



Oregon Natural Desert Association

April 1, 2008

VIA EMAIL

Thomas E. Rasmussen, Field Manager
Lakeview Resource Area
Bureau of Land Management
Lakeview District Office
1301 South G Street
Lakeview, OR 97630
Tom_Rasmussen@blm.gov

Re: **Little Juniper Spring, South Butte Valley, Bar 75 FRF Grazing Decision**

Dear Mr. Rasmussen:

I write on behalf of the Oregon Natural Desert Association (“ONDA”) concerning BLM’s decision, dated February 14, 2008, to issue two permits authorizing grazing on the Little Juniper Spring, South Butte Valley and Bar 75 FRF allotments. We are concerned that BLM has elected to reissue these grazing permits without full environmental analysis and public participation. It appears the decision is made pursuant to BLM’s new categorical exclusion (“CE”) authority of 2007, which allows the agency to exclude from NEPA analysis grazing permit renewals where the new permit is consistent with the use specified in the previous permit, and the allotment has been assessed and determined to be meeting rangeland health standards. See 72 Fed. Reg. 45503 (Aug. 14, 2007). However, we believe use of a CE is inappropriate here because the proposed decision may have significant impacts on the environment, including impacts to citizen-inventoried wilderness values. We also believe the 2007 Rangeland Health CE is unlawful. We respectfully ask that you withdraw your decision and undertake appropriate levels of environmental analysis that allow the public to comment on the proposal(s).

The Little Juniper Spring and Bar 75 FRF allotments include about 8,150 acres of public lands that lie within ONDA’s Buzzard Creek proposed WSA. The vast majority, 8,016 acres, lie within the Little Juniper Springs Allotment. We provide that inventory information with this letter.¹ This proposal is part of our *Three Rivers BLM Management Area Wilderness Inventory Report*, provided to the Three Rivers Resource Area, Burns District in September 2007. Because we initially provided that report to the Three Rivers Resource Area, we understand that you may

¹ Due to its large file size, we will email you relevant excerpts (all portions except photographs) of the *Three Rivers BLM Management Area Wilderness Inventory Report* under separate cover. I will place a cd-rom copy of the full report, including the photos for the Buzzard Creek proposed WSA, in the mail to you.

not have been aware of this information. We ask that the Lakeview District now consider it in this and other projects and proposed actions that may impact the wilderness values we have documented in the Buzzard Creek proposed WSA.²

Considering the potential for impacts to documented wilderness values in this area, we feel it is inappropriate for BLM to categorically exclude this decision from full environmental analysis under NEPA. Potential impacts to other important resources on these three allotments also counsel against use of a CE to authorize livestock grazing. For example, sage grouse (and possibly pygmy rabbits) are known to occur on the Little Juniper Spring and South Butte Valley allotments. Special status plant species are present on the Little Juniper Spring allotment. Noxious weed encroachment is a known issue on all three allotments. Moreover, BLM has classified the 116,000-acre Little Juniper Spring Allotment as an “Improve” category allotment. This means, among other things, that present range condition is unsatisfactory, serious resource use conflicts or controversy exist, and present management appears unsatisfactory. (This classification appears to have been made or renewed at about the same time as the rangeland health assessments were performed for the allotment.) Taken collectively—but in particular based upon the presence of wilderness values not yet examined by BLM—we believe these factors counsel against use of a CE to authorize grazing for the next 10 years without full environmental analysis and public participation.

We also believe the 2007 Rangeland Management CE is itself unlawful. We note that it is under challenge in federal district court. Western Watersheds Project v. Lane, No. 07-cv-394-BLW (D. Idaho filed Sept. 21, 2007). There, the plaintiff has argued that in adopting the CE authority, BLM failed to establish that the actions authorized under it will not have direct, indirect or cumulative impacts for which NEPA analysis is required. (And in turn, authorization of livestock grazing *does* have adverse environmental impacts, to wilderness and other resource values, that BLM must study as required by NEPA.) If the plaintiff in that action prevails on its claims against the CE, it is likely the court will set aside the CE and permanently enjoin BLM from further implementing it.³ This would directly undermine BLM’s use of the CE to renew the grazing permits for the Little Juniper Spring, South Butte Valley and Bar 75 FRF allotments.

In short, the decision’s potential to impact important resource values on these lands, coupled with the strong likelihood that the underlying CE authority on which BLM relies may be invalidated by the courts, suggests that BLM should undertake a full NEPA analysis for these three grazing permit decisions. ONDA therefore respectfully urges you to vacate the decisions

² Likewise, we ask that you do the same for the Lonesome Lakes proposed WSA, which straddles the Burns-Lakeview district border (see overview map).

³ The Ninth Circuit Court of Appeals has issued a ruling directly on point. In Sierra Club v. Bosworth, 510 F.3d 1016 (9th Cir. 2007), the court ruled that a CE for Forest Service fuel reduction projects violated NEPA because the agency “failed to assess properly the significance of the hazardous fuels reduction categorical exclusion and thus it failed to demonstrate that it made a ‘reasoned decision’ to promulgate the Fuels CE based on relevant factors and information.” Id. at 1018. BLM’s 2007 Rangeland Management CE is very closely analogous to the invalidated Forest Service CE.

and initiate a NEPA process, including undertaking appropriate levels of environmental analysis and evaluating of our wilderness inventory report and proposal for the Buzzard Creek proposed WSA. As always, we welcome the opportunity to discuss this matter, including the information contained in our wilderness inventory report, further with you at your convenience. If you have any questions regarding this letter or our concerns, please feel free to contact us.

Sincerely,

s/ Peter M. Lacy

Peter M. Lacy (“Mac”), Senior Attorney
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Cc: Brent Fenty, Executive Director
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