

9th Circuit rejects lawsuit against Malheur National Forest grazing authorizations

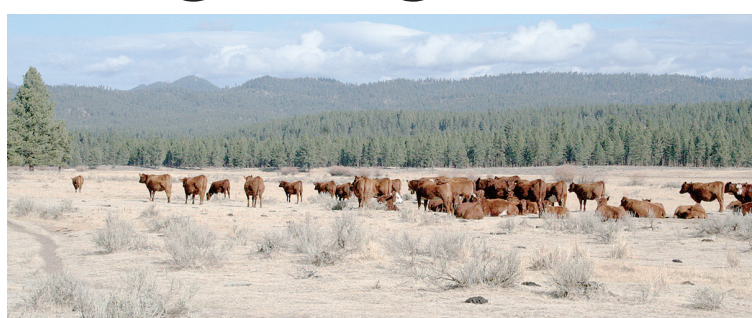
By Mateusz Perkowski
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Environmentalists have failed to convince the 9th U.S. Circuit Court of Appeals that grazing authorizations unlawfully harmed bull trout on seven allotments in Oregon's Malheur National Forest.

The appellate court has rejected allegations from the Oregon Natural Desert Association and Center for Biological Diversity that more than 100 federal grazing decisions — including permit approvals and operating instructions — violated the forest's management plan over a decade.

Contrary to the plaintiffs' claims, "the record amply demonstrates that the Forest Service is actively engaged in protecting bull trout habitats from the effects of livestock grazing by monitoring the effects of livestock grazing on various habitat indicators and implementing site-specific grazing limitations," the 9th Circuit said.

In 2018, a federal judge dismissed a lawsuit over grazing on



EO Media Group file photo

Cattle graze in the Malheur National Forest. A federal appeals court has rejected environmentalist claims against grazing on seven forest allotments.

the seven allotments that had originally been filed 13 years earlier, ruling that the plaintiffs hadn't proven grazing caused threatened bull trout populations to plummet in the Malheur and North Fork Malheur rivers.

The plaintiffs argued that each river should be able to support about 2,000 bull trout but instead contain only 50 individuals, which means grazing must be restricted enough to allow for the populations to recover.

The 9th Circuit has now deter-

mined the judge correctly ruled in favor of the U.S. Forest Service and 16 ranchers who rely on the allotments and intervened in the lawsuit.

Under a federal strategy aimed at protecting the bull trout and other inland fish, the Forest Service must adjust or suspend grazing practices if "riparian management objectives" for stream health aren't met.

As indicated by the Forest Service's grazing curtailments, the agency "is not only monitoring, but also enforcing plan standards

related to the protection of bull trout habitats," the 9th Circuit said.

While the "continuing struggles of the bull trout" in the national forest are "undoubtedly troubling," the 9th Circuit cannot act as a "panel of scientists" and must "defer to the Forest Service's expertise" regarding grazing rules, according to the ruling.

Dams, irrigation, non-native species and other factors have also affected the species, so the court "cannot effectively mandate, as ONDA would have us do, that bull trout numbers increase," the ruling said.

From a procedural perspective, the agency also isn't required to "analyze and show" in a written document that every grazing decision conforms with the forest plan, the 9th Circuit said. "Because the Forest Service was not obligated by statute, regulation, or caselaw to memorialize each site-specific grazing authorization's consistency with the forest plan, the absence of such a document is not in itself arbitrary and capricious."

Nonresidents can fish and hunt in Oregon again

Clamming, crabbing remains closed to nonresidents

Blue Mountain Eagle

Nonresidents may fish and hunt in Oregon again as of May 5. Recreational clamming and crabbing will remain closed to nonresidents until further notice, according to an Oregon Department of Fish and Wildlife press release.

ODFW is lifting the nonresident restrictions in line with some loosening of restrictions on outdoor recreation in the state and region. Washington state also reopened to most fishing on May 5.

Oregon and Washington will soon reopen salmon and steelhead fishing on the Columbia River.

Due to concerns about increased travel to the coast during the summer months while the COVID-19 pandemic continues, crabbing and clamming will remain closed to non-residents for now. Oregon residents who do not live on the coast should also not travel there to crab or clam when the Stay Home, Save Lives restrictions against travel are in effect. Beach access may also be closed.

"We want to thank nonresidents for their understanding of the temporary closure," said ODFW Director Curt Melcher. "We are also announcing a special refund policy for non-residents who purchased fishing license documents between April 6-15, which is about the time when Washington announced their extended closure of all hunting and fishing."

Nonresidents who purchased fishing licensing documents (such as a daily, multi-day or annual fishing or shellfish license, combined angling tag and associated products) between April 6-15 may request a refund for all of these fishing products provided they did not keep any fish or shellfish.

Nonresidents who purchased a hunting license (annual or nonresident three-day for gamebirds) or tag for spring turkey will be eligible to receive a refund for their hunting license or tag, regardless of when it was purchased, as long as they have not hunted at all.

Request a refund at <https://odfw.wufoo.com/forms/nonresident-refund-request-a-covid19-period>.

Nonresidents can also continue to apply for fall controlled hunts. The deadline to apply for all fall controlled hunts remains May 15 for both residents and non-residents.

Mushroom picking is free within personal-use limits on the Blue Mountains National Forests

Blue Mountain Eagle

For avid mushroom pickers, spring truly begins when friendly fungi return to the forest.

Personal-use mushroom picking is free and does not require a permit or payment under the legal limits, which authorizes an individual to harvest, possess or transport less than a gallon in Oregon and less than five gallons in Washington. These free mushrooms are only available for personal consumption and cannot be sold, bartered or given away.

Those seeking to pick more than the free personal-use limit are considered commercial gatherers. To help slow the spread of COVID-19, forest supervisors on the Malheur, Umatilla and Wallowa-Whitman national forests have postponed the issuance of commercial mushroom

permits until 2021. Many commercial operations involve large crews that travel and camp together, which presents a social distancing challenge during the pandemic.

National forest officials urge visitors to understand and follow state health orders for Oregon, Washington and Idaho. At this time, all national forest developed recreation sites — including campgrounds, trailhead facilities, picnic areas, rental cabins, Sno-Parks and boat ramps — are temporarily closed to slow the spread of COVID-19. While many forest roads, trails and areas remain open to the public, visitors are strongly urged to practice social distancing. Mushroom picking is not permitted in any botanical area, research area or in other areas closed by the Forest Service, including developed recreation sites.

To help care for the land while

picking mushrooms:

- Carry your mushrooms in a net bag, allowing mushrooms to spread their spores for future production.
- Give wild animals plenty of space, and leave newborns alone.
- Practice "leave no trace" ethics, and take your trash home with you.
- Report any violations promptly to the Forest Service.

Many forest roads are still not accessible due to mud and snow. Traveling on wet mountain roads and terrain can be dangerous and cause illegal resource damage. Further, temporary road and area closures may still be in effect in last year's wildfire areas where unsafe conditions, such as hazard trees, are still being mitigated. Contact your local ranger district office for up-to-date information on road conditions and current closures.

Be sure to tell a friend or family member where you are going and when you expect to return.

Keep in mind that many wild mushroom varieties are poisonous. When in doubt, just throw it out! It is the responsibility of the picker to properly identify a mushroom and determine whether it is edible. There are many guide books available to assist with identification. The local library, county agricultural extension office and local mycological society are good sources of information.

Mushroom pickers and hunters often contact national forest offices to learn where prescribed burning occurred last year. For everyone's convenience, those locations are now identified in an online prescribed fire map for the Malheur, Umatilla, and Wallowa-Whitman national forests.

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