

Public Land, Money, and Use: The Rhetorical Calibration of Publics and Place

By

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Abstract

In this thesis, I examine two recent attempts at land transfer, which is the idea that the federal government should pass ownership of its public lands to the states. I contend that recent attempts at land transfer have calibrated publics and place through rearticulations of public lands. In chapter two, money is the driving force behind land transfer, while land use is the central concern in chapter three. Together, these two chapters further my central argument that differential conceptions of land must be calibrated to differential conceptions of “publics.” Further, the reverse is also true: divergent understandings of publicness produce divergent visions of the land and its use.

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Chapter One: Introduction

On July 6, 2017, Secretary of the Interior Ryan Zinke signed an order designed to promote the “exploration and development of both Federal onshore and offshore oil and gas resources and Federal solid minerals.”¹ In this order, Secretary Zinke wrote that the Bureau of Land Management (BLM)—which administers millions of acres of public land where many of these resources are found—has a responsibility to ensure that oil, gas, and solid mineral resources are “available for the benefit of the citizens of the United States.”² In effect, this order will speed up the permitting process for oil, gas, and mineral leases granted by the federal government. Predictably, the order is viewed positively by many in the energy development industry, as it would potentially allow them to more quickly gain permission for resource development. Just as unsurprisingly, many environmental groups take a negative view of the order. According to Sharon Buccino of the Natural Resources Defense Council, “Fast-tracking oil and gas exploitation on our public lands is wrong for America.”³

In the responses to Zinke’s order, as well as the order itself, the meaning of public lands is at stake. Zinke used the order to define public lands as places for energy development, resource use, and the benefit of Americans. Many factors went into Zinke’s given reasons for the order, including “the critical importance of American energy security, job creation, conservation stewardship, and the economies of affected states.”⁴ Zinke highlighted the importance of resource development on public lands to Americans. For energy developers, public lands represent investment opportunities, and the new order makes it easier to invest in public lands. As Erik Milito, from the American Petroleum Association, said “A key component of a successful policy is repairing the federal permitting process so that companies have the

confidence to invest and see their projects move forward.”⁵ Some environmental groups, on the other hand, are worried about the new procedures, concerned that the government is “selling out more of our public lands to the oil and gas industry at the expense of the American people.”⁶ Or, as Randi Spivak from the Center for Biological Diversity stated, the government is “trying to fast-track the climate disaster and destroy America’s public lands in the process.”⁷ These and other organizations are attempting to push back against the positions of Zinke and the energy industry, trying to represent public lands as vital to Americans in some way other than their importance in energy and economics.

In the rhetoric surrounding the order, two things stand out. First, the various interested parties are attempting to define *what* public lands are for—what their uses and purposes are. Second, they are trying to designate *who* public lands are for—who may access them, and who may use them. As their comments show, these interested parties are often at odds with one another. Zinke attempted to strike some middle ground between energy development and conservation, recognizing that public lands must be taken care of, while also pushing for new developments. In his statement, Milito called for “environmental stewardship,” but focused on the economic and energy side of the issue.⁸ Meanwhile, the environmental groups called for less energy development, stressing the importance of land preservation while downplaying the economic and energy perspectives. In these differential positions on land use, we can see the “who” of the issue. Energy developers and corporations are viewed positively on some sides, and very negatively on others. Who public lands are for, who may use them, and how they may be used are all in tension in the discourses surrounding Zinke’s order.

This anecdote captures the interplay between public and place, and expresses the central question driving my thesis: what is the relationship between land and public? Put differently,

how do notions of the publicness of public lands shape and impact notions of the land? How do conceptions of land and land use shape and impact conceptions of the land's publicness? To answer these questions, my chapters focus on two controversies, both focused on what has come to be known as 'land transfer.'

Debates over land transfer—the long-contested obligation of the federal government to transfer lands to the states—provide a rich set of texts for understanding the relationship between land and public. Engaging two particular controversies in the long history of land transfer bickering, I show that public lands have been rearticulated by emphases on money and land use, arguing that divergent understandings of land and its use produce divergent visions of publicness, and that differential conceptions of land must be calibrated to differential conceptions of “publics.” In the next section, I preview the two controversies.

Chapter Two: Local Public Lands: The Monetary Mediation of Public and Place

In chapter two, I examine the rhetoric of the American Lands Council (ALC) and the Republican Party's 2016 platform. For both of these organizations, money is the driving force behind their support for land transfer, and mediates their conceptions about public and land. The vast wealth in natural resources public lands carry with them is a primary motivator for these organizations to demand state ownership of public lands, as they claim that this wealth should be reserved for the states' benefit. Land, as the site of these resources, shapes the organizations' definition of public. For the ALC and GOP, financially profitable land uses are the best uses for both the land and people. In this view, state control of public lands equals looser regulation, more access to natural resources, and fewer restrictions on the extraction of those resources. Proponents of this belief hold that state control will lead to stronger economies and a healthier

natural environment.

When asked if public lands belong to all Americans, the ALC answers, vehemently, “No.” Instead, the ALC claims that these lands “rightfully belong to the citizens of the state in which those lands reside, just as lands in eastern states belong to the citizens of those states.”⁹ This position shapes many of the ALC’s arguments. Since public lands, they claim, rightfully belong to the states and the citizens therein, then so do all of the economic benefits that come with that ownership. The Republican Party supports these claims. In claiming state ownership of these lands and resources, the ALC and GOP also shape perceptions about the land. These organizations argue that, not only is state ownership more fiscally responsible, but it is also more environmentally responsible because states take better care of their lands than does the federal government. This is, of course, an unproven argument. Indeed, two studies, commissioned by Utah and Wyoming, respectively, suggest that state ownership is not feasible.¹⁰ The current land transfer push backed by the ALC and GOP is an attempt by the states to have greater access to the wealth promised by their natural resources.

As the driving principle, money shapes conceptions of land and public. For the ALC and GOP, this is done through a rearticulation of localness, a term that emphasizes the view that public lands are for the residents of the states: in this view, public lands should be the responsibility of, and primarily benefit, the states and their citizens. In this vision of the ALC and GOP, the public of public lands becomes the states and their citizens—or “locals,”—who would benefit from the money made from the land. This affects how the land is used: the ALC in particular argues that each parcel of land has a “best use” that is determined by the features of the land. Some best uses are purely economic, while others are economically desirable due to recreation.¹¹ All figure “best” with recourse to money.

However, the arguments are not sold as purely economic, with the organizations also claiming that state ownership of public lands is better for the environment. The ALC and GOP argue that proper use and management of resources benefits the environment. Federal regulations that restrict timber harvest and enforce a “hands–off” approach to public lands management harm the environment by creating favorable conditions for wildfires and allowing populations of invasive species to grow unchecked. Rather than placing the blame for poor environmental health wholly on the government, the ALC and GOP often accuse faulty science and radical environmentalists of distorting the ecological reality.¹²

The economic motives behind the organizations’ calls for land transfer recall two types of mythic frontier hero described by Leroy Dorsey. Examining the ALC and GOP in terms of these heroes frames their conceptions of land and resource use. Their rhetoric about public lands constructs these places in economic terms, for locals to benefit from. The ALC and GOP, while praising the individual American, are also careful to cast public lands and resources in a way that highlights their importance to the community at large. Writing on the environmental policies of Theodore Roosevelt, Dorsey identifies two hero types, the conqueror and the “yeoman farmer,” or conservationist. Dorsey argues that Roosevelt coopted the prevailing uses of the frontier myth, because Roosevelt “apparently believed that the reduction of America’s sacred history to that of a conqueror-hero of an unlimited frontier universe had brought about severe environmental concerns.”¹³ With these concerns, Dorsey claims that Roosevelt recast the myth, with the farmer who cared for the land and promoted conservation as the true hero instead of the conqueror, who saw an unending supply of resources to conquer and use. In this chapter, I show that the hero of the frontier is often concerned with how land is used, much as are the ALC and GOP.

Chapter Three: Government, Power, and Use: The Bundys' Articulations of Public Lands

In this chapter, I focus on the Bundy family of Nevada and their opposition to federally owned public lands. The Bundys' central concern is land use, and this drives their claim that the federal government should not own land. I concentrate on the family's discourses surrounding two confrontations they had with federal authorities, a 2014 standoff near their Nevada ranch and a 2016 occupation of Malheur National Wildlife Refuge in Oregon. The family's views combine two major themes: the constitutionality of government land ownership, and the power of land ownership.

A central claim in both the Oregon and Nevada confrontations was the mistaken assertion that the federal government has no right to own public lands because the United States constitution does not provide the government with this power. In the family's partisan interpretations of the constitution, since the government has no power to own land, it has no authority to regulate land use. By denying federal authority to own and regulate land, the Bundys rearticulate public lands. In the family's view, public lands should be managed in ways that support beneficial uses by resource users. According to the Bundys, federal land management does not encourage resource use, but is instead an active attempt by the government to stop certain land uses, such as public lands ranching.

According to the family, land ownership equals power. This claim is related to the family's arguments about constitutional authority, because the Bundys argue that unconstitutional federal ownership of lands amounts to an illegal overreach of the government into the family's lives. While this argument mirrors many conservative complaints about government interference, the Bundys uniquely situate their concerns in the context of public

lands. Land ownership is power because, argue the Bundys, the government can control their lives by controlling resource use and dictating how the family uses land.

The questions of who gets to use land and how they use it have both played a central role in Nevada and Oregon. The Oregon occupation resulted from the family's protests of two Oregon ranchers' jail sentences for causing fire on public lands, while the Nevada standoff was the result of the government impounding Bundy cattle after years of the family refusing to pay federal grazing fees. Because land ownership equals power, the Bundys resist federal attempts to regulate the family's use of the land. The family uses incorrect interpretations of the constitution to claim that the government has no authority to own land, contending instead that public lands should be managed by those who support resource use.

These questions of use tend to play out at the level of debate about land ownership, since who owns public lands is able to dictate their uses. The Bundys want public lands to be in the control of state and county governments, with potentially fewer regulations and easier access for ranchers, miners, and other land users. From the federal government's perspective, land management policies of much of the past century have promoted conservation and preservation of resources and land, in the belief that the government is best suited to care for public lands. Throughout the Bundy's confrontations with the government, one central theme emerges clearly—public lands are a hotly contested resource.

The Bundys' calls for constitutional government and insistence that land ownership equals power are both consistent with the frontier myth's focus on individualism. In the mythic west, individualistic characteristics were highly prized and were sometimes thought to come from the relationship of people to land.¹⁴ For the Bundys, public lands should be managed by those who hold the interests of resources users. The federal government, in the family's

estimation, does not prioritize the resource users' interests, and instead controls the people via the land. This leads to the Bundys' insistence that federal land ownership is unconstitutional, and is an overreach of power into the family's lives. The Bundys' claim that government authority comes from the people is one way that the Bundys' arguments are shaped by the frontier myth. Much like the ALC and GOP's reframing of localness, the Bundys use this argument of government from the people to lessen their independence on the federal government. In this new frame, the family casts the government as dependent on the will of the people. By questioning federal authority concerning public lands, the family argues that the government should have less bearing on their lives. The Bundys are thus placing themselves in a position of self-reliance: public lands should be managed by state and local officials, the focus of management should be on resource use, and resource users should have a large say in land management.

Both of these chapters are examples of how place and public have been rearticulated by land transfer advocates, with the result that money and use are the driving concerns. Together, these two chapters further my central argument that differential conceptions of land must be calibrated to differential conceptions of "publics." Further, the reverse is also true: divergent understandings of publicness produce divergent visions of the land and its use. Both public and land are, in these cases, responding to the same set of forces: particularly money and use. What counts as public effects the land and conceptions about the land in dramatic ways. For some, these lands are public in the broadest sense, belonging to all Americans. For others, they are strictly the lands of those who inhabit them. Even for those users with a similar motive—e.g., economic profit—"public lands" hold different meanings. The outdoor industry, for example, regards public lands in a completely different light than does the natural gas industry, even though both profit from the existence of public lands. What public lands are is best answered by

the question, for whom?

The remainder of this introduction explores the broader concepts and conversations in which I situate my case studies of the ALC/GOP and the Bundys. First, I provide a brief review of publics and spatial theory, positioning my thesis at the intersection of the two bodies of literature. Next, I introduce the frontier myth, which provides the basis of my analysis in chapter two and informs sections of chapter three. Finally, I provide context to my case studies with a brief review of land transfer advocates since the 1970s. The central claim of this account is that the history of public lands and land transfer should be understood as multiple attempts to rearticulate the publicness of public lands.

Theory

Rhetorical scholarship, while rich in both publics and spatial theory, does not offer much in the way of connecting the two literatures, though there are some implicit links. For instance, rhetorical scholars of space and place are often driven by questions of publicness—the impact of spaces/places on whom and to what end. Similarly, many scholars of the public sphere approach their work spatially, concerned as they are with the organization and arrangement of their publics, as well as the effects of particular spaces/places. So, while the implicit links between existing spatial and publics rhetorical scholarship do not yet adequately address the relationships between public and place, there are some great examples of where we might pursue these questions.

Jenell Johnson writes that a public is “traditionally defined as a collection of private individuals organized through discourse.”¹⁵ Noting that recent rhetorical approaches to publics have “highlighted the role that nondiscursive elements, like images and feelings, also play in

joining private individuals into publics,” Johnson describes a “visceral public,” a supplement to discursive approaches that attends to the overlap of “discourse, bodies, borders, and feeling.”¹⁶

Johnson’s approach to publics is similar to Michael Warner’s description a particular type of public, one that “comes into being only in relation to texts and their circulation.”¹⁷

Warner’s discussion of publics is influenced by spatial description, particularly the emphasis on circulation, which implies movement: “the circularity is essential to the phenomenon. A public might be real and efficacious, but its reality lies in just this reflexivity by which an addressable object is conjured into being in order to enable to very discourse that gives it existence.”¹⁸

Another way that publics theory contains traces of the spatial is that publics exist somewhere: Johnson’s essay on visceral publics, for example, is placed in a small community, because of the citizens’ abilities to influence policy that effected them.¹⁹

Rhetorical scholars of space and place also often position their work in questions of publicness. Greg Dickinson notes the potential for the integration of spatial and publics theory, writing that “a focus on space could localize contemporary work on the public sphere.”²⁰

Danielle Endres and Samantha Senda-Cook write that one of their articles “offers a heuristic framework—place in protest—for theorizing the rhetorical force of place and its relationship to social movements.”²¹ Endres and Senda-Cook demonstrate the capacity for place to influence social movements, arguing that “the very place in which a protest occurs is a rhetorical performance that is part of the message of the movement.”²² They detail how places, through the meaning-making of social movements, are rhetorical. Places act rhetorically, they write, when protestors “build on a pre-existing meaning of a place to help make their point. . . . temporarily reconstruct the meaning (and challenge the dominant meaning) of a particular place. . . . [and] repeated reconstructions over time can result in new place meanings.”²³

While there are obviously links between the two bodies of literature, there has not been much, if any, attempt to purposefully bridge the gap and investigate how questions of publicness and space/place influence and condition one another. This thesis sits squarely in issues of both space/place and publicness. The ALC/GOP are both focused on the economic potential that public lands hold. With money as their motivation, the organizations argue that public lands should be used to maximize profit, and contend that public lands are a “local” concern. In this way, the ALC and GOP articulate public and place in particular ways. According to the Bundys, public lands should be primarily for the benefit of resource users. The family argues that federal control of public lands harms both land and resource user, and contends that state and local control would do a better job of managing lands profitably. The Bundys therefore code public and place in terms of resource use, and use their arguments of constitutionality and power to this end.

Frontier Myth

I rely on the ubiquity of the frontier myth in American life to understand how the ALC and GOP pull from the everyday aspects of the myth to make their cases for land transfer. The frontier myth is a pervasive element of common perceptions of the American West, and has its academic origins in 1893, when Frederick Jackson Turner presented a paper to the American Historical Association at the Chicago World’s Columbian Exposition. Turner did not consider his work on the frontier to be mythic, but his writing highlighted what became key components of the frontier myth, individualism and self-reliance, that have received widespread academic attention. To these two, I add Turner’s focus on land. Turner argued that the frontier, what he described as “free land,” shaped the American psyche, giving Americans certain self-reliant

traits. Put in terms of the focus of my thesis, in Turner's conception, place—the frontier— influenced the public—Americans.

Turner's paper and its thesis received little attention at first. However, the ideas advanced in this paper were soon to become a central tenet in the study of American history.²⁴ This paper, "The Significance of the Frontier in American History," proposed a revelatory thesis: contrary to popular belief, American history did not need to be situated in a European context, but could be explained by the distinctive setting of that history. Specifically, Turner argued, American history could be understood through the "ever-advancing frontier of settlement."²⁵ In other words, one way to understand American history was to look at the role expansion into the West played in shaping America as a nation. Turner wrote that American development was influenced by, among other things, "the existence of an area of free land, its continuous recession, and the advance of American settlement westward."²⁶ This is not to say that Turner believed the frontier was *the* explanation of American society: indeed, he in fact acknowledged a multitude of other forces at play.²⁷ The Frontier Thesis, as it has come to be known, was simply one explanation among many. However, this explanation was so powerful that it is considered to be the origin point of the frontier myth, "America's secular creation story."²⁸ Rhetorical scholars have demonstrated the effectiveness of the frontier myth's influence in shaping American culture, identity, and politics.²⁹ While it is doubtful that the ALC, GOP, or Bundys could put their positions in academic terms of myth, they certainly see and understand the powerful pull of certain aspects of frontier mythic characteristics.

Rhetorical mythic criticism seeks to understand the narratives that structure a society. The term myth generally has a specific meaning in rhetorical criticism, and Robert Rowland argues that myth should be defined narrowly.³⁰ Any definition of myth, says Rowland, should be

focused on the “work” that myths do. In calling for a narrow definition, Rowland contends that any attempt at a definition of myth should be tied to the functions that myth fulfills.³¹ A narrow definition of myth therefore allows a critic to identify how beliefs and values are conveyed.³² Rowland contends that a myth functions, in Bronislaw Malinowski’s words, as “not merely a story told but a reality lived.”³³ Put differently, myths provide social structures and show people how to live by connecting them to a previous time when that structure was in place.³⁴ Whether or not they did happen is often unimportant to the believers: myths are believed to be true stories, true to the extent that they are reality lived.³⁵ Myths function to give order and structure to society. Myths are origin stories; they answer questions of “whence,” and reveal the true history of the world.³⁶

Stories of westward expansion not only describe the nation’s growth, but also impart their values on listeners. Janice Rushing argues that “the values of the Western myth exist in a dialectical tension between individualism and community, and that reaffirmation of that tension best strengthens . . . America’s image of itself.”³⁷ Leroy Dorsey has called the frontier myth “one of the longest-lived sacred histories of American culture,” and a key element of the myth and its ubiquity in American society is the focus on individualism.³⁸ Again, while the ALC, GOP, and the Bundys might not be able to put it in these academic terms, their reliance of these mythic frontier values indicates an understanding of the impact appeals to individualistic characteristics have on Americans. Since the function of myth is to give society structure, the values imparted into American culture by the frontier myth can be referenced to rhetorically construct a specific vision of government and public lands.

The characteristic of individualism has long been associated with the frontier and American society: Ronald Carpenter wrote that “whether it was the 1890s or the 1930s or in

between, the American mind saw the frontier attributes as applicable in a variety of situations.”³⁹ Carpenter continues, demonstrating that, for the better part of 40 years, people believed the individualistic characteristics celebrated in the frontier thesis to be positive and uniquely American. Individualism has not ceased to be an archetypal American trait. Indeed, recent social scientific research in Communication Studies has confirmed that the United States is still classified as an individualistic culture.⁴⁰ Frederick Turner argued that the frontier itself was responsible for the pervasiveness of individualistic features in American society, claiming that “the frontier is productive of individualism.”⁴¹ He attributes the American intellect’s “striking characteristics” to the presence of the frontier, describing frontier Americans as having:

That coarseness and strength combined with acuteness and inquisitiveness; that practical, inventive turn of mind, quick to find expedients; that masterful grasp of material things, lacking in artistic but powerful to effect great ends; that restless, nervous energy; that dominant individualism, working for good and evil, and withal that buoyancy and exuberance which comes with freedom—these are traits of the frontier, or traits called out elsewhere because of the existence of the frontier.⁴²

While Turner’s writing may correctly be questioned—among other issues with his thesis, he did not account for race, gender, or colonialism—he grasped the importance of place and its influences. While rhetorical scholars of the frontier have focused on individualism, the broader point to be gleaned from Turner has seemingly been overlooked. That is, places and spaces such as the “frontier” exert influence on the actors within their bounds. These players also influence the spaces/places they inhabit. The frontier (or, really, any space/place) is rhetorical, in that exerts some influence on those in it.

As stated above, Turner defined the frontier as “an area of free land, its continuous

recession, and the advance of American settlement westward.”⁴³ The notion of “free” land is problematic, as the land was not free. In fact, land cost can be determined in multiple ways, whether from American imperialism taking the lands of Native Americans, the government buying the land from other nations (who also took it from Native Americans), settlers buying plots from the government, or even just the costs associated with moving west. Frontier lands were not “free” by any metric. However, Turner’s conceptualization of a frontier of free land leads to an important mythic element: the conquering of land. Rhetorical scholars such as Janice Rushing, Ronald Carpenter, Leroy Dorsey, and Mary Stuckey have all noted the conquest-like control over land prevalent in frontier narratives. The conquering role is often fulfilled by the hero in a mythic narrative. The implications of control and conquest of land are considered in chapter two.

Historical Context

In 1979 the Nevada state legislature passed a bill in which they laid claim to public lands within the state. The passage of this bill was a defining moment in the beginning of a movement that became known as the Sagebrush Rebellion, and which began the first iteration of what today is more generally known as land transfer. Indeed, the Sagebrush Rebellion has today become shorthand for any attempt at land transfer, including my case studies.⁴⁴ These newer iterations of land transfer do not bring much new to the table: arguments made by the ALC/GOP and the Bundys mirror arguments made by the Sagebrush Rebels in the 1970s. However, while the content of their claims remains the same, the presentation of those arguments has sometimes changed. The ALC and GOP’s methods are very similar: they want land transfer to occur through an act of Congress, and the ALC has assisted multiple western states in drafting and

passing land transfer regulation, both of which are tactics used in the 1970s. The Bundys' use of force and violence is also not new, and follow several confrontations during the 1990s.

According to Mollison and Eddy, members of the 1979 Rebellion:

characterize themselves as the victims of a number of federal land-use decisions made without their participation. Many of those land-use decisions directly limit western development, especially those imposing strict environmental, wildlife, and preservation regulations; restricting grazing and mineral leasing and extraction; curtailing water project construction; limiting state and local government revenues through federal deprivation of an adequate tax base; and asserting open-ended federally reserved water rights.⁴⁵

Much like present-day iterations of land transfer, the Sagebrush Rebellion resisted federal control of public lands and natural resources. Mollison and Eddy argued that the fundamental issue at stake during the Rebellion was who received the majority of the benefits from the lands. As federal policies changed, the Rebellion rose, in part, as a direct response to losing benefits from the lands that the rebels received in the past.⁴⁶ Ralph Maughan and Douglas Nilson wrote that “most Sagebrush Rebels were basically satisfied by the old system of federal lands where they enjoyed many of the privileges of ownership . . . but avoided many of the costs of ownership. The costs were borne by the federal government.”⁴⁷ Public lands are rich in resources and who controls the lands—as well as the revenue generated from them—is a point of contention that has been at stake for most, if not all, disagreements about public lands control and ownership. The Sagebrush Rebellion—and land transfer movements after it—was an attempt to gain control of and benefit from the public lands, and was thus an attempt at rearticulating place and public.

Much like the rebellion, subsequent attempts at land transfer have followed their predecessors by focusing on natural resources. Just as federal policies shaped uses and publicness of land, the various iterations of land transfer have all attempted some re-focusing of who and what public lands are for. There is no agreed upon date for the end of the Rebellion, but general consensus seems to be that land transfer strategies changed from an emphasis on the courts-focused arguments of the Rebellion sometime in the late 1980s-to-early-1990s, and reappeared in the environment-focused ideology of Wise Use.⁴⁸ This movement, born out of the Sagebrush Rebellion, shared many of the same goals, particularly limited federal control over public lands. Wise Use gained national traction in the late 1980s, touting an “environmentalism” that was centered in the common concerns and people of the West.⁴⁹ Wise Use used the language of environmentalists to argue for opening public lands for exploitation, and Jennifer Peeples wrote that the movement was “deemed ‘AstroTurf’ by environmentalists, because they were neither ‘green’ nor ‘grass’ roots.”⁵⁰ Wise Use of public lands means uses that favor exploitative and extractive industries, with a minimal amount of regulation and federal oversight.⁵¹

Issues surrounding resource exploitation were central causes of tension, because “ranchers, mining companies and other members of Western communities saw their way of life under attack by environmentalists.”⁵² Paul Conable argues that the Sagebrush Rebellion was, at least in part, a response to the environmental movement of the 1960s putting “pressure on the federal land agencies to manage for purposes other than traditional resource extraction (such as mining, grazing, and timber) became stronger. As a result, some rural westerners who depended on the federal lands for livelihoods became increasingly vocal about federal land policies.”⁵³ In other words, the Sagebrush Rebellion and Wise Use were attempts to redefine land and its publicness. The Rebellion wanted a return to previous ways of owning and regulating land, while

the “environmentalism” of Wise Use puts specific concepts of land uses at the front of their agenda. In both cases, who gets to use land how was fiercely contested. In both of my case studies, resource use is a central issue, with the ALC and GOP specifically concerned with the economics of resources and the Bundys primarily concerned with federal regulations on resources.

The nature of public lands has been contested for virtually as long as they have existed. Throughout the nation’s history, public lands have been a source of disagreement, with the states desiring control of land and resources, and tensions between resource conservation interests and land transfer have shaped the public lands debate for much of the past century. Land transfer advocates from the 1979 Sagebrush Rebellion to the Bundys have questioned who the lands belonged to, and for what reasons. In the two modern day case studies I use in my chapters, arguments about land tend to lead to questions about land’s uses and publicness. The groups involved approach land from a human-first perspective, leading me to explore this angle from an anthropocentric point of view. Themes of individualism are also heavily appealed to, particularly by the ALC and GOP. Therefore, I use scholarship on the frontier myth to help understand these appeals. The frontier myth is especially useful because of the emphasis on land found in much rhetorical criticism regarding frontier mythology. I therefore rely on scholarship about the frontier myth and human-centered ontology to answer questions of publicness and place in my two chapters.

Conclusion

The central goal of this thesis is to offer an explanation of how places and publics have been articulated by questions of money and land use. In both of my chapters, the focus of my

case studies is on present-day advocates for land transfer, or the idea that the federal government should pass control of public lands to the states. The confederation of movements, organizations, and individuals that support land transfer have always attempted to rearticulate land and its publicness, and continue to do so today. For the ALC and GOP, publicness and lands is tied money. For the Bundys, the subject is tied to notions of resource use. In both case studies, the relationships between place and public is articulated through differential understandings about who gets to use land, how they use it, and why. In sum, attending to the ways in which various parties conceive of land use aids in an understanding of how place and public have been articulated.

Chapter Two:

Local Public Lands: The Monetary Mediation of Public and Place

The western states, claims the American Lands Council (ALC), “have trillions of dollars in abundant mineral resources.”⁵⁴ However, due to federal land management policies, the states lack the “opportunity to develop a sustainable full-spectrum economy” from public lands.⁵⁵ State control of public lands, the ALC argues, will result in “better economic productivity.”⁵⁶ The Republican Party agrees, writing in its 2016 platform that federal control of public lands “places an economic burden on counties and local communities in terms of lost revenue.”⁵⁷ For this reason, the platform calls on the federal government to transfer lands to willing states. For both the ALC and GOP, public lands should be important sources of state income, something the ALC argues is not possible while these lands are under federal control. Public lands should therefore be transferred to the states, so that their economic potential may be fully realized.

In this chapter I argue that money, the driving force of the ALC’s and GOP’s calls for land transfer, mediates conceptions of place and public. In other words, the focus that these organizations place on money impacts their rhetoric concerning public lands and the public of those lands. Money affects how land is talked about, how land is used, and what is valued about land. Similarly, money affects who land is thought to be for, who should benefit financially from land, and who should manage land. As the primary motivation behind these organizations’ calls for land transfer, the emphasis on money demonstrates that the ALC and GOP value public lands primarily for their economic potential.

As the driving principle, money shapes conceptions of land and public. For the ALC and GOP, this is done through a focus on localness, a term they use to emphasize the view that public

lands are for the residents of the states: in this understanding, public lands should be the responsibility of, and primarily benefit, the states and their citizens. In this vision of the ALC and GOP, the public of public lands becomes the states and their citizens—or “locals,”—who would benefit from the money made from the land. This affects how the land is used: the ALC in particular argues that each parcel of land has a “best use” that is determined by the features of the land. Some best uses are purely economic, while others are economically desirable due to recreation.⁵⁸ The economic opportunities the lands offer shape how the lands are seen. For both the ALC and GOP, public lands should be used to generate money for the states of which they are a part—hence the notion of localism. As I stated above, these organizations argue that federal control currently disadvantages the states financially. Through the financial opportunity they present, public lands shape how the ALC and GOP name their public. In other words, the rich economic opportunities presented by the lands drives the two organizations’ economic views, shaping their claims that public lands are for locals. Money thus shapes publicness and place through the concept of localness, a term used by both the ALC and GOP to describe public lands and their financial potential. In this sense, public lands are local lands and profits from the lands are local profits.

As used by the ALC and GOP, localness is a state-level concept. In this unusual sense of the word, locals are synonymous with citizens of the state. So, when the ALC uses “local” to describe public lands in Utah, locals are all citizens of the state. Local also designates the publicness of public lands: in this sense, public lands are local lands, and the profits from their resources are local profits. Again, money is the driving factor. Defining the public as local leads to the ALC and GOP valuing frontier traits of which, for their purposes, means a reduction of the states’ reliance on the federal government.

Individualism, a common value of the frontier myth, works with localness to shape conceptions of public and land in ALC and GOP rhetoric. In the land transfer dream of state-controlled public lands, the states would lessen their dependence on the federal government, thereby tapping into the mythic west: in the frontier myth, the hero is the rugged individual, a character whose most important trait is their self-reliance. The frontier myth is not a singular story but is instead a collection of narratives that records the westward expansion of the nation. Rather than using an explicit narrative of the frontier myth, the ALC and GOP both promote their land transfer values through appeals to key values of the myth, particularly values of land use. An instantly recognizable part of America, the frontier myth is, as Leroy Dorsey says, “one of America’s longest-living sacred histories.”⁵⁹ Therefore, I rely on the ubiquity of the frontier myth in American life to understand how the ALC and GOP pull from everyday known aspects of the myth to make their cases for land transfer, state ownership of public lands, resource extraction, and other ways of using land. To do this, I build on rhetorical scholarship of the frontier myth to analyze texts from both organizations, demonstrating that heroes of the mythic frontier often attempt to control land.

Following Robert Rowland, I attend to the work myth does, or what myths teach us.⁶⁰ I engage rhetorical work on frontier heroes, who are often positioned to impart specific values, and promote land control as either exploitation or preservation of land and resources. Scholars such as Leroy Dorsey, Ronald Carpenter, and Mary Stuckey have all established that the values of the frontier myth are often revealed by the actions of the narrative’s hero, often conveyed through the relation of frontier heroes to land. That is, narratives of the frontier often position their heroes in specific ways vis-à-vis the land, and actions taken by the heroes treat land in certain ways: in the examples I pull from, the heroes treat land as an object to be controlled for economic gain.

The hero of the mythic west imparts values about how land should be used, especially economic values. As in many stories of the west, the ALC and GOP see human benefit as the primary use of land. Specifically, the rhetorics of the ALC and GOP position their land transfer discourses within the values of economically profitable land use. These values mediate both land and public for these organizations, with the emphasis on economic profit shaping how the organizations argue land should be used, and who profits from those uses.

This chapter proceeds in three parts. First, I trace the attachment the ALC and GOP have to public lands money. Here, I show that money is the driving factor in how these organizations define public lands, land use, and its publicness. For these organizations, the federal government is standing in the states' way of benefitting fully from their public lands. In section two, I show how the ALC and GOP, in making their case for land transfer, shift their public from a vision of public lands for all Americans to public lands for locals. Continuing to trace the impact of money, I show how this new conception of publicness is driven by the economic value of land. This new view of public land as local land is used to contend that both land and public are better off without federal control. Claiming better environmental health and stronger economic conditions appear under state/local control of lands, the ALC and GOP position themselves in discourses of individualism, a central tenet of the frontier myth. In the third section, I describe the values of land use that the frontier myth imparts through the hero, also demonstrating the individualistic nature of the frontier. Having positioned themselves in mythic frontier values, the ALC and GOP appeal to the sense of self-reliance common to stories of the frontier. While money has less pronounced impact in the frontier myth, I still follow its traces and influence on how western lands have been viewed from the 1800s to present day, describing an economic perspective that has seemingly always been present.

Section One: Money

The federal government's ownership of approximately 640 million acres of public land in the United States has often been a source of controversy, particularly in the western states. These states have the highest concentration of federally owned acres, an amount that totals roughly 47% of the land. By contrast, federal acres make up only about 4% of the land in eastern states.⁶¹ In the early twentieth century, concerns for conservation of land and resources inspired a change in policies, resulting in laws that guaranteed federal retention of most lands. Before the change, typical federal policy was to acquire land and then dispose of it by giving or selling it to private owners or the states. The current uneven distribution of state controlled lands is the result of this relatively new policy of retention, an unevenness that has inspired many attempts to compel the federal government to cede ownership of public lands to the states. Efforts at land transfer have occurred regularly since the 1970s, with a recent attempt having roots in 2012 when the Utah state legislature passed legislation to provide a framework for a massive transfer of public lands. In the five years since that initial legislation, eleven states have introduced close to sixty land transfer bills.⁶² Supporters of land transfer condemn the current federal policy of ownership and control, and support a return to the historical approach of disposal. Arguing that the government's historical precedent was to not own land, proponents of land transfer hold that the government should reverse its course and begin a new policy oriented toward disposal. At the forefront of these arguments is the economic and financial incentives that public lands bring in the form of natural resources. The profits imagined from public land resources leads the ALC to claim these lands belong to the locals, or the state citizens. As I discussed before, the compelling pull of public lands because of their resources shapes the notion of the lands' publicness: in the

case of the ALC and GOP, this publicness is claimed to be for the local land user. As money shapes the public, the ALC and GOP deploy the mythic frontier value of self-reliance and individualism in order to argue for land transfer.

Money is the driving factor in the ALC's desire for land transfer. The ALC claims they will maintain a commitment to public lands being used (for economic purposes), writing that recreational opportunities will be enhanced and improved, and grazing rights secured.⁶³ The ALC asserts that each piece of land has a best use associated with it. Noting that some lands are mostly recreational, the organization claims:

It's difficult to put a dollar value on these lands, but they do contribute to state and local economies through tourism and recreational spending. Other lands have high economic and/or low aesthetic or recreational value—or those things are not mutually exclusive. Trillions of dollars in natural resources lie on and below these lands that can be responsibly developed, providing jobs, education funding, energy and food independence, and more while the land itself can be conserved for future generations. This is called stewardship.⁶⁴

Though they acknowledge the “aesthetic or recreational” uses of some lands, the ALC clearly sees even these in terms of dollars, as if excusing the lack of economic development that these lands would receive. The ALC and GOP both see public lands through a lens of what they will be used for, often putting economics and financial profit at the forefront of their desired land management policies.

Whether or not state control of public lands would be profitable for the states is not clear. The ALC, unsurprisingly, argues that state control of public lands would indeed benefit the states. However, since the states have never controlled these lands or their resource

infrastructures, any estimations of the lucrativeness of public lands are uncertain. A study completed by economists at three public universities in Utah provides “information about the current uses of land, the economic effects and noneconomic benefits of those uses, and the ramifications and impacts to the state assuming the lands are transferred.”⁶⁵ This report was commissioned by the Utah State Legislature, and its findings support the state’s claim that ownership of their public lands is financially feasible. The authors conclude that Utah could most likely adequately take ownership of the lands and cover the managing costs. However, they note that, while public lands do promise a good revenue stream, a completely accurate forecast of the costs associated with the land transfer cannot be known.⁶⁶ In short, while it is not known if state control of western public lands would be immediately profitable, Utah argues that it will eventually be so. The ALC highlights state education budgets as an example of how public lands revenue is desperately needed by the states.

Supporting their position that public lands should benefit the states, the ALC notes the role of public lands in funding public education. Revenues from public lands in western states are often used to fund public schools, but the ALC contends that use restrictions on many lands can hinder the amount of revenues generated.⁶⁷ For the 2017-2018 school year, Utah Public Schools received a little over \$64 million from revenues generated from state lands.⁶⁸ However, the ALC reminds readers that western states are “among the last in the nation in per-pupil funding for education.”⁶⁹ This, despite the fact that Utah dedicates “the largest portion of its budget to education of any state.”⁷⁰ The ALC holds that these budgets could be much larger if the states got all the revenue from the lands, but because of the non-taxable nature of “nearly 70 percent federally controlled lands in Utah,” there are not many revenue-generating lands.⁷¹

Transferring federally controlled lands to state management would presumably give the states greater power in generating revenue from lands.

The GOP's stance on the environment and land is also economic focused. The 2016 party platform states that "our agenda is high on job creation, expanding opportunity and providing a better chance at life for everyone willing to work for it." Their whole policy is directed at removing power from the hands of the federal government and giving it to the states and to private corporations. To this end, the platform states that the party is in favor of "the cost-effective development of renewable energy sources—wind, solar, biomass, biofuel, geothermal, and tidal energy—by private capital." They also want to "shift responsibility for environmental regulation from the federal bureaucracy to the states," and write that "we support the development of all forms of energy that are marketable in a free economy without subsidies, including coal, oil, natural gas, nuclear power, and hydropower."⁷² This heavy emphasis on economic development also shows the GOP's frontier mindset.

Continuing the Republican plan for energy, the platform stresses the importance of public lands and their resources: "our country has greater energy resources than any other place on earth." The party supports "opening" public lands for:

exploration and responsible production [of resources], even if these resources will not be immediately developed. Because we believe states can best promote economic growth while protecting the environment, Congress should give authority to state regulators to manage energy resources on federally controlled public lands within their respective borders. . . . expedite the permitting process for mineral production. . . [and] increase domestic energy production, including production on public lands.⁷³

According to the GOP, states should be in charge of regulating resource use on public lands because, they contend, state land management best juggles economic growth with environmental protection.⁷⁴ The narrative details the failures of federal policies espoused by the Democratic Party, arguing that the only way forward is to allow state control of resources, for the benefit of all Americans. In order for states to control resource extraction, the lands those resources are on need to be controlled by the states. The platform recounts the federal government's ownership of 640 million acres of public land in the U.S., arguing that federal ownership places economic burdens on the locals by depriving them of much-needed revenue, calling the current arrangement "absurd." The platform continues:

Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states. . . . We call upon all national and state leaders and representatives to exert their utmost power and influence to urge the transfer of those lands. . . to all willing states for the benefit of the states and the nation as a whole. The residents of state and local communities know best how to protect the land where they work and live. They practice boots-on-the-ground conservation in their states every day.⁷⁵

The platform then issues the call for the transfer of federal lands to the states, using the same language of individualism and "the-local-knows-best" that is used throughout. Similar language and ideas can be found in the ALC's rhetoric.

Stressing the importance of public lands allows the ALC and GOP to lay the groundwork for the rest of their arguments. By establishing that public lands are economically important, the organizations are able to define who should benefit from the land. In arguing that the revenues from public lands should benefit the states, the ALC and GOP contend that the lands should

belong to the states as well. In a forceful rebuttal to a commonly held assumption that public lands belong to all Americans, the ALC writes “public lands rightfully belong to the citizens of the state in which those lands reside,” just as lands in other parts of the country belong to the residents of those states.⁷⁶ The ALC claims that all Americans will be more welcome than ever to enjoy the natural beauty of the states, suggesting this will be the case only when local control—the best way to manage the land—is a reality. If the states were to control public lands, then they would be free to regulate the lands in a manner that would maximize their revenue potential, create jobs, and strengthen local economies. Both the ALC and GOP contend that the profits from natural resources on public lands belong wholly to the states in which these resources are found. In arguing that public lands should belong to the states, the ALC and GOP are defining the publicness of public lands. Specifically, they do this through references to the “local” in their discussions of state-controlled public land. In the next section I explain this emphasis on localness and demonstrate how the notion of localness sets up an argument for a lessened dependence on the federal government, which is an appeal to the individualistic nature of the west.

Section Two: The Local

As I stated in the introduction to this chapter, in the ALC’s and GOP’s views, public lands should function primarily as a revenue-generating resource for the states. Whether used for recreation or natural resource development, they contend that public lands should be used to benefit state economies. In the current situation, federal policies limit the economic potential of public lands. To rectify this, the ALC and GOP call for public lands to be transferred from federal control to the states. To make this argument, the organizations highlight the localness of

public lands. In this sense of the word, “local” is expanded so that it can be used interchangeably between the state and state citizens. By claiming that public lands belong to locals, the ALC and GOP articulate public and place: public lands are for locals and should benefit locals economically. In making this argument, the ALC and GOP favor a lessened dependence on the federal government and praise the self-reliant nature of the west and its inhabitants. By valorizing the independent nature of the western local, these organizations tap the “secular creation story” of America—the frontier myth.⁷⁷

By focusing on money, both the ALC and GOP stress the importance of the local in their conceptions of public lands. The GOP platform states that “federal ownership or management of land also places an economic burden on counties and local communities in terms of lost revenue to pay for things such as schools, police, and emergency services. . . . The residents of state and local communities know best how to protect the land where they work and live.”⁷⁸ The ALC claims that public lands “can be responsibly developed, providing jobs, education funding, energy and food independence, and more while the land itself can be conserved for future generations. This is called stewardship, and westerners have been responsible stewards of our own lands for generations.”⁷⁹ These are the core ideas that the ALC and GOP use to describe their land transfer vision; economics, poor federal management, and local know-how.

In their use of the term local, the ALC and GOP conflate locals with states. When the actual act of land transfer is discussed, it is almost always described in terms of the state. That is, the land is said to pass from federal ownership to state ownership. For example, the ALC urges “the timely and orderly transfer of federal public lands to the willing states,” and the GOP desires the passage of legislation requiring “the federal government to convey certain federally controlled public lands to states.”⁸⁰ However, when the ALC and GOP talk about land use and

management, the terminology shifts from state to local. For instance, the ALC argues that western states are better able than the federal government to protect and manage land through “locally-driven, on-the-ground response.”⁸¹ In another example, the ALC claims that they “are leading the charge to secure better access, better health, and better productivity of our public lands through reducing inefficient federal bureaucracy and increasing local control and direct accountability to the people who live in and near the affected areas.”⁸² As the GOP writes, “the residents of state and local communities know best how to protect the land where they work and live.”⁸³ In perhaps the clearest conflation of local with state, the ALC goes against their typical terminology and urge readers to sign their petition if they “feel the same need to have these lands transferred to local control.”⁸⁴ In conflating local with state when discussing land, the ALC and GOP proceed to the second step of their argument, the defining of the public of public lands in terms of its localness. As I noted previously, this emphasis on localness leads to a desire for reduced dependence on the federal government and the praising of the individualistic, self-reliant nature of the west and its citizens.

A key part of the argument for local control of public lands is the ALC’s and GOP’s insistence on the ineffectiveness of federal land policies. The organizations stress the failure of federal policies and consistently argue that local management leads to stronger economies, healthier environment/lands, and more access to natural resources. As always when the ALC and GOP discuss land, money is the driving principle. The organizations note that federal policies waste natural resources, restrict the possibilities for local jobs, and “greatly deny access for the multiple use of our public lands.”⁸⁵ In short, federal land management policies are seen as denying the states the ability to make money from their public lands. In making this argument, the ALC and GOP depend on the language of localness and individualism.

The GOP platform's resources section opens with a discussion of agriculture, emphasizing federal overreach into the affairs of private citizens. The GOP focuses on land users and uses, positioning itself as the party of "America's growers, producers, farmers, ranchers, foresters, miners . . . and all those who bring from the earth the crops, minerals, [and] energy."⁸⁶ These people, compelled by "their determination in bad times and love of the land at all times," are the driving force behind the economy. These land users are clearly locals: they use land, live near/on it, and depend on land for their livelihoods. The platform makes agriculture central to the party's agenda for job growth, highlighting the industry's contributions to the well being of the nation, while warning that over-regulation of the market has had profound consequences for the American worker. An example of federal overreach is the "travesty" of a policy that is the EPA's *Waters of the United States* rule that extends government jurisdiction of navigable waters. This rule supposedly violates state sovereignty and micro-manages "puddles and ditches on farms, ranches, and other privately-held property." State regulation is preferred over federal policies because states, the platform claims, are best suited to "engage farmers and ranchers to develop sound farm oversight policies."⁸⁷

Strangely claiming that ranchers and farmers are some of the foremost environmentalists in the country, the platform describes how human improvements to the land have made the environment better for humans and wildlife. This so-called stewardship of the land is a benefit to all: the GOP commits itself to policies that are based on the "preservation, not the restriction, of working lands."⁸⁸ The GOP, therefore, favors policies that allow lands to be worked, a stance that supports resource use such as public lands ranching, energy development, and timber logging. Like the GOP, the ALC contends that public lands are valuable financial resources for the states. However, because of failing federal policies, these lands often go unused, which

directly hurts the local public and state economies. For these organizations, proper management of public lands results in both financial profit and environmental health. The ALC's and GOP's views on forest health illustrates their arguments that state ownership is more financially profitable, as well as better for the environment.

Both the ACL and GOP use forestry as an example of how federal land management practices negatively affect local economies and land health. The GOP claims that states are the best managers of timber supplies, and calls on the National Forest Service to open timber resources for harvest to provide jobs for workers. According to the GOP, not only would increasing timber harvest be economically beneficial, but it would also improve forest health. Poor federal management of forests has seen an increase in wildfires and invasive species, the GOP says, resulting in forests with poor health that provide no advantage to Americans. By properly managing these resources, Americans benefit from the jobs provided and the forests are healthier. The GOP holds that "when timber is managed properly, the renewable crops will result in fewer wildfires and, at the same time, produce jobs in the timber industry for countless families."⁸⁹ Locals are again a focus, benefitting from greater economic exploitation of timber and also as better managers of those resources. Ken Ivory argues that the value of natural resources on public lands reaches into the trillions of dollars, money which should be used to the benefit of the states, instead of being locked up by federal bureaucrats. Not only are public lands valuable monetarily, but they are also key components of wider ecosystems. Public lands should be managed with an eye towards both the environment and the economy, two things that the ALC claims are hindered by federal policies. Improper management of public lands can have damaging results, both to the environment and economies on the national, state, and local levels. For example, Ivory argues that federal mismanagement of public lands has led to destructive

forest fires, saying that “federal forest policies prevent harvesting any trees, even when they’ve been killed by beetle devastation.”⁹⁰ These fires pollute the air, kill wildlife, and destroy the west’s watersheds: clearly, federal management of public lands has created problems. The ALC’s policy statement lists their primary positions, including their commitment to improving environmental health by reducing “catastrophic wildfire fuel loads that threaten communities, infrastructure, watersheds, critical wildlife habitat, and our environment” as well as facilitating the “restoration of healthy forests, range lands, and waterways.”⁹¹ The ALC’s solution to fixing these problems is state control; for the ALC, money impacts both public and land by calling for local management. Where federal control has failed the west, local control of public lands would benefit the land and its public by opening up access to resources, stimulating economies, providing funds for education, and allowing for policies that would create a healthier environment.

The use of the word “local,” which stresses the proximity of some, and the distance of others, to public lands, indicates the ALC’s and GOP’s conceptions of who constitutes the lands’ public. In their use of the word, local implies the nearness of those who live in close contact to the land. The ALC and GOP stress the importance of “local knowledge” in land management, sustainable resource use, enhancement and improvement of recreational access, and doing all this at a fraction of the cost of federal management.⁹² If, as the ALC wants, public lands were controlled by the states, then there would be a focus on local knowledge, so “willing states [could] tend our unique public lands with local care—more like a garden, or a park, and less like a ‘hands-off, don’t-touch’ Washington DC museum.”⁹³ According to the ALC, federal control of public lands is not working. As evidence, they cite a “distant, unaccountable federal bureaucracy” that “is blocking public access, increasing wildfires, destroying our environment,

and decimating communities.”⁹⁴ Remembering that “local” equates to the state, the non-local is presumably the federal government, who by definition does not have the local know-how necessary to properly care for the land. More importantly, the federal government’s management policies do not profit the lands’ public to the same extent local control would. The ultimate end of the ALC and GOP is for the public to profit financially.

The GOP and ALC argue that public lands should be managed by locals. Federal land management policies, they claim, have not worked, resulting in a situation where resources such as timber burn in wildfires, unable to be used. Local management would not only better protect these resources through careful stewardship, but would also promote resource development, benefitting local economies. Local land management is thus touted as a cure-all, the solution to the problem of both environmental and economic health. In the current situation, federal policies contribute to poor environmental health and weak local economies by restricting access to money-making land uses. By contrast, smaller, local caretakers are better than a distant, absentee caretaker in the federal government. Both the ALC and GOP stress the individual farmers, ranchers, miners, and others, saying that these individuals are good conservationists, and know how to care for the land. Indeed, not just that the states and individual people who use the land know how to care for it, but that they can care for it better than the federal government. The individual states, farmers, ranchers, miners, etc., are better suited to take care of public lands because they are locals. In the view of the ALC and GOP, local land management would free the states to profit from their lands’ natural resources. In shaping land as a local matter through their arguments about management and control, the ALC and GOP also configure a conception of the lands’ publicness. That is, land is seen to be for locals because they are the public that should

profit from the lands' resources. In this rubric, public lands are local lands, shaped by the flow of money from land to state (local) coffers.

Public lands themselves influence in conceptions of publicness. As I noted earlier, the ALC's conception of publicness is shaped by the land's "best use," a term employed by the ALC to argue that each piece of land has one primary use that should dictate what happens to, on, and with the land. The organization claims that a piece of land's proper use can be determined based on the material properties of the land. As the ALC explains: "Each piece of land has a 'best use' based on its individual characteristics and location. In many cases, a land's best use might be purely aesthetic or recreational, and so no economic development would be appropriate." Even lands that are "purely aesthetic or recreational" with no potential for "economic development" are seen through dollar signs: "It's difficult to put a dollar value on these lands, but they do contribute to state and local economies through tourism and recreational spending."⁹⁵ In this view, even the lands that are primarily valued for recreation contribute to local economies. Through their consistent emphasis on the economic value of public lands, the ALC draws attention to the land's ability to influence notions of publicness.

Public lands shape conceptions of their publicness. In opposing the idea that these lands belong to all Americans, an emphasis on the local as economic beneficiary makes sense for the ALC and GOP. It is hard to ignore the potential gains in financial profit that might come with complete state control of land and its uses. Seen through an economic angle, the resources in the lands provide an irresistible temptation to redefine public lands in terms of the local.

The public of public lands is, in the money-centric view of the ALC and GOP, the local. As I noted previously, such a description of publicness emphasizes the alleged failures of the federal government in providing adequate care to both land and public. Through promoting poor

regulation and management, federal policies have supposedly created an unhealthy situation for the land. Similarly, federal policies have damaged local publics by blocking access to resources, stifling the flow of money. By showing that the federal government is a poor landlord, the ALC and GOP strengthen their argument for a west that needs to lessen its dependence on the federal government, a familiar characteristic in the frontier myth.

The ALC's conflict with the individualist/community tension of the frontier myth is most clearly shown in the organization's claim that western public lands belong to the states, and no one else. This directly conflicts with the purpose of public lands the federal government has set out. For the government, public lands are multi-use lands that are available for all Americans to enjoy. Answering the question, "don't these lands belong to all of us," the ALC emphatically asserts, "no, public lands rightfully belong to the citizens of the state in which those lands reside."⁹⁶ The ALC, while welcoming outsiders to enjoy public lands, are adamant in their contention that public lands are the rightful property of the states. The GOP agrees, adding, "the residents of state and local communities know best how to protect the land where they work and live."⁹⁷ The two organizations reject a view of public lands owned by all Americans, desiring an arrangement where lands are owned by the individual states. This focus on self-reliance and individualism is reminiscent of the frontier myth. In the next section, I trace the myth's beginnings and describe what we can learn from the myth about land, publics, and money.

Section Three: Individualism and the Frontier Myth

In the last decade, the land transfer movement has been spearheaded by the ALC. This influential lobbyist organization has, since 2012, contributed to sixty-some pieces of land transfer legislation. The founding president of the ALC, Ken Ivory, also a Utah State

Representative, has been a driving force for land transfer, sponsoring legislation in the Utah House and writing many popular articles in support of his cause. Ivory demands greater state control over public lands, arguing that revenues from their resources will help fund public education in Western states, ease the burden on taxpayers, strengthen local economies, and promote a healthier natural environment, positions that, as I have shown, the GOP also supports. Land transfer ideas have gained national support, and the Republican Party's official 2016 Platform included an explicit call for the federal government to cede ownership to willing states. Additionally, the platform rejects recent federal approaches to land and resource management, favoring more accessibility and fewer restrictions for extractive industries. In advocating for state control, the two organizations emphasize the view that local government is better able to manage resources, lands, and benefit the interests of the people who live and work among public lands. An important aspect of this argument is that the states should be able to profit from public lands' vast wealth of natural resources, a source of contention that stretches back into the early history of public lands.

The claims of the ALC and GOP that state governments are better suited to manage public lands and natural resources are situated in appeals to individualism and self-reliance. In a video posted on their website, the ALC calls for community building through very individualistic ways. Only you, the video tells viewers, can change the situation of public lands in the West: "In America" viewers are told, "you are the boss, so you have to act like the boss."⁹⁸ Viewers hear that they can make the community better, promote forest health and public access to lands, and provide better funding for education. By taking action, individuals can improve the community. For the ALC, GOP, and Ken Ivory, the local is better off without an overreaching federal control of public lands. In advocating for this independence from the federal government, the ALC,

GOP, and Ivory picture the west flourishing in its individualism.

In order to better understand why there are appeals to self-reliance in the subject of land transfer, which is a state-level matter and therefore not obviously suited to an appeal to individualism, I turn to the frontier myth. As a collection of creation stories telling how the west was won, the frontier myth simultaneously paints a picture of collective state and nation building and praises the strong independence of those who conquered the frontier. Land transfer advocates appeal to individualism in order to argue for independence from the federal government; however, they are still a larger community, because land transfer is a state-level enterprise. What I mean by this is that both the ALC and GOP contend that public lands should be transferred to the states, not private individuals or corporations.⁹⁹ In this way, land transfer can be situated in the strange tension between the individual and the community that lies at the heart of the frontier myth.¹⁰⁰ In this section, I pay particular attention to what stories of the frontier teach us about land and publics' relationship to it. The force of money leaves its imprint on the frontier myth as well; part of what the myth teaches us is the importance of money-centric land uses. Especially in the mythic rhetoric of Teddy Roosevelt, but appearing elsewhere, the frontier is viewed as a space of economic potential—public lands, while not necessarily the frontier, are in this way frontier-like. That is, public lands are spaces of economic potential. Public lands are particularly frontier-like in the view of the frontier espoused by Frederick Jackson Turner, the academic with whom the study of the frontier myth arguably began.¹⁰¹

In tellings of the frontier myth, its characteristics and values are often portrayed by the hero. In this section, I consider two types of hero that have been much discussed by other rhetorical scholars, the conqueror and the farmer. I examine the role of the hero in the frontier myth, holding that the hero is often concerned with land uses. In discussing the hero's role, I rely

on Turner's conception of the frontier, demonstrating that he envisioned the frontier in relation to "free" land. This conception of "free" land invites a special type of hero who asserts mastery over the land. This conception of control is important to our perceptions of the frontier, because control is demonstrative of strength and individualism, and the ability to govern oneself. Both conqueror-heroes and farmer-heroes control land through a kind of conquest. In a modern sense for the ALC and GOP, controlling land is controlling its uses. This desire is to control land for the economic benefit of a local public. In this section, I hold that the frontier myth teaches us important lessons about ways of seeing land in the west, ways that continue today through the rhetoric of the ALC and GOP. Through Frederick Jackson Turner, I establish the centrality of land to the west. Through the mythic conqueror/farmer-heroes, I show that land is an important part of the mythic west, and the hero shapes perceptions of land use.

The Frontier

According to Frederick Turner, the progression of the nation from east to west was a focal point of much of American history. Turner continuously emphasized the importance of the frontier in the development of distinctive American tendencies, attitudes, and characteristics, and argued that "the most significant thing about the American frontier is, that it lies at the hither edge of free land." Each successive frontier added to the litany of peculiar American traits, and that "the United States lies like a huge page in the history of society. Line by line we read this continental page from West to East we find the record of social evolution."¹⁰² The land is a palimpsest, Turner says, with each area written as being first frontier, and then, with the frontier moving onward, it was rewritten as less frontier-like. The manner in which the land was used also changed accordingly, with industry and manufacturing following agriculture. Not only did the frontier greatly influence Americans, the country became more American as the nation

moved westward. For Turner, the frontier was not defined in a specific geographic location in a certain period of time, but rather was marked by the ever-retreating edge of “free” land. When Turner wrote his thesis, the population was so dense that there was not a wilderness left to conquer, and there was therefore no longer a frontier. The purpose of Turner’s essay was thus to declare the frontier closed.

Key to Turner’s conception of the frontier was the presence of so-called “free” land. As historical federal land policies demonstrate, land may have been free at times, but more often it came at some price. Richard Hofstadter, critical of Turner’s free land thesis, writes that while land was “relatively cheap in the United States during the nineteenth century. . . . the difference between free land and cheap land was crucial.”¹⁰³ Indeed, land was not free by several metrics. What became Turner’s frontier was land that was taken from Native Americans, bought and sold by colonialist Western nations, and acquired by private individuals. However, Turner’s free land thesis was indicative of how people came to think of land. Leroy Dorsey argues that, during the turn of the nineteenth century, the frontier myth glorified a hero—a cowboy, frontiersman, farmer—for whom land was a conquerable object.¹⁰⁴ As the frontier progressed, land became monetized, whether through the buying and selling of territory, the extraction of its resources, or as space for farming, ranching, and, finally, industrialization. The monetary value of western lands continues to be a concern today, and is the driving force behind the ALC’s and GOP’s calls for land transfer. The emphasis that the ALC and GOP place on money demonstrates a desire to use land in certain ways: these economically profitable land uses are ways of controlling land, an important facet of the frontier myth’s values concerning land.

Rhetorical scholars have also explained the hero’s role in imparting the frontier myth’s core values. These values often relate to land control. Leroy Dorsey contends that the conquering

of land was a central component of the hero's identity, while Mary Stuckey emphasizes the themes of control prevalent throughout variations of the myth. Each hero has their particular relation to land—the cowboy/frontiersman serves as the reminder that land is to be conquered while the farmer inspires us to be conservationists—and all show that land control is the end goal. The cowboy/frontiersman is heroic, in part, because of their ability to conquer land. Similarly, the yeoman farmers of Roosevelt are established through their conquest of wilderness and natural resources through agriculture.¹⁰⁵ While money is not an explicit part of these narratives and analyses, one can picture the role that money played by imagining the stereotypical figures of the west: whether the prospector panning for gold, the cowboy with his herd, or the homesteader growing crops, it is easy to see the impact of money in the taming of the mythic west.

Controlling land, in the mythic west, is a role of the hero and a central facet of many narratives and accounts. Mary Stuckey writes that the focus on expansion in the frontier myth is about control: “controlling the wilderness, controlling indigenous peoples (and others), and controlling events.”¹⁰⁶ Two of these aspects, control of wilderness and indigenous peoples, are effectively accomplished by controlling geographic areas. Pioneers tamed the wilderness by settling on the land, and Native Americans were controlled by placing them on reservations. Frederick Turner held a similar view, writing it was a “universal disposition” of Americans to migrate west, “in order to enlarge their domination over inanimate nature.”¹⁰⁷ State control of public lands for economic exploitation can be added to this list. Janice Rushing argues that the idea of unlimited space in the frontier encouraged its conquest, while Leroy Dorsey claims that controlling land was central to the identity perpetuated by the conqueror–hero.¹⁰⁸ Ronald Carpenter writes that the frontiersman was characterized as a western hero and frontier attributes

were applied to all parts of the American life, such as economics, war, and attitudes towards other nations.¹⁰⁹

The conqueror–hero, Leroy Dorsey argues, provides a conception of the frontier as infinite: an infinite frontier has unending, limitless resources, meaning that no matter how much of one thing is taken from nature, an unlimited supply is readily attainable. Roosevelt recognized the power of the conqueror–hero to American identity, and pushed to change this perception. According to Dorsey, Roosevelt believed that reducing America’s sacred history of the west to a “conqueror–hero of an unlimited frontier–universe” led to negative environmental consequences.¹¹⁰ Seeing western resources and land as unlimited and unending led to, in Roosevelt’s view, a state of the country where “one–half of the country’s timber had been cut . . . 200 million acres of forest land had been destroyed . . . [and] wasteful mining methods wreaked havoc.”¹¹¹ The poor health of the country’s natural resources drove Roosevelt’s concern with conservation, leading him to attempt a “revolutionary alteration of the frontier myth icons to promote conservation” and presenting the public with “a preserver–hero who acted within a finite frontier–universe.”¹¹² Roosevelt’s hero was the “yeoman farmer” who “exhibited the heroic traits of America’s greatness.”¹¹³ As Dorsey argues, myths can be re-conceived in the mind of the audience, and be adapted to a new situation.¹¹⁴ Roosevelt’s advocacy for conservation and recasting of the hero demonstrates the appropriation of the frontier myth for a specific purpose. By recasting the hero as someone who used the environment wisely, Roosevelt was able to establish the farmer as a canonical frontier hero in his quest for conservation of western resources. Roosevelt’s farmer was a figure who cared for the land, encouraging land control and conquest through agriculture and conservation. Similarly, the ALC and GOP name themselves and their constituents conservationists while pushing for financially profitable land

uses. Roosevelt, by refiguring the mythic hero, was able to take a different approach to land. Roosevelt's conservation policies created national parks and preserve systems, acts that paved the way for later conservation-minded legislation such as the Taylor Grazing Act and the Federal Lands Management Policy Act, legislation which implemented policies that sparked land transfer movements of the 1960s and 1970s.

Following in the footsteps of the mythic western tradition of land use, the ALC calls for self-reliance through state ownership of public lands in order to “generate self-supporting finance.” Their policy statement explains that the ALC wants to “foster compatible economic productivity to support essential government services such as local roads, utilities, emergency services, public health and safety, education, justice, and other civic functions while reducing tax burdens on citizens nationally.”¹¹⁵ Myth, as a reality lived, provides structures for society. Much as Roosevelt co-opted the narrative of the myth to protect the environment, the ALC and GOP are pulling from the frontier myth's praise of self-reliance to make their case. As the GOP platform says, “the residents of state and local communities know best how to protect the land where they work and live. They practice boots-on-the-ground conservation in their states every day.” Locals are therefore best suited to the GOP's mission of the “preservation, not the restriction, of working lands.”¹¹⁶ The land transfer rhetoric of the ALC and GOP constructs public lands as economic spaces and, through the support for extractive industries and other land uses, these organizations position themselves in the mythical western tradition of land use.

ALC and GOP: Applications of the Frontier Myth

The individualistic values of the frontier myth play a key role in the ALC's and GOP's land transfer rhetoric. Utah HB 148 “*Transfer of Public Lands Act*” is a model piece of

legislation that provides a framework for state ownership of public lands, and has served as inspiration for other pieces of legislation. Connecting HB 148 and the ALC is Ken Ivory, the sponsor of the 2012 legislation. Ivory, like many politicians, has a list of issues and his positions posted on his website. Under the section “Philosophy on Government,” Ivory lists several values that make up what he calls his “I Commit Card,” which describe his key philosophical positions and guide his legislative voting principles. In capital letters, Ivory promises to commit to:

RESIST GOVERNMENT HANDOUTS FOR MY COMMUNITY

TO OPPOSE ANY FEDERAL GOVERNMENT EXERCISE OF POWERS NOT
DELEGATED TO IT BY THE CONSTITUTION

TO BECOME PERSONALLY SELF-RELIANT

TO SECURE THE BLESSINGS OF LIBERTY TO MY POSTERITY

Ivory’s positions betray a frontier mindset, showing a clear commitment to a set of privileged ideals. In his view, good government is that which does not “interfere” with the lives of the people. By extension, good citizens do not need the government’s assistance: good citizens are “self-reliant,” a view that aligns with frontier virtues. Ivory promotes the values of being independent from the federal government and, further down his list, also promises to ensure that powers not delegated to the federal government by the constitution are restored to the states and people. He also promises “to defend and empower local government.” Ivory’s insistence on local government continues. He guarantees he will both promote “excellence in education at the most local level,” and “secure Utah’s lands and resources for the benefit of Utah.” As I showed in section one, the benefits to Utah that Ivory promises are financial, with revenue from public lands funding state education and strengthening local economies. Through the remainder of the list runs a constant theme of opposition to big government, promises to secure non-interference

from the government for private enterprise, to support only “essential” public services, to cut expenses, and not raise taxes. Ivory consistently promotes the values of a small federal government while also fostering the virtues of local government.¹¹⁷ Public lands are valued as a local concern as an alternative to federal ownership. In order to argue for the necessity of less federal control, Ivory constructs an individualistic vision of public lands in terms of their localness and their ability to benefit locals through their economic value.

The individualistic position that the states should have control of their lands has a tenuous legal claim. The ALC’s argument for state controlled public lands is based in the claim that the states were promised title to their lands by the federal government when they became states. Ken Ivory states that Congress is obligated to transfer title of public lands to the states because of the enabling acts that granted statehood. These acts, he argues, promised that the states would have control of their lands. When Congress changed federal policy by passing the *Federal Land Policy and Management Act* (FLPMA), the original promises of the enabling acts were broken, thereby changing the conditions of statehood, something that Ivory says has been ruled unlawful by the Supreme Court. Attorney Donald Kochan agrees with Ivory, arguing that the enabling acts constitute a contract between the government and the states. Utah HB 148, the *Transfer of Public Lands Act*, Kochan writes, is meant to be a reminder to the federal government that this contract exists, and “articulates the federal government’s duty to dispose [of public lands] and demands that it comply.”¹¹⁸ According to Ivory and Kochan, the states have a legal claim to the lands, an assertion that is contested by other legal scholars.¹¹⁹ In this view, a marker of statehood is the self-reliance of the states in their control of public lands. This view drives the ALC and GOP in their calls for land transfer.

The ALC writes in its public policy statement that the organization desires the transfer of federal lands to willing states for local control. As I have shown before, the ALC claims this will ensure “better public access, better environmental health, and better economic productivity.”¹²⁰ On their “Frequently Asked Questions” page, the ALC promises that all “valid existing rights including grazing, mining, timber, water, recreational access, and others” will remain recognized.¹²¹

The 2016 Republican platform also favors the return of federally owned lands to state ownership, a cause the GOP has historically supported, as they did when instigated by the Sagebrush Rebellion and Wise Use.¹²² The GOP supports minimal government interference with the extractive industries, and assumes a states-first stance on specific issues of governance. States, the platform claims, are best situated to help farmers and ranchers with policies, not “Washington bureaucrats,” echoing the language of many western lawmakers and land transfer advocates who argue against caretakers managing the land.¹²³ The section on resources in the 2016 platform presents a narrative of hard working Americans hindered by Democrat-supported federal interference, praising the self-reliance common to the frontier myth. As they say: “like the rest of the economy, agriculture has suffered through eight years of the Democrats’ regulatory juggernaut, particularly from the Environmental Protection Agency (EPA). States, not Washington bureaucrats, are best equipped to engage farmers and ranchers to develop sound farm oversight policies.”¹²⁴ This narrative presents an American people who should be free and independent from excessive federal regulation in pursuit of their labor, but who are instead held back by a federal government whose ideas and policies are just not representative of reality. The party continues to criticize the Democratic approach, writing that “unelected bureaucrats must be stopped from furthering the Democratic Party’s political agenda

through regulatory demands forced upon citizens and businesses beyond that which is required by law.”¹²⁵ Like Ivory, the platform identifies the local as the solution to many problems raised by the federal government. In the context of public lands, the local knows how to best regulate, use, and manage land, and is held in opposition to a federal government that has only caused the west and its lands issues.¹²⁶ Localness, held as the solution to the problems of western public lands and economies, is a clear indication of the individualistic mindset the ALC and GOP hold.

Another indication of individualism in the GOP’s platform is the constant praise of smaller systems of government, state control of resources and land, and the virtues of the American worker, all of which work to discredit a strong federal system. The platform recognizes the necessity of western states’ freedom and independence from Washington D.C., continuously arguing that Americans are better off when the federal government has limited control over their affairs. While the purpose of a party platform is certainly, to some extent, to distance themselves from political rivals, the document also paints a strong picture of what the party’s priorities are concerning resources and public lands. The GOP’s main concern is to describe a situation where the federal government’s current land management practices are harmful to both the people and environment. As an alternative, the platform supports local land management, following a mythic western tradition of self-reliance and individuality. Driving the GOP’s backing for local management is the view that public lands should financially benefit the locals, something that the current situation does not adequately support.

Conclusion

In this chapter, I have argued that place and public are mutually mediated by the notion of money. In their rhetoric, the ALC and GOP privilege the money-making capacity of public

lands: money leads to localness, which then leads to individualism. As is made clear by the frontier myth, money, individualism, and western land have a long history. The ALC and GOP, I argued, tap into the everyday known elements of the myth, thereby situating themselves in individualistic rhetorics of western land.

Influenced by money, the ALC and GOP advocate for land transfer, contending that state control of public lands will benefit local economies. In addition, local control of land will ensure a healthier environment, because locals know better than Washington bureaucrats how to take care of land. The profits from public lands, if controlled by the states, would benefit the economy because locals would get the majority of the revenues. In placing emphasis on the local, the ALC and GOP follow a long tradition of the mythic west in valorizing individualistic accomplishments that tell a tale of the west apart from reliance on the government and outsiders. When conservationists such as Theodore Roosevelt saw this individualistic conception of the west play out with devastating consequences to the natural environment through the conqueror–hero, the role of the myth was reversed to show the values of the preserver. In this chapter, I demonstrated that the characteristics of individualism common to Americans were attributed by Frederick Turner to the frontier. Following Turner’s thesis and defining the frontier as a space of “free” land, I demonstrated that the hero of the frontier myth can be defined by their treatment of land. The values of the myth, individualism and land, imparted to us by the hero, are therefore also dependent on the view of land taken by the hero.

Public and place are thus impacted by money. The public of these lands is defined as the locals, who should benefit from the revenues earned from public lands. By conflating state with local, the ALC and GOP are able to argue for “local” control and profit, by which they mean state control and profit. Whether or not state control will actually benefit the citizens of the states

is uncertain; once the rhetoric of the ALC and Ken Ivory is examined, it seems more likely that that money would simply go to expanding state budgets. This is also assuming that state controlled public lands is a profitable arrangement, something that is yet unclear. Public lands themselves are effected as well. The lands are seen as economic spaces, even those that have a supposedly primary use of recreation or aesthetic value. The ALC, advocating for the states, essentially argues that all land should be monetized. Land is only good, it seems, for being turned into money.

Chapter Three:

Government, Power, and Use: The Bundys' Articulations of Public Lands

In early January 2016, Oregon ranchers Dwight and Steven Hammond reported to prison, each beginning a five-year sentence for arson on federal property in 2001 and 2006.¹²⁷ The 2001 fire, according to the Hammonds, was an attempt to burn off “invasive species” that got out of control and spread on to federal land. In 2006, the Hammonds told the court, they started several back fires “in an attempt save the ranch’s winter feed” from several wildfires in the area.¹²⁸ These back fires then burned onto federal land. In protest of the Hammonds’ jail sentences—what they saw as an overextension of federal power—Ammon and Ryan Bundy, along with self-described militia members, seized the Malheur National Wildlife Refuge Headquarters near Burns, Oregon. The Bundy brothers and their companions occupied the building for just over one month, until the last occupier surrendered to law enforcement. During that month, Ammon, Ryan, and several other leaders were arrested and one man, Robert “Lavoy” Finicum, was shot dead resisting arrest.

This was not the Bundy’s first rodeo with the federal government: their disagreements stretch back two decades, mostly over grazing rights to public lands that are part of their family ranch outside Bunkerville, Nevada. The beginning of the Bundys’ dispute with the federal government can be traced at least to 1993, when the Bureau of Land Management (BLM) changed laws regulating the use of federal lands in Nevada. In an attempt to protect the desert tortoise, the BLM modified grazing permits and limited grazing on certain tracts of land, as well as requiring ranchers to pay fees in order to continue grazing their cattle.¹²⁹ Cliven Bundy, father

of Ammon and Ryan, strongly opposed the regulations, refusing to pay the fees and subsequent fines he incurred.¹³⁰

Disobeying multiple court orders, Cliven refused to remove his cattle from BLM land, choosing instead to simply graze his cattle there without authorization.¹³¹ Cliven and his family do not recognize the authority of the BLM or the federal government to regulate land use and, as of February 2017, Cliven owed the federal government close to \$1 million in unpaid grazing fees and fines.¹³² In April 2014, the BLM, acting on a 2013 court order instructing Cliven to remove his cattle from the Gold Butte area, began rounding up the Bundy herd. In response, many like-minded supporters, including members of several militia groups, travelled to Nevada to join the Bundys in protesting the BLM's roundup. The government eventually decided to give the cattle back to the Bundys when the situation threatened to turn violent.¹³³

In both the Nevada and Oregon confrontations, the centrally contested issue was land use, particularly the disputed ability of the federal government to own and regulate public lands. In Nevada, the Bundys declared that the federal government had no authority to collect grazing fees from public lands ranchers, while the Oregon occupation was a response to the supposed overreach of power of the government in punishing the Hammonds. In the family's vision, public lands became solely spaces for resource use, intended for use by certain people, managed in specific ways to meet those needs. In other words, resource use, for the family, calibrate public and place.

In this chapter, I argue that resource use is the central concern of the Bundys. For the family, federal control of public lands impedes the ability of resource users to use the land in maximally beneficial ways. I pursue this argument in two sections. In the first, I examine the Bundy's claim that land is power. The Bundys have particular views about how land should be

used and who should use it. According to the family, their ability to use land is threatened by federal public lands ownership. In the second section, I examine the family's claims about the constitutionality of federal land ownership. The Bundys hold that the federal government is unconstitutionally controlling large amounts of land, a practice that is not only illegal but also harms both land and land users.

These two sections illustrate the Bundys' central claim that public lands are to be used for resource extraction. Public lands, for the Bundys, are public for those who work on, live near, and profit from the land. Government ownership jeopardizes this conception of publicness because, in the family's view, excessively restrictive land management practices deny people the ability to fully profit from the land. The family's primary arguments—that the constitution does not give the federal government the ability to own land, and that land ownership equals power—are mobilized for the purpose of contesting public and place. While the family does not frame the argument in these terms, their confrontations with the government in Nevada and Oregon revolved around the central question of whom public lands are for and how they may use it. In other words, the family's conflicts with the government are principally about who gets to use land and who controls those uses.

In the Bundys' vision for public lands, the frontier myth's influences are most obvious in their discussions of constitutional government. For the Bundys, government should be small and limited. This is similar to the ALC and GOP's rearticulation of localness. The family argues that government should be small because they do not want federal government to have a large amount of control over their lives, a position that maps well onto the template of self-reliance provided by the frontier myth.

Section One: Malheur Narrative and Land is Power

In October 2014, the Bundys posted a response to the BLM's newest Areas of Critical Environmental Concern (ACEC's) designations in Nevada. According to the BLM, ACEC's are "areas within existing public lands that require special management to protect important and relevant values."¹³⁴ In their post, the Bundys claimed that nearly 3 million acres of land in southern Nevada would be "locked away from the people. This includes most uses on the land (recreational, agricultural or otherwise)."¹³⁵ The Bundys wrote that these new designations were filed by the BLM on October 1, 2014 (less than six months after the end of the Nevada standoff), in direct "retaliation against the people for standing against the horrific action of several federal agencies at the Bundy ranch. . . . making a clear case that they are willing to use federal power to punish the local people."¹³⁶ The family further claimed that, though they had little direct proof, "anybody with a little intelligence can see that . . . the BLM are not protecting the environment; they are punishing their enemies."¹³⁷

This post captures the Bundys conspiratorial fear of government land ownership: in their telling, the BLM used its position of authority to impose land use restrictions on the people of Nevada as punishment for the Bundys standoff. This example also fits within the family's larger narrative. According to the family, the federal government uses its ownership of land as a method of controlling the people. This is why the Bundys are so concerned with government control of land: in their view, the government can, at any time, drive them off the land by imposing use restrictions. For the family, control of land is power, and this power is directly related to land use.

In the Bundys' views, public lands provide resources that humans can, and should, use to sustain themselves. Land use is a primary concern for the family, and they contend that public

lands should be used to the benefit of humans, something federal management restricts. In a May 2012 post, Cliven critiqued the BLM's burn practices, condemning the agency's decision to burn feed, the "renewable resource that should be used for mankind and a healthy habitat for lots of species of wildlife."¹³⁸ The BLM, Cliven says, "managed to destroy human man's [*sic*] way to harvest and use the renewable resource (brush, grass, and all other vegetation—FEED), by not allowing the cattle to graze."¹³⁹ By burning the feed, Cliven argued, the BLM took away the opportunity for cattle to graze and harvest the grass, thereby turning "the desert forage into a eatable commodity." For Cliven, public lands produce feed that cattle eat and which then become food for human consumption. The feed should be used, not burned—when burned, grass and forage cannot be eaten by cattle, and cannot be used by people.¹⁴⁰ When land is overregulated or mismanaged, it cannot be used to its full extent. Through its land regulations, the government is defining place and public in ways that the Bundys strongly resist. This can be seen in how the family talks about using land.

When describing his grazing lands, Cliven wrote that they are "the public land of the people of Clark County (Nevada)."¹⁴¹ For Cliven, public lands are the lands of the citizens of Clark County—they are not federal public lands, they are not lands that belong to all Americans. Public lands are instead the lands of the people who live in them, use them, benefit from them, develop and improve them, and use their resources. The Bundys work the land, gaining from it but also improving it. Cliven claimed the ways in which his ranch has improved the land include "water improvements and developments for wildlife and livestock, forage improvements and fuel load reduction for fire control, and the habitat for livestock and wildlife have been enhanced."¹⁴² Public lands are public in that they are "public" for the land and resource user, whether that be ranching, mining, or recreation. Cliven describes the public of public lands as the "hunters,

campers, sightseers, off roaders, and all multi-users,” who enjoy access to and the beauty of their public lands.¹⁴³ In rhetorical terms, the “public” of public lands are those who use the land for whichever of its variety of uses.

The Bundys recast public lands through their vision of land use and minimal government interference. In the Bundys’ arguments, the publicness of the land hinges on the notion of land use. However, federal control of public lands hinders this public from using the land. As an example of this, the Bundys use the Hammonds’ experiences with Malheur to show that the government interferes with the publics’ use of the land. Though the family never fully explains the differences between government and non–government regulated use, the family has written multiple blog posts explaining how government regulations have harmed humans and the land. The central idea in this perspective is that, when not restricted by the government, public lands users help and improve the land. The family argues that human development and actions improve the land, though, of course, not every action taken by people benefits land. Federal regulations, however, do not allow for beneficial uses, and so the land suffers. In the family’s view, public lands should not be regulated out of use or protected so much that the land is unable to serve human needs. The ability to use public lands for their resources are thus a defining feature of the Bundys’ public land arguments. In this new vision, public lands become commodities to be used by specific people and should be managed in ways that maximize those uses for those users.

In the Bundys’ view, the plight of the Hammonds in Oregon exemplifies just how much can go wrong for resource users under federal control. As evidence, Ammon recounted the history of Harney Basin, the site of Malheur National Wildlife Refuge and the Hammonds ranch. In this narrative, Ammon emphasized the improvements early settlers made to the area, as well

as his perception that the federal government has been trying to force ranchers out of the basin for several decades. Throughout Ammon's blog post, issues of publicness and place feature prominently. In Ammon's telling, Malheur has seen near-constant conflicts over who gets to use the area, as well as how the land should be used. Ammon presents a picture of Harney Basin as place of fruitful and flourishing ranches—at least, until the government stepped in.

In this narrative, Ammon detailed a history of defining and redefining land, its uses, and its ownership. This post reflects a conviction that, when left to their own devices, ranchers and land users are more than capable of using land to the benefit of both humans and the environment. Conversely, government-prescribed land uses are depicted as harmful. Ammon wrote that, when the Harney Basin was settled, the ranchers developed a “state of the art irrigated system to water the meadows.”¹⁴⁴ In his telling, this improved the land so much that it influenced the migratory patterns of birds. According the National Fish and Wildlife Service, the refuge was established to protect birds from over-hunting by President Theodore Roosevelt in 1908.¹⁴⁵ According to Ammon though, Roosevelt initially created the refuge as an Indian Reservation—“without Indians”—in a “political scheme.”¹⁴⁶ Nancy Langston, an environmental historian, disagrees, writing that the Paiute reservation referenced by the Bundys existed before 1908, and was “without Indians” because they were removed by the government some years prior to ranchers settling in the area. White ranchers homesteaded on former Paiute land, and the wildlife refuge was later created from former reservation lands. While the historical details of the reservation are not agreed upon, the Bundys and the government do both agree that the wildlife refuge serves as protection for birds. Ammon claims that ranchers are to thank for the bird population, but because of the human-created habitat, the government stepped in and, starting with Roosevelt's political plot, began a century-long attempt to wrest control of the Harney

Basin from the ranchers. The plight of Dwight and Steven Hammond, the reason for the Malheur occupation, is proof that the government is still trying to gain full control of the Malheur area.¹⁴⁷

When the Hammonds purchased their ranch in the 1960s, Ammon wrote, everything was initially fine. However, during the 1970s, federal agencies acquired nearly all of the ranches in the Harney Basin and added those lands to the Refuge. Ranchers were told that “grazing was detrimental to wildlife and must be reduced,” a claim that Ammon seems skeptical of, noting that

The FWS [Fish and Wildlife Service] wanted to acquire the ranch lands on the Silvies Plain to add to their already vast holdings. Refuge personnel intentionally diverted the water to bypassing the vast meadowlands, directing the water into the rising Malheur Lakes. Within a few short years the surface area of the lakes doubled. Thirty-one ranches on the Silvies plains were flooded. Homes, corrals, barns and graze-land were washed away and destroyed. . . . In 1989 the waters began to recede and now the once thriving privately owned Silvies plains are a proud part of the Malheur National Wildlife Refuge claimed by the FWS.¹⁴⁸

Claiming that when land is used correctly it is beneficial to humans and wildlife, Ammon continues his post about the Hammons:

In a hidden public record she [Susie Hammond] found a study that was done by the FWS in 1975. The study showed that the “no use” policies of the FWS on the refuge were causing the wildlife to leave the refuge and move to private property. The study showed that the private property adjacent to the Malheur Wildlife Refuge produced 4 times more ducks and geese than the refuge did. It also showed that the migrating birds were 13 times more likely to land on private property than on the refuge.¹⁴⁹

Throughout this post, Ammon referenced multiple alleged attempts by federal agencies to grab up land in the Malheur region, suggesting illegal measures were taken to take land from ranchers. The narrative presents the Hammond family as strong and resilient against a force of oppression. Ammon again claimed human responsibility for the migratory patterns of birds and, through this narrative of control over nature, suggested that the ranchers' land use practices are beneficial to the land. In fact, Ammon claimed, ranch land attracted higher bird concentrations than the wildlife refuge. Additionally, Ammon wrote, the FWS destroyed much of the rangeland by increasing the size of Malheur Lake. By increasing the size of the refuge, the land was made useless for grazing. In this post, Ammon defined the land through what constitutes its publicness, the ability to be used.

In Ammon's telling, there is no need for an agency like the BLM or FWS to manage land because ranchers and other users manage it better. Therefore, the government does not need to control the land around Malheur, nor any public land. By claiming that the states or individuals should have control over the land, the Bundys are essentially arguing for a return to policy before the 1934 Taylor Grazing Act (TGA). However, this reasoning is suspect, as when this type of oversight was the norm, according to Nancy Langston, it was not sustainable. Offering a competing narrative to Ammon's, Langston wrote: "By the 1930s, after four decades of overgrazing, irrigation withdrawals, grain agriculture, dredging and channelization, followed by several years of drought, Malheur had become a dust bowl."¹⁵⁰ In contrast to the Bundy's narrative of land user management that had a positive impact on land and environment, Langston offered a view of lax mismanagement that had disastrous impacts on the overall ecosystem.

The federal government's role in these two narratives is controlling land use. For Langston, federal regulations have helped the Malheur area flourish. For Ammon, federal land

management is disastrous, because it stops resource users from using the land. Coming back to the subject of the Hammonds and their convictions for arson, Ammon noted the problems for land users of using land in ways contrary to government regulations, even when those uses are beneficial. Ammon wrote that “prescribed fires are a common method that Native Americans and ranchers have used in the area to increase the health & productivity of the land for many centuries.”¹⁵¹ For the Bundys and their followers, public lands should be managed in ways that promote resource use, because federal ownership of public lands does not allow for these type of uses.

Ammon’s history of Malheur shows that management of the area has often been controversial. In this narrative, Ammon told a story of public lands ranchers and users in danger of being forcibly removed from the land. According to Ammon, the federal government has constantly changed the standards for acceptable land use, which have only had the effect of harming Malheur and its resource users and ranchers. In this telling, Malheur is no longer a hospitable place for people to live and work. Instead, federal regulations and agendas have made Malheur almost unusable. For the family, federal regulations are one example of the dangers of government land ownership, dangers that are laid out more specifically in their claims about the power of land ownership.

Land is Power

The Bundy’s claim that there is power in owning land. In a December 2014 post, the family claimed: “history proves that whoever controls the land and the resources control the people. Everything we eat, wear, live in and so on comes from the land. . . . All economies, both local and abroad, depend directly on the land and the resources. True prosperity and self-reliance

is accomplished by harvesting the resources while caring for the land.”¹⁵² Ammon Bundy said in an interview about Malheur with CNN that, “this refuge—it has been destructive to the people of the county and to the people of the area. People need to be aware that we’ve become a system where government is actually claiming and using and defending people’s rights, and they are doing that against the people,” and claimed that the occupiers want to restore the “people’s constitutional rights.”¹⁵³

The family is so concerned with the federal government’s allegedly unconstitutional ownership of public lands because, when the government exercises extra-constitutional powers, Americans’ freedoms are at risk, which they tie directly to the land: “our foes understand power and have taken great measures to control the land and resources. . . . Control the land and the resources and you possess the power to manipulate the people and/or oppress them. This is a historical fact. The head thinkers in these federal agencies clearly understand these facts and have become modern day conquerors [*sic*].”¹⁵⁴ The family claims that the Founding Fathers understood the power of land ownership and designed the constitution to limit “the powers of government by outlining what lands the federal government can control and by separating the powers they hold. Their intent was to quickly dispose the land and resources to the local people, where it is most safe.”¹⁵⁵

The claim that land is power is another inadvertent rearticulation of public and place. In this claim, land is more than a place for obtaining resources: it is also a well of political authority. The Bundys argue that the federal government’s unconstitutional ownership of public lands has resulted in the government having too much power over the people. Without land ownership, the family contends, the government would not have as much control over the people and their land uses. This is why it is so vital for the family to code federal land ownership as

unconstitutional, as this should, in their view, result in the government rescinding its control of land. In this vision, public lands are a literal gauge of government control: if the government owns land, it has too much control over the people, whereas if the government gives up control of land, then the people have begun to reassert their proper authority.

In the Bundy's view, federal control of land has resulted in the government no longer "assisting the people in claiming, using, and defending property. Instead, they have become the people's competitor to the benefits of the land, and are willing to use force on those who they erroneously compete against."¹⁵⁶ By controlling public lands, the government has controlled who gets to use public lands, as well as how they're used, an arrangement that the family rebels against. Cliven describes the government as full of "leaching bureaucrats," who could not allow "the truth about the supreme law of this land" to be spread. By this Cliven means "freedom . . . property rights, state sovereignty, local government closet to the people – government by the people—for the people. . . . [and] policing power be in the hands of We the People's elected county Sheriff."¹⁵⁷ From Cliven's perspective, the federal government—"the bureaucrat, the hungry fat cat"—prosperes at the expense of the "producer and the protector that cares for and multiplies and replenishes the God given resources with his blood, sweat, and tears to protect and feed this land. The one who pours the milk in the fat cat's bowl!"¹⁵⁸ In this view, the user who lives in the land is the responsible protector of resources, but suffers from the oppression of the "great bureaucracies" who "have unlimited power over these lands."¹⁵⁹ The bureaucrats, in Cliven's view, control the land, prospering at the expense of the land users.

In the face of such a threat to the livelihoods and rights of ranchers and other Westerners who depend on public lands, the Bundys view their actions as constitutionally warranted responses to the federal government overreaching its proper bounds. After occupying Malheur,

Ammon stated, “we will be here as a unified body of people that understand the principles of the Constitution.”¹⁶⁰ Ryan echoed his brother, noting:

the best possible outcome is that the ranchers that have been kicked out of the area, then they will come back and reclaim their land, and the wildlife refuge will be shut down forever and the federal government will relinquish such control, what we’re doing is not rebellious. What we’re doing is in accordance with the Constitution, which is the supreme law of the land.¹⁶¹

Fellow occupier Ryan Payne agreed, saying, “the agenda is to uphold the Constitution. That’s all.”¹⁶²

The Nevada ranching family thus fears that their freedom, liberty, rights, and way of life are under siege from an oppressive government’s ownership of public lands.¹⁶³ Though the federal government has long been understood by legal scholars and the courts to have the constitutional ability to own land, the Bundys challenge this consensus, basing their views in a dubious reading of the constitution.¹⁶⁴ For the family, land should be used in specific ways, by specific people: in the family’s view, the land is for the resource users. The federal government, by excessively limiting land use, restricts the ability of people to extract resources, graze livestock, and engage in recreation, all uses that fit within the Bundy’s accepted sphere of land use.

The family’s arguments about government control are essentially about who has the proper authority to regulate land and resource use. In the family’s interpretation, government’s authority comes from the specific powers the people have given it. Since land ownership does not align with the Bundys’ interpretation of the constitution, then government does not have the authority to regulate land and resource use and so it does not have the power to make lands

available (public) in the ways they have done. The Bundys are arguing for a conception of publicness in which the land users control land management. While making legal arguments, the family is also advancing a view of who the lands are for. In other words, the Bundys are defining the publicness of public lands. The family's articulations of the land's publicness mirror their convictions about constitutional land ownership. The Bundys fear that federal regulations compromise their ability to use the land with minimal restriction, a situation in which leads them to reject federal land ownership, citing their interpretations of the constitution. In the next section, I lay out the family's interpretations of the constitution, with the central focus of their allegations of the federal government's "unconstitutional" ownership of public lands.

Section Two: Constitutional Arguments

The Bundy family willingly confronted federal authority in their core conviction that the government had overstepped its constitutional authority. The Bundys' views about constitutional government land ownership can be used to describe another angle in the relationship between place and publics. Through their arguments about the proper scope and authority of government, the Bundys are arguing for the right to define public lands' publicness. In other words, by contesting the federal government's claim to land management, the family is contesting the ability to define public lands' purposes and public—who and what public lands are for.

The basis to the family's central argument about government's public lands ownership is that the federal government has no authority to control public lands because the people did not expressly grant such powers in the constitution. Simply put, the Bundys believe that the federal government has no valid authority apart from the powers enumerated specifically by the Constitution. Constitutionally sound government originates from the people; thus, governmental

powers are derived from the people as well. Any power the government has that the Constitution does not expressly grant is therefore outside the government's proper scope and are powers not given to the government by the people. American government is government from, for, and of the people. Public lands are outside the constitutional authority of federal regulation, to be used and managed by land users.

In this section, I describe the factors behind the Bundy's arguments for their interpretation of constitutional government. For the Bundys, the resource user—the one who lives in the land—is best positioned to care for the land in a suitable manner. A Washington “bureaucrat,” as the family likes to say, is so far removed from public lands that they cannot conceivably know how to care for the land.

The Constitutional Position

According to most legal scholars and court decisions, the federal government has constitutional authority to regulate resource use on public lands. Three clauses in the constitution—the Property, Enclave, and Supremacy—provide the primary basis for the legality of federal land ownership.¹⁶⁵ These clauses are generally seen by legal scholars as clear support for the federal government's ownership of land.¹⁶⁶ The Enclave Clause applies only to a small fraction of federal lands and requires that a state must have title to the land, and then cede it to the federal government, and allows the federal government to own land that has been ceded to the US by a state.¹⁶⁷ This land is to be used for specific purposes, such as the construction of military bases or other “essential government uses.” The Property Clause states, “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.”¹⁶⁸ The Property Clause gives the federal

government the legal basis to own land and the jurisdiction over it.¹⁶⁹ Because of the Supremacy Clause, federal “legislation necessarily overrides conflicting state laws under the Supremacy Clause,” preventing states from simply taking ownership of public lands by passing legislation.¹⁷⁰

Contesting federal authority to regulate land use, the Bundys do not agree with these interpretations of the constitution, instead claiming that the federal government only has constitutional authority to own land in specific situations. This position is expressed multiple times on the family blog, along with the claim that their biggest concern is the scope of the federal government. For the family, constitutional ownership of land and use are connected. As Cliven wrote, “the problems we have had with federal land management. . . . have always been about the constitutional limits on the federal government’s authority.”¹⁷¹ In another example, in response to a court-ordered roundup of his herd, Cliven wrote: “this action of contract cowboys [threatens] . . . the production of a valid livestock business of converting renewable resources from the public land of the people of Clark County into an edible commodity.”¹⁷² The Bundys clearly see public lands in terms of land use: in the same post, Cliven wrote that “the public; hunters, campers, sightseers, off roaders, and all multi-users have enjoyed access and the beauty of their public lands.”¹⁷³ Public lands are public because they are meant to be used.

For the family, public lands should be public and land use should be prioritized. Since the government has not been given the ability to own public lands, then the government does not have the authority to regulate those lands uses. Allegedly unconstitutional federal control of land threatens this conception of publicness, resulting in land management practices that disadvantages the resource user by restricting their ability to use the land. These restrictions not only harm the resource user, but also harm the land, since they keep land users from their

management practices. Therefore, for the Bundys, a major concern is who has the authority to regulate land. Seen in this light, the federal government's offense is a deviant attempt at defining ownership, control, use, and access: the government is unconstitutionally articulating public lands through land use regulation which, in turn, restricts the land's publicness by limiting what the land may be used for. In support of the family's argument that the government has no power to regulate land, Cliven claimed that ranchers are the "stewards" of the land.¹⁷⁴ Cliven was specifically referencing grazing lands in this post, but the claim can be extended to all uses. Stewardship implies mindful use and caretaking, implying that the Bundys' think that resource users are best positioned to manage public lands in every way.

By appealing to the Constitution in their defiance of the federal government, the Bundys and their followers are what Gary Wills terms nullifiers, people who believe that they are following the Constitution, which is a self-doubting document, a perpetual twitch of nervous checks and abjured efficiency. . . . The nullifiers just put into practice what the myths of the Constitution taught them—the myths of sovereign states, of a government denied efficiency so that people can follow their own ways, of branches made co-equal so they can gridlock, of extra-governmental factions authorized to be self-correcting by their interplay.¹⁷⁵

Some individuals, Wills writes, break laws and typically recognize they are breaking the law. Nullifiers, however, hold that there is no law to be broken: they claim that a particular law is void because a "higher" law "takes precedence over the voided law." The Bundys exemplify what Wills calls "an especially American way" of nullifying a law, writing that this is an appeal to a "lower" law. Gary Wills explains: "The rule of the lower law is an appeal downward, from some large social arrangement to the specifics of a regional code that is deeper in people's lives

than the laws that they are breaking.”¹⁷⁶ In America, Wills claims, nullifiers expect society to recognize the validity of the lower law. The Bundys demand a return to the constitution of their interpretations. By making it a local matter, specific to western states and their lands, it is therefore “not a challenge to the whole structure of government above it.”¹⁷⁷

The Bundys see government land ownership as a threat to personal rights and freedoms. The government, the family claims, will “do what they want, when they want, and how they want, unless the people step in and do not allow them to.”¹⁷⁸ During the 2014 Nevada standoff with the BLM, Cliven Bundy spoke of his complaints with the government in an interview with Sean Hannity, saying:

Well, you know, my cattle is only one issue—that the United States courts has ordered that the government can seize my cattle. But what they have done is seized Nevada statehood, Nevada law, Clark County public land, access to the land, and have seized access to all of the other rights of Clark County people that like to go hunting and fishing. They’ve closed all those things down, and we’re here to protest that action. And we are after freedom. We’re after liberty. That’s what we want.¹⁷⁹

According to Cliven, not only is his livelihood in danger but also his rights and freedoms as an American. The conflict thus becomes not only about Cliven’s ability to graze his cattle on public lands, but also about Cliven’s understandings of what it means to be an American, and the actions of the government are therefore distinctly more threatening and ominous. As the family wrote in one post:

Under federal rule, the people that live on or near the land have no say to what happens in their own backyards. They have no republic [*sic*] form of government. The decisions are

all made by appointed representatives from Washington D.C. These representatives have no responsibility to the people and there is no practical legal way to hold them accountable. In direct violation of the U.S. Constitution federal agencies use the lands as their own and suppress the rightful stewards.¹⁸⁰

The purpose of the federal government, the family says, is to protect the rights of the people, not “to profit from the spoils in taking their lands and resources away” as has happened with federally controlled public lands.¹⁸¹

In the family’s view, since government is given its authority by the people, that authority can be taken away when the government acts outside the peoples’ wishes. According to the family:

The government must follow the rules like everyone else. Inform them [the government] that they are acting outside the authority that has been given them by the people. Let them know that they can file whatever regulation they would like into the federal registry, but if it is not authorized by the people and does not follow the Constitution it will be ignored.¹⁸²

In a post addressed to the Harney County, Oregon sheriff, Dave Bundy reminds him of their conviction that the sheriff’s boss is “We the people of Harney County,” and “for the sheriff to allow anyone or anything to violate the rights of his people, We The People, is a dereliction of duty of the highest order.”¹⁸³ In justifying his decision to stop paying grazing fees, Cliven explained that “I was too stubborn to just give up my rights, and I said ‘no’ to their plan. . . . The feds don’t really own this land. . . . [and] I’m not going to pay the BLM to manage my ranch out of business so I fired the BLM and quit paying their fees.”¹⁸⁴ Since government has no authority to own and regulate land, the government has no authority to restrict land use. In the Bundy’s

view, those with the power to form government—the people—should have the power to regulate land use.

The Bundys' claim that government authority comes from the people, as established in the constitution, is one of the primary ways that the Bundys' arguments are shaped by the frontier myth. As the Bundys tell it, the ninth and tenth amendments of the constitution provide this power to the people: "the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people," and "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."¹⁸⁵ Ryan explains these amendments, saying that they "clarify that the federal government does not have unlimited power, that the powers have been granted from the People, and that those powers are limited to performing specific functions."¹⁸⁶ Much like the ALC's and GOP's reframing of localness, the Bundys use this argument of government from the people to lessen their independence on the federal government. In this new frame, the family casts the government as dependent on the will of the people, not the other way around.

As Ryan explains, "the Ninth and Tenth Amendment to the Constitution further restricts and clarifies that the central government (federal) we have created is our servant, and not our master. That it does not have authority to make or take any authority or power that the people did not specifically give." He continues:

Therefore, "We the People" as neighbors, create government and laws to protect our lives, liberties, properties, and our pursuit [*sic*] of happiness, from those who would take them away. Our federal government is created and receives its authority from the people as outlined in Constitution of the United States. The Constitution specifies how and what the federal government is and what powers those that hold office have. We have

given the federal government specific duties to perform and granted it the power to fulfill only those duties and nothing else.¹⁸⁷

Accordingly, the supreme law of the United States is the constitution: no other law, act of Congress, or court decision can contradict the constitution.

This idea of the federal government's dependence on the people for its authority has important ramifications for resource use. For instance, in this view, the government cannot authoritatively insist on regulating land, particularly in ways that contradict the will of the people. Though this is obviously an unsustainable position, because there is no authority to mediate between contrasting groups of citizens, the Bundys get around it by claiming they want state ownership of the land.¹⁸⁸ This is reminiscent of the old tension between individualistic self-reliance found in the frontier myth—westerners wanting to take care of themselves—and their historic reliance on the federal government.

According to Ryan, by owning public lands, the federal government is in direct violation of its constitutional powers. He interprets the Property Clause, which is the foundation for most federal ownership of public lands, as giving the federal government authority only to regulate land that is part of a territory. He explains, saying that the clause:

does not grant unto congress the power to retain the land, only to dispose of it. This means that the federal government does not and never will OWN the land. . . . but they have the obligation, duty and authority to dispose of it.¹⁸⁹

Cliven expands on Ryan's interpretations, also writing that the Property Clause empowers the federal government to own land for a while, but then must give it to the states. He says that only in this instance "do We the People give congress unlimited power over land and

congress had power to dispose of these lands. That's exactly what they did when they admitted states to the union."¹⁹⁰ Conceding the point that the federal government can indeed own land, Cliven claims that this is only a temporary arrangement. The federal government, he claims, was never intended to have the power to control vast amounts of land on a permanent basis. He interprets the Property Clause as giving the government "unlimited power over land and congress had power to dispose of these lands," which congress did when states were admitted to the union.¹⁹¹ The thesis advanced by Ryan and Cliven is simple: land can be owned by the federal government for a brief amount of time, but when a state is formed out of those lands, control must be ceded completely to that state.

An important part of the Bundys' argument is the Enclave Clause. By continuing to own large amounts of land in certain states, Cliven holds, the federal government is acting in opposition to the Enclave Clause. This clause gives congress the power to control ten square miles of land for "the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."¹⁹² These sections of land must be purchased from the state with its legislature's consent. Defending his actions at Malheur, Ammon cites this section, claiming "the federal government does not have authority to come down into the states and to control its land and resources. That is for the people to do, and that is clearly stated in" the Enclave Clause.¹⁹³ By owning lands in perpetuity, the federal government is in direct violation of the constitution, and defies the powers the people gave to government. Ryan explains that, through the Enclave Clause, "We the People granted unto congress an area of land 10 miles x 10 miles, so 100 square miles for the purpose of being the seat of government."¹⁹⁴ Ryan develops this claim:

We also give Congress the opportunity to use land within a State. . . . This purchased land cannot be used for any purpose that Congress wishes. We only authorize Congress

to use the land for five purposes, ‘for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.’ Four of the five are straight forward uses, military uses and shipping. Other needful building’s is a bit open-ended but is restricted to a building and not of vast lands.¹⁹⁵

According to the family, because “we the People have never granted to congress the right to administrate land inside States except for the limited purposes outlined in . . . the Constitution,” the federal government has no authority to gain the right to own land.¹⁹⁶ The federal government also has no power to “control our resources; water, lumber, minerals, petroleum, forage, or wildlife of any kind. These all fall under the 10th Amendment and are reserved to the State, or to the People. Any act of Congress stating otherwise, is not in pursuance of the Constitution.”¹⁹⁷ Because there is no constitutional authority to control lands outside the limited scope of the Constitution, Ryan contends:

All the land that the federal government now claims, i.e., BLM, Forest Service, Monuments, Recreation areas, Wilderness, Reclamation areas, Wildlife refuges, Areas of Critical Environmental Concern (ACEC), National parks, etc., are all unconstitutional! None of them fit within the boundaries of the Constitution. It is simple; the land belongs to the People!¹⁹⁸

The Bundys justify their actions with interpretations of the constitution that often hinge on deeply flawed misunderstandings of the document and court decisions. For example, the Bundys’ arguments about the Enclave and Property clauses are, according to Michael Blumm and Olivier Jamin, based on an inaccurate interpretation of the word “territory.”¹⁹⁹ As Ryan

explained the family's position: "the Constitution grants Congress the power to make needful rules and regulations while the land is still a Territory (capital T) and grants Congress the power to dispose of the land." In the Bundys' view, this means that the government has the ability to control the land when it is still in a Territory, which is supposedly different from a state. This is an important distinction for the family: "the plan was for the federal government to administrate the Territories until they could become States. When a Territory is populated to the point that it could stand on its own, jurisdiction would be turned over to the people of that Territory and it would become an Independent State and part of the Union."²⁰⁰ This distinction hinges on the alleged importance of the capital "T" in territory. Blumm and Jamin explain that the family attempted to use this distinction as a defense in court, even though the contention that "'Territories' versus 'territories' or 'lands' has constitutional significance was considered and rejected by the Supreme Court 176 years ago in *United States v. Gratiot*."²⁰¹ The only authority that the Bundys use for evidence to support their interpretations, write Blumm and Jamin, is "the most reviled decision in Supreme Court history," Chief Justice Roger Taney's decision in *Dred Scott vs. Sanford*.²⁰² In his since discredited analysis, Justice Taney wrote that Congress had no authority to establish "rules for federal territories in the West that were not part of the Union at the time of the Constitution."²⁰³

In addition to the "territories" interpretation, many of the family's other arguments about the constitution are simply wrong and ignore the long history of Supreme Court decisions supporting federal ownership and control of land.²⁰⁴ Indeed, the Supreme Court has even affirmed the federal government's ownership of Malheur Refuge, which was a major factor in the Bundys' occupation of the refuge.²⁰⁵

The family calls for the return of a form of government that respects their definitions of constitutional restrictions on federal power, and for government officials who are willing to listen to the demands of their constituents. When the government is too powerful, the family argues, the government tramples on the “sacred liberties” guaranteed to the people by the Constitution.²⁰⁶ Through their demand for a limited central government, it is apparent that the Bundys do not feel any power and control within a governmental system of powerful federalism. Simply put, the Bundys want a government that is limited and local, a distinctly frontier-mythic form of government. This type of government would benefit public lands users, because local decision-making about public lands policy puts those decisions in the hands of the users. When public lands policy is made by a far-away government, then it is difficult to feel that one’s voice has any say in the matter. By arguing for localized government, the Bundys are essentially objecting against a system that has failed to give them government for the people, by the people. However, in their appeals to the constitution, it is clear that they do not recognize the systemic nature of their oppression. The Bundys attack what they perceive as the threat, the central government, while failing to appreciate that the federal system functions as it was designed: the constitutional system is set up, argues Jeremy Engels, for the purposes of “encouraging self-government, but frustrating its actualization.”²⁰⁷ In other words, the framers of the US constitution purposefully made government participation by the people difficult: instead of being the source of the people’s participation in their governance, the constitution was designed out of a distrust of the *demos*. Nevertheless, the Bundys persist in their belief that valid government is derived from the people. The Bundys’ faith in the constitution overrides everything else, even ways that document has been interpreted and applied.

The family's ultimate hope is to erase close to two hundred years of case law and precedent concerning federal ownership of land. By citing the constitution, the Bundys act like they are legal authorities, which aligns with their view that the citizens should be the highest authority in the country and give the government its power. At the same time, the family's adherence to their unconventional interpretations of the constitution indicates that they think they are following the law, which is an unsustainable position. That is, the Bundys want to use the system of government the constitution sets up, but they take issue with how that system of government has operated since the constitution's ratification. Following the family's logic, the "constitutional" form of government that they desire would require the erasure of a long history of law. Ultimately, the family is advocating for stripping the federal government of its power to own land, which would require reversing roughly 175 years of legal precedent.²⁰⁸ Reversing federal authority to own land would, at the same time, drastically alter perceptions about who has the right to use public lands and how.

Conclusion

The Bundys rearticulate public and place through their arguments about land use, power, and constitutional government. In the family's arguments, these three factors work to shape a vision of public lands in which the land is for resource users to use in maximally beneficial ways. In the family's incorrect interpretations of the constitution, since the government has no power to own land, it has no authority to regulate land use. By denying federal authority to own and regulate land, the Bundys rearticulate public lands. In the family's view, public lands should be managed in ways that support beneficial uses by resource users. According to the Bundys,

federal land management does not encourage resource use, but is instead an active attempt by the government to stop certain land uses, such as public lands ranching.

According to the family, land ownership equals power. This claim is related to the family's arguments about constitutional authority, because the Bundys argue that unconstitutional federal ownership of lands amounts to an illegal overreach of the government into the family's lives. While this argument mirrors many conservative complaints about government interference, the Bundys' uniquely situate their concerns in the context of public lands. Land ownership is power because, argue the Bundys, the government can control their lives by controlling resource use and dictating how the family uses land.

Chapter Four: Conclusion

In October 2016, Ammon and Ryan Bundy were acquitted of all charges relating to their takeover of Malheur National Wildlife Refuge. On January 8, 2018, the judge presiding over their trial related to the 2014 Nevada standoff dismissed the charges against Cliven, Ammon, and Ryan, citing the government's decision to withhold evidence from the defense.²⁰⁹ Despite the Bundys' well-documented violations of federal law concerning public lands, it is now likely that they will escape punishment. While it is too early yet to call this a complete victory for the Bundys, the government's failure to produce a conviction in two separate trials means that the issues of public and place raised by the family's insurrections remain unresolved. Indeed, the Bundys have now shown that it is possible to flaunt federal land policy and walk away from it. The recent trial's dismissal means that this is, presumably, the beginning of the next chapter in the Bundys' continued resistance to federal articulations of publicness and land, showing that public lands can be used, potentially, in any way that resource users see fit.

The ALC has been relatively quiet since 2016, and the organization seems to be waiting for the federal government to make its move. However, land transfer advocates have reason to be hopeful that federal policy will become more favorable to their views: in December 2017, President Donald Trump drastically reduced the size of two national monuments, an unprecedented step in reducing federal land holdings.²¹⁰ Additionally, Trump's rumored pick for the new director of the Bureau of Land Management is Karen Budd-Fallon, a Wyoming attorney with considerable experience in representing public lands ranchers against the BLM.²¹¹ Both of these examples suggest that the ALC's and GOP's goals of land transfer may be attainable in the future. Trump's decision concerning the monuments mirrors the money-driven rhetoric of the

ALC and GOP: the new boundaries around Bears Ears—one of the shrunken monuments—were seemingly drawn with the express purpose of facilitating resource extraction in the area.²¹² Indeed, some evidence suggests that Energy Fuels Resources, a uranium mining company, put in a concerted lobbying effort throughout 2017 in order to affect the decision.²¹³ Money, it seems, defines much about public lands.

In this thesis, I questioned the relationship between public and place. To do so, I examined the ways in which public and place are calibrated via land transfer. Specifically, in two case studies, I argued that public lands are articulated via money and use. In chapter two, I argued that money is the driving factor in the ALC and GOP's desires for land transfer. Through a rearticulation of localness, the organizations argue that public lands and their economic benefits are the property of the states. In this vision, the public of public lands becomes the states and their citizens—or "locals,"—who would benefit from the money made from the land. This also affects how the land is used: the ALC, for example, argues that each parcel of land has a "best use" that is determined by the features of the land. Unsurprisingly, the best uses are primarily those which make money. Through the financial opportunity they present, public lands shape how the ALC and GOP name their public. In other words, the rich economic opportunities presented by the lands drives the two organizations' economic views, shaping their claims that public lands are for locals. Money thus shapes publicness and place through the concept of localness, a term used by both the ALC and GOP to describe public lands and their financial potential. In this sense, public lands are local lands and profits from the lands are local profits.

In chapter two, the ALC and GOP's articulation of public via localness leads to the organizations venerating the values of the frontier myth, particularly individualism. Rather than using an explicit narrative of the frontier myth, the ALC and GOP both promote their land

transfer values through appeals to key values of the myth, particularly values of land use. A common value of the frontier myth, individualism works with localness to shape conceptions of public and land in ALC and GOP rhetoric. As an unusual sense of the word, individualism for the ALC and GOP pertains to the states' independence from the federal government. In the land transfer dream of state-controlled public lands, the states would lessen their dependence on the federal government, thereby tapping into the mythic west.

In chapter three, I argued that the Bundys calibrate publics and place through the notion of land use. Through their claims about the power of land ownership, I demonstrated that the Bundys contend that the federal government has too much control over their lives. The family directly links this to federal regulations concerning land use, claiming that the government controls their lives via controlling land use. The claim that land is power is an inadvertent rearticulation of public and place. In this claim, land is more than a place for obtaining resources: it is also a well of political authority. The Bundys' other major line or argument is that the constitution does not grant the government authority to own land. The family argues that the government's unconstitutional ownership of public lands has resulted in the government having too much power over the people. This is why it is so vital for the family to code federal land ownership as unconstitutional, as this should, in their view, result in the government rescinding its control of land. In this vision, public lands are a literal gauge of government control: if the government owns land, it has too much control over the people; whereas if the government gives up control of land, then the people have begun to reassert their proper authority.

In this thesis, I argued that recent attempts at land transfer argued their positions through attempted rearticulations of *what* public lands are for—what their uses and purposes are, as well as *who* public lands are for—who may access them, and who may use them. In my case studies,

the tensions surrounding the centrally contested issues of who public lands are for, who may use them, and how they may be used led to the mediation of public and land via money and use.

Notes

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