



Powerful Forces

More than a century of Eastern control of the West's natural resources.

By Michael S. Coffman, Ph.D.

The chaotic mid-1800s spawned tremendous discord in western policy as the tension between the North and South built. Turbulent allegiances were created. California's Mother Lode country was populated mostly by Southerners aligned with the South against the North pre-Civil War. Because of this, the North allowed California to become a state in 1850 to bring it under the North's control. The North also gave statehood to wrest California from increasing control by the Mormons for their newly self-proclaimed State of Deseret in 1849, a portion of which reached all the way to the Pacific Ocean. While Congress turned down the Mormons' request for statehood in 1850 when it allowed California statehood, it did, however, simultaneously create the Utah Territory in 1850. (See Map 1, page 18)

The North didn't want the Mormons to control Nevada's Comstock Lode either, so it

created the Nevada Territory in 1861, establishing its eastern border on the 116th meridian. Its southern border was established on the 37th parallel. (See Map 2) When gold was found east of the 116th meridian the Nevada territorial delegation to Congress petitioned the boundary be moved to the 115th meridian. Things were so unstable and the federal government so desperate to control its gold and silver, that pressure was put on Congress to allow Nevada statehood. Despite vehement protests by the Utah Territory, enormous political pressure resulted in Congress granting statehood to Nevada in 1864.

Nevada immediately petitioned Congress to move its eastern boundary to the 114th meridian which Congress granted in 1866. (See Map 3) Again, Nevada's request was due, in part, to gold being discovered. Nevada wasn't done yet and petitioned Congress to extend its southern border from the 37th par-

allel to the Colorado River. As was the case for shrinking Utah Territory, Nevada's petition to move its southern border south eliminated the northwest triangle of the Arizona Territory. Like Utah, Arizona protested vehemently, but its protest was ignored and Nevada's request was granted in 1867. (See Map 4)

As the abundant wealth in western territories became known, powerful forces attempted to manipulate the federal government so they would have total control over the West's resources. These progressive industrialists and financiers were known as the northern core who wanted to control the West for its minerals, hydropower, and other natural resources.

Under the northern core's considerable political pressure, the United States suddenly reversed its land-disposal policy by not ceding its public lands to the states as required by the Equal Footing provisions of the

President Theodore Roosevelt, an avowed conservationist, expanded the forest reserves created in the 1891 Forest Reserve Act and incorporated them to create the National Forest System in the Transfer Act of 1905. This sounds wonderful to urban citizens but helped seal the fate of thousands of ranchers and rural landowners to a war with the U.S. Forest Service over property and water rights that continues today.

Northwest Ordinance and U.S. Constitution, ignoring 100 years of well-established law and constitutional limitation. The Equal Footing Doctrine (discussed in “Original Intent,” *RANGE*, Summer 2016, at rangemagazine.com) effectively requires new states to enter the Union having the same rights as former states—which in this case meant no federal land without the consent of the new state legislature.

At the same time, U.S. district courts stopped basing decisions in constitutional law and started using case law, opening the law to judicial corruption. The northern core was aided in its efforts by the tumultuous times pre- and post-Civil War and the very fluid politics and events surrounding it.

Just how did a nearly unpopulated Nevada Territory have the power in Congress to move its borders into other territories? Taking advantage of the tremendous disarray and discord, the northern core was the primary political force behind Nevada’s efforts in Congress. The northern core also manipulated the federal government into weakening the property rights guaranteed by the Treaty of Guadalupe Hidalgo and the Preemption Act of 1841 to the ranchers. That attack on the West continues today. Although it had been brewing since the mid-1800s, the main salvo followed in 1891.

The Forest Reserve and General Revision Acts of 1891

The pesky constitutional limitation established in the Equal Footing provisions of the Northwest Ordinance and U.S. Constitution did not stop Congress from totally ignoring it when passing the Forest Reserve and General Revision Acts in 1891. It was made possible only with tremendous pressure from the progressive northern core and its stooges in Congress. It used the granting of statehood to California and Nevada during the turbulent years of the Civil War as precedent. Desperate to control the vast gold and silver

wealth for the northern core, the public lands were never ceded to the two states.

In addition to violating very specific limitations of Equal Footing, the Forest Reserve and General Revision Acts also trumped the 10th Amendment to the Constitution that guarantees states’ rights. Many constitutional scholars and attorneys believe that to be unconstitutional.

Likewise, the Treaty of Guadalupe Hidalgo with Mexico following the Mexican-American War ceded the land to the U.S. government in 1848. However, most of that land was already given by Mexican grants to settlers, mining companies or timber com-

The foundational basis in deciding the legal ownership rests on two concrete facts: (1) The U.S. cannot “own” this land constitutionally, even though it claims it does. Upon entering the United States the new western state should have been given land not claimed by the settlers. It was not. (2) The Treaty of Guadalupe Hidalgo, which is a constitutional instrument, should have protected the settlers’ vested property rights. It did not.

panies as working land. These settlers were protected with strong property-rights’ language in Section VIII of the treaty.

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The Forest Reserve Act gave the president vast powers to “set apart and reserve, in any state or territory having public land bearing forest...as public reservations.” Lack of congressional funding delayed implementation of the Forest Reserve and General Revision Acts for six years until the Organic Act of 1897 was passed.

Although the new states strenuously objected to it, none challenged the constitutionality of the law. The territory couldn’t if it wanted to become a state. How could a territory demand Equal Footing by insisting on the U.S. constitutional requirement requiring the federal government to transfer the rights to the public land to the state when the federal government will not grant statehood unless it gives up those rights? Not to put too fine a point on it, but that would be considered extortion and blackmail if any citizen or business tried to do the same thing. Apparently, in the progressive ideology, that is not only correct, but is as it should be—government sovereignty over states and citizens. That realization should rock every American to the core.

Greed and Corruption

After an exhaustive study of how these blatantly unconstitutional acts were passed, rancher Wayne Hage, who was a dogged researcher and victim of the Bureau of Land Management (BLM) and U.S. Forest Service (FS) himself, found a clear paper trail in the National Archives leading back to the northern core. Controlling water was the key. Water was, and still is, gold. There was never enough of it. “If northeastern industrialists and financiers controlled the water needed for the development of western mines, their control of the output of the mines would increase,” says Hage. “The processing of trees into salable lumber from the western forests also depended largely on water. Stockmen needed water to raise livestock. If control of water on the forest reserves could be obtained, the stockmen’s preemptive rights could be eliminated.”

Hage’s meticulously researched book, “Storm Over Rangelands,” written in 1989, has become an important legal reference used in many court cases. Although the F.S. and BLM had been harassing Hage for years, immediately after his book’s publication, the

two agencies launched a blistering retaliation on his Nevada ranch. (See “Eye of the Storm,” *RANGE*, Winter 2013.)

Hage’s examination of original documents in the National Archives found that the northern core and the American Forestry Association provided enormous pressure and funding to get the Forest Reserve Act passed. And once progressive President Theodore Roosevelt created the U.S. Forest Service with the 1905 Transfer

Act, it, too, worked on the inside for the same goals. The 1891 Forest Reserve Act allegedly gave the federal government legal sovereignty over forest reserves as federal enclosures exempt from state laws. The federal government actually used federal troops to enforce its decrees over the state government in the forest reserves. Those in charge of the reserves also asserted the doctrine of sovereign immunity. They were seemingly untouchable.

The most astonishing thing, however, was that it used Article I, Section 8, Clause 17 of the U.S. Constitution to justify its actions—the very constitutional language that actually forbids the government from doing what it did! As repeatedly stated in “Original Intent,” this language severely limits the type of land the federal government can actually own to “federal highways, the District of Columbia,” and “only with the consent of the state legislature of Forts, Mag-

The Political Creation and Expansion of Nevada into the Territories of Utah and Arizona

Map 1



States and Territories of the U.S.
Sept. 9, 1850, to March 2, 1853

Map 2



States and Territories of the U.S.
March 2, 1861, to Aug. 1, 1861

Map 3



States and Territories of the U.S.
May 5, 1866, to Jan. 18, 1867

Map 4



States and Territories of the U.S.
Jan. 18, 1867, to March 1, 1867

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MAP 1: California was given statehood in 1850 to block the petition to Congress by the Utah Territory to become a state extending all the way to the Pacific Ocean. **MAP 2:** The Nevada Territory was created in 1861 to keep Nevada’s Comstock Lode from being taken over by the Mormons in the Utah Territory. **MAP 3:** Gold was found east of the 116th meridian and Nevada petitioned to have its eastern border moved to the 115th meridian and then to the 114th meridian. **MAP 4:** Immediately, Nevada petitioned Congress to move its southern boundary from the 37th parallel to the Colorado River. All of this was done via pressure on Congress by the northern core of financiers and industrialists to control water and minerals in California and what is now Nevada.

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azines, Arsenals, Dock-Yards, and other needful buildings.” Forest reserves fit none of these categories of ownership and no state gave its approval in any way. This was the raw power of the northern core. Western ranchers and others are still suffering from what these greedy industrialists and financiers started over 100 years ago.

“Wresting control of the water from the states was a primary objective of national forest administrators,” according to the original documents Hage found. “If the federal government had legal sovereignty over forest reserves as federal enclosures, western water law would be gutted.” Suddenly, it becomes clear why the 1891 Forest Reserve Act created forest reserves that encompassed all the water and minerals in question. By doing so, “the total subjection of the West would be complete,” observed Hage.

The Onslaught Continues

Congress passed the Organic Act of 1897, establishing undefined “science-based” forest and range management guidelines and the use of grazing permits and fees for the newly minted forest reserves that were created in 1891. “Scientific” range management would morph in the later 1900s into the tool by which political objectives would be reached by using pseudo-science. The progressive conservationist, President Theodore Roosevelt, got Congress to pass the Transfer Act of 1905 creating the U.S. Forest Service within the Department of Agriculture. The Weeks Act (also known as the Organic Act) of 1911 allowed the FS to purchase and create additional national forests in the East.

The Taylor Grazing Act of 1934 established prior rights for ranchers and eventually allowed

the conversion of the old General Land Office in the Department of Interior into the Bureau of Land Management. Together the FS and BLM today employ about 40,000 people who manage 446 million acres at a cost of over \$7 billion a year. In total, the United States controls more than 30 percent of the country, and more than 50 percent of most states west of the Rocky Mountains.

An incredible war between the federal government and western ranchers has been going on since 1891, mostly under the radar, pushed and funded by powerful northeastern progressive financiers and industrialists. What’s happening to many ranchers today is the result of that war. Central to that was the deliberate conversion of constitutional law into case law in the courts, as ranchers and hundreds of thousands of Americans have found out the hard way. It has led to a very corrupt legal system that tragically has no

fidelity to the restrictions imposed by the U.S. Constitution.

Because of the socialist-oriented education today of most people less than 50 years of age, there is the common understanding that the U.S. Constitution is outdated, written for an agrarian society. It is not. It’s as valid and important to our freedoms today as it was when it was penned. It was specifically designed to chain down and lock government power so it could never become more powerful than the people. That purpose has been trashed by case law and unconstitutional legislation today. This should greatly alarm all Americans. It is up to all readers to respectfully inform friends, family members, congressmen and senators, as well as other decision makers, of the facts surrounding the BLM’s and FS’s war on the West. ■

Dr. Coffman is president of Environmental Perspectives Incorporated (epi-us.com) and CEO of Sovereignty International (sovereignty.net) in Bangor, Maine. He will be writing more on this subject in future RANGE articles. He has had over 40 years of university teaching, research and consulting experience in forestry and environmental sciences, and has received numerous awards for his penetrating and factual writings. He can be reached at 207-945-9878 or mcoffman@epi-us.com.

