

**HEADQUARTERS**

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WESTERN ENVIRONMENTAL LAW CENTER

Ms. Sophia A. Varnasidis, Director of Legislative Operations
Committee on Natural Resources
1324 Longworth HOB
Washington, DC 20515
Sophia.Varnasidis@mail.house.gov

RE: Responses to Questions for the Record, Subcommittee on Federal Lands (March 23, 2023)

Dear Ms. Varnasidis:

April 11, 2023

On March 29, 2023, Subcommittee Chairman Tiffany and Committee Chairman Westerman provided me and the Western Environmental Law Center Questions for the Record in response to the Subcommittee's March 23, 2023 legislative hearing on several bills. Below and attached please find our timely responses.

- 1. Please list any payments the Western Environmental Law Center received under the Equal Access to Justice Act (EAJA) in the past 10 years. Please disclose as applicable the case name, the court, subject matter of the litigation, the type of judgment (i.e. court settlement, court decision, agency settlement, etc.), the payment date, the payment amount, and the hourly rate charged.**

Please find attached an accounting of this information.

- 2. Please list any current or pending litigation against the Federal government to which you or your organization is a party filed between the period starting with March 23, 2023 and ending on the date in which you submit a response to this question. Please disclose as applicable case name, docket number, the court, and subject matter of the litigation.**

None.

Please let me know if you have any questions about these responses to Questions for the Record.

Sincerely,

A handwritten signature in black ink that reads "Susan Jane B." with a stylized flourish at the end.

Susan Jane M. Brown (she/her), Senior Staff Attorney
Western Environmental Law Center
Cell: 503-680-5513
brown@westernlaw.org

Western Environmental Law Center Federal Litigation Matters

Fee Award History for the years 2013 to 2023

The following list summarizes case-specific fee and cost awards to parties represented by the Western Environmental Law Center (WELC) and paid to WELC in litigation with the federal government from 2013–2023. We have provided information regarding all payments made pursuant to all fee-shifting statutes, inclusive of the Equal Access to Justice Act.

While we provide the case name, venue, and basic subject of the case, we are unable to provide specific information regarding the fee award mechanism (out of court settlement, court-approved settlement, or court award); what percentage, in whole or in part, of the award was made pursuant to the Equal Access to Justice Act versus other fee-shifting statutes; and specific hourly rates, which change with case and context. Even with further review, it may not be possible to provide that information given how settlement agreements are negotiated. For example, fee and cost settlements typically involve, in the interest of settlement, an aggregate amount and do not involve specific hourly rates.

Case filings and court orders and entries for each of the cases below can be accessed via publicly-available electronic court records by reference to the case number.

Saint John's Organic Farm & Peter Dill v. Gem County Mosquito Abatement District and Gem County, No. 1:04-CV-00087-BLW (D. Id.): Gem County Abatement. Payment Date: February 22, 2013, for \$20,000.

Californians for Alternatives to Toxics v. U.S. Fish and Wildlife Services, Civ. No. 2:10-cv-01477-GEB-CMK (D.E. Ca.); 12-16493 (9th Cir.): Silver King Creek. Payment Date: March 5, 2013, for \$8,000.

Community Assoc. v. Smith Brothers Dairy (purchased by Nelson Faria Dairy Inc), No. 2:04-cv-03060 (D.E. Wa.): CAFO. Payment Date: May 9, 2013, for \$74,880.

Wilderness Watch v. Wamoto and U.S. Forest Service, No. 2:10-cv-01797-JCC (D.W. Wa.): Glacier Peak. Payment Date: June 12, 2013, for \$70,000.

Citizens for a Healthy Community v. U.S. Department of Interior and U.S. Bureau of Land Management, Civ. No. 1-12-cv-01661-RPM (D. Co.): North Fork FOIA. Payment Date: September 11, 2013, for \$100,107.

Pacific Rivers Council et al. v. Shepherd, Civ. No. 3:11-cv-442-HU (D. Or.); 12-35570 (9th Cir.): WOPR, Pacific Rivers. Payment Date: December 28, 2013, for \$5,039.

Center for Sierra Nevada Conservation, Center for Biological Diversity, and Forest Issues Group v. Ramiro Villalvazo U.S. Forest Service, No. 2:09-cv-02523-LKK-JFM (D.E. Ca.): Eldorado Travel Management Plan. Payment Date: February 19, 2014, for \$26,846.

Cascadia Wildlands v. U.S. Forest Service, No. 6:12-cv-00804 (D. Or.): Goose Timber Sale. Payment Date: May 27, 2014, for \$59,787.

Cascadia Wildlands, et al. v. U.S. Bureau of Land Management, No. 6:12-cv-00095-AA (D. Or.): North Fork Overlook. Payment Date: June 16, 2014, for \$31,727.

Animal Welfare Institute v. Animal and Plant Health Inspection Service, No. 1:14-cv-00554-RCL (D. DC): Jaguar FOIA. Payment Date: August 20, 2014, for \$12,670.

Montana Wilderness Association v. Connell, Kornze, U.S. Bureau of Land Management, U.S. Dept of Interior, and Kania, No. 4:09-cv-00095-SHE (D. Mt.); 11-35818 (9th Cir.): WSRA: Missouri. Payment Date: September 11, 2014, for \$129,194.

Environmental Protection Information Center v. Lehr et al., No. 3:13-cv-02293-MMC (D.N. Ca.): Trinity Hatchery. Payment Date: September 24, 2014, for \$140,492.

The Wilderness Society v. U.S. Forest Service, No. 4:08-cv-00363 (D. Id.): Sawtooth. Payment Date: September 30, 2014, for \$115,111.

McClelland v. National Parks Service, No. 1:14-cv-01171-RBW (D. D.C.): GNP Roost FOIA. Payment Date: November 5, 2014, for \$15,033.

Greater Yellowstone Coalition v. U.S. Forest Service, No. 4:12-cv-00384 (D. Id.): Winchell-Dugway. Payment Date: December 17, 2014, for \$30,190.

Citizens for a Healthy Community and High Country Conservation Advocates v. U.S. Forest Service, Fitzwilliams, O'Byrne, Broyles and SG Interests I, LTD, SG Interests VII, LTD., No. 1:14-cv-00284-JLK (D. Co.): Forest Service SUPO. Payment Date: February 6, 2015, for \$22,515.

Friends of the Wild Swan v. Ashe, No. 9:13-cv-00057 (D. Mt.): Lynx. Payment Date: May 13, 2015, for \$104,060.

Native Fish Society v. National Marine Fisheries Service, No. 3:12-cv-00431 (D. Or.): Sandy River Hatchery. Payment Date: May 14, 2015, for \$49,399.

WildEarth Guardians v. U.S. Fish and Wildlife Service, Civ. No. 14-1828 (RMC) (D. D.C.): Lynx FOIA. Payment Date: August 12, 2015, for \$6,500.

Environmental Protection Information Center v. Ayer et al., No. 3:13-cv-00656-MMC (D.N. Ca.): Mad River. Payment Date: August 31, 2015, for \$59,156.

Cascadia Wildlands v. U.S. Forest Service, No. 3:15-cv-00860-PK (D. Or.): Wolf FOIA. Payment Date: December 11, 2015, for \$4,413.

Powder River Basin Resource Council v. U.S. Bureau of Land Management, No. 1:15-cv-00695-RBW (D. D.C.): Buffalo RMP FOIA. Payment Date: December 31, 2015, for \$8,411.

Klamath-Siskiyou Wildlands Center, Center for Biological Diversity, and Klamath Forest Alliance v. National Oceanic and Atmospheric Administration, National Marine Fisheries Service, and U.S. Fish and Wildlife Service, No. 3:13-cv-03717-NC (D.N. Ca.): FGS HCP. Payment Date: January 14, 2016, for \$200,637.

The National Trust Historic Preservation, et al. v. Raymond Suazo, et al., No. 2:13-cv-01973-DGC (D. Az.): Sonoran Desert. Payment Date: February 12, 2016, for \$182,352.

Powder River Basin Resource Council, et al. v. U.S. Bureau of Land Management, No. 1:15-cv-01684-KBJ; Civ. No. 15-0695 (D. D.C.): NTL-4a FOIA. Payment Date: September 23, 2016, for \$12,305.

McKenzie Flyfishers, Steamboaters v. McIntosh, Patterson, Aguilar, No. 6:13-cv-02125-TC (D. Or.): McKenzie Chinook. Payment Date: October 31, 2016, for \$210,927.

Cascadia Wildlands, et al. v. Woodruff, et al., Civ. No. 3:15-cv-05132-RJB (D.W. Wa.): WA Wildlife Services. Payment Date: November 17, 2016, for \$69,699.

Montana Environmental Information Center v. U.S. Bureau of Land Management, No. 4:11-cv-00015-SHE (D. Mt.): MT BLM Climate. Payment Date: February 22, 2017, for \$18,451.

Klamath-Siskiyou Wildlands Center, et al. v. Macwhorter and Waldo Mining District, No. 1:12-cv-01900-PA (D. Or.): Suction Dredge. Payment Date: February 22, 2017, for \$34,812.

WildEarth Guardians v. U.S. Fish and Wildlife Service, No. 16-01983 CKK (D. D.C.): Sonoran Desert Tortoise FOIA. Payment Date: March 15, 2017, for \$12,000.

Friends of Toppenish Creek v. Department of Health & Human Services and The Indian Health Service, No. 1:16-cv-03013-SAB (D. Wa.): IHS FOIA. Payment Date: March 15, 2017, for \$4,441.

WildEarth Guardians v. Kraayenbrink, et al., No. 4:14-cv-00488-REB (D. Id.): Idaho Predator. Payment Date: April 19, 2017, for \$7,641.

Montana Backcountry Hunters and Anglers, et al. v. U.S. Forest Service, No. 9:16-cv-00110-DLC (D. Mt.): Divide Elk Security. Payment Date: May 24, 2017, for \$25,244.

Defenders of Wildlife v. Zinke, Kurth, Idaho Farm Bureau Federation, Wyoming Farm Bureau, Montana Farm Bureau Federation, Washington Farm Bureau, Idaho State Snowmobile Association, Colorado Snowmobile Association, Colorado Off-Highway Vehicle Coalition, American Petroleum Institute, Montana Petroleum Association, Western Energy Alliance, No. 9:14-cv-00246-DLC (D. Mt.): Wolverine Listing. Payment Date: June 16, 2017, for \$200,879.

WildEarth Guardians, Conservation Northwest, Oregon Wild, Cascadia Wildlands, and Wilderness Workshop v. U.S. Department of Interior, Zinke, Kurth, and U.S. Fish and Wildlife Service, No. 9:14-cv-00270-DLC (D. Mt.): Lynx Critical Habitat. Payment Date: June 16, 2017, for \$94,216.

Diné CARE v. U.S. Office of Surface Mining Reclamation and Enforcement, No. 12-cv-1275-JLK (D. Co.): Navajo Mine. Payment Date: August 25, 2017, for \$220,000.

Sierra Club Inc. v. BNSF Railway Co., No. 2:13-cv-00967-JCC (D.W. Wa.): Washington Coal Train. Payment Date: September 22, 2017, for \$227,266.

WildEarth Guardians v. U.S. Office of Surface Mining Reclamation and Enforcement, No. 1:17-cv-01151-JEB (D. D.C.): SO3349 FOIA OSM. Payment Date: November 1, 2017, for \$4,500.

Friends of the Wild Swan, et al., v. Vermillion v. Montana Trappers Association, et al., No. 9:13-cv-00066-DLC (D. Mt.): Lynx Trapping. Payment Date: February 15, 2018, for \$144,031.

Cascadia Wildlands and Oregon Wild v. Carlton and American Forest Resource Council, No. 6:16-cv-01095-JR (D. Or.): Loafer Timber. Payment Date: March 8, 2018, for \$76,034.

WildEarth Guardians and Kootenai Environmental Alliance v. Animal and Plant Health Inspection Service, No. 1:17-cv-1153-KBJ; CDV 12-1075 (D. D.C.): Wildlife Services FOIA. Payment Date: April 12, 2018, for \$10,000.

WildEarth Guardians v. U.S. Office of Surface Mining Reclamation and Enforcement, No. 1:17-cv-00758-APM (D. D.C.): Spring Creek FOIA. Payment Date: April 12, 2018, for \$5,650.

Montana Environmental Information Center v. U.S. Office of Surface Mining reclamation and Enforcement, No. 9:15-cv-00106-DWM (D. Mt.): Signal Peak NEPA. Payment Date: April 12, 2018, for \$121,500.

Sierra Club, et al., v. Zinke, No. 3:17-cv-3804-EDL (D. Ca.): BLM Methane 705 Stay. Payment Date: October 31, 2018, for \$37,788.

WildEarth Guardians v. U.S. Bureau of Land Management, No. 1:17-cv-01149 (D. D.C.): SO3349 FOIA BLM. Payment Date: December 10, 2018, for \$9,000.

WildEarth Guardians v U.S. Bureau of Land Management, No. 1:18-cv-0551-TNM (D. D.C.): FOIA. Payment Date: May 31, 2019, for \$3,299.

Diné Citizens v. USEPA, No. 18-71481 (9th Cir.): Four Corners Power Plant NPDES. Payment Date: June 28, 2019, for \$19,806.

WildEarth Guardians v. U.S. Bureau of Land Management, No. 1:18-cv-00121-RCL (D. D.C.): FOIA. Payment Date: June 30, 2019, for \$1,369.

Western Organization of Resource Councils, et al. v. U.S. Bureau of Land Management, et al. and Cloud Peak Energy, et al., No. 4:16-CV-00021-BMM (D. Mt.): Powder River Basin RMP. Payment Date: June 30, 2019, for \$230,227.

San Juan Citizens Alliance, et al. v. U.S. Bureau of Land Management, No. 1:16-cv-00376-JOB-JHR (D. NM.): Santa Fe National Forest lease sale. Payment Date: July 8, 2019, for \$62,248.

Sierra Club, et al., v. Bernhardt, No. 3:17-cv-7186-WHO (D. Ca.): BLM Methane Suspension Rules. Payment Date: July 24, 2019, for \$73,780.

WildEarth Guardians v. Scruggs and Montana Trappers Association, et al., No. 9:16-cv-00065-DWM (D. Mt.): Lynx CITES. Payment Date: September 24, 2019, for \$144,477.

Center for Biological Diversity, et al. v. Zinke, et al. & Safari Club International, et al. v. Zinke, et al., No. 4:15-cv-00019-JGZ (D. Az.): Mexican Wolf. Payment Date: December 18, 2019, for \$193,799.

WildEarth Guardians v. U.S. Bureau of Land Management, No. 1:18-cv-0890-APM (D. D.C.): FOIA. Payment Date: December 30, 2019, for \$737.

Willamette Riverkeeper and Conservation Angler v. U.S. Army Corps of Engineers and Aaron Dorf, No. 6:17-cv-00801-MC (D. Or.): Santiam Hatchery. Payment Date: December 31, 2019, for \$130,000.

WildEarth Guardians v. U.S. Bureau of Land Management, No. 1:17-cv-01849 (D. D.C.): BLM online oil and gas leasing FOIA. Payment Date: December 31, 2019, for \$13,000.

WildEarth Guardians, Oregon Wild, The Sierra Club, and Great Old Broads for Wilderness v. Jeffries, No. 2:17-cv-1004-SU (D. Or.): Ochoco Summit Trail. Payment Date: December 31, 2019, for \$145,000.

Diné CARE v. Bernhardt, No. 1:15-cv-00209-JB-LF (D. NM.): Mancos APD. Payment Date: February 19, 2020, for \$107,854.

Wilderness Workshop, Western Colorado Congress, Natural Resources Defense Council, Sierra Club v. U.S. Bureau of Land Management, et al., No. 1:16-cv-01822 (D. Co.): Colorado River RMP. Payment Date: June 5, 2020, for \$118,421.

Montana Environmental Information Center v. U.S. Office of Surface Mining reclamation and Enforcement, No. 19-2977 (D. D.C.): OSM Rosebud FOIA. Payment Date: July 31, 2020, for \$2,500.

Montana Environmental Information Center and Sierra Club v. U.S. Office of Surface Mining, Reclamation, and Enforcement, Civ. No. 19-3019 (D. D.C.): OSM Bull Mountains FOIA. Payment Date: September 23, 2020, for \$2,064.

WildEarth Guardians v. Bernhardt, No. 4:19-cv-00441-CKJ (D. Az.): Sonoran Desert Tortoise ESA. Payment Date: December 30, 2020, for \$23,524.

Citizens for a Healthy Community; High Country Conservation Advocates; Center for Biological Diversity; WildEarth Guardians; and Wilderness Workshop; v. U.S. Bureau of Land Management, David Bernhardt, Dana M. Wilson, U.S. Forest Service, Sonny Perdue, Chad Steward, and SG Interests I, LTD.; and SG Interests VII, LTD., No. 1:17-cv-02519 (D. Co.): Bull Mountain MPD. Payment Date: December 31, 2020, for \$61,248.

WildEarth Guardians, et al. v. U.S. Bureau of Land Management, et al., No. 4:18-cv-0073-BMM (D. Mt.): Montana leasing. Payment Date: December 31, 2020, for \$90,440.

Helena Hunters and Anglers Association, et al. and Alliance for the Wild Rockies, et al., v. Leanne Marten, et al., and Stae of Montana and Montana Bicycle Guild, Inc., No. 19-cv-0047-DLC (D. Mt.): Challenge to Forest Service's decision to use of areas inside two Inventoried

Roadless Areas in the Helena National Forest, as part of the Tenmile-South Helena project.
Payment Date: April 30, 2021, for \$199,000.

Wilderness Workshop, Center for Biological Diversity, Living Rivers Colorado Riverkeeper, Sierra Club v. U.S. Bureau of Land Management, No. 1:18-cv-00987 (D. Co.): Challenge to Piceance lease sales. Payment Date: December 11, 2021, for \$20,670.

WildEarth Guardians v. U.S. Bureau of Land Management, No. 1:18-cv-00233 (D. D.C.): FOIA. Payment Date: December 31, 2021, for \$3,697.

WildEarth Guardians v. U.S. Bureau of Land Management, Civ. No. 18-1020-CRC (D. D.C.): FOIA. Payment Date: February 4, 2022, for \$2,950.

Crow Indian Tribe v. U.S.A., No. 17-cv-89 (D. Mt.): Restoring endangered species protections for the Greater Yellowstone Ecosystem population of grizzly bears. Payment Date: February 24, 2022, for \$432,426.

Friends of the Wild Swan, et al., v. Haaland, No. 9:20-cv-00173-DWM (D. Mt.): Challenge to Fed decision not to prepare lynx recovery plan, following earlier order from the court. Payment Date: April 20, 2022, for \$101,012.

American Whitewater v. Electron Hydro, LLC, No. 2:16-cv-00047-JCC (D. Wa.): Challenge to hydroelectric project on Puyallup River in Washington that takes ESA-listed Chinook and steelhead and bull trout. Payment Date: May 18, 2022, for \$223,903.

The National Trust for Historic Preservation v. Haaland, No. 2:16-cv-05008-PHX-MHB (D. Az.): Challenge to BLM decision to allow target shooting in Sonoran Desert National Monument. Payment Date: July 31, 2022, for \$110,000.

Friends of the Clearwater v. Probert, No. 3:21-cv-00056-BLW (D. Id.): Griffin Half Moon timber sale. Payment Date: July 31, 2022, for \$46,000.

WildEarth Guardians and Montana Environmental Information Center v. Haaland and Spring Creek Coal, LLC, No. CV 17-80-BLG-SPW-TJC (D. Mt.): Spring Creek Coal NEPA. Payment Date: September 8, 2022, for \$103,500.

WildEarth Guardians v U.S. Dept of Interior et al., Civ. No. 19-2974 (D. D.C.): Carlsbad Resource Management Plan FOIA. Payment Date: September 9, 2022, for \$19,000.

Cascadia Wildlands, Klamath-Siskiyou Wildlands Center, Oregon Wild, Soda Mountain Wilderness Council, and Willamette Riverkeeper v. US Bureau of Land Management and B&G Logging and Construction, LLC, No. 6:21-cv-01313-AA (D. Or.): BLM salvage CX rulemaking. Payment Date: October 15, 2022, for \$30,000.

Citizens for a Healthy Community v. U.S. Bureau of Land Management, Civ. No. 1:20-cv-2484 (D. Co.): Uncompahgre Resource Management Plan. Payment Date: December 20, 2022, for \$75,607.

WildEarth Guardians v. Williams, No. 9:20-cv-00097-DLC (D. Mt.): Challenge to Fed decision not to list wolverine. Payment Date: December 21, 2022, for \$61,499.

Diné CARE v. Bureau of Land Mgmt., No. 1:20-CV-00673-KG-JHR (D. NM.): Challenge against BLM oil and gas leasing decisions under NEPA. Payment Date: March 9, 2023, for \$142,043.

WildEarth Guardians v. Haaland, Nos. 9:20-cv-00181-DWM; 9:20-cv-00183-DWM (D. Mt.): Challenge to Fed decision not to list wolverine. Payment Date: March 20, 2023, for \$147,868.