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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,

Case No. 06-1311-MO

v.

**STIPULATION TO AVOID  
MOTION FOR PRELIMINARY  
INJUNCTION**

**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.

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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:

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. By letter dated January 22, 2007, BLM informed the public that the agency intended to conduct additional analysis concerning wilderness characteristics on the public lands within the LCGMA. In that letter, BLM stated that it "will suspend any further ground-disturbing implementation of the projects at issue until it completes its additional analysis . . . with the possible exception of the Sacramento Hills Pipeline."

5. On February 7, 2007, counsel for Plaintiffs informed counsel for Defendants that, because livestock turnout on the allotments within the LCGMA will occur on or about March 1, 2007, because Defendants have not yet filed the administrative record in this action, and in order to further protect the status quo pending a decision on the merits of this action, ONDA intended to file a new or renewed motion for preliminary injunctive relief. ONDA informed BLM it would ask the Court to: (i) enjoin BLM from further authorization or implementation of the LCGMA final decisions, and further use of all facilities constructed pursuant to those decisions, including pipelines, storage tanks, watering troughs, and spring developments, pending a decision on the merits; and (ii) order that BLM shall maintain already constructed facilities sufficiently to avoid environmental injury pending a decision on the merits.

6. To avoid the need for ONDA to file, and for the parties to litigate, the proposed Motion for Preliminary Injunction, the parties to this Stipulation agree 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.

7. 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.

8. 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 28th day of February, 2007.

s/ Peter M. Lacy

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

Of Attorneys for Plaintiffs

DATED this 28th day of February, 2007.

s/ Peter M. Lacy (for)

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Stephen J. Odell  
Assistant U.S. Attorney

Of Attorneys for Defendants