On the Fictions of Elk Management in New Mexico

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ABSTRACT
This essay examines the biological constraints to wildlife management in New Mexico with a focus on the challenges that chronic wasting disease poses to efforts to establish private game enclosures, and thus commodify elk and other cervids.

Introduction

Wildlife resist enclosure. Wild animals are elusive, resistant to domestication and oblivious to political categories and boundaries. Despite this the State remains remarkably persistent in its pursuit of control. It tasks its managers to make wildlife legible to the State and Capital as objects of management. So khaki-clothed managers conduct counts, make maps, and distribute hunting permits in a fictional drama of control and authority; and then private interests erect fences and sell hunting rights.

But wildlife are not willing participants in this staged drama and remain instead the State’s failed subjects, at best fugitive forms of property-in-waiting, forever browsing on the fringes of capitalist commodification. But if we know anything about Capitalism and the capitalist State, we know it to be ruthlessly effective at enclosing the commons. According to Marx, Capitalism finds its origins in what he called “primitive accumulation,” the enclosure and expropriation of formerly common resources such as forests and the extension of this process worldwide in waves of colonial expansion.

These were the watershed moments in the development of the conditions that made capitalist accumulation possible. In the hands of the British Marxist historian E.P. Thompson, for example, it is a compelling story of the struggle over the very basis of social reproduction—and one that seemed always to end with enclosure and privatization. Hedges everywhere!

These ruthless patterns of enclosure define not just Capitalism’s past but also its present. There is, in other words, an inexorable, just-a-matter-of-time quality to the capitalist transformation of nature into a commodity, with new examples always ready to renew the thesis. Natural gas, for example, has long been a commodity-in-waiting, geochemically stranded from the marketplace. Turning methane gas into its commodity form, dry natural gas, has required enormous innovations in science (standardization, liquefaction, gasification) and new exploration and distribution technologies (LNG [liquified natural gas] infrastructure expansion, hydraulic fracturing). What once was a nuisance is now among the most
profitable commodities on earth, with reserves that boggle the mind and warm an oil man’s heart. So what accounts for this capacity? It seems almost as though Capitalism is not only capable of enclosing the commons and commodifying nature but, more frighteningly, forever capable of inventing new natures. Wetland banking and climate markets to name just two examples.

So where are we?

After centuries of capitalist commodification, is the nature we know nothing more than raw material for capitalist accumulation? If elk are any indication the answer remains as elusive as the elk. One reason for this uncertainty may be because, as a story of Capitalism’s origins, enclosure and expropriation is often told without consideration for the agency of the non-human. Whatever nature is imagined to be or to comprise—however nature’s boundaries are drawn—it is rare when it is figured as an active agent. Nature, particularly the bourgeois version, begins and ends as inert matter; as nothing more than an object of human control or the stage upon which social struggle plays out. In other words, our histories of State and Capitalist efforts to control nature can only ever be partial if our emphasis is only on the impacts of these efforts on the human world.

This appears, at first blush, as even true with Marx. While wildlife trample the pages of Das Kapital they do so only briefly. In his account of enclosure and expropriation, deer make a brief and furtive appearance, darting into the text as a modifier of otherwise inert nature. He writes of “deer preserves” and “deer-parks,” but not deer. His concern is of deer-as-resource to a rural peasantry slowly being robbed of its access to nature and, as a result, its growing proletarianization. So too does nature more generally appear to figure only as a source of use values for human beings.

In his “Critique of the Gotha Program,” for example, Marx lectures a faction of the German social democratic movement on revolutionary tactics by first chastising them for getting wrong their claims of labor as the source of all wealth: “Labor is not the source of all wealth,” he corrects them. “Nature is just as much the source of use values (and it is surely of such that material wealth consists!) as labor, which itself is only the manifestation of a force of nature, human labor power.”

In these stories of resource expropriation and enclosure, nature appears as fully subjected to human agency. But is nature to Marx nothing more than an object of human interest, defined by its utility to human subjects? Not quite. Marx understood nature as something much different from the bourgeois version he was criticizing. According to Marx, the nature we know is a nature conditioned by the endless accumulation of capital. This has been a process, he argues, that has created a clear break between what bourgeois commentators distinguish as human nature on one side and, on the other, nonhuman nature. In this formulation, the nature of deer-parks and soil fertility that preoccupied Marx was the very nature of capitalist political economy. Capital, Marx explains, projects a nature in its own image.

This idea of nature as capitalistically produced—the materiality of nature coming to stand in for something that appears to have real status—is the leitmotif of bourgeois nature. But there is a nonhuman nature that resists capitalist commodification and this brings me back to wildlife, and elk in particular.
Elk, it turns out, reveal the limits of capitalist enclosure and the power of the State and the incomplete project of turning nature into the image of Capital. Despite centuries of intensive efforts to domesticate, or at least “manage” elk, it remains a fugitive figure from capitalist enclosure, resistant to the full weight of scientific and technological innovation and managerial attention. Indeed there may be no better example of the contested, partial and incomplete nature of Capitalism (and capitalist nature) than the elk. Elk management in New Mexico reveals a kind of dual fictional nature at the heart of human and nonhuman relations. The first is the fiction that elk are in any way meaningfully “managed” by the State. The history of efforts to enclose and privatize elk gives lie to the dubious claim that any wild animal or animal population falls under the practical purview of State authority. In theory, the State “knows” the elk. In practice, it turns out that the elk the State “knows” is a complete fiction, and wildlife managers cannot say anything meaningful about, for example, elk populations (hunting is allowed here, not there), or predict anything useful about elk migration (elk numbers are large here, not there). But despite this fiction, the State takes real action on its claims of authority over the elk and those actions are indeed meaningful for human and nonhuman populations. Efforts to draw elk into the orbit of State authority may be fictional in nature and administrative in application, but they give rise to practices that transform nature-society relations and, equally as important, literally remake the elk.

Fiction #1:

Despite the fugitive nature of elk, it is represented by the State as a fully legible and managed species. The fiction that the State knows where elk are and how many elk populate New Mexico gives the State the authority to impose a series of management priorities on elk that transform it into private property. Elk, in other words, as game animal. The Department of Game and Fish accomplishes this by claiming authority over all elk in New Mexico through an extensive network of game management units (GMUs). The State establishes arbitrary GMU boundaries and then expresses its claims of management over elk though these geographic units.

By basing elk management on GMUs, managers need not claim knowledge of elk within a particular unit, nor does it have to claim any particular knowledge over particular individuals, (i.e., whether they migrate in and out of various units), but rather only that elk, wherever they are, have been made subjects of State authority. This process follows a particular and prescribed set of acts. The NMDGF “manages” these units by conducting regular counts within the boundaries of GMUs, determines what it considers an ideal herd population within those arbitrary boundaries, and then establishes annual hunting permits though a lottery system. Most importantly (and the real point of making the elk a subject of the State), it then imposes these limits differently on public versus private property.

On private lands, the Department issues authorization certificates to private landowners as a way to extend to large property owners a right to claim a portion of New Mexico’s elk herd as private property. The State, in other words, construes elk in general as a form of private property, establishes the conditions by which elk become private property, and then distributes those rights along class lines. The privatization of wildlife has been at the heart of various and historic enclosure efforts and is a process marked by capital-intensive efforts to control wildlife for private accumulation. This process necessarily begins with the State's fictional claim to elk management, but it is not a process that goes unchallenged. Efforts to “manage” the elk are rightly seen by many as really just a way to privatize nature and reserve nature's productive capacity for private interests. Resistance against the privatization of wildlife, therefore, is fierce among not only hunters but any group that relies on common resources, such as the forest.
The Forest Service is currently being sued by grazing permittees on the Carson National Forest for allowing unsustainable levels of elk on grazing pastures. “Defendant United States Forest Service,” the complaint reads, “has allowed the population of wild horses and elk to increase to the point where they have caused and continue to cause degradation to vegetative cover in the pasture land that Plaintiffs rely on to graze their cattle. In fact, the wild horses and the elk have become a nuisance and have contributed to the destabilization of the Hispanic grazing tradition and culture that Region 3 Policy requires Defendant to protect.” The lawsuit reveals a central paradox in State efforts to manage wildlife. NMDGF efforts to “manage” elk herds in New Mexico are put into practice through its authority over arbitrary Game Management Units. By claiming authority over wildlife within these boundaries, the State in effect claims authority over all forms of resource access within these boundaries. While it may be true that the elk remain fugitive from State authority, the same cannot be said for other forest users. Though the grazing permittees on the Carson National Forest have legal claims to forest resources on the Carson, for example, elk management serves as an indirect form of resource dispossession. It’s the small-scale ranchers, in other words, along with the elk, who confront new waves of enclosures.

Fiction #2:

Though described above as nothing more than a vehicle for the expansion of State control over the commons and those who rely on the commons, elk management gives rise to a series of practices that matter not only to humans but to the elk as well. In October of 2005 the Department of Game and Fish announced that two elk killed in the southern Sacramento Mountains of southeast New Mexico tested positive for chronic wasting disease (CWD), a transmissible spongiform encephalopathy (TSE) that affects mainly cervids (members of the deer family such as elk, moose and deer). Despite how common CWD has become, there exist so far only theories to explain the disease and its origins. The most common is that TSE is a disease of the central nervous system that follows from the introduction of an abnormal form of an unusual protein known as a prion. When abnormal prions infect cervids, they quickly spread from the central nervous system by converting normal proteins into abnormal prion proteins. The result is a progressive wasting away. The animal literally rots on the hoof until it dies.

It seems that prions accumulate and persist in soils and then spread to animals, particularly those in captive herds. How these prions get established to begin with, however, is not yet clear. The disease was first identified in the late 1960s and while it affects wild cervid populations, it appears closely associated with captured animals and the establishment of private game parks. In other words, State efforts to establish claims of authority over wild animals, which are understood as a necessary condition for defensible private claims to wild animals, have resulted in the proliferation of capital-intensive private hunting reserves, but this seemingly inexorable process of privatization and enclosure has been interrupted by the emergence of a frightening challenge to enclosure: chronic wasting disease.

In Montana, for example, the rapid growth of private elk parks in the 1990s collapsed in the early 2000s when CWD swept through hunting preserves. By 2001, no private game parks remained. With cervids at least, Capitalism, it seems, operates as a vector for disease rather than a means of capital accumulation. According to geographer Paul Robbins, “It is now well established that CWD has a much higher rate of transmission among captive herds, and is most quickly transmitted through the interstate transfer of game farm animals. In other words, prions move most rapidly through capitalized ecosystems.”
While no additional animals have been found infected with CWD in New Mexico since the two cases in 2005, the proliferation of private game hunting in New Mexico suggests that new cases of CWD are likely. The efforts of the State to control elk are an unmitigated disaster. It has served to further erode access to public resources among small-scale livestock growers whose claims predate the NMDGF and it has put in motion patterns of disease transmission among elk that, in other states, have proved disastrous. And this will remain true as long as the State’s claim as a capable manager of wildlife goes unchallenged.