



# Washington Update

**Allen D. Freemyer**

**Freemyer & Associates PC**

**July 2020**

# BLM Relocation: Who's on First?

- BLM relocation resulted in significant retirements and loss of personnel
- Inability to attract new employees
- Programs without leadership—Wild Horse and Burro Program
- Who is making the decisions?
- Where's Waldo?
- Inability to function effectively after move to Grand Junction will enable move back to DC under Biden Administration.

# Nomination of Perry Pendley to be Director

- Appointed as “Acting” Director July 2019
- Controversial Nomination
- Late in the Congress
- Reaction to lawsuits challenging “Acting” status
- Confirmation will be challenging
  - Cost of confirmation may outweigh benefits

# The Great American Outdoors Act

## S. 3422

- \$2.5 billion annually would be available without separate appropriations for spending on land acquisition and deferred maintenance for parks
- Converts money in the \$900 million-per-year Land and Water Conservation Fund (LWCF) into mandatory funding. The LWCF is funded by a portion of offshore oil leasing revenue, among other sources, and used to purchase lands for conservation and recreation purposes.
- Evolution of LWCF within the Republican Party
- Benefits for Trust Land Managers
- Passed Senate overwhelmingly. House consideration in July

# Advancing Conservation and Education Act “ACE” HR 244

- Streamlines exchange of state trust lands trapped within national conservation areas.
- House Natural Resources Committee Hearing June 18, 2020
  - Testimony of Ryan Brunner
  - Opportunity to promote legislation and new NASTL name
- Seeking opportunity to have the Full Committee hold a markup of the legislation.

*Butch Otter, Governor of Idaho*  
*June 2015*

opted out

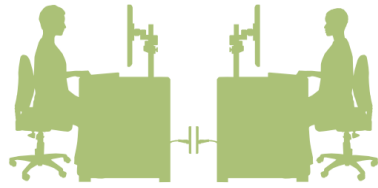
# Sage Grouse



Interior spent a year listening to states' concerns and ideas. Plan amendments were determined through:



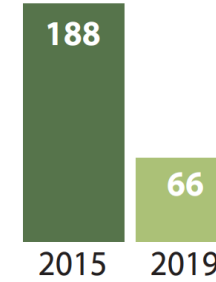
One-on-one discussions between the Secretary and Deputy Secretary of the Interior and Governors or their staffs



Collaboration between the BLM and state wildlife agency professionals to share data and expertise



Thousands of comments received from concerned organizations and individuals



As a result, protests of these focused plans were down.

## Today

The BLM is finalizing amended plans for 7 states with unanimous support from the governors:

0 Governors filed protests

0 Governor lawsuits anticipated

Across the West, the sage-grouse coalitions are poised to implement their plans.



*"We are pleased that the Bureau of Land Management addressed our comments brought forward during the Governor's Consistency Review. Our focus now turns to implementation and creating successful outcomes on the ground."*

*Jared Polis, Governor of Colorado  
March 2019*

*"This is a great example of federal leaders listening to state leaders, valuing their expertise..."*

*Gary Herbert, Governor of Utah  
December 2018*

# Sage Grouse

Draft EIS Feb. 21, 2020  
Final EIS Expected Soon  
ROD will continue to defer to state management

# NEPA Reform

- Interior Implemented NEPA reform last year: 1 year and 150-page limits on EIS documents. 180 days and 40-page limit on EA documents.
- US Forest Service undergoing similar process awaiting final Regulation. Time and page limits expected.
- CEQ will issue NEPA reform procedures for the entire federal government. OMB signed off on the Draft regulations. Expect publication soon but they will look very similar to the DOI time and page limitations.



# NEPA Reform cont.

- On June 4, 2020, President Trump signed Executive Order 13927—Accelerating the Nation's Economic Recovery From the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities
- Instructs federal agencies to utilize emergency authorities to speed up permitting of infrastructure projects.
- Section 5 addresses projects on Federal lands—mining, pipelines, etc.
- Section 6 instructs agencies to utilize the emergency provisions of the National Environmental Policy Act to expedite these projects.
- Section 7 instructs agencies to utilize emergency provisions of the Endangered Species Act to accelerate projects.
- Section 8 instructs the Army Corps to utilize all emergency provisions of the Clean Water Act to accelerate projects.
- Most practitioners agree that any project that is fast tracked under this EO will be subject to challenge and will likely lose. The emergency provisions of these are designed to address site specific conditions and emergencies as opposed to a national pandemic.



“Wild, wild horses couldn’t drag me away” — Rolling Stones

- The BLM finally issued its Congressionally mandated report on how to address the wild horse population on federal lands and trespass horses.
- A new \$21 million in funding was released to the BLM.
- BLM is telling wild horse coalition groups that they will spend the bulk of this money gathering horses and storing them off range.
- House Interior Appropriations Committee Report released last week continues to chastise the BLM for failure to provide a detailed implementation plan for horse population reductions.
- This program could soon become one of the most expensive management programs within the BLM.
- Strategy will require +/- \$900 million over the next decade.
- If you have trespass horses on your trust lands start talking to the BLM now to ensure some of this funding will benefit trust lands.

# Last 6 months of the Congress—what to expect

- COVID and Economic Recovery
- Presidential politics will impact everything
- Final passage of Great American Outdoors Act
- Appropriations finalized during lame duck session
- Public lands legislative package is possible with largely non-controversial measures
- Legal challenges to Trump Administration regulations and rulemakings will continue to ripen in the courts which could reverse agency actions
- The agencies will slow down production as election approaches



# The Election—fly over states vs. the coasts

It ain't over until it's over—Yogi Berra





Questions?

Allen D. Freemyer

[allen@adfpc.com](mailto:allen@adfpc.com)

202-744-2409