



A resource for judges resolving water conflicts

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THE NATIONAL
JUDICIAL COLLEGE

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The Network Note March 2018

PREPARING THE NEXT GENERATION

Fundamentals Workshop: May 17-18 (Reno)

With funding from Nevada and California, *Dividing the Waters* has created a water fundamentals workshop for the next generation of judges who may have water cases, now or in the future. NOW is the time to **ask your presiding judge** about the next-generation judge who will adjudicate water conflicts. You can find the agenda on the [DTW homepage](#) and [register HERE](#) so the next generation can gain from the experience of the *Dividing the Waters* judicial network.

CA: 1st Post-SGMA Groundwater Adjudication Filed

A century ago, when California adopted its statutory structure for administering water rights, it excluded groundwater. In 2014, in the midst of severe drought, the CA Legislature passed the Sustainable Groundwater Management Act (SGMA). The next year, the State streamlined its statutory groundwater adjudication process, at the urging of agriculture. (SGMA exempts basins with existing adjudication judgments.)

SGMA requires local agencies to adopt, by 2020, a plan to make their groundwater basins sustainable. If not or if the plan is insufficient, the State Water Resources Control Board can impose changes to achieve sustainability. With litigation over the SGMA plans expected, some see basin adjudications as an alternative, with judges determining water rights that would set the foundation for the SGMA plan.

Agricultural landowners in Ventura County have filed the first post-SGMA groundwater adjudication case, against Fox Canyon Groundwater Management Agency, the basin's SGMA "groundwater sustainability agency." The landowners complain that the agency already has limited their pumping, so they seek to ensure that the SGMA plan respects their water rights. Their lawyer asserts: "By adjudicating groundwater rights now, the landowners seek to force Fox Canyon's groundwater sustainability plan to protect landowner pumping and make urban water suppliers pay for any future projects that might be needed to ensure water remains available for existing urban development and growth."

The recent legislation deemed groundwater adjudications as presumably "complex litigation," which allows the Chief Justice to assign the case to a judge in one of the state's complex litigation departments in another county. CA judges can expect to see more groundwater litigation in years ahead.

CA/NV JUDGES: No Charge for Workshop

Due to State funding, judges from California and Nevada may participate in the upcoming water fundamentals workshop at no cost and travel expenses may be reimbursed up to \$300. Judges from other states may benefit from a reasonable charge and a travel scholarship. **Send this Note to a colleague!**

DTW Law School Network in Fundamentals Workshop

Idaho Special Master Brigitte Bilyeu remains among the most experienced members of the *Dividing the Waters* network, having participated in the inaugural conference in Scottsdale, Arizona, in 1993. The opportunity to engage with water judges across the West excited her, and she has participated in DTW conferences ever since.

Bilyeu has even deeper roots in water, growing up on a farm in Pocatello, Idaho, where water for irrigation played a critical role in her family's life. As a 9-year-old in 4-H, she gave her first speech at a county fair on protecting Idaho's water. Bilyeu left Idaho for Harvard, to get a degree in economics.

In college, she recognized the connection between water and economics. "Water law is critical to economic development and the environment in both agricultural states and in metropolitan areas. That has become increasingly true as the population increases." She returned to Idaho as a TV reporter and anchor, and then went to law school at the University of Idaho, where she taught speech to undergraduates. She was a litigator in private practice for several years in Boise.

Bilyeu moved to Twin Falls, where DTW Co-Founder Dan Hurlbutt hired her as a special master on the Snake River Basin Adjudication. Bilyeu appreciates the education at *Dividing the Waters* conferences, but it's the relationships that bring her back. The Program has given her lifelong friends as well as connections to other water judges on whose experience and wisdom she relies. This year, she has taken the laboring oar in working with DTW Convener Eric Wildman to write the upcoming *Adjudicating Groundwater* bench book.

Career-long service with the Idaho water court has given Bilyeu a good life. Since the Snake River adjudication finished up, she has worked on the Coeur d'Alene/Spokane River Basin, which *Dividing the Waters* visited in 2015. She and her husband have raised two sons, whose sports activities led to her hobby as a sports photographer.

Recent court decision? Something to share? ALFIII@sbcglobal.net