



“Welfare Environmentalists”: The Center for Biological Diversity

Who Is the Center for Biological Diversity (CBD)?

Heavily influenced by the radical eco-terrorist group Earth First!, the Center for Biological Diversity has a very confusing and often hard to follow history. This organization has incorporated several times in 3 different states, changed names, and merged into a holding company. CBD’s proposed mission is to protect the environment; however, it has past donors like Goldman Sachs and ExxonMobil Foundation and connections with the Tides Foundation. As of March 2019, it had at least 160 employees, including more than 40 attorneys.

Based in Tucson, Arizona, CBD has 16 satellite offices, including one in the District of Columbia. CBD was created in Arizona in 1991 as the Greater Gila Biodiversity Project. It was renamed the Southwest Center for Biological Diversity in 1994, and finally the Center for Biological Diversity in 1998. The co-founders of CBD are Kieran Suckling, Peter Galvin, Todd Schulke and Robin Silver. As of 2017 the combined total compensation from CBD for the four co-founders was nearly \$950,000.

Center for Biological Diversity – Their Money Information

The Center for Biological Diversity is a multimillion-dollar nonprofit with a substantial portion of their income coming from government grants. The government gives these organizations taxpayer money, which they use to sue the government. In many cases, fees are partially or fully reimbursed to them upon winning a case under EAJA.

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In fact, in 2009 the Center for Biological Diversity raised \$7.5 million dollars, \$1.7 million of which was labeled as “legal returns.”

By 2016, total revenue had increased to \$14.7 million, Salaries and employee benefits were \$9.9 million (up from \$8.1 million in 2015). Net assets at the end of 2016 were \$19 million.

Total revenue for 2017 exceeded \$20.1 million, \$1.3 million of that listed as legal returns and settlements. Page 10 of the 2017 Form 990 showed total compensation of their employees of \$9.5 million and another \$1.7 million for 401(k) and other employee benefits. Net assets at the end of 2017 were \$21 million.

The Endangered Species Act

The Endangered Species Act, like so many other laws, was born from a noble beginning. Below is a definition of the Endangered Species Act as outlined by the United States Environmental Protection Agency:

“The Endangered Species Act (ESA) provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. The lead federal agencies for implementing ESA are the U.S. Fish and Wildlife Service (FWS) and the U.S. National Oceanic and Atmospheric Administration (NOAA) Fisheries Service. The FWS maintains a worldwide list of endangered species. Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees.

The law requires federal agencies, in consultation with the U.S. Fish and Wildlife Service and/or the NOAA Fisheries Service, to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species. The law also prohibits any action that causes a “taking” of any listed species of endangered fish or wildlife. Likewise, import, export, interstate, and foreign commerce of listed species are all generally prohibited.”

A 1978 U.S. Supreme Court ruling made the ESA more important than progress, jobs, property rights, and in some ways, the Bill of Rights. A quote from that ruling states: “Congress intended endangered species to be afforded the highest of priorities”. Unfortunately, the Act’s power, citizen suit provisions, and lack of a cap on appropriated funds make it a very easy weapon to wield when the primary goal is to coerce government agencies to isolate the natural world from human activity and fleece the government of taxpayer dollars.

The ESA is mostly about habitat - land and waters, not the listed plants and animals. “Habitat” covers all lands and waters, government owned and private property. “Critical Habitat” is a designation that empowers agencies to impose severe measures to enforce the Endangered Species Act.

Abuse of the Endangered Species Act by the Center for Biological Diversity

The Center for Biological Diversity exploits the Endangered Species Act for their own agenda – to remove public land from public use by making unsubstantiated claims that one species or another would be threatened by commercial activity on public lands, such as grazing, mining, and logging. Like with organizations they often partner with, for example the Western Watershed Project and WildEarth Project, CBD follows a formula. They “beat the bushes” searching for species so they can petition to have them



listed under ESA. The tactic these groups employ overwhelms the Wild and Wildlife Agency with requests that they are not able to timely process. When the agencies can't make deadlines, CBD then files suit to force the various agencies to act on their petition and declare "critical habitat," usually using unproven science. Then the land and waters that the species occupies or even *could* occupy becomes protected by the government, stopping all human activity there.

There have been several instances where CBD's chosen species are actually plentiful in other areas, giving them access to shift larger pieces of public land away from human use. The sad fact is that legitimate, needed protection of truly endangered species gets lost in the shuffle of hundreds of frivolous petitions filed by these groups.

Litigious "Nature" and Why "Sue and Settle" Works

As taxpayers, most of us hope our money is spent in a way that benefits the county as a whole or at least provides some quantifiable improvements. Non-Governmental Organizations, like Center for Biological Diversity, use the combination of their 501c3 status and the Equal Access To Justice Act (EAJA) to suck millions of taxpayer dollars from government agency budgets in both lawsuit settlements and expenses. CBD is proud of the fact that they have filed 132 lawsuits just against the Trump Administration since March 15, 2017.

Regardless of political affiliation, these lawsuits, the vast majority frivolous and unfounded, have cost taxpayers millions and accomplished little beyond padding CBD's bank accounts to help fund future lawsuits.

From January 2000-July 2012 CBD filed 549 environmental related lawsuits. This does not include their challenges to administrative orders or administrative hearings, such as their joint lawsuit with Western Watersheds Project and WildEarth Guardians surrounding the Hammond family grazing permits.

Even a ballpark guess is difficult when trying to figure out how much money has been paid to CBD throughout the nearly 30 years of lawsuits. If the settlement is paid out of judgement funds for the Endangered Species Act, the Clean Air Act, or Clean Water Act there is no cap on money appropriated to fulfill that act and it is an off-budget item. Regardless, it all starts as taxpayer money.

Common Goals and Influences Form Lucrative Long-Standing Relationships

Earth First!, a group that came to be well known for ecoterrorist tactics, is a common influencer of various environmentalist NGOs. As we shared in the Western Watersheds Project article, a founder of Earth First!, Dr. Bruce Hayse, sits on their board of directors.

Kieran Suckling, CBD co-founder and director, got his start in environmental "non-profit-teering" – for lack of a better term – as a member of Earth First!

The Center for Biological Diversity and WildEarth Guardians (formally Forest Guardians) have been teaming up since at least 1997 when they sued to force the Forest Service to consult with the U.S. Fish and Wildlife Services (FWS) regarding endangered species on 158 grazing allotments in Southern Arizona.

The groups teamed up again in 2010-2011 for an extremely large lawsuit against the U.S Fish and Wildlife Services involving over 1000 species petitioned to be added to the Endangered Species List. These two settlement agreements are the culmination of what is known as the Endangered Species Act ("ESA") multidistrict



litigation. The case was formed in 2010 by combining 13 federal court cases filed by one of the two. The cost to taxpayers for FWS to just complete the required paperwork was \$206,098,920. This does not include WEG & CBD's attorneys' fees or any other expenses.

“No Need for Science or Environmental Conservation Degrees” and Other Disturbing Suckling Quotes

2009 High Country News Interview with Kieran Suckling – Co-Founder of the Center for Biological Diversity
As confusing as CBD's history is, executive director, Suckling, is very clear on his stance when it comes to “environmental campaigning” using “psychological warfare” and his feelings on the role of science in the environmental movement. Below are some excerpts from the High Country News Interview with Suckling:

HCN: “What role do lawsuits play in your strategy to list endangered species? “

SUCKLING: “They are one tool in a larger campaign, but we use lawsuits to help shift the balance of power from industry and government agencies, toward protecting endangered species. That plays out on many levels. At its simplest, by obtaining an injunction to shut down logging or prevent the filling of a dam, the power shifts to our hands. The Forest Service needs our agreement to get back to work, and we are in the position of being able to powerfully negotiate the terms of releasing the injunction.

New injunctions, new species listings and new bad press take a terrible toll on agency morale. When we stop the same timber sale three or four times running, the timber planners want to tear their hair out. They feel like their careers are being mocked and destroyed -- and they are. So they become much more willing to play by our rules and at least get something done. Psychological warfare is a very underappreciated aspect of environmental campaigning. “

HCN: “Were you hindered by not having science degrees?”

SUCKLING: “No. It was a key to our success. I think the professionalization of the environmental movement has injured it greatly. These kids get degrees in environmental conservation and wildlife management and come looking for jobs in the environmental movement. They've bought into resource management values and multiple use by the time they graduate. I'm more interested in hiring philosophers, linguists and poets. The core talent of a successful environmental activist is not science and law. It's campaigning instinct. That's not only not taught in the universities, it's discouraged.”

Rancher Sues and Wins

The Chilton family, well respected 5th generation Arizona ranchers, were targeted by CBD in 1998 due to “endangered” and “threatened” species with habitat on their Arizona grazing allotment called “Montana” outside the small ranching town of Arivaca, AZ. This saga has spanned 7 years, and has all the twists and turns of a blockbuster Hollywood film.

To protect their ranch and reputation, the Chiltons', specifically son Jim, went to great lengths to prove that they were excellent stewards of their land and that it was a model in compatibility between raising livestock and providing habitat for wildlife.



Here are a few details of the situation:

The official USFS file on the Montana grazing allotment originally included a 1997 Biological Assessment written by Forest Service biologist and CBD member Jerry Steffenrud, and Mima Flak, a Forest Service botanist. The assessment declared that grazing the “Montana” allotment would ‘likely adversely affect endangered or threatened’ species. Of the species listed, one of them had never been located on the grazing land to begin with. This Biological Assessment was forwarded to the FWS and a Biological Opinion was written by Sally Stefferud (Jerry’s wife). While the Biological Opinion was struck down later by a federal judge in 2000 and declared “arbitrary, capricious, and unlawful” in the Ninth Circuit Court of Appeals in 2001, it did not stop CBD from continuing their efforts to get the Chiltons off their “Montana” allotment by any means necessary. In the end, the Center for Biological Diversity made four formal attempts and appealed repeatedly but could never manage to prove their case.

Knowing the file contained 30-year-old data and unchecked claims as well as obvious collusion and inappropriate lack of scientific data, Jim Chilton hired multiple respected experts to extensively monitor the allotment and provide qualitative data to the file. These assessments lasted years and showed that the Chilton family, true to form, were doing an excellent job maintaining the “Montana” allotment. In fact, 3 of the experts, one a tenured professor at New Mexico State University who literally “wrote the book” on range management, published 2 peer reviewed papers using the allotment as an example.

In the end, in a jury trial, Jim Chilton successfully sued CBD and 3 individually named people for defamation. He was awarded \$100,000 in actual damages and \$500,000 in punitive damages. The basis for the lawsuit was a CBD news advisory including 21 zoomed in pictures that later proved to be a roadside campsite, private land, a mining area, and a former cabin site. Statements in the advisory said the “Montana” allotment was “grazed to bare dirt”, “100% utilized”, “damaged” and attacked Jim and his wife Sue (who happened to be chairman of the Arizona Game and Fish Commission). The advisory was online for over a year. All 10 jurors agreed that CBD’s news advisory did not “accurately describe the condition of the Montana Allotment”. Nine voted that CBD’s press release contained “false statements” and “misleading photographs” and that CBD had published it “with an evil mind”.

The Chilton case is a perfect example of why Protect The Harvest works diligently to educate about radical activists like the Center for Biological Diversity, Western Watersheds Project, and WildEarth Guardians. We share this particular story because the Chiltons’ continued to tell the truth, stood up for themselves, and ultimately proved what so many of us know: that ranchers grazing public lands are the true environmentalists.

The 2005 Range Magazine article covering the entire Chilton story is in depth and a good read. It can be found here:

<http://www.rangemagazine.com/features/summer-05/got-cha.htm>

What about the Economic Impacts?

The economic impact of these lawsuits goes far beyond the immediate effects on ranching families and the American taxpayer forced to foot the bill, to the dismantling of rural communities, food price increases, and depreciation of property value. While much of the information we found during our research into these NGO’s do touch on such impacts, we believe this statement from the Range Magazine archives sums it up very well:

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"The economic impacts of these actions are literally beyond measure. The cost to the taxpayer in the dozens of endless court battles has not even been estimated. Public land agencies are forced to spend their time responding to lawsuits and documenting their compliance to lost cases, instead of managing the land. Countless jobs are lost, resources rendered useless, property depreciated or made worthless, city and county tax bases destroyed. And the people, young and old? Removed from their homes, livelihoods and friends, most will have to struggle to start anew... I asked Kieran's old professor, Pax, a hard question during the telephone interview. "What do you think of the pain, human suffering, the dismantling of rural communities created by Kieran's actions?" ...The professor's indifferent answer was a revelation that brought Suckling's environmental philosophy back to its seed. "He doesn't see any other way to proceed in his work without disruption like that! He doesn't do it for the sake of disruption, but he is not going to stop his work simply because people are uncomfortable with it!"

Based on the fact that the actions groups like the Center for Biological Diversity, Western Watershed Project and WildEarth Guardians employ actually serve to do the opposite of their claimed mission, it is clear they care little about endangered species and the lives and livelihoods they destroy. The hundreds of lawsuits they file strip public land from the public and they make millions of dollars a year doing it.

Looking Forward – Hopeful Change on the Horizon?

For years there has been talk of making changes to the transparency of the EAJA and attempts to stop the abuses of many environmental protection laws. However, none of it has seemed to stem the flow of lawsuits, and the numbers continue to climb.

There may be some change on the horizon.

In March 2019, S. 47, the Natural Resources Management Act, was signed into law. This lands package included H.R. 752, the Open Book on Equal Access to Justice Act, a bill that requires tracking and disclosure of attorney fees paid out from environmental lawsuits in an online, searchable database.

In May 2019, Principal Deputy Solicitor of the Department of the Interior (DOI) Daniel Jorjani issued a memorandum directing his department to create a publicly accessible litigation webpage that will track and disclose important information in relation to attorney's fees and costs paid as a result of consent decrees and settlement payments entered into on behalf of the Department of the Interior. It was in response to the September 2018 Secretary's Order 3368, Promoting Transparency and Accountability in Consent Decrees and Settlement Agreements.

To view the Memorandum, go to

https://westerncaucus.house.gov/uploadedfiles/doi_attorneys_fees_and_costs_memo.pdf

Our goal for this three-part series is to help educate the American public on the activities and costs to taxpayers done by these NGO's.

You can read all about these groups as well as the Hammond family on our website.

