

**Peter M. Lacy (“Mac”) (OSB # 01322)**  
Oregon Natural Desert Association  
917 SW Oak Street, Suite 408  
Portland, OR 97205  
(503) 525-0193  
lacy@onda.org

**Kristin F. Ruether (OSB # 05368)**  
Advocates for the West  
P.O. Box 1612  
Boise, ID 83701  
(208) 342-7024  
kruether@advocateswest.org

Attorneys for Plaintiffs

**Karin J. Immergut, OSB # 96314**  
United States Attorney  
District of Oregon  
**Stephen Odell, OSB # 90353**  
Assistant United States Attorney  
E-mail: *steve.odell@usdoj.gov*  
1000 SW 3rd Ave., Suite 600  
Portland, OR 97204-2902  
Telephone: 503-727-1024  
Telefax: 503-727-1117

Of Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**OREGON NATURAL DESERT ASS’N and  
WESTERN WATERSHEDS PROJECT,**

Plaintiffs,

v.

**CAROLYN FREEBORN**, Field Manager,  
Jordan Resource Area, BLM, **DAVE  
HENDERSON**, Vale District Manager, BLM,  
**BUREAU OF LAND MANAGEMENT,**  
and **UNITED STATES DEPARTMENT  
OF THE INTERIOR,**

Defendants.

Case No. 06-1311-MO

**SECOND STIPULATION TO AVOID  
MOTION FOR PRELIMINARY  
INJUNCTION**

---

COME NOW Plaintiffs Oregon Natural Desert Association and Western Watersheds Project (hereafter “ONDA”) and Defendants Carolyn Freeborn *et al.* (hereafter “BLM”), by and through their undersigned counsel of record, who hereby stipulate and agree as follows:

SECOND STIPULATION TO AVOID MOTION FOR PRELIMINARY INJUNCTION

1. ONDA filed this action on September 18, 2006, seeking judicial relief ordering BLM to comply with the requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–61, and the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701–84, with respect to the agency’s management of public lands within the Louse Canyon Geographic Management Area (“LCGMA”), situated in the Owyhee Canyonlands region in the southeastern corner of Oregon. Defendants filed an Answer (Dkt # 14) on November 13, 2006.

2. On September 20, 2006, ONDA filed a Motion for Temporary Restraining Order (Dkt # 4), seeking immediate judicial relief enjoining BLM from undertaking or authorizing further implementation of the rangeland improvement projects it approved in the five decisions of which ONDA seeks judicial review in this action (“Challenged LCGMA Decisions”) that are within or immediately adjacent to areas ONDA has inventoried and alleges possess wilderness characteristics. Following that motion, the parties reached an agreement by which BLM agreed not to move forward with or authorize construction of such projects “until such time next spring that conditions are suitable for construction.” See Notice of Withdrawal of Plaintiffs’ Motion for Temporary Restraining Order (Dkt # 9), at 1.

3. Based on Defendants’ representations, ONDA withdrew its Motion for Temporary Restraining Order on September 21, 2006 (Dkt # 9). In its Notice, ONDA reserved the right “to reinstate or re-file this or a similar motion for preliminary injunctive relief should circumstances change, or if the Court has not yet been able to issue a ruling on the merits of Plaintiffs’ claims before the BLM re-commences on-the-ground activities next spring.” Dkt # 9. This Court issued an Order on September 28, 2006 (Dkt # 10), withdrawing ONDA’s Motion for a Temporary Restraining Order, based upon the stipulation of the parties.

4. On February 28, 2007, the parties entered into a Stipulation (Dkt # 25) to resolve a second possible Motion for Preliminary Injunction. In that Stipulation, the parties agreed to the following terms:

a. BLM shall not authorize, implement, or further implement those portions of the Challenged LCGMA Decisions concerning construction or maintenance of rangeland projects, including any and all projects listed as “under construction,” “not started,” “delayed,” or “under consultation” on Exhibit A (attached hereto), with the exception that BLM may continue to use the 14 maintained or reconstructed springs listed on Exhibit B (attached hereto). See also Exhibit C (Feb. 14, 2007 map showing planned and implemented projects, attached hereto). Furthermore, BLM shall not use or implement the Cavietta Pipeline Extension and any associated water troughs, listed as “completed” on Exhibit A. This stipulation does not prohibit BLM from using already constructed fences or otherwise affect any portion of the Challenged LCGMA Decisions, including the authorization to carry out livestock grazing, except as expressly provided herein. This stipulation shall remain in effect for the duration of the 2007 grazing season, which ends on October 30, 2007, or shall terminate upon the issuance of this Court’s decision on the merits of ONDA’s claims in this case, if the Court renders a decision prior to October 30, 2007.

b. In addition to BLM’s agreement to not authorize, implement, or further implement the projects listed in the preceding paragraph, BLM shall maintain already constructed facilities sufficiently to avoid environmental injury throughout the 2007 grazing season, or until this Court issues a decision on the merits.

c. BLM shall install a float valve on the new, relocated trough at the New Road Spring Pipeline Rehab project, prior to the use of that trough or pipeline this year or as soon as weather conditions permit.

Feb. 28, 2007 Stipulation, ¶ 6 (referenced exhibits filed with original).

5. The parties hereby stipulate and agree to renew terms a. and b. of the 2007 Stipulation (term c. having been satisfied in 2007). This new stipulation shall apply to, and remain in effect for the duration of, the 2008 grazing season, which ends on October 30, 2008, or shall terminate upon the issuance of this Court’s decision on the merits of ONDA’s claims in this case, if the Court renders a decision prior to October 30, 2008.

6. Neither the negotiation of nor assent to this Stipulation shall be construed as an admission of any factual or legal assertion advanced in Plaintiffs’ Complaint, including for

purposes of seeking or defending against any request for attorneys' fees, costs, and/or expenses. Rather, the undersigned parties enter this Stipulation to resolve disputed claims in a mutually-agreeable manner and to efficiently serve the operations of the parties and the Court.

7. This Stipulation resolves the issues that would have been raised by Plaintiffs' Motion for Preliminary Injunction. Therefore, upon approval of this Stipulation by the Court, Plaintiffs agree to not file their Motion for Preliminary Injunction, subject to the condition that the herein agreed-upon terms are satisfied.

DATED this 20th day of March, 2008.

s/ Peter M. Lacy

---

Peter M. Lacy ("Mac")  
Oregon Natural Desert Association

Of Attorneys for Plaintiffs

DATED this 20th day of March, 2008.

s/ Stephen J. Odell

---

Stephen J. Odell  
Assistant U.S. Attorney

Of Attorneys for Defendants