



1-1-1973

## Book Review [Water Wasteland]

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### Recommended Citation

Santa Clara Lawyer, Book Review, *Book Review [Water Wasteland]*, 13 SANTA CLARA LAWYER 356 (1973).  
Available at: <http://digitalcommons.law.scu.edu/lawreview/vol13/iss2/7>

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## BOOK REVIEW

**WATER WASTELAND.** By David Zwick with Marcy Benstock. New York: Bantam Books, 1972. Pp. xvii + 494. \$1.50. Softcover.

This volume, first released in report form during April, 1971, is the product of twenty-one months of study by a group working under the auspices of Ralph Nader's Center for Study of Responsive Law. Their report analyzes the activities and policies of the Federal Water Quality Administration (F.W.Q.A.), now the Water Quality Office of the Environmental Protection Agency (E.P.A.).

Mr. Nader establishes *Water Wasteland's* theme in his introduction, and suggests the goals toward which he feels government and public efforts should be directed.

The Federal role in water pollution control began on a temporary trial basis in 1948 and became permanent in 1956. Its effectiveness to date can be concisely assessed by the virtual absence of any evidence that the seven laws passed and more than three billion dollars spent by the Federal government has reduced the level of pollution in any of our country's major bodies of water, so that they are once again suitable for human use as fish habitat, recreation spot, or drinking supply.<sup>1</sup>

The book's thorough documentation and clear writing will dispel whatever assumptions the reader may have concerning how effectively we, as a nation, are fighting water pollution. After initially bewildering and enraging the reader by stating what is not being done, the text enlightens him concerning the complexity of the problem and the difficulty of effecting an equitable political solution.

The authors begin with a review of the biological and chemical pollutants in our water environments. They note that our rapidly changing technology produces an unending list of little known contaminants. The report points out that industry used ten times more water in 1970 than municipal users and that most of the biological oxygen demand in our nation's waters is linked to industrial waste.<sup>2</sup> This growing danger to our nation's water

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1. R. Nader in: D. Zwick, with M. Benstock, *Water Wasteland* xii (1972).

2. Id., 40.

remains unchecked because the Federal Government has failed to initiate appropriate controls. The authors also discuss non-point pollution sources and contaminants in runoff from ranches, farms, mines, and logging operations. They believe proper management and land use controls would abate these sources of pollution.

The authors find the present Federal laws to be an insuperable obstacle in the way of effective enforcement. The laws do not grant adequate investigative powers, *de novo* court review of administrative determinations, nor adequate jurisdictional authority, and fail to restrict the discretionary powers of administrators, who delay enforcement procedures and in certain cases ignore non-compliance with the laws. Because of their discretionary powers, officials are subject to powerful political pressure to find in favor of polluters. The laws, we are told, were “. . . designed by industrial polluters for industrial polluters.”<sup>3</sup>

The absence of an appropriate penalty clause is another weakness of the current pollution laws. According to the authors, unless appropriate penalties are provided, particularly those that hold violators criminally liable, it is to the polluter's benefit to pollute.

The study further reveals that the impotent laws which do exist are frustrated in their application because of a jurisdictional nightmare. Congress' decision to protect states' rights in the pollution area and the absence of a nationwide water quality standard has resulted in selfish and introspective state solutions to water pollution problems. We are informed that states shirk their supervisory responsibilities concerning the quality of water which crosses their borders. This is noted to be particularly prevalent when their regional economies are threatened. Because of inadequate state legislation, local cities and industries are licensed to send their waste downstream. Downstream states therefore contend with an impossible situation if they desire clean water. The E.P.A.'s Water Quality Office cannot provide these states with effective assistance because proof of interstate pollution is based on a point source, which may be located in a state far upstream.

The authors point out another lapse in the jurisdictional logic of our Federal legislation. Despite the intrastate nature of many waterways, particularly those in coastal states, Federal abatement authority is restricted to interstate waters.

The studies final criticism of the present laws focuses on their lack of applicability. Federal pollution investigators are pro-

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3. *Id.*, 229-230.

scribed from inspecting industrial and municipal waste treatment facilities without first obtaining permission to trespass. Where disclosure would prove embarrassing, permission is difficult to obtain, and therefore enforcement opportunities are rare.

The Nader task force also examines the F.W.Q.A.'s record and that of its successor, the Environmental Protection Agency.

In the final analysis, it may make very little difference that so many of the Federal government's water quality standards are virtually unenforceable, because the evidence suggests that F.W.Q.A. has never had any serious intention of enforcing them.<sup>4</sup>

According to the authors the F.W.Q.A. has acted only when coerced to do so by external pressure, and its actions have been advisory rather than functional. The agency's poor performance is attributed to patronage, political pressure, frequent shifts in personnel, unqualified leaders and the agency's history of being shuffled from one program to another. This reader was left wondering what function the agency serves.

The writers conclude that apathy towards the problem on the part of the parties with the vested implemental authority is the reason for the lack of progress in the pollution area. This judgment is supported by vivid examples. We are told that of 700 U.S. Naval vessels, only three have sewage treatment facilities.<sup>5</sup> It is noted that although the Federal Government offers to finance public treatment facilities it has not responded to local requests with sufficient funds. Also there is a discussion of the inadequate staffing and design of the existing facilities.

*Water Wasteland* does have flaws. The book's tone is overbearing and incredibly self-righteous. The authors' selective choice of newspaper reports, government publications, interviews, hearsay and anonymous sources weakens the analysis. One also questions the credibility of some facts. Finally, the reader is left with the impression that corporations exist solely to thwart the antipollution efforts of the citizenry.

Additionally, this study assumed that our water environment is best served by being made potable and suitable for swimming and fishing. Another view argues that our waters are ideally suited for waste disposal and that the nation's needs are best fulfilled by using our waterways in this manner. This writer does not accept such an argument, but the book's authors were remiss to neglect its mention.

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4. Id., 280-281.

5. Id., 340.

Reform in the pollution area must contend with extremely difficult and complex problems. Solutions to these problems will not be instantaneous, although the public's renewed interest in the environment has made such a demand. Institutions are unable to respond as rapidly as interests, and it must be anticipated that pollution problems will be confronted on an incremental basis. The public will have to coax, cajole and coddle the legislatures, administrators, and courts until a workable environmental protection plan is formulated. This approach, although frustrating, may at least be viable.

Following the release of *Water Wasteland*, the 1972 Congress passed a new amendment to the Federal Water Pollution Control Act<sup>6</sup> which authorizes an expenditure of \$24.6 billion over a three year period for abatement of water pollution. It is just such legislation which the authors sought in their book.

In conclusion, *Water Wasteland* is a tough, insightful contribution to public welfare. Written from the posture of the citizen activist, it is typical of a genre of books which have enormous influence on change in our society.

*Michael W. Kuhn\**

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6. Upon Congress' overriding of the President's veto, the amendment became law October 18, 1972.

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