

# Proposed Decision for Hampton Allotment

## Sage-grouse Playa Management Environmental Assessment

NEPA Register Number DOI-BLM-ORWA-P000-2012-0027-EA

U.S. Department of the Interior, Bureau of Land Management, Prineville District

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### Background

The Prineville District of the Bureau of Land Management (BLM) prepared an Environmental Assessment (EA) and Finding of No Significant Impacts (FONSI) for the proposed Sage-grouse Playa Management Environmental Assessment, NEPA Register Number DOI-BLM-ORWA-P000-2012-0027-EA. The actions included in this Decision Record were analyzed in that EA. The project area includes BLM-administered public land in and around playas south of Highway 20 near Hampton, Oregon. The EA, FONSI, project area maps and other information are available on the **project website** (find project by using map or text search):

[https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa\\_register.do](https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do)

The EA considered actions to renew as-is or renew with modifications the grazing permits for the Hampton, Ram Lake and ZX Allotments. The EA also considered actions to improve ecological conditions of playas and surrounding areas for sage-grouse including mechanically thinning young juniper, mowing silver sage brush and decommissioning and rerouting roads or primitive routes that currently impact sage-grouse habitat. The analysis of these two different but related actions was combined in one comprehensive EA for several reasons:

- Grazing permit renewal requires a comprehensive look at grazing and any issues that might exist in the allotment. Since the only issue with grazing involved sage-grouse, it seemed an ideal time to address other risk factors that might be affecting sage-grouse.
- Habitat improvement in these three allotments would complement other recent habitat improvements in these allotments and the surrounding area, providing habitat connectivity for sage-grouse.
- Instruction Memorandum 2012-043 directs BLM to “evaluate land treatments...in a landscape-scale context.” The IM also says, “When several small or isolated allotments occur within a watershed or delineated geographic area, strive to evaluate all of the allotments together.”
- Federal policy (40 CFR 1508.25(a)(3)) encourages analyzing multiple similar actions in one EA when it will improve the quality of analysis and efficiency of the NEPA process, and provide a stronger basis for decision-making. Similar actions have common timing and geography, not just type of action.

The EA and FONSI were prepared for compliance with the National Environmental Policy Act of 1969 (NEPA). The EA and FONSI are available at the Prineville BLM office and on-line.

## **Public, tribal and other involvement**

The BLM mailed over 50 tribal and public scoping letters in March 2012, and received 12 letters, including ones from: Oregon Department of Fish & Wildlife, US Fish & Wildlife Service, Blue Mountain Biodiversity Project, Oregon Wild, Oregon Natural Desert Association, and the livestock grazing permittees within the project area. In many cases the comments led to the development of issues and the incorporation of project design features into the action alternatives (as described in the EA Chapter 2, Alternatives).

The general public was also notified of the project in March 2012 via the Prineville District Project Planning Update which is posted on the Prineville public website at <http://www.blm.gov/or/districts/prineville/plans/plans.php>.

The BLM met with and talked on the phone with the grazing permittees multiple times during development of the project to gain an understanding of how the proposed actions would affect their operations.

The BLM again requested public and tribal input in November 2013 when it published the EA and draft FONSI to the BLM's public website and sent notification letters to those on the original scoping list and others who expressed interest since scoping. During the public review period for the EA ending in December 2013, the BLM received nine comment letters.

Based on comments, the BLM made several minor changes to the EA to clarify meaning or intent. These changes do not alter the conclusions of the analysis; therefore the BLM did not re-circulate the EA for public review, although it did re-post the revised EA to its public website. The comments, BLM response, and summary of minor EA changes were posted to the public website with the ZX Allotment Proposed Decision; they are also available on the project website at [https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa\\_register.do](https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do) or at the BLM Prineville District office.

## **Proposed Decision**

This Proposed Decision is one of four decisions the BLM is preparing to implement actions from the EA. It covers actions in the Hampton Allotment:

- Install troughs
- Remove troughs
- Repair existing and/or install new pipeline
- Fill dugouts

The other decisions cover the above actions in the ZX Allotment, and vegetation and route adjustment actions across the entire project area. The BLM issued the Proposed Decision for

the ZX Allotment and the Decision Record for the juniper thinning, silver sagebrush mowing and route adjustments on June 13, 2014.

Before implementing each decision point, the BLM will talk with and coordinate actions with the grazing permit holders to ensure timing, sequencing and site specific needs are being met.

Based on the analysis documented in the EA and FONSI, it is the BLM's decision to implement portions of action Alternative 4 for the Hampton Allotment as described in EA # DOI-BLM-ORWA-P000-2012-0027-EA. The following is a summary of management actions that will be implemented. The actions were described and analyzed Alternative 4 unless otherwise noted.

Authority for the actions contained in this proposed decision is found in 43 Code of Federal Regulations (CFR) §, 4120.3-1, 4130.2 (a), (b), (d), and (e), 4130.3, , , 4160.1, 4160.2, 4160.3, 4160.4, 4180.1, and 4180.2.

### **Renew grazing permit**

It is my Proposed Decision to not renew the grazing permit at this time. Following the new guidance from the Sage grouse RMPAs, this permit will be prioritized and renewed at a later date using the most current data available.

### **Install water developments**

It is my Proposed Decision to implement the actions listed below, which were analyzed in Alternative 4 of the EA. Project design features described in the EA and listed below will be incorporated into the planning and implementation phases of all range improvements. Refer to enclosed maps for the approximate location of the developments.

Pipeline and trough locations shown on attached maps and listed in the table below are approximate. Facilities will be installed in the general location, but may be moved slightly from locations shown on maps to minimize effects on wilderness characteristics and visual, cultural and other resources. The BLM will ensure the effects of any adjusted location will not exceed those analyzed in the EA.

The BLM will extend the existing Parmele pipeline 1.1 miles within the Hampton allotment. The new pipeline section will be buried two to six inches below the soil surface to prevent damage from freezing air temperatures and vandalism which was analyzed in Alternative 5 of the EA.

Water will be gravity fed through the pipeline system to two new trough locations, 34 existing trough locations with functioning troughs, and one existing trough locations where troughs are not currently functioning but will be repaired. Each trough location will be about ½ acre in size, with one to three troughs per location.

Existing pipeline that is not functioning and not proposed to be repaired in this EA will be abandoned. Troughs will be removed from locations where they are not providing water and

not proposed to be repaired in the EA. Approximate locations of pipelines and troughs are displayed on attached maps.

Trough locations are the same as Alternative 4. The following design features were analyzed in the EA and will be followed when installing the pipeline and troughs:

- New troughs will be located at least 150 feet from fences to reduce bird and bat collisions.
- New troughs will be located at least 0.75 miles from playas that contain dugouts.
- No new troughs will be located 0.25 mile from pygmy rabbit home range (BLM will conduct surveys prior to trough placement).
- The BLM will install ramps in all water troughs to allow wildlife to gain access to and escape from the water.
- Pipelines will be built next to existing primitive routes when possible.

The BLM will purchase materials and pay for installation of new pipeline and troughs. Once installed, they will be added to the existing Cooperative Rangeland Agreement, assigning maintenance to the permittee. The BLM will grant itself rights of way for developments on public land.

This Proposed Decision is different from Alternative 4 in that it removes troughs from three locations where the troughs are currently providing water for livestock. Removal of troughs from these locations was analyzed in Alternative 3.

### **Fill dugouts**

The BLM will **fill 6 dugouts** using heavy equipment to replace soil displaced during original excavation. The BLM will provide replacement water for livestock (as described in this decision) before filling dugouts that are considered reliable water sources.

The following design features were analyzed in the EA for Alternatives 2-5 and will be followed as dugouts are filled:

- To reduce effects from soil compaction, operate heavy equipment when soils are dry or frozen. Soils are wet when they are at or above field capacity in the top three inches of the soil surface. Cease operations when equipment tracks create ruts greater than or equal to three inches deep with one pass or when equipment is slipping and sliding.
- If a road is not available to access the playa/dugout, limit equipment passes to four or fewer trips over a single piece of ground. If five or more trips are likely, designate a single route into the playa/dugout.

## **Rationale for the Proposed Decision**

The BLM selected the combination of actions based on several factors. One consideration was how well the actions improve ecological condition of playas and surrounding areas for sage-grouse, the purposes of the project as stated in Chapter 1 of the EA. Other factors were the tradeoffs between effects on resources presented in Chapter 3, the agency (public) cost for implementation and maintenance, the risk of long term investment in infrastructure, and the potential for the actions to be successful. The BLM also considered public input in letters regarding people's desires for and concerns about the area.

Alternative 2 would have provided the most improvement to the ecological condition of playas and surrounding areas for sage-grouse with the least expenditure on infrastructure (water developments and fences). However, the BLM weighed that against the effect on grazing permittees and the local economy, and the difference in effects on sage-grouse between Alternative 2 and the other action alternatives. This is explained in the next two paragraphs.

First, the Hampton permittee would see an annual reduction in revenue for Alternative 2. Revenue from the Hampton Allotment is spent in Crook County Oregon, where nine percent of the county income was farm related in 2012.

Second, since the primary concern regarding sage-grouse was about concentrated livestock grazing on playas and around water sources, removing livestock from the entire allotment, including upland areas or areas not providing nesting habitat, would not provide any more benefit to sage-grouse than just fencing off playas.

The Standards and Guidelines Assessment concluded that all standards and guidelines are being met by the existing grazing permit terms and conditions. The selected actions will restore and rehabilitate playas within the Hampton allotment. This will be accomplished with multiple actions including extending/improving pipeline and installing new water troughs. This will facilitate off-site watering conditions for livestock away from the playa features.

In deciding between Alternatives 3, 4 and 5, the BLM selected the combination of actions that would provide replacement water to keep the livestock grazing operations viable.

Based on the analysis of potential impacts contained in the EA, the BLM has determined in the FONSI that the Sage-grouse Playa Management project will not have a significant impact on the human environment within the meaning of Section 102(2) (c) of the National Environmental Policy Act of 1969 (FONSI pages 1-4). Thus, an EA is the appropriate level of analysis, and an Environmental Impact Statement (EIS) will not be prepared.

## Compliance

The Proposed Decision is consistent with the Brothers/La Pine Resource Management Plan (RMP) (USDI BLM 1989), which says (pages 86-90):

- All actions will be consistent with the BLM's Visual Resource Management criteria. The management criteria for the specific visual class will be followed.
- In crucial wildlife habitat...work will be scheduled during the appropriate season to avoid or minimize disturbances.
- Surface disturbance at all project sites will be held to a minimum.
- Where exceptional riparian habitat potential does exist, measures ... will be taken to provide both livestock water and riparian improvement.

The Proposed Decision is consistent with the following recent amendment to the Brothers/La Pine RMP: the 2015 Oregon Greater Sage-grouse Approved Resource Management Plan Amendment. This amendment includes required the following design features for projects in sage-grouse habitat (Appendix C, USDI BLM 2015):

- Locate new or relocate existing livestock water developments within GRSG habitat to maintain or enhance habitat quality.
- Construct new livestock facilities, such as livestock troughs, fences, corrals, handling facilities, and "dusting bags," at least 1.2 miles from leks or other important areas of GRSG habitat (i.e., wintering and brood-rearing areas) to avoid concentrating livestock, collision hazards to flying birds, or avian predator perches.
- Ensure wildlife accessibility to water and install escape ramps in all new and existing water troughs.
- Place new utility developments (power lines and pipelines, for example) and transportation routes in existing utility or transportation corridors.

BLM Instruction Memorandum 2012-043 which provides direction for management of sage-grouse habitat. This IM directs BLM to "evaluate land treatments...in a landscape-scale context" which this EA does. The IM also states, "When several small or isolated allotments occur within a watershed or delineated geographic area, strive to evaluate all of the allotments together. Prioritize this larger geographic area against other PPH areas for processing permits/leases for renewal"; the BLM has done this. The BLM would also comply with this IM by "...monitor[ing] activities and projects using the BLM core indicators and protocols...to ensure that the objectives are being met" and "...prioritize[ing] use supervision and effectiveness monitoring of

grazing activities to ensure compliance with permit conditions and that progress is being made on achieving land health standards.”

In accordance with BLM IM 2012-043, under all action alternatives, BLM would “...monitor activities and projects using the BLM core indicators and protocols...to ensure that the objectives are being met” and “...prioritize use supervision and effectiveness monitoring of grazing activities to ensure compliance with permit conditions and that progress is being made on achieving land health standards.”

The RMP and amendment are available at the Prineville District (address at top of this Proposed Decision) or on the project website.

The BLM complied with 43 CFR 4130.3 by making allotment monitoring data, including the Rangeland Health Assessments, available to the permittee prior to and during preparation of the EA on which this Proposed Decision is based. Interested publics were contacted during scoping and in the EA states all data was available upon request.

The decision is consistent with the 2011 Oregon Department of Fish and Wildlife’s Greater Sage- Grouse Conservation Assessment and Strategy for Oregon because it includes actions listed as conservation guidelines in that document.

For example, the Oregon Conservation Strategy says (page 104), “For playas, wetlands, and springs that have been hydrologically modified for livestock watering, local working groups should identify water improvements that have population limiting implications. These should be rehabilitated and off-site livestock watering facilities developed; new water should be available before existing water is eliminated.”

The selected action ensures compliance with Section 106 of the National Historic Preservation Act. This compliance includes consultation with the Oregon State Historic Preservation Office and interested tribes, and project design features that avoid disturbance to historic properties and paleontological resources.

## **Protest and appeal opportunities**

### **Protest**

In accordance with 43 CFR §4160.2, any applicant, permittee, lessee or other interested public may protest the Proposed Decision under §4160.1 of this title, in writing to the Bureau of Land Management, Homer “Chip” Faver, Prineville District Office Field Manager, 3050 N.E. Third Street, Prineville, OR 97754 within 15 days after receipt of this Proposed Decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error. A written protest electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as a protest. A written protest must be on paper.

In accordance with 43 CFR §4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his/her review of the protest shall serve his/her final decision on the protestant and the interested public.

In accordance with 43 CFR §4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice.

### **Appeal and petition for stay**

In accordance with 43 CFR §4160.3 (c) & (f), a period of 30 days following receipt of the Final Decision or 30 days after the date the Proposed Decision becomes final is provided for filing an appeal and petition for stay of the decision pending final determination on appeal.

In accordance with 43 CFR § 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge and may also petition for a stay of the decision pending final determination on appeal. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. Additionally the person appealing must serve a copy of their appeal and petition for stay on any person named in the decision including the name to which the decision is addressed, those listed at the end of this decision, and the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205 within 15 days of filing the appeal and petition for stay. Appellant needs to be able to document service to any other person named in the decision and the Solicitor. A notice of appeal and/or request for stay electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A notice of appeal and/or request for stay must be on paper.

In accordance with 43 CFR 4.470, the appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

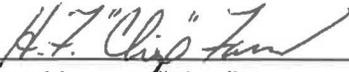
A petition for stay, if filed, must show sufficient justification based on the following standards (43 CFR 4.471(c)):

- 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.

The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion

to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

  
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Signed by H.F. "Chip" Faver  
Field Manager, Central Oregon Resource Area

  
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Date

