

# Western Resources Legal Center

Training Legal Advocates to Represent Natural Resource Users

2015 Newsletter

## Year in Review: Message from the Executive Director



Caroline Lobdell

Now in its 8th year, Western Resources Legal Center has succeeded in building three classes, developing numerous field placements where students can work on industry-specific issues, and continuing to balance and change the discussion of environmental law at Lewis & Clark Law School. We are extremely thankful for the program's success and

proud of our students, who have managed to succeed in an extremely tough job market.

WRLC also would like to thank both Lewis & Clark and its many supporters, who have helped WRLC achieve its vision of legal education through advocacy of resource values.

Recently, WRLC focused on expanding its curriculum with new externships in Washington, D.C., Houston, TX, and Austin, TX. We have also broadened WRLC's reach and constituency by adding new board members with national experience and expertise. Thanks to the dedication of WRLC supporters, we are headed into a new era of national scope.

As part of WRLC's effort to grow, WRLC met last fall with schools and industry groups from around the country that are interested in pursuing practical skills legal education programs that focus on public lands management and other issues facing natural resource industries. At the center of this is the idea that practical skills education is one of the most valuable experiences that law students can undertake. WRLC's model—which we hope will be emulated nationwide—has the added benefit of preparing those students for careers in business and resource industries that face varied and complex regulatory issues every day.

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## WRLC Hires New Staff Attorney - Clinical Law Professor: Scott Horngren



Scott Horngren

This January, WRLC welcomed to its team the highly experienced Scott Horngren as a part-time staff attorney and clinical law professor. Scott brings with him over 25 years of legal experience in public lands, environmental, and natural resource law. Also a forester, Scott brings an invaluable depth of experience and knowledge with regard

to forestry and timber, endangered species, administrative law, and government contract issues, among others. Scott has represented a wide variety of clients, including industry, individuals, and local governments that depend on natural resource use for their livelihood. Most recently, Scott served as a staff attorney at the American Forest Resource Council and was previously a partner at the Portland-based firm Haglund Kelley. He is also an adjunct faculty member at Lewis & Clark Law School and was a founding board member of WRLC.

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In just the last year, for example, WRLC has been able to work on issues pertaining to:

- New agency rules concerning critical habitat under the Endangered Species Act (ESA) and regulation of the nation's waters under the Clean Water Act (CWA);
- Wild horse management on public lands;
- Candidate species reviews for the sage grouse, a bird with habitat in nearly every western state;
- The Forest Service's push toward a forest planning process that uses a vague "ecosystem health" approach;
- Private property and water rights;
- Regulatory delays that undercut the long-term viability of resource industries; and
- The impacts of the Marine Mammal Protection Act on oil and gas development operations.

These are difficult issues that are likely to remain contentious as society struggles to balance resource use with conservation. And with the current backlog of ESA candidates and proposed species—124 and 29, respectively—they will continue to loom

over resource users in the coming years. As the Northwest saw with the spotted owl in the 1990s, and as the West is now seeing with the greater sage grouse, proactive solutions may be necessary to keep resource industries viable.

Now, more than ever, resource users and private landowners must be willing to be creative and continue productive relationships with regulators. Resource users might contemplate Challenge Cost Share Agreements—undertaking a cost matching allocation agreement with the government—to aid the speedy completion of technical studies. Landowners can proactively address ESA issues using Candidate Conservation Agreements with assurances, land exchanges, or conservation easements granted by the Natural Resource Conservation Service (NRCS). NRCS easements are becoming more popular because they ensure landowners are compensated for conservation efforts on lands, including agriculture lands; forestland; ranch and farmlands; grasslands; and wetlands.

WRLC, for its part, will continue its efforts to better train tomorrow's natural resource law advocates to address these ongoing issue and to serve as a resource for our clients. We remain committed to serving the public interest through advocacy of resource values and education on issues facing resource industries in the Northwest and beyond.

— **Caroline Lobdell, Executive Director**

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## WRLC Case/Issue Highlights

### **WRLC Assists Rural Clients Against Groups Seeking to Delay Wild Horse Management**

After years of wild horse overpopulation issues on the Modoc National Forest, local grazing groups, public land users, and private landowners stand to benefit from a new territory management plan that would allow the Forest Service to conduct gathers and better manage wild horses as part of a multiple-use strategy on public lands. WRLC represented those groups by intervening to defend against a suit by wild horse advocates who wish to preclude management changes in the territory. *Am. Wild Horse Preservation Campaign v. Vilsack, Case No. 1:14-cv-485 (D.D.C.)*.

### **WRLC Submits Amicus Brief on behalf of Timber Collaborative Members for Jazz Stewardship Sale**

Stewardship contracts are an incredibly valuable tool that uses proceeds generated from certain types of timber sales for future restoration projects at the local level. One prerequisite for a stewardship project is its development by a "collaborative" group, which brings local government, businesses, environmental groups, and recreation groups together to collaborate in developing projects on national forest lands. WRLC's Ninth Circuit amicus brief supported the Jazz project on the Mt. Hood National Forest and helped collaborative

members voice support for the process, which can reduce administrative delay and litigation associated with timber sales by focusing on mutually agreeable restoration work.

### **Water Quality Standards Litigation**

WRLC represents the Washington Cattlemen's Association in a new case attacking Washington's water quality standards. The case threatens to negatively impact water rights upon which ranchers and other natural resource users depend. The Washington case is similar to an Oregon case that successfully challenged EPA's approval of certain state-issued water quality standards. *Nw. Env'tl. Advocates v. EPA, Case No. 2:14-cv-196 (W.D. Wash.)*

### **New Agency Rules and Plans; National Environmental Policy Act Comments**

WRLC provided input to clients and assisted with various administrative comments on emerging issues in the Northwest, including the proposed Resource Management Plan amendments concerning the impending listing of the sage grouse under the ESA; upcoming Bureau of Land Management rule changes concerning grazing; proposed rule changes to ESA's definition of critical habitat; and forest plan amendments.

## Rising Stars: Student Profiles

**Dominic Carollo** ('09), one of WRLC's inaugural students, is now a Partner at Yockim Carollo in Roseburg, OR. Also joining Yockim Carollo upon his graduation this summer will be recent WRLC alumnus **Chris Griffith** ('15).

**Phil Wuest** ('09) recently moved to Black Helterline in Portland, OR from his former firm, Duggan Shlotfeldt & Welch. Phil focuses on land use, real estate, construction & environmental law.

**Rob Molinelli** ('13), was recently hired as the American Forest Resource Council's (AFRC) staff attorney following a year-long fellowship at AFRC that was initially developed by WRLC.

**Veronica Keithley** ('14) joined Stoel Rives as an associate in their Anchorage, AK office. Veronica brings a wide variety of experience to Stoel from her former career as a land-use and resource consultant.

**Andy King** ('14) joined Cascadia Law Group in Seattle, WA. Andy works with businesses on resource and environmental issues including hazardous waste cleanup, water and mineral rights, the Clean Water Act, and purchase-sale agreements.

**Megan Fuhrer** ('14) will join the Law Offices of Nay & Friedenbergh in Portland, OR, as an estate-planning attorney.

**Kevin Johnson** ('15) recently received a paid student clerkship with Schroeder Law Offices, which specializes in water rights and land use in the Northwest.

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## New Board of Directors

We are pleased to announce the addition of two new members to our Board of Directors, both of whom will help bring a national perspective to WRLC.



**Dustin Van Liew** is Executive Director of Public Lands Council & National Cattlemen's Beef Association - Federal Lands. Mr. Van Liew has over seven years' experience in legislative policy on public lands and grazing issues and is the seventh generation of his family involved in livestock production and agriculture.



**Nikki Martin** is a graduate of Lewis & Clark Law School ('10), and former WRLC student is VP for Government and Legal Affairs for the International Association of Geophysical Contractors in Houston, TX. Nicki has extensive experience with oil and gas issues, she was formerly an attorney with Alaska Oil and Gas Association and at Foley & Foley in Anchorage, AK.

## Extern Profile: Will McLaren



Now a judicial clerk for the Honorable Judge Paul Papak in the U.S. District Court for the District of Oregon, Will McLaren had a great experience through a WRLC-facilitated externship position with Perkins Coie in Portland.

During the externship, McLaren worked primarily

with Perkins Coie's client, Western Urban Water Coalition (WUWC). A regional allegiance of thirteen municipal water suppliers, WUWC collectively serves over 35 million customers across the West. As resource users, the group faces the numerous and myriad environmental regulatory hurdles common to many water users in an unpredictable desert climate.

McLaren's research for WUWC focused on a few of those issues and hurdles: the Clean Water Act, tribal rights, invasive species, and climate change. Supervising his efforts at Perkins Coie were two widely respected attorneys, Tom Lindley and Don Baur. Tom is a partner in Perkins Coie's Portland office and national chair of the firm's Environment, Energy & Resources division. Don is an endangered species expert and partner at the firm's Washington, D.C. office. Will also attended WUWC's biannual meetings to assist Tom and Don in presenting his research.

"It was a great and supportive environment," McLaren says. "I was exposed to new subjects and able to work directly with partners and associates in the environmental practice group at Perkins. I felt like an attorney." He notes that WRLC's education program and his externship provided exposure to the complexities of legal policy—more so than his previous work.

He is the recipient of the Environmental Law review Excellence Award at Lewis & Clark Law School, where he graduated in May 2014. Will has also worked as a judicial clerk to then-Multnomah County Judge Michael McShane, at the Bonneville Power Administration, for energy developer Iberdrola Renewables, and at the Oregon Judicial Department.

"Ultimately, the experience has informed how I approach broad legal topics in natural resources law and taken my thinking beyond the sharply defined issues I'd previously been addressing," McLaren says.

McLaren hopes to continue working in the natural resources field and may eventually return to clerk for now-District Court Judge McShane before going into private practice.

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

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## Get Involved

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

### • Make a financial contribution to WRLC

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

### • Tell a friend about WRLC's important work.

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

### • Send our newsletter far and wide.

Tell people about our website [www.wrlegal.org](http://www.wrlegal.org) or send them a copy.

### • Invite WRLC to speak at your meeting.

Let us come and tell your group about our message. Contact us at 503.222.0628.

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

### • Tell us about your potential case or legal issue.

## Do You Need WRLC's Help?

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