



Common Waters in Private Keeping: Watermark Essays on Economic Use and Common Rights

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COMMON WATERS IN PRIVATE KEEPING

Watermark Essays on Economic Use and Common Rights

Collected and Edited by Mason Gaffney

DRAFT of Contents, September 17, 1991

Bruce Billings - has agreed to submit article on severance tax on water withdrawals.

Michael Bradley and Rebecca Morales, The Metropolitan Water District. Selections.

(Showing how its Board is rigged to assure control by speculative landowners. This would take a few hours of editorial work, and some more of typing.)

Michael Brewer, 1964. "Economics of Public Water Pricing: the California Case." In Stephen Smith and Emery Castle (eds.), Economics and Public Policy in Water Resource Development, Ames: Iowa State University Press, pp. 222-47. Selection, pp. 240-42, on economical water pricing from public projects. Proposes tax on withdrawals.

James Bryce, 1891. The American Commonwealth. London: Macmillan and Co. 2nd Edition Revised, Vols. I, II.

I, pp. 636-39, "On Constitutional Conventions."

(Subject: gives several good reasons why const. conventions attract superior people, produce better work than ordinary legislatures.)

II, p.395, repeats summarily.

I, pp. 683 ff. Followed by excerpts from Calif. Const. of 1879, on equal division of land, and common ownership of water. (See Bryce notes, this Directory.)

II, p.386, para. on land concn and evils of scattered settlement.

IF NEEDED

Mason Gaffney, 1960. "The Federal Role in Water Development." Retitled by editor, "Water, Politics and Human Nature." Challenge 8(9):24-28, June 1960. (Permission needed?)

IF NEEDED

Mason Gaffney, 1969. "Economic Aspects of Water Resource Policy." AJES 28(2):131-44, April. (Our copyright.)

Republished in Charles J. Meyers and Dan Tarlock (eds.) Water Resource Management: a Law School Case Book. Stanford Law School.

Republished in Jesse Dukeminier and James Krier (eds.) Property. Boston: Little, Brown, 1981.

IF NEEDED

Mason Gaffney, 1973. "A Critique of Federal Water Policy." In Robert Haveman and Robert Hamrin (eds.) The Political Economy of Federal Policy. New York etc., Harper and Row, 1973. (Originally this was testimony before the Joint Economic Committee of Congress, not copyrighted.)

Mason Gaffney, 1991. "Whose Water? Ours." 55 pp. single-spaced, plus 12 page biblio.

Alt: "Who Owns the Water?" Shorter version, 19 pp. plus biblio.

Paul Gates, 1978. "California Land Policy and its Historical Context: the Henry George Era." Institute of Governmental Studies, Four Persistent Issues. Berkeley: University of California, pp. 1-30.

(Gates was a prodigiously industrious and prominent historian, mostly on midwestern land disposal. This is his last work on California, to my knowledge.¹ It features and draws heavily on Henry George.)

Henry George, 1871. Our Land and Land Policy. Rpt. NY: Doubleday McClure & Co., 1901. Selections.

(Often cited by later historians: Bryce, Gates, McWilliams, Worster, Stegner, et al. George was a San Francisco journalist, like Steinbeck, and went from investigative reporting to classic literature.)

Henry George, 1879 rpt. 1929. Progress and Poverty. NY: The Modern Library. Selections from Book VII, Chap. V, "Of Property in Land in the United States."

(Subject: placer mining, possessory interests recognized without any formal legal system, limited in extent and time. Sheds light on original nature of appropriative rights as possessory interests limited in time. Continues with more general history of U.S. land tenure. Among other points, he anticipates the "Turner Thesis.")

Walter Goldschmidt, 1947. As You Sow. The Free Press, Glencoe, Illinois. Selections.

(Soberly written but, as it turned out, highly provocative work about effect of farm settlement on community

¹Earlier works include:

Gates, Paul, 1961. "California's Agricultural College Lands." Pacific Historical Review 30:103-22, May. Gates, Paul, 1970. "The Suscol Principle, Preemption, and California Latifundia." Pacific Historical Review 39:395-430, November. Gates, Paul, 1975. "Public Land Disposal in California." In James Shideler (ed.), Agriculture in the Development of the Far West. Washington: The Agricultural History Society.

character: contrasts Arvin and Dinuba. Shares with Grapes of Wrath the honor of having been banned in Fresno.)

Alt. or supplement: Walter Goldschmidt, 1975. "A Tale of Two Towns." In Peter Barnes (ed.), The Peoples' Land. Emmaus, PA: Rodale Press, for the National Coalition for Land Reform, pp. 171-75. A short reaffirmation of original work.

Merrill Goodall, 1991. "Property and Water Institutions in California." Draft, pp. 1-18, available from author, Claremont Graduate School.

(Subjects: landowner control of water districts other than Wright Act districts; concn. of ownership.)

Alt: Merrill Goodall and James Jamieson, 1974. "Property Qualification Voting in Rural California's Water Districts." Land Economics 50(3):292-94. August.

(Short and good. Shows boom in prop. qual. districts after 1949. Might supplement from it. 1991 paper is livelier, and up to date.)

Robert Gottlieb and Irene Wolt, 1977. Thinking Big. New York: Putnam, pp. 500-09.

(Subject: Brief details on concentration of landownership, especially Tejon Ranch, J.G. Boswell, and other appanages of L.A. Times and Chandler family.)

Leland O. Graham, 1961. Some Aspects of Federal-State Relationships in California Water Resources Development." (Duplication process.) Sacramento. Materials assembled at suggestion of Assemblyman Carley V. Porter, Chairman, Assembly Committee on Water, California State Legislature. No copyright. Library binding. Call no. f HD1694, C2,G7.

Selections from ff. pp. 109-10, 112-14, 116-18, 122 2 sen.s, 126 begin last par. to 127 top, 130, 132, 134-45, 149-53 (w/o notes), 165-66, 170-71 1st sen., 172, 175-78, 182-85 1st sen., 187, 190, 193-94.

This is a twice-hidden gem. First, volume is obscure, hard to find (although often cited). Second, the veins of gold must be mined from - not dross, but digressions. The writer is a poet disguised as a lawyer.

Albert Henley, 1969. "Land Value Taxation by California Irrigation Districts." In Arthur Becker (ed.), Land and Building Taxes. Madison: UW Press pp. 137-45.

(Capstone of several articles and addresses by Henley on effectiveness of lvt in pushing farmland to its highest use, in this case irrigated horticulture. Also deals with equity. Henley was a prominent lawyer in San Jose, and this has a heavy legal content, too.)

LeVeen, Phillip, 1979. "The Political Economy of Reclamation." Part II of "Natural Resource Development and State Policy," Antipode II(2):61-79. Selection from Part II, pp.69-76.

(Subject: The Iron Triangle of landowners, Congressmen and bureaucrats, explaining the contrasts of the myths and reality of Reclamation policy. Additional views on role of the Presidency.)

"Acreage Limitation and Excess Land Problems." Bound in Bureau of Agricultural Economics, U.S.D.A., 1944. Acreage Limitation in the Central Valley, A Report on Problem #19, Central Valley Project Studies. Berkeley: mimeo, last 111 pages. No personal author given. Pp. 13-25.

(Good on history of land concn. in Calif. farmland. Has rare materials not found elsewhere.)

Marion E. Marts, 1961. "When can California join the Union?" Presidential Address, Association of Pacific Coast Geographers. 1961 Yearbook, Association of Pacific Coast Geographers, pp. 7-12.

(Droll whimsy that makes telling points. Lampoons narrow provincialism in matters of water and energy.)

J.R. Mason, to be selected.

Call Bob Tideman and Eugenie for suggestions.

(Mason was an ardent Georgist, and champion of irrigation districts. He fills a gap by giving more detail on the timing of the shift to land-only assessments.)

Carey McWilliams, 1939. "Land Monopolization." Factories in the Field, Boston: Little, Brown and Co., Chap. 2, pp. 11-27. (Draws heavily on H. George, 1871.)

Polly Roberts, 1971. "Power and Land in California."

(A summary of the Fellmeth long Report of the same name, by a devoted Georgist who helped write it, but thought Fellmeth butchered it.)

Alt: Robert Fellmeth, 1973. The Politics of Land. Excerpts. This is Fellmeth's summary, more polished than the 1971 version, possibly benefiting from Roberts' summary. Good material on concentration of landownership.

Stanley M. Sapiro, 1953. Excerpt from Appellant's Opening Brief, Hanks v. Board of Equalization.

(Discusses origins of Cal State Board of Equalization, the need to overcome underassessment of vast holdings of uncultivated land.)

Joseph Sax, 1990. "The Constitution, Property Rights and the Future of Water Law," U of Colo Law Rev 61:257.

(Subject: legal basis for common rights in water; environmental emphasis. Stirring peroration.)

John Steinbeck, 1939. The Grapes of Wrath. NY: The Viking Press Inc. Reissued in 1986 by Viking Penguin Inc., 40 W. 23rd St, NY 10010.

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Pp. 40-50; 148-50; 192-95; 263-66; 297-308.

(Publicity value; also realistic. Steinbeck was a San Francisco reporter who had investigated conditions in migrant labor camps.)

Landownership Survey on Federal Reclamation Projects, 1946.

U.S.D.I., Bureau of Reclamation. Selections, edited.

(Perhaps too overtly propagandistic? Cites land reformers over 2,000 years, as P.I. Prentice did in August, 1960, House and Home.)

Graham repeats some of this material; maybe Graham is enough.

Paul Taylor, 1949. "The Central Valley Project: Water and Land." The Western Political Quarterly 2:228-53, rpt. Paul Taylor, 1979.

Long, might benefit from some editing.

Pp. 228-37 describe project, multi-purpose, integration.

Pp. 237- ask who gets benefits.

pp. 247-49, voting and control of KRWA etc.

p.251, alludes to power issue. BR enforces preference clause, hence opposition from PG&E.

(His best balanced article, with least digression into details of political infighting. Contains fairly explicit statement about concn of land leading to mnp of water, as per fears of JWPowell. Of course, it is in Powell, q.v.; and Graham. It is in Taylor, 1957, criticizing Cal SC Ivanhoe decision - I could excerpt from that if needed.

Paul Taylor, 1976. "Walter Goldschmidt's Baptism by Fire."

Anthropology UCLA 8:129-40, rpt. Paul Taylor, 1979.

(Subject: How Downey et al. persecuted Goldschmidt and others for work in the BAE office documenting concentration of land, and its social effects on farm towns.)

Harlan Trott, 1956. "Doing it the Wright Way." Frontier, August, rpt. San Francisco: Western Water News, pp. 1-3.

E.P.E. Troy, 1917. "California's Irrigation Districts." In Joseph Dana Miller (ed.), Single Tax Yearbook. New York: Single Tax Review Publishing Company, pp. 52-56.

Jan van Schilfgaarde, 1982. "The Wellton-Mohawk Dilemma." Water Supply and Management 6(1/2):115-27

(Subject: salinity buildup from return flows to Colo. R. from subsidized, subeconomic irrigation boondoggles; lack of constraint on saline return flows - implied need for effluent charge; refusal of Feds and others to consider low-cost solutions; role of vested interests in blocking same.)

Thorstein Veblen, 1923. Absentee Ownership. Pages on "The American Farmer."

(Subject: widespread propensity to buy and hold excess land. Discusses social costs of isolation, costly roads, etc.)

Could begin with para. from Bryce on land monopoly in Cal. Veblen is an exegesis on that. One could add a smidgen from Hofstadter, an exegesis on Veblen.

Don Villarejo, 1981. New Lands for Agriculture: the California State Water Project. Davis: California Institute for Rural Studies. 16 pp.

(Subject: concentration of landholdings in project service areas.)

Richard Walker and Matthew Williams, 1982. "Water from Power: Water Supply and Regional Growth in the Santa Clara Valley." Economic Geography 58(2):95-119, April. Selections, pp. 106-12, and parts of 112-19.

(Subject: institutional, cultural and system-dynamic biases toward subsidizing territorial expansion, using underpriced water as a lever of growth. Summarizes the state of learned opinion, and adds original, provocative thesis of authors. Names names.)

Trudy Wischemann, 1990. "The Role of Land Tenure in Regional Development: Arvin and Dinuba Revisited." California Geographical Society XXX, pp. 101-27.

(Subject: defends Goldschmidt against recent attack by Alan Olmstead and Michael Hayes. Includes good maps of Tulare Basin counties. Traces history of SP lines and their influence on farm towns. Shows how farm subdivision influence outweighed r.r. influence. It was diversified farming that drew SP to Dinuba in the first place.)

Donald Worster, 1985. Rivers of Empire. New York: Pantheon Books. pp. 245-49)

(Subject: destruction of BAE office. Supplement's Taylor's article on persecution of Goldschmidt, q.v.)

Worster also has good material on conc. of land: pp. 98-111, historical; pp. 243-47, 291-302, current. It could be divided in two parts, the BAE part, pp. 245-49, appended to Taylor, "Walter Goldschmidt's Baptism by Fire."

To be surveyed

1. Something about importance of subdividing water: Try John Wesley Powell, 1879, Report on the Lands of the Arid Regions of the U.S., Washington: G.P.O.;

M.G. on Montana;

Excerpt from water law book, explaining how a riparian right can be preserved in spite of subdivision via a water user utility; etc.

2. Report on Large Landholdings in Southern California.

3. Selections from B.F. Rhodes dissertation, "The Thirsty Land," (on rapid land development and division in Modesto and Turlock Irrigation Districts.)

5.

6. Bob Scrofani MS on irrigation districts
(It needs more work, though.)

8. H. Rider Haggard, ???

9. L.C. Gray, 1931. "Land Speculation," ESS.

10. Dorothy Green. Wrote for selections from Waterlog, or other work.

14. E.A. Goldenweiser and Leon Truesdell, 1920. Farm Tenancy in the United States. U.S. Bureau of the Census, Census Monograph #4. Washington: U.S.G.P.O.

15. Leonard. Dissn. from Claremont on Imperial V. Merrill G. will send more info.

16. Leon Truesdell, 1931. "Farm Tenancy in the United States." In E.R.A. Seligman (ed.), Encyclopedia of the Social Sciences, Vol. 6. New York: The Macmillan Co.

17. Central Valley Basin, 1949. U.S. Bureau of Reclamation. Senate Document 113, 81st Congress, 1st Session. Re possibilities of water transfers and flexible allocation and integrated operations, basinwide.

18. William Warne, 1947. "Land Speculation." Reclamation Era 33(8):176-77.

20. Alan Post on cost of public works solutions. Excerpts from his analysis of Peripheral Canal.

21. Mark Kanazawa? Recent paper on irrigation districts. More from the standpoint of credit ratings and the DSC, however.

22. Peter Barnes, 1975. The Peoples' Land. Selections. (A collection of neo-populist essays on land, from the Woodstock generation; tied to campaign of Oklahoma populist Senator Harris. Something may be salvageable. Mostly cut down to 2-4 pages, to pique mass audience. Goldschmidt reaffirms his earlier work; Barnes' longer article on tax alternatives is excellent, although not specific to water. Mentions severance tax and gains tax.)

Published by Rodale Press. Nic used to know Rodale, Jr., now dec'd. Have him check their interest in helping again.

23. George Ballis, 1960. The California Water Plan. Washington: Public Affairs Inst.

Can't get from UCB library. Call Nat. Inst. of Pub Affairs, 202/347-3190 for copy. Hope they're the same outfit.

24. Robert Boyle et al., 1971. The Water Hustlers. San Francisco: The Sierra Club. HD1694.A5 B58. Ordered long ago - check I.L.L. desk.

25, Carlyle Hall et al., 1979. Petitioner brief in O'Toole v. Irvine Ranch Water District, Superior Court, State of California, County of Orange, Civ. Nos. 29-12-52, 29-12-63, with Stipulation thereto.

26. In re Hood River, 1924. 114 Oregon 112, 227 Pac. 1065.

27. 29. Isao Fujimoto. Merrill G. will send best essays.

30. Ben Yellin, articles on Imperial etc. Merrill G. will send something.

31. Lloyd Fisher. Check Trudy Wischemann.

Alternative Titles

I. Preferred

Water Markets, Common Rights
Private Markets and Common Rights in Water
Free Markets and Common Rights Reconciled
Water Marketing: Private Tenures with Common Rights
Common Rights and Free Markets
Fences in the Water
Common Property and Private Tenures
Common Waters in Private Keeping
Private Tenures, Common Waters
Privatizing Water without Giveaway
The Boon of the Commons
Commons without Tragedy

II. Doubtful

Our Water: Don't Fence Me Out
Keeping Our Waters: Auditing the Stewards
Our Water: Keeping it Ours
Private Fences in Common Waters
The Water Commons
Fencing Our Waters

Nice Try, but No Cigar

Fellmeth, ed. Power and Land in Calif. It is poorly, hastily written.

Adon Poli, 1942. Land Ownership and Operating Tenure in Imperial Valley, California. U.S.D.A., Bureau of Agricultural Economics. Berkeley, lithographed and bound. Dull, pedestrian, yet the topic makes it inherently important. Might use excerpts.

Frank Norris, 1901. The Octopus. NY: P.F. Collier and Son. Selections? Doubtful. Pp. 397-400 are stirring, but not directly related to land and water. Might supplement selections from Steinbeck, which the excerpt - Presley's speech - parallels in spirit.

"California Agricultural Background," 1939. Supplementary Exhibits, Part 62. Violations of Free Speech and Rights of Labor. Hearings before a Subcommittee of the Committee on Education and Labor, U.S.S., 76th Cong. 3d Sess, pursuant to Sen. Resolution 266 (74th Congress). Washington: U.S.G.P.O.

Richard Kirkendall, 1964. "Social Science in the Central Valley of California." California Historical Society Quarterly XLIII(3):195-218. Needs heavy editing, and some inserts to spice it up. Combine with:

Marion Clawson, From Sagebrush to Sage, pages re attacks on BAE and him. Written more as a personal narrative than a social one, woodenly, without passion and without much insight in or stress on the political power of big landowners. Might be spiced up by editing jointly with Kirkendall, q.v.

Wallace Stegner, West of the 100th Meridian. Re J.W. Powell. Polly Dyer likes it. Too wordy.

Phil LeVeen?

Merrill Goodall will recommend Phil's best, but Phil is too wordy, digressive, lacks punch.

Michael Storper. Too much safety-belt writing.

Edwin Wilson and Marion Clawson, 1945. Ag Land Ownership and Operation in the Southern San Joaquin Valley.

(Not readable at all. Maybe just use a table or two.)

Don Villarejo, 1986. How Much is Enough?

Loses forest for the trees. Good technical source on research methods.

Charles Geisler, 1984. "A History of Land Reform in the United States." In Charles Geisler and Frank Popper (eds.), Land Reform: American Style. Totowa, N.J.: Rowland & Allenheld, pp. 7-34.