



Western
Environmental
Law Center

WE DEFEND THE WEST

Summer 2020



Together, we saved 150,000 acres in Montana from fracking. Our courtroom victory has a direct impact protecting clean water, public lands, and our climate.

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- > Safeguarding grizzlies
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OUR COMMITMENT TO RACIAL JUSTICE

We are fiercely dedicated to equity, inclusion, and justice. The brutality suffered by Black, Brown, and Indigenous peoples is mirrored by the brutality suffered by the world around us. To safeguard the public lands, wildlife, and communities of the American West in the face of a changing climate, we must fight the systemic racism and oppression that has persisted for generations. In the words of the Rev. Martin Luther King, Jr., “Justice denied anywhere diminishes justice everywhere.”

WELC supports the Movement for Black Lives. We acknowledge our duty to decolonize environmentalism and to be actively anti-racist. And we acknowledge that to do so, we must listen, learn, and hold ourselves accountable while promoting equity, inclusion, and justice at WELC, in our communities, and in our daily lives. We must actively engage to dismantle racism within our society and the environmental movement, even as we individually strive to understand and dismantle systemic racism within ourselves. This is the path to truth, collective empowerment, and transformative change. Let us join in this, *together*.

LOOKING ACROSS THE WEST

In May 2020, the Trump administration reached an inauspicious milestone: It has taken action to reverse 100 environmental rules.

This administration continues its deregulatory frenzy despite 2020 shaping up to be the warmest year in recorded history, our country mourning more than 100,000 deaths from the COVID-19 pandemic, while actively struggling to reconcile its history of violence to Black, Brown, and Indigenous peoples, and so many losing their sources of income.

It's tough to look at the confluence of crises we now navigate with anything but despair—especially given that this moment in time reminds us that our lives are so, so fragile.

But as one of my favorite writers also recently wrote, “the virus is rewriting our imaginations.”

And those imaginations are crucial—indeed, they are essential.

It's our imaginations that let us dream of a thriving, vibrant future, where justice is sought and found for the natural world and our Black, Brown, and Indigenous brothers and sisters who have suffered the ills of systemic racism and oppression.

It's our imaginations that empower us to apply science, law, and strategy to get us there.

In the wake of the November 2016 elections, we made a commitment

to ourselves and to you to hold the line against the Trump administration, set the stage for bold climate and conservation action, and build power for change with new and old partners alike. We've done that.

We've used the power of the law to knock out hundreds of thousands of acres of oil and gas leases on our country's beloved public lands. We've leveraged science to protect the wild grizzly, wolf, and salmon. And we've stood tall in the face of the Trump administration's long list of environmental rollbacks.

Our imaginations became reality.

As we approach the November 2020 elections, our imaginations now compel us to make a new commitment to you: to apply the lessons we have learned not just in defense of the American West, but in service of forward-looking action to secure its thriving, vibrant future. We have far to go in learning and living with grace on this beautiful planet and with all its peoples. But it is imperative that we make this journey together, one step at a time—for ourselves, for our communities, and for the world.



For the West,

Erik Schlenker-Goodrich
Executive Director

CLIMATE VICTORY PROTECTS 145,063 ACRES IN MONTANA FROM FRACKING



Fracking for oil and gas is wreaking a terrible toll across the American West. It industrializes entire landscapes as “sacrifice zones,” worsens the effects of climate change we are already feeling, and threatens to contaminate water supplies. Nearly a quarter of all U.S. climate pollution comes from fossil fuels extracted from public lands, according to scientists at the Department of Interior.

But our courtroom victories are stopping many of these oil and gas projects from harming the climate, and the people and places that embody the West. A new legal precedent first set by the WELC team of attorneys requires federal land managers to study the cumulative climate impacts of public lands oil and gas leasing.

This spring, we leveraged this compelling precedent, bringing a new challenge to oil and gas leases sold by

the Bureau of Land Management (BLM) on behalf of farmers, rural landowners, the Montana Environmental Information Center, and WildEarth Guardians, alongside Earthjustice.

This challenge covered oil and gas leases on 145,063 acres across Montana, including the Tongue River Valley, near Livingston, as well as the Beartooth Front. Our case demonstrated the BLM’s failure to properly analyze climate and groundwater impacts so completely, the judge canceled all 287 oil and gas leases in question.

On-the-ground results coupled with a quest for transformative change drive our work, and our pioneering legal advocacy has so far protected 628,763 acres of public land from fracking. Ever advancing, our new challenge seeks to expand our success to protect nearly 2 million additional acres.

VICTORY HELPING MEXICAN WOLVES RECOVER



Conservation victories can have a long “tail.” That is, positive changes in policy can take a long time to show real, on-the-ground results. But those results do manifest, as they have for Mexican wolves in Arizona and New Mexico.

Way back in 1998, WELC legal action prompted the U.S. Fish and Wildlife Service to release 11 captive-bred Mexican wolves into the wild. Seventeen years later in 2015, the population grew to 97 *lobos* in the wilds of the American Southwest.

That year, the Fish and Wildlife Service finalized a Mexican wolf management rule that would have set recovery back decades. The policy distorted science to justify increasing allowable wolf killing, capping the wolf population, and limiting their range. Reading like something out of Joseph Heller’s *Catch-22*, the recovery rule refused

to consider the only wild population of Mexican wolves as essential to the species’ recovery.

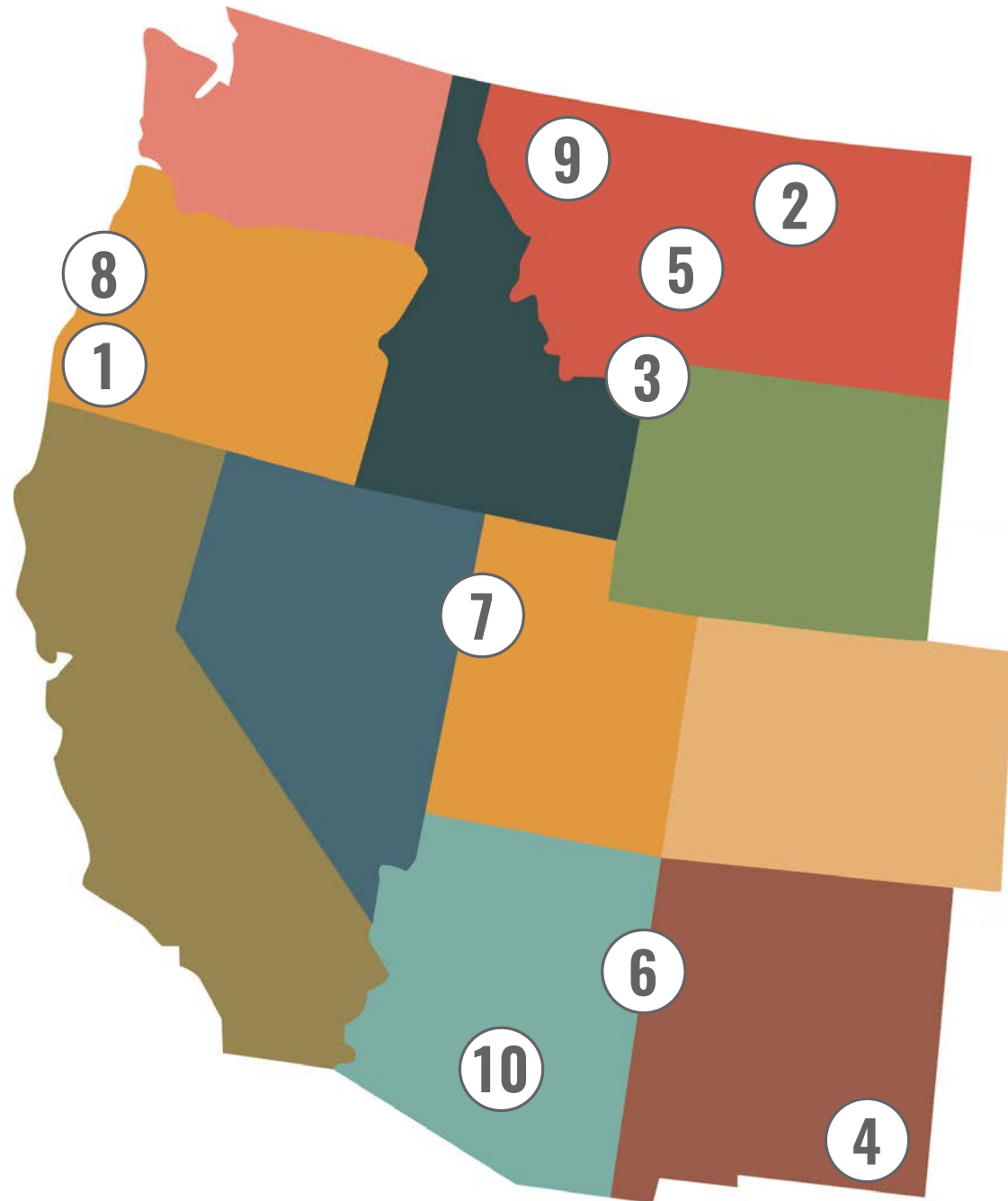
We went to court over that rule, and won resoundingly. The judge found the rule further imperiled the *lobo*, and ordered the Fish and Wildlife Service back to the drawing board.

Now, in 2020, Mexican wolves have reached a population of at least 163 in Arizona and New Mexico—but the *lobo* still needs our help.

For the revised rule, we are demanding the Service promote genetic diversification as a must, and that states cooperate in fighting human-caused deaths. In addition, we are demanding reform of archaic trapping laws in New Mexico. We are fully committed to Mexican wolf recovery, and we will continue to advocate for these icons of the Southwest.

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.
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1 STOPPING CLEAR-CUT LOGGING IN OREGON FORESTS

We are defending ancient forests on federal public lands managed by the Bureau of Land Management (BLM) in western Oregon from management plans that ignore science to facilitate massive and irresponsible increases in logging. While we recently lost our challenge to these plans that will tragically make destructive clear-cut logging much more common, we are keeping up the fight. Already, we have initiated new challenges to timber sales in court, which is where we must prevail.

2 REPRESENTING YOUTHS' CLIMATE RIGHTS

We are representing 16 youth plaintiffs in Montana, challenging the state's destructive energy policy. By explicitly promoting fossil fuels, Montana is violating the youths' constitutional rights to a clean and healthy environment. We are asking the court to uphold these rights and order the state to take strong climate action. As part of this effort, we are challenging a law that absurdly prohibits the state from considering climate impacts when making permitting decisions.

3 DEFENDING OUR YELLOWSTONE GRIZZLY VICTORY

Court rooms are still operating during the pandemic, and we had our first virtual court hearing in May. We defended our 2018 victory restoring endangered species protections for Greater Yellowstone grizzly bears. Our attorneys emphasized science and the importance of protections for these grizzlies to infuse other struggling bear populations with their genetic diversity. Grizzly recovery is ongoing, and we are standing tough against our opponents' disgraceful fixation on trophy hunting grizzlies.

4 FIGHTING THE DOUBLE E PIPELINE

Oil and gas companies in the Permian Basin are planning a 135-mile fracked gas pipeline between Eddy County, New Mexico and Pecos County, Texas. The pipeline would lie less than 40 miles from Carlsbad Caverns National Park. We submitted comments on its environmental assessment calling out clean air deficiencies and downstream climate and health impacts. This kind of infrastructure effectively locks in fracking for decades, and we are formulating a plan to stop it.



For nearly 50 years, the Clean Water Act has empowered the states and tribes to protect and restore the waters within their borders. A central pillar of this authority is the ability to say “no” to any project that threatens to degrade their waters or harm the communities that depend on healthy oceans, rivers, and wetlands.

Now, Donald Trump’s EPA is proposing changes that would sideline the states and Tribes nationwide in critical permitting decisions. The rollbacks will threaten drinking water, free flowing rivers, and a healthy environment by allowing federally licensed projects, such as dams, pipelines, coal, and liquefied natural gas (LNG) terminals, to avoid meaningful review by state and Tribal experts and scientists.

The new rules will also silence opposition to proposed projects, since much public participation is tied to

state and Tribal processes, and limit the information about the proposed projects and their impacts to local waters that is made available to states, Tribes, and the public.

Congress made a clear choice to give the states and the Tribes a say over types of projects that may impact their waters. In combination with the Administration’s other regulatory changes, these rollbacks would make it virtually impossible for states and communities to stop corporate interests from polluting public waters to generate private profit.

The Clean Water Act provides essential protections for our country’s water—a resource we simply can’t live without. With our partners at American Rivers, American Whitewater, Idaho Rivers United, and California Trout, we are poised to defend this bedrock environmental law.



The Trump administration is clearing the way for the Jordan Cove Liquefied Natural Gas (LNG) export terminal in Coos County, Oregon, and the Pacific Connector Pipeline—a project we have defeated twice before.

We’re gearing up to stop it a third time.

Jordan Cove LNG would be the largest construction project in Oregon’s history and also its biggest greenhouse gas polluter.

The fossil fuel pipeline would be 229 miles long, and would span Klamath, Jackson, Douglas, and Coos Counties in Oregon.

A great number of rural landowners who oppose the pipeline would be forced to have it cross their property. The pipeline would also disturb the ancestral lands of several Native

groups, including the Klamath Tribes, Cow Creek Band of Umpqua Indians, and the Coos, Lower Umpqua, and Siuslaw Tribe.

After refusing to authorize the project in the past, the Federal Energy Regulatory Commission voted to approve the project this spring.

There are hundreds of additional local, state, and federal authorizations required before construction of this project may begin.

We will advance strategic litigation to challenge those federal authorizations, and to defend the State of Oregon’s decision to deny applications for key state permits.

Third time is a charm for defeating this climate-killing project once and for all.

DEFENDING NATIONAL FORESTS IN MONTANA



Forest management affects more than just trees—it affects water, wildlife, wildfire risk, and the character of the wild places that renew our spirits. We have embarked on a broad, multi-year campaign to balance these values while promoting habitat security for native carnivores and big game in Montana. To advance this goal, we are challenging two aspects of the U.S. Forest Service’s management of public lands in the state.

First, we are in court to prevent the 17,000-acre Tenmile-South Helena logging project from despoiling roadless areas southwest of Helena. These roadless areas provide exceptional habitat for big game, wolverine, Canada lynx, and are also a corridor for grizzly bear migration between the Northern Continental Divide Ecosystem and the Greater Yellowstone Ecosystem, fundamental to grizzly recovery.

We are also challenging the revised forest plan for the Flathead National Forest, found in the Crown of the Continent region—and one of our country’s most valuable, intact ecosystems. The revised Forest Plan contains severe deficiencies such as road density standards and winter motorized recreation that will hamper recovery efforts and decrease habitat availability for wolves, grizzly bears, Canada lynx, wolverine, bull trout, and more for at least the next 15 years.

Ensuring this plan abides by the Endangered Species Act and other core environmental laws is crucial because the Flathead is being used as a model that all future forest planning processes will follow. The outcome of our litigation will set precedent for the Forest Service’s approach to forest planning nationwide. We are fighting to make that precedent and forest protection the best it can possibly be.

A WARM WELCOME TO OUR NEW STAFF AND BOARD MEMBERS



Staff: Melissa Hornbein, Attorney

Melissa joined our Helena office as the newest chapter in her diverse career, which includes working as an attorney with the Montana Department of Natural Resources and Conservation on tribal and federal water rights issues, and as an Assistant U.S. Attorney in Montana with the Department of Justice. Before she began her legal career, she worked in the field as a botanist and biological technician for the National Park Service and U.S. Geological Survey. She hit the ground running at WELC as an integral member of our climate and energy team.



Board Member: Daniel Cordalis, J.D.

Daniel, a member of the Navajo Nation who grew up in Durango, Colorado, practices natural resources and Indian law in California. He works closely with Tribes to protect their water, natural resources, and cultural resources through litigation, resource negotiations, land acquisition, and tribal governance and land management initiatives. Daniel’s addition to the board will enhance WELC’s ability to contribute meaningfully to the resolution of natural resources conflicts impacting Tribal communities and federal land management across the West.



Board Member: Cliff Villa, J.D.

Cliff is a constitutional and environmental law professor at the University of New Mexico School of Law, where he also teaches in the Natural Resources and Environmental Law Clinic. Previously, he served for 20 years as legal counsel for the U.S. Environmental Protection Agency, focusing on enforcement of laws including the Clean Air Act and Clean Water Act. As an authority on environmental justice, Cliff’s guidance on our board will elevate our strategic effort to build power for change through a commitment to equity, inclusion, and justice.



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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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SAFEGUARDING THE SONORAN DESERT TORTOISE

The Sonoran desert tortoise is a newly recognized species found in desert scrub habitats in Arizona and Mexico, east of the Colorado River. Despite repeated findings by the U.S. Fish and Wildlife Service that the tortoise deserves endangered species protections, the agency has refused any safeguards. We took the agency to court so we can give this tortoise a real chance at survival.

