

FULL FORCE AND EFFECT DECISION RECORD

DETERMINATION OF NEPA ADEQUACY FOR THE UNIONVILLE WILDLAND- URBAN INTERFACE FUELS PROJECT DOI-BLM-NV-WO10-2014-0012-DNA

INTRODUCTION

The community of Unionville is a federally designated community-at-risk because of its proximity to federal wildlands: 1) in which conditions are conducive to broad-scale wildland fires and 2) for which a significant threat to human life or property exists as a result of a wildland fire event (Healthy Forest Restoration Act of 2003). At least two large fires (i.e., Dun Glen Complex, Peru Fire), which started in wildland areas, have burned into the community resulting in emergency evacuations of residents. Additionally, several other smaller fires have occurred in close proximity to the community. The Healthy Forest Restoration Act of 2003 mandates the BLM to protect communities from the threat of wildland fire.

In 2007, a fuelbreak was authorized and constructed on the north side of the community along an existing dozer line. This dozer line was laid down during fire suppression operations on the Dun Glen Complex Fire in 1999. The fuelbreak was 50 feet wide and approximately 5.5 km long and is 10 acres in dimension. It occurs along both public and private land where an agreement with the land owner was obtained. Predominate winds and fire spread is from the south and southwest. Thus, the community is still unprotected at its most vulnerable location. Construction of fuelbreaks around the community have been identified in the Unionville Community Wildfire Protection Plan (CWPP) as a desirable federal action and plan goal.

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 fire and management objectives, or standard operating procedures.

Fire F-1 Objective:

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

DECISION

NEPA Decision

This decision relies on 1) the Project EA and Finding of No Significant Impact (FONSI), dated 2 August 2012, the Montana Mountains Cooperative Fuels Treatment Project EA (DOI-BLM-NV-WO10-2011-0005-EA), and 2) the Project EA and Finding of No

Significant, dated 21 September 2006, Winnemucca Wildland-Urban Interface Area Treatment Project EA (DOI-BLM-NV-WO10-2010-0011-EA). It is my decision to select the fuelbreak expansion for the north-side fuelbreak and construction of the south-side fuelbreak identified in the proposed action of the Project DNA and similar to actions analyzed in the referenced EAs, including seven applicable Proposed Resource Protection Measures (or Design Features) analyzed in the referenced EAs. Further, it is my decision that implementation of these projects, would not have impacts beyond those addressed in the referenced EAs.

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 resource protection measures identified in the DNA and listed in this decision in the “Resource Protection Measures” section. Those seven applicable Resource Protection Measures were analyzed in the “Proposed Environmental Protection Measures” section of the Project EAs. The BLM previously approved these measures in the referenced EAs. 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 protects a federally recognized community-at-risk from wildland fire in an area surrounded by public lands in which conditions are conducive to a large-scale wildland-fire disturbance event, and for which wildfire represents a significant threat to human life or property

Summary of Actions

This decision implements construction and maintenance of the Unionville Wildland-Urban Interface Fuelbreaks. A full analysis of similar actions was considered previously in the Montana Mountains Cooperative Fuels Treatment Project EA (DOI-BLM-NV-WO10-2011-0005-EA) and Winnemucca Wildland-Urban Interface Area Treatment Project EA (DOI-BLM-NV-WO10-2010-0011-EA).

Unionville Wildland-Urban Interface Fuelbreaks

1. The North-side Fuelbreak is currently 3.4 miles in length, 50 feet wide and occupies 10 acres. This fuelbreak will be expanded to 100 feet in width and will occupy 20.5 acres.
2. The South-side Fuelbreak will be 3.5 miles in length, 100 feet wide and will occupy 20.6 acres.

Total 41.3 acres

Most of the treatment area is covered with grass and other herbaceous plants. However, some areas have sagebrush cover which will need to be removed. The brush will be removed by hand (e.g., chainsaw, Pulaski, etc.). Grass growing within the fuelbreak,

either native perennials or non-native annuals, will be cut using weed-eaters or an ATV and mower. Maintenance will occur on an annual basis after major vegetative growth occurs in late spring or early summer (e.g., late May or early June). For use of any non-federal work force, a BLM project inspector will be required to inspect work and a wildlife biologist or their approved representative will be required to survey for migratory bird nests prior to or during construction or maintenance activities.

Treatments on Private Lands: Portions of the fuelbreak on the north side of the community include private lands. We currently have agreements in place with these land owners. New or amended agreements will be acquired prior to any new implementation on private lands. The east end of the South-side fuelbreak anchors to a road on private lands. If land owner approval could be obtained, additional treatment along both sides of the existing road will be an optional treatment. Treatments along the road would extend 10-20 feet on both sides of the road. The road is approximate 0.3 miles long; thus, the amount of additional disturbed area would not exceed 3 acres. Treatments on private lands is supported by the Wyden Amendment (Public Law 109-54 and Public Law 111-11) which allows the BLM to enter cooperative agreements with Federal, Tribal, State, and local governments as well as private landowners and non-profit entities for projects on public or private lands that reduce risk from natural disaster where public safety is threatened and that also benefit resources on public lands.

Resource Protection Measures

This decision is also subject to and requires the following seven features, which were analyzed in the Referenced EAs:

1. 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-2010-149 Sage-grouse Conservation Related to Wildland Fire and Fuels Management. Fuels Management Best Management Practices (BMPs) for Sage-Grouse Conservation.
2. During any new fuelbreak construction activities that are not performed outside of the migratory bird breeding season (March 1 – August 31), a migratory bird nesting survey will be conducted by a wildlife biologist or their approved representative 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 feet protective buffer would be established or activities delayed until the birds have completed nesting and brood-rearing activities. Once the fuelbreak has been established and for activities during the migratory bird breeding season, work by federal hand crews will not require a survey by a biologist. However, federal crews will be required to visually inspect the project area for any nests as they work and a buffer will be implemented around the nest if found. For any maintenance activities that utilize mechanized equipment, a migratory bird nesting survey will be conducted in potential habitat areas no more than 10 days and no less than 3 days prior to initiation of disturbance.

3. In accordance with state law, noxious weeds will be treated upon discovery. Survey and control of noxious weeds will occur during maintenance activities for fuelbreaks. Weed locations will be reported to invasive weeds specialist.
4. A 10-foot buffer will be implemented around springs and other perennial water sources (see Map). Brush and grass will not be removed in these areas.
5. All historic properties (i.e., archaeological sites listed unevaluated or eligible for inclusion on the National Register of Historic Places) will be avoided during project implementation. Avoidance buffers of at least 30 meters from National Register sites will be observed during project implementation.
6. Any unanticipated archeological discovery on BLM lands will be reported to a BLM archeologist and work in the immediate vicinity will stop until the archeologist is consulted.
7. 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.

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. The actions identified will reduce the risk of a catastrophic wildfire to a federally recognized community-at-risk. In addition, the following bullets outline the rationale for the Decision.

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

B.) Treatments are designed to assist in keeping fires at the minimum acreage possible while reducing to a practical extent the acreage impacted by treatments. Most of the treated area has been previously impacted by wildfire.

C.) 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.

D.) The selected action is designed to limit the spread of wildfire. In general, treatments

target the reduction of noxious weeds and invasive annual species. Noxious weeds will be surveyed during each treatment event. Perennial herbaceous plants within the fuelbreak would not be removed but reduced in height following the growing season.

E.) The proposed action will not adversely affect cultural resources. Fuelbreak activities for this project do not involve surface disturbance. All NRHP eligible or unevaluated sites will be avoided during the course of this fuels project. Treatments will help to protect cultural resources by limiting fire spread.

F.) There was public involvement in both the original NEPA documents and for this project. A 30-day scoping period was held for the Project EA in September of 2011 and all substantive comments were addressed in the EA. Two town-hall meetings were held in Unionville where residents could provide input for the project.

G.) 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.

H.) The FONSI, dated 2 August 2012, for the Montana Mountains Cooperative Fuels Treatment Project, DOI-BLM-NV-WO10-2011-0005-EA, supports this decision. The FONSI, dated 20 September 2010, for the Winnemucca Wildland-Urban Interface Area Treatment Project, DOI-BLM-NV-WO10-2010-0011-EA, supports this decision.

I.) 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.

J.) 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 of 2003 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 protects a federally recognized community-at-risk located in the wildland-urban interface and 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 Vic Lozano, 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 4.47I(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/ Vic Lozano
Vic Lozano
Field Manager
Humboldt River Field Office

4/25/14
Date

Attachments: Appeal Form 1842-1