The Subsidized Sagebrush: Why the Privatization Movement Failed

Robert H. Nelson

THE MOVEMENT TO SELL federal lands into private ownership arose somewhat later than the Sagebrush Revolt. Both movements posed a major challenge to federal land ownership, but from very different directions. The Sagebrush rebels stirred up considerable enthusiasm among a wide range of westerners, at least to begin with, but they never enlisted much intellectual support, perhaps because they had developed no consistent rationale for their crusade. Privatization, by contrast, was backed by a small group of intellectuals with respectable credentials who carefully developed their arguments in both scholarly and popular outlets. But they never attracted either interest-group backing or broad popular support.

Both movements foundered on the phenomenon of the Subsidized Sagebrush: the fact that the West has received major economic benefits from federal land ownership. In the end, "privatization" wound up having much less political impact than did the Sagebrush Rebellion.

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This is the second of two articles in which he examines issues in public land management. The first, "Why the Sagebrush Revolt Burned Out," appeared in our May/June 1984 issue.

A Record of Inefficiency

Unlike the Sagebrush rebels, the privatizers argued from the beginning on grounds of economic efficiency and national well-being. Some of them saw privatization as a modest way for the government to rid itself of parcels that it did not need or could not easily manage. Others saw it more sweepingly, as a challenge to the root premise of government ownership itself. This group believed that public ownership and management inevitably led to such problems as the "capture" of federal land agencies by private parties and the use of clumsy command-and-control management techniques.

Both groups of privatization advocates could point to a large economic and environmental literature (parts of which overlap) on the failures of public land management. Economic studies have found that federal lands

have long been mismanaged, resulting in shifts of public land from higher- to lower-value uses, investments in projects whose costs are much larger than their benefits, building at one site when another site would offer higher returns, consumption of resources when conservation would be more appropriate and, conversely, conservation when consumption would be more appropriate.

One much-studied example is the U.S. Forest Service. Reflecting a persistent lack of economic sophistication, the service tends to hold excessive inventories of timber, delay harvesting timber for too long, and misallocate investment funds. (See Thomas Lenard, "Wasting Our National Forests," *Regulation*, July/August 1981.) What is particularly disturbing is that the service harvests a good deal of uneconomic timber in prime recreational areas, thereby inflicting needless environmental as well as economic damage. In fact, John Baden and Richard Stroup have argued that the worst dangers to the environment may be those that occur when the government subsidizes activities that would otherwise be uneconomic, disrupting the functioning of markets and ecological systems at the same time.

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The Bureau of Land Management (BLM) of the Interior Department has also been an inefficient manager of livestock grazing on public lands. Because ranchers have not enjoyed secure tenure on their grazing lands, they have often been unwilling to invest in improvements to the land. They might take steps to improve the growth of forage plants, for instance, but fear that the BLM might then allocate the resulting increase in the land's carrying capacity to wildlife instead of stock. This lack of investment incentive increases the pressure on the bureau to plan and finance improvements itself. Partly as a result, critics say, the bureau has managed to expand its staff and budget far out of proportion to the rangeland values at stake or the revenues it collects in grazing fees.

Both the BLM and the Forest Service operate their surface lands at a big loss. For example, it costs the BLM about four to five times more to manage grazing land than the land generates in revenues. Moreover, the Forest Service reports that its lands cost $1.8 billion to manage in 1980 and brought in total revenues of only $0.9 billion. The latter deficit is particularly striking given the nature of forest economics. One of the main expenses of ordinary forest owners is the cost of carrying capital—paying a mortgage or foregoing revenue while waiting for a stand of trees to grow to optimal harvest age. The Forest Service, however, pays no capital charges, and most of the timber it currently harvests comes from "old growth" forests on which it has never had to invest much money. According to Sterling Brubaker of Resources for the Future, "No one has ever established" that these discrepancies are matched by the value of environmental or other non-marketed outputs of the land. "In fact, it seems implausible for much of the land, which is without any special distinction."

Marion Clawson, widely regarded as the leading student of public land management, has concluded that the management record of the Forest Service is "unacceptable," perennially "rejecting economic considerations or economic analysis as applied to the national forests." The problem is not a matter of isolated willfulness, in Clawson's view, but an inherent defect arising from the service's status as a politically oriented body.

The pervasive inefficiencies in public land management that economic researchers have found should hardly be surprising. Efficient use of resources is seldom a main criterion in decisions made by public land managers. Rather, as political realists, their principal concern is to balance interest group pressures and to achieve an acceptable resolution among the many users of the public lands.

The Anomaly of Public Land Ownership

It is curious that public opinion in this country overwhelmingly opposes government ownership of most kinds of enterprises—steel mills, auto plants, banks, retail stores—but cares little that the federal government owns about half of the West. Indeed, it is only recently that

economists and others have begun to ask the obvious question: why should land be an exception to the American consensus against government ownership?

Defenders of the current system have generally tried to throw the burden of proof onto their adversaries, by demanding a definitive demonstration that private ownership of western lands would be superior. Yet one would think that the burden of proof would more logically lie on them. Today, even many advocates of strong government involvement in the economy agree that the government generally does better to structure market incentives than to pre-empt or abolish the market. Thus, Charles Schultze of the Brookings Institution laments the previous tendency of activists "to see only one way of intervening—namely, [moving] a set of decisions from the decentralized and incentive-oriented market . . . to the command-and-control techniques of government bureaucracy," instead of "modifying the incentives of the private market."

There is no need to overstate the case by suggesting that in practice the private market achieves results that are close to some social optimum. It is enough to point out that its failings, substantial though they may be, have generally been fewer than the failings of public ownership.

The most common argument for federal ownership is that it protects fragile environmental and scenic values. But in our system of government, it has normally been regulation, not public ownership, that has been the procedure for guarding such values. *Private* land owners—many of whose holdings are intrinsically no different from the public lands—are forbidden to harm various sorts of wildlife, to strip-mine coal without taking environmental precautions, and so forth. If public land ownership is indispensable, it must be because there is some crucial regulatory objective that cannot be imposed on private landowners. If so, the question becomes: why ought not the government take over vast tracts of privately held land in the East—which hardly anyone wants it to do—in pursuit of the same objective?

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The best arguments for public land ownership apply only to that part of the public lands for which recreation or wilderness is the primary and most valuable use. In principle, it is possible for a private owner of such lands to charge high enough access fees to recreational users to keep the property both profitable and environmentally secure. In practice, however, the cost of collecting the fees might be too high, especially if the lands are widely dispersed. Moreover, wilderness might be a true "public good," valued by many persons who do not visit it. In either case, the public sector would have reason to step in to provide what the private sector will not. (The management of the land, however, might still be left in private hands. The private nonprofit sector has for many decades run a sizable preservation movement of its own.)

Even many of those who generally support federal retention of the public lands often acknowledge that a limited degree of privatization would produce more rational patterns of land ownership. Federal and nonfederal lands are closely intermingled in many areas of the West, reflecting historical accidents rather than considerations of efficient management. For example, large swaths of western land are held in "checkerboard" ownership, with the government and private owners each owning alternating sections of a square mile each—a legacy of the railroad land grants of the nineteenth century. Yet land uses such as livestock grazing and coal mining call for larger blocks of contiguous land.

Many federal holdings in the West are even smaller than one square mile. Some are in the midst of an urban area, others are surrounded by private rangeland and many are far from other federal holdings. There is little if any prospect that the federal government can manage these small parcels effectively. Indeed, the owners of the surrounding private land already typically graze their stock on these federal islands as though they were extensions of their own property.

The director of the Bureau of Land Management in the Carter administration, Frank Gregg, in 1982 advocated a major effort to re-

solve this problem. He proposed to rationalize land ownership patterns by identifying parcels that should remain in federal multiple-use management, by evaluating and where desirable facilitating large-scale land swaps, and by identifying those public lands that might best be disposed of, either as trading stock for consolidating existing federal areas or by outright sale. While Gregg would doubtless not describe his "house-cleaning" proposal as a wholesale privatization scheme, it would result in sales of at least several million acres of federally owned lands, and possibly as much as 20 to 30 million acres.

From Idea to Action

In 1981 the idea of privatizing public lands had a well-developed theoretical rationale, but hardly any political constituency. Its base of support consisted of a few professors at places like Johns Hopkins University, Montana State University, and the University of Washington. These advocates undertook to transform the Sagebrush Rebellion into a movement to transfer federal lands not to the states, for free, but into private ownership. By the fall of 1981 they had achieved a respectful hearing among some key Sagebrush rebels. Indeed, in early 1982, rebel leader Dean Rhoads, a Nevada rancher and state assemblyman, stated that "[w]e've shifted positions drastically," in part because "we've had to face the hard fact that the Federal Government was not going to give one-third of America to the States for nothing." Rhoads called for privatization subject to the caveat that "if lands are sold, traditional rights and uses should be retained, such as recreation and hunting and fishing, to be managed by states."

The new movement soon found adherents within the Reagan administration. In October 1981 William Niskanen, a member of the President's Council of Economic Advisors, criticized the financial losses and inefficiencies of public land management and suggested selling "much of" the public land estate. A few months later, as a result of a meeting between presidential counselor Edwin Meese and President Reagan, it was decided that an effort to sell substantial areas of public lands would be included in a broader plan to sell off unneeded federal property in general.

In February 1982, the Cabinet Council on Economic Affairs presented to President Reagan a proposal for "promptly developing a program to dispose of unneeded public lands"—a program that would have to be tentative because it would most likely require "sweeping revisions in existing Federal laws and regulations." On February 25, 1982, Reagan signed an executive order establishing a Property Review Board reporting directly to the White House, with the function of identifying unneeded lands, buildings, and other facilities throughout the government and establishing procedures for their sale. On the same day, Director David Stockman of the Office of Management and Budget (OMB) testified to Congress that the public land part of the overall sale program would focus on "residual BLM land and limited Forest Service lands," and made it clear that national parks and other special areas were to be excluded. Explaining the reason for the program he noted:

> Some Federal holdings that were initially acquired at low cost have substantially appreciated in value because of changing land use patterns. The Government has not responded to changing market demands for alternative uses of land and structures as have private sector owners of real property. Government agencies continue to maintain operations on high value sites even though these operations could be relocated to lower cost areas without any negative effects on the program.

As an example, he noted that the BLM owns an 8,900-acre parcel five miles from the center of gold-plated Palm Springs, California. Stockman estimated that the Forest Service had at least 150,000 acres in "isolated ownerships, road right-of-way, and unintentional trespass situations" that could be sold.

Stockman made it quite clear that a basic purpose of the program would be to obtain revenue for the government. He tentatively proposed a revenue target from sales of surplus federal buildings and lands (other than those of the public land agencies) of $1 billion in 1983 and $2 billion a year in later years. He also indicated an intent, beginning in fiscal 1984, to raise an added $2 billion a year from sales of BLM and Forest Service lands. Thus, the program was supposed to raise about $17 billion in revenues over the next five years, around half

of which were to come from public lands. The five-year target of $17 billion was later used by the administration and was picked up widely in press reports.

Stockman's testimony already showed the conflicting objectives that were to beset the privatization effort. On the one hand, the effort was defended as a way to clean house and improve efficiency. On the other hand, it was supposed to raise large amounts of revenue, with the purpose, as other administration statements made clear, of reducing the federal deficit. Yet the land plots that were most suitable for sale on efficiency grounds were not always those that would fetch the highest price tags. Moreover, the steps needed to gain political acceptance for the sales, such as excluding numerous categories of land and minimizing the likely disruptions resulting from land sales, all tended to lower the revenues the federal government could expect to receive.

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The Interior Department's Response

The Property Review Board in early 1982 asked Interior, along with other federal agencies, to draw up plans for future land and property sales. Interior's plans, formally approved by the Property Review Board in May 1982, were based partly on field office canvasses classifying public lands into three categories. The first category included national park and wilderness areas, areas with known or suspected valuable mineral reserves, and others that would be permanently retained by the federal government. The second category consisted of land suitable for immediate sale or transfer. These lands were limited in total acreage and unlikely to provoke much controversy. They included urban sites potentially usable for residential or commercial development, small parcels of rangeland amidst nonfederal holdings, and lands with significant commercial, industrial, or farm potential. The third category consisted of land the department had marked for further study, which included —in the case of grazing lands—examining such alternatives as long-term leasing instead of outright sale.

Tables 1 and 2 show the land classified by acreage, estimated sale values, and state. Previous BLM land-use plans, mostly dating back before the Reagan administration, had already identified some 2.7 million acres suitable for sale with an estimated value of $2.0 billion. A further 1.7 million acres with an estimated value of $439 million were also deemed to be suitable for sale, but could not be sold until existing land use plans were amended. The 4.4 million acres in these two categories added up to less than 3 percent of the 175 million acres of BLM land in the contiguous forty-eight states. Twenty percent of the land identified for sale was in Nevada, 15 percent in Wyoming, and 14 percent in Arizona. The Nevada land amounted to only 1.5 percent of the 86.1 percent of that state held by the federal government.

Table 1
LANDS IDENTIFIED BY THE INTERIOR DEPARTMENT FOR SALE

Type	No Change in Land Use Plan Required		Changes in Plan Required	
	Acres	Value ($ millions)	Acres	Value ($ millions)
(1) Lands in urbanizing areas or with residential, commercial, or industrial value	485,989	$1,626	103,834	$100
(2) Farmable lands	451,202	130	294,342	84
(3) Lands uneconomic for federal management	1,525,642	253	1,255,598	242
(4) Lands no longer needed for federal purposes; disposal would serve other public purposes	244,180	67	92,769	10
TOTAL	2,707,013	$2,077	1,746,543	$438

Note: Surface value only (does not include mineral value).
Source: Interior Department estimates, 4/30/82.

The field offices also identified another 27 million acres of BLM land in potentially fragmented ownership and put it in the "further study" category. Of these, 7.5 million acres were held in railroad checkerboard patterns, 9.6 million acres were located in townships (six-by-six-mile squares) in which the BLM owned less than 20 percent of all township land, and another 9.6 million acres were located in townships in which the BLM owned 20 to 40 percent of the land.

Interior Secretary James Watt was not one of the proponents of the privatization program. For one thing, it was originated outside Interior and thus raised a turf challenge. Moreover, because of its emphasis on revenue raising, it largely displaced his "good neighbor" policy of free or highly preferential land transfers to state and local governments, although the program would have given grandfather status to existing state applications for transfers. Watt also probably sensed the political liabilities that were soon to become apparent as the program developed.

Thus, at a White House press briefing, after again reassuring the press that "the National Parks, the wilderness areas, the refuge areas, the conservation areas will not be for sale," Watt emphasized that "at this time, we have no parcels of any real size that we are singling out. There will not be massive land transfers under this program." In later statements Watt added that no more than 5 percent of public lands would be sold. Since there are about 700 million acres of public lands, the cap on sales was widely reported in the press to be 35 million acres—even though, of course, the Interior Department had actually identified only 4.4 million acres of prime prospects for sale at that point. Even the higher figure, however, was not much higher than might well have resulted from Frank Gregg's proposal for a general house-cleaning of western land patterns.

Table 2

LANDS IDENTIFIED IN 1982 BY THE INTERIOR DEPARTMENT FOR SALE, BY STATE
(thousands of acres)

State	Urban	Farmable	Uneconomic for Federal Management	No Longer Needed, etc.	Total
Arizona	57.8	75.6	475.9	2.9	612.2
California	111.4	47.8	133.7	27.2	320.1
Colorado	20.8	19.2	347.5	2.2	41.1
Eastern states	12.5	0.9	42.4	0	404.4
Idaho	8.9	170.7	114.9	0.5	295.0
Montana	1.6	27.3	375.5	0	404.4
Nevada	275.5	241.4	154.0	214.1	885.0
New Mexico	30.8	5.2	409.0	3.5	448.5
Oregon	9.7	58.2	185.9	0.5	254.3
Utah	18.1	20.1	91.0	4.1	133.3
Wyoming	42.7	79.1	450.5	82.0	654.3
TOTAL	589.8	745.5	2,780.3	337.0	4,452.6

Source: Interior Department estimates, 4/30/82.

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Belated efforts by the Reagan administration to minimize the scope of the proposed land sales were of little avail. Whether the figure was 35 million acres, representing only 5 percent of the public lands, or 4.4 million acres, representing a minuscule figure smaller than one percent, it seemed like a very large absolute amount of land. Furthermore, it would obviously take a lot of land sales to achieve the stated revenue target of $17 billion over five years (which, by the way, included sales of other properties along with public lands). To the press, moreover, a massive sale program made a better story than a modest one.

In July 1982, a front-page story in the *New York Times* opened with the statement, "the Reagan administration has begun what could be the most extensive transfer of public property and resources to private control in recent American history." The next month a *Time* mag-

azine cover story on the "land sale of the century" reported that

> the scope of the proposed sales is enormous. . . . Both President Reagan and his Interior Secretary James Watt are convinced that the U.S. owns far more land than it needs or can manage. And both believe that unneeded land should be turned over to private owners.

As a result of such press coverage, the idea became firmly implanted in public attitudes that privatization was about to cut deeply into public land holdings—a seemingly drastic policy change that was to occur with little advance planning or debate.

The Rise of Opposition: Stockmen vs. Stockman

The cabinet council had warned that "altering present policies, either selling the lands or raising user fees, would likely generate considerable controversy." Among the potentially hostile groups were ranchers (unless they were allowed to buy the land for well below market value), environmental groups fearing large-scale development and a shift in environmental protection values, local communities that had been receiving federal lands for "public purposes" at less than fair market value, private landowners fearing that large federal lands sales would drive down the price of their own land, and hunters, fishers, and other recreational enthusiasts who had enjoyed free access to the land. The most powerful opposition came from what might be called the Subsidized Sagebrush. Not only were ranchers benefiting from below-market grazing fees, but in many cases they had literally invested in those rights by buying them from other ranchers. Grazing rights on public land are often attached to particular parcels of private land (and water) property, which consequently sell at a substantial premium, in some cases amounting to half or more of the private land value.

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If public land was to be sold at full market prices, one of two things would happen. Existing public land users might buy the properties, in which case there would be a massive financial outflow from western states to the federal government. Or outside buyers might come in to buy the land, in which case existing users would either be displaced or would pay high rents. Either way, existing users would lose. Even the sales of urban lands and other odd parcels, while entailing few risks to the West per se, might have set a precedent for much larger land sales at full market value prices at some point in the future.

Privatization, like the Sagebrush Rebellion, also threatened to disrupt the political structure of the West. Most of the special political character of the West derives from the fact that nowhere else is the federal government so closely involved in matters of solely state and local concern. For example, in the 50 percent of the West that is federally owned, federal land managers play the role that local zoning authorities play elsewhere. If the federal managers left the scene, state governors, state legislators, and local officials would suddenly become more powerful figures. All of the relevant interest groups, which have built up a great deal of capital in learning how to deal with the existing system, would lose this investment and have to learn a new political system.

As these factors became more apparent, whatever early western support for the privatization effort had existed turned quickly to opposition. Ranchers and other traditional western land users joined with environmentalists and other national interest groups to derail the entire privatization effort. The *Nevada State Journal* reported on May 5, 1982, that "leading sagebrush rebels" in that state were seeking "to put as much distance as possible between their cause and privatization." Mining and livestock industry spokesmen sought to dispel what they said was the myth that ranchers and miners wanted to buy up federal lands. Actually, said Ned Eyre of the Nevada Cattlemen's Association and Bob Warren of the Nevada Mining As-

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sociation, their members could not afford to buy the lands they use.

In October 1982, the *Idaho Statesman* reported more reaction:

> "If this continues, it could put a lot of ranchers out of business. People don't realize just how serious this is to stockmen," said rancher Louis Cenarrusa, a brother of Idaho Secretary of State Pete Cenarrusa.
>
> Ranchers could not compete with "tourists and out-of-state interests," who pay high prices for land in Blaine County, rancher Bud Simpson said.
>
> Asked what he could do to stop the Reagan administration's program, [Idaho Governor John] Evans said, "We'll call out the National Guard if necessary. We're not going to be bullied on this."

In addition, the privatizers' goal of long-run ideological education turned out to be incompatible with short-run political success in selling land. The market-oriented and libertarian themes offered by the privatizers rallied opponents as well as supporters. To describe the public land estate as a nationalized industry—domestic "socialism"—typically alienates rather than conciliates defenders of the public lands. Public opinion became inflamed and debate polarized to the point that—distrusting the motives of the land agency administrators—an aroused opposition refused to give them the discretionary powers needed to pursue even the modest sales of 4.4 million acres that were the immediate focus of the Interior Department plan. Trapped in a debate over whether to sell millions of acres, Interior managed to lose the ability to sell street-corner lots in Reno and Palm Springs.

The governors of the public land states, who though predominantly Democratic had often found Watt's land policies congenial, began to speak out against the privatization effort. It is interesting to note, incidentally, that western states, while criticizing Interior's privatization efforts, have moved fairly aggressively to sell some of their own lands. Indeed, they have sold much more than the federal government in recent years—192,585 acres from 1972 to 1981, compared with only 67,765 acres for the Bureau of Land Management.

This discontent was of deep concern to the White House. The West had been the bedrock of Reagan support, and his administration had

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come into office pledging to quell sources of western resentment. Hence the days of privatization were numbered.

A New Strategy

The proponents of privatization had always recognized that there might be political problems and they sought to tailor plan details accordingly. The general strategy would be to subdivide the rights to use public lands into an assortment of grazing rights, hunting rights, mineral rights, water rights, and so on, and concede to users the rights to public lands that they already held de facto—and in some cases had largely paid for. The government would then sell off any still-unappropriated rights. Steve Hanke, a staff economist for the Council of

Economic Advisors, and a key architect of privatization, proposed to give existing ranchers, in effect, grandfather rights by means of an option to purchase outright the permanent grazing rights to their plots at a highly preferential price. This price would be set to equal the expected future value of the public grazing fees they would otherwise have paid. Meanwhile, public access for hunting and other recreational uses would be maintained.

There were several major problems with this strategy. First, explicitly defining the boundaries of the various user rights and allocating them among users was sure to be an administrative nightmare. (The long-standing separation of surface rights and underground coal rights on federal lands has been a major administrative headache for federal coal managers.) The existing de facto user rights are fuzzy, but serviceable; while nobody knows exactly what the actual bounds are, for example, between a rancher's grazing rights and hunters' interest in preserving enough forage to support wildlife, the division works in practice. But political conflicts between different users would be sure to break out if the government tried to define these bounds formally.

Moreover, if all de facto rights to public land were to be recognized, there might be few if any rights left to sell. It may be that the only important public land rights that are not already being used are mineral rights, and to some degree even they are allocated. Many miners believe the current mining law gives them a permanent entitlement to explore on public lands and keep any minerals they discover.

It is also doubtful whether the general public would be willing to concede in principle what it long ago effectively conceded in practice, which is the use of the public lands in question for private rather than national benefit. Rightly or wrongly, the public would probably perceive formal recognition of existing user rights as a "giveaway"—which is precisely the position taken by Joshua Muss, the executive director of the Property Review Board.

The Demise of Privatization

In many ways, the privatization effort resembled the Carter administration's "hit list" of water projects. Both initiatives made sense from a national efficiency perspective, but foundered because they would have upset land management practices of long standing. Both were pushed by policy makers with strong convictions but little practical experience with public land management. Both were more or less foisted on the respective secretaries of the interior, Cecil Andrus and James Watt, who sustained great political damage in defending programs not of their own devising.

The irony is that it was the privatizers who were following the cherished principle that public lands must be used for the broadest public benefit. Reducing the federal deficit and paying off the national debt would be of general national interest. The opponents of privatization, despite much rhetoric about the squandering of the public patrimony, drew considerable political strength from the interest groups that enjoy special benefits from preferential access to public land and influence over public land management.

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Momentum is powerful in government, and it was not until the summer of 1983 that the effort to privatize the public lands was officially ended. On July 15, 1983, Secretary Watt announced that he had reached an agreement with Edwin Harper, the chairman of the Property Review Board, to exclude public land sales from the jurisdiction of the board. Watt also pledged in a letter to the western governors that "the mistakes of 1982 are not being, and will not be, repeated. Each governor has been briefed, or his staff has been briefed, on our plans for disposing of the few isolated tracts in the respective States." Watt abolished both Interior's asset management office and the BLM's official liaison with the Property Review Board.

For all the fierceness of the controversy, the privatization effort had little substantive impact. As Table 3 shows, land sales continue at a level of approximately zero. Less land has been sold in the past ten years combined than in any single year from 1950 to 1968. There has

Table 3

SALES OF PUBLIC LANDS BY THE BUREAU OF LAND MANAGEMENT

Fiscal Year	Parcels	Acres	Receipts
1950	563	65,054	$ 456,259
1955	963	168,013	1,925,975
1960	701	99,225	5,101,297
1965	592	87,061	3,061,158
1968	346	66,632	2,521,132
1969	274	37,877	1,802,126
1970	258	35,150	2,099,849
1971	219	30,113	2,013,823
1972	170	22,005	1,941,520
1973	148	13,669	1,797,933
1974	79	8,691	2,055,637
1975	69	5,105	233,438
1976	84	3,641	584,751
1977	24	1,295	284,964
1978	16	709	82,585
1979	86	1,760	6,480,499
1980	159	4,115	7,326,599
1981	111	7,120	2,868,087
1982	55	1,312	1,466,022
1983	223	10,257	8,172,601

Note: Land sales in Alaska are excluded.
Source: Interior Department data.

been no appreciable progress even on the sale of scattered parcels of urban and range lands: those parcels potentially amount to several million acres, hundreds of times more than was sold last year.

Incremental Privatization

For a year or more, the doings of the Property Review Board made privatization the central issue in public land debates, which were widely covered in the western press. Although this high visibility had the disadvantage of polarizing the issue, it exposed the public to new information and concepts, and in the long term widened the agenda for policy debate.

Students of land tenure have found that new property rights are seldom planned, nor do they proceed in large jumps. Rather, they evolve incrementally in response to the needs and pressures of the moment. Even many instances of "landmark" legislation have simply ratified existing trends and perhaps pushed them along a bit further. The Forest Service, for example, had been creating wilderness areas administratively for forty years before Congress first gave formal statutory recognition to the concept in the Wilderness Act of 1964. The Federal Land Policy and Management Act of 1976 followed a similar pattern.

Mining law on the public lands arose from informal private arrangements worked out in the nineteenth century among western miners, who needed a quick way to resolve potential conflicts in mining claims. Similarly, the Homestead Act of 1862 evolved when the government eventually acquiesced in widespread squatting on public lands. For a long time, settlers had honored informal private arrangements whereby, should the government offer the land for sale, the settler in residence had a right to be the sole bidder and thereby get the land for the minimum price, generally $1.25 an acre. Interlopers could be shot for challenging these arrangements.

Grazing rights on public lands also evolved over many years. Much like the squatters, many ranchers worked out informal arrangements to allocate unappropriated areas of public land among contending users. The Taylor Grazing Act of 1934 allocated public land grazing "privileges" on the basis of ranchers' historic use of the land and ownership of complementary "base property."

Times have changed since the days of the squatters: land users now establish rights to exclude other users from public land by political rather than bodily means. Success has come to depend on political strength, not physical strength—the quick lobbying campaign, not the quick draw. Seen in this light, de facto privatization of the public lands has been occurring throughout this century and has proceeded still further in the past five years.

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On much of the public grazing lands, for instance, ranchers have maintained their dominant influence against the recent assaults of environmentalists. Property rights in grazing allotments are still imperfect, since the BLM can set terms and conditions for grazing. But for fifty years now, the bureau has almost never canceled any grazing privileges. And more recently it has been trying to placate rancher interests in various ways and enlist ranchers in land management. For a decade BLM discouraged ranchers from financing their own range improvements; now it has reversed that policy, and has also assigned them much more responsibility for maintaining such investments. In a limited number of cases, ranchers will be given more scope to decide grazing practices themselves under formal "cooperative management agreements." As long as the issue is kept at a low profile, ranchers probably can expect even more incremental expansion of the security of their grazing rights.

Wilderness organizations have shown even more impressive success in controlling "their" chunk of the public land estate. They fended off oil and gas exploration in wilderness areas in a highly publicized battle. Hunters, hikers, fishermen, and other recreationists have also bolstered their collective access rights to public lands in recent years. Incidentally, some supporters of privatization have proposed giving wilderness organizations formal title to federal wilderness areas, thereby recognizing officially that these organizations now in effect already hold a sort of collective property right in wilderness areas.

Another form of privatization has thrived even though it is illegal. According to Forest Service estimates, marijuana growers in California and elsewhere have diverted as much as 1.5 million acres of the national forests to their own use. Law enforcement agencies have been as helpless as their nineteenth century predecessors in driving these squatters off the public lands.

One other recent case of de facto privatization deserves mention. Around half of federal coal lies under private surface lands. As a practical matter it has always been hard to develop this coal against the wishes of the private surface owner. In 1977, in the Surface Mining Control and Reclamation Act, Congress formalized these rights by adopting a requirement that would-be miners obtain the consent of "qualified" surface owners. It is worth noting that this action had the active support of environmental and other groups that normally are strongly opposed to such privatizing measures.

This informal evolution of private rights to public lands has a number of advantages. It provides security to users, and encourages their interests in properly maintaining and managing the land. In both respects, however, it falls short of outright privatization. Perhaps most important, it makes it hard for existing users to transfer the land to new users. Ranchers face numerous restrictions on sales of grazing rights; many other user groups cannot legally sell their de facto rights at all. The rules also make it hard for users of different sorts to negotiate their differences and reach reasonable compromises. For example, as has received considerable attention by now, the Audubon Society allows carefully controlled oil production in its Rainey bird sanctuary in Louisiana. It has every incentive to fight similar drilling in federal sanctuaries, however, because it would suffer all the risks of that drilling but get none of the benefits. If it actually owned the wilderness areas, it could use the large oil and gas royalties to buy more land to expand the overall sanctuary system.

The rights of state governments over federal lands, like the rights of private parties, have been advancing bit by bit as well—accomplishing some of the goals of the Sagebrush Rebellion after all. Western state governments have shown great strength in the debates over deployment of the MX missile and the siting of nuclear waste facilities. Regional "teams" that include representatives of western states have acquired a central decision-making role in the federal coal program; the BLM is seeking to apply this model to other public land decision making as well. The BLM worked out its congressionally mandated plan for the management of the twelve-million-acre California Desert Conservation Area with the extensive involvement of state and local groups.

In recent years the federal government has agreed to try to make its land use plans consistent with state and local plans. A 1972 law requires that federal actions be "consistent" with state plans for the control of coastal zones. There has been a major battle over the meaning of this wording. Western state officials have

argued that the consistency provisions of the Federal Land Policy and Management Act—which are weaker than those of the coastal legislation—should nevertheless be interpreted with a similar stringency. Some westerners have recently proposed that the actions of federal public managers be required to conform to the decisions of local zoning authorities—just as if the federal government were a private landholder. It is even possible that the states might end up with *more* power over the federal land than if it were privately held.

This might be the most convenient outcome of all for the western states: they make the decisions, while the federal government continues to pay for the administrative apparatus and its management costs. The subsidy, of course, is nothing new; what is new is the further shift of control. It remains to be seen whether this arrangement will prove acceptable to the East and Midwest, which are asked to bear the financial burdens, but to forgo more and more of their already limited prerogatives of owning the land.

But even if the East accepts this arrangement, the western states are likely to find that they cannot manage federal land very well by remote control, by trying to bind the hands of federal land managers in advance with rigid rules and requirements for consultation with the states. Too much discretion is necessary and the transaction costs will prove too large. The logical eventual step is for western policy makers to use their new-found prosperity to accept the costs and responsibilities of management under direct state ownership of the land.

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The Long-Run Prospects

Since legislation tends to ratify pre-existing trends in property rights, the best way to predict the long-run future is to observe the incremental trends of the recent past and present. As we have seen, these trends show less federal control over public lands and more private and state-and-local control. In effect, privatization and the Sagebrush Rebellion are actually being implemented, even if slowly and incrementally, and even if the process is obscured by myths and fictions that camouflage its inconsistency with widely accepted political beliefs. In some ways, the public and private land systems seem to be gradually converging, as governments increase their control over the use of private land through zoning and other regulations, and as private rights proliferate on public lands.

The speed at which such a new system of public land tenure can evolve depends on several factors. Probably the most important is ideology. These evolving processes have not been recognized formally in part because most Americans are still not convinced they are a good idea. Yet the premises of the current public land system are no longer believed either. The public has lost most of its confidence in the notion, dating back to the conservationist ideology of the turn of the century, that resources can be handed over to objective, "scientific" management by experts. Most leading political scientists have given up on the idea that there is a single identifiable public interest, and instead see a multiplicity of competing and conflicting interests—the perpetual conflict among whom does not necessarily produce anything much resembling a public interest. In short, public land institutions now rest on an intellectual foundation that is much eroded.

If significant changes in public land tenure are to occur, they will probably require combining a popular movement such as the Sagebrush Rebellion with an intellectual base such as that of the privatization movement. Almost for the first time in this century, there are now effective academic and other intellectual proponents of major changes in public land tenure —although, of course, professional opposition to their views is also strong. Until their ideas can be translated into an acceptable popular ideology, however, they will have little chance of full success. The outcome of their efforts will help determine whether historians see the Sagebrush Rebellion and the privatization movement as a footnote to the stormy history of the West or as the beginning of a remarkable new chapter. ■