



# Washington Update

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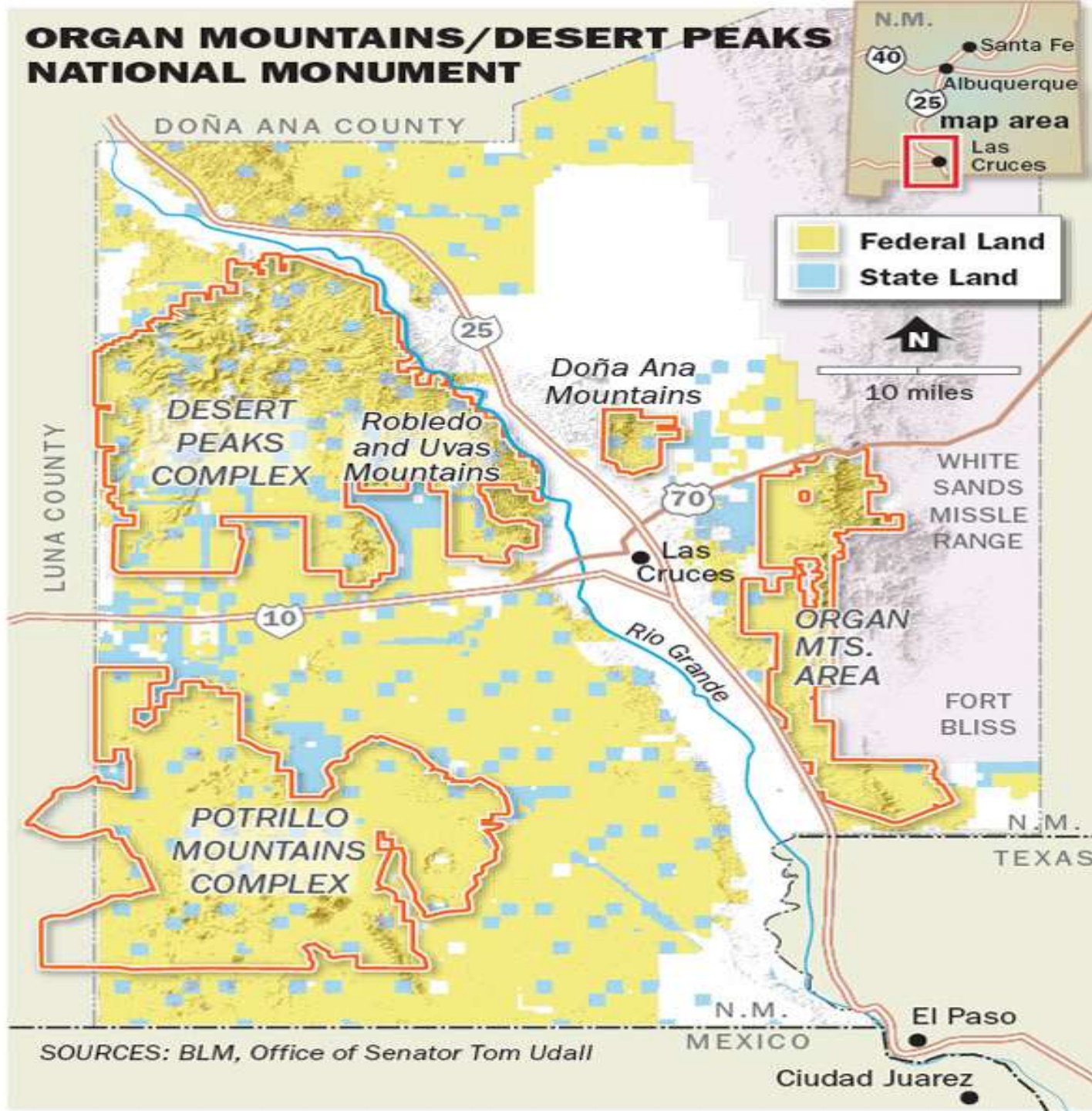
September 29, 2015

Oklahoma City, OK

# Advancing Conservation and Education Act (ACE)

- Congress made sizable land grants to the Western states upon respective statehood acts.
  - State constitutional mandates require these lands generate revenue, primarily for K-12 education.
  - Difficulty generating revenue arises when trust lands are trapped in federal conservation areas.
  - Land exchanges are very expensive and time consuming.
- What ACE will do:
  - States can relinquish trapped lands within federal conservation areas. Wilderness, National Monuments, National Parks, Roadless Areas.
  - States can select federal lands (BLM) in return of equal value.
  - Currently at least 2 million acres of state lands are trapped in Federal conservation areas.
  - The objective is to put those 2 million acres into economic production of oil and gas, mining, timber, development, etc.
  - Supported by the Western State Land Commissioners Association, the Western Governors Association, the Wilderness Society.

# ORGAN MOUNTAINS/DESERT PEAKS NATIONAL MONUMENT



SOURCES: BLM, Office of Senator Tom Udall



# Regulatory Attack

- **Endangered Species Act listings**
  - Entire nation affected by Wild Earth Guardians settlement resulting in over 200 listings which impact the entire nation.
    - Sage grouse, sage grouse LUPAs, lesser prairie chicken, northern long eared bat, burrowing beetle,.....
- **Waters of the U.S. Rule**
- **Lowering of ozone standard under the Clean Air Act**
- **Clean Power Regulations**
- **Hydraulic Fracturing Regulations**
- **Federal Oil and Gas Royalty Reform**
- **EPA Methane Rule**
- **BLM Flaring Regulations**

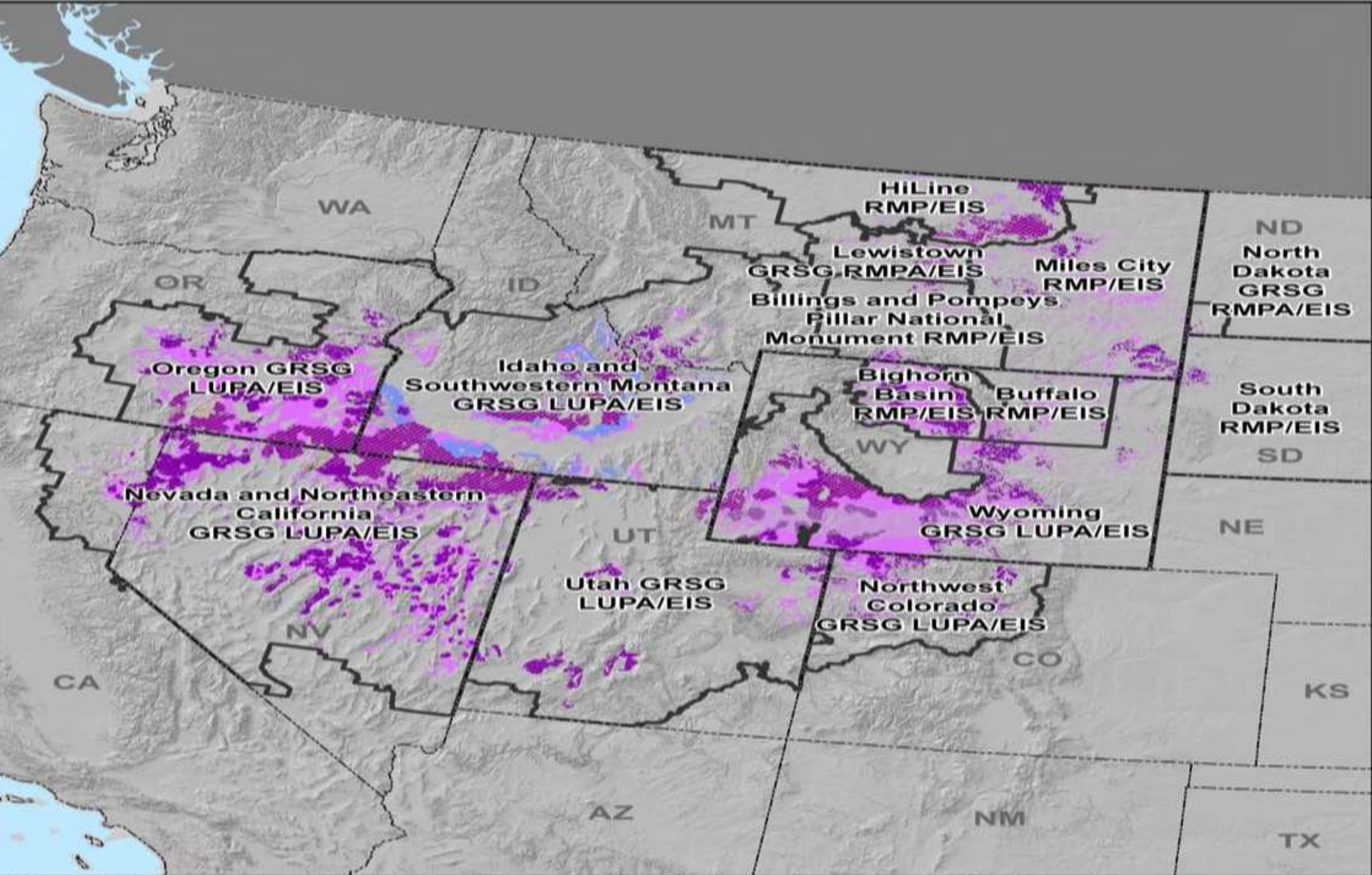
# Interior-EPA Appropriations Bill

- Contains several riders of importance to WSLCA Members.
- The Senate version (S 1645) was reported out of the Appropriations committee along party lines in June, but has since stalled.
- The House version (HR 2822) was being considered on the House floor until an amendment regarding the confederate flag caused House leadership to temporarily pull the bill in July. It still hasn't been acted upon.
- Democrats are generally unhappy with the policy riders found in the bill and several have vowed to do all they can to hamper the progress of the bill.
- President Obama has openly criticized several pieces of the bill, but has stopped short of issuing a veto threat.
- It appears that we are heading in the direction of a Continuing Resolution which would likely give Congress until December 11<sup>th</sup> to pass an Omnibus spending bill. The Omnibus could include appropriations bills such as the Interior-EPA spending bill.

# Sage Grouse

- “Not Warranted” Decision announced on September 22<sup>nd</sup>
- New focus on LUPA’s and mineral withdrawal
- Interior-EPA Appropriations bill
  - Language does not currently address LUPAs.
  - Continuing Resolution possibilities?
- National Defense Authorization Act
  - Rider to delay listing decision for 10 years was attached to the House version, but failed to be included in the Senate version in committee.
  - Ongoing efforts on Senate side to include a negotiated agreement for NDAA.
- BLM Land Use Plan Amendments
  - Finalized on September 22<sup>nd</sup>
  - BLM ignored and dismissed most of the Governor’s consistency review concerns and made few changes to the LUPAs.
  - Proposed amendment to the Interior-EPA Spending bill would ban the land use plans for 1 year. This amendment will be voted on at a later date.
- Mineral Withdrawal—The Secretary has initiated a 10 million acre mineral withdrawal which would be effective for 20 years following NEPA compliance.





**Figure 1-5: Regional and Sub-Regional Boundaries with Greater Sage-Grouse Habitat Management Areas (BLM Administered Lands)**

**Legend**

Sagebrush Focal Areas (SFAs)	Additional Habitat Management Categorizations
Priority Habitat Management Areas (PHMAs)	Planning Area Boundary
General Habitat Management Areas (GHMAs)	State Boundary

**\*For Subsurface information see the ARMPA**  
 No warranty is made by the Bureau of Land Management (BLM). The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed.

0 25 50 100 Miles

September 2015



# Waters of the United States

- Final rule was scheduled for implementation on Aug 28th.
  - Federal Judge in North Dakota halted implementation in 13 states which jointly filed suit: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, New Mexico, Nevada, South Dakota, and Wyoming
  - Implementation began in all other states despite pending litigation involving 18 additional states.
- Interior-EPA Appropriations bill
  - Both the Senate and the House have included language which would prevent the use of funds to develop, adopt, implement, administer, or enforce any change to the definition of the Waters of the United States.
    - Omnibus Bill?
- Regulatory Integrity Protection Act (H.R. 1732)
  - Sponsored by Rep. Bill Shuster (R-PA)
  - Stand alone authorization bill passed in the House on May 12<sup>th</sup>. Waiting for consideration by the Senate.
  - Requires the withdrawal of the proposed WOTUS rule.
- Federal Water Quality Protection Act (S. 1140)
  - Sponsored by Sen. John Barrasso (R-WY)
  - 44 cosponsors include a few democrats: Joe Donnelly (D-IN), Heidi Heitkamp (D-ND), and Joe Manchin (D-WV).
  - Reported to the Senate floor from the Committee on Environment and Public Works on July 16<sup>th</sup>.
  - Requires the redevelopment of the rule with limits on the definition of WOTUS.



# Ozone

- EPA proposed an update to the 2008 standard
  - The new rule would revise the ground level ozone standard from the current .75 ppb to a new level between .65 and .70 ppb published on Dec. 17, 2014
  - The Administration has promised to release the final rule by Oct. 1<sup>st</sup>.
- Interior-EPA Appropriations bill
  - Both the Senate and House versions would prohibit the EPA from lowering the ozone standard until 85% of counties in noncompliance with the current standard come into compliance.
- CASE Act (S. 751) and Clean Air, Strong Economies Act (H.R. 1388)
  - Nearly identical bills in House and senate
  - Senate bill sponsored by Sen. John Thune (R-SD) with Sen. Joe Manchin (D-WV) as a cosponsor.
  - House bill sponsored by Rep. Pete Olson (R-TX) with Democrats Henry Cueller (TX) and Ann Kirkpatrick (AZ) included on a long list of cosponsors
  - Same requirement of 85% compliance before standard can be changed.
  - The bills also include a provision that when the standard is changed the EPA must take into consideration the feasibility and cost.
  - Hearing on the Senate bill was held in the Committee on Environment and Public Works on June 3<sup>rd</sup>. House version has yet to be considered.
- Ordeal Act (S. 640) (H.R. 1327)
  - Identical bills sponsored by Sen. Jeff Flake (R-AZ) and Rep. Matt Salmon (R-AZ).
  - The Senate bill faced a hearing in the Environment and Public Works Committee on June 3<sup>rd</sup>.
  - Delays the review and revision of the ozone standards.

# Hydraulic Fracturing

- BLM final rule to regulate fracking on federal and tribal lands issued on March 20<sup>th</sup>.
  - Creates an additional layer of regulation over those already in place under state law.
- Lawsuit
  - Wyoming, North Dakota, Colorado, Utah, the Ute Tribe and the Southern Ute Tribe are suing the BLM over the rule.
  - Plaintiffs complain that the rule increases regulator costs without providing any increase in environmental protection.
  - The rule was scheduled to go into effect on June 24<sup>th</sup>, but a judge ordered an injunction on June 23<sup>rd</sup>.
  - A court decision isn't expected until late September 2015.
- Interior-EPA Authorization bill
  - House bill has a provision which would give states flexibility related to the rule.
- EPA Drinking Water Study published in June
  - Found fracking is not a “widespread” hazard to drinking water.
- Congressional Actions:
  - The House has held dozens of hearings on this issue over the past few years with the latest on July 15<sup>th</sup>.

# Lesser Prairie Chicken

- FWS determined bird to be “Threatened.”
  - Rule published April 10<sup>th</sup>, 2014
- Federal judge in Texas overturned the listing on September 1<sup>st</sup>.
  - The judge ruled that the USFWS ignored conservation efforts in making their decision.
  - Don’t forget about the Gray Wolf.
- Interior-EPA Authorization Bill
  - Both chambers included language which would bar listing the bird for 1 year.
- National Defense Authorization Act
  - Rider to bar listing protection for 5 years was attached to the House version, but failed to be included in the Senate version in committee.
  - Could be part of a sage grouse deal in the Senate



# Methane Rules

- EPA Methane rule
  - For new and modified oil and gas operations
  - Would require industry to:
    - find and repair leaks,
    - capture gas from completion of fracking wells,
    - limit emissions from pneumatic pumps on well pads
    - limit emissions from several types of equipment used at gas transmission compressor stations
  - Proposed rule published Sept. 18<sup>th</sup>
  - Comments due on Nov. 17<sup>th</sup>
- BLM Flaring Rule
  - May force drillers to capture more gas by clarifying definition of “avoidably” lost.
  - Will clarify when gas can be used free of charge to power drilling equipment.
  - Applies to BLM and Indian lands.
  - BLM submitted rule to White House on Sept. 18<sup>th</sup>
  - Rule will be released this fall.



# Questions / Discussion