



Conservation Issues Briefing

Covering December 2013 - February 2014

This is the twelfth 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

GMO Labeling Bills Finally Getting Traction? - Because of concerns over impacts of GMO crops on health and the environment, including impacts on pollinators, the majority of states are considering GMO labeling bills. After the defeat of GMO labeling initiatives in California and Washington, on December 11, 2013 the State of Connecticut became the first state to enact a

[GMO labeling law](#). However, the law goes into effect only after four other states enact similar legislation. On January 9, 2014 Maine enacted a similar GMO labeling [law](#), but its validity depends upon passage by five contiguous states. A New Hampshire bill, [HB 660](#) was defeated in November 2013 in the New Hampshire House. In Vermont [H.112](#) passed the Senate Agriculture Committee on February 6. And in California a new GMO bill, [SB 1381](#), was introduced in February, as was Illinois's labeling bill, [SB 1666](#). Outdoing all other states, this session New York legislators have introduced no less than 12 bills addressing GMO labeling, and asking for a five-year moratorium ([A.2299](#)) on growing GMO crops in the state.



Minnesota Takes on Pollinator Issues - The Minnesota Department of Natural Resources in December 2013 released a [draft plan](#), “Native Plant Community Restoration Practices and Habitat Management Guidelines to Enhance Pollinator Habitat on NM DNR Managed Lands.” The Guidelines were produced in response to [MS 84.973](#), in which the 2013 Legislature directed



the DNR to establish a pollinator habitat program. NCEL Rep. Rick Hansen also held a Pollinator Public Policy Forum to consider pollinator issues on February 10, 2014. The purpose of the guidelines will be to enhance pollinator habitat in all habitat or land restoration under DNR control. The guidelines also require prairie restorations to include “an appropriate diversity of [native species](#)” to provide habitat for pollinators. They note that the state needs to add habitat and grassland restoration, and it needs to manage acres for maximum benefit.

Oregon Bill Requires Best Practices for Pollinator Protection - After several massive die-offs of bees from neonicotinoid pesticide applications, NCEL member and Oregon Rep. Jeff Reardon introduced [HB 4139](#) to require Oregon State University and the Department of Agriculture to develop best practices and educational materials for nurseries and the public using these pesticides, in order to avoid adverse effects on bees and other pollinators. It also creates a task force that will consider possible legislation for the 2015 session. The bill was approved by the House and Senate and awaits the governor's signature.

Conservation Groups Sue Over Plight of Pollinators – In the case *Pollinator Stewardship Council v. EPA* (No.13-72346), beekeepers and environmental groups are suing the Environmental Protection Agency challenging its registration of a new pesticide, sulfoxaflor. Registration occurred despite the fact that the EPA's scientists warned that the new pesticide is “very highly toxic” to honey bees. The case is before the Ninth Circuit Court of Appeals to determine whether to set aside the registration. Appellants argue that the EPA has not shown that the chemical will not have unreasonable adverse effects on the environment. Sulfoxaflor is a new class of neonicotinoid pesticides which have been found to kill bees (see the organic farmers' [amicus brief](#)), and which have been prohibited in the European Union. Pollinators are responsible for ninety percent of flowering plants in the world.

Endangered Species

New York Proposes Ban on Sale of Elephant Ivory to Stop Poaching - In response to the widespread and accelerating slaughter of elephants for their ivory, NCEL member Assemblyman Robert Sweeney asked the New York Department of Natural Resources to stop issuing permits for the sale of ivory from elephants. The New York Times published an [editorial](#) approving of a statewide ban on ivory sales, in part because New York is one of the largest markets for ivory in the world, second only to China. Then on February 11, the federal government announced that it is moving toward a total commercial ban on ivory sale. The Hawaii Legislature's Judiciary Committee on February 25 passed [HB 2183](#), which bans trade in ivory in the state. *States are asked to enact a ban on ivory sales* in order to assist the federal government with this action (see the [model state bill](#) and [FAQ sheet](#) by [96Elephants.org](#)).



A U.S. Department of Interior [press release](#) announced that the Service will:

- Prohibit commercial import of all African elephant ivory
- Prohibit commercial export of all ivory except “bona fide antiques”
- Significantly restrict domestic sale of ivory across and within state lines, except for bona fide antiques
- Clarify the definition of “antique” as more than 100 years old and meeting requirements of the Endangered Species Act, with the burden of proof on the trader
- Restore Endangered Species Act protections for African elephants, revoking a rule that relaxed restrictions on elephant ivory trade
- “Limit” import of African elephant sport-hunted trophies to 2 per hunter per year.

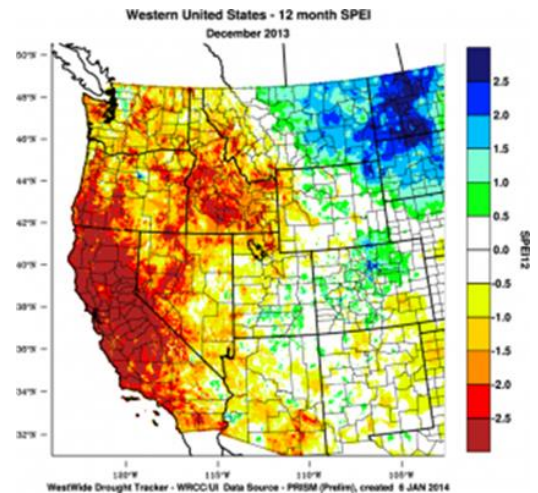
In the meantime in a show of changing policy, China pulverized 6.1 tons of confiscated ivory after the U.S. crushed six tons. Other nations such as France are following suit, and some African nations are talking about disallowing export or sale of ivory. Elephants are being killed at the rate of 96 per day. International organized crime is responsible for most of the slaughter.

Arizona Considers Bill Opting out of Federal Endangered Species Act - In another amazing move by the Arizona State Legislature, [HB 2699](#) would require the Fish and Game Department to cease participation in all federal Endangered Species Act programs unless “cooperatively implemented.” All threatened and endangered species programs are terminated on August 31, 2014 unless approved by a majority vote of each house of the legislature. All wildlife species (and their offspring) administered under the ESA must be removed from the state. Further, monies obtained from the federal government will be used in a reimbursement fund for anyone impacted by the Endangered Species Act.

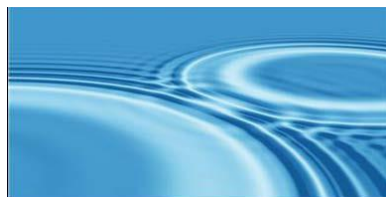
Climate Change

California Drought Hits Nightmare Scenario - In the face of the most intense drought ever recorded in California, the Central Valley Project announced on February 21 that it cannot send

any water to farmers from the Sacramento-San Joaquin River Delta, and industrial and municipal customers will receive only 50% of normal supplies. President Obama announced an aid package of up to \$183 million for drought relief programs, as well as a new \$1 billion initiative to increase climate resilience. The U.S. House passed a bill in January that would permanently reverse environmental protections for salmon and other endangered fish and send more water to California farmers. But the [California Emergency Drought Relief Act](#) introduced on February 11 by California and Oregon U.S. Senators would provide \$300 million in drought relief and emergency aid; would speed environmental reviews; give flexibility to move water south; and although it would not override the Endangered Species Act and federal and state water laws, according to some U.S. House Democrats it would divert water from salmon runs and impact the Northern California economy and environment. See [bill details](#) on Sen. Feinstein's page.



California Governor Also Releases State Water Action Plan - California Governor Jerry



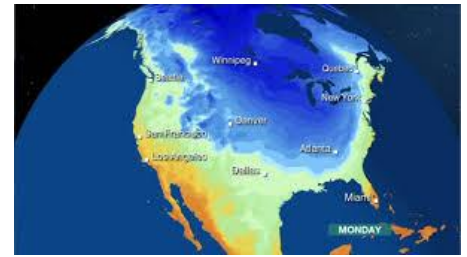
Brown released a [State Water Action Plan](#) in January 2014 in which he directed his Administration to investigate short-term and long-term water solutions, including proposed funding of \$618.7 million in his [proposed 2014-15 state budget](#) for increased water conservation, water recycling, storm water reuse, wetlands and watershed restoration and other programs that will reduce

demand by both urban and agricultural users. Governor Brown also convened an [Interagency Drought Task Force](#) to meet weekly and coordinate with federal and other agencies, and on January 17 issued a [Drought State of Emergency](#).

Massachusetts Tackles Climate Change Impacts – Massachusetts Senator Pacheco on January 28 announced a new bill that will require a report to quantify and address climate change impacts in the state. An advisory committee would be created to report on the state's resiliency as well as vulnerabilities to climate change, especially in infrastructure, coastal communities and transportation. The bill would provide funding for a coastal buy-back program to convert vulnerable lands to conservation or recreation lands. Funding would also be provided for regional planning for climate change. The bill would also codify Governor Patrick's January 2014 announcement of a \$52 million investment in climate change actions.

Oregon to Consider Carbon Reporting – After the governors of California, Oregon, Washington, and the premier of British Columbia, in October 2013 signed the [Pacific Coast Action Plan on Climate and Energy](#), committing to coordinate global-warming policies, the State of Oregon allocated \$200,000 from the general fund for a study on a possible new carbon tax for the state. The study will consider impacts on industries, as well as where the new funds could be reallocated. The carbon tax would be modeled after British Columbia's 2008 passage of a carbon tax. The goal is to decrease carbon emissions to the strict targets set by the state, as well as to create new revenues for the state. The final report on the study is due in November 2014.

Polar Vortex Debate Tackled by White House – The intense winter experienced by much of the nation is due to a series of polar vortices, or arctic jet streams that move south. Many climate deniers, including some members of Congress, claim that the cold winter is proof that there is no global warming. But Dr. John Holdren, President Obama’s Science Advisor, hit the issue head-on, with a press release and [video](#) straight from the White House explaining the connection between climate change and the meandering polar vortex. He explained that the arctic is warming twice as fast as the rest of the world, and the resulting lower temperature differential causes polar winds to meander southward.



Fish and Wildlife

States Move to Restrict Products with Microbeads – Microbeads are tiny plastic spheres that are used in face scrubs and other cosmetics. They are harmful to fish and other aquatic wildlife that ingest the beads and digest them, pulling the chemicals into the human food chain. Microbeads have been found in the Great Lakes as well as in the oceans, where most of the beads enter the sea from rivers flowing into the oceans. New York Assemblyman Sweeney introduced a bill to restrict the use of microbeads in products. An [article](#) in the New York Times noted that the proposed ban was requested by New York Attorney General Schneiderman. [A.8652](#), introduced by Assemblyman Schimel in January, would ban the sale of products with microbeads; and [A.8744](#), the "Microbead-free Waters Act" would prohibit the manufacture, distribution and sale of personal cosmetic products containing microbeads. On February 13, NCEL member California Assemblyman Bloom also introduced [legislation](#) to restrict microbeads in California, and other states are considering following suit.



Shark Fin State Prohibition Laws Found OK with NOAA – On February 4, 2014 the National Oceanic and Atmospheric Administration [announced](#) that the shark fin ban legislation in the States of California, Maryland and Washington are consistent with the 2000 and 2010 federal laws that prohibit shark finning. NOAA published a proposed rule last year that stated that state shark fin laws might be preempted if they restricted legal shark fishing in federal waters under the Magnuson-Stevens Fishery Management Act. NOAA is working with states to reach agreements on regulation of shark fins. Eleven states and territories, including Hawaii, Oregon, Washington, Illinois, California, Maryland, New York and Delaware have passed prohibitions on the sale of shark fins and food containing them. At least four other states are considering bans because of the 25% decline in shark populations and the cruelty of finning.

States Attempt to Restrict or Expand Hunting of Cougars – The Nebraska Senate has passed a bill to eliminate the sport hunting of cougars. Sen. Chalmers introduced the bill, [LB 671](#), and has the support to get it passed. Apparently there are very few cougars left in Nebraska. California is the only other state in the nation that bans hunting of cougars. Washington State’s [SB 6287](#) would have set up a 5-year pilot program to allow hunting of cougars



with dogs. The bill died in the Senate Rules Committee in February 2014.

Study Shows Large Predators Benefit Ecosystems – A new [article in Science](#) reports that large carnivore species are plummeting in numbers, yet they are responsible for dramatic “trophic cascades” in which ecosystems, other animals and humans are benefitted by their presence. The studies found that entire ecosystems that were ravaged by grazing animals recovered when carnivores such as wolves and cougars keep the herbivores from spending all their time beside waterways and in forage. Trees and bushes regenerate, stream banks stabilize such that fish, birds and other animals have cover, shade and habitat, smaller carnivores such as coyotes and exploding and diseased populations of deer and elk are controlled, and waterways have less sedimentation and erosion. In short, the study makes a strong case for protecting the last of the carnivores.

Wolves

Idaho May Spend \$2.2 Million to Kill Wolves – Idaho Governor Butch Otter, claiming that



gray wolf numbers are increasing, seeks \$2.2 million to kill up to 500 wolves in [HB 470](#), the Wolf Depredation Control Board Act. The total cost to kill each wolf would average \$4,400. In addition the Fish and Game Department seeks to kill 60% of wolves in wilderness areas, in order to get the total number down to 150 wolves. Over 1,000 wolves have been killed in Idaho since delisting in 2011. Wolves represent less than 1% of the depredations of livestock. Gray wolves in Idaho peaked at about 850 wolves in 2009, and numbers have steadily declined to less than 600 in 2013. If the total number of wolves falls below 150, they may have to be relisted under the Endangered Species Act. [HB 470](#) passed the House in February and moved to the Senate.

Arizona Bills Seek to Stop Mexican Gray Wolf Recovery – The Arizona Senate has passed three bills that oppose the recovery of federally-listed endangered Mexican gray wolves in the state. The small Mexican wolf subspecies is the most endangered mammal in the United States, with only about 80 wolves surviving in Arizona and New Mexico since their introduction in 1998. A recent poll showed that 77% of Arizona voters support Mexican gray wolf recovery.

Nevertheless, [SB 1211](#) would encourage Arizona agencies and residents to trap and kill Mexican wolves; [SB 1212](#) would appropriate \$250,000 for state litigation to impede federal efforts to recover the wolves (as opposed to using the funds for nonlethal methods to prevent depredation); and [SCR 1006](#) is a resolution against Mexican wolf recovery in the state and encourages killing of any wolf entering private land. [SB 1211](#) was amended to allow killing wolves only with federal consent.



Minnesota May Prohibit Taking Wolves on Indian Reservations – A bill was just introduced in the Minnesota Legislature by Rep. Fischer, [HF 2193](#), which would provide that all areas within boundaries of Indian Reservations shall be designated as closed to taking wolves. In addition, legislation to reinstate a five-year moratorium on wolf hunting in Minnesota (SF 666/[HF 1163](#)) was introduced in 2013 and will still be up for consideration in 2014.

New Analysis of “Skinny Cows” – A new study by the University of Montana’s Department of Economics finds that calf herd weights may be impacted by a single wolf depredation. The study also found that other factors such as drought, runoff, snowfall and temperature explain “the vast majority” of impacts on herd weight. Calf weight is not impacted in areas where wolves are present as long as there are no depredations. Once a depredation occurs, the average weight lost by calves can be as much as 3.5% for the typical sale of 264 calves. The authors noted that the findings “lend support to programs” such as range riders who are trained to monitor and discourage wolves from approaching livestock.

Invasive Species

Michigan Bills Address Prohibited Invasive Aquatic Species – A set of eight bills have been introduced in the Michigan Legislature (lead sponsor Sen. Kowell) to deal with the continued threats posed by illegal possession, introduction, sale and transfer of prohibited aquatic invasive species. Senate Bills 795 through 802 would increase fines; allow seizure of equipment; allow suspension of hunting and fishing rights; and allow suspension of commercial licenses. [SB 795](#), for example, would greatly increase penalties for introducing a prohibited species to up to 3 years in jail and up to a \$100,000 fine. Michigan already prohibits possession, sale, transport or transfer of a number of aquatic species. But with recent increases in trafficking, the bills would increase penalties to try to deter such illegal activity.

Ontario Considers First Canadian Invasive Species Bill – The Province of Ontario is considering the first ever [bill to restrict and control invasive species](#). Ontario is contending with zebra mussels, longhorn beetles, the ash borer beetle, the European common reed grass, and the round goby, a bottom-dwelling fish now found in all five Great Lakes. Invasive species already cost the Ontario economy tens of millions of dollars yearly. More invasive species have become established in Ontario than any other Canadian jurisdiction. The proposed legislation would give Ontario the tools to ban activities such as possessing and transporting certain invasive species; to allow for earlier intervention and rapid response; and to ensure compliance through modernized inspection and enforcement measures. – from Toronto Star



Agriculture (Farm Bill)

Farm Bill Passes after State Legislators Voice Objections - After 45 NCEL members signed a [letter](#) to the Congressional conferees to the final federal Farm Bill objecting to certain provisions and cuts to conservation, the bill passed and was signed by President Obama on February 5, 2014. The final bill made substantial cuts to conservation funding, as summarized in detail in

this [report](#) to NCEL members. However, many of the harmful provisions in the House version of the Farm Bill were not included. Below is a summary of some of the other Farm Bill provisions:

- **Wildlife funding** – The Wildlife Habitat Incentives Program is consolidated into the larger Environmental Quality Incentives Program of the Natural Resources Conservation Service (NRCS), but puts in place a specific set-aside for wildlife projects. The bill adopts the preferable Senate construct of “at least” 5% for wildlife, so there is a floor rather than a cap.
- **Conservation Compliance** – The bill requires that farmers comply with soil and water conservation measures in exchange for all subsidies, including crop insurance premium subsidies. This was a major issue of concern for our allies within the conservation community.
- **Sodsaver** – A similar provision known as Sodsaver reduces crop insurance subsidies for production on acres of newly broken prairie. This goal of this program is to protect the last remaining native prairie from being plowed under. The bill improves on the 2008 version by making the program mandatory, but continues to apply to only a handful of states in the Upper Midwest. These states, encompassing most of the Prairie Pothole Region, are important for remaining prairie and for waterfowl and other wildlife habitat.
- **Pesticide Riders** – The rider removing Endangered Species Act coverage of pesticides was neutralized. The USDA must report in one year on the status of implementation of the National Academies’ recommendations for improving the ESA consultation process. The rider eliminating Clean Water Act permits for injecting pesticides into water was not included.
- **Lesser Prairie Chicken Study** – The conference report requires a report from USDA on the status, cost, and effectiveness of all Ag spending on programs to conserve the Lesser Prairie Chicken and its habitat. In previous discussions around the time of House passage, there seemed to be consensus that the study was not a problem.
- **Other Riders** – Almost all of more than a dozen bad environmental riders on numerous topics were kept out of the final bill. Of critical importance to NCEL members is that there is also no King Amendment, which would have gutted state animal welfare, public health, and environmental regulations on food and farming.
- **Forestry** – The Healthy Forest Reserve Act provisions include the expansion of reduced NEPA application under the Healthy Forest Restoration Act. But the blanket NEPA waiver for disaster area salvage logging is not included. The bill does include the rider exempting “silvicultural activities” including logging and road building from NPDES permit requirements.

