the Clean Water Act can complement each other. ELI Quality-Quantity Nexus Article

DTW Mentoring Program Develops
Under the leadership of Convener Vickie Gabin, the Dividing the Waters Mentoring Program got kicked off this month. While judges have long recognized the value of the relationships they develop at our programs, the Conveners decided to act more intentionally to assist newer judges by offering mentors. Some DTW members indicated interest in a mentor or in mentoring as part of last summer’s on-line member survey. The first participants will be determined after conversations with a Convener.

In Focus: DTW Convener Ron Robie
California Court of Appeal Justice Ron Robie’s career in water started 50 years ago, before he went to law school. He was among the first professional legislative staffers hired by legendary Assembly Speaker Jesse Unruh, to staff the Water, Parks & Wildlife Committee. His career continued as a member of the State Water Resources Control Board and Director of the Department of Water Resources. In 1982, Governor Jerry Brown appointed him to the Superior Court.

Robie remained involved in water discussions, although his job as a trial judge did not usually touch on water. When Governor Davis appointed him to the Court of Appeals, he began encountering more water cases. He wrote the landmark 2006 SWRCB Cases decision, explicating California water law as it related to the Sacramento-San Joaquin Delta.

Robie has long appreciated Dividing the Waters programs, attending his first conference in 2003 and joining as a Convener the next year. In reviewing the most recent DTW conference on the groundwater-surface water connection at UC Davis, he commented “The California location was especially significant since California has complex groundwater-surface water relationships. I am certain that judges from all the states found something relevant in the exchanges of experiences.”

Robie hopes to see the DTW network of judges deepen the connections among judges who share in the important work of adjudicating water cases. He has long found the relationships developed with other judges at DTW conferences to offer the most value from the Program.

Have something to share? ALFIII@sbcglobal.net