

✘ Remember the [Sagebrush Rebellion](#) and the [County Supremacy Movement](#)? They were attempts in the 1970s-80s and 1990s, respectively, by state and local governments in the west to assert control over federal lands. They didn't make any legal progress because of the pesky [Supremacy](#) and [Property](#) Clauses of the US Constitution, which declare that the federal constitution is the supreme law of the land and give Congress plenary power over the property of the United States, including the nation's extensive land holdings.

But it seems that the politics of bashing federal land ownership never go out of style in some western states. The latest symbolic legislation comes from Utah, where Governor Gary Herbert this weekend signed into law [a bill authorizing the state to acquire federal lands by eminent domain](#). The targeted lands reportedly include parts of the Grand Staircase-Escalante National Monument thought to harbor substantial coal reserves and the area where Interior last year pulled 77 gas and oil leases in response to a legal challenge ([and civil disobedience](#)).

This tactic is more polite than earlier state attempts to take over federal lands, because the use of eminent domain would require that the state go through a judicial proceeding and pay the value of the lands acquired. Hopefully it won't spark a repeat of the violence that accompanied that movement. But legally its just as doomed. State law is pre-empted if it interferes with achievement of the purposes of federal land management. It doesn't take a genius to see that coal mining would be inconsistent with the National Monument designation of Grand Staircase-Escalante, that the state can't undo a federal decision not to permit oil development, and more generally that no state can decide for itself what lands the federal government can and cannot retain.

Utah apparently doesn't care. Remember, this is the state where the legislature recently got so huffy at EPA that it passed a [resolution both denying climate change exists and simultaneously blaming it on chlorofluorocarbons](#). This battle is even more quixotic. Utah, which is facing the same tough budget times as other states, is ready to spend millions of dollars picking a fight no one thinks it can win.

Supporters of this law say they hope it will provide a model for other western states, spreading in the way the "custom and culture" ordinances did in the last wave of anti-federal lands legislation. Let's hope not. It's one thing for Utahans to decide they're willing to waste their tax dollars on empty anti-federal gestures. But it's another thing for this small minority of Americans to hijack the US's own limited resources by forcing Uncle Sam to defend his right to keep his lands.