

WHO HAS THE RIGHT TO USE (AND PROFIT FROM) WILDLIFE?

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ABSTRACT

Every since the thirteen Colonies declared wildlife to be held in public trust by the States, just as wildlife had been held in trust by the British Parliament and crown, there has been social, economic, political and legal tension among numerous stakeholders who want to have access to “their” wildlife. One of the present major conflicts among landowners, public hunters, outfitters, and state agencies is the problems associated with elk hunting in Montana. Some landowners and their associated outfitters seek to maximize business profit by restricting bull elk hunting access to only paying customers, typically non-residents. The resident hunters who choose not to pay (or are unable to pay) the trespass fee want increased access to “their” elk, held in trust by the state of Montana. Agricultural producers are trying to reduce the negative impact of elk herds eating their grass hay. Other wealthy non-resident “amenity” landowners want little or no hunting on their property to protect their privacy. The State’s Fish, Wildlife and Parks division is trying to increase the harvest of cow elk to reduce the size of the herd to meet biological and social objectives.

A citizen’s group formed in Montana’s Madison Valley, worked for over two years on compromise elk hunting regulations designed to solve many if not most of the contentious issues associated with the conflict. Representatives from each of the major stakeholder groups participated in the monthly public meetings. This experiment in wildlife management development demonstrated that wildlife is valued, in one way or another, by all constituencies. Stakeholders with much to lose and gain were willing to come together on a monthly basis with the help of a professional facilitator and respectfully discuss the art and practice of balancing their desire to have access to the elk and their desire to prevent others from having the same access. It will be of extreme interest to professional wildlife managers, landowners, outfitters, hunters, wildlife advocates, economists, business professors and politicians how this experiment turns out.

Another debate involving who should have access to wildlife is the discriminatory practices of states allowing residents to purchase significantly more hunting and fishing licenses than nonresidents. A law passed this year by the United States Government clearly allows States to discriminate against nonresidents when it comes to the availability and pricing of hunting and fishing licenses. Nonresidents are granted fewer of the most desirable licenses and pay considerably more for them than residents. The Ninth Circuit Court had ruled the current practices were illegal discrimination against nonresidents based on the Commerce Clause of the Constitution. Clearly, the following issues are of great importance individuals and to local, state and federal organizations:

- who owns the wildlife,
- who has access to wildlife and,
- who can generate profits from wildlife?

A great deal of managerial time and effort has been committed to solving the conflicts associated with these issues.