

Director's Protest Resolution Report

**John Day Basin (Oregon)
Resource Management Plan**

April 28, 2015



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Reader's Guide

How do I read the Report?

The Director's Protest Resolution Report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the Bureau of Land Management's (BLM's) response to the summary statement.

Report Snapshot

Issue Topics and Responses
NEPA

Topic heading

Submission number

Issue Number: PP-CA-ESD-08-0020-10

Protest issue number

Organization: The Forest Initiative

Protesting organization

Protester: John Smith

Protester's name

Issue Excerpt Text:

Direct quote taken from the submission

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

Summary

General statement summarizing the issue excerpts (optional).

There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

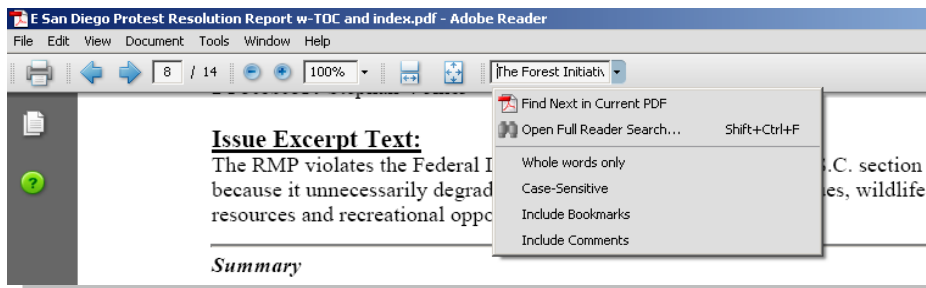
Response

BLM's response to the summary statement or issue excerpt if there is no summary.

Specific renewable energy projects are implementation-level decisions rather than RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



List of Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	NHPA	Act of 1969 National Historic Preservation Act of 1966, as amended
APD	Application for Permit to Drill	NOA	Notice of Availability
ASLW	Assistant Secretary for Land and Water	NOI	Notice of Intent
BA	Biological Assessment	NRHP	National Register of Historic Places
BLM	Bureau of Land Management	NSO	No Surface Occupancy
BMP	Best Management Practice	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
BO	Biological Opinion	ORV	Outstandingly Remarkable Value
CAA	Clean Air Act	RFDS	Reasonably Foreseeable Development Scenario
CEQ	Council on Environmental Quality	RMP	Resource Management Plan
CFR	Code of Federal Regulations	RMZ	Recreation Management Zone
COA	Condition of Approval	ROD	Record of Decision
CSU	Controlled Surface Use	ROW	Right-of-Way
CWA	Clean Water Act	SA/DEIS	Staff Assessment/Draft EIS
DM	Departmental Manual (Department of the Interior)	SHPO	State Historic Preservation Officer
DOI	Department of the Interior	SO	State Office
DR	Decision Record	SRMAP/PA	Special Recreation Management Area Plan/Plan Amendment
EA	Environmental Assessment	T&E	Threatened and Endangered
EIS	Environmental Impact Statement	USC	United States Code
EO	Executive Order	USDA	United States Department of Agriculture
EPA	Environmental Protection Agency	USDI	United States Department of Interior
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WHMA	Wildlife Habitat Management Area
FR	Federal Register	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		
IB	Information Bulletin		
IM	Instruction Memorandum		
MOU	Memorandum of Understanding		
NEPA	National Environmental Policy		

Protesting Party Index

Protester	Organization	Submission Number	Determination
Kathleen Kidwell	Friends of Rudio Mountain, Inc.	PP-OR-John Day-12-01	Denied—Issues and Comments
Mary Jacob		PP-OR-John Day-12-02	Denied—Issues and Comments
Merritt Woodland		PP-OR-John Day-12-03	Dismissed—No Standing
Marlene Woodley		PP-OR-John Day-12-04	Dismissed—No Standing
John Bremmer		PP-OR-John Day-12-05	Dismissed—No Standing
Bill Langenfeld		PP-OR-John Day-12-06	Dismissed—No Standing
John Langenfeld		PP-OR-John Day-12-07	Dismissed—No Standing
Dan Hank		PP-OR-John Day-12-08	Dismissed—No Standing
Charles Church		PP-OR-John Day-12-09	Denied—Issues and Comments
Byron Haberly		PP-OR-John Day-12-10	Dismissed—No Standing
Steven Smith		PP-OR-John Day-12-11	Dismissed—No Standing
James White		PP-OR-John Day-12-12	Dismissed—No Standing
Gregg Haberly		PP-OR-John Day-12-13	Denied—Issues and Comments
Jason Deloach		PP-OR-John Day-12-14	Dismissed—No Standing
Jerry Deloach		PP-OR-John Day-12-15	Dismissed—No Standing
Doug Waters		PP-OR-John Day-12-16	Dismissed—No Standing
Rusty Wright		PP-OR-John Day-12-17	Denied—Issues and Comments
Joe Langenfeld		PP-OR-John Day-12-18	Dismissed—No Standing
Mike Rose		PP-OR-John Day-12-19	Dismissed—No Standing
Chuck Clage		PP-OR-John Day-12-20	Dismissed—No Standing
Thom Seal		PP-OR-John Day-12-21	Denied—Issues and Comments
Jette Seal		PP-OR-John Day-12-22	Denied—Issues and Comments
James White		PP-OR-John Day-12-23	Denied—Issues and Comments
Susan Laylock		PP-OR-John Day-12-24	Dismissed—No Standing

Mary Jacob		PP-OR-John Day-12-25	Denied—Issues and Comments
Peter Lacy, Doug Heiken, Nada Culver	Oregon Natural Desert Association, Oregon Wild, The Wilderness Society	PP-OR-John Day-12-26	Granted in part
Boyd Britton	Grant County	PP-OR-John Day-12-27	Dismissed—Comments Only

Range of Alternatives

Issue Number: PP-OR-Johnday-12-26-18

Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

The range of alternatives set out in the Proposed RMP does not take into account additional areas with wilderness characteristics identified by ONDA; does not include a range within three of the five alternatives

Issue Number: PP-OR-Johnday-12-26-34

Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

Where BLM improperly failed to identify lands with wilderness characteristics...[BLM] did not consider a full range of reasonable alternatives to protect wilderness characteristics in violation of Manual 6320 (as well as NEPA, as discussed above). 6320.06.A.2.d , f. In addition the range of alternatives set out in the Proposed RMP does not include a range within three of the five alternatives for identified lands with wilderness characteristics and sets the most protective alternative up as a “straw man” that is not truly being evaluated, which also violates Manual 6320’s requirement for NEPA documents to “contain a full range of reasonable alternatives.” 6320.06.A.2.d.

Summary:

The Preliminary Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS) failed to consider a full range of reasonable alternatives for management of lands with wilderness characteristics.

Response:

The purpose and need for the proposed action defines the range of alternatives considered in an Environmental Impact Statement (EIS). The purpose for this RMP is to “provide direction for managing public lands in eastern Oregon primarily under the jurisdiction of the Prineville District BLM.” The need for this RMP is necessary “because information and circumstances have changed since the original plans were approved” (PRMP/FEIS, p. 9).

The PRMP/FEIS describes and fully evaluates five alternatives for management of the planning area. These five alternatives represent different approaches to resolving the identified planning issues, meeting the purpose and need, and provide the basis for a final decision. The five alternatives analyzed differ in the: (1) degrees of protection for each resource and use; (2) approaches to management for each resource and use; (3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and (4) levels and methods for restoration (PRMP/FEIS, p. 27).

According to Council of Environmental Quality (CEQ) guidance for implementing National Environmental Policy Act (NEPA), “when there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS” (Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981, Question 1b). The PRMP/FEIS analyzes a full spectrum of alternatives for the management of lands with wilderness characteristics. Alternative 1 would not protect wilderness characteristics on any lands outside of Wilderness Study Areas (WSA). Alternatives 2, 3, and 5 would protect wilderness characteristics on 19,442 acres of BLM lands outside of WSAs. Alternative 4 would protect wilderness characteristics on all BLM lands with

wilderness characteristics outside of WSAs (35,457 acres) (PRMP/FEIS, p. 82). The BLM fully evaluated all of these alternatives.

The BLM considered information about lands with wilderness characteristics submitted by the protestors during the development of the alternatives. As stated in the PRMP/FEIS, “the BLM was requested to consider a proposal to identify 13 new or additions to existing Wilderness Study Areas. This proposal was considered in detail during the BLM’s wilderness characteristics inventory...This EIS eliminates from detailed consideration for protection of wilderness characteristics those lands that do not currently meet the requisite criteria to qualify as lands with wilderness characteristics” (PRMP/FEIS, p. 216).

For information about the BLM’s identification of lands with wilderness characteristics, please see the *Wilderness Characteristics* section of this report.

Public Participation and Comment

Issue Number: PP-OR-Johnday-12-21-9

Organization:

Protestor: Thom Seal

Issue Number: PP-OR-Johnday-12-02-9

Organization:

Protestor: Mary Jacob

Issue Number: PP-OR-Johnday-12-09-9

Organization:

Protestor: Charles Church

Issue Number: PP-OR-Johnday-12-13-9

Organization:

Protestor: Gregg Haberly

Issue Number: PP-OR-Johnday-12-17-9

Organization:

Protestor: Rusty Wright

Issue Number: PP-OR-Johnday-12-22-9

Organization:

Protestor: Jette Seal

Issue Number: PP-OR-Johnday-12-25-9

Organization:

Protestor: Mary Jacob

Issue Excerpt Text:

15. We protest the denial and ignoring of the public comments in the BLM's preferred alternatives as found on page 322 of the RMP: "Some area residents and users of public lands are interested in maintaining cultural uses uninhibited by further or existing government regulation. They see restrictions to limit use as unnecessary or a personal affront to their ways of life. Motorized use restrictions, special area designations, road closures, and limits on commercial uses are a few examples. They often see special area designations as redundant bureaucratic steps limiting management options. This community advocates for more local control and believes payment/permit systems unduly isolate segments of the population."

Issue Number: PP-OR-Johnday-12-01-6

Organization: Friends of Rudio Mountain

Protestor: Kathleen Kidwell

Issue Excerpt Text:

6. We Protest the (PRMP) and (FEIS) because the BLM modified at least 3 of our public comments. One of the comments that BLM manipulated was comment number 72. The modified comment is

displayed as comment 71 on a CD that we received from the BLM through a FOIA request. After a congressional inquiry into this we received a letter in which BLM agreed that some of our comments were manipulated after they arrived at Prineville BLM but they really do not know how it happened. This concern is also outlined in the 8 page letter attached hereto as Exhibit B and in OIG Case number HQ-10-0071-R.

Issue Number: PP-OR-Johnday-12-26-11

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

I. The BLM'S Inventory of Lands with Wilderness Characteristics Did Not Comply with NEPA. In December, 2006, ONDA submitted data regarding its inventory of lands with wilderness characteristics. BLM acknowledges that it received and analyzed this data and, while it provided a response to ONDA, did not provide the data to the public for comment as part of the Draft RMP and EIS, and has not provided the data with the Proposed RMP and Final EIS.

Issue Number: PP-OR-Johnday-12-26-13

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

NEPA requires that "environmental information is available to public officials and citizens before decisions are made and before actions are taken" in or to fulfill the "public scrutiny" that is "essential to implementing NEPA." 40 C.F.R. § 1500.1(b). The information supplied by ONDA was not made available to the public for comment.

Issue Number: PP-OR-Johnday-12-26-2

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

1. BLM's inventory of lands with wilderness characteristics did not comply with NEPA, because BLM did not provide the inventory with the Draft EIS and did not otherwise provide an opportunity for public comment.

Issue Number: PP-OR-Johnday-12-26-24

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

Once there is new information that meets the general submission standards, then “as soon as practicable, the BLM shall evaluate the information,” including field checking as needed and comparing with existing data to see if previous conclusions remain valid.

Further, BLM is required to document its rationale and make it available to the public. 6310.06.B.2. By failing to make the data submitted by ONDA available as part of this planning process, BLM has failed to comply with FLPMA and current guidance.

Summary:

The BLM failed to properly represent and consider public comment. The BLM failed to provide an adequate opportunity for public participation and comment in the land use planning process with regards to lands with wilderness characteristics.

Response:

The BLM appreciates the comments on the DRMP/DEIS provided by all groups and individuals. The BLM complied with NEPA by performing a detailed comment analysis that assessed and considered all substantive comments received on the DRMP/DEIS. Appendix T of the PRMP/FEIS presents the BLM’s responses to all of the substantive comments.

The BLM analyzed comments through a content analysis process, which is described in Appendix T of the PRMP/FEIS. The BLM utilizes the process to “represent the public’s viewpoints and concerns as fairly as possible, and to present those concerns in such a way as to facilitate systematic review and response by decision makers.” (PRMP/FEIS, p. T-2). As discussed in Appendix T, “it is important for the public and decision makers to understand that this process makes no attempt to treat input as if it were a vote [for a particular action]. What the content analysis process does is ensure that every comment is considered at some point in the decision process” (PRMP/FEIS, p. T-1).

The BLM investigated claims that public comments were manipulated. The BLM Prineville District Office followed all practices outlined by BLM policies regarding public comment handling and analysis. The BLM determined that when the hard copy letter the protestor refers to was scanned into the electronic system, it was inadvertently scanned using letter recognition software that resulted in font changes and some character recognition inaccuracies. However, the original hardcopy version of this letter, which was provided to the public, is unaltered, except for the removal of personal identifying information. The incorrectly scanned version was not made available to the public. Therefore, the public record remains accurate. The BLM’s findings were documented in a letter sent from BLM Deputy Director Mike Pool to the protestor on April 8, 2010.

The Draft Resource Management Plan/Draft Environmental Impact Statement (DRMP/DEIS) publicly acknowledged and considered the wilderness characteristics data submitted by the Oregon Natural Desert Association (ONDA) in December 2006: “The BLM reviewed and updated the wilderness inventory for 360,856 acres of public lands outside of designated Wilderness Study Areas, including the BLM lands contained in 13 citizens’ wilderness proposals” (DRMP/DEIS, p. 273). The BLM evaluated these areas and made its findings of areas possessing wilderness characteristics public in the “Wilderness Characteristics” section in Chapter 2 of the DRMP/DEIS. The BLM also summarized its evaluation of citizens’ wilderness

information in Chapter 3 of the PRMP/FEIS as per 40 CFR 1502.9(a) and (b) (PRMP/FEIS, p. 292).

The BLM has made the ONDA wilderness characteristics data available to public officials and citizens before the agency makes a final decision in the Record of Decision (ROD). The BLM incorporated the wilderness inventory update and its evaluation of the ONDA wilderness characteristics data by reference into the PRMP/FEIS (PRMP/FEIS, p. 291). The BLM's evaluation of the ONDA wilderness characteristics data was also made available publicly online at <http://www.blm.gov/or/districts/prineville/plans/johndayrmp/jdbsupportdocs.php>. The ONDA wilderness characteristics data is part of the administrative record and is available for public inspection at the BLM Prineville District Office upon request.

Impact Analysis

Issue Number: PP-OR-Johnday-12-21-11

Organization:

Protestor: Thom Seal

Issue Number: PP-OR-Johnday-12-22-11

Organization:

Protestor: Jette Seal

Issue Number: PP-OR-Johnday-12-25-11

Organization:

Protestor: Mary Jacob

Issue Excerpt Text:

19. We protest the calculation of road miles per square mile of public land. The GIS survey uses flat miles, not surface area miles. This is a false biased method. The existing roads are on steep mountain terrain causing switch backs and traverse traveling. We protest the whole assumption that a road density of so many miles per square mile is false science and is arbitrary and capricious. It promotes a false scientific premise. The entire road density of the RMP must be redone with surface area not flat area utilized. Thus the use of the models for erosion, wildlife interaction, etc. is also in error, false, misleading and bias to a "green" and unscientific RMP. We protest and challenge the BLM's statement on page 428: Off-road use by motorized vehicles is an indicator of disturbance to wildlife life cycles, wildlife migration, and decreases in habitat quality. Higher open road densities increase the potential for disturbance of foraging and reproductive activities, habitat destruction, and human induced mortality. Limiting OHV use to designated roads allows wildlife to adjust to human activities, limits the scope of impacts, and decreases the potential for habitat destruction." We protest because the BLM calculation for road density is biased, not scientific, and false, which supports the BLM statement on page 438 "Although road density in and of itself may not be the best measure of habitat effectiveness for wildlife."

Issue Number: PP-OR-Johnday-12-21-13

Organization:

Protestor: Thom Seal

Issue Number: PP-OR-Johnday-12-22-13

Organization:

Protestor: Jette Seal

Issue Number: PP-OR-Johnday-12-25-13

Organization:

Protestor: Mary Jacob

Issue Excerpt Text:

20. We protest the (page 438) "BLM prescribed and BLM interim road density". The less than 2 miles per square mile is "junk" science and engineering that is based on flat square miles on surface area square miles. We protest the whole BLM road density is a sham, junk and false. The whole section on road density should scrapped or be redone based on sound science and engineering principals.

Issue Number: PP-OR-Johnday-12-26-14

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

In addition, the information submitted regarding citizen-proposed wilderness constitutes significant new information that must be addressed prior to making decisions regarding management of lands with wilderness characteristics. This information has not yet been analyzed, so NEPA requires analysis of the potential environmental direct, indirect and cumulative effects of management decisions on these areas and consideration of protection for them before management decisions are made in the John Day Basin RMP.

Issue Number: PP-OR-Johnday-12-26-16

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

Because the BLM has not accurately evaluated or acknowledged the presence of lands with wilderness characteristics (as described in detail in the Declaration, Exhibit 2, and below), BLM has not analyzed the direct, indirect and cumulative impacts of management decisions on these lands.

Summary:

The PRMP/FEIS failed to adequately analyze the impacts of the land use plan on wildlife and lands with wilderness characteristics.

Response:

The BLM gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in the RMP/EIS. The BLM analyzed the available data that led to an adequate disclosure of the potential environmental consequences of the preferred alternative and other alternatives. As required by NEPA, the BLM has taken a “hard look” at the environmental consequence of the alternatives to enable the decision maker to make an informed decision.

The FEIS properly used road densities to analyze the impacts of travel management RMP decisions on wildlife. In order to analyze differences in effects between alternatives, the BLM relied on the analytic methods and impact thresholds (including the two miles per square mile general threshold) that were presented in “Quigley, T. M., and S. J. Arbelbide (Tech. Eds.), 1997; An assessment of ecosystem components in the interior Columbia Basin and portions of the Klamath and Great Basins, General Technical Report PNW-GTR-405, Vol. I-IV. USDA Forest Service, Pacific Northwest Research Station, Portland, OR.” (PRMP/FEIS, p. 438).

For information regarding the BLM’s identification of lands with wilderness characteristics, please see the *Wilderness Characteristics* section of this report. The BLM adequately analyzed the direct, indirect, and cumulative impacts of management decisions on lands with wilderness characteristics in Chapters 3 and 4 of the PRMP/FEIS (PRMP/FEIS, pp. 291, and 459-463).

Fish, Plants, Wildlife, and Special Status Species

Issue Number: PP-OR-Johnday-12-26-6

Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Number: PP-OR-Johnday-12-26-63

Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

In this context, the BLM has also failed to comply with the Endangered Species Act in evaluating protective measures and engaging in consultation required under Section 7 of the Act.

Issue Excerpt Text:

[BLM] should have fulfilled its section 7(a)(2) obligations with regard to the impacts of management decisions affected the acquired North Fork lands, as well.

Summary:

The BLM failed to evaluate protective measures and engage in consultation as required under Section 7 of the Endangered Species Act (ESA).

Response:

In developing the PRMP/FEIS, the BLM has fully complied with Section 7(a)(2) of the ESA, which requires Federal agencies to consult with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) to ensure that their actions are not likely to jeopardize the continued existence of any listed species or adversely modify critical habitat. The BLM prepared a Biological Assessment (BA) for the PRMP, which was provided to FWS for their review and comment. The BLM used the same information and biological data to prepare both the BA and to analyze the environmental impacts on affected endangered species in the EIS. The BA addressed the threatened fish species and habitats in the North Fork area.

The Biological Opinion (BO) is the formal opinion of the FWS and NMFS as to whether or not a federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. On March 17, 2014, the NMFS issued BO a for the PRMP, followed by the FWS, which issued a BO on March 26, 2014. These issuances conclude that implementation of the PRMP will not be likely to jeopardize the continued existence of any listed species and includes measures to avoid adverse modifications to critical habitat (the BLM's Biological Assessment and the regulatory agencies' Biological Opinions are available on the BLM's website for the John Day Basin planning effort). The BO provides the effects determination for the threatened fish species in the North Fork area, lists measures to protect the designated critical habitat for those species, and addresses the protection of essential fish habitat in the area.

Grazing

Issue Number: PP-OR-Johnday-12-26-53

Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society

Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

BLM still has not made an initial FLPMA land use allocation on whether the land [in the North Fork area] should be grazed in the first place. The agency needs to complete a study to comply with FLPMA, NEPA and other applicable authority governing the creation and allocation of grazing allotments on the public lands.

Response:

The BLM addressed this statement when it was raised by the protester in comments on the Draft RMP/EIS; see response on page T-32 of Appendix T of the PRMP/FEIS (summary statement number 79).

The John Day Basin PRMP/FEIS appropriately identifies lands available or not available for livestock grazing consistent with FLPMA, 43 CFR § 4130.2(a), and BLM land use planning policy (BLM Land Use Planning Handbook, Appendix C, pp. 14-15). Livestock grazing management for the planning area is addressed on pages 104 through 109 and in Appendix J of the PRMP. Decisions regarding the availability of lands in the North Fork area are specifically addressed on page 109.

Through the planning and NEPA process, the BLM reviewed the suitability of grazing in the North Fork area and examined a range of alternatives to meet the resource objectives for the area. The BLM weighed a variety of resource objectives in determining the availability of lands for grazing in the area.

Even though all lands acquired under the Oregon Land Exchange Act (OLEA) received the same direction regarding its emphasis for management, the distribution of resource values and use opportunities vary considerably from one area to another. In order to analyze whether to make the newly acquired lands available for grazing, the BLM partitioned the lands into potential allotments based on the land ownership history, physical features of the area, and adjacent allotment boundaries. This provided the BLM with a means to evaluate and compare alternatives. The BLM utilized these boundaries to analyze the effects of the alternatives on other resources sufficient to make a determination of the suitability of grazing for these lands.

Additional NEPA environmental analysis will occur when implementation level decisions regarding future grazing leases (e.g., allotment management plans) are made.

Soils

Issue Number: PP-OR-Johnday-12-21-5

Organization:

Protestor: Thom Seal

Issue Number: PP-OR-Johnday-12-02-5

Organization:

Protestor: Mary Jacob

Issue Number: PP-OR-Johnday-12-09-5

Organization:

Protestor: Charles Church

Issue Number: PP-OR-Johnday-12-13-5

Organization:

Protestor: Gregg Haberly

Issue Number: PP-OR-Johnday-12-17-5

Organization:

Protestor: Rusty Wright

Issue Number: PP-OR-Johnday-12-22-5

Organization:

Protestor: Jette Seal

Issue Number: PP-OR-Johnday-12-25-5

Organization:

Protestor: Mary Jacob

Issue Excerpt Text:

11. We protest the “Management Common to All Alternatives Objective S2” in regards to soils because in Figure 2-1 on page 59 less than 1% of the John Day River Basin stream conditions are non-functional and functioning at risk with a downward trend. Thus the majority of streams (near 100%) are Natural, Properly Functioning and Functioning with an Upward Trend. The BLM ignores this science and wishes to promote their unnecessary control of the public land by “managing for ecosystem health objectives” page xxiii.

Response:

Table 2-1 on page 59 depicts the BLM’s desired distribution of stream conditions for the planning area rather than the existing conditions, and relates to the PRMP’s Aquatic Objective 3 (AQ3), rather than a soils objective. The BLM relied on inventories of stream channels within the planning area to assess their conditions and to establish management objectives. Information from these inventories is displayed in Figure 3-20 and shows that the majority of BLM stream channels and floodplains within the planning area are not in a Properly Function Condition (PRMP/FEIS, pp. 269-270).

The management of the planning area to meet “ecosystem health objectives” is a key feature of the PRMP, helps achieve the BLM’s Purpose and Need to “ensure long-term sustainability of a healthy and productive landscape....” (PRMP/FEIS, pg. 9), and is consistent with FLPMA.

Wilderness Characteristics

Issue Number: PP-OR-Johnday-12-26-3
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

2. BLM's inventory of lands with wilderness characteristics was not compliant with FLPMA and current BLM guidance interpreting FLPMA re: inventory and management of the wilderness resource, including definitions of "road" and "naturalness."

Issue Number: PP-OR-Johnday-12-26-35
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

The manual also provides factors to be considered in making decisions regarding management of identified lands with wilderness characteristics. In considering where lands can be effectively managed for their wilderness characteristics, Manual 6320 directs BLM to consider if modification of the boundaries could improve manageability (6320.06.A.1.a); however, BLM failed to take the opportunity to consider boundary modifications for areas proposed by ONDA.

Issue Number: PP-OR-Johnday-12-26-38
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

BLM cites the need for restoration activities to justify its decision not to manage areas for their wilderness characteristics...Notably, in providing an overview of management decisions to protect lands with wilderness characteristics, Manual 6320 does not prohibit vegetative treatments or restoration activities, presumably because these activities can also ultimately enhance wilderness characteristics. 6320.06.A.2.d. Accordingly, BLM should not have disqualified areas based on restoration, but should have, at a minimum, evaluated alternatives that would manage these areas to protect their wilderness characteristics while permitting restoration activities with temporary impacts.

Issue Number: PP-OR-Johnday-12-26-43
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

ii. Sand Mountain

BLM found that Sand Mountain did not have wilderness characteristics. Proposed RMP, p. 291. While the Proposed RMP does not provide further detail, additional detail was provided to ONDA to indicate that BLM found the area to lack naturalness because of a 444-acre juniper treatment. Exhibit 2, Killgore Declaration, p. 12. This impacts a small percentage of the area and the treatment was conducted as part of restoration, which is consistent with one-time treatments permitted under the RMP in lands managed for their wilderness characteristics. The BLM's conclusion is inconsistent with governing law and guidance, and is an example of the "overly strict" approach to naturalness prohibited by Manual 6310 when determining if an area is "primarily affected by the forces of nature."

Issue Number: PP-OR-Johnday-12-26-44
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

iii. North Pole Ridge WSA Additions...BLM improperly identified a "road" separating the WSA from Subunit A, even though there has been no showing of maintenance or regular use, but only a speculation by the agency that it would "likely" allow maintenance by a permittee or adjacent landowner. ONDA photos confirm that this route is not a road. Exhibit 2, Killgore Declaration, p. 13. This route does not meet the definition of a road under FLPMA and BLM's guidance.

Issue Number: PP-OR-Johnday-12-26-46
Organization: Oregon Natural Desert Association,
Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:

iv. Rudio Mountain

BLM's improper identification of roads separated inventory units in the Rudio Mountain area and disqualified them from identification and management of their wilderness characteristics. Exhibit 2, Killgore Declaration, p. 14. Route A is not currently maintained or used on a regular basis, but BLM again considers that it may need to conduct maintenance for administrative access at some point in the future. This activity could be conducted but would not make this route a "road" for wilderness inventory purposes. Similarly, Route F has not been maintained to date and the right-of-way for use of the

route was closed in 1999. BLM projects that it might permit others to maintain the route in the future for specific administrative or emergency uses. Once again, preserving an option for future administrative or emergency use does not make this route a road and the units in question should be connected and acknowledged to have wilderness characteristics.

Issue Number: PP-OR-Johnday-12-26-49
Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:
BLM maintains that the remainder of the Wall Creek unit does not have wilderness characteristics, claiming that Subunit A, which consists of close to 25,000 acres, does not meet the criteria for naturalness. Although BLM claims that there is evidence of past timber harvest, ONDA's inventory has documented that the vast majority of the area (80-90%) is free of cut stumps and that the evidence of prior harvest does not dominate the area or interfere with its apparent naturalness. Exhibit 2, Killgore Declaration, pp. 5-6. BLM's conclusions are inconsistent with the specific direction in its guidance to look at whether an area appears to be affected primarily by the forces of nature and to consider boundary adjustments if this would improve manageability. 6310.06.C.2.b; 6320.06.A.1.a. ONDA has proposed a boundary adjustment by removing lands west of Inventory Route A to remove the less natural features (Exhibit 2, p. 6), which BLM should have evaluated under its guidance.

Issue Number: PP-OR-Johnday-12-26-50
Organization: Oregon Natural Desert Association, Oregon Wild, The Wilderness Society
Protestor: Peter Lacy, Doug Heiken, Nada Culver

Issue Excerpt Text:
BLM's findings of roads in Subunit A are also inaccurate. As in relation to the other ONDA proposals discussed above, BLM primarily justifies its conclusions on use and maintenance based on the potential that it will permit use of emergency or administrative purposes. However, this "purpose" is not a deciding factor in determining if these routes are roads and, further, does not require or prove that these routes "have been improved and maintained by mechanical means to insure relatively regular and continuous use." See, Manual 6310, Glossary. While these routes may remain usable, that fact does not make them "roads" for purposes of wilderness inventory. Routes 3058, 3407, B, C, D, and E all fall into this category. Exhibit 2, Killgore Declaration, pp. 7-12. BLM has also acknowledged that the Graves Creek Road (Route 3408) is not a "public use road" (Appendix T, p. T-99). This route is also currently closed and is not maintained to ensure regular use. Exhibit 2, Killgore Declaration, pp. 9-10. BLM still claims that Route 3407 is a public use road, but this term is not defined anywhere in the Proposed RMP and this status is not supported by the condition of the route. Id. These routes should not be used to separate lands in the North Fork or to argue that these lands are not "roadless" for purposes of inventorying lands with wilderness characteristics.

Summary:

The PRMP/FEIS failed to adequately consider lands with wilderness characteristics because:

- The BLM did not properly apply the definition of "road" during the inventory process to the North Pole Ridge WSA Additions Subunit A, Radio Mountain, and Wall Creek Subunit A areas;
 - The BLM did not properly apply the definition of "naturalness" during the inventory process with regards to the Sand Mountain and Wall Creek Subunit A areas;
 - The BLM did not consider boundary modification to improve the manageability of lands with wilderness characteristics in Wall Creek Subunit A; and
 - The BLM improperly cited the need to conduct restoration activities as a reason not to manage areas to protect wilderness characteristics.
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Response:

Chapter 3 of the PRMP/FEIS explains the process and guidance the BLM followed when it conducted the wilderness characteristics inventory, and how citizen information was considered in the process. The BLM incorporated the wilderness characteristics inventory by reference into the PRMP/FEIS (PRMP/FEIS, p. 291). The wilderness characteristics inventory is available online at <http://www.blm.gov/or/districts/prineville/plans/inventas.php>, and is also available for inspection at the BLM Prineville District Office. The specific points raised by the protestors are addressed in the sections below:

Identification of Wilderness Inventory Roads

When inventorying for wilderness characteristics, BLM Manual Section 6310.07 defines the term “road” based on FLPMA’s legislative history. The following language is from the House of Representatives Committee Report 94-1163, p. 17, dated May 15, 1976, on what became FLPMA: “The word ‘roadless’ refers to the absence of roads that have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.” The BLM considers routes that have been improved and maintained by mechanical means to insure relatively regular and continuous use to be wilderness inventory roads (BLM Manual Section 6310.07).

BLM Manual Section 6310.07 further defines the following two terms:

Improved and maintained: Actions taken physically by people to keep the road open to vehicle traffic. “Improved” does not necessarily mean formal construction. “Maintained” does not necessarily mean annual maintenance.

Relatively regular and continuous use: Vehicular use that has occurred and will continue to occur on a relatively regular basis.

BLM Manual Section 6310.07 discusses how the issue of maintenance should be considered when conducting a wilderness characteristics inventory: “Wilderness inventory roads need not be ‘maintained’ on a regular basis but rather ‘maintained’ when road conditions warrant actions to keep it in a usable condition...A route, or segment of a route, which was mechanically improved to permit the passage of vehicles, but which to date has not needed any further mechanical improvements or maintenance to facilitate the relatively regular and continuous passage of vehicles, can be a road in those circumstance where the road would be maintained if the need were to arise.”

Appendix C of BLM Manual Section 6310 provides a route analysis form to assist BLM staff when conducting the wilderness characteristics inventory. The route analysis form states that in order to find evidence of maintenance that would ensure relatively regular and continuous use, a route must meet one of the following criteria: (1) evidence or documentation of maintenance using hand tools or machinery; or (2) if the route is in good condition, but there is no evidence of maintenance, mechanical maintenance with hand tools or machines would be approved by the BLM to meet the purpose(s) of the route in the event this route became impassable (BLM Manual Section 6310 Appendix C, p. C-3).

In determining whether or not maintenance would be approved in the future, the “purpose of the route provides context when the BLM considers whether maintenance...that may so far have been unnecessary to insure the use, would occur when the need arises” (BLM Manual Section 6310.07). Thus, the BLM may consider the need for administrative, emergency, or other types of access when determining if maintenance would be approved for specific routes in the John Day Basin planning area.

The BLM properly identified Route B, which separates the North Pole Ridge WSA Additions Subunit A from the North Pole Ridge WSA, as a wilderness inventory road. The route was maintained using machinery when a landowner used a piece of heavy equipment to blade the Smith Canyon ridge portion of the route in 2008. In addition, the BLM has indicated that it will likely allow necessary maintenance by the grazing permittee and/or the adjacent owner should maintenance become necessary to keep it in a usable condition (Wilderness Characteristics Inventory Update-North Pole Ridge WSA Additions Inventory Unit-OR-054-020, pp. 11-12).

The BLM properly identified portions of Route A in the Rudio Mountain Inventory Unit as a wilderness inventory road. The route was maintained during emergency wildfire suppression activities in 2007. The BLM has indicated that it would allow maintenance of the most upstream one-third of the route and the most downstream one-third of the route to allow access to private inholdings. Therefore, while the middle one-third of the route is not a wilderness inventory road, the BLM properly determined that the most upstream one-third and most downstream one-third of the route to be a wilderness inventory road (Wilderness Characteristics Inventory Update-Rudio Mountain Unit-OR-054-027, pp. 8-9).

The BLM properly identified Route F in the Rudio Mountain Inventory Unit as a wilderness inventory road. The BLM has indicated that it would allow others to maintain the route as needed (Wilderness Characteristics Inventory Update-Rudio Mountain Unit-OR-054-027, pp. 20-21).

The BLM properly identified Routes 3058, 3407, 3408, B, C, D, and E in the Wall Creek Subunit A as wilderness inventory roads. For Routes 3058, 3407, B, and D, the BLM has found documentation or evidence of maintenance using machinery and has indicated that mechanical maintenance would be approved by the BLM in the event a route becomes impassable. For Routes C and E, the BLM has indicated that mechanical maintenance would be approved by the BLM in the event that a route becomes impassable. For Route 3408, the BLM has found evidence or documentation of maintenance using machinery (Wilderness Characteristics Inventory Update-Wall Creek Unit-OR-054-042, pp. 9-10, 13-14, 20-21, 22-23, 24-25, and 26-27).

The BLM properly found that vehicular use has occurred and will continue to occur on a relatively regular basis on Route 3407 in the Wall Creek Subunit A. The route is seasonally open to motorized travel from April 16 to November 30, as shown on the map that the BLM distributed to the public titled the North Fork John Day River Interim BLM Access Map June 1, 2002. This route is regularly used by recreationists, local landowners, and for administrative use by the BLM and USFS.

Upon consideration of the information presented in the protestor's letter regarding relatively regular and continuous use on Route 3408, the BLM has determined that relatively regular and continuous use is not occurring on Route 3408. Thus, Route 3408 is currently not a road for wilderness characteristics inventory purposes. The BLM has updated its wilderness characteristic to reflect this change. The finding that Route 3408 is not a road does not change the BLM's finding that Wall Creek Subunit A does not possess wilderness characteristics. Route 3408 is located in the interior of Subunit A, and the route was not used to delineate a subunit boundary. Since the finding that Route 3408 is not a road would not alter any subunit boundaries, and the public lands on both sides of Route 3408 were found to lack wilderness characteristics, the BLM's findings for the Wall Creek Subunit A inventory unit remain unchanged. Therefore, the PRMP/FEIS still considers a full range of alternatives for the management of wilderness characteristics and adequately analyzes the potential impacts of those alternatives.

Naturalness

BLM Manual Section 6310 provides direction for determining if an area possesses "naturalness" during the inventory process. The manual states that for an area to possess naturalness, "the area must appear to have been affected primarily by the forces of nature, and any work of human beings must be substantially unnoticeable" (BLM Manual Section 6310.06.C.2.b.i.1).

Through the inventory process, the BLM properly found that Sand Mountain does not possess naturalness because there is a prominent 444 acre juniper cut located in the center of the subunit that visually dominates much of the inventory unit. The cut trees are lying on the ground and the needles have dried and fallen off. A common observer would not currently conclude that natural processes dominate the area (Wilderness Characteristics Inventory Update-Sand Mountain Unit-OR-054-011, p. 6).

Through the inventory process, the BLM properly found that Wall Creek Subunit A does not possess naturalness because the subunit shows evidence of past timber harvest. Tree stumps and constructed haul roads are apparent in many locations, and users traversing the unit would repeatedly encounter this evidence of past human use (Wilderness Characteristics Inventory Update-Wall Creek Unit-OR-054-042, p. 6).

Boundary Modifications

Manual Section 6320.06.A.1.a, cited by the protestors, provides guidance to the BLM to consider through the land use planning process whether boundary modification of areas found to contain wilderness characteristics would improve manageability. Thus it is a process of excluding portions of units already found to possess wilderness characteristics. It does not direct the BLM to consider boundary modification for manageability purposes when the BLM is inventorying areas to determine if they possess wilderness characteristics.

Manual Section 6310.06.C.1 states that "the boundary [of inventory units] is generally based on the presence of wilderness inventory roads..., and can also be based on property lines between lands in Federal ownership and other ownerships or developed rights of way." Therefore, the BLM used property lines to delineate the western boundary of Wall Creek Subunit A. Inventory Route A in the Wall Creek Subunit A does not completely bisect the subunit, and therefore it was

not used to establish new subunits: “the road [Inventory Route A] associated with the ROW does not completely bisect the subunit, therefore the road, the ranch buildings, and the communication site could be cherry-stemmed out of the subunit” (Wilderness Characteristics Inventory Update-Wall Creek Unit-OR-054-042, p. 4).

Management of Lands with Wilderness Characteristics

The BLM evaluates management options for lands with wilderness characteristics through the land use planning process. When such lands are present, the BLM examines options for managing these lands and determines the most appropriate land use allocations for them. Considering wilderness characteristics in the land use planning process may result in several outcomes, including the decision to emphasize other multiple uses as a priority over protecting wilderness characteristics (BLM Manual Section 6320.06.A).

The BLM considers many factors, including the presence of other resource values and uses and the extent to which they would be forgone, adversely affected, or benefited if wilderness characteristics were to be protected as part of the evaluation process (BLM Manual Section 6320.06.A.1.b). As documented in the PRMP/FEIS, many areas with wilderness characteristics also contain invasive species and important wildlife habitat. Therefore, in the Proposed Alternative, the BLM decided not to manage to protect 15,840 acres of lands with wilderness characteristics in order to restore ecological process, promote important wildlife habitats, and reduce invasive species through multiple or aggressive vegetation management treatments. The BLM determined that more aggressive or multiple vegetation treatments would be substantially noticeable and would not become substantially unnoticeable within reasonable timeframes (PRMP/FEIS, p. 82).

The PRMP/FEIS considered a full range of reasonable alternatives for managing lands with wilderness characteristics. For more information, please see the *Range of Alternatives* section of the protest report.