



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Boise District  
Bruneau Field Office  
3948 Development Avenue  
Boise, Idaho 83705  
<http://www.id.blm.gov/offices/boise>

In Reply Refer To:  
4160 (ID-020)

February 4, 2013

### **CERTIFIED MAIL -7011 2970 0002 6304 8312 - RETURN RECEIPT REQUESTED**

Tindall & Sons Ranches LLC  
c/o David Tindall  
48382 State Hwy 51  
Bruneau, ID 83604

### **Notice of Field Manager's Full Force and Effect Final Decision**

Dear Mr. Tindall:

#### **Introduction**

The Tindall wildfire burned August 10-12, 2012. It burned 3,231 acres in the Tindall Reservoir Field, Trout Creek, and Antelope Field Allotments. The burned area consists of 2,732 acres of public land, 179 acres of state land, and 320 acres of private land.

In Tindall Reservoir Field Allotment, 2,403 acres or 11% of the public land in the allotment burned (see attached map). In Trout Creek Allotment, 106 acres or 2% of the public land in the allotment burned. In Antelope Field Allotment, 214 acres or 1% of the public land in the allotment burned.

The majority of the burned area consisted of low sagebrush with an understory of native perennial grasses and forbs. Also, the fire burned small areas of big sagebrush with an understory of native perennial grasses and forbs. The fire was moderate to low intensity leaving a mosaic of unburned islands and fingers within the perimeter of the fire.

The fire occurred in Preliminary Priority Habitat (PPH) for greater sage grouse (*Centrocercus urophasianus*), a candidate species for listing under the Endangered Species Act. There are two active leks within the fire's boundaries and three active leks within 1½ miles of the fire perimeter.

The Tindall Fire Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) Plan authorized the following:

1. Repair of existing allotment boundary and pasture fences.
2. Noxious weeds will be controlled on an as-needed basis.
3. Mountain big sagebrush, big bluegrass, and low sagebrush will be aerially seeded on the burned area.

### **Determination of Land Use Plan Conformance and NEPA Adequacy**

Determination of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy (DNA) DOI-BLM-ID-B020-2012-0013<sup>1</sup> concluded that the Tindall Fire ES and BAR Plan conforms to the 1983 Bruneau Management Framework Plan and is fully covered by the following NEPA documents, which constitutes BLM's compliance with the requirements of NEPA:

1. Normal Fire Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (EA) ID-090-2004-050 (2005);
2. BLM Vegetation Treatments Using Herbicides Final Programmatic Environmental Impact Statement (EIS; 2007);
3. Noxious and Invasive Weed Treatment for the Boise District and Jarbidge Field Offices EA ID-100-2005-EA-265; and
4. Bruneau-Kuna Grazing EIS (1982).

This decision incorporates by reference these documents in their entirety.

Additionally, the impacts of livestock trailing authorized by this decision have been analyzed in EA No. DOI-BLM-ID-B020-2012-0003-EA and the associated FONSI dated March 26, 2012.

### **Full Force and Effect Final Decision**

My decision is to temporarily close the south pasture of the Tindall Reservoir Field Allotment, which contains area burned in the Tindall Fire, to livestock grazing but not to livestock trailing (see attached map). The Tindall Fire burned 11% of the Tindall Reservoir Field Allotment. However, the entire south pasture, approximately 6,503 acres or 36% of the Tindall Reservoir Field Allotment, will be temporarily closed to livestock grazing use except for livestock trailing (see tables below). Active use will be modified as follows:

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<sup>1</sup> The Tindall Fire ES and BAR Plan, Decision Record and Rationale, and DNA DOI-BLM-ID-B020-2012-0013-DNA are available through [https://www.blm.gov/epl-front-office/eplanning/nepa/nepa\\_register.do](https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do). Select State = **Idaho**, Office = **ID-Bruneau FO**, Document Type = **DNA**, Fiscal Year = **All**, Program = **All**, then click **Search**. Once there, click on **Tindall Fire #G5S0 Emergency Stabilization and Rehabilitation Plan**. If you are unable to view the documents on the website, you may request that hard copies be sent to you.

**From:**

Permittee name and number	Allotment name and number and pasture	Livestock		Season of Use	% PL	AUMs	
		#	Kind			Active	Temporarily Suspended
Tindall & Sons Ranches LLC 1101668	Tindall Reservoir Field 00851	13	Horse	3/1 - 2/20	100	153	0
		369	Cattle	4/1 - 7/15		1,286	0
		315	Cattle	11/1 - 12/31		632	0

**To:**

Permittee name and number	Allotment name and number and pasture	Livestock		Season of Use	% PL	AUMs	
		#	Kind			Active	Temporarily Suspended
Tindall & Sons Ranches LLC 1101668	Tindall Reservoir Field 00851	8	Horse	3/1 - 2/20	100	98 <sup>1</sup>	55
		236	Cattle	4/1 - 7/15		823 <sup>1</sup>	463
		201	Cattle	11/1 - 12/31		405 <sup>1</sup>	227

<sup>1</sup> Livestock grazing is allowed in the northern pastures of the allotment.

Effectiveness will be measured by site visits and the lack of evidence of livestock use within the south pasture. Livestock not in compliance with this requirement will be subject to 43 CFR 4140.1 (b)(1)(iii) Prohibited Acts and 4150.1 Unauthorized Grazing Use.

Tindall & Sons Ranches LLC is allowed to trail livestock through the south pasture, including the burned area. Their livestock trailing in the south pasture of Tindall Reservoir Field Allotment will be as described in the following table:

<b>Livestock trailing (crossing) authorization for Tindall &amp; Sons Ranches LLC. Trailing will be on existing two-track roads through the area burned in the Tindall Fire.</b>					
Permittee	Allotment/pasture	Number of cattle	Time frame for trailing	Actual trailing time period	AUMs
Tindall & Sons Ranches LLC	Tindall Reservoir Field – south pasture	500	5/25/2013 - 6/3/2013	1 day <sup>1</sup>	16
		500	11/6/2013 - 11/10/2013	1 day <sup>1</sup>	16
		500	5/25/2014 - 6/3/2014	1 day <sup>1</sup>	16
		500	11/6/2014 - 11/10/2014	1 day <sup>1</sup>	16

<sup>1</sup>All terms and conditions described in the crossing permit B02012017, issued to Tindall & Sons LLC, are incorporated by reference into this decision and must be followed.

This decision is final and effective upon receipt in accordance with 43 CFR 4110.3-2(a), 4110.3-3(b), and 4160.3(f). It remains in effect until the Monitoring Objectives for the resumption of grazing in the Tindall Fire ESR Plan are met or the grass seeding is determined to be not successful. The objective for the success of the shrub seeding is not a primary factor to determine the resumption of grazing.

### **Rationale**

This final decision is in conformance with the Bruneau MFP as discussed in the ESR Plan, the Idaho Standards for Rangeland Health, the Guidelines for Livestock Grazing Management (1997), and the Boise District NFESRP.

The DNA determined that the proposed emergency stabilization and rehabilitation activities were adequately addressed in the programmatic EA (No. ID-090-2004-EA-050), the Boise District NFESRP.

Closing the burned area to livestock grazing will protect the aerially seeded areas to allow establishment of seeded species and the natural recovery of existing vegetation. Allowing the establishment of seeded species and the recovery of existing vegetation will aid in preventing erosion, provide competition against invasive species, and restore habitat for sage-grouse and several other BLM sensitive wildlife species associated with the sagebrush steppe.

The burned area is within a larger area of high concentrations of sage-grouse leks and one of the largest populations of sage-grouse in southwestern Idaho. There are two active leks within the fire's boundaries and three active leks within 1½ miles of the fire perimeter. Considering the high concentration of sage-grouse, a temporary fence on the perimeter of the Tindall Fire may impact sage-grouse. Therefore, a temporary fence will not be built.

Instead, the entire south pasture (6,503 acres of public land) or 36% of the Tindall Reservoir Field Allotment will be temporarily closed to livestock grazing, but not to trailing, until Monitoring Objectives for the resumption of grazing are met. The success of the sagebrush seeding is not a primary factor because livestock do not prefer it as a forage species. The south pasture and the three northern pastures in the Tindall Reservoir Field Allotment have existing fences that will allow the three northern pastures to be grazed separately from the south pasture.

The south pasture closure includes approximately 4,100 acres of unburned sage-grouse habitat. Closing the entire pasture will help address sage-grouse nesting habitat by avoiding any potential grazing impacts to the pasture's unburned nesting habitat and to sage-grouse nesting in the pasture. Furthermore, the burned area includes a mosaic of unburned vegetation, lessening the impacts of the fire to sage-grouse nesting habitat. After considering the closure of the south pasture and the mosaic nature of the burn, no further adjustments to livestock grazing in other pastures of the allotment were found to be necessary for addressing impacts to sage-grouse nesting habitat. The interdisciplinary team found that no closures were necessary in the Trout Creek and Antelope Field allotments because of the minimal amount of acres (106 and 214 acres, respectively) and the mosaic burn patterns.

The trailing authorized by this decision is consistent with the stipulation in the EA (No DOI-BLM-ID-B020-2012-0003-EA) regarding livestock trailing on routes in or adjacent to burned area. As trailing through the south pasture would occur on existing two-track roads and be completed in one day per trailing event (i.e., two days per year), my decision to continue to authorize trailing through the burned area consistent with the stipulations in crossing permit (B02012017). The permit provides for the orderly movement of livestock without affecting the potential for recovery of the burned area.

### **Authority**

The authority under which this decision is being issued is found in Title 43 of the Code of Federal Regulations (CFR) Subpart 4100.

- 4110.3-2(a) Decreasing permitted use (Suspending permitted use on a temporary basis due to fire)
- 4110.3-3(b) Implementing reductions in permitted use (due to fire)
- 4160.3(f) Final decisions (effective upon issuance), as modified by 2012 Appropriations Omnibus Act, Section 123.
- 4130.6-3 Crossing permits, as modified by 2012 Appropriations Omnibus Act, Section 123.

### **Provisions for Appeal/Stay for Livestock Trailing on Two-Track Roads in the Burned Area**

My decision regarding livestock trailing on two-track roads in the burned area is not subject to appeal in accordance with Section 123 of the 2012 Appropriations Omnibus Act.

### **Provisions for Appeal/Stay for Closure of the Burned Area to Livestock Grazing**

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal (in writing) in accordance with 43 CFR 4.470 and 43 CFR 4160.4. The appeal must be filed within 30 days following receipt of the final decision. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471, pending final determination on appeal. The notice of appeal and petition for a stay must be filed in the office of the authorized officer (Bruneau Field Manager) at 3948 Development Avenue, Boise, Idaho 83705. In accordance with 43 CFR 4.401, BLM does not accept fax or email filing of a notice of appeal or a petition for stay. The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error. The appeal must comply with the provisions of 43 CFR 4.470. The appellant must serve a copy of the appeal by certified mail on the Office of the Solicitor, U.S. Department of the Interior, 960 Broadway Avenue, Suite 400, Boise, ID 83706 and other person(s) named (43 CFR 4.421 (h)) in the **Copies sent to:** section of this decision.

Should you wish to file a motion for stay, see 43 CFR 4.471 (a) and (b). In accordance with 43 CFR 4.471(c), a petition for a stay 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal must see 43 CFR 4.472(b) for procedures to follow if you wish to respond.

If you have any questions, feel free to contact either Jon Haupt at 208-384-3371 or me at 208-384-3331.

Sincerely,

/s/

Arnold L. Pike  
Field Manager

**Attachment:** Map

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