



## RESOLUTION 2017-10

### EXPRESSING SUPPORT OF THE ADVANCING CONSERVATION AND EDUCATION ACT

**Whereas**, the Western States Land Commissioners Association ("WSLCA") and its member states manage over 515 million acres of trust lands, minerals, and waterways that are interspersed with federal lands; and

**Whereas**, members of WSLCA have state constitutional mandates to manage millions of acres of lands for public education, economic development, conservation, recreation, and other public purposes provided by state law; and

**Whereas**, the ability of member states to fulfill their constitutional mandates is severely hindered when trust lands are surrounded by federal conservation areas; and

**Whereas**, land exchanges between states and the federal government are very expensive and time consuming; and

**Whereas**, the need for additional legislative means for resolving problems created by the location of state trust lands inholdings that are trapped inside federal conservation areas remains pressing for WSLCA member states; and

**Whereas**, WSLCA and its member states have worked for several years to develop the proposed federal legislation through consultation and discussions with conservation groups, Congress, the Department of Interior and other governmental entities, and the public; and

**Whereas**, prior draft proposals for such proposed legislation have been refined to consider concerns and comments expressed by such groups; and

**Whereas**, Congress has conducted legislative hearings on the Advancing Conservation and Education Act of 2016 (ACE) and received supportive testimony from the Department of Interior, State Land Commissioners, and conservation advocates demonstrating broad bi-partisan support; and

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**Whereas**, the ACE Act would create a streamlined and economical mechanism for the relinquishment to the United States of title to state trust lands located within federal conservation areas and the subsequent selection of unappropriated federal public lands as a means of eliminating conflicts between state and federal land management within federal conservation areas; and

**Whereas**, the ACE Act would insure that conservation mandates of federal land management agencies do not conflict with the constitutional mandate of State trust land managers to fund K-12 public education and other worthy beneficiaries in each state; and

**Whereas**, the ACE Act would permit a streamlined process for the completion of federal conservation areas and would uphold the constitutional promise of land grants.

**BE IT THEREFORE RESOLVED THAT** the WSLCA does hereby support and endorse the passage of The Advancing Conservation and Education Act, as presented to the membership of WSLCA, and requests that the members of the congressional delegations of each WSLCA state take all necessary actions to ensure the timely enactment of the proposed legislation into federal law.

Adopted this 12th day of July, 2017.



Harry Birdwell, President  
WSLCA



Linda Fisher, Secretary  
WSLCA



## RESOLUTION 2017-11

### WATERS OF THE UNITED STATES AND CLEAN WATER ACT JURISDICTION

**Whereas**, the Western States Land Commissioners Association ("WSLCA") and its member states manage over 515 million acres of trust lands, minerals, and waterways that are interspersed with federal lands; and

**Whereas**, members of WSLCA have state constitutional mandates to manage millions of acres of lands for economic development, public education, conservation, recreation, and other public purposes provided by state law; and

**Whereas**, the ability of member states to fulfill their constitutional mandates is severely hindered when trust lands are surrounded by federal lands and federal wildlife management mandates; and

**Whereas**, the Western States Land Commissioners Association ("WSLCA") reaffirms its commitment to the conservation and preservation of America's waters; and

**Whereas**, the Environmental Protection Agency (EPA) implemented Waters of the United States (WOTUS) Rule to revise the regulatory definition of "waters of the United States" under the Clean Water Act in August of 2015; and

**Whereas**, the EPA's WOTUS Rule significantly broadens federal jurisdiction over state lands, waterways, and water resources in a manner that disregards sound science, contravenes Supreme Court precedent, and infringes on the constitutional and economic rights of western states and citizens; and

**Whereas**, members of WSLCA have state constitutional mandates to manage millions of acres of lands and waterways for public education, economic development, conservation, recreation, and other public purposes provided by state law, which will be significantly and adversely impacted if the proposed rule is adopted; and

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**Whereas**, the WOTUS Rule expands federal jurisdiction over wholly intrastate water bodies, wetlands, intermittently wet features, and all tributaries, regardless of their size, function, amount, and regularity of flow and relationship to traditional navigable waters, in contravention of Supreme Court precedent and the current scope of federal authority under the Clean Water Act; and

**Whereas**, multiple litigation efforts across the nation were initiated by States and stakeholders to stay implementation of the WOTUS Rule and to remand the Rule to the EPA; and

**Whereas**, multiple Federal Courts stayed implementation of the Rule and the 6<sup>th</sup> Circuit Federal Court stayed implementation nation-wide; and

**Whereas**, President Trump signed Executive Order 13778 in February of 2017 requiring the EPA and the U.S. Army Corps of Engineers to review the WOTUS Rule to insure the Rule “...is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.”

**Whereas**, states have primary jurisdiction for the management of bodies of water within their own borders, and several states have drafted, or are in the process of creating, their own water management plans based on sound science and local information to conserve and preserve water and waterways while allowing for responsible economic growth within their state.

**BE IT THEREFORE RESOLVED AS FOLLOWS:**

1. The WSLCA urges the EPA to fully implement Executive Order 13778, respect the limits of Supreme Court precedent and the scope of federal authority under the Clean Water Act, and to refrain from any efforts to extend regulatory jurisdiction to reach tributaries, waterways, wetlands, and other water bodies and systems that lack a significant nexus to navigable waters as traditionally understood; and

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2. The WSLCA urges the EPA to rescind the WOTUS Rule and issue a new Rule with concise definitions that respect the rights of states to regulate waters within their borders, recognize the validity of existing delineations and protect the rights and interests of landowners relying on the federal government's existing jurisdictional determinations; and
3. The WSLCA recommends that all federal land use management and water management plans and policies strictly comply with and conform to the state water management plans and policies implemented in each state's jurisdiction; and
4. The WSLCA urges Congress to take federal legislative action to preserve the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution of waters wholly within a state while allowing responsible economic development of state and private lands and water resources.

Adopted this 12th day of July, 2017.



Harry Birdwell, President  
WSLCA



Linda Fisher, Secretary  
WSLCA



**RESOLUTION 2017-12  
CONCERNING THE IMPACT ON STATE TRUST LANDS  
FROM FEDERAL GREATER SAGE-GROUSE LAND MANAGEMENT RESTRICTIONS**

**Whereas**, the Western States Land Commissioners Association ("WSLCA") and its member states manage over 515 million acres of trust lands, minerals, and waterways that are interspersed with federal lands; and

**Whereas**, members of WSLCA have state constitutional mandates to manage millions of acres of lands for economic development, public education, conservation, recreation, and other public purposes provided by state law; and

**Whereas**, the ability of member states to fulfill their constitutional mandates is severely hindered when trust lands are surrounded by federal lands and federal wildlife management mandates; and

**Whereas**, the habitat of Greater Sage-Grouse covers more than 173 million acres of land in the western United States and millions of acres of State Trust assets are intermingled within this habitat; and

**Whereas**, in September of 2015, the Department of Interior through the Bureau of Land Management issued Records of Decisions amending 98 land use plans mandating specific management criteria for Greater Sage-Grouse on federal lands within the 173 million acres of habitat; and

**Whereas**, Federal Greater Sage-Grouse land management restrictions significantly impair the ability of WSLCA member states to generate income from state trust lands and assets that are intermingled with federal land ownership within Sage-Grouse habitat; and

**Whereas**, litigation in several states has been initiated by Governors and stakeholders resulting in a court order (Case No. 3:15-cv-00491-mmd-vpc) requiring preparation of a supplemental National Environmental Policy Act process; and

**Whereas**, Secretary Zinke signed Secretarial Order 3353 on June 7, 2017 to enhance cooperation between the Department of Interior and the eleven Greater Sage-Grouse states, support a partnership with clearly defined objectives and roles for Federal and State entities responsible for Sage-Grouse management and conservation in order to sustain healthy populations of the species; and establish a team to review the Federal land management agencies' Sage-Grouse plan amendments and revisions completed on or before September 2015; and

**Whereas**, States have primary jurisdiction for the management of wildlife within their own borders.

**BE IT THEREFORE RESOLVED AS FOLLOWS:**

1. The WSLCA urges the Department of Interior to work with the Governors of Greater Sage-Grouse states to review current data and actions carried out by states to manage and improve Sage-Grouse habitat, curtail predator impacts, protect against wildfire, and manage and increase species populations within their borders under state management; and
2. The WSLCA urges the Department of Interior to initiate supplemental National Environmental Policy Act processes to determine the appropriate role of the Federal Government in the management of Sage-Grouse within WSLCA member states; and
3. The WSLCA urges the Department of Interior to consider the impacts of federal land management restrictions on adjacent state lands and minerals and the economic impacts on education funding within WSLCA member states.

Adopted this 12<sup>th</sup> day of July, 2017.



Harry Birdwell, President  
WSLCA



Linda Fisher, Secretary  
WSLCA