The Network Note
March 2016

Dividing the Waters Will Seek to Serve State Needs
The Conveners have decided to lead Dividing the Waters in a new direction to serve the needs of specific states, with support from state agencies. The effort may start with a course on the fundamentals of water adjudication, if the State of Nevada can provide base funding. Other states also expressed interest in the fundamentals course. The general conferences, however, will continue about every 18 months. Program staff will seek funding from states, local agencies, regional foundations, and water law communities to support continued Program services. The Conveners concluded that growing water conflicts expand the need for judicial education on water law and science. DTW cannot stop now.

California: LA Groundwater Adjudication Settles
After 16 years, adjudication of claims to groundwater rights in the Antelope Valley has largely settled. Judge Jack Komar, a Dividing the Waters participant signed the final judgment in December. Landowners that have not previously pumped groundwater indicated, however, that they may appeal the judgment, due to what they consider a “burdensome” 12-step process for them to get future rights to groundwater.

The arid Antelope Valley, north of Los Angeles, includes farming, growing cities, and Edwards Air Force Base. The Federal Government’s participation created issues as to the scope of the adjudication required under the McCarran Act and its claim to reserved rights to groundwater under its sprawling air base, which the judgment established.

Other issues that the settlement resolved included public water suppliers establishing prescriptive water rights and overlying landowners’ right to pump only “native safe yield.” Limits on pumping and a “physical solution” will prevent further aquifer overdraft. The settlement also established future groundwater governance through a watermaster.

In addition to Judge Komar, Justice Ron Robie, one of the Program’s Conveners, spent 10 days mediating the case. Lawyers credit Robie with pushing the parties toward ultimate settlement. Eric Garner, a member of the DTW Board of Advisors, commented that groundwater is the cheapest and most secure water source, so Antelope Valley water users will have to “pump less or pay more to pump.”

Save the Date for the Fundamentals Course – November 14-15, 2016 (Tentative)

Future Programs in Nevada, Texas and Utah
Looking ahead, the Conveners have started sketching out potential plans for programs in the coming years. The fundamentals course, open to all judges, would occur at The National Judicial College in Reno. The Conveners also chose to focus efforts for the next general conference, sometime in Spring 2017, on Texas. Utah judges and their judicial educator also expressed interest in incorporating water law into their regular judicial education programs.

In Focus: Hearing Officer Jody Grantham (CO)
Colorado Hearing Officer Jody Grantham accepted his first job in water law based on his experience as a river rafting guide. After college, the Colorado Attorney General’s Office offered him a job as a legal assistant in the water unit. As a former river guide, “it sounded interesting.”

After 2 years with the AG, Grantham joined the State Engineer’s Office (SEO) as its liaison to the AG. He moved up at SEO, learning hydrology and water law along the way. He became the State Engineer’s special assistant to negotiate water cases, which led him to trying a private practice in mediation, before mediation was widely accepted. He returned to state government, as a mediator at the Department of Human Services.

In 2002, the State Engineer recruited Grantham to come back as his hearing officer. Today, he serves as the hearing officer for both the State Engineer and the Colorado Groundwater Commission. He finds his job extremely satisfying, especially when the Colorado Supreme Court affirms his decisions.

Grantham joined Dividing the Waters just last year and participated in the Spokane conference. He had often heard about the Program but was surprised to learn that hearing officers could join. He found the conference inspiring. “It was a great experience to sit down with judges who do what you do. We’re kind of isolated, so getting to bounce ideas off of other adjudicators was a gift. I had never met Justice Hobbs or Justice Eid in person.”

While he did not go to law school, Grantham’s 30 years of experience in water law gives him the necessary foundation to apply the law to the cases that come before him. Grantham graduated from University of Colorado in political science and got a masters in Organizational Development from Regis University. He lives and works in Denver.