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THE URBAN BANKSIDE: AN INTRODUCTION TO THE ISSUE

PAUL STANTON KIBEL*

In 1998, Ann Riley published the groundbreaking book *Restoring Streams in Cities*. In her book, Riley, who now serves on the San Francisco Bay Regional Water Quality Control Board, tells tales of local urban communities taking riverside restoration into their own hands, by pressing ahead with on-the-ground riparian projects without waiting for elected and agency policymakers to take the lead. She urges people living along city streams to do more than just “plan to plan” and to move directly to implement bankside landscape changes needed to protect our waterways.¹

One of the most engaging tales in Riley’s book is that of the origins and legacy of the annual Friends of Trashed Rivers conferences. She describes the participants and attendees at the first of these conferences, held at San Francisco’s Fort Mason in 1993, as “three hundred people from over twenty states who [had] adopted ruined rivers, ditches, canals, urban waterfronts and culverted creeks.”² The Trashed Rivers annual conference led to the creation of a new national network, the Coalition to Restore Urban Waters (“CRUW”), which by 1995 had over 375 member organizations.³

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¹ Ann L. Riley, *Restoring Streams in Cities: A Guide for Planners, Policymakers and Citizens* (Island Press, 1998), p. 26.

² Id.

³ Id.

There is a long history of movements and groups dedicated to preserving pristine wild rivers, but this was something new. The waterways involved here were already severely damaged and altered ("ruined" in Riley's words), their ecology linked for decades if not centuries to the activities and discharges of the dense city populations that surrounded them. This was not wilderness preservation but rather deliberate environmental intervention, creation and remediation.

At this point, CRUW has gone somewhat dormant. This dormancy, however, is due to the organization's success rather than its failure. The goal of the network, and of the Trashed Rivers conferences, was to mobilize riverside activists in cities around the country by disseminating practical information about how to carry out riparian ecological restoration in the urban context. As detailed in the articles in this special *City Rivers* symposium edition of the Golden Gate University Law Review, these efforts have taken root and are now yielding results.

In approaching this topic, it became clear that although the law is certainly a component in the urban river restoration story, its role is generally that of a facilitator rather than a catalyst. Where and when there is strong and effective local pressure to reclaim damaged rivers and riverfront lands, agencies with jurisdiction to respond to this pressure come into play or new agencies are created. The legislative and administrative processes by which these agencies determine riverside policy priorities and by which they approve riverside projects become the stage on which broader debates about city rivers get played out. Therefore, although the articles in this symposium edition are presented in law review format, they are as much about stream ecology, industrial history, citizen activism and urban politics as they are about the law. The main criteria we used in selecting authors to contribute articles was whether, lawyers or not, they had a deep working knowledge of the waterways they were discussing. We wanted writers who were, literally, on the waterfront.

The *City Rivers* symposium edition flows across the United States from west to east.

The first symposium article, by attorney Richard Roos-Collins of the Natural Heritage Institute in Berkeley, looks at the Guadalupe River watershed. The Guadalupe and its tributaries make their way through Silicon Valley and the City of

San Jose in California, eventually emptying into the south end of San Francisco Bay. Through his representation of a local Resource Conservation District, Roos-Collins was involved in litigation and an innovative settlement that seeks a long-term cooperative framework to address the problems of instream flow and water quality impairment. The components of this settlement may serve as models for other urbanized areas facing similar river-related problems.

In the second piece, Professors Robert Gottlieb and Andrea Azuma of Occidental College's Urban Environmental Policy Institute introduce us to the strange and evolving relationship between the City of Los Angeles and the Los Angeles River (formerly known as the Rio de Porciuncula). Once a naturally-flowing waterway, with a tendency to overflow its low banks and inundate large portions of the Los Angeles Basin, the United States Army Corps of Engineers paved and straightened the river in the early 1950s transforming it into what has been described as a water freeway. In recent years, however, there have been increasing calls to unentomb stretches of the Los Angeles River for the benefit both of riparian ecology and riverside communities. Gottlieb and Azuma describe the critical role that a local nonprofit group and a local academic research project have played in "re-envisioning" what the river is and might be.

While the Los Angeles River may have been placed in a concrete straightjacket, this engineering solution seems tame compared to what happened in Salt Lake City. City Creek, a tributary to the Jordan River, had the misfortune of being located in an area slotted for downtown expansion. To facilitate this expansion, in the early 1900s City Creek was buried underground and as a result for the past 100 years has been invisible. Now however, a century later, in part because of federal funding made available through brownfields programs and the new Urban Rivers Restoration Initiative ("URRI"), plans are in the works to "daylight" this long submerged waterway. In this third article, Ron Love of Salt Lake City's Public Works Department sheds light on the origins, agencies and logistics involved in this daylighting effort.

The fourth article offers a case study of human interventions along the Chicago River, which naturally flows eastward through the City of Chicago toward Lake Michigan. The Chicago River lies just east of the westward flowing waters of the

Illinois River, which (unlike the Chicago River) is part of the Mississippi River watershed. In the early 1900s, to deal with the problems of city sewage overflows contaminating Lake Michigan, Chicago city officials came up with an ingenious engineering solution. The Chicago River's flow into the lake was dammed and a canal was built connecting the Chicago River to the Illinois River, thereby causing the river to reverse direction and sending the city's sewage overflows toward St. Louis along the Mississippi River. As Christopher Theriot (Lecturer at Roosevelt University) and Professor Kelly Tzoumis (Director of Policy Studies at DePaul University) detail, this was but the first in a long series of engineered interventions along the Chicago River, some of which are now being implemented to deal with the ecological consequences of the canal linking the Mississippi River and Lake Michigan watersheds.

Next, Betsy Hemming identifies the circumstances and stakeholders that led to the creation of an innovative public-private entity to support new uses of land along the Detroit River – the Detroit Riverfront Conservancy. The idea for the Conservancy grew out of the 2002 East Riverfront Study Group organized by Detroit Mayor Kwane Kilpatrick. Although it has been a struggle to reconcile some of the competing interests of different constituents, which often reflect the city's racial politics and divisions, through an extensive outreach and public participation program the Conservancy has managed to achieve significant consensus. This consensus is evidenced by the broad support for the proposed Riverwalk, a landscaped five-mile riverfront pathway that will ultimately extend from Detroit's Ambassador Bridge to Belle Isle.

The final article is by Uwe Brandes, former manager of the Anacostia Waterfront Initiative ("AWI") for the Office of Planning with the District of Columbia ("D.C."). Brandes discusses how lands along the Anacostia River, unlike those along the Potomac River, have been largely by-passed by D.C.'s previous major planning efforts, such as the McMillan and L'Enfant plans. The D.C. waterfront areas and primarily African-American neighborhoods along the Anacostia River have instead been the location of federal highway and urban renewal projects that caused social disruptions that continue to this day. Within this setting, the AWI has emerged as a vehicle to bring attention and funding to this neglected section of the nation's capitol. Brandes provides an insiders' account of the

forces and processes that led to the AWI's creation, as well as analysis of its structure and operations to date.

The six articles in the *City Rivers* symposium edition reflect the changing riverfront in cities around the country. Many factors have contributed to this change. Traditional maritime river commerce has declined, and given way to road, rail and air transit. Heavy industrial use along our city's rivers has become less frequent, due to shifts in the economy and relocation of such industries abroad. Equally important, communities located along urban rivers have voiced their need for greater open space, parkland and housing. Taken together, these elements have made the "untrashing" of our cities' trashed rivers and riverside lands an emerging national priority.

