

H-Net Reviews

in the Humanities & Social Sciences

Joseph F. Zimmerman. *Interstate Water Compacts: Intergovernmental Efforts to Manage America's Water Resources*. Albany: State University of New York Press, 2012. xiii + 252 pp. \$80.00 (cloth), ISBN 978-1-4384-4447-5.

Reviewed by Daniel Macfarlane

Published on H-Environment (April, 2013)

Commissioned by David T. Benac



Despite the title, *Interstate Water Compacts* is much more about compacts than it is about water. In fact, water is fairly incidental to the book. The focus is on the legal and constitutional implementation of specific types of intergovernmental agreements: interstate compacts and federal-interstate compacts (as well as some other agreements). To date, there have been 175 interstate compacts and 7 federal-interstate compacts (each detailed in two substantial appendices). Interstate compacts are authorized by the US Constitution and require the consent of Congress. Federal-interstate compacts involve the federal government, and the first dates to the Delaware River Basin Compact of 1961.

The main point of this contribution is to evaluate the legacy and precedents of these compacts in order to formulate recommendations for the present and future. Central to this goal is assessing whether the US Supreme Court or Congress is best qualified to resolve interstate water controversies. In the author's opinion, the answer is Congress. The work uses a cooperative federalism perspective. Joseph F. Zimmerman, a professor of political science at SUNY-Albany, is an expert in this field and has authored a plethora of manuscripts.

The plurality of these agreements deal with water issues (water pollution, apportionment of river waters, economic development, flood control, inland fisheries, marine fisheries, and restoration to rivers of anadromous fish), but the compacts are the stars of the show. Zimmerman largely restricts his discussion to the mechanisms, legal implementation, and precedent of these compacts, and the fact that they are about water is often inconsequential. This is made clear by the opening chapters, as

the first third of the book serves as a primer on relevant constitutional and federal theory. If its content is to be judged by the title, the first chapter—"The Importance of Water"—is a bit of a contradiction, as water is barely (i.e., a few pages) discussed at all. While the prose is not a weakness, it is—forgive the pun—a dry read compared to most books about water due to the subject matter and organization. But there is no good excuse for the failure to include even one map.

After setting the legal groundwork in the first two chapters, the author finally turns to water compacts, dividing the different water issues into two chapters. These are followed by a return to the theoretical and structural bent of the opening two chapters via an overview of the Supreme Court's ability to invoke jurisdiction to resolve water conflicts. This sets up the chapter on interstate compact controversies before a concluding chapter with policy recommendations.

The chapter on water controversies is the longest and most interesting, but it would have been more satisfying had it provided more than thumbnail sketches of "selected cases" (divided into 3 categories—water allocation, water diversion, and water pollution). Zimmerman concludes that disputes over transborder water issues (particularly water apportionment) are best handled by interstate compacts because they are flexible and allow "an effective comingling of national and state powers" (p. 174). Moreover, he advocates that Congress, rather than the courts, should play an active and leading role. Nonetheless, the author is quite keen on the "special master"—a court-appointed position that helps the court establish facts and efficiently make a decision.

This book will be relevant chiefly to legal/constitutional scholars and policymakers; readers of this listserv will not find much of interest in *Interstate Water Compacts*. Environmental historians and social scientists will likely cringe at the simplistic and reductionist way that Zimmerman portrays water, bereft of agency and nothing more than a tabula rasa on which American governments inscribe laws and agreements. There is no environmental sensitivity or even consideration about impacts or whether any of these water projects are wise, nor any discussion of their impact beyond the legal/constitutional sphere. Zimmerman talks about the plumbing of major river systems, such as the Colorado and Columbia, but nowhere does he mention the work of Donald Worster or Richard White, for example. He largely discusses the water controversies in a legal vacuum where the only controversy that matters concerns

legal disputes and precedents.

Such disciplinary fire walls are unfortunate, as a greater engagement with historical and environmental studies scholarship would have strengthened this work and its accessibility. Granted, within the fields to which this text is addressed, many of my complaints might not be pertinent—nevertheless, I feel that my role is to review this work with the average H-Environment reader in mind. For environmental/water/river scholars, particularly historians, this book is of limited value. It will probably be most useful as a reference work if a scholar's particular water body interest is covered, or as a primer for those trying to grapple with the dense legal, constitutional, and jurisdiction issues surrounding interstate water developments. As the author suggests, the book could be used to stimulate further research, serving as a kind of catalogue for graduate students looking for thesis topics.

If there is additional discussion of this review, you may access it through the network, at:

<https://networks.h-net.org/h-environment>

Citation: Daniel Macfarlane. Review of Zimmerman, Joseph F., *Interstate Water Compacts: Intergovernmental Efforts to Manage America's Water Resources*. H-Environment, H-Net Reviews. April, 2013.

URL: <http://www.h-net.org/reviews/showrev.php?id=37647>



This work is licensed under a Creative Commons Attribution-NonCommercial-No Derivative Works 3.0 United States License.