

Categorical Exclusion Review
 U.S. DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 Boise District Office
 Four Rivers Field Office

Slickspot Peppergrass Ecological Reference Areas

CE No.: DOI-BLM-ID-B010-2011-0040-CX	Lease/Serial/Case File No.:																														
<p>Purpose and Need for Action: The need of the proposed action is to comply with requirements of the 2006 (as amended in 2009) Slickspot Peppergrass Conservation Agreement (CA) between the U.S. Bureau of Land Management (BLM) and the Idaho State Office U.S. Fish and Wildlife Service-Snake River Fish and Wildlife Office (USFWS). Specifically, the Special Status Animal and Plant section for BLM Implementation Actions 1(c)(i) requires the BLM to: “Establish permanent ecological reference areas (ERAs) in selected EOs to evaluate land health conditions associated with slickspot peppergrass.” The objectives would be to:</p> <ul style="list-style-type: none"> • Protect portions of known slickspot peppergrass element occurrences and their associated habitat. • Comply with section 1(c)(i) of the CA. • Minimize impacts to other resources and permitted activities where possible. 																															
<p>Description of Proposed Action: The BLM would construct up to ten enclosures around ten separate areas of BLM rangeland totaling approximately 620 acres. During the spring and summer of 2012 BLM would construct five enclosures in the following management areas (MA)(Maps 1-5):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Location</th> <th style="width: 20%;">Length of Enclosure Fence</th> <th style="width: 20%;">BLM Acres Enclosed</th> <th style="width: 20%;">Grazing Allotment</th> <th style="width: 20%;">Total BLM acres in Allotment</th> </tr> </thead> <tbody> <tr> <td>MA 1</td> <td>1.0 mi fence</td> <td style="text-align: center;">62</td> <td>Black Canyon 00176</td> <td style="text-align: center;">4,625</td> </tr> <tr> <td>MA 6</td> <td>1.1 mi fence</td> <td style="text-align: center;">43</td> <td>Sunnyside Spring Fall 00825</td> <td style="text-align: center;">152,728</td> </tr> <tr> <td>MA 7</td> <td>1.0 mi fence</td> <td style="text-align: center;">40</td> <td>Sunnyside Spring Fall 00825</td> <td style="text-align: center;">152,728</td> </tr> <tr> <td>MA 9</td> <td>1.6 mi fence</td> <td style="text-align: center;">82</td> <td>Mt. Home Subunit 00813</td> <td style="text-align: center;">76,200</td> </tr> <tr> <td>MA 10</td> <td>1.5 mi fence</td> <td style="text-align: center;">184</td> <td style="text-align: center;">NA</td> <td style="text-align: center;">NA</td> </tr> </tbody> </table>		Location	Length of Enclosure Fence	BLM Acres Enclosed	Grazing Allotment	Total BLM acres in Allotment	MA 1	1.0 mi fence	62	Black Canyon 00176	4,625	MA 6	1.1 mi fence	43	Sunnyside Spring Fall 00825	152,728	MA 7	1.0 mi fence	40	Sunnyside Spring Fall 00825	152,728	MA 9	1.6 mi fence	82	Mt. Home Subunit 00813	76,200	MA 10	1.5 mi fence	184	NA	NA
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<p>The enclosures would be constructed of metal posts, with two strands of barbed wire (upper and middle strands) and one strand of smooth wire (bottom strand), in accordance with Boise District wildlife protection standards for fence construction. Cross-country vehicle travel would be minimized and would only occur when soils are dry. Vegetation removal along the fenceline would be minimized. The intention of the enclosures would be to eliminate grazing from the enclosures and protect known slickspot peppergrass element occurrences and their associated habitat. Because of the small size of the enclosures relative to the affected grazing allotments, no adjustments would be made to livestock permits.</p>																															
<p>Project Location: MA 1 - T 06 N R 04 W Section 1 MA 6 – T 01 N R 01 W Section 20 MA 7 – T 01 S R 02 E Section 27 MA 9 - T 03 S R 07 E Sections 21, 22 MA 10- T 04 S R 09 E Section 31, T 05 S R 09 E Section 6</p>																															
<p>Applicant (if any): NA</p>																															

Part I – Plan Conformance Review

This proposed Action is subject to the following land use plans:

The proposed action would be in conformance with the Cascade Resource Management Plan (pgs. 12, 48), Jarbidge Resource Management Plan (pg. 85), and the Snake River Birds of Prey National Conservation Area (BOPNCA) Resource Management Plan (pg. 2-5) because all three documents address the need to protect federally listed and BLM sensitive plant species.

Date Plan Approved: Cascade Resource Management Plan –July 1, 1988; Jarbidge Resource Management Plan-August 1984; Snake River Birds of Prey National Conservation Area Resource Management Plan-September 2008.

Remarks: The proposed action is also in conformance with the 2006 (as amended in 2009) Conservation Agreement (CA) between the U.S Bureau of Land Management-Idaho State Office and the U.S. Fish and Wildlife Service-Snake River Fish and Wildlife Office.

Part II – NEPA Review

- A. Categorical Exclusion Review: This proposed action qualifies as a categorical exclusion under 516 DM 11.9 J (9) Category description: Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study areas.

- B. Departmental List of Extraordinary Circumstances Review: Before any non-Energy Act CX is used, you must conduct sufficient review to determine if any of the following extraordinary circumstances apply (516 DM 2, Appendix 2). If any of the extraordinary circumstances are applicable to the action being considered, either an EA or an EIS must be prepared for the action. Part 516 of the Departmental Manual (516 DM 2, Appendix 2) states that extraordinary circumstances exist for individual actions within CXs which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)

List of Extraordinary Circumstances

1. Have significant impacts on public health or safety.

Yes No Specialist Signature/Date: *Mark Steiger* 3/31/2011

Comments/Explanation: Building new fences in an area already dominated by many miles of fence would not constitute a significant safety hazard because the public land users are accustomed to recreating and or operating in these areas.

2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; or ecologically significant or critical areas, or is not in compliance with the Fish and Wildlife Coordination Act.

Yes No Specialist Signature/Date: *Mark Steiger* 3/31/2011

Comments/Explanation: Three of the proposed enclosures are in the Morley Nelson BOPNCA and their construction would be in compliance with existing NCA regulation. All five of the enclosures also occur inside existing Slickspot Peppergrass Management Areas and their construction would be in compliance with guidance established in both the 2006 CCA (State of Idaho) and the 2009 CA (USFWS). Construction of all five facilities would provide additional protection to existing slickspot peppergrass plants and the adjacent slickspot peppergrass habitat. The proposal would not affect any other natural resources or unique geographic characteristics.

3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

Yes No Specialist Signature/Date: *Seth Flanigan* - 11/29/2011

Comments/Explanation: The effects from building fences are not controversial. They are known and widely understood.

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental

risks.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Seth Flanigan</i> - 11/29/2011
<i>Comments/Explanation:</i> BLM has extensive experience building fences. The impacts are understood and at the small scale of this project, would not result in significant impacts.		
5. Establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Seth Flanigan</i> 11/29/2011
<i>Comments/Explanation:</i> This proposal would not establish a precedent for future actions. Any new proposals would be evaluated on their own merit. There are no connected actions with this proposal.		
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant environmental effects.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Seth Flanigan</i> 11/29/2011
<i>Comments/Explanation:</i> The impacts from fencing are ground disturbance and habitat fragmentation. Ground disturbance is limited to fence post holes and habitat fragmentation for wildlife is not an issue because fences would be constructed to allow wildlife movement. When these effects are added to past present, and future actions they do not constitute a significant effect.		
7. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Dean Shaw</i> 7/7/2011
<i>Comments/Explanation:</i> Cultural resource surveys were conducted along a 100 foot corridor in which the enclosure would be placed. These surveys revealed that the proposed enclosures would not impact cultural resource sites that are listed or eligible to be listed on the National Register of Historic Places. The exact location +/- 10 feet has not yet been determined. Prior to fence construction, the projects would be flagged on the ground and the cultural resource specialist would conduct a more detailed survey of the fence location. If any cultural resources are located along the proposed fence line, the fence would be moved to avoid potential impacts to these cultural resources.		
8. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or on designated Critical Habitat for these species.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date for Plants: <i>Mark E. Steiger</i> 3/31/2011 Specialist Signature/Date for Wildlife: <i>Jill Holderman</i> 7/6/2011 Specialist Signature/Date for Aquatics: NA
Plants: <i>Comments/Explanation:</i> The proposed enclosures would be established around segments of known slickspot peppergrass EOs to protect these areas from the effects of livestock grazing. This action would be in accordance with the 2006 (as amended in 2009) Conservation Agreement between BLM and the USFWS.		
Wildlife: <i>Comments/Explanation:</i> Some of the enclosures fall within the Morley Nelson Birds of Prey National Conservation Area. This area was set aside for the protection of the birds and habitat to help maintain raptor populations. New fences pose the risk of raptor strikes into the fence line. Vinyl reflectors would be placed on the fence line in accordance with district fence marking guidelines for wildlife which should increase visibility for raptors so fence collisions are reduced. All enclosure fences would be marked with vinyl reflectors for the benefit of both raptors and wintering sage-grouse in those areas in which they are known to occur.		
Aquatics <i>Comments/Explanation:</i>		
9. Violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment.		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Mark Steiger</i> 3/31/2011
<i>Comments/Explanation:</i>		
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Mark Steiger</i> 3/31/2011
<i>Comments/Explanation:</i> There are no low income or minority populations within the project area.		
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Dean Shaw</i> 7/7/2011
<i>Comments/Explanation:</i> The construction of the exclosures would not limit access to and ceremonial use of Indian scared sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such scared sites.		
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Specialist Signature/Date: <i>Lonnie Huter</i> 7/14/11
<i>Comments/Explanation:</i> The proposed exclosures would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of range species. Ground disturbing activities would be minimal (pounding posts in the ground) and would not be expected to promote the spread of noxious weeds.		
I certify that none of the Departmental exceptions (Extraordinary Circumstances) listed in the above Part II (516 DM 2, Appendix 2) apply to this action; therefore, this categorical exclusion is appropriate for this situation. Remarks:		
Authorizing Official: <i>/s/ Matthew McCoy</i>		Date: 4/27/12
<i>For</i>		
Name: Terry A. Humphrey Title: Four Rivers Field Office Manager		

DECISION

Slickspot Peppergrass Ecological Reference Areas DOI-BLM-ID-B010-2011-0040-CX

This decision would authorize the Bureau of Land Management to construct up to ten separate enclosures around ten separate areas of BLM rangeland totaling approximately 620 acres located in the Snake River Plain and Boise Foothills. During the spring and summer of 2012 BLM will construct five of these enclosures. The other five will be constructed in the future at the convenience of BLM as resources and funding become available. The intention of the enclosures would be to eliminate grazing from the enclosures and protect known slickspot peppergrass element occurrences and their associated habitat.

Terms:

Potential wildlife concerns will be mitigated by implementing the following measures;

- 1) All enclosures will be constructed of metal posts, with two strands of barbed wire (upper and middle strands) and one strand of smooth wire (bottom strand), in accordance with wildlife protection standards.
- 2) All enclosure fences will be marked with vinyl reflectors for the benefit of both raptors and wintering sage-grouse in those areas in which they are known to occur

Rationale:

The purpose of the proposed action is to comply with requirements of the 2006 (as amended in 2009) Slickspot Peppergrass Conservation Agreement between the U.S. Bureau of Land Management and the Idaho State Office U.S. Fish and Wildlife Service-Snake River Fish and Wildlife Office. This action is needed to protect those slickspot peppergrass element occurrences and associated habitat that still retain a high component of native plant diversity and integrity from the effects of livestock grazing. These areas may serve as refugia for native plants in general and slickspot peppergrass in particular and may also be used for future assessment of the potential impacts of livestock grazing on slickspot peppergrass and its habitat.

Appeals:

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to implement the project, as described, with the mitigation measures either identified below or with the stipulation(s) described above.

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management Four Rivers Field Office 3948 Development Avenue, Boise Idaho, 83705. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St. Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

To file a petition for stay pursuant to 43 CFR part 4.21(b), it must accompany your notice of appeal and must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

Authorizing Official: /s/ *Matthew McCoy*

Date: 4/27/12

For

Name: Terry A. Humphrey

Title: Four Rivers Field Office Manager