

The Network Note December 2023

Register Now for Terminal Lakes Conference

Dividing the Waters will convene its next full conference in Salt Lake City on May 15-18. Using the Great Salt Lake watershed as the foundation, panels will consider upstream water diversion adjudications, Public Trust Doctrine, water markets, and State efforts to save the Lake. [Registration has opened and can be accessed here.](#)

UPDATES: Supreme Courts Deny *Certiorari*

Two appellate court decisions summarized in previous *Network Notes* will not get Supreme Court review. You may find the case summaries in the identified *Note*:

- **9-22:** SCOTUS denied *cert* to the Klamath Irrigation District for the 9th Circuit decision holding the Klamath Tribes were a required party in the District's suit against the Bureau of Reclamation operations plan.
- **9-23:** CA Supreme Court denied *cert* to Westlands Water District for the 3rd District Court of Appeal Decision denying validation of its contract with the Bureau of Reclamation.

Both cases have implications for the petitioners' future court plans. Klamath Irrigation District will need to include the Tribes in its court cases against Reclamation. Westlands will need to decide how to comply with the court validation requirement in its contract with Reclamation.

NY Times Covers CA Water Rights Law

In recent months, the *NY Times* has published a number of articles on water and water rights. It has a continuing series called "Uncharted Waters," which has covered the lack of groundwater regulation in four states and the loss of groundwater generally. You can find the latest article, regarding CA water rights, here:

[Who Gets the Water in California? Whoever Gets There First](#)

Colorado River Update: River Users Conference Convenes

River conditions have improved. Two states announced plans:

- **CO:** Colorado River Water Conservation District bought some of the most senior water rights from Xcel Energy. The purchase of rights used by the Shoshone Power Plant will ensure continued downstream flow and prevent someone else buying the rights for consumptive uses.
- **CA:** Water agencies agreed to conserve up to 643,000 acre-feet of water, with the Federal Government investing \$295 M in water conservation, water efficiency, and protection of critical environmental resources

In Focus:

Judge Kathleen Drakulich (NV)

After reviewing her public profile, it comes as no surprise that NV 2nd District Judge Kathleen Drakulich volunteered as one of Nevada's new water judges. As a lawyer for NV Energy, she litigated water, electric and natural gas cases, in which she found academic and intellectual fulfillment. On the bench, she arbitrated a case with water rights dating back to 1840, and enjoyed its complexity and NV history. NV Chief Justice James Hardesty appointed her to the Commission to Study Adjudication of Water Law Cases. When the NV Supreme Court created the water judge program, she stepped forward.

Early life did not provide Drakulich with much experience in water. She grew up in the San Francisco Bay Area. She got her BA from UC Berkeley and a JD from McGeorge School of Law in Sacramento. After graduating from law school, she moved to Reno to clerk in the same court where she now serves. She started her career as a criminal prosecutor assigned to cases that included major felonies.

Eventually, Drakulich transitioned to utilities regulation, litigation, and legislative advocacy for NV Energy. Early in her utility career, its northern division operated the water utility that provided water to the Reno community, drawing on long-standing water rights to diversions from the Truckee River. She parlayed her experience at the utility into private practice at a statewide firm, where she represented local, state, national and international clients in water, gas, and electricity regulatory proceedings. On behalf of her clients, she pursued and completed construction of large commercial and residential communities, as well as renewable and traditional energy facilities. Those projects included procuring water resources for the life of the project.

Last year's Santa Fe conference gave Drakulich an opportunity to rejoin the western water community, in the *Dividing the Waters* network, affirming her decision to be a water judge. She calls herself "the water nerd sitting in the front row," impressed by the Colorado River speakers. She notes that "not one was a B+ speaker. The Colorado River presented a microcosm of the global importance and difficulty in managing water resources that are undoubtedly shrinking." She looks forward to Salt Lake City next spring.

NJC Will Limit Access to DTW Resources in 2024

In 2024, NJC will start limiting access to *Dividing the Waters* information resources to judges in those states that contribute to the new Western Judicial Consortium on Water Law.

Ideas for Network Note? Court Decision on Water? Contact alfb@judges.org