



Oregon Natural Desert Association

July 7, 2006

VIA EMAIL

Joan M. Suther
Three Rivers Resource Area Field Manager
Burns District BLM
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Re: Comments on Five Creeks Rangeland Restoration Project EA

Dear Ms. Suther:

Please accept these comments from the Oregon Natural Desert Association (“ONDA”) on the BLM’s Five Creeks Rangeland Restoration Project EA. In general, ONDA is supportive of the project’s basic purpose of restoring ecological health. However, cutting down or otherwise treating juniper, coupled with other treatments such as seeding, fencing, planting and so forth, most likely will not improve the area’s aspen stands without bringing livestock grazing under control. The BLM must bear in mind this critical consideration as it strives to develop this ecosystem restoration project within the strictures of the congressionally-defined purpose of the Steens Act’s Cooperative Management and Protection Area: “to conserve, protect, and manage the *long-term ecological integrity* of Steens Mountain for future and present generations.” 16 U.S.C. § 460nnn-12(a) (emphasis added).

Range of Alternatives, Livestock Grazing, and Wilderness

The BLM must study, develop, and analyze a reasonable range of alternatives to the proposed action. 42 U.S.C. § 4332(2)(C)(iii); (2)(E). Consideration of a reasonable range of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. §§ 1502.14. The range of alternatives requirement is critical to serving NEPA’s primary purposes of insuring fully informed decision-making and providing for meaningful public participation in environmental analyses and decision-making. See id. § 1500.1(b), (c). But the EA presents only two alternatives, no action and the proposed alternative.

The EA arbitrarily fails to consider any alternative that reduced grazing numbers or reduced the area of land grazed in order to achieve the purposes of the project. The EA contains little discussion or analysis of the impacts of domestic livestock grazing in creating or maintaining the unnatural and undesirable spread of western juniper and invasive weeds and/or the suppression of native grass, forb, and shrub species. The discussion on “Livestock Grazing Management” is extremely brief, and contains no real analysis. Instead it describes existing management on each allotment. EA at 36-89. We note that several allotments were not meeting Standards of Rangeland Health, and at least one allotment’s violation was attributed to grazing.

This omission is important because the number one land use impacting the BLM’s ability to recover these lands permanently, so that inevitable invasive plant species and juniper expansion are not simply temporarily delayed, is livestock grazing. Domestic livestock grazing is probably the major cause of weed invasions in the arid West. See A.J. Belsky & J.L. Gelbard, Livestock Grazing and Weed Invasions in the Arid West, Oregon Natural Desert Association (2000) (and citations therein), available at www.onda.org/library/papers/WeedReport.pdf (last modified Nov. 6, 2004); see also J.D. Parker et al., Opposing effects of native and exotic herbivores on plant invasions, 331 Science 1459 (2006).

Restoration without prevention is a flawed strategy. If management after restoration is not altered, the original problems will return. The EA does not address this issue head-on. These lands cannot be fully restored or recovered without significant changes in livestock grazing management, including significant rest following treatment and, in some places, complete removal. Therefore, the EA must address alternatives that specifically involve reductions and/or exclusions of livestock. All alternatives should include pre- and post-treatment monitoring that evaluates the presence and absence of livestock on treated areas in terms of site recovery and maintenance of desired ecological conditions. For all actions “significantly affecting the quality of the human environment,” the BLM must provide a detailed statement on the “environmental impact of the proposed action,” alternatives to the proposed action, and any “irreversible and irretrievable commitments of resources” that would occur with implementation of the proposed action. 42 U.S.C. § 4332(2)(C). Yet in the EA, the BLM only considers a single action alternatives with one type and degree of treatment. There is very little discussion of the impacts of continued grazing within the planning area on other resources, such as the spread of noxious weeds, water quality, fish and wildlife habitat, or wilderness resources.

The EA also arbitrarily fails to consider an alternative limiting juniper treatment in wilderness areas, WSAs, and other areas with documented wilderness values until the BLM has developed appropriate ecological criteria and treatment protocols as envisioned in the WJMA. ONDA is opposed to mechanical treatment in WSAs and WSR corridors unless wilderness and/or WSR values are being restored (e.g., aspen stands or riparian areas). ONDA is opposed to mechanical treatment in Wilderness absent a minimum tool analysis justifying the means selected. As well, it is ONDA’s position that the Wildland Juniper Management Area (“WJMA”) should not be used as justification to postpone needed restoration work in WSAs, WSR corridors, or Wilderness if there is an obvious

need to proceed in such areas. Finally, ONDA supports mechanical treatment in all other areas only if livestock grazing is precluded for at least five (5) years following treatment to allow for full development and maturation of new plant vigor. Overall, ONDA believes, based on the Steens Act's primary purpose, its juniper management authorization language, and its establishment of the WJMA, that the EA should "set aside" a significant percentage of the lands within the planning area in order to provide for evaluation of trends on adjacent treated versus untreated landscapes.

Impacts of the project on the wilderness resource

The BLM has a continuing duty to manage the public lands for multiple use and to prevent unnecessary or undue degradation to the public lands and their resources. 43 U.S.C. § 1732(a). Among the multiple use values the BLM must manage for is the wilderness resource. FLPMA also require 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)." *Id.* § 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.* The BLM is required to analyze the impacts of projects on the wilderness resource under NEPA, since it is part of the "human environment." 40 C.F.R. § 1508.14.

The EA fails to adequately present and analyze the effects of the proposed action on the wilderness resource. As noted in scoping, the project would impact a significant percentage of the Riddle Creek Headwaters Proposed WSA. The EA does include a very brief discussion of the wilderness resource. EA at 17. But the discussion is largely limited to describing new developments. It is not clear that the BLM conducted a true inventory in the field of the impacts of the developments on the wilderness characteristics of the areas in question or the accuracy of ONDA's WSA proposals. The analysis lacks adequate consideration of the area's wilderness values or consideration of whether any aspect of the proposed action would impact wilderness values or these areas' ability to be designated as wilderness in the future, in violation of FLPMA and NEPA.

Consistency with Steens Act direction regarding juniper management

The Steens Act requires the BLM to "emphasize the restoration of the historic fire regime in the [CMPA] and the resulting native vegetation communities through active management of Western Juniper on a landscape level. Management measures shall include the use of natural and prescribed burning." 16 U.S.C. § 460nnn-23(c). The Act also establishes the WJMA. The purpose of the WJMA is for "experimentation, education, interpretation, and demonstration of active and passive management intended to restore the historic fire regime and native vegetation communities on Steens Mountain." 16 U.S.C. § 460nnn-91(b). The maps in the EA do not show the WJMA boundary, but the project area appears to contain areas outside the WJMA.

It is not clear how the project would be consistent with the Act because of the treatment outside of the WJMA. Why isn't the type of extensive treatment under

consideration in this proposal proposed solely within the WJMA? The BLM should clearly address the role of the WJMA in the larger planning effort (both with respect to this project, and beyond) in the CMPA and on Steens Mountain. See also 40 C.F.R. §§ 1508.7 (cumulative impacts), 1508.8 (direct and indirect effects), 1508.25(a) (connected actions, cumulative actions, and similar actions). It seems contrary to the purposes of the Steens Act to relegate the WJMA to nothing more than a management unit within the project.

Our understanding of juniper expansion the role of juniper in arid landscapes in the interior West still is evolving. See, e.g., R.F. Miller et al., *Biology, Ecology, and Management of Western Juniper*, Technical Bulletin 152, Ore. State Univ., Agric. Experiment Station (2005), at 6, 42–43, 49. While adaptive management may be an appropriate management strategy under these types of circumstances, land managers must be cautious where the science still is rapidly evolving and there remain significant knowledge gaps. It is ONDA’s position that this is exactly what Congress had in mind when it provided for the Wildland Juniper Management Area for “experimentation, education, interpretation, and demonstration of active and passive management intended to restore the historic fire regime and native vegetation communities on Steens Mountain.” 16 U.S.C. § 460nnn-91(b). In other words, prior to implementing vast-scale management across Steens Mountain, the BLM should focus on management, monitoring, and baseline information generated, under the full range of western juniper treatments available and factoring in the various impacts of livestock grazing on juniper expansion and sagebrush steppe, within the WJMA.

Grazing Rest Following Treatment

The EA indicates grazing would not occur for two growing seasons in pastures treated with prescribed fire. EA at 15. Because of the key role livestock play in the spread of weeds in areas where juniper has been removed such areas should be rested from all livestock grazing until they have fully recovered to native species plant communities. Research suggests this may take as long as a decade or more and that two years’ rest is inadequate. See, e.g., U.S. Forest Serv., *Restoring Western Ranges and Wildlands*, RMRS-GTR-136, Vol. I at 194–198 (Sept. 2004). The decision as to when (or if) to reintroduce grazing following juniper treatment is one of the most important decisions resource managers must make. Miller et al. (2005), at 49. It is important to note that reintroduction of livestock following treatment “has not received adequate scrutiny” and the typically-adopted two years’ rest following treatment “has never been tested experimentally.” Id. According to Miller et al., this decision should be made based on the response of vegetation following treatment, with slow community recovery warranting longer rest periods. Id. Based on this lack of knowledge and the fact that the 2-year rest period has no scientific basis—coupled with the Steens Act’s emphases on careful, scientifically supported juniper management—the BLM must discuss this issue in much greater detail.

It is important to isolate the processes involved, in order to determine this specific landscape’s response to juniper removal without the significant influence of livestock

grazing. See, e.g., Belsky (1996), at 57; Miller et al. (2005) at 50–51. Recent research that looked at a Steens Mountain case study involving chainsaw cutting concluded the site in that study “requires rest or deferment the first several growing seasons to provide plants the opportunity to maximize seed crops and enhance opportunities for seedling establishment when environmental conditions are favorable.” Miller et al. (2005) at 51 (emphasis added). Following fire, Miller et al. conclude that deferment to the fall period during the first several seasons is “a minimum requirement” if natural recruitment is prescribed. Id. In short, even in this short section of the OSU Agricultural Experiment Station report, Miller et al. provide a far more complex scheme for various post-treatment grazing management prescriptions than is provided in the EA. Because the Steens Act directs the BLM to use the WJMA for purposes of experimentation, education, interpretation, and demonstration, including via use of both active and passive methods, 16 U.S.C. § 460nnn-91, isolation of effects from grazing and adequate rest from grazing are critical to satisfying the statute.

Crested wheatgrass seedings; Reseeding with native species; Spread of noxious weeds

The EA contains nothing on seeding in the “Detailed Activity Descriptions.” EA at 10. However, elsewhere in the EA there is reference to reseeded. E.g. EA at 73. The Decision must clarify whether and where reseeded will occur. ONDA is hopeful that there will be no seeding of crested wheatgrass. Please specifically inform us if this is not the case. ONDA urges the BLM to actively restore native species in treated areas, including in areas that have been previously seeded to crested wheatgrass and other introduced forage species. The Steens Act specifically directs the BLM to emphasize restoration of historic fire regimes “and the resulting native vegetation communities” through its juniper management within the CMPA. 16 U.S.C. §§ 460nnn-23(c) (emphasis added). No crested wheatgrass should be planted anywhere in the project area, including within old crested wheatgrass seedings. Nothing in Section 113(c) talks about the possibility of reseeded existing crested wheatgrass seedings with additional crested wheatgrass.

Adequate rest from grazing following treatment is absolutely critical in order to avoid transportation of weed seeds to disturbed sites, preferential grazing of native plants over weedy species, creation or exacerbation of patches of bare soil susceptible to weed establishment, destruction of biological soil crusts that stabilize soils and inhibit weed seed germination, establishment of nitrogen-rich sites favorable to nitrogen-loving weed species, reduced concentrations of soil mycorrhizae required by most western native species, and accelerated soil erosion that buries weed seeds and facilitates their germination. See Belsky & Gelbard (2000) (and references cited therein).

Impacts to sage grouse populations and habitat

The analysis of effects and cumulative effects on sage grouse in the EA is inadequate. For example, the EA dismisses the allegedly short-term negative impacts that will occur to sage grouse, simply noting that the habitat would “eventually come back.”

EA at 62. But the EA must also analyze how this will affect the sage grouse population in the long run. Other issues given inadequate consideration are: insuring vegetative manipulation benefits the long-term health of sage grouse habitat, avoiding treatments in areas highly susceptible to cheatgrass or other exotic species invasion, employing restoration that involves reseeded to native vegetation or allowing natural native regeneration in the absence of grazing disturbance, and avoiding prescribed fire in Wyoming big sagebrush and lower-elevation basin big sagebrush unless such treatments are highly likely to improve sage grouse habitat.

Impacts to water quality

In order to comply with its water quality mandates under FLPMA and the Clean Water Act, the BLM must provide for more concrete compliance with water quality standards until such time as TMDLs are prepared for the planning area. Section 313 of the Clean Water Act requires the BLM to adhere to state water quality standards. 33 U.S.C. § 1323(a). See also Andrews-Steens RMP at 17–21 (requiring same). The ecosystem restoration project at issue here falls within the gambit of “any activity resulting, or which may result, in the discharge or runoff of pollutants.” 33 U.S.C. § 1323(a).

The EA indicates that Riddle and Paul Creeks are listed on the State of Oregon’s 303(d) list for water quality impairment because they exceed the water temperature standard. EA at 19. The BLM’s description of the affected environment vis-à-vis water quality fails to identify the main causes of watershed degradation, particularly grazing practices. The numerous ways livestock have damaged the morphology, geology, and ecology of streams are complex and interconnected. It is well-documented that stream temperatures, including throughout the planning area, are influenced by streamside shade, base flow conditions and channel dimensions, which are in turn influenced negatively by livestock grazing. To our knowledge there are no TMDLs completed within the planning area. Given the underlying chronic impairment of water quality throughout the planning area, the risk of significant levels of sedimentation and increases in water temperatures threaten violations of the Clean Water Act and other authority until one or more TMDLs are established.

Impacts to soil and biological soil crusts

Effects to soils and biological crusts were not adequately analyzed. This project has the potential for significant disturbances to soils and crusts, before, during and after the variety of treatments proposed.

ONDA appreciates the discussion given to crusts in the EA. However, the analysis is still conclusory and inadequate, and at times appears to lack scientific justification. For example, it states that “the use of large track or wheeled machines to either grind or cut and pile brush and trees would not result in long-term localized compaction to the soil and [biological soil crusts].” EA at 91. No scientific citation is given, making this conclusion questionable.

The effects and cumulative effects sections on soils are inadequate and unsupported in their optimistic assessment that the effects from the treatments would be insignificant and the treatments proposed would reduce erosion. EA at 65-66, 87. They do not even discuss impacts from grazing. A major cause of erosion is livestock trampling, which disturbs soil and microbiotic crusts.

Cumulative Impacts.

The EA does not adequately discuss cumulative impacts to the wilderness resource, vis-à-vis livestock grazing, sage grouse, and other resources. Any data or analyses the BLM is relying upon to support its final decision must be in the EIS itself. See, e.g., Blue Mtns. Biodiversity Project v. Blackwood, 161 F.3d 1208, 1214 (9th Cir. 1998).

Thank you for your consideration of these comments. If you have any questions regarding these comments, please feel free to contact me at the address below or Bill Marlett at 541-330-2638. Please send separate copies of the Decision to:

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Sincerely,

s/ Kristin F. Ruether

Kristin F. Ruether, Staff Attorney
Oregon Natural Desert Association

Cc: Bill Marlett, Executive Director
Oregon Natural Desert Association