

## BRIEFING PAPER

### **SUBJECT: Unauthorized Grazing Trespass by Mary and Carrie Dann and the Western Shoshone National Council**

**Summary:** Since 1973, the Bureau of Land Management has been pursuing a trespass case against Mary and Carrie Dann, two Western Shoshone sisters operating a cattle and horse ranch in Nevada's Elko District. Court rulings have found that aboriginal rights have been extinguished and the land is to be administered by the BLM. The Danns continue to assert the land belongs to the Western Shoshone and oppose government action with acts of civil disobedience and continued unauthorized livestock grazing and occupancy. They refuse to pay fees assessed for their unauthorized uses. The Danns no longer have a valid grazing permit. Since 1991 BLM has made several attempts to resolve trespass issues with the Danns without success. The BLM, therefore, issued on February 19, 1998, notice of unauthorized grazing use to Mary and Carrie Dann, the Western Shoshone National Council, the Dann Ranch, and Sandy Smales (Mary and Carrie Danns' niece). Subsequently the Elko Field Office issued demand for payment and order to remove to the Dann sisters, the Dann Ranch, the Western Shoshone National Council, and Sandy Smales. The amount due to the United States for unauthorized grazing use for the above listed entities totals \$852,145. On May 13, 1998, a federal magistrate judge recommended, in response to a preliminary injunction filed in February by the Western Shoshone National Council, that BLM be prohibited from confiscating the Danns' livestock until the court rules on the merits of the case. The final ruling will be made by a U.S. district judge.

**BLM Position:** We are willing to continue negotiations; however, we must enforce the laws and regulations equally for all citizens.

#### **Background:**

- ◆ Mary and Carrie Dann, Western Shoshone Indians, operate a ranch on the range of their late father, Dewey Dann. In 1995, the Dewey Dann Estate permit on the South Buckhorn Allotment allowed for grazing 170 cattle and 10 horses during the authorized use period. Currently, the grazing privileges in the South Buckhorn Allotment are shared by five other ranchers who hold grazing permits. The Danns have, at times, grazed more than 2,000 animals. They presently have more than 300 cattle and 400 horses in trespass on the South Buckhorn allotment.
- ◆ The Danns claim the land in question is theirs under the 1863 Ruby Valley Treaty. A claim for the land was brought before the Indian Claims Commission in 1979, which awarded \$26 million to the Western Shoshone in exchange for extinguishing all tribal claims. Distribution of the money, which was placed in trust, has not yet been completed. However, in 1985, the Supreme Court upheld the lower court decision that title had passed to the federal government.
- ◆ The Danns subsequently claimed individual aboriginal rights, as opposed to tribal rights. On June 6, 1991, Federal District Judge Bruce Thompson of Reno, concluding litigation, ruled that no individual aboriginal rights existed and all unauthorized livestock and range

improvements on public land could be removed by officers of the BLM in accordance with Federal Range Codes and Regulations.

- ◆ The Dann's removed and sold approximately 1,500 horses and 300 cattle from the allotment during the winter of 1991 and early spring of 1992. The BLM then gathered an additional 161 unauthorized horses in March and 269 in November of 1992. Though some livestock bore Dann brands, they refused to claim them or pay trespass fees and they were declared estray and sold by the Nevada State Brand Inspector.
- ◆ Since final settlement of the Dewey Dann Estate, ownership of the base property for the Dewey Dann Estate permit has changed and is owned by Mary, Carrie, Richard and Clifford Dann and their nieces, Toni and Lori Steve. Changes in base property ownership require a transfer of the permit to the new owners. In 1995, the Dewey Dann Estate was notified that their application for permit was being denied based on the change in ownership of the base property. The new owners were given the appropriate applications to file for transfer. No application was returned. The Dann's no longer have a valid grazing permit.
- ◆ Trespass continues. Currently livestock bearing the 29 brand (Dann Ranch), 3M brand (Mary and Carrie Dann), and SN brand (Western Shoshone National Council) are grazing without authorization. In addition, several crested wheat grass seedings have occurred and fences have been constructed on public lands without authorization. There is also occupancy trespass of old cars, trailers, haystacks and corrals by the Dann Ranch.

#### **Stakeholder Positions:**

- ◆ The Dann's have stated that they will use non-violent, civil disobedience as a means of protecting their livestock from impoundment and the lands they are using from other public users. As example, in 1992 Carrie Dann climbed in a pen with cattle being impounded, refusing to move until the cattle were let out. Members of the Western Shoshone Defense Project have also followed BLM staff and other public land users, on occasion surrounding their vehicles. Clifford Dann was arrested later in 1992 during a livestock impoundment for blocking a road in the gather area, pouring gasoline on himself and others and threatening to light a match. He was convicted and sentenced to 9 months in jail and a \$5,000 fine for assaulting federal and local officers.
- ◆ Oro Nevada Mining Company is interested in the area for gold mining. They have purchased the adjacent Dean Ranch from Maynard Alves and have approached the Dann Ranch owners as well.
- ◆ The Danns and supporters have expressed concern about mining in the area and its potential impact on a spring in Section 10 which they claim as sacred to the Western Shoshone. They have stated that they will oppose mining in the area and attempt to halt exploration.
- ◆ Other interested, non-aligned stakeholders have expressed concern for the environment and a desire for resolution of the issue that demonstrates fairness in the application of rules and regulations. Maynard Alves filed a "takings" claim against the BLM in 1993 claiming that the agency's failure to enforce grazing regulations on the Dann's had led to

damage of his adjacent private property.

**Congressional Positions:** The Nevada delegation has been supportive of BLM actions.

## **BRIEFING PAPER**

### **SUBJECT: Western Shoshone Defense Project Occupancy Trespass**

**Summary:** In 1992, members of the Western Shoshone Defense Project (WSDP) began camping on public lands administered by the BLM adjacent to the Dann Ranch in the Elko District. They have also constructed semi-permanent structures in violation of regulations regarding occupancy of the public lands. On February 19, 1998, the BLM served Notices of Trespass and posted unauthorized structures on the public lands involved. The Notices allow 30 days for the recipients to provide evidence as to why they think they are not in trespass. If no response or a response not considered legitimate is received within 30 days a Trespass Decision can be issued which attaches liability for costs for various penalties, which could include fair market rental of the public lands, administrative costs incurred by the Bureau in processing the trespass action, costs of storage of personal property, and costs associated with rehabilitation of the public lands. Structures or personal property not removed from the public lands within 30 days will become the property of the U.S. Government and will be dealt with accordingly.

**BLM Position:** We are willing to continue negotiations; however, we must enforce the laws and regulations as enacted by Congress.

#### **Background:**

- ◆ Generally, camp residents number about 5 to 10. During the annual "Spring Gathering," however, larger numbers of supporters may occupy the area.
- ◆ WSDP members believe that the land in question belongs to the Western Shoshone under the Ruby valley Treaty of 1863, despite court ruling finding these claims have been extinguished. At one point they declared the land around the Dann Ranch as a security zone and patrolled it. They have followed and sometimes surrounded vehicles of BLM employees and other public land users. They have stated that they will use non-violent civil disobedience to prevent BLM administration of the area and potential exploration by mining companies.

**Congressional Positions:** The Nevada delegation has been supportive of BLM actions.