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

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

Plaintiffs,

Case No. \_\_\_\_\_

v.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**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.

**(Environmental Matter)**

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**NATURE OF ACTION**

1. This action seeks judicial relief ordering Defendants 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 Bureau of Land Management’s (“BLM”) management of public lands within a half-million acre administrative unit called the Louse Canyon Geographic Management Area (“LCGMA”), situated in the Owyhee Canyonlands ecoregion in the southeastern corner of Oregon.

2. Current domestic livestock grazing within the 528,937-acre LCGMA is causing degradation to natural resources and failures to meet applicable ecological standards. In particular, concentrated livestock use within scores of riparian areas, meadows, wetlands, springs, and stream reaches throughout the LCGMA has caused extreme degradation to watersheds, water quality, and fish and wildlife habitat. Close to half the streams in the LCGMA are not meeting the BLM's riparian watershed function standard, and 90% of the meadow/wetland complexes throughout the LCGMA, as well as nearly 30 springs, are not functioning properly due to livestock trampling, overgrazing, or dewatering by water developments.

3. In an attempt to address this continuing degradation, first identified by the BLM in December 2001, the BLM adopted five management decisions, all dated July 7, 2005. The decisions renew five 10-year grazing permits and authorize structural and other rangeland projects throughout the LCGMA. The rangeland projects include: construction of 58 miles of new barbed-wire fences and more than 13 miles of new water pipelines; installation of 10 new livestock watering troughs and accompanying storage tanks; 17 spring "renovation" projects; and upland vegetation "treatment" involving clearing native sage brush and mechanically drill-seeding more than 3,500 acres of public lands with non-native plant species.

4. The BLM's Final Decisions violate both NEPA and FLPMA. First, the BLM refused to consider the impacts of these projects on the wilderness resource. Instead, the agency relied on outdated and inaccurate information collected in the 1970s and 1980s, and refused to analyze, discuss, or otherwise mention the information contained within a detailed wilderness inventory report submitted to the BLM in 2002 by Plaintiff Oregon Natural Desert Association ("ONDA"). ONDA's report shows that the public lands within and surrounding the project area

contain significant, heretofore undocumented, wilderness values, as defined by federal law and the BLM's own interpretations of that law.

5. The BLM also violated NEPA by (1) not preparing an environmental impact statement ("EIS"), which is required for any major federal action significant affecting the quality of the human environment, and (2) failing to adequately analyze the cumulative impacts of the project vis-à-vis the wilderness resource and nonfunctioning, abandoned rangeland projects.

6. In addition, the BLM violated FLPMA by refusing to consider the suitability of livestock grazing at continued levels on these public lands, and by refusing to protect water quality by providing for monitoring and setting quantifiable riparian management standards, as required by the governing land use plan.

7. ONDA and WWP have been injured by the BLM's refusal or failure to comply with these statutory and regulatory obligations. Construction of this significant new rangeland infrastructure will adversely impact wilderness values, fish and wildlife habitat, and watershed resources. Defendants' Final Decisions are arbitrary, capricious, and not in accordance with NEPA and FLPMA, and will result in significant adverse environmental impacts, some of which may be long-term or irreversible in nature.

### **JURISDICTION AND VENUE**

8. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321–61, the Federal Land Policy and Management Act, 43 U.S.C. §§ 1701–1784, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the Equal Access to Justice Act, 28 U.S.C. § 2412

*et seq.* An actual, justiciable controversy exists between the parties, and the requested relief is therefore proper under 28 U.S.C. §§ 2201–2202 and 5 U.S.C. § 701–06.

9. Venue is proper in this Court under 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district, Defendants reside in this district, and the public lands and resources and agency records in question are located in this district.

10. The federal government has waived sovereign immunity in this action pursuant to 5 U.S.C. § 702.

### **PARTIES**

11. Plaintiff OREGON NATURAL DESERT ASSOCIATION (“ONDA”) is an Oregon non-profit public interest organization of approximately 1,000 members. It is headquartered in Bend, Oregon and also has offices in Portland, Oregon. ONDA’s mission is to protect, defend, and restore forever, the health of Oregon’s native deserts. ONDA actively participates in BLM and Department of the Interior proceedings and decisions concerning the management of public lands in eastern Oregon. ONDA brings this action on its own behalf and on behalf of its members and staff, many of whom regularly enjoy and will continue to enjoy the public lands that are the subject of the final agency decisions challenged in this action, for educational, recreational, spiritual, and scientific activities. ONDA also has been active in monitoring both ecological conditions and wilderness values in the Vale District BLM’s Jordan Resource Area.

12. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a non-profit membership organization based in Hailey, Idaho, with offices also in Montana, Wyoming, Utah and California, which is dedicated to protecting and conserving the public lands and natural

resources of watersheds in the American West. WWP, as an organization and on behalf of its 1,200-plus members, is concerned with and active in seeking to protect and improve the wildlife, riparian areas, water quality, fisheries, and other natural resources and ecological values of watersheds throughout the West, including southeast Oregon. WWP is also active in monitoring ecological conditions in the Vale District BLM's Jordan Resource Area; in reviewing and commenting upon agency grazing and other resource decisions, including those at issue here; and in publicizing the adverse ecological effects of grazing in this region.

13. Plaintiffs and their members use and enjoy the waters, public lands, and natural resources throughout the LCGMA and other Vale District GMAs for recreational, scientific, spiritual, educational, aesthetic, and other purposes. Plaintiffs' members enjoy fishing, hiking, camping, hunting, bird watching, study, contemplation, photography, and other activities in and around the waters and public lands throughout the planning area. Plaintiffs and their members also participate in information gathering and dissemination, education and public outreach, commenting upon proposed agency actions, and other activities relating to the BLM's management and administration of these public lands.

14. The BLM's failure or refusal to comply with federal laws and regulations directly affects Plaintiffs' interests. The interests of Plaintiffs and their members have been and will continue to be injured and harmed by the BLM's actions and/or inactions as complained of herein, including the agency's refusal to consider impacts to the wilderness resource, refusal to assess the suitability of grazing at unchanged levels, refusal to provide for standards and monitoring that will protect water quality and quantity, and refusal to prepare an EIS for this broad-scale rangeland project. Unless the relief prayed for herein is granted, Plaintiffs and their members will continue to suffer on-going and irreparable harm and injury to their interests.

15. Defendant UNITED STATES BUREAU OF LAND MANAGEMENT (“BLM”) is an agency or instrumentality of the United States, and is charged with managing the public lands and resources of the Vale District BLM, Jordan Resource Area, in accordance and compliance with federal laws and regulations.

16. Defendant DAVID HENDERSON is sued solely in his official capacity as District Manager for the Vale District of the Bureau of Land Management, in which the Jordan Resource Area is located. Mr. HENDERSON is the one of the BLM officials responsible for authorizing the LCGMA projects and grazing permit renewals, and has principal authority for the actions and inactions alleged herein.

17. Defendant CAROLYN FREEBORN is sued solely in her official capacity as Field Manager for the Jordan Resource Area of the Vale District of the Bureau of Land Management. The Field Manager is the one of the BLM officials responsible for authorizing the LCGMA projects and grazing permit renewals, and has principal authority for the actions and inactions alleged herein.

### **STATEMENT OF FACTS**

18. The BLM manages about 2.5 million acres of public lands in the Vale District’s Jordan Resource Area, which lies in the southeast corner of Oregon, bordering both Idaho and Nevada. This is one of the most remote landscapes in the lower forty-eight states, and it includes Louse Canyon and the congressionally-designated Owyhee Wild Rivers.

19. Louse Canyon, which dissects the LCGMA administrative unit, houses most of the West Little Owyhee River’s 58 mile course through vast high desert and sagebrush steppe landscapes. It spans from near the headwaters of the West Little Owyhee River to the river’s eventual confluence with the main stem Owyhee River and the Owyhee River Canyon. The West

Little Owyhee originates in broad, hilly uplands not far from the Oregon-Nevada border, and winds through volcanic tuffs and basalts to form a very narrow, 500-foot deep canyon that continues for nearly 40 miles of the river's northeasterly course toward the main stem Owyhee.

20. The broad sagebrush steppe uplands that flank Louse Canyon range from Oregon, Mahogany and Willow buttes near the Oregon-Idaho-Nevada borders, to the Owyhee Desert and Sacramento Hill farther to the north, and finally to Three Forks, where the Owyhee, Middle Fork Owyhee and North Fork Owyhee rivers converge, thirty-seven river miles upstream from the nearest incorporated settlement, Rome, Oregon.

21. The LCGMA is home to native redband trout, a BLM special status fish species; one of the highest concentrations of sage grouse leks (breeding areas) in the Vale District; and countless other significant plant and animal species, including pronghorn antelope, California bighorn sheep, pygmy rabbit, Brewer's sparrow, sage thrasher, horned lark, northern sagebrush lizard, and short-horned lizard.

22. Vast segments of the public lands within the LCGMA contain wilderness characteristics worthy of protection for future generations. The Area contains all or part of three BLM-designated Wilderness Study Areas ("WSAs"), including the Upper West Little Owyhee, Lookout Butte, and Owyhee River Canyon WSAs. These WSAs comprise more than 225,000 acres of public land. The LCGMA also contains 174,000 acres of additional areas that ONDA has inventoried according to the BLM's wilderness inventory protocol and found to possess defined wilderness characteristics. These include the Black Butte Proposed WSA Addition, Oregon Butte Proposed WSA Addition, Willow Creek Proposed WSA, Mouse Trap Butte Proposed WSA, Rattlesnake Canyon Proposed WSA, and Ten Mile Creek Proposed WSA.

23. In 1995, the U.S. Department of the Interior adopted the Federal Rangeland Health (“FRH”) regulations to establish fundamental ecological criteria for the management of livestock grazing on BLM public lands. The FRH regulations require the BLM to assess ecological conditions on the public lands, and then make a determination whether specific rangeland health standards are, or are not, being met in those areas. If standards are not being met, and the BLM determines that existing grazing management or levels of grazing use are significant causal factors for the failure, the FRH regulations expressly require the BLM to implement grazing management changes on those lands no later than the start of the next grazing season.

24. The FRH regulations establish four “Fundamentals of Rangeland Health,” which all BLM grazing allotments must meet, or show significant progress toward meeting. These relate to water quality, riparian habitat, watershed conditions, and species habitat. See 43 C.F.R. § 4180 *et seq.* The FRH regulations further provide for evaluation of whether those criteria are met, through application of FRH Standards and Guidelines, which the BLM has developed on a state-by-state basis.

25. To fulfill its FRH regulations obligations, the BLM’s Vale District divided the district’s Jordan Resource Area into eight “Geographic Management Areas” (“GMAs”) and assigned each GMA a priority for FRH assessment and evaluation. The BLM ranked GMA priorities according to issues of concern such as the presence of riparian habitat, wilderness study areas, wild and scenic river corridors, and important fish and wildlife species. The BLM selected the Louse Canyon GMA as its number one priority GMA in the Jordan Resource Area.

26. The LCGMA consists of seven grazing allotments administered by the BLM: the Louse Canyon Community, Star Valley Community, Campbell, Anderson, Ambrose Maher,

Little Owyhee, and Quinn River allotments. Each allotment is further divided into pastures, which allows the BLM to authorize (or not authorize) grazing on certain portions of each allotment at different times and levels of use throughout the grazing season and from one season to the next.

27. In December 2001, the BLM determined that standards were not being met, and livestock grazing was the cause of the failure, on 6 of the 21 pastures in the LCGMA. The agency's evaluation revealed that close to 50% of the streams in the LCGMA are not meeting Standard 2 (Watershed Function—riparian/wetland), with 43% “Functioning at Risk, Trend Not Apparent,” 5 reaches “Functioning at Risk, Downward Trend,” and 3 reaches “Not Functioning.” In addition, 90% of the meadow/wetland complexes in the LCGMA, as well as nearly 30 springs, are not functioning due to livestock grazing.

28. Following those determinations, the BLM developed an “interim grazing management strategy” that established new use dates for grazing in areas failing to meet standards, generally shifting use from “hot season” grazing in mid-summer to grazing earlier in the season. The numbers of livestock and the amount of forage authorized to be consumed remained unchanged.

29. The BLM authorized this “interim” strategy for the 2003, 2004, 2005, and 2006 grazing seasons, which generally run from about March 1st to October 15th each year.

30. The Department of the Interior recently concluded that the interim strategy “did not achieve adequate improvement in rangeland conditions, nor was it a satisfactory long-term solution to resource conflicts.”

31. In 2003, pursuant to FLPMA's land use planning requirements, the BLM adopted the Southeastern Oregon Resource Management Plan (“SEORMP”), which governs the BLM's

management of about 4.6 million acres of public land in the BLM's Vale District in southeast Oregon. This includes lands within both the Jordan Resource Area and the Malheur Resource Area.

32. Under the SEORMP, the BLM uses the GMA process to manage a wide variety of resources, including soils and vegetation, fish and wildlife species and their habitats, and other resources. The SEORMP is based on "adaptive management," meaning the agency engages in a continuing process of planning, implementation, monitoring, and evaluation, to adjust management strategies to meet goals and objectives.

33. The lands within the LCGMA planning area lie entirely within the SEORMP planning area.

34. By letter dated September 14, 2004, the BLM issued for public comment under NEPA an Environmental Assessment ("EA") for the LCGMA. The purpose of the EA was to develop long-term and broad-scale changes in livestock use that according to the agency were necessary in LCGMA grazing allotments "in order to resolve certain resource management conflicts."

35. By letter dated October 15, 2004, ONDA and WWP commented on the agency's proposal. Among other issues, ONDA and WWP explained why the proposals would not protect the fragile desert riparian areas at issue from continued degradation from livestock, and would in fact continue certain adverse environmental impacts from current grazing practices. ONDA and WWP argued that because the BLM had, in the SEORMP, deferred grazing suitability decisions to the GMA process, the agency was required to actually analyze and discuss grazing suitability in the LCGMA EA.

36. ONDA and WWP also asked the BLM to consider in its environmental analysis impacts to the significant wilderness values present throughout the project area, including detailed and new wilderness inventory information provided to the BLM by ONDA in September and November of 2002. The BLM refused to do so, denying that the agency has any legal obligation to consider, analyze, or otherwise review wilderness characteristics outside of existing WSAs.

37. ONDA and WWP also alleged that the BLM had not properly analyzed the cumulative impacts to the environment of adding significantly more rangeland infrastructure to the landscape, when the public lands within the LCGMA are already burdened with literally hundreds of defunct, nonfunctional, and abandoned structures no longer in use. Many, if not most, of these defunct structures and abandoned projects—things such as water pipelines, fences, spring and reservoir developments, water troughs, and vegetation treatments (e.g., prescribed fire, brush control, and seeding sites)—are left on the landscape as a result of the 1960s-era “Vale Project,” an 11-year rangeland rehabilitation program intended to restore a vast, grazing-damaged landscape in southeast Oregon.

38. Today, long after the Project has ended, there are hundreds of abandoned or nonfunctional structures on the landscape that are not accounted for. In the Campbell, Star Valley Community, Anderson, and Louse Canyon Community allotments alone, for example, only about 25% of the 200 or more major rangeland projects on the ground are in working order. Many of these projects also form part of the basis for the BLM’s current stocking rate calculations and grazing suitability determinations.

39. By letter dated February 28, 2005, the BLM issued a Revised Environmental Assessment # OR-030-04-013 and Finding of No Significant Impact and five proposed decisions. The Revised EA was not subject to public comment.

40. The Revised EA contains a No Action alternative and six additional alternatives, which involve various combinations and levels of structural rangeland projects and continued domestic livestock grazing on the public lands.

41. In the EA, the BLM did not consider the impacts of the proposed actions on the wilderness resource outside of already-designated WSAs.

42. By letters dated March 14 and March 17, 2005, and pursuant to the Department of the Interior's administrative protest and appeal regulations, 43 C.F.R. § 4160.3(a), ONDA and WWP protested the proposed decisions, alleging a number of flaws under both NEPA and FLPMA.

43. The Jordan Resource Area Field Manager responded on July 7, 2005, denying the protests in their entirety. Along with that response, the BLM issued five Final Decisions, including Findings of No Significant Impact for each, stemming from the LCGMA EA. The Final Decisions renewed five 10-year grazing permits and authorized various rangeland projects throughout the LCGMA.

44. In its protest response, the BLM asserted it was not required to consider wilderness characteristics during the LCGMA planning process, and concluded, without analysis, that the planning area lacked wilderness characteristics. In addition, in preparing the SEORMP, the BLM did not update its wilderness inventory information for lands outside of existing WSAs. To date, the BLM has not analyzed ONDA's wilderness inventory information relevant to the public lands within the LCGMA.

45. By letter dated August 10, 2005, pursuant to the Department of the Interior's administrative appeals regulations, ONDA and WWP administratively appealed the Field Manager's final decisions for the "Louse Canyon GMA EA" (OR-030-04-013). At that time, ONDA and WWP also sought to stay implementation of the Final Decisions pending an administrative law judge's ("ALJ") review of appellants' claims on the merits. See 43 C.F.R. §§ 4.21, 4.471.

46. By order dated September 26, 2005, an ALJ in the Department of the Interior's Office of Hearings and Appeals issued an order denying the petition for stay. Under the Department's appeals regulations, the BLM at that point was free to implement the LCGMA Final Decisions. Also at that point, ONDA and WWP were deemed to have exhausted their administrative remedies.

47. On November 23, 2005, ONDA and WWP timely appealed the ALJ's decision before the Department of the Interior's Board of Land Appeals ("IBLA"). Finally, by order dated August 31, 2006, and received by ONDA's and WWP's counsel on September 5, 2006, the IBLA denied the administrative appeal, affirming the ALJ's order denying appellants' petition for stay of the Final Decisions.

48. On September 14, 2006, having exhausted their administrative remedies, ONDA and WWP voluntarily dismissed their administrative appeal.

49. On information and belief, the BLM has commenced construction and other implementation of the rangeland projects as described in the LCGMA EA, and intends to continue such implementation throughout the remainder of 2006. This includes projects within areas inventoried by ONDA and found to possess BLM- and statutorily-defined wilderness characteristics.

**FIRST CLAIM FOR RELIEF**  
**NEPA—Wilderness Resource:**  
**Hard Look, New Information, Cumulative Impacts**

50. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

51. A NEPA document must contain a “full and fair discussion” of significant environmental impacts that is “supported by evidence that the agency has made the necessary environmental analyses.” 40 C.F.R. § 1502.1. NEPA requires the BLM to consider “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1509(c)(1)(ii). NEPA also requires an analysis of the cumulative environmental impacts of the proposed action. See 40 C.F.R. §§ 1508.7, 1508.25(a)(2).

52. To satisfy NEPA’s procedural requirements, the BLM must demonstrate it has taken a “hard look” at the environmental consequences of the proposed action. Idaho Sporting Cong. v. Rittenhouse, 305 F.3d 957, 973 (9th Cir. 2002) (quoting Marsh v. Ore. Natural Res. Council, 490 U.S. 360, 374 (1989)).

53. The BLM’s Final Decisions are arbitrary, capricious and not in accordance with NEPA, and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the agency refused to take a “hard look” at the environmental consequences of its proposed action with respect to the wilderness resource. This includes the BLM’s reliance on outdated and inaccurate wilderness inventory information and its refusal to consider the wilderness inventory information presented in Plaintiff Oregon Natural Desert Association’s inventory report and recommendations.

54. The BLM’s Final Decisions are arbitrary, capricious and not in accordance with NEPA, and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the

agency refused to consider “significant new circumstances or information” vis-à-vis the wilderness resource as documented in ONDA’s wilderness inventory report.

55. The BLM’s Final Decisions are arbitrary, capricious and not in accordance with NEPA, and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the agency refused to analyze the cumulative impacts of its proposed action on the wilderness resource.

**SECOND CLAIM FOR RELIEF**  
**FLPMA—Wilderness Resource:**  
**Continuing Inventory, Multiple-Use, Unnecessary or Undue Degradation**

56. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

57. FLPMA requires the BLM to “prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values).” 43 U.S.C. § 1711(a). The “inventory shall be kept current so as to reflect changes in condition and to identify new and emerging resource and other values.” *Id.* FLPMA requires that the BLM “shall manage the public lands under principles of multiple use and sustained yield.” 43 U.S.C. § 1732(a). FLPMA requires that the BLM “shall . . . take any action necessary to prevent unnecessary or undue degradation of the [public] lands.” 43 U.S.C. § 1732(b).

58. The BLM’s Final Decisions are arbitrary, capricious, and not in accordance with FLPMA, 43 U.S.C. §§ 1711(a), 1732(a), 1732(b), and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because they rely on outdated and inaccurate information on the wilderness resource, without collecting or updating relevant information on the wilderness resource, and without analyzing and incorporating ONDA’s wilderness inventory information.

**THIRD CLAIM FOR RELIEF**  
**FLPMA—Grazing Suitability:**  
**Multiple-Use, Unnecessary or Undue Degradation, Land Use Plan Consistency**

59. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

60. FLPMA requires that the BLM “shall manage the public lands under principles of multiple use and sustained yield.” 43 U.S.C. §1732(a). Under FLPMA, the BLM “shall . . . take any action necessary to prevent unnecessary or undue degradation of the [public] lands.” 43 U.S.C. § 1732(b). FLPMA also requires that site-specific or implementation-level decisions must be consistent with the governing land use plan, or “resource management plan.” 43 U.S.C. § 1732(a).

61. The BLM’s Final Decisions are arbitrary, capricious and not in accordance with FLPMA, 43 U.S.C. §§ 1732(a), 1732(b), and therefore are actionable pursuant to 5 U.S.C. § 706(2)(A), because the agency refused to consider the suitability of the public lands within the LCGMA for continued livestock grazing, and in particular with respect to stocking rates, numbers of livestock authorized to graze, and areas allocated to domestic livestock grazing on the public lands at issue.

**FOURTH CLAIM FOR RELIEF**  
**FLPMA—Water Quality:**  
**Land Use Plan Consistency**

62. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

63. FLPMA requires that site-specific or implementation-level decisions must be consistent with the governing land use plan. 43 U.S.C. § 1732(a).

64. The SEORMP requires that riparian and wetland areas be managed to provide for attainment of Proper Functioning Condition (“PFC”), Riparian Management Objectives (“RMOs”), and Desired Range of Future Condition (“DRFC”). Areas not in PFC must be

managed to attain an upward trend in the composition and structure of key riparian and wetland vegetation and desired physical characteristics of the stream channel. Uses and activities within riparian and wetland areas are allowed only if there is measurable progress toward attainment of state water quality standards, PFC, and RMOs. The SEORMP provides RMO criteria for pool frequency, temperature, large woody debris, bank stability, lower bank angle, width/depth ratio, and riparian vegetation.

65. The BLM's Final Decisions do not provide for such compliance. The Decisions provide only for PFC monitoring and for a single quantifiable standard for woody riparian vegetation monitoring.

66. The BLM's Final Decisions are arbitrary, capricious and not in accordance with FLPMA, 43 U.S.C. § 1732(a), and therefore are actionable pursuant to 5 U.S.C. § 706(2)(A), because the agency refused to provide for monitoring, or set quantifiable standards, as required by the governing land use plan.

**FIFTH CLAIM FOR RELIEF**  
**NEPA & FLPMA—Defunct Rangeland Projects:**  
**Hard Look, Cumulative Impacts, Multiple-Use, Unnecessary or Undue Degradation**

67. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

68. NEPA requires the BLM to analyze the cumulative environmental impacts of the proposed action. 42 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1508.7, 1508.25(a)(2). To satisfy NEPA's procedural requirements, the BLM must demonstrate it has taken a "hard look" at the environmental consequences of the proposed action. Idaho Sporting Cong. v. Rittenhouse, 305 F.3d 957, 973 (9th Cir. 2002) (quoting Marsh v. Ore. Natural Res. Council, 490 U.S. 360, 374 (1989)).

69. FLPMA requires that the BLM “shall manage the public lands under principles of multiple use and sustained yield.” 43 U.S.C. §1732(a). In addition, the BLM “shall . . . take any action necessary to prevent unnecessary or undue degradation of the [public] lands.” 43 U.S.C. § 1732(b).

70. The BLM’s Final Decisions are arbitrary, capricious and not in accordance with NEPA, and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the agency failed to take a hard look at the cumulative impacts of its proposed action with respect to defunct rangeland projects.

71. Likewise, the BLM’s Final Decisions are arbitrary, capricious and not in accordance with FLPMA, and therefore actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the agency refused to properly balance multiple uses of the public lands and their resources, including ensuring its actions will not cause unnecessary or undue degradation to the lands, by adding significantly more miles and numbers of rangeland projects on top of the significantly nonfunctional rangeland infrastructure already in place.

**SIXTH CLAIM FOR RELIEF**  
**NEPA—Failure to Prepare an EIS**

72. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

73. NEPA requires the BLM to prepare an EIS for all major federal actions that “may significantly affect the quality of the human environment.” 42 U.S.C. § 4332(2)(C).

74. During the NEPA process, ONDA and WWP raised substantial questions as to whether the LCGMA projects would significantly impact the human environment, including via impacts to wilderness, watersheds, soils, vegetation, and wildlife habitat.

75. The BLM's Final Decisions are arbitrary, capricious and not in accordance with NEPA, and therefore are actionable pursuant to the APA, 5 U.S.C. § 706(2)(A), because the BLM had a duty to prepare an EIS for the LCGMA projects.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

A. Order, declare, and adjudge that Defendants' adoption of the Final Decisions pursuant to the LCGMA EA is unlawful under and in violation of NEPA and/or FLPMA;

B. Issue an injunction barring Defendants from implementing or further implementing any and all construction or other ground-disturbing activity as part of the LCGMA EA projects, unless and until such time as Defendants have completed a lawful EA or EIS that complies with the substantive and procedural requirements of NEPA and FLPMA;

C. Issue an order setting aside the Final Decisions, and ordering Defendants to prepare a new NEPA document or revise or supplement its current NEPA document in compliance with the substantive and procedural requirements of NEPA and/or FLPMA;

D. Award Plaintiffs their reasonable costs, litigation expenses, and attorney's fees associated with this litigation as provided by the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.*, and all other applicable authorities; and

E. Grant such other further relief as the Court deems just and proper.

DATED this 14th day of September, 2006. Respectfully submitted,

s/ Peter M. Lacy

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Oregon Natural Desert Association

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