

EPA supported What's Upstream between 2011 and 2016

EPA from Page 1

to claims by What's Upstream that farmers are unregulated polluters who let cows wade in rivers.

"This indication from Ray Starling is important. It gives us optimism some of these things will be dealt with," Baron said.

Between 2011 and 2016, the Environmental Protection Agency financially supported What's Upstream, which was organized by the Swinomish Indian Tribe and several environmental groups. They hoped to influence Washington state lawmakers to vote for stricter limits on farming near waterways.

The campaign included a website, radio ads and a letter-writing campaign, but billboards in Olympia and Bellingham attracted the attention of federal lawmakers. The EPA withdrew its support soon after Senate Agriculture Committee Chairman Pat Roberts, R-Kan., called the billboards "disturbing" and "malicious."

The tribe, funded by an EPA grant passed through the Northwest Indian Fisheries Commission, had a budget of some \$655,000 for the campaign. The EPA's inspector general has yet to release a congressionally requested audit into how the money was used.

Some federal lawmakers accused the EPA of breaking a federal law prohibiting the grant from being used to lobby policymakers. The Washington Public Disclosure Commission recently ruled What's Upstream didn't need to report its political activities. Although the campaign advocated mandatory 100-foot buffers, it did not cite a specific bill and did not need to register as a lobbying effort, according to the PDC.

The PDC was responding to a complaint from Save Family Farming that named a tribe official, Seattle lobbying firm Strategies 360 and then-EPA Northwest Administrator Dennis McLerran. The Trump administration has not yet appointed a new region administrator.

Baron said Save Family Farming will ask McLerran's successor to get back federal money spent on What's Upstream and ensure the tribe doesn't resume the campaign.

"Given the severe disappointment with the state taking this issue seriously, it's gratifying the federal government with the new administration is considering this a pretty serious issue," Baron said.

Starling said the White House supports trade. Trump withdrew the U.S. from the Trans-Pacific Partnership, which many farm groups supported. "The president is committed to negotiating agreements that secure open and equitable access to foreign markets," Starling said.

Starling did not talk about immigration policy, but said farm labor will be another top priority.

"We are getting to a point of push comes to shove when it comes to access to a reliable workforce. That is something we definitely have to work on for agriculture," he said.

Starling said farmers and ranchers have been the victims of "one regulatory proposal after another."

"We have to halt the regulatory onslaught," he said. "The administration will never lose sight of the fact that the number one farm preservation tool we have is farm profitability, not buzzwords, not catch phrases, or a federal grant program."

'We saw the writing on the wall. The end was near'

BATTLE from Page 1

If the litigation proves successful in scaling back the monument's size, it would also effectively thwart potential restrictions on cattle grazing.

Although inclusion in the monument doesn't automatically prohibit grazing — as it does most commercial logging — critics say ranchers will inevitably face increased scrutiny and curtailments.

"Even though the language of the proclamation says grazing can continue, they just regulate you out of business," said Karen Budd-Falen, an attorney specializing in public land disputes.

Under the original Cascade-Siskiyou National Monument proclamation issued by President Bill Clinton, the U.S. Bureau of Land Management had to analyze whether grazing interferes with "protecting the objects of biological interest."

If necessary, the agency was ordered to retire allotments.

In 2008, the study found "negative interactions between livestock and individual biological objects of interest," meaning that grazing was "not compatible" with their protection in some locations.

This determination convinced Mike Dauenhauer and several other ranchers to sell their grazing rights to environmental groups for an undisclosed amount.

'Writing on the wall'

"The bottom line was we saw the writing on the wall. The end was near," Dauenhauer said. "We figured anything was better than nothing, and the BLM was going to give us nothing."

Dauenhauer said he's skeptical of the study's objectivity and believes the outcome was largely predetermined.

In his view, the biological diversity of the area was retained through more than 100 years of grazing by cattle, which have an impact on the land similar to that of deer and elk.

"I think the cows are part of the biological diversity. I don't think they hurt it in any respect as long as they're managed correctly," Dauenhauer said.

When the monument was first established, Bradshaw felt as though he'd largely dodged a bullet — fewer than 30 acres of his BLM grazing allotment were included.

Now, roughly half of Bradshaw's 10,000-acre BLM allotment is encompassed by the monument.

If grazing is eventually restricted on that allotment, he could still graze cattle on private land and a national forest allotment.

GRAZING from Page 1

Jim Pena on March 10 and copied it to USFS Chief Tom Tidwell stating the way the allotments were monitored and the issuance of the letters violated USFS policy. Non-compliance letters are a first step in the loss of grazing rights, he said.

"There appears to be a reluctance to resolve this issue in an appropriate manner by both (USFS Tonasket) Ranger Matt Reidy and (Okanogan-Wenatchee National Forest) Supervisor Mike Williams," Newhouse wrote to Pena.

In a March 24 response, Pena wrote that he fully supports grazing allotments, that issues of concern arose from monitoring and that non-compliance letters did not mean any decisions had been made regarding permits.

"The Okanogan-Wenatchee National Forest does not intend to shorten, limit or in any other way reduce permitted grazing during the 2017 field season," Pena wrote.

USFS personnel will work "closely and collaboratively to resolve issues" during Annual Operating Instruction meetings with ranchers this spring, Pena wrote.

Monitoring data will be shared with ranchers and joint monitoring will take place this season, he wrote.

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Mateusz Perkowski/Capital Press

Jake Groves, operations director for the Murphy Co., examines a forest stand near the Cascade-Siskiyou National Monument. Public forestland on which the company depends for timber were recently included in the monument's expansion.

However, losing the BLM acreage would disrupt the continual availability of forage through the seasons, potentially rendering his cattle operation economically unsustainable.

"We won't be able to use our rotational grazing system," Bradshaw said. "We would lose half our grazing season."

Timber impacts

For the Murphy Co., which owns forestland and plywood mills, the impacts of the monument's growth are two-fold.

Up to half the company's timber volume comes from federal land during some seasons, so the expansion equates to a loss of raw material in the long term, said Jake Groves, its operations director.

"It's wood out of the wood basket," Groves said. "It's just been a constant erosion of the available land base, from our perspective."

Mills are geographically limited in sourcing timber, as some logs are too distant to transport economically, he said.

Logs from the Southern Oregon region are peeled at the firm's facility in White City, Ore., for raw veneer, which is used in plywood and engineered wood at its other plants.

In all, the company employs nearly 800 people and invests in state-of-the-art technology to process logs efficiently, but none of that equipment can operate without wood, Groves said. "This stuff can't make veneer out of air."

Aside from the timber supply, the monument expansion affects Murphy's private forests in the region, he said.

Of the nearly 50,000 acres owned by the company in Southern Oregon, roughly 4,000 acres are surrounded by the monument or are adjacent to it.

Groves is concerned about overstocked federal forests fueling wildfires that will spread

onto Murphy's property, as well as the public outcry in reaction to logging near the monument.

Visitors often don't realize that private inholdings are within its boundaries, he said.

"It changes the social license. The first time people see logging trucks rolling through the monument, questions get asked," Groves said. "I don't have unlimited hours in the day to explain our actions."

Proponents of the monument say it's economically beneficial, bringing in hunters, fishermen, snow-shoers, hikers and others.

"There's a huge amount of tourism-related revenue coming into this area," said Dickey of the Friends of the Cascade-Siskiyou National Monument.

The monument is also valuable for university scientists and students who research its bountiful animal and plant life, he said. "It's really great to be able to use the monument as a background for teaching environmental education."

Lawsuits filed

For the Murphy Co., though, the economic threat is big enough to justify filing a lawsuit that asks a federal judge to declare the expansion unlawful.

Other cases have been filed by the American Forest Resources Council, which represents timber interests, and the Association of O&C Counties, which represents counties that depend on revenue from federal timber sales.

The three complaints rely on the same basic theory: A majority of the new monument acreage consists of so-called O&C Lands, which the federal government has dedicated to sustained timber production.

By effectively banning most logging on those O&C Lands, the monument expansion was unlawful, the lawsuits claim.

Several environmental groups have intervened as defendants in the lawsuit filed by Murphy Lumber, arguing their interests "may not be adequately represented by the existing parties to the litigation."

As reasons for their intervention, the environmentalists cite "the federal government's frequent reluctance to adequately protect the O&C lands" and the governmental transition to a "president and federal agency leadership who did not participate in the review and expansion."

Environmentalists are also seeking intervenor status in the case filed by the Association of O&C Counties.

Based on history, it's not likely the Trump administration would overrule the environmental intervenors to reach a settlement scaling back the monument's size, said Karen Budd-Falen, the natural resources attorney.

"They can do that, but it doesn't happen very much," she said. "It's really rare."

The U.S. Interior Department, which oversees the BLM and the national monument, is now headed by Ryan Zinke, a former Montana congressman who supports multiple use of public lands, Budd-Falen said.

However, it's still too early to tell how much sway the Interior Department will have in these cases, compared to the influence of the U.S. Justice Department, she said.

"I just don't know how the new administration will handle it," Budd-Falen said.

Obama's impact

The Cascade-Siskiyou National Monument is one of several designations made by the Obama administration that have stirred controversy, said Ethan Lane, executive director of the Public Lands Council, which advocates for cattle grazing.

"It certainly has been on our radar," he said.

Altogether, the Obama administration used the Antiquities Act to establish or expand more than 30 national monuments totaling 550 million acres of land and water, Lane said.

The massive scope of Obama's designations has prompted calls for Trump to shrink monument boundaries, he said.

Theoretically, Trump could decrease the size of these monuments as swiftly as Obama increased them, Lane said. "There's no red tape or analysis or box-checking required."

However, the overly liberal use of the Antiquities Act — which allows a president to declare national monuments on public land and restrict its uses — has also compelled demands to reform the statute, he said.

"It's been turned from a tool for protection into a large land-planning tool, and that's just not what was intended," said Lane.

For example, Sen. Lisa Murkowski, R-Alaska, has introduced a bill that would require Congress to approve a national monument designation, in addition to the governor and legislature of the state it's in.

That language, or similar provisions, could also be rolled into a broader package of legislation, Lane said. "There are a lot of resource issues that need attention."

Environmental groups that support the Cascade-Siskiyou National Monument see some of the hardships claimed by the ranching and timber industries as overstated.

The Soda Mountain Wilderness Council used private funds to purchase grazing leases in several allotments from willing ranchers, said Dave Willis, the organization's chairman.

Ranchers who refused the buyouts have continued grazing cattle on some allotments — such as Dixie and Buck Mountain — that failed to meet several grazing standards set by BLM to improve rangeland health, he said in an email.

Forest management isn't entirely banned within the monument, as the proclamation allows timber harvest that's part of an "authorized science-based ecological restoration project," Willis said, citing the monument proclamation.

Much of the O&C Lands within the expanded boundary are classified as "late-successional" and "riparian" reserves, or have reforestation problems, he said. "The ecological benefits of protecting these relatively very few acres exceed their commercial timber volume value."

Monitoring data will be shared with ranchers

GRAZING from Page 1

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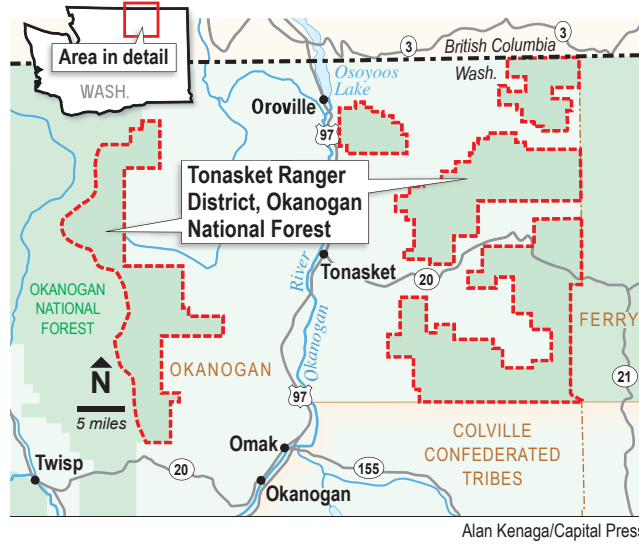
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Alan Kenaga/Capital Press

gressman and ranchers have raised over the monitoring process having been conducted in a manner that appears inconsistent with USFS policy and procedures," said Will Boyington, a Newhouse spokesman.

"It's nothing more than horse manure and white wash," DeTro said of Pena's letter.

One registered letter of non-compliance for overgrazing went to a permittee who had no cows on the allotment, DeTro said. In another case two monitoring sites were not on the rancher's allotment, he said. At the least those instances constitute "gross negligence," he said.

Permittees were not notified or invited to participate in monitoring despite a clear policy requiring it, Newhouse wrote in his March 10 letter to Pena.

None of the permittees were warned of potential issues before receiving non-compliance letters three months later and none of them received any documentation, Newhouse wrote. That also violates USFS policies, warrants a full review and the non-compliance letters should be voided or amended, he wrote.

Reidy, the Tonasket ranger, said policies were not violated because permittees were told during AOI meetings in 2016 that monitoring would occur. Notification requirements depend on the circumstances, he said.

"We will improve things for 2017. We will call them (permittees) a week before the monitoring so they have an opportunity to join us. In 2016, we didn't do that in all instances,"

Reidy said. "I'm absolutely committed to improving our relationships, coordination and communication."

Newhouse wrote to Pena that most of the permittees "are third- and fourth-generation families who have operated the allotments for decades," have had good relations with the USFS and never received non-compliance letters.

The Washington Farm Bureau and Cattle Producers of Washington also sent letters to the USFS objecting to the non-compliance letters.

The unprecedented number of letters has "deeply insulted these (rancher) families and broken trust between the agency and the public," said Nicole Kuchenbuch, a rancher and president of the Okanogan County Farm Bureau.

Lengthy meetings between ranchers and Reidy resulted in the ranger being unwilling to be held accountable and refusing to answer questions, Kuchenbuch said.

"We had two meetings with a small group of permittees and ranching advocates and had some really, really good discussions," Reidy said, adding that he rescinded one letter because he had made an honest mistake.

In the rest of the cases, he said, letters of compliance will be issued once monitoring shows collective solutions have worked.

Last season, a USFS range technician threatened to bring

in federal marshals and have a rancher arrested if he didn't have his cattle off an allotment on time, said DeTro, who called USFS actions like the "Gestapo."

"Never before have we been treated with such unwarranted disrespect from the Forest Service. ... We are asking them to rescind the letters and make a good faith effort to rebuild rapport in our community," Kuchenbuch said.

Kuchenbuch, Newhouse, DeTro and the Washington Farm Bureau made the point that USFS ignored repeated requests for proof that ranchers had overgrazed, grazed in unauthorized areas or damaged streambanks.

One family was sent an official Freedom of Information Act case number and a bill for \$175 even though it did not submit a FOIA request but simply wanted access to its file, Newhouse wrote to Pena. Newhouse requested ranchers be allowed full access to their files without cost.

The large increase in non-compliance letters was because more grazing violations occurred because parts of the allotments had been burned in 2015 wildfires, Reidy said.

It's taken time to compile data supporting the non-compliance letters but the information is being shared in this year's AOIs, mailed or picked up by ranchers at the district ranger office, he said.