

BOOK REVIEW

Ruling the Waters: California's Kern River, the Environment, and the Making of Western Water Law

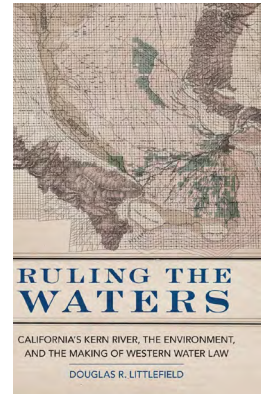
Douglas R. Littlefield. 2020. *The Environment in Modern North America; Volume 4*. University of Oklahoma Press, Norman, OK, USA. 278 pages (hard cover). \$45.00. ISBN: 978-0806164908

While you are most likely to find this book on a college syllabus, it does not necessarily read like a traditional piece of academic literature. This relatively short, but dense book is packed with facts and figures depicting how the development of the San Joaquin Valley influenced California water law. Specifically, how the water law of prior appropriation now legally exists simultaneously with the doctrine of riparian water rights in California.

The narrative takes on a story-like quality using clippings from newspapers such as *Bakersfield California*, the *Mountain Democrat*, and the *San Francisco Chronicle*, along with excerpts from journals and historical records. By using firsthand accounts, Littlefield takes you on a journey of land 'reclamation' and acquisition to water management and ownership, describing the people, politics, and conflicts along the way. While the book provides the historical backdrop and political circumstances for the entire San Joaquin Valley during the eighteenth and nineteenth century, Littlefield largely focuses on the development of the Kern River watershed. This is because of the substantial number and importance of the lawsuits and resulting legislation derived in Kern County.

Central to the book, is Littlefield's explanation of the importance of the 1886 *Lux v Haggin* water rights ruling involving the Kern River, discussing how the acceptance of riparian rights by the California Supreme Court endorsed a concept of private property that included water as a usufruct. Further, he describes why the recognition of riparianism was not favored by all and explains how the ruling set the stage for water disputes to proliferate throughout the state and the west in general. Reading through the various legal challenges, I can't help but wonder what water management, in California, might look like today had courts only recognize appropriation, as many other states did when establishing their own water law.

Though this book touches on many issues that fundamentally shaped water management in California, such as the gold rush and hydraulic mining, the displacement of Native Americans, resulting influences of the Civil War, and large infrastructure development, it really centers on the people and conflicts directly connected to the creation of the California Doctrine. Each chapter takes on an important milestone in the development of the Kern River watershed and California water law. Littlefield starts by describing the original motivation behind draining the San Joaquin Valley as the desire for increased navigable water transportation coupled with a strong public opinion that by draining the swamps, the water could be used "to suit the interests of agriculture, watering a large portion of the valley, and making



it a garden” (p.17). As time passes and legislation evolves there are many failed attempts to drain the San Joaquin Valley, causing the legislative focus to shift from transportation necessity to settlement, reliable water supply, and for some, profit.

While each chapter generally tackles a new development in the efforts towards converting the San Joaquin Valley from marshlands to managed agriculture, many conflicts and resulting legal challenges transpire. These issues were complex, and many remain to this day. As such, several of the key court cases and decisions presented, such as the California Supreme Court decision *Lux v. Haggin* and the 1888 Miller-Hagger Agreement, are discussed and referenced in multiple chapters. While this makes sense, it can lead to a bit of repetitiveness when following along in the book and sometimes confusion, as the storyline might jump forward in time or revisit the past to provide more context and detail to a focal point of a chapter.

An interesting facet of the book is the biographical examination of many influential people involved in altering the San Joaquin Valley. Take Thomas Baker, the namesake of Bakersfield, Littlefield not only describes how Baker led reclamation efforts in the Central Valley but also describes him through historical account as someone who sympathized with the south during the Civil War resulting in his arrest for sedition. After a short stint at Alcatraz and a few years of legal headache, Baker was acquitted of treason but nonetheless directly delayed reclamation efforts in the San Joaquin Valley. Much of the book is spent portraying influential figures such as Baker, Henry Miller, and Charles Lux and it helps humanize the story of water law in California. By understanding the personal and political gains of these individuals, we begin to understand the influences that helped to create the complex system of water management and law we operate under today.

In addition to detailing the progression of California water law, Littlefield provides commentary throughout the book on the environment. However, the discussion presented is mostly an acknowledgement that the environmental impacts were simply not considered at the time. Littlefield does try and describe the extent of impact, loss of species and species diversity, and overall transformation of the San Joaquin Valley from that of the largest wetlands in the western United States to the arid agricultural fields dominating the landscape today. The vivid descriptions and maps provided of the historical Central Valley landscape are thought provoking. They led me to evaluate the objectives and goals of present-day environmental efforts. Currently, environmental permits and plans are often designed to mitigate for further loss of species and habitat, and/or restore landscapes to function at a level depictive of Littlefield’s post nineteenth century development. I wonder, should we be doing more to address the environmental impacts caused by water supply development in the past or have we resigned ourselves to simply maintaining the fundamentally decreased functionality of habitats present?

In discussing how various portions of the San Joaquin Valley went from wetlands with too much water to arid agricultural lands with too little or unreliable water supplies, Littlefield observes the development of levees, drainage ditches, reservoirs, and conveyance canals. However, the book does not focus on the construction or engineering feats associated with altering the landscape. Rather, it examines the evolution of land use through first the policy guiding water infrastructure development resulting in increased water supply reliability, then increased settlement and dependence on water supply. Subsequently, Littlefield uses this narrative to provide context to the ensuing conflict over water sources and ownership, ultimately leading to litigation and law.

As I read through the book, I realized that not only was the reclamation of the San Joaquin Valley a testament to water development but that many of the strategies used to settle water disputes historically are still used today. For example, Littlefield writes that the 1888 Miller-Hagger Agreement demonstrated the desire for westerners to compromise, to keep water issues decentralized and with local and regional control. Current endeavors such as the State Water Resources Control Board efforts to update the San Joaquin Water Quality Control Plan have subsequently led to the development of the Voluntary Agreements. Although still under negotiation, the political pressure for the pursuit of Voluntary Agreements demonstrates the same desire by water users to compromise in order to dissuade the state from interfering with local water management.

In summary, Littlefield does a great job of making water case law interesting and comprehensible to those of us with limited legal understanding. *Ruling the Waters* provides an insightful account of the people, politics, and court proceedings largely responsible for the legislation and subsequent management of water resources in California today. Overall, this book successfully makes the case that understanding the evolution of the Kern River watershed is important to the historical understanding of American water law.

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