

Volume 35 Issue 2 *Spring 1995* 

Spring 1995

## America's Water: Federal Roles and Responsibilities

Denise D. Fort University of New Mexico - Main Campus

## **Recommended Citation**

Denise D. Fort, *America's Water: Federal Roles and Responsibilities*, 35 NAT. RES. J. 435 (1995). Available at: https://digitalrepository.unm.edu/nrj/vol35/iss2/8

This Book Review is brought to you for free and open access by the Law Journals at UNM Digital Repository. It has been accepted for inclusion in Natural Resources Journal by an authorized editor of UNM Digital Repository. For more information, please contact <a href="mailto:disc@unm.edu">disc@unm.edu</a>.

## **BOOK REVIEWS**

Rogers, Peter, America's Water: Federal Roles and Responsibilities, MIT Press, Cambridge, Mass. and London, Eng., 1993.

## Denise Fort

Associate Professor of Law, University of New Mexico School of Law

An author who hopes to review the history and challenges of the federal role in water in one volume has assumed an unenviable burden, when we agree with him we commend his ability to organize and present information at a grand scale, but when we disagree with his assertions we wish he had attempted something a bit less grand. The scale of this book makes it work as a primer to which one would send an interested graduate student or an interested citizen, but it is too general in scope to provide much new for the water resources community.

At the outset we alerted that this is not to be a radical critique of the U.S. water policy, nor does the author see much utility in such critiques. "Sudden shifts" are to be avoided; "The present goal of policy reform in the water area, then, should be to achieve coherence in federal water activities with a proper relationship to the states and the nation, and not necessarily to create new policy initiatives." (pps. 7-8). The perspective that pervades the book is that of moderated acceptance of the status quo, and even of water development's colorful past. In a revealing comment, which was not seen as requiring supporting argumentation, we are told, "history teaches that despite a lack of scientific information, the old-time water policymakers generally made wise decisions given the situations they were in." (pg. 46).

Within the parameters established by this creed, much of use is found. Many in the water community will be pleased that the text begins with the hydrological cycle and provides a guide to understanding water availability. A thoughtful and original review of federal attempts at formulating water policy orients the reader to past efforts to articulate water policies. An overview of resource policy and law is succinctly presented, with a subsequent chapter treating relevant economic concepts at more length. The technologies that affect water development are also touched upon. Political imperatives and institutional factors are confidently treated, and pointed observations enliven the text as it marches across basic material.

The most jarring aspects of the book concern environmental policy. The author comes down hard on the side of those who believe that environmental regulations regulations are overly expensive compared to the risks they address. While this is not an unusual position,

the contrary position deserves a fair explication. Instead, one finds assertions such as, "And since human consumption of water is only between one and two liters per day, the animal evidence provides no good reason to expect that chlorination of water or current levels of man-made pollution pose a significant carcinogenic hazard" (pg.43) and "The current emphasis [evidently referring to finding new uncontaminated drinking water supplies or removing chemicals from water], which is encouraged by the federal agencies, is without strong epidemiological evidence of actual human health risks." (pg.73). Providing a discussion of the body of work supporting the need to regulate chemicals in drinking water supplies would have provided the reader insights into why many hold contrary views.

Nonpoint source pollution is appropriately identified as one of four specific areas on the agenda for federal water policy. Yet the section concerning this subject fails to reference the debate that occurred over whether states should be mandated to regulate these sources when the Clean Water Act was amended in 1987 and in recent reauthorization debates. Instead, the lack of a cohesive federal water policy seems to be identified as the key element, with the White House looked to as the entity that can remedy this failing. Cohesive executive branch policies aren't abundant in this area, but the Congress and state governments are more appropriately cited as the bodies that need to remedy our national failure in managing nonpoint source pollution.

For any of these chapters, disagreements over what was included and what wasn't could be had. But, despite the difficulties of doing justice to so much in a single volume, the effort is worthwhile. Water is so central to our existence that it has received the attention of many disciplines. The task of synthesis is made more crucial by this centrality, but is rarely attempted. The product of this effort will be of assistance to those who wish to understand the diverse activities conducted by the federal water establishment.

One would think that the status quo would remain static for some period of time, confirming the wisdom of a book calling for an avoidance of "radical shifts", but in the period since this book was published, new policies have swept the Congress. Environmental policy, which affects such water-related matters as contaminants in drinking water, wetlands preservation, and surface water quality, will apparently be turned about-face by legislation revolutionizing government's ability to regulate private property. The reauthorization of the acts that regulate specific environmental media will no doubt reveal further revolutionary thinking by the 104th Congress. It is less clear whether the Congress will address the traditional practices of water infrastructure financing in the same way. While environmental regulation has well-heeled opponents, the taxpayers of the nation as a whole bear the costs of water subsidies,

and are not lobbying for change. In any event, the political debate is illuminating the large questions that are implicit in water policy in a way that was hard to anticipate before November 1994.