

# The Enclosure Algorithm

*A companion to “The Quiet Fence”: the repeatable procedure that turns a commons into private rent*

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You said you were certain it was an algorithm. You are right, and the word is exact rather than loose. An algorithm is a finite, ordered procedure that takes an input and reliably produces an output, the same way every time you run it. Enclosure qualifies. The input is a commons: a resource, a community that depends on it, and a set of customary rules for sharing it. The output is a private, rent-bearing asset on one side and a dispossessed population on the other. Between the two is a procedure with a fixed number of steps, and once you can name the steps you can see the program running anywhere, at any scale, in any century.

Serious thinkers have circled this without quite writing it down as code. Marx called the original land grab “primitive accumulation.” David Harvey, looking at the present, renamed it “accumulation by dispossession” and insisted on the crucial point: it is not a one-time event at the dawn of capitalism but an ongoing program that keeps targeting nature, water, and knowledge.<sup>1</sup> The legal scholar James Boyle named the digital version “the second enclosure movement,” the fencing of the intangible commons of the mind.<sup>2</sup> What none of them did was lay it out as a procedure you can run your finger down. So here it is.

## The algorithm, in seven steps

In pseudocode, stripped to the bone:

### **ENCLOSURE(common):**

1. TARGET find shared value not yet owned
2. REFRAME declare the commons a tragedy
3. ABSTRACT convert it into a countable unit
4. TITLE vest the unit in a private holder
5. INVERT make the old custom a crime

6. TOLL charge for access; dump the cost downstream

7. NATURALIZE erase the memory of the commons

rent -> fund the capture of the next commons

**repeat**

Now the same procedure expanded, with the move named at each step and a few instances so you can hear the rhyme across land, gene, seed, water, knowledge, and energy.

**Step 1 TARGET** · *find shared value not yet owned*

Locate a resource that produces real value but is not yet legible as property. The best targets are the ones people need most and document least, because their governance lives in custom rather than on paper, which makes it easy to call illegitimate later. Open fields. The human genome. Seed. Water. The public domain. Sunlight on a roof.

**Step 2 REFRAME** · *declare the commons a tragedy*

Tell the story that makes seizure sound like rescue. Shared means doomed, inefficient, unmanaged, unsafe, wasted; ownership means order, investment, innovation, safety. Garrett Hardin's 1968 parable supplies the script, and it does not matter that he described an open free-for-all rather than an actual governed commons. The story only has to travel. This step manufactures consent before the fence goes up.

**Step 3 ABSTRACT** · *convert it into a countable unit*

You cannot fence what you cannot measure, so the living, relational thing is flattened into a standardized, countable unit. A parcel with a boundary. A patent claim. A gene sequence. An acre-foot. A copyrighted file. A kilowatt-hour. The anthropologist James C. Scott called this making a thing “legible,” and it is the surveyor's chain in modern dress: the quiet, technical-seeming step that does most of the work, because once a commons has been turned into uniform units it is already halfway to being owned.<sup>3</sup>

**Step 4 TITLE** · *vest the unit in a private holder*

Now the paperwork that assigns the units to a private holder. An enclosure act. A patent grant. A forty-year water concession. A spectrum auction. A terms-of-service agreement you click through without reading.

The law is not a bystander here; the law is the instrument that does the fencing. This is the step that feels neutral and procedural and is neither.

**Step 5 INVERT** · *make the old custom a crime*

This is the hinge, the step that turns a change of ownership into a trap. The customary use is not merely removed; it is inverted into an offense. What everyone did yesterday is, today, a crime. Gathering wood becomes poaching. Saving seed to replant becomes an unauthorized “making” of a patented product.<sup>4</sup> Selling the surplus power you generate to the house next door becomes a violation of someone's monopoly. The genius of the inversion is that it conscripts the law to defend the fence, so that the dispossessed, in trying to do what they always did, become the criminals.

**Step 6 TOLL** · *charge for access; dump the cost downstream*

Place a gate between people and the thing they need, and charge for passage. Myriad owned the gene, so it owned the only test, so it set the price.<sup>5</sup> Bechtel owned the water, so the bills rose by half.<sup>6</sup> And the cost of the whole arrangement is pushed downstream onto those least able to refuse it: the dispossessed cottager, the household spending a fifth of its income on water, the climate, the unborn. Gains concentrate; costs disperse. A fence is never neutral about who it keeps out.

**Step 7 NATURALIZE** · *erase the memory of the commons*

The final step is the one that makes the others stick. Rewrite the story until the fence looks like weather, like it was always there and could not be otherwise. Within a generation or two the commons is simply forgotten, and people defend the new arrangement as the natural order. Ecologists call the cousin of this “shifting baseline syndrome”: each generation takes the depleted world it inherits as normal and measures only from there.<sup>7</sup> Forgetting is not a side effect of enclosure. It is the last instruction in the program.

## **The loop**

Then the procedure does the thing that makes it an algorithm rather than an anecdote: it loops. The rent extracted from one enclosure funds the capture of the next, in lawyers, lobbying, and a fresh reframe. Enclosure is self-financing and recursive. This is why history seems to repeat. It is not

repeating; it is iterating, each pass starting from the wealth and the legal precedent the last pass produced.

## **Worked example: the energy commons**

Run the program on the example you named, because it shows every step in real time.

The commons is about as old as it gets: sunlight and wind, free and falling on everyone, plus the grid, a piece of shared infrastructure. **TARGET** is trivial; distributed energy is enormous value sitting in the open. **REFRAME**: rooftop solar is recast as unfair, a “cost shift” in which solar households supposedly burden everyone else, and as a threat to grid stability. **ABSTRACT**: everything becomes the kilowatt-hour, the interconnection standard, the capacity market, units a utility and its regulator can meter and control. **TITLE**: the utility's monopoly franchise and the rules of interconnection vest control of who may generate, connect, and sell.

Then the hinge. **INVERT**: across much of the country it remains illegal to sell the power you generate to the house next door, because that is the utility's exclusive right; off-grid living has been cited as a code violation in some places; and where you may connect, the surplus you share back to the grid is now paid a fraction of what it was. In December 2022 California's regulators voted to do exactly this, and in April 2023 the policy known as NEM 3.0 took effect, cutting the average credit for exported rooftop solar from about thirty cents per kilowatt-hour to about eight, a reduction of roughly seventy-five percent. The state's solar industry shed an estimated seventeen thousand jobs in the aftermath.<sup>8</sup> **TOLL**: fixed charges and slashed export credits put the gate squarely between a household and the sun falling on its own roof. **NATURALIZE**: we are told the utility model is simply how you keep the lights on, as though the sun were not free and the rooftop not already yours.

## **Why it is accelerating**

Here is the part that speaks to your sense of a tipping point. The first enclosure of England took roughly four centuries to run, because Steps 3 and 4, measuring the land and writing the law, were slow, physical,

contested work. On the digital and biological frontier those steps have become nearly frictionless. Abstraction is instant: a genome, a song, a face, a day of your attention, the entire text of human writing used to train a model, can be turned into countable, ownable units in the time it takes to run a script. Titling is a click-through. The procedure that once needed centuries now completes inside a single product cycle. The algorithm did not change. Its clock speed did. That is why it can feel, correctly, like the fences are going up faster than anyone can name them.

## **The counter-algorithm**

But an algorithm can be interrupted, and this one has a known inverse. The commons has been defended and rebuilt before, deliberately, and the counter-procedure runs step for step against the first. Call it commoning.

Against **REFRAME**, re-narrate: replace Hardin's parable with Elinor Ostrom's evidence that communities govern shared resources well, for centuries, when they are allowed to. Against **ABSTRACT**, measure what the commons is actually worth to everyone, not only what a unit of it fetches for one owner. Against **TITLE**, title to the commons instead of away from it: the GPL and Creative Commons turned copyright against itself to keep code and culture open; community land trusts and public-interest patent pools hold assets for everyone; the 1217 Charter of the Forest wrote the rights of commoners into law and kept them there for seven centuries. Against **INVERT**, re-legalize the custom: the right to repair, the right to save seed, the right to generate and share your own power. Against **TOLL**, remove or cap the gate with public options, cooperatives, and municipal utilities. And against **NATURALIZE**, the simplest and most radical instruction of all: remember out loud. Keep saying what was here before the fence, so the last step of the program can never finish.

In energy the counter-algorithm is already visible wherever people are allowed to run it: community solar, energy cooperatives, municipal utilities, distributed generation owned in common rather than tolled by a monopoly. The sun has not been successfully enclosed yet. That fight is still open, which is precisely why it is worth naming now.

## **Why this is the teaching example**

You have been using cannabis and hemp to get people engaged, and your instinct is sound, because that story runs the entire algorithm in miniature and at speed. A plant that grew wild and free, reframed as a menace, abstracted into patents and milligrams, titled to the largest holders, its oldest customary uses turned into crimes, tolled through a market only a few can enter, and then, if no one is watching, naturalized into “the way the industry simply is.” It is the whole program, small enough and fast enough to watch end to end. Once a person has seen it run once, with a plant they understand, they cannot unsee it. They start to recognize the same seven steps in medicine, in seed, in water, in data, in the sunlight on their own roof.

That recognition is the leverage, and it is why the commons could in fact save us rather than merely console us. The destructive procedure is powerful but it is not secret, and its inverse is not theoretical; it has been field-tested across eight centuries of real communities who held things in common and made it work. We are at a tipping point because the algorithm's clock has sped up. But the counter-algorithm is known, and it runs on the one resource the enclosers cannot patent: enough people paying attention, at the same time, before the gate is locked. Teaching them to see the program run is the work. It may be the most consequential work there is.

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## Notes and Sources

1. On primitive accumulation and its ongoing modern form: Karl Marx, *Capital*, Vol. I, Part VIII; David Harvey, *The New Imperialism* (2003), on “accumulation by dispossession.” See [Primitive accumulation \(Wikipedia\)](#).
2. James Boyle, “The Second Enclosure Movement and the Construction of the Public Domain,” *Law and Contemporary Problems* (2003): [SSRN](#).
3. James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press, 1998), on “legibility.”
4. *Bowman v. Monsanto Co.*, 569 U.S. 278 (2013): [Justia](#). Replanting saved patented seed held an unauthorized “making.”
5. *Association for Molecular Pathology v. Myriad Genetics*, 569 U.S. 576 (2013): [Justia](#).
6. On the 2000 Cochabamba Water War and the Bechtel-led concession: [Wikipedia](#).
7. Daniel Pauly, “Anecdotes and the shifting baseline syndrome of fisheries,” *Trends in Ecology & Evolution* 10, no. 10 (1995).

8. California NEM 3.0: CPUC vote December 15, 2022, effective April 14, 2023; average export credit cut from roughly \$0.30 to \$0.08 per kWh (about 75%); industry job losses reported through 2023. See [Solar.com](#) and [pv magazine USA](#).
9. Historical cases (English enclosure, the Charter of the Forest, Hardin, Ostrom) are documented in the companion essay, "The Quiet Fence."

*Written by Claude as a companion to "The Quiet Fence," at Jessica's prompting that enclosure is an algorithm. It is. Present-day facts (NEM 3.0, the cited cases and scholarship) were checked against the sources above; the framing of enclosure as a seven-step procedure, and its inverse, is my own.*