



**PUBLIC
EMPLOYEES FOR
ENVIRONMENTAL
RESPONSIBILITY**



Director Neil Kornze
U.S. Bureau of Land Management (BLM)
1849 C Street, NW
Washington, DC

September 25, 2014

Dear Director Kornze:

On behalf of Public Employees for Environmental Responsibility (PEER) and Western Watersheds Project, we are writing to you in support of BLM Battle Mountain District Manager Douglas Furtado. As you undoubtedly know, a group of ranchers are beginning a “Cowboy Express” ride to Washington demanding removal of Doug Furtado as an “abusive federal employee.” On the contrary, we view him as a conscientious public servant who should be commended, not condemned, for his actions.

Contrary to complaints that Mr. Furtado has been arbitrary or high-handed, he and his colleagues have had to exercise the patience of Job. As outlined below, Doug Furtado has bent over backwards to accommodate ranchers but as conditions continued to deteriorate was forced to take action to protect public resources.

As you know, like much of the West, Nevada has been in the grips of persistent drought, with nearly 90% of the state under “severe to exceptional” drought for three consecutive years. Much of the Battle Mountain District, especially the Argenta allotment, which is the current bone of Cowboy Express contention, has been among the hardest hit by drought in Nevada.

Following the 2013 grazing season, BLM documented extreme impacts to riparian areas and upland sagebrush steppe habitats, especially in the higher elevation mountain pastures of the allotment. The mountain pastures contain large amounts of the highest priority habitat for Greater Sage-Grouse, a species warranted for listing under the Endangered Species Act. BLM resource staff met with the Argenta permittees and recommended the mountain pastures be closed to grazing in 2014.

In February, the permittees agreed not to graze those areas during the 2014 season.

This spring following the highly publicized standoff between BLM and Nevada renegade rancher Cliven Bundy, some of the Argenta ranchers went back on their word. Apparently emboldened by the Bundy incident, permittees began a campaign to pressure BLM to allow them to graze the areas they had agreed to rest – eventually singling out Battle Mountain District Manager Doug Furtado. Local supporters, including Nevada politicians, staged a “Grass March” horse ride, ludicrously trying to analogize this protest to Mohandas Gandhi’s 1930 Salt March to protest the British monopoly and taxes on salt in India.

In late May, BLM sat down again with ranchers and reached a new agreement that, although cattle could be turned in all areas of the Argenta allotment, BLM would monitor levels of forage utilization but once conditions had met certain “drought triggers,” the permittees would have to remove their livestock within seven days.

Meanwhile, a greasewood flat across from the BLM District office in the town of Battle Mountain was bladed off and the ranchers set up signs with messages calling for Manager Furtado’s removal. And, despite this second agreement, the ranchers administratively appealed the decision implementing what they had agreed.

The drought triggers in the second agreement were quickly met and exceeded. On July 9 and 10, BLM comprehensively documented that nine of 20 use areas had been over-utilized. The ranchers accompanied BLM during this monitoring.

On July 23, BLM sent a letter to the permittees notifying them that their cows must be removed by July 30. The ranchers did not remove their cattle; instead, their attorney sent BLM a letter stating that they disputed the validity and enforceability of the agreement, and that BLM had incorrectly measured the amount of grasses consumed by their cattle so that the drought triggers had not actually been met.

On August 1, the permittees again met with BLM in a closed-door meeting and were again told by BLM to abide by the agreement and decision.

On August 7 and 8, BLM conducted compliance inspections. Again the permittees accompanied BLM. BLM found more than 300 cows remaining in areas where the permittees had been directed to completely remove livestock by July 30, 2014.

Although the cattle remained present in de facto trespass without any trespass action being taken by BLM, new signs appeared calling for “impeachment” of Manager Furtado with agitators promising to stage a nationwide horse ride for the cameras protesting BLM “tyranny.”

Rather than issue trespass notices, BLM requested that an administrative law judge (ALJ) in Interior’s Office of Hearings and Appeals order the livestock to be removed, or alternatively confirm BLM’s authority to remove livestock under the agreement. The ALJ declined to order the permittees to remove their cattle himself or based upon the agreement. Citing BLM’s “plenary authority” to regulate and protect public lands under governing regulations for emergencies like drought, the ALJ remanded the appeal back to BLM.

On August 22, 2014, BLM issued yet another decision for grazing on the Argenta allotment, this time closing the use areas where drought triggers had been exceeded based on its emergency regulatory authority.

The permittees immediately appealed this new decision and asked for an interim stay. In the meantime, they have pressed BLM to approve continued grazing along with new livestock projects like fencing off the riparian monitoring areas and hauling water in trucks to the allotment. In essence, they have asked BLM to blindfold itself to the damage that their cattle continue to cause.

An ALJ denied the rancher's request for an interim stay, and this was followed by a full denial of a stay.

Meanwhile, BLM waited two months after the protective standards were exceeded to issue a trespass notice for livestock remaining across many of the sensitive sage-grouse habitats.

We believe that it is now unmistakably clear that the Argenta ranchers, who enjoy heavily subsidized below-market rates for grazing on public lands, including the most vital sage-grouse habitats, are refusing to be held accountable for the impacts of their herds on public lands, watersheds and wildlife.

The Argenta incident is precedent-setting, because Battle Mountain BLM has been at the forefront of trying to bring accountability to livestock grazing in the arid West, which faces drought and climate change stresses – both of which are exacerbated by livestock grazing impacts.

Contrary to the ranchers' assertions that forage is adequate, an analysis of both Geographic Information Systems and BLM data reveal the range in terrible ecological shape:

- As much as 90% of assessed sage grouse habitat is in Battle Mountain allotments failing BLM Land Health Status (LHS) standards due to livestock;
- Nearly every Battle Mountain allotment evaluated failed range health standards for wildlife and water quality, largely due to livestock grazing; and
- Fence line contrasts show that public lands in the checkerboard allotments are far more heavily grazed than private lands, suggesting that ranchers are more protective of their own lands than they are of publicly-owned range.

It is for these reasons that Doug Furtado has been trying over the past two years to take affirmative steps to protect the range from further damage. In short, we believe that Doug Furtado should be praised, not pilloried, for trying to do his job under the most trying of circumstances. Moreover, we think it is important that BLM as an agency do more to stand up for its employees trying to protect public resources.

The Cowboy Express is actually a cynical attempt to use iconic imagery to mask selfish abuse of public lands. If ranchers will not be responsible stewards then conscientious land managers have to make hard decisions, as Doug Furtado has done.

Thank you for your consideration of our views.

Sincerely,

Kirsten Stade
Advocacy Director
PEER

and

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Biodiversity Director
Western Watersheds Project