



Defend Rural America™

Discovering The Truth About Our World

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Jurisdiction Is The Solution

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- White papers by [Sheriff Gil Gilbertson](#), [Doyel Shamley](#), former attorney [Norm Sauer](#), and [myself](#)
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OUR NATION UNDER ATTACK

The recent Bundy family situation brought widespread attention to the neo-environmentalist assault on Rural America that is destroying our environment, our communities, and ultimately our national security and sovereignty.

Contrary to what the general public has been told, our environmental movement has been hijacked by a political agenda that has been destructive on all fronts.



Politically-driven federal land “management” has been devastating to our forests, rivers, reservoirs, air and water quality,

habitat, animals including endangered species, biodiversity, energy sources, recreational access and use, families, communities, jobs, economies, rights, and perhaps soon our very lives.

If continued, these policies will end our Republic, devastate man’s quest for Equality and Liberty, and bring about a global new Dark Age of centralized, totalitarian control the likes of which the world has never known.

Thus, the Bundy, Hage, and other families have done our country a great service by standing up to the federal government, and being a catalyst to unite various arms of our liberty movement—objectives DRA has advocated for a long time.

THE CHOICES WE MAKE ARE CRUCIAL

The choices we make now are fundamental to whether or not the founding principles, constitution, federation, and republican form of government survive. Accordingly, the decisions made must include the greatest possible participation of the People, not solely legislators meeting in closed door sessions. Toward that end, I offer my thoughts for consideration.

JURISDICTION

The quickest and surest way to restore proper land management is to get the States and counties to exercise the Jurisdiction they already have, but are not using. The relief is immediate; there is no need to wait for federal blessing.

SUPPORTED BY THE CONSTITUTION

For support, we start with the U.S. Constitution.



I.8.17 THE LAND CLAUSE

“The Congress shall have power to ... exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, *for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.*”—Article I, Section 8, Clause 17

Article I, Section 8, Clause 17 of the Constitution—which I call the Land Clause—is perhaps the most important, most abused, and least known clause of the Constitution. It allows the federal government to own and exercise exclusive legislative authority over Washington D.C., and lands purchased from states *for enumerated defense purposes*, called federal enclaves.

That’s it! No other clause in the Constitution gives the federal government rights to own any other lands, or to exercise legislative authority over State lands. If it’s not enumerated, it is outside federal authority. The Constitution uses the strongest form of constraint. Rather than define what government cannot do, an impossibly long list, it lists/enumerates those limited things which it can do, and declares everything else as belonging to the States or to the People.

Therefore, federal legislation within State borders applies only to the federal enclaves, and no where else. The federal constraints are affirmed by several Supreme Court decisions, including these:

The Court established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of exclusive legislation, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution.—*United States v. Bevens* 16 U.S. (3Wheat.) 366 (1818)

“Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction.”— [New Orleans v. United States, 35 U.S. \(10 Pet.\) 662, 737 \(1836\)](#)

“We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory, of which Alabama or any of the new States were formed ... because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted.”—[Pollard v. Hagan, 44 U.S. \(3 How.\) 212 \(1845\)](#)

I.8.18 THE NECESSARY AND PROPER CLAUSE

“The Congress shall have Power ... To make all Laws *which shall be necessary and proper for carrying into Execution the*

foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”—*Article I, Section 8, Clause 18*

The Necessary And Proper Clause adds no legislative powers. It applies only to Laws “*which shall be necessary and proper for carrying into Execution the foregoing Powers ...*”

IV.3.2 THE PROPERTY CLAUSE

“The Congress shall have power to dispose of and make all needful rules and regulations respecting *the Territory or other property belonging to the United States*; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.”—*Article IV, Section 3, Clause 2*

The Property Clause likewise adds no legislative powers over State lands. It applies only to lands lying outside State boundaries. The qualifying phrase is “*the Territory or other property belonging to the United States*”..

The powers bestowed by this clause end with statehood. When territories became States, they did so on an equal footing, and jurisdiction was ceded to them.

VI.2 THE SUPREMACY CLAUSE

“This Constitution, and the Laws of the United States *which shall be made in pursuance thereof*; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.”—*Article IV, Section 3 of the United States Constitution*



The Supremacy Clause likewise does not create additional federal authority over State lands. The qualifying phrase is: “the Laws of the United States *which shall be made in pursuance thereof...*”. In other words, the clause only applies to Laws made in accordance with the aforementioned enumerated powers.

Indeed, no clause may be construed to defeat another. Were this not the case, an unconstrained reading of the Supremacy Clause would override all of the carefully laid out constraints, make a

mockery of the Constitution, and negate the very purpose of constitutional government.

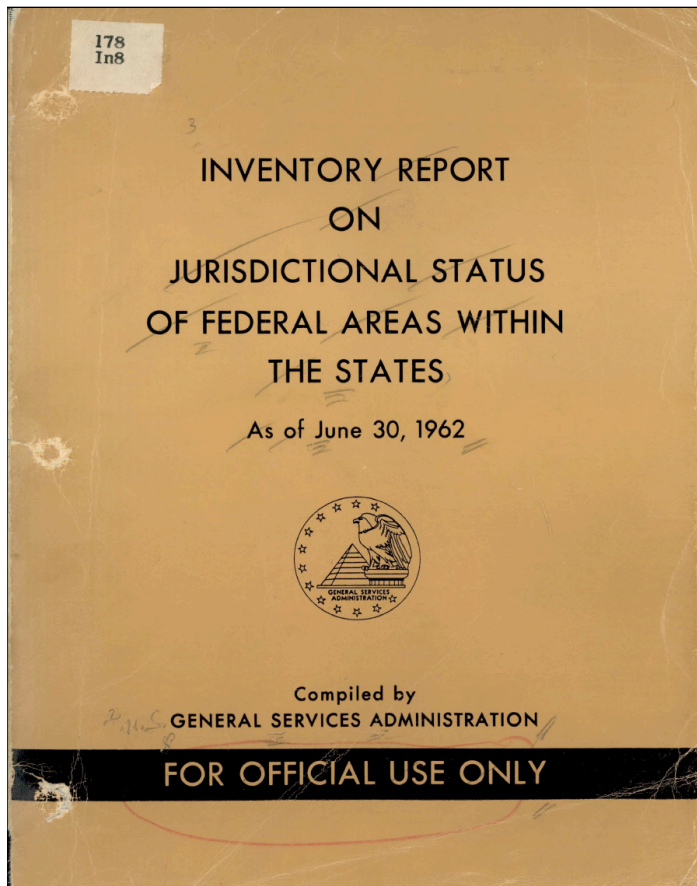
Congress, the Executive branch, nor the Judicial branch can reinterpret the Constitution so as to change its original meaning. What it meant then, it means now. Such reinterpretations amount to unconstitutional and unratified amendments.

“The courts cannot rightly prefer, of the possible meanings of the words of the constitution, that which will defeat rather than effectuate the constitutional purpose.”—[United States v. Classic, 313 U.S. 299](#)

“Where the meaning of the Constitution is clear and unambiguous, there can be no resort to construction to attribute to the founders a purpose or intent not manifest in its letter.”—*Norris v. Baltimore, 172 MD. 667; 192 A 531.01*

“If the legislature clearly misinterprets a constitutional provision, the frequent repetition of the wrong will not create a right.”—*Amos v. Mosley, 74 Fla. 555, 77 So. 691*

SUPPORTED BY THE EISENHOWER REPORT



The Jurisdiction approach is even supported by the federal government itself, indeed a President of the United States, in the form of the *Eisenhower Report*, a copy of which can be viewed on the [DRA Jurisdiction page](#).

During Eisenhower’s administration, all lands were listed to which the federal government claimed an interest, then categorized by the nature of that interest. 95% of the so-called “federal lands”

were put in Category IV, Proprietary Interest Only. They fall within the exclusive legislative authority of the States!

The report supports the Constitution. The federal government simply has no legislative authority over the vast majority of lands within our State borders, including the Western States! The maps and media heads that say otherwise are wrong and misleading.

3.2 “With respect to the large bulk of federally owned or operated real property in the several States and outside of the District of Columbia it is desirable that the Federal Government not receive, or retain, any measure whatever of legislative jurisdiction, but that it hold the installations and areas in a proprietary interest status only, with legislative jurisdiction remaining in the several States.”—*The Eisenhower Report*

FEDERAL PURCHASES

The Eisenhower Report did create two categories of shared jurisdiction over State lands that are not enclaves. Three quick points.

First, less than 5% of land is affected.

Second, shared jurisdiction is unconstitutional, despite being in the Report. State officials, as agents of the People, may not transfer their legislative authority to the federal government.

“Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the ‘consent’ of state officials. ... The constitutional authority of Congress cannot be expanded by the ‘consent’ of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.”—[New York v. United States, 505 U.S. 144 \(1992\)](#)

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.”—[Miranda v. Arizona, 384 U.S. 436 \(1966\)](#)

Finally, even if federal land purchases unauthorized by the Land Clause are somehow legal, the federal government acquires no legislative authority over them. The federal government merely resembles a private property owner.

[With regard to 95 percent of the public lands] “the National Government resembles a private property owner in that it bears some right or title to the property but no measure of the State’s jurisdictional authority.”—*State and Local Taxation of Privately Owned Property Located on Federal Areas, by the Advisory Commission on Intergovernmental Relations, first issued June 1961 and reissued August 1965.*

SUPPORTED BY JUDGE NAPOLITANO

Judge Napolitano supports Jurisdiction.



“The Constitution simply does not authorize the federal government to own any of this land. All of it is being held unconstitutionally.”—*Judge Napolitano, April 23, 2014. His statement appears at time mark 9:55 in this Sean Hannity interview.*

SUPPORTED BY CLIVEN BUNDY

Cliven Bundy also agrees. His argument is one of jurisdiction. He believes States and counties have jurisdiction over State lands, not the federal government. It is for this principle that he and his family risk their lives.

IN SUMMARY

There is strong, clear, authoritative, and constitutional justification for States to assume control over land management within their boundaries without waiting for federal approval. Our state legislators and county supervisors/commissioners have the authority and the duty to do so.

WHAT HOLDS US BACK?

OUR EFFORTS ARE BEING BLOCKED

Our efforts to take our country back are in many cases being obstructed, and from the very people that should be representing our interests. These obstructionists, no matter how patriotic or constitutional they might believe themselves to be, threaten our Republic. Righting this wrong is something every single group within our Restoration Movement no matter its focus—common core education, stack-and-pack housing, high-speed rail, regional government, agriculture, mining, forestry, property rights, access to public lands, environment, etc.—can unite and should unite upon: the restoration of truly constitutional county and state governments. We either restore local constitutional government, or suffer global governance.

MONEY USED TO BYPASS OUR CONSTITUTION



The problem is the flow of money to our state and local representatives from outside sources, principally but not exclusively the federal government. For reasons that are not their fault, state and county governments now rely on 30%, 40%, or even more than half of their budgets from federal PILT and other payments.

CREATES FUNDAMENTAL PROBLEMS

This state of affairs poses real, fundamental, and systemic problems that threaten representative democracy.

1. *It is a huge conflict of interest.* Many, indeed most, government representatives and employees become more concerned about the continued flow of federal dollars than they are about their constituents. It is common for county supervisors/commissioners and/or staff to consult with federal agents before taking any action. They simply refuse to challenge federal supremacy, even those that are clearly outside the federal government's constitutional authority.

2. *It affects policy making.* Outside dollars come with conditions. They are non-discretionary funds to be used solely to implement the objectives of the federal government, and none other. In effect, 30%, 40%, or even more than half of our public employees become federal agents in all but name, implementing and enforcing federal policies that are contrary to the interests of their constituents. It is no different than Intel employees taking money from Google and using their Intel jobs to benefit Google.

3. *It blocks our efforts* to solve our problems, especially the most fundamental ones. The closer our actions come to the fundamental issues that affect us, the less support we get. Representatives as a whole—and I'm not saying all Representatives, so don't misread me on that—too often won't challenge federal supremacy or offend federal agents. Accordingly, our Republic continues to decline. The reality is, all of those federal policies—common core education, stack-and-

pack housing, high-speed rail, regional government, agriculture, mining, forestry, property rights, access to public lands, environment, etc.—are being implemented and enforced *because of* the consent of our Representatives.

4. *It is unconstitutional.* Both the state and federal representatives are acting under color of authority, outside of their constitutional authority. State and federal agents become willing co-conspirators, whether they conscientiously understand it or not, in extending federal powers beyond those enumerated in the Constitution, and thereby denying us a constitutional form of government. We pay our taxes, but no one listens to us, and we have no representation.

MUST WE BE FORCED TO RESORT TO THE SUPREME COURT, ONCE AGAIN?

Sheriff Richard Mack made us all well aware of the [Printz vs. United States Supreme Court Decision](#), No. 95-1478, decided June 27, 1997. In that case, the Court added a second link to the chain that binds federal overreach. The relevant clause reads:

"We held in New York [[New York v. United States, 505 U.S. 144](#), 146] that Congress cannot compel the States to enact or enforce a federal regulatory program [the first link]. Today we hold that Congress cannot circumvent that prohibition by conscripting the State's officers directly [the second link]. The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program. ... such commands are fundamentally incompatible with our constitutional system of dual sovereignty."—*Printz vs. United States*

We are forced to now consider a third link: Can the federal government bribe State officers to use their offices to administer or enforce federal programs? The answer should be obvious to all.

CLOSING REMARKS

We are at a critical juncture. Our forces are gathering, and our direction is being determined. We either stand up or kneel down. Kneeling down will lead to centuries of universal prostration.

I Pray we make the right decisions, and firmly believe this can only be accomplished with open dialog and the fullest participation of the People.

I encourage every arm of our Restoration Movement to unify in a joint effort to restore local constitutional government ASAP.

We Either Restore Constitutional Local Government
or Suffer Global Governance.

— Kirk MacKenzie, www.DefendRuralAmerica.com

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