

PRESIDENT'S MESSAGE

Water Wars – Who Wins?

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In 1997, I made the decision not to go to law school, and instead, following my Bachelors of Science in Natural Resources, I began the Master of Community and Regional Planning program at the University of Nebraska. As part of the program, a thesis needed to be completed. I had just finished a volunteer internship with the Nebraska Department of Water Resources working with a water law attorney who was preparing for the case currently known as *Kansas, Nebraska and Colorado, No. 126, Original*. My job was to research historical interstate water compacts and contemporary Supreme Court findings on interstate water compacts within the United States.

This case was eventually filed in 1998 by the State of Kansas against the State of Nebraska for alleged violations of the 1943 Republican River Compact. The Republican River starts in the high plains of Colorado, flows east across the northwestern tip of Kansas, then across the southern part of Nebraska before crossing back into Kansas and eventually meeting up with the Smoky Hill River to form the Kansas River.

The Republican River Compact effectively divides the entire flow of the Republican River within the states of Nebraska, Kansas, and Colorado for beneficial consumptive uses, such as

agricultural, recreational, and municipal uses. The dispute between the states is based on the 1943 allocation of 49% of the river's water to Nebraska, 40% of its water to Kansas, and 11% of its water to Colorado for the aforementioned uses (Bergin, 2015). In simple terms, Kansas alleged that Nebraska overused its allocations of water during a period of years and sought damages. This case went on from 1998 to late 2015, when the Supreme Court finally closed the book on this longstanding conflict. In late fall 2015, the Supreme Court upheld the recommendations of a judge, referred to as a special master, that Nebraska should pay Kansas \$5.5 million for using more than its share of the Republican River's water in 2005 and 2006. In a split 5-4 decision, the court also signed off on Nebraska's request to change the formula for allocating water among the states (Bergin, 2015).

At the time I worked on this case, I was a 20-hour/week volunteer, but I was absolutely fascinated with the law as well as the science involved, and quickly learned how complex water conflicts within the US are.

Now, what does this have to do with my Master's thesis? I was hired by the University of Nebraska as a research/teaching assistant for a professor in the College of Agriculture Sciences and Natural Resources. When we discussed my thesis topic, I told him I was interested in writing a thesis on interstate water compacts, comparing some of the complexities of these conflicts over water use to Karl Marx's

The Manifesto of the Communist Party (Marx and Engels, 1888) and the theory of the bourgeoisie versus the proletariat (then being taught in my theories class). My professor wasn't sold on the idea, and I ended up writing my thesis on another subject. However, I remained interested in the possible applications of Marx's theory to water disputes.

Karl Marx was a revolutionary German economist and philosopher who wrote against the backdrop of great industrial change. Newly industrialized and overcrowded cities were expanding, and much of the working class lived in great poverty. Marx saw history as a series of class struggles in which the oppressed fight against their oppressors. According to Marx, "the victory of one class would pave the way for the future freedom of the rest of society" (Marx and Engels, 1888). Marx's outline of history was:

1. First, in ancient and Medieval society, the landed and wealthy oppressed slaves and the poorest laborers.
2. Then, as new technologies were invented and market forces grew stronger, society changed. The emerging middle classes, gaining wealth and power from trade and manufacturing, challenged the power and authority of the old ruling class.

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3. At this stage, a new struggle formed between the bourgeoisie (the property-owning class) and the proletariat (the industrial working class).

Marx argued that the bourgeoisie mercilessly exploited the proletariat. He recognized that the work carried out by the proletariat created great wealth for capitalists. The products created in factories (i.e., the material outcome of the proletariat's labor) were sold for more than the value of the labor itself, i.e., more than the workers' wages. In this way, capitalists, who control the production process, make a profit. However, the workers themselves do not benefit from this added value and fail to benefit from the fruits of their own labor (Marx and Engels, 1888). This is the foundation of capitalism.

Marx believed that capitalism contained the seeds of its own destruction. He described how the wealth of the bourgeoisie depends on the work of the proletariat, thereby demonstrating that capitalism requires an underclass. Marx predicted that the bourgeoisie's continued exploitation of this underclass would create great resentment within the proletariat. Eventually, Marx posited, the proletariat would lead a revolution against the bourgeoisie. In a post-revolution society, land, industry, labor, and wealth would be shared by all people (Marx and Engels, 1888).

Is water another resource that should be shared by all? Water's viability as a commercial resource, including for recreation, tourism, fishing, agriculture, and manufacturing uses, can create disputes even when access to clean, potable water is not necessarily

the crux of the conflict. As can be seen today across the US, water shortages can completely cripple a region. California, for example, is experiencing its worst drought since state record-keeping began in the 19th century (Kostigen, 2014). As Peter Gleick stated, "conflicts over water are real. And as population and economies grow, and as we increasingly reach 'peak water' limits to local water resources, the risks of conflicts will increase, even here in the United States, and not just in the water-scarce arid west" (Gleick, 2013).

There is an ongoing conflict between the states of Georgia, Florida, and Alabama over the use of the water in the Apalachicola-Chattahoochee-Flint River Basin and the Alabama-Coosa-Tallapoosa River Basin. A major factor in this dispute is the United States Army Corps of Engineers regulation regarding water flow from north Georgia's Lake Lanier to Alabama and Florida. Legal action in a federal court has affirmed the Corps' authority to negotiate this conflict.

The State of Georgia, as the upstream water user, wants to have access to enough water to continue growing, particularly in the booming metropolitan area of Atlanta, a 10-county region with population of 4.3 million (which is estimated to reach around 7.3 million by 2030) (Atlanta Regional Commission, 2016). In addition to supplying metropolitan Atlanta, the southern areas of Georgia need water for agricultural uses, which is another key component of Georgia's economic growth as well as competition for metropolitan Atlanta's water needs (Shelton, 2003). The state is spending \$20 million on lawyers to take its fight with Florida to the Supreme Court, on top of the \$20 million it has spent on

the conflict in the past 25 years (Chapman, 2015).

Florida, the downstream user of these waters, wants enough fresh water to reach the Apalachicola Bay to sustain its multimillion dollar shellfish industry (which is under severe ecological stress) as well as for other agricultural, recreational, and municipal uses. These industries are vital to the Apalachicola Bay area because they bring millions of dollars in revenue to the region and provide thousands of jobs for the region's people (Southern Environmental Law Center, 2011). Unlike Georgia, where the issues regarding the use of fresh water revolve around the state's ability to provide a growing population with water, Florida is faced with the several economic challenges if the water flow from Georgia is lessened.

The cases of Kansas, Nebraska, and Colorado and Georgia/Florida are just two examples of contemporary "water wars" in the US. As Gleick states in his article, water wars "continue with the Colorado River, shared by seven U.S. states and Mexico, the Great Lakes, shared by eight states and Canada" as well as globally (Gleick, 2013).

So, how does Marx's theory of the bourgeoisie and the proletariat relate to these economic struggles over water use? Is it that the people with money or power ultimately win the conflict? Will the water-rich get richer and the water-poor get poorer? The many water conflicts in the US involve local, state, and federal agencies as well as numerous users of the water – upstream and downstream users; recreational, agricultural, and municipal users; etc. Disputes over water use cost states millions of dollars and, ultimately, cost water users as well.

In many water wars across the US and globally, a delicate balance of beneficial consumptive use must be struck between all the users of a water system or source, but, in the end, the question remains – is there a fair and equitable allocation of our limited supply of fresh water? Who ultimately pays the price in these disputes? Who wins? The lawyers may be the only winners, in the end.

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