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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

WESTERN WATERSHEDS PROJECT, et. al,)	
)	
Plaintiff(s),)	Case No.: 09-CV-00507- BLW
)	
vs.)	MOTION TO DISMISS
)	
BUREAU OF LAND MANAGEMENT, et. al.,)	
)	
Defendant(s).)	
)	

The Bureau of Land Management moves to dismiss this case. There are no remaining issues before the Court, and the case has sat inactive on the Court's docket for over two years. With no controversy remaining, the case should be dismissed.

Plaintiff WWP filed its Complaint against the BLM on October 5, 2009, concerning domestic sheep grazing on the Partridge Creek allotment. Located between other allotments on the Payette and Nez Perce National Forests, the Partridge Creek allotment is in the Salmon River canyon in central Idaho and occurs within bighorn sheep habitat (Docket No. 1). The Complaint

alleged two counts: a violation of NEPA and the Federal Land Policy and Management Act. However, the primary purpose of the Complaint was to enjoin grazing on the Partridge Creek allotment while the BLM completes its supplemental environmental analysis on four domestic sheep allotments with the BLM Cottonwood Field Office. The analysis will address interaction of domestic and bighorn sheep on the Partridge Creek allotment.

The Plaintiff moved for a temporary restraining order (TRO).¹ The Court heard oral argument on the TRO on October 6, 2009. On October 14, 2009 the Court granted the motion to enjoin grazing until November 2, 2009, when an evidentiary hearing was scheduled to determine whether the injunctive relief should continue. (Docket No. 5).

No hearing was necessary because the BLM chose not to oppose the request for injunctive relief. (Docket No. 7). The non-opposition was based on a careful review of the Court's findings concerning the TRO. Specifically, the Court held that the certification by the Idaho State Fish and Game to allow grazing on the Partridge Creek allotment was without merit and had no legal authority. In light of that holding, the BLM decided that it would close the Partridge Creek allotment while its analysis is underway. The Court acknowledged that BLM agreed to extend the injunction to close the Partridge Creek allotment from grazing while the agency completes its environmental analysis. (Docket No. 17). The BLM has begun this environmental analysis, but it is years away from completion.

¹ As explained in the Court's Memorandum Decision and Order (Docket No. 5, p. 1-2) WWP originally filed the TRO in a separate action, namely 07-cv-151-E-BLW. However, the BLM was not named a defendant in that action. To cure this defect, the Court required WWP to file a new action against the BLM which became this case. Because WWP sought emergency relief, the Court deemed the motion for the TRO filed in 07-cv-151-E-BLW as filed in the new action. For that reason, the docket of this case does not contain those pleadings.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 15 day of June, 2011, the **Motion to Dismiss** was electronically filed with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

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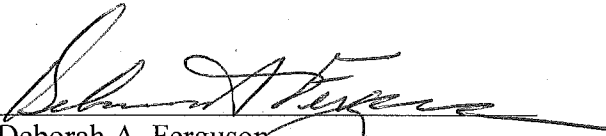


Pamela A. Hamlin
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In the interim, there are no issues remaining before the Court and the Plaintiff has not pursued the case further. Because there are no domestic sheep grazing on the Partridge Creek allotment, and there will be none while the NEPA process is ongoing, there is no conflict between domestic and bighorn sheep on the allotment. Future grazing on the allotment will be based on a new decision and NEPA documents. Should that decision be challenged that must occur in a new future case. In the absence of any remaining controversy, this case should be closed and a final judgement entered. Accordingly, the BLM moves the Court to dismiss this case.

Respectfully submitted this 1ST day of June, 2011.

WENDY J. OLSON
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BY:


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