June 1989

Table of Contents - Issue 2

Chicago-Kent Law Review

Follow this and additional works at: https://scholarship.kentlaw.iit.edu/cklawreview

Part of the Law Commons

Recommended Citation
Available at: https://scholarship.kentlaw.iit.edu/cklawreview/vol65/iss2/1

This Front Matter is brought to you for free and open access by Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in Chicago-Kent Law Review by an authorized editor of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact dginsberg@kentlaw.iit.edu.
CONTENTS

SYMPOSIUM ON PREVENTION OF GROUNDWATER CONTAMINATION IN THE GREAT LAKES REGION

A. Dan Tarlock  
Stuart L. Deutsch  
SYMPOSIUM EDITORS

FOREWORD

A. Dan Tarlock  
Stuart L. Deutsch

The Foreword summarizes the principal papers and comments. Three broad themes run through the articles. All of the papers and comments debate the merits of creating new regulatory institutions versus the reorientation and reinvigoration of existing ones. Most of the Canadian and United States authors also address the correct governmental level at which specific media contamination problems should be attacked. The papers also implicitly raise the need to refine groundwater property rights to conserve the resource from both mining and degradation. The Foreword discusses recent developments in groundwater law that will support more aggressive integrated quality and quantity conservation regimes.

BINATIONAL COOPERATION FOR GREAT LAKES WATER QUALITY: A FRAMEWORK FOR THE GROUNDWATER CONNECTION

George Francis

Groundwater issues can be addressed within the framework of the Great Lakes Water Quality Agreement; this agreement and results from measures to implement it are described. The growing scope and complexity of United States-Canadian cooperation on Great Lakes matters is noted. Interest in adopting a more comprehensive “ecosystem approach” to guide this cooperation is being fostered, and groundwater must be seen as an integral part of such an approach.

NEW DIRECTIONS FOR THE GREAT LAKES WATER QUALITY AGREEMENT: A COMMENTARY

Edith Brown Weiss

New provisions are needed for dispute settlement procedures and for a Great Lakes Ombudsman. The U.S.-Canada Free Trade Agreement provisions for resolving disputes provide an encouraging precedent.
GROUNDWATER QUALITY PROTECTION:
SETTING A NATIONAL GOAL FOR
STATE AND FEDERAL PROGRAMS

David H. Getches

The article reviews the need to control groundwater contamination, existing laws and recent proposals. It concludes that national groundwater protection legislation is needed but major new federal regulatory programs are not required. Beyond strengthening and expanding the existing laws capable of protecting groundwater, Congress should concentrate its efforts on developing a solid research program and providing significant financial and technical assistance to support and induce state efforts. The key to a successful national groundwater quality program is the development and enforcement of strong state aquifer protection strategies that include land use and water extraction controls.

ALLOCATING THE GROUNDWATER POLLUTION TASKS: A COMMENT

Eric T. Freyfogle

Professor Freyfogle argues that the groundwater pollution control task is sufficiently substantial as to require responses by all levels of government and by private actors. In the end the main task will not be finding a place for pollution but finding ways to avoid generating the pollution. That task will require extensive regulation as well as the development of new ethical attitudes toward resource use.

GROUNDWATER IN THE GREAT LAKES BASIN:
The Natural System, Use and Abuse, and Policy Implications

R.A. Hodge

This article provides an overview of the natural groundwater system in the Great Lakes region and the various ways that human society has both used and abused this vital component of the ecosystem. A number of regulatory implications are identified based purely on this "technical" perspective.

GROUNDWATER CONTAMINATION IN THE GREAT LAKES BASIN: IMPLICATIONS FOR MULTIMEDIA REMEDIAL ACTIONS

Alfred M. Duda

In commenting on Mr. Hodge's article, Dr. Duda underscores the serious consequences of the failure of our institutions effectively to restore and protect our invaluable surface water supplies. Toxic contaminants in groundwater flow into the Great Lakes system, bioaccumulate in aquatic life, and pose health threats to consumers of fish. The widespread contamination with persistent toxic substances has serious implications for the federal budget deficit in both countries because of the hundreds of billions of dollars of remedial actions needed for cleanup.

CONTROLLING NONPOINT SOURCE WATER POLLUTION: CAN IT BE DONE?

Daniel R. Mandelker

Controlling Nonpoint Source Water Pollution: Can It Be Done? poses and answers this question. The article surveys the available land use controls to control urban runoff and agricultural pollution and the efforts of the federal government to induce states and units of local government to apply these controls. Existing efforts have had mixed success at best because the regulatory jurisdiction with the authority to regulate has the least incentive to regulate. Congress enacted a new program in 1987, but Professor Mandelker concludes that Congress has not yet found the right balance between federal incentives and federal coercion to achieve an effective response to the problem of groundwater contamination.
COMMENTARY: USING SPECIAL WATER DISTRICTS TO CONTROL NONPOINT SOURCES OF WATER POLLUTION

John H. Davidson 503

In the Clean Water Act, Congress demonstrated no inclination to deal directly with nonpoint sources of water pollution, and remedial action has been left to the individual states. Agriculture is probably the single greatest nonpoint source of pollution and any serious control program will necessarily implicate farmers and agribusiness. Special water districts are a common feature of agriculture—there are many thousands of irrigation and drainage districts—and they are uniquely well-structured to control nonpoint sources.

REGULATION OF GROUNDWATER CONTAMINATION IN CANADA

Andrew J. Roman 519
Derek Ferris

This article examines and evaluates the regulation of groundwater contamination in Canada, with a primary focus on Ontario's scheme. The article opens with a discussion of private common-law actions and turns to an analysis of federal and Ontario regulations and guidelines pertaining to groundwater quality. Ontario regulations are then categorized into general and specific prohibitions against pollution of groundwater. Evaluation of the effectiveness of the regulatory scheme is found throughout the article.

NOTES

LEADING THE HORSE TO WATER: THE EMPLOYER'S DUTY TO BARGAIN AFTER FIRST NATIONAL MAINTENANCE

Anne Frueh 555

WHEN WILL THE FEDERAL GOVERNMENT WAIVE THE SOVEREIGN IMMUNITY DEFENSE AND DISPOSE OF ITS VIOLATIONS PROPERLY? Mike Rothmel 581

THE SUPREME COURT, LYNG, AND THE LONE WOLF PRINCIPLE

Kathryn C. Wyatt 623