Silver Fox of the Rockies, by Daniel Tyler

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analyses of negotiation processes. With hundreds of available treaties, there should be sufficient information on the process leading to these agreements. Naturally such investigations will be undertaken in the context of case studies, yet our hope is that more case studies be taken into consideration. River basins in the Middle East and North Africa, to name just a few, have been written about often. Yet other river basins have been less scrutinized. And it is perhaps the engineers, political scientists, economists, anthropologists, or geographers residing in the respective river basins that are most prepared to provide us with such an analysis. This will in turn strengthen the theoretical underpinnings of the field and provide us with more hypotheses to test, more observations to include, and more conclusions to draw on.

The field of economics is underrepresented in the book literature we reviewed here. This is not to say that either economics is not important or that economists are not interested in international water issues. It is probably a combination of several factors including difficulty in obtaining accurate data and information and the ability to communicate the results to the decision makers in the respective river basins. Therefore, economists should develop models that do not rely on sophisticated approaches, which necessitate accurate data that is probably as scarce as the water in the basin they are investigating. Regardless, economic analysis for identifying conditions for cooperation in various basins is greatly needed. Economic justification of cooperative arrangements and development options is the first step toward the initiation of a negotiation process that hopefully will lead to an agreement.

Too many research paths? It doesn’t look like it to us. With the growing pace of recent publications on shared waters, it seems that soon they will be addressed.

**REVIEWS**


Dan Tyler has provided a well written book that does double duty: it is a biography of Delph Carpenter as well as a discussion of Carpenter’s advocacy of state sovereignty over water. Carpenter’s beliefs and actions serve to illuminate how westerners who distrusted federal control of water felt about water issues during the first four decades of the twentieth century. Today prior interstate compacts seem timeless and immutable but the outcome of the early 1900s water controversies was very much in doubt.

Carpenter grew up just as the prior appropriation doctrine was formally recognized in Colorado. In 1876, one year before Carpenter was
born, prior appropriation was written into the state’s constitution. Unappropriated water was declared to be public property that the state could allocate to those who first made a claim on it. He believed that pioneers who settled the land should be repaid for the risks they undertook by gaining high priority water rights; also, he feared that Colorado would have to send much of “its” water to downstream states.

Delph Carpenter was a Coloradan who worked on water issues for most of his career. We learn the obvious things about Carpenter. His grandparents and parents settled in the Union Colony (present day Greeley, Colorado). He continued to work the family farm while he attended the University of Denver Law School. He graduated in 1899 and was admitted to the Colorado Bar Association. Although he owned a ranch and enjoyed the romanticized life that cowboys lived, he knew he had to make a living from his law practice. Carpenter worked hard on a variety of cases but came to specialize in water law as he gained more experience.

Beginning in 1908, he served four years in the Colorado Senate where he served as the chair of the committee on agriculture and irrigation and led a special committee to investigate interstate allocation of water. He was particularly concerned about decisions and institutions that threatened the state’s water sovereignty. First, a 1907 US Supreme Court case (Kansas v. Colorado) said the federal government could allocate water among states if downstream states were not fairly treated by those upstream. This was a double blow to Coloradans because it called into question their belief that they had the right to all water originating in their state and it suggested that the state did not control water within its boundaries. Second, Carpenter also feared that the Reclamation Service was a threat to state control. The agency had been created to help establish irrigation, assuming that it had the right to use any unappropriated water. This was an anathema to Carpenter who sometimes seemed paranoid about the intentions of the agency.

Although Carpenter supported prior appropriation within the state, he recognized that the doctrine became a double-edged sword if it were applied across states. Downstream states such as California were developing much more quickly than Colorado, and interstate prior appropriation would give them the right to the largest proportion of water in the river. Carpenter was Colorado’s instate streams commissioner, arguing the state’s case when disputes arose. He was the first to initiate compacts as a solution to interstate water disputes. He argued that the compact clause of the Constitution (Article 1, section 10) allowed states to negotiate agreements among themselves that were subject to congressional veto. He firmly believed that compacts would eliminate the need for litigation, were a flexible process to resolve disputes, would help preserve water for future generations and limited
the amount of state sovereignty that states had to give up in order to protect their water rights from other states. To support this position, Carpenter flipped the "equitable apportionment" argument in *Kansas v. Colorado* by saying that upstream states had the right to interstate water even if they were not developing water usage as quickly as California.

In 1921, the Reclamation Service, without consulting Colorado and other upstream states, made an agreement to further investigate building a dam at the Boulder Canyon site and a canal to carry water to the Imperial Valley. Representatives of western states, including Carpenter, met to discuss their concerns. Carpenter drew up a compact to protect the rights of upstream states to develop at their own speed while approving a dam and reservoir for California. He also drafted the bill that Congress passed to create the Colorado River Compact Commission (CRCC).

When Herbert Hoover was appointed chairman of the CRCC, Carpenter and others worried that he was an engineer who knew more about mining than water. In fact, Hoover and Carpenter were to develop a close and cooperative working relationship. When there was great disagreement among the CRCC members about dividing the river's water, Carpenter suggested that 50 percent of the river's water be allocated to upper basin states while the remaining water go to lower basin states. Although members complained about the complexity of language in the compact, Carpenter's allocation scheme and draft compact were the core of the Colorado River Compact. On November 24, 1922, CRCC members signed the compact. Tyler credits Carpenter's leadership as an important factor that enabled the members of the CRCC to agree.

The compact would not go into effect until approved by the river basin states and Congress. For years Carpenter diligently worked for ratification despite health problems that would eventually be diagnosed as Parkinson's disease. When Arizona refused to sign the compact, Carpenter first suggested that a six state compact approved by Congress would solve the problem. Despite this proposal, Carpenter strongly preferred gaining the signatures of all seven states. When he pressed for seven signatures and urged that Arizona be given time to accept the compact, his critics complained that he was inflexible and unwilling to compromise. From 1925 to 1928, Carpenter suffered ill health (including periods when he was unable to speak) that made him more difficult to deal with. By late 1928, Hoover was elected president and Congress passed a law telling the six states they had six months to ratify the compact. By June 1929, six states had signed the compact.

Carpenter turned his attention to the proposed interstate compacts on the Arkansas, Rio Grande, and North Plate rivers and others. He also initiated allocation negotiations among the three upper
basin states of the Colorado River and initiated the idea for the Colorado-Big Thompson project to bring irrigation water into northern and northeastern Colorado. He struggled to accomplish these goals before his health deteriorated but he was only partially successful. The North Platte River compact was not signed during this period.

It was not until 1929 that a temporary compact was signed on the Rio Grande and another ten years before a permanent agreement was accepted. There was no compact on the Arkansas River or agreement among the upper basin Colorado River states until 1948. The Colorado-Big Thompson project, however, was built.

Carpenter's personal fortunes suffered during these years. In 1933, his position as interstate stream commissioner was eliminated by a Democrat governor who sought ways to cut the budget. The expansion of the federal government in the New Deal called into question his advocacy of state sovereignty. Carpenter was left without a job or pension. By 1934, he was consigned to bed for long periods and his active participation in water agreements ended. Delph Carpenter died in February 1951.

How can we evaluate Delph Carpenter's contributions in relation to the larger question of western water policy? He fathered interstate river compacts including the Colorado River Compact; also, he was willing to challenge politicians and judges to create new institutions for western states. He demonstrated his strong belief in performing public service, despite his affliction with Parkinson's disease and limited monetary remuneration. History has demonstrated that compacts are far from the perfect solution to interstate water disputes and Tyler acknowledges this. Nonetheless, for Carpenter, the compacts' greatest advantage was that they provided a flexible way for states to maintain as much control as possible over the rivers that flowed within their boundaries.

Tyler's goal in writing this book was to "tell the story of Carpenter's original contribution to western water compacts...." (xix). He uses Carpenter's letters, diaries, and press accounts, often quoting from them. Silver Fox of the Rockies is an important addition to the literature of water projects and allocation for several of its contributions. First, although readers may be more interested in water policy making than the biography of one policy maker, the book provides a portrait of a man who often struggled to make water policy consistent with his strong beliefs. Carpenter labored at a time when court decisions threatened to negate the principle of state sovereignty and the New Deal signaled widespread acceptance of greater federal power to solve societal problems, yet he persevered. Carpenter was an active policy participant despite a serious illness and financial vicissitudes.
Tyler acknowledges that he admires the man’s accomplishments and the man himself. Carpenter was an optimistic man who tried to bring together public and private actors to use information and negotiation to honestly resolve water dilemmas. Carpenter’s activities required courage and were exemplified by courtesy to others. While Tyler openly acknowledges his admiration for Carpenter and recognizes the criticism that have been made of interstate compacts, Tyler is silent about environmental damage and social inequities that resulted from the water policies that Carpenter championed. For example, Indians simply were not a consideration when the Colorado River Compact was written despite their need for water resources. Thus, Carpenter was the product of his time and blind to equity concerns that we have today.

Second, the biography gives us an alternative to the litigious and legislative approaches that dominate policy making today. Carpenter firmly believed that those with water interests can resolve problems through openness, honesty, and learning about others’ positions. Carpenter would not have been an advocate of the public comment periods and other participation that we have today, but his views are consistent with some of the more successful decision making by watershed councils. This suggests that his contributions were not as time bound as you might initially expect. Third, the book also tells the story from perspectives that often are neglected: the upper basin states and the supporters of state sovereignty over water. This helps us better understand and deal with questions of water allocation and equity even though we may disagree with Carpenter’s solutions. A broad audience will find this book to be of use in understanding how water and other natural resource policy has been made.

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The interdisciplinary study of Ecological Climatology examines the interactions between two very complicated separate components of Earth’s environment: climate, a chaotic system principally governed by radiation and Newton’s laws of physics, and ecology, grounded in the evolutionary principles of biology. Earth sciences such as climate and ecology really became quantitative endeavors only during the second half of the twentieth century. Before then, these complex fields were described using arbitrary classification criteria (e.g., by defining zones of common vegetation or climate), providing no solid scientific foundations