

[Holly mentions](#) Utah's quixotic, somewhat deranged attempt to seize federal lands by eminent domain, correctly observing that federal law would pre-empt any state eminent domain action.

One might also mention [McCulloch v. Maryland](#) (1819), which held that a state cannot tax a federal agency. If a state can't tax a federal agency, how in the world would it be constitutional to *seize* it? *McCulloch* is perhaps second only to *Marbury v. Madison* in terms of its foundational status as constitutional law. Would it be too much to expect Utah lawmakers, most of whom are probably lawyers, to have heard of it? Maybe we shouldn't answer that one...

My friend and colleague Steve Bainbridge, with whom I agree on just about nothing (outside of the inherent evil of the Dallas Cowboys), [reaches the same conclusion](#).