



## The Oregon Standoff is Only a Glimpse at Western Anger with the Feds

**Federal dominance of western lands sets Americans against each other and fuels anger at Washington, D.C.**

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The only people sillier than the goofballs occupying a shack in the middle of nowhere in Oregon are the bigger loons freaking out over the situation and demanding federal action—even lethal force—in response to this intolerable act of *lèse-majesté*.

Then again, if it wasn't for the occupation and the hysterical reaction thereto, would we even be talking about the outrageous sentences handed down to Dwight and Steven Hammond for relatively minor offenses? Would anybody mention the roots of the conflict in decades-old tensions over federal domination of the majority of the West's land?

The Hammonds are serving five-years in prison after being charged under the Antiterrorism and Effective Death Penalty Act of 1996 (yes, really) for two disputed fires they set that spread from private land onto public land. They had *already* served lesser sentences after the judge in their case ruled that the minimums required by the law were "grossly disproportionate" to the crime and would "shock his conscience." But the Justice Department appealed and the 9th Circuit said the draconian mandatory minimum sentence had to be imposed—never mind conscience or proportionality.

Shock his conscience? That's not a stretch. After all, the offending fires appeared to have inadvertently crossed boundaries. That's not an uncommon occurrence (though prosecution for it is), and it works both ways. The *Tri-State Livestock News* reported the recollections of a Bureau of Land Management employee of "other fires accidentally spilling over onto BLM land, but only the Hammonds have been charged, arrested and sentenced... On the flip side, Maupin remembers numerous times that BLM-lit fires jumped to private land. Neighbors lost significant numbers of cattle in more than one BLM fire that escaped intended containment lines and quickly swallowed up large amounts of private land."

But the feds clearly have a hard-on for the Hammonds. Some BLM employees went so far as to use a government computer to impersonate a former colleague who criticized federal conduct in the case. (The agency in question didn't seem too troubled about the misuse of its resources.)

"They're not terrorists," the impersonated man, retired BLM heavy equipment operator Greg Allum, says of the Hammonds. "There's this hatred in the BLM for them, and I don't get it."

But the "hatred" may be a result of greed—what the Hammonds have, the feds want. The *Livestock News* story points out that the Hammonds are the last private landowners in an area the government targeted for acquisition and preservation.

"It's become more and more obvious over the years that the BLM and the wildlife refuge want that ranch. It would tie in with what they have," Rusty Inglis, a rancher and retired U.S. Forest Service employee, told the publication.

Land fights are nothing new in the West, and fights featuring locals vs. the federal government are increasingly common. When the feds look around to see what *else* might tie in with what they have, they have to look pretty damned hard to find something that isn't already under their control.

"61.2% of Alaska is federally owned, as is 46.9% of the 11 coterminous western states. By contrast, the federal government owns 4.0% of lands in the other states," the Congressional Research Service noted in 2012. "Congress expressly declared that the remaining public domain lands generally would remain in federal ownership" in 1976, the report added.

This land is used for mining, recreation, wildlife preservation, ranching, and simply getting from point A to point B across vast stretches of the country—with the rules set in Washington, D.C. Inevitably, this leads to clashes between people with competing ideas as to how the great outdoors should (and shouldn't) be used, and between the federal officials making the rules and those living under—and running afoul—of them.

Squabbling over the "right" way to use all of that public land brings out the worst in just about everybody. The temptation is to keep your own costs low while maximizing what you get out of it—a classic tragedy of the commons.

"Decades ago, ranchers grazing their livestock on public lands paid enough fees to earn the Forest Service a profit," points out Randal O'Toole for the Cato Institute. "But in 1978, ranchers persuaded Congress to adopt a grazing fee formula on national forests and BLM lands that is designed to guarantee ranchers a profit even as grazing costs taxpayers more than \$100 million per year."

Or else, land users just try to exclude those with competing preferences. Travel Management Plans adopted by the Forest Service in recent years have specifically targeted motorized use of public lands, in favor of muscle-powered uses of public property.

"The Forest Service is converting hundreds of square miles of forest land to 'wilderness' status by fiat. They will be closing hundreds of miles of roads in our forests that have been open to the

public for decades," Arizona's Coconino County Sheriff Bill Pribil objected in a widely publicized letter in 2012.

The travel management restrictions overtly target disfavored (by the feds and a faction of users) recreational uses, but they may have larger consequences. While the rules exempt "any fire, military, emergency, or law enforcement vehicle for emergency purposes," that carve-out is likely to mean little as years pass and access roads become impassable, making fire suppression more difficult in hard-to-reach areas.

Fire in the arid West is already a big concern, and the federal government is often accused of making things worse.

"Idahoans and all Americans will continue paying in many ways for the lack of direction—or misguided direction—that federal laws and policies provide public land managers," Idaho Governor Butch Otter (R) charged in a column three years ago. "Road systems make it possible for people, engines and bulldozers to respond to fires on the ground so that expensive aerial firefighting resources aren't the only option."

Otter called on Congress to approve a pilot program that would let Idaho control a share of the federal lands in the state.

Other states have gone further. Utah—63 percent owned by the federal government—passed the Transfer of Public Lands Act demanding the surrender of federal lands to the state. Arizona's Governor Doug Ducey (R) vetoed *two* bills seeking the surrender of public lands but agreed to a study committee on the issue.

In April 2014, representatives from Utah, Idaho, New Mexico, Arizona, Nevada, Wyoming, Oregon, and Washington met in Salt Lake City to discuss prying land from the federal government, even as the Bundy standoff over grazing rights simmered in national headlines. They were fueled by concerns about not just forests, but prosperity, going up in smoke.

"The Forest Service and the Bureau of Land Management lose \$2 billion each year managing federal lands," wrote Shawn Regan in the pages of *The Wall Street Journal* in April 2015. A former National Park Service Ranger and current research fellow at the Property and Environment Research Center (PERC) based in Bozeman, Montana, Regan added, "For example, the feds are notorious for conducting 'below-cost' timber sales, in which they spend more selling the timber than they get in return."

PERC studies show that both states and private groups are better than the federal government at managing land efficiently and keeping them self-supporting.

Which is not to say that the federal government is likely to surrender its vast holdings to state officials or private owners any time soon. Indeed, the targeting of the Hammonds for an overt land grab shows that D.C. is interested in acquiring more turf rather than surrendering any of what it has to local control. That forecasts clashes to come, and increased tension between westerners and the federal government.

In 2014, as Scotland pondered independence from the United Kingdom, Reuters asked Americans if they would be interested in their "state peacefully withdrawing from the United States of America and the federal government." The two regions with the highest "yes" answers were the Southwest (34 percent) and the Rockies (26 percent).

The United States is a long way from any risk of balkanization, but that disaffection with the powers-that-be didn't come out of nowhere. Probably correctly, Reuters' Jim Gaines attributed the poll's results to "a form of protest" against prevailing policies and the government.

Agree or not, westerners believe that they have more reason than other Americans to be angry at political leaders in Washington, D.C. The abuse of the Hammonds, with its roots in the almost colonial relationship between the federal government and the West, is a peek at why.

And the goofballs occupying a cabin in Oregon, silly as they may be, are only the tip of an iceberg of discontent.