

Economics 696X
The Economics of the Common Pool: History, Law, and Politics
Professor Gary D. Libecap
Fall 2004
Mondays 12:30-3

This class is aimed at addressing the economics, law, and politics of the common pool (open access). All environmental and most natural resource problems involve some aspects of the “commons.” Resources may be open-access due to endogenous social regimes—costs, benefits, customary practices, etc, or due to particular geo-physical or biological regimes that raise the costs of controlling access. So the class will be about the explaining the *causes and consequences* of common pool resources and well as the institutional solutions—keeping open access, customs, private rights, group ownership, state ownership, state regulation.

You will obtain a better understanding of the “Tragedy of the Commons,” how open-access is managed, and why problems of the common pool often are so difficult to solve, despite important economic costs and incentives to resolve them. Management regimes include private ownership, joint ownership, customary control (common property), and administrative agency management. You will examine why and how each of these management arrangements exists and its effectiveness. You will read and discuss the basic theoretical and empirical literature, and prepare short papers summarizing the major arguments in the papers you read. We will not read all of the papers in the syllabus.

You also will write a team research paper. Students will lead discussion of the course material. The research papers will involve some classic commons or open-access cases, including the extinction of the passenger pigeon, the demise of the California sardine fishery, the near extinction of the American buffalo, and the problem of global warming. The project will involve basic research as well as examination of efforts or lack of efforts to sustain the stock.

In the analytical section of the course we will discuss open access, the tragedy of the commons, private property rights, common property rights, complex rights, state regulation, bargaining issues, externalities and social costs.

In the applications section there are many possibilities: land, minerals, water, wildlife, air, oceans, fisheries, spectrum, pests, and intellectual property.

I. Theory and Basic Arguments

A. Externalities

1. Frank H. Knight, 1924, “Some Fallacies in the Interpretation of Social Costs,” *Quarterly Journal of Economics*, 38: 582-606.

2. Ronald Coase, 1960, "The Problem of Social Cost," *Journal of Law and Economics*, 3: 1-44.
3. Carl J. Dahlman, 1979, "Externality," *Journal of Law and Economics*, 22: 141-162.
4. David De Meza, 1998, "Coase Theorem," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 1: 1270-282.
5. Douglas Allen, "Transaction Costs" in *Encyclopedia of Law and Economics* (Boudewijn Bouckaert & Gerrit DeGeest, 1999), <http://allserv.rug.ac.be/~gdegeest/0740book.pdf>

B. The Tragedy of the Commons

1. Garrett Harden, 1968, "The Tragedy of the Commons," *Science*, 162: 1243-8.
2. Garrett Harden, 1998, "Extensions of the 'Tragedy of the Commons,'" *Science*.
3. Gary D. Libecap, 1998, "Common Property," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 1: 317-24.

C. The Theory of the Commons or Open Access: Over Entry and Use.

1. Gordon, H. Scott, 1954, "The Economic Theory of a Common Property Resource: The Fishery," *Journal of Political Economy* 62 (2): 124-42.
2. Steven N.S. Cheung, 1970, "The Structure of a Contract and the Theory of a Non-Exclusive Resource," *Journal of Law and Economics*, 13 (1): 49-70.3.
3. Richard Cornes, Charles F. Mason, and Todd Sandler, 1986, "The Commons and the Optimal Number of Firms." *Quarterly Journal of Economics* 101:641-46.

D. The Theory of the Commons or Open Access: Under Investment.

1. Robin Brooks, Michael Murray, Stephen Salant, Jill C. Weise, "When is the Standard Analysis of Common Property Extraction Under Free Access Correct? A Game-Theoretic Justification for Non-Game Theoretic Analyses," *Journal of Political Economy*, 107 (4): 843-58.
2. Henning Bohn and Robert T. Deacon, 2000, "Ownership Risk, Investment, and the Use of Natural Resources," *American Economic Review*, 90(3): 526-49.
3. Timothy Besley, 1998, "Investment Incentives and Property Rights." 2 *New Palgrave Dictionary of Economics and the Law* 359.
4. Michael Heller, 1998, "The Tragedy of the Anticommons: Property in the Transition from Marx to Markets," *Harvard Law Review*, 622-88.
5. James M. Buchanan and Yong Yoon, 2000, "Symmetric Tragedies: Commons and Anticommons," *Journal of Law and Economics*, 1-13.

D. Solutions: Customs, Common Rights

1. Robert C. Ellickson, 1986, "Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County," *Stanford Law Review* 623: 659-67.
2. Carol Rose, 1986, "The Comedy of the Commons: Custom, Commerce, and Inherently Public Property," *University of Chicago Law Review*, 53: 711.
3. Elinor Ostrom, et. al, 2002, *The Drama of the Commons*.
4. Gardner Brown, M., 2000, "Renewable Natural Resource Management and Use without Markets," *Journal of Economic Literature*, 38 (4): 875-915.
5. Elinor Ostrom, 1998, "Self Governance of Common-Pool Resources," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 3: 424-432.
6. Dean Lueck, 1994, "Common Property as an Egalitarian Share Contract" *Journal of Economic Behavior and Organization*, 25:93-108.
7. Gregory Clark, 1998, "Common Sense: Common Property Rights, Efficiency, and Institutional Change" *Journal of Economic History* 58:73-102.
8. Henry E. Smith, 2000, "Semicommon Property Rights and Scattering in the Open Fields," *Journal of Legal Studies* 29(1): 131-169.
9. George Grantham, 1980, "The Persistence of Open-Field Farming in Nineteenth Century France," *Journal of Economic History*, 40(3): 515-531.
10. Donald N. McCloskey, 1975, "The Persistence of English Common Fields," in William N. Parker and Eric L. Jones, eds, *European Peasants and Their Markets: Essays in Agrarian Economic History*, 73-119.

E. Solutions: Private Property Rights

1. Harold Demsetz, 1967, "Towards a Theory of Property Rights," *American Economic Review*, 57 (2): 347-59.
2. Harold Demsetz, 1998, "Property Rights," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 3: 132-44.
3. Carol Rose, 1998, "Evolution of Property Rights," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 2: 93-98.
4. Lueck, Dean, 1995, "The Rule of First Possession and the Design of the Law," *Journal of Law and Economics*, 38: 393-436.
5. Lueck, Dean, "First Possession," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 2: 132-44.
6. Yoram Barzel, 1989, *Economic Analysis of Property Rights*. New York: Cambridge University Press, 1-12.
7. Gary D. Libecap, 1989, *Contracting for Property Rights*, New York: Cambridge University Press, 1-28.
8. Timothy Besley, 1998, "Investment Incentives and Property Rights," 2 *The New Palgrave Dictionary of Economics and the Law* 359 (1998).

F. Solutions: Administrative Regulation

1. Gary D. Libecap, 2004, "State Regulation of Open-Access: Common Pool Resources," *Handbook of the New Institutional Economics*.
2. Peter Pashigian, 1985, "Environmental Regulation: Whose Self-Interests are Being Protected?" *Economic Inquiry*, 551-584.
3. Ronald N. Johnson and Gary D. Libecap, 2001, "Information Distortion and Competitive Remedies in Government Transfer Programs: The Case of Ethanol," *Economics of Governance* 101-134.

II. Applications Areas: Land.

1. Gary D. Libecap & Ronald N. Johnson, 1979, "Property Rights, 19th Century Federal Timber Policy and the Conservation Movement," *Journal of Economic History* 39:129-142.
2. Ronald N. Johnson and Gary D. Libecap, 1980, "Efficient Markets and Great Lakes Timber: A Conservation Issue Reexamined," *Explorations in Economic History*, 17: 372-85.
3. Terry L. Anderson and P.J. Hill,, 1990, "The Race for Property Rights," 33 *Journal of Law and Economics*: 177-95.
4. Douglas W. Allen, 1991, "Homesteading and Property Rights: or "How the West Was Really Won," 34 *J.L. & Econ.* 1-23
5. Lee Alston, Gary Libecap, and Robert Schneider, 1996, "The Determinants and Impact of Property Rights: Land Titles on the Brazilian Frontier," *Journal of Law, Economics and Organization*, 25-61.
6. Terry Anderson and Dean Lueck, 1992, "Land Tenure and Agricultural Productivity on Indian Reservations." 35 *Journal of Law and Economics* 427 .
7. Robert T. Deacon, 1994, "Deforestation and the Rule of Law in a Cross-Section of Countries," *Land Economics* 70: 414-430.
8. Besley, Timothy, 1995, "Property Rights and Investment Incentives: Theory and Evidence from Ghana," *Journal of Political Economy* 103: 903-937.
9. Zeynep K. Hansen and Gary D. Libecap, 2004, "The Allocation of Property Rights to Land: US Land Policy and Farm Failure in the Northern Great Plains," *Explorations in Economic History*, 41 (2): 103-29.
10. Zeynep K. Hansen and Gary D. Libecap, 2004, "Small Farms, Externalities, and the Dust Bowl of the 1930s," *Journal of Political Economy*, 112 (3): 665-94.

III. Application Areas: Mineral Lands

1. Gary D. Libecap, 1978, "Economic Variables and the Development of the Law: The Case of Western Mineral Rights," *Journal of Economic History*, 38: 338-62.

2. Gary D. Libecap, 1979, "Government Support of Private Claims to Public Minerals: Western Mineral Rights," *Business History Review*, 362-85.
3. Richard Zerbe and Leigh Anderson, 2001, "Culture and Fairness in the Development of Institutions in the California Gold Fields," *Journal of Economic History*, 114-44.
4. John Umbeck, 1977, "The California Gold Rush: A Study of Emerging Property Rights," *Explorations in Economic History*, 197-226.
5. John Umbeck, 1981, "Might Makes Right: A Theory of the Formation and Initial Distribution of Property Rights," *Economic Inquiry*, 38-59.
6. John Umbeck, 1977, "A Theory of Contract Choice and the California Gold Rush," *Journal of Law and Economics*, 421-37.

IV. Applications Areas: Oil Pools

1. Gary D. Libecap, 1998, "Unitization," *The New Palgrave Dictionary of Economics and The Law*. Peter Newman, ed. New York: Macmillan, Vol. 3: 641-43.
2. Gary D. Libecap, Gary D. and James L. Smith, 1999, "The Self-Enforcing Provisions of Oil and Gas Unit Operating Agreements: Theory and Evidence," *Journal of Law, Economics, and Organization*, 15 (2): 526-48.
3. Gary D. Libecap and James L. Smith, 2001, "Regulatory Remedies to the Common Pool: The Limits to Oil Field Unitization," *Energy Journal* 22 (1): 1-26.
4. Gary D. Libecap and James L. Smith, 2003, "The Economic Evolution of Petroleum Property Rights in the United States," *Journal of Legal Studies*, 2003.
5. Gary D. Libecap, Gary D. and Steven N. Wiggins, 1984, "Contractual Responses to the Common Pool: Prorating of Crude Oil Production," *American Economic Review*, 74 (1): 87-98.
6. Gary D. Libecap and Steven N. Wiggins, 1985, "The Influence of Private Contractual Failure on Regulation: The Case of Oil Field Unitization," *Journal of Political Economy*, 93: 690-714.
7. Steven N. Wiggins and Gary D. Libecap, 1985, "Oil Field Unitization: Contractual Failure in the Presence of Imperfect Information," *American Economic Review*, 75 (3): 368-85.
8. James L. Smith, 1987, "The Common Pool, Bargaining, and the Rule of Capture," *Economic Inquiry* 25 (4): 631-44.

V. Applications Areas: The Fishery

1. James M. Acheson, 1975, "The Lobster Fiefs: Economic and Ecological Effects of Territoriality in the Maine Lobster Industry," *Human Ecology*, 3: 183-207.
2. Fikret Berkes, 1986, "Local-level Management and the Commons Problem," *Marine Policy*, July: 215-229.

3. Robert Higgs, 1982, "Legally Induced Technical Regress in the Washington Salmon Fishery," *Research in Economic History* 7: 55-86.
4. R. Quentin Grafton, Dale Squires, and Kevin J. Fox, 2000, "Private Property and Economic Efficiency: A Study of a Common-Pool Resource," *Journal of Law and Economics*, 43: 679-713.
5. Frances R. Homans and James E. Wilen, 1997, "A Model of Regulated Open Access Resource Use," *Journal of Environmental Economics and Management*, 32(1): 1-21.
6. Ronald N. Johnson and Gary D. Libecap, 1982, "Contracting Problems and Regulation: The Case of the Fishery," *American Economic Review*, 72 (5): 1005-22.
7. John M. Karpoff, John M., 1987, "Suboptimal Controls in Common Resource Management: The Case of the Fishery," *Journal of Political Economy* 95:179-194.
8. Steven F. Edwards, 1994, "The Ownership of Renewable Ocean Resources," *Marine Resource Economics*, 9: 253-73.

VI. Application Areas: Other Wildlife.

1. Dean Lueck, 2002, "The Extermination and Conservation of the American Bison" *J. Legal Studies*, June, 609-52.
2. Dean Lueck, 1998, "Wildlife Law," 3 *The New Palgrave Dictionary of Economics and the Law* 696).
3. Barton H. Thompson, 1998, "Endangered Species," 1 *The New Palgrave Dictionary of Economics and the Law* 53 (1998).

VII. Applications Areas: Air Pollution and Global Warming

1. Robert N. Stavins, 1994, "Transaction Costs and Tradable Permits," *Journal of Environmental Economics and Management* 29: 133-148.
2. Charles W. Howe and Dwight R. Lee, 1983, "Priority Pollution Rights: Adapting Pollution Control to a Variable Environment," *Land Economics*, 59(2): 141-148.
3. Robert W. Hahn and Gordon L. Hester, 1989, "Marketable Permits: Lessons for Theory and Practice," *Ecology Law Quarterly*, 16: 361-406.
4. Paul L. Joskow, Paul L. and Richard Schmalensee, 1998, "The Political Economy of Market-Based Environmental Policy: The U.S. Acid Rain Program," *Journal of Law and Economics*, 41(1): 37-84.
6. Paul L. Joskow, Richard Schmalensee, and Elizabeth M. Bailey, 1998, "The Market for Sulfur Dioxide Emissions," *American Economic Review*, 88(4): 669-85.
7. Joseph Bial, Dan Houser, and Gary D. Libecap, 2003, "Public Choice Issues in Collective Action: Constituent Group Pressures and International Global Warming Regulation," *working paper*, University of Arizona.

7. Robert Stavins, 1998, "Economic Incentives for Environmental Regulation," 1 *The New Palgrave Dictionary of Economics and the Law* 6 (1998).
8. Carol M. Rose, 2000, "Expanding the Choices for the Global Commons: Comparing Newfangled Tradable Allowance Schemes to Old-Fashioned Common Property Schemes," 10 *Duke Environmental Law and Policy Forum* 45 (2000).