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George William Sherk, Dividing the Waters: The Resolution of Interstate Water Conflicts in the United States

William H. Fronczak

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GEORGE WILLIAM SHERK, DIVIDING THE WATERS: THE RESOLUTION OF INTERSTATE WATER CONFLICTS IN THE UNITED STATES, Kluwer Law International, The Hague, The Netherlands (2000); 999pp; \$245.00; ISBN 90-411-9819-9, hardcover.

Dividing the Waters is the second text in an international and national water law and policy series. This series focuses on the general nature of interstate water resource disputes within the United States. Sherk intends to give students, administrators, and legislators a thumbnail sketch of important litigation, legislation, and interstate compact resolutions. The author's goal is to assist in the peaceful resolution of water resources conflicts both nationally and internationally.

Part One, *Introduction*, provides an overview of the text and reinforces the author's purpose to provide an understanding of how the United States has solved various interstate water resource disputes. This part also provides guidance for future national and international water resource disputes.

In Part Two, *The Litigation Option*, Sherk discusses the first option the United States employed to solve various water resource disputes, litigation. This part analyzes how United States Supreme Court decisions from the last 100 years have shaped water resource use between the various states. This part also discusses the development of the "equitable apportionment" doctrine through a review of case law, and describes the factors considered under the doctrine when resolving interstate disputes. Part Two concludes with a brief description of the relevant substantive and procedural requirements involved in water resource litigation in the Supreme Court.

Part Three, *The Legislative Option*, discusses the ability of the United States Congress to enact laws under the Commerce Clause to resolve water disputes between states. This part describes the legislative option as controversial because Congress has typically deferred to the states regarding water management decisions. However, Congress may use federal legislation in the future to protect national interests in water resources as water resource disputes and federal control of rivers increase. Nevertheless, this part states that Congress has acted only twice to apportion interstate waters through legislation (the Colorado River and the Truckee and Carson Rivers).

Part Four, *The Compact Option*, discusses how individual states that share an interstate water resource have agreed to allocate and use this resource. This part describes the different types of compacts enacted in the past for various purposes, including water allocation, pollution control, planning and flood control, and multipurpose use. Sherk discusses the issues involved typically in compact negotiation, and the issues that are of particular concern to upper basin and lower basin states.

Part Five, *The Ecology of Options*, discusses the inter-relationship between the litigation and legislative options for water resource

dispute resolution. Initially, Sherk discusses how congressional legislation, including the Endangered Species Act and the Clean Water Act, affected existing compacts and agreements. Next, he analyzes how subsequent litigation has affected existing compacts and agreements. Specifically, this part describes how the United States Supreme Court interpreted different compacts to include or exclude items not specifically mentioned in the compacts. Finally, the author discusses how states entered compacts and agreements in response to collateral litigation to prevent such decisions from harming their interests.

In Part Six, *The Conclusion*, Sherk summarizes the text and restates that he intends for this book to assist in conflict resolutions concerning water resources. Sherk concludes that because states will seldom “live happily ever after,” states should focus on conflict management to avoid water resource problems before they arise.

Dividing the Waters is a valuable resource for students, administrators, or legislators as a basic guide to issues surrounding pending interstate water resource litigation and future interstate water resource management decisions. In addition, this text contains extensive appendices of relevant case law, compacts and agreements, and legislation. This text is a great starting point for further research and analysis with respect to water resource conflict resolution.

William H. Fronczak

MITCHELL G. WILLIAMS, ED., LAND SURVEYS: A GUIDE FOR LAWYERS AND OTHER PROFESSIONALS, American Bar Association, Chicago, Illinois (2d ed. 2000); 266pp; \$99.95; ISBN 1-57073-742-8, softcover.

Land Surveys compiles twenty-five educational articles written by twelve different professionals on law and land surveying. The book offers a comprehensive view of the technical and practical issues surrounding land surveys, as well as the relationship between lawyers and surveyors. Most important to the water lawyer, several articles examine land surveys in the context of water boundaries and environmental issues.

Part I, *Land Surveys: An Introduction*, presents the core concepts and practical necessities of accurate land surveys. This section is relevant especially to lawyers as it provides a survey checklist with explanations that accompany each important requirement, and examples of standard forms. Also, an article in this section provides instructions on how to read, interpret, and write land descriptions in an effort to minimize confusion. Another article identifies the many sources of errors in old measurements. The final article aids the attorney in evaluating surveys and survey information.

Part II, *Certifications and Codes of Practice*, outlines the minimum