



Conservation Issues Briefing

Covering October - November 2013

This is the eleventh 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 work 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.

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Pollinators

Oregon Restricts Pesticides Tied to Bee Mortality – On November 21, 2013 the State of Oregon restricted some uses of pesticide products with the active ingredients dinotefuran or imidacloprid, both neonicotinoids, because of massive bee die-offs in the state after use of those products. At a hearing of the House Interim Committee on Agriculture and Natural Resources, the Oregon Department of Agriculture director [announced](#) that state-specific labeling will be required on products with the two pesticides starting on January 1, 2014. The pesticides may not be used on linden, basswood or Tilia tree species. An educational campaign is also being launched to inform pesticide users and others of the

risks to bees and other pollinators. In addition, a letter was sent to the EPA requesting additional evaluation of these pesticide active ingredients and other neonicotinoids to determine if use limitations on a national basis should be considered.

Minnesota Leads on Dark Skies and Bird-Safe Building Laws – The State of Minnesota has led the way in recent years in passing law for both [dark skies](#) and [bird-safe buildings](#). These measures not only save millions of pollinators (bats and birds) from disorientation and death, but dark skies laws also conserve energy and save money. The dark sky laws of five other states are described in <http://www.lawserver.com/dark-sky-laws>. In addition, the International Dark Sky Association has drafted a [model state dark-sky law](#) that state legislators can use as a template for their state to save energy costs and benefit pollinators. On the federal level, [HR 2078](#), the Federal Bird-Safe Buildings Act of 2013, was introduced in May 2013 by Rep. Mike Quigley of Illinois.



More Bats Killed by Wind Turbines than Realized - Bats are apparently being killed by wind turbines at a much higher rate than previously thought. A University of Colorado study estimates that 600,000-900,000 bats were killed by wind turbines last year within the continental United States. The numbers are sufficient to substantially reduce bat populations, according to report author Mark Hayes, PhD. Bats are important pollinators and pest controllers; a single bat can eat its full weight in mosquitoes each night. Federal wind guidelines for reducing bat and bird mortality are voluntary,

though the American Wind Energy Association states that it is following guidelines to help protect bats. Potential solutions include changing wind turbine speed when bats tend to fly, and installing acoustic signals to warn bats.

Conservation Funding

Puget Sound Partnership Makes Strides in 2013 - The Washington Legislature allocated \$394 million for Puget Sound priorities in the 2013-14 State Budget, including a record \$70 million for the [Puget Sound Acquisition & Restoration fund](#). Thanks to the work of environmental, local government, and business partners, the State Budget also included \$100 million for a new statewide [stormwater retrofit fund](#) to benefit local municipalities, with a focus on Low Impact Development; \$50 million for a new [Floodplain Coordinated Investment Fund](#); \$10 million to fully fund the state [Estuary & Salmon Recovery Program](#); \$788,000 for Puget Sound [steelhead recovery](#) efforts; and \$635,000 for establishing levee vegetation demonstration pilot projects to address conflicting demands and federal policies regarding floodplains. – Quoted from Puget Sound Partnership newsletter.

Wisconsin Appropriation to Promote Hunting is Withdrawn – The Wisconsin Legislature in the spring of 2013 appropriated \$500,000 to a private sportsmen’s group for the purpose of promoting hunting. The measure caused an uproar, and the U.S. Fish and Wildlife Service stated that the action could jeopardize millions in federal funding for fish and wildlife. The group United Sportsmen is not a tax-exempt organization. Critics pointed out that taxpayer dollars should not be spent on promoting a recreation industry that already has major supporters such as the NRA and hunting groups. The

governor finally pulled the budget item in September. On October 2, 2013 Democratic lawmakers introduced a bill that would rework the rules for awarding the hunting promotion grant. The measure would specify applicants must be nonprofit organizations that educate and recruit hunters, anglers and trappers. Winners would get a maximum of \$100,000 and would have to submit spending reports.

Great Lakes States Face Conservation Funding Issues – Like all states, Great Lakes states are suffering cuts in funding for fish and wildlife agencies, parks, natural resources and natural areas. A [presentation](#) to the Great Lakes NCEL regional meeting pointed out that most of the Great Lakes fish & wildlife agencies get about 1/3 of their funds from declining federal sources; about 1/3 from sportsmen’s license fees and stamps; many receive general fund monies but those funds are rapidly declining; and most have alternative funding sources, partnerships and grants, and donations. Most are in crisis, however: The Illinois DNR lost 25% of general fund monies, and over half its federal funding, in the last two years alone. But New York’s Environmental Protection Fund is a trust fund from a dedicated portion of state real estate transfer funds, which provided \$153 million in 2013-14 for purchasing land and restoring habitat. Creative partnerships such as land trusts and volunteer work can provide essential support to fill the gap in conservation funding.

Endangered Species

U.S. Fish and Wildlife Service Proposes Threatened Listing for Sage Grouse Population – In an action that will impact California and Nevada, the U.S. Fish and Wildlife Service issued a [proposed rule](#) to list greater sage grouse populations in those states as threatened species under the Endangered Species Act. There are only about 5,000 birds left. The proposal will be opposed by ranchers and energy developers because of potential restrictions on land use. The Service is also considering whether to list the bird in the states of CO, ID, MT, ND, OR, SD, UT, WY and WA. In the meantime the BLM is undergoing a massive conservation planning process in the hopes of making listing unnecessary. More than 350 other species in the “Sagebrush Sea” present conservation concerns as well, indicating a need for landscape-level planning, not just planning species-by-species. The BLM is in the process of amending over 80 land use plans.

Pennsylvania Anti-State ESA Bill Not Moving – Pennsylvania’s [HB 1576](#), which would gut the state’s Endangered Species Act, is on hold in the House Game and Fisheries Committee. The bill would give the authority to list species as endangered to a panel of five political appointees, and would rule by majority. Apparently science would not be a factor in deciding whether to list a species under the state’s ESA, but the economy and public health would. This approach tracks an [ALEC resolution](#) on the federal ESA that promotes stronger consideration of economic and social needs of communities. As mentioned in the previous Conservation Briefing, if passed the bill would cause the state to lose \$27 million per year in federal fish and wildlife restoration grant funds. State fish and wildlife commissions must have independent authority to list species in order to receive federal fish and wildlife restoration grant money.



State Endangered Species Acts are Important - State endangered species acts have varying provisions, but with rapid development of land for buildings, fracking and other extractive industries, they are quite important for protecting species and habitats at extreme risk in

states. Defenders of Wildlife, in partnership with NCEL, is updating a 1998 report on “State Endangered Species Acts: Past, Present and Future.” In the meantime, it is notable that four states have no endangered species acts: AL, WV, WY and UT. The state of Arkansas has only a regulatory scheme. Hawaii is the only state with a citizen suit provision; Haw.Rev.Stat. Ann. 195D-32. Mississippi, New Jersey and North Carolina have raised penalties for violations of their ESA prohibitions. And states such as Illinois, Maine and Virginia in recent years have added provisions for granting permits for incidental take of endangered species, or ITPs. ITPs are permits which allow developers and others to kill or injure endangered species if they are “taken” unintentionally during development or other actions taken within the species’ habitat.

Public Lands

Western Governors Association Demands Federal Payments to Western States - In another indication that western states are flexing their muscles over federal lands within their borders, the Western Governors Association at the November 2013 annual meeting passed [Resolution 2014-2](#), which demands that the federal government make payments due to the states and counties for tax-exempt lands within their borders. The resolution asks for prompt Payments in Lieu of Taxes for states and counties, as well as for federal payments under the Secure Rural Schools program. In addition [Resolution 2014-1](#) states that royalty and lease payments on federal lands are the property of the states and must be paid to the states in spite of sequestration. The WGA urges that all of these federal payments to states not be subject in any way to federal sequestration, and supports legislation to clarify the federal government’s obligations and the unique nature of these programs. It remains to be seen if western states could use this action as a lever to take over federal lands if payments are not made.

Conflicting Reports on Benefits of Idaho Taking over Public Lands – Two studies were performed to assess the monetary value of the State of Idaho taking over all federal public lands within its borders. In the first, Idaho’s [Department of Lands](#)’ informal analysis last spring found that Idaho's proceeds from managing an additional 16.4 million acres could be \$51 to \$75 million annually. But a December 2013 [report](#) by economist Evan Hjerpe, Ph.D. of the Conservation Economics Institute, indicates that taking over federal lands would create a net loss of \$240 million per year. The loss would occur because of the added expenses of timber management, fire suppression and management, recreation and road maintenance, and lost federal payments to the counties. In addition, although increased timber harvesting would bring some jobs, numerous local federal employee jobs and some recreation and tourism jobs would be lost.



Report Shows National Wildlife Refuges as Economic Drivers - Yet another reason that states should not attempt a federal land grab is found in a report called “[Banking on Nature](#),” released in November by Interior Secretary Jewell, which indicates that the 561 National Wildlife Refuges bring in billions of dollars to states and local areas. Visitors spend over \$2 billion per year on bird watching, hiking, picnicking, fishing and hunting, and a full \$4.87 was produced for every \$1 spent on wildlife refuges in FY2011. Other positive economic impacts include 35,000 jobs and \$343 million in local, state and federal taxes. Secretary Jewell embarked on a series of visits to refuges in November; asked

Congress for full funding for parks and public lands; and stated that President Obama will act if Congress refuses to do so.

Climate Change

West Coast Governors, B.C. Premier sign Pacific Climate and Energy Action Pact – On October 28, 2013, the governors of California, Oregon and Washington, along with a representative of the premier of British Columbia, signed an agreement, the [Pacific Coast Action Plan on Climate and Energy](#), committing the Canadian province and the three states to coordinate global-warming policies. Each west coast state and the Canadian province promised to take roughly a dozen actions, including streamlining permits for solar and wind projects, better integrating the electric power grid, supporting more research on ocean acidification and expanding government purchases of electric vehicles.

California Court Upholds State’s Cap-and-Trade Program – On November 12, 2013, a California Superior Court [upheld](#) Assembly Bill 32, the California Global Warming Solutions Act. The Act authorized the State Air Resources Board to adopt regulations to achieve the statewide greenhouse gas emissions limit. Under the regulations a cap-and-trade program was established, in which emitting entities are allocated allowances for a certain number of tons of emissions, and can sell the remainder at auction. The state estimates that it will raise \$12-70 billion over the life of the program. The California Chamber of Commerce and others sued, claiming the regulations exceeded the Board’s authority, and the charges for the allowances are illegal taxes in violation of the State Constitution. The court ruled that the program is legal and constitutional.

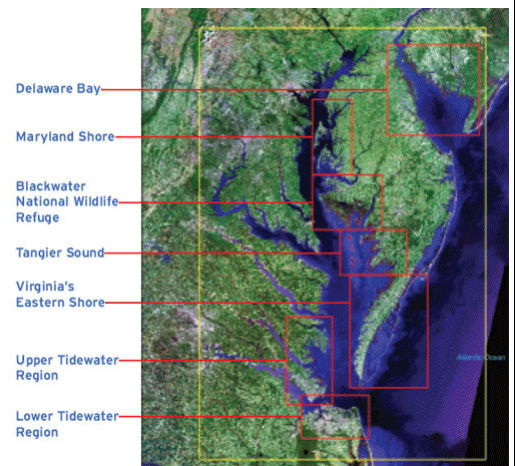
California Releases Public Draft of Climate Change Strategy – In early December 2013, the State of California released a draft for public comment of its [“Safeguarding California”](#) report, which is an update to the 2009 Climate Adaptation Strategy. The draft report discusses risks to agriculture,



biodiversity and habitat, emergency management, energy, forestry, ocean and coastal ecosystems, water, transportation and public health, and provides sector-specific recommendations. According to the Executive Summary, “The Safeguarding California Plan provides policy guidance for state decision makers, and is part of continuing efforts to reduce impacts and prepare for climate risks.”

Partnerships Work to Save Chesapeake Bay from Sea Level Rise

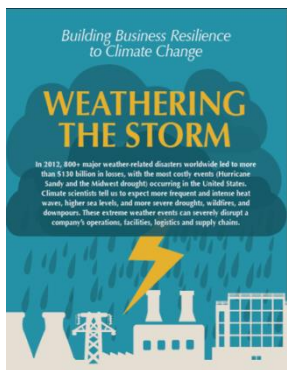
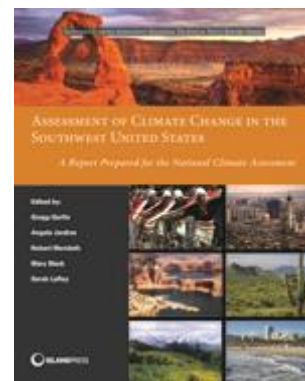
- Chesapeake Bay is the third most vulnerable area in the nation for sea level rise, behind Florida and Louisiana. The Maryland Department of Natural Resources’ used a modeling tool, Sea Level Rise Affecting Marsh Model, or [SLAMM](#), which indicates that there is a potential for inundation of 95% of Maryland’s coastal marshlands by the end of the century. Nonprofit groups and land trusts are partnering to try to manage coastal lands such that marshes can move inland as seas rise. Coastal marshes are an extremely important tool to protect coastlines from erosion and storm surge. See <http://www.defendersblog.org/2013/11/whole-new-world-sea-level-rise-changing-face-chesapeake/>.



State and Local Solutions for Sea Level Rise, Storm Surge - In October 2013, one year after Hurricane Sandy, the Columbia University Center for Climate Change Law issued a report with a number of solutions to the coastal climate issues from sea level rise and storm surges. According to the Center, [*Managed Coastal Retreat: A Legal Handbook on Shifting Development Away from Vulnerable Areas*](#), “compiles and examines case studies from across the United States where communities have already implemented managed retreat to protect against future disasters. By cataloging potential tools and illustrating the practical situations in which managed retreat has been used, this handbook hopes to provide policy makers with better information on the pros and cons of managed retreat.”

Most State Hazard Mitigation Plans do not Include Climate Change – All states must have state hazard mitigation plans, or SHMPs, approved every 3 years by the Federal Emergency Management Authority in order to receive federal disaster mitigation funding. A new [report](#) and [database](#) analyzes which states incorporate climate change into those plans (although new plans are being submitted through the end of 2013 and into 2014). States are ranked in four categories according to their level of consideration of climate change in their plans. It appears that coastal states are the most likely to include a discussion of climate change and its impacts. States with the best climate discussions include AK, CA, CO, CT, HI, MD, MA, NH, NY, VT and WA. Fully eighteen states, mostly inland, had no discussion or had inaccurate discussions of climate change in their SHMPs.

New National Reports Underscore Growing Climate Risks – Three [notable climate reports](#) were released this year: the draft [National Climate Assessment](#); the first part of the Intergovernmental Panel on Climate Change’s [Fifth Assessment Report](#); and the National Research Council’s report on [abrupt impacts of climate change](#). In addition, regional climate reports were issued by regional climate centers and alliances. For example, the [Assessment of Climate Change in the Southwest United States](#) summarizes and assesses the impacts of climate change in the southwestern states of AZ, CA, CO, NV, NM, UT and their Native lands. These reports underscore the strong scientific consensus that climate change is real, its impacts are occurring in real time, some impacts will be irreversible, and solutions are needed now.



90% S&P Global Companies See Climate Change as Business Risks - A new report, “[Weathering the Storm: Building Business Resistance to Climate Change](#)” found that an overwhelming ninety percent of the Standard and Poor’s Global 100 Companies consider extreme weather events and climate change to be current or near-term economic risks. The report reviews companies’ resilience practices, details several major companies’ approaches to climate change, and provides recommendations. The web site [C2ES](#) has compiled [videos and webinars](#) on how some major companies are dealing with climate risks. The report’s major recommendations include : Creating a clearinghouse for reliable, up-to-date data and analytical tools; investing in public infrastructure resilience; considering resilience needs in regulation; and setting

up voluntary, public-private partnerships.