MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 12, 1983

The forty-first meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on March 12, 1983 at 9:05 a.m. in Room 325, State Capitol.

ROLL-CALL: All members were present.

CONSIDERATION OF HOUSE BILL 42: Representative Donaldson, District #29, principle sponsor of the bill, advised that it is one of three bills dealing with the agricultural commodity producers and dealers' problem of protection for payment of their commodities. A lien would attach to the agricultural commodity which need not be filed for 90 days under the provisions of this bill. At the end of the 90 day period it could be filed with the Secretary of State if payment has not been made.

Section 1 of the bill deals with definitions. Section 2 deals with the lien creation. Section 3 addresses the time the lien attaches. Section 4 deals with the duration of the lien. Section 5 clarifies the banks posture in this situation. Section 6 deals with the discharge of the lien. It was emphasized that the lien does not carry through three or four parties. Section 7 deals with filing notice of discharge and Section 8 deals with filing with the Secretary of State.

PROPONENTS: Jeanne Rankin, representing the Montana Farm Bureau Federation, advised that the members of her organization strongly endorse the bill and submitted her written testimony (see attached Exhibit "A"). She also read an excerpt from Dale Butz, Executive Director of Commodities of the Illinois Farm Bureau, which stated that a law similar to HB42 has been implemented in Illinois and under this law, no elevator has been denied credit.

Jo Brunner, representing Women Involved in Farm Economic's, testified in favor of this bill and felt it would be beneficial to their problem with bankruptcies.

There being no further proponents, the hearing was opened to the opponents.

OPPONENTS: Curt Hansen, representing the Montana Grain Elevator Association, testified in opposition to the bill. He admitted that it was well intended but enumerated five reasons why it would not adequately solve the problems (see attached Exhibit "B").

Elroy Letcher, Executive Secretary for the Montana Council of Cooperatives, appeared on behalf of the Farm Credit Banks of Spokane and voiced their concerns (see attached Exhibit "C").

Terry Murphy, representing the Montana Farmers Union, testified in opposition as he was not sure what would happen under the provisions of the bill. He urged the Committee to move slower and to examine what they are doing. He felt there was a need for "clearer" legislation.

Kerry Schaefer, President of the Montana Grain Elevators Association, testified in opposition to the bill as it was unclear and had "hidden dangers." He stated that the paralleled law in Washington is in trouble and fears heavy litigation if bankruptcies occur as a result of this law. Letters were submitted from Cecil L. Brennan, Executive Vice President of Grain Transportation Consultants of the Pacific Northwest (Exhibit "D"); Mel Sobolik, Director of Grain Terminal Association (Exhibit "E"); Don Munkers, Pacific Northwest Grain & Feed Association (Exhibit "F"); and Gayle Crose of General Mills (Exhibit "G"), which all oppose HB42.

Dan Treinen, representing the Peavey Company, testified in opposition to this bill (see attached letters from T. Truxtun Morrison, Peavey Grain Company and R.A. Krumwiede, Antelope Grain Company - Exhibits "H" and "I", respectively). He stated that costs for county elevator owners will be higher in order to compensate the insurance premiums they will be forced to carry for the additional risks.

Larry Erpelding, representing the Montana Grain Growers Association, testified in opposition to the bill.

Gene Thayer, President of Montana Merchandising, stated that in reviewing the bill with the people he does business with, they could foresee the long term effect as being detrimental to the farmers. This bill would especially hurt the smaller independent grain elevator operators as it limits the market options the farmers have.

Ken Sagmiller, representing Western Seed & Supply, stated that as an independent grain elevator operator he must borrow money in order to operate. This bill would slow down the turn of money which would be reflected in the producing prices.

Dean Stout, an independent grain operator in Belgrade, stated he opposed the bill as it would hurt the small grain company owners' borrowing power.

Randy Liddelf, representing the Farmers Terminal Association in Conrad, stated it was difficult for him to determine if he was an opponent or proponent. He supported the intent but could not support the bill as it was written since it does not adequately consider all implications. He felt it would increase operating costs since they will have to pay more to obtain advances.

John D. Bailey, who finances the commodity producers on behalf of Northwest National Bank of Great Falls, stated that he opposes the bill as well as do other banks who finance the commodity producers.

G.D. Eastlick, representing Montana Grain Elevators of Billings, stated the idea in HB42 was good but there are too many loose ends for him to support it. He read a letter from K.G. Hageman, President of Hageman Elevator (see attached Exhibit "J") which stated HB42 would make it extremely difficult for many country elevators in Montana to continue to operate. He felt HB42 would accelerate country elevators going out of business which would leave very little competition for the purchase of grain from producers.

Joe Czech, representing Farmers Grain Inc. opposed the bill and stated that the producers would wind up paying extra costs.

A letter from Del Hollern, representing Con Agra Flour Milling Company, was also submitted in opposition to HB42 (see attached Exhibit "K").

There being no further proponents or opponents, the hearing was opened to questions from the Committee.

Chairman Turnage questioned if the Coast Trading problem instigated the drafting of this bill. Representative Donaldson acknowledged this as correct. Chairman Turnage further questioned if the producers should be granted a lien, would this not require Congress to act. Representative Donaldson advised that the federal bankruptcy laws are inadequate and if it was felt that they must be improved upon, this must be done at the state level.

Senator Mazurek asked Curt Hansen which of the three bills proposed dealing with this subject he supports. Curt Hansen advised that he supports HB673. The Committee determined that the other two bills were referred to the Senate Agriculture Committee and their hearings were scheduled for 10:00 today. HB673 would require a bond and tighten the licensing requirements for grain elevators.

Representative Donaldson closed by advising that the Montana Bankers Association had initially supported this bill. He also reiterated that this law works in Illinois and Oregon. If the definitions are not clear, he recommended that the Committee amend them. His main concern was to protect the producers of the state. He urged the Committee to hold the bill until they could further review the other two bills proposed and possibly coordinate the three for the best possible remedy to the problem.

There being no further questions, the hearing was closed.

CONSIDERATION OF HOUSE JOINT RESOLUTION 12: Representative Swift, sponsor, advised that HJR12 was introduced for the purpose of bringing the administration's plan for disposing of federal lands into focus. Many people are concerned that the Department of Interior and U.S. Department of Agriculture will divest themselves of land without following proper procedures. HJR12 apprises Congress that the public wants them to follow the procedures established.

PROPONENTS: John Milodragovich, a retired forester and rancher, testified in favor of the resolution and submitted his lengthy written testimony which included articles regarding the disposition of public lands (see attached Exhibit "L"). He further advised the Committee that Neal M. Rahm had planned on attending the hearing but was unable to. A copy of Rahm's letter to the Missoulian was submitted for inclusion in these Minutes (see attached Exhibit "M").

George N. Engler, representing the Wildlands and Resources Association of Great Falls, testified in favor of the resolution and stated that Montana needs to signal Congress that we do not want massive sales of the public lands as it would disrupt the stability of many ranching and recreational businesses who are presently dependent on these lands. His written testimony was submitted (see attached Exhibit "N") along with a letter from the Medicine River Canoe Club which also endorses HJR12 (see attached Exhibit "O").

Smoke Elser, representing the Montana Outfitters and Guides Association, supported the resolution as the sale of large tracts of federal land would not benefit the general public and would not retire our national debt. He went on to enumerate the groups which would be drastically impacted by the sale of public lands (see attached Exhibit "P").

Esther Rudd, representing the Montana Cattlemen's Association, testified in favor of the bill as ranchers could not afford to purchase the land they are leasing at the present time. She also felt that if any federal land is to be sold, the permittees should have the first chance to purchase them (see attached Exhibit "Q"). She also submitted a statement from Terry Murphy which also endorses HJR12 (see attached Exhibit "R").

Ken Knudson, representing the Montana Wildlife Federation, supported the bill and stated that the public lands belong to all of us. He further stated that the sale of these lands does not make sense fiscally and that once they are sold they are gone from our ownership forever. He felt this is not the answer to financial stability. He then suggested recommending to Congress that the public lands be sold ONLY after public review and acknowledgment and that the funds generated from these sales should be

credited to the Soil and Water Conservation fund. (See attached statements - Exhibit "S".)

D.W. Beaman of Missoula strongly supported this resolution. He stated that the lands may not be properly managed under private ownership and that state ownership should be considered before private sales.

Janet Ellis, representing the Montana Audubon Council, testified in favor of HJR12. She stated that SB118 guaranteed Montana citizens a voice in the sale of lands, but that there are rumors it will not pass because of its fiscal note. Therefore, it is even more important that HJR12 be favorably considered. She then suggested an amendment to request the federal government to hold well-publicized hearings before the sale of land. Her written testimony was submitted (see attached Exhibit "T").

Bill Worf of Route 2, Box 186J, Stevensville, advised that he was a ranch operator and environmental consultant. He has also worked with the Ecology Commission and states that his colleagues are envious of the U.S. public lands system. He urged the Committee to do everything to prevent the dismantling of this system.

A.L. Stearst of Missoula, a forest and land manager, testified in favor of the bill and spoke as to the soil content of the lands proposed to be sold.

Luci Briegor, representing the Montana Environmental Information Center, supported the resolution and cited articles which document the Reagan Administration's plan for the sale of lands. She felt that if the lands are sold the money should be ordered to the Soil and Water Conservation fund. She also urged the Committee to consider amending the resolution to be consistent with SB118.

There being no opponents present, the hearing was opened to questions from the Committee.

Senator Crippen disagreed with George Engler's statement that agricultural land is owned by five percent of the population.

There being no further discussion, the hearing was closed.

ACTION ON HOUSE JOINT RESOLUTION 12: The Committee agreed they were ready to consider executive action on this resolution. Senator Brown felt the language on page 3, lines 3 through 5 which had been stricken should be reinserted. The Committee did not feel this was necessary. Senator Crippen moved TO ADOPT HJR12. This motion carried unanimously.

ACTION ON HOUSE BILL 42: It was the consensus of the Committee that the two bills being heard in Agriculture may more effectively deal with the problem. Senator Mazurek moved to TABLE HB42. This motion carried unanimously.

ACTION ON HOUSE BILL 562: Senator Mazurek proposed to amend the bill to add consent as a defense. The Committee also determined the definition of "cohabitation." Senator Daniels felt the language on lines 17 and 18 and lines 21 and 22 was redundant because if the adoption takes place there is no longer a step-relationship. The age of consent was discussed. Senator Mazurek then moved to amend the bill as shown on the attached Committee Report. This motion carried unanimously. Senator Mazurek moved that AS AMENDED HB562 BE CONCURRED IN. This motion also carried unanimously.

RECONSIDERATION OF HOUSE BILL 660: The Committee agreed they should reconsider their action on House Bill 660. An amendment was proposed by Senators Turnage and Mazurek to require three prerequisites to the issuance of the letter. It was suggested that the defendant as well as the complainant should have the option to request a right to sue letter. The bill was then referred to counsel for research.

ACTION ON HOUSE BILL 825: It was agreed that the amendments proposed were complicated. Senator Daniels was concerned with where the burden of proof lies and that the condemnee must show cause. "Reasonable effort" was discussed. Senator Berg moved to adopt all of the Northern Plains' suggested amendments (see proposed amendments - March 11, 1983 Minutes). This motion carried unanimously. Senator Daniels moved to adopt #1, #5 and #6 of the Montana Power Company proposed amendments (see proposed amendments - March 11, 1983 Minutes). This motion carried unanimously. Senator Turnage then moved to strike "license" on page 3, line 21 and to insert "other interest." This motion carried unanimously. Senator Halligan moved that AS AMENDED HB825 BE CONCURRED IN and this motion passed unanimously.

ACTION ON HOUSE BILL 220: The Committee felt that HB220 would require the court to order the tenant to pay accrued rent. Some Committee members stated this bill was not really necessary. Senator Crippen moved HB220 BE CONCURRED IN. This motion failed with Senators Daniels, Halligan, Berg, Shaw and Brown voting in opposition. Senator Mazurek stated that the tenant has the ability to pay the court now, but this bill will require the court to be paid in every instance. He suggested leaving the court with some discretion. Senator Shaw moved that HB220 BE NOT CONCURRED IN. A roll-call vote was taken and the motion carried seven to two.

RECONSIDERATION AND ACTION ON HOUSE BILL 234: This bill has been returned to the Committee to consider the following two questions: (1) how many employees have this type of immunity, and (2) what is "acting in official scope of duties." Counsel advised that no other employees have exactly this type of immunity. Senator Shaw explained his interpretation of punitive damages. A letter from the Montana School Boards Association was submitted which gives their interpretation of this issue (see attached Exhibit "U"). Senator Regan had proposed an amendment on the floor to insert "at a regular or special meeting of the board or a committee thereof" after "capacity" on page 1, line 13. This would narrow the scope of review to their public actions. Senator Crippen moved to adopt this amendment and the motion carried unanimously. The Committee agreed that the bill would not have that much applicability but Senator Crippen moved HB234 BE CONCURRED IN AS AMENDED. This motion carried over the objection of Senators Berg and Halligan.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 11:40 a.m.

Jean A. Turnage

JEAN A. TURNAGE
Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 3-12-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

DATE 3-12-83

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
George N. Engler	Wildlands & Resources Ass'n Gt. Falls	HJR 12	✓	
John D. Bailey	NW Nat'l Bank Great Falls	HB 42		✓
Gene Thayer	Montana Merchandising	HB 42		✓
Larry Erpelding	Mont. Grain Growers Assn	HB 42		✓
Curt Hanson	MT Grain Elevator Assn	HB 42		✓
John C. Rankin	MT Farm Bureau	HB 42	✓	
John L. Mitchell	self	HJR 12	✓	
W. F. Worf	Self	HJR 12	✓	
A. L. Stewart Jr	Self	HJR 12	✓	
D. W. Beaman	Self	HJR 12	✓	
W. F. Bradley	Self	HJR 12	✓	
Elroy Letcher	MT Council of Cooperatives	HB 42		✓
Kerry Schaefer	Montana Grain Elevators			✓
Dan Treinen	Peavey Co			✓
David McIntosh	McIntosh Grain	HB 42		✓
Hal Hallen	Cox Agra	HB 42		✓
Czech	Farmers Grain Inc	HB 42		✓
Ken Segrellen	Western Seed & Supply	HB 42		✓
Don Hunt	Independent Grain	HB 42		✓
Smoke Elser	M. D. G. A.	HJR 12	✓	
Bob Popham	Stevensville Feed & Fuel	HB 42	✓	
I + Mrs. Denis Hatlelid	Farmer Helena	HB 42	✓	
S D Eastlick	S D Eastlick Grain & Montana Grain Elevators	HB 42		✓
Randall G. Kelly	Farmers Terminal Assn. for Cenex Mont	HB 42		✓
Ethel Reed	Mont Cattlewomen Assn	HJR 12	✓	
Ken Knudson	MT Wildlife Fed	HJR 12	✓	

(Please leave prepared statement with Secretary)

DATE 3-12-83

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
[illegible]	MT. Farmers Union	42		✓
Don Place	Independent Elevator	42		✓
[illegible] Murphy	MT Farmers Union	HJR 12	✓	
Dick Conrad	Mont. Grain Elev. Assn.	#42		✓
David McClure	Mont Farm Bureau	#42	✓	
Robert Brantley	Rancher - Member Mt. Grain Growers	HB42	✓	
Hank Brantley	Family	HB42		
Luci Briega	MEIC	HJR12	✓	

(Please leave prepared statement with Secretary)

SENATE COMMITTEE JUDICIARY

Date March 12, 1983 Bill No. HB220 Time 11:15

NAME	YES	NO
Berg, Harry K.	✓	
Brown, Bob	✓	
Crippen, Bruce D.		✓
Daniels, M.K.	✓	
Galt, Jack E.		
Halligan, Mike	✓	
Hazelbaker, Frank W.		✓
Mazurek, Joseph P.	✓	
Shaw, James N.	✓	
Turnage, Jean A.	✓	

Secretary

Chairman

Motion: Senate Shaw's motion HB220 BE NOT CONCURRED IN.

(include enough information on motion--put with yellow copy of committee report.)

EXHIBIT "A"
March 12, 1983

MONTANA FARM BUREAU FEDERATION

502 SOUTH 19th Dial 587-3153 BOZEMAN, MONTANA 59715

DATE ~~March 12, 1983~~

NAME JEANNE RANKIN BILL NUMBER HB 42

SUPPORT XXXXXXX OPPOSE AMMEND

MR CHAIRMAN AND MEMBERS OF THE JUDICIARY COMMITTEE:

My name is Jeanne Rankin and I represent over 5000 member families of the Montana Farm Bureau Federation. We would like to go on record in support of HB42. Our members strongly endorse this bill, reaffirmed by the results of the 82 convention: from our83 policy book. "

" In lieu of bonding we support a lien law giving the producer first lien on products sold and/or accounts receivable in the case of bankruptcy or failure to pay by buyers of agriculture products."

The Montana Farm Bureau has been working on the bill with Representative Donaldson since August 82 and have received correspondence from the Illinois Farm Bureau concerning recent legislation to this same issue. It is working right know in Illinois and I quote from a letter from Dale Butz, the Executive Director of Commodities of the Illinois Farm Bureau: "The financial institutions were not real happy at having to give up the blanket security agreements under which they had been operating, but as far as I know, they have accepted the new system and no elevator has been denied credit because of the law.

EXHIBIT "A"
March 12, 1983

MONTANA FARM BUREAU FEDERATION

502 SOUTH 19th Dial 587-3153 BOZEMAN, MONTANA 59715

DATE March 12, 83

NAME JEANNE RANKIN BILL NUMBER HB 42

SUPPORT XXXXXXXX OPPOSE AMMEND

Actually, our law gave legal backing to practices that had been followed by our State Department of Agriculture for several years in case of elevator failure or bankruptcy. Perhaps this made it easier to get acceptance by all parties concerned. I should point out, however, that we have not had a failure since the enactment of the law, so in a sense, it has not been tested. It was indicated earlier that there might also be a legal challenge, but so far this has not materialized... Sincerely yours, Dale Butz""

Jeanne Rankin

EXHIBIT "B"
March 12, 1983

BEFORE THE SENATE JUDICIARY COMMITTEE

IN OPPOSITION TO: HOUSE BILL NO. 42

Mr. Chairman and members of this committee. My name is Curtis Hansen and I appear here today as the Registered Lobbyist for the Montana Grain Elevator Association in opposition to House Bill No. 42.

The idea and concept behind House Bill No. 42 is good, well intended and has some merit. This ideal was the protection of the Grain Producers should another Coast Trading type bankruptcy happen in or effecting Montana.

However, I urge you to consider the following;

-1- There is considerable question as to just how much good a similar law did for the Oregon Producers in that case. I understand that there were only two (2) producers involved and that those contracts were at a price that made their consumation favorable to both Coast Trading and the others involved in this Bankruptcy.

-2- Nothing we do here is going to supersede the Federal Bankruptcy Law and Federal Bankruptcy Proceedings are still going to depend, in large part, on the interpetations of the individual Bankruptcy Judge. .

-3- House Bill No. 42 - creates a "SECRET LIEN" and that provision is unneeded. As the practice currently is within the grain marketing industry - producers can receive full payment for their grain when it is delivered to the elevator. Should House Bill No. 673 (which is being heard this morning in Senate Agriculture Committee) pass and become law - The elevator would be required to pay at least 90% of the price of the grain to the producer when it is delivered to the elevator. Still - there would be a "Secret Lien" provision. Small elevators depend on a lot of borrowed money to operate and the meer possibility of a lien that would not have to be filed or recorded would, in most cases, preclude the elevator from being able to borrow the necessary money from most lending institutions. Even in the cases of the larger corporate elevators such a Secret Lien would increase their costs of doing business which would be passed on to the producer.

-4- Possibly this bill is a part of an over reaction to the Coast Bankruptcy. House Bill 673 would tighten up requirements for a license dramitically and bonds would be increased from twenty thousand dollars ($20,000.00) to a maximum of one million dollars for both the elevator and the commodity dealer or in most cases a maximum of $2,000,000.00 !!!!!!!

-5- You have heard or will hear testimony from; PRODUCERS, ELEVATORS, BANKS, and others against and in opposition to House Bill No. 42. If all of those important segments of this industry are against this bill, why should it be passed?

As my friend and partner - Al Dougherty used to say, "IF IT AINT BROKE - DON'T FIX IT" and "IF IT AINT NEEDED DON'T PASS IT".

I would recommend a DO NOT PASS for House Bill No. 42...

Thank You.

EXHIBIT "C"
March 12, 1983

Montana Council of Cooperatives
Phone 442-2120 Area Code 406
P.O. Box 367
HELENA, MONTANA 59624

March 12, 1983

Judiciary Committee
Montana Senate

Gentlemen:

I am Elroy Letcher, Executive Secretary of the Montana Council of Cooperatives.

Our organization is made up of the Farm Supply Cooperatives, Grain Marketing Cooperatives from the local independent Farmers Elevator to the Grain Terminal Association, also the cooperatives making up the 12th Farm Credit District that are located within Montana as well as the three District Banks in Spokane Washington.

This morning I appear on behalf of our members the Farm Credit Banks of Spokane, and in doing so would like topresent the concerns of the Banks after having H.B. 42 reviewed by their three staff attorneys.

Based on these concerns we of the MOntana Council of Cooperatives would ask your committee to give this bill H.B 42 a do not pass recommendation.

Thank You

Elroy Letcher
Executive Secretary

see attached letter from Farm Credit Banks of Spokane dated 2-23-1983

HC 3-12-83

8. If dealers are included, should the lien be limited to the initial sale transaction? Possibly, the singular aspects of "subsequent sale" in Section 3 might cover this. However, the language of the bill is not clear.

9. For the benefit of the line creditor, should foreclosure procedures be included in the bill?

10. Should the law be written in such a way as to deal only with transactions in bankruptcy thereby allowing the continuation of traditional business transactions and not interfere excessively in normal commerce?

11. Is there a need to differentiate in the form of the certificate between grain that is sold and that which is only stored?

We suggest that all aspects and impacts of pending legislation be considered. We do not support strengthening one sector of the commodity production, processing and marketing chain at the expense of the other.

Respectfully submitted,

Rod R. Olson
Chairman, Farm Credit Banks
Legislative Committee

EXHIBIT "D"
March 12, 1983

Qatron
GRAIN TRANSPORTATION
CONSULTANTS
of the Pacific Northwest

February 24, 1983

Mr. Kerry Schaefer
General Mills, Inc.
P.O. Box 111
Great Falls, MT 59403

Dear Kerry:

The legislation proposed in Montana House Bill No. 42 is contrary to Interstate Commerce law. The proposed bill, as I understand it, would maintain a lien on agricultural commodities through the entire chain of transactions from producer to broker, to exporter, to final purchaser.

In Interstate Commerce law, it is generally conceded that in the case of collect shipments, that is those shipments where the receiver does, in fact, pay the transportation freight bill, the title of the goods passes at the time the shipper tenders the shipment to the carrier and the carrier executes a contract for transportation, commonly referred to as a bill of lading.

Transfer of title, from a transportation standpoint, is, of course, more complex than the above statement, however, the purchaser agrees through contract to purchase, and the shipper, by tendering the shipment to the carrier, indicates its intention to transfer title of the commodity to the purchaser.

In the event the seller, in this case the country shipper, is uncomfortable with the financial ability of the purchaser, there are numerous ways by which the shipper, or seller, can retain title to the goods until actually delivered to the purchaser. One such method is to prepay the shipment, that is for the shipper to agree to reimburse the carrier for the cost of transportation. In this way, the shipper has control over the merchandise until it is actually delivered to the purchaser. Another method is for the shipper to make use of the order notify bill of lading procedure. By utilizing this method, the shipper receives the signed bill of lading, whether collect or prepaid, from the carrier and in turn, takes the bill of lading to a financial institution, such as the bank, and declares his intent that the shipment will not be delivered to the purchaser until the purchaser has deposited a similar amount of money in a bank located at, or near destination. The paper is then transmitted to the destination bank, with notification to the purchaser that it must deliver a certain amount of money to the destination bank. Upon so doing, the bank transferrs the bill of lading, physically, to the purchaser, who in turn demonstrates to the carrier that it has met its financial obligation and is entitled to receive the merchandise. This is a well established procedure for sellers to protect themselves in the instance of selling to a questionable purchaser, or to minimize risk taking on the part of the seller.

Under the proposed legislation, it is unlikely that a purchaser would be interested in buying an agricultural commodity from a country shipper, knowing full well that the country shipper has a continuing lien on the property, not only while in the possession of the rail carrier, but while in possession of the purchaser as well, and under this bill, the first seller would have a lien on the property even after being on the high seas in a vessel destined to a foreign destination.

1500 S.W. 1st Ave., Ste. 920

It is highly unlikely that any foreign country would agree to purchase an agricultural commodity under this arrangement as it would have no protection nor assurance that the merchandise for which it had compensated an exporter would, indeed, be delivered to the designated foreign port.

There are, of course, risk takers in the business today who will purchase agricultural commodities, knowing full well the seller may have a continuing lien under certain state statutes, but it is questionable whether such state statutes would have any jurisdiction in matters of interstate or foreign commerce, however if the courts held that state laws did govern interstate or foreign commerce, it is highly unlikely that any foreign purchaser would be in the market because of the conditions outlined above.

It would appear that the legislation here proposed would cause a purchaser, either domestic or foreign, to inquire into each agricultural commodity purchase in an effort to determine if there is, in fact, a lien or if the commodity is lien-free, and of course, this procedure would be very time consuming and not totally accurate as all liens may not necessarily be recorded, thereby leaving such purchasers at the whim of the seller.

It would appear that the proposed legislation would be most regressive and could impact most severely on agricultural commodities moving from any state embracing such legislation.

Sincerely,

Cecil L. Brennan,
Executive Vice President

CLB:tf

cc: Don Munkers
PNW Grain & Feed Assn.

EXHIBIT "E"
March 12, 1983

Grain Terminal Association

• 600 Sixth St. SW • P.O. Box 671 Great Falls, MT 59403

March 10, 1983

To: Senate Judiciary Committee

Subject: House Bill #42

Dear Sirs:

We in G.T.A. feel that House Bill #42 would be a real detriment to the Montana agricultural industry and the Montana farmer. First, it would put an added burden on the sale of Montana grain. When another state would be selling their hard wheats with no burden such as mortgages on this grain, free and clear, and Montana would have to carry a mortgage, it would definitely cause the purchasers of this grain to buy elsewhere first. Secondly, the financing of elevators would be in jeopardy because all banking industries, may it be bank of cooperatives or private banks, are going to want first mortgage on the money they have loaned for operations. Under this law they would not have first mortgage. With these two problems within this bill, we urge you not to burden the already burdened grain trade and farmers with more problems and more ways to destroy Montana's agri business.

Yours very truly,

GRAIN TERMINAL ASSOCIATION

Mel Sobolik

Mel Sobolik
Director Country Operation
Pacific Northwest

MS/nab

EXHIBIT "F"
March 12, 1983

PACIFIC NORTHWEST GRAIN & FEED ASSOCIATION, INC.

222 S.W. Harrison Street
Suite GA-6 / Portland, OR 97201
503 / 227-0234

February 28, 1983

Kerry Schaeffer
General Mills, Inc.
202 Central Avenue
Box 5022
Great Falls, MT 59403

Dear Kerry,

In reviewing House Bill #42, which creates a priority lien in favor of agricultural commodity producers and agricultural commodity dealers, it is my opinion this legislation has a potential of severly curtailing agricultural grain trading in the state of Montana as it is known today.

According to section IV, the duration of the lien is supposed to remain in affect for a 90-day period at the maximum. It is my opinion the banking industries will look upon this secret automatic lien as a significant liability against the collateral of a warehouse company or the west coast reseller and therefore make substantial changes in their procedures for loaning money to those companies. These changes could be in the form of less cash available for short term borrowing and/or higher interest rates for the money. None of this, of course, it's quickly seen, is in the best interest of the producers or the total grain industry. Likewise, if the producer is able to extend this lien, as provided for in the subsections of section IV, then why do we want to encumber a business activity with a 90-day secret lien when the producer has the ability to secure a lien by conventional means.

Under section VI, the lien is supposedly discharged when the lien holder receives full payment, or when a negotiable instrument clears the banking channels. However under subsection II, the lien is also discharged except as to the proceeds to the sale when the commodity is sold to a third party. Because of the wording of this particular subsection and because of the nature of the bill in total, it is apparent the lien will follow the grain down the marketing channel from Montana to the export location and possibly to the final purchaser. For this reason, it is hard to understand why anyone would want to purchase a product from the state of Montana since a hidden encumberance is upon it. It is my opinion, therefore, that this particular section and this bill in total could severly curtail, again, the activities of marketing grain out of the big sky country.

In conclusion, House Bill #42 does not follow the standard procedures for marketing grain from producer to ultimate customer. It puts encumbrances, that are secretive in nature, upon the grain or the proceeds thereof for periods of time that will severly curtail the borrowing of short term capital by warehouse companies and west coast resellers. Since the legislation is secretive in nature, and the discharge of the lien is hidden at best, and because of the verbage and the nature of the

legislation, the grain export trade and the foreign customers and domestic customers could look with jaundice eye at procuring commodities from the state of Montana and indeed their trading activities, not unlike the banking practices, might see some radical changes for the state. I do not think producers are willing to pay that kind of price for protection that might be over ruled by the Federal Bankruptcy code. Also, the definition of sold not being concise, could have an adverse effect on farmer activities and deferred price contracts. It could also be in severe conflict with the 90% advance clause in the general warehouse legislation. In other words, since the short term borrowing capabilities of the warehouse are so severly curtailed, the 90% advance might be unable to be complied with and/or we might have a situation where the grain market in the state of Montana opens at 8:00 and close at 8:05 because of the inability of the warehousemen to adequately compensate the farmer according to standard practices of today.

In general, I think that House Bill #42 should be disposed of in the quickest cleanest manner possible, as it is not in the best interest of farmer or warehousemen.

Sincerely yours,

PACIFIC NORTHWEST GRAIN & FEED ASSOCIATION

Don W. Munkers, Executive Vice President

DWM/sjh

EXHIBIT "G"
March 12, 1983

GENERAL MILLS, INC. • EXECUTIVE OFFICES • 9200 Wayzata Boulevard • Minneapolis, Minnesota • (612) 540-2270

March 3, 1983

GAYLE L. CROSE
Associate Counsel

Mr. Frederick E. Page
Community Representative
& Manager, Pacific Northwest
Grain Operations
General Mills, Inc.
202 Central Avenue
Great Falls, Montana 59403

Re: HB42

Dear Fred:

I have reviewed HB42 in the form attached to this letter. It seems to me that this bill is both unnecessary and one sure to create uncertainty and litigation if enacted.

Adequate mechanisms presently exist under Montana laws for obtaining a lien or security interest in grain sold in Montana. Any producer can provide for a purchase money security interest in grain he/she sells to a third party.

Creation of an automatic priority lien in the proceeds of the subsequent sale of the agricultural commodity may make it impossible for many agricultural commodity dealers to obtain financing or to obtain extensions of credit from suppliers for goods, materials or services essential to the operation of their businesses. This could pose a serious threat to the whole system of agricultural marketing if purchasers are thereby removed from the market.

Because of the fungibility of both agricultural commodities and proceeds it will be extremely difficult to determine at a later time whether an individual producer's lien is in the cash or the commodities inventory of a dealer. Depending on the market price for that commodity at any time, producers may be fiercely litigating to establish where their individual liens attach. Furthermore, I can envision litigation arising because a producer will erroneously believe that because he has a lien on the proceeds of the commodity that a subsequent purchaser from the producer's purchaser must pay the producer

or be liable if the first purchaser does not pay over the proceeds due the producer. While I do not believe that the act creates any liability between a third party purchaser and a producer, I would anticipate some useless litigation nonetheless.

In summary, Fred, I do not believe that this legislation is in the best interests of producers or dealers. Rather, it is likely to prove disruptive and unduly burdensome and may well lessen Montana's ability to be competitive with other agricultural markets.

Sincerely,

Gayle L. Crose

GLC:mcn

Peavey

EXHIBIT "H"
March 12, 1983

Peavey Grain Companies
Peavey Building
730 Second Avenue South
Minneapolis, Minnesota 55402

T. Truxtun Morrison
Executive Vice President
612 370 7548

March 10, 1983

The Honorable Jean A. Turnage
Chairman, Senate Judiciary Committee
Montana State Capitol
Helena, MT 59620

Dear Senator Turnage:

My name is T. Truxtun Morrison and I am writing this as the Exective Vice President for the Peavey Grain Companies.

Peavey, or its affiliates, operates 12 grain elevators or subterminals in the state of Montana and has a grain merchandising office in Bozeman, Montana. In addition to the above, we are in the final stages of completing a $50 million export terminal located at Kalama, Washington, which will export wheat and barley from the state of Montana.

In our opinion, HB 42 will hurt the producer and the Independent Country Elevators for the following reason: Our bids on grain to the country elevators will either reflect the cost of an insurance premium (presently not carried by us) to allow us to insure this additional risk or we will insist that the Independent Country Elevator carry either a bond or an insurance policy covering the same. Either way, the cost of doing business for the Indpendent Country Elevator will be higher with the passage of HB 42, thus making the price to the producer lower.

I urge your Committee to reject HB 42 as I feel it is a great disservice to the producers in the state of Montana at a time they can ill afford it.

Yours sincerely,

T. Truxtun Morrison
Executive Vice President

TTM/kj/30103/2

EXHIBIT "I"
March 12, 1983

ANTELOPE GRAIN CO.
Antelope, Mt. 59211

Senate Judiciary Committee
State Capitol
Helena, Montana

March 9, 1983

Committee Members:

We are opposed to House Bill 42. We feel it will be very detrimental to our business, in regards to our borrowing of money, for the support of our business.

Because of the lien being past on to the third party, our grain buyers will shy away from doing business with us, as independent elevators, because they will be held liable for the lien, on said grain, if anything would happen to us.

Sincerely,

R.A. Krumwiede

R.A. Krumwiede
DB/A Antelope Grain Co.
Antelope, Montana

EXHIBIT "J"
March 12, 1983

Hageman Elevator, Inc.

Grain, Feed and Seeds

March 10, 1983

Judiciary Committee
Montana Senate
Helena, Montana

Ladies and Gentlemen:

I would like to have appeared before you in person to explain my objections to HB 42 but due to a business commitment in Washington, D.C. at this time I am unable to do so.

My interpretation of HB 42 leads me to believe it would make it extremely difficult for many country elevators in Montana to continue to operate. It could make it difficult or impossible to obtain financing for the purchase of grain from producers. Or it might necessitate the practice of delaying payment for six months after a grain purchase is made. Very few if any producers would favor that proceedure in marketing their grain.

Country elevators have been failing or going out of business for varying reasons at an alarming rate. The provisions of HB 42 could very well accelerate this trend in Montana. This would leave very little competition for the purchase of grain from producers.

The mills, terminals, and exporters to whom we consign our grain will certainly be more reluctant to purchase Montana grain not knowing if it is really merchantable or might later be found not to be so.

In summary, I believe the provisions of HB 42 contain many more disadvantages in marketing and financing Montana grain crops than any advantage it may have for grain producers.

Respectfully,

K G Hageman

P.O. Box 265 • Laurel, MT 59044

K.G. Hageman - President
Telephone: (406) 628-4818

EXHIBIT "K"
March 12, 1983

P.O. Box 2548
Great Falls, Montana 59401
Phone (406) 453-4321

Flour Milling Company

ConAgra owns and operates two flour mills in Montana and in so doing purchases wheat from producers, dealers and elevators.

Bill No. HB-42 would establish a lein on agricultural commodities which would be discharged when the leinholder receives full payment from the commodity. In our opinion, establishment of a lein on a commodity will hinder trading as normally conducted in the grain marketing system.

Multiple trades can be made from producer to dealer to elevator to mill or exporter with the commodity normally loosing its identity. The two parties entering the contract to buy and sell are encunbered with commodities which have a lein attached and have an obligation only to one another.

It could be that under this law a method of bonding would have to be established so commodities could be freely traded in the markets. Such a system may not be feasible.

In our opinion, this law restricting the marketing of commodities as now enjoyed by all parties from producer to mill or exporter and those most damaged by lein attachment to commodities are the smaller enterprises.

Sincerely,

Del Hollern

Del Hollern
Manager, Flour Mill

EXHIBIT "L"
March 12, 1983

STATEMENT MADE BY JOHN R. MILODRAGOVICH BEFORE THE SENATE JUDICIARY COMMITTEE ON H.J.R. #12.

March 12, 1983

MR. CHAIRMAN AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE:

For the record, my name is John R. Milodragovich. I am a native Montanan, a retired forester, and presently engaged in a small ranching operation in Missoula County. I appreciate this opportunity to appear before this Committee to express my views in support of H.J.R. #12.

This is the fourth time in my experience that efforts have been made to dispose of Federal public lands on a large scale. The Administration has announced its intent to sell off public lands to help pay off the national debt. While I believe deficit financing should be eliminated and the national debt reduced, I strongly oppose the Administration's announced quick fix approach.

The national debt exceeds $1 trillion. The interest paid by the Federal Government on that borrowed money in 1983 alone is estimated at $113.2 billion. The Administration's announced goal of collecting $17 billion from public land sales during the next five years is only one-fifth of the interest owed in 1983. You can readily see the announced program would do nothing toward reducing the national debt. It could, however, open the door to dismantling the public domain and the National Forest System.

The Congress of the United States has always maintained constraints on the disposal of public lands. As recently as 1976, Congress re-affirmed its longstanding position in passing the Federal Land Policy and Management Act and the National Forest Management Act which states that public lands will be retained in Federal ownership. The laws do make provisions for disposal of public lands identified through the planning process.

The Secretary of Agriculture has limited authority today to dispose of national forest lands but the Administration wants wholesale disposal. Secretary of Agriculture Block has announced that 60,000 acres of national forest lands have been identified for immediate sale and that a review, scheduled to be completed in January 1983, is expected to identify 15 to 18 million acres of national forest land which will be studied for potential disposal.

New legislation would be needed for sales of such magnitude. In a Washington news release dated November 24, 1982, Secretary of Agriculture John R. Block stressed that the USDA does not currently have statutory authority to sell most national forest lands. He said the Department will be submitting proposed legislation in the 98th Congress.

Interior Secretary Watt has said as much as five percent of the public domain might be sold. Administration officials have publicly discussed ultimately selling as much as 155 million acres of public domain managed by the BLM.

The White House Property Review Board was established by Executive Order on February 25, 1982. The Board is busily engaged in implementing the Administration's proposed sale of land and properties. Despite objections of Congressional leaders, members of the Board have

publicly established the program's targets to be the sale of $17 billion of public lands and properties over the next five years.

"L"
3-12-83

Members of the Property Review Board have yet to come to Montana or other western states to explain this program or to hear from the people who could be directly affected.

We know that BLM and Forest Service employees are busy studying and preparing lands for sale in Montana. Information on areas being studied and acres to be offered for sale are not available.

Federal lands managed under multiple use represent a vast storehouse of publicly owned resources such as water, outdoor recreation, wildlife and fish, timber, range, and minerals. These lands provide millions of hunters, fishermen, campers, picnickers, backpackers, skiers, snowmobilers, horseback riders, and others a place to recreate without encountering "No Trespassing" signs.

These Federal lands are now available for use and enjoyment by all American citizens. These lands should remain in Federal ownership which will ensure multiple use management and public use.

In closing, I ask that the attached photocopied materials be entered into the Hearing record:

* "They're Selling our Forests"- Outdoor Life, Dec. 1982.
* "Privitization -- The Reagan Administration's Master Plan of Government Giveawasy," Sierra, November/December 1982.
* "Congress Decidedly Cool to Reagan Land-Sale Plan," Congressional Quarterly, July 1982.
* "Privatization -- Shorthand for the Disposal of Public Lands," American Forests, December 1982.

Mr. Chairman, Neal Rahm, former Regional Forester, United States Forest Service, planned to attend this Hearing to testify. Emergency heart by-pass surgery changed his plans.

With your permission, I ask that his letter to the Missoulian dated January 13, 1983, entitled "Block Sale of Forests," be entered into the Hearing record.

CARMONA PHOTOGRAPHY

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PRIVATIZATION

JOHN HOOPER

SINCE THE BEGINNING of the Reagan administration, environmentalists have objected to appointment after appointment, and policy after policy. In recent months, however, many of the specific proposals and attitudes environmentalists protested have coalesced into one general and pervasive threat. It's called "privatization" and it sounds innocent and simple: the government sells off "excess" federal property and uses the proceeds to balance the budget. An important variation on the theme calls for long-term leasing of energy and mineral resources to private corporations at minute fractions of their true value. Environmental economists have estimated that the Reagan administration's proposed oil and gas leasing policy will end up costing the taxpayers $97 billion, an amount equivalent to virtually the entire budget deficit for fiscal 1983. Both privatization and giveaway leases transfer publicly owned wealth to a few large companies.

Two of the most controversial candidates for privatization. Left: Fort DeRussy, the last open space on Honolulu's Waikiki. Above: California's Point Sur Light Station perches on the massive rock in the foreground.

"Privatization" takes the Sagebrush Rebellion banner under which Ronald Reagan rode into office, and carries it one step further. Rather than simply transferring the management of federally administered lands to the western states in which they are located, as the Sagebrush Rebels had originally advocated, privatization would skip that intermediate step and sell public lands outright to private interests or give away natural resources through long-term leases.

The ostensible purpose of the program is to reduce the national debt; as James Watt says, "What better way to raise some of the revenues that we so badly need than by selling some of the land and buildings that we don't need?" Another administration spokesman told *Time*, "It is the best way we can think of to relieve the debt because it doesn't hurt anyone. It doesn't raise taxes. It doesn't cut anyone's budget. It just raises money."

The five-year program would involve the sale of roughly 5% of all federally owned lands, a total of some 35 million acres, an area the size of Iowa. These sales would bring in a total of $17 billion over five years. In terms of the national debt, this is an insignificant figure. Year by year, the revenues would reduce the debt by about .003%.

The administration also believes that "surplus" federal land could become more economically productive—more profitable

—in private hands. In announcing the land-sale program, Watt explained, "A sheep pasture will become an industrial site, desert lands will be used for hotels and resorts."

The actual workings of the program seem a bit unclear as yet. A newly established Property Review Board will provide policy direction for the disposal of properties. So far, the Reagan administration has identified some 307 parcels totalling 60,000 acres for sale in the near future. Some of these lands are not controversial; even environmentalists agree that they can be sold to private interests with little danger to the public interest. Others, however, are items of contention; a light station at Big Sur, for example, is reportedly up for sale, as is the last remaining open space on Honolulu's Waikiki Beach.

At present, about one third of the land in this country is owned by its citizens. A common misperception is that these lands belong to some distant landlord called the "federal government." While it is true that federal agencies *administer* this land on behalf of the citizens of the United States, *we*, in fact, are the true owners. There are nearly three acres of federally administered public land for each citizen of the United States. The total 740 million acres of public lands are more than just national parks, wildlife refuges, wilderness areas, forests and deserts. A nation remains great only as long as it protects its natural resources, and public lands hold some of the most tangible elements of the American dream. On or in them are half the standing timber, untold minerals and most of the energy resources known in the United States. At present, federal lands are protected from overexploitation and abuse by a great number of regulations and a set of key land-use policies, such as multiple-use and sustained yield management. Privatization would remove such restrictions—and would make lands vulnerable to the sort of short-term profit taking that many corporations practice in time of economic stress.

The concept of the "public domain" is as old as our country. The issue of how the newly established United States would handle its western lands and future territorial additions was one of the most discussed at the Second Continental Congress. Several of the original states held claims to large areas of western "reserves," which each

In August 1982, the Forest Service approved oil and gas leases for all available acreage in the Hoosier National Forest (below).

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perceived to be under its exclusive jurisdiction. But in 1779 the Continental Congress resolved that lands ceded to the United States would be used for the benefit of *all* citizens. As new states entered the Union, Congress granted each substantial amounts of public land in return for which they relinquished claims to other lands within their borders. Today, state and local governments own about 6% of the total U.S. land.

The question of how best to manage public lands has been a topic of intense debate ever since. Until the late 1800s, Congress was very generous and made major land grants, not only to the states for schools, roads and other purposes, but also to the railroads, to miners, to timber producers and, through the Homestead Act, to individuals. Of the U.S.'s total land area of some 2.2 billion acres, the federal government once owned about 85%, some 1860 million acres. It has since disposed of about 62% of its peak holdings; today, the federal lands constitute about 34% of the total.

Congress gradually came to realize that the federal land base was being dismantled, mismanaged and even destroyed, and that there was a pressing need to protect it.

In 1976, Congress passed the Federal Land Policy and Management Act, establishing firm, updated objectives for the administration by the Bureau of Land Management of the remaining public lands. In adopting the law, Congress said: "It is the policy of the United States that the public lands be retained in federal ownership, unless as a result of the land-use planning procedure provided for in this act, it is determined that disposal of a particular parcel will serve the national interest." This legislation was pushed through Congress by some of the same legislators who are now bent on dismantling the public domain.

The philosophical premise on which privatization is justified was summed up quite simply by Steven Hanke, who was until recently the senior economist on the President's Council of Economic Advisors and the man most directly responsible for putting privatization on the President's agenda. Pointing to a myriad of examples of how public lands are mismanaged and how terribly inefficient government ownership can be, Hanke stated: "Land, like all other resources, is most productive when in private hands." The implication is that everyone would benefit if the public lands were owned and managed by the private sector and managed exclusively for their highest economic return. But the record indicates otherwise. The proponents of privatization ignore entirely the environmental abuses—the "cut and run" tactics—that private management has allowed in this country and that government has repeatedly attempted to control.

Measuring Benefits

Economic return cannot be used as the sole measure of public benefit from federally owned property. The economic return is most likely to benefit the private owners of land that undergoes privatization—or else, why would they want it? Furthermore, public benefit must be assessed using a more complicated formula, one that considers other values; what serves the public interest does not always provide the highest economic return. The public interest may at times be best served by using a particular parcel for a park, a hospital or other use that may not be as economically attractive as private development.

The question of private and public ownership of natural resources involves many environmental issues, some of which are not usually considered part of the ongoing debate over privatization and energy resources. Forest management and grazing policy are two issues that exemplify the conflicting goals and management objectives of private and public-land management. During the 19th century, vast forested areas of the Midwest and West were cleared for farmland and timber production. But careless techniques and severe overcutting produced tremendous problems, including ruined watersheds, unsuccessful forest regeneration, severe loss of wildlife habitat and overgrazing. Eventually, public concern over the deteriorating condition of the nation's forests led to the creation, in the 1890s, of forest "reserves," which evolved into the national forest system.

There followed a long period during which the national forests were managed on a custodial basis; relatively little timber harvesting took place. However, since World War II, the timber industry has been vastly overcutting its own private inventory, particularly in California, Oregon and Washington. This rapid overcutting has resulted, over the past 25 years, in a 50% reduction in the timber industry's private inventory of uncut timber. Now, after decades of cutting far beyond a sustained-yield level, the timber industry is pressing the federal government to increase the level of allowable timber harvests from national forests. In particular, the timber industry is pushing for permission to cut the last remaining stands of valuable virgin timber.

The national forests have acted as a kind of "buffer" that has limited the extent of private-sector mismanagement. Federal forestlands have not been as severely overcut because they are managed according to the "multiple use" principles; that is, the forests are managed not simply for the highest dollar return that can be achieved by cutting timber but also for fish and wildlife habitat, preservation of water quality, recreation, forage and wilderness. Multiple-use management reflects the diversity of the users (and inhabitants) of the forests, rather than the private economic interests of one powerful industry.

Increasing the cut on the national forests doesn't make ecological or economic sense; overexploitation cannot be sustained. Nevertheless, the pressure to do so is intense and originates at a high level.

President Reagan's Assistant Secretary of Agriculture, John Crowell (formerly general counsel for Louisiana-Pacific Corporation, one of the largest buyers of federal timber), believes the annual potential yield from the national forests to be an astounding 35 billion board feet, more than triple the existing 11 billion board foot level. Increasing the allowable cut on national forestlands is not a giveaway of the land itself, but of irreplaceable natural resources. Such harvest levels jeopardize future timber supplies as well as endangering the ecological viability of forests for years if not centuries to come. Soil erosion would increase, and water quality would be harmed. Wildlife habitat would suffer; recreation and aesthetic values would be damaged. Finally, there is no need to increase the timber cut during a period of deep recession. Housing starts are at an all-time low, and the backlog of timber that has been sold but not cut in the national forests is approaching 40 billion board feet. In fact, the timber industry is trying to convince Congress to pass legislation allowing companies to terminate or extend existing contracts.

Only about 20% of our timber supply comes from national forests. The vast majority of our most productive timberlands is already privately owned. What we need is not privatization but improved management techniques on private timberlands.

Grazing livestock on public lands provides another example of how advice from the private sector is exacerbating poor management. More than one third of the Bureau of Land Management's 170 million acres of grazing lands are in poor condition as a result of overgrazing. The numbers of grazing animals must be reduced if the range is to be restored, but the Reagan administration has

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taken the opposite course by circumventing a court order to perform environmental studies of federal grazing lands by continuing to allow overgrazing.

There is plenty of opportunity to increase livestock production of private lands. More than 400 million acres of rangeland are privately owned, and 86% of livestock is produced on these lands.

These situations illustrate the differences between public-lands and private-sector management. Managers of privately owned lands are in business to make money; they must pay close heed to the stockholders and the annual report. But public-land managers are required by law to regard the consequences of their policies and actions from a broader perspective. How will a proposed timber sale affect wildlife, water quality, fisheries and recreation? Public-land managers must also weigh values that are not easily quantifiable, such as wilderness, wildlife and aesthetics, against commodity values. They are required to sanction only activities that can be sustained over time. These are constraints that private managers often need not consider.

This is not to say that public-land managers do not have a lot to learn from the private sector. However, the fact that government management is sometimes inefficient does not necessarily mean that the private sector should take over ownership of the public lands or of key resources.

Increasing Revenue

The government already supports private industry by subsidizing the production of virtually all commodities taken from public lands: timber, forage, oil and gas, water and minerals. But to generate $17 billion in revenue over the next five years, as the Reagan administration anticipates, further giveaways have been deemed necessary. For the land sales will inevitably include Forest

Privatization Close Up

DEBBIE SEASE

Proponents of privatization sometimes try to play down the potential impact of selling off public lands by depicting the areas proposed for sale as little more than vacant lots, deserted buildings and small parcels of useless wasteland. Were this true, the program could never generate the revenues projected for it. Moreover, even a cursory examination of even the limited list of areas already identified for disposal will quickly correct this misrepresentation.

Privatization promoters cite Fort DeRussy in Hawaii as a prime example of the kind of land that should be sold; they decry the existing military resort hotel as a boondoggle and a waste of taxpayers' money. But Fort DeRussy is a 117-acre remnant of open space within highly urbanized Honolulu; it includes one of the few beaches in the city not owned by private interests. Though it may be inappropriate for the Defense Department to retain the property, the citizens of Hawaii have made it clear that they care deeply about this small patch of green space in Honolulu and that they will vehemently oppose its sale to the developers.

Far to the east, the citizens of Boston are similarly concerned about the proposal to sell a 756-acre federal tract in Hingham. State officials have sought to acquire this area of dense woods and open fields as an addition to Wompatuck State Park. The state of Massachusetts wants to use the area for hiking and riding trails and for picnic and playgrounds for the Boston area, which has very little recreational land available.

A small but scenic and historically significant parcel, Point Sur Lighthouse on California's Big Sur coast is another of the areas on the administration's "for sale" list.

These are but a few examples of the "useless" lands that may soon be put on the auction block. In years past and under previous administrations, such "surplus" lands would have first been offered to other federal, state or local agencies for parks, recreation areas, wildlife refuges or other public uses. In fact, it was through this policy that such popular urban parks as California's Golden Gate National Recreation Area, Seattle's Discovery Park and New York's Gateway National Recreation Area were established. But important additions to these parks are now threatened by the Reagan administration's policy of selling surplus property to the highest bidder without first considering whether a transfer to another government agency, at rates lower than commercial market values, would serve important public purposes—and make more sense in the long run.

Most of the 35 million acres Reagan proposes to sell over the next five years are lands managed by the Forest Service and the Bureau of Land Management. The administration describes such lands as unimportant—small, scattered and isolated tracts that are hard to manage and of little public value. Unquestionably, some federal lands meet this description and might be sold. But "small" and "isolated" does not necessarily connote "valueless." Many of the lands are scattered parcels located in valleys that have been largely cultivated and irrigated for agriculture. These small, isolated tracts are sometimes all that remain of unplowed, natural landscapes.

For example, the Forest Service manages 797 acres in California's San Joaquin Valley—a small remnant of the original San Joaquin desert grassland ecosystem. It is the habitat of many rare endemic plant and animal species; in fact, it is designated critical habitat for the San Joaquin blunt-nosed leopard lizard, a reptile listed by both the state and federal governments as rare and endangered. The rare and endangered San Joaquin kit fox has been sighted in the area, which is also, coincidentally, a favorite bird-watching spot for local residents, and is only two miles from a national wildlife refuge. But in August the Forest Service announced that this parcel was part of the acreage that had been designated for immediate sale.

This is only one example of the sort of lands selected for privatization whose value and uniqueness might not be immediately apparent. How many more such areas are also rich in wildlife and other values? It's impossible to know at this time; the administration won't disclose details. It confines its information to generalizations, acreage summaries and vague categories. □

Debbie Sease works on public lands issues in the Sierra Club's Washington D.C. office.

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Service and Bureau of Land Management lands that could generate profits but do not because they are currently not being fiscally well managed. In fact, Agriculture Secretary Block has stated that he will send legislation to Congress to give him authority to sell off Forest Service lands, and that he may eventually identify some 15 million acres for sale.

It isn't necessary or desirable to sell "unprofitable" Forest Service and Bureau of Land Management lands, however; revenues could be increased substantially by charging fair market prices for resources on public lands: forage, timber, minerals and oil and gas. Since the common justification for privatization (and long-term leases) is to increase the revenues to the federal government, it is important to note that these proposed policies will end up costing the American public an immense amount of money. Leases such as those planned by Secretary Watt are contracts that shift the ownership of natural resources from the public to corporations. Some leases last 50 years or more and cannot be cancelled without due process and just compensation to the corporations involved. The leases or sale arrangements guarantee little environmental protection and ensure only minimum payments to the owners of the land—the American people. The leases do assure, however, maximum profits and corporate control over public land. Bern Shanks, assistant resources secretary of the state of California, was one of the early analysts of the consequences of privatization. His findings were seminal and cogent, and his conclusions were startling. The public will end up losing the future market value of Watt's leases; at today's prices, the losses may exceed $1 trillion—enough to liquidate the national debt. In contrast, the five-year Reagan privatization program would raise a total of $17 billion, an amount equivalent to a little more than 1% of the national debt.

What is needed is *not* a "fire sale" of large amounts of publicly owned acreage and not long-term leases of energy resources—proposals that will enrich only a few large corporations.

If "free market" bidding for the privilege of using resources from public lands were practiced, revenues could be increased by many billions of dollars. Removing existing subsidies, which represent a significant drain on the treasury, and replacing them with lease arrangements that would guarantee a fair return would have much greater value to the public than a one-time sale of our heritage.

One of the largest sources of fossil-fuel energy in the nation is the estimated 400 billion tons of coal underlying western public lands. Watt has opened these lands to coal leasing as part of his plan to "restore" America's greatness. He has repeatedly complained of "radical environmentalists" who blocked new coal leases for a decade. The fact is this: There was a ten-year moratorium on leasing imposed in 1971 by Richard Nixon. The reason was simple. At that time, more than 16.5 billion tons of coal had been transferred to corporate ownership by more than 500 coal leases on nearly a million acres of public lands. But each year an average of only .004% of this leased coal was actually produced. At that rate, federal coal already leased would take about 200 years to be exploited. Why lease more? Flooding the market with coal from public lands has one simple economic result: it lowers prices for the corporations buying the coal and consequently reduces income for the federal government. A similar situation is now occurring with oil and gas. About 75% of the oil and gas leases now issued on federal lands expire without any work whatsoever being done on them; selling still more leases won't lower energy prices for consumers or guarantee that federal revenues will increase significantly. Yet Secretary Watt is persisting in this uneconomical process, flooding the energy market with public energy and transferring wealth and control to corporations.

Secretary Watt recently authorized the Powder River coal lease in Montana, the largest coal lease in history, 2.4 billion tons. Another billion tons in the Fort Union area is scheduled for sale in 1983. A 1.5-billion-ton sale is planned for Utah's Book Cliffs in 1983, and a 3.3-billion-ton lease in southwestern Utah is expected. In all, Watt has scheduled coal sales that will last 50 years or more on top of the old leases. At the same time, he has proposed regulations that slow the production of coal from federal lands. Why? Again, the reason involves the tremendous value of the leases themselves. Existing leases on unmined land are worth approximately $550 billion; Watt's planned leases are worth about $750 million—at today's prices. If we project even conservative increases in energy prices, these sales of public resources will be worth approximately $4.5 trillion to energy corporations by the end of the century, when the mines eventually reach maximum production. Yet Watt's leasing terms assure that the American people will receive only pennies on the dollar for their own resources.

The Reagan administration is dismantling decades of slow progress that has been made in public-lands management. The wealth of the nation—our very strength and heritage—is being turned over to private interests. □

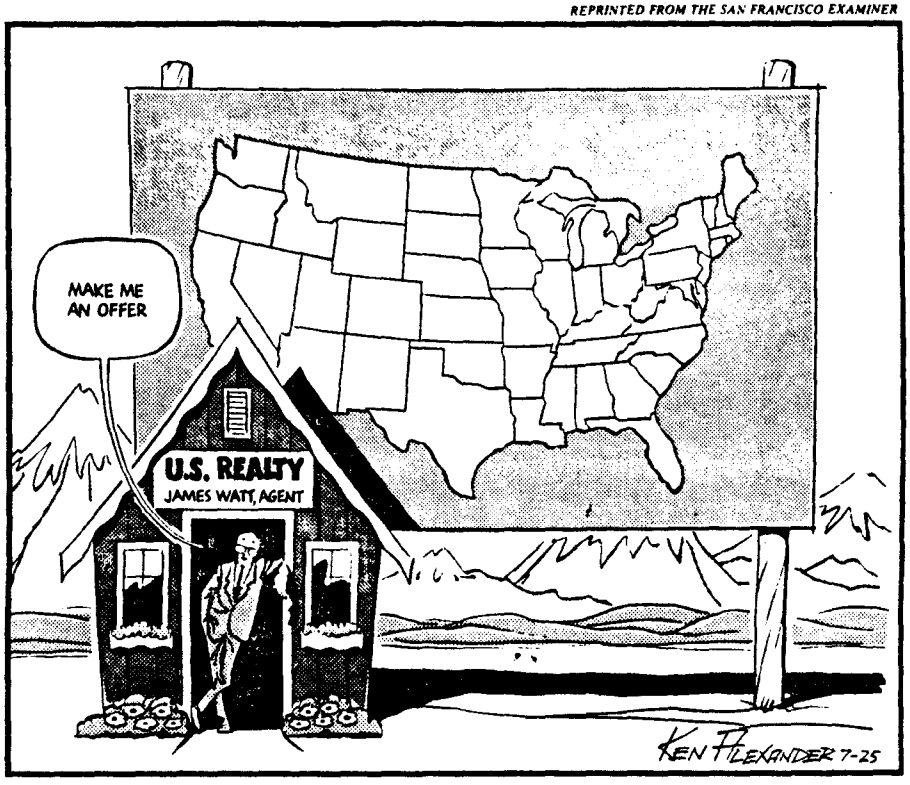

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EXHIBIT "L"
March 12, 1983

Dec. 1982
Outdoor Life

They're Selling Our Forests

By Lonnie Williamson and Daniel Poole of the Wildlife Management Institute

Ill winds blowing across the nation's public lands have blown the "Sagebrush Rebellion" is out. "Privatization" and "asset management" are in. The ideas are a bit different, but the results would be the same. We Americans would lose a large chunk of our public lands, along with the abundant hunting, fishing, camping, hiking and other outdoor recreation that is now available on those lands.

The sagebrush rebellion is the brainchild of some Western livestock producers who hold permits to graze their animals on the public's land. They saw it as a means of softening Uncle Sam's limitations on their use of those lands. Certainly other economic interests are involved, but it appears to have been the cattlemen and sheep grazers who initiated the most recent takeover attempt. Actually, this is only the latest skirmish in a decades-long battle between those charged by law to manage federal lands in the public interest—the U.S. Forest Service and the U.S. Bureau of Land Management—and those with special interests who are permitted to use the lands for private economic gain. In addition to the shamefully low grazing fees that permittees have been able to force on the agencies over the years, they want greater liberties in their use and control of the public lands.

The latest stated goal of these people is to have Uncle Sam's land transferred from the federal government to the states and then to private ownership. Many reasons were given to support their case and most were invalid. The real reason, personal profit, was kept under cover. It was veiled so thinly, however, that the public had little trouble detecting the scam and no reluctance in blowing the whistle. Congress and the Reagan administration pushed the sagebrushers to arm's length and began to talk about being "good

The Reagan administration wants to sell 144 million acres of national forests and grasslands. If the government succeeds, most of our 83,000 miles of fishing streams, 2.7 million acres of lakes and 45 million acres of big-game range could be lost forever. Chances are, some of this land is used by you for camping, hunting and fishing.

neighbors" instead. The movement began to fizzle. It continues to do so.

But as the sagebrushers trail into the sunset, another scheme has surfaced to get the public's land in private hands. The new idea is to sell the lands and help pay off the national debt. It is called "privatization" or "asset management."

Apparently this latest ploy to divest the public of its land came from the President's Council of Economic Advisors, a group overwhelmingly consumed with the notion that there is a quick and easy way to extract the federal government from its economic Vietnam.

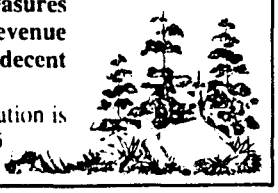
The thinking there, according to a former senior economist with the council, is that public ownership inexorably leads to an unproductive and inefficient use of resources. Balzac, a French novelist of the last century, was quoted to the effect that because a private landowner is responsible for the consequences of his decision, the owner has incentive to use the property efficiently and productively.

Budget Director David Stockman echoed this line of thought in 1982 testimony before a Senate committee when he described national forests and the public domain as "residual property," which has potential for higher and better use in "private ownership."

Congressman Ken Kramer (R-CO), a devoted sagebrush rebel, referred to public land disposal as "marketing part of America for Americans."

Balzac's theory is a perfect hideout for the budget balancers who have a laudable goal but too little gumption to make the tough choices necessary to succeed. **Instead of reducing government waste and spending enough to eliminate deficits, the Office of Management and Budget, the White House and some in Congress apparently would sell a national heritage to salve their procrastinatory instincts.** That chafes the millions of Americans

who use and depend on public lands for hunting, fishing and other forms of outdoor recreation. It is especially annoying in the light of numerous budget leaks, such as Honduras receiving a $28.5 million economic assistance grant in 1982—$11 million of which will be used to transfer public lands in that Central American country to private ownership. Apparently our leaders not only chose to sell our public lands, they pay other countries to do likewise. **It seems inconsistent that the business-minded Reagan administration would want to sell its most priceless treasures that produce billions of dollars in revenue each year and can do so forever with decent management.**



The Balzacian chorus of the administration is

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What We Will Lose

State	National Forest or National Grassland (NGL)	Acres	Acres Available For Sale
Alabama	Conecuh	82,790	82,790
	Talladega	371,139	356,588
	Tuskegee	10,795	10,795
	William B. Bankhead	179,608	136,551
	Total	**644,332**	**586,724**
Alaska	Chugach	6,236,040	2,087,202
	Tongass	16,931,502	11,569,603
	Total	**23,167,542**	**13,656,805**
Arizona	Apache	1,187,478	819,920
	Coconino	1,835,930	1,658,195
	Coronado	1,713,258	1,227,376
	Kaibab	1,556,467	1,446,934
	Prescott	1,237,076	1,138,228
	Sitgreaves	815,343	815,343
	Tonto	2,874,500	2,366,261
	Total	**11,220,052**	**9,472,257**
Arkansas	Ouachita	1,336,834	1,288,562
	Ozark	1,118,170	1,079,191
	St. Francis	20,946	20,946
	Total	**2,475,950**	**2,388,699**
California	Angeles	653,846	480,228
	Calaveras Bigtree	380	380
	Cleveland	420,033	372,300
	Eldorado	671,021	470,442
	Inyo	1,800,302	631,477
	Klamath	1,670,695	1,188,546
	Lassen	1,060,003	850,143
	Los Padres	1,752,218	495,318
	Mendocino	882,617	718,591
	Modoc	1,651,630	1,581,245
	Plumas	1,163,658	1,162,323
	Rogue River	53,826	0
	San Bernardino	635,620	465,377
	Sequoia	1,125,533	743,836
	Shasta	1,099,001	587,277
	Sierra	1,303,112	613,756
	Siskiyou	33,354	28,404
	Six Rivers	980,416	869,346
	Stanislaus	898,248	618,343
	Tahoe	813,233	769,464
	Toiyabe	633,891	316,797
	Trinity	1,047,164	803,517
	Total	**20,349,801**	**13,767,110**
Colorado	Arapaho	1,025,065	738,294
	Grand Mesa	346,141	346,141
	Gunnison	1,662,813	1,208,259
	Mantic-La Sal	27,105	27,105
	Pike	1,106,870	918,040
	Rio Grande	1,851,792	1,430,034
	Roosevelt	788,333	599,905
	Routt	1,126,622	878,113
	San Isabel	1,110,576	852,586
	San Juan	1,867,782	1,423,228
	Uncompahgre	944,237	810,345
	White River	1,960,740	1,323,520
	Comanche NGL	419,077	419,077
	Pawnee	193,060	193,060
	Total	**14,430,213**	**11,167,707**
Florida	Apalachicola	558,871	518,739
	Choctawhatchee	675	675
	Ocala	381,297	328,560
	Oceola	157,218	139,238
	Total	**1,098,061**	**987,212**
Georgia	Chattahoochee	746,158	574,136
	Oconee	108,738	108,738
	Total	**854,896**	**682,874**
Idaho	Bitterroot	464,165	2,844
	Boise	2,645,967	1,883,222
	Cache	263,941	263,941
	Caribou	972,855	928,285
	Challis	2,463,719	1,460,554
	Clearwater	1,688,687	1,214,968
	Coeur D Alene	722,691	722,691
	Kaniksu	894,313	801,406
	Kootenai	46,480	9,874
	Nez Perce	2,218,333	1,106,709
	Payette	2,314,436	1,325,842
	Salmon	1,771,029	1,288,080
	Sawtooth	1,731,504	949,715
	St. Joe	865,068	765,929
	Targhee	1,311,737	1,136,899
	Curlew NGL	47,659	47,659
	Total	**20,422,584**	**13,908,618**
Illinois	Shawnee	253,440	229,445
Indiana	Hoosier	186,961	176,942
Kansas	Cimarron NGL	108,175	108,175
Kentucky	Daniel Boone	527,037	508,116
	Jefferson	961	961
	Total	**527,998**	**509,007**
Louisiana	Kisatchie	597,672	588,972
Maine	White Mountain	41,833	41,833
Michigan	Hiawatha	881,461	865,619
	Huron	425,301	420,274
	Manistee	520,662	520,662
	Ottawa	924,951	891,774
	Total	**2,752,375**	**2,698,329**
Minnesota	Chippewa	661,161	661,161
	Superior	2,048,937	1,256,346
	Total	**2,710,098**	**1,917,507**
Mississippi	Bienville	178,403	178,403
	De Soto	500,356	494,896
	Delta	59,518	59,518
	Holly Springs	147,304	147,304
	Homochitto	188,995	186,620
	Tombigbee	66,341	66,341
	Total	**1,140,917**	**1,133,082**
Missouri	Mark Twain	1,450,206	1,380,222
Montana	Beaverhead	2,120,464	1,608,902
	Bitterroot	1,113,718	676,047
	Custer	1,112,153	740,464
	Deerlodge	1,195,754	981,859
	Flathead	2,349,932	1,243,459
	Gallatin	1,735,409	829,325
	Helena	975,125	713,194
	Kaniksu	446,092	401,772
	Kootenai	1,778,739	1,652,787
	Lewis & Clark	1,843,397	1,155,498
	Lolo	2,091,950	1,720,885
	Total	**16,762,733**	**11,724,192**

State	National Forest or National Grassland (NGL)	Acres	Acres Available For Sale
Nebraska	Nebraska	141,558	135,170
	Samuel R. McKelvie	115,703	115,703
	Oglala NGL	94,334	94,334
	Total	**351,595**	**345,207**
Nevada	Eldorado	53	53
	Humboldt	2,527,929	1,947,972
	Inyo	60,576	4,936
	Toiyabe	2,558,450	2,346,990
	Total	**5,147,008**	**4,299,951**
New Hampshire	White Mountain	686,432	481,186
New Mexico	Apache	614,202	600,202
	Carson	1,391,722	1,258,360
	Cibola	1,634,112	1,502,511
	Coronado	68,936	46,166
	Gila	2,705,572	1,881,012
	Lincoln	1,103,339	1,000,258
	Santa Fe	1,587,550	1,295,261
	Kiowa NGL	136,412	136,412
	Total	**9,241,845**	**7,720,182**
North Carolina	Cherokee	327	327
	Croatan	157,075	130,480
	Nantahala	514,479	476,364
	Pisgah	493,582	441,056
	Uwharrie	46,655	41,865
	Total	**1,212,118**	**1,090,092**
North Dakota	Cedar River NGL	6,717	6,717
	Little Missouri NGL	1,027,852	1,027,852
	Sheyenne NGL	70,180	70,180
	Total	**1,104,749**	**1,104,749**
Ohio	Wayne	176,071	176,071
Oklahoma	Ouachita	247,585	235,376
	Black Kettle NGL	30,724	30,724
	Rita Blanca NGL	15,576	15,576
	Total	**293,885**	**281,676**
Oregon	Deschutes	1,602,680	1,414,754
	Fremont	1,198,308	1,175,594
	Klamath	26,334	26,334
	Malheur	1,459,422	1,385,919
	Mount Hood	1,060,289	928,403
	Ochoco	843,676	820,350
	Rogue River	584,244	511,920
	Siskiyou	1,060,175	852,826
	Siuslau	628,237	598,577
	Umatilla	1,088,158	1,001,067
	Umpqua	988,093	926,385
	Wallowa	986,105	318,555
	Whitman	1,264,694	1,102,759
	Willamette	1,675,383	1,370,674
	Winema	1,043,179	950,069
	Crooked River NGL	106,138	106,138
	Total	**15,615,115**	**13,490,324**
Pennsylvania	Allegheny	509,163	485,950
South Carolina	Francis Marion	249,987	236,267
	Sumter	358,589	335,371
	Total	**608,576**	**571,638**
South Dakota	Black Hills	1,061,104	1,051,284
	Custer	73,529	73,529
	Buffalo Gap NGL	591,771	591,771
	Fort Pierre NGL	115,998	115,998
	Grand River NGL	155,370	155,370
	Total	**1,997,772**	**1,987,952**
Tennessee	Cherokee	623,215	560,287
Texas	Angelina	154,916	144,106
	Davy Crockett	161,497	158,457
	Sabine	188,220	180,859
	Sam Houston	160,437	154,832
	Black Kettle NGL	576	576
	Caddo NGL	17,796	17,796
	Lyndon B. Johnson NGL	20,320	20,320
	McClelland Creek NGL	1,449	1,449
	Rita Blanca NGL	77,413	77,413
	Total	**782,624**	**755,808**
Utah	Ashley	1,288,422	1,049,726
	Cache	416,045	416,045
	Caribou	6,955	6,955
	Dixie	1,883,745	1,746,263
	Fishlake	1,424,159	1,405,349
	Manti-LaSal	1,238,149	1,192,149
	Sawtooth	71,183	71,183
	Uinta	812,787	741,541
	Wasatch	848,716	510,797
	Total	**7,990,161**	**7,140,008**
Vermont	Green Mountain	289,839	243,901
Virginia	George Washington	954,116	888,680
	Jefferson	672,966	505,260
	Total	**1,627,082**	**1,393,940**
Washington	Colville	944,434	917,354
	Gifford Pinchot	1,250,840	1,031,956
	Kaniksu*	269,982	269,982
	Mount Baker	1,281,063	802,326
	Okanogan	1,499,512	1,088,027
	Olympic	649,975	553,067
	Snoqualmie	1,227,582	1,051,587
	Umatilla	311,209	200,214
	Wenatchee	1,618,329	1,041,703
	Total	**9,052,926**	**6,956,216**
West Virginia	George Washington	100,806	100,806
	Jefferson	18,196	18,196
	Monongahela	843,748	684,197
	Total	**962,750**	**803,199**
Wisconsin	Chequamegon	844,641	818,390
	Nicolet	654,777	620,878
	Total	**1,499,418**	**1,439,268**
Wyoming	Ashley	96,277	760
	Bighorn	1,107,670	688,206
	Black Hills	174,743	174,743
	Bridger	1,733,575	972,124
	Caribou	7,913	7,913
	Medicine Bow	1,093,517	966,620
	Shoshone	2,433,236	993,593
	Targhee	330,783	115,448
	Teton	1,666,694	1,026,866
	Wasatch	37,762	37,762
	Thunder Basin NGL	572,364	572,364
	Total	**9,254,534**	**5,556,399**
	National Total	**190,222,717**	**144,009,716**

Public Domain Land Identified For Sale

State	Acres
Arizona	612,177
California	320,100
Colorado	389,715
Eastern states	55,876
Idaho	294,983
Montana	404,390
Nevada	749,991
New Mexico	448,500
Oregon	254,228
Utah	133,330
Wyoming	654,266
Total	**4,317,556**

Accommodations and Fees

Camping is permitted around the lake except in the Needles area on the north end, which is closed to all entry. The only developed campground is at Warrior Point, north of Sutcliffe. This campground with 33 units is maintained by the Washoe County Parks and Recreation Department and is not part of the Indian reservation. County residents pay $4 per night and nonresidents pay $6 a night. There is a seven-day stay limit. For more information, write to the Washoe County Parks and Recreation Department, Box 11130, Attention: Warrior Point, Reno, NV 89520.

A Nevada fishing license is not required on Pyramid Lake, but an Indian fishing permit is and costs $4 a day or $12 annually. If you want to use a boat, you must have an Indian boat permit, which costs $3 a day or $20 annually. To camp on the reservation, a camping permit is required. It costs $3 a day or $30 a year. For more information about camping and fishing on Indian land, call the Pyramid Lake Tribal Council at 702 476-0188.

The town of Sutcliffe has a restaurant and a gas station, and Crosby's Lodge (702 476-0104) has a limited number of overnight accommodations.

Reno, which is 30 miles south of Pyramid Lake, offers an unlimited variety of accommodations. For information, contact the Reno/Tahoe Visitors' Center, 135 North Sierra Street, Reno, NV 89501 (702 348-7788).

the water level has dropped 85 feet, and it continues to go down more than a foot each year on the average. At that rate, Ruger said, the increasing alkalinity could drastically affect the fishery in the next 50 years. If the lake can be held at its present level, fishing could last forever. Only intense efforts by sportsmen can save the lake.

Late that afternoon, a storm blew in suddenly over the Virginia Range to the west and ripped the lake into an ocean of white caps and swells. Then as suddenly as it had arrived, the storm dissipated. In the late-evening sun, Pyramid Lake turned into a yellow mirror. We waded into the placid waters to give the trout one final shot.

Iveson had stripped all of his line in and was lifting his flies slowly from the water when a geyser of spray exploded at his feet and his line cut a hissing V toward deep water. This one looked like a keeper. In traditional Pyramid Lake fashion, Iveson jumped off his ladder and slowly waded toward shore with the trout in tow to slide it onto the beach. It wasn't as big as we'd hoped. Iveson was going to release the six-pounder, but I talked him into keeping just this one for a few more photos and so I could get the full flavor of Pyramid Lake trout—by trying one on the table.

That night the trout lay on a platter in Iveson's refrigerator when his son Tim looked in for a snack.

"Hey," he said, "who kept this little trout? That's the smallest one I've ever seen in this refrigerator."

Little trout? Well, that's the way it is at Pyramid Lake. As I said earlier, it's one of a kind.

SELLING OUR FORESTS

continued from page 42

not new. It was sung by land grabbers in the early 1950s, causing the conservation-minded *Denver Post* to warn in an editorial: "Some Americans are forecasting an era of penurious federal policy, dominated by the baronial bigwigs who will drive President-elect Eisenhower into wholesale liquidation of public domain and natural resources."

Of course President Eisenhower didn't fall for the public land takeover. He had lots of help from an aroused public.

The pending battle, however, will not be so easily staged and waged. It is not "baronial bigwigs" trying to seize public land for private economic gain. **Now it is the federal government that the people must guard against.** The situation will be more difficult to track because those responsible for administering public lands are the ones wanting to sell them. Thus there is every opportunity to keep the public uninformed.

The Federal Property Review Board was created by President Reagan in February 1982 to oversee the inventory and sale of public land. The president ordered each agency head to review property holdings and report to the board on the acreage and value of land that could be sold.

The stated reasons for selling public land are to help pay off the national debt and to get the property in private ownership where it allegedly would be more productive. Think about that. Would the sale of these lands significantly affect the national debt? Would it render the land more productive?

The national debt exceeds $1 trillion. The interest to be paid by the federal government on that borrowed money in 1983 alone is estimated at $113.2 billion. The administration has said that it wants to collect $17 billion from public land sales during the next five years. Thus the entire disposition of public land to private ownership during five years would pay less than one-fifth of the interest on the national debt just for 1983. It would not, in fact, reduce the debt at all. Let's not kid ourselves. The national debt will not be eliminated by selling anything. It will be settled by spending, wasting and giving away less of our tax money.

Balzac's theory that everyone is better off when all public lands become privately owned is not as convincing as some people seem to think. In the first place, Americans may not bow at the altar of a 19th century French novelist when it comes to modern resource management in the United States. Furthermore, American history refutes the theory outright. The dust bowl days of the 1930s resulted in part from misuse of private land. As a matter of fact, the 3.8 million acres of national grasslands managed by the U.S. Forest Service today are some of those blown-out, washed-out private holdings that the federal government bought from bankrupt owners 40 years ago and then restored. Most of the Eastern national forests enjoyed by so many hunters, anglers and other recreationists today once were privately owned farmlands and woodlands that were exploited by their owners who unloaded the pitiful properties on Uncle Sam and moved on. Compassion, not a desire to assemble more real estate, prompted Uncle Sam to buy those ravaged lands from their hapless and hopeless users.

It is not public land but private land that is currently eroding at the rate of 26 square miles of topsoil each day. For each acre of corn an Iowa farmer grows, up to 15 tons of topsoil are lost to wind and water erosion. For each acre of wheat harvested, 20 tons of soil head elsewhere. Through various conservation schemes, taxpayers have given private landowners billions of dollars to stop this national tragedy, but to no avail. And taxpayers are still paying. Yet this, according to some Washington, D.C., thinkers, is "efficient and productive" use of the land. Even blockheads know better.

Comparing private timberlands with national forest lands in the Pacific Northwest reveals that the federal forests serve the public interests to a much greater degree. For example, the numerous wildlife that must have old-growth timber habitat to survive are on national forests and Bureau of Land Management property. Old growth has been eliminated from most private forests. Hence most elk in that country depend on public land old-growth to escape winter storms and survive.

Such examples are many and remind us that private ownership is not synonymous with utopia when it comes to natural resource management and use. This is not to say that all landowners are poor land managers. Some are very good and some are very bad. **There is absolutely no guarantee that pubic lands, shifted to private ownership, would receive the care they need. Certainly, in private hands, their availability for hunting, fishing and other recreation would be reduced drastically.**

So far, the most perplexing aspect of the administration's public land sale intentions is what specific areas would go on the auction block. Answers are difficult to get because the administration is yet picking and choosing what it wants to sell. It is, as it says, making a first cut. But the administration has said flatly that national parks, national wildlife refuges, wild and scenic rivers and designated wilderness areas are off limits.

That is scant relief, however, to those who realize that more than 500 million acres of public domain and national forest land are not in those categories. Neither are lands administered by the Army Corps of Engineers or Bureau of Reclamation and other agencies that provide abundant public recreational opportunities. **The Bureau of Reclamation, for example, has identified more than 600,000 acres as being available for sale. This is land purchased with your tax money and where you and your families now hunt, fish and camp.** But the focus of the intended sale is primarily on the national forest system managed by the Forest Service in the Agriculture Department, and public domain land administered by the Bureau of Land Management in the Interior Department. Here is what the administra-

tion has decided thus far to do with those pieces of America.

National forest system

The national forest system is 190 million acres of land and water that is open to free public access for hunting, fishing, hiking, boating, camping and other outdoor pursuits. **The system, which includes national forests, national grasslands and three national monuments, provides sportsmen 60 million days of hunting and fishing each year.** It has 83,000 miles of fishing streams and 2.7 millions acres of lakes. It includes 45 million acres of big-game range that support 3.5 million big-game animals. It also offers protected habitat to 80 threatened or endangered species.

Overall, the national forests and grasslands supply 213 million visitor days of outdoor recreation each year. That is nearly 40 percent of all public land recreation and is almost twice as much as provided by the national park system. **The national forest system is the largest single producer of public outdoor recreation in the nation.** And several federal statutes currently prohibit any of that land to be sold. But an attempt will be made to change that.

In August 1982, agriculture secretary John Block announced that the administration will draft legislation and have it introduced in the 1983 Congress to permit USDA to sell national forest system land.

Anticipating authority to sell at least part of the system, USDA already had put Forest Service lands into three sale categories. The first includes 60,000 acres of relatively small tracts known as "land utilization projects." These once-abused areas, purchased many years ago and used to demonstrate how worn-out land can be rehabilitated, are not a part of the national forest system and may be sold immediately. Located in 26 states, these lands likely would be placed on the market first. Some of the larger acreages are in Arizona (3,923), California (22,701), Colorado (4,209), Georgia (9,340), Michigan (999), New York (13,232), Oregon (1,227) and South Dakota (1,628). But these lands are small potatoes compared with the national forest system.

The second category includes 46 million acres that USDA says will not be sold. The lands, protected by specific legislation, include designated wilderness, areas being reviewed for wilderness status, wild and scenic rivers, national recreational areas and national monuments.

The third category holds the remaining 144 million acres of the national forest system, and the legislation that the administration will try to get past Congress next year apparently would permit USDA to sell part or all of it.

It is inconceivable that the administration would consider selling any large amount of national forest land. But 144 million acres?

USDA is trying to soften public reaction to this bombshell by claiming: "An initial review of the . . . [144 million acres] . . . will quickly identify those lands which need more intensive study to determine whether they might qualify for sale once legislation is enacted.

"After initial review, lands . . . not identified for intensive study would be placed in the retention category."

Secretary Block said that 15 to 18 million acres of national forest lands are likely to get "intensive study."

Therefore the exact size and locations of the announced national forest land sale are unclear. Sources close to the situation believe that between 15 million and 18 million acres is the administration's goal. It is obvious from USDA comments, however, that 144 million acres will be available for sale status in the first cut.

The Forest Service has been characteristically quiet during this land sale debate. But one can read the faces of service professionals and see the anxiety caused by such serious talk of selling national forests. The push to sell obviously is coming from higher levels in the administration, and service personnel must heed their bosses, no matter how wrong those bosses may be.

There are a few hints on which parts of the 144 million vulnerable acres are most likely to be offered for sale. All of the 3.8 million acres of national grasslands are prime candidates because they are not significant timber producers. Eastern forests where the federal government owns 50 percent or less of the land within the forest boundary may become expendable. The Oconee National Forest in Georgia, Uwharrie National Forest in North Carolina and Talladega National Forest in Alabama are said to be examples. Isolated sections and townships and "checkerboarded" patterns of federal ownerships in Western national forests will get "intensive study." The Payette in Idaho is an example of a national forest with this type of ownership pattern. There, of course, are many others.

These scattered and isolated tracts now are used by the Forest Service to trade for private lands within or adjoining national forests. If they are sold, this "blocking-up" of national forest property would end. The only way incompatible inholdings could be acquired would be by purchase, which is most unlikely.

Public domain

The public domain managed by the Bureau of Land Management is lands originally acquired by the federal government from other countries. The Louisiana Purchase, Gadsden Purchase and Alaska Acquisition are examples. Today the public domain is what remains of those acres after much was sold, given away or withdrawn for national forests, parks, refuges, military reservations and other purposes. It includes 327 million acres, sometimes referred to as "The Lands Nobody Wanted." It is mostly arid land and tundra and located primarily in the West and Alaska. But it is not a biological desert.

BLM estimates that 248 million acres of its lands are good big-game habitat. Sportsmen take 170,000 big-game animals from BLM lands every year. Fourty-four percent of the pronghorns taken each year are bagged on the public domain and 24 percent of all wildlife taken by hunters in the West are from these lands. BLM wildlife authorities report that 27 percent of the nation's pronghorn, deer, elk and bighorn sheep live on the public domain. **The lands host 80,000 miles of fishing streams and 2.7 million acres of fishing lakes. They provide 7.7 million days of hunting and fishing and 5 million days of other outdoor recreation each year.** No longer are

→

they the lands nobody wants.

The Department of Interior reports that its "preliminary" inventory of the public domain indicates that only a small percentage—much of it small tracts near urban areas—might be considered for eventual sale. Thus far BLM has identified 4.3 million acres, exclusive of Alaska, for potential sale to private ownership.

About half of the 4.3 million acres that BLM has listed for potential sale was identified through a well-organized land use planning process. It is conceivable that the entire acreage is more than the public needs and should be sold. But because this is only a first cut at disposing of public domain land, there will be other inventories and more land could hit the market. Also, history teaches us to be very wary because there are many ways to get rid of public property other than sales.

Selling large tracts of public land at fair market value may be a paper tiger that we worry too much about. Realistically, who is going to buy it? Cattlemen can't afford it and already graze the range for fees amounting to half or less of the forage value. Miners can get the land free under the antiquated 1872 Mining Act. Oil and gas companies want only the fossil fuels from public land. In fact, some are giving land they already own to the federal government to keep from paying taxes on it. One company recently donated 100,000 acres of outstanding recreational land in New Mexico to the Forest Service.

A latent fear is that the sale scheme may become an old-time give-away. Unfortunately there is a precedent for this. The railroads were given an area of public domain nearly twice the size of Colorado to encourage their building of transcontinental lines. The Northern Pacific received 45 million acres, including nearly one-quarter of North Dakota and 15 percent of Montana. A U.S. senator, through a masked conveyance, once received 50,000 acres of formerly public land in California's San Joaquin Valley for helping the railroads get giant land subsidies. Numerous other land raids took place under such questionable statutes as the Timber Culture Act, Timber and Stone Act and Timber Cutting Act. These 1870s laws permitted millions of acres to be transferred to private interests for logging and cattle grazing.

So far it appears that the national forest system could lose more land than could the public domain in the administration's "privatization" ploy. But the dust has not settled and no one knows the full extent of this threat to public property. **Those who have a favorite hunting spot or fishing stream on national forests or BLM lands and want to keep it had best take precautions.** Contact the forest supervisor's offices for the national forests you are interested in and request to be kept informed on any potential land sales in those forests. For possible BLM land sales, contact the appropriate district or state offices.

Historically, the battles against numerous attempts to divest the public of its lands have been joined by hunters, fishermen and others who rely on the areas for free, accessible outdoor recreation. The "privatization" threat deserves their attention also.

Make no mistake, you will be hearing more about this. The bookkeepers in Washington, D.C., seem determined to get rid of your public lands.

PLANTS POISON GROUSE

continued from page 37

don't do so well when green pastures are dominated by the wrong grasses. For all our intelligence, many humans don't eat a proper diet, and grouse are no wiser. So the information that a certain item is eaten by a group of grouse tells us little about the real value of that food. Even carefully controlled, experimental feeding studies in a laboratory may be meaningless if the researchers fail to select the identical materials that animals choose at the time they'd be choosing them.

On the basis of nearly 25 years of ruffed grouse studies on the University of Minnesota's Cloquet Forestry Center, near Duluth, it is beginning to look as though changes in the availability of certain food materials may have a major impact upon the abundance of ruffed grouse.

It appears that it is not solely a matter of physical availability of food but, as Laukhart postulated 25 years ago, it may be a matter of chemical availability. This problem arises when the food resource is available but the tree has loaded it with substances that make the food unusable. The occurrence of these substances, which protect plants against insect attack, have long been known by biologists working in this field. But wildlife researchers have been slow to recognize this.

In the early 1960s, at Cloquet it was recognized that the male flower buds on the aspens were the most important winter food item eaten by ruffed grouse. In a study that covered eight years, it was shown that ruffed grouse preferred these flower buds by a margin of nearly 13 to 1 over all the other buds available. Heavy dependence upon this single food material continued through 1971, and the grouse population surged from scarcity to its greatest abundance in the past 20 years. If the aspen flower bud crop had not fallen in 1967-68 and there had not been poor snow conditions the same year, Minnesota grouse might have reached an all-time high in the early 1970s. Then in 1971 and 1972, the flower bud crop fell and Minnesota grouse turned to filbert, birch and ironwood catkins as their primary food. Bird numbers plummeted by 70 percent in two years.

Identifying the cause for this abrupt decline in the population was complicated by two other events. Northern Minnesota had below-average snowfall during 1971 and 1972, so the grouse didn't have the snow cover that they needed to survive the winter. The problem of this lack of cover was compounded by a major invasion of hawks and owls from farther north. In the fall of 1972, Duluth's annual hawk count was more than 5,000 goshawks compared to the usual counts of 200 or 300. The goshawk probably is the most efficient predator of grouse, if not the most important.

It's not solely a matter of physical availability, but it may be a matter of chemical availability.

Until 1973 the relationship between grouse and aspen buds seemed to be simple. When the flower buds—which are formed in late July and available until April—were abundant, ruffed grouse thrived. When they were not, grouse became scarce. Then in 1973 the situation changed, for although flower buds were abundant, grouse ignored them. This same scenario was repeated during 1974 and 1975. Minnesota's ruffed grouse numbers continued to sag in spite of favorable snow conditions and reduced pressure from predators. Ruffed grouse did not winter well on diets of birch, filbert catkins and cherry buds.

In the fall of 1976, grouse began to feed on aspens again and this continued the following year. Ruffed grouse increased in 1977 and again in 1978.

Instead of continuing to feed on the aspen buds, Minnesota's ruffed grouse ignored them in 1978 and the population surge stalled. Even though the buds still were available, grouse made little use of them in 1979. A crop failure in 1980 ended the buds' availability. This failure, coupled with very poor wintering conditions, set the stage for the decline in grouse numbers in 1981.

The puzzle surrounding the birds' change in diet became more mystifying because the birds fed heavily on the extended catkins that develop from the male flower buds in early April. Although for five years ruffed grouse didn't feed on these flowers while they were still encased in bud scales, they did feed on these flowers once they were free from the buds. Something in or on the flower bud scales affected the ruffed grouse feeding habits. One guess was that it had something to do with the gummy resin covering the buds.

Recent research by Dr. John Bryant at the University of Alaska suggests a solution to this puzzle. He found that the plant resins like those that cover the aspen bud scales are largely composed of terpenes and phenols. This group of chemicals interferes with the digestive processes in various plant-eating animals. When the terpene and phenol content in the resin is high, ruffed grouse in Minnesota shift to alternate food resources, such as the male flowers or catkins of filbert, ironwood, birch and, rarely, alder. But Bryant's research has shown that this group of plants has similar resins in the twigs and catkins.

There is still much to learn, but the present hypothesis is something like this: When the aspen flower buds are relatively

EXHIBIT "L" - March 12, 1983

deemed most readily salable. The greatest portion belong to the Department of Defense, which holds some of the highest-value properties in the federal government's estate.

Cities and states get first crack at these properties. But they must pay fair market value unless they make a strong case that cut-rate conveyance is in the public interest.

Among the July 1 listings were the following:

- A prime beach-front resort on Hawaii's Waikiki Beach, now owned by the Defense Department and used by vacationing troops. The 17-acre property, one of the last open spaces on the beach, is valued by the Office of Management and Budget at $221 million. It cannot be sold without congressional approval, under a 1968 law sponsored by Sen. Daniel K. Inouye, D-Hawaii, who is opposed to the sale.
- The old New York Assay Office on Wall Street, a now-vacant five-story building assessed at $8.3 million this year by New York City.
- A Coast Guard lighthouse at Big Sur, Calif., one of the most scenic areas along the Pacific Coast.
- An 11-acre portion of the U.S. Penitentiary at Terre Haute, Ind.
- A two-acre National Guard vehicle storage facility located in Elizabeth City, N.C.

Authority for Sales

Public land sales are nothing new; indeed they date back to the earliest days of the republic. *(Box, p. 1689)*

A welter of existing federal land laws gives the president, the interior secretary, and other agency heads authority to sell federal property, but the authority is bridled in many respects.

Reagan launched his program Feb. 25 with Executive Order 12348, which invokes the authority of the Federal Real Property and Administrative Services Act of 1949. Because that law covers disposal of surplus federal property by the General Services Administration, some congressional critics say it does not apply to public domain lands.

They note that since the enactment in 1976 of the Federal Land Policy and Management Act (FLPMA), congressional policy emphasis has been not on the disposal of public lands but rather on their retention and management for the common good. *(FLPMA, 1976 Almanac p. 182)*

While FLPMA itself allows land sales, it sets conditions that in practice prevent massive, indiscriminate sales. For example, it entitles Congress to approve land sales of more than 2,500 acres. And it set up a planning process that requires state and local officials to be consulted in land disposal decisions.

In a Feb. 9 memo to Reagan, the Cabinet Council on Economic Affairs warned the president that new laws and regulations might be needed to implement his land-disposal plan.

"Current statutes and the regulations which implement them make commercial sales of federal lands time-consuming, if not practically impossible," the memo said.

Congressional Interest

Congress is taking a definite interest this year as the outlines of the land-disposal program slowly emerge.

Resolutions (S Res 231, H Res 265) in support of the concept have been introduced by Sen. Charles H. Percy, R-Ill., and Rep. Larry Winn Jr., R-Kan., and both the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs have held hearings on the matter.

The non-binding Percy resolution was introduced Oct. 20, 1981, several months before Reagan unveiled his own proposal. It urges the president to liquidate surplus properties to reduce the national debt.

The resolution calls on 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. All this is mandated under existing law, but the process has dragged on for years without completion. The resolution urges the president to recommend to Congress any legislative or administrative changes needed to liquidate surplus assets in an orderly way.

Percy's resolution specifically excludes national parks, monuments, and historic sites as possible sales targets. And it specifies that the proceeds of property sales should be used only to reduce the national debt.

The resolution was scheduled for markup in the Senate Governmental Affairs Committee on June 17, but it was abruptly laid aside — because, according to committee staffers, the administration is planning to introduce its own bill.

That measure, which has not yet been submitted, is expected to include binding language allocating proceeds from sales of government properties to a reduction of the national debt. However, even the full $17 billion Reagan hopes to gain would make no more than a dent in the nation's annual deficit — now expected to exceed $100 billion — let alone in the $1 trillion national debt.

How Much Land?

Exactly how much land the administration can or will sell remains unclear. Right now, it is hard to see where the 35 million acres Watt has cited will come from.

The two likeliest sources are the two biggest federal landholders, the Interior Department and the U.S. Forest Service, an arm of the Agriculture Department. Excluding Alaskan lands covered by legislation enacted in 1980, Interior has about 516 million acres and the Forest Service about 190 million acres of total federal holdings estimated at between 738 million and 770 million acres. *(1981 Weekly Report p. 1900)*

The lands bureau holds by far the largest chunk of Interior's land: about 397 million acres. Most of the remainder is held by the National Park Service (68 million acres) and the U.S. Fish and Wildlife Service (43 million acres), whose lands are not generally available for legal sale or disposal.

The Interior Department June 17 put out a summary of BLM property that it considers suitable for disposal: a total of 4.3 million acres with an estimated fair market value of $2.5 billion.

But land-use plans, required under the 1976 federal land management law, have been completed only for a fraction of that acreage.

"I have encouraged the Bureau of Land Management to accelerate the planning process," Carruthers told the House Interior Subcommittee on Public Lands and National Parks during a June 11 hearing.

Rep. John F. Seiberling, D-Ohio, the subcommittee's chairman, questioned whether accelerated planning was possible, noting that the lands bureau "has dramatically slashed funding in personnel for planning functions. Some state office planning staffs have been cut by as much as 50 percent."

The other major federal landholder, the Forest Service, may not add much to the total acreage available for sell-off beyond the 42,730 acres it identified in May. Forest Service chief R. Max Peterson told

Public Land Sales: As Old as the Republic

Americans have battled over the disposal of public lands — with words and even guns — for more than 200 years. Thomas Jefferson quarreled with Alexander Hamilton. Cattlemen fought with homesteaders. Today, timber, mining, and energy interests are fighting with environmentalists.

During its first two centuries, the nation disposed of 1.14 billion acres of public land, creating most of its 50 states in the process.

With vast tracts of government-owned land and few settlers to fill them, Jefferson — among others — sought to encourage rapid settlement of the continent by yeoman farmers. Early public land laws such as the Northwest Ordinance of 1785 and the Public Lands Act of 1796 were primarily land-disposal acts.

Hamilton, the nation's first Treasury secretary, saw lands in the public domain as an important source of revenue for the fledgling, cash-starved national government. But the $2 per acre price for parcels no smaller than 640 acres was beyond the reach of the average pioneer.

As new states opened up to the West, there was a growing demand for land for settlement. The sell-off policy yielded to a giveaway policy. The Homestead Act of 1862 gave a 160-acre plot to any pioneer who would live on it and improve it for five years. Other land grants went to agricultural colleges and railroads.

By the end of the 19th century, as the frontier closed and lands best suited for small, non-irrigated farms were largely taken, federal land policies grew obsolete. Stockmen had used the unappropriated public domain lands — the "open range" — for grazing, but these too were closed as the new century wore on.

The U.S. Forest Service set up a grazing permit system in 1905, and the Taylor Grazing Act of 1934 established a management system and grazing fees on remaining public domain lands.

More recently, a growing national interest in conservation — stronger in the East than in the West — brought passage in 1976 of the Federal Land Policy and Management Act (FLPMA). It largely replaced some 2,500 individual laws that had been patched together in the 19th and 20th centuries. *(1976 Almanac p. 182)*

FLPMA, as well as other laws like the Wilderness Act of 1964 and the National Forest Management Act of 1976, 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 and managed for the benefit of the entire nation, unless disposal of a particular parcel were in the public interest. *(Wilderness Act, Congress and the Nation Vol. I., p. 1061; Forest Act, 1976 Almanac p. 192)*

Seiberling's subcommittee that his agency had so far identified 833 acres for disposal — out of its 190 million-acre holdings.

Peterson said that most Forest Service land "cannot easily be assigned clearly to retention or disposal." But he left open the possibility that more land would be targeted after his agency's submittal is analyzed by the Property Review Board.

Minor amounts of land have been earmarked for disposal by other agencies. The U.S. Army Corps of Engineers, for example, administers approximately 12 million acres. The corps told the Property Review Board that it had 34,844 acres of civil works land, worth an estimated $24 million, that were available for disposal.

The Revenue Estimates

Reagan's fiscal 1983 budget projected revenues from the Asset Management Program at $17 billion over five years: $1 billion for fiscal 1983 and $4 billion annually during fiscal 1984-1987.

While the 1983 figures are within the realm of feasibility, it is not clear whether that much land actually will be sold by the end of the fiscal year.

It is even less clear whether or how revenue projections for the later years can be achieved. Acreage identified this year for possible sale was gleaned from a review of all federal lands, making it difficult to locate large amounts of additional surplus land. And if land-sale revenue projections are overstated, then budget deficit estimates are understated.

Furthermore, there is some question about the legality of funneling land-sale proceeds into the general fund for reduction of the deficit.

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. And under the Land and Water Conservation Fund Act of 1964, proceeds from the sale of certain other federal lands are earmarked for federal and state acquisition of land for parks, wildlife refuges, and similar purposes.

Good Neighbor Program

The administration's program to raise money by selling land seems to conflict with its program to give land away to state and local governments in the West under the "Good Neighbor" program, one of the centerpieces of the Reagan administration's effort to defuse the "Sagebrush Rebellion" and please its Western backers.

The federal government is a big presence in the Western "neighborhood," where it holds about 48 percent of the total land. In Nevada, 86 percent of the land is federally owned. Many Western towns have long complained that federal landholdings constrain their development.

The "Good Neighbor" program is authorized under the Recreation and Public Purposes Act of 1954 and goes back as far as the Recreation Act of 1926. This law gives the interior secretary authority to convey certain parcels of federal land to state and local governments for a range of public purposes.

On February 4, 1981, Interior Secretary Watt invited Western governors to identify parcels of federal land that could serve local needs. The governors came back with 361 separate requests from various state, county, and municipal entities for a total of 951,028 acres. Property Review Board officials say almost a third of that land is not eligible for disposal.

By April 1, the Interior Department had authorized use or disposal of 12,666 acres of land under the "Good Neighbor" program.

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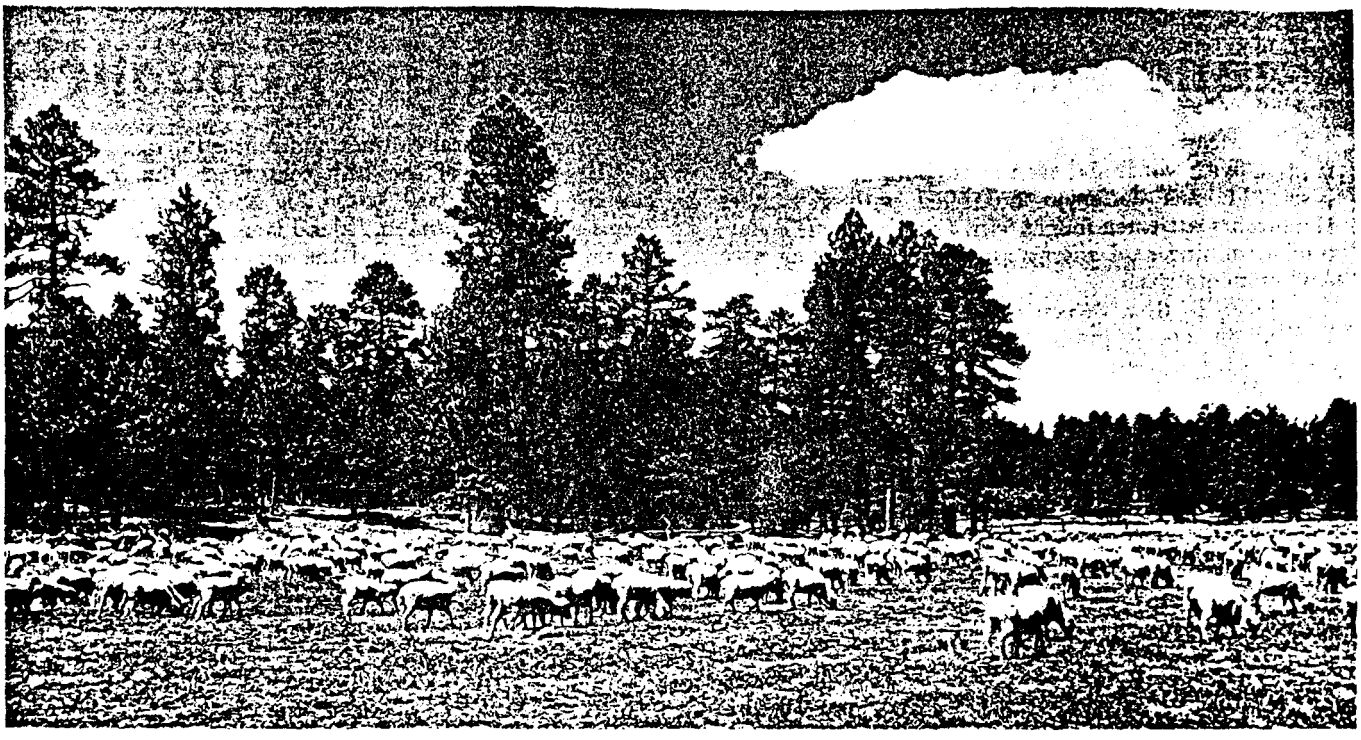


Ranchers who lease public lands for grazing are casting a wary eye on President Reagan's proposal to sell off surplus federal property. Many fear they could not afford to buy the land they now are using.

Local governments may get the land free or at a very low price (a so-called "discount conveyance"). For example, Grand County, Colo., leases a 40-acre landfill for $10 per year.

The Property Review Board at its May 21 meeting settled the apparent conflict between the two administration programs by ruling that parties who had submitted their "Good Neighbor" land requests before Reagan's Feb. 25 executive order would get priority consideration. Local governments would have until Sept. 1 to complete their applications for federal land. Thereafter, discount conveyances would still be considered, but on a more limited basis.

The Pros and Cons

"Privatization" of public land is an idea backed by many conservatives in the Reagan camp. They believe that private owners can manage land better than the federal government.

Sen. Paul Laxalt, R-Nev., for example, has called for sale to grazing permit-holders or others of some part of the 155 million acres of grazing land managed by BLM.

"I believe that some form of privatization would benefit all of us, with the possible exception of the bureaucrats who manage the public lands," Laxalt said April 16.

"Those who depend on the land would have the security of tenure. Local governments would see private lands added to their tax rolls. The federal government, which spends more than it garners in nine of the 11 Western states, would end its negative cash flow," he said.

Others in Congress remain skeptical. The June 11 hearing of Seiberling's subcommittee highlighted some of the built-in institutional conflicts between the Interior Department and the Interior Committee over who makes federal land management and policy decisions.

Seiberling was not happy with either the completeness or the timeliness of the information he received from Carruthers.

The subcommittee chairman said he had asked Watt by letter on May 19 for specific information on the lands to be transferred to state and local governments under the secretary's Good Neighbor program, as well as information on property to be sold under the Asset Management Program.

Interior did not provide the information Seiberling wanted, however. Carruthers explained that most of it was still being gathered and was not yet available.

Seiberling then produced leaked Interior Department documents, dating from before his request to Watt, that contained the information he had requested.

Carruthers said the leaked figures were still preliminary and incomplete and did not reflect administration decisions on what to sell.

"I don't consider that cooperation. I consider it to be an affront to the House," Seiberling said. He threatened to subpoena documents and put witnesses under oath if he didn't get what he asked for in the future.

Interior then released to the press on June 17 the information Seiberling had requested — still not supplying it directly to the subcommittee.

Committee criticism of the land-sales proposal was not limited to disclosure issues.

One member who vocally objected to the entire "privatization" concept was Rep. James D. Santini, D-Nev., a self-proclaimed "original sponsor of the Sagebrush Rebellion."

"Privatization misses the boat," Santini said, calling the sales plan "hardly the behavior I would expect from a 'Good Neighbor.'"

"Rather than chase a trillion dollar debt with our national heritage, let's look carefully at just what land is excess," Santini said. "If we do sell some of it, let's put the proceeds in a trust fund for the environmental and recreational needs of the future." ■

Worried About Specifics:

Congress Decidedly Cool To Reagan Land-Sale Plan

Congress has given a cool reception to President Reagan's plans to raise $17 billion over the next five years by selling off federal real estate.

The proposal, unveiled last February in the Reagan budget for fiscal 1983, prompted sharp questions during House and Senate hearings in May and June. Vague answers as to just what property will be sold have aroused congressional anxieties and fueled suspicions that administration revenue estimates are too high. *(Budget, Weekly Report p. 267)*

Still, the administration is going ahead with its "Asset Management Program." Interior Secretary James G. Watt said June 10 that the government plans to sell up to 5 percent of federally owned land — or more than 35 million acres, an area about the size of Florida. But he downplayed the program's magnitude.

"We are not talking about any massive sell-off of federal lands," Watt told a workshop sponsored by the Senate Energy and Natural Resources Subcommittee on Public Lands and Reserved Water.

The U.S. Forest Service May 18 said it was putting 54 of its properties, totaling 42,730 acres, up for sale. And on July 1, 307 parcels of "unneeded federal property," totaling some 60,000 acres, were targeted for sale by Edwin Harper, chairman of the Property Review Board overseeing the program. Board members include top White House staffers, the chairman of the Council of Economic Advisers, and the director of the Office of Management and Budget.

The administration says many of the targeted lands are unused, underused, or poorly used — small, scattered tracts that are too costly to manage and that serve no public purpose.

Some properties in urban areas, although small in terms of acreage, are high in market value. Interior Department officials say the private sector or local governments could put these holdings to good use and manage them more effectively than the federal government. And land-sale proceeds could help reduce the national debt.

"It is just plain vanilla good management," says Assistant Interior Secretary Garrey E. Carruthers, whose department manages the largest share of federal land.

He stressed that the administration "will not sell" National Park System lands, National Wildlife Refuge lands, Indian Trust lands, or "other lands with unique characteristics and national value, such as wilderness areas, designated wild and scenic rivers, and other areas having formal congressional designation."

Critics of the plan say today's depressed real estate market cannot yield the "fair market value" the administration hopes to get for these lands. They say dumping so much land on the market within a few years would further depress prices, possibly injuring private landowners trying to sell at the same time.

Furthermore, environmentalists worry that if the administration sets revenue targets before identifying surplus properties, agencies will be encouraged to sell whatever lands they have until those targets are met — rather than to select only lands that are unneeded or have no public value.

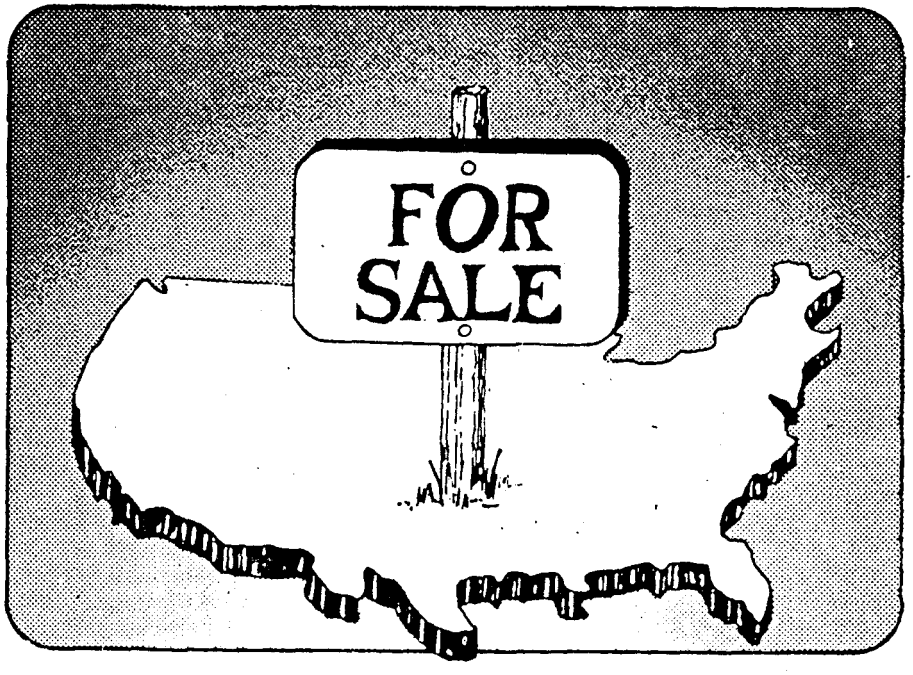
Environmentalists are particularly worried about possible sales of grazing lands in the West, a concern shared by many ranchers who lease such lands but fear they will not be able to afford to buy the tracts.

The administration regards such concerns as premature at best. "Initially we will be looking first for high-value lands, generally those in or near urban areas, which are not essential for important federal programs," said Robert F. Burford, director of Interior's Bureau of Land Management, in an April 27 departmental memo.

Targeted Parcels

The July 1 list of parcels targeted for sale by the Property Review Board included properties in every state but Alaska, plus the District of Columbia, Puerto Rico and Guam.

The list included properties



—By Joseph A. Davis

EXHIBIT "L"
March 12, 1983

December 1982 Issue of American Forests

"PRIVATIZATION"—SHORTHAND FOR THE disposal of public lands to private interests to help pay off the national debt—continues to generate debate between conservationists and the Administration, as well as an increasing amount of attention from the national news media. While Administration spokesmen continue to insist that massive disposal of Forest Service and BLM lands is not intended, Interior Secretary Watt has said as much as five percent of the public domain might be sold and Agriculture Secretary John R. Block has announced that from 15 million to 18 million acres of National Forest lands will be studied for potential disposal.

New legislation would be needed for sales of such magnitude, and even as strong an Administration backer as Senator James McClure (R-ID), Chairman of the Senate Energy and Natural Resources Committee, has vowed to block any legislation until the lands to be sold are specifically identified. McClure joined with Senator Dale Bumpers (D-AR) to successfully attach an amendment to the Continuing Resolution that requires the Administration to provide

for public and Congressional review of any proposed sales. Although the Continuing Resolution remains in effect only until mid-December, the McClure-Bumpers provision is a clear signal of Congressional skepticism and mistrust of the way the Administration has handled (or mishandled) its land-sales effort.

Rex Resler, American Forestry Association Executive Vice President, issued a statement to the press in early November in which he said: "We (AFA) strenuously oppose changes in the law that would permit wholesale disposal of public lands." Resler characterized massive disposal of public lands as an insidious danger and "an irresponsible fraud which we believe the American public will reject."

EXHIBIT "M"
March 12, 1983

Missoulian 1/13/83

Block sale of forests

Reader comment

"They're Selling our Forests" is the title of a frightening article published by the Wildlife Management Institute in Washington, D.C.

Our president will introduce legislation in the 98th Congress expanding the secretary of agriculture's authority to sell national forest land. A plan to do this has been prepared by the president's Council of Economic Advisers, and the reason, so they claim, is to reduce the national debt.

This effort to divest the public of its lands is the latest in a long line of similar efforts beginning in the 1930s and 1940s.

In 1981, this notion was better known as the Sagebrush Rebellion. Today, the proposal has no name tag, but is known for what it is — a dismal, supposedly quick and easy way, to extricate the federal government from its gloomy economic position.

Congress has always maintained constraints on the disposal of public lands. The secretary of agriculture has limited authority today to dispose of national forest land, but the administration now wants unlimited authority for wholesale disposal. The national debt exceeds $1 trillion. The interest paid by the federal government on that borrowed money in 1983 alone is estimated at $113.2 billion. The administration wants to collect $17 billion from public land sales during the next five years, which is only one-fifth of the interest owed in 1983. It won't reduce the debt at all!

Federal lands managed under multiple-use represent a vast storehouse of publicly owned resources such as outdoor recreation, timber, wildlife, range and minerals which provide millions of hunters, fishermen, campers, picnickers, backpackers, skiers, snowmobilers and others a place to recreate without encountering "No Trespassing" signs.

Federal lands are now available for use and enjoyment by all American citizens. Control of these lands, therefore, should remain in federal ownership since public ownership will ensure continued multiple-use management and public access. This nation cannot rely on the vagaries of private ownership to conserve, coordinate and develop these resources.

We urge the state Legislature to send a resolution to the president, Congress and the Montana congressional delegation to oppose any legislation "to sell our forests" when it emerges in the 98th Congress. — Neal M. Rahm, 1852 35th St., Missoula.

(This sheet to be used by those testifying on a bill.)

EXHIBIT "N" - March 12, 1983

NAME: George N. ENGLER DATE: 3-12-83

ADDRESS: 2412 5th Ave South - Great Falls, MT 59405

PHONE: 452-2125

REPRESENTING WHOM? Wildlands & Resources Assn Great Falls

APPEARING ON WHICH PROPOSAL: HJR 12

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: Montana needs to signal the Congress that we don't want massive sales of the public land.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WILDLANDS AND RESOURCES ASSOCIATION
Great Falls, Montana

EXHIBIT "N"
March 12, 1983

Chairman

Senate Judiciary Committee
Montana State Senate
Helena, Montana

March 12, 1983

Mr. Chairman and Committee Members:

The Wildlands and Resources Association of Great Falls wishes to go on record as supporting House Joint Resolution 12, which opposes the sale of substantial portions of the public land.

Sales of public land would disrupt the stability of many ranching and recreation businesses presently dependent upon those lands. Because lands are to be sold to the highest bidder the small ranchers and other permittees simply would not be competitive. Some of the most stable ranching operations in Montana are in the eastern part of the State in close proximity to National Forest and BLM administered lands. Some of these ranches are being operated by the fourth generation and the fifth one is being raised. It would be a tragedy to disrupt this kind of stability.

It has often been said that the politically powerful Eastern States impose their will on the West. We tend to forget the stake that those Eastern States have. Montana was derived from the Louisiana Purchase. At the time of the Purchase there was not a taxpayer west of the Mississippi River. To imply that the Eastern States do not have an interest in the politics or the lands of the West, ignores history.

It is quite often pointed out that the Bureau of Land Management administers a great deal of land in Eastern Montana. What isn't said, however, is that over two million acres of that land was formerly in private ownership. During the drouth years of the thirties much of the grassland that had been plowed up eroded so badly that farmers could not afford to farm it, or to pay taxes on it. These lands were then purchased by the federal government under authority of the Bankhead-Jones Act, and were rehabilitated and returned to grassland agriculture. The present National Grasslands of the Dakotas came from similar Bankhead-Jones purchases. Our question is, how many times will the taxpayers, both east and west, be asked to buy back these and similar lands?

It is also quite often pointed out that the federal government owns over thirty percent of Montana. The other side of that coin is that 70 percent of the State is privately owned, with less than 5 percent of the population involved in that ownership. It now appears to us that perhaps that 5 percent wants to control the remaining thirty percent of Montana.

Quite often State lands are lumped together with the federal lands to show an aggregate ownership of about forty percent public land in Montana. What isn't stated is that these lands are administered by the State Department of Lands and are leased and controlled by adjacent farmers and ranchers, with the income going to the State school fund. If the return from the State lands are not commensurate with the private lands , then perhaps the rental schedules should be reviewed and adjusted so they are equal.

(Statement of the Wildlands and Resources Association of Great Falls)

Selling the public land to resolve the national debt is absolutely the wrong reason. France sold the Louisiana Territory to the United States to raise money to finance a war. Russia sold Alaska to the United States because it was in desperate need of cash. We would hope that the Administration's proposal to sell the public land is not inspired by similar desperation. There has to be a better way to solve the debt problem. Disenfranchising 95 percent of the population is not the way.

We of the Wildlands and Resources Association of Great Falls, urge that you support House Joint Resolution 12, which would signal to the Congress that Montanans oppose the sale of their public land.

Respectfully,

George N. Engler

George N. Engler, President
Wildlands and Resources Ass'n
Great Falls, MT.

EXHIBIT "O"
March 12, 1983

MEDICINE RIVER CANOE CLUB
Great Falls, MT
March 11, 1983

Senator Harry Berg
Judiciary Committee
Montana Senate
Helena, Montana 59620

Dear Senator Berg:

Our organization staunchly opposes the sale of public lands. We have been hearing recently the argument that private owners will provide better stewardship of the land. We think there is ample evidence to refute this and fear instead that much of these lands would be subject to abuse and exploitation.

Overall, we feel that the various agencies, under whose care these lands have been administered, have done an adequate job in protecting and preserving the public's interests.

Our greatest concern is that if these lands are sold, they will be irrevocably lost to public use, not just for our generation, but forever.

We wish to go on record as firmly supporting HJR 12 and hope that the Federal Government will be stymied in its efforts to dispose of our lands.

Sincerely,

James W. McDermand

James W. McDermand, President

EXHIBIT "P"
March 12, 1983

WITNESS STATEMENT

Name Smoke Elser Committee On Judiciary

Address 3800 Rattlesnake Dr. Date 3/12 1983

Representing M.O.G.A. Support ✓

Bill No. H.J.R. 12 Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We support House Joint Resolution # 12 because we feel the sale of large tracts of federal land would not benefit the general public. It is obvious to us that these large tracts of public lands would be purchased only by large corporations, perhaps
2. foreign, certainly not residents of Montana.

Such a sale could have far-reaching affects on small ranchers, logging industries, outfitters as well as the general public. Loss of business through loss of recreational opportunities will be felt at both the retail and manufacturing
3. level in such industries as fishing tackle, marine supplies, recreational vehicles, sporting goods of all types, firearms and ammunition, snowmobile sales, etc. Other businesses supported by small farms and ranches who may now lease grazing rights
4. on such land could be affected (farm machinery, farm supply stores, hardwares, feeds, fertilizers, etc.). Fish & wildlife habitat, perhaps Montana's greatest asset would also be jeopardized, if not lost. In fact, all of Montana's economy could be affected.

If the sale of public lands is to, in fact, retire our national debt, this is absurd. If our government would sell all of our federal land to the highest bidder, these monies would not even pay the interest on our national debt for one year and in fact, it would devestate the economic base of many of the Western states which consist of large masses of federally owned public land.

Montana Outfitters and Guides Ass.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

(This sheet to be used by those testifying on a bill.)

EXHIBIT "Q" - March 12, 1983

NAME: Esther D. Rund DATE: 3-12-83

ADDRESS: Matta

PHONE: Helena phone: Colonial Inn

REPRESENTING WHOM? Montana Cattlemens Assn.

APPEARING ON WHICH PROPOSAL: H.B. 12

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: At the present time the Montana Cattlemens Association favors this bill. I say at the present time, because presently most ranchers could afford the purchase of very little if any land that they are presently leasing. Should the economy of our agriculture sector improve, our position may change at that time.

If any federal land is sold permittees should definitely have the first chance to purchase them.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)
EXHIBIT "R" - March 12, 1983

NAME: Tom Murphy DATE: 3-12-83

ADDRESS: Gt. Falls

PHONE:

REPRESENTING WHOM? Mt. Farmers Union

APPEARING ON WHICH PROPOSAL: H.J.R. 12

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Mont. F.U. policy, adopted in October 1983 reads in part - - "We urge continued multiple use of all public lands - - - - we do not believe that transfer of the Public Domain lands to State or Private ownerships would solve these problems." The reference is to the problems resulting in the Sagebrush Rebellion. M.F.U. members oppose creating more wilderness but also oppose sale of Public Lands.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT "T" - March 12, 1983

Montana Audubon Council

Testimony on HJR 12

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today speaking on behalf of the Montana Audubon Council. The Council supports HJR 12.

We've all heard the rumors--that certain federal land may be sold to help pay off part of our national debt. We've also heard rumors that these land sales may be done without proper consultation of the public.

A few weeks ago, the Montana Senate passed SB 118, "An Act to require a public hearing prior to the sale or transfer of certain federal land." (Towe) SB118 guaranteed Montana citizens a voice in the sale of federal lands, since the federal government would not guarantee us that right.

At this moment, the future of SB118 is uncertain because the fiscal note attached to it seems prohibitive at a time when our coffers are not exactly overflowing. This fact makes HJR 12 even more important. The Montana Audubon Council feels that the sale of federal lands should be done properly or not at all. And to do the sale properly, careful consideration must be given to the public and wildlife affected, as well as the future citizens of these United States. We cannot afford to sell off federal lands for short-sighted gains. We feel that HJR 12 is a statement to the federal government that the citizens of Montana want to address federal land sales carefully and thoughtfully or not at all.

And we feel that since the future of SB118 is uncertain, we would request that this committee consider a strengthening amendment to HJR 12, requesting the federal government to hold well-publicized public hearings prior to the sale of a tract of federal lands. We don't have the proper wording of such an amendment at this time, but we are interested in working with interested committee members to articulate this thought.

Thank you.

if that land sale will impacts the management of state land, agriculture, wildlife, recreational resources or the cost to local gov't

EXHIBIT "U"
March 12, 1983

MONTANA SCHOOL BOARDS ASSOCIATION

501 North Sanders
Helena, Montana 59601
Telephone: 406/442-2180
Wayne G. Buchanan, Executive Director

M E M O R A N D U M

TO: Senate Judiciary Committee

FROM: Chip Erdmann

RE: HB-234

All of the pertinent statues dealing with the liability and immunity of governmental bodies and their offices is attached. Section 2-9-111 grants immunity to a governmental entity (Sub 2) and also to any member, officer or agent of a legislative body when introducing or considering legislation or other action by the legislative body.

School boards are defined as legislative bodies and do act in a legislative function when adopting district policies. Many of the functions of a school board, however, fall outside the "legislative" area. These involve voting on purchases of supplies and equipment, etc. When a school board votes to purchase, for instance, football helmets, if these helmets later are alleged to cause an injury this bill would protect the board members from punitive and exemplary damage exposure. Remember, the malice involved in these damages need only be presumed. It is on these type of votes that school board members are looking for protection. They would still be liable for actual damages.

The "official duty" of a school board member is set forth in section 20-3-301(2) where it states: "When exercising the power and performing the duties of trustees, the members shall act collectively and only at a regular or properly called special meeting." This clearly limits the grant of immunity to when the members are acting collectively in a meeting i.e. voting. Since they already have absolute liability when acting in their legislative function, HB-234 would only provide partial immunity on the managerial decisions.

It should also be pointed out that the language "official capacity" is the same language that is found in section 45-7-4 the official misconduct statute.

It has also been suggested that by offering this partial immunity to school district trustees, an equal protection problem will arise. The argument would be that trustees are offered more protection than others similarly situated. The counter argument to this is that the office of school district trustee is a constitutional office. No other state or local board has similar status. Trustees cannot be compared with county commissioners, city council members, irrigation district board members, etc. Section 18, Article II provides that the legislature can change the limits of soverign immunity by a 2/3 vote of each house.

"U"
3-12-83

Senator Berg's concerns that this bill would allow a trustee to make slanderous statements at a school board meeting with immunity are without legal foundation. This bill only addresses those areas when the board is acting collectively in a non-legislative function.

School board members devote hundreds of hours of unpaid service to the educational community. This bill will allow them a small measure of protection when they are acting in their official capacity.

"U"
3-12-87

2-9-105. State or other governmental entity immune from exemplary and punitive damages. The state and other governmental entities are immune from exemplary and punitive damages.

History: En. 82-4332 by Sec. 6, Ch. 189, L. 1977; R.C.M. 1947, 82-4332.

2-9-106 through 2-9-110 reserved.

2-9-111. Immunity from suit for legislative acts and omissions. (1) As used in this section:

(a) the term "governmental entity" includes the state, counties, municipalities, and school districts;

(b) the term "legislative body" includes the legislature vested with legislative power by Article V of The Constitution of the State of Montana and any local governmental entity given legislative powers by statute, including school boards.

(2) A governmental entity is immune from suit for an act or omission of its legislative body or a member, officer, or agent thereof.

(3) A member, officer, or agent of a legislative body is immune from suit for damages arising from the lawful discharge of an official duty associated with the introduction or consideration of legislation or action by the legislative body.

(4) The immunity provided for in this section does not extend to any tort committed by the use of a motor vehicle, aircraft, or other means of transportation.

History: En. 82-4328 by Sec. 2, Ch. 189, L. 1977; R.C.M. 1947, 82-4328.

2-9-112. Immunity from suit for judicial acts and omissions. (1) The state and other governmental units are immune from suit for acts or omissions of the judiciary.

(2) A member, officer, or agent of the judiciary is immune from suit for damages arising from his lawful discharge of an official duty associated with judicial actions of the court.

(3) The judiciary includes those courts established in accordance with Article VII of The Constitution of the State of Montana.

History: En. 82-4329 by Sec. 3, Ch. 189, L. 1977; R.C.M. 1947, 82-4329.

2-9-113. Immunity from suit for certain gubernatorial actions. The state and the governor are immune from suit for damages arising from the lawful discharge of an official duty associated with vetoing or approving bills or in calling sessions of the legislature.

History: En. 82-4330 by Sec. 4, Ch. 189, L. 1977; R.C.M. 1947, 82-4330.

2-9-114. Immunity from suit for certain actions by local elected executives. A local governmental entity and the elected executive officer thereof are immune from suit for damages arising from the lawful discharge of an official duty associated with vetoing or approving ordinances or other legislative acts or in calling sessions of the legislative body.

History: En. 82-4331 by Sec. 5, Ch. 189, L. 1977; R.C.M. 1947, 82-4331.

STANDING COMMITTEE REPORT

March 12 19 83

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Joint Resolution ~~XXX~~ Bill No. 12

Swift (Brown)

Respectfully report as follows: That House Joint Resolution ~~XXX~~ No. 12

third reading resolution,

BE ADOPTED

~~DO PASS~~

STATE PUB. CO.
Helena, Mont.

JEAN A. TURNAGE, Chairman

STANDING COMMITTEE REPORT

March 12 19 83

q

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Bill No. 562

Harper (Shaw)

House Bill No. 562

Respectfully report as follows: That

third reading bill, be amended as follows:

1. Title, line 6.
Strike: "AND"
Insert: ";"

2. Title, line 8.
Following: "OFFENSE;"
Insert: "PROVIDING FOR THE DEFENSE OF CONSENT;"

3. Page 1, lines 17.
Strike: ", whether or not" through "offense" on line 18.

4. Page 1, lines 22 and 23.
Strike: ", without regard to the existence of an adoption"

Continued on Page 2

And, as so amended,

~~DO PASS~~ BE CONCURRED IN

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

March 12 19 83

5. Page 2.
Following: line 1.
Insert: "(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

Renumber: subsequent subsection.

And, as so amended,
BE CONCURRED IN

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 12 19 83

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration House Bill No. 825

Jacobsen (Turnage)

Respectfully report as follows: That House Bill No. 825

third reading bill, be amended as follows:

1. Page 3, line 21.
Following: "or"
Strike: "license"
Insert: "other interest"

2. Page 4, line 4.
Following: "taken,"
Strike: "it must appear"
Insert: "the plaintiff must show by a preponderance of the evidence"

3. Page 4, line 11.
Following: "(4)"
Strike: remainder of subsection.
Insert: "that an effort to obtain the interest sought to be condemned was made by submission of a written offer and that such offer was rejected; and"

(Continued on Page 2)

~~DO PASS~~ And, as so amended,
BE CONCURRED IN

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 5, line 2.
Following: "thereon."
Strike: the remainder of line 2 through line 6.

5. Page 7, line 22.
Following: "~~or judge~~"
Strike: "is satisfied"
Insert: "finds and concludes"

6. Page 8, line 1.
Strike: line 1 through "appear"
Insert: "plaintiff has met his burden of proof under 70-30-111"

7. Page 9.
Following: line 6.
Insert: "(4) After a complaint as described in 70-30-203 is filed, and prior to the issuance of the preliminary condemnation order, all parties shall proceed as expeditiously as possible, but without prejudicing any party's position with all aspects of the preliminary condemnation proceeding including discovery and trial. The court shall give such proceedings expeditious and priority consideration.

8. Page 13, line 25.
Following: line 24.
Strike: "answer"
Insert: "statement of claim of just compensation"

9. Page 14, line 11.
Following: line 10.
Insert: "If the defendant fails to file a statement of claim of just compensation within 10 days as specified in 70-30-207, plaintiff may obtain a possession order provided for in this subsection subject to the condition subsequent that a plaintiff's payment into court shall be made within 10 days of receipt of the defendant's statement of claim."

And, as so amended,
BE CONCURRED IN

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 12 19 83

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Bill No. 220

Hannah (Shaw)

Respectfully report as follows: That House Bill No. 220

third reading bill,

BE NOT CONCURRED IN

~~DO PASS~~

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 12 19 83

MR. PRESIDENT

We, your committee on Judiciary

having had under consideration House Bill No. 234

Yardley (Crippen)

Respectfully report as follows: That House Bill No. 234

third reading bill, be amended as follows:

Page 1, line 13.
Following: "capacity"
Insert: "at a regular or special meeting of the board or a committee thereof"

And, as so amended,
BE CONCURRED IN

~~XXXXXXX~~
~~DO PASS~~

JEAN A. TURNAGE, Chairman.

STATE PUB. CO.
Helena, Mont.