



The Mizpah-Pumpkin Creek Grazing District : its history and influence of the enactment of a public lands grazing policy, 1926-1934  
by James Allan Muhn

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in History  
Montana State University  
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**Abstract:**

By the Act of March 29, 1928, Congress established the first grazing district on the public lands. The new reserve, the Mizpah-Pumpkin Creek Grazing District, had been proposed by a group of ranchers in southeastern Montana as a demonstration of the advantages that western stockraisers might realize if lease of the public lands for grazing purposes were possible. The current policy of free and unrestricted grazing on the public domain had led to crowding and overgrazing that had ruined the range and threatened the economic viability of the western livestock industry. The blocking of federal, state, and private lands through lease, the construction of range improvements, and conservative grazing practices made the Mizpah-Pumpkin Creek Grazing District a success after only a few years of operation. Impressed with the results achieved by the Mizpah-Pumpkin Creek Grazing District, stockgrowers throughout the West called for the establishment of similar reserves in the areas they ranged. Congress in 1934, after considerable debate, finally extended the lesson learned from the Mizpah-Pumpkin Creek Grazing District to the remainder of the public lands with the enactment of the Taylor Grazing Act.

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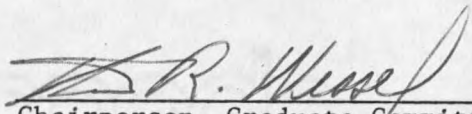
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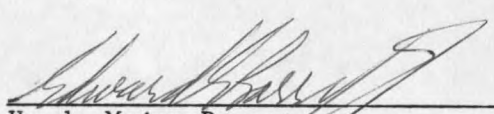
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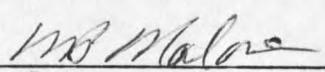
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DEDICATION

I wish to give special recognition to six individuals important in my life and this study. First is Leigh Freeman, a retired Bureau of Land Management paralegal specialist, who always gave his knowledge of public land law freely when I started with the agency and who helped me develop my passion for public land history. Next are my parents, Roland and Carolyn Muhn, both of whom gave me an appreciation for knowledge and had undying confidence in my ability to do whatever I set my mind to. Finally, to my wife, Peggy; my daughter, Sarah; and son, Nathan, I give my thanks for permitting me the time to complete this paper. To these people I dedicate this thesis.

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## ABSTRACT

By the Act of March 29, 1928, Congress established the first grazing district on the public lands. The new reserve, the Mizpah-Pumpkin Creek Grazing District, had been proposed by a group of ranchers in southeastern Montana as a demonstration of the advantages that western stockraisers might realize if lease of the public lands for grazing purposes were possible. The current policy of free and unrestricted grazing on the public domain had led to crowding and overgrazing that had ruined the range and threatened the economic viability of the western livestock industry. The blocking of federal, state, and private lands through lease, the construction of range improvements, and conservative grazing practices made the Mizpah-Pumpkin Creek Grazing District a success after only a few years of operation. Impressed with the results achieved by the Mizpah-Pumpkin Creek Grazing District, stockgrowers throughout the West called for the establishment of similar reserves in the areas they ranged. Congress in 1934, after considerable debate, finally extended the lesson learned from the Mizpah-Pumpkin Creek Grazing District to the remainder of the public lands with the enactment of the Taylor Grazing Act.

## INTRODUCTION

By the Act of March 29, 1928, Congress created the first grazing district on the public domain.<sup>1</sup> The new reserve, the Mizpah-Pumpkin Creek Grazing District, comprised more than 108,000 acres of federal, state, and private land in southeastern Montana. To facilitate the use of the area, Congress withdrew the public lands within the reserve from settlement and provided for the cooperative leasing of the lands in the district by an association of local stockmen under rules and regulations to be prescribed by the Secretary of the Interior.

Congress established the Mizpah-Pumpkin Creek Grazing District to determine whether leasing of the public domain for grazing purposes would remedy the problems of overcrowding and overgrazing associated with the long-standing policy of unrestricted grazing of the public lands. Congress, western livestock interests, and conservationists had long sought a solution to the public domain grazing problem. They all recognized that the "free grass" policy, which had been the foundation of the economic, political, and economic strength of the western range livestock industry in the years after the Civil War, now threatened the economic stability of ranchers. Yet, while nearly all concerned recognized the problem and its cause, they could not reach a consensus as to what should be done to alleviate the situation.

For proponents of leasing the public domain to stockmen, the Mizpah-Pumpkin Creek Grazing District held the promise of breaking the

political deadlock that prevented enactment of a new public range policy. If it proved successful in controlling overcrowding and range deterioration without endangering the traditional range rights of graziers, the grazing reserve could be used to illustrate the advantages of a leasing system.

Supporters of the leasing concept were not to be disappointed by the association of local ranchers that administered the Mizpah-Pumpkin Creek Grazing District. By 1931 the reserve clearly demonstrated what could be accomplished through control of public lands. The Mizpah-Pumpkin Creek Grazing District's members withstood the onslaught of drought while their neighbors, who depended on the open public domain, were forced to remove their herds from the range.

This success prompted several western Congressmen to introduce legislation to create grazing reserves similar to the Mizpah-Pumpkin Creek Grazing District in their states. At the same time, Congress once more took up the proposal of a national grazing lease policy for the public domain. In the debates over this question, both inside the halls of Congress and out, proponents of leasing pointed to the Mizpah-Pumpkin Creek Grazing District as an example of what could be accomplished with the adoption of a leasing system. Congress took more than two years to debate the issue, but in June 1934 it finally adopted a grazing lease policy for the public domain with the enactment of the Taylor Grazing Act.

With passage of the Taylor Grazing Act, the Mizpah-Pumpkin Creek Grazing District had fulfilled its purpose, demonstrating the advantages stockmen could realize through the leasing of public lands.

The reserve continued operation after 1934 until its abolishment in 1962. During these latter years, the Mizpah-Pumpkin Creek Grazing District slipped into obscurity and played no further role in the shaping of federal grazing policy on the public domain.

The Mizpah-Pumpkin Creek Grazing District played a part in the development of federal grazing policy on the public lands. Historians, political scientists, and natural resource specialists have long recognized this.<sup>2</sup> The history of the Mizpah-Pumpkin Creek Grazing District is, however, more than a study in public land policy; it is also a story of determination and perseverance. It tells how a railroad agricultural agent, a small group of ranchers, and a congressman, intent on solving a problem which threatened the stability of western ranchers, were able to establish the Mizpah-Pumpkin Creek Grazing District and fulfill the promise its supporters had prophesied.

## ENDNOTES

<sup>1</sup>The term public domain is indefinite, its meaning having changed with time, as noted in E. Louise Peffer, "Which Public Domain Do You Mean?" Agricultural History 21 (April 1949: 140-146). For the purpose of this study, public domain and its counterpart public lands describe those federal lands being vacant, unappropriated, and unreserved. Lands within military reserves, irrigation projects, wildlife refuges, national forests, and national monuments and parks are not, therefore, part of the public domain. These lands and the public domain are collectively referred to in this discussion as the federal lands. Indian reservations are a separate and distinct class of lands.

In discussing the issue of grazing and the public lands, it is important to understand that Texas is not a public land state. Texas, having been a sovereign nation upon admission to the United States, was permitted by the Congress to retain title to its common lands. Texas and its livestock industry, therefore, were not a part of public land grazing controversy of late nineteenth and early twentieth centuries. See Thomas L. Miller, The Public Lands of Texas, 1519-1970 (Norman: University of Oklahoma Press, 1972).

<sup>2</sup>See Merrill G. Burlingame, "National Contributions of the Montana Extension Service, 1893-1930," in Agriculture in the Great Plains, 1876-1936, ed. Thomas R. Wessel (Washington, D.C.: The Agricultural History Society, 1977), pp. 241-242; Merrill G. Burlingame and K. Ross Toole, "The Range Livestock Industry," in A History of Montana, 1:329-330, ed. Merrill G. Burlingame and K. Ross Toole, 3 vols. (New York: Lewis Historical Publishing Co., 1957); Paul J. Culhane, Public Lands Politics: Interest Group Influence on the Forest Service and the Bureau of Land Management (Baltimore: The Johns Hopkins University Press, 1981), p. 83; Samuel Trask Dana and Sally K. Fairfax, Forest and Range Policy: Its Development in the United States, Second Edition (New York: McGraw-Hill Book Co., 1980), pp. 159-160; Everett Dick, The Lure of the Land: A Social History of the Public Lands from the Articles of Confederation to the New Deal (Lincoln: University of Nebraska Press, 1970), p. 346; Robert H. Fletcher, Free Grass to Fences: The Montana Cattle Range Story (New York: University Publishers Inc., 1960), pp. 160-161; Phillip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington Press, 1960), pp. 48-50; Paul W. Gates, History of Public Land Law Development, with a concluding chapter by Robert W. Swenson (Washington, D.C.: U.S. Government Printing Office, 1968), pp. 608-610; Joseph Kinsey Howard, Montana: High, Wide, and Handsome (New Haven: Yale University Press, 1943), pp. 295-300; Michael P. Malone and Richard B. Roeder, Montana: A History of Two Centuries (Seattle: University of Washington Press, 1976), pp. 243-244; E. Louise Peffer, The Closing of the Public

Domain: Disposal and Reservation Policies, 1900-1950 (Stanford: Stanford University Press, 1951), pp. 201-202, 214-215; Frank J. Popper, "The Ambiguous End of the Sagebrush Rebellion," in Land Reform, American Style, p. 126, ed. Charles C. Geisler and Frank J. Popper (Totowa, New Jersey: Rowman & Allanheld, Publishers, 1984); Roy M. Robbins, Our Landed Heritage: The Public Domain, 1776-1970, rev. ed. (Lincoln: University of Nebraska Press, 1976), pp. 412, 421; John T. Schlebecker, Cattle Raising on the Plains, 1900-1961 (Lincoln: University of Nebraska Press, 1963), pp. 114-115; Joe A. Stout, Jr., "Cattlemen, Conservationists, and the Taylor Grazing Act," New Mexico Historical Review 45 (October 1970): 319; U.S. Department of Agriculture, The Western Range (Washington, D.C.: U.S. Government Printing Office, 1936), pp. 297-298.

## CHAPTER I

## THE PUBLIC DOMAIN GRAZING IMBROGLIO

The public domain has long been associated with the range livestock industry of the trans-Missouri West. The free grass the public lands offered in the nineteenth century gave rise to the western livestock business and was the foundation upon which rested the social, economic, and political strength of western stockraisers. But crowding of the open range and the advance of the farmer's frontier eroded the position of stockmen. Livestock interests sought means to protect the rangelands they had long used and had come to see as their own. Federal land policy, however, dictated unrestricted access to the public domain and favored the homesteader.

Out of necessity, graziers resorted to extralegal methods to protect their interests in the public domain; however, fraudulent homestead entries and illegal fencing only evoked the rancor of public opinion and federal enforcement of the public land laws. Continued constriction of the public lands, droughts, and poor markets after the turn of the century further exacerbated the problems of stockraisers dependent on the public domain for range. The worsening situation prompted the federal government and western livestock interests to advocate adoption of a new public lands grazing policy, but a lack of consensus and opposition to change led to years of bitter debate and an impasse on the issue.

The practice of grazing livestock on communal lands came to the trans-Missouri West prior to the Civil War. The custom had colonial origins and came to the Far West as a consequence of Hispanic settlement in the Southwest, American migration to the Oregon Country, Mormon colonization of the Great Basin, and the mining bonanza to California and the Rocky Mountains. Stockraising was integral to these frontier communities, but confinement to local markets restricted growth of the business. Not until after the Civil War would western stockmen achieve economic and political prominence in the region.<sup>1</sup>

Economic conditions at the end of the Civil War favored expansion of the western livestock industry. Cattle herds in the North and South had been diminished by wartime needs. This decrease, coupled with an increased demand for beef, pushed cattle prices upward. Texas stockmen, whose herds had multiplied as a result of the state's isolation during the war, were first to take advantage of the situation. Aided by the extension of railroads into the central Great Plains, Texans trailed cattle to the new railheads in Kansas and Nebraska for shipment to eastern stockyards.<sup>2</sup>

As an outgrowth of this Texas trade, stockraising spread to the Great Plains. Texas cattlemen found it profitable to fatten and mature their livestock after the long drive north before marketing. With extermination of the buffalo, concentration of the plains tribes on reservations, further railroad construction, and strengthening of beef prices after the Panic of 1873, the Great Plains cattle industry experienced a phenomenal boom. Sensing the opportunities offered, stockmen brought herds from Texas, the Pacific Northwest, and the



Midwest into the Great Plains. Between 1870 and 1880 the number of cattle in the Great Plains increased from little more than 400,000 to nearly 3,000,000 head. The basis of this bonanza was the availability of the public domain to stockraisers.<sup>3</sup>

The public lands were open to free and unrestricted grazing. No expressed policy of the federal government conferred this privilege; the policy came merely from sufferance.<sup>4</sup> As long as there was an abundance of free range, early ranchmen on trans-Missouri West frontier found the situation on the public domain satisfactory.

Open access to the public lands made substantial investment in land and range improvements unnecessary. When stockmen had overgrazed an area, they simply moved their herds to better pastures. Ranches were little more than a Homestead or Preemption entry of 160 acres made adjacent to a source of water, and ranch buildings usually consisted of a crude dwelling or dugout and a simple stable and corral for the horses. Cattle constituted the chief capital investment, but once purchased, the practice of turning the herds out upon the public domain to care for themselves until roundup for branding or marketing made operating costs minimal. Given the relatively small capital required to participate in the open range business, cattlemen in the late 1870s were able to reap handsome returns.<sup>5</sup>

Western stockraising interests continued to experience prosperity into the early 1880s. Beef prices edged steadily upwards. Eastern and foreign financial interests became eager to share in the bonanza and began speculating heavily in the cattle business. This investment mania, however, brought about overexpansion that jeopardized the

economic stability of the western livestock industry. Cattle numbers exceeded market demand, causing meat prices to decline. Worse, the overexpansion threatened the cornerstone of the cattle business: use of the public domain.<sup>6</sup>

The herds financed by the speculative excitement of the 1880s found little vacant free range available. Early stockraisers had already appropriated much of the public domain in the Great Plains and other regions of the trans-Missouri West prior. The new cattle companies, having no other choice, pushed into the areas used by older outfits. This crowding forced stockmen to overgraze the public domain. They feared that if their cattle did not take all the free grass they could, the herds of others would, leaving them with nothing. The overgrazing that resulted led to the deterioration of the public range, producing lower weight cattle which brought less at market. Cattle were also more vulnerable to loss from disease and the calamities that accompanied the droughts and harsh winters common to the West. To further aggravate the situation, sheepraising interests and the farmer's frontier began to make inroads into "cow country" at the same time. With competition for use of the public domain intensifying, livestock interests sought means to secure and protect their use of free grass.<sup>7</sup>

"It was the division of these spears of grass..." historian Ernest Staples Osgood observed, "that constituted the real problem of the cattleman's frontier."<sup>8</sup> What made the efforts of stockraisers to gain control of the public lands so difficult was the land policy of the federal government. After the Civil War, most of the public

rangeland that was surveyed and open to entry was made available for appropriation only under the settlement laws and not the auction and cash sale system that enabled individuals to acquire unlimited acreage.<sup>9</sup> This policy limited the amount of public land to which ranchers could obtain title. Unable to acquire the acreage they needed legally, western graziers adopted illegal means to take and hold the public land they used.

Stockmen in the early period of the cattle boom had found it sufficient to establish and hold range rights on the public lands through occupancy and use. To further strengthen their claims and dissuade trespassers, some cattlemen used local newspapers to advertise where their herds grazed. But the protection of range rights by virtue of squatter sovereignty, even with state and territorial laws that prohibited herds from being driven from their customary ranges, was difficult, and the attempts of local and state cattle associations to preserve the range rights of their members by excluding newcomers from roundups or intimidation also proved to be largely ineffective.<sup>10</sup> There were, however, other ways to safeguard range rights on the public domain.

In the trans-Missouri West, water controlled use of the range. Livestock needed water to survive and the stockmen who controlled the streams and springs in that semi-arid region had mastery over the adjacent public domain. An individual rancher could, by making entry under the Homestead, Preemption, Timber Culture, and Desert Land laws, acquire title to 1,200 acres, but many stockraisers found that acreage insufficient. To gain control of additional public land with water,

graziers, particularly the larger cattle outfits, resorted to fraudulent means. One common practice employed by stockraisers was to have their cowboys make entries under the settlement laws and then, upon the issuance of patents, purchase those claims. Fencing was another method used by ranching interests. The introduction of inexpensive barbed wire in the 1870s gave stockmen in the following decade the means by which they could place hundreds or thousands of acres of the public domain under their control by excluding other herds and homesteaders. The use of fraudulent entries and fencing, however, prompted public condemnation and government reaction.<sup>11</sup>

Public protest against the efforts of stockmen to preserve their range rights accused large cattle companies with attempting to monopolize the public domain. Charges were made that the efforts of cattle barons to control water sources denied small stockraisers access to free range and, even worse, it prevented homesteaders from taking up western lands. The allegations were confirmed by investigators of the General Land Office (GLO), the government agency responsible for the administration of the public lands, and action was taken to cancel settlement entries that had been made in bad faith.<sup>12</sup>

Congress also involved itself in combating the fraud problem. By the Unlawful Enclosures Act of 1885 the fencing of public lands was declared illegal and General Land Office agents began tearing down thousands of miles of barbed wire. In 1890, Congress enacted legislation restricting to 320 acres the amount of public land an individual could acquire under the agricultural land laws. The following year, the much abused Preemption and Timber Culture acts were repealed and

the Homestead and Desert Land laws amended in an effort to curb fraudulent entries under their provisions.<sup>13</sup>

Not all ranchmen saw unlawful entries and fencing as the best means for dealing with the problems the western livestock industry faced on the public lands. As early as the 1870s many stockraisers, along with politicians and government officials, urged abandonment of free and unrestricted grazing for a policy that would legitimize the stockmen's presence and allow for control of their customary range. Proposals called for public lands chiefly valuable as pasturage to be sold in unlimited quantities at a reasonable price, made available to enlarged homestead entry, or leased. Efforts to enact a new policy, however, were thwarted by the lack of consensus among proponents and persistent opposition to any change in the existing situation.

In his annual report for 1875, Commissioner of the General Land Office Samuel Burdett urged Congress to discontinue withholding grazing lands from sale in unlimited quantities. He argued for the change in policy because the limits placed upon agriculture in the semi-arid environment of the trans-Missouri West did not permit the region's public lands to be taken up honestly under the settlement laws. President Ulysses S. Grant supported the Land Office proposal and Burdett's successor, James Williamson, repeated the recommendation in his annual reports for 1876 and 1877. The Public Lands Commission created in 1879 by Congress to review the public land laws and suggest needed changes gave consideration to the sales proposal. Taking testimony from individuals throughout the West, the Commission found

considerable support for the sale of public rangelands and recommended in their report to Congress the public sale of grazing lands.<sup>14</sup>

In Congress, however, the proposal of opening to sale the public lands chiefly valuable as pasturage had little support. Some in Congress opposed the idea because the opportunities that had allowed the western livestock industry to expand would be lost if the policy of free and unrestricted grazing was abandoned. Other politicians agreed with the public sentiment that homesteaders and small ranchers would be hurt by a sale policy, for large stockraising outfits and monied interests would come to monopolize the public domain. Instead of declaring more public lands open to sale, Congress in 1889 repealed, with some exceptions, the public land sales laws.<sup>15</sup>

Enlarged homestead entry was another proposed solution to the public lands grazing problem. In his Report on the Lands of the Arid Region of the United States first published in 1878, John Wesley Powell proposed opening the public lands chiefly valuable for grazing to enlarged homestead entry. Powell, who had spent a decade conducting geographic and scientific explorations throughout the West, argued that only grazing could succeed in much of the semi-arid West and that large acreages of land were necessary to support the herds of stockmen. He felt that pasturage homesteads of 2,560 acres--four square miles--would be sufficient to meet that requirement.<sup>16</sup>

The Public Lands Commission of 1879-1880, of which Powell was a member, received much testimony favoring the idea of enlarged homesteads and in its report to Congress recommended that the pasturage homesteads, along with sale, be one of the means by which public

grazing lands were disposed of. Congress, as with the sales proposal, did not like the grazing homestead proposal, feeling that large western livestock interests would fraudulently use such entries to monopolize the public domain. Instead, Congress in 1890 restricted individuals making entry under the settlement laws to no more than 320 acres of public land. It would not be until after the turn of the century that Congress would choose to discuss grazing homesteads.<sup>17</sup>

Stockraisers also looked at the leasing of public lands as a method by which they could protect their customary range. Commissioner of the General Land Office Burdett in 1875 noted that the withholding of public lands west of the hundredth meridian from sale had compelled "interested parties" to suggest a leasing system by which stockmen could control portions of the public domain for grazing purposes at reasonable expense. Two years later President Rutherford B. Hayes and Secretary of the Interior Carl Schurz urged consideration of the proposal. Many ranchers voiced support for the idea in testimony taken by the Public Lands Commission. Graziers from Montana and Wyoming, fearing the growing influx of southwestern cattle onto the already crowded ranges of the northern Great Plains, got the 1884 National Cattlemen's Convention to pass a resolution asking Congress to consider leasing the public lands to stockraisers.<sup>18</sup>

Leasing, like the sales and enlarged homestead proposals, was not well received. Many, like Commissioner of the General Land Office Burdett, felt that leasing was not in harmony with the public land system. Others argued, as Joseph Nimmo did in his 1885 investigation of the western livestock business, that leaseholds on the public domain

would allow for monopoly on the public ranges and would consequently retard homesteading and commercial competition. Others pointed out that the livestock industry was in a period of transition and that leasing would only place unneeded constraints on the development of the business. Congress apparently agreed with these arguments, for it did not give the proposal consideration.<sup>19</sup>

With Congress reluctant to enact legislation providing the western livestock industry secure tenure on the public domain, the grazing situation on the public lands continued to deteriorate into the 1890s. Once exclusive cattle ranges began to be invaded by the sheep herds of stockmen who now found raising woolies profitable. Homesteaders also made inroads into the range country after the drought and economic depression earlier in the decade ended. The worsening crowding and overgrazing led to violence as cattlemen, sheepmen, and settlers struggled for control of the public lands. Fraudulent entries and unlawful enclosures, which had never completely disappeared despite government efforts, became prevalent again. By the turn of the century the growing confusion and lawlessness gave new impetus to those wanting to end free and open grazing on the public domain.<sup>20</sup>

Although some felt that order could best be brought to the grazing commons through the cession of the public lands to the states, most seeking a new public lands grazing policy at the turn of the century focused their attention on the idea of leasing. Stockraisers began to earnestly consider the leasing proposal at the organizational convention for the National Stock Growers Association (later National Live Stock Association) in 1898 and continued to hotly debate the issue of



leasing at annual conventions that followed. The following year the Secretary of Agriculture spoke in favor of leasing the public lands to graziers in his annual report, and in Congress the first of many leasing bills was introduced.<sup>21</sup>

Serious consideration of a federal leasing plan arrived with Theodore Roosevelt's presidency. In 1901 the General Land Office noted that stockmen had once again resorted to making fraudulent entries and erecting illegal enclosures on the public lands, and soon afterward special agents attempted to stop these unlawful activities. The next year in his annual message to Congress, President Roosevelt noted the public land grazing problem and the need for a solution but did not commit himself to any particular course of action. The President's concern for the issue, as well as for other problems associated with the use and settlement of the public lands, led him to call for creation of a commission that would investigate conditions on the public domain and recommend changes in administration of the public lands.<sup>22</sup>

This second Public Lands Commission earnestly sought a solution to the grazing problem. It distributed a questionnaire among western stockgrowers asking for their views of conditions on the public domain. The majority of the 1,400 respondents told the Commission that they felt the carrying capacity of the public land they utilized was diminishing because of overcrowding.<sup>23</sup> Moreover, 1,090 of these stockmen stated that they favored some form of federal regulation on the public range. The Public Lands Commission also had Frederick V. Coville, a botanist with the Department of Agriculture, examine the

merits of leasing the public lands to ranchers. Coville investigated the leasing of grazing lands by the Northern Pacific Railroad Company in the Pacific Northwest and the states of Texas and Wyoming. He concluded that leasing benefited both ranchmen and the range and advocated that the federal government inaugurate a permit system.<sup>24</sup> The Commission concurred with Coville in their recommendation to the President and Congress.<sup>25</sup>

In presenting this proposal, the second Public Lands Commission knew that federal regulation of grazing on the public domain was not without precedent. Since 1897 the Department of the Interior had been administering grazing use within the nation's forest reserves. The reserves were a consequence of a provision in the Public Land Reform Act of 1891 that gave the President authority to withdraw timberlands on the public domain from settlement and disposition. At first, citing no authority for such use, the Secretary of the Interior declared the reserves closed to grazing, but stockgrowers ignored the order. With passage of a law in 1897 providing for administration of the forests, the Secretary opened the reserves to grazing under permit. There were problems with instituting a grazing program for the forest, particularly with regard to whether sheep should be allowed within the reserves. Despite such problems, the program brought a sense of order to forest grazing.<sup>26</sup>

After receiving the recommendation of the Public Lands Commission, President Roosevelt favored leasing of public grazing lands as part of his administration's conservation program. Roosevelt, in a special message to Congress in 1906, called the grazing situation intolerable

and urged that the Secretary of Agriculture be authorized to regulate grazing on the public domain in a manner that would protect the interests of settlers. Interested parties introduced bills providing for grazing control, but none reached the floor of Congress. Undeterred, the President had a leasing measure included in the 1907 appropriation bill for the Department of Agriculture.<sup>27</sup>

The Roosevelt administration's proposal encountered strong opposition in Congress. Antagonists of regulated grazing raised the old arguments that leasing would allow large livestock operators to monopolize the range and retard homesteading. Supporters countered that to stop overgrazing and the destruction of the range, grazing on the public lands had to be regulated; leasing, in their view, would not interfere with settlement. The arguments of opponents, however, prevailed and the leasing measure was eliminated from the bill.<sup>28</sup>

The hostility displayed during debate of the 1907 Agricultural Appropriations Bill revealed the extent of the antagonism toward the idea of controlled grazing. Legislation providing for the lease of public rangelands continued to be introduced after 1907. Proponents of regulated grazing, however, did not attempt to force the issue and, consequently, no leasing bill received serious consideration for several years.<sup>29</sup>

After defeat of the Roosevelt leasing measure, the grazing situation on the public domain continued to deteriorate. A land rush brought about by the advent of dryland farming and the enactment of the Enlarged Homestead Act of 1909 and Three-Year Homestead Act of 1912 saw millions of acres of public land fenced and plowed by tens-of-thousands

of land hungry settlers. The constriction of free and open range sharpened competition between stockmen, so interest in the grazing question again came to the forefront of public land politics.<sup>30</sup>

In 1914, a bill calling for the lease of public lands under the direction of the Department of Agriculture was introduced in the House of Representatives. The measure evoked much interest and the House Committee on Public Lands held hearings on the proposal. In taking testimony the committee heard from many who favored regulated grazing, but despite the support voiced, the committee and Congress came to see pastoral homesteads as the answer to the public land grazing problem.<sup>31</sup>

Interest in John Wesley Powell's proposal had never completely died. The president of the National Live Stock Association publicly supported the idea of 2,500-acre grazing homesteads at the 1901 convention but failed to secure the organization's endorsement. Three years later Congress enacted the Kinkaid Act, which provided for entry of 640 acres of nonirrigable land in parts of northwestern Nebraska. The law sought to determine whether or not pastoral homesteads were an answer to the agricultural and grazing problems that plagued the West. Although viewed as an immediate success by some westerners, Congress chose not to consider seriously extending the act to the remainder of the public domain until 1914. Supporters viewed grazing homesteads as a means of encouraging immigration and bringing prosperity to the more arid regions of the West. Western livestock interests, fearing further break up of the range, opposed the idea. Despite the protests of stockmen, Congress in 1916 enacted a grazing homestead measure introduced by Congressman Edward T. Taylor of Colorado.<sup>32</sup>

The Stock Raising Homestead Act provided for 640-acre entries on lands determined to be valuable primarily for grazing or the growing of forage crops. At first, the law seemed to offer hope of fulfilling its promise by providing small ranches in the semi-arid West. By 1920 the General Land Office had allowed more than 36,000 entries. Clay Tallman, Commissioner of the General Land Office, in his annual report for that year, declared that the Grazing Homestead Law was helping alleviate the problems that plagued grazing on the public domain.<sup>33</sup>

Not all were singing the praises of the Stock Raising Homestead Act. Soon after passage of the Grazing Homestead Law, Will Barnes, a Forest Service grazing expert, contended that 640 acres would not support enough livestock for a family ranch and that the development of water sources would prove too costly for most settlers. These facts became increasingly true after World War I as drought and agricultural depression devastated the western livestock industry. In the 1920s other critics accused the Stock Raising Homestead Act of misleading homesteaders into believing that they could establish ranches on a section of land and for being responsible for the suffering of those foolish enough to make entries. The General Land Office joined the detractors. In 1923 Commissioner William Spry stated that the public lands best suited to settlement under the grazing homestead law had been appropriated and that those making entries could not comply with the act's requirements in good faith. Spry urged repeal of the Stock Raising Homestead Act and enactment of a law that would permit the Department of the Interior to regulate grazing on the public domain. Others echoed Spry's appeal.<sup>34</sup>

The Stock Raising Homestead Act was not the only problem on the public range in the 1920s. Crowding and overgrazing persisted, and the fencing of the public lands, particularly in the Southwest, continued to be a source of complaint. Pressure to abandon the free and open grazing on the public domain heightened.<sup>35</sup>

"It was pretty generally conceded by 1920," wrote historian E. Louise Peffer, "that some sort of grazing regulation [on the public domain] was imperative. The problem was not what should be done but who should do it."<sup>36</sup> Both the Agriculture and the Interior Departments wanted to administer grazing on the remnants of the unappropriated and unreserved public lands. The bureaucratic rivalry had begun during the administration of Theodore Roosevelt and had intensified after World War I. Events in the early 1920s, like the Teapot Dome scandal which called into question the Department of the Interior's ability to manage the public domain for conservation purposes, favored the Agriculture Department as best suited to administer grazing on the public lands. The Forest Service in 1924, however, made the mistake of proposing that national forest grazing fees be raised to rates comparable to those for private lands. Ranchers who used the national forests bitterly protested the plan and support for the Department of Agriculture's administration of public land grazing quickly eroded.<sup>37</sup>

In 1925 the Senate conducted an investigation of grazing in the national forests and on the public domain. From these hearings, in which the Department of Agriculture and its agency, the Forest Service, were often the target of criticism, Senator R. N. Stanfield of Oregon drafted a national forest and public lands grazing bill. As to the

public domain, the Stanfield measure gave administration of the public range to the Interior Department. Upon petition by local stockmen, Interior officials were authorized to establish grazing districts. Preference to leasing public lands was to be given to ranchers who owned lands within these grazing districts and those who customarily grazed there. Leases were to be for a ten-year period and moderate charges.<sup>38</sup>

Neither Interior or Agriculture officials liked the legislation. They felt grazing administration as provided for in the bill would be expensive and cumbersome. Furthermore, they protested a provision that allowed stockmen to establish appeal boards which could overrule decisions made by grazing district supervisors. In cooperation with Senator Stanfield, the two departments revised the bill. While the measure did reach the floor of Congress, and in 1927 a law regulating grazing on the public domain in Alaska was passed, the Stanfield bill could not overcome the old arguments that leasing favored large livestock interests and would close the public lands to homesteading. Like all the measures before it, the Stanfield bill was defeated.<sup>39</sup>

Congress seemed hopelessly deadlocked on the question of regulating grazing on the remnants of the public domain. Reacting in frustration to this situation, the Commissioner of the General Land Office, William Spry, in his annual report for 1928, called for allowing grazing homesteads of 1,280 acres should Congress continue to thwart enactment of a grazing lease law.<sup>40</sup>

Not everyone was so pessimistic. In Montana a group of small ranchers were determined to break the impasse. They wanted to convince

Congress to lease to them the public lands adjacent to their holdings as an experiment to judge whether or not regulation of grazing on the public domain would benefit the western livestock industry.



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## CHAPTER II

## BRINGING ORDER TO THE CHAOS:

## CREATING THE MIZPAH-PUMPKIN CREEK GRAZING DISTRICT

Stockmen in southeastern Montana during the 1920s faced the same dilemmas that confronted all western ranchers who depended upon the public domain for supplemental range. The local land pattern was mixed. In checkerboard fashion, the Northern Pacific Railroad Company's land grant covered much of the area. The State of Montana had scattered lands. In the decade before World War I, thousands of hopeful homesteaders came but soon abandoned their dreams with the drought and depression that followed the war.

The crazy-quilt ownership pattern that had evolved made consolidation of lands for most graziers difficult. The interspersed remnants of the public domain open to all without restriction only aggravated matters. The situation threatened the economic stability of the region's ranchers, but a group of determined stockmen, inspired by a railroad agricultural agent, sought to find a solution to the problem.

Evan Hall began work as the new agricultural supervisor of the Chicago, Milwaukee and St. Paul Railway Company in May 1926.<sup>1</sup> The railroad was in the midst of bankruptcy and hoped that the establishment of agricultural agents who could assist the farmers and

stockmen along its routes would increase its traffic.<sup>2</sup> In Hall, the company selected a man who could do the job they wanted.

When the Milwaukee Road, as the Chicago, Milwaukee and St. Paul Railway Company was nicknamed, hired Hall, he already had considerable experience as an agricultural agent. A 1909 graduate of North Dakota Agricultural College, Hall had begun his career as a farmer with the Office of Indian Affairs on the Fort Berthold Indian Reservation. He then worked in Wyoming and the Dakotas as an agricultural agent.<sup>3</sup> The experience had imbued Hall with the traits so often associated with the successful agricultural agent: a persuasive style of leadership, an infectious sense of enthusiasm, and a genuine desire to assist farmers and stockmen in helping themselves.<sup>4</sup> Moreover, he intended to put his experience to good use in his new job by developing an agricultural program "based on sound economic principles" that would benefit the region he now worked in.<sup>5</sup>

Evan Hall immediately set about the task of acquainting himself with the state of affairs in southeastern Montana. He found that the area, like the rest of the Great Plains, was suffering from drought and the effects of the post-World War I agricultural depression. The homesteaders that had flocked to the region in the years before the war were mostly gone, and stockraisers were plagued by the problems caused by the break up of the public domain and low livestock prices.<sup>6</sup> With local businessmen, bankers, farmers and stockmen he discussed the problems that beset agriculture and listened to their ideas on how the situation should be handled. The observations and suggestions Hall valued most, however, came from those who worked the land.<sup>7</sup> It was

from one of his early discussions with local farmers and ranchers that the idea of the Mizpah-Pumpkin Creek Grazing District emerged.

Soon after Hall had arrived in Miles City, he asked the county extension agent, Paul Lewis, to arrange a meeting with a few of the best farmers and stockmen in the area to discuss the agricultural problems of southeastern Montana. On June 16 he met in Miles City with four men whom Lewis had contacted. Talking freely with the new railroad agricultural agent, the participants discussed a variety of problems, but conversation most often centered on the inability of local stockraisers to secure control of adequate range. After the meeting, Hall continued discussion of this problem with one of the group.<sup>8</sup>

Nic Monte had a ranch southeast of Miles city along lower Pumpkin Creek, a tributary of the Tongue River. He had come to Montana in 1903 to work as a cowboy. Years later he homesteaded and began a small ranch.<sup>9</sup> Through purchase and lease he controlled more than 4,000 acres, but this was insufficient for the livestock he raised.<sup>10</sup> For the remaining acreage, Monte, along with his neighbors and transient stockmen, depended on the unfenced private lands and public domain adjacent to his ranch.

Monte's livestock grazed the range between the lower reaches of Pumpkin and Mizpah creeks. Here badlands, buttes, and mesas cut by numerous ravines dominated the landscape. An 1876 commentator likened the country to a "non-atmospheric planet" and felt looking at the place made "one's heart sick."<sup>11</sup> Water, as with much of the semi-arid Great Plains, was scarce. Pumpkin and Mizpah creeks carried water at spring



thaw and after heavy rains and a few natural springs can be found, but there was little other water to be found. Forage was more plentiful than water. Grama, little bluestem and other grasses carpeted much of the area at the time.<sup>12</sup> In virgin condition, these grasses had grown to the height of a cowboy's stirrups, but overgrazing from decades of uncontrolled competition between stockmen for use of the area and roaming herds of abandoned and worthless horses had resulted in the more palatable native grasses giving way to less voluminous and nourishing species. This destruction of the range reduced its carrying capacity by more than half.<sup>13</sup> The situation threatened the livelihoods of Monte and resident ranchers.

What prevented Monte and other stockraisers from controlling and better utilizing this range was the area's varied land ownership pattern. The Northern Pacific Railway Company held title to nearly half the land, having been unable to sell this portion of its grant. Intermixed with the railroad lands were 160- and 320-acre parcels abandoned by homesteaders after the war, a few sections of state-owned land, and remnants of the public domain.<sup>14</sup> The scattered tracts of public land could not be legally controlled and the leasing of private lands was complicated by the numerous landowners, many unwilling to offer long-term leases at reasonable rates because they hoped a rush for farmland might someday return.<sup>15</sup>

To Evan Hall, Nic Monte's situation offered an "opportunity to demonstrate the value of controlled grazing."<sup>16</sup> He outlined to Monte a proposal that called for the rancher and his neighbors to pool their





























































































































































































