Historical and Political Perspectives on Selling the Public Domain

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The history of public land policies in the United States has been largely one of disposal to private ownership. Whether by sale or grant, public land has been disposed of to homesteaders, railroads, military veterans, miners, and various other private individuals. Starting in the late 1800's and early 1900's with National Park and Forest Reserve withdrawals, public land policies moved away from disposal to federal management of public land resources. This movement away from disposal was essentially completed with the passage of the Taylor Grazing Act and establishment of the Grazing Service to manage livestock grazing on the previously unappropriated, unreserved public lands. Permanent management authority of these public land resources was given to the Bureau of Land Management (BLM) when the Federal Land Policy and Management Act (FLPMA) was passed in 1976.

Even with the definite movement in federal policies away from public land disposal, proposals continue to be put forth to dispose of BLM lands by sale to private ownership. Two major proposals to sell the majority of BLM managed lands in the 13 western states, henceforth called the public domain, have been presented since enactment of the Taylor Grazing Act in 1934. The first proposal occurred in 1946-47 and a recent one was put forth in 1981-82. This recent proposal has now been transformed into the Asset Management Program with far less land sales envisioned than the original proposal.

The objective of this article is to review each proposal and the historical context in which it developed. No attempt will be made to argue the merits of either proposal.

1946-47 Proposal

The main proponents of the first proposed sale were the American National Livestock Association and the National Wool Growers Association. The proposal originated from meetings in late 1946 of a Joint Livestock Committee on Public Lands formed from both Associations. Sale provisions adopted at both associations' national meetings in early 1947 were (American Cattle Producer 1947):

1) Give the right to purchase BLM grazing lands to the lessee, permittee, or licensee of allotted land under provisions of the Taylor Grazing Act.
2) Land value would be based upon carrying capacity of the land and price per acre established by the number of animal units that can be carried per section per year multiplied by 76.
3) Sale terms were set at 10% of purchase price as a downpayment at purchase application with the balance to be payable at up to 30 years at 1.5% interest.
4) Approximately 90% of the funds from selling the public domain were to be returned to the state in which said lands were located for disposal by state legislatures.
5) Mineral rights were to be retained by the federal government with rights of ingress and egress for prospecting or mining provided patents of disposed lands contain provisions protecting surface rights against damage.

Under this proposal, the livestock operator was not obligated to purchase the public domain that he leased for grazing. A reasonable period of time was to be given the permittee to determine whether to purchase the land. It was the intent of the Joint Committee to allow about 15 years for the public domain to be transferred into private ownership after which unpurchased lands would be deeded to the states, if the states agreed to accept such lands.

Based upon a range of carrying capacities from 2 to 15 acres per animal unit month (AUM) of forage, prices per acre for the public domain under this proposal would have ranged from about $2 to $0.25 per acre. In 1982 dollars, these prices translate to between $8 and $1 per acre.

Though the national conventions approved the plan, state livestock and wool growers conventions passed resolutions in 1947 that were decidedly mixed. A minority of conventions approved resolutions for transfer of public domain to private ownership, but most western state conventions either opposed such a transfer or passed no resolutions concerning this issue. Active support for this proposal to sell the public domain faded quickly. Criticism of the proposal came from articles in popular magazines, conservationist leaders, and editorials in western newspapers. Proposal supporters believed that the Forest Service and BLM were behind this "flood of propaganda" against the proposal.

1981-82 Proposal

The recent proposals to sell the public domain (known as privatization) did not originate with public land users as in the 1946-47 proposal. Instead they came from within the federal government. Major sale proposals were put forth by Steve Hanke, an economist for the Council of Economic Advisors, and by Senator Paul Laxalt from Nevada.

Laxalt's proposal in early 1982 encompassed selling up to 100 million acres of BLM grazing, hard rock mining, and oil and gas lands; "the big ticket items" according to an aide to Senator Laxalt (Public Land News 1982a). No concrete price determination formula or sale method for these lands was
publicly proposed by Laxalt. A more concrete proposal was presented by Hanke for the disposal of the surface rights to 155 million acres of public grazing lands managed by the BLM. He proposed (Manhattan Report on Economic Policy 1982):  

1) Present permittees would be given the right to purchase BLM grazing permits on a first refusal basis.  
2) The first refusal price would be set by capitalizing annual federal grazing fees (in 1982 dollars) averaged over the past five years.  
3) The capitalization rate was to be a one percent real rate of interest.  

By using the Gross National Product deflator to convert 1978-81 grazing fees to 1982 dollars and as a measure of inflation between 1978 and 1982, permit price would be about $25 per AUM under this formula. On a per acre basis, prices would range from approximately $12 to $2 for carrying capacities of 2 to 15 acres per AUM. At this price per AUM, less than $500 million would be raised by the sale of surface rights to BLM lands.

Support for privatization could best be described as cautious among leaders in the National Cattlemen's Association and National Wool Growers Association. While supportive of the disposal concept, they urged more study and public debate before they were willing to fully establish a definite privatization policy. Proposals to dispose of the public domain were rejected outright by the Nevada Select Committee on Public Lands, which was instrumental in creating the recent Sagebrush Rebellion. They rejected not so much Hanke's proposal as the possibility of the lands being sold to the highest bidder. Dean Rhoades, one of the Nevada legislators, not only felt ranchers would be hard pressed to buy the lands at any price, but also felt Congress and the President could not be trusted "to hold the line for ranchers" (Public Land News 1982b).

The privatization plan has now evolved into the Reagan administration's Asset Management Program. This program had its beginnings in February of 1982 with the signing of Executive Order #12348 by President Reagan.
differed slightly in that envisioned erosion problems from overgrazing were stressed during the first proposal while public lands benefits other than economic returns (such as wilderness, wildlife, and aesthetics) were emphasized recently.

The main difference between the two proposals was not so much the mechanism of disposal as the policy justification provided by proponents. The first proposal in 1946-47 was viewed by stockmen as simply in furtherance of this country's long-established public land policy. They would point out that nearly all previous federal land legislation had the aim of disposal to private ownership and that the Taylor Grazing Act specifically stated in the opening clause the purpose of the law: "In order to promote the highest use of the public lands pending its final disposal." Thus, proponents regarded the Act as a stop-gap measure before final disposal and not as permanent management authority.

On continuing a disposal policy, the leaders of the two stockmen Associations badly misjudged public opinion and society's general beliefs on public land issues. The public domain was now part of "our" land in the minds of the general public along with National Forests and Parks. Disposal to private ownership was no longer the main objective for the public domain. Government management of public domain resources for society's benefit had become necessary in the public mind, in part, because of real and alleged mismanagement of private lands resulting in excess erosion (dust bowl memories).

The recent proposal to sell the public domain, originating from economist Hanke, was based primarily on increasing land use efficiency. Hanke's economic efficiency argument is accurate in its analysis of the situation, but lacks persuasiveness due to its insignificance on a national scale. Using Hanke's figures, management costs (including in lieu of tax payments) for federal grazing lands in 1981 were $33.6 million greater than receipts from grazing fees (Manhattan Report on Economic Policy 1982, p. 6). This cost does not include an opportunity cost incurred by holding the land resources. Within federal agricultural programs, $33.6 million is insignificant when compared to the nearly $4 billion spent on agriculture commodity price support programs in 1981. When compared to entitlement and defense expenditures, very little political priority can be given cost cutting measures of public domain disposal especially considering the emotionally charged opposition this issue generates from conservation groups.

Concluding Remarks

Numerous points were brought up in this article concerning the obstacles each proposal faced in the public policy-making process. Among them were: lack of support from livestock grazing permittees who were to obtain the right to purchase at minimal prices, strong opposition from recreational users and groups that represent them, insignificance on a national scale of costs to maintain present federal management of grazing lands, and widespread acceptance of public ownership as the best mechanism to manage these resources for society's benefit. Future proposals to dispose of the public domain will face these enormous obstacles unless society's attitudes toward public lands change dramatically.

While the BLM has the authority under FLPMA to sell over a couple million acres, resistance to this effort will be strong. Conservationist groups will oppose any public land disposal on the principle alone, grazing permittees for the most part cannot presently afford to pay fair market value for public grazing land, state and local governments prefer the Good Neighbor policy where the Department of Interior transfers public land to them at little or no cost, and even public land managers would prefer land exchanges to block up present holdings rather than land sales. Though there is plenty of resistance, the Asset Management program will remain as long as it has support from high levels in the present administration.

References