

Contempt ruling against Oregon water regulators upheld

By MATEUSZ PERKOWSKI
Capital Press

Oregon water regulators were correctly held in contempt of court for failing to comply with an irrigation settlement deal, according to the state's Court of Appeals.

The state's Water Resources Department must also pay more than \$150,000 in litigation expenses to several Harney County irrigators who filed a lawsuit to enforce the agreement, the appellate court said.

Sarah Liljefelt, attorney for the plaintiffs, said she wishes the contempt case hadn't been necessary to get OWRD to follow through on its obligations and bring regulatory certainty for irrigators.

"I hope the contempt action will bring the department back to the table to give finality as to how and how not it will regulate water in the future," she said.

The dispute stems from the agency's enforcement of water rights along the Silvies River and the Foley Slough, which flows from it.

The OWRD claimed that it had to protect senior irrigators after other water users placed a rock weir in the Silvies River to force more water into Foley Slough without the agency's approval.

Irrigators who relied on water from the Foley Slough challenged the OWRD's enforcement orders in 2002, alleging the agency cut off water to the



entire waterway instead of regulating individual points of diversion.

Under the settlement deal reached in 2006, OWRD agreed to assess both sets of irrigators a per-acre fee to build a water control device across the river and slough, allowing water to be split proportionally among them.

The agency estimated the project's cost would top \$435,000, which prompted OWRD and some water users to examine alternative ways to distribute the water as part of a pilot project.

The agency claimed these improvements allowed it to measure and control water in compliance with the settlement deal.

After OWRD withdrew its court motion to collect money for the device in 2015, several irrigators along the Foley Slough accused the agency of contempt of court for not abiding by the settlement.

In 2019, a state judge ruled that OWRD had committed contempt of court by breaching the deal, which the agency appealed, arguing the court judgment that ended the lawsuit didn't incorporate the settlement's terms.

Even if the settlement was incorporated into the judgment, OWRD claimed

it had come up with an alternative to the water control device that still satisfied the deal's terms.

The Court of Appeals has now rejected those arguments.

"Because the record contains evidence to support the trial court's finding that the parties intended to incorporate the settlement agreement, respondents' argument to the contrary fails," the appellate ruling said.

The Court of Appeals also determined that the OWRD willfully violated the agreement's terms and ordered the agency to pay the plaintiffs \$156,000 in attorney fees and other costs.

Liljefelt, the plaintiffs' attorney, said that her cli-

ents were willing to negotiate another agreement for regulating water in the river and slough.

The OWRD wasn't willing to enter into a new deal, which forced the irrigators to file a lawsuit because they feared the agency would again shut off water to the slough.

"Our clients just want finality as to how water is managed in the system," Liljefelt said. "Our goal isn't to require the department to install an expensive measurement device if it's not needed."

A representative of OWRD asked Capital Press to submit questions about the appellate court's ruling in writing but hadn't yet responded as of press time.

Biden calls for more investment in Western wildfire management

By BRAD CARLSON
Capital Press

BOISE — Larger wildfires and longer seasons mean the U.S. must invest more in wildfire management and rural communities, President Joe Biden said during a Sept. 13 visit to the National Interagency Fire Center in Boise.

"From the Yellowstone fires to today, all has changed in a drastic way," he said. "We are not going back."

For example, the Dixie Fire in California now totals nearly 1 million acres compared to the 800,000-acre fire that consumed just over one-third of Yellowstone National Park 33 years ago.

Biden also visited Sacramento to tour wildfire damage in California.

In Boise, Idaho Gov. Brad Little told the president federal agencies have been key partners with states and others in reducing hazardous fuels across jurisdictional lines, but the Department of Justice could help by keeping approved projects from getting hung up in court.

He also thanked Biden for getting federal firefighters into the field promptly in this year's busy Western wildfire season.

Little said in a post-event statement that it is imperative to keep lines of communication open with federal partners, up to the president, on ways to build a more fire-resilient range and forest ecosystem. Two-thirds of Idaho is public land managed by the federal government.

Washington State Forester George Geissler said at NIFC that safe, effective fire management requires cooperation among multiple agencies. State firefighters, for example, so far have responded to about 33,000 of the country's 44,000 fires. The cooperation also impacts rural departments and projects that



President Joe Biden listens to Idaho Gov. Brad Little during a visit to the National Interagency Fire Center in Boise.



President Joe Biden speaks during a visit to the National Interagency Fire Center in Boise, Idaho.

reduce wildfire fuel such as weeds.

"You have the full support of my administration," Biden said.

"We owe you more than just our thanks," he said. "We owe you what you need."

Proposed federal Fiscal 2022 budgets included a 62% increase in hazardous-fuel treatments by the U.S. Department of the Interior and USDA Forest Service.

Biden said his spending bill sets aside \$14 billion

for disaster needs including \$9 billion over a decade for communities hit by wildfire and drought.

The administration this year also bolstered federal firefighter pay, extended seasonal work periods and continued the transition to a more permanent wildland firefighting force; used the Defense Production Act to restart production of short supplies including fire hose; increased sharing of satellite images for monitoring wildfires; directed the Environmental Protection Agency to send smoke and air-quality information directly to Americans' mobile phones; and with Congress made other investments.

More work needs to be done, including reducing the impact from climate change, Biden said.

"Failure to curb pollution is going to take its consequence," the president said.

Idaho State Climatologist Russ Qualls of the University of Idaho said in an interview that in the Northwest, climate change ultimately could lead to more summer lightning in addition to extended periods for fuels to dry.



Diamond M partner Justin Hedrick rounds up cattle on the ranch's winter grazing ground in southeast Washington. A federal judge Sept. 10 dismissed a lawsuit seeking to drive the ranch out of the Colville National Forest in northeast Washington.

Judge tosses suit that targeted Diamond M

By DON JENKINS
Capital Press

A federal judge has dismissed a lawsuit that sought to drive Diamond M ranch cattle out of the Colville National Forest in northeast Washington.

U.S. District Judge Rosanna Malouf Peterson in Spokane rejected claims that the Colville forest's 2019 management plan failed to address how grazing on Diamond M allotments affects wolves.

Peterson ruled Friday that the plan didn't harm wolf advocates because it's not the document that authorizes Diamond M to graze 736 cow-calf pairs on five allotments. Grazing permits, individual allotment plans and operating instructions allow the grazing, she said.

"This is good news," Diamond M partner Len McIrvin said Monday. "That is the right ruling."

Wildearth Guardians, Western Watersheds Project and Kettle Range

Conservation Group alleged the 2019 plan violated the National Environmental Policy Act and the National Forest Management Act.

Kettle Range director Tim Coleman said the groups will consider appealing.

"You can't say the forest plan doesn't have an effect. It most definitely has an effect," he said.

The lawsuit was one of two filed last year by environmental groups seeking to curtail or stop grazing in the 1.1 million-acre Colville National Forest.

The second suit, still pending, alleges grazing in the national forest harms the environment. Peterson, an Obama appointee, presides over that suit as well.

The Diamond M, the region's largest ranch, has been grazing cattle in the Colville National Forest for more than 75 years. Wolf advocates complain that the Washington Department of Fish and Wildlife has

been too quick to shoot wolves for attacking Diamond M cattle.

The ranch intervened in the lawsuit and vigorously defended its practices. The Forest Service argued that the state's growing wolf population belied claims that it was harming wolves.

Efforts to obtain comment from the agency on Peterson's ruling were unsuccessful.

The unresolved suit was filed against the Forest Service by the Lands Council, Western Watersheds Project and Kettle Range Conservation Group.

The suit alleges the 2019 forest plan allows excessive grazing that damages the ecosystem.

Peterson has allowed the Washington Cattlemen's Association, Washington Farm Bureau, the Stevens County Cattlemen's Association and Public Lands Council to intervene in the lawsuit to defend grazing.

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2015 LEXUS IS350 4DR
VIN = JTHBE1D2XF5017006
Amount due on lien \$1575.00
Reputed owner(s)
BYRON REED SHINN
DENALI A DIVISION OF NUVISION C.U

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2885 NATIONAL WAY WOODBURN, OR
2013 HONDA CIVIC 4DR
VIN = 19XFB2F89DE243123
Amount due on lien \$1535.00
Reputed owner(s) NANCY G & DIEGO HERNANDEZ GARCIA
OREGON STATE C.U

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2020 TOYOTA CAMRY 4DR
VIN = 4T1G11BK7LU003423
Amount due on lien \$1535.00
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PATRICK K GROSHONG
TOYOTA MOTOR CREDIT CORP

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1999 SOWI 32FT MH
VIN = 3FCMF5350XJA18033
Amount due on lien \$1435.00
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RICKI W & LISA L WILEY
E TRADE CONSUMER FINANCE CORP

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2009 AUDI A4 SW
VIN = WAUXF78K59A144580
Amount due on lien \$1435.00
Reputed owner(s)
A.N GAIDAICHUK & PIOTR TARLOVSKI

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
1993 PTRB 379 TRK
VIN = 1XP5DB9X1PD330978
Amount due on lien \$1435.00
Reputed owner(s)
SHAFFER TRANSPORTATION SERV.

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2019 JEEP CHEROKEE 4DR
VIN = 1C4PJMCB9KD141225
Amount due on lien \$1535.00
Reputed owner(s)
IOSIA F OFOIA
NAVY FEDERAL C.U.

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2001 UTIL REEFER TRL
VIN = 1UYVS35321U250405
Amount due on lien \$1575.00
Reputed owner(s)
UTILITY TRAILER SALES OF OREGON LLC

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2017 CHEV VOLT HB
VIN = 1G1RA6555HU166852
Amount due on lien \$1575.00
Reputed owner(s) KATRIN GIST
WELLS FARGO BANK ACAR LEASING LTD

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2012 VOLVO VNL TC
VIN = 4V4NC9EH2CN558329
Amount due on lien \$1575.00
Reputed owner(s)
BEINARU COSMIN
VFS US LLC

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2885 NATIONAL WAY WOODBURN, OR
2011 WANC VN
VIN = 1J1V53288L369057
Amount due on lien \$1575.00
Reputed owner(s)
BKL TRANSPORT LLC
BMO HARRIS BANK NA

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2017 DODGE CHARGER 4DR
VIN = 2C3CDXJGKHG60905
Amount due on lien \$1575.00
Reputed owner(s) LAURETTA H & ROBERT A WHITE
CENTRAL WILLAMETTE C.C.U

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2020 TOYOTA COROLLA 4DR
VIN = JTDDPRAE2LJ043829
Amount due on lien \$1415.00
Reputed owner(s)
GEICO

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COPART OF WASHINGTON INC
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2014 DODGE CHARGER 4DR
VIN = 2C3CDXCT2EH338054
Amount due on lien \$1415.00
Reputed owner(s)
JOSE & JOSE LEIVA
TD AUTO FINANCE LLC

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2019 HYUN ELANTRA 4DR
VIN = 5NPD74LF7KH452621
Amount due on lien \$1435.00
Reputed owner(s)
BRENDA L GONZALES
HYUNDAI MOTOR FINANCE CORP

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2017 HONDA CIVIC 4DR
VIN = SHHF7H2XHU403692
Amount due on lien \$1435.00
Reputed owner(s)
S NARANJO-PEREZ & A KLUTZ
JPMORGAN CHASE BANK NA

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2014 TOYOTA SIENNA VAN
VIN = 5TDYK3DC1E5524085
Amount due on lien \$1435.00
Reputed owner(s)
TIFFANY & JOSHUA FLANAGAN
TOYOTA MOTOR CREDIT CORP

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COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2017 AUDI Q3 4DR
VIN = WA1GCCFSXHR09063
Amount due on lien \$1535.00
Reputed owner(s)
LARRY H MILLER TOYOTA PEORIA