

Western Resources Legal Center

Training Legal Advocates to Represent Natural Resource Users

2014 Newsletter

Praise from Grazing Industry Partners, PLC & NCBA



Dustin Van Liew

The Public Lands Council and National Cattlemen's Beef Association have worked with Western Resources Legal Center going on six years now. Under Caroline Lobdell's leadership, WRLC is blazing a trail for natural resource users across the West, offering an answer to the decades old litigation machine built by special interest groups to remove multiple uses from the landscape.

We are fortunate to contribute through donations and casework to the education of the next generation of lawyers who will represent the livestock industry and other resource users in the west. From intervening in a Sage Grouse Resource Management Plan case four years ago, which continues today, to filing amicus briefs at the Supreme Court and facially challenging the U.S. Forest Service's draconian Planning Rule in 2012 – WRLC has represented livestock producers in many areas.

WRLC has helped expand our reach, making it possible for industry to cover more ground as legal challenges continue to mount. With the Planning Rule case, we've even gone on offense against an administration in D.C. that has shown a willingness to flout statutes in the name of the environment. Livestock grazing is the highest and best use for much of the western landscape and one of the only economically viable practices that sustains the open space many Americans want and the ecosystems on which wildlife depend.

Most importantly, WRLC provides hands-on learning and training to America's next generation of multiple use legal advocates. The Public Lands Endowment Trust, established in 2012 and overseen by the PLC Board of Directors, was proud to approve an educational grant to WRLC for fiscal year 2014 in the amount of \$70,000. The grant will expand and enhance the program [[continued on page 3...](#)]

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Caroline Lobdell

Thank you to each and every one of our supporters, including our current and former students, who help maintain and strengthen WRLC's voice – both in the classroom and the courtroom. WRLC could not fulfill its mission without you.

I would like to extend a special thanks to board member Patrick Ryan and Perkins Coie for hosting a fantastic reception

last December in honor of WRLC. Close to 100 people attended, including many members of the natural resource law community and Lewis & Clark Law School, as well as honored guest speaker State Senator Betsy Johnson.

Here are some highlights of current litigation in which WRLC students are actively involved.

WRLC Assists Idaho County in Critical Habitat Expansion

WRLC is representing Boundary County, Idaho in a battle against environmental plaintiffs determined to expand woodland caribou critical habitat in Idaho from 30,010 acres to over 375,000 acres. With WRLC's assistance, Boundary County has moved to intervene along with the State of Idaho and Kootenai Tribe to support a narrow interpretation of the ESA for the limited critical habitat designation. After initial pushback from the Center for Biological Diversity arguing that Boundary County had no identifiable interest in the challenge, WRLC continues to advocate for full participation in the case for the County. See *Center for Biological Diversity v. Kelly*, Case No. 1:13-cv-427 (D. Idaho).

WRLC Argues Snow Basin Case Before Ninth Circuit

In 2013, WRLC successfully intervened on behalf of counties, small woodland owners and a timber purchaser, opposing a challenge to the Snow Basin Project, a landscape scale forest health project on the Wallowa-Whitman National Forest. WRLC opposed plaintiffs' efforts to temporarily enjoin the sale. After successfully defeating plaintiffs' bid for a preliminary injunction in district court, WRLC appeared before the Ninth Circuit Court of Appeals in February, arguing that plaintiffs failed to demonstrate that the balance of harms tipped in their favor. See *League of Wilderness Defenders v. Connaughton*, Case No. 3:12-cv-2271 (D. Oregon).

WRLC Weighs in on Planning Rule Challenge

WRLC is poised to take on the Forest Service at oral argument in April, and will argue that the Forest Service's overhaul of its framework Planning Rule is illegal for a number of reasons, including a new and ill-defined ecological sustainability mandate. Briefing for summary judgment concluded in February.

The government is strenuously arguing that the coalition of grazing, timber, and recreation groups lack standing to challenge the Rule before its implementation. WRLC is representing grazing interests in the challenge to the Planning Rule, which governs all development, amendments, and revisions to National Forest land management plans. See *Fed. Forest Resource Coal. v. Vilsack*, Case No. 1:12-cv-1333 (D.D.C.).

WRLC Helps Avoid Sage Grouse Listing

The Greater Sage Grouse is becoming the next big battle on the endangered species front for natural resource users across the West. In March, 2010 the U.S. Fish and Wildlife Service concluded that the sage grouse listing was "warranted, but precluded" by higher priorities so it deferred the listing process. In response, the BLM produced Resource Management Plan Amendments (RMPA) through NEPA's Environmental Impact Statement (EIS) process in an effort to show that "adequate regulatory mechanisms" to protect sage grouse exist so that a listing would not be necessary.

Resource users do not entirely oppose increased sage grouse protections. However, many of the proposed RMPA/EISs will establish excessively stringent limits on the use of public lands. Yet, the RMPA/EISs have failed to show that grazing is a significant factor in the decline of sagebrush habitat upon which the species relies. WRLC has assisted grazing interests and others in preparing comments on multiple RMPA/EISs. See *12-Month Findings for Petitions to List the Greater Sage-Grouse as Threatened or Endangered*, 75 Fed. Reg. 13,910 (Mar. 23, 2010).

Attorney Fees Won in Wild Horse Case

After challenging the Forest Service's mismanagement of wild horses in eastern Oregon's Malheur National Forest, the case resulted in a settlement requiring accurate horse counts and compliance with population targets. WRLC received attorney fees as part of the settlement after a victory on one of its claims. The court also awarded sanctions to WRLC when the Forest Service failed to produce court-ordered discovery of administrative documents. See *Stout v. U.S. Forest Serv.*, Case No. 2:09-cv-00152-HA (D. Or. 2013).

WRLC Welcomes New Board Member – Frank Erisman



WRLC is pleased to announce the addition of Frank Erisman to the Board of Directors. Erisman is an internationally recognized attorney, who has specialized for over 40 years in mining and oil and gas law, including mineral financing and reservations, energy law, land transactions, and public lands. Additionally, he has served on the boards of

numerous industry groups, is former chair of the American Bar Association Section of Environment, Energy and Resources, and past president of the Rocky Mountain Mineral Law Foundation.

Erisman currently serves as Of Counsel to northwest law firm Schwabe, Williamson & Wyatt.

WILD HORSES: CALL TO ACTION

BLM's management of its wild horse population has long been a point of contention for ranchers dependent on public lands for grazing. Finally, it seems, the legal world is starting to pay attention due to rising horse numbers and supposedly nonexistent funding for BLM and Forest Service to manage the populations.

We would like to hear from you!

- Does BLM's mismanagement of wild horse populations affect your livelihood?
- Have you been forced to decrease numbers or frequency of livestock grazing?
- How do you compensate?
- Have these changes devalued your property, water, or other rights?
- What are the financial and other impacts?
- What would be your ideal and/or acceptable resolutions to the problem?

[continued from page 1 "Praise"]

and provide more opportunities for students to enroll in WRLC. Investing in the education of students on natural resource use and representation will pay dividends in the future and this opportunity fits squarely within the goal of the Trust; to protect, enhance and preserve the public lands grazing industry.

It is an honor for PLC and NCBA to continue our relationship with WRLC and to provide resources to a program which is vital to ranchers and resource users across the West. It has personally been rewarding to work with Caroline on many issues and I look forward to future research, education and support from her and the students in WRLC.

Dustin Van Liew

Executive Director

Public Lands Council & National Cattlemen's Beef Association – Federal Lands

Rising Stars: Student Profiles

Nicki Martin ('10) was named director of Environmental Regulatory and Legal Affairs for the International Association of Geophysical Contractors (IAGC) in Houston, TX. Nicki previously worked for the Alaska Oil and Gas Association, as a law clerk for the Alaska Superior Court, and as an associate at Foley & Foley in Anchorage.

David Martin ('10) is now manager of Mid-Continent State and Local Government Affairs at Halliburton in Houston, TX. David previously served as Assistant District Attorney for the Alaska Department of Law and as an associate at K&L Gates in Anchorage.

Andy King ('14) is currently WRLC's law clerk and recently returned from Washington, D.C., where he focused on Clean Water Act cases during his externship at DOJ's Environmental Enforcement Division.

Will McLaren ('14) was placed with the Western Urban Water Coalition, a regional allegiance of municipal water suppliers. Will previously served as judicial clerk to Oregon District Court Judge Michael McShane and has worked at Bonneville Power Administration, Iberdrola Renewables, and the Oregon Judicial Department.

Chris Griffith ('15), a current WRLC advanced student, recently accepted a paid, one-year clerkship with the City Attorney office for the City of Wilsonville, OR.

Kevin Johnston ('15) works on issues affecting livestock and use of public rangelands, assisting organizations such as PLC, NCBA, and the Oregon and Washington Cattlemen's Associations.

Jonathan Quinsey ('15) was placed with Oregon Forest Industries Council, where he works on legal and legislative issues impacting all aspects of the timber industry.

Jarrett Wheeler ('15) was placed with the Coquille Tribe, where he works on timber and natural resource issues, and their complex interplay with federal Indian law.

Charles Lee Dudley ('14) focuses on hazardous waste litigation and Superfund projects at the firm of Rizzo Mattingly Bosworth.

Fellowship Program Update

In 2013, Lewis & Clark Law School offered grants to recent graduates through its Public Interest Fellowship (PIF) program. Through PIF, the school matches stipend contributions by non-profit legal organizations. WRLC has helped build PIF programs, and WRLC students and fellows have received grants through PIF, in no small part due to the mentorship and support of Executive Director Caroline Lobdell.

These fellowships include:

WRLC Fellow Aaron Bruner ('13), who joined WRLC in December. Bruner says about his experience so far: "In addition to the absorbing and varied legal work and Caroline's hands-on guidance, I love that I have the chance to mentor WRLC students who are soon to be graduating. That kind of connection with a recent law school grad is something I wish I had developed while in school. WRLC's mission is about educating students about natural resources and building the skills necessary to succeed as a natural resources law attorney. Being part of that process is a fantastic and enlightening experience."

Former WRLC Fellow Kaiti Ferguson ('13), who left the program in December to begin a judicial clerkship with respected Multnomah County Judge Youlee Y. You. "My experience as a WRLC student and fellow was invaluable," says Ferguson. "Unlike other legal positions that often offer a limited scope of work, the fellowship grants a unique opportunity to work on all aspects of WRLC's program, from co-teaching the WRLC class with Caroline, to complex litigation work, community outreach, and program development. None of it would have been possible without the overwhelming support and mentorship of Caroline Lobdell and the WRLC board members. I am proud to have been a part of the program as both a student and fellow, and I hope to continue to contribute to WRLC's work and mission."

Robert Molinelli ('13) began a fellowship in September with American Forest Resource Council in Portland, OR, an organization with which WRLC often collaborates. The fellowship has been "an amazing experience" for Molinelli, who says he "couldn't have imagined a better job coming out of law school." From a professional standpoint, continues Molinelli, "The fellowship has given me experience in the courtroom, drafting legislation, working directly with clients, and negotiating with federal agencies, as well as broad exposure to diverse legal issues confronting the forest products industry. All the while, I've enjoyed guidance, support and patience from the attorneys at AFRC, and from Caroline at WRLC."

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Board commitment to WRLC's mission is uncompromising and is demonstrated by 100% board contribution to WRLC.

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Get Involved

Given the current economic environment of natural resource based industries WRLC needs your help now more than ever. You can help WRLC in its mission to help natural resource users while training the extraordinary legal minds of future lawyers, judges, educators and politicians.

• Make a financial contribution to WRLC

Your tax deductible donation is essential to the continuation of this important work.

• Tell a friend about WRLC's important work.

If you know someone who works in a natural resource field or whose livelihood (which is most of us) depends on natural resources, encourage them to become involved with WRLC.

• Send our newsletter far and wide.

Tell people about our website www.wrlegal.org or send them a copy of our newsletter.

• Invite WRLC to speak at your meeting.

Let us come and tell this important message to your group. Contact us at 503.222.0628.

• Welcome a WRLC student to intern with your organization's legal department.

• Tell us about your potential case or legal issue.

Do You Need WRLC's Help?

WRLC seeks cases and issues that allow students to build practical skills and learn environmental and/or natural resources law while advocating for natural resource entities. If you have a potential case or issue please go to our website www.wrlegal.org and download a "Request for Legal Services Form" and submit it to us today!