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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

Plaintiffs,

v.

**DEFENDANTS' ANNUAL
REPORT - March 1, 2003**

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,

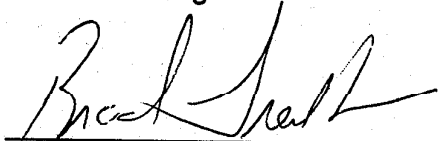
Intervenor-Defendant.

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 ^{26th} day of February, 2003.

Respectfully submitted,

MICHAEL W. MOSMAN
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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, 2003**

The following is the Bureau of Land Management's (BLM) third 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, 2002 through February 28, 2003; 2) progress toward completion of the EIS; and 3) projected work for the year to come (fiscal 2003). 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, oversight and monitoring of the Wild and Scenic Rivers boating season, evaluation of the 500,000 acre Louse Canyon Geographic Management Area (GMA), 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 throughout 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 Mountain and Morcum allotments have complied with the additional terms and conditions in their permits and performed to the requirements of the Order. The March 21, 2002 compliance trip and all subsequent trips showed no evidence of cattle use in the Greeley Bar Area of Concern (AOC). There were no "failures to perform" observed.

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

All remaining pipeline and rehabilitation work was completed by the fall of 2002. All troughs were full over the winter.

Cattle have been widely scattered this winter and utilization estimates, taken between each trough along the pipeline, have been in the light to moderate category overall. BLM notified permittees to remove cattle from the Sand Springs area the week of January 15, 2003, when moderate utilization levels had been reached. At that time, they also redistributed remaining cattle to the north toward Bull Creek where utilization levels were light. The utilization levels in the Sand Springs area were the result of combined use by wild horses, early in the year, and by cattle later on. The permittees began removing cattle from the allotment the week of February 10th and taking them home.

Utilization checks throughout the 2002-2003 grazing season show that grazing has not been concentrated on the pipeline. Storms and poor road conditions precluded access to the allotment periodically, although it was an open winter with water periodically scattered in depressions and potholes.

Access to the AOCs has been limited by rain and mud, but they were observed several times throughout the year by horseback, foot, helicopter, and by boat. No cows were observed within any "areas of concern" which are closed to grazing. There was unauthorized use of the Three Forks AOC, and in the vicinity of (but outside) AOCs in the Upper West Little Owyhee Rivers, which will be discussed in a later section of this report. Spring float trips in 2002, on the lower section of the Main Owyhee, resulted in periodic reports of a few cows and bulls (1-8 and 1-4, respectively), both living and dead, on or very near private land in the vicinity of the Greeley Bar AOC, however there were no observations of cows within the Greeley Bar AOC and no "failures to perform." AOCs will be monitored again this year by raft and foot to determine if cattle gained access, however recent horse back trips indicate that gap fences are up and keeping cattle out of AOCs.

To the best of BLM's knowledge all fence work and rock placement has been completed with the exception of the West Little Owyhee Gap Fence. The West Little Owyhee Gap fence (allowed in the Second Amendment to the Order (Cliff Creek, Spring Creek and West Little Owyhee gaps - exhibits 165, 166 & 167)) was to be completed by November 1, 2002. The permittee involved (Wilkinson Ranches) decided not to build the fence because the pasture involved was not scheduled for warm season use and he did not feel that cattle would access the gap at the time he was allowed to use the pasture. The permittee apparently did not understand that there was a time frame he needed to meet. Nevertheless, there is no evidence that cattle accessed the gap and a "failure to perform" did not occur. BLM will encourage the permittee to complete this fence as soon as possible in 2003.

All gates in gap fences have been closed when they are supposed to be and open when they are supposed to be, to the best of our knowledge. Several checks through out the year confirm this.

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.

Middle Section of Main Owyhee (Three Forks to Rome) including North Fork: There were 3 sightings in the river corridor, in immediate vicinity of the Three Forks AOC.

The first was a 40 head trespass on April 25, 2002. BLM found these cattle during a routine check of the area. BLM notified the owner who promptly removed the animals. A Notice of Unauthorized Use was served. The trespass was settled as non-willful and the owner paid all associated fees. This trespass resulted from a gate being left open by the recreating public.

The second sighting occurred on November 22, 2002 when a BLM staff member sighted 4 head of cattle in the vicinity of Three Forks, about 1 mile south of the AOC. The cattle were very close to the boundary between public land and both state and private land. They likely came from a large block of state land known as Brown's Ridge, located east of the Main Owyhee. Though it was thought that they "probably" were on BLM land at the time, it was not confirmed. Nevertheless, the likely owner was contacted and made aware of the fact that the livestock needed to be secured before they got into Three Forks AOC. There were no subsequent sightings and it is assumed that the owner took the necessary action.

The third sighting occurred on January 5, 2003, when BLM was notified of a possible trespass. Poor weather and road conditions precluded BLM's access, so the suspected owner was notified and he said he would check it. Subsequently, he reported back that he gathered 8 head of cattle on January 6, 2003. The trespass was the result of an open gate from his state land. The trespass was incidental and no further action was taken.

It was not possible for BLM to float the Middle Section in the spring of 2002, due to low water. There were signs of cattle use observed during a horseback trip to the Deary Pasture area, though no cows were observed. The signs of cattle use were "cow pies" less than a year old and tracks from what appeared to be two cows. The tracks were observed just inside the upper rim gap fence and there was no sign of impact in the AOC. There were no apparent fence problems and, due to inability to identify the livestock at issue, no further action was taken.

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. Only one trip was possible (between Three Forks and Five Bar) due to low water.

West Little Owyhee: There was one report from a contract botanical crew (who were inventorying the Upper West Little Owyhee) of a sighting of 6 head of cattle about 5 miles north of Anderson Crossing. This report was not within an AOC and was not known to BLM until a draft report of the fieldwork was provided to BLM well after the fact. No action was taken.

A gap fence inspection trip on June 18, 2002 resulted in the finding of 18 head of cattle between the two southernmost AOCs on the West Little Owyhee. They were, at the closest, one to two miles from either AOC. The permittees were notified and they gathered the cattle to eliminate any possible threat to the AOCs. No further action was taken.

Unauthorized Fences

On September 4, 2002, BLM reported the discovery of six unauthorized gap fences pursuant to paragraph 11 of the Order of Modified Injunction. BLM's assessment of these fences remains the same as it was in September: 1) they are not substantially noticeable; 2) they do not impact threatened or endangered species or cultural values; and, 3) they are in locations that, it appears, cattle could use to access the Fletcher Trails Area of Concern.

Progress toward completion of EIS (FY 2002):

BLM received funding necessary to continue monitoring and additional inventory/data gathering for water quality, botanical resources, cultural resources, etc. BLM was not able to complete the EIS prep-plan due to fire related workloads.

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.

BLM continued data recovery/excavation of a prehistoric campsite at Birch Creek Ranch in cooperation with Washington State University (utilizing a challenge cost share grant).

Progress anticipated toward completion of EIS in (FY 2003):

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.

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

BLM expects that contracted inventory efforts, funded with funds obligated in FY 2002, will be completed this year and that a prep-plan for the EIS will also be completed.