

Budd-Falen Law Offices, L.L.C.

Karen Budd-Falen¹
Franklin J. Falen¹
Brandon L. Jensen^{1,2}
Kathryn Brack Morrow^{1,2,3}

300 East 18th Street
Post Office Box 346
Cheyenne, Wyoming 82003-0346
Telephone 307/632-5105
Telefax 307/637-3891
main@buddfalen.com
www.buddfalen.com

¹admitted in Wyoming
²admitted in Colorado
³admitted in New Mexico

MEMORANDUM

TO: INTERESTED PARTIES

**FROM: KAREN BUDD-FALEN
BUDD-FALEN LAW OFFICES, LLC**

DATE: SEPTEMBER 30, 2009

**RE: FOLLOW-UP TO ATTORNEY FEES/LITIGATION
INFORMATION**

I do not seem to be able to get away from reviewing the environmental group applications for attorney fees and court settlements and keep being shocked by the findings. Since my last memorandum to you:

1. Earthjustice Legal Foundation (a public interest, nonprofit legal foundation) representing Defenders of Wildlife, Sierra Club, The Wilderness Society and Vermont Natural Resources Council has filed an application for attorneys fees in a single case that took 1 year and 3 months to complete for a total of \$279,711.40. For that same suit, Western Environmental Law Center (also public interest nonprofit legal foundation) representing Citizens for Better Forestry, Environmental Protection Information Center, Center for Biological Diversity, Wild West Institute, Gifford Pinchot Task Force, Idaho Sporting Congress, Friends of the Clearwater, Utah Environmental Congress, Cascadia Wildlands Project, Wild South, Klamath Kiskiyou Wildlands Center, The Lands Council, Forest Service Employees for Environmental Ethics, Wild Oregon, and Wild Earth Guardians filed an application for attorneys fees for \$199,830.65. Thus in TOTAL, the nonprofit, public interest environmental plaintiffs are requesting **\$479,242.05** for a single lawsuit lasting 15 months. There were 7 attorneys representing these nonprofit public interest organizations who charged between \$650.00 per hour and \$300.00 per hour. These 7 attorneys claimed to have spent 930.05 total hours on the litigation. This was the case where the environmental groups sued the Forest Service over their Forest Service land use planning regulations in 2008. The judge has given the plaintiffs and the Justice Department representing the Forest Service 45 days to settle on the payment of attorneys fees. There were no intervenors from "industry" or other groups

involved in the litigation. The case was resolved on the administrative record and motions for summary judgment; there was no evidentiary trial. After the Forest Service lost the case in the Federal District Court for the Northern District of California, the Justice Department withdrew the regulations and did not appeal the case. Thus, the total attorneys fees and costs of \$479,242.05 only represent work before the Federal District Court.

2. On September 14, 2009, the WildEarth Guardians sued the Federal Emergency Management Agency ("FEMA") for issuing 16,734 insurance policies to private landowners for private structures worth approximately 2.7 billion dollars. In that litigation, the WildEarth Guardians have requested that the federal district court stop FEMA from issuing any insurance policies for any structure on any flood plain that is within the geographic range of any threatened or endangered species. One day later, the same group filed the same lawsuit against FEMA in Arizona relating to the issuance of 35,801 policies insuring structures on private property worth approximately 7.7 billion dollars. That litigation also requests the court stop FEMA from ensuring any structures on any flood plain that is within the geographic range of any threatened or endangered species. It is important to understand that it would be impossible for WildEarth Guardians to sue the individual landowners for building these structures on their private land unless WildEarth Guardians could prove that the construction actually resulted in the death of a species listed as threatened or endangered under the Endangered Species Act. That has not been alleged in this case. Thus, the environmental group is seeking to stop private land use by stopping landowners from getting insurance for legally built structures.
3. According to the Internal Revenue Service, in 2007, the top ten executives for the environmental organizations reported the following salaries and benefits listed below. This information was prepared by David Freddoso, Commentary staff writer and was posted at: www.washingtonexaminer.com September 22, 2009, "Big Green is a Profitable Enterprise.

Organization	Position	Salary	Retirement Plan/Deferred Compensation	Total
Environmental Defense Fund, Inc.	President	\$446,072.00	\$50,102.00	\$496,174.00
World Wildlife Fund	President	\$439,327.00	\$47,067.00	\$486,394.00
Natural Resources Defense Council	President	\$357,651.00	\$75,308.00	\$432,959.00
Environmental Defense Fund, Inc.	Executive Director	\$323,801.00	\$41,972.00	\$365,773.00
Environmental Defense Fund, Inc.	VP West Coast	\$325,559.00	\$35,313.00	\$360,872.00
Nature Conservancy	Acting President	\$318,507.00	\$30,866.00	\$349,373.00
National Wildlife Federation	President	\$309,579.00	\$35,425.00	\$345,004.00
Pew Center on Global Climate Change	President	\$311,500.00	\$23,599.00	\$335,099.00
Defenders of Wildlife	President	\$254,947.00	\$57,949.00	\$312,896.00
The Wilderness Society	President	\$289,750.00	\$18,715.00	\$308,465.00