



The Dog-Whistle Politics of Seizing and Selling American Lands and Energy Resources in the West

By Nicole Gentile and Matt Lee-Ashley October 27, 2015

Introduction

On October 16, Sen. Marco Rubio (R-FL) released an energy platform¹ that sent a quiet but powerful signal to a conservative network of fossil fuel interests—led by industrialist brothers David and Charles Koch—and anti-government activists.² If elected president, Sen. Rubio promises, his top energy policy priority will be to “work with Congress to ensure that states and tribes—and not the federal government—have the primary role in oversight of energy development within their borders.”³

To many readers of the Rubio energy plan, including journalists who covered his announcement, this statement appeared unremarkable: Politicians from both parties have long promised to give states, tribes, and local communities a louder voice in natural resource decisions.⁴ Among a target audience of readers on the far right, however, Sen. Rubio’s statement can be read as going much further: He will ask the U.S. Congress to transfer ownership of federally owned oil, gas, and coal resources to the states. Such a shift would give state governors unprecedented power to sell drilling and mining rights in America’s national forests, national parks, and other public lands; to waive environmental protections; and to seize revenues owed to U.S. taxpayers. It also speaks to a key priority of anti-government activists: weakening the federal government.

Sen. Rubio’s energy plan is the latest indication that the radical idea of selling, transferring, or privatizing America’s public lands and energy resources has entered the mainstream of Republican politics. In January 2014, the Republican National Committee formally endorsed the efforts of conservative state legislators to force the federal government to transfer U.S. public lands to state ownership.⁵ Earlier this year, the U.S. Senate voted on and narrowly passed a budget proposal that would facilitate the sale or transfer of national forests and public lands.⁶ In the U.S. House of Representatives, meanwhile, Rep. Rob Bishop (R-UT) has organized a group of lawmakers, called the Federal Land Action Group, with the goal of determining “the best congressional action needed to

return these [federal] lands back to the rightful owners.”⁷ According to land grab activists, these “rightful owners” are the states. “We simply think the states can do it better,” said Rep. Chris Stewart (R-UT), the co-chair of the Federal Land Action Group.⁸

On the presidential campaign trail, Sen. Rubio is one of several candidates who have voiced support for privatizing, selling, or transferring control of America’s public lands. This issue brief reviews the statements made by Republican presidential candidates regarding the ownership of public lands and examines how candidates are using the issue to curry favor with anti-government activists and win the support of the fossil fuel industry.

Background on proposals to seize or sell U.S. public lands and energy resources

The idea that the federal government should transfer ownership of public lands to state governments or sell them off to private interests has percolated on the conservative fringe for decades. The concept briefly gained attention during the Sagebrush Rebellion—an anti-government movement in the West in the 1980s⁹—but has not been able to overcome criticism that it is unconstitutional,¹⁰ fiscally irresponsible,¹¹ and environmentally reckless.¹²

This concept is also deeply unpopular. Most voters in the Western states oppose the idea of transferring or privatizing America’s public lands and energy resources. An October 2015 poll of likely voters in Colorado and Nevada—commissioned by the Outdoor Industry Association and conducted by a bipartisan polling team—found that respondents opposed “giving the (Colorado/Nevada) state government control over national public lands” by a roughly 2 to 1 margin.¹³ When presented with arguments for and against transferring public lands to the states, 62 percent of Colorado voters—including 54 percent of Colorado Republicans¹⁴—agreed with opponents that if national public lands were transferred to state ownership, the state of Colorado would “not have the funding to maintain these lands, much less fight wild fires, which can cost over one hundred million dollars per year. Some places [would] be auctioned off to the highest bidder, limiting our ability and that of future generations to enjoy these places.”¹⁵ These results are consistent with polling that the Center for American Progress commissioned in 2014, which found that—when presented with arguments from both sides of the issue—6 in 10 voters in Western states agree that having their state assume responsibility for the management of national public lands would be unfair to taxpayers.¹⁶

The fact that the majority of Republican presidential candidates—all of whom are engaged in a competitive primary—have expressed support for a deeply unpopular policy proposal raises a basic question: Why?

The rationale for Republican support

The rationale for Republican presidential candidates to support seizing or selling off public lands is twofold. First, major backers of Republican candidates have a financial stake in opening federal lands to development. Secondly, supporting the land grab movement allows Republican candidates to make subtle overtures to the far-right wing of their base.

Protecting profits

Over the past five years, a coalition made up of conservative activists, anti-government extremists, and the conservative network built by billionaire brothers Charles and David Koch has reenergized the land grab movement. A 2012 Center for American Progress report profiled the emergence of this coalition and described how it has lobbied Western state legislatures to pass laws demanding that the federal government cede control of national forests and other public lands to state ownership.¹⁷ At the heart of the coalition are the American Legislative Exchange Council,¹⁸ or ALEC, an organization of conservative lawmakers that is funded by the fossil fuel industry and other corporations;¹⁹ the American Lands Council,²⁰ or ALC, an organization with ties to the mining industry that is under investigation for ethics and lobbying violations;²¹ the Property and Environment Research Center,²² or PERC, which is funded by the Koch brothers; and Americans for Prosperity,²³ which is also a Koch-funded organization. The mining and energy interests—including companies owned by Charles and David Koch—behind these groups would presumably reap substantial financial gains if U.S. public lands, energy resources, and minerals were transferred to state control or sold off to the highest bidder.²⁴

Pandering to anti-government extremists

In addition to resource extraction industries, which have a financial stake in the privatization or transfer of U.S. land and energy resources, the land grab movement is backed by anti-government activists, white supremacists, militias, and other extremist groups. According to a recent investigation of this network by the Center for Western Priorities, “The land seizure movement’s ideology is rooted in extreme antigovernment beliefs such as *Posse Comitatus* and *County Supremacy*, the idea that the federal government has no right to public lands and that the county sheriff is the final arbiter on any issue relating to their use.”²⁵ These anti-government groups frequently cite the 10th Amendment as the justification for their opposition to the authority and activities of the federal government.²⁶

Cliven Bundy, the Nevada rancher who instigated an armed standoff with Bureau of Land Management, or BLM, officials over his overdue cattle grazing fees,²⁷ is the most recognized leader of the land grab movement. Other anti-government organizations, however, such as the paramilitary Oath Keepers, the Constitutional Sheriffs and Peace Officers Association, the Militia of Montana, and the white supremacist Council of Conservative Citizens have also lent their support.²⁸

It is tempting to dismiss these groups as fringe elements of American society that are irrelevant to national political movements. Political observers, however, including the Southern Poverty Law Center, have noted that ideas once concentrated in the anti-government subset of the right wing are edging into mainstream Republican politics and are no longer limited to patriot militias on the fringes of society.²⁹ According to Political Research Associates, a nonprofit organization that studies the right-wing movement, “those threatening to resist federal law and regulation are no longer just patriot militias in camouflage, training in isolation in the woods. They are elected county sheriffs, politicians, and state legislators, declaring that their resistance to the federal government is grounded in their interpretation of the Constitution and U.S. history.”³⁰ Indeed, these organizations’ members are part of the Republican rank and file. They are also critical to the success of GOP presidential candidates and others who are seeking to harness the energy of the right-wing movement.

Republican candidates, therefore, are forced to maintain a delicate balancing act: They must appeal to the more extreme elements of their base openly enough to win critical primary elections but not so openly that they damage their appeal in the general election. References to the land seizure movement appear to have surfaced as a new way to quietly appeal to the more radical members of the Republican base.

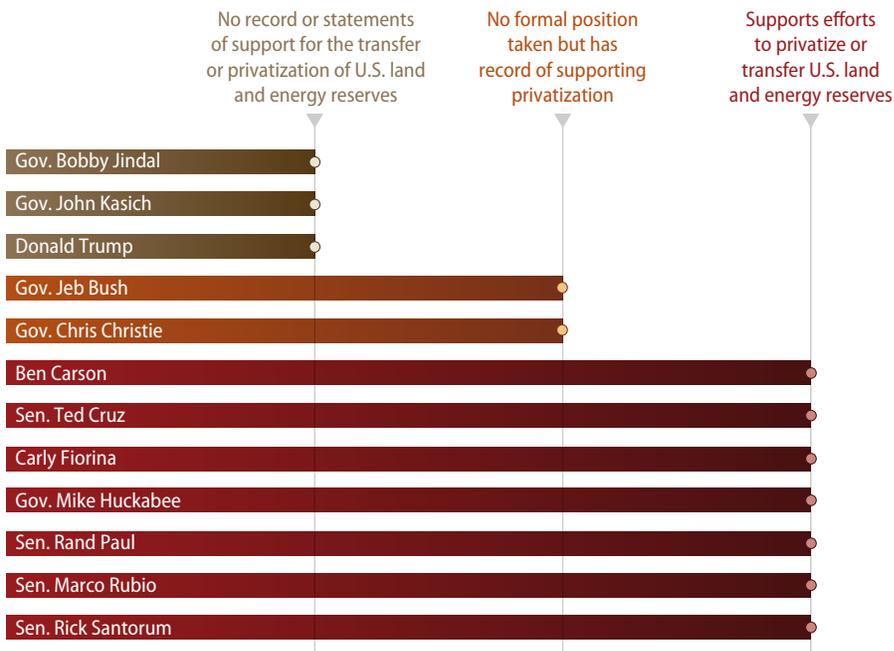
The positions of Republican presidential candidates

Analysis of the statements and records of Republican presidential contenders reveals widespread use of both overt and dog-whistle language to demonstrate support for divesting the federal government of lands and energy resources in the West and elsewhere. Among the 12 candidates who ranked the highest in the National Broadcasting Company/*Wall Street Journal* poll from late September, seven candidates have clearly expressed their support for transferring or privatizing public lands and energy resources, two candidates have records that suggest openness to the concept but have not clearly articulated their positions, and three candidates have no record of supporting the land grab movement.³¹

FIGURE 1

Land grabs on the campaign trail

Republican presidential candidates' positions on privatizing or transferring ownership of public lands and energy reserves



Source: CAP Action review of candidates' positions on public lands. See endnotes 31–64.

Support efforts to privatize or transfer U.S. lands and energy resources

The following presidential candidates have clearly stated their support for efforts to privatize or transfer control of America's national forests, public lands, and energy reserves.

Rand Paul

Sen. Rand Paul (R-KY), a Tea Party favorite, has aligned himself publicly with Cliven Bundy and the land grab movement. He was the first 2016 presidential hopeful to weigh in during the initial stages of the standoff over Bundy's cattle, calling the debate about whether Bundy should pay grazing fees "real ... intellectual and constitutional."³² Sen. Paul has also made no secret of his relationship with the American Lands Council and its leader, Utah state Rep. Ken Ivory (R), and has voiced his support for their mission:

I'd either sell or turn over all the land management to the states. You run into problems now with the federal government being this bully, this big, huge government bully. You would have less of that if you had more local control of the land. State ownership would be better, but even better would be private ownership.³³

Sen. Paul has done more than publicly align himself with land grab advocates, however. He has also used his seat in the U.S. Senate to push legislation that would transfer management authority of U.S. public lands to the states. In 2013, for example, Paul introduced the Endangered Species Management Self-Determination Act, which would allow states to opt out of the Endangered Species Act under the pretense of allowing states to manage endangered species on federal land within their borders.³⁴ The bill failed to progress out of the U.S. Senate Committee on Environment and Public Works when it was first introduced and has not advanced since.³⁵ Sen. Paul reintroduced it in March 2015.³⁶ That same month, Sen. Paul voted in favor of Sen. Lisa Murkowski's (R-AK) amendment to the federal budget to facilitate the transfer of public lands to individual states.³⁷ Although the budget amendment passed in the Senate, Congress would have to pass additional legislation to actually carry out the transfer or sale of public lands.

Ted Cruz

Sen. Ted Cruz (R-TX) has been an active proponent of seizing and selling public lands. In 2014, Cruz offered an amendment to the Bipartisan Sportsmen's Act that would have prohibited the federal government from owning more than 50 percent of the land in any state and forced any land beyond that 50 percent threshold to be auctioned off or transferred to state governments.³⁸ According to Bloomberg News reporter James Greiff, Sen. Cruz wanted "to unload federal land by turning it over to the states or selling it to private buyers."³⁹ Cruz has also stated that "the BLM already controls far too much land. We should be reducing the amount of federal land that the BLM controls and the amount of land that the federal government owns."⁴⁰

Like Sen. Paul, Sen. Cruz voted in favor of the Murkowski amendment to facilitate the transfer of public lands to the states. He vocally supports Rep. Ivory and the ALC⁴¹ and is also one of ALEC's most active legislative allies, stating in 2013, "I'd been privileged to work with ALEC in the federal government. I've been privileged to work with ALEC when I was back in Texas with the Texas Public Policy Foundation, leading the 10th Amendment Center, and I'm proud to stand with ALEC today."⁴²

Marco Rubio

Sen. Rubio's (R-FL) first pledge in his presidential campaign's energy platform is to transfer control of federal energy resources to the states.⁴³ This is not the first time, however, that Sen. Rubio has supported this idea. In 2013, he co-sponsored Sen. Jim Inhofe's (R-OK) Federal Land Freedom Act, which would have given states the authority to develop energy resources on the federal land within their borders.⁴⁴ Sen. Rubio said of the bill:

*This common sense bill will empower states to develop our domestic energy resources responsibly and effectively. Ensuring states have more authority in our nation's energy development will help keep energy costs low, create jobs and grow our economy.*⁴⁵

Like Sen. Cruz and Sen. Paul, Sen. Rubio voted in favor of the Murkowski amendment to facilitate the transfer and sale of public lands.

Carly Fiorina

In a recent interview with the *Idaho Statesman*, Carly Fiorina endorsed the idea of privatizing public lands: “The federal government does a lousy job of managing forests. The private sector does a much better job of managing forests. The federal government controls too much land in this country.”⁴⁶ Fiorina’s endorsement of the privatization of public lands came after she attended campaign events in Nevada, where land grabs were a prominent topic of conversation,⁴⁷ as well as after she headlined the Practical Federalism Forum—which focused on “federal overreach”—in New Hampshire alongside Ted Cruz, Rick Santorum, and Ken Ivory.⁴⁸

Rick Santorum

Former Sen. Rick Santorum (R-PA) has been clear in his support for transferring or privatizing public lands. “We need to get it back into the hands of the states and even to the private sector,” said Santorum, according to a report in the *Idaho Statesman*. “And we can make money doing it.” Santorum added a criticism that federal land managers “don’t live here, they don’t care about it, we don’t care about it in Washington. It’s just flyover country for most of the bureaucrats in Washington, D.C.”⁴⁹

Ben Carson

In 2014, Ben Carson offered praise for Cliven Bundy and his supporters, calling them “pretty outstanding people” and stating that he was “encouraged” by their actions that culminated in an armed standoff with the BLM.⁵⁰ In a column for the *National Review*, Carson further exulted Bundy and his supporters, writing, “We the people of the United States are the only ones capable of preventing uncontrolled government expansion and abuse. Like the ranchers in Nevada, Americans must find the courage and determination to maintain a free and vibrant nation.”⁵¹

Mike Huckabee

In April 2014, former Arkansas Gov. Mike Huckabee (R) referenced Cliven Bundy and his anti-government crusade during a speech in New Hampshire. Huckabee said there was “something incredibly wrong” when the government “would literally put a gun in a citizen’s face and threaten to shoot him” over “grass that a cow is eating.”⁵² Addressing a Las Vegas, Nevada, crowd in July 2015, Huckabee said he favored greater economic use of public lands for energy resource development. According to Huckabee, “One of the real challenges in the western states is that energy in those areas is often not able to be explored.”⁵³

No formal position taken but have a record supporting privatization or transfer

While some candidates overtly support seizing and selling off public lands, others have made subtler statements or hold more nuanced positions on the issue.

Jeb Bush

On October 21, former Florida Gov. Jeb Bush (R) unveiled his plans for the management of U.S. public lands. Arguing for greater local and state involvement in federal land management decisions, Bush proposed moving the headquarters of the U.S. Department of the Interior to a state capital in the West, such as Reno, Nevada; Salt Lake City, Utah; or Denver, Colorado. Although Bush stopped short of calling for federal lands to be transferred to state ownership, Jennifer Rokala of the Center for Western Priorities cautioned that his call for “local control” may be intended to curry favor with the far right. “Vague pronouncements are a dog whistle to anti-government extremists who insist the federal government has no right to own land at all,” said Rokala.⁵⁴

Bush’s record as governor of Florida also suggests a potential openness to privatization initiatives on public lands. He partially privatized services in some state parks, for example, and allowed private development on state park land.⁵⁵ It is worth noting, however, that Bush has not explicitly called for selling national forests or other public lands and, in fact, said that Cliven Bundy is “breaking the law” and that “the law ought to be enforced.”⁵⁶ It remains to be seen whether Bush will keep his distance from land grab activists or whether his pledge to move the Interior Department’s headquarters to a Western state capital is a sign that he intends to make further appeals to win their support.

Chris Christie

In March 2010, New Jersey Gov. Chris Christie (R) formed the New Jersey Privatization Task Force,⁵⁷ which echoed Jeb Bush’s approach to privatization during his time as governor of Florida. The task force concluded that privatizing services in all 58 of New Jersey’s parks would save the state between \$6 million and \$8 million annually.⁵⁸ This proposal was strongly opposed by state groups such as Public Employees for Environmental Responsibility, the New Jersey Sierra Club, the Nature Conservancy, and the Association of New Jersey Environmental Commissions.⁵⁹ Despite widespread opposition, Christie announced plans in 2011 to lease golf courses and privatize concession operations in state parks.⁶⁰

No record or statements supporting the transfer or privatization of U.S. land and energy resources

While many candidates have carved out positions on the seizing and selling of public lands, some have stayed above the fray.

Donald Trump

The Center for American Progress Action Fund review of candidates' positions found no record of Donald Trump discussing whether America's public lands should be privatized or sold. In at least one instance, Trump actually contributed to the expansion of parks and public lands. In 2006, after environmental regulations complicated his attempt to build a golf course, Trump donated 436 acres of land to New York to create a state park, explaining that it was "the best thing to do."⁶¹

John Kasich

Gov. John Kasich (R-OH) has said little about the management of U.S. public lands, but he engaged in a fierce debate about the appropriate balance of energy development and conservation on state lands in Ohio. As governor of Ohio, Kasich pushed a plan through the state legislature to open state parks to oil and gas drilling.⁶² Three years later, however, he reversed his position and demonstrated support for the protection of public lands. Gov. Kasich's spokesperson Rob Nichols explained, "At this point, the governor doesn't support fracking in state parks." He then elaborated, "Ohio doesn't permit this kind of oil and gas production in state parks because the governor doesn't think we have the policies in place yet to properly do it."⁶³

Bobby Jindal

Louisiana Gov. Bobby Jindal (R) has expressed support for the idea of public lands. During a town hall this past summer, Gov. Jindal responded to a question about cattle grazing on public lands by warning of government "overreach" in the use of the Antiquities Act to protect lands.⁶⁴ Yet in the same answer, Jindal seemed to affirm the value of public lands, even if he did so to emphasize his preference for agricultural interests over other uses:

The land belongs to all of us, the American people, the public not the bureaucrats in D.C. And I think ranching and those that use and graze on those lands have as much of a right to be there and should be allowed to be there [sic] I think its wrong for the bureaucrats in D.C. to try to drive folks off that land.

Conclusion

The Republican Party is in the throes of a fractious debate that is reshaping its platform and principles. Whereas the conservation values of President Theodore Roosevelt were once an honored anchor of the GOP tradition, those values have few remaining champions in today's party leadership. Amid the turmoil of the Tea Party takeover of the GOP, the right-wing fringe has successfully pushed its demands and ideas into the party's mainstream, forcing—for example—showdowns over the federal government's debt ceiling⁶⁵ and blocking federal spending bills over its opposition to Planned Parenthood.⁶⁶

Today, the idea that Americans should divest themselves of their national forests, wildlife refuges, and energy reserves is no longer just the pipe dream of anti-government activists and fringe militia groups. It is a rallying cry that candidates for president of the United States are using to cater to deep-pocketed fossil fuel interests, including the Koch brothers, and to energize anti-government activists who now make up a critical component of the Republican base. Several candidates are making these appeals with caution, using dog-whistle language to communicate their support to their target audiences without sounding alarms among mainstream voters.

However, these presidential contenders are playing a risky game. For now, their coded endorsements seem to be reaching their target audiences while eliciting little scrutiny or concern from the general public. But the bright lights of the general election will soon be shining on one of these candidates, and a position that favors the transfer or sale of America's public lands will be both difficult to disguise and impossible to defend.

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- Utah House of Representatives since January 2011 and is the most active proponent of state land seizure efforts nationwide. Ivory launched the American Lands Council—a 501(c)(4) nonprofit organization formed to advocate for the transfer of federally owned public lands to state ownership—in 2012. A recent report by the Center for Western Priorities notes that Rep. Ivory has stated his support for county supremacy efforts and has signed a resolution by the Constitutional Sheriffs and Peace Officers Association espousing principles of county supremacy and declaring that the “arrest of citizens or seizure of persons or property without first notifying and obtaining the express consent of the local sheriff” would not be accepted. See Center for Western Priorities, “Going to Extremes.”
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