

The Sagebrush Rebellion

Trudie Olson



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From rejection, to retention, to rebellion—so has swung the pendulum of public opinion over Bureau of Land Management lands in the West. The Sagebrush Rebellion, a move on the part of western states to wrest control of land from the federal government, is where some opinions have opted to swing at this point. The Rebellion has emerged as an expression of frustration and resentment with what some Westerners feel is over-regulation, over-control, and over environmentalism. It translates into a generalized anti-government sentiment, and its roots are as penetrating as the history of the West itself.

Rejection Phase

As the pioneers, the cowboys, and other enterprising entrepreneurs trekked west, the public domain was gradually parcelled out for homesteads, railroads, National Parks, National Forests and so on. (Public domain was land that the U.S. Government had acquired through the Louisiana Purchase, the Oregon Compromise, the Mexican Treaty, etc.) Land dispositions were handled by the General Land Office, which transferred about 72% of the original public domain into private ownership. Naturally, that 72% included the most prime and economically productive parcels. The leftovers, about 400 million acres, were "the lands nobody wanted." Although nobody wanted to own them, many people wanted to use them.

A public land grazing pattern emerged where a rancher would winter his livestock on deeded land, then turn them onto public domain during the summer. This traditional grazing use led to deterioration of the rangelands in many areas, and prompted Congress to pass the Taylor Grazing Act in 1934. The Act was designed to regulate grazing, to protect resources and stabilize the livestock industry.

In 1946, the Taylor Grazing Service and the General Land Office were combined, and the Bureau of Land Management was born. The BLM became the sole responsible agency for

overseeing the "left over" 400 million acres. Custodial management was the order the day. The BLM was regulated by a myriad of diverse and sometimes conflicting public laws, many of which called for disposal. It frequently capitulated to the needs of the ranchers and the miners. Bonds grew between the land and the users of the land that were more akin to ownership than the leasing or renting. Family ranching operations were tied to BLM grazing allotments, and use of those allotments was passed from generation to generation even as the family ranch itself. The rancher felt a vested interest in his BLM "range rights." These ranchers (and miners) epitomized the West's glorious history . . . the spirit of self-determination and rugged individualism. They were the remnants of the daring pioneers who forged the frontier and challenged the land for a living.

The Retention Phase

Little wonder really that this traditional BLM constituency, accustomed as it was to manipulating the agency, should feel a growing sense of concern—genuine fear in some cases—as the 1960's and 70's brought increased and environmental awareness and more national interest in western public lands. Congressional sentiment showed a deliberate shift from development to conservation, and legislation like the National Environmental Policy Act altered the course of federal land management.

For the BLM, the wave of environmental sentiment culminated in the Federal Land Policy and Management Act of 1976 (FLPMA)—a law which formally recognized the vast natural resources and rich national heritage of the 400 million acres. FLPMA called for retention of the lands in federal ownership, management for multiple use, and enhancement of the resource base. It transformed the BLM from a small custodial agency to a growing, dynamic agency with a much broader range of technical expertise.

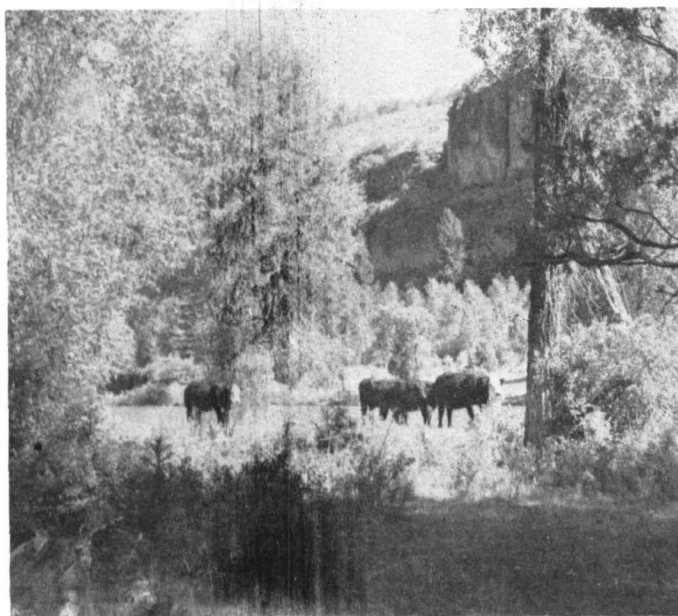
The Rebellion Phase

Federal Land Policy and Management Act— Environmental interests hailed FLPMA as landmark legislation. But western user groups saw it as the end of an era of western control . . . a violation of an implied trust that public lands would eventually be turned over to the states for disposal. They perceived a transfer of power and decision-making authority from BLM field managers to Washington bureaucrats amassing power on the Potomac.

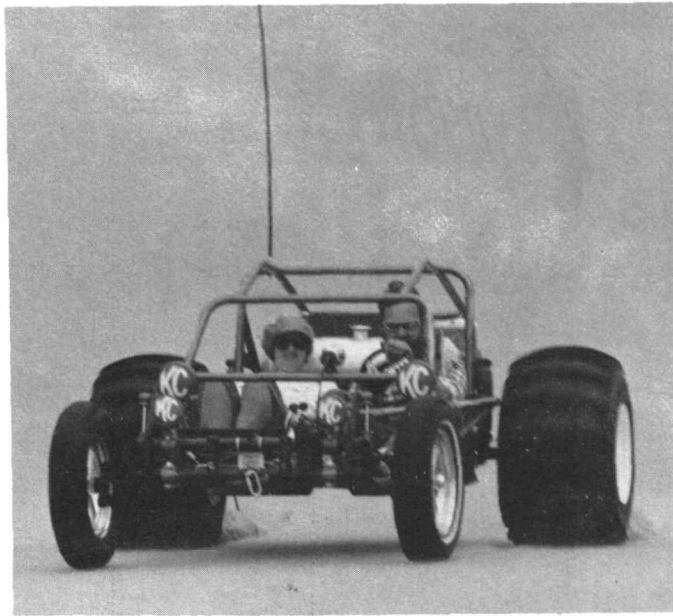
FLPMA was a primary torch in igniting the Brush Rebellion fire. Two other forces, occurring in the same historical con-

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Editor's Note: There was a lot of discussion at the San Diego meeting about the Sagebrush Rebellion and that we should have a penetrating article on the subject in *Rangelands*, perhaps more than one. The rumor got out and, believe it or not, we have received five articles on the subject during the past few months. Surprisingly enough, each handles the subject from a slightly different angle and purpose. So, we plan to use all of them, two in October and the rest in December and February.



To some people BLM grazing lands are part of their bread and butter. (Grazing lands along Snake River in Idaho)



To other people, BLM lands are a weekend playground. (Sand dunes near St. Anthony, Idaho)

text, acted as gusty winds to fuel the flames.

Wilderness Review—The wilderness process was a provision of FLPMA that required a review of all BLM lands for wilderness potential. Following closely on the heels of the Forest Service RARE II, the BLM's wilderness review began in the midst of already hostile public sentiment. Economic groups perceived it as a move to "lock up land" for the benefit of the few.

Grazing Environmental Impact Statements—The second gust of wind blew out of a lawsuit filed against the BLM by the Natural Resources Defense Council. The NRDC claimed the BLM had been negligent in its management of livestock grazing . . . allowing the livestock industry to overuse and abuse the land. The BLM had prepared a programmatic environmental impact statement assessing grazing impacts on a generalized level. The NRDC contended the approach was inadequate and site-specific EIS's were necessary.

The court ruled in favor of NRDC. It held that the rangelands had deteriorated below productive potential and ordered BLM to prepare site-specific EIS's to assess livestock grazing impacts on public lands.

The BLM, already overwhelmed by the onslaught of new environmental requirements, stepped into the Grazing EIS business in a vacuum of previous experience. The court decided BLM should prepare the first EIS's on rangelands in the worst condition—allotments in critical need of rehabilitation. Negative reactions were a foregone conclusion, and the BLM was again embroiled in bitter controversy over policies that seem to emanate from Washington with no concern for Westerners.

Sequence of Events in the Sagebrush Rebellion—A chronology of events dramatizes the surge in momentum from what started as the grumblings of a disgruntled constituency to a political brush fire that swept the West.

In June 1979, the Nevada legislature passed a bill calling for state takeover of all unappropriated land within the State. That September, Nevada hosted a Legislative Conference for Western political representatives. Participants from Alaska, Arizona, New Mexico, Utah, Idaho, Oregon and Wyoming endorsed the Rebellion and returned home to

ignite their own brush fires.

In Idaho, Attorney General David Leroy became a Rebellion champion. He said that the vast extent of federal land ownership in the West coupled with insensitivity by federal agencies precipitated the Rebellion. Leroy admits the insensitivity may not always be a fact. It is, nonetheless, a very real perception in people's minds, and thus is a political reality.

Given an election year and its inevitable rhetoric, the Rebellion has become a popular political calling card. Various forms of Rebellion legislation were introduced in most 1980 western legislative sessions. Some passed. Some didn't. But the fire was spreading!

Implications of the Rebellion

Socio-Political—In September, 1979, *Newsweek* ran an article called "The Angry West vs. the Rest." It portrayed the East as being over-developed and plagued by decadence . . . the West as being rich in untapped resources just ready for development, but hamstrung by an absentee federal landlord. While that article may have overstated the 100th meridian Civil War theory, it did bring national attention to the Rebellion.

However, the East vs. West approach tends to beg the issue. The changing cultural complexion of the West—a dramatic trend towards urbanization—is a more plausible cause of the controversy. The 1980 census will show acceleration of this trend. Ranchers and miners are becoming a minority in their own region, and a more diverse constituency is beginning to feel a vested interest in the public lands for recreation and other uses.

Perhaps the *Newsweek* article might more appropriately have been captioned "A House Divided—the Urban vs. Rural West."

Economic—Proponents often discuss economics as a big Rebellion "plus." But that premise bears questioning.

The dollar value of public land resources varies widely from state to state. States where public lands contain rich mineral reserves (particularly oil and gas) are in good economic posture. BLM's mineral leasing program pays the



Backcountry recreation along Snake River in Idaho.

states 50% of all leasing royalties generated within a state, and 80% of the nation's known oil and gas reserves are located beneath western public lands. However, those reserves are not evenly distributed. Most are concentrated in Wyoming, New Mexico, Colorado, and Utah. Those four states received 87% of BLM's total royalty payments (162.5 million—1978).

The mineral leasing program further calls for 40% of the royalties to be channeled to the Reclamation Fund—federal dollars which are returned to the West for irrigation projects and hydroelectric power generation. Thus, 90% of all mineral leasing receipts already end up back in the West. One might speculate that the administrative headaches, oversight responsibilities, and associated costs would hardly be worth the additional 10% royalties.

A cost-benefit analysis applied to other BLM programs reveals quite a different picture. Livestock grazing is one of BLM's largest programs in terms of acres and numbers of people involved, (175 million acres; 21,000 ranchers). In 1978, grazing program costs more than doubled the receipts, but BLM still returned \$11 million in grazing receipts to the western states.

To ward off any inference of anti-grazing bias, the cost-benefit ratio of most other BLM programs is similar to that for grazing. Developing recreation sites, managing wild and scenic rivers, conducting wilderness reviews, issuing rights-of-ways, protecting scenic and archaeological values, preventing and suppressing fires, are all programs where administrative costs exceed dollar receipts. These are federally subsidized programs that accrue to the benefit of Westerners. Taxpayers in New York and Chicago share the expenses for building a campground on the Snake River in Idaho, protecting archaeological sites in Arizona, rounding up horses in Nevada and improving wildlife habitat in Colorado.

Payments in lieu of taxes are another direct economic benefit. The BLM paid western counties \$82 million in 1979 to cover federal land which is exempt from property taxes. Those dollars are crucial to many counties. Most states would be hard pressed to replace these funds, which causes the counties some consternation. "We see no reason to



Airlifting supplies for a pipeline development in a roadless area north of Howe, Idaho.

believe that a state bureaucrat is any better than a federal one," said Commissioner Max Chilcott of rural Mineral County (Nevada). "Why trade a rich landlord for a poor one?"

Legal—Litigation is one avenue proponents may pursue. Nevada is basing its attempt on what is known as the "equal footing" doctrine, which states that territories being admitted to the Union be admitted on "an equal footing" with the original states. Nevada claims that because it was required to renounce all claims to unappropriated land as a condition of statehood, it was not admitted "on an equal footing" with states that do not have vast federal inholdings. However, in subsequent cases involving state vs. federal litigation, the Supreme Court has held that "equal footing" applies to political rights and sovereignty—not economic status or land ownership.

A second legal blockade to the Rebellion is the "property clause" of the U.S. Constitution:

... the Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.

The Supreme Court has held that the federal government's power over the "care and disposition" of the public lands under the property clause is without limitations.

Third, when Nevada, as well as most other western states, was admitted to the Union, the Federal government required as a condition of statehood, that the Constitutional Convention agree, by "an ordinance irrevocable," to

forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States. ...

The Supreme Court has consistently upheld the federal government's prerogative through these statehood agreements. Some very recent decisions (*State of Utah vs. Andrus* and *State of Idaho vs. Andrus*) have reaffirmed this trend.

Present Situation

Wilderness—of BLM's 174 million acres in the lower 48 states, 71% was dropped from further wilderness consideration during the "first cut" phase in 1979. When the public comment period on the "second cut" is over, only about 12% will eventually undergo study for wilderness potential. The

perception that wilderness review is a massive land lockup conspiracy should fade.

Grazing EIS's—The initial batch of EIS's are completed and filed with the Environmental Protection Agency. Certainly, the BLM fell into some proverbial pitfalls along the way, but those EIS's have paved the way for a more functional approach in the future. Also, those rangelands in the worst condition are EIS history now, and the future should deal some less severe blows.

A significant upshot of this traumatic experience is that money from the Public Rangelands Improvement Act (PRIA 1978) is now pouring in for rangeland rehabilitation. The PRIA was a multi-million dollar Congressional commitment to upgrade the range and consequently bolster the socio-economic conditions of rural western communities. It has already generated \$5.6 million (fiscal year 1980) over and above the \$9.9 million that BLM committed to range improvement work. This "dirt money" is being plowed into project work with a fervor where the EIS's are done.

One is prompted by the magnitude of this federal investment to ponder whether the states, with their limited budgets and over-extended treasuries, would be able to approximate even a token of such a rangeland commitment. The long term benefits will accrue to the western livestock industry as well as the deer, elk, moose, sagegrouse, and other foragers of the public lands.

Forging a Meaningful Partnership—We are at a crossroads in the history of federal-state relations, and the door of opportunity is open. Passing through that door requires channeling the emotional energy from rhetoric to results.

The President, in his environmental message (August 1979), directed the BLM field people to be "good stewards of the land." However, in the same breath, he directed them to be "good neighbors"—to show special concern for the people and institutions of the West who are most directly affected. This message is at the crux of the Rebellion.

"You can't please everyone" is a basic precept of multiple-use management. Given that precept, where do we begin integrating and energizing the federal-state-local spectrum to create some equitable solutions?

First, federal employees need to internalize the connotation of "civil service" . . . their wages come from the taxpayers, and they have an obligation to provide services for those taxpayers. Resource specialists sometimes become so focused on technical expertise that they lose sight of the "people" aspects of management. Condescending attitudes on the part of technicians generate distrust on the part of lay people. Couple this with the "bureaucratic red tape" syndrome and the effects can be overwhelming. A recent *High County News* story captured the sentiment. "Anyone who has tried to work with the BLM . . . has his or her own tales of bureaucratic bungling, unnecessary red tape, ignored public input, lack of understanding of the West, or just plain arrogance." Director Gregg has taken the bull by the horns in directing BLM people to "put themselves in the other guy's shoes" and "cut the red tape."

Second, an integral element of public service is cooperative decision-making. If people are affected by land management decisions, they need to help determine what issues are critical and how those issues should be handled. Section 309 of FLPMA calls for public and other agency involvement in planning. BLM's new planning regulations call for "scoping"—an early and open process for having the public identify significant issues. Once identified, the major plan-

ning thrust is geared to those issues. Thus, the public can guide the planning towards critical local concerns. Citizen advisory councils are another effective vehicle for making cooperative decisions. Use of such councils is on the upswing.

And third, the onus of responsibility for a dynamic federal-state partnership falls partially on the states. Section 202 (c) (9) of FLPMA requires the Secretary of Interior to coordinate with State and local governments. BLM's new planning regulations require consistency with state and local plans, policies, and programs. The problem arises in the quest for the plans or policies. Often they don't exist!

Rather, one finds a diversity of attitudes, opinions and authority, all representing "the State" to some degree. The Governor often can be at odds with the legislature. Differing constitutional or legislative mandates can place the Land Department at odds with the Fish and Game Department, the Health and Welfare Department at odds with the Industrial Development Commission. . . *ad infinitum*. "The State" appears as a maze of dichotomies.

How can these fragmented entities effectively influence federal land management? We can start with a realistic delineation of roles. Each state must tailor its role around its particular needs and priorities, which should define the parameters of the federal-state partnership.

The Governor's office, since it provides executive leadership, would be the logical focus for developing a "State policy," to address growth, economic development, priorities for resource use, financial needs, etc. Perhaps the Governor's office (in conjunction with the legislature and heads of state agencies) could organize a State Policy Board to deal with resource issues.

The California "Renewable Resource Investment Fund," the Alaska "permanent fund," and the Western Governors Policy Office are all positive pioneer efforts. Also thanks to Governor Evans (Idaho) and King (New Mexico), the National Governors Association recently established a sub-committee on rangelands. Though embryonic, these efforts cumulatively portend limitless potential.

Another viable pilot approach, being tried in Idaho, is the Stewardship Committee. It was born through the efforts of Senator Church (Idaho) and Representative Roncalio (Wyoming) when they co-sponsored the Public Rangelands Improvement Act. All affected federal, state, and local agencies, user groups and other interest groups participate. They are charged with developing and implementing a coordinated rangeland management plan for the Challis area. Given the diverse interests, the committee members sometimes end up at loggerheads. They are, nonetheless, still taking and listening. That in itself is a milestone.

Also in Idaho, Governor Evans has strengthened the executive commitment to the Idaho Rangeland Committee—a body of agricultural, academic, political and agency representatives that works to resolve mutual problems. That body is evolving toward tackling coordinated planning efforts and policy formulation.

Dr. Lee Sharp (University of Idaho Range Science Professor and Project Director for the Rangeland Committee) hit the nail on the head. "Coordinated planning is essential," he said, "because we are dealing with ecosystems. They don't recognize administrative boundaries."

Bob Buffington, Idaho BLM State Director, reciprocates these sentiments. "We are seeing the dawn of a new era," Buff says "that puts the BLM and the States on the threshold

of that meaningful partnership." He points out that "any attempt at breaking new ground will turn up some rocks and dull a few plow shears, but the time has come to shift from

inertia to initiative and cultivate." The Sagebrush Rebellion has spawned some fresh perspectives that could alter the course of federal-state relations in the West. ●

Observations on Rangelands and the Political Process

Public Lands and Public Policy



Frank L. Lundburg

More than being simply neglected, for decades the rangeland resources of the western United States has been ignored. The advent of increased population growth, increased demands for energy resources and an increased mobility and awareness of the society as a whole has changed that situation. Now, we in the West find ourselves caught amid increased and sometimes conflicting demands for the use of the lands which have been part of the history and culture of our respective states since before their entry into the Union. These changes, culminating with the implementation of the Federal Land Policy and Management Act of 1976, are causing us to examine certain traditions and principles of state federal relations; of the relationship between economic stability and environmental quality; and of the dilemma of relating concerns which may be in the national interest to concerns which represent the interests of individuals, localities, and states.

Within the past year, this examination has centered around the issue of state versus federal ownership of public lands, known commonly as the "Sagebrush Rebellion." Because the Sagebrush Rebellion has become an emotional issue, it is important to acknowledge the underlying causes and provide alternative solutions for the problems. The Sagebrush Rebellion can be considered to be a representation of citizens' frustrations: first of all about specific issues of the ranching industry centering around the development of environmental statements and other actions mandated by recent statutes and regulations and a perceived national dominance of "environmental" philosophies in national policy. It is also representative, however, of citizens' frustrations about government, especially the federal bureaucracy. Therefore, solutions must lie in some reform of the bureaucracy and more clearly defined roles for the federal government, the states and citizens of the west. The pros and cons of the Nevada Legislation creating the basis for a challenge

in the courts to the federal ownership of the lands are being debated at length and it is not necessary to elaborate here, except to say that there appears on the surface to be ample constitutional precedent for the federal ownership of the lands—in any event, the issue will be decided in the courts, and as such, is somewhat outside the bounds of the subject of public lands and policy.

The following offers some thoughts on that political process as it relates to public land management issues from the vantage point of the office of the chief executive of a state. That process will involve an analysis of how citizens' demands are perceived, how decisions are made in response to those demands, and problems encountered in the implementation of the resulting policies.

First, we must consider how public policy is made. Policy comes about as the result of political leadership responding to the perceived needs of the society. These perceived needs are manifested either through citizen demands or through the personal philosophy of the political leader, or, in most instances, a combination of both. The chief executive of a state must fulfill the responsibilities of representing the people; seeing that the laws are "faithfully executed"; achieving workable solutions to problems all in the context of also providing his own ideas about the management of government—the platform and philosophy he offered the people when he was elected. The role of each element in this process will vary from issue to issue; however, all elements will be present.

The process is complicated, however, by the challenge of representing the people and perceiving the demands they make for which there are workable solutions. During the last two decades we have been experiencing some subtle but profound changes in the political system of this country. Political parties are playing less and less of a role in the decision making process and more and more we are seeing the advent of "single interest" politics. Because of this political leaders are being forced to respond to whichever group on a particular issue carries the most influence. In so doing, the give and take of compromise on issues, the bringing about of consensus is limited. As consensus is diminished, the likelihood of dissatisfaction of groups whose demands are not met increases and hence more vocal opposition is heard about certain issues or groups whether it be "environmentalists," the federal government, welfare, or maybe just

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He attended George Washington University; received a BS degree from Idaho State University at Pocatello and a Master's from the University of Oregon; and attended the College of Law at the University of Idaho for one year.