

Public Lands Conflicts

A friend recently asked me, why is there so much conflict over the use of the public lands, and what can be done to resolve those conflicts? Well, the first part is fairly simple to answer, however the second part is not so easy. To answer the first part needs a look at some history.

All conflicts have a point of beginning, and most often they result from a difference of opinion over an agreement or action. In our State, this point of beginning lies in the Enabling Act of 1875, creating the State of Colorado and wherein it defined the boundaries and stated that all land therein shall be the State of Colorado. Further, the State had to have a Constitution with a Republican Form of Government (not a democracy), to govern all the land and people therein. All this was done appropriately under the U.S. Constitution. So where did the "public lands" enter the picture? At the formation of the new States and Constitution, the direction was for all lands to be in private ownership for people to be at Liberty to live their own lives peaceably with their neighbors in freedom. The later developed federal government was not to control any land other than the portion specifically described as the District of Columbia and specific sites such as forts, Dock yards, magazines and arsenals. Further down in Article IV the new federal entity was authorized to secure new territory and dispose of it to form new States out of. This all worked under the new "Rule Book" (Constitution), for almost 70 years until war broke out over control of lands, resources and people, the very same issues that caused the Declaration of Independence and Revolution.

Enter Colorado Enabling Act of 1875. When the State was formed a large portion of the lands had not yet been "claimed" for various private ownership, so the federal entity decided to act as the real estate agent to sell off the unclaimed portions of land, on behalf of the new State, and keep 95% of the sale value to retire federal debts from the recent War between the States, the first violation of the "rule book". Some lands were sold and some homesteaded, but still a large portion was not suitable for homesteading and establishing an individual livelihood. Failing to sell the land for the State, the federal entity got greedy and decided to just keep the States land for its self and sell off the minerals, timber etc. and keep most of the revenues for itself, rather than fulfilling the compact in the Enabling Act and disposing of the unclaimed lands to the State for control and management. Violation number 2. Those lands became identified as "public lands" under federal control, ignoring the Constitution and State Enabling Act, and governing the lands under its own rules and laws. Therein lays the beginning of the conflicts. A State is not a State if it does not control the lands and resources within its boundaries. The State cannot govern what it does not control. 36% of Colorado, not including Indian and other trust lands, is under the control of an outside government, not responsible to the government of the State of Colorado.

Nobody really cared much at the time as people were just working to survive and build their lives and the new federal agencies of Forest Service and Bureau of Land Management was doing a pretty good job. By the 1960's, a segment of population became affluent enough they could spend time and money in just relaxing and developing the new idea of "recreation", and sticking their noses in other people lives. The "public lands" were readily available, and the varied interests in recreation immediately became the focal point of competition for who should have priority of access and free use. The federal

agencies promoted the misconception that the “public lands” were “YOUR LANDS”, resulting in all the differing interests actually believing the lands were theirs and began demanding the federal land agencies provide access and management that each wanted to meet their individual desires. The land control then became a national political power issue, no longer a scientific and economic management one. The next cycle of conflict over control of land, resources and people was off and running, a result of not following the “Rule Book” at the very beginning.

In 1992, the United Nations held the Earth Summit and produced a document titled “Agenda 21” that was the format for saving mankind and the Earth through controlling the people and their effect on the environment. In the U.S. the massive amounts of federally controlled land in the west was ideal to implement the policies of Agenda 21 as the federal politicians were already in control. The federal agencies redrafted management guidelines resulting in today's restricted access, use, and management of the so called “public lands”, creating increased division and animosity among various users for what little access and use may be allowed. Why doesn't the eastern U.S. have these problems? The States are in control of their own lands, resources and people as per the “Rule Book”.

So how can the conflicts to be resolved? The problem has grown massive over the past 143 years, with outside powers and governments being in control. The not so simple answer is to return to 1875 and correct the “Rule Book” violations that were made then. Not likely. Only possibility now is for local Counties to take the lead in executing their legal authority in developing plans for the “public lands” and petition the State to nullify the unconstitutional federal laws. The local people will have to realize that the lands are State Lands, and not “theirs”, so we must all work together at the “local” level for management of the lands and vegetation for their health and productivity for all, not any one “use” preference over another. Good Luck!

To better depict the magnitude of the problem of outside controls affecting lands and resources of the States, here is a map showing the federal controls over the States and the people of the States.

■ = Federally Controlled Public Lands



