

Federal Trust Lands for the New Century



The latest debate in the U.S. between the ideas of keeping federal lands or disposing of them to states or private entities is about the same basic question in all previous rounds of this same debate: **How is the wealth of these lands best maintained and most widely shared?**

An early answer, 110 years ago, was that “the question shall always be answered from the standpoint of the greatest good of the greatest number in the long run.” Today’s debate must focus on the same basic question and arrive at specific workable agreements that meet the “greatest good” test. It must be done in the present time with today’s knowledge and needs, mindful of past attempts, but not bound by them, so we neither repeat mistakes nor disregard new ideas. Past failures to appreciate earlier views while also innovating explains why we have had this debate before but not changed much. Having changed nothing much, we have let problems worsen and have come back around to the same debate.

The Boone and Crockett Club brings a particular passion to this debate as its founders led the early conservation movement, particularly in the achievement of helping establish Timberland Reserves in the late 19th Century, which became the National Forest System. This was a pivotal moment between a US policy to dispose of common lands and a new policy of retaining those lands in trust for all Americans.

The U.S. is unlikely to return to disposing of federal lands for the same reasons we did not do so during the Sagebrush Rebellion or the privatization movement; however, we are guaranteed to continue to wrestle with polarizing debates unless we improve federal land management. Those improvements can be had by taking an open-minded look at what privatization and state trust land management does well, and why federal land management is failing to satisfy the many demands placed on it. From this it is possible to develop improvements.

The Boone and Crockett Club is committed to improvements for the same reason the Club’s founders helped establish the federal land estate: these lands are the foundation of the most successful conservation program in the world. We want a long future for conservation and for the lands at its core, but we need not continue to administer them in the same way that made sense more than 100 years ago.

We offer this background paper as a guide to a productive debate leading to workable solutions.



Boone and Crockett Club
250 Station Dr., Missoula, MT 59801
406-542-1888 | www.boone-crockett.org

Federal Trust Lands for the New Century

The problem with federal land policy today is that it has accumulated directives on a long list of competing values. Federal agencies must produce, but have no satisfactory way of allocating them. By requiring land agencies to base decisions on science, policy ensures we know what is possible, but not what is desirable. As a result, the agencies have been steered by Congress as it has enacted laws and annual budgets, and by interest groups as they have lobbied Congress and litigated agency decisions in the courts. Because many interests have had a turn in power over the years to enact their particular views in some way, the agencies are now struggling to satisfy conflicting legal requirements. Today agencies have less money for land management, overcomplicated rules to follow, and frequent litigation to defend against. The situation has been described as the legendary Gordian knot, showing no loose ends at which to begin releasing it.

Although it is no wonder that dissatisfaction leads to proposals to do away with federal lands, there are two reasons these proposals have never carried, and which also make them unlikely to succeed today. These are the same reasons that the decades-old proposal from sportsmen to convene a wholesale rewriting of public land law has never progressed either.

Economically, people are torn between liking a low-cost deal for what they get now from federal lands and potentially liking a higher-cost deal to get something better later. Most people can use and enjoy values of public lands for no cost beyond their income taxes. In some cases, there are pay-as-you-go costs such as the entrance fee at Yellowstone National Park that defrays costs of keeping the roads and other facilities in good shape. Grazing fees on federal lands are far lower than fees on state trust lands. In past rounds of debate about transferring federal lands to states, or privatizing them, the prospect of paying more on a user-pay basis than must be currently paid on taxpayer-subsidized basis has undermined support for disposing of federal lands.

The other reason disposal policy has not resumed is the paradox that federal “public” lands are actually controlled in various degrees by private interests. As people have debated federal land policy for about 150 years they have built power bases. These are the institutions such as trade associations and special interest groups for sportsmen (the Club is one of these), other recreation, and environmentalist causes—and also even the federal agencies themselves which protect their own interests in the federal lands. This is why it is common for commodity interests such as ranchers to describe their grazing permits as rights and to lobby Congress to define them as such, and why environmentalists sue to stop uses of federal land much as a landowner would do to prevent takings of private property rights. Any new idea for federal lands will be worked by these players using their means in Congress and the courts to protect what they already hold in *de facto* private control.

But there are ways to improve satisfaction with federal land management that will reduce the pressure for wholesale changes such as disposal. Some of these draw on the attractive aspects of state and private economics. For example, contracts and concessions with states, tribes, and private

Federal Trust Lands for the New Century

entities can improve management. Others draw on the reality that each interest has leverage in Congress and the courts to prohibit, disrupt, or delay agreements; and, therefore, agreements formed by public deliberation must have enough legally-binding effect to counter-balance legalistic ploys of special interests. The collaboration movement must move agency decision-making from an entirely centrally-planned, experts-decide process that is vulnerable in court to an inclusive public deliberation based on science and justified in law.

For the Forest Service—and applicable to other land agencies—The Boone and Crockett Club has and will continue promoting such ideas.

We have promoted stewardship end-results contracting, which enables agencies' to combine the production of goods such as timber with the procurement of services such as stream restoration within a single contract with private entities who can deliver both.

We have supported pre-clearance of environmental reviews for routine projects that fit within defined parameters, such as those authorized by Congress through the Healthy Forests Restoration Act.

Because all projects need up-front funding to design and review, we support separate budgets for projects and the exorbitant costs of large wildfires.

The Club is focused also on access to federal lands. True to the vision of Theodore Roosevelt—who said that conservation is as much about development as it is about protection—our view of access includes both. Federal lands are rich sources of energy of various types, and we support efficient and decisive means of enabling its development. Federal lands also provide vast opportunity for recreation, which is the prime interest of sportsmen and others, and we support more and better allowances for recreation such as those detailed in the Bipartisan Sportsmen's Act of 2015.

Lastly, we are focused on the federal program for acquiring, consolidating, and operating units of the federal land estate. Since the 1960s, the mainstay of this program has been the Land and Water Conservation Fund. Its purpose and use, however, is too narrow for today's needs. We are developing ideas for reauthorizing this program that include the possibility of additional sources of revenue into the fund, including revenues from land swaps, transfers, and sales of parcels with minor conservation values. We are considering broader uses of the fund to include projects and infrastructure in addition to more acquisitions of fee titles, easements, and leases.

The Boone and Crockett Club is firmly committed to the federal public land system. The future of these lands depends on their accessibility for multiple uses and the quality of their management.

The Club is forever committed to the best use and care of these remarkable conservation treasures, which are among its most important legacies, beginning with actions of the Club's founders and leaders in the early conservation movement to establish Yellowstone National Park and the Timberland Reserves in the late 19th Century—the cornerstones of the National Park System and the National Forest System.