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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

OREGON NATURAL DESERT ASS’N,

Case No. 05-1616-AS

Plaintiff,

v.

DECLARATION OF CRAIG MILLER

THOMAS E. RASMUSSEN, Field Manager,
Lakeview Resource Area, **SHIRLEY**
GAMMON, District Manager, Lakeview
District BLM, **GALE A. NORTON**, Secretary,
U.S. Department of the Interior, **BUREAU OF**
LAND MANAGEMENT, and U.S.
DEPARTMENT OF THE INTERIOR,

Defendants.

I, CRAIG MILLER, state and declare as follows:

1. My name is Craig Miller and I reside in Bend, Oregon. The following matters are personally known to me, and if called as a witness I would and could truthfully testify thereto.
2. I am past president of the Board of Directors of Plaintiff Oregon Natural Desert Association (“ONDA”). I also am a member of ONDA and serve as a part-time, contract employee of ONDA as a Geographic Information System (“GIS”) Consultant.

3. As part of my work as a GIS Consultant for ONDA, I am also an active participant in ONDA's wilderness inventory program. I offer the following assessment of BLM Field Manager Thomas Rasmussen's statements (in his letter in response to ONDA's administrative protest) about ONDA's wilderness inventory information. My statements are intended to demonstrate, among other things, that the BLM's decision to not consider ONDA's wilderness inventory information during the NEPA process for the East-West Gulch Project makes the BLM's final decision uninformed and unsupported. If the BLM had provided a careful and honest assessment of ONDA's inventory information during the NEPA process, and the public had had the opportunity to review and respond to the agency's analysis, I believe the inevitable conclusion would have been that the area does indeed possess wilderness character.

4. Rasmussen wrote:

1. *...However, I strongly disagree with your interpretation of what constitutes a road, as described on page 210 of your inventory report. All roads shown on the map with a BLM road number are part of our transportation plan and receive some minimal amount of maintenance and therefore, meet the wilderness policy definition of a road. As just one example, you failed to note that some of route 6196-0-00 through East-West Gulch was bladed as recently as 2002. While maintenance of some of these roads may be infrequent, it occurs often enough to meet the standard of ensuring "relatively regular and continuous use."*
2. *...For these reasons I find that your inventory information specific to the three former wilderness inventory units in the vicinity of the project area, even when considered as a larger single unit, is incomplete and/or inaccurate. This area was found to lack wilderness character in 1980 and continues to lack wilderness character as of this point in time. As stated on page 19 of the EA, there are no wilderness values present in the project area. It is, therefore, not appropriate to include a discussion of potential impacts to wilderness character within the EA.*

5. The BLM's own definition of a road (taken from FLPMA and reiterated in the *Wilderness Inventory Study and Procedures* handbook, p.9), is a route that has "been improved and maintained by mechanical means to insure relatively regular and continuous use." Contrary to what Rasmussen has asserted, a road number assignment does *not* automatically assure "some

minimal amount of maintenance.” A careful search of BLM’s road maintenance accomplishments (materials dating back to 1998 obtained by ONDA via a request under the Freedom of Information Act) fails to indicate any maintenance on any of the numbered routes within the Spaulding Proposed WSA addition. On the contrary, photos of each numbered road (with the possible exception of 6196-0-00) show deteriorated, rocky, rutted, and overgrown ways with no evidence of even minimal maintenance (ONDA 2004 photos DL 9, 10, 12–14, 17–19, 21, 23, 30, 31, 33–35, 38).¹

6. Furthermore, to say that “some minimal amount of maintenance” meets the definition of a road is not supported by either the BLM’s 2001 *Wilderness Inventory Study and Procedures* handbook or its 1978 *Wilderness Inventory Handbook*. The maintenance must be of a sufficient degree to “insure relatively regular and continuous use.” For example, simply erecting a road number sign on a degraded way may be “minimal maintenance,” but certainly would not ensure continuous use. A route that received maintenance for a limited distance is another example. In this case, the route may ensure regular and continuous use for a limited portion of the route, but does not necessarily mean that the entire route is maintained. I have observed many instances of just such situations in the field.

7. Rasmussen uses Route 6196-0-00 as a specific example of a maintained road. I have not been able to find any official maintenance records for 6196-0-00, so BLM either failed to make a record of the aforementioned maintenance, or some records were not sent to ONDA as required under our FOIA request. 6196-0-00 is a 2-mile section at the west end of “West Gulch Road” and may admittedly be in a condition to accommodate relatively regular use (ONDA 2004

¹ These correspond to Photos 73 (DL009), 72 (DL010), 70–68 (DL012–014), 65–64 & 81 (DL 017–019), 61 (DL021), 59 (DL023), 52 (DL030), 51 (DL031), 49–47 (DL033–035), and 44 (DL038) in the BLM’s supplement to the administrative record. AR Tab 43S. I list them in reverse order because that is the way the photos are presented in the record.

photo DL 1). It is by far in the *best* condition of *any* of the numbered routes within the Spaulding Proposed WSA addition, and ONDA is willing to concede that this portion of the route may meet the definition of a road. However, 6196-0-00 ends after two miles and then becomes 6196-0-1 where it deteriorates into an unmaintained way (ONDA 2004 photo DL9 (AR Tab 43S, Photo 73)). 6196-0-00 could easily be cherry-stemmed out of the proposed WSA and should not be the sole reason to discount the entire proposal.²

8. Mr. Rasmussen contends that he finds ONDA's inventory information "incomplete and/or inaccurate," and then concludes that "there are no wilderness values present in the project area" and therefore it is "not appropriate to include a discussion of the potential impacts to wilderness impacts." ONDA has found and documented that wilderness character and values are present, and should be considered. Mr. Rasmussen is evidently unwilling to take ONDA's documentation under consideration and is unwilling to discuss what he thinks it is about the area that lacks wilderness character. It meets the minimum size requirement. It appears to be in a natural condition throughout the area. It has outstanding opportunities for solitude. He also appears unwilling to discuss the area in the larger context of enhancing an already existing Wilderness Study Area that is contiguous to proposed addition. Joining the proposed acreage to the contiguous Spaulding WSA would enhance the already outstanding opportunities for solitude and primitive recreation in the area.

9. The information that ONDA has provided is *new* information. ONDA makes no claims that the information is complete, but neither was the original inventory conducted by the BLM in the 1970s and 1980s *complete*. All the information provided by ONDA is *supplemental*

² The BLM has explicitly recognized the concept of "cherry-stemming" in the agency's *Wilderness Inventory Study and Procedures* handbook (p.10): "A dead-end (cherry-stem) road can form the boundary of an inventory area, and does not by itself disqualify an area from being considered 'roadless'."

information to be considered along with already existing information. It adds to the completeness of the original inventory. ONDA believes, however, that the information provided is sufficient to show that the area has wilderness character. We believe that our information also adds to the accuracy of BLM's original, not entirely accurate inventory. Although some inaccuracy is inherent in all human endeavors, it should not be used as an excuse to discard otherwise solid documentation. If it were, the original BLM inventory would have to be thrown out because it was not *entirely* accurate. ONDA is not making the claim that the data or write-up is complete and 100% accurate. We are only saying that we have new information that needs to be considered, and that it adds to the timeliness, accuracy, and completeness of BLM's original out-of-date, incomplete, and inaccurate inventory.

10. Importantly, ONDA's new information needs to be considered during the BLM's analysis of the environmental impacts of the East-West Gulch project. The significant new range "improvements" the agency plans to construct (and already began building in the fall of 2005) will necessarily impact the wilderness values documented in ONDA's Proposed Spaulding WSA Addition. This includes degradation of overall naturalness due to intrusive man-made structures and road construction, reduced opportunities for solitude because motorized intrusion would be increased by new road construction, and compromised opportunities for primitive recreation due to displacement of wildlife by continued unsustainable livestock grazing.

11. ONDA is anxious to work with the BLM to arrive at an honest, sensible means of protecting our most valuable resources. These resources include habitat values that support important wildlife (including Western Sage Grouse, pygmy rabbit, Sage Sparrow, Brewer's Sparrow, Burrowing Owl), scenic values, and primitive recreational opportunities. To ignore all the documentation provided by ONDA's inventory efforts flies in the face of civil discourse.

