

**FULL FORCE AND EFFECT  
DECISION RECORD**

DETERMINATION OF NEPA ADEQUACY FOR THE MONTANA MOUNTAINS  
COOPERATIVE FUELS PROJECT  
DOI-BLM-NV-WO10-2013-0041-DNA

**INTRODUCTION**

The Montana Mountains contains some of the most important wildlife habitat in northern Nevada. There are eight occupied streams and four recovery streams by Lahontan cutthroat trout, a threatened species. The planning area is part of the Lone Willow greater sage-grouse population management unit and includes 237,000 acres of sage-grouse winter habitat, 215,000 acres of nesting habitat and 128,000 of summer habitat. Greater sage-grouse are a listed candidate species. Additionally, several state sensitive species, such as sage thrasher, sage sparrow and pygmy rabbits, occupy the Montana Mountains. BLM policy is to provide these species with the same level of protection as provided for candidate species in BLM Manual 6480.06C as to “ensure that actions authorized, funded, or carried out do not contribute to the need for the species to become listed.”

The Montana Mountains Cooperative Fuels Treatment Project (Project) is a Healthy Landscapes project whose goal is to maintain and restore healthy sagebrush ecosystems on a landscape level. The Environmental Assessment (EA) for the Project (DOI-BLM-NV-WO10-2011-0005-EA) analyzed a series of fuels breaks to protect habitat from unwanted wildfire and habitat restoration activities to improve important habitat. In 2012, 31% of the area was impacted by wildfire, an unfortunate event as many of the treatments planned were designed to slow down or stop the spread of wildfire. Regardless, the threat of wildfire to the remaining intact habitat has not diminished.

**Land Use Plan Conformance**

The proposed action and alternatives described are in conformance with the Paradise-Denio Management Framework Plan III (MFP) July 1982. Although not specifically addressed, the proposed treatments conform to wildlife objectives, fire and management decisions, or standard operating procedures.

**Fire F-1 Objective:**

“To minimize the wildfire damage to life, property, and resources.”

**Wildlife MFPIII Decisions WL-1.21 P.D.-WL 1.27 SG:** Maintain and improve habitat for sensitive, protected, threatened and endangered species listed on the U.S. Fish and Wildlife Service Endangered and Threatened List, BLM-Nevada Department of Wildlife Sensitive Species List and those existing Federal and state laws and regulations.

## DECISION

### NEPA Decision

This decision relies on the Project EA and Finding of No Significant Impact (FONSI), dated 2 August 2012, the Winnemucca Field Office Green Stripping EA (DOI-BLM-NV-W020-02-24, FONSI 23 August 2002), and the Montana Mountains Cooperative Fuels Project Determination of National Environmental Policy Act Adequacy (DNA, DOI-BLM-NV-W010-2013-0041-DNA). It is my decision to select the Road Fuelbreaks and Habitat Protection Strips projects identified in the proposed action alternative of the Project EA, including fifteen of the Proposed Environmental Protection Measures analyzed in the Project EA, and the Montana Fuelbreak Maintenance project, which was discussed in the DNA. Further, it is my decision that implementation of these projects, including the Montana Fuelbreak Maintenance project, an action not previously described in the Project EA, would not have impacts beyond those addressed in the Project EA.

### Full Force and Effect Authorization

It is my decision to authorize the implementation and maintenance of all fuels treatments described in the DNA. This decision is subject to the implementation of design measures identified in the DNA and listed in this decision in the “Design Features” section. Those fifteen Design Features were analyzed in the “Proposed Environmental Protection Measures” section of the Project EA. The decision to implement the fuelbreak treatments immediately relies on authority under the Healthy Forests Restoration Act and associated BLM regulations under 43 CFR 5003.1(b). As explained in detail below, this decision meets the determination requirement as an authorized project covered by the Act, as the project enhances protection from wildland fire for Threatened and Endangered (T&E) species and their habitat.

### Summary of Actions

This decision implements construction and maintenance of road fuelbreaks (Table 1) and sagebrush habitat protection strips (Table 2), and maintenance of the Montana Fuelbreak along State Route 293. A full analysis of these actions was considered previously in the Project EA (DOI-BLM-NV-W010-2011-0005-EA) and Winnemucca Field Office Green Stripping EA (DOI-BLM-NV-W020-02-24, FONSI dated 23 August 2002).

Table 1. Road Fuelbreaks – Montana Mountains Fuels Project

<b>Proposed Treatments</b>	<b>Length or Dimensions</b>	<b>Acres</b>	<b>Action</b>
Crowley-Jordan Road Fuelbreak	22 miles	59	Mechanical Treatment
Pole Creek Road Fuelbreak	34 miles	91*	Mechanical Treatment
Long Canyon Road Fuelbreak	18 miles	48*	Mechanical Treatment
Jordan Meadow Mtn. Road Fuelbreak	7 miles	19*	Mechanical Treatment

\*Area disturbed via blading. Mowing and/or herbicide application along roadsides would contribute an additional 188 acres to Pole Creek Road FB, an additional 83 acres to Long Canyon Road FB, and an additional 32 acres to Jordan Meadows Mountain Road FB.

### Road Fuelbreaks

Road fuelbreaks analyzed in the Project EA will be constructed using heavy equipment to blade or grade existing roadways to remove vegetation (DNA, Map 1). Grading of road surfaces will allow for maintenance, improvement and creation of ditches and shoulders (maximum width for any type of improvements would be 22 feet wide). Road shoulders will be mowed, treated with herbicide and/or seeded where seeding is deemed appropriate and additional shoulder and bar ditch maintenance is complete. Once maintained, roads will serve as fuelbreaks and allow better access for fire suppression equipment. All existing and proposed road improvements will be subject to periodic maintenance.

Table 2. Habitat Protection/Restoration Treatments

<b>Proposed Treatments</b>	<b>Dimensions (acres)</b>	<b>Perimeter (miles)</b>	<b>Acres Treated</b>
Block 1	1,785	7.3	44
Block 2	3,113	10.2	62
Block 3	1,629	7.5	45
Block 4	1,738	8.5	52

\*Additional acres could be implemented outside of blocks and into cheatgrass dominated areas to re-establish sagebrush and other native plants up to 5000 acres.

### Habitat Protection Strips/Sagebrush Restoration

Habitat protection treatments evaluated in the Project EA will include seeding native species in strips along sagebrush/cheatgrass interface areas on the margin of identified sagebrush blocks (DNA, Map 2). Strips will be 30 to no more than 300 feet wide. Pre-treatment may be necessary to ensure seed success; pre-treatments might include herbicide, mechanical, and prescribed burning, singly or in conjunction depending on the site and existing vegetation. Once the initial strip is established additional strips or restoration blocks could be established extending outward into cheatgrass-dominated areas. No more than 500 acres of protection strips and/or restoration treatments will be implemented per year with a maximum of 5,000 total acres.

### Montana Fuelbreak Maintenance

In addition to the proposed actions in the Project EA, the BLM is authorizing maintenance of the existing Montana Fuelbreak along State Route 293 (DNA, Map 3). The existing Montana Fuelbreak is approximately 235 acres and lies on the north side of the highway. This fuelbreak was initially treated in 2003 and was previously analyzed in the Winnemucca Field Office Green Stripping EA (DOI-BLM-NV-W020-02-24). Cumulative impacts of fire management activities, which included this fuelbreak, were also analyzed in the Project EA. Further, the Montana Fuelbreak is similar in location and type to those analyzed in the Project EA, and maintenance of the fuelbreak will be carried out consistent with the treatments and proposed mitigation measures evaluated in the

Project EA (and discussed below under “Design Features”). Maintenance of the fuelbreak is required because fuel loading from shrubs and other vegetation has increased to a level where the fuelbreak is much less effective. Proposed maintenance treatments will include mowing, seeding and herbicide application. The fuelbreak will be retreated, as necessary, in order to maintain fuelbreak effectiveness.

### **Design Features**

This decision is subject to the Standard Operating Procedures and Best Management Practices contained in Appendix A of the Vegetation Treatment Using Herbicide on Bureau of Land Management Lands in Seventeen Western States Programmatic EIS, Record of Decision (2007). This decision is also subject to and requires the following fifteen features, which were analyzed in the Project EA:

1. Herbicide application rates (range of rates) and application would be subject to label restrictions and standard operating procedures (SOPs, See Appendix I in EA).
2. All treatments identified would be in accordance with the Instruction Memorandums WO-IM-2012-043 Greater Sage-Grouse Interim Management Policies and Procedures and WO-IM-2010-149 Sage-grouse Conservation Related to Wildland Fire and Fuels Management. Fuels Management Best Management Practices (BMPs) for Sage-Grouse Conservation as described in Appendix IV in EA.
3. For any proposed actions that are not performed outside of the migratory bird breeding season (March 1 – August 31), a migratory bird nesting survey would be conducted in potential habitat areas no more than 10 days and no less than 3 days prior to initiation of disturbance. If active nests are located, a minimum 260 ft. protective buffer would be established or activities delayed until the birds have completed nesting and brood-rearing activities.
4. All NRHP eligible or unevaluated sites would be avoided during the course of this project. An archaeologist would be involved as detailed plans are developed for each phase of the implementation to ensure avoidance is factored into the detailed project designs. An archaeologist would review plans for each phase of the project’s implementation to ensure avoidance of NRHP eligible or unevaluated sites.
5. Any unanticipated archeological discovery on BLM lands will be reported to a BLM archeologist and work in the immediate vicinity will stop until SHPO is consulted.
6. Prior to implementation of treatments, pygmy rabbit surveys would be conducted in areas of suitable habitat. A 400 ft. avoidance buffer would be established around any active pygmy rabbit burrows and burrow complexes found. No removal or manipulation of sagebrush would occur within any 400ft. avoidance buffers established.

7. For any proposed actions that are implemented during the burrowing owl breeding season (March 1 – August 31), a burrowing owl survey would be conducted in potential habitat areas no more than 10 days and no less than 3 days prior to initiation of disturbance. If active burrows are located, a minimum 260 ft. protective buffer would be established or activities delayed until the birds have completed nesting and brood-rearing activities.
8. Existing documented populations of lonesome milkvetch that occur near proposed treatment areas would be flagged and avoided.
9. No disturbance activities would be conducted during the sage-grouse lekking and nesting seasons from March 1<sup>st</sup> through June 30<sup>th</sup>.
10. Existing vegetation would not be treated within ten feet of perennial drainages with mechanical treatments.
11. All terrestrial equipment (e.g., vehicles, hand tools, tractors, etc.) to be used in treatments would be washed offsite prior to being brought to the project site, to avoid spreading noxious weed seeds.
12. All historic properties (i.e., archaeological sites listed unevaluated or eligible for inclusion on the National Register of Historic Places) would be avoided during project implementation. Avoidance buffers of at least 30 meters from National Register sites would be observed during project implementation.
13. If any significant paleontological resources are found during operations, impacts would be mitigated through avoidance and/or data recovery. Any unanticipated vertebrate fossil discovery on BLM lands will be reported immediately to the Project Archaeologist.
14. Drill seeding operations would be completed following the contour of the land as much as possible to reduce potential water erosion and impacts to visual resources.
15. Two weeks before herbicides are applied, the tribal council of the Fort McDermitt Paiute and Shoshone Reservation would be notified of when, where and how herbicides would be applied.

**RATIONALE** *(In accordance with 43 CFR 5003.1 (b)).*

The BLM has determined that vegetation on public lands within the District is at substantial risk of wildfire due to past fire history, drought and invasive annual weeds. Wildland-urban interface areas and important wildlife habitat, including greater sage-grouse habitat, are located throughout the planning area identified in the proposed action. The actions identified will reduce the risk of a catastrophic wildfire and the potential

succession of native plant communities to invasive annual grasslands. In addition, the following bullets outline the rationale for the Decision.

A.) Implementation of the proposed action will protect sensitive species and threatened or endangered (T&E) species habitat, protect municipal watersheds and provide for public safety. All treatments identified will be in accordance with the Instruction memorandums WO-IM-2012-043 Greater Sage-Grouse Interim Management Policies and Procedures and WO-IM-2011-138 Sage-grouse Conservation Related to Wildland Fire and Fuels Management.

B.) The selected action is designed to limit the spread of wildfire. Most treatments target the reduction of noxious weeds and invasive annual species and replace these species with native perennial species. Areas composed of perennial species have less fuel continuity and reduced fireline intensity allowing for increased suppression efficiency. Invasive annuals, such as cheat grass, provide continuity of fuels, increase rates of spread, and increase fire-line intensity. Maintenance of these treatments targets reduction in annual species production.

C.) Because most areas within the project area are within and adjacent to priority and general habitat (PPH and PGH) for greater sage-grouse, seed mixes will be composed of native perennial and some native biennial/annual species. Seeding native plant species better meets the BLM's objective for restoration and improvement of sagebrush habitat in important wildlife habitat areas.

D.) The proposed action will not adversely affect cultural resources. Class III Cultural Inventories have been completed, where required, for the proposed action. All NRHP eligible or unevaluated sites will be avoided during the course of this fuels project. An archaeologist will be involved as detailed plans are developed for each phase of the implementation of this project to ensure avoidance is factored into detailed project designs. Treatments will help to protect cultural resources by limiting fire spread.

E.) The treatments protect, improve or rehabilitate vegetation and wildlife habitat by constructing fuelbreaks and restoring key components of sagebrush ecosystems.

F.) The treatments provide for public safety, and protection of property and infrastructure by limiting the spread and intensity of wildfires near transportation corridors.

G.) Treatments are designed to provide fuel breaks to assist in keeping fires at the minimum acreage possible while reducing to a practical extent the acreage impacted by treatments.

H.) Treatment of cheatgrass-dominated areas outside of sagebrush blocks takes advantage of an opportunity to reintroduce perennial plants into previous invasive annual grasslands. These areas will be planted with perennial plants and treated to remove the competitive advantage possessed by invasive non-native annual plants. These treatments will reduce the potential for wildfire spread in fine flashy fuels in addition to establishing

a seed source for perennial plants to expand from in areas currently dominated by invasive plants. Modification of these areas will be a benefit to numerous wildlife species by reestablishing perennial species including sagebrush.

I.) There was public involvement in the original NEPA documents to cover this evaluation. A 30 day scoping period was held for the Project EA in September of 2011. All substantive comments were addressed in the EA.

J.) Native American Consultation was conducted during the development of the EA. Two weeks prior to any herbicide application, the tribal council of the Fort McDermitt Paiute and Shoshone Reservation will be notified, per the proposed action design measures, of when, where and how herbicides would be applied.

K.) The Winnemucca District initiated informal consultation with the U.S. Fish and Wild Service (USFWS) on March 26, 2012 for the EA. The USFWS reviewed the project and concurred that the project may effect, but will not adversely affect Lahontan cutthroat trout. USFWS provided a letter of concurrence on April 12, 2012. This satisfies section 7 consultation requirements for this project. No further consultation is required.

L.) Implementation of this Decision will not result in any undue or unnecessary environmental degradation of the public lands and is consistent with federal, state, and local laws, regulations and plans.

M.) The FONSI, dated 2 August 2012, for the Montana Mountains Cooperative Fuels Treatment Project, DOI-BLM-NV-WO10-2011-0005-EA supports this decision.

N.) Based on the Presidents National Energy Policy and Executive Order 13212, the Proposed Action will not generate any adverse energy impacts or limit energy production and distribution. Therefore, no "Statement of Adverse: Energy Impact" is required per WO 1M No 2002-053 and NV 1M 2002-049.

O.) Cooperating agencies (e.g. Nevada Department of Wildlife) and livestock permittees will be notified of treatments prior to implementation.

### **AUTHORITY**

The decision to implement the fuelbreak treatments immediately relies on authority under the Healthy Forests Restoration Act and associated BLM regulations under 43 CFR 5003.1(b). This project meets the determination requirement as an authorized project covered by the act, as the project enhances protection from wildland fire for Threatened and Endangered (T&E) species and their habitat.

### **Appeal**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Derek Messmer, Field Manager, Humboldt River Field Office, Winnemucca District Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada

89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

/s/ Derek Messmer  
Derek Messmer  
Field Manager  
Humboldt River Field Office

November 18, 2013  
Date

**Attachments: Appeal Form 1842-1**