



For America's Heritage

# THE PUBLIC LANDS Monitor

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## MEMBER'S SURVEY – FEBRUARY 2021

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The PLF recently conducted an online survey of our members on BLM and public land management issues. A summary of the Member's Survey Results and our Action Plan are available on the PLF website. Over 300 members responded, and we thank you for participating! Members expressed a consensus that it was extremely important that the PLF focus on helping get an interim and a permanent BLM Director in place, and on moving BLM leadership back from Grand Junction, CO to Washington, D.C. While we have communicated our positions on both matters to the Interior transition team, we will continue to correspond and coordinate with the Administration and Congress and provide whatever advice and assistance we can to support these efforts.

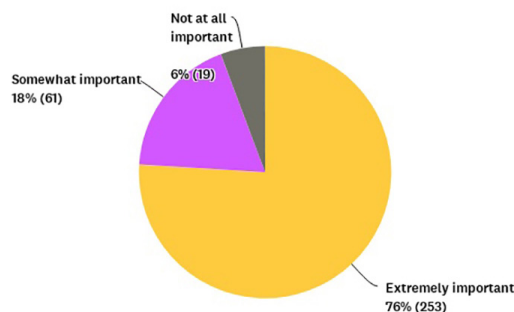
Members also identified energy and minerals and wildfire management issues as top priorities among public

land management issues to address. We also asked members to review the topics of our current Position Statements and to indicate those topics which they believe remain relevant today. Member's feedback, coupled with policy priorities of the Administration and Congress, and current and ongoing events are helping us to prioritize our Position Statement review and revision workload for 2021. Public Lands Foundation Vice President Don Simpson is coordinating this work effort, which will be performed by teams of PLF members who have expressed a willingness to assist and who offer subject matter expertise.

Our members continue to appreciate the opportunity to weigh in on issues and PLF priorities. We plan to conduct a similar Member Survey annually. If you are interested in assisting us in developing next year's survey topics and questions, please contact George Stone at [gstone@publicland.org](mailto:gstone@publicland.org).

### MEMBER SURVEY QUESTION #1

*In response to the question, How important do you think it is for the PLF to focus on returning the BLM leadership from Grand Junction, CO to Washington, DC?, 76% of the 333 respondents said Extremely Important.*



The Public Lands Foundation advocates and works for the retention of America's Public Lands in public hands professionally and sustainably managed for responsible common use and enjoyment.

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## PRESIDENT'S COLUMN

Have you gotten your vaccination yet? A year ago, we were washing our hands a lot and staying home. In two weeks we'd "flatten the curve" and be able to start getting back to normal, we were told. Well, that didn't work out quite as we planned. But progress is being made and I hope this vaccination and herd immunity thing works. One thing I have been reminded of through this ordeal is that science is not perfect, especially with something like a new virus, and there is a need to learn and adapt as we move along. Kind of like land management.



**Ed Shepard**

I want to start off by welcoming our new Executive Director, Courtney Lyons-Garcia. Courtney comes to us with over twenty years of nonprofit public land experience. For the past 13 years she has been the Executive Director for the Big Bend Conservancy in Texas. We hired her to help expand PLF's capacity to advocate for the public lands. She has a lot of experience, energy, and fresh ideas that will serve us well. In the few short weeks that Courtney has been onboard she has provided us with insight on how we can do our work more efficiently and effectively. Welcome to the PLF, Courtney!

We would also like to welcome the Department of the Interior's new Secretary, Deb Haaland. Secretary Haaland was confirmed by the Senate and sworn in as the 54th Secretary on March 18. The Secretary has just started,

and we are all waiting for announcements of who will lead BLM and who will serve as the Assistant Secretary. Some familiar names from past administrations are coming onboard in the Department and serving in leadership roles until permanent leaders are nominated and confirmed. Laura Daniel-Davis has been appointed as the Principal Deputy Assistant Secretary for Land and Minerals Management (ASLM) and Nada Culver is the newly appointed BLM Deputy Director for Policy and Programs. Nada comes to BLM from a long career with conservation organizations, most recently the National Audubon Society and Laura Daniel-Davis most recently worked for the National Wildlife Federation and also served as Chief of Staff for Secretaries Salazar and Jewell. The Board has been in contact with both of these leaders, and we look forward to a productive relationship.

The Board of Directors recently held a Zoom call with both of the BLM Deputy Directors, Nada Culver and Mike Nedd. Joining them on the call were BLM Chief-of-Staff Mark Lawyer, Counselor Danna Jackson, and Senior Advisor Alexx Diera. Janea Scott from the Assistant Secretary's office also joined the call. This was primarily an introductory call where information was shared on the BLM priorities under the new Administration and how PLF may be able to help provide support. We hope to hold similar calls in the future, reestablishing the quarterly calls the PLF had with BLM in the past.



**BLM-PLF Zoom Meeting, March 26, 2021**

One of the first orders of business that we hope Secretary Haaland will address is to nominate a permanent BLM Director. There has not been a permanent Director in over four years. It is time for permanent leadership to address the many land management issues facing the Bureau, and the organizational issues and “brain drain” resulting from the BLM reorganization and relocation. On behalf of the PLF, I have sent a letter to the Secretary asking her to work with the White House to nominate a BLM Director that meets the guidance found in section 301(a) of FLPMA requiring that “The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management.”

Spring is a good time to do some cleaning. As we prepared for the Administration transition, we looked at PLF's Position Statements and found that is an area in which we need to do a little cleaning. Many of the papers are out of date and some address issues that are no longer pertinent. I have asked Don Simpson to lead an effort to see that these papers are up to date and reflect the concerns of today. I know that Don has reached out to many of you for your assistance.

I'd like to close out this report with something that I always enjoyed doing in BLM and with PLF, recognizing the many good people that contribute so much to the organization and help make us successful. Normally we recognize internal PLF

award recipients at the annual meeting, but it was not possible last year because of Covid. So, we did the next best thing and made a hybrid, virtual, and CDC-safe award presentation to our Volunteer of the Year. With the help of PLF member John Fend, Idaho BLM State Director John Ruhs and Associate State Director Peter Ditton, and me via Zoom, we presented this award to Jenna Whitlock. Jenna contributed significant time and energy over the past few years to help the PLF react to the BLM reorganization and to track the many vacancies that resulted. For this and the many other contributions Jenna has made, the Board of Directors recognized her with this award. Congratulations, Jenna!



**Jenna Whitlock – Volunteer of the Year Award,  
with John Fend of PLF Idaho**

## EXECUTIVE DIRECTOR

The Public Lands Foundation received 11 applications for an Executive Director position to assist the PLF in promoting its advocacy mission, vision, goals, and activities before the BLM, Department of the Interior, Congress, and other organizations. This position will also direct and conduct PLF fund raising activities. On February 23, 2021, Ed Shepard, President, announced the selection of Courtney Lyons-Garcia as our new Executive Director. Courtney lives in New Braunfels, TX and is a seasoned nonprofit executive with fund raising experience, including as a nonprofit partner with the Department of the Interior. Her most recent experience was Executive Director for the Big Bend Conservancy, which supports Big Bend National Park and the Rio Grande Wild & Scenic River.



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## EXECUTIVE DIRECTOR'S MESSAGE

Greetings! I am pleased to be the first Executive Director for the Public Lands Foundation. I come to the organization with almost twenty years of non-profit public lands experience, and am ready for the challenge of moving the organization forward.

I am a graduate of Texas A&M University with a BA in English. I went on to a MA in Media and Public Relations as well as a MA in Tourism Administration, both from George Washington University. I worked at National Geographic Traveler and the National Parks Conservation Association while living in Washington, D.C. My husband and I have been married 22 years and we have a 16-year-old son and a 13-year-old daughter. We are one state



**Courtney Lyons-Garcia**  
**PLF Executive Director**

away from achieving our goal of visiting all 50 states before our son's high school graduation, so we have until May 2022 to get to Hawaii! Along the way we have discovered dozens of amazing spaces across our country's network of public land under the Department of the Interior – many of those with our dog in tow.

After starting our family, we moved back home to Texas, where I worked at the San Antonio Botanical Garden before spending the last 13½ years as the Executive Director of Big Bend Conservancy, Big Bend National

Park's nonprofit fund raising partner. I was able to take that organization from having contributed \$550,000 to the park to contributing over \$4 million. I spent many meetings at the Denver Service Center – a place many of you know well. And I have spent years working through the bureaucracy and mountains of federal paperwork, having "discussions" with Interior Solicitors and working to sell donors on the idea of making a gift to land that they might not ever visit because it is the right thing to do.

And while working as a nonprofit partner to a federal agency has been challenging, the rewards are amazing. Working with lifelong public servants, seeing the passion so many have for our collective public land heritage is invigorating and gives me such hope. I look forward to working with each of you to move PLF's mission and reach ahead. Please feel free to contact me at any time, and I hope to start meeting many of you as we all get vaccinated and start being able to travel again!



**Courtney with Family at**  
**Red Rock Canyon NCA, Nevada**

### PUBLIC LANDS FOUNDATION GOALS

- Keep lands managed by the Bureau of Land Management (BLM) in public ownership and open to use by the public.
- Support multiple use management under the Federal Land Policy & Management Act.
- Encourage professionalism by BLM employees.
- Increase the public's understanding of and support for the proper management of the public lands.

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## LANDSCAPE STEWARDSHIP AWARD

### RANCHERS STEWARDSHIP ALLIANCE

The Ranchers Stewardship Alliance was presented with a 2020 Landscape Stewardship Award by PLF Montana State Representative Richard Hopkins, in Malta, Montana, on January 12, 2021. The citation for the Award follows:

The Public Lands Foundation (PLF) presents the Ranchers Stewardship Alliance (RSA), with its 2020 Landscape Stewardship Award and this Citation. The PLF grants this recognition to honor private citizens and organizations that work to advance and sustain community-based stewardship on landscapes that include, in whole or in part, public lands administered by the Bureau of Land Management.

The RSA includes local ranchers as well as specialists from the US Fish & Wildlife Service, Bureau of Land Management, Natural Resources Conservation Service, The Nature Conservancy, National Wildlife Foundation, Montana Fish, Wildlife & Parks, Pheasants Forever, World Wildlife Fund, and Ducks Unlimited.

The RSA was recently the recipient of a National Fish and Wildlife Foundation (NFWF) Western Big Game Migration Grant. This grant was co-funded by BLM. The project is funding targeted habitat restoration and enhancement projects to benefit big game winter habitat and migration corridors in north-central Montana.

The RSA is currently implementing on-the-ground projects within priority areas that include seeding over 1,400 acres of croplands to native plant species, improving grazing systems on over 11,500 acres, and converting over 15 miles of fence to be wildlife friendly.

The NFWF Big Game grant is just the latest in a long list of grant funding. Since 2017, RSA has received over \$1.2 million in grants and has leveraged much more in matching funds from other organizations for on-the-ground

conservation projects in north-central Montana. They have also sponsored and hosted numerous educational and informational tours and workshops to share and promote sustainable ranching practices and conservation programs. Sustainability would not be possible without including the public lands that surround and, in most cases, incorporate most north-central Montana ranch operations.

Because such a large portion of the native range in north-central Montana is under private ownership, it would be impossible for BLM to provide for all the habitat needs of native wildlife without the cooperation of private landowners. The RSA has provided a bridge between public and private land managers to learn more about each other's values, concerns, and available resources. By inviting BLM to participate in the RSA, it has enabled better communication and understanding between BLM and area ranchers as well as other conservation organizations. This has enhanced working relationships in ways that promote larger landscape-level projects and has made the associated processes more efficient.



**Landscape Stewardship Award Presentation on January 12, 2021**  
**Pictured from left to right: Kelli French (Phillips County Proud, RSA), Conni French (RSA Past Vice President), Vicki Olson (RSA Treasurer), Dale Veseth (RSA Vice President), Leo Barthelmess (RSA President), Sheila Walsh (RSA Secretary), Tyler Bain (BLM Rangeland Management Specialist, Malta Field Office), Tom Darrington (BLM Malta Field Office Manager), Richard Hopkins (PLF Representative)**



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## Landscape Stewardship Award *(continued from page 5)*

The RSA has set an example of leadership, cooperation and community involvement that has inspired other ranching communities to develop their own landscape-level stewardship groups who also work with conservation and public land organizations to implement projects across private and public lands. The types of conservation projects promoted by RSA align with BLM goals and include: installation of fence modifications to allow migrating pronghorn to pass through; marking fences to reduce sage-grouse collisions; voluntary retention of prairie dog colonies; wetland retention and restoration and native

grassland restoration; control of noxious weeds and non-native grasses; and implementation of grazing systems to improve rangeland cover for nesting grouse and songbirds.

The Public Lands Foundation is pleased to present the Ranchers Stewardship Alliance, with its 2020 Landscape Stewardship Award and this Citation for invaluable contributions to the stewardship of America's public landscapes.

Edward W. Shepard, President

## OUTSTANDING PROFESSIONAL AWARD

### RICHARD PARRISH

The Public Lands Foundation is proud to present the Outstanding Public Land Professional Award in the Technical/Operational category to Richard Parrish, Assistant Fire Management Officer, BLM Spokane District, for his work in the national Fire Adapted Learning Network circle and his role in working with Fire Adapted Communities. Richard Parrish is responsible for starting the Fire Adapted Communities Learning Network in Washington State, the first of its kind in the nation. Richard's work is recognized—and highly respected—in the national Fire Adapted Learning Network circle and has advanced the role of the Fire Adapted Communities by building relationships, leveraging resources, integrating programs, and empowering people to work together.

As a result of this work, BLM in Washington State has cultivated new partnerships that otherwise may not have formed and is a leader in helping communities understand that there are many pieces of the fire adaptation puzzle. The Network is now recognized as a best management practice nationally.

Through Richard's commitment to implementing FLPMA in a collaborative approach to public land management, BLM developed and funded this endeavor with The Nature Conservancy, Watershed Training Center, Washington Research and Development Council, and a variety of federal and state partners and NGOs across the state. The Network continues to educate the public that Fire Adapted Communities involve action before, during, and after a fire and that everyone has a role in fire adaptation and resiliency.



**Ed Shepard (PLF President), Barry Bushue (BLM OR/WA State Director), Richard Parrish, Jeff Fedrizzi (State Fire Management Officer)**

Richard's work has been instrumental in connecting the right people, at the right time, at the right place to ensure a robust network that is growing and—most importantly—sustainable. Richard's work has advanced the role of the Fire Adapted Communities by building relationships, leveraging resources, integrating programs, and empowering people to work together towards the long-term protection and sustainability of public land resources.

Because of his commitment to public land management, the Public Lands Foundation recognizes Richard Parrish with its Outstanding Public Lands Professional Award in the Technical/Operational category.

Edward W. Shepard, President

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## PHOTO CONTEST

The Public Lands Foundation is holding a photo contest and inviting PLF members to submit their favorite photographs of a special landscape, plant or animal, natural resource subject, resources use, object or structure, or people enjoying the public lands or other federal lands. The photo contest will run until June 15, 2021. There will be a grand prize winner who receives a waiver of one-year of the PLF annual membership fee and a first place and second place winner for each of several categories for photo entries. The contest rules are as follows:

- Photos must have been taken by a current PLF member and must have been taken on BLM-managed public lands or other federal land.
- Photographs must be in color and can be in either horizontal or vertical orientation.
- Cropped photos are acceptable. Digitally or otherwise enhanced or altered (photoshopped) photos will not be accepted. However, minor adjustments including sharpening, contrast, and slight color adjustment are acceptable.
- Participants retain their rights to their photograph. However, photos will not be accepted that include a watermark or a copyright or signature on the image. By entering the contest, participants grant the PLF the right without compensation to publicly display, distribute, reproduce, and create materials for outreach or media purposes. Any photograph reproduced by the PLF will include a photographer's credit, as feasible.
- Objectionable or inappropriate content, as determined by the PLF, is ineligible for this contest and will be discarded.
- Images are limited to jpeg files only and must include: subject, location, and photographer's name (e.g., wildhorsePalominoHMAJohnDoe.jpg).
- Categories for entry for this contest are: Landscape, People, Plant or Animal, Object or Structure, Natural Resource, Resource Use.

Entries will be judged based on creativity, quality and composition, and their overall impact. The grand prize winner and winners in each category of photography will be selected by a panel of volunteer judges. No more than three photographs per person can be submitted and must be submitted online through the "PLF Photo Contest" link on



**Photo by Annie Spratt**

the PLF website at [publicland.org](http://publicland.org) before June 15, 2021. The online entry requires a short description and location for each photograph, including the category of entry. The PLF will not disclose any personal information regarding the photographer, other than name.

For more information on the photo contest rules or problems with photo submissions, members may contact George Stone at [gstone@publicland.org](mailto:gstone@publicland.org) or Ray Brady at [rbrady@publicland.org](mailto:rbrady@publicland.org).

## REQUEST FOR NOMINATIONS LANDSCAPE STEWARDSHIP AWARD

Once again, the Public Lands Foundation is accepting nominations of a private citizen(s) or group(s) who deserve to be recognized for their sustained contributions at a landscape scale to the conservation and management of public lands administered by BLM. PLF members and BLM employees are encouraged to submit nominations by August 1, 2021. Winners will be determined by the PLF Board of Directors, and will be announced and recognized soon after the submittal deadline.

The BLM has a variety of land use plans and projects that are intended to address the use, allocation, and improvement of the public lands administered by BLM. Organizations and individuals outside of government are often the catalysts for demonstrating effective approaches for achieving good stewardship of these lands and resources. Good stewardship may be defined as an ethic that embodies cooperative planning and management of resources by agencies, organizations, communities, and others actively engaged to prevent loss of resources and facilitate

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their improvement in the interest of long-term sustainability. The PLF's Landscape Stewardship Award honors the work done by private citizens/groups who work to advance and sustain community-based stewardship on a landscape scale that includes, in whole or in part, lands administered by BLM. The focus on landscapes is intended to be broad in nature versus small-scale, local, project-oriented efforts.

The organizations, groups, and individuals typically envisioned for this award are those who took a leadership role to address landscape-scale issues. Emphasis is on individual local citizens or groups comprised of people who are typically all-volunteer and without paid staff. A good example would be a coalition of individuals or citizen groups joining

together to address issues within a certain landscape to bring about improved stewardship.

The award is a citation acknowledging the nature and significance of the organization, group or individual's achievements. The nomination form and guidelines can be found on the PLF website at [www.publicland.org](http://www.publicland.org). Click on "Programs", then "Awards", then "Landscape Stewardship Awards/Certificate of Appreciation Recipients". Once there, you will find information about the award, candidates, nomination process/selection process, evaluation factors, the nomination form, and guidelines for nominations.

Please send nominations by August 1, 2021, by e-mail to [dmari@publicland.org](mailto:dmari@publicland.org).

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## THIS LAND IS MY LAND: REBELLION IN THE WEST

Book by James R. Skillen

Associate Professor of Environmental Studies, Calvin University, Michigan

Among American conservatives, the right to own property free from the hand of the state is one of the most sacred rights of all. But in the American West, the federal government owns and oversees vast patches of land, complicating the narrative of western individualism and private property rights. As a consequence, anti-federal government sentiment has animated conservative politics in the West for decades upon decades.

In *This Land Is My Land*, James R. Skillen tells the story of conservative rebellion, ranging from legal action to armed confrontations against federal land management in the American West over the last forty years. He traces the successive waves of conservative insurgency against federal land authority, the Sagebrush Rebellion (1979-1982), the War for the West (1991-2000), and the Patriot Rebellion (2009-2016) and shows how they evolved from regional revolts waged by westerners with material interests in federal lands to a national rebellion against the federal administrative state. Skillen explains how ranchers, miners, and other traditional users of federal lands

became powerful symbols of conservative America and inseparably linked to issues of property rights, gun rights, and religious expression.

Not just a book about property rights battles over Western land, *This Land is My Land* reveals how the evolving land-based conflicts in the West since the 1980s reshaped the conservative coalition in America.

Hardcover, 296 pages

Published September 1, 2020 by Oxford University Press

*Editor's Note: The views expressed by the author do not necessarily reflect the views of the Public Lands Foundation, but the book is an interesting read on the issues surrounding the public lands. Geoff Middaugh, PLF, interviewed the author for an article published in the Summer Quarter 2018 edition of the Monitor. The author has published two previous books on BLM: The Nation's Largest Landlord – The Bureau of Land Management in the American West (2009) and Federal Ecosystem Management – Its Rise, Fall, and Afterlife (2015).*



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## EXPLODING THE MYTH THAT FEDERAL LANDS ARE UNCONSTITUTIONAL

By John Leshy

*John Leshy served as Solicitor of the Department of the Interior from 1993 to 2001 and is currently an Emeritus Professor at the University of California, College of Law. This article was originally published in the Grand Canyon Trust Advocate Magazine, Spring/Summer 2017 edition, and used by permission of the author.*

America's common ground—the hundreds of millions of acres of public lands owned and managed by the national government—has long occupied an important place in our national culture. Yet in some quarters a myth persists that the U.S. Constitution requires that these lands either be turned over to the states or private interests. Arguments for such a “land grab” misreads history, as well as the dictionary, and ignores or distinguishes on dubious grounds many authoritative Supreme Court decisions to the contrary.

U.S. public lands grew out of a dispute dating back to the Declaration of Independence in 1776. At the time, seven of the original 13 states had indefinite western boundaries, allowing them to claim lands beyond the Appalachian Mountains. Six states had fixed boundaries, and were concerned that the other seven would use their claims to vast western lands to enrich themselves and dominate the others. Eventually, the argument that these lands had been wrested from foreign governments and Native Americans by the “blood and treasure” of all the states persuaded the seven to cede their western land claims to the new national government. All states agreed to give that government the responsibility to determine the future of these lands, including overseeing their settlement and admitting new states as settlement advanced.

Ever since then, whenever the U.S. took control of lands from foreign governments and Native American tribes, Congress has exercised its “power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States,” the language of the so-called Property Clause of the Constitution adopted in 1787.

“Land grabbers” argue that the phrase to “dispose of” forbids Congress from keeping lands in U.S. ownership permanently.

But this is wrong, for “dispose of” also meant (and still means) to “arrange for” or to “husband,” as in,

for example, “disposing of” nuclear waste. There is, in fact, no credible evidence that our nation's founders intended to require the national government to divest itself of title to all of the lands it came to own, to newly admitted states or anyone else.

Likewise, there is no credible evidence to support another “land grabbers” argument that the nation's founders thought new states had to be on an “equal footing” with existing states, especially concerning federal public lands. To the contrary—the framers of our Constitution rejected a proposal that would have required Congress to admit new states “on the same terms” as existing states. Congress made generous grants of public lands to almost all the new states it admitted, but it also made abundantly clear that the U.S. retained ownership and full control over other federal lands within their borders. This made perfect political sense. The congresses that admitted these new states were composed entirely of representatives of the existing states, and they were understandably unwilling to give newly admitted states title or total control over all the U.S. lands found within their borders, because those lands had been acquired with the “blood and treasure” of the existing states.

From 1790 on, the U.S. decided to retain ownership of some land inside newly admitted states, to serve such important national purposes as settling Native American claims to land, meeting military needs (including keeping some forested lands to supply wood for naval ships), and keeping and leasing lands containing mineral and salt deposits, in order to prevent monopolization of these valuable commodities. As the frontier moved westward, the U.S. began to retain title to lands for additional reasons, such as preserving scenic, inspirational landscapes, wildlife habitat, places of historic or scientific interest, and vast tracts of mostly forested uplands to protect water supplies for downstream use. The U.S. Supreme Court, in more than a dozen decisions handed down since the Civil War (almost all of them unanimous), found all such actions consistent with the U.S. Constitution.

The “land grabbers” can point to only two pre-Civil War decisions of the court that suggest otherwise—Pollard in 1845 and Dred Scott in 1857. Both court decisions were decided as the nation's division over slavery was intensifying, where a huge question was whether the Property Clause authorized Congress

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## Exploding The Myth That Federal Lands Are Unconstitutional *(continued from page 9)*

to outlaw slavery in territories soon to be admitted to the Union. In a muddled opinion that contained unsupported grandiose statements purporting to invent constitutional limits on Congress's power over public lands, the court in Pollard actually decided a very narrow question—namely, it decided that states newly admitted to the Union took title to submerged lands under navigable waters within their borders, even if Congress had not granted them these lands. A dozen years later, in *Dred Scott*, the court went much further, and purported to hold that the Property Clause gave Congress no power over lands west of the Mississippi River. *Dred Scott*, today mostly remembered for the court's pronouncement that African-Americans could never have rights as citizens, is generally considered the worst decision in the court's history. A leading constitutional scholar said it “did violence to the Constitution's text, structure, enactment history, and early implementation.”

After the terrible Civil War, the court quickly abandoned *Dred Scott*'s view of the Property Clause. While Pollard's narrow holding regarding ownership of the beds of navigable waters has survived, the court has narrowed it even further in modern times, by recognizing that Congress has the constitutional authority to retain ownership of such submerged lands in newly admitted states.

Besides being at odds with many authoritative Supreme Court decisions, the “land grabbers” case is problematic in other ways. “Land grab” lawyers do not come right out and say that it is unconstitutional for the U.S. to own places like national parks, but their view of the Constitution leaves it up to the states or to the federal courts—and not the Congress—to determine whether the U.S. can keep national parks, or indeed any other public lands, in national ownership.

Indeed, taking their constitutional argument seriously would require the courts to confront the deeply unsettling prospect of voiding thousands of federal laws, and literally millions of land transactions,

that have all been based on the long-held, widely shared understanding that the U.S. can hold title to public lands.

The nation's founders wisely gave Congress the responsibility to direct the future of the nation's public lands, not states or unelected federal judges, and I am confident the U.S. Supreme Court would agree if asked.

This is not to say that defenders of continuing national ownership of public lands should be complacent. Nothing in the Constitution prohibits Congress from turning some or even all of these lands over to states or private interests. All it takes is simple legislation. Every generation of Americans, in other words, must decide what kind of land legacy it wants to leave for future generations. As our elected representatives in the national government continue to address that question, they need to hear from defenders, as well as opponents, of public lands.

*Editor's Note: This article was originally published in 2017, after the State of Utah passed the Utah Transfer of Public Lands Act of 2012 that was in response to protests over federal land policies in the state and would have required the federal government to grant the majority of the federal land in the state to the State of Utah. The state never filed a suit to carry out the state law. However, the State did subsequently raise concerns over the December 2016 designation of Bears Ears National Monument in southern Utah. President Trump, in response to the State's concerns, signed two Presidential proclamations on December 4, 2017 that significantly reduced the acreages of both the Bears Ears and the Grand Staircase-Escalante National Monuments. The Bears Ears National Monument was reduced in size from 1.35 million acres to 201,876 acres in two smaller monuments. The Grand Staircase-Escalante National Monument was reduced in size from 1.9 million acres to 1,004,803 acres in three smaller monuments. President Biden on January 20, 2021 signed an Executive Order that requires a review of the monument boundaries revised by the December 4, 2017 Presidential proclamations.*

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## LEGISLATIVE AND REGULATORY UPDATE

The PLF continues to monitor Congressional legislation, Federal rulemaking activities, and Executive Orders pertaining to the Department of the Interior, BLM, and public lands management. The PLF, as an advocacy organization for the public lands, is actively engaged in providing our perspectives on a wide range of issues including the annual BLM appropriations, any program oversight hearings, proposed amendments to FLPMA and other major statutes affecting public lands management, and proposed regulations regarding BLM resource programs. Reviewing legislation and proposed rules and preparing comments and testimony, when appropriate, is an important part of our advocacy work. We will be updating our Legislation and Regulations web page on our website under the “Advocacy” link and providing updates in the Monitor on significant actions. We solicit your feedback and comment on the content of these updates. We would also like to thank David Blackstun for his assistance in this effort and request the assistance of any other PLF members who would like to provide their time and expertise to this valuable advocacy work.

### EXECUTIVE ORDER 13990 PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT AND RESTORING SCIENCE TO TACKLE THE CLIMATE CRISIS

**Status:** Signed by the President on January 20, 2021

**Summary:** Section 2 of the EO requires BLM and other agencies to review all agency actions, including regulations and policies, promulgated or issued between January 20, 2017 and January 20, 2021, and consider suspending, revising or rescinding the agency action. In addition, the agency shall consider publishing a notice suspending, revising, or rescinding a proposed rule for reducing methane emissions in the oil and gas sector. *(The CEQ on February 19, 2021 published a Notice in the FR to rescind previous draft guidance issued in June 2019 on the consideration of greenhouse gas emissions in NEPA documents. The CEQ is expected to issue revised and updated guidance in the near future.)*

Section 3 of the EO requires the Secretary to conduct a review within 60 days of the boundary modifications made on December 4, 2017 of the Bears Ears National Monument and the Grand Staircase-



Photo by Ray Brady

Escalante National Monument and provide a report and recommendations to the President.

Section 4 of the EO requires the Secretary to place a temporary moratorium on all activities relating to implementation of the Arctic National Wildlife Refuge (ANWR) Coastal Plain Oil and Gas Leasing Program in Alaska. The Secretary is required to conduct, as appropriate, a new and comprehensive analysis of the potential impacts of the oil and gas program.

**PLF Position:** The PLF will be closely tracking these actions and providing comments during any public comment period, as appropriate.

### EXECUTIVE ORDER 14008 TACKLING THE CLIMATE CRISIS AT HOME AND ABROAD

**Status:** Signed by the President on January 27, 2021

**Bill Summary:** Section 207 of the EO requires the Secretary to review renewable energy siting and permitting processes on the public lands and identify steps that can be taken to increase renewable energy production on the public lands. (It should be noted that the Appropriations Act of 2021 set a goal to approve 25 gigawatts of wind, solar, and geothermal energy projects on the public lands by 2025—a three fold increase in the number of projects currently approved on the public lands.)

Section 208 of the EO requires the Secretary to pause new oil and gas leases on the public lands pending completion of a comprehensive review and



reconsideration of Federal oil and gas permitting and leasing practices and whether to adjust royalties associated with coal, oil, and gas resources extracted from the public lands or take other appropriate actions to account for corresponding climate costs. (The Western Energy Alliance has filed a lawsuit in the U.S. District Court for Wyoming challenging the EO as exceeding presidential authority and a violation of the Mineral Leasing Act, NEPA and FLPMA.)

Section 211 of the EO requires BLM and other agencies to prepare a draft Climate Action Plan within 120 days that describes steps the agency can take with regard to its facilities and operations to bolster adaptation and increase resilience to the impacts of climate change.

Section 215 of the EO requires the Secretary to prepare within 90 days a strategy for creating a Civilian Climate Corps of conservation workers to conserve and restore public lands, increase reforestation, protect biodiversity, and improve access to recreation.

Section 216 of the EO requires the Secretary to prepare a report within 90 days on steps that can be taken to achieve a goal of conserving at least 30 percent of our nation's land and waters by the year 2030.

**PLF Position:** The PLF will be closely tracking these actions and providing comments during any public comment period, as appropriate.

#### PROTECTING AMERICA'S WILDERNESS AND PUBLIC LANDS ACT – H.R. 803

**Bill Status:** Passed full House on February 26, 2021 and sent to Senate for consideration.

**Bill Summary:** The legislative package includes eight bills addressing lands in Arizona, California, Colorado, and Washington State and would establish nearly 1.5 million acres of new wilderness areas and incorporate more than 1,000 river miles into the National Wild and Scenic Rivers System. The package includes the Grand Canyon Protection Act (AZ) that would bar new uranium mining claims on some one million acres of land north and south of the Grand Canyon and the Colorado Outdoor Recreation and Economy Act (CO) that would limit oil and gas leasing on 200,000 acres in the Thompson Divide area of western Colorado.

**PLF Position:** The PLF has taken no position on the legislation.

#### FILM PERMIT REGULATIONS – 43 CFR PART 5

**Rule Status:** Film permit regulations for BLM, NPS, and FWS were issued by Interior on August 22, 2013. On January 22, 2021, the U.S. District Court for the District of Columbia ruled that it is unconstitutional for NPS to require permits or charge fees for commercial filming on federal land, as “filmmaking constitutes a form of expressive speech protected by the First Amendment”. The Court issued a permanent injunction enjoining the permit and fee requirements for commercial filming.

**Rule Summary:** Congress in 2000 passed legislation (P.L. 106-206) that directed the Secretary of the Interior to require permits and develop a consistent fee structure for commercial filming activities on federal lands. Pursuant to the law, the Department in August 2013 issued final 43 CFR Part 5 film permit regulations. These regulations apply to BLM, NPS, and FWS. A film director sued Interior and NPS in December 2019 challenging the constitutionality of the rule in response to a citation for filming without a permit at the Yorktown Battlefield in the Colonial National Historical Park in Virginia. The U.S. District Court in a January 2021 ruling found that the commercial filming provisions of the regulations were unconstitutional. The Court did however note “that a more targeted permitting regime for commercial filming, which is more closely connected to the threat posed by large groups and heavy filming equipment, may pass constitutional muster in the future.” It is expected that the Department will update these regulations in response to the Court's decision.



Imperial Sand Dunes – Star Wars, BLM Photo

**PLF Position:** The PLF will closely monitor any film permit rulemaking effort and provide comments on proposed rules during the public comment period as appropriate.

#### OIL AND GAS VENTING AND FLARING REGULATIONS – 43 CFR PART 3179

**Rule Status:** Final rule published November 18, 2016. On October 8, 2020, the Wyoming Federal

District Court struck down the BLM oil and gas “waste prevention rule”, otherwise known as the “venting and flaring rule”. The Court’s decision concluded that BLM exceeded its statutory authority since the rule was grounded in air quality issues and impinged on EPA’s authorities under the Clean Air Act. The President on January 20, 2021, issued an Executive Order 13990 (*see page 11*) regarding protecting public health and the environment that included a provision to consider regulations for reducing methane emissions in the oil and gas sector.

**Rule Summary:** The 2016 Rule aimed to reduce methane emissions from oil and gas facilities on federal and tribal lands by regulating the venting and flaring of methane. The ability of EPA to regulate methane from existing oil and gas operations under the Clean Air Act (CAA) is one of the most controversial aspects of EPA’s statutory interpretations in CAA rules that are also subject to ongoing litigation. The debate over methane from oil and gas wells will continue to be on the BLM agenda and other regulatory agencies.

**PLF Position:** The PLF will closely monitor any oil and gas rulemaking initiatives and provide comments on proposed rules during the public comment period as appropriate.

#### **WILD HORSE & BURRO (WH&B) REGULATIONS 43 CFR PART 4700**

**Rule Status:** The BLM intends on preparing and publishing a proposed rule in 2021 that would address the WH&B program and better reflect the BLM statutory authorities.

**Rule Summary:** The BLM submitted a Report to Congress, “An Analysis of Achieving a Sustainable Wild Horse and Burro Program” on May 8, 2020, that would stabilize on-range population growth over a 4-5 year period, reach AML nationally over the next decade after the initial first phase, and maintain AML in perpetuity. The BLM estimated that the cost of a successful program would have to steadily increase from a proposed 2021 funding level of \$116.8 million to a fifth year cost of \$238.0 million. The BLM qualified these cost estimates on advances in temporary and long-term fertility control efficacy and duration or humane permanent sterilization methods that could significantly decrease program costs. Congress provided the BLM with \$115.7 million in funding for 2021 to support this program plan.

**PLF Position:** The PLF will be closely tracking this proposed rule and providing comments during the public comment period.

### **BLM LEADERSHIP**

With the continued changes in the leadership positions of BLM, we will continue to provide an update on the current BLM Leadership, including the State Directors that provide the day-to-day on-the-ground management for our public lands. The following are the current Deputy Directors and the State Directors for each of the BLM State Offices:

#### **Deputy Director, Policy and Programs**

	Nada Culver
Deputy Director, Operations	Michael Nedd
Alaska State Office	Chad Padgett
Arizona State Office	Raymond Suazo
California State Office	Karen Mouritsen
Colorado State Office	Jaime Connell
Eastern States Office	Mitchell Leverette
Idaho State Office	John Ruhs
Montana State Office	John Mehlhoff
Nevada State Office	Jon Raby
New Mexico State Office	Steve Wells ( <i>Acting</i> )
OR/ WA State Office	Barry Bushue
Utah State Office	Greg Sheehan
Wyoming State Office	Kim Liebhauser ( <i>Acting</i> )

#### **BLM DEPUTY DIRECTOR NADA CULVER**

On February 22, 2021, the Department announced the appointment of Nada Culver as the BLM Deputy Director, Policy and Programs. She will join Mike Nedd, Deputy Director, Operations in the BLM senior leadership. Nada Culver most recently served as the Vice President, Public Lands and Senior Policy Counsel at the National Audubon Society. Prior to joining Audubon, Nada was the Senior Counsel and Senior Director for Policy and Planning at The Wilderness Society. Nada began her career in the private sector, working on a variety of environmental issues



**Nada Culver**  
BLM Deputy Director

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including energy development and environmental remediation, and was a partner with the law firm of Patton Boggs. She is a graduate of Northwestern University and the University of Pennsylvania School of Law. She is also a member of the PLF.

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## IN MEMORIAM

The PLF is committed to never forgetting the dedicated BLM employees who have left us. We do so on our website's Memorial Wall and by publishing names of those who passed away in the Monitor. If you have a death to report, please e-mail us at [obits@publicland.org](mailto:obits@publicland.org), preferably with a link to or copy of an obituary. In addition, we know that many of our Facebook followers are also members of the separate "Remembering BLM" private Facebook group. Please be aware that the private Facebook group is not affiliated with the PLF. You can rely on the PLF to keep you informed of topical news on the public PLF Facebook page, our website, other social media sites, and the *Monitor* newsletter.

*Note: Putting together the Memoriam list in the Monitor and maintaining the Memorial Wall on the PLF website takes a lot of work by PLF volunteers. If you find errors, or if you know of something we may have missed, we apologize, and will correct the record. If you have concerns, please let Ray Brady know at [rbrady@publicland.org](mailto:rbrady@publicland.org).*

**Vincent Dean Alexander** on January 26, 2021, in Fort Yukon, AK. Vincent was a BLM seasonal firefighter.

**Brian Charles Anderson** on February 5, 2021, in Chugiak, AK. Brian served in the U.S. Army during the Vietnam War. After his military service he had a lifelong career with both FWS and BLM in Alaska.

**Don Applegate** on March 4, 2021, in Phoenix, AZ. Don began his federal career as a Wilderness Ranger. He took his first outdoor recreation planner position in the BLM Barstow, California office. He worked as a recreation planner in the BLM Yuma and Lake Havasu, Arizona offices in the 1980s and 1990s. Don became the BLM Arizona state recreation program lead in 2000, serving in the State office until he retired at the end of 2016. Don provided direction and made key contributions to the development and management of the BLM concessions program along the Colorado River, the unique Long-Term Visitor Areas in western Arizona. Don also served in national roles on the BLM Recreation and Visitors Services Advisory Team, and as its Chairperson.

**Louis John Bevacqua Jr.** on December 30, 2020, in Las Cruces, NM. He graduated from Texas Tech University in 1976 with a Bachelor of Science degree in Agriculture, majoring in Range and Wildlife Management. After graduation he began an over 40-year career with BLM in NM, retiring in January 2020.

**Stephen Kenneth Black** on March 11, 2021, in Butte, MT. Steve attended Northern Montana College. He worked as a civil engineering tech for BLM in Butte from 1976 until his retirement in 2001.

**Robert "Bob" Leo Brown** on December 25, 2020 in Safford, AZ. Bob was a World War II Navy veteran and worked for many years with BLM in Safford.

**Bradley Scott Cole** on February 4, 2021, in Eugene, OR. Brad was a land surveyor with BLM.

**Donald Winston Countryman** on December 30, 2020, in Boise, ID. Don was a summer firefighter for BLM from 1947 through 1960 and later worked for the General Services Administration.

**Gerald Allen "Jerry" Erstrom** on January 21, 2021, in Nampa, ID. Jerry worked for the Forest Service and BLM in the Fire rehabilitation program. After retirement he continued his legacy as "Weed Czar" and served for 20 years on the Oregon State Weed Board in support of noxious weed programs and farm and wildlife habitat improvement projects.

**Rita Jo Gerard Geisler** on January 27, 2021, in Layton, UT. She attended Business College in Idaho Falls, ID and later worked for the Atomic Energy Commission and BLM in Idaho Falls.

**Jack Ray Haynes** on December 7, 2020, in Cedar City, UT. Jack was a U.S. Air Force veteran and later worked for Boeing in Tacoma, WA. He worked for the Forest Service and BLM in Utah as an electrical engineer specializing in technical radio and tower maintenance.

**Robert "Bob" Allen House** on December 14, 2020, in Meridian, ID. Bob was a U.S. Navy veteran and served as an aviation electronic technician for anti-submarine operations. He graduated from the University of Washington with a Bachelor of Science degree with a major in Fisheries and a minor in Wildlife Management. Bob worked in a variety of fisheries and wildlife positions with FWS and BLM in Michigan, Utah, California, and Alaska and eventually settled down in Eagle, ID. He retired from the federal government in 1997.



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## IN MEMORIAM

**Linda Lee Hulse** on March 13, 2021, in Butte, MT. Linda served in the Women's Army Corps as a medic. She attended Montana Tech and earned a Bachelor of Science degree in Computer Science and an Associates degree in Business Management. Linda worked for BLM for 19 years.

**Wes Hunter** on January 2, 2021, in Tigard, OR. Wes served in the U.S. Navy during the Vietnam war. His federal career included work with the Forest Service and BLM in Montana, Oregon, and California.

**Linda Lance** on March 16, 2021, in Washington, D.C. Linda was a graduate of the University of Florida and earned a law degree from the University of Maryland. She began her public service career with the U.S. Department of Justice in 1978 and served as senior counsel to the Senate Commerce Committee from 1987 – 1993. Linda served as the BLM Deputy Director, Policy and Programs from 2013 - 2016. Before joining BLM, she served as senior counsel for the Senate Energy and Natural Resources Committee from 2009 - 2013. She served as Vice President of Public Policy for the Wilderness Society from 2001 - 2009. Linda also served as Associate Director at the White House Council on Environmental Quality and worked on President Clinton's designation of the Grand Staircase-Escalante National Monument in 1996.

**James Thomas de Laureal** on January 11, 2021, in Baton Rouge, LA. Jim graduated from the University of Louisiana Lafayette with a degree in Soil Science. He worked for BLM in Carson City, NV for 30 plus years. His work focused on mined land reclamation, fire rehab, and eradication of invasive plant species.

**Mark Lawrence** on January 22, 2021, in Salem, OR. Mark's father was a Manager with the Grazing Service and BLM. Mark earned a degree in Range Management from Oregon State University. Mark started his 32-year BLM career in range management positions in Elko, Carson City, and Ely, NV. Then from his resource manager position in Folsom, CA, Mark went to Washington, DC with the BLM Management Trainee program. His main assignment while there was with the Division of Legislation and Regulations. Mark returned to the West to serve as Area Manager, Ridgecrest, CA, and then as Assistant District Manager, Salem, OR. He was integral in developing the Yaquina Head Outstanding Natural Area in Newport, OR. Mark retired in 2000.

**Stephen David Madden** on December 27, 2020, in Rock Springs, WY. He received his Bachelor's degree from Colorado State University and served in the U.S. Coast Guard. Stephen worked for 12 years as a Natural Resource Specialist for BLM.

**Neil Boyd McCleery** on October 24, 2020, in Durango, CO. Neil was a U.S. Navy veteran and served in WW II as an aviation radioman. He earned a Bachelor of Science degree from Arizona State University and a Master of Science from New Mexico State University. Neil worked for BLM for 30 years and retired in Colorado.

**Helen Prillaman McCullough** on January 22, 2021, in Smith Mountain Lake, VA. Helen worked for many years in Washington, DC for BLM.

**Ann "Annie" Carter Mulkey** on January 12, 2021, in Salem, OR. Ann worked in the Salem, OR BLM office for many years.

**Loretta Park** on January 18, 2021, in Havre, MT. Loretta attended Northern Montana College. She began her federal career as a file clerk with BLM in Havre, MT and worked her way up to a Realty Specialist.

**Donald "Don" George Pomi** on February 8, 2021, in Fallon, NV. Don served in the U.S. Army during the Korean War. Don began his career with BLM in 1955 and worked in Battle Mountain, Carson City and Palomino Valley, NV. He retired in 1986 from the BLM Palomino Wild Horse and Burro Placement Center.

**Larry Clyde Powell** on January 25, 2021, in Eugene, OR. Larry attended Lower Columbia College and graduated with a Forestry degree in 1966. He had a long BLM career as a Forestry Technician, Wildland firefighter, and Field Researcher collecting data on Bald Eagles.

**John Prior** on December 21, 2020, in Eugene, OR. John was a U.S. Navy veteran and served as a Hospital Corpsman aboard ships in the Pacific in WW II, including as crewmember aboard the USS Benevolence monitoring a nuclear weapon test at Bikini Atoll as part of Operation Crossroads. He attended Michigan State University and earned a Bachelor of Science degree in Forestry. John worked for BLM in Oregon for 38 years as a Forester.

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## IN MEMORIAM

**Harvey Emerson “Chip” Rhoads** on December 25, 2020, in Casper, WY. Chip graduated from the University of Wyoming with a Bachelor of Science degree from the College of Agriculture. He worked for BLM in Worland, WY and also volunteered on the Washakie County Search and Rescue team.

**Nick Rieger** on January 15, 2021, in Fairfax Station, VA. Nick was a graduate of the University of Arizona and had a long career with BLM in Nevada and Washington, DC.

**Samuel Ross Rowley** on February 7, 2021, in Herri-man, UT. Sam graduated from Utah State University with a degree in Range Management and spent his career with BLM in Utah and Nevada. He retired in 1996.

**Edelmire “Ida” Talavera Sainz** on December 22, 2020, in Safford, AZ. Ida worked for many years with BLM in Safford.

**Edward Ray Scherick** on February 28, 2021, in Cedar City, UT. He attended Utah State University and the College of Southern Utah, graduating with a Bachelor of Science degree in Agricultural Science. His career with BLM included assignments in Cedar City, Kanab and Monticello, UT; El Centro, CA; Montrose, CO; and Dillon, MT.

**Russell Earl Sorensen** on February 22, 2021, in Butte, MT. Russ was a veteran of the U.S. Air Force and served in Vietnam. He attended Montana State University and earned a Bachelor of Science degree in Range Management. Upon graduation he was hired by BLM, attended the Lands and Minerals School in Phoenix, and assigned his first job as a Realty Specialist in the Anchorage, AK District Office. He later worked in Butte and Dillon, MT and Carlsbad, NM where he retired as Branch Chief in the Oil and Gas Division.

**Bruce Phillip Tyree** on March 6, 2021, in Spokane, WA. Bruce was a veteran of the U.S. Air Force. He earned a Bachelor of Science degree in Forestry from Oklahoma A&M. He worked for the Forest Service, BLM, and the Bonneville Power Administration.

**Glenn Edward Wallace** on February 1, 2021, in Evergreen, CO. Glenn served in the U.S. Air Force and was a veteran of the Vietnam War. He worked for BLM for many years and had a total of 38 years of Federal service.

**Richard Earl Watts** on December 9, 2020, in Emmett, ID. Richard worked for BLM in Idaho as an equipment operator on construction projects and in the fire program. He retired from BLM in 1990, but continued to work as a BLM contractor until 2010.

**Jack F. Wilson** on February 15, 2021, in Boise, ID. Jack was a U.S. Army Air Corps veteran and B-24 pilot during World War II. He graduated with a Bachelor’s degree in Range Management from Brigham Young University and received a Master’s degree in Agronomy. He was first hired at BLM in 1948 as a range conservationist in Rawlins, WY and rose through the ranks, becoming Manager of the Rawlins Field Office in 1954. He moved to Idaho in 1958 and became District Manager in the Burley District. He later served as District Manager in the California Desert District Office. In 1972 he returned to Idaho and became Director of the Boise Inter-agency Fire Center, where he stayed until he retired from BLM in 1992. Jack’s vision for a true national interagency clearinghouse for wildfire operations was realized with the official establishment of the National Interagency Fire Center in Boise in 1993 and the headquarters is named the Jack F. Wilson Building in his honor. (See the Jack Wilson interview article in the Summer Quarter 2019 edition of the Monitor in celebration of his 100th birthday, on April 2, 2019, at a special event held in his honor at the National Interagency Fire Center. John Fend, PLF Director-at-Large conducted the interview.)

**Phillip Sheridan Wulff Sr.** on January 8, 2021, in Eagle, ID. Phillip graduated from South Dakota State University with a Master’s degree in Counseling and Guidance. He served in the U.S. Marine Corps as a drill sergeant and shooting instructor. His career path took him from a BIA guidance counselor, to a vocational rehabilitation specialist, and eventually as an organizational development specialist for BLM where he retired after 30 years of service.

## DONATIONS

The PLF currently has a shortfall of funding in the account for the George Lea Founder's Scholarship fund. A special request is being made for additional donations to support the scholarship fund. Two \$5,000 scholarships are expected to be granted this year to deserving students. The PLF received scholarship applications from 21 students from nine different universities this year and are currently reviewing those applications.

The PLF is now a benefiting non-profit organization under the Kroger Community Rewards Program. Customers with a Kroger rewards card can register and designate the Public Lands Foundation (number DN597) on their rewards card account and purchases will benefit the PLF. Participants just swipe their registered Kroger rewards card when shopping for each purchase to count .

You can make a designated donation by credit card on our website at [www.publicland.org](http://www.publicland.org), or by check sent to the Public Lands Foundation, P.O. Box 7226, Arlington, VA 22207. In your transmittal, please make sure to mention if your donation is for the **George Lea Founder's Scholarship**, for the **Student Congress Fund**, or the newly established **Executive Director Fund**. Remember, if you are making a donation in memory of someone who has passed away, you can designate your donation to go to one of these funds. The PLF is a 501(c)(3) nonprofit charitable organization. Your donations are tax-deductible to the maximum extent permitted under the law.

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### FAMILY

Christine and Kirk Gardner  
Mike Haske  
Shela McFarlin and David Redmond

and Public Purposes Act, with a reversionary clause if the property is not used for the public purpose for which it was conveyed. Although I've never seen a comprehensive survey, I can only think of one case in history (which stemmed from peculiar circumstances) where the government discovered that the transferee had violated the terms of the conveyance, allowing the U.S. to make a claim for a reversion. (Perhaps your readers know of others.)

This suggests Bob's proposal could end up conveying federal mineral rights on tens of millions of acres of split estate land for \$10 per acre, a rather paltry sum.

**John Leshy**

Emeritus Professor of Law  
University of California

Solicitor, Department of the Interior (1993-2001)

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## LETTERS TO THE EDITOR

### SPLIT ESTATE

I read with interest Bob Anderson's proposal in the Winter Quarter 2020/2021 edition of the Monitor to have BLM convey federal reserved mineral interests to surface owners as an experiment of land conveyance under the authority of Section 307(a) of FLPMA.

I doubt this use of Section 307 would work. Section 307(b) makes any conveyance under that section "subject to the provisions of applicable law." Because Section 209 contains specific requirements for the U.S. to convey reserved mineral interests, it is very difficult to find in Section 307 an alternative method for conveyance, even as an experiment.

Beyond that legal issue, while Bob's idea may have some appeal in the abstract, I have a number of questions regarding how it would work. There are the difficulties of setting an overriding royalty rate. Would it vary by mineral? Would it have a floor or ceiling? Even more challenging is the question of how the U.S. would learn whether minerals are being developed, and in what quantities, on the tens of millions of acres that have been patented under the Stock-Raising Homestead Act. I suppose there could be a reporting requirement, with stiff penalties for violation, but how would violations be detected if the mineral producer makes no report?

Consider a somewhat analogous situation, where the U.S. has conveyed land under the Recreation

I am responding to Bob Anderson's invitation for comment on his split estate letter that was published in the Winter Quarter 2020/2021 edition of the PLF Monitor. I retired from the BLM Oregon State Office as a forester and real estate appraiser. I very much like Bob's innovative idea. As a real estate appraiser, I attended mineral appraisal courses and appraised a few mineral material sites. I also worked with many realty specialists on land appraisal issues. I learned to appreciate how much of a mess split estate issues can be for the government and for landowners. The appraisal of mineral interests is a very specialized field of work. Consequently, these appraisals require a lot of time and cost a lot of money. They should only be required in special situations.

Bob's proposal makes a whole lot of sense. I hope it takes root.

**Kent Tresidder**  
Coquille, Oregon

*The Monitor is what we make it and we encourage you to provide Letters to the Editor or provide other reviews and comments on articles included in your newsletter. It is important to hear from our membership, and if you like something or don't like something, let us know. If you do send an e-mail to the Editor, don't be surprised if it winds up as a Letter to the Editor in the next edition of the Monitor. Please provide your comments to [rbrady@publicland.org](mailto:rbrady@publicland.org). Comments should be limited to*

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*no more than 500 words in length. In addition, members are encouraged to use the **bod@publicland.org** e-mail address to communicate with the PLF Board.*

*The Monitor generally reflects ongoing PLF activities, events, updates, awards, and information on former BLM employees. We encourage articles and discussions of issues by posting quality content that also provides a positive exposure of the goals, objectives and mission of the PLF.*

*However, we need to take some precautions when posting information to the newsletter and other forms of social media to ensure appropriate rules of behavior. In keeping a positive experience for our members, we reserve the right to publish only comments, photos, and other material deemed appropriate by the PLF. We intend on maintaining a friendly and professional tone in the articles in the Monitor and any posting of Letters to the Editor.*

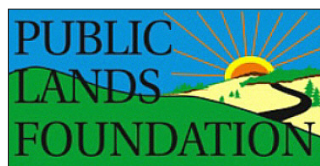
### **CORONAVIRUS, COVID-19, PANDEMIC ADVISORY**

In the event we are unable in the future to print and mail the Monitor, our newsletter will always be available on the PLF website. We also notify our members by e-mail of the availability of the Monitor. Please ensure we have your current e-mail address on file.

### **DO WE HAVE YOUR CURRENT CONTACT INFORMATION?**

Please help us keep our records current. It's easy to do by updating your profile on the PLF Member's Forum, message us at **info@publicland.org** , or call at 703-935-0916.

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