

## II. ALBERT F. POTTER, FROM COWBOY TO BUREAUCRAT

### A. An Arizona Sheep Man

Albert F. “Bert” Potter was born on November 14, 1859, in Ione, California near the Sierra foothills. He moved to Holbrook, Apache County, in eastern Arizona for his health at the age of twenty-four. He had a natural aptitude for this new life and author Paul H. Roberts states that he became quite a rider and expert in breaking horses for range work. He formed a partnership in the cattle business with Joe Woods and later with an uncle, William Curtis. The Potter ranch was on Milky Wash, south of the Petrified Forest area. Potter Mesa, south of Milky Wash is named for him. (Roberts 1963, 38)

Potter’s cattle years were influential in exposing him to the consequences of unregulated rangelands and large operators. Peterson reports that Potter’s small herd initially promised to do well, but fell on hard times after 1884 when the Aztec Land and Cattle Company from Texas purchased railroad grant lands from the Atlantic and Pacific Railroad.

Herded by Texas toughs, the 40,000 head of cattle belonging to the Hash Knife (as the company was locally known because of its brand) soon filled a block of land nearly one hundred miles square from Holbrook on the east to Flagstaff on the west, and south to the Tonto Basin and north to the Navajo reservation. Potter might have survived the Hash Knife but in the 1890’s, an extended drought killed thousands of cattle belonging to both the Hash Knife and Albert Potter. (Peterson, 1971, 2)

To tide him over, he obtained an appointment as Inspector for the Territorial Livestock Sanitary Board. Later he ran for county treasurer and was elected, serving with his life-long friend and associate Will Barnes, who had been elected county assemblyman (Roberts 1963, 39). By 1896 Potter had switched to sheep raising and was soon a leader among sheep men, probably the best organized livestock interest in the West during the 1890’s. (Davis 1983, 545)

### B. The Forest Reserves

*(Authors note: a complete history of the Forest Reserves and Forest Service can be found in U.S. Forest Service Grazing and Rangelands – A History (Rowley 1985), Breaking New Ground (Pinchot 1941), The Origins of the National Forests (Steen 1992), Hoof Prints on Forest Ranges (Roberts 1963), and Early Administration of the Forest Reserve Act (Muhn 1992). The following materials are gleaned and summarized from those documents to set the stage on Albert Potter’s participation and work.)*

“When the continental expansion of the United States ended, a land area of unimagined size and beauty had been crossed. Except for the territory of the 13 original states and Texas, all of this area was Federal public land – the Public Domain. The Nation and its people owned the best part of two billion acres.” (Pinchot 1947, 79)

During the nineteenth century, one-half of the Public Domain was transferred from federal ownership to state and

private ownership. In the middle of this process, scientists and others began stating their concerns. Political response to scientific investigations about forested watersheds appeared in Congress in the early 1870’s. By the end of the century, Congress would have considered nearly 200 bills pertinent to forests. (Steen 1992, 5)

The Pre-emption Act of 1841 and the Homestead Act of 1862 started settlement of the Public Domain. The Mineral Land Act of 1866 opened the mineral lands to exploration and development, and the Desert Land Act of 1877 provided for the reclamation of lands that could be irrigated. Gifford Pinchot wrote: “Under the Department of the Interior, the General Land Office’s main objective was to pass these Government lands into private ownership as fast as possible. Enormous areas of the Public Domain, in alternate sections of a square mile each, were given ‘in aid’ to railroad and wagon road companies. So large were these free grants that by 1909 more than twice as much land had been given away in land grants as had been taken up under the Homestead Act. Thus natural resources were being developed and destroyed with the only objective being personal profit. For all intents and purposes, the Federal Government did nothing about it.” (Pinchot 1947, 82). Pinchot summed it up:

At a time when, in the West, the penalty for stealing a horse was death – death without benefit of law – stealing the public land in open defiance of law was generally regarded with tolerance or even approval. It cast no shadow on the reputation of the thief.

Those who did not make a profit by acquiring ownership of the public lands, did so by utilizing the free resources. From 1860 to 1900, the unclaimed western public domain saw the building of fortunes in cattle and sheep. But the forage on the western public lands could not last. There was to be “no free lunch.” The range became overgrazed and cattlemen, sheep men, and settlers all competed for the remaining forage.



**Photo 2**  
– Arizona Cowboys  
– Albert F. Potter on right. Joe Woods, on left, was Potter’s partner in the cattle business near Holbrook, Arizona. Circa 1887. Phoenix Public Library (2004).

Albert Potter wrote of these times:

In the absence of lawful regulation it was quite natural that the period from 1880 to 1900 should be one of spoilation. The pioneer stock grower, eager to reap the fruits of his early efforts, increased his herds to the full limit of his ranges. Quick profits and swollen fortunes naturally led to speculation and companies were organized to place incredible numbers of stock upon the range. Multiple settlers appropriated the choicest lands and competed with prior occupants in the use of the unappropriated lands. The permanent good was sacrificed to individual greed. The grazing lands were stocked far beyond their capacity; vegetation was cropped by hungry animals before it had opportunity to reproduce; valuable forage plants gave way to worthless weeds and the productive capacity of the lands rapidly diminished. Class was arrayed against class – the cowman against the sheep man, the big owner against the little one – and might ruled more often than right. Jealously guarded by armed men, battles were fought and lives sacrificed (for the land); and untold thousands of animals were slaughtered in the fight for the range. Probably no class of men deplored this state of affairs more deeply than did the stockmen themselves, but they were victims of circumstance and governmental inaction with no course open to them other than the one they followed. (as cited in Roberts 1963, 7)

After several attempts at early legislation, in 1891 Congress passed the General Land Law Revision Act, later called the Creative Act (Noble-Bowers Amendment to the Act of March 3, 1891). This included a provision authorizing the President to set aside forest reserves from the public domain. The Creative Act was a major legislative breakthrough in the long fight for federal forest protection. It began a reversal of a three-century-long policy of land privatization on the frontier. Pinchot mused that this legislation had slipped through Congress without question and without debate.

It gave the reserves no protection, and they had none, except as an occasional Agent might be spared from the General Land Office. It merely set the land aside and withdrew it, from every form of use by the people or by the Government. (Pinchot 1947, 85)

Most of the early forest reserves were proclaimed only after investigation by special agents from the General Land Office. They traveled throughout the proposed reserves to determine the character and decide which lands should be included. The men assessed public sentiment through personal interviews with local officials and residents and by soliciting further comment through newspaper notices. These findings, as well as the other information gathered, were reviewed by the General Land Office and formed the basis of the recommendations to the Secretary of the Interior. (Muhn 1992, 261)

Primarily as a result of lobbying by eastern conservationists, from March 30, 1891 to February 25, 1893, President Benjamin Harrison designated over 13 million acres as forest reserves in seven western states and Alaska. (Rowley 1985, 23)

None of these first reserves were in Utah. However, it was not long afterward that Utah citizens petitioned the General Land Office to protect several local watersheds. In many cases, this abuse was the result of transient sheep herds, logging, or forest fires of which the locals had no control or influence.

Although the Department of the Interior took possession of the reserves, the General Land Office did not have the personnel to perform any administration. In 1892, the Secretary of the Interior called for the use of federal troops to bar trespass-

ers from the reserves, but there was a fear that their presence might be judged unconstitutional. The lack of regulations for the administration of the reserves created an uncertainty about their purpose and future. Trespasses became open and defiant. The Government had no workable plans for the use of the resources and therefore was forced to take the position that no use could occur at all. Reserves were closed both to settlers and resource use – timber cutting, mining, farming, and grazing.

Congress was slow to act, not even granting funds for the enforcement of trespass laws. Shut out from legally using the reserves, grazing interests became understandably restless, but the wanton illegal use of the forests by “tramp” herds continued despite paper restrictions. Those who abided by the restrictions only opened more extensive pastures for those who did not. Continuing the attack on grazing, conservationists argued that grazing consumed resources, threatened tree growth, increased the threat of fires, and degraded watersheds for irrigation and urban water supplies. Following 1893, a moratorium on the creation of more reserves was instituted until a method for their administration could be developed. (Rowley 1985, 23)

In 1894, new regulations were issued to protect the forest reservations from encroachments and depredations. When special agents could do little to prevent trespass, they turned to the federal courts for help. The Forest Reserve Act of 1891 provided for fines and imprisonment for trespass and suits against timber trespassers were quite successful. Grazing trespass cases proved to be more difficult, but in Oregon one preliminary injunction and eight criminal prosecutions were made against stockmen. (Muhn 1992, 267)

When President Cleveland unexpectedly added 13 new reserves with over 21 million acres to the Forest Reserves on February 22, 1897, voices of protest denounced the entire reservation system [the Uintah Forest Reserve in Utah was one of these new additions]. There was a seething reaction in the West against “high-handed appropriation of forest lands based on the recommendations of eastern scientific men.” Western congressmen spoke bitterly about the new reserves, claiming that the western people had not been consulted. During the last days of the Cleveland administration, these congressmen succeeded in amending the appropriations bill, giving the President authority to modify or rescind any previous executive order creating forest reserves. President Cleveland killed the entire appropriations bill with a pocket veto and then left office, leaving the government temporarily without operating funds. To obtain an appropriations bill, newly elected President McKinley called a special session of Congress in March of 1897. The Pettigrew Amendment to this new appropriations bill designated the purpose of the reserves to be for watershed protection and timber production (Rowley 1983, 32). This became known as the “Organic Act” and Pinchot called this amendment the most important Federal forest legislation ever enacted. (Pinchot 1947, 116)

Grazing or free access by stockmen to forage was not mentioned. On the surface, it appeared that livestock grazing had been left out of the compromise. However, a phrase of the

amendment authorized the Secretary of the Interior to “regulate occupancy and use and to preserve the forests thereon from destruction.” With these words grazing was authorized, “if the Department deemed it advisable and compatible with the safe utilization of resources.” (Rowley 1983, 31)

Mineral and agricultural lands were for the most part to be excluded from the reserves. The wording allowing the President to rescind a previous executive order was reinstated but never used during the McKinley or Roosevelt administrations. (USDA Forest Service 1983, 5)

However, a “lieu-land clause” gave settlers or owners the right to relinquish the tract to the Government, and select in lieu thereof a tract of vacant land open to settlement. Pinchot noted:

This meant that any lumber company, mining company, railroad, cattle outfit, or any other large owners could get rid of their cut-over land, their worked-out claims, the valueless portions of their land grants, or any other land they had no use for, and take in exchange an equal area of the most valuable non-mineral land they could find anywhere on the Forest Reserves. This cost the Government millions upon millions of acres of its best lands. (Pinchot 1947, 249)

At its passage, few realized the secondary effects of this clause. Roth further explains:

Under the guise of conservation, railroad owners, and land speculators lobbied for establishing new forest reserves in areas where they owned land so they could reap the windfall profits almost guaranteed them by the Lieu-Land Clause. Consequently, government officials were often reluctant to press for the creation of new forest reserves, knowing that such actions might bring illicit gain to these sudden converts to the cause of conservation. (Roth 1980, 3)

This was not remedied until 1901. Acquisition by the Weyerhaeuser Syndicate of 900,000 acres in Washington and Oregon attracted much public attention and stimulated land speculation. The lieu-land clause, therefore became one of the strongest arguments against additional forest reserves. To remedy this, Congress limited the exchange to surveyed lands open to homestead entry. Two years later agitation for repeal began, and on March 3, 1905, the lieu-land law clause was repealed. (Pinchot 1947, 249)

### C. Enter Gifford Pinchot

The participation of Gifford Pinchot in the management of the forest reserves can be viewed as under three delegations.

The first was the 1896 Forest Commission of the National Academy of Sciences. Pinchot was one of seven members and the only professional forester on the Commission. Called by the Secretary of the Interior Hoke Smith of the Cleveland administration, it was tasked with three questions:

1. What promotions of the forest on the Public Domain shall be allowed to pass, either in part or entirely, from Government control into private hands? [Forest Reserves]
2. How shall the Government forests be administered so that the inhabitants of adjacent regions may draw

their necessary forest supplies from them without affecting their permanency? [Use]

3. What provision is possible and necessary to secure for the Government a continuous, intelligent and honest management of the forests of the Public Domain? [Forestry]

The Commission proceeded to study selected forest regions on the ground, basing its recommendations only on its own personnel work. It was also to report the outline of a national forest policy and prepare draft legislation. Not receiving authority to employ another forester, Pinchot funded one position at his own expense and embarked on a trip west “hunting Forest Reserves.” The Commission was discharged on June 23, 1897. (Pinchot 1947, 90)

Pinchot’s second involvement was in June of 1897 when Secretary of the Interior Cornelius Bliss of the McKinley administration asked him to be a Confidential Forest Agent of the General Land Office. He was to examine and report upon the reserves, their conditions and needs, their forests (timber), and their relations to lumbering, agriculture, mining, grazing, commerce, and settlement. He was to draw up a set of principles to govern future increase and decrease in the reserves and apply them to individual cases. Finally, he was to report a practicable plan for the establishment of a “Forest Service” in the Interior Department that would make specific recommendations for individual reserves. Pinchot did this without pay and without losing his place as Forester in the Department of Agriculture. (Pinchot 1941, 123)

The final role for Pinchot was that of Chief Forester for the Division of Forestry of the Department of Agriculture. In 1880, the Division of Forestry was established but had floundered under poor leadership. With the appointment of Pinchot as its head on July 1, 1898, it took on a new beginning. The federally administered forest lands – 43 million acres for Forest Reserves, and several times more acres of unreserved public timberland – were under the charge of the Interior Department, which had not a single forester. The Government foresters, Pinchot and his assistants, had not a single acre of government forest in their charge. In 1901, the Division became the Bureau of Forestry and Pinchot had 170 employees. The greatest demand for work came from the Department of the Interior which wanted management plans for all the Forest Reserves. As Pinchot stated:

In the midst of forty other kinds of work, I made every chance I could, and took every chance that came, to work at the Forest Reserves. I made a plan for their management and got it signed by Secretary of Agriculture Wilson, which was easy, but not by Secretary of the Interior Hitchcock, which would have made it effective. I wrote up examination papers for Forest Rangers on the Reserves and got them approved by the Civil Service Commission, but again not by the Interior Department. Too many Congressmen had jobs for too many of their deadhead friends. (Pinchot 1947, 158)

Starting in the winter of 1899-1900, Pinchot started a vigorous campaign to transfer the Forest Reserves to the Department of Agriculture – a campaign that was to last for years. Later in life, Pinchot was to state:

Even if we had known the worst, still it was better to lose a part than to lose everything. We stretch our influence to the utmost in getting what we got. We saved the Reserves, we cleared the way for Forestry and the Forest Service, and I for one think we did better - far better, - than we had any reasonable right to expect. (Pinchot 1947, 119)

## D. Livestock Grazing on the Reserves

(The following section was taken from Rowley 1985 pages 31-37) Less than a month after passage of the Organic Act, the General Land Office issued regulations that in principle permitted grazing (but not sheep grazing) on all forest reserves, provided that no injury should occur to the forests. More knowledge about the effects of grazing was needed. The Department of the Interior asked the Department of Agriculture to appoint a botanist to study the question and make recommendations. Frederick V. Coville, a USDA botanist in 1897 surveyed the situation in the Oregon and Washington mountains. Coville's report (Coville, 1898) spoke of regulating grazing not abolishing it. The report also concluded that wool, mutton, and stock sheep were highly important to the Oregon economy. In addition, sheep excluded from the forest would place additional pressures on cattle ranges during the summer. Coville deplored the uncertainty surrounding forest reserve policies. After recommending that sheep grazing be continued on the Washington and Oregon reserves, Coville presented a method by which grazing could proceed. According to his plan, each owner should be granted a permit to graze a specific number of sheep in a designated forage area which the area could support without damage. The agreement would prohibit herders from setting fires and bind them to fight those that were started accidentally. Finally, Coville suggested that the cost of administration be borne by sheep owners, who would pay a fee for their permits. Coville's report can be seen as one of the most important statements on guidelines for early grazing-control programs in the West.

The 1897-98 annual report to the Secretary of the Interior reflected the department's response to the Coville report. Controversies surrounding sheep grazing in the reserves superceded all other questions related to grazing. "Next to fires," stated the report, "sheep grazing was found to constitute the most serious difficulty to be considered in administering the reserves."

The General Land Office sought to permit grazing in selected forest reserves and referred to it as a "privilege." <sup>1/</sup> Many reports and petitions were sent to the GLO either supporting or opposing sheep grazing in the reserves. In the face of this deluge, the GLO decided that it would recommend grazing if sheep had customarily grazed in the reserve and if the grazing would not endanger the watershed or permanent productivity of the forest. In response to the "tramp herds," the applicants

were required to be residents of the state in which the reserve was located.

During 1898, the Secretary of the Interior permitted sheep grazing in only the Cascade Range Reserve in Oregon and the Big Horn Reserve in Wyoming. To some extent these actions represented only a grudging acceptance of the Coville report. No fees were imposed. In 1899, the Department of the Interior suggested that when a geological survey was completed for the reserves, segregating grazing lands from the forest lands, they would "better decide the question of the exclusion of sheep." Here again the intention to protect forests clearly took precedence over concerns for forage. Also that year, the Department confused sheep grazers when it withdrew the grazing privilege, claiming that it had been only a "temporary concession." This was in part the result of John Muir's continuing campaign against sheep in the forests. In addition, James Wilson, Secretary of Agriculture, became convinced that sheep represented a threat to the forest reserves.

Two months later, under pressure from the Northwest congressional delegation, the Department of the Interior reversed this order and restored the Coville regulations. John Muir, predictably, was highly critical. He could not believe that his recent friend Pinchot had not stood firmly against sheep in the forests. Thus began an antagonism between the two men that did not end until Muir's death in 1913. To many, the victory of the Northwest grazing controversy marked the beginning of a resource policy that paid more attention to the needs of users than to aesthetic conservationists and recreation groups. (Rowley 1985, 31-37)

## E. Pinchot Knew a Good Man When He Saw One

Even after the return to the principles of the Coville report, sheep grazing was allowed on only a few reserves. The woolgrowers were the best-organized interest in the West. In Arizona, powerful sheep organizations continued to push for entrance into the reserves. The Black Mesa Reserve, created in 1898, was closed to grazing in 1899, sparking violent protests and defiance of the order. That year, the Arizona Sheep Breeders and Wool Growers Association reorganized as the Arizona Wool Growers Association with an eastern and western division in the state. The general president and secretary of the western division was E.S. Gosney; Albert F. Potter was secretary of the eastern division. In January 1900, Potter and Gosney came to Washington to plead the case of Arizona sheep men (Rowley 1985, 38). According to Pinchot, the closing of the Black Mesa Reserve to sheep grazing was based on the Interior Department's assertion that sheep grazing destroyed the forests. The irrigation ranchers of the Salt River Valley claimed that sheep grazing on the higher land of the Black Mesa was responsible for a serious shortage in their water supply. The Arizona Woolgrowers Association refuted both claims. (Pinchot 1947, 177)

Potter first met with Binger Hermann, Commissioner of the General Land Office, and found him not only willing to

<sup>1/</sup> Today, the grazing privilege is well settled in both statutory and case law that a term grazing permit represents a privilege, not a right, to use the National Forest System lands and resources. Accordingly, the Forest Service is not required to pay compensation to the term permit holder if the privilege is discontinued, withdrawn, or reduced except in limited situations involving compensation for permittee's investment in rangeland improvements. (USDA Forest Service Region 4, Forest Service Handbook 2209.13)

consider suspension of the order on the Black Mesa, but helpful in giving him some suggestions for presenting their case to Secretary of the Interior Hitchcock. Potter then called on Gifford Pinchot, Chief of the Bureau of Forestry in the Department of Agriculture, to discuss the sheep-grazing situation in northern Arizona. "Pinchot agreed decisions should be based upon actual conditions rather than generalizations." (Roberts 1963, 38)

It was agreed that Pinchot and Coville would go to Arizona with representatives of the irrigators and the woolgrowers to perform an investigation in Arizona similar to Coville's Oregon study. In June of 1900, Pinchot and Coville traveled over some of the more remote Arizona and New Mexico mountains led by Potter, the veteran sheep man. (Pinchot 1947, 177) For three weeks, Potter conducted Pinchot's party on a horseback trip. This tour was the beginning of constructive cooperative grazing control and management on public lands.

The story of this Arizona and New Mexico trip has been embellished over time. Pinchot and Coville were regarded as greenhorns. When they moved into the parched country on the first night, their fresh water ran low. The water they came upon in an old stock tank was a "stagnant pool of terrible green water." The horns of rotting cattle carcasses stuck out in places. Pinchot recalled, "We had to drink it or go dry." At the same time, he suspected Potter of arranging this desert country initiation for the visitors. Against their better judgment, both Pinchot and Coville drank with the experienced range hands and thus took a long step toward being accepted by their companions. Potter proved to be well known among the sheep grazers and a leader in shaping local opinion. (Rowley 1985, 39) Undoubtedly, the number of rotting cattle in the stock tank increased every time this story was later retold.

Rowley was to state:

As in the Oregon report, Coville and Pinchot concluded that sheep grazing in the forests should be permitted under supervision. A ban on all sheep grazing might provoke total flaunting of the law, disrespect for the reserves, and strong political pressure for the return of the reserves to the public domain. After all, the large sheep associations in Arizona had never attacked the existence of the reserves, only the prohibition against grazing. Such men could be a source of valuable support in the future. (Rowley 1983, 39)

Pinchot decided that Potter was the person to assist in working out the many problems confronting them in organizing and putting under administration the forest reserves. The forester was tremendously impressed with the sheep man. As Pinchot recalled many years later in his autobiography, *Breaking New Ground*,

"Potter's thorough mastery of his business, his intimate acquaintance with the country and its people, his quiet, persistent steadiness, his complete fearlessness and fairness, gave him a standing and influence that were remarkable. I was determined to have him in our good work.

Potter's position in the Southwest would prove to be a tremendous asset to the Forest Service, and he would become, as Pinchot said, "the cornerstone upon which we build the entire structure of grazing control." (Pinchot 1947, 181; Roberts 1963, 40)

Potter had sold his sheep operation in the fall of 1900 because of the unfavorable outlook for winter feed. During the

following spring and summer, he traveled extensively through the range lands of the Northwest. Returning to Arizona that fall, he was about to re-enter the sheep business when he received a letter from Gifford Pinchot asking if he would consider entering government service as an expert on grazing. (Roberts 1963, 40)

Forty-two year old Albert Potter accepted the appointment as a grazing expert in 1901 and later became chief of grazing after the transfer of the reserves to Pinchot's office. Rowley speculates Potter's appointment was obviously Pinchot's attempt to win some measure of acceptance among western stockmen by giving one of their own a key place in the tasks of grazing administration. "The presence of Potter as Chief of Grazing and Pinchot's attention to the demands of stock interests offered assurances that professional foresters would not subvert the commitment of grazing use in the forests." (Rowley 1985, 58) Potter reflected on these times:

I accepted the place at the earnest solicitation of my friends, who all seemed to be of the opinion that the Government had made a step in the right direction in selecting a stockman to work with the stockmen in trying to solve a question of such importance to the livestock industry. (Roberts 1963, 40)

Albert Potter soon proved his worth. In 1902, sheep grazing was again in question in the San Francisco Mountains of Arizona. Woolgrowers' representatives who went to Washington and met with President Roosevelt were told the issue was settled and Roosevelt did not care to reopen the matter. They then came to the Bureau of Forestry and Pinchot for assistance. Pinchot called in Potter and told him "the only hope he saw was to arouse the personal interest of the President." Potter was requested to prepare a one-page statement requesting the action and giving convincing reasons to support it. Working through the night, Potter had the essential facts within the space limits. That day the President read the statement and directed the Secretary of the Interior "that sheep should not be excluded from grazing on the San Francisco Mountains." Years later, Potter wrote in a personal letter to his friend Will Barnes: "Teddy had very little use for a sheep man and I do not believe there was any other man besides Mr. Pinchot who could have induced him to reverse the decision." (Roberts 1963, 30-31)

In another letter, Potter wrote about a meeting of Colorado stockmen in 1905 with the President to protest the charging of grazing fees:

...eight Forest Service men, including myself, were brought in to balance the picture. T.R., after giving everybody a chance to speak his piece, gave his own ideas about western range conditions, during which he pounded the arm of his chair with his clenched fist and asserted, "Gentlemen, sheep are dee-structive." (as cited in Roberts 1963, 31)

The Act of June 4, 1897 appropriated \$150,000 for surveys and classification of the Forest Reserves by the U.S. Geological Survey. Henry Gannett, who was geographer of the survey, was placed in charge. Pinchot wrote of Gannett: "He had been Topographer of the Hayden Survey in the West and he knew the terrain as few men did." Gannett and Pinchot were already friends, and now Pinchot's staff was assigned to assist Gannett. When Teddy Roosevelt became President, his policy was

to send to Gannett's forest reserve boundary recommendations to Pinchot. Pinchot obtained Gannett's permission to modify the boundaries, when needed. (Pinchot 1947, 251)

Albert Potter's first assignment was to work on a boundary in southern Arizona where an experimental range reserve had been proposed. Next Potter was given four timbered regions in Arizona to examine. After that, in 1902, Potter went to Utah; his work there on evaluating the potential forest reserves would lead to today's Wasatch-Cache, Uinta, Manti-La Sal, Fishlake, and Dixie National Forests. In 1903, the boundary work was organized into districts and Potter was assigned to California. The areas he surveyed in the northern part of the state later became the Trinity, Modoc, Klamath, Shasta, Lassen, Plumas, and Tahoe forests. His report on California areas is noted for "first suggesting that a portion of the receipts from the forest reserves be given to the counties as reimbursement for taxes lost by the lands remaining in government ownership." (Roberts 1963, 41) <sup>2/</sup>

It was during 1903 that Elers Koch, who wrote *Forty Years a Forester 1903-1943* and went on to become Chief of Timber Management Division in Region 1, first worked for Albert Potter surveying the reserve boundaries in California. Koch describes Potter in his book:

At Redding I met Alfred F. Potter, who had charge of the boundary work in California. Potter was an experienced stockman, formerly secretary of the Arizona Stockmen's Association, whom G.P. had met several years before and persuaded to come into the new Bureau of Forestry as grazing expert. It was a fine example of G.P.'s ability to pick the right man. No longer could the stockmen say the bureau men were only theorists who knew nothing of western ways. Potter could meet them on any ground. He was a rather small, soft-speaking man with a friendly approach, and was a real asset to the young bureau. I liked him right away. (Koch 1998, 44)

By 1903, Pinchot had 15 "boundary" men in the field. The boundary work was not easy. Pinchot was to state:

"On horseback, or on foot, they moved fast and went where their work led them, trail or no trail." Moreover, forest reserves were not popular and there was much opposition. The job often became one of rejecting bribes or refusing to be bluffed. As one man reported, "It was a mighty unpleasant corner to be in." Most of the boundary work had to be done under pressure, because commonly the penalty for delay was defeat. Under such conditions, the boundaries of the Reserves could not have been perfect. Yet we could well afford to have our work tested by its results. (Pinchot 1947, 252)

Koch described how this work was accomplished. "Our first job in the (local) Land Office, to take off their plats and tract books all the data on land entries, homesteads, timber claims, script, and railroad grants, and to copy off the topography from the township plats." They then generally spent the summer visiting all portions of the proposed reserve. Then, as Koch continues, "The field season over, we boundary men all assembled in one big room in the Atlantic Building (Forest Service Headquarters in Washington DC). Base maps were drafted from all available data, the forest types colored in with

crayons, and a detailed report made for each township. The final process was to outline the boundaries of the new reserve and give it a name." (Koch 1998, 44-51)

By 1909, all the National Forest boundaries had been carefully reviewed. About two percent of the lands had been removed from the reserves, but in total, "more land was found outside the boundaries that should have been taken in than inside which should have been taken out." (Pinchot 1947, 254)

## F. The Formative Years, 1901 to 1904

As a result of the Coville investigations and the aid of Pinchot in Arizona, the Department of the Interior developed a number of principles by 1901 to regulate grazing on the forest reserves. These regulations included:

- (1) Conditions governed the way sheep would be permitted in certain portions of the reserves, where it is shown after careful examination, that grazing is in no way injurious to or preventive of the conservation of the water supply;
- (2) Anyone wishing to reserve forest pastures was to obtain a permit, which was granted free of charge; and
- (3) The permits limited the number of animals, set the time of entrance into and exit from the reserves, and designated the district to be grazed. (US Congress 1902, 23)

The question of charging for permits had been debated for years. Rowley speculated that "if the Department of the Interior had pressed the fee issue, Pinchot and Coville might have had rough going in Arizona." Their trip was already somewhat controversial inside the General Land Office. By asking two Department of Agriculture officials to make the investigation, the Secretary had completely bypassed the General Land Office, which had jurisdiction over the forest reserves. This animosity may in part explain why implementation of a system of grazing privileges came slowly. (Rowley 1985, 40-41)

1901 changed the pace of conservation events. President William McKinley was assassinated in September and Vice President Theodore Roosevelt was placed in the White House. Roosevelt, who had lived in the West, was approached by Pinchot and urged to support a program of national forestry and irrigation. Roosevelt requested Pinchot to prepare statements on those topics for his first annual message to Congress. Rowley (1983, 42) states that "for the next eight years Pinchot remained a confidant of Roosevelt."

Although sheep were prohibited from grazing on the reserves, sheep men continued to ignore the rangers. They knew the order prohibiting them from grazing could not be enforced. In November of 1901, Pinchot, as Chief Forester in the U.S. Department of Agriculture, identified grazing and irrigation as the most important problems facing the forest reserves. Pinchot was not in charge of policy and his Bureau of Forestry could only act as advisor to the Interior Department. (Rowley 1985, 45)

<sup>2/</sup> The Act of May 23, 1908 provided that 25 percent of fees collected be returned to counties. This practice continues today. (USDA Forest Service 1983, 16)

**Table 1** – Permitted Livestock on Forest Reserves in Utah – 1902 (Rowley 1983, 49) – Refer to Map 1.

Forest Reserve	Sheep	Cattle & Horses
Uintah	150,000	10,000
Fishlake	none	1,000
Payson	none	none

Eventually, the Department of the Interior began to adopt the type of regulated grazing advocated by Pinchot. In 1902, the Secretary announced that 1,197,000 sheep and 459,137 cattle and horses were to be allowed into the reserves. That year also brought an official endorsement of the practice of permitting the local woolgrowers’ associations to recommend who should receive allotment permits. The Forest Supervisor, however, was the final authority. (Rowley 1985, 46)

While the reserves were under the General Land Office, the question of unlawful trespass on the reserves was never resolved. The Act of June 4, 1897 gave the Secretary of the Interior power “to regulate occupancy and use.” Congress provided that a violation of this Act be prosecuted under the earlier Act of June 4, 1888. The Act could not be enforced. Court decisions held that the rules and regulations for the protection of forest reserves were a delegated legislative power to an administrative officer and therefore unconstitutional. Other problems with the Department of the Interior also affected the reserves. Many continued to complain about the unenforceable grazing regulation of the forest reserves. One forester wrote that “the failures of the Interior Department were caused in large part by dilettante rangers and political appointees who failed to take their tasks seriously.” (Rowley 1983, 52)

Pinchot was to state on this problem:

Since the jobs on the Forest Reserves were for distribution to politicians, Commissioner [Binger] Hermann of the General Land Office was careful to get his while the getting was good. The average appointee was plenty bad enough, but Binger’s personal appointments were horrible. Three brothers-in-law and a son-in-law were assigned to the reserves. Another elderly old friend who had been a bank cashier was made a Forest Inspector. Political appointees, many of whom had never even seen a Western forest, were sent thousands of miles from all over the country to handle Western forest reserves. Influential members of the House and Senate also shared in the job peddling. Later, out of twenty-five men on the Idaho Reserves, twenty-two were found unfit. (Pinchot 1947, 162-166)

The worst example of misadministration in Utah was that of George Bucher, supervisor of the Uintah Forest Reserve. Appointed in 1898, he was reduced to the rank of ranger in 1899, reinstated, furloughed, and reinstated again. He finally resigned while under investigation in April 1902, largely for providing inaccurate reports on forest conditions and for placing the interests of individual forest users above that of the government. (Alexander 1987, 23)

The shortcomings prompted the Secretary of the Interior, as early as June of 1901, to suggest a transfer of the reserves to

the Bureau of Forestry within the Department of Agriculture. In 1903, the commissioner of the General Land Office made the same recommendation.

Pinchot was instrumental in organizing two unpaid commissions to investigate and give opinions. The first was the Committee on Scientific Works in the Departments, and the other was the Public Lands Commission of 1903. Both recommended transferring the forest reserves to the Bureau of Forestry. (Rowley 1985, 52)

The bill to transfer the administration of forest reserves (86 million acres) from the General Land Office in the Department of the Interior to the Bureau of Forestry in the Department of Agriculture finally passed Congress on February 1, 1905. These were trying and stressful times. Roth states that Pinchot suffered from overwork and “pretty near the edge of what I can do and stand it. I weigh less just now than at any time for the last ten years. My digestion is out of order and I find I have to be a little careful.” (Roth 1980, 1) The Bureau of Forestry was shortly thereafter, renamed the “Forest Service”.

## G. The New Forest Service

The Forest Service, in the beginning, was divided into two camps: technical foresters and the Westerners. The foresters knew little about the West and less of the western livestock industry. Because of their training many thought that livestock were incompatible with forestry and watershed management. On the other side were the Westerners – not foresters – who knew the West and the environment in which they worked. The two camps were not antagonistic. They were simply the result of the fortunate personnel make-up of the Forest Service. (Roberts 1963, 38)

Roberts further described Albert Potter in his role:

Potter, the Arizona stockman and westerner, became the chief architect of the Forest Service grazing policies and governing regulations because his experience and personality fitted him for this unprecedented work. By 1904 Albert Potter had been promoted to Forest Inspector and was assigned, at the request of President Roosevelt, as an expert on the Public Lands Commission. His report covering conditions on the western public lands was the most detailed and comprehensive up to that time. He presented his report personally to the President, who was pleased with it. Albert Potter took it upon himself to study the administrative practices of the General Land Office. He established active contacts with leaders of the livestock industry, and worked with research men in fields related to range management. He also studied forestry under Pinchot’s guidance and passed a Civil Service examination. (Roberts 1963, 41)

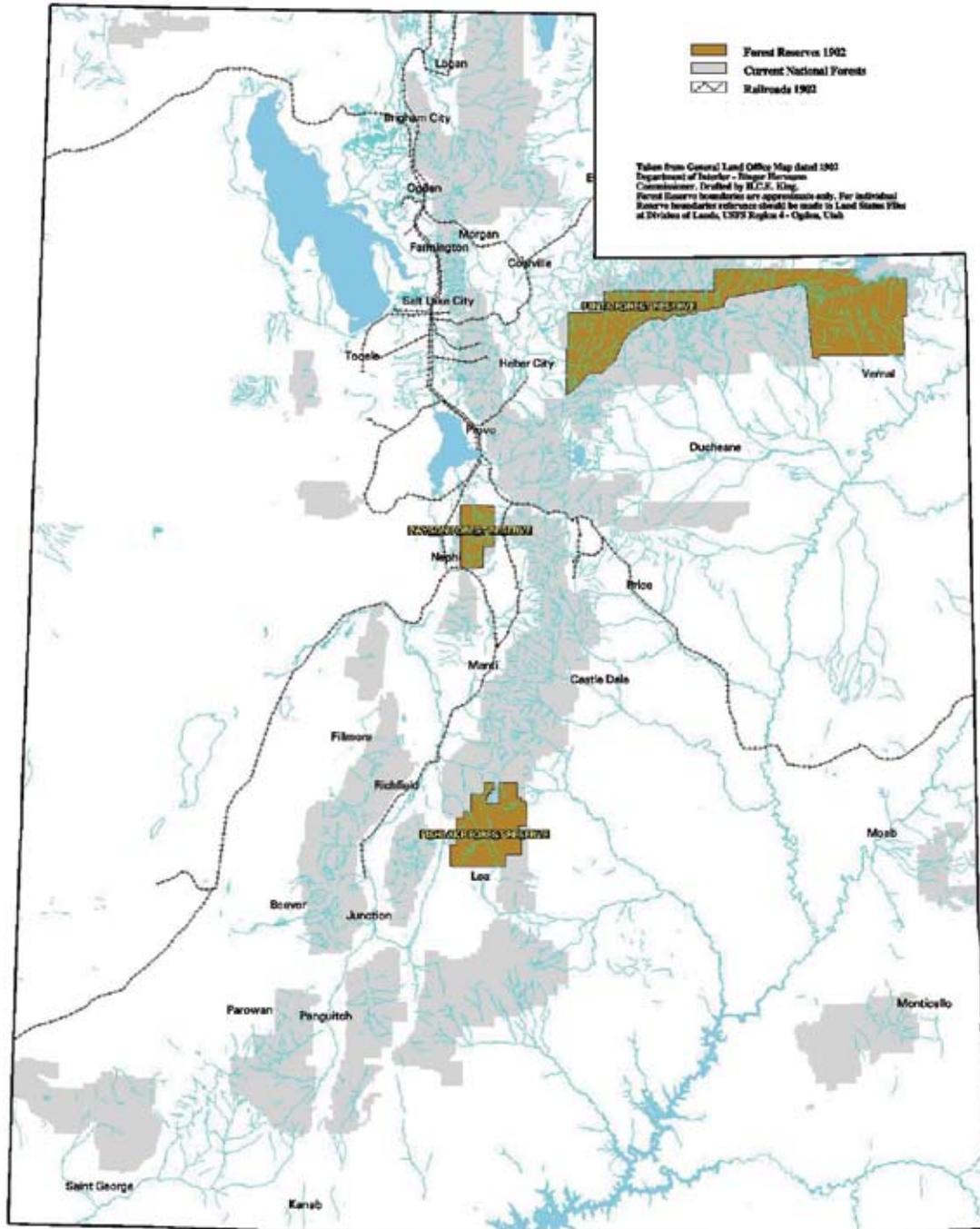
Potter said of the times,

Prior to 1905 the effort made to remedy conditions was a feeble one, based more on theory than practice, influenced largely by misrepresentation and false impressions, and weakened by long-range direction. At the time the Forest Service took charge of the National Forests, comparatively little progress had been made, and at the outset, the Service was confronted by the problem of range management in all its multitudinous phases. (as cited in Roberts 1963, 44)

1905 saw the release of the Public Lands Commission report *Grazing on the Public Lands*. Most apparent in this report is the changing attitudes of the livestock associations in re-



# ALBERT F. POTTER Utah Forest Reserve Survey Existing Forest Reserves -1902



Map 1 – Forest Reserves of Utah 1902 (King, 1902)

gards to federal management of the Public Lands. The introduction states:

The general lack of control in the use of public grazing lands has resulted, naturally and inevitably, in overgrazing and the ruin of millions of acres of other wise valuable grazing territory. Lands useful for grazing are losing their only capacity for productiveness, as of course they must when non legal control is exercised. The conclusions as to grazing reached by the Commission were based (in-part) upon the results of a meeting called to confer with the Commission, by the National Livestock Association in Denver early in August, 1904, which was attended by the Secretary of Agriculture and by representative stockmen from all the grazing-land States and Territories. The opinion of the stockmen present, was almost unanimous in favor of some action on the part of the Government which would give the range user some right of control by which the range can be kept from destruction by overcrowding and the controversies over range rights can be satisfactorily eliminated, the only question being as to the most satisfactory method by which such right may be obtained. (Potter 1905, 8-9)

In this same report, Albert Potter wrote:

In answer to the question as to whether or not Government control of the ranges under reasonable regulations made to meet local conditions, and providing for a proper classification of the lands is favored, of the 1,400 stockmen heard from, 1090 have expressed themselves in the affirmative. [Also] in travels of the writer over the western range country during the past season, endeavor was made to meet and talk with as many stockmen as possible. Fully four-fifths of the men thus interviewed expressed themselves in favor of some form of Government control, either by the creation of grazing districts or the leasing of tracts to individuals. The sentiment among stockmen seems to be rapidly changing in this regard, and many who formerly opposed any form of control or leasing are now in favor of such action. (Potter 1905, 11)

Pinchot credits Potter over those years with developing the sound, workable, and productive grazing policy (Pinchot 1947, 386). In retrospect, the authors believe that the circumstances had the livestock men (both cattle and sheep) between “the proverbial rock and a hard spot.” Many owners, small and large, who ran on the Public Domain could recognize overstocking and deteriorating range conditions. Even in areas where range conditions were satisfactory, they held no rights or equity. There were many opponents of grazing on both the reserves and national forests. Livestock men could take what they could get from the Forest Service, accept the national forest permits, build some tenure, and continue their operations; or go back to the unregulated Public Domain, competing and fighting for what they could hold. Potter’s previous livestock experience made him aware of this situation, and he undoubtedly used this as his key leverage point for supporting the national forests and their management. The livestock men could gripe and fret, but they could not come up with an alternative solution that would insure their operations into the future. Communication was key, and as we will see, Potter let the livestock men, operating as grazing organizations, participate in the decisions along with his government men (forest rangers and forest supervisors) who were experienced in the West and livestock management.

Pinchot and Potter also needed the support of the powerful livestock organizations of the West. There had been and would continue to be many attempts to put the national forests back into the Public Domain or to remove significant parts such as was done with the Lieu-Land and later Homestead Acts.

Western congressmen bent on destroying the Forest Service could be held in check by the livestock men. Even though the reserves and national forests had been established to protect timber and watersheds, in the end it came down to the support of the powerful livestock industry if the National Forest System was to continue. Grazing use would continue as the most difficult activity to administer and there would never be a time when a part of the livestock industry was not in a battle with the Forest Service, but the mutual support of the livestock industry and Forest Service was almost a “marriage” of necessity.

Pinchot stated that “by the end of fiscal year 1904-05, five months after the transfer, the Forest Service had mainly, if not entirely, replaced the blundering of political Land Office appointees by the skilled and honest judgment and action of trained foresters and experienced Western men. Reserve questions were now settled by local men with local knowledge on the ground.” (Pinchot 1947, 264) Salary and working conditions offered to the new employees were not always the best. Forest supervisors made \$1,800 to \$2,500 per year, forest rangers \$1,200 to \$1,400, and assistant rangers \$800 to \$900. In addition, rangers were required to own and maintain their own saddle or pack horses. (USDA Forest Service 1905, 82-89)

Will Barnes later wrote of the time;

Under Potter’s supervision a group of young, wide-awake lieutenants trained in the shadow of their leader. Cowboys, lumbermen, miners, and sheepherders, were picked out and dispersed over the West, from the Canadian border to the Rio Grande, from the Sierras to the eastern slopes of the Rockies. Best of it all, they were absolutely fearless in their devotion to the new cause – forestry and range preservation. What a body of men they were! Warriors all, they believed firmly in the policy of Theodore Roosevelt – “Speak softly and carry a big stick.” Great days were those for the Government grazing policy; for say what you will, the grazing-men of the Forest Service were the shock troops who won the West for forestry. (Barnes 1941, 202)

Elers Koch also described these times;

The Forest Service took over from the Land Office all the forest reserve personnel, good, bad, and indifferent. The immediate job was one of inspection to weed out the incompetent political employees, replace them with new men, and at the same time to organize all the new national forests. A lot of us young fellows in our twenties, with the vast experience of two years were pitch forked by G.P. into jobs as general inspectors and sent west to see what we could find out. [For] a new ranger and supervisor, personnel was the first problem. G.P. promised the western people that so far as possible the reserves would be put in charge of local men who knew the country and its traditions. As pioneer conditions prevailed, the aim was to select competent woods men for rangers – men who could shoot straight, handle horses, travel with a pack outfit, and generally take care of themselves outdoors. The original tests included two days of field events and one day for the written portion. The field test included rifle and pistol shooting at a target, riding a horse, putting on a pack, simple exercise in compass surveying and pacing, the use of an axe, and cruising of a block of timber. The examinations were really effective. The written test eliminated the illiterates, and the field tests insured that we got experienced hands. (Koch 1998, 52-53)

## H. The Early Regulations

The early regulations and instructions for the use of the National Forests were published in accordance with the various acts and laws passed after 1897. They were based upon the

following general policy laid down to the Forest Service by the Secretary of Agriculture in a letter to the Forester [Pinchot] dated February 1, 1905:

In the administration of the forest reserves it must be clearly borne in mind that all land is to be devoted to its most productive use for the permanent good of the whole people, and not for the temporary benefit of individuals or companies... The permanence of the resources of the reserves is therefore indispensable to continued prosperity, and the policy of this Department for their protection and use will invariably be guided by this fact, always bearing in mind that the conservative use of these resources in no way conflicts with their permanent value. (USDA Forest Service 1905 Use Book)

From this, the Forest Service presented to its officers, the following direction:

You will see to it that the water, wood, and forage of the reserves are conserved and wisely used for the benefit of the home builder first of all, upon whom depends the best permanent use of lands and resources alike. The continued prosperity of the agricultural, lumbering, mining, and live-stock interests is directly dependent upon a permanent and accessible supply of water, wood, and forage, as well as upon the present and future use of these resources under businesslike regulations, enforced with promptness, effectiveness, and common sense. In the management of each reserve 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; sudden changes in industrial conditions will be avoided by gradual adjustment after due notice, and where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good of the greatest number in the long run. (USDA Forest Service 1905 Use Book)

On June 13, 1905 the Service presented to the Agriculture Secretary for approval, the manuscript of a new set of regulations and instruction to govern forest reserves. They were published in a small pocket volume titled *The Use of the National Forest Reserves*. It was promptly renamed the *Use Book* (Pinchot 1947, 269). The Use Book was written by a committee of headquarters and field offices headed by Frederick E. Olmstead. It was small sized (4.5 x 7 inches), hardback, with a dark green cover that would fit in the shirt pocket and therefore could be carried into the field on horseback. The slim 142-page book contained 97 pages of instructions, regulations, and law, plus an appendix of recent legal decisions and an index. (Williams 2003, 4)

Because of the work of Coville, Pinchot, and Potter, a broad outline of grazing policies already existed. The next step was to implement them on the national forests. Albert Potter told the American Forest Congress in January, 1905, that:

Grazing regulations must seek to avoid disturbing business by sudden changes in the manner of using the grazing lands. Grazing was not to be radically reduced in total disregard for the economic interest of the grazing community. (as cited in Rowley 1985, 56)

The initial task was the apportionment of grazing privileges between individuals and companies who were using the range at the time of its inclusion into a national forest. Naturally, demand for range exceeded the supply. Then specific areas on the ground (allotments) were assigned to each user. These tasks fell primarily to forest supervisors and rangers.

Albert Potter continued to build assurances and consensus with stockmen. Reflecting back to 1905 in a speech he gave

to the American National Live Stock Association in Phoenix, Arizona on January 15, 1913, he stated:

The success which the Forest Service has had in regulating the use of the range, and in bringing about more satisfactory conditions in the national forests, has been due very largely to the hearty co-operation it has received from the stockmen. One of the first steps taken after the transfer of the national forests to the Department of Agriculture was to request the associations representing the owners of the different kinds of livestock to appoint a committee to meet with members of the Forest Service for the purpose of discussing proposed changes in the grazing regulations.

The invitation was accepted, and a conference was held at Denver, Colorado, in December, 1905. This brought out many good suggestions from the stockmen, and led to the adoption of a definite policy which was to govern the regulation of grazing in the national forests. The most important points were: (1) that priority in the use of forage would be recognized, and the grazing privileges in the beginning allowed those who were already using the range; (2) that any changes which were found necessary, either in the number of stock grazed or in the methods of handling, would be made gradually, after due notice had been given; (3) that small owners would be given a preference in the allotment of permits, and be exempted from reduction; (4) that the checking of damage to, and the improvement of, the forest would be brought about so far as possible without total exclusion of the stock; (5) that the forage resources of the national forests would be used to the fullest extent consistent with good forest management; and (6) that the stockmen would be given a voice in the making of rules for the management of their stock upon the range. (Potter 1913, 54-55)

So successful was the use of the livestock associations in providing input to the grazing regulations that by 1912, 68 advisory boards had been recognized and were cooperating with the Forest Service in the settlement of grazing problems. (Potter 1912, 21) <sup>3/</sup>

As a result of such meetings and dynamic emerging policies, the *Use Book* was expanded in 1906, 1907, 1908, 1910, 1911, 1913, 1915, 1918, 1921, and 1926. The grazing section, starting with 11 pages in 1905 was 84 pages by 1910; and 96 pages by 1926. (Forest History Society 2004) <sup>4/</sup>

Grazing fees would be the next issue. Potter's past experiences obviously prepared him for the many questions that would arise in administering the reserves. He had, previous to the Transfer Act, proposed a system for both sheep and cattle that would require an assignment of a specific area for each entity, and ideally, its fencing by the stockmen, especially the cattlemen. In a 1903 report, Potter had concluded "that small rental fees would be acceptable, particularly if cattlemen were allowed to fence their ranges on the reserves." (Rowley 1985, 63)

If the Forest Service could charge a fee for grazing on the Forest Reserves was a highly controversial question. On May 29, 1905, Secretary of Agriculture Wilson signed a letter (prepared by the Forest Service) to the Attorney General asking if the Secretary had legal authority to require a reasonable compensation or rental for permits or leases within the forest

<sup>3/</sup> Grazing associations later evolved into Grazing Advisory Boards. These boards were mostly disbanded in the mid 1960's. Today they are authorized under the Public Rangelands Improvement Act of 1978. Forest Supervisors are authorized to prepare charters to be filed with the Department and the Congress as required by the Federal Advisory Committee Act. The function of grazing advisory boards is to offer advice and make recommendations concerning the development of allotment management plans and the utilization of range betterment funds. However, few are active at this date, if any, within the Forest Service. (Code of Federal Regulations Title 36, Volume 2 - Revised as of July 1, 2001)

<sup>4/</sup> At this writing, the Forest Service Manual and Handbook directives system consists of 75 volumes with over 30,000 pages.

reserves. Rather than arousing the opposition, the letter addressed the example of a fish saltery in Alaska. The Attorney General responded:

I have to advise you that, in my opinion, you are authorized to make a reasonable charge in connection with the use and occupation of these forest reserves, whenever, in your judgment, such a course seems consistent with insuring the objects of the reservation and the protection of the forests thereon from destruction. (Pinchot 1947, 272)

When the Western congressmen learned that a charge for grazing was on the way, they were furious, but no significant effort was made in Congress to abolish the charge. (Pinchot 1947, 272) <sup>5/</sup>

Will Barnes, a former Arizona cattleman and close associate of Potter, who joined his Forest Service staff in 1907, later humorously wrote of this time:

The real blow, however, came in 1905, when word reached us that the Government was planning to charge us stockmen for the use of the forest ranges. Wow! How we did raise our voices in loud protest! To be sure, the fee was to be only a few cents a head for cattle in New Mexico and Arizona for the whole season's grazing, and still less for sheep. But what irked us all was the idea of having to pay a single penny for what we westerners felt was ours by right of conquest. As a preliminary to the establishing of the grazing fee, one of the newly created forest rangers, formerly a cattleman, passed around some printed blanks among the stockmen one day, which were to be filled out and mailed back to him at once. These forms gave the ranger information as to the numbers of horses, cattle, and sheep, each one owned; the annual calf-brandings and lambing; how many years each stockman had used the area he claimed as his range; and how many acres of land he owned himself; and how many tons of hay he fed his stock in the winter. How we did snort over these questions! We didn't usually tell the county assessor such personal and private matters. Not by a good deal!

Some mighty uncomplimentary things were said about this fresh representative of the Federal Government. The time seemed ripe for hanging a forest ranger or two. If not, why not? Something simply had to be done to impress these Government officials with the nature of their crimes. However, as I recall it, nobody was ever hung. Instead, we wrathfully filled out the forms with most anything we thought of, lied fluently about our calf-brandings and lambing, and the number of head of stock we owned, and let it go at that. (Barnes 1941, 200-201)

In 1906 Potter was appointed Inspector (Chief) of Grazing. Roberts (1963, 41) states "there was no one better qualified for the job." He was developing a reputation for his integrity and fairness. That year, the Grazing Branch of the Forest Service, under Potter, authorized forest supervisors to continue the policy of issuing permits according to three criteria: class A- for those who owned adjacent ranch property, class B- for those who owned non-adjacent ranch property, and class C- for transient herders who could make no claim to local property ownership. The class C permits came last in preference. (Rowley 1985, 59) <sup>6/</sup>

<sup>5/</sup> Since 1987, grazing fees are calculated in accordance with 1986 Executive Order 12548 which specifies that the fee for livestock grazing on national forests in the West must not be less than \$1.35 per animal unit month. Western rates are calculated from the Grazing Fee Formula established in 1977 which relates forage value, livestock prices, and prices paid for production items.

<sup>6/</sup> Today, vacant permits are reissued under Grant Priority which is:  
1. Existing permittees on allotments for their share of any increased grazing capacity resulting from range improvement.  
2. Existing permittees on allotments for reductions they sustained during the previous ten years that resulted in the improvement of rangeland conditions.  
3. To permittees on other Forest Service administered allotments.  
4. To new applicants who are eligible and qualified (USDA-FS R4 FSH 2209.13)

Forest Supervisors would also charge according to the number and types of stock entering the forest and for the length of time they used the ranges. Estimated grazing capacity would be based upon a close physical observation of the land, water resources, type of forage, climatic conditions, the manner of handling, and a consideration of the interests involved. Rowley states "Potter probably knew full well that it was easier to write these instructions than to put them in practice in the field. But it was a beginning. The instructions testified to a wide knowledge that Potter possessed about every aspect of the stock-grazing industry, especially its utilization of the western ranges." (Rowley 1985, 71)

## I. On To Associate Chief

By 1907 Potter had become Assistant (Chief) Forester. It is apparent that he had become one of Pinchot's close associates as the administration of the national forests was growing more complex.

Even after the Transfer Act, attempts to remove lands from the reserves continued. The best lands within the reserve boundaries had been homesteaded prior to creation of the reserves. The previous year in 1906, pressures upon Congress to open the reserves had again succeeded with the passage of the Forest Homestead Act. Continued opposition would have meant destruction of the whole national forest policy and system. Pinchot had to compromise and the Forest Service listed with the General Land Office over 21,000 tracts for homestead entry enclosing 2¼ million acres. Albert Potter wrote to the National Wool Growers in 1912 stating that providing range for settlers [homesteaders] was "a problem of increasing importance," and some provisions should be made without disrupting the stability and progressive development of the industry. He proposed a 10 percent reduction in grazed livestock when grazing permits were transferred between owners. This provision was later approved by some state Wool Growers Associations. Roberts further stated that "the reductions on purchasers for permitted livestock were insufficient to provide for homesteaders and other small applicants. Additional reductions were necessary and those, together with reductions to relieve overstocking on the range, went on for years." (Roberts 1963, 117-118)

Pinchot wrote that antagonism about removing the national forests from the Public Domain continued to fester. Correction of abuses had tread on many powerful foes. The opposition charged that Washington was ignorant of the West. Oregon Republican Senator Charles W. Fulton introduced an amendment to the Agriculture Bill of 1907 taking away from the President and reserving to Congress, the power to create national forests in the states of Oregon, Washington, Idaho, Montana, Colorado, and Wyoming. The Fulton amendment passed on February 25 and the President had until March 4 to sign the bill. Pinchot set every available man working on drawing proclamations for national forests in those six states. Some of these men worked forty-eight hours straight to finish the job. Pinchot took the proclamations to President Roosevelt

who signed them and sent them to the Department of State for safekeeping. This added some 16 million acres to the National Forest System. Then, and not until then, did Roosevelt sign the Agriculture Bill. Pinchot later wrote, "When the biters who had been bitten learned the facts they were furious." (Pinchot 1947, 300) These new forests became known as the "Midnight Reserves" because the proclamations had been signed before Roosevelt's midnight deadline to sign the Agriculture Bill.

During this time, Potter hired the best men he could obtain with experience on the western range. Each of these men on Potter's staff is a story in himself. As described in Roberts, they were as follows:

W. C. Clos, born in Switzerland, met Potter while he was examining reserve boundaries in Utah. Clos was working for J.B. Seeley of Mount Pleasant, Utah at the time. His European technical training and western experience in livestock operations gave him a viewpoint that allowed him to develop a large part of the Service's grazing procedure.

Joe Campbell had been an Inspector for the Arizona Territorial Livestock Board.

C.H. Adams had been in the livestock business.

Leon Kneipp grew up on the streets of Chicago, worked as a ranger and forest Supervisor, and became Chief of Grazing Control. His later career included following Potter as Chief of Grazing. Later, Kneipp also held positions of Regional Forester at Ogden, Utah and Assistant Chief of the Forest Service.

Will Barnes had managed the Esperanza Cattle Company near Winslow, Arizona. He received the Congressional Medal of Honor with the U.S. Cavalry during the Apache Wars and served in the Territorial Legislature for both Arizona and New Mexico. He was also the author of several books. He went on to become Chief of Grazing for the Forest Service.

Jessie W. Nelson, an Inspector of Grazing, had been a bronc rider in Buffalo Bill's Wild West Show.

In 1916, the latter three men were to take over Potter's application of plans and grazing policies when his duties as Associate Chief demanded full attention. (Roberts 1963, 42-43)

At first, progress on grazing administration was slow and complicated. Potter and his staff met with local permittees on many occasions when the situation was of national interest. In Wyoming, Potter and Jesse Nelson met with the Carbon County Wool Growers in 1907 about the reduction of 50,000 sheep on the national forest. After a daylong debate, the Wool Growers agreed to the reduction, admitting "that the range needed it." Nelson states, "I certainly admired Mr. Potter's firmness and fine way he worked with the board. It showed he not only knew stockmen, but how to accomplish a desired objective." (Roberts 1963, 68) Potter's men in the field also contributed significantly in resolving conflicts. Potter once stated "when the sheep men and cattlemen could not agree among themselves upon a division of the range, they left it up to the Forest Service men, whose decisions were accepted with minor amendments. Forest Service men were instilled with the objective of working with the stockmen rather than against them." (Roberts 1963, 69)

Potter and Pinchot were not above "micro-managing." Inexperienced forest assistants sometimes created furors when thrown into unfamiliar environments. When sheep that were to lamb in several days were held off the Gila National Forest in New Mexico because of wet ground, the owner telegraphed Pinchot, "...the losses would be terrific unless the sheep got

to the lambing grounds." Pinchot turned the telegram over to Potter, and the sheep were soon on the lambing grounds. (Roberts 1963, 72 )

An example of Albert Potter's futuristic view occurred in 1909 at a meeting in Ogden, Utah between District [Regional] officials and Washington Office personnel. As presented and paraphrased from Alexander in the next section, then District Office Staffer Homer Fenn suggested:

The Forest Service ought to confine its efforts to the regulation of grazing to prevent damage to timber or watersheds, and the prevention of range monopoly and unfair competition. The Service should recognize the regular occupant as having an equity in the range to the extent of his permit. Anyone who wished to secure a permit, except a new settler on new land, should be required to do so by purchase. I am willing to defend the granting to large outfits on the Forests their privilege in perpetuity as this would maintain a normal economic condition by preventing range monopoly and unfair competition in its use, and the distribution of the grazing privilege would take care of itself.

Fenn also objected to the policy that required owners (permittees) to provide hay from his own land for his stock during the winter in order to be eligible for a permit: the so-called "commensurability" rules. Then Assistant Chief Forester Potter disagreed. He stated:

The Forest Service policy had a social as well as an economic component. Policy included favoring the small stockman, as well as reducing the number of livestock to the carrying capacity of the range. In accepting them [Fenn's Views], the Service would have to recognize that the permittee held a property right in the range. He feared that recognizing such a right might make it difficult "to exclude stock from any of the lands" even if this became necessary for range protection.

However, Potter was willing to put Fenn's views to a vote of those in participation, recognizing that "they represented a change in the principle upon which our present regulations are based." The results were mixed. A majority, 15 to 2, believed in making sliding scale reductions to take care of beginning stockmen and new owners. However, the majority (10 to 5) felt that exceptions should be made "from reduction to the protective limit in cases where there is an unusually large investment in ranch property." Those present then proposed a compromise by issuing 5-year term permits to the stockmen.

At the same meeting, F. W. Reed, of the District [Region 4] Office outlined the procedure that originated on the Uinta National Forest allowing the actual – though not the legal- transfer of permits between a seller and purchaser of base property and livestock. Under the system, the seller relinquished his permit to the Government and the Government transferred it to the purchaser. Reed said "the system had avoided a great many complaints" (Above meeting proceedings as cited in Alexander 1987, 41-42. Refer to Appendix B for document location)

This meeting proved to be an example of the national headquarters openness to suggestions and decentralization in establishing and making new policy, and also shows how dynamic the development of national grazing policy was at the time. <sup>7/</sup>

<sup>7/</sup> Today, term grazing permits are issued for ten-year periods. To qualify for a grazing permit with term status, an applicant must own base property and the livestock to be permitted. Base property must be owned and used by the permittee for a farm or ranch operation.

Other major issues were also being addressed by Potter and his staff. During this time, over 10 million acres of railroad and state grant lands used for grazing were within national forest boundaries. A system of cooperative private land permits was developed under which management was in conjunction with, and substantially the same as, that applied on national forest range. (Roberts 1963, 53)

Interestingly, the first regulatory action the Forest Service required was a clearance certificate showing sheep had been dipped at least ten days before entering a forest. Sheep scabies was prevalent throughout the West. The Bureau of Animal Industry was trying to eradicate the disease but had no police power. National forest sheep permittees then began to clamor for the dipping of non-permittee sheep so their sheep would not become re-infected after they left the forests. The Forest Service also helped eradicate Texas fever in cattle. (Roberts 1963, 54)

Throughout his career, Potter always worked for measures favoring the "little man." He prioritized the protection of the settler and homebuilder against unfair competition on Forest Service ranges. Potter and his assistants religiously attended annual meetings of national and state livestock associations to learn about and eliminate causes of friction, to discuss policies, and make additions and refinements to the regulations. Many of these regulations had been proposed by the associations. He also worked with these grazing associations in developing "protective [Upper] limits" to prevent large operations from monopolizing the range.

The formulation of policies and regulations concerning the transfer of grazing privileges and the enforcement of the maximum limit were complicated by the involvement of huge individual, partnership and corporate interests. The new policies and regulations had to recognize every form of livestock business and operation known on the western range. Understandingly, there were conflicts and appeals from Forest Service decisions. (Roberts 1963, 46-47) <sup>8/</sup>

The precedence and political influence involved must have seemed insurmountable considering it covered the entire West and 150 million acres of national forest. Some of the larger organizations Potter and his staff had to deal with included (as cited from Roberts):

The Babbitt Brothers of Flagstaff, Arizona whose interests included tens of thousands of sheep and thousands of cattle on northern and central Arizona forests.

The Kern County Land and Livestock Company of Bakersfield, California which owned a string of ranch corporations from Oregon to southern Arizona and New Mexico.

Miller and Lux, with large cattle operations and which summered thousands of sheep on the High Sierra forests.

The Union Land and Cattle Company of Nevada which ran 45,000 sheep, 45,000 cattle, and 5,000 horses, and held large National Forest permits.

Andrew Little who owned 170,000 sheep and grazed 72,000 cattle on the Payette, Weiser, and Idaho forests in Idaho.

The Cosgriff Brothers of Wyoming with 125,000 sheep and 40,000 head of cattle on the Sierra Madre (Medicine Bow) Forest.

<sup>8/</sup> Today, there are no upper or special limits governing the total number of livestock which an entity is entitled to hold under a Term Grazing permit in the Intermountain Region. (USDA FS R4 FSH2209.13)

The Woods Livestock Company of Minidoka Idaho, with 100,000 sheep and 67,000 sheep on the Targhee National Forest.

Albert Scorup of San Juan County, Utah had one of the largest cattle operations in America and ran on the La Sal National Forest. (Roberts 1963, 49-51)

Amid all the obstacles, the structure of the Forest Service and system for controlling grazing were basically framed during its first four years. By 1912, grazing policies and regulations were filled in so that few major changes were needed for several years. Roberts stated:

The job was progressive with a rapid succession of new situations for new forests were being established though out the West. In 1905, 692,000 cattle and horses, and 1,514,000 sheep and goats were grazed by 7,981 permittees; by 1912, 1,500,000 cattle and horses, and 7,551,000 sheep and goats were grazed by 26,500 permittees. (Roberts 1963, 35)

After President Taft fired Gifford Pinchot in 1910, Albert Potter might have been the Chief. Secretary Wilson recommended Potter for the position, but President Taft wanted Henry Graves as Chief. Potter had Secretary Wilson withdraw his name, feeling Graves was better suited. (Pinchot 1947, 459) Potter was basically self-educated and a Westerner. Graves was highly educated and closely tied to Pinchot. The credit lies with Potter in being considered so highly for the job. <sup>9/</sup>

Albert Potter took on the role of Acting Chief until Graves, who was Forestry Professor at Yale, could report. Initially, Graves took a one year leave of absence from Yale, but would stay on as Chief for ten years. These were uncertain times for the Forest Service. The weakened condition of the Forest Service rekindled interest in state control of the national forests. Potter met with Secretary of the Interior Ballinger and Secretary of Agriculture Wilson. He was mending fences after the Pinchot affair. When Henry Graves took over as Chief, he was an outsider and understandably apprehensive. President Taft had ordered an investigation of the Forest Service accounting system and conferred with Acting Chief Potter. Steen reports that "Potter tried to reassure Graves that there was no reason for alarm as the president only wanted to show congressional Democrats that the Forest Service operated efficiently. But then Taft suggested that Graves reduce his budget request in order to prove it could be done." Potter had been told that many senators and congressmen thought the Forest Service should settle down and stop the continual agitation. Congress continued its fiscal pressure and reduced the Forest Service budget requests by more than one million dollars in 1911. In response, Graves wanted to show that the Forest Service could be made self-sufficient. He promised that within three years, the Forest Service would return more to the treasury than it received. (Steen 1976, 105-108)

Thus the Graves-Potter administration set out attempting to rebuild shattered morale and achieve political stability with

<sup>9/</sup> Graves had an undergraduate and a masters degree from Yale, and was the first professor and director of the Yale Forestry School. At the time, the five-year old Forest Service was managing 172 million acres with about 1,500 employees. As the new chief, Graves first had to rebuild the morale of the Service that was shattered by Pinchot's firing, and then restore relations with the Department of the Interior and Congress. He also had to fight to keep control of the national forests, because a number of State and private interests wanted the forests returned to State or local control. (Williams 2004, 1) Albert Potter stayed on as Associate Chief and Graves' assistant.

promises to produce more with significantly reduced budgets. This next decade would see a myriad of new issues and the passage of major conservation legislation affecting the Forest Service. Some of these included:

- The Weeks Act (1911) which brought about (1) an expanded land acquisition program, and (2) State and Private Forestry Cooperative programs. If there were to be National Forests in the East, then purchase was necessary. This marked the departure from the century-long tradition of Public Domain disposal. The second part of this act allowed the Forest Service to expand its cooperative programs in fire protection and control of insects and disease. (Steen 1976, 122-130)
- 1915 saw the establishment of the Branch of Research. Established by Graves to replace the numerous investigative committees of the Service, it gave recognition and independence to the various lines of research conducted by the Forest Service. (Steen 1976, 137) At a meeting of key researchers in Washington during 1917, Associate Chief Potter stated “[that] research was the reason the Forest Service was in the Department of Agriculture instead of the Interior. Without research, the agency would be merely an administrative organization.” (Steen 1998, 13)
- The National Parks controversy arose with the eventual establishment of the National Park Service under the Department of the Interior. This was mainly because of distrust of the Forest Service following Pinchot’s position on the Hetch Hetchy Valley dam, and the Forest Service’s position on timber harvesting. Associate Chief Potter stated that “he saw the parks operating on a nonprofit basis, with timber cutting ...done as would be an improvement to the stand, and not with a view to its commercial possibilities.” The general staff consensus of the Forest Service continued to advocate, including in parks, only timber of aesthetic value. The Forest Service efforts to hold off creation of a separate bureau ended in failure in 1916 with the Park Service enabling legislation. (Steen 1976, 116-119)
- Recreation and scenic values were becoming much more important to the American public. Steen states that “the Forest Service leaders at least accepted the needs for parks and recreation but were unwilling to alter their own priorities. Fire, timber, grazing, and evolution of the basic organization received most of their attention”. It is unclear if the Forest Service increased its recreation program in response to the National Park Service, but in 1917 an intensive study of Forest Service recreation facilities was begun. (Steen 1976, 116-120)
- Perhaps one of the major disappointments of this Graves-Potter decade was the inability to obtain salary increases for employees. Between June 1918 and

August 1919, 460 technical forest officers resigned. In 1920, rangers still received \$1,100 per year, the same as in 1910. Forest supervisors responsible for millions of acres received between \$2,000 and \$2,500 per year. (Steen 1976, 141-142)

When Potter was appointed Associate Chief in 1910, he apparently maintained his role as Division Chief of Grazing. His job became more and more involved in the political aspects along with the technical aspects of grazing and livestock management, along with other new duties. At this time, the practice of range management within the Forest Service had come of age. Recognizing that concessions had been made in allowing overstocking of ranges in exchange for support of the formulation of the National Forests under the Department of Agriculture, Associate Chief Potter and the men of the Grazing Division devised the basic components of a program to improve range conditions and properly stock the forest ranges. This policy was to guide the management of forest ranges for the next 50 years. In announcing this plan, Potter stated:

The Forest Service has always stood for the principle of conservation through use. From the outset it has sought to regulate, not to prohibit, the use of the range, having in view the interests and needs of the stock industry as well as the needs of the forest. The problem, therefore, ... [is] how to stop the damage and bring about an improvement in the condition of the ranges while they were still in use. (Potter 1912, 19)

A five-part plan was presented (Potter 1912, 19-21; Potter 1914, 111-117): The first step was to designate portions of the range for use by the kind of stock for which it was best adapted. Sheep ranges and cattle ranges were segregated in most areas.

Next, an effort was made to determine the season of use for each range. Areas were designated for summer, fall, winter, and spring use. Most importantly, it was recognized that too early of use in the spring or the trampling of ground before the vegetation had matured was detrimental. Grazing seasons were to fit into the management of livestock on ranger districts. Lambing grounds and other special conditions were to be considered.

Third, range developments such as fences, trails, and watering facilities were to be undertaken. It was found that considerable improvement could be made of the range by distributing and controlling animals. Ranges that had previously been unused helped ease the burden on traditional used areas. The Forest Service cooperated with stockmen in the construction of such improvements.

Range reseeding was the next option considered. Starting in 1907, experiments were first made with cultivated plant species. It was found that artificial seeding would only be successful on areas of good soil, alluvial bottoms along streams, and at altitudes not higher than 1,000 feet above timberline. At least one year’s protection from grazing was necessary for the seedlings to establish. The experiments in reseeding with introduced grasses were wide spread. Over 300 experimental reseeding were made in 1910 alone. Most interesting about

reseeding is the statement Potter made in 1912 to the National Wool Growers: (Potter 1912, 21)

The results thus far conducted have shown very conclusively that it is extremely difficult to successfully introduce new grasses upon the open range, and that our success in increasing the forage crop must very largely depend upon securing a natural reproduction of the grasses which are already there. In other words, it is of the greatest importance that we take care of what we have got, because of the difficulty of again seeding the ranges after the native grasses have been destroyed.

Finally, the proper use of the range was emphasized. Rotation systems of grazing were introduced based upon the principle that after vegetation matures, grazing could be used to scatter and plant native seeds. Also part of this program was the instigation of a systematic range reconnaissance to learn which parts of the forest were suitable for grazing, the character of the different ranges, the kinds of plants growing, the kind of stock best adapted, and any other information which would be of value in promoting the fullest use of the lands. When it became clear that in areas where ranges continued to be overgrazed and the stock could not be taken care of by moving to other ranges, reductions were to be made gradually and so far as possible, unnecessary loss and hardship were to be avoided. A reasonable opportunity was to be given the stockmen to find other range so that the changes did not cause serious disturbance of business affairs.

Potter initiated a national management program to implement the five point program to improve use and increase values of National Forest rangelands. Plans were required for each National Forest where grazing was permitted. He recognized the difficulty, stating: "One of the most complex problems connected with the administration of the national forest was that of devising a plan of management by which the forest cover and the watershed could be adequately protected and all of the lands be restored to a normal condition of forage productivity." (Roberts 1963, 106)

These plans were to address overstocking, grazing season, and the manner in which stock were handled. Fences were a primary requirement as was development of watering sites. By 1913, Potter could report that over 13,000 miles of trail had been constructed, 750 sources of water developed, and 380 bridges had been built by the Forest Service. (Roberts 1963, 106) 10/

Other issues continued to surface. Predatory animals were a great hazard to livestock. The Forest Service, at first, assisted in the control of predators by supplying rangers and forest guards with ammunition and traps, and by employing hunters where depredations were especially serious. Potter estimated that employees killed over 30,000 predators between 1908 and 1912. (Roberts 1963, 107) 11/

---

10/ Today, allotment management plans contain pertinent livestock management direction from project-level (NEPA) decisions. This includes information on grazing systems, rangeland improvement, and rangeland monitoring requirements.

11/ Early on, predator control responsibility was transferred to U.S. Fish and Wildlife Service. Today, predator control on National Forests is carried out by USDA Animal and Plant Health Inspection Service (APHIS) in cooperation with state wildlife agencies.

Poisonous plants were also causing heavy livestock losses. Many studies were conducted and the more dangerous areas were posted with warning signs or were fenced by the Forest Service. (Roberts 1963, 107) 12/

One of Potter's most successful acts of his Forest Service career was the fight to establish the right of the federal government to maintain its rules and regulations against State laws. As Will Barnes put it:

From the very first he held to the belief that State laws could not govern the management of Federal lands and that the sooner the whole question was thrashed out and a decision rendered by the highest court in the country, the sooner the Government would be able to carry out its plans for the National Forests. Some of the best law officers of the Forest Service at that time rather doubted the strength of our position and questioned the wisdom of locking horns with the States on such a proposition. Never for a moment, however, was Mr. Potter dismayed at the opposition; not for an instant did he weaken or admit possible defeat; and the successful ending of the now celebrated "Fred Light case" was due more to Mr. Potter's dogged persistency "to see it through" than to any other single cause. (Barnes 1920, 213)

The Fred Light case revealed the sentiment of the Western sources who kept hammering away on the theme that the grazing fee was a tax. Colorado had become one of the strongest centers for protests against grazing fees. Since the late 1890's, federal courts had disagreed on whether violating regulations imposed by an administrative department constituted a crime. The issue of grazing fees called into question the Forest Service's authority to administer and protect the National Forest lands. Two issues were at stake. The first questioned the right to impose fees under the general administrative order to "regulate the occupancy and use of lands" under the Act of 1897. The second question asked if the Forest Service should fence its lands like other property owners to prevent trespass, especially of cattle, according to Colorado law.

Rowley provided this overview:

Fred Light, who lived near the Holy Cross National Forest, refused to pay fees. He also contended that fees could not be collected on cattle straying into unfenced forests. The government brought suit to compel compliance. In January 1909, the federal circuit court in Colorado ruled in favor of the government on both issues. A test case emerged from the lower courts of California. In November of 1907 a grand jury indicted Pierre Grimaud and J.P. Carajous for pasturing sheep on the Sierra Forest Reserve without obtaining a permit. The indictment concluded that they had violated the law of the United States. Their lawyers argued that the acts of the Secretary of Agriculture were unconstitutional because they were an attempt by Congress to delegate its legislative power to an administrative officer. The court sustained the position of the defendants and dismissed the indictment, ruling against the government. The federal lawyers appealed to the Supreme Court. Finally, on May 1, 1911, the United States Supreme Court ruled in favor of the government in both the Light and Grimaud cases. (Rowley 1985, 66-67)

Rowley states that throughout his career, Albert Potter believed that the majority of stockmen were beginning to understand that the protection of summer ranges meant better stock and increased profits. Potter acknowledged that grazing

---

12/ Currently, the USDA Agriculture Research Service carries out poisonous plant research.

presented some of the more perplexing controversies. Still, he emphasized,

There is no difference between the basic principles controlling the use of the forests and those of the range. Overgrazing is just as fatal to the livestock industry as destructive logging is to the lumber industry. He often used the word 'regulation' to describe policies that would protect the 'permanent carrying power' of the range and even increase the number of animals that could be supported. (Rowley 1985, 56)

The Forest Service was also expanding the search for scientific knowledge. As early as 1907 the Forest Service in cooperation with the Bureau of Plant Industry and under the general planning of Potter and Coville, with whom he had inspected the early reserves, started organized range forage investigations. This marked the beginning of intensive range research (Roberts 1963, 108). In 1912 when a site to study the restoration of abused rangelands was needed, Potter undoubtedly remembered his 1902 survey on the Wasatch Plateau of Utah. It was here that the Great Basin Experiment Station was established that year. (Prevedel, et. al. 2005) <sup>13/</sup>

By 1915, it was recognized as the national leader in range research which was still in its infancy. Later, by the start of World War I, seven general knowledge areas were under study to guide the proper management of rangelands:

1. Opening and closing dates for grazing to harmonize range readiness with nutritional requirement of livestock.
2. Determining of grazing capacities of western range types.
3. The basis of determining whether forage cover and soil were improving or deteriorating.
4. Deferred and rotational grazing practices to permit seed maturity and root system growth for the survival of perennials.
5. Improved methods of grazing sheep and goats in open and quiet herding; also new procedures for bedding herds in different locations each night.
6. Better management of cattle through well-placed watering and salting sources.
7. Elimination of damage to timber reproduction from grazing and other forest resources. (Rowley 1985, 110)

According to Forest Service records, there was more than a 50 percent increase in the number of livestock utilizing its ranges in the decade following the Transfer Act of 1905. Still to be resolved were the grazing fee increase issues, the priority of issuing "A" type grazing permits which favored small operators, increasing demand for grazing privileges, and the prescriptive rights of grazing permit holders.

Better utilization of the range was achieved by improved practices in fencing, distribution, water development, and herding. (Rowley 1985, 91)

Stockmen working with the Forest Service were making improvements on the range. Legal questions continued to surface. Some forest officers questioned if these improvements were an investment in property by the permittees. Many thought this would allow permittees to sue in defense of their investment and thus assert a prescriptive right (Rowley 1985, 89) By 1916 bankers were inquiring about grazing privileges when making livestock loans, and the sale of permits was occurring despite warnings by officials of the Forest Service that the value could not be guaranteed. In 1919 it was estimated that the selling price of ranches increased as much as a third if grazing permits went with the sale. (Rowley 1985, 90) <sup>14/</sup>

But the optimism on rangeland improvement and the lack of knowledge on long term sustainability of rangelands were about to take their toll. An example is cited by Rowley:

Although the total area of the 160 national forests [in 1914] was about a million acres less than in 1913, about 38,000 more cattle and horses and 347,000 more sheep and goats were under permit. (Rowley 1985, 93)

Both the Forest Service and government land policy encouraged new permit applications from many new, small operators. Annually, the Forest Service had been accepting increasing numbers of the "A" permit applications. With the passage of the Stockmen Homestead Bill in 1916, stockmen were allowed 640 acres of public domain land outside of national forests. The resulting reduced availability of free public ranges placed a greater demand on Forest Service grazing and permits. The demand was already high. Under this act, displaced smaller operators who had traditionally used the public domain turned to the Forest Service for grazing permits.

Rowley further summarized the problem:

The new demands were made at the expense of the "B" permits of longstanding preference. The new arrivals were also in a position to take advantage of the range improvements made over the years by the "B" permittees. . . Stockmen, too, held strong opinions about redistribution. Some declared the redistribution of grazing rights as pure socialism. (Rowley 1985, 130) <sup>15/</sup>

As early as 1913, the National Woolgrowers Association began a campaign to have grazing fees reduced. The sheep men felt they were paying in excess of what the cattlemen were. Quoting from Steen:

Albert Potter stated at the time that he thought the fees were of considerable importance. Stressing that the relations between the Forest Service and stockmen

<sup>14/</sup> Currently, the Forest Service does not recognize grazing permits as having any monetary value. Courts have refused to award monetary compensation to permittees for permits, even when the permits were cancelled. This is somewhat clouded by the general practice of banks making loans to ranchers based on both the deeded and grazing permit value of their ranches. The Federal Farm Loan Act resulted in the signing of a Memorandum of Agreement in 1938 between the Secretary of Agriculture and the Governor of the Farm Credit Administration (FCA) on the issue of loan security. This allowed the permittee to put the preference for their grazing permits in escrow as loan collateral. Also, for many years, the Internal Revenue Service (IRS) has calculated inheritance tax on the total value of a ranching estate, including the assessed value attributed to its grazing allotments.

<sup>15/</sup> The redistribution of grazing privileges and the priority issuance of permits to small operators (A permits) continued until 1926 when Western stockmen forced concession on policies and fees from the Forest Service and new grazing regulations were issued for the national forests. At this time, the Forest Service also began to issue 10-year grazing permits to stabilize the grazing business. This practice has continued today. (Rowley 1985, 128)

<sup>13/</sup> Research is one of three branches of Forest Service. It has become the largest forestry research organization in the world and the national and international leader in forest conservation. Forest Service Research and Development (R&D) scientists carry out basic and applied research to study biological, physical, and social sciences related to very diverse forests and rangelands

were finally harmonious, Potter questioned the wisdom of jeopardizing the situation by asking for a change in fees. (Steen 1976, 164)

Will Barnes took over as Chief of Grazing in 1916 when Albert Potter's increasing administrative responsibilities as associate chief forester forced him to give up the post. (Steen 1976, 166)

1917 saw the Forest Service again increase grazing fees to generate revenues. Albert Potter told stockmen at the American National Livestock Association Meeting that "fees were to be doubled over a three-year period. And as far as possible, fees were to be based on real value, an amount difficult to determine since forage was not sold on a competitive basis. The Forest Service, however, would continue to charge less than full value, because permittees provided a first line of defense against fire and deserved some reward for those services." (Steen 1976, 164-165)

Increasing grazing fees also rose as the solution to reduce the proliferation of permit applications by small users. Many believed that such operations were "marginal at best" and increased fees could serve to discourage them and prompt some to fail economically. Grazing fee increases were not without controversy and often opposed by livestock men. General fee increases had occurred from 1909 to 1912. Substantial increases were made between 1915 to 1919. Grazing fee revenues were about three times higher than the cost of administration. Early on, the rates had served more as a symbol of Forest Service authority, but now the rates were a minimum of 60 cents and a maximum of \$1.50 per head for cattle. Sheep fees were one-fourth of these rates. By 1919, grazing fees were generating \$2.6 million of income nationally, while timber revenues were only \$1.5 million. (as cited in Rowley 1985, 122)

All of these issues were to take a back seat with the United States entry into World War I in 1917. Albert F. Potter again served as acting Forester (Chief) during World War I, from June 1917 to February 1918, when Graves was with the army in France.

Higher wartime livestock prices and increased allowable stocking on national forests overshadowed any controversies generated by the increased grazing fees. Rowley (1985, 95) is cited:

The war virtually threw open the gates of the forests to almost everyone....To meet the war emergency, the Chief Forester ordered supervisors to make available every acre of grazing lands for the greatest possible utilization. With most ranges already overstocked, the addition of extra stock under 'temporary permit' came as a staggering blow to conservation efforts on the ranges.

The following figures show the marked increase in 1917 and 1918 in the number of stock grazed on the national forests: (refer to Table 2)

**Table 2 – Cattle and Sheep on National Forests - 1916 to 1919.** (Rowley 1985, 113)

	Cattle	Sheep
1916	1,758,764	7,843,205
1917	1,953,198	7,586,034
1918	2,137,854	8,454,240
1919	2,135,527	7,935,174

"The result was a damaged resource.... In the years to follow, forest grazing officials would often point to the wartime measures as a significant setback in range resource protection. Many explained the continued deterioration of the range by attributing it to the wartime excesses." (Rowley 1985, 115)

This continued deterioration was to set the legacy for years to come. In spite of Albert Potter and his staff's direction, the Use Book, and research findings, problems continued to persist. In Utah, 16 years after Albert Potter evaluated the area for inclusion in the reserves, D. A. Shoemaker of the Forest Service Washington Office made functional inspections of the Manti National Forest in 1918 and 1919 (Shoemaker 1918; Shoemaker 1919) and recommended grazing reductions. His 1919 report states:

The recommendations for these reductions is justifiable as attested by the following facts indicative of overstocking and of overgrazing: The large proportion of the herds which do not have sufficient feed to last them during the grazing season; the presence of numerous areas of varying size where the predominant species are of the early weed stages which indicates depleted range; the evidence of the increasing abundance and distribution of poisonous and non-palatable species; and the ever increasing number and size of erosion areas. (Shoemaker 1919, 56)

When Haymond wrote the history of the Manti Forest in 1972, he discussed this period of time:

In evaluating the success of the Forest Service in the first twenty years of their management of the grazing range, four sources from which judgement might be established are the rangers, the grazing inspectors, the public and the experiment station scientists. The rangers in all cases were uninformed as to the nature of the plant life, and its relationship to the large ecological system on the forest. In most cases these men were raised in local communities and they had good common sense background but no scientific knowledge about plants. Because of the damage done to the range and the resulting calamity of erosion and fire, some things were obvious, such as the amount of cover as contrasted to bare ground, the severity of the flash floods which sometimes occurred in the late summers, the number of "good" lambs sold off in the fall and, most important of all, the complaints of the users. (Haymond 1972, 86)

Haymond also researched the attempt to make grazing reductions by Forest Supervisor Humphrey following the Shoemaker reports. He stated:

The whole issue seems out of perspective because in all of District 4, there were only thirteen alien permittees. But a significant volume of mail was generated, besides editorial opinion in newspapers and policies stated by labor unions.

It's producing no apparent good effect. The 1920 reduction controversy was a good measurement of general relations between range management officials and some users on the Manti Forest. From an investigation made by Mr. D. A. Shoemaker, a forest examiner, between September 5, 1918 to October 24, 1918, district officers decided to reduce the number of sheep on the Manti grazing districts by 10 percent for the spring 1920 and to introduce the rotation system of grazing as soon as the range could handle it. The Manti National Forest Woolgrowers Association was so advised on December 11, 1919 by letter. The Woolgrowers hired as counsel, A. W. Jensen. They appealed to the Secretary of Agriculture through Senators Reed Smoot and William R. King to reverse the decision....One party who did not agree with the decision for reduction was Charles L. Thorpe, Assistant Forest Supervisor, who sided with the stock growers, stating his sentiment in an official affidavit before Jensen to the effect that the decision was made by district officials without consulting the men who knew the forest best. Mr. Thorpe's dissent was recorded but no action taken since Mr. Humphrey was able to soothe his feelings. Another forest ranger, Parley Christiansen, also submitted an affidavit with much the same result. (Haymond 1972, 86-89)

Following World War I, the postwar agricultural depression that started in 1919 and lasted until 1921 again changed the national situation. Rowley states:

This forced many livestock men to sell their animals at whatever they were offered. Many went bankrupt. For the Forest Service it meant going back to enforcing stocking adjustments, the end of wartime temporary permits, and an increase in pressure from stockmen for cheap grazing lands. (Rowley 1985, 116)

By the spring of 1920 when Graves resigned, Potter decided that his mission had also been accomplished and that others should take over his duties. At the age of 61, he retired in southern California where he enjoyed many years of deep-sea fishing. He died on January 1, 1944. (Davis 1983, 546)

It is fitting tribute to Albert Potter that he is remembered in *Conservation History* as a significant contributor to our conservation legacy, which states:

His fight to establish the power of government to maintain its rules and regulations, including reasonable fees and reasonable numbers, against stubborn and persistent challenges was his most important contribution to grazing in the national forests. (Davis 1983, 545)

Roberts summed it up best to what Potter and his men contributed:

The Forest Service was a forceful element during an epochal period in the history of the West. It entered the western scene shaping use of the open range during the latter years of transition from the frontier to the modern era. These were the romantic years of range control and management to the old-timers who have taken the long trail to greener ranges, and to the ones still living. Scientifically poor, practical and idealistically rich, they had, in a spirit of high adventure and great purpose, fashioned and placed into action, a new and modern concept and system for use of the open range. (Roberts 1963, 150-151)



Associate Chief Albert F. Potter on the Teton National Forest – 1918. U.S. Forest Service Photo