

SUMMITS

ENVIRONMENTAL SCIENCE, LAW, AND POLICY

A series edited by Marc Miller,
Jonathan Overpeck,
and Barbara Morehouse

STITCHING THE WEST BACK TOGETHER

Conservation of Working Landscapes

EDITED BY SUSAN CHARNLEY,
THOMAS E. SHERIDAN, AND
GARY P. NABHAN

The University of Chicago Press
Chicago and London

Chapter 3 focuses on the question of why private forests and rangelands and tribal lands are so important for biodiversity conservation in the West. Protected areas are simply too small and poorly sited to support viable populations of area-sensitive and human-sensitive species, and a significant component of the biodiversity in different ecoregions occurs on private and tribal lands, which lie outside of protected areas. Furthermore, mixed-ownership landscapes generally contain more diverse habitat conditions than single-ownership landscapes. These findings suggest that environmental organizations and government agencies would do well to focus more attention on and investment in private ranch, private forest, and tribal lands and to work to promote biodiversity conservation at the landscape scale across land ownership boundaries.

Together the chapters in part 1 point to the need for stitching the West back together using the kinds of conservation strategies and tools illustrated in subsequent chapters. These strategies and tools are a response to the negative trends described here and offer an optimistic counterpoint that we hope will inspire more such efforts.

1

A BRIEF HISTORY OF PEOPLE AND POLICY IN THE WEST

Thomas E. Sheridan and Nathan F. Sayre

IN BRIEF

- Today's checkerboard of public, tribal, and private land in the American West arose from contradictory land policies in the nineteenth and early twentieth centuries and now is at the heart of conflict among competing interests.
- The mid-nineteenth century brought western migration, clear-cut forests, and overstocked ranges and pushed Native Americans to ever-shrinking reservations, but in subsequent decades the federal government began establishing national forest preserves that regulated ranching and logging.
- The early twentieth century was characterized by government as both the source of conservation knowledge and the enforcer of management prescriptions, but soon tensions arose over managing for the "public" interest versus the interests of local residents dependent on public lands for livelihoods.
- Today finds ranchers and loggers pitted against environmentalists and urban recreationists, while federal agencies attempt to manage their lands for multiple uses; however, some collaborative conservation efforts have begun to bridge these divides.

Resource management in the West today reflects the contradictions in U.S. land policy during the nineteenth and early twentieth centuries. Beginning with the 1803 Louisiana Purchase of 828,000 square miles of land west of the Mississippi River, the aggressive young nation swallowed up huge chunks of

North America through a mixture of diplomacy and military conquest. Native American claims to the continent were largely ignored, justified in part by the belief that the land belonged to those who “improved” it under the civil right of private ownership, rather than to those who had only natural rights, “when men held the earth in common every man sowing and feeding where he pleased.”¹ The Treaty of Guadalupe-Hidalgo, which ended the war between Mexico and the United States in 1848, acknowledged U.S. claims to Texas, drawing its boundary at the Rio Grande, and ceded California and most of the American Southwest between California and Texas to the United States. The treaty was supposed to safeguard the property rights of Mexicans, but of the 38 million acres bestowed under Spanish and Mexican land grants, only two million were confirmed by the U.S. Court of Private Land Claims. And of the confirmed grants, more than 80 percent of the land fell into Anglo-American hands.²

Historian Frederick Merk described the process as “the greatest real estate transaction in modern history” as the United States more than tripled in size in its march from the Atlantic to the Pacific.³ During most of the 1800s, the primary goal of the federal government was to encourage the settlement and development of these vast acquisitions by granting portions of the public domain to corporate interests, particularly canal companies and railroads, and to individuals. But visions of a Jeffersonian democracy of small farmers civilizing the frontier were often at odds with the demands of an emerging industrial capitalism that hungered for the natural resources of the trans-Mississippi West.⁴

In the Midwest, land policies like the General Homestead Act of 1862 did encourage the proliferation of small farms rather than plantations, even if speculators often made huge profits in the transaction.⁵ In the more arid regions west of the 100th meridian, however, farming homesteads only made sense along rivers and streams, which were few and far between. After the Civil War, the “free” land of the western public domain attracted capital from the British Isles and the eastern United States. Forests were clear-cut, prairies plowed, minerals plundered, and ranges overstocked.⁶ It was a tragedy, not of the commons as Garrett Hardin and others argued, but of an open-access regime where no one, not even the federal government, regulated resource use.⁷

Another enlargement of the public domain came at the expense of American Indians. During the early years of the republic, the United States pushed Native Americans ever westward beyond the advancing frontier. It was a brutal form of primitive accumulation despite the numerous treaties signed between tribes and the federal government along the way. And even though

Chief Justice John Marshall declared the tribes “dependent domestic nations,” Andrew Jackson and his supporters evicted the Five Civilized Tribes (Cherokee, Chickasaw, Choctaw, Creek, and Seminole) from their treaty lands in the Southeast and force-marched them on the so-called Trail of Tears to Indian Territory west of the Mississippi. But as U.S. pioneers crossed the Mississippi and settled the Great Plains, Indian Territory shrank. In 1849, Indian affairs were transferred from the War Department to the Department of the Interior, and the government began establishing reservations for Plains tribes on the portions of their homelands deemed least desirable to settlers. Under the Treaty of Guadalupe-Hidalgo, Spanish and Mexican land grants to Pueblo peoples in New Mexico had to be recognized. The first stages of a reservation “system” were beginning to take shape.⁸

Then, in 1872, Congress prohibited further treaties with Indians as conflicts with Plains tribes and the Apaches intensified. Military conquest, not negotiation with “domestic nations,” became national policy. Reservations continued to be created, but their management was turned over to Indian agents appointed by different Protestant denominations. Native Americans often were not allowed to practice their own religions or follow their own cultural patterns. Instead, they were to be “civilized” and assimilated into capitalist, Christian society. This involved turning them into yeoman farmers as well. The Dawes Act of 1887 divided reservations into individual allotments that became the private property of Indian households. “Surplus” lands were sold to non-Indians. Tribes lost an estimated 91 million acres of reservation lands between 1887 and 1934, when the Indian Reorganization Act terminated the allotment program and gave tribes a little more control over their natural resources. They’ve been struggling to assert their sovereignty ever since.⁹

Beginning in the 1890s, the federal government began to reconsider its laissez-faire attitudes toward the public domain.¹⁰ It set aside forest reserves to protect watersheds and timber resources. Under President Theodore Roosevelt, conservationist Gifford Pinchot transformed these scattered reserves into the national forest system, permanently removing millions of acres from the public domain, largely by executive order rather than Congressional legislation.¹¹ Pinchot won his battle with preservationists like John Muir, who wanted to eliminate grazing and logging on the national forests. Instead, ranchers and loggers could continue to harvest grass and timber but under federal regulation. When the Taylor Grazing Act of 1934 extended such regulation to the remaining public domain, the rural West of the twentieth century was born.¹²

Pinchot, Roosevelt, and other leaders of the so-called Progressive Era also

institutionalized a particular vision of the relationship between science, politics, conservation, and management.¹³ Renewable natural resources such as grass and timber were understood mechanistically, and the task of science was to reveal the “laws” that governed these mechanisms. The resulting knowledge was construed as universal and “objective”—and therefore apolitical—even when the science itself was in its infancy.¹⁴ The resulting policies were implemented by bureaucratic national agencies, acting as both sources of information and enforcers of management prescriptions. The agencies viewed local people as lacking the knowledge needed for conservation—after all, most locals had only arrived very recently, often with little or no familiarity with their new surroundings. This, of course, was not true of Native Americans, and is no longer true for long-time ranchers and foresters, but “science” continues to be politically powerful precisely because it appears to operate above or outside of politics. These technocratic conceits are among the central legacies to which the current collaborative conservation movement responds.

Apart from the scientific shortcomings of the resulting policies, the progressive era model did not resolve the underlying tension that it was intended to address: how to balance the “public” interest, defined at the national or state scale, with the interests of local residents who depended on public lands for their livelihoods. Pinchot’s Forest Service and the Taylor Grazing Act recognized local interests in certain ways (through rules about who could hold grazing permits, e.g., or institutions such as grazing districts), often to the detriment of marginalized groups, including Hispanics, Native Americans, African Americans, and subsistence producers.¹⁵ In so doing, however, federal agencies opened themselves up to charges of co-optation, such as those leveled by Bernard DeVoto, who launched the half-century long “rangeland conflict” in the pages of *Harper’s* beginning in the 1930s.¹⁶ Whether faulty science or “agency capture” was more to blame in any particular instance, one clear result was to cast resource-dependent local communities as inherently opposed to environmentalism as it developed in the second half of the twentieth century.¹⁷

Today, both the U.S. Forest Service and the Bureau of Land Management manage their federal lands for multiple uses, including resource extraction, recreation, and the conservation of biodiversity. The priority given to these uses varies according to presidential administration and political pressure. As historian Paul Hirt has shown, the Forest Service privileged resource extraction, especially timber cutting, from World War II through the 1980s.¹⁸ But as the West became an overwhelmingly urban region during the postwar period,

more and more city dwellers turned to federal public lands for recreational opportunities. That profound demographic shift, along with the growth of the modern environmental movement beginning in the 1960s, challenged the political power of loggers and ranchers—the “lords of yesterday” in Charles Wilkinson’s memorable phrase.¹⁹ The passage of strong federal environmental statutes, especially the National Environmental Policy Act in 1969 and the Endangered Species Act in 1973, gave environmentalists powerful legal tools to force agencies to change entrenched management practices.

As C. Klyza and Sousa point out, however, this so-called golden era of bipartisan environmental legislation did not eliminate the lords of yesterday: “Instead, each new movement layered new institutions and agendas atop the old and empowered new interests even while preserving many of the legal and institutional bases of the claims made by old interests.”²⁰ In their words, the lords of yesterday are now battling the “lords of a little while ago”—groups like the Center for Biological Diversity that employ environmental legislation adopted in the 1960s and 1970s to advance their interests and values. “This reality energizes all politics, certainly modern environmental politics, and there is no escape from the crashing and grinding of multiple orders in this field.”²¹

Many of today’s loggers and ranchers have experienced this legal, political, economic, and cultural sea change in their own lifetimes. It is easy to understand why many of them feel that their livelihoods and ways of life are under assault, especially when some environmental groups advocate the end of grazing and logging on public lands. The grassroots collaborative conservation movement sprang to life across the American West in the 1990s in part as a defensive response to these pressures. Ranchers and foresters saw their access to grass and timber on federal lands threatened by environmentalists who portrayed them as ecological scourges.²² In the Pacific Northwest, logging operations and sawmills shut down because of lawsuits to preserve the habitat of the Northern spotted owl (*Strix occidentalis caurina*). Environmentalists did not succeed in eliminating grazing on federal lands, but ranchers watched environmental groups sue the Forest Service and the Bureau of Land Management for noncompliance with the Endangered Species Act or National Environmental Policy Act on grazing allotments on which their livelihoods depended. Unless they countersued, those ranchers were not even at the legal table. Most ranchers didn’t have the deep pockets to hire lawyers and fight such battles on their own.²³ But they could reach out to potential allies among scientists, more moderate environmental groups, and local people to build alliances around specific landscapes.

The other and much deeper reason for the emergence of the collaborative conservation movement was the conservationist ethic of ranchers and foresters themselves.²⁴ Many ranchers wanted to heal watersheds and restore fire as a natural disturbance in order to halt the encroachment of woody plants and to grow more grass. When they tried to do so, however, they were frustrated by the crazy quilt of land tenure and jurisdictions—federal, state, county, private—that had carved up the West over the past century. Water and fire rarely confine themselves to land ownership boundaries, but bureaucracies have only recently begun to “think” like mountains or watersheds. The result was gridlock instead of collaboration, confrontation instead of cooperation, polemics instead of a search for common ground.²⁵ If anything, the battle between ranchers and environmentalists played into the hands of developers.²⁶

At the beginning of the twentieth century, when preservationists like John Muir and conservationists like Gifford Pinchot were fighting for the support of Theodore Roosevelt, the West was a sparsely populated region dominated by the extractive industries of mining, ranching, forestry, and agriculture. Today it contains large urban areas, with most people concentrated in megalopolises like Seattle, Denver, Los Angeles, and Phoenix.²⁷ Those cities spin off suburbs and exurbs in every direction developers can find private land. Meanwhile, population is growing in rural western counties as a result of amenity migration by people from urban areas who seek open space, beautiful scenery, clean air and water, and easy access to outdoor recreation.²⁸ As a result, the value of private lands in the West has skyrocketed at a time when making a living as a rancher or forester on intermixed public and private lands is becoming increasingly difficult. Lands that once produced beef, mutton, wool, timber, and wood products now sprout second homes. Subdivisions degrade wildlife habitat, disrupt wildlife migrations, and accelerate the spread of exotic species.²⁹ Wildcat (or illegal) dumping and off-highway vehicle trails proliferate. The restoration of fire’s necessary role as a natural disturbance in fire-adapted ecosystems, desperately needed because of the encroachment of woody species on grasslands and the buildup of fuel loads in forests, becomes politically challenging because the protection of private property usually trumps ecosystem health, and the prevailing policy of fire suppression is difficult to change.

One outcome of this history is that land tenure in the rural West involves a bewildering array of jurisdictions, especially across elevational gradients between the mountains (which are often administered by the Forest Service) and the lower, more fertile valley bottoms.³⁰ Boundaries between federal, state, and private lands tend to carve up ecosystems with little regard

for the flow of water or other natural processes. One great challenge in the twenty-first century, then, is to stitch the West back together again through the creation of enduring partnerships that crosscut these boundaries. As this volume demonstrates, today’s collaborative conservation movement is attempting to do just that.

NOTES

1. John Winthrop, quoted in W. Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983), 56.
2. R. Bradfute, *The Court of Private Land Claims: The Adjudication of Spanish and Mexican Land Grant Titles, 1891–1904* (Albuquerque: University of New Mexico Press, 1975); R. G. del Castillo, *The Treaty of Guadalupe-Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990); M. Ebricht, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994); H. Lamar, *The Far Southwest, 1846–1912: A Territorial History* (Albuquerque: University of New Mexico Press, 2000); T. E. Sheridan, *Landscapes of Fraud: Mission Tumacácori, the Baca Float, and the Betrayal of the O’odham* (Tucson: University of New Mexico Press, 2006).
3. F. Merk, “Foreword,” in *The Frontier in American Development: Essays in Honor of Paul Wallace Gates*, ed. David M. Ellis (Ithaca, NY: Cornell University Press, 1969), ix.
4. D. Worster, *Rivers of Empire: Water, Aridity, and the Growth of the American West* (New York: Pantheon Books, 1985); R. White, “It’s Your Misfortune and None of My Own”: *A History of the American West* (Norman: University of Oklahoma Press, 1991); W. Cronon, *Nature’s Metropolis: Chicago and the Great West* (New York: W. W. Norton & Company, 1991).
5. White, *It’s Your Misfortune*, 137–54; P. Gates, *The Jeffersonian Dream: Studies in the History of American Land Policy and Development*, ed. A. G. Bogue and M. B. Bogue (Albuquerque: University of New Mexico Press, 1996), esp. his seminal essay, “The Role of the Land Speculator in Western Development,” 6–22; Sheridan, *Landscapes of Fraud*, 139–43.
6. N. F. Sayre, *Ranching, Endangered Species, and Urbanization in the Southwest: Species of Capital* (Tucson: University of Arizona Press, 2002).
7. G. Hardin, “The Tragedy of the Commons,” *Science* 162, no. 3859 (1968): 1243–48; White, *It’s Your Misfortune*, 222–27; D. Worster, “Cowboy Ecology,” in *Under Western Skies: Nature and History in the American West* (New York: Oxford University Press, 1992), 34–52; T. E. Sheridan, *Arizona: A History*, rev. ed. (Tucson: University of Arizona Press, 2012), 131–65.
8. C. F. Wilkinson, *American Indians, Time, and the Law* (New Haven, CT: Yale University Press, 1985), 7–31; White, *It’s Your Misfortune*, 85–118.
9. Wilkinson, *American Indians and Law*, 7–31; White, *It’s Your Misfortune*, 85–118; D. E. Wilkins and K. T. Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001).
10. For general overviews of federal land management up to the present, see T. Koontz, T. Steelman, J. Carmin, K. S. Korfmacher, C. Moseley, and C. Thomas, *Collaborative Environmental Management: What Roles for Government?* (Washington, DC: Resources for the Future, 2004); S. Mullner, W. Hubert, and T. Wesche, “Evolving Paradigms

- for Landscape-Scale Renewable Resource Management in the United States," *Environmental Science and Policy* 4 (2001): 39–49.
11. D. Brinkley, *The Wilderness Warrior: Theodore Roosevelt and the Crusade for America* (New York: Harper Perennial, 2009), 751–91; T. Egan, *The Big Burn: Teddy Roosevelt and the Fire That Saved America* (Boston: Houghton Mifflin Harcourt, 2009), 53–72.
 12. White, *It's Your Misfortune*, 477–81; Worster, "Cowboy Ecology."
 13. S. P. Hays, *Conservation and the Gospel of Efficiency* (Cambridge, MA: Harvard University Press, 1959); F. Cubbage, J. O'Laughlin, and C. Bullock III, *Forest Resource Policy* (New York: John Wiley and Sons, 1993); P. W. Hirt, *A Conspiracy of Optimism: Management of the National Forests since World War II* (Lincoln: University of Nebraska Press, 1994); Mullner et al., "Evolving Paradigms."
 14. N. F. Sayre, "Climax and 'Original Capacity': The Science and Aesthetics of Ecological Restoration in the Southwestern USA," *Ecological Restoration* 28 (2010): 23–31.
 15. White, *It's Your Misfortune*, 431–57; J. Kosek, *Understories: The Political Life of Forests in Northern New Mexico* (Durham, NC: Duke University Press, 2006).
 16. B. DeVoto, "The West: A Plundered Province," *Harper's Magazine* 179 (1934): 355–64.
 17. R. White, "Are You an Environmentalist or Do You Work for a Living?" *Work and Nature*, in *Uncommon Ground: Rethinking the Human Place in Nature*, ed. William Cronon (New York: Norton, 1996), 171–85.
 18. Hirt, *Conspiracy of Optimism*.
 19. C. F. Wilkinson, *Crossing the Next Meridian: Land, Water, and the Future of the West* (Washington, DC: Island Press, 1992), 3–27.
 20. C. Klyza and D. Christopher, *American Environmental Policy, 1990–2006* (Cambridge, MA: MIT Press, 2008), 9.
 21. *Ibid.*, 10.
 22. Wilkinson, *Crossing the Next Meridian*, 3–27; T. Power, *Lost Landscapes and Failed Economies: The Search for a Value of Place* (Washington, DC: Island Press, 1996), 131–90; D. Donahue, *The Western Range Revisited: Removing Livestock from Public Lands to Conserve Native Biodiversity* (Norman: University of Oklahoma Press, 1999); G. Wuerthner and M. Matteson, eds., *Welfare Ranching: The Subsidized Destruction of the American West* (Washington, DC: Island Press, 2002); S. P. Hays, *Wars in the Woods: The Rise of Ecological Forestry in America* (Pittsburgh: University of Pittsburgh Press, 2007).
 23. T. E. Sheridan, "Cows, Condos, and the Contested Commons: The Political Ecology of Ranching on the Arizona-Sonora Borderlands," *Human Organization* 60, no. 2 (2001): 141–52, and "Embattled Ranchers, Endangered Species and Urban Sprawl: The Political Ecology of the New American West," *Annual Review of Anthropology* 36 (2007): 121–38.
 24. R. Knight, W. Gilgert, and E. Marston, *Ranching West of the 100th Meridian: Culture, Ecology, and Economics* (Washington, DC: Island Press, 2002); C. White, *Revolution on the Range: The Rise of the New Ranch in the American West* (Washington, DC: Island Press, 2008).
 25. J. M. Wondolleck and S. L. Yaffee, *Making Collaboration Work: Lessons from Innovation in Natural Resources Management* (Washington, DC: Island Press, 2000); P. Brick, D. Snow, and S. Van de Wetering, eds., *Across the Great Divide: Explorations in Collaborative Conservation and the American West* (Washington, DC: Island Press, 2001); Koontz et al., *Collaborative Environmental Management*; Klyza and Sousa, *American Environmental Policy*; C. Wilmsen, W. Elmendorf, L. Fisher, J. Ross, B. Sarathy, and G. Wells, *Part-*

- nerships for Empowerment: Participatory Research for Community-Based Natural Resource Management* (London: Earthscan, 2008); R. D. Margerum, *Beyond Consensus: Improving Collaboration to Solve Complex Public Problems* (Cambridge, MA: MIT Press, 2011).
26. Sayre, *Ranching, Endangered Species, Urbanization* 105–25 (n. 6 above, this chapter), and "Climax and 'Original Capacity'" (n. 14 above, this chapter); see chap. 13 for how Pima County is conserving working ranches to preserve open space and biodiversity.
 27. Robert E. Lang, Andrea Sarzynski, and Mark Muro, *Mountain Megs: America's Newest Metropolitan Places and a Federal Partnership to Help Them Prosper* (Washington, DC: Brookings Institution, 2008).
 28. D. G. Brown, K. M. Johnson, T. R. Loveland, and D. M. Theobald, "Rural Land-Use Trends in the Conterminous United States, 1950–2000," *Ecological Applications* 15 (2005): 1851–63.
 29. A. J. Hansen, R. L. Knight, J. M. Marzluff, S. Powell, K. Brown, P. H. Gude, and K. Jones, "Effects of Exurban Development on Biodiversity: Patterns, Mechanisms, and Research Needs," *Ecological Applications* 15 (2005): 1893–1905.
 30. J. M. Scott, F. W. Davis, R. G. McGhie, R. G. Wright, C. Groves, and J. Estes, "Nature Reserves: Do They Capture the Full Range of America's Biological Diversity?" *Ecological Applications* 11 (2001): 999–1007.