

## Quick takes

### Highway 395 revamp

Need better street lights on 395, Elm, 11th, Highland and Hermiston Ave. would help.

— Dana Storms Tassie

I am looking forward to when this is done. It has been needing to get done for quite awhile.

— Katie Fetterhoff

What about all the jerks that block all the intersections?

— Richard Ryan III

### Pendleton public relations

I do think a person should be hired to present a unified and cohesive view of what the city and the city council are trying to share with the public.

— Marlee Goodnight Dickerson

That's the city council's job: To speak on behalf of the city.

— Nick Ritzer

No, they need to responsibly budget every dollar into fixing the failing infrastructure of this crumbling city.

— Kei Leigh

I think that is part of the city manager's position. So we should not need to be paying another person to do it.

— Cody Cimmiyotti

### Two-tiered minimum wage

So disappointed. It's already been determined that \$15 per hour is barely livable. Why didn't they start there?

— Merielle Bernier

Minimum wage was never meant to be a living wage!

— Jill Reed

Just be happy it's a two-tiered program.

— Nicole Jackson

### Armed protesters reach out

Only in Eastern Oregon would a sheriff even meet with these people. Yikes!

— Michael Conrad Mettler

Two good men are in prison tonight for unjust reasons. And any liberty loving American should be upset by this.

— Joe Rigney

Make no mistake about it. They are terrorists, and we should treat them as such.

— Joshua Cliff

Let them migrate to Eastern Oregon State Prison.

— Dennis Kreutz

### Lehnert to run for sheriff

This guy has my vote. Known him since high school, heck of a guy great dad, excellent policeman in my opinion, the perfect man for the job.

— Justin Peek

If he won't protect the people from tyranny of the feds, he's not worth it. If he won't follow the Second Amendment he's not worthy. If he will, great!

— Jimmy Sullivan

One of the great lessons of the Twitter age is that much can be summed up in just a few words. Here are some of this week's takes. Tweet yours @Tim\_Trainor or email editor@eastoregonian.com, and keep them to 140 characters.

# Owning land, Henry VIII and the West

By TOM GAGNON

With recent efforts to convey federal public lands to state or private ownership, it is good to review just what private and public lands are, what rights people have on these lands, and to think about how your access rights to huge areas of the West could change.

But first we have to go back a couple of years. Henry VIII was not only the world's worst husband, he was also one of the first realtors. He was so ambitious that he makes Donald Trump seem humble. Henry built the Royal Navy, he led wars against France and the Pope, he had Catholics burned, and he had church lands and buildings to confiscate. To do all these things he needed money, lots and lots of money. His way of getting it was to sell real estate. But just what would a buyer be getting?

He would be getting five rights. These rights were: The Right of Possession, The Right of Control, The Right of Enjoyment, The Right of Disposition and The Right of Exclusion.

The Right of Exclusion is the most important right to this discussion. This is the right to keep other people off the land. Today this is what gives land owners, and sometimes leaseholders of state-owned lands, the right to put up fences, lock gates, and hang "No Trespassing" signs.

As we shall see, the leasing of state-owned land, in the various states and with

different laws, can cause a lot of contention.

Henry VIII, if through reincarnation were recently born in the West, would go through half a dozen wives and be a qualified realtor. Henry would be right at home and understand our ranchers and politicians and private property, but he would find this public-land thing awfully confusing.

As the name suggest, public land is owned by the public. You might say that this one-third of America is "collectively owned," which sounds a little Soviet, but read on and you will see why it's a very good thing for all of us.

Very familiar to everyone are the national parks and national forests. There are also state parks and forests, so that's already four types of public lands. The significance of this is that different types of public lands are managed with different goals in mind.

For example, parks are managed mostly for conservation and recreation, whereas forests are often managed for timber, cattle grazing, mining, and just about any economic activity, as well as conservation and recreation. It comes as a surprise to a lot of people, but the U.S. Forest Service happens to be the nation's largest road-building outfit.

Central to many recent conflicts are the BLM lands. The BLM manages 192,200,000 acres in the Lower 48, and another 72,200,000 in Alaska, totaling 264,400,000 acres. Though many maps of

the U.S. have a color coding that shows national parks, national forests, wildlife refuges, sometimes military lands, and often Indian reservations, too, the BLM lands, which are sometimes the majority of the landscape, are often not indicated at all.

Some people, as in the case of some ranchers and private owners, like it this way. This enables them to give many people the impression that they own all the land you can see. In fact, however, they might have nothing more than a grazing permit. In this case, if it's federal public land, they do not have a Right of Exclusion, but you better not eat the grass.

If a rancher has a "grazing allotment" on federal land, he will hold this with a "grazing permit." A permit, although often treated very much like a type of property, is in fact just a permission slip. This permission slip can be taken away, with cause, such as not paying the ultra-low fees, if the managing federal agency has any backbone.

This is exactly the case with Nevada's rancher Cliven Bundy. He has used guns, a large family, a group of anti-federal-government fanatics and the media to successfully, so far at least, make complete fools out of the landlord, which in this case is the Bureau of Land Management, and the U.S. public.

If land is state-owned, the lessee, with his grazing permit, might have The Right of Exclusion. Colorado and Texas are like this. In states

that currently do not grant this right, this could change with the legislative whim of the state. In fact, given the mood of Wyoming's Tea Party legislature, this is very likely to happen soon, and it will be a very bad thing for 99 percent of Wyomingites.

Everywhere else, if federal lands were ever conveyed to the states, then yes, people who now enjoy free and easy access will probably lose it. With this thought in mind, what Ammon Bundy and buddies propose for Oregon's Malheur National Wildlife Refuge, "giving" the land back to "We the People," begins to sound a little fishy. That is, you and I can go there now, but will we be able to if he wins?

A wholesale conveyance of federal public lands would be detrimental to everyone who enjoys uncomplicated access to our federal public lands. This one-third of the territory of the U.S. being in federal hands, i.e., the public lands, is far and away more valuable than Ft. Knox full of gold. All this land in question, and its resources and what the land can be used for, is a federal asset that enriches all of us, in mineral wealth, recreation and wildlife, clean air and water, and more.

Our country's unique combination of public and private lands is very advantageous, and we should be very wary of anyone tampering with it, such as little Henrys.

Tom Gagnon is a Wyoming licensed Realtor, and an avid outdoorsman.



## Editorials from across Oregon

### Hammonds and mandatory minimums:

Albany Democrat-Herald

In the cascade of ironies that continues to tumble out of the standoff at the Malheur National Wildlife Refuge, here's one that might have been easy to overlook:

The standoff seems likely to renew a debate over the idea of minimum sentences, in both federal and state cases.

In fact, during his town meetings in the mid-valley on Saturday, U.S. Sen. Jeff Merkley of Oregon said he intended to take a close look at "mandatory minimums that can sometimes produce more injustice than justice."

One of the issues in the standoff in Harney County is the case of rancher Dwight Hammond Jr., and one of his sons, Steve. The two men were indicted in 2010 on federal arson charges, regarding a pair of fires that the men set that ended up involving land managed by the U.S. Bureau of Land Management.

When the Hammonds were indicted, they faced sentencing under the federal Antiterrorism and Effective Death Penalty Act of 1996, even though prosecutors have said they had no intention of treating the ranchers as terrorists.

But the arson charge, under that particular law, mandated five-year minimum sentences. The federal judge in the case, Michael Hogan, said during the Hammonds' sentencing in 2012 that such a sentence in this case would "shock the conscience" and would be as unconstitutional as cruel and unusual punishment. The judge sentenced Dwight Hammond to a three-month term and Steve Hammond to one year.

The Hammonds served their time and were released from federal custody. And if the story had ended there, we wouldn't be shaking our heads over the increasingly ludicrous standoff at the refuge.

Instead, here's what happened: Amanda Marshall, then the U.S. attorney for Oregon, recommended that the government challenge Hogan's sentence. And, when the court of appeals heard the case, it agreed with the feds: The longer sentences might in fact shock the conscience, the appeals court held, but the law is the law, and the law mandates the minimum sentence.

The Hammonds returned to federal prison last week. In the meantime, the events at the refuge got underway, even though, to be clear, the Hammonds have disavowed the occupation.

These minimum sentences aren't just an issue in federal court; judges in Oregon working with Measure 11 crimes often find their hands are tied by laws mandating certain sentences for certain

crimes. Part of the idea is to ensure uniformity in sentencing, but the not-so-unspoken implication is that minimum sentences serve as a check on too-lenient judges.

But part of the reason why we have judges in the first place is so that they can review all the facts in a case and make decisions accordingly. By tying their hands in making these vital decisions about sentencing — by reducing these decisions to the cold black-and-white diagram of a matrix — we essentially say that, well, every criminal case is about the same as the next case. In Oregon, the minimum sentences for Measure 11 crimes have helped to fuel the explosive growth in state prison populations, a growth that we're just now starting to get under control.

Merkley's call for a review of these rules on the federal level is welcome. State officials might want to consider the merits of a similar review.

**The subtext behind the Malheur occupation:**

(Medford) Mail Tribune

The "standoff," such as it is, at the Malheur National Wildlife Refuge is drawing national attention, so it's worth taking a moment to note that the subtext behind the headlines reflects a cultural clash that is not well understood by those who don't live in the West, and particularly in the wide-open, sparsely populated rangelands of the rural West managed by federal agencies.

U.S. Rep Greg Walden, whose sprawling 2nd Congressional District includes Harney County, gave an impassioned speech on the House floor last week in which he criticized the resentencing of Dwight and Steve Hammond,

calling them "longtime, responsible ranchers" he has known for 20 years. In the process, Walden skewered the "overzealous bureaucrats and agencies (that) go beyond the law and clamp down on people."

It was the five-year prison sentences the Hammonds began serving last week under anti-terrorism statutes for committing arson on public land that prompted out-of-state activists to stage an armed takeover of the Malheur National Wildlife Refuge. The armed militants, led by Ammon Bundy, son of Nevada rancher Cliven Bundy, demanded the government turn over federal land in the county for residents to manage on their own.

Walden made a point of saying the occupation of federal buildings was "inappropriate," and the militants should go home. He's right about that, and Harney County residents themselves agree: Locals have made it clear they do not support Bundy and his cohorts.

Walden and others are right, however, when they say federal managers of vast swaths of public land in the West too often have been arrogant toward the farmers and ranchers who have scratched

out a living there for generations against stiff odds. Ranching is hard enough when you must cope with harsh weather, scarce water and unpredictable markets without adding a monolithic federal bureaucracy that does not respond quickly enough when needed or imposes new restrictions with little notice or willingness to compromise.

All is not black and white when it comes to Western land management. Public land should be managed for the benefit of all the public, not just ranchers, farmers and hunters. But those groups have legitimate concerns and deserve to be heard.

Examples exist of cooperative efforts involving federal agencies, industry and private landowners to protect wetlands, battle invasive species and conduct thinning operations that make forests more resistant to catastrophic wildfire. But those collaborations are still more the exception than the rule.

There is no valid argument to be made that federal ownership of public land is illegal in any way, and Bundy and his followers are simply wrong when they claim to be upholding the Constitution while essentially committing armed sedition. The misguided militants should leave Harney County, and they will, sooner or later.

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