"stories" or values of the past—to bring things back to balance.

To do this Allen weaves tribal history, cultural traditions, and mythology of the Laguna Pueblo into the novel. If there is a difficulty with the novel, it is that sometimes reading about the inner spiritual journey of the main character in the context of Laguna storytelling and tradition is a difficult task. Often the language of the novel itself reads better aloud than it does on the page which is understandable since Allen is using an oral tradition. The structure of the novel itself is circular and spiraling which also adds to the difficulty. However, those willing to make the effort will find Allen's novel rich and rewarding. As Judy Grahn says, "if you come with an honest heart, 'it' will change the way you think and feel."

— Annette Van Dyke
St. Paul, Minnesota

American Indian Culture and Research Journal. **Special Water Rights Issue, Vol. 7, No. 1 (1983) $5.00 single issue.**

Indian water rights is the subject of most of a "Special Water Rights Issue" of the *American Indian Culture and Research Journal,* published by the American Indian Studies Center of the University of California, Los Angeles. The issue provides valuable materials on this issue, although it is marred by frequent typographical errors (e.g., consistently spelling McCarran wrong in the key article).

An article by Robert Peregoy offers a history of Indian water rights, something assumed by the other articles and essential to an understanding of them. This article explains the following: the origin of *Winters Doctrine* rights in the United States Supreme Court early in this century as a belated recognition of aboriginal rights neither surrendered by treaties or other agreements nor abrogated by Congress; the expansion of this right in subsequent decades to establish the principles that Indian water rights, unlike rights arising under state laws based on the appropriations doctrine, are not limited to irrigation but reserve water for future as well as present uses; the passage by Congress of the McCarran Amendment, which allows state courts to litigate federal (including Indian) water rights as part of comprehensive efforts to determine all water rights on a river system; the issue of whether to quantify future rights. This excellent review of these issues is essential to understand what appears to be a strong, well-established legal basis for

preserving precious Native American water resources.

Peregoy's and two other articles discuss the specifics of several historical cases involving Indian water rights. Although Peregoy does not say much about an important struggle in the 1920s over the licensing of a dam on the Flathead Reservation, there is extensive discussion of recent water litigation involving the Confederated Salish and Kootenai Tribes of the Flathead Reservation. The State of Montana passed a law in 1973 which purported to determine all water rights within the State, including the Reservation's rights, and sought dismissal of federal and tribal suits which had been brought. The Ninth Circuit Court of Appeals, in the *Adsit* case, refused to allow dismissal of the suits, but this decision was appealed to the United State Supreme Court and was undecided at the time of writing. A tribal suit to enjoin application of the Montana law on the Flathead Reservation was temporarily settled by stipulation in a way which did not prejudice Indian rights, in anticipation of a final Supreme Court opinion in the *Adsit* case. Subsequent to publication of this issue, on July 1, 1983, the Supreme Court ruled against the Confederated Tribes (as well as other tribes in Montana and Arizona), holding that the McCarran Act requires the dismissal of tribal and federal suits if the states desire to litigate water rights, even after (as in this case) the other parties have *initiated* litigation. (*Arizona, et al. v. San Carlos Apache Tribe, et al., Montana, et al. v. Northern Cheyenne Tribe, et al.*, 10 *Indian Law Reporter* 1036). The Ninth Circuit Court of Appeals stayed the tribal and federal suits rather than dismissing them, and federal court reviews of the decisions of state courts are possible, but the decision nevertheless means that the water rights of all tribes can be determined by state courts unless states voluntarily refrain from litigating the issue. The Peregoy article also discusses the attempt of the Confederated Tribes to pass their own water ordinance, an action aborted by the refusal of the Interior Department to approve tribal water codes until a national water policy can be developed by regulation.

Micheal L. Lawson provides a case history of the impact of the Pick-Sloan plan approved by Congress in 1944, under which flood control and irrigation facilities have been built along the Missouri River. Specifically, it details impacts on five Sioux reservations in South Dakota of the building of three of the Pick-Sloan dams. Briefly, the tribes lost over 200,000 acres of valuable bottomlands without adequate compensation and have not benefitted in other ways from the construction of the reservoirs, with the partial exception of the Lower Brule Sioux, who have been able to irrigate several thousand acres of land from water supplied from one of the reservoirs. Regrettably, the possession of strong legal rights to water (asserted vigorously by such defenders of Indian rights as William Veeder and by tribal leaders) did not help the tribes in this instance. The Corps of Army Engineers and the Bureau of Reclamation

simply ignored Indian rights and proceeded with plans designed to benefit non-Indians at Indian expense. (Partly, this was possible because of the plenary power doctrine, which gives to Congress almost unlimited authority over Native Americans; no statute affecting Indians has ever been declared unconstitutional.)

The water rights issue also contains several short pieces. Al Logan Slagle, in introductory comments, recognizes that water is the "life's blood" of Indians and non-Indians alike, there is a brief report of a 1983 decision of the Supreme Court which refused to recognize the water rights of several tribes living along the Colorado River on the weak ground of "judicial economy," and there is a summary of a report of a national conference on Indian water rights sponsored by the American Indian Lawyer Training Program at the end of 1981.

Although the issue does not provide a comprehensive treatment of this complex and important area, it will be useful for students of Native American life and persons concerned about development of the West, as well as Indians. Unfortunately, although there are important Indian leaders who believe that compromise can save enough water for economic development of reservations, the legal basis for such an outcome has been greatly weakened in recent years. The highest court in the land has allowed states to preempt federal or tribal determination of water rights. While the outcome of this is not certain, no state has recognized the special character of Indian rights, and many of the state judges are elected by non-Indian competitors with tribes for water rights. Moreover, the new reluctance in Washington to spend money on anything but defense has prevented some compromises which require federal expenditures so that tribes can actually use their rights. On the bright side, tribal assertion of water rights has been more vigorous in recent decades and the tribes have demonstrated that their governments possess more ability to deal with non-Indian governments and organizations than was the case in the 1930s and 1940s. However, it becomes harder and harder to accept the view that there has been basic change since Chief Justice John Marshall wrote that "Conquest gives a title which the courts of the conqueror cannot deny" [*Johnson v. McIntosh,* 21 US 543 (1823)].

— Elmer Rusco
University of Nevada, Reno