

CONSERVATION LEASING

Environmental groups could use markets instead of politics to protect public lands

by Hannah Downey and Kristen Byrne



Upper Missouri River Breaks National Monument, Montana

Photo © Bob Wick, BLM

When Lewis and Clark paddled the Missouri River in northern Montana more than two centuries ago, they marveled at the sheer bluffs that descended into the water and the bighorn sheep they described in their journals.³¹

In 2001, President Bill Clinton designated nearly 400,000 acres of land in this area as the Upper Missouri River Breaks National Monument. The monument was created to protect the rock outcroppings, grassy plains, and meandering river that remained relatively unchanged since the westward explorers' voyage. "Many of the biological objects described in Lewis' and Clark's journals continue to make the monument their home," Clinton said in the monument proclamation.³²

When public land becomes a national monument, the designation often precludes certain future uses in the name of preserving the landscape, as did the designation for the Missouri Breaks. Monument advocates argue that such restrictions are necessary to protect areas from the impacts of live-stock grazing, oil and gas development, and timber harvests, among other activities. Opponents, on

the other hand, argue that limiting uses on national monument lands impedes local economic opportunities and undermines longstanding resource uses on the landscape.

Rather than have these competing parties fight over monument designations in the political arena, there's a better alternative: Allow environmental groups to participate in the leasing processes that govern resource use on federal lands—even if that means leaving resources idle for conservation purposes or using the land solely for recreation. Currently, conservation leasing is generally limited on federal lands due to requirements that leases or permits be granted only to parties who plan to extract or consume resources. If leasing policy was expanded to explicitly allow conservation leasing, groups could bargain for leases and then set aside the land for conservation purposes instead of it being used for grazing, energy development, or logging. This approach would allow environmentalists to protect public landscapes—regardless of whether they have monument status—through direct action.³³

The approach could apply to the Upper Missouri River Breaks National Monument: A conservation group might purchase a grazing permit from a rancher and then opt to keep livestock off the land.³⁴ Visitors floating the river or hiking, hunting, and fishing within the national monument are often surprised to find cows grazing among cottonwood trees along the river. When President Clinton designated the multiple-use Bureau of Land Management (BLM) lands as a national monument, existing grazing permits were grandfathered into the management plan, much to the dismay of organizations that believe livestock grazing is destroying the cottonwoods and riverbanks.³⁵ Today, approximately 10,000 cattle still graze within the monument's borders.³⁶

Environmentalists near the Missouri Breaks National Monument have already shown interest in acquiring grazing permits as an alternative to litigation. But the requirements that accompany federal grazing permits make it difficult for non-ranchers to secure them through trade. One obstacle is that the only current options involve lengthy legal processes that do not compensate ranchers when their grazing privileges are reduced. The BLM has been sued multiple times by various environmental organizations regarding grazing policy on the Missouri Breaks. In 2013, for instance, a U.S. Court of Appeals ruled that the BLM “violated the National Environmental Policy Act by not considering a reasonable range of alternatives that included a no- or reduced-grazing option.”³⁷ As of 2016, however, the permitted amount of grazing on the monument had remained almost unchanged for 20 years.³⁸

Complicating the process even further, to acquire a permit, ranchers must first own a so-called “base property,” usually a nearby ranch with an active livestock operation. Because the permits are attached to base properties, the only straightforward way for holders to transfer their permits is to sell the base property too. Conservation groups who want to acquire grazing permits, therefore, cannot simply purchase them; they must also purchase or already own qualifying base properties. The arrangement can raise the cost of transferring permits exponentially.

Furthermore, grazing permits have a *de facto* use-it-or-lose-it requirement. This means that conservation groups who do not run livestock on their permitted allotments risk forfeiting their grazing privileges to a rancher willing to use the land for active grazing.³⁹ Requiring active resource use as a

stipulation of grazing permits excludes groups who would seek to leave pasture ungrazed, effectively shutting environmentalists and recreationists out of the leasing process.

Despite these barriers, there are creative ways to work toward conservation within the existing permit structure. The American Prairie Reserve, a nonprofit conservation organization that aims to protect and restore the prairie landscape near the Upper Missouri River Breaks National Monument, has successfully acquired grazing permits in the region for conservation purposes. The group is striving to create a nature reserve larger than Yellowstone National Park by purchasing private ranches and the grazing permits that accompany them.⁴⁰ They fulfill the use requirements of the permits by stocking the lands not with cattle but with bison, which the BLM categorizes as livestock.

But American Prairie Reserve's effort has been anything but frictionless. On the BLM's Flat Creek allotment, for instance, when the group sought the agency's permission in 2014 to replace cattle with bison and remove existing interior fencing in the area, the BLM received more than 100 letters of protest from ranchers and others objecting to the proposal—and the permit has yet to be approved.⁴¹ Given the current rigid federal grazing system, American Prairie Reserve is only able to implement its conservation strategy by continuing to run livestock on the grazing allotments it acquires. Even then, protracted political wrangling has still been unavoidable in some cases.

Congress should change the rules governing federal rangeland management so that any groups who want to pursue environmental goals can acquire resource-use leases, even if they plan to not consume the resources. Conservationists could then purchase grazing permits and determine the stocking rate. The concept could apply in other situations too. Interested parties could potentially buy oil and gas leases to hold them out of development for specific periods of time or bid on timber-harvest rights to leave forests standing, as has already happened in limited cases in recent years.⁴²

If implemented on a widespread scale, conservation leasing could provide an alternative way to protect lands while also compensating current leaseholders and sparking less conflict.

Instead of designating swaths of public land as national monuments to “save” them from consumptive uses, agencies could allow all sorts of parties to bid on grazing allotments, energy leases, and timber harvests. Monument proponents should have plenty to like about the approach, too, because it would give them a clear path to acquire leases that were grandfathered into monument lands and then hold them out of development. A flexible alternative to the current structure would put lands toward their highest-valued uses, even—or especially—when that use is conservation.

Recommendations:

- Allow conservationists to participate in resource leasing for non-consumptive uses.
- Remove base-property and livestock grazing requirements from grazing permits.

Further Reading:

- [“Managing Conflicts over Western Rangelands,”](#) by Shawn Regan. *PERC Policy Series* No. 54 (January 2016).
- [“A New Landscape: 8 Ideas for the Interior Department,”](#) *PERC Public Lands Report* (March 2017).