

Ranchers accuse federal government of burning \$9 million in property

By **Mateusz Perkowski**
EO Media Group

WOLF CREEK, Mont. — Two ranches in Western Montana claim they're owed nearly \$9 million because the federal government burned their rangeland while trying to control a wildfire.

McDonough Family Land and Ingersoll Ranch of Wolf Creek, Montana, have filed a lawsuit accusing the U.S. Forest Service of intentionally igniting their property for "burnout and back-firing operations" to steer the spread of the 2017 Alice Creek Fire.

Such techniques allow firefighters to burn fuels to alter the wildfire's path and reduce its intensity along containment lines.

The wildfire was started by a lightning storm in late July 2017 and the Forest Service used these methods on the affected properties more than a month later, the complaint said.

If not for the agency's activities, "the ranches would have suffered no material or substantial damage as a result of the naturally ignited Alice Creek Fire," according to the lawsuit.

Though the backfire and



Associate Press file photo

Two ranches in Montana seek \$9 million from the federal government for allegedly burning their timber and rangeland.

burnout operations were intended to affect the direction and rate of the wildfire's spread, the plaintiffs claim the Forest Service had "safe and effective alternatives" to suppress the fire.

"Instead it chose to manage the Alice Creek Fire with land management goals primarily in mind rather than fire suppression," the complaint alleges. Specifically, the plain-

tiffs claim the federal agency wanted to reduce fuel loads while improving timber stand health, wildlife habitat and watershed quality in the 1.8 million-acre Helena-Lewis and Clark National Forest.

Damages from the loss of forage, timber, fences, water sources and other property came to \$7.5 million for McDonough Family Land and \$1.3 million for Ingersoll Ranch, according

to the lawsuit, which was filed in the U.S. Court of Federal Claims in Washington, D.C.

The ranches have a unique "history and legacy," as the current owners descend from the original homesteaders of the property, the complaint said. The lawsuit doesn't specify how many acres of the ranches were burned in the fire.

"The USFS actions appropriated a benefit to

"When the government does something worse, it gets away with it."

Brian Gregg, an attorney with the Mountain States Legal Foundation, which advocates for property rights

it at the expense of the ranches and pre-empted their right to enjoy their property for an extended period of time," the complaint said. "The taking also substantially diminished the fair market value of real property owned by the ranches and deprived them of its use."

The Forest Service's management activities forced financial burdens on the two ranches that "in all fairness and justice, should be borne by the public as a whole," amounting to a government taking or physical invasion of property that should be compensated, the complaint said.

The EO Media Group was unable to reach a representative of the Forest Service as of press time.

The lawsuit illustrates the "complete double standard" applied to the government compared to private landowners, such as Steven and Dwight Hammond, two Oregon ranchers

who served time in prison for setting fires to federal rangeland, said Brian Gregg, an attorney with the Mountain States Legal Foundation, which advocates for property rights.

"When the government does something worse, it gets away with it," Gregg said.

Suing the federal government for an unjust taking is an "uphill battle" and often requires showing the property was completely destroyed and forever unusable, he said.

While judges and lawyers have recently pushed for more government accountability, courts have traditionally given the government the benefit of the doubt — particularly in emergency situations, Gregg said.

"Over the course of two centuries, the definition of taking has become narrow," he said. "Courts are often more deferential to the government."

OPENING

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Murdock said Friday, adding that there is a fine line between protecting public health and preserving citizens' rights.

However, the governor's proposed guidelines for personal service businesses would have that requirement. Such businesses would need to collect that client information and retain it for at least 60 days.

In addition, the overall draft guidance for Oregon employers still retains the provision: "Consider

keeping a record of name, contact information and date/time of visit for customers/visitors for purposes of contract tracing if needed."

The state has been working on draft guidelines for health care services, transit, retail, restaurants, personal services, child care and early childhood education, and outdoor education. They also are looking at providing meeting guidelines for faith-based organizations and support groups such as Alcoholics Anonymous.

Legislators have been told that the Governor's office might formally

release the main Phase One guidelines on Thursday. Brown is scheduled to continue her calls with county officials on Wednesday.

The reopening guidelines are being developed by Brown and her staff in consultation with other agencies, medical and business advisory groups and local officials. Brown has said some counties with few COVID-19 cases might be able to reopen certain businesses and facilities as soon as May 15, once granted approval by the governor.

The five-and-half-page draft for personal services includes these requirements

for providers:

- Limit the number of occupants and keep everyone at least six feet apart except when necessary for a provider to give a client such services as a haircut or massage.
- Serve only clients who make appointments. Have clients wait in their cars or elsewhere until it is their turn.
- Contact clients before their appointments to ensure they are not showing COVID-19 symptoms.
- Wear face coverings when providing direct client services.
- Wear a clean smock for each client and, if appli-

cable, drape each client in a clean cape.

• Wash hands between clients; ask clients to wash hands before receiving the service; and wash hands after using the phone, computer, cash register or credit card machine.

• Remove "unnecessary items" from the premises, such as magazines, newspapers, service menus, paper products, snacks and beverages.

• Follow specific regulations on training and sanitation, as spelled out in the guidelines.

Customers also would be encouraged to wear face coverings. The draft states:

"Some services may not require the client to wear face covering; for example, a client does not need to wear a face covering when face-down on a massage table. Some services, such as mustache or beard trims, may require the cloth, paper or disposable face covering to be temporarily removed."

The guidelines also suggest that employees change clothes between clients

"if providing services that require extended close client contact such as massage therapy and tattoo artistry" and when leaving the business at the end of the day.

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