

Washington Gets It Wrong,



A New Report on State Environmental Stewardship

States Get
It Right

Senate and Congressional Western Caucuses

Spring 2014

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Washington Gets It Wrong, States Get it Right

In the West, a commitment to ensuring the health and viability of land, wildlife and the environment thrives at both a local and state level. While Federal agencies such as the Environmental Protection Agency and the Department of the Interior often think of themselves as the ultimate protectors of our nation's open skies and spaces, the work being done at the state level is equally as vital towards maintaining the West's precious lands and natural resources.

Thousands of professionals are working across the West to protect the very communities in which they live. Employees at these state agencies are working every day to develop plans that properly manage and conserve the natural resources and wildlife in their own towns and counties. This report examines in closer detail the amount of work being done by state agencies in order to protect not only the land they live and work on, but the people in their state who rely on the health and safety of that land and the resources it holds.

As this report demonstrates, regulations imposed by Washington undermine the work that is being done at the state level to manage lands and natural resources, protect air and water, and conserve species. By examining the work of these state agencies, it is clear that when it comes to conservation and environmental efforts, they get it right. More often than not, Washington, by applying overreaching regulations and "one-size-fits-all" mandates, gets it wrong. It's time for Washington to stop getting it wrong, and start recognizing how states get it right. As this report demonstrates, states are excelling at the following categories with regard to conservation:

1. **Protecting species on the ground-** States are developing conservation policies that work with industry and landowners to protect species without hampering multiple use policies.
2. **Protecting our water, land and air-** States are promoting air and water protections that are tailored towards community needs rather than "one-size-fits-all" policies handed down from federal agencies.
3. **Promoting access to fish and wildlife-** States are managing, planning, and protecting land and natural resources in a manner that allows for public spaces to be enjoyed while ensuring those spaces remain intact for future generations.
4. **In-state scientific and support staff-** State agencies are employing thousands of professionals who live in the communities they are trying to protect and best know how to accomplish their mission.

Members of the Senate and Congressional Western Caucuses know that biologists and other professionals living and working in these communities are better equipped at managing and maintaining their surroundings in a way that produces optimal environmental and economic benefits. This report aims to highlight just a few of those state initiatives.

Special thanks goes out to the state environmental agencies of Colorado, Idaho, Kansas, New Mexico, North Dakota, Oklahoma, Texas, Utah and Wyoming for the contributions and data they submitted for this report.

Colorado



The State of Colorado has been a leader in the effort to effectively manage public lands in order to balance the needs of the community and environmental protections. Specifically, Colorado has taken pivotal steps to actively manage forest lands to prevent wildfires, manage water resources and protect local species effectively. State agencies such as the [Colorado State Forest Service](#), the [Colorado Department of Public Health and the Environment](#), and [Colorado Parks and Wildlife](#) have taken the lead in protecting Colorado’s natural resources from pollution and wildfire risks.

- ✓ The state employs over 1,500 scientific professionals, biologists and support staff dedicated to protecting the state’s air, land, water and wildlife (45 employed at the Colorado Water Conservation Board, 110 by the Colorado State Forest Service, 525 at the Colorado Department of Public Health and the Environment, and 909 at Colorado Parks and Wildlife.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ Colorado Parks and Wildlife recognizes the importance that sportsmen play in managing species and natural resources. The agency established a [Facebook page](#) specifically for the state’s hunters. According to the agency, “this page is devoted just to hunters” and will give them “a place to develop a community, and get wildlife news and reminders about important dates that are coming up.” The agency did this because hunting is “a way for us to take care of the land we live in: hunters directly manage Colorado’s wildlife populations.”

Protecting water, land and air:

- ✓ The [Forest Business Loan Fund](#) (FBLF) managed by the Colorado State Forest Service, has been a leading program in removing hazardous fuels that cause wildfires. According to the Service, the fund “provides lending capital to businesses that ‘harvest, remove, use, and market beetle-killed and other timber taken from private, federal, state, county, or municipal forestlands as part of wildfire risk reduction or fuels mitigation treatment.’”

One of the loans was also successfully used to develop a product that is spread on burned ground to prevent post-wildfire erosion.

Environmental progress threatened by Washington:

- ✓ Potential ESA Listings - Eleven Colorado and Utah counties are partnering on a local Gunnison sage grouse conservation effort to prevent the Gunnison sage grouse from obtaining an Endangered Species listing. The Memorandum of Understanding (MOU) followed a U.S. Forest Service announcement that they were looking at listing the Gunnison sage grouse as an endangered species and designating over 1.7 million acres in Western Colorado and Eastern Utah for critical habitat. Many elected officials and citizens are concerned that a listing of this size would devastate the economies in this area. To date, \$30 million in public and private funds have been spent at the local level to try and preserve the species without having to obtain an Endangered Species Act (ESA) listing. The United States Fish and Wildlife Service (FWS) data now shows the population of Gunnison sage grouse has increased in the Gunnison Basin as a result of this investment and these local efforts. However, the potential listing still hangs over the state. If designated, the economic impact to the state's economy would be great.
- ✓ EPA Regulations - The Environmental Protection Agency (EPA) in recent years has consistently increased the threshold that communities must meet to stay in compliance with the Clean Air Act. According to the Colorado Department of Public Health and Environment, "Colorado is currently in compliance with all National Ambient Air Quality Standards, with one exception. The Denver metropolitan area and North Front Range is not meeting the new, tougher ground-level ozone standard. This area is a 'marginal' nonattainment area for ozone. Should the EPA further lower the standard as anticipated, more areas of Colorado may fall out of compliance, including the Four Corners region, the South Front Range and the Western Slope." According to the U.S. Chamber of Commerce, being designated as in non-attainment under the Clean Air Act "carries serious repercussions including the loss of federal highway funding and the loss of economic development opportunities."

***"Hunting is a heritage that is passed down through the generations. By taking part in this long tradition you build relationships and memories that last a lifetime, but hunting is more than an opportunity to get outside and make memories. It is a way for us to take care of the land we live in: hunters directly manage Colorado's wildlife populations, and the funds raised by hunting contribute to land conservation, job creation, and so much more."** – Colorado Parks and Wildlife Website*

Idaho



The State of Idaho is a Pacific Northwestern state blessed with a diverse array of natural resources and species. The primary state agencies mandated to protect those resources and species are the [Idaho Department of Environmental Quality](#) and [Idaho Fish and Game](#). The Idaho Department of Environmental Quality is a department created by the [Idaho Environmental Protection and Health Act](#) to ensure clean air, water, and land in the state and protect Idaho citizens from the adverse health impacts of pollution. The Idaho Fish and Game's mission is to protect, preserve, perpetuate and manage Idaho's wildlife resources.

- ✓ The state employs over 800 scientific professionals, biologists, and support staff dedicated to protecting the state's air, land, water and wildlife (349 employed by the Department of Environmental Quality and 532 at Fish and Game.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ Idaho Fish and Game has developed the [Comprehensive Wildlife Conservation Strategy](#) which is a strategy for conserving "species of greatest conservation need" and the habitats key to their survival. The strategy is the key document for conserving and managing 229 threatened species in the state. The goal of the strategy is to head off potential Endangered Species Act listings.
- ✓ Idaho Fish and Game has also established the [Idaho Fish and Wildlife Information System](#) (IFWIS). This system provides and standardizes key data and information with regard to conserving Idaho wildlife, fish and plants.

Protecting water, land and air:

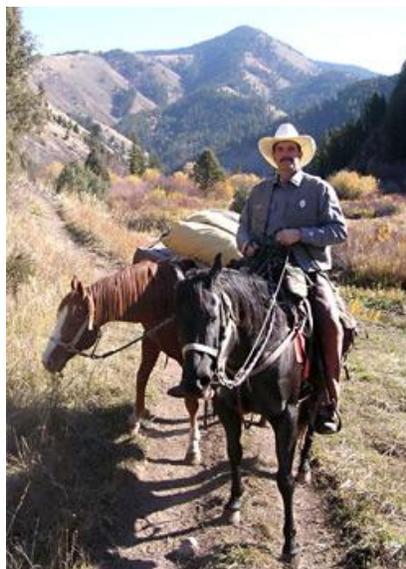
- ✓ The Department of Environmental Quality (DEQ) places a premium on promoting sound science in making decisions that impact communities and the environment. To accomplish this, the Department has created a [Quality Management System](#) and [Quality Management Plan](#). According to the Department, "The primary purpose of DEQ's Quality Management System (QMS) is to provide a framework for DEQ to ensure quality in environmental data and information used by the agency." The DEQ states the benefits

of the QMS are “Defensible products and decisions, integrity of scientific data, effective resource management, justifiable resource expenditures, continual process improvement and a healthier, cleaner Idaho.” According to the DEQ, “the Department’s Quality Management Plan (QMP) documents the QMS to communicate and implement quality management procedures within the DEQ.”

Environmental progress threatened by Washington:

- ✓ Potential ESA Designations - The State of Idaho has worked hard to protect species within its borders to prevent ESA listings; however the threat of new listings still hangs over the state. The most concerning potential ESA listing is the sage grouse. On November 15, 2013, Dustin Miller, Administrator of the Idaho Governor’s Office of Species Conservation stated in the [*Idaho Mountain Express and Guide*](#), that a listing would be “crippling to the economy in Idaho.” In addition, he stated “The regulatory burdens associated with a listing of sage grouse would make it very difficult for federal land managers to authorize and administer land-use activities in and around sage-grouse habitat. Everything from energy development, to recreation and livestock grazing would be negatively impacted by a listing.”

“It is hereby recognized by the legislature that the protection of the environment and the promotion of personal health are vital concerns and are therefore of great importance to the future welfare of this state.” – Idaho Environmental Protection and Health Act



Kansas



Located in our nation's heartland, Kansas is home to a bountiful supply of natural resources. Understanding the important role both agriculture and energy production play in the state's economy, Kansas has taken a proactive role in ensuring that the state's land, water, and wildlife are preserved for generations to come. Leading this effort are the dedicated men and women at the [Kansas Department of Wildlife Parks and Tourism](#) and the [Kansas Department of Health and Environment](#). With 135 employees in wildlife management, 7 environmental scientists in the ecological services section, and 81 certified law enforcement officers, the KDWP is uniquely positioned to promulgate and enforce regulations concerning the state's natural resources and threatened and endangered species. Environmental laws such as the [Kansas Nongame and Endangered Species Conservation Act](#) and the [Kansas Air Quality Regulations](#) ensure strong environmental protections for both Kansas land and air.

- ✓ The state employs over 800 scientific professionals, biologists, and support staff dedicated to protecting the state's air, land, water and wildlife (400 employed at the Department of Wildlife Parks and Tourism and 420 at Department of Health and Environment.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ The Kansas Department of Wildlife Parks and Tourism (KDWP) enforces the [Kansas Nongame and Endangered Species Conservation Act](#), which defines and sets forth rules for protecting and listing Kansas' endangered species. By working with landowners, state universities, non-governmental organizations and other local agencies, the KDWP is uniquely positioned to provide education and outreach necessary to continue protecting the 60 currently listed endangered and threatened species in Kansas while working to prevent further listings.

Protecting water, land and air:

- ✓ The Kansas Department of Health and Environment (KDHE) emphasizes reuse and redevelopment of contaminated property in its cleanup projects whenever possible. Kansas, like most agricultural states, sees substantial influence by nutrients on its aquatic environment. While agriculture is the dominant land use throughout the state, urban impacts are also present in many of the Kansas waters. Nutrients, particularly phosphorus and nitrogen, are necessary to sustain life, fueling production agriculture and suburban landscapes alike. Once nutrients become excessive, primary productivity by plants proceeds at an accelerated pace, manifesting in blue-green algae blooms in lakes and the presence of filamentous strings of attached algae on the bottoms of streams. The goal for Kansas is to reduce the magnitude, duration and frequency of these outbreaks. Rather than immediately seeking a desired level of phosphorus or nitrogen in streams or lakes, KDHE has focused its efforts toward immediate reduction of nutrient loads from man-made sources. Early emphasis has been on reducing the nutrient loads from large wastewater facilities. The next point of emphasis will be effecting reductions in loads coming from non-point sources in the watersheds of nutrient impaired water bodies. These efforts are coordinated through a [Nutrient Reduction Framework](#) developed jointly between KDHE, the Kansas Water Office, the Kansas Department of Wildlife, Parks and Tourism, and the Kansas Department of Agriculture.
- ✓ Annually in April, Kansas ranchers in 13 counties that comprise the Flint Hills ecosystem conduct controlled patch burns to help stimulate fresh grass growth necessary for ideal cattle weight gain, and to control invasive trees, shrubs and plants. Prescribed burning can negatively affect air quality for these communities. In response to the situation, KDHE has developed the [Kansas Flint Hills Smoke Management Plan](#) in conjunction with several agricultural based industries in an attempt to balance the need to comply with both state and national air quality standards, while also allowing for critically important prescribed burns. The plan's voluntary approach allows for flexibility but also ensures land managers act responsibly. Kansas State University hosts a website to assist in implementing the plan allowing the land manager to obtain information and access tools to assist them in making burn decisions and in doing so, determine whether conditions are suitable for burning on any given day.

Promoting access to fish and wildlife:

- ✓ Starting in 1995, Kansas' [Walk-in Hunting Access Program](#) has provided countless Kansans and out of state visitors the opportunity to enjoy public access to over 1 million acres of world class hunting ground, making it one of the most successful public private access programs in the country.

- ✓ Additionally, since 1998, Kansas' Fishing Impoundments and Stream Habitats, or the [F.I.S.H. Program](#), was started to provide Kansas anglers the opportunity to access private land for public fishing uses. This program is facilitated by the KDWPT, which works with private landowners to lease the otherwise private waters.

Environmental progress threatened by Washington:

- ✓ ESA Overreach - In March 2014, the U.S. Fish and Wildlife Service (FWS), announced the listing of the Lesser Prairie Chicken (LPC) as a threatened species. LPC habitat covers 31 counties in Kansas, making it the largest share of LPC habitat among the five-state region. Listing the LPC will have negative results on the Kansas economy, including agriculture and energy production. At the state level, LPC interstate working groups consisting of state fish and wildlife agencies in Kansas, Oklahoma, Texas, Colorado, and New Mexico, have undertaken efforts to increase LPC population. During the listing process, the working group developed a conservation plan and mitigation framework. The [Range-wide LPC Conservation Plan](#) has been approved by FWS and was included in the final listing decision.

“Reasonable opportunity shall be provided for individuals, organizations, or other interested parties to participate and express their views about the development and implementation of a recovery plan.” - Kansas Nongame and Endangered Species Conservation Act of 1975



New Mexico



New Mexico has a long history of effective state-led efforts to protect the state’s extensive natural resources. New Mexicans understand the need to balance efforts to conserve the environment and meet the needs of a modern economy. The state stands at the forefront of coordinated efforts to preserve land, water and other resources that face various threats to long-term sustainability. The [New Mexico Department of Game and Fish](#), [State Land Office](#) and the [Energy, Minerals and Natural Resources Department](#) have hundreds of employees working to facilitate the growing demand for timber, fossil fuels and other minerals while ensuring that our treasured landscapes and vulnerable species are preserved and protected. The state also enforces extensive environmental and air quality [statutes and regulations](#).

- ✓ The state employs over 900 scientific professionals, biologists, and support staff dedicated to protecting the state’s air, land, water and wildlife (258 employed by the Department of Game and Fish, 154 at the State Land Office and 509 at the Energy, Minerals and Natural Resources Department.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ In 2012, the New Mexico State Land Office signed a candidate conservation agreement with assurances (CCAA) with the U.S. Fish and Wildlife Service (FWS) and the Center of Excellence for Hazardous Materials Management to enroll 248,000 acres of Lesser Prairie Chicken and dunes sagebrush lizard habitat—the most land ever set aside by a state as part of a conservation agreement. In June 2012, FWS announced a “not warranted” ruling on the potential endangered listing of the sagebrush lizard due to the success of the CCAA.
- ✓ The New Mexico Department of Game and Fish is a signatory to the Interstate Working Group’s *Range-wide Conservation Plan for the Lesser Prairie Chicken*, which seeks a multistate solution to protecting the species and its habitat. The efforts of the Interstate Working Group have shown that a strong, state-led conservation plan can be more cost-effective and produce better results than past species listings by the federal government. The Range-wide Conservation Plan is based in large part on New Mexico’s CCAA to protect the sagebrush lizard and the Lesser Prairie Chicken.

Protecting our water, land and air:

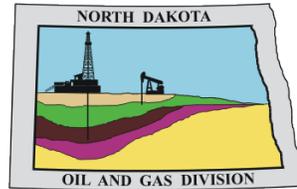
- ✓ The New Mexico State Land Office is responsible for the management of 9 million acres of surface land and 13 million acres of subsurface land. The Land Office partners with ranchers, local governments and volunteer organizations to protect native plants, such as the cottonwood forests, from invasive species on trust lands. The State Land Office is also in the midst of a project to protect cultural sites on state trust land against erosion from grazing, weather and wildlife by reconstructing fences and other barriers erected to preserve archaeological sites.
- ✓ The State Division of Forestry, part of the EMNRD, implemented a forestry stewardship program designed to help private forest owners better manage their land. Since 2007, more than \$1.8 million has been allocated from the Forest Service's State and Private Forestry program to the State Division of Forestry to implement the program. Over 100,000 acres of private forest land is covered by a state-led forest stewardship plan, and 1,046 landowners have received technical assistance for forest management.

Environmental progress threatened by Washington:

- ✓ ESA Overreach - The FWS has proposed extending Endangered Species Act protections for an estimated 75 Mexican wolves in New Mexico and Arizona and expanding a program to release more Mexican wolves into New Mexico. Federal plans to expand wolf recovery have largely failed in this area and have brought losses for ranchers and cattlemen who have seen their livestock ravaged by these struggling wolf populations.



North Dakota



Enjoying the outdoors and accessing natural resources are important to North Dakotans and those who visit whether, hunting, birding, cycling, or hiking. The state has a number of policies and programs to ensure their natural resources continue to be available for conservation, recreation, and economic development. Agencies such as the [North Dakota Game and Fish Department](#), the [North Dakota Health Department](#), the [North Dakota Water Commission](#) as well as the [North Dakota Oil and Gas Division](#) work to maintain this balance.

- ✓ The state employs over 600 scientific professionals, biologists and support staff dedicated to protecting the state's air, land, water and wildlife (158 employed by the North Dakota Game and Fish Department, 345 by the North Dakota Health Department, 80 by the North Dakota Water Commission, and 97 at the North Dakota Oil and Gas Division.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ The North Dakota Game and Fish Department has created a [comprehensive wildlife conservation strategy](#) to address issues for 100 species of birds, amphibians, reptiles, mammals, fish, and invertebrates that normally do not receive the attention that game species do. These species are compiled because there's a lack of information on some, while others have shown population decline in the recent past. Continued studies are underway to learn more about select species and actions are being taken to reverse population declines.
- ✓ The North Dakota Game and Fish Department has also developed [Geographic Information System \(GIS\)](#) layers for mule deer, antelope, elk, sage grouse, and bighorn sheep that show critical areas for these species. The agency provides recommended management practices for energy developers and shares this mapping with oil companies for their use in planning purposes.

Protecting water, land and air:

- ✓ The North Dakota Health Department has ensured that North Dakota continues to be one of only a handful of states that meet all National Ambient Air Quality Standards (NAAQS), even with new oilfield and industry development throughout the state.
- ✓ In consultation with stakeholders the state developed a common sense, practical Regional Haze State Implementation Plan tailored to regional conditions to improve visibility and significantly reduce sulfur dioxide (60%) and nitrogen oxides (25%) emissions by 2018.
- ✓ The North Dakota Oil and Gas Division requires a wide range of stipulations on drilling permits to protect drinking water sources, minimize impacts on nearby occupied dwellings, and minimize effects to the surrounding area.

Environmental progress threatened by Washington:

- ✓ Coal Ash Disposal - The North Dakota Health Department has developed and implemented an environmental protection program for the proper disposal of coal ash, including financial assurance, groundwater monitoring and landfill design standards well before the EPA explored the potential need for federal oversight. Unfortunately the EPA continues to pursue the possible designation of coal ash as hazardous waste, thus forcing coal companies to store coal ash rather than reutilize it. The cost to the companies would force them to close, and thousands of jobs would be lost with no environmental benefit.
- ✓ One-Size-Fits-All-Regulations - Whether it's the unique characteristics of the Bakken and Three Forks geology, the composition of lignite coal, or the fact North Dakota's air already meets every National Ambient Air Quality Standard, the state continues to face existing and potential federal regulations designed without taking these significant factors into account.
- ✓ ESA Listing - While already managing current ESA species, North Dakota faces additional potential listings of Greater sage grouse, Dakota skipper, and Powershiek skipperling where the Game and Fish Department is already taking action.

“It is hereby declared to be in the public interest to foster, to encourage, and to promote the development, production, and utilization of natural resources of oil and gas in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize cycling, recycling, pressure maintenance, and secondary recovery operations in order that the greatest possible economic recovery of oil and gas be obtained within the state to the end that the landowners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.” – [Chapter 38, Control of Gas and Oil Resources, North Dakota State Code](#)

Oklahoma



The State of Oklahoma has a long record of protecting our environment while also developing American energy. Oklahoma, rich with abundant natural resources, is home to a thriving oil and gas economy. State officials are steadfast in their pursuit to protect these resources while also protecting the quality of life for all Oklahomans. There are two primary agencies that are charged with making this happen, the [Department of Wildlife Conservation](#) and the [Department of Environmental Quality](#). The Oklahoma Department of Environmental Quality’s mission is to “provide quality service to Oklahomans through comprehensive environmental protection and management programs designed to assist citizens in sustaining a clean, sound environment, and to preserve and enhance our natural surroundings.” The mission of the Oklahoma Department of Wildlife Conservation is “the management, protection, and enhancement of wildlife resources and habitat for the scientific, educational, recreational, aesthetic, and economic benefits to present and future generations of citizens and visitors to Oklahoma.” These agencies are responsible for implementing the [Oklahoma Environmental Quality Act](#), the state’s bedrock environmental statute.

- ✓ The state employs over 800 scientific professionals, biologists and support staff dedicated to protecting the state’s air, land, water and wildlife (325 employed by the Department of Wildlife Conservation and 489 at the Department of Environmental Quality.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ The Department of Wildlife Conservation continues to be a leader in protecting species within Oklahoma. In March 2014, the FWS listed the Lesser Prairie Chicken (LPC) as threatened under the Endangered Species Act. This was despite five affected states having developed a range-wide, voluntary plan to provide conservation for the LPC. This plan was a comprehensive strategy that was developed in order to prevent the need for such a threatened listing while also providing a pathway to get the species delisted and in a post-listing environment as quickly as possible.

Protecting water, land and air:

- ✓ The State of Oklahoma’s [Water Resources Board](#) recently completed an update of its Comprehensive Water Plan (OCWP). The OCWP 2012 Update was a five-year, \$12 million effort that resulted in invaluable strategies, forecasts, data, and tools to help ensure reliable water supplies to meet Oklahoma’s needs through 2060 and beyond. Among other things, the OCWP was a prime example of the tremendous strides that can be made when states lead and federal agencies assist. Numerous federal agencies cooperated by providing funding and expertise, but success was largely a result of the engagement of hundreds of Oklahomans in taking charge of their water destiny.
- ✓ In recent years there have been an increasing number of federal air pollution regulations targeting what are termed “area” sources, and specifically those associated with the oil and gas industry. The Oklahoma Department of Environmental Quality’s Air Quality Division (AQD) has felt the increasing burden of permitting these targeted area sources, with annual applications for the oil and gas sector increasing by more than tenfold since the first “area” source rules were promulgated. The State’s [Oil and Natural Gas Permit by Rule](#) (PBR) establishes a streamlined process for permitting minor oil and gas facilities. Area source targeted federal regulations would be permit exempt.

“The purpose of the Oklahoma Environmental Quality Act is to provide for the administration of environmental functions which will:

- 1. Ensure that environmental regulatory concerns of industry and the public shall be addressed in an expedient manner;**
- 2. Improve the manner in which citizen complaints are tracked and resolved;**
- 3. Better utilize state financial resources for environmental regulatory services; and**
- 4. Coordinate environmental activities of state environmental agencies.” – [Oklahoma Environmental Quality Act](#)**

Environmental progress threatened by Washington:

- ✓ Potential ESA Listing - The state continues to work with industry to ensure species habitat is protected and to do so in an economically viable manner for Oklahomans and companies that operate in Oklahoma. Despite the state’s best efforts to protect the Lesser Prairie Chicken, it was listed as threatened by the FWS in March 2014. Senator Inhofe of Oklahoma [stated](#) on October 24, 2013 that, “It is vital to maintain the conservation efforts at the state level. ... A listing could harm Oklahoma's farmers and ranchers, our booming energy industry and the future development of infrastructure in our state.”

Texas



Texas is blessed with vast natural resources, diverse habitat, and a booming economy. An “all of the above” energy development strategy has powered economic growth in Texas and the state leads the nation in oil, gas, and wind energy production. However, Texas has far more than energy resources. Texas is second only to California in its biodiversity, with over 5,000 species of plants, 1,200 species of vertebrates, and an estimated 30,000 species of invertebrates living across 168 million acres of land. Texas private landowners, who own over 95% of property in Texas, provide habitat for thousands of species, while leading the nation in the production of cattle, cotton, hay, and other agriculture commodities. Texas agencies, like the [Texas Parks and Wildlife Department](#) and the [Railroad Commission of Texas](#), are dedicated to protecting the state’s environment, conserving natural resources, and working with industry and individual landowners to continue to grow the economy. Texas statutes like the [Natural Resource Code](#) and the [Parks and Wildlife Code](#) provide strong environmental protection for Texas communities every day.

- ✓ The state employs over 3,600 scientific professionals, biologists and support staff dedicated to protecting the state’s air, land, water and wildlife (2,923 employed by Texas Parks & Wildlife and 729 by the Railroad Commission of Texas.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ Texas Parks and Wildlife Department (TPWD) is the primary agency for species and habitat conservation in Texas. TPWD currently conserves and manages approximately 943,000 acres of [State Park lands](#) and [Wildlife Management Areas](#) (WMA) for a myriad of the state’s natural resources, including rare, threatened and endangered species, game, non-game animals and plants. TPWD has added nearly 34,000 acres of State Park and WMA lands during the past five years.
- ✓ In 2005, TPWD created its first State Wildlife Action Plan after more than a year’s worth of collaborative input from species and taxonomic experts from across the state. Today, TPWD is in the final stages of having a revised plan, now referred to as the [Texas Conservation Action Plan](#) (TCAP), approved by the FWS. Once approved, TCAP will serve as a 10-year roadmap for the conservation of over 1,300 Species of Greatest Conservation Need including, but not limited to, listed species and candidate species.

Protecting water, land and air:

- ✓ The Railroad Commission of Texas (TxRRC) is responsible for protecting the environment in Texas, while also balancing the needs of the state's economy and individual private property rights. TxRRC, through its employees, has a long and proud history of service to both Texas and to the nation. TxRRC is responsible for overseeing the activities of the oil and natural gas industry, pipeline transporters, coal and uranium surface mining operations and natural gas utilities, and has regulated the Texas oil and gas industry for over 90 years. In 2001, TxRRC monitored approximately 354,600 oil and gas wells. Today the Commission monitors more than 409,000 oil and gas wells and related facilities throughout the state, an increase of 15.4 percent. Across the state, crude oil and natural gas are produced in 224 of 225 counties. There has also been a dramatic increase in natural gas production, with the number of producing gas wells quadrupling from 23,000 in 1972, to 96,032 in September 2013. Despite this skyrocketing growth in oil and gas production, TxRRC continues to successfully regulate the oil and gas industry, monitor existing wells, and protect Texans and their environment.

“All wild animals, fur-bearing animals, wild birds, and wild fowl inside the borders of this state are the property of the people of this state. All fish and other aquatic animal life contained in the freshwater rivers, creeks, and streams and in lakes or sloughs subject to overflow from rivers or other streams within the borders of this state are the property of the people of this state.” – Texas Parks and Wildlife Code

- ✓ Texas also has a robust surface coal mining industry, ranked 6th in the nation with 44 million tons of Texas lignite produced in 2012. The [Surface Mining and Reclamation Division](#) at TxRRC administers 30 surface coal mining permits along the lignite resource belt, that extends from northeast Texas southeast towards Laredo. These permits are held by 11 companies in 20 counties, covering over 319,000 acres. Of the 319,000 acres, 190,563 acres have a reclamation performance bond. Over the life of the program about 47,000 acres have been successfully reclaimed and the performance bond has been released to the permittee. Another 156,000 acres have received some partial bond release.

Environmental progress threatened by Washington:

- ✓ [Potential ESA Listing](#) - The listing of the Lesser Prairie Chicken as threatened is a serious risk to the Texas economy. The habitat for the bird covers an area of Texas that accounts for [\\$13.83 billion](#) in state Gross Regional Product according to the state government. This threatens economic activity, including energy development and agriculture. This listing was made despite the state's efforts to prevent Endangered Species Act listings across the region. Together with its counterparts in the states of

Colorado, Kansas, Oklahoma and New Mexico, TPWD joined the Western Association of Fish and Wildlife Agencies' (WAFWA) [Lesser Prairie Chicken Range-wide Conservation Plan](#). This plan is a comprehensive, range-wide, collaborative effort to conserve this grassland species. Under the WAFWA plan, voluntary agreements with participating landowners will aim to improve habitat conditions for the Lesser Prairie Chicken, increase populations and provide for long-term conservation of the species. TPWD also holds a permit under section 10(a)(1)(A) of the ESA to enter into Candidate Conservation Agreements with Assurances (CCAA) for the Lesser Prairie Chicken. This authorizes TPWD and participating property owners for incidental take of Lesser Prairie Chickens and provides regulatory assurances in response to any listing. To date, over 60 landowners have enrolled 500,397 acres across 14 counties in the Texas Panhandle.



Utah



The State of Utah is known for its scenic beauty and spectacular natural heritage. Two agencies manage this legacy. The first is the [Utah Department of Environmental Quality](#), whose mission is to “safeguard public health and our quality of life by protecting and enhancing the environment.” The agency oversees a number of bedrock Utah environmental statutes including the Utah [Air Conservation Act](#), [Radiation Control Act](#), [Safe Drinking Water Act](#), [Water Quality Act](#) and [Solid and Hazardous Waste Act](#) to name a few. The [Utah State Parks and Recreation](#)’s mission is to “enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations.” The agency oversees [43 state parks](#).

- ✓ The state currently employs over 500 scientific professionals, biologists and support staff dedicated to protecting the state’s air, land, water and wildlife (380 employed by the Utah Department of Environmental Quality, and 180 by Utah State Parks and Recreation.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ Greater sage grouse populations are declining in the western United States. Utah’s [conservation plan](#) establishes sage grouse management areas across the state and creates measurable objectives for habitat protection and population enhancement. The work of biologists at several institutions in Utah is included in the plan. Research was conducted on topics such as; local conditions related to the species, the projects that have improved habitat to date, and the effects of various human activities on the species.

Protecting water, land and air:

- ✓ The practice of hydraulic fracturing to stimulate production in oil and gas wells has been effectively utilized in Utah for many years. Since the technique of hydraulic fracturing came into commercial use in the 1950s, the state has implemented and enforced regulations with regard to the utilization of this technique that have resulted in an exemplary track record of preventing environmental pollution.

- ✓ The state enforces strict construction standards for oil and gas wells using hydraulic fracturing to initiate production in Utah. In fact, there has never been an incident of groundwater contamination in Utah as a result of hydraulic fracturing. In addition to protecting the environment, the State of Utah also ensures minimal waste of the recovered resource, and requires transparency in the use of chemicals in the process.

Environmental progress threatened by Washington:

- ✓ Federal Mandates - Geologic conditions vary significantly across the country and one-size-fits-all rules and requirements for hydraulic fracturing would only serve to create unnecessary and often duplicative work for federal regulators. Allowing states the flexibility to make determinations based on local conditions ensures that the environment will be adequately protected and that workforce resources are not wasted replicating the work already being regulated by the states.
- ✓ Potential Federal Listing of the Greater Sage Grouse - Wildlife managers in Utah recognize that a listing of sage grouse under the Endangered Species Act would have devastating economic impacts for the state and have spent the past 15 years working to protect the species. Utah has spent millions of dollars to improve more than 380,000 acres of sage grouse habitat during the past several years. Most of the improvements could not have been done by the federal government. Utah and all of the other western states have shown that state management of the sage grouse is the only way to ensure that this species will be able to continue to thrive into the future.

“It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.” – [Utah Air Conservation Act](#)

Wyoming



Over the years, the State of Wyoming has taken a number of initiatives to protect species, maintain healthy wildlife populations and clean up hazardous waste. Wyoming has a number of bedrock environmental laws to accomplish this, such as the [Wyoming Environmental Quality Act](#) and the [Voluntary Remediation of Contaminated Sites Act](#). Within the state, the [Wyoming Game and Fish Department](#) works to conserve and manage 800 species of wildlife while the [Wyoming Department of Environmental Quality](#) works to manage environmental programs within the state, allowing the development of regulations and policy to better meet the specific needs of Wyoming.

- ✓ The state employs over 500 scientific professionals, biologists and support staff dedicated to protecting the state's air, land, water and wildlife (231 employed at Wyoming Department of Environmental Quality, 286 at Wyoming Game & Fish Department.) These individuals live in the very communities they are trying to protect, and know best how to accomplish their mission.

Protecting species on the ground:

- ✓ Wyoming's Game and Fish Department established the Species of Greatest Conservation Need ([SGCN](#)) designation, which are species "whose conservation status warrants increased management attention, and funding, as well as consideration in conservation, land use, and development planning." Wyoming has identified 180 such species and is actively working to protect them.
- ✓ The State of Wyoming, the domestic sheep industry, and Bighorn sheep advocates have worked collaboratively to design a [statewide plan](#) to allow for the viability of a domestic industry and the continued protection of the iconic Bighorn sheep.

Protecting water, land and air:

- ✓ Wyoming's Department of Environmental Quality established the [Voluntary Remediation of Contaminated Sites Program](#), which has helped clean up and reclaim brownfield sites. In 1998, DEQ, British Petroleum and the City of Casper worked

together to reclaim the former Amoco Refinery in Casper within three years. According to Wyoming's Department of Environmental Quality (DEQ):

"We were able to do that by making sure we understood each others' needs, respecting those needs, and collaborating on the best way to meet those needs. We had unlimited resources (i.e. support staff, technical advisors and funding), community support and interest, timely involvement from several other governmental agencies, and we had a company willing to 'do the right thing.'"

The reclaimed site is now at the center of the City of Casper serving as a business park, golf course, public recreation area, and a site for kayaking.

- ✓ DEQ has taken important and tangible steps to meet their obligations under the Clean Air Act with respect to visibility in our national parks. DEQ's experts developed a comprehensive approach to maintaining and improving Wyoming's stunning viewsheds while maintaining important jobs in the state's communities.

Promoting access to fish and wildlife:

- ✓ [The Hunter Management Program](#) and [Walk-in Area Hunting Program](#) are programs created by the state that facilitate hunting access by working with private landowners.
- ✓ The [Walk-in Fishing Areas Program](#) created by the state works with private land owners to allow access to fishing opportunities available on those lands. This important program also allows access to inaccessible public lands for fishing opportunities.

Environmental progress threatened by Washington:

- ✓ [EPA Mandates](#) - The EPA is overreaching into the management of coal, oil and natural gas without regard to the environmental work of state environmental professionals to manage those resources. Most recently, EPA is overriding state environmental plans to address regional haze in Wyoming, and relying instead on the recommendations of special interest groups outside the state. Governor Matt Mead stated on June 6, 2013 in the [Casper State Tribune](#) that "It is also troubling that the EPA seems to have given undue

"Whereas pollution of the air, water and land of this state will imperil public health and welfare, create public or private nuisances, be harmful to wildlife, fish and aquatic life, and impair domestic, agricultural, industrial, recreational and other beneficial uses; it is hereby declared to be the policy and purpose of this act to enable the state to prevent, reduce and eliminate pollution; to preserve, and enhance the air, water and reclaim the land of Wyoming; to plan the development, use, reclamation, preservation and enhancement of the air, land and water resources of the state; to preserve and exercise the primary responsibilities and rights of the state of Wyoming; to retain for the state the control over its air, land and water and to secure cooperation between agencies of the state, agencies of other states, interstate agencies, and the federal government in carrying out these objectives." - [Wyoming Environmental Quality Act](#)

weight to comments by environmental groups and little consideration to Wyoming's comments.”

- ✓ ESA Overreach - Over the years, Wyoming has had to contend with the listing, and potential listing, of a number of species under the ESA (e.g., sage grouse, gray wolf, wolverine, grizzly bear) that allow the federal government to usurp state management of these species. According to [testimony](#) before the House Natural Resources Committee on June 4, 2013, Steve Ferrell, then Policy Advisor to Wyoming Governor Matt Mead stated:

“States have extensive experience and expertise in science based wildlife management principles and the application of public policy in managing wildlife as a public asset. States are significantly affected by the ESA including their ability to develop and maintain their economies and natural resources. States should be afforded every opportunity to provide input to laws, regulations and policies in implementing the ESA.”



Conclusion:

As this report demonstrates, state agencies throughout the West are performing a comprehensive and detailed job of managing their own land, air, water and wildlife. Thousands of professionals are developing methods and regulations that work best for the communities in which they live. Nearly every state has its own laws for controlling air and water quality and agencies for managing these laws. These laws have been tailored to respond to the needs of individual communities and stakeholders as opposed to mandates from Washington that give little or no thought to local citizens and industry. Local communities should not be forced to pay the price for bad decisions made in Washington.

Additionally states have implemented their own plans for managing and preserving the wildlife and their habitat within their borders. State agencies have gone above and beyond to develop appropriate plans to ensure that their wildlife stays off the Endangered Species List. Despite these measures, the federal government continues to hang potential listings over these states, threatening their economic growth and stability.

The Senate and Congressional Western Caucuses believe that this report demonstrates that scientific professionals, biologists and support staff living and working in the West are better equipped at managing and maintaining their surroundings in a way that protects both their environment and those communities in which they live. We hope that the findings of this report will encourage Federal lawmakers to give these agencies the freedom and deference they need to accomplish their missions without imposing round upon round of overreaching mandates.

It is time that we left the protection of states' resources and heritage in their own hands. The Federal government should not be in the position of making decisions for communities that have already taken the initiative to make these decisions for themselves.