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Randall K. Wilson
Gettysburg College

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Abstract

Disputes over public land rights have a long history in the United States. But the past 18 months have seen a growing number of confrontations over Western federal lands, culminating in the current standoff at the Malheur National Wildlife Refuge in Oregon. [*excerpt*]

Keywords

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QUARTZ

How the federal government went from realtor to landlord in the American West

Randall Wilson
January 8, 2016



The Oregon standoff reflects broader tensions between ranchers and the federal government. (AP Photo/Rick Bowmer)

Disputes over public land rights have a long history in the United States. But the past 18 months have seen a [growing number of confrontations](#) over

Western federal lands, culminating in the [current standoff](#) at the Malheur National Wildlife Refuge in Oregon.

Why have federal lands so consistently served as a flashpoint for anti-government sentiments? The answer lies in the complex history of public lands in the West.

The overwhelming majority of federal lands are located in the [American West](#). Comprising over 600 million acres, they constitute over half of the territory in the Western states, compared to only 4% of the land east of the Mississippi.

The reason for this uneven distribution of federal land can be attributed to America's history of land dispossession. During the first 100 years of US history, our national policy was to sell off or give away as much land as possible. Military bounties were handed out as pay for Revolutionary War veterans. Land grants to railroad companies helped finance transcontinental rail lines. And millions more acres of land were privatized through a series of Homestead Acts, with the goal of encouraging settlement in the interior West. The original 1862 rule gave 160 acres to settlers as long as they resided on and worked the land for five years and paid a \$26 fee.

This approach worked well in the East and Midwest, where land was fertile enough to sustain 160-acre farms. But much of the West was too mountainous or arid to be easily settled, or was already being used for livestock grazing—albeit without claims or money changing hands.

Ranching was viable in such environments, but required much larger tracts of land than were typically available. So a common practice in the late 19th century was for ranchers to make limited homestead claims close to scarce bodies of water. Then, by default, they could control vast amounts of otherwise dry public land without holding titles.

By the 1880s, this had led to a classic tragedy of the commons. Overstocked ranges led to massive soil erosion, culminating in the “Big Die Up” of thousands of cattle in 1886.

These problems were mirrored in other industries that made use of the land’s resources. Unregulated logging decimated the Great Lakes region and threatened to do the same out west. Once-massive bison herds on the Great Plains were reduced to a few hundred animals.

Events such as these helped spawn the early conservation movement and moved the federal government to begin setting portions of the public domain aside. No longer would these lands be available for sale or settlement. Rather, they would remain under government ownership. National parks, wildlife refuges and wilderness areas would be managed on behalf of the American people for protection and recreation. National forests and Bureau of Land Management-owned areas would be available for supervised logging, mining, grazing and other activities that made use of natural resources.

Then, in the early 20th century, the over-tilled and overgrazed landscapes out West led to the Dust Bowl. This moved Congress to place the remaining unclaimed public rangelands in the West under federal management as

well. To prevent overstocking, the 1934 Taylor Grazing Act set up a permit and fee system for grazing on lands managed by what would become the BLM. In this way, federal managers could control the number of livestock and time allowed for grazing on any permitted area based on the conditions of the pasture.

And that's the rub. Ever since the federal government shifted its role from realtor to landlord, it has faced tensions with the people and businesses who use resources located on public lands.

The first "sagebrush rebellion" took place in 1946. A coalition of Western politicians and representatives of the livestock and mining industries demanded that the government transfer public lands to the states to be redistributed to private landowners.

The effort failed. But the sentiment was reborn with the second "sagebrush rebellion" in the late 1970s and early 1980s. This time, the movement arose in response to the passage of the major environmental laws such as the Clean Air and Clean Water Act Amendments and Endangered Species Act, which indicated that public lands would come under increased regulatory scrutiny. The economic recession and the promise of support from the rising Reagan Administration also propelled the movement. The Nevada state legislature went so far as to pass a law claiming authority over all BLM land within state boundaries. But the law was declared unconstitutional, and the land stayed in the federal government's hands.

The next attempt to take over federal land came in the late 1980s and 1990s. In the aftermath of the famous protests over old-growth forests and the

Northern Spotted Owl in the Pacific Northwest, the County-Supremacy and Wise Use Movements took hold.

These efforts to claim local sovereignty over federal lands were also deemed unconstitutional. But the broader sentiments of dissatisfaction with federal management have persisted. The current events in Oregon are the latest chapter in this much longer narrative.

To a large degree, these protests reflect the oscillations of the boom-and-bust economies associated with Western industries like mining, ranching and logging. The periodic rise of sagebrush movements tend to correlate with a post-war transition away from such industries toward a service- and information-based economy.

It should be noted that the people behind the Oregon standoff and other recent protests are extremists. But it's also true that there are many rural Westerners whose livelihoods are tied to federal lands who feel disenfranchised from society's changing values.

The government is charged with managing federal lands on behalf of all American people. Over the decades, the general public has placed more importance on protecting biodiversity, sustaining environmental health, and access to recreational opportunities on public lands. Federal agencies have had to struggle to balance these interests with the interests of people who use the same land for their livelihoods.

This is not to say that ranchers are unsupportive of environmental priorities. Many have grazed livestock on the same permits for generations

and developed a rich knowledge of local ecologies. In recent decades, there have been a number of instances whereby innovative and collaborative management approaches have resulted in “win-win” scenarios for ranchers, rural communities, and the goal of environmental sustainability.

(The [Malpai Borderlands Group](#), an environmental nonprofit founded and led by ranchers, is one example.)

Yet the fundamental conflict is substantial. In this context, it makes sense that federal lands have become a focal point for broader conversations about land rights and the role of government in environmental regulation. The Oregon standoff clearly represents a fringe perspective. But the much larger underlying tensions between resource use and conservation in Western public lands will be the subjects of continued debate for decades to come.

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