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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, 2008**

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.

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In accordance with paragraph 12 of the Court's Order of Modified Injunction entered on 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, 2008, addressing compliance with the Court's orders, progress on the environmental impact statement, and projected work for the coming year.

Dated this 3<sup>rd</sup> day of March 2008.

Respectfully submitted,

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District of Oregon

/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, 2008**

The following is the Bureau of Land Management's (BLM) eighth 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, 2007 through February 28, 2008; 2) progress toward completion of the EIS; and 3) projected work for the year to come (fiscal year 2008). 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: oversight and monitoring of the Wild and Scenic Rivers boating season; ongoing 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 17%. 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 on March 30, 2007 and found to be intact, and with no recent evidence of livestock presence within the fenced area. Due to serious illness of the river ranger\*, only one float patrol was completed in April, but livestock use was not detected 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 11, 2007, Andy Bumgarner completed utilization studies in the Saddle Butte Allotment. The average utilization overall was 32%. This utilization was slightly over the 2006/2007 use levels but is well within allowable utilization levels. The same patterns attributable to wild horse use were observed for the reporting period. All water troughs were on and functioning properly. All gates were checked and opened after livestock were removed from the allotment and no sign of livestock use was evident along the Owyhee River.

In accordance with the 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 will be required to be removed from the allotment by February 29, 2008 to avoid livestock use on emerging vegetation within the burned area. This date could be delayed by one week due to abnormally wet soil conditions. 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 2007 – 2008 grazing season. On September 9, 2007 the BLM received reports of livestock present in the vicinity of the Fletcher Trails area. Permittees accessed the area via horseback and gathered 6 head of cattle. These cattle were found to belong to the Alvord Ranch and had apparently traveled overland from the Sheepshead Allotment, which adjoins the Burns District to the northeast.

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. 1 spring float trips and 12 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. One river float patrol was completed on this section in April. 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.

No cultural monitoring inventories were conducted by BLM cultural resource personnel on this section of river during 2007. Extremely low water conditions and a lack of commercial and non-commercial float trips would indicate that no disturbance to cultural sites occurred in 2007.

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

No float patrols were conducted on the middle section. Three reports of livestock in the Three Forks area were reported to the BLM by private citizens. On April 18, 2007 18 head of livestock were observed by the BLM Range Rider and a Notice of Trespass was issued. The trespass was settled through stipulation to repair and maintain fences which allowed livestock access to the river corridor. These fences will be inspected by BLM prior to the 2008 grazing turnout date for the permittee. An additional 15 head were detected on May 8, 2007. BLM personnel returned the livestock to the DSL allotment and completed emergency repairs on the deficient fence. The River Ranger and Outdoor Recreation Planner canoed from Three Forks to the Five Bar area to assess the situation. Livestock were gaining access to the AOCs from adjacent Oregon Department of State Lands (DSL) lands and private lands. BLM has contacted DSL and will work cooperatively to ensure that fences are reconstructed and that livestock trespass actions are pursued during the 2008 grazing season. BLM will also work with the private landowner/permittee to ensure future compliance with the Owyhee Wild and Scenic River Modified Injunction.

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

One float patrol was conducted on the upper section of the Main Owyhee as noted in the section above. Four additional WSA patrols were completed in addition to numerous range staff inspections. Except for the livestock reported above, no other livestock use was detected on the upper section.

West Little Owyhee

Following the 2005 livestock impounds conducted by the BLM, the West Little Owyhee remained free of un-permitted trespass livestock throughout the grazing season.

Three head of livestock were detected at Anderson Crossing during the permitted grazing season in Louse Canyon Allotment. These cattle were reported to permittees and immediately removed. No detectable livestock sign or utilization was observable on a follow-up visit to ensure that the livestock had been removed.

#### Progress Toward Completion of EIS (FY2007)

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.

As analyzed in the Louse Canyon Geographical Management Area (LCGMA) Environmental Assessment (EA) for grazing permit renewal, 6 additional gap fences are proposed for the West Little Owyhee to further exclude livestock access to the river corridor. Three fences inside the river corridor have been surveyed and flagged, for a total of approximately 500 feet of fence. Three fences outside the river corridor have been surveyed and flagged, for a total of approximately 1.6 miles of fence. Implementation of construction is currently on-hold pending resolution of litigation in ONDA v. Freeborn, CV-06-1311-MO (D. Or.).

#### Anticipated Progress Toward Completion of EIS (FY08)

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.

If ONDA v. Freeborn is resolved in this fiscal year, BLM begin implementation of the identified fence projects on the West Little Owyhee.

\* The BLM river ranger, David Steele, contracted West Nile Virus during the 2006 river season. David was still experiencing acute symptoms during the 2007 river season and the new Outdoor Recreation Planner, David Draheim did not report to duty until mid-July, 2007. As a result, BLM float patrols were extremely limited for the 2007 river season. The river season was exceptionally short for 2007 due to drought conditions and extremely low water conditions. The majority of permitted outfitters did not complete any river trips for 2007 and non-commercial trips were very limited.