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Reforming Public Land Management with New Incentives

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**Challenging Federal Land Ownership and Management:
Public Lands and Public Benefits**

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Reforming Public Land Management with New Incentives

by Randal O'Toole

Summary

Nearly all of the environmental problems that besiege public lands can be traced to the budgets that govern the agencies managing those lands. Those budgets generally reward public-land managers for losing money on environmentally destructive activities. Well-trained managers with the best of intentions end up responding to those rewards rather than managing the land in the best possible way. The results are familiar: below-cost activities, shortages of valuable resources, user conflicts, and bureaucratic bloat.

Public land controversies and problems will be resolved only when the budgetary rewards are changed. Such a change must create and emphasize a feedback loop from the land to the manager. This means a system of user fees, a share of which is kept by the agencies managing the land.

To insure a level playing field, managers must be allowed to charge fees of all users. Agencies must also allow people to purchase timber, grazing rights, or other resources even if they don't intend to use those resources—effectively creating a system of conservation easements on federal land.

Finally, special provision must be made for resources that cannot be protected through user fees—especially biodiversity. A biodiversity trust fund, seeded with a share of public land user fees, can effectively insure the protection of endangered species and other aspects of biodiversity.

Top Down or Bottom Up?

The federal government can manage public lands and resources either from the top down or from the bottom up. Top-down management means that Congress or a centralized bureaucracy determines what is right and imposes that solution down to the ground. Bottom-up management means that Congress creates a set of structures and rules and then lets on-the-ground managers make the day-to-day decisions.

Representatives of many interest groups are convinced that they know the best way to manage public lands, and they fear that—given discretion—local land managers will come up with the “wrong” answer. Thus, interest groups continually—and sometimes inadvertently—press for the top-down solution.

The result is a hodge-podge of mandates, slush funds, and special interest favors that often conflict with one another and that inevitably generate mountains of red tape. Users are neither well served nor satisfied with the land management that this produces, but few seem willing to give up the dream of top-down management that favors their interests.

One of the side effects of top-down management is the increasing polarization over public land issues. This is no accident: It is the predictable result of a system that promises total victory to those who are the best organized politically. Interest groups quickly discover that political organization thrives on enemies and demonization.

Bottom-up management doesn't promise total and complete victory over ones enemies. Thus, it holds little attraction for the interest groups attempting to influence public land management. Yet if the rules are carefully designed, bottom-up management can result in a system that satisfies nearly everyone and promotes cooperation instead of polarization.

Top-Down Rewards Bad Management

As interest groups compete to get the laws and regulations written in their favor, few pay attention to agency budgets. This is a mistake, since those budgets usually provide the real guidance for what an agency does. Given a conflict between the budget and the law, the agency will usually end up following the budget.

Nearly every environmental problem on the public lands can be traced to the budgetary process. Most often, agency budgets reward managers for losing money on environmentally destructive activities. For example:

- Despite multiple-use legislation, Congress lets the Forest Service know what it really wants by giving the agency **99 percent** of its budget requests for timber sales but only **70 percent** of its requests for most other resources.
- National forest managers can also keep an **unlimited share of timber receipts**, leading them to treat timber as a fund-raising tool. In contrast, they aren't allowed to charge fees for most recreation and can't keep most of the fees they do collect.
- The Bureau of Land Management gets significant funding from Congress for range management. Congress affirms this bias by allowing the agency to keep **half of all grazing fees** plus all of certain oil and gas revenues for range improvements.
- The Park Service isn't allowed to keep fees collected from concessioners. As a result, it negotiates low fees and instead has the concessioners provide **in-kind** services to the parks.

Below-cost timber sales in fragile watersheds; conflicts between wildlife and livestock; elk overgrazing in Yellowstone and Rocky Mountain parks; overcrowding in Yosemite and Grand Canyon parks; and many other public land problems can all be traced directly to top-down management and, in particular, to the resulting budgets.

Bottom-Up Budgeting to Reward Good Management

Budgeting from the top down creates perverse incentives for managers to overuse natural resources and for users to fight over resources and funds. Budgeting from the bottom up can solve these problems, but only if certain criteria are met.

First, agency budgets must come from user fees, not tax dollars. Funding out of user fees ties managers to users and gives managers immediate signals about whether they are doing well or poorly. Funding out of tax dollars leaves managers beholden to politicians and special interest groups.

Second, agencies must be allowed to charge for all uses. Any uses that lobby for low or zero user fees will actually be doing themselves harm, since managers will be most responsive to those who pay them the most.

Third, agencies must be funded out the net income they earn from resource management. Funding agencies out of the gross will lead to overdevelopment as managers use any profits they earn to cross-subsidize money-losing—and probably environmentally destructive—activities.

Fourth, the use-it-or-lose-it contracts that pervade federal land management must be changed to use-it-or- conserve-it. This will make it possible for people to buy timber sales and not cut the trees or to pay grazing fees and leave the forage for wildlife.

Finally, some provision must be made for those resources that cannot be protected by user fees. Biodiversity is the most important such resource. The natural tendency is to fund these resources out of tax dollars, but that will merely create a whole new set of top-down problems as powerful members of Congress fund their favorite endangered species and neglect the rest.

Privatization Won't Solve Public Land Problems

Some people argue that privatization of the public lands is the ultimate form of bottom-up management. But privatization is neither necessary nor sufficient to solve public land problems.

A glance at U.S. agricultural policy shows why privatization is not a sufficient solution. The nation's 420 million acres of agricultural crop lands receive an average of

\$15 to \$20 billion of direct federal subsidies per year. This does not count subsidized irrigation water provided by the Bureau of Reclamation or the costs to consumers of higher prices imposed by import tariffs on sugar and other protected farm products. This means that the average subsidy is well over \$35 per private-farm acre.

By comparison, the nation's 640 million acres of non-defense federal lands receive direct federal subsidies of less than \$6 billion per year, or under \$10 per acre. Privatization is clearly no guarantee of an end to subsidies.

Outright privatization will fail to protect biodiversity and other environmental values that cannot be captured in the marketplace. Advocates of privatization say that this problem can be solved by selling lands with protective covenants that will protect such values. But this means privatization will require two major political battles: One over the protective covenants and one over privatization itself. Neither of these battles are necessary to solve the fiscal and environmental problems posed by federal lands.

State Control Won't Solve Public Land Problems

As a less controversial alternative to privatization, some people propose that federal lands be turned over to the states. But a review of state land and resource management reveals that the states' records are little better than that of the federal government.

A survey of fifty state park agencies found only two that are funded entirely out of user fees. A survey of the fish & wildlife agencies in 47 states found only ten that are funded out of user fees and federal grants from taxes of hunting and fishing equipment. At least fifteen states lose money on their state forests, and nearly all of the state forest agencies depend heavily on state tax dollars for general forestry programs.

In general, the states are just as likely as Congress to cater to special interests by passing special mandates, creating slush funds out of user fees, or building other favors into state land policies. Nor are state legislatures any more aware than Congress of the incentives created by the budgets they prepare for state land and resource agencies. Few states allow agencies to keep user fees without going through an appropriations process, and many penalize managers for earning more revenue by simply cutting other parts of their budgets.

Some state agencies do make money, but ironically they do so because of a requirement in federal land grants that lands be managed for schools or other beneficiaries. Even this does not insure good management unless the agencies are carefully monitored by the beneficiaries or other parties.

Transferring federal lands to the states may save federal tax dollars. But it is not likely to improve land management. Nevertheless, the state experience suggests that the land trust might be a good model for reforming federal land agencies.

A Proposal for Federal Land Trusts

Public land reforms should accomplish several goals. They should make land managers more responsive to users and more sensitive to environmental values. Reforms should save taxpayers money, possibly even returning money to the Treasury to compensate for all of the expenses incurred over the past century. Finally, they should lead users to cooperate with one another rather than polarize over public land disputes.

To achieve all of these goals, I propose to convert federal lands into public land trusts as follows:

- Each unit of the national forest, national park, and national wildlife refuge systems as well as each BLM district would become a **separate land trust**. At the discretion of the secretaries of Interior and Agriculture, some units might be merged at the outset and other units could later merge through cooperative agreements.
- All of the land trusts would have an obligation to manage the lands **in trust for the people of the United States**. A land trust that abuses this obligation could have its charter revoked by Congress at any time.
- Each land trust would have a **membership** consisting of anyone willing to pay a modest annual fee. **Members would elect the land trust's board of directors**.
- The board of directors would have the power to **hire and fire** the land trust's supervisor or superintendent and to **approve annual operating plans** and budgets.
- Land trusts could **charge fees of all users at fair market value** and would be encouraged to form cooperative agreements with adjacent landowners for joint fee collection and enforcement as well as to sell conservation easements to people who want to buy development rights but not use them.
- Congress would appropriate seed money to each land trust equal to its previous year's budget. Thereafter, the trust would **keep all the net income** it earns each year. Accounting would be simple: At the end of the year, an auditor would total the trust's receipts, subtract the costs, and give the trust the net. Unspent funds could be carried over, and trusts might be given limited borrowing power. Unlike state land trusts, these federal land trusts would not be obligated to make money, but they would have an incentive to avoid money-losing activities.

- In lieu of property taxes, counties would get a fixed share of gross receipts. Considering that an expansion of user fees would greatly increase those receipts, dedicating 10 to 15 percent to counties would maintain or increase payments to nearly every county that now receives payments from federal land agencies.
- National forest and BLM wilderness areas would become their own separate land trusts, perhaps grouped on a state or regional basis. Wilderness boards of trustees would be elected by wilderness permit holders and would use wilderness fees to buy conservation easements on adjacent lands, thus expanding the wilderness system as people use it.
- To protect biodiversity, 20 percent of all land trust revenues would go into a national biodiversity trust fund. A board of trustees consisting of conservation biologists or ecologists selected by, perhaps, the Secretary of the Interior or director of the Smithsonian would decide how to spend this income. The board could buy conservation easements, pay public or private land managers to use or avoid certain practices, or pay bounties to landowners whose land provides breeding habitat for selected rare or endangered species.
- A similar trust fund could be created to protect **historic and prehistoric resources**. This trust fund would get its funding from 20 percent of the receipts collected by the 204 National Park System units that are primarily of cultural interest.

As proposed, this system contains numerous checks and balances to insure that federal land management is environmentally sensitive, fiscally responsible, and responsive to users:

- Funding out of net income gives managers an **incentive to avoid environmentally destructive** below-cost activities;
- A broad range of user fees gives managers an **incentive to balance the range of resources** they produce;
- Conservation easements, the wilderness trusts, and the biodiversity trust fund will give managers an **incentive to protect noncommodity values**;
- The board of trustees would provide a further check to insure that managers consider a **broad range of values**. Note that, since anyone can join a land trust and vote on board membership, each board will have a local–national balance that reflects the national interest in the land each trust manages;
- The ultimate check on each trust lies in Congress' power to **revoke the charter** of a land trust that abuses the land in its care.

In 1994, national forests, national parks, national fish & wildlife refuges, and BLM districts cost taxpayers \$4.7 billion more than they returned to the Treasury. Assuming

reasonable user fees, I project that this proposal will instead return nearly \$750 million to the Treasury each year. The biodiversity trust fund will have nearly \$1 billion per year, which is significantly more than agencies now have to protect endangered species.

The trusts themselves will enjoy budgets of about \$2.5 billion per year. While this is less than half of their current annual budgets, a huge percentage of those budgets are absorbed by higher levels of the bureaucracy—state, regional, and Washington offices—that will largely disappear under this proposal. Given the incentive, on-the-ground managers should find ways to increase fees and reduce costs.

A few units of the National Park System—primarily historic sites that receive very few visitors today—will have a hard time making it under this system. These are mainly areas that probably should never have been made national parks in the first place. A process might be created to simply turn these areas over to state or local agencies or non-profit groups.

Not only will this system reduce environmental problems, it will reduce environmental controversies. Rather than shrilly debate public land management, environmental groups and land users will have an incentive to cooperate with one another. Instead of opposing all livestock grazing, wildlife supporters may negotiate reductions in grazing with ranchers. Instead of appealing timber sales, wilderness advocates will bid on them using wilderness permit fees. Instead of opposing all mining or oil & gas drilling, endangered species advocates will use biodiversity trust funds to ensure that such mining or drilling is sensitive to other resources.

Conclusions

Public land management is flawed and contentious because it is dominated by a top-down process that encourages favors to special interests and promotes polarization to obtain such favors. By setting up a process that encourages bottom-up management with appropriate checks and balances, Congress can:

- Protect a broad range of environmental values;
- Promote sustainable production of multiple commodities without conflict;
- Eliminate a major source of public friction; and
- Save taxpayers more than \$5 billion per year.

Although this seems to be a win-win situation with benefits for nearly everyone, interest groups remain reluctant to support it for fear that some other group will obtain favors at their expense. To overcome this obstacle, I am beginning to promote a concept I call “subsidies anonymous”:

“My name is Randal, and I am a subsidized public land user. I am willing to give up my subsidies *provided* all other public land users give up their subsidies.” When presented in this way, this proposal gains the support of a wide range of environmental and user groups, including ranchers, timber purchasers, recreationists, and wildlife advocates. With this broad support and Congress’ current willingness to consider new ideas, it should be possible to resolve these issues.

The land trusts I have proposed may not be the only way to solve public land issues. But they are the best way I have found and one that is also politically feasible since they maintain all of the goals of public lands that we cherish—such as multiple use and sustainability—without any of the current problems.

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