UNINTENDED CONSEQUENCES OF THE PUBLIC LANDS TRANSFER MOVEMENT

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2016 Rocky Mountain Land Use Institute
### Federal Payments to States -- FY2014

<table>
<thead>
<tr>
<th></th>
<th>Colorado</th>
<th>Utah</th>
<th>11 Western States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Federal Land Payments</td>
<td>$220,407,785</td>
<td>$266,054,906</td>
<td>$3,799,772,410</td>
</tr>
<tr>
<td>PILT</td>
<td>$34,530,642</td>
<td>$37,903,225</td>
<td>$336,833,120</td>
</tr>
<tr>
<td>Forest Service Payments</td>
<td>$12,785,953</td>
<td>$10,099,253</td>
<td>$220,827,264</td>
</tr>
<tr>
<td>BLM Payments</td>
<td>$846,240</td>
<td>$1,346,364</td>
<td>$55,739,266</td>
</tr>
<tr>
<td>USFWS Refuge Payments</td>
<td>$570,361</td>
<td>$57,662</td>
<td>$3,415,240</td>
</tr>
<tr>
<td>Federal Mineral Royalties</td>
<td>$171,674,589</td>
<td>$216,648,402</td>
<td>$3,182,957,521</td>
</tr>
</tbody>
</table>

Generated using Headwaters Economic Profile System on 01-12-2016
UNINTENDED CONSEQUENCES -- $$

New Revenue

New Management Cost

$0  $50  $100  $150  $200  $250  $300

(Millions Annually)

UNINTENDED CONSEQUENCES — THE ESA

- The TPLA does NOT eliminate Endangered Species Act compliance requirements.
- Loss of federal nexus DOES change procedural requirements for ESA compliance.

Time to Obtain an Incidental Take Statement / Permit

<table>
<thead>
<tr>
<th></th>
<th>Federal Land</th>
<th>Non-Federal Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>CE (CEQA)</td>
<td>0.5 years</td>
<td>1.7 years</td>
</tr>
<tr>
<td>EA (EIS)</td>
<td>1.5 years</td>
<td>4-6 years</td>
</tr>
<tr>
<td>EIS</td>
<td>4.4 years</td>
<td>8-12 years</td>
</tr>
</tbody>
</table>

UNINTENDED CONSEQUENCES – THE ESA

- 3,240 producing oil & gas wells
- 1,103 approved wells
- 36 pending APDs

Statehood enabling act land grants are read in light of “mining laws, the school land indemnity law and the settled public policy respecting mineral lands,” which “certainly show” that Congress did not intend to include mineral lands in grants to states.

“Where [land grant] sections are mineral — known to be so when the grant takes effect — they do not pass under the grant.”

NOT SO FAST . . . LAND SURVEYS

“[T]itle to unsurveyed sections of the public lands . . . does not pass to the State upon its admission into the Union, but remains in the Federal Government *until the land is surveyed*. Prior to survey, those sections are a part of the public lands of the United States and may be disposed of by the Government in any manner and for any purpose. . . . The interest of the State vests at the date of its admission into the Union only as to those sections which are surveyed at that time and which previously have not been disposed of by the Federal Government.”

HYPERLINKS TO PAPERS

- A Legal Analysis of the Transfer of Public Lands Movement
- The Transfer of Public Lands Movement: Taking the ‘Public’ Out of Public Lands
- When Winning Means Losing: Why a State Takeover of Public Lands May Leave States Without the Minerals They Covet
- Shooting the Albatross: Why a State Takeover of Federal Public Lands Would Make Endangered Species Act Compliance More Difficult
- Alternatives to the Transfer of Public Lands Act
QUESTIONS OR COMMENTS

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