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The Spanish Element in Texas Water Law

By Betty Eakle Dobkins

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The Spanish element in Texas water law is a matter of utmost importance to many landholders whose livelihood is dependent on securing water for irrigation and to many communities particularly concerned about water supply.

Titles to some 280,000 acres of Texas land originated in grants made by the Crown of Spain or by the Republic of Mexico. For these lands, the prevailing law, even today, is the Hispanic American civil law. Thus the question of determining just what water rights were granted by the Spanish Crown in disposing of lands in Texas is more than a matter of historical interest. It is a subject of great practical importance.

Spanish law enters directly into the question of these lands, but its influence is by no means confined to them. Texas water law in general traces its roots primarily to the Spanish law, not to the English common law doctrine of riparian rights or to the Western doctrine of prior appropriation (both of which were, however, eventually incorporated in Texas law). A clear understanding of this background might have saved the state much of the current confusion and chaos regarding its water law.

Dobkins's book offers an intensive and unusually readable study of the subject. The author has traced water law from its origin in the ancient world to the mid-twentieth century, interpreting the effect of water on the counties concerned, setting forth in detail the development of water law in Spain, and explaining its subsequent adoption in Texas. Copious notes and a complete bibliography make the work especially valuable.

The idea for this book came in the midst of the great seven-year drought in Texas, from 1950 to 1957. The author gave two reasons for her study: "One was my belief that the water problems, crucial to all Texas, can be solved only when Texans become conscious of their imperative needs and only if they become informed and aroused enough to act.

"The second reason came from a realization that water—common, universal, and ordinary as it is—had been overlooked by the historian. It is high time that this oversight be corrected. In American history the significance of land, especially in terms of the frontier, has been spelled out in large letters. The importance of water has been recognized by few."

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The Spanish Element in Texas Water Law By Betty Eakle Dobkins Bibliography

- Sales Rank: #4367873 in Books
- Published on: 2011-11-01
- Original language: English
- Number of items: 1
- Dimensions: 9.02" h x .48" w x 5.98" l, .70 pounds
- Binding: Paperback
- 208 pages

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Editorial Review

About the Author

Betty Eakle Dobkins, a native Texan, was Assistant Professor of History at Southwest Texas State College, now Texas State University, in San Marcos, Texas.

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