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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, 2006**

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.

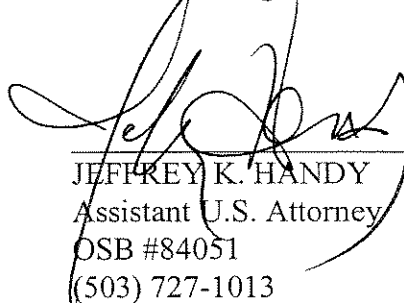
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Pursuant to paragraph 12 of the Court's Order of Modified Injunction filed April 28, 2000, (Dkt. 315), the defendants file their annual report on compliance with the Court's orders, progress on the environmental impact statement, and projected work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

Dated this 1st day of March, 2006.

Respectfully submitted,

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Of Attorneys for Defendants

**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, 2006**

The following is the Bureau of Land Management's (BLM) sixth 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, 2005 through February 28, 2006; 2) progress toward completion of the EIS; and 3) projected work for the year to come (fiscal 2006). 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 non-compliance.

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), assessment of the Trout Creek Mountain GMA, Endangered Species Act consultation, emergency wildfire suppression at the District, Regional and National levels, post fire rehabilitation as well as multiple 30 day assignments in support of Katrina relief efforts). BLM staff conducted numerous 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. Again this year, 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 continue to comply with the additional terms and conditions in their permits and performed to the requirements of the Order.

Utilization measurements were completed in the Hole-in-the-Ground and Willow Springs pastures of the Quartz Mountain Allotment on April 28, 2005, following removal of cattle from winter range pastures. Estimated utilization in upland vegetation communities of both pastures was 35%. Notations on utilization forms for Hole-in-the-Ground included identification of minimal impacts to herbaceous and no impacts to woody vegetation adjacent to the Owyhee River outside the Greeley Bar Area-of-Concern (AOC).

The fence line excluding livestock use from Greeley Bar, campground and hot springs was also inspected on this visit and it remains up and functioning with no signs of cattle presence within the AOC.

The April 28, 2005 compliance/utilization trip as well as 12 subsequent trips showed no evidence of cattle use in the Greeley Bar AOC. There were no "failures to perform" observed.

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

On 2/16/06, Andy Bumgarner completed the utilization reading on the Saddle Butte Allotment. The average utilization of squirrel tail in the allotment was 28%. Utilization at points 11 and 18 are categorized as moderate while use at points 9, 10 and 12 was heavy. The average utilization of bluebunch wheatgrass was 19% including one heavy use reading at point 9. All troughs were on and functioning properly. Permittees have been moving cattle home since the first of February with approximately 450 head being removed to date. The average utilization of the allotment was much less than during the 2004 – 2005 season and this is reflected in the improved appearance of the overall allotment. Cattle are well distributed; points recorded with heavy use were mainly due to wild horse use. These spots are located directly adjacent to horse trails that lead to Sand Springs which has been the only source of water for horses for most of the year. The only readily accessible gate was at the Sand Springs water gap and it was closed as required.

A Wild Horse gather was completed in the Saddle Butte allotment in October of 2005. A total of 238 horses were removed from the allotment bringing the estimated population down to 75 head. This allotment now meets the appropriate management level minimums.

All Saddle Butte and Crooked Creek pipeline troughs were fully functional over the winter of 2005-2006, but once again with moderate wild horse use prior to the onset of winter grazing; certain troughs were not turned on in the Sand Springs area. An October 14, 2005 pre-turnout inspection of the Saddle Butte Allotment was completed by Andy Bumgarner, utilization at point 9 was heavy due to wild horse use. The decision was made to not turn on troughs 8 and 10 because of the moderate use that was occurring at those sites, trough 8 would be turned on at a latter date, after storms have pushed cattle into the Tub Springs area.

All Saddle Butte Allotment gates were open prior to the Fall 2005 grazing season. Winter weather and road conditions limited our access but permittees verbally assured Andy Bumgarner that all gates were closed in accordance with the Order, for the 2005 -2006 grazing season. During the timeframe of 4/07/05 through 1/11/06, gates were visually inspected on at least 6 different days with no violations reported.

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. Cows and horses were observed within the West Little Owyhee "area of concern" and those incidents and actions are reported specifically in section 11 of this report. Three spring float trips, one summer flight and twenty-five (25) wilderness study area monitoring patrols completed in 2005 revealed no other sightings of cattle in corresponding 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 three times (4/17-4/21, 5/12-5/17, and 5/21-5/25) with no cattle observed at any time. 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.

One monitoring inventory was conducted by BLM cultural resource personnel on this section of river during 2005. No cultural resources sites were found to be receiving negative impacts from grazing at that time. It was noted that the absence of cattle in the canyon appears to have allowed vegetative cover to return to the Bogus Basin and Sand Springs areas. Vegetative cover will aid in maintaining the integrity of the surface manifestations of the cultural sites at Bogus and Sand Spring because buried material is less likely to be disturbed because erosion of surface soils is not as likely.

To date, none of the cultural sites included in the monitoring can be said to have been noted for disturbances by cattle grazing.

Middle Section of Main Owyhee (Three Forks to Rome) including North Fork: There were no sightings in AOCs. The entire middle section was flown on August 10, 2005 with no cattle sighted. Wilderness Study Area patrols occurred on thirteen different days from 3/25/05 through 9/15/05 with no sign of cattle use observed at any time.

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. The area was flown on August 10, 2005 with no sightings of cattle. Wilderness Study Area patrols occurred on three

occasions between July 20, 2005 and August 12, 2005 with no sign of cattle use.

West Little Owyhee: Both trespass horses and cattle were reported within the area resulting in one livestock impoundment and issuance of one willful trespass. The timeframes are described below.

June 23, 2005 - A livestock compliance inspection was completed in the Upper Louse Canyon Community Allotment. Fourteen (14) trespass horses belonging to members of the Fort McDermitt Tribe were located in this pasture. From this pasture these horses could have access to the Upper West Little Owyhee River Area of Concern.

June 29, 2005 – Telephone calls were made to the tribal members that had identifiable brands on the horses seen in the Upper Louse Canyon Pasture on June 23, 2005. The tribal chairperson was also contacted and informed.

July 26, 2005 – Twenty-two (22) trespass horses were observed in the Upper Louse Canyon Pasture of the Louse Canyon Community Allotment, however identification of brands could not be completed.

September 7, 2005 – A compliance inspection was completed for the Upper West Little Owyhee River AOC to document conditions within the wild and scenic river corridor. No livestock were observed in the AOC but 41 cattle were observed next to one of the exclusion fences that were allowed by the order of the modified injunction. This fence was found to be in need of maintenance if it is to remain an effective livestock barrier. Evidence of livestock trailing was observed on this date in the AOC but no livestock were seen.

September 14, 2005 – Cattle were observed by BLM Range Technician Pat Merrill in the Upper Little Owyhee AOC. These cattle were identified as permittee Kimball Wilkinson's and a trespass noticed was subsequently issued to Mr. Wilkinson.

September 26, 2005 – Kimble Wilkinson's livestock trespass for the cattle being in the West Little Owyhee River AOC was settled as a willful trespass since he was aware of the order restricting grazing within the AOC .

November 2, 2005 – A livestock compliance inspection was completed in the Upper Louse Canyon Pasture of the Louse Canyon Community Allotment and the West Little Owyhee River AOC. Six cattle were observed in the AOC but identification could not be determined.

November 14 – 17, 2005 – Due to continued reports of livestock being in or near the AOC the BLM conducted a livestock impoundment on lands containing and surrounding the West Little Owyhee River and Anderson Crossing AOC's. BLM gathered 65 trespass horses and 16 cattle. Four of these 16 cattle were in the West Little Owyhee River AOC.

The 65 horses were trailed by helicopter through the West Little Owyhee River AOC in 3 smaller groups. Each group took approximately 30 minutes to cross the AOC.

November 16, 2005 – Contact was made with grazing permittee Rand Collins to discuss the need for maintenance of exclusion fencing prior to livestock being moved into areas adjacent to the West Little Owyhee River. This contact was made in relation to the 9/7/05 inspection.

Progress toward completion of EIS (FY 2005):

In considering the potential scope of the EIS, BLM recognized that the permanent injunction on grazing restricts the available actions and alternatives. BLM has had discussions with an ONDA representative concerning the best use of BLM planning resources given the limited options for grazing. BLM intends to continue this discussion with all parties.

BLM received minimal funding necessary to continue monitoring and additional inventory/data gathering for water quality, botanical resources, cultural resources, etc.

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), continued to work off-site to prepare previously excavated artifacts from the prehistoric camp site at Birch Creek Ranch for curation. They also conducted test excavations and research at another prehistoric open camp site on the river that relates to the prehistoric Birch Creek site.

Boise State University, in cooperation with BLM (also utilizing a Challenge Cost Share grant) conducted test excavation and research of a rockshelter on the North Fork.

Progress anticipated toward completion of EIS in (FY 2006):

BLM will continue discussions with all parties including ONDA, OCA and affected permittees concerning the best use of BLM planning resources given the limited options for grazing.

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 2006, 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).

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that I served a true and accurate copy of the foregoing  
DEFENDANTS' ANNUAL REPORT -- March 1, 2006 on the parties herein by causing true  
copies to be deposited in the United States mail at Portland, Oregon, this 1st day of March, 2006:

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