

1-1-2000

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Recommended Citation

Reed D. Benson, *Can't Get No Satisfaction: Securing water for federal and tribal lands in the West*, 30 *Environmental Law Reporter* 11056 (2000).

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Can't Get No Satisfaction: Securing Water for Federal and Tribal Lands in the West

By Reed D. Benson

The Environmental Law Reporter

November 2000

Citation: 30 ELR 11056

Issue: 11

In recent years, the western states have often struggled with the federal government over control and management of natural resources, particularly water. For its part, federal law defers to states in many matters of water resource allocation.¹

Reserved water rights are a major exception to this general policy of federal deference to state water law. The reserved rights doctrine provides that when the United States designates land for a particular use, it also claims enough water to fulfill the primary purposes of that designation.² The reserved rights doctrine evolved in the federal courts through the 20th century, beginning with Indian reservations³ and later extending to other federal areas such as national forests and national monuments.⁴ By ensuring an adequate long-term water supply for these public lands, reserved water rights provide vitally important protection for ecological values and other national interests.

The author is Executive Director of WaterWatch, a nonprofit environmental group that works at both state and federal levels to restore and protect streamflows. Prior to joining WaterWatch, Mr. Benson worked with the Land and Water Fund of the Rockies in Boulder, Colorado; the U.S. Environmental Protection Agency in Washington, D.C.; and a private law firm in Colorado. He holds a B.S. in economics and environmental studies from Iowa State University, and a law degree (magna cum laude) from the University of Michigan.

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