

New Insight Into the Environmental Litigation Industry
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Budd-Falen Law Offices recently developed a memo that should make the blood boil of everyone who lives in rural Western communities. The Cheyenne, Wyoming law firm set out to determine the amount of litigation filed by environmental organizations and the amount of attorneys' fees these groups have received from the federal government for these cases.

The results are shocking, and they only include federal district court cases.

Between 2000 and 2009, eight environmental groups - Western Watersheds Project, Forest Guardians (now known as WildEarth Guardians), Center for Biological Diversity, the Wilderness Society, the Idaho Conservation League, the Oregon Natural Desert Association, the Southern Utah Wilderness Association, and the National Wildlife Federation - filed at least 1596 federal court cases against the federal government. Every one of the groups is a tax exempt, non-profit organization that receives attorney fees from the federal government.....for suing the federal government. These same environmental groups are receiving billions of tax dollars in attorney fees for settling or "winning" cases against the federal government.

Accurate statistics have not been kept by the Justice Department or the federal agencies, so there is no complete accounting for the total amount of tax dollars paid. However, the Budd-Falen firm was able to uncover some discerning facts.

Based on the limited information that was available, Budd-Falen found that over \$4.7 BILLION in total payments were paid in taxpayer dollars from 2003 through July 2007 for attorney fees and costs in cases against the federal government. Determining the total amount of funds awarded to litigants prevailing in litigation proved to be a more difficult task for Budd-Falen. However, just for the six Regions that span the West, they determined that the U.S. Forest Service (USFS) paid over \$1.6 BILLION in awards to prevailing litigants between 2003 and 2005. Out of the 44 total cases in which USFS paid prevailing fees during this time, 35 payments went to environmental group plaintiffs.

Funds awarded to the "prevailing" litigants are taken from the "losing" federal agencies' budget. There is no oversight in spending this money, which could otherwise be funding on-the-ground programs to protect public lands, national forests, ranchers, wildlife and other land uses.

Nonprofit, tax exempt groups are making billions of dollars, while ranchers and other citizens are being forced to expend millions of their own money to intervene or participate in these lawsuits to protect their way of life when they have no chance of the same attorney fee recovery if they prevail. And the economies which farmers and ranchers support also take a hit, as evidenced this year in California's Central Valley, where litigation filed to "protect" fish in the Bay-Delta is a primary reason for the \$1 billion-plus blow dealt to farm communities.

If the Obama Administration and Congress want to apply some real economic stimulus to rural Western communities, they could start by reforming environmental litigation laws and holding the government accountable for the money it is spending.