

Testimony

on behalf of the

**National Cattlemen’s Beef Association, Public Lands Council**

with regards to

“The Impact of Federal Environmental Regulations and Policies on American Farming and  
Ranching Communities”

submitted to the

United States Senate  
Committee on Environment and Public Works

John Barrasso, Chairman

submitted by

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National Cattlemen’s  
Beef Association



Good morning, my name is Niels Hansen. I'm a third generation rancher from Rawlins, Wyoming. The family ranch was started in the 1890s as a sheep and remount horse ranch. Over the years my family changed from raising horses to raising cattle and in 1984 made the final change from a cow/calf, sheep operation to a cow/calf/ yearling operation, and the ranch continues to be totally family owned and operated.

I am the immediate past president of the Wyoming Stock Growers Association, the current Secretary/Treasurer for the National Public Lands Council and a past Chairman of the Wyoming State Grazing Board. I'm testifying before you today representing family ranchers throughout the country operating on both private and public lands, all of whom have a stake in protecting the environment in which they live and work. Thank you Chairman Barrasso and Ranking Member Carper for allowing me to testify today on the impact of federal regulations and policies on American farming and ranching communities.

U.S. ranchers own and manage considerably more land than any other segment of agriculture— or any other industry for that matter. Ranchers graze cattle and sheep on approximately 666.4 million acres of the approximately 2 billion acres of the U.S. land mass. In addition, the acreage used to grow hay, feed grains, and food grains add millions more acres of land under cattlemen's stewardship. Some of the biggest challenges and threats to our industry come from urban encroachment, natural disasters, and government overreach. Since our livelihood is made on the land, through the utilization of our natural resources, protecting the land not only makes good environmental sense; it is fundamental for our industry to remain strong. Cattle producers pride themselves on being good stewards of our country's natural resources. We maintain open spaces, healthy rangelands, provide wildlife habitat and feed the world. Despite these critical contributions, our ability to effectively steward these resources is all too often hampered by excessive federal regulations like the ones we are discussing today.

When we talk of overly-burdensome regulations, we always need to talk about the Environmental Protection Agency (EPA). The 2015 Waters of the United States (or "WOTUS") Rule continues to be a top concern for cattle producers as long as it remains on the books. I am extremely concerned about the devastating impact this rule could have – not only on my own ranch, but on cattle operations across the United States. As a livestock producer, the 2015 WOTUS Rule has the potential to negatively affect every aspect of my operation by placing the regulation of every tributary, stream, pond, and dry streambed in the hands of the federal government, rather than the states and localities that understand Wyoming's unique water issues. The overly broad standards of the 2015 WOTUS definition, combined with its seriously ambiguous language create more questions than answers. I look forward to the rescission and replacement of the 2015 WOTUS Rule under Administrator Scott Pruitt. Just last week, the EPA under Mr. Pruitt's leadership issued the WOTUS "delay rule" which gives the Agencies breathing room to repeal and replace without concern for the 2015 Rule becoming effective law for two years. Any definition of "waters of the United States" should allow me to determine, without spending thousands of dollars on consultants, engineers, and attorneys, whether I have a federally regulated waterbody on my land.

While WOTUS is a significant concern for American cattle producers, it is just the tip of the iceberg for environmental regulations that impact our industry. Another pending requirement is CERCLA and EPCRA reporting, which will require farmers and ranchers to report manure odors

to the government for emergency response coordination. Let me say that again because the absurd bears repeating– the CERCLA and EPCRA reporting requirements force farmers and ranchers to report manure odors to the government so the government can coordinate an emergency response to the manure odors.

It shouldn't need to be said, but Congress never intended these laws to govern everyday farm and ranch activity. In 2008, the EPA exempted most livestock operations from these reporting requirements. This exemption was put in place by the Bush W. Administration and defended in court by the Obama Administration for eight years. However, in April 2017, environmental activist groups won their lawsuit, eliminating these exemptions for agriculture. When the mandate issues, nearly 200,000 farmers and ranchers will be on the hook to report low-level livestock manure odors to the government. To clarify that Congress never intended for livestock producers to report their low-level manure smells to the National Response Center, a change in the law is necessary.

Importantly, emergency responders see no value in receiving continuous release reports from livestock operations. Obtaining this information provides no benefit, and does not allow responders to be more prepared or safer in an emergency situation. In fact, these reports have the opposite effect - inhibiting responders' ability to do their job effectively and limiting vital resources. The sudden influx of agricultural reports will significantly hinder emergency response coordination and response capability. The National Association of SARA Title III Program Officials, which represents state and local emergency response commissions, notes that continuous release reports "are of no value to [Local Emergency Planning Committees] and first responders" and that the reports "are generally ignored because they do not relate to any particular event." The U.S. Coast Guard stated that early calls from farmers have "increased [initial notifications] from approximately 100-150 calls per day (not associated with air releases from farms) to over 1,000 phone calls per day." This influx has negatively impacted the Coast Guard's ability to coordinate responses for *true* emergencies. The Coast Guard further indicated the abundance of farm calls meant that "wait times have been up to two hours for calls, many of which require immediate attention". CERCLA and EPCRA were intended to focus on significant events like spills and explosions, not routine emissions from farms and ranches. As you can see, these reporting requirements have already begun to hurt responders' ability to do their job to protect the public health and environment. When the reporting mandate issues, the floodgates will open, crippling America's first line of hazardous emergency defense.

Information related to farm and residence location information must be protected. Unfortunately, the federal agencies handling it have an established record of misuse and blatant disregard for privacy laws. Many of the families who manage livestock operations live on their farms, so any data required by the government, like the data required for CERCLA and EPCRA reporting, creates a situation ripe for abuse. In addition to general information availability concerns, cattle producers also face significant risk of trespass and property damage. The widespread collection and dissemination of farm information by the government will put the privacy of producers and safety of our food system at risk, as individuals will have unfettered access to farm location data. Additionally, government agencies should not use aerial surveillance, by manned or unmanned aircraft, to conduct environmental enforcement actions. These type of governmental activities, simply put, further engender distrust between farmers and the federal government and put our farmers and ranchers at risk. Technological progress necessitates the

progression of the law, to ensure that farmers and ranchers' privacy is protected from drone use by both public and private parties.

Another regulation is the Spill Prevention, Control, and Countermeasure (or “SPCC”) rule for farms, which requires farmers to develop and certify a control plan and install secondary containment structures for oil storage. This is a regulation that originally applied to oil refineries that now applies to farms and ranches. While the original scope of the law is well-intended, these requirements create an undue burden on farmers and ranchers, who are located in the most remote parts of the country and need oil storage to power our farm equipment. Senator Fischer was instrumental in providing much-needed regulatory relief for farmers by championing language in the 2016 WIIN Act. But more can be done to reduce this unnecessary burden for our nation’s farmers and ranchers.

Cattle producers throughout the country continue to suffer the brunt of regulatory and economic uncertainty due to the abuse of the Endangered Species Act. Simply put, the Endangered Species Act is broken. Years of abusive litigation by radical environmental groups have taken a toll, and the result is a system badly in need of modernization. Today more than two thousand species throughout the world are listed as either Threatened or Endangered, with new petitions stacking up by the hundreds due to groups that have set up “petition assembly lines” to churn out new filings by the dozen. When the Fish and Wildlife Service fails to respond to this avalanche of procedural paperwork, the groups sue, tying up the court system and sapping the agency of money that should be used for species recovery and delisting efforts. Similar legal challenges hamper the process at every turn, particularly regarding the delisting process. In the current environment, it's almost a foregone conclusion that even the most scientifically sound delisting proposal – for a species that has far surpassed recovery goals - will immediately draw legal challenges drawing the process out needlessly.

Despite the crippling impacts to our industry, it is our position that modernization of the Endangered Species Act must be addressed in a bipartisan manner. It is in this spirit of bipartisan problem-solving that PLC and NCBA participated heavily in the Western Governor's ESA Initiative led by Wyoming Governor Matt Mead. This multi-year effort included stakeholders from across the spectrum and resulted in a set of commonsense recommendations to this body last year that were approved by all but one of the sitting western governors. These recommendations truly represent a path forward on ESA and I sincerely hope this body incorporates them into their efforts on this critical issue.

Another equally important aspect to restoring science and sound policy-making to the forefront in environmental regulation are the Equal Access to Justice Act (EAJA) and the ESA Judgement Fund. These tools were created to give Americans the ability to pursue litigation against their government without fear of financial ruin. They were not created to serve as bank accounts for activist groups, yet that’s how they are being used. Every time the FWS settles a lawsuit or enters a settlement agreement like the infamous 2011 “mega-settlement” with the Center for Biological Diversity and WildEarth Guardians, these “factory litigants” receive a windfall profit, which only reinforces their action and encourages more abuse. Recently, an activist law group in Idaho called "Advocates for the West" claimed that a full third of their 2016 annual budget came from legal awards and judgments. Taxpayer funded judicial activism was not what the

creators of these tools intended. Congress must act to end this perverse incentive-based system and ensure that these funds are available to our veterans, social security recipients, and others in real need.

A big point I'd like you to take away from this hearing is that voluntary conservation really works for ranchers and the environment. A one-size fits all approach that accompanies top-down regulation does not work in my industry. Mandatory rules and requirements make it harder for ranchers to utilize the unique conservation practices that help their individual operations thrive. I believe that economic activity and conservation go hand in hand and we are always looking for new, innovative ways to provide tangible benefits to the environment, and help to improve our ranching lands.

Ranchers represent the single greatest opportunity for real conservation benefit in the country and I conclude today with a plea on behalf of cattle and sheep producers across the country. Turn us loose. By freeing our industry from overly burdensome federal regulations and allowing us to provide the kind of stewardship and ecosystem services only we can, you will do more for healthy ecosystems and environments than top down restrictions from Washington ever can.

Thank you, I look forward to responding to any questions the committee may have.

## Biography

Niels Hansen is a third generation rancher from Rawlins Wyoming. The family ranch was started in the 1890's as a sheep and remount horse ranch. Over the years the family has had to change from raising horses to raising cattle and in 1984 made the final change from a cow/calf, sheep operation to a cow/calf/ yearling operation but the ranch continues to be totally family owned and operated.

Working cooperatively with the University of Wyoming and the BLM, Niels has been a leader in developing and advocating for Cooperative Rangeland Monitoring. With over 20 years of monitoring data from the family ranch, he has shown the benefits of good land and livestock management for the land, the business, and the community.



Niels has served on a number of boards and committees at the state and local level including serving as an officer and member of the Christ Lutheran Church, the Rawlins/Carbon County Airport Board, and the Rawlins Search and Rescue where he uses his private pilot's license. He has served as the Chairman of the Rawlins and the Wyoming State Grazing Board. He was on the founding board and served 10 years on the Wyoming Animal Damage Management Board working to reduce conflicts with wild and domestic animals and the public. Niels served as the Chairman of the Wyoming Stock Growers Association (WSGA) Federal Lands committee through the Department of Interior Reform 94 effort and also Chaired the WSGA Wildlife committee. He has been a long time member of the WSGA Board of Directors and served one term as the Region 5 Vice-President. Niels will complete his term as President of the Wyoming Stock Growers in June.

In 2000 the ranch received the BLM Rangeland Management Stewardship Award. In 2001 they were named the Little Snake River Conservation District Cooperator of the Year award recipient and in 2004 was co-winner of the Wyoming Stock Growers Association Stewardship Award. Niels won the Wyoming Department of Agriculture – Excellence in Agriculture Award in 2007 and was inducted into the Wyoming Agriculture Hall of Fame in 2011.