

**USDI, Bureau of Land Management
Three Rivers Resource Area, Burns District**

DECISION RECORD

**Alder Creek Restoration
Environmental Assessment
DOI-BLM-OR-B050-2012-0019-EA**

BACKGROUND

The Alder Creek Restoration Environmental Assessment (EA) analyzed issues related to an ecological restoration project addressing stream channel instability (evidenced by headcutting) along Alder Creek and juniper encroachment throughout the Alder Creek Pasture of Alder Creek Allotment (#05536). The EA analyzed stream channel restoration and juniper treatments, along with corresponding weed surveys and treatments.

COMPLIANCE

The attached Alder Creek Restoration DOI-BLM-OR-B050-2012-0019-EA is tiered to the Three Rivers Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) and relevant information contained therein is incorporated by reference. The Proposed Action has been designed to conform to the following documents, which direct and provide the framework for management of Bureau of Land Management (BLM) lands within Burns District:

- National Environment Policy Act (NEPA) (42 United States Code (U.S.C.) 4321–4347), 1970,
- Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701), 1976,
- Three Rivers Resource Management Plan (RMP), Record of Decision (ROD), and Rangeland Program Summary, 1992,
- Burns District Noxious Weed Management Program EA/Decision Record (DR) (OR-020-98-05), 1998,
- Greater Sage-Grouse and Sagebrush-Steppe Ecosystems Management Guidelines, BLM-2000,
- BLM National Sage-Grouse Habitat Conservation Strategy, 2004,
- Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, August 2005,
- State, local, and Tribal laws, regulations, and land use plans (LUP),
- Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States ROD, 2007,
- Vegetation Treatments Using Herbicides on BLM Lands in Oregon ROD, 2010,

- BLM Roads Manual (Internal) - 9113, Release: 9-390, 2011, BLM Primitive Roads Manual - 9115, Release: 9-391, 2012,
- Incorporating Road Best Management Practices, Instruction Memorandum (IM) (OR-2011-074),
- Migratory Bird Treaty Act (16 U.S.C.703–711), 1918,
- Endangered Species Act (16 U.S.C. 1531–1544), 1973,
- Clean Water Act (33 U.S.C. 1251–1387),
- Clean Air Act (42 U.S.C. 7401 et seq.), 1970,
- National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470 et seq.),
- American Indian Religious Freedom Act, as amended, (42 U.S.C. 1996 and 1996a),
- Executive Order No. 13007, Indian Sacred Sites (1996),
- Native American Graves Protection and Repatriation Act of 1990, as Amended, (25 U.S.C. 3001 et seq.),
- *and* Conducting Wilderness Characteristics Inventory on BLM Lands - 6310 (BLM Manual 6-129).

The Proposed Action is also consistent with the following document:

- Malheur River Basin Total Maximum Daily Load (TMDL) and Water Quality Management Plan (WQMP), September 2010.
 - 2.2 Designated Beneficial Uses: “Fish and aquatic life is considered one of the most sensitive beneficial uses in the basin.” pages 2–3.
 - 4.5 Temperature: “The Malheur River and several of its tributaries are listed as water-quality limited for temperature on the 303(d)...Most of these streams are classified as Redband Trout habitat with a seven-day-average maximum temperature standard of 20 degrees Celsius (68.0 degrees Fahrenheit).” pages 4–19.
 - Chapter 6, Water Quality Restoration Plan (WQRP) Implementation, Alder Creek: “Stabilize the existing headcut complex at the lower end of the Alder Creek Wet Meadow.” page 103.

DECISION

Having considered the Proposed Action and No Action Alternative and associated impacts and based on analysis in OR-B050-2012-0019-EA, it is my decision to implement the Proposed Action which stabilizes headcuts along Alder Creek, treats encroached juniper in the surrounding Alder Creek pasture, addresses potential weed infestations, and excludes grazing from the Alder Creek Wet Meadow. Additionally, a Finding of No Significant Impact (FONSI) found the Proposed Action analyzed in OR-

B050-2012-0019-EA does not constitute a major Federal action that will adversely impact the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is unnecessary and will not be prepared.

The Proposed Action will stabilize a multi-branched headcut within Alder Creek Meadow on Alder Creek as well as smaller headcuts within Alder Creek Pasture of Alder Creek Allotment (#05536). It will also treat encroached juniper across this pasture. The headcut restoration in the Alder Creek Meadow involves installing a series of rock and earthen check structures leading to a historic berm/beaver dam site - where channel incision initiated. Passage is targeted for juvenile fish. A long pool will be created above this check structure in the incised channel. A series of log structures will be placed within the pool to provide fish habitat and cover. Live willows and alder will be planted along the incised channel to provide shade and additional cover habitat. This material will be collected locally where possible, or brought in from similar locations. Sedge mats or woody plants will be salvaged from construction activities where possible and used post-construction to help rehabilitate disturbed areas. The newly constructed channel should sustain a 100+ year flood event. Following restoration activities, the wetland will be fenced and excluded from livestock grazing.

Where small headcuts exist outside of the meadow, rock or juniper cross vanes will be installed downstream of the headcuts to reduce stream grade, slow water velocity, and reduce erosion at the headcut sites. Work will occur using either tracked excavator or by hand where feasible.

Access to the site will be entirely through public lands. To allow needed equipment to access the site, the tracked excavator used for the project will move impediments to travel (i.e. boulders, juniper) from the existing roadway as it travels to the project site. This will allow project equipment access to the site. No continuous road surface blading is planned. Removal of boulders and juniper will only occur where necessary. Surface disturbance along the access routes will be limited to only those activities necessary for ensuring safe passage of project equipment. Planned work will not alter Maintenance Intensity (MI) Level of the access roads, nor will it include any new road construction, realignment, or upgrading of route category.

Encroached juniper within Alder Creek Pasture will be cut and piled or girdled. The primary treatment type will be clear cutting followed by hand or machine piling of slash. Machine or hand piling of juniper cut-and-leave treatments will also occur where feasible. Cutting of juniper displaying all old growth characteristics will be avoided. Piles will be burned after adequate cure time. Burned areas will be seeded with a seed mix consisting of crested wheatgrass, bluebunch wheat grass, sheep fescue, and bottlebrush squirreltail. This pasture is 7,187 acres, of which all 7,187 acres could eventually be treated dependent upon funding. However, priority treatments will be in riparian corridors and Douglas fir (*Pseudotsuga menziesii*), aspen (*Populus tremuloides*), bitterbrush (*Purshia tridentate*), and mountain mahogany (*Cercocarpus ledifolius*) stands.

Restoration activities in this project include the survey for and appropriate treatment of noxious weeds found in the Project Area (Alder Creek Pasture - 7,187 acres). This will include the application of herbicides (Imazapic, Chlorsulfuron, Clopyralid).

Design Features of the Proposed Action

General Project Design Elements (PDE) (general/weed treatments/access)

- Proposed restoration sites/access road/juniper and weed treatment sites will be surveyed for cultural resource values prior to implementation. Where cultural sites are found, their condition and National Register eligibility will be evaluated. If determined National Register eligible and under threat of damage, mitigation measures to protect cultural materials will be determined. Mitigation plans will be developed in consultation with the State Historic Preservation Office (SHPO). Mitigation measures can include protective fencing, avoidance, surface collection and mapping of artifacts, subsurface testing, and complete data recovery (full-scale excavation).
- If cultural material is encountered during ground disturbing activity, the contractor will stop work in the area and notify the District Archaeologist or, if absent, one of the other members of the cultural staff at the Burns District Office. Once the District Archaeologist or his representative has inspected the discovery; the Cultural and Heritage Department of the Burns Paiute Tribe will be notified. After consultation with the Tribe has occurred, the BLM official will make the decision to resume the project, modify it to avoid a cultural find, or devise another means to mitigate an adverse effect to a National Register eligible site.
- If human remains are discovered, a stop work order will immediately be issued for whatever activity exposed the remains. Human remains will then be reported to the Oregon State Police. If the State of Oregon authorities determine the remains are not modern, the BLM will notify the nearest recognized Indian Tribe (and other tribes if the burial is found in their aboriginal territory).
- Proposed restoration sites/access road/juniper and weed treatment sites will be surveyed for Special Status plant species prior to implementation. If Special Status plants are found, site(s) where they are located will become avoidance areas.
- Proposed restoration sites/access road/juniper and weed treatment sites will be surveyed for Special Status wildlife species prior to implementation. If Special Status wildlife species are found, mitigating measures, if necessary, will be employed to eliminate or minimize effects or disturbances.

- The grazing permittees will be responsible for all fence maintenance under a cooperative rangeland management agreement. Proper fence maintenance will be a stipulation for turnout each year. All proposed fences will be constructed using BLM approved standards for 4-strand wire fences.
- Proposed restoration sites/access road/juniper and weed treatment sites will be surveyed for noxious weed populations prior to implementation. Reseeding may take place in restoration sites/access road/juniper and weed treatment sites disturbed by implementation of restoration (including herbicide treatments); this will involve hand seeding and planting. All seed mixes will be determined by an Interdisciplinary Team (IDT) and will meet BLM requirements.
- Monitoring will be conducted by BLM staff in coordination with interested parties.

Structures: For the first five years following headcut restoration activities, structures will be checked annually following spring run-off to determine if maintenance on structures or fence enclosures is needed. If the structures are stable after five years, the structures will be monitored on high-water years after spring flows and during normal allotment inspections. Photo points have been established and will be re-taken on 2 to 5 year intervals for 20 years dependent upon funding. Necessary fence maintenance will be performed by livestock grazing permittees prior to livestock turnout each year.

Plantings: Plantings will be monitored annually in the summer for five years. If mortality of plantings exceeds 50 percent in the first five years and natural regeneration does not take place, woody species will be re-planted.

Access Routes: Photos will be taken to document route conditions before and after project activities to determine impacts to the access route.

Construction Activity PDEs

- Staging areas (used for construction equipment storage, vehicle storage, fueling, servicing, hazardous material storage, etc.) will be outside the 100-year floodplain and set up in a location and manner precluding erosion into or contamination of the stream or floodplain. They will have botanical, wildlife, and archeological clearances prior to use.

- All equipment will be cleaned and be free of mud, plant material, and seeds to reduce the likelihood of noxious weed introductions. It will also have leaks repaired prior to entering the Project Area. External oil and grease, along with dirt and mud, will be removed prior to construction. Thereafter, equipment will be inspected for leaks or accumulations of grease, and identified problems fixed before entering streams or floodplains.
- Equipment used for in-stream or riparian work will be fueled and serviced in the established staging area, outside the riparian zone. When not in use, equipment will be stored in the staging area and will use drip pans as necessary to minimize soil contamination from leaks.
- Emergency spill containment equipment will be available at all times to manage petroleum product spills or leaks; if a spill or leak occurs, it will be cleaned up immediately and appropriate officials will be notified.
- If a hazardous material spill or pollution event occurs (including, but not limited to, a fuel spill), it will be evaluated by the BLM and appropriate officials will be notified.
- BLM cultural resources staff will monitor excavation activities for cultural resources. If site(s) are found, appropriate mitigation, formulated by the District or Fuels Archeologist, will be implemented to minimize disruption to archeological sites.
- Where possible, all work areas will be isolated from the active stream flow. Native material and plastic sheeting, or other approved methods, will be placed on undisturbed streambed to confine flow, provide fish passage, and isolate the construction areas. If necessary, fish salvage will be conducted.

Juniper Treatment PDEs

- No juniper with “old growth” characteristics, cavity nest, or raptor nest will be cut. Old growth juniper is defined as a juniper tree possessing most of these characteristics: a rounded top, large dead limbs, deeply furrowed bark, deeply dissected trunk, large lower limbs, and yellow lichen on branches.
- All burning will be coordinated with the Oregon Department of Forestry (ODF) by following the Smoke Management Forecast and Instructions as issued by the Salem Forestry Weather Center. These instructions are available daily at:
http://oregon.gov/ODF/FIRE/fire.shtml/#Smoke_Management_Information

- Slash pile burning will be planned for implementation when atmospheric conditions promote good smoke dispersion into the atmosphere. These conditions are highly variable, and include adequate mixing height, transport wind speed, and wind direction. These specific conditions are outlined in the daily Oregon Smoke Management Instructions, which will be adhered to for any burning.

COMMENTS RECEIVED

A scoping letter was mailed to eight interested parties on January 20, 2012, and December 31, 2012. The BLM received three comment letters back. The issues identified in the comment letters, along with issues identified during IDT meetings and through contact with other agencies, were addressed in the EA. A notice of availability that the original EA and unsigned FONSI had been posted to the Burns District BLM website was mailed to thirteen interested parties. In addition, a notice was also posted in the *Burns Times-Herald* newspaper on February 25, 2015. The Burns District BLM received no comments to the EA and unsigned FONSI.

RATIONALE

I have selected the Proposed Action because it meets the Purpose and Need, described in the Alder Creek Restoration EA, of preventing further loss of wetland habitat and improving water quality and fish habitat in Alder Creek. PDEs (listed above) are considered to be Best Management Practices, and will be implemented to reduce temporary impacts to water quality, potential special status plant or wildlife sites, fish populations, potential cultural sites, weed management, and air quality. The impacts from the Proposed Action will be temporary in nature, lasting from a few days to one growing season, however, there will be numerous long lasting improvements to fish habitat, wetlands, water quality, and wildlife habitat (as described in the Alder Creek Restoration EA). The temporary impacts from the Proposed Action are acceptable given the numerous long term benefits.

In contrast, the No Action Alternative will result in the loss of wetland habitat and continued degradation of water quality and fish habitat on Alder Creek. It will therefore not meet the Purpose and Need to prevent the loss of wetland habitat and improve water quality and fish habitat. While there will be no temporary impacts to any resources, there will be unfortunate long term negative consequences from the degradation of water quality and fish and wetland habitats. For this reason, I did not select the No Action Alternative.

APPEAL PROCEDURES

You have the right, within 30 days of receipt of this decision, to appeal to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations at 43 CFR § 4.4. An appeal should be in writing and specify the reasons, clearly and

concisely, as to why you think the decision is in error. 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. If an appeal is taken, your notice of appeal must be filed in the Burns District Office at 28910 Highway 20 West, Hines, Oregon 97738. The appellant has the burden of showing that the decision is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior (DOI), 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal did not include a statement of reasons for the appeal, it must be sent to IBLA, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

The appellant may wish to file a petition for a stay (suspension) of this decision during the time that the appeal is being reviewed by the IBLA; pursuant to Part 4, Subpart B, Section 4.21 of Title 43 CFR, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision and to the IBLA and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filled with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

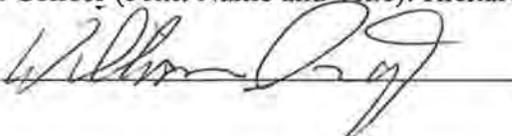
Standards for Obtaining a Stay - except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b)).

- (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.

As noted above, the petition for stay must be filed in the office of the Authorized Officer.

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.

acting
Authorized Officer (Print Name and Title): Richard Roy, Three Rivers Field Manager

Signature: 

Date: 4/27/2015