



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Arizona State Office
1 North Central Ave., Suite 800
Phoenix, Arizona 85004
www.blm.gov/az/

OCT 23 2015

In Reply Refer To:
9015 (AZ9320)
DOI-BLM-AZ-0000-2013-0001-EA

DECISION

ADOT Herbicide Treatment Program on Bureau of Land Management Lands in Arizona DOI-BLM-AZ-0000-2013-0001-EA

INTRODUCTION

The Bureau of Land Management (BLM), Arizona State Office, has prepared the *ADOT Herbicide Treatment Program on Bureau of Land Management Lands in Arizona Environmental Assessment (EA)* (DOI-BLM-AZ-0000-2013-0001-EA) to analyze the project proposed by the Arizona Department of Transportation (ADOT) and the Federal Highway Administration (FHWA) to apply herbicides to ADOT rights-of-way (ROWs) on BLM-administered lands and to describe the conditions and limitations that would apply to their use.

The Proposed Action would allow the use of herbicides approved under the Record of Decision for the *Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement* (2007 PEIS) (BLM 2007) to reduce the incidence and spread of undesirable vegetation within ADOT ROWs.

BACKGROUND

The need for the action is to reduce the incidence of undesirable vegetation within ROWs managed by ADOT across lands administered by the BLM, including as part of Federal-aid highway projects administered by the FHWA.

PUBLIC INVOLVEMENT

The public was provided the opportunity to participate in this EA in compliance with 40 CFR 1506.6. A scoping notice was sent to interested parties and project information was posted on the BLM Arizona National Environmental Policy Act register/ePlanning website.

The EA was made available to the interested public for a 30-day review and comment period. No comments were received from the public or other agencies during the comment period. Tribal consultation was conducted as part of the 2007 PEIS. In fulfillment of agency

responsibilities under Section 106 of the National Historic Preservation Act, the BLM will consult with Native American Tribes on the annual treatment plans developed by ADOT.

DECISION

After reviewing the analysis presented in the *ADOT Herbicide Treatment Program on Bureau of Land Management Lands in Arizona EA*, making a Finding of No Significant Impact (FONSI), and carefully considering the comments and input received from the public, it is my decision to approve the Proposed Action. **The Proposed Action includes Design Features, Standard Operating Procedures, Best Management Practices, and Resource Specific Mitigation Measures described in Section 2 of the EA, as well as all of the Mitigation Measures and Conservation Measures described in Section 5 of the EA. The herbicide applications would be consistent with the methods analyzed for use in the 2007 PEIS.**

Only federally registered and BLM-approved herbicides will be used. Herbicides and adjuvants will be used in accordance with product labeling and the respective Safety Data Sheet. Herbicide application will occur in accordance with BLM guidance on the use of herbicides, as well as the recommended protection measures based on Pesticide Ecotoxicity Ratings for various species in Region 2 of the U.S. Fish and Wildlife Service (USFWS) (*Recommended Protection Measures for Pesticide Applications in Region 2 of the USFWS*, USFWS 2007). The ADOT would coordinate at least annually with the BLM State Pesticide Coordinator to evaluate the procedure for developing, reviewing and submitting Pesticide Use Proposals for herbicide use within ADOT ROWs.

RATIONALE

In accordance with the purpose and need for this action, permitting ADOT to conduct annual herbicide treatment programs to contain, control, or eradicate undesirable vegetation within ADOT ROWs will reduce safety hazards and threats to native plant communities on and adjacent to road easements. Reducing undesirable vegetation is expected to benefit public lands by 1) reducing hazardous fuels, and improving ecosystem health by controlling weeds and invasive species, and 2) manipulating vegetation to benefit fish and wildlife habitat, improving riparian and wetlands areas, and 3) improving water quality in priority watersheds.

AUTHORITY

This Decision is in conformance with the National Environmental Policy Act of 1969 (P.L. 91-190) as amended (72 USC 4321 et. seq.); Noxious Weed Control and Eradication Act of 2004; Healthy Forest Restoration Act of 2003 (P.L. 108-148); Federal Noxious Weed Act of 1974 (7 USC 2801-2813); Carson-Foley Act of 1968; Federal Land Management Policy Act of 1976 (FLPMA); 43 CFR 4190.1A; 43 CFR 9212; EO 11990 Protection of Wetlands; Executive Order 11988 Floodplain Management; Executive Order 13112 Invasive Species Control.

APPEAL OF THE DECISION

This 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 the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at the above address within 30 days from receipt of this decision. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a petition pursuant to regulation at 43 CFR 3256.11 or 43 CFR 3200.5 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, 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 to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to 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.
4. Whether the public interest favors granting the stay.


on Raymond Suazo
State Director

10.23.2015
Date

Enclosures

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... U.S. Department of Interior, Bureau of Land Management, Arizona State Office, 1 North Central Avenue, Suite 800, Phoenix, AZ 85004

WITH COPY TO SOLICITOR... U.S. Department of the Interior, Office of the Solicitor, Sandra Day O'Connor US Courthouse, Suite 404, 401 West Washington Street, SPC-44, Phoenix, AZ 85003-2151

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR..... U.S. Department of the Interior, Office of the Solicitor, Sandra Day O'Connor US Courthouse, Suite 404, 401 West Washington Street, SPC-44, Phoenix, AZ 85003-2151. AND A COPY TO: U.S. Department of Interior, Bureau of Land Management, Arizona State Office, 1 North Central Avenue, Suite 800, Phoenix, AZ 85004

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 Interior Board of Land Appeals and to the appropriate Office of the Solicitor (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 to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.