

Simply Marvelous

Could the dean of cow haters be riding into the sunset?

Essay by Dave Skinner.

In September 2012, alert westerners had a little blip of joy cross their radars. Rocky Barker reported in his *Idaho Statesman* blog that Western Watersheds Project (WWP) had posted a job opening: executive director, the new director becoming “the public face of our organization.”

Gasp! Could it be? Could “Captain” Jon (insert term of endearment here) Marvel, whom Barker described as “perhaps the most hated man in the ranching community,” be gone?

Since founding Idaho Watersheds Project (now WWP) in 1993, the personality-challenged Wilmington, Del., native and architect has well and truly earned his reputation among livestock producers as “a vindictive S.O.B.,” “an arrogant, ignorant asshole,” and “immune to reason.” Joined at the hip with Boise-based lawyer Laurence J. “Laird” Lucas of the Land and Water Fund (ironically renamed Advocates for the West), WWP has pursued one simple goal: To end all livestock grazing on public lands.

Accordingly, WWP has engaged in bitter bidding wars for targeted grazing leases, filed hundreds of lawsuits and hundreds more appeals or complaints against grazing permits affecting millions of acres of the interior Great Basin West, sending out paid and volunteer “monitors” to locate the next target.

Why? Mr. Marvel once told the late *RANGE* star correspondent Tim Findley that ranchers are criminals, but his comment to Rocky Barker outside the courtroom of federal Judge B. Lynn Winmill stands alone for its cruel clarity. While waiting for Winmill to rule in a case that stood to make or break Owyhee ranchers, Marvel turned to Barker and declared, “Blankets, Rocky, I’m holding the smallpox-contaminated blankets.”

Wow...if that’s what he says to reporters, just imagine what Marvel says in private.

So the timing sure seemed ripe to celebrate a Marvel retirement in *RANGE*. The deadline to apply for Marvel’s job was October 1, but a joint November 29 press release from Oregon Natural Desert Association, the Center for Biological Diversity, and WWP proclaiming victory in a “decade-long series of cases” features words



from still-WWP-director Jon Marvel. Rats.

Even if Jon Marvel does leave WWP, the monster he spawned—a many-headed, interlocking, strategic and ideological Hydra—lives on. You might want to know who helped Jon keep his monster alive.

The Monster Is Spawnded

As part of trying to put this essay together, one of the first things I did was go to the Economics Research Institute website, which has the best free Internal Revenue Service Form 990 database I’ve ever found. It goes back to 2002, while Guidestar’s free service only goes

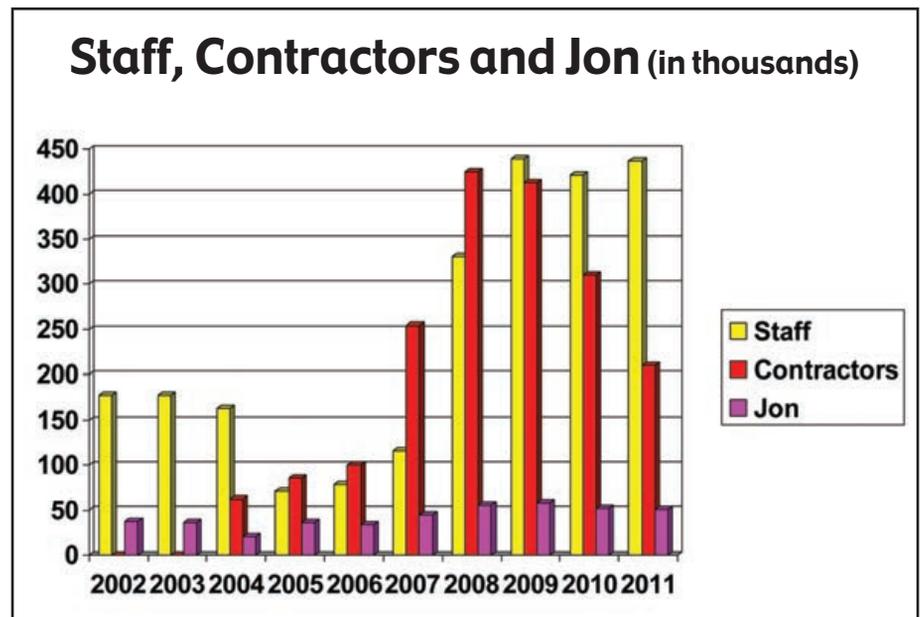
back to 2008. Combining the two provides 10 straight years of Western Watersheds’ tax forms, and reveals an organizational “burn rate” that would shame a doomed Internet start-up.

In the past 11 years, WWP operated in the deep red seven times, with its worst loss (\$423,000) in 2009 when revenues were only \$691,000. Shades of Solyndra!

Not only that, but WWP’s “showcase” Greenfire Preserve has been a major drain on resources. Donated in 2000 by a mystery “conservationist and friend of WWP,” two years later Greenfire sucked down \$237,000 in “restoration and education” program expenses (including a \$53,614 manager salary), while returning only \$5,386 from Greenfire “educational” events.

Even more pathetic, the so-called Greenfire Revival gathering, at the height of fall colors in 2006, pulled down \$2,481 in gross receipts, leaving WWP with a dead loss of \$2,095—and a clear signal of the true breadth of Western Watersheds’ support.

In general, the IRS documents make one wonder if Marvel was being departed for systematically poor fiscal stewardship. But the fine print tells a different story, and goes a long way toward answering two questions on



Notice that salaries and contractor wage totals are pretty flat until 2006, and after Greenfire is liquidated, wages for both contractors and in-house staff nearly triples.

everyone's mind: (1) How did WWP stay afloat? Litigation? Foundations? Rich yuppies? Jon? And (2) Will Marvel's not-quite-yet retirement matter in the end?

The Litigation Jackpot

For years, it's been believed that serial-litigant "nonprofits" use court settlements and attorney-fee awards to support their operations. Under federal law, these predators have no liability for their victims' court costs, and, even worse, get a check from taxpayers if they win or settle with the feds.

So, is suing the feds a profit center? Wyoming attorneys Frank Falen and Karen Budd-Falen conducted a study a couple of years ago indicating that almost a billion dollars a year are paid out by a "judgment fund" appropriated by Congress for Endangered Species Act, Clean Water Act, and other environmental statutes that allow plaintiffs to recover from "Uncle Sugar."

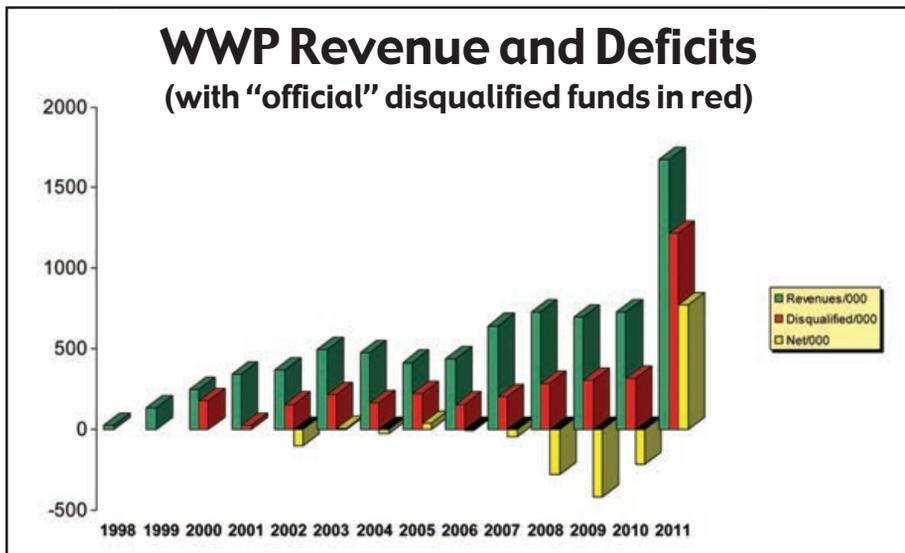
Specifically, the Falens report that WWP filed 91 lawsuits, including 31 federal appellate cases from 2000 to 2009, and they specifically dug into 19 cases in federal judge B. Lynn Winmill's court in Boise. Of those, WWP collected in only eight decisions won on merit, plus six that were settled, pulling down at least \$999,190 in Equal Access to Justice Act loot. But WWP's IRS reports show litigation is not its profit center. From 2002 to 2011, WWP spent \$1.759 million on litigation as "program service accomplishments." However, from 2002 to 2011, WWP's "other income" from legal-fee reimbursement never exceeded \$42,500. In fact, this income declined from approximately \$15,200 in 2008 to \$321 in 2009, to zero in 2010 and 2011.

The reimbursements actually went to law firms like Advocates for the West (AFTW) in Boise, the go-to firm for WWP and allied cow-hating groups. Four AFTW wins on behalf of WWP in 2010 resulted in \$87,972 paid to AFTW, a year WWP paid \$183,000 to Lucas' firm. Not a dime came back to WWP.

Foundations of Empire

While it's impossible to know for dead sure, it further looks like WWP gets scant support from the mainstream philanthropic network of multibillion-dollar private foundations.

Under federal law, exempt foundations that make grants must list their donees on public forms, usually in fine print, in formats that are emphatically not searchable. However, private persons of means who donate to



In 1998, Western Watersheds Project's revenue was only \$22,000. Two years later, it had a new \$1.3-million ranch and \$175,000 in disqualified revenues from parties unknown. Only the 2006 IRS report gives any clue as to the number of "disqualified persons" supporting Western Watersheds. Up to then there was \$756,000 given, with \$570,000 coming from two of five blanked-out donors. Keep in mind the Greenfire property donation and liquidation transactions are not counted, although the end result is substantial cash for operations.

charities almost never report their donees, although the IRS duly awards the tax benefits. Most importantly, recipients are not required to publicly disclose their supporters, and so they don't.

The \$1.5-billion-and-growing Gordon and Betty Moore Foundation made one general support grant of \$2,000 in 2007, out of \$329 million granted that year. The Seattle-based Bullitt Foundation's last grant to WWP was in 2007, completing a total of \$110,000 over five years. The \$23 million, Oregon-based Lazar Foundation granted WWP \$10,000 for "promoting advocacy and accountability on Southern Idaho's public lands" in 2006. But the Lazar Foundation is with the "program": In 2011, it granted \$30,000 to Advocates for the West "to protect the sagebrush sea"; \$40,000 to Oregon Natural Desert Association to "protect biodiversity in Oregon's Owyhee Canyonlands"; and \$15,000 to WildEarth Guardians "to protect the sage grouse, a keystone species in the sagebrush sea."

Then there is the Sangham Foundation, a relatively new "family" foundation with \$5.5 million in assets. Since 2007, WWP has collected \$150,000 from SE, which "does not accept unsolicited grant applications." Another small, consistent funder is the Kenney Brothers Foundation, which also routinely makes low five-figure grants to Advocates for the West.

All told, however, it seems that foundations don't pay WWP's freight either. So

what, or who, does? Looking at WWP's biggest money pit, the charming Greenfire Preserve, gives some important hints.

Greenfire

The Greenfire Preserve (Greenfire) is WWP's eco-showcase, a 432-acre base property on the East Fork of Idaho's Salmon River, 18 miles west of Challis about a mile off Highway 75. It has six unused grazing leases (three BLM and three Forest Service on 50,000 acres) and associated water rights.

The former Abatti Ranch was bought in June 2000 by "a conservationist and friend of WWP" and donated to Valley Sun, LLC, in turn controlled by WWP as a for-profit subsidiary. The ranch went onto WWP's books as a \$1.3-million asset, while the donor got a nice charitable tax write-off.

But Greenfire was expensive, as noted above. To help support it, the main ranch house was made into a lodge. In 2004, the flat rate for five bedrooms, linens provided, "luxurious master suite" with Jacuzzi and kitchen was \$200 per night for up to 14 people. WWP members paid only \$25 per night for the first six persons. Such proceeds were apparently \$5,386 for year 2002 and certainly no more than \$11,200 in 2005, the year "other income" peaked. I can't be certain, however, because WWP's reporting methodology is inconsistent. But there is absolutely no doubt that Greenfire was, and remains, a flaming loser.

However, in 2006, WWP reported

(under “other liability”) a \$100,000 “earnest money deposit received from G. Younger.” In 2007, the Valley Sun, LLC “asset” was completely zeroed out on WWP’s books, replaced by over \$1 million in cash and securities. WWP still saw fit to claim a \$19,898 “loss on sale of property donated to the organization and used to educate the public about watershed protection and habitat restoration.”

So here are the clues. Public records show an Ann M. Down as representative for Valley Sun, LLC. Well, *Forbes* reported in 2010 that Down sued to force sale of a Sun Valley home she’d agreed to buy for \$7.4 million. A search for Ann Down of Sun Valley reveals that she’s a philanthropist with a personal private foundation, the Good Works Institute, which Capital Research Center reports donated \$242,000 to AFTW in 2003/5. Ah...Good Works Institute, let’s see. Yep, \$10,000 to WWP and \$30,000 to AFTW in 2011. Good works, indeed.

But public records regarding a mining project near Challis reveal another person representing Valley Sun, LLC: John D. Alkire of Valley Sun, LLC, at 1000 SW 43rd St., Renton, Wash. Washington state listings show Mr. Alkire (an attorney) is also secretary of Lazy Y Ranch, LTD, also domiciled in Renton.

In *Lazy Y Ranch, LTD v. Behrens*, Lazy Y (represented by AFTW and Laird Lucas, of course) sued in federal court to force the Idaho Land Board to allow conservation groups to bid for Idaho graze. The 9th Circuit Court affirmed the district court ruling

that Idaho was violating Lazy Y’s rights under the Equal Protection Clause because, at least in part, defendants had “not offered a rational basis for classifying based on whether a lease applicant is a conservationist.” Idaho was ordered to pay Lazy Y \$50,000 to settle the case.

The Cow-Hating Cardboard Baron

The president of Lazy Y Ranch, LTD is Gordon Myles Younger, our “G. Younger” who put down the earnest money and bought Greenfire away from WWP. He’s duly listed by WWP on its 2007 IRS Form 990 as buyer of Greenfire’s “land and related assets” for \$1.3 million.

Mr. Younger has been reported before, in “real” press coverage of WWP, as a “Washington-state businessman and environmentalist” and humble “contributor to Western Watersheds.” According to a 1998 story by Paul Freeman of the *Puget Sound Business Journal*, Gordon Younger is a former Boise Cascade sales representative. In 1967, he and a co-worker founded Seattle Packaging Corporation (SPC). The four divisions and three plants of the company were described in 1998 as the “Northwest’s largest independent corrugated box manufacturer.”

The story listed Micron Electronics, Intel, Nike, Nintendo, and Starbucks as clients, with SPC enjoying 1998 sales of \$102 million, up massively from 1994 sales of \$41 million. Soon after, the economy tanked. Younger’s firm merged with his main competitor in 2001. In another 2003 article from

Paul Freeman describing the result, Alliance Packaging, LLC, showed combined revenues of \$100 million and 700 employees, headquartered at, yep, 1000 SW 43rd Street in fabulous Renton, Wash.

So, Younger is a millionaire. How does he spend it? Federal Elections Commission records show him to be quite the Democrat, including such luminaries as socialist Bernie Sanders of Vermont and Elizabeth Warren of Massachusetts—\$120,000 in the last 12 years according to FEC records.

At the state level, Younger isn’t so generous, but he’s still active on the left: For example, he contributed against Measure 933, a failed Washington ballot measure requiring compensation when regulation damages use or value of property. The Nature Conservancy led opponents, unsurprisingly.

Younger has apparently been most generous to Western Watersheds Project. In fact, it appears that he and a handful of anonymous others are carrying the outfit.

Disqualified

IRS charitable reports require calculations of something called a “public support percentage.” A 501(c)(3) like WWP must get over 33 percent of its funding from other than “disqualified persons” to be tax-exempt and publicly supported. A disqualified person is defined as anyone “in a position to exercise substantial influence over the affairs” of a nonprofit, and WWP relies utterly on such persons for its sustenance.

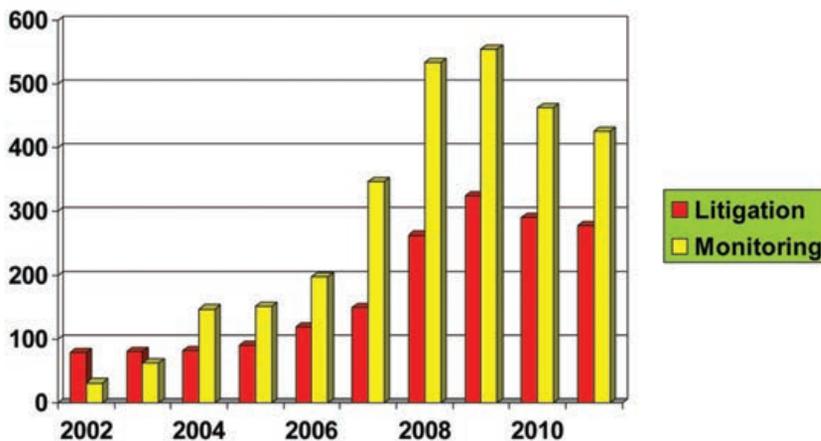
For example, in 2000, when WWP was first gifted the \$1.3-million Greenfire ranch, it had revenues of \$250,372. Of that, \$175,000, 70 percent, came from unknown disqualified persons. From 2002 to 2010, it never got less than \$155,000 from disqualified supporters, a total of \$2.021 million. And WWP’s actual insider support is probably more. The anonymous initial gift of Greenfire was not counted as disqualified funding. Younger’s bailout purchase of Greenfire restoring WWP’s operating liquidity doesn’t count directly either.

Accounting tricks aside, if both Greenfire deals were financed by one of WWP’s habitual disqualified supporters, the effective aggregate of disqualified support for WWP from 2000 to 2010 then comes to roughly \$4.6 million against total WWP revenues of \$5.569 million. In effect, WWP has received 82 percent of its support from insiders, and only 18 percent from the public, in turn raising the issue of whether WWP meets the



WWP’s IRS forms inconsistently report its “legal” expenses. The relatively small amount of court-ordered recoveries of legal fees were conflated in “other income,” mixing Greenfire revenue, grazing-lease refunds, and legal recoveries, and not reported in the same manner each year. But Advocates for the West is obviously WWP’s go-to law firm. Equally obvious from the paltry recoveries: WWP sues not to make money but to harass and inflict costs on others in hopes of driving them out of business.

WWP Litigation & Monitoring (in thousands)



Early on, Western Watersheds Project focused mostly on lawsuits. However, when Greenfire was sold to Gordon Younger in 2007, WWP's monitoring efforts skyrocketed compared to litigation. For example, in 2008 and 2009, the level of monitoring is the equivalent of ten \$50,000 contractors set loose with the intent of finding something to appeal or litigate against during a six-month "hunting season."

required 33 percent "public support" threshold required for charity status.

Does Younger have substantial influence on WWP? In 2006-7, WWP ended the year with \$99,000 in cash, almost exactly the \$100,000 in earnest money put up by G. Younger. Coincidence? Perhaps, but in 2007, after conversion of Greenfire proceeds to

One Marvelous Letter

As it is supremely bad form for owners of multimillion-dollar natural-resource firms to fund radical groups trying to destroy other natural-resource producers, Mr. Younger justifiably keeps a low public profile. But he let his views slip once, in a vicious 2004 Seattle Times letter to the editor criticizing President G.W. Bush's support for a constitutional amendment defining marriage. Here is an excerpt:

"I only have one problem that needs to be addressed before I would be able to fully support this new amendment. Approximately one percent of all babies born are hermaphrodites—i.e., of indeterminate sex. Does this mean they cannot marry, or should the amendment explicitly criticize God for this mistake and make a special category for them in order that they could marry?... It is important that we address this issue now so we will not be forced to address it in the future.—Gordon Younger, Renton."

No wonder Jon Marvel and Gordon Younger get along so, er, marvelously.—DS

securities, WWP had capital to burn—\$1.3 million. Regardless of whether Younger sits in on WWP doings in an active Wizard of Oz role, the fact remains that the ready cash from his 2007 buy had a gigantic influence on its program decisions—at least until his money started running out...again.

In 2011, after beginning the year with \$391,000 in net assets, WWP reported \$905,000 in program service expenses and only \$458,000 in public support income. Without WWP's loyal disqualified supporters, it would have ended the year with \$56,000 in net liabilities, not assets. In a word: broke.

But WWP's 2011 tax form shows a whopping \$1,216,000 in disqualified funds, leaving it at year-end with \$1.148 million in "savings and temporary cash investments." Just like that, WWP is solvent. Simply marvelous how that came about, isn't it? And wouldn't it be even more marvelous if folks knew for certain which donor to thank? Don't hold your breath.

Is Jon Really Going Away?

Another Greenfire event hints that Marvel's departure from Western Watersheds isn't his exit from the battlefield, just a move to a new front: In 2010, the local Bureau of Land Management attempted to revoke Greenfire's grazing leases, in part because Valley Sun, LLC, principals Jon Marvel and Gordon Younger had misrepresented their management intentions. Represented by Advocates

for the West (again), Valley Sun won a stay of cancellation, partly based on testimony of "expert geologist Don Clarke," whom we'll return to shortly.

Idaho Cattle Association, Idaho Farm Bureau, and Public Lands Council all sought intervenor status, but were denied. So, lacking help, BLM filed a February 2011 Motion to Remand and "not continue to defend its existing decisions" to vacate the leases, citing "the lower priority of these matters." Therefore, the "ungrazing" permit, which the Public Lands Council called an "unacceptable precedent," was turned back to Valley Sun, LLC, and Greenfire for now.

Don Clarke is a retired federal sedimentation geologist. Of more interest is his current position on the advisory panel of the Sagebrush Habitat Conservation Fund. Its mission is to spend WWP's share of the unprecedented \$22-million "greenmail" ransom that El Paso Petroleum paid Oregon Natural Desert Association and WWP in exchange for their promise not to sue to block El Paso's multibillion-dollar, natural-gas Ruby Pipeline project between Wyoming and Oregon. With this money these groups will be "buying and retiring federal grazing permits where authorized."

Clarke sits alongside fellow SHCF advisor John Leshy—Bruce Babbitt's solicitor general—you know, the professor who now moonlights for Hansjörg Wyss and wrote that nice paper with Molly McUsic on changing federal law to allow permanent retirement of grazing leases? You betcha! [See Wyss story "Passing the Bucks," Summer 2012 at www.rangemagazine.com.]

Another advisor is National Wildlife Federation special projects coordinator Hank Fischer. He is credited with creating Defenders of Wildlife's in-name-only Wolf Compensation Trust. SHCF's executive director is Debra K. Ellers, a former Micron staff attorney, former president of and contract worker for...yep, Western Watersheds! Best of all, SHCF's vice president is the one, the only, Jon Marvel.

Simply marvelous. ■

Dave Skinner is no longer a pup. As he gets older, wiser and crankier, he regrets not going back to school for a law degree. Or maybe, because he digs around in numbers so much, accounting? Or, because he swims in a sea of acronyms, a bureaucrat? Of course, he never needed a journalism degree.