

Al Utton—Aztec Eagle:

International Waters, Research, Diplomacy, and Friendship

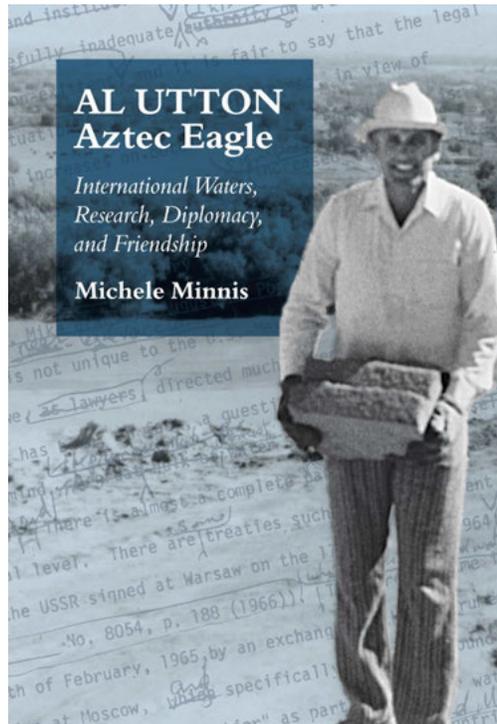
Biography by Dr. Michele Minnis and Book Review by Charles DuMars

About the Reviewer:

Professor Charles “Chuck” DuMars knew Al Utton for more than 35 years, first as a friend and fellow natural resource attorney, and later for a period of 25 years as a colleague at the University of New Mexico School of Law. There they worked together on numerous international projects involving water treaties, specifically the Mexican Water Treaty of 1944 and the possible adaptation of a model groundwater treaty to accommodate international demand for this shared resource by the U.S. and Mexico. DuMars and Utton personally committed themselves to finding the “perfect margarita.” They never reached that goal, but pursued the quest during their entire close and rewarding friendship.

A useful biography of Al Utton could have been written exploring his research and scholarship, his diplomatic skills or his complexity and decency as a human being. Dr. Minnis undertakes to explore all three themes in a single volume and pulls it off in *Al Utton—Aztec Eagle: International Waters, Research, Diplomacy, and Friendship*. The book captures the breadth of his character by summarizing Utton with one word: “friendship”—the capacity to be a friend to everyone he encountered.

This capacity led to his success in diplomacy, and ultimately to his being awarded the Order of the Aztec Eagle, Mexico’s highest recognition of a foreigner’s service to that nation or to humankind. Dr. Minnis traces the trails Utton blazed in international water law and his extensive body of academic work, which remain viable and relevant today. Utton was an internationally known expert in the area of transboundary resource allocation, specifically water allocation, for both ground and surface water. For more than 30 years, he edited the country’s leading multidisciplinary quarterly—the *Natural Resources Journal*. He also convened multiple symposia and sophisticated



working groups of participants from all over the world. The policies and practices collaboratively developed by those groups have improved the prospects for equitable and peaceful allocation of shared water resources.

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It has become a cliché to describe a book as “timely.” This is not a cliché here. The U.S. shares two major rivers on its

southern boundary: the Rio Grande and the Colorado. They are linked together by the Mexican Water Treaty of 1944, and in the case of the Rio Grande above El Paso, Texas, an earlier international agreement. For reasons many conclude are directly tied to climate change, each of these international rivers face extraordinary drought, and the prospects are bleak. Each is subject to a shortage-sharing provision that must be interpreted by the International Boundary and Water Commission, an institution designed to resolve treaty conflicts. Thus, an understanding of the precepts offered by Utton over his lifetime of collaboration is not only useful—it is critical.

Dr. Minnis’s biography begins in the style of a historical novel tracing the grassroots of a young man who rises to the top in all his endeavors. With thrifty prose, personal letters, newspaper accounts, and heartfelt tributes, she leads the reader to understand how small-town America produced a leader who was consumed by affection for his country and its people. She does such a complete job in describing his journey from hometown Aztec, New Mexico, to life as a Rhodes Scholar at Oxford University that when one turns to the next segment of the book, there is no question who Utton was. For readers interested in the kinds of life experiences that form individuals who consume life and give back all they take and more, this is reason enough to read this book. However, the book does not end there. It takes the next step and traces Utton’s contributions to the academic and practical underpinnings of modern thinking in international law.

Because Utton, the person, could not really be separated from Utton, the legal scholar, it is not surprising that a review of his life intersects with his lifelong fight to move international law away from the hard doctrine that “might makes right,” which allows those upstream to take all of the

water and deprives those downstream of everything. Knowing that since the earliest civilizations disputes over water have resulted from these absolutist doctrines, Utton advanced the principle early on that transboundary waters are a shared resource allocated best not by force, but by applying equitable principles of maximum utilization benefiting each nation sharing the resource.

Utton championed river basins commissions and planning studies that avoid the “tragedy of the commons” or the race to the bottom of environmental standards to ensure the water is consumed before its poor quality makes it useless. Dr. Minnis traces this evolutionary process focusing on the multiple conventions and international forums that produced not only theoretical talking points, but specific guidelines and a model treaty for groundwater allocation—the only such model treaty at that time, and one that continues to dominate the field. Because Utton collaborated with virtually all other experts in the field of international water allocation, the footnotes to the book contain a gold mine of useful sources on these topics valuable to any scholar.

The final segment of the book brims with a description of Utton’s attempts to imprint upon international negotiation processes

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the principle of what he and his colleagues called “preventive diplomacy.” This approach is simple to state yet complex to implement. The principle is that one should not wait until a problem is intractable before trying to solve it. For example, knowing that India and Bangladesh share a common water supply coupled with disparities in economic capacity, bright, thoughtful academics, water administrators, and statespersons can devise methods to allocate the water fairly while some portion is not already tied to use within each country.

Implicit in his work was Utton’s belief that all members of the world community share a duty and an obligation to bring themselves together before river systems and water quality have irreversibly degraded

to hammer out agreements for allocation, or at a minimum, establish a forum for dispute resolution that will prevent unthinkable devastation for those sharing the common resource.

The book also demonstrates that Utton was a devotee of collaborative decision-making long before mediation became a topic in all law schools, and long before mediation was recognized throughout the U.S. as strong alternative to litigation. Dr. Minnis explains how Utton’s vision for collaborative solutions led the Republic of Mexico to honor him for service to humankind with the Order of the Aztec Eagle award.

This biography offers up three generous helpings for those interested in how the ingredients of small-town life and a loving family, coupled with an excellent education, can bring about a true love of country and humanity that furthers the evolution of international law. Utton was convinced that international problems can be solved through collaborative, preventive diplomacy. This book will provide like-minded people with both guidance and inspiration to renew their commitment to these principles.

Books can be purchased at uttoncenter.unm.edu.



About the Biographer:

Al Utton—Aztec Eagle author Michele Minnis, PhD, was one of the founders of the University of New Mexico Master of Water Resources Program (est. 1991). While teaching 15 years on its faculty, she served twice as its acting director. For most of that time she was also associate director of the Natural Resources Center, created by Al Utton as an education, research, and public service arm of the Natural Resources Journal. In the early 1980s, Minnis designed and directed a legal writing program for first-year UNM law students. Now retired, she lives in Corrales.