

Demands by standoff leaders defy logic and law, authorities say

By LES ZAITZ
The Oregonian

BURNS—Occupiers of the Malheur National Wildlife Refuge for three weeks have made sweeping demands that local and federal authorities say are both brazen and unrealistic.

They want immediate freedom for imprisoned local ranchers. They want federal deeds voided and private owners to take over the property. They want the county to control the refuge. They want federal grazing permits vacated, leaving ranchers free to graze as they choose. And they say they won't go until they get their way.

Interviews with lawyers, ranchers, federal authorities and others make clear: Little of what they want is likely to happen for reasons that include legal principle, basic property rights, economic forces and cost. Federal authorities also say the occupiers are making demands that fly in the face of the U.S. Constitution.

Federal land control

A bedrock claim of the small group led by Arizona businessman Ammon Bundy is that the Constitution limits federal ownership of land. As a result, they say, the federal government is violating Article 1, Section 8, Clause 17 by illegally holding about 76 percent of Harney County.

But scholars say Bundy and his followers are misreading the Constitution.

"You have to read the entire document and not just the clauses and provisions that you think support your case," said Elizabeth Wydra, chief counsel of the nonprofit Constitutional Accountability Center, which monitors legal application of the Constitution.

The provision cited by Bundy and others is "mostly about the District of Columbia and the idea that there would be the neutral place for the government to be located instead of in an area belonging to a particular state. It's really hard for me to see how that relates to their claims."

The more important provision, Wydra and others said, is Article IV, Section 3, Clause 2 — known as the "Property Clause": "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

In a 1976 ruling, the U.S. Supreme Court confronted the point Bundy is trying to assert. New Mexico state officials tried to keep wild burros that they had seized from federal land. The officials claimed that the Oregon occupiers claim — that the Constitution strictly limits what property the federal government can own or control.

State officials argued in *Kleppe vs. New Mexico* that Congress had no power over public lands without state consent. "This argument is without merit," the Supreme Court ruled.

State officials confused a constitutional provision focused more narrowly on how the federal government oversees land it acquires from a state with the unlimited powers granted to the federal government under the Constitution's Property Clause, the court said.

That clause trumps all, the court ruled.



Ammon Bundy sits at a desk he's using at the Malheur National Wildlife Refuge in Oregon on Friday.

"You have to read the entire [Constitution] and not just the clauses and provisions that you think support your case."

— Elizabeth Wydra, chief counsel of Constitutional Accountability Center

Unwinding federal ownership

Bundy and other leaders of the refuge takeover nonetheless assert that the federal government is out of bounds in Harney County.

They plan to rectify ownership by voiding all deeds in the county that transferred land to the federal government. This would affect lands managed by the U.S. Bureau of Land Management, the U.S. Forest Service and the U.S. Fish & Wildlife Service.

One challenge they face is that much of the federal ownership dates to territorial days, so there's no earlier owner. Homesteaders subsequently claimed some of the land, but the federal government still retained millions of acres in Harney County. Over time, the government has bought or traded other parcels.

The Burns Paiute Tribe would perhaps have the most distinct claim to much of the county — by treaty, it never gave up its interest in tribal lands across the Great Basin. Tribal members did cede what was once the Malheur Indian Reservation, accepting compensation. The federal government subsequently sold that land to private interests, so it's not clear whether that land would be part of Bundy's calculation.

Bundy told an FBI negotiator Thursday that his group already is examining land records to identify previous owners. But which records they're researching isn't clear.

Officials at the Harney County Assessor's Office, which tracks property ownership, and the Clerk's Office, which keeps the record of deeds, say no one in recent weeks has approached them to examine the records.

Assessor Ted Tiller noted that U.S. government deeds date back more than 100 years. Identifying all the transactions that left property in the federal government's name is "not a project I could devote resources to," Tiller said. "I don't know how we'd do it."

He said while the government doesn't pay property taxes, his office still tracks what the federal govern-

ment owns, encompassing 1,134 tax accounts.

At the recorder's office, officials were equally flummoxed over how to identify every instance when land titles passed to the federal government. Its computer records list more than 2,000 documents related to federal property holdings — but historic records are still being transferred to the electronic database, so an unknown number have yet to be entered into the system.

The refuge occupiers have provided few details on exactly how a land transfer would work. Would a rancher who sold land to the government simply get the land back or would the rancher have to refund what the government paid for the land?

The Harney County Committee of Safety, a group of six local residents founded at the instigation of Bundy and other occupiers, has been identified as among those who would help with the transfers.

"We do not have a concrete plan to transfer the lands away from the feds," said Burns businessman Tim Smith, a committee member. "Everything is still on the table except the status quo of leaving the vast majority of land within the fed jurisdiction."

Smith himself was given title to 10 acres of federal land in 2010, but didn't respond to written questions about what would become of the land under Bundy's plans.

Gary Miller, a rancher whose family has worked cattle more than 100 years in an area 75 miles south of Burns, exchanged land with the Bureau of Land Management in 2009. His Rock Creek Ranch acquired 1,100 acres to add to his holdings and traded 233 acres that the federal land agency wanted on Steens Mountain, a high desert feature now the centerpiece of a major preservation project. The property values were about equal, according to land bureau findings.

Miller said it's "craziness" to consider reversing the deal.

"There'd be no reason whatsoever to do that," he said this week, sitting on his idling tractor while out feeding cattle.

STANDOFF: Grant County Sheriff endorsed releasing the Hammonds from prison

Continued from 1A

FBI negotiator and local law enforcement.

FBI spokeswoman Beth Anne Steele said Monday that she couldn't comment because of the ongoing investigation.

Members of the group have been able to come and go from the refuge, at times buying supplies at a local grocery store and occasionally meeting with government officials. Authorities have stayed away from the property, setting up their operational headquarters nearly a half-hour's drive away in Burns. Officials there didn't immediately return requests for comment.

"Allowing the militants free passage to and from the Refuge must stop," Rodrigue wrote.

The activists also have built a road through part of the refuge and taken down a fence, she noted.

"We fear that the demolition and construction activities of the militants may have harmed our burial grounds and disturbed Tribal artifacts," she wrote.

Ryan Bundy said about a week ago that the group was not interested in the artifacts and would turn them over to the tribe if asked. He also said the protection of prehistoric sites at the refuge should take a backseat to grazing and logging rights.

The federal government's approach to the activists has increasingly frustrated some residents. Counter protesters have begun to gather on the refuge with signs telling the group to go home.

Divisions also are starting to appear among law enforcement entities. The refuge is in Harney County, where local officials have been working closely with state and federal authorities.

Glenn Palmer, the sheriff of neighboring Grant County, recently endorsed some of the group's demands, including releasing two local ranchers imprisoned on arson charges and sending home the FBI.

"The government is going to have to concede something" to end the occupation, Palmer told *The Oregonian* newspaper.

Malheur County Sheriff Brian Wolfe, who has been helping Harney County and federal officials, said Palmer's position is not helping.

"If anything, it hampers the effort to end this," Wolfe told the newspaper.

At least one person involved in the occupation of the Malheur National Wildlife Refuge is expected to speak Tuesday at a community meeting in John Day, according to the *Blue Mountain Eagle*.

Tad Houpt, from Canyon City, said he organized the meeting to discuss people's

constitutional power and authority as well as federal land mismanagement and corruption. The meeting is planned for 6 p.m. at the John Day Senior Center, 142 NE Dayton St.

Houpt said he plans to speak, and he has also invited Ryan Payne, who has participated in the occupation of the refuge near Burns. He said he was unsure if any other members of the occupation would be attending. He plans to ask Grant County Sheriff Glenn Palmer to speak as well.

"What I'd like to get across is how much power and authority we have and how we need to make some changes in our government here," Houpt said Monday. "... The corruption, that's what this meeting is about — the blatant, unbelievable corruption we have in this county. It's from local government clean up to federal government. Our state government is probably even worse."

Houpt said he has 30 years of forestry experience, but his retirement — in the form of timber on his private land — burned in the Canyon Creek Complex fire last summer. He described the U.S. Forest Service's management policies as "voodoo forestry" and said "gross mismanagement" led to the fire. He said the federal government has "zero authority" to manage land, and he hoped people would begin to reform some of these government agencies in Grant County, which he described as a cancer.

"I hope the people of this county start standing up for themselves," he said. "Everybody is scared of their government. The government should be scared of the people, and that will keep them scared straight, in other words."

Houpt said he was not afraid to stand up to the government. He said he "absolutely" supports the occupation of the refuge and claimed two-thirds of Harney County's residents did as well. He said he visited the refuge since the occupation began, and although he did not meet leader Ammon Bundy, he spoke to about 20 people who were there.

"I didn't find one person that was even remotely nutty," he said. "They all seemed like good Average Joe people that are just fed up with it all."

After meeting some of the occupiers, Houpt said he invited Payne and two others to a meeting Jan. 12 with a group of Grant County residents in John Day. Houpt said Palmer attended the meeting but was not informed who would be there beforehand.

Sean Hart contributed to this story.

Grand jury indicts leader behind Planned Parenthood videos

AUSTIN, Texas (AP) — A Houston grand jury investigating undercover footage of Planned Parenthood found no wrongdoing Monday by the abortion provider, and instead indicted anti-abortion activists involved in making the videos that targeted the handling of fetal tissue in clinics and provoked outrage among Republican leaders nationwide.

David Daleiden, founder of the Center for Medical Progress, was indicted on a felony charge of tampering with a governmental record and a misdemeanor count related to purchasing human organs. Another activist, Sandra Merritt, was also indicted on a charge of tampering with a governmental record, which carries a maximum penalty of 20 years in prison.

It's the first time anyone in the group has been charged criminally since the release of the videos, which began surfacing last year and alleged that Planned Parenthood sold fetal tissue to researchers for a profit in violation of federal law. Planned Parenthood officials have denied any wrongdoing and have said the videos were misleadingly edited.

The footage from the clinic in Houston showed people pretending to be from a company called BioMax that procures

fetal tissue for research touring the facility. Planned Parenthood has previously said that the fake company sent an agreement offering to pay the "astronomical amount" of \$1,600 for organs from a fetus. The clinic said it never entered into the agreement and ceased contact with BioMax because it was "disturbed" by the overtures.

In a statement announcing the indictment, Harris County District Attorney Devon Anderson did not provide details on the charges, including what record or records were allegedly tampered with and why Daleiden faces a charge related to buying human organs. Her office said it could not disclose more information and a court spokesman said it was unclear whether copies of the indictments, which typically provide more insight, would be made public Monday.

"We were called upon to investigate allegations of criminal conduct by Planned Parenthood Gulf Coast," Anderson, an elected Republican, said in her statement. "As I stated at the outset of this investigation, we must go where the evidence leads us."

Daleiden issued a statement saying that his group "uses the same undercover techniques" as investigative journalists and follows all applicable laws.

SORENSEN: Died Jan. 18 of congenital heart failure

Continued from 1A

Danielson said; on the one hand, it was a meeting between two friends. On the other, it was a meeting between two businesswomen.

It was a gut-wrenching discussion, but one Danielson knew was coming. Whether it was with the chamber of commerce, city council, Lions Club or Moose Lodge, friends and colleagues knew how committed Sorenson was to improving life in Irrigon.

Sorenson died less than a week later on Jan. 18 of congenital heart failure. She was 72.

"She worked right up to her dying day," Danielson said. "She was absolutely committed."

Sorenson first came to Irrigon with her husband, Andrew, in 1994. They used to make yearly trips to visit friends in town, and especially enjoyed fishing on the Columbia River.

For years, Sorenson owned a storage company on Highway 730 and became active with the chamber, where she and Danielson first met. Danielson, who owns Stokes Landing Bed & Breakfast, said she was struck by Sorenson's positivity and dedication to the community.

"Christina was the one who could be counted on to hold our feet to the fire," Danielson said. "She never settled for less than the best. You had to do it right, and you had to do it well."

When the chamber nearly folded in 2013, Danielson and Sorenson

were part of the effort to rally support and reform the organization's board of directors. Along with Julie Dick and Barb Huwe, the four women helped get the group back on its feet, erasing \$1,500 in previous debt. Sorenson was always proud of that accomplishment, Danielson said.

"She was absolutely a key player in that," Danielson said.

Sorenson also served on the Irrigon City Council and had been appointed mayor pro tem before she died. The council met on Tuesday, Jan. 19 — one day after Sorenson's death — and held a moment of silence before proceeding with their agenda. Mayor Sam Heath said it was a difficult night for everyone.

"Everybody's hearts were really heavy," she said. "There was a point where I thought I would have to excuse myself."

Heath said the council will appoint a new mayor pro tem at February's meeting. The city charter states a vacant council seat will be filled by appointment.

Sorenson was well-liked and a pillar of the community, Heath said.

"Her vision was to see this town move forward, and make it the best little place for people to want to come live," she said. "She kept her community first ... She was always thinking about the people."

The oldest daughter of a U.S. Marines lieutenant, Sorenson graduated magna cum laude with a degree in education from Western Connecticut State University. She met and married her second

husband, Andrew, in 1990 while living in Boise. They later came to Irrigon to be closer to friends and fishing.

Andrew Sorenson said his wife's interests revolved around helping people in town. Christine's Storage became a place for people to come for support, whether they were customers or not.

"I don't know how to explain it. She was basically the shoulder to lean on if someone had a problem," he said. "She was always helping, if she could. She was a go-to in this town."

Sorenson raised two sons, Robert and Chris Westlake, from her first marriage. Chris, her youngest, works as a senior project superintendent for a construction company in Connecticut. But he said his mom's heart was always in the West.

"She really loved the outdoors, and freedom associated with the West," Westlake said.

A celebration of life for Sorenson was held on Saturday at Burns Mortuary in Hermiston, followed by a gathering at Stokes Landing Senior Center in Irrigon. Westlake said it was great to see the outpouring of support from the community.

"She was the best. It's really hard to sum it up more than that," he said. "She wanted the best for us, and wanted nothing less than our best. It did us well in our lives."

Contact George Plaven at gplaven@eastoregonian.com or 541-966-0825.