



**Western  
Environmental  
Law Center**

**Spring 2020**



## **WE DEFEND THE WEST**

- > A just energy transition
- > Lynx, wolves, and grizzlies
- > Protecting Keystone XL protesters
- > Protecting clean water
- > Award-winning work
- > Defending bedrock laws





**Environmental Group of the Year**  
from Law360

**Top 10 Best Places to Work**  
from Outside Magazine

**Highest 4-Star Rating**  
from Charity Navigator



## EARNING YOUR TRUST

It is important to practice the values we demand of others, and we are proud to share that we have recently been recognized for our achievements in environmental advocacy, taking care of our staff, and organizational operation and transparency. WELC was named a Law360 Environmental Group of the Year for our work to protect the climate from rampant fracking (see page 6 for details). We also earned Charity Navigator's highest rating, affirming we are transparent and accountable. Plus, our healthy office culture earned us a spot in the top ten of Outside Magazine's "Best Places to Work" feature.

# LOOKING ACROSS THE WEST

Fear. Anxiety. Worry.

These words animate many of our conversations, whether in the context of our country's politics or in considering the future of our public lands, wildlife, and communities. These words can also divide us against each other so that others may profit from our division.

Yet there are alternatives to these words.

Purpose. Intention. Courage.

These words inspire, motivate, and bring us together to work together. And these words help us counter toxic efforts to foment cynicism of our democracy and the civic institutions so essential to our capacity to face, with clarity, the climate crisis and to fight for the West's public lands, wildlife, and communities.

I have a choice. You have a choice. We have a choice, *together*, to choose what words we center in our lives and in our advocacy to safeguard the West's intertwined natural and cultural heritage.

So let us choose wisely. And as we do, let us consider what this moment is and is not.

It is a moment of challenge. But it is *not* a moment of despair. It is a moment where much hangs in the balance. But it is *not* a moment when the future is determined.

It is a moment in which we must keep our vision of a thriving, resilient American West, abundant with protected public lands and wildlife, powered by clean energy, and defended by communities rooted in an ethic of conservation clear in our hearts, minds, and souls.

Because it is that vision that carries our purpose, inspires our intention, and sparks our courage.

And I assure you: it is that vision the Western Environmental Law Center, with your support, will achieve.



For the West,

Erik Schlenker-Goodrich  
Executive Director



## PROTECTING WILDLIFE



**T**his year the Trump administration is poised to remove endangered species protections for gray wolves, Canada lynx, and Northern Continental Divide grizzly bears. Trump's Fish and Wildlife Service is also expected to deny wolverines endangered species protections even though they number only about 300 in the continental U.S. WELC is fully prepared to fight in court for each of these iconic animals of the West.

Wolves, grizzlies, lynx, and wolverines serve as keystone species, maintaining a crucial balance in their ecological communities. When keystone species suffer, so do entire forests, valleys, and mountains. The Trump administration doesn't care about restoring these species or keeping ecosystems in balance—it only wants to remove perceived barriers to unfettered exploitation of public land for private profits. To Trump and the people

carrying out his agenda, extinction is the price of doing business.

The truth is, science does not support removing or denying protections for any of these animals. This is especially so considering the immediate and growing climate-related obstacles to recovery. For grizzly bears, warmer weather is making it harder for them to find a primary food: calorie-rich whitebark pine seeds. Lynx and wolverines need strong snowpack for reproductive success, but the snow is melting away. And wolves alleviate climate impacts on food chains.

We are experts in defending wildlife and over the years have won cases to help all these animals. We will continue using the law to stop any future erosion of their much-needed protections, and we will ensure these iconic wildlife recover and thrive in the American West.



## DEFENDING A CRUCIAL LAW

**T**he Council on Environmental Quality (CEQ) has proposed dismantling longstanding bedrock protections for communities, public lands, and wildlife.

Designed to weaken the public's role in federal agency decisionmaking to benefit extractive interests such as oil and gas companies, CEQ's proposed rule would empower federal agencies to advance the administration's reckless agenda against public lands and the climate.

CEQ's proposed rule follows on the heels of a similar rulemaking initiated by the U. S. Forest Service. The Forest Service's proposed rule would insulate up to 93% of the agency's decision from public review, and would dramatically expand reckless logging across our national forests rather than focusing on science-driven restoration and collaboration.

We are fighting this hit-job on the National Environmental Policy Act (NEPA) tooth and nail.

These proposed changes, if finalized, would exacerbate the climate crisis and harm the American West's communities and intertwined natural and cultural heritage. We see this extreme move as a response to several landmark court decisions brought about by WELC and other legal advocates mandating that the federal government account for its role in the climate crisis.

Research shows that better land management decisions are made when environmental analysis, disclosure, and public engagement requirements are faithfully followed. Weakening them will imperil the natural resources and values so important to our way of life. We are here to ensure that never happens.

# WE DEFEND THE WEST

WE OPERATE IN EVERY WESTERN STATE  
AND DRIVE PROGRESS NATIONWIDE.  
WE REPRESENT MORE THAN 185 CLIENTS EACH YEAR  
AND DO NOT CHARGE FOR OUR SERVICES.  
FOR MORE CASES, PLEASE VISIT [WESTERNLAW.ORG](http://WESTERNLAW.ORG)



1

## SAVING PUGET SOUND

Puget Sound is suffering from a nutrient pollution crisis affecting everything that depends on the Sound, from orcas, to Washingtonians, to the very ecosystem itself. And even though we know what is wrong and how to fix it, our state and federal government won't do anything about it. That is why we are taking legal action to require better water treatment to remove excess nutrients and toxic chemicals from the wastewater sent into Puget Sound.

2

## STOPPING OREGON'S LNG TERMINAL AND PIPELINE

We have fought the proposed Jordan Cove liquefied natural gas (LNG) pipeline and terminal in Oregon for over 15 years, defeating it twice. The project was revived by the Trump administration, but the state of Oregon denied it crucial permits. Now, what would be the largest greenhouse gas source in the state and a major detriment to forests and rivers appears to be on the ropes. In the case of a political intervention, we remain ready to defeat the project again in court.

3

## PROTECTING KEYSTONE XL PIPELINE PROTESTERS

We are working with the ACLU of Montana to protect the rights of peaceful protesters demonstrating against the Keystone XL Pipeline. The state of Montana refused to release public documents about its plans for dealing with protests, which may include spying on protesters, suppressing their free speech, and using military tactics on them. This approach, used against Dakota Access Pipeline protesters, must not be repeated. We filed a lawsuit against Montana agencies for this violation.

4

## PROTECTING OUTSTANDING NEW MEXICO WATERS

In New Mexico and everywhere, water is life. That is why we are embarking on a new, multi-year campaign to designate some new Outstanding National Resource Waters in the state. Designated streams, lakes, and wetlands receive special protection against degradation under New Mexico law and the Clean Water Act. Our first goal for this campaign is to protect the Pecos watershed, a place of inestimable ecological, recreational, and ecological value to New Mexicans.

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# STRONG CLIMATE STRATEGIES EARN STRONG CLIMATE RESULTS



Climate change is one of those big, gnarly, audacious problems that requires not only steadfast commitment, but also keen strategic thinking. Here at WELC, we have a bold West-wide theory of change that involves inspiring climate action, as well as a strategy emphasizing one state with tremendous opportunity.

Last year, we won a monumental case in federal court with the potential to drive fundamental reforms in the federal oil and gas leasing program in the era of climate action. Our victory will require the government, for the first time in history, to take into account the cumulative and downstream climate effects of public lands oil and gas drilling. That means instead of merely analyzing the emissions of *extracting* the oil and gas,

they must consider the impacts of *transporting* and *burning* these fuels. In addition, federal land managers can no longer analyze the climate impacts of an oil and gas parcel in isolation to minimize the appearance of its greenhouse gas contributions. Instead, they must look at the broader effects of fossil fuel extraction at a regional and national scale. Building on that victory, we are using the same legal theory in a new case targeting fracking in Colorado, Montana, Wyoming, Utah, and New Mexico.

WELC's strategic thinking on climate led us to hone in more precisely on New Mexico, host to the world's largest oil and gas boom in the Permian Basin, also known as Greater Carlsbad. The high intensity of fossil fuel activity in the state and its weak regulations

## AS WE FIGHT FOR A PHASE-OUT OF FOSSIL FUELS, WE ALSO ADVOCATE FOR A JUST, EQUITABLE TRANSITION TOWARD A CLEAN ENERGY FUTURE THAT SUPPORTS WORKERS AND THEIR FAMILIES.

provide not only an opportunity, but create an imperative for climate-centered reforms.

The regulatory framework in New Mexico has been so lax, in fact, that the state's Oil Conservation Commission didn't even have the power to fine companies that violate state rules. A 2009 New Mexico Supreme Court ruling stripped away that power on a legal technicality, leaving it to the state's Attorney General to levy fines for violating oil and gas rules. In the decade since, industry-related spills and violations increased nearly 100 percent over the previous 10 years, while fines dropped to zero in 2018.

This year, WELC helped achieve passage of new legislation and administrative rules to reinstate the agency's ability to enforce its regulations. We are now leading the environmental community in pushing the Lujan Grisham administration to adopt the toughest rule in the country to minimize methane waste and pollution from the oil and gas industry. Methane is a greenhouse gas 87 times more potent than carbon dioxide in worsening the climate crisis. Research has shown that venting, flaring, and leaks by the oil and gas industry in New Mexico cause greenhouse gas pollution equivalent to more than 20 coal-fired power plants every year.

A strong methane waste rule will take a huge bite out of the state's already outsized contributions to the climate

crisis and is a critical first step towards even stronger climate action.

Early in her tenure, Gov. Lujan Grisham also signed the Energy Transition Act, a forward-thinking law that will promote clean electric power in New Mexico. WELC represented local community and Navajo groups in a historic utility commission case to retire a highly polluting coal plant, replace it with clean energy resources, and secure transition funding for the community. WELC helped convince the administrative law judges hearing the case to recommend abandonment and early funding for community-based economic diversification.

Finally, our successful court case to protect Greater Chaco from rampant fracking helped spur new protections for the area immediately outside Chaco Culture National Historical Park. These protections withdraw, for now, federal minerals from new oil and gas leasing within a 10-mile radius of the park, though the fight for permanent protection continues.

This work represents steps in the right direction. But we are far from finished, and we will lead with bold action that ultimately ends our country's dependence on fossil fuels. That means a managed decline of fossil fuel extraction on public lands. It means action to diversify our economy. And it means action to safeguard our communities in the face of a warming climate.





## PROTECTING GRIZZLY BEARS FROM TRAINS AND BAITING

**W**e are fiercely dedicated to grizzly bear recovery in the American West. That is why in addition to our work in Greater Yellowstone, we are also using the law to elicit changes to train traffic along one particularly deadly stretch of railway in northern Montana.

One operator's trains—Burlington Northern Santa Fe Railway Company (BNSF)—killed or contributed to the deaths of 52 grizzlies in this region. When a company's activities kill threatened wildlife such as grizzly bears, it is legally required to propose solutions in a habitat conservation plan that minimizes harm to the animal.

For more than 15 years, BNSF has said it is working on a habitat conservation plan for grizzlies along its northern Montana train route, but one has never materialized. We threatened to take BNSF to court over this carnage, and

as a result, the company agreed to prepare a conservation plan in earnest, and consider a group of effective, common-sense changes to their procedures in the area that would save grizzlies' lives.

In addition, we are working to protect grizzly bears from bear baiting in national forests in Wyoming and Idaho—the only states to allow this practice. Bear baiting is the practice of luring black bears to piles or containers of human foods, such as stale donuts, in the woods for the purpose of killing them. It shouldn't be surprising that grizzly bears are also often drawn to these bait stations, and sometimes killed, either in mistaken identity or self defense. That is not permissible under the Endangered Species Act, and it impedes grizzly recovery. We are in court to stop this practice from harming protected grizzly bears.

## WHY I BECAME A LEGACY DONOR

**Dyan Oldenburg, New Mexico**

**"WELC'S MISSION IS CRITICAL TO ME. THEIR WORK SAFEGUARDING PUBLIC LANDS, WILDLIFE, AND COMMUNITIES ACROSS THE AMERICAN WEST NEEDS TO CONTINUE FAR AFTER I'M GONE. WELC'S COMMITMENT TO THE AMERICAN WEST AND ALL THEY SERVE IS REMARKABLE. PLEASE JOIN ME IN BECOMING A LEGACY DONOR TODAY."**

Make a difference for years to come by joining our Gil F. Staender Legacy Circle. By naming Western Environmental Law Center in your will, trust, or other estate plans, you'll make a lasting contribution to the protection of the public lands, wildlife, and communities of the American West. We offer a variety of donation options and planned giving opportunities. Here are a few examples:

- Charitable Remainder Trusts
- Charitable Gift Annuities
- Gifts of Stocks, Bonds, and Mutual Funds
- Automatic Monthly Giving
- Workplace Giving
- Real Estate and Car Donations

We fight in court to defend the American West on behalf of our clients free of charge, but we can't do it without your support. Your entire donation to the Western Environmental Law Center is tax deductible as a charitable contribution for federal income tax purposes, as allowed by law. WELC's Federal Tax ID Number is 93-1010269.

**Please contact David Lawlor at 541-255-0209 or [lawlor@westernlaw.org](mailto:lawlor@westernlaw.org) to join our Gil F. Staender Legacy Circle or to learn more about planned giving options. We appreciate and welcome gifts of all sizes.**





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## WESTERNLAW.ORG

We are a nonprofit, public-interest environmental law firm. We use the power of the law to safeguard the public lands, wildlife, and communities of the American West in the face of a changing climate.

We balance and offset our environmental footprint by purchasing Renewable Energy Certificates, Carbon Offsets, and Water Restoration Certificates®

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To improve water flow and retention in areas that lack beavers, people are installing replica beaver dams. But we know the real thing is better. We are helping craft legislative and rulemaking proposals that protect beavers at the state level in Oregon, and we are influencing beaver relocation and protection laws for federal lands nationwide.

