FROM THE CENTER

Maintaining Viable Farms and Ranches – Key to the Future of Wildlife

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Mark Twain (some credit Will Rogers), famous author and humorist, once gave advice to a young man as to the key to investment success. He said, "buy land - they ain't making any more of it." That was sound wisdom then and sound wisdom now.

But, he didn't know the half of it. As population and per capita income simultaneously increased and land available for development decreased, the demand for land – and the price – increased. The result is that rural America is rapidly changing as suburbs, ranchettes, and hobby ranches spread across the landscape.

Now, couple that observation with the obvious fact that good wildlife habitat – and hunting – depend on what might be called "open space" and access to that land. No matter how I twist and turn, I cannot help but believe that those who care about wildlife and hunting are on the cusp of a crisis that could, over the next several decades, dramatically and negatively impact wildlife habitat and hunting.

All other considerations aside, it is crystal clear that the future of wildlife – and hunting – depends on the maintenance of open space. And, in turn, the maintenance of open space depends on the viability of farms and ranches, both family owned and corporate. Clearly, when those farms and ranches are no longer viable, the siren call of the subdividers and developers grows ever more seductively sweet to the ear.

Fortunately, paraphrasing the author Ivan Doig, while most of us live on the land, there are those who are *of the land* – rooted there as surely as the trees and bunch grasses. Those who are "of the land" maintain their way of life – even over the generations – when it would make more economic sense to sell to land speculators. They can maintain that stubborn attachment to the land only so long as their operations are at least marginally viable.

I believe that it is for the greater good if we who love open space and the wildlife it succors reject the appropriateness and inevitable result of Adam Smith's "invisible hand" of unfettered economics – at least in this case. Clearly, this invisible hand produces a situation where open space and wildlife suffers irretrievable losses.

This is not a new thought as there are already taxation and zoning schemes that help maintain the viability of ranching and farming operations and, conversely, those that encourage or even foster sale for subdivision. I have little trouble knowing which I favor.

One of the chief culprits of the demise of the family farm and ranch is the effect of inheritance taxes on the ability of the inheritors to pay those taxes and maintain a viable operation – particularly when the operation was marginal. And, in such cases of a "fire sale" to satisfy the tax collector, sales are to the highest bidder. More and more commonly, that high bidder is a land speculator with an eye on immediate or future subdivision. The circumstances are particularly painful when the dramatic run-up in value can be largely related to inflation as opposed to actual increase in value.

While there have been some adjustments in the amount of an estate affected by federal and state inheritance taxes, with more to come, these reductions are inadequate to alter the circumstances related to passing on farm and ranch land. Even those who can afford the application of legal machinations and exploitation of loopholes to avoid some of the inheritance tax burden must spend large sums of time and money to do so. The solution is obvious – dramatic immediate reduction in inheritance taxes and eventual elimination of such taxes. The following discussion of conservation easements is related to the reduction of inheritance and other taxes which, in turn, bear on farm and ranch economic viability.

A tool that is coming more and more into favor as a means of maintaining viable farms and ranches – and open space – is that of conservation easements. In such cases, some private or public entity purchases the development right from the owner – or the owner donates such rights to a recognized nonprofit entity. In the case of purchase, this provides the landholder with cash assets (or, sometimes, an annuity for a set period or for life) that makes it possible to maintain viability and assure the maintenance of open space through a legally binding agreement. In addition, the appraised value of the property is reduced to the value that remains after development rights are removed from the equation. And, if the transfer is to an appropriate government body or legally recognized conservation organization, the difference between appraised value with and without development potential may represent a gift that can be deducted from tax liability. This deduction is of short-term advantage but the reduction in property valuation produces a long-term tax advantage.

There is a growing concern, particularly in western States with large federal ownership of land, with additional land acquisition by government agencies. Purchase of easements as an alternative has the practical result of maintaining open space and retaining land in private ownership and on the tax roles. The most significant conservation legislation in several decades is working its way through the Congress. It is called the Conservation and Reinvestment Act. This Act would provide, among other things, significant additional funding for land acquisition – and for the purchase of easements. It might be wise for the Act to place more emphasis on the purchase of easements as opposed to outright purchase.

Another mechanism in turning wildlife into a benefit to private landowners is providing opportunities for the landowner to benefit financially from public access to wildlife on private land – for whatever purpose. Ways of accomplishing such financial returns are many. These include state payments for wildlife damage, direct leasing of hunting privileges in a free market atmosphere, payments from the state for accepting some number of hunters, and a hybrid system in which the landowner is issued some number of "tags" and some number of hunters are chosen by the state. Approaches differ dramatically from state to state. For example, Texas hunters and landowners negotiate in essentially a free market situation. Conversely, in Wyoming, a suggestion that landowners be issued a limited number of tags for hunters to be chosen by the landowner, in return for accepting a number of hunters to be chosen by the state, set off a firestorm of controversy. This brawl was laced with overtones of class warfare.

As ownership of resident wildlife resides with the states, it is u tothe states to develop the different approaches to achieving the desired goal of allowing landowners to profit from the presence of wildlife. Acceptable mechanisms are evolving on a state by state basis. Continuing adaptations can be expected as the results of the ongoing state-by-state experiments continue to emerge.

The bottom line that defines success will be adequate compensation for landowners to assure attention to wildlife welfare coupled with hunter acceptance of the mechanism for achieving that end. The aim is a "win-win-win" outcome in which wildlife prospers, landowners have incentive to care for wildlife, and hunters have quarry to pursue and a place to hunt.

Where there are large blocks of federal lands managed by the Forest Service (FS) and the Bureau of Land Management (BLM), there is a concern with the viability of private ranches that are adjacent to those lands. Owners of such ranches, in many cases, lease grazing rights from the federal government. These grazing privileges on the national forests have been associated with these ranches for nearly a century – i.e., they are part and parcel of the ranching operation and a well-established part of local cultures.

I recently saw a full-page advertisement in the New York Times titled "End Welfare Ranching." The points made were that the FS and BLM were charging ranchers about $1.50 per cow per month for grazing (actually the fees are set by law) compared to $11.20 for private lands. The ad further charged that the grazing was environmentally destructive. The punch line was "the obvious solution is this: *stop subsidizing cattle ranchers who use U.S. public lands.* It is ecologically and economically unsustainable..."

Too often, and more and more frequently, such polemics are, unfortunately, what passes for reasoned examination of all pertinent facts and subsequent informed debate. Let us examine some of the details depicted in that advertisement. Is this an argument about "subsidy" at all? Would the folks who placed the ad be placated if the grazing on public lands went for $11.20 per cow per month? I would guess that the answer is "not likely." If my guess is correct, the argument about the fee differential is more a ploy than a reason. An analytical person would, instead, ponder why the lease rates are different.

In the case of leasing cattle grazing on private lands, "improvements" such as fences, water developments, etc. are provided and maintained by the landowner. For federal land grazing the usual case is for the permittee to be responsible for such improvements. And, remember, in many cases, the federal lands are "the lands nobody wanted" – i.e., those lands are not as ecologically productive as private lands in the same region that went into private ownership. Therefore, quite logically, federal lands should lease for a lower price. For how much less is the more pertinent question. And, then, how much of the lesser lease rate is indeed a "subsidy?" Even after that, yet another and perhaps more important question remains. If, indeed, there is some subsidy involved, is that subsidy effective in accomplishing a desired goal or objective at reasonable costs?

First, it is informative to examine the historical roots of public land grazing. The Forest Reserve Act of 1891 gave the President authority to set aside forest reserves from lands in the public domain to be administered by the Department of the Interior. As lands were placed in "reserve," one of the key management issues was that of controlling unrestricted grazing. In 1901, Secretary of Interior Hitchcock instructed that "...(Grazing) permits should run for five years. Residents should have precedence in all cases over tramp owners and owners from other states..." Note that grazing was recognized as a legitimate use of the national forests 99 years ago. In 1905, the forest reserves were transferred to the Department of Agriculture, and the Forest Service, and the national forests were created.

Open space is open space regardless of ownership – and, those with an abiding interest in wildlife will need all the open space we can save as population and economic pressures inexorably work their way with the land.

The day the Transfer Act was signed, Secretary of Agriculture Wilson sent a letter (which was written by Pinchot) to the head of the Forest Service, Gifford Pinchot. In that letter he said..."All of the reserves are for use... You will see to it that the water, wood, and forage are conserved and wisely used for the home builder first of all, upon whom depends the best permanent use of land and resources alike... Local questions will be decided upon local grounds: the dominant industry will be considered first, but with as little restriction to minor industries as may be possible... Where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good for the greatest number in the long run..."

One of the first tasks of the Forest Service was to bring unrestricted grazing under regulation, impose reasonable fees for that grazing (Congress now sets the fees), and gain political support from grazing interests for management actions necessary to recover overgrazed ranges. This was accomplished by coupling grazing permits for the national forests with ranches that abutted the national forests. Over the years, it became customary for these grazing permits to be transferred with the "base property" with which they were connected. The intent was to promote social and economic stability for local areas in keeping with the instructions from Secretaries Hitchcock and Wilson.

Such a long-standing arrangement, with a 100-year track record, cannot and should not be casually disregarded – legally, economically, socially, or ethically. This long-term arrangement has not precluded changes in permitted livestock numbers, grazing systems, and other requirements for continuing improvements related to the grazing operations. Such changes have become routine over the past century.

The validity of livestock grazing on the national forests was reinforced by the passage of the Multiple-Use Sustained Yield Act of 1960. That Act stated that "It is the policy of Congress that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes..." "Range" is interpreted as inclusive of livestock grazing.

Second, a full examination of the interactions of the management of the national forests and adjacent private lands is an appropriate aspect of the rather recently adopted ecosystem management. In most cases the national forests are mountainous in landform while adjacent private lands are at lower elevations, better watered, with more gentle terrain, and higher ecological productivity. Taken together, the ranching operation that involves grazing on the national forest is more apt to be a viable economic enterprise than the private land would be alone.

Also to be considered is that wildlife – particularly mule deer and elk in the west – spend the late spring, summer, and early fall on higher elevation national forests and the late fall, winter, and early spring on lower elevation private lands. This situation involves costs to private landowners when large numbers of wild ungulates congregate on their lands in winter. These costs include competition between big game and livestock and damage to haystacks and fences. Other costs are related to sharing habitat with threatened or endangered species – in some cases large predators such as grizzly bears and wolves – that are largely associated with national forests and even the impact of hunters.

The rancher's reaction to these conflicts is frequently moderated as a *quid pro quo* for the assured privilege of public land grazing at attractive rates. Inherent in this tolerance is the recognition that public land grazing permits issued in association with title to the private land appreciably increases the value of that private land as a viable livestock operation.

It is reasonable to assume that the viability of the livestock operations that include public land grazing would decline with the loss of federal land grazing privileges, with increases in grazing fees, or additional significant restrictions upon grazing privileges. The consequence of any of these factors (particularly in interaction with one another or with other aspects such as drought or depressed markets for livestock and other agricultural products) coming to reality would be a decrease in economic viability and increased probability of sale to the highest bidder. With every such sale there is the chance for a conversion to what economists used to call a "higher and better use" related to more economically feasible alternatives. Lands adjacent to national forests, which can be assumed as likely to remain in open space, are frequently prime property for development into home lots or small tracts.

So, to the extent that any "subsidy" is involved in public land grazing, it should be considered that the present arrangement is important, to some unknown variable degree, in maintaining the viability of ranching or farming relative to alternative land uses. And, to the extent that this is true, it seems logical to assume that retention of such a "subsidy" would be of help in the maintenance of open space and associated wildlife habitat.

Of much greater significance than grazing fees, which are minuscule in relation to the land management agencies' overall budgets and, most certainly to the federal budget, is the question of range condition. In no circumstance should poor or deteriorating range condition be considered

acceptable over the long term. Perhaps we should consider reductions in grazing fees related to achievement of significant movement toward a desired future condition. Range conditions, on average, have slowly and steadily improved on national forests over the past 100 years – and continue to do so. Without doubt, ranges on federal lands are in overall better condition than any time in the past 100 years.

Is that good enough? The answer to that is "no." There are improvements to be made and there is much to be done in some situations – particularly in the case of riparian areas. Trends in range condition are more significant for judging the effectiveness of management than current condition.

I believe that more progress will be made toward improvements in range condition and the maintenance of open space through the use of incentives and working with permittees on a local basis. One "size" does not, in this case, fit all. This is likely equally true of exerting influence with landowners of all stripes – corporate or individual, with holdings large and small, or varying degrees of wealth. Open space is open space regardless of ownership – and, those with an abiding interest in wildlife will need all the open space we can save as population and economic pressures inexorably work their way with the land. Wildlife habitat, aesthetics, watershed values, and recreational opportunities exist independent of who temporarily owns the land – i.e., the focus should be on the land itself, the health of that land, and what it provides now and in the future.

Those of us with an interest in the maintenance of wildlife habitat need to be very careful in dealing with such issues. Making decisions on the basis of shallow slogans and misleading selected data put forward in isolation can have unintended and serious consequences for maintenance of open space and wildlife habitat. There is a real chance for those who love wildlife – and hunting – to inadvertently smash ourselves in the mouth with a clenched fist raised in a fit of indignation formulated on an ignorance of history and lack of appreciation for present political, ecological, legal, and economic realities. ▲▲▲

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Photograph by Neal Mishler