

Decision Record

Red Rock Hazardous Fuels Reduction Project

Environmental Assessment Number: DOI-BLM-NV-S000-2011-0002-EA

Compliance and Conformance

Compliance with the following laws:

- 40 CFR 1500 through 1508. 1978. Regulations for Implementing the National Environmental Policy Act. Office of the Federal Register, National Archives and Records Administration, US Government Printing Office, Washington, DC.
- The Clean Air Act of 1970 (as amended in 1977 and 1990). 42 USC 7401 et seq. PL 91-604; 42-USC 1857h-7 et seq.
- The Clean Water Act of 1977 (as amended). 33 USC 1251-1387. PL 92-500.
- The Code of Federal Regulations (CFR). (Determining Conformity of Federal Actions to State or Federal Implementation Plans, 40 CFR 93.153).
- The Endangered Species Act of 1973 (as amended). 16 USC 1531 et seq. PL 93-205.
- Executive Order 11988 (as amended). 1977. Floodplain Management. May 24.
- Executive Order 11990. 1977. Protection of Wetlands. May 24.
- Executive Order 13112. 1999. Invasive Species. February 3.
- The Federal Insecticide, Fungicide and Rodenticide Act of 1910 (as amended in 1972, 1988 and 1996). (P. 80-104) 7 U.S.C. § 136 et seq.
- The Federal Land Policy and Management Act of 1976 (43 U.S. C. §§ 1701-1782, October 21, 1976, as amended 1978, 1984, 1986, 1988, 1990-1992, 1994 and 1996).
- The Migratory Bird Treaty Act of 1918, as amended (16 USC 703 et seq.).
- The National Environmental Policy Act of 1969 as amended. Public Law 91-190, 42 USC 4321-4347, Public Law 94-52, July 3, 1975, Public Law 94-83, August 9, 1975, and Public Law 97-258, § 4(b), Sept. 13, 1982.
- The National Historic Preservation Act of 1966 as amended. 16 USC 470a et seq. 80 Stat. 915; PL 89-665.
- The Federal Noxious Weed Act of 1975. Public Law 93-629. 7 USC 2801 et seq.; 88 Stat. 2148. January 3.
- The Public Rangelands Improvement Act of 1978. 43 USC 1901-1908. PL 95-514.
- The Red Rock Canyon National Conservation Area Establishment Act of 1990 (PL 101-621).
- The Wild Free-Roaming Horses and Burros Act of 1971. PL 92-195.

Conformance with the following Bureau of Land Management (BLM) Land Use Plans:

- Red Rock Canyon National Conservation Area Resource Management Plan (RMP) and Record of Decision (ROD) (2005).
- Las Vegas Field Office Fire Management Plan (2004).

The Council on Environmental Quality regulations at 40 CFR 1508.28, provides for tiering this Environmental Assessment (EA) to a broader Environmental Impact Statement (EIS). This EA tiers to the Final Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States, Programmatic Environmental Impact Statement and ROD (2007).

Selected Action

It is my decision to approve the Red Rock Hazardous Fuels Reduction Project. The selected action is Alternative A: Utilize two herbicides to treat and reduce the amount of non-native invasive annual grasses and their seed bank to create fuel breaks on BLM administered land in the Red Rock Canyon National Conservation Area (RRCNCA). This is the Proposed Action as described in EA, DOI-BLM-NV-S000-2011-0002-EA dated June 25, 2012.

The herbicides Plateau® and/or Journey® will be strategically applied to reduce invasive grasses, provide defensible space for public and private structures, and ultimately reduce the threat of landscape-scale wildfire. Plateau® will be applied within linear strips adjacent to existing corridors such as the Scenic Drive and hiking trails, along terrain features and around buildings (RRCNCA Visitor Center, RRCNCA Fire Station, Moenkopi Campground and private residences in Blue Diamond and Calico Basin). These treated buffers will add 300 feet of defensible space to each feature being protected. Typically along roads and trails treatments will be applied to a width of 150 feet on each side.

Fire scars will be treated with Plateau® and/or Journey® beginning with 300 foot buffers inside each scar to prevent a fire start within from spreading to a previously unburned area. The area of linear treatment buffering fire scars accounts for 692 acres. Additionally, Journey® will be applied to the interior of burned areas, composed of a remaining 2,346 acres scarred by fire. Within these burned areas native plant recovery has been limited.

The total proposed area of linear fuel breaks will compose 2,114 acres along approximately 65 miles. In total, herbicide will be applied to 4,460 acres infested by invasive grasses.

Herbicide treatments will be applied primarily by ground crews wearing backpack sprayers. Ground crews will implement higher precision application, targeting areas where annual grasses are abundant and avoiding contact with native plants and sensitive species. Aerial application of herbicide by helicopter may also be utilized along portions of the Scenic Drive to reduce the duration of any temporary road closures.

The project treatment configuration was selected to exclude suitable habitat for yellow two-tone beardtongue (*Penstemon bicolor* ssp. *bicolor*), a BLM Sensitive Plant Species and U. S. Fish and Wildlife Service (USFWS) Species of Concern. Washes within the project area are the documented habitat of this endemic species of penstemon. Along State Route 159 from north of Blue Diamond, NV to State Route 160, treatments will be 300 feet from just the east roadside. This measure avoids washes on the west roadside that provide potential habitat. Project avoidance measures such as removing the northern section of the Scenic Drive from treatment and treating 300 feet out from just the east side of a portion of State Route 159 (T. 20S, R. 58E Sect. 34) are intended to preserve populations of this unique penstemon species.

The BLM Southern Nevada District Office (SNDO) has determined that authorization of the Red Rock Hazardous Fuels Reduction Project will not result in significant impacts based on the EA and the Finding of No Significant Impact. The following Best Management Practices (BMPs), Standard Operating Procedures (SOPs), Terms and Conditions, and mitigation measures identified in the EA for the Proposed Action will be adhered to such as:

Best Management Practices

1. Sensitive/Endemic Plant Species

- a. Qualified biologists will conduct rare plant surveys within and adjacent to the project area in the appropriate season to determine if rare plant(s) have the potential to occur.
- b. Project biologists will conduct pre-treatment clearance surveys for sensitive/endemic species within the project area.
- c. Areas of high succulent/yucca/cactus density will not be treated with herbicide. These species will be salvaged where there is a threat of loss.

2. Recreation

- a. Portions of the Scenic Drive will be treated aurally to limit closure.
- b. Employees and Contractors will set up signage describing activities and locations to inform visitors of treatment areas and minimize the disruption of recreational activities. Material Safety Data Sheets (MSDSs) will be available for the public at the RRCNCA Visitor Center and the SNDO.

3. Implementation

- a. The Worker Environmental Awareness Program (WEAP) will be administered to all on-site personnel identifying the sensitive biological and cultural resources known to occur in the project area, the appropriate BMPs required to reduce water quality impacts, and appropriate trash disposal and maintenance locations.
- b. The WEAP will emphasize restrictions such as no feeding the wildlife, bringing domestic pets to the project site, collecting native plants, or harassing wildlife.

4. Wild Horses/Burros

- a. Treatments will occur during the fall/winter season (September — February) to avoid wild horse and burro foaling season.
- b. Employees and Contractors will remain at least 0.25 miles from the water sources in the Herd Management Area to prevent unnecessary stress on the animals.
- c. Employees and Contractors will not harass (feed, pet, chase, etc.) wild horses and burros if encountered on or near the treatment areas, trails, or equipment parking areas.

5. Wildlife

- a. Treatments will occur during the fall/winter season (September — February) avoiding wildlife seasonal sensitive times, such as migratory bird and bird breeding (March 1 - August 31), and desert tortoise season.

- b. Employees and Contractors will remain 160 feet from occupied burrowing owl burrows.
 - c. The minimization measures as stated in the USFWS Biological Opinion (BO) for desert tortoise will be strictly adhered to.
 - d. The Nevada Department of Wildlife (NDOW) banded Gila monster protocol will be incorporated into the WEAP.
6. Herbicide
- a. The use of herbicides and all adjuvants (chemicals that improve herbicide effectiveness) for this project will require a Pesticide Use Permit be submitted to the SNDO Weed Coordinator no less than one month prior to application.
 - b. A Pesticide Application Report must be completed for monitoring within 24 hours of application and submitted to the SNDO Weed Coordinator within one week of application.
 - c. All herbicide applicators will carry required credentials for the State of Nevada and the Department of the Interior.
 - d. Label specifications will guide helicopter, backpack sprayer, herbicide, adjuvant and drift inhibitor usage along with Personal Protective Equipment, application rate, coverage, mixing methods, and droplet size to reduce runoff and drift.
 - e. Herbicide will not be applied if the following condition(s) are present: rain, rain is forecasted within 48 hour of application or winds at 10 m.p.h. or greater.

Standard Operating Procedures

1. Only BLM approved herbicides will be used for the project.
2. Application of herbicides by helicopter will not occur in washes or within 100 feet from any existing open water sources.
3. Application of herbicides by ground crews will not occur in washes or within fifty feet of any existing open water source. All label specific requirements will be adhered to, including the avoidance of areas where groundwater is expected at five feet or less below ground surface.
4. A BLM approved Project Inspector will be on site within the project area at all times while the herbicides are being applied and will be responsible for ensuring that the treatment is applied as directed. Chemical label directions will be followed.
5. No hazardous materials shall be stored or disposed of on-site.
6. No equipment maintenance, rinsing, or mixing of chemicals will be performed within or near any stream channel or waters where chemicals, petroleum products or other pollutants from equipment may enter these waters.
7. Herbicides will not be stored on the project site. Product label directions and MSDS will be available on site for reference in case of spill or exposure. All unused herbicides or empty

containers will be disposed of by the licensed herbicide applicator in accordance with the label at an approved disposal site.

Further, the Reasonable and Prudent Measures with Terms and Conditions identified in the USFWS BO, File No. 84320-2012-F0020 (1-5-04-F-526.APD) will be followed such as:

1. *Vehicle traffic*: All vehicle use in desert tortoise habitat shall be restricted to existing roads, trails, large sandy washes, and ways. Contractors and Employees shall comply with the posted speed limits on access roads. Within Clark County, the speed limit is 25 miles per hour on un-posted county roads. All project/event-related individuals shall check underneath stationary vehicles for desert tortoises before moving them. No new access roads shall be created.
2. *Litter control*: Litter control will be implemented and enforced by BLM.
3. *Previous disturbance*: Overnight parking and storage of equipment and materials, including stockpiling, shall be within previously-disturbed areas or within areas cleared by a tortoise biologist to minimize habitat destruction.
4. *Tortoise mortality/injury*: BLM wildlife staff and the USFWS must be notified of any desert tortoise death or injury due to project implementation by close of business on the following work day.
5. *Education program*: A BLM/USFWS-approved biologist shall present a tortoise education program to all workers, permittees, and other employees or participants involved on activities covered under this opinion.
6. *Biologist approval*: BLM and USFWS wildlife staff shall approve the biologists who will be assigned to implement the terms and conditions of the BO, or permit issued by BLM.
7. *Tortoise in harm's way*: If a tortoise is located within the project/activity site in harm's way, all potentially harmful activity shall cease until the tortoise moves or is moved out of harm's way by an authorized biologist.
8. *Moving tortoises*: Tortoises that are moved off-site and released into undisturbed habitat on public land must be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernaculum in which it was located, or in an artificially-constructed burrow in accordance with the tortoise handling protocol.
9. *Temperature restrictions*: Desert tortoises shall be treated in a manner to ensure that they do not overheat, exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary for their well-being.
10. *Permits*: All appropriate State and Federal permits, including NDOW and USFWS permits for handling desert tortoises, or their parts, must be acquired.
11. *Project oversight*: A BLM representative(s) shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms and conditions, and reporting requirements of the BO.

12. *Reporting*: The project lead must submit a document to the BLM wildlife biologist within 30 days of completion of the project showing the number of acres treated and number of tortoises observed or taken.
13. *No-spray buffer zone*: Any desert tortoise or active/intact desert tortoise burrow that is observed by workers utilizing backpack sprayers will be avoided by a minimum of 25 feet.

Compliance with NEPA:

The action has been analyzed within EA DOI-BLM-NV-S000-2011-0002-EA dated June 25, 2012. I have determined that the Proposed Action (Alternative A), with the BMPs, SOPs, Terms and Conditions, and mitigation measures described in the attached Final EA and the Reasonable and Prudent Measures with Terms and Conditions identified in the USFWS BO, incorporated herein by this reference, will not have significant impacts and thus an EIS is not required.

Public Involvement:

On January 25, 2012 a news release was provided to the Southern Nevada and the local congressional media list informing the public of the scoping meetings and the opportunity to provide comments. Postcards were sent to the RRCNCA interested parties mailing list inviting interested parties to attend the public scoping meetings and provide comments on the Red Rock Hazardous Fuels Reduction Project. Additionally, meeting information was posted on the BLM SNDO and the RRCNCA web sites.

The Draft EA was available for public comment from January 25 through February 27, 2012. The BLM held two public meetings (afternoon and evening) on February 8, 2012 at the RRCNCA Visitor Center. Three people attended the afternoon session and seven people attended the evening session. Forty-five comments were received, three of which were in support of the project as proposed. Issues raised included: project worker education, public access to MSDS, and potential herbicide effects on native plants, soil and water quality. Some comments were not incorporated into the final EA as they are already addressed in existing planning documents or policy, or were beyond the scope of this project. Two issues raised that were incorporated into the proposed action are:

- The NDOW banded Gila monster protocol will be incorporated as part of project worker education.
- MSDSs will be available for the public at both the RRCNCA Visitor Center and the SNDO.

Rationale:

The Proposed Action (Alternative A) is in conformance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 which states:

- Section 4. Management; sub-Section 2 (C) Preventive Measures, "Nothing in this Act shall preclude such reasonable measures as the Secretary deems necessary to prevent devastating fire...within the conservation area."

The Proposed Action (Alternative A) is in conformance with the RRCNCA RMP and ROD (2005), and meets the following (1) Biodiversity, (1B) Ecosystem Management Objectives:

- 1B.5, Implement strategies to minimize habitat type conversion fires stemming from invasive exotic annual grasses.

- 1B.6 Implement aggressive fire suppression policy for all fires in low elevation communities (Blackbrush).

Additionally the Las Vegas Field Office Fire Management Plan (2004) identifies the project area as being in the RRCNCA (LE), NV050-06 Fire Management Unit which states as objectives and strategies:

- Protect human life, safety of wildland firefighters, and protection of human safety and health.
- Determine specific hazard reduction priorities, including any noxious or invasive species infestations, and implement according to the existing budget.
- Maintain or improve the condition of vegetation on public lands to a Desired Plant Community or to a Potential Natural Community.

Invasive grasses have adversely impacted RRCNCA where six wildfires have burned over the last seven years ranging in size from 60 to 1600+ acres. More than half of the Scenic Drive has burned, affecting public safety and visitor experiences. With more than one million visitors each year and vehicular traffic utilizing the one-way Scenic Drive, site evacuation and public safety in the event of wildfire are of significant concern. Much of RRCNCA has been altered to an unnatural "annual grass/fire cycle" as illustrated through past wildfires in the RRCNCA:

- Diamond Fire in 2005 with 119 acres;
- Loop Fire in 2005 with 858 acres;
- Overlook Fire in 2005 with 61 acres;
- Scenic Fire in 2006 with 1611 acres; and
- Bonnie Springs Fire in 2007 with 389 acres.

Creating fuel breaks will provide defensible space for public and private structures, including homes, and reduce the rate of spread, size and intensity of a wildfire. The effects of smoke on downwind receptors and on heavily travelled roadways (State Route 159 and the Scenic Drive) would also be reduced. In addition, the fuel breaks will provide anchor points for suppression forces to safely engage a wildfire and safety zones for wildfire suppression forces.

Past wildfires in the RRCNCA have exhibited increased size, high rates of spread and high flame lengths (i.e. burning over State Route 159), putting firefighters and the public at risk. Wildfires along roadways and near structures have necessitated the evacuation of public buildings and closure of Scenic Drive and State Route 159. Fire size, rate of spread, and intensity would be reduced by providing effective barriers to slow or stop large wildfires and provide anchor points and safety zones for wildfire suppression personnel to safely engage a wildfire.

The selected action will help to prevent future wildfires from burning the remaining sensitive species habitat and vegetation within RRCNCA by allowing wildfire suppression personnel to safely engage a wildfire while it is smaller. Invasive grasses that dominate existing fire scars would be reduced and native vegetation would have the opportunity to re-establish in these areas.

This action establishes fuel breaks by treating invasive grass, creating approximately 65 miles of fuel breaks, and reducing hazardous fuels. In the event of a wildfire, this action will improve

visitor safety and fire fighter safety, protect resources and valuable infrastructure, and increase fire suppression effectiveness by reducing or removing hazardous fuels.

Alternative A: Utilize two herbicides to treat and reduce the amount of non-native invasive annual grasses and their seed bank to create fuel breaks on BLM administered land in the RRCNCA. This was selected as the best alternative to reduce invasive grass and proactively manage wildfire. Compared to the other proposed alternatives, Alternative A increases public and fire fighter safety and protects private and public structures with the least amount of ground disturbance. Utilizing Alternative A will minimize project effects to the visual environment at RRCNCA and limit future disturbance-related influxes of invasive grasses. Selecting the No Action would likely increase the extent of landscape affected in the event of a future fire ignition in RRCNCA.

Appeal or Protest Opportunities:

The decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 and Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 days of the decision. The appellant has the burden of showing that the decision appealed is in error.

If you wish to file a petition pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the IBLA and the appropriate office of the solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof in demonstrating that a stay should be granted.

Standards for obtaining a stay

Except as otherwise provided for by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall 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.

Signatures:

Recommended by: Sean McEldery 6/21/2012
Sean McEldery Date
Supervisory Fire Management
Specialist

Recommended by: [Signature] 6/21/12
Christopher Glode Date
Fire Management Officer
(Acting)

Approved by: Mary Jo Rugwell 7/2/2012
FOR Mary Jo Rugwell Date
Southern Nevada District
Manager

Contact Person

For additional information concerning this Finding, contact.

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