



# Western Watersheds Project MESSENGER

Vol. XXV, No. 2

Fall 2018

## WWP's 25th Anniversary: A Quarter Century of Success!

Salmon, Steelhead, and Bull Trout Get Fresh Protections

WWP's Winning Streak in Defense of Imperiled Species



**Working to protect and restore western watersheds and wildlife through education, public policy initiatives, and legal advocacy.**

[www.westernwatersheds.org](http://www.westernwatersheds.org)

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WWP's newsletter is edited and produced by Greta Anderson, Jeremy Greenberg, and Erik Molvar



# WWP extends special thanks to the following supporters, each of whom contributed \$100 or more to our efforts over the last year. This generous assistance helps to preserve and restore habitat for many species.

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# WWP's Winning Streak in Defense of Imperiled Species



By Erik Molvar

The Endangered Species Act requires the U.S. Fish and Wildlife Service to put strong, legally binding protections in place for native species that

are in immediate danger of extinction, or that could be in such danger in the foreseeable future. The beauty of this law is that it explicitly requires decisions on our most imperiled species be made based on the science, which precludes the kind of political back-room meddling that is so prevalent in public lands and wildlife management.

Under the law, the U.S. Fish and Wildlife Service is supposed to evaluate rare plants and wildlife on a continual basis and nominate species deserving protection. That almost never happens. For decades, the only way to get the U.S. Fish and Wildlife Service to do their job – protecting the nation's most rare and imperiled plants and wildlife – is through a judicial order. Courts are the ultimate arbiters of conservation controversies: Each side presents their interpretation of the law and the evidence to back up their assertions, and the judge weighs the facts and the law and decides who is right, and who is wrong. Notwithstanding the increasing politicization of our federal judiciary, the courts are often the last resort for citizens to have their rights recognized.

Following our big win on Yellowstone bison listing this past January, we're delighted to say that our legal efforts to defend our nation's most imperiled fishes and wildlife have won significant victories in the courtroom during the past summer.



*Bi-State sage-grouse lekking near Desert Creek*

© ERIK MOLVAR

## Bi-State Sage Grouse

There is a population of greater sage-grouse in the Mono Basin, along the California-Nevada border, that is isolated from all the others. Officially designated as the "Bi-State Distinct Population Segment," it was on the road to Endangered Species Act protection, with "threatened species" status proposed by the U.S. Fish and Wildlife Service and 1.8 million acres of Critical Habitat in the works. The agencies were following the science, perhaps not as protectively as the conservationists wanted, but the process was working.

Then politics stepped in to mess everything up. The State of Nevada ginned up a laundry list of projects that might help sage-grouse, a list that involved only 41,000 acres of the 1.8 million acres proposed as Critical Habitat. In May of 2015, Interior Secretary Sally Jewell held a press conference with Nevada Governor Brian Sandoval, and declared, "Thanks in large part to the extraordinary efforts of all the partners in the working group to address threats to greater sage-grouse and its habitat in the Bi-State area, our biologists have

determined that this population no longer needs ESA protection."

The wheels of justice grind slowly, but they grind fine. Western Watersheds Project joined Desert Survivors, the Center for Biological Diversity, and WildEarth Guardians to sue over the denial of ESA protections on multiple grounds. The courts found that the Service had relied on faulty science, particularly a population study that supposedly concluded that Bi-State grouse populations were stable, a manufactured result obtained by excluding three of the five Population Management Units where the grouse were doing most poorly. One of the Population Management Units – the Pine Nut Mountains – had only one active sage grouse breeding site (known as a "lek"), and in the most recent lek counts, only one male grouse was found strutting there.

One additional outcome of the Bi-State sage-grouse litigation was that the court vacated the so-called 'Significant Portion of Range' (SPOR) policy nationwide. The SPOR policy was being interpreted to mean that a portion of the range was only "significant" if its loss



would cause the extinction of the species. This interpretation means that the only portion of a species' range that is significant is all of it. This was how the agency was supporting its unlawful decision to turn a blind eye to the Bi-State sage-grouse in the most arid, eastern parts of its range. By vacating the SPOR, the courts sent the Fish and Wildlife agency back to the table to revisit the listing decision based on all of the remaining birds.

### Arctic Grayling

The Arctic grayling is native to the icy, clean waters of the upper Missouri River watershed. Its native habitat was invaded by livestock operations that denude riverbanks of their natural shade, break down stream channels and adds silt to the waters, and suck out large quantities of water to irrigate hayfields for livestock feed. The result of all these impacts is that water temperatures across much of the range of the Arctic grayling have increased above the 70°F threshold which becomes lethal to grayling. The remaining populations of grayling persist in stream reaches near cold springs, but even those strongholds' populations are plummeting.

Despite the myriad threats and the declining populations, in 2014 the U.S. Fish and Wildlife Service determined



*Arctic Grayling*

that the Arctic grayling was “not warranted” for ESA protections. WWP joined the Center for Biological Diversity and several individuals to challenge this decision, but the initial ruling from the District Court upheld the “not warranted” finding. Unwilling to stop fighting for the grayling, we appealed the ruling to the 9th Circuit Court of Appeals. The appeals court found in our favor and ruled that the Fish and Wildlife Service had arbitrarily asserted that grayling populations were increasing in the face of scientific evidence of declines. It ruled that the agency arbitrarily relied on cold-water refugia in the Big Hole River despite the fact that these “refugia” repeatedly exceeded water temperatures within the thermal tolerance of Arctic grayling. The court found fault with the agency’s determination that grayling populations in the Ruby River met

viability standards. Finally, the court found that the agency arbitrarily discounted the mounting threats posed by climate change.

The court’s ruling struck down the “not warranted” finding, and returned the Arctic grayling to the Candidate Species list. As the agency prepares a new final rule, grayling populations in the Centennial Valley have continued to crash. Meanwhile, WWP is working to address livestock grazing problems that contribute to the grayling’s decline.

### Yellowstone Grizzly

The grizzlies that inhabit the Yellowstone ecosystem are currently the southernmost remnant of a population of the great bear that once reached into Mexico. Isolated by more than 70 miles – and major interstate highways – from other grizzly populations in northern Montana, there are only about 700 bruins in the Yellowstone region, below the minimum viable population level to prevent genetic inbreeding.

The original Recovery Plan for this species required that a population be established in the Selway-Bitterroot backcountry along the Idaho-Montana border, to provide connectivity between grizzly populations and alleviate the effects of isolation. Eager to appease state governments who wanted to gain management control over grizzly populations and end federal protections, the U.S. Fish and Wildlife Service decided to re-designate the Yellowstone bear population as a Distinct Population Segment (DPS) and move the goalposts on the Recovery Plan in order to accelerate de-listing. Then, using the lowered criteria, the agency declared the bears recovered and de-listed them in 2017. WWP immediately joined Alliance for the Wild Rockies and Native Ecosystems Council to file suit. Numerous other conservation and animals rights plaintiff groups also sued, as did a group of tribal



*Yellowstone Grizzly*

governments, who advanced additional legal claims related to infringements on their religious rights based on the premature de-listing.

While we were suing, Idaho and Wyoming were hastily arranging hunting seasons to start September 1, 2018. At the court hearing on August 30, the judge announced that there would be no immediate ruling on the case, so after arguments were heard, the consolidated plaintiff groups sought (and were granted) the first of two Temporary Restraining Orders that blocked the grizzly hunts while the final ruling was being prepared. The judge ruled decisively in our favor a few weeks later, pointing out not only had the Fish and Wildlife Service repeated the de-listing violations of earlier cases but also that the agency had ignored key science on genetic viability and the need to re-connect the Yellowstone population to other bear populations prior to de-listing it.

The judge's ruling restoring its full

protections of the Endangered Species Act to the Yellowstone grizzlies, returning its 'threatened species' status. It was a huge win for the bears, and for science, and it raises the bar in ways that should

---

### **The attorneys who helped us win:**

**Bi-State Sage Grouse**  
**Isaac Cheng, Stanford Law Clinic**  
**Lisa Belenky,**  
**Center for Biological Diversity**

**Arctic Grayling**  
**Jenny Harbine, Earthjustice**

**Yellowstone Grizzly**  
**Tim Bechtold, Bechtold Law Firm**  
**David A. Bell**

---

require a full recovery of this population, and re-establishment of linkages, before ESA protections can be permitted to sunset.

### **The Road Ahead**

With each win for imperiled species, the industries whose activities are the root cause of plant and wildlife endangerment clamor more loudly to "update" the Endangered Species Act through legislation to weaken its protections or exempt particular species – such as the grizzly bear or wolf – entirely. WWP and other groups are actively fighting these attacks against the ESA in Congress, with considerable success so far. The fight to get rare and imperiled species the protections they deserve is a long and constant battle, especially in cases where politically powerful corporate interests find protections for rare wildlife inconvenient for their bottom lines. We'll keep fighting, and with our expertise on science and the law, we hope to keep winning.

*Erik Molvar is WWP's Executive Director.*

*He lives in Laramie, Wyoming.*



**Please visit [www.westernwatersheds.org](http://www.westernwatersheds.org) for information on how to purchase this t-shirt celebrating our legacy**



# Idaho Supreme Court Wakes Up!

*A blast from the past from WWP's 1999 fall Messenger*

In a remarkable series of three unanimous decisions released on Friday, April 2, 1999, the Idaho Supreme Court struck down decisions by the Idaho Land Board.

The Court also declared Idaho Code 58-310B unconstitutional in overturning the Land Board's decision to deny IWP (Idaho Watersheds Project, the predecessor to WWP) the right to compete at auction for expiring grazing leases on thousand of acres of Idaho public school endowment land in 19%.

The Court then overturned the Board's decisions in similar applications by IWP for 1995 lease applications. In both cases the court ordered that auctions be held!

Finally the Court issued a Writ of Prohibition overturning HJR-6, a constitutional amendment passed by Idaho voters in November 1998. IWP had petitioned for the Writ because imbedded in that amendment was a hidden change to the Constitution of Idaho which was designed to forever end any requirement for auctions for expiring leases on school endowment land. The court agreed with IWP and blocked the amendment. This is the first time since 1929 that an amendment to the Idaho Constitution already passed by vote of the people has been overturned!

This extraordinary triple victory for IWP after almost six years of fighting the Land Board is due in no small part to the excellent legal representation of Laird Lucas of the Land and Water Fund of the Rockies' Boise office; thank you, Laird.

This is a great day for IWP, for Idaho, for the environment, and for Idaho's school children, with long term effects the will ripple across the west!

Idaho Watersheds Project announced that the Idaho Supreme Court has denied a petition from the Idaho State Board of Land Commissioners to rehear its decision of April

2, 1999 which ruled that the 1998 Constitutional Amendment, HJR-6, was unconstitutional.

The Court denied the petition without comment in an order dated August 3, 1999 signed by Frederick C. Lyon, the clerk of the Idaho Supreme Court.

The decision affirms the court's April ruling which determined that the State had improperly included two constitutional amendments in one ballot measure which was subsequently approved by the voters in November, 1998.



*Jon Marvel surveys damage at Lime Creek in 2000*

The Idaho Constitution expressly bans the inclusion of more than one constitutional amendment in each ballot measure for voter approval to prevent hidden changes to the Constitution.

The April decision to overturn ballot measure HJR-6 was the first time since 1929 that a constitutional amendment had been ruled illegal by the court.

Idaho Watersheds Project through its attorney, Laird Lucas of the Land and Water Fund of the Rockies Boise office, had petitioned the court in December, 1998 to overturn HJR-6 because one of the two parts of the illegal amendment would have eliminated any constitutional requirement that the leasing of Idaho State school endowment lands be subject to auction when two or more applicants apply.

Jon Marvel, President of Idaho Watersheds Project, stated: "The Supreme Court has closed the door on this attempt to illegally change the Idaho Constitution. This decision can only help in raising more money for Idaho's school children through the competitive leasing of school endowment lands. Just as Idaho's founders intended in 1890, open and free competition will continue to assure the greatest financial return to the school endowment fund."



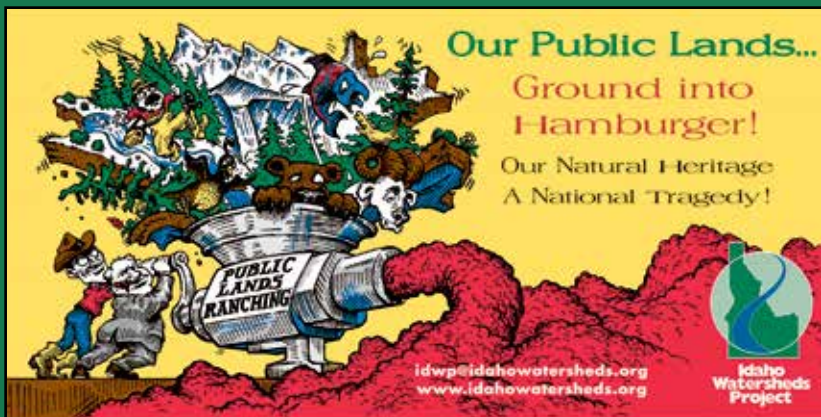
**FRIENDS OF THE CLEARWATER**

**WWP has been chosen as Friends of the Clearwater's "Group of the Year" for our excellent work and achievements in 2018.**

# Western Watersheds Project (WWP) is turning 25 this year! Founded as Idaho Watersheds Project, covering eleven western states, WWP is proud of our quarter-century of work.

IWP cut its proverbial teeth by outbidding ranchers for state trust land grazing leases in Idaho, and then winning in court when the state lands department unlawfully gave the leases to ranchers anyway.

IWP successfully outbid grazing permittees ranging from the daughter of a co-founder of the Hewlett-Packard Corporation to J.R. Simplot and made the issue of grazing on state trust lands into a national issue.



WWP and the Idaho Conservation League won a court victory declaring that wolves and other wildlife have precedence of livestock grazing in the Sawtooth National Recreation Area.



IWP became "Western Watersheds Project" and revised the mission statement to reflect the broader west-wide efforts to improve watersheds and wildlife habitat.

WWP initiated litigation of an "unfunded" plan on 25 million acres of BLM land.

1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005

IWP began awarding "Golden Cowpies" to the federal and state land management office "which has shown resolute and unbending success in managing public lands ranching to assure continued degradation of publicly owned natural resources."

WWP forced the U.S. Fish and Wildlife Service to list the pygmy rabbit for the littlest lagomorph, the pygmy rabbit. The Service's decision not to list the slickhorn bighorn sheep.

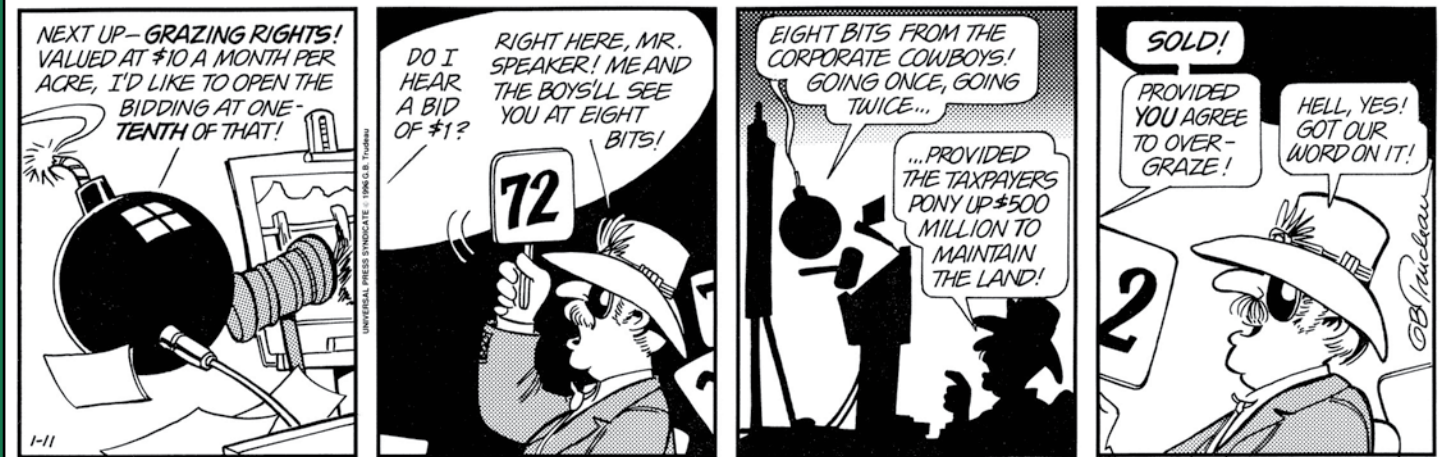
IWP won three Idaho Supreme Court victories in one day, affirming the rights of environmental groups to bid on state land leases and reversing an constitutional amendment that sought to prioritize grazing uses.

The Voluntary Grazing Permit Buyout Act and the Arizona Voluntary Grazing Permit Buyout Act were introduced in Congress.

WWP forced the U.S. Fish and Wildlife Service to list the pygmy rabbit for the littlest lagomorph, the pygmy rabbit. The Service's decision not to list the slickhorn bighorn sheep.

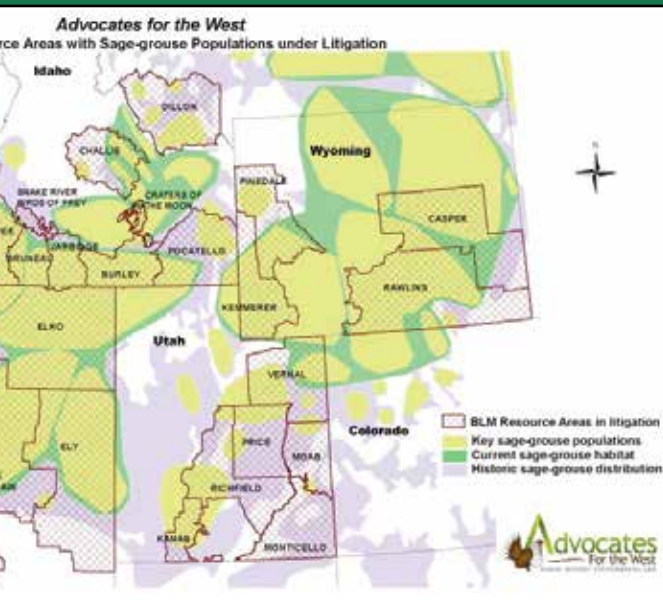
## Doonesbury

BY GARRY TRUDEAU





aho Watershed Project (IWP) in 1993 and having grown to a staff of twelve  
r-century of success. A small sampling of highlights is below:



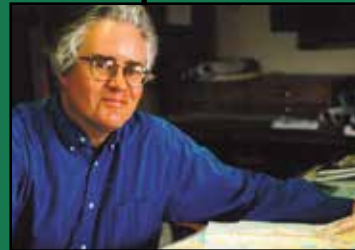
WWP and Wild Utah won an administrative challenge to the Duck Creek allotment (UT) permit renewal. This was a huge effort that was unfortunately later overturned at the Interior Board of Land Appeals. WWP plans to take the case to federal court later this year.

WWP and Sierra Club win a case on the Sonoran Desert National Monument where the court found BLM was cherry-picking the data in its analysis that allowed livestock grazing to continue on the monument.

WWP wins a temporary ban on the use of cyanide bombs by Wildlife Services in Idaho.

WWP is part of plaintiff group that restores Endangered Species Act protections for grizzly bears.

unprecedented scope” challenging 18 resource management  
M lands for failing to consider the impacts to sage-grouse.



Jon Marvel retired as Executive Director of WWP.

2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018

life Service to consider the listing petition  
y rabbit. That same year, WWP got the  
spot peppergress overturned.

P’s lawsuit overturned a flawed U.S.  
and Wildlife Service decision to not  
reater sage-grouse under the Endangered  
es Act, and the case revealed malfeasance  
e highest levels of the agency.

WP and Advocates for the West scored  
major victory blocking the implementation  
ew regulations for the Bureau of Land  
nagement that would have changed  
lic involvement 160,000,000 acres of  
tern public lands. We overturned the  
h-era livestock-friendly regulations for  
d.

“To the extent livestock and  
sage grouse conflict, it is  
grazing that must yield” –  
court victory on grazing  
impacts in the Owyhee  
Canyonlands

WWP and WildEarth  
Guardians won a federal  
court case overturning  
the BLMs policy of not  
revealing the corporate  
and personal identities  
of public lands ranchers.

WWP and our allies file suit over the September  
2015 sage-grouse plan amendments that failed  
to protect the bird on BLM lands across the  
West. These plans were also the basis of the  
2015 “Not Warranted” funding under the  
Endangered Species Act, which relied upon  
an honest implementation of the protective  
measures. This lawsuit is ongoing.



The Sagebrush Habitat Conservation Fund was established as part of a WWP settlement on Ruby Pipeline. The deal  
included \$15 million dollars for buying out grazing permits. As of this writing, the Fund has retired grazing permits on  
100,000 acres of public lands in Idaho, Montana, and Wyoming and is in negotiations to retire 2,000,000 more acres.

## In Memoriam: Jim Prunty

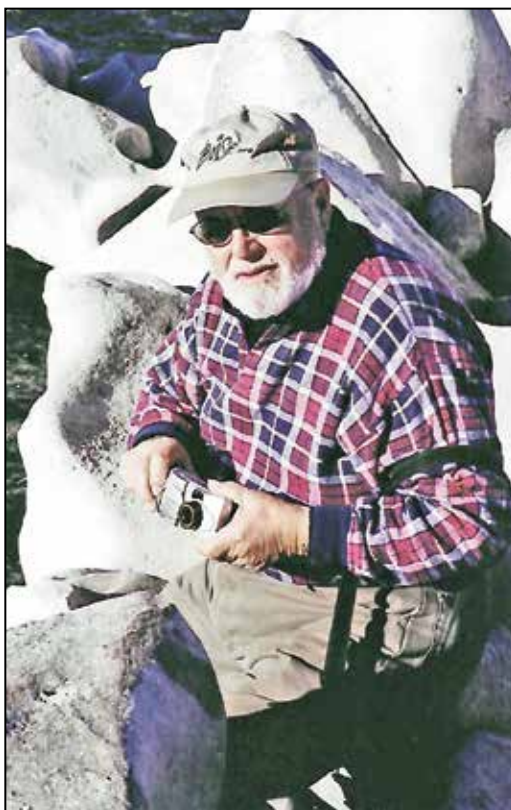
Conservationist and longtime Western Watersheds Project supporter Jim Prunty died on June 26, 2018, at age 93 in Twin Falls, Idaho. Jim was an Idaho native who grew up on a ranch near Muldoon, Idaho. He spent his career with the Forest Service on the Fairfield and Minidoka Ranger Districts on the Sawtooth National Forest.

After his retirement, Jim was an active letter writer to local newspapers where he brought attention to public lands livestock grazing policy and forestry practices in southern Idaho. He was a member and supporter of several conservation groups including Prairie Falcon Audubon and WWP.

Jim was passionate about public lands and his perspective was informed by extensive knowledge of local areas and history, his own family ranching history, his forest service career, and time in the field. His congeniality and sense of humor also allowed him to talk about land management issues with people who disagreed with him. He was always ready to represent the public interest at a BLM or Forest Service meeting.

Jim was a constant field observer and made countless trips to public lands to document conditions on the ground. According to WWP founder Jon Marvel, Jim was tremendously helpful to WWP. His observations of areas on the Minidoka Ranger District including Trout Creek, Goose Creek, and the Shoshone Basin helped inform WWP's advocacy work in those places.

Jim continued to travel into the field into the last year of his life. On many trips, he was accompanied by good friend and Prairie Falcon Audubon member Julie Randell of Kimberly, Idaho. Julie recalls that



Jim documented conditions by taking "good pictures of bad things" and presenting them to the responsible land managers. She also says that he recognized the importance of understanding how and why areas were degraded, and was fond of saying that "if you don't know what you're looking at, you won't see it." While in the field, Jim always enjoyed eating lunch in an area with a good view.

Idaho conservationists and all of us at Western Watersheds Project will miss Jim's advocacy and support for better management of public lands and wildlife and fisheries habitat in southern Idaho.

## After visiting Idaho, Texas doesn't seem so bad (reprinted from 1998)

By Molly Ivins



The ineffable Dan Burton, chairman of yet another committee out to get President Clinton, has issued a citation of contempt against Attorney

General Janet Reno for failing to provide confidential documents concerning her investigation of 1996 campaign finance scandals. You will be happy to learn that Burton voted against the Shays-Meehan bill to fix the worst of the problems in campaign financing.

Good on those who voted for the bill, including 61 Republicans with enough sense to buck their own leadership.

Meanwhile, I have been to Idaho and so am feeling better about Texas. This may sound odd, since the great state is frying away down here: It's so hot the railroad tracks are warping, the poor farmers are losing everything and we're baked brown all across Texas.

Idaho, on the other hand, remains its spectacularly beautiful self, laced with gorgeous rivers and trout streams, snow still on the mountains, the glorious smell of pine forests and wonderful scenic vistas, and it's cool even in August. Although Texas may be represented in Congress by Huey, Dewey and Louie (Dick Arme, Tom DeLay and Bill Archer), at least we don't have to claim Republican Sens. Larry Craig and Dirk Kempthorne, and Rep. Helen Chenoweth. Sheesh, what a bunch of darbs.

Try this for people's representation: Kempthorne slipped a rider onto the 1999 Defense Authorization Bill that will expand the Air Force bombing range in Idaho's Owyhee Canyonlands by



12,000 acres, which in turn will affect at-least another 2 million acres, despite the following facts:

The U.S. Air Force has said in court it doesn't need an expanded bombing range in Idaho and already has existing bombing ranges in Idaho, Utah and Nevada.

Public hearings over the past 10 years on this proposal have averaged 6 to 1 against the expansion.

The area is not only pricelessly beautiful, a sister of the Grand Canyon with some of the most dramatic white-water rafting in the country, it is also the largest roadless area in the lower 48, contains the largest stock of bighorn sheep in the country and is full of mule deer and Indian artifacts. It is the ancestral burial grounds of Paiute-Shoshone tribe, and these Indians are already assaulted daily with sonic booms low-flying jets.

But that's not the best part. It turns out a rancher named Bert Brackett, who is also a big giver to the Republican Party in Idaho, runs cattle on the land in the expanded bombing range. He doesn't own the land; he's just been leasing it for a longtime for \$3,000 a year. Now, if this expanded bombing range goes through, rancher Brackett can still run his cattle on the public land, but his cows could be traumatized, so Sen. Craig wants to compensate him with up to \$1 million. Brackett's daughter

happens to work for Craig. Nice, hey?

The matter of grazing permits in Idaho is beyond funny. Jon Marvel of the Idaho Watersheds Project, which is hell-bent on getting cattle out of Idaho rivers and streams because they destroy the riverside (their defecation poisons fish, they silt up the rivers, etc.), has been having some wonderful adventures. At one permit auction, Marvel opened the bidding at \$30, and the local rancher who had held the permit said, "That's too damn much. I'm not bidding." The rancher then appealed to the Land Board, which awarded him the lease.

After a two-year legal fight, the Idaho Supreme Court said the board couldn't give a permit to someone who hadn't even bid. A new auction was held, the rancher bid \$10, Marvel bid \$2,000, and the Land Board awarded the rancher the lease.

Over the last 4½ years, Idaho Watersheds has applied for over 80,000 acres of expiring leases. It once bid on a 640-acre lava bed and failed to get it.

Marvel has exposed the good-ol'-boy system that allows these permits to be sold off for a fraction of their market value, costing the taxpayers an arm and a leg. About 80 percent of the population of Idaho lives in urban areas (if you consider Twin Falls a city), and as near as I can tell, they all love the wilderness. Yet they continue to elect people dedicated

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Address <i>Box 1402 Hasley</i>							
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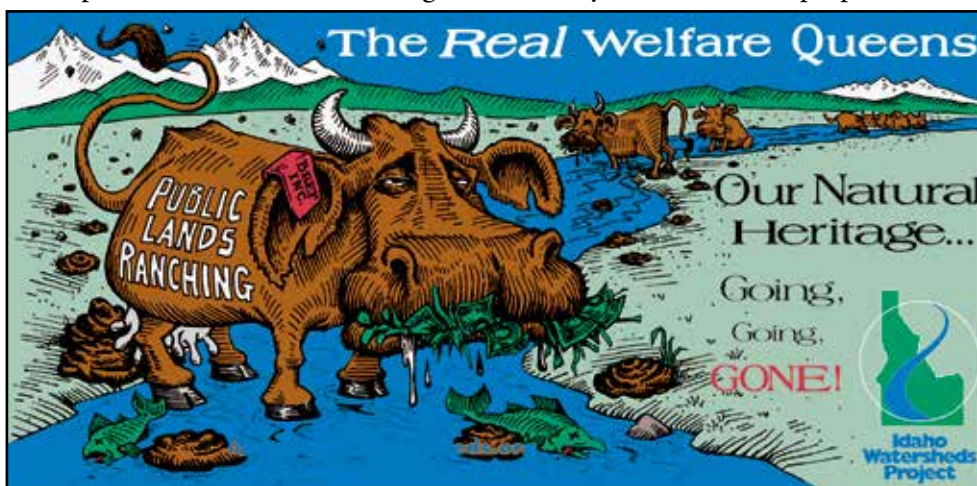
*A WWP grazing bid from 1996*

to destroying it in the name of “multiple use.” “Multiple use” means you let the welfare ranchers, the timber companies and the mining corporations destroy whatever they want to and then pretend you are protecting the wilderness.

The Idaho Land Board is made up of the state's top five elected officials, including Ann Fox, the superintendent of public instruction, who theoretically would have a special interest in maximizing grazing fees since the money goes to the schools. However, Fox has said, "It's important to keep all these leases in the hands of ranchers because Idaho's economy is dependent on them."

Actually, public lands ranching provides, one-seventh of 1 percent of the employment in Idaho and one-third of 1 percent of the gross economic product. Fox also has said she doesn't think the children of Idaho need more academic courses, but they do need shooting ranges

*Mary Tyler "Molly" Ivins (1944 - 2007) was an American newspaper columnist, author, political commentator, and humorist.*



*Part of WWP's billboard campaign from 1998*



# Decisive Federal Court Victory Against Wildlife Services in Idaho



By Kristin Ruether

WWP members know that Wildlife Services is responsible for killing thousands of native wildlife each year at the behest of the livestock industry.

From predators to prairie dogs, ranchers on public lands across the West seek to eliminate native species to increase their profits.

In June, Western Watersheds Project and our co-plaintiffs scored an important legal victory in our case against Wildlife Services' Idaho program of "predator damage management." A federal judge ruled that the agency failed to adequately analyze the environmental risks of shooting, trapping and poisoning native wildlife like coyotes. The ruling holds that the federal agency should have more carefully considered its predator-killing activities' impacts on the environment, and that the agency ignored science showing that killing predators does not actually decrease conflicts with livestock.

The judge's 24-page decision goes into stinging detail about the unreliability of Wildlife Services' own data and the lack of convincing evidence that the agency considered important feedback when it finalized its killing proposals. In criticizing Wildlife Services' inadequate analysis, the court found "the lack of reliable data infects all the agency's conclusions." The ruling also notes a lack of objectivity when evaluating contradictory science, noting "Wildlife Services has serious disagreements with leading experts, and has not given their studies the full attention they deserve."

Indeed, Wildlife Services'



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*Leaping Coyote*

Environmental Assessment ignored or dismissed critical comments from the U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Bureau of Land Management, Idaho Department of Fish and Game, and conservationists. The opinion noted, "It is rare for the Court to encounter such a unanimity of critical comments from other agencies." It's also rare for WWP to have these federal land management agencies saying the same thing as us when it comes to managing native species!

This is a big victory for Idaho's native wildlife, and a good lesson for Wildlife Services, which conducts its unscientific predator-killing programs throughout the West.

The Court is now considering what remedy to impose on Wildlife Services for these violations. We have asked the

Court to dramatically restrict the agency's killing activities in the state until it fixes the identified problems. For example, we asked the Court to halt the agency's use of M-44 cyanide bombs and other lethal devices, halt killing in special areas such as Wilderness and Wilderness Study Areas, and halt its practice of "preventive" coyote control (i.e., killing coyotes regardless of any connection to livestock depredation). We will keep WWP members updated on this request.

WWP is joined in this case by WildEarth Guardians, Center for Biological Diversity, and Predator Defense, and represented by attorneys from WWP and Advocates for the West.

*Kristin Ruether is WWP's Senior Attorney.*

*She lives in Boise, Idaho.*



## Dave Becker Receives the 2018 Sagebrush Sentinel Award

The 2018 Sagebrush Sentinel Award is being presented to environmental attorney Dave Becker, a Portland-based lawyer whose business card succinctly summarizes his work as “Cows, Fish, and Wind.” Dave has racked up formidable legal victories in these areas, and his appearance on a lawsuit sends shivers down the spine of public lands ranchers, energy developers, and federal agencies across the West.

Western Watersheds Project gives the Sagebrush Sentinel Award to an environmental advocate whose feisty commitment to environmental protection and whose dedication to the vision of healthy watersheds and wildlife habitats is an inspiration to us all. The Sagebrush Sentinel Award was established in 2014 in honor of Jon Marvel, the founding director of Western Watersheds Project, and it is now given annually to someone whose work embodies the tenacity and grit for which our organization is known. This year, we’re

giving it to Dave, a long-time friend, supporter, and ally of WWP.

After graduating from Cornell Law School and clerking for a Second Circuit judge, Dave entered private practice in the New York area. After a few years, he felt a different calling and moved west to attend a specialized degree program at Lewis and Clark Law School and transition into public interest environmental law. While still in school, he argued a case for the Oregon Natural Desert Association (ONDA) before the Ninth Circuit that became a precedent-setting victory allowing groups to challenge the Forest Service’s annual grazing instructions—not just 10-year term permits—in court.

After a stint with Western Resource Advocates in Utah fighting coal power plants, he joined the legal team at ONDA. There he led a legal campaign to halt an industrial wind facility and transmission line proposed on Steens Mountain—a campaign that was ultimately successful in keeping Steens Mountain wild and free. Also at ONDA, he litigated and won a complex challenge to grazing in steelhead and bull trout habitat on the Malheur National Forest. He also helped with ONDA’s and WWP’s long-running series of challenges to BLM’s grazing plans in the Louse Canyon area, a half-million acre landscape in core sage-grouse habitat in the upper West Little Owyhee River country deep in southeastern Oregon.

In 2011, Dave hung his own shingle and has since represented WWP on several key cases. This includes our current challenges to grazing decisions in central Idaho’s Copper Basin and to the grazing occurring on the Klamath Basin Wildlife Refuges, as well as several other cases in Oregon to protect native

fish and frogs. Dave has been unfailingly supportive of WWP’s legal efforts, often offering insight and suggestions even on cases he’s not getting paid for. We’re incredibly grateful for his generosity and support.



*Dave (right) and his brother (left) in Alaska*

In addition to his top-notch legal skills, Dave has a wickedly dry sense of humor reminiscent of none other than the founder of WWP. It is our true honor to have him on our side!

Congratulations Dave!

*The Sagebrush Sentinel award was established in honor of Jon Marvel, the founding director of Western Watersheds Project, a steadfast and tenacious environmentalist who truly changed the West by challenging the environmental exploitation that has been destroying and degrading the West for centuries. Jon inspired many of us to continue on this same path, and the Sagebrush Sentinels represent a cohort of superlative role-models.*



*Dave enjoying the Chugach N.F. in Alaska*

# WWP Wins For Bighorns, But Wait, There's More...



By Scott Lake

Last fall, WWP and our allies WildEarth Guardians went into court to stop the U.S. Sheep Experiment Station from turning out over 1,000 sheep

on the Snakey-Kelly Forest Service grazing allotments in the Centennial Mountains. Thanks to able lawyering from Advocates for the West we won an injunction blocking the release of domestic sheep into wild bighorn habitat. (Details of this win are in the Spring 2018 Messenger.)

Courts don't usually grant temporary injunctions unless there is a strong chance the plaintiff will prevail on the merits of the case, and the November 2017 ruling was enough to convince the Forest Service that they would probably not be able to graze Snakey-Kelly without further environmental analysis. In July 2018, the agency settled and promised to leave the allotments vacant until the Forest Service completes a comprehensive environmental analysis. This means the government will have to take a "hard look" at the potential for disease transmission between the Sheep Station's domestic bands and the South Beaverhead bighorn herd.

Since the settlement the USDA Agricultural Research Service—the federal agency that runs the Sheep Station—has released a Record of Decision reauthorizing current management of the Sheep Station and its associated grazing allotments. This keeps domestic sheep in the high-elevation West and East Summer Range allotments in the Centennial Mountains, where there is

high potential for conflict with native predators. The Summer West range was the site of the illegal and unsolved killing of Grizzly #726, a bear whose telemetry collar was found cut off and buried under a rock in a creek near a sheepherder camp in the summer of 2012. Black bears, coyotes, foxes and entire packs of wolves have been exterminated to protect Sheep Station livestock, and WWP and our allies will do all we can to block this bad decision too.

*Scott Lake is WWP's Idaho Director.  
He lives in Boise, Idaho.*



*Bighorn Sheep*

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## Salmon, Steelhead, and Bull Trout Get Fresh Protections

By Kristin Ruether



Irrigation for agriculture is a major indirect threat from livestock grazing operations to our western public lands. By pulling water from rivers and streams to grow feed for cattle, horses, and sheep, irrigators destroy the habitats of native aquatic species. Many of these diversions occur on Forest Service land, in which case the agency is required to ensure they don't harm fish species protected under the Endangered Species

Act, directly or through adverse habitat modification.

Prior litigation by WWP and Advocates for the West had required the Salmon-Challis National Forest to consult with the fisheries agencies on the impacts of diversions on central Idaho's wild fish.

In 2016, WWP and Laurie Rule at Advocates for the West investigated if the Salmon-Challis National Forest was following the limitations in those consultations in the Lemhi and Upper Salmon watersheds of Idaho. A careful review of monitoring data showed that it was not. The Forest Service had failed to install the fish screens, head-gates, and flow measuring devices that kept salmon, steelhead, and bull trout from being captured by diversions and stranded in irrigation ditches, and failed to comply with the in-stream flow requirements of the biological opinions. In April 2017, we sent the Forest a letter announcing our intention to sue for these violations of the Endangered Species Act.

After a year of negotiations, WWP and the Forest Service reached an agreement that requires the Forest Service to monitor for and rescue fish trapped in the irrigation systems, ensure that no more than 50 percent of a stream channel will be blocked by irrigation infrastructure, and that unused irrigation diversions would be permanently closed. These on-the-ground improvements for native fish are likely to benefit many aquatic plants and animals as well. In addition, the Forest Service is going to re-consult with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service to ensure that it isn't jeopardizing the habitat and the species, which will hopefully lead to even better protections in the future.

*Kristin Ruether is WWP's Senior Attorney.*

*She lives in Boise, Idaho.*



# Idaho Judge Restores Public's Right to Comment on Oil and Gas Leasing



By Kelly Fuller

Have you ever found out that a government agency made a bad decision about one of your favorite places to camp, hike, fish, or hunt without even giving you a chance to say “No!” during a public comment period? That has long been the case with most livestock grazing, and under the Trump administration, has been increasingly true with regard to oil and gas leasing.

In January 2018, the Bureau of Land Management (BLM) issued an “instruction memorandum” directing field offices to accelerate oil and gas leasing on public lands, in part by curtailing environmental review and eliminating mandatory public comment periods. Despite increasing concerns about wildlife habitat, climate change and water quality impacts, about 90 percent of federal public lands in the West are available for oil and gas leasing. Once that land is leased, if oil and gas leaseholders want to drill or frack, it’s almost impossible to stop them.

But here’s some good news: In September, Western Watersheds Project, Center for Biological Diversity and Advocates for the West won an important victory to ensure the public gets to weigh in on the Bureau of Land Management’s (BLM’s) oil and gas leasing decisions. On September 21st, U.S. Chief Magistrate Judge Ronald E. Bush of the District of Idaho issued a preliminary injunction prohibiting the BLM from using the new policy. The court order ruling applies to future oil and gas lease sales in greater sage-grouse habitat on federal public lands - 67 million acres in 11



*Continental Divide - Wamsutter Field in Wyoming's Red Desert.*

Western states.

Beginning in December 2018, Bureau of Land Management lease sales in greater sage grouse habitat, spanning hundreds of thousands of acres across the interior West, must now include 30-day public comment and administrative protest periods.

In his ruling, the judge said there was significant evidence that the Bureau of Land Management was intentionally shutting the public out. “The record contains significant evidence indicating that BLM made an intentional decision to limit the opportunity for (and even in some circumstances to preclude entirely) any contemporaneous public involvement in decisions concerning whether to grant oil and gas leases on

federal lands,” Judge Bush wrote.

Our preliminary injunction success is part of a lawsuit challenging BLM oil and gas leasing practices across five western states and covering almost 2 million acres of key greater sage grouse habitat. The injunction will be in place at least until the court rules on the merits of the broader case.

Although WWP’s main focus remains livestock grazing, we’re also working to rein in oil and gas leasing and development because it compounds the harm to wildlife, waterways, and watersheds that is caused by domestic cows and sheep on public lands.

*Kelly Fuller is WWP’s Energy and Mining Campaign Director. She lives in Depoe Bay, Oregon.*



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### Thank You for Your Continued Support!

Every day the public lands, streams and wildlife throughout the West benefit because of the work done by Western Watersheds Project. The agency management plans we challenge, the allotments we monitor, and the lawsuits we file all help to protect and restore our western public lands.

- **Any size donation is greatly appreciated and makes a difference!** Everything WWP does to influence the restoration of western public lands is based on a vision that western North America may be one of the only places on earth where enough of the native landscape and wildlife still exists to make possible the restoration of a wild natural world.
- **Make a gift of appreciated stock.** Talk to your accountant or financial planner about the potential tax benefits of making this type of donation.
- **A gift through careful estate planning can make a lasting difference for WWP.** A bequest, an arrangement made in a donor's will, is a simple and uncomplicated approach to planned giving. Other methods to facilitate a planned giving donation include: charitable remainder trust, charitable lead trust and gift annuity. It may be wise to talk to your accountant or financial planner to fully understand the potential tax benefits of different giving options.
- **Help others learn about WWP!** Recently, WWP supporters hosted events in Pocatello, Idaho and Berkeley, California to help us spread the word about our important work. You can host an event too and WWP will help. We'll supply informational materials, send out email/printed invitations combining your guest list with local WWP supporters, and even have a WWP representative attend a "meet & greet" which can be customized to your area of interest or concern.



The Western Watersheds Project Messenger is printed using vegetable-based inks on carbon neutral, 100% post-consumer waste.

