

**Vale District Bureau of Land Management
Jackies Butte Reservoir Water Release
Environmental Assessment
EA No. OR-030-08-005**



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1 Background Information

On January 23, 1973 an agreement was made between users of the Jackies Butte Unit, including Ralph Eason (a senior right holder to water that is tributary to Dry Creek and Indian Fort Creek drainages), and the BLM. The agreement stated that the Jackies Butte Permittees would not object to the BLM allocating Ralph and Beverly Eason 1,400 AUMs of available forage, in addition to their present base property qualifications. In return for the 1,400 additional AUMs, Easons agreed in a February 26, 1973 agreement, “to allow the BLM to construct and maintain as many water structures and developments as may be necessary for proper management of the Jackies Butte Unit on which they control the water right.” The earlier agreement also stated that “In addition, Easons will so notify the State Engineer and will interpose no further objection to BLM reservoir construction or water use.” The agreements were binding on all heirs and future assignees.

Oregon Water Resources Department (OWRD) was not a party to either of the agreements and thus their content does not affect Oregon State water law related to the requirement that storage held under a junior water right be released to satisfy a call for a senior water right.

On February 16, 2006, the OWRD notified the Bureau of Land Management that the senior water right holder (heirs and assignees to Ralph and Beverly Eason) had made a call for water to fill Blevens, Rock House, and Fred Scott reservoirs.

2 Proposed Action

Nineteen BLM stock-water reservoirs in Dry Creek and Indian Fort Creek drainages would either be retrofitted with a pipe and valve or have a diversion structure installed to reroute water around the off-channel pit, or would otherwise be abandoned with associated reclamation.

3 Purpose of and Need for the Action

Upon receiving the request for water stored in BLM reservoirs, OWRD asked that BLM submit a plan to meet the call for water and potential future calls for water by April 3, 2006. Subsequent to the February 16, 2006 notification of the call for water, the 2006 call was conditionally withdrawn. OWRD maintained the request that BLM submit a plan for meeting future calls for water. In response to this request the BLM determined there is no economically feasible way of vacating water from these reservoirs short of eliminating most of the structures. BLM only possesses the monetary means to retrofit and reconstruct a few of the existing reservoirs to allow for future water delivery.

The Purpose and Need for the proposed action is to comply with Oregon State water law by satisfying a senior water right call in a way that fits within the BLM’s budget and time limitations. BLM’s NEPA Handbook states that, “If the BLM is required by law to take an action, the NEPA may not be triggered.” Rel. 1-1710, 20080130, CHAPTER 2—ACTIONS EXEMPT FROM THE NEPA AND EMERGENCY ACTIONS, Page 9. Although it is not BLM’s discretion whether the agency would release water in response to calls to satisfy senior water rights which are downstream from its stock-water reservoirs, BLM does have discretion how that water would be released. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment (43 CFR 1500.1 (c)). This environmental assessment is being completed to analyze the environmental consequences of satisfying Oregon State water law and to determine the best course of action to take.

4 Conformance with the Land Use Plan

The Southeastern Oregon Resource Management Plan and Record of Decision (SEORMP/ROD) was signed September 2002 and is the land use plan for public lands affected by the alternatives identified in this environmental assessment. This proposed action is in compliance with the SEORMP. In accordance with the land use plan, existing structural rangeland projects will be maintained where beneficial to

livestock and other resource values. Projects which no longer meet livestock or resource management objectives may be abandoned and sites will be rehabilitated (RMP/ROD, Rangeland/Grazing Use, at 59). The proposed action is also in accordance with the Vale District Five-Year Noxious Weed Control Plan (ROD, 2006).

5 Alternatives Including the Proposed Action

The objective of alternative actions is to provide a cost effective and logistically efficient way to meet future calls for waters, while protecting public land resource values consistent with public land management objectives identified in the Southeastern Oregon Resource Management Plan. Information pertaining to the nineteen BLM stock water reservoirs attained from the May 2006 inventory, file data, and conversations with grazing permittees were used to formulate alternatives that satisfy senior water rights.

5.1 *No Action*

The no action alternative would maintain the nineteen stock-water reservoirs in Dry Creek and Indian Fort Creek drainages, as originally designed and without a passive means of evacuating water. In the event that the holder of certificates for senior water rights should call for water in the future the BLM would have no feasible way to deliver water and would be in violation of State Water Law.

5.2 *Retrofit Reservoirs and Abandon Reservoirs (Proposed Action)*

Each of the nineteen BLM stock-water reservoirs in Dry Creek and Indian Fort Creek drainages would be either retrofitted with a pipe and valve identified in water rights certificates, have a diversion structure constructed to reroute water around the off-channel pit, or would be abandoned with associated reclamation completed and best management practices (BMP's) applied to restore the site to a natural contour with reestablishment of onsite native or seeded native grass species.

Jesse and Pam White's trade-of-use 1400 AUMs would be cancelled as a result of the lack of an assurance that the Bureau would be consistently able to hold water in any reservoirs and to make beneficial use as identified in water rights certificates. Public benefits of maintaining the agreement are no longer present in the absence of dependable water in reservoirs to support livestock grazing, wild horses, and other public land uses. As a result, the 1973 agreement would be vacated and 1400 AUMs of trade-of-use would be cancelled.

The following actions would be implemented for the individual reservoirs: 1) Pits would be filled with surrounding material and re-contoured to original landform, 2) Water would be diverted into the original channel and around a reservoir, 3) Water would be diverted into the original channel and around a reservoir, with headgate control, 4) Dams would be retrofitted with a pipe and value control, and 5) Reservoir dams would be breached, with existing site material utilized to re-contour the area to original landform. The following reservoirs would receive all or parts of the above treatments:

1. Indian Fort Creek Reservoir #2
2. Jackies Butte Pit #1
3. Jackies Butte Pit #2
4. White Cow Pit
5. Mustang Reservoir
6. Water Hole Reservoir
7. Echave Reservoir
8. Dry Hole Reservoir
9. Crows Nest Reservoir
10. Collumbaugh Reservoir
11. Garlow Butte Reservoir
12. Upper Duncan Reservoir
13. Peacock Reservoir
14. Mousetrap Reservoir

15. Indian Fort Creek Reservoir
16. Squaw Flat
17. Peacock Pond
18. Coyote Holes
19. Deadman Reservoir

5.3 Alternatives considered but not analyzed in detail

Future calls for water would require the BLM to either pump the nineteen reservoirs or siphon water over the dams, or find some other means of evacuating water from the reservoirs and getting it past successive downstream reservoirs in Dry Creek and Indian Fort Creek drainages upstream of Blevens, Rockhouse, and Fred Scott reservoirs. This alternative will not be considered in detail because it is not economically or practically viable. Logistically, access to these reservoirs during much of the spring is not practical because of ice, snow, and muddy roads that make travel by vehicle almost impossible. In addition, the cost of labor and equipment as well as the availability of staff to manually pump 19 reservoirs, whenever a call for water is made, would be prohibitive because of BLM's fixed annual budget..

6 Affected Environment

This section presents relevant resource components of the existing environment which constitute baseline information.

6.1 Water Rights

Under Oregon law, all water is publicly owned. Oregon's water laws are based on the principle of prior appropriation. This means the first person to obtain a water right on a stream is the last to be shut off in times of low streamflows. In water-short times, the water right holder with the oldest date of priority can demand the water specified in their water right regardless of the needs of junior users. If there is a surplus beyond the needs of the senior right holder, the water right holder with the next oldest priority date can take as much as necessary to satisfy needs under their right and so on down the line until there is no surplus or until all rights are satisfied. The date of application for a permit to use water usually becomes the priority date of the right.

An interpretation of the Water Resources Department District #9 Watermaster is that all water stored in a structure created by man in Dry Creek or Indian Fort Creek drainages, even a pit type reservoir in an internally drained subbasin, would be subject to a call for water to satisfy senior water rights.

6.2 Vegetation

Vegetation in Dry Creek Native and Indian Fort Pastures of Jackies Butte Summer Allotment and Peacock and Twin Springs North Pastures of Campbell Allotment, as well as the majority of the two allotments, consists of shrub steppe plant communities dominated by sagebrush species and bunchgrasses. The vegetation type which covers the majority of the allotments is dominated by Wyoming big sagebrush (*Artemisia tridentata ssp wyomingensis*) with an understory of perennial grass species, primarily bluebunch wheatgrass (*Pseudorogneria spicata*), Sandberg bluegrass (*Poa secunda*), Thurber's needlegrass (*Stipa thurberiana*), and basin wildrye (*Leymus cinereus*). Much of the area has some degree of invasion by annual species including cheatgrass (*Bromus tectorum*).

Riparian area plants in drainages and areas around the livestock reservoirs and wet meadows consist mainly of sedge and rush species, while a few species of willow can be found sparsely scattered throughout the drainages in the watershed.

6.3 Noxious Weeds

Portions of the Jackie's Butte area are infested with a conglomerate of mostly annual noxious weeds or weedy species. The area has few of the more invasive noxious weeds and most of those are along vehicle travel routes. Heavy infestations of cheatgrass (*Bromus tectorum*) are common where livestock congregate

near water sources, bed grounds and salt licks as well as near disturbed areas associated with ranches and old homesteads. Other common annual or bi-ennial weeds within these areas include a variety of mustards, such as clasping pepperweed (*Lepidium perfoliatum*), tumble mustard (*Sysymbrium altissimum*), blue mustard (*Chorispora tenella*) and flixweed (*Descurainia sophia*), lambsquarter (*Chenopodium sp.*), kochia (*Kochia scoparia*), Russian thistle (*Salsola iberica*) and prickly lettuce (*Lactuca serriola*). Halogeton (*Halogeton glomeratus*) is encroaching from infested, heavily disturbed areas, near Rome.

Heart-podded and globe-podded whitetop species (*Lepidium sp.*) can be found in small patches trailing along gravel and two track roads. Perennial pepperweed (*Lepidium latifolium*) and Russian knapweed (*Acroptilon repens*) are known to exist in the immediate vicinity near Rome and the Bowden ranch. Whitetop, perennial pepperweed and Russian knapweed are all long-lived perennials. Small sites of Scotch thistle (*Onopordum acanthium*), a biennial, have been found and treated along roadways on the N end of the area and near Rock House reservoir. All known sites of these weeds are treated and/or monitored yearly by BLM.

6.4 Wild Horses

Jackies Butte Herd Management Area (HMA) is equivalent to the 65,251 acre Dry Creek Native Pasture of Jackies Butte Summer Allotment. The appropriate management level range established for Jackies Butte Herd Management Area is 75 to 150 head with a forage allocation of 1,800 AUMs. This appropriate management level is dependent on available forage and water, as well as horse numbers consistent with maintaining a thriving ecological balance.

Water for horses is currently provided by Hardin Springs, Long Water Holes in Dry Creek, the Corbin Well pipeline, Jackies Butte pipeline, and any and all reservoirs located in the Dry Creek Native Pastures.

6.5 Special Status Plants

No special status plant species are known to occur at or near the project areas. Although the area has not been extensively surveyed for rare species known to occur in the Jordan Resource Area, surveys which have been conducted generally fail to find such plants, and this part of the Vale District is not known to support an abundance of special status species. The only occurrence of such plants in the area is found near the Owyhee River at a location approximately 4.5 miles to the northwest of the northernmost project site.

6.6 Wildlife and Fish

BLM's wildlife management focuses on the habitat needs and conditions required to sustain healthy populations of native fish and wildlife. Priority is given to special status species, species of concern, and locally important species. The projects areas contain no critical or essential habitat for threatened or endangered species, and use by these fish and wildlife species is highly unlikely. Special status species and locally important species that occur within the project area include Sage grouse, pygmy rabbits, and pronghorn antelope.

Wildfires are frequent and tend to grow large in this area. As a result, most of the vegetation has been converted to annual grasses and weeds. Habitat for sage grouse and pygmy rabbits, species that require sagebrush to survive and reproduce, is generally lacking. Pronghorn frequently use the area.

Native fish species are not present in these streams due to the lack of water in the summer months. Similarly, most of the reservoirs do not hold water all year long and also do not contain native fish species. Coyote Holes Reservoir is stocked by the Oregon Department of Fish and Wildlife (ODFW) with rainbow trout. Stocking only occurs when water conditions are favorable and stocked fish do not spawn naturally in any of these reservoirs.

6.7 Livestock Grazing

Dry Creek and Indian Fort Creek drainages include portions of Dry Creek Native and Indian Fort Pastures of Jackies Butte Summer Allotment and portions of Peacock and Twin Springs North Pastures of Campbell Allotment.

Jackies Butte Summer Allotment grazing permits identify annual grazing authorizations as follow:

<i>Permittee</i>	<i>Operator Number</i>	<i>Active grazing authorization</i>
Dowell Brothers	3600132	3,028 AUMs
Robert Corbari	3600172	331 AUMs
Robert Corbari	3603480	4,271 AUMs
Grenke Ranches	3603446	540 AUMs
James Matteri & Sons	3603451	3,603 AUMs
Jesse & Pamela White	3603478	391 AUMs
Rim Rock Ranch / Vera Pendok	3603717	1,100 AUMs
	Total	13,264 AUMs

In addition to the grazing authorization identified above, Jesse and Pam White are allowed to take 1,400 AUMs of use annually through the trade of use identified in the 1973 agreement.

The grazing schedule for Jackies Butte Summer Allotment, implemented by the 1976 allotment management plan, identified that the three native range pastures constituting the major portion of the Jackies Butte Allotment are grazed within a three year deferred rotation system between 4/1 and 10/31 annually. The seeding/Rome Pasture unit is grazed annually from 10/1 to 10/31 and one year of the three year rotation from 4/1 to 4/30. Estimated carrying capacity of the pastures in Jackies Butte Summer Allotment, identified in the 1976 plan, is as follows:

<i>Pasture</i>	<i>Est. Grazing Capacity</i>
Rome Pasture (N)	103 AUMs
Rome Pasture (S)	470 AUMs
China Gulch (N)	974 AUMs
China Gulch (S)	852 AUMs
Dry Creek Seeding	1,053 AUMs
Indian Fort Pasture	5,114 AUMs
Dry Creek Pasture	4,770 AUMs
East Side Pasture	3,968 AUMs
Total	17,304 AUMs

The one Campbell Allotment grazing permit identifies the annual grazing authorization as follows:

<i>Permittee</i>	<i>Operator number</i>	<i>Active grazing authorization</i>
Lucky 7 Ranch	3603721	14,160 AUMs

The following grazing schedule for Campbell Allotment was implemented as a result of decisions following the Louse Canyon Geographic Management Area evaluation/assessment and is dependent on completion of all identified rangeland improvement projects identified in the July 7, 2005 decision:

<i>Pasture</i>	<i>Use Period</i>	<i>Livestock # and Kind</i>	<i>AUMs</i>
Peacock/Twin Springs	3/1 to 3/15	1,298 Cattle	640
Peacock/Twin Springs	3/16 to 5/31	1,598 Cattle	4,045
North Sacramento Hill	3/16 to 5/15	300 Cattle	1,203

South Sacramento Hill	5/16 to 7/15		
Horse Hill	6/1 to 7/15	1,598 Cattle	2,364
Starvation Seeding	7/16 to 10/15	1,498 Cattle	4,531
Starvation Brush Control	7/16 to 10/15	400 Cattle	1,210
	5/1 to 10/15	20 Horses	111
FFR			51
		Total	14,155

6.8 Recreation and Visual Resources

Dispersed outdoor recreation in and near Jackies Butte Summer Allotment consists primarily of occasional off highway vehicle use within designated open areas, and the hunting of upland birds and big game animals. Some dispersed general sightseeing, including wild horse viewing occurs. The public land portion of Dry Creek and Indian Fort Creek drainages is located within visual resource management (VRM) Class IV. The objective of class IV is as follows:

- Class IV is to provide for management activities that require major modification of the landscape. These management activities may dominate the view and become the focus of viewer attention. However, every effort should be made to minimize the impact of these projects by carefully locating activities, minimizing disturbance, and designing the projects to conform to the characteristic landscape.

6.9 Cultural Resources

The Tagötöka (eaters of Lomatium; root eaters), occupied the area south along the Jordan River and the three forks of the Owyhee River. Cultural resources associated with the prehistoric (13,000 – European settlement) use of this project area include habitation sites around springs; small camps at stream-side meadows and on alluvial deposits at junctions of tributary streams; quarries of fine-grained basalt, obsidian, chalcedony and jasper; flaking stations on high points with good vantage; and sacred sites.

Cultural resources associated with the historic (1700- present) use of this area are tied to landforms as transportation corridors (wagon roads), historic homesteads, early irrigation project features, early mining activity areas, and remains of stage and telegraph stations

6.10 Climate/Topography

Jackies Butte Summer Allotment is composed of rolling hills shrub-steppe rims where the elevation above sea level ranges from approximately 3,400 feet adjacent to the Owyhee River at Rome to 5,400 feet elevation at the top of Grassy Mountain. Semi desert shrub-steppe vegetation communities result from cold winters and hot dry summers. The long term average annual precipitation is between ten and fourteen inches, dependent on elevation, aspect, and typical storm tracks. Precipitation occurs primarily as snow fall during the winter with occasional mid-summer thunder storms. Climate and topography would not be affected by the proposed action, alternative, or the “no action” alternative. No further analysis of climate or topography will be completed.

6.11 Soils and Watershed Resources

Soils

Upland rangeland soils found within the project area were surveyed and described in Oregon's Long Range Requirements for Water 1969, Appendix I-11, Owyhee Drainage Basin. They are mainly a combination of Classification Units (CU) 76 and 75 soils on slopes varying from three to twelve percent. The area also contains smaller amounts of Classification Units 55 and S76 soils. Hydric soils can also be found in isolated areas throughout the project area but were not mapped in detail by this survey. Hydric soils contain a higher level of organic material and are associated with saturated low-gradient stream channel areas, reservoirs, and wet meadows.

CU 55 soils are shallow, loamy, well drained with cemented pans on very extensive to moderately steep old fans and high terrace remnants. Soils occur usually at elevations of 3,000 to 5,500 feet and have a good potential for range seeding. Average annual precipitation ranges from 8 to 11 inches and mean annual air temperature centers around 47 degrees F. The soil profile by depth consist of brownish gray gravelly loam, to brown gravelly loam, to silica and lime cemented pan 6 to 20 inches thick over stratified loamy sand and gravel. Native vegetation consists of big sagebrush, low sagebrush, rabbitbrush, budsage, Atriplex spp., neddlegrass, Sandberg bluegrass, and squirreltail grass.

CU 75 soils are loamy, shallow, very stony, well drained soils over basalt, rhyolite, or welded tuff. Unit 75 soils occur on gently undulating to rolling lava plateaus with some very steep faulted and dissected terrain. Elevations range from 4,000 to 5,800 feet. Average annual precipitation ranges from 8 to 12 inches and mean annual air temperature centers around 44 degrees F. The soil profile consists of very stony silt loam, stony loam, stony silt loam over bedrock at 15+ inches. Native vegetation consists mostly of bluebunch wheatgrass, Sandberg bluegrass, big sagebrush, and some low sagebrush.

CU 76 soils are shallow, clayey, very stony, well drained soils over basalt, rhyolite, or welded tuff. They occur on gently undulating to rolling lava plateaus and some very steep faulted and dissected terrain. Soils occur at elevations from 4,500 to 6,500 feet and stones limit potential for range seeding. Average annual precipitation ranges from 8 to 12 inches, and mean annual air temperature centers around 44 degrees F. The soil profile consists of very stony, silt loam, stony silty clay, to stony and channery, heavy, silty clay loams over fractured bedrock at 18+ inches. Native vegetation consists mostly of bluebunch wheatgrass, Sandberg bluegrass, big and low sagebrush.

CU S76 soils are shallow, extremely stony, well drained soils over basalt, rhyolite, or welded tuff. They occur on gently undulating to steep plateaus. Soils occur at elevations from 4,000 to 6,000 feet and have little potential for range seeding due to the large amount of rocks. Average annual precipitation ranges from 8 to 11 inches, and mean annual air temperature centers around 45 degrees F. The soil profile by depth consist of stony loam, extremely stony clay loam, extremely stony clay over fractured bedrock at 11+ inches. Native vegetation consists mostly of low sagebrush, Sandberg bluegrass, and bluebunch wheatgrass.

Watershed

The watersheds area draining into Rock House, Blevens and Scott reservoirs consist of intermittently flowing channels with areas of interrupted perennial channel segments. Throughout these channel segments of Dry Creek and Indian Fort Creek perennial water storage occurs as “pot” or “scour” holes in the stream. Many of the smaller tributary channels to these main two named streams are ephemeral and flow only during spring runoff or in response to the occasional large precipitation events that occur throughout the watershed. Intermittently flowing Dry Creek drains into Blevens Reservoir and/or onto Rock House Reservoir, while Indian Fort Creek drains into Scott Reservoir before joining Dry Creek below Rock house Reservoir. Reliable perennial water in the area is found at Hardin Spring positioned between Blevens and Rock House reservoirs, at a couple springs in the upper portion of the watershed and in the series of small elongated pot or scour pools along the streams in the lower central portion of the watershed.

6.12 Mandatory Elements

The following elements of the human environment are subject to requirements specified in statute, regulation, or executive order and must be considered in all EA's and EIS's:

Element	Relevant Authority	BLM Manual	
Air Quality	The Clean Air Act as amended (42 USC 7401 et seq.)	MS 7300	Not affected
Areas of Critical Environmental Concern	Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.)	MS 1617	Not present

Cultural Resources	National Historic Preservation Act as amended (16 USC 470)	MS 8100	Analyzed in this document
Farm Lands (prime or unique)	Surface Mining Control and Reclamation Act of 1977 (30 USC 1201 et seq.)		Not present
Floodplains	E.O. 11988, as amended, Floodplain Management, 5/24/77	MS 7260	Not present
Native American Religious Concerns	American Indian Religious Freedom Act of 1978 (42 USC 1996)	MS 8100	None known
Threatened or Endangered Species	Endangered Species Act of 1973 as amended (16 USC 1531)	MS 6840	Not present
Wastes, Hazardous or Solid	Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 USC 9615)	MS 9180 MS 9183	Not present nor would any be generated by the proposed action or alternatives
Water Quality Drinking/Ground	Safe Drinking Water Act as amended (42 USC 300f et seq.) Clean Water Act of 1977 (33 USC 1251 et seq.)	MS 7240 MS 9184	Not affected beyond that identified in the vegetation, soil and watershed narratives.
Wetlands/Riparian Zones	E.O. 11990, Protection of Wetlands, of May 24, 1977	MS 6740	Not affected beyond that identified in the riparian narratives.
Wild and Scenic Rivers	Wild and Scenic Rivers Act as amended (16 USC 1271)	MS 8014	Not present
Wilderness and Wilderness Study Areas	Federal Land Policy and Management Act of 1976 (43 USC 1701 et seq.) Wilderness Act of 1964 (16 USC 1131 et seq.)	MS 8500	Not present
Environmental Justice	E.O. 12898 of February 11, 1994		Minority populations and low income populations not affected
Actions to Expedite Energy Related Projects	E.O. 13212 of May 18, 2001		Proposed action is not energy related nor would it affect production, transmission, or conservation of energy.

Elements not present or not affected will not be further analyzed within this environmental assessment.

7 Environmental Consequences

This chapter is organized by alternatives to illustrate the differences between the proposed action, alternatives, and the “no action” alternative.

7.1 Alternative 1 (No Action Alternative)

7.1.1 Water Rights

The no action alternative would maintain the nineteen stock-water reservoirs in Dry Creek and Indian Fort Creek drainages, as originally designed and without a passive or active means of evacuating water. Future calls for water would not be met except in high water years and the BLM would be in violation of State Water Law.

7.1.2 Vegetation

Under the no action alternative, riparian and other vegetation associated with the 19 reservoirs would remain in its current quantity and condition.

7.1.3 Noxious Weeds

Noxious weeds (primarily cheatgrass and annual mustard) are currently present at most of the project areas due to the original disturbance and the concentration of cattle around water sources. The No Action alternative would provide the least opportunity for new ground disturbance that often provide opportunities for increased weed invasion. SEORMP ROD Objective for noxious weeds would be met (RMP/ROD at 41).

7.1.4 Wild Horses

Wild horses would continue to access water from all available sources, primarily Hardin Springs, Long Water Holes, the Corbin Well pipeline, and other reservoirs in the Dry Creek Native Pastures. No variation in wild horse use patterns or behavior is expected to result from this alternative.

7.1.5 Special Status Plants

No special status plant survey would be required to continue current management of nineteen stock-water reservoirs in the Dry Creek and Indian Fort Creek drainages.

7.1.6 Wildlife and Fish

Under the No Action alternative habitat conditions would remain the same and populations of fish and wildlife would remain at existing levels. Reservoirs would continue to offer water and riparian vegetation to wildlife species and aquatic habitat for fish, during years of sufficient moisture.

7.1.7 Livestock Grazing

The no action alternative would maintain the nineteen stock-water reservoirs in Dry Creek and Indian Fort Creek drainages, as originally designed and without a passive or active means of evacuating water. Future calls for water would not be met except in high water years and the BLM would be in violation of State Water Law. Livestock would still have access to all existing water sources in any pasture scheduled for livestock use.

7.1.8 Recreation and Visual Resources

Opportunities to ride off highway vehicles and hunt would be unchanged by maintaining the reservoirs along Dry Creek and Indian Fort Creek. The visual resources would be unchanged or maintained under the no action alternative.

7.1.9 Cultural Resources

No Class III cultural resource survey would be required to continue current management of nineteen stock-water reservoirs in the Dry Creek and Indian Fort Creek drainages.

7.1.10 Soils and Watershed Resources

Under the no action alternative, soils and watershed resources associated with the 19 reservoirs would remain in its current condition.

7.2 Alternative 2 Retrofit 4 - 8 Reservoirs and Abandon the Rest (Proposed Action)

7.2.1 Water Rights

Under this alternative the BLM's ability to use the water stored in reservoirs to support livestock grazing, wild horses, and other public land uses would not be available for reservoirs that are removed and would not be available when reservoirs with valves or other bypass devices are needed to be drained to meet the call. Jesse and Pam White's senior water right would be satisfied in years with adequate water. As a result, the 1973 agreement would be vacated and Jesse and Pam White's trade-of-use 1400 AUMs would be cancelled. This alternative would also allow the BLM to comply with State Water Law.

7.2.2 Vegetation

Within abandoned reservoirs, any existing riparian vegetation would likely disappear. Returning water previously held in the reservoirs to stream channels may increase the amount of riparian vegetation in low stream gradient areas where some riparian vegetation exists. However, because of the limited amount of water in natural stream channels most riparian vegetation that existed in reservoir storage areas would now be located above the available water in most drainage channels. Riparian vegetation associated with on-channel pit areas that were graded and filled in with on-site soil material would have a better chance to reestablish because of lower gradients and saturated conditions in and around these sites.

Vegetation in and around reservoirs that would have evacuating structures installed would either remain unchanged or diminish. Because of annual filling or release of water from this type of reservoir operation, existing riparian vegetation would be affected by continual fluctuation of water levels.

7.2.3 Noxious Weeds

Soil disturbing actions, proposed under this alternative, would create new niches for possible weed invasion. However, proposed projects are evaluated for risk and mitigation measures are implemented where needed. In addition, all of these sites have been previously disturbed and the limited amount of additional soil disturbance would keep additional weed invasions localized. ROD Objectives for noxious weeds would still be met through continued implementation of the Vale District Five-Year Noxious Weed Control Plan (ROD, 2006).

7.2.4 Wild Horses

Most of reservoirs would be breached or filled and the material used to construct the dam would be used to return the area to original landform. As a consequence, the amount of water within this HMA would be reduced under this alternative. This may result in horses having to travel farther and expend more energy to find water. The additional time and distance that horses would have to travel is hard to estimate, and the extensive pipeline within this area would compensate for the water lost from reservoirs. In addition, horses within the Jackies Butte Herd Management Area prefer the live water at Hardin Springs and Long Water Holes over impounded water. The effects to wild horses from removal of reservoirs within this HMA are expected to be minor.

7.2.5 Special Status Plants

Botanical surveys of the proposed areas for new soil surface disturbances deposition of materials removed from dams would be conducted prior to project initiation. Impacts to special status plants would be avoided or mitigated by design changes or facilities placement.

7.2.6 Wildlife and Fish

Removing or retrofitting reservoirs, to supply water downstream, would result in a loss of available water during certain times of the year. In most cases, water that is no longer stored in reservoirs would still be available in adjacent troughs or by the springs and streams that previously fed the reservoirs. Riparian vegetation would be reduced in the short term, but would likely increase and improve due to the additional water allowed to flow down the channel.

Sage grouse and pygmy rabbits are unlikely to be affected under this alternative. Beneficial or detrimental effects to other fish and wildlife species would be relatively minor.

7.2.7 Livestock Grazing

Under this alternative some sources of water would no longer be available to livestock when grazing in the affected pasture. Livestock would still have access to water from Jackies Butte pipeline, Corbin Creek pipeline, and from Hardin Spring and The Dry Creek and Indian Fort drainages when live water is present. A pipeline failure when live water is not present would leave livestock without a water source unless water was present in one or some of the retrofitted reservoirs. In an extreme case, permittees would have to remove their livestock from the affected pasture and relocate them to a pasture with available water, or if this did not fit within the grazing rotation, take their livestock home to private pastures.

7.2.8 Recreation and Visual Resources

Dispersed outdoor recreation in and near Jackies Butte Summer Allotment consisting primarily of occasional off highway vehicle use within designated open areas, and hunting of upland birds and big game animals would be unaffected by breaching and removing reservoirs along Dry Creek and Indian Fort Creek. Opportunities to ride off highway vehicles and hunt would be unaffected by the proposed actions. The visual resource management class IV of this area allows for major modification of the landscape therefore no effects to VRM would occur by the proposed minor modification to the visual resources.

Some of the affected reservoirs lie within areas identified in a citizen's proposal as possessing wilderness characteristics. BLM will use the citizen's proposal and other available information to update BLM's wilderness characteristics information when BLM completes the analysis for the Jackies Butte/Saddle Butte Geographic Management Area as required by 43 CFR SUBPART 4180 – FUNDAMENTALS OF RANGELAND HEALTH AND STANDARDS AND GUIDELINES FOR GRAZING ADMINISTRATION.

7.2.9 Cultural Resources

A Class III cultural resource survey of the area of the proposed areas for new soil surface or deposition of materials removed from dams would be conducted prior to project initiation. If during the field survey, cultural and/or fossil flora and fauna resources are located, the project would be redesigned to avoid the resources, or work would be mitigated through excavation and/or monitoring.

7.2.10 Soils and Watershed Resources

Soils and water resources would have short-term adverse effects from the following actions implemented for individual reservoirs: 1) Pits would be filled with surrounding material and re-contoured to original landform, 2) Water would be diverted into the original channel and around a reservoir, 3) Water would be diverted into the original channel and around a reservoir, with headgate control, 4) Dams would be retrofitted with a pipe and valve control, and 5) Reservoir dams would be breached, with existing site material utilized to re-contour the area to original landform.

Pits that would be filled in with surrounding material would be those that contain channel gradients that allow water in the natural channel to flow slowly through the filled in area because of flat to low gradients and dam faces that were able to be lowered to be on-grade with the natural channel gradients reducing the possibility for excessive erosion to occur within the newly filled in areas.

Reservoirs and/or pits that would have water diverted to the original channel and around the structure are those that have been developed in such a way that runoff flows off-channel into the structure, filled it, and when the storage area is full would bypass the inlet to the structure. This type of filled-in reservoir would

not create new disturbance or erosion to the natural stream system because it is essentially off-channel and would not receive any flow through the structure.

Reservoirs and/or pits fitted with a headgate control mechanism would divert stream flow to the original channel bypassing the inlet to the reservoir. This type of reservoir modification would keep the structure intact allowing the reservoir to fill once downstream senior water rights are satisfied. Minor site disturbance would occur from the installation of these headgates. Most sediment created from construction of headgates would be deposited into the reservoir bowl and not passed downstream into the natural stream channel when the gate is opened the first time to fill the reservoir. In the short-term (1-2 years) until vegetation becomes established in the disturbed area around the headgate loose soil material on the upstream side of the headgate construction would be flushed downstream.

Reservoirs and/or pits retrofitted with an outlet pipe and valve control system would not create sediment to the watershed since disturbance from this installation would be isolated to the dam face only. The outlet pipe and valve system would be kept opened to allow water to pass through the reservoir bowl until senior water rights are satisfied downstream. Once downstream rights are fulfilled, the valve can be closed allowing the reservoir to fill with any stream flow still occurring in corresponding drainage the reservoir is located in. Large rock would be placed at the downstream end of the outlet pipe to dissipate concentrated flow energy from water exiting the pipe.

Reservoir dams breached would utilize existing on-site rock and soil material to re-contour the stream channel and storage area to its original landform. Disturbance to the structure would create short-term (1-2 years) sediment to downstream channel systems and localized site disturbance to the reservoir storage areas until vegetation becomes established. Natural stream channel and flow through abandoned reservoir or pit storage areas would be contoured to be on-grade with the natural channel gradients entering and exiting the storage area. Downstream transportation of loose and unprotected soil material from new stream channel establishment would occur. Off-site sediment transport from this action would be kept to a minimum by ensuring that the new contoured channel gradient is as low as possible by grading the on-site rock and soil material to match the natural up and down stream channel gradient. Matching the natural gradient would allow a gradual step-down channel through the re-contoured reservoir storage and dam disturbed area. Once vegetation becomes established in the abandoned reservoir site disturbed areas and stream hydraulics establish a permanent channel shape, sediment transport off-site would diminish.

8 Best Management Practices (BMP's)

Best management practices (BMP's, Appendix O, SEORMP/ROD) are those land and resource management techniques designed to maximize beneficial results and minimize negative impacts of management actions. BMP's are selected and implemented as necessary, based on site-specific conditions, to meet water, soil, and watershed objectives. BMP's for this proposal are designed to assist in achieving the objectives for maintaining water quality, limiting disturbance to sensitive plants, fish, wildlife, and horses, and reducing the likelihood of noxious weed spread.

Surface-Disturbing Activities

1) Special design and reclamation measures would be required to protect scenic and natural Landscape features. This may include mulching and fertilizing disturbed areas, the use of low profile permanent facilities associated with reservoir water control structures, and painting these structures to minimize visual contrasts. Surface-disturbing activities would avoid sensitive in-tact natural saturated areas in stream channels or to reduce the visual effects of the proposal.

2) Above ground facilities requiring painting would be designed to blend in with local environment.

3) Disturbed areas would be contoured to blend with the natural topography. Blending is defined as reducing form, line, and color contrast associated with the surface disturbance.

Disturbance in visually sensitive areas would be contoured to match the original topography, matching is defined as reproducing the original topography and eliminating form, line and color caused by the disturbance as much as possible.

4) Reclamation would be implemented concurrent with construction and site operations to the fullest extent possible. Final reclamation actions shall be initiated within 6 months of the termination of operations unless otherwise approved in writing by the authorized officer.

- 5) Fill material should be pushed into cut areas and up over back slopes. Depressions should not be left that would trap water or form ponds.
- 6) Design and locate water crossings in natural drainage channels to accommodate adequate fish passage, provide for minimum impacts to water quality and RCA's, and capable of handling a 100-year event for runoff and floodwaters.
- 7) All contractors and land-use operators moving surface-disturbing equipment in or out of weed infested areas should clean their equipment before and after use on public land.
- 8) Control weeds annually in areas disturbed by proposed actions.
- 9) All seed, mulch, or other vegetation material transported and used on public land weed-free zones for site stability, rehabilitation or project facilitation should be certified by a qualified Federal, State, or county officer as free of noxious weeds and noxious weed seed.
- 10) It is recommended that all vehicles, including off-road and all-terrain, traveling in or out of weed infested areas should clean their equipment before and after use on public land.

For additional controls on noxious weed management please refer to the "Northwest Area Noxious Weed Control Program" (1987), the associated "Supplemental Environmental Impact Statement" and the "Vale District Fire-Year Noxious Weed Control Program Environment Assessment" (1987) with extensions.

9 Cumulative Effects

The Council on Environmental Quality (CEQ) defines cumulative effects as the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions (40 CFR 1508.7). A June 2005 CEQ memorandum states:

The environmental analysis required under NEPA is forward-looking, in that it focuses on the potential impacts of the proposed action that an agency is considering. Thus, review of past actions is required to the extent that this review informs agency decision making regarding the proposed action. This can occur in two ways:

First, the effects of past actions may warrant consideration in the analysis of the cumulative effects of a proposal for agency action. CEQ interprets NEPA and CEQ's NEPA regulations on cumulative effects as requiring analysis and a concise description of the identifiable present effects of past actions to the extent that they are relevant and useful in analyzing whether the reasonably foreseeable effects of the agency proposal for action and its alternatives may have a continuing, additive and significant relationship to those effects. In determining what information is necessary for a cumulative effects analysis, agencies should use scoping to focus on the extent to which information is "relevant to reasonably foreseeable significant adverse impacts," is "essential to a reasoned choice among alternatives," and can be obtained without exorbitant cost (40 CFR 1502.22). Based on scoping, agencies have discretion to determine whether, and to what extent, information about the specific nature, design, or present effects of a past action is useful for the agency's analysis of the effects of a proposal for agency action and its reasonable alternatives. Agencies are not required to list or analyze the effects of individual past actions unless such information is necessary to describe the cumulative effect of all past actions combined. Agencies retain substantial discretion as to the extent of such inquiry and the appropriate level of explanation (*Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 376-77 [1989]). Generally, agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions.

Second, experience with and information about past direct and indirect effects of individual past actions may also be useful in illuminating or predicting the direct and indirect effects of a proposed action. However, these effects of past actions may have no cumulative relationship to the effects of the proposed action. Therefore, agencies should clearly distinguish analysis of direct and indirect effects based on information about past actions from a cumulative effects analysis of past actions.

The geographic scope of this analysis considers that this proposed action is a site-specific action where potential impacts to resources are confined to the areas immediately around the reservoirs. All ground disturbing activities would occur within approximately 50 feet of each reservoir site.

There are no known past, present, or reasonably foreseeable future actions in the proposed project area that have been, are being, or will be taken by agencies or persons other than the BLM.

Past Actions

The identifiable present effects of past actions result from the construction of the same reservoirs that BLM would alter in this proposed action. As stated in the environmental consequences section of this EA (page 13), disturbance to soils and watershed resources would create short-term (1-2 years) sediment to downstream channel systems and localized site disturbance to the reservoir storage areas until vegetation becomes established. After this period of time, a more natural contour would be established, thereby negating the residual effects of reservoir construction. In other words, the effects of the proposed action, when added to the present effects of past actions, would result in a sum of effects less than those observed currently. Similarly, the effects to vegetation, from the proposed action will, in the same time frame, reestablish a more natural vegetation cover, thereby negating effects to this resource that resulted from construction of the reservoirs.

Present Actions

Within the geographic scope of this analysis, no known present actions—by the BLM or other parties—were in progress at the time this EA was written. No known actions would be occurring during the period of this proposed action. For this reason, there are no effects from present actions that have a cumulative relationship with the effects of this proposed action.

Reasonably Foreseeable Future Actions

At the time this EA was written, the BLM had no planned or proposed projects within the geographic scope of this analysis, namely within the Jackies Butte Geographic Management Area (GMA). However, a complete list of possible future activities within the GMA is not known at this time. This GMA will be assessed for compliance with standards of rangeland health in the summer of 2008. This will be followed by an Environmental Assessment that will evaluate all of the direct and indirect effects of any actions that may be proposed at that time. This future analysis will again analyze current effects resulting from past, current, and reasonable foreseeable future actions, including those effects from retrofitting the reservoirs.

10 Tribes, Individuals, Organizations and Agencies Consulted

Ron Jacobs, Water Master, OWRD
Ivan Gall, Eastern Regional Manager, OWRD

11 List of Preparers

Andy Bumgarner	Rangeland Management Specialist
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Jean Findley	Botanist
Diane Pritchard	Archaeologist
Jack Wenderoth	Hydrologist
Garth R. Ross	Natural Resource Specialist
Lynne Silva	Range Technician, Weeds
Eric Mayes	Planning and Environmental Coordinator
Connie George	Engineer
Carolyn Freeborn	Field Manager, Jordan Resource Area

12 List of Agencies, Organizations, and Persons to Whom Copies of the EA are Made Available

Livestock operators; Jackies Butte Summer and Campbell Allotments
Walt Van Dyke, Oregon Department of Fish and Wildlife
Dean Adams, Tribal Chairperson, Burns Paiute Tribe
Gary Burke, Tribal Chairperson, Confederated Tribes of the Umatilla Reservation
Dan Joyce, Malheur County Court
John Dadoly, Oregon Dept. of Environmental Quality
Oregon Water Resource Department
 Ron Jacobs, Watermaster
 Ivan Gall, Eastern Regional Manager

13 Literature Cited

USDI-BLM 1984. Southern Malheur Rangeland Program Summary (RPS). US Department of the Interior Bureau of Land Management, Vale District. Portland Oregon. 24 p.

USDI-BLM. 2002. Southeastern Oregon Resource Management Plan and Record of Decision. U.S. Bureau of Land Management, Vale District, Oregon. 1 v.

USDA, Soil Conservation Service. 1969. Oregon's Long Range Requirements for Water (1969), General Soil Map Report with Irrigable Areas, Owyhee River Drainage Basin Appendix I-11. Oregon Water Resources Board, Agricultural Experiment Station, Oregon State University, Corvallis. 72 pp.

14 Finding of No Significant Impact (FONSI)

The FONSI is a document that explains the reasons why an action will not have a significant effect on the human environment and why, therefore, an EIS will not be required (40 CFR 1508.13). This FONSI is a stand-alone document but is attached to the Environmental Assessment (EA) and incorporates the EA by reference. The FONSI does not constitute the authorizing document: the decision record is the authorizing document.

“Significance” as used in NEPA requires considerations of both context and intensity (40 CFR 1508.27).

For context, significance varies with the setting of the proposed action. For instance, for a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. For this proposed action, the effects are confined to the immediate area within the Dry Creek and Indian Fort drainages where the reservoirs are located. For this reason, the analysis of effects is in the context of these drainages. These effects are described and analyzed in the EA.

Intensity refers to the severity of effect. The BLM will conduct the actions described using the BMPs referenced in the EA and limiting effects to the immediate vicinity of the reservoirs and pits.

The action being proposed is to vacate and re-contour existing reservoirs and pits to their original landform, or to retrofit reservoirs with headgate mechanisms to allow for the delivery of water downstream. This action is being proposed in order to comply with Oregon State water law by satisfying a senior water right call in a way that fits within the BLM’s budgetary and time constraints. BLM’s NEPA Handbook states that, “If the BLM is required by law to take an action, the NEPA may not be triggered.” Rel. 1-1710, 20080130, CHAPTER 2 – ACTIONS EXEMPT FROM THE NEPA AND EMERGENCY ACTIONS, Page 9. Although it is not BLM’s discretion whether the agency will release water in response to call to satisfy senior water rights which are downstream from its stock-water reservoirs and pits, BLM does have discretion in how that water will be released. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences and take actions that protect, restore and enhance the environment (43 CFR 1500.1(c)). The EA prepared for this action analyzes the environmental consequences of satisfying Oregon State water law and determines to best course of action to take within the constraints of the law.

Some of affected reservoirs lie within areas identified in a citizen’s proposal as possessing wilderness characteristics. BLM will use the citizen’s proposal and other available information to update BLM’s wilderness characteristics information when BLM completes the analysis for the Jackies Butte/Saddle Butte Geographic Management Area as required by 43 CFR SUBPART 4180 – FUNDAMENTALS OF RANGELAND HEALTH AND STANDARDS AND GUIDELINES FOR GRAZING ADMINISTRATION.

Any land management action involving ground disturbance invariably, and by definition, entails environmental effects. I have determined, based upon the analysis of environmental impacts contained in the referenced EA (OR-030-08-005), that the potential impacts resulting

from the proposed action would not be significant and that, therefore, preparation of an environmental impact statement is not required.

I find that the project's affected region is localized and the effects of implementation are relevant to compliance with Oregon State water law. There would be no adverse societal or regional impacts and no significant adverse impacts to the environment. I have evaluated the environmental effects, together with the proposed mitigating measures, against the tests of significance found at 40 CFR 1508.27. Although not a condition of my determination, implementation of all BMPs of the proposed project to protect water quality during removal or retrofitting of the reservoirs and pits would be critical to the success of the action. I have determined that if the decision were made to implement the proposed action:

1. The proposed action would cause no significant impacts, either beneficial or adverse; all impacts would be insignificant; most would be of short duration (1-2 months) and the proposed activity will not have a direct and adverse effect on water quality.
2. The proposed action would have no adverse effect on public health or safety.
3. The proposed action would not affect unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, or ecologically critical areas.
4. The proposed action would have no highly controversial effects. The BLM believes this is the best action to satisfy the senior water right call while conforming to the rules and regulations governing the administration of public lands and the State's water.
5. The proposed action would have no uncertain effects and would not involve unique or unknown risks.
6. The proposed action is not related to any other action being considered by BLM.
7. The proposed action would have no adverse effect to any property listed on or potentially eligible for listing on the National Register of Historic Places.
9. The proposed action would not significantly adversely affect an endangered or threatened species, or any habitat critical to an endangered or threatened species because BMPs would be utilized and other waters would remain available in the general vicinity.
10. The proposed action does not violate any law or requirement imposed for the protection of the environment.
11. The proposed action would have a beneficial effect for the senior water rights holder because water implicated by the senior water right would become available for the designated beneficial use.
12. The proposed action would not significantly adversely affect permitted Class 1 preference because it is not anticipated that additional grazing reductions would be necessary beyond discontinuation of the 1,400 "trade-of-use" AUMs pursuant to dissolution of the "1973 agreement". There may, however, need to be grazing adjustments depending on livestock use patterns after changes in the reservoirs and water availability.

13. The proposed action would not adversely affect wild horses or wildlife because adequate sources of water would still be available from existing pipelines and reservoirs not implicated by the call for water.

14. The proposed action would have a beneficial effect on potential future wilderness characteristic findings because those pits and reservoirs which are removed will be re-contoured to the original landform and will contribute to the naturalness of the area.

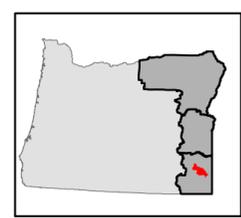
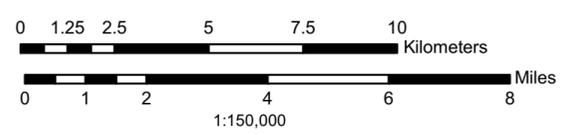
This proposed action is consistent with the Southeastern Oregon Resource Management Plan and Record of Decision (2002) and Oregon State water law.

Carolyn R. Freeborn
Jordan Field Manager
Vale District BLM

Date



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| <ul style="list-style-type: none"> BLM Developed Reservoirs Other Water Bodies Troughs China Gulch Pipeline Corbin Creek Pipeline Jackies Butte Pipeline | <ul style="list-style-type: none"> Allotment Boundary Pasture Boundaries Roads Highways County Road BLM Administered Other Routes | Land Status <ul style="list-style-type: none"> Bureau of Land Management Private State |
|--|--|--|



Jackies Butte Summer and Campbell Allotments - BLM Water Developments

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT



VALE DISTRICT

Jackies Butte Reservoir
Water Release
EA: OR-030-08-005
May 28, 2008

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