

# THE SPECTER OF PUBLIC LAND

## CAPITOL COMMENTS



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**Language in the 2016 Congressional Budget Resolution and the actions of western state legislatures has intensified the debate concerning the disposal of federal public lands. This is not a new idea; many of us remember the Sagebrush Rebellion of the late 1970s and early 1980s. That effort did not produce land transfers but it served to galvanize voters around certain political candidates and views. Today, that specter rises again. Our nation's public land is at stake and a short history lesson is in order.**

Prior to the 1870s, the federal government's policy was to dispose of western lands acquired in the Louisiana Purchase, the Oregon Compromise, and the Mexican War. Unlike the 13 original colonies, which became separate and sovereign states, the federal government owned these lands and their settlement was rigidly controlled by federal presence and rules. Federal efforts to settle these lands included the Homestead Act of 1862 and the Mining Law of 1872. Land grants to railroads helped develop transportation routes and towns that further encouraged western settlement.

In the 1870s, the federal government shifted its policy from settling the entirety of public lands through private individuals and commercial interests, to providing protection for lands from development. The establishment of Yellowstone National Park in 1872 established a clear policy that conservation should accompany development. Forest Reserves, the predecessor of the National Forest System followed in 1891, and wildlife

sanctuaries, the predecessor of the National Wildlife Refuge System, in 1903. Unchecked resource use, changing public attitudes, and a strong social movement led by the likes of Club founders, George Bird Grinnell and Theodore Roosevelt, drove this federal policy shift. These actions led to a conservation legacy unparalleled across, and envied by the world.

During the 1930s, the federal government responded to the flagrant disregard for conservation on private and public lands by establishing the Soil Conservation Service and passage of the Taylor Grazing Act of 1934. The establishment of the Bureau of Land Management in 1946 was driven by recognition that the federal government must play a stronger role in the management of public lands that were not managed for beneficial, sustained use. Although the debate on federal land management and land transfer had raged for decades, in 1970 the Public Land Law Review Commission issued a report that included a recommendation that public land disposal be curtailed and land retention be emphasized.

Today federal land occupies 30 percent or more of the landmass of 12 western states, and almost 85 percent in Nevada. It is understandable why the debate about federal land transfer continues. However, individual state efforts to transfer federal land to state control ignore not only the U.S. Constitution but also the constitutions of states involved. As a condition of statehood, the states of Nevada, Utah, Montana, Washington, Oregon, and others, forever relinquished

their right to federal public land within their boundaries. This legal matter has prompted some members of the U.S. Congress to take their own action.

A recent report titled, "Principled Stewardship of the American West," authored by The Joint Senate and Congressional Western Caucuses, lays out four principles. Embedded in one of those principles is a statement that the Caucuses "will work to reduce the size of government by selling excess federal land suitable for disposal." In December, the House Committee on the Budget requested a description of how the Congressional Budget Office would estimate budgetary effects of land sale, exchange, or transfer. As it has in the past, once again, the issue of transferring federal land to other interests has captured Congressional attention. Clearly Congress has the authority to transfer lands. However, they also have the responsibility to fully explain to the American public why there is a change in a more than century-long public policy of public land retention and enhancement.

The arguments against public land are nothing new: too expensive to maintain; too burdensome to administer; not managed efficiently; not enough tax revenue for local communities; not responsive to local communities' economic needs, and on and on. The dissatisfaction with public land is real and deserves a measured debate. That debate should include a discussion of the economics associated with current and future development on those lands, recreational access and use, ecosystem services

provided, and sustainable use. Public involvement and transparency must be part of the process. The capability of state agencies to assume the cost of management, over and above what federal agencies are providing today, must be part of the discussion, as well as the public's involvement in the management of these lands at the state level. The sale of public land to private interests for private profit and enjoyment must be part of the discussion.

Finally, Congress should provide the American public with an explanation of why they have not changed federal laws and regulations that have stymied the effective management of public lands, why Congress hasn't addressed the litigious activity associated with land management decisions, and why inadequate financial resources have been provided to land management agencies.

The Boone and Crockett Club has been instrumental in creating the public land base that Americans enjoy today. These lands stand as a monument to our founders and to our passion. Using that passion, we must work with Congress to improve the care and use of these national treasures. ■