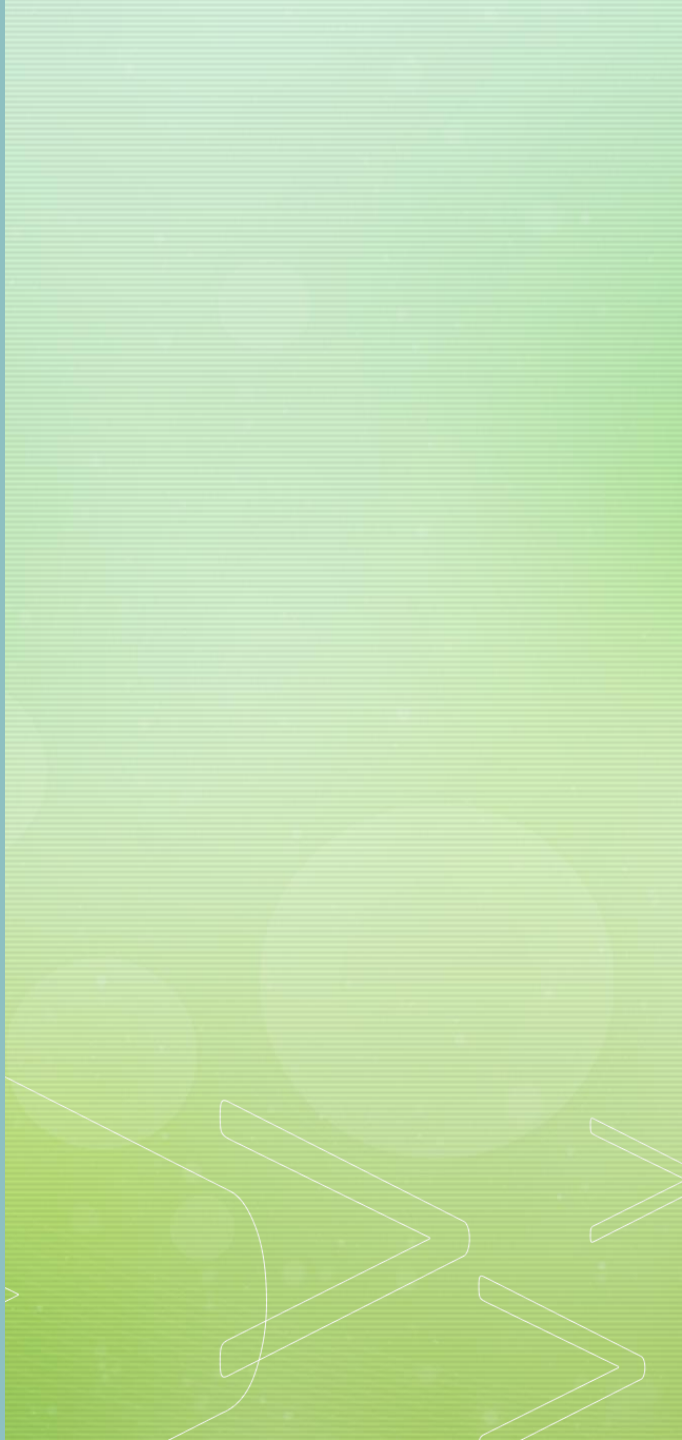




Allen D Freemyer

Washington Update

Summer Conference 2021
Portland, Oregon



Biden Administration and Congress

- Congress
 - Infrastructure
 - Reconciliation
 - Appropriations
- Administration
 - Regulatory Reversals
 - Rule Making
 - 30 x 30
 - Climate Agenda

NASTL Priorities

ACE
Legislation

LWCF

Wild Horses

WOTUS

Hardrock
Mine
Reclamation

Wildfire
Funding

Abandoned
Oil and Gas
Wells

Sage
Grouse

117th Congress

- Infrastructure Package \$550 Billion –Highway bill + \$445 Billion Emergency Funding
 - \$550 billion over five years—5-year reauthorization of highway, transit, and rail programs, as well as an expansion of drinking water and wastewater programs
 - provisions to address climate change, codify parts of a Trump-era policy on environmental reviews, enhance the electric grid and replace lead pipes, and appropriates \$445.9 billion in emergency funds
 - \$256 billion not paid for within legislation

Infrastructure continued...

- Tribal and Federal Transportation Investments—
 - \$3.01 billion for the Tribal Transportation Program.
 - \$2.19 billion for the Federal Lands Transportation Program.
 - \$1.5 billion from the Treasury general fund and \$275 million from the HTF for Nationally Significant Federal Lands and Tribal Projects.
 - \$1.49 billion for the Federal Lands Access Program.

More Infrastructure continued...

- NEPA Reform
 - The bill would codify elements of the Trump administration's "one federal decision" policy that required agencies to coordinate reviews and authorization decisions for major infrastructure projects.
 - Goal of 2 years for major project reviews.
 - Authorization decisions for construction of a major project would have to be completed within 90 days of the issuance of a record of decision for the project.
 - The Transportation Department would have to establish a performance accountability system to track each major project.
 - Requires DOT to provide other relevant agencies with a list of categorical exclusions under the NEPA that are applicable to highway projects. Agencies required to initiate rulemakings to adopt CA's.

Infrastructure and Minerals

- USGS Mineral Mapping: Authorizes \$320 million over five years for a U.S. Geological Survey initiative to improve mapping of critical minerals by integrating several sources of surface and subsurface mapping and data.
- Critical Mineral Extraction & Resource Mapping: Authorizes \$140 million in fiscal 2022 for DOE to design and build a facility to demonstrate the commercial feasibility of an integrated rare earth element extraction facility and refinery.
- Authorizes \$320 million over five years for an “Earth Mapping Initiative” that would include information relating to the location of critical mineral resources, mine waste, and geothermal resources.

Infrastructure and Abandoned Mines

- Reauthorizes \$11.3 billion for the coal Abandoned Mine Land Reclamation Fund for fiscal 2022, which would be available until expended. The funding would be used to provide grants to states and tribes for reclamation projects.
- Reduces abandoned mine reclamation fees to 22.4 cents per ton of coal produced by surface mining, 9.6 cents for underground mining, and 6.4 cents for lignite coal.
- Authorizes \$3 billion to establish DOI program to remediate abandoned hardrock mines and address hazardous substance releases. Half of the funds would be for grants to States and tribes and half would be for Interior Department activities on federal land.
 - ****NASTL member states need to determine needs on state trust lands



Infrastructure and Western Water

- Authorizes \$3.2 billion for aging infrastructure rehabilitation, of which \$100 million would be reserved for Bureau of Reclamation facilities that have suffered critical failures.
- Authorizes \$1.2 billion for water storage and conveyance projects.
- \$1 billion for rural water projects previously authorized.
- Authorizes \$1 billion for water recycling and reuse initiatives.
- Authorizes \$500 million for dam safety.

Infrastructure and Wildfire Mitigation

- Wildfire Mitigation: authorizes \$3.37 billion from fiscal 2022 through 2026 for wildfire risk reduction, technology improvements, fuels reduction, and provide financial assistance to states, local governments, and tribes for wildfire mitigation.
- Ecosystem Restoration: The Interior and Agriculture departments authorized to receive \$2.13 billion over five years for ecosystem restoration activities.
- Reforestation Activities: Removes \$30 million cap on the amount that can be transferred each year to the Reforestation Trust Fund.
- Directs Department of Agriculture to create a 10-year plan for addressing its backlog of replanting needs on national forest land and would set 2030 target for reducing national forest reforestation backlog.
- Creates Wildfire Commission: Departments of Interior, Agriculture, and Homeland Security to study and make recommendations regarding federal policies to prevent, mitigate, and suppress wildfires and to rehabilitate land devastated by wildfires. Commission terminates 180 days after submitting report.
- \$2.85 billion authorized for USFS for the national forest system and \$1.53 billion for state and private forestry.
- \$1.46 billion authorized for DOI wildland fire management.
- \$300 million in emergency funding for Emergency Watershed Protection through NRCS nation-wide.

Infrastructure: Abandoned Oil & Gas Wells

- \$4.68 billion to carry out orphaned well site plugging and restoration.
- Sets up a Federal program which will be much less efficient than a partnership with industry to plug and restore abandoned sites.
- State side grants not to exceed \$25,000,000 to any single state
- Formula and Performance grants to states available not to exceed \$20,000,000 per state
- Regulatory Improvement grants to states \$20,000,000 per state
- Matching Grants \$30,000,000 per state
- \$2,000,000 to the Interstate Oil and Gas Compact Commission to carry out provisions

Budget Reconciliation—what are they talking about?

- Budget Resolution Agreement
 - Blueprint for how to spend \$3.5 Trillion
 - Non-binding
- Reconciliation Spending and Revenue Bills
 - Committees given instructions on amounts to spend and amounts to raise
 - All bills combined for singular package
 - House must act first
 - 51 vote threshold in Senate
 - No filibuster

House Natural Resources Committee Reconciliation \$25.6 Billion

- \$6.3 Billion for various Tribal benefits, water, health, housing, wildfire
- \$9.5 billion for coastal and Great Lakes restoration and climate resiliency projects
- \$3 billion to support the Civilian Climate Corps through the Department of the Interior
- \$2.5 billion to clean up abandoned hardrock mines
- \$1.15 billion for emergency drought relief
- \$900 million for wildfire management
- \$250 million for Salton Sea projects
- \$225 million for climate resilience and restoration
- \$100 million for mitigating climate-induced weather events
- \$100 million for large-scale water recycling
- Hundreds of millions more for urban parks and increasing childhood outdoor access
- \$993 million for health infrastructure in U.S. territories



How its paid for...

- Hardrock Royalty--\$2 Billion
- Hardrock Reclamation Fee--\$200 million
- \$.07/ton dirt tax
- Minimum coal rental \$100/acre
- Hardrock claims maintenance fee--\$800 million
- Off-shore wind leases in territories and US mainland
- Onshore Federal Oil and Gas royalty 20%
- Offshore O&G royalty 20%
- Minimum O&G bids \$10
- O&G rental up to \$5/year
- Expression of interest fees \$15/acre
- Conservation lease fee of \$4/acre for producing O&G wells, \$6/acre for non-producing O&G wells.
- Inspection fees
- Severance Fees-\$.50/barrel, \$2/ton coal
- Idled well fees \$500-\$7,500
- O&G offshore pipeline fee--\$10,000/mile deep, \$1,000/mile shallow
- Royalties on flared gas and leakage
- Doubling + increases in civil and criminal penalties



Policy and Law Changes

- Bans oil and gas exploration Arctic National Wildlife Refuge
- Bans outer continental shelf oil and gas development—eastern Gulf, Atlantic and Pacific shelves off limits
- Mineral withdrawal at Oak Flat—Resolution Copper
- Mineral withdrawal Grand Canyon area over 1,000,000 acres outside of park
- Establishes Civilian Climate Corps (CCC)

So, what is going to happen?

Manchin?

Sinema?

2022 Elections



■ ACE Legislation

- Reported favorably by House Natural Resources Committee on May 5, 2021—unanimous consent
- Congressman Steve Cohen—demanding amendment that would prohibit any transaction that would negatively impact wild horses or their habitat.
- NASTL offered numerous amendments to appease concerns
- We need your help
 - Letter to every Member of your Congressional Delegation
 - Check your email for form letter and mailing list

Wildfire Funding

- 2021 another record setting fire year
- USFS not equipped to address post fire recovery
 - BAER program ineffective beyond identification of the needs
- NRCS left holding the bag for damages to private and state lands through Emergency Watershed Protection (EWP) program. Funds all disaster recovery nation-wide
 - Fund ran out of money in spring of 2021
 - Funded only on emergency basis—reform needed to fund on an annual basis
- Infrastructure bill includes \$300 million to replenish EWP funds as well as significant funds for additional fire recovery, watershed protection, and fire prevention funding
- Reconciliation could contain large levels of funding but subject to appropriations and amounts uncertain
- ****NASTL Members must make decision makers aware of damages caused to trust lands from federal fires.

Wild Horses

- Congress will once again increase funding for the program
- Roundups for 2021 exceed 16,000 horses
 - Utilizing emergency authorities due to drought conditions
- BLM has failed to implement strategy mandated by Congress
 - No improvements in cost of storage or strategy
 - No improvements in cost of roundups and transportation
 - No improvements in utilization of birth control
- Likely to see an on-range population decline for first time in decades due to drought

Waters of the United States (WOTUS)

- August 30, 2021, Arizona Federal District Court issues order vacating and remanding the Navigable Waters Protection Rule in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*.
- Agencies have halted implementation of the Navigable Waters Protection Rule and are interpreting “waters of the United States” consistent with the pre-2015 regulatory regime until further notice.
- EPA and USACE working expeditiously to move forward with the rulemakings announced on June 9, 2021 to construct a new Rule.
- This issue will be ever changing until Congress enacts clear law.

Abandoned Mine Reclamation

- Industry and Trout Unlimited seeking bill introduction in Senate
 - Senator Risch R-ID and Senator Heinrich D-NM
- Infrastructure bill contains \$3 billion to establish Federal fund
 - Presumably Manchin believes some mining reform would continue to replenish fund.
 - Industry has proposed \$100 million in new revenue dedicated to AML fund
- Reconciliation bill contains \$2.5 billion to establish Federal fund
 - Both unlikely to occur
- Federal program as proposed by Manchin mimics Coal model
- Federal program will make industry/private solutions more difficult to achieve

LWCF Reform

BLM Handbook currently prohibits LWCF acquisitions of “State Lands”

- Policy does not distinguish between state lands and trust lands

Letter to Secretary on July 6, 2021

- Scheduled meeting with Nada Culver and BLM team

Abandoned Oil and Gas Wells

- Receiving much more attention on Capitol Hill and within DOI.
- \$4.68 billion within infrastructure bill is significant but subject to appropriations.
 - Includes both Federal and non-federal lands.
- State side funding is significant.
- NASTL should attempt to assemble the level of need on our lands to advocate for utilizing funds on state trust lands.
- Trust managers should work with appropriate state agency to secure grants for work on trust lands.

Greater Sage Grouse

- BLM committed to reviewing Sage Grouse Management plans—again.
- Reversal of mineral withdrawal by Secretary Bernhardt struck by court because of failure to conduct NEPA.
- Democrat Governors support current plans focused on state primacy of jurisdiction over sage grouse.
- Governors Sisolak (NV) and Polis (CO) are key to next steps by DOI.

What to Expect from DOI

- Review of O&G program likely to lead to higher royalties
- Slow restart of O&G leasing
- Climate, climate and more climate focus
- Review of coal leasing program
- National Monument decisions?
 - Bears Ears is ready for Presidential action
- Fast track for renewable projects
- Focus on Tribal issues
 - Renewable energy
 - Housing
 - Health
- 30 x 30 Plan driving decision making

Conclusion, Questions and Discussion

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