Native Peoples and Water Rights

Irrigation, Dams, and the Law in Western Canada

KENICHI MATSUI

McGill-Queen's University Press Montreal & Kingston · London · Ithaca

© McGill-Queen's University Press 2009 ISBN-978-0-7735-3521-3

Legal deposit third quarter 2009 Bibliothèque nationale du Québec

Printed in Canada on acid-free paper that is 100% ancient forest free (100% post-consumer recycled), processed chlorine free.

McGill-Queen's University Press acknowledges the support of the Canada Council for the Arts for our publishing program. We also acknowledge the financial support of the Government of Canada through the Book Publishing Industry Development Program (BPIDP) for our publishing activities.

Library and Archives Canada Cataloguing in Publication

Matsıri, Kenichi, 1969-

Native peoples and water rights: irrigation, dams, and the law in western Canada/Kemichi Matsui.

(McGill-Queen's native and northern series; 55) Includes bibliographical references and index. ISBN-978-0-7735-3521-3

- 1. Water rights British Columbia History. 2. Water rights Alberta History. 3. Indians of North America Legal status, laws, etc. Canada, Western History. 4. Irrigation laws Canada, Western History.
- 5. Dams Law and legislation Canada, Western History.
- 6. Agriculture and state Canada, Western History. 7. Indians of North America British Columbia History. 9. Indians of North America Alberta History. 1. Title. 11. Series.

KE7722.W38M38 2009 346.7104'6910089970711 C2008-907402-5

Typeset in Sabon 10.5/13 by Infoscan Collette, Quebec City

Contents

List of Maps and Figures xi

Preface xiii

- r Introduction: Culture, Colonialism, and Reclaiming Indigenous Waters 3
- 2 A Water Rights Culture and Native Farmers in the North American West 15
- 3 The Struggle for Power over Native Water Rights in British Columbia 40
- 4 An Anatomy of Water Conflicts: The Secwepeme and Settlers in the British Columbia Dry Belt 64
- 5 Irrigating with Indigenous Waters in the Treaty 7 Region 88
- 6 Hydroelectric Dams and Native Waterpower Rights: A Stoney Nakoda Case 114
- 7 Conclusion: Rediscovering Indigenous Water Rights History 140

Appendix: The Evolution of Water Laws in British Columbia with Particular Reference to the Native Peoples,

1858-1921 147

Notes 153

Bibliography 201

Index 229