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Sheep v. Sheep

feature article - October 1, 2007 by *Nathaniel Hoffman*

A legal battle over Hells Canyon grazing could determine the future of wild sheep and sheep ranching across the West

ENTERPRISE, OREGON

As we climb out of Enterprise and up the Lostine River drainage in a white Cessna 206, Oregon Fish and Wildlife technician Crystal Strobl picks up a radio collar signal. Joe Spence, a chatty pilot who has flown over the Wallowa Mountains for years, then spots the first band of sheep. They stand in a herd, some on top of a ridge above Deadman Lake, others directly below them, calmly perched on the sheer cliff sides. It's late May.

We circle the ridge near Deadman in tight, banked turns, and my sheep-counting efforts turn into focused meditative breathing meant to keep my stomach in proper orientation. The breathing is unsuccessful. Strobl, on the other hand, seems completely unaffected by the plane's diagonal attitude as it spins around a column of smooth mountain air; she efficiently counts 42 mountain sheep with 17 lambs. A small band of shaggy mountain goats grazes a higher ridge top. Near Frances Lake we spot another large group of sheep that includes five lambs.

"The lambs in the Lostine seem to be doing really good this year," Strobl announces over the radio.

The Wallowas rise suddenly out of eastern Oregon farm country, a steep mound of rocky peaks faced with grassy bowls, exposed ridgelines and high-mountain lakes. To the east, the peaks give way to canyonlands that cradle the Imnaha River and the wild, winding Snake River, home to Hells Canyon, a slash in the earth deeper and more rugged than the Grand Canyon. We head east into the canyon, where Strobl observes several more bands of bighorns, many including

lambs.

Mountain sheep vanished from Oregon in the 1940s, disappearing even earlier on the Idaho side of the canyon. Now they're back, at least to some degree. But whether these iconic animals will ever return to their historical levels is not yet clear.

For at least 20 years, biologists have recommended keeping domestic and wild sheep apart on the range. Years of research have shown that when bighorns interact with their tame cousins, massive bighorn sheep die-offs soon follow.

Nearly 20,000 domestic sheep still graze on parts of the Payette National Forest in Idaho, which contains ideal range - for both domestic and wild sheep - and is contiguous with Hells Canyon. New telemetry data have confirmed what biologists long suspected: Wild sheep from Hells Canyon are roaming onto domestic grazing allotments on the Payette.

This summer, the Forest Service for the first time barred domestic sheep from those parts of the forest that connect with bighorn sheep habitat. That decision was upheld by a federal judge. But the recovery of the bighorns may depend, ultimately, on the outcome of a continuing legal dispute between supporters of wild sheep reintroduction and longtime domesticated sheep ranchers in Idaho.

The battle for the Payette promises to clarify where bighorns will be protected. At the same time, it may determine the future of the sheep-ranching industry, which has depended on access to public grazing leases across the West for more than a century.

Early snowstorms blanketed the high peaks of the Wallowa Mountains. It was late October 1939, and Don Moore had been sent to find the last of Oregon's wild sheep. The snow was an advantage in one way - it drove sheep lower, where they would be easier to spot - but it also made travel difficult.

A young Oregon State College graduate, Moore used his base at Lick Creek - now part of the Hells Canyon National Recreation Area - to speak with ranchers, poachers, pioneers and biologists. He heard stories of abundant mountain sheep that once inhabited the rugged country between the Wallawas and the Snake River Canyon and recorded the tales in a small field

notebook.

E. M. Titus, a stockman, remembered the band of 16 mountain sheep that clung to the steep canyon walls above Temperance Creek, now a popular stop for Hells Canyon boaters. Those sheep disappeared between 1926 and 1928. Titus blamed the loss on blasting for a new trail along the Snake. But Moore pointed out that in the 1920s, domestic sheep were replacing cattle on the Hells Canyon rangeland.

Charles H. Seeber, who had rented out boats on Aneroid Lake for 50 summers, saw numerous mountain sheep grazing down from the high peaks. In the spring of 1939, however, Seeber spotted only two. In block print in his little notebook, Moore wrote: "Mr. Seeber attributes the decline of mountain sheep to competition with the domestic sheep, as mountain sheep used to be very numerous in that area until domestic sheep were brought in."

After two weeks in the mountains in 1939, Moore was discouraged. "No sheep or tracks of sheep were found," he reported back to the U.S. Biological Survey, precursor to the U.S. Fish and Wildlife Service. And in his report, Moore posed a question that has been asked - and to some degree answered - this summer, nearly 70 years later: "Are mountain sheep in the Wallowa Mts. of more value to the people of the nation as a whole than is the grazing industry in this area?"

Rocky Mountain bighorn sheep were once the dominant big game animal in the intermountain region, ranging from British Columbia south through the intermountain West and into isolated parts of Arizona and New Mexico. Wild sheep species are also found in Alaska, along the West Coast and in the desert regions of the Southwest. Dale Toweill, wildlife species coordinator for Idaho Fish and Game and co-author of *Return of Royalty*, a 1999 volume detailing the restoration of wild sheep in North America, says that of the approximately 2 million bighorns that once roamed the region, only about 35,000 remain.

At one time, an estimated 10,000 bighorns inhabited nearly 6 million acres of steep canyon walls and rugged high country in Oregon, Washington and Idaho. Native people used the sheep for meat, clothing and tools and crafted a small, technologically advanced bow from the horns. The Indians left numerous depictions of bighorn sheep on rock outcroppings; some of these petroglyphs can be seen today along the Snake River.

Domestic sheep, which share a common European ancestor with bighorns, were brought to central Idaho in the 1860s and to Hells Canyon in the 1880s. Large-scale wild sheep die-offs

began soon after; they were often attributed to scabies, a skin mite. Though wild sheep persisted through the 20th century in central Idaho, they were essentially extinct in Hells Canyon by the 1940s.

In 1971, Oregon Fish and Wildlife biologist Vic Coggins chose a spot on the Lostine River drainage to introduce a herd of Canadian bighorns. He would spend the bulk of his career restoring the animals to the greater Hells Canyon area. And restoring them again. And again.

Idaho and Washington joined the bighorn-restoration effort in the 1980s, when a deep-pocketed hunters' group, the Foundation for North American Wild Sheep, increased its funding for sheep transplants. In 1997, the three states formed the Hells Canyon Initiative to coordinate reintroduction efforts and to work with federal agencies and the foundation. The states have transplanted more than 600 sheep up and down Hells Canyon since the 1970s, with a goal of having 2,000 bighorns in the huge Hells Canyon Initiative area by now.

Instead, the population is declining, with only about 870 bighorns in the canyon. And this year, as summer went on, biologists reported more and more dead lambs. The bighorn problems still seem to be tied, somehow, to the presence of domestic sheep. "One of our charges was to try to figure out why these populations weren't increasing at a more rapid rate," Coggins says. "And we have, as far as I'm concerned.

"It's the disease."

Back in 1979, Washington State University researcher Bill Foreyt was trying to create hybrid wild-domestic sheep for game farms. In every trial that he ran, all of the bighorn sheep, with one exception, died of some type of pneumonia before they could breed with the domestics. Follow-up experiments in the 1980s and '90s showed similar total or near-total bighorn die-offs after they were exposed to seemingly healthy domestic sheep.

Scientists are still searching for the exact disease mechanism, but it is nearly universally accepted that the domestics make their wild cousins dangerously susceptible to various forms of pneumonia, which kills them off in droves and weakens their offspring for generations. These findings have led wildlife managers to recommend that the two types of sheep be kept away from one another in the wild.

"Our early experiments really opened people's eyes," Foreyt says from his office at Washington State University's College of Veterinary Medicine. "The biology is very clear, but the politics change by the month."

An Oregon court agreed a decade ago that domestic sheep on the Wallowa-Whitman National Forest threatened the Hells Canyon bighorns when it upheld a decision to close sheep allotments on the Oregon side of the canyon. But the Oregon wild sheep surprised biologists by regularly crossing the Snake River and moving dangerously close to sheep allotments in Idaho.

Since 1985, environmental groups have been asking the Payette National Forest in Idaho to protect bighorn populations by limiting domestic sheep grazing. Forest Service managers - charged with maintaining a viable population of bighorns in the Payette but not eager to evict Idaho domestic sheep ranchers who'd long had grazing allotments there - delayed a decision for decades. "Each year, they just kept turning sheep out and turning sheep out (to pasture)," said Craig Gehrke, director of The Wilderness Society's Idaho office.

In 2003, the Payette National Forest published its updated 20-year forest plan. The plan - an environmental assessment and policy document that takes up an entire row of shelves at the Payette National Forest headquarters in McCall - discussed the threat that domestic sheep pose to bighorns. According to an Idaho Fish and Game Department official who worked on it, early drafts included a boundary line denoting where domestic sheep would be considered a risk to bighorns. But the boundary language was absent from the final forest plan.

When the plan was released in 2003, a half-dozen environmental groups and the Nez Perce Indian Tribe challenged many of its provisions. In 2005, the chief of the U.S. Forest Service agreed that the Payette had not included adequate protections of big-horn sheep in its plan.

Still, domestic sheep grazing continued.

In 2006, the Forest Service published a 40-page *Risk Analysis of Disease Transmission Between Domestic Sheep and Bighorn Sheep on the Payette National Forest*. The report declared the Smith Mountain grazing allotment to be at "very high risk" and four others to be at "high risk" of transmitting disease from domestic to wild sheep.

That spring, domestic sheep were again turned out into the Payette as usual.

This April, after several last-minute attempts to reach an agreement, including offers to buy out some of the allotments, The Wilderness Society, an Idaho-based anti-grazing group called the Western Watersheds Project, and the Hells Canyon Preservation Council sued the Forest Service for failing to protect a viable population of bighorn sheep. (The Nez Perce Tribe filed a brief in support, but did not join the lawsuit.) The suit alleged the Forest Service had violated the Hells Canyon National Recreation Area Act and the National Forest Management Act. The attorney for the conservation groups, Lauren Rule of the environmental law firm Advocates for the West, also claimed that the Forest Service had allowed grazing to continue without conducting the environmental assessments required by the National Environmental Protection Act.

Rule asked federal Judge B. Lynn Winmill for a preliminary injunction to halt grazing on six allotments in the Payette before the May 15 turnout date. "After dealing with this for years, we know that the agency won't do it unless they are put in a box and slowly submerged in cold water," says Jon Marvel, the famously confrontational director of the Western Watersheds Project.

Faced with the lawsuit, the Payette National Forest quickly turned around and agreed to a bighorn-protection plan drawn up by the Nez Perce Tribe. At the beginning of May, in a packed federal courtroom in Boise, Assistant U.S. Attorney Deborah A. Ferguson told a judge that the Payette National Forest would stop grazing this season on portions of two domestic sheep allotments in the bighorn country on the Idaho side of the Snake River. Grazing on two allotments on the Salmon River would also be curtailed.

For the first time in more than a century, Hells Canyon would be largely free of domestic sheep.

The range closures meant that three out of the four ranching families that run sheep on the Payette had to suddenly change plans just before grazing season. Ron Shirts' 85,000-acre Smith Mountain grazing allotment rises from the depths of Hells Canyon to 8,000 feet, providing high-quality grass for a very long grazing season. But the Payette decision kept him out of a key part of it, and he had to sell 2,900 lambs in June, each 25 pounds lighter than it would have been by fall, when he normally sells his sheep. He reportedly lost more than \$70,000 in the transaction, according to an Idaho sheep industry group.

After initially backing the Forest Service in its fight with the environmental groups, Shirts sued

the agency, arguing that the need for separation between bighorns and domestics on the Payette was based not on fact, but on "paranoia." Shirts, who has declined to speak to the press, also argued that the Forest Service did not have a right to modify his grazing permit without a one-year notification.

"There is no demonstrable risk that domestic sheep transmit diseases to bighorn sheep if they make contact in free-ranging situation(s), thus there is no likelihood of imminent or irreparable injury to Plaintiff's interest if the (injunction) is denied," one of Shirts' court filings contends.

Winmill rejected both of the rancher's arguments and upheld the Forest Service's decision. But although portions of the complaints by both Ron Shirts and the environmental groups have been resolved, the two cases have been combined and are still active before Judge Winmill.

Depending on what the Payette National Forest does with sheep grazing next year, the case could still go to trial.

Bighorn advocates and sheep ranchers are watching closely. A ruling that orders bighorn protection in the Payette or a permanent change in Forest Service sheep management practices could affect public-land grazers across the West.

The history of southwest Idaho and eastern Oregon is intimately tied to sheep herding. Sheep are still trailed through the resort town of Sun Valley every fall in a popular festival. A romantic mystique surrounds shepherders, once mainly Basque immigrants and now largely Peruvians who spend months at a time in the wilderness guarding the flocks.

But in reality, the sheep industry has been in decline for 70 years.

Sheep ranching peaked in Idaho in the 1930s with 2.7 million head of breeding stock. Today, less than a quarter of a million ewes are grazed in Idaho, according to the Idaho Wool Growers Association, an industry group. Though current flocks are small in comparison to sheep ranching's heyday, it is increasingly difficult to find grazing land, says Stan Boyd, a sheep industry lobbyist and director of the Idaho Wool Growers. "America's never been hungry, I guess, so they'd rather recreate on the land," Boyd says.

But shrinking rangeland is only one factor in the precipitous decline of the sheep industry. After

World War II, lamb lost favor as an American meat of choice. Then the price of wool, once more valuable than the meat, took a nosedive as high-tech synthetic fabrics came on the market.

Of late, lamb prices have made a comeback, and demand for racks and chops in the U.S. outpaces supply. Still, about half of the lamb in the country is now imported, Boyd says. The remaining large sheep operations in the West depend on public rangeland to feed their ewes year-round. In fact, about a third of the sheep in the U.S. spend some part of the year grazing on public land, according to the American Sheep Industry Association, a national group representing sheep producers.

Margaret Soulen, who grazes 9,000 ewes on a combination of private, state and federal lands, including the Payette, says that if her grazing allotment were cancelled, it would mean the end of her family's 80-year sheep-ranching history. Without the allotment, she says, she would have to sell off 1,500 acres of prime riverfront real estate in Valley County near McCall, Idaho. Then she would consider dividing up 50,000 acres of southwest Idaho ranchland into hundreds of ranchettes, maybe saving a few acres to run some cattle.

But she would much rather not sell out: "We like what we do," Soulen says.

Across the West, in fact, sheep ranchers see the spread of bighorns as a threat to their way of life. "Our ranches, some of these ranches that are 130 years old, are being destroyed by bighorns, and you never know when they're going to show up," says Tom McDonnell, former director of natural resources for the American Sheep Industry and now a consultant for the livestock group. Because of grazing restrictions related to bighorn sheep, McDonnell says, more than 654,000 sheep grazing months - that is, enough forage for a ewe and a lamb for a month - have been lost across the West.

But the industry is geared up to fight the trend, and some Western politicians still seem to value sheep ranching more than bighorn sheep. "The grazing industry is an important part of management of the wild lands," says embattled Idaho U.S. Sen. Larry Craig, R, who has long advocated for the ranchers on the Payette. "This area lends itself to grazing."

When Dr. Sri Srikumaran, a microbiologist at Washington State University at Pullman, steps up to the fence, two dozen bighorn sheep run to him. One feisty bighorn he calls Say (pronounced "sigh") head-butts his fist, as if the Sri Lankan-born vet and the captive bighorn were soul brothers.

Srikumaran holds the nation's only endowed chair for bighorn sheep research, a position funded in large part by the Foundation for North American Wild Sheep. He works at Washington State's College of Veterinary Medicine, alongside Bill Foreyt, the research pioneer in bighorn-domestic sheep disease, and Tom Besser, an animal epidemiologist who is conducting field research on bighorn disease in Hells Canyon.

Srikumaran, who once worked with elephants in Sri Lanka and made his career in cattle disease research at the University of Nebraska, says that by December 2008 he will know why bighorn sheep die so often from pneumonias that do not affect cows and domestic sheep nearly as severely. "Eventually, we want to vaccinate these animals so they are not susceptible to the disease," Srikumaran says.

Besser is looking at the problem from another angle. He saw that bighorns were dying from different strains of pneumonia, even within the same population. Besser wanted to know what might set off the disease in a free-ranging bighorn sheep population. With the help of field biologists, Besser has isolated a type of bacteria called *mycoplasma ovipneumoniae* that appears in samples from every wild sheep die-off studied so far. It does not appear in healthy bighorns, and it is carried by domestic sheep.

Besser has yet to determine if wild sheep get the mycoplasma from domestic sheep. But he does say that the presence of the bacteria in bighorns can lead to pneumonia. The accumulated weight of bighorn research was enough for the Payette National Forest to conclude in its February 2006 Risk Assessment that "there is consensus among wildlife biologists and veterinarians experienced in bighorn sheep management that domestic sheep and bighorn sheep must be kept separated in order to maintain healthy bighorn populations." In November 2006, the Payette convened a panel of experts who concluded that "contact (between bighorns and domestic sheep) increases risk of subsequent bighorn sheep mortality and reduced recruitment, primarily due to respiratory disease."

Greg Dyson, director of the Hells Canyon Preservation Council in Le Grande, Ore., contends scientists who don't believe domestic sheep are a threat to bighorns are in a distinct minority. "There are a couple scientists out there who will say that there is not a connection, and my analogy to that is the climate change scientists who up to at least a year or so ago were saying there's just not proof of global warming. And now I think all that has been squelched because the

evidence is just overwhelming," Dyson said. "And that's really where we're at with this disease issue."

Still, there are credentialed researchers - including several who participated in the Payette science panel - who disagree.

Marie Bulgin, coordinator of the Caine Veterinary Teaching and Research Center in Caldwell, Idaho, a state animal lab, has been one of the loudest critics. "The whole risk analysis of disease transmission between domestic sheep and bighorn sheep (BHS) on the Payette National Forest (PNF) is based on the premise that domestic sheep transmit disease to BHS on the range," Bulgin wrote in comments to the Payette a year ago. "Seventeen years plus of research by numerous researcher (sic) has not been able to prove that such is the case."

Bulgin, who raises sheep in southwest Idaho and is the president of the Idaho Wool Growers Association, believes that many biologists are "just as biased toward bighorn sheep as I would be toward domestic sheep." She and her colleagues say that because Foreyt's experiments took place in pens, they are not valid. Contact between domestic and wild sheep is much different on the range, they say, particularly when herders and dogs are present.

Anette Rink, who supervises a state animal laboratory in Reno, Nev., is also a critic of bighorn sheep disease research. In a September 2006 memo, Rink wrote that disease transmission from domestic to bighorn sheep is a "legend" and a "perception perpetuated by some individuals." In the same note, written on Nevada Department of Agriculture letterhead, Rink urges the U.S. Department of the Interior to look at the bighorn sheep issue in light of its effect on farmers and ranchers, "our only environmentally sustainable tool to manage invasive species and preserve open spaces for wildlife, livestock and for recreation."

That memo was addressed to former Interior Department Deputy Assistant Secretary Julie MacDonald. MacDonald, who oversaw the U.S. Fish and Wildlife Service and was involved in many endangered species decisions, resigned earlier this year after an inspector general's report found that she had aggressively manipulated scientific reports to minimize endangered species protections and shared internal documents with agriculture industry groups. A Fish and Wildlife Service spokeswoman says that MacDonald did not attempt to influence the Sierra Nevada bighorn sheep's endangered species listing. (The Nevada bighorn is one of two bighorn sheep

populations protected under the Endangered Species Act.)

But Rink, who maintains that the Sierra Nevada bighorns are not distinct from other desert bighorn populations and should never have been listed, says, "MacDonald had an interest in looking at the bighorn sheep listing."

Over the course of the last decade, bighorn sheep advocates have made significant efforts to appease domestic sheep ranchers who would be affected by limits on public-lands grazing. The Foundation for North American Wild Sheep, which has raised \$50 million to restore bighorn sheep populations across the West, including those in Hells Canyon, has offered to buy up key grazing allotments in the Payette National Forest numerous times. It has also looked for alternative range for domestics and suggested converting the Payette ranching operations to cattle, as sheep operators have done in other bighorn areas. The foundation offered Ron Shirts up to \$250,000 for his grazing permit; he wanted \$2.5 million.

Although the wild sheep foundation did not join the lawsuit, it did weigh in on legal strategy. And now the group's director, Raymond Lee, believes that the way the Payette is handling its bighorn population may be copied by other national forests and possibly also by the managers of other federal and state lands leased for sheep grazing. "People in (Washington) D.C. are aware of this, and they want to make sure this is the right decision to make," Lee says.

A set of six statements from the Payette's science panel - including the assertion that contact between bighorn sheep and domestic sheep should be prevented on the range because of concerns for disease transmission - is now being referred to as the "Payette Principles." And as Lee pushes for a coordinated federal policy on bighorn sheep management on federal lands, the Payette Principles may serve as a starting point. After all, Lee says, the livestock industry asked for the best science on bighorn-domestic sheep interaction - and got it.

"The best science available has been applied, and the response back is, 'Well, geez, now we need to go back to tradition,' " he says.

But the ranchers haven't given up. Shirts and his company, Shirts Brothers Sheep, lost their attempt to obtain an injunction that would have allowed grazing this season. But Shirts' attorney says the underlying lawsuit will continue. Meanwhile, the sheep industry in Idaho has

threatened to ask the generally pro-ranching state Legislature to limit Idaho Fish and Game's ability to reintroduce wild sheep. And grazing permit-holders on the Payette hope to influence the forest's bighorn protection plan.

But there is another player in the Hells Canyon sheep dispute - one that was here long before the sheep industry or the environmental groups. Even before Don Moore went looking for the last of the bighorns in Hells Canyon, Indian tribes depended on wild sheep for spiritual and physical sustenance.

For the Nez Perce, the debate is not about sheep disease.

"It doesn't matter to us who gave what to who," says Keith Lawrence, director of wildlife programs for the tribe. "We're really focused on the management issues rather than being drawn into what we don't or do know about the disease."

Lawrence, who is not Indian but came to work for the tribe in 1982 as its first wildlife biologist, points to a set of maps on the wall of his office. One shows the tribe's pre-1855 territory. That land now spans five national forests in Idaho, Washington and Oregon.

It was all bighorn habitat in the 19th century.

The Nez Perce would like to see 10,000 bighorn sheep returned to their historic range, land that the tribe reserved for hunting and cultural use when it ceded the bulk of its territory to the United States in the mid-1800s. The tribe has been involved in bighorn restoration for years and in some ways has taken the lead, looking for ways to change grazing patterns to protect both bighorns and ranchers. The tribe wrote the grazing guidelines that the Payette forest implemented this summer. And tribal biologists have put together a proposal to study the sheep along the Salmon River.

The tribe is also working with forest planners on a comprehensive program to protect Rocky Mountain bighorn sheep in the Payette National Forest. It is due out this fall.

And as next spring and the next grazing season roll around, if the federal courts and the Forest Service do not continue to interpret environmental laws in ways that favor bighorn sheep, the tribe has a trump card. It can make a claim that treaty rights require the U.S. government to protect mountain sheep. But that's a move the Nez Perce would prefer to avoid.

"The tribe has its own story of being torn from the land," Lawrence said. "Nobody wishes that on anyone."

The author is an independent journalist based in Boise, Idaho.

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