



**Idaho**  
Watersheds  
Project

# *Watersheds Messenger*

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*Working to protect and restore Idaho watersheds*

## **Multiple use on public lands!! As brought to you by Public Lands Ranching.**



Photo © Willow Creek Ecology. Used with permission.

# Adventures on the Salmon River Allotment

by Kathryn Corbett

My paternal grandparents, along with my grandmother's parents and siblings, arrived in northern Elko County, Nevada, in 1911 for the mining boomlet in Contact, on the flank of L and D Mountain. (Dad said the ore-rich mountain was named after two local ladies, Lillian and Dorothy, but the mount is now labeled "Ella Dee" on local BLM maps - so much for historical accuracy.) We have photos of our ancestors' tent, the kind with plank floor and sides, and a stovepipe emerging at a rather rakish angle, which was one of the many tents that made up the hastily formed community of folks hoping to become well-off by extracting the Earth's riches. My family later homesteaded not many miles away, on the other side of Salmon Falls Creek from Contact, on a hill-enclosed meadow up on Knoll Mountain where they built a sod-roofed log home and hired a school teacher to live with them at the inaccessible and secluded spot, to make sure the kids got some education. Meanwhile, the men of the family were prospecting and doing a little mining at their own excavation on the mountain. Times changed for the worse, and a failed attempt was made to raise silver foxes at the homestead during a brutal winter during the depression. The family finally moved back to Contact, where my grandmother ran the post office/dry goods store, and my city-raised young mother appeared on that windy sagebrush slope on her first school teacher assignment, the only job placement she could find during those depression years. She occupied the little cabin provided by the community, where she was courted by my father.

Meanwhile, the U.C. Company was buying up lands in the area for their own ends, and to discourage occupancy and other human activity in the area, the log house over on Knoll Mountain was torched. Huge herds of both cattle and sheep were brought in to graze throughout the region, and large companies bought up the hay-producing bottomlands and the most promising mining claims. Thus began a new, more intense period of pressure on the resources with the effect being the extraction to the maximum degree possible of the area's resources for economic gain, whether it be ore or livestock forage. As was common throughout the West during the early and mid decades of the century, there was no ethic of moderation or either use or extraction, now was any need felt to repair damages. After all, this was the West, with abundant, indeed, perhaps infinite, resources. Who was to notice or care about the mining scars, or the vanishing streamside willows and the diminishing water in the creeks, as the water tables lowered and the sagebrush invaded the once lush meadows, all the results of livestock grazing?

The community of Contact shrank, and after my grandparents died there in the forties and early fifties, the population continued to diminish, and the old school house and the post office both burned. Today, there is only a scattering of trailers and tumbling down cabins, with a population of perhaps a dozen souls. There is nothing at the Knoll Meadow site from the old days but some persisting chicken wire form the fox pens, and an old iron bedpost peaking out of the earth where the sod roof of the burning house collapsed upon it.

These lands are now included in the Bureau of Land Management's large Salmon River Grazing Allotment. Not much has changed from the days when squeezing the most possible from the land was the expected thing to do. While mining may be quiescent for the time being, livestock grazing is permitted and subsidized to an extent that leaves

the watersheds' ecosystems in a brutalized shambles, with waters polluted by livestock feces, soil erosion proceeding apace, and most streamside nearly completely denuded of vegetation, all of which have resulted in a tremendous diminution of biodiversity.

This wild Elko County country is of both sentimental and immediate interest to me, the great granddaughter of some of those early exploiters of this county. What I am working for is a change of public lands management policy to one that puts the health of the ecosystem foremost, after so very many decades of single-minded avarice, beginning with those first prospectors and extending to this day in the management approach of the BLM District office under whose jurisdiction

the Salmon River Allotment falls.

How delighted I was to meet some members of Idaho Watersheds Project early last summer at the grazing meetings in Park City, Utah, and to learn that IWP's concerns extend into Nevada, and even include the lands of the Salmon River Allotment! I had found the BLM Elko District office to be less than welcoming of my interest, input, and concerns, and it seemed that mine was just a voice in the wilderness, easily ignored. To discover that there are others out there fighting the same fight has given me renewed determination to see some meaningful changes in the management of these lands. Jon Marvel, of the IWP and Bob Abbey, the Nevada State BLM Director, agreed to tour together the Salmon River Allotment, as well as the neighboring Cottonwood Allotment to the west, with the environmentalists selecting the sites to be visited. I and my sister, Karen Klitz of California, invited ourselves along.

The Salmon River Allotment Evaluation had just been issued, the content of which caused us much alarm. Although the Bureau recognized in its own document that the



Kay Corbett, *standing*, IWP Board Member, Gene Bray, Karen Klitz and Maggie *the dog* on Fall Creek next to the Salmon River Allotment, Elko County, Nevada. 1998.

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condition of much of the allotment was poor, the agency proposed that the permittees graze an increased number of cattle. No measures were suggested for long term substantive improvement of the degraded lands. The policy appears to be to allow damaged areas to rest until some turnaround is detected, then allow grazing at the same or increased rates. This attitude can only be interpreted as grazing-centered, rather than ecosystem health-centered. That is, keep the land limping along so that a minimum amount of forage is produced for the cattle industry, rather than first restore and maintain the land for its own sake and that of the native wildlife, then permit such use as will not result in any degradation. A further concern and complication on this allotment is that nearly all the water sources, whether they be creeks, springs, or seeps, are privately held. And (get this!) the owner of these parcels is the very permittee, the Salmon River Cattleman's Association, which is a consortium of many cattle owners, all of whom live in Idaho with a hired manager. The Association is powerful, and appears to get what it wishes in the way of management from the BLM.



West fork of Trout Creek on the Salmon River Allotment. Meadow is dying as stream downcuts and water table drops. Clumps of vegetation in meadow in upper center of photo are huge elevated hummocks formed by cattle trampling seep area.

And with the owner of the majority of the most shockingly degraded riparian areas being the Association, the Bureau takes the blindered and irresponsible position that they have no control over how a private owner cares for its own lands. Yet, the Bureau clearly relies on the principal resource of these private holdings, the water, as well as the secondary resource, the riparian vegetation, in calculating the number of head of cattle that its own upland lands can support. These are some of the concerns that prompted the Grand Tour of the Allotment.

Because of the size of the Salmon River Allotment, with over 344,000 acres, and its rough terrain, including a number of peaks and its own rugged mountain range, we needed to select a variety of sites that could be seen in one day that demonstrate historical and ongoing grazing damage. We began on Knoll mountain at Bloody Gulch, which historically carried the water of the Hice Springs above. However, most of the water has been piped to the Knoll Creek Seeding pasture down below (which was sown with crested wheat grass, an exotic species palatable to cattle only early in the season) so the Gulch is dry much of the year. The Springs themselves are cattle-punched quagmires interspersed with grass grazed to less than the height of a putting green. As Hice Springs are private, owned by the Salmon River Cattleman's Association, and the water-deprived Bloody Gulch is BLM land, this engendered a discussion of this situation so common on this allotment, with the Bureau's position being that they had no control over the abuse of private land.

Continuing on to Meadow Creek on BLM lands in the Canyon Pasture of the allotment, the Bureau staff was hard put to either explain or justify the abject condition of this poor waterway. There is nothing resembling a meadow in sight; growing right to the eroded banks are oversized sagebrush, which are indicators of a lowered water table in a riparian zone and of a preexisting meadow. The Range Con got out his grazing schedule from the Allotment Assessment, and it was clear that the proposal would not give this degraded stream a chance to restore itself. Business as usual.

At this point, we were joined by riparian systems biologists from Boise, Tracy Hillman, Ph.D., and Mark Miller, at the invitation of Jon Marvel. We continued on to a number of small creeks and springs at the northern extent of the allotment, including Cedar Creek, Willow Creek, and Indian Mike Creek, and Chicken Spring. These each presented minor variation of the theme of profound degradation. The first thing that the casual observer notices is the lack of streamside vegetation. Only one poor, old, cattle-grazed willow was noted, overhanging a rare pool in Indian Mike Creek. Closer examination shows bank trampling and sloughing with accelerated erosion. In some areas, the banks are cut and gullied. There is not enough habitat diversity - large woody debris, overhanging banks, pools, or plant canopy - to be able to support trout or waterfowl. The surprise for us environmentalists is that Indian Mike Creek was designated by the BLM in the Allotment Assessment as being "in good riparian condition," and that the waterway itself is in "proper functioning condition"! Standing there on those

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Junk fire is the main capturer of sediment in denuded creek. Exposed sagebrush roots as surrounding bank erodes away; newly eroded plants visible below bank. Trout Creek, Salmon River Allotment.

denuded banks, with the BLM expert on streams explaining how this was indeed so, made me realize that the perceptions of the agency staff are filtered through the self-evolved concepts and jargon of their bureaucracy. It was an excellent demonstration of the gulf that separates our perceptions. "Where are the dense willow thickets above with birds, and the knee-high grasses with a network of rodents runs through them, and the snakes hunting the rodents, and the swarms of insects that provide food for fish and birds and lizards?", I asked. The response was that the stream is in Proper Functioning Condition because it demonstrates some sinuosity and it has an adequate height-to-depth ratio, and it is "in good riparian condition" because one can find individual samples, in the form of tiny seedling on the trampled earth of the banks, of plants that one might find on a healthier stream. Does a three inch high willow seedling, clearly doomed to be either eaten or trampled into oblivion the next time this pasture is grazed, counts as a willow?

The most shocking of all abused sites in this allotment is the, well, what is the word to describe the channel fifty to sixty feet deep carved by humble Trout Creek? An immense trench? A canyon? This was clearly initiated many decades ago, as damage from cattle grazing induced the first down-cut banks. The remarkable thing is that cattle are still grazing Trout Creek, yes in the stream bed down in the bottom, perpetuating the incising process. It is clear to anyone that a creek damaged to this degree will never, ever, be restored to its original state. However, it can be restabilized down there in the bottom of its trench. The BLM is proposing to build a twenty mile long fence for \$91,000 to enclose the worst of

the damaged area from cattle. But without taking a watershed approach and protecting all the tributaries of this system, the prognosis for a positive outcome is not good.

The response of the BLM staff to our exclamations of outrage at the conditions of the springs and creeks we took them to consistently reflected the difference in our goals. We want to see these federal lands, our lands, in a state of ecosystem health, with maximum possible biodiversity. They wouldn't mind that, but their priority is the stability of the grazing industry. If an area is so overgrazed that the forage is inadequate for that purpose, they will allow sufficient recovery to once again make it worthwhile for grazing. Needless to say, this is far below the level of restoration needed to reach our goals, and even more unfortunate, the one-again grazed land is then cycled back to its degraded state. Because the Bureau permits itself very long periods of time to attempt recovery (so that some grazing can occur during this period), the likelihood of success is low because of the vulnerability of the system to damage by large storms and other such events during this prolonged period.

What was accomplished by this get-together of two groups with such opposing views of how the public lands should be managed? We are demanding some demonstration of responsibility - not to us, but to the land itself. The agency, because if its acknowledged commitment to the grazing industry, cannot accede to our demands. I would like to be optimistic and believe that it was not a complete standoff. I think that we were heard. They certainly felt our passion for this cause, the well-being of this beautiful land. And even among that host of hierarchical bureaucrats, there are some who truly care for this land. The Bureau experiences tremendous pressure from the other side to maintain the status quo; can those in the agency who might wish to effect some change for the better sue our support to that end? As for Mr. Abbey, he is a man of few words. He repeated that he was there to listen and to see the resource. If there is to be meaningful change in the management of this allotment, it must come from the top, as the District Office is too close to the demands of the permittee. Mr. Abbey allowed as how he had not seen BLM lands in such poor shape since he began his tenure as State Director here in Nevada. The questions is: Will he use his power, and act?

Kay Corbett lives in Yerington, Nevada

For more photos and Dr. Tracy Hillman's analysis of the S.R. Allotment, please visit the IWP website.

## Idaho Watersheds Project Annual Financial Report for F.Y. 1997

### Income Comparison

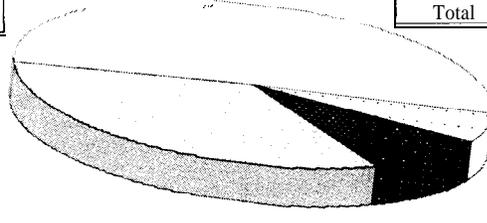
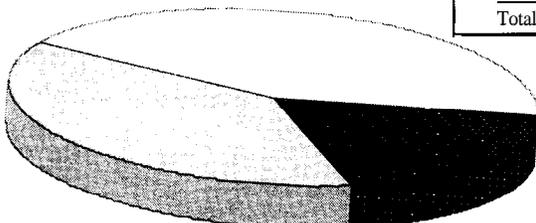
as a percentage of Total Income for fiscal year 1997 (5/1/97 to 4/30/98)  
Cash Carryover = \$35,500 from fiscal year 1996

<input type="checkbox"/> Memberships	%42.38
<input type="checkbox"/> Grant	37.86
<input checked="" type="checkbox"/> Refund	19.77
<b>Total</b>	<b>\$59,430.67</b>

### Expense Comparison

as a percentage of Total Expenses for fiscal year 1997 (5/1/97) to 4/30/98)

<input type="checkbox"/> Watershed Protection	%51.37
<input type="checkbox"/> Outreach & Education	32.82
<input checked="" type="checkbox"/> Administration	9.58
<input type="checkbox"/> Legal & Professional	6.25
<b>Total</b>	<b>\$89,770.60</b>



# News Briefs

## Idaho Watersheds Project Sues The State of Idaho Over the Constitutionality of H.J.R. 6

On November 18, 1996 Idaho Watersheds Project filed suit in the Idaho Supreme Court asking for a Write of Prohibition against the implementation of House Joint Resolution #6. This constitutional amendment, which was passed by the electorate on November 3rd 1998, amends the Idaho Constitution in tow different ways relating to the management of Idaho school endowment lands: first it amends Article IX Section 8 by changing the word "disposal" to "sale" with respect to the public auction requirement of the Idaho Constitution.

In its news release, IWP noted: "The Office of the Attorney-General inserted a hidden and malicious change in the Idaho Constitution as part of H.J.R. 6 and then sought to confuse and **mislead** Idaho voters on its effects. This fraud, if successful, **will enable gifts** of leaseholds on Idaho school endowment trust lands rivaling the "Great Barbecue" lands giveaways of the late nineteenth century."

The Petition for Write of Prohibition and accompanying Brief charge that the adoption of H.J.R. 6 violates Article XX Section 2 of the Idaho Constitution which states that "if two (2) or more amendments are proposed, they shall be submitted in such manner that electors shall vote for or against each of them separately." In this case the electorate was denied the right to vote separately on the two amendments. The amendment also violates Article XX Section 1 of the Idaho Constitution and relevant sections of Idaho Code 67-913 which require that the full text of an amendment be published, something which was not done; and finally, the amendment violates Article XX Section 1 and due process provisions of the Idaho Constitution due to the incomprehensible, misleading, and inaccurate proposals, statements, and explanations which were presented to the electorate in considering the ballot measures.

Idaho Watersheds Project is ably represented in this filing by Mr. William Eddy and Mr. Laird Lucas of the Land and Water Fund of the Rockies Boise office.

## Conservationists Win Suit Against BLM to Protect Owyhee River

In a lawsuit brought by the Oregon Natural Desert Association (ONDA), Idaho Watersheds Project, the Committee for Idaho's High Desert and other Oregon conservation groups, a federal district court judge has ordered the BLM to fully consider the negative impacts of livestock grazing on the Owyhee Wild and Scenic River. The decision was issued by District Court Judge James Redden, and is the third court decision in two years against BLM for failing to adequately protect designated Wild and Scenic Rivers in Oregon. Earlier this year, Judge Stewart ruled against the BLM for failing to prepare a plan for the John Day Wild and Scenic River and, last year, Judge Haggerty ruled against the BLM for failing to consider the adverse impacts of livestock on the Donner and

Blitzen Wild and Scenic River.

The Owyhee River was designated a wild and scenic river by Congress in 1984 with later additions in 1988. The management plan covers 186 miles of the Owyhee and its tributaries, including sections of the Main Owyhee, West Little Fork Owyhee, and North Fork Owyhee Rivers. The Owyhee River and its adjacent canyonlands make up one of the largest wild land areas in the contiguous U.S., which includes parts of northern Nevada, southwestern Idaho, and southeast Oregon. The Owyhee River is popular among whitewater rafters, hunters and hikers and provides habitat for over 200 species of wildlife, including redband trout, bighorn sheep, mule deer, pronghorn antelope, mountain lion, and golden eagles. Congress identified the Owyhee's scenery, geology, recreation, wildlife and cultural resources as outstandingly remarkable values that must be protects.

Bill Marlett, Executive Director of ONDA, was not surprised by the decision. "The BLM has consistently disregarded the will of Congress to protect wild and scenic rivers in Oregon. The Owyhee is just another example of the agency's inability to stand up to the livestock industry." The court found that ranchers bullied BLM to not take any action that would adversely affect their livestock's access to the river. "Maybe the BLM will take serious its duty to protect Oregon's rivers from livestock, but don't hold your breath. The ranchers still consider the Owyhee their private cow pasture "

The court agreed with conservationists that BLM authorized livestock grazing without first determining whether grazing was compatible with the protection of the natural and recreational values of the Owyhee. The court further stated the BLM had a duty not only to restrict livestock grazing, but to eliminate it where it did not protect or enhance the river's values. The court also disagreed with BLM that conservationists had to prove harm to the river caused by livestock grazing. To the contrary, Judge Redden said it is incumbent on BLM to prove how livestock grazing is consistent with the Rivers Act.

BLM's own draft management plan found that livestock grazing has had a broad scale adverse effect on both riparian and upland vegetation throughout the Owyhee River, noting that 36% of the river was accessible to livestock with 18 miles of the river having noticeable negative impacts from livestock. Livestock use was evident at 138 of the river's campsites. IWP's lawyer, Jack Sterne said "What little monitoring they have done indicates that grazing is impacting the values of the river. The laws require BLM to address the impacts, not defer action until some unspecified date."

The Owyhee flows through the heart of Nevada, Idaho, and Oregon's most wild high desert landscape. It certainly deserves better protection than it has had to date.

## BLM Backs Down In Nevada

The Elko Field Office of the Bureau of Land Management (BLM) has rescinded a grazing decision for the 65,000 acre YP Allotment in northwest Elko County at the Idaho border after Idaho Watersheds Project and the Committee for Idaho's

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# News Briefs (continued)

High Desert filed a 17 page appeal and a petition for stay with the Interior Board of Land Appeals on October 30, 1998.

The rescinded Final Multiple Use Decision failed to adequately address the documents negative impacts of cattle grazing on significant portions of 22 miles of the South Fork of the Owyhee River in Nevada which is recommended for wild and scenic river status. The decision also failed to provide consultation with the Shoshone-Paiute Tribes of the Duck Valley Reservation, proposed several miles of illegal fence in a wilderness study area, and proposed no management for most upland riparian resources on the allotment all of which are in degraded condition because of cattle abuse.

The BLM has committed to rewrite its decision to bring it into compliance with the law (or, reading between the lines, to create a new decision which they believe might survive an appeal!)

IWP appreciates the involvement of the Nevada State Office of the BLM (in particular, Brad Hines) in helping change the mind of the Elko Field Office in this fiasco. Thanks also go to Katie Fite and Ted Zukoski for their work on the appeal.

## **Air Force to Pay \$1,000,000 to Public Land Rancher for AUMs at Idaho Bombing Range Site**

In a front page story on October 6 by Nils Nokkentved, the Twin Falls, Idaho, Times-News announced that the newspaper had received a copy of a signed agreement between the U.S. Air Force and Three Creek Rancher Bert Brackett which will result in the Air force paying \$650,000 to compensate Brackett for lost BLM Animal Unit Months (AUMs) on the Juniper Draw Allotment which is the location for a proposed Air Force drop site under an expanded training (bombing) range proposal. These grazing AUMs are permitted by the BLM and can be revoked for cause at any time without compensation. For the 1251 AUMs, Brackett will be paid \$519,000 per AUM or about 10 times the going rate in the open market. In addition, the Air Force will acquire 780 BLM and State of Idaho AUMs from adjoining ranchers, Frank and Cindy Bachman (Frank Bachman is the livestock operations manager for Simplot Livestock, the second largest public lands ranching operation in the U.S.) for \$325,000 and turn them over to Brackett. Those AUMs are being acquired for \$416.00 per AUM or about 8 times the going open market rate. Readers may recall that this sweetheart deal was publicized on the NBC News with Tom Brokaw segment "The Fleecing of America" this past summer as well as on the ABC Evening News with Peter Jennings that same night. The authorization for the Air Force training range is awaiting President Clinton's signature as part of the 1999 Defense Authorization Bill.

The BLM will have to act to transfer the Bachmann grazing permit to Brackett who already has grazing permits on 300,000 areas of public land in southern Idaho and northern Nevada. Because IWP has appeals pending against

the grazing permits for both ranchers Brackett and Bachmann, it is possible that IWP's involvement will complicate the transfer of these permits thereby delaying the implementation of the Training Range for some time.

Mid-November news about the appraisal prepared for the Air Force buy-out of the ranchers indicates that the ranchers are being paid \$100 per AUM for permanent preference AUMs and \$50 per AUM for temporary nonrenewable grazing use, plus large sums for the "inconvenience" caused by the Air Force. That "inconvenience" payment amounts to over \$200,000 for Bachman and significantly more for Brackett. IWP suggests this case is a classic example of welfare ranching ripping off the people of the USA.

## **IWP Board Members Complete 9 Day Tour of Grazing Allotments in Three States**

IWP Board members Gene Bray and Jon Marvel completed a nine day tour of grazing allotments in Idaho, Nevada, and Utah on Idaho watersheds in late September and early October. IWP is an "interested public" on all these areas on BLM administered lands, and has been involved in influencing management on both BLM and Forest Service allotments.

In Nevada, we toured for two days with Nevada BLM State Director, Bob Abbey, and 10 other BLM officials the 30,000 acre Cottonwood Allotment and the 360,000 acre Salmon River Allotment (see Kay Corbett's related article in this issue). The former is managed under a controversial "holistic" system which requires temporary nonrenewable use be authorized every year on the allotment. The permittee owns only 40 acres and very few cattle and subleases forage, at 8 times the rate he pays the BLM, to non-permitted ranchers. The Salmon River Allotment is one of the largest in northeast Nevada (it includes a whole mountain range, the Granite Range) and has over 100 miles of degraded streams and upland riparian sites. IWP is hopeful that the comments of the unacceptability of the conditions observed by State Director Abbey will result in significant management change on this huge allotment which is grazed by absentee millionaire Idaho hobby ranchers.

Unusually degraded conditions were also observed on the Logan Ranger District of the Cache National Forest in Utah, the Montpelier District of the Caribou National Forest in Idaho, and on the Pleasantview and Samaria Mountains Allotments of the Malad Resource Area of the BLM also in Idaho. Some good news came out of the whole tour from our 2 days spent on the Lemhi Resource Area of the BLM, with 8 BLM staffers including two Resource Area Manager, which includes over 1.2 million public land acres south of Salmon, Idaho. This Resource Area requires a 6" stubble height each year on creeks and springs because of critical habitat for Chinook salmon (there were over 50 redds counted this year in the Lemhi River watershed) and bull trout, and the recovery of riparian areas is noticeable and remarkable

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## News Briefs (continued)

especially in comparison with other BLM areas. Young cottonwood trees are growing where none have been able to for the last 80 years! Kudos to manager Dave Krosting and his staff.

### U.S. Court Issued Positive Ruling on BLM's Range Reform Livestock Grazing Regulations

In September, the 10th Circuit Court of Appeals upheld federal regulations that cattle and sheep ranchers argued would allow grazing permits to be obtained by environmental groups, but overturned a rule that would allow some of the lands to be put into conservation.

The ruling by the 10th Circuit Court of appeals here was part of a legal and legislative battle between ranchers in 11 Western states, and the Clinton administration and environmental groups. At issue was tighter regulation of grazing on millions of acres of federal lands.

The court upheld three regulations issued by the Interior Department in 1995 that allow grazing permits to be obtained by non-livestock producers, redefine grazing preference rights and switch to the federal government ownership title for future improvements, such as fences and water wells, made by ranchers using public lands.

The court, however, overturned another regulation that the ranchers said would have allowed environmental groups to obtain permits to put some of the lands into conversation uses.

The National Cattleman's Beef Association, the American Sheep Industry Association, the American Farm Bureau Federation and the Public Lands Council sued in 1995 to overturn 10 new regulations.

A lower court judge in Wyoming ruled that the four regulations at issue in Tuesday's ruling were invalid and the Interior Department had appealed.

### Cows Removed from Four Allotments in Rich County, Utah

Because of Idaho Watersheds Project's involvement as an interested public on all BLM grazing allotments in Rich county, Utah, located east of Salt Lake city and adjacent to Wyoming in the Bear River watershed, the Salt Lake District of the BLM in a letter signed by Area Manager, Sam Montgomery, has ordered all permittees to remove their livestock immediately from four allotments (New Canyon, Big Creek, Cutoff Canyon, and Woodruff Pastures) because of the BLM's illegal authorization of an extension of grazing use in those allotments this month. The BLM had permitted "extensions" of grazing use without any involvement of interested publics and without issuing a proposed and/or final decision authorizing temporary nonrenewable grazing use as required by law. IWP is impressed with the BLM's quick response when the matter was brought to their attention. IWP hopes this action by the BLM represents a start on a new way of doing business

on our public lands in the Salt Lake District.

IWP notes that 90% of the grazing permits in Rich county are expiring in the next 12 months and that the BLM will be obliged by law to consult on each permit with interested publics. Unfortunately, a rider included in the Omnibus Appropriations Bill passed by Congress in October waives BLM's responsibility to carry out NEPA analysis on these permits and requires them to be reissued without any public involvement.

### Forest Guardians and the Southwest Center Kick Cows Off Streams and Rivers in Arizona and New Mexico

The Sunday May 31st edition of the Albuquerque Journal included a front-page story on Forest Guardians' recent legal victory resulting in a shutdown of grazing along some 300 miles of rivers and streams in southwestern New Mexico and southeastern Arizona. One of the ranchers quoted in the story, John Faust, said the injunction "is the beginning of *the end as far as cattle ranching on the* national forests," Faust says. The story included a large photo of a fence line separating severely overgrazed and ungrazed portions of the San Francisco River on the Gila National Forest. IWP would like to acknowledge and congratulate Forest Guardians and the Southwest Center For Biological Diversity in Tucson for their success in the southwest.

### Conservationists Act to Protect "Serengeti of the West"

Twenty-three conservation organizations including Idaho Watersheds Project and the Oregon Natural Desert Association (ONDA) have nominated Bureau of Land Management lands between and surrounding parts of Hart Mountain National Antelope Refuge and Sheldon National Wildlife Refuge as the Pronghorn Area of Critical Environmental Concern (Pronghorn ACEC).

BLM designates ACECs on lands that are of particular significance due to their ecological, scientific, recreational, historic, or archeological value. The nomination was sponsored by the Oregon Natural Desert Association, Friends of Nevada Wilderness, California Mule Deer Association, Committee for Idaho's High Desert, The Wilderness Society, and eighteen other regional and national conservation groups.

The 1.1 million acres of lands included in the proposed Pronghorn ACEC, which when combined with the two refuges cover 2.0 million acres, would protect all habitat used throughout the year by the Hart Mountain-Sheldon herd of American pronghorn antelope, the largest herd of pronghorn still living in a relatively natural ecosystem within the United States. The proposed ACEC would connect the Oregon and Nevada ranges of this herd, estimated at 6,000-8,000 animals, adding critical pronghorn migratory routes and winter foraging grounds now outside the refuges.

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# News Briefs (continued)

The pronghorn population throughout the West before European settlement has been estimated at 30-40 million. Ironically, when Hart Mountain Refuge was created in 1935, it consisted not only of the current Hart Mountain, and Sheldon Refuges, but also included the pronghorn migratory corridor now being nominated as an ACEC. In 1936, the boundaries were changed for political reasons. According to ONDA conservation biologist Shauna Uselman, "When the refuge was originally created over 60 years ago, they were clearly on the right track."

The proposed ACEC also provides important habitat for big horn sheep, mule deer, and sage grouse, as well as for three endangered species (bald eagle, Lahontan cutthroat trout, and desert dace) and 43 other plant and animal species known to be at risk. Livestock were removed from Hart Mountain Refuge in 1991 and from Sheldon Refuge in 1992 when refuge biologists and managers determined that livestock grazing degraded pronghorn habitat and reduced the carrying capacity of the refuges for other wildlife species. The proposal recommends that management of the Pronghorn ACEC be consistent with that of the refuges.

Public lands in the proposed ACEC have previously been recognized by the BLM, Forest Service, and Fish and Wildlife Service and by conservation groups such as Defenders of Wildlife as offering unique conservation opportunities because they possess large unroaded areas, endangered species, unique physical, biological or ecological attributes, and valued recreational lands. "As the Serengeti National Park in Tanzania is defined by the *annual* migrations of wildebeest and zebra, the ecosystem around Hurt Mountain and Sheldon Refuges is defined by the annual migration of pronghorn. As the last natural pronghorn ecosystem left in the United States, it deserves full protection," said Joy Belsky, Staff Ecologist for ONDA.

## Fundraiser Successful

IWP's summer fundraising appeal which asked members and supporters to match two \$5,000 50/50 match contributions from two anonymous donors was successful. IWP was able to raise the \$10,000 to match the two contributions in about 60 days. As part of the match IWP also received a contribution of CD-ROM disks of all BLM and U.S.G.S. maps from 15 minute up to 1 to 100,000 scale for all of Idaho south of the Salmon River, northern Nevada, eastern Oregon and northern Utah. The latter contribution was worth over \$3,000 and with a GPS locator will help our photographic monitoring of grazing allotments immeasurably.

## Grant Received

Idaho Watersheds Project received a generous grant in September 1998 from the Kongsgaard-Goldman Foundation of Seattle. IWP is grateful to the foundation and notes that it is the second year that the Kongsgaard-Goldman Foundation has chosen to support IWP with funding. Thanks go to Martha Kongsgaard of the Foundation.

## IWP Congratulates Bill Heath of Boise

IWP supporter Bill Heath of Boise was honored in an interview and article by Tim Woodward in the Idaho Statesman on Veteran's Day for his service during World War Two in the Pacific Theater of the War. Bill was part of a group of Idaho servicemen who departed Pearl Harbor for Australia a day or two before Pearl Harbor was bombed in December 1941 and then served honorably in the southwest Pacific campaigns. Thanks and congratulations, Bill!

## IWP Monitor Lynne Stone Recovers from Surgery

Lynne Stone, a founding Board member of Idaho Watersheds Project, who has served as a grazing monitor for the last two years for Idaho Watersheds Project is recovering from successful abdominal surgery. Lynne's work as an advocate for protecting the Boulder-White Cloud Mountains in central Idaho is well known throughout the country. IWP wishes Lynne a quick and absolute recovery.

## Supreme Court Hearings Scheduled

Idaho Watersheds Project would like to invite all members and supporters to attend oral arguments before the Idaho Supreme Court in IWP's two lawsuits appealing adverse District Court decisions on IWP's appeal of Land Board denials of our 1995 and 1996 grazing lease applications. The oral argument hearings are scheduled for 11:00 AM on Wednesday, December 2nd and Wednesday, December 16th at the Idaho Supreme Court Building in Boise. Please join us for an interesting (and free) performance. IWP will be represented by Laird Lucas of the Land and Water Fund of the Rockies.

## Sage Grouse Conference Scheduled

Idaho Watersheds Project will be a cosponsor with the American Lands Alliance and other groups of a conference on sage grouse, which will be held in Boise on January 14-15, 1999. The conference will feature Dr. John Connelly of the Idaho Department of Fish and Game, Dr. John Crawford, Oregon State University and Dr. Clait Braun, Avian Research Program Manager of the Colorado Division of Wildlife. Discussions will include development of a recovery plan for sage grouse, establishing the scientific evidence for a possible listing petition for sage grouse under the Endangered Species Act. The format for the conference will include ample opportunity to question the experts. IWP invites all readers of this newsletter to attend the conference.

For more information please contact Mark Salvo, American Lands Alliance, 15895 NW Logie Trail, Hillsboro, Oregon 97124; Telephone (503) 647-2825; and e-mail: marksalvo@hotmail.com. 🐦

# Trying to Save Redband Trout While Agency Discretion Runs Amok

by Deb Hiller

Snake River Basin (SRB) redband trout are native to the high desert country of southern Idaho, northern Nevada, and eastern Oregon. This species is uniquely adapted to survive the harsh temperature extremes and reduced water flows of the high desert which are lethal to most other trout. SRB redband are an important element of the high desert ecosystem. They are the only native salmonid left in these drainages, and are a significant part of the food chain. Redband eat insects and other fish. They in turn are a food source for dippers, king fishers, mink, otters, and great blue herons.

SRB redband trout are also an evolutionary unique genetic resource which could be important to the survival of Snake River steelhead, as well as isolated resident redband populations now also imperiled. Historically SRB redband interbred with the recently listed anadromous Snake River steelhead and produced anadromous forms of SRB redband trout. However, the construction of the Hells Canyon dam complex in the 1960s blocked anadromous fish passage. Consequently Snake River steelhead continue to migrate to and from the ocean, while SRB redband trout reside their entire life inland in the Bruneau, Owyhee, Boise, and other Snake river tributaries. Whereas much of the native anadromous Snake River steelhead, gene pool has been lost to interbreeding with hatchery fish, the native gene pool of the SRB redband trout is still intact. Thus, where native gene pools of SRB redband trout have the ability to produce anadromous forms (were it not for the Hells Canyon Dam complex), SRB redband trout have the potential to provide the genetic diversity necessary for anadromous Snake River steelhead species survival.

Redband, like other species of trout, are found mainly in streams with riparian vegetation and in-stream cover, including undercut banks, large woody debris, and overhanging vegetation. Streamside vegetation should shade at least 75% of the stream surface during the hours of 11:00 AM to 4:00 PM from June to September.\* Such vegetation provides both shade that maintains the lower water temperatures required by trout during hot, dry summer months, and habitat for insects which redband feed upon. Redband also occupy lower gradient streams and should have access to pools which provide rearing habitat, resting places, overwintering areas, and refuges from floods, drought, and extreme temperatures.

Although SRB redband trout are uniquely adaptable to reduced water flows and temperature extremes, their ability to survive temperature increases and habitat destruction is currently being jeopardized by the interrelated effects of habitat degradation, dewatering, increased temperatures, poor water quality, isolation, and fragmentation. These effects are primarily caused by grazing and agriculture practices. In 1997, the USDA/USDI reported that resident interior redband trout, as a whole, are already extinct in 72% of their historic range of Idaho, Montana, Nevada and Oregon. And in 1993, after finishing an inventory of SRB redband trout

stocks in Owyhee County, Idaho (adjacent to the Oregon border), the Idaho Fish and Game Department found that SRB redband trout densities had decreased by an average of 87% in 80% of the stream segments along Jordan Creek since 1977.

Livestock grazing is the most widespread cause of degraded riparian habitat in the arid West.<sup>3</sup> Livestock degrade redband trout habitat by trampling and removing streamside vegetation. The trampling destroys undercut banks, flattens out pools, increases turbidity, and causes erosion associated with reduced vegetation cover and destabilization of stream banks. The results are shallow, wide streams. These are literally tenuously connected "mud puddles" that are too warm and turbid for juvenile rearing or adult spawning.

On an October 1997 camping trip to Noon Creek, Corral Creek, Cabin Creek, Juniper Creek, and Pole Creek in the North Fork and Middle Fork of the Owyhee drainage I encountered this phenomenon. I found redband trout (or fish for that matter) in only two of the five creeks. One of these creeks was trampled to the point that nothing but large puddles remained. The redband were literally stranded in stagnant water, dotted with numerous cow droppings. Evidence of recent cow use existed in every creek. The creek banks were either extremely cut on the edges to the point that large clumps of dirt crumbled into the small streams or so trampled that the banks were entirely gone . replicating rodeo grounds. Except for areas excluded from cattle grazing, there was practically no streamside vegetation over two inches high.

Because the grazing and agriculture industries in Idaho refuse to change their land and water management practices to provide better habitat for redband trout, an endangered species listing for the trout is required. Unfortunately, the



July 18, 1998. Top of Mt. Howard looking **south** toward Pete's Point, **Sentinel ad** Eagle Cap. Deb **Hiller** (on **right**) and Tina Bray on **their** 3rd day of **trekking**.

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United States Fish & Wildlife Service (F&WS), through its inconsistent and nonscientific definition of species has refused to list SRB redband trout under the Endangered Species Act. For listing under the ESA, F&WS requires that a subspecies must qualify as a "distinct population segment" (meaning, among other things, that the species is separated from other populations of similar species, and exists in a unique ecological setting - characteristics apropos to SRB redband trout). However, in the last two decades, F&WS has frequently altered its "distinct population segment" definition in order to prevent several species from being listed. Such manipulation is what is occurring here.

In 1995, Idaho Watersheds Project along with seven other conservation groups petitioned F&WS to list SRB redband trout as an endangered species. Within two months, F&WS denied the petition on grounds that inland SRB redband trout are not a distinct population segment from steelhead or other trout, and that when all forms of the trout were combined, no ESA listing was warranted. Two years later, Snake River and other steelhead were listed as threatened and endangered. One would think that SRB redband trout, being in the same species category as steelhead, would have been included in the listing. However, F&WS again blocked the listing of SRB redband trout using reasoning directly contrary to that employed in the 1995 denial - this time proclaiming that SRB redband trout are distinct from steelhead and thus should not be included in the Snake River steelhead listing.

If this seems confusing, it is. But what should be evident is that F&WS inconsistently applied its species definition in order to prevent the SRB redband trout from being listed - a tactic used often by F&WS in order to avoid listings.

#### **Timeline**

- July 1995 - IWP final petition to list SRB redband filed.
- September 1995 - F&WS denies petition on grounds SRB redband trout are not a distinct population segment from steelhead and other trout.
- August 1997 - Steelhead trout listed under the ESA - F&WS takes a diametrically contrary position asserting that redband trout are a distinct population from steelhead, and hence should not be listed along with steelhead.

This is not the only time the F&WS has manipulated to policy on distinct population segments in order to avoid

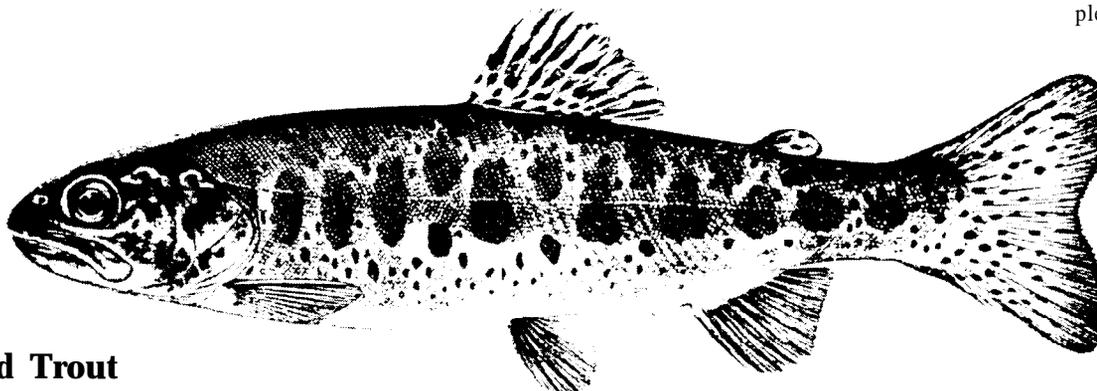
listing a species. In 1992, the agency refused to list the northern goshawk because it did not qualify as a distinct population segment. Upset with the F&WS's policy on distinct population segments, the Southwest Center for Biological Diversity brought a suit in the U.S. District Court of Arizona. In 1996 the court ruled against the F&WS finding their refusal to list northern goshawk arbitrary and capricious because there was no clear and consistent distinct population segment policy." The court then remanded the listing decision back to the agency. Within three month, the F&WS again denied listing to the northern goshawk because it did not qualify as a distinct population segment. Southwest Center brought a second lawsuit. Once more the court ruled against the F&WS for a second time finding the agency's policy on distinct population segments "arbitrary and capricious and an abuse of [the F&WS's] discretion."

Early this summer, the F&WS for the third time refused to list the northern goshawk. The decision has been denounced as a political effort by the F&WS to avoid conflicts with the timber industry. The aftermath may be a third northern goshawk lawsuit. Appropriately, the F&WS's distinct population segment policy has been criticized for setting up a "recipe for endless technical bickering." Of utmost concern is that while scientists and the courts debate over what constitutes a species, the creatures themselves edge ever closer to extinction.

The F&WS has also obscured and ignored data in order to avoid ESA listings. Courts have concluded that the F&WS acted arbitrarily and capriciously in refusing to list bull trout, the Alexander Archipelago wolf, the Queen Charlotte goshawk, and the Canada Lynx. In these cases the courts found that the F&WS either ignored the recommendations of its own biologists or failed to sue the best scientific data available in making listing determinations.

Lawsuits have been consistently necessary to obtain endangered species listings and to combat the politically swayed discretion of the F&WS. In response to F&WS latest political acquiesce - altering its distinct population segment policy in order to prevent the listing of SRB redband trout - Idaho Watersheds Project, Oregon Natural Desert Association, and Committee for Idaho's High Desert, represented by the Land and Water Fund of the Rockies recently filed an Endangered Species Act lawsuit against the F&WS. Had the agency's discretion not "run amok" and been applied consistently perhaps no such lawsuit would have been required. Unfortunately, however the F&WS has refused to act responsibly and apolitically to protect the

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**Redband Trout**

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seriously threatened SRB redband trout - placing the trout in dire circumstances.

*Deb Hiller, originally from Idaho Falls, is an attorney in Boise.*

1. Amok, adj.: possessed with a murderous or violently uncontrollable frenzy. Websters Ninth New Collegiate Dictionary 80 (1988)
2. Bowers, W., B. Hosford, A. Oakley, C. Bond 1979. Wildlife habitats in managed rangelands - the Great Basin of Southeastern Oregon, Native Trout. USDA Forest Service Technical Report PNW-84. 1979
3. Fleichner, T.L. 1994. Ecological costs of livestock grazing in western North America. Journal of Conservation Biology 8(3): 629-644; Roberts, G. 1986. Reclusive redbands. Trout Magazine. Autumn 1986, pp. 14-25; USDA 1996. Upper Thomas Creek Watershed: Ecosystem analysis at the watershed scale. Fremont National Forest, Lakeview Ranger District, May 1996, Lakeview, OR; Belsky, A.J., A. Matzke, and S. Uselman. 1997. A survey of livestock influences on stream and riparian ecosystems in the Western United States.
4. Southwest Center for Biological Diversity v. Babbitt, 926 F.Supp. 920 (D.Ariz. 1996) 

## A Special Thanks!

To the following members and supporters who each contributed over \$50 to the successful Idaho Watersheds Project fundraising 50/50 match this past summer and to the dozens of other members who gave smaller but equally important amounts:

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## Watersheds Messenger

Editor: Jon Marvel

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### Mission Statement

Idaho Watersheds Project, Inc. was founded in September 1993 to acquire, protect, and restore Idaho public school endowment lands which have been degraded by livestock abuse, to improve returns to the school endowment fund, to work for positive change in the management of all federal lands on Idaho watersheds, and to raise public consciousness regarding the importance of our shared public lands and waters as well as the animals and plants which depend on them.

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## End of Year Fundraising Appeal

**Idaho Watersheds Project encourages all members and supporters to consider making a tax-deductible contribution before December 31, 1998. Your financial support will enable IWP to continue the successful and bold effort to reform the management of Idaho's public school endowment lands and to bring about beneficial change in public lands management on all Idaho watersheds.**



Guilt ridden steer flees pond after being caught defecating in the water. YP Allotment, Elko County, Nevada. 1998.

## Please Join Us or Renew Your Membership Now

YES, I'd like to protect and restore Idaho's School Endowment Lands and improve all public lands management.

I'd like to join Idaho Watersheds Project. Enclosed is my tax deductible annual membership:

Living Lightly: \$10.00    Individual: \$15.00    Family: \$25.00    Sponsor: \$500.00    Other \$ \_\_\_\_\_  
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