

STATUS UPDATE: MONTANA'S STUDY OF FEDERAL LANDS

by

Senator

Jennifer Fielder

SJ-15 Sponsor & Chair

Thompson Falls. MT

More Info at:

www.jenniferfielder.us

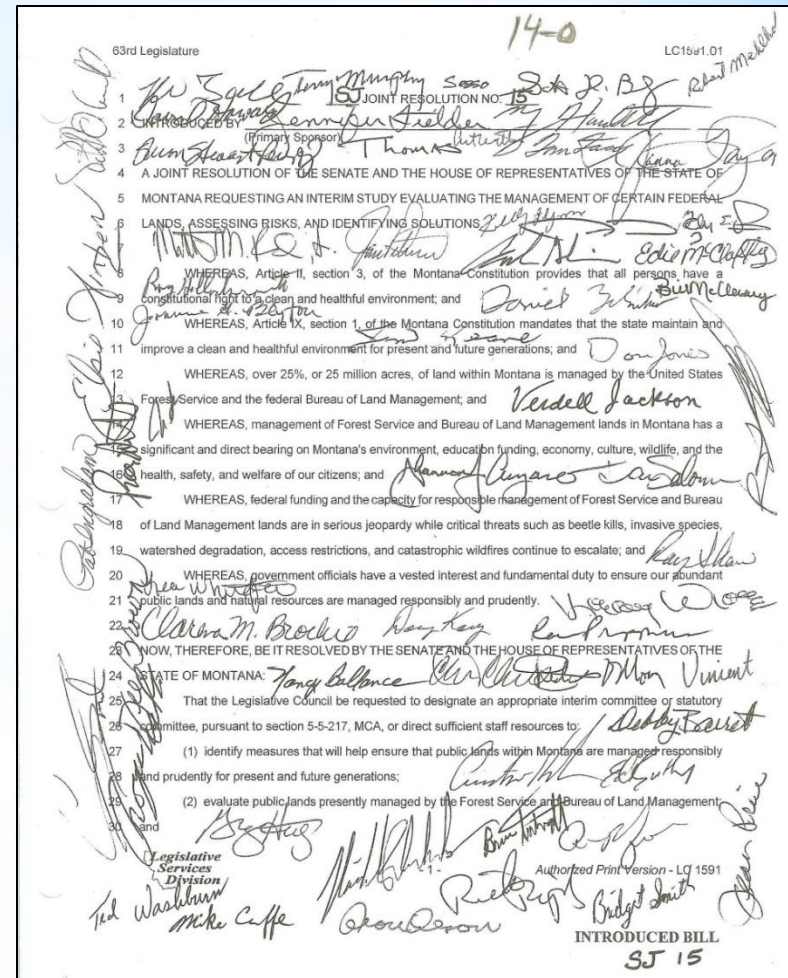


* Plus related trends and potential solutions



SJ-15:

- * 60 Co-Sponsors
- * Strong Bi-partisan Support
- * 83% Overall Approval
- * Rated as the 63rd Montana Legislature's #2 overall interim study priority.
- * Assigned to Environmental Quality Council (EQC) 2013-14 Interim Committee



* SJ-15 Montana's Study of Federal Lands

AFFIRMED

* *“Management of U.S.F.S. & BLM lands in Montana has a significant and direct bearing on Montana’s environment, education funding, economy, culture, wildlife, and the health, safety & welfare of our citizens” - SJ15*



* **SJ-15 Montana’s Study of Federal Lands**

AFFIRMED

* “Federal funding and the capacity for responsible management of USFS & BLM lands are in serious jeopardy while critical threats such as beetle kills, invasive species, watershed degradation, access restrictions, and catastrophic fires continue to escalate.”

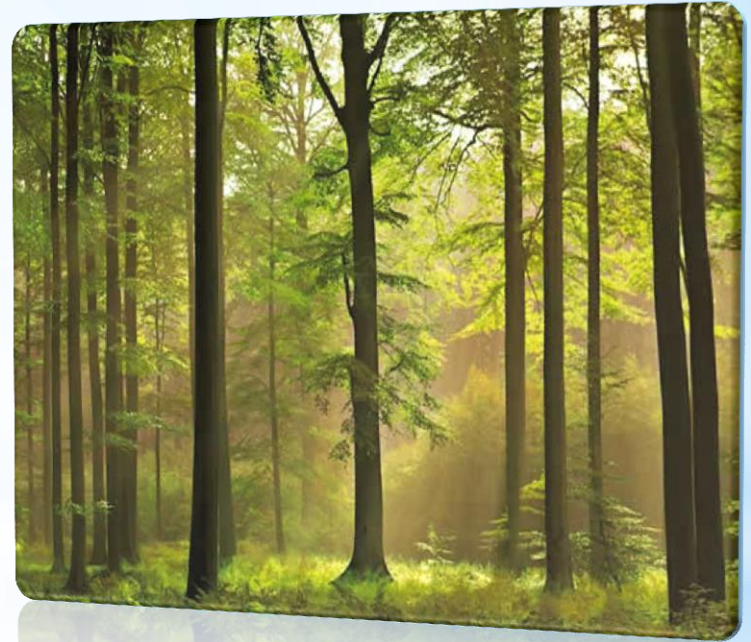
- SJ15



* **SJ-15 Montana's Study of Federal Lands**

AFFIRMED

* *“Government officials have a vested interest and fundamental duty to ensure our abundant public lands and natural resources are managed responsibly and prudently.”* - SJ15

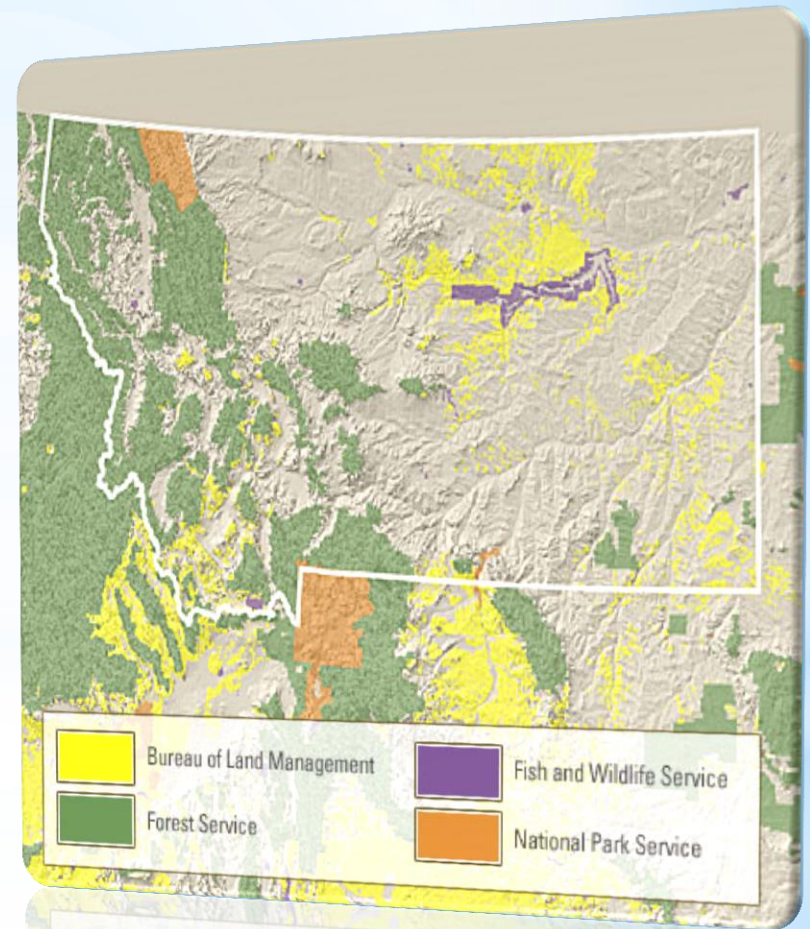


* **SJ-15 Montana's Study of Federal Lands**



COUNTY SURVEYS

- * During 2013, the State Legislature surveyed all Montana Counties containing 15% or more land area under federal management.
- * 28 counties participated



* SJ-15 Montana's Study of Federal Lands

SJ-15 FIELD TRIP

- * Legislators, USFS, & City of Helena staff visited the 10 Mile Watershed in Sept 2013
- * Forest is 95% beetle killed
- * Extreme risk of fire hazard, erosion, & interruption and contamination of Helena's drinking water supply.
- * USFS using collaborative process, "Hoping" it will work.
- * Fuel reduction project now pending Objections, Litigation



* SJ-15 Montana's Study of Federal Lands

USFS TESTIMONY

Sept 11-12, 2013

- * National forests are in worse condition today than 30-40 years ago.
- * USFS no longer generating positive revenues.
- * Budget predominantly allocated to administration, fighting fire, and fighting lawsuits instead of actual resource management.
- * Recent annual budget cuts 18%, 5%, 8%, & now 8%.... Indefinitely.
- * Forest Supervisor reported he is “Not qualified” to say what should have been done differently in 10 Mile Watershed.



* SJ-15 Montana's Study of Federal Lands

SJ 15 STUDY DESIGN:

- * Bi-Partisan Legislative Working Group
- * Federal agencies involved
- * Gathering Information
- * Assessing a variety of problems and possible solutions
- * EQC updates & deliberations
- * Final report due 9/15/14



* SJ-15 Montana's Study of Federal Lands

SJ -15 STUDY DESIGN:

A: Identify Risks & Concerns

B: Identify Desired Correction

C: Identify Barriers

D: Investigate Solutions

E: Develop Action Items



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COUNTY SURVEY RESPONSES

- * 92% said wildfire conditions on federal lands pose a significant THREAT TO PUBLIC HEALTH & SAFETY.
- * 96% said wildfire conditions pose a significant THREAT TO PUBLIC AND PRIVATE PROPERTY.



* SJ-15 Montana's Study of Federal Lands



COUNTY SURVEY RESPONSES

- * 96% believe current fuel loads on federal lands in their county could result in SEVERE, UNCONTROLLABLE, OR CATASTROPHIC WILDFIRES.
- * 79% say a high intensity wildfire is likely to cause a LOSS OF IMPORTANT FISH AND WILDLIFE HABITAT OR HARM THREATENED OR ENDANGERED SPECIES.



* SJ-15 Montana's Study of Federal Lands

COUNTY SURVEY RESPONSES

- * 64% said federal land management DIMINISHES WATER YIELD for their citizens



- * **SJ-15 Montana's Study of Federal Lands**



COUNTY SURVEY RESPONSES

- * 96% said **MOTORIZED ACCESS IS VERY IMPORTANT** for sustenance activities i.e. gathering firewood, picking berries, harvesting wild game, etc.



* SJ-15 Montana's Study of Federal Lands

COUNTY SURVEY RESPONSES

- * Only 19% reported an ADEQUATE SUPPLY OF MOTORIZED ROADS for emergency access, facility maintenance, public access, and resource management.
- * 0% said motorized access IS NOT IMPORTANT



* **SJ-15 Montana's Study of Federal Lands**

COUNTY SURVEY RESPONSES

- * 68% desire MORE MULTIPLE USE ACCESS ROUTES on federal lands within their county.
- * 32% desire to KEEP MULTIPLE USE ACCESS ROUTES AS IS on federal lands within their county.
- * 0% desire LESS MULTIPLE USE ACCESS ROUTES on federal lands within their county.



* **SJ-15 Montana's Study of Federal Lands**

COUNTY SURVEY RESPONSES

* 79% report ENVIRONMENTAL THREATS SUCH AS NOXIOUS WEEDS AND BARK BEETLE ARE NOT ADEQUATELY CONTROLLED on federally managed lands.



* **SJ-15 Montana's Study of Federal Lands**



COUNTY SURVEY RESPONSES

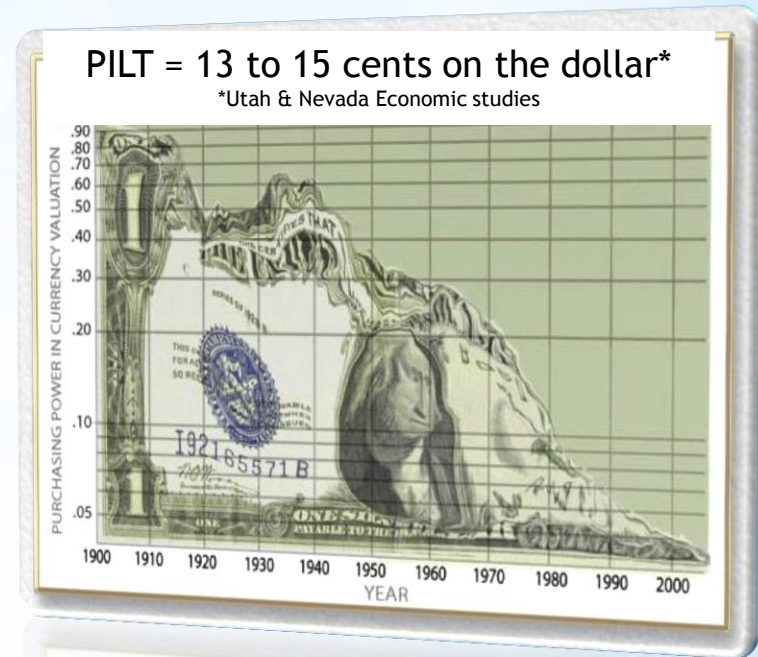
- * 58% report AIR QUALITY FALLS BELOW ACCEPTABLE HEALTH STANDARDS due to smoke originating from fires on federally managed lands.



- * **SJ-15 Montana's Study of Federal Lands**

COUNTY SURVEY RESPONSES

- * 91% report PILT IS NOT EQUIVALENT TO THE AMOUNT THAT ACTUAL LAND TAXATION WOULD BRING.

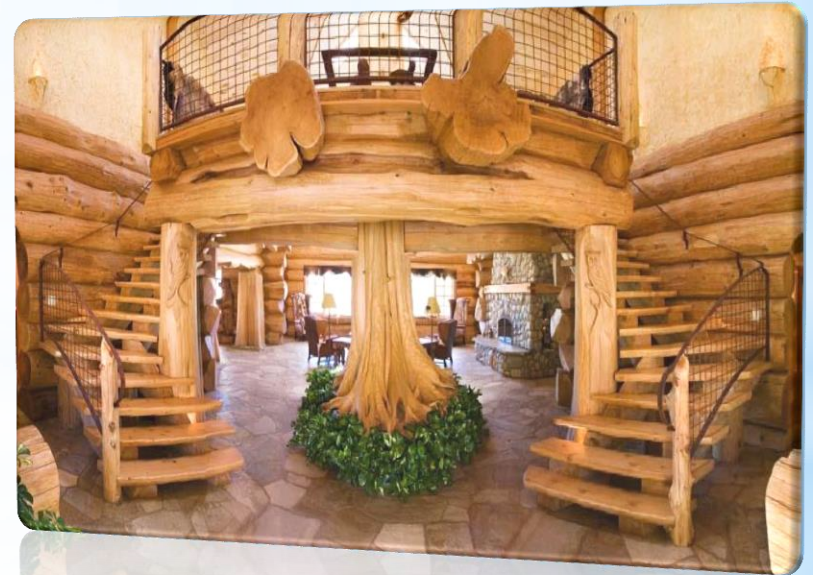


- * SJ-15 Montana's Study of Federal Lands



COUNTY SURVEY RESPONSES

- * 90% report SRS FUNDS ARE NOT EQUIVALENT TO THE AMOUNT THAT COULD BE DERIVED FROM RESPONSIBLE HARVEST OR EXTRACTION OF NATURAL RESOURCES.

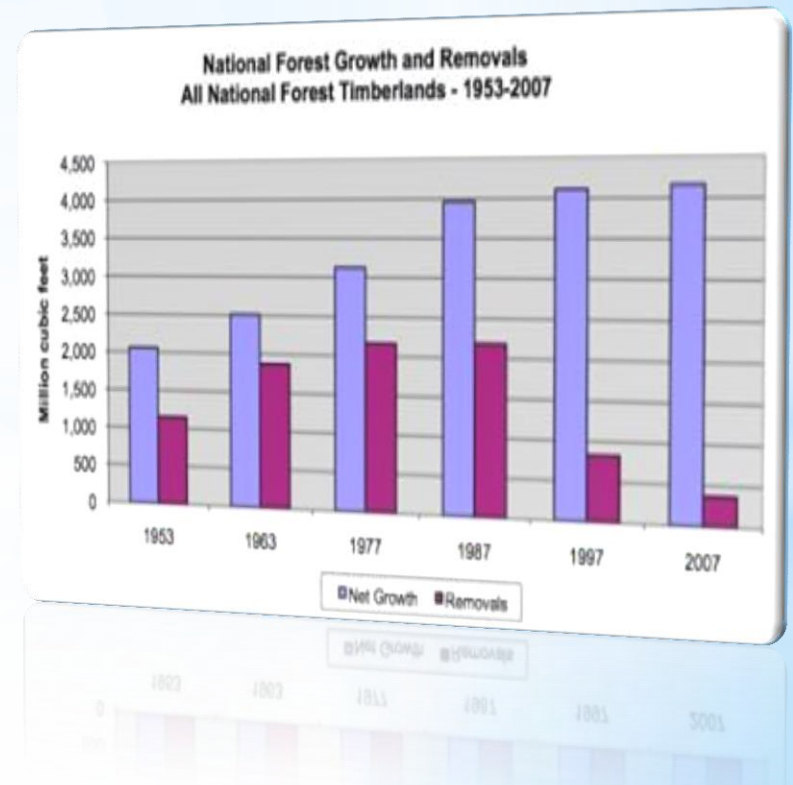


- * **SJ-15 Montana's Study of Federal Lands**



COUNTY SURVEY RESPONSES

* 96% said ECONOMIC PRODUCTIVITY AND NUMBER OF RELATED PRIVATE SECTOR JOBS IS NOT COMMENSURATE WITH THE RESOURCE PRODUCTION CAPACITY.



* SJ-15 Montana's Study of Federal Lands



COUNTY SURVEY RESPONSES

- * 88% report federal policies for threatened and Endangered Species are ADVERSELY IMPACTING PRIVATE LAND OWNERS, BUSINESSES, INDUSTRIES, OR CITIZENS in their county.
- * 71% report ADVERSE IMPACTS TO THEIR COUNTY'S ECONOMY.



* SJ-15 Montana's Study of Federal Lands

COUNTY SURVEY RESPONSES

- * 77% believe CHANGES ARE NECESSARY TO INCREASE THEIR COUNTY'S ECONOMY, EMPLOYMENT OPPORTUNITIES, OR TAX BASE.
- * 75% said federal land management activities ARE NOT CONSISTENT WITH THEIR COUNTY'S OBJECTIVES.



* SJ-15 Montana's Study of Federal Lands

COUNTY SURVEY RESPONSES

- * 88% said SPECIAL INTERESTS HAVE A SIGNIFICANT INFLUENCE on the ability of federal agencies to develop and implement effective land and resource management plans.

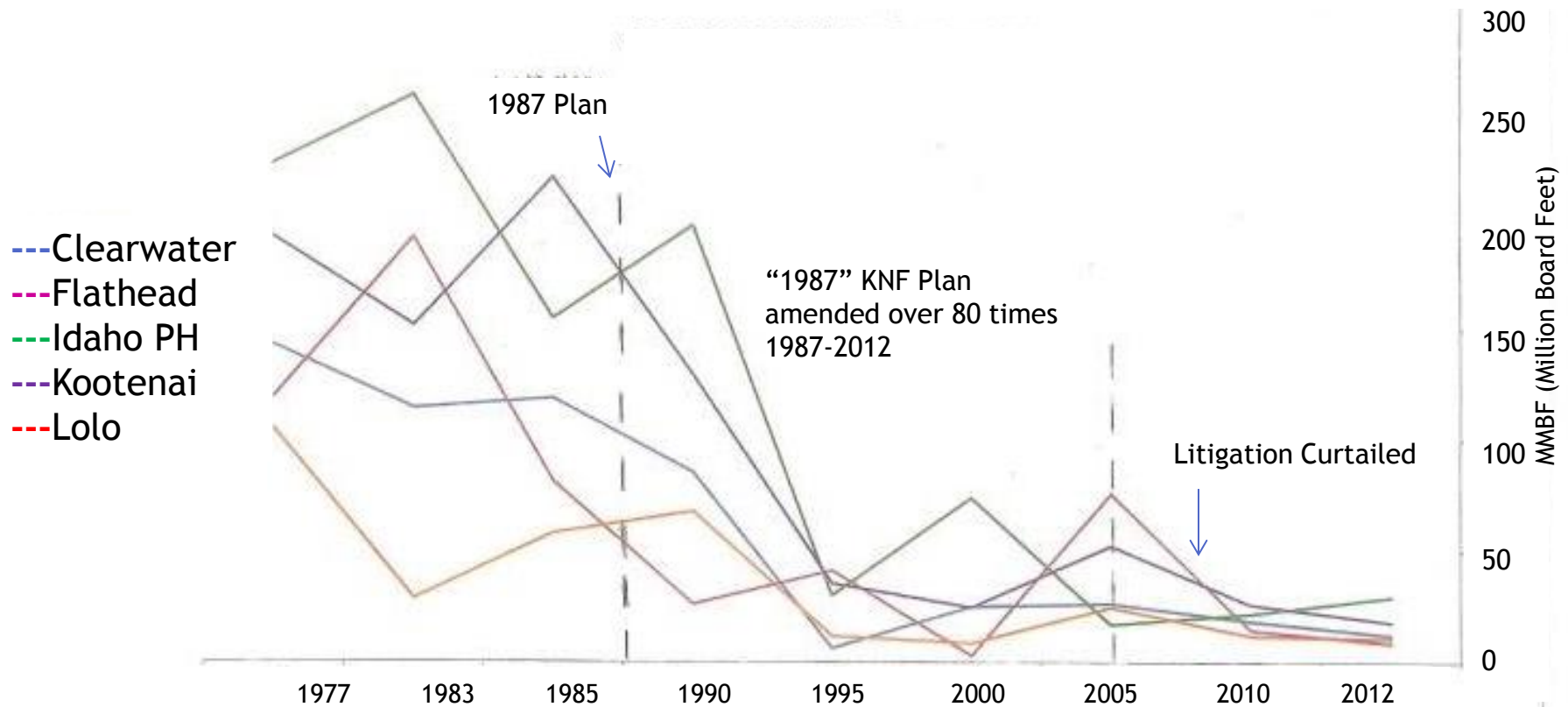


- * **SJ-15 Montana's Study of Federal Lands**

TRENDING

USFS “Managing” to avoid lawsuits

USFS Region 1 Sawlogs Sold MMBF; 1977 - 2012



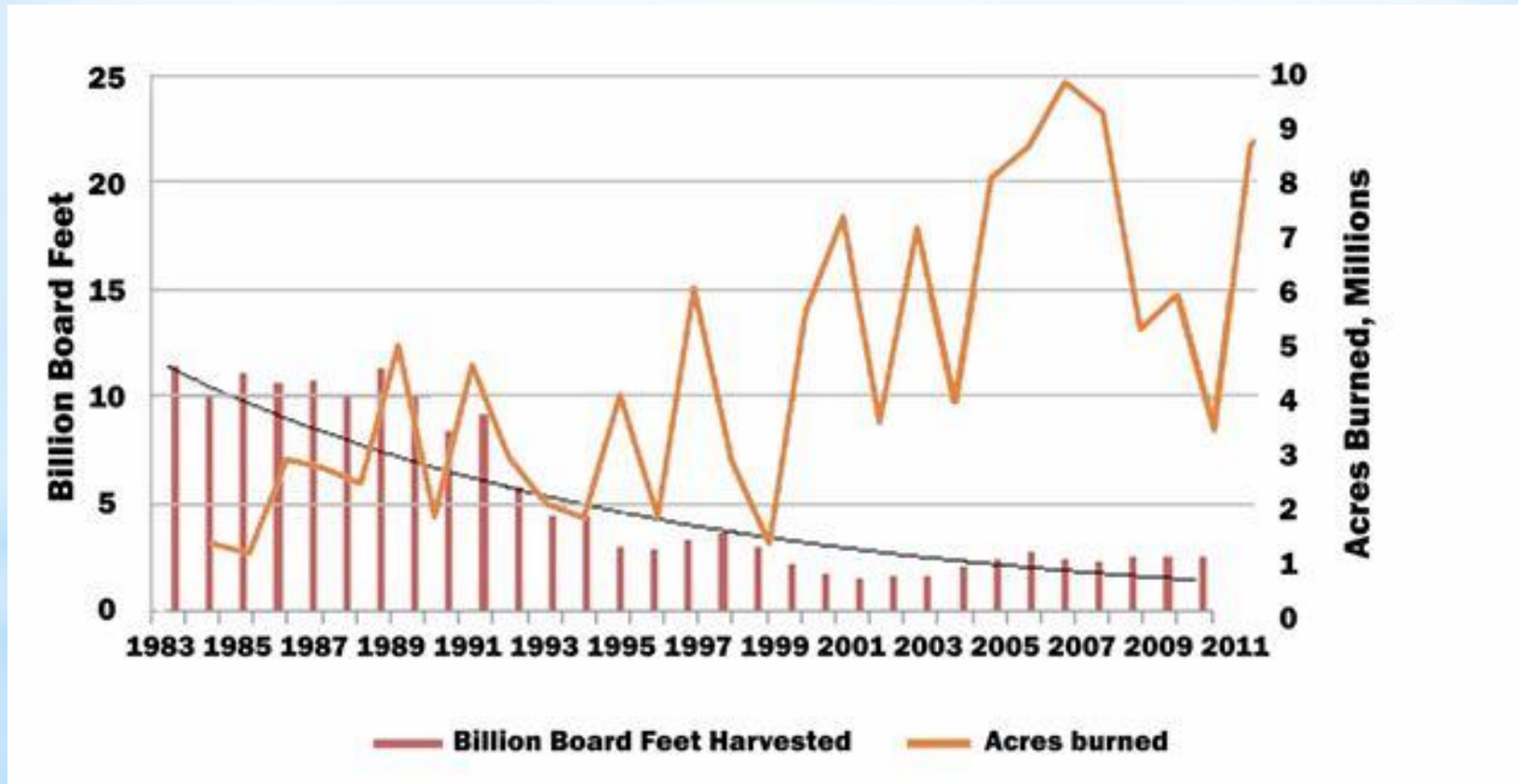
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NW Montana:
Most productive
forests in MT, and
World Class silver
deposit
= Highest poverty
and
unemployment
rates in the
state???



TRENDING

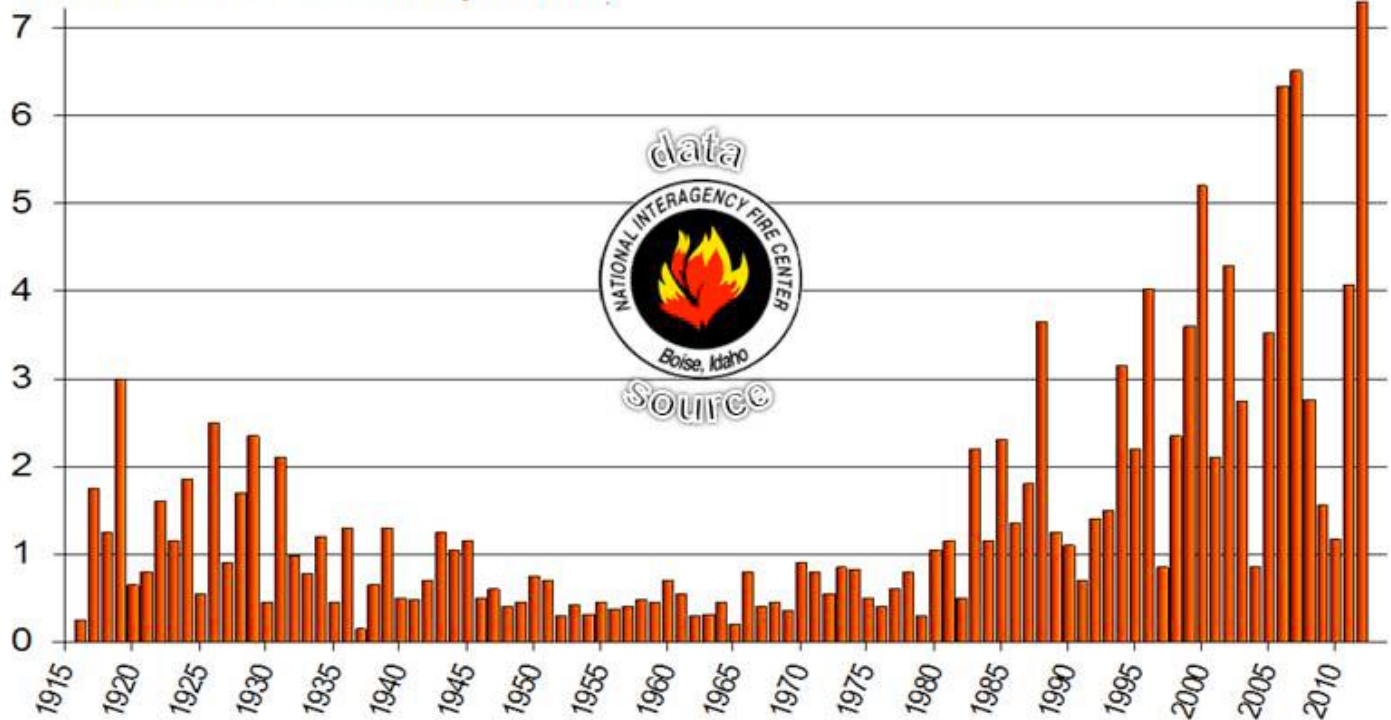
Decreased Logging - Increased Wildfire



TRENDING

Wildfires in 11 western states,* 1916-2012

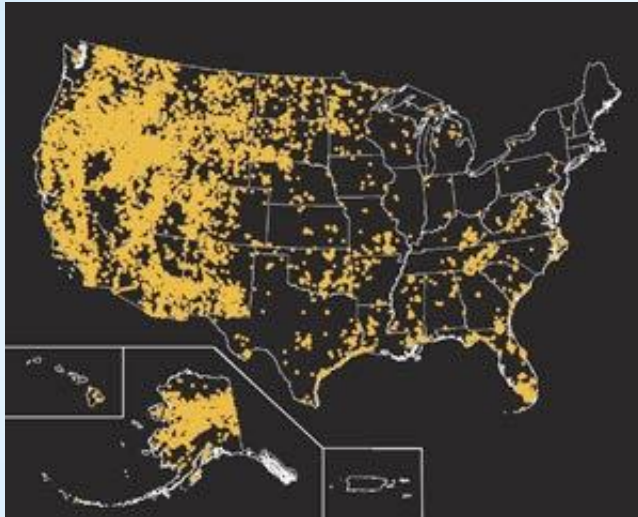
Millions of acres burned by wildfire



*11 states: AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY

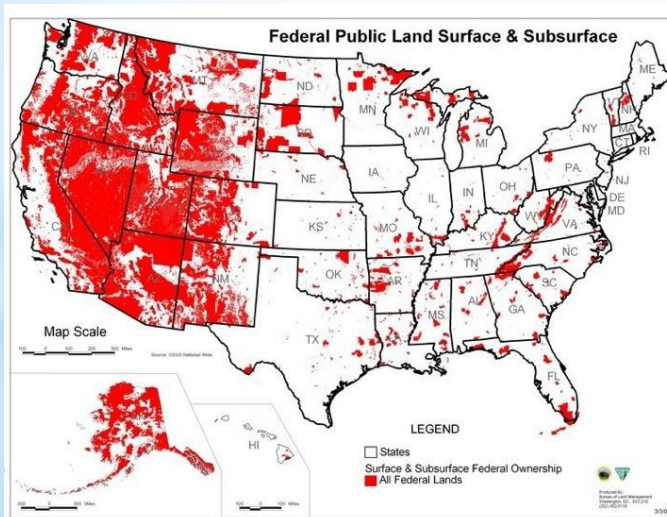
University of Idaho
College of Natural Resources

TRENDING



← Map of wildfires greater than 250 acres 1980 to 2003.

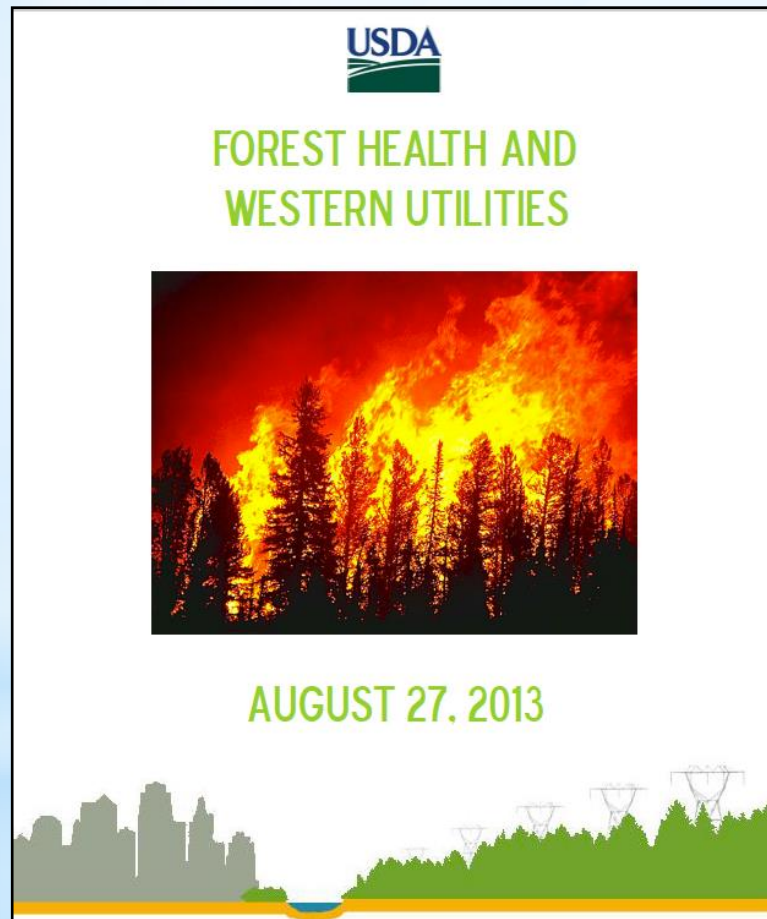
Credit: Bureau of Land Management/U.S. Forest Service/U.S. Fish and Wildlife Service/Bureau of Indian Affairs/National Park Service/USGS



← Map of federally managed lands.

Notice anything similar?

TRENDING



USDA REPORT:

Nearly 10,000 miles of electrical transmission lines on national forest lands in the west are at risk.

TRENDING



USDA:

“Fires are becoming larger and more severe.”

“Since 2000, ten western states have had record fire seasons.”

“Trends indicate the amount of wildfire and associated damage will increase beyond our recent experiences.”

“The forest service does not have the budget to treat the affected acres.”

- USFS Risk & Reliability Report, Aug 2013

TRENDING

First fires, then floods hit Western towns

By [Dan Elliott](#)
[The Associated Press](#)
Mon, 08/26/2013 - 10:00am

Images



MANITOU SPRINGS, Colo. -- Drenching rain in the wildfire-blackened hills below Colorado's Pikes Peak sent a torrent of rock and mud into the tourist town of Manitou Springs this month, killing a 53-year-old man and smashing into dozens of houses.

It had been more than a year since the enormous Waldo Canyon Fire roared across the slopes above. But its burn scar is just beginning to recover, with little plant material - living or dead - to absorb this year's late-summer rains.

So when the storm came on Aug. 9, the runoff raced down, destroying or damaging 36 homes, engulfing half a dozen cars and killing John Collins, who was driving home from work. Manitou Springs was smeared with reddish mud and debris.

Wildfire burn scars have spawned flash floods up and down Colorado's Front Range and in other Western states this summer, saddling communities with millions of dollars in cleanup costs and leaving residents fearful and anxious.

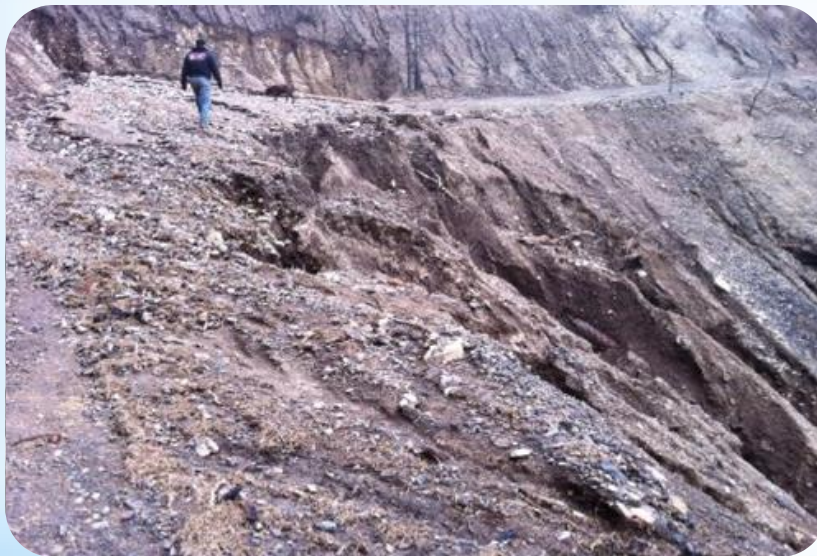
"I'm moving out," Manitou Springs resident Donna Stone said after the August flood narrowly missed her



TRENDING

AFTER INTENSE WILDFIRE:

Post-fire erosion often causes more destruction than the actual fire.



TRENDING

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Federal budget to fight wildfires is depleted


By Darryl Fears, August 22, 2013



For the second straight year, the federal government has run through its budget for fighting wildfires amid a grueling, deadly season and will be forced to move \$600 million from other funds, some of which help prevent fires.

This year's budget depletion reflects the new normal in firefighting, where parched seasons last at least two months longer than in previous decades and wildfires burn bigger and hotter, according to the U.S. Forest Service and conservationists who track fires.

More than 31,900 fires have burned 3 million

 [View Photo Gallery](#) - : Yosemite National Park

Sen Jennifer Fielder - Solving Federal Land Problems
www.jenniferfielder.us

TRENDING

UNCLASSIFIED//FOR OFFICIAL USE ONLY



FEDERAL BUREAU OF INVESTIGATION SITUATIONAL INFORMATION REPORT Criminal Activity Alert Denver Division

07 May 2012

(U) Al-Qaida In The Arabian Peninsula (AQAP) "Inspire" Magazine Encourages The Use Of Wildfires As A Form Of Jihad

(U//FOUO) The Denver Division of the FBI is releasing this report to raise the awareness of local and state law enforcement partners and public safety officials about the possible threat of wildfires.

(U//FOUO) Al-Qaida in the Arabian Peninsula (AQAP) has released issue 9 of its English-language "Inspire" Magazine. There is a portion of the magazine dedicated to attacking the United States by starting wildfires. The article instructs the audience to look for two necessary factors for a successful wildfire, which are dryness and high winds to help spread the fire. Specific fire conditions that are likely to spread fire quickly are Pinewood, crownfires (where the trees and branches are close together), and steep slope fires (fire spreads faster going up a slope).



TRENDING



Failing Federal Policies:

Unfavorable federal policies and unwise priorities are the greatest barriers to proper management and protection of natural resources.



TRENDING

SMOKED BEAR ELEVEN WESTERN STATES WILDFIRE, PRESCRIPTIVE AND FIRE USE HISTORY 2002-2012

Totals for All Acres Burned			
Type of Burn	Acres Burned	Animals Burned	Pollution Spewed (in pounds)
Wildfire	34,106,178	102,318,534	3,410,617,800
Prescriptive Burns	5,516,085	16,548,255	551,608,500
Fire Use	1,335,804	4,007,412	133,580,400
Totals	40,958,067	122,874,201	4,095,806,700

Totals for Intentional Acres Burned Only			
Type of Burn	Acres Burned	Animals Burned	Pollution Spewed (in pounds)
Prescriptive Burns	5,516,085	16,548,255	551,608,500
Fire Use	1,335,804	4,007,412	133,580,400
Totals	6,851,889	20,555,667	685,188,900

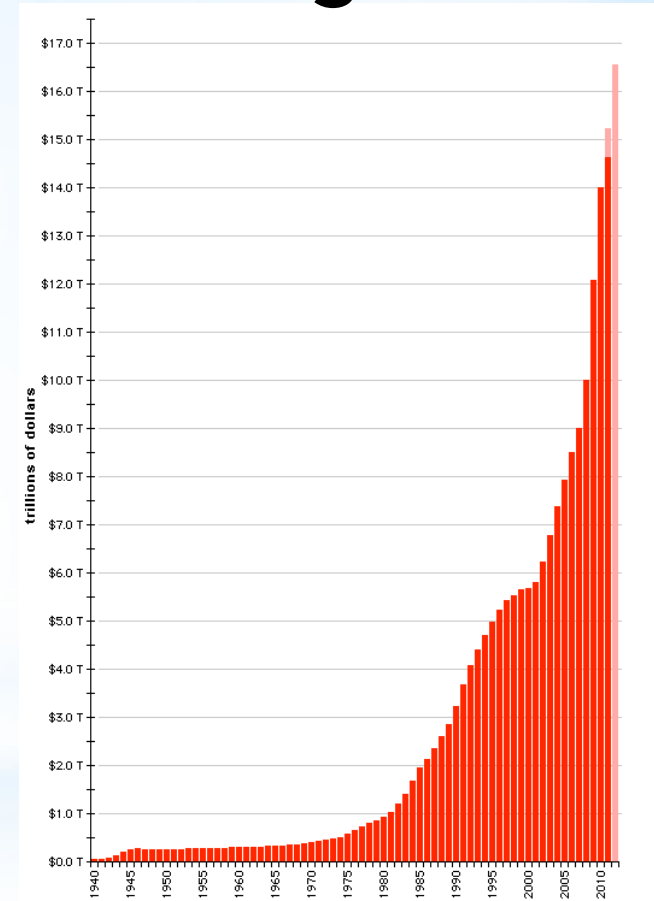


TRENDING

Washington DC financial “management”

National Debt 1940-Present

To Infinity...
& Beyond!



National Debt from 1940 to Present

Source: U.S. National Debt Clock
http://www.brillig.com/debt_clock/



TRENDING

SHUTDOWN: Washington DC declared our treasured places, natural resources, and open spaces NON ESSENTIAL???



TRENDING

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Ecuador auctions off Amazon to Chinese oil firms

Indigenous groups claim they have not consented to oil projects, as politicians visit Beijing to publicise bidding process

Jonathan Kaiman in Beijing
The Guardian, Tuesday 26 March 2013 13.16 EDT

[Jump to comments \(292\)](#)



Indigenous groups in Ecuador say the planned oil projects would devastate the environment and threaten their traditional way of life. Photograph: Alamy


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Peru declares environmental state of emergency in its rainforest
Government reports

Public lands are in extreme jeopardy of being sold by the federal government to pay down debt.

[H.R. 2657](#) (Chaffetz), To direct the Secretary of the Interior to sell certain Federal lands in Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming, previously identified as suitable for disposal, and for other purposes (*Disposal of Excess Federal Lands Act of 2013*).



TRENDING

“Montana has most inaccessible federal lands”

-Billings Gazette
December 5, 2013

The screenshot shows the Billings Gazette website interface. At the top, there is a yellow header with the logo, temperature (23°), and navigation links. Below the header is a black navigation bar with categories like News, Sports, Opinion, etc. The main content area features a list of hot topics and a featured article. The article title is "Montana has most inaccessible federal lands; groups brainstorm solutions". Below the title are social media sharing options (Facebook, Twitter, etc.) and a large photograph of a person hiking on a snowy trail. The photo is credited to Brett French/Gazette Staff. Below the photo is a caption: "Hunters, sporting groups and federal and state agencies are collaborating in the pursuit of greater access to public lands." To the right of the article is a sidebar with a pharmacy advertisement, social media follow buttons, and a "Popular Stories" section listing several news items.

TRENDING

Multi-State Observed High, Observed Low, and Average Management Costs and Revenues for States and BLM: Selected States, 1989-1994 Cont'd.

	STATE MANAGEMENT			FEDERAL MANAGEMENT		
	High	Low	Avg	High	Low	Avg
Net Profit Per Acre	\$9.57	\$4.36	\$6.29	(\$2.75)	(\$1.01)	(\$1.86)
Acres Per FTE	95,037	9,888	50,817	73,178	15,549	35,684
Revenues Per FTE	\$949,088	\$152,437	\$425,366	\$9,154	\$4,398	\$6,179
Net Profit Per FTE	\$908,571	\$63,761	\$355,100	(\$42,680)	(\$73,273)	(\$51,751)
Grazing Revenues	\$5,901,873	\$437,464	\$2,313,048	\$3,024,634	\$807,132	\$1,812,621
Grazing Revenues/Acre	\$0.68	\$0.12	\$0.41	\$0.27	\$0.07	\$0.15
AUMs Per Acre	0.1968	0.0571	0.1312	0.1721	0.0652	0.1084
Timber Revenues	\$25,408,596	\$24,259	\$12,716,428	\$738,673	\$11,934	\$212,391

Source: Table 2 from "Alternatives for Management of a Expanded State Land Base in Nevada", Intertech Services Corporation, , prepared for Eureka County, Nevada, February , 1996.

TRENDING

Table 2.1. Land Management: Federal vs. State

	<i>Revenues (\$ Million)</i>	<i>Expenses (\$ Million)</i>	<i>Revenue/Dollar Spent</i>
Forest Service	767.8	3,384.1	0.23
BLM	1,680.5	1,781.5	0.94
NPS	226.3	1,925.2	0.12
Average State Trust Lands	68.9	9.5	9.32

Note: 1998–2001 average, in 2000 dollars. State Trust Figures are based on the average for state-managed lands, including Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oklahoma, Utah, Oregon, South Dakota, Utah, Wisconsin, and Wyoming.

Sources: BLMD, FSD, and NPSD as cited in note 1; STLD as cited in note 3.

Source: Who is Minding the Federal Estate - Holly Fretwell



TRENDING

Forest Management: State Success versus Federal Failure						
	Washington		Montana		Idaho	
	Department of Natural Resources	USFS	Department of Natural Resources and Conservation	USFS	Department of Lands	USFS
Total Forest Acres	2.2 million	9.3 million	559,000	17.1 million	971,678	20.5 million
Average Harvested Volume (million board feet)/Year	567.3	79.9	52.1	82.8	232.7	93.7
Average Harvested Volume(million board feet)/Acre	257.9	8.6	93.2	4.8	239.4	4.6
State volume per acre over Forest Service	30X more volume/acre than USFS		19X more volume/acre than USFS		52X more volume/acre than USFS	
Average Revenues/Year	\$169 million	\$589,926	\$8.9 million	\$1.6 million	\$53.8 million	\$1.2 million
Revenues/Acre	\$77	\$0.06	\$16	\$0.09	\$55	\$0.06
State value per acre over Forest Service	1283X more revenue/acre than USFS		178X more revenue/acre than USFS		917X more revenue/acre than USFS	
Average Price Bid for Timber Sale (dollar/thousand board foot)	\$310	\$6	\$172	\$19	\$231	\$16

Source: U.S. House of Representatives - Natural Resources Committee, February 26, 2013

TRENDING

April 7, 2013

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Feds want \$18 million back from timber counties



JEFF BARNARD AND BEN NEARY | March 29, 2013 07:04 PM EST | [AP](#)

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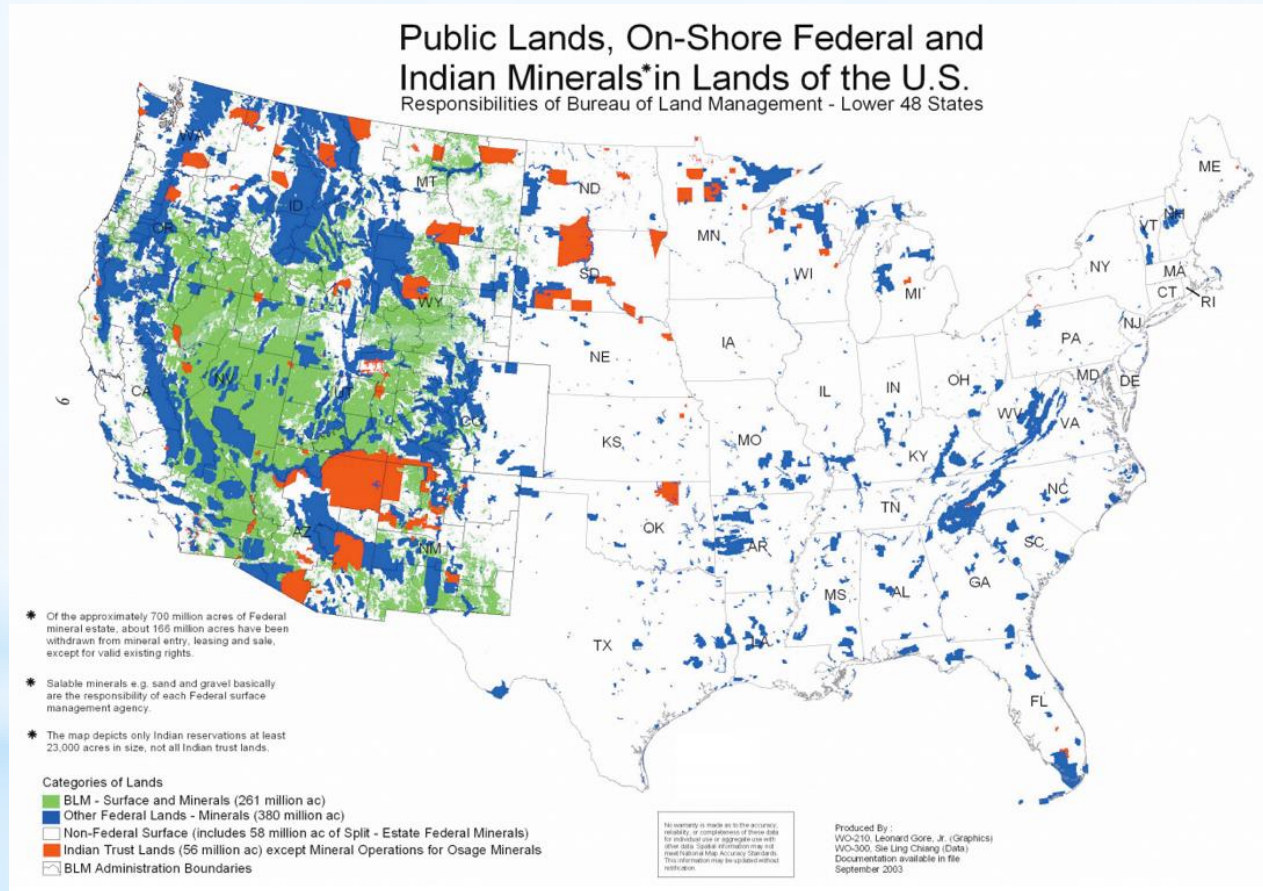
GRANTS PASS, Ore. — The U.S. Forest Service's demands that rural timber counties pay back millions of dollars in federal subsidies under automatic budget cuts have outraged members of Congress from both parties and caused concern in those counties with struggling economies.

Thirty-one members of the House this week sent a letter to the Obama administration protesting demands that they return \$17.9 million in revenues that pay for schools, roads, search and rescue operations in rural counties as well as for conservation projects.

"For the administration to announce three months after the disbursement of these payments that they are subject to the sequester, and that states will receive a bill for repayment of funds already distributed to counties, appears to be an obvious attempt by President Obama's Administration to make the sequester as painful as possible," said the letter organized by House Resources Chairman Doc Hastings, R-Wash., and signed by 30 others, including Democrats.

More than \$150 Trillion in Minerals Locked Up in Federally Controlled Lands ...

Institute for Energy Research, February 17, 2013



“For those of us in the western states, you know, there’s a real high degree of frustration when it comes to management of our federal forest lands. In Montana alone the numbers are astounding. Since 2000, 6.3 million acres of Montana’s forests have been affected by the mountain pine beetle. 4.3 million acres of forest and range lands have been impacted by wildfire. The urgency is so apparent.

Our forests should provide multiple uses. Managing our forest to accomplish and accommodate those various uses and benefits, it doesn’t just happen. In Montana I think we’ve done a relatively good job of doing that. We manage over 5% of the state’s forested lands to provide up to 15% of the annual timber volume sold in the state. And we do that while still protecting the endangered species such as grizzly bear, bull trout, and lynx.

On our federal lands, though the story, I don’t think is quite the same. **Wildlife habitat has been degraded, watersheds are at extreme risk, endangering key fisheries and clean water. Fire danger is off the charts, threatening local communities and stifling recreation, to say nothing of the economies of our rural communities.**

In Montana we still have a viable wood products industry with small and large mills dotted across the state. Yet without significant changes in available timber supply we’ll see more and more of those mills close.

Interestingly enough, about 6 years ago a diverse group of Montanans came together to try to figure out how we could address these problems. And after years of hard work they came up with a plan that actually they could all support. But then they took their plan to WA DC. And it was in WA DC that that group of folks that had all come together on the ground in Montana learned the hard truth -- that **Washington DC wasn’t really interested in finding solutions to these problems.** Congress was too polarized to get anything done. They were told, “Yes forest management’s broken, but no thanks we don’t want to try anything new.” Unfortunately now they believe the forest service and the overall system is simply incapable of getting anything meaningful done on the ground.

We now can’t wait for the federal government, though, to figure out a solution. It’s up to us as westerners to really bring answers forward, which brings me back, to I guess, my experience as a member of managing Montana’s public lands. I think that, that model works well because there is a clarity of purpose, first of all. Secondly with 5 statewide elected officials managing these lands there is direct accountability for decision making.”

Excerpts from
Governor Steve Bullock, D-MT
address to the Western Governors Association
June 2013



SJ-15 SOLUTIONS?

- * Federal Reforms
- * New Acts (HR1526*, W DFA**)
 - *Healthy Forests for Healthy Communities Act
 - **Wildfire Disaster Funding Act
- * State Legislation, MOU's
- * Strengthen Coordination
- * Assert State-Local Jurisdiction
- * Reclaim State Ownership



* SJ-15 Montana's Study of Federal Lands



Numerous states have passed legislation to transfer lands and/or study the public lands question... Utah leads the way with HB 148

TRANSFER OF PUBLIC LANDS ACT AND RELATED STUDY

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Wayne L. Niederhauser

Excludes:

- National Parks
- Military Installations
- Indian Reservations
- Congressionally Designated Wilderness
- Misc. Others

8 LONG TITLE

9 General Description:

10 This bill addresses issues related to public lands, including the transfer of title to public
11 lands to the state and requiring the Constitutional Defense Council to study or draft
12 proposed legislation on certain issues related to public lands.

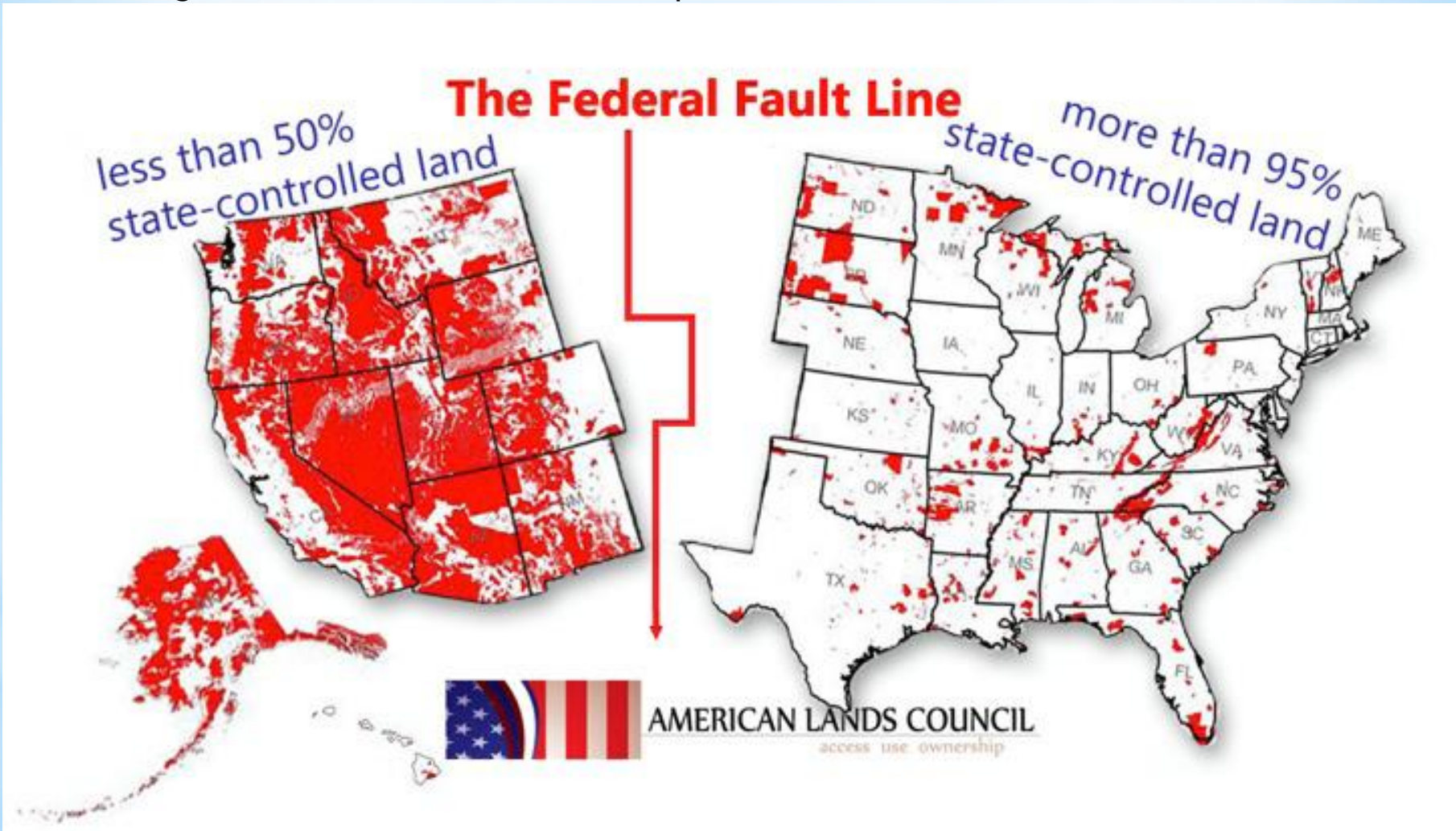
13 Highlighted Provisions:

14 This bill:

- 15 . enacts the Transfer of Public Lands Act;
- 16 . defines terms;
- 17 . **requires the United States to extinguish title to public lands and transfer title to**
18 **those public lands to the state on or before December 31, 2014;**
- 19 . provides that if the state transfers title to public lands with respect to which the state
20 receives title to the public lands under the Transfer of Public Lands Act, the state
21 shall retain 5% of the net proceeds the state receives, and pay 95% of the net
22 proceeds the state receives to the United States;
- 23 . provides that the 5% of the net proceeds of these sales of public lands shall be
24 deposited into the permanent State School Fund;
- 25 . provides a severability clause;
- 26 . requires the Constitutional Defense Council to study or draft legislation on certain
27 issues related to the transfer, management, and taxation of public lands, including:
28 . drafting proposed legislation creating a public lands commission; and
29 . establishing actions that shall be taken to secure, preserve, and protect the state's
30 rights and benefits related to the United States' duty to have extinguished title to

Why the Difference??

Many states east of Montana were as much as 90% federally controlled. Today they average less than 5% federal ownership. Yet the terms of statehood are identical.



The agreement among states to allow the United States to temporarily hold land in trust, until disposal, originated in 1780 during our nation's birth



1780 (Oct 10)
Journals of the Continental Congress
pages 915-16:

“Resolved, That **the unappropriated lands that may be ceded or relinquished to the United States, by any particular states, . . . shall be disposed of** for the common benefit [to pay off national debt] of the United States, and be settled **and formed into distinct republican states**, which shall become members of the federal union, and have the **same rights of sovereignty, freedom and independence, as the other states** . . .

That the **said lands shall be granted and settled at such times and under such regulations** as shall hereafter be agreed on by the United States in Congress assembled.”

1784 (April 23)

by the United States in Congress assembled:

Resolved, that so much of the territory ceded, or to be ceded by individual states, to the United States ... shall be divided into distinct states in the following manner ...

“THIRD. That they in no case shall interfere with the primary disposal of the soil by the United States in Congress assembled; nor with the ordinances and regulations which Congress may find necessary for securing the title in such soil to the bona fide purchasers...

That ... such state shall be admitted by its delegates into the Congress of the United States, on an equal footing with the said original states ...”

1787 (July 13)

Northwest Ordinance

An Ordinance for the Government of the Territory of the United States,
North-West of the River Ohio

“... to provide also for the establishment of States,... and for their admission to a share in the federal councils on an equal footing with the original States ...

... The legislatures of those ... new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers ...”

1787 (Aug 30)

U.S. Constitution - Madison Debates

In Convention (On the subject of disposal of western lands)

Mr. WILSON ... There was nothing in the Constitution affecting one way or the other the claims of the U. S. & it was best to insert nothing **leaving every thing on that litigated subject in status quo.**

Mr. MADISON ... He thought it best on the whole to **be silent on the subject.** He did not view the proviso of Mr. Carrol as dangerous; but to make it neutral & fair, **it ought to go farther & declare that the claims of particular States also should not be affected.**

Mr. CARROL withdrew his motion and moved the following.

"Nothing in this Constitution shall be construed to alter the claims of the U. S. or of the individual States to the Western territory,"

1789

U.S. Constitution Article IV, Section 3

- New States

“The Congress shall have Power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.”*

***NOTE: The Constitution does not say Congress shall have the power to keep the lands forever and ever!**



U.S. Senator
Thomas Hart Benton
(D-MO)

*“... my election to the Senate of the United States ... found me **doing battle for an ameliorated system of disposing of our public lands**; and with some success. I resolved to move against the whole system ... **I did so in a bill, renewed annually for a long time**; and in **speeches which had more effect upon the public mind than upon the federal legislation ...**”*



U.S. Senator
Thomas Hart Benton
(D-MO)

“The new States of the West were the sufferers by this federal land policy. They were in a different condition from other States. In these others, the local legislatures held the primary disposal of the soil, so much as remained vacant within their limits, and being of the same community, made equitable alienations among their constituents. In the new States it was different. The federal government held the primary disposition of the soil; and the majority of Congress (being independent of the people of these States), was less heedful of their wants and wishes.”



U.S. Senator
Thomas Hart Benton
(D-MO)

“They [federal government] were as a stepmother, instead of a natural mother: and the federal government being sole purchaser from foreign nations, and sole recipient of Indian cessions, it became the monopolizer of vacant lands of the West: and this monopoly, like all monopolies, resulted in hardships to those upon whom it acted.”

1829 APPLICATION OF MISSOURI FOR A CHANGE IN THE SYSTEM OF DISPOSING OF THE PUBLIC LANDS.

20th Congress

No. 726.

2d Session

COMMUNICATED TO THE SENATE JANUARY 26, 1829.

To the Senate and House of Representatives of the United States:

The memorial of the general assembly of the State of Missouri respectfully showeth: That the system of disposing of the public lands of the United States now pursued is highly injurious, in many respects, to the States in which those lands lie, . . . with the present condition of the western States. But the general assembly will state that a perseverance in the present system manifestly appears to them to be . . . an infringement of the compact between the United States and this State; and that the State of Missouri never could have been brought to consent not to tax the lands of the United States whilst unsold... if it had been understood by the contracting parties that a system was to be pursued which would prevent nine-tenths of those lands from ever becoming the property of persons in whose hands they might be taxed.

“... it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated, and that after they have been offered for a certain number of years the refuse remaining unsold shall be abandoned to the States and the machinery of our land system entirely withdrawn. It can not be supposed the compacts intended that the United States should retain forever a title to lands within the States which are of no value, and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.”

- President Andrew Jackson

Land Bill Veto Message Dec 4, 1833



President Andrew Jackson
1767-1845

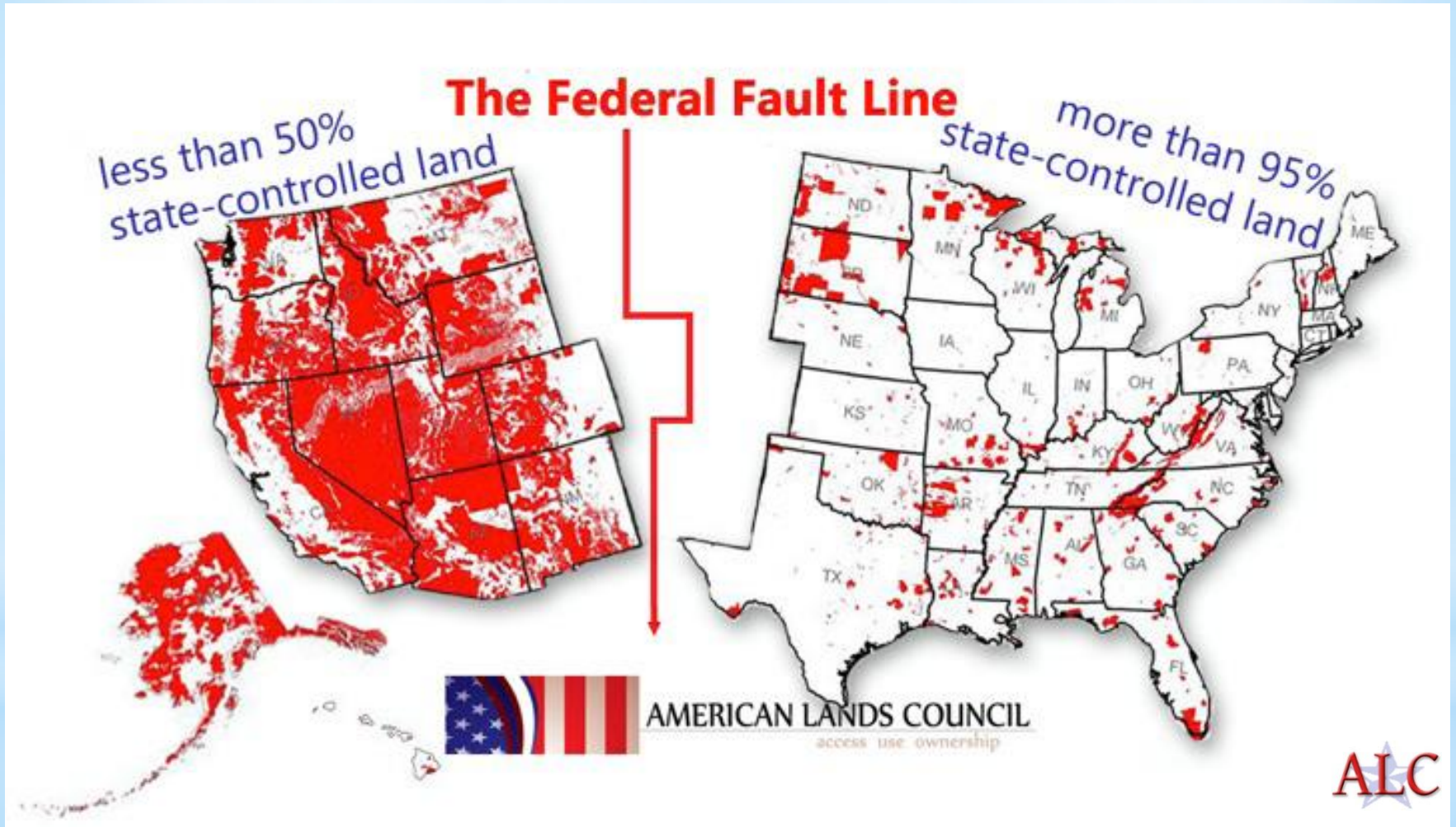


U.S. Senator
Thomas Hart Benton
(D-MO)

“the members in Congress from new states should not intermit their exertions, nor vary their policy; and should fix their eyes steadily upon the period of the speedy extinction of the federal title to all the lands within the limits of their respective States ...”

--Thirty Years View, Thomas Hart Benton

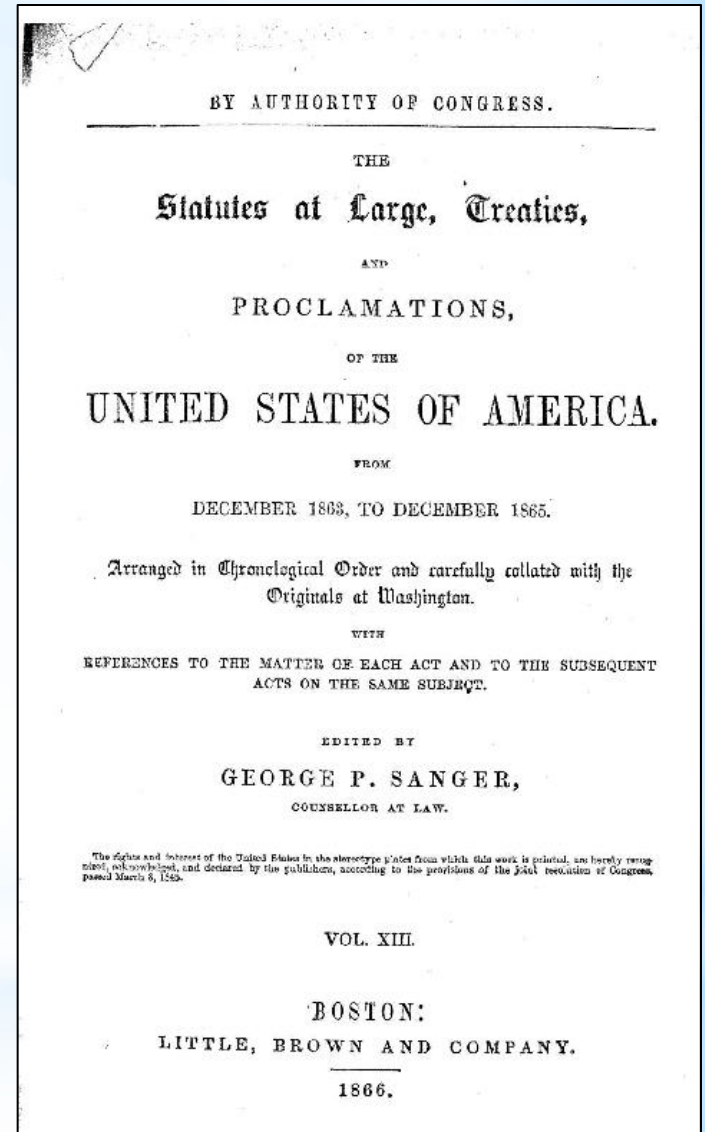
Why the Difference??



1864 Territory of Montana Organic Act: Clearly shows commitment to dispose of lands...

“no law shall be passed interfering with the primary disposal of the soil”. - Sec. 6

“lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market” - Sec. 14



1889 Enabling Act

North & South Dakota, Montana, and Washington

*“That the people inhabiting said proposed States do agree and declare that they **forever disclaim all right and title** to the unappropriated public lands lying within the boundaries thereof, ... and that **until the title thereto shall have been extinguished** by the United States, the same shall be and remain subject to the disposition of the United States, and ... **no taxes shall be imposed by the States** on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use;”*

- Enabling Act of 1889 §13



Forever Disclaim All Right and Title ...?

“that the people inhabiting the said territory, do agree and declare that they forever disclaim all right and title to the waste or unappropriated lands lying within the said territory; and that the same shall be and remain at the sole and entire disposition of the United States...”

This is in Alabama’s Enabling Act, yet

Alabama’s Land is only 2.7%

Federally Controlled Today

Forever Disclaim All Right and Title ...?

“that the people inhabiting the said territory do agree and declare that they forever disclaim all right or title to the waste or unappropriated lands lying within the said territory, and that the same shall be and remain at the sole and entire disposition of the United States...”

This is Louisiana’s Enabling act, yet

Louisiana’s Land is only 4.6%

Federally Controlled Today

Forever Disclaim All Right and Title ...?

“That the people inhabiting said territory do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States...”

This is Nebraska’s Enabling act, yet

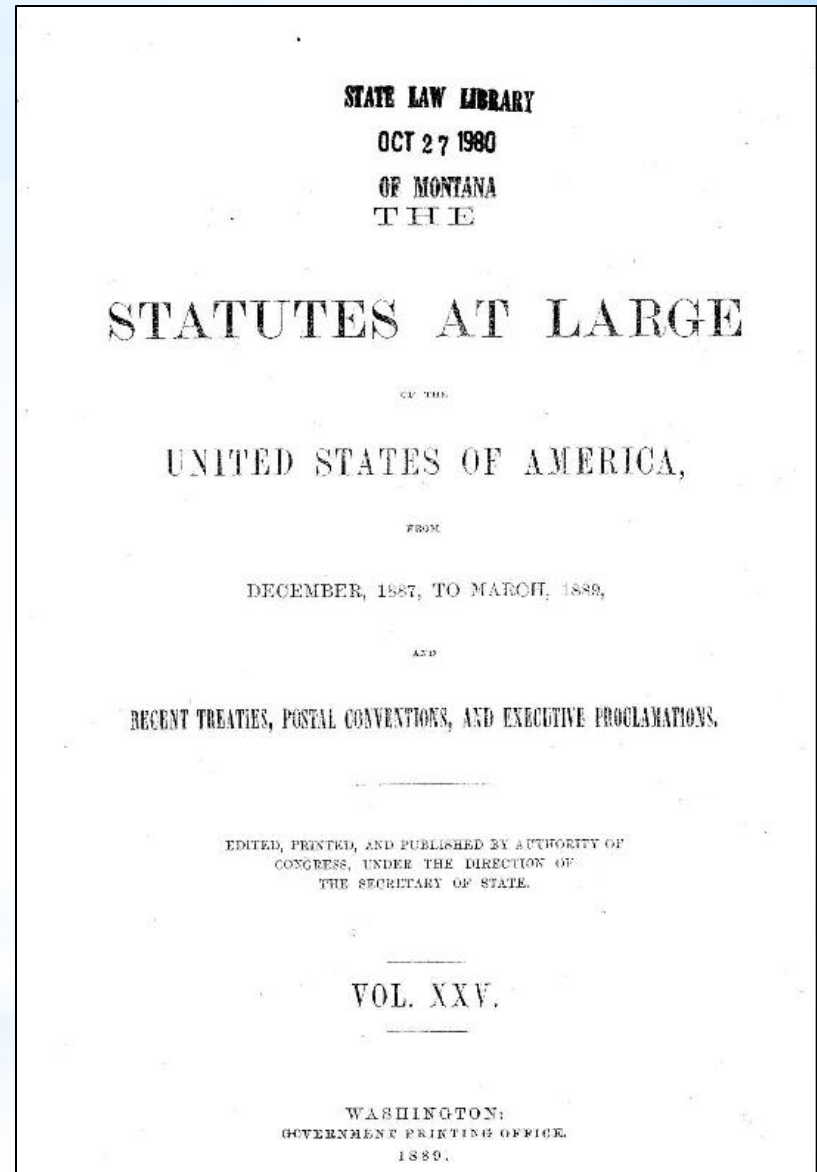
Nebraska’s Lands are only 1%
Federally Controlled Today

Montana's Enabling Act Affirms: Lands shall be sold and 5% of the proceeds shall be paid to the states...

“That five per centum of the proceeds of the sales of public lands lying within said States which shall be sold by the United States subsequent to the admission of said States into the Union, after deducting all the expenses incident to the same, shall be paid to the said States, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said States, respectively.” -- *Montana, Washington, North Dakota, South Dakota Enabling Act of 1889 §13*

Montana's Enabling Act (Statehood Compact) is not just similar to all the other state's Enabling Acts....

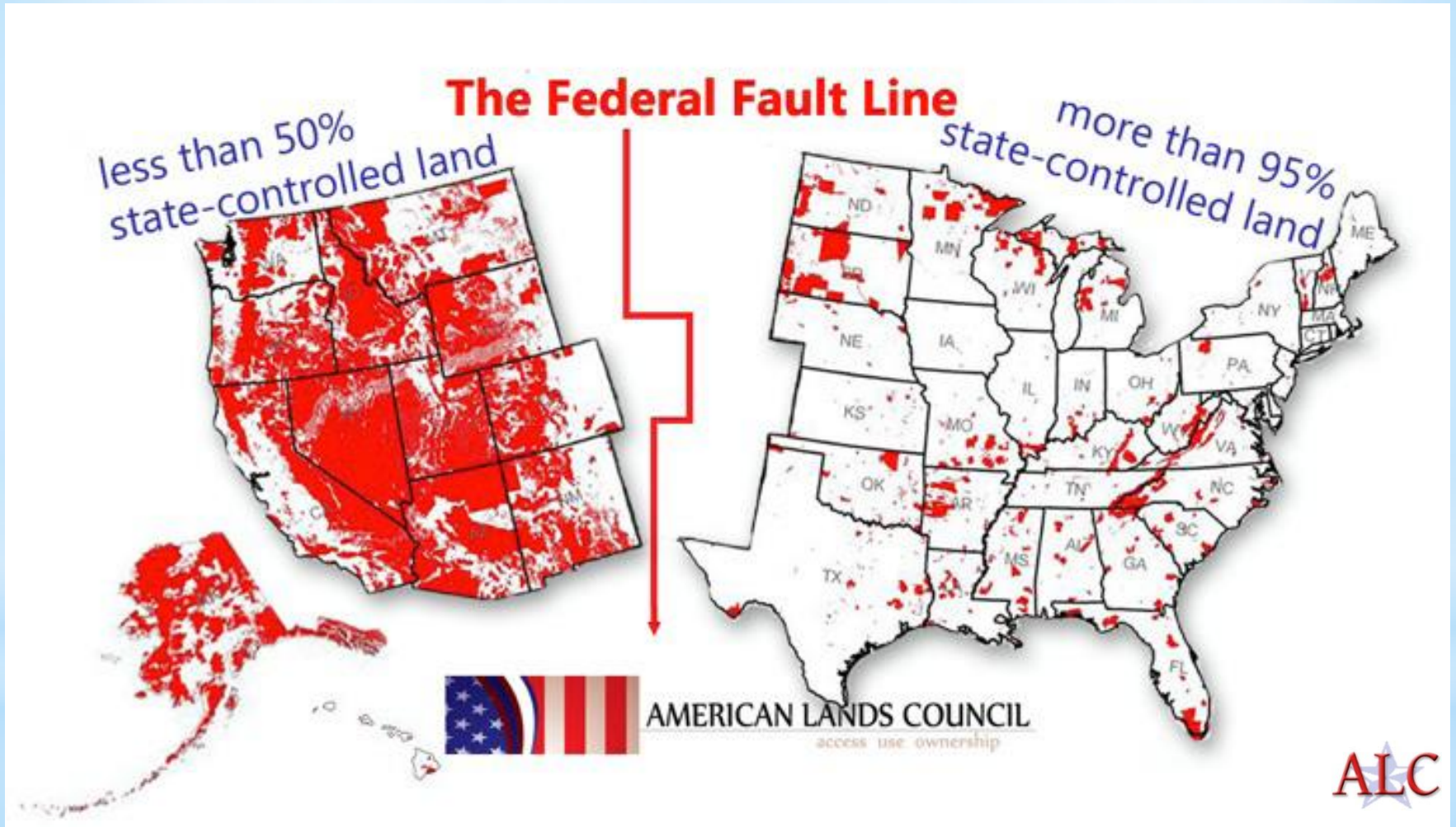
It's the exact same document as North and South Dakota !

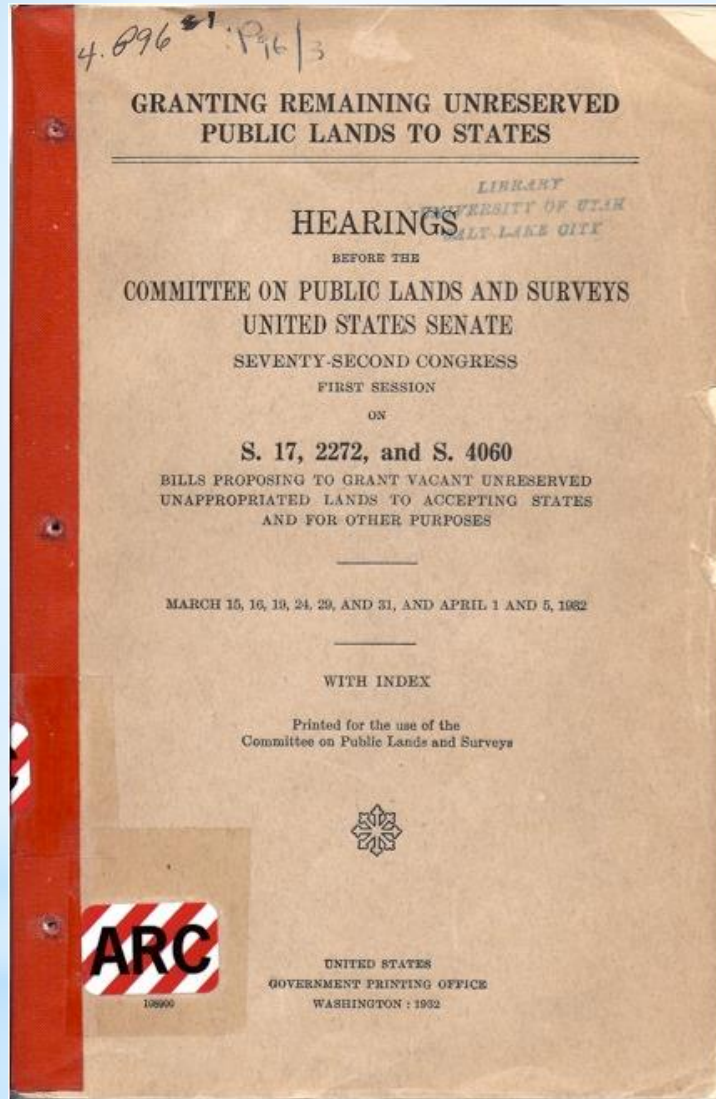


Equal Footing?

- * North Dakota's Lands are only 3.9% Federally controlled
- * South Dakota's Lands are only 5.4% Federally controlled
- * **27 million acres of Montana's Lands are Federally controlled.. nearly 30%.**

Why the Difference??





1932 Congressional hearings **GRANTING Remaining Unreserved Public Lands to States**

States rallied to kill this bill because mineral rights would be withdrawn from the land.

1934 Taylor Grazing Act affirms federally held lands are to be disposed.

“to promote the highest use of the public lands pending its final disposal...”

-EXPCITE-

TITLE 43 - PUBLIC LANDS
CHAPTER 8A - GRAZING LANDS
SUBCHAPTER I - GENERALLY

-HEAD-

Sec. 315. Grazing districts; establishment; restrictions; prior rights; rights-of-way; hearing and notice; hunting or fishing rights

-STATUTE-

In order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof, of

1976 ALONG COMES FLPMA...

Federal Land Policy and Management Act

“Congress declares that it is the policy of the United States that the public lands be retained in Federal ownership, unless ... it is determined that disposal of a particular parcel will serve the national interest.” -FLPMA, sec. 102(a)(1)

**Can Congress change the terms of statehood,
with a new, unilateral policy???**

2013 Disposal of Excess Federal Lands Act

[H.R. 2657](#) (Chaffetz), To direct the Secretary of the Interior to sell certain Federal lands in Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming, previously identified as suitable for disposal, and for other purposes.

KEY SUPREME COURT DECISIONS

- Enabling Acts are "solemn compacts" and "bi-lateral [two-way] agreements" that are to be performed "in a timely fashion" (Andrus v. Utah, 1980);
- The federal government holds territorial lands "in trust for the several states" to be ultimately created out of the territory." (Shively v. Bowlby, 1894);

* SOLEMN COMPACTS,
BI-LATERAL AGREEMENTS

"Whenever [i.e. once] the United States shall have fully executed these trusts, the municipal sovereignty of the new states will be complete, throughout their respective borders, and they, and the original states, will be upon an equal footing, in all respects whatever." ". . . **the United States never held any municipal sovereignty, jurisdiction or right of soil in and for the territory ... of the new States ... except for temporary purposes, and to execute the trusts** created by the acts of the Virginia and Georgia Legislatures, and the deeds of cession executed by them to the United States, and the trust created by the treaty with the French Republic of the 30th of April, 1803, ceding Louisiana." (Pollard v. Hagan, 1845).

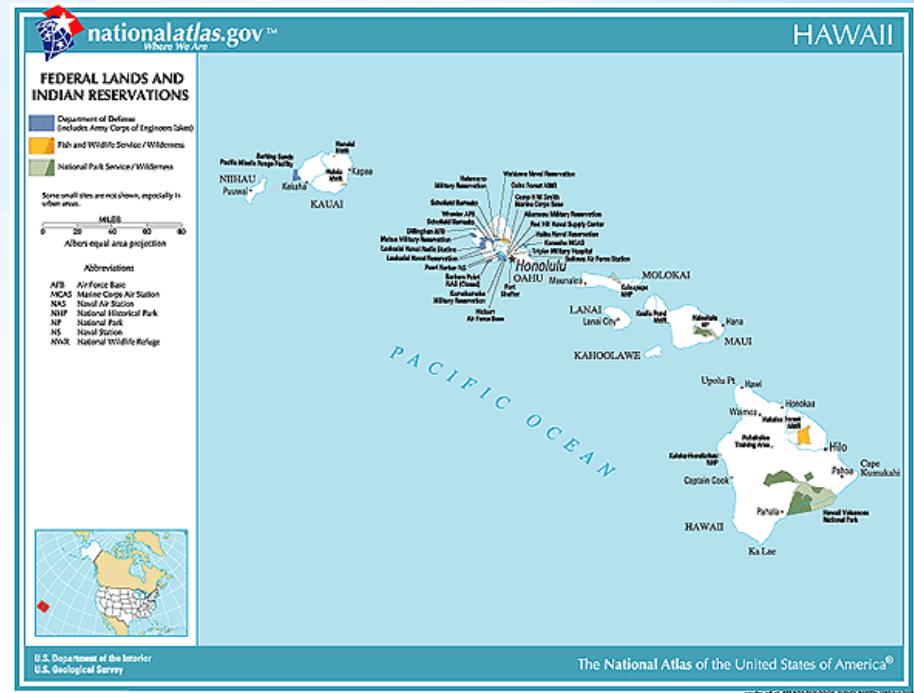
* **LANDS HELD "FOR TEMPORARY PURPOSES"**

Hawaii

(the last and Western-most State)

Enabling Act

March 18, 1959



“... the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States’ title to all the public lands and other public property within the boundaries of the State of Hawaii, title to which is held by the United States immediately prior to its admission into the Union.”

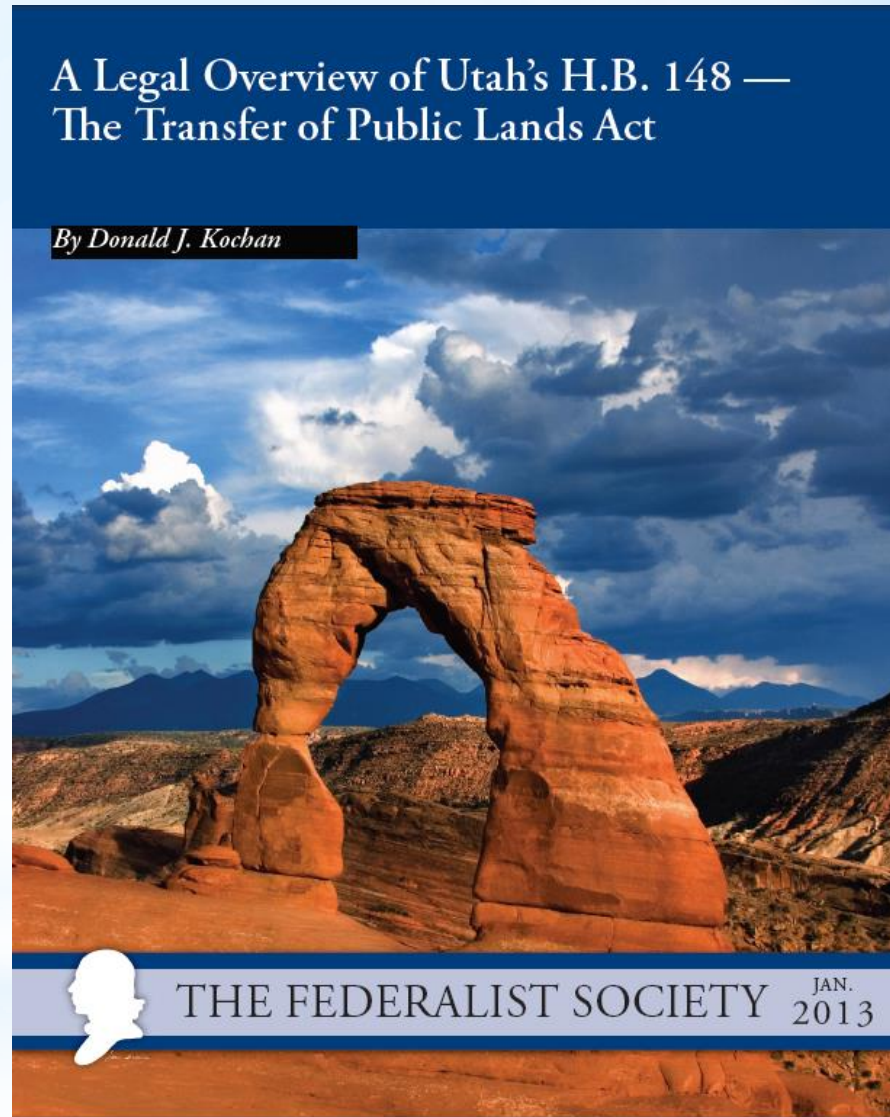
2009 U.S. Supreme Court Hawaii v. Office of Hawaiian Affairs (Unanimous Decision)

“[T]he consequences of admission are instantaneous, and it ignores the uniquely sovereign character of that event ... to suggest that subsequent events [acts of Congress] somehow can diminish what has already been bestowed.’ And that proposition applies a fortiori [with even greater force] where virtually all of the State’s public lands . . . are at stake.”

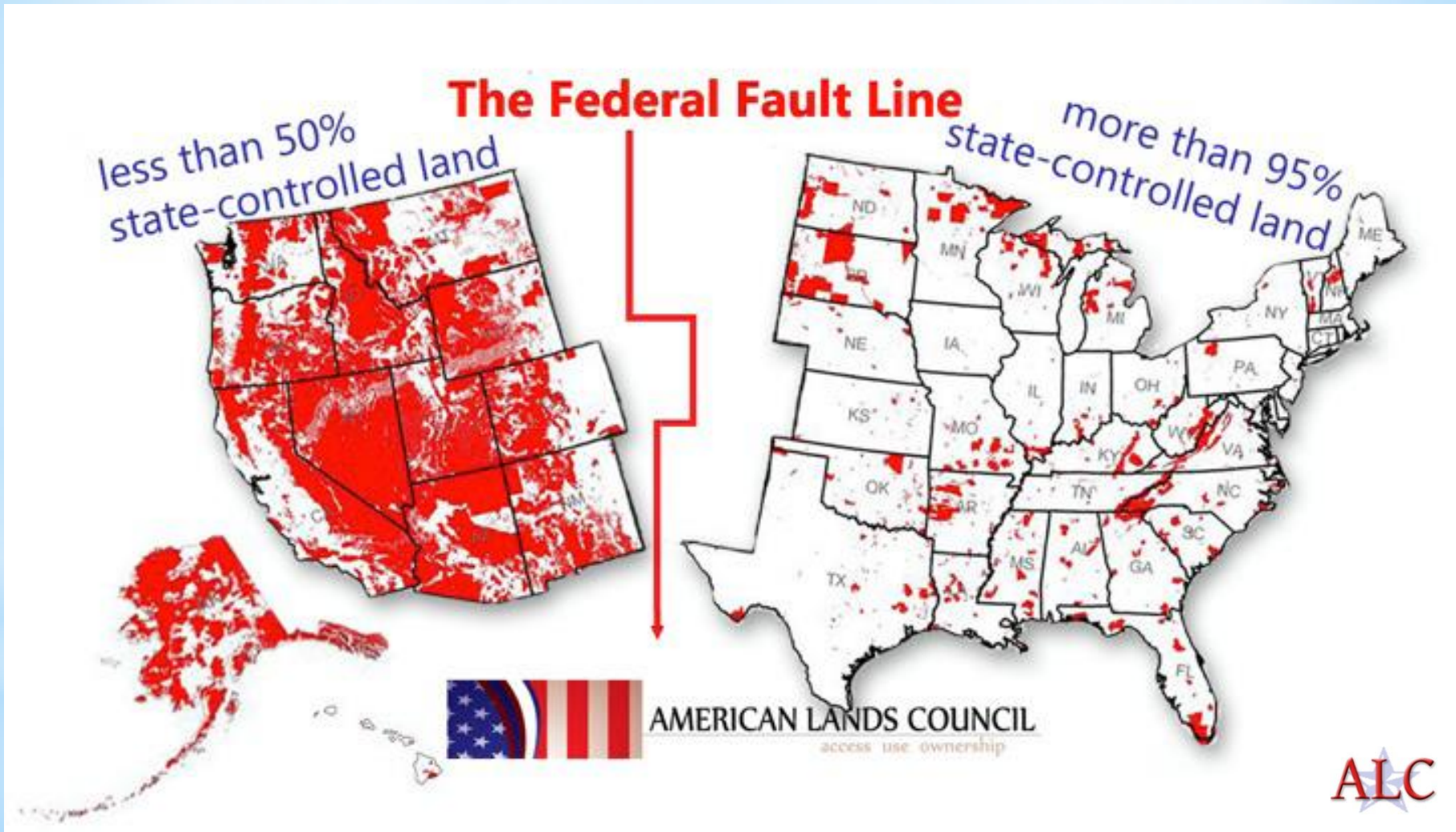
“the legal arguments in favor of the TPLA are serious”

--The Federalist Society

(an organization of 40,000 lawyers, law students, scholars and other individuals located in every state and law school in the nation)



Equal Footing? Why the Difference??



Knowledge & Courage:

It's been done before, repeatedly!
It's the only solution big enough!

WHY TRANSFER LANDS?



* **Protect public health & safety**

WHY TRANSFER LANDS?



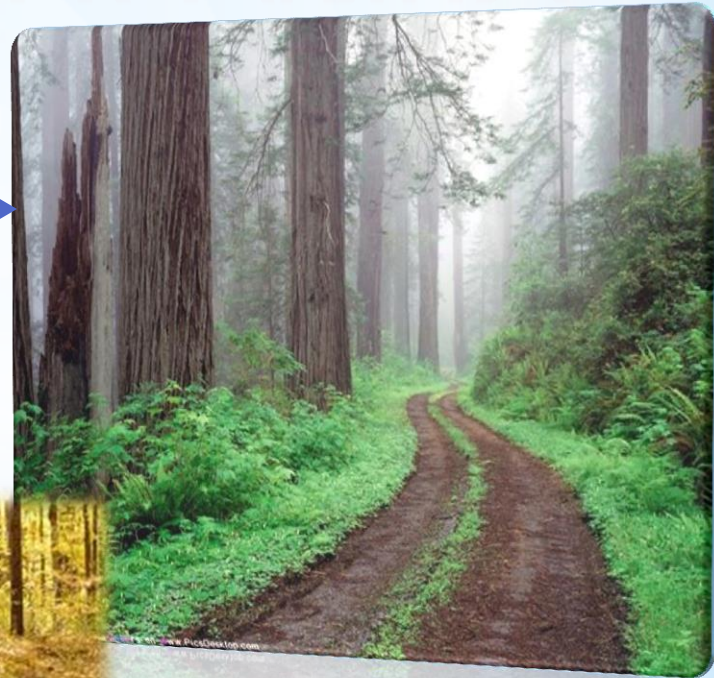
* Protect our environment

WHY TRANSFER LANDS?



Protect our wildlife

WHY TRANSFER LANDS?



* Protect multiple-use access

WHY TRANSFER LANDS?



* Protect & grow our economy

REMEMBER THIS?

Table 2.1. Land Management: Federal vs. State

	<i>Revenues (\$ Million)</i>	<i>Expenses (\$ Million)</i>	<i>Revenue/Dollar Spent</i>
Forest Service	767.8	3,384.1	0.23
BLM	1,680.5	1,781.5	0.94
NPS	226.3	1,925.2	0.12
Average State Trust Lands	68.9	9.5	9.32

Note: 1998–2001 average, in 2000 dollars. State Trust Figures are based on the average for state-managed lands, including Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oklahoma, Utah, Oregon, South Dakota, Utah, Wisconsin, and Wyoming.

Sources: BLMD, FSD, and NPSD as cited in note 1; STLD as cited in note 3.

Source: Who is Minding the Federal Estate - by Holly Fretwell

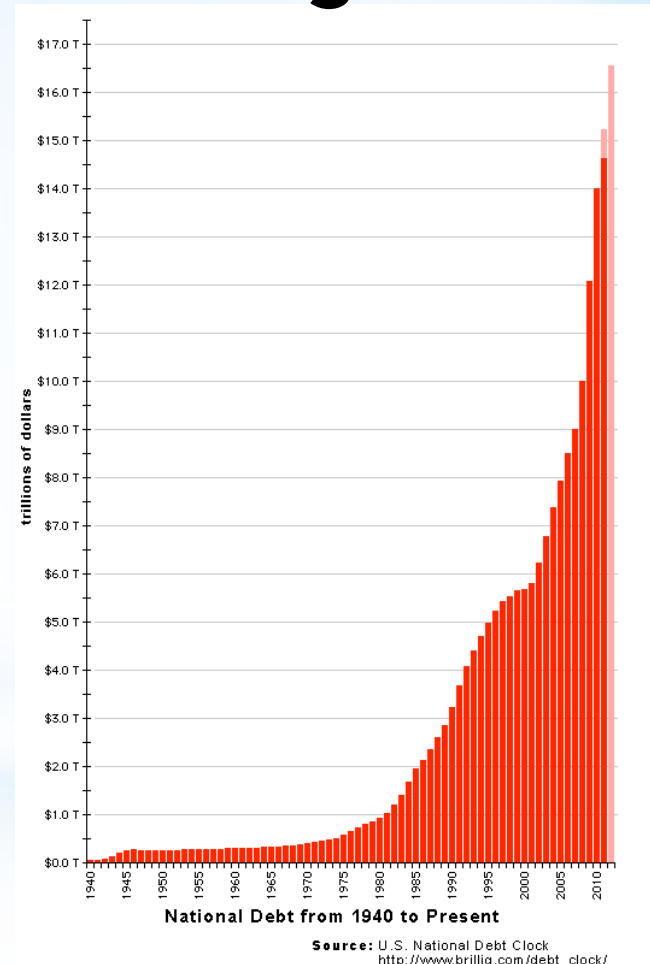


REMEMBER THIS?

Washington DC financial “management”

National Debt 1940-Present

To Infinity...
& Beyond!



WHY TRANSFER LANDS?



* Secure accountability for proper management

WHY TRANSFER LANDS?

theguardian


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News > World news > Ecuador

Ecuador auctions off Amazon to Chinese oil firms

Indigenous groups claim they have not consented to oil projects, as politicians visit Beijing to publicise bidding process

Jonathan Kaiman in Beijing
The Guardian, Tuesday 20 March 2013 13:16 EDT
Jump to comments (292)



Indigenous groups in Ecuador say the planned oil projects would devastate the environment and threaten their traditional way of life. Photograph: Alamy



* Place stewardship of Montana's public lands in Montana's hands!!!

Anti-TPL Arguments:

- 1) States aren't capable of managing the land ... WRONG!
- 2) States can't afford it... WRONG!
- 3) It's not constitutional or legal... WRONG!
- 4) You forever gave up your lands... WRONG!
- 5) There's no support for it... WRONG!

ACTUALLY:

- 1) Western states can and do manage public lands more responsibly and productively than the federal government does.
- 2) We can't afford NOT to...
- 3) It's clearly constitutional...
(In fact it has been done before, repeatedly!)
- 4) The states only allowed the U.S. to hold the lands in trust -- until disposal (transfer) -- not to be retained forever.
- 5) And...

The Statehood Compacts are the same to transfer (or dispose of) the public lands

It's already been done before - repeatedly!

It's the Only Solution Big Enough to:

- ❖ *Adequately FUND state and local public services*
- ❖ *Better CARE for our Environment*
- ❖ *REVIVE our economy*
- ❖ *Allow Montanans to DECIDE (not Washington DC or other states) how to access, use, protect, and manage Montana's public lands and resources.*

 **Knowledge & Courage**

How to Effect Transfer of Public Lands:

- * **Support American Lands Council**
www.americanlandscouncil.org
- * Facilitate fact-based conversations, public awareness
- * **Generate letters to editor and resolutions of support**
- * **Ask candidates “Why the Difference?” and “What are you going to do about it?”**
- * **Ask Montana Legislature/EQC, Governor, and Attorney General to support Transfer of Public Lands**
- * **Tell Congress to Transfer the Public Lands to the States!**

*** Knowledge & Courage!**

Coalition of Montana Chambers 2012-13

Joint Position Papers

Endorsing Chambers:

Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula

Economic Development - Return Of Federal Lands

“The Chambers encourage the State of Montana to adopt a policy requesting the transfer and management of Federal Lands, where appropriate, to the state of Montana.”

* Resolution for Transfer of Public Lands

National Association of Counties

Resolution Supporting the Full and Immediate Implementation of the Transfer of Public Lands

“NACo believes all fifty states are equal and that every state should receive everything that was promised to them in their enabling acts, including land transfers, if requested by an individual state with consultation with the affected counties.”

The current western states are still waiting for the federal government to honor the same promise it made and kept with all states east of Colorado.

Despite the fact that the promise is the same to dispose of the public lands upon being admitted as states, states east of Colorado have less than 5 percent federally controlled lands, while the western states (excluding Hawaii) have more than 50 percent federally controlled lands.

“The transfer of federal lands to state ownership will have many positive effects including, responsible development of natural resources, higher paying jobs, a growing tax base, and the ability to generate higher revenue for schools and local government.”

Adopted | July 22, 2013

* Resolution for Transfer of Public Lands

Republican National Committee

Resolution In Support Of Western States Taking Back Public Lands

“WHEREAS, Legal analyses by the Sutherland Institute and The Federalist Society conclude that the intent of the parties, the text, and the context of the statehood enabling acts, obligate the federal government to dispose of public lands; now therefore be it

RESOLVED, That the Republican National Committee calls upon all national and state leaders and representatives to exert their utmost power and influence to urge the imminent transfer of public lands to all willing western states for the benefit of these western states and for the nation as a whole.”

* *As adopted by the Republican National Committee on January 24, 2014.

* Resolution for Transfer of Public Lands

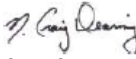

State of South Carolina House of Representatives

“To express support to the Western States of the United States of America and the federal transfer of public lands to the western states, and to urge the United States Congress to engage in good faith communication and cooperation to coordinate the transfer of title to the western states.”

* Resolution for Transfer of Public Lands

MORE RESOLUTIONS...

- * Cities, Counties, States
- * School Districts/Education Assoc
- * Trade Unions
- * Chambers, Econ Councils
- * User Groups
- * Resource Industries
- * Farm Bureau, Cattlemen, etc.

City of Herriman	WESTERN GROWTH COALITION
City of Riverton	The Honorable Gary R Herbert Governor
City of South Jordan	Dear Governor:
City of Taylorsville	As a united coalition of government officials and business leaders, and as citizens of the Great State of Utah, we pledge our support for your ongoing efforts to wrest our state lands from Federal control. Indeed, we believe that there exists no realistic and feasible pathway to fiscal sustainability without our ability to utilize these lands for the purposes originally conceived when Utah entered the Union.
City of West Jordan	We find it tragic that the Federal government appears determined to follow a course of insolvency, which will drag Utah and every other state with it over the "fiscal cliff." Yet trillions in natural resources remain untapped and under Federal control. It is in Utah's best interest to wean itself from a dependency on Federal dollars by utilizing the wealth and resources of our state to create jobs, provide the best possible education for our children, bring fiscal sustainability to our local communities, and secure economic self-reliance and energy independence. Such can only be accomplished if Utah, like so many other states who have gained control of their lands, can successfully realize the same objective.
City of West Valley	We urge the continued petition of the Federal government to honor Utah's compact of statehood, as they have to Eastern states, by disposing of public lands. The success enjoyed by other states in securing control of their lands was and is the product of a united front and an unequivocal determination to reject "No" as an answer. These Eastern states succeeded in compelling Congress to transfer title of the public lands, and so should we.
Chamber West	We stand with you at this critical time, as we endeavor to secure a brighter future for our children and their posterity. The ability to control our lands and prudently draw upon Utah's vast natural resources is not only an important component of fiscal sustainability, but we declare that there exists no more critical issue upon which our attention and energies should be focused.
South Jordan Chamber of Commerce	The Federal government has made a sacred pledge to dispose of these lands. We stand ready to assist you in helping Washington honor that promise. Our prosperity and quality of life depend upon our success.
Southwest Valley Chamber of Commerce	Respectfully, The Western Growth Coalition
West Jordan Chamber of Commerce	<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  Craig Dearing Western Growth Coalition Chairman President/CEO West Jordan Chamber of Commerce </div> <div style="text-align: center;">  Rick Davis Western Growth member West Jordan City Manager </div> </div>
	8000 S Redwood Road • West Jordan, Utah 84088 • 801-569-5150 • craig@westjordanchamber.com

“If we fail to secure the same statehood promises and rights for our states and our future, it won’t be because it is illegal, unconstitutional, or impossible -- it will simply be because we and our leaders lack the knowledge and the courage to do what has already been done before - repeatedly!”

- Ken Ivory, President American Lands Council

 **Knowledge & Courage**

**FOR MORE INFO:
CONNECT WITH ME!**

Montana State

Sen. Jennifer Fielder

www.jenniferfielder.us



*** Knowledge & Courage**