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Public Lands Council



Capital Issues

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EXECUTIVE BRIEFING

From the Other Side of the Fence (Washington, D.C.)

The 114th Congress is off to a busy start. As you will read in many of the following articles, numerous bills that PLC has worked on the previous congressional sessions have been introduced. Most of them reflect our member-passed policy positions. Our primary focus over the coming weeks will be working with members of the appropriations Subcommittee on Interior and Related Agencies. The appropriations process is one to which our industry is no stranger --and one which can provide relief from the myriad of challenges the Administration continues to push. As we've done in the past, we'll soon send a letter to the appropriations committees in the House and Senate outlining our priorities for FY 16. From sage grouse, to range program funds, to opening vacant allotments, to limiting the reach of wildlife management by the USFS, we have multiple issues teed up in the appropriations process.

PLC staff are also working with the new committees on oversight to help shine the spotlight on some priorities we'll spend time on over the coming year – digging into the details surrounding guidance on BLM preference; water rights on forest system lands; and misapplication of scientific data regarding decisions on sage grouse management. In early March, our Board will take up PLC's 2015 issues of focus to provide leadership and staff direction in the areas most likely to see movement in the coming year.

In late March I hope to see many of you in our Nation's Capital for the PLC legislative conference, the one time during the year our collective voice is heard, in-person, in the halls of Congress. This year, as in the past, we are holding the meeting in conjunction with NCBA. As an added bonus this year, ASI will also be in town. Our western presence will be amplified. I encourage each of you to join us March 23 – 26. We're working on a packed agenda to provide our members with the latest on the legislative, regulatory and legal issues. We ask that each of you work with your state affiliates to schedule meetings with your senators and representatives.

Finally, the call for proposals for Public Land Endowment Trust projects for FY 16 will be circulated in the next month. To date, we've distributed over \$800K in grants, all of which are at various stages of completion. Each of them adds to the vitality and longevity of the public lands grazing industry. One of these projects, kicked off at the 2014 PLC Annual Meeting, is the development of a PR campaign to proactively advocate for the industry and expand our reach with decision-makers and influencers in DC. Consultants from Rubin Meyer and KRC research will provide an update on the campaign during our DC board meeting. As the Trust continues to grow, PLC, on behalf of our members across the west, will see expanded opportunities to protect, enhance and preserve our industry and your operations.

See you all in DC in a few weeks.

Dustin Van Liew
Executive Director

-Your voice in Washington, D.C.

LEGISLATIVE UPDATE

Congressional Committee Assignments

PLC is pleased with the majority committee assignments. As you read about our priority committees, below, you will recognize many names of strong industry supporters.

House Natural Resources Committee: [House Natural Resources Committee](#) Chairman Rob Bishop (R-Utah) recently [announced](#) the subcommittee chairmen and rosters for the Committee's Republican members during the 114th Congress. Rep. Cynthia Lummis of Wyoming will serve as the full Committee Vice Chairman. Rep. Raul Grijalva (D-AZ) will serve as Ranking Member.

- The Federal Lands Subcommittee will be chaired by Rep. Tom McClintock (R-Calif.), with Rep. Doug LaMalfa (R-Calif.) serving as vice chairman.
- The Oversight and Investigations Subcommittee will be chaired by Louie Gohmert (R-Tex.), with Rep. Raul Labrador (R-Idaho) serving as vice chairman.
- Other subcommittee assignments: Energy and Mineral Resources: Doug Lamborn (R-Colo.); Indian, Insular and Alaska Native Affairs: Don Young (R-Alaska); Water, Power and Oceans: John Fleming, (R-Louis.).

Chairman Bishop has also announced the senior Republican staff for the Committee ([click here](#)), including several close contacts of PLC. We look forward to a productive congressional session, working with both the Committee members and staff.

Senate Energy and Natural Resources Committee: The [full committee](#) will be chaired by Sen. Lisa Murkowski (R-Alaska). Sen. Maria Cantwell (D-WA) is the Ranking Member of the full committee. See all members [here](#).

- Public Lands, Forests and Mining Subcommittee will be chaired by Sen. John Barrasso (R-WY). Ranking member: Sen. Joe Manchin (D-WV). Other majority members include Sens. Jim Risch (R-ID); Mike Lee (R-UT); Dean Heller (R-NV); Jeff Flake (R-AZ); Tim Scott (R-SC); Lamar Alexander (R-TN); and John Hoeven (R-ND). See all members [here](#).

House Appropriations: The chairman in the [House Appropriations Committee](#) will remain Hal Rodgers (R-KY). Rep. Nita Lowey (D-NY) is Ranking Member.

- Ken Calvert (R-CA) will continue to chair PLC's priority subcommittee, the [Appropriations Subcommittee on Interior, Environment, and Related Agencies](#). Rep. Betty McCollum (D-Minn.) is Ranking Member.
- Other Interior Subcommittee majority members: Mike Simpson (R-Idaho); Tom Cole (R-OK); David Joyce (R-OH); Chris Stewart (R-UT); Mark Amodei (R-NV); and Evan Jenkins (R-WV).

Senate Appropriations: Chairman of the [full committee](#) is Sen. Thad Cochran (R-Mississ.). Ranking Member is Sen. Barbara Mikulski (D-Maryland).

- The [Interior, Environment and Related Agencies Subcommittee](#) chairman is Sen. Lisa Murkowski (R-Alaska). Sen. Tom Udall (D-CO) is Ranking Member. Majority members of the Subcommittee include: Sens. Lamar Alexander (R-TN); Thad Cochran (R-Mississ.); Roy Blunt (R-Missouri); John Hoeven (R-ND); Mitch McConnell (R-KY); Steve Daines (R-MT); and Bill Cassidy (R-Louis.).

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Western Caucus Leadership Change

Representative Cynthia Lummis (WY-At Large) will Chair the [Congressional Western Caucus](#) for the 114th Congress. The mission of the Western Caucus is to "enhance, sustain, and preserve the West's dynamic and unique culture, and to find innovative solutions that address the distinctive

concerns facing western and rural communities.” The Caucus “is committed to advancing the following key principles: protecting private property, strengthening local control, promoting economic growth, and increasing energy independence.” Their website calls specifically for changes to “outdated environmental statutes such as the National Environmental Policy Act and the Endangered Species Act.”

Rep. Lummis is perfectly suited to lead the Caucus. She succeeds Rep. Steve Pearce (R-N.M.) and, previously, Rep. Rob Bishop (R-Utah). In addition, Congressman Scott Tipton (CO-03), Congressman Mark Amodei (NV-02), and Congressman Paul Gosar (AZ-04) have been named as vice chairmen. [Click here](#) for the full list of members in the house.

The [Senate Western Caucus](#) will continue to be chaired by another Wyomingite, Senator John Barrasso. [Click here](#) for the list of Senate caucus members.

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EAJA Reporting Bill Reintroduced

Representative Cynthia Lummis (R-Wyo.) has reintroduced her *Open Book on Equal Access to Justice Act*, [H.R. 384](#). Rep. Steve Cohen (D-Tenn.) once again cosponsored the bill, making it a bipartisan effort to increase transparency on tax dollars being funneled to litigious special interest groups via the Equal Access to Justice Act (EAJA). Last congressional session, the bill passed the House unanimously. The legislation reinstates tracking and reporting requirements of EAJA payments—a requirement that expired in 1995 when Congress defunded the agency tasked with tracking and reporting. Multi-million dollar “environmental” nonprofit groups are now benefiting from the lack of transparency: each time they prevail in a lawsuit against the federal government, a judge may grant them “reimbursement” of their court costs and attorney fees—sometimes to the tune of \$700 per hour. Untold millions of dollars are being funneled to these groups. This encourages litigation from groups that oppose federal government actions such as grazing permit renewals or approval of logging projects. It also depletes agency resources, taking away their ability to do range monitoring and analysis and making them all the more vulnerable to litigation. EAJA payments thus create a vicious cycle of litigation. Shining light on that process should make EAJA abusers scatter.

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Senate Sportsmen’s Bill Addresses PLC Priorities

On the Senate side, a “sportsmen’s” package has been introduced that includes a requirement that both EAJA payments and Judgment Fund payments be publicly reported. That bill, [S. 405](#), was introduced by the Senate Energy and Natural Resources Committee Chair, Lisa Murkowski (R-Alaska), Sen. Heinrich (D-N.M.), Sen. Risch (R-Idaho), Sen. Manchin (D-W.V.), Sen. Heitkamp (D-N.D.), and Sen. Fischer (R-Neb).

The bill addresses an important issue for hunters by making lead shot and tackle permanently exempt from EPA regulation. It also reauthorizes the Federal Land Transfer Facilitation Act (FLTFA), which is supported by PLC. FLTFA allows for the transfer of land ownership, which can lead to more efficient management. For more details on the sportsmen’s package, [click here](#).

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Secure Our Borders First Act

Rep. Michael McCaul (R-Tex.), the chairman of the House Committee on Homeland Security, has introduced [H.R. 399](#), the *Secure Our Borders First Act of 2015*. The bill would mandate \$10 billion to be spent over the next 10 years to pursue absolute “operational control” of the U.S.-Mexico border, which is defined as apprehension of every person who crosses unlawfully into the United

States. A key provision supported by PLC is one that prohibits “environmental” laws from preventing the U.S. Border Patrol from doing its job. Currently, agencies as U.S. Fish and Wildlife Service and Bureau of Land Management are interfering with crucial patrol activities, citing laws such as the Endangered Species Act, the Antiquities Act, the Wilderness Act, and the National Environmental Policy Act (NEPA). H.R. 399 states that such laws will not be allowed to get in the way of “search and rescue operations” or the prevention of “all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband” through the international border. No “environmental” law would be allowed to prevent U.S. Customs and Border Protection from securing all federal land located within 100 miles of the U.S.-Mexico border. Specifically, the bill would allow (1) Construction and maintenance of roads; (2) Construction and maintenance of barriers; (3) Use of vehicles to patrol, apprehend, or rescue; (4) Installation, maintenance, and operation of communications and surveillance equipment and sensors; and (5) Deployment of temporary tactical infrastructure. Grazing and other legal uses are specifically protected in H.R. 399.

A companion to H.R. 399 has been introduced in the Senate. [S. 208](#) was introduced by Sen. Ron Johnson (R-Wisc.), with cosponsors Sen. John Cornyn (R-Tex.), Sen. Jeff Flake (R-Ariz.), and Sen. John McCain (R-Ariz.). At this time it is unclear what the House and Senate will move forward with on the border and immigration front, but PLC will remain engaged, pushing for inclusion of language that allows Homeland Security agents access to border lands without interruption from special land designations and environmental laws.

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Critical Habitat Economic Analysis Bill Introduced

Senator Dean Heller’s (R-Nev.) recently introduced *Common Sense in Species Protection Act*, [S. 112](#). The bill is designed to force the U.S. Fish and Wildlife Service to examine the “incremental and cumulative economic effects of all actions to protect the species and habitat” of a candidate species under the Endangered Species Act. The analysis is to include consideration of public and private economic effects on possible uses of land and property values; the provision of water, power, or other public services; employment; and revenues available for State and local governments. A draft analysis must be made available for public review and comment at the time that critical habitat is proposed. PLC supports the nature of S. 112. However, the only pitfall with this approach is that, oftentimes, USFWS does not propose critical habitat until well after a species is listed (if at all). Most of the economic effects come as a result of a species listing—not just the critical habitat designation. Although this bill would require analysis of *all* effects—including listing effects—it wouldn’t require that analysis until critical habitat is proposed (if it ever is).

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Firefighting Funding Bills Introduced

A slew of bills has already been introduced this session to deal with wildfire. They include:

- [H.R. 167](#), the *Wildfire Disaster Funding Act*, reintroduced by Representatives Michael Simpson (R-Idaho) and Kurt Schrader (D-Ore.). According to Rep. Simpson, current funding of all wildfire suppression comes out of the management agencies’ budgets, but it’s impossible to know how much to budget for each year. This can detract from activities like hazardous fuels removal and timber harvests. Under H.R. 167, “routine firefighting costs,” which make up 70% of fire suppression spending, would still be covered in the BLM and Forest Service’s budgets. But “true emergency fire events”—which, according to Rep. Simpson, represent only about 1% of fires but account for 30% of fire suppression costs—would be covered by a contingency fund, and treated as a natural disaster. Any fire suppression spending above 70% of the 10-year average for fire suppression would be

funded under this separate disaster account and not from the Forest Service's budget.

The bill has 25 Republican sponsors and 20 Democrat sponsors, speaking to the strong bipartisan recognition that wildfire in the West is a major problem that must be addressed. In the Senate, a companion bill ([S. 235](#)) has been reintroduced by Senators Mike Crapo (R-ID) and Ron Wyden (D-OR), with another bipartisan caste of Senators.

- Senators John McCain (R-AZ), Jeff Flake (R-AZ), and John Barrasso (R-WY) have reintroduced their wildfire funding bill, the *Stewardship End Result Contracting Improvement Act* ([S. 326](#)). It requires the Forest Service and Interior Department to budget for the total, improved 10-year average firefighting costs. Any suppression spending over that amount would be eligible for emergency disaster spending. The bill also calls for something in return: direction to Forest Service to treat 7.5 million acres mechanically over the next 15 years. Also, in order to access the emergency suppression spending, Forest Service must allocate \$90 million to its hazardous fuels program.
- U.S. Senators McCain, Barrasso, and Flake also reintroduced [S. 508](#), the *FLAME Act Amendments of 2015*, legislation that would allow for the full funding of wildland firefighting budgets for the U.S. Forest Service and U.S. Department of the Interior (DOI), and dramatically increase resources for forest restoration programs. The bill requires the Forest Service and DOI to budget for 100 percent of their suppression costs using the most accurate budget forecast model available (known as the "FLAME regression model"). The bill also would prohibit federal agencies from raiding non-wildfire accounts to pay for wildfires, a practice known as "fire-borrowing." This legislation would establish a limited process for accessing emergency funds in the event of a catastrophic wildfire, while investing aggressively in suppression and forest management programs. Finally, the bill would establish a streamlined environmental review process to expedite forest treatment projects across 7.5 million acres of federal land and promote the use of private industry under forest stewardship contracts.

It remains PLC's priority to ensure that any final package retain the language blocking fire borrowing to ensure accounts that provide funding for properly managing the grazing programs are not negatively impacted by mismanagement for wildfire.

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Regulatory Accountability Act Passes House

The House of Representatives has passed the bipartisan [H.R. 185](#), the *Regulatory Accountability Act*, by a vote of 250-175. House Judiciary Committee Chairman Bob Goodlatte (R-Va.) introduced the legislation. The bill requires the Executive Branch (federal agencies) to: choose the lowest cost rulemaking alternative in executing laws passed by Congress; improve public outreach and agency fact-finding in considering alternatives; use the "best reasonably obtainable" science and information; hold administrative hearings on high-impact rulemakings (those that impose \$1 billion or more in annual costs); and provide advanced notice of proposed rulemakings that are "major" (posing \$100 million in annual cost). The bill would also strengthen judicial review of new agency regulations to make sure the federal courts can enforce these requirements. PLC applauds the House passage of the bill and encourages the Senate to take up similar legislation.

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National Monument Transparency Bills Introduced

As evidenced by President Obama's designation of a new 21,000 acre monument in Colorado this month, Antiquities Act reform is needed. Idaho Senator Mike Crapo (R) has sponsored legislation to

limit the President's power to unilaterally designate national monuments. Co-sponsors included Sen. Jim Risch (R-Idaho) and Sen. David Vitter (R-Louis.). [S. 228](#), the *National Monument Designation Transparency and Accountability Act* would amend the Antiquities Act of 1906 so that: 1) congressional approval is necessary within two years of a monument proposal by the President; 2) state legislation is also required to approve the monument; and 3) full National Environmental Policy Act (NEPA) analysis is performed, which includes extensive public comment and environmental and economic analysis. Lawful public use would not be restricted during the 2-year approval period.

The House has seen introduction of a monuments transparency bill, as well: Rep. Don Young's (R-Alaska) [H.R. 330](#), *Marine Access and State Transparency Act*. The bill is similar to one introduced by Rep. Rob Bishop (R-Utah) last year, which passed the House. It requires congressional approval of national monuments and restrictions on the use of national monuments. It also requires NEPA analysis of proposed monuments. As indicated in the title, it establishes similar requirements for declaration of marine national monuments, which ties up activities like energy production and fishing.

PLC strongly supports these bills and will continue to work with Congress to bring clarification to the Antiquities Act of 1906 so that the public has a voice in the current monument process, which is a far cry from what Congress originally intended.

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House Passes Tax Relief Bill

The House of Representatives has passed [H.R. 636](#), *America's Small Business Tax Relief Act of 2015*. This bill, sponsored by Rep. Pat Tiberi (R-Ohio), will make permanent the \$500,000 expensing levels for small businesses under Section 179 of the tax code. Under the expired law, the maximum amount that a small business can immediately expense when purchasing business assets (instead of depreciating them over time) is \$25,000 adjusted for inflation. PLC joined a [letter](#) supporting the bill. Permanency to the tax code is critical for producers in order to make necessary purchasing decisions and informed business decisions. The passage of this bill allows farmers and ranchers to write off capital expenditures in the year that purchases are made, rather than depreciate them over time.

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Interior and Environment Appropriations Hearings

Several budget hearings have taken place on Capitol Hill over the last couple of weeks. Interior Secretary Sally Jewell, U.S. Forest Service Chief Tom Tidwell, and EPA Administrator Gina McCarthy have testified in front of various committees, all justifying their proposed budgets and the policies coming out of their agencies. Although we oppose many of the Administration's policies, these hearings uncovered a few pieces of favorable news.

For one, USFS Chief Tom Tidwell informed a subcommittee that the agency has temporarily halted its controversial groundwater directive, which was proposed last year. He pledged that USFS will engage more with the western states before finalizing the directive. This is welcome news, as the directive is overly burdensome and a large overreach by the agency.

Secretary of the Interior Sally Jewell stated that while the U.S. Fish and Wildlife Service (USFWS) is still under court order to make a listing determination on the Greater Sage Grouse by September 2015, the sage grouse "rider" that was included in the FY 15 appropriations bill will not allow them to actually make a legally binding listing decision (ie cannot be posted in the Federal Register and thus would not be a final decision). This means that the rider is working the way it was intended.

Essentially, all USFWS can do is publicly announce whether or not they believe the bird should be listed.

PLC will remain engaged throughout the Appropriations process and ensure that our priorities are included in the final package. We expect Congress to make many significant changes to the President's budget request. Click [here](#) for the DOI budget website and [here](#) for the USDA budget website.

PLC Legislation Tracker

Open Book on Equal Access to Justice Act, [H.R. 384](#)

Secure Our Borders First Act of 2015, [H.R. 399](#), [S. 208](#)

Regulatory Accountability Act, [H.R. 185](#)

National Monument Designation Transparency and Accountability Act, [S. 228](#)

Stewardship End Result Contracting Improvement Act, [S. 326](#)

FLAME Act Amendments of 201, S. 508

Wildfire Disaster Funding Act, [H.R. 167](#), [S. 235](#)

Common Sense in Species Protection Act, [S. 112](#)

America's Small Business Tax Relief Act of 2015, [H.R. 636](#)

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ADMINISTRATIVE UPDATE

Grazing Fee Increase

On Friday, January 30th the BLM and U.S. Forest released the 2015 Grazing Fee information. The new federal grazing fee for both the BLM and USFS is **\$1.69/AUM**, an increase of 34 cents per AUM from the 2014 grazing fee of \$1.35/AUM.

According to the official BLM press release, the formula used for calculating the grazing fee, established by Congress in the 1978 Public Rangelands Improvement Act (PRIA), has continued under a presidential Executive Order issued in 1986. The grazing fee cannot fall below \$1.35 per AUM, and any increase or decrease cannot exceed 25 percent of the previous year's level. Using the 1966 base value of \$1.23/AUM the figure is then calculated according to three factors, current private grazing land lease rates, beef cattle prices, and the cost of livestock production

PLC supports basing the grazing fee on market factors, and our policy explicitly supports the current formula. The increase in the fee from 2014 reflects the market factors working in the formula. Watch for March's Nevada Rancher magazine for our column regarding grazing preference and Congress' true intent for the grazing fee.

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President Acts to Restrict More Western Land

On February 19th, President Obama unilaterally [designated](#) 21,000 acres around the Arkansas River in Colorado as the Browns Canyon National Monument. This designation serves as the latest example of why the Antiquities Act of 1906 needs updated. The President may tie up untold millions of acres as "monuments" without the consent of Congress or the affected citizens.

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President Releases Budget Proposal

PLC is in the process of analyzing President Obama's [budget request](#) for fiscal year 2016. Although it's doubtful that Congress will take much advice from the President in their appropriations considerations for FY16, the President's requests serves as a window into the Administration's priorities and desires. A few proposals in the budget we have found so far:

- A \$2.50 per AUM "fee." This is an increase from the \$1/AUM fee that the President has proposed in past budget proposals. We will work to ensure Congress rejects the \$2.50 tax (which is both unfair and illegal) as soundly as it has the \$1 tax.
- Closure of the U.S. Sheep Experiment Station.
- Roughly a 10 percent cut to USDA-APHIS Wildlife Services.
- \$900 million a year for the Land and Water Conservation Fund (LWCF), with full dedicated funding beginning in 2017. LWCF is used partially for federal land acquisition, which we oppose.

On a positive note, the proposed budget did recognize the grazing provisions included in the fiscal year 2015 appropriations law: "Grazing Permits and Leases (Sec. 3023) – Provides permanent authority to continue the terms and conditions of a grazing permit or lease that has expired until any environmental analysis and documentation has been completed. The provision includes authority to exclude preparing an EA or EIS under NEPA in specific cases. The provision also includes an exclusion from preparing an EA or EIS under NEPA for trailing or crossing of livestock across public lands."

[Click here](#) for the Department of Interior "budget in brief." [Click here](#) for the USDA budget summary.

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Jewell Announces Fire Prevention Order

On January 5, 2015, Department of Interior (DOI) Secretary Jewell issued [Secretarial Order 3336, Rangeland Fire Prevention, Management and Restoration](#). According to DOI, this Order establishes a Task Force led by the Interior Deputy Secretary to identify actions to prevent and manage rangeland fire and restore sagebrush landscapes. Three specific deliverables are identified in the Order:

- 1) [Implementation Plan](#). This has already been written and is described by DOI as the "roadmap" for actions. "The Task Force will consider a wide variety of possible actions for conserving habitat for the greater sage-grouse as well as other wildlife species and economic activity, such as ranching and recreation, associated with the sagebrush-steppe ecosystem in the Great Basin region," said DOI.
- 2) Initial report on the strategic plan: The Task Force must deliver an initial report to the Secretary on activities that can be undertaken in advance of the 2015 Western fire season by March 1. A draft can be found [here](#).
- 3) A final report is due May 1. DOI will take comments on the report. Details will be posted on the [Rangeland Management webpage](#).

PLC is pleased to see the Secretary recognize the threat posed by wildfire to sage grouse and other species while also recognizing the important role ranchers play in reducing the risk of wildfire.

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USDA Designates Drought Natural Disaster Areas

Although it is only February, the U.S. Department of Agriculture (USDA) has already designated natural disaster areas in 256 counties across Arizona, California, Colorado, Idaho, Kansas, Nevada, Oklahoma, Texas and Utah due to drought conditions in 2015.

The 2014 Farm Bill has given qualified farmer and ranchers an avenue to apply for various disaster programs such as low interest emergency [loans](#) through USDA Farm Service Agency (FSA). Farmers and ranchers in the eligible counties have eight months from the date of declaration to apply for the loans. To learn about other disaster assistance programs offered by USDA, [click here](#).

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Ranchers' Conservation Efforts Positively Affect Sage Grouse

The U.S. Department of Agriculture (USDA) has issued a [report](#) showing that since 2010, USDA and its partners in the Sage Grouse Initiative have worked with private landowners to restore 4.4 million acres of habitat for sage grouse while maintaining working landscapes across the west using various methods such as sagebrush conservation, removal of invasive species, applying grazing systems, and re-vegetating former rangeland.

The [Sage Grouse initiative](#) is a diverse partnership between ranchers, state and federal agencies, universities, non-profit groups, and private business led by Natural Resource Conservation Service. PLC is a proud partner of SGI. Through our partnership with SGI we are able to educate others about the positive effects of ranching on sage grouse.

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Forest Plan Updates

According to American Forest Resource Council (AFRC), there are several updates regarding pending forest plan revisions:

- Regional Forester Jim Peña has reportedly set back the release of the Final Environmental Impact Statement for the Blue Mountain Forest Plan Revisions, from August, 2015 to the fall of 2016 to allow an adequate opportunity to address the concerns contained in the more than 1,000 letters received during the public comment period on the Draft EIS which ended in August, 2014. (See, AFRC newsletter March 25, 2014.) Work sessions with various stakeholders have begun and will continue into the near future.
- The Draft EIS for northeastern Washington's Colville National Forest Plan revision is expected to be released in early summer, 2015.
- Work on north-central Washington's Okanogan-Wenatchee National Forest Plan, which previously was running in tandem with the Colville planning effort, has been put on hold to allow the planning team to concentrate on the Colville plan.
- Peña has announced that he and Region 5 Regional Forester Randy Moore want to work in a coordinated manner to revise the Northwest Forest Plan. To start the process, listening sessions for the public to express its ideas will be held in both Regions, perhaps as early as the third week of March.

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EPA's Waters of the U.S. Rule Update

The Environmental Protection Agency (EPA) is likely just months away from finalizing its Waters of the U.S. (WOTUS) rule (read our official [comments](#) on the rule from October). In a bicameral [hearing](#) on February 4, two committees invited local governments to testify as to the expected effects of the rule—and the level of engagement they have had with EPA in the rulemaking process.

Although EPA Administrator Gina McCarthy insisted that EPA has been working with the states “for decades” on many of the jurisdictional issues on water, state officials at the hearing said EPA has not sought their input. Some 34 states have asked the agency to withdraw the rule.

Throughout the hearing, McCarthy claimed the rule would narrow the scope waters that would qualify as “jurisdictional”—even though EPA’s own analysis concluded the rule would expand jurisdiction. The Attorney General for Oklahoma, Scott Pruitt, said Oklahoma and other states will challenge the rule in court if it’s finalized.

“President Obama’s Environmental Protection Agency currently stands poised to strike a blow to private property rights, through a proposed rule that radically expands EPA jurisdiction by placing virtually all land and water under the heavy regulatory hand of the federal government,” Pruitt said. “... The proposed rule redefines those terms to now include virtually every body of water in the nation, right down to the smallest of streams, farm ponds and ditches. This is a naked power grab by the EPA.”

He continued: “When the states are cut out of the loop in favor of federal regulators, landowners are left lobbying distant federal bureaucrats when the system wrongs them—and wrong them it will. Simply put, the proposed rule is a classic case of overreach, and flatly contrary to the will of Congress, who, with the passing of the Clean Water Act, decided that it was the states who should plan the development and use of local land and water resources.”

Meanwhile, the EPA recently announced that it withdrew its “interpretive rule”—the rule that was intended to exempt certain Natural Resource Conservation Service “conservation practices” from regulation. In effect, the rule would have turned NRCS into a regulatory agency. PLC and NCBA sent a [letter](#) on June 26th requesting the interpretive rule be withdrawn. This winter, Congress defunded the interpretive rule in the last appropriations package.

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JUDICIAL UPDATE

Mexican Wolf Litigation

How many Mexican wolves are enough Mexican wolves? U.S. Fish and Wildlife Service (US-FWS) won’t answer this question, but it has just expanded the area where the agency will release captive-bred wolves—from 700,000 to 8 million acres. It’s also expanded the area where wolves can be translocated, from 6,845 acres to 60 million acres. US-FWS has determined that the lower two-thirds of New Mexico and Arizona are now “wolf zones.” Wolves that stray outside this area are also protected. All this came about due to settlement agreements made between US-FWS and Center for Biological Diversity.

The Mexican wolf is now recognized as a “subspecies” under the Endangered Species Act. US-FWS gave it a “nonessential, experimental” classification in 1998, which has allowed the agency to help the species along with a captive breeding program. The population now roaming the Southwest is growing: it has exceeded 100 wolves (19 packs), and the population has increased a minimum of 10 percent each year for the past three years. The population can grow unchecked: US-FWS has never determined a “recovery” number—the population level that would trigger a delisting. This lack of a recovery plan has incited litigation from two sides: with Center for Biological Diversity on one side and the state of Arizona on the other. The “environmental” group is calling for an even greater habitat area and a minimum population of 750. Arizona is demanding a smaller area in the United States, with more focus on the population on the Mexican side of the border. Arizona points to what it calls more accurate historical range information, which indicates that 90 percent of the wolf’s historic habitat is in Mexico.

Arizona Cattle Growers' Association and, Public Lands Council (PLC) and National Cattlemen's Beef Association (NCBA), have commented extensively and are considering their options for legal action. US-FWS is downplaying the economic hardships that have and will continue to beset the livestock industry; does not provide adequate compensation for livestock depredation and stress; and has handed industry even fewer tools to manage problem wolves with this new rule. In addition, the agency violated procedural statutes by not considering an adequate range of alternatives—only ones that proposed to expand the wolf's range. [Click here](#) to read the full story from Western Livestock Journal.

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Gunnison Grouse Listing Litigation

Colorado, Utah, and Gunnison County, Colo. have all filed their notices of intent to sue after the U.S. Fish and Wildlife Service (US-FWS) decided in November to list the Gunnison Sage Grouse as "threatened" under the Endangered Species Act (ESA) and to designate 1.7 million acres of critical habitat. The Colorado Cattlemen's Association and PLC are also considering their options for legal involvement.

According to the states and county suing, US-FWS turned a blind eye to the "best available science," which indicates that Gunnison Sage Grouse populations are stable or thriving, and that there's less than a 1-percent chance of the bird's going extinct in the next half-century. Also, US-FWS has discounted the extensive state and local conservation efforts currently in place.

The states and county also called into question the scientific basis for US-FWS' designation of critical habitat. The question goes beyond US-FWS' faulty ecological science: it also delves into economics. Critical habitat can't be designated when the economic consequences will outweigh the benefits to the species. But US-FWS failed to consider the economic information showing the true damage that the designation will do.

The above scientific concerns are coupled with procedural problems: The agency didn't consider a "no action" alternative (a decision not to list the bird), which the National Environmental Policy Act (NEPA) requires it to consider. US-FWS also failed to adequately respond to comments from the affected states and counties. Additionally, in violation of a court order, US-FWS didn't develop a special "4(d)" rule to give the public clarity on what activities are to be specifically allowed, now that the bird is listed. Even a draft of a "4(d)" rule has not been released—despite a federal judge's order that the rule be finalized in tandem with the listing decision.

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Will USFWS Appeal Great Lakes Wolf Re-Listing?

By the end of February, we will know whether the Department of Interior has appealed a U.S. District Court judge's December ruling to re-list the Great Lakes population of gray wolves. Judge Beryl A. Howell's decision overturns 2012 decision by the U.S. Fish and Wildlife Service to delist the wolf and hand management over to Minnesota, Wisconsin and Michigan. The lawsuit to return ESA protections was brought by Humane Society of the United States and other pro-wolf groups.

The Judge Howell's decision restores wolves to "threatened" status in Minnesota, and "endangered" in Wisconsin and Michigan. In Minnesota, the state plan (approved by USFWS) calls for 1,600 wolves. Last winter, the state counted 2,423 wolves--about 200 more than the previous year. The population is doing well, in spite of Minnesota's hunting and trapping season, which has been in effect for three years running.

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Nevada Counties, Ranchers, and Miners Challenge Sage Grouse Settlement

Reprinted in part from Western Livestock Journal

Nevada counties, along with mining and ranching groups, sued the Obama administration, challenging a 2011 settlement between the U.S. Fish and Wildlife Service, the Center for Biological Diversity and WildEarth Guardians concerning a timeline for determining whether the greater sage grouse and more than 200 other species should be placed on the Endangered Species list.

The American Exploration and Mining Association (AEMA), and three other plaintiffs, the Nevada Mineral Resources Alliance, the Nevada Association of Counties, and F.I.M. Corp., a sheep ranching operation in western Nevada and eastern California, claim the settlement unlawfully prohibits Fish and Wildlife (FWS) from carrying out the purposes of the Endangered Species Act. The complaint, filed December 4 in the U.S. District Court for Nevada, claims the settlement unlawfully prohibits FWS from maintaining the greater sage grouse as a candidate species and forces FWS to decide whether to list the species as endangered or threatened by an “arbitrary” date.

FWS’ agreement with the environmental groups is an example of sue-and-settle, when a federal agency agrees to a legally binding settlement with a special interest group suing the agency and thereby creates regulations, requirements, and priorities outside the normal rulemaking process. The settlement in question requires that FWS decide whether to list the sage grouse as threatened or endangered by September 30, 2015. However, Congress put a hold on that decision, delaying it to some time after September.

The Nevada groups’ lawsuit further claims the best available scientific data isn’t being considered under the settlement. The settlement also subjects four other Nevada species to ESA decisions, species whose habitat covers roughly 1.8 million acres in western Nevada and Western California. According to a recent U.S. Geological Survey study, most of the sage grouse in this area have stable populations, the suit argues.

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Extremist Group Litigates Sheep Grazing Decision in ID

On February 18, extremist anti-grazing group Western Watersheds Project filed a lawsuit challenging the BLM’s approval of fifteen sheep grazing permits for the Big Desert Sheep allotment, located in Idaho. The group complains that the decisions “threaten” sage grouse by expanding the grazing season, allowing new fencing, and permitting new range developments, including a corral, a well, troughs, and “other infrastructure.”

The group also implies in its [press release](#) that the grazing decisions are inappropriate given that the allotments are partially within the borders of the Craters of the Moon National Monument. The monument was created by President Coolidge in the 20’s but greatly expanded by President Clinton.

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MORE NEWS

PLC Urges Ranchers to Complete Socio-Economic Survey

PLC urges ranchers to respond as soon as possible if they receive in the mail a socio-economic survey from University of Wyoming. [Click here](#) for the cover letter from Brenda Richards, PLC president. The survey is being sent out to a statistically valid, random set of ranchers ([click here](#) for a copy, just for your reference). It is designed to capture the socio-economic importance of the

industry, and is being funded by PLC through the Public Lands Endowment Trust, in partnership with the Bureau of Land Management and the U.S. Forest Service. The University of Wyoming research team has worked hand-in-hand with PLC in designing the survey.

It will likely take 30-45 minutes to complete. There is no specific deadline, but if you receive a survey and the research team hasn't received your response in 4 weeks, you'll get another one in the mail. Your responses are **100% confidential**, and will never be provided to anyone beyond the research team at the University of Wyoming. Further, any identifying information will be separated from the data, ensuring that there is no way to connect information back to an individual rancher.

This survey is very important to the future of the industry. Decisions are made every day in Washington, DC by regulators and land management agency personnel that affect ranchers with public land grazing rights. Many of those decisions take no account of the economic or socioeconomic contributions of ranching. The research developed from the information you provide will, we hope, lead to better decisions when it comes to permit renewals; will promote positive federal legislation; and will generally enhance the public's knowledge of the benefits ranchers provide.

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American Sheep Industry Convention

The American Sheep Industry Association (ASI) held its 150th anniversary convention in Reno at the end of January. Amongst the topics discussed:

- Bighorn Sheep: Agriculture Research Service scientists presented on the science behind disease transfer from domestic sheep to bighorn. They expressed frustration that the Forest Service and BLM continue to selectively use science to support their policy of domestic sheep removal. Bill Myers, the legal council in the industry's litigation of the model used on the Payette National Forest grazing removal, reported on the Forest Service's continued refusal to consider ARS research. ASI and PLC are seeking relief from Congress this session by asking, at a minimum, for language providing alternative allotments to ranchers displaced by Forest Service/BLM bighorn (and other) decisions.
- U.S. Sheep Experiment Station: ASI and PLC are fighting the closure or relocation of the station, which provides important research for the industry. A closure or relocation would signify a caving to pressure by Western Watersheds Project and other groups that would do harm to the industry.
- Grazing Provisions from fiscal year 2015 appropriations: PLC's Dustin Van Liew reported on the important amendments to the Federal Land Management and Policy Act (FLPMA) that will improve federal land grazing administration, thereby giving ranchers more security in their permits.
- Wildlife Services support: ASI continues to fight for continued funding and function of USDA APHIS' Wildlife Services agency. The agency is important to control predators and prevent other wildlife conflicts with producers.
- Other issues: Securing a workable sheepherder program; new access to Japan via the Trans-Pacific Partnership; tax reform; and mandatory price reporting.

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NCBA Federal Lands Committee meets in San Antonio

The National Cattlemen's Beef Association (NCBA) Federal Lands Committee held its biannual business meeting at the 2015 Cattle Industry Convention & NCBA Trade Show in San Antonio, Texas. The convention boasted record breaking attendance numbers (over 8,200 cattlemen and women), over 350 exhibitors on the tradeshow floor, but most importantly a large amount of

information being covered and important work being done. The Federal Lands Committee hosted agency staff from both the United States Forest Service (USFS) and the Bureau of Land Management (BLM), who updated the committee on various issues including the BLM grazing handbook; suspended use; vacant allotments; and how each agency is going about implementing changes in light of the grazing provisions that were passed as part of the appropriations provisions in December 2014. Dustin Van Liew, Executive Director of PLC and NCBA Federal Lands gave an update on the legislative and regulatory issues being discussed in Washington, DC. Finally, committee membership passed a resolution that would require federal land management agencies to: notify local or state livestock organizations when an allotment is vacant; put vacant allotments up for advertisement and reissuance to qualified applicants; and keep vacant allotments on permit renewal schedules. The next meeting of the NCBA Federal Lands Committee will take place at the NCBA Summer Conference in Denver, Colorado.

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PLC Gains Seat on NCBA Executive Committee

The National Cattlemen's Beef Association's (NCBA) Executive Committee recently elected PLC President Brenda Richards as an Ex-Officio Member. The Executive Committee is made up of the 14 regional vice-presidents from both the Policy Division and the Federation Division of NCBA, two Affiliate Revenue seats, three Beef Council Revenue Seats, and with the addition of PLC, nine Ex Officio Members. The Executive Committee is the primary governing body for NCBA throughout the year.

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Researchers Decry Groups' Misuse of Sage Grouse Study

Anti-grazing groups are misusing a recently-published sage grouse [study](#) to forward their agenda, according to a [statement](#) released by the authors of the study. That study says that sage grouse nests are most successful where grass is a minimum of 7 inches high—in certain cases. The anti-grazing groups have ignored that “in certain cases” bit and are calling for a 7-inch grass height requirement across the bird's 165-million-acre range. This would mean death to grazing in most areas.

Meanwhile, Dave Naugle, the study's principal investigator, said the groups are “twisting the facts to further an agenda.” The lead author, Kevin Doherty, said the study was conducted in eastern Montana and northeast Wyoming, the wettest and most grass-dominated part of the sage grouse's range. Contrary to the anti-grazing groups' claims, Doherty said the study's findings should not be applied in drier regions, such as the Great Basin. Furthermore, the study clarifies, grass height hardly plays a role in nest success when there's adequate cover from sagebrush or other shrubs.

Grazing is just one of many factors influencing grass height, added Jeff Beck, one of the study's co-authors. Other factors, such as precipitation, soils and temperature, are major factors. “For instance, an early, wet spring in 2003 resulted in the highest nest success observed in the five-year study,” Beck said. Apparently, sage grouse do well in wet years—along with about every other species in the West. Water brings life. [Click here](#) to read the entire Western Livestock Journal story quoting PLC president Brenda Richards.

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Upcoming Events

- **PLC/NCBA/ASI Legislative Conference:** March 23-26, 2015, Washington, DC

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Nick Theos PLC Scholarship

As reported in [April 2013](#), Nick Theos, a founding member of PLC and great supporter of the livestock industry, passed away on April 11th, 2013 at the age of 92. The Theos family has requested that memorial donations be made to PLC; all such donations will go to the newly-created Nick Theos PLC Scholarship Program. The Scholarship will enable young people to attend our annual Legislative Conference in Washington, DC. PLC kicked off the scholarship with an initial \$500, and since then the donations have been steadily coming in. The running total to date exceeds \$3,500. We are very grateful for the generosity of:

Brice Lee
Charlie Wynn and Toulia Theos
Colorado Wool Growers Association
Colorado PLC
Daryl Bonyor Resources
Dean and Sharon Rhoads
Elena and Zoie Theos
Etchart Livestock, Inc.
Jean Brown Living Trust
Jim Magagna
Joe and Margaret S. Hinson
John Cheney
John and Sheryl Etchart
Julie Hansmire
Harper Livestock
Megiel and Rome Inda
Mike Harper Livestock
Nick and Toni Sampinos
Pole Mountain Cattlemen's Association
Reuben and Stephanie Oldland
Sharon Klingsmith
Skye and Penny Krebs
Vermillion Ranch LTD

Everyone who knew Nick knew his passion for involving younger generations in PLC's activities in order to ensure the industry's future vitality. We are sure he would be proud to know he is still contributing in this way to PLC's and industry's success. Donations to the Nick Theos PLC Scholarship may be sent to:

Public Lands Council
1301 Pennsylvania Ave NW, Suite 300
Washington, DC 20004

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To receive directly from us PLC's new releases, calls to action, and this newsletter, or to receive only this newsletter, email Marci Schlup at mschlup@beef.org. We've also started an official blogspot for PLC. Click "follow" at the [blog website](#). Also, find us on [Facebook](#), check out our [Op-Ed archives](#) page, and visit www.publiclandscouncil.org for news releases, video and audio clips, issue pages, PLC events, and more.

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PLC's Sage Grouse Database

For peer reviewed research, legal information and state/regional plans on grazing and Sage Grouse, visit our database at: www.grazingforgrouse.com.

American Sheep Industry Association News

Go to www.sheepindustrynews.org.

Link to IBLA Decisions

To find the decisions of the Interior Board of Land Appeals over the last three months, [click here](#).

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