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This Land is My Land: The Complex Land Ethics at the Heart of the Occupation of Malheur National Wildlife Refuge

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This Land is My Land:
The Complex Land Ethics at the Heart of the Occupation of Malheur National
Wildlife Refuge

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Environmental Studies Thesis

Abstract

This thesis closely examines the occupation of Malheur National Wildlife Refuge by conservative activists in 2016 as well as the historical and political parameters that allowed the event to occur in modern-day rural Oregon. First, the occupiers, members of local and national chapters of the Patriot movement, are considered along with their conservative ideological predecessors. The historical-political origins of Oregon - with its storied direct democracy system and a resulting culture of staunch populism - give insight into the regional support for the occupiers. A meticulous examination of the event provides a window into deeper ethical discussions of land tenure and resiliency in the American West, particularly in light of drastic environmental degradation. As part of the project of American imperial expansion in an ecologically marginal environment, Western political discourse and legislation revolved around Lockean conceptions of land, property, and capital. These European legalistic perspectives applied to new, violently acquired land birthed a series of unsustainable and unjust land tenure systems in Oregon and, more broadly, the American West. The ranch, the corporate enterprise, and the national park are all examples of land tenure systems that for their existence require the systematic dispossession and genocide of indigenous communities. Each configuration cultivates a socially and environmentally untenable relationship between humankind and the land, prompting an interrogation of American dominant culture land ethics and tenure. The stakes of the occupation of Malheur National Wildlife Refuge go beyond Burns, OR, necessarily calling for drastic change in land management and governance in the United States.

Key Words: Patriot movement, occupation of the Malheur National Wildlife Refuge, land ethics, Oregon System, colonialism, land tenure, pastoralism, communal management, Elinor Ostrom

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I dedicate this thesis to my family, who taught me to love the West as hard as possible knowing that its places and people would in return love me back harder.

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Introduction. What Happened in Harney County, Oregon?

On January 2, 2016, 300 right-wing activists - militia members and civilians alike - marched through the streets of Burns in Harney County, Oregon to protest the prosecution of two local ranchers, Steve and Dwight Hammond, on terrorism charges. Later that day, a small cadre of armed protestors, identifying themselves as part of the Patriot movement, climbed the monitoring station of the nearby Malheur National Wildlife Refuge and began an occupation of the 300 square mile federally owned land. In a statement to the press, lead organizer Ammon Bundy stated, “The facility has been the tool to do all the tyranny that has been placed upon the Hammonds,” and demanded the release of the Hammonds as well as federal relinquishment of the refuge, avowing to occupy “for years” if need be.¹

The protest lasted for forty-one days, but the consequences reverberated far longer. One activist, Robert “LaVoy” Finicum, was killed in a shoot-out with the FBI. Twenty-six participants in the occupation were indicted on felony charges, and in the summer of 2018, President Trump pardoned the Hammond ranchers, whose legal troubles sparked the takeover of the Malheur Refuge.²

The occupation of Malheur National Wildlife Refuge caught the country’s attention, but depending on who you ask, the event has different meaning. To some, the Patriots were uneducated hicks who violently seized federal land in an ill-conceived attempt to achieve a confused goal. But for thousands of Americans, the Malheur occupation tapped into a broader

¹ Les Zaitz, “Militia takes over Malheur National Wildlife Refuge headquarters,” Oregonlive, February 22, 2016, https://www.oregonlive.com/pacific-northwest-news/index.ssf/2016/01/drama_in_burns_ends_with_quiet.html.

² Ibid.

sentiment of rural voicelessness and the need to re-center the foundational American values, alive in the Constitution.

A county meeting held in the early stages of the Malheur occupation crystallizes this complicated dichotomy. The room crackled as residents walked to the front of the gym to express their opinions on the occupiers, a group of mostly men primarily from out-of-state. Many expressed gratitude for the Patriots who brought national media attention to the plight of ranchers and farmers. In a county the size of Massachusetts where 75 percent of the land is federally managed, Burns residents experience financial instability and environmental challenges on a daily basis, while hundreds of thousands of acres of land sit untouched. In the minds of Burns residents, there exists a painful dichotomy of immense federal presence and imperceptible federal support. Residents feel left behind by a national government dominated by politicians from urban landscapes who dictate grazing rights and water allotments while knowing little about rural communities. Other residents called on the militia members to leave and bristled at the Patriots' attempt to speak on behalf of the people of Harney County without communicating with residents.³

Rather than analyze the event through a partisan lens, this paper captures the complexity of those forty-one days, focusing on the environmental and social implications of violent land ethics and land tenure systems.

In Chapter 1, the Patriot movement's ideology, rhetoric, and predecessors must be identified in both national and Oregonian contexts. Chapter 2 discusses that, while emblematic of the national rise in extreme right activism, the Malheur occupation was more likely to happen in

³ Ibid.

Oregon than other parts of the country, following a century-old tradition of direct democracy, grassroots organizing, and unmistakable populist flair, which is intrinsically tied to conceptions of land, land usage, and morality. Chapter 3 provides a meticulous, step-by-step account of the armed occupation of Malheur National Wildlife Refuge, underlining the conflicting perspectives of all the actors in Burns, Oregon. Chapter 4 considers the occupation as a case study, an opportunity to evaluate dominant culture land tenure systems and ethics in the West. The three land tenure systems in question - the ranch, the corporate enterprise, and the national park - all produce hierarchy, exclusion, and violence as part of the ongoing colonial project of the American West. Increasing environmental degradation and conflict only add urgency to the continued search for viable land tenure and ethics. A drastic shift in American conceptions of land and governance must occur if human communities plan to live a thousand years in the West. Thus, as laid out in Chapter 5, the solution to this regional problem with global stakes is a reimagined commons, following the design principles of political scientist Elinor Ostrom, that treats the American West as a potential site for immense resiliency and creativity.

Chapter 1. The Patriot Movement: Predecessors and Playmakers

Identifying and differentiating the members of the Patriot movement is a slippery endeavor. Here are some snapshots.

Pressed up against his truck in the middle of Malheur National Wildlife Refuge in Harney County, Jon Ritzheimer quotes Thomas Paine into the Oregon night, “I prefer peace. But if

trouble must come, let it come in my time so that my children can live in peace.”⁴ The last syllables are accompanied by puffs of chilled breath and an Amen or two from his fellow militiamen. The trio is keeping watch during the occupation of the refuge as part of a protest against federal land management policies and the imprisonment of Dwight Hammond. The Arizonian Ritzheimer is a former U.S. marine and right-wing activist known for his anti-Islamic organizing.⁵ He is a Patriot.

Meanwhile in Ferguson on the one-year anniversary of Michael Brown’s murder, John Karriman brought his militia of heavily armed white men into a predominantly Black community, walking alongside protestors with the intention of guarding the crew of the conservative news agency Infowars, who was filming the action.⁶ One of the militiamen was asked by a Ferguson resident to explain his position on race. The man responded, stating that the deaths of Tamir Rice and Eric Garner were a direct result of “tyrannical” police officers who abused their power. He continued, by encouraging the people of Ferguson to exercise their 2nd Amendment rights, particularly Black veterans. Several Ferguson residents noted with disdain that the visual of a group of Black men holding automatic weapons as opposed to the white Patriots would inspire a far different reaction from law enforcement and the press. Later, the same militiamen armed with automatic rifles stationed themselves atop Ferguson businesses to discourage looting. These men identified themselves as Patriots.⁷

⁴ VICE News, “The Oregon Standoff: A Community Divided,” Published Jan 11, 2016, https://www.youtube.com/watch?v=3NeHPgF_9E0

⁵ Ibid.

⁶ Oliver Laughland, John Swaine & Joanna Waters, “White militiamen roam Ferguson with rifles while black men wrongfully arrested,” The Guardian, August 12, 2015, <https://www.theguardian.com/us-news/2015/aug/11/oath-keepers-ferguson-automatic-rifles>

⁷ Ibid.

According to the Southern Poverty Law Center (SPLC), the Patriot movement is an anti-government, conspiracy theory-driven collection of groups who experienced a radical resurgence nation-wide after the campaign and election of Barack Obama. They broadly believe that the government has no right to dictate the actions and obligations of American citizens, based on a mythologized interpretation of the Constitution. Ranging from Black separatist militias to Neo-Confederate insurgents, these groups all represent the Patriot movement.⁸

These anecdotal snapshots of the Patriot movement illustrate the difficulty of defining the Patriot movement. The bands are loosely ideologically affiliated, but do not communicate much amongst themselves. Each group has their respective mission, tactics and recruiting techniques, with local chapters taking on personalities of their own. For the sake of specificity and precision, this research will only discuss the Patriot chapter groups located in Oregon, bringing in examples from outside the state only to demonstrate national trends in the movement.

Even within the state of Oregon, the Patriot movement is disjointed and finds cohesion mainly by feeding into broader populist and producerist sentiment that has dominated Oregon's politics since the turn of the 20th century. For many Oregonians, these right-wing paramilitary groups represent the hijacking of democracy through intimidation and implicit white supremacy. The Patriots on the other hand see themselves as the last vanguards of liberty in a country straying from its founding principles. However, it is clear that significant internal fractures and variation exist within the Patriot movement. Thus to understand the Patriots requires a study of their morals, their mythology, and their ideologies on land and freedom. Nuances must not be lost in a study of the movement, while romanticization must be avoided at all costs. Rather, let us

⁸ Mark Potok, "The 'Patriot' Movement Explodes," Southern Poverty Law Center, March 1, 2012, <https://www.splcenter.org/fighting-hate/intelligence-report/2012/patriot-movement-explodes>

hold the group in their complexity and contradictions to understand what a heavily-armed motley crew in Harney County symbolizes in state and national conversations about land, governance, and the power of collective mythology.

Delving into Oregon's Patriot movement, three particularly active groups rise to the surface - the Three Percenters, the Oath Keepers, and the Constitutional Sheriffs and Peace Offices Association (CSPOA) - each with their own particularities and goals. The Three Percenters are a national militia group, founded in late 2008 by Alamaban Mike Vanderboegh.⁹ The name derives from the claim that only three percent of American colonial society participated in the Revolution, proving that a small group of heavily-armed individuals can successfully overthrow political tyranny.¹⁰ The group - designed to be highly decentralized in order to mitigate government infiltration - touts 1,000 members in Oregon, according to the state's chapter president. Between December 2014 and January 2016, the group's national membership increased four-fold to 85,000 members.¹¹ The Oregon Three Percenters coalesced in 2014 and their mission statement reads as follows:

Our primary function is to bring together like-minded Americans who believe in our Constitution and are willing to take action in defending it with no compromise. We provide education, organization, training, and support for our members so that together we may help affect a peaceful return to a Constitutional government, if at all possible. We are active in civic leadership and hold our elected officials accountable. We stand together with unwavering resolve to protect life, liberty, and the pursuit of happiness.¹²

⁹ Spencer Sunshine, Rural Organizing Project & Political Research Associates, *Up in Arms: A Guide to Oregon's Patriot Movement*, (Somerville: Political Research Associates, 2016), 17.

¹⁰ *Up in Arms*, 19.

¹¹ *Ibid.*.

¹² <https://www.oregon3percent.com/?fbclid=IwAR3dbx3wHeGMxbqiE4OSa0o2OuzwHOPvGB3dUqNVPASMzdJqbbSWDSUFJec>

The safeguarding of the Second Amendment is paramount to the Three Percenters who believe that any form of gun control is an attempt to disarm the protectors of the most vulnerable demographics in Oregon, particularly miners, veterans, and ranchers. The zonal map on the Oregon Three Percenter website lists eight different chapters to join, stating that they have “groups covering” 33 of the 36 counties.¹³ The decentralized nature of the Three Percenters nation-wide lends itself to volatility and a penchant for violence, for instance the shooting of five Black Lives Matter protestors in 2015 in Minneapolis and death threats made to President Obama by Oregonian John Martin Roos.¹⁴ While acts by extremist individuals, this pattern of violence is not terribly surprising given that the movement condones militancy.

Smaller though more structured, the Oath Keepers vow to disobey laws and orders that they deem unconstitutional to defend the nation from attacks to liberty, both “foreign and domestic.”¹⁵ Members are current or former due-paying military personnel, police, and first responders, but civilian supporters can join as associate members to support the Oath Keepers’ activities.¹⁶ Following a contract of their own, the Oath Keepers adhere to the “Declaration of Orders We Will Not Obey,” which include the refusal to disarm American citizens, to deny free speech or right to assemble, to collaborate with foreign troops on American soil, and to try American citizens as “unlawful enemy combatants.”¹⁷ Many of the ten “Orders We Will Not Obey” reference civil liberty breaches that the British Crown inflicted on American colonists at the dawn of the Revolution.

¹³ Oregon III%. “Oregon III% Legacy.” Oregon3Percent. 2018. <https://www.oregon3percent.com/?fbclid=IwAR3dbx3wHeGMxbqiE4OSa0o2OuzwHOPvGB3dUqNVPASMzdJqbbSWDSUFJec>

¹⁴ *Up in Arms*, 19.

¹⁵ Oath Keepers, “About Oath Keepers,” <https://oathkeepers.org/about/>

¹⁶ *Ibid.*.

¹⁷ *Ibid.*.

For example, the Oath Keepers reject any orders to blockade American cities, effectively creating “giant concentration camps,” because the British blockaded the port of Boston in 1774 in an attempt to prevent illicit trade by their subjects.¹⁸ While commercially restrictive, the blockade of the harbor was a far cry from ghettoization, underlining the accents of conspiracy and historical inaccuracy that inflect Oath Keeper ideology. The ten Orders model the libertarian and anti-communist stances held by most right-wing activists, which were first standardized by the John Birch Society in the 1960s.¹⁹ Of all the groups within the Patriot movement, the Oath Keepers are the most mainstream and have over time softened their rhetoric. They avoid self-definition as a “militia;” they maintain their label as a non-partisan organization; they prohibit any hate speech on their official message boards and their national website highlights several profiles of members of color.^{20,21}

Officially linked with the Oath Keepers, the Constitutional Sheriffs and Peace Officers Association (CSPOA) was founded by former Arizona Sheriff Richard Mack in 2010.²² The CSPOA maintains that sheriffs are the ultimate sovereign in American society, possessing definitive authority within counties because they report directly to the community. As such, the will of “entrenched bureaucracies in high places” (all federal and state government bodies) is subject to that of the sheriff who “has the legitimate authority to prevent federal agents from entering the county—or the power to throw them out once they are there.”²³ While less common

¹⁸ OathKeepers, “Declaration of Orders We Will Not Obey,” <https://oathkeepers.org/declaration-of-orders-we-will-not-obey/>

¹⁹ *Up in Arms*, 20.

²⁰ *Ibid.*.

²¹ Oath Keepers, “Oath Keepers Policies,” <https://oathkeepers.org/policies/#rules>.

²² *Ibid.*.

²³ “To Serve and Protect the People and Our Rights: Just One Chance.” *Constitutional Sheriffs and Peace Officers Association*. <https://web.archive.org/web/20120120163425/http://www.cspoa.org/index.php>.

today, rightist sheriffs have been called by the movement to reject any Constitutional amendments after the Tenth Amendment, most notably civil rights amendments. The 1970s predecessor of the CSPOA, the Posse Comitatus, claimed that the Fourteenth Amendment was ratified improperly and that the citizenship of most Black Americans should be revoked. Scholars of the Patriot movement regard this buffet-style approach to law enforcement as a mechanism for rightist county sheriffs to side-step civil rights legislation and environmental regulations.²⁴ While not explicitly a white supremacist organization, Mack has fostered close connections with white supremacists such as Jack McLamb, founder of the Police Against the New World Order, and Randy Weaver, Aryan Nation affiliate and Patriot martyr.²⁵

It is important to recognize the ideological continuity and membership overlap between present-day Oregon Patriots and the explicitly racist right-wing activism from decades before. The Posse Comitatus (1971-mid 1980s) created the template and organizing tactics for the anti-federalist platform of the Oregon Patriots such as anti-environmentalism, armed occupation of federal land, the necessity of gun ownership for the safeguarding of rural autonomy, and the preeminence of the county sheriff (the group's Latin name translates to "power of the county").²⁶

The Posse justified its relatively coherent political agenda with conspiracy theories, radical religious moralism, and explicit white supremacy. William Potter Gale, the creator of the Posse's ideological platform, used the anti-tax revolts in rural America and the farm crisis of the 1980s to gain followers. Some rural Americans, initially drawn to the Posse by their libertarian economic and political stances, soon supported the group's hateful reasoning behind rural

²⁴ *Up in Arms*, 20.

²⁵ *Ibid.*, 22.

²⁶ *Ibid.*, 15.

misery: the enfranchisement of subhuman people (Black Americans) and the covert hijacking of national democracy by tyrannical Jewish elites. Unlike Neo-Nazi contemporaries who build their rhetoric on European symbols and signifiers, Gale crafted hate with American legal and historical references. The Constitution and the founding fathers were treated as sacrosanct, white, Christian representations of the ideal America. Almost immediately, this natural and just United States was sullied by the expansion of a federal government controlled by Jews, rendering any laws or regulations passed since the nation's founding unlawful. Capitalizing off the plight of the rural poor was highly successful. The Posse Comitatus' body of support exploded to 15,000 members nationally and tens of thousands of non-members, particularly in the West. Oregon, a regional hub of Posse activity, boasted nine county chapters, actively chartered by the charismatic Neo-Nazi Henry Lamont Beach. Notably, the largest clusters of Posse membership occurred in areas with the most Klu Klux Klan activity in the 1920s.²⁷

By the mid-1980s, the Posse Comitatus was sidelined by rising neo-Nazism and the national resurgence of the Klan. But the Posse's tactics and rhetoric were soon revitalized by the Militia movement (1992-2001) and then again by the Patriot movement (2008-present). With each new configuration, the extreme right's explicitly racist rhetoric and connections to white supremacist groups diminished. Present-day Patriots place little emphasis on social policy and denounce racism among their ranks. Nonetheless, the movement grew from the skeleton of the Posse Comitatus and maintains the same organizing goals. Political researcher Spencer Sunshine believes that although the Patriots reject racist arguments to legitimize their anti-federalism, the effects of their activity may be equally harmful to historically marginalized communities.

²⁷ *Up in Arms*, 15.

Sunshine aptly points out that social justice and environmental protections are largely achieved through federal legislative and judicial bodies, which the Patriots work to dismantle. Spencer, continues, stating that,

While the Patriot movement does not make *explicit* appeals to racial purity or interests, their sidestepping of racial issues seems to result in them reproducing images and themes of an all-white America, which then resembles White nationalist visions. They base their appeals to social groups that are some of the remaining vast majority-White sections of the United States: farm operators and what's left of logging and mining communities. Of course, merely appealing to the concerns of these communities is not racist; but this is combined with an unreflective approach, a problematic history and imagery, and the centrality given to them. For example, even among farmers, they address their concerns to the owners (who are 96 percent White)—not to farm laborers.²⁸

Thus, while the Patriot movement is replete with contradictions and complexities, its origins and imagery are pernicious and often combined with a semi-automatic.

Chapter 2. Direct Democracy in Oregon: An Unusual History

The flashiest actors in the occupation of Malheur were members of local, regional, and national Patriot chapters, who believed they were enacting rural justice in a small town without a voice. Historically however, Oregon has been a hotbed of anti-establishment political organizing, perhaps most emblematic in their ground-breaking system of direct democracy, the Oregon System. Rather than imply then that the community of Burns was voiceless, this paper argues that the Patriots tapped into an existing, vibrant political culture that amplified regional support for the Patriots, particularly in the months before the rally became an occupation. The planting of the rally's producerist, anti-federalist seed in Oregon's fertile ground of populist zeal, made the

²⁸ Ibid., 33-34.

occupation more likely to occur in Harney County than other parts of the nation, or even the West.

The creation of the Oregon System in 1902 established direct democracy in the state and thereafter altered the character of Oregon. Direct democracy became popular in the United States during the Progressive era and was a system that allowed citizens to by-pass the legislature in the event that lawmakers did not act in the interest of the people, due to ignorance, negligence, or outside (often corporate) influence. Political passion had been at the center of Oregonian society from the beginning of colonial-settlement, however the newly instituted initiative and referendum systems meant that citizens could and would have direct constitutional and legislative impact. While many states have established initiative and referendum systems, none compare to those of Oregon. In addition to being one of the first states to adopt these measures, Oregon has put more initiatives on the ballot than any other state in American history.²⁹ Far from consistent, the usage of direct democracy in Oregon has fluctuated in terms of frequency and political leaning throughout the past century. The flourishing Progressive populism in the early 1900s gave way to a surge of conservative populism in the '80s and '90s which broke a fifty year period of initiative and referendum paucity in the build-up and aftermath of World War II.^{30,31} However at its inception, the Oregon System was a non-partisan mechanism for good governance, one that became closely tied to conceptions of land, land-use, and morality.

²⁹ Lawrence M. Lipin & William Lunch, "Moralistic Direct Democracy: Political Insurgents, Religion, and the State in the Twentieth-Century Oregon," *Oregon Historical Quarterly* 110, no. 4 (Winter 2009): 514, <https://www.jstor.org/stable/20616011>

³⁰ Lipin & Lunch, "Moralistic Direct Democracy," 514.

³¹ Cody Hoesly, "Reforming Direct Democracy: Lessons from Oregon," *California Law Review* 93, no. 4 (July 2005): 1196. <https://www.jstor.org/stable/3481469>

At the onset of the 20th century, many Oregonians were fed up. The will of large corporations and petty party politicians had been influencing Oregon's state and federal legislation to the point where the average citizen felt little to no say in policies that drastically affected their and their family's livelihoods. Disillusionment with elected officials and the captains of industry reigned nationally. Progressives demanded change and organized to temper the abuses of a representative democracy which favored political and economic elites over individual citizens.³² The Progressives and their broad-based allyship — women suffragists, prohibitionists, anti-monopolists, labor unions, farm groups, and single tax advocates — successfully campaigned for direct democracy, a Swiss political system that allowed the masses to see their will reflected on the ballot.³³

The campaign was incredibly successful, particularly in the West, with Oregon as a prime example of public thirst for greater inclusion in the political process. Oregon was the third state to adopt direct democracy, and quickly passed initiatives on women's suffrage, a poll tax ban, and the expansion of mandatory local, state, and federal primaries. Within seven years, Oregon had adopted 48 ballot measures.³⁴

However, Oregonian direct democracy since its inception has been plagued by the professionalization of the system.³⁵ The abundance of paid signature gatherers and political strategy firms means that anyone with enough money can gather the required number of signatures to place any measure on the ballot.³⁶ Therefore, money determines what the public is

³² Hoesly, "Reforming Direct Democracy," 1192.

³³ Ibid..

³⁴ Ibid..

³⁵ Hoesly, *Reforming Direct Democracy*, 1202.

³⁶ Ibid..

allowed to vote on. This commercialization historically contradicts the anti-elitist sentiment at the heart of direct democracy which, over the past century, has declined while anti-federalist sentiment has remained.³⁷

But in the beginning at least, the crafter of the Oregon System, William U'Ren had an uncomplicated perspective on the establishment of a direct democracy system: it would usher in an age of economic utopia.³⁸ While the political logistics of greater democratic participation would be complex, U'Ren, an economist by trade, had complete faith in the will of the people.³⁹ U'Ren aligned himself with the People's Party, the political wing that sprung out of alliances among farmers throughout the West and South.⁴⁰ Populists, as they were called, decried the idealized American model of progress which often disadvantaged manual laborers. Monopolistic railroad and mining companies denuded rural landscapes with projects that placed their workers in tremendous and hopeless debt.⁴¹ Populists were enraged that the people they saw as the producers of all the nation's wealth — manual laborers — were excluded from American prosperity.⁴² The natural and right state of affairs had to be restored. U'Ren, among others, thus regarded community cooperation and direct democracy as salves for an ailing rural American society, dominated by economic and political disenfranchisement.

At the heart of William U'Ren anti-capitalist politics was the fight for the single tax, whereby the only tax in society would be a 100 percent tax on unearned profit from land

³⁷ Ibid., 1203.

³⁸ Robert D. Johnston, "Oregon Politics, Oregon Families, and the End of the Sesquicentennial," *Oregon Historical Quarterly* 110, no. 4 (Winter 2009): 506, <https://www.jstor.org/stable/20616010>

³⁹ Ibid..

⁴⁰ Lipin & Lurch, "Moralistic Direct Democracy," 517.

⁴¹ Ibid..

⁴² Ibid..

ownership. While beginning before and continuing after the Progressive Era, the campaign for the single tax reached a climax in the period between 1890 and 1920.⁴³ Many progressives, such as U'Ren, saw the establishment of initiatives, referendums, referrals, and recalls as a means to pass the single tax.⁴⁴ Progressivism thus subsumed the policy as part of its platform, even though certain consequences of the single tax — such as anti-imperialism and the objection to government-controlled land conservation — conflicted with the Progressive philosophy.⁴⁵

The radical economic proposal was conceived by Henry George, a Philadelphia-born economist who believed that all of society's malaise - poverty, corruption, greed - could be traced back to humankind's broken relationship with land. In *Progress and Poverty* George writes:

The great cause of inequality in the distribution of wealth is inequality in the ownership of land. The ownership of land is the great fundamental fact which ultimately determines the social, the political, and consequently the intellectual and moral condition of a people... We are children of the soil as truly as a blade of grass or the flower of the field. Take away from people all that belongs to land, and they are but disembodied spirits. Material progress cannot rid us of our dependence on land; it can only add to our power to produce wealth from land.⁴⁶

According to George, the socio-political status of individuals and communities are dependent upon human interaction with and ownership of land. However, he imbues the human-nature symbiosis with value that escapes economic terms. Lyrically, the economist ties the moral condition of humankind to our belonging to land, grounded not in litigious definitions but in a

⁴³ Robert C Woodward, "W. S. U'Ren and the Single Tax in Oregon," *Oregon Historical Quarterly* 61, no. 1 (March 1960): 46, <https://www.jstor.org/stable/20612537>

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, 47.

⁴⁶ Henry George, *Poverty and Progress* (New York: D. Appleton & Company, 1881), 163.

naturalistic return to a shared, earthly cradle. Interestingly, humankind's dependence on the land is immutable, regardless of the progression of capitalism.

William U'Ren agreed with George that both societal wealth and moralism derived from the land and its cultivation. Similar to George, U'Ren conveyed the moral implications of the single tax through religious vocabulary.⁴⁷ The policy would act as *the* mechanism to counteract capitalist forces that had derailed natural law and divine will. The ethical and religious underpinning of the single tax, and by extension the system of direct democracy which rendered the policy a possibility, were key to understanding populist Oregon's conception of land and the God-mandated relationship they thought must exist between soil and human. Despite the failure of the single tax movement, the charged discourse that surrounded the forging of the Oregon System indelibly marked the state's brand of direct democracy with mercurial moralistic tendencies that to this day remain inescapable, for better and for worse.

Many occupations of federal land by far-right activists occurred before Malheur, and most likely there will be many more. While there was ample community dissent in Burns, the rhetoric of these out-of-state Patriots fell on somewhat fertile ground. The moralistic bent of Oregonian political culture, heavily influenced by its storied direct democracy, made the occupation more likely to occur in rural Burns than in other parts of the West. Most importantly though, the populist and producerist aims of the occupiers - however ambiguous and unlikely - allowed these militiamen for at least a time to be considered by residents as legitimate political actors, not terrorists, as their goals aligned with historic Oregonian conceptions of land and governance.

⁴⁷ Lipin & Lunch, "Moralistic Direct Democracy," 520.

Chapter 3. The Occupation of Malheur National Wildlife Refuge

Let us bring together these pieces of history, political culture, and academia to compose a cohesive narrative of the occupation of Malheur National Wildlife Refuge. This complex event is the key to understanding the ideology of the occupiers and unearths essential questions about land tenure in the American West. Those cold, violent forty-one days demonstrate the severity of natural resource conflict zones and resonate globally in our promised future of increased environmental conflict. For, few Americans outside of Harney County recall that the occupation was set in motion over 20 years before with a series of water and lands disputes involving one Oregonian family.⁴⁸

In 1994, Dwight Hammond was arrested by federal agents for interfering with plans for the construction of a fence line between his property and Bureau of Land Management (BLM) property, which engulfs the Hammond ranch. Hammond had placed a road grater right where the fence was to be built. Testimony by neighbors and family members tell that the BLM was actually attempting to cordon off a water source that ran up on the Hammond farm. The decision to extend the fence line came quite suddenly, when the BLM decided to resurvey its property line with the Hammond ranch. They concluded that the federal property line in fact cut farther into the Hammond property than the last survey showed, placing the water source just within the new federal property line. The Hammonds took the BLM to court and, after a long trial, won, the terms of the victory dictating the removal of the fence and the release of Dwight from prison.

⁴⁸ Josh Turnbow, *American Stand-off*, Documentary, Directed by Josh Turnbow, 2017: Burns, Audience Network. Film.

However, the BLM never went to take down the fence. The Hammonds knew that if they removed it themselves, they would be charged with the removal of federal property. The Hammonds appealed to the local judge to demand the terms of the trial be met. The judge in turn said that the federal agency would never show up to court, even if he did issue a subpoena.⁴⁹

The family's clashes with the BLM deepened in severity as the years rolled by when in 2012, the BLM charged the Hammond family with 19 counts of arson over 18 years under the 1996 Antiterrorism and Effective Death Penalty Act. The 1996 act has a mandatory minimum of 5 years attached to it and was passed in response to the 1993 World Trade Center bombing and the 1995 Oklahoma City bombing. The Hammond family did in fact start two of the 19 fires in question. The first was a 2001 prescribed burn started on Hammond property to manage grass health and grazing conditions, a common practice for ranchers. The fire however dipped onto BLM land, burning 138 acres.

The second fire that the Hammonds started was in 2006 during a large lightening storm. The ridge to the northwest of Hammond property, Moon Hill, was ablaze and the Hammond family called the BLM to confirm the fire, which they did. In order to prevent the ranch from going up, Dwight started a fire in such a direction as to meet the Moon Hill Fire head-on, burning a portion of his own land and 1 acre of federal land. The technique is called a back-burn, and is often used by wilderness firefighters as a containment method to burn the fuel sources in the path of a spreading wildfire. The back-burn worked and the Moon Hill Fire burned itself out without advancing any farther. In total, the fires caused approximately \$1,000 worth of damage

⁴⁹ Ibid..

to BLM land, because the burnt land could not be used to make a federal profit from grazing permits.⁵⁰

The initial trial of Dwight and his son, Steven, lasted only 8 days, with the Hammonds pleading guilty to the two fires they started. With the judge deeply opposed to the enforcement of the mandatory minimum, the prosecution and the defense reached a plea deal to circumvent the 5 years attached to the 19 counts of arson. The Hammonds gave up their appellate rights in exchange for three months in prison each. However after the father and son served their time, the BLM decided to appeal the case in the 9th Circuit Courts on the grounds that the initial judge did not do his duty by fulfilling the punishments attached to the 1996 Act. Thus Dwight and Steven Hammond were re-sentenced to five years in prison and were to report to federal marshals on January 4th, 2016.⁵¹

The question soon became why the BLM was so adamant about pursuing this small ranching family in rural Oregon. The Hammond's neighbor believed that the BLM was after the Hammond's water. "They were always after us for something. It's always been water...if you don't have the means to fight them, you lost the ranch."⁵² Similarly, Susie Hammond, Dwight's wife, believed that the BLM was taking advantage of the family's relative powerlessness. This impression was only strengthened when the BLM filed and won a civil lawsuit for \$400,000, *after* the Hammonds had already been convicted on criminal charges. The terms of the civil lawsuit dictated that if the Hammonds decided to pay the \$400,000 fine with their land, the federal government would have to be the first entity they sold to.⁵³

⁵⁰ Ibid..

⁵¹ Ibid..

⁵² Ibid..

⁵³ Ibid..

The media attention and local outrage over Hammond conviction piqued the interest of national and state Patriot networks. Ammon Bundy, a Nevada Patriot and rancher, showed up on Susie's doorstep one day asking to hear her side of the story. In 2014, Bundy and his father Cliven had garnered national media coverage when they refused to pay their grazing fees for several decades, claiming their family's presence on the land preceded the existence of the BLM and thus they owed no money to the government to graze their cattle. When the federal government came to collect the fees at the family's ranch in Bunkerville, the Bundys called upon members of the national Patriot network to defend their ranch. With the sleek uniformed feds on one side and citizens armed to the teeth on the other, one could almost hear Ennio Moriccone playing in the background. Fearful of another Ruby Ridge, the federal agents stood down and the militia members rejoiced at their perceived victory. Bunkerville was tied to the Hammonds in that it kicked off the crusade of Ammon Bundy. Brian Levin of the Center for the Study of Hate and Extremism remarked:

Where you have teams of people from coming across the country who are armed to challenge the enforcement of an order, sometimes a tactical retreat is the best way to avoid a loss of life...the problem was, people in the anti-government, the wise-use movement, took that as a victory. And what it did was cause the rhetoric to rise to a level where they were looking for other Bunkervilles to take place in different parts of the West.⁵⁴

After his visit to Susie Hammond, Ammon stated that he had an "overwhelming urge to write" and that, "the Lord was not pleased with what was happening to the Hammonds. What was happening to them, if it was not corrected, would be a type and shadow of what would

⁵⁴ Ibid..

happen to the rest of the people across country.”⁵⁵ Susie Hammond accepted Ammon’s offering of help.⁵⁶

In addition to Ammon Bundy, the founder of the Pacific Patriot Network (PPN), BJ Soper of the Oregon Oath Keepers got into contact with the Hammonds. Bundy, Soper, and another PPN member, Joseph Rice, met with Harney County Sheriff David Ward. Tensions between the Oregon-based PPN and the outsider Bundy soon came to a head when it became apparent that Bundy wanted to pursue more aggressive tactics than the Hammonds were willing to support. Bundy wanted the Hammonds to refuse to let federal marshals take them to prison and demanded that Sheriff Ward support this action and protect the father and son. Both the Hammonds and Ward refused these tactics. Ward even felt as though Bundy was threatening him.

They flat-out told me: either you tell the federal government these people are not going back to prison, or we’re going to bring thousands of people to town and do that for you...we can’t pick and choose who should serve their jail sentences and who shouldn’t.⁵⁷

Despite this tension, the PPN and Bundy decided to hold a rally in support of the Hammonds. They called on Patriots and supporters throughout the nation to attend the rally on January 2nd, to be held in Burns, Oregon. On that day, about 400 people arrived from across the country and they held a peaceful protest, comparing the travesty that was to befall the Hammonds to a form of state-sponsored genocide. In addition to the PPN, other Patriot groups in attendance were the Oregon Constitutional Guard and the Idaho III%ers. The rally ended outside the sheriff’s office where protestors threw pennies on the lawn, signifying that Sheriff Ward had sold out his community. Ward found the rally mildly amusing because it was a Saturday and no

⁵⁵ Ibid..

⁵⁶ Ibid..

⁵⁷ Ibid..

one was in the office. Additionally, he expressed that as sheriff he had no jurisdiction over the prosecution of the Hammonds since it was a federal matter.⁵⁸

And then Ammon Bundy decided to go rogue. After the rally had ended, he made the following announcement:

For those that understand they came to make a hard stand, those that know what's going on here and have seen it for many many many many years, those who are ready to actually do something about it, I'm asking you to follow me and go to the Malheur National Wildlife Refuge and we're gonna make a hard stand.⁵⁹

This took the PPN and the Hammonds entirely by surprise. Bundy had not consulted with the family, the community, or the local Patriots about this move. A group of people followed Bundy to Malheur and forcefully took over the headquarters of the refuge. Sheriff Ward received a 911 call from the refuge where an employee described a group of heavily armed individuals "going through military style clearing these rooms." The occupiers repeated that they would not fire unless fired upon. Soon after, Ammon Bundy made clear his intentions to turn the occupation of Malheur into a national statement, a symbol and symptom of the greater injustices going on throughout the country.⁶⁰

At one time supportive of the outsiders organizing around the Hammond family, the Burns community turned against the occupiers. Many were furious that these armed, mostly out-of-towners were claiming to represent the people of Burns on national television. In a town hall meeting held on January 12th, community members voiced a mixed bag of grievances, support, and anger. Many appreciated the rally that was held and were glad that the plight of rural

⁵⁸ Ibid..

⁵⁹ Ibid..

⁶⁰ Ibid..

communities was garnering national attention, however they were against the occupation.

Several community members voiced concern that Malheur would become another Ruby Ridge or Waco, and did not want such violence descending upon their town. Already, the occupiers had disrupted town life as the local schools serving 802 children had been shut-down for a week amidst pervasive uncertainty and fear in town.⁶¹ The occupiers were polarizing neighbors and friends in Burns who were suddenly on different sides of this unwanted situation. Additionally, Charlotte Rodrique, the then Tribal Chair of the Burns Paiute, made a statement on January 6th, telling the occupiers to “get the hell out.”⁶² Another tribal member stated that, “We as a tribe view that this is our land, no matter who’s living on it.”⁶³

While tensions rose within the community, the police presence in Burns escalated dramatically and Sheriff Ward called upon both the Oregon State Police (OSP) and the Federal Bureau of Investigation (FBI) for assistance. The police set-up a command post in the Burns junior high and the FBI built a barricade around the sheriff’s office.⁶⁴ The security of all school districts in the county was also tightened. While present, no law enforcement agency had made any attempts to arrest the occupiers, frustrating Burns residents. Meanwhile, the occupiers, through their daily morning briefings with the press, began to create a more concrete idea of their demands. They demanded the immediate release of the Hammonds and the transfer of all federal land holdings to the county level, imploring local ranchers to tear up their grazing permits as a sign of protest. To them, the rightful owners of the land and the “victims” of federal overreach

⁶¹ The Oregonian/OregonLive, “Oregon standoff: A chronicle of an occupation,” OregonLive, February 14, 2016, https://www.oregonlive.com/oregon-standoff/page/oregon_standoff_a_timeline_of.html.

⁶² Ibid..

⁶³ Ibid..

⁶⁴ Ibid..

were ranchers. This effectively delegitimized and erased the historic and present day land claims of the Burns Paiute.⁶⁵

On January 21st, the FBI opened negotiations with Ammon Bundy, hoping to resolve the situation peacefully. While the FBI had a history of deadly Patriot stand-offs to substantiate their need for slow and precise talks with the occupiers, the Burns Paiute viewed each passing day of the occupation as a normalization of the Patriots' actions. "Condoning the illegal occupation of a federal facility by armed lawbreakers only encourages others to believe they can behave in the same way, with impunity," said one tribal leader.⁶⁶

Within days however, the negotiations fell apart, as Ammon Bundy refused to continue to talk to the FBI because they have not been deputized by the sheriff. This stance corresponds with the Patriot belief that the highest law enforcement in the land, as proclaimed by the Constitution, is the sheriff. The talks dissolved and tensions heightened.⁶⁷

Then, in what was to be a decisive and fatal move, Ammon Bundy and several occupiers attempted to go to a meeting in the neighboring county. Each vehicle, carrying the occupiers and their supporters, left in 15 minute intervals from Malheur. LaVoy Finicum, along with an 18 year-old girl and her mother who had come to sing for the occupiers, rode in the vehicle with Bundy. LaVoy Finicum, a rancher and occupier from out of state, was driving. The plan was to arrive in John Day, Oregon and discuss Constitutional rights with community members. However, two hours into their drive, the vehicle was stopped by Oregon State Police. From a video that the young woman in the car was filming, one can hear law enforcement asking

⁶⁵ Ibid..

⁶⁶ Ibid..

⁶⁷ Ibid..

Finicum to show his hands and to step out of the car. Speaking amongst themselves, the occupants of the vehicle decide collectively not to get out. Finicum tells everyone to duck and hits the accelerator.⁶⁸

Just beyond the bend, hidden behind trees, was a road block, set up by federal and state officials. Finicum, already going quite fast, drove off the side of the road into the snow. As the vehicle turned, the officers began firing upon the vehicle. The FBI and OSP had been warned that the occupants of the truck were most likely armed. Quickly, Finicum got out of the car, assumedly to draw fire away from the other people in the vehicle, shouting “Go ahead and shoot me!” From footage released by the FBI with a view from above, one watches as Finicum gets out of the car with his hands up, reaching several times into his coat pocket for the loaded 9 mm semi-automatic hand gun, but never draws the weapon. He was fatally shot moments later by agents hidden in the trees, who approached him, weapons drawn, as he got out of the car. The rest of the people in the vehicle were evacuated; Ammon and Ryan Bundy were arrested. With the leadership of the occupation gone, the people left occupying Malheur soon dwindled to four, then one. By February 11th, the last of the occupiers was convinced, with the help of mega-evangelist Franklin Graham, to surrender.⁶⁹

Chapter 4. Beyond Dominant Culture Land Tenure and Ethics

The most important take-away from the occupation of Malheur National Wildlife Refuge is that there are unresolved land conflicts - some loud, most silent - littered across our country.

⁶⁸ *American Stand-off*.

⁶⁹ *Ibid.*.

These conflicts are fueled by old national dynamics with new manifestations: resource wars, extractive economic practices, racism, displacement, and humankind's complex identification with soil. Most unresolved land conflicts do not call the Patriots to arms, but nonetheless continue to be unbearable memories and painful presents for many Western rural communities, a portentous sign of the future.

The problem is three-fold. Firstly, there are few powerful people and bodies who will listen to and be in solidarity with rural communities to the point of prioritizing ethical land tenure systems over corporate, elite interests. This is largely because powerful people and bodies only exist as a result of the oppression and silencing of other people and bodies. In the West, power imbalances - specifically those related to land - are completely comprehensible when one historically situates Western territories as an extension of a new nation's empire. The West is an imperial project, built on both large and small capitalist ventures that have left the region both devastated by and largely dependent on unsustainable extractive economies.

Accompanying this imperial project is a specific mythology of American exceptionalism where the romantic figure of the cowboy is necessarily crowned the successful ruler of a "deserted" and barren land. A white, hyper-masculine, industry-oriented, individualist is the main regional actor according to this tale of capitalist exceptionalism. This contradicts the historic reality of cowboys, many of whom were itinerant African-American, Mexican, and indigenous workers with incredibly dangerous jobs. Western mythology simplifies and sanitizes settler-colonialism into complete obscurity, as well as erases any other pre-colonial or colonial American narratives. Thus, demystifying the cowboy and all he stands for in textbooks and pop culture is central to decolonizing the history and present of the West.

Secondly, even if one were dedicated to land justice, what does that look like? What does an ethical relationship with land look like in the modern American West? The answer to such a question necessarily implicates millions of people (if not billions if we choose to extend our question to other global pastoral communities) and yet remains without a proportional national response or worry. Do we consider land as property? If so, do we consider land as private property or public property? And if it is private property, is it the kind owned by a family or a mining company? If it is public property, how are we in relationship with the land, and who is implicated in this relationship? The federal government, indigenous groups, the Bureau of Land Management, whoever draws a line in the soil with a gun?

The third and final problem is for consideration in the conclusion of this paper: what would a policy build around such a just land ethic look like?

To explore these vast questions of magnificent proportions, let us hone in on the first and second problems. The colonial project of the American West and its accompanying mythology remain formidable obstacles in the American psyche, preventing individuals from viewing Western history as complex, violent, and within a global history of pastoralism. This colonial project has produced three dominant culture land tenure systems - the ranch, the corporate enterprise, and the national park - that have produced and perpetuated environmental and social conflict in the West from the 1860s all the way into present day. Problem one then feeds into problem two, as collective mythology, capitalist greed and entrenched dominant culture land tenure obscure the vital need for a revised land ethic in the American West, one that is horizontal and mutualistic as opposed to hierarchical and exclusionary.

Colonial Constructions: The Ranch, The Corporate Enterprise, and The National Park.

Searching for an ethical relationship with land in the American West has been a project of centuries. One would be remiss to think that only modern historians and rural communities are grappling with this potentially fatal conundrum. In fact, adaptation to ecological fragility (with varying results) and base-line survival have been the status quo in Western communities from pre-colonial times to today. Nonetheless, with the American colonization of the West and its accompanying dispossession of indigenous communities, came the application of new land tenure systems to the region. These systems fit within specific Euro-capitalist legal frameworks, producing a dominant culture mindset with rigid definitions of land, property, and productivity.

Dominant culture conceptions of land and property have manifested in three distinct, but related land tenure systems in the West that are worth a close exploration. The ranch, the corporate enterprise, and the national park were all forged in a colonial-capitalist context. Respectively, these land tenure systems treat land as private property owned by a family, private property owned by a corporation, and public property owned by the government. Each has historically been significant in the construction of Western identity, along social, economic, demographic, and political lines.

It is essential to understand the contexts from which each of these linked land tenure systems emerged in order to underline their inefficacy and harm. None of these land tenure systems represent a viable ethic because they drastically diminish ecosystem services and harm human communities. In fact, it is precisely these dominant culture land tenure systems that have fueled unresolved land conflicts throughout the West for centuries. The next chapter will therefore propose an alternative land tenure and ethic based around communal management of

common pool resources, situating Western rural communities within a global “panorama of human adaptation to the earth.”⁷⁰

Before a discussion of the three land tenure systems, let us first analyze cowboy mythology and its global popular culture significance as a symptom of Western exceptionalist rhetoric. The American cowboy is known worldwide due to the immense global popularity and consumption of American film and TV. The classic portrayals of the cowboy are found in the teeth-gritting spaghetti westerns of Clint Eastwood and the innumerable John Wayne films, not to mention serials such as *Bonanza*. More recently, the Wild West has been recaptured to the delight of modern cinematic audiences in *Brokeback Mountain*, *A Million Ways to Die in the West*, *The Revenant* and, most popularly, *Django Unchained*. All these movie produce the same aesthetic of grungy desolation paired with white (excepting *Django*) hyper-masculine, necessarily violent heroes who conquer land and lovers as horses run by.

Unfortunately, this simplistic, whitewashed, masculine iteration of the West not only pervades our national consideration of the region, but also bleeds into global perspectives on the West and the country as a whole. The incredibly successful Belgian graphic novel series illustrates this perfectly. *Les aventures de Tintin* came out with its United States edition *Tintin en Amerique* in 1945.⁷¹ The two most popular covers depict the plucky journalist in recognizable cowboy garb. The second cover depicts our young European hero cruelly at the hands of a barbaric American indigenous man from a non-specific tribe. Based on the cover, one would

⁷⁰ Donald Worster, “Cowboy Ecology” in *Under Western Skies: Nature and History in the American West*, (New York: Oxford University Press, Inc., 1992), p. 37.

⁷¹ Hergé, *Tintin en Amerique*, (Tournai: Casterman, 1945).

think that the entire storyline plays out in the American West when in actuality the majority of action occurs in New York City.

The representation of the cowboy in *Tintin en Amerique* illustrates two key points. One, the cowboy is a globally recognizable and heralded figure who symbolizes the whole national identity of the United States, not just a region. Two, the cowboy is a colonial figure who is permitted to displace indigenous communities and turn their land into property because he is smart, strong, and civilized. This second point clearly speaks to the United States' global reputation as an imperialist, bullying force that cares little for land and communities abroad. Similarly, the West is a demonstration of the same indifference and greed domestically.

Despite this international imagining of the whole nation as being related to the range and the cowboy, historians of the United States have dismissed the popular culture mythology as an inaccurate and simplistic representation of the region, which of course it is.⁷² That is what mythology is. Nonetheless, historical inaccuracy hardly excuses an academic negligence of cowboy mythology and its importance as a pervasive, social, cultural, and national construct. How many essays and books are spent on explaining the origins of the national myth of the French Revolution, picking apart its inaccuracies, and then giving weight to its impact on French and francophone people and politics today? The same needs to be done to cowboy mythology: what was the purpose of this myth's construction? What function was it supposed to fulfill and how has its essential messaging been expressed over time leading up to present day? What is the reality grounded in the fantastic? What impact does the myth have on politics, perspective, and society?

⁷² "Cowboy Ecology," 35.

The same attention, intention, and weight given to France's national myth therefore must be given to one of the United States' most potent and portentous creations: the cowboy. Until we work to understand what the cowboy myth - and other national myths - can teach us about the construction of a nation, we will continue to perpetuate the same violences required to build this country in the first place. Our myths reflect the values which we aspire to uphold and often do not, the lies we tell others and the truths that we bury.

Environmental history Donald Worster bemoans this academic dearth that leaves the region without a competing, complex, disturbing narrative to complement cowboy mythology. In his essay "Cowboy Ecology," Worster states, "Most academic historians have come to regard the whole saga of cowpunchers, cattlemen, and the beef and wool industry with some boredom, if not dictate, and deny its relevance to the mainstream of social change and conflict."⁷³ Thus, the laziness of historians prevents the West from academically and culturally being considered a region with national significance and pull.

Worster brings us from our first problem of demystifying the cowboy to our second problem of ethical land tenure systems, beginning with a consideration of the ranch.⁷⁴ Much like the plantation in the South, the ranch shaped political, social, and economic activities and relationships in the West as the center of capitalist agrarian industry. While apart of a global pastoral tradition, the American ranch that emerged in 1860s Texas was a modern, capitalist construction that was inextricable from the development of the railroad system and the participation of the United States in global systems of commerce. The undeniably globalized

⁷³ Ibid., 35.

⁷⁴ Ibid., 35

nature of the ranch only increased in 1879 with the invention of refrigerated shipping, accompanied by an insatiable growth in the international market for exotic American beef.⁷⁵

The lucrative outcomes attached to the cattle industry and its expansion obscured the fatal ecological and social realities of the ranch, for legislators, entrepreneurs and ranch workers alike. The first social fatality - the displacement of indigenous people and the seizure of their lands - was soon followed by a second: the production of race and class hierarchies that endangered and divided laborers. An incredibly multi-ethnic and multi-linguistic domain of commerce, the American ranch was composed of a minority of a non-white workers - primarily indigenous, Polynesian, Mexican, Asian, and African-American people - and a majority of white workers of primarily Scandinavian, Gaelic, and Germanic people.⁷⁶ Labor dynamics on the ranch were defined by fluidity and movement. As itinerant laborers, ranch workers stayed for a season or two before moving onto the next ranch. Even on the job, herds and tasks would send workers out miles away from any authoritarian eye, a lack of supervision that urban laborers and enslaved laborers rarely experienced.⁷⁷ Nevertheless, like most capitalist institutions, the ranch functioned because of exploitative power imbalances, fueled by white supremacy and classism.

Just as critically, the ranch was ecologically fatal. Unlike the humid East, the West is an arid, marginal environment with tough soils, a dramatic climate, and a penchant for wildfire. The indigenous flora and fauna to the region are scrappy. Either by way of generalist or specialist tendencies, members of Western ecosystems require little moisture, have developed fire resistance or avoidance tactics, have developed adaptations to stark temperature change, and can

⁷⁵ Ibid., 40.

⁷⁶ Ibid., 35.

⁷⁷ Ibid., 36

navigate immense altitudinal variation. The West is, on no uncertain terms, an extreme environment.

Let us now add grass-hungry, water-guzzling, top-soil trampling cattle into the mix along with their overseers, newly converted pastoralists whose creed is profit and whose environmental knowledge is zilch.

From Texas north to the Canadian plains and all the way westward to the Pacific, thousands of entrepreneurs assembled their herds and drove them onto the public lands, millions of acres lying open to private enterprise. They had no tribal headmen to guide them, no ancient parchments to spell out their rights and responsibilities, little or no knowledge of the landscapes they were invading, and no willingness to wait for any of these to appear. The range belonged to no one, they claimed; therefore, it belonged to everyone.⁷⁸

Early ranchers had no idea what they were doing or how to go about doing it, which was proved conclusively by the near collapse of the cattle industry in the late 1880s. The innate incompatibility between cattle and the harsh Western climate (drought and extreme winters), combined with extensive overgrazing, led to the mass starvation and freezing of the beasts. It is estimated that tens of thousands of them died, marking it as one of the greatest losses of animal life in the history of global pastoralism.⁷⁹

After the “open pillage on the Great Plains” in the 1880s, there was renewed national debate about what to do with the millions and millions of acres of land newly considered part of the United States.⁸⁰ Free enterprise hawks and stockmen lobbyists called for a complete turning over of the land into private hands, as both corporate and individual property.⁸¹ Scientists and

⁷⁸ Ibid., 41.

⁷⁹ Ibid..

⁸⁰ Paul F. Starrs, *Let the Cowboy Ride: Cattle Ranching in the American West*, (Baltimore: The Johns Hopkins University Press, 1998), 7.

⁸¹ “Cowboy Ecology,” 42.

federal bureaucrats maintained that the land should remain public, and accessible to all American people, particularly considering how untrustworthy cowboy capitalists proved themselves in the 1880s. The voices of everyone who had a stake in the treatment of Western land were not all considered of course, namely indigenous land claims and tenure practices. Clearly though, the creation of ethical and justice land tenure in the American West remained a pipe dream.

After considering the ranch, one must turn to its cousin, the corporate enterprise. The corporate enterprise (e.g. mining and logging) emerged in conjunction with the expansion of the ranch as a viable tenure system out West. Inextricable to these extractive endeavors, the national railroad system allowed the flow of labor and raw materials to move between the West and the East with relative regularity and ease. It was very common for whole communities and towns to be built around these extractive and unsustainable economic activities, which - with some exception - doomed them to futures rife with environmental ruin and economic instability. Similar to the ranch, the corporate enterprise furthers the displacement, dispossession, and genocide of indigenous communities.

The story of Harney County, the county in which the occupation took place, illustrates perfectly the ecological and economic fragility of communities dependent on and oftentimes in existence because of corporate enterprise. The Edward Hines Lumber Company first set up shop in Harney County in 1928, their regional plant sitting on 67,400 acres of the Malheur National Forest, right outside Burns.⁸² Hines was allotted the land - called the Bear Valley Unit - via a U.S. Forest Service contract. The federal body was interested in connecting the Blue Mountain's timber industry with the national timber industry. After Hines won the contract, they built 52-

⁸² James G. Lewis, "Biographical Portrait: Edward Hines (1863-1931)," *Forest History Today*, The Forest History Society (Spring/Fall 2004), 64-65.

miles of railroad track from Burns to Seneca, OR. Additionally in 1930, Edward Hines constructed a company town adjacent to the lumber mill, named after and designed by himself. The Bear Valley Unit became one of the most profitable lumber areas in the nation, making Harney County the most prosperous county in the state of Oregon.⁸³

None of this could last though. By 1968, the timber industry in Harney had collapsed due to the severe denuding of the landscape. When the company stopped its operations, 1,000 people (in a county of 8,000) were fired and the unemployment rate in the county rose to 30 percent.⁸⁴ While the people of Harney continue to deal with the consequences of rural poverty driven by colonial-capitalist ventures, the Edward Hines Lumber Company is a profitable building materials supplier in Chicago.⁸⁵ Thus, like many communities across the West, the corporate enterprise - in this case the timber industry - proved to be both socially and environmentally catastrophic.

Last in our considerations of colonial constructions is the national park. Considering the immense ecological and social damage done to the West by the aforementioned tenure systems of the ranch and the corporate enterprise, it may seem a bit of a leap to put national parks in the same category. Particularly in terms of ecological deterioration, it is clear that national parks have higher ecosystem service functionality than (most) American ranches and sites of corporate enterprise. However, the national park must also be considered in light of its social implications which, from an ethical standpoint, necessarily change its perceived environmental advantages. Moreover, this last example reveals the incredible degree of interconnectedness among these

⁸³ Ibid..

⁸⁴ *American Stand-off*.

⁸⁵ Lewis.

three tenure systems. Rather than being discrete and unique land configurations, the ranch, the corporate enterprise, and the national park are consistently in dialogue with one another, even at times overlapping, as in the case of Malheur National Wildlife Refuge.

From an environmental justice perspective, national parks have been long been an exclusionary tool for indigenous communities globally. The primary reason for the invention of national parks was to preserve important ecosystems and natural landscapes, ones that were often inhabited by charismatic creatures. However, the granting of national park status has always been a highly political decision, often mired in economic, scientific, and nationalistic concerns.

In “National Parks and Environmental Justice: Comparing Access Rights and Ideological Legacies in Three Countries,” a 2010 comparative study done of national parks in Scotland, Sweden, and South Africa, Dahlberg et al. argue that there were insidious justifications given by the federal government and influencing interest groups to establish national parks. The researchers disavow the “pristine land” argument given by preservationists, maintaining that the only reason the lands appear “pristine” is because of the traditional, sustainable land tenure practices of communities indigenous to the area.⁸⁶ Federal bodies intentionally erase the efficacy and intellect behind these practices to justify the restriction of access rights and the creation borders around newly-designated park property. When traditional practices are recognized by federal authorities, it is once more for self-serving purposes, as indigenous tenure practices are painted as obstructing conservation and endangering local ecosystems. Dahlberg et al. makes clear that “these and similar rationalizations for the establishment of national parks were

⁸⁶ Annika Dahlberg, Rick Rohde, and Klas Sandell, "National Parks and Environmental Justice: Comparing Access Rights and Ideological Legacies in Three Countries," *Conservation and Society* 8, no. 3 (2010): 209-24. <http://www.jstor.org/stable/26393012>.

underpinned by a capitalist culture infused with environmental racism” demonstrating that “science and nationalism have been employed by powerful elites to justify exclusion and control of national parks.”⁸⁷

Whist also being instruments of social marginalization, national parks are centered around severely flawed land management theory. In contrast with the dynamic, small-scale indigenous tenure systems they continuously belittled and ignored, the governmental bodies who established these national parks utilized static, centralized land management practices that necessarily were politically biased and inflexible. These institutional, top-down management styles are still largely in place today and are unsurprisingly inadequate to deal with unending ecosystem change and increasing environmental degradation.

Malheur National Wildlife Refuge is at once an example par excellence of the social and environmental violences at the heart of national parks while also demonstrating the overlapping nature of dominant culture land tenure systems. Before it was designated a federally protected area, it was first Shoshone land.⁸⁸ When the United States colonized the Pacific Northwest, the land soon fell to rampant ranching and logging activities. In 1879, the federal government created the Malheur Indian Reservation and forcibly confined members of the Northern Paiute tribe, already struggling to find adequate food due to increased settler-colonial activity. Over time however, the federal government allowed increasing amounts of reservation land to be transferred to the private domain to be used by ranchers and corporations. By the time the land was designated a national park in 1908, Malheur had a horribly bloody living history.⁸⁹

⁸⁷ Dahlberg et al., 210.

⁸⁸ The Oregon History Project, “Indian Lands in Oregon,” *Oregon Historical Society*, 2019, <https://oregonhistoryproject.org/historic-viewers/indian-lands-oregon/>.

⁸⁹ *Ibid.*.

With the example of Malheur National Wildlife Refuge in mind, it is evident that dominant culture land tenure systems are environmentally and socially untenable. They are colonial constructions that perpetuate hierarchy, exclusion, white supremacy, the displacement and dispossession of indigenous communities, and ecological devastation. The three tenure systems explored here - the ranch, the corporate enterprise, and the national park - often work in tandem to promote capitalist venture and values. Clearly, new land tenure systems (that must lean on old techniques) must be established, ones that instead valorize longevity, ecological mutuality, reparations, and communal management.

Leopold and the Patriots: Towards a New Regional Land Ethic. After discussing dominant culture land tenure systems and colonial constructions, a philosophical exploration of land and land ethics is necessary. This philosophical framework - based on Aldo Leopold's land ethic and the three models of environmental worldview - provides the evaluative tools with which we can pinpoint the values that emerge out of the 2016 occupation in Oregon. Are these the values we as a society want when making decisions about governance, land management policy, and our ecological responsibility to human and non-human nature citizens? As the 2005 Millennium Ecosystem Assessment (MA) - conducted on the behest of United Nations Secretary General Kofi Annan - underscores to the nth degree, we as a species are running out of time. Anthropogenic activity in the last 50 years has altered global ecosystems more so than in any other period of time in our history. The four ecosystem services that determine the well-being of human society and individuals are in sharp decline, whereby 60% of the supporting, provisioning, regulating, and cultural services examined in the MA are being degraded and in

some cases have been lost.⁹⁰ Importantly, the inability for ecosystems to deliver these services affects lower-income communities more acutely than affluent ones, who have directly benefitted from drastic ecosystem change.⁹¹

Land is at the center of all these things - ecosystem vitality, the Patriots, the Oregon system, conceptions of liberty and what it means to be American - which is why there is so much passion and conflict at the heart of the Malheur occupation. But how can a natural and neutral entity bring about so much strife, both historically and currently? The answer lies in the human treatment of and relationship with land. In the human lexicon, land can all at once be a collection of soils, grasses, and bugs as well as property, home, a symbol of national pride, divinity, battleground, food. *Land itself will always escape and exist beyond human definition.* But, humankind constructs a connection with and definition of land that is built by value-based vocabulary and symbology. The correctness of this connection and definition of land is not important. What is important is the consequences of conceptualizations of land, which have very real effects on communities and individuals, as has already been argued.

For example, the colonizers who came to the Americas with the Virginia Company viewed land as profit and opportunity, for their families and for the British Crown. The result was swiftly established tobacco plantations, worked first by European indentured servants and enslaved indigenous people and soon thereafter by enslaved African people. The land became a source of profit and prosperity, while simultaneously - and if not more so - a space of violence. One can see that collective conceptions of land conceived of and enforced by those in power produce

⁹⁰ Walter V. Reid, "Ecosystems and human well-being: synthesis: a report of the Millennium Ecosystem Assessment," (Washington, DC: Island Press, 2005), v-2.

⁹¹ Ibid..

drastic environmental and social consequences. Land itself is always neutral, but our relationship with land is never neutral. Thus, what land is depends on what humans say it is, individually and collectively because our relationship with land affects how it is treated. In turn, the consequences that flow from this treatment are very real.

A word on this philosophical project's analytical and evaluative framework. Motivations, both individual and societal, are important so far as to understand the underlying systematic values that uphold and produce conceptualizations of land. Motivations are not important so far as to mitigate or qualify the impacts of conceptualizations of land. So, in the case of Virginia tobacco plantations, does it matter if violence was not the goal? No, it does not matter. The motivations or intent do not matter in that they cannot be used to mitigate the potency of the impact of said intent.

The way the occupiers at Malheur speak about and treat land is telling of the particular values they hold. Such conceptions, as noted, differ from the land conceptualizations of Burns residents. But before examining the land conceptualizations of the actors at the occupation, land ethics must be understood in a broader context as a field begun by conservationist Aldo Leopold.

In 1949, Aldo Leopold published an essay entitled "The Land Ethic," within his book *A Sand County Almanac*. The essay calls upon humankind to extend ethical implications to land, which until this point had been defined in strictly economic terms, that "[entail] privileges but not obligations."⁹² The idea that the privileges society reaped from land - in extracting, denuding, occupying, and polluting - should be included alongside a sense of obligation, duty, and respect for land was not new, even in Western/Classical thought. However, the mainstream and modern

⁹² Aldo Leopold, "The Land Ethic," in *A Sand County Almanac*, (London: Oxford University Press, 1949), 2.

iteration of such an idea was quite radical, particularly during the onset of a formidable, exploitative military-industrial complex.

The obligations that Leopold discusses - also known as the land ethic - are the exact same obligations that we are expected to give to members of our perceived community: elders, children, spouses, authority figures, vulnerable populations in society. Examples of these obligations could include familial loyalty, respect, democratic participation, a pact of non-violence. Leopold implored American society to push past anthropocentric conceptions of community.

The land ethic simply enlarges the boundaries of the community to include soils, waters, plants, and animals, or collectively: the land... A land ethic of course cannot prevent the alteration, management, and use of these 'resources,' but does affirm their right to continued existence, and, at least in spots, their continued existence in a natural state. In short, a land ethic changes the role of *Homo sapiens* from conqueror of the land-community to plain member and citizen of it. It implies respect for his fellow-members and also respect for the community as such.⁹³

In this passage, Leopold underlines the inherent worth of land - worth that is separate from its value to humankind in the form of raw materials, tourism, recreation, and education. As such, humankind must change its relationship to land, from one of domination to solidarity. While conservation in some cases is a result of the land ethic, the utilization of land for agricultural, extractive, and recreation purposes need not be done away with. Rather, Leopold implores that these actions done to the land be tempered by utmost respect.⁹⁴ Here, land is perhaps akin to a parent, from whom children are expected to receive food, clothes, and nurturing, with the understanding that this devotion and sustenance will be returned to the parent in their later years.

⁹³ Leopold, 2.

⁹⁴ Ibid..

Leopold expects humans to continue to take from land, but with the caveat that we will care and nurture the land in the process. The land ethic thus states that the land-human relationship entails symbiotic responsibility - we are responsible for and belong to one another.⁹⁵ While Leopold was espousing this mutualistic ethic, it is important to note that he did not direct accusations at economic and political factors that directly cause land degradation and ecosystem collapse. Intentional or not, the absence of anti-capitalist and anti-colonial discourse in *A Sand County Almanac* severely limits Leopold's vision for a truly ecologically mutualistic world.

“The Land Ethic” proposed by Leopold heralds an environmental worldview called earth wisdom. The other two worldviews are stewardship and planetary management. Earth wisdom advocates an ecosystem-centric, non-hierarchical, totally inclusive view of the environment, where all biotic (living) and abiotic (non-living) persons are equalled valued and respected.⁹⁶

The next most inclusive environmental worldview is stewardship, whereby humankind has the duty to care for the environment because it is deemed the most capable member of nature.⁹⁷ While recognizing the importance of conservation and sustainable practices, this worldview ultimately places humans at the top of a world hierarchy. The result is often that other nature citizens that most resemble us (also known as charismatic species) and are more useful to us (e.g. cattle, salmon, dogs) are considered more valuable than other nature citizens.

For example, pandas are more charismatic creatures than cryptobiotic desert crusts, with four limbs and expressive, adorable faces, whose feeding and reproductive practices are ones we

⁹⁵ Ibid..

⁹⁶ G. Tyler Miller and Scott Spoolman, *Living in the Environment: Principles, Connections, and Solutions*, 17th ed., Chapter 25: Philosophical Worldviews, Education, Ethics & Sustainability, (Belmont, CA: Brooks/Cole Publishing, 2011).

⁹⁷ Ibid..

can relate to. In essence, pandas are “closer” to us than desert crypto crusts, a fungi that cellularly reproduces and has no face, but is essential to the existence of desert communities. We would feel a greater sense of personal loss if pandas went extinct than if crypto crusts did. Historically, stewardship has been imbued with Judeo-Christian religious significance, in that God entrusted humans as protector and shepherd to the rest of creation. The patriarchal approach that emerges from the stewardship model can never be in line with Leopold’s land ethic because it necessitates a hierarchy of species, with humans at the top. Furthermore, the fact that a human construction (Christianity) crowns, of all species, humans the most capable and responsible nature citizen seems a biased framework through which to endow environmental responsibility and power.

The last and most hierarchical environmental worldview is planetary management, placing humans as the explicit conquerors of nature.⁹⁸ Planetary management goes beyond common anthropocentrism, often viewing all that is not human as something to be owned and controlled, requiring little to no care or respect. Extractive, exacting, and tireless, this environmental worldview is one that often results in harm to human communities deemed similarly unworthy of respect, largely lower-income communities and communities of color.

Both the planetary management and stewardship worldviews are not enough to meet increasing environmental degradation with creative collaboration and resiliency. These three environmental worldviews combined with their real-life implications are important to understanding, evaluating, and surmounting environmental conflict and injustice. With this

⁹⁸ Ibid..

framework understood, the Malheur occupation is seen in a truer light where nuance and complexity muddy the waters.

In the case of the occupation of Malheur, one can see a host of conflicting environmental worldviews and land ethics that find their roots in rural poverty, indigenous erasure, extractive industry, and white supremacy. The occupation of Malheur ended and began in violence. The armed seizure of land against the desire of the community is an explicit act of aggression that cannot be justified by the wrongful imprisonment of the Hammonds or land management disputes. Moreover, the occupiers took the legitimate plight of rural communities and spun the story to read that the federal government was explicitly targeting white ranchers, killing an already dying way of life. The distortion of history and reality finds its roots in White supremacy and is counter-productive, as urban Americans are once again only exposed to a menacing sliver of the West. Moreover, the occupiers demand to “solve” economic downturn by the transfer of federal land holding to the county level has been done before and never benefits the people. Such huge tracts of land are too expensive for local governments to manage and thus the county is forced to sell off the land to private corporations, usually for extractive economies.

It is clear then that the land ethic and values expressed by the occupiers at Malheur are not viable. The ethics of the armed seized of land based on ideologies that center white supremacy can only lead to decreased ecosystem service functionality and social marginalization. Despite the legitimate concerns underlying the Oregon Patriot land ethic, it must be rejected because it propagates a violent rather than creative approach to resolving environmental conflict, that can be classified as planetary management. Nonetheless, the federal management practices that govern the government’s incredible land-holdings in Harney County are also insufficient, firstly

because they set the stage for over-grazing and secondly they exclude the access rights and erase the land claims of indigenous communities in the area. As seen from its social and environmental implications, the stewardship model embedded in the federal government's current management style breeds rigidity and inertia in the face of environmental change and conflict. What the occupation demands from us is a large-scale reevaluation of the land ethics and land tenure systems that flourish out West, begging the question: if our current models of land and governance are not viable, where do we go from here?

Chapter 5. How to Live a Thousand Years in the American West

New land governance models are needed counteract these powerful histories of colonization, displacement, and marginalization if human communities are to continue to survive in the American West. Rejecting the installment of yet another top-down, institutionally centralized system of land governance, this paper sees rule-based communal management on a local level as the most socially and environmentally viable option for the American West. The policy recommendations that emerge from a system of communal land tenure are guided by the design principles of Nobel Prize winning political scientist, Elinor Ostrom. In 1990, Ostrom published a ground-breaking book entitled *Governing the Commons*, in which she debunks the famously intractable environmental scenario of the tragedy of the commons. Through a global study of self-regulating adaptive communities, Ostrom pinpoints eight design principles that

must be in place in order for common pool resources (CPR) to be managed in socially and environmentally responsible ways.⁹⁹

First, the tragedy of the commons must be explained. As described by Garrett Hardin in his 1968 article “The Tragedy of the Commons,” a group of self-regulated individual actors who share common pool resources (land, fishing grounds, timber, coal) will always drive said resources to ecological ruin because of the economic gain attached to self-interested activity. Hardin gives the example of the pasture, stipulating that before “social stability” became a reality for human pastoral communities, the overexploitation of the shared pasture did not occur because of self-regulating factors such as warfare, disease, and poaching.¹⁰⁰ These factors kept human and herd populations at or below the carrying-capacity of the pasture. But, once human communities reached a stage where these violent, though necessary, self-regulating factors were under control, tragedy could only ensue.¹⁰¹

Herders who belonged to communities of social stability now pursued unrestricted profit maximization. In a commons, benefits belong to the individual herder and costs fall on the collective. The individual herder recognizes that the personal utility of adding one more animal to their herd will always outweigh the cost of over-grazing, a burden shared by all herders in the commons.¹⁰² However, every herder in the pasture is doing the same math.

Each man is locked into a system that compels him to increase his herd without limit - in a world that is limited. Ruin is the destination toward which all men

⁹⁹ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, (Cambridge: Cambridge University Press, 1990).

¹⁰⁰ Garrett Hardin, “The Tragedy of the Commons,” *Science* 162 (December 13, 1968): 1243-48.

¹⁰¹ *Ibid.*.

¹⁰² *Ibid.*.

rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all.¹⁰³

The dynamic described by Hardin clearly played out in the nascent American cattle industry. As previously mentioned, the early American cattle industry was driven by unwitting, profit-focussed ranchers who gave free rein to their hungry herds, leading to intense over-grazing and the collapse of the commons in 1887.

But as Elinor Ostrom's work underlines, Hardin's deterministic, semi-apocalyptic claims are not entirely true to reality. While overexploitation is the most common result in unregulated CPRs, Ostrom references several communities that have successfully self-regulated local commons for centuries. This myopia, deliberate or accidental, of communal tenure systems belongs not just to Hardin, but to recognized (i.e. institutional, non-governmental, humanitarian) authorities on land tenure.¹⁰⁴ As seen already with national parks, communal tenure systems are poorly understood by centralized regulatory bodies even within the nation of practice. For instance in the 1990s, an Asian Development Bank Team recommended the construction of an irrigation dam over the Nepalese Rapti River to ensure that farmers in the Chitwan valley received enough water for their crops.¹⁰⁵ The costly project, designed by a highly skilled team of riparian engineers and backed by the national department of irrigation, proved highly unnecessary. Unbeknownst to federal authorities, the community in the Chitwan valley already thrived off of an 85-farmer managed irrigation system.¹⁰⁶ Yet another community who defies

¹⁰³ Ibid., 1245.

¹⁰⁴ Elinor Ostrom, "Coping with Tragedies of the Commons," (Bloomington: Center for the Study of Institutions, Population, and Environmental Change, 1998), 20-21.

¹⁰⁵ Ibid..

¹⁰⁶ Ibid..

Hardin's tragedy is the alpine Swiss farmers of Törbel, who have practiced the same collective agricultural management techniques for one thousand years, rejecting feudal and capitalist influences throughout.¹⁰⁷

A close study of these and other communities revealed to Ostrom eight essential design principles (DPs) of a complex adaptive governance system: clearly defined boundaries (DP1), proportional equivalence of costs and benefits (DP2), collective choice arrangements (DP3), monitoring (DP4), graduated sanctions (DP5), fast and fair conflict resolution (DP6), local autonomy (DP7), appropriate relations with other tiers of rule making authority (DP8). Rather than the free-for-all attitude embedded in Hardin's commons and illustrated in the American range, Ostrom argues that a rule-based communal land management model, guided by demarcation, democratic participation, and built-in dissuasion mechanisms, effectively allows humans and other ecological persons to thrive. In addition to recognizing the immense shortcomings of the nation-state, Ostrom stipulates that some communication with multi-tier authorities (e.g. local, state, federal bodies) is crucial to the survival of adaptive communal tenure systems.¹⁰⁸

Policy recommendations for land reform in the American West flow quite naturally from Ostrom's dazzling framework. There is also precedent for such a project. In his book *Ramp Hollow: The Ordeal of Appalachia*, environmental historian Steven Stoll drafts legislation for communal land management in rural Appalachia. Based around Ostrom's eight design principles, Stoll's Commons Communities Act is simple but radical, addressing the social and

¹⁰⁷ "Cowboy Ecology," 39-40.

¹⁰⁸ Ostrom, *Governing the Commons*.

environmental devastation wrought by coal companies in the region.¹⁰⁹ Influenced and inspired by Stoll's efforts, I shall endeavor to do the same.

Summation of current land tenure and ethics problems. Land conflict, particularly conservative eco-terrorism, is a result of socially and environmentally untenable dominant culture land tenure systems, developed as part of the colonial project of the West. The continued displacement and genocide of indigenous communities - by the aforementioned land tenure systems - is amoral. The forced reliance of rural Western communities on extractive economies, and the inherent fragility therein, is amoral. Horizontal, mutualistic relationships among all members in ecosystem are necessary for human livelihood: "When people take care of landscapes, landscapes take care of them."¹¹⁰

Land policy recommendations: Western commons communities. Based on the scholarship of Dr. Steven Stoll and his study of Appalachia, the United States should create commons communities throughout the West. Each commons community would consist of a specific number of households on an allotted amount and type of land, so as to allow for sufficient subsistence food production and economic activities. Organized through the Department of Agriculture, the land upon which commons communities flourish would be former federal public land. The members of the commons community would govern the land based off Elinor Ostrom's eight design principles - determining the boundaries of the area, adopting tenure practices suitable for the environment, and establishing sanctions for the breaking of collectively crafted rules. Conflict resolution strategies would be actively practiced and created by members to

¹⁰⁹ Steven Stoll, *Rampant Hollow: The Ordeal of Appalachia*, (New York City: Hill and Wang, 2017), 272-274.

¹¹⁰ *Ibid.*, 272.

maintain social equity. The United States government would not be allowed to designate commons communities on indigenous lands held in trust by the federal government. In accordance with Section 6 of the Commons Communities Act, “no nonresident, trust, or corporation is permitted to purchase property in a commons community.”¹¹¹ While maintaining a healthy degree of autonomy, the commons community would interact with larger governance bodies when appropriate, such as to have access to citizen tax relief, college tuition, and land acquisitions.¹¹² The commons community would be a domain of “scientific conservation, cultural expression, entrepreneurship, and democracy,” a model to be admired and mimicked globally.¹¹³ The creation of commons communities in the American West is particularly urgent given its marginal environment and its abundance of federal land holdings.

Government policy recommendations: Reparations. The government should offer reparations in the form of money and land to indigenous communities due to historic and continued state-sponsored genocide and displacement. Exact amounts of these material payments would be determined by tribal leaders. The penalties attached to all ongoing lawsuits against the federal government on the grounds of natural resource destruction and the mismanagement of indigenous resources would be paid in full. Moreover, indigenous lands assets, currently overseen by the federal government in fulfillment of treaties forged in the 1800s, would fall under the direct management of indigenous authorities. This indigenous managerial system would be funded entirely and amply by the federal government.

¹¹¹ Ibid., 273.

¹¹² Ibid..

¹¹³ Ibid., 274.

To conclude, let us end how we began, in Harney County. While the tactics and rhetoric of the occupiers is inexcusable and ineffective, the difficulty of rural life that was at one time central to the movement supporting the Hammonds is still legitimate. Harney County - and the hundreds of counties like it around the country - are in need of sustainable, non-extractive systems of land tenure and governance that will reinvigorate rural communities for generations to come. These are counties that have only experienced wealth in a time of environmental and social degradation. Perhaps that is the American story. But that does not have to be the American future. The occupation at Malheur National Wildlife Refuges signals a need for rural rejuvenation and communal land management policy, which can only occur once the knowledge and zeal of the community is harnessed. Furthermore, the West needs to be extricated from an ahistoric, static framework and seen for what it truly is - a potential site for immense creativity in the face of a decidedly grim environmental future. If we let it, the American West could show us that devastation need not accompany prosperity.

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