

MANAGING THE WEST

Wisconsin Arkansas Washington Nevada
North Dakota Utah Alaska Arizona
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Texas Oregon South Dakota Oklahoma
Montana Colorado New Mexico Idaho

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2018 WSLCA

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Welcome to the late Fall 2017 issue of *Managing the West*...

In an age of tweets, pins and instant messaging, it's easy to be forgotten and overlooked in favor of those more flamboyant and socially connected. While social media certainly has a role in providing just-in-time communication, the association recently enjoyed the richness of face-to-face conversation with heads of key natural resource agencies. The handful of state leaders who were able to participate in the recent Washington, D.C. fly-in event offered praise and constructive recommendations for how to improve the federal-state relationship. We were received with openness and a willingness to work cooperatively to define meaningful consultation by virtue of the statehood bargain that created the constitutional duty of both the state and federal government. Over the next several weeks and months, the association will be working to deepen our connections and conversation around the notion of co-sovereign regulators and the need to recognize state land commissioners and land offices as a unique and essential partner in federal policy, planning and rule development.

We know these trips are key to building awareness and education about the impact and importance of *State Trust Lands*, as well as other management duties of our member state land offices. I greatly appreciate those able to attend these meetings and a willingness to share your successes and challenges. Know that additional opportunities will be staged in the future for members to cultivate the work we have started. WSLCA also is developing new tools and communication resources that will be accessible to all members and help support the work you do every day on behalf of your beneficiaries and stakeholders.

Speaking of opportunities to build our connections and knowledge, the upcoming January 2018 Winter conference in Denver is just around the corner. Director Bill Ryan and his team at the Colorado State Land Board have arranged an exciting schedule of committee meetings and meaningful speakers. It can be challenging to break away from our offices at the start of a legislative session. The redesigned, abbreviated Winter meeting schedule makes it easier to support the work of our host state and participate in a variety of ways. Check out the schedule highlighted later in this newsletter. And, be sure to register today!

I wish you a warm and joyous holiday season. Safe travels to those joining family or friends across the miles. Looking forward to reconnecting in the New Year.

Harry Birdwell (OK)
President, WSLCA

Washington D.C. fly-in...

Commitment to Collaboration – Recap of the Washington, D.C. Fly-in Meetings

On October 31st, leaders from eight (8) member states and WSLCA staff convened in our Nation's Capital to conduct two days of strategic conversations with federal agency heads. Meetings included sessions with Forest Service Chief Tooke, Deputies working directly for Interior Secretary Zinke, Operations and Policy Deputies at the BLM, and the Senior leadership team at EPA who work directly for Administrator Pruitt. Association president, Harry Birdwell (OK), kicked off each meeting by introducing the importance of the association using our new Infographic, now available on the website [[click here](#)]. A cornerstone of the discussion included engaging in meaningful consultation with WSLCA based on the state-federal relationship defined by joint constitutional duties established at statehood for the perpetual management of *State Trust Lands*, and based on the sheer breath of our member's management oversight covering trust lands, and public lands, waterways and coastal areas across the nation.

Attendees noted an atmosphere marked by a desire to understand our western issues, and respect for the constitutionally defined role of *State Trust Land* managers as co-sovereigns in policy and rule development. Hot topics included:

- Federal Sage Grouse plan reviews;
- The critical need to fill local realty specialist positions at BLM state offices to further mutually beneficial land tenure adjustment transactions;



- Praise for results and collaboration through Good Neighbor Authority activities; and,
- Support for policies that would curtail sue and settle practices under the Endangered Species Act.

All of the federal offices expressed a desire to meet more frequently and to understand more fully how activities impact WSLCA members' constitutional mandate to maximize revenue for our beneficiaries. To that end, several follow-up actions are in motion to explore formalizing meaningful consultation requirements between federal agencies and state trust land offices. Overall, participants agree these face-to-face discussions set an important stage for ongoing conversation and collaboration. We look forward to inviting our new networks to actively participate in our regular meetings and webcast events.

A big thank you to leaders from Alaska, Idaho, Oklahoma, Oregon, Nevada, New Mexico, South Dakota and Utah who were able to attend and represent your states as well as the WSLCA. Documents, presentations and collateral material used as part of these meetings is available to member states on the ASU document sharing website.



Members meeting with U.S. Forest Service Chief Tony Tooke

Washington D.C. update...

The Advancing Conservation and Education Act (ACE) was introduced into Congress on November 7th with strong bipartisan support. When made into law, ACE will improve land management and enhance education revenue in the western United States. Sen. Martin Heinrich (D-NM) introduced the legislation in the Senate with Sen. Jeff Flake (R-AZ) as the primary co-sponsor. In the House of Representatives, Congressman Chris Stewart (R-UT) is sponsoring the bill with Rep. Jared Polis (D-CO) as the primary co-sponsor.

ACE provides opportunities for states to swap state trust lands contained within parks, wilderness, and other conservation areas for other Federal lands with lower conservation values and greater development potential. This legislation will protect the integrity of Federal conservation areas while fulfilling the constitutional promise to states to provide lands dedicated to generating revenue for education.

WSLCA has been an active resource in the development of this bill which also includes support from the Wilderness Society. WSLCA President Harry Birdwell expressed support for this legislation by stating: “The ACE Act is a win-win solution that will help our land commissioners better generate badly needed funds for schoolchildren while completing federal conservation areas so that they can be properly protected.”

WSCLA still has members with some concerns with specific tribal issues found in the legislation, but WSLCA will continue to work with the bill sponsors to resolve these concerns during the legislative process.

WSLCA news...

WSLCA Part of New Western Policy Network

On August 25, 2017, leadership from WSLCA participated in an Intergovernmental Coalition Summit hosted by the Western Governors Association (WGA)



at its Denver offices. The purpose of the meeting was to explore ways to work together to recalibrate and restore the state and federal relationship concerning coordinated land-use planning and other regulatory actions. Attendees represent a powerhouse of western and national leaders including the Association of Fish & Wildlife Agencies, the National Association of Counties, the Western States Air Resources Council, the Western States Water Council, the Western States Energy Board, the National Association of Governors and others. Each organization was afforded time to share their mission and interest in working together. WSLCA president, Harry Birdwell, shared our white paper “Meaningful Consultation” and explained the unique position we believe state Land Commissioners and State Trust Land offices hold by virtue of the mutual duty that federal



and state governments agreed to as part of each state’s constitution and enabling acts.

Outcomes of the day included participants forming as the Western Policy Network. The WGA will host our monthly “Roundup” to share information regarding efforts and initiatives that seek to strengthen the working relationship between states, federal officials and agencies. We further committed to develop a blueprint with concrete examples of how state-federal consultation could work and is working in some cases to make certain that Federal management of lands and resources is consistent with the plans, policies and programs of State and local governments to the greatest extent possible.

Resolutions Committee Chair and Vice-Chair Needed

The WSLCA seeks state member volunteers to lead the Resolutions Committee. Our committee chairs and vice-chairs play a vital role in fulfilling the organization vision, mission and annual strategic goals. Their work helps develop initiatives that support the association priorities, contribute to broad based education efforts and foster a network of best in class professionals throughout the country. Specifically, the Resolutions Committee works with association leadership, and through our other committees to review any proposed resolutions and to draft documents for presentation to the association, typically at the business meeting. Please consider sharing your knowledge and serving the association. Contact executive director, Kathy Opp, with questions or to volunteer today!

Winter Conference Preview...

Our Winter 2018 conference is approaching quickly! It will be held at the The ART Hotel in beautiful downtown Denver, Colorado. The conference will kick off on Monday, January 8th with registration beginning at noon.

Tuesday will be a full day of committee meetings and guest speakers. The day will end with an exciting dinner and rodeo at the National Stock Show.

On Wednesday, we will meet again for committee meetings during the morning and end with lunch and the business meeting.

The Colorado State Land Board has been working hard to put together a great agenda for us and we hope that you can attend. But, if you can't please take advantage of the online access to the sessions that is also available. See the registration form to register for those as well.

The draft agenda and committee agendas are shown below. This information can also be found on the WSLCA website.

Monday, January 8

Time	Activity	Location
All day	Arrival/traveling	
noon - 6:00 PM	Check-in at WSLCS registration table	ART hotel lobby
3:00 - 4:00 PM	Executive Session meeting	SLB board room
4:00 - 6:00 PM	Happy Hour (2 drink tickets and light apps served)	Fire Bar and Restaurant, ART Hotel
6:00 - 7:00 PM	Art tour of hotel	Departs from Fire Bar and Restaurant, ART Hotel

Tuesday, January 9

Time	Activity	Location
all day	Sponsor/vendor booth exhibits	Martin Room, History Colorado
<8:30 AM	Breakfast on your own (breakfast vohure provided)	Fire Restaurant, ART Hotel
8:30 - 9:00 AM	Full conference opening session	Martin Room, History Colorado
9:30 - 9:45 AM	Transition Break/Booth Viewing/Networking	
9:45 - 11:45 AM (2-hr)	Surface & Land Tenure Committee	Classroom #1
9:45 - 11:45 AM (2-hr)	Asset Management Committee	Classroom #2
11:45 - noon	Transition Break/Booth Viewing/Networking	
noon - 1:30 PM	Keynote Luncheon with CO State Historian Patty Limerick	Martin Room, History Colorado
1:00:00 PM	Transition Break/Booth Viewing/Networking	
1:45-2:15 PM	Tour history colorado OR Booth Networking	
2:15 - 4:15 PM (2-hr)	Subsurface Lands Committee	Classroom #1
2:15 - 4:15 PM (2-hr)	Case Study: Marijuana Policy in Colorado	Classroom #2
4:15- 5:00 PM	Free time/prep time for evening outings	
5:00 PM	Shuttle pick up from hotel to Stock Show	Hotel lobby
5:30 PM	Dinner and reception at Stock Show	Stock Show Centennial Room (private room)
7:00 PM	Rodeo	Stock Show
9:30 PM	Shuttle from Stock Show to hotel	TBD pick up location

Wednesday, January 10

Time	Activity	Location
all day	Luggage storage for hotel check out	ART hotel lobby/conciege
all day	Sponsor/vendor booth exhibits	Martin Room, History Colorado
<8:30 AM	Breakfast on your own (breakfast vohure provided)	Fire Restaurant, ART Hotel
8:30 - 10 AM (1.5 hr)	Submerged Lands & Water Management Committee	Classroom #1
8:30 - 10 AM (1.5 hr)	Executive Committee & State Leaders Session	Classroom #2
10:00 - 10:15 AM	Transition Break/Booth Viewing/Networking	
10:00 - 10:15 AM	Resolutions Committee (only if needed)	Classroom #2
10:15- 11:45 AM (1.5 hr)	Legislative Affairs Committee	Classroom #1
10:15- 11:45 AM (1.5 hr)	Communications Committee	Classroom #2
11:45 - noon	Transition Break/Booth Viewing/Networking	
noon - 1:30 PM	Luncheon and final meeting	Martin Room, History Colorado
1:30 - 2:00 PM	Booth Viewing/Networking	Martin Room, History Colorado
> 1:30 PM	Departure/travel	



WSLCA Asset Management Committee Agenda

Tuesday, January 9, 2018

9:45 – 11:45 AM Mountain Time

[8:45 AM Pacific time; 10:45 AM Central time]

Webinar Available:

Asset Management Committee Leadership:

Keith Kuhlman (OK)

Donna Caldwell (ID)

9:45 AM **Welcome and Introductions** (sign-in)

10:00 AM **Investment Consultant Portfolio Strategies & State Case Studies**

Objective is to provide insight as to how investment consultants/advisers formulate their investment strategies for states. A state case study section will compare and contrast the experience of two member states, and invite committee discussion regarding what information should be provided by the States to their consultants/advisers, as well as, the actions of agency leadership necessary to establish asset management goals.

Panel Members:

- Sally Haskins - Callan
Senior Vice President and Co-Manager of Callan's Real Assets Consulting group
- Mark Higgins – RVK
Consultant
- Harry Birdwell – Oklahoma Commissioners of the Land Office
Secretary to the Oklahoma CLO and WSLCA president
- Tom Schultz – Idaho Department of Lands
Director
- Bill Ryan – Colorado State Land Board
Director

11:15 AM **State survey of asset/investment plans, governance and related policies.**

11:35 AM **Next steps - "What Could We Do Together?"**

Discuss converting information presented into *Principals of State Trust Portfolio Management 2.0*; a supplement to the 2016 best practices white paper.

11:40 AM **Closing Remarks and Adjourn**



WSLCA

Surface & Land Tenure Committee Agenda

Tuesday, January 9, 2018

9:45 – 11:45 AM Mountain Time

[8:45 AM Pacific Time; 10:45 AM Central]

Webinar Available:

Surface Management Committee Leadership:

Kim Christy (UT)

Shawn Thomas (MT)

- 9:45 AM **Welcome and Introductions** (sign-in)
- 9:50 AM **An Update on Greater Sage Grouse Plans and Strategy**
Colorado's Greater Sage Grouse Stewardship Action Plan
Mindy Gottsegen, Conservation Service Manager in Colorado
- Secretarial Order 3353 "Greater Sage-Grouse Conservation and
Cooperation with Western States"
Allen Freemyer, Washington – D.C.
- 11:05 AM **ACE legislation update**
Allen Freemyer, Washington – D.C.
- 11:20 AM **Western Trust Lands Initiative** (invited)
The Western Trust Lands Initiative is a non-profit organization established
by a consortium of public policy and land use professionals seeking to
promote an equitable valuation of State Trust Lands and Indian Trust Lands
in the Western United States.
- 11:45 AM **Closing Remarks and Adjourn**



WSLCA

Subsurface Lands Committee Agenda

Tuesday, January 9, 2018

2:15 p.m. – 4:15 p.m. Mountain time

[1:15 pm Pacific; 3:15 pm Central]

Webinar Available:

Subsurface Committee Leadership:

Drew Combs (ND) and Dale Sump (TX)

Royalty Working Group Leadership:

Billie Hunter (WY) and Brandon Jones (OK)

- 2:15 - 2:20 PM **Welcome and Introductions** (sign-in)
- 2:20 – 3:30 PM **Presentation and Panel Discussion:**
Managing minerals under submerged waterways
Ms. Hope Hogan, attorney - ND Department of Trust Lands
Ms. Allie Bement, land professional – ND Department of Trust Lands
Mr. Aaron Vande-Linde, MN Office of State Trust Lands
Active non-ferrous metallic mineral leasing on submerged lands in the mineralization zone known as the Duluth Complex
- Add other state presenters*
- 3:30 – 4:05 PM **Royalty Working Group Oil & Gas Discussion Topics** (see page 2)
Moderated by Mr. Dale Sump, Texas GLO
- 4:05 – 4:15 PM **Spring Professional Development Conference**
April 2018 ~ Oklahoma City, OK
Mr. Brandon Jones, Commissioners of the Land Office Oklahoma
Ms. Billie Hunter, WY Office of State Lands & Investments
Call for desired professional development training topics
- 4:15 pm **Adjourn**

WSLCA Subsurface Committee

Royalty Working Group Oil & Gas Discussion Topics

1. Current regulatory issues affecting the development of mineral resources on state lands
2. Recent legal and court proceedings affecting oil and gas royalty valuations in your state
3. Recent legislative initiatives influencing state land management activities
4. Creation of the Annual (or multi-year) Audit Plan in these uncertain times
5. Major royalty payment compliance issues facing your state, such as failure to report and/or pay royalty on lease use, vented, flared, and flash gas volumes
6. Unallowable deductions taken when computing oil and gas royalty, e.g. transportation
7. Misallocation of oil, gas and NGLs to each lease when run through commingled facilities
8. Failure to request authority to commingle the state's oil and gas production
9. Gas Sales / Processing Agreements with Percent of Proceeds, Fees for Service, or a hybrid approach
10. Distressed Energy Companies due to extended period of low oil prices, significant debt service, and running low on liquidity. Management of orphaned companies.
11. Lease provisions that can be a barrier or cause difficulty in the audit program
12. Audit procedures and Program – Static or evolving, paper or electronic, team talent diversity (auditors, engineers, landsmen, scouts, attorneys)
13. Staffing ideas/issues where both State and Federal Audit Programs exist in the same agency
14. Valuation / price issues for sales to affiliates
15. Impact of Federal Regulations
16. Trends in technology regarding production reporting, lease administration and assignments
17. Current leasing trends for hard rock minerals
18. Recent experiences leasing split-estates (surface estate & mineral estate)
19. Agreements in the oil patch: Units, Communitizations, Pooling and Production Sharing Agreements
20. Bonding options for oil, gas and mineral lease operations



WSLCA

Submerged Land & Water Management Committee Agenda

Wednesday, January 10, 2018

8:30 – 10:00 AM Mountain Time

[7:30 AM Pacific time; 9:30 AM Central time]

Webinar Available:

Submerged & Water Management Committee Leadership:

Andrew Smyth (ID)

Elyse Quick (NV)

8:30 AM

Welcome and Introductions (sign-in)

8:35 AM

Developing Best Practices in Public Trust Management

Facilitated discussion about how states manage and value public trust ownership. Committee time will be used to gather state information about:

- Types of asset – lakes, rivers, coastal areas
- Users of the asset – commercial recreation, commercial other, general public, other
- Ways revenue is generated from these assets – lease, permit, easement
- Valuation methodologies – value per sq ft, based on uplands, etc.
- Governance documents – statute, rule, policy (gather specific citations by state)
- How regulatory activities are funded
- Where revenues are deposited

9:35 AM

Building our professional network

State contacts, business contacts, who isn't present that should be?

9:40 AM

Topics, Initiatives & Training You Desire

See attached list developed at the Anchorage meeting. Add, delete, prioritize our future discussions.

9:55 AM

Closing Remarks and Adjourn

Submerged Lands & Water Management Discussion Topics Potential Committee Initiatives

Ownership Determinations: contracting with historian to conduct a high-level research regarding the navigability of waterways (Idaho). What states utilize the ordinary high water mark to determine ownership.

Revenue: Assessing leasing rates and fees to ensure sufficient resources to fulfill its statutory responsibility. Discussing protocol to review this process.

Protecting the resource: Identifying ways to ensure proper regulation of encroachments. Consequences/enforcement actions when these are discovered.

Flood Events: Dealing with damaged structures. Structure owners often look to the state, the owner of the river beds, for assistance to restore the buildings and lands. FEMA and the governor's office have been involved.

Recreational permit fees.

Managing the regulatory work with limited staff

Water Rights Adjudication

People buying wetlands, some of which are owned by the state

Geomorphology studies – value and funding

Revenue from power companies are going into a trust until ownership is settled

Clearing title, especially when the federal government claims title. Establishing criteria for the susceptibility of use. Looking at a strategy to claim title and put the burden on others to rebut the claim.

Managing leases and improvements by two different agencies

Ways to **improve public trust and waterway leasing**

Invasive species

Rights of ways under reservoirs

SAVE THE DATE
for the WSLCA winter 2018 conference!
January 8-10, 2018



Visit the Mile High City and join us in Denver, CO,
for the winter 2018 WSLCA committee conference.

Highlights:

- Networking with fellow WSLCA members
- Lots of helpful committee sessions
- Tours of the Colorado History Museum
- Guest passes to the National Western Stock Show

More details to come.

Updates will be posted on www.wslca.org
or call the Colorado office at 303-866-3454 x3306.



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