THE NATION'S "PUBLIC LANDS"

From where did the public lands come? What happened to most of the original public lands? What should we do with the public lands remaining in public ownership?"

This paper has been prepared by the Public Lands Foundation' to help the public understand:

- how the United States acquired its "public lands,"
- how the United States transferred title to most of the original public lands to State, private and other ownerships,
- how the United States set up management systems for the public use on the 245 million acres of the public domain lands that remain in federal public ownership in the National System of Public Lands, which is administered by the U. S. Bureau of Land Management, and
- why these public lands must be kept in federal ownership to meet the current needs of the public and the unknown, and unknowable, needs of future generations.

From Where did the Public Lands Come?

Ceded Lands from Native Americans

The United States, as a young Nation, originally obtained lands as ceded (given) to the newly established government through treaties with individual Native American Tribes. This is an historical fact, but seen by some as nonetheless controversial. Yet, this legal beginning provides the original basis for federal ownership and legal title to much of the public lands.

Lands relinquished by the Colonies

The first public lands were created in 1781, when New York agreed to surrender to the Federal government New York's claim to unsettled territory that extended westward to the Mississippi River. The other colonies followed New York's lead, and by 1802 all of the land west of the colonies between the Appalachian Mountains and the Mississippi River became public domain land owned by the Federal government.

Lands Purchased from other Countries

In the course of national expansion from 1781-1867, the United States acquired all of the land westward to the Pacific Ocean by the Louisiana Purchase from France, the Mexican Cession and the Gadsden Purchase from Mexico, and the Alaska Purchase from Russia. The original public domain land totaled 1.8 billion acres. Attachment 1, taken from the Department of the Interior's Public Land Statistics, shows these major land acquisitions.

What happened to most of the original public lands?

Two thirds of the original 1.8 billion acres of public domain acquired by the U.S. were subsequently transferred to individuals, corporations, and the States. Other large areas of the public domain were set aside for National Parks and Monuments, which are managed by the National Park Service, National Forests which are managed by the U.S. Forest Service, Wildlife Refuges which are managed by the U.S. Fish and Wildlife Service, and as Reservations held in trust for Native American Tribes.

During the 1800s, Congress passed a variety of laws to authorize the disposal of the public lands to citizens, States, and private companies to help settle and develop the West. The General Land Office

(GLO), a predecessor of the present BLM, was established in 1812 within the Department of the Treasury to oversee the survey and disposal of these public domain lands, and to keep the Federal land records.

District Land Offices were opened in areas where settlement was occurring to help organize and keep track of the settlement activities. These District Land Offices were closed when most of the lands in the area were taken, and relocated westward to new locations where settlement was beginning.

The following is a description of the major ways in which most of the public lands were transferred out of the public domain.

Military Bounties

In the early years, many of the public domain lands west of the Appalachian Mountains were used as military bounty lands to compensate citizens for service in the Revolutionary War and the War of 1812. Over 61 million acres were granted to veterans as military bounties.

Land Grants to States

Each new State which joined the Union gave up any claim to the federal public domain lands within that State, but received large acreages of public domain in land grants. These lands were to be leased or sold by the State to help raise funds for public schools, colleges, universities and other public institutions in the State. There were two types of federal land grants to the new States:

- "quantity grant" lands, which the State had the right to select out of the public domain in the State, and
- designated "school sections" in each surveyed township.

The acreages of public domain that were transferred to the western States range from 2 to 10 million acres, depending on the size of the State and the date of statehood (Congress got more generous in the later years). In total, over 77 million acres were transferred to the States for local schools along with another 21.7 million for other public schools and institutions. Alaska, which became a state in 1959, also received more than 103 million acres from the public domain for other purposes. Attachment 2, taken from *Public Land Statistics*, shows the acreage each State received. The States have set up State Land Departments in each of the western States to administer these lands in accordance with the trust requirements of the Statehood Acts.

In addition to the land grants made at time of Statehood, the States currently receive a percentage of the receipts from federal leases and sales of lands and resources within each State. Also Congress, in 1976, established a Payment in Lieu of Taxes (PILT) program that provides annual payments to local governments to help offset losses in property taxes on the acreages of non-taxable federal lands within their boundaries. In FY 2013, about 1,900 Counties and other local governments received a total of \$400 million in PILT payments.

Land Grants to Railroads

In the 1860 - 1880 era, Congress gave over 60 land grants to railroad companies as incentives to build transportation systems for our developing nation. Typically a railroad company would receive every odd numbered section of federal land along each side of, and within a designated distance from, the tracks. These railroad grant areas varied from 20 to 160 miles in width. Attachment 3, taken from the "Opportunity and Challenge - The Story of BLM," shows the general location and widths of these railroad grant areas. The railroad companies were expected to sell the land to help finance the construction of the line and to create land uses and future customers for the railroad and the economy of the area

In western Oregon, a 60-mile wide swath of checkerboard public domain lands was granted to the Oregon and California Railroad Company and the Coos Bay Wagon Road Company in 1866 to finance the construction of the railroad and wagon road. The lands granted to these private companies were to be sold to "actual settlers" to help develop the local economy. The companies violated the terms of the grants, and in 1916, Congress "revested," or reclaimed, 2.5 million acres of these lands to Federal ownership. In 1937, Congress passed the Oregon and California (O&C) Revested Land Act directing that these lands be managed for timber production to contribute to local economic stability. In 1938, an O&C Revested Lands Administration was established to administer these "O&C Lands," and this new organization was assigned to the General Land Office.

In total, over 40 million acres of federal lands were transferred out of the public domain in railroad and wagon road land grants. In about 1880, Congress ended the practice of making railroad land grants.

The railroad grant program left behind wide corridors of checkerboarded land ownership where the odd numbered sections are now owned primarily by ranchers and the even numbered sections are federally owned and managed by the BLM. That land ownership pattern complicates any land management changes either party wants to make.

Land Transfers to Individuals

Beginning in 1860, Congress began passing a series of laws to facilitate the settlement and development of the vast areas of public domain west of the Mississippi River by citizens and the masses of immigrants who were moving to America for a better life. Many new laws were passed, including the Homestead Act (1862), Timber Culture Act (1873), Desert Land Act (1877), Timber and Stone Act (1878), and in 1872, Congress passed a Mining Law to encourage exploration and development of the Nation's mineral resources.

Most of these laws required some level of development effort on the land before the land could be purchased for the prices set by the statutes, which ranged from \$1.25 to \$2.50 per acre. An estimated 640 million acres were transferred to settlers on the plains of the Midwest and in the valleys of the West under these settlement laws. The land patents conveyed both the surface and the mineral rights.

In 1916, Congress passed the Stockraising Homestead Act to enable ranchers to acquire land for ranch headquarters sites. However, the federal government retained the mineral rights in Stockraising Homestead patents, and that is why the federal government still owns, and the BLM administers, the mineral rights beneath 70 million acres of stockraising homestead private lands in many of the western States

The Mining Law of 1872 facilitated mineral exploration and development and created mining camps which grew into many of the present day communities in the West. Originally, the Mining Law of 1872 applied to all valuable minerals on the public domain. However, by the turn of the Century, the U. S. Navy had converted from "sails" to "steam," and Congress was beginning to have second thoughts about a statute that put the Nation in danger of losing control over its fuel supplies. In the early 1900s, huge petroleum reserves in California and Wyoming were withdrawn from the public domain and closed to the location of mining claims.

The Mineral Leasing Act of 1920 was passed to "promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain." It removed the fuel and other non-metallic minerals from the purview of the 1872 Mining Law. Lands valuable for these minerals were subsequently leased from the General Land Office, starting the flow of mineral leasing income, which today is measured in the billions of dollars annually from BLM public lands, reserved mineral rights, and off shore lands.

Transfers of Public Domain Lands to other Federal Land Management Agencies

During 1890 - 1980, over 300 million acres of the original public domain lands were transferred from administration by the General Land Office and the BLM to other federal land management agencies for use in their designated management programs. The BLM continues to manage the subsurface mineral estate beneath these other federal agency lands.

The <u>National Forest System</u>, managed by the U.S. Forest Service, began with the Forest Reserve Act of 1891, which allowed the President to establish "Forest Reserves" from timber covered public domain land to help conserve the forests and the watersheds of the West. Over 163 million acres of the original public domain lands are incorporated into the National Forest System.

The <u>National Park System</u>, managed by the National Park Service, was established in 1916. Over 64 million acres of the original public domain lands were transferred to the National Park Service for inclusion in National Parks, Monuments and other units of the National Park System.

The <u>National Wildlife Refuge System</u>, which is managed by the U.S. Fish and Wildlife Service, includes over 80 million acres of the original public domain lands.

The <u>Department of Defense</u> agencies have over 16 million acres of the original public domain lands set aside for military bases, training facilities and test ranges, most of which were established during World War II.

Transfers of Public Domain Lands to Native Americans

Over 56 million acres of public domain lands were set aside in Reservations for Native American Tribes. These lands are held in trust for the tribal members and the BLM manages the minerals for the Tribes.

The Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 provided for the transfer of more than 44 million acres out of public domain lands to Alaska Native corporations. These transfers are still in the process of being completed based upon selections made by the corporations.

Management Systems that were developed on the Public Domain Lands

By 1930, the General Land Office had transferred most of the public domain lands east of the Mississippi River, on the Great Plains of the Midwest, and in the valleys of the West into State and private ownership. The public domain that remained in the rural areas of the West was used primarily for livestock grazing by ranchers. The Stockraising Homestead Act had enabled ranchers to acquire land for their ranch headquarters, but the General Land Office had no authority to authorize livestock grazing on the public domain. The forage on the public domain lands belonged to the rancher whose livestock got there first.

The Taylor Grazing Act and the U. S. Grazing Service in 1934

Congressman Edward Taylor of Colorado led the effort in Congress to pass the Taylor Grazing Act of June 28, 1934. The Act was passed "in order to promote the highest use of public lands pending its final disposal." Its objective was "to stop injury to public grazing lands by preventing over-grazing and soil deterioration, to provide for orderly use, improvement and development, and to stabilize the livestock industry dependent upon the public range." A "Grazing Service" was established within the Department of the Interior to administer the Act. It's mission was to authorize livestock grazing in 10 western states, provide stability to the livestock industry, and improve the conditions of the range.

During 1935 - 1951, the Grazing Service helped local ranchers form "Grazing Districts" on over 142 million acres in 61 public domain areas in 10 western States. Attachment 4 shows the areas in the

Grazing Districts which had been established by 1937. District Grazing Offices were set up in each of the Grazing Districts to administer the program. The Taylor Grazing Act also put an end to unrestricted public settlement on the public domain lands, and required the General Land Office to classify lands as suitable for entry and required the public to file applications and get approval before settling on the lands.

Bureau of Land Management created in 1946

On July 16, 1946, Congress established the Bureau of Land Management by the merger of two existing agencies, the Grazing Service and the General Land Office with its O&C Revested Lands Administration unit in western Oregon. After the merger, the BLM's field organization consisted of Land Offices located in the State Capitals of the 12 western States, and 60 District Grazing Offices scattered through the rural areas of the same States. BLM's early years could be characterized as an era of "Clerks and Cowboys" with the emphasis on Lands/Minerals operations and Range/Forestry programs.

By 1946, the acreage in the "public domain" had been reduced to about 400 million acres of public lands, and there were more than 3,000 unrelated and often conflicting laws on the books related to the management of the public domain lands.

In 1959, the new State of Alaska created a major new workload for the new BLM and over 100 million acres of public land were transferred to that new State. In the "lower 48" the BLM struggled to manage the competing uses and demands on the remaining public lands in the 11 western States, "pending their disposal" as had been proclaimed in the Taylor Grazing Act. But the public was beginning to take a renewed interest in their public lands.

New Legislation for the BLM

The 1960's brought major changes to the BLM with President Kennedy taking notice of the public lands and emphasizing the need for an increased focus on conservation and the importance of the Federal government in providing leadership in that arena.

In 1964, Congress passed a Classification and Multiple Use Act (C&MU Act), which directed the BLM to determine:

- 1) which of the BLM public lands should be sold for orderly growth and development of a community, or are chiefly valuable for residential, commercial, agricultural, industrial, or public uses or development, OR
- 2) retained, at least for the time being in Federal ownership and managed for domestic livestock grazing, fish and wildlife development and utilization, industrial development, mineral production, occupancy, outdoor recreation, timber production, or preservation of public values that would be lost if the land passed from Federal ownership.

During 1965 - 1970 the BLM held hundreds of public hearings on land classification proposals throughout the West. The implementation of the C&MU Act was a significant event because it gave the general public their first official opportunity to have a say about what should be done with their "public domain lands." Their response was overwhelmingly to retain and manage the lands for multiple use.

As a result, Congress, on October 26, 1976, passed a Federal Land Policy and Management Act (FLPMA). FLPMA is an "organic act" for the BLM, which establishes the agency's multiple use mandate to serve present and future generations.

FLPMA also repealed a long list of outdated public land laws that had been passed to provide for the disposal of the Nation's public lands. The Mining Law of 1872 and the Mineral Leasing Law of 1920 remained unchanged.

New Laws, new Uses and a new Identity for the BLM Lands

A variety of environmental laws were passed in the late 1960s and early 1970s, which greatly influence how BLM operates. They include the National Environmental Policy Act, the Clean Water Act, the Clean Air Act, the Wilderness Act, the Endangered Species Act and the Wild Free-roaming Horses and Burros Act.

During 1930 - 1960, ranchers and livestock grazing were the primary users and uses of the public lands. Grazing Service and BLM management programs focused primarily on such issues as livestock numbers and seasons of use. A system of local advisory boards was used to obtain local citizen's input.

But things began to change in the 1960s. Some examples:

- Off Highway Vehicles (OHV) were "invented" and the rural and remote BLM lands had become the outdoor recreation playgrounds for the public from the urban areas of the West.
- The Wilderness Act of 1964 had made "national treasures" out of remote areas of the public domain.
- Antiquities and archeological ruins which had been protected for centuries by their remote and inaccessible locations were now being explored and often damaged by the public.
- "OHV travel management plans" were much more complicated than "seasons of use" determinations and involved a lot more people.
- The Wild and Free-roaming Horses and Burros Act of 1971 changed the "invasive" and "nuisance" animals of the Grazing Service era into the "living symbols of the old West." Congress determined that wild horses and burros should be protected animals.
- The National Environmental Policy Act of 1970 greatly extended the time it took to make public land decisions. Decisions that were formerly made in BLM District Offices by the District Manager and staff had become lengthy public processes that were extended by appeals to the Courts
- The Endangered Species Act of 1973 required major changes in the traditional timber harvest and oil and gas development activities on BLM lands, and threatened and endangered species had greatly curtailed or shut down production of natural resource products entirely in some areas.

On December 16, 2008, the Department of the Interior designated the millions of acres managed by the BLM for multiple use as the **National System of Public Lands.**

What should we do with the Public Lands remaining in public ownership?

In 2014, there are approximately 245 million acres of the original public domain remaining in the National System of Public Lands managed by the U.S. Bureau of Land Management. These lands are owned by, used by, and are important to the Nation's public, not just State and local residents. The National government funds the cost of managing the public use and protecting the resources on these federal lands. BLM's budget for fiscal year (FY) 2013 was \$1.1 billion.

The value of the public lands is indisputable as a legacy for future generations and as a contributor to present day economies and quality of life. Public lands managed by the BLM contributed more than \$130 billion to the U.S. economy while supporting more than 600,000 American jobs in FY 2011.

The revenues generated by activities on the public lands fuel local economies as well as contribute funds back to the U.S. Treasury. Onshore federal mineral revenues generated by BLM totaled \$4.4 billion in FY 2012.

Other sources of significant revenues include: the issuance of coal leases valued at over \$2 billion; sales of wood and non-wood products at \$30 million; recreation fees at \$18 million; sale of mineral materials such as sand and gravel at \$11 million; grazing fees at \$42 million; oil, gas and geothermal competitive leases at \$226 million; and, rental receipts for rights-of way for activities such as transmission lines and pipelines at \$64 million.

The States and local governments share in much of the revenue generated by public lands. Fifty percent of the royalties from mineral development and leasing go back to the States. Each year, either 50% of grazing fees or \$10 million, whichever is greater, is allocated back for range improvements. Fifty percent of receipts from timber sales on the Oregon and California lands are allocated back to the 18 counties where harvest occurs.

Payments in lieu of taxes are federal dollars that are given to local governments that help offset the losses in property taxes due to non-taxable federal lands within their boundaries. A total of \$401,756,129 was given to local governments in FY 2013.

In addition to the monetary contributions the public lands generate, they provide many opportunities to connect with and enjoy the outdoors. Recreation use continues to grow every year with the land providing over 72 million visitor days in FY 2012. People take advantage of the open spaces as refuges from the fast-paced urban living. The experiences available on public lands are many and varied.

There is hiking, biking, picnicking, camping, birding, fishing, hunting, recreational shooting, and off-road vehicle use to name a few. BLM manages more than 27 million acres of National Conservation Lands, special places with special values that provide opportunities to explore and enjoy on your own. Opportunities for solitude exist in the open spaces. Cultural, historical and paleontological resources are there to be preserved and enjoyed, linking to the history of the U.S. and native peoples. And, public lands provide significant habitat for threatened and endangered plants and animals.

In 1934, the land managers in the Grazing Service, who made plans for livestock grazing use of the public domain lands, "pending their final disposal," were probably pleased that they had resolved the last public land use issue of their times. They had no idea of what the future had in store for their "grazing lands."

But, the future included World War II, uranium, wild horses and burros, endangered species, off highway vehicles, wilderness areas, and renewable energy projects. The public domain lands have played major roles in helping the federal government deal with these and the other emerging public land issues that dominated the last half of the 20th Century.

Likewise, today we do not, and cannot, know what the public land issues will be for the generation of Americans at the end of this century. What new energy sources will be discovered/developed between now and the year 2100? What new recreation uses and equipment will be developed? What will be the "spotted owl" or the "wild horse" for future generations of Americans? What national or global programs will be needed to deal with climate changes or other natural phenomenon?

The National System of Public Lands is a huge reservoir of public lands and resources that must be kept in public ownership to meet the current needs of the public and to help meet the as yet unknown, and unknowable, needs of future generations. We need to keep the options open for future natural resource needs and public uses that we cannot possibly envision at this time. These lands are "posterity's property," and must be managed as such.

7

ⁱ The Public Lands Foundation (PLF) is a national non-profit membership organization that advocates and works for the retention of America's National System of Public Lands in public hands, professionally and sustainably

managed for responsible use and enjoyment by American citizens. PLF endorses and embraces the multiple use mission of the BLM. Members are predominantly retired employees of the BLM from across the United States and as such have spent their careers dedicated to the sound management of these valuable lands and resources. Many of our members spent their careers managing the public lands located throughout the West. They have personal knowledge of these lands and unparalleled expertise in their management.

PUBLIC LAND STATISTICS

TABLE 1.-Acquisition of the public domain, 1781 to 1867

Acquisition	Land	Water	Total	Percent of total U.S. land	Cost ^a	
	Acres	Acres	Acres			
State cessions (1781-1802) Louisiana Purchase (1803) Red River Basin (1782-1817) Cession from Spain (1819) Oregon Compromise (1846) Mexican Cession (1848) Purchase from Texas (1850) Gadsden Purchase (1853) Alaska Purchase (1867)	233,415,680 523,446,400 29,066,880 43,342,720 180,644,480 334,479,360 78,842,880 18,951,920 365,333,120	3,409,920 6,465,280 535,040 2,801,920 2,741,760 4,201,500 83,840 26,880 12,909,440	236.825,600 529,911,680 29,601,920 45,144,640 183,386,240 338,680,960 78,926,720 18,988,800 378,242,560	10.2 22.9 1.3 2.0 7.9 14.6 3.4 0.8 16.3	6,674,057 16,295,149 15,496,448 10,000,000 7,200,000	
Total public domain	1,807,533,440	33,175,680	1,840,709,120	79.4	85,079,222	

^aCost data for all except "State Cessions" obtained from Geological Survey, *Boundaries, Area, Geographic Centers* (Washington, U.S. Government Printing Office, 1939), pp. 249-251.

Note.—Alaska has been adjusted for the recomputation of the areas of the United States that was made for the 1980 decennial census.

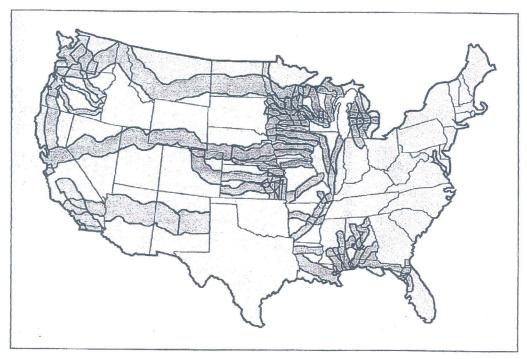
Source: U.S. Department of the Interior, Office of the Secretary, Areas of Acquisitions to the Territory of the United States...(Washington, U.S. Government Printing Office, 1922). Acreages therein are based on findings adopted February 2, 1912, by the Secretary of the Interior.

^bGeorgia Cession, 1802 (56,689,920 acres). See Donaldson, Thomas, *The Public Domain, Its History, with Statistics* (Washington, U.S. Government Printing Office, 1884), p. 11.

CExcludes areas eliminated by treaty of 1819 with Spain.

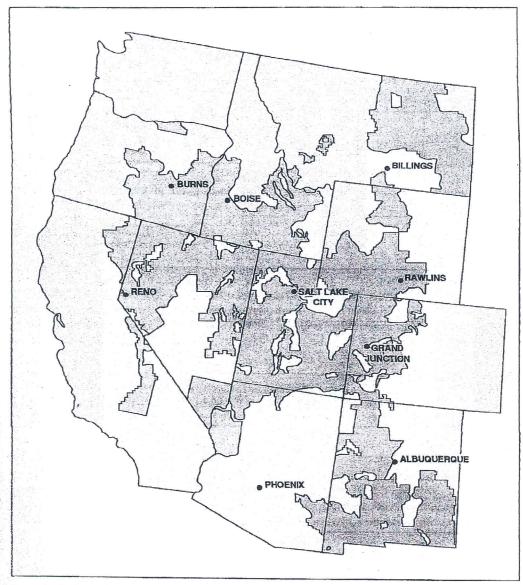
TABLE 4. - Grants to States, 1803-1978

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Billing 0,410,000 410,000 120,000	consin	982,329									10,179,
	oming	3,470,009	136,080	420,000						316,431	4,342,
Total 77.629.220 16.707.787 4.993.275 37.128.531 3.359.188 6.102.749 7.806.555 64,917,966 109.780,866 328,426,						3,359,188	6,102,749	7,806,555	64,917,965	109,780,866	328,426,



Limits of the railroad land grants

Taken from "Opportunity and Challenge - The Story of BLM"



Areas included in Taylor Grazing Districts, January 1937

Taken from "Opportunity and Challenge - The Story of BLM"