



A resource for judges resolving water conflicts

Stephen E. Snyder
Executive Director



THE NATIONAL
JUDICIAL COLLEGE

Hon. Benes Z. Aldana (Ret.)
President

The Network Note August 2019

Next Up: *Dividing the Waters* Water Data Workshop?

After a recent presentation on the Colorado Decision Support System for water rights, the Conveners decided to investigate the feasibility of convening a workshop on developing water data systems across the West. (*DTW* “workshops” have fewer participants and focus on a particular topic.) CA passed the “The Open and Transparent Water Data Act” in 2016. **If you have interest or ideas for this data workshop, please contact *DTW* Executive Director [Steve Snyder](#).**

Rights for a River as a “Living Person”

In recent years, governments have recognized the rights of rivers and other waterbodies, to protection and conservation. This recognition has developed through many means – courts, voter initiative, legislatures and constitutions – often arising out of pollution or other environmental problems. Ecuador put rights for rivers in its 2008 Constitution.

Bangladesh offers the most recent example this summer, when its Supreme Court held that all of its rivers will be treated as living entities in a court of law. The July ruling was intended to protect the world’s largest river estuary/delta, which covers most of Bangladesh, where three major rivers converge and empty into the Bay of Bengal.

Earlier this year, **Toledo, Ohio voters** approved an initiative to give Lake Erie rights “normally reserved for a person.” Citizens put the issue on the ballot after suffering water shortages due to toxic algae blooms that seeped into the City’s water supply pipes. When city voters approved the Lake Erie Bill of Rights, upstream farmers sued and their lawyers called the act “an unconstitutional and unlawful assault on the fundamental rights of family farms.”

In **New Zealand**, Parliament granted the Whanganui River the legal rights of a human in March 2017. The indigenous Maori people had fought for the River’s rights since 1873, so the legislation provided 2 guardians for the River in court – one for the government and one for the Maori people.

In other 2017 actions, the High Court of Uttarakhand (**India**) gave legal rights to the Ganges and Yamuna rivers as a “living person.” **Colombia’s** constitutional court awarded rights to the Atrato, a river that flows through the “biodiversity hotspot” of Colombia’s north-western Pacific rainforest.

Enforcement of a river’s rights will depend on who can represent the river in court and the government’s ability to enforce court judgments protecting the river.

Still Looking for State Legislative Updates

If your state legislature passed any water bills in 2019, please contact the *Network Note* editor, [Alf Brandt](#).

In Focus: Joan Marchioro (WA PCHB)

WA Pollution Control Hearings Board member Joan Marchioro has had some connection to legal cases on water since 1996. The Washington Legislature introduced water into her legal career, at least indirectly. The Legislature ordered the WA Department of Ecology, which administers WA water rights, to reduce its backlog of water rights cases. Ecology made 100+ water rights determinations, resulting in 100+ appeals to WA courts. The WA Attorney General’s Office, where Marchioro had served in the Revenue Division, assigned her to a team defending Ecology on those water right appeals. Marchioro served in the AG Ecology Division for the next 16 years, moving from water rights to water quality.

Marchioro joined the WA Environmental and Land Use Hearings Office in 2012, as an administrative appeals judge. The next year, Governor Inslee appointed her to the Pollution Control Hearings Board (PCHB) and the Shorelines Hearings Board. She serves on the PCHB, which hears appeals of Ecology water rights decisions, as presiding officer on some cases. She leads Board discussion and drafts Board decisions. Marchioro serves as the ethics lead for Environmental and Land Use Hearings Office.

A parallel life as a business owner and volunteer has kept Marchioro engaged since the year after she started in water. She and her husband opened South Sound Running in 1997, selling running shoes, apparel and accessories. Their business now has stores in three WA cities. She also has volunteered for a housing nonprofit and Catholic Community Services. She looks forward to expanding her volunteer and business activities when she retires from State service in the Fall.

Dividing the Waters first attracted Marchioro to its 2014 conference in Eugene, Oregon, where she recalls engaging presentations concerning the intersection of land use, water quantity and water quality. Her experience drew her back to *DTW* conferences. “I found the Program’s focus on science, particularly on groundwater, the most helpful in my work reviewing water right permitting decisions.”

Born in Colorado, Marchioro grew up in Washington and went to Whitman College in Walla Walla. After getting her JD from Washington University in St. Louis, she returned to WA to clerk for the Washington Supreme Court.

Recent court decision? Something to share? Contact the *Network Note* Editor at ALFIII@sbcglobal.net