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Contested Waters: An Environmental History of the Colorado River

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BOOK REVIEWS

Contested Waters: An Environmental History of the Colorado River by April R. Summitt (University Press of Colorado; 248 pages; 2013)

In the late nineteenth century, John Wesley Powell suggested the United States draw boundaries of future Western governmental units along river basins.¹ A river-explorer-turned-director of the United States Geological Survey, Powell argued it would behoove both the river and future development to allow the same political entity to govern the entire reach of each river.² Powell was ignored. Now, Western water experts revere him and lament the United States' subsequent creation of squarely-cleaved states, which prioritize local water control over basin-wide management and consequently act against the interests of the rivers upon which each depends.

April Summitt joins the ranks of these admiring academics. She honors Powell's concept by crafting a book that chronicles the entire span of the Colorado River in *Contested Waters: An Environmental History of the Colorado River*. Summitt recounts decades of shifting power struggles between people, states, nations, and nature in the story of "the most litigated and regulated river in the United States." Summitt analyzes the river's tumultuous past by retelling its story through the eyes of a new interest in each chapter—thirsty agriculture, desperate environmentalists, envious states, scheming metropolises, long-ignored native communities, and mistrustful nations.

Yet, much like the river's, Summitt's narrative is a long, winding, and unwieldy history. The segmented narration lurches forward haltingly, disrupting the flow of the story. What *Contested Waters* gains in simplicity it loses to repetition and shortsighted analysis. Each time the story begins anew, the reader must juggle the context from other chapters and the rehashed timeline to complete the picture. Furthermore, so much retelling leaves little room for Summitt to analyze any solution in depth. Consequently, Summitt's choice to partition the river's story limits holistic understanding of this nuanced system due to repetition, lack of context, and insufficient development of potential solutions.

There are few books dedicated solely to the Colorado River from headwaters to delta. Such focus illuminates the bizarre context where comprehensive river management fell victim to "[t]oo much political intrigue and too many state-centered interests." Summitt recounts how

1. William deBuys, *Visions of Western Governance: Powell and His Successors*, 23 J. Land Resources & Envtl. L. 15, 15–16 (2003).

2. *Id.* at 16.

cartoonists portrayed California as a menacing sailor hoarding water rations, and how Arizona jealously guarded her right to the Colorado River, believing the river's water was the state's only path to prosperity. States were not the only ones playing power games. Summit describes politicians trading support for water projects across state lines to please voters, and reveals how Mexico encouraged peasants to farm along the border to legitimize its claims to the river. Summit clearly establishes the river's history as the history of development in the West.

Summit took on this comprehensive chronicle to accomplish three goals: to analyze the complex power relationships that fought over the river's water, to highlight the continuing need and growing application of sustainable use for the river, and to examine Western water law's role in the river's over-allocation. Unfortunately, she misses these goals because she loses the bigger picture by painstakingly tracking each perspective from beginning to present. In her conclusion, Summit seems to apologize that "[t]he story of the Colorado River is as convoluted as it is long, and defining its many rivulets is a complicated process." Unfortunately, her ambitious work feels too cumbersome to fit in a book of less than 250 pages.

Instead, Summit's book seems not to accomplish enough because it attempts to accomplish too much. Summit limits her analysis of the complex power relationships involved in this history by simplifying each interest as a successive linear movement. As such, the reader misses the subtle interplay between interests that makes these relationships so complex. As one interest succeeds, that change causes a ripple effect that positively or negatively impacts every other. By separating each story, Summit misses the opportunity to examine these relationships. For example, Summit retells the contentious construction of the Central Arizona Project ("CAP") in no fewer than seven chapters, each time from a different perspective. She notes that border cities depend on scarce groundwater in Chapter Five. However, she does not explain until Chapter Seven that the CAP canal exacerbated an international pumping war that still continues to threaten already scarce groundwater in cities along the border. By then, the reader has to return to connect the dots and ponder implications for cities, agriculture, and natural habitats along the border. By strictly dividing the story in columns based on interest rather than chronology, Summit misses the interconnections that make water history such a riveting story.

Meanwhile, Summit's discussion of sustainable practices is too short to decipher which actions actually are effective and which are not. Even in her final chapter, originally published as a stand-alone article in 2011, Summit cannot resist retelling the Colorado River's history again, this time through the lens of commercial "water transactions." With only

11 pages left, Summit presents only generalized solutions that actually impact users in starkly different ways. “Water transactions” is a nebulous term Summit uses to include a variety of private water exchanges, from short-term seasonal water loans, called water banking, to permanent in-stream river flows, called water trusts. In the end, Summit arrives at an under-developed conclusion: water transactions are necessary to avoid waste, but must be tempered by government regulation to keep water accessible to all interests.

Summit cannot discuss governmental regulation in more depth because her interest-driven analysis also ignores the evolution of water law in the West. Summit asserts that prior appropriation creates perverse incentives for development, but her examples demonstrate a limited understanding of the doctrine’s evolution over time, such as uncertainty regarding its impact on judicial or congressional interstate allocations,³ exceptions for municipal planning⁴ and public interest,⁵ and continually developing laws surrounding groundwater.⁶

Instead of acknowledging such complexities, Summit casts prior appropriation as a simple villain, responsible for all of the waste and over-appropriation in the Colorado River. Readers may agree with Summit that “there are no easy solutions to the disconnect between . . . prior appropriation law and region wide planning needs.” However, Summit’s limited discussion ignores the historical interplay of disparate interests struggling to claim water even while rules continued to develop. Consequently, Summit’s conclusion is poorly founded.

Still, Summit’s book serves other, important purposes. It is a quick and comprehensive history of one river from its use as the lifeblood for native communities to current attempts to achieve sustainability. Summit presents a remarkable cast of characters that shaped Western development from Colorado to California. New students interested in Southwestern regional water history should read this book. Each chapter provides a quick glimpse of different perspectives on the Colorado River. However, this book is not for those who already have a background in Western water and seek innovative solutions based on a

3. See Robert Glennon & Jacob Kavkewitz, “A *Smashing Victory*”? : *Was Arizona v. California A Victory for the State of Arizona?*, 4 *Ariz. J. Env’tl. L. & Pol’y* 1, 20–23 (2013), available at <http://www.ajelp.com/wp-content/uploads/Glennon-Kavkewitz.pdf>.

4. See Derek L. Turner, Note, *Pagosa Area Water & Sanitation District v. Trout Unlimited and an Anti-Speculation Doctrine for a New Era of Water Supply Planning*, 82 *U. Colo. L. Rev.* 639, 673–76 (2011).

5. See Norman K. Johnson, *A Survey of the Evolution of Western Water Law in Response to Changing Economic and Public Interest Demands*, 29 *Nat. Resources J.* 347, 356–61 (1989).

6. See A. Dan Tarlock, *The Legacy of Schodde v. Twin Falls Land and Water Company: The Evolving Reasonable Appropriation Principle*, 42 *Env’tl. L.* 37, 52–60 (2012).

complex analysis of past dependence on the Colorado River. While Summit achieves a great deal, she also succumbs to the same temptation as the United States when it decided to segment the river into square states in order to draw a simpler map. By segmenting the book based on subject matter, Summit loses sight of the story's complexities and flow. What *Contested Waters* gains in simplicity it loses to repetition and shortsighted analysis, and leaves the reader thirsty for more.

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