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Permit value: A hidden key to the public land grazing dispute

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PERMIT VALUE:
A Hidden Key to the
Public Land Grazing Dispute

by
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B.S. Portland State University, 1991
presented in partial fulfillment of the requirements
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This study examines the extent and importance of the real estate market value (permit value) of Forest Service grazing permits and Bureau of Land Management grazing leases. This value is not officially recognized by either agency, although it does influence the IRS calculation of inheritance taxes since it is considered to increase the total assessed value of a ranch. Permit value is traced through its historical and legal development. The theories as to why this value exists are explored. The numerous economic studies that have attempted to enumerate permit value in a specific region or trace the total extent of permit value throughout the 11 Western states are collected and their methods and results are discussed.

Informal interviews and surveys were conducted with forty-three individuals who have varying connections to the current political conflict over public land grazing. These interviews focused on discussing the political and economic importance of permit value in an attempt to assess the political viability of various proposed new management tools. These individuals included ranchers, both with and without grazing allotments, public land managers, academics, environmental activists, bankers, a Realtor and a newspaper reporter. Results showed that it is generally acknowledged that these permits and leases do have real estate value. More than two-thirds felt that this value had at least a significant influence on ranchers' opposition to grazing level reductions. Most felt that some new management tools would be helpful and more than half supported, to various degrees, plans to compensate ranchers for reductions in their grazing privileges or options to buy-out allotments entirely.

Various issues that affect public land grazing and which need to be considered when examining new management tools are discussed and then some new management plans are discussed. Finally, a hybrid proposal is offered that might make grazing reforms more politically viable by considering and compensating ranchers for permit value as their permitted stocking rates are reduced or voluntarily eliminated.
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# TABLE OF CONTENTS

**ABSTRACT**  
**ACKNOWLEDGMENTS**  
**LIST OF TABLES AND FIGURES**

<table>
<thead>
<tr>
<th>CHAPTER 1</th>
<th>UNDERSTANDING PERMIT VALUE: One step towards a solution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>airo</td>
<td>INTRODUCTION: Why the controversy?</td>
<td>1</td>
</tr>
<tr>
<td>airo</td>
<td>GRAZING FEES: A MISPLACED FOCUS?</td>
<td>5</td>
</tr>
<tr>
<td>airo</td>
<td>WHAT IS PERMIT VALUE?</td>
<td>6</td>
</tr>
<tr>
<td>airo</td>
<td>WHY STUDY PERMIT VALUE?</td>
<td>8</td>
</tr>
<tr>
<td>airo</td>
<td>A PREVIEW OF WHAT FOLLOWS</td>
<td>10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 2</th>
<th>A HISTORY OF PERMIT VALUE</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>airo</td>
<td>A CONFLICT IN IDEOLOGIES</td>
<td>13</td>
</tr>
<tr>
<td>airo</td>
<td>EARLY CONFLICTS OVER GRAZING REGULATION</td>
<td>14</td>
</tr>
<tr>
<td>airo</td>
<td>THE ORIGINS OF PERMIT VALUE</td>
<td>17</td>
</tr>
<tr>
<td>airo</td>
<td>PERMIT VALUE AND THE TAYLOR GRAZING ACT</td>
<td>21</td>
</tr>
<tr>
<td>airo</td>
<td>THE 1938 MEMORANDUM OF UNDERSTANDING</td>
<td>22</td>
</tr>
<tr>
<td>airo</td>
<td>THE ERA OF GRAZING COUNCILS</td>
<td>25</td>
</tr>
<tr>
<td>airo</td>
<td>MORE LEGAL CONFLICTS</td>
<td>27</td>
</tr>
<tr>
<td>airo</td>
<td>GROWING ENVIRONMENTAL INFLUENCES</td>
<td>30</td>
</tr>
<tr>
<td>airo</td>
<td>THE SAGEBRUSH REBELLION</td>
<td>33</td>
</tr>
<tr>
<td>airo</td>
<td>THE BABBITT REFORMS AND 1990s ENVIRONMENTALISM</td>
<td>35</td>
</tr>
<tr>
<td>airo</td>
<td>LEGISLATIVE RESPONSES TO THE ENVIRONMENTALISTS' SUCCESS</td>
<td>38</td>
</tr>
<tr>
<td>airo</td>
<td>THE CONTINUING STRUGGLE</td>
<td>41</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 3</th>
<th>THE ECONOMICS OF PERMIT VALUE</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>airo</td>
<td>TYPES OF RANCH APPRAISAL</td>
<td>43</td>
</tr>
<tr>
<td>airo</td>
<td>TWO THEORIES ON THE SOURCE OF PERMIT VALUE</td>
<td>45</td>
</tr>
<tr>
<td>airo</td>
<td>THE TRUE COST OF GRAZING LEASES</td>
<td>46</td>
</tr>
<tr>
<td>airo</td>
<td>ESTIMATIONS OF PERMIT VALUE</td>
<td>49</td>
</tr>
<tr>
<td>airo</td>
<td>FACTORS INFLUENCING PERMIT VALUE</td>
<td>58</td>
</tr>
<tr>
<td>airo</td>
<td>ESTIMATING THE TOTAL NATIONAL VALUE OF PERMITS</td>
<td>59</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHAPTER 4</th>
<th>PERMIT VALUE AS A FACTOR OF RANCHERS' POLITICS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>airo</td>
<td>THE SURVEY METHODOLOGY</td>
<td>61</td>
</tr>
<tr>
<td>airo</td>
<td>The Questions</td>
<td>61</td>
</tr>
<tr>
<td>airo</td>
<td>The Selection Process</td>
<td>63</td>
</tr>
<tr>
<td>airo</td>
<td>Conducting the Survey</td>
<td>64</td>
</tr>
<tr>
<td>airo</td>
<td>Interpreting the Results</td>
<td>65</td>
</tr>
</tbody>
</table>
LIST OF TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Permit Value by Method</td>
<td>50</td>
</tr>
<tr>
<td>2. Permit Value by Date</td>
<td>51</td>
</tr>
<tr>
<td>3. Permit Value by State</td>
<td>52</td>
</tr>
<tr>
<td>4. Results from Interview Question 4</td>
<td>77</td>
</tr>
<tr>
<td>5. Results from Interview Question 5</td>
<td>78</td>
</tr>
<tr>
<td>6. Results from Interview Question 6</td>
<td>79</td>
</tr>
</tbody>
</table>

LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Leases listed in classified ads for early grazing allotments</td>
<td>19</td>
</tr>
<tr>
<td>2. Grazing permit values in New Mexico, 1966-1994</td>
<td>55</td>
</tr>
</tbody>
</table>
CHAPTER 1
UNDERSTANDING PERMIT VALUE:
One step towards a solution

INTRODUCTION: Why the controversy?

Often overshadowed by the more intense debates and struggles involving logging on National Forests or mining in the public domain, the debate over grazing on public land seems to phase in and out of the media's eye. But gradually, grazing has become more and more of an issue for both environmentalists and the public. What is at stake is the health and use of over 285 million acres of public land. These lands are loosely controlled by the Bureau of Land Management (BLM) and the Forest Service, but used, often intensely, by ranchers for their cows, sheep and horses.

The problems surrounding that use are rooted in the economic and political structures that often allow overgrazing to continue, and surface as ecological bruises and scars. Overgrazing can lead to the loss of native grasses, the invasion of exotic plant species including noxious weeds, wildlife decline through loss of floral cover and habitat, erosion of topsoil, problems with forest regeneration or increased fuel load, streambank shearing, stream widening and loss of function, desertification through water table decline, stream sedimentation and the loss of fish spawning areas and the subsequent decline of fish populations.

Economically, low grazing fees for the use of these lands are called government subsidies by some, and necessity by others, who see many ranches barely surviving and worry about the effects of their loss to western communities and landscapes. Politically, despite some common ground in the
and varying definitions of "caring for the land" tend to divide people on the issue into a spectrum between the pro-extraction extremes of the Wise Use movement, and the "No Compromise" extremes of the environmental movement.

Currently, this split comes to light in the controversy taking place in many western states over the use of school lands for grazing. Environmentalists are arguing, with increasing success, that nonranchers should be able to bid on state grazing permits. The intent of the environmentalists, if successful, is to pay the state for the privilege of not grazing these lands. They would rest the land from livestock grazing, maintaining its flora for wildlife habitat and forage. Environmentalists argue that the states are legally bound to consider their bids because of constitutional requirements to maximize the long-term profits from the school land. Although the court battles continue, after years of agency petitioning and legal battles, the Forest Guardians were awarded the right to rest one state-controlled allotment that was abandoned by the rancher in 1996, and a second after outbidding a rancher by 5¢ an acre in 1997.¹

Not surprisingly, ranchers are threatened by these bids on state lands, and not simply because of the impact of the loss of a few state grazing leases to a few ranchers. Undoubtedly they are even more worried about the public's perception of grazing if the state determines that grazing leases are not the best long-term use of public land. Ranchers are also worried, with good reason, about how these rulings and their ramifications will affect the use of federal lands. Although the federal government is not required to maximize profit from the land it leases, one of the reforms proposed by Secretary of Interior Bruce Babbitt's proposed "Rangeland Reform '94" (henceforth

¹ The details of the Forest Guardians' successful bid were learned through a telephone conversation with their employee Sam Hitt on 4/15/98.
abbreviated "RR '94") would allowed ranchers (or other who came to control federal allotments) to rest their allotments. This facet of the proposed reforms, along with a few others, has been taken to court and a final ruling is still pending.

The public land ranching community's resistance to reforms is based on several concerns: that the total land base available for ranching will diminish; that reforms will economically impact both individual ranchers and ranching communities; that ranches will fail and get sold to developers, resulting in a loss of open spaces; that grazing fees will climb, impacting yearly operations; and that the flora on allotments that are not grazed will become decadent, and prone to fire. These concerns are compounded by a fear that the price for ranches will continue to climb in many areas due to development trends that are pushing up land values. This could eliminate some old ranches, and decrease the likelihood of any new ranches.

For ranchers, the July, 1997 decision by the US Fish & Wildlife Service that declared 599 miles of Arizona's, New Mexico's and California's stream banks as critical habitat for the southwestern willow flycatcher, along with the expected restrictions resulting from that declaration, are even more scary. Once again, as was not uncommon in the last 20 years, ranchers and environmentalists will end up in court, with federal agencies in the middle.2

2 The following enlightening snapshot comes from the e-mail news service GREENLines Issue #424, July 17, 1997, greenlines@envirolink.org:
“RANCHERS TO SUE: The New Mexico Public Lands Council, representing 3,500 ranchers in the state, filed a notice of intent to sue several federal agencies if restrictions on grazing in riparian areas are approved, according to a Santa Fe New Mexican article. The Council is acting in response to a notice of intent to sue [the agencies] by the Santa Fe group Forest Guardians for failing to protect the southwestern willow flycatcher and nine other threatened species from grazing. The ranchers argue that grazing may benefit the flycatcher. Forest Guardian's John Horning replies that, "as long as they continue denying they're part of the problem, we'll end up in court."
With this most recent round, contesting habitat needs for a growing number of endangered species, the stakes are getting higher, as the grazing management provisions in the Forest Plans from eleven separate National Forests are under dispute.³

Ranchers have felt the pinching and pruning of these court cases for years, never knowing whose allotment will be cut back next, usually with no compensation. Many fear an eventual end to public land grazing. Although that is unlikely to happen any time soon, the cry, "Cattle Free in '93"⁴ from many environmentalists still echoes in many a rancher's ear, perhaps also rekindling a more distant remembrance of the early moves to completely end grazing on the original forest reserves.

Despite these continued clashes, a counter development has attempted to bring ranchers and environmentalists to the same table. In some cases, such as the BLM's Resource Advisory Councils (RACs), they come to discuss each others concerns and to try to find some common ground that will allow the agencies to work with both more easily. In other areas, such as the Gray Ranch in New Mexico, or the Tipton Ranch in Nevada,⁵ ranchers are working with environmental groups on plans that emphasize ecologically based range management. Many more ranchers are attempting to do their best to show the public that ranching does not always destroy the land, and can at times help

³ "The Southwest Center has warned the U.S. Fish and Wildlife Service that it will be sued if it backs down on draft opinion that the Southwest's eleven National Forest Plans jeopardize seven threatened and endangered species with extinction." From the Southwest Center For Biological Diversity's 7/17/97, "SOUTHWEST BIODIVERSITY ALERT #83."

⁴ Although I have not been able to trace the origin of this slogan, it may have come from Edward Abbey. Nevertheless, it is commonly used by both environmentalists and ranchers who write about the controversy.

⁵ As documented in Dan Dagget's, Beyond the Rangeland Conflict: Towards a West that Works. Layton, Utah: Gibbs-Smith, 1995.
rehabilitate it. Although many environmentalists are truly pleased by these efforts, others cannot help but point out negative statistics. For example, they often note that 66% of the riparian habitat in BLM allotments is not in Proper Functioning Condition (USDI, BLM). Thus, the political and legal battles continue.

So, in the midst of this controversy over public land grazing, is there any way to make significant political progress on these issues? It is unrealistic to suggest that the groups involved will ever reach consensus, but it may be that one important element of that debate remains largely overlooked by environmentalists and lawmakers, and even in part by the public lands ranchers that it most affects. That missing element may be fundamental to understanding the ranchers' resistance to changes in the management of public land grazing. It may be that a clear understanding and fair consideration of the importance of that element may ease the conflict and allow politicians and land managers to develop new options that allow for progress in this hundred year debate. These new options could both ease the ecological concerns of environmentalists and the economic concerns of ranchers. This important hidden element, permit value, is the focus of this thesis.

GRAZING FEES: A MISPLACED FOCUS?

In a quick perusal of works on the history, politics or economics of public land grazing, the overwhelming impression would be that the dominant theme is the debate over grazing fees. Clearly there is much truth to that impression. That impression would surely be tempered by the growing

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6 For historic background to the grazing fee debate, see the work of Calif, Clawson, Rowley, Paul Roberts, and Foss' *Politics and Grass*. 
importance of environmental issues, but often even environmentalists get caught up in the grazing fee debate. To some, the phrase, "low grazing fees are subsidies" becomes a mantra, for it works to bring the public's attention to an environmental issue by having them look at where their tax dollars are going.

At least part of the academic interest in the debate over fees is because of its complexity. They raise many questions: Should fees be charged at all? How should fee levels be determined? Are ranchers being subsided through low grazing fees? Are low grazing fees costing taxpayer money? How do grazing fees relate to ranch prices? Do low grazing fees stabilize rural communities? The academic debate then filters out to the public, who usually look to the bottom line.

Throughout this varied debate, however, it is usually assumed that the fee itself is of paramount importance. The fee level does affect both the profitability of the ranch, and how much of the government's expenses for monitoring and maintaining the grazing program are recovered. Part of that fee-level debate centers on whether the fee represents the fair market value of the forage the lease provides. Also, it is often argued that increased fees will put small ranches out of business. What is not often asked, however, is if there are any equally important and possibly more fundamental issues that contribute to making the fee debate so central.

**WHAT IS PERMIT VALUE?**

To clearly understand permit value, it is necessary to have a clear understanding of the benefits that leasing a public land grazing allotment have to a ranching operation. The fundamental benefit is that such a lease provides a source of relatively secure forage that allows the operation to run
more cattle. Although allotment "AUMs\(^7\) do occasionally get cut, only in rare instances do whole allotments get canceled. Generally a ranch can count on this increase in forage to remain secure for at least ten years. In most cases, as long as they follow the legal requirements of their leases, they can keep their leases for decades. In some areas, forage from allotments is also difficult to replace, simply because the surrounding pastures are in use. This makes ranchers feel dependent on their allotments. Further, even if it is available, replacement forage is usually more expensive than running stock on an allotment. This is especially true in cases where the allotment abuts or is close to the ranch.

The question then becomes, "How real is that feeling of dependency?" Everyone admits that the fee for using federal allotments is clearly less than the fees charged to lease private allotments. Many thus argue that the ranchers should not be subsidized and the fee should be increased. Others argue that although the fees are lower on public lands, the total costs to the rancher for public and private forage are actually on par, if such factors as the required transportation, labor and equipment are considered. This controversy is important to recognize, but will not be resolved in this work.

If the total costs to a ranching operation are less per animal for a ranch with a federal allotment, then there is clearly a benefit of having an allotment. Even if the average total costs of public and private forage are nearly equal, there are other benefits that are less obvious. Looking at the microeconomics of ranching operations, a larger operation will usually have a greater total income and a greater total profit. Often, through economies of

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7 An AUM, or Animal Unit Month, defines either the amount of forage consumed by one cow, one cow and a calf, or six sheep in one month or the length of stay of the same animals in a defined area. This term is usually used in reference to leased areas, including federal grazing allotments.
scale, larger operations also have more profit per unit of livestock, since some costs remain nearly constant despite changes in the size of the ranch. Although the degree of their influence is debated, in almost all cases allotments clearly provide some increase to the yearly profit of a ranching operation.

Permits become valuable through the combination of all these benefits, and that value becomes marketable because permits are consistently transferred with the sale of a ranch. Although definitions of permit value vary slightly, for this thesis permit value is defined as the difference between the real estate value of a ranch without its attached allotment(s) and the real estate value of a ranch with its allotment(s). The actual calculation of permit value for an allotment is complicated, since permit value fluctuates with many factors, including changes in grazing fee levels, possible changes to the AUM level of the allotment, the season of use for the allotment, the degree of security that the allotment will remain with the ranch, the ranch's geography and ecology, the general productivity of the ranch and allotment, and local trends in ranch real estate values.

**WHY STUDY PERMIT VALUE?**

Many environmentalists and lawmakers are not even aware that permit value exists. Others are aware of it but focus on the grazing fee controversy or ecological concerns. Some environmentalists that I talked to, influenced by their belief that permit value has no legal basis, blind themselves to the significance that permit value has for ranchers. They do this despite the fact that in some cases it more than doubles the base (deeded) value of a ranch. In either case, those who are aware of it have failed to educate the public on its significance. Most ranchers with allotments are undoubtedly aware of the
economic importance of permit value, but for good reasons, few seem to make an issue of it. They choose instead to fight for the notion that grazing allotments are a property right, or emphasize the controversy over fee levels, imploring politicians to keep them low in order to maintain the stability of the public lands ranchers. This tactic, however, gets little sympathy from those who see low fees as a subsidy. Those who believe in these subsidies often do not really care about the debate over total costs, or how it affect ranchers, for as taxpayers what they care about is that the costs of managing the federal allotment system is considerably more than the sum that grazing fees bring in.

Ranchers might do better to be more open about the whole economic system of public land grazing. A clear explanation of permit value might gain or at least maintain public sympathy, especially if some ranchers have the courage to admit that they have become stuck with a large investment in an allotment that is not very profitable, or has become more valuable for other public uses. These ranchers must be more flexible, and at least willing to listen to new politically broad-based land management options. Ranchers must recognize that the West is changing and in the long run, they cannot realistically hold the acreage or AUMs that they currently do, in the face of the creeping forces of increasing population, growing demands for recreation on public lands, and increasing recognition of wildlife habitat needs.

In return, environmentalists must face up to the historical and political reality that it is unlikely that public lands ranching will end in the near future. They must work with the ranchers who are willing to change, and be willing to give some social and economic considerations to the long years of investment and sentimental use that ranchers have in public lands. They can continue in their attempt to chip away at the hardened allotment system
through costly and time consuming appeals and legal battles, or they can try to work towards finding real, long-term solutions. If they attempt the latter, understanding permit value will surely help.

The reality is that without a significant political or judicial shift, the struggle over public land ranching in the West will continue. That struggle can be painful and protracted, or may be transformed into a rational debate that searches for equity and fairness. It is my hope that the exploration of permit value that follows, along with the concluding recommendations, will lead to some real attempts for more flexible and equitable grazing management systems, that both benefit the environment, and are fair to ranchers.

A PREVIEW OF WHAT FOLLOWS

This thesis looks closely at permit value in an attempt to redefine the century-long debate over public land grazing. It postulates that there is a marketable real estate value to public land grazing allotments (hitherto referred to as permit value), that there is a fundamental tie between grazing fees and permit value, that permit value is one of the two biggest reasons why ranchers often resist cuts to their public land grazing allotments' AUM levels\textsuperscript{8} and other restrictive changes in allotment management. It then finds that ultimately, the issue of permit value must be addressed before any serious attempt to resolve the conflicts over public land grazing will bring even partial closure to the debate over public land grazing.

Chapter Two traces the historical background of the development of permit value: How did it come into being? This history is by no means comprehensive, and only touches briefly on the already well documented extensive debate over

\textsuperscript{8} The other primary reason is the stabilizing effect of the yearly economic benefits that a ranching operation incur by having a grazing allotment.
grazing allotment fee levels. Aside from fee levels, any law or event that changes AUM levels would directly influence permit values, as would any law or regulation that influences that existence or stability of permits. Thus, this history focuses on the debates, political trends, and legal issues that have influenced, or have the potential to influence, fee levels, AUM levels, or the stability of the allotment system. These include factors such as new environmental and land management laws along with related lawsuits, the "Sagebrush Rebellion" and its roots, the more recent grazing bills introduced by Senator Domenici and Representative Smith, fluctuations in the price of beef, and changes in land use patterns.

Chapter Three starts with a discussion of appraisal techniques and various theories proposed in the literature on the economic basis of permit value and the true costs of grazing on allotments. It then assembles the results of recent economic studies that assess the extent of permit value, i.e. how valuable is each additional AUM to the real estate value of a ranch. It also looks at the methods used in these studies to determine this value, including further discussion of the relationship between grazing fee levels and permit value. Finally, it attempts to explain some of the variations in those results.

Chapter Four reports the results of an informal survey the author conducted through interviews with forty-three people who are intimately concerned with the issue of public land grazing. These people include ranchers, both with and without federal allotments, federal land managers, professors, environmentalists, bankers, a Realtor and a reporter. The interviews were conducted in an attempt to assess the practical and political importance of permit value in the debate over public land grazing.

9 See Calif (57), Culhane (246-252), Foss Politics and Grass, Libecap (49, 81), and Kittredge.
The focus of these interviews was on assessing the importance of permit value and on getting responses to new management options that would compensate ranchers for forces AUM reductions, or allow voluntary retirement of allotments for compensation. The discussion of the results of these interviews also attempts to fit the interviewees' perspectives on permit value into a larger picture of the practical and philosophical views on public land grazing. It does this by comparing their perspectives on permit value with other related issues of importance, including ranch viability, grazing fee levels, retaining open spaces, land prices, maintaining viable wildlife habitat, maintaining rural communities, and the role of the federal government.

Chapter Five discusses various issues affecting public land grazing that need to be considered when examining new management tools. Then some new allotment management options are discussed that could potentially mitigate the economic impacts to the ranchers from AUM reductions and the resulting loss of permit value. The goal of some of these options is to reduce the resistance of the ranching community to AUM reductions that aim to increase critical habitat for wildlife and improve stream and riparian function.

Many of these possibilities were discussed with the interviewees, to assess their political and practical viability. After a final assessment of the importance of permit value in the public land grazing debate, in Chapter Six a recommendation is made that includes an outline of the integral components of some new management options that might be successful if incorporated into new legislation.
CHAPTER 2

A HISTORY OF PERMIT VALUE

— Grazing control on the National Forests was the most revolutionary force striking the western livestock industry since its modern beginning. It cut abruptly across a manner of living, with all its freedoms, which had evolved during the frontier era.

Paul H. Roberts

A CONFLICT IN IDEOLOGIES

The debate over public land grazing is just a part of a conflict in ideologies prevalent throughout the history of the West. Even before the Forest Service first imposed regulatory control of grazing, there were philosophical, legal and even personal conflicts over public land grazing. Underlying the debate over grazing was the question of whether the land remaining in the public domain should be privatized. The creation of the forest reserves polarized these two camps, as it reversed the long-standing policy of privatizing the frontier, and was opposed by many in the West.

In regards to grazing, two basic philosophies emerged. The first is kin to the "use it or lose it" philosophy of western water rights and the "first in time, first in rights" philosophy of western miners. The second philosophy espoused the conservationist belief that public land should be used for the benefit of the public as a whole, and thus the use of forage through the grazing permit and lease systems are only a temporary privilege that can be revoked at any time.

These two philosophies have manifested in legal conflicts over numerous different issues regarding public land grazing, including the issue of permit value. Looking to understand why litigation over grazing is so common, Michael Borman and Douglas Johnson note Judge Burns' remarks in the
decision on the famous NRDC v. Hodel case that require NEPA assessments of BLM allotments:

He noted, however, that the reason for the large scale judicial intrusion into these areas has been the inability or unwillingness of the other branches, both state and federal, to provide solutions to significant societal, environmental, and economic problems. We expect that litigation will continue and these legal "masters" will shape land use policies in the future.

Considering that many important issues are still in court, I suspect this legal "shaping" will continue. These include environmental efforts such as Secretary of Interior Babbitt's RR '94 measures and initiatives from environmental groups to lease state allotments. On the side of ranchers, Wayne Hage, author of Storm Over Rangelands: Private Rights in Federal Lands, continues to promote their cause in his case over water and grazing rights. Also, if the courts continue to redefine "takings," a new definition may have an influence of the legal status of permit value, although as of yet the courts have continued to deny its legal existence.

It is not in the scope of this work to pass judgment on either these philosophies or their legal or judicial implications. They are presented only to provide background and depth to the attitudes and ideas of the people centrally involved in the issues that are explored in later chapters. It is in their eyes and minds that the value and influence of grazing permits becomes a powerful economic, political and ecological force.

EARLY CONFLICTS OVER GRAZING REGULATION

During the nineteenth century, the users of public land forage found vast unused open spaces that they grew accustom to using at no cost. They gradually came to believe that this use was a right. Even after permit systems were instituted, first in the forest reserves (that later became the National Forests) and then on the lands that ended up being controlled by the BLM,
instead of feeling they had a right to the open range, ranchers developed an expectation that their permits would continue intact. They transferred their belief in a "right to graze" on the open range into a belief they had a right to their grazing permits.

In 1891, when the forest reserve were first created, the status of grazing in the reserves was not made clear, but quickly became an issue that unified western livestock interests. Meanwhile, under the leadership of John Muir, the influence of those opposing grazing grew. It is now largely forgotten that in 1894, three years after the reserves were first established, all grazing was officially excluded from the reserves. This proclamation, however, was extensively ignored, largely because there was no enforcement mechanism.

Years of studies, debate, and lobbying ensued. Grazing was partially reinstated in 1897, by the Pettygrove Amendment to an appropriations bill, despite the recommendation of the Forest Committee that had been formed at the request of Secretary of the Interior Hoke Smith. The Department of the Interior stopped sheep grazing on the reserves again in 1899, after just one year of regulation. Regulation was seen as a failure, but sheep grazing was reinstated that autumn after extensive political pressure from Northwestern Congressmen (Rowley 4-30).

This debate over grazing on the reserves even led to a split in the supporters of the forest reserves, after conservationists Gifford Pinchot and Albert Potter advocated a system of regulated grazing in the reserves, much to the dismay of preservationist John Muir, who advocated an end to all grazing, at least of sheep, on the reserves. Since that time, it has largely been the preservationists' influence that has continued to advocate reductions in grazing levels. Indeed they have had some success, particularly in clearly overgrazed areas, where their efforts are occasionally joined by the
conservationists. Elements of both the conservationist and preservationist traditions remain in the modern environmental movement, although the lines are not always clear. The preservationists, however, stimulated by expanding population and increased recreation use throughout the West, have in many ways become more persistent, and thus become more threatening to ranchers, especially ranchers who feel most strongly that they have a right to continue using their grazing allotments.

Confusion over the final status of grazing on the reserves continued to ensue until the regulation of the forest reserves was transferred to the Department of Agriculture in 1905. Between 1905 and 1906 the regulations were extensively revised. A three tiered preference system for permits was put in place and fees were recommended for the 1906 season. Preference was given first to ranchers who owned land adjacent to the reserves, next to those who owned land near the reserves, and finally to transient herders with no local property (Rowley 53-59).

This system was challenged in court, by those who questioned whether the agencies had a right to enforce regulations that were not specifically adopted by Congress. In 1911, the same year that the reserves were renamed National Forests, the Supreme Court decided two precedent-setting cases, *United States v. Grimaud* and *Light v. United States*. Both affirmed that the Secretary of Agriculture did have the constitutional power to regulate the use of public lands for grazing, with the *Grimaud* case making it clear that the agency also had the power to institute grazing fees.

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The *Light* case is of special interest since it pits state versus federal rights. Fred Light thought that it was the government's duty to follow Colorado law, which puts the onus on landowners to exclude cattle from their property. Thus he believed it was the duty of the Forest Service to put up a fence to keep his cattle from wandering into the forest that bordered the open range near his land. The Supreme Court ruled that the United States did not have to follow Colorado law, and that Light was required to get a permit if his cattle were grazing on public land. Thus, he was not free to knowingly allow his cattle to wander into the forest boundary.

Numerous other court cases, including the Supreme Court decision *Omaechevarria v. Idaho* in 1918, have found that grazing on public land is not a vested right, even if a permit has been acquired and held for years. The issue, however, is not completely clear. In 1890, an earlier Supreme Court decision, *Buford v. Houtz*, seemed to have ruled that ranchers had an implied license to graze public land. As Wayne Hage summarizes the case, "Mr. Houtz argued that the government of the United States had known of this use, had never forbidden it, nor taken any steps to arrest it, but had consented to and encouraged it." While that is all true, it is important to note that the government's "consent" was passive and really only applied to lands unoccupied and not designated for other purposes.

**THE ORIGINS OF PERMIT VALUE**

Historically, access to the open range had value to ranchers, but permit value as presented here could not have existed before the Forest Service began instituting the permit system. Before that time stockmen could freely graze on all public lands. With the new allotment system, notwithstanding any court decisions, ranchers quickly recognized that grazing permits legitimized the
value of the open range, and a kind of black market developed to buy and sell them.

The earliest actual documentation of the existence of permit value that I have found in an extensive search of academic literature, is in a little known work written in 1913 by Will C. Barnes, "Western Grazing Grounds and Forest Ranges." He notes how the early permit system in the forest reserves gave great preference to ranchers and settlers who had established land ownership near them, and that this preference virtually eliminated the migrant or "tramp" stockman. Barnes' description of these preferences in the early permit system also shows how they vary from the now familiar ten year inheritable leases. Most of the permits were yearlong, renewed in the spring, and were not supposed to be salable and transferable—even to heirs.

Although Barnes states, "The object of these regulations is to prevent speculation in permits and the handing down of grazing privileges from one person to another without the power of the Government [sic] to control it," (219) he also explains the obvious loopholes in that system. If both the stock and "such necessary ranch property as is clearly commensurate with the number of stock involved" were sold as a unit, then the permit could be renewed to the purchaser—and presumably it usually was. He cites cases "where sheep grazing under permit on a Forest [sic] have been sold for as much as $2 per head more than the market value, solely because the ranch which went with the purchase controlled the range in National Forest" (218). That $2 per head is the permit value, but what is not clear from this single source is how often these combined stock and land purchases occurred, or what the average permit value was in that era.

The central question from this early scenario remains with us even today: "Why are ranchers willing to pay more for ranches with grazing permits?"
Figure 1: Leases listed in classified ads for early grazing allotments.

Ranch for Sale

160-acre ranch, 5 miles from railroad station. Joins forest reserve and good range. 75 acres in timothy and alfalfa. Fair buildings. Ideal small stock or dairy ranch.

Price $4500—Terms

Collins Realty Co.
Helena, Mont.

Montana Farmer Stockman 10/15/46, p.36

For Sale—Ranch

$60,000

1,400 Acres of Deeded land,
700 Acres of Scrip land
30,000 Acres of Leased land with unlimited unoccupied range adjoining.

400 acres are under ditch which can be greatly increased by building a dam.

There are 30 miles of fences built and in good condition.

There is an 11-room cut stone modern residence that cost over $15,000 to build on the property, with gravity water system, hot water heated and acetylene lighted.

An enclosed rock foundation stock shed 270 by 60 feet.

A rock barn, 100 by 50 feet.

A stable for 30 head of horses, wagon sheds, blacksmith shop, granary, storehouses, bunkhouses, mess houses and everything necessary for conducting a high-class up-to-date ranch.

There is a five-foot bituminous coal vein on the property from which fuel is mined for operating the ranch. This coal was developed into a big producing mine at little expense.

Montana Farmer Stockman 7/15/47, p.36

Helena Independent 11/9/19, p.7

Montana Farmer Stockman
10/15/46, p.36

Great Falls Tribune 2/8/20, p.15

For Sale—Ranch

$60,000

4,100 Acres of Deeded land,
700 Acres of Scrip land
30,000 Acres of Leased land with unlimited unoccupied range adjoining.

400 acres are under ditch which can be greatly increased by building a dam.

There are 30 miles of fences built and in good condition.

There is an 11-room cut stone modern residence that cost over $15,000 to build on the property, with gravity water system, hot water heated and acetylene lighted.

An enclosed rock foundation stock shed 270 by 60 feet.

A rock barn, 100 by 50 feet.

A stable for 30 head of horses, wagon sheds, blacksmith shop, granary, storehouses, bunkhouses, mess houses and everything necessary for conducting a high-class up-to-date ranch.

There is a five-foot bituminous coal vein on the property from which fuel is mined for operating the ranch. This coal was developed into a big producing mine at little expense.

Helena Independent 10/31/15, p.7
Clearly, the security of having an inexpensive uncontested source of forage is the primary element of that value. Despite the requirement to pay the small fee that was associated with the permit, Barnes thought that stockmen with permits were much better off than either those who had to complete on the open range, or those who had to lease private ranges for fees averaging three times as high. (220).

Notwithstanding a fairly extensive record of the early disputes over both the existence and levels of grazing fees that extends from the 1910s through to the present, the values of the permit itself was not extensively discussed. There is, however, a significant set of clues that permits had some influence on ranch market values well before the 1960s, when agricultural economists began to study permit value. These clues can be found in the advertisements and classified sections from old magazines and newspapers where ranches were marketed. (See Figure 1.)

It is not uncommon to find ranches advertised as "adjoining forest reserve," or "controlling fine range" or having a number of "government" or "Taylor" acres. The ranch advertisements sometimes simply added the word "deeded" after the figure for acreage, to make it clear that the whole ranch was in fact owned. Presumably this practice started because some sellers included various leased and permitted acreage in their advertised figure for the ranch's total acreage. Others were more honest, and clearly distinguished deeded acres from leased acres in their ads, but obviously they still wanted to inform the buyer that they were getting something of more value than the deeded land alone.

Since these ads usually contained little information about the ranches, and proper ranch assessment considers many factors, it is difficult to determine the influence that federally leased acreage had on the marketability of ranches, and impossible to determine their influence on the selling price. It is
also unclear how often land designated only as "leased" referred actually to land held through forest reserve or Forest Service permits, and later leases under the Taylor Grazing Act. What is clear is that having extra leased acreage must have given some advantage to the seller or these references would not have been included in the ads, and that these permits did have some real estate value well before the time that such value was investigated by economists.

PERMIT VALUE AND THE TAYLOR GRAZING ACT

The next clearly documented indication of the existence and development of permit value came in passage of the Taylor Grazing Act (TGA) of 1934. The TGA expanded federal management of grazing into over 100 million acres of previously open range, creating an allotment system that had many similarities to the Forest Service's. But in contrast with the primary uses of timber and water in the National Forests, the TGA made grazing the primary use of these public lands. The TGA called for managing these lands in the form of grazing allotments. These allotments were connected to private holdings through the establishment of ten year renewable leases that were both inheritable and transferred with the sale of the land (pending the approval of the Grazing Service and its successor the BLM).

It is generally accepted that the TGA was passed to mitigate overgrazing on federal lands and to reduce conflicts among the users of those lands. It may be, however, that its passage was made easier by the awareness of ranchers who understood the value of Forest Service permits. They knew that a permit or leasing system would give them not only more secure forage, but also some advantage and possibly extra value in the marketplace if they were ever to sell their ranch.
One important and often overlooked passage in the TGA also insures the rancher that that extra value could be recognized by the banking system as collateral:

Except that no 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. (43 USCA §315b.)

Although it does seem rational to suppose that the ranchers’ expectation of gaining and retaining their allotment collateral and permit value could have been a reason in the passage of the extensively debated TGA, the extent of that influence remains undocumented and unanswered here.

THE 1938 MEMORANDUM OF UNDERSTANDING

Considering the clear advantage and recognition of permits as collateral that the TGA provides in section 43 USCA §315b, the signing of the 1938 Memorandum of Understanding between the Secretary of Agriculture and the Governor of the Farm Credit Administration (FCA) comes as no surprise. The events that led to this memorandum were covered in the legislative report of the American Cattle Producer as early as March 1935, in a discussion of a meeting regarding grazing permits:

The forests officials are conferring with officials for the Farm Credit Administration, as well as Director of Grazing F. R. Carpenter, and it is believed that a way will be found to work out the entire matter of grazing regulations, so that there will be sufficient stability in the operation to facilitate the making of federal bank loans on ranch lands.\(^{11}\)

Presumably that meeting led to the subsequent signing of the 1938 memorandum that focuses on the issue of loan security.

\(^{11}\) "Joint Conference with Forest Service Officials." American Cattle Producer. 16. (1935): 22.
The memorandum is clearer than the §315b of the TGA, and outlines a procedure whereby a permittee is allowed to put the preference for their grazing permits in escrow, using that escrow as loan collateral in all but name. Under the agreement, in the event of foreclosure on a mortgage with such an escrow, the Forest Service was required, "subject to its regulations and general administrative [to] recognize the loan agency as the logical successor to a preference." The loan agency could continue to graze the land until they sold it, and pass on the preference to whomever bought the ranch. The agreement also required that for permits in these escrow arrangements, the loan agency be consulted in the event the Forest Service was going to reduce or discontinue the permit, and that at least a year's warning be given before the reduction was to take place.

The substance of the memorandum seems to be at least in part derived from the passage of the amended Federal Farm Loan Act. That Act calls for "reasonable assurance" of the continued use of the land when loads are made to livestock owners who rely upon public grazing. The Forest Service and BLM permit systems, along with the Memorandum of Agreement and Federal Farm Loan Act, were undoubtedly seen by most as working towards the development, prosperity and security of western agricultural communities. Without the aid of the banks, many if not most of the ranches would not have been established in the first place, and certainly could not survive droughts or unforeseen downturns in stock prices. Over the years, however, this stabilizing effect has often worked to cement existing grazing levels in place.

12 Currently, when a lease legally ends up in the hands of an institution unqualified to renew it, the institution is given two years to transfer it (BLM Manual 4110-2-2&3) and the two years can be extended if complications arise.
even in areas where ecological considerations call for reductions in grazing levels.

The agreement continues even today, under a somewhat altered and clarified form (1986 Forest Service Handbook 18.32-2). This agreement, along with the general practice of banks making loans to ranchers based on both the deeded and permit value of their ranches, has given rise to accusations by environmentalists that the banks have an economic interest in maintaining the permit system and as a result use their political influence to maintain permits at their existing levels.13

The existence of the memorandum and TGA's §315b clearly document that, by the 1930s, the value of permits was generally recognized to both the stockmen and the banks, but it raises more questions about the nature of permit value than it answers. Was the value only in the form of stabilization of ranch units and thus their mortgages, or did it take on real estate value as well, and if so how much? How extensive was the practice of taking permits as collateral before the legal provisions came into effect? After these provisions? While it would take a major investigation beyond the scope of this work to discover the historical or present extent of permit value's use as collateral, it is generally recognized as widespread ("Taxpayers taken for ride by Western ranchers"), even through the admission of FCA officers (Henson).

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13 In the well known case of the disputed Diamond Bar allotment in New Mexico's Gila National Forest, the environmental group Gila Watch found at least six separate appeals from banks attempting to dissuade the Forest Service from reducing the permit's AUM level. During part of the controversy, the official permit level was held constant while the actual use was temporarily reduced.

During my interviews, I was discretely told by one of the land managers (who preferred to remain anonymous) of other allotments where the permitted use level was held constant despite an actual reduction in the field. These "temporary" reductions are apparently done to avoid conflicts with the ranchers and the banks. The impression given was that this practice was not uncommon, especially in cases of significant reductions.
THE ERA OF GRAZING COUNCILS

If the stability of permit levels is a factor in permit value, so is the likelihood of their renewal. In looking though the history of the management of the permit system, it is rare that permits are not renewed to active ranchers who continued to desire them.14 With this in mind, the most significant change brought about by the TGA is clearly the development of the Grazing Advisory Boards, which strongly influenced the lifestyle and values of ranchers with TGA allotments.

In the first few years after the implementation of the TGA in 1934 most of the grazing lands were divided into Grazing Districts. Each of the districts had a Grazing Advisory Board that arbitrated disputes between ranchers and made recommendations to the federal administrators as to grazing levels and permit renewals. Each board consisted of nine positions. Four positions represented cattlemen and horsemen and four positions represented sheepmen and goatsmen elected by ranchers from within each grazing district. The state appointed one position to represent wildlife interests.

Each district also had a district range manager who, at least on paper, was responsible for the protection and development of all the surface resources in his district. Probably the major functions carried on in a grazing district are grazing management, range conservation, range improvements, forestry management, fire control, and wildlife management. Once the boundaries of a district have been set, it is the district range manager's duty to ascertain the carrying capacity of the range. (Foss 99)

This is no small job, considering that many of the districts are larger than Connecticut.

14 The difficulty Hispanic ranchers in Northern New Mexico had in renewing their permits is a noted exception. See William Eno DeBuys' Enchantment and Exploitation. Albuquerque, NM: University of NM, 1985.
With range managers spread so thin, it is easy to see how the day-to-day decisions of such regulators could be ignored or influenced by groups of ranchers, whose elected grazing advisory boards had officially recognized power to make recommendations. The ranchers were well organized to exercise political power. They had local, state, and national stockmen's associations, and the support of many western senators, some of whom were themselves ranchers. In *Politics and Grass*, Foss even argues that this power, combined with the Grazing Service's and later the BLM's lack of personnel in these rural isolated areas, led to a system whereby the advisory boards made over ninety percent of the management decisions in many districts.

State and national advisory boards were also instituted, and not only were they effective in making most of the decisions, keeping administrators few and powerless, and fees low, they increased in political savvy enough to understand the importance of keeping the fee controversy and the significance of permit value largely out of the public's attention. Congressman Taylor called this influence, "Home rule on the range."

Two stories from the author William Kittredge, who grew up in southeastern Oregon, reveal the irreverence that that power commanded:

We mostly regarded the BLM range management experts as impractical college boys, and tried to ignore them when they asked us to change our grazing practices. "You got to keep the cattle out of that Hill Camp country for a couple of years," they would say, and we would say, "Sure," and smile, and then do as we damned pleased.

The story portrays the ranchers' general sentiment towards government officials as similar to a horse's feelings towards its pesky flies: they are in constant need of being whisked away by the brush of their tail. At times, the interactions between ranchers and officials became more belligerent:

Around 1960—this may be an apocryphal story, point is we believed it and loved it—a man from the BLM walked out into a hayfield to give some old rancher an earful about running too many cattle on his allotment. The rancher took after him with a gun. The chase led through the fields
until the fellow from the BLM climbed up in a stack of loose meadow hay and hid. The old rancher lit the haystack afire. "Cooked that sonofabitch," the old rancher would say, at least according to the way I heard the story. It was clearly us against them. They were trying to tell us how to take care of our country, which we loved even as we caused some damage now and then, and we hated them for their trouble.

The ranchers' attitude in these stories is not simply, "This is my allotment." It is clear that often their attitude is more aptly phrased, "This is my land!" and is rooted in many factors. Once again, it is important to remember that for the old-time ranch families, the range was once grazed for free. Further, throughout its development, the system whereby ranchers could lease otherwise unused public land has been clearly and strongly coded into legal system. Ranchers are the ones who have used and "improved" the land with fences and watering systems. Within grazing districts, through the advisory boards, they have had a strong say in local decision making. For a few ranches, there is a sixty-to-ninety year history of leases held by a single family. Finally, since most of the ecological and landscape transformations resulting from grazing occurred years ago, most ranchers are not lying if they say, "For as long as I can remember, the land always looked this way." Although new environmental laws and the growth of the BLM, in both budget and personnel, have slowly brought both management changes and new perspectives, it could be argued that the influence of the "Home rule on the range" philosophy continues even today.

MORE LEGAL CONFLICTS

Many of the recent arguments that explicitly propose grazing on public land to be a legal right are derived from or refer back to the decision in Red Canyon Sheep Company v Ickes, 98 FR 2d 308, (1938). This complicated case heard by the US Court of Appeals for the District of Columbia put an injunction on a land trade proposed by Mr. C. M. Harvey, who owned land completely
enclosed by National Forest, and wanted to trade his land for some land
controlled by the Department of Interior. The Interior's land, however, had
already been put into a grazing district as authorized by Section 7 of the TGA,
and had, "by an Executive Order of November 26, 1934, No 6910, [been]
withdrawn from settlement, location, sale or entry" (98 FR 2d 311), pending
further classification.

Further, a temporary license to graze had already been given to the Red
Canyon Sheep Co., which argued that it would suffer a substantial loss if the
trade proceeded, as they fully expected the license to eventually become a
permit. The court agreed and stopped the transfer, apparently admitting that
the Red Canyon Sheep Co. had a right to graze. What is often forgotten is that
the court also asserted that the Secretary of the Interior still had the power to
reclassify that land and take it out of the grazing district at any time so that he
could then proceed with the transfer if he so chose.

The court's allowance that the Secretary has such power implied that the
company had no property right in regards to the grazing federal land, and is
thus consistent with the decisions in the Grimaud, Light, and Omaechevarria
cases. Still, in a few places in this decision, the courts used other language that
can be read to substantiate "grazing rights." First, in their examination of the
phrase from Part I, §3 of the TGA, "stock owners as under his rules and
regulations are entitled to participate in the use of the range," the decision
states:

But we do conclude that if the Secretary determines to set up a grazing
district including lands upon which grazing has been going on, then
those who have been grazing their livestock upon these lands and who
bring themselves within a preferred class set up by the statute and
regulations, are entitled as of right to permits as against others who do
not possess the same facilities for economic and beneficial use of the
range. (98 FR 2d 314)
The courts use of the words "entitled" and "right" resound for those who would like public land grazing to be an absolute property right, even if the decision only actually clarifies the decision-making process that chooses which ranchers are to get permits.

Further, although this decision agrees with other courts that grazing is not a vested right, it also states that:

Yet, whether they be called rights, privileges, or bare licenses, or by whatever name, while they exist they are something of real value to the possessors and something which have their source in an enactment of the Congress. (98 FR 2d 315)

In such a statement, grazing rights activists see the courts affirming permit value. On the other hand, most environmentalists are either unaware of such statements, or chose to downplay or ignore them. Although they are correct in continually calling allotments public land, simply calling them such does not take away the privileges to their use that Congress gave to ranchers. The question then becomes, "To what extent is that privilege itself something substantial?"

Two other controversial cases have important relevance to the question of permit value. Both United States v. Jaramillo, and later United States v. Fuller, deal with circumstances where the government took away private lands through eminent domain, but left the grazing permits intact. In both cases the question was not whether the landowner should be awarded money for the allotment (which the courts have refused to do even if permits are canceled), but whether a jury should take into consideration the potentially increased value that private land has due to the proximity of the allotment lands and their economic importance to the landowner.

The judge in the Jaramillo case allowed the jury to consider the influence of the allotment on the real estate value, but in a five to four decision on the Fuller case the Supreme Court reversed the decisions of the district and appeals
courts, which had also allowed the jury to consider the importance of the permit, arguing that the government was not required to pay compensation for a value that the government had created (i.e. permit value). In this case the government ended up paying $136,500, when Fuller's expert witnesses had valued the land at upwards of a million dollars, and the original jury was going to compromise, awarding Fuller $350,000.

The other major legal quandary that has solidified the value of grazing permits in the minds of many involves the practices of the IRS. Although I have not been able to find a clear starting point for this practice, for many years the IRS has figured inheritance tax on the total value of a ranching estate, including the assessed value attributed to its grazing allotments. Thus, although originally a permit may have been awarded to some lucky rancher, the rancher's heirs are required to pay for 50% of the allotment's value. Even though this law only applies to the value of an estate that exceeds a certain limit, all but the smallest ranches have at least part of their value taxed. The sentiment among many ranchers is that if the IRS recognizes the value of permits, than the Forest Service and BLM should also.

GROWING ENVIRONMENTAL INFLUENCES

The seeds of many of the present disputes over public land grazing were planted in the 1960s, with the passage of the Wilderness Act (1964), the Multiple Use Sustained Yield Act (MUSYA-1964), the National Historic Preservation Act (1966) and Wild and Scenic Rivers Act (1968). Each, to varying degrees, brought changes in grazing policy. Then, a whole new set of laws passed during the environmental movement of the seventies opened the door to many more changes, with the passage of the National Environmental Protection Act (NEPA-1970), the Endangered Species Act (ESA-1973), the Clean
Water Act (CWA-1972), the National Forest Management Act (NFMA-1976), the Federal Lands Policy and Management Act (FLPMA-1976, also known as the BLM Organic Act) and the Public Rangeland Improvement Act (PRIA-1978).

The most significant event in this era was undoubtedly the 1974 landmark decision in the Natural Resource Defense Council's suit \((NRDC \ v. \ Morton)\), which used NEPA to require that the BLM do Environmental Impact Statements on its rangelands before reissuing leases. The suit forced the BLM to conduct 144 site specific Environmental Assessments (EAs) and Environmental Impact Statements (EISs) to analyze the effects of grazing, thus allowing public comments to be made for each individual allotment. Many of these assessments initially called for significant reductions in grazing, but these reductions were lessened through appeals and political pressure. Even still, since that decision, NEPA has probably been the strongest and most widely used tool for environmentalists to force changes in allotment management, particularly in obviously impacted areas.

NEPA, along with the strong language in MUSYA, FLPMA, and the PRIA, gave environmentalists the ability to force the recognition of recreation, scenic, and habitat values, to make changes in agency monitoring and management techniques, and even to alter individual allotment plans. Still, environmentalists have only made significant changes in areas where they could keep their attention and efforts focused. Charles Wilkinson offers an explanation as to why overall environmentalists' efforts have only been marginally successful:

The public interest groups...can gear up reasonably well for a sweeping legislative initiative such as the enactment of FLPMA, but they almost entirely lack the ability to influence the thousands of significant policy decisions made every year in the BLM and Forest
Service field offices... These include what are in a sense the most important decisions of all: to allow by default this grazing allotment, that grazing allotment...to go ahead for yet another year under what amounts to no management. For the cattle industry, administrative lobbying at that level is literally part of the cost of doing business. (111)

Some local environmental groups have taken his words to heart. The Oregon Natural Resources Council recently developed a model citizen monitoring system in which volunteers are trained to monitor and comment on grazing allotments, and are asked to visit allotments three times a year. Other groups are following suit, and various new guides to monitoring grazing allotments, including the Southern Utah Wilderness Alliance's publication, How Not to be Cowed, are also being developed. These give citizens quick access to much of the information and the tools they need to comment on the allotments where they hike, hunt, or fish.

Each of these new laws and efforts has brought gradual change to public land grazing practices. The Wilderness Act and Wild and Scenic Rivers Act both directly threaten permit value, but only for a small portion of the allotment system. Although the implementation of these laws usually leave allotments within designated areas intact for the current users, designation usually includes a provision that ends the leasing of allotments when the land is sold. This eliminates the permit value of these allotments. Under MUSYA and FLPMA, areas that were once consider largely or primarily devoted to grazing use are now forced to compete with other uses. Sometimes these other uses conflict with grazing, leading to a decline in AUM levels. With the ESA and National Historic Preservation Act, ranchers now fear that evidence of artifacts or endangered species on their allotments will limit or end grazing. Overall these new laws, whose affects generally get incorporated into the NEPA process, have still brought only gradual changes in total AUM levels allowed by the BLM and Forest Service. Nevertheless, a number of allotments
have been hit hard by NEPA assessments or occasional lawsuits that call for significant reductions in AUM levels or an end to grazing altogether.

These reductions, whether proposed or implemented, spark ire and resistance from the public lands ranchers, who clearly fear further reductions in their overall profits and to permit value. Even the ranchers who are not facing immediate reductions fear that they may have to face threatened or actual reductions in the future. The question remains, however, as to how much overall influence these new environmental laws have on permit value. While reducing an allotment's AUM level will clearly reduce its permit value, managers often make these reductions temporary, or reduce the "actual use" of an allotment while keeping the official "permitted use" on the books stable. This allows them to keep their real estate value and value as collateral. Many ranchers and agricultural economists argue that the new environmental laws reduce the value of each AUM value, but do market trends really reflect this conception? It may be that the perceived threat of AUM reductions and the associated increased risk of investing in permit value have developed enough of a psychological influence that they have achieved the status of actual market forces.

THE SAGEBRUSH REBELLION

For many ranchers, along with groups of loggers, millworkers, miners, and others whose jobs were tied to the public land, and to a more vocal and visible group of conservative thinkers and politicians, this new era of environmental laws caused a wave of fear, distaste, and anger, which led in part to their

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15 I discovered this through the interview process, and confirmed it with ranchers and land managers, who preferred to remain anonymous on this point.
organizing around a powerful new formulation of their historically rooted sentiments. The call of the Sagebrush Rebellion, with its aim of bringing the federal domain into state control, and of its offshoot, which called for privatization of federal land, caused a response in them that could not have been more clear. For many it was the desire to solidify what they felt they already had, but were at risk of losing: the control of the land. For the ranchers, if the rangelands were held by the state or privately, they would have more influence over decisions affecting them, and little or no risk of losing the economic value of the allotment leases they had long held and continue to feel invested in, with both their money and labor.

The Sagebrush Rebellion has its roots in the dissension of the western stockmen that started early in the century. Rowley recounts how the stockmen at the Public Lands Convention held in Denver in 1907, upset over grazing regulations and fees, "talked in terms of western secession" (65). Similar disputes, termed the "blowup in Region 2" erupted in the late 1940s in Colorado. The ensuing political battle that aimed to further ranchers' rights to graze on public lands has continued, often unifying the ranchers' anti-agency sentiment (207-217).

The modern Sagebrush Rebellion began in 1979 when the Nevada legislature passed a bill claiming ownership of all 48 million acres of BLM land in the state. Within the next two years, Arizona, New Mexico, Utah, and Wyoming passed similar legislation, while Hawaii and South Dakota passed resolutions supporting the cause. Meanwhile the rebels' proposals were argued but defeated in seven other states (Cawley, 2). Secretary of Interior James Watt even took steps, ultimately unsuccessful, to sell off large portions of public land.
The courts overruled these measures and few actual policy changes resulted from the movement. As Cawley suggests:

the Sagebrush Rebellion represented a protest against the environmental movement. The measure of environmental influence, in turn, was the proliferation of regulations.... The question confronting the Sagebrush Rebels, therefore, was how to curtail the environmental community's influence and thereby stem the tide of regulations. (161)

Viewed in that light, the rebels won most of the battles over grazing in the 1980s, by preventing the passing of many new environmental laws, and generally maintaining low fee and stable AUM levels.

With Reagan's election and the prospect of looser regulations and enforcement, much of the momentum of the movement stalled. The ranchers had their man in the White House and did not need to rebel. But the war was not over. It took Bush's declaration of his environmentalism to rekindle the movement and mend some of the splits between different rebel factions:

Representatives from many of the interests that had populated the Sagebrush Rebellion convened in Reno, Nevada, in August 1988 to attend a Multiple Use Strategy Conference. This conference marked the beginning of the Wise Use Movement. (Cawley 164)

As it turned out, they had little to worry about, since in practical terms Bush's administration of the public domain was much like Reagan's. Nevertheless, the movement continued. For many ranchers the philosophic and economic principles voiced by the Wise Use movement spoke of the concerns which had underlain their long-standing controversy over grazing fees. The movement collected the sentiments and ideas they lived by but had never completely or coherently formulated.

THE BABBITT REFORMS AND 1990s ENVIRONMENTALISM

The amazing grassroots and often bipartisan strength of the Wise Use movement arose yet again in 1993, when Clinton, through his Secretary of the Interior Bruce Babbitt, proposed new fee increases for federal allotments. The
controversy again exploded, and this time not just on the range or in the back rooms of Congress, but with national attention:

Western ranchers came streaming into Washington last week, string ties hoisted, hats as wide as the plains, boots gleaming. But they were jumpy and angry. And in the shadowy halls of the Capitol and the Interior and Agriculture Departments, they listened and argued about Bill Clinton's proposal to raise prices on government land and resources. (Sidey 39)

After this visit, and intense pressure from western senators, Clinton backpedaled and proposed compromise, but did not completely give up on the issue.

Babbitt held extensive meetings throughout the West over the next two years and found a number of common complaints and difficulties. He then came up with a new set of reforms that included among others, a more modest fee increase, some incentive measures for lessees who managed their lands well, establishment of Grazing Advisory Councils, allowing ranchers more leeway in resting their allotments, and allowing nonranchers to lease allotments. While some of these proposals have been implemented, including the Grazing Advisory Councils, others, including the right-to-rest provision and allowing nonranching leaseholders, are still working their way though the court system. On one hand the laws regarding allotment leases require that allotments be grazed, but they also allow the lessee to temporarily halt grazing to improve allotment conditions. At issue is the question of how much discretion the BLM has in defining "temporary."

These last two issues have also hit the state courts in Oregon, Idaho, New Mexico and Arizona, after environmental groups started to outbid ranchers for

16 The Federal District Court of Wyoming overruled many of Babbitt's proposed reforms, including the provision allowing extended resting of allotments termed "conservation use." For the decision, which is being appealed, see Public Lands Council v. United States Department of Interior, 929 F. Supp 1436 (1996).
the leases of state-controlled school grant lands, hoping to give these
allotments an extended or permanent rest. Nevertheless, most of these leases
were still awarded to the lower-bidding ranchers who had held them
previously. Some of cases are headed to their respective state supreme courts,
and may finally end up in the US Supreme Court.

Other recent developments in the 1990s have been forcing significant
changes in grazing levels and practices which indirectly affect the question
of permit value. In the Columbia River Basin, the declaration of various
salmon and steelhead runs as threatened or endangered, followed by the
publication of *Pacfish*, the draft EIS which discusses the implications of these
listings, has already begun to force land managers to fence the riparian areas
of affected streams to protect them from cattle grazing, for fear of lawsuits.
With the listing of the bull trout and expected listing of the westslope cutthroat
tROUT, *Infish* and the Interior Columbia Basin EIS could force similar measures
throughout much of the Inland West. In the Southwest, after the listing of
willow flycatcher and other species, other suits have successfully asked for
grazing reductions in their habitat and more are expected to follow.

Finally, Judge Haggerty's 1996 decision in the Clean Water Act case, *Oregon
Natural Desert Association et al. v. Jack Ward Thomas*, may become the latest
bane to the public lands ranchers. The decision establishes, "that applicants
for federal grazing permits receive, as a necessary precondition to the
issuance of that permit, certification from the state in which the grazing is to
occur that the grazing will not adversely impact state water quality standards"
(4). This is extraordinary because the Clean Water Act has not been much of a
factor in grazing disputes, even though as a nonpoint sediment pollution
source, sedimentation from grazing affects thousands of miles of rivers and
streams, as well as extensive wetlands throughout the West. According to Bill
Marlett at Oregon Natural Desert Association, the "EPA has already supported 401 applicability as a policy matter, and has been joined by the Association of State Attorneys General on the legal issues." If this certification process moves forward, it is likely to become a tool used by environmentalists to reduce AUMs, thus reducing the total permit value of allotments.

**LEGISLATIVE RESPONSES TO THE ENVIRONMENTALISTS' SUCCESS**

With the introduction of the bill, S. 852, *To Provide for Uniform Management of Livestock Grazing on Federal Land, and Other Purposes*, in 1995 by Senator Domenici of New Mexico, the ranching community began to respond to the environmentalists' success in the courts with a series of legislative responses. The goals still clearly include maintaining low fee levels, but due to low prices of beef in the 1990s, which in part determine those levels; environmentalists have not been successful in raising fees. The goals of the "Domenici Bill" and the other legislative proposals that followed are more focused on stopping the erosion of the total AUM levels, stopping the elimination of grazing from individual allotments, blocking the general public's ability to influence allotment management decisions, eliminating the recent reforms in BLM grazing management, and blocking the use of the ESA to modify grazing management. Overall, these bills can be seen as an attempt to give ranchers with public land leases greater control over those lands than they have had since the passing of the Taylor Grazing Act in 1934.

The Domenici Bill provided for increasing the duration of most leases from ten to fifteen years, and provided further isolation to the ranchers by limiting possible public comment on the BLM and Forest Service allotment management plans (AMPs) to that of "affected interests." The bill then redefined an "affected interest," limiting it to a person or group who "has provided
substantial evidence that the management of the public lands will affect that individual or organization" (§103). This definition, if passed into law, would have made it increasingly difficult for the general public to influence or appeal the AMPs that are written into the leases. (These plans sometimes ask for a decrease in AUMs to benefit the riparian areas, scenic values, and wildlife habitat within allotments.)

Domenici's bill drew enough attention that it provoked a coordinated and successful effort by environmental groups to prevent its passage. They were not fooled by the bill's attempt to obscure some of its major provisions, which repealed or amended sections of the Public Rangelands Improvement Act, by referring to them only by number, when in fact these sections contained the strongest environmental protection language in that Act.

But not everything was hidden. Besides the obvious increase of leases from ten to fifteen years, there were a few glaring sections that clearly showed that this bill could generally threaten long-term rangeland productivity. Consider the new definition for livestock carrying capacity that opens the door to calls for reassessing current allotment limits: "The term 'livestock carrying capacity' means the maximum sustainable stocking rate that is possible without inducing permanent damage to vegetation or related resources" (§104.23). It does not take much foresight to realize that any tests attempting to ascertain that carrying capacity would induce the permanent damage that they were, in theory, aiming to prevent. Additionally, the bill attempted to make the issuing of permits or leases a federal action that would be outside the consideration of NEPA (§121). On final analysis, the bill looks like an attempt to farther codify the, "This is my allotment!" attitude.

Although Domenici's bill failed, a little known rider was quietly slipped into the 1995 Rescissions Bill (PL 104-19 §504) along with the "Salvage Rider." It
called for the Forest Service to implement a schedule to ensure, "that not more than 20 percent of the allotments shall undergo NEPA analysis" each year. This might not seem very significant, but there was and continues to be a backlog of allotments due for renewal. Moreover, the bill also forces the Forest Service to renew the allotments which have their analyses delayed with their current terms and conditions, until the time they can be fully assessed. This allows overgrazed allotments, many of which still lack AMPs and are long overdue for assessment, to avoid analysis for up to ten more years—and maintain their existing permit value. Aside from this drawback, theoretically a clear schedule of allotment assessments could bring some long-term benefits, because it might allow the Forest Service to designate sufficient personnel to work on them, and thus eventually allow for better quality AMPs, EAs and EISs.

In 1997, Representative Bob Smith introduced a slightly toned down version of Domenici's bill, "The Forage Improvement Act of 1997." It has got more support than the previous version, passing in the House on October 30, 1997 by a 242-182 vote. Nevertheless, so far it failed to become law even after it was modified to offer at 30% increase in grazing fees (from $1.35 to $1.85 per AUM). This failure is undoubtedly in part due to the heightened awareness of major environmental groups to these issues that was brought by Domenici's bill. Still, Domenici has not completely failed to gather support this session in his efforts to maintain the existing AUMs and permit value of federal allotments. In the Interior Appropriations bill signed in November 1997, a rider was slipped in that effectively reversed a court decision that may have stopped grazing on over four hundred allotments due to concerns over endangered species.
THE CONTINUING STRUGGLE

Clearly the struggle between ranchers and environmentalists runs deeper than a controversy over low grazing fees. This struggle encompasses the shape and continuance of the public land grazing system. Central to these issues is maintaining the value of permits and the economics and value of public lands ranching. While not all environmentalists called for, "Cattle free by '93," most are concerned about the health of riparian areas, endemic ecosystems, and endangered species, and support significant reductions in AUM levels.

The counter-argument heard from ranchers is that many ranching operations would fold with higher fees or lower AUMs, and that they are defending their way of life. This argument does have some merit for operations running on marginal profits, with a high dependency on federal lands, or with high debts. In these cases, higher fees or lower AUMs significantly cut into profits and lower permit values. Lower permit values also reduce a ranch's collateral value, thus making it more difficult to refinance if hard times hit. With foreign or corporate owned ranches, however, or with larger family owned but more profitable and less federally dependent operations, the motivation of "protecting a way of life" must be questioned. Many operations would not go under even if they were stripped of federal lands or if fees were tripled. For them the motivations surely include both maintaining their permits' real estate value and the year-to-year profits that come with allotments.

From the historical record, it is impossible to determine just what motivations influenced specific political events in the history of public land grazing. Fee levels, AUM levels, permit values and profit are simply too interwoven to separate when considering the motivations of policy decisions.
and legislative proposals, since most proposals or decisions have the potential to affect all of them. The real motivations for these efforts can really only be explained by the ranchers themselves, and will be further explored in Chapter Four, which discusses the results of interviewing ranchers and individuals whose work brings them in close contact with ranchers.
CHAPTER 3
THE ECONOMICS OF PERMIT VALUE

This chapter returns to the question, "Why does permit value exist, and how can it be assessed?" The chapter starts by discussing different methods for ranch appraisal, then looks at the two theories as to why permit value exists. These theories, in turn lead into a discussion of the total true cost of public and private leases. Next, various methods used to assess permit value will be discussed, followed by a look at the results from key academic studies of permit value, and the factors that could explain the variability of their results.

TYPES OF RANCH APPRAISAL

As discussed previously, in simplest terms, permit value is the additional real estate value of a ranch gained from having the privilege and use of a public land grazing allotment from either the Forest Service or BLM. Still, since both the agencies and the judicial system have made it clear that these permits are not owned, then where does that value come from?

Any understanding of permit values requires at least a cursory understanding of ranch appraisal. Traditionally one of the simplest and easiest (although not necessarily more accurate) ways to appraise a ranch is to base the value on the ranch's carrying capacity (American Institute of Real Estate

17 State and private leases can also have permit value, but they are not the focus of this study.
Appraisers; Gee et al.; Oppenheimer), i.e., the sheer numbers of livestock that the forage and feed available to the operation can support. The other traditional assessment method is based on estimating the expected income of the ranch, then using capitalization techniques to project the ranch operation's expected worth and investment potential.

Both carrying capacity and expected income are still often used for a quick estimate of a ranch values, but appraisers and economists now routinely consider and assign values to more than a dozen factors including the value and upkeep of the buildings, the distance to the nearest town and railroad, scenic value, acreage in crops, water rights, the percentage of irrigated land, operational costs, and the percentage of deeded forage compared to private leased forage, state leased forage, Forest Service leased forage and BLM leased forage. Operational costs are, in turn, broken down into numerous associated factors.

This type of breakdown, when applied to a large set of unforced ranch sales, allows economists to do a type of regression analysis known as hedonic modeling. In a hedonic model, each factor that is expected to influence the price significantly is measured and assigned a unit value, then put into an equation with a variable coefficient. With a large enough set of data, these variables can be solved. The solution gives the average influence that each unit of a given factor has on the sale price. For example, each acre of irrigated rangeland may end up valued at $100 more than non-irrigated land, or each mile from a railroad station might reduce the value of the whole ranch by $50, i.e., reducing the value of a ranch 40 miles from a station by $2000.

An unforced sale is a sale between a willing seller and willing buyer, with no influence from excessive debt, inability to continue ranching operations or other factors than could unusually inflate or reduce the price.
TWO THEORIES ON THE SOURCE OF PERMIT VALUE

Up until the 1960s, there was little documentation of permit value. Starting in the 1960s, a number of agricultural economists began to study it, primarily because of its relationship to grazing fee levels. Until recently, these studies generally agreed that the existence of permit value was a result of the economic benefits from public land leases grazing fees being set lower than those paid in a competitive market setting. Lower fees result initially in a yearly operational savings to the rancher. This savings, in turn, becomes an expected part of the yearly operation of the ranch. Then, since allotment permits and leases traditionally get transferred with the sale of the ranch, buyers and sellers began to see the expected savings associated with them as an investment; however, the security of that investment required that allotment grazing fees remain lower than fees for private leases. To estimate the worth of that investment, economists could then use traditional appraisal and capitalization methods similar to those used on a variety of investments.

Another theory, promoted by Iqbal and rooted in traditional ranch appraisal techniques, finds that there is often no significant cost savings from public allotments compared to private leases or private land. Instead, permit value is found to be the result of the benefits associated with the economy of scale that comes with holding allotments (or contracts for private leases). Simply put, larger ranches cost less to run per cow, because many overhead costs either remain fixed or increase only marginally in a larger operation. These costs include such factors as maintaining a homestead and office, accounting costs, purchasing and maintaining tools, and often fencing, herding and riding costs.

Iqbal's theory is also closely related to those of scholars who claim that permit value was simply the result of the initial assignment of allotments. The
ranchers who were awarded the first allotments were given what can be seen as a gift from the government. Between that original assignment and the late 1960s, over 85% of allotments had been sold to new owners (Nielson and Workman). The percentage of these leases that have changed hands by that late 1990s is even higher. Each new lease holder paid the original lease holder for the value associated with that "gift" when they purchased their ranch and lease(s) at full market value. That value, according to Iqbal, is the advantage related to the economy of scale that is retained in these larger operations through federal grazing allotments.

THE TRUE COST OF GRAZING LEASES

Underling Iqbal’s theory is the assumption that the total costs of grazing on public lands are generally equivalent to the total cost of grazing on private lands. This assumption is based on studies that found that the non-fee costs were higher on public land due to increased costs from herding and moving livestock, transportation, lost animals, improvements and maintenance. These increased costs make the total cost of public land allotments equal to those of private leases.

The question of the "true costs" of grazing on public lands remains a highly debated issue and has been the object numerous articles and studies. Its importance comes largely from the legal mandate in the Federal Land Policy and Management Act of 1976 (PL 94-579) that requires, "The United States receive fair market value of the use of the public lands and their resources..." (§102(a)). It is almost universally acknowledged that the fees charged for the use of Forest Service and BLM allotments are less that those charged for private and (most) state allotments.
It is, however, also generally agreed that the costs to the rancher of running cattle on federal lands are somewhat more than those of private lands because of the extra services provided in those leases, and the extra costs associated with federal allotments. These services vary with different contracts, but often include fence maintenance, salt and watering, and may include transportation and herding. The extra expenses of federal land may include increased animal loss, riding and herding, maintaining improvements, paperwork, and dealing with federal bureaucrats.

There is extensive disagreement, however, over the difference between the (average) total costs of grazing on federally leased compared to the (average) total costs of grazing on private leases. Some studies (Bartlett et al.; Obermiller; Rostvold and Dudley; Torell, Van Tassell et al.) conclude that after including the federal fee, the total costs of federal and private leases are comparable, and that some ranchers are paying even higher costs for federal leases. The data for these studies came through extensive surveying of ranchers, who were asked detailed questions about their public and private land operational costs.

Not surprisingly, these studies and their methodologies are disputed by environmentalists and others, partly because the figures used for estimating average costs are often based on surveys of the ranchers themselves, and not on outside accounting methods. Jacobs also points to evidence gathered in the Committee on Government Operations that show extensive (illegal) subleasing of federal leases at rates approaching private lease rates, and concludes that if there is someone willing to pay a higher price, that allotments' forage must have that higher value.

Other studies (Gee et al.; Obermiller and Lambert; Rimbev; USDI and USDA 1977) find that the total costs of federal leases are below those of private leases. Interestingly, well before the requirement that fees be based on fair market
value, Gardner reports that, "The ranchers in the survey who had Bureau of Land Management permits reported no cost differences between renting private pastures and BLM district grazing, except for fencing expense" (55). He also finds that not including fees, ranchers with Forest Service permits have higher costs, but these costs are still well below the total cost of private leases.

One element offered as significant, but often overlooked as part of this debate, is the question of whether the cost of the interest from the investment in the permit value of mortgaged ranches should be included as part of the total cost of federal leases. The agencies and courts have ruled that in determining grazing fees, it should not be considered (because they do not recognize the legal existence of permit value). Many economists argue that the cost of interest from loans needs to be included, because failure to do so creates the apparent discrepancy found in some studies between the total costs of public and private leases.

After examining the arguments over the "true cost of leases," it appears that the expectation of savings on forage costs, and the additional savings from the economies of scale that come along with the ranches' increased size are both important factors that can lead to the development of permit value for allotments tied to ranch operations. Any profitable ranch may benefit from increased carrying capacity, below market forage costs or savings from the economy of scale. The increased carrying capacity that comes with a permit gives it larger income and profit potential. Over and above increased carrying capacity, any other savings from lower fees or economy of scale should be seen as extra benefits which would increase permit value.

Obviously, ranch operations and their associated allotments are extremely varied, so different ranches benefit from these factors to different degrees. Generally, in smaller operations it is likely that expected savings would be the
least significant. In mid-sized operations it is likely that expected savings on forage costs would be significant, and there would be some savings due to economy of scale. In larger operations, where the costs of fencing, herding and riding are more likely to decrease with size and the expected savings on monthly forage costs increase, the savings from the economics of scale become more significant.

ESTIMATIONS OF PERMIT VALUE

There have been over twenty different studies attempting to determine the permit value of public land allotments. As can be seen from Tables 1-3, the studies vary in method, date, and location, thus it is difficult to directly compare them. No method claims to be completely accurate, and most of the studies focus on finding an average permit value for a specific state over a specific time.

Each method has some tendency to focus on certain factors that weigh the results. The capitalization method is dependent on the expectation of savings from public land forage, and often ignores documentation on sale values. Surveys of ranchers, appraisers and Realtors are dependent on perceived values and are thus influenced by national politics, local policy enforcement by BLM and Forest Service officials, and the degree of interest and influence of environmentalists in a particular area. Results based on regression analyses are dependent on the hedonic model chosen, and various models can give different results to the same sets of data. Models are chosen and modified in attempts to produce results that realistically reflect the importance of each chosen factor in the real estate market, but it is possible that some of these modifications are influenced by expected results rather than actual market-based influences and variations.
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<tr>
<th>Study</th>
<th>Notes</th>
<th>Method</th>
<th>Years</th>
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<th>$/BLMAUM</th>
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<tbody>
<tr>
<td>Gardner</td>
<td>Capitalization</td>
<td>1950-1958</td>
<td>NW Colorado</td>
<td>44</td>
<td>23</td>
<td></td>
</tr>
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<td>Gee</td>
<td>Capitalization</td>
<td>1980</td>
<td>Colorado</td>
<td>71-76</td>
<td></td>
<td></td>
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<td>Capitalization</td>
<td>1984</td>
<td>Idaho</td>
<td>29</td>
<td></td>
<td></td>
</tr>
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<td>Capitalization</td>
<td>1992</td>
<td>Oregon</td>
<td>36</td>
<td></td>
<td></td>
</tr>
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<td>Survey</td>
<td>1958</td>
<td>NW Colorado</td>
<td>11</td>
<td>16</td>
<td></td>
</tr>
<tr>
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<td>Survey</td>
<td>Pre-1963</td>
<td>Utah</td>
<td>10</td>
<td></td>
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</tr>
<tr>
<td>Fowler &amp; Gray</td>
<td>Survey</td>
<td>1965</td>
<td>New Mexico</td>
<td>46</td>
<td></td>
<td></td>
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<td>Ferguson</td>
<td>Survey</td>
<td>1979</td>
<td>New Mexico</td>
<td>56-74</td>
<td></td>
<td></td>
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<td>New Mexico</td>
<td>71</td>
<td></td>
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<td>1983</td>
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<td>68</td>
<td></td>
</tr>
<tr>
<td>Martin &amp; Jeffries</td>
<td>Regression</td>
<td>Pre-1966</td>
<td>Arizona</td>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Winter &amp; Whittaker</td>
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<td>1970-1978</td>
<td>E. Oregon</td>
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<td>Utah</td>
<td>30</td>
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<td>Utah</td>
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<td>E. OR &amp; Nev</td>
<td>37</td>
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</tr>
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<td>Regression</td>
<td>1979-1983</td>
<td>Wyoming</td>
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<td></td>
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<td>1979-1985</td>
<td>New Mexico</td>
<td>93</td>
<td></td>
<td></td>
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<td></td>
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<td>Wyoming</td>
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The first serious attempt at evaluating permit value was published by B. Delworth Gardner in 1962. He discovered that the permit value, tabulated through a survey of ranchers who had recently bought or sold allotments, was much lower than the value he expected to find using the capitalization method. He thought the difference was due in part to, "transfer restrictions [which] may be preventing permits from moving to ranches (ranchers) where they would have greater economic value." He also found that 44% of Forest Service permits in the study area were reduced upon transfer, and in some of these areas there was an expectation that cuts would continue in the future, further reducing permit value.

For BLM allotments considered in that study, reductions were not a significant factor. Gardner's argument is that for BLM allotments the greater differential between the surveyed value ($10.92) and those expected through capitalization ($44.33) is due to transfer restrictions that were even more limiting than those of the Forest Service. Although it is true that BLM transfer restriction are more limiting, as BLM allotments cannot be transferred with the sale of livestock, this argument is not very convincing. Since BLM allotments almost always abut to the deeded ranch, and are sometimes even enclosed by the ranch they are tied to, they are almost certainly more valuable to that ranch, rather than another ranch further away. Rimbey, who also predicts permit value through the capitalization method, had a more reasonable explanations for this discrepancy, for he includes expenses that Gardner does not for BLM lands, bringing the value predicted by capitalization down to a value similar to Forest Service lands. Others have noted that BLM lands tend to be less productive than Forest Service lands.

Values calculated for permits using capitalization methods are clearly dependent on both the expected monthly savings for forage and the
capitalization rate used, as well as the formula used to figure the value of the capitalized savings. Methods used to figure this capitalized value vary. Workman and Gardner both use a "simple" formula that divides the expected savings by the capitalization rate: (Value of forage) - (Cost of forage)/ (Capitalization rate). However Workman uses a capitalization rate of 8%, compared to 6% for Gee et al.

Rimbey also uses a capitalization rate of 8%, but uses a different formula to figure out how much a "prudent investor" would pay for a permit (5):

Assuming the annual cash cost savings remains constant over a period of years, we can derive an estimate of the amount a prudent investor would pay to take advantage of these cost savings. The investor should be willing to invest up to the net present value (NPV) of the stream of benefits (or cost savings) or,

\[
NPV = E_{j=1}^{n} \frac{(PVT_n - BLM_n)}{(1+i)^n}
\]

where:
- \( j \) = years from 1 to \( n \)
- \( i \) = interest rate
- \( PVT_n \) = private costs year \( n \)
- \( BLM \) = BLM costs year \( n \)

Using this equation he finds that, "With a 30 year investment period and 8 percent discount rate, the net present value of the $2.59 cost savings would be $29 per AUM."

Gee et al. do not actually figure out the per AUM permit value of the ranch values that they are studying, but in two cases permit value can be calculated from the figures he uses. In breaking down the worth of a Central Mountain Colorado ranch, he places the value of 1790 AUMs at $135,750, after calculating that $7.50/month savings would be capitalized at 10%. This divides out to a permit value of $75.84/AUM. For another ranch he places the value of 910 AUMs at $65,000, with a $3.58/month savings calculated at 12%, for a permit value of $71.43/AUM. The variation in capitalization rates is explained by
Figure 2: Grazing permit values in New Mexico, 1966-1994.
From Torell et al. 1994.

1966-79 values from Fowler and Gray (1980)
1980-86 values from Torell and Duff (1989)
1987-94 values from Kincaid (1993)
regional differences in production and in real estate market value. Gee et al. do
not make clear what formula they use for capitalization.

If each of these studies used only the same "simple" method for
capitalization, Gardner, Rimbey, and Workman's data would show, for their
increased values of BLM forage calculated at $2.66, $2.59, and $2.89
respectively, only a small variance in range of permit values ranging from
$32-$36. In contrast, Rimbey finds the increased value of Forest Service forage
to be $0.52, compared with $1.38 for Gardner, and up to $7.50 for Gee et al.,
making the range of permit values (again using the simple method at 8%) to
be $7 for Rimbey, $17 for Gardner, and $45 and $94 for Gee et al. The last two
figure are clearly much higher, but they are for specific ranches and not
averages for a set of data on ranch sales. They could be reflecting unusually
beneficial allotments. In any case, the figures for estimating permit value
though the capitalization method are clearly dependent on the expected
savings from public land forage and the formula used.

Permit values determined through surveys appear consistent with various
factors that will be discussed in detail later in this chapter. In brief, they
generally increase over time, partly due to inflation and partly due to an
increase in ranch values over and above the inflation rate. They also reflect
higher values associated with the year-round allotment leases generally found
in New Mexico and Arizona. The study with the eleven state average seems to
find unusually high permit values, but its results come from data reflecting
the period that is generally considered the height for both ranch and permit
values.

The first attempt at using regression analysis to determine permit value was
done by Martin and Jefferies for Arizona ranches sold from 1957-1963. They
tried twelve different formulations on a relatively simple model with only six
variables, from which they chose four equations that gave similar results: values of $13/AUM$ for BLM leases and $23/AUM$ for Forest Service leases. These values are lower than other values found for year-round leases of that era. This can be explained in part because their procedure was, "based on the rancher's actual use of the land rather than the agency-suggested stocking rates. This procedure increases the animal-units figure on "section 15 BLM lands by a factor of about two." They do not indicate the extent of section 15 lands compared to section 2 and 3 lands, but if the agency-suggested levels were used, the AUM value for those lands would presumably double. Another factor that might have influenced their results was the use of deeded acres as a factor, rather than deeded AUMs. Intuitively, it would make sense to use the latter, considering all the leases were measured in AUMs. Later regression models do make that change.

The most extensive set of regression models used to determine permit value have been done by Torell and his student Kincaid, in combination with a number of other scholars. They have done numerous studies of ranch and permit values in New Mexico from 1979 to 1994, which follow the work of Fowler and Gray who studied the same values through surveys from 1966-1979. (See Figure 2.) They found that changes in permit values generally follow changes in ranch values and that both peaked around 1982.

The results from the three studies by Sunderman and Spahr, looking at data from sales between 1979 and 1993 in Wyoming, are based on models that differ from those used in New Mexico, and most of their results are inconsistent with other studies of permit value. They were the only ones to find no permit value for any set of BLM leases, and their results for Forest Service leases during two of the three periods studied were much higher than expected. I cannot explain their results. One factor that may have influenced their results from studying
175 sales was the inclusion of sales taking places through auction (16) and repossession (63). Other studies did not include such sales.

FACTORS INFLUENCING PERMIT VALUE

Looking through the variety of permit value studies, despite some variation, one of the most remarkable aspects of the accumulated results is their general consistency. With the exception of the results for BLM allotments in Sunderman and Spahr, every study found that permits had value. Studies also consistently found that permit values peaked around 1982, after an era of generally rising values for ranches. They also found that year-round allotment leases in New Mexico consistently had more value per AUM (typically about double) than allotments in states to the north that could only be used for part of the year.

Most of the studies of permit value agreed that with reasonably simple explanations, location, year, and length of grazing season can be identified as basic factors influencing permit values. Some studies also identified a few other factors that were likely to influence permit values, through the influence that they could have on either fee levels or AUM levels. These include the passing of new environmental laws and some federal court decisions on how to implement those laws. Also noted were some trends in national politics that could affect the stability of fee or AUM levels, particularly the "Sagebrush Rebellion" and the controversies surrounding the Clinton/Babbitt RR '94 measures. On a more localized level, the likelihood of reductions in AUMs due to the ecology of the region, grazing practices, the presence of endangered species, and the enforcement practices of federal officials also influenced permit values. The degree that these issues actually effect permit value is difficult to determine.
ESTIMATING THE TOTAL NATIONAL VALUE OF PERMITS

In 1968, Roberts and Nielson published what is probably the first attempt to make some estimate of the collective worth of federal grazing permits. They were estimating the loss of permit value if fees were raised to the full value of the forage. They took their estimate of $10/AUM for BLM leases in Utah and used simple multiplication to find a value of $13.5 million for 1.35 million AUMs. They also noted that implementing such a fee increase would mean an additional yearly cost to ranchers of $434,000 annually.

In 1980, in "Economic Analysis in Public Ranchland Management," Nelson estimates that, "The total capital value of all grazing on BLM rangelands is very likely no more than $1 billion." In their 1996 work, "Market Forces Would Benefit US Rangelands," Holechek and Hess estimate that 25-30% of all federal AUMs could be purchases for less than $420 million, making the total worth of all federal AUMs less than $1.68 billion.

In 1993 there were 13,303,068 BLM AUMs and 8,765,829 Forest Service AUMs for a combined total of 22,068,897 AUMs (USDI BLM). Using $150/AUM, one of the highest permit values found for year-round allotments, the total permit value for all allotments would be $3.31 billion. Using the 11 state average permit value level of $68, the combined permit value would be a bit over $1.5 billion. Since this figure comes from one of the years with the highest permit values, the current average is probably closer to $50/AUM, which would give a total national permit value of $1.1 billion.
CHAPTER 4
PERMIT VALUE AS A FACTOR OF RANCHERS' POLITICS:
How Important Is It?

This chapter attempts to characterize how important permit value is to ranchers with allotments, and to identify its significance to other ranchers, environmentalists, academics and public land managers. This discussion and the results of the informal survey that are presented, clearly are not and are not intended as a wide-scale sociological study or survey of this issue. Instead this chapter will only attempt to reveal the wide variety of insights and reactions of individuals close to the issue, through their own words and explanations. The hope is to illustrate the range of both emotional and intellectual responses to permit value, and to some degree, to the wider issues in the continuing controversy over managing public land grazing. My theory is that an unbiased presentation of these beliefs may help expedite reform efforts.

It must be understood that the survey conducted as part of this thesis is informal in nature, due to the following two factors. The first is the sample size. Although the total number of interviews (43) approaches a significant sampling, the results are broken down and interpreted by category (i.e. academic, land manager, etc.), and the sample size in each category is clearly not large enough for clear numerical results from a statistical analysis.

Why bother with a survey that does not produce clear numerical results? For the purpose of this thesis, there are three reasons. First, one of the principle aims of this work is to show that permit value is an important factor in ranchers' political motivations, and thus any positive responses indicating its importance are significant, even if they are subjective. Second, this survey
was always intended to be used along with the specific economic and historical evidence presented in the earlier chapters and not intended to stand on its own. Finally, the process of conducting the surveys was an important tool to open up the discussion about permit value with the interviewees and put it in the context of the larger debate over public land grazing.

The other factor that makes this survey informal is the discussions between the author and the interviewees. Although the complete intent of the survey was not revealed, the interviewees did not go into the survey completely "blind." For most, in order to get them to take the survey, they had to know something about me and the topic. Also, while each question was asked in a specific order, and specifically worded, during the interviews some of the questions needed further explanation for some of the interviewees. Also, between answers other issues were sometimes broached and discussed before returning to the survey questions.

THE SURVEY METHODOLOGY

The Questions

The questions used in the survey are presented in Appendix A. There are three sets of questions, each posed to different groups. The questions in each set are grouped into six sections, with each section containing one or more specific questions. The questions in the first four sections sets vary to reflect the group they are addressing. The questions in the first three sections in each set cover issues not directly related to permit value and are not collated. The results of the last three questions are specific to permit value and are shown in Tables 4-6.

The questions in Section One were designed to elicit the background of the interviewees and their experience with ranching. For permittees, Section Two
asks for background on their allotments, and for ranchers without allotments, whether they ever had an allotment. This is followed by Section Three that asks for the ranchers' perception of the allotment system. For all other groups, it is Section Two that asks for their perception of the allotment system and Section Three that asks for suggested changes to the allotment system.

The questions in Section Four seek to confirm the existence of permit value and to get an estimate from each interviewee of the permit value of a federal allotment AUM. For ranchers with allotments, they are asked the value of their allotments' AUMs. For all other groups the question is not asked of a specific allotment. All groups are then asked whether permit value is increasing or decreasing.

Section Five asks the question at the core of this thesis, "How big of an influence do you feel the real estate value of grazing permits is in the resistance of ranchers to cuts in their AUM levels?" This question was chosen because the resistance to AUM cuts takes place on local, regional and national levels. It can be seen in the permittees' interactions with the agencies during the development of AMPs, which are often developed in part through negotiation with agency officials. The resistance often becomes more apparent if an AMP is appealed up the ladder of agency decision-makers. These appeals can end up in Washington D.C., or occasionally in the courts. This resistance comes from individual ranchers, various ranching associations, and sometimes banks or politicians. The resistance is also reflected in proposed national legislation.

Section Six assumes that much of ranchers' resistance to AUM cuts is financial, and asks for reactions to two possible measures that would mitigate some of that financial impact. Section Six originally had two questions: "How would you feel about a system that compensated ranchers for forced AUM
reductions?" and "How about a system that allowed a willing rancher to retire an allotment for compensation?" After about a dozen interviews the first question was split into two questions after it became clear that the answers to it varied depending on why the reductions were called for. The two questions distinguish whether the reductions were due to the prioritization of other uses, or due to overgrazing. The interviewees who were not asked both questions had their answers tabulated only with the answers to Question 6a.

During the interviews, the question arose as to whether a retired allotment would ever be grazed again, as some of the interviewees were afraid that the flora in allotments that are not grazed would become decadent, as it got overgrown, dried out and fail to re-seed, thus becoming a potential fire hazard. When these issues came up, the question was clarified to allow for the possibility that the area could be grazed under agency prescription for ecological considerations.

The Selection Process

In selecting individuals to be interviewed, there were four basic criteria that influenced the process: regional diversity, diversity of background, familiarity with the issue, and a willingness to undergo the survey. Academics, officials, environmentalists, the reporter and farm credit bureau employees knowledgeable and willing to discuss permit value were not difficult to find. Academics were chosen who had published articles focusing on permit value or related issues. I made contact with many of the environmentalists at a grazing conference sponsored by the National Wildlife Federation. Most of the officials were found through phone calls to various agency offices.

During the interviews with members of the previous groups, I asked them for contacts with ranchers who might be willing to talk about permit value
and take the survey. Approximately half of the ranchers and the banker were found through this process. Three others were found through a personal contact who came from a ranching family in Montana. Five other ranchers were found through contacting various cattlemen's associations for references.

Initially, I hoped to get at least five interviewees in each category. As the interviews were taking place I decided to do more than five to help provide more regional diversity, as many of my initial contacts were in Montana. Remarkably, all but one of the individuals that I asked agreed to be interviewed. During the process it also became clear that the interviewees' knowledge of permit value varied. The individuals who were interviewed, along with their city of residence, are listed in Appendix B.

**Conducting the Survey**

The interviews took place from May to August of 1997. The original intention was to conduct most of the interviews in person, during a trip around the West. Ultimately it became clear that would be impossible due to limited time and resources, so all except five interviews were conducted over the phone. One of the in-person interviews was conducted on the campus of the University of Montana, and three were at the homes of ranchers near Ennis, Montana. During an initial phone contact, one interviewee requested to receive the questions over e-mail. This was done and he responded in kind.

In my attempt not to influence the result of the survey, the interviewees were initially told very little about either me or the survey. They were told that I was a graduate student from the University of Montana, who was working on issues in grazing economics and seeking to move the grazing debate forward by creating new options in public land management. Most did
not know what department I was in, although I did tell them if they asked, and a few knew through previous contact.

They were also told that the survey was about permit value and that they would be told more about the intention of the survey and given a chance to ask questions after it was over. During the survey, many of the interviewees needed clarification as to what specifically was meant by permit value, as some had difficulty splitting up the year-to-year economic benefits of allotment from the real estate value of allotments.

Interpreting the Results

Most of the answers to the last three questions have easily interpretable yes, no, or maybe answers. Two others, Questions 4b and 5, did have a range of answers that presented some difficulty in categorizing. Also, many of the interviewees did not give specific answers for Questions 4b and 4c. The answers to Question 4b were sometimes presented in a range, which was averaged for the survey results. Others had more than one answer, specifying different permit value levels for different regions. Since there were so few total answers, these extra answers were included in the results.

The answers to Question 5 were the most difficult to interpret. The results are presented in the categories, Major, Very, Somewhat, and, Minor/None. Not all of the answers fit exactly into these categories. Some of the other answers included, "The Biggest" or "THE Influence," which were included under "major." Others included, "One of the biggest," and, "It's significant, up to 50%," which were put under, "Very." The responses, "Some," "Significant," and, "It runs the gamut," where put under "Somewhat." "Not much," and "It's more the year-to-year operational value—that indicates whether they'd have to sell," were put under, "Minor/None." Generally if there was doubt, the rule that was
followed was to put the answers in a category that indicated the lesser significance.

THE SURVEY RESULTS

Ranchers With Allotments

The seven ranchers with allotments were generally happy with the allotment system, although two believed that it needed significant changes and others had various complaints. One thought that there should be more on-the-ground management and less time spent on planning. Others wanted more flexibility and security in the system, such as longer leases or easier ways to change allotment boundaries. Still others wanted more sidebars, i.e., a clearer system of allotment management standards from the agencies.

The permittees were unanimous in believing that they paid something for their allotments, whether it was due to permit value, estate taxes, the cost of improvements, or simply, as one put it, "blood, sweat and tears." Of the seven, three believed that permit values were decreasing, including one who thought that his allotment had lost all of its value. The rancher who valued his AUMs at more than $100 each was predictably from the Southwest, where year-long grazing on allotments is prevalent.

The permittees' reaction to the importance of permit value in resisting AUM reductions was mixed, covering the gamut from "none," to "the most important factor." Some of the comments that came with the answer to this question are revealing. One rancher thought that it was, "Not as big as it used to be. Most [permittees] have already devalued their AUMs." Another thought it was a "big factor with some ranchers, especially in the South[west]," and perhaps most
revealing was the comment by Bud Eppers, President of the New Mexico Public Lands Council, that permit value’s influence was, "Extremely big—depending on their level of [dependence on] federal land."

Permittees also overwhelmingly (six to one) favored compensation for reduced AUMs if the reduction was a result of an agency decision to benefit other uses, although many clearly believed that there weren’t many cases in which such reductions were warranted, particularly if the reductions were the result of increased recreational use. Interestingly, however, the one who opposed this plan favored compensation if "the resource [forage potential] was actually damaged." Other permittees vehemently opposed giving compensation for AUM reductions that were required due to overgrazing.

The permittees were evenly split over the possibility of developing a voluntary allotment retirement system. Those opposed had comments such as, "We shouldn't waste the renewable resource," or "the elk won't like it," and thought it would limit the opportunities for new ranchers to get started. Alternatively, some who favored the plan thought that there were many ranchers ready to retire, whose heirs did not want to go into ranching, but who continued only to prevent the ranch from subdivision. Another assessed the situation, stating, "Many allotments have gotten too expensive." One was OK with this plan, but favored a grassbanking system, which will be discussed extensively in the next chapter. The last wanted a "clear new system for economics of the area, and some sort of lease for new users." The one who was undecided believed, "Government shouldn't have to pay for everything," but was more supportive if the money came from local governments or private sources.
Ranchers Without Allotments

The eight ranchers without allotments had various opinions of the allotment system, describing it as confusing, burdensome, and unfairly distributed. Half thought that it subsidized the permittees, and two thought the fees should go up. In describing permittees, one even said, "I've used the term, 'God's chosen people.' These ranchers have a competitive advantage. These ranches don't add much to the local economy." In contrast, another rancher noted, "I'd love to have seen the Sagebrush Rebellion. The feds should get out of land business...[and]...save on management and employees.

These ranchers also consistently believed that allotments had permit value, but they had very little knowledge or opinion of its dollar value or trend. One noted, "Yes, they pay for them, but we own them, so they're paying for something that they don't own." The nonpermittees also had very little direct knowledge of the influence of permit value over the permittees' politics. Most, through contact with ranchers who had allotments, understood that it had some influence, but had difficulty in determining the extent of that influence, or realized that it varied extensively depending on individual circumstances.

The nonpermittees were generally not supportive of compensation for forced reductions, disagreeing with any more government buy outs or subsidies, and they were completely unsupportive of any compensation for reductions that were due to overgrazing. One disagreed with a compensation system because, "The government can't pay someone to give up their way of life." Another who agreed with some forms of compensation believed, "It's much like a private right—even though it isn't really."

The nonpermittees were evenly split over the possibility of compensation for the voluntary retirement of allotments and thus more supportive of it than of compensation for forced reductions. One compared the voluntary
retirement plan to the dairy buy out. Those who did not support this plan generally did not support buy outs or subsides, or believed the government should not pay for something it owned anyway.

**Academics**

The seven academic interviewees were generally agricultural economists or range ecologists. They had numerous suggestions for improving the allotment system, including the removal of base property requirements, increasing the option of taking "non-use" on allotments, and increasing data collection because too many decisions were being made only from "professional judgment." These issues will be discussed more extensively in the next chapter.

One academic offered this insight into the social and political atmosphere of the ranching community:

Part of the problem is that the ranching community is very defensive because they're running scared. They're afraid that they're being shut out, or that people want to shut them out and so they tend to develop a sort of circle-up-the-wagon mentality. They try to protect everybody when in fact there are some that don't deserve to be operating. Agencies should have the clout to do something about those who are doing it wrong, but they should also be able to reward the ones who are putting in the extra effort.

These comments reflect some of the conversations that took place during the survey, where many ranchers either admitted or complained that there were poorly run allotments that made them all look bad. Some seemed to want the agencies to be stricter, but few, if any, were asking for that publicly.

The academics were also unanimous in believing that permit value exists, but they generally believed it to be on average less valuable than ranchers did. The one who though its value was $100 or more was again for the Southwest. Four saw it declining in value over the last few years, compared to one who saw a recent resurgence. One noted that the decline was making,
"bankers very nervous," as many of the permits were security on borrowed money.

All of the academics believed that permit value had some significance to the resistance of AUM cuts, with four of them believing that it was a major or the biggest influence, and three thought it had some significance that varied with the rancher. One again tied permit value's influence to its collateral value, saying that it is, "The biggest single component, especially for ranchers with loans still out." He also noted, "The problems with federal assessment techniques is probably second." Another academic thought that, "Ranchers have more of a cash flow problem than an equity problem," and similarly, that the overall, "economy of the operation is a much bigger factor."

The academics were overwhelmingly in support of compensation plans, with the exception of reductions that were called for due to overgrazing or misuse. The one who supported compensation even for overgrazed land had an important insight, finding that overgrazing is, "so often OK'd by the agency that rancher shouldn't be blamed." Another who was wrestling with the idea of compensating for required reduction thought, "Compensation needs to be enough to replace forage." Yet another supported compensation despite noting that it, "hurts communities both in PILT [payments in lieu of taxes] and in general economic loss."

**Government Land Managers**

The eight public land managers who where interviewed had a variety of opinions about the allotment system. Some thought it worked pretty well. One saw the "permit system [as] out-of-date—a closed system, [with] lots of permit related paperwork, and not enough focus on land management." Two others thought a competitive bidding system may be better. All agreed that permit
value existed, but only half saw a trend for that value and only two put a dollar value on it.

Most of the land managers thought that permit value had some influence in the resistance to AUM cuts, but many also believed that the lack of understanding and education about ecological issues was an important influence, as was the ranchers' general resistance to change. One official stated, "Some will take a voluntary cut, if the AUM levels stays the same," noting that his agency often had an easier time negotiating in-the-field changes in allotment season of use, as long as the total number of AUMs on face of permit were not changed. This allows the permit to retain its collateral and market value. One who believed that permit value was not significant thought, "Most don't think in those terms. They're not planning on selling."

The managers also had a range of opinions on the compensation plans. They generally supported compensation for forced reductions. One supporter of the concept thought, "All carrots are positive," and another believed, "If it's based on benefits for the public good, than it's no different from other takings. It would ease the managers' job." Another who agreed with the idea thought, "Better to give them other range first." One manager was, "Not in favor, because that infers a property right." All but one of the managers were clearly against compensating permittees for reduction due to overgrazing. Their comments included, "I'd hate to see bad ranchers rewarded for poor management," and, "If it's based on the individual's poor management, stewardship, or lack of cooperation, than there is a problem."

The widest range of opinions was on the voluntary compensation plan. While one supporter thought, "That would save the taxpayer millions of dollars. The compensation should be based on fair market," another thought it was, "better to take away allotments upon the transfer of land." Others were
worried about what the land would be used for if not grazed, saying, "I wouldn't support it unless the next use was designated," or "No, it shouldn't be left up to the discretion of the rancher. It should be more based on ecological considerations."

**Environmentalists**

The seven environmentalists generally wanted to see some reductions in public land grazing levels and as least one wanted, "to see all livestock removed from all public land, or at least all high value land—[then] sell the other to ranchers." They also wanted stricter enforcement of existing regulations and better monitoring. One thought that the allotment system would be better if the maximum permit was approximately for 350 head, or 10% above economic requirement of what it takes to raise a family.

Only one environmentalist wasn't clear as to whether permit value existed, but that activist worked exclusively in an area where the subdivision of ranches was by far the major problem and where private land values has skyrocketed, making permit value insignificant. The activists believed that in some areas permit value ranged higher than $100/AUM, but generally found permits to range from $25/AUM to $50/AUM, and were split on the trend of that value.

The environmentalists' opinion of the significance of permit value had the broadest split, with five of the interviewees thinking it was a major force and two finding it relatively insignificant. Two activists clearly thought that the influence of the banks was a big part of permit value's political significance. One believed it to be the "driving force, [along with] the banks submitting appeals [on AMPs]. The pressure to make loan payments makes the ranchers run more cattle. There's $10 million [of collateral value locally] on 141
allotments—[making it] a force still bigger than year-to-year income value, especially in Southwest." One of the environmentalists who found permit value insignificant thought that philosophical resistance was more important, citing the case where for a number of years, someone had been offering ranchers $60,000 to give up their allotment, and had gotten no takers.\textsuperscript{19}

Environmentalists favored compensation for forced AUM reduction four to two, with one uncertain. These numbers, however, do not reflect the sentiment of those who favored the plan nearly as much as one revealing comment: "Don't like it. We should kick 'em off and give them a bill, but politically I'd grit my teeth and do it, if these are permanent reductions." Environmentalists on both sides of this question did not believe that these reductions were "takings" and wanted any new rules to reflect that belief.

The tables were turned on the question of compensation for overgrazed allotments, with four opposed, and two giving hesitant approval. One comment illuminates the reasoning of one of the two in favor. "My emotional side balks at it. The rational side says it will make it [restoring the land] easier. I've never really seen any other reason than poor management for any reduction." Another thought the plan did not go far enough, "I don't want to see it. If the allotment isn't viable, then the whole allotment should be bought out, and retired as a whole."

Despite two who were undecided, activists overwhelmingly approved compensation for voluntary retirement. One who had disapproved of forced compensation was, "OK with that. [It is] more of an incentive." Another environmentalist's sentiment echoed that of the land managers, as they had

\textsuperscript{19} I have not been able to find anyone else who could substantiate that offer. In any case that arrangement would have legal problems under the current allotment system.
"mixed feelings, but the real question is how it is managed afterwards." Others had different reservations, "I don't want to see a property right, but if the [compensation] language works, then getting cows off is the priority. Whatever we have to do is OK if it is permanent." Another noted cases where ranchers had, "tried for years to close their allotments for habitat," without success.

Other Participants

The six "other" interviewees, including a reporter, and assessor, a Realtor, a banker, and two Farm Credit Service employees, had a wide range of perspectives on what should be done with the allotment system. Two wanted significant changes with the agencies. "The Forest Service should have more confidence in ranchers... [they] should focus on true abusers and should back good stewards with less regulation." Another thought, the agencies' "biggest error is that they make decisions for the West as a whole." Two others saw much broader problems, one stating, "Some areas of the Southwest never should have been grazed," and another saw, "ranching as dying industry—more and more controlled by big money."

All of these interviewees confirmed the existence of permit value, with the Realtor stating succinctly, "I know they do, because I sell them." As they had ties to the financial community, not surprisingly, all of the interviewees but the reporter had opinions as to both the level and trend of permit value, with four thinking the trend was upward, two believing it was downward, and on average they figured permits were worth between $50 and $100/AUM.

These interviewees also has a wide range of opinions on the significance of permit value in the ranchers' resistance to AUM cuts. Some who thought it was important also brought up the issue of year-to-year operational value.
Another thought, "One of the issues is that they need bigger operations. They need about 400 head to support a family. It's economy of scale. They must get bigger to survive, but permits are decreasing." One who saw permit value as insignificant believed that the last thing the rancher is thinking is, "I've got to replace the ranch."

This set of interviewees was generally unsupportive of compensation for forced reductions. One supporter believed that the plan was needed simply because, "Wildlife is getting more and more AUMs allocated." In contract, another thought, "It would open a can of worms. [It is] too subjective, too variable. Land trades are better. It would be a cyanide-coated sugar pill." This group was also completely unsupportive of compensation for overgrazing, with one comment capturing their tone, "If land is beat, than no." The one who was undecided realized it might be difficult to clearly put the fault on the rancher.

This group was split on the possibility of compensating for the voluntary retirement of allotments. Those who agreed with the plan did not have extensive comments. One who opposed it said that his "business is to finance agriculture. They want transition from generation to generation." Another would, "rather see reductions. In most cases in this area, they need to be grazed."

A COMPARISON OF THE RESULTS FROM VARIOUS SECTORS

Not surprisingly, there was a wide variety of concerns among the various groups interviewed. Fee levels, subsides, permit value, long-term economic stability, ecological and habitat concerns, recreation values, the demise of the ranching way of life, agency monitoring and bureaucracy, and the influx of subdivisions were all issues important to the interviewees. It is clear from the
diversity of opinions on these issues that there will never be complete agreement on these issues even among individuals within each group surveyed, never mind among all the interests involved.

Nevertheless, there was nearly unanimous agreement on the existence of permit value. There was, however, nearly an even split on Question 4c, whether permit value was increasing or decreasing. This could in part be because the question is not clear as to what year the increase or decrease should be measured from. Also, some of those interviewed might associate permit values more closely with land values than a careful economic analysis would. It is also likely that some of the answers reflect local trends (perhaps from the Realtor and bankers), while others were looking at the national trends (as the academics may have). On a local level, it was generally believed that permit values decreased if it was thought that land managers were about to make some reductions, and increased somewhat after the reductions were made. On the larger scale, with the gradual trend towards AUM reductions, permit values would be in a gradual decline.

The range of answers regarding the dollar value of allotment AUMs varied as expected, but was generally consistent with the variations found in regional economic studies done by agricultural economists. The responses generally hovered around $50-60/AUM for seasonal allotments and a bit over $100/AUM for allotments grazed year-round. It is important to note that many of the interviewees seemed to be guessing at these figures, or admitted they were answering with figures that they had heard from other sources. Some of the interviewees refused to come up with a generalized figure. Not surprisingly, however, the permittees all had an answer for permit value levels. The only other group that all responded to this question were the "others"—the bankers,
Realtor and reporter. Both of these groups deal with permit values in their work.

TABLE 4: RESULTS FROM INTERVIEW QUESTION 4

4a) Do you feel that ranchers pay for their allotments when they buy their ranch?

<table>
<thead>
<tr>
<th>Type</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permittees</td>
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<td>1</td>
</tr>
<tr>
<td>Nonpermittees</td>
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</tr>
<tr>
<td>Academics</td>
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<tr>
<td>Managers</td>
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</tr>
<tr>
<td>Environmentalists</td>
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<td>1</td>
</tr>
<tr>
<td>Other</td>
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<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
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<td>2</td>
</tr>
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4b) How much do you feel a federally leased AUM is worth now as part of the real estate value of a ranch?

<table>
<thead>
<tr>
<th>Type</th>
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<th>51-100</th>
<th>101-&gt;</th>
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<tr>
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</tr>
<tr>
<td>Nonpermittees</td>
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<td>0</td>
</tr>
<tr>
<td>Academics</td>
<td>4</td>
<td>0</td>
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</tr>
<tr>
<td>Managers</td>
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<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Environmentalists</td>
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<td>3</td>
<td>0</td>
</tr>
<tr>
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<td>1</td>
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<tr>
<td><strong>Totals</strong></td>
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<td>10</td>
<td>3</td>
</tr>
</tbody>
</table>

4c) Has that changed over the years?

<table>
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<tr>
<th>Type</th>
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<th>Declined</th>
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<tbody>
<tr>
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<tr>
<td>Nonpermittees</td>
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<td>0</td>
</tr>
<tr>
<td>Academics</td>
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<td>4</td>
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<tr>
<td>Managers</td>
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<td>2</td>
</tr>
<tr>
<td>Environmentalists</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
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<td>1</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>10</td>
<td>12</td>
</tr>
</tbody>
</table>

The results from Question 5 clearly indicated that permit value is an important issue, at least as a reason why permittees resist cuts in their AUM levels. Of the forty-one responses to this question, only 22% thought that permit value was not factor. The remaining 78% found it to be at least some
TABLE 5: RESULTS FROM INTERVIEW QUESTION 5

5) How big of an influence do you feel the real estate value of grazing permits is in the resistance of ranchers to cuts in their AUM levels?

<table>
<thead>
<tr>
<th>Type</th>
<th>Major</th>
<th>Very</th>
<th>Somewhat</th>
<th>Minor/None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permittees</td>
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<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Nonpermittees</td>
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<td>1</td>
<td>4</td>
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<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Environmentalists</td>
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</table>

significance. Almost half (46%) found it of very or major significance, and more than one-third (37%) thought it was a major influence in resisting AUM cuts. Most of the interviewees who thought it was a major influence believed that it was the most important factor in that resistance. The other issue that came up consistently as an important factor in that resistance was the effect AUM cuts had on the ranch's yearly operations and profits.

Unexpectedly, more than half the interviewees responding to Question 6a supported compensating ranchers for forced AUM reductions that were required due to endangered species and habitat concerns. Of the forty-one responses, 59% supported the possibility, 24% opposed it, and 17% were uncertain. This result was not much different than the results of the fifteen ranchers, of whom 53% supported, 33% opposed and 13% were undecided. Many of the supporters specified that the compensation needed to be "fair," and some mentioned that it should be enough to find replacement forage. Not surprisingly, in Question 6b, 78% opposed compensating for AUM reductions due to overgrazing, and only 16% favored the possibility, with 6% remaining undecided.

The results from Question 6c, on voluntary retirement of allotments, were similar the result of Question 6a. Of the forty-three respondents, 56% supported
the possibility, 30% were opposed, and 14% undecided. This idea was not quite as favorable with ranchers, of whom seven supported it, seven opposed it, and one was undecided. Much of the opposition and indecision was due to the uncertainty as to what would happen to the land and how it would be managed. A few were more supportive of the idea if the retired allotment would be put into a grassbanking system.

**TABLE 6: RESULTS FROM INTERVIEW QUESTION 6**

6a) How would you feel about a system that compensated ranchers for forced AUM reductions due to the prioritization of other uses?

<table>
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6b) How would you feel about a system that compensated ranchers for forced AUM reductions due to overgrazing?

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</thead>
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</tr>
</tbody>
</table>

6c) How would you feel about a system that allowed a willing rancher to retire an allotment for compensation?

<table>
<thead>
<tr>
<th>Type</th>
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<th>No</th>
<th>Maybe</th>
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<td>Nonpermittees</td>
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<tr>
<td><strong>Totals</strong></td>
<td>24</td>
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</table>
GENERAL REMARKS CONCERNING THE SURVEY RESULTS

Permit value is clearly only one influence among many in ranching politics, but an important one in the resistance of ranchers to cuts in AUM levels. The overall degree of that influence is debatable, and its influence on a rancher's politics and motivations varies from rancher to rancher. Other influences include the loss of year-to-year income that is the result of lost AUMs, ranchers' philosophical and emotional attachments to their way of life, the permittees' desire to be left alone by the government and the general public, their desire to retain open space, and other issues less often mentioned and perhaps less important.

The results of this survey clearly show that permit value is an element of the public land grazing debate that needs more attention. Both further study and debate over potential ways to address the issue are needed. Considering the results of this small survey, a larger survey is recommended, with a wider range of questions and clearly defined standardized answers that span a range of possibilities (i.e. from 1 to 5, or a similar system), that can more easily analyzed.

If it becomes necessary to figure out the fair market value of allotments, I would not recommend surveying ranchers as a method, for fear that they might appraise allotment value too high if compensation was a possibility. In fact, most of the information needed is already available. During one of the interviews, it emerged that the Farm Credit Service has been doing its own regional evaluations of permit value for at least ten years. I suspect many agricultural banks have also done similar surveys. These, along with the studies presented in Chapter Three, could be systematically combined to find the fair market value of allotments in different regions and under the management of different agencies.
Despite the diversity of opinions over these issues, there is some measure of agreement. Whether there is enough to find workable solutions has yet to be determined. Looking in more detail to the survey results, it is interesting to note that thirty-one of forty-three participants (72%) responded yes to either question 6a or 6c, and thirty-four (79%) responded either yes or maybe to one of the two questions. This compiled result lends itself to the conclusion that a properly and fairly designed compensation system could possibly get widespread support. One possible option for such a system, along with other possible grazing reform measures, will be explored in the next chapters.
CHAPTER 5
REFORM PROPOSALS & PERMIT VALUE:
How Well Will They Work

This chapter briefly explains some of the current reform proposals relating to permit value. It analyzes each proposal, in part by considering the conversations with the interviewees that occurred in addition to their answers on the survey questions. Then it considers whether each proposal could be implemented in a form that is acceptable to both the public land ranching and environmental communities. Before discussing the reform proposals, a number of other public land grazing issues are examined in brief, so that they can also be discussed, along with permit value, in relation to each reform proposal. This reflects a concern that grazing reform primarily directed at permit value does not ignore other issues that could make it either unacceptable or unworkable.

THE ISSUES IN REFORMING PUBLIC LANDS GRAZING
Ranch Viability and Local Community Economic Health

For most ranchers, ensuring the continued viability of their operations is of primary importance. Most do not want to see any reduction in the number of livestock they run, and many do not want to see reductions in the acreage grazed on public lands, as they think that grazing is good for the land. Many ranchers also want their leases to last longer than ten years, to insure the stability of their operations.

If one goal of reform is the cooperation of the public lands ranchers, the AUM reductions that are required should be done in a manner that is as least threatening as possible. Reductions should be made as much as possible
through voluntary measures. Larger operators should be encouraged to
sacrifice AUMs to provide forage for smaller operators facing reductions. If
possible, cuts should be made to larger operators and foreign interests before
smaller operators are cut. Where possible, efforts should be made to find
replacement forage, whether it comes from public or private land.

Ranchers also think that ranching is socially and economically important to
their local communities, and point out how some economists argue that these
allotments ultimately benefit rural economies, bring in tax money, and
prevent the unemployment of up to 28,000 ranchers. These beliefs continue,
despite the studies that show the West's economy changing rapidly, with many
western communities becoming less and less dependent on the ranching
industry. Still, in designing politically viable reforms, it is important to
consider that the ties ranchers have to their communities are important to the
them, that these ties have existed historically, and that to varying degrees,
they remain important to the communities.

Habitat, Ecological Health, and Recreation Values

It is not the point of this work to debate whether or how destructive
livestock grazing is, but it is important to consider how this issue effects
possible reform. Environmentalists point to a growing body of evidence
suggesting that the effects of grazing are serious, especially if overgrazing is
allowed. In considering grazing reform, it must be taken into account that for
most environmentalists, their primary concerns are wildlife habitat and the
long-term ecological health of public land. Many also highly value the
recreation potential of public lands. Environmentalists vary in the degree that
they see livestock grazing as harmful to these values. Most of them want
public land grazing to be reduced in many areas to protect these values. Some even maintain that all livestock should be removed from public lands.

Clearly, most ranchers are also concerned about wildlife habitat and ecological health, but compared to environmentalists, they generally do not believe that livestock grazing is nearly as destructive to these values. Many ranchers believed themselves to be "environmentalists," but those who do would generally be considered conservationists rather than preservationists. In general, however, ranchers focus their ecological concerns on the deer, elk and fish populations—species that are hunted and fished.

Ranchers generally would allow an area to be grazed longer than environmentalists would before considering it overgrazed. Environmentalists are more cautious about grazing levels and their effects on riparian areas. For reform measures to satisfy environmentalists, ranchers will have to be more respectful of that tendency toward caution.

**Permit Value, Loans and Finance**

As the previous chapters suggest, permit value is a significant issue that needs to be addressed in effective grazing reform. Clearly ranchers have a considerable financial investment in permit value. Ranchers who have outstanding loans or who have little ready cash and think they might need loans, are even more attached to keeping their AUM levels and associated permit values stable.

Due to these outstanding loans, and the official agreements that encourage such loans to continue, many banks are very concerned about permit values. Some banks have even appealed AUM reductions from allotments, and there is little question that some banks encourage policy makers to maintain the security of their loans, and the allotment system in general.
Goverment Finances

Grazing reforms should consider the question, "Does public land grazing make economic sense?" Recognizing that this question is multidimensional and has no simple answers does not make it irrelevant. In fact, it becomes even more important as its complexities are examined. The question has to be put in different contexts. What area of the public lands is going to be considered? The economic issues can be looked at nationally, regionally, for small groups of allotments, or for individual allotments. To focus the issue, what really needs to be asked is, "From whose perspective does grazing make economic sense? From the ranchers'? The communities'? The governments'? The taxpayers'? The anglers'? The botanists'?" The answer is as varied as the perspective. To get a sense of these complexities, the following discussion looks briefly at the economics of the allotment system for the ranching industry and for the taxpayer.

For the ranchers, there is little question that most of the allotments in the current system benefit them economically. They also point to their allotments' benefits to their local community from the revenue sharing system of grazing fee receipts, and remind us that the money their businesses bring into their communities needs to be considered in the economic equation. The ranching industry claims that ranchers need the benefits from their allotments, as they are faced with a variety of hardships that hit the small operators hardest, including the low price of beef, competition for land and forage from other users, and higher overhead. Many ranchers also think that the government is paying too much for administrating the allotment system.
Despite the overall benefits of federal allotments for the ranching industry, some allotments are being abandoned either because of lack of interest or high operating costs. Even considering that during the last few years, grazing fees have been some of the lowest in many years, some allotments are expensive to maintain and of marginal economic value to ranchers.

Viewed from the taxpayers' perspective, there is no question that the federal government spends more money on managing the allotment system than it brings in to the treasury. After compiling the 1993 figures from the BLM and Forest Service, the RR '94 DEIS found that grazing fee receipts brought in $28,112,000, of which $14,044,000 went into the Range Betterment Fund for range improvements, $5,869,000 went towards payments to states and counties, and only $8,172,000 went back to the US treasury (USDI, BLM 3-73). The report also states, "Average administration costs for the 1993 programs were $3.21/AUM for the BLM and $3.24 for the Forest Service" (USDI, BLM G-4). This puts the total administration costs for the BLM at $42,702,848 and $28,401,286 for the Forest Service. The total administrative costs of $71,104,134 means a loss to the treasury of $62,932,134, and the report makes it clear that there are potentially other social and environmental costs that should be assessed to the grazing program, along with the costs of other lost uses.

Other sources have radically different estimates. Charles Wilkinson estimates that the total grazing subsidy on all federal lands is about $37 million annually (112). Hess, Knowles, and Knowles estimate that the total costs to the BLM and Forest Service are closer to $150 million/year, when overhead and

20 "An estimate of the costs differential between permittees and nonpermittees suggests that nonpermittee costs were almost $105 per cow higher than permittee costs" (USDI, BLM 3-70).
other miscellaneous agency costs are considered (39). Jacobs tallies the total tax expenditures to maintain public land grazing at over $1 billion/year, but he includes the cost of fire protection, roads, animal and insect control, flood protection and vegetation management.

It is unlikely that the disparity between these economic viewpoints will be settled anytime soon. Nevertheless, it is important to consider that one of the original reasons for charging fees was to insure that the administrative costs of the grazing program were covered. Clearly, any grazing reform would do well to insure that in the long-term, the costs and benefits to the taxpayers achieve some sort or parity. On the other hand, the reforms should consider how the allotment system assists the public lands ranchers, and focus any reductions to allotment AUMs so that they have as little economic impact as possible to those ranchers.

Further, if any grazing reform calls for significant grazing reductions, the money that goes to the states and counties in the form of grazing receipts needs to be addressed. Any reform that calls for AUM reductions is likely to be more acceptable to ranching communities if it includes a mechanism to replace grazing receipts with money from another source.

**Leasing Requirements**

The Forest Service and BLM both have specific requirements that dictate who can hold an allotment permit or lease and under what conditions. The Forest Service requires that their permittees have the forage and water to maintain their livestock during the time that their animals are not grazing on the allotments. They also have an upper limit to the number of AUMs that a permittee can hold. The BLM gives a preference for their allotments leases to the ranches closest to the allotment. There are some ranchers and economists
who argue the agencies should get rid of these requirements and allow allotments to be exchanged more easily, so they end up attached to the ranches where they will be of most economic benefit. Environmentalists tend to believe that there should be AUM limits, but usually do not have strong opinions on these other issues.

Should Grazing Be Required?

The Forest Service and BLM both require that allotments be grazed. There are exceptions granted for drought or lack of forage. These exceptions are generally allowed for only two or three years, but occasionally can be longer if circumstances warrant. There is a growing agency practice of giving allotments an extended rest, usually after negotiating with the ranchers, in order to restore floral and riparian health.

Currently, however, it is still illegal for an allotment holder simply to decide for themselves not to graze an allotment. Most environmentalists want to change this requirement, so that individuals or groups could lease allotments that they believed are important for habitat or recreation, and rest them from grazing. Babbitt's RR '94 would have allowed allotment holders to rest their allotments, but that issue was opposed by the ranching industry and is on appeal in the courts, having recently been ruled against in Wyoming.\footnote{In the same decision, the practice of consistent understocking was ruled illegal by the Federal District Court of Wyoming. \textit{Public Lands Council v. United States Department of Interior}, 929 F. Supp 1436 (1996).} Clearly, this is an important issue to address in grazing reforms.
Management Responsibility and Input

Judging from the conversations with the interviewees and others, both ranchers and environmentalists want more input into managing grazing on public lands. On one hand, the ranchers often feel misjudged by the agencies’ range specialists, believing that the officials make many of their recommendations after only looking at the worst conditions on their allotments. On the other hand, grazing activists often claimed that their comments are not listened to, and that their appeals of AMPs and EAs fall on deaf ears, thus leading to lawsuits. Although this issue is generally unrelated to permit value, it may be important to address in grazing reforms.

The other major debate that comes up over allotment management is the question of who can comment on and appeal AMPs. There is a movement in the ranching industry to get the law changed so that appeals would be limited to parties who are "affected interests," with the definition of "interest" focused on economic impacts. Environmentalists believe that since the grazing is on public land, any citizen should be able to comment on or appeal these plans.

Monitoring/Sidebars

Much like the issue of management responsibility, the reform of monitoring is not directly related to permit value. The level of monitoring of different allotments varies between the agencies and can vary extensively from region to region. Monitoring is an important issue to both ranchers and activists. Activists generally want more and better monitoring of allotments. Ranchers generally think that the standards that are being monitored for need to be much clearer and enforced more uniformly. Many want to get rid of the AUM number limits for allotments and base the use of allotments on these new
monitoring standards, often termed "sidebars," that are based only on environmental considerations.

**The Potential for Floral Decadence**

Many ranchers fear that if allotments are not grazed, the grasses will dry up and brown out over the season. They claim that deer and elk do not like the brown grasses, preferring grasses that have been grazed early in the season and are sprouting new green shoots. They believe that after a few years without grazing, the grasses will stagnate and fail to re-seed. They also believe that the allotments that are not grazed will become fire hazards.

Environmentalists usually dismiss these concerns as not backed by historical or ecological facts. They note the historical records from the travelers throughout the Great Plains and Rockies, before the influx of sheep and cattle, that found tall and lush grasses. Still, if grazing reform does remove grazing from some allotments, then the reforms should insure that these areas are monitored and that management options are provided that will prevent them from going decadent and becoming hazardous.

**POSSIBLE PUBLIC LAND GRAZING REFORMS**

**Fee Level Changes**

Increasing grazing fees is undoubtedly the most debated grazing reform, and usually leads to disputes between the ranching and environmental communities. With grazing fees currently at $1.36/AUM, except for some of those who think that ranchers should be rewarded for good stewardship, there are only a few people asking for a reduction in grazing fees. There are, however, a number of voices calling for a fee increase as a solution to some of the problems with public land grazing. The possibility of a fee increase raises
a number of questions, some hotly debated: What would a fee increase do to ranches? How do fee level changes affect permit value? What might a fee increase do for the taxpayer, or the health of the land? There is no question that an increase in grazing fees would cost ranchers more and reduce their profits. Almost everyone agrees that increasing fees would decrease both the desirability and permit value of allotments.

The real debate over increasing grazing fees involves whether it would ultimately benefit the land. Ranchers argue that as fees increase, more ranches will go out of business, leading to decadent grasses, and either more subdivisions in areas of increasing populations, or job loss and community disruption in areas with stable or decreasing populations. Many also believe that a fee increase will lead to more overgrazing, as ranchers add more livestock to the land in an attempt to make up for lost profits.

Environmentalists argue that increasing fees will cover more of the agencies' costs of managing the grazing programs, and give them more money for monitoring. Many also believe that fees should be raised gradually until permit values reach zero. Some would do this simply because they believe that permit value should never have existed in the first place, others because they think allotments benefit only a very narrow class, not even including all ranchers. Others think that without the additional motive of retaining permit values, ranchers will be less protective of their AUM levels and more willing to accept AUM reductions that might prevent overgrazing. They also believe that increasing fees would end up removing grazing from the more economically marginal allotments, which they believe are often the allotments that have already been damaged from overgrazing.
The Domenici and Smith Bills

The recent reform efforts introduced first by Senator Domenici and then by Representative Smith (R-OR) have also generally led to controversy, as they focus on insuring the security of ranches by lengthening leases to fifteen years, limiting public input in allotment management, and making grazing the priority use of these public lands. Environmentalists are nearly unanimous in opposition to these reforms, with many angered by what they see as an attempt to limit the public's rights. Despite their controversial nature, it is important to question what these reforms would really do to the public land grazing system. Would they really improve the ranchers' security? Would they improve habitat or the productivity of the land? How would longer leases affect permit values and property values?

If these reforms came about, it is likely that both the ranchers and the banks would feel more secure about the stability of the allotment system and their local communities. If the reforms generally stabilize AUM levels, then permit and property values are likely to remain stable or even increase. With grazing levels stable, these reforms would also reduce concerns about potential floral decadence, but would not do anything to change leasing or monitoring requirements. Additionally, since fewer people could appeal, the taxpayers might also save money because officials would spend less time on appeals.

Supporters of the bills argue that if ranchers could count on the continued use of their allotments at present levels, than that enhanced security would encourage them to take better care of the land. Many also argue that since the ranchers would be more protective of their forage, their efforts would work to prevent overgrazing, thus also helping habitat. It makes sense that if these reforms were enacted, ranchers who already have made sacrifices and
investments to take better care of the land would then make further investments and continue to protect their previous investments.

Environmentalists have a different argument. They believe that although some cases of overgrazing take place through ignorance of good management practices, more often it occurs because a rancher is financially troubled. At times, these indebted ranchers attempt (illegally) to run even more cattle on allotments simply to try to pay their bills or pay off their loans. Although this would not happen in every case, there is nothing in these reforms to prevent ranchers who abused their allotments from continuing that destructive practice. They believe that these bills really do not protect the leaseholders who need it the most, and only provide them a false sense of security. In fact, they think these bills trap the poorer ranchers in a loose net of governmental subsides, and bind their livelihood to marginal allotments. This leaves the less fortunate ranchers trying to eke out a living from those marginal allotments, with one of their biggest expenses being the loans that they took out to pay for both their ranches' property value and the permit value of their allotments.

Selling Allotments To Ranchers

One potential reform that has been suggested since the beginning of the allotment system is the possibility of selling off these lands. Those who suggest this usually would give the ranchers first preference in purchasing them. Some have even suggested that the allotments should be given to the ranchers, following the spirit and custom of the Homestead Act. Along with the previous set of questions raised about each reform, this possibility raises some unique issues: How would the price of the allotments be determined? Would the ranchers actually be given first preference, and if not, could corporate or
foreign interests buy these lands? Would there be limits on development? Would the ranchers even buy them?

This plan clearly takes care of the issues of monitoring, management responsibility, and leasing requirements, because without allotments, these issues would disappear. With continued grazing, there would also be little potential for decadent grasses. If ecological costs are not considered, then this option would almost surely save the taxpayers some money by reducing the costs to the agencies, and it would provide a short term income to the treasury from the sales. It is also a potential boon to some communities, due to an influx of property taxes.

Many advocates of this option have a libertarian philosophy that objects to having any public land. Some also believe that the ranchers would take better care of the land they owned, and that overall the plan would lead to significant improvements in ranch viability and local community economic health, along with better habitat and ecological health. Others, including a few environmentalists, simply believe it would save the taxpayers money.

Without the rules, regulations, and uncertainty of the allotment leasing systems, at first glance it would seem that the stability of ranches would increase. On further analysis, however, that may not be the case. There are many who believe that this plan would not work, because the ranchers either would not be able to afford the allotments to begin with, or if they did purchase them, they would be strapped with both additional loans and additional property taxes that would add up to be significantly more than grazing fees. Thus the plan would actually lead to widespread ranch instability, or the disappearance of the small family ranch. On the other hand, if the privatization of allotments was set up to minimize these costs to the
ranchers, than the benefits to the treasury and local communities would also be minimized.

In the conversations with interviewees, it became clear that all the environmentalists and many of the ranchers opposed the privatization of public land, especially if there was any chance that it would lead to developing these lands. Many also agreed with the results of the Reagan initiated study, President's Private Sector Survey on Cost Control, which questions whether there would be interest in buying these public lands. Since that study, some of the land has increased in value, but generally for its development potential and not for its forage.

Environmentalists completely disagree with the analysis of this plan done by its supporters. They do not believe that the ranchers would take better care of land they owned if there was no monitoring program or means to limit grazing levels. They think that in many cases overgrazing would increase with the increased financial pressure on the ranchers. Privatization would also limit public access to these lands, reducing recreation options and their economic benefits to the communities. Left without the laws and regulations of the current leasing systems, some environmentalists also envision that they would end up relying increasingly on the Clean Water Act and the Endangered Species Act to protect habitat and water quality, which would create even more controversy as these laws would have to be applied to more private land.

Open Market Bidding For Grazing Permits

Opening up grazing permits to the highest bidder is one of the most often suggested grazing reforms, in part because it has been or is currently being used in various formulations by some states, tribes, and federal agencies. These bidding systems vary in duration, as to whether the bids are open or closed,
and as to what additional services are provided, but most will only allow ranchers' bids to be accepted. In almost all instances, open market bidding brings in higher fees than the current fees of the BLM and Forest Service. Exceptions exist in areas where there is little competition for the allotment or if the allotment is in poor condition.

If a bidding system was implemented, a number of issues would have to be settled: Who could bid? Would subleasing be allowed? What type of monitoring system would be put in place? Who would pay for the improvements that ranchers previously invested in for their allotments? Would the ranchers who currently have their allotments get some sort of preference in the bidding process? Would permit value be compensated for in any way? For both ranchers or environmentalists, how the bidding system was set up would make a big difference in their evaluations as to whether to support or oppose it.

The public land ranchers are unlikely to support instituting a bidding system unless the leases were for multiple years, and the ranchers who previously leased the allotment were compensated for both their improvements and their investment in its permit value. Even then, many would likely believe that a bidding system would detract from their industry's and communities' security. They might be more likely to support bidding for allotments currently are not being leased, or if bidding was instituted for a ranch's allotments only after the ranch was sold. Generally ranchers are also opposed to having allotments bid on if the bidder does not intend to graze them, especially if the allotments are currently being grazed.

Environmentalists generally support instituting a bidding system over the current allotment system. They think that it would bring in more income, allowing the allotment system to pay for itself. They also believe that whether or not ranchers were initially compensated for it, a bidding system would get
rid of permit value. Further, without permit value it is likely that a bidding system would lead to less opposition by ranchers if AUM reductions were called for, in part because reductions could be implemented between bidding cycles and because the ranchers would have less financial stake in maintaining allotment levels. Activists also support more frequent bidding cycles, because more cycles would allow the agencies to re-evaluate grazing levels more often.

Free Market Bidding For Variable Use Allotments

There is a growing debate on few proposals that would not only open up allotments for competitive bidding, but would also open them up to different types of uses. One possible new use is simply resting the allotment, but various options include giving the leasee varying degrees of priority use of the allotment for camping, hiking, fishing, hunting, other recreation activities, plant gathering and even building and using a few (temporary?) structures.

These options drop specific leasing requirements for cattle grazing, but develop new requirements that limit the activities on the allotments, and in theory require responsible stewardship from the leasee. Most of the proposals give the primary management responsibility to the leasee. They base the agencies' monitoring system for the allotments on some type of sidebar requirements. This system would allow ranchers to run more cattle than their current permits allow, as long as the sidebar monitoring standards were met.

Options also vary as to the length of the leases, but most would increase it to fifteen or twenty years. Proposals also vary as to whether and how previous leasees might get compensation for their allotments' improvements and permit value. Most everyone agrees that free market variable use allotments would bring in considerably more income for the government. Its proponents usually project a somewhat reduced cost to the agencies, as they would not
have to develop AMPs, but would have the costs from developing the initial sidebars. Skeptics of the new system believe that developing these sidebars would be complicated and costly, and that it would actually increase the management complexity and costs to the agencies.

As the specific proposals vary, so do the reactions to them, and the expectations as to their consequences for both ranch viability and ecologically related concerns. Reactions to these types of proposals also seem mixed among both the ranching and environmental communities. Concerns about what types of uses would be allowed, economic issues, sidebar development, and management implementation come from both sectors. Proponents with projections of positive financial benefits, less government intrusion, and healthier ecosystems come from within both communities and from others. It is my suspicion that government managers would not be happy about having to implement any of these proposals.

**Grassbanking**

Grassbanking is a new management tool that the agencies have begun to test. It can be used in conjunction with various other reform measures. Grassbanking allows temporary grazing on unused allotments, to replace forage from allotments that are being rested to benefit ecological and riparian health. This allows the ranchers with allotments that are being rested to maintain their AUM levels at or near their previous levels. Sometimes the use of a grassbank allotment is given to the rancher after a rest is required, and sometimes it is used as a tool to negotiate a voluntary rest.

Since resting allotments comes through an agency decision, it does not actually change the legal requirement that allotments be grazed. Nor does it affect leasing or monitoring requirements. It is, however, a tool that allows
flexibility in management. It can be suggested by environmentalists, ranchers, or the agencies, thus encouraging management responsibility by all parties. Also, as AUM levels remain generally stable, grassbanking has little effect on government finances.

Ranchers generally approve of grassbanking as a tool that maintains ranch viability and local economic health, while also improving habitat. Since it works to maintain stable AUM levels, they think that it helps maintain permit values. They also believe that it reduces the possibility of floral decadence, because it prevents allotments from going completely without grazing.

Environmentalists have mixed opinions about grassbanking. Although it encourages the resting of allotments that need restoration, many do not like the fact that previously abandoned allotments are returned to grazing, thus preventing what they predict would be the return to a totally natural state. On the other hand, they realize that some of these allotments could be legally returned to full grazing in any case, and tend to support grassbanking in those instances.

**Compensation For Forced AUM Reduction**

The acceptability of compensating ranchers for forced AUM reductions has already been discussed in the last chapter, but could it be successfully implemented and how does it relate to the other issues that come up in grazing reform? If such a compensation system were to be set up, two additional questions would have to be answered: "How would compensation levels be set?" and "Could the money be raised?"

When determining the amount ranchers would get compensated for each lost AUM, in order to save on administrative costs, and to prevent disputes, it should be done in a manner that is as simple and clear as possible. Individual
assessments of allotment permit values would surely be expensive and inconsistent. Individual assessments also make allotments look more like property, and would thus reinforce the belief that the compensation is for some kind of taking (of the right to a grazing permit). Any compensation that could be viewed as a taking would almost universally be opposed by environmentalists.

To avoid these problems, the compensation would need to be written into law as a transitional fund, to provide either for alternative forage, or replacement income. Consider the simple method of setting compensation at a uniform level, say $75 for seasonal AUMs and $125 for year-long AUMs. These suggestions are at the higher end of studied permit values, but setting them high would make the program more acceptable to ranchers.

It could also make sense to set compensation levels through a clear formula. This might start at a lower level that was modified by a rancher's level of dependence on federal allotments. For example, $50 for seasonal AUMs plus $50 multiplied by the percent level of dependence would work out to $60 for 20% dependence and $90 for 80% dependence. A similar system could be set up that had one base level that was modified to take account for the exact length of the season of use for the allotment. A formula could even be developed that took into account both dependency levels and the season of use.

An acceptable compensation system also needs to set aside money to compensate the states or counties for lost grazing receipts. With the current fee level of $1.36/AUM, that would be 68¢/AUM for BLM allotments outside of grazing districts, 17¢/AUM for BLM allotments inside grazing districts, and 34¢/AUM for Forest Service allotments. To make up for this, $10 invested at an annual interest rate of 6.8% would earn 68¢/AUM per year, $5 would earn 34¢/AUM, and $2.50 would earn 17¢/AUM. Each of these figures is relatively
insignificant compared to the money going to the rancher. It might also make sense to allow the state or county to take complete control of that fund after perhaps ten years.

How much money would it take to compensate for all forced AUM reductions? That of course depends on what reductions were required. Even under the Livestock Production Alternative in RR '94 DEIS, the agencies were expected to decrease total AUMs by approximately 2.4 million over the next 20 years. For quick figuring, assume the average compensation to be about $100/AUM, so those reductions would require $240 million or $12 million/year. The Environmental Enhancement Alternative in the RR '94 DEIS would have required a total decrease of approximately 6.7 million AUMs, so those reductions would require $670 million or $33.5 million/year. For this investigation, perhaps it would be best to use the figures for the Proposed Action of the RR '94 DEIS, with a 4.6 million AUM reduction over 20 years, requiring $23 million/year.22

To put these figures for the program in perspective, one could look briefly at the costs of the Conservation Reserve Program. That program is designed to protect environmentally sensitive lands and erosive soils. This year the USDA accepted 5.9 million new acres into the Conservation Reserve Program at $45.15 per acre (Montana Grain Growers). Just this new acreage will cost the program $266 million per year. The current total in program is 29.9 million acres, and although the acreage for last year was enrolled at $39.39, the total cost of the program is still close to $1 billion per year.

22 The Livestock Production Alternative reduction of 2.4 million is approximately 11% of the BLM and Forest Service total of 22 million. The Environmental Enhancement Alternative reduction of 6.7 million is approximately 30%, and the Proposed Action reduction of 4.6 million is approximately 21%.
Before finally looking at where this money would come from, it is important to look at what effects forced compensation has on other reform issues. Compared to current management, it would generally stabilize the ranching industry and communities, because it could be set up to maintain revenues from grazing receipts and gives some money to the ranchers for replacement forage. Many ranchers will still argue that replacement forage is not available, or that the compensation is not enough to pay for replacement forage in the long term. While that might be true in some cases, those ranchers might consider simply reducing their herds and putting that money in the bank or investing it. If they were compensated $1,200 for a 12 AUM reduction (enough to feed one cow and a calf for a year) at 6.8% annual interest, they would bring in $81.60, which is comparable to the average annual profits from one cow.

If there was compensation for forced AUMs, permit values would generally stabilize to a level close to the level of compensation, again stabilizing the ranching industry and increasing the security of the financial community that loans them money. If fee levels remain stable, forced compensation would initially cost the agencies more because fee receipts would go down and the compensation money would be added to the budget. However, some management costs, include money spent on appeals, lawsuits, improvements and monitoring, would go down, and in the long term, after grazing levels stabilized, the total costs to the agencies would go down.

Under a forced compensation system, leasing requirements, management responsibility, monitoring requirements and the requirement to graze would not be greatly affected. Although reductions would be required, few allotments would end up without any grazing, so there would be little concern over the potential for floral decadence. Debate would continue as to what level of
reductions were necessary to deal with the effects of overgrazing, protect habitat, and maintain recreation values, but it is likely that resistance to AUM reductions would go down.

So, where would the compensation money come from? Probably from a combination of sources. Money from private and nonprofit sources is one possibility. Some of the money could come from a surcharge on grazing fees. Fifty cents per AUM would initially raise over $10 million per year. Although a surcharge would encounter initial resistance, it is likely to lessen as the ranchers realize that such an increase is much like allotment insurance, and that all the money is returning to public lands ranchers. The money saved from appeals, lawsuits and eventual reductions in the agencies' personnel and monitoring budgets should also be filtered into the compensation program. Some of the compensation money should be tied to the reasons for the reductions. If reductions are required for deer or elk forage, or to protect fish habitat or an endangered species, they could be funded from the various Fish and Wildlife Agencies' budgets or other money designated for protecting endangered species. Finally, perhaps the most likely source would be from an amendment to the Land and Water Conservation Fund.

**Voluntary Allotment Retirement**

The acceptability of compensating ranchers for voluntarily retiring their allotments has been discussed in the previous chapter, but it also raises questions as to if and how it might be successfully implemented. The answers to the questions of compensation levels and sources are similar to those of forced reductions, but the voluntary compensation plan affects some of the other management issues very differently. This system also raises some different questions. How many ranchers would actually take advantage of it,
and what would happen if more ranchers wanted to retire allotments than there was money available? Also, would the agencies have veto power over allotment retirement, and could an allotment ever be grazed again, even if it was not actually leased as part of the allotment system?

There is little doubt that the agencies would have to develop rules that prioritized which types of allotments they would fund first for retirement. These priorities might include allotments that are expensive to monitor and manage, or those in priority habitat or heavily used recreation areas, or those without AMPs. I suspect that the agencies would want to keep open the option of putting some of the allotments that got retired into a grassbanking system, in order to alleviate overgrazing on neighboring allotments. A voluntary retirement system would also more likely be acceptable if the owners of ranches who wanted to retire their allotments were required to make a commitment to limit the subdivision of their private land.

This system would not change leasing or monitoring requirements, but would obviously end the requirement that grazing continue for the retired allotments. It would also change the agencies' management responsibility, since the monitoring requirements for retired allotments would change to include preventing the potential for floral decadence.

Any voluntary reduction system should also include a fund to replace grazing receipts similar to the one discussed previously. The money for voluntary allotment retirement is much more likely to come from private and nonprofit sources. In many cases, states, counties and cities would benefit from the retirement of certain allotments and would conceivably help finance their retirement, as would some federal agencies besides the Forest Service and BLM, if it benefited their goals. If it were allowed, both the BLM and Forest Service would undoubtedly help finance the retirement of problem allotments,
but certainly not to the extent that they would finance forced reductions, unless Congress voted additional money to the program.

Although it would probably benefit the agencies to have a clear and consistent compensation level along the lines of those discussed in the previous section, for other federal agencies, other governmental bodies, and for private interests, the compensation levels negotiated for allotment retirement would vary considerably, depending on the goals of the both the ranchers and those who fund the retirement. If retirement became widespread, than permit values are likely to at least stabilize at their current levels, if not increase, which would also please both ranching communities and their banks.

Overall, a voluntary retirement system should improve ranch viability and local community health, because the least economical ranches would most likely be retired first. Additionally, it could generally improve habitat, ecological health, and recreation opportunities, along with creating new economic opportunities.
CHAPTER 6
CONCLUSION:
Any Grazing Reform Must Deal With Permit Value

THE EXISTENCE AND INFLUENCE OF PERMIT VALUE

As the evidence from the previous chapters indicates, there is really no debate over the existence of permit value. It can be documented historically, starting soon after the creation of the allotment system and continuing into the present. It is recognized by the Internal Revenue Service and the Farm Credit Administration. It has been documented by economists, both in theory and practice, through surveys and modeling of ranch real estate values. It is also almost universally recognized by anyone familiar with the allotment system.

There is still debate, however, over the importance and influence of permit value. It clearly has practical significance, as most ranchers expect to recoup their investment in permit value if they decide to sell their ranch. Since it is taxed as an inheritance, it can also play a part in whether a rancher's heirs will continue ranching or sell the ranch. For individual ranchers, permit value is widely variable in its direct impacts. For ranchers who do not intend to sell their ranches and are not threatened by AUM cuts, it is effectively nonexistent. For others, that is far from the truth. As one historian points out:

Many ranchers take almost continuous non-use for a significant part of their permitted numbers, but fiercely resist all suggestions that these excessive numbers (which they know to be excessive) be cut, because of their desire to retain the potential sale value of the larger permits.
(Calif 274)
For ranchers who are faced with AUM reductions and recognize that they may sell their ranches at some point or if their allotments are used as collateral, permit value can be extremely significant in their decision-making.

The level of direct impacts of permit value on a specific rancher does not necessarily directly translate into the level of political significance it has for that rancher. A rancher may not even have an allotment, but might still support maintaining grazing levels and permit values at their current levels. Alternately, a few ranchers dependent on allotments threatened by reductions may still support reforms that reduce the importance of permit value. Non-ranchers, including bankers, environmentalists, and taxpayers in general, also have a wide range of opinions about permit value that affect their political stance on managing public lands.

The results of the survey undertaken for this thesis indicate that the political importance of permit value varies. Its political influence is reflected in the extent it increases the resistance of ranchers to reductions in their AUM levels. By extension, the extent that ranchers and their supporters attempt to use their political influence to maintain their AUM levels and permit value also varies. The extent that permit value affects ranchers politics is not something that can be determined in any absolute or completely objective manner, but clearly it has some influence, and that influence is potentially of great importance.

It can also be argued that in politics, an issue that is extremely important to a small sector often becomes an important influence to policy makers. If that is the case, considering that permit value is a major motivating factor for some ranchers (and bankers) then that influence is at least significant, and potentially a major factor in the politics of the management of public land grazing.
PERMIT VALUE SHOULD BE CONSIDERED IN ANY REFORM PROPOSALS

Permit value is clearly an important enough issue that it should be considered, and hopefully dealt with, in any attempts to reform the public land grazing allotment system. In general, reforms that would reduce the total permit value without compensation should expect opposition from the ranching community. Reforms that reduce permit value through compensation can expect favorable but mixed reviews and some reluctant support from both environmentalists and from the public lands ranchers. Reforms (or the current status quo) that leave the total level of permit values generally unchanged can expect support from the public land ranchers, but opposition from environmentalists. All of these options are likely to receive mixed reviews from other sectors.

A politically acceptable reform is likely to have several of the following characteristics. The reform should be as simple and clear as possible, so it is understood by all the parties affected and leaves little room for misinterpretation. It should strike a good balance between the goals of ranchers and environmentalists; although it might not be the favorite of everyone, it should have little outright opposition. It should foster continued and broader communication between the different groups concerned with the grazing system. It should increase management options. Finally, it should work as a gradual social evolution with slow but consistent changes, and not force the issues quickly.

Another critical factor to consider in a grazing reform proposal is how those proposing and supporting it would be perceived by their peers. The issue of grazing on public lands has been in dispute for over one hundred years, with the driving forces in the dispute often led by those with the most extreme views. A few have become completely hardened in their views and will always...
refuse to compromise. For many others, although not complete absolutists, any compromise would be difficult at best. For some individuals, supporting any compromise could mean losing the support of their friends and neighbors—losing face. For some organizations, it could mean losing members or financial support.

The ranching and environmental communities both have distinct, core, but related positions that need to remain uncompromised to allow any negotiations to proceed, and for the participants to save face. Though hard-core environmentalists will resist any reform that further subsidizes or compensates the ranchers, for those willing to compromise, the line is drawn at reform that makes grazing into a right, or that sets up allotments so that they are subject to takings claims. The hard-core ranchers will resist any reform that removes any land from the allotment system, but for those willing to compromise, the line is drawn at any reform that removes land from the system without some form of compensation.

It often appears that these positions are irreconcilable, and in practice, it might be impossible to find an acceptable compromise. The two reforms systems discussed previously that set up compensation systems without setting up any new rights to grazing or allotments are clearly on the fence between the two extremes. For some environmentalists, it really would not make much difference that the compensation money for forced reductions is for "transitional forage" or "transitional income." They will still consider it too much like a taking. If is it stated properly, the courts, on the other hand, are unlikely to consider a transitional allocation much of a precedent to bolster other takings claims. It would be more like food stamps or unemployment insurance. Although such a system might seem to play into the hands of the ranchers, and satisfy all but the hard-core, the ranchers are still making a
"hidden" concession, since compensation systems would almost certainly make it much more difficult to fight AUM reductions with economic arguments, either in the courts or with the agencies.

A politically negotiated agreement between the ranching and environmental communities would clearly take some compromise. Having considered the "bottom line" positions, the other important element to consider in bargaining is the real goals of each group. Although more than a few environmentalists want to get rid of ranching on public lands, the more common goal is to reduce ranching's impacts to order to improve the health of the land. Similarly, although more than a few ranchers want to make public land grazing a permanent right, the more common goals is to insure their economic viability and their way of life. Can both of these goals be reached in some agreement, even if it does not satisfy the absolutists?

Perhaps they can, as talk of different proposals for new types of grazing reforms appears to be increasing, and many proposals include some type of compensation scheme. (See Appendixes C and D.) If this talk was coming only from environmentalists, it probably would not be very significant, but it is also being heard from some ranchers, and also from some politicians whose main focus is cutting the budget. Despite these rumblings, it would still be a surprise if the issue gets much attention by the general public, but these ideas are gaining the attention of environmentalists and land-use groups. It is between these groups that the real debate is beginning to take shape, and where it needs to take place, if these new options that prioritize the consideration of permit value are to change the ongoing political debate over grazing on public lands.
A HYBRID SOLUTION

In the light of the influence of permit value and the often conflicting interests of the environmental and ranching communities, what recommendations can be given to the policy makers that might conceivably be politically acceptable? The option favored by the author incorporates a number of tradeoffs and includes some of the options discussed earlier. It focuses on gradually reducing the influence of permit value without undue economic impacts on the part of the ranchers. It also recognizes the importance of the current national trend towards lowering the total AUMs in the allotment system, and that this trend is expected to continue. It is fundamentally based on a combination of the two plans that compensate ranchers for forced AUM reductions and for the voluntary retirement of allotments.

The compensation for forced AUM reductions (that are not due to overgrazing) appears to be grudgingly favored by both ranchers and environmentalists, although to some degree more by the ranchers. In the hybrid plan the rancher would be compensated unless there was evidence to show that the rancher had violated the agency proscribed AUM level or season of use on their allotment more than once in the previous five years. Compensation would also not be given to foreign-owned ranches or ranchers who refused to sign their AMPs or any other required contract with the agencies. The amount of compensation should be such that a prudent investor could replace the lost income from the sale of their livestock, based on the average sale price of livestock in their state for the previous five years. The money to finance this should come in part from the government's expected savings, in part from the Land and Water Conservation Fund and in part from the 50¢ surcharge on allotments discussed previously.
The other major element of this hybrid proposal is a voluntary retirement system that is not funded by either ranchers or (except in unusual circumstances) by the federal government. The retirement could be funded by state or local governments, nonprofit groups or private interests, when it is in their interest to do so. There would be no specific amount required per AUM for voluntary retirement, except the requirement that a fund be established to replace the amount of the fee that was going to the state or county. The system for voluntary retirement need not be rigid. Following are some suggestions that would allow more flexibility in retirement arrangements.

The voluntary allotment system could also be set up to allow for some allotment trading as part of the process. For instance, if a rancher was ready to retire, but had an allotment without prized habitat, and a nearby rancher still wanted to ranch, but his allotment was coveted by environmentalists for its fish habitat, trading would allow the first rancher to retire with compensation, the second to continue ranching, and the environmentalists to protect the habitat they consider most important.

A retirement contract might also incorporate a provision that stated to what degree the allotment could be used as part of a grassbanking system. A rancher might be more willing to put an allotment in semi-retirement, where it could be used every second or third year at half its previous level as part of a grassbanking system. The agencies could use that extra forage to rest other allotments, or put it up for bid. Such an agreement should designate the money from auctioned forage to the forced reduction compensation fund.

Part of a retirement agreement might also be combined with putting an easement on the private part of the land, or some limit on the extent that it

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23 It might occur if an agency decides that it is cheaper to pay for an allotment's retirement than it would be to do the monitoring, range improvements and paperwork for that allotment.
could be subdivided. This could be used to prevent ranch owners who were about to "sell-out" to developers from making additional money. The agencies would have the decision-making power for allotments abandoned without such an agreement (by the developer or others). These allotments could be rested, retired, traded, put in a grassbanking system, or allotted through competitive bidding, thus preventing them from regaining permit value.

Another trade-off might ease the restrictions whereby small \(^{(\text{perhaps 640 acres or less})}\) and entirely enclosed allotments could be sold or traded to ranchers, after public comment and agreement by the agencies. This would give the ranchers some assurance that their investments and general ranch structure could be maintained and improved.

**THE IMPLICATIONS OF POSSIBLE REFORM**

Considering the surprising range of viewpoints of both ranchers and environmental activists found in the interviews, it is likely that the debate over possible new reforms is unlikely to fall along the traditional lines. It is likely that those with the most extreme viewpoints will reject any new management option that smells of compromise. Since these elements are often the most vocal on both sides, any acceptable reform will have to have good support from those who are less extreme, and some of these "centrists" will have to take on vocal roles to educate others on the implications of these reforms.

Still, even some of the not-so-extreme environmentalists are likely to look at the "hybrid" proposal above and initially reject it as overly generous to the ranchers. Before doing so, however, they should seriously consider the "hidden" concession mentioned earlier. If this proposal or some other compensation plan is put into effect, without any other changes to...
environmental laws, then some of the main arguments that ranchers use to resist cuts in grazing levels would be undermined. That undercutting is likely to lead many ranchers to resist the proposal. One would no longer find sections of environmental impact statements that declared that management options that required AUM cuts would cause significant impacts to the ranchers and their local communities. Ranchers often argue that these changes will, "Put us out of business," or "Take away our way of life." With a voluntary retirement option that allowed for allotment trading, the ranchers going out of business would almost exclusively be those who are ready to retire anyway. Indeed, there would still be ranchers who have to reduce the numbers they run, but if there was compensation for forced reductions, most, if not all of their income would be replaced.

With compensation measures in place, undoubtedly the agencies, the courts, the public and the lawmakers would look at the ranching community with less sympathy when reacting to situations that apparently placed wildlife habitat or water quality ahead of a rancher's livelihood or the local community's economy. Compensation measures not only move public lands away from use for grazing and towards other uses, they also make environmental laws more effective by reducing their conflicts with economic considerations.

So why would any rancher buy into a system that one rancher describes as, "A sugar-coated cyanide pill?" Why would they accept a plan that might reduce their political influence and increase the effectiveness of environmental laws? For those who believe that grazing rarely or never causes environmental impacts or even improves the land, or who philosophically oppose seeing any land that is grazed go to other uses, then it is likely that there is no argument that will influence them. For some, however, the economic arguments that come with compensation make sense. Even if the
compensation is not actually for a taking, they are still getting what many have been arguing in favor of for years: compensation for AUM reductions.

For others, who have been entrenched with environmentalists and the agencies for years, if not decades, it provides the light at the end of the tunnel. There is already a growing movement, including the BLM's Resource Advisory Councils and other private groups, towards negotiating these conflicts rather than continuing to battle in court. For the ranchers who prefer to spend their time ranching, rather than on law or politics, compensation plans are a path towards opening up communication and towards resolving these long-time conflicts.

Other ranchers see the changing social patterns that could ultimately erode their base of resistance to these changes. The ranching community is aging, and not as many in the next generations are willing to take over the ranch. Population is increasing, and ranchers are selling out, and with that increase comes more interest in using public land for recreation—and water. They see that if public land ranching is to continue, it will have to evolve. Some of these plans allow for that evolution, without bringing financial ruin to the ranching community.

The last reason that ranchers might be willing to accept these types of plans is that the public land ranchers have been gradually losing a war of attrition with environmentalists in the judicial system. There are good reasons that NEPA, the Endangered Species Act, and the Clean Water Act sound like dirty words to ranchers, as environmental groups are effectively using these laws in court to reduce grazing levels, especially in the Southwest.

Those victories bring on the question from some environmentalists, "We're winning. Why should we stop now?" They see that a solution that incorporates compensation, although possibly leading to significantly reduced grazing
levels, would not lead to its abolition. After reductions are made on the most environmentally sensitive lands, it is likely to be harder to reduce grazing levels further, either politically or through the courts. Also, their focus would have to change towards raising money to lure more ranchers into potential voluntary retirement, and many have philosophical disagreements with primarily having to raise funds, as they believe that in doing so they will have to "buy into the system."

These environmentalists often do not step back to recognize how these victories in the courts, although significant, have come slowly, at great costs, and without real guarantees that the courts, the agencies, or the lawmakers might someday sweep them away. Victories of that nature actually work to increase the political resistance of the ranching community. They fail to see, or do not believe, that lasting change is more likely to come with a solution that is acceptable to all the parties concerned.

As with many of the reform measures discussed in this work, the implementation of the hybrid solution would take an act of Congress. Particularly given the current configuration of the Congress, that calls for a note of caution. In discussing two other possible reform measures, Larry Tuttle eloquently frames the problem:

If [Senator] Wyden were to introduce the Plan as has been suggested, what real control would he be able to exercise? Wyden has neither the disposition nor the power base to exercise control over amendments or mark-ups, unlike [Senator] Domenici, who has the disposition and power and a long involvement in grazing issues.

The Congress is made up of individuals with a wide variety of political beliefs and motivations, may of whom have little personal interest in public land grazing. The legislative process is also rife with tradeoffs and rarely passes legislation as introduced. With pro-grazing congressmen currently
controlling the land use committees, there is little doubt that they would use their influence to make changes in any legislation that did not please them.

With these political realities in mind, it is recommended that no reform measure be introduced to Congress without general support from both the ranching and environmental communities. Also, it is recommended that the legislation introduced be as simple as possible, so that any changes made in the legislative process are easily noticed and thus easily debated by both sides.

SUMMARY

This work looks at the permit value of public land grazing allotments historically, legally, economically, politically, and through a survey of interested parties. It finds that permit value clearly exists, has some political significance to most ranchers and great political important to a few, and that it should be an issue of concern in any attempt to reform public land grazing. It examines what elements might be important in order to find reforms that might be acceptable to both the ranching and environmental communities, reviews other issues that could be important for potential reforms and then analyzes a number of possible reforms for their potential political viability.

Finally, it offers a reform package that the author believes might be acceptable to both of those communities. That package, however, comes with a number of caveats: that there is no reform that is acceptable to all sides, that any reform should be carefully considered and introduced into Congress with extreme caution, and that prior to introduction the reform should have significant support of both contingencies, since Congress regularly makes significant changes to legislation that is introduced. Despite these caveats, grazing reform directed at reducing the influence of permit value should be undertaken.
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APPENDIX A

QUESTIONS TO THE PERMITTEES

1) Please describe in brief your ranch and ranching experience. When was the ranch bought? How big is it, in both acres and carrying capacity? What percentage of capacity is federal? What percentage of the family income does it bring in? How long have you and your family been ranching? Is there anything else that you want to include?

2) How many AUMs is your allotment(s) currently permitted for? What is its actual use? Has this changed over the years?

3) How do you feel about the current allotment system?

4) Do you feel that you or your family paid for your allotment with your ranch? How much? How much do you feel it is worth now?

5) How big of an influence do you feel the real estate value of grazing permits is in the resistance of ranchers to cuts in their AUM levels?

6) How would you feel about a system that compensated ranchers for forced AUM reductions due to the prioritization of other uses? How would you feel about a system that compensated ranchers for forced AUM reductions due to overgrazing? How about a system that allowed a willing rancher to retire an allotment for compensation?

QUESTIONS TO THE NONPERMITTEES

1) Please describe in brief your ranch and ranching experience. When was the ranch bought? How big is it, in both acres and carrying capacity? What percentage of the family income does it bring in? How long have you and your family been ranching? Is there anything else that you want to include?

2) Have you ever had an allotment? If so, how many AUMs was your allotment(s) permitted for? Was the actual use different? Did it change over the years? What percentage of that ranch’s capacity was federal?

3) How do you feel about the current allotment system?

4) Do you feel that ranchers pay for their allotments when they buy their ranch? How much do you feel a federally leased AUM is worth now as part of the real estate value of a ranch? Has that changed over the years?

5) How big of an influence do you feel the real estate value of grazing permits is in the resistance of ranchers to cuts in their AUM levels?

6) How would you feel about a system that compensated ranchers for forced AUM reductions due to the prioritization of other uses? How would you feel about a system that compensated ranchers for forced AUM reductions due to overgrazing? How about a system that allowed a willing rancher to retire an allotment for compensation?
QUESTIONS TO ALL OTHER PARTICIPANTS

1) Please describe in brief your experience with the public land grazing allotment system. Have you ever owned or worked on a ranch? Is there anything else that you want to include?

2) How do you feel about the current allotment system? How have your feelings about this system changed over the years?

3) What, if any, changes would you like to see in the allotment system?

4) Do you feel that ranchers pay for their allotments when they buy their ranch? How much do you feel a federally leased AUM is worth now as part of the real estate value of a ranch? Has that changed over the years?

5) How big of an influence do you feel the real estate value of grazing permits is in the resistance of ranchers to cuts in their AUM levels?

6) How would you feel about a system that compensated ranchers for forced AUM reductions due to the prioritization of other uses? How would you feel about a system that compensated ranchers for forced AUM reductions due to overgrazing? How about a system that allowed a willing rancher to retire an allotment for compensation?
## APPENDIX B

### INTERVIEWEES

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Whereas livestock grazing is permitted by the federal government on public lands administered by the USDA's Forest Service and the USDI's Bureau of Land Management; and whereas grazing cannot be continued on many of these lands without unacceptable levels of environmental degradation, unresolvable conflicts with other uses of the land, or excessive investment by the public in the implementation of adequate livestock management; then the following legislative proposal is offered to allow for the equitable retirement of the aforementioned lands from livestock grazing:

1. All livestock management projects on public lands wherein the National Environmental Policy Act (NEPA) planning process has been engaged will include among the management alternatives to be analyzed a "no-grazing" alternative. This alternative, in addition to documenting the environmental and economic benefits to the public of discontinuing grazing, will include a professional assessment of the market value of the affected grazing permit. (Legally, federal grazing permits are not private property and have no market value. They can be revoked by federal land managers at any time for good cause. Traditionally, however, the market value of a ranch's private base property is inflated to reflect the assumption that the government will reissue the grazing permit to the new owner when the property is sold. Thus, the market value of a grazing permit is the difference between the market value of a ranch's private base property with the grazing permit attached, minus the value of the property without the permit.)

2. Upon the completion of the NEPA analysis, a grazing permittee may opt to voluntarily surrender their grazing permit and receive payment from the agency equal to the permit's assessed market value. The offer and/or disbursement of this financial compensation in no way implies or infers that possession of a grazing permit gives the holder a property right on federal lands. The intent of the money is to serve as Transitional Economic Assistance
(TEA) to the former permit holder. If the permittee declines to voluntarily surrender the grazing permit, the responsible federal land manager may still choose to implement the no-grazing alternative if it’s determined that it’s the management alternative that best serves the public interest. The former grazing permit holder will still receive the appropriate amount of TEA if this happens.

3. Any rancher holding a federal grazing permit may, at any time, choose to procure their own professional assessment of the market value of their permit. The permittee may then submit the assessment to the agency in order to voluntarily surrender their permit and receive the appropriate amount of TEA.

4. The permitting of livestock grazing shall be suspended on all lands for which a grazing permit has been retired, as described above, for a minimum of 25 years. At the end of this time period, no livestock grazing shall be permitted to resume until a NEPA analysis is completed and it is determined the resumption of grazing would be in the public interest.

5. Congress will create a Range Retirement Fund (RRF) to provide a source of money for the Forest Service and the BLM to disburse TEA. The RRF will receive a minimum annual appropriation of $50 million* for as long as it is deemed necessary to continue the program. Private individuals, organizations (such as conservation groups), and states will also be allowed to contribute to the RRF.

6. Federal land managers will be responsible for prioritizing grazing allotments under their jurisdiction so that, in the event available RRF funds are insufficient, TEA will be first be disbursed to facilitate the suspension of grazing on those allotments with the most important resources.

7. This legislation would in no other way alter the existing federal laws regarding the permitting of livestock grazing on public lands.

*This is the amount of the deficit the federal government reported it incurred managing livestock grazing on public lands in 1990.
APPENDIX D

The Voluntary Retirement Option

Taken from "The Voluntary Retirement Option for Federal Public Land Grazing Permittees." by Andy Kerr.

It would be easier—and more just—for the federal government to fairly compensate the permit holders as it reduces cattle numbers. Since the government spends substantially more than it receives for grazing, in a few years the savings realized by reducing livestock numbers can pay for the compensation.

It would be less expensive—fiscally and politically—or the agency to simply buy out the problematic grazing permits and save extensive planning, monitoring, research, public involvement, appeal, litigation and political costs.

Below is a solution to an environmental problem that requires less government regulation. Federal law should be changed to:

• Allow a permit holder to choose to not exercise any or all of the grazing permit.

There would be no penalty to the permittee for not grazing. This would give desirable flexibility to ranching operations, decrease livestock grazing damage, and could also increase the value of the permit, in the event the permittee later wished to sell. An allotment with more forage is more attractive to both prospective livestock operators and conservation buyers.

• Allow existing permittees who hold federal grazing permits to sell or donate their grazing permit to the federal government, which would then retire the allotment.

A permittee could choose to sell to the federal government, receiving fair market value for their interests in the permit. Money to fund tax deductions and for acquisition of permits by federal agencies could be funded from the Land and Water Conservation Fund, by reducing agency grazing budgets, reallocating US Department of Agriculture animal damage control subsidies, by using the Range Betterment Fund, or earmarking that small fraction of the federal grazing fee that actually makes it into the federal treasury.

Alternatively, a permittee could be paid by an individual environmentalist, a state fish and wildlife agency, a private conservation organization, a hunting and fishing club, or anyone else to retire their permit. If it was in the form of a donation to the government, a federal income tax deduction would be available.

• Reaffirm that grazing the public lands is a privilege, not a right.

Any legislation must expressly state that this change in law in no way increases or diminishes any vested interest the permittee may or may not have in public land grazing; that grazing the public lands is still a privilege and any reduction in grazing by the government is not a compensable loss to the permittee.

Existing laws designed to protect the environment would not change. The administering agencies could still choose (or be ordered by a court) to reduce, eliminate or further condition grazing to protect the environment or other public values.
## APPENDIX E

### PUBLIC LAND GRAZING FEE LEVELS 1909-1997

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From Jacobs; Gardner; Feedstuffs; Congressional Quarterly Weekly

*Forest Reserve or Forest Service allotments