

WATER DEEPLY

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The Banana Republic of California

It is time for state leaders to show some spine and stop pretending there's

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A RICH FARMER wrote to Senator Dianne Feinstein several years ago, complaining that “California will be little more than a third world country” because “our current political system has bankrupted this once great state by allowing runaway environmental regulations along with a failure to invest in water system infrastructure to completely destroy California’s economic engine.”

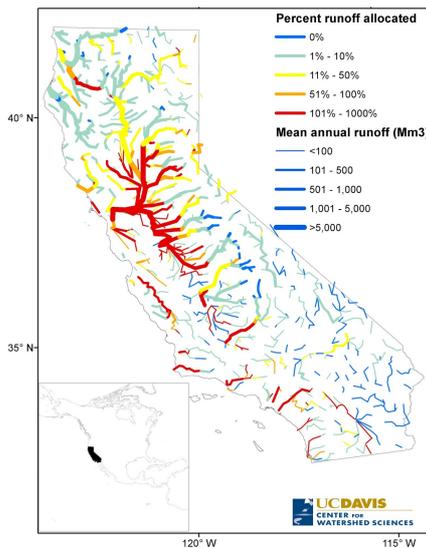
The farmer, Jean Sagouspe, had a significant interest in the topic because he and his family had farms in California’s Central Valley. Some of these farms relied on the Central Valley Project for irrigating their otherwise bone-dry lands that are part of the Westlands Water District, the largest irrigation district in the country.

Last week at Water Deeply, Cannon Michael described the challenges facing California farmers as the state attempts to ration water among competing urban, agricultural and environmental uses. In this post, I will call attention to the flawed – and potentially corrupt – political discourse that has transformed a drought into crisis and diverted attention from meaningful solutions.

The Elephant in the Room

California, like anywhere else in the world, receives different precipitation every year. This

supply will be higher in rainy years than in drought years. The demand for surface water for human activities (so-called “developed water”) is divided, on average, into shares of about 80 percent for agricultural use and 20 percent for municipal and industrial use. Remaining surface water goes into environmental flows that contribute to ecosystem health. Those ecosystems (and many human systems) are gravely threatened by massive, excess demand (see the map graphic).



The water in many of California’s rivers has been drastically over-allocated by public officials, suggesting a deep fracture in our understanding of nature’s ability to meet our basic needs. (UC Davis Center for Watershed Sciences)

Let’s take a moment to consider how California’s development led to this mess.

The development of water for human use has occurred in stages since California became a state in 1850. The first development was for hydraulic mining, i.e., diverting water out of rivers so that miners could wash dirt into sluices for recovering gold. This process

required a new type of water right – a right of “prior appropriation” – that differed for

traditional riparian and groundwater rights in two ways: First, prior appropriation rights allowed owners to take water without returning it to the river. Second, prior appropriation rights were ordered by seniority, meaning that those with junior rights would not be allowed to take water until holders of senior rights took theirs. Riparian rights, in contrast, did not allow water diversions to harm other riparian rights holders who had equal seniority.

Groundwater rights, curiously, assumed that one could take as much water as one wanted from below one's land without regard for any impacts on neighboring lands or rivers. This was allowed because the law did not recognize the physical connection between groundwater and surface water. (I am not a water lawyer, so this description may be oversimplified, but I recommend this chapter on "California's Dysfunctional Surface Water Rights.")

The next stages in California's water development involved damming, draining and diverting water for agricultural and urban uses between 1880 and 1980. It was during this time that the Central Valley was converted from a vast inland sea to farm fields, the Salton Sink was renamed "Imperial Valley" to attract farmers who would use one-fifth of the Colorado River's flows, Southern California built huge aqueducts to

bring water from the Owens and Colorado Rivers, and the State Water Project began diverting Northern California's "wasted" river flows to the southern end of the State.

Local and national politicians played a crucial role in each of these stages by issuing rights to surface water and subsidizing the construction of dams and canals. Readers of Marc Reisner's 1986 masterpiece, *Cadillac Desert*, will be familiar with the pattern of politicians competing to hand public money, lands and waters to farmers and developers.

The backlash to such bankrupt policies began with the Wild and Scenic Rivers Act in 1968. It accelerated with the 1982 vote against a "Peripheral Canal" that would "complete" the State Water Project by taking water around the Delta, and a ruling that Los Angeles could not destroy Mono Lake's rare ecosystem by continuing to export water from the Owens Valley.

Insanity

An insane person, some say, repeats the same mistakes while expecting different results. Just a few weeks ago, the Feds announced an agreement that gave Jean Sagouspe and other Westlands farmers a permanent water contract in exchange for their pledge to "take care" of a

drainage problem that was going to cost the government hundreds of millions to fix. This flawed settlement was particularly galling because it simultaneously wrote off massive debt while conferring rights to water that isn't really there in exchange for a promise that Westlands would "do its best" to stop toxic salinity from draining into wetlands.

You usually only see sweetheart deals like this for Wall Street, but bankers are not uniquely persuasive. As the L.A. Times reported, "Westlands spends heavily on lobbyists – \$2.3 million in Washington since 2012, and \$576,000 in Sacramento."

In 1904, O. Henry described a banana republic as a Central American country whose corrupt politicians sacrifice citizens on behalf of fruit companies. California has always been a banana-shaped state, but its ongoing and deepening policy failures are giving it a reputation as a banana republic where money talks, citizens suffer and the future be damned.

The Long Now

The name California comes from an old Spanish story in which "California" is a paradise, and the state was indeed endowed with incredible assets. Millions of people have come to the Golden State in pursuit of their dreams, and many have found

an incredible quality of life. But popularity comes with a cost. The California grizzly that graces the state flag has not been seen since 1924. The animal went extinct under the twin pressures of hunting and habitat destruction.

This slightly esoteric essay was meant to convince you of two things. First, California goes through cycles in which overdevelopment threatens citizens' quality of life. The current "drought crisis" should be seen in this context. Second, farmers and land developers often "help" politicians over-exploit the State's resources in their own interests – not for the benefit of average citizens.

The solution, as always, is to step back from the brink. In the case of California's current drought and crisis over plummeting groundwater levels, dying rivers and bans on restaurant water, reform means that the State's leaders need to show some spine in retiring or taking back rights to water that either does not exist or cannot be diverted without destroying the ecosystems that benefit all citizens. Such moves are not just possible under traditional notions of "eminent domain" condemnation for public interest. They are justified by the state's Constitution:

It is hereby declared that because of the conditions prevailing in this State the general welfare requires

that the water resources of the State be put to beneficial use to the fullest extent of which they are capable... with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.

Bottom Line: California does not have enough water to meet all demands. It is therefore necessary that the state revise its water accounting such that human uses are reduced to sustainable levels, for the benefit of current and future Californians.

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Top image: The lake bed at Big Bear Lake, exposed by the drought and water demand, on Monday, Aug. 24, 2015. (Nick Ut, Associated Press)

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