

1-1-2003

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Teddy Roosevelt on Western Water Issues

TEDDY ROOSEVELT ON WESTERN WATER ISSUES

HAMLET J. ("CHIPS") BARRY, III[†]

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I. INTRODUCTION

Thank you for that kind introduction. In my travels as a former President I have found that my presence is often advertised as “a former President will speak.” Recently this has led to disappointed expectations of folks who expected the forty-second President, or perhaps even thirty-eighth or forty-first. But although forty-second is ready to return, he is not available. And of the others – they are simply not ready to deal with Colorado water politics. So you’ll have to content yourselves with the twenty-sixth.

I am allowed to visit as ex-President only once or twice a year, and often travel incognito. So it is a pleasure to be welcomed back and recognized as my old self.

Many speakers today have properly recognized their antecedents, old friends, and contemporaries. I, of course, will do the same, but, alas, I am able to name only Sam Maynes and Fred Kroeger as contemporary community leaders during the time I served as President.

I am pleased today to learn about Paleo-hydrology – a term not known in my day. I assume they will begin excavations at Fred Kroeger’s house soon.

I must say, observing the political campaigns of late, they are not

† Theodore Roosevelt was a founder of the conservation movement and father of the National Forest System. His views were shaped by his experience as a naturalist and as a North Dakota Rancher. Of course, Teddy Roosevelt’s perspective on twenty-first century western water issues are not known. However the author Chips Barry, Manager of Denver Water, has made a hobby of trying to find out. Speaking as Teddy Roosevelt and largely using Roosevelt’s own words, Barry recently addressed the annual convention of the Southwestern Water Conservancy District in Durango. Barry’s speech as Teddy Roosevelt is reprinted here. As such, it consists primarily of language President Roosevelt actually used in speeches and in materials he authored. Therefore, quotes have not been used to reflect that these words were actually spoken or written by President Roosevelt or his close colleagues.

much different than the campaign of 1900, when I was a candidate for the vice presidency along with Mr. McKinley. Things move considerably faster now, but the substance is about the same.

Then, and now, there is a cry for clean campaigns without mud slinging. During my campaign for a second term in 1904, a Democrat came to me and suggested that the campaign be carried on without any mud slinging. Splendid idea, I said. I'll tell you what I will do. If you will refrain from telling lies about the Republican Party, I will promise not to tell the truth about the Democrats.

And, of course, we will always have the Congress. If I could only be Congress *and* President, for just one hour, so much could be accomplished. I suppose it is poetic that Congress is representative of our great people. A newly elected representative in his maiden speech said "Now, as Daniel Webster makes clear in his dictionary" which was followed by a voice of more experience who explained "Noah Webster wrote the dictionary" and the response from the newly elected was, of course, "He did not, Noah built the ark."

So it seems to me that the great questions of today are also the great questions of yesterday. For 100 years I have observed these questions, and find the answers now are no better than they were before. How much money should be used from the national treasury for the national defense? How should society redress the excesses of our industrial and postindustrial economy? What is our obligation as a society and a government to the poor, less educated, less fortunate in our society? What can we do about the press, whose appetite for scandal and tragedy is unremitted? About this, as I said then and I say now, "the men with the muck rakes are often indispensable to the well being of society; but only if they know when to stop raking the muck." But Mr. Clinton certainly has known the truth of this statement, and no doubt Mr. Bush will come to know it as well.

But I did not come here today to regale you with political stories and punditry which you know all too well from your own experience. I am here because I have watched water and land developments and policies for the last 100 years. I am dismayed and concerned at the extent to which the country has strayed from the fundamental concepts I established 100 years ago. While I have not myself experienced these things, I know we now have advertising everywhere, television, fast food, traffic congestion, air pollution, gender equality, numerous forms of electronic communication, and a consumption of worldly goods that defies description. Surprisingly, none of these trends affect the basic principles for the management of our vital water and land resources, especially in the West. My purpose today is to remind you of these fundamental beginnings, so as to guide you in your daily decisions about water and land in the West. All of these words, except a few obvious contemporary asides, are *exactly* as they were written nine or ten decades ago.

II. THE CONSERVATION MOVEMENT

The movement for the conservation of wildlife, and the larger movement for the conservation of all our natural resources, are essentially democratic in spirit, purpose, and method.¹ Our position in the world has been attained by the extent and thoroughness of the control we have achieved over nature; but we are more, and not less, dependent upon what she furnishes than at any previous time of history.² The conservation and management of our natural resources is urgently necessary to insure future availability. These resources are the final basis for national power and perpetuity.³ But conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us.⁴ Under my administration the rights of the public to the natural resources outweigh private rights, and must be given first consideration. Public lands and natural resources belong to the public, and they do not exist for the unrestricted use of private industry.⁵ I notice with some satisfaction that Interior Secretary Gale Norton has taken great pains to reflect these views as her own.

We must protect and conserve our bountiful natural resources not only for the economic development and future prosperity, which they promise. Our land itself is part of the nation's history and embodies the national character and democratic ideals of the United States. On my recent trip to the Grand Canyon I was again overwhelmed. I told the Park Service that I hoped they would not have a building of any kind, not a summer cottage, a hotel or anything else, to mar the wonderful grandeur, sublimity, the great loneliness and beauty of the canyon. This is one of the great sites, which every American, if he can travel at all, should see.⁶ I note, of course, that these comments are about the Grand Canyon – not about the Escalante Staircase. Whatever that is, it isn't the Grand Canyon.

Birds should be saved because of utilitarian reasons; and moreover, they should be saved because of reasons unconnected with any return in dollars and cents. A grove of giant redwoods or sequoias should be kept just as we keep a great and beautiful cathedral. The

1. Daniel Filler, *Theodore Roosevelt: Conservation as the Guardian of Democracy*, <http://pantheon.cis.yale.edu/~thomast/essays/filler/filler.html> (quoting President Theodore Roosevelt).

2. *Id.*

3. *Id.*

4. Theodore Roosevelt, Address in Osawatomie, Kan., The New Nationalism Speech (Aug. 31, 1910), in *The Program in Presidential Rhetoric*, Dep't of Communication, Texas A&M University, at <http://www.tamu.edu/comm/pres/speeches/trnew.html>.

5. Daniel Filler, *supra* note 1.

6. *Id.*

extermination of the passenger pigeon meant that mankind was just so much poorer; exactly as in the case of the destruction of the cathedral at Rheims.⁷

There is no question that under my administration the conservation movement took root and grew in popularity and acclaim. Conservation principles were the heart of my administration.⁸ After 1908, conservation was a common element of political rhetoric, and it caused my successor William Taft to complain, "whatever conservation was, everyone was in favor of it."⁹

III. FOREST RESERVES

The conservation movements are, of course, the overarching principle behind my presidential actions concerning the forest reserves. When I became President, the Bureau of Forestry was a small but growing organization under Gifford Pinchot. It contained all the trained foresters in the government service, but had charge of no public timberland whatsoever. The government forest reserves of that day were in the care of a division in the General Land Office, under the management of clerks wholly without knowledge of forestry, few if any of whom had ever seen a foot of the timberlands for which they were responsible.¹⁰ The forest reserves in the West were wholly inadequate in area to meet the purposes for which they were created.

The fundamental idea of forestry is the perpetuation of forest by use. Forest protection is not an end in itself; it is a means to increase and sustain the resources of our country and the industries, which depend upon them. The practical usefulness of the national forest reserves to the mining, grazing, irrigation, and other interests of the regions in which the reserves lie has led to a wide-spread demand by the people of the West for their protection and extension.¹¹

With Mr. Pinchot in charge, we soon established a series of principles for the use of public resources and public lands. The principles thus formulated and applied may be summed up in the statement that the rights of the public to the natural resources outweigh private rights, and must be given first consideration. Until that time, in dealing with the National Forest and the public lands generally, private rights had almost uniformly been allowed to overbalance public rights. The change we made was right, and was vitally necessary; but, of course, it created bitter opposition from private interests.¹²

Secretary Pinchot's blue print for the operation of the Forest Service remains to this day. Use is not contrary to conservation.

7. *Id.*

8. HAROLD K. STEEN, *THE U.S. FOREST SERVICE: A HISTORY* 96 (1976).

9. *Id.*

10. THEODORE ROOSEVELT: *AN AUTOBIOGRAPHY* 414 (Da Capo Press, Inc. 1985) (1913).

11. GIFFORD PINCHOT, *BREAKING NEW GROUND* 190 (1947).

12. ROOSEVELT, *supra* note 10, at 417.

Decisions on use should consider needs of local industries first. When in doubt, where conflicting interests must be reconciled, the question should always be decided from the standpoint of the greatest good of the greatest number in the long run.¹³ In my day at least we did not trouble ourselves with abstract and completely unworkable concepts such as "Outstandingly Remarkable Values" or "Viewsheds".

I know that among the water managers and officials in the room, there are many who are anxious to hear my words on the concepts of water in the National Forest. I am getting to that point, and would like to talk about my programs and policies for water use in the West and in the Forest Reserves.

IV. WATER USE AND THE FOREST

While I lived in the West, I came to realize the vital need of irrigation to the country, and I was both amused and irritated by the attitude of Eastern men who obtained from Congress grants of national money to develop harbors and yet fought the use of the Nation's power to develop the irrigation work of the West.¹⁴ Thus, in my first message to Congress, I struck a tone which held throughout my seven and one-half years as President. In that message I said that the water supply itself depends upon the forest. In the arid region it is water, not land, which measures production. The western half of the United States would sustain a population greater than that of our whole country today if the waters that now run to waste were saved and used for irrigation. The forest and water problems are perhaps the most vital internal questions of the United States. The forest alone cannot, however, fully regulate and conserve the waters of the arid region. Great storage works are necessary to equalize the flow of streams and to save the flood waters. Their construction has been conclusively shown to be an undertaking too vast for private effort. Nor can it be best accomplished by the individual states acting alone.¹⁵

In 1902 the Reclamation Act was passed and it set aside the proceeds of the disposal of public lands for the purpose of reclaiming the waste areas of the arid West by irrigating lands otherwise worthless.¹⁶ A great plan of reclamation was undertaken between 1902 and 1906, and by 1909 the work was an assured success.¹⁷

Although the gross expenditure under the Reclamation Act is not as large as that for the Panama Canal, the engineering obstacles to be overcome have been almost as great and the political impediments many times greater. The population which the Reclamation Act has brought into the arid West, while comparatively small when compared with that in the most closely inhabited East, has been a most effective

13. STEEN, *supra* note 8, at 75.

14. ROOSEVELT, *supra* note 10, at 408.

15. PINCHOT, *supra* note 11, at 190-91.

16. ROOSEVELT, *supra* note 10, at 411.

17. *Id.* at 412.

contribution to the national life for it has gone far to transform the social aspect of the West, making for the stability of the institutions upon which the welfare of the whole country rests.¹⁸

As you can see by the above recitation of the accomplishments of my administration, we have devoted enormous effort to the conservation of our resources, to the protection and development of our forest, and to the reclamation of arid lands of the West. The overriding principle, of course, has been the use of natural resources for the benefit of all our people, and not a monopoly for the benefit of the few. We know that there are many people who will go with us in conserving the resources only if they are to be allowed to exploit them for their benefit. Conservation is a great moral issue for it involves the patriotic duty of insuring the safety and continuance of the nation.¹⁹

V. PROTECTION OF WATER: STATE AND FEDERAL ROLE

We now move to those important questions that vex the Forest supervisors of this day. With all the above as prologue, the question is how are we to protect the water resources in the National Forests, and what is our role and moral duty? There are, of course, many who can hire the vulpine legal cunning, which will assert that the executive has no role in this regard.²⁰ Of course, any such contention is pure bunk. The idea that the executive is the steward of the public welfare was first formulated and given practical effect in the Forest Service by its law officer, George Woodruff. The laws were often insufficient, and it became well nigh impossible to get them amended in the public interest when once the representatives of privilege in Congress grasped the fact that I would sign no amendment that contained anything not in the public interest.²¹ Throughout my Presidency, with respect to the National Forest, and the protection of water resources, the men in charge were given to understand that they must get into the water if they would learn to swim; and furthermore, they learned to know that if they acted honestly, and boldly and fearlessly accepted responsibility, I would stand by them to the limit. In this, as in every other case, in the end the boldness of the action fully justified itself.²²

I know that it was said that during my presidency, and continuing even until today, that the various state governments and state laws would suffice to protect the water resources in the forest. The special interests will say that the states can do it. I have heard all of this before. Much of the opposition to the conservation movement came from westerners angered by what they viewed as eastern-based interference with their prerogatives. I see the rhetoric on this issue is unchanged despite the passage of ten decades. Westerners charged that easterners wanted to prevent use of western resources, which

18. *Id.* at 413.

19. Theodore Roosevelt, *supra* note 4.

20. *Id.*

21. ROOSEVELT, *supra* note 10, at 420.

22. *Id.* at 412.

would cripple economic growth.²³ I believe that our government, national and state, must be freed from the sinister influence or control of special interests. Exactly as the special interest of cotton and slavery threatened our political integrity before the Civil War, so now the great special business interests so often control and corrupt the men and methods of government for their own profit. The word "Enron" did not exist in my day, but the problems of corruption and greed certainly did. We must drive the special interests out of politics.²⁴ I note with satisfaction the continued efforts in Congress to curb the abuses of power attendant upon special interest campaign contributions. Perhaps John McCain is the only member of Congress who fully comprehends the social detriment of the special interests.

Thus, I have said by analogy and by direct experience that the executive must take charge of this situation, and that the states cannot do it because they are infected by the special interests. I am, of course, completely aware of the fact that Mr. Pinchot and I disagree on this one point. He believes that the creation of a National Forest has no affect whatsoever on the laws which govern the appropriation of water, and this is a matter governed entirely by State and Territorial laws.²⁵

We must always make room for dissenting views, even when they are in error.

VI. BYPASS FLOWS

I now come to the difficult portion of my remarks today. I have searched my records, my messages to Congress, my letters to journalists, politicians, friends and conservationists throughout the world, and I have reviewed all thirty-six of my books in a vain effort to find any reference to bypass flows. There are no references in my earlier writings to this difficult and troublesome issue. I searched my practice and my philosophy for guidance. I turned, as always, to my friend Mr. Pinchot, who constantly urges the adoption of only practical measures. The key concepts for the use of our public lands have been embodied in two words: practical and use.²⁶ And so I inquire, is there anything practical about a bypass flow requirement? Does it guarantee flow in a stream in the reach of the river below the original diversion point? Certainly, it does not. A bypass flow is not a mandated flow throughout a reach. It is only a bypass. It can be picked up and used by any other appropriator 100 feet or 100 yards downstream.

Bypass flows cannot keep water in the stream, as they are not capable of being administered in priority by state water rights administration systems.

23. STEEN, *supra* note 8, at 98.

24. Theodore Roosevelt, *supra* note 4.

25. GIFFORD PINCHOT, *THE USE OF THE NATIONAL FORESTS* 13 (1907).

26. ALFRED RUNTE, *PUBLIC LANDS PUBLIC HERITAGE: THE NATIONAL FOREST IDEA* 48 (1991).

Does a bypass flow put water in a stream at the *time* when it is most needed, such as the late fall? No, it does not. Because the water must be bypassed, it is not stored and released to mitigate the effects of the normal hydrology that applies in this area of arid lands. In fact, a bypass requirement will result in the waste of a valuable western resource. The touchstone of our conservation philosophy is practical use. A requirement that water simply be bypassed from a diversion structure which would put it to good and practical irrigation use, only to see it placed in a stream at a time when it could do no good, or put in the stream where it can be appropriated by another user, seems of no use to me. Asking the practical and useful question produces the answer that bypass flows – like some Presidents – have no more backbone than a chocolate éclair.

VII. CONCLUSIONS

I have reviewed your agenda for your convention, and I see you are dealing with water questions that have no easy answers. But the Panama Canal, the Reclamation Acts of this country, the protection of forest and water, the breaking of the Trusts, and the establishment of labor protection laws are all tribute to my belief that action – and particularly bold and forceful action – can overcome those obstacles so easily labeled as being without answers. I urge you to remember that the object of government is the welfare of the people. The material progress and prosperity of a nation are desirable chiefly so far as they lead to the moral and material welfare of all good citizens. No matter how honest and decent we are in our private lives, if we do not have the right kind of law and the right kind of administration of the law we cannot go forward as a nation. The prime problem of our nation is to get the right type of good citizenship, and to get it, we must have progress and our public men must be genuinely progressive. As citizens and water users in this great water conservation district, I urge you to go forward, and be bold and progressive.

Thank you very much.