



## Wildlife Policy News

Volume 19, Issue 5, October 2009

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### Climate Debate Moves to Senate

Senators Barbra Boxer (D-CA) and John Kerry (D-MA) introduced long anticipated climate legislation on 30 September 2009, opening the door to a full Senate debate on climate change policy. Senate hearings and committee markups will begin in October, with six committees expected to partake in the debate including the Energy and Natural Resources, Finance, Agriculture, Foreign Relations, Energy and Public Works, and Commerce committees.

[The Clean Energy Jobs and American Power Act](#), commonly referred to as the Kerry-Boxer Bill, proposes to reduce emissions 20% by 2020 based on 2005 levels and 80% by 2050, a more robust goal compared with the proposed 17% reduction in the House bill and the 14% suggested by President Obama. The Act aims to offset emissions by giving incentives to farmers and ranchers who contribute to reducing greenhouse gas concentrations by planting trees and

practicing sustainable farming. Like the House bill, the Kerry-Boxer bill proposes to allow two billion tons in offsets per year. However, whereas the House bill mandates only 50% of offsets to come from domestic sources, the Senate bill requires 75% to come from the U.S.

The bill includes provisions for natural resource protection as well as fish and wildlife management. To facilitate species adaptation to climate change, the legislation mandates state and federal Natural Resource Adaptation Plans that will require collecting data on sensitive species, monitoring the impacts of climate change, and creating wildlife corridors to facilitate species adaptation.

The bill leaves some questions, however, such as how emissions allowances will be allocated. But it does lay out some guidelines. For example, 25% of emissions allowances are to be auctioned between 2012 and 2020, with the funds directed to the Treasury department in order to pay for other provisions of the bill. Many environmental and conservation organizations are also hoping that the Senate bill will set aside 5% of allowance revenues in a climate adaptation program fund for wildlife.

*Sources: Clean Energy Jobs and American Power Act, A Summary of the Clean Energy Jobs and American Power Act, Sources E&E Publishing, LLC (Climate Wire, E&E Daily, E&E PM)*

### **Controversial Alaska Land Swap Rejected**

A Bush-era proposal to swap over 200,000 acres of wildlife habitat on the Alaskan Yukon Flats National Wildlife Refuge for drilling rights was rejected by the U.S. Fish and Wildlife Service earlier this summer. The Yukon Flats National Wildlife Refuge encircles over 8.6 million acres of land in northeastern Alaska, with several million acres belonging to six local villages, individual Native allotment holders, the State of Alaska, and the Doyon Corporation (which is owned by Athabascan Indians). The Refuge has a variety of habitats, including forested uplands, wetland-like sloughs, and lakes and streams.

After deferring the decision for over a year since the end of the public comment period 25 March 2008, the Service chose the “no action” alternative in the Draft Environmental Impact Statement, which will prevent Doyon from drilling on parts of the Refuge. The swap would have given Doyon Ltd. drilling rights to 207,000 acres with potential oil and gas reserves in exchange for 206,500 acres of high quality wildlife habitat owned by Doyon both within and outside the Refuge boundaries.

The Service received over 100,000 comments from the public and tribal governments regarding the swap. Most were in opposition to the exchange, expressing concerns over habitat fragmentation, degradation of natural resources, and decline in the quality and quantity of subsistence resources that support traditional lifestyles on the Refuge. The benefits of the exchange were also questioned because the U.S. Geological Survey recently reinterpreted historical seismic and geological data, which, when merged with current geophysical research on the area, suggests that oil and gas resources may not exist on the land Doyon would receive in the exchange.

*Sources: E&E Publishing, LLC (Greenwire), the Federal Register, U.S. Fish and Wildlife Service.*

### **Vilsack Outlines Vision for Forests**

Secretary of Agriculture Tom Vilsack laid out a comprehensive vision for forest management in Seattle on 14 August 2009. The new plan will be a template for the Obama Administration's forest policy, the goals of which are to restore resources and pursue sustainable forest management. Under the new management structure, forestlands will be managed to protect our water and wildlife, buffer the impacts of climate change, and create jobs for a healthy forest economy.

Extending conservation efforts to all federal and state agencies is critical to keeping forests healthy. Secretary Vilsack also noted that because 40 million acres of forests in the US are privately owned, part of the country's forest management program needs to include incentives for private land owners, such as conservation and cost-share programs in the 2008 Farm Bill.

Secretary Vilsack also covered how the Administration plans to address forest management plans that have been mired in drawn-out legal battles, including the polarized spotted owl controversies, the roadless rules, and Forest Service regulations that have limited protection for wildlife.

Vilsack announced that the Administration will not appeal a 16 July federal court ruling, which threw out Bush-era Forest Service rules governing how national forests and national grasslands manage wildlife conservation, recreation, and timber harvest among other forest uses. Instead, the Forest Service will develop a new planning rule guided by the goals of the Obama Administration.

The Administration supports the 2001 roadless rule and intends to defend it in court. The rule gives blanket protections to 58 million acres of national forestlands, but has been caught up in legal battles since it was instated by President Clinton shortly before he left office. The U.S. ninth Circuit Court of Appeals reinstated the 2001 rule, permanently rejecting the succeeding Bush-era rules. The [Roadless Area Conservation Act of 2009](#) (H.R. 3692) introduced in the House of Representatives 1 October, would codify the rule and is supported by 150 Representatives and 25 Senators. The Obama Administration has also expressed a willingness to write new regulations to protect roadless areas if necessary.

*Sources: Associated Press, E&E Publishing, LLC (Land Letter, E&E News PM), Oklahoma Forestry Service.*

### **Gunnison Sage Grouse Reconsidered**

The rare Gunnison sage grouse is being reconsidered for protection under the Endangered Species Act after being denied federal protection in 2006. The U.S. Fish and Wildlife Service (FWS) has until 30 June 2010 to decide whether to protect the bird, according to the terms of a settlement agreement with environmental groups and a county in Colorado. The 19 August

settlement comes three years after the groups filed a lawsuit protesting the decision not to list the grouse.

The FWS 2010 decision will be an important one in species conservation, as there are only 3,500 breeding adults in the bird's remaining Colorado and Utah ranges, with some populations consisting of few as 10 individuals. The 2006 decision not to list the Gunnison sage grouse was one of several endangered species decisions possibly altered by Julie MacDonald, the former Assistant Secretary of the Interior under the Bush Administration who was found to have edited scientific decisions. The agency admits being pressured to reduce the number of species on the endangered list.

The Gunnison sage grouse is considered to be one of the most endangered birds in the country by the Audubon Society. A recent report, "[The State of the Birds](#)," identified sage grouse habitat (high desert grass and sagebrush) as among the most degraded in the country. As sage grouse habitat declines, population size, and dispersal suffer. While experts believe that at one point the bird inhabited much of the interior west, today the species is confined to southwestern Colorado and southeastern Utah. Habitat decline is due in large part to human land use practices such as housing and highway development, oil and gas drilling, livestock grazing and motorized recreation.

Sources: *Center for Biological Diversity, Colorado Department of Natural Resources, E&E Publishing, LLC (Land Letter), State of the Birds Report.*

### **Salazar Approves New Wetlands Mapping Standard**

The U.S. Fish and Wildlife Service (FWS) announced on 18 August 2009 its adoption of new mapping standards for U.S. wetlands. The standards were decided upon by the Federal Geographic Data Committee, a federal interagency committee that advances cooperative nationwide development, use, and sharing of geospatial data. While the new standards will not change existing digitally stored map data, new federally-funded maps will be produced in accordance with the revised guidelines.

Wetlands are currently managed by a number of federal agencies including the Environmental Protection Agency, U.S. Fish and Wildlife Service, the National Marine Fisheries Service, as well as the U.S. Department of Agriculture. A digital database of wetland maps is maintained by the U.S. Fish and Wildlife Service. It is widely used by agencies and private institutions for activities such as conservation planning and funding decisions. As new technology becomes available, many agencies also produce their own maps, often at a more advanced scale. These newer maps contribute greatly to the entire database and are necessary for spatial analyses and data management projects, however, a lack of mapping standards has resulted in inconsistencies that make these kinds of tasks difficult.

The new standards require that data collected must be of high quality, meeting the minimum set conditions of image resolution and accuracy. Additionally, all collected map data must pass a series of verification checks prior to submission into the U.S. Fish and Wildlife Service database. While these requirements are optional for non-federally funded mapping projects, they are mandatory for federal agencies. Standards that ensure data quality will assist government and

non-government organizations in effectively planning and implementing conservation projects by providing accurate, integrated data.

*Sources: E&E Publishing, LLC (E&E News PM), Environmental Protection Agency: Wetlands Overview Fact Sheet, Federal Geographic Data Committee, U.S. Fish and Wildlife Service.*

### **Oil and Gas Leases Rejected on Bridger-Teton**

Part of the Greater Yellowstone Ecosystem, one of the largest intact ecosystems left in the world's temperate regions, Bridger-Teton National Forest is diverse in terrestrial and aquatic habitats. Its 3.4 million acres encompass pristine watersheds, lush forests, steep mountains, and abundant wildlife. Many species within the area are federally or state-protected. Certain areas within the National Forest are subject to oil and gas leasing, and this year, 23,757 acres on the Wyoming range faced oil and gas exploration. However, in August 2009, the Bureau of Land Management (BLM) rejected the bids for 23 leases. An additional 31 existing leases are currently suspended; a dozen of them will be subject to BLM review once a supplemental environmental impact statement is completed by the U.S. Forest Service.

The decision to reject the bids came after a preliminary ruling by the Interior Board of Land Appeals (IBLA), a federal review body that handles appeals resulting from agency decisions in public land and resource use. The IBLA ruling was guided by the provisions of the Wyoming Range Legacy Act that was signed into law in March as a component of the Omnibus Public Land Management Act of 2009. The Act withdraws 1.2 million acres in the Wyoming Range from future mining, mineral and geothermal leases. Though the legislation leaves existing leases intact, the leases cannot be renewed once they expire.

The 31 existing leases were withdrawn due to a finding that the environmental impact analysis prior to leasing, mandated by the National Environmental Policy Act, was inadequate. A final decision is expected in October.

*Sources: Bureau of Land Management, Department of Interior, E&E Publishing, LLC (Land Letter), Federal Register (Doc. 08-472), H.R.146, U.S. Forest Service, U.S. Geological Survey.*

### **Protection for the Greater Yellowstone Grizzly Bear Reinstated**

Two years after its delisting, U.S. District Court of Montana Judge Donald Molloy reinstated Endangered Species Act protection for the Greater Yellowstone grizzly bear population. The Judge ruled on 21 September 2009 that the U.S. Fish and Wildlife Service (FWS) did not take into consideration how climate change would affect the species' prime source of nutrition, whitebark pine nuts. The Court also found that the FWS's management plans for the grizzly bear were inadequate to maintain the 2007 population levels of 500 individuals.

The grizzly bear was originally listed as threatened in 1975, when populations had reached an all-time low of 1,000 individuals in the lower 48 states, only 2% of the original population estimate of 50,000 bears in years 1800 to 1975. Conflicts between people and grizzly bears were, and continue to be the principal sources of bear mortality in the United States. By 1975, the

Yellowstone ecosystem only contained between 136 and 312 individuals. After the species' ESA listing, however, grizzly bear numbers in the Greater Yellowstone Ecosystem rebounded and grew by as much as 7.6% per year to eventually reach a population of 500 (68% of carrying capacity).

FWS proposed delisting in 2005, and the decision was finalized in 2007, although the Service noted that the Yellowstone population is in danger of losing genetic diversity within the next few decades due to its isolation from other populations. After delisting, the bears were managed under a 'comprehensive Conservation Strategy' that employs monitoring and management responses to changes in population numbers, sufficiency of food, and adequacy of available habitat.

In the recent decision, the District Court noted that monitoring alone will not satisfactorily protect the bear population. The Court explained that without explicit guidelines and standards in the Conservation Strategy devised by the FWS, managing a healthy population and enforcing violations is not possible. For example, the Conservation Strategy provided no guidance or information on how its target population of 500 individuals would be maintained, relying on a non-obligatory State 'commitment' to manage. The Court also emphasized that the effects of climate change on an important source of food for grizzly bears—whitebark pine nuts—were not given sufficient consideration by the Service in its delisting decision. The Court pointed to scientific evidence which suggests that whitebark pine is being lost at Yellowstone will continue to decline because of climatic shifts, increased incidents of wildfire, pest infestations, and infection by white pine blister rust.

FWS officials will be reviewing the decision and considering their options for their next course of action before making public comment. The full court document is available for viewing [here](#).

*Sources: E&E Publishing, LLC (E&E News PM); U.S. District Court for the District of Montana, Missoula Division; U.S. Fish and Wildlife Service.*

### **Renewables Encouraged on Tribal Lands**

The Department of Energy (DOE) Tribal Energy Program is taking measures to encourage renewable energy development on tribal lands. On 13 August 2009 DOE announced that 36 Native American tribes and Alaskan villages will receive \$13.6 million for renewable energy and energy efficiency projects.

The goal of the program is to promote energy efficiency, sufficiency, green jobs, and renewable energy development, as well as to maintain cultural and natural resources on tribal lands. According to federal estimates, solar and wind power on tribal lands could generate enough energy to power the U.S. but harnessing these resources has been slowed by federal policies deterring energy development on these lands.

Tribes such as the Chickaloon Native Village and Alaska's Central Council of Tlingit will receive monetary and technical resources from the program for projects that range from green

building to job training. Public and private investments are expected to match DOE Tribal Energy Program funding by up to \$27 million.

Also available through the DOE are Energy Efficiency and Conservation Block Grants, Weatherization Assistance, and State Energy Programs, all of which assist tribes in pursuing their renewable energy goals. The projects made possible by these grants are now seen as a new source of revenue for tribes and a way to ensure cultural and environmental wellbeing.

Senate Indian Affairs Chairman Byron Dorgan (D-ND) and Vice Chairman John Barrasso (R-WY) are in the process of creating legislation that will ease the process of developing renewable energy on these lands. The legislation will address engaging tribes in the renewable energy market and creating avenues for self-sufficiency. Ideas for the legislation will be discussed with tribal leaders in Bismarck, North Dakota the week of 28 September 2009 and the Indian Affairs Committee hopes to have a bill written by the end of the 111th Congress.

*Source: E&E Publishing, LLC (E&E News Daily, Environment and Energy Daily, Short Takes), U.S. Department of Energy,*

### **Bill Introduced to Revamp Oil and Gas Leasing**

In an effort to overhaul oil and gas leasing and the federal royalty system, House Natural Resources Committee Chairman Nick Rahall (D-WV) introduced the Consolidated Land, Energy, and Aquatic Resources Act of 2009 on 8 September. The bill ([H.R. 3534](#)), would create a new Interior agency to oversee oil and gas operations on federal land, increase regulations for onshore and offshore production and improve planning measures for wind and solar energy projects.

The legislation encourages conservation measures through increased rental rates and new fees on non-producing leases. The bill also requires “best management practices” for new leases, which will necessitate companies to operate sites that minimize environmental damage.

The bill would establish the Ocean Resources Conservation and Assistance Fund, which would give a portion of outer continental shelf revenues to fund state and regional grants that protect and restore ocean ecosystems. Other conservation efforts include allocating \$900 million annually from oil and gas revenues to the Land and Water Conservation Fund.

The new office established to oversee energy and mineral leasing, housed within the Department of the Interior, would be called the “Office of Federal Energy and Minerals Leasing.” Its creation would consolidate the oil and gas programs now carried out by the Bureau of Land Management and the Minerals Management Service.

The bill comes partially in response to government watchdog reports that were critical of agencies that oversee oil and gas leasing. The bill would also try to reduce the number of companies that abuse federal regulations. Although the bill does not explicitly prohibit employees from accepting gifts, it does require that all employees within royalty oversight

departments comply with federal employee ethics regulations. The bill now awaits a committee markup.

One of the bill's proposals has separately been addressed by the administration. Secretary Salazar announced on 16 September that he will sign a secretarial order to eliminate the royalty-in-kind program, which allows businesses to give the Interior Department petroleum in lieu of royalty payments. The program is wrought with employee misconduct. For example, nearly one third of the program's employees were found to have received gifts from oil and gas companies. In addition to eliminating this program Salazar notes that the bill has been successful in shedding light on oil and gas leasing policies and bringing them forward to be reevaluated and revised.

*Sources: E&E Publishing, LLC (Land Letter), H.R.3534.*

### **Department of the Interior Plans to Combat Climate Change**

The Department of the Interior (DOI) publicized its plans to reduce the impacts of climate change in two different announcements made by Interior Secretary Ken Salazar on 14 September, and the U.S. Fish and Wildlife Service (FWS) on 23 September. Salazar also signed a Secretarial Order ([3289](#)), which launched a department-wide strategy to fight the impacts of climate change on our nation's fish, wildlife, water, land and cultural and natural resources.

Following the Secretarial Order, FWS released a proposed strategic plan to guide the agency in protecting fish and wildlife on public lands. The draft [Strategic Plan for Responding to Accelerating Climate Change](#) outlines FWS' role in mitigating the threats and impacts of climate change. Specific management actions for combating climate change over the next five years are outlined in the [Action Plan](#), which is a detailed appendix to the Strategic Plan.

FWS stressed that immediate action must be taken in order to protect species from the potential devastation of climate change. The draft Strategic Plan notes that failure to address climate issues in a timely manner would have serious effects on natural, cultural, and economic resources. The FWS has already begun working on some challenges like shifting species ranges and pest outbreaks, however, many more financial, technological, and staff investments are needed. One of the Plan's objectives is to create a National Biological Inventory and Monitoring Partnership that would enable information exchange to help managers understand the effects climate change is having on specific species and monitor whether management techniques are successful in mitigating these negative impacts.

The Strategic Plan stresses the need to base management decisions on the already established FWS climate change principles, which include building partnerships, using best-science practices and taking a global approach to management. The Plan focuses on three key elements to ensure a comprehensive strategy. One element of the Plan is management that assists species adaptation, which will help ensure that species are successful in modifying behavior, range and specialized characteristics in a changing climate. The FWS will also attempt to mitigate climate change by reducing greenhouse gases by using renewable energy sources when possible. Last, the Service will make an effort to engage and collaborate with other agencies to promote more effective and science-based approaches to climate change management.

FWS is inviting comments on both Plans through 23 November. All comments can be made on the FWS [on-line response page](#).

*Sources: U.S. Department of the Interior Secretarial Order, U.S. Fish and Wildlife Service*

### **Energy Development Threatens Hunting & Fishing**

In 2008, the U.S. produced nearly five million barrels of oil and over 21 billion cubic feet of natural gas each day. However, according to reports, due to current withdrawal rates many established oil and gas reserves are starting to reach their production peaks. Based on the anticipated decline of oil and gas availability in current reservoirs, U.S. producers are seeking new sources, some of which lie underneath treasured hunting and fishing areas.

In response to interests in oil and gas drilling of untapped reservoirs, the Sportsmen for Responsible Energy Development (SFRED), a conservation coalition led by natural resources organizations including the National Wildlife Federation, Trout Unlimited, and the Theodore Roosevelt Conservation Partnership, published a [report](#) on the ten most imperiled hunting and fishing habitats threatened by energy development. The most threatened areas lie within the western states of Colorado, Montana, New Mexico, and Wyoming. The imperiled lands are highly valued by hunters and anglers and include essential habitat for many unique species, such as the sage grouse and the Colorado cutthroat trout. According to the report, the number of national oil and gas development permits has tripled in the last eight years and approximately 126,000 additional wells are being considered for drilling in the next two decades. A number of areas outlined in the report are already threatened by pending oil and gas leases.

These areas, such as the Roan Plateau and North Park in Colorado are used extensively for elk and mule deer hunting, as well as by anglers who seek out quality coldwater fisheries. Other land parcels, such as Otero-Mesa desert grasslands in New Mexico, are especially at risk of degradation due to the fragility of these habitats. The Otero-Mesa is one of the largest public areas of the Chihuahuan Desert—a nearly 200 thousand square mile biologically-rich habitat. Beneath the Otero-Mesa is also one of New Mexico’s largest uncontaminated.

SFRED recognizes the importance of energy in the United States, but emphasizes the need for responsible energy development that takes into account fish, wildlife, and water resources. This is key to maintaining a balance between energy needs, and recreational opportunities that generate billions of dollars annually. SFRED’s solutions to offset the negative impacts of oil and gas drilling on hunting and fishing lands include incorporating science-based management, establishing stream buffers or ‘no-development’ buffers around groundwater aquifers, monitoring pollutants, and foregoing development altogether in sensitive areas like the Otero Mesa desert grasslands.

*Sources: Chihuahuan Desert Research Institute, Department of Energy: Energy Information Administration, E&E Publishing, LLC (Land Letter), Sportsmen for Responsible Energy Development.*

## Updates

**New Administration Nominations and Confirmations:** Sam Hamilton was officially confirmed on 31 July as the new director of the U.S. Fish and Wildlife Service. For the past twelve years, Hamilton served as the director of the Southeast Region in Atlanta, Georgia. Hamilton announced on 31 August that Rowan Gould and Dan Ashe will be the new deputy directors. Gould, who has been deputy since 2008 and acting director since January, will be the deputy director of operations and will oversee performance and accountability. Ashe, who was science advisor to the director for the past six years, will be the deputy director for policy and supervise agency directors in Washington, D.C., providing guidance for fulfilling the Service's mission.

Bob Abbey was confirmed as director of the U.S. Bureau of Land Management, after eight years as the Bureau's State Director in Nevada. Abbey's experience includes oversight of 48 million acres of public land, work with Interior staff to advance the passage of the Great Basin Restoration Initiative, and chairmanship of the Executive Committee that oversees the execution of the Southern Nevada Public Lands Management Act.

Wilma Lewis was confirmed as the Assistant Secretary for Land and Minerals Management. As Assistant Secretary, Lewis will establish Interior policies and oversee the protection of federal energy and mineral resources both on and off-shore, as well as the management of other public lands and resources.

The Senate confirmed Jon Jarvis as chief of the National Park Service on 24 September. Jarvis has been with the Park Service for the last 30 years and has worked on resolving issues such as the closures of California State Parks and the Bureau of Land Management's proposed installment of solar power plants that could affect water supplies in the water-deficient state of Nevada. Jarvis has been the regional director in the Pacific West since 2002.

President Obama nominated Marcia McNutt on 4 August to be the new Director of the U.S. Geological Survey. McNutt spent the first three years of her career with USGS studying earthquakes and the latter years working at MIT, where she was Director of the Joint Program in Oceanography and Applied Ocean Science and Engineering. Currently, she is President and CEO of the Monterey Bay Aquarium Research Institute.

Harris Sherman, candidate for undersecretary of the U.S. Department of Agriculture for Natural Resources and Environment faced a Senate hearing held to deliberate his appointment on 30 September. President Obama's nomination of Sherman on 10 September has been criticized by some conservation groups because of his position on the 2001 roadless rule in Colorado, where he serves as executive director of natural resources. The outcome of the hearing is not yet known.

**Budget Update:** With FY2009 drawing to an end and a number of bills still in committee, President Obama signed a continuing resolution (CR) that grants a 30-day extension to lawmakers for appropriating FY 10 funds. The CR, signed 30 September, is part of the

Legislative Branch Appropriations Bill, [H.R. 2918](#), and will continue funding for programs at FY 09 levels until the end of October.

Senate approved [H.R. 2997](#), the agricultural appropriations bill for FY 10 on 5 August. Within the full \$124 billion allotment, the bill increases rural energy development spending to \$128 million. It also increases farm bill conservation programs like the Watershed and Flood Prevention Operations program, which helps farmers finance projects that improve watershed management.

After months of deliberation, on 24 September the Senate passed the Interior Appropriations bill, [H.R. 2996](#), with over a dozen amendments. The Senate bill would grant \$10.2 billion to the Environmental Protection Agency, \$5.3 billion to the Forest Service and \$11.1 billion to various agencies in the Department of Interior

*Sources: Department of Interior, E&E Publishing, LLC (E&E Daily), Monterey Bay Aquarium Research Institute, the National Park Service, the White House.*