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Public Lands Council



Capital Issues

~July-August 2014~

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EXECUTIVE BRIEFING

As Labor Day approaches, marking the end to summer and the return of Congress to DC, we are busily preparing for the PLC Annual Meeting in Ignacio, Colorado. I encourage you all to attend and participate in what can only be described as the most important gathering of western livestock producers with public land grazing rights each year.

While the association will gather in Ignacio to set the course of business for the coming fiscal year, I will keep one eye to the East as Congress prepares to return. In mid-July the full House Committee on Appropriations passed an FY 15 funding bill for the Interior Department and Related Agencies. As you will read in detail below, there are multiple fronts on which we engaged in this process – including more than 15 provisions we requested directly. Other provisions are ones we have requested in the past and have voiced our support for. With continued gridlock on Capitol Hill, one of the only opportunities to pass legislative language to advance industry causes is through the appropriations process – though it is not a given. Congress is set to return for about ten days in September, leaving little time to finish the twelve appropriations bills to fund the government, by the 30th. Thus, we are likely to see a short term continuing resolution (CR), likely at least through the elections on November 4th.

When members get back to town in September, the Natural Resources Committee will take up additional ESA modernization bills on Wednesday, September 9th – bills that PLC is actively supporting. Additionally, we have word that the House Subcommittee on Forestry (of the Agriculture Committee) will be holding a hearing on the expansive and overreaching nature of the proposed Forest Service Directive on groundwater. We plan to engage and follow each hearing on behalf of industry.

Finally, I would be remiss to not dedicate a portion of my column this month to thanking our outgoing President, Brice Lee. Brice has dedicated decades to the livestock industry in leadership roles of many state and national organizations, including the past six years as an officer of our organization. He has tirelessly worked to represent the membership, ever being the steady voice in the room when issues (and tempers) flare up. We have been fortunate to have a leader so willing to sacrifice so much for each of you and it has been an honor serving as Executive Director during his tenure. A tip of the hat to Brice, and here's to seeing you down the road. (If you plan on riding off into 'retirement' I imagine you'll have to convince the incoming president, Brenda Richards. I'm sure she has other plans for you!)

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

Dustin Van Liew

Executive Director

-Your voice in Washington, D.C.

HIGHLIGHT

House Appropriations Committee Passes Interior Spending Bill

The House [Interior appropriations bill](#) for fiscal year 2015 passed through committee on July 15th on a vote of 29 to 19 ([click here](#) for report language). It included many provisions helpful to the livestock industry. In March, PLC and NCBA sent a request [letter](#) to the House's new Interior Appropriations chairman, Ken Calvert (R-Calif.). It outlined industry's requests—mostly for language blocking damaging regulations by the Administration. Below are the requests we made, paired with the language that was or was not included in the FY15 Interior bill that passed the House. Note: below are references to “report language.” Appropriations bills are usually accompanied by report language that gives further direction to the agencies. While report language does not carry the force and effect of legislative language, it does provide agencies with Congress' intent or opinion on how to act – in this case how to spend appropriated dollars. Agencies are wise to follow report language, as they will be back each year attempting to justify their budgets and funding requests.

PLC/NCBA's INTERIOR AND ENVIRONMENT REQUESTS (BLM, USFS and FWS)

- 1) Range Program Funding: We requested the committee provide funding similar to the FY 14 levels for the BLM and USFS range programs. *(The bill specifies for BLM: \$80,700,000 for rangeland management, \$1,700,000 above the fiscal year 2014 enacted level and \$5,772,000 above the budget request. For USFS: \$55,356,000 was allocated for Grazing Management, equal to the fiscal year 2014 enacted level and \$5,756,000 above the budget request.)*
- 2) Block Wildlands Order: We requested the committee continue blocking funds to implement Secretarial Order No. 3310, the “wild lands” order issued by Secretary of Interior Ken Salazar on December 23, 2010. The order creates de facto wilderness and poses a threat to the continued multiple use of BLM lands. *(GRANTED)*
- 3) Grazing Rider: We requested the committee permanently extend the statutory language on timing of NEPA completion to ensure that grazing permits remain intact, without disruption, due to the ever-present backlog of grazing permits requiring renewal. *(GRANTED)*
- 4) Grazing Permit Terms Extended: In order to provide more stability and allow for long term planning by ranchers and land management agencies we requested that grazing permit terms be extended from 10 to 20 years. *(GRANTED)*
- 5) Exempt Trailing/Crossing from NEPA: We requested the committee to deem trailing and crossing a minor agency action and exempt it from NEPA analysis. *(While not fully exempted, the bill does continue current authority which has allowed the agencies to complete NEPA for trailing and crossing more efficiently than in the past.)*
- 6) Defund LWCF: With the exception of an amount necessary to complete current transactions, we request the Committee defund the LWCF – at a minimum block its use for land acquisition. *(LWCF would be funded at \$152 million, about half of current funding levels. The total requested in the President's budget was \$900 million.)*

- 7) Support Current Market Based Grazing Fee: We requested the committee oppose any attempt to change and/or assess an arbitrary tax on top of the grazing fee. (*GRANTED*).
- 8) AOI Appeals: We requested the committee exempt ranchers from the ban on appealing Annual Operating Instructions for Forest Service grazing administration. (*Not granted*).
- 9) Adequate Funding for Range Improvements: (*The Committee recommended \$10 million annually for an indefinite period for range improvements under BLM and \$2,320,000, for the USFS Range Betterment Fund, slightly less than FY14.*)
- 10) Sage Grouse: We requested the committee provide direction to the agencies to defer to state management plans and further requested the committee extend through September 2016 the ESA listing decision timeline for USFWS' decision on the Greater Sage Grouse. (*The bill would block listings of the Greater, Bi-state, and Gunnison sage grouse for 2015. Report language called on the BLM to "investigate whether targeted grazing can help conserve sage grouse habitat." Also, \$15 million was provided to BLM for purposes of "sage grouse conservation."*)
- 11) Remove Limits on Title of Excess Wild Horse Sales: We requested that damaging language be removed from future appropriations bills which blocks excess horses from being sold or adopted without full title. (*Not granted. However, the Committee did recommend in report language that \$1 million be spent to study and test the feasibility of implementing a sterilization program.*)
- 12) Protection of Water Rights: Block the BLM and USFS from taking water rights from ranchers. (*GRANTED: prohibits the conditioning of any use permit on the transfer of a water right to the U.S.*)
- 13) Alternative Grazing Allotments: We requested the committee direct BLM and the Forest Service to provide alternative grazing allotments to ranchers that are impacted by wildfire and drought. (*GRANTED*)

PLC/NCBA EPA FUNDING REQUESTS

- 1) Mandatory Greenhouse Gas Reporting for Manure Management Systems: We requested the committee include language preventing EPA from requiring livestock operations to report their emissions of greenhouse gases. (*GRANTED*)
- 2) Greenhouse Gas Regulations (Title V) for Livestock Operations: We requested the committee include language preventing EPA from requiring Clean Air Act permits from livestock operations based on greenhouse gas emissions. (*GRANTED*)
- 3) Spill Prevention Control and Countermeasure Rule for Farms: We requested the committee include language preventing EPA from enforcing the SPCC rule for farms. (*This was not included because the provision passed in separate legislation, signed into law in May. The exemption level was increased from 1320 gallons (above ground fuel storage) to 6,000 gallons and under; self-certification was increased to 20,000 gallons and under. Livestock feed tanks are now exempt, as are aboveground fuel storage tanks that hold 1,000 or less.*)
- 4) Joint Guidance/Rulemaking Identifying "Waters of the U.S.": We requested the committee include language preventing EPA from expanding its authority under the Clean Water Act. (*GRANTED*)

Beyond PLC's written requests, we worked with committee staff and/or have interest in these additional provisions:

- Blocks funding for President's National Ocean Policy, which has potential to affect our members' land and water use.
- Blocks funding for DOI's Landscape Conservation Cooperatives, which could add new layers of regulations on our members.
- Generally prevents property takings for acquisition of lands.
- Provides \$4.1 billion for preventing and fighting wildfire. Burned area rehabilitation will receive \$22 million – above both FY14 levels and the President's request. The agencies were encouraged to focus on fuels management. \$160 million was provided for that effort—above both FY14 and the President's request.
- Requires FWS to release for scientific peer review recovery plans for the Sierra Nevada yellow-legged frog; the northern distinct population segment of the mountain yellow-legged frog; and the Yosemite toad. The plans are to include socio-economic impacts and mitigation for those impacts.
- Caps funding for ESA listings and critical habitat designations. Report language directs FWS to “re-evaluate its workplans in order to meet these obligations in light of the budget, and to request deadline extensions as necessary.”
- Delisting and downlisting ESA species: In report language, the Committee stated “the Committee believes that proposals to delist and downlist species should be finalized within 12 months just as they are for proposals to list.”
- Wolf: In report language, the Committee recommended a delisting of the gray wolf. Report language also recommended \$1 million to restore the wolf-livestock demonstration program.
- Bighorn Sheep (BHS) Research: In talks with the Committee, PLC has continued pushing this issue in light of the dire implications that USFS assumptions and actions could have on the domestic sheep industry. In report language, the Committee directed the Forest Service to work with the Agricultural Research Service (ARS) in the development of scientifically defensible analyses, specifically on the probability of sufficient contact for pathogen transmission and, if there is transmission, the probability of disease and spread of the disease to the herd in the wild. The report language directed the USFS to cooperate with ARS in a review of the risk analysis and assessment portions in the Payette decision, with the objective of assuring a more defensible and sound basis for future decisions in other parts of the West where there are bighorn and domestic sheep conflicts. The language directed USFS to brief the Committee on its progress every six months.
- USFS Travel Management: Report language stated that where communities are dissatisfied with travel management plans, the Committee directs USFS to revise these plans in consultation with, and to include more input from, the communities.
- The bill prevents the EPA from disclosing the private and confidential information of livestock producers to the public.

In related news, on August 1 the Senate Appropriations Committee released the fiscal year 2015 Chairman's recommendation and explanatory statement for the Department of the Interior, Environment, and Related Agencies. PLC is currently reviewing the [draft bill](#).

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LEGISLATIVE UPDATE

Senate Committee Releases Interior Appropriations Draft

On August 1 the Senate Appropriations Committee released the fiscal year 2015 Chairman's recommendation and explanatory statement for the Department of the Interior, Environment, and Related Agencies. PLC is currently reviewing the [draft bill](#) and [report language](#). Notably, the bill includes a \$1/AUM “administrative fee” on top of the existing grazing fee. This proposal has been made frequently by the Obama Administration and by opponents of livestock grazing in Congress; however this effective 74% increase in the grazing fee has been soundly defeated every year in final appropriations bills. PLC will be sure to make Congress aware of the devastating effects this tax would have on the industry, so that it is once again defeated.

As was expected, the provisions blocking damaging regulations that were included in the House bill were not included in the Senate draft. Nor were provisions extending the life of grazing permits from 10 to 20 years; making permanent the grazing rider allowing for continued grazing despite the backlog of permit renewals; delaying the sage grouse listing decision; or calling for research on important matters such as bighorn/domestic sheep disease transfer.

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ESA Improvement Bill Passes House

The U.S. House of Representatives recently passed H.R. 4315, the “[Endangered Species Transparency and Reasonableness Act](#),” a bill introduced by Rep. Doc Hastings (R-Wash.), the Chairman of the House Natural Resources Committee. H.R. 4315 is designed to update and improve the Endangered Species Act (ESA). PLC and affiliates sent a [letter](#) of support for this important bill. As stated in our [press release](#), the bill will require data used by federal agencies for ESA listing and proposed listing decisions to be made publicly available and accessible. It also requires the Interior Secretary to report and comprehensively track all litigation costs associated with the Act. Furthermore, the bill caps hourly fees paid to attorneys that prevail in cases filed under ESA, consistent with current law. Finally, the federal government will be required to disclose to affected states all data used in the ESA decision making process. It also ensures that “best available scientific and commercial data” used by the federal government will include data provided by affected states, tribes, and local governments. PLC urges the Senate to take up this important legislation without delay.

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House Holds Federal Lands Bullying Hearing

The House Natural Resources Subcommittee on Public Lands recently held part two of its *Threats, Intimidation and Bullying by Federal Land Managing Agencies* oversight hearing. The hearing featured two panels of witnesses consisting of county law enforcement, county government officials, landowners, attorneys, and wildlife organization representatives who have had firsthand experience dealing with unacceptable behavior from federal agencies.

A sheriff and a county commissioner of Utah stated that BLM law enforcement officers are not acting in cooperation and mutual respect of the sheriff's office—the highest law enforcement entity in a county. BLM's intimidating and commanding behavior, the sheriff said, is deterring visitors and stymieing search and rescue efforts in some cases. Another county commissioner of Nevada stated that in his experience, many BLM and USFS law enforcement agents announce that they are not governed by county law, and behave “belligerently.” He also cited problems with other BLM officials, including a district manager in Battle Mountain who has led the elimination of over 10,000 head of cattle from grazing in the district (see related [story](#), below).

Landowners who testified showed that many of the BLM's decisions are damaging to local people. A New Mexico rancher talked about the problems he now has since the federal government—without notifying him—bought property all around him, making him an “inholding.” This has caused him a host of problems, including increased trespass on his private property.

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Congress Rejects Proposal to Close Sheep Experiment Station

Congress in July rescued the U.S. Sheep Experimental Station (USSES) from closure after U.S. Department of Agriculture (USDA) Secretary, Tom Vilsack, proposed to pull (“reprogram”) its funding. Had the House agriculture appropriations subcommittee not responded within 30 days of Sec. Vilsack's announcement, the facility would have been closed. The 100-year-old USSES covers almost 50,000 acres of federal land in Idaho and Montana, and includes a variety of ecosystems representative of many of the rangelands grazed by domestic sheep across the West. It has historically performed research that has vastly improved grazing methods and helped provide science to advance the industry. It is still doing so today, providing research on topics ranging from sage grouse conservation; to the truth about bighorn/domestic sheep disease transfer; to sheep genetics.

PLC, the American Sheep Industry Association (ASI), the National Cattlemen's Beef Association, and state woolgrowers associations all submitted [letters](#) to appropriators in Congress, asking them to reject Secretary Vilsack's proposal. Idaho's state officials also [publicly protested](#), as did members of Congress from Idaho, Montana, Oregon and Washington. In a [letter](#) to the House Agriculture Appropriations Subcommittee Chairman, the congressmen also voiced their disappointment that USDA did not contact them in advance to announcing plans to close the station. According to ASI, the USDA didn't notify the sheep industry in advance, either.

Although in his announcement, Sec. Vilsack cited budget concerns as his reasoning to close the facility, the proposal was likely actually driven by anti-grazing organization,

Western Watersheds Project (WWP). WWP has used litigation in attempt to close the station for years, most recently claiming that its presence threatens grizzly and wolf populations.

[Click here](#) to read a recent letter from ASI to USDA's Agricultural Research Service (ARS) stating industry's desire to work with the agency so that the limited funding available to USSES be put to best use.

The battle to save USSES is not over. The House ag appropriations subcommittee called upon USDA to provide Congress with a detailed report outlining the research activities at the station as well as the collection of comments from stakeholders. USDA has since held two virtual listening sessions in August to collect stakeholder input.

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Senate Holds Hearing on Wildfire Bills

The Senate Energy and Natural Resources Committee held a July 15th [hearing](#), "Wildfire Preparedness & Forest Service 2015 Fiscal Year Budget." During the hearing, Senators discussed several possible wildfire funding mechanisms. One possibility is the bipartisan Wildfire Disaster Funding Act ([S. 1875](#)), introduced by Senators Wyden (D-OR) and Crapo (R-ID) with 15 co-sponsors, and a companion bill in the House, with 104 co-sponsors ([H.R. 3992](#)). Another possibility discussed was the newly introduced FLAME Act Amendments ([S. 2593](#)), by Senators McCain (R-AZ), Barrasso (R-WY), and Flake (R-AZ).

On July 8, President Obama requested \$615 million in emergency funds to cover FY2014 budget shortfalls for wildfire fighting in a package for emergency border control management. Both the President's proposal and the Wildfire Disaster Funding Act (S. 1875) would create a separate emergency disaster fund, to be administered by the Federal Emergency Management Agency (FEMA). This fund would address the very worst wildfires, or about 1 percent of fires, whereas the McCain-Barrasso-Flake proposal would require that firefighting budgets be fully funded through the U.S. Forest Service (USFS) and U.S. Department of the Interior (DOI). Additionally, in the FLAME Act Amendments, 50 percent of wildfire fighting costs would go towards forestry management practices, such as thinning. It would encourage timber harvesting and thinning, while streamlining some of the environmental restrictions that might otherwise slow down the projects. A similar bill to the Senate FLAME Act was introduced in the House by Rep. Paul Gosar (R-Ariz.) ([H.R. 1345](#)).

PLC appreciates S. 1875/H.R. 3992 as it will help put a stop to "fire borrowing," which takes dollars away from projects such as timber sales and the range needs for purposes of emergency fire-fighting. We find preferable, however, the FLAME Act tact of wisely managing resources via fuel-reducing activities such as logging and grazing while at the same time blocking fire borrowing. This will not only be more productive, but it will necessarily reduce the need for suppression funding.

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PLC Legislation Tracker

The following is a list of PLC-supported legislation introduced this Congress. Click the links to see the bills' progress:

Top Priority:

- Grazing Improvement Act ([S. 258](#) and [H.R. 657](#))

Water Regulation:

- Water Rights Protection Act ([H.R. 3189](#) and [S. 1630](#))
- Silviculture Regulatory Consistency Act of 2013 ([H.R. 2026](#) and [S. 971](#))

EAJA/Judgment Fund Oversight:

- Judgment Fund Transparency Act ([H.R. 317](#) and [S. 1420](#))
- Open Book on Equal Access to Justice Act ([H.R. 2919](#))

Federal Land Disposal:

- Federal Land Transaction Facilitation Act Reauthorization ([S. 368](#) and [H.R. 2068](#))
- Land Disposal and Efficiency Act ([H.R. 2095](#))

Wildfire and Forestry:

- Catastrophic Wildfire Prevention Act ([H.R. 1345](#) and [S. 1479](#))
- Good Neighbor Forestry Act ([S.327](#))
- Healthy Forest Management and Wildfire Prevention Act ([H.R. 1526](#))
- Wildfire Disaster Funding Act ([H.R. 3992](#) and [S. 1875](#))
- Federal Land Assistance, Management and Enhancement Act (FLAME Act) ([S. 2593](#))

Monument Designation Oversight:

- Ensuring Public Involvement in the Creation of National Monuments Act ([H.R. 1459](#))
- National Monument Designation Transparency and Accountability Act ([H.R. 2192](#))
- Preserve Land Freedom For Americans Act ([H.R. 382](#))

ESA Improvement:

- Endangered Species Act Settlement Reform Act ([S. 19](#) and [H.R. 1314](#))
- 21st Century Endangered Species Transparency Act ([H.R. 4315](#))
- Endangered Species Improvement Act of 2014 ([H.R. 4256](#))
- Endangered Species Recovery Transparency Act ([H.R. 4316](#))
- State, Tribal and Local Species Transparency and Recovery Act ([H.R. 4317](#))
- Endangered Species Litigation Reasonableness Act ([H.R. 4318](#))
- Community Protection Act ([S. 2084](#))
- Common Sense in Species Protection Act of 2014 ([H.R. 4319](#))

Other:

- Regulations from the Executive In Need of Scrutiny Act (REINS) Act ([S. 15](#) and [H.R. 367](#))
- Livestock Disaster Protection Act ([H.R. 1607](#))

- Sunshine for Regulatory Decrees and Settlements Act ([S. 714](#) and [H.R. 1493](#))
- National Security and Federal Lands Protection Act ([H.R. 2398](#))
- Federal Lands Invasive Species Control, Prevention and Management Act ([H.R. 3994](#))
- Commonsense Legislative Exceptional Events Reform (CLEER) Act (S. 2526)

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ADMINISTRATIVE UPDATE

Grazing Preference: Guard It Carefully

PLC has heard reports that some BLM offices may be attempting to “eliminate” livestock AUMs from permit renewals instead of putting them into “suspension.” We urge anyone who is experiencing this or knows of such instances to get in touch with us (contact Dustin Van Liew at dvanliew@beef.org or Marci Schlup at mschlup@beef.org). There is no national BLM direction to support this elimination of preference AUMs. [Click here](#) to read our 2012 PLC/NCBA position paper on preference rights and suspended AUMs.

Grazing “preference” is at the foundation of grazing rights. The concept originated with the Spanish and Mexican land grants and was eventually adopted by Congress when it enacted the Taylor Grazing Act. The number of animal unit months (“AUMs”) associated with a ranch’s grazing preference is, in many instances, a large part of the value of that ranch. Grazing preference is exclusive, taxed, included in a ranch’s deed, transferable, and the subject of equitable protection—all attributes of a property right. In order to ensure the continuation of the environmental and economic benefits of grazing, this valuable property interest, granted protection under the law, must be defended.

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New Regional Forester for USFS Region 6

On August 3, Jim Pena became the new regional forester for the Pacific Northwest Region (R-6) of the U.S. Forest Service. PLC has worked with Pena in his role as deputy chief of the National Forest System in Washington, DC. Prior to that, he held other various positions within the agency, including deputy regional forest in California; heading up the reengineering team for Human Resources and the National Fire Management Review team; and forest supervisor and ranger. Pena graduated from Humboldt State with a bachelor’s in forest resource management. PLC looks forward to working with him in his new role.

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Industry Opposes Blue Mountain Forest Plan Revision

The livestock industry voiced opposition in August to a proposed U.S. Forest Service planning document covering three forests in Oregon and Washington. On August 15, the comment period closed on the draft “Blue Mountain Forest Plan Revision” and accompanying draft environmental impact statement, which USFS has been working on drafting for over 10 years. The proposal attempts to revise the forests plans on the

Malheur, Wallowa-Whitman, and Umatilla national forests all at once—spanning roughly 5.5 million acres. PLC opposes this approach on its face, as it encourages inappropriate “one size fits all” planning. Furthermore, the plan proposes new “wildlife corridors,” wilderness areas, “backcountry non-motorized” areas, and expansive definitions of “sensitive species” and “riparian management areas” that would cinch down on productive practices such as logging and grazing. USFS proposes to allow water uses only if they contribute to “maintenance or improvement of habitat conditions for fish, water and other riparian dependent species and resources”—a proposal that many are calling a violation of the state’s authority over water regulation. Grazing utilization would be reduced across the board from 50–55 percent to 35–45 percent.

Among those calling for the plan to be scrapped are U.S. Rep. Greg Walden (R-Ore.), industry groups such as OCA and the American Forest Resource Council, and local governments.

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EPA “Waters of the U.S.” Maps Released

On August 27th, the House Committee on Science, Space, and Technology released maps of waters and wetlands the proposed for regulation by the Environmental Protection Agency (EPA). EPA had refused to make these maps public, but after multiple requests, the agency finally handed over the maps to the committee. The maps appear to detail the extent of the “Waters of the United States” proposal—including upwards of 100,000 added regulated stream miles. The proposed rule goes as far as to include ditches in the definition of a tributary. Any activity near a jurisdictional ditch will now require a federal permit (as well as invoke Endangered Species Act “Section 7 consultation”).

“Given the astonishing picture they paint, I understand the EPA’s desire to minimize the importance of these maps,” said Rep. Lamar Smith (R-Texas), Chairman of the House Science Committee, in a [letter](#) to EPA Administrator Gina McCarthy. “But EPA’s posturing cannot explain away the alarming content of these documents. While you claim that EPA has *not yet* used these maps to regulate Americans, you provided no explanation for why the Agency used taxpayer resources to have these materials created.”

Knowledge of the maps came as the Committee was doing research in preparation for a hearing regarding the proposed “Waters of the United States” rule. The maps were kept hidden while the Agencies marched forward with a rulemaking that fundamentally re-defines private property rights, said Chairman Smith.

The maps are available on the House Committee website [here](#). PLC continues to strongly oppose the vast expansion of federal authority through the proposed WOTUS rule and will continue to call on the EPA and Corps to withdraw the proposal. The comment period remains open through October 20th. We encourage all to comment.

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DOI Releases Economic Impact Report

The Department of Interior (DOI) recently came out with a [report](#) on the economic contributions of activities on Bureau of Land Management (BLM) lands. The report estimated that livestock grazing on BLM land contributes about \$1.5 billion to the

economy and supports roughly 18,000 jobs. We believe this to be a very low estimate, as there are about as many holders of grazing permits on BLM land. It is not uncommon for one ranch to employ 5-10 full-time people, and more in the summer months.

When it comes to the economic contributions of grazing (\$1.5 billion annually, including direct and indirect contributions), DOI did not calculate the "value added" contributions of grazing, as it did for other industries. Measuring "value added" means looking at the per-pound price of a steak or lamb chop served at a restaurant, compared to the relative price it started at out on the range. This number would have no doubt been impressive, had DOI chosen to calculate it.

We also note that DOI's analysis neglected to acknowledge that cattle and sheep must eat year round. Many grazing permits only account for a few months' grazing, so DOI should have weighed the economic contributions of those animals during the part of the year they're not on BLM land. We continue to call on DOI to increase the resources used to analyze more fully the true economic impacts and contributions of livestock grazing on public lands.

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Industry Maintains Representation on Forest Planning Rule FACA Committee

The USDA in August [announced](#) the selection of 21 members to the Forest Planning Rule Federal Advisory Committee (FACA). The FACA provides guidance and recommendations on the implementation of the 2012 Planning Rule. Representing private landowners/grazing are Wyoming Stock Growers Association's Jim Magagna and Youngsville (NM) Cattlemen Association's Lorenzo Valdez. Magagna served on the FACA committee previously, and was recommended by PLC. We are please to know he is still representing industry's interests.

Although the Rule is currently in litigation by industry, U.S. Forest Service has nonetheless stated that it "continues to guide stewards of national forests and grasslands in developing, revising or amending land management plans."

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FWS Makes Sage Grouse Data Call

U.S. Fish and Wildlife Service is making a call for information showing that state conservation programs and other efforts are successfully protecting the greater sage grouse. The data call is part of FWS' ongoing review of the sage grouse and consideration of whether the bird should be proposed for listing under the Endangered Species Act by a September 2015 deadline. Specifically, FWS wants detailed data on the regulations, plans and projects that have been implemented, or that are expected to be implemented, to protect the sage grouse and its habitat. The information will be entered in what FWS calls a "Conservation Efforts Database" it has developed with the U.S. Geological Survey. The data are said to be critical because one of the key factors FWS uses in evaluating whether to list any species is a determination of whether existing regulations, projects and programs are adequate to protect and restore the species. FWS has asked industry and local governments to submit data and information on existing plans/efforts by Dec. 31. In addition, the agency wants submittals of sage grouse

population numbers and trends, habitat status and trends, and information on sage grouse threats such as West Nile virus and predation, by Oct. 31. PLC will be working with its affiliates to submit information for both data calls.

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Comment Period Reopened for Bi-State “Threatened” Status

The U.S. Fish and Wildlife Service (FWS) has announced the reopening of the public comment period on the October 2013 proposed rule to list the bi-State distinct population segment (DPS) of greater sage-grouse as threatened, with a special 4(d) rule. According to the [Federal Register notice](#), FWS reopened the comment period based on “new information received regarding population trends, and recent State and Federal agency funding and staffing commitments for various conservation efforts...” Comments are now due by September 4th.

FWS’ announcement states it has received new information on the population trends of the bi-State DPS: a publication modeling population growth and trajectory of the bi-State DPS. “These data may characterize risk to the bi-State DPS and predict future population trends.” This information is available on the Internet at <http://www.regulations.gov> at Docket No. FWS-R8-ES-2013-0072).

In addition, FWS cited the formalized Bi-State Action Plan as a reason for reopening the comment period. “We will evaluate existing regulatory mechanisms (and associated management plans) and volunteer efforts for their biologically meaningful contribution to the conservation of the bi-State DPS and its habitat,” the announcement states. FWS anticipates publishing a final listing determination on or before April 28, 2015.

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Comment Period Reopened for Mexican Wolf Management Status

The U.S. Fish and Wildlife Service (FWS) this month [announced](#) a reopening of the comment period on proposals concerning the Mexican wolf in Arizona and New Mexico. FWS is proposing new revisions to the current “nonessential experimental population” designation of the wolf. They also released a [draft environmental impact statement](#) (DEIS) on the proposed revisions. Both documents are open for comment through September 23. FWS will hold public informational sessions and public hearings in Pinetop, AZ (Aug. 11) and Truth or Consequences, NM (Aug. 13).

PLC commented on proposed changes to the population’s “10(j)” status (nonessential experimental population status) in September 2013. FWS this month released revisions that were made, according to the agency, in considerations of comments received during that public comment period. The 2013 proposed rule would have ratcheted up protections for the Mexican wolf in a way that would have increased the burden on livestock producers and contradict the very purpose of the “experimental” designation, which is to decrease the burden of ESA listings on landowners and other affected citizens. Amongst some of the changes to the 2013 proposed rule:

- The 2013 rule would have expanded the areas for direct release of captive-raised

- Mexican wolves. The changes proposed this month would *further* expand the areas for wolf release, translocation, and expansion. It moves the southern boundary from Interstate 10 to the U.S.-Mexican border in Arizona and New Mexico. The new Mexican Wolf Experimental Population Area would be divided into several zones. Wolves could be introduced or translocated in zones 1 and 2, while zone 3 would be limited to those wolves that wandered there. Wolves that leave the recovery area are to be captured and returned.
- The 2013 rule required that a certain number of wolves be counted on a public land grazing allotment before a permit for a “take” could be issued to ranchers whose livestock is being depredated. Under the current proposed changes, there is no population minimum, and permits for “take” would be issued at the discretion of FWS.
 - With the new proposal, FWS "clarified" when wolves can be killed.
 - It would allow owners of livestock and other domestic animals to kill a wolf if it is "in the act of biting, killing or wounding a domestic animal" on non-federal lands.
 - FWS would be allowed to issue permits to domestic animal owners to kill wolves on specified non-federal lands, if other removal actions are unsuccessful. FWS officials say these would be issued "infrequently."
 - States could also gain authority to kill/relocate wolves under the proposed rule. If they believe wolves are having an "unacceptable impact" on wild herds of elk, deer, bighorn sheep and other ungulates, they can seek written approval from FWS to remove wolves.

PLC is working with the Arizona Cattle Grower’s Association and will comment on this new iteration of the 10(j) status revision and the DEIS by Sept. 23.

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FWS Proposes Conservation Credit Policy

The U.S. Fish and Wildlife Service (FWS) [released](#) a proposed policy this month that would give landowners credit for pre-listing “voluntary” conservation actions for at-risk species. According to the FWS news release, under the proposed policy, "...landowners could obtain credits for current efforts that benefit declining species. These conservation credits could later be redeemed to offset or mitigate actions that are detrimental to a species were it to subsequently be listed under the Act."

Comments will be due on September 22, 2014. PLC is further reviewing the proposal along with our Agriculture and Conservation Coalition to determine the appropriateness of submitting comments.

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Comment Period Extended on ESA Habitat Regs

As reported in [May](#), the U.S. Fish and Wildlife Service (FWS) recently proposed two changes to its Endangered Species Act regulations and a “policy” change. The comment deadline has been extended to October 9. PLC will circulate comments for affiliate sign-

on in advance to the new deadline.

FWS is cinching down its regulations regarding “critical habitat”—partly as a result of litigation by radical environmental groups. One [proposed change](#) would lower the bar for what qualifies as “adverse modification” of critical habitat for listed species. Another [proposed change](#) to the regulations would allow critical habitat to be designated in areas where the species may not have ever stepped foot—but may, some day. It would allow critical habitat to be designated based on projected landscape changes due to “climate change” or in areas that FWS’ determines may be habitat in the future.

FWS’ third [proposed change](#) (a policy change) has to do with areas that will be excluded from critical habitat, either because the economic impacts would be overly damaging, or because “voluntary” agreements have been made with a landowner to negate the “need” for a critical habitat designation. It would give the agency more discretion over whether or not to exclude areas from critical habitat, even when the projected economic impacts would be devastating.

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BLM Fire Fighting: Sage Grouse Will Get Priority

BLM [announced](#) on July 18 it will be “focusing its hazardous fuels program on areas where fire management for sage-grouse habitat protection is most critical.” The agency said these areas are primarily located in priority habitat in the Great Basin states with the highest probability of wildfire occurrence. Fire is one of the factors the U.S. Fish and Wildlife Service will consider in deciding whether the Greater Sage-Grouse warrants protection under the Endangered Species Act. Hundreds of thousands of acres, particularly in Idaho and Oregon, have already burned this summer—much of it sage grouse habitat.

“After firefighter and public safety, the BLM will focus its fire program on protecting, preserving and enhancing sage grouse habitat,” BLM Deputy Director Steve Ellis said.

The preventative measures BLM listed in its announcement are: “creating fuel breaks to limit the spread of fires; coordinating locally to reduce fuel loads and wildfire starts along travel corridors; pre-positioning firefighting resources to quickly respond to one or multiple fires; and expanding the training and use of Rangeland Fire Protection Associations, Rural Fire Departments and other local, non-federal agency individuals as liaisons in wildland fire detection and suppression operations. ...At the same time, the BLM will continue to provide a robust hazardous fuels program across the West.”

PLC agrees that wildfire is indeed a primary threat of sage grouse that must be addressed if the bird is to be kept off the endangered species list. Fuel-reducing activities such as grazing will be crucial to this effort. However, when we juxtapose this new fire policy against BLM’s proposed RMP revisions, which stand to severely reduce grazing across the bird’s habitat, we find the two policies are direct contradiction.

Also notable is this policy’s demonstration of the power that the ESA has to put a multiple-use agency’s sole focus on one species--contrary to the laws directing

management of public lands. It speaks to the necessity of ESA reform.

Further details about BLM's proposal are available in [WO-IM-2014-114, Sage-Grouse Habitat and Wildland Fire Management](#).

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Battle Mountain Controversy Continues

On Aug. 22, BLM issued a final decision that calls for three northern Nevada ranching families to remove their cattle off their summer and fall range—for an indefinite period. The decision was based on the agency's drought policy in Nevada. The Battle Mountain families filed a petition on Aug. 25 to an administrative law judge (ALJ) to have the decision reversed. Nevada Cattlemen's Association's (NCA) legal arm, the Nevada Land Action Association (NLAA), is also appealing the BLM decision.

According to the families' attorney and the NLAA, BLM's decision was made based on a drought policy that is not enforceable, because a "decision record" was never issued on the policy. The lack of a decision record precludes any opportunity for industry to protest/appeal the drought policy, which industry would have surely done. For one, the drought policy is based on inadequate science: it relies on the U.S. Drought Monitor, which is not a good local indicator of drought; it calls for utilization levels that are not supported by science; and it calls for removal of grazing for the duration of the "drought" and a full growing season thereafter, which is not supported by science. Furthermore, the policy's "drought response actions" (including measures ranging from fencing sensitive areas to immediate removal of livestock) give district managers undue discretion to choose *any* of the response actions. As was the case in Battle Mountain, the district manager can unilaterally choose the most damaging option (immediate removal and no grazing for full season after drought). There is no recourse for the permittee but to appeal to the ALJ. This is what the Battle Mountain permittees did, and in the meantime they risk being in trespass.

According to the families, the agency arrived at its Aug. 22 decision by repeatedly violating its own legal and regulatory procedures and going back on agreements reached with the families. For example, BLM violated the grazing agreement when it performed some of its monitoring without the ranching families or their consultants present; used monitoring techniques that were not in keeping with the agreement; had unqualified staff collecting and analyzing data; and ultimately produced numbers that could not be duplicated by the ranchers' range consultants.

PLC has and will continue to call on BLM to make decisions based on proper legal procedure and sound science. We are in communication with NCA and NLAA to provide support where necessary as the process unfolds.

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Comment Period Extended USFS Groundwater Proposal

As reported [last month](#), U.S. Forest Service has proposed a draft "[directive](#)" that would greatly expand the agency's authority over water. USFS has [announced](#) a one-month

extension on the comment period (to Sept. 3rd). The proposal would be a direct violation of western water law, which gives States primacy over waters in their borders. PLC is developing comments, which it will circulate with affiliates for sign-on.

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MORE NEWS

PLC Annual Meeting Approaches

We are excited to all who come to the [2014 PLC Annual Meeting](#). This year's meeting will be held September 3-6, 2014 in Ignacio, Colorado at the Sky Ute Casino Resort. If you haven't registered already, don't be afraid to come and register on site. Hotel rooms can be reserved on the online reservation site, or you can call the Sky Ute Casino Resort at [\(888\) 842-4180](#).

Sponsorships: PLC greatly appreciates our generous sponsors each year. If you or your organization is interested in being a sponsor, please contact us or [click here](#) for more information.

General Agenda:

Wednesday, September 3rd

- PLC Trust Board of Directors Meeting (noon to 5pm)
- BBQ (evening)

Thursday, September 4th

- General meetings (all day)

Friday, September 5th

- Board of Directors Meeting (morning)
- Business Meeting (full body, following the Board meeting)
- Banquet/Dinner

Saturday, September 6th

- Range Tour (morning to early afternoon)

To view a more detailed agenda [click here](#). Please don't hesitate to contact Marci (mschlup@beef.org) should you have any questions.

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NCBA Federal Lands Committee Meets in Denver

National Cattlemen's Beef Association Federal Lands Committee members gathered on August 1st at the 2014 Cattle Industry Summer Conference, to help influence the direction of the association on policy issues facing the industry. This year held in Denver, Colorado, the Federal Lands Committee meeting featured reports from and discussion with Bureau of Land Management officials and U.S. Forest Service Washington Office officials. Also presenting was Jose Varela Lopez, President of the New Mexico Cattle Growers Association, who spoke on the importance on the recognition of civil rights by federal agencies. The meeting also included updates from Dustin Van Liew, Executive

Director of Federal Lands in NCBA's Washington, D.C. office, on the association's current litigation activities and legislative efforts. The Committee also voted to update existing policies and passed a directive on the Grazing Improvement Act. The next meeting of the Federal Lands Committee will take place at the Cattle Industry Convention and NCBA Trade Show in San Antonio, TX, Feb. 4-7, 2015. Click [here](#) for more information.

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Sign Up for PLC Blog Posts

We've started an official blogspot for PLC, updated weekly by Theo Dowling. If you'd like to sign up to get her posts in your email inbox, click "follow" at the [blog website](#). Also, find us on [Facebook](#) and check out our [Op-Ed archives](#) page on the PLC website. Also, check the homepage (www.publiclandscouncil.org) for news releases, video and audio clips, issue pages, PLC events, and more.

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Upcoming Events

- **PLC Annual:** Mark your calendars for our next Annual Meeting in Ignacio (near Durango), Colorado, Sept. 3rd-6th, 2014.
- **ASI Convention:** January 28-31, 2015 ([click here](#) for info)

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Nick Theos PLC Scholarship

As reported in [April](#), 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 Toula 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.

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Join PLC on Facebook

To keep up-to-date on PLC's activities as they happen, "like" us on Facebook at www.publiclandscouncil.org.

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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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