

Did congress intend to recognize grazing rights? An alternative perspective on the Taylor Grazing Act

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Overview

The federal government long has maintained that the language in Section 3 of the Taylor Grazing Act (TGA) of June 28, 1934 (ch 865, 43 USCS §§ 315 et seq) related to the nature of grazing privileges makes it clear that those privileges are merely revocable sufferances or licenses, not property interests or rights. In most (but not all) cases, the federal courts have been persuaded that the government's position, predicated on the TGA Section 3 language, is correct—grazing privileges are not compensable property rights (e.g., *Acton v. U.S.*, C.A. Ariz., 1968, 401 F.2d 896, certiorari denied 89 S.Ct. 1003, 393 U.S. 1121, 22 L.Ed.2d 652, *Bowman v. Udall*, D.C.D.C. 1965, 243 F.Supp. 672, affirmed 364 F.2d 676, 124 U.S. App. D.C. 283. *Holland Livestock Ranch v. U.S.*, C.A. Nev., 1981, 655 F.2d 1002, *McNeil v. Seaton*, 1960, 281 F.2d 931m 108 U.S. App. D.C. 296, *Oman v. U.S.*, C.A. Utah, 1949, 179 F.2d. 738).¹

The government's position is based on the following Section 3 language.

[T]he creation of a grazing district or the issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest, or estate in or to the lands.[emphasis added]

As the following summary of the hearing records, floor debate, and correspondence on what was to become the Taylor Grazing Act illustrates, there is evidence that Congress did intend to cause previously existing public domain grazing patterns and forage use quantities to be recognized as grazing use (usufructuary) rights subject to Fifth Amendment protection from "takings." It appears that these records of debate, discussion, and testimony have not previously been published; nor have they been called to the attention of the federal courts.

The facts are that only through an unrecorded "mark-up" amendment not subject to public debate was the Senate Committee on Public Lands and Surveys persuaded to amend a key portion of the bill. Apparently involved in insertion of the amendment were the chairman of the Senate Committee on Public Lands and Surveys (Robert F. Wagner of New York) and/or the Senator in charge of the bill (Alva B. Adams of Colorado) and the Franklin D. Roosevelt Administration. The amended portion of the bill (H.R. 6462) would have explicitly established grazing rights

based on local customs, state laws, and state court decisions—including assignment of exclusive use rights to spatially defined areas (subsequently called allotments) customarily grazed during a certain period of time by a specific number of livestock owned or controlled by local stockmen.

Representing the Department of the Interior in rewriting this portion of the bill was the Interior Department's Assistant Solicitor (Rufus G. Poole) who suggested the probability of a Presidential veto in the absence of language disavowing the existence of private property interests in federal grazing lands. Poole secured acquiescence by the Chairman or the Senator in charge of the bill, thus succeeding in substituting language denying that grazing permits represented private property use rights.

Subsequently, Senator Patrick A. McCarran of Nevada insisted on further amendments the clear intent of which was to implicitly recognize grazing permits and preferences as property rights. Senator McCarran's efforts succeeded and the relevant language remains a part of Section 3 of the Taylor Grazing Act, creating a clear ambiguity in the construction of Section 3 of the Act. Apparently this alternative expression of congressional intent has not heretofore been made public.

Legislative History

In the first session of the 72d Congress, Congressman Don B. Colton of Utah introduced H.R. 11816.² The purpose of the bill, sponsored by the Hoover Administration, was to promote conservation and improvement of rangeland resources and to stabilize the public domain dependent livestock industry through the regulation of grazing on the public "commons." The bill passed the House, but died in the Senate.³

The bill, without any changes, was reintroduced in the first session of the 73d Congress by Representative Edward T. Taylor of Colorado as H.R. 2835 but it died in Committee. Under the threat of unilateral action by Secretary of the Interior Harold Ickes to regulate grazing on the public domain if Congress failed to take action, Taylor reintroduced an amended version of the bill as H.R. 6462 in the second session of the 73d Congress.

Hearings in the House of Representatives on H.R. 2835 73d. Congress 1st. Session (1933) and H.R. 6462 73d. Congress 2d. Session (1934)⁴

Footnotes are compiled together starting on page 190.

The first hearing on what was to become the Taylor Grazing Act took place June 7–9, 1933 during the first session of the 73rd Congress. Section 3 contained no language describing grazing permits as either privileges or rights; although language in Section 3 did give "...the preference right of the permittees to renewal [of their term grazing permits] in the discretion of the Secretary of the Interior."

The preamble or stated public policy goal of H.R. 2835 was identical to that of the earlier Colton bill, H.R. 11816: "to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes." That preamble was unchanged in the final version of the bill (H.R. 6462), enacted into law as the Taylor Grazing Act.⁵

The author of H.R. 6462, Representative Taylor, argued that other provisions of the bill implicitly would give ranchers vested rights to the use of a given range;⁶ although the Associate Forester of the Forest Service (E.A. Sherman) maintained that grazing permits were privileges which, while recognizing the preference rights of prior users, were subject to revocation in the general public interest.⁷

The second hearing on the Taylor Grazing bill was held February 19–March 3, 1934 during the second session of the 73rd Congress. Section 3 still contained no language related to permits as rights vs. privileges other than preference rights to renewal of term permits. On February 21, President Roosevelt wrote Interior Secretary Ickes favoring the bill and empowering the Interior Secretary to administer the regulated public domain.⁸ On the same day Representative J.D. Scrugham of Nevada offered a Section 3 amendment linking grazing rights to water rights with the following statement:

It is not the grass on the range that controls its use, it is the water. The control of the water is absolutely in the jurisdiction of the State. This point should be clearly understood because it has a very important bearing on matters of range control. In the arid western States the law separates water use and land use in a manner different from the custom in areas of ample rainfall. The old riparian doctrine of water rights was found absolutely unsuitable to the needs of the people of the arid west. Therefore, there grew up a new doctrine entirely different from that which is accepted under the old English common law in the older parts of the country. This new concept is called the "doctrine of beneficial use." No matter where the water may be situated, he who beneficially use[s] water can have the continued usufruct so long as the beneficial use is continued. This bill proposes to take absolute control over grazing on the public domain, and admittedly the control of water is the governing factor.

The water is legally controlled in the State of Nevada by what are known as the stock-watering acts. He who has used the water beneficially is entitled under the police powers of the State, to continue the beneficial use and be protected from the transient newcomer. Federal grazing control might be in direct conflict with State control of stock water.

Forage on the public domain...is not worth anything whatever unless related to other existing factors in State or private control...Now the fallacy is wide-spread that the western range user is getting something for nothing, that he is obtaining the free use of something for which he is not paying, something that belongs to all of the people. This idea is utterly erroneous. The present system is based on the customs and use developed by a hardy, self-reliant, pioneer people who are wrestling a living from land which would deny existence to farmers untrained to its adversities...[T]he controlling factor in grazing is not the number of stock allowed on the range but the beneficent Deity who brings the rain that falls over the surface of this ground and brings out the grass.⁹

Representative Scrugham then proposed the following amendment:

And provided further, That in such orders, and in administering this Act, rights to the use of water for mining, agricultural, manufacturing, or other purposes, vested and accrued and which are recognized and acknowledged by the local customs, laws, and decisions of the courts, shall be maintained and protected in the possessors and owners thereof, and, so far as is consistent with the purposes of this Act, grazing rights similarly recognized and acknowledged shall be adequately safeguarded.¹⁰

Representative (and former Nevada Governor) Scrugham, under questioning went on to state that "we want the grazing rights to be acknowledged and admitted in exactly the same manner and under the same conditions" (as water rights), meaning that both water rights and grazing rights would represent compensable private property interests in federal lands and their resources.¹¹ Mr. Rufus G. Poole, Assistant Solicitor, Department of the Interior, then objected to the grazing rights language on the grounds that grazing rights vested under State law and local customs might not be subject to adequate federal regulation for the sake of conservation of the forage resource.¹²

On Saturday, March 3, 1934, the House Committee on the Public Lands reported out H.R. 6462 with a "do pass" recommendation. The Scrugham amendment cited above was approved by the Committee, and reproduced verbatim in the March 10, 1934 Report No. 903 to the Committee of the Whole House which subsequently approved H.R. 6462 as amended.

Thus, as of March 3, 1934 the unambiguous intent of the House of Representatives was to positively recognize grazing permits and grazing preferences as grazing rights. By granting private property grazing interests or attenuated grazing use rights in the public domain—a granting of private property rights in the federal estate opposed by both the Secretary of Agriculture and the Secretary of the Interior¹³—ranchers would be more secure in their pursuit of the highest and best use of the public domain, and their industry would be stabilized in the interest of economic development.

Hearings in the United States Senate on H.R. 6462, as Amended 73d. Congress 2d. Session.¹⁴

The Senate (Committee on Public Lands and Surveys) hearings on the House-amended version of H.R. 6462 began April 20 and reconvened on April 26, 1934. In testimony on April 26, Forest Service Chief F.A. Silcox strongly objected to the Scrugham amendment.

The real purpose of this language is, I fear, to grant to the stockmen who are grazing lands on the public domain an estate or property interest in the particular lands which they have been accustomed to use, and that the fee-simple title now possessed by the Federal Government will be terminated and the Government's interest thereafter limited by a part interest granted to the particular stockmen who chanced to be using the lands at the present time, and confirmed to them as a property right.

[Many westerners] have been demanding that such preferences should be recognized as constituting "rights" in and to the use of Government property, but in some instances have gone so far as to contend that by reason of the preferences granted in the past a State of facts exists which results in already conferring upon the users legal rights in fact. In short, they contend that the national forest permittee whose lands have been recognized as depending upon national forest range holds his range not merely by license from the Government, but by reason of an actual property interest in the Government land itself. They claim, in short that the stockman has estate in the national forest range lands used by him and his estate is dominant and the Government's estate servient. I am advised by our legal officers that this position is not legally sound; that such a property interest cannot be established over lands which are the property of the Federal Government by prescription of adverse user and can only be established by actual grant; also the authority to grant public lands or easements therein rests exclusively in Congress.

If the language in the amendment quoted above, referring to grazing preferences specifically as grazing "rights" rather than leases or privileges, is not subject to construction as thereby constituting the grant of an easement in the public domain lands, it at least comes perilously near it...If anyone doubts that this is the ultimate purpose of this amendment, his doubt will be removed if his attention is called to the intimate connection in the language used in confirmation of grazing rights and that of water rights.

[T]he amendment grants...what certain stockmen have been consistently contending was already the actual status of the Government's property—in short, that the stockmen already held the dominant estate in the Government lands which they have grazed, and that there remains to the Government only a servient estate...it opens the door to endless controversies, misunderstandings, and footless litigation.

If Congress wants to establish these vested rights, it is up to Congress. But we know from our experience in handling the question on the western range that you get into all sorts of complications and speculations with these grazing preferences on the assertion of a property interest. If that is what is intended, then we ought to have it clearly understood...It is my opinion alleged vested rights are going to be asserted.¹⁵

In hearings on April 27, Assistant Solicitor Poole expressed the same opposition to the Scrugham amendment recognizing grazing rights.

The danger of this provision is obvious. It would, perhaps forever cloud the fee-simple title of the Federal Government, and, in turn, the title of the transferee. Like other property it would be transferable and inheritable. If this provision...operates as a federal grant, the Department of the Interior cannot subscribe to it, and the Secretary has instructed me to inform the committee that he would prefer to have the bill defeated if this provision is not removed.¹⁶

Senators on the Committee repeatedly disagreed with Chief Silcox and Assistant Solicitor Poole on this and subsequent hearing dates.

On May 10, 1934 the Senate Committee on the Public Lands and Surveys reported out H.R. 6462 with a "do pass" recommendation. The Scrugham amendment was approved by the Committee, and reproduced verbatim in the recommended "do pass" bill. In its Report No. 1182 (Calendar No. 1258) published May 26, 1934 the Senate Committee stated that "...insofar as consistent with the purposes of this bill, grazing rights recognized by local customs, laws, and decisions of the courts, are also to be acknowledged and safeguarded." The Senate Committee

on Public Lands and Surveys did not remove the grazing rights provision prior to the bill's final "mark-up."

Thus, as Chief Silcox and Assistant Solicitor Poole had requested, the public intent of the Senate Committee on Public Lands and Surveys to recognize grazing permits and grazing preferences as private property interests in the federal lands was clearly stated by the Senate Public Lands Committee as of May 10.

But sometime between May 10 and June 12, 1934, the Administration intervened. As Assistant Solicitor Poole had threatened, if the grazing rights language were not changed, the bill would be rejected by Secretary Ickes and vetoed by the President.

The language disavowing the creation of grazing rights was substituted for the Scrugham language in an executive session apparently involving members of the Department of the Interior, the Office of the Solicitor, and the Senate Public Lands and Surveys Committee. No published records of that meeting can be located.

Amendment on the Senate Floor Asserting Private Property Interests in Grazing Allotments

The *Congressional Record—Senate* of June 12, 1934 (pp. 11147-11162) clarifies what must have happened. Senator Patrick McCarran of Nevada threatened to filibuster the bill if language he wrote to offset the new "no grazing rights" language were not accepted.

Mr. McCarran. I have tried for a month, and I was turned down cold...Mr. President, if the amendment, drafted under the guidance and with the full knowledge of the Department, is not to be accepted, then I am not going to yield to anything.

His new language, subsequently adopted and still contained in Section 3 of the TGA states that:

[N]o permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan.¹⁷

Short of a Congressionally recognized "grazing right...recognized and acknowledged [and] adequately safeguarded", one based on "local customs, laws, and decisions of the courts" as the Scrugham language would have done, Senator McCarran thus introduced intentional ambiguity in Section 3 of the TGA. McCarran's language meant that grazing preferences and authorized use levels would exist in perpetuity so long as the ranch unit as a whole was pledged security on a loan, a position seemingly inconsistent with the new language that no provisions of the TGA would "...create any right, title, interest, or estate in or to the lands."¹⁸

Mr. McCarran. [O]ne holding a farm or a homestead who has heretofore depended upon the public range as a part of an integral unit of which

his homestead may have been the minor part, shall have the privilege of going to a loaning agency and asking permission to borrow, and having recognition of the fact that he has certain rights upon the public domain which shall not be interfered with during the term of that loan.

Mr. O'MAHONEY. If I understand the Senator correctly, his purpose is merely to guarantee that the rights to grazing privileges which are conveyed by the bill shall be so definite and so certain that they may be recognized as security when the holder seeks a loan.

Mr. McCarran. That is exactly correct...It is a question of crystallizing the security which the mortgagee or loan agent may and will accept, so that no intervening agency, governmental or otherwise, may take from the value of the security. I hope I make myself clear.

This exchange, appearing on pages 11152-11153 of the June 12, 1934 *Congressional Record—Senate* is illuminating. Senator McCarran clearly attempted to formally recognize the existence of limited "grazing rights" having real estate value *before* the enactment of the Taylor Grazing Act. That value was to be "recognized and acknowledged [and] adequately safeguarded" from diminishment through "takings" by the government if pledged as security on a loan now, or at any future point in time.¹⁹

The Senate, and the House of Representatives, accepted Senator McCarran's amendment. His language remains, today, part of Section 3 of the Taylor Grazing Act.

Administrative Recognition of Grazing Rights as Property Rights

In 1935 and subsequent years Interior Secretary Ickes unsuccessfully attempted to have bills that had been drafted by his department approved as amendments to the Taylor Grazing Act. Among other things, these amendments would have deleted the permit renewal guarantee inserted in the original bill in response to Senator McCarran's arguments.

To rationalize his position, Secretary Ickes wrote that McCarran's Section 3 provision "is discriminatory and highly unfair as it, in effect, rewards permittees who continue liens on their grazing units and penalizes those who discharge their obligations. The need for such a provision in order to ease the credit of livestock operators on the public domain is doubtful, as a privilege to graze within a district under the preferences established by the act in most cases attaches to specific ranch property and thereby enhances the borrowing value of such property. Its removal, therefore, is believed desirable."²⁰

The House Committee on the Public Lands recommended that the proposed Ickes amendment be eliminated; and the Senate Committee on Public Lands and Surveys noted that "after hearing testimony on the subject [we] concluded

that it would be advantageous to permit this section to remain".²¹

President Roosevelt apparently recognized that the unamended McCarran language established very nearly perpetual grazing leasehold estates. In a December 9, 1939 letter to Senator Key Pittman of Nevada, the President wrote as follows.

At the outset of the administration of the act it was realized that its purposes would be completely defeated by the immediate issuance of what might in effect be *nonrevocable term permits*, since it would be impossible immediately to accomplish the range survey program essential to the determination of the persons entitled to preferences under the act, and most applicants for grazing privileges presumably either had or would have occasion to pledge their grazing units as security for loans.²²

The Unresolved Ambiguity

When judicial interpretation of the statute at hand is ambiguous, the intent of Congress, revealed through the legislative history of the statute, controls. There is no doubt that the Roosevelt Administration found the language in Section 3 to be ambiguous and, from a bureaucratic viewpoint, constitutionally threatening.

In urging President Roosevelt to veto the Taylor Grazing bill, one week before the President signed the bill into law, Chief Forester Silcox argued in the strongest of terms.

The bill grants permanent and inalienable rights to the present users of the range, conferring upon them substantial property rights which the Secretary of the Interior could neither diminish, restrict, nor impair, irrespective of public necessity. In its original form, as approved by the Department, the lands were not burdened by any such servitude...This is made clear in the formal opinion of the Solicitor of the Department of Agriculture submitted to you June 14, 1934...New equities will be established...Senator McCarran insisted upon its amendment...Once vested in either individual or corporate ownership such rights become private property which, under our Constitution, can be taken for public purposes only by purchase or condemnation and upon payment of adequate compensation...The very fact that the legal staff of two great Departments [Agriculture and Interior] place upon it totally different and contradictory constructions is of itself incontestably proof of the ambiguity of its terms.²³

Are grazing rights a type of private property right? Draw your own conclusion. I believe they are usufructuary private property interests in the servient federal estate.

Footnotes

¹For a markedly different construction and interpretation of Section 3, see *Red Canyon Sheep Co. v. Ickes*, 1938, 98 F.2d 308, 69 App.D.C. 27, at page 315. Interestingly, while it is not widely known the courts have recognized that public domain grazing leases represent "compensable interests" in condemnation proceedings. The lead case is *U.S. v. Certain Parcels of Land in San Bernardino County*, D.C. Cal. 1969, 296 F. Supp. 774, as acknowledged in U.S.C. Ch. 8A (Grazing Lands) 43 § 315m Notes of Decisions 1. Nature and scope of leases. See also *Sprout v. Gilbert*, 226 Or. 392, 359 P.2d 543.

²*Grazing on Public Domain*, Hearings before the Committee on Public Lands of the House of Representatives, May 3, 19, 24, and 31 and June 1, 2, 21, and 22, 1932. U.S. Government Printing Office, Washington: 1932 (155 pp.).

³A good summary of these grazing bills appears in Peffer, E. Louise, *The Closing of the Public Domain: Disposal and Reservation Policies, 1900-50*. Stanford, CA: Stanford University Press, 1951, pp. 181-224.

⁴*To Provide for the Orderly Use Improvement, and Development of the Public Range*, Hearings before the Committee on the Public Lands of the House of Representatives, June 7, 8, and 9, 1933 and February 19, 20, 21, 23, 29 and March 1, 2, and 3, 1934. U.S. Government Printing Office, Washington: 1934 (210 pp.).

⁵The federal courts have interpreted the preamble as a statement of three related public purposes (42 ALR Fed 353): (1) to provide for the most beneficial use possible of the public range in the interest of ranchers themselves but also the public at large (*Red Canyon Sheep Co. v. Ickes*, 1938 69 App DC 27, 98 F2d 308); (2) in the interest of ranchers, to define grazing rights and to protect those rights, by regulation, against interference *United States v. Archabal*, 1940 DC Nev, 34 F Supp 1; *Red Canyon Sheep Co. v. Ickes*; and (3) to stabilize and develop the western livestock industry dependent on the grazing use of federal lands (*United States v. Fuller*, 1971 CA9 Ariz, 442 F2d 504 revd on other grounds 409 US 488, 35 L Ed 16, 93 S Ct 801; *Chourmos v. United States*, 1951 CA10 Utah, 193 F2d 321 cwer den 343 US 977, 96 L Ed 1369, 72 S Ct 1074).

⁶House hearing record, p. 30.

⁷The Forest Service reversed this argument, as subsequently noted, when H.R. 6462 was amended first in response to a proposal made by Representative J.D. Scrugham of Nevada, and subsequently by Senator Patrick McCarran, also of Nevada.

⁸House hearing record, p. 77.

⁹House hearing record, pp. 124-125.

¹⁰House hearing record, p. 126.

¹¹House hearing record, p. 128.

¹²House hearing record, p. 129.

¹³This line of reasoning had been detailed by Colonel W.B. Greeley, Chief Forester, United State Forest Service, in testimony before the Senate Committee on Public Lands and Surveys (*A Bill to Promote the Development, Protection, and Utilization of Grazing Facilities on Public Lands, to Stabilize the Range Stock-Raising Industry, and for other purposes*, Hearings before the Committee on Public Lands and Surveys of the United States Senate, February 15-March 11, 1926. U.S. Government Printing Office, Washington: 1926 (632 pp.). Col. Greeley opposed legislation establishing contractual grazing leases on the grounds that such leases would create "[a] vested right, ...an easement, a right of use, that runs against the owner of the land [the United States] until such time as it is terminated by law or by purchase...I think

that in...providing a definite legal status for grazing on the national forests we should be extremely cautious to safeguard the possible development of grazing in the future or the possible continuation of the preferences for grazing privileges, as here defined, against at any time in the future maturing into a vested right that is going to run as a form of adverse possession against the power of the Government to use these lands for the best public interest" (p. 355). As is seen, the Forest Service continued to argue that written grazing permits or leases created a dominant estate (the privately owned based property) and a servient estate (the national forest or public domain grazing allotment) in opposing the Scrugham amendment to H.R. 6462 some eight years later.

¹⁴*To Provide for the Orderly Use Improvement, and Development of the Public Range*, Hearings before the Committee on Public Lands and Surveys of the United States Senate, April 20, 26, 27, and 30 and May 1 and 2, 1934. U.S. Government Printing Office, Washington: 1934 (218 pp.).

¹⁵Senate hearing record, pp. 56-59.

¹⁶Senate hearing record, p. 70.

¹⁷This phrase defines the grazing unit as property consisting of two parts: fee land and the appurtenant public domain grazing allotment. The "value of the grazing unit" therefore is the joint value of the fee land and the grazing allotment and this joint value cannot be diminished if offered as collateral security on a loan. The term "collateral security" as defined in *Black's Law Dictionary* (6th ed., 1991) is "[p]roperty which has been pledged or mortgaged to secure a loan or a sale" and therefore the grazing allotment is valued property.

¹⁸The operational word in this passage is "create." The language disavowing private property interests in federal grazing allotments was no doubt, as with all other linguistic aspects of the statute, subject to debate and compromise. *Black's Law Dictionary* (6th ed., 1991), defines "create" as "to bring into being" or "to cause to exist." Neither definition of "create" precludes, to use Representative Scrugham's language, recognition and protection of pre-existing property (grazing use or usufructuary) rights based on "local customs, laws, and decisions of the courts."

¹⁹The courts have not realized the intent or the significance of the McCarran amendment. For example, 42 ALR Fed 353, *Taylor Grazing Act*, relies on one case, *La Rue v. Udall* (1963) 116 App DC 396, 324 F2d 428, cert den 376 US 907, 11 L Ed 606, 84 S Ct 660 in concluding that the McCarran amendment applies only in consideration of conflicting applications for grazing permits; and that the provision should not be construed as establishing and maintaining a vested private property interest in the permits and its preference AUMs. However, a reading of *La Rue* clearly shows that the court's ruling was pure dicta based on no prior legal precedent and, further, displays no comprehension of intent as expressed on the Senate floor (324 F2d 428, p. 431). The *La Rue* dicta is not explained in any subsequent cases citing *La Rue* as precedent.

²⁰Report No. 479 to accompany H.R. 3019, *Amend Sections 1, 3, and 15, and to Add Section 17, to the Act of June 28, 1934* (48 Stat. 1269), *Taylor Grazing Act*, March 25, 1935, p. 4.

²¹Report No. 1005, Calendar No. 1051, *Amend Sections 1, 3, and 15, and to Add Section 17, to the Act of June 28, 1934* (48 Stat. 1269), *Taylor Grazing Act*, May 13, 1935, p. 3.

²²Nixon, Edgar B. (ed.), 1957, *Franklin D. Roosevelt and Conservation, Volume 2*. Hyde Park, N.Y.: General Services Administration, National Archives and Records Service, p. 392).

²³Nixon op. cit., *Volume 1*, pp. 309-312.

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