



# Public Lands Position Paper and Fact Sheet

Arizona Wildlife Federation

February 2018

## **Problem Statement:**

Public lands are under attack. A few legislators in Arizona and in other western states continue to ignore public opinion and economic realities in their attempts to transfer federal public lands to the states. [HB2210](#) is the most recent attempt to do just that in the State of Arizona.

## **Arizona Wildlife Federation (AWF) Position Summary:**

AWF opposes HB2210 and any effort to claim, take over, litigate for, or sell off federal public lands within the State of Arizona except as allowed by existing federal statutes.

Our Nation had the foresight to set aside lands for the sake of all Americans and these lands are owned by all Americans and future generations of Americans. Seizure of federal public lands is unpopular and not economically responsible. In the long run it will lead to restricted access and the sale of public lands that provide unmatched opportunities to hunt, fish and enjoy the outdoors in Arizona.

Forests, watersheds, rivers and streams do not know state boundaries and national emergencies and land management practices often require landscape-level strategies to protect our communities and natural landscapes. Individual states will not be able to manage these lands as effectively as federal agencies and will not have the necessary budgets to deal with landscape level strategies or emergencies.

Effective management of our federal public lands requires a collaborative approach with the appropriate federal, state, county and other local stakeholders to improve public land management and public access. State takeover of public lands is not the right approach, nor will it result in an acceptable solution.

## **Fact Sheet and Talking Points**

### **Background—Land Management in Arizona:**

- Arizona Tribal land—19.8 million acres
- Bureau of Land Management—12.2 million acres
- National Forests—11.3 million acres
- National Parks—2.6 million acres
- US Fish and Wildlife Service—1.7 million acres
- Department of Defense—3 million acres
- Arizona owned State Trust land—9.3 million acres

State Trust Lands are managed for the benefit of K-12 education and the State has a Fiduciary responsibility to manage those lands to maximize revenue.

Federal lands are managed for multiple objectives including species and cultural protection, recreation, and defense, and maximizing revenue is not the primary objective.

### **Current Legislation:**

Arizona [HB2210](#) instructs the Arizona attorney general to analyze legal theories “that this state may pursue to attempt to gain ownership or control of the public lands within this state”, and that the attorney general “may commence an action to attempt to gain ownership or control of the public lands within this state”.

HB2210 passed the House Committee on Lands, Agriculture and Rural Affairs along party lines on 1/25/18 and is slated to go to the House of Representatives and Senate in the current legislative session.

HB2210 Sponsor: Introduced by Representative Mark Finchem.

Co-sponsors: Allen J., Barton, Bowers, Boyer, Clodfelter, Cobb, Cook, Farnsworth E., Grantham, John, Kern, Lawrence, Leach, Livingston, Mitchell, Norgaard, Nutt, Payne, Rivero, Shooter, Stringer, Thorpe, Toma, Townsend, Weninger, Allen S., Borelli, Burges, Farnsworth D., Griffin, Kavanaugh, Petersen, Smith.

### **State seizure of public lands is not a new, and it’s never been a popular...**

In 2012, Arizona citizens voted by a 2-1 margin to oppose [Proposition 120](#), a ballot initiative to transfer federal public lands to the State of Arizona. That referendum was defeated in every single voting district in the State.

In the past 6 years, Governors Brewer and Ducey vetoed no less than three bills ([SB1332](#), [HB2176](#) and [HB2318](#)) attempting to seize public lands (note: both of the House Bills were sponsored by Representative Mark Finchem, who is also the author of HB2210).

Governor Ducey signed one bill ([HB2658](#)) in 2015 that commissioned a study committee to investigate the issue of public lands and report back to the Governor, the Senate and the House by the end of 2019.

*Given that the past 2 governors and the people of Arizona have already weighed in against state seizure of public lands and given that there is an existing study committee assigned to further evaluation, HB2210 is a waste of taxpayer money and the Arizona Attorney General's time.*

### **A legal fight would be costly and challenging...**

The people of the United States own the federal public lands. This is different than State Trust Lands which are owned by the State and can be transferred and sold by the State. The Bureau of Land Management and the National Forest Service are responsible for managing federal public lands, but they do not own them and can only sell or transfer them under very limited statutes. These lands truly belong to you and me.

In 2016 eleven of twelve western states Attorneys General agreed with a study that cast significant doubt on the legal arguments for states seizing federal lands ([2016 Conf of Western States AGs--Public Lands Subcommittee Report](#)).

- Among the notable points in the report, the U.S. Supreme Court has repeatedly ruled that the Constitution gives the Congress exclusive authority over public lands and the exclusive power to decide whether to dispose of them “without limitation”.
- This report explicitly did not look at the founding documents of each state, but Arizona’s own Enabling Act states, “That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands...”

A Utah study estimates the legal costs alone to the states fighting for control of federal public lands would be in excess of \$14M.

*We're not lawyers, nor do we plan to weigh in on legal probabilities, but spending millions of Arizona taxpayer's dollars on a legal fight with tenuous arguments and an uncertain outcome is simply not responsible.*

### **Arizona cannot afford to manage these federal public lands...**

Arizona's budget is inadequate to fully support and manage its own lands, including state parks, state forestry and state trust lands, and often must depend upon federal support in emergencies such as wildfires and floods.

Claims that state lands generate more revenue per acre than federal lands neglect to note that a vast majority of the revenue from State Trust lands comes from commercial leasing and land sales—neither of which are allowed on federally managed lands. In fact, a quick look at the 2016 annual report from the Arizona State Land Department shows that \$127M came from Land Sales and Commercial Leases—over 80% of the total \$157M in revenue on these State Trust lands. ([Arizona Public Lands Dept 2016 Annual Report](#))

These same reports also ignore the cost of fighting forest fires that is currently born the Federal agencies. As we face warmer drier conditions in the Southwest, the costs of fire suppression and prevention are growing exponentially. The State of Arizona currently spends about \$6M per year fighting forest fires, while the Bureau of Land Management and National Forest Service expenditures in Arizona average \$80M per year and in a bad fire year like 2011, those costs exceeded \$240M. Given that total revenue from all sources on Arizona State Trust land is often less than \$200M per year, it's easy to see that a single bad fire year would entirely wipe out that critical piece of education funding for the State.

For a bit of revenue perspective, Arizona enjoys a \$10.6-**BILLION** outdoor recreation economy—most of which is spent by people who are camping, hiking, hunting and fishing on public lands. Many visitors from other parts of the U.S. come to Arizona specifically to enjoy our public lands and state seizure of these lands puts a key driver of that recreation economy at risk.

*Unless we choose to allow the sale of public lands and ignore wildfire management, it is clear that Arizona can simply not afford to manage federal public lands. Further, transfer of federal public lands to the State would jeopardize significantly larger economic benefits from outdoor recreation currently recognized from these lands.*

**...and there is no evidence the State would do a better job.**

The vast majority of Arizona Wildlife Federation members and supporters are sportsmen and outdoor enthusiasts who spent many days, weeks and even months in the field each year. If you ask them about the differences between state managed lands they visit and federally managed lands they visit, you'll hear that state managed lands are definitely NOT BETTER MANAGED. You'll hear about how state managed lands tend to be overgrazed, how they often require additional fees and permits for use, and how the State is unable to support even the most basic infrastructure and enforcement necessary to be a good steward of the land.

*The land management solution is not to seize federal lands for the State, but to work with the Federal Agencies to improve land management practices so they work better for the people in the State!*

### **State ownership is a slippery slope toward the eventual sale of public lands...**

Given the high costs of managing public lands, along with the significant budgetary pressures on the state of Arizona, the likely result of state ownership would ultimately be the sale of public lands to private interests resulting in loss of public access for hunting, fishing and other outdoor recreation opportunities.

To date, Arizona has been a responsible steward of State Trust lands and has sold slightly less than 10% of our State Trust lands. But data from other nearby states illustrates the risk of sale when the State owns the land.

- New Mexico: 33% of State Trust lands sold
- Utah: 55% of State Trust lands sold
- Nevada: 99% of State Trust lands sold

Even to a well-intentioned state legislature, or a legislature that only plans to "manage" these lands, the pressure to sell them in times of economic or budgetary stress will be tremendous and will likely fall to legislators elected long after those who vote on this bill.

*The best way to insure public lands are accessible to all Americans and future generations is to keep them in public hands—which means there must be NO transfer or divestiture of any kind to the State beyond what is allowed under existing federal statutes.*

### **A final word on HB2210...**

Honestly, it's hard to know which argument might grab our legislator's attention and get them to understand that HB2210 is a bad bill. That the economics don't

make sense? That it's probably not legal anyway? That it will likely result in limited access and land sales? That it's terribly unpopular across the state and across party lines? We really don't know, but it should be clear that these points together paint a pretty compelling argument against state seizure of public lands.

*What we know for sure is that the threat to our public lands is real and if we want to keep public lands in public hands we need to speak up and let our legislators know how we feel.*

**August 2018 update:**

***Fortunately, and due at least in part to AWF members speaking up, HB2210 was killed before making it to a House vote. In follow-up meetings with several Arizona Legislators to thank them for their support, it was made very clear we'll need to be ready to continue our fight for public lands in future sessions of the Arizona State Legislature...stay tuned!***