

**WATER RITES:
Reimagining Water in the West**
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water rights/ water justice

adrian parr

Adopted in November 2002, Article I.1 of *General Comment 15* that the United Nations Committee on Economic, Social, and Cultural Rights states: “The human right to water is indispensable for leading a life in human dignity.” Similarly, water and sanitation are the focus of UN Sustainable Development Goal 6. With it the organization aspires to “ensure availability and sustainable management of water and sanitation for all.”¹ Then we have *Resolution 64/292*, which was implemented by the United Nations General Assembly on July 28, 2010. It recognizes “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.”²

For the United Nations General Assembly, realizing the human right to clean and safe water and sanitation requires that “states and international organizations ... provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all.”³ There are a few basic water and sanitation statistics that are often cited by international or non-profit organizations to support and advance Sustainable Development Goal 6. As of 2015 there were approximately 664 million people, over half of whom were in Sub-Saharan Africa, who used water from sources that were not protected from outside contamination, otherwise referred to as an “unimproved water source.”⁴ In 2015, despite 4.9 billion people benefiting from the improved sanitation facility, 2.4 billion people were

not.⁵ Unmanaged fecal waste continues to pose a serious risk to the health and well-being of many people, the majority of whom live in the growing slum settlements of the developing world. If currently 827 million people are living in slums and each month 5 million people are added to the slum populations of the developing world, the challenge of accessing clean water and sanitation is only mounting as each day passes.

I am not going to take issue with whether or not water is indispensable for a life of dignity or if it is the basis for realizing other human rights such as health, gender equity, and so on. I am also not going to take issue with the UN's request that states and international organizations act to institute access to clean water and sufficient sanitation services. These points are all axiomatic: without water there is no life on earth. On average, a person can survive approximately three weeks without food and only three days without water. Rather, I am interested in exploring how the realization of a right to water is a political action, one that has the potential to turn into political power. The guiding question here is: what kind of political powers does realizing a right to water in the US produce?

More specifically I will unpack how the demand for environmental justice contains within it an appeal to human rights. In this instance, that would be the right to clean water. More precisely: how does the appeal create the conditions through which a political subject emerges? Remember, the United Nations Resolution 64/292 explicitly connects clean drinking water and sanitation to the "realization of all human rights."⁶ Given this, is it politically effective to inscribe water politics with a rights-based approach? Can such an inscription be the basis for an inclusive and emancipatory political project?

water wealth and the US

What the commonly cited statistics of the developing world conceal from view are the water and sanitation trials and tribulations plaguing communities of the "developed world," such as the United States. The water crisis at Flint, Michigan is just one example that broke through the pervasive silence surrounding water injustice for one of the wealthiest countries in the world. In 2016 the United States was ranked the thirteenth richest country in the world (Qatar was first). The ranking was calculated by using Gross Domestic Product (GDP) based upon per capita purchasing power parity (PPP).⁷ Like most statistics, this one needs some context if we want to comprehensively understand how the wealth-inequity nexus amplifies the increasing urgency of clean water practices and conditions in the US.

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In addition to being one of the wealthiest countries, the USA is also one of the most inequitable. Wealth is concentrated in the hands of a few and is not evenly distributed — or if we want to follow neoliberal parlance, it does not trickle down.⁸ In 2011, the Center on Poverty and Inequity at Stanford University sounded an alarm bell, reporting that the overall level of wage inequality in the United States was fast “approaching the extreme level that prevailed prior to the Great Depression.”⁹ The average annual income of the top 1 per cent is \$1,153,293 as compared to the average income of \$45,567 for the remaining 99 per cent.¹⁰ Put simply, in the US the top 1 per cent earns 25.3 times more than the remaining 99 per cent.¹¹

However, it is not only income disparities that flesh out the picture of inequity in the US. In 2016, 549,928 people on any given night were homeless; 22 per cent of these were children, and 69 per cent were under the age of 24 years.¹² In 2009 US students living in families from the bottom 20 per cent of family incomes were five times more likely to drop out of school than students in high-income families (top 20 per cent of family incomes).¹³ Employment success and income earning capacity are directly connected to the number of educational qualifications a person completes. Yet, it is not only the poverty individual families experience that impacts high school dropout rates. Some communities struggle with multiple forms of disadvantage — under-resourced schools, insufficient number of after-school programs, few parks and children’s playgrounds, a lack of healthy food options, poor health, reliance on welfare, substance abuse, unemployment, poor quality housing, residential instability, overcrowded housing, and polluted environments, all of which materialize into numerous forms of violence (negative stereotyping, racial profiling by law enforcement, segregation, crime, and discrimination).¹⁴

Inequity is experienced differently according to where a person lives, their gender, age, sexuality, ability, race, and ethnicity. There are stark gaps between who has access to quality healthcare, education, and housing and who does not. These gaps deepen and complicate how inequity works across the US and it is typically poor minorities who suffer the most. As William Julius Wilson has pointed out, any comprehensive understanding of how poverty works must combine structural explanations with cultural ones.¹⁵ Nevertheless, as the recent water crisis in Flint highlighted, not only is inequity shaped by the intersection of structural and cultural forces, it is also influenced by a third hardship variable: environmental adversity. A study by Mona Hanna-Attisha et al. analyzed elevated lead levels in children from Flint who were associated with the water crisis. The authors highlight not only policy failure but also a correlation between “socioeconomically disadvantaged neighborhoods” and the “greatest elevated blood lead levels.”¹⁶

One might argue that the case of Flint is less an instance of environmental hardship than it is a structural issue. Namely, it is the result of governance failure, or insufficient water infrastructure. Carla Campbell et al. correctly identified unsuccessful water governance as a key factor in the Flint water crisis. The authors point a clear finger of blame in the direction of the city of Flint, which failed to “properly treat its municipal water system.”¹⁷ Pushing back against Hanna-Attisha et al. and the view that Flint’s water crisis was an “aberration — a single policy failure,” Michael Greenberg has justifiably insisted on the importance of developing critical infrastructures that reliably deliver clean potable water and advance public health.¹⁸ Critical infrastructure, he explains, “is a term used to identify public and private assets that are required for society and the economy to function.”¹⁹ He notes that many poor US neighbourhoods, like the one in Flint, suffer from “relatively high burdens of environmental deterioration that includes water and other infrastructure systems.”²⁰ The Environmental Protection Agency (EPA) estimates that the cost to repair and replace aging US water infrastructure over a twenty-five year period will be in the vicinity of \$1 trillion.²¹

Greenberg argues that in order for governments to ensure the protection of human health and safety, more comprehensive risk assessments need to be conducted on all US water sources and infrastructures. Water infrastructure is without doubt capital intensive. That is a hard call in the current climate, where funding to the Environmental Protection Agency is under attack by a political administration hostile to government regulation. For this reason Greenberg suggests that public health officials are well positioned to pressure “elected officials and their administrative staff” to provide “safe water distribution” to communities. He defends his position, stating that such distribution is not only “essential” to ensuring public health, it is also “environmentally just.”²² This is a politically strategic move on his behalf, aimed at moving the dial on an urgent situation. In effect, though, his argument flattens the political terrain.

In assigning public health officials the role of representing the water needs of underprivileged groups within the field of institutionalized politics, the work of the public health official moves beyond communicating the public health concerns of a specific community to holding political power. In this situation a public health official holds a representative power intended to be responsive to ensuring that public health needs are met. Operating within the system of a liberal democracy, the public health official speaks out against an environmental injustice that it is manifesting itself in poor public health outcomes, such as high lead levels in African American children living in underprivileged neighbourhoods. The public health official is tasked with working together

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with elected officials to realize health reform, using the mechanisms of policy and legislation. Greenberg's position relies upon a liberal assumption that in a US democracy people effectively participate in government through a peaceful system of political representation that distributes political power amongst various representatives elected to office by US citizens of voting age. The system of representative democracy relies on achieving general consensus, and political change occurs in increments. Political action takes place along a horizontal plane, which is translated into political change through mechanisms of reform that take place along the vertical axis of institutionalized politics. The assumptions of reform-based political change, however, leave intact the undemocratic systems that led to the water crisis in the first place.

In 2011 the city of Flint was declared to be in a financial emergency, prompting officials to seek out cheaper water supply alternatives. It eventually decided in 2013 to switch the city's water supply from Detroit Water and Sewerage Department (DWSD) to the Karegnondi Water Authority (KWA). The projected cost savings to the city were estimated in the vicinity of \$200 million over a twenty-five-year period.²³ To do this the city had to build a pipeline to connect to the DWSD. After the announcement was made, Detroit Water put the city on notice stating that it would stop water supplies within a year. This meant the city needed an interim source of water while it built the water pipeline. On April 25, 2014, Flint began drawing its water source from the Flint River — ignoring advice to use corrosion inhibitors to ensure the water didn't decay the water pipes. In a press release, city officials ignored the warnings, dispelling them as a "myth"; then-Mayor Dayne Walling reassured residents that the Flint River water source was safe, and described it as "regular, good, pure drinking water."²⁴

When residents started complaining a month later about the odour and colour of the water, Michigan Department of Environmental Quality engineer Michael Prysby stated although there were differences in the new water's hardness, smell, and taste, it was nonetheless safe.²⁵ By August 2014 Flint officials tested the water in the "boil zone." Their tests brought up traces of fecal coliform bacteria and *E. coli*. The city blamed the results on an "irregular *E. coli* test result,"²⁶ and responded by issuing a boil water notice to the west side of Flint and increasing the amount of chlorine in the water.²⁷ By January 2015 the amount of total trihalomethanes (TTHM) reached dangerous levels and the city was found to be in violation of the Safe Drinking Water Act. On January 12, 2015 Detroit Water and Sewerage Department offered to reconnect water to Flint and waive the \$4 million reconnection fee; however, concerned about higher water costs (\$12 million a year), Flint officials rejected the offer.²⁸

Late in 2015 a Virginia Tech research team tested Flint's water supply and found a lead content of 13,200 parts per billion.²⁹ According to the EPA a safe maximum lead content is fifteen parts per billion. Water is considered a hazardous waste when its lead content reaches 5,000 parts per billion. With pressure mounting, the city issued a public statement in September 2014 clarifying and reassuring the public that it was in full compliance with the Federal Safe Drinking Water Act. Governor Snyder's chief of staff, Dennis Muchmore, went so far as to question the integrity of those who raised the alarm bell on Flint's water supply; downplaying the seriousness of the situation he maintained that instances of child lead poisoning were being used as a "political football."³⁰

By January 8, 2016, Flint residents protested on the lawn of Flint's City Hall, demanding that state officials be held accountable for water poisoning. In response to the Flint water crisis President Obama signed a Michigan Emergency Declaration on January 16, 2016, releasing \$5 million in federal aid to alleviate the public health crisis. On January 21, 2016, the EPA delivered an emergency order to the city and water filters were issued to residents.³¹ A year later the people of Flint still couldn't drink their water without using a filter, and a great number of families still depended upon bottled water.³²

There were many moments along the way in the Flint water crisis where different forms of civic participation were overlooked and overridden altogether. Numerous different warnings about Flint's water quality came from concerned residents, public officials, and water researchers. Flint is a majority African American city where 40 per cent of the citizens live in poverty. The Michigan Civil Rights Commission determined that "structural and systemic racism combined with implicit bias led to decisions, actions, and consequences in Flint" that would not have occurred in white communities such as Ann Arbor or Birmingham.³³

What Flint exposed was the role that bias and structural racism played in providing water services to Flint residents. In addition to this, putting a price tag on a public good such as water in a climate of financial emergency compounded the problem, as risky cost-cutting measures further distorted the institutional forms of racism that the Michigan Civil Rights Commission identified. In this context, the intersection of poverty, racism, low public financial resources, environmental injustices, and health intersected to form a punitive and dangerous combination that rendered reform-based political change dysfunctional. Even one year later residents in Flint were still using filters and bottled water, and they were instructed to run their water faucets longer in order to flush out bacteria.

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What really turned the political dial on the Flint water crisis were protests by residents, and an active culture built around “citizen science,” whereby everyday people began to participate in collecting important water samples that would be used to develop a case. The Virginia Tech Research Team of the Flint Water Study built that case. Turning public health officials into the representatives of a political struggle that is largely occurring at the intersection of social, economic, cultural, and environmental disadvantages shifts the unit of politics away from the unpredictable horizontal plane of collective action and protest toward predictable vertical activities such as policy reform and the development of critical infrastructures. Put differently, revolutionary rupture was liberalized as incremental, reform-based change. Admittedly, not all revolutionary struggles are equal, not all advance the same agenda, and in order to be politically effective such struggles must at some point be translated into institutional form and organized political action. For these reasons, I understand the politics of water to rest upon a common right — not an individual human right to water but rather a right that recognizes multiple sites of struggle within water politics.

rights-based theory

While it may seem obvious to state all people have a basic right to clean water and sanitation the deeper problem of how to enforce that right persists. To delink rights-based discourse from the social, economic, cultural, and political struggles in which any right is realized depoliticizes how water resources work in contemporary life. In the current neoliberal climate, the privatization of water resources is the new norm dominating the realization of water rights all over the world. A rights-based framework assumes the connection between water resources and human well-being is a property relation. As the UNHCR states: “Human rights are rights that are inherent to all human beings.”³⁴ Furthermore, a human right is inalienable and universal that is “guaranteed by law.”³⁵ The right to water appeals to a distinct and bounded entity demarcated and protected under the law. This reinforces the very nature of the problem we face vis-à-vis water. Namely, by understanding water as a system of flows that exceed the artificial boundaries human property relations impose on it.

All in all, identifying water as a human right re-represents the sociality of water relations using a neoliberal worldview. Water is a property that one “owns.” This ultimately justifies leaving inequity up to the free market to solve. Unsurprisingly, from 1990 to 2002 the number of people across the world who were served by private water companies increased from 51 million to 300 million.³⁶ During the same time period, as Gary Wolff

and Meena Palaniappan report, six water companies increased their operations in twelve countries to more than fifty-six countries.³⁷ History teaches us, however, that using free-market mechanisms to address social and environmental burdens leaves intact structures of exploitation and oppression that intensify disadvantage, dispossession, and hardship. As Food and Water Watch have calculated, a privately owned water utility service for the average US household costs 59 per cent more than a public water service (approximately \$158 more a year), and when water is privatized rates increase approximately three times the rate of inflation.³⁸

Furthermore, the assumption that water relations exist within the legalistic frame of property relations also exposes a disturbingly anthropocentric bias that ignores the central importance of water to the flourishing of ecosystems and other-than-human species. A quick example suffices to describe the interspecies conflict of water struggles.

In response to the ongoing drought in California and the Flint Michigan water crisis, in December 2016, then-US President Obama signed into law the \$11 billion *Water Resources Development Act*. In addition to addressing Flint's water crisis, California was assigned \$558 million for water projects that ranged from water recycling to desalination plants and flood control initiatives. Before the Senate voted on the new legislation, a "midnight rider," allowing for maximum pumping of the San Francisco Bay Delta, was attached to it. The delta is the largest estuary on the Pacific Coast of America. It is where the south-flowing Sacramento and north-flowing San Joaquin Rivers meet. Pumping of water from the delta is already incurring a heavy toll for the delta's ecosystems, leading to declining fish populations.³⁹ In this case, realizing the right to water blocks from view the rights of other-than-human species to survive and flourish.

Water infrastructure, as Greenberg understands it, are built structures such as water purification plants, storm water systems, levees, dams, piping systems, and aqueducts. Greenberg speaks of developing crucially important water infrastructures that provide up-to-date and well-managed physical structures that efficiently pump, treat, store, and deliver water to all communities across the United States. I contest his theory that a right to water has been realized if physical water infrastructures are developed. Instead I would suggest that we create infrastructures for new, inclusive social relations through which a common right to water can be actualized.

As a social relation, the struggle for clean water allows us to recognize the importance of working and creating solidarities across social movements. Clean water, as already demon-

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strated, is not an isolated phenomenon; it is imbricated in issues such as clean energy, minimum wage, access to affordable health care and quality education, quality housing, healthy food, tolerance of diversity, better resources for public institutions, all of which are central to a variety of other social movements — women's, LGBTQ, migrant, Black Lives Matter, Indigenous, peace, animal rights, citizen science, and climate justice. Although these struggles operate at different scales from the local to the national or even global, from different points of identification (identity politics), or as instances of class warfare, it may be near impossible to unite them into one political class. Nonetheless, their activist energies can be politically powerful if solidarities form across these fronts.

These criticisms aside, to completely toss out rights-based theory when trying to respond to the collective problem of access to clean water would be to throw the baby out with the bathwater. The notion of rights must be collectivized to reflect a right that is meaningless if isolated into an anthropocentric view (i.e., restricted to a human right), and/or a right premised upon individual ownership. All in all, the right to water is not a self-identical right. It is filled with contradictions because as a political project it is never complete. For instance, the water struggle of Flint residents is ongoing.

I understand the right to water to be a common right that is articulated in relationship to history, local conditions, material resources, political failures and successes. A common right, as I understand it, is a transdisciplinary, transspatial, transtemporal, transpecies right that all fairly occupy, including future generations and other-than-human species. As a common right, water coheres with political antagonism and the struggles of the oppressed as they challenge and attempt to transform the violence inherent to a capitalist mode of production and reproduction. The important collaborative role citizen science played in mobilizing political change in Flint shows that realizing a common right to water can institute new forms of collective power, by developing social infrastructures needed for inclusive and emancipatory political projects.

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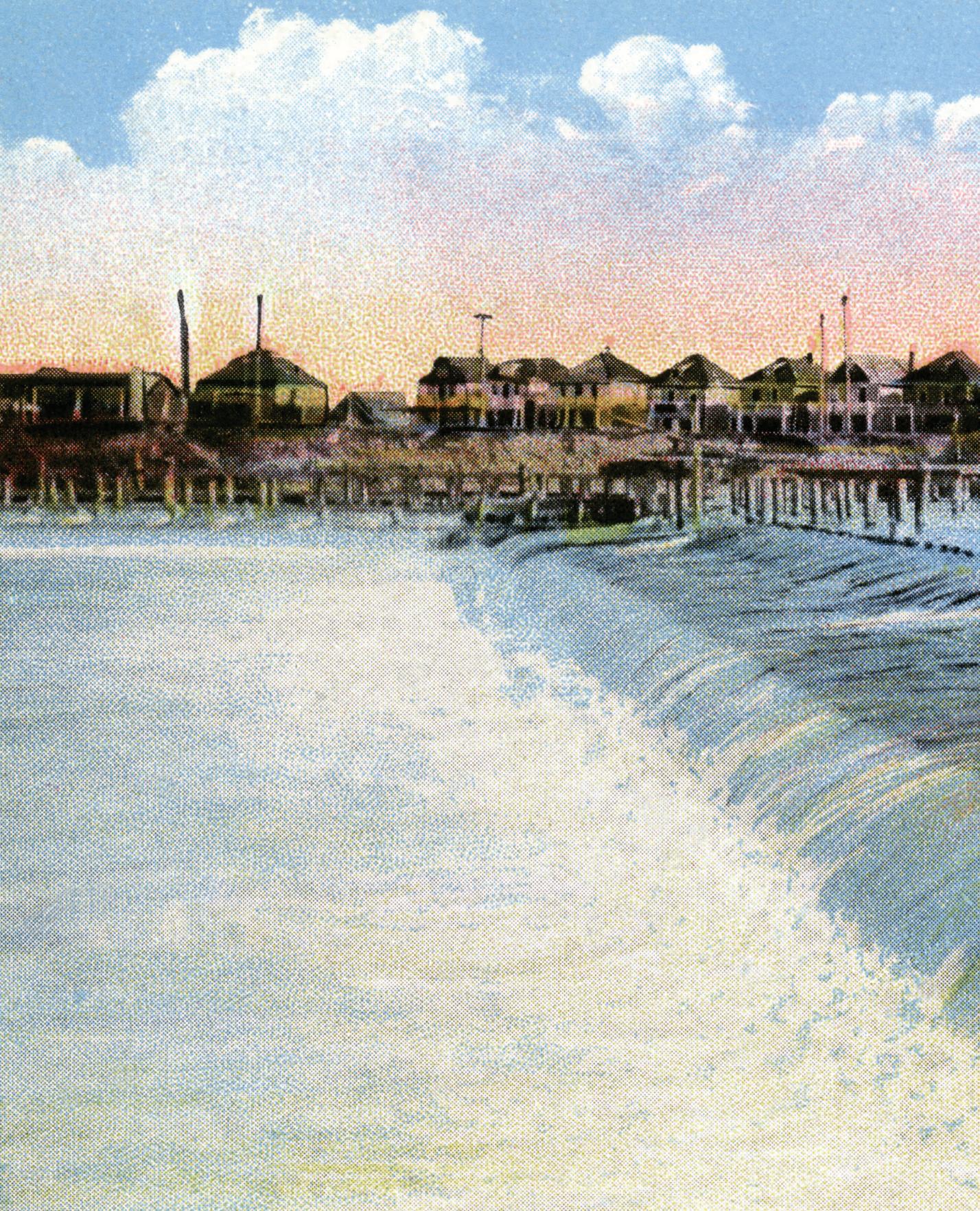
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