

Keep It Public

Public lands place the common good over the profitable. We should fight any attempt to privatize them.

by Ethan Linck, Jacobin 4/5/17

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On the first day of the 115th Congress, the US House of Representatives passed a wide-ranging rules package that included a controversial change to how Congress calculates the cost of transferring federal lands to states and other legal entities. Observers widely interpreted the move as a way to ease the sale of public lands, and Utah representative Jason Chaffetz confirmed these suspicions when he proposed a bill to transfer “excess” federal holdings to local control in ten Western states.

It's tempting to view public land management as a niche issue, even for environmental justice activists. With constant assaults on human dignity and the climate crisis escalating every day, why focus on something so seemingly bland and byzantine?

Some supporters might point to public land's long-term utilitarian purpose or to the intrinsic rights of the non-human world. The Left, however, should oppose these transfers for a very simple reason: they represent an assault on arguably the United States' most successful experiment in public ownership.

For Public Use

o understand why public lands hold both practical and symbolic importance for the Left, it's instructive to examine the modern system's origins. For all intents and purposes, this dates to Abraham Lincoln's formal protection of Yosemite Valley with the Yosemite Grant Act of 1864. The Yosemite Grant explicitly identified the federal government as the land's primary manager and the public as its beneficiary:

[California] shall accept this grant upon the express conditions that the premises shall be held for public use, resort, and recreation. . . . All incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto.

The emphasis on "public use" and the demand that revenue only go to "preservation and improvement" has persisted to the present for the agencies that now manage most of the United States' public lands, the USDA Forest Service (USFS) and the Bureau of Land Management (BLM).

"The mission of the USFS," the agency explains, "is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations." The BLM describes its *raison d'être* in similar terms: "It is the mission of the BLM to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations."

To be sure, this mission was initially tarnished by its racist definition of "the public." And the lands state agencies preserved were stolen from indigenous Americans for the benefit of nineteenth-century settler colonialists. Yosemite itself could only be established after a military force drove the native Ahwahneechee people from their homes, a move conservationist icon John Muir cheered. The BLM, formed in 1946 after the fusion of the General Land Office and the Grazing Service, inherited many of its holdings — including the infamous Malheur National Wildlife Refuge — from exploitative treaties. In the

1990s, tensions between Hispano communities in northern New Mexico and the USFS over the sovereignty of seventeenth-century Spanish land grants exploded into violence.

In recent years, however, federal land management agencies have struck (occasionally uneasy) alliances with oppressed groups, establishing new policies to bring indigenous people into their decision-making processes. The improved relationship has sometimes paid political dividends for native people, helping them protect sacred ground, return ancestral remains, and remove hydroelectric projects to restore historic fishing runs.

Inevitably, these goals have run up against the interests of extractive industries that want to exploit public resources for private benefit.

The Public Trust Doctrine

he conflict between promoting the good of the commons and promoting the interests of capital dates back to federal land management's earliest days.

Less than a decade after the USFS's founding, a controversy between Roosevelt-appointed Forest Service chief Gifford Pinchot and Interior secretary Richard Ballinger threatened to tear apart the Republican Party on the eve of the 1912 presidential election. Gifford, a pioneer conservationist and wise-use advocate, accused Ballinger of siding with water and coal-mining interests; Ballinger claimed that Pinchot was trying to quash "free enterprise" rights. A century later, lawsuits remain a regular feature of the relationship between federal management agencies and extractive industries.

The showdown between Pinchot and Ballinger also foreshadowed a core concept in modern environmental law: the public trust doctrine. Though its roots lie in archaic property laws that appeared in Rome, England, and Spain,

the doctrine gained prominence in the US following Joseph L. Sax's seminal 1969 paper "The Public Trust Doctrine in Natural Resources Law."

Arguing that the government (or "sovereign") should hold certain natural resources in trust for public use regardless of private property ownership, this doctrine triggered a series of rulings that established its primacy over ownership of bodies of water, wetlands, and other landscape features. While legal precedent varies from state to state and from state to federal law, invoking the "public trust" has become a powerful tool to fight the privatization of the commons (and launch legal challenges to major climate change contributors).

As a result, environmental law is an anomaly in the broader legal landscape, a space solicitous to collective goods in a legal system notoriously sympathetic to private property claims.

The Sagebrush Rebellion

Even the scale of federal land holdings and their egalitarian implications, it's unsurprising that public land management triggered one of the most significant reactionary responses to environmentalism in American history: the Sagebrush Rebellion. Emerging from land disputes in 1970s Utah and Nevada, the movement has recently regained national prominence thanks to the 2014 Bundy Standoff and the 2016 Malheur occupation.

While the rebellion's central tenets cannot be fully divorced from an identity politics of rugged, white, frontier individualism, its political aims are simple. In Western states, where the federal government manages 20 to 85 percent of the total land base, Sagebrush Rebels call for nothing less than the wholesale transfer of these holdings to local — and inevitably private — control.

The rationales for mass privatization have run the ideological gamut from concerns about absentee landlordism to explicitly racist opposition to the welfare state. But the movement's key animating belief is that federal management of public lands is designed to redistribute wealth away from stakeholders in extractive industries.

The rebels have found a sympathetic ear in elite right-wing circles. Ronald Reagan famously supported the movement. And one of his economic advisers, Steve Hanke, delivered one of the rebellion's foundational speeches, a sympathetic address to a gathering of land transfer advocates in Reno in 1982.

Decades later, in 2008, he was still a supporter. "[Public] lands," Hanke wrote, "represent a huge socialist anomaly in America's capitalist system."

Ownership Divorced From Wealth

The connection between retaining public lands for the common good and left politics should be obvious. But this relationship hides something potentially more radical: unlike nearly every other aspect of contemporary American society, public lands have nothing to do with wealth.

In a country where ownership — and, indeed, basic human rights — are directly proportional to private purchasing power, this is a significant anomaly. For instance, workers earning \$15 an hour at Seattle-Tacoma International Airport own as big a share of iconic Mt Rainier as Pacific Northwest billionaires Paul Allen and Bill Gates. Nor does geographical proximity matter: Rainier belongs equally to workers in Baltimore, Miami, and Cheyenne.

This ownership confers a range of benefits. Most directly, it means that access to Lincoln's lands for "use, resort, and recreation" remains truly democratic. (Though an increasing number of private National Park Service concessionaires threaten this mission.)

But more importantly — given the significant structural obstacles that prevent many workers from taking advantage of recreational opportunities — it means that each citizen shares the benefits that public lands provide: water, climate security, agricultural production. Since these are all quantifiable, marketable commodities, it's easy to imagine a system in which a handful of robber barons controlled them all. Since the early 1900s, however, the munificence of public lands has been treated as a public good.

The Value of Uselessness

Of course, any market evaluation of the 618 million federally held acres would likely find that a large proportion provide few if any economic benefits. But rather than undermining their importance, this economic uselessness merely underscores how public lands challenge the assumptions of capitalism. While not inherently socialist, public lands do represent an investment in the aesthetic, environmental, and social as opposed to the profitable.

The federal government already manages some lands with no consideration of their profit-making potential. Federally designated Wilderness Areas and National Parks, for instance, almost uniformly ban extractive industry (except in rare cases when claims predate federal-designation status). Less stringently protected lands, such as USFS holdings, may permit logging, mining, and grazing, but, at least in theory, do so only if the landscape's other values are not compromised. Any profits must be funneled into federal coffers (and are typically returned to land management agencies).

These ideals have always been contested. Federal subsidies to destructive and economically unviable ranching operations arguably favor a handful of well-off constituents over the public at large. Similarly, commercial exploitation of resources often creates more profits for mining or logging companies than leasing fees for the government.

But these questions relate to implementation, not principle. For the moment, grassroots movements can push for change in management regimes. The land transfer movement threatens the basis for this democratic contestation.

An Ethical Necessity

In light of recent events, it's easy to see standing up for public lands as a fight between wealthy, urban liberals and working-class, rural communities.

But polling suggests that defending public lands has broad support across a wide swath of the population, both geographically and demographically. One survey found that four in five people of color nationwide supported the Obama administration's land protection measures. And a 2016 poll of the seven states spanning the Continental Divide — home to the most reliably Republican electorates in the nation — found an average of 63 percent "strongly opposed" privatizing public lands.

Chaffetz himself has had to acknowledge this broad-based opposition. After his constituents in staunchly Republican Utah voiced strong hostility to HR 621, Chaffetz dropped the bill. Announcing his decision on Instagram, he wrote:

I am withdrawing HR 621. I'm a proud gun owner, hunter and love [of] our public lands. The bill would have disposed of small parcels of lands Pres. Clinton identified as serving no public purpose but groups I support and care

about fear it sends the wrong message. The bill was originally introduced several years ago. I look forward to working with you. I hear you and HR 621 dies tomorrow. #keepitpublic #tbt

Going forward, for both their intrinsic value and their political symbolism, public lands should be at the center of any socialist environmental platform.

At stake is no less than one of the most popular, most effective cases of public ownership in the US. And in a future marked by climate change, retaining control of one of the primary means for mitigating its effects is more than important — it's an ethical necessity.