6-8-1982

Extent and Limits of Federal Power [outline]

George A. Gould

Follow this and additional works at: https://scholar.law.colorado.edu/new-sources-of-water-for-energy-development-and-growth-interbasin-transfers

Part of the Agriculture Law Commons, Animal Law Commons, Aquaculture and Fisheries Commons, Biodiversity Commons, Contracts Commons, Energy and Utilities Law Commons, Environmental Law Commons, Hydrology Commons, Law and Economics Commons, Legal History Commons, Legislation Commons, Natural Resource Economics Commons, Natural Resources and Conservation Commons, Natural Resources Law Commons, Natural Resources Management and Policy Commons, Oil, Gas, and Mineral Law Commons, Property Law and Real Estate Commons, State and Local Government Law Commons, Transportation Law Commons, Water Law Commons, and the Water Resource Management Commons

Citation Information


Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.
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).

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.
extent and limits of federal power
george a. gould
associate professor
university of wyoming
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.

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. 1571 daniel ball case - defin. navigable

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 accommodation
a. conflicts: federal power and the supremacy clause in action.
b. accommodation: the reclamation act of 1902.
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.

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.
   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 Accommodation


B. Accommodation: The Reclamation Act 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.

E. The Navigation Servitude.

F. Compacts and Interstate Decrees.