

Ranchers applaud \$211 million boost to sage grouse protection

By ERIC MORTENSON
Capital Press

PORTLAND — Southeast Oregon rancher Tom Sharp has a ground-level way to judge whether greater sage grouse are responding to habitat improvement work on his land.

The birds, a candidate for listing under the federal Endangered Species Act, have spooked his horse three times in two months. They flush at the last moment, and his horse's spinning reaction the first time sent Sharp tumbling.

Anecdotal, at least, "On my ranch we're seeing sage grouse recovery," Sharp said.

Stacy Davies of Roaring Springs Ranch, also deep in the state's southeast corner, says the same thing, and has data to prove it. The ranch's resident wildlife biologist, Andrew Shields, has documented a 25 percent increase in sage grouse on the ranch's 250,000 acres of private rangeland in the past couple years.

That's the story U.S. Agriculture Secretary Tom Vilsack and the USDA's Natural Resources Conservation Service want to get across: Voluntary, collaborative efforts to improve sage grouse habitat are working.

At a media briefing Aug. 27 in Portland, Vilsack announced the USDA will provide \$211 million more in farm bill funding for Sage Grouse Initiative programs through 2018.

The new round of funding, called SGI 2.0, includes \$100 million for conservation easements, in which landowners are paid not to till sage grouse habitat but can still graze livestock. Vilsack said \$93 million will be allocated for habitat restoration work, and \$18 million for technical assistance to ranchers and other landowners.

Improving habitat on pri-

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— Tom Sharp
Southeast Oregon rancher

ate land is critical because it accounts for an estimated 40 percent of sage grouse range in 11 Western states. Producers frankly believe the work they're doing — such as removing Western juniper trees and invasive grasses, marking fences to prevent in-flight collisions and keeping livestock out of grouse breeding areas at critical times — should keep the bird off the endangered species list.

Producers and other landowners worry a listing would drastically restrict farming, ranching, logging, mining and energy development in the West. Some refer to the potential impact as "the spotted owl on steroids."

In his Portland appearance, Vilsack noted the U.S. Fish and Wildlife Service has authority over endangered species listings but added, "We'll keep our fingers crossed."

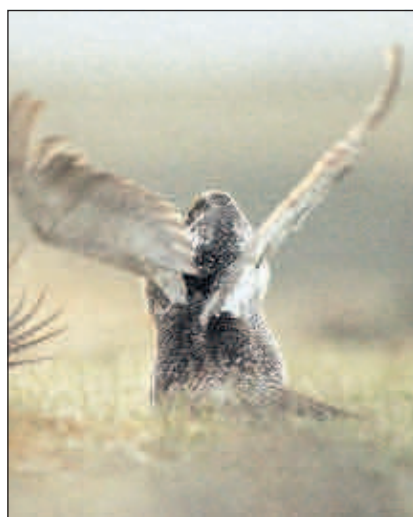
Nonetheless, many people see the voluntary work on private land as a model for future action on endangered or threatened species. So far, 1,129 ranches in 11 states are working to conserve 4.4 million acres of grouse habitat, according to NRCS.

Oregon ranchers have set the standard. Working with local soil and water conservation districts, more than 100 landowners have signed Candidate Conservation Agreements with Assurances, or CCAAs, with U.S. Fish and Wildlife. They agree to carry out habitat work and in return are sheltered from additional



Eric Mortenson/Capital Press

Southeast Oregon rancher Tom Sharp, shown in this 2014 photo, said ranchers recognize that collaborating with federal agencies on Greater sage grouse is their best move.



U.S. Agriculture Secretary Tom Vilsack has announced that his agency plans to spend more than \$200 million over the next three years on programs to protect greater sage grouse, regardless of whether the bird receives federal protections.

Jerret Rafferty/Rawlins Daily Times via AP, File

regulation for 30 years, even if the birds are listed as endangered.

Ranchers support extending the program through 2018. Brenda Richards, a Southern Idaho rancher and president of the Public Lands Council, said the Sage Grouse Initiative has been a "win-win for livestock producers and the grouse."

John O'Keeffe, president of the Oregon Cattlemen's Association, said funding and expertise from NRCS has proven to be a "fantastic partnership."

And Sharp, even though joking about grouse spooking

his horse, said ranchers support the program.

"The ranchers out here, I think they get it," Sharp said. "It's good business judgment, it's their best protection."

Requirements such as removing juniper trees and controlling invasive species improve rangeland for livestock in addition to improving habitat for sage grouse, Sharp said. Work such as marking fences and keeping cattle out of leks at critical times is not "onerous," he said.

"Managing for good ecosystem health, for good grazing practices — that's reasonable," Sharp said.

No Clean Water Act permit needed for Klamath drain

By MATEUSZ PERKOWSKI
Capital Press

Draining water from the Klamath Irrigation Project into the Klamath River doesn't require a Clean Water Act permit, a federal appeals court ruled.

In 1997, the Oregon Wild environmental group filed a legal complaint against the U.S. Bureau of Reclamation, which operates the project, for allegedly violating the Clean Water Act.

The group claimed that runoff from farms stored in Lower Klamath Lake was a pollutant that couldn't be spilled into the Klamath River without a CWA permit.

Because this water was pumped into the Klamath Straits Drain — a man-made channel that flows into the river — Oregon Wild contended it was a "point source" of pollution.

In 2012, the lawsuit was dismissed by a federal judge who held that the system is allowed to operate without a permit under a U.S. Environmental Protection Agency rule that governs transfers between navigable waters.

That decision has now been upheld by the 9th U.S. Circuit Court of Appeals, albeit for different legal reasons.

The 9th Circuit held that the Klamath Straits Drain is an improvement of a naturally occurring waterway that predated the Klamath Irrigation Project and historically moved water from the lake to the river.

Since the drain simply returns water to the Klamath River that originated from it, the transfer does not involve "meaningfully distinct" waterways and thus requires no Clean Water Act permit, the appellate court said.

The 9th Circuit's decision is good news for irrigators — if the court had ruled that a CWA permit was required, it could have had repercussions for other irrigation systems that rely on drain canals, said Dave Filippi, an attorney who represented the Oregon Water Resources Congress.

"It would obviously be a huge financial and administrative burden," he said.

While the opinion is heartening, the legal reasoning is based on the Klamath Straits Drain previously being a natural feature, Filippi said.

Because the ruling does not touch on the legality of EPA's water transfer rule, there's still uncertainty about whether the 9th Circuit would find that regulation valid, he said. "That may be left for another day."

William Carpenter, attorney for Oregon Wild, said his client is still deciding whether to request an "en banc" review of the decision by a broader panel of 9th Circuit judges.

If a Clean Water Act permit were required in this case, it would be unlikely to create major new burdens for small irrigators, Carpenter said.

"It's only a parade of horrors for dischargers who are putting large amounts of pollution in the waterways," he said.

Since the Klamath ruling is fact-specific regarding the "historic interconnectivity" of the Klamath Straits Drain, it's unlikely to have much precedential value for other cases, Carpenter said. "I really don't see how it can be used to apply to other situations."

However, there is a case unfolding in the 2nd U.S. Circuit Court of Appeals that bears on the legality of the EPA's water transfer rule, he said.

Washington's drought leaps to 'extreme'

One-third of the state goes from bad to worse in a week

By DON JENKINS
Capital Press



Don Jenkins/Capital Press

Goats graze on dry grass in Washington state, where 85 percent of the state is in an "extreme drought," the U.S. Drought Monitor reported Aug. 27. Just a week earlier, 51 percent of the state was in extreme drought. The U.S. Department of Agriculture reports that 60 percent of the state's pastures are in "poor" or "very poor" condition.

drought, the next lowest category.

The scope of the drought far surpasses Washington's two most recent statewide droughts. In 2001, extreme drought hit 6 percent of the state. In 2005, 14 percent was in extreme drought.

Washington and Oregon saw rain Friday, but it wasn't a gentle transition, according to the National Weather Service.

Parts of Western Washington received more than an inch of rain Friday and Saturday.

Precipitation totals are expected to be much less in Eastern Washington and winds gusts could increase the risk of fires spreading.

The National Interagency Fire Center reported Thursday that 12 large wildfires covering 732,608 acres are burning in Washington. The largest wildfire, the Okanogan Complex 11 miles northwest of Omak, has burned 261,650 acres, surpassing last summer's 256,108-acre Carlton Complex, which was also in Okanogan County.

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