

# THE NORTHWEST

## Federal agents arrest rancher in water dispute

■ Dwight Hammond of Harney County is charged with interfering with federal officers in a conflict over fencing a waterhole

By RICHARD COCKLE

Correspondent, The Oregonian

A dispute over a high desert waterhole has resulted in the arrest of a southeastern Oregon rancher by federal agents.

A preliminary hearing for Dwight Hammond, 52, of Diamond is scheduled at 1:30 p.m. Thursday in U.S. District Court in Portland.

Hammond was arrested at his home on Aug. 3 by armed special agents of the U.S. Fish and Wildlife Service on a federal felony charge that he "impeded, intimidated and interfered" with federal officers, said assistant U.S. Attorney Robert Thompson of Portland.

### Three-year prison term possible

The charge grew out of allegations that Hammond tried to stop federal officials from fencing off a waterhole on the fringe of the Malheur National Wildlife Refuge, about 30 miles south of Burns.

Thompson said Hammond did not attempt to resist arrest. "There was nothing out of the ordinary about the arrest."

If convicted, Hammond could face

up to three years in prison and a fine of \$250,000, said Thompson. He had an initial appearance before U.S. Magistrate Janice M. Stewart on Friday and was given a conditional release.

Harney County ranchers planned to meet at 6:30 p.m. Wednesday at the Museum Club Room in Burns to discuss the case.

"All the people in Diamond are terribly upset," said rancher Fred Otley, 40, a neighbor of Hammond. "The Hammonds are going to be supported very strongly locally on this thing."

Hammond was not available for comment, but his wife, Susan, in a telephone interview this week, sharply criticized the government charges. "The only intimidation that went on was possibly verbal, and it was from both sides," she said.

She said nine federal officials, five of whom were armed, took her husband into custody.

"There were five guns there, at least five guns there, and none of them belonged to us," she said. "We have been sitting and stewing and trying to figure out how something like this can happen in America."

The trouble began when the U.S. Fish and Wildlife Service announced plans to fence in a waterhole on the refuge that the Hammonds' cattle have used since 1978. The family has grazed cattle on a portion of the refuge for 30 years, Susan Hammond said.

The family's hourglass-shaped ranch is virtually surrounded by the refuge, which was created by President Theodore Roosevelt in 1908.

### 'An ongoing battle'

According to one version of the story, a 25-ton earthmover owned by the Hammonds was parked across the path of the fence. Susan Hammond denied that her husband had parked it there to halt more fence-building.

"There was a piece of equipment there; it had been parked there for a long time," she said.

The Hammonds did, however, oppose the construction of the fence.

"There is an ongoing battle over the use of that particular waterhole," said Susan Hammond. "That waterhole was fenced outside the refuge in 1936 specifically for the use of cattle outside the refuge."

She said fencing it also would make it difficult for antelope and deer to reach water. Deer can jump fences, but antelope usually crawl beneath them.

"I've got pictures of them hung by the flank and dying on their fencing," she said.

Chester Hamilton of the U.S. Fish and Wildlife Service law enforcement section in Portland, declined to discuss the case.

"Obviously, because an investigation is going on, we cannot comment on it," he said.

However, in a court affidavit, Earl M. Kisler, another U.S. Fish and Wildlife law enforcement agent, wrote that Hammond threatened refuge officials several times over the past eight years, and threatened to kill refuge manager Forrest Cameron and assistant manager Dan Walsworth.

The tension between the Hammonds and the government increased in March when the refuge refused to renew a grazing permit for the Hammonds' cattle. In a story in the Bend Bulletin over the weekend, a Fish and Wildlife Service official said that the 30-year-old permit was not renewed because the Hammonds cut a portion of a new government fence while moving their cattle.

The Hammonds argued that they had no choice when they found the fence across a road they have used for years while driving several hundred cattle through the area.

"If you build a fence across a road and don't build a gate, there's only one way you can cross the fence," Susan Hammond was quoted as saying.

The Fish and Wildlife Service responded that a gate had been built in the area.

Otley characterized the Hammonds as good neighbors, and said many local ranchers believe the incident was triggered by hard feelings over a water right dispute 15 years ago between the Hammonds and the federal government.

### Ranchers won previous case

"It was the same type of incident," said Susan Hammond. "They claimed water that we thought we had the right to."

The Hammonds prevailed in a court case.

Otley said the Hammonds are well known and respected in sparsely settled Harney County.

"I know the Hammonds very intimately," he said. "They hate conflict. They hate problems. They just want to go about their business, being good stewards of the land."

Otley said that Hammond's arrest marked the first time in Harney County history that a rancher had been arrested by federal agents over a grazing dispute.

# THE NORTHWEST

## Burns' group gathers in support of cattleman

■ A rally draws political and financial aid for Dwight Hammond of Diamond, who was arrested over a water hole dispute

By RICHARD COCKLE

Correspondent, The Oregonian

BURNS — More than 450 ranchers, loggers and sawmill workers turned out in Burns to support a cattleman who was arrested in a dispute over a desert waterhole.

"We don't want a repeat of this, where armed federal agents come in and harass and intimidate our families," rancher Fred Otley, 40, told the overflow crowd at the Burns Senior Center.

Organizers passed out bumper stickers that said "Stop Clinton's War on the West," and "Arrest the Fish and Wildlife Service, Not the Hammonds" during the rally Wednesday night.

### Legal defense fund set up

Rancher Dwight Hammond, 52, of Diamond, was arrested Aug. 3 on a general felony charge by armed agents of the U.S. Fish and Wildlife Service. Federal agents said he tried to stop them from fencing off a water hole on the edge of the Malheur National Wildlife Refuge, 30 miles south of Burns.

Organizers of the rally also announced the creation of a legal defense fund for Hammond at the U.S. Bank in Burns. The fund also will benefit other resource users em-

broiled in disputes over public land issues.

"There are going to be more of us, I'm afraid, who are going to be faced with legal battles," said rally organizer Patty Allison, 55, of Burns. "I'm deathly afraid this type of activity will move to violence. We can only take so much."

Organizers said anti-government sentiment appears to be building in Harney County. People are angry about a national effort to reduce public land cattle grazing and increase grazing fees, combined with cutbacks in timber sales on the nearby national forests, Allison and others said.

One of the region's biggest employers, Snow Mountain Pine Ltd. in Hines, has sharply reduced its sawmill work force since 1991 because of timber shortages, despite millions of board feet of dead and dying trees in the nearby national forests.

Hammond faces a federal felony charge that he "impeded, intimidated and interfered" with federal officers. If convicted, he could be imprisoned for three years and fined \$250,000.

Neighboring ranchers said the disputed water hole has been a traditional watering place for cattle grazed off the refuge. They said the government's effort to fence it and

to build a second fence across an access road to the Hammonds' hourglass-shaped ranch violated an agreement by Fish and Wildlife officials to continue negotiating with the Hammonds.

Judge Dale White, chairman of Harney County's three-person governing board of commissioners, said the Fish and Wildlife Service had agreed to send a high-level official to talk with the Hammonds before the confrontation that ended with Hammond's arrest. Instead, he said, the agency began fencing off the water hole.

"Dwight handled himself in a very appropriate way," White said. "The Fish and Wildlife Service were not handling themselves appropriately."

### Some urge against violence

Laura Sword of Drewsey, characterized Hammond as "a man of tremendous integrity. Dwight was standing up for everyone's rights, not only his own."

State Sen. Eugene Timms, R-Burns, termed Hammond's arrest "absolutely wrong."

"The federal government is out of control," Timms said. "There's no doubt about it, and we've got to do something about it."

The biggest surprise of the 2½-hour meeting, was an appearance by Tara Cameron, the teen-age daughter of refuge manager Forrest Cameron. She defended her father's part in Hammond's arrest.

"My father hasn't had any other problems with any other ranchers — serious problems, like having his life threatened," she told the hundreds of Hammond supporters. That was a reference to government charges that Hammond threatened to kill Cameron and assistant manager Dan Walsworth.

Otley, a rancher and Hammond's friend, insisted Hammond "never even lost his temper. I probably would have if it'd been in his shoes ... They are trying to portray him as a violent, dangerous man. He wouldn't hurt a fly."

Several speakers warned against taking violent action against the government.

"For Lord's sake, don't shoot somebody," counseled Drewsey rancher Jim Bentz. "That would hurt where we are now."

Charles S. Cushman of Battleground, Wash., a property rights and pro-grazing activist, echoed that sentiment: "The person who shoots first loses," he said. "There is never any excuse in American political life for violence."

But Cushman urged Hammond's friends and neighbors to continue meeting and step up the pressure.

"If you let the Fish and Wildlife Service get away with this, the Forest Service and BLM are going to be right behind," he said. "If the Hammonds lose, you lose."

Cushman is executive director of a group called the National Inhold-

ers Association and Multiple-Use Alliance.

Another professional property-rights activist, Edward L. Presley of Las Vegas, said the Hammonds have a strong civil liability case against the government for false arrest.

Presley said the state of Oregon, not the federal government, owns the Malheur Refuge, even though it was created by President Theodore Roosevelt in 1908.

### Dispute over jurisdiction

"That refuge is not federal property and you've got to go to work and prove that," Presley said. "We are going to sue them (arresting officers) after we prove they did not have jurisdiction to be out on the Hammond Ranch, and we are going to take their house and sell it."

Presley is director of the County Alliance to Restore Economy and Environment, an organization that believes states should control most federally administered lands in the West.

Boise attorney Mark Pollot said Hammond's arrest was part of a national dilemma, with the issue of freedom at its center. He represents Stewards of the Range Constitutional Law Center in Boise.

"What good are your free speech rights if you tell the Fish and Wildlife Service what they are doing is wrong," he asked, "and they throw you in jail for it?"