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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

UNITED STATES OF AMERICA,

10-CR-60066-HO

v.

**UNITED STATES' MOTION TO DISMISS
COUNTS 3 AND 4 OF THE INDICTMENT**

**STEVEN DWIGHT HAMMOND,
DWIGHT LINCOLN HAMMOND, JR.**

Trial Date: April 2, 2012

Defendants.

The United States of America, by and through S. Amanda Marshall, United States Attorney for the District of Oregon, and Frank R. Papagni, Jr. and AnneMarie Sgarlata, Assistant United States Attorneys, moves pursuant to Fed.R.Crim.P. 48(a), to dismiss Counts 3 and 4 of the Indictment for the reason that it is in the best interest of justice. These counts charge Defendant Steven Hammond with the 2005 Fir Creek arson and Depredation of Government Property by Use of Fire.

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GROUND FOR DISMISSAL

2005 – Fir Creek Arson

On August 22, 2005 and August 23, 2005, there was a fire on public lands that burned approximately 1,343 acres owned by the United States in the Fir Creek area of the Steens Mountain Cooperative Management and Protections Area. The “Fir Creek” fire was started by dry lightning.

There is probable cause to believe, based in part on his admission to rancher Bill Otley, that Steven Hammond ignited a second fire. Nevertheless, the government moves for the dismissal of Count 3 that charges him with arson, and Count 4 that charges by committing the arson, he caused more than \$1,000 in damage to the government’s property because it cannot be proven beyond a reasonable doubt where Steven Hammond set the incendiary fire(s) on the approximately 1,343 acres that were burned.

CONCLUSION

Based on the foregoing, the Government respectfully moves to dismiss Counts 3 and 4 of the Indictment.

DATED this 17th day of February 2012.

Respectfully submitted,

S. AMANDA MARSHALL
United States Attorney

/s/ Frank R. Papagni, Jr.
FRANK R. PAPAGNI, JR.
Assistant United States Attorney

/s/ AnneMarie Sgarlata
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