

As federal land management continues to flounder, more political leaders are calling for a transfer of public land control to the states.

Western Myths and Realities

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IN THE 1980 PRESIDENTIAL CAMPAIGN, RONALD Reagan gained notoriety for joining the “Sagebrush Rebels” in their call for the transfer of federal lands in the West to state ownership. By 1990, support for decentralization was becoming a bipartisan phenomenon as such figures as Daniel Kemmis, the former Democratic majority leader of the Montana Senate and later the mayor of Missoula, stated that the West “cannot transcend its colonial heritage until it gains a much more substantial measure of indigenous control over its own land and resources.” By 2000, when the Andrus Center in Idaho called together a bipartisan group of governors and other political leaders in the West to discuss the future of public lands, there was wide agreement that “public land policy and its implementation should be decentralized wherever feasible.” In just a quarter-century, the demand for decentralization had spread from a group of perceived radicals to major leaders of the West’s political establishment.

The broadening call represents a major break with the model of public land management that prevailed through most of the twentieth century. It reflects a wide disillusionment with the U.S. Forest Service and Bureau of Land Management (BLM) — the two main public land agencies. Over the past decade, countless researchers have documented the failings of public land management — its inefficiency, gridlock, continuing capture by special interests, and inability to plan effectively. Even the General Accounting Office has come to accept that view; in a 1997 report to Congress on public lands, GAO analysts concluded, “In summary, ... the Forest

Service’s decision-making process is broken.”

The transformation in the perception of U.S. land management agencies, which once were hailed for their innovation and efficiency, took place slowly over a half-century. To trace the transformation, we must consider the agencies’ mission in the early part of the last century and then recognize how that mission changed and how various outside forces increasingly manipulated the agencies.

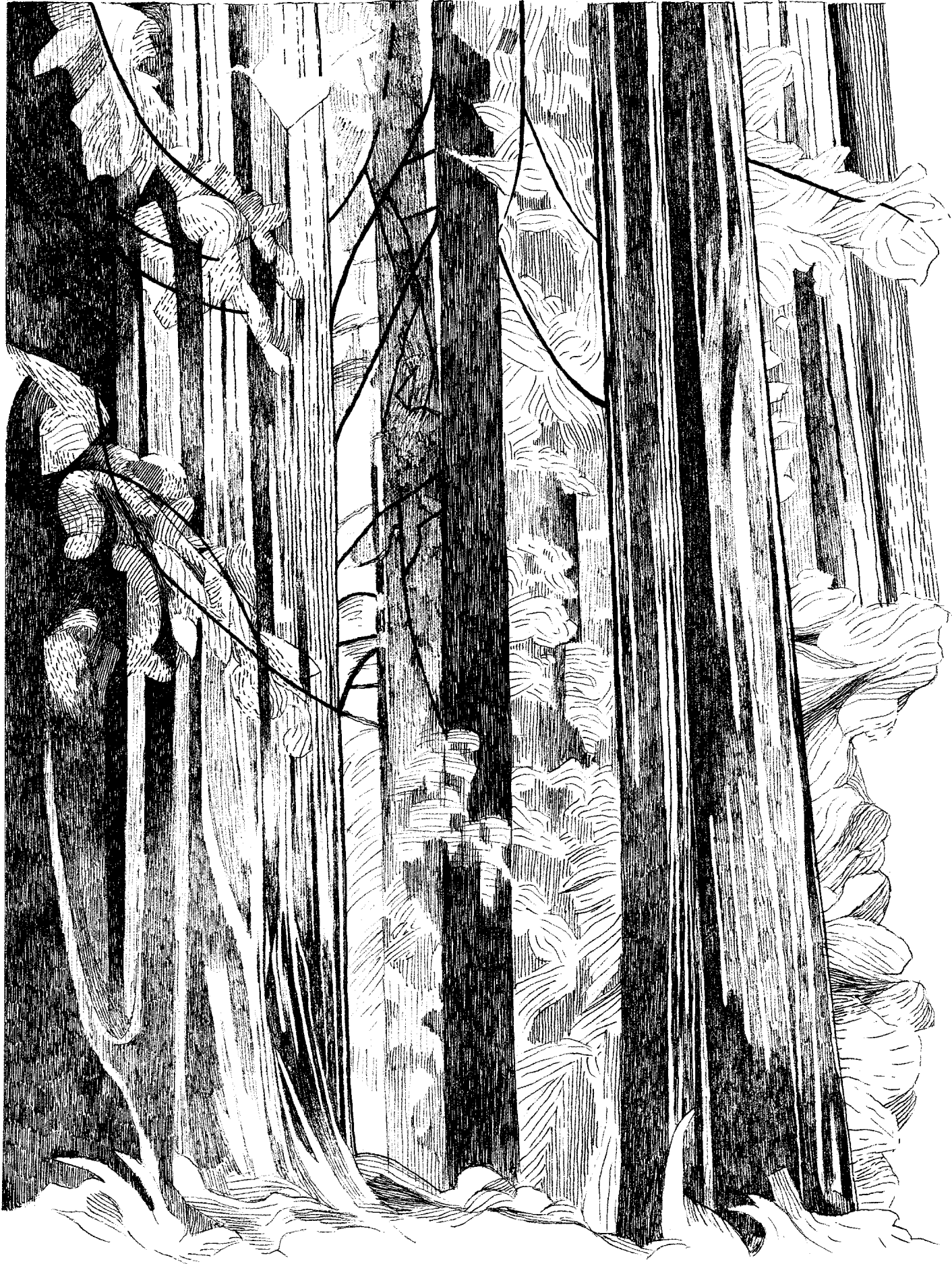
SCIENTIFIC MANAGEMENT

In the progressive era of the early 1900s, the federal government abandoned its nineteenth-century practice of signing over federal lands to private owners and state governments. Instead, the progressives demanded that the lands be retained in federal ownership and managed according to the political philosophy of “scientific management.” Under that philosophy, the democratic process would set the broad policy objectives for the lands and professional experts would then execute the management details, free of political interference. That vision reflected a great faith in science and economic progress as found in the progressive “gospel of efficiency.” Among the consequences of the progressive design, it acted to centralize management authority at the federal level, empower professionals relative to politicians, and diminish the roles for state and local democracy.

Environmentalism’s emergence In 1964, Congress’s enactment of the Wilderness Act marked the rise of a new force in public land management: the environmental movement. Public land management since then has been mostly a story of the interactions of environmentalists with the institutional legacies of the progressive era.

Environmentalism introduced a new skepticism of the technocratic vision on which the Forest Service had been founded.

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Science, the environmentalists believed, was neither as value-free nor as powerful an instrument for understanding human affairs as had been expected. As the atom bomb and chemical damages to the environment had shown, scientific progress was not necessarily the savior of the world, but could in fact be a double-edged sword.

In the 1970s, many critics — including then-emerging environmental organizations like the Natural Resources Defense Council — began asserting that federal public land agencies had failed to live up to their progressive ideals. Instead of pursuing “the public interest,” the organizations charged that the agencies’ actions had largely reflected the pressures of private interests such as ranchers, miners, and timber companies. Science was seldom a decisive influence; indeed, science often was

use planning. FLPMA, for instance, included the policy declaration that “the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land-use planning process coordinated with other federal and state planning efforts.”

The 1970s legislation thus did not seek to displace scientific management of the public lands so much as to affirm and revitalize it — to require the public land managers to be true to the original progressive design. In that respect, however, and even though environmental groups played an important role in the 1970s legislation, the new laws were out of touch with a values-revolution taking place in American society. Over the next 25 years, almost every profession

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prostituted to justify politically motivated outcomes. Although comprehensive planning had been a key element of the progressive agenda, the critics charged that public land agencies had never created effective systems of land-use planning.

Green legislation Related criticisms were being made in other areas of environmental policy. The decade from 1970 to 1980 produced an outpouring of “green” legislation, resulting in more new environmental laws than any other period in American history. That wave swept over public lands, as legislators enacted new laws that revamped the legal foundations for almost every aspect of public land management. The National Forest Management Act of 1976 (NFMA) and the Federal Land Policy and Management Act of 1976 (FLPMA) provided new statutory foundations for the Forest Service and BLM. Other major new laws included the 1974 Forest and Rangeland Renewable Resources Planning Act (RPA), the Federal Coal Leasing Amendments Act of 1976, the Outer Continental Shelf Lands Act Amendments of 1978, and the Alaska National Interest Lands Conservation Act of 1980.

The new laws reflected a common set of objectives. They sought to redirect the public land agencies to give greater attention to the environmental effects of their actions. They sought to curb the past emphasis on commodity production in what was supposed to be a system of “multiple use” management, and instead placed a higher priority on such activities as back-country hiking, cross country skiing, bird watching, and other recreational pursuits.

The legislation required a move away from the philosophy of scientific management, but it still made use of scientific knowledge. The critical new element in achieving the Greens’ goals would be the introduction of effective processes of land-

— from foresters to rangeland scientists, to economists, to doctors, to accountants — would suffer a decline in public confidence and prestige.

That tension would play an important role in the basic failure — as it is now generally acknowledged — of the 1970s laws. By the standards of scientific management, the 1970s legislation not only failed to improve matters but often made outcomes worse.

THE NATIONAL FORESTS

Like other environmental laws of the 1970s, RPA and NFMA sought to ground the management of the national forests — covering almost 10 percent of the land area of the United States — in a rational, scientific process. The stated goals of both pieces of legislation reflected high ideals. However, as the effects of those laws played out over time, they have shown themselves to be detrimental to federal public lands.

RPA The 1974 Resources Planning Act directed the Forest Service to project national timber and other forest demands and then determine the appropriate supplies to come from the national forests. The role of the local forest managers — if RPA had been carried out literally — would have been little more than fulfilling national planning targets.

But the actual outcome of RPA was much different. The Forest Service headquarters bogged down under the weight of unworkable planning requirements that diverted resources and contributed significantly to the undermining of the agency’s basic administrative capabilities. As Resources for the Future forestry expert Roger Sedjo wrote in a 2000 *Regulation* article, “The Forest Service has been an unusually successful organization for much of its history. That is no longer the

case.” (See “Does the Forest Service Have a Future?” Spring 2000). Indeed, Sedjo continued, the agency’s performance has deteriorated to the extent that “perhaps it is time to ‘think the unthinkable’” — abolish the Forest Service and replace it with brand new institutions better capable of managing national forest lands.

NFMA The 1976 National Forest Management Act mandated the development of land-use plans for individual national forests. But after 25 years of trying one new planning approach after another, the Forest Service has still been unable to translate NFMA’s mandates into a workable planning process. That failure prompted a committee of scientists appointed by the federal secretary of agriculture to conclude in 1999 that “trust in the Forest Service and among the many groups and individuals that care about the national forests and grasslands has diminished after years of a planning process that has been both divisive and disillusioning for all involved.”

The perceived urgency of “planning” in the 1970s reflected an idealistic wish for “rational” and “objective” decisions on the public lands. The 1970s laws were written — like the many environmental lawsuits filed during the decade that also served to promote wider land-use planning — by lawyers who often had little practical experience in forest management. It was a form of utopianism that followed in the wake of a long line of utopian aspirations in the twentieth century.

LOSS OF AUTHORITY

Failed public land laws, to be sure, are nothing new. Most public land laws over the last 200 years have failed, usually for reasons similar to the failure of land-use planning: a lack of practical understanding among legislators and an enthusiasm to project high ideals even when the real world is not likely to cooperate.

Although most public land laws have not achieved their stated aims, they have often had major unintended consequences. The 1970s legislation was no exception to that rule. As federal land management suffered as a practical consequence of RPA, NFMA, NEPA, and other 1970s laws, management authority shifted to outside the federal agencies. Environmental groups developed high skills in filing appeals and taking advantage of numerous procedural requirements to delay and obstruct federal forest decisions. Federal judges — sometimes working with environmental groups almost in the capacity of a judicial policy shop — used the many new procedural steps to increase their own role in public land management.

Ecosystem management In many cases, the resulting fragmentation of authority has produced a state of management gridlock, resulting in a de facto “no action” policy for the national forest system. A further unintended consequence of the 1970s laws was to end the era of assertive management of federal lands for “multiple uses.” As it turned out, the policy winners were those groups that were not primarily concerned with human uses. A new era was arriving on the national forests in which the social values of “nature untouched by human hand” would assume a much greater prominence.

In the 1990s, the Forest Service sought to give a formal status to that new policy direction by abandoning its long-standing commitment to “multiple-use management” and declaring a new era of “ecosystem management.” As far as giving a prescription for exact management actions, the labels “multiple-use management” and “ecosystem management” are vague. They do, however, reflect clear differences in social philosophy. The founder of the Forest Service, Gifford Pinchot, stated in 1905 that the purpose of the national forests was to serve “the greatest good of the greatest number in the long run.” Multiple-use management was utilitarian in spirit, seeking to maximize human benefits from the forests. Ecosystem management, by contrast, aims to achieve a “healthy” or “sustainable” forest, perhaps by “restoring” it to the biological condition that it exhibited prior to European settlement. The shift to ecosystem management reflects the ascendance of a new environmental value system concerned with the future biodiversity and other ecological characteristics of the national forests, for their own sake.

Timber The Endangered Species Act (ESA) is yet another 1970s environmental law with major unintended consequences. The presence of an endangered species on an area of land now has the capacity to transfer management authority from traditional land management offices to other entities within the federal government and to outside groups. In a nation where land-use regulation historically has been considered a state and local responsibility, the ESA often gives federal officials a much larger role. It is part of a general federalization of land-use responsibilities that was among the most important consequences of the environmental legal revolution of the 1970s.

Spotted owl The most infamous example of management transfer involved the northern spotted owl. The federal forests in the Pacific Northwest contain some of the highest quality timberlands in the world; historically, they yielded almost half of the timber harvest of the national forest system. Environmental groups, however, argued that the forests contained some of the last remaining original forests in the United States, and they were home to such rare species as the spotted owl. The stage was set for an epic political struggle.

If the issue had been fought in the traditional arenas of Forest Service decision-making, it would have been a losing struggle for the environmental side. However, environmentalists used the ESA to bring the Fish and Wildlife Service and federal judges into the fray, and they severely restricted the amount of federal land on which timber could be cut. From 1988 to 1993, the levels of timber harvests in the national forests of the Pacific Northwest fell by 80 percent. The total federal land acreage within the range of the spotted owl is 24 million acres; about 5 million of those acres are now available for timber harvesting.

The spotted owl, moreover, was not alone. Other reasons have been found in other parts of the national forest system to make similarly large reductions in timber harvests. Nationwide, total timber harvested from the national forests plummeted from 12 billion board feet per year at the end of the 1980s to fewer than 3 billion board feet in 2001. The overall

result has been one of the greatest shifts in management direction in the history of public lands — the closing out in a few years of the role of the federal forests as a major source of the nation's wood supply.

Livestock grazing Compared to timber harvests, livestock grazing on the public lands has a much smaller economic value. However, controversies relating to the role of livestock grazing have had an even higher historic profile. In the mid-1940s, the fledgling BLM was almost abolished in a grazing fee controversy. In the late 1970s, the Sagebrush Rebellion erupted when environmental groups sought to curtail the traditional privileged status of livestock grazing on BLM lands.

Compared with timber harvesting and mining, environmental groups have encountered greater difficulty in contesting the historic dominance of livestock ranching. That is partly because cattle and sheep ranchers are entitled to graze their animals on a particular area of public land. Indeed, since the Taylor Grazing Act of 1934, the government has tied the availability of grazing areas to the ownership of specific ranch properties. Ranchers are motivated to fight fiercely to protect their grazing access to what they regard as a part of "their" bundle of private rights.

Agriculture in general has long been favored in the American political system. A "rancher" — like a "farmer" — is an exalted figure for many Americans who were raised in their youth on television shows featuring cowboys on the western range. In the case of timber harvesting, there was no opposing, similarly powerful image able to counter the environmental groups' appealing idea of restoring "ancient forests." In the case of livestock grazing, however, ranchers can invoke their own popular imagery. The result has been a mythmaking stalemate that has acted to preserve the status quo.

The Sagebrush Rebellion showed another side of ranching mythology. Ostensibly, the leaders of the Rebellion were demanding the transfer of BLM and Forest Service lands to state ownership. However, when an exchange of federal for state lands was proposed around that time in Utah, it was the ranchers on federal lands who showed up to protest against the exchange. They did not want to face a new state landlord who might not respect the longstanding informal arrangements for grazing tenure on federal lands. (See "Why the Sagebrush Revolt Burned Out," May/June 1984, and "The Subsidized Sagebrush: Why the Privatization Movement Failed," July/August 1984.) Moreover, the western state governments typically charged grazing fees well above the federal fee.

Federal coal Although federal lands contain about a third of U.S. coal reserves, the management of that coal has attracted less attention than the forests and rangelands. However, the enactment of the Clean Air Act of 1970 dramatically altered the economics of federal coal production. Much of that coal is very low in sulfur and can be burned in a power plant without an expensive scrubber. Although little federal coal was produced before 1970, more than 30 percent of the coal produced in the United States today comes from the West, and much of it is federally owned coal.

The OPEC oil price shocks of the 1970s gave the federal government an additional reason to expand the development of federal coal in Montana, Wyoming, Colorado, Utah, and New Mexico — the five states where most of the federal coal is located. When national environmental organizations resisted the introduction of new coal development, they created yet another fierce environmental conflict. Congress enacted another 1970s law, the Federal Coal Leasing Amendments Act, to provide a statutory framework for resolving the disagreements. Once again, lawmakers declared that comprehensive land-use planning must be a central instrument of decision-making.

Coal leasing Federal coal leasing provided a foretaste of the gridlock and management confusion that has become routine in every area of public land management. By the 1960s, energy companies — anticipating the new demands for federal coal — had already leased large amounts at low prices. In 1971, concerned that the leasing was occurring with little oversight, the Interior Department suspended further coal leasing. In 1973, the department announced a new leasing program, the Energy Minerals Allocation Recommendation System ("EMARS I"). When the program ran into strong opposition, the department retrenched and, in 1975, announced a second program, "EMARS II." The latter program was promptly enjoined by a federal court for insufficient environmental analysis and then disavowed altogether in 1977 by the incoming Carter administration.

In 1979, yet another new coal leasing program was unveiled. The new one was based on a national economic planning approach for federal coal similar to the RPA design for the national forests. But before bureaucrats could complete the land-use and other planning to propose actual sales of federal coal leases, the Reagan administration arrived in Washington.

After some review, the Reagan Interior Department decided to go ahead with the planned leasing, including a large sale in 1982 in the Powder River Basin in Wyoming. However, after all that time, the high oil prices that prompted all of the policymaking in the early 1970s had begun to fall sharply and the coal bids were considerably less than expected. Top Interior officials decided to accept them anyway. In the ensuing firestorm over whether "fair market value" had been received, Interior Secretary James Watt eventually was forced to resign and Congress appointed an investigative commission.

The upshot is that, since the suspension of coal leasing in 1971, no workable program for leasing federal coal has emerged. Some individual federal coal leases have been issued since the mid-1980s in response to specific coal mine requests, but efforts to integrate coal leasing into a broader program of regional planning and environmental review have been a complete failure. (See "Lessons Learned and Forgotten," p. 46.)

Without much new federal coal available, coal companies have turned to the large amounts of federal coalfield lands that had been leased in the 1960s before any land-use planning systems existed and before management gridlock ensued. Those locations might not all be ideally situated, but at least there was

sufficient coal volume available to fuel the boom in western coal development since the 1970s.

Disneyland management The triumph of ecosystem objectives brought a new goal: to restore public lands to “natural” conditions. Endorsed by such prominent politicians as Al Gore and Bruce Babbitt, the resulting “Disneyland management” — based on Bambi-like illusions of restoring “original nature” as it existed prior to European settlement — probably does succeed in making many people feel good. However, in some rural parts of the West, there has been significant economic pain. Given the longstanding Forest Service suppression of forest fire and the resulting large buildups of excess fuels in many western forests, a continued policy of hands-off management is likely to end up with western forests burning in historically unprecedented conflagrations, a preview of which we saw in 2000. (See “The Forest Service’s

much of the West is the U.S. Congress in Washington, D.C. The de facto governor for BLM lands is the federal secretary of the interior, and for Forest Service lands is the head of the Forest Service. Like the territorial governors of the nineteenth century, the president in Washington, D.C appoints the current “governors” of much of the land in the rural West.

As a result of all this, local democratic governance in the West — at least when it comes to the vast areas of federal lands — is diminished. No politician can say publicly that he or she is against democracy, but there is an understanding among the power brokers in the West that centralized federal control is preferred to decentralized local democracy. For them, federal authority means more power and money.

National environmental organizations are similarly committed to maintaining federal control. For their part, the western members of Congress seek to maintain their role as ombudsmen for public-land users. Republican and Democra-

The push for “ecosystem management” probably makes many people feel good, but it has caused significant economic pain in the rural West.

Tinderbox,” Winter 2000.)

The people living in the rural West also resent being manipulated to fit the romantic imagery of Americans living along the Atlantic and Pacific coasts. As a leading symbol of national environmental values, Al Gore received 26 percent of the vote in Utah; 28 percent in Alaska, Idaho, and Wyoming; and 33 percent in Montana in the 2000 presidential elections. Among the factors that influenced the negative verdict of western voters, the 2000 election seemingly offered an opportunity to protest the recent course of public land events.

FEDERAL MONEY AND POWER

As novelist and conservationist Wallace Stegner once said, the western attitude with respect to the federal government has long been “go away, and give us more money.” In many rural areas of the West, the field offices of the Forest Service, BLM, Bureau of Reclamation, Bureau of Indian Affairs, Fish and Wildlife Service, National Park Service, and other federal agencies provide a significant part of the local payroll. In 2000, federal expenditures for fighting forest fires — most of it in the West — exceeded \$1 billion. The rural West often complains loudly about federal control of land, but it does not want to accept land-governing responsibilities because the western states fear that they would suffer a large economic loss.

Federal lands represent about 50 percent of the total lands in the West and as much as 80 percent of one state, Nevada. Over that vast area, land-use zoning, for example, is federal zoning. Even on private land, federal permits are often required for any development to occur. The de facto local legislature for

tic congressmen alike understand that the route to incumbent reelection is constituent service, and such opportunities are unparalleled across the rural areas of the West that have large expanses of public lands.

PROSPECTS FOR DECENTRALIZATION

Except for the people who live in the rural West and are directly affected, the history of public lands over the past 25 years might be seen as more comedy than tragedy. The economic significance of public land management is small compared with other federal agencies such as the Environmental Protection Agency or the Defense Department. But the battles over public lands are so fierce and occupy so much of our national attention because the lands have a great symbolic importance. In the nineteenth century, the settlement of the public lands represented the hope of a “manifest destiny”; in the early twentieth century, the retention of the public lands in federal ownership embodied the progressive hopes for a new era of economic abundance for humankind based on scientific management. In the late twentieth century, the idea of nature untouched by the corrupting influence of modern civilization became the new driving vision.

The conflicts over public lands are fought in Congress and in the national media as a struggle to define basic values of the nation. Pragmatic considerations such as the actual results on the lands typically take a back seat. The people who live in the rural West are left to make do with laws that often are inappropriate for their circumstances. The Homestead Act of 1862, for example, never worked in the West because its provision for

160-acre farms was suited to Iowa but not to an arid, almost-desert landscape. The Forest Service and BLM could never live up to progressive aspirations for scientific management because Congress would never allow a transfer of its management prerogatives to autonomous professionals. And the professionals often seemed unable to achieve a common scientific understanding among themselves. The final verdict on ecosystem management is not in yet, but its basic goal — preserving or restoring nature untouched by human hand — seems an impossible dream.

From a pragmatic perspective, it could be said that the public lands have served the nation well enough. Americans have been able to project some of their most cherished ideals onto the lands and to believe that they are actually being realized. Of course, the high value of the public lands for such symbolic purposes depends on sustaining the belief that our images really are “true.” If the message should get out that they are

as more environmental purchases of grazing rights occur.

Congress could, in concept, act to provide a better legal framework for further public land decentralization. Given the history of past congressional “solutions” for public lands, it might be best to conduct a wide range of experiments. Perhaps a new law could allow for waivers of existing public land laws in a limited number of places. States, local governments, environmental organizations, hunting clubs, and other groups might sign cooperative management agreements to oversee the management of particular areas of public lands.

In the long run (and perhaps it will have to take place along a slow and evolutionary path), the rural West will need to revisit its basic governance institutions. A new political “constitution” should extend local democracy to encompass the lands still under federal control. Like local governments in the rest of the United States, local governments in the rural West will have to assume financial responsibility for providing their own

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more illusion than real, the economic value — of the Hollywood kind anyway — would plummet rapidly.

Although there are few grounds for optimism in the long history of the public lands, perhaps the day has come to establish a new set of laws and institutions that are actually in line with the realities on the ground. That would require recognition that the public lands are very diverse in their circumstances and in their management needs. It would require an understanding that the detailed knowledge of the conditions on the ground lies mostly with the people who live on and near the lands. When politicians from places such as New York dictate public land outcomes in Idaho, they mostly end up projecting their own visions on Idaho. In short, as many people in the rural West have come to believe in recent years, a sharp decentralization of authority for public land management is much needed.

Even in the face of misconceived laws, the people living in the West have long shown that they are capable of making do. Western environmental groups, for example, have increasingly realized that the 1970s laws will not reduce significantly the presence of livestock grazing on public rangelands. It may instead be simpler to buy out grazing permits at prices of around \$50 to \$100 per “animal unit month” of grazing (equal on average to about 12 acres of rangeland grazing). Given the low price of grazing permits, it would not be difficult for environmental organizations to raise the funds to accomplish most of their livestock grazing aims. However, the purchase of a grazing permit by a party other than a rancher is of doubtful legality under the Taylor Grazing Act; hence, without new legislation, the BLM will have to continue to look the other way

services. State governments will have to learn how to work cooperatively with local officials, rather than going to Washington, D.C., to do business.

The political structures of the rural West have never fully outgrown the territorial history of public lands. One of these days, the rural West may have to accept the political and economic responsibility of a mature citizenry. **R**

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