The Network Note
April 2018

OPEN TO ALL:
Prior Appropriation WEBINAR: May 4
In preparation for the upcoming water fundamentals workshop, Dividing the Waters will host a webinar open to anyone interested in learning about the foundation of western water law – the Prior Appropriation Doctrine. University of Utah Professor Robin Craig will lead the webinar, at noon PDT/1 pm MDT on Friday, May 4. Register here.

Groundwater Bench Book Close to USGS Approval
After peer reviews by judges and scientists, editors submitted the Dividing the Waters bench book on groundwater science and modeling to the US Geological Survey for approval of its peer review. The book will be available in the coming weeks.

NM: Appellate Court Approves Navajo Settlement
The New Mexico Court of Appeals affirmed Judge James Wechsler’s 2013 approval of the settlement of the Navajo Nation’s water claims in the San Juan Basin. (See 9/13 Network Note on trial court decision.) Settlement followed years of negotiation by the US, the Navajo Nation and the State of New Mexico, and approval by Congress in 2009.

The appellate court rejected all of appellants’ claims and, in some cases, with critical comments about their contentions reflecting a lack of understanding. As to the arguments about violations of New Mexico law, the Court observed:
This contention, like the Appellants entire appeal, is based on a failure to understand the nature of the relationship between Indian nations and the United States government as well as the structure of federalism. It is compounded by a misconception of New Mexico water law procedure and the role of the New Mexico State Engineer.

The Court also rejected appellant arguments related to the federal Winters doctrine and “practically irrigable acreage” related to federal reserved tribal water rights. It concluded that the district court’s decision on the proper measure of Navajo water was not an abuse of discretion.

In other affirmations of the district court, the decision approved application of the “fair, adequate and reasonable” standard, and the lower court’s procedural decisions. The appellant counsel’s “intemperate” language in alleging willful misconduct by the trial court drew “strong” admonishment from the Court of Appeals “not to advance any such frivolous and unfounded accusations in the future.”

Staff Leadership Transition at Dividing the Waters
Long-time DTW Executive Director Alf W. Brandt has taken emeritus status to return his focus to his day job as Senior Counsel to CA Assembly Speaker Anthony Rendon. He will remain as a Program volunteer, editing the Network Note and assisting the new Executive Director Steve Snyder.

Adjudicating Groundwater Offers Judges Unique Tool
The Program’s new “science” book has a unique quality – a chapter on adjudicating groundwater models by the Program’s own Idaho District Court Judge Eric Wildman. Adjudicating Groundwater’s authors come from UC Davis, Stanford and the Idaho District Court. Editors come from USGS and DTW. While the book’s peer review process required additional months of review and editing, its outcome makes the book a most effective tool for DTW water judges. Workshop participants will be the first to receive hard copies.

“New” Executive Director: Steve Snyder (NM)
While Steve Snyder accepted a “new” appointment as DTW Executive Director, he has a long history with Dividing the Waters. His recent retirement as special master in NM water rights adjudications allowed him to take on the new duties. He will staff the upcoming water fundamentals workshop.

Snyder served for 14 years as special master in general stream adjudications for state district courts of New Mexico. He heard a wide variety of disputes over use of water, in the Pecos, Lower Rio Grande, San Juan and Animas water basins. Prior to becoming a special master, Steve was a commercial litigator and partner of a major law firm in Denver.

Service to Dividing the Waters for Snyder began even before he became a special master. He and a colleague conducted several workshops for the Program in mediation, interest-based negotiation, and complex case management. After his appointment as special master, Steve participated in many Dividing the Waters conferences.

Snyder earned his undergraduate degree and an MBA from the University of New Mexico and his JD from the University of Texas. He lives in Santa Fe. In his spare time, he enjoys visiting pre-historic and historic sites in New Mexico and the greater Southwest. Contact Steve at sesnyder@q.com.

SAVE THE DATES: April 10-13, 2019
Next Conference: Stanford Law School

Recent court decision? Something to share? ALFI@sbeglobal.net
Judicial Education Building, MS 358 • Reno, NV 89557
tel (775) 784-6747 • 800-25-JUDGE (800-255-8343) • fax (775) 784-4234 • www.judges.org/dtw