

Water Law chronology, Fall 2005. Professor Cosens.

Water Law: A Response to Scarcity

A special kind of scarcity

Water supply: the hydrologic cycle

Water measurement

Demands for water

USGS: Estimated Use of Water in the U.S. in 1995

Gillilan & Brown: Instream Flow Protection

Case & Alward: Patterns of Demographics, Economic and Value Change in the Western U.S.

Geographic differences

WWPRAC: Water in the West: Challenge for the Next Century

Reisner & Bates: Overtapped Oasis: Reform or Revolution for Western Water

Dellapenna: Issues Arising Under Riparian Rights

Climate variability

Frederick & Gleick: Water and Global Climate Change

Economic forces

Anderson & Snyder: Water Markets

Howe: Protecting Values in a Water Market

Postel: Last Oasis: Facing Water Scarcity

Water scarcity: the role of law and policy

Conservation Foundation: America's Water: Current Trends and Emerging Issues

Scarce water and institutional change

Bates, et al.: Searching Out Headwaters: Change and Rediscovery in Western Water Policy

Wilkinson: Crossing the Next Meridian

Getches: From Ashkabad, to Wellton-Mohawk, to Los Angeles: Drought in Water Policy

Lecture: Case example—the Walker River

Riparian Rights

Inventing rules to allocate a scarce resource

Riparian principles

Acquisition

Enjoyment

Kundel Farms v. Vir-Jo Farms, Inc.

Preference for “natural” use

Mason v. Hoyle

Custom and riparian rights in Hawai'i

Harris v. Brooks

Hoover v. Crane

The Restatement and rights among riparians

Pyle v. Gilbert

Prior Appropriation

Hobbs: How Like a River: The Evolution of Western Water Law

Acquisition

State ex rel. Reynolds v. Miranda

Sand Point Water & Light Co. v. Panhandle Development Co.

City and County of Denver v. Norther Colorado Water Conservancy Dist.

Water storage rights

Enjoyment

State ex rel. Cary v. Cochran

State ex rel. Crowley v. District Court

Department of Ecology v. Grimes

A-B Cattle Co. v. United States

MacDonnell: From Reclamation to Sustainability

Reuse of appropriated water

Estate of Steed v. New Escalante Irrigation Co.

City and County of Denver v. Fulton Irrigating Ditch Co.

Southeastern Colorado Water Conservancy Dist. v. Shelton Farms, Inc.

Transfer

MacDonnell: Transferring Water Uses in the West

Economics of water transfers

Lee: The Transfer of Water Rights in California

Transaction costs

Green v. Chaffee Ditch Co.

Orr v. Arapahoe Water and Sanitation District

Metropolitan Denver Sewage Disposal v. Famer's Reservoir & Irrigation Co.

City of Boulder v. Boulder & Left Hand Ditch Co.

National Research Council, et al.: Water Transfers in the West

Loss

Jenkins v. State

Prescription

Idaho

Drake v. Earhart

State v. United States

Glenn Dale Ranches, Inc. v. Shaub

Beus v. City of Soda Springs

Montpelier Milling Co. v. City of Montpelier

State v. Hagerman Water Right Owners, Inc.

Constitutional provisions

Statutes

Appropriation

Change

Reserved Water Rights

Indian reserved water rights

Nature and extent of reserved rights

Winters v. United States

Arizona v. California

Quantification

In re General Adjudication . . . in the Big Horn River System

Quantification of Indian reserved water rights without litigation

Cosens: The Measure of Indian Water Rights

The Nez Perce settlement

Senate bill and mediator's term sheet

1855 Nez Perce treaty

1863 Nez Perce treaty

Federal reserved water rights

Jurisdiction to determine reserved rights

United States v. District Court

Intent to reserve

United States v. New Mexico

Sierra Club v. Yeutter

United States v. Adair

Idaho

In re SRBA, State v. Higgenson

Blumm: Reversing the Winters Doctrine?

State v. United States

Potlatch Corp and Hecla Mining v. United States

Potlatch Corp. v. United States (original and rehearing)

Permit Systems and Regulation in Idaho

Modern statutory administration of water

Sherk: Meetings of Waters: The Conceptual Confluence of Water Law in the Eastern and Western States

Davis: Water, Water Everywhere: Two New Model Water Codes

Idaho

Nielson v. Parker

Washington State Sugar Co. v. Goodrich

Hardy v. Higginson

Constitutional provisions

Statutes

Permits

Adjudication in Idaho—the Snake River

Private adjudication

Statutes

Nettleton v. Higginson

General adjudication

Idaho Power Co. v. State

Walker v. Big Lost River Irrigation District

Fremont-Madison Irrigation District v. Idaho Ground Water Appropriators
Statutes
Baxter: Navigating the SRBA

Groundwater

Introduction to the geology and dynamics of groundwater
Pielou: Fresh Water
Individual rights in groundwater
Hirshleifer, et al.: Water Supply: Economics, Technology, and Policy
Rights of landowners
Higday v. Nickolaus
Land subsidence and groundwater pumping
Prior users' rights
Wayman v. Murray City Corp.
Integration of surface water and groundwater administration
Groundwater allocation and public policy
U.S. National Water Commission: Water Policies for the Future
USGS: National Water Summary, 1983
Administrative regulation
Baker v. Ore-Ida Foods, Inc.
Mathers v. Texaco
Permit systems
Special groundwater management districts
Fundingsland v. Colorado Ground Water Commission
Statutory control of groundwater in Colorado
State variations in local district control of groundwater
Arizona: legislative redefinition of rights and strong state control
Town of Chino Valley v. City of Prescott
Conjunctive management in Idaho
Musser v. Higginson
A&B Irrigation District v. Idaho Conservation League
IDWR Conjunctive Management Rules
IDWR 2005 Order: Eastern Snake River Plain Aquifer
Cosens: The Role of Hydrology in Resolution of Water Disputes

Endangered Species Act

Endangered species conservation
Riverside Irrigation District v. Andrews
Tarlock: The ESA and Western Water Rights
National Environmental Policy Act
Controls and limits on use of existing rights
Sax: The Constitution, Property Rights, and the Future of Water Law
Tulare Lake Basin Water Storage District v. United States
Goble & Freyfogle: Wildlife Law
16 U.S.C. §§ 1531 to 1544 (ESA)

Lecture: Steve Katz, NOAA
NWF v. NMFS (May 26, June 10, and Sept. 1, 2005)
Ruckelshaus, et al.: The Pacific Salmon Wars
Volkman: The ESA and the Ecosystem of Columbia River Salmon

Interstate Allocation

Adjudication

Interstate litigation between water users

Bean v. Morris

Interstate litigation between states

Kansas v. Colorado

New Jersey v. New York

Tarlock: The Law of Equitable Apportionment Revisited, Updated, and Restated

Colorado v. New Mexico

Colorado v. New Mexico

Arkansas v. Oklahoma

Interstate pollution remedies

On the future of equitable apportionment

Allocation by interstate compact

State ex rel. Dyer v. Sims

Intake Water Co. v. Yellowstone River Compact Commission

Getches: Competing Demands for the Colorado River

Global warming and interstate allocation

Congressional apportionment: the special case of the Colorado River

The Boulder Canyon Project Act

Meyers: The Colorado River

Arizona v. California

The Central Arizona Project

Getches: Water Allocation During Drought in Arizona and Southern California

Meeting future demand in the Colorado River basin

Miller, et al.: The Salty Colorado

Congressional approval of multi-party, multi-issue interstate disputes

Federal limits on state export restrictions

Sporhase v. Nebraska ex rel. Douglas

The Great Lakes—a case study in diversion policymaking

Public Rights

Shared public and private use of waters

The public trust in navigable waters

Public ownership of beds

Ancient origins of public ownership

Navigability for title

Federal-state conflicts over ownership

Hughes v. Washington

The public trust doctrine as a limit on private use
Illinois Central Railroad Co. v. Illinois
National Audobon Society v. Superior Court

Water Quality and Wetlands Regulation

Idaho

Idaho Sportsmen's Coalition v. Browner

Federal regulation of water quality

Surface water—the Clean Water Act

Federal pollution control and the common law

Federal control and clean-up of groundwater

Attorney General v. Thomas Solvent Co.

Utah v. Kennecott Corp.

Dredge and fill regulation

United States v. Riverside Bayview Homes, Inc.

Federal Power Act, State Certification, and Reclamation

Federal Power Act licensing

National Wildlife Federation v. FERC

State certification and federal actions

PUD No. 1 v. Washington Department of Ecology

The Reclamation Act and reclamation policy

Wahl: Markets for Federal Water: Subsidies, Property Rights, and the Bureau of Reclamation

California v. United States

International Water Law

Luecke, et al.: A Delta Once More: Restoring Riparian and Wetland Habitat in the Colorado River Delta

Convention on the Law of the Non-Navigational Uses of International Watercourses

Case Concerning the Gabčíkovo-Nagymaros Project (Hungary v. Slovakia)

Water allocation in the Middle East

The Future of Water

Gleick: The World's Water 2004–2005

Accommodating federal regulation and state water law

Getches: The Metamorphosis of Western Water Policy: Have Federal Laws and Local Decisions Eclipsed the States' Role?

The Bay-Delta

McClurg: Sacramento-San Joaquin River Basin Study

Environmental quality and the future of dams

Report of the World Commission on Dams: Dams and Development

Dam removal