



**Trojans roll in  
grid opener  
Page 1B**

**Givens Hot Springs set to  
celebrate 125th anniversary**

**Page 9A**

**Homedale girls soccer gets  
first victory in its history**

**Page 1B**

**Wednesday, August 30, 2006**

**Established 1865**

# The Owyhee Avalanche

**VOLUME 22, NUMBER 35**

**HOMEDALE, OWYHEE COUNTY, IDAHO**

**SEVENTY-FIVE CENTS**

## Crime drops in Owyhee for third year

The number of reported crimes dropped in Owyhee County in 2005 for the third year straight, according to the Idaho Department of Law Enforcement.

But while the number of reported crimes was down last year, Owyhee County Sheriff Gary Aman says that reported crimes on the rise in 2006. He said more recreationalists as well as increased law enforcement presence are reasons for the year-to-date spike.

In 2005, 258 "Group A" criminal offenses, including assault, burglary, rape, drug offenses and weapons law violations were reported throughout Owyhee County. This number is down from 543 in 2004, a 52.5 percent drop. In 2003, there were 544 Group A crimes reported in Owyhee County.

In 2005, Homedale received 79 Group A offense reports, down sharply from 220 in 2004.

The sheriff's office also showed a huge decrease in Group A

— to page 4A

## Labor Day closures planned Monday

The Owyhee Avalanche office will be closed Monday in observance of Labor Day.

Deadlines for classified ads, display advertising and legal notices for the Sept. 6 edition of the Avalanche will be noon Friday.

The Avalanche office will re-open at 8 a.m. Tuesday.

All government buildings and banks will be closed Monday in observance of Labor Day.

Paul's Market in Homedale and Snake River Mart in Marsing will remain open Monday.

## No word yet on West Nile funding

Owyhee County Commissioners are awaiting word from the state government on assistance battling West Nile Virus (WNV) after they passed an emergency declaration at their Aug. 21 meeting.

During Monday's meeting, the commissioners voted to extend the emergency declaration until next Tuesday — when they are scheduled to meet again — to give Owyhee County Emergency

Coordinator Larry Howard time to formulate a plan regarding WNV. A detailed plan is needed before Gov. Jim Risch can grant state funds to aid in fighting the spread of the disease.

The state of emergency declaration was the first step in requesting state aid.

Monday morning, Risch

— to page 5A



## 'Someone is going to get killed'

Highway district, residents feel impact of sign vandals

Vandalism to street signs and stop signs isn't a new phenomenon, but Rob Atkins of the Homedale Highway District says it's still costly — in taxpayers' dollars and, potentially, residents' lives.

"Someone is going to get killed," Atkins said, referring to the traffic hazard created when vandals illegally remove stop signs from intersections.

Last week, a stolen stop sign tossed into an irrigation ditch along Graveyard Point Road got wedged in a check box in front of the home of Larry and Colleen Bahem. The diverted water poured into the Bahems' front yard and worked its

— to page 5A



### Flood damage

Water rushing into the front yard of Larry and Colleen Bahem's home Friday morning eroded soil from around their septic system, leaving the drain field exposed.

## Homedale High gears up for early Homecoming

Homedale High School is smack-dab in the middle of a very early Homecoming Week today.

Today's dress-up theme at the school includes seniors wearing flip-flops, juniors sporting Halloween costumes, sophomores wearing jerseys and the freshmen showing they're tough enough to wear pink.

The annual Homecoming Week festivities end with a 9 p.m. dance Saturday at the high school.

The centerpiece to Homecoming, of course, is Friday's football game against non-conference opponent Nampa Christian. Kickoff is 7 p.m., after this year's Homecoming Queen and King are crowned.

High school principal Mike Williams said last week that Homecoming Week is being held early this year because of the way the Trojans' football schedule shaped up.

— to page 5A

## Inside

**Dave Says column**  
page 7A

**Sports**  
pages 1B-7B

**Commentary**  
pages 8B-9B

**Looking Back**  
page 10B

**Legal notices**  
pages 11B-13B

**Classifieds**  
pages 14B-15B









Drivers gassing up in Homedale were greeted with the dreaded \$3-a-gallon price for regular unleaded early last week at both Jacksons, left, and Matteson's.

Flesher said Thursday that the rate for the sewer bond will be 4.5 percent.

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## ✓ Crime

offenses, dropping from 323 in 2004 to 179 in 2005, which followed a five-year trend in a reduction of reported crime.

### Sheriff sees increase during '06 first quarter

Aman reports that the sheriff's office has seen an increase in the number of reported crimes from January through March of this year, and that the number of incidents to which his deputies have responded are "way ahead of normal" for the year-to-date.

Aman attributes some of this rise to increased recreation population in the county. Aman says he has seen a large increase in the number of larcenies, assaults and vandalism, noting that the increases in larceny and vandalism are sometimes directly related to recreation population.

Increased deputy presence has also as affected the number of reported crimes, Aman said.

"Putting a backcountry deputy on (George Reed) has really brought reports up," Aman said. "If you don't see an officer, you might not report something minor, such as a broken window. But if you see an officer you will."

Aman acknowledged that an increased number of deputies can sometimes directly increase the number of reported crimes, which can cause "crime rates" to appear higher; however, the sheriff added, it is important to understand that the number of officers doesn't change the

number of crimes that occur, just those that are reported.

### Homedale's crime reports remain even

Homedale Police Chief Jeff Eidemiller is cautious about what the reduced numbers for 2005 represent. "In a small department, those numbers can be swayed easily by just a few events."

"We're about the same as last year," Eidemiller said when asked if Homedale was on a similar track for 2006, adding that low crime is part of the quality of life people have come to expect in Homedale.

"The main thing is to let people know that they are not bothering us when they call. No problem is too small."

### Owyhee crime rate lower than Ada and Canyon

These numbers mean that in 2005 approximately 23 of every 1,000 people in Owyhee County were affected in some way by a serious crime. These numbers do not include offenses considered "Group B" crimes such as driving under the influence, disorderly conduct or non-violent family offenses.

When compared to neighboring counties such as Ada and Canyon, Owyhee County's crime rates are drastically lower.

In Canyon County, 76 of very 1,000 people can expect to be affected by a serious crime, while in Ada County that number drops slightly to about 72.

— JWB

# Latest budget proposes additional sheriff's deputies

## Public hearing set in Murphy for 10 a.m. Tuesday

Things are looking up in the Owyhee County Sheriff's Office, even if the Owyhee Initiative Implementation Act isn't signed into law in the next year.

Even without the projected \$650,000 Owyhee Initiative revenue influx that will be spread between the sheriff's and jail budgets, Owyhee County Sheriff Gary Aman will be able to add at least one patrolman to his force.

"Two patrol deputies are budgeted, and one of them hinges on the Marsing situation," Aman said.

The Owyhee County Commission will hold a public hearing on the 2006-07 budget at 10 a.m. Tuesday in the Owyhee County Courthouse in Murphy.

The county has a law enforcement contract with the City of Marsing, and the two entities are at odds over the cost of that pact. Marsing has budgeted \$72,000 for Fiscal Year 2007, but the county has put the price tag at \$90,000. Marsing Mayor Don Osterhoudt reportedly has reached out to Homedale about a law enforcement co-op agreement.

"I would hate to lose the Marsing contract," Aman said. "It's a good contract, but it's not my decision to make."

Aman said if Marsing and the county can't come to an agreement, his office will hire

only one new deputy in the next fiscal year. That deputy probably will be assigned to the area around Grand View, the sheriff said, basically a zone that extends from Murphy to the Nevada border.

Two additional deputies will bring Aman's force to a total of 13. The sheriff said it would be another step in the right direction for the office.

"I think with the two added officers, I'm going to be able to be more proactive, instead of reactive, with law enforcement," he said.

Still, there is one place Aman would love to have more personnel at some point in the future.

"I need help in the back country. One person (Deputy George Reed) cannot properly patrol it," the sheriff said. "I'm so thankful I've got the one person, but he is just swamped. He can't keep up."

The combined budget for the sheriff's office and the jail is set for more than \$2.3 million with the Owyhee Initiative funding, an increase of more than 50 percent from FY 2006.

Even without the legislation, the combined budget will be about \$1.7 million, up about \$200,000 from 2005-06.

Initiative funding would provide four positions — what Aman calls "recreation deputies" — to the sheriff's office, in addition to the two possible deputies who will be added with the base budget. In the jail budget, Initiative money would fund the four new dispatchers.

Also included in the Initiative package are various pay increases for existing positions paid by both the jail and the sheriff budgets.

"It's very needed," Aman said of the Owyhee Initiative windfall. "If we get it, we can start addressing some of the issues we have. If we don't get it, we're still at first base."

Outside of the Initiative, Aman said the jail budget won't change much.

"It's pretty much the same as last year, with the exception of the cost of heating," the sheriff said.

The volatility of energy prices has forced Aman to request an increase in the propane budget from \$16,000 to \$24,000.

"We've had to kind of guess on that, so I've asked for an increase there," Aman said.

The jail's maintenance fund will increase a few thousand dollars, too. Aman said the locks on the cells are rated for seven years, but they've been in use for 13. The sheriff said it'll cost \$10,000 to change out the locks.

The bond used to build the new jail has been retired, so the facility will become even more of a money-maker for the county. All revenue brought in by housing out-of-county inmates — about \$200,000 a year — is placed in the general fund.

"The money I've brought in has paid for the construction of the jail," Aman said. "Now the money will pay for the operation of the jail."

— JPB

## The Owyhee Avalanche

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Member

U.S.P.S. NO. 416-340  
Copyright 2005— ISSN #8750-6823

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Published each week in Homedale, Idaho by Owyhee Avalanche, Inc. Entered as Periodical, paid at the Post Office at Homedale, ID under the Act of March 3, 1879. POSTMASTER: send address changes to THE OWYHEE AVALANCHE, P.O. 97, Homedale, ID 83628.

### Annual Subscription Rates:

Owyhee County.....	\$31.50
Canyon, Ada, Malheur counties .....	36.75
Elsewhere.....	40.00

(Price includes sales tax where applicable)

### Deadlines

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Monday noon the week of publication

#### Legal notices

Friday noon the week prior to publication

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#### Inserts

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### Letters to the editor

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## From page 1

### ✓ Vandals

way into their septic tank and basement.

"I woke up at 6 a.m. this morning to let the dog out and heard water running," Colleen Bahem said Friday. "We had irrigated on Tuesday, so I knew it wasn't that."

The water eroded the ground encasing the drainfield for the Bahems' septic system. While Larry Bahem said the damage in his basement was minimal, he wasn't sure if his homeowners' insurance would cover the total loss because it could be classified as a flood, and he doesn't have insurance for that.

The Bahems now will have to use a backhoe to fill the hole with dirt then close it.

"(The stop sign) flipped in there just perfect," Bahem said of the obstruction, which he believes floated down to its final resting place from somewhere upstream in the South Board irrigation ditch.

"You couldn't do that by hand if you tried."

Atkins said he wasn't sure where vandals stole the stop sign that flooded the Bahems' yard and part of Graveyard Point Road. But the stop sign at Graveyard Point and Y Road and the stop signs at the intersection of Graveyard Point and Johnstone Road were intact Friday afternoon.

Vandals are notorious for pulling up road signs and chucking them

into irrigation ditches, and Bahem said the Graveyard Point Road street sign disappears frequently.

"It goes in spurts," Atkins said of the vandalism to stop signs, street signs and other road signage. "They'll leave us alone for a while."

Atkins said the worst vandalism this summer in the Homedale Highway District came on July 8-9 when 23 stop signs and two street name signs were torn down. He said the state Department of Transportation reported eight signs were vandalized or stolen from the U.S. Highway 95 corridor, too.

"It's the time and money of replacing the signs if they're stolen," Atkins said. "We've had cases of them being shot up with shotguns."

Atkins said it costs the highway district — and, thus, taxpayers — between \$30 and \$40 to replace each road sign. The sign posts, which have been stolen to fuel bon fires in the past, Atkins said, cost between \$10 and \$15 apiece.

Part of the post was still attached to the stop sign that wound up in the irrigation ditch at the Bahems' place.

Crews spend part of each Monday surveying the 97 miles of roads in the district, checking for vandalized or missing signs, Atkins said.

"If one's missing, and it's not laying right there or nobody finds it, we just put a new one up," he said.



### The damage done

**Above:** A sampling of the Homedale Highway District road signs damaged by gunfire are propped up on a shed in the district's maintenance yard on Colorado Avenue. **Below:** This is the exact point in the South Board of Control irrigation canal on Graveyard Point Road where Larry Bahem says a stop sign discarded by vandals became wedged and diverted the water that flooded his septic tank and the basement of his home early Friday morning.

Beyond the defacing and theft of signs being a crime and a nuisance, Owyhee County Sheriff Gary Aman said vandals could be held responsible if a missing traffic control sign leads to an automobile accident.

"Especially with a stop sign, it could be a life-or-death issue," the sheriff said. "Obviously, if someone runs the stop sign (and causes an accident) the person who removed it may ultimately be responsible for someone's death."

— JPB



### ✓ West Nile

spokesman Brad Hoaglund stated the governor won't see the request until it has been evaluated by Idaho's Bureau of Homeland Security (formerly the Bureau of Disaster Assistance).

Homeland Security representatives confirmed Monday that they received the declaration document from Owyhee County by fax on Aug. 22. As of press time, the status of the county's request was not available.

According to a press release from the Owyhee Board of Commissioners dated Thursday, Owyhee County has 4 percent of the state's confirmed cases, but only 1 percent of the state's population.

But Friday, Tolmie stressed that it is important to realize that the declaration does not mean there is a current health emergency in Owyhee County. The declaration does prepare the county to receive state assistance if Risch decides state funds can be authorized.

"The state of emergency allows taxing districts to get state money for mosquito control," Tolmie said Aug. 22.

Hoaglund confirmed Monday that the state will pay 75 percent of the total cost for whatever plan is undertaken, while the



### The culprit

*Owyhee County Commission chairman Hal Tolmie said no aerial spraying will be done in the county this year.*

county will pay the remaining 25 percent.

Tolmie also clarified the difference between a state of emergency and a state of disaster.

"In a state of disaster, you deal with the feds, FEMA (the Federal Emergency Management Agency) and the government," Tolmie said. In a state of emergency, he said, the county deals with the state government only.

Tolmie said that unlike Ada and Canyon counties, Owyhee County does not plan to do any aerial spraying to prevent the spread of WNV.

"We will be doing spot jobs, especially around schools and

on football fields," Tolmie said, adding that all spraying will be conducted at the ground level.

Owyhee County does not currently have mosquito abatement districts, and Tolmie said the county has no plans to create districts in the near future.

"It would cost every household \$30 to \$40," he said.

Idaho is currently second only to California in the number of reported cases of WNV, Tolmie said.

According to Tolmie, Southwest District Health believes that Idaho is in a "peak year" for WNV, and that in other states the number of cases drops off dramatically after the peak year. It was previously reported that states are experiencing two-year peaks.

Owyhee County is currently in what is considered Risk Category 5, according to the commission's emergency declaration. Risk Category 5 involves "multiple confirmed cases in humans; [and] conditions favoring continued transmission to humans," the commissioners wrote in their declaration.

The Idaho Department of Health and Welfare reported Monday there were at least 19 confirmed human cases of West Nile Virus in Owyhee County and 440 in all of Idaho.

— JWB

### ✓ Homecoming

"We were limited with the options for Homecoming Week," he said.

The next home game for Homedale is Oct. 6, and there is no school on Oct. 5-6 as teachers attend state meetings. The next possible game would be Oct. 13 against Fruitland, and that's Senior Night, Williams said.

But the plan is to make the most of the early arrival.

Elizabeth Calderon, Jessica Ferguson and Jordan Warwick are the candidates for Homecoming Queen. King candidates include Caleb Johnson, Trevor Krzesnik and Brandian Sitko.

The annual Homecoming Parade will wind through Homedale on Friday afternoon.

Other Homecoming Week events include:

#### Today

The volleyball teams play their second matches of the season beginning at 5 p.m. in Parma.

#### Thursday

The Dress-up Day is "Tie" Day.

The cross country team kicks off its season on the road with the New Plymouth Invitational.

The volleyball teams visit Weiser for a tri-meet at 5 p.m.

The junior varsity football team travels to face Nampa Christian at 7 p.m.

This is also the final day for students to sign in out-of-school guests for Saturday's dance. The deadline is noon.

#### Friday

The Dress-Up Day theme is Red and White Day/Hat Day.

Activities begin in the gymnasium at 10:34 a.m.: Football throw for seniors, volleyball for juniors, shuttle run and field goal contest for sophomores and a free-throw shooting for freshmen.

Cheerleaders class competition at 1 p.m. Students released at 1:24 p.m. for Homecoming Parade.

Lineup for the parade begins at 1:45 p.m. at the Owyhee County Fair and Rodeo Grounds, and the parade will start from Homedale Elementary School at 2:15 p.m.

Homecoming Court line up at Deward Bell Stadium, 6:15 p.m. Coronation of queen and king and introduction of court, 6:30 p.m.

Nampa Christian-Homedale non-conference football game, 7 p.m.

#### Saturday

Homecoming dance, which has a "Famous Couples" theme, 9 p.m. to midnight.



# School menus

## Homedale Elementary

Aug. 31: Enchilada or corn dog, scalloped potatoes, frosted brownie, fruit & veggie bar, milk.  
Sept. 1: Pizza or peanut butter/jelly, salad, cookie, fruit & veggie bar, milk.  
Sept. 4: No school.  
Sept. 5: Nachos & cheese or baked potato/toppings, cinnamon bread stick, fruit & veggie bar, milk.  
Sept. 6: Chicken rice bowl or egg roll & rice bowl, veggies, fortune cookie, fruit & veggie bar, milk.

## Homedale Middle

Aug. 31: Nachos or baked potato, rice krispie treat, fruit & veggie bar, milk.  
Sept. 1: Chicken tenders or CF beef steak, potatoes/gravy, fruit & veggie bar, milk.  
Sept. 4: No school.  
Sept. 5: Rice bowl w/chicken or egg rolls, veggies, fortune cookie, fruit & veggie bar, milk.  
Sept. 6: Burrito or fish patty, corn, apple crisp, fruit & veggie bar, milk.

## Homedale High

Aug. 31: Chicken patty/bun or sandwich & soup, potato wedges, fruit & veggie bar, dessert, milk.  
Sept. 1: Crispito or rib-b-que/bun, corn, taco salad, fruit & veggie bar, milk.  
Sept. 4: No school.  
Sept. 5: Fried beef steak or chicken filet, potatoes/gravy, roll, fruit & veggie bar, milk.  
Sept. 6: Spaghetti or burrito, French bread, fruit & veggie bar, milk.

## Bruneau

Aug. 31: Chicken wrap, rice, stir fry veggie, oranges, milk.  
Sept. 1: Nachos, salad/croutons, corn, pears, milk, cinnamon sticks.  
Sept. 4: No school.  
Sept. 5: Chicken nuggets, potato wedges, veggie, fruit, roll, milk.  
Sept. 6: Chili & crackers, coleslaw, applesauce, cinnamon roll, milk.



## Homedale High School Cheerleaders

*Homedale High School cheerleaders pose before going into action on the Homedale football field. Kayla Rochester (top row, center) will cheer in the 2007 Hula Bowl in Honolulu. Other 2006-07 Trojans cheerleaders include Daisy Aguilera, Emily Verwer, Katie Butler, Angie Cuellar, Jennifer Dixon and Aimee Steinmetz.*

# Homedale High cheerleader picked to cheer at Hula Bowl

### Selected for second time, senior raises money for 2007 trip to Hawaii

Homedale High School senior Kayla Rochester was recently selected for the All American Cheerleader Award by the National Cheeleaders Association and hopes to cheer at the Hula Bowl college all-star football game in Hawaii in January 2007.

“My mom is my No. 1 fan,” Rochester said last week, citing support from her parents and teammates in helping her to prepare.

Rochester said she has been cheerleading for six years and this is the second time she has been selected for this award. The first time was when she was a sophomore. She was unable to attend as a sophomore, so being selected as a senior is important to her.

Rochester’s teammate Emily Verwer also was selected an All American Cheerleader, but has declined to attend the Hula Bowl.

Rochester has been collecting used ink cartridges and old cell phones for recycling to raise money for the trip as well as collecting private donations. Ink cartridges and cell phones can be dropped off for donation at Homedale cheerleading advisor Kelly DeWitt’s office on campus.

“I’d say we’re about 40 percent there,” Rochester said, referring to the \$2,500 needed for the trip. Rochester added that she is planning other fund-raisers, but hasn’t finalized plans on any yet.

Rochester said being selected for this award is helpful to her because of the possibility of scholarships as a result of it. She said she hopes to attend Northwest Nazarene University in Nampa after high school to study nursing.

Rochester lives with her parents Wendy and Roba Vaughan in Homedale.



## Headed to the Aloha State

*Homedale High School senior Kayla Rochester was selected for the All American Cheerleader Award by the National Cheerleader’s Association, as part of this award Rochester will cheer in the Hula Bowl in January.*

—JWB

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# Birth

## Anna Marie Tibbett

Anna Marie Tibbett was born Aug. 4, 2006.

At birth, she weighed 8 pounds, 10 ounces.

The proud parents are Lane and Jenny Tibbett of Wilder.

Maternal grandparents are Allen and Gracie Waters from Wilder. Paternal grandparents are Ron and Mary Tibbett from Homedale. And Paternal grandmother is Tammy Tibbett from Wilder.



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# Your finances

## Pay off home with inheritance, then begin investing

Dear Dave,

I'll be inheriting some money soon, and was wondering if I should pay off my house or invest in mutual funds. I'm 48 years old and debt-free except for the house, and my mortgage rate is 6.5 percent. What do you think?

— Rob

Dear Rob,

If your home was paid off, would you borrow on it to invest in mutual funds? Of course not! The same principle applies here.

Pay off the house, Rob. Then take the money you were putting toward your mortgage payment, along with as much other cash as you can wring out of your budget, and have it automatically drafted from your account every month and poured into a good growth stock mutual fund.

If you do this, your nest egg will grow at a PHENOMENAL rate and you'll have a big chunk of cash waiting for you at retirement!

— Dave

Dear Dave,

My husband likes to borrow money on small fix-up projects around the house, saying he knows how to manage money and that he'll pay off the loans quickly. The other day, he came to me for money to make the payment on the latest loan he took out to re-wire the garage. Then, he started fussing at me when I didn't have the money to make the payment. It's not the first time this sort of thing has happened, and I'm tired of it. How can I make it stop?

— Crystal

Dear Crystal,

This guy needs a swift kick in his rear end! He says he knows how to manage money, but he doesn't know how to save up to re-wire the garage?

It sounds to me like you've got a big, spoiled teenager on your hands instead of a husband. It's bad enough that he can't take care of his own responsibilities, but then he turns around and cries when you won't do it for him. This is bogus!

Marriage is all about unity. Once the rings go on those fingers it's a WE thing, not a ME thing.



Husbands and wives must work together to form a game plan that will help them win in life, and that includes finances.

Crystal, I think you should take the money he's asking for and use it to see a good marriage counselor. There are some deep issues here. You guys need to deal with them and create a real marriage before this situation gets any worse.

— Dave

Dear Dave,

I'm confused about life insurance. My agent is recommending a whole life policy, but I've heard you say 20-year level term insurance is the best. What's so bad about whole life?

— Gary

Dear Gary,

It's simple. Whole life is about 10 times more expensive than good level term insurance. That alone should be enough to make you walk away. You also realize ZERO returns on whole life policies for the first three years, even though these policies are pitched as a vehicle to build up savings for retirement. After that, your "savings" still only grow at about 2 or 3 percent.

Want more? The savings you've finally built up after being ripped off with high premiums for years won't go to your family when you die. They'll still only get the face value amount of the policy.

Whole life is a horrible savings plan attached to expensive insurance. Stay away from it!

— Dave

— Dave Ramsey is the best-selling author of *The Total Money Makeover*. You can find tools to help with finances or previous columns at [Davesays.org](http://Davesays.org). Have a question for Dave? Send correspondence to [syndication@daveramsey.com](mailto:syndication@daveramsey.com) or write *Dave Says*, 1749 Mallory Lane, Brentwood, TN 37027

Read all about it

in

The Owyhee Avalanche

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# Calendar

## Thursday

Calvary Chapel Home Fellowship Bible study, 7 p.m., 112 N. 4<sup>th</sup> St. W., Homedale. (208) 880-8962

AA meeting, 8 p.m., Homedale Senior Citizens Center, 224 W. Idaho Ave.

## Tuesday

Pure Word recovery meeting, 7 p.m. (208) 880-8962

AA meeting, 8 p.m., Homedale Senior Citizens Center, 224 W. Idaho Ave.

## Thursday, Sept. 7

Calvary Chapel Home Fellowship Bible study, 7 p.m., 112 N. 4<sup>th</sup> St. W., Homedale. (208) 880-8962

AA meeting, 8 p.m., Homedale Senior Citizens Center

## Tuesday, Sept. 12

Pure Word recovery meeting, 7 p.m. (208) 880-8962

AA meeting, 8 p.m., Homedale Senior Citizens Center, 224 W. Idaho Ave.

## Wednesday, Sept. 13

Homedale City Council

meeting, 6 p.m., City Hall, 31 W. Wyoming St. (208) 337-4641

Marsing City Council meeting, 7 p.m., City Hall, 425 Main St. (208) 896-4122

Grand View City Council meeting, 7 p.m., City Hall, 425 Boise Ave. (208) 834-2700, Monday through Wednesday

## Thursday, Sept. 14

Owyhee Garden Club meeting, 1 p.m., University of Idaho Owyhee County Extension Office, 238 8<sup>th</sup> Ave. W., Marsing. (208) 896-5474 or (208) 896-4104

Calvary Chapel Home Fellowship Bible study, 7 p.m., 112 N. 4<sup>th</sup> St. W., Homedale. (208) 880-8962

AA meeting, 8 p.m., Homedale

Senior Citizens Center, 224 W. Idaho Ave.

## Wednesday, Oct. 11

Grand View City Council meeting, 7 p.m., City Hall, 425 Boise Ave. (208) 834-2700, Monday through Wednesday

Submit information on upcoming fund-raisers, reunions or community events to *The Owyhee Avalanche* by noon Fridays for inclusion in the calendar. Drop off press releases at the *Avalanche* office at 19 E. Idaho Ave., Homedale, mail them to P.O. Box 97, Homedale, ID 83628, fax them to (208) 337-4867 or e-mail them to [jbrownditor@cablone.net](mailto:jbrownditor@cablone.net).

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Tue. 8:30 AM-9:00 PM

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# Homedale man receives probation for grand theft

A 21-year-old Homedale man has been placed on five years' probation after pleading guilty to a charge of felony grand theft.

Christopher Tuckness was sentenced on Aug. 11 by District Court Judge Gregory M. Culet. A prison sentence of two years fixed and three years indeterminate was suspended, but Tuckness was ordered to pay \$8,500



Christopher Tuckness

in restitution. According to Owyhee County Prosecuting Attorney Matthew Faulks, the offense "probably" originated in Canyon County and involved a stolen pickup and equipment, including a welder/generator. "The vehicle and parts of the vehicle were found in Owyhee County," Faulks said. "By the defendant's own admission, he had them here, and there was apparently an attempt to dismantle or take parts off the pickup." Faulks said Tuckness received credit for 73 days of jail time served.



## Patrons flock to Homedale Fan Club

Teresa Ryska, left, reaches to complete a transaction at the Homedale Fan Club's 50-50 raffle booth Friday night before the Homedale High School football team's season opener against Melba. Ryska's husband, Jim, handles tickets for the drawing as Dirk Tolmie, right, prepares to pay for some tickets. The booster club holds a 50-50 fund-raising raffle at each home football game.

# Bruneau/GV district offers program for schoolchildren with disabilities

The Bruneau/Grand View School District is taking part in the Child Find program again this year.

The school district cooperates with parents and non-public school agencies in Child Find activities throughout the year. The purpose of the activities is three-pronged:

- To create public awareness of special education programs
- To advise the public the rights of students
- To alert community members of the need for identifying and serving children with disabilities from age 3 through the semester

in which they turn 21. According to a press release from the school district, these children may have difficulty walking, talking, hearing or learning or may display behaviors that appear different from other children their age. If you are aware of a Bruneau/Grand View district student, ages 3-21, who has individual needs resulting from disabilities or developmental delays who isn't enrolled in a school program, call Penny Hines, the district's special education administrator, at (208) 834-2775 or the school district office at (208) 834-2253.

# Homedale boosters begin another enrollment drive

The Homedale Fan Club boosters organization held a barbecue on Aug. 18 in hopes of attracting new members. Booster club president Darren Krzesnik anticipated feeding approximately 250 patrons at this year's barbecue, but Krzesnik added that 2005 was a hard year to beat. "Last year we about ran out," Krzesnik said while flipping

burgers over the grill. "We had more (members) than we've had in a long time." After the event, Krzesnik said the membership stayed pretty much in line with membership numbers from 2005. Club board member Susanna Brockett said Monday that 79 people either have bought or renewed their memberships since the barbecue. She said that 100 memberships for the 2006-07 year is a possibility. "We like to give kids a place to go to keep them out of trouble," Brockett said, citing after-game pizza parties and bowling parties offered to students. Brockett said money raised by the club benefit more than just sports programs. "Last year we gave the Advanced Communications class \$1,000 for a new digital camera and digital camcorder, and this year the band needs to replace some instruments."

Krzesnik was enthusiastic about the season and said that additional games usually bring additional booster club members. The club will have a membership

table at the Homedale-Nampa Christian football game at Deward Bell Stadium on Friday and hopes to add more members. The organization holds a 50-50 fund-raising raffle at each game, and money also is raised through the sale of Trojans apparel. Homedale School District Superintendent Tim Rosandick won the 50-50 drawing during Friday's home opener against Melba. Brockett said he donated all but \$20 of his \$233 winnings back to the booster club, so the raffle raised \$446. Tickets are \$1 each or six for \$5. Homedale Fan Club memberships are \$15 per person or \$30 per family. Brockett said memberships are taken throughout the school year, and that anyone interested in joining also can drop off their registration information and fee with Brockett at the Bowen and Parker office at 19 E. Wyoming Ave. For additional information, call Suzanna Brockett at (208) 989-1944 or (208) 337-3755.

— JWB



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**Givens Hot Springs peeks at its history**  
*Steve and Nadine Givens are planning a shindig Sept. 9 to mark their resort's 125<sup>th</sup> anniversary. Above: The old Givens Hot Springs Hotel, which burned down on New Year's Day in 1939. Below: The sign in the parking lot next to Idaho highway 78 welcomes visitors for a variety of activities.*

## Givens Hot Springs to mark 125 years

The allure of hot springs spas have waned in the public consciousness over the decades, but Owyhee County's Givens Hot Springs have stood the test of time.

Steve and Nadine Givens, the current owners of the resort 11 miles south of Marsing on Idaho highway 78, are celebrating the 125<sup>th</sup> anniversary of the establishment Sept. 9.

The event runs from noon to 5 p.m. at the resort at 11309 Highway 78 and will include displays, entertainment and children's activities as well as half-price swimming in the pool filled with water from the nearby springs.

The displays will include an exhibit tracing the history of the hot springs resort, which was founded in 1881 by Steve Givens' great grandparents, Milford and Matte Givens.

The Owyhee County and Idaho State historical societies will have exhibits, too.

Other attractions include a stagecoach built by Jack Givens that replicates the one used by Buffalo Bill Cody during his Wild West Show. Berry Givens,



**Next week**  
*The Avalanche takes a closer look at the Givens family and the Idaho history its members have created.*

a son of Milford and Matte and Jack's father, was a bronc rider in Buffalo Bill's show.

There also will be antique cars and vintage airplanes, including two restored by Orin Givens, another grandson of Matte and Milford. A covered wagon restored by Steve Givens also will be on display.

The children's activities will include historical demonstrations

and displays, "take-along" activity packets and toys and photo opportunities. There also will be some hands-on craft activities, both free and those with a cost.

Musical entertainment will be provided by barbershop quartet Seniority, the Buck Family Fiddlers and the Heatherwood Swingers.

There will be food vendors, too.

Givens Hot Springs is open seven days a week year-round from noon to 10 p.m. The resort is closed only on Thanksgiving and Dec. 24-25.

Call (208) 495-2000 or e-mail givenshotsprings@mindspring.com for more information on resort features and prices.

## JV teenager wins Western Idaho Fair animal show title

An Owyhee County teenager beat out competitors from 11 Idaho counties last week to win the Super Round Robin large animal championship at the Western Idaho Fair in Garden City.

Jordan Valley's Catie Kershner was one of three Owyhee representatives from either FFA or 4-H who qualified for the regional competition through the Owyhee County Fair held earlier this month.

Elizabeth McShane of Caldwell represented Owyhee County and placed third at the regional fair's small animal super round robin. She was the grand champion at the county fair.

Kershner was reserve champion at the Owyhee fair.

Laken Hiser of Homedale FFA also competed in the large animal super round robin last week, according to Judith McShane, the Owyhee County 4-H coordinator.

The Western Idaho Fair competition was open to participants 13 years old and older.

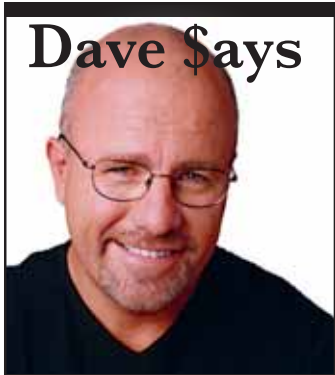
The large animal super round robin required competitors to show their proficiency with beef, swine, sheep dairy, horse, dairy goat and llama.

The small animal super round robin consisted of pygmy goat, cat, dog, cavy (the actual name

for a guinea pig), rabbit and poultry.

Teenagers from 11 counties throughout Southwest Idaho competed last week.

Marsing FFA's MJ Usabel was the last Owyhee County teen to win the large animal super round robin at the Western Idaho Fair.



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3	4	5	6	7 Team Roping Practice: 7pm	8	9 Play Day: 9am
10	11	12 Team Penning: 7pm	13	14 Team Roping Practice: 7pm	15	16 Treasure Hunt!
17	18	19 Team Penning: 7pm	20	21 Team Roping Practice: 7pm	22	23 Play Day: 9am
24	25	26 Team Penning: 7pm	27	28 Team Roping Practice: 7pm	29	30 Play Day & Awards: 9am
1	2	• Pre-register for Treasure Hunt by September 9 and get \$10 off! • Open riding in the arena from 11am to 1pm Tue, Wed, and Thurs: \$2/hour • Rent the arena for your group: \$50 for 2 hours, call for availability • Horse rental available, riding lessons available				

Treasure Hunt: BBQ, Hunt, Dance—all day event: \$75/family! Check website for details.

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# Initiative work group OKs rancher compensation

Owyhee Initiative officials on Wednesday gave their final approval to a plan that will give 15 ranchers millions of dollars in compensation for establishing wilderness under the plan that is awaiting a committee hearing in the U.S. Senate.

The Exchange and Acquisition Document, dated Sept. 1, 2006, specifies the number of acres of private land that the 15 ranchers who participated in the voluntary wilderness designation process want to trade for federal land in order to improve their grazing allotments and make them more viable.

Media reports have said the ranchers will receive \$15 million in cash and federal land in exchange for the property needed to create an 807-acre wilderness area in the Owyhee region. But Initiative chairman Fred Kelly Grant told The Owyhee Avalanche on Monday that the total compensation amount won't be known until the completion of a federal appraisal of the federal lands involved.

"The private land is extremely valuable, both from a price standpoint and from a unique wilderness standpoint," Initiative chairman Fred Kelly Grant wrote in a release announcing the approval. "The availability of this land was pivotal to the whole Initiative package since it was so desirable from the wilderness standpoint.

"The ranchers were willing to sell or trade this land in order to gain release of other federal land from the 'no management' interim management of wilderness study area and the trade of federal land into their private land base for allotment purposes."

Some ranchers will take wholly cash settlements for the exchange, while others will take a combination of land and cash, Grant said.

"Each rancher is allotted the amount of compensation he set," Grant said. "Some are receiving cash outright, others who are trading land will get the number of federal acres which equals the value of the private land being offered, and the remainder in cash."

Grant said the distinguishing feature of the Owyhee Initiative Implementation Act is that the document sets compensation not on Animal Unit Months, but on the amount being given up by the ranch from the standpoint of a ranch operation, such as grazing preference, investment-backed expectations and improvements and other factors that a bank examines when determining the value of a ranch when conducting an operating loan analysis.

In other Initiative developments last week, several ranchers met with a representative of U.S. Rep. C.L. "Butch" Otter (R-Idaho), who is the Republican candidate for governor in November's general election. The ranchers expressed their support of the Initiative and requested that Otter be informed of the value of the Initiative to Owyhee County and its economic and aesthetic future.

Grant said the Owyhee Initiative Work Group is turning its attention to ensure the staffs of Otter and Sen. Larry Craig (R-Idaho) have all the information available for study of the Initiative.

The Initiative has received endorsement from Gov. Jim Risch, Idaho Attorney General Lawrence Wasden and the full Land Board, Grant said. He also pointed out that Democrats such as Larry Grant, a candidate for the congressional seat being vacated by Otter, and Jerry Brady, who is running against Otter for governor.

On Thursday, Initiative Work Group members, including Grant, Inez Jaca, Chad Gibson, Brenda Richards, Craig Gehrke, Will Whelan and Staci Grant, met with Bureau of Land Management national director Kathleen Clarke to discuss the future of the Initiative.

Clarke was visiting the National Interagency Fire Center in Boise, and she again committed her agency to supporting the Initiative.

She said she would make her Washington D.C. staff available to meet with the Owyhee County Commissioners and Initiative Work Group members as soon as they could get to Washington to begin working through the Initiative from a BLM standpoint.

"She also committed that there would be no surprises from the standpoint of any BLM problems with the Initiative," Fred Kelly Grant said.

Grant said that Clarke gave assurances that any problems would be brought to the work group's attention so they can be resolved between the BLM, the county commissioners and representatives of the Shoshone-Paiute Tribes before the Initiative bill is ready to be marked up for passage.



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**Growing business**  
*Owyhee Truck employees, from left to right, Mario Valerio, Jolene Maxwell and Josh Engum stand next to owner Bryan Badiola in the business' showroom.*

# Owyhee Truck offers car and truck accessories

Homedale resident Bryan Badiola has opened an automotive parts and accessories store at the corner of U.S. highway 95 and Homedale Road, where car and truck owners can personalize their vehicles without breaking the bank.

Badiola's idea of opening an accessory shop has grown into a thriving business with four employees, providing almost anything a car or truck owner could want. One of his employees, Mario Valerio, has 15 years experience professionally installing stereo equipment and car alarms.

A trip inside Owyhee Truck's showroom is like viewing a truck autopsy. The walls are covered with bumpers, headlight covers, stereo speakers, performance intake manifolds, hitches and more.

"They (customers) can get anything — body kits, air bags, electronics, remote starters, window tinting, stereo equipment, car alarms, performance truck accessories — you name it," Badiola said.

Earlier this year, Badiola decided he could provide quality car and truck accessories and services in the Homedale area at prices competitive with those offered by similar businesses in Nampa or Caldwell, while avoiding the travel time to either of those cities.

"I saw what other places were charging for bedliners, and I thought, 'Heck, I can do this for less,'" Badiola said of his spray-on bedliners.

Badiola said the business has really taken off, and not only do people ask for the spray-on polyurethane coating, called Rattleguard, to protect truck beds, but on nearly every other object exposed to weather, bumps and scrapes.

"The other day I had someone ask if we could do her swimming pool," Badiola said. "We also use it to coat shotgun and rifle stocks."

Badiola also works at SSI Food Services, Inc., in Wilder and is a volunteer firefighter for the Homedale Rural Fire District. In addition to Valerio, Badiola's business employs Jolene Maxwell and Josh Engum part-time.

Owyhee Truck's hours are from 8 a.m. to 5 p.m. Monday through Saturday, or call (208) 337-6183.

— JWB

# Junior livestock sale breaks records again

The annual Owyhee County Fair 4-H/FFA Junior Livestock Sale reached historic proportions earlier this month, according to the Owyhee County Extension Office.

Preliminary numbers indicate the sale, held on the final day of the fair Aug. 12, brought in \$158,064 for area youth, shattering the 1994 record of \$123,742.

Debbie Titus of the University of Idaho extension office in Marsing said add-on donations received as of late last week had pushed the total sale figure to nearly \$200,000.

While the extension office takes a commission from the sale price of each animal, 100 percent of the add-on donations go directly to the young producers, she said.

"Each and every one of these donations helps the kids as well," Titus said.

Titus said the large revenue from the sale, which totaled \$190,704.40 late last week, is a reflection of the good attendance by and generous participation of the buyers.

Titus anticipates more add-on donations, and said the office has a loan of up to \$60,000 in place from Northwest Farm Credit, if necessary, to make sure the add-on donations reach the respective children in a timely fashion.

Inside the numbers, records were set for the sale of hog and sheep, while the beef sale brought in the highest average price on record.

According to extension office records, which date to 1991, the 2006 hog sale made the most gains over previous years.

More than \$73,800 was spent on hogs, besting the previous high of \$57,975 set last year. Ninety-four hogs were sold this year, the most since 1994 when the sale only brought \$47,571 for 110 animals.

For the third year in a row, only 26 beef were sold, but sellers spent more than \$52,000, averaging to a record \$2,029 per animal, or \$4.94 per pound.

The sheep sale brought in nearly \$11,000 more than last year's previous record of \$20,950. The per-animal price was \$618.

The average price for swine was \$785, another record.

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# Realtors: Owyhee housing market still hot

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The Owyhee County real estate market is still booming, local Realtors say, despite slowdowns in Ada and Canyon counties.

"We are an island unto ourselves," Betty Stappler of Desert High Real Estate in Marsing said last week.

Owyhee County has different demographics than Boise or Nampa, so the market is different, Stappler said. She added that investors and developers still are buying large amounts of land in the Marsing area, so the real estate market has remained healthy.

Stappler said things have slowed slightly from what she said described as a "crazy" time when sellers were getting almost ridiculous prices for property, but things have stabilized in a way that still favors property owners and those seeking to upgrade into larger houses.

Stappler said the entry-level housing market in Owyhee County has slipped slightly, and she cited several factors.

"Gas prices may have hurt entry-level buyers," she said, adding that gas prices may have affected smaller home sales in Owyhee County because people must factor fuel costs when commuting to work in a larger city. With gas prices so high, a long commute may off-set the small amount of money saved on a home.

The low unemployment rate also affects homebuyers, because of lower wages. Stappler also cited rising interest rates as a factor.

Stappler said demand still exceeds supply and that she constantly fields calls from prospective buyers.

Lori Badiola and Charlene Uranga of Owyhee Realty in Homedale report the same condition in the Homedale area.

Badiola said that for a brief period she saw groups of investors buying up property. She said the trend, which since has subsided, artificially raised the prices of some properties and that people raised prices on their properties or didn't sell because of "speculation the prices would get crazy."

Badiola agreed that the real estate market in Owyhee County is stable and very healthy.

While real estate market reports from Ada and Canyon counties indicate that a flood of new construction has hurt the existing home market, that phenomenon has not occurred in Owyhee County. Badiola said her office still receives many calls from prospective buyers and the problem is sometimes finding houses for buyers.

"There are not a lot of new houses," Uranga said.

— JWB

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# Storm, fire whip things up in Homedale

## High winds knock down trees, block city streets

The streets of Homedale looked like a war zone Aug. 22 after high winds scattered tree limbs throughout the city the day before, causing damage to trees, power lines, vehicles and houses.

The gusty conditions even tore the roof from a shed in the 3500 block of Pioneer Road.

About 3,400 Idaho Power customers were without power after 50 mph winds damaged six power poles along U.S. Highway 95 between Pioneer Road in Homedale and Lower Pleasant Ridge Road in Wilder.

According to Idaho Power’s Anne Alenskis, the storm hit Homedale at about 4:20 p.m. and moved north through Nyssa and Ontario, Ore., leaving a wake of destruction and 6,000 Idaho Power customers without electricity.

“Most of the customers affected by the outage had power back by 5:45,” Alenskis said.

She added that there were other areas that were without power until almost midnight.

Alenskis said power restoration was delayed in some areas because substations continued to automatically “reset” themselves, possibly because of undetected damage. Crews had to completely shut off certain areas in order to conduct a full inspection.

“It is a process to turn it all back on,” she said. “We always work to restore power as quickly as possible while keeping the safety of our customers and employees in mind. We balance the need to work fast with the need to work safely.”

According to Homedale Police Chief Jeff Eidemiller, there were reports of downed trees and damaged vehicles and property throughout the city. No injuries were reported as a result of the extreme weather, although the situation required additional police staffing to control traffic and assist the public if needed.

Homedale Public Works Supervisor Larry Bauer reported that in the 500 block of California Avenue, high winds blew over a tree, causing an irrigation line leak, leaving residents without irrigation water for “a couple days.” Bauer said the repair cost was between \$300 and \$400.

A large tree fell away from a residence and blocked the roadway at the corner of East 1<sup>st</sup> Street and East Oregon Avenue. Other limbs fell on East 1<sup>st</sup> Street between Idaho Avenue and Owyhee Avenue, on California Avenue and at the corner of Wyoming Avenue and West 2<sup>nd</sup> Street.

Bauer said there were lots of “tripped” electrical panels that had to be reset, but no major damage.

“We really got lucky,” Bauer said.

—JWB

## Firefighters annihilate brush fires burning west of town

Personnel from the Homedale Fire Department quickly extinguished a brush fire early last week.

The Aug. 21 fire, likely sparked by lightning during a storm that whipped through the area, began at approximately 4:30 p.m. near the Royal Vista subdivision west of Homedale. At least three homes were threatened, but no injuries or property damage occurred, according to Homedale Rural Fire District Chief Scott Salutregui.

Homedale firefighters, along with help from the Wilder Rural Fire District, moved fast to squelch the flames, which filled the sky west of Homedale with thick smoke.

“We had all our inventory out,” Salutregui said last week.

All Homedale Fire apparatus and one additional tanker truck from Wilder Fire were thrown at the fire, which was out by 6:45 p.m.

Salutregui said that defensible space, or buffer zones between highly combustible brush areas and structures, “most definitely did make a difference” when it came to isolating the fire to brush rather than homes in the area.

Homedale Fire responded to an unrelated fire at about 8:30 p.m. on Aug. 22. The brush fire was located off Idaho highway 19, again just west of Homedale. About a half-acre of dry cheatgrass on the north side of the highway was burned.

Fifteen Homedale firefighters aggressively attacked this fire, extinguishing it in less than an hour, Salutregui said.

“We wanted to get a handle on it fast,” the fire chief said, adding that the cause of the fire was unknown at this time.

It is standard practice to engage even small brush fires this time of year with as much manpower as possible.

“Sometimes we can get spread out in a hurry,” Salutregui said.

Wayne Hungate from Farm Bureau reported Friday that there were no insurance claims filed as a result of the fire.

“We really dodged a bullet on that one,” he said, citing fast response from firefighters as contributing to the lack of damage.

—JWB



**The aftermath**  
*Top: A large tree blown out of the yard of Dick Downum at the corner of 1<sup>st</sup> Street and West Oregon Avenue blocks the roadway on West Oregon on the evening of Aug. 21. Above: Homedale High School teacher and coach Mike Greeley uses a forklift to smash a few limbs that had been blown out of a tree elsewhere on 1<sup>st</sup> Street. Right: The hillside behind a residence west of Homedale shows the results of a brush fire likely triggered by lightning.*

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# More analysis of decision on grazing regs

*Editor's note: The following text is the second part of a two-part of an analysis by Owyhee County planning and litigation coordinator Fred Kelly Grant on the injunction imposed by Judge B. Lynn Winmill on implementation of the long-awaited BLM changes in rules and regulations.*

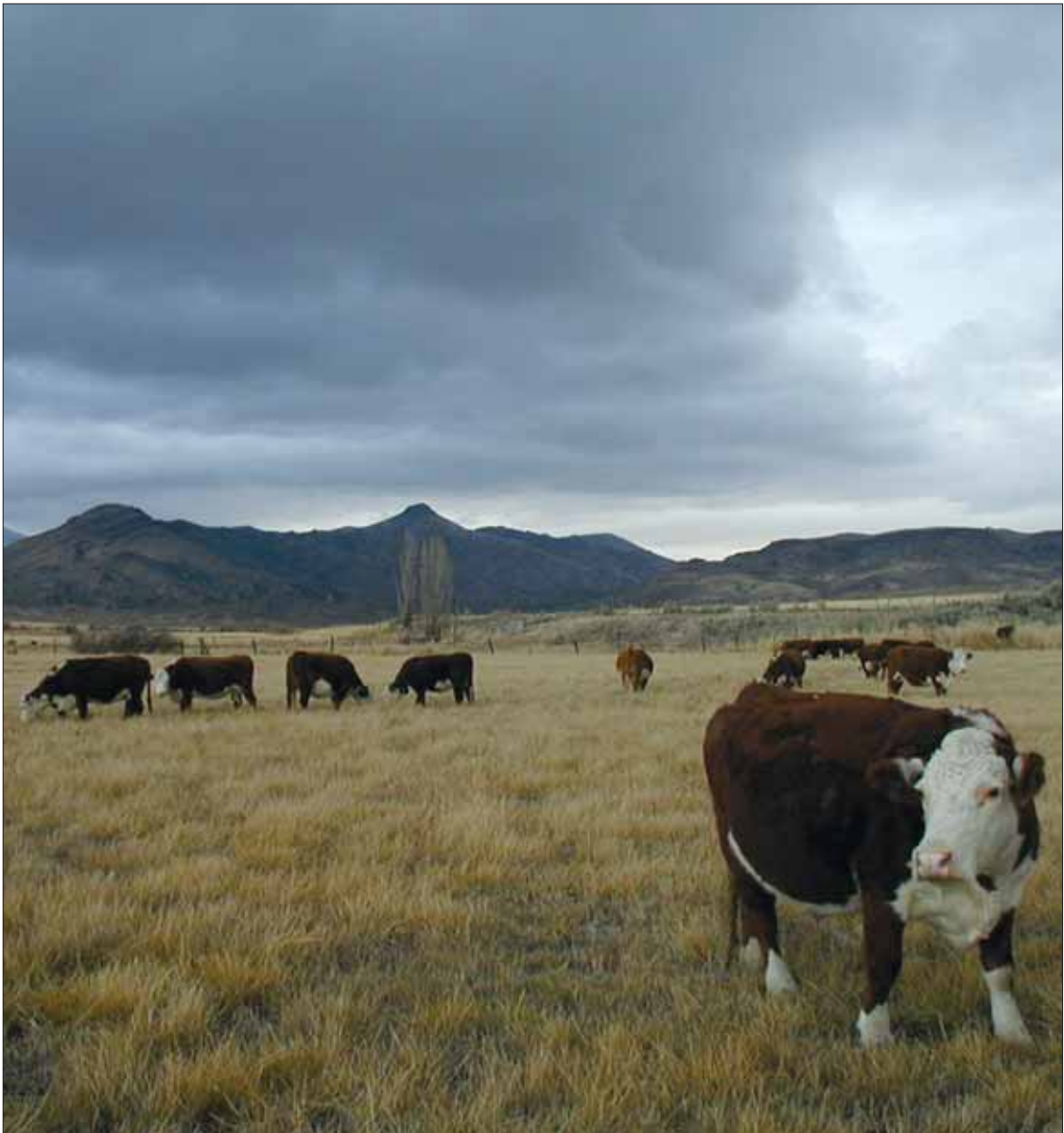
The Winmill decision takes the same “one-way” trail that his other anti-grazing decisions have taken: what is good for the goose is not good for the gander. He does not make the same burden of proof applicable to the anti-grazers as he does to the BLM and ranchers. Ranchers’ interests never quite reach the level of “harm” required for relief, while the anti-grazing interests always reach that level no matter how slim the evidence.

In analyzing Winmill’s approach, it is interesting to note the difference between this man and his predecessor on the Idaho federal bench.

His predecessor as Administrative District Judge for Idaho, Hon. Edward J. Lodge, was noted throughout his brilliant judicial career as applying an even-handed justice from the bench. He was noted for that in such historic cases as the Ruby Ridge shooting case over which he presided in the federal court, and the Claude Dallas murder trial over which he presided in the Idaho district court before being elevated to the federal bench by the first president Bush. He presided over several Canyon County murder cases, and imposed the first modern day death penalty in that county. On each of his murder cases he was affirmed by the Idaho Supreme Court. And, unlike his successor, Winmill, he didn’t take it upon himself to appear publicly and criticize the death penalty law as enacted by the Idaho legislature. It was not in his judicial nature to publicly criticize a legislative enactment which he was supposed to apply objectively in court. Why? Simply because he understood not only the separation of powers, the nature of the judiciary, and because he understood the historic ethic of the bench in the United States.

Winmill, appointed by Clinton, appeared at a City Club luncheon in Boise and publicly criticized the very Idaho death penalty statute which he is charged with interpreting and applying in court. Flanked at the speaker’s table by a former inmate who had been sentenced to death in Idaho, but later cleared, he criticized the law but then joked, apparently to the merriment of the audience of upper class Boiseans, that he doubted that the Idaho legislature wanted to pay attention to his views.

Of course, neither would Judge Lodge have appeared at an Environmentalist Luncheon in Boise, speaking on the processing of environmental challenges in



*Submitted photo*

Court, along with his law clerk who praised the talent of several of the anti-grazing lawyers in the crowd. Winmill did and was very warmly welcomed by the audience of past, present and potential parties in his court. Judge Lodge understood the historic ethic of the bench.

When the first major case involving the Owyhee County ranchers hit the federal courts, we saw the difference between the judges in action. Winmill allowed the anti-grazers to ignore the administrative appeal process established by the BLM’s rules and proceed directly to the U.S. Court on matters which traditionally had been subjected to the rule of exhausting administrative relief first. The rule of administrative exhaustion was not a novel toy to be tinkered with and discarded. It was and is in many parts of the U.S. a long-standing rule of law sanctioned and ordered by the United States Supreme Court. But Winmill creatively carved out a niche into which he could place the anti-grazers so that they could avoid the administrative process where at the time they didn’t often win. Many believe that the administrative judges know more and care more about the resource and the proper method of managing it than District Judges do. But Winmill let Jonathan Marvel’s minions get right into his court. Later, in a separate portion of the case involving Owyhee’s ranchers, the matter was put before Judge Lodge. He issued a decision which assigned the case fully to Winmill. In that decision

he made it clear that he disagreed with Winmill’s analysis and that he would not have allowed the usurpation of the administrative process. But, saying that he was unwilling to formally create a split in the District, he assigned the matter for Winmill. Unmoved by the position of the clearly more experienced judge, Winmill continued his course and his issuance of anti-grazing decisions. Judge Lodge knew the law, and would not bend it in order to hear and decide a case he “wanted” to hear. He understood the role of the Court. He understood the ethic of the bench.

With those comparisons in mind, Winmill’s current decision is and was predictable. As I think I have already said, when the final rule was issued, Chad Gibson and I talked about how the PLC or some cattle organization should file a declaratory judgment action seeking a decision that the rule was issued on proper process. We predicted that if this was not done, Marvel and Lucas would beat the trail to Winmill for an injunction.

The complaint in the current case challenged several of the rules which changed: public participation, application of fundamentals of rangeland health standards, and ownership of rangeland improvements.

Winmill describes the public participation changes as being two-fold: first, in order to be and remain on the list of “interested publics” [a language creation of the Babbitt rangeland reform rules, making even one member of

the public an “interested publics”] a person or organization would have to respond to each notice of issues regarding an allotment or be dropped from the list; the rule narrows the issues as to which the “interested publics” must be involved on a daily management basis. As to the latter, the rule provides that inclusion of the general public would no longer be necessary for adjustments to allotment boundaries, changes in active use, emergency allotment closures, issuance or renewal of permits or leases, and issuance of nonrenewable grazing permits and leases. “Interested publics” role would be limited to participating in planning and development of planning processes. Their input into daily decisions could continue, but the BLM would not be mandated to include them in every decision regarding the daily management of an allotment. The rule recognizes that the mandatory stakeholders as to the allotment are the ranchers who invest their money and lives in the range, and the BLM which is charged by Congress to manage the range. The rule distinguishes these stakeholders from the aesthetics sought by anti-grazers which would lead to putting all cows off the federal lands.

Under this rule, Marvel would have no more right to be involved in the decisions which affect a rancher’s financial investment than the rancher had to be involved in Marvel’s financial dealings with the U.S. Government in which he sold a so-called non development, scenic easement in Custer County

for in excess of

For example, no rancher was entitled to enter into that extraction from the government of taxpayer dollars, even to point out that all that money was being paid and the recipient still allowed to build a house or residence on the property so long as it did not invade the line of sight of the protected area.

*by Fred Kelly Grant*

The BLM explained its changes in the rule as to public involvement on several grounds:

1. It incurs “substantial expenses” in public involvement and “resources have been devoted to tasks such as maintaining lists” of persons who have not participated in years. (This is because, when a person or organization signs up as “interested” as to one notice of decision, he or it stays on the list forever even if he or it does not participate in the process, and has not participated in years.

(Winmill discounts this claim, saying that it does not provide the “specific costs involved”. He says the decision does not explain the “number, bulk, or frequency of mailings”, so it is insufficient because it “prevents the public...from evaluating the BLM’s claim” that costs will be saved. Note how the judge gives no deference whatever to the decision of the expert agency as to its allegations of cost saving. Of course, common sense could not possibly tell the reviewing public that eliminating non-responsive names from the mailing list to which reams of federal paper a year are sent. So, Winmill considers the content and makes his own evaluation contrary to the agency’s.)

2. I n - d e p t h involvement of the public in day to day management decisions can delay BLM remedial responses to resource conditions.

3. Cooperation with permittees and lessees usually results in faster steps to address resource conditions and avoid administrative appeals which hold up solutions.

4. The public had already had involvement in the planning decisions which are then implemented in day to day decisions, and public involvement in day to day decisions is not administratively effective.

(Ranchers, county commissioners, state land board members, state land agency personnel, BLM personnel, RAC members, county agents, newspaper reporters, politicians, readers of newspaper accounts, business people who rely on



## ✓ Analysis

ranch purchases, school district officials — all know that these reasons are valid. They have seen the destructiveness caused by the involvement of the Katie Fites and Russ Heughins of the world in day-to-day management decisions. They have seen the hardships put on the ranchers by delays in decisions which would improve management, aid the resource and make the ranch more productive. They have seen the anti-grazers use their involvement to delay issuance of a permit and require the rancher to pay for forage on different ground far from the ranch while the “process” is completed. But, to Winmill the costs of public involvement to the rancher have never been of concern. In this decision, he considers none of what he should already know from the anti-grazing cases he has heard and decided in the last decade. He says that “public participation is, by nature, messy.” He recognizes that an agency must be “given ample latitude to adapt their rules and policies” to meet changing circumstances, but then rejects the BLM’s reasons because the BLM does not “explain how the limitations on public involvement will increase efficiency.” One would think that he would know from his own cases which have witnessed years and years of delay how to “explain” the reason. But, he concludes that in spite of these factual conclusions, the BLM “offers no legal authority that public input on day to day decisions is inherently less valuable and subject to less protection than public input on long-range issues.” Now, let’s take “less valuable” for analysis. Isn’t the BLM, which is the expert agency as established by Congress, the determining agency for what is more or less valuable to it? What’s happened, suddenly, to the deference which appellate courts say the trial court should give to the expert agency? What’s happened suddenly to the deference which Winmill gives the BLM when its decisions hurt the ranchers? What’s happened, suddenly, to the deference he gave Bill Reimers as one employee of the BLM in imposing conditions on the ranchers on the Owyhee Front which were impossible to meet? Just follow the “one way” trail: if it leads to reduction and restriction of grazing, it’s the Winmill trail.)

Winmill gives absolutely no weight to the BLM’s statements, and calls them “presumptions” not supported by specific evidence. He rules against the BLM because there is no “detailed discussion of either the volume or quality of comments the BLM receives on day to day issues. He asks, “Is the volume overwhelming? Are the comments mostly specious? What are the costs and employee resources involved?” Pointing out that these evidentiary questions are not answered in the final



Submitted photo

decision, he concludes that the BLM has failed its job under NEPA.

In reaching his decision he, of course, must assume that the BLM final decision is being issued for the benefit of the general public which has no knowledge of grazing, no interest in grazing, and no stake in grazing. So, the reader of the Los Angeles Times who has just come from his job driving a municipal bus, and picks up the Environmental Impact Study for a night’s easy reading, must be told all the specifics which go into the BLM’s conclusions. Ranchers, commissioners, and all the other persons interested in the grazing process already know the facts behind the conclusions. And, so does Judge Winmill.

As to the specific evidence, that is what should be presented at the trial of the Marvel complaint which is directed specifically at the Pleasant View allotment near Malad City. But, in order to gain a temporary injunction, the complainant, Western Watershed Council, should have to prove, with the same precision required of the BLM, that it would suffer irreparable harm if the rule stayed in place until trial time.

Winmill doesn’t apply the same rule of specificity though to Marvel. He accepts the statements of Marvel in a Declaration of self glorification at face value, and determines that both Western Watershed and the entire public will suffer irreparable harm unless the rule is enjoined pending trial.

The Marvel Declaration calls WWP “one of the most prominent conservation groups dedicated to protecting and conserving the public lands”. He lists all the cases his organization has filed and won before Winmill, and infers and concludes that those cases brought protection against the ravages of livestock grazing which would not have been provided otherwise by the BLM and the ranchers involved.

He also states his “opinion” that WWP’s effectiveness in forcing an end to “serious ecological degradation of the public lands” is the cause for the BLM to be intent on “gutting” rangeland reform so that WWP can’t continue to be effective.

Marvel claims for his organization and staff the real expertise which exists as to livestock grazing, and states, (without supporting evidence, Judge Winmill) that without the involvement of WWP, the BLM “will allow excessive, improper, and environmentally destructive livestock grazing to occur.” He states that “unequivocally”. He states also that allowing permittees to have exclusive access to the BLM in day to day management will lead to destruction of the resources on federal land.

He then complains that WWP will be harmed irreparably by the burdens of responding to notices within each allotment because they receive “more than 1800 proposed grazing decisions per year that would require a response.” One wonders why an organization like WWP which, in the words of Marvel and the conclusions by Winmill, is so valuable that without it the federal lands will be destroyed, would not crave to respond in all 1800. But, that is not answered by Marvel. If the BLM, on the other hand, had made such a statement and not explained it in detail, it would have been insufficient under the Winmill approach.

Marvel points to the Mountain Springs in central Idaho (the former San Felipe allotment) as the one that “sparked my dedication to address livestock grazing mismanagement”, and then details that virtually alone he brought about changes in that allotment. He complains that before rangeland reform, it was difficult “to get the BLM to meet with me or respond to any of my phone calls and letters” and that he was repeatedly “thwarted in

my attempts to participate in meetings or field trips.”

So, the thrust of the Marvel Declaration which Winmill accepts at face value is that without WWP and its influence, the BLM and the ranchers and all the scientists who support their efforts will destroy the range. Ranches which have continued to operate for generations will stay in good shape only if Marvel and his folks get to say how they should be managed. And, ranchers who rely upon the quality of the range for their continued productivity will just deliberately destroy the same resource which provides their livelihood and has provided a livelihood for parents and grandparents before them.

In essence, Marvel blames the current administration for trying to cut off his effective protection of the range. But, he never gets around to explaining why and how he cannot participate by offering the same “scientific” information to the BLM under the changed rule. He simply states that he must be involved in each day to day decision in order to protect the range.

Without questioning any aspect of the Declaration, Winmill decides that there will be irreparable harm to WWP, and thus to the resource, if the rule is allowed to go into effect. He does not impose the same “hard look” at the Declaration that he applies to the BLM agency decisions.

But, then, if he did, he would be departing from the Winmill trail.

Some livestock organizations are declaring a victory in the decision because the only rule change that he enjoined was the participation of “interested publics” in day to day management. They claim victory because all the substantive rules remain in place. But their claim of victory must ring hollow in the hundreds of allotments in which Marvel interferes which are located throughout Idaho, in Nevada, Oregon, Utah, Wyoming, and Montana, as well as northern California. For all those allotments, the continued interference by Marvel in daily management decisions will cause delays and the continued increased costs and uncertainty related to grazing.

It is time that organizations other than just the livestock industry get involved in righting the wrong. Counties, school districts, state land departments, even BLM personnel, had to endure the Babbitt rule. Under a new administration charged by Congress with the same management responsibilities held by Babbitt, the agency should be free to change the rules in order to help develop the range. Such organizations should join in this case and insist that the evidence be laid out at trial, not in a pre-trial presumptuous affidavit of self interest filed by the leader of the anti-grazing forces.

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