

THE GREEN \$\$\$SCAM

Enviros milk the biggest cash cow: the U.S. taxpayer. By Henry Lamb

As green advocacy groups go, Western Watersheds Project is a fairly small outfit, but its output is big. Between 2000 and 2009, WWP filed 91 lawsuits and 31 appeals against the federal government, and was awarded at least \$1,150,558. During the same period, the Center for Biological Diversity filed 409 lawsuits and 165 appeals and walked away with at least \$6,709,407.

The key phrase here is “at least,” because there is no central record kept by either the courts or the government of awards to green

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organizations. The potential for abuse is obvious, so the Budd-Falen Law Offices in Cheyenne, Wyo., has devoted countless hours to digging through court records to discover whether, and how much, the system has been abused. Most of the lawsuits filed have nothing to do with the legitimacy of listing a species; they have everything to do with meeting procedural deadlines. Among green advocacy groups, this is called “strategic litigation.”

For example, the Environmental Protection Agency has only 90 days to respond to petitions to list species as endangered or threatened. The Center for Biological Diversity filed a petition to list 225 species. It would take a massive effort for the agency to evaluate 225 species within the 90-day limit. When Wildearth Guardians filed its petition with an additional 206 species, the agency was completely overwhelmed, with no chance at all of meeting the 90-day response limit. Both green advocacy groups had a field day with lawsuits.

According to its website, the highest priority for Western Watersheds Project is: “Get all cows off public lands ASAP.” Its second-highest priority is: “Get all cows and sheep off public lands ASAP.” By getting the EPA to list species as endangered or threatened, the government can then declare their habitat critical, and can force cows and sheep off the land—even off private property.

The more species on the EPA’s list, the

more land can be locked away from use by humans. As of February 2010, there were 1,967 species listed as endangered or threatened. There were 98 species awaiting a ruling by the EPA, and another 249 candidate species waiting to be evaluated. Every time the EPA misses a deadline, there is at least one green group ready to launch a lawsuit.

It was the Center for Biological Diversity and other green advocacy groups that first filed a petition for rulemaking that led to the Supreme Court’s ruling that the EPA could decide whether carbon dioxide is a pollutant. This EPA rule could be more potent than the Endangered Species Act when it comes to controlling the use of land. Despite the near-collapse of the global-warming scare after U.N. scientists admitted misusing the data, the EPA is moving forward to regulate land use to prevent non-existent man-made global warming.

Why? It’s all about the green agenda. Lawsuits have nothing to do with justice, and little to do with environmental stewardship. Green advocacy groups (GAGs), for the most part, are endowed with a religious zeal on par with Muslim jihadists; their vision of the world is correct, and to hell with those who disagree. Sadly, executives from these GAGs began infiltrating land-management agencies of the federal government several years ago. The Clinton era was especially fruitful for the greens. Management positions in Washington and throughout the country were filled with executives from green advocacy groups.

This fact becomes especially important in view of the “strategic litigation” being practiced by these groups. Here’s how it works: A green organization will file some preposterous lawsuit, claiming, for example, that a mud hole in Podunk, Idaho, is subject to the 1972 Clean Water Act. Court day arrives and the GAG plaintiff makes its case. The federal agency’s attorney—fresh from his position as counsel for a green advocacy group—makes a half-hearted defense. The judge asks if they can reach a settlement agreement.

This is precisely the desired outcome for the GAGs’ strategic litigation. During the negotiation between the GAG and the agency’s former green-group attorney, they write up an agreement that satisfies both par-

ties—that the mud hole in Idaho, as well as all other mud holes, become wetlands subject to the 1972 Clean Water Act.

The judge reviews the agreement and issues a Consent Decree which essentially changes the law without bothering Congress, and entitles the GAG to collect fat attorney fees. Incidentally, this law is also available to for-profit organizations which have a net worth of less than \$7 million. There is no such limitation on the net worth of green groups. The Natural Resources Defense Council, for example, has a net worth in excess of \$167 million, but still collected \$698,695 in legal fees in 2007.

Certain judges also seem to be sympathetic to these green organizations. Western Watersheds Project filed 19 lawsuits in Idaho Federal Court before Judge B. Lynn Winnmill. Of these, WWP prevailed in eight cases, with awards of \$746,184, while six of the cases were settled, providing another \$118,000. WWP also prevailed in other cases, but the payment amount was not disclosed.

These lawsuits and payments are significant. Consider these statistics over a five-year period:

2003	—10,595 payments made	Total paid: \$1,081,328,420
2004	—8,161 payments made	Total paid: \$800,450,029
2005	—7,794 payments made	Total paid: \$1,074,131,007
2006	—8,736 payments made	Total paid: \$697,968,132
2007	—6,595 payments made	Total paid: \$1,062,387,142

This totals \$4,716,264,730, or nearly a billion dollars per year to green advocacy groups for litigation paid from the Judgment Fund. Under the Equal Access to Justice Act (EAJA), the Forest Service paid an additional \$998,364 from its budget to green advocacy groups in just five western states. During the period studied, 80 percent of the Equal Access to Justice Act cases paid by the Forest Service went to GAGs.

The money paid to these GAGs is money that cannot be used by the agencies for real

environmental enhancements, such as providing more firefighting resources. It's not just the money the greens get, however. These lawsuits cost inestimable amounts of staff time, bloating bureaucratic agencies and budgets unnecessarily. And perhaps worst of all, these lawsuits nearly always result in infringing on private-property rights or forcing a business enterprise to forego an opportunity to provide jobs and expand the economy.

Green advocacy groups are expert at thwarting economic growth and stamping out private-property rights. They are equally expert at grabbing green from the federal government to finance their massive fund-raising campaigns and lobbying blitzes.

None compares to The Nature Conservancy when it comes to getting tax dollars. Its IRS tax statement reveals that, in 2008, it was awarded \$110,616,412 in grants from the federal government. This is in addition to the \$317,490,396 TNC received from the sale of land to the federal government. What a racket! TNC hires an army of professionals to talk people into donating their land to it so the land can be sold to the government at enormous profit.

To put TNC in its proper perspective, look at its cash flow since 2002, according to

its tax returns and the Office of Management and Budget grant audits: government grants: \$589,303,090; land sales to government: \$2,900,618,368; total receipts for the period: \$13,432,536,073.

This is the supreme example of corporate welfare and is TNC's reward for going green.

Congress should have stopped this abuse years ago, but it continues. GAGs have not only permeated the agencies of the federal government, but they maintain an army of lobbyists and political activists as well.

By hook or crook, green advocacy groups have exercised enormous and unwarranted influence

over public policy for decades. To a very large extent, taxpayers have unwittingly funded their mischief. Congress must revisit the Equal Access to Justice Act, and prevent the green groups from abusing its use. Congress must tighten the money belt and make it impossible for the former managers of GAGs, who now occupy management positions in government agencies, to approve massive grants to their former employers.

In short, it's time for Congress to stop going green, and to begin going after the green advocacy groups that have used their tax-free status to advance their agendas at the expense of taxpayers. ■

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Finally, some relief—maybe

Representatives Lummis (R-WY), Bishop (R-UT) and Sandlin (D-SD) introduced HR-4717, the "Open EAJA Act of 2010." The Equal Access to Justice Act became law in 1980 to enable individuals and small groups to have their legal fees reimbursed by the government in the event they prevailed in a lawsuit against the government. Until 1995, payments under this act were reported to Congress. Since then, there have been no reports, and certain environmental organizations have become proficient at abusing the system.

This new bill will require the attorney general to provide a public, searchable, online database of every application, and every payment made to each organization. Every federal agency is required to provide the necessary information to the attorney general. The information will include: name of the party seeking the award of fees and other expenses; the agency to which the application for the award was made; the name of the administrative law judges in the case; the disposition of the application, including any appeal of action taken on the application; the hourly rates of attorneys and expert witnesses, stated in the application that was awarded. The database and the annual report to Congress must provide the total number of applications filed, the total number of cases won, and the total amount of dollars awarded to each applicant.

In addition, the bill requires the comptroller general, within 30 days of enactment, to commence a comprehensive audit of payments made under the authority of the EAJA since 1995. The audit must be complete and reported to Congress within one year of enactment.—HL

The Greens' Greenbacks

Organization	Tax ID No.	Income	Assets	Top Execs Pay	Payroll	Govt Grants	Other Govt Income	Suits/Appeals Since 2000
The Nature Conservancy	530242652	\$1,398,742,000	\$5,636,393,924	\$349,373	\$213,980,475	\$110,616,412	\$317,490,396*	
World Wildlife Fund	521693387	179,855,379	296,127,002	486,394	48,381,499	26,142,042		
Environmental Defense Fund	116107128	122,811,126	127,921,640	496,174	35,094,422	3,572,893		
National Wildlife Federation	530204616	94,573,828	-9,005,988	345,004	26,469,430	195,775	62,132**	427/-
Nat'l Resources Defense Council	132654926	92,346,379	167,252,320	432,959	27,976,479	293,469	698,695**	
Wilderness Society	530167933	36,545,922	55,443,202	308,465	19,961,583		16,321**	149/-
Earthjustice	941730465	30,840,415	35,922,744	122,066	13,776,011		3,589,385**	
Defenders of Wildlife	530183181	30,750,872	18,486,774	312,896	11,717,522	205,021		
Center for Biological Diversity	850420285	9,186,050	6,770,201	115,971	3,643,734		1,396,734**	149/185
Wildearth Guardians	850406306	1,653,846	804,772	24,665	782,298	319,796		180/61
Western Watersheds Project	943202140	726,971	1,030,065	55,083	331,956			91/31
Totals:		\$1,998,032,788	\$6,337,146,656	\$3,049,050	\$402,115,409	\$141,345,408	\$323,253,663	

Sources: Financial information from latest IRS Form 990; Suit information from Budd-Falen Law Offices, Cheyenne, Wyoming.

* Land sales to government. ** Legal fees paid by the government.