



# CROSS-CURRENTS IN CALIFORNIA WATER

A Case Study of Bureaucracy Versus Tradable, Private Water Rights

By K. Lloyd Billingsley

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## UNEQUAL DISTRIBUTION

California borders the vast reaches of the Pacific Ocean, but the Golden State suffers chronic water problems worsened by a drought that, despite a relatively wet winter in 2015–16, could well be ongoing. Even in normal times, however, California showcases the hard reality that natural resources are not evenly distributed, and that includes the vital natural resource of water.

The southern part of the state, home to scorched deserts and Death Valley, is obviously arid, with the Mediterranean climate of long, dry summers and short, wet winters. The northern reaches of the state, with their towering redwoods, receive much more rainfall, and counties on the far north coast are more akin to the climate of the Pacific Northwest. The central part of the state is on the arid side, even on the coast, from the delta of the San Joaquin and Sacramento Rivers all the way down to Santa Barbara.

As with countries and states, water resources are not evenly distributed between California counties and municipalities. Some areas have more water than others, and to meet their needs, different areas must engage in tradeoffs, impose restrictions, and make purchases.

The Goleta Water District (GWD) north of Santa Barbara supplies water to nearly 90,000 residential, commercial, and agricultural customers. In late 2015, the GWD purchased 2,500 acre-feet of California Aqueduct water from the Antelope

Valley-East Kern Water Agency for \$1.2 million. Water districts in Santa Clara were also in the running but as GWD water supply and conservation manager Ryan Drake told reporters, “the bottom line was, we needed it more.”<sup>1</sup>

Though edged out for the water they too needed, the Santa Clara districts did not take legal action against the GWD or the Antelope Valley-East Kern Water Agency. The GWD itself, however, would take legal action of its own that would prove instructive about water policy in central California. A key figure in the case is John McInnes, General Manager of the Goleta Water District.

## BULKING UP BUREAUCRACY

McInnes earned a degree from the University of California at Santa Barbara in environmental studies, received further training in administration, and worked in waste management for Santa Barbara County. After stints at Integrated Recycling and California Waste Recovery Systems, both private companies, he went back to Santa Barbara County as Innovative Programs Manager, then Director of Long-Range Planning, and later becoming Interim Director of Housing and Community Development. McInnes eventually became Assistant County Executive Officer, responsible for overseeing various departments, such as parks and recreation.

When the Goleta Water District hired McInnes in 2010, he immediately wanted additional man-

agement staff. The GWD board duly created a new administrative position, assistant general manager, which McInnes initially filled with George Eowan, one of his former business partners who had a background in administration. McInnes also tapped David Matson, formerly head of Santa Barbara's Community Development Department, as Assistant General Manager and Chief of Staff.<sup>2</sup>

In 2012, the GWD raised McInnes's salary to just under \$200,000 a year, plus benefits including a car allowance of \$569 a month. This made McInnes's salary second only to Kamil Azoury, General Manager of the Goleta Sanitary District, who is paid \$250,822, according to news reports.<sup>3</sup> According to Transparent California, citing 2012–14 payroll data, the GWD boosted McInnes's salary to \$217,593.37, with total pay and benefits of \$349,328.53. The total pay and benefits of assistant general manager Dave Matson is \$266,673.73. Two others in the district exceed \$200,000 in total pay and benefits.<sup>4</sup>

## DEALING WITH DROUGHT

In California the year 2013 was the driest in 119 years of recorded weather history, and the Sierra snowpack was less than 20 percent of what it needed to be.<sup>5</sup> California Governor Jerry Brown declared a drought emergency and sought a cutback in water use of 20 percent. He also loosened the regulations on water agencies seeking to buy emergency supplies from other water districts or from farmers.<sup>6</sup>

In early 2014, the Goleta Water District saw itself well prepared for the drought because of a diverse water supply. General Manager McInnes told reporters that robust supplies and water saving by residents gave the GWS an advantage. Still, the district was not immune from the drought and McInnes noted that demand was up 90 percent from the previous January. He recommended that the GWS board declare a water shortage, assuming that water from Lake Cachuma would be sharply reduced or curtailed entirely in 2016. The GWD sought to buy more water from other jurisdictions and according to news reports was working with the Santa Barbara and Montecito water districts.<sup>7</sup>

In nearby Montecito, which lacks a groundwater basin, water manager Tom Mosby wanted a cut-

back of 25 percent and spoke of attaching flow restrictors to the water pipes of non-cooperative customers. The GWD lagged behind other districts in similar measures and by September 2014 faced dwindling supplies. According to news reports, on October 1, 2014, the GWD started denying applications for new water customers.<sup>8</sup> The district launched a project to restore eight supply wells but, despite these measures, dwindling supplies forced the GWD to declare three water emergencies between March 2014 and May 2015.<sup>9</sup>

On July 1, the GWD also slapped farmers with surcharges that effectively doubled their water bills. That prompted a lawsuit from ranchers, who demanded reimbursement. Others accuse the GWD of poor planning, overstating the water supply, and allowing too many meters with new development.<sup>10</sup>

When the GWD purchased water from the Antelope Valley, board member Rick Merrifield viewed it as an "olive branch" for the ranchers, but Paul Van Leer, General Manager of the Las Varas and Edwards ranches, told reporters the purchase was "too little, too late." Said Van Leer: "They're supposed to think way ahead. They should have either started reducing their use of Cachuma or looking for extra supplies a year or more ago. Now, they're trying to scramble and recover." And the water purchase did not prompt the ranchers to drop their lawsuit. The water surcharge, Van Leer said, "is going to put us out of business. We're barely surviving as it is."<sup>11</sup>

The top-heavy Goleta Water District, meanwhile, indulged some legal action of its own.

## COURTING CONFLICT

Just as states, regions, and districts differ in water resources, so do independent property owners such as Dick Wolf, who wrote for *Hill Street Blues* and produced *Miami Vice* before creating the popular *Law & Order* television series. Wolf's 725-acre Slippery Rock Ranch (SRR) near Santa Barbara sits above some 200,000 acre-feet of water, well beyond the needs of the ranch's avocado trees. Though in the entertainment business, he sought to sell his excess groundwater supply to other districts in the area, including the Goleta Water District, but could not reach agreement with the GWD. Slippery Rock

Ranch turned to Montecito, which sought to purchase some 2,000 acre-feet per year. With few wells, the wealthy community relies almost entirely on surface water.

When the Goleta Water District bought water from the Antelope Valley-East Kern agency, Conservation Manager Ryan Drake said “we needed it more” than other districts. Likewise, Montecito needed SRR water but the GWD didn’t want them to get it and in February of 2015 filed suit in Santa Barbara Superior Court.

John McInnes, who is not a professional hydrologist, claims the lake under Slippery Rock Ranch is connected to Goleta’s underground basin. He told reporters that the SSR water is “immediately adjacent to and above” the Goleta Basin, and “unless the laws of gravity don’t exist, that water flows downhill.”<sup>12</sup> McInnes was ignoring the reality that underground water may not flow anywhere, and because of geological and pressure factors may not flow “downhill” in the same manner as surface water.

For its part, SRR duly conducted a hydrogeologic study showing that the water under the ranch is not connected to the GWD’s aquifer. SRR further contends that it is not within the geography of the Goleta basin and not part of that watershed that flows into the Goleta basin. SRR also maintains that its own export of water will not affect Goleta’s groundwater supplies. The case is slated for trial in August 2016, but the conflict already showcases key issues and realities.

## BUREAUCRACY VERSUS FREE EXCHANGE

Water is not evenly distributed among states, counties, water districts, and independent land. Some places have more water than others, and policymakers must face that hard reality.

Creating new administrative positions at water districts does not increase the supply of water. Stellar salaries and benefits for administrators do not guarantee sound management of existing supplies.

Lawsuits do not create more supplies of water, but they do consume public resources and waste time. The Goleta Water District purchased water to meet its own needs but opposes the right of Montecito to

do the same—disregarding the right of Slippery Rock Ranch to utilize the resources on its own property.

All California communities would benefit from a system of tradable, private water rights. The book *Aquanomics: Water Markets and the Environment* details how such tradable rights will help maximize water quantity and quality, even if water becomes scarcer and more valuable.<sup>13</sup> The bureaucratic system, on the other hand, is unwieldy, expensive, and heavy-handed, with its preference for “voluntary” restrictions strictly enforced by water police. The bureaucratic system also hinders the Golden State from tapping a major resource.

Goleta and Montecito border the Pacific Ocean, the largest body of water in the world. Montecito has explored alternatives such as desalination, a technology already in place in Australia, Saudi Arabia, Japan, and other countries. In California, private desalination plants face bureaucratic obstacles such as the California Coastal Commission, an unelected body that overrides elected coastal governments on land-use issues. Regulatory overreach by the Coastal Commission makes desalination plants more expensive and slower to come online. As of May 2016, according to the Pacific Institute, there are nine proposals for desalination plants along the California coast. Only two are now in operation, in Sand City and Carlsbad.<sup>14</sup>

More desalination plants would boost supply but would not end California’s water woes. Those trace back to the federal Bureau of Land Management, the largest water wholesaler in the western United States. The BLM generally makes more water available to farmers than to other users and underprices it to everyone. The BLM has no incentive to allocate water to its highest-valued, best use, and that is also true of California’s water districts.

In times of scarcity or abundance, the best solution is to replace California’s bureaucratic allocation system with market pricing, and to empower water users to engage in mutually beneficial trades. Colorado is moving in that direction with some success,<sup>15</sup> and California would do well to follow their lead.

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**K. LLOYD BILLINGSLEY** is a Policy Fellow at the Independent Institute in Oakland, California.

## NOTES

- <sup>1</sup> Burns, 2015. Magnoli, September 24, 2014.
- <sup>2</sup> Meagher, 2011.
- <sup>3</sup> Magnoli, January 17, 2010. Cooper, week of August 13, 2012.
- <sup>4</sup> *Transparent California*.
- <sup>5</sup> Nehring, 2014.
- <sup>6</sup> Welsh, January 23, 2014.
- <sup>7</sup> Magnoli, February 20, 2014.
- <sup>8</sup> Magnoli, September 24, 2014.
- <sup>9</sup> Cox, August 31, 2015.
- <sup>10</sup> Magnoli, June 16, 2015; August 16, 2015.
- <sup>11</sup> Burns, December 20, 2015.
- <sup>12</sup> Pemberton, March 17, 2015.
- <sup>13</sup> Gardner and Simmons, 2012. See also Simmons, Yonk, and Sim, 2016, pp. 103-126.
- <sup>14</sup> Pacific Institute, May, 2016.
- <sup>15</sup> See Water Colorado. See also Ostrom, 1965.

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