

# DESERT RAMBLINGS

NEWSLETTER OF THE OREGON NATURAL DESERT ASSOCIATION

SUMMER 2008 EDITION • VOLUME 21, NO. 2

## FROM THE OUTBACK

### ONDA is working on a remedy for Oregon's wilderness deficit

By Brent Fenty  
Executive Director

The presidential election rolls on and amongst the news of flip-flopping, high-risk mortgages and oil prices, there has been some talk of wilderness and specifically Oregon's "Wilderness deficit." It is true. Although Oregon has impressive green credentials on issue such as recycling, public beaches and land-use planning, we sit far behind most other western states, including all of our neighbors, when it comes to protecting wilderness. Oregon currently has protected 2.3 million acres of Wilderness; or only 3.7% of the state. By comparison, Washington, California, Nevada and Idaho each boast over a million more acres of wilderness than Oregon, with California boasting an impressive 14 million acres or 14.4% of the state.

A major reason for this deficit is that Oregon has yet to permanently protect millions of acres of desert lands in Central and Eastern Oregon. The Bureau of Land Management (BLM), which manages over 16 million acres of public lands in Oregon, has itself identified 2.6 million acres of desert wilderness that has been managed as Wilderness Study Areas (WSAs) since the late 1980s. A recent citizen's inventory by ONDA volunteers found a whopping 8 million acres of unprotected desert wilderness including the WSAs identified by the BLM in their original inventory; thanks to ONDA's hard work, the BLM will have to evaluate the wilderness values of these areas in its planning efforts (see other article on this page).

Unfortunately, Congress has yet to act to protect these remarkable places and, cur-

see FROM THE OUTBACK page 8

### Court orders BLM to evaluate wilderness values on public lands



PHOTO: SCOTT ERICKSON

*Greely Bar along the Owyhee River. In a decision that validates ONDA's efforts to protect areas such as this, the Court of Appeals has ordered the BLM to factor wilderness considerations into its management of public lands in Southeast Oregon.*

By Mac Lacy  
Senior Attorney

The Bureau of Land Management (BLM) must rewrite its land use plan for southeast Oregon due to a landmark decision from the Ninth Circuit Court of Appeals on July 14, 2008. The BLM wrongly refused to evaluate impacts to wilderness values on the public lands in the challenged plan, according to the decision, which overturned a district court decision upholding the plan.

The ruling will have a profound impact on BLM's management of the public lands it is charged with protecting. The court specifically rejected BLM's disavowal of "the very idea of wilderness" as one of many resources and values for which the agency must manage. Finding that the law, including BLM's own guidance documents,

unmistakably requires BLM to analyze impacts to a landscape's wilderness characteristics, the court vacated the plan and ordered BLM to prepare a new plan.

The plan, the Southeastern Oregon Resource Management Plan (SEORMP), governs BLM's management of about 4.6 million acres of public land, mostly in vast Malheur County. It is to guide BLM's management of some of the most treasured landscapes in Oregon, including the Owyhee Canyonlands, for the next 20 years. The bulk of the lands to be managed under the plan are comprised of fragile high desert and sagebrush steppe.

Within this remote, wild area lie some of our nation's most important roadless areas. The court's ruling validates the position ONDA has taken with BLM since it began this planning process in the mid-1990s. As

see COURT ORDER page 8



# The ONDA Board of Directors

By Durlin Hickok  
*President*

As a non-profit organization, ONDA has been fortunate over the years to have a highly effective Board of Directors. Over the last three years, Jana Rygas has provided countless hours of passionate support for ONDA. We are sad to announce that Jana has decided, after much hard work, to leave the ONDA Board. She will be missed.

At ONDA meetings, board members are sometimes asked about the duties, function and membership of the ONDA Board. I would like to briefly outline three important Board responsibilities.

First, and of primary importance, is the role of governance. The ONDA Board has a legal and fiduciary responsibility to ensure that the organization is in compliance



## FROM THE DEN

with its mission. A second important Board responsibility is to provide support to the Executive Director and staff. Typically this consists of assistance with fundraising, programmatic activities, developing strategic partnerships and providing outreach to the public. Finally, the board has an overall management responsibility to the staff of ONDA. These activities include management and personnel assessments, and salary and benefit reviews.

Prospective board members typically submit a resume and cover letter to the

Board Resources Committee. These materials are carefully reviewed and followed by interviews with the ONDA Board President and other current Board Members. The ONDA board strives to maintain a balance of individuals from backgrounds in conservation, business and finance, fundraising and community relations. Of great importance in the review process is the ability and willingness of the prospective Board member to commit sufficient time to the required Board activities. Election to the ONDA Board is for a three-year term and designed so that there is orderly transition between new members and those leaving the Board.

We are excited at the prospect of bringing on two additional new Board members this fall. I look forward to introducing these new board members to you in 2009.



# ONDA OREGON NATURAL DESERT ASSOCIATION

### BEND OFFICE

33 NW Irving Avenue  
Bend, OR 97701  
541.330.2638  
541.385.3370 fax

### PORTLAND OFFICE

917 SW Oak Street  
Suite 408  
Portland, OR 97205  
503.525.0193

### STAFF

Brent Fenty, *Executive Director*  
Jefferson Jacobs, *Outreach Coordinator*  
Bark Brown, *General Manager*  
Gena Goodman-Campbell,  
*Wilderness Coordinator*  
Devon Batley, *Membership Coordinator*  
WendyKay Gewiss, *Development Director*  
Kate Martin, *Bridge Creek Coordinator*  
Aaron Killgore, *John Day Coordinator*  
Mac Lacy, *Senior Attorney*  
David Becker, *Staff Attorney*

### AT LARGE

Craig Miller, *GIS Specialist*  
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**ONDA exists to  
protect, defend, and  
restore forever the  
health of Oregon's  
native deserts.**



**Desert Ramblings** is published three times annually (spring, summer and winter) by the Oregon Natural Desert Association, 33 NW Irving Avenue, Bend OR 97701. This is the summer 2008 edition, Volume 21, No. 2.

Jefferson Jacobs, *Editor*  
Thomas Osborne, *Designer*



## Bursting at the seams at ONDA's annual meeting

By Devon Batley  
Membership Coordinator

ONDA would like to thank all of the members who joined us at OMSI's Hancock Field Station in April to work, play and celebrate the achievements of the previous year. This year we packed the house, with close to 90 people attending from all over Oregon.

Of course it wouldn't be an ONDA trip if there weren't some fence pulling and tree planting involved. Despite the unseasonably warm temperatures of 80° F, hardy volunteers took to the field to pull almost five miles of fence and plant 1,600 trees. The work took place in the Pine Creek Conservation Area (PCCA), a 35,000 acre conservation property in the John Day Basin. PCCA is owned and managed by the Confederated Tribes of Warm Springs, as part of the Bonneville Power Administration's fish and wildlife mitigation program.

After a day of rewarding and sweaty work, the volunteers were grateful for a chance to relax and savor the delicious salmon bake put on by the Warm Springs Tribes. Later in the evening entertainment was provided by the bluegrass band, Bend N Strings.

If you missed out this year be sure to get on the list for 2009. Meeting dates are April 17th–19th, 2009. Pre-registration begins in February.

Special thanks to Rick Hayes and Kate Jackson of the Confederated Tribes of Warm Springs, the Deschutes Brewery for donating beer, and to Bend N Strings for making this a fun and productive meeting! See you next year ...



PHOTO BY CRAIG MILLER

ONDA volunteers removed almost five miles of obsolete barbed wire fence at the annual meeting this year.



PHOTO: ONDA

At an event in the Badlands, Oregon Senator Ron Wyden announces his support of giving Wilderness protection to the area east of Bend.

## Sen. Wyden backs Badlands bill

By Gena Goodman-Campbell, Wilderness Coordinator

After reporting in the spring issue of Desert Ramblings that 2008 was shaping up to be an exciting year for the Badlands and Spring Basin, ONDA is ecstatic to report that all of our hard work has started to pay off! On June 5, 2008, Senator Ron Wyden introduced S.3088, the Badlands Wilderness Act of 2008, and S.3089, the Spring Basin Wilderness Act of 2008, finally responding to decades of pressure from ONDA members who want to see these special places protected.

On May 25, the senator made a personal visit to the Badlands to announce that he would introduce legislation to permanently protect the area. Standing before hundreds of supporters, Wyden said that it was the flood of grassroots support that had led him to finally take action on this issue. From all of us here at ONDA, a sincere "thank you" to those who wrote and called Wyden to urge him to protect Oregon's High Desert – your input was heard, and it truly made a difference!

Another group deserving of thanks is our tireless volunteer corps, who have worked hundreds of hours over the past few months, gathering comments and raising awareness about the Badlands and Spring Basin. Especially during the week leading up to Wyden's visit, scores of volunteers turned out to help us get the word out about the event and make sure that everything went smoothly. Without this help, ONDA surely would not have been able to pull off such a seamless event, and we thank everyone who participated in its success!

We also want to make sure to thank our Green Corps organizers, Ruth Morrison and Ben Walsh, for all of their hard work during the short time that they were with ONDA. Without the thousands of comments to the senator that they generated, as well as the energy that they brought to their work every day, we would not be where we are now with the Badlands campaign. Our hats are also off to Katya Spiecker, ONDA volunteer-turned-employee, as she carries the torch on the Badlands grassroots efforts.

Although the introduction of legislation to permanently protect the Badlands and Spring Basin is a huge step for supporters of Oregon's High Desert, we have some hard work in front of us in the coming months to make sure that wilderness designation is secured for these special areas. It is not too late to contact Wyden to thank him for taking action or to contact Senator Gordon Smith and Representative Greg Walden to tell them to get on board! Go to [www.onda.org](http://www.onda.org) to e-mail your elected officials and tell them to seal the deal on Badlands and Spring Basin before the end of the congressional session!



# Project utilizes beaver to restore watershed

By Kate Martin

Bridge Creek Coordinator

ONDA has long been involved in restoration efforts in the high desert, thanks in large part to our dedicated volunteer force. Traditionally much of our work has been focused on removing fence or inventorying Oregon's wild places, but recently ONDA has also become involved in the large-scale watershed restoration of Bridge Creek in the John Day basin, one of the last strongholds of wild steelhead trout in Oregon.

Bridge Creek begins in its namesake Wilderness area in the Ochoco National Forest, flows through the town of Mitchell and past the Painted Hills of the John Day Fossil Beds National Monument. It then winds between Sutton Mountain and Pat's Cabin Wilderness Study Areas on BLM land, before its confluence with the John Day River near Burnt Ranch Rapids. It provides important habitat for threatened wild steelhead trout and Chinook salmon, among other wildlife species dependant on healthy riparian zones. However, historic grazing practices and the inherent geology of the region have led to extensive channel incision, reduced riparian zones, high water temperatures, and low water flow on Bridge Creek during the summer.

ONDA is cooperating with several government agencies and landowners to improve the stream using a unique approach – assisting native beaver in re-engineering the stream naturally. Beaver-built structures provide important habitat for native fish species while aggrading the heavy sediment loads present in Bridge Creek. As sediment is trapped behind a beaver dam, the water table is raised and can reconnect low terraces to the former floodplain. Riparian vegetation will expand to these terraces, widening the available habitat for wildlife, and acting as a reservoir for water. Beaver activity also increases stream habitat complexity, providing pools for native fish species.

Although beaver populations are a fraction of what existed before extensive trapping in the 1800s, there are active beaver colonies on lower Bridge Creek.

see **BRIDGE CREEK** page 5

For more information about this project or to learn about volunteer opportunities, please contact Kate Martin, Bridge Creek Coordinator, at 541-279-3135 or [kmartin@onda.org](mailto:kmartin@onda.org).



PHOTO: M. POLLOCK



PHOTO: M. POLLOCK

**TOP:** A functioning beaver dam on Bridge Creek. **MIDDLE:** Beaver dam on Bridge Creek washed out by high spring flows. **BOTTOM:** Ian Tattam placing a PIT tag in a juvenile steelhead while Nick Webber takes data on Bridge Creek, as part of a study to examine survival rates and fish movements.



PHOTO: KATE MARTIN



# ONDA charts active conservation role on John Day

By Aaron Killgore

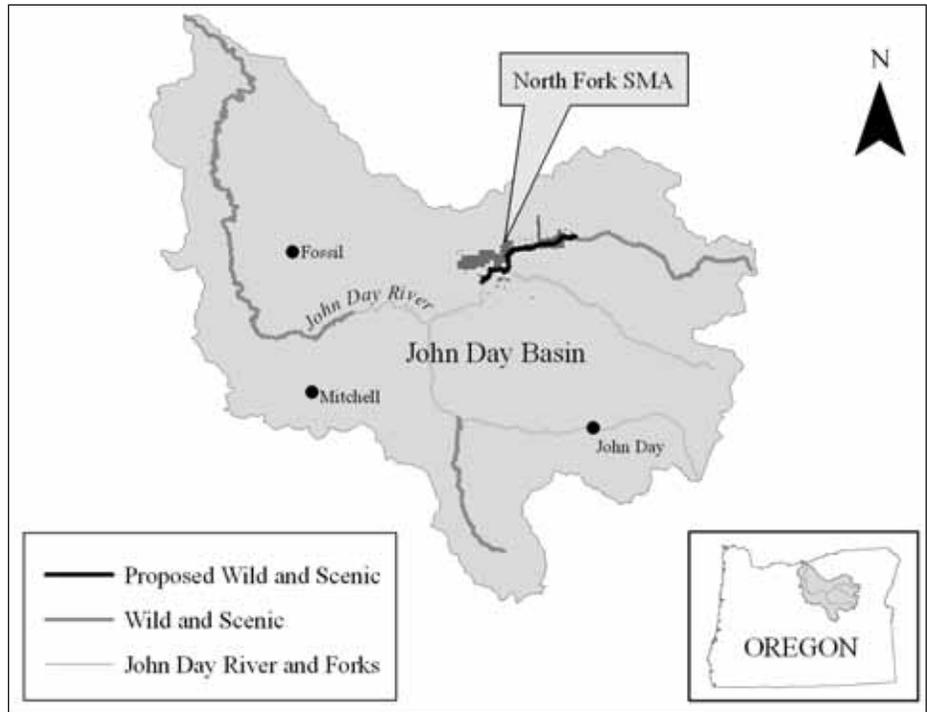
ONDA John Day Coordinator

As the summer heats up, ONDA is keeping busy in the John Day Basin. We have set up a field office near Clarno, in an effort to play an even more active role in collaborative efforts with Watershed Councils, Soil and Water Conservation Districts, Federal and State agencies, NGO's and county governments. As a result, ONDA will be working on the newly formed lower John Day steering committee.

This committee is an opportunity to work with local stakeholders to identify shared conservation priorities for the lower John Day watershed. These stakeholders will be working together in the coming months to find common ground on a variety of issues such as salmon and steelhead conservation, land ownership consolidation, wilderness, and voluntary grazing permit retirement. The committee hopes to present a legislative package to Oregon's Congressional delegation in 2009.

ONDA will also be tracking the BLM Draft John Day Resource Management Plan, which will be released later this summer. This plan determines the course of management on nearly 500,000 acres of public lands in the John Day River basin for the next 15 years. ONDA is beginning to draft comments and we will make sure you receive more information in the coming weeks through SageNet e-mail alerts (sign-up at [www.onda.org](http://www.onda.org)) and by mail. As always, your support, your comments, and your voice will be crucial in the upcoming months to ensure long-term protection of the John Day Basin's incredible natural values.

Several points we would like you to consider in commenting: 1) it is essential to



MAP: CRAIG MILLER

adopt a "grazing matrix" that allows for the voluntary retirement of grazing permits in existing or potential steelhead habitat in the John Day basin; 2) ONDA's citizen wilderness inventory has identified several potential WSA's that should be evaluated and adopted by the BLM; and 3) the North Fork John Day River should be designated as a Wild and Scenic River.

The North Fork John Day River lands evaluated in the new plan were acquired by the Northeast Oregon Assembled Land Exchange (NOALE) of 2000. According to the NOALE legislation, these lands were acquired for the enhancement of public access, aesthetics, recreation opportunities, and the protection and enhancement of habitat for

threatened, endangered, and sensitive species. These 40,000+ acres of public land provide important fish and wildlife habitat and clearly should not be permitted for grazing or off-road vehicle use.

Please direct your comments to:

- *by mail*  
John Day Basin RMP  
BLM Prineville Field Office  
3050 NE 3rd Street  
Prineville, OR 97754
- *by e-mail*  
[John\\_Day\\_Basin\\_RMP@blm.gov](mailto:John_Day_Basin_RMP@blm.gov)
- *by fax*  
(541) 416-6798

Visit the ONDA website for updates or contact [akillgore@onda.org](mailto:akillgore@onda.org).

## Willow, cottonwood plantings give beaver dam material, food

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However, due to the lack of large trees such as cottonwood, the dams currently built by beavers are typically wiped out annually from high spring water flows. Thus, one of the aims of this project is to provide beaver with larger woody material and food, by planting native willow and cottonwood along Bridge Creek to help restore historical cottonwood galleries. This spring we

planted 1300 cottonwood and willow along the Painted Hills Unit of the John Day Fossil Beds. Until the new plants are established, we have protected them from deer, elk and beaver with fencing.

Perhaps the most interesting objective, however, is to assist beaver in building stronger dams that will withstand typical high water flows. The project partners intend to place a series of juniper logs perpendicular to the stream flow at a number of locations to serve as a stable structures

for beavers to construct dams against. Throughout this project, biologists from NOAA Fisheries are monitoring changes in fish populations and stream and riparian habitat as part of its Integrated Status and Effectiveness Monitoring Program.

ONDA's involvement in the project will allow us to develop partnerships with local people and government agencies in the John Day Basin, while we work towards a more functional watershed that can support wildlife and endangered fish.



# ONDA's volunteer projects continue to protect and restore Oregon's dry side

Since the last newsletter in April, ONDA volunteers have continued to be busy and productive in their on-the-ground efforts to help monitor, protect and restore Oregon's dry side (Also see AGM article page 3). In April, five hardy ONDA volunteers woke up at 4 AM, for four mornings, to hustle far out into the cold, dark, high plains of Hart Mountain National Antelope Refuge to help monitor the area's Sage Grouse leks. For several years dwindling Sage Grouse numbers, habitat loss and degradation have caused concern across the west. For the Hart Mountain monitoring project, ONDA volunteers were trained to use GPS units and spotting scopes to find, and then count the number of male and female grouse at each lek. This data is a key part of a region-wide effort providing data to US Fish and Wildlife Service (USFWS) scientists so that they can track and assess the overall health of the population. The numbers that ONDA has helped collect have become all the more critical as the USFWS now revisits its previous decision not to list the species as protected under the Endangered Species Act. Many of the volunteers will return to help on this project next year despite the unusual work hours; It will be too hard to pass up the rewards of watching over a hundred sage grouse strutting around the lek, the sun rising over Steens Mountain, coyotes and dozens of pronghorn trotting by, and the camaraderie of being part of something bigger in a landscape that makes you feel small.

Our next trip of the season was to a big place that can truly make a person

see **ONDA MEMBERS** page 7



PHOTO BY MARLA BENNET

*Counting Sage Grouse as the sun rises over Steens Mountain*

## What the heck is a lek?

The word "lek" is derived from the Swedish word for "play". When referring to birds, "lek" (used as a noun) represents a specific location where one or hundreds of male birds display or "lek" (used as a verb) within a hierarchical structure, with the hopes of attracting a female mate. Sage Grouse males return to the same lek locations each spring. These areas are measurably different from the habitat the females will later nest in, which contain sheltering sagebrush at just the right densities and heights. Some of the Leks ONDA helped monitor at Hart Mountain had over 150 males present, which seems amazing, but is actually less than half the size of years past.

## Many Great Volunteer Trips remain in 2008 Season

August finds us about halfway through our packed volunteer restoration trip season. Three trips will be happening even just during the month it takes to produce our newsletter (Steens vegetation monitoring, Hart Mountain fence pull and the Steens "Highlights" backpacking tour). September will also be a month of volunteer opportunities continuing into fall.

- Sutton Mountain backcountry fence pull, Sept. 5-7.
- Steens backcountry fence pull, Sept. 10-14.
- A special restoration trip for the "Great Old Broads for Wilderness" at Spring Basin Wilderness Study Area, Sept. 18-22
- Sutton Mountain and Pat's Cabin Wilderness Study Areas restoration trip, Sept. 20-21.
- Fence pulling along the border of Spring Basin and Pine Creek Conservation Area; a special trip for REI members and staff, Sept. 26-28.
- Tree Planting along Robinson Creek at Pine Creek Conservation Area, Oct. 24-26.
- Volunteer appreciation parties in November!

For more information on trips and volunteer opportunities, e-mail [jjacobs@onda.org](mailto:jjacobs@onda.org), or check us out on the web at [www.onda.org](http://www.onda.org) and click on "volunteer"!



PHOTO: LEON WERDINGER

*ONDA members floating the Owyhee River.*

## ONDA members raft, hike in the Owyhee

**VOLUNTEER PROJECTS** from page 6

feel small: the Owyhee river. From May 1st to 5th, eight ONDA members floated from Rome to Leslie Gulch. The flow was a perfect level to challenge those taking their turn paddling inflatable kayaks, and just the right level to rise to the edge of some of the best hot springs on the river. I believe it is fair to say that participants were awed by the sight of geology laid bare before them. The deep canyons and tortured rock formations revealed a visible story of the passage of time illustrated through the continuous process of lava flows, ash deposits and erosion. With plenty of time for evening and morning hikes, a fantastic crew of guides, and perfect weather, this will be a tough trip to top!

Immediately following the Owyhee, 11 volunteers participated in ONDA's Annual John Day River Float and Pull. Participants

enjoyed two great days of rafting, a solid day of fence pulling and willow planting, and a day of exploring the rarely visited backcountry views of Pine Creek Conservation Area. The workday was hot, and there were more than a few snakes in the area, but the crew was a determined lot and their productivity exceeded expectations.

And now as this newsletter goes out, yet another crew of dedicated ONDA volunteers will assemble: This time volunteers will learn how to be botanists for a weekend, and monitor vegetation growth in the Wildlands Juniper Management demonstration area on Steens Mountain.

Does any of this sound good to you, or to someone you know? Visit [ONDA.org](http://ONDA.org) to register and learn more about our upcoming trips, or contact ONDA's Outreach Coordinator Jefferson Jacobs ([jjacobs@onda.org](mailto:jjacobs@onda.org)) and join us!

## ONDA partners with Boys & Girls Club to get kids into the outdoors

By Devon Batley

*ONDA Membership Coordinator*

As a child I spent a vast amount of time exploring the outdoors with my family. Being born in Northern California I was always tromping through great Redwood forests, or collecting shells on the beach and poking sea anemones in tide pools. Later, when our family moved to Central Oregon, I found myself floating in the Deschutes River or camping in the Cascades. I fell in love with the Great Outdoors and it's a romance that continues today.

Now as an adult, I take no greater joy in nature than when sharing it with others. And who better to share it with than children. In today's society it can sometimes become a challenge to engage kids in nature-oriented activities. As our populations expand, our proximity to wildlands continues to decrease. Because of this I feel fortunate to live in a region sandwiched between the volcanic Cascade Range and the vast expanse of the High Desert. Both these ecoregions offer extensive opportunities for outdoor exploration with youth.

ONDA has partnered with the Boys & Girls Club of Central Oregon to engage students in the discovery of Oregon's High Desert. In an eight-week program completed this past spring, a group of kids from the Boys & Girls Club took part in ONDA's Desert Ecology Explorers Club. Kids were engaged in a variety of activities including map and compass skills, animal identification, environmental conservation and desert ecology. Most kids agreed that their favorite activity was the Pronghorn Antelope Carrying Capacity game where the kids pretended to be Pronghorn collecting enough food and water to survive.

Later this summer ONDA will be taking two groups of Boys & Girls Club members out on hikes in the Badlands proposed Wilderness. If you are interested in volunteering for the hikes, or for future environmental education programs, contact Devon at ONDA, [dbatley@onda.org](mailto:dbatley@onda.org) or 541-330-2638.

*ONDA would like to thank the Gray Family Fund of the Oregon Community Foundation for providing the funding to make this program possible. We would also like to thank OMSI and Bob Speik for their time and materials in support of this program.*



## ONDA is working on a remedy for Oregon's wilderness deficit

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rently, Steens Mountain, at 175,000 acres, is Oregon's only desert wilderness area. The good news is that we have reason to hope that later this year, Steens will be joined by two more Oregon desert wilderness areas - the Badlands and Spring Basin.

Senator Ron Wyden made a significant step towards protecting more desert wilderness this spring by introducing the Oregon Badlands Wilderness Act of 2008 (Senate bill 3088) and the Spring Basin Wilderness Act of 2008 (Senate bill 3089), which Senator Gordon Smith has now co-sponsored. Combined, these bills will protect nearly 40,000 acres of desert wilderness. These areas encompass important habitat for a diversity of plants and wildlife, Native American cultural sites, and incredible opportunities for recreation and solitude.

I was recently in Washington, DC to witness a Senate hearing for the Badlands and Spring Basin. As Americans, we identify with monuments that represent the history and culture of our country, and our nation's capitol certainly offers many such monuments. Thanks to the foresight of great leaders, we are also blessed with a public lands system unrivaled anywhere else in

the world, encompassing natural monuments like the Badlands, Spring Basin, Owyhee Canyonlands and Hart Mountain. These places contain irreplaceable treasures such as Native American cultural sites, and wildlife and plants finely adapted to these landscapes over millions of years. Permanently protecting these areas is not a choice: it is a moral imperative.

As a wilderness advocate and father of a two-year old, I spend much of my time viewing the world's natural treasures through my daughter's eyes. Like many Oregonians, much of my childhood is defined by my wilderness experiences on public lands and, likewise, my relationship with my daughter will be defined by the experiences we share in these places.

As Aldo Leopold wrote, "If the land mechanism as a whole is good, then every part is good, whether we understand it or not. If the biota, in the course of aeons, has built something we like but do not understand, then who but a fool would discard seemingly useless parts? To keep every cog and wheel is the first precaution of intelligent tinkering." Children understand this better than most. They can spend endless hours in a patch of grass cherishing the variety of insects and flowers. As they grow older,

they will need and want larger landscapes with just as much diversity. It is essential that as Oregonians and as Americans we protect these wild places and wild things so that we can enjoy them today, and that future generations can enjoy them and all the beauty and wisdom that they have to offer tomorrow.

Wilderness is a common thread that binds us to the generations that have come before us and to the generations that will follow. These landscapes represent what was and what could be. Unfortunately, only a small fraction of our wild places are left and our grandchildren will rightly judge us by the wildlands we managed to preserve for their grandchildren.

ONDA is working hard to make certain that these wild places are protected but we need your help. Democracy comes from the Latin *'Demos krates'* meaning 'rule of the people.' In order for the people to rule, we need to make our voices heard loudly and strongly. Please visit ONDA's website ([www.onda.org](http://www.onda.org)) today; while there, you can thank Senator Wyden for his efforts and tell other Congressional Representatives that we need to protect Oregon's desert wilderness and that protecting Spring Basin and Badlands in 2008 is a good start.

## Court orders BLM to evaluate wilderness values on public lands

COURT ORDERS from page 1

ONDA executive director Brent Fenty has observed, "It is incumbent upon our federal land managers to ensure that these special places get the protection they so richly deserve. Now, BLM must go back and actually figure out how to protect these remarkable areas of desert wilderness."

In addition to its wilderness ruling, the court agreed with ONDA that BLM had not considered reasonable alternatives for off-road vehicle (ORV) use. Less than 0.5% of the area is closed to damaging ORV use. In its analysis leading up to the plan, BLM never even considered closing more than a fraction (0.8%) of the planning area to ORVs. In fact, every alternative BLM considered would have further reduced the area currently closed to ORVs. Similarly, less than 2% of the area is currently off-limits to livestock grazing.

In its own 2004 wilderness inventory, ONDA found that 1.3 million acres of the planning area, not including existing Wilderness Study Areas designated by

***"This is hands-down one of the most enduring victories in ONDA's 20-year history. The impact of this decision reaches far beyond Oregon, affecting BLM lands across the West. The upshot is that BLM's duty to both recognize and protect wilderness values on non-WSA lands will now begin to merge with ONDA's 8 million-acre vision of Wilderness for Oregon's High Desert."***

– Bill Marlett, ONDA's Senior Conservation Advisor

BLM in 1980, possess wilderness character. Congress in 1964 defined "wilderness" on the public lands as consisting of large areas that are roadless, essentially natural, and provide outstanding primitive recreational opportunities. ONDA used BLM's own wilderness inventory manual to conduct its inventory although the Bush Administration has since revoked the manual. The court's decision rejects the Administration's disavowal of wilderness values when managing the public lands. ONDA prepared its inventory after the BLM refused to consider wilderness during the agency's environmental review for the SEORMP.

The court's ruling validates ONDA's

position that the plan was strongly biased toward the continuation of widespread livestock grazing and motorized access over all other uses and resource values—particularly wilderness, a fragile and finite resource whose very existence BLM did not want to even acknowledge.

ONDA, joined by the Committee for the High Desert and Western Watersheds Project, filed the suit in July, 2003. The Ninth Circuit's ruling sets aside the SEORMP and now sends the matter back to BLM to prepare a revised environmental review and a new plan that reconsiders its management decisions in light of its obligation to protect wilderness values.



## LEGAL DOCKET

### North Fork Malheur Geographic

**Management Area:** In May, ONDA filed suit against the Bureau of Land Management (BLM) over a vast series of range projects proposed throughout this 240,000-acre area which straddles the lower North Fork Malheur River about 40 miles west of Vale. BLM determined in 2004 that 45 pastures on 11 grazing allotments in the GMA are failing to meet key ecological standards as a result of current grazing practices. Rather than reduce grazing levels, BLM instead intends to construct a labyrinthine series of barbed-wire fences, pipelines, wells and other range developments. BLM also intends to “treat” (cut, chemically spray and burn) up to 84,000 acres of juniper to try to increase forage for cattle.

Upon filing suit, ONDA informed BLM that we would file an injunction motion seeking to stop certain of these projects slated to occur within key sage grouse habitat and ONDA-inventoried areas containing outstanding wilderness values. The parties then entered into discussions aimed at reaching an agreement as to which projects might be allowed to go forward and which projects BLM will agree to hold off on until the court issues a decision on the merits. We hope to successfully conclude those discussions this month.

The overall goals of this action are to address chronic overgrazing in the North Fork Malheur watershed, protect imperiled sage grouse populations and their diminishing sagebrush habitat in this area, and to encourage BLM to undertake the same type of careful, field-based wilderness re-inventory as the agency recently performed in the Louse Canyon area to the south (see Spring 2008 Legal Docket p.13).

### Sheldon-Hart Mountain Biological

**Corridor:** The area spanning from the Hart Mountain National Antelope Refuge south to the Sheldon National Wildlife Refuge in northern Nevada encompasses a unique and sensitive high desert ecosystem. It is a critically important annual migratory corridor for pronghorn antelope, many of whom winter at Sheldon. The diverse landscape in this remote area ranges from mountains (including the Hart Mountain escarpment), ridges, hills and table lands, to a vast mosaic of sagebrush sea in between. It is dotted by countless playas, lakes, natural springs, streams and riparian areas, and contains scattered old-growth juniper woodlands and mountain mahogany groves. This landscape is vitally important



*Scenic view within ONDA's Lake Ridge proposed WSA, within BLM's North Fork Malheur GMA project area.*

PHOTO: ONDA FILE

not only to pronghorn, but also for populations of other native species such as sage grouse, pygmy rabbit, mule deer and numerous migratory birds.

The Hart Mountain and Sheldon refuges were created in the 1930s for the conservation of the pronghorn antelope. Both refuges are now free of domestic livestock, although Sheldon continues to be heavily grazed by feral horses and burros.

The U.S. Fish & Wildlife Service has begun preparing a comprehensive conservation plan (CCP) for the Sheldon National Wildlife Refuge. In June, ONDA submitted preliminary comments on the upcoming plan, urging: (1) unified federal management of the greater Hart-Sheldon ecosystem and specifically the biological corridor between the Sheldon and Hart Mountain refuges; (2) conservation of wilderness values in areas outside of existing Wilderness Study Areas; (3) restoration of weed-infested and degraded riparian habitats; and (4) removal of feral horses and burros from Sheldon refuge, as has been done on Hart Mountain.

In 1998, ONDA, and more than 20 other conservation groups submitted a proposal to BLM asking it to recognize and designate a Pronghorn Area of Critical Environmental Concern (ACEC). This 1.1 million acre proposal included the Hart Mountain and Sheldon wildlife refuges and the landscape connecting them. Although BLM rejected the ACEC proposal back then, we believe the CCP process offers the perfect opportunity to re-evaluate the biological need and options for management of the greater Hart-Sheldon ecosystem including the BLM-managed public lands that surround and bridge the two refuges. Today, ONDA

is advocating in support of a Sage Grouse National Conservation Area, based on similar issues of biological connectivity as the Pronghorn ACEC proposal.

### Steens Mountain Travel Management

**Plan:** In April, the Department of the Interior's Board of Land Appeals (IBLA) partially enjoined BLM's approval of the Steens Mountain Travel Management Plan (TMP). In the TMP, BLM had designated as open to motorized vehicles 27 miles of what it called “Obscure Routes” within designated Wilderness Study Areas on Steens Mountain. BLM has stated, however, that it cannot even locate these routes on the ground. The IBLA agreed with ONDA that because these routes don't actually exist, BLM's decision would violate the Steens Act's prohibition of off-road vehicle use. The IBLA therefore enjoined BLM from implementing its Obscure Routes decision. Among other things, BLM cannot publish any maps showing those routes as being open and available to motorized use. This protects against potential motorized use—and off-road exploration—within important Steens Mountain WSAs.

**Categorical Exclusions for Grazing:** This spring, ONDA has appealed several BLM decisions to renew 10-year permits to graze livestock on public lands. Rather than evaluate the impacts of the proposed grazing on the environment, BLM elected to “categorically exclude (CE)” its decisions from environmental analysis under NEPA. In 2007, the agency promulgated a rule allowing it to exclude grazing permit renewals from environmental analysis

see LEGAL DOCKET page 12



# Court halts grazing on two Malheur allotments

By Dave Becker  
Staff Attorney

ONDA won a significant victory on May 16 when Chief Judge Ancer Haggerty of the Oregon federal district court ordered grazing suspended on two allotments in the Malheur National Forest for the 2008 grazing season.

Judge Haggerty's order prohibiting grazing on the Murderers Creek and Lower Middle Fork allotments comes in the latest round of litigation over the Forest Service's management of grazing in the Malheur National Forest, which ONDA has challenged in four different lawsuits since 2003. This decision protects more than 90 miles of habitat for threatened steelhead trout on over 120,000 acres of the forest, giving this important fish habitat at least a year of rest after significant resource damage during the 2007 grazing season. The Malheur National Forest contains tributaries of the John Day River, one of the West's longest undammed rivers, which hosts one of the largest populations of all-wild steelhead remaining in the Columbia Basin.

Long-time readers of Desert Ramblings will recall the roller-coaster-like ups and downs of this litigation. In 2004, two judges came very close to halting grazing for that season, finding that ONDA was likely to succeed on its claims, but ultimately deciding that the harm to permittees would be too great to prohibit livestock turnout that year. Instead, the judges sternly ordered the Forest Service to improve its grazing management. In 2005, the cases were dismissed on technical grounds, only to have the Ninth Circuit Court of Appeals reinstate them in September 2006.

Then, in 2007, ONDA won a major victory when the court declared that the 2006 grazing plan for the Malheur National Forest violated the Endangered Species Act. In that decision, the court invalidated the 2006 Biological Opinions (BiOps) issued by the federal agencies responsible for overseeing endangered species. BiOps direct what standards the Forest Service must follow to prevent jeopardizing threatened or endangered fish. The court in that case issued a stinging indictment of the grazing program, criticizing the government's failure to evaluate the impact of grazing on the steelhead's potential for recovery. The decision also criticized the Forest Service's failure to monitor whether the grazing program actually provides for: 1) natural



*Riparian damage from livestock grazing, Murderers Creek allotment (September 28, 2007).*

PHOTO BY CHRIS CHRISTIE

recovery; 2) the history of permittee non-compliance with grazing standards; and 3) the BiOps' "vague statements about what, if any, administrative corrective action will be taken against noncompliant permittees" – all long-standing ONDA concerns.

These concerns are echoed in the newest case, *ONDA v. Kimbell*, which involves decisions that the Forest Service and National Marine Fisheries Service made in the wake of ONDA's 2007 victory. The agencies established a five-year plan for managing grazing in the Malheur National Forest and issued a new BiOp to cover grazing from 2007 to 2011. However, these decisions suffer from the same defects as the decision the court previously criticized or rejected. The "new" grazing management program contains no mandatory provisions for protecting steelhead by reducing or suspending grazing when there is clear and unacceptable damage to fish habitat, and no guarantees that the past history of noncompliance with grazing standards will be corrected.

ONDA, the Center for Biological Diversity, and Western Watersheds Project filed suit in December 2007 challenging the new agency decisions. Field surveys at the end of the 2007 grazing season – the first year under the five-year management plan—revealed particularly egregious damage to steelhead habitat on the Murderers Creek and Lower Middle Fork allotments. ONDA and its allies moved for a preliminary injunction in March 2008, asking the court to prohibit grazing on those badly degraded allotments until the court can hear and issue a decision on the challenges to the new agency decisions.

ONDA's motion for a preliminary injunc-

tion was supported by testimony provided by ONDA member and wildlife photographer Chris Christie, who has been monitoring grazing activities on the Malheur National Forest since 1999. Chris's photographs – like the one accompanying this article – of the allotments' battered streams at the end of the 2007 grazing season were crucial in persuading Judge Haggerty to forbid grazing this year pending a final decision on ONDA's claims. Hydrologist and long-time ONDA member Jonathan Rhodes also provided testimony that the seriously degraded stream conditions warrant several years of rest from grazing to allow streamside vegetation and channel conditions to recover to the point they can again provide good steelhead habitat.

Although there will be no grazing on the Murderers Creek and Lower Middle Fork allotments in 2008, grazing will go forward as scheduled on the other twenty allotments at issue in the *ONDA v. Kimbell* case. The case now moves towards a final decision on all of ONDA's claims on the 22 allotments where threatened steelhead are present on the Malheur National Forest. ONDA expects that the court will issue a final decision in the Spring of 2009.

The preliminary injunction is important because it reflects that Judge Haggerty believes that ONDA is "likely to succeed" on at least some of its claims, and because of the interim protection it gives to important steelhead habitat on two badly-damaged allotments during the heat of the 2008 Summer. Although it does not guarantee ultimate success, it represents a strong indictment of the Forest Service's manage-

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## ANNOUNCEMENTS



Emily Auerbach



Katya Spieker

**ONDA welcomes Emily Auerbach**, our 2008 summer legal intern, from Lewis & Clark Law School – her position is generously funded by a stipend from the Public Interest Law Project at the law school. She is working on ONDA's Ninth Circuit appeal of the Clean Water Act's applicability to livestock grazing and on the ongoing litigation regarding grazing and steelhead protection in the Malheur National Forest, among other issues. We are lucky and grateful to have her working for ONDA this summer! After graduating from Colorado College, Emily received a year-long Watson Fellowship to study indigenous grassroots initiatives in South America. Upon returning to the United States she worked for a language and literacy center before traveling to Asia to cook curries, scuba dive, and trek canyons. Recently, Emily completed her first year at Lewis & Clark Law School where she studies environmental law. In Portland she likes to grow vegetables, ride bikes, and listen to live music. She is grateful for the opportunity to work for ONDA and appreciates the patient guidance ONDA's attorneys offer.

**As a native Central Oregonian, Katya Spieker** grew up east of Bend in Alfalfa, exploring the unique high desert landscape she now works to protect. After graduating from Bend High, she accepted a basketball scholarship to Umpqua Community College in Roseburg, and continued playing collegiate basketball at Oregon Institute of Technology in Klamath Falls. In 2005 Katya graduated Magna Cum Laude from Oregon Institute of Technology with a Bachelors in Environmental Science. Before working for ONDA, she spent 10 months in 2007 volunteering on organic farms throughout Germany and Italy, learning the German language, and absorbing European culture. Katya is ONDA's new grassroots organizer.

## Citizen Scientist Program Taking Shape

Calling all volunteers! Do you enjoy volunteering with ONDA but are looking for something just a little “different”? Would you like to take part in longer-term restoration or monitoring project, or be in charge of your own portion of a larger ecological monitoring effort? As ONDA's Citizen Science program grows and develops we are looking to build up a special corps of reliable, independent and motivated volunteers we can call on to help out on a growing list of science, monitoring and restoration projects. Many of these projects will resemble ONDA's traditional volunteer trips scheduled during a specific week or weekend with a group of ONDA members and an on-site leader. However, volunteer's schedules, biology and other realities often call for a little bit more flexibility than that. In the near future we are hoping that ONDA Citizen Scientists will be able to volunteer for a broad spectrum of projects: from the current traditional trips, to programs where after initial training, ONDA members can adopt a place, or certain portions of a project, and work towards specific objectives on their own schedule, within a certain timeframe. Such freedom not only allows for more participation by our members but also increases ONDA's capacity to reach more locations of concern, more often. While a background in science or biology is often helpful for participants, we are really looking to hear from interested individuals and families who are eager to

learn, and willing and able to closely follow the chosen program's specific field protocols. Programs under development include working in the role of watch-dogs, tracking water quality and stream condition in federal grazing allotments. Other projects involve expanding ONDA's roles in aiding federal land managers to collect the data that they need, but have not been given the budget to collect, in order to better manage ecologically important areas.

One of our newest Citizen Scientist project opportunities is overseen by ONDA's Kate Martin. The project involves helping to restore, and monitor the success of restoration efforts on the Bridge Creek watershed; a tributary to the John Day near Mitchell, Sutton Mountain and Pat's Cabin WSA. ONDA is cooperating with several government agencies and local landowners to improve Bridge Creek's habitat, important for the creek's runs of threatened wild steelhead and Chinook salmon.

We would like to work with dedicated volunteers that are interested in learning about high desert ecosystems and the John Day basin's unique wild salmon and steelhead fishery. This is an excellent opportunity to get involved in a long-term restoration project where you can observe habitat changes over time, and would be great experience for high school or university students interested in field biology. Typically we need a few people to work

anywhere from one day to two weeks at a time on a variety of projects.

Examples include:

- Planting native willow and cottonwood along the stream.
- Monitoring steelhead populations by assisting biologists in capturing juvenile steelhead using herding and electro-fishing techniques and implanting PIT tags to monitor growth and survival.
- Building in-stream beaver dam stabilization structures using large juniper logs. Perfect for anyone interested in stream restoration or engineering.
- Riparian vegetation and stream habitat monitoring. Assisting biologists in collecting habitat data on stream variables.

For additional information about this project, please see the Bridge Creek article in this issue of Desert Ramblings, or contact Kate Martin at [kmartin@onda.org](mailto:kmartin@onda.org).

To add your name to the list of folks interested in volunteering to be Citizen Scientists, contact ONDA's Outreach Coordinator Jefferson Jacobs ([jjacobs@onda.org](mailto:jjacobs@onda.org)). He will keep you updated as we work to finalize funding for projects, partners, as well as the specific goals and objectives for the program. We will also be contacting folks on the list this fall to help determine their relevant interests and abilities, and to hear their suggestions for the program.



## ONDA hopes decision leads to less grazing

**MALHEUR GRAZING** from page 10

ment program and how the agency has failed to protect fish habitat adequately. ONDA is hopeful that this preliminary injunction, and an eventual decision by the court in ONDA's favor, will inspire the agencies to reduce grazing near critical fish habitat and allow meaningful recovery of stream habitat to begin.

In addition to *ONDA v. Kimbell*, two other cases involving Malheur National Forest grazing are still pending before the court. In one, ONDA seeks to hold the Forest Service accountable for its management of grazing that degrades habitat of threatened bull trout and damages designated Wild and Scenic River corridors on the North Fork Malheur River. The other pending suit challenges the Forest Service's monitoring practices on the Murderers Creek and Blue Mountain allotments. ONDA hopes that decisions in these cases will also come sometime in 2009.

## Categorical exclusions for grazing

**LEGAL DOCKET** from page 9

where the new permit is "consistent with" the use specified in the previous permit, and the allotment has been assessed and determined to be meeting range-land health standards. Unfortunately, BLM uses its new CE to authorize grazing even in Wilderness or WSAs, and when endangered or special status species are present, so long as the grazing supposedly poses no "significant" impact to these values. BLM makes this significance determination without conducting any NEPA analysis or public review and input.

The CE decisions ONDA has so far appealed involve grazing authorizations in the Trout Creek Mountains, Pueblo Mountains and even on Steens Mountain. In Idaho, Western Watersheds Project also has challenged this BLM CE authority in federal district court. Finally, ONDA has joined WWP and several other of our colleagues in challenging a similar Forest Service grazing CE in federal court in California. We are confident we will prevail on all of these CE challenges. A recent ruling by the Ninth Circuit Court of Appeals is directly on point. In 2007, the Ninth Circuit ruled that a Forest Service "fuel reduction projects" CE violated NEPA because the agency failed to assess properly the significance of environmental impacts of the projects the CE was intended to cover.



**Oregon Natural Desert Association**  
33 NW Irving Avenue  
Bend, Oregon 97701

tel 541.330.2638  
www.onda.org

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