

No legal right to water means no right to life

Historically, California water rights have been based on who tapped rivers first, and who owned land next to them. Federal and state governments supplied water on a large scale, with implied legal rights to water premised on opening up larger and larger areas to agriculture, manufacturing, and residences. The underlying concept, consistent with natural law, was that the right to life presumes a right to water. Not so today. In the last few decades, control of water policy has shifted away from lawmakers and into the courts, setting a morass of precedents that are based on the idea of limiting rights to water, and limiting the right to life.

Two court decisions in recent years have set up legal concepts and entities that could override traditional water rights.

- The Mono Lake case: This set the “rights” of wilderness above human uses for water. Mono Lake lies in the Sierra Nevada Mountains, northeast of Yosemite National Park. Except for evaporation, water that flows into the lake, stays there. Because the lake is two and a half times more salty than the sea, there are no fish, just brine shrimp and brine flies. The latter are part of the feeding that supports breeding grounds for gulls, and a stopover point for over 79 types of birds.

Since 1941, diversions of water from the Mono Lake Basin have been made for Los Angeles. By the 1980s, the lake level had dropped over 40 feet, although a 1987 study by the National Research Council concluded that the ecology was still sound. A drop of another 30 feet was predicted to be the level at which salinity would be too great to support brine shrimp and flies, and the birds that feed on them.

After the severe drought in 1976-78, Mono Lake dropped enough to expose a land bridge to an island. Environmentalists, including the Sierra Club and National Audubon Society, filed suit against Los Angeles and the state. Ultimately, the courts decided that Los Angeles’ water demands have to be weighed against the objective of maintaining a desired level of Mono Lake.

- The Racanelli decision: In a court action decided by Associate Justice John Racanelli, the state Water Resources Control Board was given broad authority to protect “reasonable water uses,” over and above the rights of farmers and other users. Judge Racanelli said that the board should use a more “global perspective” that is “protective” of the environment, even if certain human activities are curtailed.

These cases are landmarks because they define “reason-

able use” and “public trust uses” to mean that the asserted interests of wildlife, fish, and resources will weigh equally against human needs. The cases set the basis for structures to implement and adjudicate water rationing and water denial, on the model of fascist corporatism. Sale of water rights is also setting up the precedents in commercial law on how to allocate scarce water, on the assumption that water will never again be adequate.

The California drought of 1976 was the wedge for this. Both the state administration of Gov. Jerry Brown and the Carter administration pushed the perspective of “living with scarcity.” The Brown administration included genocidalists such as Huey Johnson, of the Human Resources Department, who proclaimed that the coming state water shortage justified state enforcement of strict population control measures.

The politics of water

To achieve precedents for allocations of scarce water, the national eco-lobby has been pouring in funds and manpower non-stop. Water is now the hottest political issue around.

- The Metropolitan Water District, southern California’s principal water agency, has moved to ease the water shortage for its urban customers by signing a \$220 million conservation agreement with the Imperial Irrigation District. The MWD agreed to finance measures for the farm water system to save water, in exchange for which the Irrigation District will provide to the MWD 106,000 acre-feet of water annually, which is supposed to be the amount that is saved.

- A farmer and real estate developer from Bakersfield offered in 1989 to sell 100,000 acre-feet of water to the State Water Project for \$4 million. George Nickel, who has water rights to the Kern River water, had stored water from the river in a groundwater bank. The offer paves the way for pushing debt-strapped farmers into selling off their water. State Water Project officials are interested in buying the agriculture-designated water. Nickel offered the water use at a time when he was in debt to the federal Farmers Home Administration (FmHA) for \$14.7 million.

The eco-lobby has also been active in inserting their so-called environmental considerations into water contracts. For example, when in 1989, the time came up for Secretary of the Interior Manuel Lujan to renew the first of a series of 40-year contracts for federal water for farmers in the Central Valley, the environmentalists succeeded, through the courts, in getting an environmentalist proviso in the contract. Farmers were told that it was a “compromise.” In the Orange Cove contract, water users will pay \$15 per acre-foot—up from \$3.50 for the previous 40-year contract.

In addition, the Environmental Protection Agency won a court battle to demand environmental clauses in farm water contracts with the federal government. The lawsuit in question was brought against the Interior Department by environmentalist groups, with the backing of the EPA.

Paralleling these court actions and commercial deals, rad-

ical environmentalist bureaucrats are occupying more and more public offices. Los Angeles Mayor Tom Bradley has been conducting a political massacre in order to move out traditional officeholders, and install greenie operatives in key positions, to follow Bradley's own environmentalist agenda. On June 25, Bradley forced the resignation of Department of Water and Power (DWP) commissioner and board member Carol Wheeler, a labor union executive. To replace Wheeler as water commissioner, Bradley appointed environmentalist Mary Nichols, a senior staff attorney for the National Resources Defense Council. On June 26, the mayor forced the resignation of Norm Nichols from his position as the general manager of the DWP.

The voting majority on the Water Board is now in the hands of the environmentalists. The other two recent appointees to the DWP board are Mike Gage, the mayor's former aide and a greenie, and Dorothy Green of "Heal the Bay," a Santa Monica group connected to Tom Hayden.

Previously, the DWP had refused to impose Bradley's demands for water rationing in Los Angeles, stating that the conservation measures of previous years were currently supplying the city with adequate water supplies. The day after Nichols's resignation, the Los Angeles City Council

voted to approve a 10% mandatory cutback of water usage in the city, accompanied by stiff penalties.

Gloating over the takeover of the DWP, the new commissioner raved, "I want our Department of Water and Power to be an environmental trendsetter among the nation's public utilities." She then outlined those "trends," which include "alternative energy sources . . . wind, solar, and geothermal power" and that the DWP would no longer "rape and pollute" desert sites to find new groundwater sources.

One positive development is that in 1988, a "deal was done" to get additional water moving from the northern California river systems to southern California. The effort involved elements of the administration of Gov. George Deukmejian, along with a handful of key state legislators. They succeeded in putting together a package that broke up a mismatched coalition that in 1982 had defeated the proposal for a Peripheral Canal, which would have diverted water from the Sacramento Delta to the Central Valley Project. The Deukmejian water project was dependent on a complex package of state and federal moneys to guarantee adequate dike repair and other work, in exchange for moving water south. However, this deal was set to blow up if the tax revenue stream dried up. It did.

Conservation Foundation stopped water projects

The Conservation Foundation is the "mother" of a swarm of advocacy groups that subvert science and technology for water development, in California and across the nation. In the 1980s, the foundation made water one of its chief action projects, with the goal of preventing water development projects in order to force population reduction. William Reilly, the current head of the Environmental Protection Agency, was president of the foundation from 1973 until 1989.

The foundation produced articles, books, and seminars to convince the public that water shortages were inevitable. As its 1984 Annual Report stated, the public must accept a "shift in U. S. water policy from water development to water management."

The foundation was set up in Washington, D. C. in 1948, as a successor to the pre-war Nature Conservancy Society in Europe, which had fallen into disgrace for its advocacy of master race and population control theories. Behind the foundation were racist British and Swiss oligarchs who wanted to save the eugenics movement, so

badly embarrassed by Hitler. The new terminology was "population control," "conservation," "wilderness preservation." In the Conservation Foundation Annual Report for 1948, it stated baldly, "Increasing population causes a drain on natural resources which is geometric, not arithmetic. . . . Science cannot be expected to supplant the vital processes of nature."

The foundation spun a web of agencies to obstruct the science and technological advances that would enable economic growth and population expansion. For many years, the World Wildlife Fund operated jointly with the Conservation Foundation. In the early 1960s, Resources for the Future and the Environmental Defense Fund were created to spearhead a more activist environmentalism. The 1961 foundation Annual Report stated, "We must have adult indoctrination on an unusually large and well-organized scale."

The story of the obstruction of the western water projects can be traced through the Conservation Foundation's networks. For example, David Brower, in the 1970s, was very active with the Sierra Club and the Environmental Defense Fund, to use the issue of preserving Mono Lake at the expense of water for residents of Los Angeles. In the 1960s, Brower led the fight against the building of Glen Canyon Dam, and was instrumental in other actions preventing any of the planned Central Arizona Project from going ahead.