

Western Resources Legal Center

PROVIDING HANDS-ON LEGAL TRAINING FOR THE NEXT GENERATION OF LEGAL PROFESSIONALS
AND ADVOCATES FOR NATURAL RESOURCE INDUSTRY USERS

2022 Newsletter

Year in Review: Executive Director Update

by Caroline Lobdell



Despite the ongoing challenges of navigating a second year of the COVID-19 pandemic and balancing virtual and in-person work and instruction, I am incredibly grateful and proud to share some of WRLC's recent academic, policy, and organizational successes.

Through the generous efforts of many of WRLC's industry partners and law firms, we have continued to add new and exciting externship opportunities for our students, where they are able to gain valuable experience working on cases and developing research into areas of law that make a difference for natural resource users. Our alumni also continue to make big strides as they enter the workforce in both the public and private sectors. In this newsletter, check out the snapshot of just a few of those recent alumni achievements.

WRLC's legal policy and advocacy work also has been varied and prosperous, as this year has seen an onslaught of cases challenging historic grazing on public lands (Martinez, O'Keeffe), timber salvage projects (Archie Fire litigation), as well as the never-ending Greater Sage-Grouse planning process impacting oil and gas and other interests. Responding to these lawsuits, often including preliminary injunction requests, has required hard, quick, and decisive advocacy for our clients. More information about these cases and other efforts can be found within the pages of this newsletter.

ALSO IN THIS ISSUE:

- WRLC Board of Directors Update
- Case Updates: Judge Declines to Halt Sheep Grazing in Eastern Washington, Archie Fire Intervention, Resource Users Need to Remain Engaged in Greater Sage-Grouse Planning Process, Freedom of Information Act, Renewed Lawsuit Targets Point Reyes Historic Ranch Leases, and Victory for High Desert Ranching and O'Keeffe Ranch
- Student Spotlight – Shelby Long
- WRLC Student/Alumni Highlights

I would also like to recognize the five new Board members who are joining our leadership team this year, as well as honor the valued contributions of Tom Insko who will be retiring from the Board this year. Without this committed and invested Board of Directors, there would be no WRLC.

As always, WRLC remains steadfastly committed to providing our students with an outstanding educational experience and the natural resources community with exceptional service. I look forward to another successful year in the classroom and in the courtroom.

“WRLC trains attorneys to advise and represent the small- to medium-sized resource users who are deeply emotionally invested in, and cherish, our Western lands. The resource users are looking for ways to ensure that these lands, and their communities, will thrive for generations to come.”
Ted James ('21) – Slinde Nelson

Board of Directors Update



Chase Adams is the manager of Congressional relations for the National Pork Producers Council. He previously worked for the American Sheep Industry Association (ASI) in Washington D.C. where he led ASI's policy and communication efforts around public lands issues, domestic and wild sheep conflicts, and predator control. He has been involved in the agriculture industry as the radio farm director for KBHB Radio in Sturgis, South Dakota, as a private practice attorney and, most recently as Director of Communications for the National Cattlemen's Beef Association in Washington, D.C.



Jack Field grew up on a small cow-calf operation in Tumalo, Oregon. He has served as the executive director of the Washington Cattle Feeders Association since 2016 and, before that, served as executive vice president of the Washington Cattlemen's Association. Mr. Field also is a crop insurance agent with CKP Insurance. He is a member of the State of Washington Department of Ecology's Agriculture and Water Quality Advisory Committee and has served on the Washington Department of Fish and Wildlife's Wolf Advisory Group and Wolf Working Group. He is the owner and operator of Lazy JF Cattle in Yakima, Washington.



Dan Harmon grew up in a small, conservative community of farmers and orchardists in central Washington. Mr. Harmon is executive vice president, general counsel, and one of the principal owners of Hoffman Corporation in Portland, Oregon. He did his undergraduate work at Washington State University and has a law degree from the Lewis & Clark Law School. He is the recipient of the law school's Distinguished Graduate Award as well as the WSU Outstanding Service Award. Mr. Harmon is the former Chair of Associated Oregon Industries.



Nathan Jackson believes deeply in the responsible use of our natural resources, and supports agriculture, timber harvest, and other natural resource industries. He serves as the senior director of corporate services for Umpqua Indian Development Corporation, the business arm of the Cow Creek Band of Umpqua Indians. He grew up in Douglas County, Oregon, where his family were loggers and ranchers. Mr. Jackson has served in many capacities with the Oregon Cattlemen's Association, most recently as president. Mr. Jackson is an enrolled member of the Cow Creek Tribe.



Casey Roscoe is a self-proclaimed natural resource enthusiast. She worked for Congressman Bob Smith (R-OR) in Washington, D.C., and then in media and marketing for the Associated Press, Comcast, WDCW, and The Washington Post. She returned to Oregon to fulfill a promise made to her grandfather to work for her family's company, Seneca, which consists of 4 sawmills, 175,000 acres of sustainably managed timberlands, and an energy company. Her family recently sold the company and she is helping with the transition by consulting. Ms. Roscoe and her husband own Gerking Ranch LLC in Central Oregon.

Legal Highlights: Case Updates

Beyond its focus on education, WRLC makes an impact through strategic legal work and input on natural resources policy. In 2020, WRLC continued to build natural resource coalitions to provide coordinated input on various changes to many of the nation's core environmental and natural resources regulations.

In particular, WRLC led efforts to offer analysis of proposed rules rescinding the U.S. Fish and Wildlife Service (FWS)'s and NOAA Fisheries' prior rules amending the process for designating critical habitat for species listed under the Endangered Species Act (ESA) and redefining "habitat"; FWS's revised rules regarding "take" of the Mexican wolf experimental population pursuant to the ESA's 10(j) Rule; and ongoing planning efforts for greater sage-

grouse by the Bureau of Land Management. These types of technical rules often carry substantial burdens on regulated entities—and WRLC has offered comments on behalf of many voices from the natural resources community seeking simplification of these complicated statutes.

Below are summaries of a number of cases that should reap significant benefits for natural resources users, including but not limited to:

Judge Declines to Halt Sheep Grazing in Eastern Washington

In April 2020, WRLC intervened and successfully opposed a motion for preliminary injunction by environmental groups seeking to halt domestic sheep grazing on the Okanogan-Wenatchee National Forest due to alleged concerns of disease transmission from domestic sheep to bighorn sheep

Legal Highlights (cont...)

herds. WildEarth Guardians v. U.S. Forest Serv., Case No. 2:20-cv-440-RMP (E.D. Wash.).

WRLC's client, Martinez Livestock, had grazed the lands for decades and recent upward trends in bighorn sheep population showed that the likelihood of bighorn sheep/domestic sheep interactions and outbreaks was successfully mitigated by use of extensive Best Management Practices to reduce the likelihood of bighorn sheep/domestic sheep interactions and outbreaks. WRLC successfully argued that the alleged risks to bighorn sheep were highly speculative and that Forest Service modeling cannot be exclusively relied upon to determine disease transmission risk.

Judge Peterson of the Eastern District of Washington ultimately upheld that the Risk of Contact Model is only one aspect of assessing disease transmission risks between bighorn and domestic sheep. After a win at this stage, WRLC will continue to represent Martinez Livestock as the case continues on through the evidentiary and merits stages in early 2022.

Archie Fire Intervention

WRLC has intervened in a lawsuit by environmental groups challenging the removal of dangerous fire-impacted trees located adjacent to roads in the Umpqua National Forest in southern Oregon. On behalf of the American Forest Resource Council and Scott Timber, WRLC was able to file for intervention in order to oppose environmental groups' efforts to stop much-needed felling of hazard trees. Umpqua Watersheds, et al. v. U.S. Forest Serv., Case No. 6:21-cv-1505-AA (D. Or.).

Plaintiffs are seeking an injunction against the Archie Creek Fire Roadside Danger Project, which, if granted, would needlessly create dangerous conditions on the roadways and also largely eliminate the usability and value of the timber.

Injunction requests in natural resource litigation seem to be increasingly common. Given the short timeframe involved in such cases—where plaintiffs are seeking to enjoin resource use projects on public lands and tie up the projects for months, if not years—it is often difficult for affected resource users to respond to the lawsuits. WRLC is a trusted resource to intervene and oppose these types of injunction requests, even on short notice.

STUDENT SPOTLIGHT – Shelby Long



Shelby Long arrived at Lewis & Clark Law school unsure of what she wanted to study. In the summer before she started law school, she took part in Summer Institute, geared toward helping historically under-served students, often minorities, prepare for their upcoming rigorous first year. She met Caroline Lobdell at Summer Institute, which led her to natural resources law. Ms. Long spent the summer between her first and second year as a law clerk for WRLC, where she researched and wrote about natural resource-related FOIA issues and indigenous treaty hunting rights. She then enrolled in the Practicum. Her placement that term was with Dunn Carney LLP. “It was an amazing fit. My placement went so well that they asked me back to be their summer associate,” says Ms. Long. Following graduation this Spring, Ms. Long will be returning to Dunn Carney to join their Natural Resource litigation practice group. Her goals are to be a leader in the Portland legal community and to mentor law students. Ms. Long's extracurricular involvement demonstrates her historic and ongoing leadership within her community. During her undergraduate years, she was involved in assisting with immigration court in Washington state and volunteering as a counselor for the Washington Leadership Association to mentor high school student leaders. She is now very active in the law school and greater communities. For example, she participated in the Opportunities for Law in Oregon (OLIO) program with the Oregon State Bar during her first year of law school, where she forged networks with other minority members of Oregon's legal community, as well as her fellow law students. She is a member of Lewis & Clark Law School's Minority Law Student Association, the Black Law Student Association, and Outlaw (the Lewis & Clark Law School's LGBTQ+ student association). “My experience with WRLC has made me into a professional. For a young aspiring attorney, mentorship is essential to grow. Professor Lobdell's mentorship has allowed me to gain confidence and learn about interesting and new areas of law,” shared Ms. Long. “Because of WRLC, I now have the tools to become a successful, savvy lawyer.” Her advice to new law students: Be open to exploring different areas of law outside of your comfort zone.

Legal Highlights (cont...)

Call to Arms: Resource Users Need to Remain Engaged in Greater Sage-Grouse Planning Process

WRLC continues to be involved in a number of cases involving long-running efforts by two federal agencies—the Bureau of Land Management and the U.S. Forest Service—to revise land use plans across the West for the benefit of the greater sage-grouse. The original 2015 plans issued by the Obama Administration were subject to numerous challenges in federal court, while revisions by the Trump Administration were enjoined by an Idaho District Court in October 2019. One major issue, among many, in the lawsuits has been the establishment of so-called sage grouse focal areas (SFAs) and other restrictive management zones on public lands without adequate public notice or review.

At the administrative hearing level, WRLC represented several grazing permittees in cases by environmental groups over the BLM's issuance of grazing permits in or near sage grouse habitat. WRLC also continues to represent both mining and grazing interests in cases challenging the 2015 SFA designations and other aspects of the BLM and Forest Service's plans in the federal district courts.

These ongoing cases are all complicated by the agencies' sluggish process to revise their land-use plans. BLM released its Notice of Intent to revise the plans in late 2021 and will likely be seeking public comment on a Proposed Rule sometime in 2022. 86 Fed. Reg. 66331 (Nov. 22, 2021).

Those resource users affected by the sage grouse decisions should continue to engage with organizations like WRLC as well as their local, state, and national associations to remain engaged as the proposed sage grouse plans move forward. Without your continued engagement, the overwhelming voice in agency decision-making comes from environmental advocacy groups with little interest in, or understanding of, the practical impacts of the restrictions on resource users.

Freedom of Information Act

WRLC continues to utilize the Freedom of Information Act (FOIA) to seek information from public agencies at the federal, state, and local levels. FOIA is a powerful tool for requesting information from the government and an essential part of ensuring transparency and holding agency decision-making up to a high standard.

After winning a breakthrough case against NOAA Fisheries in 2020, WRLC has continued to fight on behalf of resource users to urge agencies to provide records in a timely fashion. *See [WRLC v. Nat'l Oceanic and Atmospheric Admin.](#), 3:19-cv-1119-AC (D. Or.)* (holding that agencies may not string FOIA productions out over months and that FOIA requesters may proceed directly to court where an agency fails to make an adequate and timely final FOIA production).

Renewed Lawsuit Targets Point Reyes Historic Ranch Leases

WRLC continues to follow and advise ranchers in the Point Reyes National Seashore as the National Park Service implements a new General Management Plan for the area. A lawsuit filed in January 2022 by Center for Biological Diversity and other groups is seeking to overturn the NPS's plan for continuing ranching on historic beef and dairy ranches on the Seashore.

The lawsuit—following a similar case in 2017—alleges that the ranches impair the park's public use and wildlife values and threatens to leave the Park Service's ongoing process to renew the historic ranch leases up in the air, despite years of negotiations, environmental impacts studies, and planning. *Resource Renewal Institute v. Nat'l Park Serv.*, Case No. 4:22-cv-00145-KAW (N.D. Cal.).

Victory for High Desert Ranching and O'Keeffe Ranch

In a win for WRLC and O'Keeffe Ranch, the Department of the Interior's Office of Hearings and Appeals has declined to halt grazing and implementation of an important fence project aimed to benefit management and rangeland health on grazing lands in rural Lake County, Oregon.

The fencing project was designed to increase control over grazing management and resiliency to conditions like drought, while implementing design features that would protect wildlife, including greater sage-grouse. In rejecting WildLands Defense's (WLD) stay request, the administrative law judge called WLD's assertions of irreparable harm "speculative," noting that the petition fundamentally constituted complaints against grazing that were largely "contrary to the facts and law."

WRLC is proud to have played a part in securing this win, affirming that mere opinions and unsupported conclusions are insufficient to immediately halt grazing or related projects aimed to benefit the land.

WRLC Program Rising Stars

2021-2022

Below is a sampling of what recent WRLC students, alumni, and supporters of WRLC's programs have been up to this past year.

Graduate Highlights



London Boquist (formerly Milnes) ('20) joined the Idaho Governor's Office of Species Conservation as associate legal counsel in December 2021.

Tyler Eastman ('18) joined the Tulalip Tribes as a reservation attorney. He previously served as a trial attorney for the U.S. Department of Justice.

Kristen Kortick ('17) is serving as a 2021-2023 Law and Policy Fellow at the Initiative for Energy Justice where she is developing and leading energy justice research projects to advance transitions to renewable energy.



Nolan Smith ('21) is working at the Carollo Law Group. He previously clerked for the Honorable Michael Simon of U.S. District Court for the District of Oregon.



Elizabeth Stowe ('21) joined Schnitzer Steel Industries as associate general counsel. She previously served as a legal intern for the company.



Kehl Van Winkle ('17) joined metlaw (Maglio Christopher & Toale, P.A.) in Seattle focused on Indian law and civil litigation.



Student Highlights



Lydia Dexter (2L) spent Fall 2021 working with the NANA Regional Corporation on issues relating to native corporation mining issues.

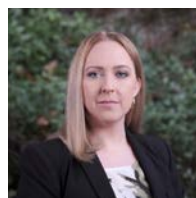
Andrew Gard (3L) spent Spring 2021 working with the Western Urban Water Coalition focusing on legislative interest regarding water policy issues. In Fall of 2021, he worked for the EPA Office of General Counsel. He subsequently started working with Slinde Nelson.



Tiffany Hawkins (3L) spent Fall 2020 working with the Offshore Operators Committee focusing on offshore energy industry topics. She subsequently started working with EnerGeo Alliance (formerly International Association of Geophysical Contractors).

Jordan Joyce (2L) spent Fall 2021 working at EnerGeo Alliance (formerly International Association of Geophysical Contractors) on issues related to the geophysical and exploration industry.

Harley Montoya (3L) spent Summer 2021 as an intern at Meyer, Fluegge & Tenney, P.S.



Elizabeth Pabjanek ('18) is working on her LLM and spent Fall 2021 working at the Oregon Refuse & Recycling Association (ORRA) doing research on local laws focused in the Portland metro area.

Colin Pohlman (2L) spent Fall 2021 clerking for the Honorable Pro Tem Judge Larry J. Blake Jr. He spent Summer 2021 externing with the Washington Farm Bureau.



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Tell us about your potential case or legal issue.

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Invite a WRLC student to speak at your meeting.

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