

The Network Note July 2024

Webinar: September 12, 11 AM PDT Navajo Water Rights Settlement

Dividing the Waters will offer a webinar on the Navajo Nation's recent settlement of its water rights claims with the State of AZ, **on September 12 at 11 AM PDT**. Convener John Thorson will lead a conversation between the [Navajo Nation's Bidtah Becker](#) and [AZ DWR's Tom Buschatzke](#) about the settlement and its implications for the Colorado River. *DTW* webinars will be available LIVE to everyone, but will be archived behind a registration wall. Don't miss it live! [Register today!!](#)

NOTE: All *DTW* webinars will remain available to everyone when the webinar is live, but the recordings may be located behind a registration/password wall.

CA: CPUC Required to Comply with Procedures

The CA Supreme Court enforced procedural requirements for the CA Public Utilities Commission (CPUC), setting aside a CPUC order on water utility rates. The Court held, in *Golden State Water Co v. PUC*, that the law required CPUC to give sufficient notice of a proceeding's issues to allow water companies to advocate effectively for their position.

In order to promote water conservation, the CPUC adopted a rate structure that encouraged reduced water use, in 2008. When water use and revenues drop, the "Water Rate Adjustment Mechanism" (WRAM) provides additional revenue for utilities to operate their system and make a profit. It required water use forecasts in setting water rates.

In 2017, CPUC commenced a rulemaking to review "low-income rate assistance programs for water utilities." The notice identified four issues, including WRAM forecasts and regulatory changes to lower rates for disadvantaged communities. The final CPUC order mandated a shift away from use of WRAM. Water utilities filed suit, complaining that the original scoping memo did not identify elimination of WRAM as an issue.

The Supreme Court set aside parts of the CPUC order. It first rejected a CPUC argument that a 2022 statute mooted the case because it allowed WRAM, finding that the statute did not touch the order, only authorized WRAM. It held that the 2017 scoping memo did not give sufficient notice of the possibility that CPUC might eliminate WRAM to allow utilities to submit evidence. Subsequent CPUC discussions did not cure the initial failure to provide sufficient notice for the water utilities to respond.

SAVE THE DATES! September 3-6, 2025

***DTW* Chooses Missoula, MT as Site of Next Conference**

Dividing the Waters will next convene **on September 3, 2025** in Missoula, MT, in the Columbia River watershed. The U of MT law school will host, and the field trip will visit Flathead Lake.

NEW CONVENER: Judge Stephen Brown (MT)
MT Associate Water Court Stephen Brown has accepted the invitation of the *Dividing the Waters* Conveners to join them, as they prepare to take the Program to MT in 2025. Given history in water, Brown offers a great candidate to join the Conveners.

Brown's awareness of water dates to childhood visits to Grand Coulee Dam. He grew up in Tacoma, WA but his mother was raised, "as a child of the Roosevelt Administration," in eastern WA. She regularly incorporated the region's water facilities into family vacations. He first gained awareness of water law during his childhood, when the landmark "Boldt Decision" recognized tribal treaty rights to a share of the PNW fishery resources.

At Whitworth College in WA, his water interests matured on the science side, as he studied geology, geomorphology and hydrology. At Lewis & Clark law school, he set a path to water, with an award-winning article on mitigating wildlife losses from hydropower development in the Columbia River Basin.

Starting his water law career in Portland, OR, Brown moved to MT after four years. Water comprised much of his MT private practice, serving a wide range of clients. In 2019, the MT Chief Justice appointed Brown as Associate Water Judge, to succeed Judge Douglas Ritter. When Brown applied for reappointment in May, public comments were uniformly positive.

Just after his 2019 appointment, he had the opportunity to join *DTW* at Stanford. He had never heard of *DTW* but Stanford impressed him – the discussions, the colleagues, the field trip to Monterey. His *DTW* experiences helped him understand how water connects to everything else. At the recent Great Salt Lake conference, he saw firsthand the many intricate interconnections between Lake levels and its impacts: fugitive dust, brine shrimp, snowpack, urban development, and tribal wetland restoration.

Brown took an active role in planning the MT conference before he joined the Conveners. In Salt Lake City, Brown responded positively to interest in MT for the next conference. Since then, Brown has identified a range of intriguing issues in the region that feeds the Columbia River, near the U of MT.

Court Decision on Water? Profile on You? Email alfb@judges.org