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Public Lands Council

Capital Issues

~August 2011~

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HIGHLIGHT

PLC to Hold Annual Meeting

Public Lands Council will hold its Annual Meeting in Park City, Utah, September 6th-9th, 2011. Starting with the Welcome Barbecue hosted by Utah Cattlemen's Association and Utah Wool Growers Association, participants are in store for a dynamic and productive agenda. Congressman Rob Bishop (R-Utah) and Utah Governor Gary Herbert will both address the group at the Welcome Barbecue. The following two days, we will hear from and discuss issues with congressional staff of the Utah delegation; the Utah Department of Agriculture and Food Commissioner; land management agency officials from national and regional levels; and special guests such as the president of the Wyoming County Commissioners Association and an analyst from the Utah Association of Counties. Utah is a fitting place to hold this year's Annual Meeting, as the state has been on the cutting edge of land use planning via coordination between federal, state, county and local governments—the ongoing Wild Lands case being a prime example.

At lunch on Wednesday, September 7th, BLM Assistant Director of Renewable Resources and Planning, Ed Roberson will present the annual BLM Stewardship Award to rancher Joe Stell. Also on the 7th will be the Annual PLC Banquet. On Friday the 9th, we will take a range tour. Lunch will be provided by the Rich

County Cattlemen's Association. A representative of the Grazing Improvement Project will be showing us how they and members are reorganizing to coordinate large-scale, rotational grazing across multiple allotments. We will also briefly visit the Deseret Ranch.

PLC would like to thank Utah Cattlemen's Association, Utah Wool Growers Association, Western AgCredit, Rich County Cattlemen's Association, and the Bureau of Land Management for their contributions to this year's meeting.

If you have not yet registered for the 2011 PLC Annual Meeting, [please click here](#). We'll see you there!

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ADMINISTRATION UPDATE

Agreement Met to Delist Wyoming Wolves

On August 3rd, Wyoming Gov. Matt Mead and Department of Interior Secretary Ken Salazar announced they had come to an agreement over how to end federal protections for gray wolves in Wyoming – the last state in the Northern Rocky Mountain region (NRM) where the animals remain under federal management (see the [fact sheet](#)). Pursuant to a congressional budget rider passed in April of this year, the gray wolf has been delisted throughout the NRM (which environmental activists have been attempting to contest in court—see “[Environmental Activists Go to Court over Wolf Delisting Rider](#),” below)—barring only Wyoming. However, the rider allowed for the wolf's delisting in Wyoming pending the formulation of an agreement between the state and the U.S. Fish and Wildlife Service (FWS).

Under the deal that appears poised to go forward, Wyoming has agreed to maintain at least 100 wolves and 10 breeding pairs outside Yellowstone National Park, while federal officials will continue to manage wolves inside the park. The combined populations will exceed original recovery goals of 150 wolves and 15 breeding pairs, the Department of Interior said. Wolves immediately outside Yellowstone would be subject to regulated hunting in a zone that would expand slightly in the winter months to give wolves more protection in an area south of Jackson. Those in the rest of the state would be classified as predators that could be shot on sight.

The plan must now be approved by both FWS and the state of Wyoming. Salazar and Mead said they hope to have FWS publish a proposed rule in the Federal Register by October 1st. Then, FWS biologists will likely spend several months writing an analysis of the plan, which will recommend whether the agreement should go into effect and Wyoming wolves delisted.

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Western Great Lakes Region Wolf Update

The U.S. Fish and Wildlife Service has reopened the public comment period on its May 5 proposal to remove the gray wolf population in the Western Great Lakes from the endangered species list because the wolf there is actually a different species—the eastern wolf. Removing all or parts of 29 eastern states from the gray wolf's designation of critical habitat is also being addressed. Next, the agency will initiate a status review of the eastern wolf throughout its range.

The extended comment period will close Sept. 26. (See the [Federal Register posting](#).) The original public comment period closed on July 5, and the agency says it received more than 800 comments on the proposal. Last month, three hunting dogs were believed killed by the animals. In total last year, more than 100 livestock and pet deaths were attributed to the wolves. States such as Wisconsin have been stepping up their call for removal of the gray wolf from the endangered species list.

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Mexican Wolf Update

The Mexican Wolf Recovery Plan, widely accepted as unsuccessful at recovering wolf populations in the Southwestern region (New Mexico, Arizona and Texas), has not been updated in decades. Now, for the third time, the U.S. Fish and Wildlife Service has put together a recovery planning team, which includes a science group and a stakeholder group. The science team is doing its due diligence in determining the biological needs of the wolf. Once that is agreed upon by the entire team, the process will move into additional phases which will include an implementation plan and opportunity for public comment.

An interdiction program for depredation reimbursement is also being discussed. The perpetual problem, however, is that the program is sorely underfunded. Many ranchers in the region have ceased reporting kills anymore, due to the current program's ineffectiveness. Hopes are that the interdiction team that has been assembled can improve the program.

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Drought: Ag Secretary Announces Changes to CRP

Agriculture Secretary Tom Vilsack announced that the Farm Service Agency (FSA) is modifying its Conservation Reserve Program (CRP) policies to help those affected by sustained drought conditions. Throughout this year of extreme weather, the U.S. Department of Agriculture (USDA) has supported and delivered assistance to farmers, ranchers and rural communities across the country. The policy changes influence FSA rules governing emergency grazing. The period normally allowed for emergency grazing lasts through Sept. 30, 2011. FSA is permitting farmers and ranchers in drought stricken states who have been approved for emergency grazing, including those in Colorado, Kansas, New Mexico, Oklahoma and Texas, to extend the emergency grazing period to Oct. 31, 2011, without an additional payment reduction. Producers wishing to participate in emergency grazing must first request permission from the FSA county office by indicating the acreage to be grazed.

As a second condition designed to help livestock producers, FSA will allow producers nationwide to utilize harvested hay from expiring CRP acres when those acres are being prepared for fall seeded crops. For further information about the CRP and Emergency Haying and Grazing, producers are encouraged to visit their USDA Service Centers or go online to www.fsa.usda.gov. Search under Conservation Programs and Disaster Assistance.

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JUDICIARY UPDATE

Western Watersheds Project Challenges Arizona Ranchers' Categorical Exclusions

On August 15th, the radical environmental group, Western Watersheds Project (WWP) [filed suit](#) with the Federal District Court of Arizona challenging 17 U.S. Forest Service (USFS) grazing decisions on four Arizona national forests. These permit renewal decisions were made under the "categorical exclusion" authority granted the agency by a 2005 congressional rider that waived the National Environmental Policy Act (NEPA) requirements for the preparation of environmental assessments (EA) or environmental impact statements (EIS) on certain grazing permit renewals. According to the rider, a grazing permit may be renewed with no need for NEPA analysis as long as three provisions are met: the permit's current management plan remains in place; the USFS has monitoring data that show the grazing is meeting or satisfactorily moving toward applicable ecological objectives; and there will be no significant impacts to specially designated resources (species, wetlands, and wilderness areas).

WWP claims that USFS violated up to all three of the categorical exclusion requirements on each of 15 allotments located on the Coconino, Coronado, Kaibab and Prescott national forests. It is asking the court to reverse and set aside the grazing decisions in question; require USFS to conduct NEPA analysis on each

allotment; grant WWP future injunctive relief; and, of course, reimburse all the costs associated with WWP's filing suit, pursuant to the Equal Access to Justice Act (EAJA).

The Arizona Cattle Growers Association and PLC are currently reviewing the case to consider next steps.

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Environmental Activists Denied Appeal, Injunction of Wolf Delisting

The Ninth Circuit Court of Appeals has now twice denied attempts by the Alliance for the Wild Rockies, Friends of the Clearwater and WildEarth Guardians to reverse Congress' April spending rider that delisted the gray wolf in most of the Northern Rocky Mountain region (NRM.) The groups' claim is that Congress may not use legislation to change a court decision unless it changes the law, and that Congress' rider did not change the Endangered Species Act (ESA). However, U.S. District Judge Donald Molloy determined earlier this month that the congressional rider did not violate the Constitution (see Molloy's August 3 [order denying summary judgment.](#)) Molloy said he was troubled that Congress would use a rider to delist a species but that he was constrained by the decisions of earlier courts, including the Ninth Circuit. He conceded that the April rider did in fact change the ESA to the extent that it exempts NRM wolves from protection under the ESA.

When the activist groups appealed to the Ninth Circuit, seeking a reversal of the precedent binding Judge Molloy, their challenge was rejected. Next, the groups sought an emergency injunction from the Ninth Circuit to stop wolf hunts in Idaho and Montana. The court denied this request as well. Despite these losses, statements from the groups indicate that they are still not giving up the fight to relist the NRM gray wolf.

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California Horse Gather Appeal Blocked, But with Dissenting Opinion

On August 16th, a federal appellate panel dismissed activists' appeal of a Sacramento judge's refusal to block last year's roundup and removal of wild horses from a range in northeastern California. A year ago, U.S. District Judge Morrison C. England Jr. denied a request by two activist groups, In Defense of Animals and Dreamcatcher Wild Horse and Burro Sanctuary, for an injunction halting the roundup, and a motions panel of the Ninth Circuit Court of Appeals denied an emergency motion for an injunction. The roundup took place, but Circuit Judge Johnnie B. Rawlinson disagreed that an appeal is therefore moot, claiming that the horses could be turned back out. The case will now go forward before England on the merits.

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Grazing Association Sues BLM over Wild Horse Mismanagement

The Rock Springs Grazing Association (RSGA) of Wyoming has [filed suit](#) against the Department of the Interior (DOI), demanding that it remove wild horses that have strayed from federal lands onto privately held properties. RSGA owns and leases about a million acres of private land within the Wyoming Checkerboard of public and private lands.

According to RSGA's complaint, filed in the U.S. District Court for the District of Wyoming on July 27th, 2011, a 1981 federal court order requires the BLM to remove wild horses that have strayed from herd management areas onto RSGA lands. The current lawsuit seeks the removal of all BLM-managed animals from RSGA lands on grounds that agency failed to comply with the 1981 agreement. According to case law in *Uintah County v. Norton* (read the [case summary](#)), the BLM is required to reach consistency with county and local government land use plans.

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Lawsuit filed over handling of wild horses

The Wild Horse Freedom Federation (WHFF) has filed a lawsuit with a Federal Court in Reno, Nevada questioning whether the BLM's gathers amount to humane treatment. WHFF, a registered, Texas non-profit corporation with 501(c)(3) status pending, also filed an application for a temporary restraining order against the BLM. (Read the article from Horsetalk.co.nz).

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MORE NEWS

NCBA Federal Lands Committee Meets in Florida

This month at the 2011 Cattle Industry Summer Conference in Kissimmee, Florida, the NCBA Federal Lands Committee held a joint meeting with the Property Rights and Environmental Management Committee. The interim policies that were passed will go before the entire NCBA membership for approval during the 2012 Cattle Industry Convention and NCBA Trade Show in Nashville, Tenn., in February. Federal lands policy included an amendment to existing wildfire policy, expanding it to include private lands and calling for National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) waivers in cases of land management for catastrophic wildfire prevention. A second existing policy regarding BLM range betterment funding was amended to apply to Forest Service "range improvement" funding, as well. It emphasized the importance of these improvements to permit renewal, the trend toward allocation of these funds to non-range projects, and the necessity of "good faith permittee efforts to rebuild, construct, repair and enhance allotment improvements" without the threat of punitive action.

Other interim policy passed by NCBA members in Kissimmee addressed: strengthening border security and improving current immigration policies in the United States; updating cost-share programs to improve fencing destroyed by natural disasters; allowing for the immediate release of land from the Conservation Reserve Program to help with natural disaster situations; and others. See the complete list of interim policies by [clicking here](#).

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ASI Website Lists Drought Relief Contacts

Producers are reminded that the American Sheep Industry Association (ASI) has set up a drought assistance page on its website, www.sheepusa.org/Drought_Assistance, where information can be posted relating to sheep for sale or lease, grazing needs for sheep located in a drought-affected area or pasture availability for producers with excess grass. Listings have recently been posted to the site and can be viewed.

Many state departments of agriculture already have well-developed, functioning hay and pasture hotlines. To link to your state, go to www.sheepusa.org/Department_of_Agriculture.

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American Sheep Industry Association News

Go to www.sheepindustrynews.org

Environmental Steaks

See NCBA's monthly newsletter, [Environmental Steaks!](#)

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