2023 Spring/Summer Case Notes

2003-2023

YEARS

ADVOCATES FOR THE WEST

2023 Spring/Summer Case Notes

Miguel Almeida Artwork
Partnerships: the foundation of our work

Success is not a solo endeavor. Advocates for the West’s mission—to win for the West—hinges because of our community of supporters and partners. As you may know, Advocates for the West is celebrating our 25th anniversary this year. Reflecting on this major milestone, I am struck most by the strength of relationships we have cultivated.

Our story is one of providing dedicated and strategic legal counsel, free of charge, to our large and growing list of partners and activists. But legal representation for the environment requires a high level of collaboration. We work closely with Tribes and staff of conservation organizations to obtain agency documents, assemble facts, and develop strong cases in court. Advocates for the West’s mission—conserving the natural beauty, world class recreation, natural heritage, and native fish and wildlife of the West—depends on partnerships we have cultivated.

Partnerships: the foundation of our work

As Senior Attorney Laurie Rule recounts on page 6, Advocates for the West’s relationship with the Tribe flourished in the mid-2000s, even before the death of a bighorn sheep in Idaho from the threat of disease transmission posed by domestic sheep. Scientific data and “friend of the court” assistance from the Tribe proved critical to our victories to protect this iconic species. And then came the Big Oil “mega-loads.” In 2013, Advocates for the West teamed up with the Nez Perce Tribe and Idaho rivers United to challenge Perpetua’s proposal to open a massive gold mine at the Stibnite site adjacent to the Hells Canyon Complex, reaching harmful pollutants into Idaho’s East Fork South Fork Salmon River without a CWA permit at the Stibnite mine site. At the same time, we are fighting alongside the Tribe and our partners against Perpetua’s proposal to open a massive gold mine at the Stibnite mine site adjacent to the Frank Church—River of No Return Wilderness Area.

Today, the Nez Perce Tribe is integral to the organizational strength of Advocates for the West, with Mike Lopez, Senior Staff Attorney for the Tribe’s Office of Legal Counsel, and Joel Moffett, a citizen of the Nez Perce and former member of the Nez Perce Tribal Executive Committee, serving on our board of directors.

I’m grateful for our partnership with the Nez Perce and other longstanding allies in conservation. Likewise, we would not be where we are without you, our supporters, standing by our side. These relationships are the cornerstone of Advocates for the West’s success.

Thank you for making our work possible. We look forward to your partnership long into the future!

With immense gratitude,

Laird J. Lucas
Executive Director

Partners: the Foundation of Our Work
MAKE A LASTING GIFT FOR THE WEST. JOIN OUR LEGACY SOCIETY.

By naming Advocates for the West as a beneficiary in your estate plans, you are making a lasting commitment to defend and protect the West’s natural treasures, clean air and water, fish, and wildlife. All legacy gifts help Advocates for the West win for the West, today and for future generations.

If you have already included Advocates for the West in your estate plans, please let us know. Sharing your plan with us places you under no obligation, but it does enable us to say thank you and welcome you to our Legacy Society. If you wish to be anonymous in your gift, we will gladly honor that wish.

Plus, Advocates for the West is pleased to now offer you FreeWill, the online platform that helps you create a free will or trust to support the causes you care about most. In 20 minutes or less, you can use their free, online tool to create your legal will and make a commitment to Advocates for the West that will last forever.

To learn more about Advocates for the West’s Legacy Society, including how to create a will using FreeWill, please visit AdvocatesWest.org/legacy-society or contact Deputy Director Aimee Moran at amoran@advocateswest.org or (208) 342-7024 x205.

“...In 2013, we made the decision to move to Idaho to start our careers and family and to live more consistently with our value of spending time in the outdoors. Ten years later, our careers and family continue to expand (we’re expecting a baby boy next month). Protecting the natural environment is more important than ever. We donate to Advocates for the West because of this organization’s long history of strategic initiatives that proactively safeguard the environment we love and live in. We are incredibly thankful for the time we have spent camping, fishing, rafting, and hiking in pristine places like the Frank Church Wilderness, the Copper Basin, the Owyhee, and the greater western United States. We are grateful that our children are able to experience these places in their natural form and witness events like wild salmon migrating to their headwaters to spawn, witness snow showers in incredibly clear skies, and feel the cold, clean water of our rivers and lakes. By investing in Advocates for the West, we can ensure that future generations will have the same opportunities to cherish the beauty and wonder of Idaho’s outdoors that we’ve been so privileged to enjoy.”

RYLE AND CAROLINE DAVIS
BOISE, IDAHO

SUPPORTER SPOTLIGHT
Partners
Greater Hells Canyon Council, Nez Perce Tribe, The Wilderness Society, Western Watersheds Project, WildEarth Guardians

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Advocates for the West began a journey to protect bighorn sheep on public land in 2007, and this effort has led to significant changes in public land management in Idaho to benefit bighorn sheep. These results are emblematic of much of our work because they arose in a variety of litigation contexts that included court victories, court settlements, and litigation pressure that forced agency action. Our bighorn sheep litigation in Idaho also launched Advocates for the West’s longstanding partnership with the Nez Perce Tribe.

Domestic sheep carry a pathogen called mycoplasma ovipneumoniae that is benign to them. But when that pathogen is transmitted to bighorn sheep, it causes deadly pneumonia that can spread through a bighorn herd, quickly killing most of the population and causing high lamb mortality for years due to surviving ewes passing the pathogen to their lambs. Transmission occurs when the two species come into contact on the same range, so grazing domestic sheep near bighorn populations is a recipe for bighorn die-offs.

We first brought this issue to court in 2007 over domestic sheep grazing on the Payette National Forest in central Idaho. State and federal biologists had determined several grazing allotments were a high risk to bighorn sheep. Facing strong scientific evidence and facts and an Amicus, or “friend of the court,” brief filed by the Nez Perce Tribe supporting our cause, the Forest Service relented during the litigation and agreed to close five allotments on the forest. The grazing permittee did not appeal that decision and converted the case into a challenge to the Forest’s closure order. Now, on the side of the Forest Service, we helped defend the closure and the Court upheld it, citing the ample scientific evidence supporting the need to keep the species separated. A similar pattern occurred a few months later when we challenged an allotment on the Nez Perce National Forest. After presenting the Court with evidence of recent bighorn sheep sightings on the allotment, the Forest Service again did an about-face and closed the allotment. We then helped defend that closure order against the permittee’s challenge, and the Court upheld it. In both cases, our litigation pressure—backed by strong facts, science, and the Nez Perce Tribe’s support—was enough to force the agency to take action.

The Bureau of Land Management (BLM) did not learn from the missteps of the Forest Service and proceeded to continue authorizing domestic sheep on the Caribou-Targhee National Forest. This new data convinced a judge to temporarily close the allotment, and the parties then settled the litigation by agreeing that the Forest Service would not authorize domestic sheep to graze that allotment unless and until it completed a full environmental analysis. The agency has yet to begin that analysis, and we believe any future grazing of domestic sheep there is highly unlikely.

This recital of our bighorn work in Idaho shows how court decisions, settlements, and mere litigation pressure can all result in on-the-ground protections. And their success came from strong science, excellent experts, and a great coalition of supportive partners. We are now utilizing this proven formula to defend bighorn sheep in other parts of the West.

ANATOMY OF A WIN: A PROVEN FORMULA FOR DEFENDING BIGHORN SHEEP
Laurie Rule, Senior Attorney

Forest in central Idaho. State and federal biologists had determined several grazing allotments were a high risk to bighorn sheep. Facing strong scientific evidence and facts and an Amicus, or “friend of the court,” brief filed by the Nez Perce Tribe supporting our cause, the Forest Service relented during the litigation and agreed to close five allotments on the forest. The grazing permittee did not appeal that decision and converted the case into a challenge to the Forest’s closure order. Now, on the side of the Forest Service, we helped defend the closure and the Court upheld it, citing the ample scientific evidence supporting the need to keep the species separated. A similar pattern occurred a few months later when we challenged an allotment on the Nez Perce National Forest. After presenting the Court with evidence of recent bighorn sheep sightings on the allotment, the Forest Service again did an about-face and closed the allotment. We then helped defend that closure order against the permittee’s challenge, and the Court upheld it. In both cases, our litigation pressure—backed by strong facts, science, and the Nez Perce Tribe’s support—was enough to force the agency to take action.

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This recital of our bighorn work in Idaho shows how court decisions, settlements, and mere litigation pressure can all result in on-the-ground protections. And their success came from strong science, excellent experts, and a great coalition of supportive partners. We are now utilizing this proven formula to defend bighorn sheep in other parts of the West.
It should be no surprise that protecting remaining sagebrush habitats is critical to the survival of the imperiled sage-grouse. At the same time, preserving the vanishing sagebrush ecosystem is also critical to the environmental health and wellbeing of the West.

In January 2023, we won a major victory in our case challenging the Caldwell Canyon phosphate mine in southeastern Idaho which would destroy breeding and nesting grounds for the small and declining East Idaho Uplands sage-grouse population. Chalk up the strong ruling by the U.S. District Court for the District of Idaho to another victory for sage-grouse. The Court held that the Bureau of Land Management (BLM) failed to adequately assess the mine’s impacts to sage-grouse habitat and connectivity.

Advocates for the West has succeeded in protecting this iconic species on the following fronts:

- We helped prompt the Obama administration to adopt new sage-grouse conservation plans in 2015 for BLM and Forest Service lands in 10 western states. These plans identified 67 million acres of priority sage-grouse habitats for increased protection from energy and other development impacts.
- We won a strong victory when the Court ruled the Trump BLM acted unlawfully in cancelling an Obama administration proposal to withdraw 10 million acres of the highest priority sage-grouse habitats from new mining claims.
- Now, the Biden administration is undergoing a land use planning process spurred by our litigation to promote landscape-scale protections for sage-grouse habitats, and we will continue working with our partners to ensure the Obama sage-grouse plans are made even stronger.

Working to protect sage-grouse brings people together. Western Watersheds Project (WWP) is one of our earliest and strongest allies stretching back to the very start of Advocates for the West two decades ago, and WWP is a central figure in our work to protect the Sagebrush Sea. In addition to the aforementioned victories, our wins in partnership with WWP and the Center for Biological Diversity have held unlawful more than one-quarter of all BLM oil and gas leases issued under the Trump administration in the lower 48 states—covering over a million and a half acres of key sage-grouse habitats. These victories are key to preserving a critical ecosystem of the interior West. But work remains. If we’re going to save sage-grouse and the Sagebrush Sea, working together with our allies is more important than ever.

Will Shoemaker, Communications & Engagement Director

SAGE-GROUSE PLAY A CRITICAL ROLE WITHIN THEIR NATIVE ECOSYSTEM, INDICATORS OF A HEALTHY, INTACT SAGEBRUSH HABITAT. SO, PRESERVING SAGE-GROUSE BENEFITS MYRIAD OTHER SPECIES—FROM PYGMY RABBITS TO PRONGHORN ANTELOPE TO LAHONTAN CUTTHROAT TROUT.

Miguel Almeida Artwork
2023 Spring/Summer Case Notes

Partners
Center for Biological Diversity, Prairie Hill Audubon Society, Western Watersheds Project, WildEarth Guardians

Advocates for the West
Advocates for the West is integral to defending and protecting our nation’s public lands and waters and a valued partner to the Conservation Lands Foundation and local communities across the West. The staff of Advocates for the West represent a unique model. They are highly skilled environmental lawyers who understand the importance of listening to and working with local communities—representing the people who care deeply about protecting our environment and wildlife for the future.

Fewer phrases cause more dismay among environmental litigators than “multiple use and sustained yield.” This concept—formally adopted as the management standard for Bureau of Land Management (BLM) western public lands in the 1976 Federal Lands Policy and Management Act—requires the agency to utilize and manage public lands and various resources in a balanced manner to meet the present and future needs of the American people. But this mandate has been contorted by BLM to protect the Lords of Yesterday—the phrase coined by western scholar Charles Wilkinson to include the coal, oil and gas, mining, and grazing industries that have traditionally dominated the western landscape. Under this “multiple use and sustained yield” guise, BLM continues to prioritize resource extraction on our public lands, and courts have largely refused to second guess the agency, finding that this mandate “breathes discretion at every pore.” There is a different way.

Indeed, Congress has demanded a different approach, including on specific conservation lands like the San Pedro Riparian National Conservation Area (NCA), the Red Cliffs NCA, and the other 900+ units comprising nearly 35 million acres designated by Congress as National Conservation Lands. On these national treasures, Congress has required BLM to manage to “conserve, protect, and enhance” the outstanding cultural, recreational, natural, ecological, and scientific values sprinkled across these lands. This standard means that BLM must only permit uses which promote the conservation, cultural, and recreational values for which these lands were protected by Congress. Yet, BLM continues to allow the Lords of Yesterday almost free rein over our National Conservation Lands. For example, although Congress created the Red Cliffs NCA to “conserve, protect, and restore” the threatened Mojave desert tortoise and its critical habitat in southwestern Utah, BLM has recently approved a four-lane, high-speed highway through the NCA and tortoise habitat. Similarly, BLM has recently approved continued livestock grazing within the nationally-significant riparian areas and wildlife habitat in the San Pedro Riparian NCA, despite BLM’s own admission that grazing is degrading the habitat and riparian areas. Despite the mandate to conserve, protect, and enhance—this area, BLM provides only cancer for the cure to what is spoiling these National Conservation Lands. Working with Conservation Lands Foundation and its 80+ Friends groups, together with our long-standing collaboration with Western Watersheds Project, Center for Biological Diversity, Southern Utah Wilderness Alliance, Defenders of Wildlife and other allies, Advocates for the West has been leading efforts to encourage BLM to abandon its default “multiple use and sustained yield” management scheme on National Conservation Lands, and update its approach to prioritize conservation, cultural, and recreational values over the Lords of Yesterday. As you may expect, this work can be grinding and frustrating at times—and anyone who has dealt with BLM knows it can be more stubborn to change than a 2-year-old holding a lollipop at dinnertime. But Advocates for the West and our conservation allies are primed and ready for this fight. Our public lands deserve it. Congress has demanded it. And the preservation of rich cultural resources and biodiversity depend on it.

Miguel Arredondo
2023 Spring/Summer Case Notes

Todd Tucci, Senior Attorney
Advocates for the West

BUREAU OF LAND MANAGEMENT’S “MULTIPLE USE, SUSTAINED YIELD” FOLLY

Daniele Murray
Senior Legal and Policy Director
Conservation Lands Foundation
of timber over the next 10 years.

The Forest Service's motion to amend the decision. The Forest Service upheld our prior win, denying the Court for the District of Idaho the authority to review the project.

VICTORY FOR NATIVE PYNJUN-HABITAT JURISDICTIONS
Pynjun juniper woodlands provide important habitat for native species, including imperiled species such as mule deer and pinyon jays, the latter of which has experienced a population decline of more than 50% since the late 1960s. Yet, the so-called “Pynjun-Juniper Categorical Exclusion Rule,” approved at the end of the Trump administration, allowed the BLM to destroy entire fragments of these forests without requiring project analysis and public disclosure of adverse environmental impacts. The U.S. District Court for the District of Idaho held that the BLM failed to provide adequate analysis of the rule's impacts. In March 2023, the court overturned the rule, halting BLM's destruction of Pynjun-Juniper habitats.

FIGHTING CLEAN WATER ACT VIOLATIONS IN IDAHO
Advocates for the West filed a CWA citizen enforcement suit against J.R. Simplot Company over years of unlawful pollution discharges from the Idaho Falls-based company. J.R. Simplot Company has been a leading cause of the nation's concentrated animal feeding operations (CAFOs), which are a major source of water and air pollution, and have a negative impact on local communities.

WILDLIFE IN WYOMING
We filed a motion to halt further development of the massive Converse County Oil & Gas Project in the southwestern Powder River Basin of Wyoming. The project includes drilling 5,000 new wells, tearing through the sagebrush and rangeland and creating serious air quality impacts throughout the region. The fossil fuel implications are significant, with the project scheduled to release 100 million metric tons of carbon dioxide by the end of the Trump administration.

To learn more about our victories and active cases, check out Advocates for the West's case database.

Welcome Chris Johnson Paralegal
Chris is a native Idahoan who graduated from Borah High School, College of Western Idaho, Boise State University, and attended University of Idaho College of Law. He is dedicated to applying his knowledge and expertise for the stewardship of the state he loves as well as the larger West. He joined Advocates for the West in December 2022.

Academically, Chris studied business, biology, sociology, political science, and law. During undergrad, he took environmental science electives where his passion for stewardship blossomed. His passion grew as he transitioned into the legal field working as an intern at Perkins Coie, Powers Farley, and the Idaho Board of Medicine.

Rynda fell in love with wild places at a young age in New Mexico, fishing small streams for native trout and camping under stargazing skies in the light of a full moon. She earned a master’s degree in Public Administration which led to her career at the University of California, San Diego School of Medicine. There, in her role as Director of Continuing Medical Education, she guided physicians in planning and implementing medical education programs for their peers.

Upon retiring, Rynda and her husband choose to live in Bend, OR, where the blue skies, forests, mountains, and grizzly bears, among other wonders, are within reach. Together, they serve on their local board for the Center for Idaho's 97,000-acre, 117-year-old National Forest.

CASE UPDATES
VICTORY FOR IDAHO'S SALMON-CLEARWATER DIVIDE
Advocates for the West reached a settlement requiring the agency to abandon this irresponsible policy. The settlement requires the agency to withdraw the final EIS for the League Valley of north Idaho. U.S. Silver committed more than a thousand new CWA violations from the mine. In 2018, we reached a settlement agreement over U.S. Silver’s prior pollution violations at the mine. In 2023, we reached a settlement agreement over U.S. Silver’s prior CWA violations. After a period of better performance, U.S. Silver committed more than a thousand new CWA violations from January 2021 to January 2023—violations that are likely to continue without our litigation.

Our favorable settlement with U.S. Silver removes a significant threat to our rivers and salmon, among other imperiled wildlife species such as mule deer and pinyon jays, the latter of which has experienced a population decline of more than 50% since the late 1960s. Yet, the so-called “Exclusion Rule,” approved at the end of the Trump administration, allowed the BLM to destroy entire fragments of these forests without requiring project analysis and public disclosure of adverse environmental impacts. The U.S. District Court for the District of Idaho held that the BLM failed to provide adequate analysis of the rule's impacts. In March 2023, the court overturned the rule, halting BLM's destruction of Pynjun-Juniper habitats.

STAFF NEWS
Welcome Rynda Clark
Rynda fell in love with wild places at a young age in New Mexico, fishing small streams for native trout and camping under stargazing skies in the light of a full moon. She earned a master’s degree in Public Administration which led to her career at the University of California, San Diego School of Medicine. There, in her role as Director of Continuing Medical Education, she guided physicians in planning and implementing medical education programs for their peers.

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SARA AUETI
Summer Law Extern

Sara is entering her third year at University of Idaho College of Law. After her first year of law school, Sara interned at the Department of Justice Environmental and Natural Resources Division where she worked in the Natural Resources Section. She is currently the President of University of Idaho’s Environmental Law Society, a teaching assistant, a research assistant, a student ambassador, and the incoming Lead NTEL. Editor for the Natural Resources and Environmental Law edition of the Idaho Law Review. Sara received a bachelor’s degree in Political Science from Boise State University and a minor in Natural Resources from University of Idaho. After working for a time in banking compliance, Sara decided to begin her law school career. In her free time, Sara enjoys mountain biking, mountain climbing, birding, and reading.

CASEY HELLMAN
Summer Law Clerk

Casey is a rising third year student at Georgetown University School of Law. She is currently the President of the Georgetown Environmental Law and Justice Clinic, and externed at the Environmental Protection Agency. On campus, she has been the President of the Georgetown Criminal Justice Clinic. Casey graduated from Carleton College in 2019, where she double majored in Government and an English teacher in France. In her free time, she enjoys hanging out with friends back home in New York, reading, and learning how to sew her own clothes.

MAGGIE LARSON
Summer Intern

Maggie is entering her third year at Boise State University where she is seeking a bachelor’s degree in Communication and Development Studies. She also participates on the Boise State track and field team. Having grown up in rural Minnesota, Maggie has always had an appreciation for the outdoors. She was fortunate enough to move to Idaho, a state where you could find her somewhere outside. This appreciation has grown immensely with her move to Idaho. Because of her appreciation for the outdoors, Maggie has her eyes set on a career in environmental law. Outside of her love for all things natural and her part-time job in trade, Maggie spends time reading, doing crafts, snowboarding, and climbing. She also enjoys hiking, exploring, playing Dungeons and Dragons, and watching movies.

ELLIE MALTYB
Summer Law Clerk

Ellie is a rising third year law student at the University of Chicago. After her first year of law school, Ellie interned at the Altman Environmental Law Clinic at University of Chicago where she worked on a Clean Water Act enforcement case. Additionally, Ellie works as a research assistant to Professor Joshua Mcney, exploring various topics related to energy markets. Ellie is also a Comment Editor on the Legal Forum journal, the Transactions of the Environmental Law Society, and a representative for the Public Interest Law Society. Prior to law school, Ellie attended Carleton College in Northfield, MN and majored in American Studies and Environmental Studies. Upon graduating, she moved to Helena, MT and served as an AmeriCorps member at Montana Legal Services Association. In her free time, Ellie enjoys long-distance running, hiking, choral music, and crossword puzzles.

MERIDIAN WAPPETT
Summer Law Extern

Meridian is entering her second year of law school at Alexander Blewett School of Law at the University of Montana. Meridian grew up in northern Idaho and graduated from Utah State University with a degree in Conservation and Restoration Ecology and Human Resource Management. Her background in recreating and guiding on western rivers led her to pursue law school to advocate for protecting these important places. Meridian has worked at Sierra Club Southern Utah Wilderness Alliance. She has also run conservation and environmental policy for a congressional campaign and helped with the Idaho Far and Tidal coalition charge legislation in Idaho. Meridian currently sits as the Chair of her school’s Environmental Law Group and works with various environmental non-profits in Montana and Idaho as an advocate and educator. In her free time, you can find Meridian climbing peaks, finding her dog, yellowing Idaho’s rivers with her friends and family, and catching sunrises and sunsets with her camera.

HANNAH MATTHESON
Spring Law Clerk

Hannah is entering her third year at UC Davis School of Law. After her first year of law school, Hannah interned at Prisoner Legal Services Project where she worked on San Quentin's death penalty cases to bring legal aid to incarcerated people. She is presently the Co-Chair of the Environmental Law & Policy Project. Hannah is also a member of the Environmental Law Student Association. In her free time, Hannah enjoys hanging out with friends and family, playing ultimate Frisbee, and exploring the outdoors.

LAW CLERKS, EXTERNS, & INTERNS

ADVOCATES FOR THE WEST
Miguel Angel Almeida is a Boise-based artist and muralist. He works both traditionally and digitally. His work is a reflection of growing up as a first generation Mexican American in Idaho. Miguel’s art style is a combination of colors inspired by Mexican folk art and heavy line work to create a graphic style. His color palette is largely influenced by the pueblos and towns that he grew up seeing in Mexico when visiting his grandparents at their home in southern Zacatecas. Miguel has worked with numerous clients, including the City of Boise, Idaho State Museum, Chocolate Skateboards, Calexico, Push & Pour, Google/DLR Group, and many more. His work can be found at miguelalmeidaillustration.com