

MANAGING THE WEST

...serving the future

Autumn 2016

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2016 WSLCA Executive Committee

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Welcome to the late Autumn 2016 issue of *Managing the West*...

Leading the Way

I am truly inspired by the progress the association is making toward its strategic goals. We are just one month away from another significant event. The Winter 2017 conference will be a whole new experience - a conference focused exclusively on the strategic initiatives of our committees. This conference will showcase a variety of professional development segments, kickoff a new IT systems best practices study and give members time to devote to leadership strategy. The timing couldn't be more important with the advent of a whole new federal administration. Building strong connections now will help expand our educational outreach about the importance of state endowment trust lands in America.

If you haven't already registered to attend the Jan conference in Arkansas please take a moment and click the highlighted text to access the [conference registration form](#) to support the hard work of Commissioner Thurston and his staff. For those who have hosted a conference recently you can appreciate how challenging it is to budget, plan and commit to conference expenses. I think you will be impressed with the line-up of professional speakers, technical content, policy and outreach work, and the significant learning outcomes to be achieved. So, while this is a new and different event, it will not disappoint. See page [four](#) of this newsletter for the detailed conference agenda.

While there is no substitute for face to face collaboration and networking, we are also pleased to offer for the first time an ability to participate remotely. For a very reasonable introductory fee, state and affiliate members can register to participate in as many committee meetings as desired for one flat fee. This feature is an acknowledgement that the winter conference can be challenging as states begin legislative sessions. We also acknowledge that some states continue to experience budget and out of state travel restrictions. This new conference webinar capability allows us to hear from more members and get the benefit of your valuable insights. Each webcast session will feature the speaker on video, live chat functionality and presentation sharing. See page [seven](#) for the registration for the webcast registration form.

As always, I look forward to our time together. Please enjoy your holidays with family and friends. Then, come to Northwest Arkansas refreshed and ready to start an exciting new year. Opportunities abound for WSLCA to build on our solid reputation as nationally recognized voice for prudent land management. Together we can lead the way.

Brent Goodrum (AK)
President, WSLCA

18 states challenge Obama admin's critical habitat rules

[Emily Yehle](#), E&E News reporter

Published: Wednesday, November 30, 2016

Eighteen states are challenging the Obama administration's recent changes to critical habitat rules, asserting they allow the federal government to designate "entire states" as habitat for imperiled species.

Led by Alabama, the states filed a [lawsuit](#) yesterday in the U.S. District Court for the Southern District of Alabama. The legal challenge comes 10 months after the administration finalized a series of controversial updates to critical habitat rules under the Endangered Species Act ([Greenwire](#), Feb. 5).

Those rules changed the way federal managers determine critical habitat. That designation only applies to activities with a federal nexus, mandating that agencies consult with the Fish and Wildlife Service or the National Marine Fisheries Service before approving or funding any projects.

The states' lawsuit takes particular aim at a rule that gives FWS and NMFS more flexibility in including so-called unoccupied habitat in a critical habitat designation.

Previously, the agencies only could consider such habitat — which isn't a current home to the species — if they determined that the species could not recover without it. In other words, occupied habitat came first.

The new rule got rid of that provision. FWS and NMFS can now consider both occupied and unoccupied habitat at the same time, rather than first trying to make a conservation plan work with just occupied habitat. In its February notice of the rule, the agencies argued that the previous "rigid step-wise approach" can sometimes result in larger, but less effective, conservation.

But the lawsuit asserts that the rule, through that change and others, unlawfully expands the government's control over state lands and waters.

"This is nothing more than yet another end run around Congress by a president who is desperate to establish his environmental legacy by any means necessary before his time in office ends in less than 60 days," Texas Attorney General Ken Paxton (R) said in a statement. "The Obama administration is hiding behind bogus rules to perpetrate land grabs, kill energy projects and block economic

development."

Along with Alabama and Texas, the states included in the lawsuit are Alaska, Arizona, Arkansas, Colorado, Kansas, Louisiana, Michigan, Montana, Nebraska, Nevada, North Dakota, South Carolina, West Virginia, Wisconsin and Wyoming. New Mexico is also challenging the rules but is represented by its Department of Game and Fish.

In a statement, FWS emphasized that critical habitat designations are required by the Endangered Species Act. FWS officials "endeavored to make commonsense changes that would clarify criteria and procedures and provide for a more predictable and transparent critical habitat designation process," according to the agency.

"These revisions largely reflect how we have designated critical habitat during the last 15 years," FWS said in the statement. "Allegations of greatly expanded authority and political intent are unfortunate and without merit. One need only look at our recent designations to see that."

The nonprofit Center for Biological Diversity pledged to intervene in the case and "make sure [President-elect Donald] Trump doesn't sell out species on the brink of extinction."

"This attack on much needed protections for endangered species habitat is unfounded and out of step with strong majorities of the American public that want to see America's wildlife saved from extinction," Brett Hartl, CBD's endangered species policy director, said in a statement. "There is simply no way to save endangered species without protecting the places they live."

The group has previously criticized another change FWS and NMFS made in its critical habitat rules to the definition of adverse modification, calling it a "giveaway to powerful special interests." But Hartl said the group supports the changes to unoccupied habitat that are at the center of the states' lawsuit.

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Member News

If you have news to share in our next newsletter or on the website, please email Nikki Heck (AR) at nheck@cosl.org.

BLM Finalizes Rule to Make Land Use Plans More Responsive to Community Needs

Rule reinforces BLM's relationship with tribes, state and local governments, and the public

The Bureau of Land Management (BLM) today issued an updated rule that will make its land use planning more accessible to the public, more responsive to the changing conditions on the public lands, and more efficient.

The BLM developed this rule through years of work with state and local governments, cooperators, communities, stakeholders, and the public at large. The rule updates regulations that are more than 30 years old, provides additional and more robust opportunities for input into the agency's planning process, and ensures that science is a cornerstone of the BLM's planning work. The BLM launched this effort after hearing from stakeholders that the current planning process is too slow and cumbersome.

"Planning is the cornerstone of managing our nation's public lands and balancing their many uses and values," said Assistant Secretary for Land and Minerals Management Janice Schneider. "Allowing additional opportunities for public engagement will improve responsiveness at the local level and help address the challenges of managing public lands in the 21st century."

The BLM manages 10 percent of the nation's land and 30 percent of its subsurface minerals. Federal law requires the BLM to develop land use plans, which are essential tools for balancing the many competing uses and values of the nation's public lands.

"Under the current system, it takes an average of eight years for the BLM to finish a land use plan. Too often, by the time we've completed a plan, community priorities have evolved and conditions on the ground have changed as well," said BLM Director Neil Kornze. "This update to our planning rule allows for a more streamlined process that also increases collaboration and transparency."

The final rule recognizes the vital partnerships that exist between the BLM and tribal, state, and local governments by providing special opportunities for cooperation and collaboration. The rule also enhances the consistency between the BLM's land use plans and the plans of other governments.

The rule creates a new, up front process to gather data and hear concerns from all parties, and gives the public access to early draft plans. The agency anticipates that this early engagement will help make planning efforts significantly more efficient. The rule also continues to support the use of high quality information, including the best available science. This information will be critical as the agency works to address the major challenges facing our nation's public lands, including increasingly severe droughts and wildfires, the planning and development of clean energy sources, and changing conditions for key wildlife species like sage grouse.

This year is the 40th anniversary of the Federal Land Policy and Management Act, which directed the BLM to develop land use plans for all of the areas under its care. Using the critical lessons learned from those decades of planning work and close collaboration with communities and partners across the country, this rule will lead to ever-better stewardship of the places that the BLM has the privilege of managing.

The final Planning 2.0 rule can be accessed at www.blm.gov/plan2

USFWS announces revisions to their Mitigation Policy

In November the USFWS released its revisions to the Mitigation Policy. The revisions were put into motion because of "changes in conservation challenges and practices since 1981, including accelerating loss of habitats, effects of climate change, and advances in conservation science." The policy can be found on the federal register [here](#).

WSLCA 2017 Winter Conference January 9-12, 2017

EMBASSY SUITES NWA ~ ROGERS, ARKANSAS

MONDAY, JAN. 9

1:00 to 6:00 pm Registration
3:00 to 5:00 pm Hospitality Suite
3:30 to 5:00 pm Executive Committee Meeting
6:00 to 8:00 pm Reception
8:00 to 11:00 pm Hospitality Suite

TUESDAY, JAN. 10

7:00 to 8:00 am Breakfast
8:15 to 8:30 am Welcome & President's Address
8:30 am to Noon Concurrent Committee meetings
10:00 to 10:15 am Break
12:15 to 1:45 pm Lunch - Guest Speaker: [TBA](#)
2:00 to 5:00 pm Concurrent Committee meetings *(note committee meeting times vary- see details following)*
3:00 to 3:15 pm Break
Evening Dinner on your own
8 to 11 pm Hospitality Suite

WEDNESDAY, JAN. 11

7:00 to 8:00 am Breakfast
8:15 am to Noon Concurrent Committee meetings
10:00 to 10:15 am Break
12:00 to 1:45 pm Lunch - Guest Speaker: [TBA](#)
2:00 to 4:00 pm Committee reports & Business meeting
6:00 to 9:00 pm Dinner – Crystal Bridges Museum of American Art
8:00 to 11:00 pm Hospitality Suite

THURSDAY, JAN. 12

7:00 to 9:00 am. Breakfast

Tuesday - January 10, 2017 from 8:30 am to noon (Concurrent Sessions):

Executive Leadership & Legislative Committee

Congressional guest speaker – “Impact of a New Administration”

Craft new federal administration communication package and action plan

Refresh association policy resolutions, as needed

Refresh collateral materials, as needed

Plan Spring Hill Visits (Ryan Brunner)

Subsurface Committee & Royalty Working Group

Professional Education Segment

Salomon Tristan, COPAS & Dale Sump, WSLCA

Sources and use of gas on lease and other deductions

Update on SRDS project - define project success and a move forward strategy

Surface Committee

The Surface Committee will host the **Trust Land Commercial Real Estate Leases Seminar: An In-Depth Discussion of Opportunities, Strategies and Considerations** during the Western States Land Commissioner’s Winter Meeting on Tuesday, January 10, 2017 from 8:30 a.m. to 12:00 p.m. featuring a discussion led by Vanessa Hickman, a practicing attorney and real estate law specialist, ASU real estate law adjunct professor, and consultant with Land Advisors Organization, (Vanessa also served under former Arizona Governor Janice K. Brewer as the Governor’s Deputy General Counsel, former Arizona Deputy State Land Commissioner and former Arizona State Land Commissioner).

The Seminar will provide examples of Commercial Ground Leases on Trust Land from multiple states, examine methodologies, structures, rates of return, and key lease provisions generally used by Trust Land administrators including: financing, subordination, pre-payment provisions, bonding & restoration, review, re-appraisal, level of oversight / approval during lease terms, assignments, land use entitlements, and renewal and extension clauses. The discussion will also highlight lessons learned from member states, identify opportunities, risks, negotiation techniques, and considerations and methods to craft appropriate lease provisions satisfactory to both the Trust land administrators and their prospective business partners.

Other objectives of the Seminar will be to generate ideas on ways to work with local communities to achieve mutual benefits from ground leasing opportunities and discuss industry trends. The Seminar will be interactive and is intended to help foster ideas for attendees to take with them to explore and possibly implement in their own state practices.

Tuesday - January 10, 2017 from 2 pm to 5 pm (Concurrent Sessions):

Executive Leadership & Legislative Committee (2 pm to 4 pm only)

Affiliate/Donor Enhancement Project Update and Working Session

Subsurface Committee & Royalty Working Group

Current Oil and Gas Market Analysis - Tom Seng

Interactive state issues discussion – Facilitated by Dale Sump (TX)

Surface Committee (2 pm to 4 pm only)

Advancing Conservation & Education Act (ACE act) legislation review

A detailed review of the current proposed legislation, what it will do for participating states and how we envision the process to develop and unfold in implementation

Asset Management Committee

Focus on IT systems best practices

For state trust management agencies to maximize the value of trust assets for beneficiaries, we need to optimize business processes and IT systems that support the needs today and for years to come.

SESSION 1: Introduction & Lessons Learned from States with Active or Recent Business & IT Projects

Wednesday - January 11, 2017 from 8:30 am to noon (Concurrent Sessions):

Subsurface Committee & Royalty Working Group

Arkansas diamond mine park (?)

Legal Issues Update & Fayetteville shale play

Hard Rock Development & Markets Presentation: Coal, Bentonite, Trona – Billie Hunter

Surface Committee

Incorporating Environmental Strategy into State Land Portfolios

Seminar host and moderator is Mark Stapp, the executive director of the Master of Real Estate Development program for the W.P. Carey School of Business at Arizona State University. As a business professional and educator, Stapp has experience evaluating, establishing and managing a variety of environmental tools. This session will examine land management tools and instruments (including CCAs, conservation easements, wetland banking, mitigation banking), their requirements, pros and cons, costs, risk mitigation, etc., as part of a holistic land and earnings strategy. Participants are encouraged to provide examples and discuss tools used in their states, both successful cases and opportunities for improvement – lessons learned.

Asset Management Committee

Focus on IT systems best practices

For state trust management agencies to maximize the value of trust assets for beneficiaries, we need to optimize business processes and IT systems that support the needs today and for years to come.

SESSION II: Technology Solutions & Systems Implementation

FORMAT: Demonstrations - System Purpose, Architecture, Functionality
 Example Structure for Best Management Practices/Principles

Communications & Data Sharing Committee

Brainstorm professional development/continuing education needs that communication committee could host via WSLCA webinar platform and at future conferences.

Facilitate interactive dialog and work in the ASU data sharing website – “doing the work”

Partner with the Legislative Committee to identify and begin to populate legislation and laws by themes.

Set a “Challenge Schedule” for the next year to focus on one key area/folder each month and ensure the site is populated, states help states get it done!



2017 WSLCA Winter Conference

January 9-12, 2017

Rogers, Arkansas

Delegate Webcast Registration Form

Registration Deadline: December 31, 2016

Please use one form per State or Affiliate Organization

Webcast Registration - \$400 per State/Affiliate; unlimited participants

upon submitting the webcast registration form and payment, the primary & secondary contact persons will receive session login information

State/Affiliate Name: _____
Primary Contact for Web Sessions: _____
Primary Email: _____
Primary Phone: _____
Secondary Contact for Web Sessions: _____
Secondary Email: _____
Secondary Phone: _____

Please Indicate the Webcast Sessions Your Organization Plans to Participate

Tuesday, January 10th from 8:30 am to noon (Central Standard Time):

- Executive Leadership & Legislative Committees
- Subsurface Committee & Royalty Working Group
- Surface Committee

Tuesday, January 10th from 2:00 pm to 5:00 pm (Central Standard Time):

- Asset Management Committee
- Executive Leadership & Legislative Committee (2-4 pm only)
- Subsurface Committee & Royalty Working Group
- Surface Committee (2-4 pm only)

Wednesday, January 11th from 8:30 am to noon (Central Standard Time):

- Asset Management Committee
- Communications & Data Sharing Committees
- Subsurface Committee & Royalty Working Group
- Surface Committee

Wednesday, January 11th from 2:00 pm to 4:00 pm (Central Standard Time):

- Committee Reports & Business Meeting

Make checks payable to WSLCA

Mail to: WSLCA c/o Commissioner of State Lands office, 500 Woodlane St, Ste 109, Little Rock, AR 72201

For more information about webcast sessions please contact:

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www.wslca.org

