



1301 Pennsylvania Ave. NW, Suite 300 • Washington, D.C. 20004

Public Lands Council



Capital Issues

~September 2014~

Executive Briefing

HIGHLIGHT

[PLC Holds Annual Meeting](#)
[Changing of the Guard at PLC](#)

Legislative Update

[House Passes Bill to Stop EPA WOTUS Rule](#)
[House Passes Jobs, Forestry Bill](#)
[Appropriations Update](#)
[House Ag Subcommittee Looks at USFS Groundwater Rule](#)
[Fire Borrowing Legislation Stalls](#)
[House Nat. Res. Committee Looks at More ESA Bills](#)
[House Nat. Res. Committee Passes Fed. Land Water Storage Bill](#)
[House Public Lands Subcommittee Reviews Land Disposal Transparency Bill](#)
[PLC Legislation Tracker](#)

Administrative Update

[Industry Appeals BLM Drought Decision in NV](#)
[Comments Submitted on FS Groundwater Proposal](#)
[Comment Period Reopened for Mexican Wolf Management Status](#)
[42 California Counties Designated as Drought Disaster Areas](#)

Judiciary Update

[Judge Rules Against the BLM in Idaho Sage Grouse Case](#)
[PLC Files for Intervention in California Wild Horse Case](#)
[Judge Re-Lists Wyoming Wolves](#)

More News

[PLC Releases Statement on National Public Lands Day – September 27th](#)
[Upcoming Events](#)
[Donations to the Nick Theos PLC Scholarship](#)
[Sign Up for PLC Emails!](#)
[Join PLC on Facebook](#)

EXECUTIVE BRIEFING

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

As many previous Septembers have proven, it's always a busy month for the organization. Between our annual meeting and the closing of the fiscal year, this September was no different. I'd like to thank everyone that took time to travel to and attend the annual meeting in Ignacio – our attendance seems to grow every year, indicating the increased interest and revealing the importance of maintaining a strong organization to answer the challenges facing industry.

While it's always been rewarding and an honor to work for the greatest industry in DC, now more than ever is an exciting time for PLC. At our annual meeting, the PLC Board of Directors approved initial funding from the Endowment Trust to kick off a positive and proactive public relations campaign. We as an industry will be taking unprecedented steps to shape discussions and play offense--rather than spend the bulk of our time playing defense. The campaign will expand our organizations and industry's reach on all fronts. At the outset, recognizing the benefits of this endeavor may be challenging; however, over time we dividends will be reaped through various channels. Those include an increased online presence; more op-ed and ad placements in print media; expansion of materials sent to offices on Capitol Hill; invaluable research about public perception; and utilizing the already positive reputation our industry has with the public to better the position of ranchers across the west.

October will be fairly quiet on the Washington DC front; however, by the end of the month I'm sure many of you will pine for the day when political commercials are not wall-to-wall during football game advertising breaks! The PLC office will spend time preparing for the Congressional lame-duck session which will take place after the elections – likely from November 12th through December 12th. Much of what does or does not get done in the lame-duck session depends on which party will control the US Senate after the election. We remain committed to enacting legislation that will codify the grazing rider and extend the term of grazing permits. We will look for opportunities during the short congressional session to see these provisions passed.

In the waning hours of September, we learned of a ruling from the District Court of Idaho that has the potential to undermine the intent of Congress with regard to the grazing rider – which has been in place for well over a decade. While you will read more details below on the ruling, I want to take this opportunity to reiterate that PLC has no intention of allowing the ruling to go unanswered--both on the legal front and on Capitol Hill. We've already begun visiting with members and staff on both sides of the Capitol to ensure that congressional intent is maintained through the rider so that grazing permits may continue to be issued (renewed) without interruption due to backlogged environmental and agency paperwork. While it is disturbing that a judge can legislate from the bench, the action provides an example of why it is so important to continue defending grazing rights and property rights in general against the never-ending onslaught of anti-rancher activists. These activists spend countless hours and dollars trying to diminish the principle that stands as the very foundation of our Republic: private property rights.

Enjoy this month's edition of Capital Issues and be on the lookout for the FY 14 Annual Report, capturing the highlights of the past year. Until next month, here's to rain and high livestock prices.

Dustin Van Liew
Executive Director

-Your voice in Washington, D.C.

HIGHLIGHT

PLC Holds Annual Meeting

PLC held its annual meeting near the home of retiring president, Brice Lee, in Ignacio, southwestern Colorado. The meeting was packed with discussion and action items. There was a changing of the guard in PLC leadership, where Idaho's Brenda Richards took the helm, Utah's Dave Eliason became vice president, and Oregon's Bob Skinner became the new secretary/treasurer (see "changing of the Guard story, [below](#).) Stay tuned for detailed minutes from the meeting. Below are some highlights.

Public Land Endowment Trust

A major part of the meeting was the Board of Directors' approval of new projects for funding by the Public Lands Endowment Trust, and updates on past-approved projects. Roughly a half-million dollars was available for new projects this year, which included: funding for a Public Relations campaign; funding for education for the Western Resources Legal Center; funding for a research project titled "Grouse and Grazing: How Does Spring Grazing Influence Sage Grouse Populations?"; funding for Oregon's Beaty Butte collaborative group; and second-year funding for research titled "Targeted Late Season Grazing on Cheatgrass as a Fuels Reduction Tool in the Great Basin."

Legislation Updates

Dustin Van Liew, PLC's executive director, gave updates on PLC's priority legislation. The Grazing Improvement Act has passed the House and awaits action in the Senate. The House-passed Interior appropriations bill was favorable to industry; PLC awaits action in the Senate. The Catastrophic Wildfire Prevention Act was passed in the House as part of a larger forestry bill. Industry awaits Senate action. Equal Access to Justice Act (EAJA) reporting bill passed the House (no Senate action). Endangered Species Act improvement bills have passed the House. Other priority bills were discussed.

Litigation Updates

PLC has found it necessary to engage in legal action to defend industry. Amongst a few of the cases discussed were: the U.S. Forest Service's 2012 planning rule; industry's lawsuit brought against BLM for mismanagement of wild horses in Utah; industry's lawsuit against the U.S. Forest Service's removal of domestic sheep on the Payette National Forest due to bighorn concern; the "Owyhee 68" challenges regarding permit renewals and sage grouse; and Idaho resource management plan revisions regarding sage grouse.

Endangered Species Act

Texas Comptroller of Accounts, Susan Combs, presented at the meeting regarding the widespread effects of ESA listings and potential listings across her state and the nation. She talked about Texas' efforts to implement a mitigation banking system, and to invest in research where data is lacking on species that are candidates for listing.

Sage grouse was a major discussion topic, as usual. The U.S. Fish and Wildlife Service (FWS) is still on track to make a listing decision on the sage grouse by September 2015. The BLM and USFS are working on finalizing potentially devastating new regulations to prevent the listing. FWS has made a data call for new information that could inform their decision (deadline is Dec. 31). At the meeting, PLC discussed its strategy of joining energy groups, counties, and other industry groups in building an administrative record under the Data Quality Act that refutes the agencies' data and science regarding the bird's status and the alleged threats.

Waters of the U.S.

The National Cattlemen's Beef Association, a PLC national affiliate, presented on the "Waters of the U.S." rulemaking in the hopper at the EPA. Legislation has been introduced to stop that effort. Industry is working hard to get producers and concerned citizens to comment on the proposed rule by November 14th ([click here](#) to comment).

Other Issues

Wild horses: Discussions were held on wild horse management and the various litigation tactics being pursued by industry and local governments.

Bighorn Sheep: Decisions by the federal agencies to reduce domestic sheep due to bighorn sheep concerns was a primary topic brought by PLC national affiliate, American Sheep Industry Association.

Preference rights: The importance of preserving original preference rights on the record was discussed at length. BLM has been making efforts to wipe these preference numbers (the original number of AUMs allocated to your ranch) off the books.

Transfer of Federal Lands to States: Speaker Carl Graham with the Sutherland Coalition for Self-Government in the West talked about what he believes to be the necessity of transferring multiple-use public lands from federal to state ownership. PLC convened a committee to explore the issue further and consider policy on the subject in the future.

BLM Stewardship Award and U.S. Forest Service National Rangeland Management External Partner Award: The BLM award went to Burley Landscape Partnership in Idaho and was presented to Eugene Matthews; the USFS award went to the Dawson Family (John, Melva and Jeff) who graze cattle on the Colville National Forest in Washington.

Wolf: PLC's Arizona affiliate gave the update on the Mexican wolf, which is potentially seeing a change in its ESA listing status and habitat boundaries.

Battle Mountain/Drought: Nevada representatives gave an update on the BLM's drought policy in Nevada and how it is adversely affecting producers. PLC has since joined an appeal of a decision in Battle Mountain, NV based on that policy.

Range Tour

Many of the participants at the meeting also attended the optional range tour held on Saturday, which included a look at retiring president Brice Lee's ranch. Most of the tour was held on BLM managed land where he holds grazing permits. Lee explained the work that goes into treating the sagebrush for optimum forage production and water retention in that arid country. He said he has spent years getting to where he no longer has to feed a bite of hay all year—impressive!

See You Next Year

Next year's meeting will be held in Wyoming, September 9-12, 2015. Also, don't forget the spring Legislative Conference, scheduled for March 23-24, 2015 in Washington, DC.

[Back to Top](#)

Changing of the Guard at PLC

Brice Lee, Immediate Past President

Brice Lee passed the torch on to Brenda Richards at the PLC Annual Meeting. Brice runs cows on both BLM and private lands on his operation that straddles both Colorado and New Mexico. He and his late wife, Phyllis, who was a long-time county extension agent, built their ranch from scratch. Brice grew up on his family ranch in Montrose and graduated from Colorado State University with a B.S. in Agronomy & Resource Management. He has worked as a soil scientist, a sales representative for Ralston Purina, and an owner/operator of a feed and grain elevator. Brice has served as chairman of the NCBA Environmental/Private Property Committee, president of La Plata County Cattlemen's Association, and president of Colorado Cattlemen's Association. Other leadership positions have included 9 years as a gubernatorial appointee on the Colorado Water Quality Control Commission, 10-year (and running) chairman of La Plata Water Conservancy District, president of La Plata County Fair Board, and 4-H leader. Read more about Brice in the Oct. 6, 2014 [*Western Livestock Journal*](#).

Brenda Richards, President

Brenda and her husband, Tony, run a cow/calf operation that depends part of the year on forage from acres managed by the BLM. Their three sons, who grew up working alongside their parents running the ranch, are in varying stages of finishing college, working on the ranch, and branching off on their own ranching endeavors. Tony and Brenda started out in Paradise Valley in northern Nevada, where his family also ranched for multiple generations, making their sons the fifth generation in the business.

For five years, Richards has served as Chairman of the Owyhee Initiative, which brings together diverse stakeholders in southwestern Idaho in attempt to resolve public land management conflicts. She also serves as Owyhee County Treasurer, an elected, fulltime position she's held for nine years. In addition to her many years of working on public land management issues close to home, she's testified before U.S. Congress multiple times, both in her capacity as Owyhee County Treasurer and as a PLC officer. Read more about Brenda in this [article](#) from the Sept. 8 *Western Livestock Journal*.

Dave Eliason, Vice President

Dave is a fourth generation commercial cattle rancher headquartered near Snowville, Utah. He and his wife Gaylynn and their five children run cattle on both BLM and Forest Service allotments. He has served as president of the Utah Cattlemen's Association, president of Box Elder County Cattlemen's Association, and, for 28 years, president of Curlew Cattlemen's Association, a 26-member community allotment. Dave has also served on the Utah State advisory board for the BLM, directed and chaired the Utah Beef Council, directed and chaired the Box Elder County ASCS/FSA board, chaired the Utah State ASCS/FSA Board appointed by President George W. Bush, and was appointed by Governor Gary Herbert to serve on the Governor's Agriculture Advisory Board. He has served on the board of directors of NCBA and has been on various committees for NCBA. He attended Brigham Young University and earned a degree in Agriculture Economics, was a missionary in Australia for two years, and was a lay congregational leader for five years for his local church.

Bob Skinner, Secretary/Treasurer

Bob lives in Jordan Valley, Oregon, where he and his wife, Karen, raise cattle with their family—including their grandchildren, who represent the 7th generation on the ranch. He earned his BA in Business Administration at the College of Idaho in Caldwell. From local to national levels, Bob has

long been involved in a variety of livestock and civic affairs. He has served on a vast number of local, regional, and state advisory boards and committees related to livestock, and has won leadership and production awards from organizations such as Oregon Cattlemen's and the Red Angus Association of America. In 2002, during his tenure as Oregon Cattlemen's president, he was called to join a round-table briefing of President George W. Bush on the state of the livestock industry. He has been a director or delegate of PLC since 1990. He is also a charter member of the Board of Directors for the Western Resources Legal Center (WRLC), an organization that plays a very important role in PLC's success.

Bob has served in many leadership positions outside the livestock industry, as well—including county advisory committees, the local ambulance board, the rural rangeland fire association, various local and university school boards and committees, and other positions of importance in his community.

Meanwhile, Bob stays active on the ranch. He is constantly checking water lines, for example, on the ranch's BLM and deeded ground. As his place spans large areas of high desert, having his commercial pilot's license and a small plane helps him get that job done.

[Back to Top](#)

LEGISLATIVE UPDATE

House Passes Bill to Stop EPA WOTUS Rule

This month, the U.S. House of Representatives passed the *Waters of the United States Regulatory Overreach Protection Act* ([H.R. 5078](#)), a bill that would prohibit the Environmental Protection Agency's (EPA) and Army Corps of Engineers (Corps) from implementing a regulation that would place practically all water under jurisdiction of the U.S. government. H.R. 5078 passed the House by a vote of 262 to 152, was sponsored by U.S. Rep. Steve Southerland (R-FL), and was cosponsored by a bipartisan group of House members. It prohibits EPA and the Corps from developing, finalizing, adopting, implementing, applying, administering, or enforcing the proposed rule or any agency guidance that would redefine "waters of the United States" ("WOTUS") under the Clean Water Act. It requires the EPA and the Corps to engage in consultation with the states and local governments to develop a consensus regulatory proposal. [Click here](#) to read the H.R. 5078 support letter we submitted as part of the Waters Advocacy Coalition.

The WOTUS rule threatens to open many new waters and private property to federal regulation, including ditches, man-made ponds, floodplains, riparian areas and seasonally wet areas.

Just prior to the House vote, the White House issued a "[Statement of Administration Policy](#)" against H.R. 5078. The White House statement includes a veto threat from the president.

H.R. 5078 was a companion bill to legislation originally introduced by Sen. John Barrasso (R-Wyo.) ([S. 2496](#)) in June.

[Back to Top](#)

House Passes Jobs, Forestry Bill

The U.S. House of Representatives this month passed *The Jobs for America Act* ([H.R. 4](#)) by a vote of 253 to 163. The bill contains language requiring Congress to take an up-or-down vote on all new major rules that would have an economic impact of more than \$100 million annually before they can be enforced. Also included in the bill were helpful tax provisions. Notably, the *Jobs* bill also

included the *Restoring Healthy Forests for Healthy Communities Act*, which addresses catastrophic wildfire and forest mismanagement in the west.

This portion of the *Jobs* bill, according to the House Natural Resources Committee website, reestablishes the priority of actively managing our forests and promotes responsible timber production on Forest Service commercial timber lands. It requires the Forest Service to produce at least half of the sustainable yield of timber each year and, as required by law since 1908, share 25% of receipts with the counties to help fund schools and infrastructure projects. It also allows greater state and local involvement in wildfire prevention on federal lands. It would improve local forest management by allowing counties to actively manage portions of National Forest land through the creation of “Community Forest Demonstration Areas.” It also establishes a Board of Trustees to manage a majority of O&C lands in Oregon and distribute revenues from timber harvests to O&C counties.

Meanwhile, a planned markup in the Senate Energy and Natural Resources Committee did not occur, and the Senate exited without passing or advancing any forest management legislation.

[Back to Top](#)

Appropriations Update

As reported [last month](#), the House [Interior appropriations bill](#) for fiscal year 2015 passed through committee in July. It included many provisions helpful to the livestock industry. However, before any further progress was made, Congress adjourned on September 18 after only being in session for eight days (following a five-week August recess). They will not reconvene until after the November election. Instead of passing new appropriations legislation, they passed a short-term Continuing Resolution (CR) that will fund the government until December 11. All riders that PLC supports, including the grazing rider, remain in place during the term of the CR.

[Back to Top](#)

House Ag Subcommittee Looks at USFS Groundwater Rule

On September 10th, a [hearing](#) was held by the House Ag committee Subcommittee on Conservation, Energy and Forestry regarding the U.S. Forest Service’s (USFS) proposal to regulate groundwater (see story on our official comments, [below](#)). The hearing featured two panels of witnesses. The first panel’s lone witness was USFS Chief Tom Tidwell. The second panel consisted of Tony Willardson, Executive Director of Western States Water Council; Don Shawcroft, President of Colorado Farm Bureau; and Scott Verhines, New Mexico State Engineer.

During his testimony, Chief Tidwell stated that the directive is not new authority but simply clarifies existing authority, that the directive will not infringe on states’ rights to regulate water, and that the directive does not give the Forest Service the right to regulate groundwater on non-system lands. Our analysis of the directive leads us to believe otherwise. In fact, we believe that this proposed directive and the EPA’s “Waters of the United States” proposed rule together represent the biggest water grab by any administration in history. But perhaps the most common theme of Chief Tidwell’s testimony was that he believes that this directive will decrease the likeliness of litigation, proving that the fear of litigious radical environmental groups is the driving force behind many agency decisions. The fact is, this directive will *increase* litigation.

[Back to Top](#)

Fire Borrowing Legislation Stalls

Legislation to address fire borrowing failed to proceed in the House or Senate prior to adjournment. According to American Forest Resource Council (AFRC), the agency has needed to transfer funds from other accounts to pay for the cost of fighting fires seven of the last 12 years. The relatively light fire year and the fact that the Forest Service actually avoided fire borrowing this year likely played into the lack of progress on the legislation, AFRC says. However, as we have seen with two recent large California fires (the King Fire at 82,000 acres and the Happy Camp Complex at 131,400 acres) the threat of fire borrowing remains a reality.

Currently, the national fire preparedness level has dropped to level 1 and significant moisture has finally hit the western states (outside of California) where the largest fires have been burning. While the number of acres burned is just over 3 million compared to an average of over 6 million for the past 10-year period, the Forest Service came close to triggering fire borrowing this year, says AFRC.

[Back to Top](#)

House Nat. Res. Committee Looks at More ESA Bills

As you read [last month](#), the House recently passed a bill that combined several Endangered Species Act (ESA) improvement measures. On September 9th, the House Natural Resources Committee held a full committee legislative hearing for six more bills that would update and modernize the ESA.

- [H.R. 1314](#) (Flores R-Tex.), *To amend the Endangered Species Act of 1973 to establish a procedure for approval of certain settlements*
- [H.R. 1927](#) (Costa, D-Calif.), *More Water and Security for Californians Act*
- [H.R. 4256](#) (Stewart, R-Utah), *Endangered Species Improvement Act of 2014*
- [H.R. 4284](#) (Neugebauer, R-Tex.), *ESA Improvement Act of 2014*
- [H.R. 4319](#) (Crawford, R-Ark.), *Common Sense in Species Protection Act of 2014*
- [H.R. 4866](#) (Mullin, R-Okla.), *Lesser Prairie Chicken Voluntary Recovery Act of 2014*

Two panels of witnesses testified in front of the committee regarding their views on the bills. Gary Frazer, Assistant Director for U.S. Fish and Wildlife Service Ecological Services was a witness on both panels, as his department is in charge of the implementation of the ESA. Other witnesses included Texas Commissioner of Agriculture Todd Staples, Randy Veach, President of Arkansas Farm Bureau, and Ya-Wei Li, Director of Endangered Species Conservation for the Defenders of Wildlife. To see the full list of witnesses, [click here](#).

These bills seek to fix some glaring problems that the ESA has. The ESA needs more transparency, more complete data, and more opportunities for the states to have a voice in how endangered species populations are managed. The House Minority believes that these bills attempt to weaken the ESA, which couldn't be further from the truth. These bills seek to strengthen cooperation and transparency, which has been lacking. A perfect example is the listing of the Lesser Prairie Chicken. Five state governments with the cooperation of farmers and ranchers, energy companies, and other parties formed an agreement on how to manage the lesser prairie chicken population. The Fish and Wildlife Service endorsed the plan, but listed the bird anyway with little communication in the process.

Mr. Frazer said that his department opposes these bills as written but is willing to work with the committee. This is a positive step in the right direction, and we hope that Mr. Frazer and the FWS will follow through. Currently, we have to agree with Mr. Veach who stated during the hearing, "The species most threatened is the American farmer and rancher... We're being mitigated right out

of business. If we're not profitable we're not sustainable, and neither is the food, fiber and shelter we provide."

[Back to Top](#)

House Nat. Res. Committee Passes Fed. Land Water Storage Bill

On September 18th, the House Natural Resources Committee held a hearing to markup several pieces of legislation, one of those being [H.R. 3980](#), the Water Supply Permitting Coordination Act, offered by Representative Tom McClintock (Calif.). This bill would authorize the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture.

Mr. McClintock offered an [amendment](#) that was agreed to by a voice vote. The bill was favorably reported as amended to the full House of Representatives by a vote of 22-16.

An identical bill ([S. 2427](#)) was introduced on June 4 by Sen. John Barrasso (R-Wyo.), although it has not seen a markup.

[Back to Top](#)

House Public Lands Subcommittee Reviews Land Disposal Transparency Bill

In a House Natural Resources Subcommittee on Public Lands and Environmental Regulation [hearing](#) on Sept 9, a bill was discussed that would require that adjacent landowners be given notice before federal land exchanges are made. The bill, [H.R. 5074](#) (the *Land Adjacency Notification and Disclosure Act*, or *LAND Act*) would add transparency and oversight to federal land exchanges by requiring that adjacent landowners be notified as to the nature of the exchange, and what the proposed use of the land will be. The bill was introduced by Rep. Scott Tipton (R-Colo.), who during his testimony on the bill brought up New Mexico rancher Jose Lopez, whose property became landlocked by federal land without any notification to Lopez.

[Back to Top](#)

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:

- Restoring Healthy Forests for Healthy Communities Act ([H.R. 1526](#))
- 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](#))

[Back to Top](#)

ADMINISTRATIVE UPDATE

Industry Appeals BLM Drought Decision in NV

PLC has joined the legal arm of Nevada Cattlemen's, the Nevada Land Action Association, in an appeal* of the Battle Mountain BLM district's decision to remove cattle from the "Argenta Allotment" under the auspices of "drought" concerns. About 630 cattle from the bulk of the allotment for an indefinite period of time: for the duration of the alleged drought, and a full growing season after the "drought" subsides. This decision was allegedly authorized by a drought policy that industry claims is not enforceable without more in-depth National Environmental Policy Act (NEPA) analysis and site-specific data. The appeal cites varying levels of procedural violations that ultimately ended in an economically damaging, non-scientific based decision that has the potential to be duplicated in a way that threatens all ranchers with BLM grazing rights.

In appealing the Battle Mountain decision, industry is effectively appealing Nevada BLM's drought policy, under which the decision was made. That policy uses the U.S. Drought Monitor to determine drought conditions—even though the Monitor is not capable of determining site-specific conditions. Industry also took issue with BLM's misuse of scientific research to come up with inappropriate drought response actions.

Also part of the appeal was the point that, even if the drought policy were enforceable, Battle Mountain BLM violated its own agreement signed with the affected permittees.

The affected ranchers have asked for a “stay” of the BLM’s decision, which was denied by the administrative law judge (ALJ) who is reviewing the appeals. They also asked the ALJ to take a tour of the allotment, which has not occurred. The ALJ will review the various appeals, make a judgment of industry’s standing, possibly consolidate the appeals, and determine how to proceed in the coming weeks.

*Contact PLC for a copy of the appeal. The file was too large to include a link here.

[Back to Top](#)

Comments Submitted on FS Groundwater Proposal

On September 3, PLC and 23 other organizations sent [comments](#) to the Forest Service urging that proposed groundwater resource management [directives](#) be withdrawn. As reported in [June](#), efforts to stop the directive have been ongoing—from push-back from [Western Governors](#) to hearings on Capitol Hill. Most recently, a [hearing](#) was held by a subcommittee of the House Ag committee on September 10th (see [story](#) above).

Our comments point out that the Forest Service lacks legal authority to regulate groundwater. Although the Multiple-Use Sustained-Yield Act of 1960 makes watershed protection one of five co-equal purposes for which the national forest system is established (outdoor recreation, range, timber, watershed, and fish and wildlife), it does not grant the Forest Service the authority to regulate groundwater—or water in general, for that matter. The comments also express concern about the directives’ intrusion into state authority over groundwater and other issues raised in this attempt by the Forest Service to regulate in an area where they lack statutory authority and direction from Congress.

[Back to Top](#)

Comment Period Reopened for Mexican Wolf Management Status

PLC joined Arizona Cattle Growers’ Association, National Cattlemen’s Beef Association, and Arizona Elk Society in submitting [comments](#) on the U.S. Fish and Wildlife Service’s (FWS) proposed revisions to the Mexican wolf’s “nonessential experimental population” status. [Comments](#) were also submitted addressing the [draft environmental impact statement](#) (DEIS) prepared on the proposed revisions under the National Environmental Policy Act (NEPA).

Given the extreme inadequacy of the NEPA review and the potentially devastating effects of the proposal, the associations’ comments were hard-hitting: “The DEIS contains no disclosure of what the conflicts are, no evaluation of how those conflicts might be resolved, or any evaluation of the seriousness of the impact of the proposal on state and local land use plans and policies, or whether (or how much) the Proposed Rule will impair the effectiveness of land use control mechanisms.”

Certain threatened or endangered species are designated as “nonessential experimental populations” under section 10(j) of the Endangered Species Act so that flexibility may be given to the species’ management. In the case of the Mexican wolf, this flexibility is necessary in order to avoid undue conflict with human activities such as livestock production. The Proposed Rule would make a number of drastic changes to the existing “experimental population” rule for the Mexican wolf. Some of these changes include: eliminating any restriction or limit on the size of the population; increasing the area that Mexican wolf population can occupy from 6,845 acres to more than 90 million acres; increasing the area into which Mexican wolves can be translocated from 6,845 acres to more than 50 million acres; increasing the area in which Mexican wolves can be released from 700,000 acres to more than 8 million acres; and allowing Mexican wolves to disperse throughout and occupy the entire Mexican wolf experimental population area with the sole exception of tribal trust land.

PLC joined Arizona Cattle Growers in urging FWS to withdraw the Proposed Rule and assemble a working group, led jointly by the Service, the Arizona Game and Fish Department and the New Mexico Department of Game and Fish, to develop a new rule to address the management of the Mexican wolf experimental population with input from affected Indian tribes, local governments, the ranching community, sportsmen and other stakeholders.

[Back to Top](#)

42 California Counties Designated as Drought Disaster Areas

Forty-two counties in California have been designated by USDA as primary natural disaster areas due to damages and losses from the drought. This includes most of the Central Valley. Farm operators in the region are eligible for low interest emergency loans from USDA Farm Service Agency. Fifteen additional contiguous counties in California, as well as contiguous counties in Arizona, Oregon and Nevada are also eligible for assistance. Find a complete list of [eligible counties](#) on FSA's website to see if you live in a county that has been designated.

[Back to Top](#)

JUDICIARY UPDATE

Judge Rules Against the BLM in Idaho Sage Grouse Case

Ongoing grazing permitting litigation in Idaho hit a stumbling block on September 29th, when Idaho U.S. District Court Judge Lynn Winmill issued a decision in favor of the plaintiffs—anti-grazing group, Western Watersheds Project (WWP). The lawsuit, brought by WWP in October 2008, concerns some 600 individual BLM grazing permit decisions, which WWP claims fail to protect greater sage grouse.

Judge Winmill's decision, although disappointing, was not surprising. He had already made a similar ruling in February 2014 on "Phase I" of this case. (Due to the large number of grazing permits in question, the case was earlier divided into different "Phases.") "Phase I" of the suit dealt with BLM decisions made on five allotments within the Owyhee and Bruneau Field Offices. The decision made for "Phase II," dealt with 9 permits on four allotments in the Burley Field Office.

One positive for industry in both rulings was that Judge Winmill allowed permittees to continue grazing while new environmental assessments and grazing permit decisions are reanalyzed by the BLM.

Judge Winmill made two particularly troublesome rulings in his Sept. 29 decision. One was that BLM must undergo Federal Land Management Policy Act (FLPMA) analysis before temporarily renewing backlogged permits pursuant to the 2003 grazing rider. However, PLC believes this violates the intent of the congressionally-approved grazing rider, whose purpose is to prevent the interruption of grazing while the agencies work through their permit analysis backlog.

Secondly, Winmill ruled that, where Idaho Standards & Guidelines for environmental quality and health (e.g., for sage grouse habitat) are not being met, the BLM's regulations require them to impose restrictions on stubble height, stream bank alteration, riparian browsing, utilization, etc. – in order to ensure "significant progress" toward those standards. We believe the law provides clear discretion to the agencies and the Judge has erred in demanding specific guidelines.

PLC, NCBA and the Idaho Cattle Association are intervenors in the case and are weighing our options to appeal Judge Winmill's decision, or join BLM's appeal, should the agency do so within 60 days of the Sept. 29 decision.

[Back to Top](#)

PLC Files for Intervention in California Wild Horse Case

Industry [filed](#) unopposed and was granted intervention in a lawsuit that would hinder proper management of wild horse populations in northern California. The lawsuit was brought by "horse advocates" after U.S. Forest Service (USFS) proposed a plan that would reduce "appropriate management levels" of horses in the area and would correct boundaries of the horses' "territory" that currently incorrectly include private property and other inappropriate USFS land.

For over a decade, horses have been in excess of the "appropriate management level" in the Devil's Garden wild horse territory of the Modoc National Forest. Until USFS' new territory management plan is implemented, USFS will not remove horses from the area, which is expected to be between 400 and 700 percent over appropriate management levels in 2014.

The management plan would do more than just require horse gathers, however. In addition to adjusting the territory boundaries, the plan includes new, data-based horse population levels that are lower than current "appropriate management levels." Those reduced populations, industry and USFS argue, would live up to the agency's requirement to provide a "thriving natural ecological balance," as described in the Wild Free-Roaming Horses and Burros Act of 1971.

In November, Plaintiffs (the horse "advocates") are expected to file their motion for summary judgment. Industry will then have until Jan. 12 to respond and file its own cross-motion for summary judgment.

[Back to Top](#)

Judge Re-Lists Wyoming Wolves

A DC Federal District Judge has granted "environmental" plaintiffs' request for summary judgment in a 2013 case challenging the delisting of wolves in Wyoming. The Wyoming Stock Growers Association, a PLC affiliate, had entered the lawsuit along with other groups to argue for keeping wolf management under state control. Wyoming took over gray wolf management in late 2012 after it was delisted in the Northern Rocky Mountain region. The judge's recent action restores full ESA protection to wolves in Wyoming and returns wolf management to the U.S. Fish and Wildlife Service (FWS).

The judge based her decision on finding that the Wyoming regulatory mechanisms are inadequate to protect the species. The Court in particular found fault with FWS' acceptance of Wyoming's commitment to maintaining a buffer of 150 wolves and 15 breeding pairs outside of Yellowstone National Park and the Wind River Indian Reservation. The minimum population required in each state is 100 wolves and 10 breeding pairs. A recent survey prepared by the Wyoming Game and Fish Department stated there were at least 306 wolves in at least 43 packs — including more than 23 breeding pairs — in Wyoming at the end of 2013.

On a positive note for industry, the Court did uphold the FWS on plaintiffs' challenge to the adequacy of "genetic connectivity" among wolf populations. It further upheld the FWS' finding that the wolf was not "endangered in a significant portion of its range" and that the predator area identified in Wyoming was not a "significant portion" of the wolf's range.

It is industry's understanding that the State of Wyoming will seek a "stay" on the judge's ruling to allow the State an opportunity to make required changes addressing the enforceability of the state plan. Pending the granting of a stay, killing wolves in any area of Wyoming is illegal, even with a valid G&F issued wolf license.

The Wyoming wolf-delisting plan the federal judge rejected this month marks the second time FWS has accepted a delisting plan for Wyoming wolves only to see it dissolve under a court ruling.

[Back to Top](#)

MORE NEWS

PLC Releases Statement on National Public Lands Day – September 27th

In honor of National Public Lands Day, the Public Lands Council wants to recognize the 22,000 public land ranchers that manage more than 250 million acres of public lands and provide critical economic return on the vast public lands that cover much of the West.

Livestock grazing represents the earliest use of public lands, leading to our nation's expansion westward. Today, grazing continues to represent a multiple use that is essential to the livestock industry, wildlife habitat, open space and the rural economies of many western communities. In the west, where approximately half the land is federally owned, countless rural communities rely on public lands grazing for their tax base, commerce and jobs.

Over the past 40 years, livestock grazing has become recognized as an integral tool for rangeland management on both public and private lands. According to the Natural Resources Conservation Service and leading range scientists, areas with flourishing and diverse plant and wildlife populations are often found in their present state because of grazing. Ranchers are responsible for maintaining range improvements such as stockwater systems, creating millions of acres of habitat for both livestock and wildlife where none would have otherwise existed.

[Back to Top](#)

Upcoming Events

- **ASI Convention:** January 28-31, 2015 ([click here](#) for info)
- **NCBA Convention:** February 4-7, 2015, San Antonio, TX ([click here](#))

[Back to Top](#)

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 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 Klinglesmith
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

[Back to Top](#)

Keep in Touch with Us

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.

[Back to Top](#)

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](#).

[Back to Top](#)