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Introduction

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INTRODUCTION

The ensuing pages debate an issue which in its broadest terms can be couched as a choice between methods for allocation of water resources—treating water as a pure commodity allocated by self-interest to the person willing to bid the most versus what might loosely be termed a resource-management approach. The debate is never really joined directly by the authors because their papers address different problems in different contexts; yet, the underlying dispute is clearly present. The debate between those who see water as a pure commodity and those who see it as a special common community resource has its counterparts in virtually every field. The behaviorists in psychology define everything in terms of stimulus and response, while the Rogerians and Freudians view human behavior as a series of complex internal phenomena and do not view human behavior problems as being solved simply because one's behavior has changed. The philosophers placing their support behind the categorical imperatives of Kant or the teachings of Kierkegaard are quickly joined in debate by the semanticists and pragmatists.

Perhaps the first case most students learn in law school illustrates the resource allocation debate best because it involves the most precious resource of all, life itself. The hypothetical involves a number of men lost at sea in an open boat. It becomes clear that the group can survive only if one will die. Here, the scarce commodity is life and the only way to maintain it for the group is to sacrifice a member of their small community. The gentlemen draw straws and the loser is killed by the rest who survive. On arrival back at the mainland, all are prosecuted for murder. Why? Because there is a fundamental premise that self-interest cannot justify depriving another of his most important resource, life. It seems probable that the result would have been no different if the other persons in the boat had pooled their money and bought the gentleman's life.

Thus, the assumptions about the nature of water—whether it is a substance as precious to the community as life itself or a mere commodity—control the debate. Professor Anderson argues that water easily fits the model for economic allocation because it is capable of substitution in an economic sense, while Professor Utton argues there exists no substitute for water.

The argument is made that water is like land. Therefore, it can be traded in the market place and allowed to move to its highest economic use. The simple fact is that surface water, at least, is fundamentally different from land in two basic respects. First, it is a movable resource and, second, it is a totally interdependent resource in that many other users are dependent upon the return flow from the first user. When land

is sold, the purchasers move to the land; the land does not move to the purchasers. While there is interdependence based upon the particular use land may be put to, it is nevertheless available for only one usage at any one time. The analogy to land works better if directed to mined groundwater not interconnected with a stream. However, the concerns of resource managers may still not be fully satisfied.

If water is a community resource, they would be quick to ask, how can one be certain that the self-interest of those who buy the water on the market necessarily is coterminous with the good of the community? They would undoubtedly point out that with respect to true community resources society cannot and, in general does not, act out of pure self-interest. We tax ourselves to pay for parks we may never see; we vote to maintain our air quality by forcing ourselves to buy pollution control devices even though, if given an economic choice, we would never take the action individually.

The response is that resource managers, in order to see the futility of their position, need look no further than other minerals such as natural gas and oil. These two heavily regulated minerals have had wild price swings and been made artificially scarce due to extensive government regulation. The water market supporters argue that market allocations of water would yield at least the opportunity for a "fair share of the pie" for those who will exercise an effort to obtain it, while resource management means resource allocation for the self-interest of the politically sophisticated few able to manipulate the political process.

The interstate market dimension adds yet another wrinkle. While an intrastate market for water may seem a workable system for many states, there exists the potential for an interstate water market as well. Thus, we have the debate of how best to handle the political desires of each state to maintain an assured water supply for its own future needs versus the federal obligation to ensure that resources are made available to the federal body politic. Just as the rural farming community may not wish to see its community values, reflected in its agriculture-based rural culture, bid away in the water market to the city, the rural, less-economically developed states do not wish to see their water future bid away to the already developed major urban centers in other states.

The inescapable fact is that in the same way that physics teaches us that sunlight is both a particle and a wave, two inconsistent entities existing in the same place at the same time, water is both a commodity and a part of the community values of every community in the country. A pure free market economic approach to water allocation will have only the successes of the man singing to himself in the shower, enjoying his mellifluous tones, suddenly to have them turn harsh and ineffective when the curtain to reality is drawn. The pure resource management approach,

relying on the brotherhood of man, will fall victim to the same problem faced by the minister who can preach the perfect sermon. His doctrines must inevitably be carried out by mere mortals. Men and women are motivated primarily by self-interest. Legislation attempting to change this fact generally does little more than reward the self-interest of those successful in the political process, at the expense of those less able.

There clearly is no right or wrong in this debate. The only wrong that can occur is if one side refuses to acknowledge the value of the other's arguments.

In my view, the market approach to allocation of water is coming. The markets are rudimentary now, and there is insufficient good price information. The potential for natural monopoly and tremendous unfairness in terms of all of the distributional questions economists rarely care to discuss also exists. As to surface water, the engineering problems are tremendous, but not insurmountable.

The basic question, then, is how the community values of water can be reflected in that market. If the community value of water is important, and I personally believe that it is, society is eventually going to have to compete to maintain it. Rural states will have to acquire water rights in the interstate market for their futures, and states will have to help their rural communities acquire rights to preserve their culture and their natural resources.

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