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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,

Civil No. 98-97-RE

DEFENDANTS' ANNUAL
REPORT – March 1, 2007

Plaintiffs,

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.
Department of the Interior; and **GALE NORTON**,

in her official capacity as Secretary of the
Department of the Interior,

Defendants,

and

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

Intervenor-Defendant.

In accordance with paragraph 12 of the Court's Order of Modified Injunction filed April 28, 2000 (Dkt. #315) in the above-captioned action, Defendants hereby give notice of their filing of the attached annual report, dated March 1, 2007, addressing compliance with the Court's orders, progress on the environmental impact statement, and projected work for the coming year.

Dated this 1st day of March 2007.

Respectfully submitted,

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/s/ Stephen J. Odell
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Report to District Court of Oregon
Regarding Compliance with Order of Modified Injunction
ONDA v. Palma (Owyhee Wild and Scenic River)
Civil No. 98-97-RE
March 1, 2007

The following is the Bureau of Land Management's (BLM) seventh 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, 2006 through February 28, 2007; 2) progress toward completion of the EIS; and 3) projected work for the year to come (fiscal year 2007). The format of this report corresponds with the specific section of the Order, to the extent that there are associated actions to report.

Compliance with the Order:

Section 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 of the Louse Canyon Geographic Management Area (GMA) Environmental Assessment (EA) and implementation; development of the Trout Creek GMA EA, assessment of the Barren Valley-Rattlesnake GMA; Endangered Species Act consultation; emergency wildfire suppression at the District, Regional and National levels; and post fire rehabilitation efforts). BLM staff conducted numerous compliance checks using ground vehicles, river floats, hiking and horseback travel.

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, although 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, staff observations and post use reports, livestock trailing occurred without incident.

Section 7. The permittees of the Quartz Mountain and Morcom 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 May 11, 2006, following removal of livestock from these pastures. Estimated utilization in upland vegetation communities of both pastures was 24%. No browsing of willows along the Owyhee River in Hole-in-the-Ground was detected.

The fence around the 55 acre exclusion area at the Greely Bar Area-of-Concern was inspected in March and found to be intact, and with no recent evidence of livestock presence within the fenced area. Five subsequent river patrols did not detect livestock use in the Greely Bar AOC. There were no “failures to perform” observed.

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

On April 12, 2006, Andy Bumgarner completed utilization studies in the Saddle Butte Allotment. The average utilization on squirreltail was 28% and the average utilization on bluebunch wheatgrass was 21%. This utilization is consistent with 2005/2006 use levels, with the same patterns attributable to wild horse use. All water troughs were on and functioning properly. The Sand Hollow and Fletcher Trail gates had been opened after livestock were removed from the allotment and no sign of livestock use was evident along the Owyhee River. BLM staff did not have time to check that the other gates had been opened, but the permittees reported having opened the gates following livestock removal.

On July 23, 2006, a lightning storm ignited a fire in the Saddle Butte Allotment. The fire (Happy Valley Fire COR7) burned 65,503 acres within the Saddle Butte Allotment. It was determined to be economically unfeasible for the BLM to fence off the entire burned area from livestock and wild horse use in order to provide for post-fire vegetation rest. In September, an emergency wild horse gather was conducted, with a total of 130 horses captured. Sixteen mares that are part of an ongoing immunocontraceptive study were released back into the allotment, and an additional 19 horses which were not captured were left in the allotment. A limited number of horses were left to provide herd knowledge of water locations and preferred herd use areas when additional horses are reintroduced to the allotment. 109 horses in total were removed from the allotment. The BLM believes this is an adequate reduction in numbers to provide for vegetative recovery. Additional horses will be returned to the Herd Management Area to the low end of the appropriate management level following recovery of the forage resource.

Following implementation of a Saddle Butte Allotment Grazing Use Agreement for 2006, 2007 and 2008, permittees were allowed to turn out 30% of their normal livestock numbers for a reduced grazing season. Grazing use was withheld until all vegetation was in a winter dormancy state. Permittees were required to conduct extensive herding in order to achieve adequate grazing distribution and prevent livestock from spending appreciable time within the burned area. The permittees hired a full-time rider to accomplish this task and the effort has been extremely successful. All livestock were required to be removed from the allotment by February 30, 2007 to avoid livestock use on emerging vegetation within the burned area. Those gap fences which were burned

during the fire were reconstructed in November, prior to livestock turnout in December. 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 2006 – 2007 grazing season. All gates were checked by BLM staff on January 30 and 31, 2007. All gates were closed and there was no evidence of livestock use along the river. During the timeframe of 4/12/06 through 1/31/07, gates were visually inspected on at least 6 different times 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 horseback, foot and by boat. Livestock were observed in the vicinity of Three Forks and those incidents and actions are reported specifically in section 11 of this report. 4 spring float trips and 20 wilderness study area monitoring patrols completed in 2006 revealed no other sighting of cattle in corresponding AOCs.

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

Lower Section of Main Owyhee (Rome – Birch Creek): No sightings of unauthorized cattle occurred or were reported during the past year in AOCs. River patrols floated this section five times (3/22 – 6/16). Each AOC in this section was also visited multiple times by wilderness study area monitoring patrols or by range staff conducting use supervision and checking fences and gate. No livestock use was reported in the AOCs.

Three cultural monitoring inventories were conducted by BLM cultural resource personnel on this section of river during 2006. No cultural resource sites were found to be receiving negative impacts from grazing, but some sites did receive negative impacts from boater camping use and extreme high water conditions. Vegetative cover continues to recover in the Sand Spring area, aiding in maintaining the integrity of the surface manifestations of the cultural site at Sand Spring, i.e., artifacts aren't as easily washed or otherwise moved around.

On September 2, BLM received a report from the Malheur County Sheriff that a private pilot had crashed his plane on a river sand bar in the vicinity of Hole-in-the-Ground. The pilot was practicing unauthorized, short-field landings. A professional salvage company was hired by the pilot to secure the site and ensure no fuel leakage affected the river. The plane wreckage and debris was removed by helicopter at a later date and the sand bar was rehabilitated by the salvage company to obliterate signs of the landing.

Middle Section of Main Owyhee (Three Forks to Rome) including North Fork

Two float patrols were conducted on the middle section. On 4/22, 12 head of cattle were observed at the confluence of the North Fork and Main Owyhee. Telephone calls were placed to permittees and livestock were reported to have

been removed. A second patrol on 6/29 showed that the cattle were gone from the confluence area and there was no appreciable sign of livestock use or damage in the area. During this trip, another four head were sighted further upriver, and may have drifted from the original detection site. Permittees were notified and further WSA foot patrols did not detect any further unauthorized use.

Upper Section of Main Owyhee (state line to Three Forks)

Two float patrols were conducted on the upper section of the Main Owyhee. There were no sightings or reports of livestock within the river corridor this past year. Wilderness Study Area patrols occurred on two occasions between July 4, 2006 and August 18, 2006, with no sign of livestock use.

West Little Owyhee

Following the 2005 livestock impounds conducted by the BLM, the West Little Owyhee remained free of permitted trespass livestock throughout the grazing season. During a post-grazing season utilization visit in early November, 2006, trespass horses were detected but BLM personnel could not get close enough to verify ownership. A Notice of Intent to Impound Unauthorized Livestock was issued on November 14, 2006 and appropriately published and posted. A follow up visit to the Andy Fife pasture and Deer Flat area on November 13 and 14, 2006 determined that the horses had been removed. Weather has prevented further visits to the area, but BLM staff will be vigilant to the potential for trespass livestock during 2007.

Progress Toward Completion of EIS (FY2006)

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 potential to reach a settlement between ONDA, BLM and the affected grazing permittees to accept the current grazing restrictions and utilize BLM staff time to address other issues on the Owyhee River, such as float boater recreational uses. BLM intends to continue this discussion with all parties.

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

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

Washington State University, under the direction of Dr. Bill Andrefsky, conducted a field school at Birch Cree Ranch at site 35 ML 181. Archaeological

investigations are conducted under a Challenge Cost Share agreement. Excavation and surface inventory are included in the work at this site.

Anticipated Progress Toward Completion of EIS (FY07)

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

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

Washington State University will continue to conduct archaeological investigations under a Challenge Cost Share agreement at Birch Creek Ranch. Excavation and surface inventory will be included in the work at this site.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on March 1, 2007, I electronically filed the foregoing DEFENDANTS' ANNUAL REPORT – March 1, 2007 with the Court using the CM/ECF system, which will transmit notification of such filing to the following counsel of record in this action:

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