



Western Ranchers Fed Up with Feds

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He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

So wrote our founding fathers in the Declaration of Independence, describing the tyrannical actions of King George in levying taxes and turning even the simplest enterprises into exercises in bureaucratic and regulatory entanglement.

A modern-day revolution has been brewing in America's West, and it is founded on a similar set of grievances. In the late 1970s and early 1980s, it was called the Sagebrush Rebellion. For the past several years, it has been known as the War on the West. This has

become the rallying cry among many Westerners who object to government over-regulation and efforts to limit their access to federal rangelands, revoke their property rights, and generally eliminate their ability to make a living from the land.

For cattle and sheep ranchers in the West, the most recent federal proposal—a program bearing the name of Rangeland Reform '94—has generated the most anger.

Drafted by the departments of the Interior and Agriculture, the Interior's Bureau of Land Man-

agement (BLM) touted Rangeland Reform '94 as the solution to several problems plaguing the western United States.

Indeed, the program was purported to protect public rangelands from overgrazing, procure for the public fair and reasonable compensation for the grazing of livestock on public lands, and streamline the management and administration of these federal rangelands.¹

In reality, the program was little more than a massive new regulatory regime designed to restrict livestock operations on some 270 million acres of federal land spanning 17 Western states.

Specifically, Rangeland Reform '94 purported it would achieve rangeland health through a number of proposals. The Department of the Interior categorized those proposals under such generic headings as "Public Participation in Rangeland Management," "Range Improvements and Water Rights," "Administrative Practices," and "Standards and Guidelines."

The program, which was unveiled in July 1993, was implemented; in August 1995, despite protests by ranchers, state and local officials, senators, and representatives, all of whom have labeled the initiative pernicious and unnecessary.

They voiced their concerns at the ballot box in 1994 and in the tens of thousands of negative oral and written comments submitted during the public comment period, March 25 to September 9, 1994.

Rangeland History

To understand the frustration and resentment that Rangeland

Reform '94 has engendered, one must first understand the history of rangeland use in this country, which began around 1540.

In that year, the Spanish explorer Francisco Vasquez de Coronado introduced domestic livestock—including cattle and sheep—to the American Southwest while looking for the fabled Seven Cities of Gold. The subsequent growth of sheep and cattle herds coincided with herders' access to open rangelands.

Following additional European settlement of America and the establishment of the United States, westward pressure continued, particularly for those searching for settlement opportunities.

Contrary to popular belief, early explorers did not encounter idyllic conditions reminiscent of the Garden of Eden upon their arrival west of the Mississippi. In fact, photographs from the late 1800s show vast stretches of barren land that have since been transformed into productive acreage.

We also have first-hand descriptions of the region written by such observers as Francis Parkman, author of *The Oregon Trail*, who described Western rangelands this way:

...let [the traveler] be as enthusiastic as he may, he will find much to dampen his ardor...as for food he must content himself with biscuit and salt provisions; for strange as it seems, this tract of country produces very little game...perhaps like us, he may journey for a fortnight, and see not so much as a hoof print of a deer; in the spring, not even a prairie hen is to be had.²

Congress encouraged additional settlement of the West

through passage of the Homestead Act of 1860. The offer of 160 acres to anyone willing to confront the vicissitudes of frontier life helped create homesteads on the arable plains but it failed miserably in the arid West.

In much of the region, 160 acres of good farmland were simply not to be found. As a result, pioneers established homesteads on the best lands, which often were wind-protected valley sites located near water and well-traveled trails.

Once the more productive lands had been picked over, vast expanses of nonarable land remained in the public domain and eventually came under the jurisdiction of the U.S. government. This is the land that today is being addressed through the Rangeland Reform '94 initiative.

Access and Attitudes

The evolution of settlement and use of Western rangelands is much more than a historical anecdote. Today's ranchers, who are often direct descendants of the first pioneers, have been led to believe they will always have adequate access to public lands to maintain their homesteads. Such a belief explains why roughly 50 percent of the West is owned by the federal government. In such states as Nevada, federal land ownership exceeds 80 percent.

Though the politics of the West have changed appreciably over the years, the realities of raising cattle and sheep have not. It still takes approximately 160 acres—the equivalent to an entire homestead—of average U.S. Forest Service land to graze just one cow

and her calf for a year. In addition, many federal acres are situated among privately owned tracts. Thus regulations imposed by the federal landlord directly affect the ability of the private landowner to use his or her property.

This is not to suggest that overgrazing has never taken place in the West. Today's cattle and sheep ranchers are fully aware that overgrazing occurred around the turn of the century when the legendary cattle barons drove their livestock to railheads without any concern for the conditions they left in their wake. Indeed, severe drought and overgrazing led ranchers—not federal range managers—to become the main proponents of passage of the Taylor Grazing Act in 1934.

In brief, the Taylor Grazing Act was passed to "promote the highest use of the public lands pending its final disposal." It established grazing districts on public lands for the purpose of stabilizing, preserving, and protecting the use of the public lands for livestock grazing.

Self-Interest/Self-Regulation

Why would ranchers voluntarily promote statutory restrictions on open grazing? Because the sustained health of the rangelands is essential for the survival of their livestock, not to mention the survival of their industry.

Ranchers know they must return with their livestock to the same property, whether private or federal, year in and year out. Failure to reconcile agribusiness with natural processes is a sure formula for an abbreviated career in ranching.

Environmental stewardship, in other words, is good business. Environmental stewardship is also good citizenship. It's true that many federal and state statutes restrict practices that may be harmful to the environment. And ranchers, by and large, are conservative and law abiding, particularly where environmental regulations are concerned. Furthermore, ranchers earnestly love the land; they have a long-term desire to improve the range and pass it on to the next generation in better condition than they found it.

Federal policy makers are well aware of this legacy of environmental stewardship. Department of the Interior Secretary Bruce Babbitt has said that "grazing is an enduring, important, positive part of the West's landscape."³ President Clinton echoed this point in a letter to concerned senators and representatives, writing, "I want to emphasize, as I have many times, that livestock grazing on public lands is an important land use that must be protected and preserved."⁴

Yet, professional environmentalists often express more concern about land control than rangeland health. In fact, they downplay reasonable commodity production and sustainable agriculture in favor of virtual nonuse of rangelands. Such misguided advocates seem to overlook that coddling the resource is not in the best interests of rangeland health.

You need venture no further than your own backyard to confirm this observation. A lush, healthy lawn quickly deteriorates if it is not mowed—or in the case of rangeland grass, not grazed. Grass grows from the bottom up and will quickly deteriorate

if there is too much shade.

In fact, when grass goes ungrazed, it tends to grow tall and slender, rather than wide and thick. Such growth patterns, in effect, enable the grass to reach for the sun. When this occurs, the stands of grass become patchy, allowing more sunlight to penetrate but, in the process, heating the soil and inviting erosion.

On Western rangelands today, domestic cattle and sheep have replaced the roaming herds of bison and elk that once fulfilled this natural pruning process. Furthermore, livestock are being used in the United States and Canada to control the buildup of brush that could spark catastrophic wildfires. Livestock are also used to assist the growth of nearby trees by reducing competition from surrounding grasses.

As a result, locking rangeland stewards off the land carries negative environmental consequences.

What's more, in many of our national parks, native wildlife species—including bison and elk—have been afforded unrestricted access to park rangelands. As a consequence, herds have become overpopulated and their increasing numbers are putting dangerous pressure on park resources.

Yellowstone National Park, for instance, is filled with examples of overgrazing by bison and elk. If similar damage were to occur in the neighboring Bridger Teton National Forest, where domestic species are allowed to graze, their owners would have forfeited their grazing permits long ago.

Overgrazing takes place in Yellowstone because the herbivores are not managed for rangeland health. The problem is be-

coming chronic, and the U.S. National Park Service is scrambling to deal with it.

Devilish Details

It is against this historical and scientific background that ranchers cast a jaundiced eye toward any new regulations coming out of Washington. Rangeland Reform '94 was certainly no exception. Three of the reform package's more egregious provisions that hurt, not help, the environment involve the following:⁵

■ **Ownership.** In the past, ranchers using BLM lands were allowed to construct improvements—including water wells, reservoirs, stock tanks, and corals—on federal rangelands after consultation with local officials. The rancher provided either labor or supplies or both for the construction of such improvements, and he or she retained title to them.

Under this system of ownership, the rancher had an incentive to make and then maintain improvements. Many improvements—including wells and reservoirs—though intended for domestic animals, were beneficial to wildlife as well. In addition, manmade water resources attracted cattle and sheep away from riparian areas and thus minimized impacts on fish populations.

Under the rangeland reform package, ownership of range improvements would be placed in the name of the U.S. government.⁶ The government contends that this arrangement is consistent with property law and the notion that the person or institution that owns the property also should

own all permanent improvements to that property.⁷

The consequences of such an arrangement are predictable, whether the property in question is a federal rangeland or an urban apartment.

Ownership fosters stewardship. Transfer of title to the government will result in fewer new improvements, improvements of poorer quality, and less maintenance of existing improvements. Less water development will mean less wildlife and more damage to existing water sources.

■ **Standards.** Rangeland Reform '94 epitomizes the flawed belief that centralized government can promote environmentalism by dictating national standards.

The Department of the Interior, acknowledging this flaw, dropped its earlier proposals to dictate national standards for management of grazing on federal lands. Nevertheless, the agency, as a fallback position, established strict minimum land-management standards that must be adopted by local agency officials before their management plans can be approved.⁸

The minimum requirements emanating from the Department of the Interior headquarters in Washington, require public rangeland users to actively assist the government in the recovery of threatened and endangered species. As such, this mandate sets a much higher standard than that contained in the Endangered Species Act itself.

The minimum requirements also establish guidelines for grazing seasons, water resources, minimum levels of perennial vegetation, livestock-management

practices, maintenance of herbaceous and woody species, and biomass and plant residue for stream sediment filtering.

These complex and bureaucratic criteria must be applied across 14 states and some 170 million acres of grazing lands administered by the Bureau of Land Management.

Such federal environmental commandments tend to ignore the reality that no two parcels of land are alike. Each must be respected for its inherently unique elements. Efforts to manage them as a block ignore both natural and political limits.

Further, the commandments fail to stipulate who will judge compliance in relationship to the national standards and what measurements they might apply in doing so. For instance, the minimum standards require a certain height for grasses. If monitoring indicates substandard height, who would decide whether the cause is livestock grazing, inadequate moisture, or wildlife foraging?⁹

■ **Rights.** The Rangeland Reform '94 program calls for livestock watering rights to be "acquired, perfected, maintained, and administered in the name of the United States."¹⁰

To persons unfamiliar with the water laws affecting the arid West, this policy may seem innocuous. In reality, the proposed measure remains the most hotly contested provision in the entire reform initiative. Water is the lifeblood of the West, and those who control water resources, control the land. All other policy issues, including grazing fees, are secondary.

As with range improvements, this proposal will inhibit ranch-

ers' willingness to develop water improvements because there is no guarantee that the ranchers will receive full benefit from the water they develop.

Furthermore, this regulation will adversely affect the environment by slowing installation of water improvements. Such improvements create water resources where none existed and draw livestock and big game away from fragile riparian areas.

The Rangeland Reform '94 water policy poses a much broader impact on the environment as well. In particularly arid sections of the West, grazing permits are predicated on a rancher's ability to show that he or she controls enough water to support the livestock he or she is requesting permission to graze.

If water rights are transferred to the United States, permittees may find themselves unable to demonstrate their ability to sustain their livestock numbers. This might drive private ranchers out of the business. In their wake, developers will fragment the West's open landscape. Lost in the process would be a Western way of life, not to mention millions of acres of open land that provide habitat for both domestic and wild animal species.

At Home on the Range

Ranchers have learned the painful lesson that providing good stewardship of our rangeland resource is not enough. They must go a step further and publicize and promote their wholesome management practices to counteract the misinformation campaigns mounted by professional environmentalists and blithely dissemi-

nated by the media. Few ranchers, however, have either the time or inclination to boast of practices that most consider little more than common sense.

Before we can hope to reach consensus on Western range policy, environmentalists must realize that ranchers are one of their best allies in maintaining open range and wildlife habitat. As regulatory burdens and their economic impacts increase, however, ranchers are selling out even though many would prefer to remain where they are.

Environmental pioneer Aldo Leopold captured the Western rangeland management issue when he stated:

Conservation means harmony between men and land. When land does well for its owner, and the owner does well by his land; when both end up better, by reason of their partnership, we have conservation.

The Rangeland Reform '94 initiative, in tandem with scores of other burdensome regulations, forces the "owner" off his or her land and disrupts the symbiotic relationship between domestic grazing animals and the open

range. In the process, both the landowner and the land end up the losers.



NOTES

1. "Department Hearings and Appeals Procedures: Cooperative Relations: Grazing Administration—Exclusive of Alaska: Proposed Rule" *Federal Register* 59 (1994), pp. 14,314-14,315.

2. Francis Parkman, *The Oregon Trail* (Madison: University of Wisconsin Press, 1969), p. 35.

We know that the plains were home to massive herds of buffalo who significantly "damaged" the rangelands. It is interesting to consider whether such biologically induced damage to the land would be considered "healthy" in the context of the current debate over the condition of a range. After all, buffalo herds leave the soil and ecology in a state that often violates society's aesthetic sensibilities.

Similarly, wildfire leaves the land blackened and seemingly barren. Most range scientists, however, agree that fires have been a useful tool in range management where the goal is rangeland health.

3. Christopher Smith, "Babbitt Sees Common Ground on Grazing," *Salt Lake Tribune*, July 12, 1994, p. A1.

4. Letter from President Bill Clinton to Senator Conrad Burns, August 10, 1994.

5. Grazing fees would have certainly been included in this discussion except for Secretary of Interior Babbitt's decision to delete grazing fees from the final regulations. His decision came in the aftermath of the Republican landslide in the 1994 election.

6. *Federal Register* 59 (1994), pp. 14,347.

7. The public-land livestock industry brought suit in federal court against Secretary of the Interior Babbitt on the issue of ownership of range improvements. In June 1996, the judge ruled that this portion of the legislation was illegal and could not be enforced. *Public Lands Council v. Babbitt*. (95-CV-165-B, D. WY, 1996).

8. *Federal Register* 59 (1994), pp. 14,353-14,354.

9. In *Public Lands Council v. Babbitt*, the court held that the secretary did not act outside the scope of his authority when creating standards and guidelines for regulations under Rangeland Reform '94.

10. *Federal Register* 59 (1994), p. 14,348.