Reforming Federal Land Management

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Overview

The Department of the Interior oversees more than 500 million acres of land, which is about one-fifth the land area of the United States. Most of Interior's land is managed by three agencies: the Bureau of Land Management (BLM), with 256 million acres; the National Park Service (NPS), with 85 million acres; and the Fish and Wildlife Service (FWS), with 96 million acres.[1] The department has about 70,000 employees and 2,400 offices across the country.

Interior had *gross* budget outlays in fiscal 2011 of $20.5 billion.[2] However, the department collected $7.5 billion in offsetting receipts from charges for the use of its lands and resources. Thus, Interior's net outlays—financed by taxpayers—were $13 billion in fiscal 2011. In addition, the department collected about $5 billion in fiscal 2011 from energy activities on the Outer Continental Shelf, but these revenues are mainly allocated to the government's general fund, not to Interior's budget.[3]

The lands and waters managed by Interior contain valuable minerals, oil and gas, timber, fish, wildlife, and recreational resources. Yet because the lands are not managed efficiently, they end up costing taxpayers billions of dollars a year rather than producing a net return. The key problem is one of incentives: Within the current management structure, agencies have little reason to constrain spending, allocate their investments efficiently, or price their resources in an economically or environmentally sound manner.

This essay first provides a brief history of federal land management and then includes sections on the BLM, NPS, and FWS. In fiscal 2011 outlays for these agencies were $1.5 billion, $3.5 billion, and $3.1 billion, respectively.[4] Following these sections, Interior's management of energy and mineral resources and its wildfire policies are examined.

The concluding section examines three approaches to land management reform that policymakers should consider. One reform approach would be to privatize federal lands, either by selling or transferring lands to individuals, businesses, or nonprofit conservation groups. Another reform approach would be to transfer ownership of federal lands to state governments, which would allow the states to innovate in managing the parks, grazing lands, and other resources within their borders.

A final reform approach would be to transfer federal lands to fiduciary trust organizations. The federal government would retain title to the land, but trust managers would follow clearly defined missions such as maximizing net returns or preserving ecosystems.

The common element of these reform approaches is that they would decentralize control over Interior lands in order to improve economic efficiency and environmental stewardship. Different types of reforms would be appropriate for different federal agencies and lands. Policymakers should start exploring the alternatives to today's costly and ineffective system of federal land management.

History of Federal Land Management

From the founding of the nation, the federal government began accumulating large tracts of land. The United States gained all lands south of Canada, east of the Mississippi River, and north of Florida with the Treaty of Paris in 1783. In the 1780s and 1790s the states were persuaded to cede their large western land claims to the new federal government.[5] Alexander Hamilton, for example, championed the federal assumption of state Revolutionary War debts in exchange for the states giving up their western land claims.

Federal lands greatly expanded in 1803 with the Louisiana Purchase from France. Federal lands further expanded in 1846 when the United States and Britain agreed to divide the Oregon territory at the 49th parallel, and again in 1848 with the area acquired in the Southwest from Mexico. Little of the land in any of these areas was claimed by private settlers, thus nearly all of the land from the Appalachians to the Pacific Ocean, except for Texas, was once owned by the federal government.

As the federal government was accumulating land, it was also trying to unload it. The government's general policy for more than a century was to sell or transfer its western lands to settlers, railroad companies, and state governments. In 1810 Congress created the General Land Office, whose primary job was to dispose of federal lands in the West. Initially, the General Land Office was in the State Department, but in 1849 Congress created the Department of the Interior to manage the vast federal estate.

Some federal lands were granted to states upon statehood, while other lands were given to the builders of roads, railroads, and other infrastructure.[6] Veterans were given land for war service, and the 1862 Homestead Act offered settlers up to 160 acres of free land if they lived on the land for five years and made improvements. By 1900 about half of the land in the 11 western states, and almost all land between those states and the Appalachians, had been unloaded.

With the rise of the Progressive movement at the turn of the 20th century, federal policy began to change toward land retention and land additions. Progressives believed that federal agencies would manage western lands better than states, businesses, or individuals. In his book *Public Lands and Private Rights*, Robert H. Nelson explores the history of federal land ownership, and he describes how the Progressive ideas of scientific management and federal planning have failed repeatedly.[7] The last century of federal land management has been "filled with laws that had lofty purposes and achieved dismal results," he concludes.[8]

Until the Taylor Grazing Act of 1934, a substantial amount of federal land was still being unloaded each year, but that law ended the homesteading era where the goal had been to transfer federal land to state and private ownership.[9] The Taylor Grazing Act authorized Interior to put 80 million acres of land into grazing districts, which required users to get permits, pay fees, and follow federal regulations. Federal land sales slowed to a trickle, and the last major disposal of federal lands was in 1980 when Congress turned over several million acres of land to the state of Alaska and Native Americans in that state.

Robert Nelson has noted that "federal ownership of vast areas of western land is an anomaly in the American system of private enterprise and decentralized government authority."[10] As such, there have been occasional revolts against federal land ownership in the West, such as the Sagebrush Rebellion of the 1970s. Two developments that helped spur that rebellion were a 1974 environmental lawsuit that threatened to restrict grazing rights and the 1976 Federal Land Policy and Management Act, which declared that existing federal lands would remain in federal ownership.[11] Western states led by Nevada fought back with legislation aimed at transferring federal lands to state ownership. However, the revolt fizzled out when ranchers and other users of federal land realized that they might not receive the same level of subsidies they currently received if land ownership was changed. The anti-Washington rally cry of the Sagebrush Rebellion had popular appeal, but the special interests that rely on the inexpensive use of federal lands helped to block reforms.

In the 1980s, the efforts to transfer federal lands to the states were superseded by Reagan administration efforts to privatize federal lands.[12] Privatization fit with Ronald Reagan's views on downsizing the federal government, and it promised to improve economic efficiency while raising revenues to reduce the budget deficit. Reagan set up a Property Review Board to identify tracts of land to sell, and important administration officials, such as budget chief David Stockman, supported the effort. Economist Steve Hanke championed privatization from his positions inside and outside of the administration.[13]

However, the administration's land privatization efforts failed for some of the same reasons that the Sagebrush Rebellion had failed. Many people and businesses that gained benefits from federal land ownership were concerned about giving up their long-standing privileges. To complicate matters, Reagan's Interior secretary, James Watt, was an "ardent foe" of privatization.[14] Thus, future efforts to restructure federal land holdings will need an Interior secretary committed to the mission and will have to take better account of the complex political forces that are in favor of the status quo.

Today the Department of the Interior manages more than 500 million acres of land, most of which is controlled by the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service. In addition, the department manages subsurface mineral activities across 700 million acres of land, and it administers oil and gas development on the Outer Continental Shelf.

Over the decades, Interior has had its share of mismanagement and corruption scandals. Perhaps the most famous is the 1922 Teapot Dome bribery scandal. The Teapot Dome was a federal oil reserve in Wyoming. Investigations revealed that Interior Secretary Albert Fall had secretly leased the Teapot Dome and California's Elk Hills reserve to certain oil executives and received a $409,000 payoff in return. Fall was convicted and sentenced to a year in prison.

More recently, ethical problems during the George W. Bush administration led Interior's inspector general, Earl Devaney, to declare that the department suffered from "a culture of managerial irresponsibility," which included widespread ethical failures and cronyism. Devaney charged that "short of a crime, anything goes at the highest levels of the Department of the Interior."[15] He found, for example, that "bureaucratic bungling" of oil and gas leases had cost taxpayers billions of dollars, and these mistakes were covered up by department officials for years before they were discovered. The Jack Abramoff lobbying scandal also tainted the department during the George W. Bush years.

Various scandals plagued the former Minerals Management Service (MMS). In 2008 Interior's inspector general reported that top employees at MMS had close relationships with, and received gifts from, employees of the energy firms they were supposed to be regulating.[16] In 2010 the Deepwater Horizon oil spill drove home the management failures of MMS, which led to the restructuring of the agency, as discussed below.

A more important problem than these sorts of routine bureaucratic failures is that Interior's agencies suffer from basic incentive problems. They don't operate within an institutional framework that encourages efficient resource management. Economists Terry Anderson, Vernon Smith, and Emily Simmons note that "it is remarkable that the federal government actually loses money in the course of managing federal land assets estimated to be worth billions. Moreover, the federal government has a poor record of ecological stewardship."[17]

Actually, it isn't remarkable that Interior loses money when you consider that it is essentially a giant socialist enterprise trying to centrally plan vast lands and resources. Department officials operate in a nonmarket environment generally removed from the costs and benefits of their decisions. While Interior generally sells oil, gas, and some timber from federal lands at market prices, the charges for water, grazing, recreational activities, hardrock mineral extraction, and other resources on federal lands are set well below market values, which subsidizes usage.

To compound the problem, federal agencies are generally not allowed to keep the net revenues they earn from managing resources. The result is that they put their efforts into expanding their power and taxpayer-funded budgets, while producing those services demanded by certain important politicians, not necessarily those demanded by the public.

The costs of Interior's operations are too high and the revenues it receives from the use of its resources are too low, with the result that taxpayers bear an unnecessary burden. Onshore mineral leasing generated $3.6 billion in revenues in 2010, and 99 percent of those revenues came from less than 2 percent of Interior's land.[18] Aside from mineral leasing, Interior's vast lands generated just $1.6 billion in revenues in 2010. Given that the combined spending by BLM, NPS, and FWS was $7.8 billion in 2010, it is clear that Interior's land management agencies come nowhere near covering their costs or producing a net return for the public.[19]

Bureau of Land Management

Background

The Bureau of Land Management was formed in 1946 by a merger of the General Land Office and the Grazing Service. The General Land Office was created in 1812 to oversee privatization of federal lands, while the Grazing Service was created in 1934 to manage federal rangelands.

The BLM inherited 175 million acres from its predecessor agencies—almost all located in the 11 western states—and it both added and shed millions of acres in subsequent decades. For the past two decades, the agency's acreage has been fairly stable, although the number of recreational sites has increased.[20]

The BLM manages more than 250 million acres of lands today, of which about 160 million acres allow livestock grazing.[21] The BLM also manages the subsurface mineral rights on all federal lands. To an extent, BLM lands were those left over after settlers, timber companies, railroads, the Forest Service, and the NPS had taken the better and more scenic lands. Still, BLM lands contain many valuable minerals, oil and gas, timber, recreation areas, and other resources.

The BLM's net outlays in fiscal 2011 were $1.5 billion.[22] BLM lands produce about $4 billion in annual revenues, but almost all of the revenues come from less than 1 million acres of land, mostly from coal in Wyoming's Powder River Basin and oil and gas in parts of Alaska. The remaining 99 percent of BLM lands are a burden on federal taxpayers, but they needn't be if they were managed efficiently and charges were adjusted to optimize revenues.

Policy Issues

BLM is supposed to administer its lands to balance multiple uses and to ensure sustained yield, meaning that the lands should retain their productivity over the long run.[23] The agency is also supposed to ensure that the government receives fair market value for the use of its lands and resources.

BLM has a complex task in juggling all the competing uses of its timberlands, rangelands, minerals, watersheds, wildlife, water, and other resources located across a huge area. Livestock grazing, timber cutting, and mineral extraction all potentially conflict with wildlife habitat, watershed protection, and outdoor recreation. The extractive uses of BLM lands have grown particularly controversial since the rise of the environmental movement in the 1960s and 1970s.

The fundamental problem in managing these needs today is one of poorly designed incentives. Rather than give the BLM a clear mission that produces rewards when the agency accomplishes the mission, Congress governs the agency with a hodgepodge of laws, funding mechanisms, and expectations. Rather than trying to price the use of federal resources to encourage efficiency, the BLM often subsidizes resource use. BLM—and Interior in general—often bases prices for the use of its resources on political, historical, and administrative factors, not on market valuations. As such, the prices and fees for grazing land, mineral resources, and timber are often set artificially low.

The lands that the BLM inherited from the Grazing Service had been severely overgrazed before the BLM was created. But rather than reduce grazing levels with higher fees, the agency attempted to fix the problems by spending taxpayer funds on grazing improvements, which were not always successful.

The agency still encourages overgrazing with its low fees. The Congressional Budget Office notes that "the current formula appears to result in fees that are well below market rates and below the costs of administering the grazing program."[24] Similarly, the GAO reported that "the grazing fee BLM and the Forest Service charge... is generally much lower than the fees charged by the other federal agencies, states, and private ranchers." [25] Indeed, grazing fees collected by the BLM are only about one-fifth of the amount needed for the agency to break even on its administrative expenses.[26] Another source of inefficiency is the fact that because grazing land is publicly owned, ranchers may not believe that they have secure tenure and may thus be reluctant to make long-term investments to improve the land themselves.

BLM's policies create bad incentives not just for the users of federal lands, but also for BLM managers. The rules for the share of fees that can be retained by the BLM, for example, are not consistent. At various times in recent history, the BLM has been allowed to keep 25 percent of timber revenues collected in western Oregon but none elsewhere. It can keep 50 percent of grazing revenues, but no recreation revenues, except in a few locations where it can keep 100 percent. The BLM is allowed to charge 100 percent of fair market value for coal, oil, gas, and timber, but the fees it can charge for hardrock minerals (other than coal), grazing, and recreation are regulated by Congress and are usually well below market value. Following its incentives, the agency tends to focus its attention on resources that produce revenues it is allowed to keep but neglects other resources.

A related problem is that special interest groups have persuaded Congress to give them a share of BLM revenues, and they lobby hard to keep those privileges. For example, in most places counties receive 5 percent of BLM revenues, but in western Oregon they have historically received 50 percent of BLM timber revenues. When BLM timber sales declined by nearly 90 percent in the early 1990s (partly in response to the listing of the northern spotted owl as a threatened species), the western Oregon counties persuaded Congress to nonetheless maintain payments at high levels. The result is that today the BLM collects about $20 million a year from timber sales in western Oregon, but Congress pays about $100 million a year to manage those forests, plus another $100 million a year to the counties in the region.[27]

National Park Service

Background

The National Park Service was created in 1916 to manage the 15 national parks and 20 monuments that had been set aside by Congress and the president. The NPS has a dual mandate to preserve and protect sites and to allow the use of sites for the enjoyment of the public. Activities that harvest, mine, or remove resources from NPS lands and facilities are generally prohibited.

The agency's first director, Stephen Mather, believed that the federal government should manage only those parks that are of truly national significance and leave the rest to be managed by state and local governments. He even persuaded the president to veto legislation for parks that he did not consider to be of national significance. However, many of Mather's successors were empire builders, seeking—with the help of members of Congress—to add as many national parks in as many states as possible. Unfortunately, we have found out that a hugely bloated federal park system is not a well-run park system.

The total acreage of NPS holdings quadrupled from about 20 million acres in 1940 to 85 million acres today. A big leap came in the 1970s when President Carter federalized a vast amount of land in Alaska.[28] Today the NPS oversees nearly 400 different parks, monuments, historic sites, battlefields, and other types of sites. These sites range in size from the 13-million-acre Wrangell-St. Elias Park in Alaska to the Edgar Allen Poe National Historic Site in Philadelphia, which covers less than an acre.

NPS budget outlays were about $3.5 billion in fiscal 2011.[29] NPS spending is primarily taxpayer-funded, as park admission fees and other receipts raise only a few hundred million dollars a year. Out of total spending in 2011, about $2.3 billion went toward park operations and about $500 million went toward construction. About $200 million was used to subsidize state and local governments for activities such as historic preservation.

Note that user fees collected on a few of the national parks cover all or nearly all of the costs of operating those parks. But the NPS makes no general effort to cover its costs, and it has no incentive to try. Instead, the NPS regards user fees solely as a way to augment its budget on top of the taxpayer funding that is appropriated by Congress.

An interesting historical episode at the NPS led to the coining of the phrase "Washington Monument strategy." The phrase describes the bureaucratic tactic of responding to proposals for budget restraint by cutting the most popular programs first. It was coined when the NPS shut down the elevator to the Washington Monument in 1969 in a successful effort to persuade Congress to restore budget cuts.[30]

Policy Issues

A key problem with NPS management is that the agency has accumulated far too large a system to run efficiently. The NPS includes hundreds of sites that its first director, Stephen Mather, would probably consider not nationally significant. The Edgar Allen Poe Site, for example, is a house that Poe rented for only about a year. It receives fewer than 16,000 visitors and costs taxpayers nearly $400,000 a year, or $25 per visitor. Worse is the Eugene O'Neill Site in California, which receives fewer than 4,000 visitors and costs taxpayers more than $700,000 a year, or about $175 per visitor. Or consider the Frederick Law Olmstead Site in Massachusetts. It receives fewer than 5,000 visitors a year but has an annual budget of $2.4 million, which works out to almost $500 per visitor.[31]

Former NPS director James Ridenour argues that these costly and little-used sites "thin the blood" of the system by steering agency resources away from the more important parks.[32] Many NPS sites, including the Poe and O'Neill sites, were originally managed locally, but members of Congress added them to the federal system in order to take white elephant facilities off the hands of local park districts.

One result of the NPS bloat is that there are frequent complaints that the national parks suffer from deterioration. Numerous reports point to visitor centers that are aging, artifacts that are being vandalized, and historic structures that are getting damaged.[33] The NPS and other Interior agencies have accumulated far more assets than they can afford to properly maintain. The GAO reports that Interior as a whole has between $13.5 and $19.9 billion in deferred maintenance costs.[34]

Another policy concern regarding the NPS is that it has developed an authoritarian culture that sometimes seems to put its own empire ahead of individual rights. For example, NPS has often used eminent domain when creating or expanding its parks.[35] After all, a top NPS official once admitted, relying on willing sellers to get land was "a very time consuming process."[36]

In his 1987 book, *Playing God in Yellowstone*, Alston Chase described how park rangers were effectively police officers, not scientists or naturalists. The training that allowed employees to advance most rapidly within the agency was police science, not history or natural sciences.[37] The agency's police culture has manifested itself in many incidents:

- In 1992 the NPS wanted to acquire land for a California park from an unwilling seller, so it fabricated charges that the property owner was growing marijuana in order to obtain the land through asset forfeiture. A SWAT team invasion led to the property owner's death, but no illegal drugs were found.[38]
- In 2004 the NPS wanted to shut down an Indian trader who operated in the Hubbell Trading Post National Historic Site, so it accused him of a long list of crimes. A detailed investigation found that most, if not all, of the charges were fabricated.[39]
- In 2011 the NPS wanted to shut down an oyster grower who operated near Point Reyes National Seashore in California, so it misused data to claim that the oyster farmer was polluting the water.[40]
- Also in 2011 the NPS generated controversy by arresting people at the Thomas Jefferson Memorial in Washington for dancing, which was deemed "inappropriate."[41]

A final policy concern is that the NPS has a long history of trying to micromanage wildlife habitats, only to see its efforts backfire. Alston Chase described how the agency's policy of allowing overpopulations of elk in Yellowstone Park ended up destroying natural ecosystems and habitat for other wildlife, including beaver, big-horn sheep, and deer.[42] Karl Hess' book, *Rocky Times in Rocky Mountain National*

Park, described similar problems in other parks.[43]

The reintroduction of wolves to Yellowstone pushed elk away from areas of beaver habitat, which allowed beaver populations to recover and in turn restore habitat for other species. However, problems remain in Rocky Mountain and other national parks, and the Yellowstone wolves created their own problems for livestock growers outside of the park.

These sorts of problems have stemmed from the adoption by NPS of a "natural regulation" policy, which basically means letting nature take its course. But human interference with natural processes is already so extensive that natural regulation is anything but natural. Predictably, the NPS responded to these controversies by attempting to suppress research by scientists critical of its natural regulation policy.

Fish and Wildlife Service

Background

The Fish and Wildlife Service was created in 1940 in a merger of the Bureau of Fisheries and the Bureau of Biological Survey. While the mission of the former agency was to protect and restore domestic and marine fisheries, the main mission of the latter was to kill predators and pests. Congress transferred the latter activity to the Department of Agriculture in 1985.

Today, the FWS manages 150 million acres of wildlife refuges and marine monuments, most of which are in Alaska and Hawaii. The amount of land acreage managed has soared over the decades from less than 20 million in the 1960s to almost 100 million today.[44] A major role of the FWS is to oversee the Endangered Species Act.

FWS budget outlays were about $3.1 billion in fiscal 2011.[45] About $1.2 billion of that spending was for grants to state and local governments for fish and wildlife habitat improvement programs.[46] There is little reason for the FWS to be involved in these state and local programs, as it is simply acting as a financial middleman.

Of the remaining $1.9 billion in the FWS budget, about $500 million is spent managing wildlife refuges and marine monuments, about $600 million is spent on endangered species and various habitat programs, and about $150 million is spent on fish hatcheries and aquatic habitat programs. The agency spends less than $100 million a year on land acquisition and usually less than $100 million a year on the construction of facilities.

Policy Issues

As with the NPS, there are ongoing complaints that FWS resources are stretched too thin to properly maintain its expansive system of lands and facilities. Another set of challenges are the ongoing conflicts over the uses of the resources managed by FWS.

The FWS's most controversial program is enforcement of the Endangered Species Act. This law has a noble goal but an ill-considered methodology that puts most of the cost of endangered species recovery on the owners of the land the species happens to live on. Imagine if Congress had tried to build the Interstate Highway System the same way it designed the Endangered Species Act. The private landowners whose land was crossed by planned highways would have been required to build the highways on their land at their own expense. That would not have been fair, nor would many miles of highway have been built.

The FWS lists more than 1,300 domestic species as threatened or endangered, but its endangered species budget of less than $200 million is barely enough to monitor these populations. A substantial share of that amount is dedicated to "recovery," which really means writing recovery plans, not actually doing anything to recover species. Actual recovery efforts are left to other entities, which the FWS calls "partners and stakeholders." But many of the "partners" are unwilling private landowners and unenthusiastic public land managers.

The FWS's wildlife refuges are less controversial. Most of those located in the lower 48 states are marshes and other habitats for migratory bird species. The agency could do much more to generate revenues to make these refuges financially self-sufficient, but it has little incentive to do so since Congress gives it taxpayer funds to run them.

Ironically, the FWS has been involved in programs that endangered many of the species that it is now supposed to protect. For example, the black-footed ferret, which is sometimes considered the most endangered mammal in North America, is endangered primarily because the FWS spent decades poisoning millions of prairie dogs, which form the primary food source for black-footed ferrets.

One of the few endangered-species success stories is the Utah prairie dog, which the FWS had been actively poisoning right up to the day it was listed as an endangered species. After a decade during which it stopped poisoning the animal, Utah prairie dog numbers increased enough that its status was downgraded to "threatened." Today the FWS claims populations are stable enough that it once again allows government agencies to kill up to 5,000 Utah prairie dogs per year.

Similarly, the bull trout, which is currently listed as threatened, was reduced in numbers by FWS-funded state programs that actively poisoned this species in order to promote other, non-native species that were more attractive to anglers. Ironically, listing the bull trout has led those same state agencies to now poison the non-native species in order to reintroduce bull trout.

Many factors have caused specific species of wildlife and plants to become endangered, but one factor for many species was a little-known change in common law when British common law was applied in the United States. In England, fish and wildlife were owned by the owner of the waters or land on which the animals happened to be. Since many species had an economic value, this gave landowners incentives to protect the habitat for those species.

Most land in England was owned by the aristocracy, which in turn owned most of the fish and wildlife. Americans considered this unfair, so U.S. common law held that the public owned all fish and wildlife, no matter whose land it happened to be on. That meant that individuals could take possession of fish or animals only by killing them. Conversely, anyone who tried to nurture a school of trout or herd of elk had to

allow anyone else to harvest them. Today, some states still require that private landowners who hunt or fish on their own land must allow anyone else access to their land to hunt or fish. Under these laws, wild species such as bison and elk were quickly replaced by domestic species such as deer and cattle that could legally be protected from theft.

Most proposed reforms of the Endangered Species Act have focused on mitigating the problems caused by the law, rather than actually reforming the bad incentives that led species to become endangered in the first place. Congress should allow the FWS to privatize wildlife, giving private owners the legal right, and thus an incentive, to protect species and encourage their numbers to recover.

Management of Energy and Mineral Resources

Background

The Department of the Interior collected $3.8 billion in 2011 in revenues from onshore energy and mineral activities, half of which was paid to state governments where the mining occurred.[47] Interior also collected $5.2 billion from oil and gas activities on the Outer Continental Shelf (OCS). The OCS revenues generally don't stay with Interior, but instead go into the federal government's general fund.

In 1982 Congress created the Minerals Management Service in Interior to handle the collection of revenues from onshore and offshore mineral and energy resource activities. For the onshore activities, the creation of MMS separated the management of BLM lands from the revenues collected on those lands.

The GAO views Interior's management of oil and gas resources as a "high risk" activity, meaning that it has found many management problems.[48] The history of mismanagement at the agency was noted above, including the cozy relationships between MMS employees and the energy companies that they regulated.[49] The general public became aware of MMS management problems in the wake of the 2010 Deepwater Horizon oil spill.

In response to the disaster, the secretary of the Interior divided MMS into the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) and the Office of Natural Resources Revenue (ONRR). BOEMRE oversees energy and mineral resource activities on the Outer Continental Shelf, including leasing, environmental, and safety issues. ONRR collects revenues from energy and mineral resource activities from both onshore and offshore areas. In 2011 BOEMRE's budget was about $217 million, while ONRR's was about $122 million.[50]

Policy Issues

The separation of federal land management from revenue collection since 1982 has reduced the transparency of Interior operations. Interior and BLM budget documents contain few details about the revenues collected from BLM lands. There is little information about how much revenue was generated from each parcel of land. However, the limited information available suggests that almost all the revenue collected by the ONRR (including revenues collected from National Forest areas) comes from a tiny portion of federal lands amounting to less than 1 million acres.

The separation of land management from revenues probably reduces the incentives for public land officials to make energy resources available to the public. By contrast, BLM managers keep half of the grazing fees they collect, and national park managers keep almost all the recreation fees they collect, which encourages them to promote grazing and recreation. Since Interior managers do not get to keep energy revenues, they have no incentive to make the resources available. Currently, a substantial share of oil and natural gas on federal lands is off-limits to leasing.[51]

After the Deepwater Horizon oil spill, many accused the MMS of lax regulation. Interior's response of dividing and renaming that agency is inadequate to address the more fundamental problem, which is that a resource management agency has little incentive to protect the resource and optimize its usage if it gets no direct revenue benefit from it.

Policymakers should consider changing Interior's structure so that agency managers are responsible for (and, if possible, collect user fees for) the resources that can be damaged by pollution as well as the resources that can potentially cause the pollution. Thus, the ONRR would be shut down and control of the mineral resources on BLM, FWS, and NPS lands would be given to those agencies. Regarding offshore resources, one idea would be to merge the BOEMRE with the National Marine Fisheries Service, which might give the combined agency incentives to weigh the comparative values of ocean fisheries and offshore energy.

Management of Wildfires

Background

Wildfires have long been a threat to public lands and facilities. About 70 percent of federal wildfire funding goes to the Forest Service in the Department of Agriculture, and most of the rest goes to four agencies within Interior.[52] The BLM, FWS, NPS, and Bureau of Indian Affairs have very different missions, yet Interior has centralized the budget for wildfire management for lands overseen by those agencies.

Budget outlays for Interior's wildfire management efforts were about $800 million in fiscal 2011.[53] About $200 million or more of this amount is typically used for hazardous fuel reduction, and most of the rest is split between fire preparedness and fire suppression efforts.

Over time, the department's wildfire goals have shifted from fire *suppression* to fire *management*. Complete suppression of wildfires used to be the aim, except in Alaska where some fires took place in areas too remote to justify suppression. Now, Interior managers often allow fires to burn as long as they don't threaten to cross onto private lands. Instead of building a tight fire line around a fire and trying to keep the fire from crossing that line, firefighters today often build a fire line a long distance from the fire and then back burn the land between the line and fire. This strategy reduces the risk to firefighters, but it costs as much as trying to put the fire out and results in far more acres reported

as burned.

Policy Issues

A substantial share of the federal wildfire budget is probably wasted, although Interior's mishandling of fires is probably not as bad as that of the Forest Service. As an indication of the problem, a 2011 report by the GAO noted that the nation's wildfire problem has dramatically worsened despite large increases in the federal government's fire management budget. The GAO found that "the average annual acreage burned by wildland fires in the 2000s is more than double that burned in the 1990s, and appropriations for the federal government's wildland management activities have tripled, averaging approximately $3 billion annually in recent years, up from about $1 billion in fiscal year 1999." [54]

As an example of the misallocation of funding, note that hazardous fuel reduction is only necessary and effective in certain ecotypes. In the West, that mainly means ponderosa pine forests. But federal hazardous fuel programs are operated in other ecotype areas, and they are largely a waste of money.

Forest Service fire researcher Jack Cohen has shown that homes near federal lands can be protected from fire if *and only if* the homes themselves and the vegetation immediately around them (within 100 to 150 feet) are treated.[55] Any fuel treatments on federal lands that are more than 150 feet away from homes or other structures are not needed to protect those structures. Interior's emphasis on public land fuel treatments and fire suppression efforts reduces the incentives for private homeowners to treat their own properties.[56]

When the nation's climate happened to be mild in the 1970s, Interior's goal of complete fire suppression appeared to be working, as fires were small and easily suppressed. However, droughts in the 1980s and 1990s contributed to many major fires. That led some people to conclude that past suppression efforts resulted in an excess of forest fuels that left forests vulnerable to fire.

In fact, only a few forest types—again, mainly ponderosa pine in the West—are likely to become more fire-prone as a result of fire suppression, and in western forests this process can take decades. The two decades since federal timber cuttings began being reduced in 1991 have not been long enough for such a change, and any larger fires that have taken place in that time period are due to either drought or the new fire management strategies that allow more acres to burn in order to protect firefighter lives, or both factors.

In sum, federal policymakers are not dealing effectively with wildfires, and they push to spend more money as a knee-jerk reaction to their policy shortcomings. The path to reform is to restructure incentives by making federal agencies fund fire management out of their own revenues. That would give agency managers strong incentives to find the most cost-effective ways of dealing with fire.

Reform Options

Congress should pursue a variety of reforms to the Department of the Interior in order to reduce taxpayer costs and ensure that lands and resources are used more efficiently. Reforms should decentralize control over Interior's lands and resources either through privatization, transfers to state ownership, or the creation of fiduciary land trusts.

Privatize Federal Lands

Many parcels of Interior land that have no unique environmental value should be privatized. Because of the original checkerboard pattern of federal and railroad land holdings in the West, privatization of scattered federal land parcels would contribute to an efficient consolidation of adjacent lands in many places.

Interior also owns mineral resources that could be privatized, such as the Power River Basin coal reserves beneath parts of Wyoming and Montana. These are massive coal deposits worth tens of billions of dollars. The deposits mainly lie beneath private lands, so there is no compelling reason why they should be owned federally.

The Obama administration has proposed legislation to identify excess federal lands and facilities and to dispose of them in a process similar to that used for disposing of hundreds of military facilities during the 1990s.[57] A number of bills have also been introduced in Congress to speed the process of identifying and disposing of excess lands.[58]

An option for privatization would be to sell some parks and refuges to conservation land trusts, which are private nonprofit groups. Resources for the Future notes that land trusts "have emerged in recent years as central actors in land conservation," and it says that the number of land trusts has soared from about 400 in 1980 to 1,667 in 2005.[59] A recent study by the Land Trust Alliance puts the total number of land trusts at more than 1,700 in 2010, which includes local land trusts and national trusts, such as the Nature Conservancy and Ducks Unlimited.[60] Land Trust Alliance says that 47 million acres have been conserved by land trusts, but that includes not only land owned by trusts, but also land under conservation easements and land acquired and resold to governments.

Private land trusts have tax-exempt status and often gain other tax incentives in federal and state law.[61] They also benefit from the efforts by almost 350,000 volunteers nationwide.[62] Another advantage of private trusts is that they are more likely to charge efficient fees for the use of lands, rather than setting charges artificially low, as the federal government usually does.

However, many private land conservation efforts are partly government-funded. Ducks Unlimited, for example, is partly funded from the sale of federal duck stamps. And many conservation groups receive partial funding from federal grants. Nonetheless, there is substantial private funding being raised for land conservation. The Nature Conservancy, for example, spent $323 million buying conservation land and easements in fiscal 2011, and just 14 percent of the organization's revenues came from government grants.[63]

In addition to privatizing some parks and refuges, the federal government should identify monuments and historic sites that could be transferred to private groups. Many historic sites are already owned by nonprofit groups. Mount Vernon, Virginia, for example, is operated by a nonprofit charitable group that receives no government subsidies.[64] By contrast, across the Potomac River in wealthy Georgetown, the

NPS owns the historic Old Stone House.[65] This is the type of federal property that is not a national jewel, and it would probably do well under private nonprofit ownership.

A final option for privatizing federal lands was proposed by economists Vernon Smith, Terry Anderson, and Emily Simmons.[66] Their idea is to give all Americans "public land share certificates" and auction off federal lands to people who bid the most certificates. Initially, every family would own shares in land, but once privatized, the land would be freely transferable. Land would be partitioned into boundaries, such as current park borders. Each tract could have restrictive covenants written into deeds. The authors say that their approach would depoliticize land use and improve efficiency.

Transfer Lands to the States

A second reform approach would be to transfer federal lands to state and local governments. For parks and refuges where the large majority of visitors are in-state residents, it makes sense to transfer control to that state. Robert Nelson has suggested that national parks where more than three-quarters of the visitors are in-state should be transferred to that state.[67] Remember that Stephen Mather, the first director of the NPS, thought that the federal government ought to manage only parks that were of truly national significance, and the rest should be managed by state and local governments.

Economists Terry Anderson and Peter Hill have argued for reviving federalism in land management, noting that "the discipline of the bottom line is crucial to changing government land management. Unlike national agencies, state land managers do not have a bottomless trough from which to draw their budgets."[68] The advantages of reviving federalism in land ownership include better citizen monitoring of policy actions and more experimentation in policy solutions.

Robert Nelson has argued that state governments are more efficient land managers than the federal government. He says that "most western states would be capable of earning positive net revenues from BLM lands."[69] Many states manage their forests as trusts and dedicate some or all of their receipts from the sales of forest products to schools or other public institutions. That provides an incentive to generate a sustained yield over the long run from the resource.

There are other examples of the states managing public lands in an efficient manner with revenues covering costs. Before federal intervention in the mid-20th century, numerous states managed their hunting and fishing resources efficiently by charging user fees. The proceeds were reinvested in the resource, and the states earned net returns. Another example is that at least two states today—New Hampshire and Vermont—have park systems that are self-funded from user fees.[70]

However, there may be drawbacks to simply transferring federal lands to state governments. The states won't be good stewards of land if their management is structured in the same bureaucratic way as federal land management currently is.[71] Like federal land management, state land management can be inefficient and politically driven unless state agencies have incentives to optimize the net returns gained from land users. While transferring lands to the states would gain the decentralizing advantages of federalism, it wouldn't guarantee good stewardship of lands and resources.

Transfer Lands to Fiduciary Trusts

A third option discussed in a Cato Institute policy analysis would be to transfer federal lands to fiduciary trust organizations.[72] The federal government would retain title to the lands, but trust managers would follow clearly defined missions as either *market trusts* or *nonmarket trusts* to either maximize net returns or to preserve and restore ecosystems or cultural resources. Fiduciary trusts are long-standing institutions in British and American common law.

The lands currently managed by BLM, NPS, and FWS could be subdivided into perhaps 100 or more different trust organizations across the country. *Market trusts* would oversee lands with marketable resources and seek to maximize net revenues while preserving the productive capacity of the land. *Nonmarket trusts* would be assigned those lands where the goal would be to preserve and restore natural ecosystems, historic structures, and cultural artifacts.

The trusts would be funded by user fees from grazing, recreation, timber harvesting, mining, and other activities currently taking place on federal lands. Nonmarket trusts could also rely on charitable contributions and grants from individuals, foundations, and other groups. Trusts would be governed in a democratic manner and would have numerous governance advantages over current federal land agencies.[73]

Well-designed land trusts would be insulated from political pressures and self-funded. Trust managers could adjust their fees and charges to fair market value, whether for recreational use, timber sales, grazing, or other activities. A share of trust revenues could be dedicated to a separate fund to protect biodiversity and endangered species, or to achieve other goals written into trust charters.

A proposal by Rep. Peter DeFazio (D-OR) would turn federal timberlands in western Oregon into trust organizations. Under the plan, the lands would be divided in two, with one half managed to emphasize wildlife and other environmental values and the other half managed for timber. A timber trust would manage the timber lands to maximize revenues for the counties that have historically received 50 percent of western Oregon BLM timber receipts. An environmental trust would manage the remaining lands.[74]

Conclusions

Congress should move ahead with a combination of reforms to the Department of the Interior—privatization, transfers to state governments, and the establishment of fiduciary trusts.[75] Most BLM lands should be turned over to the states or privatized. Major national parks and wildlife refuges are good candidates to establish as fiduciary trusts. Parks such as Yellowstone and Yosemite, for example, could easily cover their costs through user charges. Smaller parks and refuges that are mainly visited by in-state residents should be transferred to those states.

The important thing is that policymakers start exploring alternatives to Interior's costly, bureaucratic, and underperforming system of managing lands and resources. Given that the lands held by Interior cover one-fifth the area of the United States, it is crucial that they be managed as effectively as possible.

[1] Department of the Interior, "Quick Facts," www.doi.gov/facts.html.

[2] *Budget of the United States Government*, *Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[3] Most of the revenues from Outer Continental Shelf activities are not allocated to Interior in the federal budget. Instead they are mainly "undistributed by agency," and simply counted as inflows to the Treasury.

[4] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[5] James Muhn and Hanson R. Stuart, *Opportunity and Challenge: The Story of BLM* (Washington: Department of the Interior, September 1988), Chapter 1, www.nps.gov/history/history/online_books/blm/history.

[6] For a brief history of federal land additions and disposals, see Gary Libecap, "Property Rights and Federal Land Policy," in Douglass C. North, ed., *Government and the American Economy* (Chicago: University of Chicago Press, 2007).

[7] Robert H. Nelson, *Public Lands and Private Rights* (Lanham, Maryland: Rowman and Littlefield, 1995).

[8] Robert H. Nelson, *Public Lands and Private Rights* (Lanham, Maryland: Rowman and Littlefield, 1995), p. 3.

[9] Robert M. Utley and Barry Mackintosh, "Department of Everything Else: Highlights of Interior History," Department of the Interior, 1989, www.cr.nps.gov/history/online_books/utley-mackintosh.

[10] Robert H. Nelson, "Why the Sagebrush Revolt Burned Out," *Regulation* 8, no. 3 (May-June 1984), www.cato.org/pubs/regulation/regv8n3/v8n3-5.pdf.

[11] The 1974 lawsuit was *Natural Resources Defense Council v. Norton*. For background on the Sagebrush Rebellion, see Robert H. Nelson, "Why the Sagebrush Revolt Burned Out," *Regulation* 8, no. 3 (May-June 1984), www.cato.org/pubs/regulation/regv8n3/v8n3-5.pdf.

[12] Robert H. Nelson, "The Subsidized Sagebrush: Why the Privatization Movement Failed," *Regulation* 8, no. 4 (July-August 1984), www.cato.org/pubs/regulation/regv8n4/v8n4-4.pdf.

[13] Steve H. Hanke, "The Privatization Debate: An Insider's View," *Cato Journal* 2, no. 3 (Winter 1982), www.cato.org/pubs/journal/cj2n3/cj2n3-1.pdf.

[14] Steve H. Hanke, Letter to the Editor, *Regulation* 9, no. 1 (January-February 1985), www.cato.org/pubs/regulation/regv9n1/v9n1-1.pdf.

[15] Edmund L. Andrews, "Interior Official Assails Agency for Ethics Slide," *New York Times*, September 14, 2006.

[16] Juliet Eilperin and Madonna Lebling, "MMS's Troubled Past," *Washington Post*, May 29, 2010.

[17] Terry L. Anderson, Vernon L. Smith, and Emily Simmons, "How and Why to Privatize Federal Lands," Cato Institute Policy Analysis no. 363, November 9, 1999, p. 2.

[18] Department of the Interior, "Budget in Brief, Fiscal Year 2012," Appendix Q.

[19] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[20] Resources for the Future, "The State of the Great Outdoors," September 2009, p. 24.

[21] Carol Hardy Vincent, "Federal Land Management Agencies: Background on Land and Resources Management," Congressional Research Service, August 2, 2004, p. 34.

[22] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[23] Ross W. Gorte, et al., "Federal Lands Managed by the Bureau of Land Management and the Forest Service: Issues for the 110th Congress," Congressional Research Service, May 9, 2008.

[24] Congressional Budget Office, "Budget Options: Volume 2," August 2009, p. 63.

[25] Government Accountability Office, "Livestock Grazing," GAO-05-869, September 2005, Highlights.

[26] Government Accountability Office, "Livestock Grazing," GAO-05-869, September 2005, Highlights.

[27] Department of the Interior "Budget Justifications and Performance Information: Bureau of Land Management, Fiscal Year 2012," 2011, pp. VII-3, VII-12.

[28] Resources for the Future, "The State of the Great Outdoors," September 2009, p. 18.

[29] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office,

February 2011), Table 33-1.

[30] George B. Hartzog, Jr., *Battling for the National Parks* (Mt. Kisco, New York: Moyer Bell, 1988), p. 155.

[31] Department of the Interior "Budget Justifications and Performance Information: National Park Service, Fiscal Year 2012," 2011, pp. ONPS-189–190, ONPS-207.

[32] James M. Ridenour, *The National Parks Compromised: Pork Barrel Politics and America's Treasures* (Merrillville, Indiana: ICS Books, 1994), p. 17.

[33] For example, see Paul Barton, "California National Parks among Those Threatened by Funding, Staffing Shortages," *Gannett*, September 1, 2011.

[34] Government Accountability Office, "Department of Interior: Major Management Challenges," GAO-11-42T, March 1, 2011, p. 15.

[35] For example, the agency used eminent domain to evict more than 1,200 families when it established the Great Smoky Mountains National Park in 1926. See Clint Williams, "Great Smoky Mountains National Park: A User's Guide," Mother Nature Network, July 4, 2011.

[36] John Macone, "Top Park Official Calls Willing Buyer, Willing Seller Method of Buying Land 'Meaningless,'" *Concord Journal*, July 14, 1988, p. 10.

[37] Alston Chase, *Playing God in Yellowstone: The Destruction of America's First National Park* (Orlando: Harcourt Brace, 1987), pp. 202, 250.

[38] John Payne, "A Day That Will Live in Infamy," Americans for Forfeiture Reform, June 18, 2011.

[39] Paul Berkowitz, *The Case of the Indian Trader: Billy Malone and the National Park Service Investigation at Hubbell Trading Post* (Albuquerque: University of New Mexico Press, 2011).

[40] Peter Fimrite, "Sen. Feinstein Hits Drakes Bay Oyster Farm Report," *San Francisco Chronicle*, March 24, 2011.

[41] Kurt Repanshek, "When Did Dancing in the Thomas Jefferson Memorial Become a Crime?" *National Parks Traveler*, May 31, 2011.

[42] Alston Chase, *Playing God in Yellowstone: The Destruction of America's First National Park* (Orlando: Harcourt Brace, 1987), pp. 27–30.

[43] Karl Hess, *Rocky Times in Rocky Mountain National Park: An Unnatural History* (Boulder: University of Colorado Press, 1993).

[44] Resources for the Future, "The State of the Great Outdoors," September 2009, p. 24.

[45] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[46] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 18-1.

[47] Department of the Interior, "Budget in Brief, Fiscal 2012," Appendix Q.

[48] Government Accountability Office, "Department of the Interior: Major Management Challenges," GAO-11-424T, March 1, 2011, pp. 16, 21.

[49] Juliet Eilperin and Madonna Lebling, "MMS's Troubled Past," *Washington Post*, May 29, 2010.

[50] Department of the Interior, "Budget in Brief, Fiscal 2012," p. BH-21.

[51] Ross W. Gorte, et al., "Federal Lands Managed by the Bureau of Land Management and the Forest Service: Issues for the 110th Congress," Congressional Research Service, May 9, 2008, p. 3.

[52] Government Accountability Office, "Department of the Interior: Major Management Challenges," GAO-11-424T, March 1, 2011, p. 2.

[53] *Budget of the United States Government, Fiscal Year 2012, Analytical Perspectives* (Washington: Government Printing Office, February 2011), Table 33-1.

[54] Government Accountability Office, "Department of the Interior: Major Management Challenges," GAO-11-424T, March 1, 2011, p. 2.

[55] Jack D. Cohen, "Examination of the Home Destruction in Los Alamos Associated with the Cerro Grande Fire," United States Forest Service, July 10, 2000.

[56] Department of the Interior, "Budget Justifications and Performance Information: Wildland Fire Management, Fiscal Year 2012," 2011, p. 35.

[57] The administration's legislation is the Civilian Property Realignment Act. See Theresa Gullo, "Selling Federal Property," Congressional Budget Office, July 27, 2011.

[58] For example, Rep. Jason Chaffetz of Utah has introduced the Disposal of Excess Federal Lands Act of 2011 (H.R. 1126).

[59] Resources for the Future, "The State of the Great Outdoors," September 2009, p. 33.

[60] Land Trust Alliance, "National Land Trust: Census Report," 2010, p. 5.

[61] For background on the structure of trusts, see Dominic P. Parker and Walter N. Thurman, "Crowding Out Open Space: The Effects of Federal Land Programs on Private Land Trust Conservation," June 7, 2010.

[62] Land Trust Alliance, "National Land Trust: Census Report," 2010, p. 8.

[63] Nature Conservancy, "Generations," Annual Report, 2011, p. 43.

[64] www.mountvernon.org/support-his-vision.

[65] www.nps.gov/nr/travel/wash/dc17.htm.

[66] Terry L. Anderson, Vernon L. Smith, and Emily Simmons, "How and Why to Privatize Federal Lands," Cato Institute Policy Analysis no. 363, November 9, 1999, p. 1.

[67] Robert H. Nelson, *Public Lands and Private Rights* (Lanham, Maryland: Rowman and Littlefield, 1995), p. 324.

[68] Terry L. Anderson and Peter J. Hill, "Environmental Federalism," Property and Environment Research Center, December 1996.

[69] Robert Nelson cited in Terry L. Anderson and Peter J. Hill, "Environmental Federalism," Property and Environment Research Center, December 1996.

[70] Randal O'Toole, "Should Congress Transfer Federal Lands to the States?" Cato Institute Policy Analysis no. 276, July 3, 1997, p. 14.

[71] Randal O'Toole, "Should Congress Transfer Federal Lands to the States?" Cato Institute Policy Analysis no. 276, July 3, 1997, pp. 18–19.

[72] Randal O'Toole, "A Matter of Trust: Why Congress Should Turn Federal Lands into Fiduciary Trusts," Cato Institute Policy Analysis no. 630, January 15, 2009.

[73] Randal O'Toole, "A Matter of Trust: Why Congress Should Turn Federal Lands into Fiduciary Trusts," Cato Institute Policy Analysis no. 630, January 15, 2009.

[74] Susan Palmer, "DeFazio Offers Forest Plan," *Eugene Register-Guard*, August 18, 2011. While the proposal is an interesting adaptation of the trust idea, it isn't clear why western Oregon counties should get such a large share of federal revenues, especially when that share is likely to be many times greater than the counties would collect in taxes if the lands were private.

[75] For another view on these sorts of reforms to Interior, see Robert H. Nelson, "How to Dismantle the Interior Department," Competitive Enterprise Institute, June 1995. Nelson would roughly chop Interior's budget in half, mainly through privatization and devolving activities to the states.

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