The 1982 asset management initiative: implications for recreation.

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THE 1982 ASSET MANAGEMENT INITIATIVE:
IMPLICATIONS FOR RECREATION

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My husband and son who have had to live with me during this project, my family and friends who have encouraged me, and the professors who have assisted me - thank you.
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CHAPTER I

DEFINITION OF THE PROBLEM

Introduction

How much of the land in the United States should be retained in federal ownership, how these resources, once retained, are managed, and who shall have access to them are matters which became, once again, the focus for political debate in 1982. In 1982, a milestone in American history was reached . . . the national debt surpassed the $1 trillion mark. In the past, the only solution offered to attack unmanageable government spending was to cut programs. In 1982, a new solution was offered . . . sell the federal assets, including the public lands, to help reduce the national debt.

Special Congessional interest in increasing sales of unneeded federal real property was expressed in the fall of 1981 with the introduction of Senate Resolution 231 and House Resolution 265. These resolutions declared that liquidation of selected assets in a time of budget deficits could, "contribute to restraining and ultimately reducing the national debt." The resolutions asked the President to estimate the value of federal property and to identify which...
properties could be sold. Early in 1982, President Reagan declared the Asset Management Initiative national policy in Executive Order 12348. The Order established a Property Review Board to direct the inventory of Federal properties and to expedite the sale of excess properties.

Public lands in the United States consist of all those federally owned lands which are or were once part of the public domain and are still in federal ownership plus the acquired lands contained in national parks, forests, game refuges, and areas administered by the federal land managing agencies. The Forest Service, The Bureau of Land Management, the National Park Service, and the Department of Defense are all federal agencies administering publicly owned lands.

None of the agencies mentioned above nor any other federal agency were created to provide public outdoor recreation. Even the National Park Service was not formed to provide recreation in the usual sense, but to preserve "natural wonders." Nevertheless, some eighteen federal agencies have become involved in outdoor recreation—some of them on a massive scale. This involvement has come about mainly through our traditional use of public land and waters for recreation without charge. These traditions reach back to colonial times and have resulted in expectations of continuous use and the development of a concept of a public right to utilize public land and waters for recreation. Hence, the sale of lands administered by any of these agencies and the
use of those revenues for reduction of the national debt would have an inevitable impact upon recreation in the United States at the local, state, and national levels.

Use of federal land for recreation has experienced a rapid rate of growth in the past twenty years and is expected to continue, and possibly accelerate, in the foreseeable future. Consequently, outdoor recreation in this country is affected by how much land is retained in federal ownership, how these lands are managed, and who has access to them. It is inherently involved in the controversy surrounding the Asset Management Initiative.

This paper analyzes the Reagan Administration's Asset Management Initiative to determine what impact it has had upon recreation in the United States.

Methodology

Major sections of this paper will address the questions presented below. Specifically:

* What conditions prompted the proposed large-scale disposal of surplus real property?
* What was the Asset Management Initiative and what was it supposed to do?
* What impact did the Asset Management Initiative have upon existing programs?

I analyzed the 1982 Asset Management Initiative by reviewing available documents, specifically Senate and House
Committee hearings. Articles and books relating to the Recreation and Public Purposes Act and the Land and Water Conservation Fund Act were also reviewed.
CHAPTER II

BACKGROUND

Public Land History

Public land policy in the United States can be divided into three periods: disposition, reservation and management. The period of disposition, in which Congress disposed of the public domain, dates from about 1776 until 1891. It was followed by a brief period in which lands were reserved or withheld from disposition which lasted until 1905. The period of management dating from 1905 marks the beginning of government programs to manage actively rather than simply retain the public lands.

As early as 1780, the original thirteen States began assigning lands granted to them during colonization to the new Nation to settle disputes over conflicting colonial grants and for use, in part, as a source of revenue. The ensuing seventy years, witnessed U.S. expansion of its territory through purchase, annexation and foreign cession. The land in these territories so acquired-nearly 80% of the total land area of the United States—became the property of the U.S. beginning a history of federal lands which has continued to the present.
The dominant political philosophy at the time of independence and for 100 years thereafter was that newly acquired lands, like the land in the original colonies, would be disposed of to settlers. There were many political struggles over the terms and the forms of that disposal, but none, for a long time, over the desirability of ultimate disposal. A central debate emerged over the issue of whether land should be given away to promote settlement, or sold to raise revenue. The resulting policy was conditioned by the Federal Government's need for revenues to pay the Nation's war debts. Much of the land was sold for cash under authority of early public land laws such as the Northwest Ordinance of 1785 and the Public Lands Law of 1796. Other large amounts were transferred as payments for military service, development of transportation systems, or to states for public purposes, resulting in disposal of over a billion acres—two thirds of all land in the lower 48 states—of the public domain by 1876.² Much of the public land legislation of the late 1800's provided for the transfer of these lands including, the Homestead Act of 1862, the Desert Land Entry Act of 1877, and the Timber and Stone Act of 1878.

As the 19th century came to a close, the policy of land disposal gradually ended. Of the public land which remained, millions of acres were eventually reserved. In 1880, Congress appointed the first Public Land Commission to codify existing laws and to recommend the best methods for the disposal of the
public lands. Important among its recommendations was that "all timberlands be withdrawn from sale or other disposal."
Subsequently, in 1891 Congress enacted a system for reserving forest land from the public domain for permanent Federal ownership (16 U.S.C. 471) (since repealed). Reservation of the national forests was the result of a growing concern for watershed protection. The withdrawal of mineral lands, on the other hand, was designed to foster mineral use and to prevent agricultural development from thwarting such use. The concept of preservation, which developed slowly in the West with major debates over Yellowstone and Yosemite Parks, was not a key aspect of the early reservation and withdrawal policy. The Withdrawal Act of 1910, also known as the Pickett Act (36 Stat. 847) broadened the President’s authority to withdraw public lands from entry and the Weeks Act of 1911 (36 Stat. 961), provided authority for the acquisition of land by the Federal Government. These laws symbolized the reversal of the former policy of disposing of federal lands. However, considerable amounts of federal land passed into private ownership through homesteading until 1930 when President Roosevelt temporarily withdrew the remaining public domain lands for classification.

Although Congress established the General Land Office (GLO) in 1812 to administer the public lands, active management of the public domain lands did not occur until the enactment in 1934 of the Taylor Grazing Act (48 stat. 1269). This Act authorized the creation of 80 million acres of
grazing districts on federal land and established the U.S. Grazing Service to administer these lands. In 1946, the GLO and the Grazing Service were merged to create the Bureau of Land Management signalling a new era of management of the public domain.

By the 1960s, concern for environmental values and open space began to compete with development and production. In 1964, Congress established the Public Land Law Review Commission (PL 88-606) to conduct a comprehensive review of existing public land laws and regulations, as well as, review of the policies and practices of the federal land management agencies. In 1970, the Commission reported its findings to Congress and made over 137 recommendations for future public land policy. The Commission clearly decided against wholesale land disposal, since "at this time most public land would not serve the maximum public interest in private ownership". This recommendation reflected a shift in attitude of the American public in favor of retention of national resource lands in federal ownership.

Culminating this trend was the passage of the Wilderness Act in 1964 and the National Forest Management Act and the Federal Land Policy and Management Act in 1976. These laws reversed the historic policy assumption that public domain lands were to be disposed of, declaring instead, that they were to be kept in public ownership. The Federal Land Policy and Management Act (FLPMA) replaced some 2,500 individual laws
which had been patched together in the 19th and 20th centuries. The Act provided the Bureau of Land Management with a comprehensive legislative charter outlining the agency's authority to permanently manage 450 million acres of public land according to multiple use and sustained yield principles.

**Current Disposal Programs**

The General Services Administration's published inventory of September 30, 1979 showed that the Federal Government owned 24,520 installations in the 50 states and the District of Columbia. These installations consisted of:

*744.1 million acres, or 32.7 percent of all land (2,271.3 million acres) in the U.S.;

*405,147 buildings comprising over 2.65 billion square feet of floor area; and

*$52.3 billion (acquisition cost basis) worth of structures and facilities.*

The four principal federal land management agencies are the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service in the Department of the Interior and the Forest Service in the Department of Agriculture. These agencies owned 710.7 million acres or 95.5 percent of all federally owned land in this country. The Department of Defense (DOD), although not included as one of the major land management agencies, controlled more federally
owned building space in the U.S. than any other Governmental agency and also led in the total cost of real property.

Although the Federal Government has not had a large-scale disposal program for some time, provisions still exist in law for transfer of title to some public property. The property disposal practices of the principal federal land management agencies are summarized below. This material is excerpted from a Congressional Research Service Report.  

Department of the Interior

Bureau of Land Management (BLM). As administrator of more than 400 million acres of public land, BLM is the only federal agency that makes public domain land available for sale or other disposal on a regular basis. The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 11701-1781) provides the BLM with a comprehensive legislative charter which outlines the agency's authority to permanently manage the public lands. This major piece of legislation repealed most prior laws pertaining to disposal of the public lands, including the Homestead Act of 1862, and declared "retention of the public lands in Federal ownership" a national policy. However, the Secretary of the Interior is authorized to sell or exchange public lands, where, as a result of the land use planning process required by the act, it is determined that the sale or exchange of a given parcel of land would serve the National interest. FLPMA establishes criteria for the

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disposal of public lands including, where sales are concerned, public notice, public auction, and sale at not less than fair market value. The Act also authorizes exchanges of public lands only for non-federal lands located in the same state, requires public notice of proposed exchanges, and that the lands exchanged be equivalent in value.

The Federal Land Policy and Management Act did not repeal all of the laws that pertain to the disposal of the public lands. Among the still existing laws are: the Desert Land Act, the Carey Act, the Color of Title Act, and of particular significance for recreation, the Recreation and Public Purposes Act. The Reclamation Act of 1902 requires proceeds from land sales in 16 western states to be set aside in the Reclamation Fund for use in building irrigation projects in those states.

National Park Service. The National Park Service administers an extensive system of national parks, monuments, historic sites, and recreation areas. There are approximately 300 units within the System for a total of over 70 million acres. The Service is not permitted to sell any of its lands. In authorizing the addition of a new unit to the System, the Congress has, on occasion, authorized the Secretary of the Interior to acquire land for the unit through exchange. The exchange normally involves federal acquisition of land within the boundaries of a park by providing federal land of
comparable value outside the park such as BLM land. The federal land to be exchanged would not normally be Park Service land."

Fish and Wildlife Service. The U.S. Fish and Wildlife Service administers the National Wildlife Refuge System which consists of over 400 wildlife refuges comprising more than 89 million acres. While the majority of the System's land was reserved from the public domain, approximately four and a half million acres within the System were acquired through the Migratory Bird Conservation Fund.

Land within the System may not be transferred or otherwise disposed of (except by exchange) unless the Secretary of Interior determines that the land is no longer needed. Authority for such exchanges is granted by the National Wildlife Refuge System Administration Act of 1966."
U.S.C. 1600 (note)) set the major parameters for the Forest Service's general land management activities. The exchange and sale authorities of the Forest Service are specified in several acts including the Weeks Act, General Exchange Act, Bankhead-Jones Farm Tenant Act and the National Forest Townsite Act. The decision to dispose of National Forest land is entirely discretionary on the part of the Service and the Secretary of Agriculture. The Service's sale authority is limited to public agencies, however, exchanges may be made with private or public owners. An exception to this limitation of sale authority is the Weeks Act which authorizes the Secretary to sell up to 80 acres of acquired land to "actual settlers" for agricultural purposes, provided it is not needed for public purposes. Very little land has actually been sold under the Weeks Act."

**Department of Defense.** The Department of Defense (DOD) administers approximately 24.5 million acres. Of this, 15.5 million acres represent land set aside from the public domain, 6.5 million acres have been acquired from private owners, and the remainder includes leased lands, lands under temporary use, or land on which easements have been acquired. The Department regularly reviews lands within its jurisdiction to identify excess property. Land so identified, if originally part of the public domain, is returned to the BLM and becomes subject to disposal under the applicable public land laws.
Acquired land which DOD determines is excess becomes subject to the surplus property disposal procedures administered by the General Services Administration. DOD also has authority to exchange lands, but exchanges rarely occur.**

**General Services Administration.** In addition to the Federal Land Management agencies already described, there are other federal agencies which dispose of land. Examples include disposition of (1) residential properties by the Department of Housing and Urban development, (2) recreation and industrial sites by the Tennessee Valley Authority, and (3) farm properties by the Department of Agriculture. The principal agency in this category of disposal, however, is the General Services Administration (GSA) which, under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471(note)), is provided with the statutory means to dispose of Federal real property. Title II of the Act assigns to GSA the basic responsibility for seeing to (1) the further utilization of excess property, and (2) the disposal of surplus property. Section 3(d) of the Act defines "property" as any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of land withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or
reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because such lands are substantially changed in character by improvements or otherwise. The President may prescribe overall policy and directives not inconsistent with the provisions of the Act.

Real property holdings, which federal agencies find are no longer required for their needs are reported to GSA. Such property is classified excess. The term "excess property," as defined by the Act, means any property under control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof. Under normal procedures, GSA screens excess property against the needs of other federal agencies, and when another agency needs the property, transfers it to that agency. Property excess to the needs of all federal agencies is classified surplus. The term "surplus property," as defined by the Act, means any excess property not required for the needs and the discharge of the responsibilities of all federal agencies, as determined by the Administrator. Surplus property is disposed of outside the Federal Government. The excess and surplus properties held by GSA come from many agencies but mainly from the Department of Defense.

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Surplus real property may be offered to state and local governments and eligible nonprofit organizations. These public agencies may be afforded a discount or price preference in acquiring surplus real property if they indicate an intention to use the land for public park or recreational purpose, as an historic monument, for wildlife conservation, public health or educational facilities, public airports or correctional facilities. Such transfers are authorized through a variety of legislation including the Federal Lands for Parks and Recreation Act and the National Parks and Recreation Act.¹³

Only if no public agency wishes to buy the land, does it become eligible for private sale. Surplus properties are offered for sale to the public through sealed bids, public auction, brokers, or negotiation. Since January 1967, there have been some 500 negotiated sales of surplus property to public bodies and private persons, which generated nearly $340 million in revenues. According to GSA-compiled data, since 1967, all sales of surplus property have totaled 3,248 with an aggregate yield of $816,221,000. At the start of fiscal year 1980, GSA had 881 excess and surplus properties on hand with an original cost of $1.7 billion. During 1980 GSA expected to dispose of property costing $205 million. Revenues from the sales transactions were expected to be $80 million. These revenues are deposited in the Land and Water Conservation Fund as required by law.¹⁶
CHAPTER III

PRIVATIZATION OF FEDERAL LANDS

Theoretical Development

The movement to sell federal lands into private ownership or "privatization" (the unofficial name given to the Administration's Assett Management Initiative) was supported by a small group of intellectuals. Their arguments for privatization combine several key themes. These themes involve criticisms of the actual management of public lands, criticisms of the very concept of public ownership of large land areas, and criticisms of the fragmented and therefore unmanageable pattern of federal land ownership.

Marion Clawson, a leading student in the field of public land management, in The Federal Lands Since 1956 reaffirms the conclusion he reached a decade earlier that "there was little consideration to the revenue side of federal land management, and almost none to a business approach to such management." At a 1982 Workshop on Federal Land Protection and Management by the Subcommittee on Public Land and Reserved Waters, Clawson concluded that "there is a general discontent with federal land management as it has been practiced both in the
past and today." The laws and lawsuits are one evidence of such dissatisfaction—if there were perfect acceptance of federal land management, there would be no need for new laws or for litigation. The political pressures exerted by industries, preservationists, and other specific interest groups are evidence that such groups are not satisfied with federal land management as it has been practiced. Clawson does not suggest that privatization, per se, is the answer to problems with public management, however, he does include limited privatization of selected federal lands as one of a number of alternative methods for improving federal land management.20

Other critics of federal land management include the Wilderness Society which has repeatedly documented that many of the timber sales from the national forests cost more to make than they provide in revenues, as well as often having serious adverse environmental consequences. Libecap has strongly attacked the inefficient administration of grazing on the public domain and of the grazing districts by the Department of the Interior, concluding, "bureaucratically assigned use rights...encourage inefficient land use for a number of reasons: first, since bureaucrats do not hold property rights to range resources, they do not bear the cost or receive the benefits of their actions. Second, the rights assigned are inherently tenuous since bureaucrats reallocate rangeland and readjust use privileges to meet changing
political conditions." Libecap strongly recommends disposal of the federal grazing lands to the ranchers who are using them, believing that the latter will manage to restore the lands productivity and to make more efficient use of these natural resources.

In the years from 1934 until the early 1970's, land economists wrote at times about federal lands but, in general, without questioning the social wisdom of retaining these lands in federal ownership. Much of this lack of explicit consideration of retention versus disposal of federal lands during these decades stemmed from a general feeling that the policy issues had been settled. This disregard has changed in recent years, as Baden, Stroup and Hanke have come on the scene. These leading critics of federal land management are economists, who in applying a standard of economic efficiency, have found that efficient use of resources is seldom a main criterion in decisions made by public lands managers and as a result public land management exhibits pervasive inefficiencies.

Richard Stroup, Director of the Office of Policy Analysis, summarized the principal sources of allocative inefficiencies in public land management as: the rational ignorance of voters (the inability of voters to be well-informed on major policy issues) which enables special interest groups to influence particular issues, the short time-in-office of most politicians which makes them
particularly vulnerable to interest group pressure, the absence of criteria for determining program efficiency, and the lack of appropriate incentives for public managers to increase productivity.22

The alternative to public management proposed by these economists is stated by John Baden thus:

With respect to both environmental quality and economic efficiency, a structure of property rights and market allocations is far superior in almost every dimension to governmental management. The positive potential of property rights and market allocations in terms of environmental quality and efficient resource management addresses the basic problem of the nineteen-eighties, which is how to develop institutions that can reconcile self-interest with social welfare. These institutions must be predicated on clear, enforceable, defensible property rights and market allocations.22

A recent article by Krutilia, Fisher, Hyde and Smith summarizes the arguments for public and private ownership.24 The proponents of public ownership argue that our set of traditional values, attitudes, and our belief in abundance and progress, our devotion to growth and prosperity, our faith in science and technology, our commitment to a laissez faire economy, limited government planning, and private property rights all contribute to environmental degradation.

The proponents of private ownership, on the other hand, contend that the existence of resource degradation problems
within a free market, private property economic system, is not an indictment of such a system, instead it is a result of a failure of the government and the courts to adequately define, develop, and protect the rights of persons and property. They argue, instead, that the problems of overexploitation, overharvesting, misuse, or destruction of the public resources, results from their existing under public or "common" ownership rather than in some form of private ownership. A common property resource is "owned" by everyone and, at the same time, owned by no one. Therefore, it is used by everyone and it is rapidly and thoroughly depleted because no one has any incentive to maintain or preserve the resource. Private ownership, on the other hand, allows the owner to capture the full capital value of the resource, thus, self interest and economic incentive drive the owner to maintain its long-term value."

The final theme embodied in the arguments of private ownership proponents concerns the special problems of intermingled federal-private land ownership. The various types of federal land management units such as national forests, national parks, and grazing districts, are not solid units of wholly federally owned land. Within their boundaries are larger or smaller areas of nonfederal land both privately owned and state owned. Their origin dates back to the long disposal era when private individuals, companies, and the states each selected lands from the available public domain.

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The result was that land ownership at any given time formed a variable and somewhat erratic pattern, some tracts being privately owned others remaining in federal ownership. The economic inadequacy of this pattern of federal and intermingled private ownership is often cited as the reason for the Asset Management Initiative. In an article in *American Forests*, Secretary Watt discussed the proposed sale of these tracts:

The forthcoming land sale will include disposing of smallish parcels which are (a) near urban areas or especially well sited for commercial or industrial development, or (b) isolated tracts surrounded by nonfederal lands, and therefore difficult to manage for any purpose defined by federal law. 26

**Political Action**

Congressional interest in increasing sales of unneeded federal real property was initially expressed in the fall of 1981 with the introduction of Senate Resolution 231 by Senator Charles Percy, R-Ill., and House Resolution 265 introduced by Representative Larry Winn Jr., R-Kansas. These identical resolutions called on President Reagan to direct executive agencies to inventory their assets, estimate their value, identify the uses to which each is being put, and identify those which are surplus. The resolutions urged the President to recommend to Congress any legislative or administrative changes needed to liquidate surplus assets in an orderly way.
Specifically excluded as sales targets were national parks, monuments, and historic sites. Proceeds from the property sales were to be used *only* to reduce the national debt."

President Reagan addressed the issue of increased property sales in his January 1982 Budget Message. While presenting the components of his Deficit Reduction Plan, the President declared "we will move systematically to reduce the vast federal holdings of surplus land and real property. During the next three years we will save $9 billion by shedding these unnecessary properties."

On January 25, 1982 President Reagan issued Executive Order 12348 "in order to improve management of federal real property." The Order, which invoked the authority of the Federal Real Property and Administrative Services Act of 1949, established a Property Review Board. The seven member board included four principal White House advisers, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Administrator of the General Services.

Functions of the Board were to include policy development, collection and review of information on current properties, advising GSA on standards for executive agency retention of property, establishing target amounts for each Executive agency of its property holdings to be declared excess, and review of proposed public discount conveyances, each with attention to resolving conflicting claims on and
alternate uses for property GSA believes is not sufficiently utilized. The Order required all executive agencies to periodically review their real property holdings and gave the head of each agency 60 days in which to report real property not utilized or underutilized to GSA and the Board. The Administrator of GSA was required to report to the Board all recommendations for excessing properties. Prior to assigning or conveying property for public discount benefit, the administrator was required to consult with the Board.29

The basic objectives of the Administration’s Property Management Initiative, as overseen by the Board, were stated by the Board’s Executive Director thus:

* Review of the real property holdings of the Federal Government.
* Improved management of this property.
* Expeditious sale of unneeded property.

Justification for the Asset Management Initiative was provided by David Stockman, Director of the Office of Management and Budget (OMB), at a hearing before the Senate Committee on Government Affairs on February 25, 1982. Stockman testified that “the Federal Government has not managed its real property assets in a manner that saved costs to the government or promoted the highest and best use of the Nation’s real property.”29 Stockman attributes these
management problems to:

* A lack of the most basic information on what property
  the Federal Government holds.
* Few incentives for agencies to evaluate their property
  holdings with regard to property that is unused or
  partially used.
* The policies used to dispose of federal property neither
  return to the Federal Government the full value of the
  property nor insure that it will be put to the most productive
  use, specifically, the government's policy of transferring
  excess properties to federal, state, and local government
  agencies at reduced cost.  

On that same day, Stockman testified to Congress on the
purpose of this program and tentatively proposed a target of
$1 billion from sales of surplus federal property in 1983 and
then $2 billion per year from public land sales, beginning in
fiscal 1984. Thus, over the next 5 years the proposed program
had an approximate target of $17 billion in sales, about half
from public lands. The administration later used the figure of
$17 billion as a five-year target.  

Executive Agency Response

In response to Executive Order 12348, the General
Services Administration took the following action:
* All Federal agencies were required to make a concerted effort to identify unneeded real property and release it for sale to GSA.

* The head of each executive agency was required to report to GSA and the Property Review Board the agency's real property holding which were not being put to optimum use.

* The assignment or conveyance of surplus federal real property for public benefit discount disposal (donation for state or local public use) was discontinued.

* As directed by the Property Review Board, GSA would resume the compliance inspection program of prior public discount conveyances.

* Required all federal agencies to pay full market value from their appropriations into the general fund of the Treasury whenever they wished to obtain excess property."

The administration also drafted legislative proposals which would amend the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 401-5(a)) to provide for proceeds received from surplus real property sale to be deposited in the treasury to be applied against the national debt. An additional legislative proposal was drafted to amend the Weeks Act to provide supplemental sale authority for the Forest Service.
CHAPTER IV

PROBLEMS WITH THE INITIATIVE

Conflicts with Recreation Legislation

Congress set the pattern long ago to provide unneeded federal real property to state and local organizations for certain public purposes. As far back as the 1944 Surplus Property Act, it authorized the sale or lease of surplus property at up to a 100 percent public benefit allowance for education and public health purposes. It later added recreation, wildlife refuges, and public airports as public purposes for which unneeded lands might be conveyed cost free. The Federal Property and Administrative Services Act of 1949 consolidated a variety of such purposes in section 203 (k) dealing with disposal of surplus real property. Since the Federal Property Act was enacted, over 3,000 public benefit conveyances have been made, virtually all cost free, except a small number for park purposes, which before 1970 required reimbursement at 50 percent of fair market value. The sale or lease at public benefit discount authority was liberally implemented and in almost every case on the basis of a 100 percent discount. Congress fully understood and acquiesced in
this interpretation as representing Congressional objective and expectation in conveyance for park purposes.

In 1982, however, the Administration made a sharp turn away from public benefit discount conveyances, altering the past pattern completely. The Property Review Board, on April 6, 1982, provided the following guidance to GSA and all executive agencies with respect to public discount conveyances:

(1) All public discount conveyances will be approved by the Property Review Board.

(2) If the Administrator of the General Services determines one of the following criteria are met by the conveyance, he may refer the proposed conveyance to the PRB for approval:
   (a) Property to be conveyed will be used for correctional purposes.
   (b) The application was submitted before March 1, 1982, and disapproval would cause extreme hardship.
   (c) The application has exceptional merit and the proposed use of the property represents its highest and best use.°

Justification for such action by the PRB was provided by several General Accounting Office (GAO) studies which found that monitoring of use compliance was ineffective and that a significant portion of donated property was misused. Specifically, in 1978 the GAO found that, "among 62 properties examined, 27 had not been developed or were not being used as intended and 31 had only been partially developed or used." In addition, GAO found that 26 of the properties were being used by the grantees for unauthorized purposes.\textsuperscript{35}

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The Administration's Asset Management Initiative, especially as it involved properties within the purview of the GSA, had considerable negative impacts on public activities authorized by two federal statutes. These are Sec. 303(c) of PL95-625, the National Parks and Recreation Act of 1978 and PL91-485, The Federal Lands for Park and Recreation Act. In approving the 1978 Act, Congress said "it is declared to be the policy of the Congress that unutilized, underutilized, or excess federal real property be timely studied as to suitability for wilderness, wildlife conservation, or parks and recreation purposes." To implement this policy, the Act required the Secretary of the Interior, the Administrator of the General Services and the Director of the Office of Management and Budget to establish a system of procedures to permit the Secretary opportunity to study and propose recommendations to disposing agencies for consideration on further utilization of property.

The interagency procedures specifically required by this Act relevant to review of excess property for park purposes were not completed. The National Park Service and GSA agreed on a review procedure in 1981. The Office of Management and Budget refused to approve it. The Congressional policy established by this Act had only limited effect under the Asset Management Initiative. For example, in fiscal year 1982 only one excess property was transferred to the National Wildlife Refuge System from another federal agency. In 1983,
one additional property had been transferred. The National Park System reported only two properties transferred in fiscal 1982.36

Testifying before the Subcommittee on Government Operations on June 16, 1983, the Director, National Park Service explained the new procedures under the Asset Management Initiative, "although GSA still transmits all excess property notices, only those surplus notices where GSA determines the property has exceptional merit for park and recreation purposes are sent to Park Service regional offices. The surplus notices that do list recreation as a potential use also state that there must be full reimbursement for the property."37

Concerning the Federal Lands for Park and Recreation Act, the House Committee (H.R. 18275) said, "the objective of the program is to allocate a larger portion of this Nation's land area to park and recreation uses and to assist local governments in providing more and better facilities to meet the recreation needs of our growing communities." The Committee also noted that transferring federal property to states and localities would further "the program objectives of the Land and Water Conservation Fund Act" because the national need for increased recreation opportunities could not be met effectively with money alone. The Act, which amends the Federal Property and Administrative Services Act of 1949, enables states or their political subdivisions to acquire
federal surplus real property as follows: (1) if originally donated to the U.S., then at no cost, (2) if the U.S. paid valuable consideration, then at the original cost of purchase, and (3) where the best use of the property is for parks, open space, and recreation, then at a price from zero to 50 percent of fair market value.

The Asset Management Initiative drastically reduced the number of properties transferred to state or local governments for public park and recreation purposes. National Park Service figures indicate a decline from 50 conveyances in fiscal year 1980, with a value of $17.2 million to 11 conveyances in fiscal year 1983, with a value of $4.3 million. GSA figures show a dramatic increase in sales from 196 in fiscal year 1980 with a value of $83.8 million to 396 sales in fiscal year 1983, with a value of $231.5 million."

A third federal statute authorizing public discount conveyances of federal land for recreation purposes is the Recreation Act of 1926, amended in 1954 and 1959, to become the Recreation and Public Purposes Act (PL83-387). The Act, which applies primarily to BLM lands, authorizes the Secretary of the Interior to convey public domain lands to federal, state and local agencies and to nonprofit organizations for recreational and public purposes. Each state could receive up to 6,400 acres annually to establish state parks and other agencies could receive up to 640 acres annually for recreation purposes. States and other agencies could also receive an
additional 640 acres each annually for non-recreational purposes. Conveyance for recreation purposes to state, county or other federal instrumentality or political subdivision is issued without monetary consideration. All other conveyances, however, are made at prices established by the Secretary. More than 300,000 acres have been conveyed for state or local government projects under this Act."

On February 4, 1981, Interior Secretary James Watt, under the authority of the Recreation and Public Purposes Act and FLPMA, invited the Western governors to identify parcels of federally owned land which could meet community expansion and public purpose needs. This "Good Neighbor" program was an effort by the Secretary to reduce Western concern over "excessive" federal presence and ownership of land in 11 western states. The conveyance of lands to state and local governments for recreation purposes under the "Good Neighbor" program was an effort to provide a practical cost-effective alternative to the practice of direct purchase of private lands for recreation purposes. Contacted states responded with over 382 requests from the various state, county, and community entities for a total of 951,028 acres of land under the program.

The Asset Management Initiative and the subsequent directives by the Property Review Board restricting public benefit conveyances were in direct conflict with Secretary Watt's "Good Neighbor" program. The PRB, at its May 1982
meeting, settled the apparent conflict between the two administration programs by ruling that parties who had submitted their land requests prior to President Reagan's executive order would get priority consideration. Thereafter, requests for conveyances would be subject to the "exceptional merit" and the "highest and best use" criteria previously established by the Board.***

A final statute directly related to the disposal of surplus federal property is the Land and Water Conservation Fund Act of 1965 (PL 88-578). This Fund provides grants to states and local governments for acquiring land and developing recreation facilities. It also provides for acquiring land for federally administered parks, recreation areas, and wildlife refuges. Under the authority of the Act, as amended, the receipts from the sale of surplus real federal property are credited to the Land and Water Conservation Fund. From fiscal year 1965 through fiscal year 1980, a total of $708 million had been credited to the Fund from the sale of surplus property. This amount equals slightly over 12 percent of all fiscal resources credited to the Fund.

Nationwide, over 4.8 million acres have been acquired through the Land and Water Conservation Fund (LWCF). At the federal level, monies from the fund have been used to protect 2.8 million acres in national parks, wildlife refuges, national trail systems, national rivers, and recreation areas. By 1981, $1.9 billion in LWCF monies had been appropriated for
matching grants to state and local governments. Over 22,000 acquisition, development, planning, and combined recreation projects had been approved involving the obligation of $1.85 billion. This amount was matched by an equal amount of state and local money for a total of $3.7 billion in recreation funding. In addition, 15,509 development projects had been approved and 6,262 acquisition projects had provided approximately 1.8 million acres of new recreation land."

In 1981, President Reagan's economic recovery plan stated that "the government must learn to manage what it owned before it acquired more land". This was to be accomplished through, among other means, a moratorium on federal land acquisitions and the elimination of state grant programs. The plan referred to several GAO reports issued on federal land acquisition practices, particularly, a 1979 report on federal land acquisition policies which pointed out that the National Park Service, Forest Service, and Fish and Wildlife Service had been following a general practice of acquiring as much private land as possible regardless of need, alternative land control methods, or impacts on private landowners. Congress reduced the fiscal year 1980 appropriation for federal land acquisition by $41.5 million for the Fund and rescinded $35 million from the fiscal 1981 appropriations. Congress also cut the fiscal year 1982 appropriations by about $350 million."

Throughout this period, Secretary Watt announced a series
of initiatives designed to improve stewardship of the national parks. One such proposal was to rescind $55 million of the state grant portion of the Land and Water Conservation Fund because "states could not manage what they had" and to amend the Land and Water Conservation Fund Act to allow use of these funds for restoration and rehabilitation of the national parks." Congress, however, authorized separate funding for the parks in 1981. Congress did agree to rescind $55 million of the state grant monies in fiscal year 1981. In 1982, Congress also cut funding for state grants under the Fund by about $338 million virtually eliminating state grants for that period." The Administration's 1982 Asset Management Initiative called for application of revenues generated from the sale of surplus real properties toward reduction of the national debt. The full implementation of this proposal required an amendment to the Land and Water Conservation Fund.

**Full-Value Reimbursement Policy**

Another policy the Administration adopted in furtherance of the Asset Management Initiative was to discourage federal agencies from obtaining excess real property for their own use by requiring the acquiring agency, in most cases, to pay estimated fair market value from their own budgets. OMB Director, David Stockman, in his February 25, 1982, testimony before a Senate Committee stated the rationale for this policy:
In most cases, receiving agencies acquire excess properties at no cost. Since these property transfers are essentially free, there are no economic incentives for federal agencies to evaluate such asset acquisitions in the context of competing budgetary demands, nor must they compete with private sector bidders to determine the most productive use."

What is not stated in this testimony, however, is that section 202(a) of the Federal Property Act clearly declares it to be the policy of Congress that GSA shall promote maximum utilization of excess property by other executive agencies to minimize expenditures for other property. Nor does it explain why a full-value reimbursement policy is necessary in lieu of a stricter application of the formerly prevailing reimbursement standard of 50 percent of appraised fair market value.

On June 2, 1982, the Chairman of the Property Review Board provided specific guidance to GSA for carrying out the policy of full reimbursement. The Chairman set out specific circumstances in which granting of exceptions would be based. A request for exception must provide "an explanation of how the exception would further essential agency programs while remaining consistent with Executive Order 12348."

Unavailability of funds would not alone justify an exception. GSA did not issue an amendment to the Federal Property Management Regulation until December of 1982.
CHAPTER V

ASSET MANAGEMENT IN 1984

Public Response

Even the strongest critics of "privatization" conceded that some federal lands should be sold. They agreed that it was not in the public interest to retain lot-sized parcels of land in Las Vegas, Palm Springs, and other urban areas of the West. They expressed general support for better management of federal assets and more efficient processes to dispose of surplus property suggesting that "streamlining the rather arduous and sometimes arbitrary GSA disposal process could reduce federal cost for maintaining idle parcels and reduce the uncertainty which often surrounded the fate of property administered by GSA." On the other hand, these critics and much of the general public found the stated revenue targets of the Administration's Initiative alarming. Efforts by the Reagan Administration to minimize the scope of the proposed land sales conflicted with the obvious large magnitude of sales required to achieve these revenue targets. The proposed $17 billion revenue target required the sale of approximately 35 million acres. Although this acreage represented only 5
percent of the public lands, it seemed a very large absolute amount of land to many people. The press, moreover, intensified the public's discomfort with the size of the proposed land sales by emphasizing their magnitude. An August 1982 Time cover story entitled "Land Sale of the Century" reported that "the scope of the proposed sale is enormous. . .both President Reagan and Interior Secretary Watt are convinced that the U.S. owns far more land than it needs or can manage. And both believe that unneeded land should be turned over to private owners."

Opposition to the change of policy as to public benefit discount conveyances was widely expressed in hearings held by both Senate and House committees throughout 1982. Members of Congress felt that the new policy was needlessly severe and extreme, virtually eliminating public benefit conveyances. At the same time, they did not feel that the new policy was demonstrating that increased surplus property sales were contributing substantially to the sales-proceeds total. They expressed having experienced particular problems with the "exceptional merit" and "highest and best use" criteria adopted by the Property Review Board contending these criteria were vague and difficult to apply—providing inadequate guidance for assuring that important public purposes were fully considered in the disposal decisionmaking process. Many local public organizations were distressed at finding the door to public benefit discount suddenly barred, even in cases
where local groups could clearly demonstrate a worthy public purpose and a substantial public benefit. Those cases which local interests managed to force to the front placed a considerable administrative burden on GSA, the program agencies, and the Property Review Board putting them in a position of sometimes yielding to pragmatic considerations that created difficult precedents."

By 1983, public opposition to the Asset Management Initiative was transformed into political action. Resolutions were introduced in several western states opposing the proposed sale of lands within their respective borders. In eight western states including Washington, Idaho, Oregon, Utah, Montana, Colorado and Nevada twelve organizations formed the Western Save Our Public Lands Coalition opposing the Administration's Initiative. Coalition members called for a halt to the current program, requested public hearings be held in the West on the program and called for the abolishment of the Property Review Board. On September 30, 1982, the Conservation Law Foundation of New England Inc., along with the National Resources Defense Council, Inc., and the National Wildlife Federation sued the Property Review Board and the Departments of Interior and Agriculture for alleged violations of the National Environmental Protection Act and other federal laws in the implementation of the Administrations Asset Management Initiative."

At the federal level, legislative "counter initiatives"
Included Senate Resolutions 891 and 102 which called for public input in the disposal process and allowed conveyance of lands for public purposes including 100 percent discount for recreation purposes. Similar resolutions were introduced in the House.©

**Political Response**

By 1984, a number of specific actions had been taken as a result of widespread opposition to the Asset Management Initiative. In regard to the National Parks and Recreation Act of 1978 requiring the Interior Department, GSA and OMB to establish procedures so that Interior could have "full and early" opportunity to make studies and recommendation with respect to park use of excess lands, OMB finally concurred on September 16, 1983, after the chairman of the Subcommittee on Government Operations had written to OMB about its delay in acting on the proposal agreed to by GSA and Interior in 1981.©

On July 25, 1983 Secretary of the Interior Watt sent Western Governors a letter from the Property Review Board which, in effect, exempted Interior Department lands from the Asset Management Initiative. Edwin L. Harper, chairman of the PRB made it clear in the letter that Watt and his land managers were free to make all decisions where land is offered for sale at fair market value. Secretary Watt wrote in his cover letter to the governors, "I am satisfied that the
mistakes of 1982 are not being, and will not be repeated.**

In the Interior Department and Related Agencies Appropriation Act for fiscal year 1984, Congress placed the following restrictions on the sale of surplus property:

Except as expressly provided for by law, none of the funds appropriated by the Act, shall be obligated to dispose, except by exchange, of any Federal land tract until such time as the agency responsible for administering the disposal of the tract has identified the tract as no longer needed by the Federal Government; inventoried the tract as to its public benefit values; provided opportunity for public response; and provided 30 days advance notice of tracts proposed for disposal."

Congress, exercising once again the power of the purse in controlling executive action, denied the Forest Service authority to sell six million acres of the national forests declaring instead that "the national forests protect important resources and provide unique opportunities for recreation.**"
CHAPTER VI

CONCLUSION

The Reagan Administration’s Asset Management Initiative failed. While the basic objectives of the Initiative—improving management of federal property and expediting the sale of unneeded property—were in accord with the Federal Property Act, the Initiative’s scope and conceptualization were flawed. It needlessly burdened itself with unrealistic revenue goals as well as excessive concern over public benefit discount conveyances and further federal utilization of excess property.

The Initiative’s underlying concept of “public benefit” meant primarily relief to the general taxpayer. This concept was not compatible with the concept of “public benefit” developed Congressionally over the past 200 years through the enactment of public land laws. These laws established a concept of “public benefit” which included other public values not solely that of the highest economic value.

In 1982, a near shutdown of public benefit discount conveyances was evidenced. Policies and procedures of the Property Review Board and the GSA were confusing, so that
occasional exceptions granted to the curtailment policy could not be assessed against clear standards. Also, GSA deliberately narrowed the flow of information to other federal agencies and the public about available properties suitable for public benefit conveyances for recreation purposes.

In 1982, the Administration made another policy change which turned sharply away from prior practices. It changed to a policy of requiring federal agencies to pay full market value whenever they wished to obtain excess property from another federal agency. This new policy drastically reduced the transfer of land suitable for recreation purposes between federal agencies.

In 1982, the Administration made another, less obvious, policy change... a policy change which posed a threat to parkland acquisition at the national as well as the local levels. While vast tracts of privately owned parklands remained in private ownership, the Reagan Administration drastically cut federal and state Land and Water Conservation Fund grants for recreation land acquisition proposing, instead, to acquire these lands through exchanges. However, in keeping with the Initiative's goal of reducing the federal debt, agencies identified land previously retained for exchange purposes as suitable for sale under the new policy.

The policies established under the Asset Management Initiative with respect to excess property utilization and public benefit discount conveyances were extreme. Instead of
reasonable restraints, the new policies largely immobilized these programs while failing to contribute substantially to sales proceeds. A more flexible approach closer to past practices would have been more in keeping with the policies established by the National Parks and Recreation Act, the Recreation and Public Purposes Act, and the Federal Property and Administrative Services Act.

The Asset Management Initiative failed. Perhaps more important than its actual failure are the reasons for its failure. I believe those reasons were political as well as legal.

Those who influenced the Initiative's development hoped to accomplish different and, in some cases, conflicting ends through the implementation of this policy. Improved management practices of GSA and the principal land managing agencies was the goal of a minority of those involved in the Initiative's development. Others, ideologically opposed to the very concept of public ownership of land, hoped to transfer vast acres of the public domain into private ownership. Finally, for some, reduction of the national debt remained the primary goal. The general public was confused about the "real" goals of this policy.

Politically, the Initiative was conceived and developed by public administrators at the highest levels of the federal bureaucracy. It was implemented from the top down to the land managing agencies with minimal input from the agencies

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directly affected by its policies. This led to conflicts with existing programs, specifically, Interior Secretary Watt's "Good Neighbor" program.

Legally, the Initiative conflicted with a host of statutes including the Federal Property and Administrative Services Act, the Land and Water Conservation Fund Act, the National Parks and Recreation Act, the Recreation and Public Purposes Act, the Federal Land Policy and Management Act and the National Environmental Protection Act.

Finally, the most acute problem with the Initiative was the distinct absence of public participation in the policy development and implementation stages. The importance of public participation in federal land management has been recognized for some time. In both the National Forest Management Act and the Federal Land Policy and Management Act the requirement for public participation is quite explicit.

Given the nature and extent of the conflicts with the Asset Management Initiative, one could easily speculate about the intent of this Administrative Initiative. Was it intended to succeed or was it a means whereby longstanding federal land management policies could, once again, be brought into the political arena for debate? Whatever the answer, the policy issues involved have not been settled with the failure of the Asset Management Initiative. These issues were debated before 1982 and they will be debated again.

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ENDNOTES


7Huston, pp. 18-34.

8Ibid., p. 32.


10Huston, pp. 712-721.

11Ibid., p. 734.

12Ibid., p. 735.

13Ibid., pp. 736-742.

14Ibid., p. 743.

15Ibid., pp. 745-746.

*General Accounting Office, Numerous Issues Involved in Large-Scale Disposals and Sales of Federal Real Property, p. 12.

46


Ibid., p. 201.


"Ibid., pp. 53-56.

Nelson, p. 49.


Ibid., pp. 10-11.

Huston, p. 720.


Ibid., p. 29.


President’s Large-Scale Land Sale: Promises and Problems, p. 16.


"Ibid., pp. 201-203.

"Ibid., p. 301.

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"U.S., Department of Interior, Interior Department Reaffirms that Asset Management Land Disposals will be only Small Isolated Tracts, not Large Amounts of Acreage, by James Watt, (Department of the Interior News Release, 25 July 1983).

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