

Peter M. Lacy (“Mac”) (OSB # 01322)
Oregon Natural Desert Association
917 SW Oak Street, Suite 408
Portland, OR 97205
(503) 525-0193
lacy@onda.org

Stephanie M. Parent (OSB # 92590)
Pacific Environmental Advocacy Center
10015 SW Terwilliger Blvd.
Portland, OR 97219
(503) 768-6736
(503) 768-6642 (fax)
parent@lclark.edu

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

OREGON NATURAL DESERT ASS’N et al., Case No. 03-CV-213-KI

Plaintiffs,

v.

UNITED STATES FOREST SERV. et al.,

Defendants,

and

ROBERTSON RANCH et al.,

Intervenor-Defendants,

and

OREGON CATTLEMEN’S ASS’N,

Intervenor-Defendants.

**DECLARATION OF
CHRISTOPHER CHRISTIE**

I, CHRISTOPHER CHRISTIE, state and declare as follows:

1. My name is Christopher Christie. I am a resident of Malheur County. I am a member of the Oregon Natural Desert Association and a past member and supporter of the Center for Biological Diversity. I have a B.S. in microbiology (Honors, with Distinction) from San Diego State University and subsequently completed one year's training for, and worked as, a medical technologist and microbiologist.

2. I became interested in western ecosystems and native plants in the mid-1980s and completed a course in field botany in 1989. At that time I managed my own small native plant nursery.

3. Since the late 1980s I have observed and been deeply concerned about the destruction, including in some cases the permanent impairment and alteration, of western public ecosystems by livestock grazing. During that same period I have educated myself about the effects of livestock grazing through personal observation and extensive reading of articles and scientifically oriented papers from public and private sources.

4. For over a decade, I have photographed thousands of western wildflowers in their native settings on the public lands of the West. Nearly 1,300 of these are now posted at CalPhotos, a part of the University of California-Berkeley Digital Library, and many others are posted on the internet at www.RangeNet.org. Because domestic livestock grazed most of the public lands where I photographed wildflowers, I became painfully aware of the struggle these plants and ecosystems faced in unforgiving environments under the persistent onslaught of unnaturally high levels of grazing by non-native herbivores.

5. During that same time I have monitored, photographed, and in many cases commented to land-managing government agencies on, grazing damage I found on America's

public lands in Utah, California, Oregon, Idaho, Nevada, and Arizona. Some of the photos I have taken of grazing damage can be found in the projects section on www.RangeNet.org. I also submitted extensive comments for the failed efforts to reform western public lands grazing (Rangeland Reform 1994) in the mid-1990s.

6. Prior to my moving to Prairie City, Grant County, Oregon in the summer of 1999, I had visited the Malheur National Forest on two previous extended camping trips—one in 1976 and another during the early 1990s. After moving to Prairie City, I spent a good deal of time becoming familiar with the Forest while engaged in several different activities. These included botanizing (identifying plants) and wildflower photography, butterfly photography, bird watching, fishing, and woodcutting. Most of these activities took place while on trips whose primary purpose was to monitor grazing damage.

7. As mentioned previously, my interest in monitoring public land grazing activities was well-developed prior to my moving to Grant County, and it was natural for me to immediately involve myself in continuing that activity. I have attempted to work with the Malheur National Forest staff on grazing problems since my move to Prairie City in 1999. I did so by attending field tours when allowed and by reporting to the Forest Service about incidents of cattle trespassing, violation of grazing standards, and areas of chronic damage caused by cattle grazing. I spent many days looking at and familiarizing myself with several of the Forest's allotments, particularly those on the Prairie City Ranger District, and including allotments impacting the wild and scenic portions of the Malheur and North Fork Malheur Rivers. I was struck by the impossibility of a single person, or even a few people, to adequately monitor an area as large as the Malheur National Forest, but I investigated as many allotments as my free time would allow and I filmed much of what I saw.

8. These public land ecosystems are important to me because they contain much of what is left of our environmental endowment and the biotic expression of many millions of years of evolution. Because humans have severely altered the private lands in ways that negatively impact native plants and animals, it is important that we treat what remains of natural ecosystems with respect so that the evolutionary inheritance can survive and so that future generations can experience them in a healthy, fully functioning state.

9. Neotropical migratory birds deserve a place to breed and rear their young; but currently, their riparian willow/alder habitat has been seriously degraded, and along some river reaches, extirpated, by cattle grazing on the forest and in the wild and scenic river corridors. Threatened bull trout also deserve a place to live and breed, but their ability to do so has been seriously compromised by grazing activities in the same river corridors. Additionally, as someone who may spend my retirement surrounded by the Malheur National Forest, it is important to me that I too can experience riparian areas and plant communities that have not been severely or permanently destroyed by irresponsible grazing management.

10. As mentioned previously, I began monitoring in an unsophisticated fashion by documenting conditions with a ruler using photographs and film not long after my arrival in 1999. I did so because I had developed an interest in trying to improve grazing practices on public lands. I continued these activities sporadically throughout the summer of 2000 and intensified my efforts during the 2001 grazing season.

11. Because the conditions on the ground indicated that the Forest Service was not doing enough to improve conditions so as to meet the standards they were required to meet, I began to do more formal monitoring, beginning June 1, 2001, on several allotments using a known position, bearing, and a measuring device. This monitoring continued into September

when I began to occasionally use the Malheur National Forest's "Stubble Height Riparian Area Monitoring Protocol." Later, I started using the stubble height and bank damage protocol described in the Forest Service/Bureau of Land Management implementation protocols.

12. For stubble height measurement, I ran a transect either along the greenline or across a terrace on a specific bearing for a minimum of 180 feet, or 30 measurements (samplings at the "step-point," according to the Forest Service monitoring protocol). Often, the transects were much longer and consisted of 60 or more samplings. Early on, the measurements were taken on only one side of a river or stream, but later in the year I began taking the measurements on both side of the river or stream. At each toe or "step-point" I would sample a 3-inch circle using my ruler to determine the average stubble height within the 3-inch circle. I then determined for each transect the median of these average stubble heights, as is called for by the protocol.

13. I also estimated the amount of bank damage by recording whether fresh bank damage had occurred in each pace of the greenline transect I was walking, and then calculating the percentage of paces that bank damage had occurred in.

14. By October, I intensified my monitoring using the implementation protocols for stubble height and ultimately for bank damage as well. In most cases, I would also photograph and estimate the degree of shrub use by comparing leader lengths left after grazing to any unbrowsed leaders that still remained on nearby shrubs, if available.

15. At each transect I would set up a tripod with my 35 mm camera and a 60 mm lens pointed along the general bearing of the greenline, or along a bearing for the transect across a terrace, and take one or more pictures with 35 mm slide film. In many cases, I also filmed the conditions along the greenline with an 8 mm digital movie camera.

16. Both of Malheur River and North Fork Malheur River wild and or scenic river corridors have been severely and chronically impacted by livestock grazing, although some areas are worse than others. Over-utilization of riparian shrubs, excessive removal of soil and bank protecting graminoid vegetation, and severe bank damage are serious problems in the river corridors, as well as Forest-wide.

17. In some units where grazing is authorized to occur along the rivers, the woody or shrub component of the stabilizing and shade-providing riparian vegetation has been eliminated or suppressed due to long-term over-utilization. The shrubs that remained are generally over-utilized, with many shrubs being partially to fully defoliated and others being severely cropped or hedged on the portions of the plants most accessible to livestock. I observed that livestock-caused shrub damage beyond that allowed by the applicable standards occurred consistently on all the river units of the Dollar Basin/Star Glade, Flag Prairie, Spring Creek, and North Fork allotments where grazing or browsing was permitted to occur, as well as on the northern portion of the Central Malheur Allotment where grazing was not supposed to occur.

18. I observed that soil- and bank-protecting graminoid vegetation along the greenline and on the terraces and upland meadows had been removed to levels below that allowed by the applicable standards on the allotments in question. On the North Fork Malheur River, leaves and stems of water-loving perennial flowering plants along the greenline, such as Senecio serra, had been stripped from them prior to their being able to flower and set seed. Others were simply trampled.

19. Graminoid stubble heights were the worst on the Dollar Basin/Star Glade Malheur River Units and on the River Unit of the Flag Prairie Allotment on the North Fork of the Malheur

River. The terraces along the rivers in these units resembled golf course putting greens with some areas of bare ground.

20. I observed that healthy riparian areas along these wild and scenic rivers and their tributaries should exhibit riparian and stream channel characteristics similar to those in the nearby Summit Creek enclosure (see photos attached as Attachment 1). In the wild and scenic river corridors, however, I consistently observed below-standard literal “stubbles” of remaining grasses; banks severely damaged by livestock-caused trampling, shearing and sloughing; and harshly browsed, struggling alders and willows (see photos attached as Attachment 1). Excessive removal of bank-protecting graminoid vegetation and livestock-caused movement of bank soil into streams is a problem Forest-wide.

21. Bank damage occurred wherever there was enough developed bank still remaining to damage and also where new bank was beginning to be created. Damage was in the form of hoof shearing, trampling/hummocking, and bank collapse due to the weight of livestock. It usually appeared to be greater than the 10% allowed by the biological opinion standard.

22. These observations are supported by my photographs and/or monitoring data and are similar to what I have observed in previous years on these and many other allotments on the Malheur National Forest. I have attached to this declaration as Attachment 1 photographs I took in 2001, documenting riparian conditions and the impacts of livestock grazing on these wild and scenic river corridors. The photos, dates and locations, and my captions accompanying them, are accurate, true and correct to the best of my knowledge. I also have attached to this declaration as part of Attachment 1 summary forms of my monitoring on these allotments within the Malheur and North Fork Malheur wild and scenic river corridors. Again, these data and summaries are accurate, true and correct to the best of my knowledge.

23. The worst impacts from livestock grazing that I found in the river allotments were to fish and wildlife. Removal by livestock of the shrub and small riparian tree component affected both fish and wildlife. Fish were deprived of cover and the shade necessary to keep the water at the colder temperatures necessary for their life cycles. The deeper narrower channels needed by fish were in many cases missing, due in part to the fact that the bank stabilizing roots of the riparian shrubs were no longer present to hold and protect soil, and because the energy dissipating mass of the above ground shrub community was also gone. The trampling, shearing and increased sloughing off of banks is increasing sediment in the water, which interferes with fish life cycles as well.

24. Wildlife habitat associated with banks, such as holes and cavities utilized or created by beaver, muskrats and other species has been largely eliminated in many areas. The shrubs and trees needed by many riparian dependent species, such as neotropical migrant birds, for food, shelter and nesting is also missing or suppressed. This has greatly reduced the amount of available food from willow leaves, flowers and bark, as well as nesting sites for many bird species. The insects that feed on the shrub community, and that many birds and fish in turn feed on, are also reduced for lack of habitat. Tall sedges, rushes and grasses have been grazed so low that they are no longer useful for cover for ducks and other wildlife.

25. Recreationists are also impacted for a number of reasons. Fishermen are faced with a depleted and unhealthy fishery due to extensive damage to the aquatic environment. Because the bull trout is now listed as threatened, largely due to habitat problems caused by livestock grazing, fishermen also face increased take restrictions and regulations which detract from their recreational experience. Some simply will not fish in the corridors because of these problems. Hikers and observers of nature encounter a more impoverished environment, where

plant communities have been altered and trashed, and much of the biomass, including flowers, has been removed. They find fewer birds and other wildlife species to observe and enjoy, because the habitat needed by these species has been suppressed or destroyed. Even hunters are highly impacted because much of the “forage” that would otherwise be consumed by, or utilized as cover for, huntable species, such as deer, elk, and waterfowl, is consumed by livestock. All recreationists are forced to tiptoe through the cow pies in a scenically degraded environment or face the unpleasant consequences, and all are forced to negotiate barbed wire fences that tear into their skin and clothing.

26. All of these effects of livestock grazing in the corridors conflict with the outstandingly remarkable values of wildlife habitat, fisheries, and scenery that have been designated for these corridors.

27. Trespass is a regular feature of grazing on the Malheur National Forest, but it is not always easy to observe the livestock in the act of trespass. In 2001 I filmed, observed, or became aware of trespass cows on several allotments, including the Ott (including in enclosures), South Star Glade, North Fork, Flag Prairie (River unit), and Bluebucket allotments—as well as in many other allotments elsewhere on the Forest.

28. For example:

a. On the Star Glade Unit of the Dollar Basin/Star Glade Allotment, I filmed and photographed three cows trespassing on September 5th, 2001. I have included these photographs with the other documentation attached to my declaration.

b. On the afternoon of October 3, 2001, while on the northern South Star Glade Unit of the Dollar Basin/Star Glade Allotment, I filmed fresh prints of cows in mud by the river. The stubble heights appeared lower than they were when I took the

pictures on September 5, 2001, and the fence across the river on the north boundary looked to be ineffective as a barrier to cattle. On November 14th, 2001, there were again fresh cow prints in fresh snow and mud at the north end of the same unit.

c. On October 15, 2001, I observed and filmed two horses in the Mountain Unit of the North Fork Allotment, near the unit boundary fence of the South River Unit.

d. At the north end of the Central Malheur Allotment along the river, I twice observed numerous cow pies of the season associated with willow damage. The last such observation was on November 14, 2001. The portion of the Central Malheur Allotment along the Malheur Wild and Scenic River is not supposed to be grazed.

29. On September 26, 2001, during a field trip to the Flag Prairie Allotment, the Prairie City Ranger District range conservationist offered an explanation for why the stubble heights were so low and why the woody shrubs (e.g., alders and willows) were so devastated on the River Unit of the Flag Prairie Allotment. The Prairie City Ranger District range con informed me that the cows had stayed on the unit for ten days instead of the planned-for five days when they trailed up the river earlier in the year. On November 18, 2001, while measuring the bank damage on the unit, it appeared that the cows had trailed over the unit again because I observed additional, fairly fresh, bank damage.

30. Forest Service management of grazing within the wild and scenic river corridors can only be characterized as lackadaisical at best. Enforcement of grazing standards appears to be non-existent, and periods of use seem to be left up to the permittees. While the former District Ranger appeared to be concerned about protecting the outstandingly remarkable values of the river corridors, that concern did not seem to manifest itself in the attainment of standards through good grazing management carried out in the corridors. The degraded conditions on the river

allotments, as described earlier in relation to the outstandingly remarkable values, and as shown in the attached photographs, speak volumes about the quality of Forest Service management and grazing practices over a number of years.

31. All of the captions below the photos I have attached to this declaration are descriptions I wrote that apply to the photos to which they are attached and are accurate, true and correct to the best of my knowledge.

32. Finally, I collected, summarized and presented all of the monitoring data on the attached monitoring forms. These data and summaries are accurate, true and correct to the best of my knowledge.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 26TH day of March 2004.



Christopher Christie