**WSWC Reviews Adjudicating Groundwater**

The Western States Water Council took time at its recent meeting in Idaho to hear from the *Dividing the Waters* team about the Program and its new bench book, *Adjudicating Groundwater*. Convener-Judge Eric Wildman led the bench book discussion and Executive Director Steve Snyder offered the Program’s latest developments. Bench book editor Alf Brandt extended the offer from the Water Foundation to provide the state agencies with hard copies. Brandt invited the state agencies to adopt the book as its go-to resource on groundwater for state agency staff.

**India: Interstate Cauvery River Apportioned**

India’s Supreme Court reapportioned water in the Cauvery River (anglicized from “Kaveri”) between the states of Karnataka and Tamil Nadu, and required the national government to create a bi-state authority to manage the water between the two states.

The Cauvery River (River) dispute dates as far back as 1799, when the British defeated Tipu Sultan and “decorred” the Wadiyar family from ruling the State of Mysore (predecessor to Karnataka). The Court identifies 19th-century water disputes between the Mysore and Tamil Nadu governments, which were subordinate to Queen Victoria. Those disputes led to intergovernmental agreements in 1892 and 1924, relating to construction of reservoirs and irrigation. In 1956, after India gained its independence, the states were reorganized and the Inter-State River Water Disputes Act was enacted.

In 1970, the State of Tamil Nadu asked the Indian government for adjudication of the River. Fact-finding, negotiations, and adjudication continued for more than 30 years. A tribunal issued an award and created a “supervisory committee” in 2007, and Tamil Nadu appealed. After a dispute before the committee, this Supreme Court proceeding began in 2016.

The Indian Supreme Court, after addressing and mostly rejecting claims under the 1892/1924 agreements, held that interstate rivers are a “national asset” and “no State can claim exclusive ownership of such waters or assert a prescriptive right so as to deprive the other States of their equitable share.” Noting international rules for “equitable utilization,” the Court proceeded to apportion “reasonable and equitable” shares, based a set of factors and tribunal factual findings.

**Next DTW Conference at Stanford**

April 10-13, 2019

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**Dividing the Waters Information Resources Available**

After each conference, *Dividing the Waters* archives its conference information resources. In some cases, session videos are available. *(DTW has video, for example, of the 2017 science sessions.)* You may go to the *DTW Resource Page* or contact Alf Brandt to determine whether the resources may be helpful, and then gain access.

**New DTW Bench Book: Adjudicating Groundwater Review by Judge Matthew G. Reynolds (NM)**

If you handle any cases involving groundwater, please read and make room on your bench for this latest *DTW* publication: *Adjudicating Groundwater: A Judge’s Guide to Understanding Groundwater and Modeling*. In less than 100 pages written in a straightforward style, this bench book includes a brief historical perspective of the confluence of groundwater science and law, the fundamentals of groundwater hydrogeology and pumping, and an introduction to groundwater modeling from both a scientific perspective and a judicial perspective.

Here are a few highlights from my first read of *Adjudicating Groundwater*: In Chapter 2, Dr. Thomas Harter of UC Davis uses simple diagrams and clear starting points in his discussion of groundwater science until the reader gets familiar with groundwater terminology on the one hand, but on the other hand realizes the need for an expert or two to understand the groundwater issues the judge faces in a particular case. Dr. Tara Moran of Stanford University takes up the thread in Chapter 3 with a detailed introduction to groundwater modeling: While “uncertainty is at the core of most groundwater modeling analyses,” groundwater models reduce the uncertainties of the unseen groundwater systems. Nonetheless, the many variables and complexities in modeling make “models very difficult to compare and evaluate.” But that is what a judge must do, so *DTW* convener Judge Eric Wildman takes his fellow judges through the process of evaluating groundwater models: “The focus for judges is how to determine first whether a model is admissible, and then to look at the model and the data to weigh the evidence.”

If you don’t have enough room on your bench for one more book, keep *Adjudicating Groundwater* in your library but be sure to copy and laminate Judge Wildman’s very helpful 1½ page Judicial Checklist, Appendix A. In sum, *Adjudicating Groundwater* is a most useful resource for us judges, and I thank the authors, editors and everyone else involved for making it available to us.