1996-7

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Original Publication Citation

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PRIVATIZING THE PUBLIC LANDS

By B. Delworth Gardner

Introduction

The federal government owns and controls more than 47 percent of the land in the Western United States. The Interior department has jurisdiction over approximately 450 million acres, most of it used primarily for livestock grazing and is managed by the Bureau of Land Management. The federal forests, managed by the Forest Service in the Department of Agriculture, contain about 325 million acres and include some of the prime timber-growing lands in the world. Vast acreage's are also found in the national parks and Indian reservations. Most of federal land is used by recreationists of many types and is a valuable watershed for the country as a whole. All of these factors create complex fiscal and management relationships between the federal government and state and local governments and between the government and people who reside in the region.

A common belief held by the region's citizens, and especially the politicians, is that the region is subservient to and victimized by the rest of the nation. Whether it is water, grazing, timber, mineral, energy fuel, or recreation policy, the heavy hand of the federal government dominates local interests to a degree not experienced by other regions of the country.

In this paper I will discuss one of the issues that has slowly been building in the West since the 1930s, but which reached its zenith in the "sagebrush rebellion" movement of the 1970s; namely, whether or not the federal government should dispose of the public lands in the West. Both transferring them to the states and complete privatization have been considered.

At the most fundamental and philosophical level this question revolves around using markets and the private sector as a substitute for political allocations of resources necessitated by public ownership. I have written elsewhere about the potential for establishing markets for water allocation and the extensive political controls on the use and retention of prime agricultural lands.

It has often been alleged that natural resources like land and water are more "social" than other resources and therefore that markets fail to allocate these resources efficiently. Private property rights in natural resources are attenuated giving rise to a host of "externality", "public good", and "common property" market failures. The conventional reaction by economists to market failure is to advocate corrective intervention through
the political process. That is, parties affected by market failure will pressure surrogate political representatives to internalize these impacts and regulate the economic system in a socially optimal manner. The public choice theorists have demonstrated, however, that the political system seldom works in this idealized fashion, and that these political fixes are themselves susceptible to failure in the form of wasted resources. In the end, therefore, whether or not political intervention is more or less efficient than the unregulated market is an empirical question that must be informed by the evidence of each individual case.

**Ownership and Management of the Federal Lands**

Forty-four percent of the public land is located in Alaska and 92 percent is in the 12 Western states including Alaska and excluding Hawaii. Five of the 12 states have over 50 percent of their acreage in federal reserves, and only Washington has less than 33 percent.

The reasons for the recent flap over ownership and control of the public lands are not hard to discern. Until the last three decades use control of the public lands resided largely in the regional commodity users: ranchers, miners, loggers, and irrigators. Favorable policies to these groups were assured by pressure brought on political representatives in Congress and the executive branch.

Beginning in the 1960s, however, the politics began to change dramatically due to two main factors: 1) the demand for recreation and amenity goods increased sharply, and 2) the new and increasingly powerful environmental-conservation movement learned how to manipulate the political allocation process both directly and through judicial rulings. It was correctly perceived by the traditional commodity interests that the balance of power was shifting to their detriment. It was not only that quantities of federal grazing and allowable timber cuts were reduced. In general, there was a paralysis of policy that greatly increased uncertainty for the traditional users. Most proposals to develop resources on the public lands were either rejected outright or delayed for years in court actions and bureaucratic regulations that greatly increased operating costs. The Endangered Species Act is probably the most damaging legislation affecting traditional users. The timber industry in the Northwest has been decimated by rulings that the preservation of the spotted owl required a cessation of harvesting old-growth timber.

There were also some large economic rents from energy and mineral development to fight over. Since most of the monetary and environmental costs of development are borne locally, it seemed only fair that a larger share of the revenues and royalties should be allocated to state and local governments.
The upshot of disaffection with federal control of resources coupled with the arrogance of federal bureaucrats attempting to enforce regulations culminated in legislation in many Western states that transferred ownership and control of the public lands to the states. This has been referred to as the "sagebrush rebellion." Of course, the federal government found this action ludicrous on its face and a constitutional confrontation seemed apparent. But then the election of President Ronald Reagan in 1982 derailed the rebellion, at least temporarily. He was a Westerner; a conservative who believed in both development and states-rights. He and Interior Secretary James Watt were expected to reverse the pro-environment, anti-development policies of the Carter administration and thus mitigate most of the objections to federal management and control.

Recently, the focus among states in the region seems to have shifted to the alleged mismanagement of the public lands, how serious it is, and what might be done about it. The most compelling case for inefficient federal management was made by libertarian and public choice economists, who argued that mismanagement is inevitable with public ownership and can only be eliminated if decisions are placed in the private hands of efficient profit maximizers. Although this might be partially accomplished by long-term leasing of the public lands and by the use of market processes in resource allocations (such as open auctions for grazing, timber, energy fuels, and minerals), the most simple and most effective cure would be divestiture of the public grazing lands, not to the states but to private owners.

Some economists have advocated disposal of the forest and park lands as well and some believe the proceeds should be used exclusively to retire the national debt. It is instructive to review in some detail arguments as to why political allocations fail to be efficient compared to market allocations.

To quote from Sowell, "An economic system is a system for the production and distribution of goods and services. But what is crucial for understanding the way it functions is that it is a system for rationing goods and services that are inadequate to supply all that people want. This is true of any economic system, whether it is called capitalism, socialism, feudalism, or by any other name." This reminder of the basic function of an allocative system is a fruitful point of departure for comparing production and distribution decisions under continuing federal land retention with those that would likely exist if federal divestiture occurred.

Non-Price Political Allocations

As a general proposition, if resources are privately owned and goods and services are produced for market sales, two conditions must be satisfied if the producing firm is to be a viable entity. At the price charged for the product, consumers must believe that the product is worth more than the
price or no sales would occur. On the other hand, the seller must be able to
earn a profit or the firm cannot be viable in the long run. These conditions
mean that there will be competitive pressures for the resources to be used
efficiently in the interests of both consumers and producers. Private owners
of resources could be expected to be sensitive to the amount of wealth they
own and their allocation decisions will generally be consistent with
maximization of their wealth.

Given the fact of resource scarcity it is not possible for all desired uses
of the resources to be simultaneously satisfied. Some rationing must occur,
some denial of competing uses. Private producers operating in markets use
price as the mechanism of denial. In other words, if consumers cannot come
up with the price an exchange does not take occur. If producers did not use
price denial, they must sacrifice wealth.

Public land managers do not use price to deny access to resources,
except in the rare cases where user fees (prices) are used. Other rationing
processes and criteria that are essentially political are utilized instead.
Usually these are laid out in bureaucratic rules and regulations, such as
sustained-yield and multiple-use, which will be discussed later. This is not
to say that public managers are not subject to pressures that attempt to
influence their decisions. In the public decision arena the potential
recipients of the benefits from a decision may pressure, cajole, and otherwise
attempt to affect the allocation process. They expend resources in the
process. In the absence of bribery, however, the public manager receives no
monetary payoff that resembles a price. Instead, he may receive
approbation, good will, and support for his continuing employment from
those on whom he bestows his favors.

The crucial question is whether or not political allocations can be
efficient in terms of using resources in ways that consumers desire. One
answer that has been given is that in a representative democracy the purpose
of government is to advance the public interest. Political decision makers
operate in political markets where "implicit" prices are generated in the form
of votes, lobbying, campaign contributions, etc. But how do we know that
this political market is economically efficient in producing the bundle of
multiple products from the public lands and in stimulating investment in
resource maintenance and improvement? The answer relies partially on a
priori reasoning on the nature of political decisions and partially on
empirical studies of government management.

Governments per se don't make decisions, people employed by the
governments do. As the public choice theorists have long argued, agency
people are like the rest of us and can be expected to make decisions
consistent with their self-interest. This does not rule out altruism if being
altruistic adds to individual satisfaction. It is almost needless, however, to
argue that the success of an individual employed in a bureaucracy is inextricably linked to the success of the bureau itself, defined in terms of bureau size, budget, power, and influence. Contrary to what occurs in a private firm, a political decision-maker is seldom in a position to gain personally from reducing agency cost or selling a product to those who value it most highly. Both are essential to economic efficiency. The incentive structure in government decisions is not even remotely compatible with efficiency norms.

It is useful to think of agency decisions about the public lands as a "commons" that, in theory, is accessible to all, but in practice, access is proportional to influence and power. Those who are allocated products at subsidized prices or for no price at all tend to be relatively few in number and are generally located conveniently to the public lands. Since what they get is worth more than they pay directly, their economic surplus is likely quite large, and they find it in their interest to invest in order to keep the surplus as large as possible. We observe them mobilizing into special interest groups, investing in lobbying, making political campaign contributions, and using propaganda to increase the probability of decisions being made in their favor. The nation's interests become synonymous with their interests, or so they claim. It is commonly observed that if an agency official holds out against these interests, sufficient power exists to see that he will be replaced by another who will be more cooperative.

These political manipulations run counter to efficient resource allocation. One reason is that groups competing for political favors see themselves as antagonists whose uses are incompatible and mutually exclusive. This has two significant consequences: 1) pressure is exerted for decisions that tend toward single rather than multiple uses that may be more efficient, and 2) the competition for capture of the political decision wastes resources that could have been used to produce alternative beneficial purposes and therefore represents a dead-weight social loss.

Looking at the problem from a financial viewpoint, the ultimate losers of this wasteful political process are the taxpayers. Because user fees are seldom set at competitive levels and often are zero, management costs for recreation, forestry, and grazing, for example, are higher than revenues, which implies taxpayer subsidies. Then why don't the taxpayers do something about it? Because most of them are located far from the public lands, and as individuals they have a comparatively minor interest in how these land are used. Given that the costs to them as individuals of becoming informed about these complex problems are far higher than the small benefits captured, they remain "rationally ignorant" and largely uninvolved in the allocation decisions. This makes it easy for the concentrated special interests to dominate political decisions.
The legislation of recent years, as implemented by the public land agencies, does not require efficient management. The 1974 Renewable Resources Planning Act, the 1976 National Forest Management Act, and especially the 1976 Federal Land Policy and Management Act may stress the importance of scientific management, and may advocate comparing costs and benefits from investment in resources, and other practices that seem to be directing the agencies toward efficiency objectives. The reality, however, is that the supreme management goals repeatedly stressed in the legislation are multiple-use and sustained-yield, both of which are hurtful to economic efficiency.

If multiple-use were interpreted as requiring that combination of multiple products that maximizes the net aggregate joint value of these products through time (assuming the tools and data were available to value all products), the concept would have an efficiency ring to it. But, without prices, how can these valuations be made? What costs should be netted out in estimating net value? Valuation of both outputs and costs presents tremendous difficulties for an agency managing the public lands. Therefore, in practice, multiple-use is simply a political nostrum that several classes of users have a valid claim to the public lands. It is the stamp of approval for political allocations that do not force the public managers to face the hard allocation decisions. Perhaps that is why miners, energy producers, timber harvesters, and graziers appear to like the concept. It is their license to use a parcel of public land whether or not that use is economically important. In fact, the Federal Land Policy and Management Act (Section 103) seems to specifically reject economic efficiency norms by defining multiple use as--"the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people . . . . with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."

Sustained-yield as interpreted is equally empty of economic content. It is usually taken to mean that the resources should be managed to insure that the biological yield of the resources is constant through time. But efficient economic yield is a function of expected prices, expected real interest rates, and taxes as well as biological yield. In some cases, it may be economically efficient to use up the entire biological stock and then grow another, a common occurrence with most agricultural crops. Obviously this practice would be contrary to the philosophy of sustained-yield."

Generating an efficient level of capital for investment in resource conservation and improvement is a formidable problem for the federal land agencies. Discretionary investment resources originate from two sources: appropriations and user fees. Economic efficiency criteria are seldom, if ever, utilized by Congress to appropriate investment funds. Log-rolling and pork-
barreling are essentially political activities unrelated to economic yield. It is true that some user fees are directed to resource conservation and improvement, but there is little evidence that the allocation process is based on an economic evaluation. To make matters worse, during the Nixon, Ford, and Carter administrations, the agencies were generally hostile to any private investment on the public lands.

Likewise, empirical studies are uniformly critical of agency management decisions when measured by economic efficiency criteria. The national forests are "underharvested" and yet there is "overinvestment" in cultural practices to grow new timber and to construct roads to make harvests possible. Overgrazing of the Indian reservations is pervasive and results from a failure of the Department of Interior and the Tribal Councils to enforce property rights and adopt a program to limit grazing. Grazing permits issued to ranchers at fees below the value of grazing are misallocated because of eligibility requirements that militate against economic efficiency. Range improvement practices, particularly rest-rotation widely utilized by the BLM and chaining used by the Forest Service, are not cost-effective. Multiple-use managerial constraints on the National Forests are so serious as to "dissipate all opportunities for timber managerial discretion and optimization." The list could be extended almost ad infinitum.

Surely the case is a very strong one that agency decisions are inefficient under public land ownership. But could private owners do any better if divestiture occurred? How significant would market failure be under private ownership? We turn to these issues next.

**Divestiture and Market Allocation**

The essential notion of divestiture is to permit private parties to own and control the land itself. This means that fundamental control of land use, parcel size, land transfers, harvest decisions, productivity improvements, etc., would be placed in private hands. What would be the outcome? We can logically infer some expected results.

As suggested above, divestiture would create incentives for production of those outputs that can be profitably traded in markets. Of course, those now using the public lands on heavily subsidized terms may expect their income and wealth to be affected. Under privatization use denial would be accomplished by the price system. This does not mean, however, that present users would necessarily be worse off in the long run. Once the initial wealth redistribution effect worked itself out, equity would cease to be so important an issue with market-traded goods, since presumably no free-market exchanges would occur unless both buyer and seller believed the trade would make them better off.
Under private ownership the multiple-use issue would be of little consequence, except where public goods are produced. Pure public goods are those whose consumption is not exclusive and where access is difficult and prohibitively costly to control. If access to consumption of the good cannot be controlled, prices cannot be charged, and the market will not provide the efficient quantity since investment resources cannot be acquired. Open space and some visual amenities are example of public goods produced on public lands. However, it is not obvious that these goods would be produced in smaller quantities under private than public ownership. For example, if Mount Timpanogas were privately owned would any less of it be available for viewing than is now the case.

For market goods, owners will maximize their wealth in the resources by matching their production with the preferences of consumers for various products. Price is the coordinating vehicle in providing information. Efficient product diversity would be forthcoming as producers responded to the effective purchasing power of the demanders. It is highly probable that products would be more diverse, prices (fees) would be more variable, and many more consumers would be served under private ownership than are currently being served under public ownership. Consumers and taxpayers would have better information and greater incentive to acquire it, and their current rational ignorance would be displaced by an active knowledge of the available products and prices.

Management decisions would be fully accountable and constrained by the need for revenues to cover costs in the long run. Resource productivity could be expected to increase and enhanced conservation would occur as private owners would be unfettered by regulations currently constraining public managers. The private capital market would supply the resources for all investments that promised positive net returns. Significantly, the risks associated with current political management would disappear. Various types of agreements, covenants, easements, and other instruments would clearly define property rights and reduce risk.

Baden and Stroup have demonstrated why private management is superior to public management in conserving resources. In establishing conservation guidelines elected officials do not see much beyond the next election. Future generations are not here to vote their interests in the polling booth. Bureaucrats are whiplashed by political forces that have great urgency in the present. By contrast, privately-owned resources will tend to be owned and controlled by those most optimistic about the future. Present wealth in land and renewable resources is the market's expected value of the discounted flow of valuable future products. Optimists see higher future values than pessimists and bid away resources. In economic markets, future generations are represented by entrepreneurs who profit from conserving resources for their expected use.
Some Criticisms of Divestiture and Market Allocation

None of the above should be construed to imply that divestiture can be easily accomplished. A significant problem is the potential for fraud and for special and discriminatory treatment in the disposal process itself. If political allocation cannot be efficient, why should we expect that political disposal will be either efficient or equitable? The government has a long history of fraudulent and inequitable distributions of minerals, energy, land and water. This is a legacy that will be difficult to deal with in trying to convince the public that it might be different in disposing of the public land.

One of the most obvious objections to private ownership and market allocation of products from the public lands is that market goods will be priced at competitive levels rather than received free or at highly subsidized prices as they are now. It would appear that gainers and losers are easy to identify: 1) private owner-producers would presumably gain and the local economy would benefit from the extra income generated from better management and market pricing; 2) present bureaucrats would lose and presumably would have to change jobs or move elsewhere; 3) local governments would gain or lose depending on whether local taxes were higher than the fraction of current user fees received; 4) national taxpayers would gain by eliminating costly subsidies and the inefficiency of public ownership and management; and 5) consumers of products might either lose or gain as indicated below.

How can consumers gain if market products are to be priced at competitive levels? The reason is that under public management products are not free nor as subsidized as appears. Someone must pay for those lobbying, campaign contributions, propaganda, and court costs that are incurred in order to influence public decisions. The funds come largely from dues to environmental organizations and so-called check-off levies assessed by commodity associations. It is conceivable that privatization and market allocation at a price would be both more efficient and more equitable. Each consumer would pay for what he gets. Because resources would be more productive and variety would increase as products were tailored toward consumer tastes, the value of outputs to consumers would increase.

Let us now turn to sources of market failure embodied in privatization as mentioned above: public goods and externalities. There do appear to be some problems with divestiture if public goods cannot be marketed and externalities are not accounted for in negotiated private decisions.

Because price denial is not the rationing system used for allocating most products from the public lands, it is understandable that market prices for these products do not now exist. The appropriate question is: could and would they be priced and efficiently allocated under private ownership? The correct answer is yes, at least for all nonpublic goods, which would include all
recreation where access can be cost-effectively controlled. Already we have a wide variety of private markets in hunting, fishing, camping, skiing, boating, swimming, etc.

By definition, market transactions do not permit the interests of non-negotiating parties to be included. If it were costless to bring third parties into the negotiations they would be brought in, and no problem would exist. Unfortunately, these transaction costs are often prohibitive. To quote Sowell: "Political systems allow third parties to influence economic transactions from which their interests are excluded. Political decision making can lower transaction costs by allowing a relatively few surrogates to make and implement decisions reflecting the will of millions who have insufficient stake (or resources) to incur the huge costs of devising and transacting some of the decisions they believe in." Granted, but how significant the external interests are and how well the surrogates (the politicians and bureaucrats) represent them in political decisions are really empirical questions.

Water is an excellent example of a product where external effects may be significant. Most of the fresh water in the West utilized for municipal and industrial purposes, irrigation, and recreation originates from precipitation on the public lands. The condition of the watersheds is critical to runoff rates and water quality. Do not these facts imply that society has an overriding interest in these watersheds that mandate continued public ownership? There are several reasons for doubt.

It is by no means clear that water yields and water quality would be lower under private ownership. Both yield and quality can be easily measured and monitored and marketed. Timber production and range condition, both positively related to watershed yield, might well be superior under private than public ownership.

Perhaps equally important, mechanisms exist that would internalize much of the external problem if it got out of hand. Appropriate water rights are separated from the land anyway and are determined by the date of filing. Most of the streams originating on the public lands are already fully appropriated and rights are sanctioned by state law. If private land owners disturbed these rights in any significant way, they would be liable under the law and subject to court action. My own guess is that conflicts over water rights might be far less serious if the public lands were privately owned than they are now under federal ownership. The threat of a law suit might deter private land owners from socially deleterious actions that do not phase public decision makers.

What about fugitive resources, such as wildlife, that cannot be circumscribed by private boundaries? Doesn't this require a public landlord to protect these resources? Not at all. Hunting and wildlife harvests are reasonably site specific and the access of hunters is largely controllable.
Already in some places ranchers have discovered that user fees they charge hunters for crossing private land in order to hunt on public lands exceed income from ranching. They justify collecting these fees as compensation for wildlife grazing on their private lands, which they can't cost-effectively control. It may be that habitat for wildlife would be different under private than under public ownership, however. It is conceivable that thousands of private entrepreneurs, marketing hunting and fishing privileges, might well manage the resources more efficiently to produce and retain wildlife in areas under their control. It already happens in other sections of the country and in other countries.

Another worry with private ownership of the wildlands of the West is that corporate bureaucrats in large firms of the private sector are remarkably like public agency bureaucrats in the public sector and, thus, there would be few gains from trading one set for another. De Alessi\textsuperscript{32} has convincingly argued that this is simply untrue. Private and public organizations differ in the cost of transferring ownership shares. An individual can change his "ownership" portfolio of public benefits only by moving from one jurisdiction to another. This is far more costly than buying or selling securities, his portfolio of private ownership. Thus, property rights in public organizations may be taken to be nontransferable. Therefore, the owner's incentive to detect and inhibit undesirable managerial behavior is much weaker in public organizations than in private firms, and gives government decision makers greater opportunities to increase their own welfare relative to that of the owners.

Finally, objections to private ownership have been raised because the resulting income distribution is unacceptable. What seems to be bothering people\textsuperscript{33} is that price denial rather than other forms allegedly discriminates against the poor who cannot come up with the price. The result of price allocation is to make the distribution of income and wealth less favorable to the poor. But these objections have been made without proof of any kind. It is well known that the bulk of the users of the public lands, especially most recreational users, are not low-income citizens. As a rule, their incomes are higher than the average of all taxpayers. Thus, current public land allocation methods transfer income and wealth away from the poor and toward the non-poor.

Conclusion

Because of a healthy public skepticism about the potential for fraud and give-away, I am doubtful that disposition of the public lands on a large scale is politically feasible at the present time. But economists are often very poor at assessing political feasibility. Most of the efficiency gains are prospective and many of the beneficiaries do not even know who they are. Current users would be threatened by privatization unless the disposal policy
were clearly favorable to them. For these reasons, I am doubtful that a significant constituency for disposal presently exists. In my view, we must have more evidence that an efficient and equitable disposal policy is available.

I propose that we begin with a small disposal program and be creative in trying alternative schemes. Perhaps long-term competitive leasing as proposed by Clawson should also be tried on an experimental basis. A public nonprofit corporation operating under a charter that would require it to raise and sustain private capital and that would permit it to make all managerial and investment decisions could also be attempted on an experimental basis. At the very minimum, opportunities should be sought to price ration the products from the public lands after the manner now utilized for timber. This would be a significant, if limited, step toward improving the efficiency of resource allocation.

Author Note


About the Author

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Endnotes


