

# High Country News

AM THE  
CHANGE

industrialization  
pollution  
drought

WATER - AIR - earth

FAKE SNOW  
CO<sub>2</sub>

## HIGH COUNTRY NEWS

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Blackfeet tribal members Wyett Wippert and Christen Falcon stretch a bison hide on a handmade wooden frame, the first step in tanning it, at their home in East Glacier, Montana. **Louise Johns / HCN**

# Know the West.

High Country News is an independent, reader-supported nonprofit 501(c)(3) media organization that covers the important issues and stories that define the Western U.S. Our mission is to inform and inspire people to act on behalf of the West's diverse natural and human communities. High Country News (ISSN/0191/5657) publishes monthly, 12 issues per year, from 119 Grand Ave., Paonia, CO 81428. Periodicals, postage paid at Paonia, CO, and other post offices. POSTMASTER: Send address changes to High Country News, Box 1090, Paonia, CO 81428. All rights to publication of articles in this issue are reserved. See hcn.org for submission guidelines. Subscriptions to HCN are \$37 a year, \$47 for institutions: 800-905-1155, hcn.org. For editorial comments or questions, write High Country News, P.O. Box 1090, Paonia, CO 81428 or editor@hcn.org, or call 970-527-4898. For correspondence addressed to High Country News, HCN or to the editors, permission to publish will be considered implicit unless specifically stated otherwise.

## Mutual care

**JUST AS I WAS ABOUT TO GO ON LEAVE** from *High Country News* last summer, I received a letter from a subscriber in Oregon. He'd read my editor's note about the great blue heron and, being a heron admirer himself, as well as a professional photographer, offered to send me a print of one of his photos. Accompanying the letter was a spiral-bound book of image proofs from which to choose. It was a heartwarming gesture, made doubly meaningful because of a diagnosis I'd received suddenly, without warning.

I pored over the book and marveled at the graceful outlines of herons in all kinds of light, settings, poses and plumage. I have encountered many acts of generosity in my life, yet this seemed exceptional. I marveled that a longtime *HCN* reader had been inspired to reach out like this based on some words I'd shared about my affinity for a bird. I accepted his offer, thinking: Isn't this what it's all about — mutual care and concern for each other, for other species, for the integrity of the ecosystems that sustain us all?

It sounds self-evident. Nevertheless, it can be difficult for such a sensible ethos to prevail, particularly in times of scarcity. In this issue, through an investigation undertaken in partnership with *ProPublica*, we describe how tribes in the Colorado River Basin must negotiate and litigate to gain access to water they were guaranteed through a 1908 Supreme Court ruling. The state of Arizona has been especially ruthless in its dealings with tribes over water that is needed not just for drinking and agriculture, but for the continuance of cultural practices that go back centuries, if not millennia. To force tribes that were living in the West long before colonists laid claim to anything to make yet more concessions in order to get water they've already been promised is a staggering injustice.

I'm proud of the team that worked on this investigation, and thankful to Michelle Nijhuis for serving as acting editor-in-chief, and to everyone at *HCN* for all their hard work, during my months-long absence. And I'm grateful for the readers who keep *HCN* going, who see *HCN* as a community of caring and concerned individuals of which they are a valued member. It's good to be back in the editor's chair, with a framed photograph of a great blue heron watching over me as I type.

**Jennifer Sahn**, editor-in-chief

**Jacqueline Balderrama** is the author of *Now in Color* (Perugia Press, 2020) and chapbook, *Nectar and Small* (Finishing Line Press, 2019). She's a Virginia G. Piper Fellow at Arizona State University.

**Sharon Chischilly** is a Diné photographer based in New Mexico and Arizona who focuses on underreported stories from her community. She will receive her bachelor's degree in journalism and mass communications from the University of New Mexico next year.

**Umar Farooq** is an Ancil Payne Fellow with *ProPublica*, where he reports on national issues. @UmarFarooq\_

**Russel Albert Daniels** is a documentary photographer and photojournalist whose work stands in the currents of art, reportage and decolonization. His projects explore identity, sense of place and history.

**Ryan Dorgan** is a photographer who has spent the last decade covering Wyoming stories for local, regional, national and international publications. He moonlights as a house mover, helping give soon-to-be demolished homes a second chance at life.

**Nick Martin** is a senior editor for *HCN's* Indigenous Affairs desk and a member of the Sappony Tribe of North Carolina.

**Nina McConigley** is a writer and professor at Colorado State University. She is the author of *Cowboys and East Indians*. In her "Township and Range" column, she writes about the intersection of race and family in the interior rural West.

**Tiffany Midge** writes "Heard Around the West" for *High Country News*. She is a citizen of the Standing Rock Nation and the author of *Bury My Heart at Chuck E. Cheese's*. Midge resides in Idaho near the homeland of the Nimiipuu. @TiffanyMidge

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**Anna V. Smith** is an associate editor of *High Country News*. She writes and edits stories on tribal sovereignty and environmental justice for the Indigenous Affairs desk from Colorado. @annavtoriasmith

**Taylor Dawn Stagner** is an editorial intern for the Indigenous Affairs desk at *High Country News*. A writer and audio journalist, she is Arapaho and Shoshone and covers racism, rurality and gender.

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FEATURE

## The Trojan Horse of Native Theater

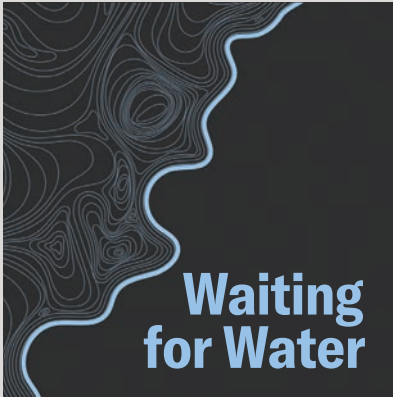
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Larissa FastHorse's *The Thanksgiving Play* made Broadway history. That's a good thing — right?

BY NICK MARTIN | PHOTOS BY JAIDA GREY EAGLE



Cast members of *Wicouan* gather with Larissa FastHorse at the chapel at Placerville Camp in the Black Hills of South Dakota.  
Jaida Grey Eagle / HCN



An investigation by  
**Anna V. Smith, High Country News,**  
**and Mark Olalde and Umar Farooq,**  
**ProPublica**

Photos by **Sharon Chischilly and**  
**Russel Albert Daniels**

Graphics by **Lucas Waldron,**  
**ProPublica**

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Detail of a mural from The Painted Desert Project by Chip Thomas, a doctor, photographer, activist and longtime Navajo Nation resident. **Russel Albert Daniels / HCN**

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BY EMILY SCHWING | PHOTOS BY SETH ADAMS

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## LETTERS

**High Country News is dedicated to independent journalism, informed debate and discourse in the public interest. We welcome letters through digital media and the post. Send us a letter, find us on social media, or email us at [editor@hcn.org](mailto:editor@hcn.org).**

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### LEARNING ABOUT LIFE FROM LETITIA

Once again, *High Country News* published an illuminating, complex story (“The many legacies of Letitia Carson,” June 2023). It’s critical reading to understand the intersecting and ongoing issues of gender, race, colonialism and land in Oregon. **@tkdeibele**  
**Via Twitter**

### WARM INTEREST

What a great issue! I read every article and pre-ordered John Vaillant’s new book, *Fire Weather* (“When fire goes feral,” June 2023). Sounds like a gripping read. Thanks!  
**Karen L. Willoughby**  
**Helper, Utah**

### THE JOY OF POETRY

Thank you, Garrett Hongo, for “Scarlet Paintbrush” in the May issue. Your poem brought great joy to my heart, and with our heavier-than-normal spring moisture, you can find scarlet paintbrush dotting the landscape. We must teach our young

people about the past in order to save their future.

**David Porter Misso**  
**Tule Lake, California**

### BUTTERFLY BUFFS

Really loved Ben Goldfarb’s article (“Watching a species disappear,” May 2023). There’s nothing like heartfelt, personal science journalism. I’m guessing the Behren’s silverspot butterfly just gained a lot of new fans!

**@rosa\_radrazz**  
**Via Twitter**

### ‘AMENITY TRAPS’

#### ARE HARD TO ESCAPE

Nick Bowlin’s article on the “amenity trap” facing resort towns (“Western resort towns risk being ‘loved to death,’” *hcn.org*, May 23, 2023) neatly summarizes the problems that can occur when the economy of such communities is overly reliant on tourism. In combating this economic fragility, the common wisdom is that diversifying the economy beyond tourism will improve “sustainability”

and allow these places to better deal with economic stress. Although this argument is true in general, there are costs involved with economic diversification that usually go unrecognized.

Where I live, in the Lake Tahoe region, policymakers are seeking to broaden our local economy from two seasons to four, and hoping as well to attract higher-paying jobs and thus enhance “prosperity.” If successful, the growth in the local workforce that results from this push will likely worsen our already severe housing affordability crisis, and it will certainly heighten the pressure to build homes elsewhere in the commute shed (say, a 40-minute drive), which includes wildlands and habitats that would be better off left undisturbed. Planners and the elected should think carefully before chaining resort towns to the same growth dynamic that leads to sprawl and the birth of cities.

**Richard Anderson**  
**Truckee, California**

### FIELD OF BATTLE

That was a really interesting story on the front line of the invasive species wars by Samuel Shaw (“A weed is swallowing the Sonoran Desert,” *hcn.org*, May 9, 2023).

**@poumecooffee**  
**Via Twitter**

### LEW GEORGE SPEAKS

What a beautiful piece! (“Dispatch from the scaffolds: Native fishing culture on the Columbia River,” *hcn.org*, May 8, 2023) How great to hear Lew George’s voice, explaining the pictures, something we get all too seldom.

I wonder: If there were more pieces like this one out there in America-land, would people sit up and take notice of what is going on with Mother Nature and

all of us Beings? Well, you made a start on that. Thank you for your magnificent work!

**Meg Hunt**  
**Olympia, Washington**

### STORIED REPORTING

I recently signed up for a digital subscription and made a donation. As one of those dreaded transplants to the West, I enjoy the substantive reporting mixed with storytelling that your publication offers. I discovered *High Country News* when I spied an issue lying on a filing cabinet at work, the Oregon/Washington state office of the Bureau of Land Management in Portland, Oregon, where I serve as the emergency management coordinator for the agency. The reporting reminded me of what *Outside Magazine* does on occasion, but you do it constantly, so I thought it was high time I supported you — plus I get to explore back issues, so I can increase my historical knowledge.

**Bryan Bohn**  
**Hillsboro, Oregon**

### INTERMOUNTAIN COVERAGE

I originally subscribed to learn more about the High Plains and the Intermountain West of America. I am still dismayed and disappointed about the broadening of your focus to include Alaska and the Pacific Northwest. Those places get plenty of national attention, while the intermountain region is still underrepresented. Perhaps *HCN* could produce an annual issue devoted to the region that was your original focus?

**Margaret J. Hayes**  
**Bellingham, Washington**

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## CORRECTIONS

In a photo caption in our June feature, “The many legacies of Letitia Carson,” we misspelled Zachary Stocks’ last name. In “The Fires Below” (August 2022), we mistakenly said that Antarctica does not have coal seams; actually, coal seams can be found on every continent. We regret the errors.

# A tale of two climate migrations

U.S. and Central American immigrants converge in Baja California.

BY CAROLINE TRACEY  
PHOTOS BY CARLOS MORENO



**JOH KING HAD LIVED** in Santa Cruz, California, for 20 years when her below-market-rate lease ended during the COVID-19 pandemic and her landlord took the home off the rental market. Between the effects of tech-related gentrification, the pandemic and the CZU Lightning Complex fires, King couldn't find housing. Eventually, two friends in the beach town of Ensenada, Baja California,

suggested that she come stay with them. They helped her find and rent a small guesthouse decorated with Italian tile. "I never anticipated being as happy as I am here," she said.

Not long after, Elizabeth Bonilla, originally from the state of Sonsonate, El Salvador, also arrived in Ensenada. Bonilla had to grow up fast: She took over her family's household duties when

she was 8, after her mother was diagnosed with a life-threatening kidney illness at a time when heat- and pesticide-related chronic kidney disease was reaching epidemic proportions in low-lying parts of El Salvador. By the time she turned 14, she moved to a small city nearby to begin working. Then, after gangs killed two of her cousins, she fled her home country. Bonilla spent six years in Tapachula, Chiapas, the largest city on Mexico's southern border, and obtained Mexican residency. She moved to Ensenada after an acquaintance found her a job, leaving her two children and her mother behind in Chiapas. "My whole life has been a long battle for survival," she wrote to me in Spanish over Facebook Messenger, where we first connected.

King and Bonilla's experi-

ences speak to two different migrations converging in Baja California, Mexico: U.S. citizens seeking coastal housing at a fraction of U.S. prices, and refugees fleeing Mexico, Central America and beyond. Climate is a factor in both. Though it's most visible after natural disasters like hurricanes and wildfires, climate migration encompasses a wide spectrum of experiences — from displacement, to wanting a better life, to seeking a place with a preferable climate or more amenities. In every case, however, economic inequality, sometimes exacerbated by climate change, helps shape the migrant's path.

Of Mexico's 32 states, Baja California — the state that spans the northern half of the peninsula of the same name — has the fourth-highest immigration



Above, migrants like Elizabeth Bonilla typically end up living in inland neighborhoods like Colonia José María Morelos y Pavón, while U.S. citizens are more likely to prefer the higher-priced coastal areas. Left, Bonilla at work as a private sub-contractor security guard at a shipping container yard on the outskirts of Ensenada, Baja California, Mexico.

rate, according to the country's 2020 census. Over 85% of its documented immigrants are from the United States, according to an interview with Mexico's National Institute of Statistics and Geography that appeared in the newspaper *El Vigía*. Most live just a short drive from the border, in coastal communities like Ensenada and Rosarito.

Even so, greater Tijuana's reputation as a city of migrants didn't come from southward migration from the U.S., but rather from internal migration from Mexico. Still, that migration has long connections to dynamics in the U.S.; the city began to grow rapidly during the 1920s and '30s due to Prohibition-era tourism and deportations of Mexican workers from the U.S. It continued when U.S. assembly plants began opening in the 1970s and accelerated after NAFTA went into effect in 1994.

In recent years, changing U.S. border policies have left thousands of migrants from

Central America and beyond stranded indefinitely here. The "Migrant Protection Protocols," for example, require some asylum-seekers to remain in Mexico while waiting for hearings, while Title 42, which recently sunset, allowed border officials to deny most asylum claims. Some of those migrants shelter in camps; others stay with acquaintances or find temporary housing on their own. Many, like the generations who preceded them, stay and build a new life.

Increasingly, climate change is a factor in these converging migration flows. King left California for a variety of reasons — economic, political and climatic. "It was economic, and there were the CZU (Lightning Complex) fires ... and then there was a homicide right down the street from me," she explained in a WhatsApp voice call. Gun violence also made her feel increasingly unsafe in the U.S.: "You could go to school and die, or you could go to Walmart and die."

Ensenada's familiar coastal climate appealed to King. "I feel like I found the Mexican Santa Cruz," she said. "It's a humble little town on the water; it's not the desert, it has a mild climate, very temperate." Climate migration is often a form of amenity migration for U.S. citizens like

King, with beach access and pleasant weather figuring alongside housing costs. When King was priced out of California, Baja California offered something similar — more affordably.

Though Bonilla calls herself "a fanatic for the sea," she's only been able to visit the beach twice since moving to Ensenada. We spoke over the phone during one of her 36-hour shifts as a security guard at a shipping container yard. "The long hours don't leave you almost any time to do anything else, and what they pay is barely enough for the high rents."

Like King, Bonilla said she decided to relocate because of a mixture of factors. She wanted to create some distance from her past, and to be able to support her family. The threat of gang violence also played a role. Though she doesn't consider herself a climate migrant per se, climate change does figure in. As she recalls, "everything started" with her mother's illness. "My mom was near death, and they removed one of her kidneys," she said.

During the 1990s, kidney disease became a major public health issue in sugar cane-growing regions of Central America, including Bonilla's coastal home state. Researchers puzzled over its cause for many years. Their original hypothesis — pesticide exposure — didn't hold up, because it was much less common in mountainous regions than it was in sea-level states, though similar chemicals are used in both. Eventually, they determined that the high rates were linked to a variety of factors, including dehydration and extreme heat as well as pesticide exposure.

The way that kidney disease lurks in the background of Bonilla's experience illustrates a complicated aspect of climate migration that lawyers and policymakers are



grappling with: Though the factors that push people to migrate may not always seem directly climate-related, they are often exacerbated by climate change. "People don't always conceptualize their experience of displacement in terms of climate change," said Ama Francis, climate displacement project strategist at the International Refugee Assistance Project (IRAP), "even if there are climate-related reasons for their displacement."

But existing asylum systems do not recognize climate displacement; their frameworks are restricted to persecution because of race, religion, nationality, political opinions or membership in a particular social group. That makes it hard for those who do see themselves as climate migrants. "The law just hasn't caught up to the reality of the climate crisis," Francis said.

Climate change and violence are also interconnected: Both in Central America and the U.S.,

Job King sits in the courtyard of her rental guesthouse in Ensenada (below). King's neighborhood is not on the coast most popular with American expats, but it does have amenities like restaurants as well as houses that are higher-quality houses than many of her neighbors, according to King (above right).







researchers have linked rising temperatures and climate instability to increased gang and gun violence.

Precisely because climate is so intertwined with other factors, IRAP does not advocate for climate-specific asylum pathways. “People are experiencing a number of elements of structural injustice,” Francis said. “We’re advocating for more regular migration pathways for people moving in a changing climate, rather than for just climate-displaced people.”

While Ensenada’s temperate climate currently offers a reprieve from wildfires and extreme heat, Baja California isn’t immune to climate risks. The recent building boom has exacerbated its existing vulnerabilities, including a water shortage; the vast majority of Tijuana’s water comes from the already over-drafted Colorado River. At the same time, flooding and landslides due to limited urban drainage infrastructure

and the removal of hillsides during construction are becoming a problem. Meanwhile, the coastal areas are vulnerable to sea-level rise and hurricanes. In the last few years, Baja California’s coastal highways have closed multiple times due to flooding, landslides and wildfires.

While the impacts of climate change will become more intense over time, neither King nor Bonilla knows how long she will end up staying in Ensenada. King plans to remain here for three to five years, long enough to become proficient in Spanish. Bonilla wants only safety and stability — wherever that may be — and to save money for a home and her children’s education.

She longs to be with them in Tapachula. “Sometimes (on the phone) my son starts crying because he wants me to take him to school, to take him to some park,” she said. “It’s depressing. You want to have your family, and you can’t have it all.” ✨

## POEM

### Sister Storms

By Jacqueline Balderrama

Over the phone my older sister prepares for a hurricane, my younger sisters for wildfire, and I for wind—stretched like the *Vitruvian Man* between them, myself a weathervane and soft center. When they move, I spin.

She carries perishables upstairs. She tracks the news. She (as in me) plugs the drafty door with napkins and masking tape when the power’s gone out. *When? How Close? I’ll call tomorrow.*

We’ve each visited the other across country at some point, so by now we share an eye to picture each of ourselves in her rooms or at her desk or standing by the window watching the clouds roll in. We exchange small fates like tokens of pressed-flowers and what may come.

She tells me, *The house wasn’t flooded.* She tells me, *The fire is a town over though the sky looks bad.* She tells, *All day, you’ll listen to chainsaws breaking apart the fallen trees.*

Alone I feel two kinds of missing. The rings of opened trunks draw me into early springs and dry seasons held so tightly they might catch fire. And weeks after, what remains—crushed fences and bent chain-link gates all around the city, as if when they fell, something monstrous broke through.

**WEB EXTRA** Listen to Jacqueline Balderrama recite her poem at [hcn.org/sister-storms](https://hcn.org/sister-storms)

# A bounty of bugles

Research finds that elk, like orcas and songbirds, have regional dialects.

BY KYLIE MOHR

ILLUSTRATION BY ISRAEL VARGAS

**IT'S A CRISP FALL EVENING** in Grand Teton National Park. A mournful, groaning call cuts through the dusky blue light: a male elk, bugling. The sound ricochets across the grassy meadow. A minute later, another bull answers from somewhere in the shadows.

Bugles are the telltale sound of elk during mating season. Now, new research finds that male elk's bugles sound slightly different depending on where they live. Other studies have shown that whale, bat and bird calls have regional dialects, too, but a team led by Jennifer Clarke, a behavioral ecologist at the Center for Wildlife Studies and a professor at the University of La Verne in California,

is the first to identify such differences in any species of ungulate.

Hearing elk bugle in Rocky Mountain National Park decades ago inspired Clarke to investigate the sound. "My graduate students and I started delving into the library and could find nothing on elk communication, period," she said. That surprised her: "Thousands of people go to national parks to hear them bugle, and we don't know what we're listening to."

Her research, published earlier this year in the *Journal of Mammalogy*, dug into the unique symphony created by different elk herds. While most people can detect human dialects — a honey-thick Southern drawl versus a nasal New England accent — differences in regional elk bugles are almost imperceptible to human ears. But by using spectrograms, a visual representation of sound frequencies, researchers can see the details of each region's signature bugles. "It's like handwriting," Clarke said. "You can recognize Bill's handwriting from George's handwriting."

Pennsylvania's elk herds were translocated from the West in the early 1900s, and today they have longer tonal whistles and quieter bugles than elk in Colorado. Meanwhile, bugles change frequency from low to high tones more sharply in Wyoming than they do in Pennsylvania or Colorado.

Clarke isn't sure why the dialects vary. She initially hypothesized that calls would differ based on the way sound travels in

Pennsylvania's dense forests compared to Colorado and Wyoming's more open landscapes, but her data didn't support that theory. Clarke hopes to find out whether genetic variation — which is more limited in Pennsylvania's herd — might explain differences in bugles, and whether those differences are learned by young males listening to older bulls.

Clarke's research adds a small piece to the larger puzzle of animal communication, said Daniel Blumstein, a biologist at the University of California, Los Angeles, who was not involved in the study. "It's not as though a song or vocal learning is 'all environmental' or 'all genetic,'" he said. "It's an interplay between both." Blumstein, a marmot communication researcher, added that the mechanisms behind these vocal variations deserve more study.

These unanswered questions are part of the larger field of bioacoustics, which blends biology and acoustics to deepen our understanding of the noises that surround us in nature. Bioacoustics can sometimes be used as a conservation tool to monitor animal behavior, and other studies are shedding light on how it affects animal evolution, disease transfer, cognition and culture.

Elk are not the only species with regional dialects. In the United States, eastern and western hermit thrushes sing different song structures, and the white-crowned sparrow's song helps ornithologists identify where it was born. Crested gibbons and Campbell's monkeys also have localized dialects in their songs and calls, as does the rock hyrax, a mammal that looks like a rodent but is actually related to elephants.

Similar differences exist underwater, where whale songs have unique phrases that vary by location. Sperm whales in the Caribbean have clicking patterns in their calls that differ from those of their Pacific Ocean counterparts. Orcas in Puget Sound use distinctive clicks and whistles within their own pods, while also using universal sounds to communicate with orcas in other pods.

Clarke also studies the vocalizations of ptarmigan, flying foxes and Tasmanian devils. Her next research project will shed light on how bison mothers lead their herds and communicate with their calves. "They're the heart of the herd," she said. "What are they talking about?" ❁





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A bison migrating along the northern border of Yellowstone National Park in late March.

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more than in any year since the 1800s. The vast majority were harvested by tribal members exercising long-dormant treaty rights in Beattie Gulch, a narrow strip of federal land just outside Yellowstone National Park.

The bison's massive front- and hindquarters rested on a blue tarp to protect them from dirt and other contaminants. Gut piles left by other hunters, frosted with March snow, dotted the hillsides around Falcon. As she field-dressed the animal, tourists headed to the park passed by less than half a mile away. "We're using our space that we have always used," Falcon said. "We're just using it again now with an audience."

Falcon's harvest is a revitalization of Indigenous knowledge and culture. But the hunt is also a public lightning rod — part of an ongoing controversy over managing an iconic species that tribal nations, the federal government and the state of Montana all have deep and different interests in.

**AT LEAST 27 TRIBES** have historic ties to the Yellowstone region. In the late 19th century, the United States government forced them out as part of a nationwide effort to exterminate and assimilate Indigenous people. Treaties between tribes and the federal government in the mid-1800s established reservations across the region, but maintained hunting rights in places deemed "unoccupied."

At the same time, bison, which once numbered between 30 and 60 million in North America, were deliberately slaughtered en masse, part of the campaign to clear the land of Indigenous people: "Every

buffalo dead is an Indian gone," U.S. Army Col. Richard Dodge reportedly said in 1867. By the early 1900s, fewer than two dozen wild bison remained, deep in Yellowstone National Park.

Thanks to federal conservation efforts, bison rebounded in Yellowstone — and tribes began to reclaim their rights to harvest them. In the mid-2000s, the Nez Perce Tribe wrote to Montana's governor, claiming their right to hunt bison on Forest Service land adjacent to the park. The state acknowledged the tribe's sovereignty. "Today, after years without meaningful access to bison, the Nimiipuu are reconnecting with bison in the Greater Yellowstone Area, re-asserting our sacred relationship with the bison, and exercising our treaty-reserved right to hunt bison that was secured by our ancestors and promised by the United States," the tribe said in an emailed statement. Over time, more tribes followed; last winter, eight tribal nations hunted bison outside Yellowstone, some from as far away as Washington and Oregon.

Tribal hunters entered a contentious landscape. For decades, the state of Montana, federal agencies and conservation groups have gone back and forth through lawsuits, legislation and protests over how many Yellowstone bison there should be, and where. Bison and elk in the region harbor the country's last reservoir of a disease called brucellosis, which can cause cattle to abort and become infertile. While there have been no confirmed cases of wild bison spreading brucellosis to domestic cattle, the state still spends more than a million dollars every year to prevent its spread. If Montana loses its brucellosis-free status, it could forfeit another \$10 million or more per year. Tribes, wildlife managers and park officials

## REPORTAGE

# Room to roam

Tribal nations and state and federal agencies navigate a controversial hunt outside Yellowstone.

BY NICK MOTT, WITH ADDITIONAL REPORTING BY TAYLAR DAWN STAGNER | PHOTOS BY LOUISE JOHNS

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**CHRISTEN FALCON**, a Blackfeet hunter and entrepreneur, crouched on a snow- and sage-covered hillside in southwest Montana, slicing rubbery orange fat from bright red hunks of buffalo meat. Her fingers nicked from knifework, she stashed cuts from the ungulate's neck, back and ribs in Ziploc baggies for safekeeping. The animal was one of at least 1,223 Yellowstone bison that hunters in Montana killed last winter,

developed three methods to keep the park's bison numbers down: hunting outside Yellowstone, transfer to tribes, and capture by park officials for slaughter.

By 2022, Yellowstone bison numbered about 6,000 — the highest since recovery began. During particularly harsh winters, when ice and deep snow block forage, the animals migrate north, searching for food. Last year, winter came on strong and early, and buffalo appeared in locations that they likely hadn't grazed in a century.

That meant they had to pass through Beattie Gulch and other federal land, where hunters waited. Conservation groups have long criticized the park's bison cull, but this year's high harvest amplified that tension. Videos circulated online showed gut piles lining the road, blood streaming down the brown dirt as the offal thawed. Billboards popped up across the state, reading: "There is no hunt. It's slaughter!" One local organization, the Gallatin Wildlife Association, wrote to Interior Secretary Deb Haaland, urging the federal government to "renegotiate how (tribal) treaty rights should be enforced in a modern society."

Bonnie Lynn, who lives across the road from Beattie Gulch, is a longtime hunt opponent. Monitoring the harvest from cameras placed around her property, she said she's seen injured animals fleeing into the park, dozens of hunters in a firing line — even people unintentionally shooting toward each other and the road. She's also concerned about ecosystem health: Lead poisoning from bullets can devastate raptors and other scavenging birds. "To watch this on a daily basis is emotionally draining," she said.

Lynn, like many others, blames this year's high harvest

on federal and state mismanagement. In May, Jaedin Medicine Elk, a Northern Cheyenne tribal member and co-founder of the group Roam Free Nation, wrote an open letter to tribes that harvest Yellowstone bison. (The Northern Cheyenne Tribe hasn't participated in the modern hunt.) "I don't think the buffalo could go through another winter like this one," he wrote. He said state and federal governments respect tribal treaty rights only when it directly benefits their agenda — in this case, serving Montana's livestock industry. Bison need more room to roam, he wrote. When that happens, a respectful hunt can begin.

**AT THEIR HOME** in East Glacier on the Blackfoot Reservation, more than five hours north of Beattie Gulch, Christen Falcon and her partner, Wyatt Wippert, threaded nylon rope through the edges of a bison hide and pulled it taut, like tightening shoelaces. This was the couple's first experience tanning a hide on their own. Chatting about the harvest with friends and neighbors, they tossed scraps of fat and meat to their dogs, Binks and Noi. "Gonna have all the neighbor dogs over here," Wippert joked. "They're comin'!"

Falcon said there's a running joke about Yellowstone bison hunters in her community: They aren't *real* hunters, people say. The hunt is roadside, and the animals are accustomed to tourists wielding cameras, not guns. Still, she said, it's better than the alternative the animals face: Many of them likely would be slaughtered by the park anyway.

Falcon works for a nonprofit that focuses on Indigenous-led research. The bulk of her and Wippert's harvest will go to a study she's leading that will analyze what happens when



tribal members consume a completely traditional diet. Animal parts with special meaning, like the tongue, will go to knowledge-holders. Ultimately, she sees the Yellowstone harvest as a blessing; it helps everyone who hunts and receives meat connect to land, culture and identity. "That's what sovereignty is — taking care of yourself," she said. "And that's what we're trying to do here."

Tribal hunters *HCN* interviewed said their meat goes to family, community members, even schools. An average bison yields, conservatively, 500 pounds of steak and burger, meaning the winter's harvest of Yellowstone bison equates to over a half-million pounds of lean meat going straight to tribal communities. In places like the Blackfoot Reservation — where census data shows a poverty rate of 31.1%, roughly triple Montana's average — that can have

a real impact on food security and nutrition. Christina Flammond, a tribal member and the reservation's sole meat processor, waives her 85-cents-per-pound processing fee for hunters who donate half their meat to local food pantries. "I never dreamed of processing this many bison," Flammond said one April afternoon at her facility, where a handful of bison quarters hung, aging.

**BISON IGNORE** state, federal and tribal land boundaries, so managing them requires getting parties with sometimes diametrically opposed interests to agree. That's not easy. As last winter began, the state, federal government and tribes hit an impasse. Montana wanted fewer bison while tribal nations argued that more of the ungulates should graze the hills and valleys of the region. In the end, the park suggested there's no

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science-based reason to reduce the population and proposed that at most a quarter of it — 1,500 animals — be removed through hunting, slaughter and transfer to tribes.

Tribes, as sovereign nations, set their own hunting dates and regulations. Reporting hunt numbers is voluntary, and no cumulative goals exist. As bison flooded through Beattie Gulch, the total removed from the Yellowstone population — hundreds of animals were transferred to tribes or slaughtered — exceeded the park’s proposed limit. “I don’t want to see multiple years of substantial population reduction like we just had,” said Yellowstone Superintendent Cam Sholly.

James Holt, a Nez Perce tribal member and executive director of the advocacy group Buffalo Field Campaign, said last winter’s hunt shows how Montana’s efforts to minimize the population have “led to every tribe for itself.” Lamenting the lack of a shared vision, he said, “It’s a tragedy of the commons that we’re seeing on the ground right now.” Still, there’s an opportunity for collaboration that centers both buffalo and tribes. He wants to see tribes work together to oversee a sustainable harvest, much the way Columbia River tribes cooperate on fish management.

“Everybody’s freaking out that there’s Indians eating from buffalo,” said Kekek Jason Stark, a member of the Turtle Mountain Band of Chippewa

and professor of law at the University of Montana. “That’s not a bad thing; that’s actually a good thing.”

In “Re-Indigenizing Yellowstone,” published in the *Wyoming Law Review* last year, Stark and his co-authors offered what he called a “road map” to empower tribal voices in America’s first national park. Their vision encompasses more than bison: They suggested that Congress could return the park to tribal management, much as it did with the National Bison Range on the Flathead Reservation. Short of that, the park should empower tribes as partners with true decision-making authority. Since so many tribes with diverse interests have connections to the Yellowstone area, they suggested creating an intertribal commission. Once that work begins in Yellowstone, Stark said, “it’s going to catch like wildfire” on other federal lands.

Right now, only two of the eight tribes with bison-hunting rights are officially part of the conglomeration of agencies and tribal entities that manage the area’s bison, via an effort

known as the Interagency Bison Management Plan, or IBMP. Four treaty tribes are also serving as partners while Yellowstone works on a new environmental impact statement to replace its nearly 25-year-old bison management plan. Last year, the park published the alternatives it’s considering, with population numbers ranging from 3,500 animals to as high as 8,000 or more. The state of Montana pushed back immediately, saying all the alternatives were too high and urging the park to withdraw those population targets.

In a June IBMP meeting — the first since last winter’s hunt — bison managers discussed how to move forward. Yellowstone Superintendent Sholly said there needs to be better landscape-level collaboration among all groups that hunt: “It can’t be a free-for-all.” Others, including the chairman of the Confederated Salish and Kootenai Tribes, agreed. But Ervin Carlson, a Blackfeet member and president of the Intertribal Buffalo Council, said all the talk of the hunt distracts from another way of managing the population: Ramping up the park’s program to transfer living, breathing bison to

tribal groups across the country.

The federal government is already in the throes of a massive effort to restore the iconic animal nationwide. A \$25 million Interior Department initiative aims to partner with tribes and establish “wide-ranging herds on large landscapes,” to revitalize both ecosystems and cultures. The saga in Yellowstone shows just how difficult it can be to put those ideas into practice. In fact, Montana’s Legislature passed a resolution in April opposing federal bison reintroduction on a wildlife refuge more than 200 miles north of Yellowstone, one of several recent state-led attempts to create barriers to introducing wild bison in the state.

The future of bison management requires governmental policy decisions. But it also depends on the smaller-scale, on-the-ground actions of tribal members like Christen Falcon. “We’re Indigenizing this space,” Falcon said, warming up in a car in March, overlooking the wintry hills of Yellowstone. The dead animals, the publicly visible gore — she understands how unusual it all looks. “We’re showing this Western world that not everything is as it seems.” ✨

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Wyett Wippert and Christen Falcon stand next to their bison hide outside their home in East Glacier, Montana, in April (opposite).

Christen Falcon holds the heart of a bison that she and her partner harvested on the northern border of Yellowstone National Park.

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Newtok, Alaska, seen from the air in April.

## REPORTAGE

# ‘All around, it is sinking’

Three decades after Newtok, Alaska, began planning to relocate due to climate change, a safer life still hasn’t been secured.

BY EMILY SCHWING  
PHOTOS BY SETH ADAMS

**MERTARVIK, ALASKA**, sits high on a treeless bluff, roughly 30 miles up the Ninglick River from the Bering Sea. On a late April day, wet, stinging snow and ominous gray clouds gave way to spots of blue sky. After school, Gibby Charles, 11, and Jonah Andy, 12, spend their time trying to perfect their handstands. “I’ve been doing this for four years — since I was 7,” said Charles as he slapped his hands down in the slushy snow and kicked his feet in the air.

The two boys giggled, then stopped and looked up at a small flock of birds soaring overhead. “We hunt them,” said Charles. “Tutangays,” said Andy, an Anglicized version of *Tutangayak* — “Canada goose” in Yugtun, the Central Yup’ik dialect spoken here.

The geese are a prized meal in the spring: The first fresh meat of the subsistence hunting and fishing season and a sign of warmer weather to come. The boys’ eyes followed their flight across the river toward Newtok,

nine miles to the northwest. Charles and Andy, two of the nearly 200 people that live in Mertarvik, used to live over there.

For the people who still live in Newtok, Mertarvik is a beacon promising a safer, healthier future. The land in Newtok is water-logged, unstable and unlivable, and it’s been eroding into the Ninglick River for decades — an inch here, a few feet there. Then, in fall 2022, a massive storm that began as Typhoon Merbok in the Pacific Ocean devoured more than 30 feet of land between the public school and the river’s edge. The storm exacerbated problems that are forcing the community to undertake one of the country’s first climate-change driven relocation projects: a village-wide move from Newtok to Mertarvik. But federal funding for relocation is piecemeal, and the sheer complexity of constructing a whole new village in one of Alaska’s most remote corners has delayed the move, leaving most residents stuck in Newtok — even as it falls apart around them.

**NEWTOK’S CRITICAL** infrastructure is deteriorating. Waste disposal is a major challenge. There is no running water or functioning sewer system. The sewage lagoon was abandoned several years ago, after it was deemed an environmental hazard. Newtok’s residents use 5-gallon plastic buckets, called “honey buckets,” as toilets and dump the contents in the river, only to have waste wash back up during storms and high tides or melt out of the snow and ice in spring. Parents say that their kids have suffered from strep throat and other respiratory illnesses for years. They believe there is a direct connection between their kids’ health and the lack of sanitation.

Power poles lean precariously and, in some places, the lines drag across the ground. A 211,000-gallon tank that holds all of the freshwater for the nearly 200 people who still live in Newtok sits on a crumbling platform. “All around, it is sinking,” said Alexie Kilongak, the water plant manager. He pointed to the splitting wooden beams that hold up the tank. “It’s all rotten.”

About 200 feet away sits the school, which doubles as Newtok’s emergency evacuation shelter. It closed in January, after a fire cut off power and heat, causing the pipes to freeze and break. Between mid-April and the end of the school year in May, Newtok’s kids attended two hours of classes each day in a Catholic church with a leaky ceiling.

“We’ve got to be resilient in everything we do. Not fall apart, but keep doing what’s best. Our ancestors did this,” said Lilly Kassaiuli, 60. She said the foundation of her three-bedroom house has been sinking into the melting permafrost for years — there are wide gaps where the walls meet the ceiling — but it got worse when the remnants of Typhoon Merbok slammed into the community.

“I heard a screeching sound, a very unusual screeching,” said Kassaiuli, who wasn’t home at the time, though she was nearby. “It was the house.” She didn’t want to see for herself, fearing something terrible, she said, so she went to play bingo with friends. “The next thing, I had a call, and they said, ‘Your house just fell down.’” Kassaiuli’s daughter was home, cooking. “Poor girl, she said, ‘Mom, I am in shock.’ It must have been scary for her. I could tell by her voice it really did affect her.”

Now, Kassaiuli can’t use her bedrooms, so she draped plastic sheeting over the doorway

that leads to them and duct-taped it to the walls to keep cold air from pouring into the kitchen and main living space. She could seal the gaps above the walls with spray foam, but Kassaiuli said it's too expensive to ship cans of spray foam to Newtok. So, she stuffed the space with old socks and fabric from clothing she no longer uses. "Everything that's not gonna be used, I recycled ... clothing, everything. That's how I recycle," she said. Federal funding for repairs hasn't materialized. Kassaiuli said FEMA officials looked at her house, but she hasn't heard back from them.

**IN 2016**, Newtok Village Council President Paul Charles requested a federal disaster declaration, but FEMA denied it. According to the agency, the declaration was not appropriate, because the situation did not meet the criteria in the Stafford Act, a federal law that guides the agency in most of its disaster-response activities. The law limits FEMA's ability to respond to "slow-onset events," like permafrost degradation and erosion. The state of Alaska has also been reluctant to invest in repairs, denying Newtok's request in 2017 for relocation funding. The agency in charge claimed the funding application was incomplete, a claim Newtok's lawyer and an engineering firm involved with drafting it dispute.

In late April, a team from the Department of Interior's Bureau of Indian Affairs visited and toured the community for less than an hour; a press secretary said the visit was

closed to the press and declined to answer questions about its purpose. Members of the Newtok Village Council said the officials came to discuss a new \$25 million dollar award announced last fall meant to help the community relocate — a sliver of the \$120 million to \$300 million or more that moving will cost.

The BIA uses words like "voluntary," "community driven" and "managed retreat" to describe the relocation project. That vocabulary seems deliberate. The last time the community moved, to its current site, it was far from voluntary: In the 1950s, the BIA built a school in Newtok and told the residents of Kayalavik, an old village site nearby, that they had to send their children there. This time, the federal government isn't forcing a move; instead, it says it's helping.

But everything about rebuilding Newtok across the river at Mertarvik is complicated. The tribal government selected the land for the new community in 2006. Despite decades of planning, it's still incomplete. Today, there are about 30 finished houses. An emergency evacuation center doubles as a makeshift school. Small airplanes only started landing on a new runway at the top of a hill last fall. There is no store, no post office, and it could be more than a decade before the community gets running water and a functioning sewer system, although it's in the plans. That could cost up to \$35 million, though the project is marked "infeasible" in a 2022 Indian Health

Service report of sanitation deficiency levels, without explanation.

Fourteen new homes in Mertarvik are slated for completion this summer, but in order to rehome everyone in Newtok, several dozen more are needed. Building them is complicated by both geography and bureaucracy. Supplies and construction materials for remote villages in Alaska arrive on a barge from Seattle, and space must be reserved several months in advance. It's also unclear, according to the project manager in Mertarvik, whether the latest federal grant from the Interior Department can be used on housing construction, because it's labeled as an infrastructure grant and the agency doesn't define housing as infrastructure. Labor is also hard to come by. The project manager aims to hire locally, but the wages are low compared to other construction jobs across the state.

Lilly Kassaiuli's family is among nearly 50 on a waitlist for a new house across the river. But, like nearly everyone on the list, Kassaiuli can't say for sure when she'll move. "I hear those houses over there are a little rustic, but I don't mind. It will be better than this place, I tell you," she said. A few of the new houses have small water tanks and composting toilets. Most use a Portable Alternative Sanitation System, which separates liquid and solid waste; one Mertarvik resident called it "a glorified honey bucket."

The only building with a shower, running water and flush toilets is the evacuation center, which is also the school. There are already plumbing issues: The pipes have frozen and sprung leaks; in April, the sewer line was backed up, and chunks of used toilet paper and other waste spewed from the tops of two large lines that lead to a small wastewater treatment unit.

Meanwhile, in Newtok, the school district will start to demolish the back end of the school this summer. It's a safety precaution should another large storm arrive this fall. For 22-year-old Jimmy Kassaiuli, Lilly Kassaiuli's nephew, it's all bittersweet. He's lived his entire life knowing he'll have to leave Newtok someday. "Living this life is like a new page of a book," he said. "Moving on, I'm gonna say goodbye to 'home sweet home' and say hello to a new home, to a new beginning." But when that new beginning will start is anyone's guess. ✨



Frieda and Philip Carl at their home in Newtok, Alaska.

# Is the ‘grand foundation’ crumbling?

Public education in the West is running short of funds.

BY JONATHAN THOMPSON  
ILLUSTRATION BY HANNAH AGOSTA

**WHEN JOHN N. GOODWIN**, the first governor of Arizona Territory, gave his inaugural 1864 speech to the Territorial Legislature, he made his priorities clear: “The first duty of the legislators of a free state is to make, as far as lies in their power, education as free to all its citizens as the air they breathe. A system of common schools is the grand foundation upon which the whole superstructure should rest.”

Goodwin’s veneration of public education echoed across the West’s new states and territories. In January 1868, for instance, the residents of Cheyenne, Wyoming, held public schooling in such high regard that nearly everyone was present the day the first “free” school building was dedicated — even though the temperature was 23 degrees below zero.

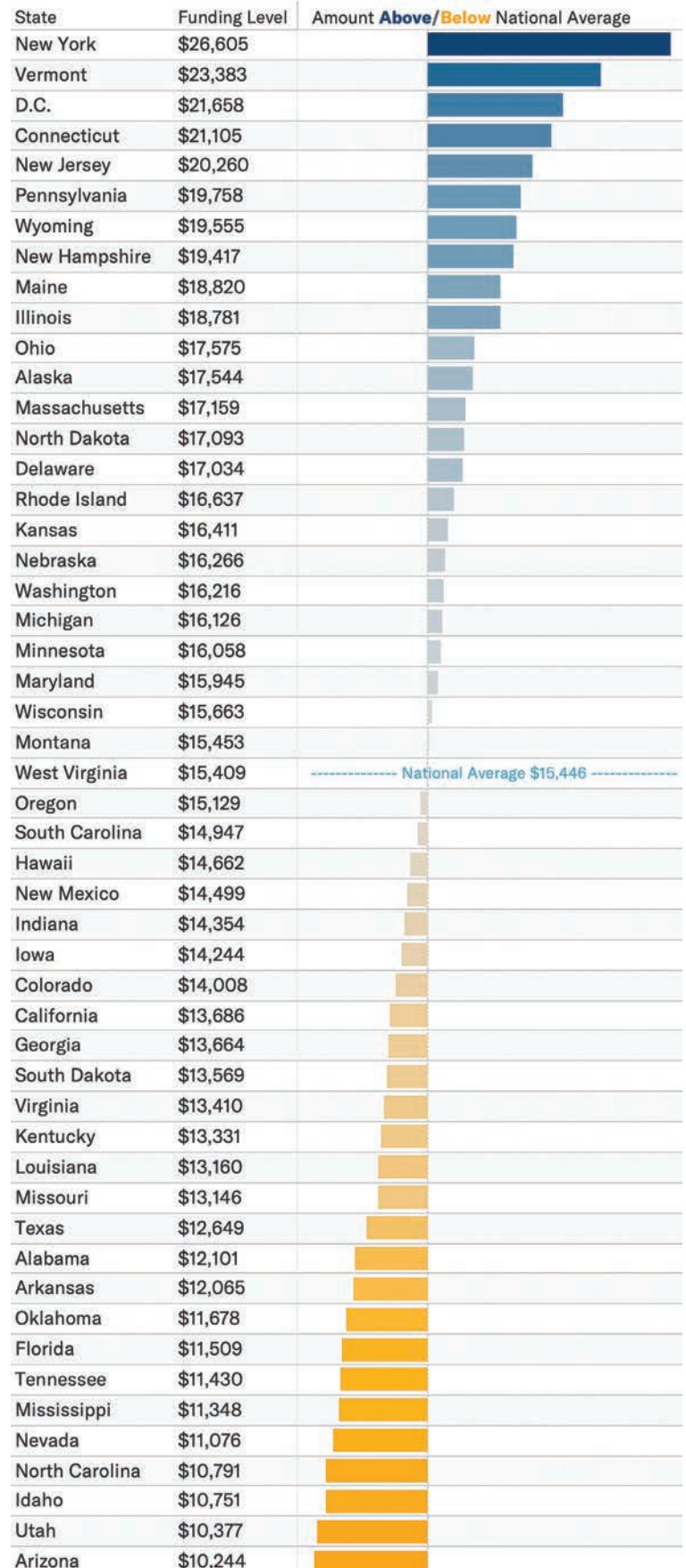
The concept of free education was never enshrined in the U.S. Constitution. So, when the seeds of public schools began to germinate in the 1830s, it was on a state, not federal, level. In the following decades, education would become one of the most important state rights and fiduciary duties. Young Western territories and states took great pride in their educational systems and generously funded them.

It’s safe to say that enthusiasm for public education has cooled over the years, at least when it comes to the West still putting its money where its mouth is. State and local governments provide about 90% of school funding, resulting in wide variations in educational funding and outcomes between states. Arizona spends less per pupil on public education than any other state, while Idaho and Utah are similarly stingy. Alaska and Wyoming are relatively big spenders, but as their fossil fuel-based economies decline, so does funding for public education and teachers’ salaries.

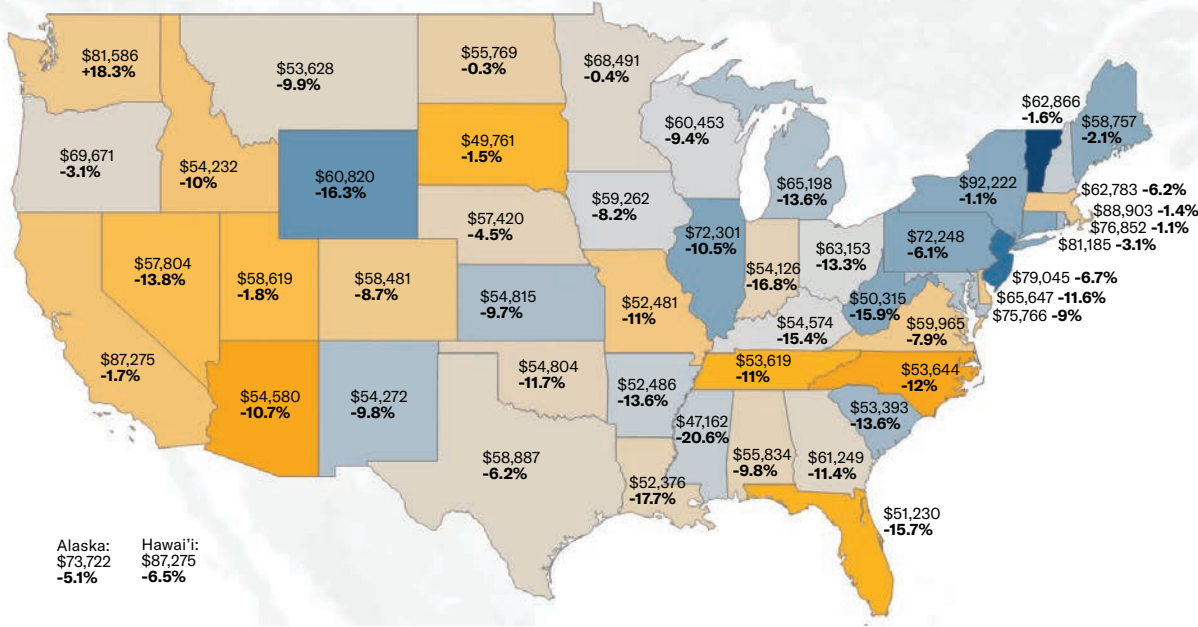
Since a good portion of school funding comes from local property taxes, districts in wealthier areas tend to have more cash on hand to pay teachers or spruce up facilities — assuming, of course, that the citizenry still values education. ✨

SOURCES: National Center for Educational Statistics; U.S. Department of Education; Colorado Department of Education; Rural School and Community Trust; Harvard Kennedy School; Institute of Education Sciences; U.S. Department of the Interior; History of Wyoming; Education Law Center; U.S. Census Bureau; individual school districts; Redfin; Zillow; Realtor.com.

Average per-pupil funding, 2020, and relation to national average







**Per-pupil funding as percentage of state GDP**



**Average teacher salary 2021-'22 and percent change 2009-'10 to 2021-'22**

**1,559**

Number of teaching, counselor and other certified staff positions that went unfilled throughout the 2022-'23 school year at Colorado public schools.

**59%**

Public schools in the West that reported being understaffed going into the 2022-'23 school year, making it the most short-staffed region in the nation.

**Drilling down by district**

Wide funding disparities exist from district to district within each state. To get a sense of how this plays out, we looked into teacher pay and per-student spending at a demographically diverse sampling of Western districts. Across-the-board patterns are hard to come by: Some wealthy districts pay substantially more than lower-income areas, but upper-income regions with a high proportion of retirees or second-home owners tend to be stingier with salaries. But everywhere we looked, teachers are grossly underpaid and housing prices are generally far out of educators' reach.


School District	First-year teacher salary	Student/teacher ratio	Per-student spending	Median household income	Median home price
Palo Alto Unified, California	\$76,488	16	\$22,000	\$195,000	\$2.9 million
Teton County, Wyoming	\$66,011	11	\$20,000	\$94,498	\$1.5 million
Bellevue Union, Washington	\$59,427	19	\$15,000	\$140,000	\$1.3 million
Cherry Creek, Colorado	\$58,710	17	\$12,000	\$126,000	\$1.8 million
Mendota Unified, California	\$53,520	23	\$12,000	\$38,360	\$332,000
Blaine County, Idaho	\$52,000	12	\$16,000	\$72,000	\$1.3 million
Yupit School District, Alaska	\$51,442	13	\$38,000	\$57,000	\$365,000
Spokane Public Schools, Washington	\$50,085	15	\$14,000	\$64,000	\$396,000
Gallup-McKinley County, New Mexico	\$50,000*	19	\$14,000	\$40,000	\$210,000
Los Alamos, New Mexico	\$50,000*	14	\$12,000	\$124,000	\$662,000
Campbell County, Wyoming	\$49,500	13	\$16,000	\$88,000	\$355,000
Grants Pass, Oregon	\$49,118	18	\$12,000	\$49,000	\$372,500
Uintah, Utah	\$47,982	24	\$9,000	\$61,000	\$315,000
Scottsdale Unified, Arizona	\$47,434	17	\$9,000	\$97,000	\$780,000
Bainville Public Schools, Montana	\$39,265	9	\$20,000	\$47,182	\$200,000
White Pine County, Nevada	\$38,971	NA	\$15,000	\$64,000	\$282,000
Tucson Unified, Arizona	\$37,800	15	\$10,000	\$48,000	\$321,000
Delta County, Colorado	\$37,084	17	\$10,000	\$52,000	\$375,000

\*A 2022 New Mexico law sets public school teachers' minimum starting pay at \$50,000 for all districts.





Larissa FastHorse poses for a portrait at Placerville Camp located in the Black Hills of South Dakota.

A photograph of a person wearing a blue sweater, standing in a forest of tall pine trees. The person's arm and hand are visible on the left side of the frame. The background is filled with the green needles and brown trunks of the trees, creating a dense, natural setting.

# The Trojan Horse of Native Theater

Larissa FastHorse's  
*The Thanksgiving Play*  
made Broadway history.  
That's a good thing — right?

By Nick Martin  
Photos by Jaida Grey Eagle

**LARISSA FASTHORSE STOOD** stage right and waited for her cue. Behind her, the set of *The Thanksgiving Play*: three white walls plastered with inspirational posters, some long brown tables and the fluorescent lights that clearly compose the average classroom — smeared and dripping with the faux blood of Native people. Before her, an audience thundering in a standing ovation. FastHorse's name was announced, along with the title that will forever be hers: The first-known Native woman to have a play produced on Broadway.

This was a premiere-night crowd at the Hayes Theater: a carefully curated group of industry professionals — FastHorse's peers — all sharply dressed and primed to celebrate. And FastHorse, by virtue of being on stage, her play having completed the first performance in a two-month Broadway run, was primed for their approval. After a moment, smiling, FastHorse raised the microphone and read a message in Lakota from her cellphone. Halfway through, she paused to wipe tears from her eyes. "Sorry," she said in English to the crowd. "My father just passed recently, and I didn't expect to cry saying his name. He'd be so proud of me being here."

Clapping, whistles, shouts. The moment was buoyant; joy seemed to bounce off the theater's walls. There was history made, and, yes, a bit of compromise to make it.

**IN THE FALL OF 2022**, FastHorse gathered the theater staff who would be producing *The Thanksgiving Play*. This is something she does with every theater company she works with, including Second Stage Theater, which has focused on productions by emerging and established American playwrights since it purchased the Hayes in 2015. The group included the designers, front-of-house officials, managers, in-house production management company — everyone involved in the logistics of producing the play, except for the actors, who had not yet been cast. The day was dedicated to what FastHorse likes to call "Indian 101."

"We spent a couple hours together doing really basic cultural competency training," FastHorse said. The goal, she explained, was for her and the staff to locate themselves "in our journey of our knowledge of Indigenous peoples and Indigenous audiences and topics."

*The Thanksgiving Play* follows four

non-Native amateur theater hopefuls tasked with putting on a politically correct Thanksgiving performance for an elementary school audience. Producing this finely tuned satire — particularly within the commercial New York scene, which is short on Indigenous representation — demanded a nuanced understanding of Native issues that FastHorse knew she would have to establish.

Despite having some 15 plays under her belt, FastHorse still finds herself the first Native voice in many of the spaces she



Courtesy of Second Stage Theater

occupies. Indian 101 is designed to build community and set a standard that protects rising Indigenous artists and their communities from industry ignorance.

The time and thought she puts into these gatherings is, as she put it, "extra free labor," delicately balanced atop the long list of a playwright's duties to ensure that her material retains its heart and foundational intentions. In addition to advising on production and set and prop design, FastHorse worked daily through rehearsals and the run of preview shows to tweak, tighten and update the play's dialogue. But the Indian 101 sessions reflect a piece of advice she received from an early mentor, the late, acclaimed Maori filmmaker Merata Mita. "Larissa, you can be an educator or you can be an artist; you cannot be both," FastHorse recounted. By keeping her education work behind the scenes, FastHorse frees herself on the page. Or at least that's the idea.

Written over the course of a 10-day residency in Ireland in 2015, *The Thanksgiving Play* is in many ways a rebuke of the forces that necessitate Indian 101. The show, which runs at a tight one hour and 40 minutes, lacks an intermission. Instead, a screen drops down to show four videos, written by FastHorse and directed by Rachel Chavkin, that serve as interstitials — intervening segments that depict real (and really racist) Thanksgiving lesson plans, a truly committed-to-the-bit take on "Twelve Days of Christmas," and a rendition of "My Country 'tis of Thee" that includes a teenage Native band member flipping the bird to Teddy Roosevelt. FastHorse's dialogue satirizes and skewers white, liberal, do-gooder norms, constantly revealing and recontextualizing the four characters' varying degrees of ignorance of Native experience and history, until its bloody, blindingly white finale lays bare the hopelessness of ever accomplishing a Native-less production.

Like Indian 101, *The Thanksgiving Play* began as a response to a common problem. FastHorse, who is 52 years old, spent more than a decade writing and working on plays that mostly focused on and cast Native people. Her work was well-reviewed at theaters, including the Kansas City Rep and AlterTheater, but her attempts to convince production companies that any of it was ripe for a wider audience — let alone a Broadway audience — always hit the same wall. Native art performed by Native artists appeared, to non-Native financiers, too risky a gambit. And so, *The Thanksgiving Play* was born.

"If people are saying they can't cast Native actors — which we all know isn't true — then here, I'm going to deal with Indigenous issues in a way that is very presentable for white-presenting actors," FastHorse told me during a break in rehearsals this April. She sat in a velvet-covered seat in the auditorium, stagehands and theater staff buzzing around her, maintaining the frenetic rehearsal pace even during breaks. "I didn't want to do this," she said of the play. "I tried not to for 12 years."

But FastHorse saw this script as her best opportunity to enter the commercial circuit. It premiered at Portland's Artists Repertory Theatre in 2017 and was immediately a hit; "Satire doesn't get much richer than that," a *New York Times* critic proclaimed in 2018. The following year, with a total of eight productions, *The Thanksgiving Play* was one of the

nation's most-produced plays.

All the while, the cultural landscape of television and literature — and theater, too — was shifting, ever so slightly. Cheyenne and Arapaho author Tommy Orange's debut novel, *There There*, and Seabird Island Band author Terese Marie Mailhot's *Heart Berries* exploded onto bestseller and award lists in 2018. A flood of Indigenous writers followed; series like *Rutherford Falls* and *Reservation Dogs* broke longstanding barriers for Native television writers and actors; hell, Maori actor and filmmaker Taika Waititi did a damn land acknowledgment at the Oscars. The change has been slow, but the seven-year period between the first Berkeley reading of *The Thanksgiving Play* and the *Deadline* announcement for its Broadway premiere marked a significant change in how Native artists were allowed to write and depict themselves and their communities. Native bodies and voices no longer needed to reflect the industry-standard racist, stereotypical caricatures of the past; they could be themselves, proudly.

In mid-February, the Broadway cast for *The Thanksgiving Play* was unveiled, with D'Arcy Carden, Chris Sullivan, Katie Finneran and Scott Foley hired to play the leads. Finneran, a Tony-winner, was the Broadway stalwart, while Foley and Sullivan were known for film and TV, too. Carden, one of the stars of *The Good Place*, was making her Broadway debut.

All four actors are white, though Carden's father is Turkish. Performing this play, particularly its Broadway premiere, with non-Native leads meant everyone had to be in on the jokes, and that everyone needed to be clear about their relationship to FastHorse's material. (FastHorse's usual casting notes reads, "POC who can be considered white should be considered for all characters," however labor regulations prevented the casting agency from including that language in their casting call.)

At Chavkin's direction and with the advice of FastHorse and associate director Jeanette Harrison, who is of Onondaga descent, the cast and creative team started the first day of rehearsal by gathering in a large circle onstage. The group smudged to begin the session. They looked each other in the face, acknowledging their existence as artists and human beings, the majority

white and non-Native. "We had a lot of feelings expressed (by the) people who were digging into these things," FastHorse said of the actors and their understudies. "It's hard to play what's, essentially, the 'good' bad guy. So we spent a lot of time (establishing) that it was always a safe space to discuss things." She worked closely with Chavkin and Harrison to develop an approach to directing and feedback delivery that would empower both cast and crew to ask questions throughout rehearsals.

"This was 15 years ago in Hollywood.

The representation of Indigenous peoples was constantly being watered down;

the casting was:

Anyone brown was fine."

"(It's) part of the things that, honestly, I have to do as a Native American playwright who's almost always the first one in a space," FastHorse said with a shrug. She let a sigh of hope drift up into the rafters.

"Honestly, I can't wait for the day when I can just be a playwright."

**THE BURDEN OF BEING FIRST** means constantly recognizing how those before you were held back. It's acknowledging the deep-rooted colorism that dark-skinned Native artists recognize as a closed door, and white-presenting Natives recognize as a slim crack to slither through. It's also a reminder of exactly what Native artists are allowed to say once they reach the upper echelon of any given artistic industry, particularly those that require a team of non-Native financiers to hold final say over which projects get the green light.

FastHorse's talent as a playwright means she is able to enter ultra-exclusive rooms within already exclusive spaces that have, for the entirety of their colonial, capitalistic existence, been meticulously designed to present, on rare occasions, a specific kind of Native: someone who can speak firmly, but not too loudly; who is tan, but not too dark; "tradish," but still, like, down with brunch on Sundays. FastHorse has seen the slivers of light and used her talent to slip through doors that she, by any reasonable measure of her skill, should have been able to kick — if not burn — down. It's a frustrating and unfair position to put any Native artist in. But the burden of being first comes with blessings, too. It allows you, in those pockets of ovation-backed joy, to reflect on the people that lifted you up, past the limitations put on those who came before and onto those big-city stages.

FastHorse was 11 months old when she was adopted by a white couple, Edmund "Ed" and Rhoda Baer in Winner, South Dakota. Her birth father, a citizen of the Rosebud Sioux Tribe, and her non-Native birth mother had separated, and the Baers became her Hunka — her chosen — family. When Ed took a job a hundred miles away in Pierre, Rhoda and FastHorse moved with him. Although she grew up away from her FastHorse family, she had mentors and teachers who were a regular part of her life, and she grew up proudly Lakota. And she learned the passing game. In Pierre, FastHorse learned how white people spoke about Native communities when they perceived themselves to be alone. "People would forget and say things around me that they would never say if they knew I was Native," FastHorse said. "Then it'd be the panic, and they'd be like, 'Oh, shit, you know — well, not you.'"

Despite her connection to both her Lakota and adopted families, FastHorse, an only child, felt a sense of isolation that she channeled into writing. She enjoyed crafting conversations between real or imagined characters. "I was writing scenes already," she said. "I just didn't know that's what they were."

FastHorse worked as a professional ballet dancer for a decade, performing Balanchine for companies in Atlanta and Los Angeles. After her dance career ended, she worked her way into a paid internship at Universal Pictures, citing experience at a nonexistent Santa Monica film school she made up. But

what began as a stab at television writing quickly shifted to the stage. “This was 15 years ago in Hollywood,” she reminded me. “The representation of Indigenous peoples was constantly being watered down; the casting was: Anyone brown was fine.”

In theater, she discovered the sense of agency that Hollywood had denied her. Unlike screenplays, the plays she wrote were not the proprietary assets of film studios; instead, hers, and hers alone, to license as she saw fit. She was able to hire language consultants and commission Native artists like Bobby Wilson (Sisseton-Wahpeton Dakota) to produce lobby artwork that would set the tone for audiences as they entered the theater. She was able to contribute to, and eventually create, Native-driven and -staffed productions, designed for audiences of all backgrounds. “Coming from the ballet world,” FastHorse said, “I was like, ‘This is dancers with furniture, I can do this. I get it.’”

FastHorse’s scripts often reflect an ongoing exploration of the dynamics within intergenerational households and the many ways in which community can be defined, and she’s taken care to build these values into their subsequent creation and performance. As FastHorse began to rack up some of the world’s most prestigious fellowships and residencies and appear on annual best-of lists, she developed a partnership with Cornerstone Theater Company and director Michael John Garcés, for what would become a trilogy of plays entirely developed, written and produced with local Native communities. The first production, *Urban Rez*, was set and staged in Los Angeles and tackled the issue of federal recognition, while the second, *Native Nation*, was hosted by the Salt River Pima-Maricopa Indian Community and developed in partnership with tribal communities in and around Phoenix. The third, *Wicoun*, was set closer to home, with performances in Rapid City and other locations in South Dakota, in late May through mid-June — several weeks after her Broadway premiere.

FastHorse has built a career by acknowledging and exploring the universal experience of awkwardness that can exist between siblings and elders and partners. At the same time, she addressed larger existential questions of belonging, of found-and-curated communities and the lasting emotional impact of paternalism, whether by a loved

one or a federal government.

One of her boldest plays, *What Would Crazy Horse Do?*, occupies the narrow space between black comedy and harrowing drama. The script tells the story of twins Journey and Calvin, who, as the last two surviving members of the fictional Marahotah Tribe, are approached by the Ku Klux Klan with a peculiar offer. The Klan sees the demise of the Marahotah as a perfect symbol: A tribe on the brink of extinction because of the ignoble effects of race-mixing and integration. The precise deployment of humor in the play is required for its high-wire act to pay off. (The twins constantly remind one another of their

“You tell stories differently when it's your nation, your blood memory. Everything is more weighted.”

moribund “womb to tomb,” suicide pact.) But it is unabashedly a Native production. Early in the play, scoffing at the possibility of other Marahotah descendants, Journey cracks, “The only ones that may be left are so mixed they wouldn’t even call themselves Cherokee.”

As I pored over Calvin’s concluding monologue and the play built up to his sister’s decision, in the final scene, to don regalia embroidered with the Klan flag, I found myself muttering, *So, this is what it’s like when a Native writer feels unbound.*

**THE THANKSGIVING PLAY** is not unbound.

It is still pretty funny. Sullivan, who plays history teacher and wannabe-playwright Caden, is honored when he’s named dramaturg, “the holy grail of American theater titles.” D’Arcy Carden’s character, Alicia, inquires, “What is that?” to which Caden replies, in a hushed, mysterious whisper: “No one knows.” And the pairing of Finneran and Foley, who

depict a seemingly frictionless, granola-ass couple, nail both the physical comedy and the barbs — “and the sex is so ... bizarre!” Finneran, as Logan, shouts, finally unleashing on her tantric-style boyfriend, to a wave of laughter.

For the first hour, the show is funny in a way that feels familiar, now that sending up white liberals is already something of a cottage industry in the entertainment and comedy worlds. It crisply delivers on the satire of purported Indigenous allies, and the four leads nail every savory line. But the mechanism FastHorse employs to subvert the audience’s expectations is where compromise again rears its head.

Roughly halfway through the show, Jaxton and Caden exit to gather materials for a battle sequence commemorating the Pequot Massacre of 1637 — during the massacre, several dozen Mohegan and Narragansett citizens joined with the English to participate in the slaughter of Pequot families. The pair re-enter the classroom and perform their scene, in which, with full Highlander cosplay and fog machines, they empty a bag filled with blood-soaked, realistic Pequot mannequin heads onto the stage. The two men and Alicia then kick the heads around, toss them back and forth and roll them on the floor. Alicia smears bloody handprints on the back wall, while Jaxton and Caden complete their speeches and spread more blood about the stage, all to the horrified shock of Logan.

This moment, as directed and depicted onstage, is both intensely disturbing and darkly, darkly absurd — both layered and abruptly straightforward. At the two performances I attended, the scene was met at first with groans and a handful of gasps, and then, eventually, a smattering of laughter.

For Chavkin and scenic designer Riccardo Hernández, this was more or less the desired effect. Using the touchstones of *The Shining* and *Cabin in the Woods*, they’d played around in early-stage rehearsals with dark-red lighting cues, and, at one point, they even tried what Chavkin described as “this creepy-ass tilt” with the classroom set’s ceiling. The idea was to create a tunnel effect, “almost sucking the audience and the actors in,” Hernández said. But ultimately, Chavkin — crediting a note from FastHorse — decided that pulling the focus away from the actors (and the Pequot heads) would have been distracting.

Larissa FastHorse, who for 10 years was a professional ballet dancer, begins her morning with a workout at Placerville Camp.

d is still speaking.

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Making the collective call to leave the soft white lighting and the level ceiling, staying in the confines of the classroom, was the kind of decision that “takes trust,” Hernández said. “Trust and instinct.”

It’s an effective scene — for the intended audience. Because, for a Broadway audience or a non-Native audience or even a non-Northeastern Native audience, the heads they see being kicked and rolled around aren’t Pequot heads. Instead, they’re symbolic, an amalgamation that doesn’t represent a specific trauma, but rather the broader consequences of the violence of European- and American-caused genocide — that, and the fact that the lingering impacts of this violent history have not been fully absorbed by today’s artists.

But, as the playwright Madeline Sayet reminded me, “You tell stories differently when it’s your nation, your blood memory. Everything is more weighted.”

Sayet is a citizen of the Mohegan Tribe, a clinical assistant professor at Arizona State University (where FastHorse also teaches), and the executive director of the Indigenous Performing Arts Program at Yale University. Sayet is also a playwright, director and performer, and she recently toured her one-person play, *Where We Belong*, in which

she engages with the division created by colonization and the different expectations of war, including the generational harm caused by the Pequot Massacre.

New York, she told me, is not an easy place to be a Native person in theater. There is community and progress and beautiful art all happening on stage, but the city’s commercial scene feels sometimes stuck in a constant game of catch-up. It’s a conflicting space, both the pinnacle of the industry and a constant reminder of incrementalism, particularly for those from the region.

Sayet thought back to Broadway’s long history of pillaging Northeastern Native

**The burden of being first means constantly recognizing how those before you were held back.**

stories, citing the 1829 premiere of John Augustus Stone’s *Metamora; or, The Last of the Wampanoags*, at Park Theater, which helped popularize redface in the New York theater scene and historicize the region’s Indigenous population. This thread connects to the slow pace the modern Broadway scene has assumed when it comes to providing true support for Native artists — that FastHorse bears the burden of this particular first in 20-damn-23 is as much a condemnation of the whole operation as it is a hint of what it could yet still be.

Set against the Broadway backdrop, a Lakota-written, white-cast and -directed play that hinges on the punting of Pequot heads is a tricky operation to pull off, particularly when the audience is unlikely to be mostly Native. And the more I teased out the questions that rushed through my head the two times I watched this scene — *does this work? Who is this for? What does it mean to mix my silence with others’ laughter?* — the more I felt myself coming back to a note Sayet gave me as she reflected on her own play.

“I kept being told it was going to ‘do’ something, and I think for some audiences, I think it did — ultimately, it was at least a Native person telling a Native story,” she said. “But I still wonder, ‘Why that story? Why’d they pick that one?’ Is it because they want to see Native people suffer? Like, ‘How did they get me alone?’ I feel like we ask all these questions because we know that they’re not willing to go all the way at once and so there’s this thing that’s immediately in our minds of like, ‘What have we given into?’”

There is still a perceived gap, real or not, between the amount of Indigenous honesty that the moneybag-holders in American theater believe an audience can handle, and more to the point, what they will shell out cash to be entertained by.

Tara Moses, a citizen of the Seminole Nation of Oklahoma and Mvskoke and a widely produced playwright and director, described this self-imposed sense of risk as stemming from the insecurity built into the commercial theater scene, in New York and beyond. “It’s not just about having us as marginalized people be showcased for the first time, like other marginalized identities,” Moses said. “It’s that our sheer existence is political, full stop.”

FastHorse is forthright about why she wrote *The Thanksgiving Play*, and she



Larissa FastHorse watches *Wicoun* cast members during rehearsals at Placerville Camp (above). At right, FastHorse, center, and cast members gather at work in the chapel.





has no regrets, not about the heads or the play's non-Native director. For her, the play represents both external limitation and possibility: A foot in the door that allows her to wave through the coming generations of Indigenous playwrights, actors and directors.

"Because I did (*The Thanksgiving Play*) and it's on Broadway, now my next five plays this year all have Native characters. I couldn't get that before," she said. "This play means I've got five plays of Native actors that are going to be employed the rest of this year and for all of next year, and three more plays after that, that are already set up."

This is the compromise that *The Thanksgiving Play* represents. For better and for worse, it is a Trojan horse of Native art. On the other side of the gate: *Wicoun*.

**FASTHORSE STOOD** on a different stage now, 1,700 miles away from the Hayes Theater. Once again, there were tears in her eyes.

She was in the Black Hills, creating new stories in what, for her people, is the place of their origin. The play — titled *Wicoun* and performed in Lakota, Dakota and English by an all-Native cast balanced with local and out-of-town actors — focuses on a Lakota teen, Áya, and their brother, Kǎoškálaka, as the pair navigate their zombie-filled homelands after they summoned a superhero. (FastHorse's team also put on a second play, for Lakota youth, titled *Learning Wolakota*.) There was still compromise involved: The rehearsals were held at Placerville Camp, a Christian retreat center, a series of cabins and communal spaces at a former gold-mining outpost that the *Wicoun* team rented to polish their production. One of the rehearsal spaces, for *Learning Wolakota*, was a chapel. A cross loomed in the sanctuary above the actors; through the windows behind it, you could see the Black Hills, and all the reminders of home and colonization that come with them.

For days, the *Wicoun* cast had been running lines, going through staging, running it again and again, FastHorse always quick to huddle with her actors and with Garcés, until each subtlety felt just right — not for a Broadway audience, or for the financiers, or for anyone but the Native communities the play had been created with and for.

But, during a quick break, the playwright's tears welled. The nominees for the Tony Awards had just been announced, and *The Thanksgiving Play* was not among them.

On her phone, FastHorse read a *New York Times* article on the surprises and snubs of the awards that year. Speaking of her play, the critic said: "It is also a parable of Native American erasure, which makes the exclusion disconcerting." She showed the article to Kumeyaay actor Kenny Ramos and let her tears fall. She took another breath and then another and picked her head up.

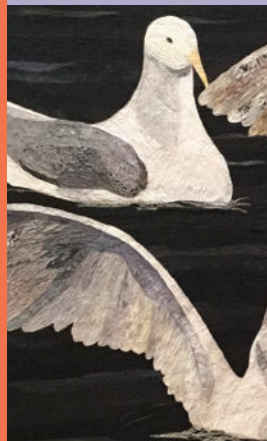
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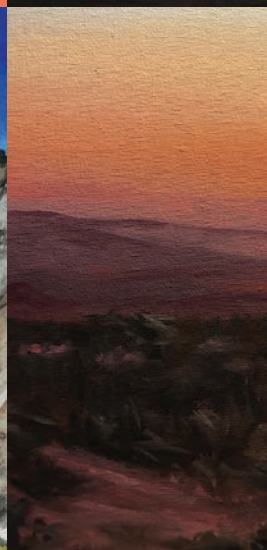
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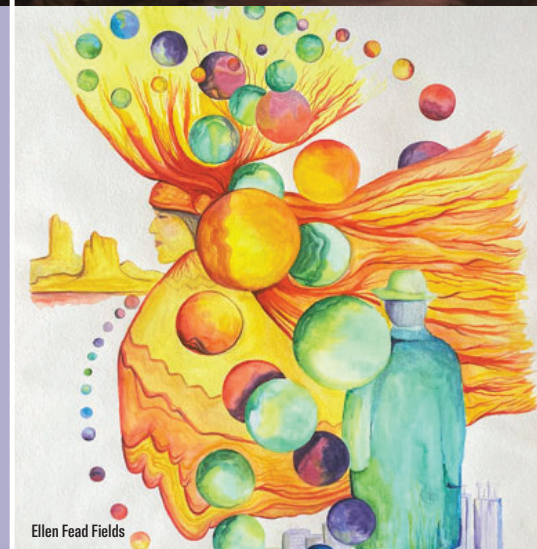


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 Susy Ellison | Carbondale, CO  
 Mima & Don Falk | Albuquerque, NM  
 W. John Faust & Patricia Gerrodette | Huachuca City, AZ  
 David Fluharty & Lisa Bergman | Seattle, WA  
 Stephen Gerdes | Bozeman, MT  
 Adam Givens | Denver, CO  
 Ron Gould | Weimar, CA  
 Beverly Hadden | Fort Collins, CO  
 John Hodge | Springfield, VA  
 Charles & Katherine Hunt | Eugene, OR  
 Lisa Jensen | Tucson, AZ  
 Mary Kay Johnson | Las Vegas, NV  
 Tessa Johnson | Carbondale, CO  
 Sandra Laursen | Boulder, CO  
 Britta Lundin | Los Angeles, CA  
 Douglas Magee | Arvada, CO  
 Amahia Mallea | Des Moines, IA  
 Susan Marek | Denver, CO  
 Gerald Meral | Inverness, CA  
 Tom Moran | Mountain View, CA  
 Robert & Sue Naymik | Medford, OR  
 Paul Nemetz | Golden, CO  
 Mike O'Donnell | Salt Lake City, UT  
 Jeff O'Sullivan | Greenwich, CT  
 Sandra Olney | Sandy, UT  
 Neal Ossiander | Vaughn, WA  
 Brian Parks | Madison, WI  
 Laura Pritchett | Bellvue, CO  
 Craig H. Reide | Langley, WA  
 Suzanne Rousso | Lakewood, CO  
 Roland Rowe | San Antonio, NM  
 Phil Samuel | Louisville, KY  
 Bruce Serby | Fort Collins, CO  
 Roger Shanor | Thermopolis, WY  
 Betsy Shillinglaw | Santa Fe, NM  
 Jim Shurts | Madison, WI  
 James Sims | Seattle, WA

Hong Son | Hiawassee, GA  
 Douglas & Tricia Steeples | Redlands, CA  
 Donald Steuter | Phoenix, AZ  
 Dennis Stovall | Portland, OR  
 David & Lenore Swaim | Colorado Springs, CO  
 Garvin Tankersley | Keymar, MD  
 Ruth Taylor | Clearlake, WA  
 Walt & Nancy Taylor | Flagstaff, AZ  
 Nancy Thomas & Roger Davis | Aspen, CO  
 Luis S. Torres | Santa Cruz, NM  
 Richard & Diana Toth | Salt Lake City, UT  
 Charles Tramel | Pryor, OK  
 Janet Ulrich | Kalispell, MT  
 Gary Warren | Alachua, FL  
 Tom Wasmund | King George, VA  
 Meg Weesner | Tucson, AZ  
 Kirsten A. Whetstone | Park City, UT  
 Roy Williams | Bass Lake, CA  
 Amy Williamson | Laramie, WY  
 Richard Wolber | Lakewood, CO  
 Larry & Jennifer Wolfe | Cheyenne, WY  
 Loel Woolridge | Fort Collins, CO  
 John & Nancy Woolley | Sequim, WA  
 Erin Youngberg | Fort Collins, CO  
 Stephen Zapatka | Scottsdale, AZ  
 Chet Zenone | Salem, OR  
 Paul Zitzer | Gallatin Gateway, MT

**WELCOME TO THE SUSTAINERS' CLUB**

Anonymous (3)  
 Elliot Baglini | Durango, CO  
 Robbin Bond | Bluff, UT  
 Mark & Jora Fogg | June Lake, CA  
 Manuel Franco | Denver, CO  
 Gina Johnson | Denver, CO  
 Kristy Larsen | Park City, UT  
 John & Darcy Oltman | Wheaton, IL  
 David Steensen & Karen Griffin | Medford, OR  
 Kirk & Nancy Taft | Gig Harbor, WA  
 John Michael Weh | Seattle, WA

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DEAR FRIENDS

## News from us

Recently, the balance of this column has swung toward prodding you with questions and challenges, but triumphs and good news are a lot of fun to share, too, so I'd like to tell you about all the exciting happenings at *HCN*.

**HCN Poetry Editor Paisley Rekdal** begins her tenure this month as the new director of the University of Utah's American West Center, which researches the history and culture of our region. In other news, her latest book, *West: A Translation*, a collection of poems and essays about the transcontinental railroad, was released in May by Copper Canyon Press.

**Senior Editor Emily Benson and contributor Madhushree Ghosh** have each had a story, both from September 2022, selected for the 2023 Best American Series anthologies. Ghosh's "On the road, a taste of home" will be included in *The Best American Food Writing* and Benson's "The Climate Underground" will be in *The Best American Science and Nature Writing*.

**Staff writer B. "Toastie" Oaster** was selected to partner with *ProPublica's* Local Reporting Network to work on an investigative project to be published later this year. Also, "Underwater Legends," their 2022 feature about the relationship between the Pacific lamprey and Northwest tribes, was a finalist in the 2023 National Magazine Awards — up there with the industry's highest honors!

**Contributing Editor Melissa Chadburn's** novel, *A Tiny Upward Shove*, was longlisted for the PEN/Hemingway Award for Debut Novel.

**Susan Shain** has joined *HCN* as a *New York Times* Headway fellow; she spent the first year of her fellowship at the *Times* but will spend the upcoming year as part of our newsroom.

Clockwise from top: Melissa Chadburn, B. "Toastie" Oaster, Sarah Sax, Paisley Rekdal, Madhushree Ghosh (photo by Natalie Joy Mitchell Photography), June T Sanders, Emily Benson, Susan Shain (photo by Tony Cenicola/The New York Times). Photo illustration by Marissa Garcia / HCN



**Contributor Sarah Sax's** story "Unbearable Heat," from June 2022, about the horrifying conditions inside Washington's prisons, has racked up multiple awards — First Place for Investigative Reporting from the Newswomen's Club of New York, a writing award from the American Society of Journalists and Authors in the category of Social Change and finalist for the 2023 Victor K. McElheny Award from the MIT Knight Science Journalism Program. And, best of all, it's been cited by officials investigating the issue. Thank you to all the readers who told us how this story inspired them to take action on behalf of incarcerated people.

**HCN's production team** — Cindy Wehling, Roberto "Bear" Guerra and Luna Anna Archey — notched up two notable achievements: Alex Boersma's illustration for "Salmon in Troubled Waters" in the July 2022 issue was a Society of Publication Designers Merit Winner, and the October 2022 cover, featuring a photo from June T Sanders, was a finalist in the American Society of Magazine Editors' Best Cover Contest for Best News and Politics Cover.

And that's just what I can fit into this month's column! Join me in giving them all a hand. We're lucky to have such a talented crew, and to have readers like you: Your support through subscriptions and donations is what keeps this all going. Thank you from everyone at *High Country News*.

Michael Schrantz,  
marketing communications manager

### Question of the month

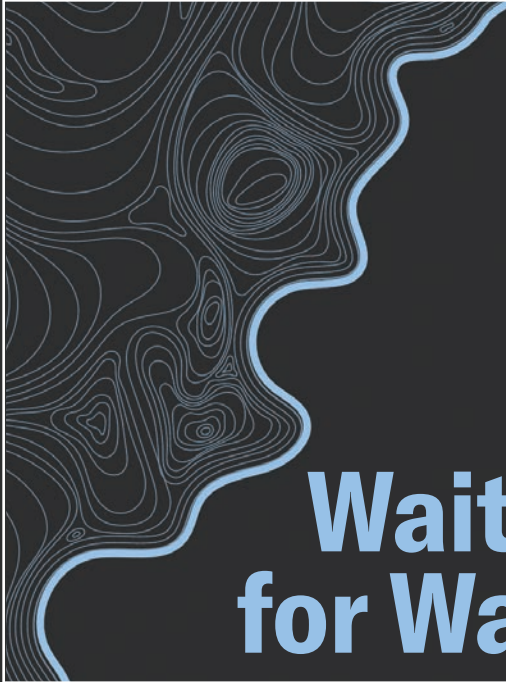
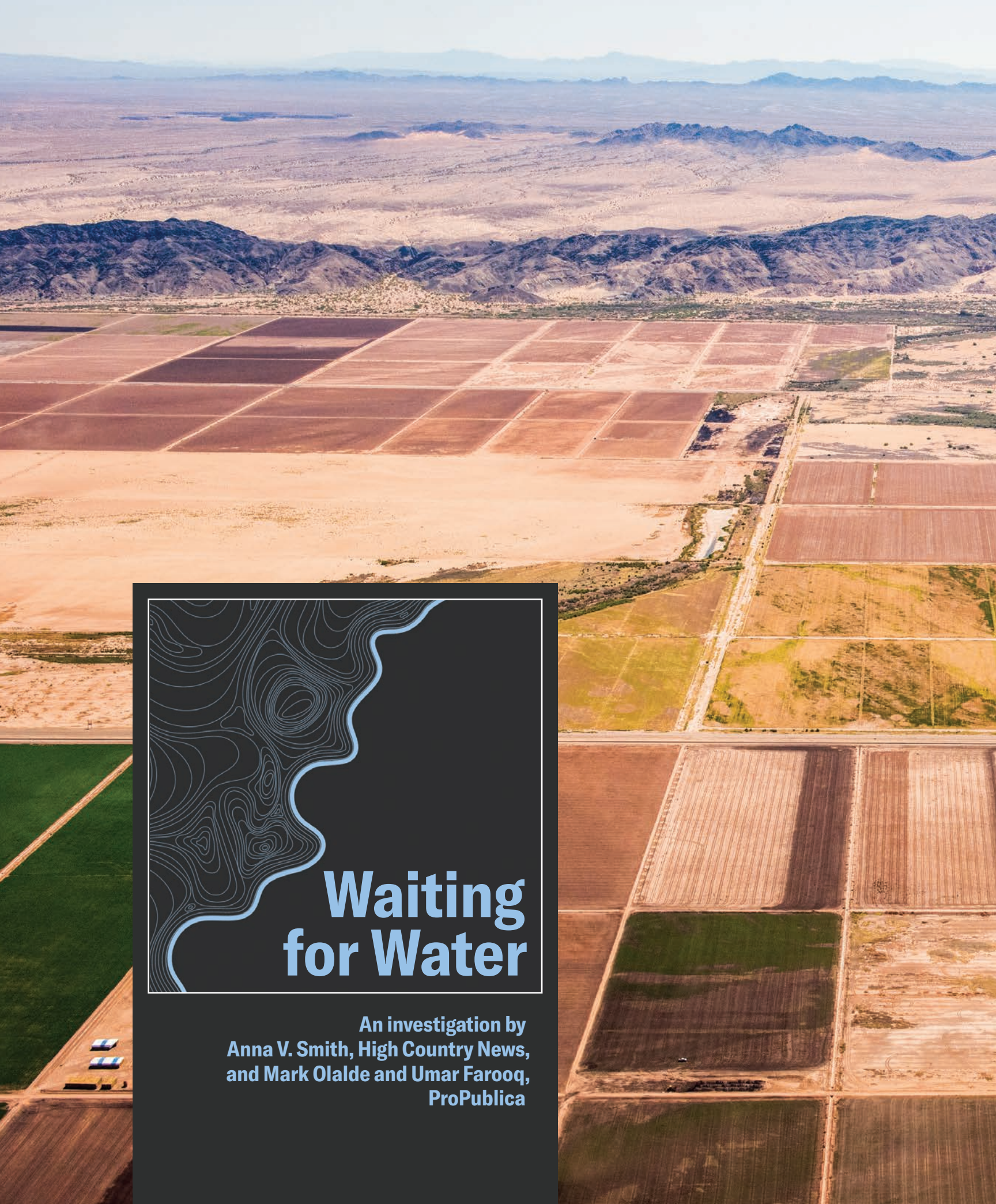
Thank you for all your responses to my question about bumper stickers in the May issue. You sent in some great sticker ideas about conservation, dam removal ... and getting "high." We have a few new designs off to the printer. Get in touch at [dearfriends@hcn.org](mailto:dearfriends@hcn.org) if you want one.

This month's question is: What's your watershed address? To find it, start with the stream or creek nearest to your home, trace it to your nearest river or wetland and keep finding the next bigger body of water until you reach the ocean. Send your watershed address to [dearfriends@hcn.org](mailto:dearfriends@hcn.org).

It's a question you might have seen before if you follow conservation or water groups, but I wanted to put it to *HCN* readers to see where we overlap ... other than the Pacific, that is.



Jon Rizzo, Grand Junction, Colorado

A graphic element consisting of white contour lines on a dark background, resembling a topographic map. The lines are irregular and wavy, suggesting a specific geographical feature or water flow pattern.

# Waiting for Water

An investigation by  
**Anna V. Smith, High Country News,**  
**and Mark Olalde and Umar Farooq,**  
**ProPublica**



The Colorado River Indian Tribes rotate thousands of acres of cropland, pictured here, into and out of production each year in effort to conserve water.

**Russel Albert Daniels / HCN and ProPublica**  
Aerial support provided by LightHawk

# An Extractive Process

Arizona's aggressive approach to water negotiations endangers the present and future rights of tribal nations.



**THE DILKON MEDICAL CENTER**, a sprawling \$128 million facility on the Navajo Nation in Arizona, was completed a year ago. With an emergency room, pharmacy and housing for more

than 100 staff members, the new hospital was cause for celebration in a community that has to travel long distances for all but the most basic health care.

But there hasn't been enough clean water to fill a large tank that stands nearby, so the hospital sits empty.

The Navajo Nation has for years been locked in contentious negotiations with the state of Arizona over water. With the tribe's claims not yet settled, the water sources it can access are limited.

The hospital tried tapping an aquifer, but the water was too salty to use. If it could reach an agreement with the state, the tribe would have other options, perhaps even the nearby Little Colorado River. But instead, the Dilkon

Medical Center's grand opening has been postponed, and its doors remain closed.

For the people of the Navajo Nation, the fight for water rights has real implications. Pipelines, wells and water tanks for communities, farms and businesses are delayed or never built.

*ProPublica* and *High Country News* reviewed every water-rights settlement in the Colorado River Basin and interviewed presidents, water managers, attorneys and other officials from 20 of the 30 federally recognized basin tribes. This analysis found that Arizona, in negotiating those water settlements, is unique for the lengths it goes to in order to extract concessions that could delay tribes' access to more reliable sources of water and limit their economic development. The federal government has rebuked Arizona's approach, and the architects of the state's process acknowledge it takes too long.

The Navajo Nation has negotiated with all three states where it has land — Arizona, New Mexico and Utah — and completed water

settlements with two of them. "We're partners in those states, New Mexico and Utah," said Jason John, the director of the Navajo Nation Department of Water Resources. "But when it comes to Arizona, it seems like we have different agendas."

The U.S. Supreme Court ruled in 1908 that tribes with reservations have a right to water, and most should have priority in times of shortage. But to quantify the amount and actually get that water, they must either go to court or negotiate with the state where their lands are located, the federal government and competing water users. If a tribe successfully completes the process, it stands to unlock large quantities of water and millions of dollars for pipelines, canals and other infrastructure to move that water.

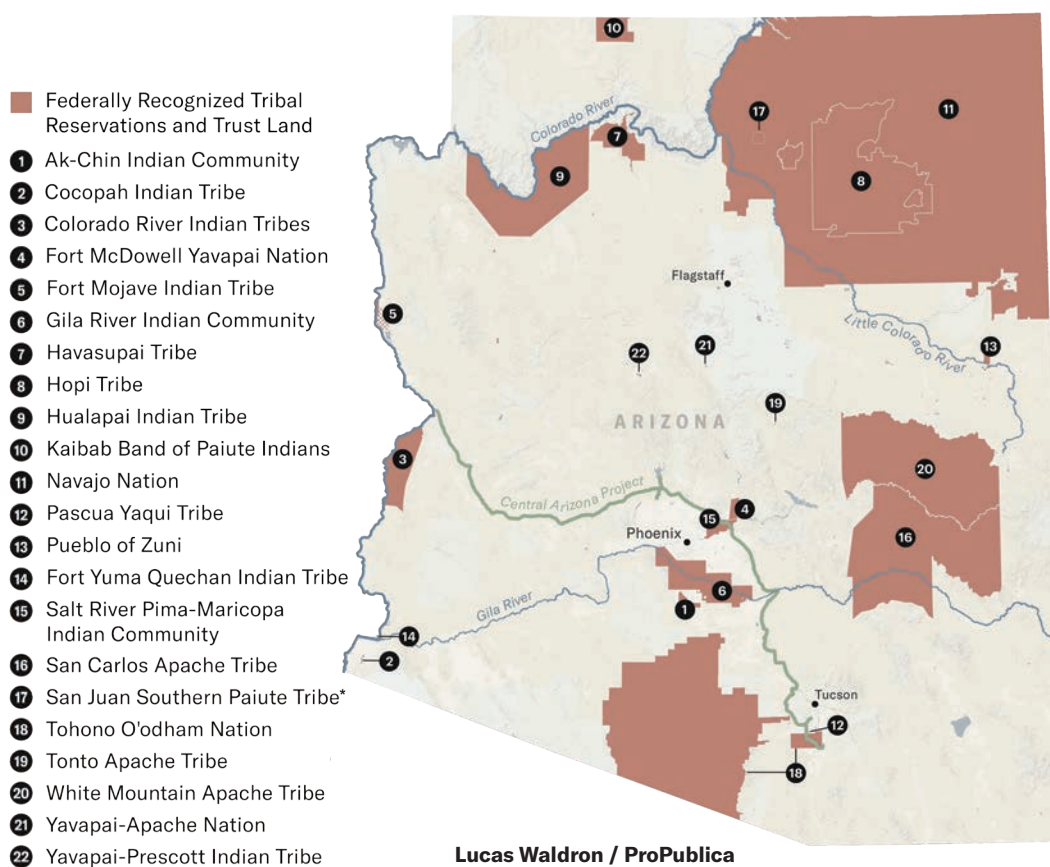
But in the drought-stricken Colorado River Basin — which includes seven states, two countries and 30 federally recognized tribes between Wyoming and Mexico — whatever river water a tribe wins through this process comes from the state's allocation. As a result,





JB Stetson shows his grandson, Steven Begaye, how to haul water near Dilkon, Arizona.  
Sharon Chischilly / HCN and ProPublica

## Federally recognized tribal reservations and trust land in Arizona



states use these negotiations to defend their share of a scarce resource. “The state perceives any strengthening of tribal sovereignty within the state boundaries as a threat to their own jurisdiction and governing authority,” said Torivio Fodder, manager of the University of Arizona’s Indigenous Governance Program and a citizen of Taos Pueblo.

While the process can be contentious anywhere, the large number of tribes in Arizona amplifies tensions: There are 22 federally recognized tribes in the state, and 10 of them have some yet-unsettled claims to water.

The state — through its water department, courts and elected officials — has repeatedly used the negotiation process to try to force tribes to accept concessions unrelated to water, including a recent attempt to make the state’s approval or renewal of casino licenses contingent on water deals. In these negotiations, which often happen in secret, tribes also must agree to a state policy that precludes them from easily expanding their

reservations. And hanging over the talks, should they fail, is an even worse option: navigating the state’s court system, where tribes have been mired in some of the longest-running cases in the country.

Arizona creates “additional hurdles” to settling tribes’ water claims that don’t exist in other states, said Anne Castle, the former assistant secretary for water and science at the U.S. Department of the Interior. “The tribes haven’t been able to get to settlement in some cases because Arizona would impose conditions that they find completely unacceptable,” she said.

Neither Gov. Doug Ducey, a Republican who left office in January after two terms, nor his successor, Democratic Gov. Katie Hobbs, responded to requests for comment on the state’s approach to water-rights negotiations. The Arizona Department of Water Resources, which represents the state in tribal water issues, declined to answer a detailed list of questions.

Shirley Wesaw, a citizen of the Navajo Nation, lives near the not-yet-open Dilkon

Medical Center. She eagerly watched as it was built, anticipating a time, after it was completed in June 2022, when her elderly parents would no longer have to spend hours in the car to see their doctors off the reservation. But Wesaw is familiar with the difficulty accessing water in the area. Shared wells are becoming less reliable, she said. It’s most difficult during the summer, when some of her relatives have to wake up as early as 2 a.m. to ensure there’s still water to draw from a community well.

“When it’s low, there’s a long line there,” Wesaw said, “and sometimes it runs out before you get your turn to fill up your barrels.”

**ONE IMPACT** of Arizona’s negotiating strategy was particularly evident at the outset of the pandemic.

In May 2020, as the Navajo Nation faced the highest COVID-19 infection rate in the country, the tribe’s leaders suspected that their limited clean water supply was contributing to the virus’ spread on the reservation.



Jason John, director of the Navajo Nation Department of Water Resources, and the Navajo-Gallup Water Supply Project pipeline east of Window Rock.  
**Sharon Chischilly / HCN and ProPublica**

They sent a plea for help to Ducey, the governor at the time.

More than a decade earlier, as the tribe was negotiating its water rights with New Mexico, Arizona officials inserted into federal legislation language blocking the tribe from bringing its New Mexico water into Arizona until it also reaches a settlement with Arizona. John, with the tribe's water department, said the state "politically maneuvered" to force the tribe to accept its demands.

A multibillion-dollar pipeline that the federal government is building will connect the Navajo Nation's capital of Window Rock, Arizona, to water from the San Juan River in New Mexico. But without a settlement in Arizona, the pipe can't legally carry the water. The restriction left the tribe waiting for new sources of water, which, during the pandemic, made it hard for people to wash their hands in communities where homes lack indoor plumbing.

"For the State of Arizona to limit the access of its citizens to drinking water is unconscionable, especially in the face of the coronavirus pandemic," then-Navajo President Jonathan Nez and Vice President Myron Lizer wrote to the governor. Nez and Lizer included with their letter a proposed amendment that would change a single sentence in the law. They asked Ducey to help persuade Congress to pass that amendment, allowing enough water for tens of thousands of Diné residents to flow onto the reservation.

Arizona rejected the request, according to multiple former Navajo Nation officials.

The Department of Water Resources did not provide *ProPublica* and *High Country News* with public records related to the state's denial of the Navajo Nation's request for help getting its water to Window Rock. Hobbs' office said it could not find the communications relating to the incident.

#### LAND AND WATER

Nearly half of the tribes in Arizona are deadlocked with the state over water rights.

The Pascua Yaqui Tribe has 22,000 enrolled members, but limited land and housing allow only a third to live on its 3.5-square-mile reservation on the outskirts of Tucson. A subdivision still under construction has just started to welcome some Pascua Yaqui families on to the reservation. But the new development isn't nearly large enough to house the more than 1,000 members on a waiting list. More than 18,000 additional acres of land would be needed to accommodate the tribe's future population, according to a 2021 study that the tribe commissioned.

But Arizona has used water negotiations with tribes to curtail the expansion of reservations in a way no other state has.

It's state policy that, as a condition of reaching a water settlement, tribes agree to not pursue the main method of expanding their reservations. That process, called taking land into trust, is administered by the

Bureau of Indian Affairs and results in the United States taking ownership of the land for the benefit of tribes. Alternatively, tribes can get approval from Congress to take land into trust, but that process can be more fraught, requiring expensive lobbying and travel to Washington, D.C.

The policy will force the Pascua Yaqui "to choose between houses for our families and water certainty for our Tribe and our neighbors," then-Chairman Robert Valencia wrote to the Department of Water Resources in 2020. "While we understand that our Tribe must make real compromises as part of settlement, this sort of toll for settlement that is unrelated to water is unreasonable and harmful."

For tribes across Arizona and the region, building homes and expanding economic opportunities to allow their members to move to reservations is a top priority.

The Pueblo of Zuni was the first tribe to agree to Arizona's land requirement when it settled its water rights with the state in 2003. The Zuni had hoped to take into trust more land they own near their most sacred sites in eastern Arizona, but that will now require an act of Congress. Since the Zuni settlement, all four tribes that have settled water rights claims with Arizona have been required to agree to the same limit on expansion, according to *ProPublica* and *High Country News*' review of every completed settlement in the state.

In a 2020 letter, the Navajo Nation's then-attorney general called the state's

opposition to expansion “an invasion of the Nation’s sovereign authority over its lands and so abhorrent as to render the settlement untenable.”

The Interior Department, which negotiates alongside tribes, has agreed, objecting on multiple occasions in statements to Congress to Arizona’s use of water negotiations to limit the expansion of reservations. In 2022, as the Hualapai Indian Tribe settled its rights, the department called the state’s policy “contrary to this Administration’s strong support for returning ancestral lands to Tribes.”

Tom Buschatzke, director of the state’s Department of Water Resources, explained the reasoning behind Arizona’s stance to state lawmakers, noting it’s based on Arizona’s interpretation of a century-old federal law that Congress is the only legal avenue for tribes to take land into trust. “The idea of having that tribe go back to Congress is so that there’s transparency in a hearing in front of Congress so the folks in Arizona who might have concerns can get up and express those concerns and then Congress can act accordingly,” he told the Legislature, adding that the Bureau of Indian Affairs’ process, meanwhile, puts the decision in “the hands of a bureaucrat in Washington, D.C.”

The Department of Water Resources has even gone outside water-rights negotiations to challenge reservation expansion without an act of Congress. When the Yavapai-Apache Nation filed a trust land application with the Bureau of Indian Affairs in 2001, the department fought it, according to documents obtained via a public records request. The department went on to argue in an appeal that the trust land transfer would infringe on other parties’ water rights. A federal appellate board eventually ruled in favor of the tribe, but the state’s opposition contributed to a five-year delay in completing the land transition.

Pascua Yaqui Chairman Peter Yucupicio has watched non-Indigenous communities grow as he works to secure land and water for his tribe. “They put the tribes through the wringer,” he said.

### ARIZONA’S DEMANDS

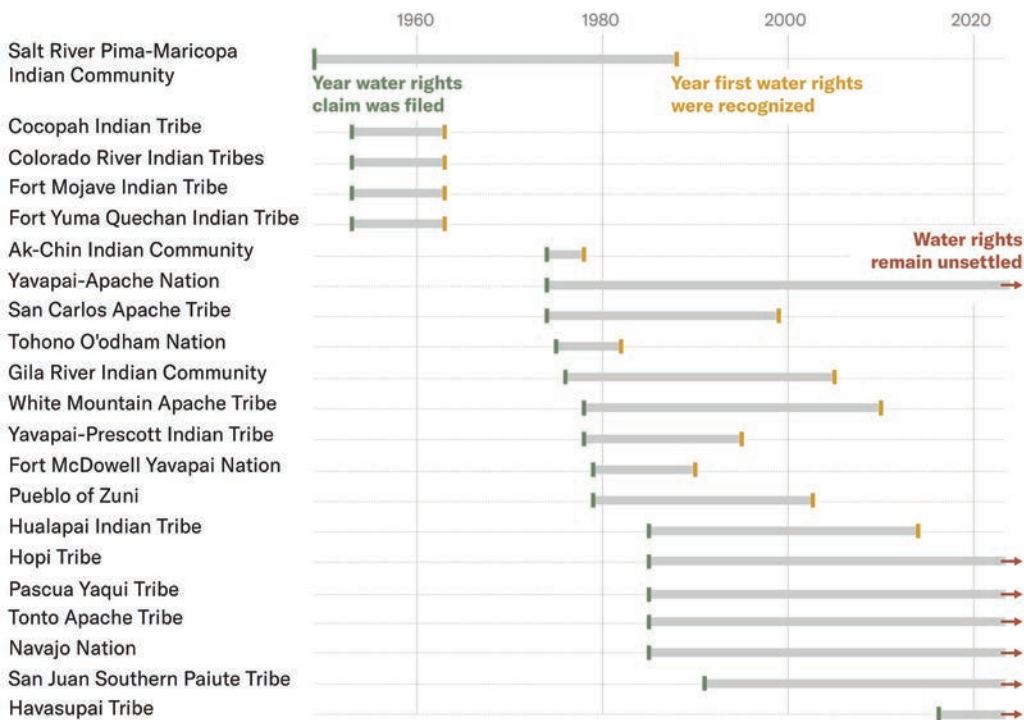
No one has defined the terms of water

New homes have been constructed on the Pascua Yaqui Tribe’s reservation, but there is a long waiting list of tribal members hoping to move there.

**Russel Albert Daniels / HCN and ProPublica**

## Tribes in Arizona often wait decades to secure water rights

Seven federally recognized tribes in Arizona have filed but not settled any of their claims for water rights. The settlement process can take decades and wind through courts and Congress.



Kaibab Band of Paiute Indians Has not filed claim yet.

Lucas Waldron / ProPublica

Note: Dates for the chart reflect the first year a tribe filed a claim for comprehensive water rights — commonly referred to as *Winters* rights, after the 1908 Supreme Court decision that ruled reservations have inherent water rights meant to support a tribal homeland. In some cases, those rights are recognized through a court ruling, in others through an out-of-court settlement. Some tribes’ *Winters* rights, including the Tohono O’odham Nation’s rights, have only been partially settled. Data provided by Leslie Sanchez.



negotiations between Arizona and tribes more than former U.S. Sen. Jon Kyl, R-Ariz.

Before entering politics, he was a long-time attorney for the Salt River Project, a water and electric utility serving parts of metro Phoenix. During that time, he lobbied for and consulted on state rules that force tribes to litigate water disputes in state court if they're unable to reach a settlement. After landing in the Senate, Kyl and his office oversaw meetings where parties hashed out disputes, and he saw his role as that of a mediator. He helped negotiate or pass legislation for the water rights of at least seven tribes.

"I wasn't taking a side," Kyl told *ProPublica* and *High Country News*, "but I was interested in seeing if they could all reach agreements."

Tribes, though, often didn't see him as a neutral party, pointing especially to his handling of negotiations for the Navajo Nation and the Hopi Tribe. He was shepherding a proposed settlement for the tribes through Congress in 2010 when he withdrew support, saying the price of the infrastructure called for in the proposal was too high to get the needed votes. A 2012 version of the tribes' settlement also died after he added an extension to allow a controversial coal mine to continue operating.

Even when Kyl wasn't directly involved, tribes were pushed to accept concessions, including limits on how they used their water. Settlements across the basin, including in Arizona, typically contain limits on how much water tribes can market, leaving unused water flowing downstream to the next person in line to use for free.

And several tribes in Arizona were asked to give up the ability to raise legal objections if other users' groundwater pumping depleted water underneath their reservation.

Tribes have also often had to trade the priority of their water — the order in which supply is cut in times of shortage, such as the current megadrought — to access water. The Bureau of Reclamation recently proposed drastic cuts to Colorado River usage, and, in one scenario based on priority, a quarter of the proposed cuts to allocations would come from tribes in Arizona.

"Some of the Native American folks had a hard time with the concept that they had to give up rights in order to get rights," Kyl said, adding that tribes risked getting nothing if they kept holding out. "If you're going to resolve a dispute, sometimes you have to compromise."

Given the long list of terms Arizona typically pursues, some tribes have been hesitant to settle — which can leave them with an uncertain water supply — so the state has tried to push them.

In 2020, Arizona legislators targeted the casino industry — the economic lifeblood of many tribes. Seven Republicans, including the speaker of the House and Senate president, introduced a bill to bar tribes from obtaining or renewing gaming licenses if they had unresolved water-rights litigation with the state. The bill failed, but Rusty Bowers, the House speaker at the time, said the legislation was intended to put the state on a level playing field with tribes. "Where is our leverage on anything?" Bowers said. If tribes weren't

using the water, then others would do so amid a drought in the growing state, he said.

The state's economic and population growth has presented tribes with other challenges: They must now negotiate not only with the state and federal governments but also with the businesses, cities and utilities that have, in the interim, made competing claims to water.

It has taken an average of about 18 years for Arizona tribes to reach even a partial water-rights settlement, according to a *ProPublica* and *High Country News* analysis of data collected by Leslie Sanchez, a postdoctoral fellow at the U.S. Forest Service's Rocky Mountain Research Station, who researches the economics of tribal water settlements. The Arizona tribes that filed a claim but are still in the process of settling it have been waiting an average of 34 years.

Chairman Calvin Johnson of the Tonto Apache Tribe — which has a small reservation next to the Arizona mountain town of Payson — remembers, as a child, watching his uncle, then the chairman, begin the fight in 1985 to get a water-rights settlement.

Still without a settlement, the tribe hopes to one day plant orchards for a farming business, build more housing to support its growing population and reduce its reliance on Payson for water, Johnson said. But, faced with Arizona's demands, the tribe has not yet accepted a deal.

"The feeling that a lot of the older tribal members have is that it's not ever going to happen, that we probably won't see it in our lifetime," Johnson said.

## TURNING TO THE COURTS

Tribes that hope to avoid Arizona's aggressive tactics can instead go to court — an even riskier gamble that drags on and takes the decision-making out of the hands of the negotiating parties.

The Kaibab Band of Paiute Indians is the only federally recognized tribe in Arizona yet to file a claim for its water. It has a reservation near the North Rim of the Grand Canyon, but with only 400 members and minimal resources, it would face a daunting path forward. To settle its rights, the tribe would have to engage in court proceedings to divvy up Kanab Creek, the only waterway that crosses its reservation; bring anyone with a potential competing claim to the creek's water; find money to complete scientific studies estimating historical flows;



The Navajo Nation has untapped economic potential, according to President Buu Nygren, but realizing it will require water. **Sharon Chischilly / HCN and ProPublica**



The Colorado River from Navajo Bridge near Marble Canyon, Arizona. **Russel Albert Daniels / HCN and ProPublica**

and then, because the waterway spans multiple states, possibly face interstate litigation before the U.S. Supreme Court.

“It’s about creating and sustaining that permanent homeland,” said Alice Walker, an attorney for the band, but the path between the tribe and that water “boils down to all of those complex, expensive steps.”

Arguing before the Supreme Court on behalf of Arizona and other parties in 1983, Kyl successfully defended a challenge to a law called the McCarran Amendment that allowed state courts to take over jurisdiction of tribal water-rights claims.

“Tribes are subject to the vagaries of different state politics, different state processes,” explained Dylan Hedden-Nicely, director of the Native American Law Program at the University of Idaho and a citizen of the Cherokee Nation. “As a result, two tribes with identical language in their treaties might end up having, ultimately, very different water rights on their reservations.”

Some states, such as Colorado, set up

special water courts or commissions to more efficiently settle water rights. Arizona did not. Instead, its court system has created gridlock. Hydrological studies needed from the Department of Water Resources take years to complete, and state laws add confusion over how to distinguish between surface and groundwater.

Two cases in Arizona state court that involve various tribes — one to divide the Gila River and another for the Little Colorado River — have dragged on for decades. The parties, which include every person, tribe or company that has a claim to water from the rivers, number in the tens of thousands. Just one judge, who also handles other litigation, oversees both cases.

Even Kyl now acknowledges the system’s flaws. “Everybody is in favor of speeding up the process,” he said.

After years of negotiations that failed to produce a settlement, the Navajo Nation went to court in 2003 to force a deal. Eventually, the case reached the Supreme Court, which

heard it this March. Tribes and legal experts are concerned the court could use the case to target its 1908 precedent that guaranteed tribes’ right to water, a ruling that would risk the future of any tribes with unsettled water claims.

The Navajo Nation, according to newly inaugurated President Buu Nygren, has huge untapped economic potential. “We’re getting to that point in time where we can actually start fulfilling a lot of those dreams and hopes,” he said. “What it’s going to require is water.”

Just across the Arizona-New Mexico border, not far from Nygren’s office in Window Rock, construction crews have been installing the 17 miles of pipeline that could one day deliver large volumes of the tribe’s water to its communities and unlock that potential. Because of Arizona’s changes to the federal law, that day won’t come until the state and the Navajo Nation reach a water settlement.

For now, the pipeline will remain empty. ☀

# Corporate Factors

What private interests gain from tribal water settlements.

Photos by Russel Albert Daniels



**F**IRST, THE SANTA CRUZ RIVER stopped flowing into the San Xavier District of the Tohono O'odham Nation. Then wells began to dry up across the reservation, and farming became nearly impossible for tribal members. Fissures and sinkholes opened up across the landscape where the ground had sunk as much as 15 feet.

The collapsing, cracking earth was the result of decades of agriculture and mining companies and cities overusing groundwater — a finite resource — in a desert. Those responsible included the Anamax Mining Company, Cyprus-Pima Mining Company and Duval Corporation (now all part of the global mining company Freeport-McMoRan), as well as the copper-mining giant Asarco and the agribusiness Farmers Investment Company. All were operating near the San Xavier District, pumping water from underneath land the Tohono O'odham had farmed for thousands of years.

Alarmed, the nation sued to protect its water rights in 1975. Although water rights are tied to reservations as part of the treaty-based relationship between tribes and the



federal government, state courts have the power to oversee and enforce them. Given the history and impacts of forced removal and rapid colonial expansion in the Southwest, tribal water rights have taken decades to resolve. Companies, cities and farms moved in, becoming large water-users near reservations. As a result, they become part of the settlement process and, in some cases, “have to give something or restrict something on their part,” said Sharon Megdal, director of the University of Arizona Water Resources Research Center. By the time the Tohono O'odham settled in 1982, they had negotiated

with all five business entities, plus the city of Tucson and the state of Arizona.

At the outset of settlement discussions, tribal leaders felt animosity toward the idea of being forced to negotiate with the companies and the city at all, said San Xavier District Chairman Austin Nunez, who joined the water discussions when he was elected in 1987. As the first people of the region, they felt their claims should be accepted. It was their homeland, after all, that was bearing the brunt of extraction and expansion. “This is the only land that we will ever have,” said Nunez. “We cannot relocate to anywhere else in the United States.”



The San Xavier del Bac Mission in the San Xavier District of the Tohono O'odham Reservation, with mines in the distance.

objections against mining companies and giving up the right to future litigation.

**THAT RELATIONSHIP** between the state of Arizona and business interests was recently on display in *Arizona v. Navajo Nation*, which went in front of the Supreme Court and will be decided this summer. (As of press time, no decision had been made.) The case focuses on the Navajo Nation's claims that the federal government has a treaty-based responsibility to protect its future water interests, since the nation still does not have settled water rights in Arizona. The state has opposed the Navajo Nation, arguing that water from the Lower Colorado River is "already fully allocated."

Courts can be a risky venue for tribal water claims, and they force people to choose sides. In the Navajo Nation's case, business interests have sided with the state of Arizona, creating a united front of 27 trade groups, mining associations, farm groups and irrigation districts from Colorado River Basin states and across the West. These businesses and organizations have filed a brief in support of Arizona's position, arguing that a ruling favoring the Navajo Nation "would have severe negative consequences for Arizona, its residents, its businesses, and its agricultural and industrial sectors."

"A big piece of all of this is just how unethical it is to make tribes give up something in order to fulfill a basic human right like water access, and how water has been over-appropriated in the basin at the expense of tribes," said Heather Tanana (Diné), assistant professor at the University of Utah's law school. While tribal nations have rights to about 25% of the Colorado River Basin's annual water supply, it's taken years of negotiations to secure those rights; many tribal citizens still don't have access to actual water. Historically, when it comes to shaping water policy in the basin, Tanana said that "(tribes) haven't been involved, and the federal government has done a poor job of protecting those interests."

And, if the companies and corporations do give up water, they want something in return: A review of every water settlement in the Colorado River Basin showed that settlement terms often guarantee water contracts for the

In Arizona, tribes face a state system that often aligns with business interests over Indigenous water rights. Arizona has regularly assisted in the pursuit of water for agriculture, farms and utilities in the state, building dams and the Central Arizona Project. But it has taken the opposite approach when tribes seek water. "Any time water is involved and any time a tribe is trying to lay claim to some water, the historical approach has been to immediately obstruct that effort," said Dylan Hedden-Nicely (Cherokee), professor of law at the University of Idaho.

Given the complexity of water

settlements — which can include multiple amendments, litigation and side deals — the full scope of corporate involvement is difficult to track. But a review of decades of settlements by *High Country News* and *ProPublica* found that mining companies benefited from at least six out of 14 tribes' water settlements in Arizona. Other settlements forced tribes to contend with corporations, utilities and other nongovernmental entities to acquire the water they're legally entitled to, creating protracted negotiations that delayed their ability to secure their share. They also had to make concessions — including dropping

companies, as well as some protection from future litigation. In the Hualapai Tribe's settlement of 2022, Freeport-McMoRan negotiated the ability to sever its water rights from one parcel of land and transfer them to another in order to supply its Bagdad Mine — an open-pit copper and molybdenum mining complex — a concession that the U.S. Department of Interior had previously objected to. In the San Carlos Apache Tribe's settlement, mining company Phelps Dodge received right-of-way permit extensions through 2090.

By the end of the Tohono O'odham's settlement, which became law in 1982, the San Xavier and Schuk Toak Districts were awarded 66,000 acre-feet of water per year via the Central Arizona Project. That system, built to distribute Colorado River water, didn't deliver water for 18 years, after the cost and a lack of demand by agricultural users in the region delayed construction.

In an update to the settlement in 2004, Asarco and Farmers Investment Company agreed to reduce their groundwater use. Up to a quarter of a million dollars was made available for Asarco to conduct a land exchange study. In addition, Tucson agreed to pay for sinkhole repairs on the reservation.

But the nation was denied a buffer zone around its land, where it wanted pumping curtailed, and the San Xavier District was allowed to pump just 10,000 acre-feet for its own use. (One acre-foot per year can support

up to three single-family households in the West.) In order to get Asarco to use Colorado River water instead of cheaper groundwater, the nation had to drop all groundwater litigation against the company.

"We certainly did not get everything we set out for in those negotiations," Nunez said. But, "we believe we got the best we could."

Water settlements also play a part in the extraction of coal from tribal lands to fuel non-Native economic and population growth. In Arizona, the Salt River Project — a public utility that manages water and power for most of Phoenix — has had a central role in that dynamic. In a settlement between the Pueblo of Zuni, the Salt River Project and others that was passed by Congress in 2003, Zuni was able to guarantee 10,000 acre-feet for wetland restoration on their reservation lands in Arizona. The Salt River Project, meanwhile, emerged from the settlement with rights to up to 21,000 acre-feet of groundwater to fuel its coal-powered generating station.

**WHEN TRIBES AND COMPANIES** reach an impasse, it can stall or sink negotiations, as happened with a Navajo-Hopi settlement in 2012, ultimately delaying access to water. That settlement tied reservation drinking-water access to renewing land and operational leases for a Peabody Western Coal Company mine and the Salt River Project's power plant. The settlement failed, in part because it

included the demands made by the corporation and utility, and the two tribal nations are still working to quantify their water rights. But as more time passes, less water becomes available: The amount of water in the Colorado River is shrinking due to drought and aridification linked to climate change.

"Every second that passes, it's harder and harder for tribes to get water that's already over-allocated and in shorter and shorter supply," said Andrew Curley (Diné), assistant professor of geography at the University of Arizona.

Tribes have gained at least some concessions from the corporations in return. In the San Xavier Reservation case, Asarco — which opened its first smelter in Arizona in 1912, the same year as statehood — agreed to buy some water from the tribe as part of the settlement. The five companies involved in the settlement also contributed a combined \$1 million to a fund for the nation. For decades, Asarco and other companies used water that belonged to the Tohono O'odham Nation without compensating the tribe — a demonstration of the financial and political power nongovernmental entities have long held over access to water in the region. (Grupo México, Asarco's parent company, did not respond to requests for comment. Neither did Freeport-McMoRan.)

When the Tohono O'odham first asserted their water rights in the San Xavier District in the 1970s, businesses pushed back. Agribusinesses said that a settlement favorable to the senior-most water-rights holder in the region — one protected by treaties and federal law — would cost them water and money. "This is a raid on a portion of water for agriculture," a representative of the Arizona Farm Bureau told the *Arizona Republic* at the time. Today, the Farm Bureau is one of the organizations opposing the Navajo Nation in the Supreme Court case. The Tohono O'odham, meanwhile, argued that maintaining the status quo would cost them their homeland.

Nearly five decades later, agriculture is the largest water user in the Colorado River; in Arizona, it uses about 74% of the water supply. Meanwhile, the rest of the Tohono O'odham Nation still does not have settled water rights. Instead, it remains tied up in a nearly 50-year-long water adjudication with over 30,000 other parties, including the Salt River Project, Freeport and Asarco. ☀



The Asarco Mission Complex copper mines at the southern border of the San Xavier District of the Tohono O'odham Nation.





A well that's part of the Hopi Arsenic Mitigation Project. Three-fourths of the Hopi citizens living on the reservation rely on well water tainted with high levels of arsenic, according to tribal leaders and studies conducted with the Environmental Protection Agency.

# Bad Math

Arizona's unique method for awarding water left the Hopi Tribe high and dry.

Photos by Sharon Chischilly



**I****N SEPTEMBER 2020**, the Hopi Tribe's four-decade effort to secure its right to water culminated in a court proceeding. The outcome would determine

how much water the arid reservation would receive over the next century and whether that amount would be enough for the tribe to pursue its economic ambitions. Under rules unique to Arizona, the tribe would have to justify how it would use every drop it wanted.

The monthslong ordeal in Arizona's Superior Court unfolded in video calls over shaky internet connections.

Chairman Timothy Nuvangyaoma called it "the fight of our lives."

The U.S. Supreme Court ruled in 1908 that reservations have an inherent right to water. In the rest of the country, courts grant tribes water based on the amount of arable land on their reservations, relying on a 1963 U.S. Supreme Court precedent. But in 2001, Arizona developed its own method, which was ostensibly more flexible toward individual tribes' visions for how they wanted to use

their water by examining each tribe's culture, history, economy and projected population.

This new standard offered tribes an opportunity to shape their plans for economic development and growth beyond farming. But the Hopi case, the first adjudicated under this process, showed that it also came at a high cost and with uncertain outcomes.

Court records show that, at the trial, experts brought in by the tribe, state and corporate water users argued over how many Hopi had lived in the area going back centuries and how much water they had used for crops and livestock. They debated the correct fertility rate of Hopi women and the viability of the tribe's economic projects. And the court examined lists of sacred springs — sites the Hopi traditionally kept secret to preserve them — to decide how much water could be drawn from them for future religious ceremonies.

The legal battle — one of the tribe's largest expenses in recent years — resulted, in May 2022, in the court awarding less than a third of the water sought by the Hopi Tribe. That was the amount needed, the court said, "to provide a permanent homeland."

“I would define it as modern-day genocide,” Nuvangyaoma said. “Withholding water — which is life for the Hopis — until an undetermined time is really a position to kill off a tribe that’s been here since time immemorial.”

The trial and decision carry profound implications for other Colorado River Basin tribes seeking water, especially in Arizona, where 10 out of 22 federally recognized tribes have outstanding claims. Water awarded to these tribes often comes out of the allocation states can use, leading to an inherent conflict between tribes and states over the scarce resource. If the Hopi decree survives the tribe’s planned appeal, other tribes will be subjected to the same scrutiny of their way of life, said Rhett Larson, a professor of water law at Arizona State University.

“It’s a big deal for the history of water law in the United States of America and what it means to be a Native American tribe,” Larson said.

#### “TO PROVIDE FOR OUR EXISTENCE”

The Hopi Tribe has inhabited villages in northeastern Arizona for more than 1,100 years. In the time since white settlers arrived, the tribe’s water supply has been decimated by drought and coal companies’ unchecked groundwater pumping.

The reservation, established by the U.S. government in 1882, is entirely surrounded by the Navajo Nation. Both tribes use the same aquifer, with wells reaching thousands of feet into the ground. Three-fourths of the Hopi citizens living on the reservation rely on well water tainted with high levels of arsenic, according to tribal leaders and studies conducted with the Environmental Protection Agency. A heavy metal that increases the risk of developing cancer, cognitive developmental disorders and diabetes, arsenic is naturally present throughout Arizona, but pumping can increase its concentration in groundwater.

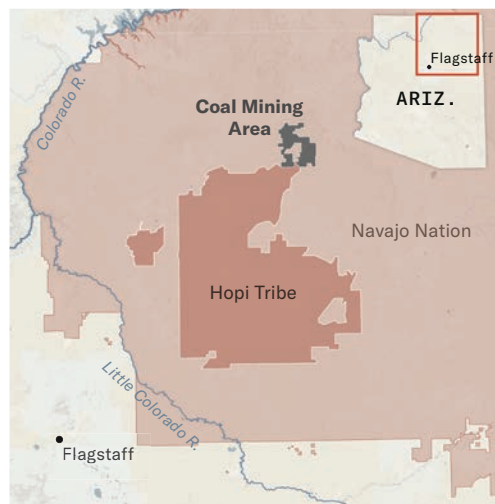
According to Dale Siquah, a member of the Hopi Tribal Council, concerns about the aquifer not only make it hard to find drinking water, they also limit the construction of new homes and businesses allowing the community to grow.

The only other available water on the reservation is inconsistent, running in four major streambeds that are dry most of the year. Those four washes, which empty into the Little Colorado River, have likely been

impacted by drought, with two showing a “significant decreasing trend” in recent years, according to the U.S. Geological Survey.

“We need another source of water off-reservation to provide for our existence in the future,” Siquah said.

The case involving Hopi water rights began in 1978, when the Phelps Dodge mining company filed suit against the state and all other water users to protect its claims in the Little Colorado River watershed. Under Arizona law, the only way to quantify a single water claim was to litigate all regional claims at once. Soon, the Hopi Tribe and thousands



Lucas Waldron / ProPublica

of others with claims became parties to the case in the Superior Court of Arizona.

The tribe put the court case on hold twice as it attempted to get water through out-of-court settlements. Those talks though would have required compromising with other users making claims to that water, including the Peabody Western Coal Company, which until 2019 pumped groundwater from the aquifer for its mining operations. Between 1965 and 2005, Peabody accounted for 63% of the water pumped out of the aquifer, and 31% between 2006 and 2019, according to the United States Geological Survey. Peabody did not respond to requests for comment.

In 2012, the Hopi Tribe appeared on the brink of a settlement with the state that would have provided the tribal nation with \$113 million for pipelines and other infrastructure to bring groundwater to communities on the reservation. But that effort fell through when Hopi leaders refused to sign off on a guarantee

in the settlement allowing Peabody continued access to the aquifer until 2044.

#### “WE DON’T THINK THAT’S FEASIBLE FOR YOU”

Unable to reach a settlement, the Hopi Tribe continued its pursuit of water for its homeland in court through Arizona’s untested legal process.

Due to the large number of parties and the underfunding of both the state courts and Arizona’s Department of Water Resources, the case moved at a snail’s pace. The department filed a key technical report on water availability in 2008. It took until 2015 for the department to finalize it for the court.

By then, the case had been overseen by four judges. They appointed three separate special water masters, who are key to producing a proposed decree for the court. Susan Ward Harris, the water master who delivered the 2022 decree, was appointed in 2015. Harris did not respond to requests for comment.

When its day in court finally came, the Hopi Tribe explained that it wanted water for an economically vibrant future, with farms, cattle operations, coal mines and power plants.

More than 90 witnesses testified. They included a long line of experts — for the tribe; the federal government; the state; the northern Arizona city of Flagstaff; and the Little Colorado River Coalition, which represented small cities, utilities, ranchers and commercial interests. They discussed the tribe’s projected population, argued over the accuracy of the census count of the Hopi and offered predictions of what the numbers would be in the future.

In the end, the court went with the lowest population projections put forward by Flagstaff and the state, and it decided to include only the people living on the reservation full-time.

The reservation’s population, currently about 7,000, would peak at 18,255 by 2110, Harris decided.

She also decreed that the tribe would get water to irrigate only 38% of the farmland it planned to. It was denied water for a cattle operation, saying it “would not be feasible, practical, or provide economic benefits,” based on the court’s assessment of the current market. Harris also declared the coal operations were not “economically feasible.” Some \$10 billion in economic development projects, presented



A worker examines equipment at one of the wells of the Hopi Arsenic Mitigation Project.

in detail to the court, were deemed unrealistic.

Water for ceremonial and subsistence gardens was also denied. The court publicly listed nearly 100 sacred springs, with limits on how much water the tribe was entitled to use for religious ceremonies.

In total, the tribe had requested at least 96,074 acre-feet a year of water, and the Arizona water master recommended awarding just 28,988 acre-feet, all of it from the same depleted, contaminated aquifer and seasonal streams the Hopi already use. After four decades, they ended up in the same precarious position they'd started.

Nuvangyaoma said the decree suggested that the state and non-Native parties believed the tribe was incapable of carrying out its ambitious economic plans. It closed the door on future growth and, overall, was "insulting."

By refusing to count members who live part-time on the reservation as part of the population, the court ignored the connection

many Native Americans have with their land, even when they don't live there permanently, he said. Many leave so they or their children can pursue an education; for work; or to live in homes with reliable electricity and water. In short, Nuvangyaoma said, they seek the very things Hopi leaders hoped that the settlement would help bring to the reservation, and that the tribe needed water to do. But the court said that because the reservation was not growing at the speed the tribe claimed it could, it couldn't have the water — a circular logic that hobbles the Hopi.

"It's very frustrating that you're told that your population will peak at a certain amount when we don't see it that way," Nuvangyaoma said.

Even with Harris' decree on the books, the Hopi Tribe still faces a long road to access its allotted 28,988 acre-feet of water. Funding for dams, pipes and other infrastructure will likely require congressional action and

involve more negotiation with other water users, including the Navajo Nation, which draws from the same groundwater. "I suspect I will not be alive when it comes to fruition," Siquah, the tribal council member, said.

Nuvangyaoma said the tribe will still pursue its plans for economic development, but with the understanding that it cannot look to the state or federal governments for support.

Cities across the Southwest have, with government support, pursued economic development and growth in the ways they wanted, he said, whether it's coal mining, raising cattle, or farming the desert using water brought from far away.

"So why are we putting limitations on Hopi and making a decision for us saying, 'Oh, well, we don't think that's feasible for you all?'" Nuvangyaoma asked. "Who has that right to tell us what is and what is not feasible for us?" ❁

# Unfair Share

Decades after the Colorado River flooded the Chemehuevi's land, the tribe still struggles to get its water.

Photos by Russel Albert Daniels



**T NIGHT, THE LIGHTS** of Lake Havasu City's hotels, boat launches and neighborhoods reflect off the reservoir that gave this busy Arizona tourist town its name. The federal government dammed the Colorado River just downstream in the 1930s, providing the water and recreation opportunities that have allowed the community to flourish.

The opposite side of the reservoir is dark and so quiet that water lapping on the shore and bats clicking overhead can be heard over the distant hum of boat engines. This is the Chemehuevi Indian Tribe's reservation in California. The water that rose behind Parker Dam to create Lake Havasu washed away homes and flooded about 7,000 acres of fertile Chemehuevi land, including where tribal members grazed cattle.

The communities across the reservoir reflect the vast divide in economic opportunities between Indian Country and the rest



The Colorado River and Lake Havasu delta, with Lake Havasu City in the background.

of the West, which has been perpetuated, in large part, by who received water and who did not.

In 1908, the U.S. Supreme Court ruled that the federal government owed tribes enough water to develop a permanent home on their reservations, and that their water rights would hold senior priority, meaning they trumped those of others. In the Colorado River Basin, most tribes, even during a drought, should get water before Phoenix, Las

Vegas, Los Angeles and elsewhere.

More than a century later, only a few basin tribes have benefited from this system. Of those that have, some live near federally funded canals and pipelines that can deliver water to their land; others received money to build their own water systems; and some negotiated for the right to market their water to other users. The Gila River Indian Community, for instance, recently struck a deal with the federal government to forgo



using some of its water in exchange for up to \$150 million over the next three years, depending how much water it conserves, and \$83 million for a new pipeline.

But most of the basin's 30 federally recognized tribes have faced seemingly endless barriers to accessing and benefiting from all of the water to which they're entitled. The Chemehuevi Reservation fronts about 30 miles of the Colorado River, yet 97% of the tribe's water remains in the river and ends up

being used by Southern California cities. The tribe never receives a dollar for it.

The water that has already been guaranteed to basin tribes but remains unused totals at least 1 million acre-feet per year — nearly one-tenth of the Colorado River's flow in recent years and nearly four times the Las Vegas metro area's allocation. If sold outright, this water would be valued at more than \$5 billion, according to a *ProPublica* and *High Country News* analysis. For the Chemehuevi,

a tribe with about 1,250 members, that means the amount of water it has on paper but doesn't use would have a one-time value of at least \$55 million.

Steven Escobar, the Chemehuevi's tribal administrator, grew up testing his mettle against the Colorado River's currents, swimming across its cold waters upstream of the reservoir. He still thinks of the river in terms of struggle. But now, it's a struggle for the tribe to get the same help from the federal government to access water as others have, or, if not, to get compensation for what's legally theirs.

"All that development and governmental support that they provide every state, that should be the same thing they provide to tribes," Escobar said. "We've had to fight for everything out here."

As demand on the Colorado River far exceeds its supply, tribes worry that they'll never receive the water they're owed.

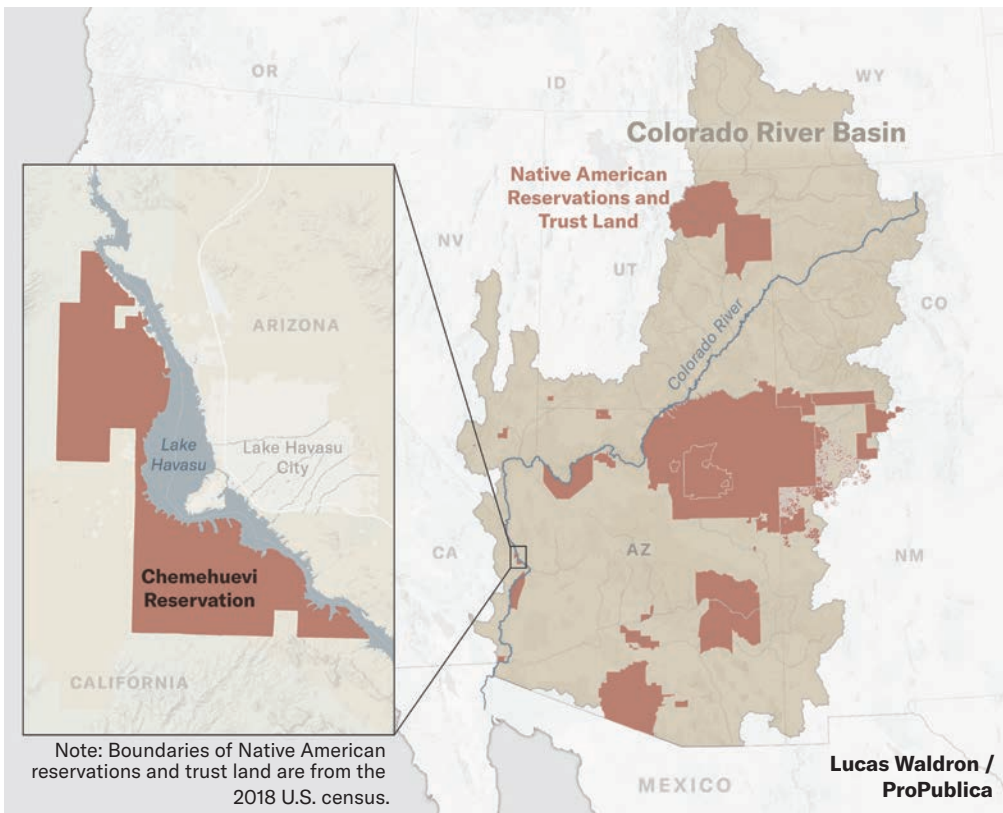
The Chemehuevi are left in a bind: The tribe doesn't have the pumps or other infrastructure necessary to deliver its full allotment of river water to its reservation. While the federal government gave the tribe a grant to build a small reservoir, neither it nor the state of California has allocated money to build a larger delivery system.

Even as a backup option, the tribe is unable to lease its water to other users, such as rapidly growing cities, or earn money by leaving it in the river to preserve the waterway. Antiquated laws and court rulings typically allow tribes to be paid to conserve only water they previously used. Any changes to how a tribe could market its water would take an act of Congress.

"This is a long-standing problem," said Mark Squillace, a professor at the University of Colorado's law school. "From the perspective of the people using that water, why would they pay when they're already getting it for free?"

#### **THE LAW OF THE RIVER AT WORK**

A half-century ago, the Bureau of Reclamation began construction on a massive canal called the Central Arizona Project to send the waters that flooded the Chemehuevi's land 336 miles across the desert to Phoenix and Tucson. The pumps that power the system, which help deliver the state's share of the Colorado River, are the largest single consumer of electricity in the state.



Daniel Leivas, Chemehuevi farm manager, at the Chemehuevi agriculture plot.



Meanwhile, the Chemehuevi rely on a single diesel pump to draw water six stories up to the plateau where they live above Lake Havasu.

For at least 50 years, the river’s decision-makers have recognized this disparity in water access. In 1973, a body called the National Water Commission submitted a report to Congress: “In the water-short West, billions of dollars have been invested, much of it by the Federal Government, in water resource projects benefiting non-Indians but using water in which the Indians have a priority of right if they choose to develop water projects of their own in the future.”

For tribes, the first challenge is securing their water rights. After the Supreme Court’s 1908 decision confirming tribes’ right to water, two paths emerged to quantify and settle the amount and details of those rights. Tribes could, with the backing of the Department of the Interior, negotiate with the state where their reservation is located. Or they could go to court. Fourteen basin tribes are still in the midst of this process, but either path they choose presents trade-offs.

Tribes that negotiate typically need to trade some of the water they believe they’re owed in exchange for money to build water-delivery infrastructure. They can also trade their water priority — leaving them more susceptible when allocations are cut, a reality that’s already threatening to curtail their water amid the West’s ongoing drought.

For tribes that choose to go through the courts to get their water, there’s no opportunity to negotiate for funding for canals, pipes and pumps, meaning there’s no way to move the water they’re awarded onto a reservation.

“It’s not enough to have the right to the water,” Squillace said. “You also have to have the infrastructure.”

Highlighting the difficulties in converting rights to water on paper into actual water on a reservation, tribes around the West that secured a negotiated settlement only increased their agricultural land use by about 9% and saw no increase in residential or industrial development, according to estimates from a recent study published in the *Journal of the Association of Environmental and Resource Economists*.

And if a tribe can’t move water, it often can’t monetize it.

Laws passed between 1790 and 1834,

known as the Indian Non-Intercourse Acts, have the effect of prohibiting tribes from leasing water beyond the borders of their reservations without congressional approval. Settlements also typically bar them from permanently selling their water and often prohibit them from leasing it.

### “THIS IS WHAT’S LEFT”

Politicians packed a conference room at the Arizona Capitol in April, where they unveiled an agreement to pay the Gila River Indian Community millions of dollars to leave its water in Lake Mead. Officials took turns at the lectern extolling tribes for their role in preserving the Colorado River.

“We don’t have any more important partners in this effort than in Indian Country,” Deputy Secretary of the Interior Tommy Beaudreau said.

When the Gila River Indian Community negotiated its water rights, the Central Arizona Project had begun carrying Colorado River water near its reservation south of Phoenix, and the tribe had some political clout after spending millions of dollars on lobbying. Those advantages allowed the tribe to negotiate tens of millions of dollars for infrastructure to deliver its water and the right to lease tens of thousands of acre-feet to nearby cities and a mining company. Its settlement has now made the tribe a well-compensated partner in conservation efforts.

“These are truly historic investments in directly tackling the challenge presented to our state and our region by the historic drought,” Gila River Indian Community Gov. Stephen Roe Lewis said during the April news conference announcing the deal to trade more water for money. The tribe declined requests for additional comment, as it is negotiating further water deals.

The Chemehuevi, by contrast, can’t access or lease most of their water. Their rights were quantified and settled via the courts in the 1960s, at a time when the tribe didn’t have federal recognition. So it didn’t receive infrastructure funding.

Escobar, the Chemehuevi’s tribal administrator, would prefer to use his tribe’s water, not lease it. He wants to expand pumping capacity and construct a cascading series of reservoirs. Once the Chemehuevi access the water, they could use it for more houses to bring enrolled members back to their land,



The Gene Pumping Plant near Lake Havasu lifts water hundreds of feet to the Colorado River Aqueduct system, which delivers it to Los Angeles, San Diego and other cities. Southern California gets about 25% of its water from the Colorado River via the aqueduct.

new businesses to provide jobs and increased farming to grow the reservation’s economy.

Escobar talked about his dreams and the difficulty in developing Indian Country as he drove past the frames of unused greenhouses, evidence of a failed venture. Near a field where the tribe’s single tractor was working the soil, Escobar described the Chemehuevi’s agricultural plans. Behind him, Lake Havasu covered soil that could have been productive fields or pastureland. In front of him stretched sandy desert where the federal government said the tribe should harvest crops.

“This is what’s left,” he said of the tribe’s potential farmland that wasn’t submerged by the reservoir. “It’s sad.”

After the once-nomadic Chemehuevi fought for recognition of their tribe and their reservation, they partnered with the University of Southern California to develop a plan to farm 1,900 acres using the 11,340

acre-feet of water per year, about 3.7 billion gallons, that the government allotted them — at least on paper. But, in a good year, the Chemehuevi farm only 80 acres, growing melons for food, devil’s claw for basket weaving and cottonwoods for a riparian restoration project.

If it can’t transport more water to expand the farm, Escobar said, the tribe could accept leaving water in the river in exchange for compensation. “We want to be a benefit to the system,” he said, “but right now, they’re making it hard.” Many non-Indigenous people and a few tribes around the basin earn money limiting their water use, whether by fallowing farm fields or ripping out lawns.

Why shouldn’t all tribes be paid? Escobar asked. ☼

*Read more about our methodology for this investigation at [hcn.org](http://hcn.org).*

## EMPLOYMENT & EDUCATION

**Executive Director** — The Fund for People in Parks seeks leader to identify, develop, fund and facilitate high-impact projects in Western national parks. Remote position with some travel. 30 hour/week. \$75,000-\$90,000 with benefits, flexible schedule. Start October-December. Apply by July 15. [peopleinparks.org](http://peopleinparks.org).

**Legal Director** — Trustees for Alaska is the only nonprofit environmental law firm founded and based in Alaska. We are seeking a Legal Director, full-time, based in Anchorage. For more position details and information to apply, please go to our website. <https://trustees.org/trustees-employment/>.



**Chief Executive Officer** — Remote Exempt position for Buffalo Nations Grasslands Alliance is responsible for the planning and organization of Buffalo Nations Grasslands Alliance's day-to-day operations. <https://www.bngalliance.org/chief-executive-officerinfo@BNGAlliance.org>.

**Executive Director** — The Executive Director of the Badlands Conservation Alliance (BCA) builds and leads a premier North Dakota advocacy group that serves to protect the ecology of the North Dakota Badlands, an expansive geologic feature that includes the largest national grassland in the United States. With the support of its board of directors, the BCA fully empowers the Director to coordinate decision-making processes, invent solutions, make discoveries, inspire the public, and shape the future of life in western North Dakota. In addition to carrying out administrative duties that include financial and operational reporting, the Director will engage with our stakeholders and the public, and serve as the leader of our organization. You will have access to the

spectacular North Dakota Badlands, the extraordinarily influential members of BCA, our expansive knowledge database and our donors. You will be the voice that the media turns to when controversies emerge. You will help shape the future of the North Dakota Badlands.

The BCA emphasizes with enthusiasm and confidence that the incoming Executive Director of the Badlands Conservation Alliance will have significant, far-reaching impacts. This is your opportunity to develop and expand relationships with local environmental, political, agricultural, government and commercial entities that intersect within the Badlands of North Dakota. You will develop a regional communication plan and lead fundraising efforts to help protect our environment, parks, grasslands and wildlife. You will review and revise existing short- and long-range plans that reach the highest levels of government agencies. You'll participate in meetings, discussions and negotiations with other conservation groups and western North Dakota counties, and work with local, state and federal agencies, pertinent to the Theodore Roosevelt National Park, the Dakota Prairie Grasslands, and the long-awaited Theodore Roosevelt Presidential Library, which is expected to be one of the most transformative cultural additions in North Dakota history.

BCA's headquarters are in Bismarck, the legislative center of North Dakota, where we share an office space with other vibrant and active natural resource groups. Passion and knowledge of the North Dakota Badlands is a must, because you'll be planning and leading Badlands outings on a regular basis. Some in-state travel is necessary. Expenses will be reimbursed. When required, the ability to accommodate and implement virtual meeting technologies is expected.

The salary range is \$60,000-\$75,000. Benefits in addition to salary will be negotiable, depending on success in fundraising and membership recruitment.

Job applicants, please email the cover letter and résumé to the chair of our search committee: [cahogan128@gmail.com](mailto:cahogan128@gmail.com).

Please CC [bca@badlandsconservationalliance.org](mailto:bca@badlandsconservationalliance.org) and include the subject line: BCA Executive Director Application. Badlands Conservation Alliance is dedicated to the preservation of the North Dakota Badlands, providing an independent voice to ensure agencies adhere to the principles of the laws that provide for wise stewardship of the natural landscapes with which the citizens of the United States have entrusted them — for this and future generations. 701-450-1634. [bca@badlandsconservationalliance.org](mailto:bca@badlandsconservationalliance.org). [BadlandsConservationAlliance.org](http://BadlandsConservationAlliance.org).



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## PUBLICATIONS & BOOKS

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garden, chicken coop, four-car garage and shop. \$1.8 million. More info & photos: [www.lostcreeksanc-tuary.com](http://www.lostcreeksanc-tuary.com). Listed with Shannon Focht, RE/MAX Home and Land, 509-715-8208. MLS 268021.

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# Let's talk about Indian romance novels

If you've ever gawked in disbelief at a hunky white man in redface, this one's for you.

BY TAYLAR DAWN STAGNER | ILLUSTRATION BY STEPH LITTLEBIRD

**MY MOUTH WAS BLUE** from Slurpee and I was wearing my favorite pink SpongeBob shirt as I perused the supermarket's paperback section. As a 13-year-old raised on a cattle farm, I devoured books obsessively. I stood in fluorescent lighting at the end of a checkout line, my boots caked with mud. Suddenly, the image of a feather-clad half-naked fellow caught my eye from the shelves. Nestled between some Nicholas Sparks novels and glossy magazines, the embossed book cover glistened with a white man in a headband in an unconvincing long black wig, a swooning white woman clutched in his arms, the pair almost kissing in a deluge of feathers. *How embarrassing*, I remember thinking, lips blue, and I moved on to try to find something with a werewolf or vampire instead. Something more realistic.

As I grew up, my window to the outside world widened to include romance novels. As it is in many extremely rural and conservative areas, sex was a taboo topic to ask about. Long Wyoming summers caught me in daydreams of sappy romances. *Taylor, my darling, can I take you away from all this?* a dashing man would say to me, seemingly out of nowhere. *Oh, yes!* I would reply,

and we would ride into the sunset together, my dress billowing in the wind. All very standard stuff. With all the joy romance novels can bring, there exists the widely ignored responsibility to look at the genre's dimension of desire and colonization. Sex and being sexualized are often used as a weapon against Indigenous people. I've known for a long time that the contours of desire run along the political realities ascribed to our bodies.

A favorite early romance novel was *The Trouble with Moonlight*. A beautiful, aristocratic white woman named Lucinda could turn invisible in the moonlight, and she used her powers to recover items for a fee. At the time I was painfully shy, and I blushed when anyone talked to me — beet-red in an instant. I pored over this book, often reading next to a babbling irrigation ditch while cows mooed in the background. My little heart would race through its pages, because Lucinda was witty and fun and unashamed of her body, a quality that I took to heart. The “good parts” were good, but what I remember is the sense of confidence the book gave me. I had felt invisible, but *The Trouble with Moonlight* made me feel seen. It was nice to gain such

insight from a \$4 book in a forgotten corner of a bookstore.

How the fetishization of tribes play into the historical romance genre is a sticky subject, made more complex by the elements of desire and power. In my own dating life, I had been fetishized because of where I came from, and also called racial slurs by old lovers, so I didn't think the world of Indian romance novels had anything new in store for me.

But I began to become interested in these books, the glossy well-worn covers with their colorful illustrations of white men and women playing Indian in the historical romance sections of thrift stores. There were so many of them, and I've always been fascinated by their popularity and cultural meaning. It was also funny to me that something so offensive could just pop out at you, like a bad scary movie. Like watching a decades-long car wreck: It was hard to look away.

The most notable author of Indian romance is Cassie Edwards, winner of the Romantic Times Lifetime Achievement Award for Best Indian Series. She wrote the “Savage Series,” a line of 35 books from 1993 to 2009. Titles include *Savage Thunder*, *Savage Love*, *Savage Glory* and *Savage*

*Intrigue*. Perhaps you can see a theme. Stereotypes abound. At the end of *Savage Spirit*, the last line reads, “When they kissed, they were swept away again by the tempest of their love, their savage spirits united for all time.” Just books full of winning lines like that.

In these books, the places, the people, the issues all felt distinctly sanitized, removed from the political realities of Indigenous people during the 1800s and early 1900s in the Western United States, their common setting. And, like, I get it. It's a romance novel, after all, not a piece of critical race theory, but still: In these books, the genocide and colonization of the American continent reads like sexy table-setting. The danger and intrigue are supposed to amp up the romance, raise the stakes, and make the romance even more tantalizing. Insulting, considering that Indigenous men and women were more likely to experience sexual violence than white settlers. These books are a manifestation of the ways settlers use the image of an Indian to settle their own misgiving and sate their own interests.

Many Indian romance novels take a colonial stance on desire. The pleasure within the pages of these books is for a colonial gaze and allows a large section of the white audience to align Indigeneity with wild, untamed, uncivilized acts of lust — an insulting correlation. These books were very popular in the '90s and early 2000s, where the settler-zeitgeist was sympathetic to tribes, but the books were more in the business of assuaging white guilt and commodifying our image than anything else. America was interested in fetishizing Indigeneity, not necessarily hating Indigenous people, but depicting us as

attractive reminders of a vaguely spiritual pan-Indianism.

My little 13-year-old heart would have burst with excitement at the choices available now, though. At 30 years old, I still drink Slurpees and read gushy romance novels in muddy boots. It's complicated, trying to interrogate the intersecting issues of desire and colonialism, but there are dimensions of Indigenous relationships that deserve the glossy romance novel treatment. We deserve to feel a part of the way the romance-novel world is taking shape. We deserve the kind of gushy love that's embarrassing to talk about.

There's an entire ecosystem of Indigenous authors talking about romance and romantic relationship stories that provide interesting tales of desire. Christina Berry (Cherokee) is the author of *The Road Home*, a gritty romance with a complex character, Jake Sixkiller, a musician and a lady's man who is returning to the Cherokee Reservation to confront his past. Cynthia Leitch Smith (Muscogee Creek Nation) is the author of *Hearts Unbroken*, a young-adult novel that handles the hard truths of being Native in a white high school. And Maggie Blackbird (Ojibway) writes of queer Indigenous romance in *Blessed*, where spirituality and love are examined in a steamy but forbidden relationship. These are books that build out the genre, and meld desire with contemporary Native issues.

To look squarely at historical Indian romance novels is to face an Indigenous identity that has been sanitized and resold to the settler public for years. If we take seriously the women-dominated genre of romance and meaningfully interrogate our collective history, we can respect the sappy writing that can tell us so much about the West and ourselves. ✨



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## TOWNSHIP AND RANGE

Exploring the intersection of race and family in the interior rural West.



# Horse girls

How can we all become wild and fearless?

BY NINA MCCONIGLEY  
ILLUSTRATION BY TARA ANAND

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**I HAVE ALWAYS** wanted to be a horse girl.

Horse girls are tough. Horse girls are fearless. Horse girls ride fast across the prairie with the wind in their hair.

One of my friends insists that every girl has a horse phase. There is a moment when their rooms will be plastered with pictures of horses. When they will watch movies and shows about horses. When they will ask for riding lessons and want to wear tall boots. In the West, riding is not just for the rich. In my 4-H club, both ranch girls and city girls rode and kept horses. Both competed in the fair and rodeo.

Even though I grew up in Wyoming — where everywhere you go, there is a horse — I did not go through this phase. The symbol of Wyoming, the ubiquitous bucking Steamboat, is on every license plate and souvenir. Legend has it that Steamboat, a domesticated steed, would stand on his front legs and kick his back legs wildly into the air. As a colt, he had a broken nose, so he whistled when he bucked, hence the name. Poor Steamboat performed in Wild West shows and rodeos, making the crowds roar.

My daughter Juniper is decidedly a horse girl. She neighs when I ask her if she wants milk. She has taken to a diet of apples. She's put a blanket over the back of the couch and straddles it, riding her "horse." For her third birthday, my parents bought her a rocking horse that takes up half our living room. She rides it every day, now feeding it apples, brushing its yarn hair with my hairbrush, and showing me her trick riding — which consists of her standing on its saddle, rocking fiercely. She shows me how she canters, how she gallops.

I tell her to get down. To sit properly. To not be so wild. I take the dishtowel she's made to be a saddle and go back to drying dishes.

**I WORKED ON** an archaeology crew in the Red Desert when I was in my early 20s, doing surface surveys on sites slated for energy development. We would go to an area and walk a grid — mapping, recording and flagging any cultural objects we found. Over that summer, I found tipi rings, beads, bits of pottery and arrowheads. I also found a lot of trash: bottles, shell casings, cans and once, inexplicably, a porcelain doll's ear.

We were an all-woman crew, and my boss was what I imagined a horse girl grows up to be. She was tough, no-nonsense, and she taught me how to drive on a gravel road and how to spot an arrowhead in the ground. She could recognize a piece of worked rock from 10 feet away.

There were four of us, and the other women used the time surveying the sagebrush steppe to also work on their tans. They worked in shorts and took their shirts off, pacing the prairie in their bras. We mostly labored through the days without seeing another soul, and at night we'd drive back to our motel in Wamsutter, browner and sun-drunk. Once, as we were working, a group of oil workers drove by us. They must have thought us a mirage, as our crew of women scrambled to put their shirts back on. It was something like Odysseus' men coming across the sirens. I kept my shirt on, though, and joked that I'd worked on my tan all winter when the other women commented on how much they'd love to be my color. Still, my brown skin got even browner, and that summer I got the first and only sunburn of my life, on my nose.

Wamsutter was the first place I ever tried a patty melt. We'd eat carb-heavy food at night and drink seven and sevens before falling into bed, ready for the next day. It was endlessly repetitive, but I became adept at spotting things among the sagebrush and greasewood.

Sometimes we'd split up, and I was alone the first time I saw a herd of wild horses. I came over a ridge, and there was a group of them. They were like no horses I'd see before: Large mares with long manes blowing around. I calculated how far I was from the truck, feeling a combination of awe and fear. They appeared to be utterly undaunted by my presence. I inched backward as they continued to ignore me. Later that day, as our crew was leaving the area, a group of them stood in the road, blocking us.

"We wait," said my boss.

She turned the engine off, and we watched as they made their way across the sagebrush.

"When you see wild horses, you don't mess with them," she said. "Be calm. Keep your distance."

That night, eating soggy fries, I thought

about what it meant to be wild — to be that unafraid of anyone or anything. I was the kind of girl who kept her shirt on, who was scared to drive on backroads by herself.

**WHY DO WE** tame unruly things? I think about Steamboat, whistling through his nose, his wildness a performance. My days mothering are spent attempting to make Juniper less wild. In the morning, when I brush her curly hair, I tie it back in ponytails so it won't get tangled. I tell her not to yell, not to run outside barefoot. To be careful. I'm always saying *be careful*.

Last winter, Juniper and I went to Denver on a boring errand. The day was a weirdly warm winter one, sandwiched between relentless snowstorms. Juniper hummed in the back seat and, as we made our way down Colorado Boulevard, I made the spontaneous decision to stop at the Denver Zoo.

We bought tickets and wandered around, eating popcorn, laughing at the monkeys and penguins. In the center of the zoo is the Conservation Carousel, and Juniper immediately asked for a ride. I bought her a ticket and was sure she would choose a zebra, as the talk in our house was still horses. But instead, she beelined for a black rhinoceros. I urged her toward a leopard, toward anything more elegant. But she climbed on the rhino and waited for the music to begin.

As the carousel turned, the rhino's squat body was a contrast to the animals around it. Rhinoceroses are actually quite fast. They are also critically endangered, an animal that humans have almost wiped out in the wild. And yet they are rebounding in places. They are from the same ancestral tree as horses, in fact, both of them odd-toed ungulates.

Juniper joyfully rode her rhino, patting its neck and holding up her arm to show me she was riding free. She waved at me each time she went around. "I'm OK, Mama!" she called over the tinny music.

I backed away from the carousel, remained calm. I could see her wildness, and this time, I didn't run to her, worried that she might fall. I watched her like I watched that wild horse herd in the Red Desert, knowing that she was unafraid. I watched her with the same kind of awe. And hoped her wildness would never be broken. ☀

#### WASHINGTON

If you live in the forest, eventually you're bound to run across other forest critters — deer, flying squirrels, maybe Sasquatch — so when Northwest author Jonathan Evison encountered a bear cub on a trail near his cabin on Bainbridge Island, he was prepared. The *Kitsap Sun* reported Evison had been tromping around in the Olympic foothills of Clallam County when he heard a curious sound: A crying baby? Or perhaps a lost kitten? He investigated and found a tiny cub alone at the base of a tree, scared and miserable.

Evison, not wanting to interfere and hoping the mama bear would return, stepped quietly away. But the following day, he came back and found the cub still crying, tangled up in branches underneath a tree. "It really wasn't much of a decision, and I just pretty much instinctively went up after it and freed it and then just put it back on its feet," he said. The cub latched onto Evison's ankle and began following him. Evison suspected that the mother had been killed by poachers, but in any case, she clearly hadn't returned.

So he contacted the U.S. Fish and Wildlife Service and took the cub to West Sound Wildlife Shelter for medical attention. Then it was transferred to PAWS in Lynnwood, a facility specifically created for lost or abandoned black bear cubs. There, the cub will hang out with its peers and learn how to be a bear, and, eventually, be reintroduced to the wild. Evison said he felt he made the right choice when he rescued it: "What, am I supposed to kick it in the bushes and outrun it? I feel OK about it." But, he added, "We sure do miss him. He was such a cute little son of a gun."

#### CALIFORNIA

Well, call me Ishmael! Apparently, white whales aren't

confined to classic literature, *SFGate* reports. Harbor Breeze Cruises, a whale-watching tour company, was returning from Catalina Island when Capt. Kevin Nguyen spied the stream of mist that marks a spouting whale. An extremely rare "ghostly" white orca known as Frosty then appeared with a pod of six other whales. It was a banner day, and not just for the school kids on Nguyen's boat; within an hour, three other tour boats raced out with passengers, eager to glimpse the legendary white whale.

#### OREGON

It sounds like the opening scene from a classic 1950s monster movie: "Freaky-looking fanged fishes found on Oregon beaches." These "freaky fish," which are known as lancetfish, are "scaleless with fanged jaws and huge eyes ... slinky bodies," and a "sail-like fin," according to the Associated Press. They're considered inedible (not that we can imagine anyone having the gumption to try) due to their "gelatinous flesh." The lancetfish, which normally live in tropical waters and travel as far north as the Bering Sea,



## Heard Around the West

Tips about Western oddities are appreciated and often shared in this column. Write [heard@hcn.org](mailto:heard@hcn.org).

BY TIFFANY MIDGE | ILLUSTRATION BY ARMANDO VEVE

washed ashore along 200 miles of coastline, an unusual occurrence, considering they dwell a mile beneath the ocean. Cue the bespectacled scientists scratching their heads while spooky music plays and the hero declares, "Bullets won't stop 'em," and springs into action, even as his sweetheart, one of those dauntless movie-style "girl reporters," says, "Guys, it's just a fish."

#### WASHINGTON

A popular roadway was closed for several days due to a frightful pothole that wreaked havoc on motorists' tires. The 5-by-4-foot pothole materialized on the on-ramp to northbound State Route 99. Video taken by KIRO 7 shows the hole from below with bright blue sky visible through the West Seattle Bridge. The hole might not be a sinister portal to another dimension, but local motorists are certainly not pleased. The State Department of Transportation found no issues in August 2022, when it last inspected the road. But WSDOT did note that the road is over 60 years old — which is prehistoric in dog, or highway, years.

#### COLORADO

The best part of waking up is not Folgers in your cup but ... a cougar breakfasting on your front porch? Yikes! When Charles Zelenka was roused at 2 a.m. by an unholy racket, he assumed it was bears trying to break into his bear-proof dumpster, *Outdoor Life* reported. But when he investigated, he found a large elk in its death throes: "I was just about ready to turn and go out the door, and a mountain lion popped up," Zelenka said. "So I grabbed my phone — I'm in my skivvies, I've just gotten out of bed — and start recording." Where's David Attenborough when you need him? ✨

# Summer Reading with HIGH COUNTRY NEWS

THE SUMMER READING CHALLENGE IS UNDERWAY:  
FIND OUT HOW TO PLAY AND FOLLOW ALONG AT [READING.HCN.ORG](http://READING.HCN.ORG).



## COMMUNITY PICKS

Our friends at Maria's Bookshop in Durango, Colorado, came up with some excellent book picks to get you started:

Step 1. Read a book that queers a traditional narrative: *Autobiography of Red* by Anne Carson or *The Song of Achilles* by Madeline Miller

Step 3. Read a Book that is a Collaboration with the Dead: *Yellowface* by R.F. Kuang

Step 8. Read a book about a species you think is ugly or scary: *Many Things Under a Rock* by David Scheel

Submit your book picks at [reading.hcn.org](http://reading.hcn.org)!

## UPCOMING EVENTS

**Gloria Dickie, *Eight Bears***  
1:30 P.M. MT Thursday,  
July 13

Reuters global climate and environment correspondent — and former *HCN* intern — Gloria Dickie embarks on a globe-trotting journey to examine the stories of the eight remaining bear species, all of whom are threatened with extinction.

We're hosting live events with our favorite authors all summer. Visit [reading.hcn.org](http://reading.hcn.org) to view upcoming events and get updates.



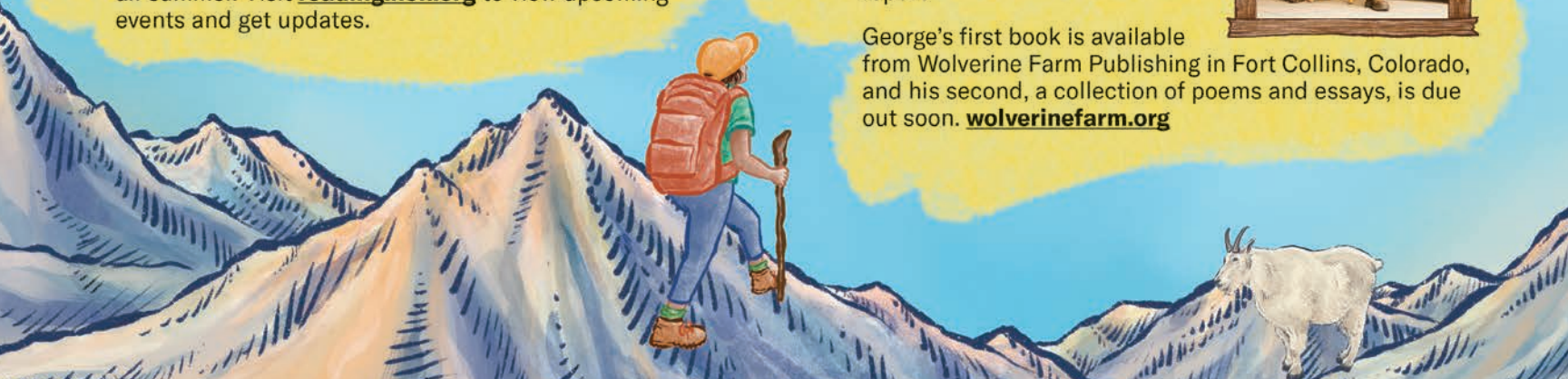
## READER CORNER

Longtime *High Country News* reader George Wallace wrote in recently to share with us some of the poetry he's been working on. George only picked up writing poetry in his 70s, after a career spent

farming in Northern Colorado and as a professor in the Warner College of Natural Resources at Colorado State University. It's no surprise his work incorporates farming and natural resources, like in the titular poem of his first book, "Enjoying the Work," which he said was well received when he recited it at the National Cowboy Poetry Gathering in Elko, Nevada. It was also published in English and Spanish in the Colorado Cattlemen's Agricultural Land Trust's most recent annual report.



George's first book is available from Wolverine Farm Publishing in Fort Collins, Colorado, and his second, a collection of poems and essays, is due out soon. [wolverinefarm.org](http://wolverinefarm.org)



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# #IAM THE WEST

**ANDREW MUNZ**  
Executive Director,  
Tumbleweed Creative Arts  
Jackson, Wyoming

Being this kid who's the child of immigrants, a first-generation American who grew up speaking German, who grew up gay in Wyoming, I've always had this fight in me to have my voice heard. My first show was when I was 8, and it feels good to have continued to do work here, even through all the changes. I will grip onto this space as hard as I can because we need it. Queer people need a space to gather. Weird, creative people need a space to gather. We pull in audiences; our cast is talented. It would be really nice to have the opportunity to showcase to our own community members that we've got it. We can do it; we can create a vibrant community. We just need the support and the space — and here it is.

Do you know a Westerner with a great story?  
Let us know on social.

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Ryan Dorgan / HCN