

## **47. Public Lands Policy**

### ***Congress should***

- privatize the lands held by the U.S. Department of the Interior and the U.S. Department of Agriculture; or, failing that,
- allow any business entity or interest group to compete for leases to harvest resources from federal lands;
- grant holders of federal leases and permits the right to trade those leases or permits freely in secondary markets;
- reform the national park system by giving individual park administrators greater autonomy but requiring their operations to be self-supporting; and
- eliminate water and rangeland subsidies for agricultural users.

The federal government owns 29 percent of the landmass of the United States—including 82 percent of Nevada, 68 percent of Alaska, 64 percent of Utah, 63 percent of Idaho, 61 percent of California, 49 percent of Wyoming, and 48 percent of Oregon. Recreationists, environmentalists, and resource extraction industries compete fiercely for rights to make use of that land. During the 108th Congress, for instance, competing interest groups engaged in high-profile clashes over snowmobile access to Yellowstone National Park, drilling in the Arctic National Wildlife Refuge, timber road construction in the national forests, water rights in the Klamath River Basin, the future of major hydroelectric dams in the Pacific Northwest, and access to untapped natural gas reserves off the Florida Gulf Coast.

Both liberals and conservatives appear to be comfortable with allowing government officials to resolve disputes between competing claimants for access rights. The disagreement resides in *how* the resource pie is being divided and *who* is doing the dividing. Conservative Republicans typically argue that timber, mineral, and energy resources on federal lands are more valuable than the ecosystems treasured by environmentalists and that more

resource extraction is called for. Moreover, they contend that state and local governments should have more of a say than federal officials in Washington about how the resources on federal lands are allocated. Liberal Democrats typically argue the opposite and complain that our national heritage is being destroyed by shortsighted greed.

### ***The Genesis of Conflict***

Disagreements are intense because the stakes are often quite high. Resource extraction industries and the politicians who represent the workers in those industries point out that federal lands are a major source of the nation's softwood timber, coal, and hard metals and that much of the nation's grazing lands are federal lands. Federal lands are also the home of large reserves of petroleum and natural gas, some of which are currently being exploited but much of which is not, given the political resistance to drilling in some particularly popular ecosystems. Recreationists counter that millions of Americans each year visit federal lands to enjoy recreational pursuits such as hiking, camping, and sightseeing—all of which to one degree or another conflict with the goal of wilderness preservation and resource extraction. Environmentalists, for their part, argue that the federal lands encompass the most biologically important ecosystems in North America and the most important national treasures in the nation. On much of that land, environmentalists argue, both industrialists and recreationists must by necessity take a backseat to conservation in the interests of both present and future generations.

Although parties to those debates marshal ecological, biological, and economic arguments to justify their claims to the federal estate, the evidence forwarded is remarkably flimsy and unpersuasive.

For instance, how do we know whether any particular parcel of federal land is more valuable if left wild than if developed in some way? Although methods such as contingent valuation surveys exist to measure the “existence value” of land, they yield highly dubious information for the simple reason that what people *say* they're willing to pay in surveys rarely comports with their actual behavior in the marketplace.

Likewise, there's no objectively correct way to measure the economic benefits provided by most ecological services (such as water filtration, soil conservation, and carbon sequestration) because so many of the resources affected are—at the moment—outside the marketplace. If a resource is outside the market, we can't reliably “price” it, and if we can't find a price for a resource, we can't calculate the value of saving the resource.

None of this is to say that ecological assets have no value—only that we can't reliably calculate it outside the marketplace and, accordingly, cannot consider those values when conducting an implicit or explicit cost/benefit examination of various alternative uses of a given resource. In short, there is no way to intelligently adjudicate an argument between those who say that the oil beneath the ANWR is more valuable than the ecosystem above it and those who argue that the wildlife in ANWR is more valuable than the oil.

The upshot is that the debate over federal lands—while often garbed in the cloth of ecological science and economics—is in reality a debate about subjective preferences about how resources ought to be allocated. There is no real way to test whether those subjective preferences represent the “best” use of resources because we lack the information to consider the value of alternatives.

### ***Political Allocations Reconsidered***

Leaving the decision about how to allocate scarce resources among competing users to the government is unwise. First, since politicians or their agents make the decisions on how resources are to be allocated, decisions will be based on political criteria. Economically efficient or ecologically sensible decisions will occur only by chance. Moreover, counterproductive subsidies almost always emerge when government is allocating resources, given the fact that the benefits bestowed by those subsidies are highly concentrated while their costs are widely disbursed. Politicians in both parties find significant political profit in bestowing such subsidies on favored constituencies.

Second, because governmental offices change hands frequently, allocations are always subject to reconsideration and reversal. Continuing uncertainty regarding resource rights reduces incentives for conservation. Given that disputes are never permanently settled and that potential gains from subsidies are great, vast sums are poured into lobbying efforts that are pure deadweight losses to the economy.

Third, mutually satisfactory solutions to resource disputes are difficult to achieve because competing interest groups cannot financially bargain with one another. In private markets, economic actors can pay groups of people to surrender their rights to resources or legal claims and, because the transactions are voluntary, conflict is typically resolved with minimal ill will. In political markets, such transactions are impossible and disputes are “all-or-nothing” affairs. Political compromises designed to indemnify

losers are not necessarily voluntarily accepted by the losers and can be undone by future political action.

Fourth and finally, the managerial record of public land officials is as abysmal as the managerial record of socialist plant managers in the old Soviet bloc. Environmental organizations publish mountains of reports documenting the sorry state of our national parks, the poor condition of our publicly owned forests, and the overuse of western water and rangeland. The cost of managing commercially attractive resources on federal land greatly exceeds the revenues brought in to the federal treasury. It would appear that ecological socialism is subject to the same problems that bedevil socialism in other economic contexts.

### ***Why Public Lands?***

Given the endemic problems of public land ownership, why does it continue to find support?

Economists have defended it because ecologically important and visually compelling lands are generally considered to be “public goods.” That is, in an unregulated marketplace, those who pay to “consume” those acres are unable to keep those who *don't* pay from enjoying the benefits of that purchase. For instance, in a laissez-faire world, many if not most Americans would be willing to pay some money to ensure that the Grand Canyon remains unexploited for commercial purposes. Yet only a subset of those Americans might actually contribute to such a cause because they know that others will do so even if they don't. Economists worry that, without government intervention, the incentive to free ride on the activism of others will lead to less investment in conservation than would be economically or socially desirable.

Although there are numerous ways that the government could intervene in environmental markets to address the problem (for instance, some sort of subsidy or tax deduction for conservation investments), the common method is public ownership. Few people, however, seriously consider whether this particular remedy is worse than the malady being addressed.

Regardless, while “national treasures” are indeed a part of the federal estate, the majority of the acres held by the federal government are not lands that have a particularly significant “existence value.” Most of the land held by the U.S. Bureau of Land Management, for instance, ended up there by historical accident—nobody filed any claims for it when the federal government was homesteading land in the West during the 19th century. Similarly, the lands held by the U.S. Forest Service were deposited

there during the Progressive Era on the assumption that scientific management of timberlands by government experts was economically superior to market-based management of timberlands by private owners.

In short, only a small fraction of the federal estate can be defended on the grounds of market failure. Much land held by the BLM is no longer unwanted. Likewise, given the evidence over the past several decades, few economists would argue today that timber harvests are more efficiently managed by government agents than by private companies. Unfortunately, Americans have grown so accustomed to public ownership of vast stretches of western lands that intellectual justifications of the federal estate are seldom if ever necessary.

### ***The Privatization Option***

Privatization is the best way to improve the economic and environmental services provided by federal lands and to ensure that they are being harnessed for the most popular and necessary uses. Although it's not clear whether the "free-rider" problem is serious enough to significantly distort the market for certain federal lands, if the problem must be confronted, it is best addressed by some form of public subsidy for conservation activities. Possibilities include federal matching funds for individual contributions to preservationist organizations or tax credits for conservation expenditures.

The most neutral way to divest public lands is to begin by recognizing the implicit claims that different interest groups have on the federal estate. Lands presently devoted to the national parks, wilderness preserves, and wildlife refuges would be simply given to nonprofit conservation groups representing users. Lands presently devoted to resource industries—such as the public grazing lands and forest lands presently devoted to timber operations—would likewise be given to present permit holders and users. Lands, however, that are under mixed use or no use at all would be auctioned off over a set number of years.

To address the concern that corporations and the rich would have an unfair advantage in the subsequent auction, every American would be issued an equal share of land scrip that would be redeemable only in a public land auction. After all, if the public lands truly "belong to all of us"—as we're constantly told by environmentalists—why not explicitly acknowledge this state of affairs and allow people to decide for themselves what to do with "their share" of the federal estate? Individuals would be free to buy, sell, or donate their scrip as they pleased, but only this

government-issued scrip would be accepted as currency in the federal land auctions.

The virtue of this privatization scheme is that it minimizes conflict by accepting current political arrangements regarding public resource use while allowing those arrangements to change via voluntary postauction exchange. Equity concerns are addressed, and the financial benefits of privatization would be captured directly by the American people.

Environmental lobbyists may well object to divestiture no matter how it is executed, arguing that, if left to the market, America's ecological crown jewels would end up as Disney-style theme parks, exclusive housing developments, or massive extraction platforms for oil, coal, gas, and timber companies. Yet if the American people are as "Green" as environmentalists say, it's hard to imagine that they would use their scrip to facilitate that sort of development. Likewise, it's hard to believe that environmentalists themselves would surrender the rights they would inherit to govern the national parks, wilderness areas, and wildlife refuges as they see fit without satisfactory compensation.

In truth, there's plenty of reason to think that environmentalists will more often than not find themselves on the winning side of most auctions. When resource extraction industries have competed with conservationists in the private marketplace, they have discovered that the conservationists can usually marshal more dollars for attractive lands than the industries themselves can. Similarly, when the U.S. Forest Service has allowed conservationists to compete against timber companies for use rights, conservationists have won those auctions more often than not. Lobbyists for western agricultural interests labor mightily to prevent laws that would allow their clients to trade federal water or grazing rights to environmentalists out of fear that, were such transactions allowed, conservationists would buy out much of the industry. In fact, "sagebrush rebels" in the West have historically been vigorously opposed to the privatization of public land for exactly those reasons.

It is indeed ironic that *both* resource users and organized conservationists fear that, were federal resources put up for grabs in the marketplace, the *other* side would emerge with more resources than at present. But both can't be right. At root, perhaps, is a reluctance on the part of all parties to pay for access to resources they currently receive from the public for free or at subsidized rates. Granting resource users the right to lands currently dedicated to their use prior to the launch of an auction would probably address this concern.

## ***A Second-Best Alternative***

No matter how intellectually attractive divestiture of public lands may be, politicians have been reluctant over the years to consider it. If privatization proves politically impossible, a second-best alternative would be to allow competing resource users to freely buy and sell access rights to federal land. Farmers and ranchers with permits for federal water would be allowed to sell those permits to anyone they wished—including environmentalists who might wish to retire the permits in order to restore riparian ecosystems. Similarly, ranchers should be allowed to sell grazing permits to nonranchers, and timber companies should be allowed to sell harvest rights on federal land to nontimber interests.

Anyone interested should likewise be afforded the opportunity to compete in the sale of federal leases for oil, gas, coal, mineral, or timber rights. The idea that federal land managers know a priori that a given tract of land is best used for this or that purpose is dubious for all the reasons addressed earlier. Federal laws that prohibit such secondary transactions violate the interests of all parties, who by definition will gain when voluntary exchanges that would be desirable to both parties are finally allowed by law.

This second-best reform has been embraced by many environmental organizations (most prominently, perhaps, by the Natural Resources Defense Council and Environmental Defense) and is a good first step toward allowing market forces to have a greater say in how federal lands are used.

## ***Eliminate Public Subsidies***

As noted earlier, public ownership of resources encourages counterproductive subsidies for politically influential groups of resource users. Most criticism of such subsidies targets the unfairness of using federal tax dollars to fatten the income of some at the expense of others; less attention is paid to the fact that subsidizing public resource users has detrimental economic and environmental impacts as well. Unfairness, of course, is in the eye of the beholder. Economic efficiency, however, is not.

Disagreement exists about the extent of the subsidies bestowed upon various user groups. The federal government, for instance, loses money on timber sales from public lands, suggesting to many that the timber industry is paying less than its fair share for access to the national forests. Others counter that leases are disbursed via auctions so by definition fair

market values for the land are discovered (at least, concerning the value of those lands to the timber industry). The disparity between lease payments and federal revenue is due primarily to gold-plated and inefficient Forest Service management practices.

Similarly, many observers argue that mining companies pay extremely low rates for access to federal land and that the law governing such transactions—the 1872 Mining Act—denies taxpayers a fair return from mining activity. Yet careful analysis suggests that the fees established by the act may not be that far from what would arise in an auction process.

The best way to dissipate both subsidies (to the extent to that they exist) would be to allow a larger universe of interested parties to bid for timber contracts and to reform the Mining Act to establish similar auction mechanisms. If that's not possible, allowing secondary exchanges between timber and mineral companies and other potentially interested groups would at least allow a remedy for the economic and ecological problems associated with the subsidies. The wealth effects, however, would remain unaddressed.

Subsidies for recreationists and agricultural interests are even more damaging than those for other user groups. Entrance fees at the national parks, for instance, cover only a fraction of the costs associated with park upkeep and maintenance. Despite more than two decades of complaint, legislators continue to refuse to appropriate enough funds to keep the parks in good order—probably because politicians gain political credit when they create and expand parklands but little if any credit when they appropriate money for maintenance. Accordingly, park conditions continue to deteriorate and park ecology is harmed by excessive public intrusion into sensitive areas.

Requiring park visitors to pay the full cost of park management is a necessary but insufficient remedy. Park managers have an incentive to maximize the number of visitors because that strengthens their bid for larger budgets and furthers their career within the park service (managers of popular parks have a career advantage over managers of less popular parks). Accordingly, individual parks should be separated completely from the federal treasury and forced to become self-sufficient. That reform will only work, however, if park managers are given more autonomy to run the parks as they best see fit. Boards of trustees for each park would ensure that public accountability was not completely lost.

Agricultural subsidies are likewise rife for public land users. Myriad rangeland maintenance programs provide valuable services at little or no

cost to those who graze cattle on public land. Most important, access to federal water at artificially low rates ensures not only counterproductive land uses in arid regions but also that water scarcity will continue to haunt the West. Indeed, federal water subsidies to farmers may well be the most environmentally destructive program in the federal budget. Forcing agricultural users of the federal estate to pay for rangeland maintenance programs through special fees and requiring agricultural users to pay market rates for water access are obvious remedies.

### **Suggested Readings**

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