

## **FULL FORCE AND EFFECT DECISION RECORD**

### **DETERMINATION OF NEPA ADEQUACY FOR OWYHEE ROADS FUELBREAK PROJECT DOI-BLM-NV-WO10-2014-0035-DNA**

#### **INTRODUCTION**

The Owyhee Desert in the northeastern corner of the Winnemucca District contains one of the largest tracts of intact sagebrush in northern Nevada and important habitat for a wide variety of wildlife species. For example, the entire project area is located within Preliminary Priority Habitat (PPH) and Preliminary General Habitat (PGH) for greater sage-grouse, a United States Fish and Wildlife designated candidate species under the Endangered Species Act (1973). The project area is part of the Santa Rosa greater sage-grouse Population Management Unit. Additionally, several Bureau of Land Management Nevada state sensitive species, such as sage thrasher, sage sparrow, pygmy rabbits, and several plant species occupy the Owyhee Desert. 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 Little Owyhee Roads Fuelbreak Project is a continuation of a previous hazardous fuels project (2006-2010) that treated roadsides with the herbicide Tebuthiuron to lower live fuel loading. This project would also reduce fuel loading and additionally, fuel height by mowing vegetation along previously treated areas of roadside and allowing for maintenance treatments including the use of additional herbicides and broadcast seeding of native plants to control noxious/invasive weeds. The goal of this project is to protect intact sagebrush habitat important for a wide variety of special status species including greater sage-grouse. Fuelbreaks maintenance and improvement would slow down or reduce the intensity of wildfires along roadsides and provide a defensible location for firefighters to safely and effectively suppress wildfire.

#### **DECISION**

On the basis of the information contained in the DNA, it is my decision to implement the proposed action to maintain and improve fuelbreaks along 95 miles of existing roads/two tracks in the Little Owyhee (see Map) for up to 3,439 acres of public lands. 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 ten Design Features were identified for implementation in the “Proposed Environmental Protection Measures” section of the Project EAs.

Fuel break maintenance and improvement actions will include using a tractor with deck mower to reduce the height of standing vegetation adjacent to the roadways up to 300ft total in width. Treatments will generally occur on areas previously treated with herbicide where brush has been killed along the existing travel corridors. Application of the pre-emergent herbicide Imazapic or other BLM-approved herbicide and seeding with native perennial vegetation where necessary is also proposed to reduce the spread and establishment of noxious or invasive weeds. Herbicide may be applied aerially or using ground-based equipment. These fuel breaks will be subject to periodic maintenance to reduce fuel loads/heights and treat any invasive or noxious plants that may become established within the fuelbreak. The project will be completed over a three year period from September through February yearly with maintenance occurring as needed after initial implementation.

### **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 ten features, which were analyzed in the Project EA:

1. Herbicide application rates (range of rates) and application will be subject to label restrictions and standard operating procedures. (Montana Mountains Cooperative Fuels Management EA)
2. 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 as described in Appendix IV in EA. (Montana Mountains Cooperative Fuels Management EA)
3. Any unanticipated archeological discovery on BLM lands will be reported to a BLM archeologist and work in the immediate vicinity will stop until the authorizing officer approves the resumption of work. (Montana Mountains Cooperative Fuels Management EA)
4. Prior to implementation of treatments, pygmy rabbit surveys will 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 400 ft. avoidance buffers established. (Montana Mountains Cooperative Fuels Management EA)
5. Existing vegetation will not be treated within ten feet of perennial drainages with mechanical or chemical treatments. (Montana Mountains Cooperative Fuels Management EA)

6. All terrestrial equipment (e.g., vehicles, hand tools, tractors, etc.) to be used in treatments will be washed offsite prior to being brought to the project site, to avoid spreading noxious weed seeds. (Montana Mountains Cooperative Fuels Management EA)
7. If any significant paleontological resources are found during operations, impacts will be mitigated through avoidance and/or data recovery. Any unanticipated vertebrate fossil discovery on BLM lands will be reported immediately to the Project Archaeologist. (Montana Mountains Cooperative Fuels Management EA)
8. At least two weeks before herbicides are applied, the tribal council of the Fort McDermitt Paiute and Shoshone Reservation will be notified of when, where and how herbicides would be applied. (Montana Mountains Cooperative Fuels Management EA)
9. Treatments will not be applied within the North Fork of the Little Humboldt Wilderness Study Area (WSA). All treatment near the WSA will occur outside the boundary on the east side of the WSA that follows a previously treated roadway. Treatment will only occur east of this boundary road adjacent to the eastern WSA boundary.
10. BLM Nevada State Sensitive plant populations including populations of Davis Peppergrass will be avoided during all treatments. If any plants are located during surveys, a 50ft buffer would be implemented for ground based treatments and a 150ft buffer would be implemented for aerial treatments. No treatments would occur within identified buffer zones.

**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. Important wildlife habitat, including greater sage-grouse habitat, are located throughout the project area identified in the proposed action. The actions identified will enhance protection from catastrophic wildfire for the threatened species, Lahontan cutthroat trout, and for the candidate species, greater sage-grouse. In addition, the following 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. Treatments would either lower fuel height or reduce invasive annual weeds. 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 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. 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.) Fuelbreak treatments protect vegetation and wildlife habitat by preventing unwanted wildfire.

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. All areas to be treated are adjacent to existing roads to further limit disturbance and reduce potential fragmentation of habitat.

H.) Where necessary, treated areas will be planted with native 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 native perennial plants.

I.) There was public involvement in the original NEPA documents that adequately covers this evaluation. A 30 day scoping period was held for the Montana Mountains Cooperative Fuels Management Project EA in September of 2011 and the Little Owyhee and Lone Willow Project EA in November of 2007. In addition, a thirty day comment period was afforded for review and comment of both preliminary environmental assessments. All substantive comments were addressed in the EAs.

J.) Native American Consultation was conducted during the development of the EA. At least 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.) 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.

L.) 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.

M.) The Nevada Department of Wildlife and livestock permittees will be notified of treatments prior to implementation.

N). All fuelbreak areas will be surveyed prior to implementation for burrows and avoided to eliminate potential impacts with pygmy rabbits. Known populations of sensitive plant species will be avoided during project implementation.

O). Reducing acres impacted by wildfire, which can result in conversion to cheatgrass, would improve overall habitat quality for wild horses and burros in the Little Owyhee Herd Management Area.

#### **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.

#### **Applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action:**

NEPA Documents:

- Montana Mountains Cooperative Fuels Treatment Project Environmental Assessment, DOI-BLM-NV-W010-2011-0005-EA, (DR and FONSI 08/02/2012).
- Lone Willow and Little Owyhee Herbicide Treatment Environmental Assessment, DOI-BLM-NV-020-08-EA-05, (DR and FONSI 09/18/2008).
- Vegetation Treatment Using Herbicides on BLM Lands in Seventeen Western States Programmatic Final Environmental Impact Statement, 07/2007, (ROD 9/29/07).
- Little Owyhee Herbicide Treatment Environmental Assessment, DOI-BLM-NV-020-06-EA-18, (DR and FONSI 09/20/2006).

- Winnemucca Field Office Green Stripping Environmental Assessment, DOI-BLM-NV-020-02-24-EA, (DR and FONSI 08/23/2002).

### **Public Outreach:**

Thorough public outreach was conducted in the development of the NEPA documents supporting this decision and listed on page 5 of this DR. Sufficiency is based on public outreach that was conducted on the same types of activities (i.e., mowing and aerial application of herbicide to control invasive weeds) on numerous projects in the past five years in this geographic area. With the environmental protection measures now in place, the types of concerns received during the NEPA process, have been addressed. No further public outreach was conducted.

Because greater sage-grouse are a species of great concern for the BLM, a field tour was held on the January 21, 2015, to discuss the project onsite. Interested publics, affected interests, and state and federal agencies were invited; a representative from the Nevada Department of Wildlife and the livestock grazing permittee attended. An email regarding the project and tour was received from Katie Fite of Wildlands Defense on February 2, 2015, with a response generated on February 4, 2015. No additional issues were generated during the field tour, and there have been no further responses.

### **Consultation and Coordination**

Due to past and ongoing Native American consultation, a notification will be sent, at least two weeks prior to any herbicide application, to the tribal council of the Fort McDermitt Paiute and Shoshone Reservation, of when, where and how herbicides would be applied.

There has been coordination with Nevada Department of Wildlife regarding the treatment in greater sage-grouse habitat in the form of phone calls and emails to discuss the affected resources. The project was fully supported.

### **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 will provide enhanced protection from catastrophic wildfire for the threatened species, Lahontan cutthroat trout, in the upper watershed of the Little Humboldt River and for the candidate species, greater sage-grouse, in the entire planning area.

### **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 James W. Schroeder, 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-1712, 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/ James W Schroeder  
**James W. Schroeder**  
**Field Manager**  
**Humboldt River Field Office**

2-10-2015  
**Date**