

4 No One Washes a Rental Car

Have you ever washed a rental car? Barring some unusual circumstance, such as the car is caked in so much mud that you can't see out the window, the answer is almost certainly, no. Unlike the rental car company, which is quick to wash, wax, and polish, we don't wash rental cars because we don't own them and thus will reap no rewards from their future rental or sale value. The owner of the car, however, by maintaining the car, captures a return in the rental and resale market.

The above analogy provides a guide for effective environmental policy. If natural resources are unowned, users have little incentive to protect them; if they are owned, long-term stewardship will follow. A report by the President's Council on Environmental Quality (1984, 363) accurately summed up this perspective: "unowned resources are more likely to be over exploited than resources privately owned and managed, since a private owner directly benefits from the preservation and maintenance of such resources and is thus more likely to act as a responsible steward." Put simply, "Tree owners are tree huggers" (Polgreen 2007).

Unowned resources, on the other hand, are subject to the "tragedy of the commons" (Hardin 1968), which originally referred to an open pasture on which any livestock owner could graze his animals. As long as there was grass to be had, animals will be grazed until the forage is gone. The tragedy is that the user has no stake in the future value and thus no incentive to preserve the resource. Hence, unowned resources are overused or undermaintained or both.

The tragedy of the commons can be seen everywhere. People litter public parks and streets more than their own yards; national forests were overlogged and now are underlogged, whereas private forests are carefully managed; landowners underprovide habitat for public wild-life yet husband land and water for domestic livestock.

Greener-than-thou policymakers rely on tragedy of the commons scenarios to justify top-down regulation, with little attention to the underlying problem of incentives and ownership. Such policies, in essence, leave the unowned car unwashed and uncared for.

The impact of ownership is shown in Brian Cromwell's study of private and public buses (1989). Cromwell found that privately owned buses were maintained better and ran longer than publicly owned buses (see figure 13). Furthermore, privately owned buses had more than twice the resale value of public buses. Similar results occur with an environmental commons, as attested by the following examples.

Home on the Range

Consider an 800,000-acre patchwork of public grazing land in Idaho's Jarbidge Resource Area, overseen by the Bureau of Land Management (BLM). Environmentalists worry about the impact that cattle grazing has on upland riparian areas and the survival of the sage-grouse (Ring 2005). Their solution is filing suit against the BLM to force it to terminate the long-standing grazing permits. That and similar lawsuits across the West have weakened the ranchers' long-term stake in the grazing areas. If they expect to lose their grazing permits, the land becomes like the unowned rental car, with no steward. And, at least in the short run, truncating grazing permits in favor of sage-grouse results in overgrazing and underproducing of grouse habitat (Watts 2006).

Contrast this scenario with media mogul Ted Turner's Flying-D Ranch, the largest contiguous private land area (110,000 acres) in the vast region around Yellowstone National Park. After Turner bought the ranch, his crews restored streambeds and are cooperating with the

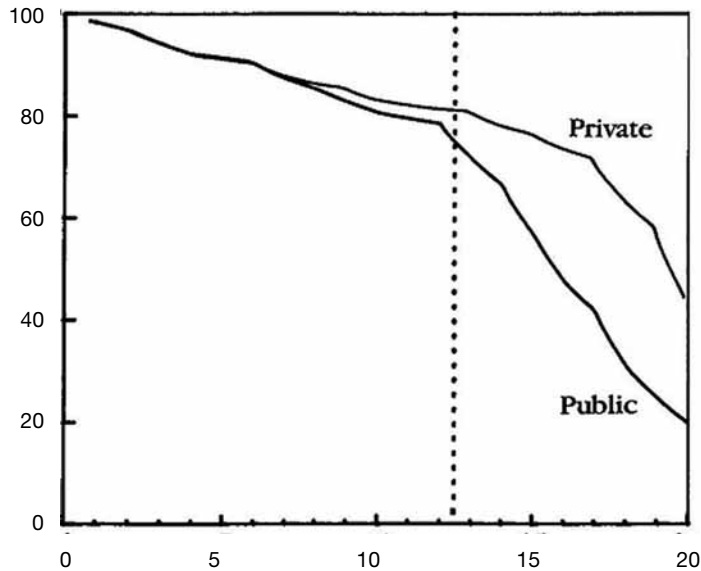


Figure 13. Private v. Public Buses

Privately owned buses last longer than publicly owned buses. Data from Brian Cromwell show the percentage of vehicles that survive to a given age. By age 16, less than half of public vehicles are still running whereas 73 percent of private vehicles survive. Private owners have more incentives to protect their assets because they capture the asset value. One would expect to see a similar pattern for private versus public resources.

Source: Brian A. Cromwell. "Capital Subsidies and the Infrastructure Crisis: Evidence from the Local Mass-Transit Industry." Federal Reserve Bank of Cleveland. Q II, 1989, pp. 11–21.

state to reintroduce the threatened westslope cutthroat trout in a creek running through his ranch. Crews removed hundreds of miles of barbed wire fence, decrepit buildings and equipment, nonnative weeds and grasses, and the cattle that grazed there for generations. In the place of the cattle, thousands of bison now roam the rolling hills. Moreover, Turner has put a permanent conservation easement on the Flying-D that bars subdivision and limits grazing to ensure enough forage for wildlife. Although Turner's methods have not always been popular with the locals, there is no denying that this pristine land will be preserved for the long term.

Turner's bison management contrasts with the management of Yellowstone National Park's bison, which are known to carry brucellosis, a virus that can cause bison and domestic cattle to abort their fetuses. Were any Montana livestock to contract brucellosis, the state could lose its brucellosis-free certification and could not ship cattle out of the state.

To ensure that his bison do not carry brucellosis, Turner vaccinates them twice a year at great personal expense. Why would he do this? First, because he reaps the value of a healthy bison herd; second, if brucellosis were transmitted to neighboring cattle, he undoubtedly would be held liable for the ensuing costs.

Although Yellowstone's bison were reintroduced to the region from fenced herds saved from extinction by entrepreneurial visionaries,¹ they are considered wild and allowed to roam freely. Some carry brucellosis. When they stray from the park, especially in the winter in search of food, they could come into contact with cattle and transmit the virus.

Unlike Turner, who vaccinates his bison and keeps them fenced in on his ranch, the National Park Service has essentially washed its hands of the problem. Once the bison cross the park boundary, the Park Service turns its responsibility over to the Montana Department of Fish, Wildlife, and Parks. That agency tries to reduce the possibility of the bison coming into contact with cattle either by scaring them back into the park or shooting them.

This illustrates what happens when ownership is not clear or when resource managers are not held accountable. Brucellosis-carrying bison are analogous to a barrel of toxic waste dumped on a neighbor's property; if the dumper is not responsible for the costs imposed on his neighbor, he has little incentive to care about the consequences. And if a rancher believes his grazing rights will be taken away, he has

1. For more information about how entrepreneurs saved bison from extinction, see Anderson and Hill 2004, 101.

no incentive to protect the resource. Again, no one washes a rental car.

Mixing Oil and Birds

Energy development on public lands is another environmental policy gone awry. In 1980, 1.5 million acres in the Arctic National Wildlife Refuge (ANWR) were designated as a study area in which to evaluate its potential for oil and gas development. Seven years later the Department of Interior released an evaluation recommending opening the coastal plain to gas and oil exploration. In 1995, Congress approved drilling plans, but the act was vetoed by President Clinton. At the outset of the George W. Bush administration, it was clear that the White House would pursue oil exploration and extraction from ANWR.

The national policy on drilling in ANWR has bounced around for decades, with policymakers taking extreme stands for political advantages without considering the issue in its entirety. For example, those who support drilling claim that Alaskan oil will reduce U.S. dependence on foreign sources. Senator Pete Domenici, chairman of the Committee on Energy and Natural Resources, stated that “developing oil moves us toward independence from Middle East oil. Developing this energy will stabilize energy prices and supply, easing the pressure on consumers and businesses. ANWR is and has been for some time now the right thing to do for our economy, our consumers and our energy security” (quoted in Gawell and Kagel 2006, 4). Opponents, however, quickly point out that ANWR’s oil, even if it reaches its predicted peak, will satisfy less than 5 percent of U.S. demand (Utah Geological Survey 2007). And environmentalists claim that drilling in ANWR will destroy the refuge, often framing their opposition as a “righteous crusade against evil corporations out to destroy our priceless environment for short-run profit” (Lee 2005, 249). Proponents of drilling counter that the value of a pristine wilderness is often overstated. As Arctic Power (2007), an organization that promotes oil pro-

duction, put it, “For most of the year, ANWR is unbearably cold and dark. For several weeks, the sun doesn’t even rise and leaves the windswept landscape a very inhospitable environment.” Clearly, extreme arguments can be made on both sides of the issue.

The real issue is ownership of the resource. Under public ownership, there is no incentive to carefully consider the trade-offs associated with alternative or even complementary uses of ANWR. Environmental groups have no reason to take into account the benefits of drilling, and energy proponents have no drive to consider the environmental costs. Unfortunately, in the public domain, both sides stick to oversimplified exaggerations.

Consider how ownership changes the calculus. The Audubon Society owns several wildlife sanctuaries, one of which is the Paul J. Rainey Preserve on the Louisiana coast. The sanctuaries fulfill Audubon’s mission of conserving and restoring bird habitat, a goal that often generates opposition to oil exploration and development on public lands. But for nearly fifty years, Audubon allowed an oil company to operate thirteen natural gas wells in the sanctuary. The oil company had to comply with tough stipulations, including no pumping during the nesting season and special equipment that makes less noise. In exchange, the Audubon Society earned more than \$25 million and was able to buy additional land with its profits (Lee 2005).

The Audubon’s Bernard Baker Sanctuary in southern Michigan is another example. When the Michigan Audubon Society purchased the sanctuary in 1941, it knew that its underground mineral rights were valuable. Oil companies initiated proposals to drill in the sanctuary in the 1960s, but this plan was protested and delayed. Eventually Audubon agreed to having an oil well outside its boundaries, on private property, and having the drill slant into the sanctuary’s reserves, invoking strict environmental standards to protect its birds. According to resident manager Mike Boyce (2007), the agreement earned \$500,000 for Audubon; Baker is currently in negotiations with another oil company and private landowner to build an oil rig on the other

side of the sanctuary. Like the rental car company that has an incentive to maintain the car while allowing it to be used, the Audubon Society has every incentive to maintain the wildlife habitat and capitalize on revenue potential.

Minding the Federal Estate

Public land is riddled with problems stemming from greener-than-thou design and management. The United States government owns a 614-million-acre estate, rich in timber, wildlife habitat, livestock forage, recreation sites, and scenic grandeur. Unfortunately, this estate is mismanaged by land agencies burdened by bureaucratic hurdles such as the regulatory morass created by laws such as NEPA (discussed in chapter 2). Although budgets for public land management have risen dramatically and land set aside for recreation and conservation has gone up, the overall quality of land has generally deteriorated. Excepting mineral production, poor fiscal management has resulted in the federal lands consistently losing millions of dollars every year (see figure 14).

Fiscal mismanagement stems from a disconnect between the amount of money spent on federal lands and the amount earned—an incentives game gone wrong. Revenue from federal lands is generally sent to the national treasury to be reallocated. In short, public land managers' spending is funded by Congress, not money generated from natural resources sales and user fees.

“Use it or lose it” policies make federal land management even more difficult. Unspent money at the end of the year does not roll over into a savings account for the following year but is instead remitted to the federal treasury. This means that managers have year-end spending sprees to ensure that they use their entire budget and therefore are less likely to face future budget cuts. Yellowstone National Park, for example, spends between 70 and 90 percent of its budget in the last two weeks of the fiscal year (Fretwell, forthcoming).

This brings us to “park-barrel” spending (Riedl 2005). Pork-

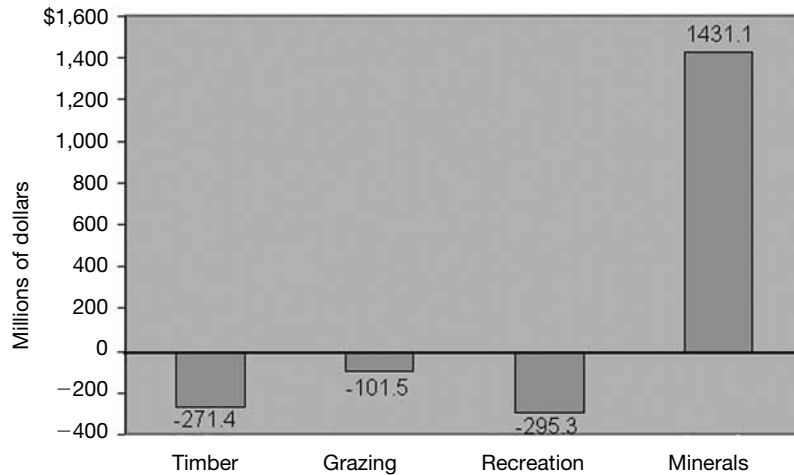


Figure 14. Average Net Returns by Activity on Federal Lands (1998–2001)

The U.S. federal lands lose millions of dollars every year on sales from timber and grazing and recreation fees. National public lands have high operating costs and low revenues. State lands, on the other hand, have much lower operating cost and make higher revenues.

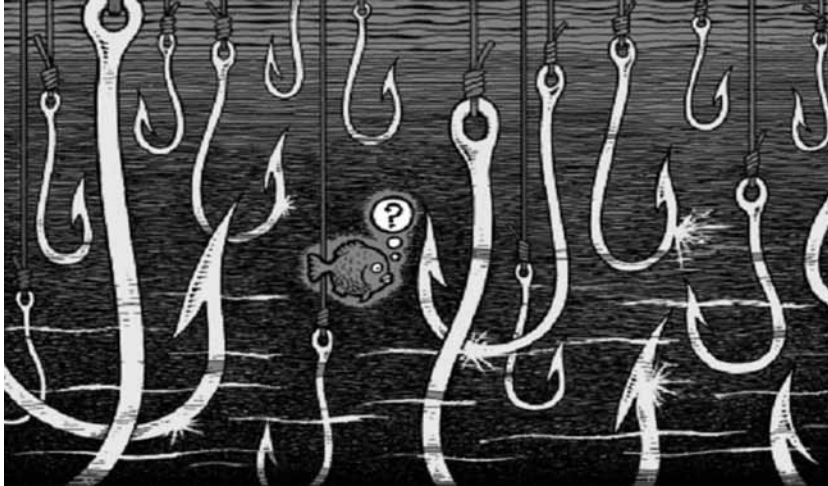
Source: Holly Fretwell. *Who Is Minding the Federal Estate?* (forthcoming). Available from PERC. Data collected from the U.S. Forest Service and Bureau of Land Management, 1998–2001, in 2000 dollars.

barrel projects designate tax dollars for a specific purpose to circumvent established budgetary procedures. Representatives often fund projects for which they can take credit at ribbon-cutting ceremonies and earn political points. Take, for example, the fiscal 2006 Interior Appropriations Act, which included \$669.5 million dispersed among 737 new projects. One of the more egregious examples of pork was \$3.3 million earmarked to construct self-composting, solar-powered toilets for a remote chalet in Glacier Park used by less than 1 percent of park visitors (Fretwell 1999). Park Service officials admitted they could put the money to better use but said they had little choice: Montana’s three-member congressional delegation, reacting to a lobbying campaign by hikers, directed them to undertake the project. “We have far greater needs,” said David Mihalic, Glacier’s superintendent. “If somebody handed me \$2.5 million and asked, ‘where would

you best put it?' the chalets would be far down the list. The problem is, no one did it that way. [Congress] handed us \$3.3 million and said, 'put it here'" (quoted in Pound 1997). In the end, the toilets did not work so the waste is flown out by helicopter!

Pork funding, unfortunately, does not pay for unglamorous, yet crucial, maintenance programs. In March 2005, the Congressional Research Service cited \$9.7 billion worth of backlogged maintenance at national parks. Cases in point: Yellowstone's outmoded sewer system allowed raw sewage to leak into native trout streams and pollute groundwater; Glacier National Park's popular Going-to-the-Sun Road is frequently closed due to safety concerns; and pre-Columbian dwellings in Mesa Verde National Park are disintegrating from a buildup of oils and airborne particles. In addition, more than one-quarter of the National Park Service's buildings are in poor or dilapidated condition (see Fretwell 2004).

Comparing federal lands to state trust lands highlights some shocking differences. In a sense, state trust managers are akin to private landowners (or rental car companies). Despite state trust lands taking on extra costs to meet strict state mandates, state agencies gain revenues for every dollar spent. Unlike federal land agencies, state trusts operate with the goal of making money and preserving their assets. In Colorado, for example, conservation leases earn the state school trust \$340,000 a year. And the state of Wyoming earned more than \$1.2 million from land trusts by creating conservation easements, which restrict development on state trust properties in Jackson Hole (Fretwell 2004).



Too Many Hooks Chasing Too Few Fish

Like many ocean fisheries, that of the Alaskan halibut was threatened by overfishing in the 1980s and 1990s. In an attempt to preserve fish populations, the government put tough limits on the amount of halibut that could be caught and the length of the season. The nine-month fishing season was shortened to a few pressure-packed days during which fishers participated in a “fishing derby,” pitting crews against one another and against the elements. Indeed, the movie *The Perfect Storm* demonstrates how fishing crews risk and lose their lives competing for fish in tightly regulated fisheries.

The economic impact of the derby-style fishing was devastating. Fishing crews were forced to sell their fish in a glutted market that depressed the value of their catch. Moreover, in the rush to find large halibut, crews caught whatever they could, throwing away undersized halibut and fish of other species—further decreasing future stocks.

In 1995, the Alaskan halibut fishery instituted individual fishing quotas (IFQs) to replace strict regulations and better manage the fishery. Although these quotas were not as secure as property rights, they did give each fisher the right to a portion of the total allowable catch

set each season by the fishery managers, giving fishers an incentive to conserve fish stocks over the long run. Because the quotas are transferable, quota holders can buy and sell quotas from other fishers, thus maximizing the size of their boats and companies.²

In the first year under IFQs, the fishing season expanded from two days to eight months. Bycatch (species other than those under quota) was reduced more than 80 percent, fishing crews earned higher prices for their catch, and, with annual shares safe in the water, crews stayed home during bad weather so that not a single life was lost (O'Keefe 2004). Thus fishing quotas changed anglers' perspective from treating the fishery as a commons to be exploited to husbanding it as a valuable asset to be sustained. The Alaskan experience is just a small sample of what ownership can do; worldwide, at least 100 marine species are now under individual fishing quota management (Leal 2006).

Superfund a Superwaste

Superfund, the common name of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), was passed in 1980 to clean up hazardous waste sites that endangered public health. Under CERCLA the EPA was given a \$1.6 billion trust fund with which to clean up sites and charge responsible parties. Both previous and current owners of the sites are required by law to compensate the government for the cleanup costs once notified of the EPA's charges.

The courts try to ensure that the EPA's actions are not arbitrary or capricious and that the agency accepts public comment, but the courts are also unable to limit the fines set by the EPA, allowing the EPA to garner unlimited sums of money. Case in point, in a quarry west of Tulsa, Oklahoma, the EPA charged \$12 million to clean up the abandoned Compass Industries Landfill Site. The local State De-

2. A more detailed explanation of individual fishing quotas (IFQs) is available at www.ifqsforfisheries.org.



Peter Steiner/CartoonBank.com. All rights reserved.

*“Miss Endicott, I spilled ketchup on my tie.
Have the government clean it up.”*

partment of Health concluded that \$1 million would have been sufficient to contain the waste and provide a cost-effective, permanent cleanup (Office of Technology Assessment 1988).

Allowing the EPA such discretion removes the incentive for a rational calculation of costs and benefits.³ The EPA has declared 55,000 waste sites as potential hazards but is not required to provide evidence of the harm done or direct links to the parties held responsible (Stratman 2000). Former EPA director of waste programs enforcement, Bruce Diamond, claimed that “an aging truck driver who says, ‘I took yellow liquid and I think it was from them’” (quoted in Bovard 1994) is all the evidence necessary to declare a site eligible for Superfund.

3. Online at www.yale.edu/esi/ESI2005_Main_Report.pdf.

In Minneapolis, for example, the EPA held a local Boy Scout troop financially responsible for cleaning up a Superfund site because the troop had disposed of metal at the local scrap yard (Bovard 1999). Moreover, there is evidence that the amount spent on cleanup bears a stronger relationship to campaign contributions for senators and members of Congress than it does to how hazardous the site actually is (see Stratmann 2000).

In contrast, private companies who have begun cleaning up waste are making a profit doing so. The Remediators, for example, a company in Port Angeles, Washington, uses a biological process to clean private residential and commercial properties thought to be contaminated. The company, which focuses primarily on petroleum contamination, relies on fungi's ability to naturally decompose organic compounds and return the soil to a healthy state. With approximately 21,000 known abandoned contaminated sites rendering more than 81,000 acres of land practically useless, the Remediators can identify those sites, restore their economic value, and resell them at a profit. The company, landowners, and community all benefit from using privately administered fungi as an alternative to expensive and long-term mechanical or chemical treatments.⁴

Beware of the Greenwagon

Before you board the trendy greenwagon, be aware of the unintended consequences that can be bad for the economy and the environment. Greener-than-thou policymakers love to tout environmental solutions, but measuring their actual impact and outcome is often problematic.

The inherent complexity of environmental problems makes it difficult to foresee how regulations will play out. When fishing seasons were shortened to reduce overfishing, fishers took more risks by fishing in foul weather, using larger boats, and employing sophisticated

4. For more information about the Remediators, visit www.theremediators.com/, and see the December 2006 *Enviropreneur* issue of *PERC Reports*.

electronic gear to catch more fish in the shortened season. When fuel efficiency standards are imposed on new cars, making them more expensive, people drive their old cars, which pollute more. When zoning restrictions raise housing costs, developments move out of the zoning district. When the ESA regulates those whose land harbors endangered species, the landowners eliminate the habitat before the species are discovered or can move in. No matter how many fingers regulators put in the holes of the regulatory dikes, those who are regulated are apt to react in unanticipated ways.

The tendency of politicians to favor special interests is also problematic for the environment and for the public interest, of which the Clean Air Act amendments of 1977 are a blatant example. Those amendments required that new coal-fired power plants install scrubbers costing millions of dollars in hopes of reducing acid rain. Not surprisingly, the amendments were supported by environmental groups. Existing power plants were “grandfathered,” meaning they did not have to install the scrubbers. Hence, established plants supported the amendments because the new costs were imposed on new, competing plants. The unintended consequence was that plants reduced their use of cleaner, low-sulphur western coal, making electricity more expensive and the air dirtier because the old plants burned dirty eastern coal (Ackerman 1981). To this day, if older plants want to become more efficient, they must install expensive scrubbers; therefore they continue to operate antiquated equipment. When the Bush administration tried to relax these requirements to promote more efficient and cleaner technology, it was vilified by many environmentalists (Schwartz 2003). That well-intentioned environmental policies often fall short of their goals is a compelling reason to seek new approaches to environmental problems.

To be sure, some greener-than-thou regulations can and have improved environmental quality. The Clean Water Act and the Clean Air Act targeted egregious cases of water and air pollution. The Wilderness Act established wilderness areas off-limits to all mechanized

activities. And the ESA stopped the blatant killing of species such as the bald eagle. But picking off those low-hanging environmental fruit was easy. To reach the higher fruit on the environmental quality tree, we will have to be more innovative. Such innovation will only emerge if we can make stewardship and environmental quality an asset rather than a liability, the focus of chapter 5.