



ADVOCATES for the West

FALL CASE NOTES EDITION | November 2013

LOOKING FORWARD TO A NEW DECADE | Executive Director Laird Lucas

2013 has been a year of celebration and growth as *Advocates for the West* draws to a close its 10th year providing top flight – and free – legal representation to the conservation movement in Idaho and the interior West. Now we look forward to another decade of success.

Over the last ten years, our talented attorneys have worked hard to bring winning legal strategies that protect public lands, wildlife, clean water, and other precious resources. I am proud to say our record holds strong – we consistently win or favorably settle 85% of our cases. I look forward to the next decade as we expand to serve our growing list of partners.

This year, Senior Attorney Laurie Rule is joined in our Portland office by our newest Staff Attorney, Liv Brumfield. Together they work on cases ranging across the West to protect Selkirk caribou and Rocky Mountain bighorn sheep, fight threats from increasingly powerful snowmachines in the quiet backcountry, and to protect special places like the Sonoran National Monument from overgrazing.

On the other side of the country in Washington, DC, Senior Attorney Todd Tucci continues to spearhead our efforts to protect the Sagebrush Sea and its icon, the greater sage-grouse. Todd is our lead on some of the largest public lands litigation ever brought, addressing threats to sage-grouse across the Sagebrush Sea. Todd is also plugging into policy-setting at the Department of Interior and other agencies as we craft new tools to protect sagebrush habitat.

Here in Boise, our staff attorneys Kristin Ruether and Bryan Hurlbutt handle a wide array of cases to protect endangered fish and streams in Idaho; battle mining pollution and protect clean water; and improve public lands management. Kristin principally works with longtime ally Western Watersheds Project on wildlife and grazing issues, while Bryan works on water and public lands matters with Idaho Conservation League.

Bryan also works with me to keep Big Oil “mega-loads” out of the Clearwater/Lochsa Wild and Scenic River corridor. With the Nez Perce Tribe as co-counsel, we won two major victories in federal court this year in our effort to force the US Forest Service to protect the corridor. We have battled – and beaten – some of the world’s largest corporations in this long fight, including ExxonMobil and now General Electric.

We are also fortunate to have the very talented Anna Demetriades as our Communications and Development Director in Boise. As you may have seen, Anna completely revamped our logo, website, and mailings – she is the one who brings you into the places we defend and informs you about our wins through vivid photos and stories.

As we move into the next decade, I am happily stepping aside as Executive Director in order to focus on my core strength – litigation. I will soon assume a new position as Litigation Supervisor for *Advocates for the West*, and will remain on our Board of Directors. I’ll be responsible for supervising our entire litigation portfolio, selecting cases and directly leading certain key cases, as I have increasingly done in recent years.

Under the guidance of our Board Chairman Eric Younger, we are actively searching for a new Executive Director – someone who can tell the world about our work, increase our funding base, and grow our strategic vision. We expect to make the exciting announcement of our new ED by the New Year.

As the founder of *Advocates for the West*, I proudly welcome this expansion. The hiring of a new ED and the opportunity for me to focus entirely on litigation will provide us with the solid foundation to blossom over the next decade into a stronger, larger, even more effective defender of the West.

Snowmobile cases

Advocates for the West represents several non-motorized winter recreation groups in three cases challenging the Forest Service's failure to regulate snowmobile use on National Forest land. Last spring, we won a good decision in Idaho that orders the Forest Service to redo its nationwide travel management regulation, which will require the agency to include snowmobile use in its travel management planning. The agency previously claimed it had discretion to choose whether to regulate snowmobiles, but the Court held that position was unlawful and the agency must regulate snowmobiles like it does for all other off-road vehicles. The Forest Service is currently working on a new rule, to be completed by September 2014.

In addition, AW settled a case in California that requires the Forest Service to analyze the impacts of its snowmobile trail grooming program on five National Forests in that state. The agency had never conducted an analysis of how that program affects non-motorized recreation users as well as wildlife and other resources. Under the settlement, the Forest Service plans to complete such analysis by November 2015.

Finally, AW is working with Earthrise Law Center on a case challenging the construction of a new sno-park in central Oregon. The Forest Service has recognized for years that conflicts exist in that area between snowmobiles and backcountry skiers and snowshoers, and that the new sno-park would cater to snowmobilers, yet the agency did not adequately consider the impacts of this increased use on backcountry skiers and snowshoers or include any measures to mitigate those impacts. The parties are in the midst of briefing summary judgment, with a decision hopefully to come this spring.

Wildlife

AW just filed a new case on behalf of six clients challenging the final critical habitat determination for the endangered southern Selkirk Mountains woodland caribou, which consists of one small population of caribou in northeastern Washington and northern Idaho. The U.S. Fish and Wildlife Service had proposed listing 375,000 acres of critical habitat to recover this species, but then listed just 30,010 acres in its final decision without explaining how this significantly reduced area would still be sufficient for recovery of the caribou.

We also continue our quest to protect Rocky Mountain bighorn sheep. After years of pressure and litigation, the Forest Service issued a decision for the Payette National Forest closing 68% of its domestic sheep allotments to protect its declining population of bighorn sheep. Now the Idaho Woolgrowers are challenging that decision, and AW is helping the Forest Service defend it. We are also working to protect bighorn sheep on the Medicine Bow National Forest in Wyoming, where we are suing the Forest Service for refusing to protect one of three bighorn herds on that forest from contact with domestic sheep, likely leading to the extirpation of that herd due to disease.

Grazing

AW also recently filed suit against the Bureau of Land Management over its new management plan for the Sonoran Desert National Monument in southern Arizona. The plan, issued pursuant to an AW settlement agreement, authorized continued grazing on part of the Monument without properly assessing whether that grazing would be compatible with protecting all the area resources, as required by the Monument proclamation.

Finally, we are working to wrap up the years-long litigation against the Forest Service for failing to conduct proper environmental analyses before renewing grazing permits on hundreds of allotments across the West. AW participated in three cases in California, Oregon, and Idaho. We were successful in California and Oregon, achieving court decisions that require the Forest Service to conduct environmental analyses on many allotments in those states. We are close to settling the Idaho case, which would also require analyses for allotments in Idaho, Utah, and Wyoming, and hope to have a final settlement in the next couple months. That would put an end to a five-year saga and hopefully the Forest Service's attempt to escape proper environmental review of grazing impacts.



Mt. Bachelor, OR – anonymous

CASE UPDATE | Senior Attorney Todd Tucci

There is an old saying that we conservationists have to win every time, but we only need to lose once. This adage explains much of what I have been working on over the past several months – protecting our past victories to ensure that our wildlands and wildlife will be protected in the future.

I have spent much of the past five years working to ensure that livestock grazing does not harm populations and habitat of the Greater sage-grouse. In January 2012, a federal district court found that the Bureau of Land Management's (BLM) grazing schemes in the Owyhee and Bruneau Field Office of southern Idaho would harm sage-grouse populations and habitat, and that BLM had failed to "prioritize" sage-grouse over livestock – as BLM's own land use plans require.

I have been working to establish these same principles in the neighboring Burley Field Office. The Jim Sage allotments in Burley contain some of the last remaining high-quality sage-grouse habitat in south-central Idaho, and BLM's own data shows that livestock grazing is harming sage-grouse in this area. Instead of modifying grazing to account for the needs of sage-grouse, however, BLM continues to permit status-quo grazing – i.e. grazing at inflated numbers in critical sage-grouse breeding areas during breeding season. Worse yet, perhaps, is that BLM is refusing to prepare any environmental review before permitting these harmful actions.

On behalf of our client Western Watersheds Project, I have been tracking these developments and have recently asked the district court to reverse these decisions – for many of the same reasons the court already reversed the decisions in the Bruneau and Owyhee areas. I will be briefing this case for the next several months, and the court has scheduled a March 2014 hearing.

I have had similar déjà vu moments over some of my work protecting the threatened Chiricahua leopard frog in southern Arizona. Again, despite a recent court order rejecting the Forest Service's prior grazing scheme in the Fossil Creek allotment, which contains the last remaining populations of Chiricahua leopard frog in the entire Coconino National Forest, the Forest Service recently reissued nearly the same decision. This decision calls for unfettered livestock grazing across the seeps, springs and riparian areas that provide designated Critical Habitat for the leopard frog; yet, the Forest Service claims that its decision will actually improve conditions for the leopard frog.

AW is working with our conservation partner the Center for Biological Diversity to again challenge this decision, and we hope to give the Chiricahua leopard frog a fighting chance at survival and recovery.

Because it only takes one loss to lose everything that we have fought to protect and preserve in the American West, sometimes it is important to look backward to ensure we are making progress.

CASE UPDATE | Staff Attorney Bryan Hurlbutt

Lake Pend Oreille

On September 27, I filed the Opening Brief on behalf of Idaho Conservation League (ICL) challenging the Bonneville Power Administration's (BPA) proposal to fluctuate winter lake levels on Lake Pend Oreille. Historically, winter lake levels have been held steady at Idaho's largest lake, but under the new operations for Albeni Falls Dam, the lake would be raised and lowered three times every winter to generate additional power.

BPA acknowledged that these fluctuations would only add to ongoing losses of ecologically rich fish and wildlife habitat around the lake due to shoreline erosion and the spread of invasive species caused by the dam's operation. In fact, BPA initially proposed to undertake the fluctuations as only a one-year, closely monitored experiment. But BPA scrapped the initial plan and now seeks to fluctuate the lake every winter without monitoring for adverse environmental impacts.

This case is one piece of a larger effort on ICL's part to ensure that BPA meets its obligations to protect and restore Lake Pend Oreille. ICL's opening brief shows BPA should have prepared a full Environmental Impact Statement to consider the impacts of the new winter fluctuations and should have considered adopting a mitigation and monitoring plan. The case will be fully briefed by the end of this year.

Highway 12

This summer, I began working with Laird and our clients in the ongoing battle to keep Highway 12 free of mega-loads. In one case, we represent Idaho Rivers United who, along with the Nez Perce Tribe, filed suit against the U.S. Forest Service for failing to address mega-loads.

In September, we won a preliminary injunction ordering the Forest Service to close Highway 12 to mega-loads until the Forest Service can complete its corridor study and tribal consultation. This win is an incredible victory for all of us who care about the Wild and Scenic River corridor, as no mega-loads will ship up Highway 12 for the foreseeable future.

Other Work for Idaho Conservation League

I continue to work closely with ICL on Clean Water Act, stream-flow, mining, and air quality issues throughout Idaho. Watch for future news on these ongoing and new cases.

GIVING THANKS

FAREWELL TO A GREAT GURU | Kristin Ruether

Advocates for the West recently bid a fond farewell to Gene Bray, who is “retiring” from being our (volunteer) Technology Guru extraordinaire.

It is difficult to begin to sum up the services Gene has contributed toward our success over the years, much less the style with which he has done it.

As for technology, Gene single-handedly kept our office equipment running smoothly for a *decade*. This feat required countless late nights and weekends in the office backing up our data, clearing viruses, replacing hard drives that had melted down from too many briefs and administrative records, and worse. Gene was always only a phone call away, and would voluntarily drop everything – with a smile – to help us meet our deadlines.

Gene’s contributions far exceed his technical accomplishments, though. A visit from Gene not only ensured your computer would be fixed, but that your day would be enriched by learning something new. That’s because Gene is an expert on an astonishing array of topics. You might learn something about monitoring techniques, motorcycling through Japan (and the hot springs along the way), or submarine navigation (Gene was a qualified submariner during the Korean conflict).

Even more importantly, for these past 10 years Gene was a mentor to our staff, a conservation leader, and a warrior for protection of the American West. He has bounced his truck around some of the roughest roads in the West supporting our cases, plowed through mountains of monitoring data, and written scads of reports holding agencies accountable.

Gene’s joy for life, kindness, leadership, and boundless energy make him one of a kind. His near-constant presence in our office will be deeply missed, but his impact will continue to be felt each and every day.

Thank you, Gene. *Advocates for the West* is a better organization – and we are better people – because of you.



SPECIAL THANKS TO YOU | Anna Demetriades

As our 10th year in operation winds to a close, we look toward *Advocates for the West*’s next 10 years with excitement for the future. Our enthusiasm for the work we do comes from many places: a genuine love for the West, the privilege of working alongside such stellar environmental organizations and concerned citizens and, most importantly, our enthusiasm comes from knowing we have such an incredible network of support – all of you.

This year, thanks in large part to a most generous \$20,000 Challenge Grant from an anonymous donor, we raised over \$50,000 toward our expansion plans alone. This amazing outpouring of support is a true testament to your dedication to the protection of the West, and it is deeply heartening to us all.

We are thrilled to be (as Rocky Barker in the Idaho Statesman so aptly put it) “unleashing Lucas” as part of our expansion. Laird’s exciting transition from Executive Director to Litigation Supervisor is thanks to your support. It is also thanks to you that we welcome Liv Brumfield to our outstanding team of attorneys.

2013 could not have gone any better for us. Our staff is stronger than ever, we had the good fortune of celebrating many precedent-setting victories, and you all reminded us of the incredible conservation community we’re honored to be a part of with your deep generosity.

From all of us at *Advocates for the West*, THANK YOU! We couldn’t do it without you.

OUR DEEPEST APPRECIATION FOR THIS YEAR’S GRACIOUS AW PARTY HOSTS

Advocates for the West is incredibly fortunate to know the fine folks we do, and a few of them really pulled out all the stops this year to host three unforgettable fundraisers in honor of our work and to celebrate 10 years of unapologetic environmental litigation.

Many thanks to our wonderful hosts and to all those who attended! These parties really made our year.

February 28 | Ginger Harmon

August 3rd | Eric Younger & Heidi Campbell

September 6th | Philip Gordon

September 21st | Linwood Laughy & Borg Hendrickson

WELCOME NEW STAFF ATTORNEY LIV BRUMFIELD!

Hello, Advocates Family! I am excited to introduce myself as the new Staff Attorney in the Portland, Oregon office. I will be working primarily with Senior Attorney Laurie Rule, and also collaborating with the other staff attorneys from afar. In my first two weeks on the job, I've already rolled up my sleeves to work on conflicts over snowmobile use in central Oregon and protecting bighorn sheep in Wyoming. My short time on staff confirms what we all know so well: my fellow attorneys are nothing short of amazing, and their work on behalf of clients, communities, landscapes, and species across the West is both crucial and effective.

I come to Advocates for the West as an east-coaster by origin, but a west-coaster at heart. Growing up exploring the Blue Ridge Mountains of Virginia and riding horses through the fields of southeastern Pennsylvania, I developed a profound sense of place, a deep appreciation and respect for the natural world. After graduating from the University of Virginia in 2007 and working in the international humanitarian sector for a few years, I felt the call of both adventure and service from snow-capped mountains, deep river canyons, and endless, vibrant desert. I decided to go West, young woman! to pursue a law degree at Lewis & Clark Law School in Oregon.

The moment I arrived, the West grabbed my heart, and I have been exploring and working to protect it ever since. During law school, I studied environmental and natural resources law, focusing on western public lands issues. I completed legal clerkships for Earthrise Law Center (Lewis & Clark's environmental law clinic), Columbia Riverkeeper, the Oregon Natural Desert Association and the U.S. Department of the Interior. I worked to halt timber sales, protect salmon, restrict grazing, and prevent coal shipments on the Columbia River. In my free time, I backpacked the Grand Canyon, hiked California's redwoods, rafted Oregon's Rogue River, and fell madly in love with Idaho's Sawtooth Mountains.

This fall, I am thrilled to use and build upon my experience and love for the West as the newest addition to the AW team. It has been a busy summer: since May, I graduated from law school, took the bar, got married, and honeymooned in the Sawtooths. But now, I am excited and ready to get to work defending this incredible, complex ecosystem so in need of our help.

— Liv Brumfield

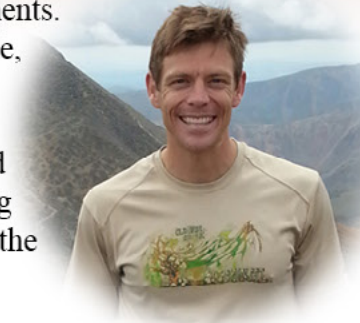


THANKS AND BEST OF LUCK TO OUR 2013 SUMMER INTERNS!

This summer we were joined by two fantastic interns who are well on their way to becoming stellar environmental attorneys. Tom Logan is a 3rd year law student who joined us from Whittier College in Whittier, California, and Abbey Thiry is heading into her 2nd year at Concordia Law School in Boise.

Abbey came out from under her pile of law books long enough to send her deepest thanks to our staff for the great experience, and here is what Tom had to say about his time with *Advocates for the West*:

“While at AW, I worked closely with the staff attorneys on a diverse array of assignments. In each instance I was provided with invaluable mentoring and guidance. For example, rather than relegating me to a strict research position, Kristin Ruether included me in strategy sessions, conference calls, and client meetings. As a result, I had a profound understanding of the material I was researching and was able to produce well-tailored work products. I learned so much, had a blast, and also had the sense that I was doing meaningful work. It was an incredible experience and I am very grateful to have had the opportunity to work for AW.”



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Liv Brumfield Staff Attorney		Justin Hayes Boise, ID
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ADVOCATES for the **West**
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Become a Member of Our Sagebrush Society!

By signing on as a member of *Advocates for the West's* Sagebrush Society, you are ensuring the perpetuation of our work by contributing a monthly gift in an amount that is meaningful to you.

\$5 | \$10 | \$20 | \$50 or more per month helps us considerably as we work to protect the lands you love!

We need your help as we continue our efforts to protect some of the West's most beautiful places and endangered species, and the Sagebrush Society is a wonderful way to show your support.

Advocates for the West is a 501(c)(3) charitable organization, so your donations are tax deductible. For more information on how to join our Sagebrush Society or to make a one-time contribution, contact:

Anna Demetriades | ademetriades@advocateswest.org | 208.342.7024 x210

WE WIN FOR THE WEST

