

water managers. The Imperial Irrigation District (IID) and broader political support from the Imperial Valley were essential to the building of Hoover Dam. Such infrastructure supplied city hydropower and urban aqueducts along with flood control and irrigation for farmers. This reflected the history of mutual aid enjoyed among urban and agricultural interests, a period of partnership challenged with the notion of water transfers by the 1980s. The water transfer represents not only the largest of these transfers, but also the most dramatic contemporary rupture between urban and agricultural political interests in the region.

In this chapter, I first examine how the notion of water transfers or “water markets” was introduced in the 1980s. Then I explore the water transfer’s adoption in 2003. I review how the water transfer emerged through ideals of the “free market” and political coercion. For some, the transfer represents a “water market” and for others, a “water war.” I conclude the chapter by reviewing legal challenges and reflecting upon the lasting influence of the arguments underpinning opposition to the transfer. The water transfer reveals the emergence of a neoliberal discourse and the established practice of adversarial dispute in water management. Rather than originating from a practice of market exchange, the adoption of the water transfer arose from a complex history of court orders, state regulations and federal mandates. That is, for this water transfer to be carried out, it required extensive political pressure and legal innovation.

### **The Salton Sea’s Flood Waters**

After the completion of the All-American Canal in 1942, the Imperial Valley experienced a prolonged expansion of economic development. Like the rest of Southern California, Imperial rode the wave of the postwar boom by increased population and productivity. Yet rather than driven by suburban sprawl or aerospace factories, Imperial Valley grew its farming acreage. As

the IID enacted pricing and land-sale policies to spur increased irrigated farming, the agency also pursued a land-sale and leasing program to encourage development along the shore of the Salton Sea (Gottlieb 1988:98; Gottlieb and FitzSimmons 1991:79). From this and other factors, the Salton Sea became a growing resort area in the decades after World War II. Boom towns emerged around the lake (e.g, Bombay Beach, Salton Sea Beach, North Shore, Desert Shores, and Salton City) which was transformed into a backdrop for weekend visitors and year-around retirees. The Salton Sea also became recognized as a wildlife preserve for migratory bird species. In the 1950s, the California Department of Fish and Game stocked the Salton Sea with salinity-resilient fish. As Robert Gottlieb and Margaret Fitzsimmons detail, “fishing agencies and local fishing organizations proclaimed that the Salton Sea had become the most productive sport fishery in California,” illustrating one aspect of Imperial’s rising prosperity (Gottlieb and FitzSimmons 1991:79). The lake even drew more annual visitors than Yosemite National Park.

However, the promising prospects for the area would begin to decline by the late 1970s. The rise in agricultural productivity paralleled a rise of the lake’s waters. As IID brought more acreage under production, more tail water flowed across fields and into the lake. In the late 1970s, the rising lake level threatened shorefront property. The inundation of homes and farmland marked the region’s decline and the pretext for legal challenges to IID’s water right. Nowhere was this inundation more dramatic than in the flood of 1976.

In September 1976, Tropical Storm Kathleen blew past the coast and across Southern California and Baja California. The storm unleashed a torrent of up to ten inches in rain and winds as high as eighty miles per hour. The effects of the storm were especially acute in California’s inland. Desert infrastructure is often unprepared to handle such storms. Further, rainfall does not readily percolate in the sparsely shrub-covered ground; rain rushes across dusty

slopes and canyons, collecting into chaotic currents. Homes were destroyed and roads, highways and rail-lines washed out. The floodwater passed through settlements and farms before reaching the Salton Sea, following the course of the lake's primary tributaries. Water coursed through Whitewater River, raging through and over canals until emptying into the northern end of the Salton Sea. One account explains, "A wave of water one to four feet deep coursed through Palm Desert, damaging some 460 houses.... Swimming pools and living rooms were filled with mud" (Laflin 2005:9). To the south, the flood washed away homes set on otherwise dry alluvial plains. Flood waters destroyed over 50 houses in Imperial and 80 in Mexicali. As newspapers reported on the storm's reckoning, at least 10 people lost their lives. \$10 million of damage resulted in Imperial and again in Mexicali, along with an estimated \$18 million of damage in the Coachella Valley (IVP 13 Sept 1976). It was the heaviest flooding since 1939. Irrigation pipes were destroyed and crops, weeks from harvest, lost. In Imperial Valley, the flood buried nearly 100,000 acres of farmland in mud, over a fifth of total farmed acreage.

The flood impacted also the settlements along the Salton Sea shoreline. Wreckage from the storm can still be seen today. Long-abandoned trailers and homes lie half-submerged in the shallow water, an iconic image of the lakefront's dilapidation. These modern-day ruins, defining the lake's image of abandonment, resulted directly from this and other floods of the decade. Two years later, another storm brought another deluge of rain to the valley. Some local residents refer to these storms as the moment when the lake began to decline. One informant said, "This was when the Sea really started to go and folks started to leave, during the floods of the late 1970s."

The inundated shoreline had threatened agriculture as well as houses. The most effected of Imperial's farms was an agricultural estate set against the southern shore. Owned by the brothers John and Stephen Elmore, the 5,500-acre ranch was the largest tract of farmland in the

valley. The 1976 flood's aftermath was extensive, documented by the *Imperial Valley Press*: "A virtual river of desert runoff laid waste to an estimated 1,500 acres, more than 25 percent of the [ranch's] farmable land... Flood waters cut through at least six fields, carrying away farm equipment, sprinkler lines, roads and wrecking irrigation ditches. Access to much of the damaged areas was possible only in four-wheel-drive vehicles" (IVP 14 Sept 1976). The damage to the Elmores's farm was estimated at \$2 million. It would take weeks to get land back into production and reassess total damages.

### **Water Rights Challenged**

The flooding of the lake remained a problem before and after the 1976 storm. The Imperial Irrigation District's policies promoting expansion of irrigated farmland allowed the lake to steadily rise throughout the 1970s. The ripples from these flood, and the past and proceeding steady rise in the lake-level, would influence a generation of legal efforts contesting the district's water use. Most immediately, a group of Salton Sea property owners brought suit against the district. The Elmores, among the wealthiest farmers in the valley, joined the lawsuit in addition to a separate civil suit that sought damages from IID. The Elmores sought also to compel the irrigation district to implement better water conservation. They claimed that the flooding throughout the 1970s was caused by the irrigation district's lack of efficient conservation. The lawsuits do not mention the storm of 1976, yet simply argue that the district allowed extra water to escape its network regularly. Water ran "wastefully" through the valley's canals and drained into the lake, contributing to the rise in water-level and the damage of property. Therefore, the Elmores argued, the district must stop these wasteful practices. In 1980, the Elmores brought

their argument before the state Department of Water Resources, charged with regulating water distribution and usage in California.

These civil actions brought a deluge of debate over the intricate details of the district's legal claims to its water. Both the legal and practical complexities of the district's water practices were exposed to regulatory scrutiny. The Elmores's petition to state regulators had threatened IID's water right since compliance with state law is a prerequisite for legal claim to water use. The Imperial Irrigation District receives its water from the federally-regulated Colorado River. Yet federal rights to this water goes to the state of California (based on the Colorado River Compact of 1922 and in proceeding legislation and court rulings). The distribution of Colorado River water *within* the state is apportioned according to state law (the California Constitution and State Water Code) and a historical pact among the districts in the state that use the river water (California Seven-Party Agreement).

The California Department of Water Resources determined that IID was wasting water. The district was required to improve irrigation conservation. Initially, IID agreed to the ruling. Then, IID reversed its response, stating that its conservation efforts were already sufficient. This regulatory dispute was brought before the Department's Water Resources Control Board, charged to make a final ruling.

The Water Resources Control Board conducted hearings on the matter and issued its ruling, named Decision 1600 (in June 1984). The ruling stated that Imperial Irrigation District practiced wasteful water management and mandated the implementation of new conservation efforts. The flow of excess water through the district, which could have been saved through improved infrastructure, constituted a violation of state water law. Such water usage was not in compliance with the California Constitution's "beneficial use" doctrine.

The California Constitution states the central premise of the “beneficial use” doctrine: “the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented” (Article X, Section 2). Decision 1600 ruled that IID was wasting (and could conserve) up to 438,000 acre-feet of water per year, largely from lack of concrete canal lining, failure to contain canal spills and excess field drainage (tail-water).

Recognizing the considerable cost of conservation and the incentive for the Metropolitan Water District, the state suggested a possible transfer between IID and Metropolitan. Such a transfer would allow Metropolitan to pay for IID’s conservation upgrades and to receive in exchange the conserved water.

The Imperial Irrigation District, unable to have Decision 1600 reconsidered, challenged the decision in court. During this time, the district also began negotiating a possible water transfer with Metropolitan. Negotiations stalled for years until 1988, when the state Supreme Court upheld Decision 1600. The state issued another decision specifying that IID must submit a detailed plan for conservation. Pressured to comply, the Imperial Irrigation District concluded negotiations and signed the transfer agreement with Metropolitan (the Imperial-Metropolitan transfer, or “SWAP”) in 1989 (Reisner and Bates 1990). The Imperial-Metropolitan transfer became a precedent for the Imperial-San Diego transfer.

Regulatory challenge to IID’s “wasteful” practices and the emergence of neoliberal discourse each played essential roles in producing the Metropolitan transfer in 1989. Also, the coordinated efforts of Metropolitan were pivotal in bringing the agreement to fruition. As much as any other institution, Metropolitan laid the groundwork for the adoption of the deal, the prototype for future transfers. The policies created and promoted by Metropolitan in the 1980s

illustrate also the larger shift in water management strategies away from an emphasis on engineering and infrastructure and toward legal expertise and water transfers.

### **Setting the Precedents**

By the 1970s, the U.S. government began to transition into a period of limited public spending, reduced taxation, and an embrace of “free market” solutions (cf. Harvey 2007). The prosperity of the post-World War II boom started to subside, and national policy discourse began to emphasize efficiency and concern for federal budget deficits. These political conditions, and growing pressure from environmentalists, slowed spending on water infrastructure in the West. Additionally, by this time, most of the more accessible and beneficial dam projects had been completed. With the election of Ronald Reagan, the drive toward privatization allowed water transfers (i.e., market-based redistribution) to be viewed as a viable alternative to federal funding for improving infrastructure. This was also driven by support from environmentalists, like those in the Environmental Defense Fund, among the first to propose the transfer between IID and Metropolitan.

Few are more familiar with these changes in water management than Carl Baronkay, who served as Metropolitan’s General Manager in the 1980s. During this period, Metropolitan spearheaded efforts to promote water transfers generally and the Imperial-Metropolitan transfer specifically. Baronkay exemplifies the contemporary urban water manager, legally trained (two of Baronkay’s successors are also attorneys), politically astute, diplomatic and willingly adversarial. “My predecessor liked everything smooth, everything calm,” the general manager once said to a reporter during his term, “but I’m not like that... I do seem to enjoy a good fight.” (LAT 12 Aug 1991).

Boronkay, who is now retired, offered to meet to discuss his experience as head of the region's largest urban water agency. I drive to LA, arriving in a quiet, well-watered suburban neighborhood, on a hill overlooking the heavily developed San Fernando Valley. Boronkay answers the door, welcoming me inside his house. We sit down and he tells me about his past. Boronkay served first in the district's general counsel office (joining in 1976). After eight years, he became Metropolitan's first general manager with a background in not engineering but law. Boronkay explains that his legal training prepared him well for his position. "Engineers were wondering why a lawyer was running MET," he says, "I was selected because I was able to bring together agreements on MET's Board of Directors and I had worked with politicians.... You can build all the dams or canals you want as long as you get *people* to back them politically."

Prior to Boronkay's tenure, Metropolitan had suffered the electoral defeat of a proposed upgrade (1982's "Peripheral Canal"). As a result, supply would not be augmented from the State Water Project. This event catalyzed the notion that to succeed, water districts no longer had to solely focus on questions of engineering. Therefore, districts sought to improve public relations (see Chapter 2) as well as their lobbying, deal making, and litigating (cf. Gottlieb and FitzSimmons 1991:124). Water transfers exemplify this shift. Reflecting upon transfers, Boronkay summarizes: "Water is politics."

Serving as general manager from 1984 to 1993, Boronkay's legacy has become closely tied to his successful advocacy of moving water from farmland to urban users. "As you know," Boronkay says, "I'm associated with and am a supporter of the transfer of water." Water transfers were one method of increasing supply while existing sources were being tapped to their limits. The exchange of water from agricultural to urban districts necessitated concerted efforts at legislative reform, negotiation, and public persuasion. Motivated by "free-market" principles, the



adoption of water transfers required writing new laws and forging new allies, reconfiguring the legal and political landscape of regional water management. Boronkay soon hired Tom Quinn, an economist who helped carry out Metropolitan's pursuit of transfers.

Under Boronkay and Quinn, Metropolitan began pursuing a transfer with Imperial Irrigation District in 1985 and another transfer with the Palo Verde Irrigation District (PVID) in 1986. Isolated along the California side of the Colorado River, PVID is a smaller district in population (2,000 residents) and land (131,000 acres) compared to IID (174,000 residents and over 400,000 acres). PVID is controlled by a board of directors that is elected solely by landowners instead by all voters. For years, Boronkay and his lieutenants in Metropolitan negotiated with their counterparts in PVID and IID and they finally had a breakthrough. Metropolitan reached a temporary (1992 to 1994) agreement with PVID for transferring water from fallowing farmland. Although short-lived, the deal laid the foundation for a 35-year agreement with PVID reached in 2002, again to transfer water from fallowing. Under the agreement, the water transferred in any year would depend on annual shortages; PVID would fallow as little as 7 percent in wet years or as much as 29 percent of its land in years of high demand (making available from 25,000 acre-feet to 111,000 acre-feet of water).

Metropolitan reached its agreement with IID for transferring water not from fallowing but from conservation. Due to the 1984 state regulatory ruling, Decision 1600, state regulators mandated that the Imperial Irrigation District enact conservation techniques to cease "wasteful" irrigation practices. Like other water districts including San Diego, Metropolitan first defended IID and championed Imperial's prevailing conservation as "the finest in the country" (Gottlieb 1988:99). This showed the political ties between cities and farming. For decades, urban water districts and agricultural interests had been close allies, an "old-boy water industry network" (in

- 2004 The Meaning of Water
- 2013 Gardening the World: Agency, Identity and the Ownership of Water. New York: Berghahn Books.
- Towne, Robert
- 1974 Chinatown. Directed by Roman Polanski. Los Angeles.
- 1997 Chinatown; The Last Detail: screenplays. New York: Grove Press.
- 2000 Chinatown. Architecture Magazine.
- Townsend, Patricia
- 2008 Environmental Anthropology: From Pigs to Policies. Waveland.
- Trafzer, Clifford E., Willard Sakiestewa Gilbert, and Anthony Madrigal
- 2008 Integrating Native Science into a Tribal Environmental Protection Agency (EPA). American Behavioral Scientist 51(12):1884-1866.
- Trawick, Paul
- 2002 The Struggle for Water in Peru: Comedy and Tragedy in the Andean Commons. Stanford, CA: Stanford University Press.
- Tsing, Anna Lowenhaupt
- 1993 In the Realm of the Diamond Queen: Marginality in an Out-of-the-Way Place. Princeton: Princeton University Press.
- 2005 Friction: An Ethnography of Global Connection. Princeton: Princeton University Press.
- Tucker, Robert C.
- 1978 The Marx-Engels Reader. New York: W. W. Norton & Company.
- Turner, Victor
- 1974 Dramas, Fields, and Metaphors: Symbolic Action in Human Society. Ithaca: Cornell University
- 1995 The Ritual Process: Structure and Anti-Structure. New Brunswick: AldineTransaction.
- Valle, Victor
- 2009 City of Industry: Genealogies of Power in Southern California. New Brunswick: Rutgers University Press.
- Valle, Victor and Rodolfo D. Torres
- 2000 Latino Metropolis. Minneapolis: University of Minnesota Press.
- Vaught, David
- 1997 Factories in the Field Revisited. Pacific Historical Review 66(2):149-184.
- Venturi, Robert, Denise Scott Brown and Steven Izenour
- 1977 Learning from Las Vegas. Cambridge: MIT Press.
- Vitebsky, Piers
- 2005 The Reindeer People: Living with Animals and Spirits in Siberia. New York: Mariner Books.
- Viveiros de Castro, Eduardo
- 2004 Perspectival Anthropology and the Method of Controlled Equivocation of the Tipití. Society for the Anthropology of Lowland South America. 2(1):3-22.
- 2012 "Cosmological perspectivism in Amazonia and elsewhere: Four lectures given in the Department of Social Anthropology, University of Cambridge, February-March 1998." HAU: Masterclass Series 1:45-168.
- 2013 The Relative Nature. HAU: Journal of Ethnographic Theory 3(3):473-502.