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1995

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Citation Information

Estill, Elizabeth, "The Benefits of Professional Public Land Management" (1995). *Challenging Federal Ownership and Management: Public Lands and Public Benefits (October 11-13)*.
<https://scholar.law.colorado.edu/challenging-federal-ownership-management/8>

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Elizabeth Estill, *The Benefits of Professional Public Land Management, in CHALLENGING FEDERAL OWNERSHIP AND MANAGEMENT: PUBLIC LANDS AND PUBLIC BENEFITS* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1995).

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The Benefits Of Professional Public Land Management

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**Challenging Federal Ownership And Management:
Public Lands And Public Benefits**

**Natural Resources Law Center
University Of Colorado
School Of Law
Boulder, Colorado**

October 11-13, 1995

The Benefits Of Professional Public Land Management

Summary Outline

by Elizabeth Estill
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Introductory Comments

I. Arguments For The Public Estate

A. About 120 years ago in America, if people thought about forests and grasslands at all, the prevailing belief was that these were inexhaustible resources. But just a few decades later, as people were coming into greater contest over these resources, Americans began to think about and debate the merits of conservation. (McHenry and Van Doren, *A Documentary History Of Conservation In America*, Praeger, 1972.) Policymakers generally were aware of two classic arguments for conservation.

1. First, there are natural resources that are so especially unique or scarce they merit protection as goods belonging to the whole community.

The remarkable places of our National Wilderness System are one example of this kind of singular public good in America. The need to actively watch over near-extinct species is an example of the corollary argument for public resource management agencies.

2. The second argument lies in a classic dilemma, which Garret Hardin would later neatly describe as "The Tragedy of The Commons." The "dilemma" is that when individuals maximize their own private economic (or non-economic) interest in use of a commonly held resource, they cannot help overexploiting and ultimately extinguishing it.

The dilemma can be resolved theoretically in a number of ways. One solution rests on the theory of the pure marketplace, and typically results in monopoly. Once the monopoly is achieved, the self-interests of the monopolist causes him to conserve the Commons. Another solution resolves the dilemma by employing government to assert the primacy of the common interest, typically through regulation of the users.

These two social concerns -- what to do about the scarcity of natural resources, and the tendencies of people to extinguish the Commons in pursuit of their own welfare, were at the crux of the first great conservation debate in our society.

B. After considerable political struggle, our society chose to resolve this dilemma (and the debate) by setting aside some of its lands as a public estate.

We adopted two simultaneous strategies:

1. Some lands, especially those with unique or singular features, were set aside as National Parks, and would later be set aside as Fish and Wildlife Refuges. The objective would be to preserve these lands as we found them. To protect them, a small number of professional land managers were called into public service. These managers were to serve primarily as "caretakers" for these lands.
2. Some lands, the larger portion, were established to be used by people as the Commons. These came to be the National Forests, the National Grasslands, and the lands administered by the Bureau Of Land Management. The Commons were intended to be conserved through governmental regulation.
 - a. To make this as socially acceptable as possible, the professionals called to service here were to regulate by "cleverness." That is, they were to be so scientifically knowledgeable of forestry and rangeland that they could find the "wise use" patterns which would conserve the Commons for all time. They were to take the interests of the "Common Person" as their own so that they would be led to find that particular "wise use" pattern most useful to the people they were directed to serve.
 - b. An interesting thing, a "formative experience," happened to this body of professionals as they formed up and took their duty stations in the Western US. People there were involved in the range wars and the social turmoil associated with the closing of the Frontier. They were growing tired of butchering each other over who owned and who could do what with the land. So, in small town after small town, Forest Service and BLM people found themselves being placed into the roles of conflict resolver, social arbiter, and peacemaker.

In the time since then, the extent of the public estate sometimes expanded and sometimes contracted. Portions of it came under steadily greater protection through designation as Wilderness, National Recreation Area, or like device.

The policy of federal land ownership came into question several times, but we consistently chose to retain these two strategies for maintaining this estate. (Dana and Fairfax, Forest And Range Policy:

Its Development In The United States, McGraw-Hill, 1980.) For a hundred years, we consistently trusted in the scientific knowledge, the professionalism and the cleverness of our public land managers to protect the Commons, to resolve social issues, large and small, and to make this solution work. Generally, we continued to be persuaded by the original two arguments -- that these lands have special features meriting protection as public goods (the idealist in ourselves), and because we understood the potential for the tragedy of the Commons (the pragmatist in ourselves).

II. Dilemmas Of The Commons Today

Over the last while, we have grown increasingly dissatisfied with this arrangement. Today, not everyone is satisfied that fundamental issues associated with protection of the Commons are resolved, or that the way we are resolving them is fair.

"Fairness" is more important here than many people, especially in the environmental community, may think. "Fairness" strikes at the heart of this arrangement. The very notion of the Commons rests on the presumption that its administration would be "fair." Once it is perceived to be unfair, we should not be surprised to hear cries to "give it back."

But, to return to the point, few people are satisfied by this arrangement today. Not because establishment of the public estate was a poor idea. Knowingly or not, we are dissatisfied because some things have changed during the last 100 years.

A. In the hundred years we have taken to establish and build-up the National Forests, the National Parks, the Wildlife Refuges and the other portions of our public estate, human alteration of the natural world has accelerated.

Vast tracts of land came under cultivation during the period of our agrarian development, and have no present resemblance to their original state. These ties to the past are broken. Even if we wished, we do not possess enough knowledge or technology to rebuild them exactly as they were. Almost all the Nation's rivers have been harnessed and tamed. Since World War II, we've seen the growth of the cities, and the land and water consuming expansion of the suburbs. In our nation's history, these things have been needful and represent the wisest courses of action known to the people of the time. Now we are witnessing the ...perhaps not so wise... full exploitation of all the coastal ocean's resources and cultivation of the last of the world's great jungles and rainforests. Only Antarctica and the High Seas remain relatively untouched -- but the agreements by which these remain are very fragile.

B. The significance of these changes in our world ... for our current discontent ... isn't entirely in the fact or the pace of alteration itself. Our public and political discontents lie more in the fact that even though the public estate in the our country has increased in size, and larger shares of it have come under greater levels of protection, it is still becoming more and more scarce relative to the rest of our world. ... And relative to the pace at which we are finding additional value in and new uses for the public lands.

Thirty years ago, would any of us have challenged a rancher for his right to struggle through the way of life of his ancestors ... and to pass that life on to his children ?

This phenomenon is resulting in tremendous competition from every segment of our society for our publicly owned resources.

C. For political leaders charged with administration of the public estate, the root trouble lies in a kind of complicated feature of this phenomenon. The trouble lies

the difference between ---

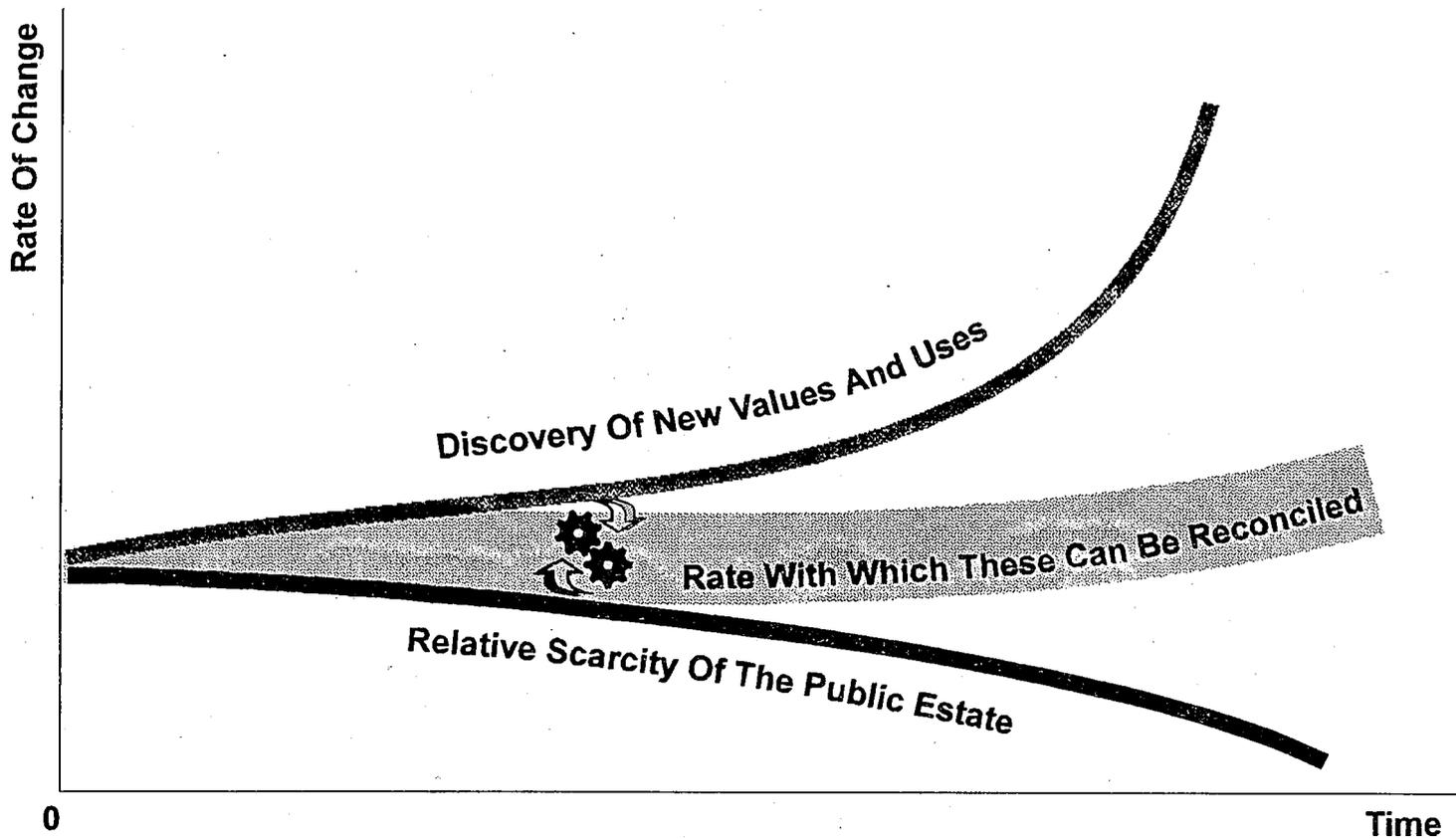
the pace at which management of our public estate can be fitted to changing social needs and values,

and

the pace at which new demands are imposed on the estate by all segments of society.

1. We do things in this society by representation of interests, by debate and deliberation, and by constructing social agreements. It takes time to craft a good compromise. The pace at which we can work through the process of deliberation, especially at the national level, is being steadily outstripped by the rate at which new demands are growing. Not knowing how to deal with this, --- not being particularly patient people, or being afraid of what might occur to the environment if we wait, --- we resort to use of the courts as weapons, to vilification and propaganda, and sometimes to violence against each other.

2. In its present form, this problem of the Commons is something like a problem in calculus which appears to have no feasible solution.



Hence, our casting about for radically different solutions ... such as those which prompted this forum.

D. As if this Calculus Of The Commons problem is not trouble enough, there are two complicating factors I wish to draw our attention to.

1. First, we are becoming more diverse as a nation and we live in a wider variety of circumstance than we did a hundred years ago. This figures into the political calculus of the Commons in several important ways.

a. People's understanding and experience with the natural world are now highly varied, and becoming more so. Our perceptions of environmental issues differ, it is increasingly difficult for us to come to share simple premises, and we increasingly draw different conclusions about the proper role of the public estate in our society.

b. People, social groups and communities exist in different physical and social settings and really do experience different needs. A popular complaint about big government is that federal agencies attempt to administer in a uniformly fair way, but sometimes are so unresponsive to local conditions that they violate common sense.

federal agencies attempt to administer in a uniformly fair way, but sometimes are so unresponsive to local conditions that they violate common sense.

In terms of the Commons, growing diversity of social and physical condition means that it will become steadily more difficult to discover ways of resolving the dilemma which are generalizable across the Nation.

The immediate implication is, as the complaint about "the common sense of local conditions" suggests, that it may be reasonable to start looking for more ways to tailor solutions to local conditions.

2. Certainly some people think so. This is my second "complicating factor." The pattern of political power is widely reported to be shifting to the States and the regions of the Nation. . . .
[expand]

Some features of the present situation make it seem more likely that answers to these problems will be hammered out in the States and regions, than in the Nation's Capitol.

3. But these two "complicating factors" are in themselves capable of creating a problem for the public estate. It's hard to hold to biological integrity in the face of political centripetal forces.

a. One of the more significant implications for management of the public estate comes from a repeated observation in the ecological sciences. This is the observation that the crucial processes essential to functioning of terrestrial ecosystems operate at larger scales than we've thought in the past. In fact, the scales of these crucial processes often transcend political and administrative boundaries, ... as do the ecosystems themselves, of course.

b. So, just as we are contemplating the wisdom of moving crucial political decision processes "downscale" to the regions, states and local level, we are finding it necessary to move "upscale" to articulate effective strategies for the sustenance of species, ecosystems, and not incidentally, for the small rural communities dependent on these ecosystems.

There is seemingly more than one dilemma to management of the Commons today.

III. The Role Of The Professional Public Land Manager

Turning now more directly to the role of the professional public land manager

I'm not going to claim to you that professional land managers in the public service can overcome the root structural troubles of the public estate in our generation. I've mentioned these things because one of the benefits taxpayers receive for their dollar is that we think about these issues and problems. One of the responsibilities of the Forest Service (and the other land management agencies) is to try to understand these matters and represent them to the Administration and to Congress. We try to understand these issues also so that we may do what we can to adjust the configurations of our Agencies to better grapple with these matters.

It is on this basis (and not on the basis of a structural solution to the current dilemmas), that I am going to point out that professional public land managers can contribute in significant ways.

A. Let me begin by introducing you to the characteristics of professional land managers who are in service to the general public. While I am doing this, you should keep in mind the idea that agencies such as the Forest Service obey the laws of evolutionary biology just as living organisms do -- and that over a 100 years time, they've come to select their members for certain traits.

Allow me to introduce you to District Ranger Johnny Hodges.

1. Age, professional education, family, children in schools, long time leader of Boy Scouts in rural areas, key member of community service organizations in this small town, experience on the land, particular skills and expertise applied to his job, and applied to the economic and social difficulties of this small town. Accomplished the following for his community. Accomplished the following for the land he is sworn to protect.

Not a typical faceless member of a faceless bureaucracy as we commonly envision it.

2. Entered public service at considerable personal expense (recount). Like any Forest Service officer, dedicates a portion of his private life, and the private life of his family to his work of "protecting the land and serving the people."

In effect, Johnny understands the Forest Service to be a *verb* rather than a *noun*.

That is, it is a "calling", which goes beyond "a job" and even beyond "a profession:" Johnny is not a doctor or a lawyer or an engineer, he is something in addition to a professional. He is additionally...a federal public servant.

3. In an age of sophistication and urbanity, Johnny understands it is his duty to be honest, forthright, prudent, and to act in the interest of all people to the extent that he humanly can. "Duty" is kind of a funny, unsophisticated word to use in this day and age: we would rather use the word "responsibility" in speaking among ourselves. But that word doesn't quite convey the sense of obligation each of us feels to the land and to the American people in all walks of life. A sense of "duty" is selected for in the Forest Service.

Lest I cast unwelcome inferences on Johnny with my use of the word "duty", let me quickly point out that Johnny is not particularly "simple" or naive. He knows he is responsible for on-the-ground, daily resolution of complex scientific and political issues. And Johnny is more prudent than brave. Given the lack of clear answers to these issues in our society, He attempts to constantly train himself in his individual area of scientific expertise and in his public skills. All our Rangers and field-going people are taking knowledge of things such as landscape ecology, the fluid dynamics and aquatic biology of stream processes, and geographic information systems in great gulps these days. They are being schooled in the features of local governments, demographic and economic change in the West, and practical methods of community facilitation and collaboration. These skills and knowledge are so that they may be useful to the people they live with and serve.

4. Not a typical bureaucrat as we commonly envision one, but not unique either. I would not insult you (in this audience) by selecting a Forest Service "poster child" to illustrate the point. The *point* is that the operational characteristics I've used Johnny to illustrate are *the personal terms of service for all members of the Forest Service*.

B. The United States is perhaps unknowingly blessed with a hundred years of selection for the finest, most competent body of professional land managers existing in the world today. The ranks of the Forest Service, the Park Service, the Bureau Of Land Management, the Natural Resources Conservation Service, and the Fish and Wildlife Service are filled with men and women of high moral caliber, some of the world's most outstanding physical and biological scientists, and some of its best engineers and designers.

Many people in our society are willing to criticize the actions of the federal agencies these people represent, but it is a rare thing to find someone willing to criticize the people themselves. And this is a

good thing, because citizens have influence and control over the policies and acts of the Agencies. But if we needed to, we could not quickly create another body of professional land managers such as these without a hundred years of trying.

C. How might this body of professional public land managers be employed in dealing with the current problems of the Commons ?

1. I think it goes without saying that we need well-trained, highly professional and highly morale people to administer the public estate. We may need such people more today perhaps than we did in the past ... because we are altering the physical world around the Commons. Public forests, grasslands, deserts and lakes are not untouched by these physical changes. And people are bringing new things into the woods with them (ATV's) and using the land in new ways. It is taking increasingly sophisticated science and technology to maintain the Commons, and new and different kinds of agency organizations.

2. We also may need them more today because of the observation made earlier ... that we are living in increasingly diverse physical and social settings.

It is less and less realistic to believe that the single "Use Book" Rangers used to carry in their saddlebags can span the conditions of people living here in the remote mountains and the cities and forests we've invented in Southern California. If we do not want excessive regulation in our society -- a rule for every circumstance -- then we must be willing to rely on people. We must be willing to depend on their native intelligence and common sense, on the depth of their knowledge, and on the quality of their character.

3. While these properties of our people are good, they aren't enough to begin getting at the root troubles.

Speaking for many observers, I've said that important characteristics of the public lands (such as wild places with their full natural complement of birds and beasts, opportunities for solitude, and even land suitable for growing timber) grow more scarce relative to the characteristics of other lands in America.That social groups generate more and more demands for the ways these things ought to be used ... or not used.That we cannot reconcile these competing demands fast enough.

But I've also suggested that there is value in the social and physical diversity we find across the land, and that gridlock at higher levels shouldn't dissuade us from resolving competing social

interests at local levels. I am plainly hinting that devolving some of the responsibility for decisions over the Commons to local, state and regional collaborations might confer advantages in this particular Calculus Of The Commons. I mean it to be equally plain that I am referring to decisions about which combination of interests to be served, and which higher order values to be achieved in which places. And I mean it to be plain that I am speaking of decisions which lie "within reason" and which are "responsible" to the physical and biological necessities of the Commons, and to the people the Commons serve.

This kind of an arrangement would confer two primary advantages on us --

a. It would provide our society with opportunity to reconcile issues we seem not able to reconcile at higher levels, either because in that arena land management issues become trading stock for other problems, or because in that arena we place so much freight on these issues, we can't afford to lose.

b. There is the possibility that we could ensure better protection for at least some portions of the public estate than we are afforded now. The federal tax dollar is slated to become relatively scarce in our society. Partners sometimes find more resources to work with than agencies acting alone.

4. But this kind of devolving of responsibility requires an "agent." One is needed to foster collaboration, and to provide the connective tissue across local jurisdictions which ensures protection of the Commons at larger scales.

a. At the local level, we don't really have any institutional bodies organized to deal with common land management issues, nor do we have these in the States and in the regions. Instead, we have a multitude of specialized institutions, each dealing with just one or two facets of land management, or one land ownership. The federal land management agencies are, by and large, decentralized agencies. Professional land managers live in the communities they serve, and, as we have seen, already play important private and professional roles in these communities.

We do need collaboration among the many specialized institutions and people with interest in the land. We do need people skilled in fostering this collaboration. By and large, we have people with these skills in the guise of our professional public land managers.

Our professional land managers are also long experienced in securing the common interest through methods fitted to the conditions of the local area.

b. We know, on ecological grounds, if not through common sense, that thousands of small balances do not necessarily add up to balance in the whole.

Our "agents," while fostering collaboration at the local level, also must be capable of effecting a consistent and coordinated approach to preservation of rural communities, endangered species and the functioning of ecosystems throughout the nation.

This is the special function of the Agencies, as opposed to the functions of individual land managers. It is, perhaps, the thing that our federal agencies should now focus on in their accountability to our larger society --- and our society might wish to focus on in its requests for accountability by the Agencies.

Nothing described here suggests a very large change in the ways our society has chosen to approach the public estate or the problems of the Commons. The federal land management agencies are now moving in this direction, driven partly by changes in the federal budget, and partly in the belief that these may be better ways to employ our professionals in protecting the land and serving the people.

This is not the whole answer to the dilemmas of public land management we face today. It is just a little contribution to the solution -- wherever that lies. But I do not believe the trust we've placed in professional land managers during the last hundred years has been misplaced, ... or gone unearned. And, until we do have a more powerful resolution for these dilemmas, I believe we can construct some answers to our problems around the men and women of the federal land management agencies.

IV. Concluding Remarks

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