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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

OREGON NATURAL DESERT ASSOCIATION;
OREGON WILDLIFE FEDERATION;
IDAHO WATERSHEDS PROJECT; and
COMMITTEE FOR IDAHO'S HIGH DESERT,
Plaintiffs,

Civil No. 98-97-RE

DEFENDANTS' ANNUAL
REPORT -- March 1, 2005

v.

JUAN PALMA, in his official capacity as Vale
District Manager, Bureau of Land Management;
JERRY L. TAYLOR, in his official capacity as
Jordan Resource Manager, Bureau of Land Management;
U.S. BUREAU OF LAND MANAGEMENT, an
agency of the U.S.

Defendants,

OREGON CATTLEMEN'S ASSOCIATION,
a non-profit organization on behalf of its members,

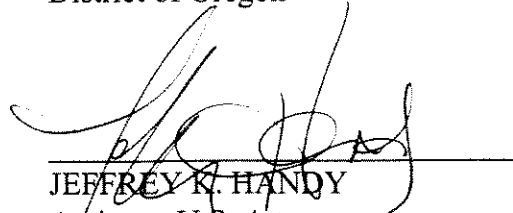
Intervenor-Defendant.

Pursuant to paragraph 12 of the Court's Order of Modified Injunction filed April 28, 2000, (Dkt. 315), the defendants file their annual report on compliance with the Court's orders, progress on the environmental impact statement, and projected work for the coming year. The annual report is filed herewith.

Dated this 28th day of February, 2005.

Respectfully submitted,

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Report to District Court of Oregon
Regarding Compliance with Order of Modified Injunction
ONDA v. Palma (Owyhee Wild and Scenic Rivers)
Civil No. 98-97-RE
March 1, 2005

The following is the Bureau of Land Management's (BLM) fifth annual report -- pursuant to section 12 of the Order of Modified Injunction of April 28, 2000. We are reporting on: 1) compliance with the Order for the period of March 01, 2004 through February 28, 2005; 2) progress toward completion of the EIS; and 3) projected work for the year to come (fiscal 2005). The format of this report corresponds with the specific sections of the Order, to the extent that there are associated actions to report.

Compliance with the Order:

Sections 1. and 2. As previously reported, these closures and/or terms and conditions, remain in effect and will not be reported on further, unless there is a failure to perform or other noncompliance.

Section 3. BLM made every effort to ensure that this section of the Order was followed. BLM staff coordinated and monitored project development, conducted grazing use supervision, and monitored resource conditions. These workloads were done in addition to other high priority and unplanned district work (such as: the Southeast Oregon Resource Management Plan litigation, oversight and monitoring of the Wild and Scenic Rivers boating season, litigation over the evaluation of the 500,000 acre Louse Canyon Geographic Management Area (GMA) and subsequent completion of the environmental assessment, assessment of the Trout Creek Mountain GMA, emergency wildfire suppression, post fire rehabilitation, Endangered Species Act consultation, etc.). BLM staff conducted dozens of compliance checks using ground vehicles, river floats, hiking, horseback travel and limited helicopter flights through out the year.

Section 4. Specific details in regard to cattle management (herding, etc.) will be addressed in later sections.

Section 6. BLM was unable to directly observe any major trailing activity, due to limited access and staffing, however post trailing inspections conducted during river trips and other site visits revealed no problems from livestock trailing. Priority went to resource inventory, utilization checks, grazing supervision, trespass abatement and coordination. BLM will observe and document any impacts from trailing or unauthorized use when monitoring resumes in March. To the best of BLM's knowledge, based on conversations with affected permittees and observations of staff, trailing occurred without incident.

Section 7. The permittees of the Quartz Mt. and Morcum allotments have complied with the additional terms and conditions in their permits and performed to the requirements of the Order. The March 25, 2004 compliance trip and all subsequent trips showed no evidence of cattle use in

the Greeley Bar AOC . There were no “failures to perform” observed.

Utilization measurements were completed in Hole-in-the-Ground and Willow Springs pastures of Quartz Mountain Allotment on April 28, 2004, following removal of cattle from winter range pastures. Measured utilization in upland vegetation communities of Willow Springs Pasture was 20%. Measured utilization in upland vegetation communities in Hole-in-the-Ground pasture was 31%. Notations included the very slight use of willows and very slight use of new growth of sedges and rushes within riparian vegetation communities adjacent to Owyhee River, in Hole-in-the-Ground Pasture.

The fenceline excluding livestock use from the Greeley Bar AOC was inspected on April 15, 2004. There were no signs that cattle had been below the fence, around the hot spring, or around the campground (all within the livestock exclusion area).

Sections 8. and 9. This section reflects the status of projects.

As you will recall from the March 1, 2004 report, the Saddle Butte permittees began removing cattle from the allotment last year during mid-January and had approximately 500 head removed by the end of January. Permittees rode to clear the allotment on February 25, 2004. On February 24, 2004, BLM was able to measure utilization at only 10 out of 19 possible locations due to wet and muddy road conditions. The average of the ten locations which were read was 43% utilization. BLM recorded heavy utilization at four locations and moderate, light, or slight utilization at other locations.

A final utilization transect for the 2003-2004 grazing season was done on April 22, 2004. The average use overall was moderate for squirrel tail and blue bunch wheatgrass. Although the average overall (49.6%) was within the allowable use limits, specific areas along the pipeline exceeded allowable use limits for squirrel tail. This use was attributed to the combined use by livestock, wild horses and other herbivores which occurred during the winter grazing season, and subsequent use by wild horses and other herbivores in late winter and early spring, after cattle had been removed.

Jim Johnson, Wild Horse and Burro specialist, and Andy Bumgarner counted 246 wild horses on the Saddle Butte Allotment on June 16, 2004. This far exceeded the appropriate management level and moved this herd management area into second priority in Oregon for a gather to reduce horse numbers. A gather is anticipated sometime early in FY 2006.

All Saddle Butte and Crooked Creek pipeline troughs were fully functional over the winter of 2004-2005, but because of some moderate wild horse use prior to the onset of winter grazing, certain troughs were not turned on in the Sand Springs area. An October 20 2004 pre-turnout tour of the Saddle Butte Allotment with Tim Lequerica, Ralph Fillmore, Steve Russell, Bob Corbari, Ed Dowell, Wayne Wetzell, Pat Merrill, and Andy Bumgarner, found utilization point 9 to be moderate and point 8 to be heavy from wild horse use. The group agreed that troughs 7, 8, and 10 would not be turned on because of moderate use levels already occurring at those sites. It was also agreed that trough 8 could be turned on latter when storms pushed cattle into the Tub Springs area.

All Saddle Butte Allotment gates were open prior to the Fall 2004 grazing season and were closed during the 2004-2004 grazing season, in accordance with the Order. During the 2004-2005 grazing season, cattle have been widely scattered. Storms and poor road conditions precluded access to the allotment periodically, although it was a relatively open winter with water periodically scattered in depressions and potholes.

On December 6, 2004, utilization observations along the pipeline showed slight use, except in the Chalk Basin area. Troughs 7, 8, and 10 were dry as previously agreed.

On January 10, 2005, utilization levels were checked on the northern end of the allotment but, because of access problems, an insufficient number of transect points were read to draw conclusions. BLM performed utilization readings on the southern half of the allotment on January 18, 2005, but again, was not able to complete the whole transect. However, BLM did establish that use levels had been met at certain troughs and informed the permittees on January 20, 2005 to shut of troughs 2, 3, 5, and 6.

Utilization checked on January 26, 2005 was at 45% over the allotment. Permittees started removing cattle shortly after that check and 307 head of cattle were gone by Feb. 6, 2005. Permittees were told to shut off trough 4 on February 8 because utilization limits were met. The cattle were removed from the vicinity by February 14, except for a few cows that had small calves. Permission was asked to leave the trough on until they could be trucked when road conditions allowed. A check on February 16, 2005 had less than ten cattle in the vicinity of trough 4. With the exception of Steve Russell's cattle on the northern part of the allotment where slight to light use is occurring, the other permittees are anticipating having cattle removed by the beginning of March 2005

Access to the AOCs has been periodically limited by snow and mud, but they were observed several times throughout the year by horse back, foot, helicopter, and by boat. No cows were observed within "areas of concern" which are closed to grazing, except for those incidents reported specifically in section 11 of this report. Seven spring float trips and one summer float trip in 2004 revealed no sightings of cattle in AOCs. Four trips were done on the lower section, one on the middle section and two on the upper section of the Main Owyhee. Fifty-one (51) wilderness study area monitoring patrols revealed no sightings of cattle in AOCs.

Sections 10. and 11. The following is a synopsis of non-compliance, unauthorized use or activity, failure to perform and the follow-up actions that occurred.

Unauthorized grazing use in general - The following is a summary of difficulties encountered with unauthorized use and abatement by river section:

Lower Section of Main Owyhee(Rome – North): No sightings of unauthorized cattle occurred or were reported during the past year in AOCs. River patrols floated this section four times (3/25-3/29, 4/9-4/13, 5/25-5/28, and 6/3-6/8) and one cow was reported at Hole-in-the-Ground, approximately four miles from the Greeley Bar AOC during the

June trip. Each AOC in this section was also visited multiple times by wilderness study area monitoring patrols or by range specialists conducting use supervision and checking fences and gates and no livestock use was reported in the AOCs.

As reported last year, in November 2003, twenty two cows were observed within the Historic Birch Creek Ranch (which is not an AOC) and a Notice of Trespass was issued. This unauthorized use resulted in disturbance to an archaeological excavation. An Archaeological Damage Assessment Report was completed in December that estimated the value of damage to archaeological resources as well as restoration costs. A Settlement of Unauthorized Use Obligation Offer, that included the livestock trespass as well as the Archaeological Resources Protection Act violation (ARPA), was mailed in January 2004. A non-willful settlement was reached and paid for the livestock trespass and settlement of the ARPA violation is still pending.

Middle Section of Main Owyhee (Three Forks to Rome) including North Fork: There were no sightings in AOCs. The entire middle section was floated one time from May 12-15, 2004. There were no signs of cattle use observed during a horse back trip to the Deary Pasture AOC in July or the Five Bar AOC in August.

Upper Section of Main Owyhee (state line to Three Forks): There were no sightings or reports of cattle within the river corridor this past year. One float trip was conducted in June by the Idaho BLM patrol and one trip by Vale District upriver from Three Forks to Antelope Canyon and back in July.

West Little Owyhee: June 18, 2004 –Bruce Easterday, manager of the Nouque Family Trust was doing their fence maintenance on the West Little Owyhee enclosure and noticed recent cattle tracks in the river corridor enclosure. He did not know whose cattle were in the enclosure, except that they were not his.

June 23, 2004 – Range technicians Pat Merrill and Richard Olson rode their horses in the West Little Owyhee enclosure looking for cattle. They found 12 head with Wilkinson's H2 brand on the left hip. These cattle were in the upper reaches of the drainage. They also noticed that a portion of the Louse Canyon Gap Fence that Wilkinsons maintain was down due to winter snow.

June 24, 2004 – Travis Fletcher called and left a message for Mr. Wilkinson to remove his cattle from the West Little Owyhee River corridor that is closed to grazing and fix the fence that was down. He also requested that Mr. Wilkinson call back when these things were completed.

June 28, 2004 – Travis Fletcher called again and talked to Mr. Wilkinson about the cattle in the river corridor and the fence being down. Mr. Wilkinson said that his son had gotten the message and removed the cattle on June 25, 2004. Travis reminded him about the fence being down and the need to fix it as soon as possible. Then Pat Merrill, Range Technician, also talked with him about the fence and its location.

June 30, 2004 – Pat Merrill rode into the same area where the West Little Owyhee Gap Fencing that was down, and observed that the fence had still not been repaired, but no cattle were in the AOC.

July 2, 2004 – Travis called and left a message for Mr. Wilkinson regarding the fence that was in disrepair and would be calling him on Tuesday, July 6, 2004 to see if it had gotten done.

July 6, 2004 – Travis called Mr. Wilkinson and asked if he had gotten that fence repaired, and he said that he had not, but said he would fix it in the next day or two. Travis also talked about the fence that still needs to be constructed by Jeff's Reservoir. Mr. Wilkinson said he wasn't worried about building that fence because his cows wouldn't get down there since his cattle were out of the pasture by 7/15. Subsequent monitoring in September by Pat Merrill confirmed that no cattle had entered the AOC from this area.

July 15, 2004 – BLM impounded 31 trespass cattle belonging to various individuals in the McDermitt, Nevada area. These livestock had access to the upper portions of the wild and scenic river corridor, and were accessing the river, but were not in the AOC at the time of impoundment.

September 15, 2004 – Travis Fletcher counted 70 trespass horses in the Upper Louse Canyon Pasture of the Louse Canyon Community Allotment. These horses had the potential to access the wild and scenic river corridor.

November 22, 2004 – Travis Fletcher counted approximately 50 trespass horses that had the potential to access the wild and scenic river corridor. He also counted 8 trespass cattle in the wild and scenic river corridor, which is closed to livestock grazing. Brands were not visible for identification purposes.

November 29-December 2, 2004 – BLM impounded 91 trespass horses that had the potential to access the wild and scenic river corridor. Four smaller groups of horses, which totaled 83 head, were driven through the area closed to grazing using a helicopter, with the transition taking approximately ½ hour per group. No livestock remained in the wild and scenic corridor which is closed to grazing at the close of this impoundment action.

Progress toward completion of EIS (FY 2004):

BLM received funding necessary to continue monitoring and additional inventory/data gathering for water quality, botanical resources, cultural resources, etc. BLM did not receive sufficient funding to initiate an EIS contract and initiate project scoping in 2004 as initially anticipated.

BLM continued to conduct use supervision and monitoring of ORVs within areas of concern,

campsites and other areas where use occurs within the river corridor.

Washington State University , in cooperation with BLM (utilizing a challenge cost share grant), worked off-site to prepare previously excavated artifacts from the prehistoric camp site at Birch Creek Ranch for curation.

Progress anticipated toward completion of EIS in (FY 2005):

BLM will continue to conduct use supervision and monitoring of ORVs within areas of concern, campsites and other areas where use occurs within the river corridor.

In 2005, BLM will continue data recovery/excavation of prehistoric camp site at Birch Creek Ranch in cooperation with Washington State University (utilizing a challenge cost share grant).

Funding in 2005 is sufficient to initiate the EIS contract and begin scoping, so scoping will be completed in FY 2005, with a scoping report anticipated early in FY 2006 and a draft EIS later in 2006..

CERTIFICATE OF SERVICE

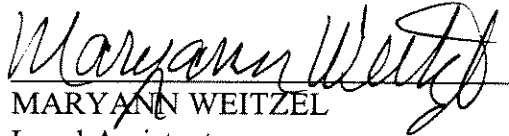
I HEREBY CERTIFY that I served a true and accurate copy of the foregoing
DEFENDANTS' ANNUAL REPORT -- March 1, 2005 on the parties herein by causing true
copies to be deposited in the United States mail at Portland, Oregon, this 28th day of February,
2005:

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