

## 2011 CASE DOCKET

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### *PROTECTING WESTERN FISH AND WILDLIFE*

**Rocky Mountain Bighorn Sheep** (*WWP, The Wilderness Society and Hells Canyon Preservation Council v. Forest Service, No. 07-cv-151, D. Idaho; WWP et al v. BLM, No. 09-cv-507, D. Idaho*): Companion cases protecting Rocky Mountain bighorn sheep in Hells Canyon and Salmon River from fatal diseases spread by domestic sheep grazing on public lands. In response to our litigation, Forest Service has ordered closure of sheep allotments on Payette National Forest and BLM has closed Partridge Creek allotment to protect bighorn sheep, setting national precedent.

**Selkirk Woodland Caribou** (*Defenders of Wildlife et al. v. Martin, No. 05-cv-248, E.D. Wash.*): Endangered Species Act case to protect critically-imperiled woodland caribou in the Selkirk Mountains in their winter habitat. The caribou survive the winter by feeding on the lichen growing on old-growth trees, and are easily disturbed by human presence, including snowmobiles. Court-ordered injunction limiting snowmobile use of winter habitats remains in effect until Forest Service completes a new winter plan and complies with ESA.

**Sage-Grouse On BLM Lands** (*WWP v. Salazar, 08-cv-516, D. Idaho*): This case challenges a suite of 16 BLM resource management plans and associated EISs determining long-term management of more than 25 million acres of sage-grouse habitat in Idaho, Utah, Nevada, California, Wyoming and Montana. In September 2011, district court granted partial summary judgment for us, ruling that BLM violated NEPA and Federal Land Policy and Management Act in adopting Pinedale WY and Craters of the Moon ID plans.

**Great Basin Sage-Grouse** (*WWP v. Interior, 08-cv-435-BLW, D. Idaho*): Challenge to dozens of BLM grazing decisions affecting Great Basin “core” population of sage-grouse in BLM’s Owyhee, Bruneau, and Shoshone Field Offices of Idaho, which BLM approved without studying cumulative impacts on key sage-grouse habitats or populations.

**Jarbidge Sage Grouse** (*WWP v. Ellis, 04-181-BLW, D. Idaho*): Latest round in this long-standing litigation to protect sage-grouse in BLM’s Jarbidge Field Office of southern Idaho from adverse impacts of grazing and fires resulted in court order further restricting livestock grazing in sage-grouse key habitats after BLM failed to comply with 2005 settlement agreement requiring new management decisions.

**Mono Basin Sage-Grouse** (*WWP and Wild Earth Guardians v. BLM, No. 02:10-cv-2896, E.D. Cal.*): Litigation challenges BLM’s approval of continued harmful livestock grazing in nesting and brood-rearing spring habitats of Mono Basin sage-grouse, a “distinct population segment” of greater sage-grouse that faces imminent threat of extinction. Despite extensive science showing that grazing reduces native habitats needed for sage-grouse successful reproduction, BLM has not analyzed those impacts nor acted to protect remaining sage-grouse habitats and populations in the Bodie Hills allotments of Mono Basin in eastern California.

**Sage-Grouse in Upper Salmon Basin** (*WWP v. Rosenkrance, Nos. 09-cv-291-EJL, 09-cv-365-REB, & 09-cv-298-EJL, D. Idaho*): Cases challenging BLM grazing and fencing decisions on allotments in Upper Salmon basin adversely affecting greater sage-grouse and other species, including in Burnt Creek Wilderness Study Area and several Pahsimeroi River allotments, including Grouse and Rock Creeks. We won court rulings in our favor on Burnt Creek and Grouse/Rock Creek allotments; and settled remaining litigation.

**Salmon, Steelhead and Bull Trout in Upper Salmon Basin** (*WWP v. Rosenkrance, No. 09-cv-532-BLW, No. 09-cv-368-REB & 09-cv-611-CWD (D. Idaho)*): Settlements reached in a suite of cases challenging BLM and Forest Service ESA violations in failing to reinstate consultation over land management activities affecting salmon, steelhead and bull trout in Lemhi, Pashimeroi, and other watersheds of upper Salmon River basin in central Idaho.

**Pygmy Rabbit** (*WWP v. Ashe, No. 11-cv-462, D. Idaho*): In this fourth round of litigation over Endangered Species Act protection of the pygmy rabbit – a sagebrush-obligate mammal that is the smallest rabbit in North America – we are challenging the 2011 “not warranted” determination by US Fish and Wildlife Service, which violated past agency policies and the ESA in failing to address loss of pygmy rabbit habitat in significant portions of its range.

**Greater Sage-Grouse ESA Listing** (*WWP, Wild Earth Guardians, and Center for Biological Diversity v. Fish and Wildlife Service, No. 10-cv-229-BLW, D. Idaho*): We brought this case to challenge US Fish and Wildlife Service’s March 2010 determination that its bureaucratic backlog “precludes” it from proceeding to list greater sage-grouse as an endangered or threatened species under the ESA. Conflict between our clients over settlement with agency required our withdrawal from the litigation in 2011.

**Mexican Free-Tail Bats and Greater Sage Grouse, Spring Valley NV** (*Western Watersheds Project and Center for Biological Diversity v. BLM, No. 11-cv-053, D. Nevada, and No. 11-15799, Ninth Circuit*): We sought injunctive relief to protect one of the Great Basin’s largest colonies of Mexican free-tail bats as well as sage-grouse and other species from impacts of proposed Spring Valley Wind project in northeastern Nevada, which BLM approved without conducting a full Environmental Impact Statement under NEPA.

## ***DEFENDING WESTERN PUBLIC LANDS***

**BLM Grazing Regulations** (*WWP v. Kraayenbrink, No. 10-1290, US Supreme Court*): Ranching industry group filed petition for certiorari from our Ninth Circuit victory, holding that BLM violated NEPA and ESA in 2006 grazing regulation revisions which would have reduced public involvement and weakened ecological requirements for grazing management on 160 million acres of western public lands. In October 2011, the Supreme Court denied review, thus leaving in place the permanent injunction prohibiting the 2006 regulations from taking effect.

**Forest Service Grazing CEs** (*WWP et al v. US Forest Service, 08-cv-1460-PJH, N.D. Cal.; No. 10-cv-612, D. Idaho*): This litigation originally challenged hundreds of Forest Service grazing permit renewals on dozens of National Forests across the West, which were issued without NEPA analysis and in violation of a congressional rider. The Forest Service has subsequently withdrawn many of the challenged decisions. Litigation is now proceeding in California, Oregon, and Idaho federal courts challenging remaining disputed CEs across five western states.

**Forest Service Travel Rule Exclusion of Snowmachines** (*Winter Wildlands Alliance v. Forest Service, No. 11-cv-586, D. Idaho*): In 2005, the US Forest Service ordered that all National Forests conduct travel planning to limit damage by off-road vehicles to public lands and prevent conflicts among resource users -- yet the agency excluded winter snowmachines from this planning requirement. This litigation challenges that exclusion as being arbitrary and capricious, when increasingly powerful over-snow vehicles are documented to be causing resource damage and conflicts in many National Forests, including in Idaho.

**California National Forests Snowmobile Trail Grooming** (*Snowlands Network, Winter Wildlands Alliance, and Center for Biological Diversity v. US Forest Service, No. 2:11-at-1586, E.D. Cal.*): Challenging Forest Service violations of NEPA in failing to study adverse impacts of snowmobile trail grooming in eleven National Forests spanning the Cascade and Sierra Nevada Mountains in California.

**Antelope Allotment, Oregon** (*Oregon Natural Desert Association and Klamath Siskiyou Wildlands Alliance v. Sabo, No. 10-cv-1212, D. Oregon*): Won summary judgment holding that Forest Service violated NEPA and National Forest Management Act in opening sensitive wetlands and imperiled species' habitat to livestock grazing on Chemult Ranger District of southern Oregon.

**BLM Permittees FOIA** (*WWP and Wild Earth Guardians v. BLM, No. 09-cv-482-CWD, D. Idaho*): Won Freedom of Information Act case challenging BLM's refusal to provide grazing permittees' names and addresses under FOIA, and then settled fee claim.

**Fossil Creek Range Allotment, Arizona** (*Center for Biological Diversity v. Provencio, No. 10-cv-330, D. Arizona*): Litigation brought under ESA, NEPA, and NFMA challenging Cocino National Forest's authorization of excessive and damaging livestock

grazing in Fossil Springs and Mazatzal wilderness areas, harming Chiricahua leopard frog, southwestern willow flycatcher, and other endangered and threatened species.

**Nickel Creek Allotment/Owyhee Resource Area** (*WWP v. Interior, No. 08-cv-506-BLW, D. Idaho; No. 10-35836, Ninth Cir.*): After a four week administrative hearing, we won a strong ruling from a Dept. of Interior administrative law judge – later upheld by the federal district court – that BLM violated its grazing regulations by not imposing protective ecological conditions as mandatory permit terms and requirements in Owyhee Resource Area’s 70,000-acre Nickel Creek allotment, home to sage-grouse, bighorn sheep, redband trout, and other imperiled native species. BLM is now appealing the district court’s award of attorney fees for the administrative proceedings.

**Green Mountain Common, Wyoming** (*WWP et al. v. BLM, No. 10-cv-284, D. Wyo, and OHA No. WY- 050-11-01*): We brought federal court litigation to challenge BLM’s violations of the Fundamentals of Rangeland Health and a prior settlement agreement, in failing to improve grazing management on the 500,000-acre Green Mountain Common allotment of southern Wyoming. In response, BLM issued a new decision which proposed to build over 40 miles of new fencing, in one of the largest unfenced areas remaining in the lower 48 states. In August 2011, an Administrative Law Judge issued a stay of the fencing based on BLM’s likely violations of federal law in not considering adverse impacts to sage-grouse, pronghorn antelope, and other wildlife.

**North Sheep Allotments, Sawtooth NF** (*WWP v. US Forest Service, 09-cv-626-BLW, D. Idaho*): Challenge to Supplemental EIS for sheep grazing allotments in Sawtooth National Forest rejected by the district court.

**Greenfire Permit Revocation** (*Valley Sun LLC and WWP v. BLM, ID-330-2009-03, et al., Dept. of Interior Office of Hearings and Appeals*): We successfully challenged the attempt by BLM’s Challis Field Office to revoke the grazing permits associated with the Greenfire Preserve on the East Fork Salmon River, which have been in non-use for resource restoration purposes.

**Oregon Grazing Cases:** We are working with Oregon Natural Desert Association and Western Watersheds Project on several Oregon federal court cases, led by ONDA attorneys, challenging grazing and vegetation management decisions that affect sage-grouse as well as other imperiled species – including bull trout and pygmy rabbit – on public lands in eastern Oregon. These include SE Oregon RMP, Louse Canyon, Bully Creek, and North Fork Malheur areas.

## ***RIVERS AND WATER QUALITY***

**Highway 12, Conoco and ExxonMobil Mega-Loads** (*Linwood Laughy et al. v. ITD, contested case hearings*): We represented local residents and business owners, as well as Friends of the Clearwater, in administrative “contested case hearings” challenging Idaho Transportation Dept’s approval of Big Oil “mega-loads” to use Highway 12 through the wild and scenic corridor along the Lochsa and Middle Fork Clearwater Rivers for transport of massive oil refining equipment from overseas manufacturers.

**Locha and Middle Fork Clearwater Wild and Scenic Rivers/Big Oil Mega-Loads** (*Idaho Rivers United v. US Forest Service, No. 11-cv-95, D. Idaho*): We also filed federal litigation on behalf of Idaho Rivers United against U.S. Forest Service for violations of Wild and Scenic Rivers Act and other federal laws, based on Forest Service's erroneous assertion that it lacks jurisdiction to protect wild and scenic values from the planned Big Oil mega-loads up Highway 12.

**Boise River/Atlanta Gold Mine** (*Idaho Conservation League v. Atlanta Gold Corp., No. 11-cv-161, D. Idaho*): Citizen enforcement suit under the Clean Water Act over hundreds of violations by mining company in toxic discharges from Atlanta Mine adit into Middle Fork Boise River drainage.

**Boise River/CuMo Mine** (*Idaho Conservation League et al. v. US Forest Service, No. 11-cv-341, D. Idaho*): We represent ICL, Idaho Rivers United, and Golden Eagle Audubon Society in litigation challenging Boise National Forest's approval of road building and drilling of hundreds of exploration holes for proposed CuMo Mine – promoted as potentially largest open-pit molybdenum mine in the world – in the headwaters of Grimes Creek, in the Boise River watershed.

**Idaho Water Quality, Anti-degradation Standards** (*Idaho Conservation League v. EPA, No. 10-cv-207-EJL, D. Idaho*): Settlement reached in lawsuit challenging EPA's violations of Clean Water Act in not rejecting State of Idaho's inadequate standards to prevent water quality degradation.

**Salmon Wild and Scenic River** (*Snake River Basin Adjudication, Idaho*): We are opposing irrigator "flood flow" claims in the Lemhi River, which claims are unlawful under Idaho water law and would undermine a recent settlement we reached with the federal and state governments establishing minimum flow regimes for the Salmon River under federal instream water rights.

**Restoring Flows In The Middle Rio Grande, New Mexico** (*Rio Grande Silvery Minnow et al. v. Bureau of Reclamation, Nos. 05-2293 & 05-2399, US Court of Appeals for the Tenth Circuit*): In 2011, we finally resolved attorney fee and litigation expenses claimed in decade-long litigation over water management in the Middle Rio Grande of New Mexico, which focused on improving water efficiency and protecting the endangered Rio Grande Silvery Minnow.

*For more information on these and our other cases,  
please visit our website:  
[www.AdvocatesWest.org](http://www.AdvocatesWest.org)*