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Federal land transfer could be divisive issue in Taos County

By J.R. Logan

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Last fall, Marcos Herrera crouched silently in the mountains between Taos and Angel Fire as he watched his 11-year-old daughter take her first bull elk with a rifle. That moment, an emotional one for Herrera, marked the passage of a longstanding family hunting tradition to another generation.

“That’s a real legacy,” Herrera says.

But Herrera and other sportsman are deeply concerned that efforts at the state legislature to shift control of public lands are being pushed by outside interests and could jeopardize the future of that legacy.

Two bills introduced in the state legislature would create a task force to study the feasibility of transferring control of federal lands to the state. House Bill 291, sponsored by Rep. Yvette Herrell, R-Alamogordo, would create a 17-member committee to look into “options” for transferring federal lands to the state, as well as state and federal lands to Indian tribes and land grants.

Sen. William Sharer, R-Farmington, has introduced a companion bill in the Senate. If passed, New Mexico would join several Western states that have expressed frustration with federal management and undertaken exhaustive studies to see if state agencies could take over the reins. So far, the results of those studies have been mixed and no state has succeeded in wresting land from the feds.

In a place like Taos County, which is about half federal lands, the impact would be substantial. Federal employees with the Forest Service and Bureau of Land Management make up a sizable portion of the local workforce. The feds pay the county government about \$1.5 million a year to cover property tax revenue that can’t be collected on federal lands.

Even if the numbers add up, there are concerns that giving land to the state would endanger public access while giving industry a way to exploit land that’s now under strict regulation.

Sportsmen like Herrera, an elementary school teacher who also owns the Taos Hunting Co., have been among the most vocal critics of the effort in New Mexico.

The concern is due in part to distrust of the State Land Office — the agency that would likely take over management of federal lands. Access to existing state lands is limited, and the elected state land commissioner has the independent authority to sell or trade properties at his or her discretion.

For Herrera, the end-game in the current effort is to sell off or restrict access to Forest Service and Bureau of Land Management lands that provide millions of acres of recreation opportunities. He sees the push as a favor to industry that would hurt the average citizen.

'Balance'

But others in Taos County see the proposal differently.

When Malaquias Rael Jr. looks at the forested mountains above his native Questa, he sees an untapped resource.

Rael thinks access to the forest and to forest products like timber has become evermore limited by the Forest Service, which is under intense scrutiny from environmental groups and conservationists. In an off-the-map place like Questa that's reeling from the Chevron Mine closure, he thinks a land-based industry would help him and his kids survive.

Rael understands the desire to preserve the landscape and protect the environment, but he worries that he and his neighbors are essentially prohibited from making a living off the bounty in their backyard. "The federal government gets to make the rules, and we get to play by them," Rael says. "There has to be a balance."

While at least five other states in the West have toyed with the notion of taking over federal lands, New Mexico's history of colonialism and bitterness over control of land could make the proposed land exchanges even more complicated.

Land grant activists, for instance, have long argued that the descendants of the state's Hispano settlers were wrongfully deprived of millions of acres granted by the governments of Spain and Mexico. Much of that land became part of the national forests — a fact that still elicits plenty of bitterness among native New Mexicans.

Rael says any proposal to shift control of federal lands should prioritize the return of land grant lands to the descendants of Hispano settlers — a sentiment that is no doubt shared by other land grant activists, but which has proven incredibly complex and acrimonious.

Questions

Roberto "Bobby" Gonzales, D-Taos, was among the legislators on the House Committee on Agriculture, Water and Wildlife who voted to approve HB 291 in a 9-1 vote Feb. 11.

Gonzales told *The Taos News* Tuesday (Feb. 25) he has concerns about the condition of federal lands — especially when it comes to wildfire risks. He thinks it's worth looking into whether the state can do a better job. Critics of the proposal are quick to point out that the state would have to bear the brunt of wildfire suppression costs, which have skyrocketed into the billions in recent years.

"Financially, can a state be responsible for something like that?" Gonzales said. "There's a lot of questions, and maybe this study can answer them."

Based on the efforts of other Western states, that's an optimistic expectation.

At least four other states — Idaho, Montana, Nevada and Wyoming — have created a task force to do a similar study.

Conclusions are split on whether the endeavor is financially feasible, let alone legal.

The Utah Legislature, for instance, bypassed the task force and spent \$450,000 on a 784-page report released in 2014 that concluded a land transfer could be profitable if mineral and oil and gas leases remain active and market prices remain high. Critics seized on that premise, arguing that shifts in market prices could force the state to sell off land or approve industrial development in sensitive areas.

Sen. Carlos Cisneros, D-Questa, is skeptical of the proposal. “For us in Taos County, this basically goes against the grain,” Cisneros said in an interview Tuesday, noting that the recent conservation successes like the Columbine/Hondo Wilderness and R’o Grande del Norte National Monument both enjoyed broad local support. “I’m an advocate for grazing and farm use, and the harvesting the products that are there, but I don’t know that it can be done any easier under the state’s purview as opposed to federal.”

In this session at least, Cisneros thinks the bill is doomed. The original bill included a \$100,000 appropriation to fund the study, though the funding was yanked before making it out of committee. “If it doesn’t have the money, I don’t know that the bill can go very far,” Cisneros said.

The fiscal impact report on the bill noted it is “inherently difficult to compare the cost of land management between state and federal governmental agencies, given the differences in operations and regulatory responsibilities of such agencies and types of land managed.” Even if the study determined a transfer was cost effective, “there is still concern whether the state can adequately manage the newly acquired land,” the report states.

The report also notes the potential costs to the state would amount to hundreds of millions of dollars immediately after a transfer.

Ties

If such a transfer took place, a Taos County native could be an influential force. Bobby Ortega of Questa was appointed deputy land commissioner after Aubrey Dunn was elected last November.

Ortega has been lobbying the legislature to support the bill. He could not be reached for comment for this story, but he told *The Santa Fe New Mexican* the bill offered a chance to “debate all the issues” related to federal land management and insisted the agency has a “solid record of stewardship.”

Aside from the technical concerns, opponents of the land transfer effort argue the push to give local governments more control is being pushed by outside interests.

Three state legislators that have introduced bills tied to the transfer of public lands have known ties to the American Legislative Exchange Council — a Virginia-based organization that calls itself a “think tank for state-based public policy,” but which has been derided by critics as bending local legislatures to the will of corporate interests.

In January, the council — better known as ALEC — offered a public policy statement urging the federal government to hand over public lands to willing state governments. The board asked that national parks, wilderness areas, Indian reservations and military installations be excluded from the transfer.

In previous years, the organization drafted “model bills” on the issue to be introduced in state legislatures. At least one such bill was filed by Rep. Paul Bandy, R-Aztec, in 2011.

Herrell and Bandy both have known links to ALEC. Neither returned emails and phone messages seeking comment.

As New Mexico leaders debate whether to seriously consider a land transfer, Sen. Martin Heinrich, D-NM, has gone on the offensive.

In an October 2014 op-ed in *The New York Times*, Heinrich wrote the recent push to transfer lands to the states was a “special-interest- financed boondoggle” and specifically cited ALEC as the ringmaster.

Heinrich told *The Taos News* Tuesday the proposal is “legally dubious,” but he took the issue seriously because of the amount of political money going into the effort.

Heinrich insisted the federal government was much better positioned to protect and maintain public lands, though he acknowledged that it could do a better job.

“There’s a lot of examples of where the federal government should be doing a better job of managing its lands,” Heinrich said.

But he said the answer was improving community involvement in agency decisions, not a wholesale change in control.