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THE FEDERAL ROLE IN WATER DEVELOPMENT*
by
Mason Gaffney

It was foreordained that water should become a Federal concern when the founding fathers, in bounding the separate states, chose to ignore watershed lines. Water returned the compliment and moved thenceforward in interstate commerce. Accordingly in *Gibbons vs. Ogden* (1824) the Supreme Court ruled that navigable waters came under Federal Jurisdiction.

Improving rivers and harbors was quickly accepted as a Federal function, and indeed provided the school for generations of American statesmen to develop the arts of logrolling. The Army Corps of Engineers, which administers the monies, has been their teacher. Today its functions include channel improvement for navigation, bank stabilization, and flood control.

In the arid states Federal activity rests more on the Reclamation Act (1902). This again was foreordained when Congress admitted new members from areas without waters navigable enough for logrolling. The interstate balance was redressed by making the promotion of irrigation an object of national policy, subsidized by interest-free money and a policy of repayment scaled to ability-to-pay. The Bureau of Reclamation administers this function. On the side it generates power which pays well and yields further subsidies to irrigation which does not. The Bureau distributes water and power from Corps-built facilities as well as its own.

Both the Corps and the Bureau have tended to expand since each

*Note: This is the original MS of which an edited version appears in Challenge, June, 1960. Like many writers, I like the original a little better than the edited version, which had to be cut on account of space limitation.

began with a small piece of the complex web of water management. It soon became evident that the dam and reservoir serving one purpose could serve others as well. By the 1920s single-purpose projects were with few exceptions clearly obsolete, while great opportunities beckoned for socially profitable investment in multi-purpose projects.

The Corps moving up-river and the Bureau down, each with its loyal clientele, clashed over jurisdiction of multi-purpose dams. But a strong executive could knock their heads together. The major obstacle ^{to multipurpose public devmt.} was the enmity of private power companies, then riding high on the prestige of the product they monopolized.

Private companies could not hope to achieve economies of multi-purpose development as they lack the tax power to collect for non-salable benefits like flood control and navigation. They would not achieve economies of large-scale operation and area saturation for fear of glutting their markets. They wanted no one else to glut them either, nor to compete for key sites and waters they might want some day.

In 1928 the first large public project breached the defenses, at Boulder Canyon. After 1929 came the sensational collapse of utility holding companies, embarrassing private power both financially and politically. In this hour of weakness the pent-up demand for multi-purpose development scored again and again, most notably in the valleys of the Columbia, the upper Missouri, the Tennessee, the Colorado-Big Thompson, and the Sacramento-San Joaquin. Now private power has learned since it can't lick 'em to j'ine 'em, and joint development rolls on and on.

For all the boondoggling that has attended it, Federal development has recorded many solid contributions to economic sense and

welfare.

One is full development of scarce sites and waters. The Bureau of Reclamation takes seriously its Conservationist mission to economize on valuable public waters and damsites, if not monies.

"Full development" wants sharper definition; but it is worlds apart from the private and local practice of preclusive underdevelopment by rival empire-builders racing to stake out valuable public resources. Fully to understand this scramble one need pause to steep himself in the spirit and practice of the Western states' appropriative doctrine of water law. The law in effect grants perpetual enjoyment of public waters, free of charge, to the first to put them to "beneficial use." State courts and administrators condone almost any gesture at "beneficial use," possession being nine points of the law.

Private and local investors, faced with equally profitable choices between full development of one site or half-hearted development of two, naturally have preferred the latter. It serves them better to forestall competition and promote securities. It lets them tie up public resources, at little or no cost to themselves, for their possible future convenience.

Few things rile the Westerner like the Easterner's belief, which Bureau publicity does little to disabuse, that reclamation is largely a Federal accomplishment. In fact private, cooperative, and irrigation district enterprises were active before 1902 and continue to thrive. Bureau water reaches less than one in four irrigated western acres, and then often as a supplement.

So Westerners protest that they have helped themselves, and they are right. But the magnificent natural resources to which they have helped themselves bear a large measure of credit for their success.

Their works seldom yet match their mountains. This is a fault that the Bureau does not share.

If Bureau projects are economical one would never guess it from their miserable repayment record. This leads many observers to conclude they were overbuilt or otherwise misconceived. But that is to reckon without the Bureau's incredibly maudlin collections policy which often made it downright foolhardy for settlers to pay. This policy, capitalized into land prices, let speculators make off with most of the values created by earlier projects. The policy was a mistake, but not an evidence of overdevelopment.

The Bureau aspires toward full use not only of damsites but of water on the land. Its standards of water economy, based on substantial research in crops and soils, are a cut above the practice on most local projects. The local appropriator's interest is to maintain a history of heavy water "use" and he does, often to the point of depressing crop yields and injuring the soil.

A second major Federal contribution was to foresee and meet the wide latent demand for cheap power. The pioneer explorers of power's demand-elasticity were local units like the Modesto and Turlock Irrigation Districts of California, which cut rates in the 'twenties. But it was the Federal agencies which, like Henry Ford, used the elastic demand to let them achieve low unit costs from large-scale operation and area saturation. And they did this in the 'thirties, a period when earlier pioneers were beginning to act more like private power companies.

Federal property pays no local taxes (unless voluntarily), while private power usually pays more than its share. Critics say that

local taxpayers thus subsidize cheap Federal power. Defenders reply that the Federal tax-exemption saves power users from subsidizing local taxpayers. It's all in the point of view. The real issue is how better to collect local taxes, from property, or power users? Many economists, among them your author, would choose the first, since the unit cost of distributing power rises rapidly when high rates choke off the volume. There are net social gains in cheap power.

A third Federal achievement was to work out rather a reasonable division of function between the agencies as wholesalers and local units like irrigation districts and power coops as retailers of water and power. If the agencies occasionally meddle in the retailers' affairs it is usually to preserve wide markets by ensuring that retailers pass on low rates to consumers.

Fourth, Federal agencies pioneered the multi-purpose concept, from small generators on the Salt River irrigation project in 1906 to the versatile titan reservoirs on the Missouri mainstem today.

Fifth, as wholesalers Federal agencies have led in promoting power pools to balance irregularly fluctuating supply and demand over wide areas. Bonneville, Southeast, and Southwest Power Administrations, T.V.A., and in the Missouri Valley the Bureau of Reclamation have achieved notable economies.

Sixth, Federal agencies have striven toward integrated design and coordinated operation of all the water facilities of a river basin, most notably on the Tennessee. If they have not achieved comparable results elsewhere the fault is only partly theirs. All disinterested observers lament the Corps-Bureau feud, and rightly. But these rivals are achieving closer coordination on for example the

Missouri than can be approached in the Central Valley of California, where local interests predominate. There every stream has spawned one or several picturesque little principalities, justly proud of their past pioneering, but going each its own way save to join in heckling the Bureau's efforts at de-Balkanization.

Seventh, as a water wholesaler the Bureau has contrived to retain some flexibility for adjustment of allocations to the future needs of a dynamic society. This they accomplish with their "9e" contracts, which run for forty years instead of forever. Their value can only be appreciated by contrast with the paralytic rigidity of fixed allocation vested under state water law. Those who apprehend what bureaucratic red tape may do to the flexibility of free enterprise in water need have no fear; the lawyers have done it already.

Having expressed my appreciation for Federal achievements let me now turn coat and play the critic--not because I love Caesar less, nor Edison Electric more, but because like other successful institutions the agencies have freely mingled the sublime with the ridiculous.

Uncle Sam in his affairs with the states is rather careless about distinguishing the maidens who truly love him from the sirens who want his gold. His most lovable quality is his unique ability to administer interstate waters. But what can he contribute in the Central Valley, wholly contained in California? Money. California claims her share because gallant Sam rarely goes Dutch with her sister states either.

But it is not all or even most of California which shares the treat. It is largely those whose lands are located to benefit from

Federal works. Without the prospect of U.S. aid landholders would often organize locally and tax themselves to improve their opportunities. Not only does Federal spending bestow unearned windfalls on a few but the prospect of it dulls the enterprise of others. It by no means dulls their appetite for claiming water rights, for these they may hold for ransom, which U.S. spending bids up considerably. But it may suppress as much actual construction as it accomplishes.

These problems antedate the New Deal and giant government. They cut deep into our systems of land tenure, of regional representation, and campaign financing, and may ultimately call for more agonizing reappraisals of the American Way than most of us would care to entertain. But certainly the problems are aggravated by the growth of bureaucratic juggernauts.

The agencies, grown fat, with jobs and contracts and perquisites at stake, become too eager, nay desperate to perpetuate themselves. When they were small the country looked large, and their poverty gave them bargaining power with local interests wanting help. Now it is "pour cement or perish," a mood not conducive to safeguarding their employers' interests.

The Bureau and the Corps regularly lobby for projects. It is part of the service they render their clientele, and Commissioner Dexheimer reaped a whirlwind when in 1954 he suggested that local interests might shoulder more of this burden. Congress relies on them for technical advice, yet both agencies have established unconscionable reputations for underestimating costs and overestimating benefits. And in their eagerness to woo clients they bend every effort to minimize the local contribution by allocating as many costs

as possible to "non-reimbursables" like flood control and navigation.

Decades back the Bureau learned not to sink investment hostages to local landholders without their first signing repayment contracts. Yet some recent Commissioners have had to re-learn this from fresh personal experience costing millions of dollars. The works lie idle today.

In their striving for future security the agencies naturally prefer starts to completions. Each start is a long-term taxpayer commitment for future appropriations. The agencies tend therefore to start more than they can finish, at least for a long time.

This agency weakness is aggravated by Congressional logrolling whereby a start in one electoral district is the price for a start in another. The combined result of these forces is to strew the rivers of America with work under construction.

If the fault of local enterprise is the half-sized project, the fault of Federal enterprise is the half-finished one. While local enterprise treats scarce waters as free goods, Federal enterprise treats time that way. With interest-free money, after all, time stands still. And the virtue most lacking in the agencies is a sense of urgency.

The public's capital sunk in the early stages of incomplete projects remains sterile for years, as do the better resources whose development should have priority. Reclamation funds, instead of revolving as originally conceived continually drain more capital from other sectors.

The ultimate aggregate impact of all projects on supplies of project-reclaimed lands and their products, which would give pause to the marginal starts, lies latent and generally belittled until every

project has crossed its Rubicon. With each passing year the chances improve that the projects will be obsolete or redundant when completed.

Worse yet, many are obsolete when begun. Once upon a time the agencies pioneered new techniques and full integration of water facilities. Today's frontier is the underground aquifer, managed as a storage reservoir. Continuous pumping of ground water has emptied out these great natural reservoirs in many areas and presented them free to society. They offer great advantages over surface storage, and much more low-cost capacity.

The need is for grounds and facilities to recharge the aquifers, and conjunctive operation of these with surface facilities. Several local districts and municipalities are pioneering in this work.

The Bureau does supply water to some of these districts but it cannot go much farther. It is bound by the Federal policy of acreage limitation, that is of limiting water deliveries to 160 acres in one ownership. To enforce this presupposes strict control of water through surface deliveries and careful segregation of Federal water from the profane variety. Under this policy the agencies must largely continue in the old way, unable to practice their preachment of full integration.

Equally obsolete are the sacred cows of subsidy to irrigation, navigation and flood control. The public has become conditioned to accept them as inevitable, and the scribes and the Pharisees to invoke them solemnly like cosmic verities fixed with the stars in their courses. Thus the public's limited capital is poured into fruitless

monuments to the past and the West's limited waters preempted from more productive new uses in industry, refining and recreation. Pollution control, of which we really do need more, starves for appropriations.

Demand for water is increasing and the problems of the arid West are moving East. Of water there is enough, and of water plans a surplus, some brilliant but some stultifying; some altruistic but some venal. Grant us the wisdom to know the difference!