

Our Public Lands: For Sale and For the Few?

A Recent History of the Wyoming State Legislature's Land Grab Efforts

Since 2013, a small number of Wyoming state legislators have pursued a long-term plan of seizing federal lands within our state. Their intent—clearly and consistently expressed in the legislative record—is to allow some if not all of our public lands to be sold to private interests. Seven bills related to this topic have been introduced in the last four sessions alone.¹

These lawmakers want to see our national forests and open public lands privatized. And here's why that's dangerous: Once our public lands are seized and auctioned off to the highest bidder, public access disappears—there goes our longstanding freedom to hunt, fish, camp, ski, snowmobile, you name it.

Those pushing this land-grab agenda know they can't achieve it in one fell swoop. So they're taking incremental steps. This report looks at the collective record of legislation in order to connect the dots.

The record: When we consider the seven land-grab bills introduced since 2013, we notice several troubling issues. First, three of the recent bills (details below) specifically outlined administrative structures for the sale of our public lands. This shows intent - that legislators were anticipating selling these lands in the future. Also, most of these proposed laws have sought to take away public access in another way—by putting the use and management of these lands into the hands of a select few. Resource extraction is repeatedly prioritized in these bills over other public benefits such as wildlife, recreation, and watershed protection. Even more troubling is the lack of meaningful public involvement. According to the sponsors' vision, the power and authority to sell our public lands and decide their future management would rest largely in the hands of politicians.

Sale of treasured public lands—places where Wyoming residents and families go to hunt, fish, hike, and camp—is the ultimate loss of access: a permanent lockout.

Our last point is that we must consider this onslaught of legislation in a broader context and see the patterns of these bills—and we must take these land-grab proponents at their actual words, as documented in the legislative record. What we find there is a concerted, incremental strategy to wrest control of our public lands from the public.

Public Lands for Sale?

Since 2013 three bills have been introduced to seize federal lands within Wyoming and set up administrative processes for at least some of those lands to be sold.

2013: HB 228 Transfer of federal lands – study

The original bill set up the Task Force on Transfer of Public Lands to study a variety of regulatory structures for taking over federal lands and to recommend what to do with these lands once they were in state control:

*The attorney general shall report to the task force on the possible legal recourses available to the state of Wyoming to compel the federal government **to transfer ownership and control of federally owned and managed lands** to the state of Wyoming **or to private individuals**...*²

HB 228 recommended developing a process for:

*[t]he state of Wyoming, other entity or private individuals to receive title to formally federally owned and managed lands from the United States; and
The state of Wyoming to transfer title to any formally federally owned and managed lands the state receives in accordance with this act.*³

This bill was amended in the course of the session, but the language regarding transfer of ownership to private individuals was passed by both the Senate and House. This language was stricken only by Governor Matt Mead's line-item veto before the bill passed.

2015: HB 209 Transfer of federal lands

HB 209 set up a detailed process for how federal lands, once acquired by the state, would be managed or sold. The bill defined "net proceeds" as

*the proceeds from sale of public lands, after subtracting expenses...*⁴

and in a lengthy later section defined how revenues from the sales would be divided between the state and federal government.⁵ The bill also set up a "Public Lands Commission" to establish an administrative process for

*The state to transfer title to any public lands the state receives in accordance with
W.S. 36-12-203*⁶

and also to establish "procedures and requirements for subjecting public lands to **property taxation.**"⁷

HB 209 included several amendments from the House and passed there, but died in the Senate.

2016: HB 142 Transfer of federal lands

HB 142 was similar to the 2015 bill, including an entire section "**specifying distribution of proceeds from the sale of public lands**"⁸ (as defined in its proposed section 36-12-202 (b)⁹) and later authorizing a legislative committee to establish an administrative process for "*[t]he state to transfer title to any public lands the state receives...*"¹⁰

HB 142 asserted, as the earlier HB 209 did, that:

*Wyoming, like other western states, has not received the full benefit of the provisions of the enabling act, related to the disposal of lands from the federal government. More specifically, section 7 of the act of admission requires "Five percent of the proceeds of the sale of public lands lying within said state...shall be paid to the said state...for the support of the common schools within said state."*¹¹

HB 142 failed to receive a vote for introduction and died.

Public Lands for the Few, Decided by the Few?

Many of these bills demonstrate a clear bias for special interests and for concentrating public lands decisions in the hands of a select few. This is another way that the public is potentially locked out from access. For example, the four-person task force set up in 2013 only studied negative impacts of federal management on mining, oil and gas, and ranching interests; it did not look at benefits, such as recreation, hunting and fishing, watershed protection, wildlife, and open space. In 2014 SF 41 proposed giving a six-member legislative committee the sole responsibility for determining the structure of "ownership of public lands within the state," (including "other ownership and management options" beyond state ownership) and the "criteria for management of public lands" acquired by the state—all without public consultation.

There is plenty of talk about state's rights in these bills, but little about the public's right to be included in decisions about our public lands.

This pattern of prioritizing special interest uses and placing power in the hands of the few is dramatically clear in 2015's HB 209. The bill as introduced failed to recognize resources such as wildlife, hunting and fishing, important cultural and historical sites, scenic landscapes, and scientific and ecological values. But also troubling was the lack of definitive opportunities for the

public to participate in decisions about the fate of state-acquired public lands. HB 209 proposed that all of the important decisions would be made by eight politicians and a special commission they would create. HB 142 in 2016 was very similar. There is plenty of language about states' rights in these bills, but very little about the public's right to be included in decisions about our shared public lands.

A Calculated, Incremental Approach

Land-grab proponents publicly acknowledge they are following a coordinated, incremental strategy similar to other efforts throughout the West. In fact, the controversial Utah group, American Lands Council, and its founder, Ken Ivory, have been very engaged in the Wyoming effort. Ivory has testified repeatedly to legislative committees¹⁴ and Wyoming legislators have attended conferences hosted by the ALC. The 2013 "Task Force on Transfer of Public Lands" stated in its report that the topic "is a complex issue which could span multiple years, which would involve many potential interested parties including the other Western states and which may require the development of a comprehensive legislative and political strategy in order to move forward."¹⁵

The effect of this incremental approach is to chip away, year by year and bill by bill, at opposition, while also moving Wyoming closer to the goal of state seizure and sale of public lands. It's important to note that repeatedly studying the topic is one way legislators try to keep this issue alive. Consider what has been called for since 2013:

1. HB 228 (2013) commissioned a study on "transfer."
2. That 2013 study called for the creation of a Select Committee on the Transfer of Public Land to study the topic further—which resulted in HB 35 in 2014.¹⁶
3. The 2013 Task Force also recommended that if HB 35 failed the following year, "it would be important for this topic to be taken up by another committee."¹⁷ Subsequently, SF 41 authorized this study topic for the Select Federal Natural Resource Management Committee in 2014.
4. In 2015 another study, SF 56, started as a "study on transfer of public lands" but was amended to look at state management of federal lands.¹⁸ By this time, the Legislature had learned that hunting, fishing, and public access were compelling public concerns, so these issues were included in this study, to be finalized in the fall of 2016.
5. In 2016, legislators proposed another study about public access: HB 126¹⁹, with a price tag of \$100,000. This was a biased proposal that examined only negative impacts to access to our national forests and other public lands, and did not consider improvements to or benefits from existing public access. The Legislature rejected this pseudo-study and the bill died in the House.

The Case for Keeping Public Lands in Public Hands

Poll after poll has shown that Wyoming voters flatly reject these fringe ideas of state seizure and sale of our national forests and other public lands. Public lands are a vital part of Wyoming's legacy and are intricately tied to our quality of life in this state.

Here are some points you can make to counter land grab efforts and support our public land legacy:

1. **Wyoming's public lands are fundamental to our character, our way of life, and the legacy we leave to our kids.** In Wyoming, we cherish our national forests, our national parks, our wild open public spaces. Our outdoor traditions make us who we are. We treasure our favorite fishing spots, family camping sites, and familiar trails. We want our children and grandchildren to have this access too. An attack on our public lands is an attack on our way of life.
2. **This effort is a land grab that seeks to shut out the public and privatize our lands.** Whether it's called "transferring" ownership or shifting management to the state, it all leads to the same place: privatizing our shared public lands, control of those lands by special interests, and selling off those lands to the highest bidders. It's a slippery slope that we must avoid.
3. **Wyoming cannot afford to manage these lands and will be forced to sell them off to cover the high costs of management.** The state would not be able to foot the bill for fighting forest fires, road and trail maintenance, and much more. Wyoming lacks sufficient funds for such basics as signage, weed control, and general oversight of the state lands it already manages. Imagine the further stress on our budget if the state were expected to take on the big stuff. The end result is

clear: the state would have to sell these lands to the highest bidder—and families, residents, and visitors would be evicted from our favorite hiking, camping, hunting, and fishing spots.

- 4. We support real solutions for public lands that will not inhibit access or deny families our outdoor way of life.** Instead of considering the unworkable idea of land seizure, we can build upon our state's solid record of stakeholder-driven solutions. Wyoming people and many of our local officials have shown leadership in developing workable, often collaborative solutions to address public land issues. The Wyoming sage-grouse initiative is just one example—where locals, state, and federal officials worked together to craft solutions that have become models for the rest of the West. There are many other examples of such productive local and state-based strategies.
- 5. We support our unique American birthright—envied by the rest of the world—of diverse and wild landscapes where the public is free to roam.** Egypt has the great pyramids. Europe has its cathedrals. And America has its public lands. Each of us is a part owner of the largest piece of public real estate in the world, and thus, every American is rich in opportunity to hunt, fish, hike, and explore. Selling off our public lands will take away that shared wealth and unique freedom.

What You Can Do

Changing politics in the United States Congress has brought about a new reality. If state legislators can demonstrate what appears to be local support for the state takeover of public lands, there is a real chance that this U.S. Congress will move to allow public lands to be handed over to a state. We need to actively oppose these land grab efforts in our State Legislature and in Congress. **Here's what you can do in the short term:**

Show up or speak up this November. On Nov. 9th 2016 a legislative committee will meet in Riverton to review the results of its 2015 commissioned study on state management of federal lands and decide about sponsoring future legislation for the 2017 Wyoming legislative session. Attend this meeting and make your opinions known.

Sign up to receive our alerts. The Wyoming Outdoor Council will send you email alerts to let you know details about the November meeting and any future legislation. Sign up at our website, and connect with us on Facebook. We'll keep you informed!



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“Remember that some things aren't for sale.”

- from *Code of the West, Cowboy Ethics*

Adopted by the 2010 Wyoming State Legislature as the
official state code of Wyoming

1 The seven bills we reviewed in this report are HB 228 in 2013, HB 35 and SF 41 in 2014, HB 209 and SF 56 in 2015, and HB 126 and 134 in 2016.

2 HB0228, 2013 at <http://legisweb.state.wy.us/2013/Introduced/HB0228.pdf>; page 4, lines 2-7.

3 *Ibid.*, page 7, lines 3-9.

4 HB0209, 2015 <http://legisweb.state.wy.us/2015/Introduced/HB0209.pdf>; page 3, line 10-12.

5 *Ibid.*, page 6 line 11 – page 7 line 3.

6 *Ibid.*, page 11 lines 1-3.

7 *Ibid.*, page 12 lines 11-12.

8 HB0142, 2016 at <http://legisweb.state.wy.us/2016/Introduced/HB0142.pdf>; page 1 lines 2-3.

9 *Ibid.*, page 5 line 11 - page 6 line 3.

10 *Ibid.*, page 10, lines 7-9.

11 *Ibid.*, page 14, lines 3-10

12 HB0228, 2013 at <http://legisweb.state.wy.us/2013/Introduced/HB0228.pdf>, page 3, lines

4-24; and committee meeting agendas and minutes at <http://legisweb.state.wy.us/LegbyYear/InterimComm.aspx?strCommitteeID=O25&Year=2013>

13 SF0041, 2014 <http://legisweb.state.wy.us/2014/Introduced/SF0041.pdf>; page 3, lines 1-9.

14 Committee minutes in October 2012, June 2013 and October 2013 at <http://legisweb.state.wy.us/interimCommittee/2012/09MIN1015.pdf> and

<http://legisweb.state.wy.us/LegbyYear/InterimComm.aspx?strCommitteeID=O25&Year=2013>

15 While this is a legislatively commissioned report from 2013, it cannot be found on the Legislative Service Office's website. Obtained in Nov. 2015 directly from LSO staff upon request.

16 HB0035, 2014 at <http://legisweb.state.wy.us/2014/Introduced/HB0035.pdf>

17 See Task Force minutes, October 31, 2013 at <http://legisweb.state.wy.us/interimCommittee/2013/O25MIN1031.pdf>

18 SF0056, 2015 <http://legisweb.state.wy.us/2015/Enroll/SF0056.pdf>

19 HB0126, 2016 <http://legisweb.state.wy.us/2016/Introduced/HB0126.pdf>