



## DEFENDING WILDERNESS AND WOLVES IN CENTRAL IDAHO!

**T**he Frank Church-River of No Return Wilderness was established by Congress in 1980, after years of hard work by conservationists and their allies to protect this wilderness landscape in central Idaho. At 2.3 million acres, the Frank Church is the largest contiguous wilderness area in the lower 48 states. It represents the wild heart of Idaho that we treasure, and want to protect for our children and future generations.

Although the Wilderness

Act of 1964 forbids motorized equipment use and aircraft landings in wilderness, the legislation designating the Frank Church Wilderness expressly approved then-existing airstrips to continue operating within the new wilderness area. This allows hunters, anglers, and recreationists to access the backcountry, with very limited impact on wilderness values. But Congress has also directed – under the strict command of the Wilderness Act – that no other landings of aircraft are allowed outside the established

airstrips, unless absolutely necessary to maintain wilderness values.

The Idaho Department of Fish and Game now wants to violate the sanctity of the Frank Church Wilderness as part of its management of gray wolves in central Idaho – and the U.S. Forest Service is aiding and abetting that effort. IDFG recently received Forest Service approval to land helicopters in the Frank Church Wilderness during



Laurie Rule

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PHOTO BY: Dana Menlove

## THANKS TO WILDERNESS WOLF WATCHERS AND LIGHTHAWK!

Many thanks to all the people who stepped forward to defend the Frank Church Wilderness by filing declarations telling the Court about how they use and love the wilderness – and how they support protecting wolves in the Frank Church Wilderness from the IDFG’s helicopter landings. Their stories are on our website at [www.advocateswest.org/case/central-idaho-wolves](http://www.advocateswest.org/case/central-idaho-wolves).

We also thank Lighthawk and its volunteer pilots, Steve Garman and Dick Walker, for helping with aerial reconnaissance and support of our wilderness wolf watchers. Lighthawk is the “air force” of the environmental movement; and these highly skilled pilots donated their time and equipment to help our effort to protect the Frank Church Wilderness. See [www.lighthawk.org](http://www.lighthawk.org). Thank you so much!

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winter and spring 2010, for purposes of darting and collaring wolves. IDFG claims it needs to use the helicopters to monitor wolf populations in the wilderness.

With our veteran attorney Laurie Rule in the lead, *Advocates for the West* is representing a broad array of conservation clients fighting this misguided attempt to infringe central Idaho wilderness. We filed a lawsuit in January on behalf of The Wilderness Society, Idaho Conservation League, Great Old Broads for Wilderness, the Sierra Club, Western Watersheds Project, Wolf Recovery Foundation, Winter Wildlands Alliance, and Wilderness Watch; and we promptly moved for an injunction to stop the helicopter landings. (You can review our complaint and briefings on our website at [www.advocateswest.org](http://www.advocateswest.org)).

As we demonstrate in our court filings, the Forest Service wrongly accepted IDFG’s assertion that it needs to use helicopters to locate and collar wolves in the wilderness, and thus violated the Wilderness Act in authorizing the helicopter use. History proves that helicopters are not necessary in wilderness – the Nez Perce Tribe successfully collared and monitored wolves in wilderness for a decade, without using helicopters. Yet the Forest Service ignored this key fact, and refused to study the alternative methods available to monitor wolf populations in wilderness, thus violating the National Environmental Policy Act as well as the Wilderness Act.

Our friends and allies who care deeply about protecting the sanctity of central Idaho’s wilderness character are rightly upset about IDFG’s plans – and are even more concerned that Idaho will try to use helicopters more extensively in the future to monitor and even kill wolves in wilderness areas. And these individuals are stepping forward to help: over two dozen people filed declarations attesting to their use of the Frank Church Wilderness during all seasons of the year, and their desire to protect wolves in the wilderness setting. (SEE INSET BOX)

In February, U.S. District Judge B. Lynn Winmill issued an initial ruling that voiced strong concern about the legitimacy of IDFG landing helicopters in wilderness; but he allowed it to conduct limited operations this spring. We are now asking the Judge to rule on the merits of our claims – making clear that the Forest Service cannot routinely approve such requests in the future, and ordering the Forest Service and IDFG to follow the strict requirements of the Wilderness Act.

A hearing is set for June 10, 2010 at 3:30 p.m. in Boise federal court. Come watch staff attorney Laurie Rule in action at this hearing!•



PHOTO BY: Ken Cole, courtesy of Western Watersheds Project



# SAGE-GROUSE DESERVE ENDANGERED SPECIES ACT PROTECTION – BUT STILL DON'T GET IT

In March 2010, the U.S. Fish and Wildlife Service issued a determination that greater sage-grouse (*Centrocercus urophasianus*) deserve Endangered Species Act protection because of the many habitat and population threats facing the species – yet the agency nevertheless refused to list the sage-grouse as a threatened or endangered species, citing its own bureaucratic backlog as justification for not acting.

Specifically, the Service determined that sage-grouse are “warranted” for listing under the Endangered Species Act, because sage-grouse populations have declined greatly in recent decades; and because remaining populations face perils including energy development, global climate change, and habitat fragmentation from grazing, powerlines, fences, weed invasions, fires, and a host of other threats. (A copy of the Service’s March 2010 finding is available online at <http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/FR03052010.pdf>).

These many threats are documented in the latest scientific research, including a suite of articles by leading agency and independent sage-grouse experts recently published in the journal *Studies in Avian Biology* (see <http://sagemap.wr.usgs.gov>).

As readers of *Case Notes* may recall, *Advocates for the West* previously challenged the Bush Administration’s January 2005 determination that ESA listing of sage-grouse was “not warranted.” The U.S. District Court in Idaho, per Chief Judge B. Lynn Winmill, held that this



PHOTO BY: Christopher Watkins  
Courtesy of USGS

“not warranted” finding was unlawfully tainted by political interference in the scientific process. Judge Winmill ordered the Service to redo its analysis, taking into account the latest science – resulting in the March 2010 “warranted, but precluded” finding.

“It is an important step forward for the Service to recognize that sage-grouse face a serious risk of extinction in the foreseeable future, in contrast to the Bush Administration’s pattern of preventing federal scientists from doing their jobs,” said Laird Lucas, Executive Director of *Advocates for the West*. “But we still need to give this species the legal protections that it deserves under the ESA – and to prevent sage-grouse from spiralling further downward toward extinction. It is regrettable that the Service has again violated the law in refusing to list sage-grouse

under the ESA, based this time on bureaucratic backlog and ineptness,” he added.

## New Sage-Grouse Listing Litigation Filed.

Having spent the last two years intensively reviewing sage-grouse data and literature, the Service could easily and cheaply move forward with an ESA listing at this stage. Its arbitrary refusal to do so has thus triggered yet another round of litigation.

On behalf of our client Western Watersheds Project, *Advocates for the West* recently filed a new lawsuit challenging the Service’s “precluded” determination in federal court; and other groups that seek to protect sage-grouse may soon join the litigation. (Read the complaint on our website at <http://www.advocateswest.org/bulletin/sage-grouse-listing-precluded-finding-challenged-court>.) We anticipate winning another court victory in the next year, which will require the Service to move forward with listing sage-grouse under the ESA.

## “Warranted” Finding Underscores Need For Land Management Changes.

Meanwhile, even though sage-grouse still lack formal protection as an endangered or threatened species, the Service’s “warranted” determination and the growing science underlying it demonstrate the need for changes in how public lands are managed, to better protect sage-grouse from further

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habitat and population losses.

Federal agencies control over 70% of remaining sage-grouse habitat, particularly the Bureau of Land Management – which alone presides over 50% of remaining habitat. These public lands reach from Wyoming to the eastern side of the Sierras, and include large parts of Idaho, Nevada, Oregon, Utah and Montana. The future survival of sage-grouse hinges on ensuring that large areas of native sagebrush remain intact in this region, and that currently degraded areas be restored.

Federal scientists have repeatedly advised that BLM and other agencies need to elevate protection of sage-grouse habitat as a management priority. Yet so far, the agencies have done little. *Advocates for the West* is working with our allies in the conservation community to persuade the Obama Administration that it needs to change course, and adopt a science-based sage-grouse conservation plan to implement real protections on the ground – and thus potentially avoid the need for sage-grouse listing.

Meanwhile, we will aggressively challenge BLM and other land management agencies when they approve actions that further threaten sage-grouse – and we expect that the March 2010 “warranted” finding will strongly support our claims. Indeed, as noted below, *Advocates for the West* just won a first injunction stopping BLM from building miles of new fencing in sage-grouse habitat on the Green Mountain Common allotment in Wyoming, based on this “warranted” finding. •

## VICTORY HELPS PROTECT WASHINGTON STATE WILDLIFE AREAS FROM GRAZING DAMAGE

**O**ur staff attorney Kristin Ruether recently won a resounding victory in the State of Washington to protect state Wildlife Areas from destructive livestock grazing.

Several years ago, the Washington Department of Fish and Wildlife (WDFW) entered into a backroom deal with a livestock industry association, which required opening state Wildlife Areas to “pilot” grazing projects – ostensibly to study whether grazing could help improve habitat conditions in the refuges. Even though its own scientists repeatedly warned that grazing was harming – not helping – fish and wildlife habitats, WDFW has persisted in allowing grazing in various areas, including the Asotin Wildlife Area of southeastern Washington.

The Asotin area was acquired by WDFW in part using Columbia dam mitigation funds from the Bonneville Power Administration (BPA), in order to protect and restore habitat for steelhead, which spawn there. Livestock grazing in the past four years has damaged the streams, as well as uplands vegetation and soil. These harms have been documented by WDFW staff, as well as experts affiliated with our client, Western Watersheds Project (including Washington residents Dr. Don Johnson, a fisheries biologist and Dr. Steve Herman, an ornithologist).

Despite these documented harms and warnings of its own

scientists, WDFW has refused to prepare any kind of environmental assessment, as required by Washington state law.

In an April 2010 ruling, Washington state judge Paula Casey sharply rebuked WDFW for allowing livestock grazing to continue in the Asotin Wildlife Area, despite the objections of WDFW’s own staff. “Quite frankly, as I began to review the record, I was shocked,” she said, because the record “contained very harsh criticism by the Department’s own scientists about grazing in the Asotin [wildlife] area. . . [and] there was no scientific evidence that grazing practices could either preserve or improve the habitat for any wildlife.”

As a result of this ruling,



Kristin Ruether

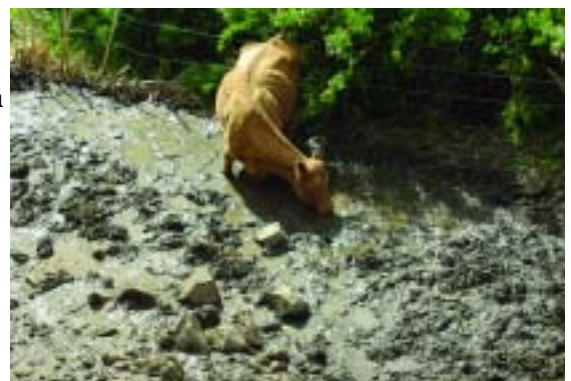


PHOTO BY: Katie Fite

Courtesy of Western Watersheds Project

WDFW has halted grazing on the Asotin area this year; and additionally has suspended the entire “pilot” grazing project statewide. Congratulations to Kristin and the WWP team for their hard work in securing this victory!•



PHOTO BY: Katie Fite

Courtesy of Western Watersheds Project

# SOLDIER MEADOWS SETTLEMENT PROTECTS BLACK WILDERNESS IN NEVADA

**O**ur Senior Staff Attorney Todd Tucci has spent much of the last ten years fighting to protect public lands in northern Nevada from grazing and other degradation. One of the highest priorities has been the Soldier Meadows allotment, which encompasses over 330,000 acres of public lands in and around the Black Rock Desert in northwestern Nevada, near the Sheldon Wildlife Refuge.

BLM itself has described the Soldier Meadows allotment as having the highest biodiversity values of any allotment in Nevada. It offers

important sage-steppe habitat used by sage-grouse, pygmy rabbit, and many other sagebrush species. Its streams and springs are home to Lahontan cutthroat trout and other imperiled fish and amphibians. Pronghorn antelope, bighorn sheep, and wild horses roam its expanses.

Through a series of lawsuits and administrative appeals brought on behalf of Western Watersheds Project, Todd and WWP staff have succeeded in forcing BLM to protect springs and riparian habitats from grazing. But the BLM tried to shift grazing impacts onto higher elevation areas – including large parts

of the High Rock Lake and North Black Rock Wildernesses, both designated by Congress in 2000.

Most recently, Todd – joined by WWP Biodiversity Director Katie Fite, and our scientific expert Stuart Murray of High Desert Ecology – conducted a two week trial where they ripped apart BLM’s grazing management scheme. They showed that BLM lacks basic monitoring information about grazing impacts; that BLM scientists were not involved in grazing decisions; and that BLM’s decision authorizing increased levels of grazing would harm wilderness and other resources.

The permittee on the Soldier Meadows allotment – who only bought the base property in 2005, and is a real estate developer from Reno – sat through the trial. He heard all this evidence, and knew BLM was likely to lose. This prompted him to negotiate a settlement with us, under which the permittee has agreed to forego livestock grazing on many of the most important areas in of the Soldier Meadows allotment for several years, including completely closing the North Black Rock Range Wilderness to grazing, and severely curtailing grazing in the High Rock Lake Wilderness area. The parties will seek to develop a new management paradigm going forward, which will protect the important resources of this area.

Congratulations to Todd and the Soldier Meadows team on this important victory!•



Todd Tucci



# PRESERVING OPEN SPACE AND SAGE-GROUSE IN GREEN MOUNTAIN COMMON, WYOMING

**O**ur staff attorney Natalie Havlina has just won an important victory in protecting one of the largest unfenced areas in the lower 48 states – the Green Mountain Common in southwestern Wyoming.

The Green Mountain Common stretches over 500,000 acres of largely unfenced sagebrush-steppe habitat. This habitat is crucial for sage-grouse; and the Green Mountain Common currently has the second largest sage-grouse population in Wyoming, according to state experts. The wide-open spaces of the Green Mountain Common are also important for pronghorn antelope and many other fish and wildlife species.

Yet livestock grazing has badly degraded streams and riparian habitats on the Green Mountain Common, according to BLM’s own analysis; and grazing depletes the grasses and forbs essential to sage-grouse survival. Yet BLM refuses to reduce livestock numbers to correct this chronic overgrazing.



Grazing damage in Green Mountain Common, WY  
PHOTO BY: Jonathan Ratner, courtesy of Western Watersheds Project

In April 2010, BLM approved new grazing permits that perpetuate excessive livestock levels, while authorizing a host of new range projects – including building 30 miles of new fencing. Those fences pose a serious threat to sage-grouse and other wildlife; and would further divide up the precious remaining open space in this area.

Until recently, BLM did not even acknowledge that fences harm sage-grouse. But studies from Wyoming have shown recently that sage-grouse regularly die from collisions with fences. Fence posts also provide perching spots for raptors, causing sage-grouse to abandon areas along the fence corridors.

Despite approving miles of new fencing that will cause these kinds of harms, BLM refused to prepare an Environmental Impact Statement to evaluate its chosen course of action – or to consider alternative paths that would not risk the same harms. BLM thus violated the National Environmental Policy Act

(NEPA), as well as the direction from its own scientists that it should carefully manage remaining sage-grouse habitat to avoid further losses.

*Advocates for the West* is appealing these BLM decisions on behalf of Western Watersheds Project, as well as Wild Earth

Guardians (one of our close allies on sage-grouse issues) and several individuals who have worked for years to protect the Green Mountain Common.



Natalie Havlina

On May 19th, an Administrative Law Judge with the Department of Interior granted the motion filed by our staff attorney Natalie Havlina to stop construction of the new fencing. The ALJ agreed that BLM likely violated NEPA by approving the fences without addressing their negative impacts – and he emphasized that a stay is appropriate because US Fish and Wildlife Service determined in March 2010 that greater sage-grouse “warrant” Endangered Species Act protection, thus underscoring the need to protect sage-grouse from further harm.

“This ruling is significant not only because it protects the open spaces of the Green Mountain Common, but also because it is the first decision that stops BLM from undertaking harmful activities in sage-grouse habitat, now that the government admits sage-grouse warrant ESA protection,” said staff attorney Havlina. “We anticipate seeing many more rulings against other BLM projects that threaten to harm sage-grouse, in Wyoming and other states, based on this same reasoning.” [Read the appeal and the ALJ’s order on our website at [www.advocateswest.org/case/green-mountain-common-allotment](http://www.advocateswest.org/case/green-mountain-common-allotment)].•



Hell Roaring Lake

Courtesy of Idaho Transportation Department

# KEEPING IDAHO'S WATER CLEAN AND PURE

Idaho is blessed with ample clean water. We enjoy runoff from snowpack in innumerable mountain streams and rivers. We have plentiful underground aquifers, including in the Boise valley and Snake River plain. Our economy and our enjoyment of Idaho depend on these clean, pure sources of water.

The Clean Water Act imposes the fundamental mandate that states must protect water from becoming degraded. This “anti-degradation” requirement has been part of the Clean Water Act – and the State of Idaho’s duties to its citizens – for over 30 years.

Under the anti-degradation mandate, states must develop policies to keep their water sources from becoming further degraded by industrial or other activities; and they have to have implementation plans in place, so those policies have real world effect.

Working with our client Idaho Conservation League, *Advocates for the West* has sought through many different initiatives and cases to force the State of Idaho – and EPA – to fulfill the requirements of the Clean Water Act. Our latest Clean Water case was filed recently by our Senior Staff Attorney Todd Tucci, who is working with ICL’s Program Director Justin Hayes to remedy Idaho’s refusal to adopt an anti-degradation implemental plan.

Without an anti-degradation implementation plan in effect, Idaho state agencies are unable to effectively prevent existing high quality waters from becoming tainted. Meanwhile, new sources of pollution – such as from the mega-dairies streaming into Idaho’s lax

enforcement environment – are presenting serious threats of polluting and degrading our precious water supplies.

The litigation that we filed recently in federal court is available on our website at [www.advocateswest.org/bulletin/epa-has-failed-protect-idahos-water](http://www.advocateswest.org/bulletin/epa-has-failed-protect-idahos-water). But it is just one step of many to protect Idaho’s water quality. In addition to this litigation, we are partnering with ICL on other initiatives aimed at protecting and restoring water quality in Idaho for generations to come. Look for more details in future editions of *Case Notes*.•



Todd Tucci



Elk in Stanley

PHOTO BY: Lynne Stone



## Staff Updates

### GOODBYE TO BEN; WELCOME CHRIS!



**I**n fall 2009, we hired Ben Otto as an *Advocates for the West* Fellow to work on energy policy matters in Idaho and other western states. Ben graduated from Lewis and Clark Law School in May 2009, and moved to Idaho where he passed the Idaho bar. We were fortunate to attract his skills and energy.

With our blessing, Ben has now moved to Idaho Conservation League, where he is continuing to work on energy issues – and where he has a bright future indeed. We anticipate working closely with Ben on energy issues in the future, as the overlap between ICL and *Advocates for the West* on energy questions continues to expand. Good luck, Ben, in your new position!

Fortunately, we were able to quickly fill Ben's absence with another talented new attorney – Chris Sherman, who joined *Advocates for the West* in April. Chris is a local boy made good. He attended Boise High School, and the College of Idaho. He then went to Yale Law School, where he graduated in May 2009; and passed the New York State bar.

Chris will be working on a variety of water and mining issues in conjunction with Idaho Conservation League; and he will be focusing upon energy development and transmission in the West. There are

many new energy projects lining up in Idaho and other western states – some of them good projects, but others pose potential threats to sagebrush and other habitats that are critical to wildlife, such as sage-grouse. How to encourage responsible energy developments, while protecting wild places and crucial sage-grouse or other wildlife habitats, presents a major challenge that we will be tackling increasingly in the future. We are happy to have Chris on our team in this effort.

### THANK YOU, GENE BRAY!

**W**e would like to give a great big thank you to Gene Bray, volunteer extraordinaire, for donating countless hours and resources to make sure our ship runs smoothly. Gene manages all our computer systems and field equipment too. Gene's passion for the West coupled with his technological skills have been invaluable to *Advocates for the West*. Thank you, Gene!



Gene Bray and Zaza Mtskhetadze demonstrating the construction of utilization cages to BLM staff in Boise, ID, used to measure livestock impacts. They constructed 27 Cages in less than an hour! Thank you Zaza and Gene!



# THANK YOU FOR SUPPORTING ADVOCATES FOR THE WEST!

With the generous support from the following individuals and organizations in the last year, we have continued to protect and restore YOUR public lands, water, and wildlife:

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## Advocates for the West's Annual Lek Watch

Thank to everyone that attended our second annual Sage Grouse lek watch and a special thanks to biologist Stuart Murray for leading an insightful campfire discussion and morning hike to the lek. We saw over 20 sage grouse displaying and the Owyhees were gorgeous!



## Other Events

**Boise's First Annual Rec Fest**  
**June 26-27**  
**Ann Morrison Park, Boise**

Join *Advocates for the West* staff at the Elements Tour Stage and learn what we are doing to protect Idaho's open spaces. Visit our website in June for more details.

**Hyde Park Street Fair**  
**September 17-19**  
**Camel's Back Park, Boise**

Mark your calendars for the 30th Annual Hyde Park Street Fair. Stop by our informational booth for conversation with Advocates staff and volunteers, sign up for our emails and newsletters We'll see you there!



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*The mission of Advocates for the West is to use law and advocacy to restore streams and watersheds, protect public lands and wildlife, and ensure sustainable communities in Idaho and other western states.*

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