

8364 (ORB050)

Decision Record
for
Cave Gulch Emergency Stabilization and Road Closure
Categorical Exclusion
DOI-BLM-OR-B050-2010-0004-CX

Dear Interested Public:

The purpose of this letter is to transmit my decision pertaining to stabilization of several two track roads in the Cave Gulch area.

Purpose and Need for the Action

During the summer of 2009, unauthorized levels of surface disturbance occurred along some roads and two track roads in the area of Cave Gulch. As a result the Bureau of Land Management (BLM) must take actions immediately to reduce erosion from the affected areas and to prevent or reduce the levels of noxious and invasive weed establishment in the bare ground areas that were created. The BLM must also take actions to facilitate the success of these stabilization practices.

Plan Conformance

The Proposed Action is in conformance with the 1992 Three Rivers Resource Management Plan (RMP). While it was not specifically provided for in the RMP, it is clearly consistent with the following Land Use Plan (LUP) objectives:

Soil Management Objectives:

SM 2: Rehabilitate areas with specific localized soil erosion problems and reduce accelerated (human influenced) sediment delivery to fluvial systems.

SM 2.2: Minimize erosion from roads, mines and other human activities by controlling runoff concentration and velocity.

Compliance with the National Environmental Policy Act

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act in accordance with BLM Categorical Exclusions (CXs):

G Transportation, (3): Temporary closure of roads and trails; and
I Emergency Stabilization, (1): Planned actions in response to ... events ... that threaten public health or safety, property, and/or natural ... resources... necessary to repair or improve lands unlikely to recover to a management-approved condition... . Such activities shall be limited to: ...repair of existing ... trails...; planting, seeding, and mulching; and removal of ... rocks, soils and other mobile debris from, on, or along roads, trails
(516 DM, Chapter 11)

The degree and extent of the work performed on several two tracks and roads did not conform to BLM standards for closing roads and trails. As a result BLM must stabilize the affected sites as soon as possible, this fall, in order to prevent or reduce accelerated erosion into the Silvies River, occupied by redband trout, and provide competition for cheatgrass, which occurs on the site, and other noxious and invasive weeds which may invade bare ground. Once the stabilization work has been done the treated roads need to be closed to motorized vehicles to facilitate successful stabilization.

The application of these CXs is appropriate in this situation, because there are no extraordinary circumstances which may significantly affect the environment. None of the extraordinary circumstances apply to the proposed project.

Persons and Agencies Consulted

On September 11, 2009, Three Rivers Field Office personnel met with landowners from some nearby private lands and the BLM grazing permittee to discuss the actions that had occurred and possible BLM responses. On October 8, 2009, Three Rivers Field Office personnel met with a representative of the Oregon Natural Desert Association (ONDA) and toured the affected area to discuss the actions that had occurred and possible BLM responses. On November 9, 2009, Three Rivers Field Office personnel participated in a phone call with a representative of the ONDA to discuss the actions that had occurred, possible BLM responses, and how to implement site stabilization. These meetings led to the development of the Proposed Action and how best to implement it.

Decision and Rationale

My decision is to implement the Proposed Action in CX number DOI-BLM-OR-B050-2010-0004-CX (enclosed). The holes in the disturbed two tracks will be filled, the soil compacted and water barred where necessary, and the disturbed areas seeded with a mixture of native plants plus crested wheatgrass. The stabilized two tracks and the immediate area will then be closed to motorized vehicle use beginning at the end of the area's big game hunting seasons, December 1, 2009. The area will remain closed to motorized vehicle use until the treated areas have met the criteria identified in the CX. The initial evaluation will occur in the fall of 2010 prior to hunting seasons.

These actions meet the need for the action. They will reduce or prevent accelerated erosion; introduce desirable plant species into bare ground areas to also reduce erosion and compete with cheatgrass, which is on the site, and other noxious or invasive weeds which may be introduced to the site; and facilitate success of the implemented stabilization actions. In addition, I have reviewed the plan conformance statement and have determined that the Proposed Action is in conformance with the approved LUP and that no further environmental analysis is required.

Implementation Date

Site stabilization will be implemented between November 23, 2009 and December 4, 2009. The motorized vehicle closure will be implemented on December 1, 2009. In conformance with 43 CFR 8341.2(a) which states in part, "where the authorized officer determines that off-road vehicles are causing or will cause considerable adverse effects upon soil, vegetation, wildlife, wildlife habitat, ... **the authorized officer shall immediately close the areas affected** (emphasis added) to the type(s) of vehicle causing the adverse effect until the adverse effects are eliminated and measures implemented to prevent recurrence. these lands shall not be opened to the type(s) of off-road vehicle to which it was closed unless the authorized officer determines that the adverse effects have been eliminated and measures implemented to prevent recurrence." The BLM will implement the actions to eliminate the adverse effects, compact, water bar, and seed the disturbed areas between November 23, 2009 and December 4, 2009. Motor vehicles will be excluded from the treated area beginning December 1, 2009, to facilitate recovery of the treated area.

Contact Person

For additional information concerning this decision, contact William Dragt, Supervisory Natural Resource Specialist, Burns District BLM, 28910 Hwy 20 West, Hines, Oregon 97738, phone (541) 573-4473.

Appeal Procedures

Any person whose interest is adversely affected by this decision may appeal this decision to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. The appellant must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed (Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738) within 30 days after the date of service. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition, pursuant to regulation 43 CFR 4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for 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 also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed 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 a decision pending appeal shall 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.
4. Whether or not the public interest favors granting the stay.

/signature on file/

Richard Roy
Three Rivers Resource Area Field Manager

November 13, 2009

Date

Enclosures

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Maps (2)