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Char Miller, ed., Fluid Arguments: Five Centuries of Western Water Conflict

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CHAR MILLER, ED., FLUID ARGUMENTS: FIVE CENTURIES OF WESTERN WATER CONFLICT, The University of Arizona Press, Tucson, Ariz. (2001); 354pp; \$45.00; ISBN 0-8165-2061-5, hardcover.

Fluid Arguments examines western water use from a variety of historical perspectives, using ethnography, geography and political science to explore development and distribution of water in the desert southwest, and suggesting legal and political trends for the future. This publication developed out of a 1998 conference on water in the American West, sponsored by the American Society for Environmental History. The conference brought together scholars, citizens and water managers to discuss past water policies, present problems and possible future solutions. Editor Char Miller divides the book into five parts, beginning with land and water conflicts created by arrival of Spanish and Mexican settlers in New Mexico and Arizona around 1530. Subsequent parts discuss Native American reserved rights, the influence of agricultural interests on water law and policy, western water projects from the 1920s to the present, and implications for future water uses in a western service economy.

Part One, *Land and Water on New Spain's Frontiers*, begins with an article by Jesus F. de la Teja, an associate professor of history at Southwest Texas State University. The article details efforts of sixteenth century Spanish colonists to develop agricultural settlements on the borderland between Mexico and what is now Texas. Shelly C. Dudley, a former senior historical analyst for the Salt River Project in Arizona, looks at early irrigation development in south-central Arizona, examining the interaction between Spanish missionaries and the Pima Indians. Dudley suggests that the result was application of existing irrigation technologies to new crops, like wheat and legumes, which increased productivity of Pima lands. However, by the 1860s, the influx of settlers was too great to adequately sustain demands of the Euro-Americans and the Pimas on the area's limited water resources, and the Pimas eventually lost control of their water supplies. Dudley argues without water, the Pimas also lost control over their future. In her article on water rights in the Chamas region of New Mexico, Sandra K. Mathews-Lamb analyzes judicial records from the late twentieth century, concluding many early adjudications of property rights were keyed to water rights. However, many of these records have been inconsistently translated or destroyed, complicating modern determinations of water rights under New Mexico's appropriative system.

Part Two, *The Native American Struggle for Water*, details conflicts between indigenous tribes and non-native settlers for control of limited water resources in the desert southwest and along the Pacific Coast. An article by Bonnie Lynn-Sherow chronicles changing Kiowa perceptions of water from early views of the resource as a supernatural, malevolent force to a contemporary understanding of water as a tool in modern ranching operations. Donald J. Pisani's article on the

federal government's Indian water policy details the largely unsuccessful attempt to assimilate Native Americans into the mainstream capitalist economy. Pisani points out most irrigation projects in the West used Indian labor for construction, but the projects mainly benefited white farmers. Further, Indian uses of water were inconsistent with the prior appropriation doctrine. Thus, Native Americans were unable to perfect either new or existing rights in court. Alan S. Newell, a cofounder and principal of Historical Research Associates, surveys tribal reserved rights and general adjudications in New Mexico under the *Winters* doctrine. This doctrine gave the federal government responsibility for securing water supplies on federal reservations. Newell details the twenty-year court battle of the Mescalero Apache Tribe in New Mexico to resolve contemporary questions involving reserved rights on federal Indian lands. Newell argues that reserved rights under *Winters* implicitly included supplies adequate to maintain existing and future agricultural and stock uses by Indian communities. Daniel McCool, a professor of political science and director of the American West Center at the University of Utah, provides an overview of late twentieth century water right negotiations between tribes, western states and the federal government. McCool suggests that tribes might use their federal reserved rights as a means of regaining control over land and water rights lost in the early twentieth century.

Part Three, *Agricultural Conundrums*, begins with an article by James E. Sherow, an associate history professor at Kansas State University. Sherow discusses western cattle drives of the 1860s to 1880s from an ecological perspective, and argues that the Chisholm Trail can be viewed as a short-lived ecosystem, bridging the gap between early Indian uses of land and water and the present western agricultural landscape. An article by Brad F. Raley, a doctoral student at the University of Oklahoma, details early efforts of private ditch companies to provide water to farmers and ranchers in Colorado's Grand Valley. Raley concludes the engineering and financial complexities of these early irrigation projects led state and federal governments to assist local entities in arid land reclamation. John P. Tiefenbacher, an associate professor of geography at Southwest Texas State University looks at similar efforts in the Lower Rio Grand Valley in the late nineteenth century. Tiefenbacher examines historical land irrigation and fertilization techniques as providing an historical framework for understanding present water contamination problems in the Lower Rio Grande Valley. Thomas C. Schafer, an assistant professor of Geography at Fort Hays University, provides a county-by-county study of cropping practices in southwestern Kansas, linking advances in irrigation technologies to development of more diverse farming practices. John Opie, a founder of the American Society for Environmental History, looks at the transformation of the Dust Bowl regions of Kansas and the Texas-Oklahoma panhandle from a cartographic perspective. Expanding on an argument originally advanced by John Wesley Powell in the late nineteenth century, Opie

suggests that it is time to re-map the American West, designating new boundaries based on the extent and quality of natural resources available to support human needs. Opie concludes accurate representations of existing ecosystems would allow communities to plan more accurately for future development.

Part Four, *Dam those Waters*, focuses on the effects of New Deal Era public works projects on water development in the West. Donald C. Jackson, a teacher at Lafayette College, emphasizes viability of local dam-building projects as alternatives to federally dominated systems of water development. Jackson argues that these projects are not only more cost-effective than their federal counterparts, but are also more responsive to regional water concerns. Mark Harvey, an associate professor of history at North Dakota State University, looks at the continuing environmental and social effects of large-scale western water projects. Harvey points out that these projects provided employment and cheap energy to fuel western development, while at the same time degrading ecosystems, uprooting established communities and changing flows of existing watercourses. Thus, Harvey argues development of western water came at a high social and environmental price. Raul M. Sanchez, Special Assistant to the President for Diversity and Human Rights at the University of Idaho, Moscow, concludes this part of *Fluid Arguments* with an article on Mexico's El Cuchillo Dam project. Sanchez notes the willingness of both Mexico and the United States to tolerate transboundary harms caused by dam projects in the hope of increasing economic and industrial growth. Sanchez contends the harms to individuals and communities on both sides of the border can only be remedied by enforceable, international claims connected with environmental human rights.

Part Five, *The Coming Fight*, consists of a single article by Hal K. Rothman, a professor of history at the University of Nevada-Las Vegas. Rothman suggests that the western economy is shifting away from agriculture and towards service-based industries. Rothman argues that the future of the west lies in water-based tourism, requiring new regional water allocation strategies.

Fluid Arguments brings together a diversity of viewpoints on both past and future sources of conflict in western water law. The content provides a framework for understanding the interplay of social, political and environmental forces shaping water allocation policies in the American West. The content provides invaluable historical perspective to many of the issues facing practicing water lawyers.

Alan Curtis