

University of Colorado Law School

Colorado Law Scholarly Commons

The Past, Present, and Future of Our Public Lands: Celebrating the 40th Anniversary of the Public Land Law Review Commission's Report, One Third of the Nation's Land (Martz Summer Conference, June 2-4)

2010

6-2-2010

SLIDES: Why Public Lands? A Question Not Addressed 40 Years Ago

Thomas Michael Power

Follow this and additional works at: <https://scholar.law.colorado.edu/celebrating-40th-anniversary-of-public-land-law-review-commission-report>

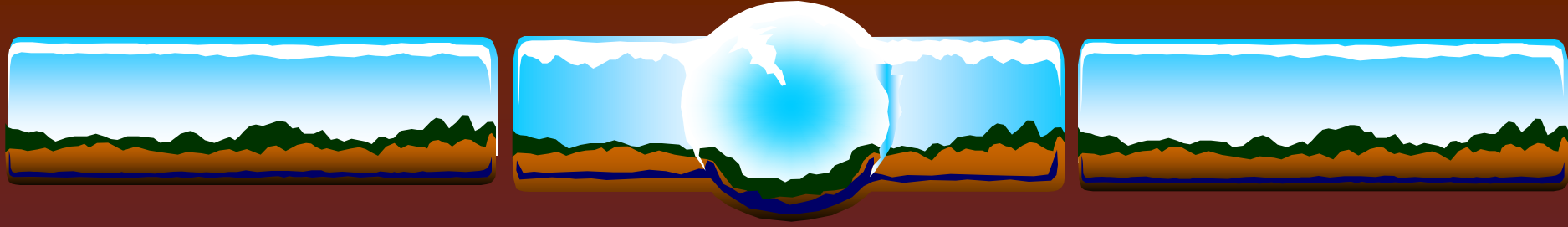


Part of the Administrative Law Commons, Energy Policy Commons, Environmental Policy Commons, Forest Management Commons, Land Use Law Commons, Natural Resource Economics Commons, Natural Resources and Conservation Commons, Natural Resources Law Commons, Natural Resources Management and Policy Commons, Oil, Gas, and Mineral Law Commons, Public Policy Commons, Recreation, Parks and Tourism Administration Commons, and the Water Resource Management Commons

Citation Information

Power, Thomas Michael, "SLIDES: Why Public Lands? A Question Not Addressed 40 Years Ago" (2010). *The Past, Present, and Future of Our Public Lands: Celebrating the 40th Anniversary of the Public Land Law Review Commission's Report, One Third of the Nation's Land (Martz Summer Conference, June 2-4)*. <https://scholar.law.colorado.edu/celebrating-40th-anniversary-of-public-land-law-review-commission-report/19>

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.



Why Public Lands? A Question Not Addressed 40 Years Ago

Past, Present, and Future of Our Public Lands
University of Colorado NRLC Conference
June 2010

Thomas Michael Power
Research Professor and Professor Emeritus
Economics Department
The University of Montana
tom.power@mso.umt.edu



American Schizophrenia

- ❖ Deeply hostile to the federal government
 - ❖ US War for Independence; American Civil War
- ❖ Strong commitment to federal ownership of “One Third of the Nation”
 - ❖ “Sagebrush Revolts” gain little traction nationally
- ❖ Public Policy Paralysis and/or Instability



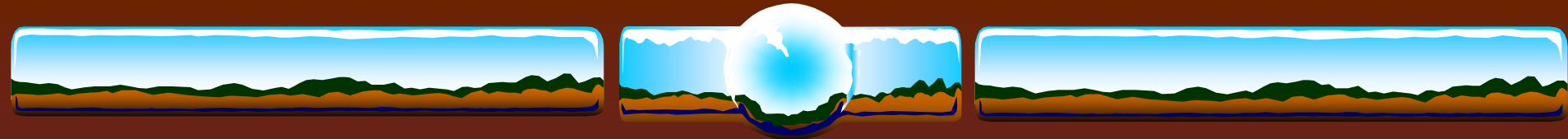
First Recommendation 40 Years Ago

- ❖ “The policy of large-scale disposal of public lands reflected by the majority of statutes in force today be revised and that future disposal should be of only those lands that will achieve maximum benefit for the general public in non-Federal ownership, while retaining in Federal ownership those whose values must be preserved so that they may be used and enjoyed by all Americans.” (p. 1)



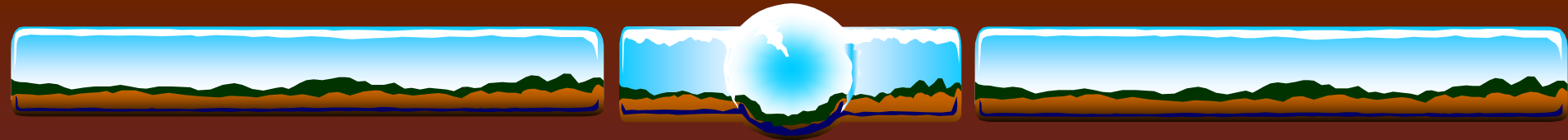
The Expected Result

- ❖ “For reasons that we will detail, we urge reversal of the policy that the United States should dispose of the so-called unappropriated public domain lands...While there may be some modest disposals, we conclude that at this time most public lands would not serve the maximum public interest in private ownership.” (p.1)



The Promised “Reasons” Were Never Really Provided

- ❖ Very general assertions about the public interest
- ❖ Comments on the changing and growing demands of a larger population and economy
- ❖ Discussions of existing dependence of industries and communities on federal lands and their resources



My Explanations

[Pardon the “Economic” Bias]

- ❖ Increasing Threats to the Functioning of Important Natural Systems (The “New” Environmental Movement)
- ❖ Becoming More Self-Conscious of Our “Social Natures”
- ❖ The Power of the Private Interests That Historically Had Made Commercial Use of Federal Public Lands



Historical Experience of the US

- ❖ Agrarians settling a depopulated continent
 - ❖ Low population densities; less intense economy.
 - ❖ Plentiful natural system capacity.
- ❖ Surging and densely settled population and growth of an industrial economy
 - ❖ The capacity of natural systems increasingly stressed and degraded
 - ❖ Threats to human health and quality of life.



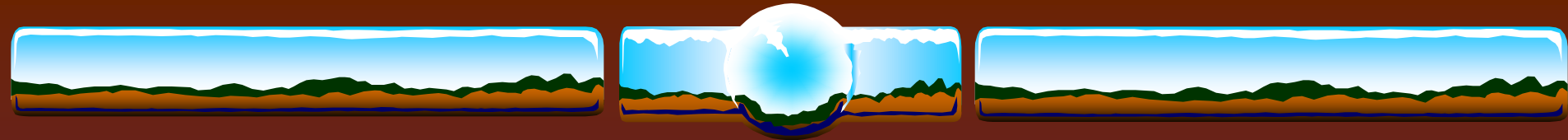
Natural System Services Have Economic Characteristics That Don't Support Private Provision and Protection

- ❖ Gifts of Nature. Not Human Produced
- ❖ Complex Systems Not Well Understood
- ❖ Difficult to Exclude Beneficiaries
- ❖ Affecting Large Areas and Large Populations



Our “Social Natures” and the Social Limits to the “Market Mentality”

- ❖ The Desire to “Belong” and Enjoy the “Rights of Membership”
- ❖ Seeking Refuge from Market or Commercial Pressures
 - ❖ Families, Churches, Non-Profit Organizations, Local Governments, Tribal Loyalties, Patriotism
 - ❖ Volunteer Fire Departments, Special Improvement Districts, School Districts, Irrigation Districts, Neighborhood Councils.....



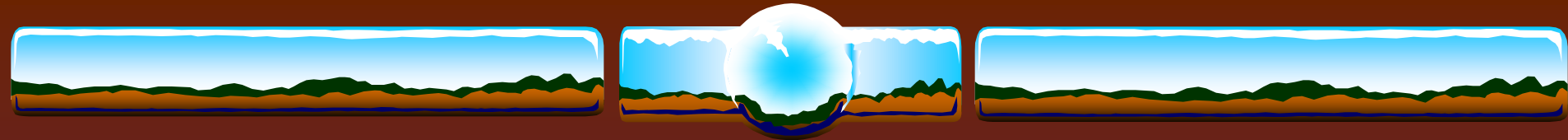
The Shift to Reliance on Public Lands for Access to “Natural Landscapes”

- ❖ Town Squares: Public Open Space
- ❖ City Parks: Linking Natural Areas, Open Space and Human Health
- ❖ National and State Parks and Wildlife Refuges
- ❖ Wilderness Areas
- ❖ National and State Forest Reserves



By 1970: Public Lands as Part of the American People's "National Heritage"

- ❖ Pride in "Public Ownership"
- ❖ Public Ownership and Public Access Seen As Part of the "Rights of Citizenship"
- ❖ New 1972 Montana Constitution Gave Citizens a Constitutional Right to a "Clean and Healthful Environment"
 - ❖ Timing is not a coincidence.



Commercial Interests in Continued Public Ownership

- ❖ Below Market Price Access to Natural Resources
 - ❖ Public Land Grazing
 - ❖ Timber Sales
 - ❖ Mining and Minerals
- ❖ Companies and Communities Were Anxious about Changing the Existing Regime.



Public Lands Policy Implications-I

- ❖ The Economic, Environmental, and Social Forces That Led to the 1970 Recommendation to Abandon the Commitment to Privatization of Public Lands Have Continued in the Same Direction.
- ❖ It Is Highly Unlikely the Outright Privatization Is Politically Feasible
- ❖ Creative Management Arrangements Involving More Decentralization, Public-Private Partnerships, Improved Incentive Systems, etc. May Be Feasible.



Public Land Policy Implications-II

- ❖ The Mix of “Gifts of Nature” Provided by Public Lands Makes Management Very Difficult
 - ❖ Complex Natural System Services
 - ❖ Broad Range of Non-Compatible Recreation
 - ❖ Historical Commercial Uses and the Environmental Damage Associated with Them.
 - ❖ The Shifting Economic and Environmental Importance of Each of These.
 - ❖ Cannot Just Blame the Land Managers.



Public Land Policy Implications-III

- ❖ Some “Market Mimicking Mechanisms” That Are Attractive in Theory Conflict with Existing Social Values
 - ❖ E.g. “Pay to Play”: Access Fees, Incentivizing Local Managers with Local Revenue Sources.
 - ❖ Ongoing resistance and controversy
 - ❖ “Double Taxation”
 - ❖ “Commercializing Wilderness”
 - ❖ Infringing on the “right to access” by citizens.
 - ❖ More Work Is Needed in Understanding This Resistance

For More on These Issues

Accounting for Mother Nature

Changing Demands for Her Bounty

Edited by Terry L. Anderson, Laura
E. Huggins, and Thomas Michael
Power

Stanford University Press 2007

Accounting for Mother Nature

CHANGING DEMANDS FOR HER BOUNTY

Edited by Terry L. Anderson,
Laura E. Huggins, and
Thomas Michael Power



Thank You!

tom.power@mso.umt.edu