

David H. Getches

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PROFESSIONAL EXPERIENCE

Dean, University of Colorado Law School (Since 2003)

Raphael J. Moses Professor of Natural Resources Law, (since 1994)
Professor (since 1987), **Associate Professor** (1979-87), **Interim Director**, Natural Resources Law Center (1995), On Leave, September 1983-January 1987

Courses Taught: American Indian Law, Water Law, Pollution Law, Public Land Law, Advanced Indian Law, Advanced Natural Resources Law Seminar, Advanced Water Law Seminar, Wildlife Management Law Seminar, Environmental Policy Seminar, International Problems in Environmental Law, Land Use Planning

Special Consultant to the Secretary, United States Department of the Interior, Washington, D.C. (1996)

Executive Director, State of Colorado Department of Natural Resources Denver, Colorado (1983-87)

Partner, Getches and Greene Boulder, Colorado (1977-79)

Founding Director, Native American Rights Fund Boulder, Colorado (1970-76)

Co-Directing Attorney, California Indian Legal Services Escondido, California (1968-70)

Attorney, Luce, Forward, Hamilton & Scripps San Diego, California (1967-68)

EDUCATION

J.D., University of Southern California, 1967

A.B., Occidental College, 1964

PERSONAL

Home 627 Pine Street Address: Boulder, Colorado 80302
(303) 449-4869

Wife: Ann Marks Getches

Children: Matthew, Catherine, Elizabeth

SELECTED PUBLICATIONS

Books and Monographs:

Out of the Mainstream. Water Rights, Politics and Identity. (co-edited with Rutgerd Boelens and Armando Guevara Gil). Earthscan Publishing. Forthcoming in 2009.

Water Law in a Nutshell, 4th ed., West Publishing Co., 2009.

Water Resources Management, 5th ed. (co-authored with A. Tarlock, J. Corbridge, and R. Benson), Foundation Press. Forthcoming in 2009.

Prácticas Recomendables Para la Elaboración de Leyes y Regulaciones Relacionadas con el Recurso Hídrico (co-authored with M. Solanes), Interamerican Development Bank, 1999.

Cases and Materials on Federal Indian Law, 4th ed. (co-authored with C. Wilkinson & R. Williams), West Publishing Co., 1998.

Searching out the Headwaters: Change and Rediscovery in Western Water Law and Policy (co-authored with S. Bates, L. MacDonnell, C. Wilkinson), Island Press, 1993.

Water Allocation During Drought in Arizona and Southern California: Legal and Institutional Responses, University of Colorado Natural Resources Law Center, 1991.

Controlling Water Use: The Unfinished Business of Water Quality Protection (co-authored with L. MacDonnell & T. Rice), University of Colorado Natural Resources Law Center, 1991.

Water in the American West: Essays in Honor of Raphael J. Moses (editor), University of Colorado Natural Resources Law Center, 1988.

Felix S. Cohen's Handbook of Federal Indian Law (Member of Editorial Board and Contributing author), Michie Bobbs-Merrill Publishing Co., 1982.

Articles:

"Tribute: Professor Homer Clark, Jr.," in 78 University of Colorado Law Review, 1-3, 2007.

"Indigenous Water Rights in the United States and International Norms," in WALIR Studies Volume 6, 1-76.

Agua y Derecho: Politicos Hidricas, Derechos Consuetudinarios e Identidades Locales (Instituto de Estudios Peruanos 2006) (editor with Rutgerd Boelens and Armando Guevara Gil).

Conclusiones: La Complejidad de la Gestion de Agua en los Paises Adionos, in Agua y Derecho: Politicos Hidricas, Derechos Consuetudinarios e Identidades Locales 411 (Rutgerd Boelens, David Getches, and Armando Guevara Gil, editors, Instituto de Estudios Peruanos 2006) (With Rutgerd Boelens and Armando Guevara Gil).

La Defensa de los Derechos de Agua Indegenas Con las Leyes de la Cultura Dominante: El Case de los Estados Unidos, in Agua y Derecho: Politicos Hidricas, Derechos Consuetudinarios e Identidades Locales 227 (Rutgerd Boelens, David Getches, and Armando Guevara Gil, editors, Instituto de Estudios Peruanos 2006)

La Gestion Indigena y Campesina del Agua Frente a las Politicas Hidricas de los Paises Adinos, in *Agua y Derecho: Politicos Hidricas, Derechos Consuetudinarios e Identidades* 11 (Rutgerd Boelens, David Getches, and Armando Guevara Gil, editors, William S. Hein & Co. 2006) (With Rutgerd Boelens and Armando Guevara Gil).

“The Legacy of the Bush II Administration in Natural Resources: A Work in Progress,” In *32 Ecology Law Quarterly*, 235-248, 2005.

“Indigenous People’s Rights to Water Under International Norms,” in *16 Colorado Journal of Environmental Law and Policy*, 259-294, 2005.

“Water Wrongs: Why can’t We Get it Right the First Time,” *34 Lewis and Clark Law School Environmental Law*, 1-20, 2004.

“Water Management in the United States and the Fate of the Colorado River Delta in Mexico,” *11 United States Mexico Law Journal*,” 107-113, 2003.

“Spain’s Embro River Transfers: Test Case for Water Policy in the European Union,” in *19 Water Resources Development*, 501-512, 2003.

“Beyond Indian Law: The Rehnquist Court’s Pursuit of States’ Rights, Color-Blind Justice, and Mainstream Values,” *86 Minnesota Law Review* 267-362 (2001),

“The Unsettling of the West: How Indians Got the Best Water Rights,” *99 Michigan Law Review* 1473-99 (2001).

“The Metamorphosis Of Western Water Policy: Have Federal Laws And Local Decisions Eclipsed The States’ Role?,” *20 Stanford Environmental Law Journal* 3-72 (2001).

“Grassroots Versus Waterlogging,” *4 Great Plains Natural Resources Law Journal* 1-10 (1999).

“Dedication: Professor Albert E. Utton (1931-1998),” *10 Colorado Journal of International Environmental Law* 1-6 (1999).

“Colorado River Governance: Sharing Federal Authority as an Incentive to Create a New Institution,” *68 Colorado Law Review* 574-658 (1997).

“Dedication to Professor Ralph W. Johnson,” *72 Washington Law Review* 995-1001 (1997).

“Conquering the Cultural Frontier: The New Subjectivism of the Supreme Court in Indian Law,” *84 California Law Review* 1573-1655 (1996).

“Changing the River’s Course: Western Water Policy Reform,” *26 Environmental Law* 157-174 (1996).

“Law,” *17 Amicus Journal* 43-45 (1996).

“The Law of the Colorado River: Coping with Severe Sustained Drought” (with L. MacDonnell & W. Hugenberg), *5 Water Resources Bulletin* 825-836 (1995).

“Managing the Colorado River in Severe Sustained Drought: An Evaluation of Institutional Options” (with W. Lord, J. Booker, B. Harding, D. Kenney & R. Young), *5 Water Resources Bulletin* 939-944 (1995).

“From Ashkabad, to Wellton-Mohawk, to Los Angeles: The Drought in Water Policy,” 64 *University of Colorado Law Review* 523-553 (1993).

“Negotiated Sovereignty: Intergovernmental Agreements with American Indian Tribes as Models for Expanding Self-Government,” 1 *Review of Constitutional Studies* 121-170 (1993).

“The Challenge of Rio,” 4 *Colorado Journal of International Environmental Law and Policy* 1 (1993).

“Water Reform: Ideas Whose Time Has Come,” 90 *Water Resources Update* 36 (1993).

“A Philosophy of Permanence: The Indians’ Legacy for the West,” 24 *Journal of the West* 54-68 (1990).

“Groundwater Quality Protection: Setting a National Goal for State and Federal Programs,” 65 *Chicago-Kent Law Review* 387-427 (1989), reprinted in 20 *Land Use and Environment Law Reviews* (1991).

“Foreword, Natural Resources Issue, Focus: Clean Water Act Section 404,” 60 *University of Colorado Law Review* 685-694 (1989).

“Water Planning: Untapped Opportunity for the Western States,” 9 *Journal of Energy Law and Policy* 1-45 (1988).

“Management and Marketing of Indian Water: From Conflict to Pragmatism,” 58 *University of Colorado Law Review* 515-549 (1988).

“Water Use Efficiency: The Value of Water in the West,” 8 *Public Land Law Review* 1-32 (1988).

“Learning From the Colorado River Basin Experience,” *The Missouri River Basin Series*, No. 5 (1988).

“Legal and Administrative Framework: Is It Adequate?,” *Proceedings of Colorado Water Engineering and Management Conference* 578-588 (Colorado State University 1987).

“Competing Demands for the Colorado River,” 56 *University of Colorado Law Review* 413-479 (1985).

“Controlling Groundwater Use and Quality: A Fragmented System,” 17 *Natural Resources Lawyer* 623-645 (1985).

“Managing the Public Lands: The Authority of the Executive to Withdraw Lands,” 40 *Natural Resources Journal* 279-335 (1982).

“Natural Resources as an Area of the Law,” 53 *University of Colorado Law Review* 195-212 (1982), reprinted in 19 *The Public Land and Resources Law Digest* 214-231 (1982).

“Water Rights on Indian Allotments,” 26 *South Dakota Law Review* 405-433 (1981), reprinted in 19 *The Public Land and Resources Law Digest* 114-142 (1982).

Popular Press

“In Pakistan, or U.S., Lawyers Make a Stand.” Rocky Mountain News. November 12, 2007.

Guest Commentary, "Dam Bill Not The Solution To Colorado's Water Woes," The Denver Post, July 10, 2002.

Guest Commentary, "A Thumb On The Scales Of Justice," The Denver Post, December 5, 2002.

Chapters in Books:

“Defending Indigenous Water Rights with the Laws of a Dominant Culture: The Case of the United States,” in *Liquid Relations: Contested Water Rights and Legal Complexity* (Dik Roth Rutgerd Boelens, and Margreet Zwarteveen, Rutgers University Press, 2005.

Foreword to *Negotiating Tribal Water Rights: Fulfilling Promises in the Arid West*, University of Arizona Press, 2005.

“Integrating Environmental and Other Public Values In Water Allocation and Management Decisions” and “Protecting Indigenous Rights and Interests in Water” in “In Search of Sustainable Water Management,” (ed. Douglas Kenney), Edward Elgar, 2005.

“Interbasin Water Transfers in the United States: Issues and Lessons,” in *Water Conservation, Reuse, and Recycling: Proceedings of an American-Iranian Workshop*, National Academies Press, 2005.

“Beyond ‘Traditional’ Environmental Justice” (with D. Pellow), in *Justice and Natural Resources: Concepts, Strategies and Applications* (K. Mutz, G. Bryner & D. Kenney eds.), Island Press 2001.

Foreword, *Trusteeship in Change: Toward Tribal Autonomy in Resource Management* (R. Clow & I. Sutton, eds.), University of Colorado Press, 2001.

"Some Irreverent Questions About Watershed-Based Efforts," in *Across the Great Divide: Explorations in Collaborative Conservation and the American West* (P. Brick, D. Snow & S. Van de Wetering, eds.), Island Press, 2001.

“Resolución Jurídica de Conflictos Sobre el Agua entre los Estados de la Union,” in *IX Jornadas Sobre Derecho de las Aguas, Planificación Hidrológica y Política Hidráulica*, Universidad de Zaragoza, Spain, 1999.

“La Gouvernance de Bassin-Versant: Des Limites Naturelles pour des Decisions Relatives aux Ressources Naturelles” in *Gestion Négociée des Territoires et Politiques Publiques*, L’Aarmatton, 1999.

“Water in the Columbia River Basin: From a Source of Permanence to an Instrument for Economic Growth,” in *Traditional and Modern Approaches to the Environment on the Pacific Rim: Tensions and Values* (Coward, ed.), State University of New York Press, 1998.

“Sectoral Conflicts over Water: Resolving Tensions among Agricultural, Municipal, Industrial and Ecological Demands,” in Rosenberg International Forum on Water Policy, Resolving Conflict in the Management of Water Resources (H. Vaux, ed.), University of California, Center for Water and Wildland Resources, 1998.

“Colorado River Basin” (with L. MacDonnell), in Waters and Water Rights (R. Beck, ed.), The Michie Co., 1995.

“Water Resources: A Wider World,” in Natural Resources Policy and Law (L. MacDonnell & S. Bates, eds.), Island Press, 1993.

“Indian Water Rights Conflicts in Perspective,” in Indian Water Rights in the New West (McGuire, Lord & Wallace, eds.), University of Arizona Press, 1993.

“The Role of Law in the Transfer Process,” in Water Transfers in the West: Efficiency, Equity, and the Environment, National Research Council, National Academy Press, 1992.

“Land, Community, and Survival: Lessons for the West From American Indians,” in A Society To Match the Scenery (G. Holthaus et al., eds.), University Press of Colorado, 1991.

“The Law of Wildlife Protection in the United States,” in Proceedings of the Sino-American Conference on Environmental Law, University of Colorado Natural Resources Law Center, 1989.

“Resolving Tensions Between Tribal and State Governments: Learning From the United States Experience,” in Governments in Conflict: Provinces and Indian Nations in Canada (J. Long & M. Boldt, eds.), University of Toronto Press, 1988.

“Pressures for Change in Western Water Policy,” in Water and the American West (D. Getches, ed.), University of Colorado Natural Resources Law Center, 1988.

“River of Controversy: Persistent Issues” (with C. Meyers), in New Courses for the Colorado River: Major Issues of the Next Century (G. Weatherford & F. Brown, eds.), University of New Mexico Press, 1986.

“Alternative Approaches to Land Claims: Alaska and Hawaii,” in Irredeemable America (I. Sutton, ed.), University of New Mexico Press, 1986.

“Meeting Colorado’s Water Requirements: An Overview of the Issues,” in Tradition, Innovation and Conflict: Perspectives on Colorado Water Law (L. MacDonnell, ed.), University of Colorado Natural Resources Law Center, 1986.

SELECTED RECENT LECTURES AND PRESENTATIONS

Welcome Address. October 6-8, 2008. 2008 Colorado Conservation Summit: Colorado’s Wildlife at a Crossroads. Keystone, Colorado.

“The Field of Federal Indian Law and Thoughts about Its Future Impact on the Role of Tribes as Governments and Entrepreneurs.” September 17-19, 2008. Coming Together to Examine Challenges and Strategies for Strengthening Tribal Self-Governance and Achieving Long-Term Economic Security. Sacramento, California.

“Indian Law.” September 5, 2008. The 2008 Tenth Circuit Bench and Bar Conference. Colorado Springs, Colorado.

“Historical Background of U.S. Indian Law.” July 28-31, 2008. The 2008 Ninth Circuit Judicial Conference. Sun Valley, Idaho.

“The Situation in the United States of America: Deference to States, Federal Supremacy.” July 11-12, 2008. Conference on Water Management in Federal and Federal-Type Countries. Zaragoza, Spain.

“A Post-Winters World.” June 11-12, 2008. Utton Center on Transboundary water of the University of New Mexico. Albuquerque, New Mexico.

“Indian Water Rights Confront The Dominant Culture – Indigenous Water Control And Formal Water Policies In The USA.” April 14, 2008. Why Water Rights Conflicts and Injustices Disappear in Mainstream Science and Policies. University of Wageningen, The Netherlands.

“The Colorado River Compact: Is It Outmoded?” September 18-19, 2007. Water Education Foundation Colorado River Symposium. Santa Fe, New Mexico.

“Taking the Long View: Climate Change and the American West.” June 7-9, 2006. Climate Change and the American West: Exploring the Legal and Policy Dimensions. Boulder, Colorado.

Presentation on Water Law. August 26, 2005. Foro Nacional Ambiental. Bogota, Columbia.

Panel presentation on the Future Trends in the Basin, to Water Education Foundation, Colorado River Project Symposium on Coming to Consensus: Sharing the Colorado River, Colorado River, Santa Fe, N.M., February 1, 2002.

Presentation to Environment and Behavior Workshop, CU Institute of Behavioral Science, on Colorado River Delta in Mexico, February 11, 2002.

Presentation on S.B. 156 concerning private rights to instream flow water rights, to Clean Water Action staff, Denver, February 18, 2002.

Testimony (invited) to U.S. Senate Select Committee on Indian Affairs, Hearings on Impact of Recent Supreme Court Decisions on Indian Tribal Sovereignty, February 27, 2002.

Presentation to Boulder County Bar Association, Criminal Defense Bar, on Serving as a Juror in a Criminal Trial in Boulder, Boulder, April 3, 2002.

Two roundtable presentations on Colorado River Delta and one panel presentation on Global Freshwater Issues at Principia College, Public Affairs Conference, Elmhurst, IL, April 11-12, 2002.

Panel on water policy, Boise Idaho public television, May 6, 2002.

Moderate and participate in three panels at University of Colorado Natural Resources Law Center conference on Allocating and Managing Water for a Sustainable Future: Lessons from Around the World, June 10-13, 2002.

Panel on water marketing and public values at World Summit on Sustainable Development, Johannesburg, South Africa, September 3, 2002.

Testimony (invited) on "Water Policy and Planning in Western States: Opportunities for Protecting Colorado's Future" to Committee on Water Resources Review, Colorado State Senate, September 9, 2002.

Testimony to Colorado General Assembly Joint Interim Committee on Water, re: water projects bonding bill, July 9, 2002.

Presentation on "Protecting Flowing Water on Federal Lands: Reserved Water Rights and Beyond" to Hewlett Foundation, Boulder, Colorado, December 4, 2002.

Presentation on "Interbasin Water Transfers in the Western U.S.: Issues and Lessons," National Academy of Sciences, Joint Iranian/U.S. Symposium on Water Resources, Tunis, Tunisia, December 12, 2002.

Speak to Environmental Law Society, University of Colorado School of Law, on World Summit on Sustainable Development, September 16, 2002.

Present paper on "Impacts in Mexico of Colorado River Management in the United States: A History of Neglect, A Future of Uncertainty" at Eleventh Annual Conference U.S.-Mexico Law Institute, Santa Fe, New Mexico, September 20, 2002.

Panel presentation on comparison of U.S. and Mexican water laws at Eleventh Annual Conference U.S.-Mexico Law Institute, Santa Fe, New Mexico, September 20, 2002.

Presentation on Water and Sprawl at Trust for Public Land National Leadership Council meeting, Los Angeles, October 7, 2002.

Participate in national webcast of panel discussion on U.S. Supreme Court cases on Indian law, sponsored by American Bar Association, Georgetown University Law Center, December 3, 2002.

SELECTED PROFESSIONAL AND SERVICE ACTIVITIES

University of Colorado

Law School

Appointments Committee, 2000-01 Building Committee, 1998-2001 Natural Resources Law Center, Faculty Advisory Committee, 1982-present
Environmental Policy Certificate Advisor, 1996-present Indian Law Clinic, Advisory Committee, 1994-present
Colorado Journal of International Environmental Law and Policy, Advisory Board, 1990-present
Jessup International Moot Court Competition, Advisor, 1992-1993
University of Colorado Presidential Search Committee, 2007-2008
Natural Hazards Information Center, Institute of Behavioral Sciences, Advisory Board, 1992-2004
Western Water Initiative Planning Committee, 1999-present
Vice Chancellor's Advisory Committee, 1990-1997
International Education Certificate Committee, 1993

Critical Studies of the Americas Committee, 1992-1993
Grand Canyon Trust, Board of Trustees, 1991-present; Chair, 1994-2001
Defenders of Wildlife, Board of Directors, 1999-2008
The Wilderness Society, Governing Council, 1999-present
Trust for Public Land, National Advisory Board, 1998-present; Native American Lands
Advisory Committee, 1999-present
Rocky Mountain Mineral Law Foundation, Board of Trustees, 1991-present
American Rivers, Scientific and Technical Advisory Committee, 1992-present
Centro de Derecho Ambiental y de los Recursos Naturales, Costa Rica, of Counsel, 1989-
present
Land and Water Fund of the Rockies (Now Western Resource Advocates), Chair, Board
of Directors, 1989-1999
Rivers Network, Advisory Board, 1987-1999
Center for Environmental Studies and Policy, Fundación Neotropica Costa Rica,
Advisory Board, 1990-present
Colorado Water Trust Board of Directors, 2001-present

SELECTED RECENT CONSULTING ACTIVITIES

Office of Hawaiian Affairs, State of Hawaii
Sonoran Institute
Hewlett Foundation
Packard Foundation
Northern Arizona University
American Indian Resources Institute
Navajo Nation
Great Lakes Intertribal Fish Commission
United Nations Economic Commission for Latin America and the Caribbean
Interamerican Development Bank
Water Education Foundation
Southern Ute Indian Tribe
Northwest Power Planning Council
University of Washington School of Law
U.S. Department of the Interior