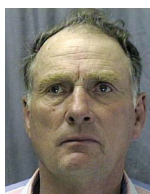


Judge revokes Hammonds' grazing permit, sends it back to BLM

By Mateusz Perkowski
EO Media Group



Steven Hammond



Dwight Hammond

ulations, Simon said.

"The President may have believed that the shorter sentences originally imposed of three months for Dwight Hammond and one year and one day for Steven Hammond were more equitable," the judge

said. "Such a belief would not show that the underlying crimes were not serious or did not support permit nonrenewal, but merely that they did not support five years of confinement in a federal prison."

Due to these "serious errors," Simon said it was more appropriate to overturn the renewal of Hammond Ranches' grazing permit rather than allow it to remain in place while the agency reconsiders the decision under the proper regulatory framework.

That's particularly true since BLM may eventually decide the Hammonds didn't have a "satisfactory record of performance," once the agency properly follows regulatory procedures, the judge said. "Thus, it is far from certain that a renewal permit will be issued after remand."

The consequences of vacating the grazing permit renewal would not have severe consequences for BLM, aside from "the loss of a few thousand dollars in grazing revenue," Simon said.

Nor would the impact be "economically disastrous" for Hammond Ranches, which was "able to maintain its ranching operation and obtain private grazing for the previous five years when it had no federal grazing permit and, presumably, during this past year when it was allowed only reduced grazing."

The judge issued his ruling



EO Media Group file photo

Cattle graze in Eastern Oregon. A federal judge has effectively revoked a grazing permit for ranchers Dwight and Steven Hammond, who were convicted of arson but later pardoned by President Donald Trump. The BLM must reconsider their application.

on Dec. 20, a day after hearing oral arguments between attorneys for the BLM and several environmental groups that sued the federal government over the grazing permit's renewal.

The BLM had argued against a motion by the environmental plaintiffs to revoke the Hammonds' grazing permit, claiming that Zinke properly considered the pardons in deciding to renew the ranchers' grazing authorization.

"The secretary did have the authority to make the decision he did," said Luther Hajek, an attorney representing the government.

For Zinke, the pardons were relevant when examining the ranchers' "record of performance" in regards to maintaining rangeland health, including the seriousness of past non-compliance with the government's standards, according to BLM.

The grazing decision was consistent with BLM's grazing regulations and did not violate the Federal Land Policy and Management Act, nor did the lack of a full environmental analysis run afoul of the National Environmental Policy Act, according to the government.

The BLM appropriately

used a "categorical exclusion" to exempt the grazing permit renewals from such an assessment, since it was within Zinke's discretion to find an environmental analysis to be unnecessary based on the decision's environmental significance, the agency said.

Even if the grazing permit renewal violated federal law, the decision should be sent back to the BLM for reconsideration while allowing grazing to continue at the reduced levels ordered by the judge earlier this year, according to BLM.

Not revoking the grazing permits would reduce fire risks by keeping fuels in check, Hajek said. "If grazing is managed properly, it's healthy for the landscape."

Any legal errors committed in the case weren't serious, while the reduced grazing level currently in place is sufficient to allay the plaintiffs' environmental concerns about impacts to the sage grouse and redband trout, he said.

"It's not necessary to vacate the permit to maintain those environmental conditions," Hajek said.

The environmental plaintiffs — Western Watersheds Project, Center for Biological Diversity and Wildearth

Guardians — argued the grazing permit renewal was unlawful because the Hammonds don't meet the requirement for a "satisfactory record of performance."

"Livestock grazing on public lands is a privilege, not a right," said David Becker, attorney for the environmental groups. "Like any privilege, it's subject to revocation if it's abused."

The presidential pardons don't change the ranchers' past actions that caused their request for grazing re-authorization to be denied in 2014, the groups argued. The BLM should also have evaluated the decision's impacts on the sage grouse, rangeland health, invasive weeds and fire risks, the plaintiffs claim.

Just because President Trump pardoned the Hammonds does not indicate he thought their crimes weren't serious, Becker said. "There is nothing on the face of either pardon about what the president's intent was."

The decision to renew the Hammonds' grazing rights was "egregious" because Zinke "invented a rationale out of thin air," which justifies overturning it, Becker said.

It's possible for the BLM to take into account that the Ham-

monds have paid their debt to society, but the renewal decision should follow the proper regulations and undergo environmental assessment, he said.

"The secretary and the BLM completely cut the public out of the management process for this allotment," Becker said, adding that dangerous environmental effects from revoking the decision were unlikely.

"There's no showing of highly disruptive consequences," he said.

A jury convicted the Hammonds of arson in 2012, with Dwight Hammond receiving a three-month prison sentence for igniting a fire in 2001 that consumed about 140 acres of federal grassland. His son, Steven Hammond, was sentenced to a year behind bars for that blaze as well as another fire that spread onto an acre of public grassland.

However, the ranchers were sent back to prison in 2016 after the 9th U.S. Circuit Court of Appeals ruled that they must both complete the federal mandatory minimum sentence of five years for arson. A protest against their re-imprisonment precipitated an armed standoff at the Malheur National Wildlife Refuge.

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