

Peter M. Lacy (“Mac”) (OSB # 01322)
Kristin F. Ruether (OSB # 05368)
Oregon Natural Desert Association
917 SW Oak Street, Suite 408
Portland, OR 97205
(503) 525-0193
lacy@onda.org
kruether@onda.org

Attorneys for Appellant

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS**

OREGON NATURAL DESERT ASS’N,

Appellant,

Appeal of East-West Gulch Projects
EA OR-010-2004-08

v.

BUREAU OF LAND MANAGEMENT,

Respondent.

DECLARATION OF BILL MARLETT

I, BILL MARLETT, state and declare as follows:

1. My name is Bill Marlett 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 the executive director of Plaintiff Oregon Natural Desert Association (“ONDA”). I also am a member of ONDA.

3. ONDA is an Oregon non-profit membership organization dedicated to protecting and conserving the high desert lands of Oregon. ONDA’s active membership is at over 1,000 members, most of whom live in Oregon.

4. ONDA, as an organization and on behalf of its members, is active in seeking to protect and improve the riparian areas, water quality, fisheries, wildlife, and other natural resources and ecological values of Oregon’s High Desert. ONDA and its members have actively

participated in agency proceedings concerning BLM's management of the Beaty Butte Allotment, including by filing comments and participating in discussions and field tours with the BLM relating to management of and resource conditions on the allotment. In addition, ONDA members, including myself, have visited the Beaty Butte Allotment and other public lands throughout the BLM's Lakeview District for purposes including recreational or aesthetic use and enjoyment of the area; scientific study; wilderness inventory; and observation of livestock grazing impacts on the natural systems of the sagebrush-steppe ecoregion.

5. One of ONDA's primary goals is to work towards securing permanent protection for or conservation of wilderness values on eastern Oregon's public lands. ONDA is acutely concerned with the ecological and other resource impacts of livestock grazing on wilderness characteristics and resources in eastern Oregon.

6. ONDA is an "interested public" on the Beaty Butte Allotment and other BLM grazing allotments on the Lakeview District.

7. I have had an extensive history with this area through a number of administrative appeals concerning the Beaty Butte Allotment over the course of the past decade-plus. I have made many trips to the Beaty Butte area over the past 20 years, including trips to the East and West Gulches, and am familiar with the landscape and the BLM's management of these public lands. Because the area is remote, it is extremely unique and few people visit the area. As such, it is one of the most wild landscapes in all of Oregon.

8. On May 14-16, 2007, I field inspected the proposed projects associated with the East-West Gulch. In particular, I assessed the need for rerouting the existing "road" in East Gulch.

9. The project EA states: “The purpose and need for the proposed action is to move the riparian habitat within East and West Gulches towards a healthier, functioning condition while allowing for continued livestock grazing at permitted levels.” EA at 1. The specific purpose for rerouting the East Gulch road is as follows: “Specifically, bank stabilization and riparian vegetation recovery are needed in East Gulch.” Id.

10. My direct observation of the road is that the soil and vegetation in the existing road are relatively stable. See, e.g., Photo 32 (attached). I closely inspected each of the several natural water bars where water was naturally draining off the road in East Gulch. I did not observe any direct or indirect signs of serious erosion or deposition of soils in to the drainage because of the presence of the road, or motorized traffic on the road, that would warrant relocating the road, especially into undisturbed habitat higher up on the hill side.

11. That said, there is no question that allowing the road to fully recover its full vegetation potential would have a small, positive effect in reducing sedimentation in to East Gulch. However, it must be understood that BLM’s proposed removal of livestock from East Gulch will result in 90% (my estimate) of habitat potential in the Gulch, compared to the reduced sediment delivery resulting from permanently closing the road to motor vehicles.

12. What I did observe was a drainage that has suffered decades of abusive livestock grazing by cattle and/or sheep, and perhaps feral horses. The massive gully erosion occurring in East Gulch itself is the cumulative effect of over 100-plus years of non-native livestock having direct access to what was likely a semi-permanent creek/wet meadow complex. Today, where the many small seeps and springs enter East Gulch, livestock loiter and loaf in the creek bottom, removing vegetation (by eating and destruction by hoof action) and causing mass shearing of soils by hoof action (these animals weigh in at 1,000 #), which was readily apparent during our

visit, and was both an obvious and ubiquitous factor in maintaining the deteriorated condition in the bottom of East Gulch. See Photos 35, 38, 41 (attached). In fact, the observed abuse caused by livestock was as bad as I have ever seen in Oregon, a sad commentary on the lack of management accountability on Beaty Butte.

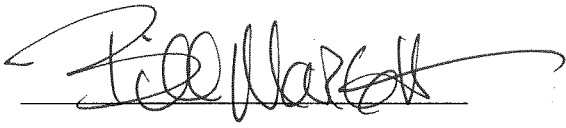
13. Given the lack of water in this landscape, there is little doubt East Gulch could be an ecological oasis of enormous importance fed by many small seeps and springs. Sadly, the area has been degraded to such a degree that East Gulch now offers minimal habitat value to wildlife. The best habitat areas in East Gulch are the several spring areas BLM has fenced off from livestock, where the land is recovering nicely from past livestock grazing.

14. BLM's proposed action to remove livestock from East Gulch is prudent and needed. The question how to achieve that end has implications to the future of livestock grazing on Beaty Butte. I believe the entire watershed feeding East Gulch should be completely rested for 10 or more years to allow East Gulch the option to more quickly recover from past years of abusive livestock grazing.

15. I also believe BLM's proposal to close the East Gulch road will lend marginal benefits to the recovery of East gulch creek (compared to the removal of livestock from the riparian area and the watershed as suggested above). That said, closing this road can only help. However, it cannot serve as justification for relocating the road, thus creating new management problems on the uplands, especially on lands having wilderness character that would be impaired by creating this new road (however minimal the construction technique BLM might employ).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 25 day of May, 2007.

A handwritten signature in black ink, appearing to read "Bill Marlett", written over a horizontal line.

Bill Marlett