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Coping with the Uncertainty Arising from Unsettled Property/ User Rights

Presented at
The Aspen Global Change Institute

June 5 - 10, 2003 Summer Science Session I

“Learning from Regions: A Comparative Appraisal of Climate, Water, and Human Interactions in the Colorado and Columbia River Systems”
Coping with the Uncertainty Arising from Unsettled Property/User Rights (& Other Things If Time Permits)

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Overview: 5 Biggest Challenges of Resource Policy & Management

• Complexity
• Uncertainty
• Unsettled property/user rights
• Externalities
• Short time horizons
Relationships among Challenges

• Complexity of uses _ unsettled user rights
• Unsettled user rights:
  – Add to complexity of decisionmaking
  – Facet of general uncertainty regarding
    • Future benefits
    • Responsibilities
  – Often encourage externalities
  – Often shorten time horizons
Relevance of Unsettled Property/User Rights

• Stifles Coasean direct settlement
  – Importance of condition of clear property rights
  – Opens up appeal to government by invoking environmental rights

• Time horizons
How Property/User Rights Become Uncertain

• Uncertain to begin with
• New dimensions emerge:
  – Uses
  – Responsibilities upon discovery of harm
  – Responsibilities upon changing tastes & tolerances
• Government action (elaborated later)
Insights

• Never completely settled
  – New uses
  – New discoveries of impacts
• Fullest specification not necessarily optimal
• Recognition vs. granting
Meaning of “Rights”

• Within the normative argument: user claim that ought not be subject to cost-benefit analysis
• From above the normative argument: the most strongly-couched claim
Environmental rights

- Right to avoid harm
- Right to enjoyment
- Right to assert “nature’s” rights
Clash of Rights

• Assertion of “new” rights restrict pre-existing rights
• Instead of paying, environmentalists & governments often invoke environmental rights
Impact of Institutional Interests

- Agencies compete by posing different user-rights regimes
  - E.g., land use classifications
- Unsettled user rights _ agency discretion
  - for rewarding
  - for policy flexibility
- Pretext for expropriation
- (Perhaps unexamined) reaction to demands for environmental rights
Governance & Institutional Issues

• Paradox: accepted right denies cost-benefit, but cost-benefit is usually applied to determine which rights to accept
• Recognition vs. granting of user rights
• Level:
  – Constitutional
  – Legislative
  – Regulative
  – Private
Governance & Institutional Issues

• Governmental adjudication also entails transactions costs
  – Argument for a “Quincy Library” approach
    • Calls for new government doctrine to reduce transactions costs of such efforts

• Mutual accommodation mitigates uncertainty of user rights

• Absorb uncertainty by clarifying adjudication process
Management Alternatives

- Fixed Policy/practice
- “Trial & Error” -- random choice of policies & practices
  - Nobody does this
- AM as implementing new, provisionally optimal policies & practices on the basis of feedback (Lee)
- AM as implementing policies to test policies & practices in order to learn (Walters)
  - Could be optimal now, but not necessarily
- Adaptive Governance
  - Let those affected figure out how to proceed (Brunner)
Premises of Kai Lee’s AM

- Information-rich incrementalism
  - M&E
  - Savvy coping philosophy
- Management responsiveness to feedback
- Observation leads to greater scientific knowledge
Premises of Carl Walters’ AM

– Scientific knowledge __ better long-term management worth the short-term costs
  • Long-term investment philosophy
  • Premise that existing science is inadequate
  • Observation (M&E) alone is a scientifically weak tool

– Existing policies may be greatly suboptimal, but we do not know
  • Ted’s point
Rationales for No AM

• If we have the right science, don’t let temporary setbacks deter us
  – Presumes a transition period before full success can occur
  – Presumes exogenous conditions can shock the system at any given time
• Policy stability is very important
  – Effectiveness & efficiency of mitigation depend on knowing what the policies & practices will be
  – Longer time horizons of resource users depend on policy certainty
• Flexibility permits undermining camouflaged as AM
Counterarguments

- Adaptive management justifies flexibility and willingness of top policymakers to permit adaptation.
- Adaptive management justifies flexibility and mutual accommodation, reducing risk of huge loss by resource users and greater cooperation of resource users.
Different AMs: Costs

• Kai Lee’s AM
  – M&E
  – [Possibly] missed opportunities to identify non-varied policies or practices
  – Some policy-variability uncertainty for affected parties

• Carl Walters’ AM
  – M&E
  – Suboptimal practices for the sake of learning
  – Some policy-variability uncertainty for affected parties
Meanings of “Success”

- Adaptive management regime implemented
  - i.e., do the institutions permit experimentation?
  - Walters’ map
- Experiments yield scientifically sound findings & understandings
- Experiments yield policy-useful findings & understandings
- Better management
Circumstances of Tolerance for Lee’s AM

1. Absence of knee-jerk opposition to any modifications
2. Budget conditions permitting M&E
Circumstances of Tolerance for Walters’ AM

1. Absence of knee-jerk opposition to any modifications
2. Budget conditions permitting M&E
3. Perception of low costs of suboptimality of practices designed for learning
4. Prior collapse of ecosystem and valued outcomes

Garry Brewer: New England shell-fish exploitation
   Result was not adaptive, but could have been
Note: collapse is a social construction
   Important resources, but sometimes also the unimportant – ESA
Scientific Success of Walter’s AM

- I.e., Do the experiments truly yield sound findings & understandings?
- Will the institutions permit the most insightful experiments?
- Do exogenous conditions permit lessons to be drawn?
Usefulness of the Science Findings & Understandings

– Are the findings & understandings at the level to be useful?
– Do they discredit policies that are not in the common interest?
– Do they convey the uncertainty needed for hedging strategies?
– Do they tell us how to hedge better against [remaining] uncertainty?