



Watersheds Messenger

Vol. VI, No. 1

Early Fall 1999

Working to protect and restore Idaho watersheds

The Plight of the Western Sage Grouse

by Bob Moore



My name is Bob Moore, and I am a resident of Malheur County, Oregon. I have resided within the county for the last 56 years. At an early age in my life, I was quite fortunate to have a very loving father who took me on numerous fishing and hunting trips with him. It was during some of those trips that my father, along with a close friend, Herman Freitag, demonstrated to me the great values of our natural resources, and how important they were.

I have watched and observed over the past 49 years, the decline and destruction and total elimination of the former native populations of the Salmon and Steelhead fish species from this watershed area, which was caused by man-related activities.

I have also watched and observed the rapid decline of other wildlife species, declining to the point of extremely low critical numbers. Which brings me to the subject of great concern:

The plight of the Western Sage Grouse

Genus: *Centerocercus* species: *urophasianus*

I would like to take you on a written tour of parts of Malheur County, Oregon, which I am very familiar with, and offer my observations of what has happened, and my opinions about what has happened.

When I was a young boy, my father and I would go deer hunting and sage grouse hunting living our home in Ontario, Oregon, and traveling southwesterly to the Juntura, Oregon area. In that surrounding area, we would hunt and harvest our legal limit of sage grouse on numerous occasions. We also hunted for mule deer in those same areas. The grouse and deer were very plentiful.

At different times and years, we would also travel northwesterly past Juntura, to Beulah Reservoir and to the area known as Castle Rock, and then to the town of Ironside, Oregon. While in the Ironside area, we would go hunting with an old friend of ours, Mr. Rankin Crow, a rancher who resided in the area. While hunting in the surrounding areas, we were very successful in taking our legal limit of sage grouse as well as mule deer.

These were very enjoyable and rewarding times for a young boy.

In the years of about 1971 through 1997, my wife and I along with our children would travel to these same areas on occasion for a camping trip or a hunting trip. I started to notice the decline of the sage grouse, deer, and jackrabbit during these outings. As time went on, the populations of these species were declining, as my observations confirmed. At that time, I was very concerned, but not alarmed; soon that all changed.

About two years ago, while traveling in these same areas, I observed the dramatic lack of sage grouse, mule deer, and the blacktail jackrabbit in the habitat. I started wondering and asking myself, "What has hap-

pened to these very important species?"

Why have the population numbers decreased so dramatically? Was it caused by the drought that we had for a few years in the area, or perhaps severe winter kill? Or was it something else? After doing quite a bit of research and visiting with friends and acquaintances regarding this environmental crisis, I sat down and started thinking back to what happened in or about 1962 when the decline of the sage grouse, mule deer, and blacktail jackrabbit started.

After very carefully considering many questions and reasons, the answer became very apparent to me. The decline of populations of these species was caused by one very important reason: the lack of good abundant native habitat.

After I had reached that conclusion, I asked myself and others, "What happened to the good abundant native habitat and water sources that had



The sage grouse mating ritual is fascinating to observe. In the early spring, the larger and more colorful males congregate each dawn at leks where they perform elaborate rituals of display to entice females to mate with them. The grouse will gather again in the evening and often pull an all-nighter when the moon is bright.

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sustained these species for many, many years?" I started thinking back in years of what has transpired and how dramatic were the effects such as wildfires, severe winters, drought, diseases or any other naturally occurring events that possibly would have or could have decimated the populations of the sage grouse so dramatically.

After spending many days and months considering all factors, one thing became very clear and apparent to me. It was the planned eradication of abundantly good native habitat and water courses, by the Bureau of Land Management. It was called the Vale Project. Vale, Oregon.

A special appropriations bill passed by Congress in 1962 funded the Vale Project, a very large scale program of land treatments to supposedly rehabilitate rangeland resources and promote enhanced livestock operations and cattle numbers.

Through the end of the Vale Project in 1973, sagebrush control and elimination covered 506,570 acres, and nonnative, exotic plantings of crested wheatgrass were implemented on 267,193 acres. Additionally, 1,944 miles of fence were built, 583 reservoirs built, 440 springs developed, 28 wells drilled, 443 miles of pipeline laid (including 537 cattle watering troughs), and 360 cattle guards installed.

Vegetation treatment projects completed since passage of the 1978 Public Rangelands Improvement Act have brought the total area on which sagebrush controls have been implemented within the planning area to a whopping 678,976 acres. Exotic seedings have been established on 393,424 acres.

These figures are for ONLY Malheur County, Oregon, and most of these numbers account for what occurred on our PUBLIC LANDS, managed by the Bureau of Land Management. The so-called improvements on private land have been extensive, but accurate records are not available.

Now, take into consideration that the Vale Project was a model project to be followed by nearly every BLM district within the 11 Western states. And it was, to varying degrees.

The Vale Project and many others like it did NOT take into consideration the needs of other species, other than cattle. This was a dream come true for the Public Lands Rancher. During the ongoing Vale Project, the cattle number allotments (AUMs) were increased, and also the time frame of grazing was extended in some cases, causing further damage to the ecosystem.

All of this resulted in a major loss of good habitat for the sage grouse, as well as other species that were dependent upon the native sagebrush and bunchgrasses for their survival. Also many seeps and small bogs were damaged or destroyed, reducing the amount of available water, which is so important in a desert type climate.

It is NO wonder to me, when considering the millions of acres of native good habitat that was destroyed by the BLM for the sake of a few public lands ranchers, that the sage grouse is about to fall into extinction, through no fault of their own.

Sage grouse depend on one major food source, sagebrush. And when mankind destroys it, what do you have left-NO FOOD!

I firmly feel and believe after considering the history, and the extremely low population numbers today, that the Western Sage Grouse should be listed as an endangered species.

IWP member Bob Moore owns and operates a landscape business in Ontario, Oregon.

State Official Overgrazes Public Land

by Faus Geiger



It's small wonder that IWP has been discouraged in its attempts to end degradation on public lands caused by overgrazing, especially in competing at auction with ranchers for school endowment lands in Idaho, before the Land Board. One of the Board's powerful members, Pete Cenarrusa and family, is a direct contributor to the rangeland crises, according to a recent determination by the BLM, Shoshone Resource Area, in its Standards for Rangeland Health for the Iron Mine Allotment in the Little Wood watershed near Carey.

The BLM document is a tough read, detailing major erosion problems caused by sheep movement at riparian sites which are predominantly rated "functioning at risk," and "not meeting the standard." Species diversity indicators are not being met, with either inadequate perennial herbaceous vegetation or woody vegetation lacking young age class (less than 5 years) with all the new aspen saplings being grazed off. Sheep coming to water have caused stream channel and floodplain damage by sloughing upland soils into riparian areas.

Fish Creek within the allotment was designated "a water quality limited stream" by the Idaho Department of Environmental Quality, with bacteria, dissolved oxygen levels, flow alteration, sediment and nutrient at levels that exceed state standards. Yet the BLM fails to assign direct responsibility to the permittees for this sorry state of our watershed, claiming insufficient documentation and evidence of causation.

Native plant communities have been decimated; many sites are completely lacking perennial forbs and legumes and cheatgrass encroachment is a big problem. There's little left in the way of wildlife habitat. Most of these problems could be improved upon if the permittees were willing to initiate a rest rotation system and give this devastated land a well deserved break!

Threatened and endangered species such as sage grouse have no habitat for nesting and brood rearing. While sagebrush is still abundant, the understory of forbs which are so necessary for sage grouse habitat has been obliterated. It's been munched away by many flocks of sheep, season after season, all in the name of one family's profit, ignoring our common responsibility to cherish and nurture the public lands held in trust for all Americans. We need to demand that our public lands agencies hold livestock operators accountable for damage to ecosystems and take aggressive action NOW to reverse these frightening statistics, their own official statistics. How will we explain to our children the loss of infinitely valuable, irreplaceable watersheds like this one, throughout the West?

Faus Geiger is a freelance writer and editor, **and serves as** Assistant to the President of IWP.

Where Would We Be Without Them?

by Robin Young



I invite you to accompany me on a visit to the cabin near Cascade. I want you to see what I see: the beauty of the wilderness from a distance, but the ruination up close. I know that then you will understand. Some argue that the land may be slightly fouled, but that there are economic benefits to cattle grazing which include food production. Cattle grazing,

however, promotes nothing but destruction. It degrades the land, kills people who eat red meat, and, I think, we could live without leather on our bodies, our furniture, and in our cars.

As we begin our walk in the meadow with a creek running through the middle, we encounter thousands of little cow prints which have turned into thousands of little puddles, basically changing what appeared to be a meadow into a shallow swamp. We try to pick our way between the little puddles, but the ground has become so saturated, that it is pointless. Our shoes, socks, and feet are soaked.

As we reach the other side of the meadow and cross the tree line, the cow pies appear more frequently. The only aspect of nature that seems to benefit from the cow pies are the flies, which are nature's way of cleaning up. The problem is, flies and people don't get along. They distract us from the solemn beauty and majesty of the moment. We become instead absurd dancers, jerking backward, forward, side to side, whichever direction is necessary, with arms swatting the air. This dance is not conducive to our enjoyment of the wilderness. Part of the awe in viewing nature is not only in the details but also in the magnificence of the vistas. These cannot however, be appreciated when we are studying the ground to avoid plopping ankle deep into a fresh pie or tripping on an old one. So, forget hiking, or taking great strides. We'll have to settle for tiptoeing.

Be sure to stop occasionally to smell the crisp, fresh, pine-scented air. Mmm, take a deep breath - or, on second thought, that might not be such a good idea. It smells not so much like pine, but more like a stockyard, diluted by nature. (Thank you, nature.) Perhaps we could stop to take a drink of clear, cold mountain spring water? Well, maybe we shouldn't. We could very well get giardia. Maybe we'll run across some cute little wild animals. As we stop to listen more carefully, their chirping and chattering sounds more like laughter, laughter at the stupid humans who ruin the land and then complain that it's not pretty anymore.

Are you enjoying your Idaho wilderness experience so far? Maybe we would be wiser to enjoy it behind the window of the cabin and just imagine a soul-fortifying walk through the forest. Or, better yet, less expensive and less time-consuming, we could look at photographs, read a book, or

watch a movie about someone hiking through pristine wilderness, in that it contains wild things, not thousands of domestic things. We have a certain fearful respect of wilderness, but that sense of awe is shattered with the first "mmmoooooo."

I point to a spot in a small creek where, on our last visit my daughter built a miniature dam. Wasn't that an act of introducing structure (the dam) into something (the creek) that should not be prevented from choosing its own course? Isn't that a good indication of humans' undeniable, inherent propensity toward changing the world around them to suit their needs? The dam created a small (1' x 1') pool for a frog. It was removed at the end of the day and returned to its original path and speed of flow. So, in all fairness, I would, I guess, agree to allow ranchers to graze cattle on my public lands if they filled up all the puddles and picked up all the cow pies after they had passed through. That is, if people cannot live without eating meat and wearing cow skins. If grazing cattle on public lands is that vital, I could agree to it on those terms. But, I also would want to set up a fair time-share program. Since both the cows and I pay the same amount to use the land (\$0), then we should have equal accessibility at equally desirable times of the year. For instance, why should the cows be able to use the land during the prime season, summer, the only time when the land is easily accessible? This is the plan I propose: humans get one week, cows the next, and so on. If the cows need to trade weeks for some reason they can call me and ask if I could accommodate the change in schedule.

However, now that I think about fair time compared to money paid for usage, humans probably contribute more, in the way of taxes, toward maintenance of public lands than do cows. Even if we throw in ranchers and their minuscule BLM fees on the side of the cows' taxes paid, non-ranchers pay more, and therefore, should be allotted the greater portion of time allowed on public lands. So, speaking in generous terms, in Idaho, non-ranchers probably pay at least 9/10 of the money allocated toward the maintenance of public lands. So, again speaking in generous terms, I guess we could allow the cows use of the land for one day out of every ten. Now, if that solution is not workable for the cows, they can just sell their share to the rest of us for the amount they paid.

True, loss of public grazing lands may force ranchers to buy rangeland, thereby increasing their profits. Some ranchers might even be forced out of business. That would be a sad day for us all: cows would no longer experience the joy of heading to the slaughter house, doctors and hospitals might notice a decline in their business due to fewer heart attacks, decorators and car manufacturers might have to resort to upholstering only with fabric and hundreds of teenaged McDonald's employees might be forced out of their high-paying jobs. The thought of all those losses is disheartening, isn't it? I can see why well-educated Americans have unhesitatingly given over their public land interest to the

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ranchers. Where would we be without them?

But, enough about economics. Let's get back to the frog. Since I believe that children are closer to perfection than adults, their unlearned behaviors can be lessons in inherent human nature: capturing a frog and attempting to place it in a man-made pool of stream water also speaks to man's tendency to domesticate wild things. Children are just innately selfish and want beautiful things for their own. It is a form of appreciation. I did, however, explain to my daughter why we shouldn't cage wild animals, but should leave them undisturbed in their natural habitats. Some people with strong sympathies for animals make the mistake of believing that the cows are happier being able to graze leisurely on the wild grasses, even feeling righteous when they purchase a package of beef labeled range-fed, envisioning a happy cow, living a long-contented life out in the fresh air, rather than living in a fenced yard where they are all herded together at feeding time when they have to fight their way to the trough of processed pellets. Some cows do have to live an admittedly miserable-looking life standing and sleeping in the mud with nothing interesting to look at all day. Shouldn't we allow them the freedom and dignity of a walk through the woods? It is right to pen them in? Shouldn't they be allowed to go free like the frog? If they were wild, I would say yes. But they are domestic animals like dogs and cats. We who love our pets don't drop them off in the woods thinking they'll be happier there. We take care of them in a safe, warm environment. So, if we really are thinking of the welfare of the cows, let's not shove them out into the wilderness or pen them up in a mud yard, but bring them into our homes, where they will be warm and well-fed. And, of course, don't forget to have your pet fixed to prevent unplanned pregnancies. We wouldn't want to have to witness the pitiful sight of underfed and neglected stray cows in our streets and alleys. If, after careful self-examination, ranchers admit that their only motive for raising cows is profit, then let them find other, less destructive forms of work.

But, what would we do without them? I'm willing to find out. How about you?

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Robin Young of Meridian, Idaho is a student at Boise State University in Creative Writing.

“Although cattle grazing in the West has polluted more water, eroded more topsoil, killed more fish, displaced more wildlife, and destroyed more vegetation than any other land use, the American public pays ranchers to do it.”

-Ted Williams

“He's Going to Have an Accident”
Williams 199 1

Barbara Dargatz Retires From IWP Board

Longtime IWP Board member and former Wood River Junior High School Principal, Barbara Dargatz, announced her retirement at the IWP annual Board meeting in June 1999. Barbara has been instrumental in the financial success of Idaho Watersheds Project with her exceptional grant writing skills and her careful attention to our compliance with I.R.S. reporting requirements. The entire Board thanked Barbara for her hard work and dedication.

Rita Gustafson Retires as IWP's Office Manager

Rita Gustafson, IWP's office manager for the last three years, has taken another job offer which will enable her to work at home with greater work flexibility. Rita's excellent organizational and managerial skills will be greatly missed, but IWP is pleased she has found such an excellent work situation. Thank you, Rita.

IWP has hired Faus Geiger of Hailey to take over Rita's position.

Poor Cowboy

by Matthew Haun

Well, my great granpappy was a powerful man
He knew his place in the world; he had a gun in his hand
And he braved hostile injuns and hot desert sands
So future generations could abuse public lands

So let me overgraze the ranges, don't charge me mo fees
Gotta make big government let the poor people be
Let the whole world go hungry and I don't care
'Cause I'm a poor cowboy and I need welfare

Well, I ride 'em through the rain, through the snow, through the heat
And I supply 2% of our nation's red meat
And the West is a barren land, it's always been that way
You let me keep on grazin', that's how it's gonna stay

So let me kill all the coyotes, the wolves and the grizzlies
Gotta keep the world safe for democracy
But you shoot my little dogies, boy, you better beware
'Cause I'm a poor cowboy and I'm on welfare

I love my ma; and I love my pa
And the county commissioner, who's my brother in law
And I believe in God and the gospel of Jesus
And I'll get off public land just as soon as hell freezes

So I'm a-ridin' out West with my can of 10-80
Where the sunshine is bright and the politics are shady
The wide West is a-waiting, I'm a-gonna get my share
'Cause I'm a poor cowboy and I need welfare

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Thank You!

to the following major contributors to IWP since our last newsletter:

Arthur A. Benson II
Willow Creek Ecology
Helen Stone & Ben Schepps
Lucy Bowron
Brotbers Fund of the Tides Foundation
Ann Christensen
Don Chapman
John & Arline Crawford
Roger Crist
Scott & Jill Crocker
Debra Ellers & Dale Grooms
Colleen Daly
Bob Dargatz
Barbara Dargatz
Pete deLisser
Michael Edwards
Brian Emerick
Joe Feller
John Fisher
Donald & Paige Francis
Lee Frost

Chris Hunt
Jeannette Bowman & John Barnet
Dale & Frandee Johnson
Steve Johnson
Robert & Fay Jones
Dennis Jorgensen
James Keating
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Bob & Kathy Locke
Martin Lukes
Katy Madrid
Bill McDorman
Dauchy & Frances Migel
Walt Minnick
Greg Moore
Bob Moore
Randy Morris
Peradam Foundation
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James Shake
Elizabeth Sias
Ed Sinnott
Mark Solomon
Sperling Foundation
C.R. Stucki
Ron Stutheit
Dr. S.C. Taylor
Lee Terry
Johanna Wald
Kelley Weston
Sandra & Tom Wolf
Keith & Patty Wright
Judson Zenic

And thank you to many others who made smaller contributions.



The most powerful, reactionary, and destructive little group in the Western states are still the public-lands ranchers; and they survive by **biding** behind the cheap mythology of the "Cowboy": literally a boy who looks after cows ...
-Edward Abbey

*IWP Monitoring discovers the hidden secrets of Nevada BLM.
September 1999. Opal Springs in Elko County, Nevada. Salmon River Allotment.
Too bad you don't see this green pond scum in color!*

News Briefs

Owyhee Canyonlands Coalition Defeats the United States Air Force in Auction For the Use of Idaho School Endowment Lands For A Bombing Range!

On January 22, 1999 at the headquarters of the Idaho Department of Lands in Boise, the Owyhee Canyonlands Coalition (which consists of 32 conservation, outfitting, wildlife, and public interest groups including Idaho Watersheds Project) outbid the Air Force for the lease of almost 1000 acres of Idaho public school endowment lands.

Represented at the bidding table by an employee of the Army Corps of Engineers, the Air Force opened the bidding with a bid of \$10.00. Jim Burnham, representing the member groups of the Owyhee Canyonlands Coalition, responded with a bid of \$5,000.00. The Air Force did not respond, thereby leaving OCC as the winner of the auction!

OCC believes that the Air Force will appeal the auction to the Idaho Board of Land commissioners, which has scheduled a special meeting to consider this lease next Tuesday, January 26 at 9:00 a.m. at the Joe Williams Office Building in Boise. The appeal, if filed, will no doubt request that the lease be awarded to the Air Force on national security or similar grounds.

Because the auction is required by Idaho law and the Idaho constitution to increase returns to the Idaho School Endowment fund and because the Air Force chose not to bid competitively, it will be interesting to see what the Land Board does in this case. Perhaps the Air Force is too poor to bid like many ranchers!

OCC will probably challenge the participation of governor Dirk Kempthorne for the Tuesday meeting of the Board since he (as a U.S. Senator) forced through a reluctant congress the BLM land withdrawal in Owyhee County last summer which makes possible the Air Force bombing range proposal. The Governor clearly cannot represent the school children of Idaho when he has been the chief proponent of the Air Force to date.

Once Again the Idaho Land Board Forgets What the Word Fiduciary Means

In a special meeting of the Idaho Board of Land Commissioners on Tuesday, January 26, 1999 the Board overturned the auction result in which the Owyhee Canyonlands Coalition (of which IWP is a member along with 31 other groups) outbid the Air Force by 500 times (\$5,000.00 to \$10.00!) The auction was to determine the winner of a lease on 1000 acres of Idaho school endowment land in Owyhee County. The Board voted to issue a lease to the low bidder, the U.S. Air Force.

The vote was 4-0!

Idaho State Superintendent of Public Instruction, Marilyn Howard, the Board's new Democratic Party member who had defeated Back-to-Basics zealot Anne Fox in November did not attend the meeting!

Newly installed Republican governor Dirk Kempthorne

did not recuse himself as requested by IWP and the Coalition and voted to overturn the auction. Readers will recall that it was then U.S. Senator Kempthorne who pushed through the Congress last year a special land withdrawal in Owyhee County which provided 12,000 acres of BLM land to the Air Force for this expanded training range. Kempthorne's bill in Congress also appropriated almost \$1,000,000 for one welfare rancher, Bert Brackett, as part of the BLM withdrawal "to make him whole," as put by the Senator.

IWP suggests Kempthorne's motto might be: "A million for you if you wear a big hat, but ten dollars for you if you learn to spell 'cat'!"

IWP and the coalition will consider legal action to overturn this handout. Wouldn't you?

Public Lands Rancher, Kit Laney, Loses Appeal of Forest Service Decision in 10th Circuit Court of Appeals

In a direct and dispositive conclusion a three judge panel for the 10th Circuit Court of Appeals in Denver has denied claims by welfare rancher, Kit Laney and his Diamond Bar Ranch, that the Forest Service illegally denied him a grazing permit on the Diamond Bar Allotment located on over 140,000 acres of the Aldo Leopold and Gila Wilderness Areas in southwestern New Mexico on lands administered by the Gila National Forest.

The Federal Circuit Court affirmed the New Mexico District Court decision which had denied that Laney held any vested property rights in these lands through his holding of New Mexico water rights or for any other reason!

This decision will continue the national trend of long-term reductions of permitted livestock use of public lands and undermines (perhaps permanently) any claims welfare ranchers have to a vested "property right" to continue public lands ranching activities. Private banks and the Federal Land Bank system will undoubtedly be more cautious in loaning operating and mortgage funds to ranchers whose grazing permits lack any direct property tenure rights on public lands. This decision will assist in the ongoing economic destabilization of public lands ranching so necessary to returning abused public lands in the west to a semblance of ecological health.

Here is the conclusion of the 10th Circuit panel:

Conclusion

Plaintiffs do not now hold and have never held a vested private property right to graze cattle on federal public lands. At the time plaintiffs' predecessors began ranching, grazing on the public domain was a privilege tacitly permitted by the government by an implied license. This license was revocable at the government's pleasure and conferred no right in plaintiffs or their predecessors to graze a specific allotment of land.

It is not disputed that the Diamond Bar and Laney allotments are located on national forest lands, where grazing is by permit only. Nor is it contested that plaintiffs grazed cattle on these allotments without a permit. Therefore, the

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district court acted properly in enjoining plaintiffs from further unauthorized grazing, in assessing unauthorized use fees, in directing removal of plaintiffs' cattle, and in finding plaintiffs in trespass of federal lands.

Affirmed

To download or review this decision from the 10th Circuit Court of Appeals, the URL for this decisions is: <http://lawlib.wuacc.edu/cal0/cases/1999/02/97-2140.htm>

Mealey Fired by Idaho Fish and Game Commission

In a surprise decision, the Idaho Fish and Game Commission voted to fire Director Steve Mealey during its regular March meeting in Idaho Falls. The vote was 4-3 with the dismissal opposed by Commissioners Burns, Siddoway, and Wood. The dismissal was supported by Commissioners Hadley, Meiers, Brown, and Carlson.

This termination ends (for the time being) the enormously controversial directorship for Steve Mealey, the former Boise National Forest Supervisor. Many hook and bullet groups as well as conservation groups in Idaho had called for Mealey to be fired or resign because of his failure to speak out for wildlife and wildlife habitat issues in the face of political opposition by the heavily Republican and ag-dominated Idaho legislature and Governor. The termination came in the face of a threat by members of the Idaho Legislature to drop any consideration of a currently pending fee increase for the Department of Fish and Game if the commission fired Mealey who is a favorite of the livestock and ag interests which dominate the Idaho Legislature. Idaho Watersheds Project Board member, Gene Bray, who spoke at the February meeting of the commission in Boise, directly asked that Mealey be terminated from his job because of his directives which gagged Department biologists from speaking out on Snake River dam removal and other endangered species issues such as grizzly bear reintroduction and bull trout habitat management. At that meeting Director Mealey shouted at conservation minded citizens and the meeting was gavelled to a close in an uproar.

New Idaho Governor, Dirk Kempthorne, will have the opportunity to appoint four members of the Fish and Game commission this year (a majority) and perhaps Mealey will be back when they get done.

Federal Court Voids Grazing Permits for 1,000,000 Acres in Owyhee County, Idaho

Idaho Watersheds Project (IWP) announced another major court victory just a week after the Idaho Supreme Court ruled for the group in three state grazing cases. The decision from the federal court in Boise voids 68 federal grazing leases covering 1 million acres in Owyhee County.

In the decision the U.S. District Court Judge B. Lynn Winmill agreed with IWP and the Committee for Idaho's High Desert, that the Bureau of Land Management violated

If Public Lands Ranching Was Ended...

... Only about 30,000 of 1.6 million (2%) of U.S. Livestock producers would be affected.

... The American public would save billions of dollars.

... The rural West would largely be freed from public lands ranchers' social and political injustice .

... The American West would experience one of the Earth's greatest environmental restorations.

federal law when it issued the 68 permits in 1997. The court held that BLM failed to take the "hard look" at environmental effects which federal law requires. The permits cover grazing on federal lands in the Owyhee Resource Area in southwestern Idaho.

"IWP is pleased the Court is holding BLM accountable for its refusal to follow federal law," said Jon Marvel, President of IWI? "It is far past time for BLM to confront the degradation caused by livestock grazing and its own mismanagement."

"This case is important not only for Idaho, but many other parts of the West where BLM has failed to do environmental impact studies of grazing," said Laird Lucas, of the Land and Water Fund of the Rockies, who represents the groups in the Owyhee lawsuit.

In issuing its order, the court did not indicate what remedy it might order for the legal violations. However, the groups intend to ask the court to restrict grazing in critical environmental areas, such as redband trout streams in the Owyhee River drainage, until BLM completes the required environmental studies. "We will probably be asking the Court to require BLM to protect critical resources from hot season grazing use until a complete environmental study is done," said Lucas.

"The BLM has consistently refused to take any action, even when it knows livestock are damaging our public resources. I hope this court decision will force the BLM to step up and make the right decisions on its own" said Marvel.

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Idaho Watersheds Project Applies for 8000 Acres of Expiring Grazing Leases on Idaho School Endowment Lands in Owyhee County

In a test of the Idaho Land Board and the Idaho Department of Lands' response to IWP's recent triple victory at the Idaho Supreme Court, IWP has applied for 8000 acres of expiring Idaho school endowment land grazing leases which, if acquired, would effectively cut grazing use by a minimum of one half on BLM lands managed jointly with the school lands.

On April 29, Idaho Watersheds Project filed applications for four grazing leases in Owyhee County covering almost 8000 acres of Idaho school endowment lands. The leases expire December 31, 1999. The leases are all adjacent and form a block of land within the BLM administered South Mountain Area grazing allotment. This allotment is permitted to three Owyhee county ranchers whose grazing management has been shown to be degrading the public land and creeks for many years.

The 1996 BLM Draft Owyhee Resource Management Plan stated about this allotment that the "riparian ecosystems are in unsatisfactory condition, there is high erosion potential, and that the ecological condition of the allotment as a whole is unsatisfactory" (Owyhee DRMP 1996, page A-61). The 1981 BLM Owyhee Resource Area Environmental Impact Statement stated that all the BLM acres in this allotment were rated in a "static or downward ecological trend" (Owyhee EIS 1981, page F-9), and there has been no change since then. This allotment is one of the Owyhee County allotments on which ranchers have failed to meet modest riparian grazing standards for the last three years.

The Idaho school endowment land subject to these leases amounts to approximately 46% of the total area of the South Mountain Area allotment which encompasses about 17,000 acres and includes the headwaters of several creeks which are critical habitat for redband trout which has been petitioned to be listed as threatened under the Endangered Species Act.

Idaho Watersheds Project President, Jon Marvel, stated: "IWP looks forward to the auction for these leases which could raise substantial funds for Idaho's school children. IWP also welcomes the opportunity to start the long recovery process for these damaged lands by acquiring these leases for the next ten years."

Judge Winmill's Indecision

On Wednesday, June 2, 1999, after hearing legal arguments, Federal District Court Judge B. Lynn Winmill took under advisement the Committee for Idaho's High Desert and Idaho Watersheds Project's motion for permanent injunction barring livestock use of 1,000,000 acres of public domain lands in Owyhee County, Idaho which are

managed (sic) by the Bureau of Land Management (BLM).

As readers will recall, Judge Winmill had ruled on March 31, 1999 that 68 grazing permits issued by the BLM in 1996 were invalid because the BLM had failed to comply with the National Environmental Policy Act (NEPA). IWP's motion requested the judge to take action in the light of his decision and order the BLM to cease grazing. In the alternative, IWP and CIHD argued that at a minimum, the Court should order a one year timetable with a certain date for NEPA compliance on all 68 permits as well as interim management measures to protect damaged riparian areas on much of the area under legal action.

The Judge announced that he would not be issuing a permanent injunction stopping livestock grazing this year but would consider setting a timetable and requiring interim action to protect public resources in 1999 pending the issuance of new NEPA compliant permits. He said he would rule "soon."

The oral argument by the attorney for the rancher/intervenors was remarkable in that he suggested that no length of time would be sufficient for the BLM to adequately study these allotments and comply with the law, and so the judge should avoid any hard time table for bringing grazing use into compliance with the law. Some in the audience thought they saw the attorney making the symbol of infinity in the air as he talked!

The judge did say that "an extended period of study" was not acceptable. The Justice Department attorney representing the BLM informed the Judge that the BLM had changed its way of doing business and now was taking NEPA compliance very seriously although they would need at least 18 to 24 months to complete such analysis.

The courtroom was filled with ranchers of the full-time and the hobby variety who bemoaned their fate to attentive reporters after the hearing.

IWP Appeals Huge Grazing Lease Transfer to Potato King

In a precedent setting action, IWP has appealed a BLM decision to transfer and reissue a grazing permit between two of the largest ranchers in Idaho and the west covering approximately 125,000 acres of public lands and over 14,000 AUMs in Twin Falls and Owyhee Counties, Idaho. The permit transfer is part of a pending ranch purchase by Idaho's billionaire potato king, J.R. Simplot, who is also among the largest 5 public lands ranchers in the United States (Simplot's cattle use over 1,000,000 acres of public lands). In a related transfer, IWP has protested the proposed decision to transfer (as part of the same ranch sale) a BLM grazing permit south of the Idaho border in Nevada for an additional 1600 AUMs.

Because IWP also filed a petition for stay with the appeal, the BLM is prevented for at least 45 days from implementing the permit transfer pending a decision on the stay request. The grounds for the appeal include violation of the National Environmental Policy Act (NEPA), the Federal

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Land Policy Management Act (FLPMA), and BLM regulations which require management which protects public resources such as riparian areas and declining native species like sage grouse and spotted frogs. The BLM's proposal mandated continuing existing management notwithstanding evidence of many areas degraded by livestock use on the nine allotments involved in the ranch sale.

The stay, if granted, will probably result in the nixing of the ranch sale, thereby underlining the unstable nature of rancher permit tenure on public lands in the west.

Grazing Appeal Blocks Implementation of Air Force Bombing Range in Idaho

In an interesting turn of events, the Acting Director of the BLM, Tom Fry, has filed a notice of appearance before an administrative law judge in Salt Lake City in order to ask that the judge expedite consideration of an appeal of a term grazing permit filed by Idaho Watersheds Project in 1997.

The Acting Director states in his memorandum to Judge James Heffernan: "Until this appeal is resolved, certain agreements required by the Juniper Butte Range Withdrawal Act are unlikely to be implemented. Without implementation of these agreements, the national defense purposes underlying the Act will at best be delayed and may be frustrated."

The reason IWP's appeal of Frank Bachman's grazing permit "may frustrate" the implementation for the bombing range is because the Withdrawal Act requires the Air Force

to pay up to \$41,000,000 to provide grazing on public lands to another rancher, Bert Brackett. Part of that money (about \$300,000) is intended to go to Frank Bachman to compensate him for giving up (i.e., selling) part of his Clover Crossing Allotment to Brackett.

Tom Fry's memorandum goes on to state: "Brackett has been unwilling to take the Bachman grazing permit, however, so long as it is encumbered by the appeal by IWP. As a result Brackett has remained in the withdrawal lands (Juniper Draw Allotment), and the Air Force has been unable to use the lands for military purposes contemplated by the Act. If the appeal were resolved rapidly in the government's favor, Brackett's move to the Bachman tract (sic) could be materially advanced and the public interest furthered."

This payoff of Rancher Brackett was featured on NBC Evening News with Tom Brokaw's *Fleecing of America* in July 1998 as a major taxpayer rip-off sponsored by then U.S. Senator Dirk Kempthorne. Perhaps IWP's appeal will result in the permanent delay of these "national defense purposes"!

IWP is ably represented in this matter by William Eddie of the Land and Water Fund of the Rockies' Boise office.

Idaho Supreme Court Wakes Up!

In a remarkable series of three unanimous decisions released on Friday, April 2, 1999, the Idaho Supreme Court struck down decisions by the Idaho Land Board.

The Court also declared Idaho Code 58-310B unconstitutional in overturning the Land Board's decision to deny IWP the right to compete at auction for expiring grazing leases on thousand of acres of Idaho public school endowment land in 19%.

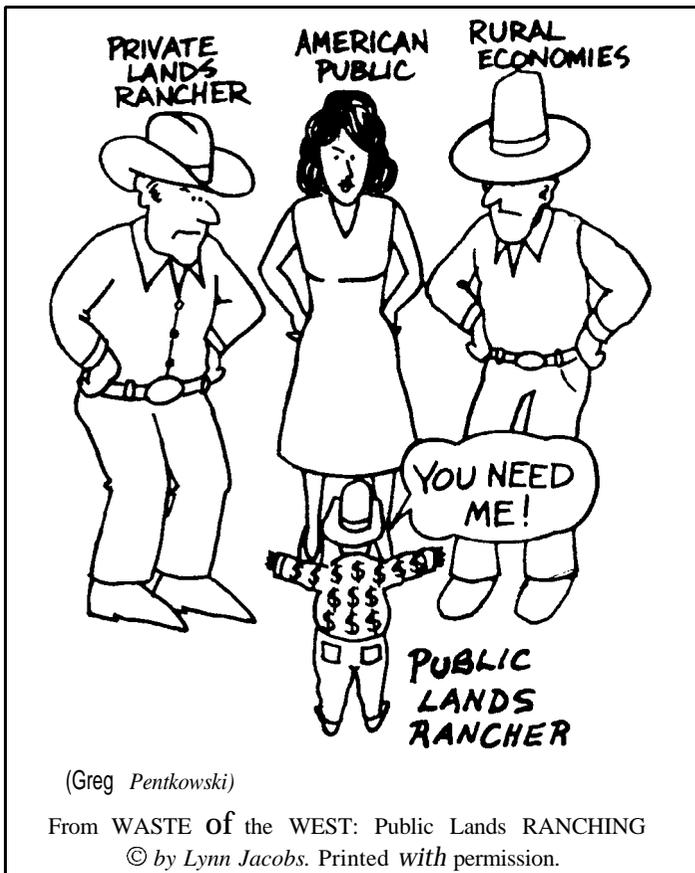
The Court then overturned the Board's decisions in similar applications by IWP for 1995 lease applications. In both cases the court ordered that auctions be held!

Finally the Court issued a Writ of Prohibition overturning HJR-6, a constitutional amendment passed by Idaho voters in November 1998. IWP had petitioned for the Writ because imbedded in that amendment was a hidden change to the Constitution of Idaho which was designed to forever end any requirement for auctions for expiring leases on school endowment land. The court agreed with IWP and blocked the amendment. This is the first time since 1929 that an amendment to the Idaho Constitution already passed by vote of the people has been overturned!

This extraordinary triple victory for IWP after almost six years of fighting the Land Board is due in no small part to the excellent legal representation of Laird Lucas of the Land and Water Fund of the Rockies' Boise office; thank you, Laird.

This is a great day for IWP, for Idaho, for the environment, and for Idaho's school children, with long term effects that will ripple across the west!

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Idaho Supreme Court Denies the Land Board's Petition to Rehear the Court's Decision of April 2, 1999

Idaho Watersheds Project (IWP) announced that the Idaho Supreme Court has denied a petition from the Idaho State Board of Land Commissioners to rehear its decision of April 2, 1999 which ruled that the 1998 Constitutional Amendment, HJR-6, was **unconstitutional**.

The Court denied the petition without comment in an order dated August 3, 1999 signed by Frederick C. Lyon, the clerk of the Idaho Supreme Court.

The decision affirms the court's April ruling which determined that the State had improperly included two constitutional amendments in one ballot measure which was subsequently approved by the voters in November, 1998. The Idaho Constitution expressly bans the inclusion of more than one constitutional amendment in each ballot measure for voter approval to prevent hidden changes to the Constitution.

The April decision to overturn ballot measure HJR-6 was the first time since 1929 that a constitutional amendment had been ruled illegal by the court.

Idaho Watersheds Project through its attorney, Laird Lucas of the Land and Water Fund of the Rockies Boise office, had petitioned the court in December, 1998 to overturn HJR-6 because one of the two parts of the illegal amendment would have eliminated any constitutional requirement that the leasing of Idaho State school endowment lands be subject to auction when two or more applicants apply.

Jon Marvel, President of Idaho Watersheds Project, stated: "The Supreme Court has closed the door on this attempt to illegally change the Idaho Constitution. This decision can only help in raising more money for Idaho's school children through the competitive leasing of school endowment lands. Just as Idaho's founders intended in 1890, open and free competition will continue to assure the greatest financial return to the school endowment fund."

Idaho Watersheds Project Applies for 12,367 Acres of School Endowment Land Leases

Idaho Watersheds Project has filed ten applications for 12,367 acres of Idaho school endowment land grazing leases. This increases the total grazing lease acreage applied for by IWP in 1999 to over 20,000 acres.

These ten lease applications are for grazing leases which were invalidated by the Idaho Supreme Court on April 2, 1999 when it found that the Idaho Land Board had unconstitutionally given a preference to ranchers in denying Idaho Watersheds Project the opportunity to bid on these leases in 1995 and 1996.

The ten leases include ones held by some of the

wealthiest public land ranchers in Idaho. Five of the ten leases were held by billionaire J.R. Simplot of Boise, two by John and Fred Faulkner of Gooding, one by L.C. Skaggs of Declo, one by Mary Hewlett Juffe of Portland, and one by Brad Little of Emmett.

Five of the leases are located in Owyhee County, two in Camas County, one in Custer County, one in Ada County, and one in Blaine County. All of the leases have significant riparian areas located on them with some having habitat for threatened species: Chinook salmon and steelhead (Custer County), bull trout (Camas County), and redband trout (Owyhee County).

In compliance with the April Idaho Supreme Court ruling, if two or more applications are received for these leases, an auction will be held to raise funds for the Idaho School Endowment Fund and to help determine which applicant will receive the ten year leases.

Jon Marvel, President of Idaho Watersheds Project, stated: "IWP looks forward to competing at auction for these leases. Considering the financial capability of the former leaseholders, IWP expects the auction for these leases to raise significant sums for the school children of Idaho as Idaho's founders intended."

IWP Wins Major Victory at the Ninth Circuit Court of Appeals

Idaho Watersheds Project (IWP) announced on August 23, 1999 that a three judge panel of the Ninth Circuit Court of Appeals on August 20th reversed a decision of Idaho Federal District Judge B. Lynn Winmill which incorrectly permitted the Bureau of Land Management (BLM) to fail to comply with its own regulations.

In an appeal brought by Idaho Watersheds Project and the Committee for Idaho's High Desert, the Ninth Circuit Court of Appeals panel affirmed that as a matter of law the BLM must obey the "plain language" of its own regulation which requires that when the agency has determined that livestock grazing is the reason for failure to meet the Fundamentals of Rangeland Health or the Idaho Standards and Guidelines for Rangeland Health, that the agency must change management no later than the start of the next grazing season. The BLM had argued that the regulation only required it to consult with interested parties and issue a proposed decision on paper with no assurance that any changes on the ground would occur at any set time. This particular case testing this provision of BLM regulations was in response to the first "determination" in the United States by the BLM in October 1997 that livestock grazing was a major factor in the failure to meet the Standards and Guidelines for Rangeland Health on the Succor Creek Allotment in Owyhee County, Idaho. The BLM issued the determination but has failed to take any action on the ground in the 22 months following its findings!

Laird Lucas of the Land and Water Fund of the

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Rockies Boise Office, who with Bill Eddie has acted as IWP and CIHD's attorney, stated: "this decision sets national precedent interpreting Secretary Babbitt's rangeland reform regulations. Under this decision, the BLM must act promptly to halt grazing abuses when they are identified, and that action must take place no later than the start of the next grazing season."

Forest Protected as Logging Decision Withdrawn After IWP Appeal

In June 1999, IWP, along with the Committee for Idaho's High Desert and the Idaho Sporting Congress, appealed District Ranger Donald E. Peterson's decision to approve the Sublett Division Forest Health Projects on the Sawtooth National Forest. This plan to log 80% of the remaining old growth timber and burn 5,000 acres, much of which is located in the remaining road-less area of the Sublett Division, was a logging decision masquerading as a forest health measure. Our appeal resulted in Ranger Peterson's withdrawal of this poor management decision on July 28, 1999.

The Nature Conservancy's 45 Ranch Charged with Trespass of Cattle by BLM

In late August 1999, the BLM slapped The Nature

Conservancy and its ranch managers, Lester and Leona Hatch, with trespass and a fine after over 100 calves and cows were found to be grazing for over two months without authority on the 45 allotment on the South Fork of the Owyhee River. In addition to the fine, the Hatches were asked to reimburse the BLM for staff time and aerial reconnaissance flights used to confirm the trespass.

IWP Outbids Hewlett-Packard Heiress!

On Thursday, September 9, 1999 in Idaho Falls, Idaho Watersheds Project won yet another school trust land grazing lease auction. The auction was held to determine what party would have the right to a ten-year grazing lease on 2,560 acres of Idaho school endowment land located in Custer County, Idaho. The lease consists of four separate 640 acre sections within 100,000 acres of BLM managed lands which are permitted for livestock grazing to the Mountain Springs Ranch which is owned by Mary Hewlett Jaffe, the daughter of William Hewlett, the cofounder of the Hewlett-Packard Corporation. The ranch manager, Shane Rosenkrance, opened the bidding with a bid of \$200. IWP responded with a bid of \$1,200, and the auction ended when the ranch did not counter with a bid. IWP predicts that the auction will be appealed within the 20-day appeal period. If the Land Board chooses to accept the low bid, IWP will contest the action in court. Thanks to Jon Bolstad, Jackie Maughan, Ted Chu and Anne Mier for attending the auction!



Steer commits suicide after admitting responsibility for degraded stream banks on public lands. Salmon River, Custer County, Idaho. June 1999. (Burial to be courtesy of U.S. taxpayers.)



Watersheds Messenger

Editor: Jon Marvel

Watersheds Messenger is published periodically for members, friends, and supporters of Idaho Watersheds Project. Changes of address, renewals, new subscriptions, undelivered copies, and ideas for articles should be sent to IWP, PO. Box 1602, Hailey, Idaho 83333, or call (208) 788.2290. Fax (208) 78X-2298. Please note our e-mail address: idwp@idahowatersheds.org and Web Site.

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Janet O'Crowley - Secretary

Gene Bray - GPS Coordinator

Faus Geiger -Assistant to the President

Jackie Maughan, Anne Mier, Lyne Stone- Grazing Monitors

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.

Articles published in Watersheds Messenger may or may not reflect the opinion of Idaho Watersheds Project. All articles are copyright © IWP 1998, unless otherwise noted.

And Now for the OTHER Side

Ever wonder if there are any benefits of public lands ranching?

- Produces 3% of U.S. Beef.
- Keeps some people wealthy.
- Keeps some people powerful.
- Helps maintain some people's accustomed life-style.
Helps keep bureaucrats busy.
- Allows us to feel like we are doing something useful with otherwise "useless" public land.
 - Requires endless miles of barbed wire fences, which occasionally catch ORVers.
- Provides humans roaded access to every nook and cranny of public land and opens the West to widespread exploitation.
 - Reduces ground cover, allowing hikers easier travel and the ability to spot venomous snakes more easily.
 - Gives hunters something to shoot at (cows).
- Helps-ever so slightly-to preserve our "Western legacy."
 - Promotes excessive beef consumption, and thus helps reduce human overpopulation.
 - Provides material for Gary Larson cartoons.
 - Maintains remote base properties that serve as excellent sites for criminal hideouts and narcotics laboratories.
- Provides an excellent example of how tyrannical, wasteful, and destructive a special interest can be without public awareness or opposition.

From WASTE of the WEST: *Public* Lands RANCHING

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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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