

Key things to know about federal land ownership

By KEITH RIDLER
Associated Press

An armed group occupying the headquarters of a national wildlife refuge in southeastern Oregon wants the federal government to relinquish the land to local officials so it becomes more accessible for ranching, mining and other uses.

Less visible efforts to wrest control of federal lands date back more than a century in the West, where the U.S. government manages most of the land in some states.

How much land does the government own? It controls about a million square miles, mostly in the West, according to the Congressional Research Service. It owns 85 percent of Nevada, 66 percent of Utah, 62 percent of both Idaho and Alaska, and 53 percent of Oregon.

Most of the land is managed by U.S. agencies including the Forest Service,

Bureau of Land Management, Fish and Wildlife Service and National Park Service.

The federal government also owns significant portions of California and Wyoming, at 48 percent each; Arizona, at 42 percent; Colorado, at 36 percent; New Mexico, at 35 percent; Montana, at 29 percent; and Washington state, at 28 percent.

How did the government acquire so much land? As the country expanded West, the federal government sought to protect some areas, such as Yellowstone National Park in 1872, and took control in the 1900s of unclaimed areas that were generally too harsh and difficult for homesteaders to make a living.

For example, the U.S. Bureau of Land Management administers much of the sagebrush steppe of the Great Basin, which is habitat for the imperiled sage grouse but unsuitable for farming.

Is the land-control conflict new? No. The debate over management of federal land has spanned decades. Some state officials and others contend that state control would mean less regulation and greater freedom for ranchers, miners, recreationists and others, boosting state income.

Critics of that view say the land would be too expensive for states to maintain and would be sold off to private interests, cutting off access to the public.

Congress approved a law in 1976 saying that remaining public land would stay under federal control.

What efforts are states making to control federal land? State lawmakers, notably in Utah and Idaho, have sought a legal way to take control of federal land. However, Idaho Attorney General Lawrence Wasden has said the state's constitution gave up claims to the land when Idaho joined the

union. Congress has the authority to turn over federal land to the states, but efforts to pass such a law have failed so far.

What's special about the land in Oregon? President Theodore Roosevelt created the Malheur National Wildlife Refuge in 1908. Administered by the U.S. Fish and Wildlife Service, the 300-square-mile refuge is partly a marshland that's a key rest area in the Oregon high desert for migrating birds.

The number of migrating shorebirds qualifies the refuge as a Regional Western Hemispheric Shorebird Reserve, the wildlife service says. It also supports more than 20 percent of the state's breeding population of greater sandhill cranes, as well as many other species.

Birding is a popular pastime at the refuge, which also draws anglers, hunters and wildlife watchers.

RESPONSE: Fed definition of terrorism requires an act 'dangerous to human life'

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come up with a different scenario if these weren't white Christians."

"There seems to be somewhat of a reluctance to think white people are as dangerous as people of color," said Heidi Beirich, director of the Intelligence Project at the Southern Poverty Law Center, which tracks hate groups.

But other observers suggested that from a tactical standpoint, the government's cautious response would make sense no matter who was holed up in the government building in the reserve.

"These guys are out in the middle of nowhere, and they haven't threatened anybody that I know of," said Jim Glennon, a long-time police commander who now owns the Illinois-based law enforcement training organization Calibre Press. "There's no hurry. If there's not an immediate threat to anyone's life, why create a situation where there would be?"

Instead, he and others expected the FBI to use a negotiator to try to persuade the group to leave peacefully.

Anti-government momentum

Among those leading the occupiers was Ammon Bundy, the son of Nevada rancher Cliven Bundy. The elder Bundy made headlines in 2014, when hundreds of armed anti-government activists rallied to his defense after federal authorities started seizing his cattle over more than \$1 million in unpaid grazing fees.

In Cliven Bundy's case, federal authorities and Las Vegas police retreated and let him have his cattle back rather than escalate the confrontation. While officials have said that federal authorities are investigating, no one has been charged with a crime, even though authorities said some of those involved had trained their weapons on police. The FBI declined to comment Monday.

The Southern Poverty Law Center was quick to say that the failure to hold anyone accountable was a major victory that emboldened anti-government groups around the country and led directly to the situation in Oregon.

"They got away with something pretty serious," Beirich said. "You have a bunch of emboldened people who think weapons can be used to settle their disputes with the federal

government." Michael Barkun, an emeritus professor at Syracuse University who has studied extremist groups, agreed that not confronting the Oregon group could embolden others. On the other hand, however, some extremists crave such a fight.

"You can say, well, a negotiated settlement emboldens them," he said. "But by the same token it deprives them of a confrontation that some of them want."

Terrorism or trespassing?

Some people took their criticisms a step further, arguing that if a radical Muslim group had seized the property, many would call it terrorism. But John McKay, the former top federal prosecutor in western Washington and now a professor of national security law at Seattle University, did not see it that way. The federal definition of terrorism requires an act "dangerous to human life" that appears intended to intimidate civilians or influence government policy.

"I'm not sure what the terrorism is. I don't see a violent act," he said. "They're trespassing and trying to change policy."

Wayne State University law professor Peter J. Henning said their actions more closely meet the definition of sedition, which includes conspiring to overthrow the U.S. government, oppose it by force or seize its property. Sedition charges are typically reserved for the most severe cases, he noted, including that of Sheik Omar Abdel Rahman, the "blind Muslim cleric" who was linked to the 1993 World Trade Center bombing. The sedition charge was for a plot to attack the United Nations and other landmarks.

In 2010, the Justice Department brought sedition charges against members of the Hutaree militia in Michigan, alleging that they planned to kill a police officer and then attack those who attended the funeral. A judge dismissed those charges, saying the evidence did not prove a concrete plan to oppose the authority of the federal government by force.

If the FBI can resolve the occupation peacefully, Henning said, he did not expect that the Justice Department would bring sedition charges, but rather charges of trespassing or possibly destruction of federal property, if that applied.



AP Photo/Rick Bowmer

Members of the group occupying the Malheur National Wildlife Refuge headquarters stand guard Monday near Burns.



Les Zaitz/The Oregonian via AP

A sign tacked outside a Burns home reflects growing community sentiment that outsider militia aren't welcome, in mid-December 2015.

REFUGE: Hammonds have distanced themselves from the group

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wildfires.

The men served their original sentences — three months for Dwight and one year for Steven. But an appeals court judge ruled the terms fell short of minimum sentences that require them to serve about four more years.

Their sentences have been a rallying cry for the group, whose mostly male members said they want federal lands turned over to local authorities so people can use them free of U.S. oversight.

The father and son reported to a federal prison Monday in California, said Harney County Sheriff David Ward. He provided no other details.

The Hammonds have distanced themselves from the protest group and many locals, including people who want to see federal lands made more accessible, don't want the activists here, fearing they may bring trouble.

Schools in the small town of Burns, about 30 miles from the refuge, were closed for the week out of concern for student safety.

For the moment, the federal government was doing nothing to remove them, but the FBI said it was monitoring the situation. The White House said President Barack Obama was aware of the situation and hopes it can be resolved peacefully.

The refuge was established in 1908 by President Theodore Roosevelt to protect bird populations that had been decimated by plume hunters selling feathers for the hat industry.

It sits in a wide snow-covered valley rimmed by distant mountains and contains lakes and marshland. The preserve has grown over the years to about 300 square miles and surrounds the ranch Dwight Hammond bought with his father in 1964. Dwight Hammond said his family has resisted pressure to sell the ranch as the federal government chipped away at his grazing allotments and increased fees on other lands.

The refuge contains about 10 small buildings, some of which had been entered by the occupying group. Other members of the group blocked the entrance to the headquarters.

The takeover prompted an outcry far beyond Oregon from both those who want to see federal lands opened to more ranching and logging and others who were astounded that private



Mark Graves/The Oregonian via AP

Protesters watch after taking over a watch tower at the National Wildlife headquarters in Burns on Sunday.

citizens with guns could seize government property without any intervention by law enforcement.

The tactics of the Bundys and the group were condemned by Democrats and Republicans alike.

Sen. Harry Reid, a Nevada Democrat who is familiar with

the Bundys from their standoff in his state, said the group could not continue breaking the law, but that everyone should remain patient.

"These people say we want to return (the land) to the people," Reid said. "The people have it right now."

Republican presidential

candidate Sen. Ted Cruz of Texas said he hoped the group would "stand down peacefully" with no violent confrontation "sooner rather than later."

Ammon Bundy said his group had sent a demand for "redress for grievances" to local, state and federal officials. The group, which included a couple of women and some boys and girls Monday, did not release a copy of its demands. Bundy would not say what the group would do if it got no response.

"We have exhausted all prudent measures and have been ignored," he said.

At the time of the Bundys' 2014 Nevada standoff, there were \$1.1 million in outstanding grazing fees, and no payments have been made since then. The fees continue to accrue, although Bureau of Land Management spokeswoman Bev Winston couldn't give a specific updated figure on the debt.

The disputes harken back to a long-running struggle over public lands between some Westerners and the federal government, which owns nearly half the land in the West.

In the 1970s, during the "Sagebrush Rebellion," Nevada and other states pushed for local control over federal land. Supporters of that idea want to open more land available for cattle grazing, mining and timber harvesting.

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