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August 1995

Review of *Indian Water in the New West* by Thomas R. McGuire, William B. Lord, and Mary G. Wallace

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Templer, Otis W., "Review of *Indian Water in the New West* by Thomas R. McGuire, William B. Lord, and Mary G. Wallace" (1995). *Great Plains Research: A Journal of Natural and Social Sciences*. 219.
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Indian Water in the New West. Thomas R. McGuire, William B. Lord, and Mary G. Wallace, eds. Tucson: University of Arizona Press, 1993. xii+241 pp. Notes, index, list of contributors. \$35.00 cloth (ISBN 0-8165-1392-9).

This collection of essays on Indian water rights results from a symposium, Indian Water Rights and Water Resources Management, sponsored by

the American Water Resources Association and the Northern Lights Research and Education Institute. Held at Missoula, Montana in June, 1989, the symposium was co-sponsored by a number of federal and state agencies and universities. Included among participants were lawyers, engineers, economists, ecologists, anthropologists, mediators, federal officials, and Native Americans who collectively represented a broad range of scholarly and applied expertise and viewpoints. This book is not a collection of papers by academics on the history and development of Indian water rights law. Instead, its primary focus is on negotiated settlements, a new, more expeditious method being used with increasing frequency to resolve disputes involving Indian water claims, as opposed to protracted, complex and costly litigation in the courts.

The seventeen articles are grouped into five categories: the history of reservation water claims; the interests represented by the federal government and non-Indians; the development of the negotiated settlement process; what is gained from negotiations; and reflections on possible future activities. Each section is comprised of three articles, except for the third which contains five papers. Most articles are thoroughly documented in end notes.

Law professor David Getches provides an excellent overview of the development and application of the famous Winters doctrine. In the West, unquantified Indian water claims recognized under the 1908 doctrine failed to blend with the states' prevailing appropriation systems. They were viewed as a potential threat by non-Indian water users; moreover, these paper rights provided little "wet" water or other benefits to the reservations. In 1963, following a half century of relative neglect of the Winters doctrine, the U. S. Supreme Court created a quantification standard. In 1983, the Court allowed Indian water claims to be included in water rights adjudication proceedings in state courts, and since then there have been many lawsuits seeking quantification of Indian rights, though few have been fully resolved. Dissatisfaction with the results of litigation has prompted Indian tribes, the states and non-Indian water users to gravitate toward the more practical course of negotiated settlement. Case studies of past and present negotiations, most of which began with litigation, and the positions of competing interest groups comprise the core of this book. In the concluding article, law professor Charles Wilkinson identifies trends emerging from these studies and foresees greater use of this rapidly evolving form of dispute resolution.

Indian Water in the New West is a carefully edited volume in an attractive format, as one would expect of a major university press publication.

Despite the somewhat uneven content and style of the papers owing to the diverse background of symposium participants, this book will be of considerable value to water professionals in those Western states where there is increasing competition for limited water resources and where hitherto poorly-defined Indian water rights claims have constituted an important variable in any water resource management equation. **Otis W. Templer**, *Department of Economics and Geography, Texas Tech University, Lubbock.*