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Riparian Reform: Who Pays?

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Abstract

The Constitution of the United States provides the understanding of who should pay for rangeland riparian reform in its discussion of private property rights. The economic theory used for Western rangeland management has used mechanistic models but should begin using an ecosystem model, where the assumptions do not isolate the model. The use of an ecosystem model would tie the right to act with the responsibility of the action's outcome. Management agencies use the mechanistic model to describe the economics behind current management and the current grazing-fee structure. If permits for all uses were issued in a market, the highest good for each area would be realized. Any use (consumptive or nonconsumptive) would have a protective covenant requiring the permit holder to maintain the riparian areas (and surrounding uplands) regardless of their use. This covenant would provide the incentive needed to maintain riparian areas and the associated uplands.

INTRODUCTION

This paper's approach to the topic of riparian management is a bit unusual; it blends anthropology, ecology, and economics with rural roots. Much of the research has involved studying the intersection of ecology and economics.

Just outside Preston, Idaho, a town nearly on the Utah border, there was a billboard with a single, straightforward, declarative sentence:

The American Constitution Is Divinely Inspired

A person could see that sign dozens of times and wonder each time, "How do I know this is true?" While most Americans have immense respect for our Constitution, there is no empirical test of its divine origin; but clearly its design is a great intellectual achievement. The Founding Fathers gave our nation the recipe for the world's most successful large-scale constitutional experiment.

An understanding of that recipe is needed to deal with riparian reform; and in the Intermountain West, this means rangeland reform. In the Intermountain West, the condition and management of the riparian areas are directly tied to the management of the

rangelands. To deal with who should pay for riparian management, rangeland management must be addressed. For this reason, the remainder of this paper will focus on rangeland reform.

The Founding Fathers understood that nearly all polities are predatory; governments normally work as engines of plunder. Yet the predatory state is preferable to anarchy because it economizes on violence. This structure frees people to specialize in production rather than in looting or self-defense. As is seen so clearly throughout Latin America, Africa, and Eastern Europe, the predatory state describes most countries today.

People use politics to gain control of the coercive power of the state. Whatever the initial motives, the temptation to plunder follows and normally dominates political decision-making. Triangles of special interests, administrators, and elected politicians work to tax, regulate, and creatively take from some to give to others. This is especially evident in America's public-land management.

This pattern is highly persistent across time and geographic boundaries. The reason is compelling: even a predatory state provides some measure of regularity—and anarchy is nearly everyone's last choice. To the degree that order fosters wealth creation, this exchange is positive sum. Exploitation,

however, is inherent in this system. The Founding Fathers' major intellectual problem was to design a constitution, a set of rules for making rules, that gave the state sufficient power to maintain order while constraining opportunities to use the coercive apparatus of the state to the advantage of special interests.

The Founding Fathers' understanding of political economy remains unsurpassed. The *Federalist Papers* stands as one of the greatest works of political philosophy. It adds analytical leverage to our tool kit and provides a true science of politics. It ranks with *The Wealth of Nations* as an invaluable political document.

BIONOMICS AND THE POLITICAL ECONOMY OF RANGE REFORM

A new approach to range reform is required, but a guidebook through the labyrinth of special-interest politics and the problems of transitional gains traps is needed. In sum we need a new model for viewing the world if we are to succeed in protecting environmental and social values of the Western range.

Bionomics (Rothschild 1990) is a book that might serve this function. It integrates important and disparate findings into a new perspective that enables us to better see economic patterns. Discovering this framework is like finding glasses for a 3-D movie. If it works, the lenses become, in effect, glued to our cornea; and the world never again looks the same.

Bionomics is an early nomination for the 1990s book that matters in political economy, for it advances the Founding Fathers' concern with plunder and predation with a paradigm shift from physics and celestial mechanics to ecology. Its discussion of parasitism would fit well into *The Federalist Papers*.

THE MECHANISTIC MODEL OF THE ECONOMY

The prime failure of economics, Rothschild (1990:44) argues, is that it "remains wedded to the classical Newtonian paradigm of a mechanistic model of the world. Sadly," he writes, "several generations of economists have spent the last century elaborating a system of thought that tries to explain the intricate relationships of economic life with concepts invented to describe the motion of planets."

In Rothschild's view, the cost of mathematical

elegance is insulation from the real world of economic evolution. Science's mechanistic models are inappropriate for organic, creative systems of which economics is one. By simplifying assumptions, he argues, mathematical and econometric models, in effect, exclude precisely those features that make an economy vibrant.

For him, the ecosystem, not the machine, is the appropriate model for an economy. In an ecosystem, he explains, resources flow up the value-added chain like energy moving up through trophic levels of an ecological system. Instead of replicating their genes in progeny as frogs make tadpoles, firms convert resources into products. Hence, "products are like the sea shells abandoned by molting crabs—shaped by the genes, but not alive" (Rothschild 1990:215). The diversity parallels the ecological diversity of the rain forests; and governmental suppression of legitimate economic activities, through, for example, price controls, duplicates the destruction of the rain forests.

THE ALTERNATIVE: AN ECOLOGICAL MODEL OF POLITICAL ECONOMY

The problem with contemporary economic theory, Rothschild argues, is that it misses the essential evolutionary feature of capitalism. Natural selection is analogous to economic competition among firms. Only when the spontaneous coordination of the market is permitted expression, he argues, can prosperity and freedom replace command-and-control impoverishment. (Essentially he discovers for himself the theme of Hayek's 1945 classic *American Economic Review* article "The Use of Knowledge in Society.") Hence, progress is dependent upon how political and economic institutions utilize or ignore knowledge.

This process is the time-lapsed analogue to biological evolutions. When economic dynamics are misunderstood, momentous policy decisions hinge upon political mood swings and raw intuition, unaided by any deeper comprehension of how an economy works. This fundamental problem of democratic capitalism is especially clear when the current debate over rangeland reform is reduced to slogans such as "No More Moos in '92" and "Livestock Free by '93." Meanwhile, the traditional livestock interest groups consort with politicians attempting to buy those who can only be rented. The learning curve of the stockmen seems to resemble the topography of the plains on which they graze.

NEW ANALYTICAL LEVERAGE?

Rothschild's book helps us understand that our economy and our ecology share more than the Greek root *oikos* (eco). The economy is better understood as an ecosystem itself as opposed to a machine isolated and insulated from the environment. Economy and ecology are linked in a potentially positive-sum game where nature bats last, but only when our legal and economic arrangements tie the right to act with responsibility for the action's outcome can we expect a positive-sum game. This tie is precisely what is lacking in the institutions that currently dominate the range-policy arena.

In addition to the new perspective offered in *Bionomics*, there is a body of economics upon which to build. For example, public-choice theory emphasizes the importance of institutions and how the information and incentives they create affect opportunistic behavior (Buchanan and Tullock 1962). Austrian economics emphasizes spontaneous order and the impossibility of planning (Sowell 1980). Law and economics stress the importance of secure property rights to achieve progress. All of this work complements the bionomics approach. In the sections below, this analysis is applied to range reform.

THE HISTORICAL CONTEXT OF PROPOSED REFORMS

During the days of the Homestead Acts, much of the land now managed by the Bureau of Land Management (BLM) was not claimed. Though it was available at no charge, it was too dry and rocky and the climate was too unforgiving to grow crops. Although few people wanted to own these lands, many ranchers wanted to use them for grazing.

In 1873 the Desert Land Act increased to 640 acres the allotment of land to homesteaders. Even so, some ranchers merely fenced in public lands to graze their livestock, without obtaining a title. Without private property rights, ranchers had economic incentives to overgraze before their neighbors did, to turn out stock before young grasses had matured and seeded, and to run more stock than the land could sustain, thus paving the way for the Dust Bowl era. As a result, much of the Western lands became barren, devoid of topsoil, and unable to economically support livestock in commercial numbers.

By 1934, 25 million acres of Western rangeland had been plowed up and abandoned. In that year, an

executive order called the Taylor Grazing Act withdrew all public land from further homesteading in ten Western states (Junkin 1986). To administer the rangeland and to help stabilize the livestock industry in the West, Congress established the Grazing Service in the Department of the Interior (Kemp 1981).

This act was a step forward because it created quasi-private-property rights on public lands. Under the act, ranchers could invest in the maintenance and improvement of public grazing lands they used and be reasonably secure that they would enjoy the benefits for which they paid. This act led to some substantial improvements (Baden 1986). The land leases held by the ranchers even had equity value at federally insured banks.

However, the new agency was not fully successful. Eastern representatives, unwilling to grant Westerners a free ride, were pushing the agency to raise grazing fees to market values. Western representatives, trying to satisfy the demands of ranchers, fought to keep the fees low. The resulting political tussle caught the agency in a political quagmire that remains today.

In 1946 Congress combined the Grazing Service and the General Land Office into the Bureau of Land Management. The BLM's first director was Marion Clawson, a Harvard-trained economist who had grown up on a Nevada ranch. Clawson spent the next seven years reducing the red tape and paperwork of the agency. He also raised grazing fees and hired more rangeland management. These efforts made him unpopular with the stockmen who had grazing rights on public lands and who were used to cheap fees. They did not appreciate an economist operating the BLM like a professional land-management agency. In 1952 he conducted a detailed study of grazing fees and concluded that they should be raised to an average of 28 cents per animal per month. This study led to some substantial improvements (Baden 1986), but Clawson's efforts to raise fees to that level failed due to heavy political pressure from the stockmen. Shortly thereafter he was fired (Culhane 1981).

The ranchers saw any attempt to impose market strategies on public lands as an infringement on their rights—and on their way of life. Once a group is nurtured and coddled at the public trough, it is virtually impossible to break the cycle without a major political battle. That battle is still being fought. Meanwhile, the taxpayer loses.

Many people believe that ranchers derive huge subsidies when grazing the public lands. The situation, however, is complex. Following are some facts:

Twenty-nine thousand ranchers have permits to use BLM and Forest Service lands on which they pay one-fifth to one-tenth the price charged for grazing

rights on adjacent or proximate private land (Baden 1986). Bardow (1986:13) wrote that "grazing fees yielded only \$23 million in 1984, while administration of the rangeland, according to Department of Interior economist Robert Nelson, costs the government between \$100 million and \$200 million annually." These numbers seem insignificant, perhaps smaller than rounding errors, when compared with many Department of Defense or Housing and Urban Development programs. Yet they provide ammunition for those who oppose grazing on the federal lands.

Several acts passed in the 1960s and 1970s culminated in the Land Policy and Management Act of 1976. They reversed the trend toward quasi-property rights set in the Taylor Grazing Act. The recent acts have given the BLM more control over grazing rights and private ranchers less incentive to invest in improving the quality of public land. Baden (1987:38) stated, "The BLM has no incentive to keep costs down, or even maximize revenues from grazing fees, which go into the overall U.S. Treasury rather than its own coffers. Instead the BLM builds its budget by winning political support from ranchers who then lobby for BLM expenditures."

Wildlife management, recreation, watershed maintenance, and energy development should receive the attention of the agency in accord with its multiple-use mandate. Proper attention would maximize the land's net value from an aesthetic as well as from an economic perspective, but recreational and aesthetic activities offer less effective methods of increasing budgets than does grazing. Therefore, the amenity values tend to lose out when vying for funds. As public-choice economists have shown, a bureaucracy is driven to emphasize those activities that promote a continually expanded budget. The BLM fits this pattern well. Furthermore, the BLM's traditional constituents are politically powerful ranchers.

The BLM's emphasis on grazing has led to environmentally destructive behavior. Perhaps no BLM practice appalls so many people as does "chaining." This dramatic land-management technique is considered an especially ugly way of removing trees that compete with grass for space. Chaining is accomplished by linking two D-8-class crawler-tractors together with a 600-foot anchor chain. The tractors are then moved along in tandem. The chain that is dragged between them uproots trees and large brush in its path. By removing the tree and shrub competition for nutrients and water, more forage is available for livestock; and more grazing land means a larger inventory of political favors for the BLM. Chaining is an expensive method for sweeping scrub trees from an area to "improve" rangeland.

Environmentalists see chaining as having disas-

trous consequences (Lanner 1981). As with nuclear activities undertaken by the federal government, it is difficult to obtain accurate information regarding chaining. Between 1950 and 1964, nearly three million acres had been chained, with millions more planned.

The environmental impact is substantial. There are approximately 50 species of fish, 66 species of reptiles and amphibians, 75 species of mammals, and 140 species of birds in or around the pinion and juniper trees that are uprooted by chaining. Wild ungulates, such as mule deer, tend to avoid the chained areas due to their natural hesitancy to expose themselves in the middle of clearings that often exceed a section (one mile by one mile) in area.

Trout are threatened because overgrazing leads to soil erosion, which muddies streams and makes it difficult for the trout to reproduce. Trout taxonomist Robert J. Benke of Colorado State University has observed, "Livestock overgrazing is the greatest threat to the integrity of trout stream habitat in the Western United States" (Baden 1986:23); yet the Forest Service and the BLM actually maintain that chaining is beneficial to the environment. They either possess some scientific knowledge that enables them to improve Mother Nature's handiwork—knowledge that is superior to independent researchers who have found otherwise—or they are desperately attempting to protect an activity that increases their budget.

Edward Abbey probably enjoyed greater influence among environmentalists than all the range scientists combined. He argued that we do not need the "public lands beef industry" because it only supplies 2 percent of our beef. The great majority of our beef comes from private lands in the Midwest, East and Southeast "and for a very good reason: back East one can support a cow on maybe half an acre. [In the West] it takes anywhere from 25 to 50 acres. In the red rock country of Utah, the rule of thumb is one section—a square mile per cow" (Abbey 1986).

The Western livestock industry still agitates for heavy subsidies on public lands. While one can understand the economic motivation and empathize with many of the values underlying ranchers' arguments, one must also marvel at their political naiveté. Time unstuffs ballot boxes and exposes special interests: It is no wonder that professional and avocational environmentalists give tours of our rangelands and point out sacred cows at the public troughs. In politics as in all things people see it when they believe it. It may be asked in the privacy of the mind, "Who is the public predisposed to believe—the followers of Ed Abbey or of Bob Burford?"¹

¹Bob Burford is the former director of the BLM. *Ed.*

THE FOUNDERS' GUIDE TO RANGE REFORM

If the land's values, e.g., water rights, wildlife habitat, and recreational amenities, could all be in private hands, there would be incentive to prevent overgrazing in order to protect the productive base of the land. One of the most obvious methods to stop overgrazing is to charge market prices, something private interests naturally do in response to supply and demand conditions. Such a scheme would have two major benefits: the taxpayers would be free from the burden of paying the costs for ranchers who use public lands, and the environmental degradation that results from poor grazing management would be reduced.

A far more radical method of improving the conditions of BLM lands is divestiture via auction. Stroup and Baden (1979:37) wrote that "only in this way can all of the people of the nation capture the benefits into perpetuity produced by the 170 million acres of grazing land in the West now managed by the BLM." Private ownership of the BLM lands encourages a diversity of uses and generates a dynamic management system capable of adapting to changing needs and priorities. However, capital has an opportunity cost (interest or carrying charges), and managers have strong incentives to neglect those values that don't pass through the market; and increasingly some of the most important values, endangered species for example, are not marketed and cannot be under current institutional arrangements.

To safeguard the multiple values, grazing rights could be sold with protective covenants. For example, the rights to graze an area frequently used for recreation would be sold with the understanding that the holder of grazing rights must manage to protect recreational values. The ranchers now grazing on public lands need not be disadvantaged. Current lease holders could be offered secure and transferable rights to the grazing they now claim. Secure property rights would increase the value of the land to the user, since long-term management practices, such as range improvement, would present the user with future benefits and the option of selling to wildlife organizations, such as the North American Elk Foundation (Stroup & Baden 1979). In many areas, such as Greater Yellowstone, wildlife clearly has higher value than domestic stock on the public lands.

Further, the wide array of benefits flowing from a divestiture plan should be considered: Current users of the land gain because of the opportunity to engage in better long-term management practices, and citizens gain from increased productivity and by not having to fund inefficient BLM management practices. The only interest not to gain is the BLM itself.

Costly lobbying and the constant struggle to placate both the ranchers and environmentalists would be eliminated through such a plan. A divestiture of grazing rights would encourage environmental groups to purchase environmentally sensitive forage areas and ranchers to purchase the most productive range. Both interests would be better served, and economic efficiency and environmental integrity would be fostered.

A free market, with institutional arrangements that recognize economic incentives and traditional American values, offers unique opportunities to many of the environmental problems our nation faces. However, progressive-era type institutions such as the BLM and the Forest Service circumvent the market and maintain that market forces cause problems. They have it exactly backward: The absence of property rights and markets causes problems.

Bureaucratic institutions have been part of the American political landscape for more than a hundred years. They are so entrenched that any alternative arrangements for management are usually considered ludicrous. However, there is nothing ludicrous about granting control of the BLM and Forest Service grazing to those who use and appreciate it most highly. This arrangement is the end our Founding Fathers originally intended, and it is consistent with our growing environmental sensitivity.

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