



Western Watersheds Project MESSENGER

Vol. XXX1, No. 2

Fall 2023

WWP Founder Jon Marvel Looks Back on 30 Years

WWP and Allies Win Phosphate Mining Challenge in Idaho!

A Venerable California Conservationist Reflects



Working to protect and restore western watersheds and wildlife through education, public policy initiatives, and legal advocacy.

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Western Watersheds Project
MESSENGER



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*The Messenger is edited and produced by Greta Anderson,
 Erik Molvar, and Nancy Linscott.*

Design & Layout by Denise L. King • greentreedkdesign.com

Printing by Worth Printing, Hailey, ID • worthprintingidaho.com

WWP's Long Effort Wins Upper Green Grizzly Case



By Megan Backsen

I don't know when our Upper Green work began. The best I can say is "long before I officially joined the WWP team." I do know that our Upper

Green case was long, originally brought into court by then-WWP staff attorney John Persell in March of 2020 on behalf of WWP, Alliance for the Wild Rockies, and Yellowstone to Uintas. And then it crossed the country, from D.C. Federal Court to the District of Wyoming and eventually to the 10th Circuit Court of Appeals in Denver. When I first came on as a volunteer attorney, I only had my nights and weekends to give, but I did everything I could to help John. We fought to enjoin the decision, to keep the case in D.C., to get the right information into the record and in front of the judge, and we researched and wrote and erased what we wrote and researched and wrote all over again. We advocated.

The Upper Green River area of the Bridger-Teton National Forest is singular. Near Yellowstone National Park, it is home to a staggering complement of native wildlife, including the iconic grizzly bear. It is also, as you may have guessed dear WWP newsletter reader, subject to public lands livestock grazing. In October of 2019 the Forest Service reauthorized livestock grazing across 170,643 acres of suitable grizzly bear habitat in the Upper Green River area. With cattle comes conflict with grizzly bears, thus the 2019 authorization also came with a Fish and Wildlife Service "take" permit, allowing up to 72 grizzly bears to be killed.

In the law, you don't get to argue that something is "wrong," no matter how wrong it obviously is. Instead, you must argue within the confines of what the environmental laws of this country require our federal agencies to do. Specifically, you must argue that the agencies did not do what was required. John had a list, including several violations of the Endangered Species Act and one long-shot claim under the National Forest Management Act.

Six months after filing in DC, despite John's valiant efforts to keep the Upper Green case in D.C., it was transferred to Wyoming District Court. We filed a motion to complete the record, because certain information had not been added by the agencies. That motion was successful, in part. We filed another motion



Grizzly family at Togwotee Pass, Bridger-Teton National Forest.

Photo by Erik Molvar

to amend our Complaint to include additional claims. That motion was not successful. And finally, on November 29, 2021, we filed our opening brief; the culmination of efforts to protect the special and unique place that is the Upper Green. By the end of January, 2022, we had three opposing briefs to respond to: one from the federal agencies, one from the state of Wyoming, and one from the livestock industry. We had less than a month to write a single reply to all of them.

It became apparent very quickly that we needed more space. We were only allowed 15 pages, but the Court granted us an additional five. It still wasn't nearly enough. After many hours of writing, condensing, re-writing, and more condensing, our reply brief was filed on February 23, 2022. After that we waited and hoped. Less than three months later, and without letting us argue before the Court, the Wyoming District Court ruled against us.

On June 10, 2022, we filed our appeal. An appeal to the Tenth Circuit is very similar to the proceedings at a district court. There is an opening brief, followed by the response briefs, followed by the reply brief. It concluded on December 22, 2022, when I filed our final reply brief having been officially hired as staff attorney at WWP in September of 2022. And on March 1, 2023, the Tenth Circuit notified us that I would be arguing our case in person twenty days later in Denver.

I had never argued a federal case. I had argued in low level state courts, sometimes with my opponent, sometimes with the

judge (and sometimes with my clients!). I made a mountain of flash cards. I talked with John nearly every day. I practiced every chance I got. And when the day came, I felt wildly unprepared, but I knew I was right.

It went by in a flash. Not surprising since I only had ten minutes. And it felt good. Our panel of judges asked questions that indicated they agreed. They understood the technical details and the big picture. They had read all the cases I cited. They were prepared, too! It was the best day of my professional life so far.

On May 25, 2023, the Tenth Circuit issued its decision, finding the Fish and Wildlife Service and the Forest Service had violated the Endangered Species Act. And much to our surprise and delight, the Tenth also ruled that the Forest Service had additionally violated the National Forest Management Act.

This decision means so much because it is a new brick in the foundation of the whole environmental movement. It represents a chance to build additional good case law in a Circuit that traditionally has been hostile to our cause. But this work is about thinking long-term, and taking small, purposeful steps down a long road, and using the tools you have to make success where you can. That's what WWP does. We're in it for the long haul. And our Upper Green victory will fuel our work and expand our movement for years to come. ■

Megan Backsen is WWP's Tenth Circuit Staff Attorney



Photo by Erik Molvar

The entrance to the Caldwell Canyon mine site.

WWP and allies win phosphate mining challenge in Idaho



By Erik Molvar

The foothills of eastern Idaho have been carved up by the chemical industry to extract phosphate to produce the raw materials for fertilizers, insecticides, and herbicides. When Germany's Bayer corporation bought Monsanto (and its mining subsidiary called P4), it acquired the phosphate mining and milling operations in eastern Idaho that are used to produce the herbicide RoundUp, a particularly controversial chemical poison used to target weeds. RoundUp has been implicated as a cancer risk factor in humans, is acutely toxic to birds and fishes, and, according to the Ecology Center, it kills beneficial insects and soil invertebrates that are essential to maintaining healthy soils.

Our winning lawsuit focused on the Caldwell Canyon phosphate mine, which was sited in close proximity to key sage grouse habitats. Its phosphate was slated to be milled in Soda Springs, at a facility that has created such severe groundwater pollution that it has been designated a federal Superfund site. As the Bureau of Land Management went through the initial permitting process for the mine, we

pointed out that the proposed haul road was sited right next to a sage grouse lek (a violation of commitments the agency made in its 2015 Greater Sage-grouse Plan Amendments), and that this strip mine was just one of many that were collectively contributing to the downward spiral of eastern Idaho sage grouse populations. We also raised concerns that the milling of the phosphate to create the feedstock for RoundUp would extend and exacerbate groundwater pollution at the Soda Springs mill site.

The agency failed to heed our warnings, and proceeded to approve the mine and its access road. Advocates for the West took our case to federal court.

The Bureau of Land Management argued that the Idaho Game and Fish Department had rated the sage grouse lek as "pending" rather than "occupied," so the agency shouldn't have to apply the federal sage grouse habitat protections, requiring the access road to be sited at least 3.1 miles away. The Bureau characterized the sage grouse habitat as "marginal" as a means to sidestep environmental responsibilities. With regard to the indirect effect of phosphate mining at Caldwell Canyon contributing to groundwater pollution, the agency's excuse was that if Caldwell Canyon wasn't approved, the phosphate

mill would get its feedstock from another mine, and operations (and pollution) at the mill site would continue regardless.

In January of this year, the judge issued the ruling on the merits, striking down the agency's excuses, and affirming our claims with regard to sage grouse protections and indirect contributions of phosphate mining at Caldwell Canyon to groundwater pollution in Soda Springs. The court ruled that the state designation of the sage grouse lek as "pending" was irrelevant to the federal agency's responsibility to apply sage grouse protections and stated, "[T]he Court rejects [the Bureau's] and P4's attempts to minimize and downplay the value of the Project Area for sage-grouse habitat." The judge also found that the Bureau failed to provide a detailed account of the magnitude of cumulative negative effects on the beleaguered Eastern Idaho Uplands sage grouse population. This was a key ruling because the agency has grown complacent over the years in its perceived right to merely list a series of impact sources and call it a cumulative impact analysis, without weighing and disclosing the potential impacts to a given species or sensitive environmental value.

As far as groundwater impacts at the mill site, the judge ruled that there was

no way to determine that the mill could keep running (and causing groundwater pollution) for the next 40 years, as was planned using Caldwell Canyon ore, based on alternative sources of phosphate.

But the judge did not immediately rule on whether the mine would be shut down or could be allowed to proceed, and the second set of oral arguments was scheduled for late March. It wasn't until June that a ruling was finally issued. It was worth the wait. The court issued a carefully-crafted but decisive ruling, vacating not just the mine permit but also the authorization for the haul road and all the other aspects of the Caldwell Canyon phosphate mine. The ruling found holes in the mining corporation's economic estimates, and the potential for locating alternative phosphate sources. The judge smacked down the agency's argument that the haul road was already built, pointing out that the agency could not be allowed to pursue a strategy of asking forgiveness rather than permission when it comes to compliance with federal law.

Now the mine is shuttered. And we all wait to see what it means for the global supply of the highly-toxic herbicide RoundUp. We hope that this legal battle might yield a broader victory: A business decision by Bayer to abandon its manufacture of this toxic chemical compound for good, in favor of environmentally friendly alternatives. ■



Photo by Jeannie Stafford, USFWS.

Erik Molvar is the Executive Director of WWP.

Greater sage grouse.

Matching Grant Offered in Honor of Emily Shelby

Long-time WWP supporter and Wyoming resident T.R. Shelby has generously offered to match all donations received by November 17th, dollar for dollar up to \$58,124. Combined with T.R.'s earlier donations this year, if fully matched, this offer will provide over \$150,000 to WWP to help us protect wildlife habitat on your public lands—not only in Wyoming but throughout the west. This amazing opportunity is made to honor T.R.'s beloved wife, Emily Shelby. We can't thank him enough.

We hope that this offer inspires your generosity, too. It's easy to double the power of your gift by donating online through our website (www.westernwatersheds.org/donate - which you can also access by clicking on the QR code) or simply send a check in the enclosed envelope, being sure that it's postmarked by November 17th.

**Scan QR
to Donate**





Photo by Adam Bronstein, WWP

Angela C. Sondenaa PhD, Nez Perce Tribe, presents at the 2023 Re-Wilding Oregon Conference

The 2023 Re-Wilding Oregon Conference: Coming Together for a Wilder Oregon

The picturesque setting of Camp Sherman, Oregon, served as the backdrop for the first-ever Re-Wilding Oregon Conference, which took place in May of this year. Organized by Western Watersheds Project and the Wolf Welcome Commit-

tee, and hosted by Lake Creek Lodge, this event brought together 160 individuals, including public employees, environmental advocates, interested citizens, and even a few ranchers to learn about the concept of rewilding with an Oregon twist.

While it is too soon to make any commitments for a similar conference next year, please stay tuned. You can watch conference presentations by visiting our YouTube Channel: www.youtube.com/@westernwatershedsproject2562/videos ■

Staff changes at Western Watersheds Project

We're excited to have a new Geographic Information Systems (GIS) Specialist on board! Branden Rishel comes to us with over a decade of experience in spatial data analysis, geospatial data management, and production of maps and infographics for outreach, research, and presentations. Branden lives in Bellingham, Washington, and has spent significant amounts of time in the backcountry. He's got big shoes to fill now that Melissa Cain has moved on to graduate school, but we're confident he's up to the task. Welcome aboard, Branden!

We are also pleased to welcome Gregory LeDonne to our staff as our new Idaho Director. Greg replaced Patrick Kelly, who became our Montana and Washington Director. Greg is an attorney, historian, and advocate for public lands, and holds an MA in history from Boise State University, a JD from Harvard Law School, and a BA in history and political science from Yale College. Prior to joining WWP, he practiced law for over a decade as a prosecutor and government attorney. Greg has conducted historical research and written on topics



Photo provided by Branden Rishel

Branden Rishel is our new GIS guru.

centering around the environmental and cultural history of the twentieth-century North American West, including grazing, public lands, and rewilding.

We're sorry to say goodbye to Michael Saul as the Colorado Director after only a year. Michael has moved on to a larger conservation organization, from



Photo provided by Gregory LeDonne

Gregory LeDonne is our new Idaho Director.

which we expect him to funnel inside agency tips and the names of major donors. (Kidding!) We hope to have someone else on the ground in Colorado before the end of the year.

Available positions with WWP are posted online: <https://westernwatersheds.org/jobs/> ■

WWP founder Jon Marvel looks back on 30 years of battling public land and livestock injustices

By Erik Molvar

Jon Marvel moved to Stanley, Idaho in 1969. Cattle from the National Forest grazed the area from early June until the November snows. By the first of September, the cattle had grazed off all the grass on National Forest lands, and would then break through fences onto private property to pillage the grass found there. The ranchers were from Challis; they weren't even locals. "The ranchers didn't even care," Marvel reminisces. "The typical response was, 'You'd better keep your dog away from our cows, Jon. I'm going to have to shoot him if I see him,' one said. Another response was, 'That's your problem, it's not my problem.'" Another rancher, caught trespassing on Marvel's property, had the hubris to say, "We've been here from the beginning of time."

When the Sawtooth National Recreation Area was established in 1972, the Forest Service put Marvel on a grazing committee. Cattle crowded the creeks, damaging the salmon and steelhead habitat, and the new committee met for the next 15 years to address the issue. But ultimately it made no progress in correcting the problem. "It became clear to me that the Forest Service was complicit with ranching, and that basically they were not interested in changing much of anything," Marvel observes. A 1993 EIS on the Stanley Basin allotments reduced the area grazed significantly, but left the door open for ungrazed lands to be reopened later to livestock. "And that was only because we had one of the very few very good area rangers, of which there have been only two in the last 50 years," says Marvel.

That District Ranger was later promoted to Deputy Forest Supervisor on the Chugach National Forest in Alaska. "She called me up once from Alaska," says Marvel, "and said, 'Jon you can't believe how great the streams look up here.'" They didn't have a single cattle permit on the Chugach National Forest.

"I think that it's still, to this day, critically important that Western Watersheds exists because it is influential, in ways that nobody in the West had any influence," says Marvel. "Even when Johanna Wald [of Natural Resources Defense Council] forced the BLM to initiate NEPA analysis of grazing, that all had to be adjudicated too, because the BLM acted like grazing was just an ongoing activity that didn't need any analysis, but just went on forev-

er because it was part of the fabric of the West." That seminal lawsuit was filed in 1976, forcing agencies to consider environmental effects before renewing cattle and sheep grazing.

"The very first EIS on grazing was in Challis, Idaho," Marvel observes. "And that caused a lot of dismay, because ranchers didn't want any regulatory structure that told them what to do. And that's what a land-use plan is all about."

The widespread destruction of public lands by the livestock industry was becoming a more prominent environmental issue. "[Famed environmental author] Ed Abbey had come out against ranchers in 1986, at a meeting in Missoula, where he was booed by the audience there," says Marvel. "He gave a great talk about what ranchers were, and what was wrong with them, and what they were destroying. So, there were plenty of people who knew what was wrong, but I don't think it ever captured enough attention at a national level, as a problem – public lands ranching."

"About that time Lynn Jacobs' book was self-published ... it's called *Waste of the West*," Marvel recalls. "It also has a chapter called 'The Benefits of Public Lands Ranching.' It's one page long. And the main benefit is that it makes some people feel important."

By 1988, Marvel had become what was then called an "affected interest" on Bureau of Land Management grazing allotments around Hailey, Idaho. The District Manager, a fellow named David Kohler, tried to dissuade him, saying, "You know, Jon, I don't really see that you're going to have the time to do this." That turned out to be the wrong thing to say, and Marvel was undeterred. Ultimately Kohler would approve him as an "affected interest."

At about this time, environmental groups began to rally around the slogan, "Cattle Free by '93." But internal squabbling and fear of political backlash undermined the nascent movement. "Even having a catchy phrase like Cattle Free by '93 was insufficient when you have entrenched bureaucracies," Marvel wistfully observes. "It went away because '93 came and went."

In the fall of 1993, Marvel took a field tour to Lake Creek, up on the Herd Creek allotment together with Linn Kincannon of the Idaho Conservation League, and Lynne Stone, founder of the



Photo provided by Jon Marvel

Retired WWP founder, Jon Marvel September 19, 2023

Boulder-White Clouds Council. Lake Creek was beaten down to dust by cattle, with erosion and cutbanks, and all the classic signs overgrazing.

Marvel noticed that there was a one-square-mile parcel of state land, and decided to call the state Department of Lands and find out what the leasing policy was. There, a very helpful official told him that anyone could apply for a state grazing lease, that it was settled by an Idaho Supreme Court decision in 1921. And the Lake Creek lease was set to expire two weeks later. So Marvel ginned up a name for a new organization, which he named "Idaho Watersheds Project," and applied to participate in the lease auction.

In December, this acquisition by an environmentalist was brought to the attention of the Idaho Secretary of State, Pete Cenarrusa, a sheep rancher and State Land Board member. Cenarrusa took exception to a grazing lease being purchased by an environmentalist, and he raised a public ruckus in the newspapers. But the lease auction went forward nonetheless, and Marvel traveled to Idaho Falls for the auction. He opened the bidding for \$30, and Will Ingram, the rancher who held the lease, expressed his consternation. Marvel heard the rancher say, "No, I'm not bidding. That's too goddamn much." So Idaho Watersheds Project won the bid and became the proud leaseholder of the Lake Creek allotment, which WWP still holds to this day.

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Lake Creek 1994

WWTP Archives

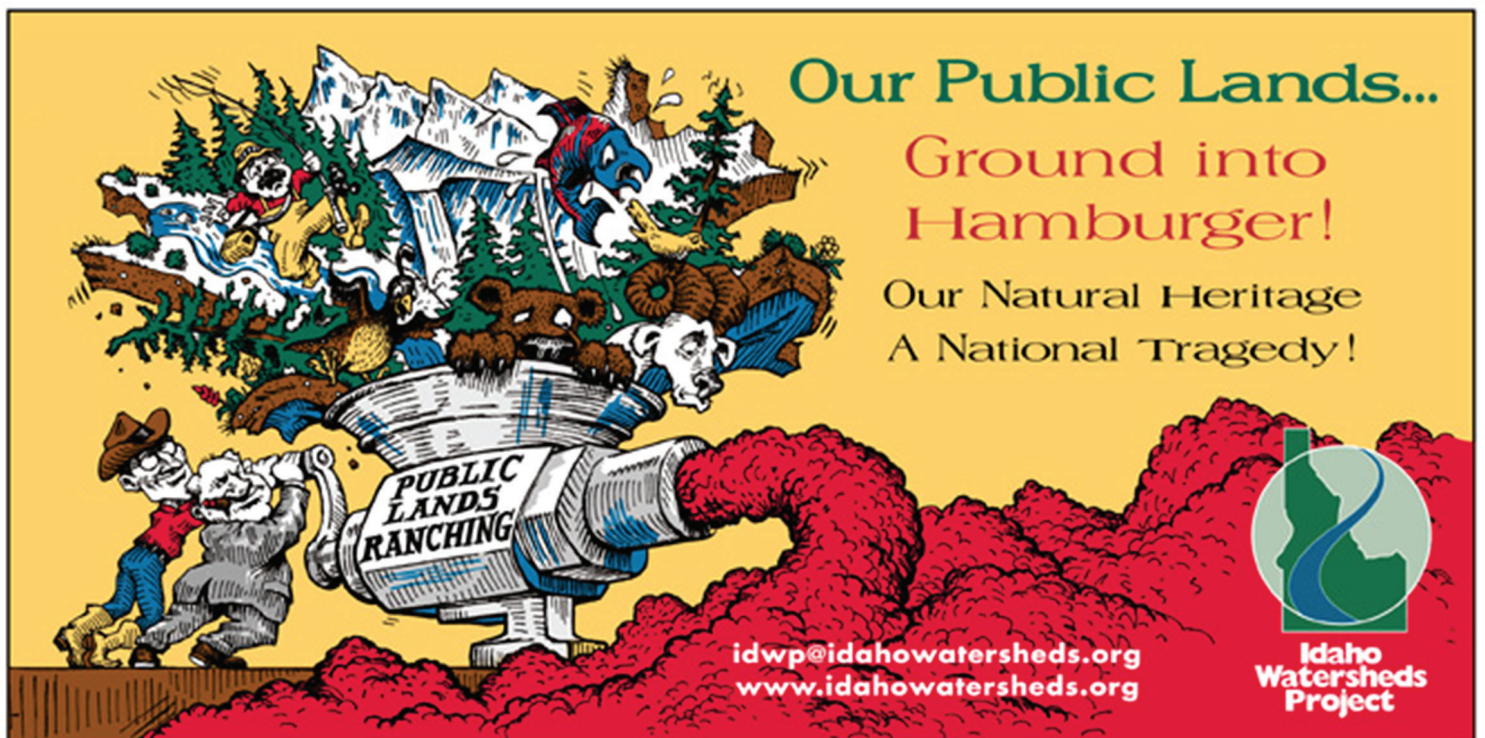


Lake Creek 2021

Photo by Patrick Kelly

Where it all began: Jon's visit to Lake Creek in 1993 was the catalyst for forming Idaho Watersheds Project in order to lawfully bid on the grazing lease.

After 27 years without livestock grazing, Lake Creek offers an ecologically functioning habitat for native wildlife.



A vintage Idaho Watersheds Project promotional piece.



Photo by: WWP Archives

WWP staff and board at Herd Lake overlook in 2013.

30 years of battling public land and livestock injustices

Continued from page 7

But the lease wouldn't be officially conveyed to Idaho Watersheds Project for many years. The Land Board voted to overturn the auction three weeks later, and gave the lease back to the original rancher. That kicked off a series of court cases that went all the way to the Idaho Supreme Court, which ultimately – eight years later – ruled that the state Department of Lands has an obligation to lease the state lands to the highest bidder in order to maximize income to the state School Trust fund. “We won three Idaho Supreme Court decisions on one day, all by unanimous opinions, in regard to the administration of state lands in Idaho,” Marvel crows. “And that really broke the back of the opposition to competition.”

Many years later, in 2021, Western Watersheds Project once again went head-to-head with a state grazing lessee, and won the right to lease the 640-acre Champion Creek lease in the Sawtooth Valley. It would never have happened

without that early court battle.

Just as Idaho Watersheds was winning its first state grazing lease, newly-appointed Interior Secretary Bruce Babbitt was initiating a grazing reform package. “In the grazing regulation rewrite, Bruce Babbitt proposed an increase in the grazing fee. And within, I think, three weeks, that was gone completely from the proposal. Since Babbitt has left office, he has publicly stated, ‘We should end public lands ranching.’ ... But look at where we are. It's thirty years later, and we're still dealing with the same formula, and the same \$1.35 a month.”

“Something that is completely uneconomic, and just sustains certain people so they can buy a new truck every third year, and is very deleterious for ecological health and wildlife and fisheries, that all those things should come together and promote change,” Marvel continues.

“And yet we can't even get new grazing regulations proposed out of the Biden ad-

ministration. Seems to me quite possible that they may proclaim this Conservation Rule for the BLM, but it's basically a meaningless thing from my perspective.”

The Clinton grazing regulations did improve the situation, although perhaps falling short of their ‘Rangeland Reform’ billing. “They did change the game because they created ‘Interested Public’ status for anyone who requested it, says Marvel. “I think they were initiated because Bruce Babbitt, as a rancher himself from near Flagstaff, Arizona, knew that change was needed. And if you read the Draft EIS for Range Reform, it has some of the best analysis of existing conditions on BLM lands in the American West. They really got it right. But when it came to actually completing the regulations to follow up on the NEPA analysis, it was better but it was kind of a letdown. It didn't accomplish sufficient change.”

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30 years of battling public land and livestock injustices

Continued from page 9

By the end of the 1990s, it was becoming apparent that acquiring state leases took a lot of work and money, and the return on investment was relatively limited. Marvel's outfit then turned to working on Bureau of Land Management and Forest Service lands, because federal decisions affected a much larger area. "So that's when we changed the name to Western Watersheds Project," says Marvel. "And started a healthy dose of litigation against the Forest Service and the BLM in ways that they had not seen before. Because, as you know, ranching is one of those sacrosanct little arenas of the West where, because ranchers are iconic, and of course they're all white males, and they wear big hats." Marvel gives a sardonic grin and adds, "And they represent the finest part of the American Dream."

Western Watersheds Project went on to win many, many lawsuits. "And that has been very beneficial," asserts Marvel. "Because we know that the Forest Service and the BLM hate litigation, because it sucks up their time."

Western Watersheds would eventually head to court in 2006 to defend the Clinton-era grazing regulations when the George W. Bush administration attempted to replace them with regulations giving much greater control of public lands to the livestock industry. "The overturning of the George W. Bush grazing regulation rewrite, and that was finally cleared through Idaho Federal District Judge B. Lynn Winmill and then the 9th Circuit by 2011, says Marvel. "But those Bush regulations, they were very bad. It was like a recidivist attempt to re-establish the 1960s. And we stopped that."

Western Watersheds Project would go on to win a lawsuit overturning the denial of Endangered Species protections for sage grouse in 2009, a victory that gave impetus to West-wide sage grouse plan amendments to boost habitat protections on federal lands. These new plans set grass-height objectives that should have seriously decreased cattle and sheep grazing in sage grouse habitats, but thus far the agencies have dragged their feet in requiring compliance.

After retiring from WWP, Marvel became a key leader of the Sagebrush Habitat Conservation Fund, established to manage WWP settlement dollars to buy out and retire federal grazing permits, and to support WWP's efforts to reform livestock grazing. It has met with

considerable success, buying out over half a million acres of grazing permits on federal land so far.

"Just north of Ketchum, the old North Fork Boulder allotment, free of sheep for the first time in 130 years, is just bouncing back in ways that are unexpected." In northwestern Nevada, the Sagebrush Fund bought the Vya Ranch and its federal grazing leases, hoping to create a larger cattle-free core of public lands incorporating Hart Mountain and Sheldon National Wildlife Refuges. "We already have more wildlife there," Marvel notes, referencing camera traps that have captured increasing numbers of bears, elk and deer, large numbers of pronghorns, even bighorn sheep. "That's only going to get better over time."

There is a well-known phenomenon called 'shifting baseline syndrome,' in which people believe that present conditions represent the way things always were, or ought to be. Many Americans look at the vast tracts of overgrazed public land, and think that's normal, because they don't know any different. "In the American West, we've all internalized the landscape as it is now," Marvel points out. "That's why it's so important to have areas that don't have livestock, so you can compare them. Whether that's Yellowstone National Park, or the allotments north of Ketchum, that we retired here, 90,000 acres. People notice differences. They may not fully understand why there are differences, but they do notice."

"Maybe the best legacy we have organizationally is successfully creating, long-term, areas with no livestock at all," Marvel concludes.

The pace of livestock reforms in the West has been disappointingly slow, and Marvel points to a built-in culture of acquiescence within the land management agencies that is too strong to overcome even by insiders, even under Democratic administrations. Of the current group of agency officials, Marvel observes, "We're dealing with people who set priorities based on political perceptions, not based on the health of the landscape, or concern for wildlife, or even recreation."

"I don't know the answer to the politics, and the entrenched mythology," Marvel adds, with conviction. "But I'd say that Western Watersheds Project has done more to undermine that than anybody else. And that's pretty clear." ■



WWP has included predator protection and wolf reintroduction in our campaign for livestock grazing reform for 30 years.

Photo: U.S. Fish and Wildlife Service, courtesy of Flickr Creative Commons.

2023 Sagebrush Sentinel Award Given to Sarah Stellberg

We are delighted to recognize Sarah Stellberg, Staff Attorney with Advocates for the West, as the 2023 recipient of the Sagebrush Sentinel award.

Sarah began her career with Advocates working on a lawsuit brought by WWP, WildEarth Guardians, Center for Biological Diversity, and Prairie Hills Audubon Society challenging the 2015 West-wide sage grouse plans, covering 51 million acres, which failed to adopt uniformly science-based sage grouse habitat protections as the Obama administration pivoted away from its own experts' strong and measurable recommendations to appease state governments that sought habitat protections less than the biological requirements for the bird.

When the Trump administration took office, it began its own process to further weaken the sage grouse plans, taking away many of the measurable and enforceable habitat protections that survived the Obama-era process, and completed their gutting of the sage grouse plans in 2019. Sara then amended our original complaint to challenge the Trump-era amendments, and later that same year Judge Winmill granted an injunction, which continues to this day, blocking the Trump amendments from taking effect and restoring the 2015 protection levels.

This lawsuit also yielded a ruling compelling the Biden administration to re-start the withdrawal of 10 million acres of the best sage grouse habitats from hard-rock mining, never completed which the Obama administration had neglected to complete. The Biden administration is now undertaking a new sage grouse planning process, spurred in large part by this lawsuit, and we have been assured that habitat protections will be strengthened.

In the meantime, Sarah brought a separate case on behalf of WWP and allies challenging oil and gas leasing in sage grouse Priority Habitat Management Areas. This lawsuit won a series of victories against multiple Bureau of Land Management oil and gas lease auctions, nullifying oil and gas leases across more than 1 million acres of prime sage grouse habitat, and blocking drilling on 403,820 more acres.

Sarah also represents WWP in a present legal challenge that seeks to overturn the authorization of 5,000 oil and gas wells in eastern Wyoming. This project would waive the usual and customary timing stipulations that prevent drilling



Photo provided by Sarah Stellberg

Sarah Stellberg and her daughter enjoying the wildflowers.

and construction activities near raptor nest sites during the nesting season, violation the agency's legal obligation to prevent "unnecessary or undue degradation" to the lands.

Most recently, Sarah successfully argued our case against the Caldwell Canyon Phosphate Mine, which is designed to provide the raw materials needed by the Bayer corporation to produce the herbicide RoundUp. Sarah's brilliant lawyering resulted in a landmark ruling on the merits, in which the judge castigated the Bureau of Land Management for failing to apply sage grouse plan protections blocking road construction next to lek sites, failing to measure the cumulative impacts of all phosphate mining in eastern Idaho on the struggling sage grouse population, and failing to consider the environmental impacts of extending phosphate milling for RoundUp manufacture on the groundwater around the city of Soda Springs, already so polluted that it has been designated as a Superfund site. This ruling sets two important precedents:

First, that the Bureau cannot adopt weaker state-designated standards for classifying sage grouse leks and second, cumulative impacts analysis must go beyond a mere listing of projects affecting sage grouse populations (or any other sensitive environmental resource) and instead actually *quantify* the overall effects that might result. This ruling could therefore force a major shift in how the agency measures environmental consequences.

Sarah then successfully argued a separate remedies hearing, after which the judge vacated not only the authorization to mine phosphate at Caldwell Canyon, but also vacated permission to use the mine's access road, which had already been built beside the sage grouse lek, and cancelled all the federal permits associated with the operation. It was, in the legal parlance, a slam-dunk victory.

Congratulations to Sarah Stellberg for being recognized as this year's Sagebrush Sentinel. ■

A venerable California conservationist reflects

As captured by Erik Molvar

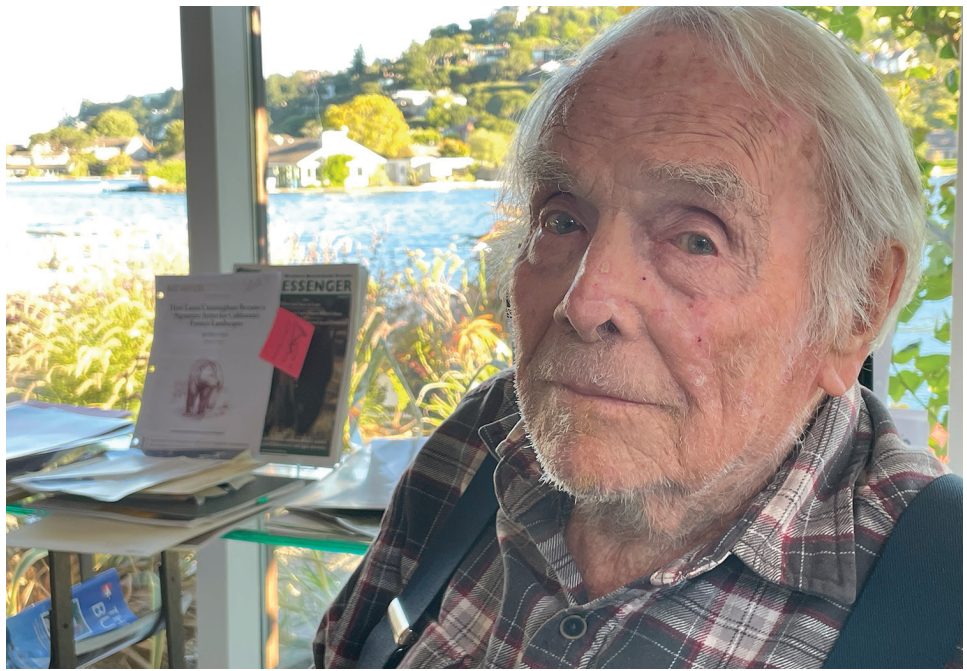
Loyal “Marty” Griffin has deep roots in California conservation. Having recently celebrated his 104th birthday, he took time out to reflect on a lifetime of conservation efforts in northern California.

Loyal’s mother was born in a sod-roofed cabin in Nebraska, ultimately relocating to Ogden, Utah where he was born. He first visited Point Reyes as a Boy Scout during the Great Depression, soon after his family moved to Oakland. The ferry took the Boy Scouts to Sausalito, then they went by train to Mill Valley. From there, they hiked up the trail to the top of Mt. Tamalpais. “That was a tough hike, actually,” Griffin reminisces. “I think there were more than a thousand steps. We got up to Panoramic Highway, and then down a steep ravine trail, went over a waterfall, and got soaked. We camped under a redwood tree. It rained all night, you could see sheets of rain come down. So, in the morning we were pretty miserable. But we ran down the trail in the brightest sunlight, and there we looked out on Stinson Beach and Boletas Lagoon. And in the distance we could see Point Reyes, before it was a Park.”

Griffin would later play a role in battling real-estate development and around Boletas Lagoon and San Francisco Bay, defending heron and egret rookeries in the tidal wetlands.

Griffin hiked the whole length of the John Muir Trail in 1938, and its broad panoramas of California gave him a perspective on the entire state, with vistas that stretched all the way to the coast. “I became determined to save Point Reyes,” he said. “It was the most beautiful spot I’d seen in my entire life.”

Griffin went to medical school at the University of California-Berkeley, and graduated as World War II was coming to a close. He got commissioned as a Second Lieutenant in the Army as a doctor in the Medical Corps, and worked for two years in the Army. “They assigned me to work out at Moffat Field,” said Griffin. “One or two planes would arrive every day from Okinawa, huge planes loaded with psychotic men,” Griffin remembers. “The pilots wouldn’t fly unless everyone who was diagnosed as psychotic was restrained. So I would go down the aisle, ask each man and say, ‘How did you get on this plane? What’s your problem?’ and they would say, ‘Oh doc, I just faked it. I’m not really crazy. I just want to



Loyal Griffin

get home. I’ve been out over there for more than a year waiting to get back to California.” Griffin worked at a psychiatric hospital treating the GIs as they attempted to reintegrate into peacetime society. “Ken Kesey, who wrote *One Flew Over the Cuckoo’s Nest*, was a psychologist there,” Griffin recalls.

He was very active in Marin County in his 30s and 40s, serving on the county Water Board. He focused his efforts on limiting growth to sustainable levels. “I was elected in a landslide, said Griffin. “But then I found out that Marin County hadn’t really studied its water source, which is the Russian River.” He got involved in fighting deep-pit gravel mining in the Russian River’s gravelly bed. “It took 15 years to stop the gravel mining operation,” said Griffin, and ultimately, these efforts by Griffin and fellow environmentalist resulted in all the rivers of the North Coast protected under the Wild and Scenic Rivers Act.

“At the same time, I was working on Point Reyes,” Griffin recalls. “I was on the Board of the new Marin Master Plan, and we had a committee that was studying what to do with these ranchers. Nobody thought they would want to stay on. That is some of the most valuable real estate in the world.”

There’s a blow-up of a photograph standing on an easel in the middle of Griffin’s living room that shows an illegal dump that one of the ranchers dug on National Seashore land. “They are really pushy, and mean, and cruel,” Griffin

says of the ranchers, “and that picture back there shows what they think about Point Reyes.”

Griffin expressed his admiration for renowned ecologist E.O. Wilson, and his book *Half Earth*, calling him “an expert in everything living.” Griffin doesn’t see livestock grazing as compatible with protecting half the Earth for nature. “The grazing people are trying to get around that,” says Griffin. “They say that grazing land is primo land, that it’s pristine and has all of the natural aspects of nature. But it doesn’t at all.”

On Point Reyes, the dairy and beef cattle pastures are grazed down to bare dirt during dry summers. Native coastal grasslands have been replaced by European annual grasses that don’t hold as much carbon as native plant communities do. Livestock on the National Seashore has been causing serious water pollution, degrading salmon and steelhead spawning streams, and a recent avalanche of human sewage from one of the ranches recently landed in estuaries used as nurseries by seals. And, of course, most of the rare tule elk have been bottled up on a tiny and sometimes waterless peninsula to prevent them from grazing on park lands leased to ranchers.

Western Watersheds Project is currently fighting hard to correct these ongoing problems at Point Reyes National Seashore, and it’s great to have longtime California environmentalists like Loyal Griffin among our members! ■

Photograph provided by L. Griffith



Photo by Greta Anderson

Large chain fruit cholla cactus on Sonoran Desert National Monument.



Photo by Cyndi Tuell

Rich desert wash community on the Sonoran Desert National Monument.

Is the third time the charm for keeping cows out of the Sonoran Desert National Monument?



By Cyndi Tuell

Our latest victory on the Sonoran Desert National Monument has been more than a decade in the making. While the monument was established (by President Bill Clinton's proclamation) in 2001, our work to kick out the cows began in 2008, when we sued the Bureau of Land Management and forced them to create a management plan.

When the monument was established, the proclamation was explicit about how the Bureau should manage livestock: parts of the monument would be permanently closed to livestock and grazing would be permitted in other areas only if the agency could demonstrate that grazing was compatible with resource protection. The Bureau got a good start at making that determination and hired two outside organizations to conduct extensive field studies and complete a literature review. Those studies and review made clear that grazing harmed native grasses, spread non-native species, affected saguaro recruitment, and revealed that no system of grazing was compatible with protecting the monument's resources. The Bureau then conducted its own Rangeland Health Determinations in 2004 and in 2007 the monument manager drafted a memo declaring grazing incompatible with protecting the values of the monument. At that point, it certainly looked like the Bureau was going to acknowledge the poor conditions caused by grazing and determine grazing to be incompatible with resource protection.

Nonetheless, the Bureau refused to give up its grazing addiction. After WWP sued the Bureau in 2008 to force them to create the 2012 Resource Management Plan, the agency ignored its own data and authorized grazing over large parts of the monument. The Bureau justified its decision by repeat-

edly lowering the bar and massaging the data to "achieve" rangeland health, giving the false impression that livestock grazing was compatible with protecting monument resources. One of the Bureau's favorite tricks for finding cows compatible was to look at places where cows weren't grazing and then make the bold statement, "Hey, look! Cows aren't a problem here!"

WWP pointed out the problems with the 2012 management plan, but the Bureau didn't listen, and in 2013 we filed another lawsuit in federal court. In 2015 the court agreed that the Bureau must use accurate information and make a science-based decision on whether livestock are a suitable use of the monument. The Bureau had been busted ignoring the data, lowering the bar for identifying grazing impacts, and pretending that their own records didn't show damage to soils and fragile cactus forests. The judge told the Bureau to try again and advised them to make a rational and science-based decision based on the facts and the science.

The court's deadline to complete the new grazing decision was September 2020. After five years of doing very little, the Bureau began a fast-tracked NEPA process in March 2020, during the early days of the COVID-19 pandemic. They completed their work by July, then issued their September 2020 decision to allow grazing after a meager attempt at consultation with tribal governments. The 2020 decision authorized more grazing than the 2012 decision proposed, based on the premise that more areas were meeting rangeland health standards. The agency didn't disclose that those areas hadn't been grazed for a decade when they determined everything was just fine.

So, in June 2021 we sued them (again) with our attorney Laurie Rule from Advocates for the West. In August 2023, more than a fifteen years from when we began this epic struggle to protect these Sonoran desert lands, a judge determined (again)



Photo by Cyndi Tuell

WWP's Greta Anderson and Advocate's for the West's Laurie Rule on the Sonoran Desert National Monument in May 2022.

that the Bureau relied on faulty information to justify livestock grazing on hot desert landscapes, on National Conservation System Lands that deserve the highest level of protection. This time we caught the Bureau basing their analysis and decision to allow grazing on the flawed premise that livestock don't travel more than two miles from water sources, but relying on a scientific study and their own maps that showed the opposite. The judge also found that the agency (again!) lowered the bar for determining whether the plants found in the monument were harmed by livestock grazing.

As I write this, we are waiting for the Bureau's attorneys to let us know how they plan to proceed. Will we meet again in federal court in a few years when they try to hide the fact that livestock grazing in the Sonoran Desert has far-reaching and long-term impacts? Or will they finally admit what the evidence in front of them has been demonstrating for well over two decades? Time will tell and you can bet that we'll be here to shine a light on agency shenanigans. ■

Cyndi Tuell is WWP's Arizona and New Mexico Director.

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