



Ben Lonergan/East Oregonian

Two Rivers Correctional Institution, Umatilla, and other prisons in Eastern Oregon, saw a resurgence of COVID-19 cases in January with TRCI reporting a peak of 286 active cases on Jan. 20, 2022.

Prisons:

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a judge on Monday, Feb. 14 for certification.

Chavez said the lawsuit, filed in April 2020, asked only the bare minimum from Corrections regarding safety procedures in combating the spread of COVID-19. Those measures included mandatory masking for correctional officers and implementing social distancing requirements.

Those requirements, according to the lawsuit, were widely ignored.

In the lawsuit, one plaintiff described an interaction with staff that conveyed DOC's reactionary nature to outbreaks: "I was complaining that it was hypocritical when we had to wear masks but officers didn't; that officer said to me (expletive) it, we'll deal with it when it comes."

The lawsuit also described practices where correctional officers would move from a quarantined unit to an uninfected unit without a mask, likely due to overtime and staffing shortages at the facilities.

"I think the (COVID-19) situation shakes the entire foundation," Chavez said, "What we were asking for only sounds extraordinary if we weren't in extraordinary times, and so we needed something grander. And that didn't happen. A lot of people got hurt."

Two Rivers in litigation spotlight

Two Rivers has been especially problematic, according to prison attorney Tara Herivel, who has litigated hundreds of cases against the Department of Corrections. Herivel said approximately 80% of her cases are against Two Rivers. According to Herivel, despite the litigation and sea of lawsuits, Two Rivers in particular is "not afraid enough to change."

"The conversation I have a lot with my clients and people I work with is why?" Herivel said. "Why is it so horrible? Why don't they learn? They've been sued so many times, and I just don't think they've been sued enough. I think they don't have real consequences, and they can brush away these individual suits like the kinds I do pretty easily. They just don't follow court orders."

Herivel said in addition to filing a majority of her prison cases against Two Rivers, she has had contempt of court motions against the

prison's medical department for failing to follow the court's orders, leading to the release of an adult in custody 11 years before their sentence expired.

'We learned the hard way'

Positive cases in staff members at Eastern Oregon prisons preceded every spike of COVID-19 among inmates in January.

The correctional facilities handle medical cases through their own health care settings, according to Bernt.

In Ontario, Dr. Garth Gullick, the chief medical officer for the Snake River Correctional Institution, testified that a fever was not a symptom of COVID-19, that COVID-19 testing was "harmful" and said it "can be the enemy," according to reporting from the Malheur Enterprise. The reporting also indicated Dr. Warren Roberts, Correction's top medical advisor, had been ordered to stop performing surgeries and had a history

of malpractice.

"Cases are handled internally to the extent possible through our Health Services units and infirmaries," Bernt said. "If an individual's symptoms surpass our ability to care for them, they are transferred to a hospital for care."

A spokesperson for Two Rivers declined to comment on the COVID-19 situation at the facility, citing a need to go through the Oregon Department of Corrections for a unified response.

Two Rivers officials did not respond to an emailed list of detailed questions about the outbreak at the facility. EOCI saw a milder outbreak than it had at the start of the pandemic, according to Ron Miles, supervising executive assistant.

"SO SOCIAL DISTANCING IS NOT GOING TO BE EASY, THAT'S JUST A FACT OF PRISON LIFE."

— Ron Miles, EOCI

of malpractice.

"No institution, no prison anywhere in the world is equipped for a pandemic, so when one hits, you have to learn what you don't know. We went through that process and learned what we didn't know and the second

time around we were better prepared for that, and vaccinations played a big role in that."

As of Feb. 8, EOCI had zero active COVID-19 cases, according to the DOC COVID-19 website.

"We learned the hard way, but we did learn," Miles said. Powder River, Baker City, saw an outbreak of 21 cases by Jan. 29, which fell to eight cases on Feb. 8. Herivel said Powder River was one of the best prisons in Eastern Oregon when it came to COVID-19 safety.

On the other hand, Two Rivers had nearly 15% of its adult population test positive for COVID-19 on Jan. 23.

Miles said EOCI offers vaccines to the adult in custody population, as well as offering vaccine booster clinics from time to time for prisoners to keep up to date with the COVID-19 vaccines.

TRCI tops prisons for COVID-19 deaths

Previous reporting by the East Oregonian through numerous interviews with lawyers represent-

ing clients at Two Rivers, as well as inmates themselves, had shown a lax regard for COVID-19 safety at Two Rivers. Inmates cited improper mask wearing by staff members and mixing of COVID-19 positive inmates with the general population for work.

According to previous reporting by Oregon Public Broadcasting, Two Rivers saw a spike in infections during December 2020 after two staff members tested positive, and the facility transferred 10 positive individuals from Deer Ridge Correctional Institution, Madras. The same day the facility transferred adults in custody from Deer Ridge, it began seeing a spike in cases; with 85 cases on Dec. 21, 2020.

As of Feb. 8, 10 employees at the Two Rivers had not yet started either their vaccination or exemption status. Powder River had just two, and EOCI had six. Out of the 5,306 DOC employees reported to have been under the vaccination compliance executive order in 2021, nearly 20% had filed and received a medical or religious exemption, according to DOC data from October 2021.

The number of in-custody deaths across the state also appears to be increasing, with four reported deaths within a five day period between Jan. 27 and Jan. 31, though none of those deaths cited COVID-19 as the cause of death. Since the start of the pandemic, 45 adults in custody have died after testing positive for COVID-19, according to DOC data, while 17 of those deaths are from adults in custody at Two Rivers, the highest out of any of the other prisons in Oregon, despite being the third largest prison in Oregon. EOCI, which has a similar population size of adults in custody, had four deaths throughout the pandemic, while Powder River had none.

The Department of Corrections keeps a spreadsheet of positive tests for COVID-19 on its website, but that database has not been updated since Nov. 12, 2021. Corrections officials said staffing issues and the tediousness of entering the data by hand had made the task too resource intensive. Daily COVID-19 statistics and active cases are on the Oregon Department of Corrections website through its COVID-19 tracker at www.oregon.gov/doc/covid19/Pages/covid19-tracking.aspx.

Forest:

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last year that he understands certain areas have wilderness or wildlife designations restricting motorized vehicle access. But he wanted to learn what roads are open and what roads are closed and why they are closed.

He said he wanted to see which roads were closed through the National Environmental Policy Act and which roads were closed by the Forest Service administratively.

"If they're closed through NEPA, we really can't get it back open unless we go through NEPA, but if you're closed administratively, then those are open for a conversation on the subject," he said.

According to the final document, "use restriction of a road previously reviewed and approved through the NEPA process should be clearly and effectively posted for the public and reflected on updated maps."

Elk security

The group writes that forest road and trail system use, density and habitat conditions may have some negative effects on wildlife in general and specifically on elk distribution.

The desired condition is that habitat is managed to provide a balance of adequate nutritional resources, cover and human disturbance regimes that encourage elk to remain on public lands. Collaboration and coordination occur that benefits these desired future conditions by addressing the many other factors, such as predation, hunting and private land practices that also effect elk distribution while providing year-round recreational and cultural opportunities and limiting agricultural damage on private lands.

User-created routes

The desired condition is to establish objective criteria for user-created routes, such as evaluating historical maps and aerial imagery to determine if the agency should include the forest system.

The routes would be evaluated and analyzed at the project level for social, cultural, historical, economic, habitat and environmental concerns while, at a minimum, seeking to ensure access in the general area.

The evaluation would coordinate with local and tribal governments with ample public notice and involvement through the NEPA process. As a result, the public and groups that frequent the routes would be well informed and allowed to comment on changes in management actions.

Wilderness, habitat and set-asides

Last year the subcommittee asked the Forest Service's Dennis Dougherty, a recreation planner, Nick Goldstein, a regional planner, and Trulock about the process of recommending set-asides within a forest plan.

Dougherty talked about the difficulties during the 2018 plan revision. However, he told the group his biggest takeaway was complying and comporting each component with the overarching forest plan.

Dougherty said it is important to remember the forest plan does not designate motorized usage on forest roads. Instead, those provisions come from the travel management plan.

He also told the group that some areas are statutorily designated. Also, he said, Congress identifies certain set-asides as well.

He explained a Forest Service document, the "suitability-rating table," used during the last revision, which lists management areas, activities, land allocations and designations that the forest can use to make access and land-use recommendations.

Dougherty said he recognized the framework as cumbersome and complicated because of the plan amendments over the years. However, he said it is the Forest Service's general approach to determining land uses.

The Forest Service's Tom Montoya said these administrative recommendations go through a review process under the National Environmental Policy Act.

Trulock said the goal was to come to a collective understanding about the Forest Service's process: Even if there are no additional set-asides, they still have to go through the analysis to get to that point and make that recommendation.

The final draft of the desired condition was to understand that the forest service has to evaluate the suitability and eligibility through the forest planning process for future set-asides.

That said, the subcommittee does not see the need for any additions to set-asides.

Baker's minority report

Baker County Commissioner Bill Harvey submitted a minority report disagreeing with the BIC access subcommittee's final draft of the desired conditions document.

Harvey writes that special interest groups, agencies and tribes disregarded forest management principles the Eastern Oregon Counties Association compiled in a 2019 document throughout the subcommittee meetings. Meanwhile, Harvey noted that this let other counties make too many concessions.

Harvey writes that Baker submitted several edited versions of desired conditions, and the subcommittee offered "minimal regard" for the county's input.

Local governments know their counties best, Harvey writes.

"And it's ridiculous to be overridden by committee members that have no authority or knowledge of what is best for the citizens of this county," Harvey added.

Trulock said the BIC's charter allows for the submission of the minority report.

Ultimately, he said, the Forest Service would have to make decisions through the forest planning effort, which will include alternative drafts and a public comment period.

Grant County Commissioners Jim Hamsher and Sam Palmer, who both served on the BIC, said they knew there would need to be compromises.

"You're never going to get everything you want," Palmer said.

He said he was happy that all of the entities began working with each other early in the process, which, he said, did not happen in 2018.

"We brought all the agencies up to the table at the front end instead of the back end," Palmer said. "In two years we had a product when before they had one that got scrapped after 15 years."

Elections:

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race in 2018, but he ended up winning the election in a contested race by a convincing margin.

Ward 3 (northeast Hermiston)

Jackie Myers has represented Ward 3 on the council since 1994, survived a recall attempt in 2012 and handily won her last reelection race in 2018.

But Myers, who works for Severson Accounting & Taxes, has not submitted her

filing paperwork and did not return a message requesting comment. No other candidates have filed for the seat either.

Ward 4 (southeast Hermiston)

Incumbent Councilor Philip Spicerkuhn is running against one of his predecessors in Ward 4.

David McCarthy, a sales manager at KOHU, was appointed to a vacant at-large seat in 2020 only to lose the election for a full term later that year. Spicerkuhn, an attorney, is relatively new to the council himself, having been appointed to the Ward 4

seat in 2020 and then winning a special election for the remainder of the term unopposed the following year.

Municipal judge

As a judge pro tem, Cameron Bendixsen fills in for Municipal Judge Thomas Creasing when he can't hear a case himself. Now Bendixsen is challenging his colleague for the top job.

After he was passed over for appointment to the Hermiston City Council, Creasing ran against the incumbent municipal judge in 2008 and won. He turned back a challenge from the former incumbent in 2010 and then ran

unopposed in every election until now.

Bendixsen also has previous political experience, having run for Ward 4 on the city council in 2014. He lost that race by seven votes.

Unlike every other Hermiston city office, municipal judges are elected on two year terms instead of four.

Election information

The filing deadline for the May 17 election is March 8. If no candidates can clear 50% of the vote in the primary, then the top two vote-getters will advance to a runoff held during the Nov. 8 general election.

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