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[SYMPOSIUM]

THE FEDERAL LANDS AS BIG BUSINESS*

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The public lands of the United States have always been the focal point for much discussion and even controversy, as the policy issues about them have been debated in the Congress and in the electorate. But it is only since World War II that they have become big business, in the modern American sense of the term. The thesis of this Article is that the business aspects of federal land management deserve more attention than they have had; that attention to their business aspects would strengthen, not weaken, their conservation management.

Every beginning student in American history is told of the controversy between Hamilton and Jefferson over the management of the public lands. Hamilton wanted to use the public lands to raise money, to bolster the weak currency of the day; Jefferson wanted them to be used primarily to stimulate settlement, especially on the frontier. Hamilton is supposed to have prevailed at first, Jefferson to have gradually won, and the policy shifted from one of land for revenue to one of land for settlers. While there is considerable truth in this highly abbreviated version of that period of history, the facts in many ways do not conform to it. Parts of what later became the public domain were ceded to the new government as early as 1784, several years before the Constitution. During the next few years the need for revenue was most acute, yet the revenues from public land sales were virtually nil for twenty years; it was not until 1809 that sales of land produced as much as five per cent of the national revenue and not until 1814 that they were as much as ten per cent.[1] There was simply too much land already in the hands of private owners and in state ownership for the more distant frontier federal lands to be much in demand. The terms of selling land did indeed shift more toward the settler, as smaller units of land were sold at easier terms, in offices closer to the frontier. Interestingly enough, it was in 1835 and 1836 that sales of public land reached

* The views expressed herein are personal. In writing this Article the author has drawn heavily on books which he wrote or helped write: Clawson, Uncle Sam's Acres (1951); Clawson & Held, The Federal Lands: Their Use and Management (1957); Clawson, The Federal Lands Since 1956 (1967).

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1. Clawson, Uncle Sam's Acres 62 (1951).

their peak in terms of contribution to federal revenue, with more than forty per cent of all federal revenues coming from this source. This was the period of the great treasury surplus, of state chartered banks which printed their own money, and of speculative excesses which have perhaps never been equalled.

This early history is perhaps instructive in demonstrating that the facts about land revenue are seriously out of line with the usual discussion in more historical or journalistic terms. But, in the intervening decades, attention to the monetary side of public land management has often been almost equally lacking.

There was one other relatively early episode in federal land history that also concerns attempts to make the lands yield revenue. In 1807 a law was passed to allow the leasing of federal land yielding lead in Indiana.[2] Forty years later, after rather fruitless and controversial attempts to collect royalties from mining operations on public land, the law was repealed. In contrast, the earliest gold mining boom in the West took place wholly under local law; gold was taken off federal land with no federal law to legalize it.

From 1840 or earlier, there is observable a rather steady tendency toward making federal land more readily available to whomever wanted it, as the pre-emption act[3] was succeeded by homesteading,[4] this supplemented by the Timber Culture and Desert Land Acts,[5] and generous grants were made to states and to railroads.[6] The administration of the laws, no less than their terms, favored rapid disposal of the federal lands; revenue considerations were definitely secondary. It was an era of selective land disposal; each applicant took the best land about which he knew, transportation and many other factors being taken into consideration. Land was not disposed of in large solid blocks, but rather in shotgun fashion; the passed-over lands sometimes were taken later, thereby leaving little or no land in federal hands throughout the central part of the country. But farther west, the shotgun fashion still existed when the Taylor Grazing Act[7] generally put an end to large scale disposal of

2. *Id.* at 76.

3. 19 Stat. 35 (1876), 43 U.S.C. §§ 890-92 (1964).

4. Stat. 1097 (1891), as amended, 43 U.S.C. § 161 (1964).

5. Timber Culture Acts, Act of March 3, 1873, ch. 277, 17 Stat. 605; Act of March 13, 1874, ch. 55, 18 Stat. 21. Desert-Land Entries Act, 19 Stat. 377 (1877), 43 U.S.C. § 321 (1964).

6. See, for example, the granting to railroads of rights-of-way through public lands, 18 Stat. 482 (1875), 43 U.S.C. § 934 (1964).

7. 48 Stat. 1269 (1934), 43 U.S.C. § 315-15(r) (1964).

federal lands. The federal reservation of land for national forests, national parks, and wildlife refuges was also a selective process, although the units of selection were larger than for the homesteader.

When the era of permanent reservation of federal land began in the later part of the nineteenth century, it was conservation of resources and future timber supply that was of uppermost concern, not the possibility of federal revenue. Pinchot did indeed flirt briefly with the revenue possibilities of the national forests. In 1905 the act which transferred the forest reserves from the Department of the Interior to the Department of Agriculture permitted expenditure of forest receipts without their re-appropriation by the Congress;[8] but when revenues ran larger than Congress expected, this power was revoked in 1906.[9] Pinchot had early believed that forests could and should be operated for profit, but his conservation crusade gradually soft-pedaled the profit aspects of federal land management.[10]

Revenues from federal lands were a factor in getting the Reclamation Act passed in 1902.[11] Western interests were able to get the act passed only by arguing that the program would be self-supporting; they argued successfully for re-investment in the West of revenues from sales of federal lands. This feature has continued to the present, and sales and royalties from federal lands have been a major source of the reclamation fund to this day.

The modern era of large-scale revenues from federal lands can perhaps be said to have had its beginning in 1920 when the Mineral Leasing Act[12] was passed—as far as any one date marks the beginning of that period. Under that act, 52.5 per cent of the revenues are paid into the reclamation fund and 37.5 per cent go to the states, leaving only 10 per cent for the federal treasury. While this leaves only a small part of the total revenues for the general public, at least the idea of disposal for revenue is included. Annual receipts under this act were modest for some years, exceeding 10 million dollars in only one year until 1943. Thereafter, they

8. Act of Feb. 1, 1905, ch. 288, § 1, 33 Stat. 628.

9. 34 Stat. 684 (1906), 16 U.S.C. § 476 (1964). For a chronological description of congressional action in this area, see Dana, Forest and Range Policy—Its Development in the United States 391-92 (1956).

10. Pinchot, Breaking New Ground (1947). See particularly chs. 10, 26, and others dealing with the period before 1905.

11. 32 Stat. 390 (1902), as amended, 43 U.S.C. § 372 (1964).

12. Stat. 437 (1920), as amended, 30 U.S.C. § 22 (1964).

began to rise rapidly and by 1950 were up to a level of 30 million dollars annually.[13]

The sale of timber from national forests was one of the few other major sources of revenue from the federal lands during the 1920's and 1930's, but sales did not exceed 5 million dollars in any year until 1942. Thereafter they, too, began to climb and by 1950 were also up to a level of 30 million dollars annually.[14] During these same decades, other revenues from federal lands were few—fees for grazing in national forests, sales of public land, sales of timber, and others. Income from national parks and wildlife refuges was small. All in all, up to 1950 the management of the federal lands was more one of careful custodianship than of business. In spite of low appropriations, revenues did not meet direct cash costs. This was the latter part of the era called "extensive management." As late as 1950, total revenue from all federal lands was about 75 million dollars while total expenditures were about 100 million dollars.[15]

But 1950 marked the end of one era and the beginning of another —that of intensive management. The rate of expenditures on the federal lands rose considerably in the years immediately following 1950, but total revenues rose even more. For the first time since the conservation era began the federal lands produced some net cash balance.

In these same years a new factor entered the revenue picture. Leases for submerged areas off the coasts were sold, producing very large cash bonuses; nearly 250 million dollars from this source had been received through 1956. Royalties from these "lands" naturally came more slowly since the difficulties of drilling were great.

In 1957 when *The Federal Lands: Their Use and Management* was written,[16] it seemed probable that both revenues from, and expenditures on, the federal lands as a whole would continue to rise, but that the favorable net cash balance would continue. Rising demand for national forest and other timber, rising stumpage prices, rising output of petroleum products, as well as increasing recreation and other uses which would produce some cash revenue were expected to contribute to a mounting total cash revenue. It seemed probable that expenditures for current management and for invest-

13. Clawson & Held, The Federal Lands: Their Use and Management (1957). See particularly app. table 27.

14. *Id.* at app. table 3.

15. *Id.* at table 12 and app. tables 51-54.

16. Clawson & Held, The Federal Lands: Their Use and Management (1957).

ment would increase also, but at a rate that would leave a positive cash balance. With this revenue outlook it was thought that it would be possible to work out arrangements for the federal lands to finance their own management and investment, if one could abolish that old incubus, the reclamation fund.

Events since 1956 have turned out somewhat differently than expected. True enough, cash revenues have risen—rather steadily from the land areas, due primarily to larger sales of timber and larger production of petroleum products. Stumpage prices ceased to continue their rapid postwar advance, so that total timber revenues reflected only larger volumes sold. The non-revenue uses of federal lands, principally recreation, have also mounted steadily. Sales of leases in the submerged areas have brought very large sums of money, but only irregularly. Total revenues from this source, 1954 through 1964, have totalled 1.25 billion dollars—a tidy sum, even in these days.

The unanticipated development since 1956 has been the great increase in expenditures on federal lands.[17] From less than 200 million dollars annually in 1956, expenditures have increased to about 500 million dollars annually in the last two years. A regular increase in operating or management expenditures was apparent even in the later 1950's, with a rather pronounced jump upward in fiscal years 1961 and 1962. Expenditures for investment have been more irregular but their advance has been very great. In 1957 there simply could not be foreseen a willingness on the part of the administration and the Congress to spend as much public money on the federal lands as has turned out to be the case, nor did it seem that it was necessary to do so. Each of the major kinds of federal land area has shared in this increase, although not to exactly the same degree. The management of these lands has become more intensive, but the added revenues have not met the added costs. In part, this is because the latter include all investment expenditures in the year made, even though their benefit extends over many years. When the revenues from the submerged "lands" are included, the balance has been favorable in years of big lease sales, but unfavorable in other years.

The outlook for future receipts and expenditures, *given present pricing and receipt distribution policies,* can be summarized briefly. If one includes the submerged areas, then federal areas as a whole

17. These and other data for the period since 1956 come from Clawson, The Federal Lands Since 1956 (1967), which updates Clawson & Held, The Federal Lands: Their Use and Management (1957).

by 1980 might carry present systems of receipt distribution to states and counties, the present payment system to the reclamation fund, estimated investment needs, and estimated current management needs, with a small margin to spare—about five per cent. Actual payments to states, counties, and the reclamation fund would mount greatly, to over double present levels. This generally rosy financial outlook is possible only because the submerged areas (and the Bureau of Land Management (BLM) as an agency) carry all the other areas. If the submerged areas are omitted, the federal lands, *under present pricing policies,* by that date simply cannot be self-sustaining financially; even if that anachronism, the reclamation fund, be abolished, they still could not be self-sustaining in 1980—the adverse margin is still over 125 million dollars or about twenty-two per cent of estimated necessary expenditures. The different kinds of land, and different agencies, differ greatly in this regard.

The big business aspect of federal lands can be demonstrated by a few comparisons with private business. In the table which follows later, it is seen that a more or less normalized annual gross income (averaging out sales of leases on submerged areas) is about 500 million dollars cash, or about 1.1 billion dollars if noncash income is also included. In 1964 an industrial corporation in the United States with 500 million dollars gross sales would have ranked about one hundred twenty-fifth in size; one with 1.1 billion dollars would have ranked about fiftieth.[18] Either the BLM or the Forest Service, alone, would have been well up in the list of 500 largest industrial corporations. Without considering such matters as whether these revenues were as large as they could or should be, or whether revenues should be a fair test of government land management, the fact remains that management of the federal lands today is inescapably big business. Nor does one have to endorse all aspects of private business management to conclude that federal land management has considered revenue and other business aspects far less than would a private firm of the same size. Public business is handled differently than private business; the decisions on how much to spend for management and for investment and on pricing of product are reached differently. But one can conclude also that these aspects of federal land management have had far less attention than other more traditional concerns: "conservation," "wise use," availability of resources to the public, and others.

18. Fortune, July 1965, pp. 150, 152.

The writer has stated that the business aspects of federal land management have been relatively neglected. What have been the deficiencies?[19]

First, many products from the federal lands have been disposed of at far less than their full value, either as a result of specific laws, political pressures, or history. There has been much publicity about grazing fees lower than the full value of the forage; while this undoubtedly has been true, more so in some years and in some areas than in others, the sums involved have been comparatively small. Even stumpage sold at competitive bid may not have always brought its full value because of imperfections in the market. Leasing of oil and gas has been on more favorable terms than from private land. But the really great discrepancy is for outdoor recreation; much of this has been free or at only nominal prices despite the considerable values involved. Water from federal lands, as water from private land, has not brought the landowner any revenue, even when he incurred extra expenses to protect the amount or the quality of the runoff. Mining claims have often involved disposal of valuable land at prices fixed decades ago, and wholly out of line with the values involved.

Second, no allowance is made for changes in inventory values of land and timber stands. In some cases, federal management of land was undertaken in order to restore depleted forest stands, and some notable successes have been achieved. Yet the resulting increases in value do not show up in the balance sheet.

Third, on the expenditure side, the appropriations usually lump capital investments with annual operating costs. There is no capital account in the federal budget to show how much went into investment in roads, other facilities, and improved land productivity.

Fourth, the expenditures in the federal budget do not show a charge for past capital investment, either as depreciation or as interest on the capital amounts.

Fifth, in the annual budgeting process, no analysis is presented showing the effect of larger or smaller expenditures upon total receipts, or of higher (or lower) prices for the products sold and services provided. One cannot judge whether more expenditure would mean proportionately more or less revenue, nor what the effect of smaller expenditures would be. The basis for the budget

19. See also a series of articles by the writer contained in American Forests, March-Aug. 1965; these articles have been reprinted jointly by Resources for the Future, Inc. and the American Forestry Association under the title, The Public Lands.

request and for the final decision on appropriations is not net revenue, but something else.

In this general criticism of the business inadequacies of federal land management, one must make a partial exemption of the Forest Service. On its own, apparently without much encouragement from either the Bureau of the Budget or the Congress, it has for some years compiled and published a financial statement which takes at least some account of these factors. However, it does not go as far as this author would like.

If the various kinds of federal land compiled a complete financial statement each year, what would it look like? A very rough approximation is given in the accompanying table; its footnotes indicate how much of it has to be estimated. It is more illustrative than definitive; and its form is simplified to one page. It has been necessary to estimate capital values and many items on both the income and expenditure side; the results may be reasonable, but how accurate they are is not known. The cash income is only a little larger than the estimate of noncash income. More than one-half of the estimated operating expenses is interest on the value of the property. These relationships are at least suggestive of the error introduced by considering only cash receipts and cash expenditures. This table does not touch another important problem—the effect upon revenue of added expenditures.

If the writer criticizes federal land management for inadequate attention to the business aspects of its operations, what would he include in a more businesslike approach to that management?

First, accurate inventories of land and related resources, *in value terms,* should be compiled. The federal management agencies now inventory their resources in physical terms—board feet of timber, grazing capacity, recreation area, and the like, but these have rarely been put into value terms. Difficult conceptual and data problems arise, but no business can be run soundly which does not inventory its assets annually.

Second, realistic capital accounts should be established for each major kind of land, perhaps for each major management unit. These should include changes in inventory value, amounts of new investment, depreciation charges on old investments, interest charges on estimated value of resources, and the like.

Third, a comprehensive annual balance sheet, somewhat like the accompanying table but much more accurate and much more refined, is essential. This could include the best available estimates of items

Financial Statement, Federal Lands, 1963[20]
(million $)

Item	*Total*	*National forest*	*Public domain*	*National Park System*
CAPITAL ACCOUNT				
Value of land & resources[21]	(12,000)	(6,000)	(4,000)	(1,500)
Undepreciated value of past investments[22]	(1,720)	1,160	(50)	(500)
Total assets	(13,720)	(7,160)	(4,050)	(2,000)
Cash investments made during year	189	111	6	58
Investment in kind, during year[23]	61	55	6	0
Increased value of property[24]	(156)	(100)	(10)	(40)
Annual depreciation charge[25]	(94)	(60)	(3)	(30)
Annual interest charge[26]	(686)	(358)	(202)	(100)
INCOME, CASH				
Forest products	146	112	34	—
Mineral leases	319	[28]	318[30]	—
Grazing	9	5	4	—
Recreation	6	[29]	[29]	6
Other	14	5	8	—
Total	494	122	364	6
INCOME, IN KIND	31	27	4	0
ADDITIONAL VALUE OF PRODUCTS AND SERVICES PROVIDED AT LESS THAN FULL MARKET PRICE				
Forest products	(11)	(10)	(1)	0
Mineral leases	(35)	[28]	(35)	0
Grazing	(12)	(4)	(8)	0
Recreation	(330)	(125)	(5)	(180)
Total	(388)	(139)	(49)	(180)
TOTAL ANNUAL OUTPUT[27]	(1,069)	(388)	(427)	(226)
OPERATING EXPENDITURES:				
Cash	274	163	54	47
In kind	31	27	4	0
Depreciation of capital assets	(94)	(60)	(3)	(30)
Payments to states and counties	93	31	61	—
Interest on assets	(686)	(358)	(202)	(100)
Total	(1,178)	(639)	(324)	(177)

for which precise data are lacking; a good estimate is better than a blank.

Fourth, the financial balance sheet should be extended by estimating the effect of different management practices—larger and smaller expenditures for management, larger and smaller investments, higher and lower prices for output, and others. While these would involve many estimates, the problem does not seem insurmountable; it is met every day in good private business management.

All the foregoing could be done without new legislation; the management agencies each could do them, for the lands under their administration, or the Bureau of the Budget or the appropriation committees could require them. They would cost something, but relatively little compared to the magnitude of the receipts. The next step is more difficult.

Fifth, after data were in hand and estimates made, actual changes in amounts invested, in amounts spent for current management, and in prices charged for goods or services sold could be made. Some of these would require both congressional and executive concurrence—larger appropriations, for instance. Others, such as higher prices for goods and services sold, would involve touchy political issues. Nevertheless, until the Nation has reliable data in hand, it cannot

20. This table is intended to be suggestive, not definitive. The best readily available data have been used, but some do not conform to desired definitions. Where no reasonable data existed, the author has made illustrative estimates; these estimated figures are in parentheses (*e.g.*, (100)).

21. These are obviously only the roughest kind of estimates. General Services Administration, in its Inventory Report on Real Property Owned by the United States Throughout the World, lists land *at cost*; for all BLM lands, this was $1 million as of June 30, 1958—an absurd figure for present value.

22. Roads, buildings, and other improvements. Land, trees, grass, and the like are included in "land."

23. Author's estimate of value of roads built as part of timber sales contracts (five dollars per 1,000 board feet of timber).

24. From investment exceeding depreciation, or from growth of timber, and the like. This does not include possible increased price per acre unrelated to such changes.

25. On past investment in buildings, roads, and the like; approximate order of magnitude, at best.

26. At 5%.

27. Cash income, income in kind, additional value of products and services provided at less than full market price, plus increased value of property. This does not include any value for water originating from federal lands.

28. Included in public domain.

29. Not recorded separately.

30. Includes only $200 million from submerged areas, as an approximately normal annual receipt from these areas.

know how important such changes would be, nor who would benefit and who would lose.

In *The Federal Lands*[31] there was discussed some of the possibilities in a federal corporation for the management of the federal lands. The arguments in favor of such an approach today are stronger than they were in 1957. There are obvious difficulties in using this device, not the least of which are the problems of getting the necessary enabling legislation; but there are also major advantages in this approach, and the increasing importance of the business aspects of federal lands directs renewed attention at better methods for their financial management.

If an effort were made to charge a nearly full market price for all output of federal lands, might that make their administration "too commercial"? If there were more of an effort to make the federal lands financially self-sustaining, might this prejudice conservation management? Should federal lands be managed without regard to receipts or expenditures, but rather on a conservation or public service basis? These questions have bothered many conservationists and public land managers.

The writer would turn them around: if full credit is given for all intangible or nonmarketable products of federal land, what excuse is there for not meeting all costs, cash and noncash alike? The conservation argument for public land management makes much and rightly, of the noncommercial or nonmarketable output of federal lands. But it is assumed these might be fairly and fully valued. If so, what other arguments are there for public, as contrasted with private, management of the lands? How can one justify spending more cash or incurring other expenses larger than the full value of the output?

Income, cost, and financial returns from federal lands will loom more important in the future than they have in the past. A shift in this direction need not be at the expense of conservation, but rather could support it.

31. Clawson & Held, The Federal Lands: Their Use and Management (1957).