

# Fire safety rule citations lag during California drought

By DON THOMPSON  
Associated Press

SACRAMENTO (AP) — Amid the most destructive wildfire season in more than a decade, California's fire-fighting agency amped up its warnings to thousands of property owners who weren't doing enough to protect their homes by clearing brush and other flammable materials.

But it rarely put any muscle behind the threats: Violators were fined just 4 percent of the time, down from 10 percent when the drought was declared four years ago, according to California Department of Forestry and Fire Protection statistics requested by The Associated Press.

State law requires property owners in wildfire-prone areas to clear combustible materials near buildings and allows citations starting at \$100 for those who fail to do so. A third offense brings a misdemeanor charge and a \$500 fine.

The latest statistics show

the number and rate of citations issued in the year ending June 30 were lower than when California's drought began. The rate of homeowners disobeying the law also increased during that period.

"There are people out there that won't do it unless they are forced to," said Mike Warren.

A firefighter for 40 years, including seven in California as Sequoia National Park's fire management officer, Warren wants more aggressive enforcement to protect firefighters. "Not getting the clearance done puts firefighters at risk."

CalFire recorded about 29,000 violations last year, but imposed just 1,136 fines. Four years ago, there were 12,000 violations and just under 1,200 fines.

CalFire spokeswoman Janet Upton said inadequate protection was a significant factor in the loss of homes this fall in a wildfire that burned through in Amador and Calaveras counties in the Sierra Nevada foothills.

More violations were found there than in any other CalFire unit last year. While more than a third of inspections found poorly protected properties, CalFire issued citations there at less than half the statewide rate.

"The worst penalization of a homeowner who chooses not to comply is if their house burns down," Upton said. "If you have been living in these areas and don't think it can happen, you haven't been paying attention."

CalFire Director Ken Pimlott said the general approach is to educate homeowners rather than issue citations.

"We need that tool, because there are just those individuals, for whatever reason, (who) aren't interested in complying," he said. "I would rather have those individuals understand what we're doing and now become the messenger for their community."

He also defended policies that mean enforcement varies dramatically from county to

county.

For instance, the Kern County Fire Department writes a citation for every violation it finds, by far the most of any county. By contrast, Los Angeles County writes no citations for property owners who fail to clear brush. After months of repeated warnings and inspections, Los Angeles County may eventually clear the brush and bill the property owner.

With the tougher punishment, homeowners in Kern County were 10 times more likely to comply with the rules than in Los Angeles County, statistics show.

Promoting compliance is "absolutely a priority," Pimlott said. But, he said, resources and conditions vary widely across the state, and methods of enforcement should as well.

In a bid to increase enforcement, CalFire hired more than 50 inspectors last year to aid firefighters. Both spend part of their time doing the repeat-

ed property checks that are required before homeowners can be cited for ignoring multiple warnings, but the actual citations must be written by arson investigators because they have law enforcement powers.

Inspections increased last year, but not as much as was anticipated, Upton said. She said the program "didn't pan out as well as expected" because firefighters were busy fighting drought-driven wildfires, arson investigators were seeking the causes, and inspectors were often helping homeowners with drought-related tree deaths and tree-killing bark beetles.

The department is considering adjustments to get better results, Pimlott said.

The inspectors were hired using \$900,000 from a fee imposed on rural properties to help offset firefighting costs, drawing criticism from several state lawmakers who oppose what they call an illegal tax.

"It just angers me to see that money is being spent in an inefficient way," said state Sen. Ted Gaines, R-El Dorado Hills, who represents a large swath of rural California.

He said money spent on additional inspectors should instead go to programs helping homeowners comply with the law.

Assemblyman Frank Bigelow, R-O'Neals, who represents the area burned in the Sierra foothills fire, said the money should go to thinning forests and removing brush that contributes to the spread of wildfires.

Gaines, Bigelow and Assemblyman Don Wagner, R-Irvine, said CalFire should set the same standards for issuing citations statewide. If not, lawmakers should consider requiring equal enforcement, Gaines said.

"It's one state with one challenge of wildfire statewide," Gaines said. "Everybody ought to be treated in the same fashion."

# New Mexico farm couple resume life after mine spill

By NOEL LYN SMITH  
The Daily Times

SHIPROCK, N.M. (AP) — Rows of dried corn stalks stand in front of Earl and Cheryl Yazzie's home. On a portion of land where melons grew, a pair of puppies sniffed, then nudged ruined fruit.

Months after the Gold King Mine waste spill, the couple, like many farmers in San Juan County, continues to worry about the future of their farm.

On Aug. 5, the spill released millions of gallons of toxic wastewater into a tributary of the Animas River.

The mustard yellow plume flowed through the Animas into the San Juan River, which flows through the northern region of the Navajo Nation. The Yazzie residence is about a mile north of the river that they have used to irrigate their crops.

"This was an eye opener for everybody," Earl Yazzie said about the spill and subsequent actions by government officials and residents in response to the spill.

On a recent Wednesday, Yazzie said he wants to see testing results from federal and tribal entities before he decides to again irrigate his farm with San Juan River water.

Since the U.S. Environmental Protection Agency has accepted responsibility for the spill, he said, the agency should be supplying a clean water source and start testing the soil on farms.

The toxic spill received nationwide attention and, as The Daily Times reported on Sept. 9, environmental activist and consumer advocate Erin Brockovich visited the farm while touring the Navajo Nation.

During the visit, Brockovich listened to the Yazzies as they talked about efforts to save their crops and why they opposed resuming irrigation with the suspect river water.

Cheryl Yazzie said she remains angry and disappointed by the response of government officials, especially since it seems no one "can do anything."

"A lot of people, I think,



Brennan Linsley/Associated Press

In this Aug. 12 file photo, water flows through a series of retention ponds built to contain and filter out heavy metals and chemicals from the Gold King mine chemical accident, in the spillway about 1/4 mile downstream from the mine, outside Silverton, Colo. Months after the spill, many farmers downstream in San Juan County, N.M., continue to worry about the future of their farms.

don't understand the real causalities, the effects of this. Sure, it's not going to happen this instant, but we'll see it in a few years," she said.

At the time of Brockovich's visit, officials had set up a water tank to irrigate a section of the Yazzie farm. When asked if that effort helped the crops, Earl Yazzie said it helped, but the crops did not mature.

"The whole field was lost. Our crops were a loss. It really affected me," he said.

Cheryl Yazzie recalled previous seasons when people would visit the farm to buy produce. The couple estimates they suffered a financial loss of more than \$10,000.

Earl Yazzie is a lifelong resident of this town and grew up on a farm, learning how to work the ground from his parents and grandparents.

"To see this actually happening, it made me think about things. I thought, 'This is going to destroy our farm life,'" he said.

When asked if they will be planting crops during the upcoming season, Cheryl Yazzie said she is opposed to that if the river water is going to be the source of irrigation for the crops.

"We don't want that water on our land," she said,

adding she remains proud of the Shiprock residents who opposed reopening the irrigation canal that delivers river water to the farms.

The answer is not as easy for Earl Yazzie, who said he would have to evaluate the situation in the spring. He reiterated the need for testing.

An effort by federal lawmakers to address the spill came on Dec. 18 when New Mexico's Democratic U.S. senators, Tom Udall and Martin Heinrich, along with U.S. Rep. Ben Ray Lujan, D-Santa Fe, included a provision to support monitoring efforts in the end-of-year appropriations bill before Congress. That provision directs the EPA to coordinate with states and tribes impacted by the spill to develop a plan for independent monitoring, according to a joint press release from the lawmakers.

It also directs the EPA to provide support for the monitoring efforts of states and tribes.

Udall said in a press release that the provision will help hold the EPA accountable and ensure it keeps its commitment to prioritizing transparency in water quality monitoring.

"If a situation like a flash flood or thunderstorm were

to cause contamination in the water once again, we need the EPA making determinations and giving prompt warnings to impacted communities based on the best scientific advice," Udall said.

Lujan was pleased that the provision was included.

"There are serious concerns about the effects that this spill will have on our communities in the months and years to come, and it is critical that there is a coordinated effort to conduct long-term monitoring of the Animas River," Lujan said in the release.

Heinrich acknowledged that families deserve to be compensated for damages incurred because of the spill, and he said he will continue to work on overhauling federal hard rock mining and abandoned mine policies. Mining interests have successfully blocked efforts to update the Mining Act of 1872, which allows mining companies to obtain claims for a small investment and does not require companies to clean up inactive or abandoned mines.

EPA officials and an agency contractor, using taxpayer dollars, were working to clean up the Gold King Mine when they caused the spill.



Courtesy of ODFW

OR-3, a three-year-old male wolf from the Imnaha pack, is shown in this image captured from video taken by an ODFW employee on May 10, 2011, in Wallowa County, Ore.

# Groups seek review of Oregon wolf decision

State appeals court petitioned to review records leading to commission decision

By CARL SAMPSON  
Capital Press

PORTLAND — Saying the state acted prematurely, three environmental groups on Dec. 30 challenged the removal of Oregon Endangered Species Act protection for gray wolves.

The Center for Biological Diversity, Oregon Wild and Cascadia Wildlands have petitioned the Oregon Court of Appeals to review the November decision by the state Fish and Wildlife Commission to remove gray wolves from the state's endangered species list.

The groups are not seeking a stay or injunctive relief, only to have an impartial review of the decision, said Nick Cady of Cascadia Wildlands.

"What we're challenging is that rule wasn't based on science," he said.

The state Department of Fish and Wildlife will have to provide all records leading up to the decision, Cady said. He could not estimate how long it would be before the review takes place.

"ODFW is confident the department followed statutory and legal requirements in its process and that the commission acted legally when it delisted wolves from the state ESA," said Michelle Dennehy, wildlife communications coordinator for the department, in an email.

Oregon currently has about 82 wolves, most of them in the northeastern corner of the state. Ranchers there have faced livestock losses because of wolves attacking cattle, sheep and guard dogs.

"We always knew any decision would be appealable," said

rancher Todd Nash, chairman of the Oregon Cattlemen's Association Wolf Committee. "Our response will be to seek legislation to back up what the commission voted on and put it in law."

He said the state wolf management plan already dictates how wolves are managed.

"If (the review) doesn't change what the wolf management plan is, what will it do?" he asked.

In the eastern one-third of the state, wolves are not protected under either state or federal endangered species laws but are managed under the state's wolf management plan.

In the western two-thirds of Oregon, wolves are protected under the federal Endangered Species Act and the state's wolf management plan.

The environmental groups allege state wildlife managers violated Oregon's Endangered Species Act and ignored the best scientific evidence available and the overwhelming number of people who commented against the delisting proposal, said Rob Klavins, northeast Oregon field coordinator for Oregon Wild.

"By their own analysis, wolves are extinct in 90 percent of their range in Oregon," Klavins said.

"Our scientific analysis was based on documented and verifiable information and used a peer-reviewed population viability model," Dennehy said.

She said the commission's decision to delist Oregon's wolves was based on the five factors under the ESA:

- The wolves' rapidly expanding range in Oregon.
- The species' growing population.
- The stability of the habitat.
- That over-use of wolves is not likely to occur.
- The protections in the wolf management plan remain in place regardless of any ESA listing.

# Judge questions Wyoming ban on open lands data collection

CHEYENNE, Wyo. (AP) — A federal judge has refused to dismiss a lawsuit contesting two new Wyoming laws barring people from gathering information about agriculture and other industries on private and public lands.

U.S. District Judge Scott Skavdahl in Casper made the ruling Monday after questioning the constitutionality of the laws.

The Wyoming Legislature passed the two similar laws earlier this year. The measures specifically prohibit the taking of photos or gathering of other data while trespassing on open land.

A coalition of environmental, animal rights and other groups filed the suit, saying the laws try to prohibit gathering information used to challenge resource management

decisions and expose animal cruelty.

Wyoming officials sought dismissal, arguing the groups lacked standing to challenge the laws. Nobody has been prosecuted under the laws yet.

Skavdahl allowed the case to go ahead, citing the U.S. Constitution's guarantees of free speech and equal protection under the law. He wrote that he has "serious concerns"

about the constitutionality of the statutes.

Michael Wall, an attorney for the Natural Resources Defense Council, said in a release, "A law that makes sharing photos of Devils Tower or Yellowstone a punishable offense just isn't consistent with Americans' right to free speech."

Wyoming Attorney General Peter Michael declined

to comment.

The Legislature passed the laws after a group of Wyoming ranchers and landowners sued a conservation group they said trespassed on private land to collect water-quality samples.

The groups suing — the NRDC, People for the Ethical Treatment of Animals, Center for Food Safety, Na-

tional Press Photographers Association, and Western Watersheds Project — said rather than prohibiting data collection, Wyoming could simply increase the penalties for traditional trespassing.

The state can't constitutionally prohibit people from gathering information and conveying it to government agencies, they argue.