



Conservation Issues Briefing

Covering June-August 2015

Conservation Briefings are made possible by a generous grant from the Woodtiger Fund. This is the 16th briefing on conservation issues of interest to NCEL members such as endangered species, fish and wildlife, public lands, invasive species, and climate change adaptation.

Please note: We are revamping the Briefings in an effort to provide better assistance to members. We will report on state bills and strategies that work, messaging, and links to reports and articles. Let us know what conservation issues are important in your state, and what kinds of resources or research you would find useful. We welcome your feedback!

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Wildlife and Endangered Species

Endangered and other wildlife are facing unprecedented legislative attacks and defunding. Yet voters overwhelmingly support protection of endangered species and wildlife. Some of the best ways to protect wildlife are to save habitat and wildlife corridors, and to support the federal ESA.

Messaging: Poll Shows Overwhelming Support for Endangered Species Act – A July 2015 poll found that a whopping [90% of American voters](#) support the Endangered Species Act. Even in states where species listing decisions have been controversial, polling shows overwhelming support among all registered voters: Even 82% of conservative voters support the ESA. Further, 68% of voters would be more likely to vote for a candidate that supports environmental laws such as the ESA. As

for Western states: [80 % of Coloradans](#); [74 % of Missourians](#); [75 % of Montanans](#) and [83 % of Hoosiers](#) support the ESA. And 71% say scientists, not Congress, should make listing decisions.

Messaging: The ESA is Good for the Economy, and it Works Too – The Endangered Species Act brings in dollars and tourism, as well as protects species that can provide breakthrough medical treatments. The economic benefits of the ESA include protecting species and their habitat that provide pollination, pest control, flood control and water filtration and other economic services. In addition, endangered and threatened species bring in millions in recreation and tourism dollars, as well as medical breakthroughs. See [Bang for our Buck](#) by Defenders of Wildlife.

The ESA has also been more successful at recovering species than most people think, as almost all species are recovered before or within the estimated timeframe of their recovery plans. See the report [On Time, On Target: How the ESA is Saving America's Wildlife](#).

Nationally: Endangered Species Act Attacked on Every Level by Congress – In spite of immense popular approval of the Endangered Species Act, the 114th Congress has introduced no less than 85 bills, riders and amendments that would eviscerate the provisions of the ESA, which was passed almost unanimously in 1973 and signed by President Nixon. Today, one can see an astonishing [55-page chart of ESA Attacks in the 114th Congress](#). Bills and riders seek to prevent listing of species such as the greater sage grouse; exempt oil and gas drilling and other activities from ESA provisions; delist species such as wolves; and weaken entire portions of the Act.

Sample Solution: Wildlife Corridor Bill – [AB 498](#) in California, sponsored by Asm. Levine, to expand the state's commitment to map and maintain wildlife corridors and habitat connectivity, passed both houses and is awaiting Governor Brown's signature. The landmark legislation makes it [check] the policy of the state to promote wildlife corridors and habitat linkages in order to enhance wildlife's resilience to climate change and to protect biodiversity from development. It would encourage developers in wildlife corridors to consult with the Fish and Wildlife Department in order to protect or restore a corridor. In the meantime, Caltrans unveiled [plans](#) to build the nation's largest wildlife overpass over 10 lanes of freeway in Los Angeles; it is supported by Asm. Bloom. And in Washington State, construction has now begun on the state's first wildlife freeway overpass.



Wildlife Trafficking

Wildlife trafficking is devastating imperiled species and financing terrorist and criminal groups. States are attempting to slow intrastate trafficking by passing bans on import and sale of ivory, rhino horn and other endangered species products and parts.

2015 State Ivory Ban Bills – Almost half of the state legislatures considered bills in 2015 to outlaw the sale of ivory and rhino horn in order to save elephants and rhinos from almost certain extinction. Below is a list of bills that are still under consideration, as well as the states that are subject to a citizen petition drive asking the legislature to pass ivory bans. Most bills were killed by heavy pressure from the gun and antique lobbies to add sweeping exceptions or to table bills.

- **California:** Bill No. [AB 96](#) - Current Status: Passed (see article below)
- **Colorado:** Petition submitted to legislature, no legislation introduced
- **District of Columbia:** [DC B21 252](#) - Current Status: Introduced June 16, 2015
- **Indiana:** Petition being circulated requesting legislation, no legislation introduced
- **Massachusetts:** Bill No. [H 1275](#) - Current Status: Scheduled First Hearing on 10/21/15
- **Michigan:** Bill No. [SB 371](#) - Current Status: Referred to committee, pending
- **New Jersey:** Bill No. [S 3146](#) - Current Status: Introduced 8/12/15
- **New York:** Bill No. [AB 8394](#) - Current Status: Introduced 10/2/2015
- **Ohio:** Petition being circulated requesting bill, no legislation introduced
- **Vermont:** Bill No. [H 297](#) - Current Status: Tabled in 2015, to be considered in 2016
- **Washington:** [Initiative 1401](#) – Status: Citizen Initiative on November 2015 ballot

Bills introduced in AR, CT, DE, FL, HI, IA, IL, MD, NV, OK, OR, RI, VA, and WA were defeated or tabled during the 2015 legislative year.

Sample Bill: California passes Ivory Ban Bill – California just passed [AB 96](#) (symbolic of 96 elephants killed each day), sponsored by Speaker Toni Atkins, was finally passed by both houses with ivory and rhino bans that are similar to the bipartisan bill passed in New York. Exemptions from the prohibition on sale or import made it possible to pass the bill. The major exemptions are:

1. An activity that is authorized by an exemption or permit under federal law or that is otherwise expressly authorized under federal law.
2. Ivory or rhinoceros horn that is part of a musical instrument, and that is <20% by volume of the instrument, if the owner or seller provides historical documentation demonstrating provenance and showing the item was manufactured no later than 1975.
3. Ivory or rhinoceros horn that is part of a bona fide antique and <5% by volume of the antique, if the antique status is established by the owner or seller of the antique with historical documentation demonstrating provenance and showing the antique to be not less than 100 years old.

Three States to Add Additional Endangered Species to Trafficking Bans – Because of plummeting populations of endangered species caused by poaching and habitat loss, new 2015 bills introduced in **New Jersey** and **New York** (see links above) would add to their existing ivory ban laws by prohibiting transport of bodies or parts of elephants, rhinos, lions, leopards, and other federal or state-listed endangered species at the Port Authority of NY and NJ's airports and port authorities.

In **Washington** after a 2015 ivory ban bill died, over 300,000 signatures were gathered to place Initiative 1401 on the ballot in November. The initiative would ban the sale not only of products from elephants and rhinos, but also of other endangered species: Lions, leopards, tigers, cheetahs, pangolins, rays, sea turtles, and sharks.

Nationally: Congress Considers Bipartisan Wildlife Trafficking Bans – Reflecting national sentiment against wildlife trafficking, the [Global Anti-Poaching Act \(HR 2494\)](#) is a bipartisan House bill co-sponsored by Reps. Royce (R-CA) and Engel (D-NY) and over 90 others. It would support

on-the-ground anti-poaching efforts in Africa as well as strengthen U.S. laws by enforcing stricter penalties for trafficking crimes and putting diplomatic pressure on nations implicated in wildlife trafficking. Another bipartisan bill, the [Wildlife Trafficking and Enforcement Act \(S.27\)](#) is co-sponsored by Sens. Graham (R-SC) and Feinstein (D-CA), and would make wildlife trafficking major criminal offenses under racketeering and money laundering statutes. It would require that the fines, forfeitures, and restitution from trafficking enforcement fund a wildlife conservation fund to help the species impacted by trafficking.

Wind Energy and Wildlife

Wind Energy and Wildlife: Problems and Solutions – *NCEL is investigating the problems and solutions to wind energy issues and wind projects' lethal direct and indirect impact on wildlife such as birds and bats. Some problems and potential solutions:*

Problems:

- *Invalid raptor “take” rule:* On August 11, 2015 a federal court held that a U.S Fish and Wildlife Service rule issued in 2014 that allows wind projects to incidentally kill bald and golden eagles for 30 years, failed to comply with the National Environmental Policy Act’s environmental review requirement. The holding sets up a conflict between the states’ needs to develop clean energy, and the lethal impact that wind turbines have on birds and bats. In the meantime, a previous 5-year take permit should be available.
- *Significant habitat impacts:* Wind projects present immense “habitat impact areas.” The National Renewable Energy Lab in 2009 [reported](#), for example, that turbines in certain grasslands reduce available habitat for greater prairie chicken by about 1,300 acres/MW.

Scientific solutions being proposed:

- *Identify Raptor Nesting sites:* In a 2015 [study](#) published in *PLOS One*, researchers in Wyoming announced a way to chart locations where there was both plenty of wind, and fewer golden eagles, which are [federally protected birds](#). Instead of counting how many birds passed over a potential wind turbine site, researchers relied on data showing the nesting locations of golden eagles in the state. They factored in other information such as prey availability, landscape elevation (golden eagles prefer to nest in cliffs) and land use, along with the potential for various areas to be good sources of wind power. They were able to model areas that would be prime for wind energy, while less likely to impact golden eagles.
- *Adjust seasons and speed of turbines:* A [study](#) out of Europe found that even more bats than birds are killed by wind turbines. This is a problem for agriculture - the value to farmers of pest control by bats is over \$22 billion per year, or up to \$75 per acre.
 - The study found that 90% of bats are killed between August and October, so seasonal timing of turbine operation (dawn to dusk) is extremely important.
 - Most bats fly in low wind conditions, so starting turbines at higher wind speeds, around 4-6.5 m/s, would cut fatalities by 79 to 90%, with output down 0.3-1% yearly.
- *Use UV LED lights:* The same study suggested that using ultraviolet LED lights which bats and birds can see but humans cannot, is being explored as a turbine deterrent.
- *Use ultrasonic acoustics or radar bursts:* Ultrasonic acoustics might also be a deterrent, as bats use ultrasonic acoustics to navigate. Radar bursts are also a [possible deterrent to birds](#).



Invasive Species

Invasive species have a growing impact on state economies and public health. Many legislatures are meeting the challenge head-on. We are building out our web site on invasive species and other conservation topics; look for this kind of information soon on NCEL.net.

Examples of Successful 2015 Invasive Species State Bills:

- **Idaho** passed [SJM 101](#) requesting Congress to fund the Water Resources Reform and Development Act to significantly enhance monitoring and prevention efforts and to implement the intent of the act regarding dreissenid mussels.
- **Maryland's** [HB 860](#) became law in May 2015 and prohibits a vessel owner from launching at a public launch ramp or dock unless the owner has taken specified actions; and requiring the Department of Natural Resources to convene a specified workgroup to evaluate actions that reduce the spread of aquatic invasive species from vessels placed in lakes owned or managed by the State.
- **Indiana** passed [HB 1501](#) and it was signed into law on April 15, 2015. It extends the life of the 11-member Invasive Species Council to July 2023.
- **Montana** also passed legislation in April 2015, [HB 525](#) to allow for a declaration of emergency and establishing procedures for using funds from the invasive species trust fund.
- **Utah's** [SB 89](#) became law in March 2015 and established an Aquatic Invasive Species Fee on certain motorboats and sailboats, with the funds to be used for aquatic invasive species interdiction.
- **Washington** passed [SJM 8013](#) requesting the President, Congress, and the Department of the Interior to expedite the appropriation of funds pursuant to the federal Water Resources Reform and Development Act of 2014 to significantly enhance invasive species monitoring and prevention efforts in the Columbia River Basin and to implement the Act's intent.
- **Oregon** similarly passed [SJM 9](#) urging Congress to expedite appropriation of funds to monitor and prevent the spread of aquatic invasive species and implement the Water Resources Reform and Development Act.
- **New Hampshire** passed [HB 281](#) which defines exotic aquatic species of wildlife, and requires the exotic aquatic weeds and species committee to study best management practices in other states, and recommend courses of action to the department of fish and wildlife.
- **Hawaii** passed [SB 1299](#) which appropriates \$4 million "to be expended as directed by the Hawaii invasive species council for invasive species programs statewide."
- **Michigan** designated June 28-July 4, 2015 as "Aquatic Invasive Species Awareness Week."
- **Florida** designated May 15, 2015 as "Lionfish Removal and Awareness Day."
- **Illinois** passed SJR 9 designating May as "Invasive Species Awareness Month" to raise awareness of the negative impacts of invasive species.

Public Lands

There is a growing movement to privatize or devolve ownership of federal public lands to the states. Led by ALEC-supported ALC and Utah Rep. Ivory, many states have introduced legislation to take over or sell public lands. But such takeovers would be illegal, unpopular and costly.

Bills Introduced in Western and Other States in 2015 - A complete matrix of state bills introduced in the 2015 legislative session and their status can be found [here](#).

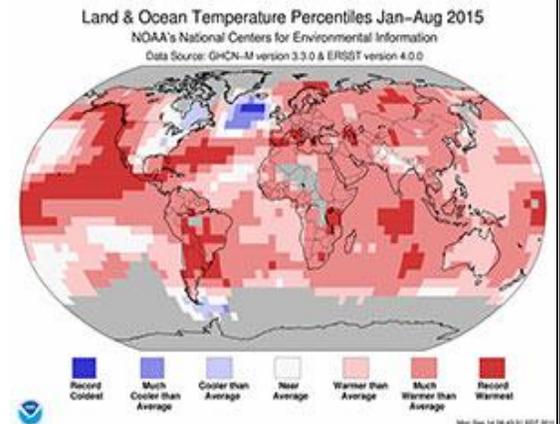
Messaging: Public Land Grabs are Unpopular, Expensive and Illegal - A one-page sheet with talking points about the public land grab bills and other efforts can be found [here](#).

Materials and Reports - NCEL has developed an entire web site, www.ncellands.org, which details the public land grab issues, and includes a [power point](#) that was presented at the NCEL National Forum in August 2015, as well as reports and talking points. In addition, new materials include:

- [The Koch's Campaign to Privatize and Make Money off Our Public Lands](#) – Bridge Project, Oct. 2015
- [Going to Extremes: The Anti-Government Extremism behind the Growing Movement to Seize America's Public Lands](#) – Center for Western Priorities, August 2015
- [Economic Impact of National Park Service Units](#) – Headwaters Economics, June 2015
- [Montana's Economy, Public Lands, and Competitive Advantage](#) – Headwaters Economics, February 2015
- [The Outdoor Recreation Economy](#) – Outdoor Industry Association, 2012
- [AZ Governor Jan Brewer's official veto message](#), vetoing the 2012 bill that purported to force the federal government to cede public lands to the State of Arizona

Climate Change

Update: The Globe is Warming - The globally averaged temperature over land and ocean surfaces for August 2015 was the warmest August on record, 1.58°F hotter than the 20th century average. The combined global average land and ocean surface temperature for January-August was also the record warmest percent above average, according to NOAA.



Messaging: Economic Benefits of Slowing GHGs - An exhaustive report issued by the EPA in June, “Climate Change in the U.S. – Benefits of Global Action,” finds that reducing greenhouse gas emissions could prevent the deaths of thousands of Americans and save hundreds of billions of dollars. The report notes, for example:

- As much as \$18 billion in lost labor by 2050 and \$110 billion by 2100, could be saved if global warming is slowed.
- If carbon pollution is not reduced, the shellfish industry will lost 1/3 of its harvest; the coral reefs of Hawaii and Florida will nearly disappear; and up to 13,000 deaths from climate impacts will occur by 2050.

The report, written by MIT scientists, federal energy research labs, and consultants, can be downloaded by chapter or in whole: <http://www2.epa.gov/cira/downloads-cira-report>.

