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Education, Innovation, Restoration... One Acre at a Time

Mugido: Rethinking the Federal Commons

by Courtney White

I am tired of 'no.'

Recently, I attended a meeting at the headquarters of the Bureau of Land Management in Nevada where two ranchers, a husband and wife team, tried hard to convince the BLM to let them implement a visionary and audacious plan to restore life to Teel's Marsh, once a thriving terminal lake but now a lifeless salt flat. They passionately argued that they could revive the marsh by repairing the dysfunctional water cycle in the 100,000-acre watershed. Their daring idea? Break up the capped soil (often impervious to water infiltration) with the ground-disturbing impact of a thousand, or more, cattle hooves.

The ranchers' credibility rested on their long experience in range restoration, including their success in creating life on sterile mine tailings through the 'poop-and-stomp' action of animal impact. And their work was backed up by monitoring data, they explained.

They were supported at the meeting by a prominent environmental activist who had built a formidable reputation as an outspoken critic of the livestock industry. These ranchers were different, she insisted. She knew them to be careful stewards, having watched bird populations rise steadily on their grazing allotment for nearly a decade. And as a dedicated birder she knew that the marsh was part of an important historical flyway in the region.

The BLM's response to their entreaties, however, was 'no.'

The usual reasons were cited: the grazing permit wasn't in order, old paperwork had been misfiled, the proper bureaucratic procedure had to be followed, archaeological clearance would have to be done, workloads were too heavy, staffing levels too light, budgets were declining, demands rising, and, ultimately, an admission that 'higher ups' were too skeptical.

The ranchers responded by saying they would assume all the risk, including the financial cost, and do all the work. All they needed was a 'green light' from the government. Teel's Marsh, part of a congressionally designated Wild Burro Refuge (though overgrazed by burros, they noted), was essentially dead. It had nowhere to go but up, they said. They could do it.

"It'll never happen," said a sympathetic BLM range conservationist.

By the end of the meeting I was as frustrated and upset as the ranchers and the activist. That's because this is a too-common story across public lands in the West today. Progressive, innovative proposals to repair damaged land, to employ new land management models, to implement 'out-of-the-box' tools and ideas that produce results too often meet the same fate: 'No.'

This has to change.

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Reaching Across Fences

This is the last of our series on the challenges and opportunities of cooperative management in the West. In this issue we take a fresh look at federal lands and propose some new ideas on how it may be more effectively managed.

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Legacy

Unhappy thoughts about federal lands management is a new and uncomfortable feeling for me. For all of my adult life, plus a few of my teenage years, I believed in the ubiquity of public lands. When traveling to national parks, for example, I invariably expressed this belief by writing in every visitor book: "Buy more land!"

I meant it too. Like many of my fellow urbanites, I believed the simple answer to the complex questions surrounding land use in the West was increased federal ownership, especially if it meant an expansion of our national parks.

My belief took root in my youth. Shortly before my sixth birthday, my family and I emigrated from Philadelphia to Phoenix in a covered station wagon, becoming part of the great demographic shift that would irresistibly transform another sleepy western town into a bustling, and apparently boundless, megalopolis.

Photo right: Teel's Marsh, now a salt flat.

Photo Below: Looking for signs of life below a surface of capped soil in the Teel's Marsh Watershed.

My parents, like so many of their generation, had farm roots, though neither was interested in agriculture anymore. As an unconscious compromise, perhaps, they moved us to what was then the edge of town and bought horses. This meant I lived in two worlds as I grew. Driving through an asphalt jungle by weekday and prowling the desert on foot and horseback by weekend, I careened back and forth between urban and rural, which, like so many of my generation, meant having the best of both worlds for a time.

It didn't take long, however, to notice changes. The edge of town, for instance, kept moving. This prompted a barrage of questions of my beleaguered father: why was some land being developed, and some land not? Why did the tide of houses stop at an invisible line halfway up the mountain behind our home? Why was there another invisible line at the edge of the Indian reservation? More achingly, why did the spray-painted message on real estate signs at the edge of town that shouted "SAVE OUR DESERT" never actually save anything?

The answer came at me in a rush during the summer of my sixteenth year when I took a backpacking tour of western national parks with high school chums. What I discovered, of course, was the ***federal commons***. I learned that the invisible line separated public from private, wild from non-wild, non-commercial from commercial, sublime from soiled.

I returned from this voyage of discovery believing wholeheartedly in the observation of Lord Bryce, who wrote years ago that our national parks were the "best idea America ever had."

"Saving" my precious Sonoran desert, I saw, meant only one thing: public ownership.

Over the years, as my interest and knowledge about the American West grew, my core belief in the primacy of the

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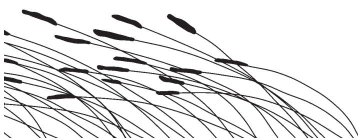

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federal commons remained unshakeable. It even survived my stint as an employee of the idolized National Park Service, where exposure to the dysfunctional side of bureaucracies failed to rattle my faith in the preservation paradigm. If the federal government had warts, it was still preferable to any alternative.

I don't believe that anymore.

I still believe in the federal commons – the system of national parks, refuges, BLM and Forest Service lands that comprise half of the land in the West. And I still support public lands for the same reasons I did as a youth: the democratic ideal they represent, the beauty and biodiversity they protect, and the bulwark against residential development they provide.

I am also aware of history – that the idea of public lands retention was forged on the anvil of hard use; that a late 19th and early 20th century legacy of deforestation, overgrazing, and other forms of short-term exploitation of land and people contributed significantly to the popular demand for protection. And as long as the threat of hard use still exists – as unfortunately it does – the federal commons remains necessary.

But while the ideal is still valuable, its implementation has become a dilemma. Though it wrenches to say so, I'll put it bluntly: the old model of governance of these special lands is worn out. I believe this for the same reason that I think the traditional ranching and environmental paradigms are wearing out as well: old thinking and old structures have become obstacles to innovation.

The management of federal lands, proactive and innovative in the early years, has become today, for a variety of reasons, all about 'no.' This is a dilemma because although in recent years new ideas, new practices, new paradigms, new values, as well as new threats, have emerged in the West, few of them can get past the 'no' log-jam on public lands.

Rather than despair, however, I began to look for a new model of public lands management that would serve as a starting point for a discussion on how to substantially reinvigorate what is still one of the "best ideas we ever had."

Two Examples

A few years ago, the state of Colorado used lottery money to purchase a medium-sized ranch not far from a major city along the Front Range. The goal of the purchase was to protect open space in a rapidly fragmenting landscape, as well as ensure environmental values for the long-run.

The trouble was the state had neither the capacity nor the desire to manage the land. So it issued a Request For Proposals (RFP) to see who might be interested in leasing the ranch. This was a competitive process, and, in fact, when the smoke cleared a rancher and his family had won.

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The rancher promised to do the following: 1) he would make an annual lease payment to the state of Colorado; 2) he would keep the land in agriculture; 3) he would meet, or exceed, high environmental standards (documented by monitoring); 4) he would provide educational and other forms of outreach programs on the ranch, aimed particularly at the residents of the major city nearby; and 5) he would provide hunting and recreational opportunities to the public.

And in doing so he would accomplish the state's goals: open space would be protected and environmental values would be ensured.

In turn, the rancher received assurances from the state that he would be able to run the ranch as he saw fit, with a minimum of regulation. Most importantly, he would be allowed to make a profit (which enables him to make his lease payment). Regulation by the state was swapped for innovation, flexibility, and entrepreneurial energy

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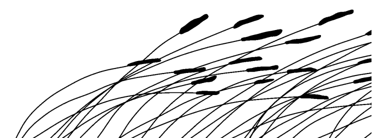

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on the part of the rancher. Colorado owned the land, and retained oversight, including, potentially, enforcement of environmental standards, but otherwise it basically got out of the rancher's way.

Why can't a similar deal take place on federal land?

Many of us thought something of this nature might happen when the US government purchased a 98,000-acre working cattle ranch, located in a large collapsed volcano above Los Alamos, New Mexico, and created the Valles Caldera National Preserve (VCNP) in 2000.

A Quivira Workshop on the East Fork of the Jemez River, flowing through Valles Caldera National Preserve.

The deal was brokered by New Mexico's senior Senator, Pete Domenici, whose support was contingent on the creation of a new model of federal lands management. Apparently as frustrated with the log-jam on the federal commons as anyone else, Domenici insisted that the VCNP be governed by a nine-member Board of Trustees, each representing a different "use" (wildlife, grazing, forests) of the land.

Although the legislative mandate of the Board is to protect the conservation values of the property, Domenici also insisted that the Board manage the Preserve for eventual financial self-sustainability – truly a remarkable goal for public lands. The only other example in the nation of a Board of Trustees managing federal land for conservation and financial gain simultaneously is the Presidio, an old military fort located in the heart of San Francisco – a wholly different kettle of fish.

But nearly six years later, the VCNP is nowhere near financial self-sustainability; and many observers, including this one, are doubtful that it will be able to achieve this important goal. Part of the trouble may be with the Trust model – perhaps managing land by Committee is easier said than done – or perhaps the trouble simply was elevated expectations. In either case, the VCNP "experiment" is beginning to look like a golden opportunity missed.

Take the livestock grazing program, for example. It has struggled from the get-go as a result of shifting directions from the Board, unimaginative performance on the ground, and poor public relations. Worse, it has lost money every year of operation – an astonishing fact given that the grasslands of the Preserve are some of the most productive in the Southwest.

Could things have been different?

Instead of micro-managing the livestock program, could the Board have done what the state of Colorado did: issue a RFP? Why not turn the grazing program over to a progressive land manager and let him or her do the work? If it were a matter of targets and conditions, such as environmental health, or educational activities, or outreach to local communities, why not write those conditions into the RFP? The role of the Board would have been then to provide clear objectives, do the monitoring, and collect an annual payment.

I firmly believe that the grazing program on the Valles Caldera, in the hands of any of a number of progressive ranchers I know, could be ecologically robust, responsive to social and cultural needs, and economically profitable – profitable to the Board (and thus the American people) as well as the rancher. And it could do so while being

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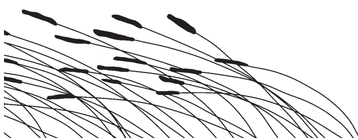

public land – owned and shared by all Americans.

I further believe this could be true of much of the federal commons. The rise of the progressive ranching model, coupled with an explosion of ecological knowledge and new methods of scientific documentation in recent years, means there is no intrinsic contradiction any longer between commercial activity and ecological function. This may have been the case once upon a time, but it is not now. The trouble, then, is not with the toolbox, or the profit motive.

The trouble is with the model.

Mugido

The examples of the Colorado rancher and the Valles Caldera National Preserve, coupled with my brief, but sobering, experience with the Rowe Mesa Grassbank, a 36,000-acre ranch on Forest Service land, have led me to a new idea for the federal commons.

I'll call it a 'mugido' – the Spanish word for the moo or low of a cow – though it can also be referred to as a 'RFP' model.

A mugido is a stretch of public land where the government vastly reduces its regulatory role in exchange for high environmental stewardship by a private entity. In a mugido the government's role is to set ecological and social standards and objectives through collaborative goal-setting, provide technical assistance (fire, archaeology, biology), and conduct oversight and monitoring. The role of the private entity is to meet, or exceed, the collaboratively-derived goals and objectives.

In other words, a mugido is an equitable public-private partnership. It would remain part of the federal commons, still influenced by national and regional goals, still owned by the American public, but operated by a private entity in collaboration with the overseeing federal land agency.

For example, while the Forest Service or the BLM would set environmental goals for the allotment (or landscape) it would be the permittee's decision on how to achieve them. The goals would be set collaboratively, drawing on each member's strengths, but the permittee would have discretion over the toolbox: what type of livestock to use, for example, and their numbers, timing, and intensity.

The permittee would be empowered to be as innovative, flexible, and entrepreneurial as he or she wanted to be; and the government would retain the right to judge the effects of these actions and respond appropriately.

Not all regulation would disappear. Ensuring the recovery and maintenance of endangered plants and animals, for instance, would be subject to enforcement. But collaborative decision-making coupled with innovative implementation of best management practices, audited by the government, means that the "hammer" of regulation could be laid down.

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I need to be clear that by proposing a mugido model I am not trying to poke federal employees in the eye. Nearly all civil servants that I have met over the years are hard working, dedicated, and imaginative people. It's not their fault that the system has basically ground to a halt. Rather, a mugido acknowledges their plight – declining budgets, increased workload, more and more layers of rules and regulations – and seeks to find a positive role, as partners, for them on the land.

Nor am I proposing that all federal lands become mugidos – far from it. In the beginning, in fact, they will be few and far between. That's because they should be carefully created on a case-by-case basis and only when an allotment or permit has become 'open' – i.e. when it has been vacated by its previous owner.

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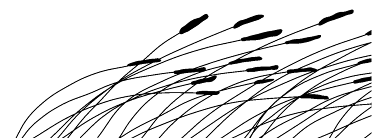

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Another option would be to create a mugido when a current permittee is ready, willing, and able to make the transition. In either case, to succeed the private entity has to have the right set of skills, credibility, and financial resources in place. At the same time, a mugido cannot be imposed by the government – it needs to be voluntary. And if a particular mugido doesn't work out, then the government reserves the right to go back to the old model.

The goal of a mugido is to get innovation on the ground by blending the best of both worlds – the entrepreneurial spirit of the private community (which includes nonprofits) and the 'big picture' ideals of the federal commons.

> *"Achieving and maintaining land health requires having the entire toolbox at one's disposal. It also requires having the flexibility, and incentive, to quickly choose a particular tool for a particular job."*

In other words, a mugido is all about 'yes.'

But what if the 'RFP' results in an out-of-state entity taking away an opportunity from the local community, especially if that community is historically, socially or economically disadavantaged?

I don't have a simple answer to this problem. Currently, grazing permits (and the private land they are attached to) can be bought and sold without regard to the needs of local communities. Ideally, mugidos would be locally-based and would engage local communities. Perhaps this can be written into the RFP in some way – that local partnerships are paramount or that the mugido must serve local interests to a significant degree.

Balancing local, regional, and national needs will be a central task of a mugido.

Elements

Obviously, this is a controversial idea, and undoubtedly there will be objections. But let me try to sort out what I see as the five key elements to any mugido:

1) The overarching goal is land health. The basic idea behind land health is that by restoring and maintaining land function – what Aldo Leopold called the 'land mechanism' – we can create a solid foundation for the social values we place on the land. In other words, if we jeopardize or degrade function (soil stability, water and nutrient cycling), then the land's ability to support our values (food, water, wildlife, recreation, grazing) will eventually degrade too.

Jared Diamond's book "Collapse: How Societies Choose to Succeed or Fail" documents in sobering detail what happens to communities and cultures when land function fails.

Fortunately, advances in ecological knowledge, such as the 'state-and-transition' model, coupled with new quantitative and qualitative monitoring protocols mean we have a much clearer picture of what land health means than we did sixty years ago when Aldo Leopold coined the term.

This means that land health targets can be described, measured, and analyzed. They can be achieved too, as well as enforced, if necessary.

On public and private land, the bottom line is land function – from the soil up. If land exists in a degraded condition and is in need of restoration, then that should be the primary goal of its managers. If it is healthy, then it needs to be maintained. Unfortunately, much of the West is degraded, for a variety of reasons, including much of the federal commons. Tackling this 'land health' crisis, principally through restoration, will require a great deal of innovation, education, and commercial activity.

2) The whole toolbox is available. Achieving and maintaining land health requires having the entire toolbox at one's disposal. It also requires having the flexibility, and incentive, to quickly choose a particular tool for a particular job. Nature is not static – it exists in a constant state of flux, including sometimes violent perturbations. Stewardship, especially restoration work, needs to be equally active – within

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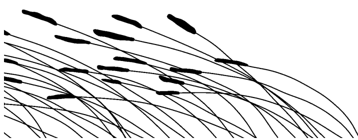

the limits set by collective goal-setting. Evaluation of the effectiveness of any particular tool is necessary as well.

But the freedom to innovate is necessary too. The power of creativity needs to be tapped, encouraged, and rewarded, especially given the scale of the task of stewarding land today.

The initial response by the government to a new idea should be "why not?" If implemented, it should then be followed by monitoring, evaluation, and adjustment. Regulation should follow innovation at a distance – not stand in its way.

In a mugido, the principle role of the government is that of an auditor. It should check progress one or two times a year, maybe more, and suggest or require changes, if necessary. If a permittee has abused a tool, or failed to perform to predetermined standards, then the government reserves the right to terminate the relationship.

It can then issue another RFP.

3) Profit is a good thing. The key to innovation is positive financial incentives for restoring and maintaining land health. Additionally, delivering values that society wants must result in a profit for the steward. Negative incentives – the threat of regulation, for instance, or paying a land manager not to damage land (the traditional response of government) – won't work in the long run.

But the answer doesn't lie wholly in the market either – not as long it remains more profitable to exploit natural resources for short-term gain. Until we can create a 'healing' economy – one that pays landowners and managers to restore and maintain land health on par with what they can earn by damaging land function – the marketplace cannot be allowed to have a completely free hand.

The answer, in the meantime, is to create a public-private partnership that is profitable to both, ecologically and economically. Private entities would be free to be entrepreneurial on public land, within limits enforced by monitoring, and public agencies would benefit from increased land health. Jobs will be available locally, which will help maintain community health. The best 'yes' of all is a paycheck.

One nice thing about land – it will never be outsourced to a foreign country!

Right now, the incentives on public land all point in the wrong directions. Many grazing permittees feel little or no incentive to improve their stewardship partly because they are not rewarded financially for it (and are sometimes punished) and partly because they consider stewardship to be 'the government's job.' That's the problem with regulation – good stewardship needs to be encouraged and rewarded, not policed. And for federal employees there is little or no incentive to 'think out of the box.' Too often, individual initiative hits a brick wall of bureaucratic indifference.

Or as a friend likes to say: "Low input gets you low output."

4) Let government employees be free. Most civil servants don't want to be regulators. They didn't go to college to study how to be bureaucrats. They studied natural resource management, or biology, or archaeology, or planning. They went to work for the government because they wanted to be foresters, range managers, biologists, archaeologists, and planners. They wanted to be outdoors, in the woods, on a horse, doing research, or setting a prescribed fire. They didn't go into government to enforce compliance, sit in a cubicle, push paper, or appear in court.

Government employees need to be professionals again. Let them get to 'yes' by being biologists and archaeologists; let them monitor, and teach, and learn. Let them help.

Since private entities often won't

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"Government employees need to be professionals again. Let them get to 'yes' by being biologists and archaeologists; let them monitor, and teach, and learn. Let them help."

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have the technical or educational experience needed to understand all the variables of stewardship, this expertise can be provided by the government. The complex issues surrounding endangered species, for instance, require the involvement of specialized knowledge. This will be tricky since the intersection of wildlife management and land health, not to mention best management practices, is not fully articulated yet. But letting biologists be biologists is the first step.

This way they can become genuine partners in land stewardship.

5) Find a role for urban folks. The widening urban-rural divide is having deleterious effects across the West, politically, economically, culturally, and ecologically. As the West continues to urbanize at a rapid rate, and as city dwellers move to the country (or at least purchase big parts of it), the rift threatens to grow. Fortunately, efforts to close this divide are becoming more numerous, especially around organic farming, agrotourism, water quantity and quality issues, and the protection of open space.

"What is needed now is a way for urbanites to say 'yes' on public land. Restoration is one way – the physical process of getting out on the land and helping to heal a creek or a meadow with one's labor is a satisfying experience. Another is to become active in the stewardship of rural public land. Lend a hand, buy local food, invest in a cow, do monitoring, take a tour."

An effort needs to be made to bridge the urban-rural divide on the federal commons as well. In particular, urbanites who care about the condition and fate of public lands need to be given an alternative to conflict. Right now, the principle way a city-bound person can express their concern for a national forest or park is to write a check to a watchdog environmental organization. The typical response of these watchdog groups is 'no' – often for good reason. There's always a bad dam, development, or oil-and-gas wells to fight someplace. Fighting is as necessary as it is unfortunate.

But it is still all about 'no.'

What is needed now is a way for urbanites to say 'yes' on public land. Restoration is one way – the physical process of getting out on the land and helping to heal a creek or a meadow with one's labor is a satisfying experience. Another is to become active in the stewardship of rural public land. Lend a hand, buy local food, invest in a cow, do monitoring, take a tour.

At the same time, permittees on the federal commons need to find positive roles for urbanites. Pull them in, get them involved, make allies. Take their money, and give them a return on their investment.

Make them part of the solution.

Engaging the public constructively on a mugido should be one of the conditions of the RFP. It is their land, after all. The government should require that the private entity develop a plan for public involvement – tours, food, restoration, monitoring, participation in a grazing association – but it should then let the 'mugidoleros' make the final call.

Ultimately, a mugido is all about healthy relationships.

Will It Work?

A mugido is an exercise in the radical center. In 2003, twenty ranchers, environmentalists, and scientists came together to figure out a way to take back the American West from the decades of divisiveness and gridlock. The document that they produced set the following standards for membership in the radical center:

- The ranching community accepts and aspires to a progressively higher standard of environmental performance;
- The environmental community resolves to work constructively with the people who occupy and use the lands it would protect;
- The personnel of federal and state land management agencies focus not on the defense of procedure but on the production of tangible results;
- The research community strives to make their work more relevant to

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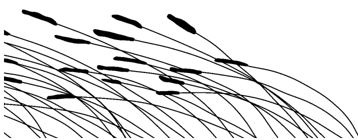

Mugido

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broader constituencies;

- For all, it means the sharing of authority and responsibility.

These are not easy things to accomplish. For one thing, collaboration is a complicated, and sometimes messy, affair. Managing a tool is the easy part – people are usually much more difficult.

But I believe a mugido might have a decent chance at success.

Let's go back to the meeting in the BLM headquarters in Nevada for a moment. The ranchers are proposing to restore Teel's Marsh to health through the innovative use of livestock. Their goal is to restore function to the 100,000-acre watershed that surrounds the marsh by repairing the damaged water cycle, principally by breaking up capped soil so that water and seeds can do their thing.

They are proposing to carry the financial risk – as well as reap any financial reward. They also propose to do all the work.

It's a radical and audacious idea, granted. But what if the BLM said 'yes?'

What if BLM employees sat down with the ranchers and worked on a set of goals, including ecological benchmarks, for the watershed? What if they pledged to do the monitoring, as well as provide the archaeological clearances and other technical support the ranchers needed? What if they provided the oversight needed to satisfy various public values, such as recreation, in the watershed?

What if they then became partners in what happened next?

The ranchers and their collaborative team, which includes environmentalists, could then go to work. They would have the flexibility to improve the watershed with whatever tool they thought appropriate, under the goal-setting guidelines, whenever, and for however long, they thought necessary.

They could find creative ways to engage urbanites in their project. Horse owners could herd cows; school children could monitor land health; they could create a nonprofit organization called Friends of Teel's Marsh; urban elbow grease could be applied to the land.

In the meantime, the ranchers would be evaluated by the quality of their product: the restoration of the marsh. Hopefully, the evaluation won't be too harsh or hasty – restoration is slow business, especially in a desert. But periodic review by the government would serve as a reality check on the project. Are the ranchers moving toward their goals? Do the goals need to be revised? What worked? What failed?

Products would also include better communication, increased trust, stronger relationships, and true adaptive management. The marsh might even be restored!

Or maybe not. Ultimately, the skeptics could be right. Maybe the marsh can't be restored. Maybe cattle are the wrong tool. Maybe a mugido is a crazy idea.

But we will never know if we don't try.

"The Teel's Marsh Watershed: a potential mugido?"

Join the conversation -

(Mugido is pronounced moo jee doh.)