

Zinke orders transparency in settlement agreements

By CAROL RYAN DUMAS
Capital Press



Ethan Lane

Interior Department Secretary Ryan Zinke has issued an order a public lands advocacy group says is intended to bring more transparency and accountability to consent decrees and settlement agreements entered into by the department.

The order is intended to alleviate concerns that the litigation process has been used to undermine procedural safeguards to ensure the public has input in policymaking, particularly when it comes to the practice of “sue and settle.”

Sue and settle has been used for years by environmental groups that don't like a policy decision by a federal agency, Ethan Lane, execu-

tive director of the Public Lands Council and federal lands for the National Cattlemen's Beef Association, said.

They use it as a springboard to settle with the agency to get an outcome that's closer to the policy they want, he said.

They've learned in the process that “federal agencies will settle rather than roll the dice in court,” he said.

It's a low-cost way to sue and get the public policy they want, he said, adding that they're holding federal policy hostage and being compensated for legal fees through the Equal Access to Justice Act, he said.

One group, Advocates for the West, obtains 31 percent of its annual revenue from attorney fee awards, he said.

Advocates for the West has not responded to Capital Press' requests for comment, but its 2017 annual report verifies Lane's assertion.

“This is a business model for these people and a very effective one,” he said.

Loopholes exist to allow these groups a consequence-free environment to pester federal agencies with habitual litigation, he said.

“Litigation is the most consequential issue impacting land management in the West,” he said.

Zinke's order is not a silver bullet to fix the abuse, but it will shed some sunlight on the process and give everybody a chance to see what is

unfolding in these different challenges, he said.

These groups claim to be suing on behalf of the public, and the public deserves to know who is using that leverage, he said.

With more transparency, people will be able to see what's going on — and they might say “no, don't settle with these people,” stick with the science-based decision, he said.

“In general, if you can make a decision to placate somebody who's suing you with nobody knowing ... it's easier to make the decision,” he said.

The American Farm Bureau Federation maintains that activists have grown rich by suing the government and reaping billions of taxpayers' dollars — and all in secret.

The action by the Interior Department will open backroom deals to public scrutiny and is long overdue, according to the organization.

“The Department of Interior is shining light on a corner of government most people don't even know exists,” Ellen Steel, AFBF general counsel, said in a statement.

Basic transparency demands that citizens know what their government is doing, she said.

“When activists sue, they can tie up the government with dozens of frivolous claims but still recover attorneys' fees if a judge upholds even one, solitary claim. Faced with a barrage of allegations that sap agency time and resources, whether they have merit or not, the government is too often motivated to

capitulate through secret settlements,” she said.

Some agencies have even been known to invite litigation with the purpose of entering a settlement to provide political cover for controversial agency policies, she said.

“And in settling, agencies often agree to pay legal fees, which further fuels the sue-and-settle machine. This action is a solid first step to fixing the problem. Every other federal agency should follow suit,” she said.

Every decision unfolding on public lands in the West affects cattle and sheep producers, and all are subject to litigation, Lane said.

“Anti-multiple-use groups really target grazing. We cover a large area, and we're easy to regulate,” he said.

Permanent fire breaks, targeted grazing used to help stop wildfires

By BRAD CARLSON
Capital Press



A patch of forage kochia grows as part of the Bureau of Land Management's Paradigm Project.

U.S. Bureau of Land Management fire-fuels specialists in southwest Idaho late this year aim to seed forage kochia in sagebrush steppe where they've been clearing roadside fire breaks.

Also soon, BLM officials expect to get progress reports on the first year of targeted grazing in a similar landscape to the west, where anecdotal results were favorable.

BLM-led crews have been clearing roadside fire-fuel breaks from Blacks Creek Road east of Boise east to Glens Ferry, and in some areas to the north and south. Ideally, the firebreaks will slow or help stop range fires while improving access for fire vehicles and crews.

“This fall, we will be disking about 1,400 acres along existing road systems to prepare the seed bed for forage kochia seeding later this winter,” said Courtney Wyatt, who leads implementation of the 10-year project, called Paradigm.

Kochia is known to slow a wildfire's progress — if the compact, perennial shrub with a deep taproot manages to establish itself.

“Success of forage kochia seeds has a lot to do with preparing the seed bed,” Wyatt said.

The 100-foot fuel breaks are in place on BLM land that equipment could access, she said. Crews cleared sagebrush and other vegetation mechanically or by applying herbicide.

If seeding goes well enough, “we would look at an additional approximately 100 feet of fuel break,” Wyatt said. Such extensions would be farther from roads and contiguous to existing breaks.

Growing kochia can be tough at the beginning, said Lance Okeson, fire-fuels manager based in the BLM Boise District. The agency is

working on 300 miles of fuel breaks.

“It is challenging to establish, has poor seed viability and does not establish where there is already seed competition” such as where prolific, non-native annual cheatgrass and medusahead cover the ground, he said. “We need to reduce all of that competition first.”

Wyatt said established kochia outcompetes cheatgrass and medusahead, including in interior spaces between plants. Fires that run into kochia often lose speed as they go through a patchwork of plant material and open space rather than a contiguous “fire mat” of grass, she said. kochia's flame heights are also lower.

Clearing roadside breaks took out sagebrush, though it was a small percentage of the total population and included

some that was degraded, she said.

Wyatt said some landowners to the north have their own fuel-break plans.

To the west, BLM crews have been working on a roughly 30-mile stretch from outside Murphy, Idaho, west to the Oregon border. That fuel-break project is about 90 percent completed, said Steve Leonard, BLM Owyhee Field Office acting manager in Marsing, Idaho.

“As we move forward, we are looking at doing some chemical treatment to keep annual grasses out of the fuel break,” he said.

On another front, several cattle operators in the area recently completed the first year of a three-year project that aims to reduce fuel loads alongside the break using targeted grazing. Final reports are forthcoming.

“There is a learning curve for this for everybody, but all indications are that it is a success,” Leonard said. Cattle operators rode horses and used other methods to keep the animals in targeted areas.

It appears the grazing cattle reduced total fuels alongside the break, he said. “They consume annuals, and if we can manage the livestock up against that fuel break, then we complement the fuel break by reducing fuel loads further.”

Fuel breaks will require annual maintenance, Leonard said.

The fuel-break project in the Murphy area is part of a \$67 million rehabilitation effort following the 2015 Soda Fire that burned 436 square miles of Sagebrush Steppe in Idaho and Oregon, the Associated Press reported in July.

Ag cautiously optimistic about Trump trade agenda

By MATTHEW WEAVER
Capital Press

The wheels are beginning to turn on trade moves that will benefit U.S. farmers, but some major concerns remain, the head of an agricultural trade organization says.

The Senate Agriculture Committee held a hearing Sept. 13 focused on the Trump administration's trade agenda.



Brian Kuehl

Brian Kuehl, executive director of Farmers For Free Trade, said he is cautiously optimistic.

“We're still very worried about the impact farmers are feeling and are going to continue to feel,” Kuehl told the Capital Press. “A lot of farmers are being impacted today, so there's not a lot of time. People are trying to sell their grain, fruit and produce, and prices are down because of this trade war.”

The trade conflicts are causing long-term damage to U.S. agricultural markets, Kuehl said.

“The longer we're in a trade war with China, the more opportunity Brazil and Australia have to step into that vacuum,” he said. “Even after we get the trade war resolved, it could be a decade before the U.S. gets back to where it was in terms of agricultural trade.”

Kuehl said he was concerned by comments made by U.S. chief agricultural negotiator Gregg Doud during the hearing that the U.S. Trade Representative's team is not responsible for lifting steel and aluminum tariffs on Mexico, calling it a Department of Commerce issue.

“That's really alarming to us, because all of these governmental entities should be marching in the same direction,” Kuehl said. “If we don't lift the steel and aluminum tariffs on Mexico, they're not going to lift the tariffs they put on U.S. ag products.”

Several months ago, the

U.S. announced a similar trade deal with the European Union, but did not lift steel and aluminum tariffs, and the EU did not lift tariffs on agricultural products, he said.

“On the one hand, it's good that we're talking, that's encouraging,” he said. “But we'd like to see these tariffs rolled back while we talk. There's no point in having the tariffs on and inflicting pain. Everyone knows we can put the tariffs on if we want to; why don't we lift the tariffs, have the conversation and try to reach a deal?”

President Donald Trump should not pull the U.S. out of the North American Free Trade Agreement until a new deal is solidified with Mexico and Canada and receives congressional approval, Kuehl said.

“Let's make sure we have the votes for the new deal before we scrap the old deal,” he said.

Another priority is no further tariffs on China, which would respond further with more tariffs of its own, Kuehl said.

“What we want to see is both parties de-escalating, throwing back tariffs and sitting down for serious talks,” he said.

U.S. Wheat Associates and National Association of Wheat Growers said they appreciated that the administration and committee leaders recognize the challenges farmers face.

“It looks like progress to us,” said Steve Mercer, vice president of communications at U.S. Wheat Associates. “There's rhetoric, there's reality and I guess we'll just have to wait and see. We're pleased with the acknowledgment that there is damage to wheat growers from these policies and they are taking steps to address that.”

Farmers are already sowing wheat, said Jimmie Musick, president of National Association of Wheat Growers and a Sentinel, Okla., farmer.

They'd like to see the trade issues resolved to know how much wheat they need to plant and how the market will look, he said.

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