Remarks of Assistant Secretary of the Interior John A. Carver, Jr. at the Annual Conference of the Western States Land Commissioners Association, Salt Lake City, Utah, July 21, 1964

The subject assigned to me tonight is "Discussion of Problems Relative to Relationships between Federal, State, and Privately Owned Lands." In one way or another, this subject preoccupies land managers, students of government, and public officials at the national, state, and local levels. It has also shown up often in the political arena, particularly here in the West, where much attention is given to the preponderant ownership of the land surface by the federal government.

President Johnson is having a meeting at the White House day after tomorrow with a group of businessmen, and the next day with a group of labor leaders, for an exchange of views on the state of the economy and the state of the world, seeking advice and counsel, as he announced, because it is important to the future of our economy and to our relations with the other nations of the world.

Of course, I do not know that these discussions will deal with public lands, but I do know that the President is leading the whole country in discussions similar to the one we are having tonight. The President's term is "creative federalism."

This leadership is contagious; we are inspired by it and proud to follow it. There are problems incident to the ownership of federal lands in the Western States; there are also compensating benefits; in other words, we have a worthy subject, and if we can engage in a rational, moderate and constructive discussion of it, we are responding to such leadership. I'm glad to be here to discuss land management with a group of public officials, the State Land Commissioners, who live with it every day, who know something of the pressures, and of the frustrations and satisfactions of land administration.

Since my responsibilities in the Department are catalogued under the general title, public land management, I am in a sense the protagonist for the federal position. For almost four years I've been concerned, on a day by day basis, with the substance of the interaction between the federal government and other landowners. For perspective, both my own and for such
of the public as listens to me from time to time, I've dipped into history, as in discussing Thomas Jefferson's contribution to our land philosophy. Often I've discussed the implications in terms of land economics, agricultural economics, and in terms of government policy, of the benefits flowing from the use, as distinguished from ownership, of the products of federal lands, including forage, timber and minerals. Reconciliation of conflicting demands for use (again as distinct from ownership) has been the central problem of a fascinating mosaic of land decisions which have flowed from the Department in modern times -- where values associated with minerals, with recreation, with reclamation, and with Indian claims have had to be resolved, case by case.

I've been privileged to work closely in the effort to secure the enactment of legislation for a Public Land Law Review Commission, and this has brought clearly into focus the respective roles of Congress and the executive branch in the formulation and execution of policies concerning the public lands.

Really fundamental questions have been considered in the drive for this much-needed legislation. The testimony in support of the bill, as you know, came from a wide spectrum of interested groups, commercial and non-commercial, and, so far at least, the exercise has been singularly free of partisanship and rancor. Somehow everyone has seemed to feel that this is something which we shouldn't play politics with.

But as I look back over four years, I find satisfaction, not just in the intellectual efforts, but also in the opportunities which have come to me by becoming directly involved in practical cooperation between federal and non-federal landowners.

One classic example of constructive cooperation among landowners and managers which comes to mind was that which was achieved in Washington and Oregon in the aftermath of the great Columbus Day Storm of 1962. Before October had ended, President Kennedy had asked all the landowners, federal and non-federal, public and private, to get together to map a program for the salvage and protection of the disaster-stricken resource. Even Canadians participated, and the program there laid out has magnificently served the public good.

Stark and clear in that experience is the lesson that nature's boundaries, whether contour or drainage, or the inscrutable pattern of storm and hurricanes, transcend man's boundaries, both political and civil. The forest is one forest, and to protect it from fire and insect-borne disease is possible only as all the owners cooperate.

That lesson is simple. It is a more complicated notion to comprehend that landowners can agree on what is good for the land if they can be held to consideration of that question first, putting aside their bureaucratic, political, and institutional biases in the pressure of a common concern for an immediate crisis.
Senator Clinton Anderson made this point most eloquently in another connection. He told the Senate last year (December 4, 1963; Crn. Rec. p. 22121):

"It was, and is, my belief that if we will set the water engineers and experts from the Federal Government and the States down around a table to come up with the very best possible plan for the use of the water of a river basin, they will get the job done without any extensive debate on rights. They deal in facts. The costs and benefits of alternative projects and program are measurable. They will study those alternatives, compare them, and select the alternatives which are best for the basin involved.

"Time after time, the engineers have been able to recommend projects which all of the participants in some of our major water rights battles come in and support and then go back home and start scolding each other about water rights again."

I'm proud that I had a part in that Portland conference; and I would emphasize (and some of you were there) that the federal government's role was neither dictatorial nor subservient -- the federal government was another landowner, concerned as was its neighbors that this storm not spawn widespread and uncontrollable insect destruction for want of a cooperative and sound plan to remove the windthrown timber in time.

Along the same order has been the experience of working toward a pattern of cooperation with the Soil and Water Conservation Districts of the United States. We've tried to inculcate among the various land managing bureaus of the Department the idea that cooperation with these independent, locally managed districts on what I have called a "good neighbor" policy, was good for both. As a result, the Department now executes an agreement with these districts as a Department, and we try to get an atmosphere of concern for the land to take precedence over an atmosphere of concern for bureaucratic place or privilege.

I want to discuss one final example. When the State of Idaho faced the problem of what to do about state forest land in the pool area of Dworshak Dam, it decided that it would prefer to have other forest land, rather than the cash. It was hoped that the federal government would give them timber land in exchange for the land in the pool area. The difficulty immediately suggested itself to the federal government -- only the forest managing agencies had timbered lands to trade, and certainly the Corps of Engineers did not.

I'm proud that the Interior Department has been willing to make these trades, and they are being processed. For the fact was that the Department had in the State much land which good management dictated should be disposed of, and certainly here was a sound public purpose for the disposition.
In a general way, I've suggested that the federal government and other owners can get along as neighbors if each is willing to try to understand the problems of the other, including the legal requirements and inhibitions on each side, and the economic and other forces at work. A concern for the welfare of the land itself motivates, or should, all landowners and land users.

But this will be said to beg the question of the rightness or morality of the continued federal ownership of so much land in your states.

The federal land managers are entitled to beg the question. We're entitled to say that the responsibility lies with the Congress, which indeed it does. But we ought to say this only if we can also say that our administration of the land is not designed to frustrate or nullify Congressional mandate, and if we can wholeheartedly cooperate in a governmental effort to do something about the deficiencies traceable to the public land laws, as distinct from their administration.

I think that President Johnson and President Kennedy have earned good marks for the present administration on both counts. I myself have been critical of some of the Department's decisions or interpretations which have seemed to me to frustrate Congressional mandate. This is delicate criticism to make, for it is subject to being interpreted as reflecting a point of view which serves one or the other of the competing interests.

President Kennedy, in his letter to Chairman Aspinall of January 17, 1963, spoke of the necessity for public land managers, the Secretaries of Interior and Agriculture, to make choices, and acknowledged that "on occasion these choices may have seemed to outdistance express statutory policy, but the policies which have governed the choices have been under constant congressional scrutiny."

Congressional oversight, in my view, is best achieved by substantive Congressional action, not silent acquiescence, and that is why I favor so firmly the proposed Public Land Law Review Commission.

And we are willing to be explicit about the most difficult area of land administration facing all of us, that involving the interpretation of the meaning of "valuable" in the test for discovery to support the patenting of a mining claim.

Associate BLM Director, Harold Hochmuth, in a paper delivered to the Mineral Law Institute here in Salt Lake last week delineated the line administrator's quandary and frustrations in this area, including this frank statement:

"There can be no gainsaying that the mining law of 1872 is not administered as it was originally written and intended. There has been a definite trend in decisions toward more stringent requirements to establish the validity of a claim. The requirements are innovations which have been superimposed on the basic law by the need for standards which can serve to prevent the subversion of the law for nonmineral purposes. Examples of these may be found in the narrowing application of the rule of discovery, the employment
of the rule of marketability, the definition of 'common varieties,' and the concern for economic values."

If Mr. Hochmuth is correct, and I think he is, it is possible to continue to administer the mining laws only as we maintain the effort to get a legislative review. We are maintaining that effort.

Under the leadership of Director Charles Stoddard of the Bureau of Land Management, a great deal of attention is being given to the subject of federal cooperation with local communities and governments.

We are, as you know, hoping for the enactment of H.R. 5498 which would facilitate the disposition of lands necessary for the orderly growth and development of a community or for residential, commercial, industrial or public uses or development. Our disposition authority at present is too limited.

It is Mr. Stoddard's view, shared by me, that it is the responsibility of the counties and other local governmental units to make their own plans, it is their responsibility to furnish the blueprints by which the disposals will really meet local conditions and desires.

In the case of the management of the larger concentrations of remaining public lands, the lines of communication have been opened to obtain local advice and suggestions on management problems which can be allocated in different ways -- fire protection, road construction, timber management, and the like. The lines of communication will include the cooperative efforts already mentioned with Soil Conservation Districts, meetings with county officials and other local public groups, grazing advisory boards, chambers of commerce, farm organizations, and so forth.

And meaningful efforts are going forward for cooperative management of scattered lands, the intermingled areas.

Naturally, this communication has to be a two way street. When the decision was made that we would try to facilitate land exchanges in the pool area of Dworshak Dam, I had to make it clear that the federal estate in the area wasn't a grab bag; that the object of the exercise was to accommodate the federal government's interest in simplifying and unifying its ownership patterns, with the state's interest to acquire a real asset susceptible of long term management for education and other endowment objectives. We would not be true to our trust to permit selections which would complicate, rather than simplify, the federal management.

And I think it entirely legitimate for the federal officials to throw a little more light on what federal programs related to the land ownership have meant to the Western States.
The Colorado legislature recently memorialized the federal government to increase the mineral rental and royalty payments to states to 90 percent. This presents no administrative difficulties to the Interior Department; such a ratio applies in Alaska, and the federal share, whatever it is, goes into the Treasury requiring reappropriation in any event.

But at some point in time Colorado and other Western States are likely to be reminded that the fact that 37½ percent of mineral revenues goes to the public land states doesn't end the regional benefit a generous Congress has conferred. Fifty-two and a half percent goes to the Reclamation Fund, a regional program which is confined in its application to the United States (excluding Alaska) lying West of the one hundredth meridian. Thus, the federal share is only 10 percent at present.

For three years, I've been crying to all who would listen the fact that the resources on the public lands, the lands in federal ownership, sustain in a major way the private sector of the economy -- the wood industry, the mining industry, the livestock industry, and, increasingly, the recreation industry. Some of you have had to grapple in recent years with the growing realization by some of the segments of private business in your states that bad as federal stewardship is said to be, its continuation is preferable to the alternatives offered.

For example, livestockmen protected by the stability of the Taylor Act are not often heard to ask that these lands be given to the States. Reasons vary, but one major one is that the competition among private landowners for State leases may inflict serious economic pressures on the established user.

And several public land states themselves have muted their demands for disposition after computing the benefits they would lose under the highway matching formulas in their states.

Under the stimulation of an invitation by a University to lecture on land administration, I computed the value to California's road program of the public domain land in that state, under the provisions of the federal law which increases the federal share of matching funds based on the percentage of public domain lands to the land area of the state -- a piece of federal legislation in the aid of the West little noticed nationally.

This led to the conclusion that the sixteen million acres of public domain in California yielded a revenue value for road purposes alone as if the land were in private ownership and had a market value of $685,000,000, taxed at $3.50 per hundred on an assessment of 50 percent of true value.

But increase of matching funds for roads is only one aspect of the principle of reinvestment in the region of the proceeds of federal lands. Here in Utah, for example, there are 23 million plus acres of federal land administered by BLM. On a per acre basis, Utah received in fiscal 1963 16 cents from mineral leasing, 38 cents "savings" on highway matching, ABC and Interstate,
25 cents payments into the Reclamation Fund, and 12 cents from BLM's land management expenditures in Utah, for a total per acre of 92 cents (after adding fractions). The per acre assessed valuation equivalent is $18.45 as compared with Utah's valuation of "wasteland" at $2.50 per acre.

You land commissioners, particularly, know how much more luminous hindsight is than foresight. Which among you could not find that retention of timber or other lands would not have yielded more for your endowment funds than you are getting from the proceeds of their sale, many years ago? Land, as you all now know, is the safest of investments, the most immune from the gyrations of economic boom or slump, or the ravages of inflation.

We know it, too. We seek to protect the national interest. But Congress has always been generous with the West. Secretary Udall, in an address to the University of New Mexico, summarized some of the benefits of federal programs which have accrued to the West;

"1. The Reclamation program is regarded as a model today in all parts of the world. Under it the Federal Government has spent $4.5 billion in building the dams, canals and irrigation works needed to provide the assured supply of water that has made 8 1/2 million acres of land permanently productive. Over 90 percent of the money advanced by the Federal Government for construction is repaid. The Reclamation Fund set up by Congress to help finance construction receives money from public land sales, mineral leases, project operations, and repayments of project obligations. Accruals to this Fund, continually being reinvested, have reached the $2 billion mark. The working relationship of Interior's Bureau of Reclamation with local water users and State water officials is an outstanding example of pluralistic American government in action.

"2. Since the close of the Second World War, the Federal Government has spent more than $375 million developing, operating, and maintaining the units of the National Park System, chiefly in the West. These investments have been a major factor in development of a tourism industry that is now an economic mainstay of the Western States.

"3. The wildlife habitat on public lands provides the best outdoor recreation in the West. The States and the tourist industry reap large economic benefits. A comparatively minor benefit, for example, is the $34 million receipts realized by the States from the sale of hunting and fishing licenses in 1961.

"4. On the Taylor Act lands, grazing fees are paid by range users. Part of those receipts are paid in cash to the States. As westerners know, the Taylor lands are by no means valuable only for grazing. They have important watershed values and are rapidly gaining recognition for wildlife habitat and for outdoor recreation. The new movement to protect, rehabilitate and conserve these lands is an outstanding example of community cooperation.
"5. Oil, gas, and several other minerals on the various public lands are managed by the Federal Government under a mineral leasing system. However, again alert western Congressmen have put the plowback principle into law, and in our States only 10 percent of the total revenues realized from mineral leasing on public domain lands are returned to the General Fund of the United States Treasury. Of the remaining 90 percent the Reclamation Fund gets 52\%\% percent and the States 37\%\% percent;

"6. As for the Indian lands and the Indian people, at an expense that this fiscal year will total more than $228 millions, the Federal Government provides health, education, welfare and development funds for the Indian people and their resources. Again the benefits to the Western States far outweigh the burdens. If the Indian lands were 'put on the tax rolls' and the States provided the same level of public services, all of the 'Indian States' would need new taxes to carry this extra load. (For instance, in my own State of Arizona, Federal expenditures on behalf of the Indian tribes in fiscal year 1963 added up to almost $64 million. If the State assumed the responsibility for these services, it would entail nearly a 20 percent increase in the current State budget.)"

As I said at the outset, there are two sides to the exercise. The federal position has to be stated, just as the State and local position has to be stated, and the private position.

I emphasize the federal position tonight not to be argumentative, and certainly not to detract from the validity of many of the specific complaints which have been leveled at the federal ownership pattern.

The Public Land Law Review Commission will be an instrumentality for the "creativity" which the President seeks as the hallmark of the federal system under his leadership.

For creativity, and the highest order of statesmanship is going to be necessary to meet the demands upon our inelastic land base -- not just the federal government's land base, but the land base generally.

Last week new population projections were issued by the Commerce Department. In about three years, we will reach the 200 million we have said would come in the seventies. And, say the population experts, it is possible by the year 2010 that the population may conceivably exceed the 400 million mark. Most of our planning has been for 300 million by that time.

The need for creativity is correspondingly acute. President Johnson, in his Ann Arbor address, summarized the challenge:

"The solution to these problems does not rest on a massive program in Washington, nor can it rely solely on the 'strained resources of local authority. They require us to create new concepts of cooperation, a creative federalism, between the national capital and the leaders of local communities."

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