

Wildfires will drastically reduce grazing for years

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Fuel loads add up

At the Haerberle Ranch, between the towns of Okanogan and Conconully in north central Washington state, Rod Haerberle, 66, and his daughter, Nicole Kuchenbuch, 36, and son-in-law Casey Kuchenbuch, 36, voiced concerns about "mismanagement" of government lands. Their comments mirrored those of ranchers in southeastern Oregon after the massive 582,313-acre Long Draw and 430,000-acre Holloway fires of 2012.

"These fires are not a surprise for those of us who live and work in Eastern Washington. We've been warning about the potential disastrous effects of federal and state management policies for many years," said Nicole Kuchenbuch.

Agencies have allowed forests to become overgrown and unhealthy, consumed by underbrush that's fuel for fires, she said.

"Agencies tell us to keep our cattle out of creek bottoms but there's no grass elsewhere because they don't thin forests," she said.

Sod was so thick in Washington Department of Fish and Wildlife grasslands from 20 years of no cattle grazing that it took bulldozers two and three passes to cut fire lines to soil, she said, adding that sod can be a fuel that's almost impossible for firefighters to extinguish.

While ranchers have lobbied for change, nothing happens because of the political strength of environmentalists and the Endangered Species Act, the Kuchenbuchs said.

Haerberle calls them "asphaltites — born on asphalt, raised on concrete and living in a world of plastic flowers."

Sandra Kaiser, spokeswoman for the Washington State Department of Natural Resources, said the agency is fully on board with thinning forests to decrease their fire fuel load.

"Last biennium we requested \$20 million from the Legislature and got \$10 million for forest health treatment and thinning," she said. "It's essential to preparing landscape to resist fire. It's work that needs to be done."

North Central Washington wildfires*

Four large wildfires burning in or near Okanogan County, Washington, have scorched roughly 600,000 acres. Last year's Carlton Complex was the state's largest on record, burning more than 256,000 acres.

2015 2014

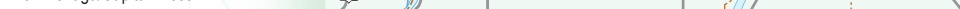
- Chelan Complex**
 - Acres: 93,694
 - Containment: 55%
- Carlton Complex (2014)**
 - Acres: 256,108
 - Containment: Inactive
- Okanogan Complex**
 - Acres: 147,979
 - Containment: 45%
- Tunk Block Fire**
 - Acres: 161,440
 - Containment: 40%
- North Star Fire**
 - Acres: 205,331
 - Containment: 25%

*As of Sept. 2

Sources: inciweb.nwcg.gov;

gacc.nrc.gov/nwcc

Alan Kenaga/Capital Press



Stark difference

About 370 miles to the south, near John Day, Ore., retired U.S. Bureau of Land Management forester Bob Vidourek, pointed out the difference in the way federal forests were formerly managed and how they are managed today.

He oversaw projects from 2003 to 2007 that thinned some of the 2,500 acres of BLM land that abuts U.S. Forest Service and private land on Little Creek Mountain. The projects included a timber sale, thinning stands and clearing out a large amount of slash.

On Aug. 20, the Canyon Creek fire roared through Forest Service land and crested Little Creek Mountain. Vidourek's home was put on a Level 3 "leave immediately" evacuation order but he wasn't worried. The BLM land that had been thinned and cleaned up several years earlier was separating the blaze from his home.

"I was never really worried," he said. "I knew if it got into that stand, it wouldn't burn too hot."

The fire did burn some of the BLM land but slowed considerably and stopped 1,000 feet from Vidourek's house.

Vidourek said he faced many hurdles when he tried to get the forest management projects going but was eventually able to overcome them.

"I'm confident that the work we did probably saved some of these houses," he said, pointing to other nearby

homes. The fire "killed everything on the other side of the mountain. I'm confident the work we did slowed the fire down."

Fire mismanagement

Beside land mismanagement, ranchers involved in Western fires in recent years allege state and federal misuses in fighting fires while praising efforts of local firefighters.

In the Long Draw and Holloway fires in Oregon three years ago, ranchers accused the BLM of letting land burn to expand designated wilderness areas. The BLM denied it.

In Washington's 256,108-acre Carlton fire last year, many ranchers and others believe the DNR let the fire go to gain more federal dollars. More than 200 landowners are preparing to file a lawsuit seeking more than \$75 million in damages for what their attorney says was "a series of intentional and negligent actions."

In this year's Okanogan fire, a Pine Creek rancher, Gerald Scholz, blamed DNR backburning for the loss of his grazing land, timber and hay. He treated cattle with burned feet and sold others, saying he would have to reduce his herd from 700 to 200 for winter.

"Gerald told them not to backburn anything up here. He's been fighting fire 30 years and was adamant we didn't need it," said his wife, Bobbi.

Kaiser, the DNR spokeswoman, said she would have to find out the facts of the situation before commenting.

Okanogan County Commissioner Jim DeTro said he repeatedly asked an agency — he declined to say which one — not to backburn in Pine Canyon, but it did. As a result, the dozen or so ranches along Pine Creek lost their spring and fall grazing ground.

"The fire swept around the east side and five hours after they did that burnout they were evacuating Pine Creek, Crumbacher development and Riverside," DeTro said.

DNR stepped up on early lightning strikes, using smoke jumpers on initial attacks, DeTro said. "Then it had one or two major screw-ups that turned into catastrophic situations."

Things went well once Type I management teams, which handle major wildfires, arrived, he said.

DNR contracted with Gebbers Farms, of Brewster, which used six Caterpillar D-8 bulldozers to build and hold a line on the south of the fire, he said.

There are a lot of good firefighters but there was lack of coordination and delays of engagement, said rancher Casey Kuchenbuch.

'Tough decision'

"We had a tough decision. Move our cows and save them or go build a Cat line," Kuchenbuch said. "I was promised by

a head official he would have a Cat up there. It never happened. We saved our cows. If I'd gone and had Gebbers with me there's a high percentage chance I might have save the rest of my summer range...."

"We recognize they had limited resources and a massive fire," Haerberle said.

But a Forest Service consultant turned around Gebbers' Cats and "they backburned the rest of our summer range and our cabin to try to save the town," Haerberle said.

State and federal firefighters went back to camp for the night, but local firefighters and volunteers held lines all night because "it was our land and our homes," Nicole Kuchenbuch said.

Ranch losses

Haerberle lost all of his 6,000 acres of spring and fall pastures on the hillsides on both sides of the still green valley floor where their Black Angus now graze fields intended for hay and fall forage. He lost half his Forest Service grazing allotment summer range, 200 tons of premium alfalfa hay and many miles of fencing that costs about \$20,000 per mile.

They rescued 120 cow-calf pairs but 60 are missing. They figure they will have to reduce their herd of 425 pairs and 100 replacement heifers and buy up to 750 tons of hay at about \$150,000 to compensate for three months of extra feeding, split between fall and spring. Usually, they are self-sufficient with their own hay and grazing.

Because of the fire damage, their grazing will be drastically reduced for two or three years.

Well over 200 cattle, hay and hobby ranches were impacted by the Okanogan, Tunk and North Star fires, DeTro said. Of that, about 20 are operations with more than 200 head of cattle that lost their spring and fall pastures, portions or all of grazing allotments and haystacks.

Cass Gebbers, co-owner of Gebbers Farms and Gamble Land & Timber, said he lost most of the rest of his DNR grazing allotments in this year's fire that he didn't lose in the Carlton fire last year.

Altogether, 95 percent of his allotments are burned out, and this year so far he has 18

cows dead, 33 badly maimed and 46 pairs and 10 bred heifers missing, he said.

"We barely got out of the west fork of Rock Creek (gathering cattle) when the fire boiled out of there. It sounded like a jet engine," Gebbers said.

Early on, lightning ignited just inside the "donut hole," acres of his private range he saved last year. "We threw everything we had on it and nailed it in five to 10 acres just an hour before high winds hit," he said.

Gebbers' Cats built and held a line on the south side of the fire, just north of Highway 20, and received "much more government support in holding it" than they did last year, he said.

"Government guys were stretched real thin. The morning of the Chelan Reach fire, fires were popping everywhere (from lightning) and guys were scrambling," he said.

About 130 miles to the northeast in Lauier, Wash., rancher Len McIrvine said the Stickpin, Graves Mountain and Renner Lake fires came together on his range. He said he's losing about 200,000 acres of grazing allotments, but saved 300 to 400 head of cattle and doesn't know the fate of 300 to 400 others.

"Up to now, no one's really done anything to stop the fires. It's just protecting houses. It's a let-burn policy. It's the plan all along. It's a proposed wilderness area so they (Forest Service) wouldn't put a bulldozer in there. Later they did," McIrvine said.

"All these fires, the last 20 years they let them burn. They refuse to come in and stomp out a little lightning strike. They use all the resources to save a little shack and lose billions of dollars of livestock and timber," he said.

He agreed with the Kuchenbuchs that the underlying problem is build up of forest and sod fuel loads from no logging, thinning and grazing.

"A big sign that went up this spring in Colville says, 'Public lands. Log it, graze it or watch it burn,'" he said.

Capital Press staff writer Dan Wheat reported from Okanogan, Wash., and staff writer Sean Ellis reported from John Day, Ore.

At issue is whether injunction is in force beyond the 13 states represented by plaintiffs

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On Aug. 27, U.S. District Judge Ralph Erickson granted an injunction sought by Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming.

Erickson ruled that the states' success in the case is likely "because (1) it appears likely that the EPA violated its congressional authority in its promulgation of the rule at issue, and (2) it appears likely the EPA failed to comply with (Administrative Procedural Act) requirements when promulgating the rule."

The EPA rule positioned the agency to regulate "intermittent and remote wetlands" that have no connection to navigable waterways, he stated.

"The risk of irreparable harm to the states is both imminent and likely" and the greater public interest would benefit because it would ensure federal agencies do not extend their power beyond congressionally delegated authority, he concluded.

At issue now, however, is whether the injunction is in force beyond the 13 states represented by the plaintiffs.

The EPA says no. In a statement to the Capital Press, the agency noted that U.S. District Courts in Georgia and West Virginia denied requests for injunctions in other lawsuits, "agreeing with the agencies that legal challenges to the rule could only be brought in United States Court of Appeals for the 6th Circuit," which includes Kentucky, Tennessee, Michigan and Ohio.



Don Jenkins/Capital Press

An irrigation ditch in Western Washington fills with water drawn from the Skagit River. The new federal Clean Water Act rule went into effect in Washington, Oregon and California and 34 other states on Aug. 28. An injunction has kept it from being implemented in Idaho and 12 other states.

The challenges filed in federal circuit court have been consolidated in the 6th U.S. Circuit Court of Appeals.

Washington and Oregon have joined five other states and the District of Columbia in coming to the defense of the new federal rule at the appeals court.

The pro-rule coalition, led by New York, argues the rule is based on sound science and will ensure uniform enforcement in all 50 states.

"Nationwide pollution controls protect downstream states from pollution originating outside their borders," according to their brief filed Aug. 28 in the 6th U.S. Circuit Court of Appeals in Cincinnati, Ohio. "They serve to prevent the 'Tragedy of the Commons' that might result if jurisdictions could compete for industry and development

by allowing more water pollution than their neighboring states."

North Dakota Attorney General Wayne Stenehjem, who filed the lawsuit leading to the injunction, said his reading of Erickson's ruling was that it applied to all 50 states, not just the 13 that sued.

He told The Associated Press that he and other lawyers from the 13 states believe the EPA, by enforcing the rule in the 37 other states, is doing so "contrary to, and in defiance of, the court's order."

Opposition and support for the measure is split along party lines. States with Republican attorneys general filed suit, states with Democrat attorneys general support the rule.

Reed Hopper, principal attorney for Pacific Legal Founda-

tion, which has also filed suit against the agencies on behalf of Western livestock associations and private landowners, said injunctions are typically limited to parties to the suit; however, the federal government is a party to the suit, he said.

"It's a stretch to say it doesn't have nationwide applicability," he said.

Ag reacts

For the time being, the rule is in effect in the majority of the states.

The California Cattlemen's Association director of government relations Kirk Wilbur said the group is advising ranchers to be cautious about undertaking projects near water or places that are occasionally wet.

Ranchers should be wary about assurances from the EPA that the new rule won't hinder agriculture, he said.

"When an agency is attempting to regulate you, it's not always the smartest thing in the world to take their word for it," Wilbur said.

Bob Stallman, president of American Farm Bureau Federation, said the rule is "yet another example of EPA's reckless and unlawful behavior in the face of science, economics and the law ... and simply has to be stopped."

Philip Ellis, president of National Cattlemen's Beef Association, said, "If EPA actually wants to protect navigable waters as it claims, they will put this subjective and ambiguous rule to rest and start over with stakeholders at the table this time around."

Members represent ranchers, environmentalists and hunters

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anyone would be interested in the morning session, but if they were, they couldn't attend.

"This group needs to have some time to hear from each other about what their concerns are," Madden said Wednesday.

Madden's hiring represents a six-figure investment in addressing human conflict, which is the biggest challenge with wolf management, said WDFW wolf policy coordinator Donny Martorello.

Madden, based in Houston, Texas, will be paid up to \$8,000 a day to lead meetings and \$400 an hour for "remote engagement and strategic guidance." While traveling to Washington, she will receive \$200 an hour.

Wolf advisory group members represent ranchers, environmentalists, hunters and hikers. WDFW hopes the disparate panelists can reach consensus on the state's growing wolf population. Martorello said WDFW needed outside help to address deep-rooted conflicts.

"We started having the meetings without a facilitator and found it be extremely challenging," Martorello said. "We tried an in-house facilitator from the department and still found we weren't making progress on these issues."

Martorello defended closing the morning session, where the group will hear from Woodland Park Zoo vice president for conservation Fred Koontz and a teenager from Kids for Wolves.

He compared the meeting with a tour of ranches the group took in May. The group

is scheduled to hear from hunters at its next meeting.

Wolf advisory group meetings are not subject to the state's public meetings law, though the WDFW has a general policy of opening up meetings of publicly funded panels that advise the department and presumably shape decisions.

The wolf advisory group was scheduled to gather Wednesday evening at Wolf Haven International, an animal refuge in Tenino, with WDFW providing dinner.

"To me, there are transparency issues," said state Sen. Brian Dangel, whose northeast Washington district has the heaviest concentration of wolves.

Dangel opposed legislation authorizing WDFW to hire a consultant to lead wolf meetings. The legislation failed, but WDFW funded the position out of its capital budget.

Dangel called the advisory group a "bad vehicle" for setting wolf policy, which he said should be left to legislators or the Fish and Wildlife Commission.

"I've never really had faith in the wolf advisory group," he said. "It's like, mass special interest."

Madden interviewed dozens of legislators, ranchers, environmentalists and WDFW officials this year for an \$82,000 report on the wolf management conflict.

"After meeting her, I have to say she may have the ability to bridge the groups that are somewhat dug in," said House Agriculture and Natural Resources Committee chairman Brian Blake, D-Aberdeen.