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574 Federal Public Lands

Fall Semester 2002

**UNM School of Law
Final Examination
Three Credits**

**Professor Sheryl Wolf
Self-scheduled
24 hour take-home**

INSTRUCTIONS

1. The exam consists of one essay question, on two pages, plus this cover sheet.
2. You have 24 hours to complete and turn in this exam, beginning from the time you pick it up from the exam administrator.
3. You are allowed to use a computer for typing your essay. Please double space your essay and print on one side only. You may neatly write in blue books if you prefer; if you do, use alternate lines and one side of the paper only. Please limit your essay to 10-12 typed pages, or the equivalent handwritten number of pages. Please number your pages or your blue books and staple them together in the upper left corner.
4. Be sure to put your exam number on your paper. Do not identify yourself in any other manner.
5. This is a limited open book exam. You may use your own notes, notes and outlines of a group in which you were an active participant, any materials assigned for class, including your casebook and all supplementary handouts. You may not do additional research (including computer-assisted research) or use hornbooks, commercial outlines and the like, nor may you discuss the exam with any other person.
6. Please remember that students will be taking this exam throughout the exam period, so it is important that you do not discuss the exam in any manner with anyone after you pick up the exam.

The “Back to the Future” Bill

After a century and a half of disposing of the public domain, the past hundred years have resulted in the federal government’s switching course and retaining, withdrawing, and sometimes even acquiring additional federally owned public lands. Legislation and regulation of these public lands have proliferated, resulting in what many view as an unworkable bureaucracy. Conflicts abound: the eastern states harbor resentment over the vast amount of federal land located in the west; disputes over the best usage of the land continue to escalate; the landscape has become increasingly degraded. Management decisions are difficult because of technical statutory provisions and special interest groups are able to stall almost all action through endless litigation. The government is losing huge amounts of revenue due to its ownership of the public domain.

The current administration has decided that it is was a major mistake to ever reverse the national policy of disposition of public lands. It views the retention ownership and management of the public lands as neither efficient nor profitable. The president has urged Congress enact legislation, commonly called the “Back to the Future” bill, ordering the sale of most of the public lands presently owned by the federal government so that the land can be managed and used more efficiently. Furthermore, Back to the Future would repeal the National Environmental Policy Act and the Endangered Species Act, in order to safeguard private property rights. Private owners will have sufficient incentive, the administration believes, to engage in environmentally sound practices in order to safeguard their investments.

Because the sales would be accomplished by public auction, the president believes that the overall usage patterns will not be significantly different once the lands are in private hands. Ranchers, miners, recreationalists, environmentalists, and states and municipalities themselves, as well as business and industrial entities, will have an equal opportunity to bid on the various parcels. The land will be sold to whichever individual or group places the highest value on a specific locale, and the new owner will be able to either continue its present usage or convert it to a more economically efficient use.

Most of the proceeds from the sales will be applied to the national defense budget, especially important with war in Iraq looming. But to share the wealth, the president plans to give every tax paying citizen a \$500 income tax rebate.

You’ve just been hired as a legislative aid to Senator Freemarket. Senator Freemarket recently won her first term in office, serving a small state in the northeast that has virtually no federal public land located in it. She has high ambitions and wants to play an important role in the leadership of this country. The Senator has been asked, by sources close to the president, to sponsor the Back to the Future legislation. She is inclined to do so, because it will give her considerable publicity, and besides, she was elected on a platform promoting government efficiency and economic growth. However, she has no background in federal public land law,

which she thinks concerns only the western states. She wants you to brief her in detail, explaining why the public lands are such a problem and advise her as to the effectiveness of this proposed solution.

Please write a memo for Senator Freemarket discussing the advantages and disadvantages of the Back to the Future bill. In doing so, explain the major problems with the federal public lands, the conflicts, and their causes, giving examples where appropriate. Senator Freemarket wants specifics, so she will appear knowledgeable when she appears before Congress, but she also wants you to get to the main points in a clear, succinct, and organized manner. The Senator has a limited attention span, so your memo should be limited to approximately 10-12 typed pages, double spaced (or the equivalent, if neatly handwritten). The memo need not follow any particular format; you may write it as an essay.

End of Exam

Have a Happy Holiday Season!