

A White Paper by



State Trust Lands in Transition: Implications for Federal Land Transfer



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ABOUT HEADWATERS ECONOMICS

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INTRODUCTION

Several western states and local governments have argued that federal lands could better generate economic and fiscal benefits if they were managed by states. Idaho,¹ Montana,² Nevada,³ Utah,⁴ and Wyoming⁵ have each passed legislation that either requires federal transfer or requires an analysis of potential effects of federal transfer.

Some states have indicated that they would manage some or all transferred federal lands as trust lands.⁶ Others have suggested alternative options, including selling lands or managing transferred lands for multiple uses.^{1, 6, 7}

In this report we assess the implications of transferring federal land for states to manage as trust land. We use the state trust model as a basis for our assessment because arguments for federal transfer are typically justified by pointing to the state trust lands as superior at generating net revenue, and because most state lands in the West are trust lands.

While transferring federal lands to state trust management would result in more gross revenue, we find three other major implications: land would be managed exclusively for revenue maximization, states would face new and increased expenses, and state and local economies would become more specialized and volatile.

IMPLICATIONS OF FEDERAL LAND TRANSFER IF TRANSFERRED LANDS WERE MANAGED AS STATE TRUST LANDS

State trust land ownership is extensive (one in every 20 acres of the West⁸) and has a long history. Trust lands were granted to states as they entered the Union with a unique fiduciary trust obligation to generate revenue for a beneficiary, primarily public schools, and to protect the value of granted lands in perpetuity.

The trust lands' unique obligation differs from the management mandate of federal lands, which are managed for multiple uses and multiple benefits. This white paper offers insight into how federal lands would be managed if they were managed as state trust lands. This paper is Part Four in a series assessing the state trust land model. Additional reports in the series can be found here: <https://headwaterseconomics.org/topic/public-lands/state-trust-lands-model>.

1. Land management would change based on states' revenue maximization mandate.

State trust lands have a unique fiduciary trust responsibility to maximize revenue for a public beneficiary, primarily public schools. Trust land managers generally seek to meet this fiduciary trust obligation by leasing trust lands for commercial activities. The leasing model creates a quasi-property right to leased lands—the lessee can exclude other users and uses from leased land and retains all the profits after paying a fee and/or royalty to the trust. Trust land managers attempt to secure maximum revenue by ensuring leases are sold in competitive auctions and that fees and royalties are set at market rates.

This stands in contrast to the multi-use, multiple-value management of federal lands. Federal land users would therefore see significant changes if federal lands were to be managed by states as trust lands.

States would increase gross revenue by raising royalties and fees for existing uses.

In general, states generate more revenue from commercial activities than federal agencies because states charge higher royalty rates and leasing fees compared to federal leases. For example, oil and gas royalty rates on state trust lands range from 16.67% to 25%, which is between a third to twice as high as the comparable federal onshore royalty rate, which is set at a maximum of 12.5%.⁹

Grazing fees can be orders of magnitude higher on trust lands. For example, the Bureau of Land Management and U.S. Forest Service grazing fee is determined by formula and was set nationally at \$1.35 per Animal Unit Month (AUM) in 2019.¹⁰ The fee does not consider the cost of administering the grazing program (because the federal agencies are not required to generate positive net revenue), nor does it consider the quality of forage or commodity prices. Grazing fees on state trust lands range from \$2.76 per AUM in Arizona¹¹ to \$65-\$100 per AUM in Texas.¹²

States would increase gross revenue by more aggressively managing and developing lands.

Trust land managers generally meet the revenue maximization principle by ensuring trust lands are leased in competitive sales. States would therefore offer transferred lands for competitive bidding, opening lands for more intensive extractive uses, including grazing, agriculture, timber, mining, and fossil fuel extraction. Additionally, trust lands, unlike federal lands, often are leased for residential, commercial, and industrial land uses near existing communities. If the residential, commercial, or industrial values of transferred lands exceed their natural resource leasing value, the trust mandate will require that they be developed to generate maximum revenue.

States may sell trust lands to earn higher returns in financial markets.

The state trust model requires that the value of the trust land endowment be retained in perpetuity.¹³ When states sell trust lands and nonrenewable resources (oil, gas, and minerals, for example), the income is transferred to a permanent fund, retaining the value of the “whole trust.” The whole trust model allows states to continually reassess whether trust assets will generate more income as physical assets that are managed for renewable income or converted to a financial asset that has the potential to generate greater returns from financial markets. Where the financial returns from financial investments (in the stock market, for example) exceed the returns from renewable land management activities (such as grazing), states will have a strong incentive, under the whole trust model, to sell land and reinvest the proceeds into financial markets.

Public access would be curtailed.

Because state trust lands are managed to generate revenue for beneficiaries, public access is typically excluded unless users pay for access. For example, hunting on trust lands is generally limited in scope, and often facilitated by user fees or payments from state fish and game agencies.¹⁴ In most states, public access, even with a fee, is generally only allowed on land that is not leased for another purpose or where that access does not reduce the value or impose new costs on the primary lessee. In contrast, access to federal public lands is generally allowed free of charge.

Federal agencies also provide and maintain extensive infrastructure used for recreation, including roads, trails, campgrounds, parking areas, and signage. Since the cost of building and maintain this infrastructure often exceeds revenue derived from public access to state lands, trust land managers would have no incentive to maintain recreation infrastructure, manage user conflicts, or enforce regulations by restricting access.

Managing for conservation values would no longer be required.

Trust lands are not required to provide for wildlife habitat, aesthetic values, ecological functions (clean water, climate adaptation, wildfire), or for cultural and historic values. When protecting and managing for these public values reduces revenue or increases costs, trust land managers would have no incentive to manage for these values. Therefore, these potential benefits will not be provided unless special interests can secure them by outbidding commercial uses. However, cases where citizens have paid for conservation and other nonexcludable public values on state trust lands through the traditional leasing model are rare. In some states, conservation leases are prohibited because commercial interests have effectively lobbied to avoid competition.

2. States would face increased expenses associated with transferred federal lands.

The transfer of federal lands to states would impose new costs on states; it is unclear whether revenue from transferred lands would exceed new costs. These new costs include a number of new obligations for states, such as payments in lieu of taxes to communities, which is currently paid for by the federal government. States also spend taxpayer money on stewardship and services that protect resources and public values, such as fire suppression and collaborative grazing research and management. Transferred lands would increase these costs, too.

Continuing federal payments to state and local governments would increase taxpayer costs for transferred federal lands.

The federal government appropriates funding to state and local governments as compensation for the non-taxable status of federal public lands through Payments in Lieu of Taxes (PILT), the Secure Rural Schools and Community Self-Determination Act (SRS), U.S. Fish and Wildlife Service Refuge Revenue Sharing payments, and other programs. Several states have indicated that they would assume the cost of continuing these federal, congressionally appropriated land payments so that state and local government budgets do not decline if federal lands are transferred to states. Doing so would cost western states about half a billion dollars annually that would be paid by state taxpayers under the current trust model. (Several states and the federal government make PILT payments from appropriations, not from gross receipts from public lands.) Federal PILT payments for the 11 western states totaled \$395 million for FY 2019¹⁵ and other federally appropriated payments totaled more than \$200 million,¹⁶ the majority going to the West.

State expenditures on land management would increase.

Some state trust land management responsibilities and associated expenses fall to state agencies other than the trust land management agency. For example, wildfire suppression, rangeland monitoring and improvements, oil and gas permitting and regulation, and environmental planning and compliance costs are often provided by other state agencies and are uncompensated by the trust. If transferred lands were managed as state trust lands, these services would be required for a vastly increased land area. This means costs to state taxpayers would increase.¹⁷

Provision of public values provided by ecosystem services on federal public lands would be shifted to communities and taxpayers.

Federal lands are managed to provide a variety of ecosystem services (such as clean water) that would be compromised on state lands that are managed strictly for revenue maximization. State and local governments would have to provide these services via other means—for example, by treating municipal water more intensively due to reduced water quality from transferred lands.

State governments may have to increase spending to provide for public values that are not provided via the state trust model.

We have described how—under the state trust model—states would no longer have to manage for public land values such as recreational access, aesthetic beauty, biodiversity, and cultural uses. This is a strict interpretation of the state lands mandate. However, our research has shown that in a changing economy and political environment, shifting public demands have moved some state governments to purchase, subsidize, or regulate for public values on trust lands, often using state taxpayer dollars to do so.¹⁸ If demands for states to manage for public values on transferred lands are loud enough, states will be compelled to assume additional expenses for this management on a vastly expanded land base.

3. Economies could become more specialized and volatile.

As the economy of the West continues to change, rural communities have struggled to compete for jobs in growing industries (high tech, medicine, engineering, etc.) and as a result have become more dependent on employment and revenue from traditional land uses such as agriculture, timber, mining, and fossil fuel extraction. Dependence on these activities has narrowed and specialized some rural economies, making them less resilient and more exposed to boom-and-bust market dynamics.

Economies would become more volatile.

Transfer of federal lands to states would result in increased levels of resource extraction. As a result, a greater share of the state or local economy will depend on industries like timber, mining, and fossil fuel extraction. The economy of western states would be less diversified and more dependent on volatile commodity prices.

Employment in extractive industries would increase but will not return to historic levels, even if the volume of timber and coal return to peak levels. This is largely because many fewer workers are required to produce the same volume and value of resources today. Mill consolidation and automation in logging and wood products manufacturing, for example, was responsible for the majority of job losses in the Pacific Northwest between 1990 and 2010.¹⁹ Employment associated within extractive industries also remains volatile and exposed to risk from markets and policies outside the control of state and local governments.

Federal land transfer would increase state and local government dependence on renewable natural resource revenue.

State, local, and school district budgets will face pressure or may be obligated by state law to use new revenue from transferred lands to lower existing taxes, increase spending, or both. In the first instance, some state constitutions (for example, Colorado, Idaho, and Oregon) specify that when local or state government revenues rise, tax rates must decrease to maintain similar spending levels.²⁰ As a result, as

we have seen in southern Oregon, when natural resource revenue declines, tax revenue is no longer able to support libraries, public safety, and other social services. In other cases, where governments can capture windfall revenue from natural resources, they are typically required to balance budgets annually and are precluded from saving. In this case, spending increases during booms but must be cut during busts. These fiscal dynamics can erode government services over time and make it difficult to attract new businesses to diversify the local economy. In the end, the community becomes even more dependent on revenues from resource extraction over time.²¹

There already exists political pressure to sell state land and exploit nonrenewable resources as quickly as possible to meet current spending needs and lower taxes. If transfer of federal lands to states increases dependence on natural resource revenue, this pressure may intensify, particularly during times when state and local governments face budget gaps or when policy changes at the federal or state level limit natural resources revenue. For example, federal climate policy that restricts oil, natural gas, and coal extraction would have a larger impact on state and local budgets. States may therefore sell lands to fill budget gaps or oppose federal climate policy to protect resource revenue.

The whole trust model would increase savings, stabilizing school budgets and benefiting future beneficiaries.

Currently, all income earned from nonrenewable resource extraction on federal lands is spent annually. Half of this income is distributed by the federal government to states and local governments. The other half is deposited in the federal Treasury and spent on several required and discretionary uses each year.²² In contrast, in the state trust model, all nonrenewable revenue from resource extraction and land sales would be transferred to a permanent fund, whose purpose is to maintain the revenue-generating value of the whole trust in perpetuity. Transfer of federal lands to the states would dramatically increase the size of state permanent funds, providing trust beneficiaries with a perpetual, reliable source of annual revenue.

Our research shows, however, that states already face intense political pressure to spend—not save—this income from nonrenewable resource extraction. Some are spending their permanent funds to pay for services and avoid taxes. Others are spending nonrenewable revenue on current needs instead of investing it in permanent funds. The additional costs of managing an increased land base, documented above, would further increase this pressure to spend nonrenewable resource income. For example, a study of the potential land transfer in Utah showed that the state would be unable to fund the management of transferred lands without spending nonrenewable resource income annually.²³ In other words, Utah would have to divert income from transferred federal lands away from the permanent trust in order to pay for the increased costs of managing these lands.

The economic benefits of public lands would narrow.

In general, states are not requesting a transfer of national parks.^{1, 3, 4} But there are other protected and multiple-use federal public lands (such as wilderness and national monuments) that are associated with a wider set of economic benefits than the narrowly prescribed benefits from resource extraction on state lands.²⁴ These lands provide a high quality of life and opportunities for hunting, hiking, fishing, bird watching, river running, food gathering, and other nonmarket activities. By providing for fewer of these values, the economic benefits of transferred lands will narrow.

CONCLUSIONS

Federal public lands and state trust lands are managed under very different legal and regulatory regimes. If federal lands were transferred to states and managed as state trust lands, land management priorities, state budgets, and state economies would see significant changes.

A transfer of federal lands to states would generate more gross revenue from commercial uses, in part because current lessees would be expected to pay higher fees and royalties and take on more land management responsibilities. Transferred lands would be leased more aggressively, and some would be developed or sold for residential and commercial uses. Permanent savings of nonrenewable revenue from resource extraction and land sales would increase. Public users of federal lands would expect to face new restrictions and new fees after lands were transferred to states. And lands would no longer be managed for conservation or non-revenue-generating ecosystem services.

States would face increased costs. They would be expected to continue payments to local governments such as SRS and PILT, which total more than half a billion dollars per year. They would also have to pay for land management activities such as wildfire suppression, which costs more than \$3 billion per year. States and communities should expect increased costs of providing for infrastructure and services because of diminished ecosystem services. States may also find it increasingly difficult to manage transferred lands narrowly to maximize revenue. Trust lands already face pressure to not maximize revenue and instead use state taxpayer dollars to provide the public with values not available in the marketplace, such as access for recreation, undeveloped open spaces, cultural values, clean water, and wildlife habitat.

Finally, transferring federal lands to states would have consequences for state and rural economies and for society. Transferred lands would generate relatively more income from commercial uses, and resource-dependent communities may expect gains in employment in non-services sectors but declines in tourism, recreation, and services-related occupations. Increased dependence on resource extraction would also expose communities to greater risks associated with boom-and-bust commodity markets and to policies outside of local control. Rather than solve challenges faced by resource-dependent communities, federal land transfer may exacerbate them.

In summary, the notion of transferring federal lands to be managed by states as state trust lands is, on the surface, about increasing gross revenues to states. Upon closer inspection, as shown in this paper and the other three papers in our series on state lands, transferring federal lands to states would have significant negative unintended consequences for state economies, budgets, and public values.

ENDNOTES

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