RANGELAND REFORM

It's Not About **Science,** It's About **Politics**

BY BARBARA LABARBARA

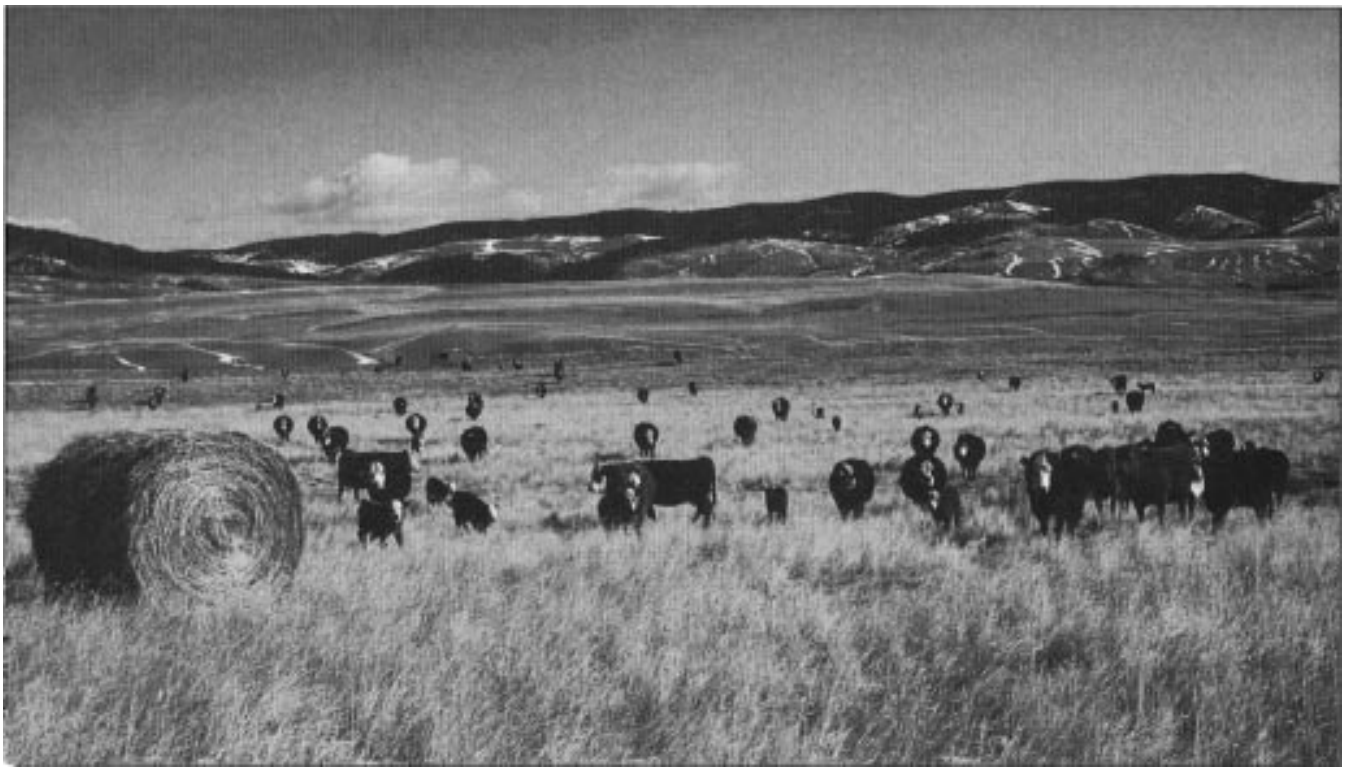
Western ranchers who lease U.S. federal rangeland are being stifled by uncertainty and strangled by regulation. Some legislators are administering CPR, but is it too late?

"I don't want this issue politicized anymore," declares an angry Pat O'Toole, Wyoming rancher. "I don't want the democrats trying to make the republicans look bad or the other way around because the only people who get hurt are us. The politicians have decided this is a great issue. It may be good for them but our people need to get rangeland reform resolved."

O'Toole, a democrat, served on President Clinton's Interior Department transition team. He has fought all of the rangeland reform battles against Bruce Babbitt, Secretary of Interior. He believes the main objective of the Babbitt bill, "Rangeland Reform '94," is to make it as hard as possible for ranchers to stay on federal lands.

Senator Pete Domenici, R-N.M., introduced an alternative to Reform '94, S852, Public Rangeland Management Act of 1995. It's more rancher and multi-use friendly but is not the perfect solution.

Rangeland Reform '94 went into effect Aug. 21,1995. Federal land ranchers are officially operating under those regulations. It appears, however, that under Babbitt the Department of Interior and the Bureau of Land Management (BLM) will be conservative in the implementation of the regulations until



Rangeland Reform '94, Bruce Babbit's bill which went into effect Aug 21, may force cattle off federal Lands and ranchers out of business unless legistators act soon.

the next election or their policies become soundly entrenched.

"Secretary Babbitt has been at this for more than two years," says Senator Craig Thomas, R-Wyo. "Though his proposals were rejected in the West, he did not change them. Our analysis is that his plan is unacceptable."

O'Toole says Reform '94 has nothing to do with the health of the range or the health of the industry. It's the fine line issues that are killing the ranchers.

Rights of Ownership

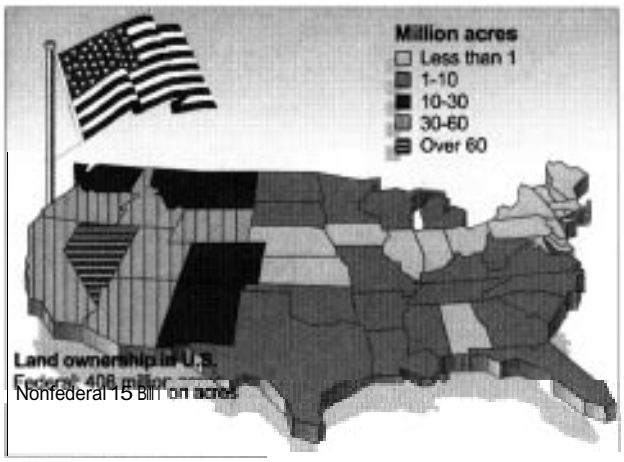
One of the major regulations the Clinton Administration adopted was that the federal government claims title to all improvements, such as fences and water supply, made by ranchers on federal lands. There has been major private investment in BLM lands over the past 60 years. Those improvements remain in the name of the rancher but improvements made after Aug. 21,1995 become government property. Could there be a stronger disincentive for not making improvements on your allotment?

"I will have no ownership in improvements, therefore, I won't do any," says Neils Hansen, a Wyoming rancher who leases federal land for cattle grazing.

Banks typically loan on the collateral interest in range improvements. If there is no title, there is no collateral. Reform '94 shortens the time of leases from 15 to 10 years, which becomes an additional hardship to borrowing.

Under the Public Rangeland Management Act of 1995 (PRMA-95), when the rancher pays for an improvement, he retains ownership. If it's cost shared with BLM, it would be a co-ownership.

WHERE IS UNCLE SAM'S LAND?



Nevada has more Federal land by far than any other state, with 60 million acres; that's 85% of the state.

Federal land acquisitions increased the total acreage owned by Uncle Sam by 3.3 million acres between 1982 and 1992.

88% of the Federal land is in the 11 western states.

STATES	MILLION ACRES	PERCENTAGE OF STATE
Nevada	60	85
California	47	46
Utah	36	65
Idaho	33	62
Oregon	32	52
Arizona	30	42
Wyoming	30	48
NewMexico	27	35
Montana	27	29
Colorado	24	36
Washington	12	29

Subleasing & Management Contracts

The most onerous regulation in the Babbitt bill is the surcharge for subleasing. The purpose of the surcharge was to stop people who have permits from subleasing them. Subleasing is when somebody brings their cattle onto your permit and does the work. It's not a common practice.

"One of the common ways to keep the ranch in the family is to transfer the land assets, including BLM permits, to the next generation," says Wyoming rancher Bill Barney. "If you do that on federal forest lands, you lose your permits. It was allowable under old BLM rules. Under Reform '94 there is a surcharge which makes the process uneconomical. Though subleasing in PRMA-95 is an improvement over Reform '94, it, too, is flawed."

Management contracts are different from subleasing in that somebody else buys the cattle and pays you to manage them. This usually happens with stocker steers or for cattle in areas where there is only summer range. Often people who purchase the cattle compete in the futures market and have large numbers of cattle which move on and off of public lands as seasons change. The cattle go to market different times of the year in different areas. It was good for the financial manager, but also guaranteed an income with little risk for the rancher.

Reform '94 allows management contracts but requires a surcharge, killing such cooperative ventures.

Forest Service & BLM Regulations

Barney is one of many ranchers who lease both Forest Service and BLM lands. He deals with two different sets of regulations that are incompatible in many respects. PRMA-95 makes the two more congruous and easier for ranchers to manage.

EPA & Rangeland Judgments

Under current interpretation, the National Environmental Policy Act (NEPA) gives federal employees the latitude to make unrescinding decisions affecting individual ranch operations. NEPA is a requirement under PRMA-95 at the land use plan level and not below. It addresses a variety of lands uses on federal property based on an individual national forest or BLM district not the individual permittee.

Reform '94 allows the authorized grazing officer to make arbitrary judgments.

In the past, ranchers could appeal those judgments in a timely manager while continuing to use the range. Today, a rancher no longer has that option. If the manager says cease and desist, it's effective immediately,

"This regulation presupposes the federal land rancher is morally degenerate and less worthy of fair treatment than the worst of criminals," declares Barney.

Federal land ranchers need public lands to survive. They cannot change the fact that the federal government is their neighbor.

"Reform '94 has effectively taken away my right to use my private property," says Hansen. "I cannot turn cattle out on my private property because it's a checker board with federal lands. Under the unlawful closure act it's illegal for me to fence my property."

BLM employees establish the time of use for Hansen as well as the season and the class of livestock he can run. Even though he owns 100 sections of deeded land, he doesn't have the prerogative to manage it at his discretion. He's the third generation to ranch this land and feels the strangle hold of federal regulations tightening each year.

O'Toole feels some of the same pressures. His ancestors homesteaded his ranch, which is located on the Colorado/Wyoming border.

"We have some of the best and some of the worst BLM and Forest Service employees to work with," he says. "We have people who are easy to work with and others whose only purpose is to make our life miserable. What Reform '94 does is make it easier for the bad guys to make our life so difficult that we won't survive."

Since the enactment of the Taylor Grazing Act in the 1930s, ranges have steadily improved. Rangeland is in the best shape it has been in this century. Wildlife numbers are higher today than ever before. The public, as a whole, does not want ranchers off of federal lands. People want to know the ranges are being cared for under multi-use regulations. That is the goal of federal land ranchers as well. If it weren't, how could there be the third and fourth generation operations existing today?

Opposition to Reform '94

Reform '94 is being challenged by a Public Lands vs Babbitt lawsuit that seeks to put an end to the regulations in Refrom '94. It asks the court to find the regulations illegal making them null and void. If the court finds in favor of Public Lands, the old BLM and Forest Service regulations would go into effect until the enactment of PBMA-95 on March 1,1996.

In another effort to stop Reform '94, Senator Thomas added an amendment to the Interior Bill that stops funding of its implementation. He is also investigating the legality of BLM employees lobbying against PRMA-95.

When President Clinton was vacationing in Wyoming this past August, O'Toole had the opportunity to meet with him regarding rangeland reform. The President's understanding of the issue impressed him. Yet, when he told the President that Wyoming has lost more than 30 percent of its sheep industry and of damage to the cattle industry because of uncertainty and unrealistic regulation, the President seemed surprised.

During the meeting, federal land ranchers in attendance asked the President to pull Reform '94. It's in his power to block further implementation of the regulations.

Opposition to PRMA-95

"There has been a sophisticated campaign by Secretary Babbitt and this administration against PRMA-95 legislation," says Bill Myers, executive director, Public Lands Council. "For example, the news media has reported that federal lands access to the public would be limited. That is a lie."

Senator Thomas agrees that opponents, some of whom have never read the bill, have developed a false perception that PRMA-95 will adversely affect hunters, fishermen and the general public. He says it's a multiple-use bill that meets the needs of the West.

Regulatory Reform & Endangered Species Act

Regulatory Reform could soon affect agriculture. If it passes, it will allow Congress to have oversight of regulations enacted. It would no longer leave the interpretation of regulations to the desecration of federal agencies such as BLM, Forest Service and the Environmental Protection Agency.

Cost benefit ratio is a significant part of the reform. For example, re-authorization of the Endangered Species Act, which will probably happen by the end of 1996, will address private landowners' interests. Currently, the endangerment of the animal or plant is the only consideration.

"We want it to consider private property rights, jobs, economy and balance those things," says Senator Thomas. 'The fact that environmental issues are not always based on scientific facts makes the issues more complicated. Right now we need a reality check."

You Can Make a Difference

Contact your congressmen and senators to urge them to become co-sponsors of the Public Range/and Management Act and Regulatory Reform. You can also write letters to newspaper editors telling why these bills are good. Respond to negative advertisements at every opportunity. Urge your county commissioners and other locally elected officials to discuss these issues with their counterparts in states that have no federal lands and cannot understand the plight of a federal land rancher.

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CRAIG THOMAS SENATE PRIORITIES

Craig Thomas

- **Creating and maintaining quality jobs**
- **State rights/new federalism**
- **Multiple use of public lands**
- **Reducing the deficit**
- **Reducing and eliminating unneeded regulation**
- **Rural health care reform**
- **Congressional reform: line-item veto, balanced budget amendment and term limits.**

REQUIRED READING FOR RANGELAND REFORM

Following is a summary of important definitions and current information on the Public Rangeland Management Act of 1995 (PRMA-95):

Animal Unit Month (AUM)

In Rangeland Reform '94, an AUM is defined as 1 cow, bull, steer, heifer, horse, burro, mule, or 5 sheep or goats. PRMA-95 amends this definition by changing 5 sheep or goats to 7 sheep or goats.

Rangeland Study

In Rangeland Reform '94 "rangeland study" allows the authorized grazing officer to make arbitrary judgments. PRMA-95 requires physical examination, not allowing for "cursory (hasty/ superficial) visual scanning" unless conditions are "patently obvious" upon visual appraisal.

Rangeland Reform '94 also includes a list of standards and guidelines which address the entire West – a "one size fits all" proposal driven from Washington, D.C. PRMA-95 directs the Secretary to establish standards and guidelines on a state or regional level in conjunction with the individual states' Departments of Agriculture and land grant universities.

Subleasing

Rangeland Reform '94 includes a surcharge for subleasing. PRMA-95 will allow a spouse, child, grandchild of the original permittee (federal grazer) to sublease without a surcharge. A surcharge will not be attached to a sublease if the original permittee cannot use the permit due to illness or death.

Conservation Use and Temporary Non-use

Rangeland Reform '94 amends existing regulation to include 10 years worth of conservation use. PRMA-95 does not allow for "conservation (environmental non-use) use" at the discretion of the permittee or lessee.

Permit Tenure

Rangeland Reform '94 establishes permit tenure at 10 years. PRMA-95 amends this period to 15 years.

Resource Advisory Councils

Rangeland Reform '94 establishes and charters Resource Advisory Councils (RACs), ranging from 10 to 15 people. These councils consist of at least one representative from the following interests: elected state or county official, state and local govermnent, basic sciences, commodity interests, arbitrary interests, environmental interest, and tribal government -where applicable.

PRMA-95 provides for outside interests to serve on advisory councils. It designates RACs and Grazing Advisory Councils (GACs) as follows:

RACs – Nine to 15 representatives, including but not limited to, permittees and lessees; other commercial interests; recreational users; representatives of local recognized enviromnental or conservation organizations; educational, professional or academic interest; representative of state and local governments or governmental agencies; Native American tribes, and other members of the public.

GACs – 15 representatives of the grazing permittees or lessees.

Under PRMA-95, each person sitting on a RAC or GAC shall be residents of the affected state.

Rights of Ownership

Under Rangeland Reform '94, the federal government claims title to all improvements made by ranchers on federal lands. PRMA-95 will give the federal government a proportional title to the improvements made to federal lands by the rancher. The proportional title will be determined by the investment made by the permittee or lessee and the federal government.

Water Rights

Rangeland Reform '94 claims title by federal government to water that is developed on federal lands for the use of livestock grazing. PRMA-95 would allow the federal government to gain water rights only if the federal government applies for water rights under the terms and conditions of state law.

Grazing Fee Formula

Rangeland Reform '94 does not include a fee for grazing on federal lands. PRMA-95 implements a new fee formula:

Gross Return Fee Formula

A three-year rolling average of the total gross value of production for livestock would be multiplied by 6 percent and divided by 12 to obtain the fee for an AUM.

For example, for 1992 the gross value of production for livestock = $431.00

431 x.06 = 25.86

25.86/12 = 2.16

$2.16 = grazing fee per AUM for 1993

The three-year rolling average of the total gross value of production livestock is calculated by the USDA, National Agriculture Statistics Service, Economic Research Service, plus "Economic Indicators of the Farm Sector's Cost of Production – Major Field Crops and Livestock and Dairy."

Appeals

PRMA-95 directs the Secretary of Interior to allow for appeals to be heard by an administrative law judge. Any person who desires to appear as a friend of the court shall be allowed to be heard if they have made a timely request to be included.

National Environmental Policy Act (NEPA)

PRMA-95 provides for the reissuance of expiring grazing permits to a rancher in good standing without assessment under NEPA. It states that the issuance of a grazing permit (with a valid land use plan under NEPA) is an ongoing government action that doesn't require additional NEPA documentation over and above that done for the applicable land use plan.

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