Wasted Water in the Deserts of the American West
The Case for Water Marketing

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The American West was once known as the "Great American Desert" for its arid conditions. As settlers moved westward, it became clear that the only way to survive in the harsh climate was to develop water resources. A Western value began which holds that water left in its course is water wasted. To control water use, the primary rule governing water rights, the Price Appropriation Doctrine, states, "first in time, first in right." If a water appropriator does not use all of their water each year, it is forfeited and goes back to the state to be redistributed. To establish an initial water right, the appropriator must show proof of "beneficial" use, such as mining or agriculture.

An important problem with these rules is that they encourage waste to keep water rights therefore harming arid areas. Because water must be used or rights are lost, rights holders settle for inefficient purposes, such as irrigated agriculture. This encourages government subsidies for crops in unsuitable climates. It also generates other kinds of political pressures; for example, large scale water projects. For these and other reasons, water policy in the West is too highly influenced by politicians seeking votes. Large water projects are visible signs that a representative is working for a certain region. But while the benefits of these projects are concentrated, the costs are diffused widely among taxpayers. Finally, the system is place now is undemocratic.

Elected officials make some decisions, but water conservancy districts make others. These are entities with taxing powers that are run by appointed boards; taxation without representation. They can raise money for water development, thus influencing which projects are carried through. Citizens must pay this money in their property taxes, and have no say about where it goes. Overall, the current system is fatally flawed.

A market system for water allocation would be an important start for solving the problem of water waste. The switch may not seem very urgent since most people in the American West receive an adequate amount of water, but the population is only increasing, and there is heavy dependence on imported groundwater, and we should act on our own best interest before a crisis occurs. Using a market system means allowing the market forces of supply and demand to decide the price of water. This would mean less pressure for new government subsidies, and this would mean the privatization of water. Farmers, who are locked into using their water for irrigation because of Western Water Law, could conserve the amount of water they use and then sell what they do not need. Also, if the water is more valuable than the crops they grow, which is often the case with subsidized water, they could sell off all of their water. My hypothesis is that there will be more water on the table with this new system because there is incentive to be efficient with water resources in the market.

The government could still play a prominent role within the new system. Water allocation could be run much like the real estate market. There, the government holds the power of eminent domain, and can condemn private property for the common good. This power cannot be used too often, however, or there will be no security in private rights and the system will fall apart. But in this way the government may play the role of protector. Minimum stream flows should be set to ensure the health of riparian ecosystems. The state may then buy or sell water in order to meet those flows. If they are not able to find a willing seller, they can condemn a right that is for sale and pay the owner the fair market price.

Some people object to using a market system to price natural resources because they feel that it is too anthropocentric to factor in inherent, aesthetic, and spiritual values, and therefore actually devalues the resource. These values, however, are ideas that we, humans, place on nature. Without our perspective they would not exist. Preserving a resource for inherent worth is just an anthropocentric value; you would not see another species thinking about a plant's right to be. This is not to say that these values are misguided, just to point out their origins. And furthermore, the market can factor in these values. In a market system people put their money where their mouths are. If they feel that more water should be left in a river, then they are free to buy water for instream flow. In this way all values can be expressed.

Although transitioning to a market system will take time, most Western states have already taken steps toward this direction. In Oregon, instream flow rights have been recognized, and organizations are allowed to hold such rights. In Montana, a water leasing and transfer program has been set up for times when not all water is needed by the state. In Utah, state agencies have been allowed to hold instream flow rights, and discussion has recently been opened up as to whether they should extend these rights to private parties and organizations. The main obstacle to overcome would be interstate and interbasin trading. In the past this has been avoided with river compacts that divvy up how much water each state will receive from interstate streams. New legislation would have to be passed to implement a market system.

Using the market to allocate resources seems like such a basic idea in our capitalist system, but in the field of water it is revolutionary. Western Water Law and government subsidized water have long been the tradition, and politically powerful ranchers and miners are not ready to see that change. But times have changed. We can no longer afford to carry on in the way we have for the past century. The population is growing, and values have shifted away from rural farming. To avoid harmful water shortages, we must allow water to flow to its most efficient, best use. We must make sure that the values of society are free to be expressed. And we must take back the right to make critical decisions about our water resources. The country is ready to make this change in the interest of a sustainable water future.