The Compact settlement agreement.
reductions in groundwater pumping necessary to comply with
injunctive relief.
from both states. It criticized Nebraska for its
"knowing" violation, recommended compensation and against
who examined the facts of the dispute, found Nebraska in
and injunctive relief. The Court appointed a Special Master,
allocation. In 2007, following the first post-Settlement
Court agreed with Kansas, the parties settled the issue in 2002.
settlement agreement under its Republican River compact with
Nebraska had "knowingly failed" to comply with the 2002
recommendations in
Congress had approved an interstate compact on the
Republican River in 1943. In 1998, Kansas sued to bring
Nebraska's groundwater pumping under the Compact's limits
to the extent such pumping depleted streamflow. After the
Court agreed with Kansas, the parties settled the issue in 2002.
The Final Settlement included an accounting procedure that
measured streamflow depletion and therefore consumption
due to groundwater pumping. For the next several years,
Kansas informed Nebraska that it had exceeded its Compact
allotment. In 2007, following the first post-Settlement
accounting period, Kansas petitioned the Court for monetary
and injunctive relief. The Court appointed a Special Master,
who examined the facts of the dispute, found Nebraska in
"knowing" violation, recommended compensation and against
injunctive relief. Both states filed exceptions.
The Court upheld all the Special Master’s recommendations.
The Court begins its analysis with a reaffirmation of its
equitable authority in original jurisdiction
cases, the U.S. Supreme Court upheld its Special Master’s
recommendations in Kansas v. Nebraska. The Court held that
Nebraska had "knowingly failed" to comply with the 2002
settlement agreement under its Republican River compact with
Kansas, and ordered Nebraska to disgorge $1.8 million in
benefits, added to compensation for Kansas’ $3.7 million loss.

How Do You Share the Latest on Water Law Conflict?
Dividing the Waters continues to develop ways for members
of its networks to share information on the latest developments
in water law. This Network Note offers one tool, with case
law, member profiles, and program information. But its value
depends on you and your colleagues sharing the latest news
with us. We’re also on Twitter – @DividingWaters. Help us
serve you and your colleagues better, by sharing your ideas –
and the latest information – with the rest of the network, by
sending them directly to the Executive Director.

SCOTUS: Kansas Wins Disgorgement from Nebraska
Affirming its “equitable” authority in original jurisdiction
cases, the U.S. Supreme Court upheld its Special Master’s
recommendations in Kansas v. Nebraska. The Court held that
Nebraska had “knowingly exposed Kansas to a substantial risk.
DTW Relationship with ABA Environmental Section
In the last few years, Dividing the Waters has expanded its
relationship with the American Bar Association’s Section of
the Environment, Energy and Resources (SEER). SEER has
provided the network with access to its publications, such as the
Year in Review on water resources and water quality. This
month, two DTW members – Judge Johnnie Rawlinson and
Justice Ron Robie – spoke to SEER’s Environmental Law
Conference on making complex environmental cases simple
for judges to understand. In June, Convener Greg Hobbs will
speak at the SEER Water Law Conference in Denver.

In Focus: Terry Dolan (Idaho/Snake River)
Special Master Terry Dolan shares much in common with
Dividing the Waters. He joined the Snake River Basin
Adjudication (SRBA) team as a special master the same year
the Program held its first conference, in 1993. The judge who
appointed him joined John Thorson in founding DTW – SRBA
Presiding Judge Daniel C. Hurlbutt, Jr.

So Dolan’s early participation in Dividing the Waters
programs comes as no surprise. The 1995 conference took
place just up the road from his Twin Falls office, in Sun
Valley, Idaho. His favorite DTW conference remains the one
in Scottsdale, where he learned how best to deal with pro se
litigants. Over the years, he has appreciated DTW programs
for meeting other water people.

As one of three SRBA special masters, Dolan presides over
subcases, taking evidence and reporting to the presiding judge,
who now is DTW Convener Judge Eric Wildman. Before
joining SRBA, he served for seven years as a special master in
the Big Horn River General Adjudication, and as Hot Springs
County District Court Commissioner.

Dolan joined the water world from Legal Aid Services in
Sheridan, Wyoming. Previously, he served in the Judge
Advocate General Corps in the U.S. Air Force in North
Dakota, Thailand and Athens and in private practice in
Bullhead City, Arizona. Dolan went to college and received
his JD from Arizona State University in Tempe. When he
retires from SRBA in June 2015, he plans to continue living
in Twin Falls.

Passing the Torch to the Next Generation
If someone in your courthouse gets assigned a water case,
Dividing the Waters can help. Your introduction of the
Program will help them get access to the resources they need.