

University of Colorado Law School

Colorado Law Scholarly Commons

Who Governs the Public Lands: Washington?
The West? The Community? (September 28-30)

1994

9-28-1994

Background Material on the Colorado Grazing Roundtable

William E. Riebsame

Follow this and additional works at: <https://scholar.law.colorado.edu/who-governs-public-lands-washington-west-community>



Part of the [Administrative Law Commons](#), [Agriculture Law Commons](#), [Animal Law Commons](#), [Business Organizations Law Commons](#), [Environmental Law Commons](#), [Environmental Policy Commons](#), [Land Use Law Commons](#), [Natural Resources and Conservation Commons](#), [Natural Resources Law Commons](#), [Natural Resources Management and Policy Commons](#), [Property Law and Real Estate Commons](#), [Public Policy Commons](#), and the [State and Local Government Law Commons](#)

Citation Information

Riebsame, William E., "Background Material on the Colorado Grazing Roundtable" (1994). *Who Governs the Public Lands: Washington? The West? The Community? (September 28-30)*.
<https://scholar.law.colorado.edu/who-governs-public-lands-washington-west-community/10>

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.



William E. Riebsame, *Background Material on the Colorado Grazing Roundtable*, in *WHO GOVERNS THE PUBLIC LANDS: WASHINGTON? THE WEST? THE COMMUNITY?* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1994).

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.

BACKGROUND MATERIAL ON
THE COLORADO GRAZING ROUNDTABLE

Submitted by

William E. Riebsame
Professor of Geography
University of Colorado
Boulder, Colorado

WHO GOVERNS THE PUBLIC LANDS:
WASHINGTON? THE WEST? THE COMMUNITY?

Natural Resources Law Center
University of Colorado
School of Law
Boulder, Colorado

September 28-30, 1994

Creating a New Political Ecology on Public Rangelands*

William E. Riebsame
Department of Geography
University of Colorado
Boulder, CO 80309

The administration's move to reform federal grazing policy in 1993¹ was stymied by the now traditional tactics of multiple special interests: livestock and environmental organizations stalemated each other with intense lobbying, western senators filibustered Interior's appropriations, and politicians of all types, according to some accounts, held other issues, like free trade, hostage to the long-standing, parochial fear of change among private users of federal lands. A few interest groups, however, were in a position to respond with a more novel tactic: collaboration. Some environmentalists and ranchers had formed alliances in the West, especially where they faced common threats like land development and water transfers, and though they too disliked the top-down structure of range reformation, such groups began to offer positive alternatives. One of these was the Colorado Resource Round-Table, which had been meeting for two years when Governor Roy Romer asked several of its members to form the core of a task force to create an alternative to DoI's reform proposal. The result was the so-called "Colorado Model," which espoused a more local collaborative approach to achieving the stated goals of Rangeland reform: sustainable production from healthy rangeland ecosystems that provide multiple social benefits.

The Colorado model did not come about easily; most of the same issues argued nationally appeared during the group's numerous meetings during winter 1993-94. This article examines three of these issues: creating and enforcing rules of use, the security of tenure awarded to users, and defining and assessing rangeland ecosystem health.

The Historical Roots of Current Rangeland Debates

Two great cross-currents of American natural resource thought underlie current efforts to reform federal rangeland policy. First, there exists an abiding social tension over access to resources which stems from our contradictory ideals of private ownership and use of resources, on the one hand, and the recognized value of retaining some lands and resources in the public sphere for multiple uses, on the other hand. A second tension is introduced by changing attitudes about the environment in recent decades: the traditional notion that exploitation and transformation of nature is acceptable, even desirable, for human development, is now countered by growing demand for preserving natural systems and reducing the human impact. These contradictory goals bedevil resource policy, and current demand for policy reform indicates that past solutions to federal grazing problems did not settle such underlying conflicts nor prove adaptable to changing social perceptions of

*Submitted to: Forum for Applied Research and Public Policy.

resources. The great challenge in rangeland reform is to devise institutions and processes, rather than static solutions, that address these fundamental social tensions over natural resources.

Rangeland pastoralism is an ancient resource system in which humans use grazing animals to convert vegetation to meat, blood, milk and other products.² The pastoral system that developed with European settlement of the western United States combined institutions from elsewhere (Spanish ranch structure) and indigenous adaptations to the West's ecological and political conditions. Ranchers found that they needed huge land areas to raise cattle and sheep--land that they could not afford to purchase nor share with other livestock owners. In response they created, with little government participation, an informal allocation of large public tracts linked to relatively small homesteaded lands.³ Ranchers either assumed that they would eventually obtain title to the rangelands under their control, or that extra-governmental arrangements would provide sufficiently secure tenure indefinitely.

Two social shifts, roughly a half-century apart, undermined this security. First, customary rangeland use evolved just as Americans were re-thinking the logic of transferring public lands to private ownership. By the early-1900s it was obvious that the remaining public domain would not be unquestionably disposed of.⁴ The resulting awkward pattern of private use of public lands was codified in the Forest Reserves in the 1910s and in the 1934 Taylor Grazing.

Though land disposal policies changed, the notion that resources, private or public, should be developed to create a more robust economy was not widely questioned until the 1960s, when environmentalist arguments for protecting and preserving nature received sufficient public support to affect policy. Resource policies tilted toward environmental values (clean water, wildlife, recreation, wilderness), with increased restrictions on extractive uses. The current battle among rangeland stakeholders, especially between ranchers and environmentalists, however, indicates that these adjustments were insufficient to adapt the system to changing social values.

Why Reform Rangeland Policy Now?

The Department of Interior (DOI) estimates that continuation of current federal range policies will result in an 18% reduction in livestock forage authorized by the Bureau of Land Management (BLM) over the next twenty years, the cumulative result of ecological degradation, declining economic feasibility of public lands grazing, and growing demand for habitat protection.⁵ Rangeland Reform '94 is meant to arrest this decline through better management aimed at improving rangeland ecological health. Governmental reform is the logical response to a stream of negative evaluations of rangeland use from congress, the courts, non-governmental groups, and the agencies themselves. But, coalescing trends--growth of a non-extractive economy in the West, energized environmental critique of grazing, and a new, environmentally-leaning administration--finally moved grazing reform to the top of the federal resource policy agenda in the early-1990s.

Why grazing rose on the environmentalist agenda is less obvious. Anti-grazing activism had been overshadowed for three decades by campaigns on clean air and

water, national parks, wilderness, and wildlife, and is still eclipsed by attention to logging. Why the pressure to reform now?

After decades of focus on National Forests, environmentalists have re-targeted significant wilderness activism to BLM lands, thus creating appreciation for lower elevation range ecosystems and greater perception of grazing impacts. Environmental concern over public lands has also shifted, in scale and focus, to notions of whole ecological systems, biodiversity, and landscape ecology. These themes match the extensive nature of grazing, and the pervasive influence it has had on western biota and fauna.

Still, environmentalists are ambivalent in their critique of grazing: the ecological threat is subtle, and ranching is a family-based endeavor reflecting agrarian ideals and a close relationship to the land kindred to environmentalism. Moreover, as the Range Reform '94 draft impact statement mentions several times, the decline of western ranching is already obvious in sprawling suburban and commercial development, and environmentalists are loathe to do anything to accelerate this land use trend.

Finally, the public discourse on Rangeland Reform '94, especially ideas that emerged from Colorado,⁶ reveals growing disenchantment with the long-cherished view that regulation by centralized bureaucracy is the best way to obtain change on the ground. A Colorado group of ranchers and environmentalists, and similar groups in the West, argue that local collaboration among interests would accomplish more than traditional mechanisms like agency planning, congressional debate, and court decisions.

Thus, rangeland reform comes during a transition in the what could be called political ecology of the West. New interest groups are forming around range ecosystems, and new institutions are emerging from the old debates pitting ranchers and environmentalists against each other and the agencies.

Getting the Institutions Right: Lessons from History

The challenge in adjusting public rangeland policy is to create a process, widely accepted by the stakeholders, that calls on a mix of incentives and disincentives which work with, rather than against, human nature. Social process changes implemented during the current reform will certainly outlast fee adjustments, and affect rangelands more, and some of the attention focused on grazing fees should be shifted to broader institutional issues. Historian Donald Worster (1992) argued that:

we need a full ecological history of American range management, one that goes beyond the narrow matters that most range technicians seem to know and care about, one that is alert to all the effects of various tenure systems and to all the socio-ecological regulatory systems of other cultures. (p. 51)

Fortunately, studies of other agricultural systems point to institutional structures that, in one part of the world or another, have allowed systems very much like American public lands grazing to maintain both social and ecological sustainability.

Unfortunately, the grazing policy process has lacked historical perspective and has been focused solely on the American experience.⁷

Three elements appear repeatedly in successful grazing, farming, and agro-

forestry systems, both ancient and modern:

- (1) clear rules for resource use, supported by the users, and strictly and equitably enforced;
- (2) initial security of tenure so that the individual user has reason to expect that his/her long-term well-being is tied to long-term resource quality; and
- (3) recognition of environmental limits and carrying capacities.

For example, anthropologist Robert Netting found all of these features in communal high-elevation grazing systems in Switzerland--systems that avoided overgrazing for centuries despite environmental marginality and increasing population.⁸ Cattle-owners had developed agreed-upon rules of use that kept the pastures healthy, and they enjoyed secure access linked to property ownership. This security, however, did not supersede strict enforcement of grazing rules by an elected board. Netting also found that users held a shared, and frequently articulated, sense of the carrying capacity of communal pastures.

What is the potential for incorporating these elements into federal grazing policy?

Creating and Enforcing Rules of Use

Rangeland Reform '94 is a tilt toward greater enforcement and restrictions on ranchers. The 1993 proposal evinced the standard assumption among environmentalists and the agencies that improved rangeland health would come from stricter enforcement and new rules and penalties aimed at getting the minority of bad land managers to "do the right thing".⁹ But some resource scholars argue that command-and-control systems are not especially effective in sustaining local resource ecologies. Instead, enduring farming and grazing systems around the world involve collaborative rule-making, efficient dispute resolution mechanisms, and rights to devise local institutions that "are not challenged by external government authorities."¹⁰

Enforcement mechanisms differ among cultures. Irrigation collectives in the Philippines elect one member as a "maestro" who then enforces water allocation rules that the group itself formulates.¹² The Huerta irrigation societies in Valencia (Spain), founded in 1435, hire outside "ditch-riders" or judges to enforce use rules; they are paid with the penalties they collect. Access to Middle Eastern hima common grazing lands was carefully controlled by tribal law and strong group solidarity balanced by inter-group agreements--with occasionally violent clashes when those agreements were violated.¹³ Hima strictures were incorporated into Islamic law by A.D. 1000, and stood until Middle Eastern and North African nations instituted land reforms in the 1960s. Many governments re-created the hima system in response to land degradation that followed its dissolution.

Such ethnographic studies tend to value local institutions, a theme unappealing to national activists in rangeland reform, but they do not necessarily recommend isolating rangeland use from the national scene. A world survey of pastoral systems¹⁴ found similar locally-derived rules in long-standing grazing systems, but also found pastoral societies everywhere adjusting to pressure from larger political structures. The isolation of pastoralists has been over-stated, and even nomadic groups had elaborate connections with national political structures, which were counted on to protect their

land tenure. Isolation is not necessary to sustainability, though special care is needed in allocating authority to different levels of society.

Worster argued that "the most stable systems of grazing have been those in which the experience, knowledge, and moral pressure of a whole community guided the individual grazer",¹⁵ an optimistic version of what biologist Garrett Hardin called "mutual coercion mutually agreed upon."¹⁶ The second round of DOI reform proposals (43 CFR Part 4 et al.) grapples with this by proposing to shift more decision-making to the local level.

The panel of ranchers and environmentalists convened by Colorado Governor Roy Romer to review DOI's first reform proposals concluded that more local, collaborative approaches were needed, and many of their ideas were incorporated into DOI's 1994 proposal.¹⁷ The Colorado group argued for a "bottom-up, grassroots model" of local- and regional-scale collaborative groups with more authority in on-the-ground management decisions. The group carefully distinguished this from "local control" by special interests, arguing that community groups were legitimate only if they reflected the full spectrum of national rangeland interests. Indeed, the group felt it worth violating the concept of "local" in some cases by importing participants with interests under-represented in a particular place. Because most grazing permittees easily qualify as local participants, critics of this element in the Colorado plan, and its incarnation in the DOI reforms, saw it giving national anti-grazing activists special entree to the process.

The Colorado and DOI proposals give greater management roles to western communities, while recognizing the political reality of institutionalized interest group pluralism at the national level. Whether this will yield more socially sustainable processes remains to be seen, but the historical evidence supports experiments in this direction.

Tenure Arrangements for Public Rangeland

Closely related to questions of how to make and enforce grazing rules is the countervailing issue of the security of tenure given to permittees. Granting tenure while simultaneously maintaining a credible threat that it will be revoked if violates behavioral norms are violated, requires a delicate balance of incentives and disincentives.

History indicates that incentives to "do the right thing" are as important as punitive disincentives. But, environmentalists have approached rangeland reform mostly with the goal of tightening grazing regulation and oversight,¹⁸ a sensible posture given lax agency enforcement and past exclusion of non-grazing interests. But, the historical evidence suggests that disincentives should not be applied indiscriminately to all policy elements, and that penalties for improper use--which should be strictly and equitably applied--should not be insinuated into initial permit security. Instead, normal permit tenure should be an incentive for good management, tying the individual's future well-being to the land's well-being. Even the current ten year permit period is short in terms of ecosystems management, and reducing it to five, or fewer years, as some groups propose, could hamper long-term planning. Environmentalists should argue for both strong enforcement and secure tenure: bad

land managers should lose their access, and ranchers with good records should have very secure permit tenure.

Long-term care for land quality requires security of access. Low-security, tenant farming arrangements in early Great Plains agriculture contributed to the 1930s "Dust Bowl".¹⁹ Recent studies suggest that the same disincentives operate today: sharecroppers and farmers of rented land invest less in soil conservation.²⁰ A worldwide survey of contemporary, mostly Third World, resource systems concludes that political structures reducing security of tenure on the land tend to encourage resource degradation.²¹

The positive relationship between tenure and resource stewardship relies on institutions that take advantage, in Ostrom's words, of a "prudent, long-term self-interest" that reinforces "norms of proper behavior." How do we elicit this self-interest on public rangelands, while simultaneously increasing enforcement of grazing rules? Reform advocates often lean toward one side or the other. Some recommend market-like mechanisms giving permittees tenure tantamount to private property rights; others suggest increasing the permit period as an incentive for conservation and creating mechanisms for ranchers' to capture benefits from other land uses (e.g., hunting income).²² In any approach, environmentalists should differentiate between making ranchers conform to social norms through stricter rules, and supporting ecologically-sound, sustainable ranching, which requires relatively secure tenure.

Defining the Environmental Limits to Grazing

The third essential element in resource sustainability is some agreed-upon sense of natural limits. Unfortunately, the standards and guidelines for ecosystem health emerging in DOI's reform package will do little to help diverse rangeland interests developed a shared perception of range ecology. The Colorado Group's discussions, perhaps the most detailed and earnest of any such multiple-interest group in recent times, barely scratched the surface of rangeland condition and ecosystem definitions, yet revealed a mine-field of unexamined notions about nature and the correct role of humans in the western landscape.

For example, some of the panelists argued that because "humans are part of ecosystems," standards and guidelines must support social well-being by protecting access to forage. Environmentalists worry that anthropocentric definitions of ecosystems engender a disregard for elements not directly beneficial to humans but still necessary to ecosystem health.

Policy issues like conservation use (voluntary de-stocking for ecological reasons) and water development evoke conflicting perceptions. One view on conservation use, for instance, holds that human intervention is generally good and even necessary to maintain healthy rangelands which evolved under grazing pressure. In this vein, the environmentalist notion that nature is best left alone seems quaint and ill-informed. Arguments over water development reveal the broader ideal that humans have an obligation to improve on nature, by, for instance, developing water sources where none previously existed. The environmentalist response is obvious: dry hill slopes and small seeps are best left as is, while artificial impoundment attracts animals to places where they would not normally gather, placing un-natural pressure

on the ecology.

The great divide between use-oriented and biocentric views of rangeland ecosystems complicates efforts to create collaborative visions for western landscapes. Modern environmentalism is based on the belief that humans have gone too far in transforming nature, and must start to live within natural limits. Ranchers argue that human society is part of rangeland ecosystems, and that people have the right, even the moral obligation, to improve their lives by transforming nature. The difficulty of bridging this gap in values and perceptions will interfere with progress on other elements of rangeland reform. Recognizing this, the Colorado group called for a major educational component to rangeland reform, and even spun-off a continuing committee to create a model curriculum that would give all rangeland interests some common base for at coming to terms with their different perceptions of range ecosystems.

Conclusion

The sub-text to the current rangeland policy debate includes an enduring question: What is the correct relationship between environment and society? Obviously we must formulate rules and institutions that people support, and it is equally important to establish ecologically and socially sustainable goals for those institutions. Discourse on rangeland policy reform indicates great potential for creating new processes and institutions, and history offers valuable guidelines. But, common notions of ecological well-being that can be encoded in standards and guidelines for use of western public lands will not come easily. The reform process does not include a mechanism for exploring and reconciling different perceptions of ecological sustainability, and a West-wide effort to define ecosystem and the appropriate human role in ecological function is needed.

No matter how it plays out, rangeland reform promises to be very "process intensive," requiring substantial participation and patience by many interest groups. Traditional pastoral groups created functional institutions for sustaining culture and ecology, but they presumably did this over decades and centuries of experimentation and adaptation. The ultimate lesson from other grazing cultures may be that solutions to federal rangeland problems in the American West lie in a collaborative, adaptable human process, not in any particular canon of regulations. Perhaps the most important idea to come from the Colorado process was the need for a formal, concerted effort to raise the understanding of range ecosystems among all interested parties.

1. See U.S. Department of Interior, Bureau of Land Management (1993) Rangeland reform '94. (Washington, DC); and U.S. Department of Interior, Bureau of Land Management (1994) Rangeland Reform '94: Draft Environmental Impact Statement. (Washington, DC).

2. The status of pastoral systems around the world is described in J.G. Galaty and D.L. Johnson, The World of Pastoralism: Herding Systems in Comparative Perspective. (New York: The Guilford Press, 1990). One finding of this survey is that grazing systems everywhere are changing due to political, land use, and

economic forces.

3. This pre-federal allocation of rangeland is widely viewed as an ecological and social mistake (D. Ferguson and N. Ferguson, Sacred Cows at the Public Trough. (Bend, OR: Maverick Publications, 1983), though Karl Hess (Visions Upon the Land: Man and nature on the Western Range (Washington, DC: Island Press, 1992) implies that it might have been sustainable had the federal government not imposed an inappropriate agrarian vision onto the informal system.

4. See S. Brubaker, ed. Rethinking the Federal Lands (Washington, DC: Resources for the Future, 1984).

5. The Department of the Interior (DOI) issued its first reform proposal in the Federal Register on August 13, 1993 (58 FR 43208). A modified proposal appeared in the Federal register on March 25, 1994 (43 CFR Parts 4, 1780, and 4100. The draft environmental impact statement (DEIS) was issued in April, 1994. The DOI refers to the entire process as "Range Reform '94", a convention also used in this article.

6. Colorado Rangeland Reform Working Group, Colorado Rangeland Reform Proposal. (Denver, CO: Governor's Office).

7. Secretary of Interior Bruce Babbitt, however, frequently expresses a sense that history should guide us to new institutions.

8. Netting, R. McC. (1981) Balancing on an Alp. Cambridge University Press.

9. A view supported by C. Wilkinson, Crossing the Next Meridian: Land, Water and the Future of the West. (Washington, DC: Island press, 1992: 110-113), though Wilkinson also holds some hope for more local initiatives like watershed improvement groups.

10. Ostrom, E. (Governing the Commons: The Evolution of Institutions for Collective Action. Cambridge University Press. 1990) developed this roster after reviewing dozens of studies of farming and grazing systems.

12. Keesing, F.M. (1962) The Ethnohistory of Northern Luzon. Stanford University Press.

13. J. Shoup, The Middle Eastern Sheep Pastoralism and the Hima System, in J.G. Galaty and D.M. Johnson, eds. The World of Pastoralism: Herding Systems in Comparative Perspective, pp. 195-215. (New York: The Guilford Press.)

14. J.G. Galaty and D.M. Johnson, eds. The World of Pastoralism: Herding Systems in Comparative Perspective. (New York: The Guilford Press.)
15. D. Worster, Under Western Skies: Nature and History in the American West. (New York: Oxford University Press, 1992), p. 51.
16. G. Hardin, "The Tragedy of the Commons." Science 162 (1968): 1243-1248.
17. Colorado Rangeland Reform Working Group, The Colorado Working Group Rangeland Reform Proposal (Denver: Governor's Office, 1994)
18. See Johanna Wald, Ken Rait, Rose Strickland, and Joe Feller, How Not to be Cowed. Livestock Grazing on Public Lands: An Owner's Manual. (Salt Lake City, UT: Natural Resources Defense Council and Southern Utah Wilderness Alliance. 1991).
19. Bonnifield, P. (1979) The Dust Bowl. Albuquerque: University of New Mexico Press. Hewes, L. (1973) The Suitcase Farming Frontier. Lincoln: University of Nebraska Press. Hurt, R.D. (1981) The Dust Bowl. Chicago: Nelson-Hall.
20. Swanson, L.E., S.M. Camboni, and T.L. Napier (1986) Barriers to Adoption of Soil Conservation Practices on Farms. In S.B. Lovejoy and T.L. Napier (eds.) Conserving Soil: Insights from Socioeconomic Research, pp. 108-120. Ankeny, IA: Soil Conservation Society of America. See also D.E. Ervin (1986) Constraints to Practicing Soil Conservation: Land Tenure Relationships, in the same volume. Ervin cites evidence suggesting that the problem may have lessened as government rules were tightened, as landlords placed more demands on renters, where renters expect to own the land sometime in the future.
21. Blaikie, P. and H. Brookfield (1987) Land Degradation and Society. London: Routledge.
22. See Hess, K., Jr. (1992) Vision Upon the Land: Man and nature on the Western Range. Washington, DC: Island Press, for several thoughtful proposals. J. Holmes has made similar proposals for Australia's grazing lands (e.g., "Ricardo Revisited: Submarginal Land and Non-Viable Cattle Enterprises in the Northern Territory Gulf District." Journal of Rural Studies 6: 45-65, 1990)