



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Boise District
Bruneau Field Office
3948 Development Avenue
Boise, Idaho 83705



In Reply Refer To:
4160 (ID-020)

January 9, 2013

CERTIFIED MAIL - 7011 2970 0002 6304 4796 - RETURN RECEIPT REQUESTED

JR Simplot Company/ Battle Creek
c/o Chuck Jones
1301 Highway 167
Grand View, ID 83624

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

Dear Mr. Jones:

Introduction

The East Rock wildfire burned August 5-8, 2012. It burned 606 acres (14%) of the East Canyon View Allotment (00869) and 1,462 acres (3%) of the Big Lake pasture of Blackstone Allotment 00941 (see attached map). Approximately 633 acres of the fire occurred within the Bruneau-Jarbidge Rivers Wilderness.

Portions of the burned area have experienced previous wildfires: the earliest in 1974 and the most recent was in 2001. The fire burned native and non-native perennial grasses and native forbs. Other plant communities that burned were isolated areas of shrubs with an understory of native perennial grasses and forbs.

The Bruneau River contains habitat for bull trout, Bruneau hot springsnail, and Snake River physa snail which are listed under the Endangered Species Act (ESA). Increased sedimentation from the burned upland area and connected drainages is a threat to these species.

In the East Canyon View and Blackstone Allotments, the East Rock Fire Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) Plan authorized the following:

1. Drill seed a non-native grass, Siberian wheatgrass (*Agropyron fragile*), on approximately 1,800 acres (see seeding map) of the burned area. The drill seeding

- occurred this fall. The seeding will provide vegetation cover to reduce sedimentation in drainages that flow into the Bruneau River.
2. Construct approximately 4.7 miles of temporary barbed wire (bottom wire will be smooth) fence to exclude livestock from the burned area. Approximately 2 miles of this fence will be built in the East Canyon View Allotment. Construction of the temporary fence will occur during the spring of 2013, and it will be built to Boise District Pronghorn specifications. Since the burned area is identified as Preliminary General Habitat (PGH) for sage-grouse, anti-collision markers will be installed on the fence and the fence posts will have white tops to be more visible to sage-grouse.
 3. Noxious weeds will be controlled on an as-needed basis.
 4. Erosion control structures have been installed to prevent sedimentation into the Bruneau River.
 5. Wyoming big sagebrush will be aerially seeded on the burned area in the winter of 2013.

Determination of Land Use Plan Conformance and NEPA Adequacy

Determination of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy DOI-BLM-ID-B020-2012-0014¹ (DNA) concluded that the East Rock 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 Environmental Assessment (EA) ID-090-2004-050;
2. BLM Vegetation Treatments Using Herbicides Final Programmatic Environmental Impact Statement (EIS);
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.

Full Force and Effect Final Decision

My decision temporarily is to close the burned area in the East Canyon View Allotment to livestock grazing (see attached map). The East Rock Fire burned 14% percent of the East Canyon View Allotment; therefore, 151 AUMs will be temporarily suspended from use (see tables below). Active use will be modified as follows:

¹ The East Rock Fire ES and BAR Plan, Decision Record and Rationale, and DNA DOI-BLM-ID-B020-2012-0014-DNA are available through 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 **East Rock Fire (G4ZN) ESR 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	Livestock		Season of Use	% PL	AUMs	
		#	Kind			Active	Temporarily Suspended
JR Simplot Company/ Battle Creek 1104061	East Canyon View 00809	218	Cattle	11/1 - 3/31	100	1,082	0

To:

Permittee name and number	Allotment name and number	Livestock		Season of Use	% PL	AUMs	
		#	Kind			Active	Temporarily Suspended
JR Simplot Company/ Battle Creek 1104061	East Canyon View 00809	188	Cattle	11/1 - 3/31	100	931 ¹	151

¹ Livestock grazing is allowed in the unburned area of the allotment.

Until the temporary fence is constructed, you must herd and salt their cattle away from the burned area. Once the temporary fence is built, you must periodically check the burned area to ensure that cattle are not grazing that area and maintain the fence.

Effectiveness will be measured by site visits and the lack of evidence of livestock use within the seeding area. 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.

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 Livestock Closure Effectiveness Objectives in the East Rock Fire ESR Plan are met or the seeding is determined to be not successful.

Rationale

This final decision is in conformance with the Bruneau MFP, the Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (1997), and the Boise District Normal Fire Rehabilitation Plan (2005).

The DNA determined that the proposed fire stabilization and rehabilitation activities were adequately addressed in the programmatic Environmental Assessment (EA) No. ID-090-2004-EA-050, the Boise District Normal Fire Rehabilitation Plan (2005).

Closing the burned area to livestock grazing will protect the aerially seeded areas to allow establishment of seeded species. Allowing the establishment of seeded species 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.

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)

Provisions for Appeal/Stay

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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