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CLERK, U.S. DISTRICT COURT
DISTRICT OF OREGON
PORTLAND, OREGON

BY _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

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

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 Area 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 his official capacity as Secretary of the
Department of the Interior,

Defendants,

and

OREGON CATTLEMEN'S ASSOCIATION,
a nonprofit organization on behalf of its members,

Intervenor-Defendant.

Civil No. 98-97- RE

~~{Proposed}~~

**SECOND AMENDMENT
TO ORDER OF MODIFIED
INJUNCTION**

In accordance with the Civil Minute Order of October 3, 2001, the Court hereby amends paragraph 8.B. of the April 28, 2000 Order of Modified Injunction (as first modified by Order of October 6, 2000) by replacing it with the following text:

B. Fences FL-6 (Map Exhibits 150 and 151) and Fence FL-1 at Bull Creek Watergap only (Map Exhibit 151) prior to the grazing season beginning in 2001. Gap Fences at Cliff Creek, Spring Creek, and West Little Owyhee gap (Map Exhibits 165, 166, 167) prior to November 1, 2002 but not as a prerequisite to continued grazing. Two water developments in the Saddle Butte Allotment proposed by Intervenor on September 5, 2000, modified by the Agreement in Principle on September 19, 2000 (as depicted on Map Exhibit 157), and further modified in October, 2001 (as depicted on Map Exhibit 164) consisting of approximately 19.5 miles of pipeline and 13 water troughs on public land. The main pipeline shall be buried (using backhoe, trencher or ripper) adjacent to the road surface within the area that was disturbed prior to April 28, 2000. The new disturbance shall be restricted to as close to the road edge as possible. BLM staff shall work with permittees onsite to identify the pipeline route. Where native vegetation is disturbed along the pipeline, the permittees shall rehabilitate the area. All disturbed areas (from the road to the pipeline, on the pipeline berm, and outside the pipeline berm,) including those resulting from construction or maintenance, shall be broadcast seeded by the permittees with native seed approved by the BLM. All water facilities shall be sited at locations approved by


the Bureau of Land Management and shall be sufficient to provide a reliable water source for the livestock and wild horses grazing on the allotment.

The water developments may be phased in with the southern portion (Crooked Creek pipeline including 10 troughs) being constructed in Fall, 2000 prior to grazing. The northern portion shall include: 1) the addition of approximately 3 miles of pipeline and 2 troughs to the Crooked Creek pipeline and 2) construction of approximately 2 miles of pipeline and one trough extending from private land on the northern boundary of the Saddle Butte allotment. The entire northern portion shall be constructed and all rehabilitation conducted as soon as practicable but no later than November 1, 2002. (Paragraph 9 of this Order shall not prevent this extension of time nor shall this Order be read to require installation of the northern portion as a prerequisite to continued grazing). All rehabilitation on the Crooked Creek pipeline areas disturbed prior to October, 2001 shall be conducted prior to November 1, 2001. Notwithstanding the fact that the northern pipeline route will no longer be located as depicted on Map Exhibit 157, the permittees shall, before December 1, 2001, rehabilitate all bladed and disturbed areas along this original route to return it to the width existing prior to April 28, 2000. This rehabilitation shall include all roads or ways identified as having been bladed in the August 21, 2000 BLM Memorandum entitled "Wilderness Study Area Intrusion" (Ex. A, Pg. 2, to Pltff's Sept. 26, 2000 Resp. to Def's Motion to Amend Order of Modified Injunction). The rehabilitation

shall occur with BLM supervision and shall include smoothing berms created by blading as well as seeding with native seed. New pipeline construction on public land may not be initiated unless the above rehabilitation is completed or is ongoing with substantial progress made. Grazing may occur in the Saddle Butte Allotment during the grazing season beginning in 2000 subject to existing requirements, including utilization limits, and provided that the permittees exclude livestock from the Areas of Concern by riding until the gap fences are completed. When utilization limits are reached in a particular area, troughs serving that area shall be shut off and grazing shifted to other areas in the allotment. If or when utilization limits are reached for the allotment before the end of the grazing season, livestock shall be removed from the allotment. Areas that are ungrazed due to lack of water shall be considered unavailable for grazing and shall not be included in the utilization calculations. For the first year, BLM shall frequently monitor utilization limits throughout the grazing season (every 2 to 3 weeks depending on weather and accessibility) and the frequency may increase as livestock approach utilization limits. Monitoring and resulting decisions shall be implemented pursuant to the rules, regulations, and statutes that govern management of the affected lands.

The parties shall make every effort to implement this paragraph (8.B.) consistent with their intent as expressed the Agreement in Principle dated September 19, 2000 (Exhibit 156).


Dated this 30 of October, 2001.



JAMES A. REDDEN
United States District Judge

Presented by:

MICHAEL W. MOSMAN
United States Attorney
District of Oregon



THOMAS C. LEE
Assistant U.S. Attorney
Of Attorneys for Defendants