

Ag interests are formulating strategies of their own

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local, state and international venues.

Many involved in agriculture say they hope Trump will ease some of the regulations governing their industry, but worry that environmental groups will use their bigger war chests to fight more legal battles on key issues such as public lands management, air- and water-quality standards, food safety and endangered species.

"The fear is you would have an unfounded lawsuit filed, and then the (agricultural) business is still responsible for funding a defense of themselves, even if the suit has no legitimacy," said Rick Naerebout, director of operations at the Idaho Dairymen's Association.

Naerebout recalled a case in the early 2000s in which an environmental group filed a notice of its intent to sue a dairy for alleged methane-emission violations. The suit was eventually dropped, but only after the association made a six-figure investment in scientific studies that proved the dairy didn't pollute.

Leveraging the Cabinet

Environmental groups contacted by Capital Press all say they have received many more contributions since the election, though they wouldn't provide numbers.

"We're clearly seeing folks who were hesitant to associate with us because we're the tree huggers, and now they're coming around and saying, 'We need the tree huggers,'" said Jeremy Nichols, who handles climate and energy issues for New Mexico-based WildEarth Guardians.

Josh Moger, a spokesman for NRDC, emphasized his organization would rather be broke than have to defend "bedrock environmental protections Americans have come to expect." But he acknowledges NRDC has experienced an "exponential bump in engagements for online actions, as well as fundraising."

"To some extent, we initially didn't have to ask people (to donate). People were coming to us," Moger said.

The additional contributions are on top of already substantial revenues. Accord-



Courtesy of Earthjustice

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ing to tax forms filed with the Internal Revenue Service, from July 1, 2014, through June 30, 2015, NRDC reported \$155 million in total revenue, including slightly more than \$134 million in contributions and grants.

For January through December 2015, WildEarth Guardians reported nearly \$3 million in total revenue, and Earthjustice, a nonprofit law firm that takes on environmental cases, brought in \$48.1 million.

During that same period, the Sierra Club reported \$109.2 million in revenue, including \$94.3 million in contributions and grants.

Hailey, Idaho-based Western Watersheds Project brought in \$639,000 in total revenue for the year ending December 2014.

More recently, criticizing Trump's Cabinet and agency leadership choices has been an especially lucrative fundraising strategy, the environmentalists said.

A Sierra Club blog describes Trump's pick to lead the Environmental Protection Agency, Oklahoma Attorney General Scott Pruitt, as a "climate science denier who repeatedly partnered with the state's largest polluters to block health and environmental safeguards."

The organization concludes that the choice of Pruitt will make "America the scorn of the world." On the site is a link with instructions to donate to the club each month and "protect the planet from Trump."

In its online advertising, the NRDC encourages supporters to "Speak out! Tell



Courtesy of WildEarth Guardians

Jeremy Nichols, of WildEarth Guardians, says "We're clearly seeing folks who were hesitant to associate with us because we're the tree huggers, and now they're coming around and saying, 'We need the tree huggers.'"

your senators to vote NO on Donald Trump's Cabinet of polluters." NRDC contends Secretary of State pick Rex Tillerson, the retired CEO of Exxon Mobil, "put his company's interests ahead of those of the U.S. and thwarted action on climate change."

NRDC also takes to task former Texas Gov. Rick Perry, tapped to oversee the Department of Energy, for his record on climate change and claims Secretary of the Interior pick Ryan Zinke, a second-term congressman from Montana, has a "rock-bottom voting record on the environment of 3 percent," as calculated by the League of Conservation Voters.

"You have a list of extremely pro-industry advocates with very weak records on environmental protection and conservation," said Erik Molvar, executive director of the Western Watersheds Project. "That elevates the need for conservation groups like Western Watersheds to hold them accountable."

Litigation reform

Meanwhile, agricultural interests are formulating strategies of their own.

A top priority for Ethan Lane, who represents public lands grazing interests at the pro-agriculture Public Lands Council, will be seeking legislation that would force the executive branch to publicize how much taxpayer money is awarded to environmental groups to cover their litigation costs when they prevail in court.

Lane suspects the public would be aghast if the numbers were made available.



Capital Press File

Jay Byrne, president of the St. Louis issues management and research firm v-Fluence, advises agricultural leaders to focus their advocacy on core issues instead of "moving too quickly on too many fronts."

"We're at the point right now where almost everything is litigated the second it comes out by these radical environmental groups," Lane said, adding that the council will also encourage Congress to take up broad litigation reform.

Lane believes environmental activists have abandoned facts and turned to scare tactics in their appeals to the public, increasingly depicting ranchers and others who depend on public lands as villains motivated by greed.

Nichols, of WildEarth Guardians, dismisses any criticism of turning to the legal system as a tool, noting the courts are the government's third branch.

"It's downright democratic to use courts to advance goals," Nichols said.

Drew Caputo, vice president of litigation at Earthjustice, said 100 of his organization's 225 staff members are attorneys. As a last resort, Caputo said, Earthjustice has taken both Democratic and Republican administrations to court for decades to force the government to follow the law. But he acknowledged that he's especially concerned about Trump, based on the businessman's rhetoric and a slate of Cabinet picks Caputo claims are the most anti-environment nominees ever appointed by a president during his lifetime.

"We have reason to believe they're going to take actions which are not only bad for the environment, but also bad for the law," Caputo said.

Molvar also expects the Western Watersheds Project to spend a lot of time fighting



Courtesy of the Public Lands Council

Ethan Lane, of the pro-agriculture Public Lands Council, will be seeking legislation that would force the executive branch to publicize how much taxpayer money is awarded to environmental groups to cover their litigation costs.

Trump policies in court, noting conservation groups are more apt to sue when they believe the environment is under attack.

"Conservation groups are a bit like the highway patrol of the environment," Molvar said. "Somebody driving 5 mph over the speed limit you're less likely to pull over and give a ticket than if he's driving 90 mph and drunk."

Avoiding pushback

Though the incoming Trump administration is generally viewed as friendly to agriculture, some warn against trying to go too far, too fast.

Jay Byrne, president of the St. Louis issues management and research firm v-Fluence, advises agricultural leaders to focus their advocacy on core issues instead of "moving too quickly on too many fronts" in pursuit of reforms that could be viewed as extreme. The firm provides public policy intelligence to the food industry.

"Some suggest there may be a radical dismantling of regulations, and that could end up with pushback and other reactions that, in the end, could hurt farming interests," said Byrne. "You want to take advantage of the opportunities, but also be cautious that we don't enable and lift up some of the more radical opponents."

Regardless, Byrne predicts unprecedented levels of litigation impacting agriculture ahead.

Based on observations from 2005 to 2007 — the last time Republicans held both houses of Congress and the

White House — Byrne expects environmental activists to take many of their fights to the city, county and state levels. For example, Byrne said, anti-agricultural groups recently convinced a New York City Parent Teacher Association to endorse a ban on serving genetically modified foods in school, as well as a ban on milk and other dairy products from cows treated with artificial growth hormone.

Regardless of the science, Byrne said, many liberal-leaning local and state leaders will be apt to support the activists because of their general disdain for Trump.

"We're going to be challenged by fighting thousands of little fires," Byrne said.

He also expects the groups to increase their lobbying in international policy forums, which could influence key agricultural trade partners such as China, Japan and South Korea.

"Junk science" — scientific claims appearing in so-called pay-to-play journals not backed by credible research — will also proliferate in the coming years, Byrne said. He said biotech crops and animal health products are popular targets of junk science.

"You might find more mainstream sources giving additional weight or coverage to these types of tactics for political reasons," Byrne said.

Brian Brooks, executive director of the Idaho Wildlife Federation, agrees with Byrne that conservationists will "avoid the national circus" and increase their efforts at the local and state levels.

"IWF is really looking forward to the support of these national organizations," Brooks said.

Brooks emphasized that IWF is nonpartisan, representing sportsmen in general, and is viewed by many as a middle-ground organization. Since Trump's victory, however, Brooks believes the environmental movement has become more "cohesive," with conservative hunting organizations finding new common ground with groups on the far left. IWF has also enjoyed a recent spike in new memberships, boosting revenue.

"What's changed is we need to understand help is going to come from the right and the left of us because of the uncertainty," Brooks said.

'The pendulum has swung both ways pretty hard'

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don't expect to repeat the "heyday" of surging sales between 2009 and 2013, he said.

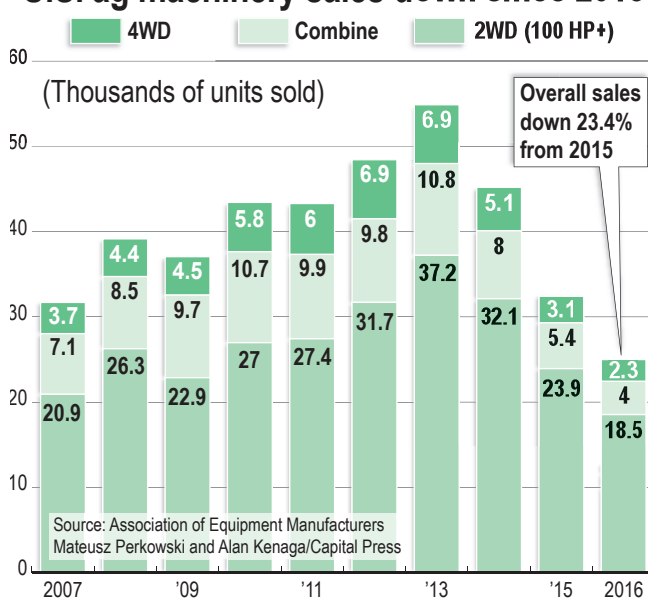
"The pendulum has swung both ways pretty hard," O'Brien said.

Manufacturers learned their lesson from the agricultural downturn of the 1980s and were prepared to be "more nimble" when the "abnormal times" of unusually high commodity prices ended, he said.

The adjustment has involved lay-offs and factory closures, O'Brien said. "It's a constant effort to right-size operations."

Deere & Co., a major U.S. farm machinery company, has experienced a 30 percent reduction in revenue since the 2013 peak, but nonetheless managed to post a \$1.5 billion profit during its 2016 fiscal year, according to financial documents.

U.S. ag machinery sales down since 2013



Similarly, the AGCO Corp., which manufactures multiple machinery brands, reported net income of \$99 million during the first three-quarters of 2016 despite a sales decrease.

"The larger players anticipated this and made adjustments," said Langemeier of Purdue University.

It's likely that major manufacturers will be on the prowl to acquire smaller machinery companies during this time of distress, he said.

Farmers who are still able to afford machinery, meanwhile, are well-positioned to benefit from deals, particularly for used equipment, Langemeier said.

"If they have the liquidity, it's not a bad time to look," he said.

As growers bought new machinery when crop prices were soaring, they traded in recently manufactured tractors and combines, creating a glut of high-quality used equipment, O'Brien said.

Dealers have done a good job of clearing out inventories of used combines, but still face a surplus of used large tractors, he said. "We are basically a victim of our own success."



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About 70 percent of the farmers surveyed for Purdue University's "Ag Economy Barometer" believe it's not a good time to invest in farm machinery,

Trump administration could greatly curtail the scale of a national monument

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its authority to create national monuments to the president in the Antiquities Act.

However, the power to revoke such designations belongs solely to Congress, not to succeeding presidential administrations, according to the opinion.

Even so, the Trump administration could greatly reduce the scale of a national monument by shrinking it to a quarter-acre, for example, Budd-Falen said.

The Republican-controlled Congress could also outright overturn a

national monument designation or simply excise tracts that are most problematic for ranchers and other natural resource users, said Scott Horngrén, an attorney with the Western Resources Legal Center, which litigates on behalf of agriculture and timber interests.

"They could use a scalpel," said Horngrén.

With the multitude of contentious issues facing the Trump administration and Congress, though, it's open to question whether they'll want to tackle disputes over national monuments, he said. "We just don't know that."

If the Trump administration did drastically roll back the size of a na-

tional monument, environmental groups could argue in federal court that the reduction was made arbitrarily in violation of the Antiquities Act, Horngrén said.

Under that statute, national monuments should be as small as possible to protect resources within the monument, so the Trump administration could argue that his predecessor's boundaries were too expansive, he said.

Though opponents of national monument designations tend to cast them as "midnight regulations" by outgoing presidents, in reality, new monuments and expansions must be

justified in "rationales," said Michael Blumm, an environmental law professor at Lewis & Clark Law School.

If the Trump administration decided to significantly shrink a national monument, it should have to provide a similarly well-reasoned justification, he said.

"The courts have taken seriously those rationales," Blumm said. "There can't be any arbitrary decision-making."

Presidents do have a "fair amount" of flexibility in deciding what uses are permitted within national monuments, as long as they don't undermine the monument's

fundamental values, he said.

A major reduction in a national monument's boundaries would be unprecedented, partly because past presidents have been reluctant to scale back earlier designations, Blumm said.

The Bush administration, for example, defended national monuments created by the Clinton administration, he said.

The issue goes beyond partisan politics and resonates with concerns about the institution of the presidency, Blumm said. "Presidents like the monument authority, especially on their way out, because it provides them with a legacy."