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The Doctrine of Prior Appropriation and Its Impact on Water Development: A Critical Survey

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Description / Abstract

The strategic role of water in the development of the semi-arid and arid regions is nowhere more manifest than in the legal doctrines governing its development and use. This paper is an attempt to study critically the legal framework encompassing water-resource development in the western United States. First, the doctrine of prior appropriation, the basic water law employed by the 17 states west of the Mississippi, is described in historical perspective. This is followed by a discussion of the principal features of the prior appropriation doctrine and a brief analysis of some of their implications for the economy and the society. This serves as an appropriate background to the next section which attempts to illustrate the general theory discussed above with specific examples from a number of western states. The analysis deals with surface water laws and ground water laws separately and presents supportive evidence to the conclusion that the doctrine of prior appropriation has through the years evolved into a fairly dynamic body of laws whose operational efficiency has increased considerably in the context of the fast-expanding water needs of the western United States.

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