

Exhibit 5

Excerpt of Record, ONDA v. Jewell



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Dear Mr. Crowley:

As you requested, Northwest Wildlife Consultants continued avian surveys on CEP's East Ridge and West Ridge project sites during the winter months of 2008-09. We will provide a full report when surveys are completed, but here is a brief summary of the winter results.

As we anticipated, travel was sometimes restricted due to snow and weather conditions. CEP's provision of a snow cat to facilitate safe and reliable access made many more visits possible than would otherwise have been the case.

I traveled to East Ridge and conducted avian use surveys on these dates: 11/27, 12/4, 12/12, 12/17, 1/16, 1/21, 1/31, 2/6, 2/13, 2/20, 2/28, 3/7, 3/12, and 3/23. Although greater sage grouse were not detected on East Ridge throughout summer and fall, a flock of 36 was found on 12/17, which coincided with the first heavy snowfall. They appeared to continue to lower elevations, and there is evidence of only a few birds spending a single night. Four sage grouse were also found on 2/28. From January through March, there was little avian activity, with Townsend's solitaires and American robins accounting for most of the small number of detections.

I conducted surveys on West Ridge on these dates: 11/26, 12/5, 12/11, 12/18, 2/12, 2/19, 2/27, 3/6, and 3/24. Nine greater sage grouse were detected on 12/11, but none have been found on West Ridge since. Indeed, by January deep snows covered most of this project. Bird use was—and still is—largely confined to the lower (northern) portion. A great-horned owl began nesting (at above 6000 feet) in early March.

Once again, full details will be included in our final report for each site. Respectfully submitted,

Rick Gerhardt

Wildlife Biologist

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Specializing in Eastern Oregon and Washington Wildlife Surveys