



Conservation Issues Briefing

Covering June - July 2013

This is the ninth briefing on conservation issues of interest to NCEL members. Thanks to a generous grant from the Woodtiger Fund, NCEL is partnering with Ruth Musgrave, J.D., of Wildlife Policy Consulting Associates to develop a clearinghouse on conservation issues that impact states. The clearinghouse covers issues pertaining to endangered species, fish and wildlife, public lands, land and water use, urban sprawl, and climate change.

Each briefing covers a sampling of the latest conservation developments that may be of interest, as well as useful materials and links. Please let us know what conservation issues are important in your state, and what kinds of resources or research you would find useful. Please send any bills or legislation that you would like to have reported.

Ruth Musgrave can be reached at rmusgrave@comcast.net, or at 360-705-2178.

In This Issue:

Public Lands

Water

Pollinators

Wolves

Fish and Wildlife

Climate Change



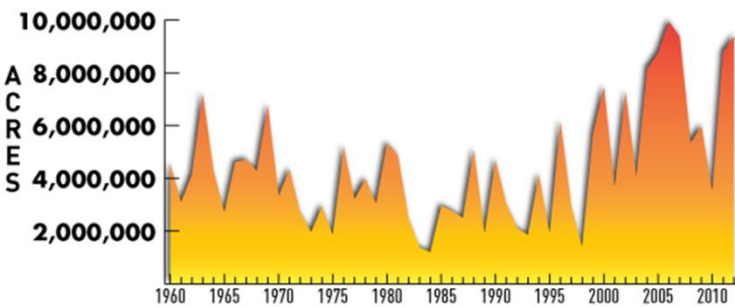
Public Lands

Special Policy Primer: Wildfires in the West - Wildfires have been increasing in size and intensity in Western states over the past several decades, recently at great cost to human lives and homes. Because of the federal sequester and other federal funding challenges, states are assuming more responsibility for fighting wildfires, and states must expend even more funds and become proactive about wildfires in their states. However, it would be a mistake to blame the growth in wildfires on the federal government's management of public lands. And it would be a huge financial and legal mistake for states to try to take over control or ownership of those lands.

A new [study](#) found a strong causation connection between climate change and wildfires, based upon examination of thousands of years of lake sediments around the world. Prof. Mitchell Power at the University of Utah found that “Our climate is the primary controller of fire, and we have seen this in the last decade.” The [Quadrennial Fire Review](#) predicted that climate change would lead to “greater probability of longer and bigger fire season, in more regions in the nation,” as well as more strained budgets for federal, state, tribal and local governments. And U.S. Forest Service Chief Tidwell [testified](#) to Congress last month that climate change is a major driver of huge fires.

Other studies have shown that the heat absorbed by ocean waters exposed from rapidly melting Arctic sea ice is throwing off the Earth’s wind current systems such as the jet stream, which in turn causes the American West to experience hotter and drier conditions. This is called the “[Arctic Amplification Effect.](#)” Wilder weather means more intense storms and more lightning (lightning is the only natural cause of forest fires - all others are human-caused). In addition, Western states’ snowmelt is occurring earlier, and plants grow earlier but then dry out longer and become more vulnerable to intense fires. Add to this the fact that sustained drought is the new norm in the West. Also, warmer winter temperatures are causing invasive species such as pine beetles to skip their dormant stage and infest millions of pine trees, leaving thousands of acres of dead wood for fires to consume.

Wildfires now burn twice as many acres as they did 40 years ago; the fire season is more than two months longer; fires are as large as 500,000 acres; and more people are living in fire-prone areas. Today 40% of the U.S. Forest Service’s entire budget goes to fighting fire. The National Interagency Fire Center reports that federal spending on fires has risen tenfold since 1993, to about \$1.9 billion per year.



Thinning dense forests and clearing out underbrush is helpful, but will not stop the wildfires, and the federal budget for fuels reduction was proposed to be cut 30% by the Obama Administration. According to the Wilderness Society’s forest ecologist, additional strategies can help forests resist the effects of climate change: management of naturally ignited fires rather than full fire suppression, protecting old-growth forests which resist fire, protecting roadless areas, reducing fragmentation, and obliteration of roads.

The area where homes and communities are built in or adjacent to forested areas is known as the wildland-urban interface, or WUI. The WUI is growing rapidly, and fire fighting around the WUI is a huge burden. Up to 85% of lands around communities at highest risk for wildland fires are state or private, yet federal firefighters estimate that they spend 50 to 95% of their time fighting fires near homes. And most of the federal budget for fuels reduction goes to areas adjacent to the WUI. The WUI is currently only 14% developed, but if it reaches even 50% development of available land, the USFS firefighting budget would exceed its total budget. Further, building in the WUI is a state and local land use decision, not a federal decision.

It is critical that states and local communities promote WUI policies that are “[Fire Wise](#)” that prepare for wildland fires with appropriate vegetation buffers and other building strategies such as requiring metal instead of shake roofs. The State Fire Assistance program of the Cooperative Forestry Assistance Act is the major federal program that can assist states forestry programs and state-approved organizations and communities in preparing for and mitigating fire, including purchasing firefighting equipment and training firefighters. The nonpartisan group [Headwaters Economics](#) proposes some additional solutions to the WUI problem: Help local governments direct development away from WUIs; make developers and local governments share the cost of firefighting in the WUIs; add incentives for local governments to sign cost-sharing agreements with the federal government to share firefighting costs; and even eliminate the mortgage deduction for new homes built in the WUI.

Climate change and WUI development are changing the face of the West, and making wildfires much more dangerous, intense and massive. Despite the federal governments' best efforts, the cost of fighting these fires, especially in the WUI, is not sustainable. States must provide proactive and creative solutions that do not include simply follow ALEC's lead in promoting takeover of federal lands and selling them off to private industries.

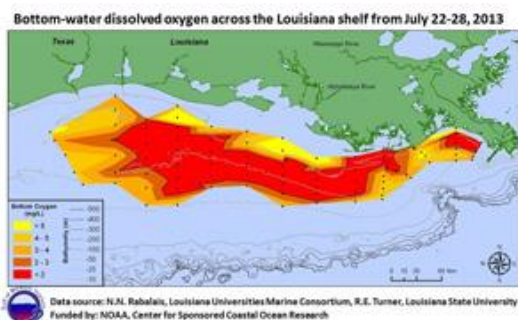
ALEC Bills Challenge Feds on Forest Management – ALEC also has several model bills that would challenge the federal government's management of national forests and forestry on public lands. The [Right to Practice Forestry Act](#) takes control from local governments for nuisance determinations in regard to forestry practices. It asserts that forestry practices may not be considered a nuisance if the forestry operation “adheres to customary forest management practices.” The [State-Based Healthy Forests Act](#) bill creates a new office of the state forester purportedly to assist with dealing with the WUI (see primer above), but also to identify pilot forestry projects including large areas for treatment, and the areas “must include substantial areas of deep forest as well as the urban interface.” And as mentioned in the 8th Conservation Briefing, the Western Governors Association sent a letter to the US Department of Agriculture expressing concern over national forest management and requesting partnering with private logging interests to better manage national forests. The letter closely resembles an [ALEC resolution](#) supporting “proper timber harvesting as a management tool to ensure better forest health.”

Utah Repeals “Sheriff’s Law” on Feds on Public Lands - After a federal court [issued a preliminary injunction](#) against Utah's assertion of police power over federal lands within the state, on July 17, 2013 the Utah Legislature repealed the new law. [HB 155](#) would have imposed criminal penalties on U.S. Forest Service and Bureau of Land Management officers for enforcing state laws on federal land within Utah's borders. The bill's sponsor Rep. Noel sought the repeal on advice of counsel after the U.S. Justice Department obtained the injunction and sought to have the law declared unconstitutional as a violation of the Supremacy Clause. The vote on the [repeal](#) was unanimous in the Utah House with three votes against repeal in the Senate.

ALEC Model Bills Promote Federal Land Ownership or Control - As discussed in the last Conservation Briefing, ALEC model bills such as the [Eminent Domain Authority for Federal Lands Act](#) are being used as templates for Western state legislatures and governors to gain control and ownership of federal lands. Other bills such as the [Disposal and Taxation of Public Lands Act](#) demands the federal government turn over public lands and provides for taxation of those lands (see an NCEL analysis of these bills, available soon). The [Public Lands Policy Coordination Act](#) seeks to coordinate state governmental bodies on dealing with the interaction with the federal government on public lands. The [State Standards for Federal Resource Management Act](#), in conjunction with the Public Lands Coordination Act, gets at the economic issues by requiring state standards on natural resource and public land policy to usurp local control and coordinate with federal agencies.

Water

EPA tells Minnesota to do Better on Water Pollution – For the first time, the [EPA has ordered](#) the State of Minnesota to impose more stringent limits on pollutants discharges into waters in the state. The state has been accused of being lax on enforcement of water pollution standards, especially for municipal wastewater treatment plants. A petition was filed with the EPA by an environmental law firm that alleged that excessive phosphorus was allowed to be discharged into lakes and rivers, and was impacting fish and water quality. Phosphorus and other pollutants impact the entire Mississippi River watershed. States can get authority to permit pollution discharges under the Clean Water Act, but the EPA can take back that authority if a state does not enforce water quality standards. The EPA has in the past ordered Iowa, Illinois and Florida to improve discharge permitting and enforcement.



Dead Zone in the Gulf of Mexico is Smaller Than Predicted - After [predicting](#) that this summer would bring the largest area of hypoxia, or

“dead zone,” ever recorded in the Gulf of Mexico, NOAA [reported](#) on July 29 that the dead zone is smaller than anticipated because of wind mixing and other factors. The actual area is still 5,840 square miles, larger than Connecticut. A record dead zone was predicted because of the large spring rains in the Midwest causing increased polluted runoff. Low oxygen “hypoxia” is caused by excessive nutrient pollution from agricultural and other runoff from 31 states throughout the Mississippi River watershed. In June, U.S. Sens. Portman (R-OH) and Nelson (D-FL) introduced the [Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2013](#), which would reauthorize the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998.

Pollinators

Oregon Bans Pesticide Use After 50,000 Bumblebees Die - The Oregon Department of Agriculture on June 27 [issued a temporary restriction](#) on 18 insecticides with the active ingredient dinotefuran. Spraying of the “Safari” pesticide caused 50,000 bumblebees to die in the parking lot of a shopping center in Wilsonville, Oregon. Hundreds of dead bees were also found in Hillsboro after use of the pesticide. Dinotefuran-based insecticides cannot be used on plants in Oregon for 180 days while the incidents are being investigated. Dinotefuran is a neonicotinoid, which scientists believe may kill bees. But the Washington State Department of Agriculture decided [against banning the ornamental use of neonicotinoids](#) earlier this month. Instead, the Washington department will “urge the U.S. EPA to consider whether additional use restrictions are needed when the products are applied to ornamental plants.”

“Saving America’s Pollinators Act” Introduced in Congress - In part because of the unprecedented bee dieoff in Oregon in June, on July 16, 2013 U.S. Reps. Blumenauer (OR) and Conyers (MI) introduced the [Saving America’s Pollinators Act](#) to suspend certain uses of neonicotinoids until the EPA reviews their use and determines their proper application and use. The EPA is [currently reviewing the effects of neonicotinoids](#) on pollinators. A decision is not expected, however, until 2018. Over 30 percent of bees have died annually since 2007. Bees are responsible for 80 percent of plant pollination by insects, and are vital for food production. *Ed. Note:* Because of the EPA’s authority to regulate pesticides, a national bill might be required to restrict the insecticide’s use.

European Union Bans Three Pesticides Harmful to Bees – After finding that neonicotinoid insecticides are potentially lethal to bees, the EU on May 24 [banned](#) three pesticides made by Bayer and Syngenta companies. Member nations must change their rules to enact the ban by September 30, but existing stocks may be used through November. The ban will be reviewed as new information becomes available on bee colony collapse disorder, but within two years.

Wolves

Feds Propose to Delist Gray Wolves in all States - On June 13, 2013 the U.S. Fish and Wildlife Service published a [proposed rule](#) to delist gray wolves across the nation. The proposed rule contains two surprising assertions: First, that the government has been wrong for decades in listing wolves from Northeast states as being the same species as *canis lupis*. It now claims that gray wolves in the Northeast were really not just a different subspecies, but a different species altogether: *canis lycaon*. Second, FWS asserts that none of the states that do not already have wolves have any adequate habitat for wolves. This means states such as Colorado and Utah, and even California, all of which have had wolf sightings, do not have suitable habitat for wolves. This despite the fact that gray wolves historically lived in nearly every state in the nation before they were exterminated. Editorials in papers such as the [New York Times](#), [Salt Lake Tribune](#) and [Oregon Register-Guard](#) point out that gray wolves have not recovered in numbers or range, and that under state management over 1,000 out of a total of about 1,700 have been killed in just two years in Idaho, Montana and Wyoming where they are already delisted.

Washington Proposes New Wolf Kill Regs - Despite a historic legislative compromise in Washington State over [SB 5193](#) which provides funding for nonlethal methods of deterring wolves from livestock and for livestock depredation compensation, with an [emergency rule](#) allowing the taking of a single wolf caught in the act of attacking domestic animals, a [proposed new rule](#) stretches the definition of “attack” well beyond the compromise terms. The new definition would also allow killing a wolf if there is evidence it was posing an imminent threat and is in “attack mode or posture.” This definition is so broad that it would open it up to personal interpretation by people who already resent and fear wolves and are not familiar with normal wolf behavior.

Michigan in Historic Legislative Tug-of-War over Wolves - After a citizen referendum that would allow citizens to outlaw wolf hunting qualified for the 2014 ballot, the state legislature passed a law that gives the authority to the Michigan DNR to designate game species. In response, citizens in July applied to get signatures on a second state-wide referendum that would give that authority back to the people. In the meantime, on July 13, 2013 the Michigan DNR renamed wolves as a game species and [approved](#) its first ever new hunting season on wolves. Trapping was going to be allowed, but then was not included. There are about 650 wolves in Michigan.

Minnesota Cuts Wolf Hunt Quota in Half – After federal delisting of gray wolves in the Great Lakes in December 2011, and after the Minnesota State Legislature in 2011 removed the requirement to wait five years after delisting to hunt, the legislature in 2012 [authorized](#) a wolf hunt time in the state. But after more than 400 wolves were killed during the 2012 hunting season, on July 29, 2013 the Minnesota Department of Natural Resources announced that it would cut the 2013 wolf hunting quota in half.

Montana Approves New Wolf Hunting - After a controversial comment and hearing period with thousands of citizens participating, the Montana Department of Fish, Wildlife and Parks and the governor on July 10, 2013 approved [regulations](#) for wolf hunting that allows killing of up to five wolves per hunter or trapper, as well as the use of electronic wolf call devices to call wolves in. Hunting wolves just outside the border of Yellowstone National Park is also allowed despite the killing last year of at least eight collared Yellowstone research wolves, though the Department now asks hunters to try to “avoid killing radio-collared wolves.”

Fish and Wildlife

State Shark Fin Laws in Peril from NOAA Regulation - As explained in the [NCEL paper on shark fin legislation and preemption](#), recently passed state laws restricting the sale of shark fins in the States of California, Delaware, Illinois, Hawaii, Maryland, Oregon and Washington may be in jeopardy because of a proposed rule of the National Oceanic and Atmospheric Administration in a proposed rule that asserts that all regulation of sharks and shark fins is the exclusive domain of the federal government. The proposed rule states that only fishing in state-owned waters may be regulated by the states. A final rule has not yet been issued. *Update:* On July 9, 2013 a bipartisan [letter](#) was sent from 61 members of Congress to the NOAA administrator requesting that the portion of the proposed rule that could undermine state laws on buying and selling shark fins be revised.

Georgia License Plates Benefit Fish and Wildlife – States are finding that funding for conservation is increasingly challenging, while the responsibilities of states to conserve and manage game and nongame wildlife and habitat are skyrocketing. One vehicle for obtaining funding is vanity license plates. The State of Georgia has unveiled three new vehicle license plates to help fund those conservation efforts. The proceeds of one plate will go to the Bobwhite Quail Initiative to protect habitat for quail. A second plate will support the Wildlife Conservation Fund which benefits endangered and nongame wildlife and plants; and a third supports trout restoration. The plates cost \$80 and can be renewed for \$55. See the plates at www.georgiawildlife.com.



Climate Change

HI Legislature Approves Funds for Watershed Protection as Trade Winds Drop – Partially in response to a nearly 30% drop in trade winds since the 1970s, which causes less rainfall to be caught on mountains and lower water supply, the Hawaii State Legislature included in its state budget [\\$8.5 million for watershed protection](#) that includes steps to protect the mountainous forests that help capture the clouds and rainfall. The lower water supply is of increasing concern for drinking water and agriculture, as is the increased heat and humidity and even volcanic smog from lower and more intermittent trade winds. The Island of Maui is in drought, recording its driest April ever. Scientists are working with the Intergovernmental Panel on Climate Change to try to project future trade winds, and water utilities are promoting water conservation, water recycling, and are even considering desalinization.

Health Issues Caused by Climate Change – States need to be aware of health issues presented by climate change and be prepared to target and respond to them locally. The Center for Disease Control’s associate director for climate change George Luber M.D. (reach him at george.luberzilla@cdc.hhs.gov) has [pointed out](#) numerous health threats presented by a changing climate:

- Heat waves trigger health problems from mild heat rash to fatal heat stroke.
- Higher temperatures cause more intense ozone and air pollution and respiratory and cardiac problems.
- Warmer temperatures mean 78 more days in the fire season, and greater loss of homes and infrastructure, with more particulate air pollution (during the 2009 Australian brushfires [mortality rose](#) 5 percent).
- Increased CO2 is causing urban allergies to flourish, and pollen counts will double in the next 30 years.
- Increased heat is also causing allergy seasons to lengthen.
- Hurricane intensity is rising and with it more dangerous floods and higher storm surges which contaminate or destroy homes, waterways and infrastructure, including hospitals and emergency services.
- Invasive and nuisance plants thrive with higher CO2, such as poison ivy which grows faster and has more irritating chemicals - a “super poison ivy.”
- Rising temps are also causing disease vectors such as mosquitoes to spread into new areas. Dengue fever, West Nile virus and chikungunya are invading areas like never before (West Nile outbreaks are [“surprisingly predictable”](#) based upon winter temperatures, location and level of mosquitoes).
- Ticks that carry Lyme disease are spreading, and the tropical fungus *Cryptococcus gattii* has moved as far north as British Columbia.
- In oceans and lakes, algal blooms are spreading northward, poisoning fish, shellfish and even people.
- Alarming, increased droughts, floods and storms are not only destroying food crops, but elevated CO2 has also reduced the protein concentration of food crops by 10% or more.

U.S. Bill Would Coordinate Adaptation Response to Global Warming - U.S. Sens. Baucus (MT) and Whitehouse (RI) introduced on June 20, 2013 S.1202, the [Safeguarding America’s Future and Environment \(SAFE\) Act](#), which is in part intended to provide assistance and coordination for states to adapt to climate change. According to Defenders of Wildlife, the SAFE Act “calls for establishing a federal program to respond to the impacts of climate change on wildlife and natural resources. It was previously introduced in 2011. The bill’s action items include establishing a Natural Resources Climate Adaptation Panel composed of the heads of federal agencies that manage the United States’ natural resources to coordinate federal adaptation efforts, legislatively authorizing the National Fish, Wildlife and Plants Climate Adaptation Strategy and the National Climate Change and Wildlife Science Center, developing climate adaptation plans for each federal agency on the panel and authorizing funds to states for adaptation work.”

U.S. Drought Update

High Plains area:

Moderate drought 86% in 2012; 66% this year
But extreme drought 1% in 2012; 8% this year

Texas area:

Moderate drought 70% in 2012; 86% this year
Extreme drought 1% last year; 8% this year

-Source: NOAA ([webinar Aug. 15](#))