



Spring 1986

## Public Domain, Private Dominion: A History of Public Mineral Policy in America, by C. J. Mayer and G. A. Rile

Barbara S. Webber

### Recommended Citation

Barbara S. Webber, *Public Domain, Private Dominion: A History of Public Mineral Policy in America*, by C. J. Mayer and G. A. Rile, 26 Nat. Resources J. 395 (1986).

Available at: <https://digitalrepository.unm.edu/nrj/vol26/iss2/12>

This Book Review is brought to you for free and open access by the Law Journals at UNM Digital Repository. It has been accepted for inclusion in Natural Resources Journal by an authorized editor of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu), [lsloane@salud.unm.edu](mailto:lsloane@salud.unm.edu), [sahrk@unm.edu](mailto:sahrk@unm.edu).

# PUBLIC DOMAIN, PRIVATE DOMINION: A HISTORY OF PUBLIC MINERAL POLICY IN AMERICA

By Carl J. Mayer and George A. Riley.  
San Francisco: Sierra Club Books. 1986. Pp. 352. \$25.

Federal land policy is currently undergoing close scrutiny from many different perspectives, and it rarely escapes criticism of one or more aspects of its policymaking, policy implementation, or administrative processes. Many economists, critical of government management policies, urge that more resources be turned over to the private sector, a theme that has been echoed by the Reagan administration's persistent call for "privatization." Mayer and Riley's book also finds fault with government land and mineral policy, but the authors' solution is not to abdicate control to private interests. This book argues that many problems with the administration of these federal laws are already the result of the government's attempts to serve the mineral industry. It expresses hope that recent attention resulting from Reagan's and his first Secretary of the Interior, James Watt's, swift and dramatic actions to sell or lease large amounts of public resources will aid in reforming government policies.

This book provides an historical account of the development and implementation of federal mineral policy from its roots in the westward expansion of the early nineteenth century through the current policies of the Reagan administration. It contains a comprehensive record of the applicable laws and changing policies, and offers political, social, and economic explanations for their origins. The book itself is political and uses historical data to support its position that these resources have been continually mismanaged and exploited. It states:

Because the major laws governing the disposition of mineral resources in the public domain have been tailored to the requirements of powerful concerns, federal policy has slighted the public's right to proper protection and management of its wealth. (p. 9)

The overall theme, therefore, is that public lands are a rich natural resource which have not been used to the public benefit, but rather have enriched the coffers of private individuals. It is a common misconception, the authors believe, that public ownership and control means public benefit. They make no claim that the Reagan administration policies represent a change in the direction of federal mineral policy, however. On the contrary, they state:

The resource policies of the Reagan administration are not symptoms of a temporary paroxysm in American politics. The unquestioning

delegation of control to mining interests has been the predominant theme in the history of federal lands. Watt's initiatives were clearly within this tradition . . . (p. 15)

This work sets out to document this history and to urge a reversal of the policies which have dominated the past two hundred years. As an historical account of public land policy, the book is both thorough and fascinating. It is well documented with primary sources, including congressional papers, private correspondence, and government records, and both legal and non-legal secondary sources. The examples selected by the authors for extensive discussion sharply illustrate the background of corruption, mismanagement, and influence-peddling against which United States mineral policy has developed.

Chapter Two recounts in detail the first government "experiment" with leasing federal lead deposits to private miners in the northern Mississippi River region in the 1920s. After early success under the first administrator, the leasing program ultimately failed. The authors of this book see that failure as an early example of private forces exerting their power and influence over government administration. The experiment also set an unfortunate and misguided precedent for criticism of government regulation. The long-term implications are described as follows:

The leasing system was devised to ensure active development of mineral deposits, prevent anticompetitive practices, and provide a reasonable return for federal coffers. In a rugged and hostile frontier, it is remarkable how far the system went initially in meeting those goals. The Galena experiment is not remembered for its success, however. Its eventual failure, at the hands of powerful private interests and corrupt federal officials, was memorialized into a testament to the evils of government regulation. The ideological heirs of the system's opponents used a distorted version of the experiment to support their view of the proper aims of federal policy. Jefferson's ideal of government regulation to protect public ownership was replaced by the belief that serving commercial ends would redound eventually to the benefit of the nation. This view, which became the lesson of the Galena experiment, continued to exert a powerful influence on the course of the history of the public domain. (p. 39)

This passage sums up the nature of the book's historical portrayal of U.S. mineral policy as well as its political position regarding that history and the future course of government activity in this area.

The next three chapters examine the major mining laws of the late nineteenth and early twentieth centuries—the 1872 Mining Law (governing all minerals except coal), and the Mineral Lands Leasing Act of 1920 (regulating the coal and oil industries). Curiously, these laws have remained in effect and, in the authors' view, continue to create havoc

with the most desirable government leasing policy. Two more chapters also discuss the substance of major federal laws. The first, entitled "The Modern Frontier: Oil Shale and the Outer Continental Shelf" documents the controversial, but potentially energy rich, investment in the production of petroleum from oil shale. The second, "Protecting the Environment on the Public Domain," recounts Interior Secretary Watt's prolonged battle with Congress over the development of mineral mining on and the overall use of U.S. wilderness areas. It includes a thorough history of the wilderness laws, and an assessment of their strengths and weaknesses.

The remaining chapters address policy actions of the first years of the Reagan administration—policy actions intended not to preserve and protect public lands, but to serve and protect the interests of the oil and mining companies. Perhaps the most interesting and important chapter of the entire book is Chapter Eight which evaluates the actual administration of mining laws. The failure of the many federal laws discussed throughout the remainder of the book can be summarized as the failure of government agencies to implement a policy not only of protection of the environment, but protection of the interests of the American people. Confusion of authority, lack of organization and management, poor leasing and royalty systems, and regulators who frequently have industry interests have combined to cause disturbing policy-making and implementation within the Department of the Interior. The book's discussion of these flaws is both comprehensive and analytical. It serves as a reminder that congressional action is insufficient, standing alone, to guarantee that appropriate action is taken to preserve and protect the nation's resources.

Overall, this book is a fascinating history and an insightful commentary on mineral and federal land policy in the United States. Although it has a distinct political bias, this perspective is openly admitted and is well supported with facts and analysis. Its heavy focus on Reagan administration actions will not outdate it because, I fear, these are long-term, well-entrenched problems which will not quickly or easily be resolved.

Barbara S. Webber  
West Virginia University