

Silver Fox of the Rockies: Delphus E. Carpenter and Western Water Compacts. *By Daniel Tyler (foreword by Donald J. Pisani)*. Norman: Oklahoma University Press, 2003. xxi + 392 pp. Maps, photographs, figures, notes, bibliography, index. Cloth, \$34.95. ISBN 0-806-13515-8.

Reviewed by Ryan J. Carey

When I read Daniel Tyler's detailed biography of Delphus Carpenter, a dominant figure in the shaping of water law in the American West, I was, appropriately enough, flying from Austin to Los Angeles via Denver. From 35,000 feet, I could see the landscape that Carpenter helped to create. Cities flourish in the midst of the desert. Reservoirs gleam. Great green circles of irrigated land dot the brown desert of New Mexico, Arizona, and California. The hydroelectric power that has enabled this economic development emanates from the dozens of green reservoirs strung along the interstate river systems of the Southwest. That physical landscape, a product of natural forces as well as human action, is also a legal landscape, the product of interstate bickering and disputes with the federal government. As the state of Colorado's water commissioner, Delphus Carpenter litigated and negotiated those disputes.

Carpenter helped to create the interstate water compact, a constitutional mechanism that allows states to negotiate water rights of interstate river systems, thereby avoiding costly litigation over the West's dearest resource. Prior to the 1920s, disputes over these rights were settled primarily through lengthy litigation. As many of the western rivers, such as the Colorado, crossed state lines, disputes flowed to the federal government—usually the Supreme Court. This situation was anathema to Carpenter, as he detested both litigation—which he felt took too long and was ultimately unenforceable—and the intrusion of the federal government. Beginning with the seven-state Colorado River Compact in 1922, Carpenter argued for a broader reading of the compact clause of the constitution (article I, section 10), which “legitimized negotiations of interstate agreements” (p. 9). If the states could come to terms with individual disagreements over water rights, Carpenter reckoned, they could stay out of court and maintain control over their own water rights.

Tyler's careful reading of the arcana that is western water law—statutes, court cases, and legal briefs—situates Carpenter in the larger debates over federal power that raged during the Progressive Era and the New Deal. Carpenter, he argues, was terribly jealous of the rights of his home state of Colorado, and those of the entire West, vis-à-vis the federal government, which was appropriating the administration of natural resources. The Forest Service, the Bureau of Reclamation, and the Bureau of Land Management appeared to Carpenter as harbingers of unchecked federal power, intent on depriving westerners of the ability to control their property. Carpenter's innovative legal arguments gave western states a means to preserve state sovereignty over natural resources during a period when federal power was indeed centralizing.

More important to the story is Carpenter's cultural heritage, which Tyler intimately reconstructs with the help of Carpenter's voluminous personal papers. Tyler undertook the Herculean task of sorting through a mountain of uncatalogued records at the Northern Colorado Water Conservancy (where they are currently held on loan from the Carpenter family). His efforts paid off. Tyler rightly places Carpenter in the world of lately settled, self-conscious "pioneers." Recent western historians discredit the reality of Frederick Jackson Turner's mythic pioneer—a rugged individual who was born into the social conditions of a far-flung frontier free of government control. But Carpenter is a pioneer not so much in fact as in myth. Tyler argues that his subject inherited the "pioneer ethic" of Turner's frontier individualism and that it informed his actions. The distinction between the mythic pioneer and Carpenter is apparent through his life. As a graduate of the University of Denver Law School, Carpenter was not a rancher by occupation, although he liked to think of himself as one. He owned a ranch, where he raised full-blooded Bates shorthorn cattle, but the ranch made him little money, and he spent most of his time as a lawyer negotiating interstate water disputes. Carpenter's views supported his western credentials: Easterners were "effete." The federal government was "oppressive." Western men, like himself, were closer to the land and knew better how to administer their own resources.

*Silver Fox of the Rockies* may reconstruct the cultural world in which Carpenter lived, especially the "pioneer ethic," but Tyler could have done more to deconstruct that world. He seems to accept Carpenter at his word, applauding his fight to keep western

resources under regional control and describing them as legitimate. Did westerners really have a “better” understanding of the land they wanted to administer? The question remains unanswered. Tyler does not analyze either the environmental or the social effects of local control.

Tyler devotes most of the book to a careful analysis of the legal and political history of water contracts and of Carpenter’s role in that history—an arduous task, for which he should be thanked. Business historians interested in the economic development of the Rocky Mountain states would do well to read Tyler’s *Silver Fox of the Rockies* alongside historian Norris Hundley’s *Water and the West: The Colorado River Compact and the Politics of Water in the American West* (1975). The two works complement each other in defining the importance of water and electric power in the development of the twentieth-century West. Only by understanding the political and cultural landscape of the region can we understand its history.

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