

Washington ranchers wary of grouse agreement

By **MATTHEW WEAVER**
Capital Press

CRESTON, Wash. — Four Eastern Washington ranchers say they’re concerned they will lose their private property rights if they sign a voluntary agreement designed to protect them from legal repercussions if something happens to a sage grouse on their property.

The U.S. Fish and Wildlife Service is finalizing a Washington state candidate conservation agreement with assurances — called a CCAA — for ranchers to take measures to protect sage grouse on their property. Consultation and conservation planning division manager Bridget Moran said the agency is negotiating with the state Department of Fish and Wildlife and Washington Cattlemen’s Association to finalize the agreement for publication and public comment.

Creston, Wash., rancher Dawn Nelson says she would have to reduce her herd of more than 120 cattle by roughly half if she were to sign up because of a rotational grazing requirement in the CCAA.

“They say it’s voluntary to sign up, but if you don’t sign up and you happen to have a bird die on your place or an accidental take, they can



Matthew Weaver/Capital Press

Creston, Wash., rancher Dawn Nelson and neighboring rancher Loren Brougher look to one another April 30 while standing on what is normally a lake on Nelson’s property, but is dried out months earlier than normal due to drought conditions. Nelson and Brougher are leery of signing a candidate conservation agreement with assurances to protect the sage grouse because they say its requirements don’t factor in situations like drought, among other concerns.

come back and sue you,” Nelson said.

Other sticking points in the draft agreement for Nelson and her neighbors include:

- Avoiding vehicular activity unless essential within 4 miles of occupied “leks,” an area where birds gather during the breeding season to attract mates, between February and July.

- Avoiding harvest within 4 miles of active leks between April and August.
 - Limiting activity two hours before sunset and two hours after sunrise within 1.5 miles of an active lek.
 - Allowing the department to access the farmer’s land with prior notification.
- Nelson said the agreement may work for some ranchers,

but she and several neighbors are not inclined to sign up.

“That’s a great idea, but I don’t know how they can enforce that on private landowners,” she said. “I would rather be the owner of my land and not a permittee. Within seven pages of this draft, you become a permittee on your own private ground.”

Moran said the plan uses

an example found to be successful in Oregon. The agency has made adjustments to its drafts based on feedback from ranchers, she said.

“Many from the ranching community in other parts of the range have found them to be something they can incorporate into their business practices without tremendous difficulty,” she said. “We’re hoping we’re able to do that here as well.”

Washington Cattlemen’s Association executive vice president Jack Field said the latest draft is an improvement over original drafts and focuses more on landowner concerns.

Field said the agreements have to provide enough protection and assurance to justify the expense for ranchers.

“We want to make sure we can create the best possible tool to provide the greatest level of protection not only to landowners but also to the bird,” he said.

Incidental take is a concern if the sage grouse are eventually protected under the Endangered Species Act, Field said.

“‘Take’ doesn’t have to mean a dead bird, take could simply mean adverse modification of habitat,” he said.

Nelson wonders who makes the determination over

whether a farmer’s activity within range of a lek is needed.

“They call it ‘unnecessary,’ but who decides what’s unnecessary?” Nelson said.

“What farmer does anything unnecessary?” asked Dennis Jessup, one of Nelson’s neighbors in the Wilbur-Creston area. Jessup runs 200 cows, but said he’s not sure how much he’d have to cut until he knows for sure what the agreement seeks.

“Everybody wants the sage grouse to be around,” neighboring rancher Michele Rosman said. “I think what we know works and what they think works is two completely different things, and we’re not going to bend over for that. If we thought they could manage theirs, that’d be different. But they can’t manage theirs, so what makes them think they can manage ours?”

“I don’t think the cattle is the problem here,” Nelson said, noting there are coyotes, wolves, hawks, owls and eagles all around. “They’re going to have to be able to control the predators and keep these grouse alive. You can’t put this on the cow, because I have never seen a cow eat a sage grouse. Ever.”

Irrigator group sues Bureau of Reclamation

CSRIA: Water service contract delay blocks privately funded project

By **MATTHEW WEAVER**
Capital Press

SPOKANE, Wash. — The Columbia-Snake River Irrigators Association filed a lawsuit April 30 against the U.S. Bureau of Reclamation, claiming the agency is holding up construction of an expanded irrigation system by delaying issuance of a water service contract.

The association filed the lawsuit against the bureau; its commissioner, Estevan Lopez; and Pacific Northwest regional director Lorri Lee in U.S. District Court for the Eastern District of Washington.

“It’s really too early for us to make any kind of comment, and any comments would be dependent on the advice of our counsel,” agency public affairs officer Venetia Gempler said.

The association alleges in the lawsuit that the agency “arbitrarily delayed and blocked” a new water service contract for a privately funded \$42 million pipeline to deliver surface water east from the East Low Canal to roughly 14,000 acres of farmland north of Interstate 90 in the Odessa Subarea.

The association has completed pre-construction engineering.

The pipeline is the first step in CSRIA’s overall project to bring surface water irrigation from the Columbia River to roughly 70,000 acres of farmland in the Odessa Subarea. The bureau has said that CSRIA’s project interferes with its plans with the

state Department of Ecology and three irrigation districts in the area.

Farms in the Odessa Subarea rely on rapidly diminishing well water for irrigation.

Darryll Olsen, board representative for CSRIA, said he hopes the court will order the bureau to imme-

diately review and issue the water service contract

within 60 days. CSRIA has commitments from several agricultural lenders, Olsen said.

“We have that financ-

ing totally secured, and we’ve lost a year of construction because of the delay in the bureau issuing the contract,” Olsen

said.

The bureau will review the complaint and determine its next steps, Gempler said.

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PRESS-MEDIA BRIEFING

May 4, 2015

Odessa Irrigators and CSRIA File Lawsuit Against Bureau of Reclamation

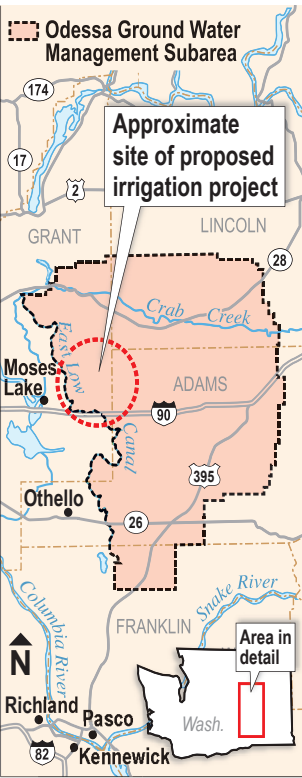
Kennewick, Washington – Odessa Subarea Irrigators and the Columbia-Snake River Irrigators Association (CSRIA) have filed a lawsuit against the U.S. Bureau of Reclamation (BOR) in the Eastern District of Washington (U.S. District Court), stressing that BOR has arbitrarily delayed and blocked the approval of a new water service contract, for the irrigators’ Privately Funded Project to bring Surface Water from the BOR’s East Low Canal. System 1 would be the first major step to bringing surface water irrigation to about 70,000 acres (or more) of farmland in the Odessa Subarea, both north and south of I-90. The initial developments (Systems 1-4) would reach as far south of I-90 to Lind Coulee. The Private Sector Finance/development approach has received widespread public support (with endorsements from many newspapers and decision-makers) as a viable, cost-effective and realistic option to begin immediately replacing the use of groundwater from the declining Odessa Aquifer in eastern Washington. It offers a practical and reasonable solution that can be completed in a short time frame, attempting to bring some relief to the Odessa Aquifer depletion issue.

The surprising and arbitrary denial by the BOR follows nearly three years of meetings and communications that CSRIA and Odessa Irrigators in the System 1 area (and other areas) have had with BOR and East Columbia Irrigation Basin District (ECBID). In particular, the BOR capriciously denied approving or executing a Water Service Contract that CSRIA submitted in May 2014, to the BOR and the ECBID for System 1, a Privately Funded/Financed Project. The Contract would allow for the construction of a Privately Funded pipeline (System 1) to deliver surface water east, from the East Low Canal, to about 14,000 acres of farmland north of I-90 in the Odessa Subarea, initially as early as 2016. CSRIA had completed the System 1 Project pre-construction engineering, and the participants have secured financing with several major banks/accounting firms. The initial financing amounts to \$42 million, with up to \$100 million available for multiple projects. The BOR’s failure to issue the water service contract ignores the irrigator’s direct financing, and has delayed the System 1 project by at least a year.

The lawsuit further highlights that BOR is requiring that water be delivered from the East Low Canal to System 1 Participants at an excessive and wasteful rate of use (acre-feet/acre), instead of allowing the water to be used more efficiently over a greater number of acres. This sort of antiquated and wasteful water use requirement threatens the interests of the System 1 Participants, the CSRIA members, and the overall financial viability of the new Odessa Subarea projects.

The BOR has taken a position that rejects 21st Century water resources management, where direct private sector funding should be leverage to build the distribution pumps and lines, and the “on the ground” water application should embrace the most efficient and sustainable practices for new surface water irrigation.

The litigation filing is available at CSRIA.org (Odessa Subarea Review).



Alan Kenada/Capital Press