

Economic Impacts of WildEarth Guardians Litigation on Local Communities



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Litigating for the Wild

This study explores the economic impacts of legal and political interventions taken by WildEarth Guardians (WEG), an environmental group that specializes in bringing environmental lawsuits against uses of the public lands. We begin by examining empirical evidence of identifiable differences in the economic conditions of counties affected by WildEarth Guardian interventions and those where no intervention has occurred. Next, we illustrate all the actions¹ that WEG has taken since 2005 under four categories; oil and gas leases, coal extraction, grazing permits, and endangered species litigation. To further explore these four areas of WEG litigation we discuss one case for each category.

WildEarth Guardians

WildEarth Guardians is an environmental activist organization that claims their mission is “to confront the threats facing the beauty and diversity of the American West.” Their primary strategy is to file lawsuits to uphold their interpretation of environmental laws; they call this strategy “litigating for the wild.” They also “use public awareness campaigns and political pressure to protect wildlife, wild places, and wild rivers.” Besides their legal and political activism, they organize and participate in riparian area restoration projects.

Their 2010 budget was just over \$1.6 million, \$490,000 of which was from government grants. Ten percent of their income was from settlements of legal actions. In their 2010 Annual Report they highlight legal actions filed to protect 100 species they believe are imperiled. They also highlight the use of a “little-

¹ Please note that these are not all of WEG’s actions, just those provided to us in a selection of *Greenwire* articles from 2005-2011.

known but powerful” section in the Clean Water Act to designate 700 miles of streams and rivers in New Mexico as “outstanding waters.” In 2012 they plan to challenge “every single new” coal lease in the Powder River Basin, lying between Wyoming and Montana.

Introduction to WildEarth Guardians and their litigation efforts

WEG is a 501(c) 3 non-profit organization originally created as Forest Guardians in New Mexico. Originally formed in 1989 to fight a logging project on northern New Mexico’s Elk Mountain, they soon began to challenge grazing on public lands. They organized a campaign to outcompete ranchers for grazing leases. After purchasing the leases, they installed fencing, removed non-native plant species, and replanted riparian areas. In 2008 they merged with Sinapu, an organization focusing on carnivore restoration, and renamed themselves WEG. WEG has offices in Santa Fe, New Mexico; Denver, Colorado; and in Phoenix and Tucson, Arizona. Their self-proclaimed mission is to “protect and restore wildlife, wild rivers, and wild places in the American West”. They use several strategies to pursue that mission including litigation, science, media, and lobbying.

Understanding Economic Impacts of WildEarth Guardians’

Interventions

To evaluate impacts of WEG actions regarding oil and gas drilling, coal extraction, public lands grazing, and endangered species litigation; we conduct a quantitative analysis of the impacts on local economic conditions and provide a case study for each of the areas of activity. Our quantitative analysis uses US Census and Bureau of Labor Statistics Data for each county in the intermountain west region combined with a content analysis of news reports from *Greenwire*, a

leading clearinghouse of environmental news and activities. We define the Intermountain West as including Idaho, Montana, Wyoming, Colorado, Arizona, and New Mexico.

Using standard regression analysis we evaluate the effects of activities by WildEarth Guardians on three variables that act as proxies for county economic conditions: median household income, total payroll, and total tax receipts. The U.S. Census Bureau gathers median household income and total tax receipts. The Bureau of Labor Statistics gathers total payroll figures.

Median household income has the advantage of specifically addressing how individual households are, on average, affected by interventions in these counties. It has the disadvantage of being self-reported to the U.S. Census Bureau and, accordingly, may be less valid than more direct measures.

Total payroll is a broader metric capturing all those over the age of 18, as well as those who live outside but work within a county. This measure speaks to the aggregated effects on individuals rather than the median household in a county. Despite these advantages, the total payroll measure does not capture capital investments, local residents whose place of employment is outside county boundaries, or those whose income is not generated through a payroll process, including retirees. Despite these potential drawbacks the data are readily available and measures of aggregate payroll are a generally reliable metric for considering local economic conditions.

County tax receipts is a measure of economic conditions that has two clear advantages over our other measures. First, local governments who are required by state and federal statute to correctly report their tax revenues have collected

these data. Thus, these data are complete and may be more reliable than self-reports from either businesses or individuals. The second advantage is that the data capture a broader spectrum of economic activity than do our other variables. Institutional variation in why, how, and in what amount taxes are collected across states, regions, and often the counties themselves, however, make direct comparisons more difficult in this measure.

Despite none of our dependent variables being a perfect representation of the economic conditions of a county, they each measure an important aspect of those conditions and taken together form a largely complete image of the existing economic conditions. Our expectation is that interventions by WildEarth Guardians would have similar, although not identical, effects on each of our variables. To better isolate the effect of the intervention we include control variables for a variety of factors which also influence economic conditions and that control for the significant differences among counties. These variables include population, percent white, birth rate, unemployment rate, crime rate, percent of the population with at least a high school diploma, percent of federal lands, and total land area of a county.

Findings

Controlling for other factors influencing county economic conditions, we find evidence that interventions by WildEarth Guardians, on average, are associated with lower median household income, but higher county tax receipts. The results for Total Payroll are not statistically reliable and are not discussed here. The estimated impact of WildEarth Guardian Interventions on county

economies is provided in Table 1 below. Full results of the regression analysis from any of the models reported are contained in Appendix 1.

Table 1

The Economic Impact of Intervention in All Areas

Measure of Economic Condition	Economic Impact
Average Household Income	-\$2,503.00
County Tax Receipts	\$20,246.22
Total Payroll	-\$1,666.77

*This effect is not statistically significant

These results² indicate that interventions by WildEarth Guardians are having an impact on both households and counties. Median household income in counties where WildEarth Guardians have been active is estimated to be \$2,503.00 lower than in counties where these activities have not occurred. In contrast County Tax Receipts in intervention counties is estimated to be \$20,246 dollars more than in non-intervention counties.

These results appear to be contradictory, but we believe they are in fact complimentary. Legal and policy interventions by WildEarth Guardians often generate costs for the affected county. Examples include counties having to provide extra services, change existing practices, or pay for infrastructure they built in anticipation of new energy development. In order to cover those costs the county must generate new revenues, usually through increased taxes. So, an increase in county revenues is likely a result of having to cover increased costs. A

² See Appendix One for the complete tables.

detailed discussion of these effects is available in a study by Reale, Yonk, and Simmons (2012). That study indicates that higher county revenues are an indication that taxes or other revenue streams had to be increased to cover the costs created by the new regulations. We expect that the effects of WildEarth Guardian Interventions may be substantively similar to the effects noted by Reale, Yonk, and Simmons (2012).

Analysis and Conclusions

The argument often stated by the environmental community that increased intervention by environmental groups through litigation and other activities does not negatively impact local communities is not supported by the data. When comparing counties where WildEarth Guardians has intervened to those without intervention, we find that those counties having had the intervention are worse off than the non-intervention counties. But, environmental groups seldom justify their actions in economic terms. Instead these groups are primarily interested in emotional, ecological, and cultural goals. Our results show that those goals are accomplished at a cost to local economies. This fact explains why local officials often oppose the actions of groups like WildEarth Guardians.

To further understand WEG's impacts on surrounding communities, industries, and environmental polices at the federal, state, and local levels we have included a more in-depth discussion of them below. First we present several tables depicting WEG's actions regarding oil and gas leases, coal mining, grazing permits and endangered species litigation. Then, to further explore these areas

we have a case study to further elaborate on their actions and the consequences of those actions.

WildEarth Guardians: Action Tables

Included on the tables below are the article dates, to allow the reader to read the *Greenwire* articles for more information. We've also included the states where the actions occurred, as well as the specific area that WEG's actions affects, if such information was made known in the original article. Next is the agency that WEG is primarily involved with in that action, as well as their complaint. Following that are the actions that WEG took in that instance.

Oil and Gas Drilling

WEG's challenge to the drilling industry it titled the "Wild Skies of the West" initiative. A 2009 legal settlement with the Environmental Protection Agency (EPA) resulted in EPA proposing new, stronger nationwide air quality rules for oil and gas development. That lawsuit had been filed by WEG and the San Juan Citizens Alliance. WEG continues to litigate to reduce the amount of drilling across the West, especially in the Rocky Mountain Region including Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming.

Coal Mining

One of WildEarth Guardians' areas of interest is coal mining. Although they focus primarily Wyoming's Powder River basin, which produces 43% of all coal burned in the U.S., they have extended their interests to include the Colorado Plateau with the purpose of having no coal mined or burned in the Colorado Plateau. They are attempting to prevent the construction of any new

coal-fired power plants, pushing to retire existing plants, and promoting stronger enforcement of the Clean Air Act.

Grazing Permits

WEG have always emphasized grazing permit retirement, beginning when they were known as Forest Guardians. They argue that public lands' grazing has negative effects on native species, water use, large carnivores, fire ecology, and aquatic ecosystems. They are especially frustrated with the U.S. Fish and Wildlife Service's practice of removing Mexican Wolves when they conflict with cows in the Greater Gila Bioregion.

Endanger Species Listing

Another area of focus is on wildlife and a primary strategy is to request that more species be listed under the Endangered Species Act (ESA). WEG have petitioned to have 681 more species listed under the ESA (there are approximately 1385 species listed currently). As part of their wildlife protection efforts, they have created a program they call, "Saving the Sagebrush Sea," which hopes to create a system of sagebrush reserv

OIL & GAS LEASES ACTION TABLE

DATE	LOCATION	AREA	AGENCY	COMPLAINT	WEG'S ACTION
10/3/2011	Wyoming	Upper Green River Basin	EPA	Ozone Pollution	Notice of Lawsuit
8/29/2011	Affects all states	All	EPA	EPA Rules for Fracking	Previous lawsuit against EPA
8/29/2011	WY, TX, PA, CO	Upper Green River Basin	EPA	Drilling Rules	
6/21/2011	Washington DC		EPA	Oil and Gas Rules Review	Previous lawsuit against EPA
6/16/2011	Utah	Uintah Basin, Greater National Buttes	BLM	Uintah Drilling Agreement	Voice
2/10/2011	Montana		BLM	Lease Sales	Lawsuit
	North Dakota				
	South Dakota				
12/2/2010	Montana		BLM	Lease Sales	Protest
	North Dakota				
	South Dakota				
9/16/2010	Montana		BLM	Climate Studies	Previous lawsuit in 2008, Opposing Statement
8/19/2010	Montana		BLM	Reinstate Leases	Previous lawsuit in 2008, Opposing Statement
	North Dakota				
	South Dakota				
8/5/2010	Colorado	Garfield	EPA	EPA Rules on Drillers	Previous Lawsuit
	New Mexico	San Juan Basin, Law Animas			
	Wyoming	Sublette			
8/3/2010	Texas	Tarrant	EPA	Oil and Gas Rules Review	Previous Lawsuit
4/29/2010	Colorado	Kremmling Area	BLM	Colorado Leases	Filed protest
4/15/2010	Montana		BLM	Suspend Leases	Filed protest
	North Dakota				
	South Dakota				
4/9/2010	Montana		BLM	Suspend Leases scheduled for April 13	Filed protest
	North Dakota				
	South Dakota				
3/18/2010	Montana	Missoula	BLM	Suspend Leases	Settlement with BLM
1/14/2010	Colorado	La Plata, Montezuma, Gunnison, Mesa, Rio Blanco	EPA	Proposed Ozone Standards	Previous Settlement with BLM
	New Mexico	Rio Arriba, San Juan, Santa Fe			
	Utah	San Juan			
	Wyoming	Sublette			
12/10/2009	Washington DC		EPA	EPA Revies Air Emissions	Settlement
10/22/2009	Colorado, WY	Weld	EPA	Rescinded Permit	Filed Petition
6/4/2009	Montana		BLM	Montana Lease Sales	GHG Lawsuit
4/30/2009	New Mexico	Carson National Forest	BLM	Oil and Gas drilling	Lawsuit
1/29/2009	Colorado	Uncompahgre Basin	BLM	Lease Sales	Filed protest
1/20/2009	New Mexico	Carson National Forest	BLM	Decision to Drill	Appeal
1/13/2009	New Mexico	San Juan Basin	BLM	Decision to Lease in San Juan Basin	Lawsuit
11/13/2008	New Mexico	San Pedro Parks Wilderness Area	BLM	Decision to open up Santa Fe N.F.	Filed appeal
5/22/2008	New Mexico	San Juan Basin	BLM	Waivers, Drilling	Lawsuit May 12, 2008
4/3/2008	New Mexico	Caballo Mouontains	BLM	Land withdrawn from Lease sale	
2/7/2008	WY-Natrona	Natrona, Washakie, Sublette, Sweetwater, Lincoln	BLM	Lease Sales	Protests
	Colorado	Baca, Las Animas, Otero, San Miguel			
6/1/2008	New Mexico	San Juan Basin	BLM	BLM directed to re-examine pipeline	Protests thru Interior Board of Land Appeals
1/3/2008	New Mexico		BLM	Lease Sales	Protest
	Kansas				
	Oklahoma				
	Texas				
3/2/2006	New Mexico	Northwestern New Mexico	BLM	IBLA stops NM pipeline project	Formal appeal and petition for stay
10/13/2005	New Mexico	Guadalupe Mountains (Aplomado falcon habitat)	BLM	Lease Sales	Protest

COAL EXTRACTION ACTION TABLE

DATE	LOCATION	AREA	AGENCY	COMPLAINT	WEG'S ACTION
10/17/2011	Wyoming	South Hilllight Field Coal Tract	BLM	Competitive Lease	Appeal
8/25/2011	Wyoming	South Porcupine Coal Tract	BLM	Lease Approved	Appeal
8/23/2011	Wyoming	Belle Ayr North Tract, Caballo West Tract	BLM	Lease of Tracts	Lawsuit
8/18/2011	Wyoming	Belle Ayr North Tract, Caballo West Tract, West Antelope II	BLM	Lease Sales	Pending Litigation
7/29/2011	Wyoming	Hay Creek II Tract Lease	BLM	EIS for Tract Lease	Voice
7/15/2011	Wyoming	Belle Ayr North Tract, Caballo West Tract	BLM	Lease-by-Application	Lawsuit
6/16/2011	Wyoming	West Antelope II South Coal Tract	BLM	Bid Accepted	Voice
6/10/2011	Wyoming	West Coal Creek Tract	BLM	Decline Competitive Leasing	Voice
6/8/2011	Colorado	Elk Creek Mine	BLM	Competitive Lease Sale	Appeal
5/12/2011	Wyoming	West Antelope II North Coal Tract	BLM	Bid Accepted	Lawsuit
4/21/2011	Montana	Bull Mountains No. 1	BLM	Announcement for Competitive Lease	Lawsuit
4/8/2011	Wyoming	South Hilllight Field Coal Tract	USFS	Revocation for leasing	Appeal/lawsuit
4/7/2011	Wyoming Montana	Powder River Basin	Salazar	Expand Coal Mining	Lawsuit
4/5/2011	Wyoming Montana	Powder River Basin	BLM	Expand Coal Mining	Lawsuit
3/24/2011	Wyoming	West Antelope II North, South, Belle Ayr North, Caballo West	BLM	Competitive Leasing	Voice
3/23/2011	Wyoming Montana	Powder River Basin	BLM	Announcement for Competitive Lease	Voice
3/22/2011	Wyoming	West Antelope II North, South, Belle Ayr North, Caballow West	BLM	Announcement for Competitive Lease	Voice
3/17/2011	Wyoming	Near Black Thunder Mine	BLM	Decision to Lease	Appeal
3/10/2011	Wyoming	South Hilllight Field Coal Tract	BLM	Lease Recommendation	Threat to sue
3/3/2011	Wyoming	Near Antelope Mine	BLM	Announcement for Competitive Lease	Voice
2/3/2011	Wyoming	Powder River Basin	BLM	Denied petition to decertify PRB	Voice
11/4/2010	Wyoming	Belle Ayr North, Caballo West	BLM	Petition to stop lease sales denied	Appeal
8/26/2010	Wyoming	West Antelope II Tracts	BLM	Request to delay PRB Lease Sale	Appeal/Lawsuit
8/12/2010	Wyoming	Belle Ayre, Caballo	BLM	Wright Area EIS released, approving leases	Appeal
7/15/2010	Wyoming	Powder River Basin	DoI	Lease sales	Lawsuit
6/16/2010	Nationwide		EPA	Mining	Petition
4/22/2010	Wyoming	Belle Ayr, Coal Creek, Caballo, Cordero-Rojo	DoI	Lease sales	Lawsuit
4/2/2010	Wyoming	Antelope Mine	BLM	Lease Approved	Complaint

GRAZING PERMITS ACTION TABLE

DATE	LOCATION	AREA	AGENCY	COMPLAINT	WEG ACTION
2/3/2011	AZ, CA, CO, ID, KS, MT, NE NV, NM, ND, OK, OR, SD, UT, WA, WY		BLM, USFS	Minimal Grazing Fee	Filed lawsuit last summer
1/20/2011	Arizona	Apache-Sitgreaves National Forest	USFS	Environmental Impacts of Grazing	Challenged EA's last year
1/19/2011	AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WY,		BLM, USFS	Minimal Grazing Fee	Threat to sue
1/13/2011	New Mexico		USFS	Headwaters Protection Rule Names/Addresses of Permit Holders	Voice in Support
9/16/2010	Idaho	Idaho District Court	BLM	Environmental Impacts of Grazing	Lawsuit-FOIA
2/18/2010	Arizona	Sonoran Desert National Monument	BLM	Environmental Impacts of Grazing	Lawsuit by Wester Watersheds Project
5/1/2009	Nationwide		BLM	Environmental Impacts of Grazing	Voice
2/5/2009	AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WY		BLM	Minimal Grazing Fee	Voice
2/14/2008	AZ, CA, CO, ID, KS, MT, NE, NV, ND, OK, OR, SD, UT, WA WY		BLM, USFS	Minimal Grazing Fee	Voice, 2005 Petition
10/18/2007	New Mexico	Gila National Forest	USFS	Grazing in Mexican Wolf Recovery Zone	Lawsuit
8/2/2007	Nationwide		USFS	Delayed/Slow NEPA Analyses Grazing impacts on endangered species	Voice
6/22/2006	Arizona	Apache-Sitgreaves National Forest	USFS	Environmental Impacts of Grazing	Lawsuit in 2001
3/23/2006	Arizona	Sonoran Desert National Monument	BLM		Voice

ENDANGERED SPECIES ACTION TABLE

DATE (8/2009- 9/2011)	LOCATION	AGENCY	ARTICLE SUMMARY	ENVIRONMENTALIST ACTION	SPECIES	OUTCOME
9/29/2011	Nationwide	USFWS	Animals reviewed for protection	Settlement	Golden-Winged Warbler, Gopher Tortoise, American Eel, Texas Kangaroo Rat, 35 Snails from Nevada's Great Basin, 82 Crawfish from Southeast, 99 Hawaiian Plants, and butterflies, birds, fish, beetles, frogs, lizards, muscles,	
6/13/2011	Nationwide	USFWS	Backlog of 250 animals/plants review	Settlement		
7/12/2011	Nationwide	USFWS	Backlog of 250 animals/plants review	Settlement	Lesser Prairie Chicken, Walrus, Wolverine, Golden Trout, Miami Blue Butterfly, New England Cottontail Rabbit	
7/12/2011	Gulf of Mexico Hancock Co., MO	DOI	Largetooth Sawfish gets protection Review for Bay Skipper Butterfly	Petition Petition	Largetooth Sawfish	Placed on the "Species of Concern" list Merited listing, none yet
7/7/2011	WY, UT, ID	USFWS	Money provided to protect Sage Grouse			
6/23/2011	AZ, NM, TX, UT	USFWS	Projects and plan to expand thinning, reduce fire risk	Lawsuit	Mexican Spotted Owl	
6/9/2011	UT	USFWS	FWS proposes stronger protections	Previous Lawsuit	Utah Prairie Dog	
6/9/2011	CO, KS, NM, OK, TX	USFWS	Amendment offered ESA exemption for prairie chicken	Voice	Lesser Prairie Chicken	
5/18/2011	Nationwide	USFWS	Judge stays approval of settlement	Pending Settlement to make decision on 251 species by 2016	Pacific Walrus, Wolverine	Pending Settlement
5/17/2011	Nationwide	USFWS	Judge stays approval of settlement	Pending Settlement to make decision on 251 species by 2016	Pacific Walrus, Wolverine	Pending Settlement
5/12/2011	Nationwide	USFWS	Interior unveils plan to review more than 250 species	Driven by legal challenge from WEG		
5/12/2011	CA, TX, AZ, NM	USFWS	Mountain Plover rejected for ESA list	Lawsuit	Mountain Plover	Denied
5/11/2011	Nationwide	USFWS	Settlement to decide on 251 species for protection	Settlement	Pacific Walrus, Wolverine	Pending Settlement
5/6/2011	NM, TX	USFWS	GOP lawmakers propose plan to block listings	Voice	Dunes Sagebrush Lizard & Lesser Prairie Chicken	Voice
4/21/2011	Nationwide	USFWS	FWS overwhelmed by backlog of requests	Petition		Petition
10/7/2010	AZ	USFWS	Judge denies protection for Gunnison's prairie dog	Lawsuit	Gunnison Prairie Dog, Preble's Meadow Jumping Mouse, Colorado River Cutthroat Trout, Rockhopper Penguin	
9/27/2010	CO, UT	USFWS	Gunnison Sage grouse selected as ESA candidate	Voice	Mono Basin Sage Trowse	Voice
7/1/2010	NV, CA, WA	USFWS	Greater Sage Grouse protections by Interior	Lawsuit	Greater Sage Grouse	
7/1/2010	AZ, NM	USFWS	Mexican Spotted Owl Protections	Lawsuit	Mexican Spotted Owl	
6/29/2010	WY, MT, CO, CA, AZ, TX	USFWS	FWS proposes Mountain Plover protection	Pushed by 2006 lawsuit, and 2009 settlement	Mountain Plover	
6/28/2010	NV, CA, WA	USFWS	Greater Sage Grouse protections by Interior	Lawsuit	Greater Sage Grouse	
4/22/2010	MS, AR, GA, TN, KY, WV, VA, NC, SC, FL, LA	USFWS		Petition	48 fish, 92 mussels and snails, 92 crustaceans, 82 plants, 13 reptiles, 4 mammals, 15 amphibians, 3 birds	
12/3/2009	Nationwide	USFWS	FWS denies Black-Tailed Prairie Dog Protection	Petition/settlement	Black-Tailed Prairie Dog	Denied
8/19/2009	CO, UT	USFWS	Deadline set for listing Gunnison Sage Grouse	Settlement	Gunnison Sage Grouse	Added to Candidate Listing

DATE (8/2005- 7/2009)	LOCATION		ARTICLE SUMMARY	ENVIRONMENTALIST ACTION	SPECIES	OUTCOME
7/23/2009	Nationwide	USFWS	FWS considers protection for Jackrabbit	Previous lawsuit	White Sided Kackrabbits	Added to Candidate Listing
2/4/2009	Nationwide	USFWS	Administration denies 165 species protection	Previous petition		Denied
12/3/2008	Nationwide	USFWS	Review of Black-Tailed Prairie Dog status	Petition	Black-Tailed Prairie Dog	Denied
10/16/2008	Nationwide	USFWS	FWS receives 13 species in petition	Petition	Mussels, Spragues Pipit, Chihauha Scurnea, Wright's Marsh Thistle, & Jumping Mouse	
Not listed	Nationwide	USFWS	FWS receives 32 species in emergency list	Used emergency provision in ESA		
4/11/2008	NM, TX	USFWS	FWS receives petition for Sand Dune Lizard	Petition/threats to sue	Sand Dune Lizard	
3/27/2008	Nationwide	USFWS	FWS sued	Lawsuit	681 species	
2/7/2008	CO, NM	USFWS	FWS offers protection for some Gunnison Prairie dogs	Voice	Gunnison Prairie Dog	
11/8/2007	NM	BLM	BLM plan for Prairie Chicken, Dune Lizard	Voice		
7/26/2007	Nationwide	USFWS	Bundle of ESA petitions received	Petition	206 species	Denied
6/28/2007	Nationwide	USFWS	Bundle of ESA petitions received	Petition	475 species, White Sands Pupfish, Cave Scorpion, Jemez Woodland Snail, Huachuca Milkvetch, Brazos River Yucca	
2/8/2007	Nationwide	DOI	2004 Secretary of Interior denies protection	Lawsuit	Black-Tailed Prairie Dog	
12/14/2006	Nationwide	DOI	Interior denies protection	Lawsuit	Gunnison's Prairie Dog	
11/30/2006	NM	USFWS	FWS not listing Gunnison Sage Grouse	Lawsuit	Gunnison Sage Grouse	
Not listed	Nationwide	USFWS	FWS not listing Mountain Plover	Lawsuit	Mountain Plover	
11/21/2006	Nationwide	USFWS	FWS not listing Mountain Plover	Lawsuit	Mountain Plover	
8/24/2006	AZ, NM, CO, UT	USFWS	FWS not protecting Gunnison's Prairie Dog	Petition/Threat to sue	Gunnison's Prairie Dog	
2/9/2006	Nationwide	USFWS	FWS declines listing Gunnison's prairie dog	Petition	Gunnison's Prairie Dog	
8/18/2005	AZ, NM, CO, UT	USFWS	FWS to review Gunnison's Prairie Dog	Threat to sue	Gunnison's Prairie Dog	
11/8/2005	Nationwide	USFWS	FWS not protecting all candidate species	Lawsuit	283 species, Oregon Spotted Frog, Lesser Prairie Chicken, Dakota Skipper, Eastern Mississauga Snake	

WEG's Litigation Efforts: Case Studies

In what follows we present a case study of each of the four areas of WEG's litigation efforts. The summary relies almost entirely on articles from *Greenwire*, a source generally friendly to groups like WEG. Our analysis illustrates that there are opportunity costs to WEG's actions and local communities pay many of those costs. We do not evaluate other costs including increased dependence on foreign oil and the costs to taxpayers of the government being almost continually in court defending its public lands policies from nearly incessant regulations. Further we do not evaluate the planning costs imposed on federal agencies and private entities. Those costs seldom have anything to do with whether a project is good policy. Instead, they have to do with making sure that the planning documents meet minute and often arcane requirements established under the National Environmental Planning Act, Clean Air Act, or Clear Water Act.

WildEarth Guardians and Drilling

WEG has chosen to litigate in areas where jobs and income are closely tied to the energy sector. In our analysis of the effects of WEG litigation we found that in those counties where litigation had occurred the drilling industry provided approximately 26,200 jobs and 1.57 Billion dollars in economic activity through those jobs. In each county the impact of losing these jobs and the resulting income could be substantial. In our sample used above for our quantitative analysis we find it is likely that if WEG reached their stated goal of ending all drilling it would likely increase unemployment and reduce total economic activity by a minimum of 1.57 Billion dollars not accounting for the spillover effects on retail, housing, and other sectors that would undoubtedly be negatively affected by the reduction.

Much of the new energy development in the western part of the United States occurs on land managed by Bureau of Land Management (BLM) in the Rocky Mountain Region. The BLM is responsible for all oil and gas leases, regardless of what federal land agency is presiding over the land. Once the federal agency managing that land has completed the necessary environmental assessments and other steps before land can be leased, they give the BLM authorization to lease land to drilling and excavation companies. Therefore, many of the actions taken by WEG to restrict energy development involve both the BLM and other federal land management agencies, such as the United States Forest Service (USFS).

Case Study

One of WEG's largest campaigns has been their effort to force the EPA to tighten its nationwide air pollution regulations. Under the Clean Air Act the EPA is required to update air pollution regulations every eight years. WEG argues that the EPA is neglecting its responsibilities because some of these regulations have not been updated since 1985 and 1999 (Gable 2010a).

WEG has repeatedly complained over the possible effects of oil and gas leases on air quality in Colorado, Wyoming, Texas, and Utah. In order to put more pressure on the EPA WEG has teamed up with various local conservation groups, including, San Juan Citizens Alliance, Western Colorado Congress, EarthJustice, Montana Environmental Information Center, and Earthworks' Oil & Gas Accountability Project. As noted in Table 5 WEG has had at least³ nine complaints against the EPA since 2009.

³ There seem to be more complaints; however, they are not included in our selection of *Greenwire* articles.

Of these complaints one of the most effective is their protest in August of 2010 with the San Juan Citizens Alliance (Gable 2010a). These two organizations united with environmental groups from Colorado and Texas to petition the Obama Administration to lower the nationwide air pollution limits that gas and oil companies can reach. These activists met in Denver, Colorado and Arlington, Texas demanding reform from EPA officials, while oil and gas representative defended their industry.

Colorado residents worried that the increasing smog levels would directly contribute to health issues within the community. They also voiced concerns about personal health effects such as nosebleeds, headaches, asthma, or heart disorders (Gable 2010a). Such ailments, however, have not been scientifically linked to an increase in particulate matter from oil and gas drilling (Gable 2010a). Environmentalists in Arlington called for further reform of air regulations, but stressed the fact that regulations should not block the development of energy sources that would lead to independence from foreign oil or dirtier forms of energy (Gable 2010a).

Also present at these two meetings were representatives from the oil and gas industry who argued that unnecessary reform would only harm the economy. Representatives also pointed out that emissions from the drilling industry had seen a significant reduction thanks to the EPA's Natural Gas STAR Program that collected data showing a reduction by 822 billion cubic feet of methane from 1993-2008 (Gable 2010a). Opponents of further regulations also argued that tighter restrictions would cause companies to outsource their facilities to areas with even poorer standards, which would hurt job creation in addition to only adding further environmental concerns overall.

One area where environmentalists and industry representatives could agree was on the importance of protecting natural gas from over-regulation. Citizens urged officials to not impose so many restrictions that dirty energy would have an advantage over natural gas. Natural gas was labeled as a ‘bridge fuel’ to be used due to its relatively cleaner nature than other forms of energy such as coal; however, the gas should only be used until further advances in the energy sector allowed for independence from fossil fuels (Nelson 2010).

Even though these two groups were able to find energy strategies to agree on, WEG has continued with its litigation-centered approach to implementing their preferred policies. WEG was able to achieve a level of success with their approach when in February of 2012 the Obama Administration released draft regulations that would impose the first national standards regarding gas wells that are drilled using a process referred to as hydraulic fracturing: a process which injects chemicals into rock layers to promote cracking and thus release natural gas (Solomon and Tracy 2011).

The foregoing description of WEG’s strategies and actions regarding oil-gas leasing and drilling demonstrate their commitment to promoting their vision of the West. But, their vision can only be achieved at costs to local communities, often substantial costs. March Smith, executive director of the Western Energy Alliance noted, “In the West, it’s hardly news when environmental groups protest a lease sale. They have to; it’s their business. They sue, and the government [and by extension, tax payers] pays the legal bill.” (Taylor 2010e). By attempting to reduce, restrict, and stop commodity production on the public lands, they harm local economies and reduce local opportunities. They also increase dependence on foreign sources of oil. They also create

costs that are less obvious to the general public—the sheer volume of litigation they engage in is costly to taxpayers.

WildEarth Guardians and Coal Mining

The Powder River Basin, in the Northeastern portion of Wyoming and the Southeastern portion of Montana, is perhaps one of the richest coal deposits in the world. Estimates place the Powder River Basin as being the source of around 40% of coal annually mined in the United States (Quinones 2011c). Groups such as WEG and the Sierra Club have been adamant in their opposition to the continuation and expansion of mining activities in the region. Litigation is at the center of their strategies to halt or at least slow mining. The following details some of the more notable recent efforts of WEG to limit coal activities in the Powder River Basin.

The geographic areas where WEG has chosen to litigate are among those areas which are most tied to the energy sector for jobs and income. In our analysis of the effects of WEG litigation we found that among those counties where litigation had occurred the coal industry provided at least 26,104 jobs and 1.75 billion dollars in economic activity. In each county the impact of losing these jobs and the resulting income could prove potentially devastating. In our sample it is likely that the effect of WEG reaching their stated goal the ending coal production in the Powder River Basin would likely increase unemployment and reduce in total economic activity by a minimum of 1.75 billion dollars. These calculations do not take into account the spillover effects on retail, housing, and other sectors that would undoubtedly be negatively affected by the reduction.

Case Study

In early April of 2010, the BLM approved the sale of coal reserves that lie

adjacent to Cloud Peak Energy's Antelope Mine in the Powder River Basin region of Northeastern Wyoming. This sale was completed despite protests from several environmental groups, including WEG. These environmental groups argued that the sale shouldn't have gone through because coal fired power plants are a leading contributor to greenhouse gases. In April of 2010, WEG filed a lawsuit directed against Secretary of the Interior Ken Salazar as well as BLM Director Bob Abbey. The suit claimed that they failed to respond to a petition that requested reforms on the leasing process for coal extraction. These reforms were aimed at increasing the competition for leases and broadening the ability of the BLM to restrict leasing to slow climate change.

In that case WEG argued “The U.S. Bureau of Land Management continues to issue new coal leases for the area without analyzing the regional environmental impacts – particularly climate change impacts...” (Streater 2010b). In addition to the climate impacts of mining in the Basin, WEG claimed that the leasing within the basin is simply not competitive (Taylor 2010b). WEG argued that the lack of competition is demonstrated by the fact that only three of the twenty-one granted leases had competing bids (Taylor 2010b). Without competing bids, WEG claimed, federal minerals are being sold at below fair-market values. The BLM denied WEG’s claims, citing examples in which it has rejected bids that failed to reach the minimum level. Marion Loomis of the Wyoming Mining Association argued against the actions of WEG stating that the leasing policy of the BLM allows for the support of thousands of jobs and the guarantee of affordable power throughout the nation (Taylor 2010b).

The litigation continued in mid-July of 2010 when three environmental groups including WEG, filed suit against the Department of the Interior in a U.S. District Court in Washington D.C. The goal of this suit was to stop mineral leasing by forcing federal

regulators to examine air-quality impacts before granting any more mining leases in the Powder River Basin. One WEG staff attorney said, “This is a dirty energy disaster we can't afford to turn our back on.” (Streater 2010b). This suit was filed as the BLM was preparing to release more leases in the Powder River Basin that would total to over four hundred million tons of coal and, according to WEG, release over 740 million tons of carbon dioxide annually into the air (Streater 2010b).

In late March, the BLM indicated that they were going to continue moving forward with leasing of 7,400 acres within the Powder River Basin, which is expected to yield well over seven hundred tons of coal (Quinones 2011b). Secretary of the Interior Ken Salazar made this announcement with the Governor of Wyoming, Matt Mead. Salazar spoke in support of the BLM's decision stating that “This announcement is significant for the United States and is significant for Wyoming's economy.” (Quinones 2011b). The Governor echoed this support, “We need energy. We need the jobs that come with the energy. We need the electricity.” (Quinones 2011b).

Environmentalists were angered by this announcement. The director of WEG's climate and energy program, Jeremy Nichols, responded, “Salazar's cheerleading for the coal industry is a clear sign that the Interior's energy policies are fundamentally imbalanced.” (Quinones 2011b). Nichols continued, “He's sacrificing opportunities to expand clean energy jobs and markets, and worse, he's sticking America with the costs of global warming, more air pollution and more water contamination.” (Quinones 2011b). The sale of these coal-mining leases is expected to generate between thirteen and twenty-one billion dollars in revenue, of which approximately half will go to the state of Wyoming (Quinones 2011b).

In mid-May of 2011, the BLM accepted a near three hundred million dollar bid

from Cloud Peak Energy to lease roughly three thousand acres within the Powder River Basin (Quinones 2011f). The West Antelope II North Coal Tract contains more than 350 million tons of coal, which is expected to double the size of the mine (Quinones 2011f). The BLM continued to approve leases on a regular basis, with approvals occurring in both June and July 2011. In each of these cases, environmental groups continued their opposition to these leases, leading up to another suit filed by WEG in August of 2011 (Quinones 2011g). This suit was brought against the BLM contending that the Obama administration has failed to give adequate consideration to the air pollution and global warming implications of the leases. Jeremy Nichols of WEG argued, “This country needs solutions that safeguard our clean air and climate, not more dirty energy development...” (Quinones 2011g).

As is noted by the Secretary of the Interior and the Governor of Wyoming, the coal industry plays a vital part in both the national as well as the local economy. The coal industry creates jobs both locally in Wyoming in the mines themselves, and in the power plants which depend upon the coal. The efforts of WEG to halt all mining activities have potential to harm the mining jobs that the towns and cities within the Powder River Basin depend upon.

The actions of WEG clearly demonstrate their willingness to litigate through every avenue to achieve their stated goals without regard to the potential local costs. This litigation strategy, while effective in achieving many of their goals, comes with a substantial cost to taxpayers, local communities, and the national price of coal. Further because of the relationship that coal has with the price of electricity this strategy increases the household costs of nearly every American, even when groups like WEG are successful.

WildEarth Guardians and Livestock Grazing

Over the last several years WEG, has taken steps to reform laws regarding livestock grazing. WEG is specifically concerned with the environmental effects on public lands caused by cattle grazing. Their efforts are centered on decreasing or eliminating livestock grazing on many of the public lands because of what they view as destructive results from grazing. Their attempts have been largely through litigation directed at goals such as entirely removing livestock from national monuments and their surrounding areas and raising the price for federal land grazing permits. This narrative offers examples of WEG efforts to influence grazing policies and concludes with specific effects these potential changes could impose on local communities.

The geographic areas where WEG has chosen to litigate are among those areas which are most tied to the agricultural sector for jobs and income. In our analysis of the effects of WEG litigation we found that among those counties where litigation had occurred the farming/ranching industry provided 37,237 jobs and 662 million dollars in economic activity through these jobs. In each county the impact of losing these jobs and the resulting income could prove potentially devastating. In our sample it is likely that the effect of WEG reaching their stated goal the ending of grazing would likely increase unemployment substantially and reduce total economic activity by approximately 662 million dollars not taking into account the spillover effects on retail, housing, and other sectors that would undoubtedly be negatively affected by the reduction.

Case Study

Apache-Sitgreaves National Forest

In June of 2006, the Ninth U.S. Circuit Court of Appeals overruled a decision made by a lower U.S. District Court regarding the Forest Service's supervision of the

grazing industry on the Apache-Sitgreaves National Forest in Arizona. This National Forest is home to two endangered species, the Mexican Spotted Owl, and the Colorado Spinedance Minnow. The then Forest Guardians sued in 2001 claiming that the USFS had violated a 1998 agreement designed to allow grazing to continue within the Forest, on the condition that the USFS continued to protect endangered species.

The 1998 agreement specified that the USFS was to closely monitor grazing activities to guarantee adequate forage to feed the Owl's rodent food supply. The lawsuit claimed that the USFS had violated its agreement in thirty separate allotments. The most notable amongst these violations were allegations that the USFS had allowed over-grazing in certain areas and had failed to adequately monitor use (Greenwire 2006). Through this litigation Forest Guardians sought to substantially reduce grazing allotments and push grazing out of portions of the National Forest despite many long-standing permits given to ranchers. The Ninth Circuit agreed with Forest Guardians that the USFS had failed to re-consult and thus had violated the Endangered Species Act (ESA). The Ninth Circuit's decision reversed a lower court decision siding with the Forest Service.

In late January of 2011, the USFS was forced to re-evaluate the environmental impacts of livestock grazing on thousands of acres of the Apache-Sitgreaves National Forest. After the earlier mentioned decision by the Ninth Circuit Court of Appeals, the USFS had conducted a pair of Environmental Assessments (EAs). These EAs resulted in a Finding of No Significant Impact (FONSI) and were challenged by several environmental groups, including WEG.

The decision to re-examine the findings of the EAs was made by Chris Knopp, the acting supervisor for the Apache-Sitgreaves National Forest. He concluded that the EAs

“did not disclose effects to forest-wide trends for habitats and populations in a consistent manner” (Reese 2011a). Despite the success of the environmental groups in some areas of their challenge, they did not win on all counts. The examination of the appeal found that the effect grazing had upon such species as the Northern Goshawk and Mexican Gray Wolf had been properly examined in the original report. Knopp emphasized that those who would re-examine the reports would not “redo everything”, but instead would provide better documentation to support their findings (Reese 2011a).

Grazing Permit Fees

In February of 2008 the Obama Administration set public lands grazing fee to \$1.35 per Animal Unit per Month (AUM). This fee had remained at the same price for the five years previous to this decision, and remains the lowest possible fee the government can legally charge. The government defines an AUM as a cow and her calf, one horse or five sheep or goats. Affected are over 18,000 grazing permits issued through the BLM and an additional 8,000 permits issued by the USFS across sixteen Western states. Environmental groups have long maintained that the current cost of a permit is too low and is a handout for ranchers. They contend that a fee closer to \$6 per AUM would be more appropriate. WEG and several other environmental groups demand a higher fee in response to the higher fees associated with grazing on private land. Melissa Hailey of WEG claims that private grazing permits are nine or \$10 per AUM (Taylor 2011b).

In May of 2009, WEG released a study claiming that livestock grazing is a serious threat to a number of fish and other wildlife in areas encompassing three-fourths of the federal land found in the West. WEG used satellite mapping along with federal records to match wildlife habitat and grazing allotments. The study claimed that livestock

grazing, no matter the regulation, has the potential to drive some species to the point of extinction. It also stated that grazing of cattle and sheep contributes to soil damage, water spoilage, and helps the spread of invasive weeds. The BLM issued a statement in which it indicated its belief that despite claims by WEG, that properly managed grazing has “numerous ecological and environmental benefits” (Greenwire 2009b). After this statement there were no further actions taken regarding this study on behalf of WEG or the BLM.

In 2010 WEG along with three other environmental groups filed a lawsuit asking the BLM and USFS to look at raising grazing fees and for a re-evaluation of the real costs grazing has on public lands. A petition was submitted in 2011 by several environmental groups after the Government Accountability Office (GAO) issued a report in which it concluded that the government spent nearly six times more on grazing programs than it collected through grazing fees in 2004. The USFS and BLM collected about \$21 million in grazing fees, compared to the \$133 million spent on grazing related activities. (Taylor 2011b).

In January of 2011, the Obama administration declined a proposal that would raise grazing fees on public lands. This rejection was primarily done to accommodate other actions pending before the USFS and BLM. Deputy Chief of the USFS Joel Holtrop commented upon this, stating, “Given these and other significant agency priorities, I am reluctant to burden the agency's limited resources by initiating an additional major rule making endeavor at this time” (Taylor 2011a). The reasoning behind the BLM rejection was due to similar constraints upon resources and staff.

The government's response was prompted by a lawsuit filed during the summer of 2010 by several environmental groups, including WEG, seeking to dramatically

increase grazing fees. Mark Salvo, a director with WEG stated that he felt ranchers who use public land fail to pay a fair share for the cost of their activity. The groups involved in the lawsuit indicated that they were considering additional litigation in response to the rejection (Taylor 2011a).

The United States Department of Agriculture states that ranching has a much lower rate of profit ratio and therefore runs a higher risk of being put out of business than other agricultural activities such as wheat or corn production (Reese 2011a). Any increase in the cost of a grazing permit would negatively affect those ranchers who rely on a consistent and affordable permitting system. Many ranchers have used this system for decades, rely exclusively on grazing on public lands, and would be out of business if federal grazing prices were raised to same levels as on private lands (Reese 2006b).

WildEarth Guardians and Endangered Species Litigation

WEG's litigation over the Endangered Species Act (ESA) has been substantial and persistent. On their website, WEG provides specific details on their efforts to have an additional nine hundred species of plants and animals listed as threatened or endangered under the ESA. Listing species as endangered can have a large effect on local economies and industries. The following discussion looks specifically at WEG's efforts in regards to the Sand Dune Lizard (also known as the Dunes Sage Brush Lizard), Gunnison Prairie Dog, and Greater Sage Grouse, as instructive case studies, showing the negative economic effects of such litigation.

Overview of the Endangered Species Act and Litigation

Listing a species under the Endangered Species Act is alleged to provide protection for the plant or animal, as well as its habitat. The process to list a species starts with a petition presented by an individual or organization to the United States

Fish and Wildlife Service (USFWS). If the USFWS decides the information presented is not sufficient to merit protection, they deny the petition and listing. If the information meets USFWS requirements then the species is given a status review with an indefinite amount of time. After reviewing the “best” available scientific information and considering ongoing conservation efforts, the USFWS decides if the listing is warranted and must publish their own findings in a proposed rule on the species. Public hearings are held to discuss the proposed listing. After publishing a proposed rule, the USFWS makes a final ruling. Following is a simplified overview of reasons that a species will be listed as threatened or endangered:

1. Present or threatened destruction, modification, or curtailment of the species' habitat or range.
2. Over utilization for commercial, recreational, scientific, or educational purposes.
3. Disease or predation.
4. Inadequacy of existing regulatory mechanisms.
5. Other natural or man-made factors affecting the species' continued existence.

Environmental groups have had much less success getting a species through the formal process than they would prefer. They have, however, developed litigation strategies to push for listing species. WEG has been particularly active in this approach. We detail those efforts below.

Dunes Sagebrush Lizard

The conflict surrounding the listing of the Sand Dune Lizard was initiated by the WEG in December 2007, when the USFWS notified WEG that their earlier petition to put the Sand Dune Lizard (more commonly known now as the Dunes Sagebrush Lizard) on the endangered species list was rejected. On April 9, 2008, WEG submitted another request under the ESA for the emergency listing of the Lizard, and giving a 60-day notice of a potential lawsuit (“Request for Emergency Listing of the

Sand Dune Lizard” 2008). The legal battles progressed and eventually resulting in the USFWS posting a Federal Register notice proposing to list the Dunes Sagebrush Lizard as endangered. (Dunes Sagebrush Lizard Fact Sheet n.d.)

Though the Lizard rarely grows to 3 inches in length, it has spurred a huge debate because listing it would create problems for many businesses that operate in the same regions as these Lizards live. “As far as I am concerned, it is Godzilla”, said Texas Land Commissioner Jerry Paterson. Ben Sheppard, President of the Permian Basin Petroleum Association based in Texas, argued, “It’s the biggest threat facing the oil business in memory.”

Opposition came from the general public as well. Petitions were filed with several agencies, and several rallies were held, including one in Southeastern New Mexico that had an attendance of roughly seven hundred people protesting that their livelihoods being endangered over a lizard. “This could cripple what is now a very healthy job environment,” argued Douglass Robison, president of ExL Petroleum, a Texas-based oil company. Indeed, most of the nation’s 63,000 oil-and-gas based jobs are based in the region. Moreover, many parties worry about broader economic and industry impacts, such as ranching and other industries intensively involved with the ecosystem. New Mexico representative Steve Pearce goes so far to ascertain, “Almost every job [in the area] is at risk.” (“Lawmakers Say Saving the Dunes Sagebrush Lizard” 2012).

Many oil companies, foreseeing the potential bureaucratic hassle of operating in areas with endangered species, tried to demonstrate conservation efforts to discourage governmental involvement. (“Lawmakers Say Saving the Dunes Sagebrush Lizard” 2012). In 2008, facing huge potential litigation, many oil and gas companies voluntarily entered into conservation agreements with private land users regarding how to use the

land without disrupting the Lizard's habitat, including an analysis of which chemicals are used and oil drilling and ranching livestock locations.

Environmental groups like WEG remain unsatisfied, regardless of the efforts by those in industries that would be affected. They report that the Dunes Sagebrush Lizard has extremely specific habitat requirements that include certain sand grain sizes and specific flora. In particular, the Lizards are rarely found further than six feet away from a shinnery oak, a three-foot tall tree that resides in certain sand dunes. They point out that the Lizard has had been under pressure since herbicides have begun killing the shinnery oak they depend on. These deaths have resulted in a 70 to 94 percent decline in populations where herbicides were present. Further, the lizards have life spans that average only a year and a half, and lay small clutches of eggs of only three to six eggs per clutch. They claim research showed the lizard is very sensitive to habitat change; even one well within roughly 250 meters reduces lizard population by roughly 50%, as would a drill density of 30 units per square mile. (Dunes Sagebrush Lizard Fact Sheet n.d.)

The Gunnison Prairie Dog

The Gunnison Prairie Dog is generally accepted as an important species in prairie ecosystems, providing prey for badgers, wolves, coyotes, bobcats, ferrets, weasels, eagles, and hawks, and habitats for snakes, rabbits, owls, beetles, and salamanders, while maintaining grazing areas for bison and pronghorn. Calls for its preservation have occurred as its habitat range decreases. In 1916, Gunnison Prairie Dog colonies covered 24 million acres, and now occupy less than 500,000 acres, a decline of nearly 98%. Desire to have the Gunnison Prairie Dog listed as an endangered species also arises from a variety of federal and state policies that not only allow for eradicating Gunnison Prairie Dog, but also subsidize it. The Gunnison Prairie Dog's ecological position has

attracted numerous efforts to preserve its habitat, often resulting in substantial opposition.

In early 2004, Forest Guardians and seventy-three additional petitioners, organizations and individuals, filed a petition to list the Gunnison Prairie Dog as endangered. Though USFWS initially rejected the petition, the decision was retracted after controversy over a Deputy Secretary ordering USFWS scientists to reverse their original findings that the Gunnison Prairie Dog be listed. (Gunnison Prairie Dog 2004). In 2008 after review, the USFWS announced another heavily challenged decision. Despite that fact that the species wasn't threatened or endangered throughout all of its range, it still warranted protection throughout Central Colorado and Northern New Mexico. The USFWS placed the Gunnison Prairie Dog on the candidate list, where the species remained for two years. Then, in September of 2010, US District Court Judge Frederick Martone ruled against the USFWS. The court ruled that the policy of only looking at certain ranges of a species habitat violated the Endangered Species Act, and mandated the USFWS to revisit the decision. ("Gunnison Prairie Dog Gets Second Chance at Federal Shields 2012)

In May of 2011, U.S. District Court Judge Emmet Sullivan approved a settlement in which the USFWS agreed to make a final determination on endangered species status for hundreds of candidate species, including the Gunnison Prairie Dog ("Candidate Settlement Milestone" n.d.). The Center for Biological Diversity appealed the agreement saying it was too weak, too vague, and ultimately unenforceable. Judge Sullivan stayed the agreement and ordered all parties back into mediation.

The current legal status of the Gunnison Prairie Dog is viewed optimistically by WEG, whose Executive Director, John Horning, called most recent developments "an

important step” to protect the Gunnison Prairie Dog (James 2011). WEG preservation litigation efforts continue to meet a variety of opposition whenever they advocate for specific actions to be taken. For example, they advocate for banning prairie dog toxicants, prohibiting oil and gas drilling in their territories, and eliminating subsidies that contribute to prairie dog killing, all of which elicit protest from the respective industries. Though the oil and gas industry has yet to mount any serious opposition to the listing of the Gunnison Prairie Dog specifically, other groups have. For example, ranchers and farmers, who have historically perceived prairie dogs as enemies, often provide opposition. Mike Beam, senior vice president of the Kansas Livestock Association said that the KLA would “do all we can to keep [the listing of Gunnison prairie dogs as an endangered species] from being done.” (James 2011).

The Sage Grouse

WEG has also “redoubled efforts” in protecting the Greater Sage Grouse, an avian species found in Montana, Wyoming, Idaho, Utah, and Nevada, and is “party to litigation to expedite listing under the ESA” (“Greater Sage Grouse” n.d.) Currently the species is only on the candidate list, and no federal protections have been issued. Concerns, however, have been plenty. Some worry that listing the Sage Grouse will “render millions of acres of both public and private land off limits to grazing cattle or planting crops,” having a large effect on farmers, ranchers, and landowners throughout Western states.

The Grouse’s listing as a candidate has already exacted an impact in several states, especially Wyoming, which is home to more than half of the world’s remaining Sage Grouse. Around \$18 million dollars in grants have been spent in an effort to preserve Sage Grouse habitats. Ranchers and farm owners have been “receptive” to

working with regulators and officials in the preservation of the Sage Grouse, fearing what impact its listing as an endangered species would have on their operations and livelihood. Money awarded by the grants is used to improve land-management practices in an effort to preserve the rapidly decreasing habitats. (McAfee n.d.).

Despite efforts in habitat conservation, *Greenwire's E & E News* has reported that “maintaining the status quo when it comes to protecting [the] sage grouse will eventually lead to its listing under the Endangered Species Act, a situation that could come with widespread economic impact[s]...” (Streater 2011b). In Wyoming groups are “in the process” of allocating \$1.2 million for the enhancement of Sage Grouse habitat; similarly, in Utah, Idaho, and Nevada groups are actively working on research and protection projects in preparation for 2015 when the final decision on the listing of the Sage Grouse will be made (Kruesi n.d.).

With the continued advocacy and litigation by WEG and other similar groups, there are fears that the Sage Grouse will be listed as endangered, which will have adverse economic impacts for farmers, ranchers, and landholders. Animal grazing is currently allowed for farmers and ranch owners on 91% of Sage Grouse land, but with a listing as endangered or threatened, the available land for raising livestock could be significantly decreased, negatively impacting an industry central to local economies.

The energy industry is also largely at risk by the potential listing of the Sage Grouse. Thirteen percent of total Sage Grouse habitat is within two miles of oil or natural gas development. The bird's protection by federal mandate could endanger the viability of these operations. In Utah, officials found themselves “scrambling” to protect the sage grouse, knowing that its listing would “severely impede mining, and oil, gas and wind energy development in the West” (Utah to craft sage grouse plan, n.d.). As WEG

continues to sue for its listing, members of local commitments are moving to support conservation of sage grouse habitat, knowing full well that its listing could potentially change their way of life.

In what is becoming a common situation where alternative energy siting is being threatened by environmental protection regulations⁴. In the case of the Greater Sage Grouse the wind energy industry is being threatened. Horizon Wind Energy proposed a 300-megawatt-capacity wind farm to areas of Wyoming considered to be Sage Grouse habitat. This proposition was met with opposition by WEG, the American Bird Conservancy, and other environmental activist groups Horizon Wind Energy has indefinitely suspended its plans for the wind farm (“Energy Developments Threaten Sage-Grouse Habitat” n.d.).

Conclusions

We find that WEG has negative economic impacts in their four primary areas they operate in through their use of litigation. WEG has mastered the use of litigation to prevent policies that they oppose. Their largest impact has been in their effort to restrict gas and oil development by blocking leases through both litigation and protest. This effort resulted in the Obama Administration making nationwide, sweeping changes to the standards that the EPA enforces on natural gas procurers. When it comes to coal mining WEG has continually blocked leases and has promised to continue this fight indefinitely, meaning the BLM will continually repeat the same process with WEG as long as they are issuing leases for coal production. Taken together these efforts may jeopardize industries representing over \$3 billion in local economies.

⁴ For more on this development read Yonk, Simmons, and Steed’s upcoming work *Green vs. Green*

Farmers and ranchers can continue to expect resistance from WEG as they attempt to graze their animals on federal land. WEG's actions will continue to threaten these farmers and ranchers and the approximately \$662 million that would be lost to the communities built around these industries. Arguably, WEG has achieved the most success in their endangered species litigation. Their litigation efforts have gotten hundreds of flora and fauna species listed or placed on the "Species of Concern" list. We expect WEG will continue to litigate to achieve their environmental protection goals.

Appendix One

Median Household Income

Table 2

Observations 297

Pseudo R Sqr .4965

Variable	Coefficient	Standard Error	P Value
WEG Intervention	-2503.40*	1423.20	.080
Population	.0039*	.0022	.073
Percent White	210.55***	40.60	.000
Birth Rate	-19.88	128.87	.878
Unemployment Rate	-1751.71***	396.79	.000
Crime Rate	-.169	.182	.355
Less than High School Grad %	-92396.21***	8415.59	.000
Percent Federal Land	5.51	16.14	.733
County Area	.0468	.0860	.587
Grazing	-2059.79	3884.32	.596
Coal	5360.32*	2756.00	.053
Constant	48720.24***	6217.71	.000

*P<.10 **P<.05 ***P<.01

Local Government Revenue

Table 3

Observations 297

Pseudo R Sqr .9570

Variable	Coefficient	Standard Error	P Value
WEG Intervention	20246.22**	10229.23	.049
Population	1.0466***	.01596	.000
Percent White	-355.25	291.82	.224
Birth Rate	-1981.62**	926.28	.033
Unemployment Rate	375.66	2851.95	.895
Crime Rate	1.112	1.312	.397
Less than High School Grad %	-116988.9*	60487.06	.054
Percent Federal Land	-63.887	116.06	.582
County Area	-1.300**	.6184	.002
Grazing	-87139.3***	27918.62	.002
Coal	-8026.55	19808.78	.686
Constant	90226.58**	44689.80	.044

*P<.10 **P<.05 ***P<.01

Total Payroll
 Table 4
 Observations 297
 Pseudo R Sqr .9549

Variable	Coefficient	Standard Error	P Value
WEG Intervention	-1677.78	427237.5	.997
Population	15.11***	.2354	.000
Percent White	-8946.98**	4292.56	.038
Birth Rate	-16120.9	13636.86	.238
Unemployment Rate	-39524.78	42023.88	.348
Crime Rate	43.51**	19.27	.025
Less than High School Grad %	774560.8	888670.1	.384
Percent Federal Land	1083.72	1709.96	.527
County Area	-32.62***	9.12	.000
Grazing	-1634355***	510526.1	.002
Coal	186338.7	399450.5	.641
Constant	958037	658118.2	.147

*P<.10 **P<.05 ***P<.01

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