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### Extent and Limits of Federal Power [outline]

George A. Gould

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George A. Gould, *Extent and Limits of Federal Power* [outline], in *NEW SOURCES OF WATER FOR ENERGY DEVELOPMENT AND GROWTH: INTERBASIN TRANSFERS* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1982).

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EXTENT AND LIMITS OF FEDERAL POWER  
George A. Gould  
Associate Professor  
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College of Law

- I. Introduction: Federal Involvement in Water
  - A. The United States as a builder of projects.
  - B. The United States as a regulator of water activities.
  - C. The United States as a user of water. - *public lands*
  
- II. Federalism: The Nature of Federal Power
  - A. United States as a government of enumerated powers.
  - B. Conflicts with the States: The Supremacy Clause.
  - C. Actions by federal agencies: The delegation question.
  
- III. Specific Sources of Federal Power Relating to Water and Water Development
  - A. Navigation Power. *1871 Daniel Ball Case - defin. navigable  
1940 - Expansion of def'n - Clean Water Act 1972 Amend.*
  - B. Commerce Clause.
  - C. Property Clause.
  - D. General Welfare Clause.
  - E. War Power.
  - F. Treaty Power.
  - G. Power to Spend.
  - H. The Compact Clause.
  
- IV. Federal - State Conflicts and Accomodation
  - A. Conflicts: Federal Power and the Supremacy Clause in Action.
  - B. Accomodation: The Reclamation Act of 1902.

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- A. The United States as a builder of projects.
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Supremacy Clause in Action.
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of 1902.

V. Selected Issues

- A. The Ownership Issue: Who "Owns"  
Western Water?
- B. Federal Taking of State Created  
Private Property Interests in  
Water.
- C. Federal Reserved Rights.
- D. Federal Non-Reserved Rights. - 1979 *Knoultin Opinion*  
*In-stream flows; Based on Supreme Ownership;*
- E. The Navigation Servitude. *without regard to state  
law*
- F. Compacts and Interstate Decrees.