

Decision Record

Integrated Invasive Plant Management

for the Lakeview Resource Area Excluding the Warner Basin Area

(DOI-BLM-OR-L050-2014-0021-EA)

Introduction

For the past ten years, noxious weeds have been managed on the Lakeview Resource Area following direction described in the 2004 Environmental Assessment and accompanying Decision Record for *Integrated Noxious Weed Management Program for the Lakeview Resource Area* (2004 Decision Record) and the 2003 *Lakeview Resource Area Resource Management Plan*. These documents each contained an integrated management approach for the control of noxious weeds using a variety of methods including public education, early detection, redesign and monitoring of activities known to facilitate noxious weed spread, inventory, and control using hand tools, machinery, targeted grazing, biocontrols, and herbicides. The 2004 Decision Record authorized the use of four herbicides (glyphosate, 2,4-D, dicamba, and picloram), and restricted their use to noxious weeds only.

Invasive plants are non-native aggressive plants with the potential to cause significant damage to native ecosystems and/or cause significant economic losses.

Noxious weeds are a subset of invasive plants that are county-, State-, or Federally-listed as injurious to public health, agriculture, recreation, wildlife, or any public or private property.

Thus, the term “invasive plants” includes noxious weeds in this Decision Record. (Lakeview EA - USDI 2014b)

In 2007, the BLM completed a Final EIS and Record of Decision for *Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States Programmatic EIS* (PEIS) and Record of Decision. The PEIS and its Record of Decision authorized the use of 18 herbicides for a wide range of vegetation management purposes. The PEIS, and an accompanying Environmental Report looking at non-herbicide treatments, contained a summary of *Standard Operating Procedures* summarized from existing laws and BLM policies, as well as a list of mitigation measures (PEIS Mitigation Measures) suggested by the PEIS analysis and selected by its Record of Decision. Endangered Species Act (ESA) Consultation on the PEIS also resulted in Conservation Measures for ESA-listed species.

Prior to implementing the 2007 PEIS Record of Decision, the BLM chose to complete an Oregon-wide Environmental Impact Statement (2010 Oregon EIS)(USDI 2010a) to examine the effects, at the Oregon-wide scale, of the use of the 18 PEIS herbicides (including the four authorized by the 2004 Decision Record) for use on invasive plants, and for other purposes. That analysis found that the use of generally newer, more target-specific herbicides would reduce the likelihood of adverse environmental effects and be more effective at controlling invasive plants. The resultant 2010 Record of Decision (USDI 2010b) authorized BLM Districts in Oregon to consider, through site-specific analyses, up to 17 herbicides for invasive plant control. The 2010 Record of Decision also adopted the PEIS Standard Operating Procedures and PEIS Mitigation Measures, as well as additional mitigation measures suggested by the 2010 Oregon EIS.

The Lakeview Resource Area recently completed a site-specific Environmental Assessment (EA) (DOI-BLM-OR-L050-2014-0021-EA) for a proposal to expand the current weed management program. The Resource Area currently controls noxious weeds using a range of methods including manual, mechanical, biological controls (mostly insects), targeted grazing, prescribed fire, and herbicides (2,4-D, dicamba, glyphosate, and picloram). The Resource Area proposed to expand this program by:

- Increasing the kinds of plants controlled from noxious to all invasive plants; and,
- Increasing the number of herbicides that are available for use from 4 to 14.

That EA and its accompanying Finding of No Significant Impact were made available for 30-day public review ending September 5, 2014.

Alternatives Including the Proposed Action

The EA addresses two alternatives in detail, the Proposed Action and the No Action Alternative. The EA also considered several other alternatives, but did not address the potential impacts of these alternatives in detail for a variety of reasons (Chapter 2, *Alternatives Considered but Eliminated from Detailed Study*, EA:64-65). The two alternatives considered in detail addressed control methods, and were both set in the context of existing policy and direction for invasive plant prevention, detection, education, awareness, inventory, planning, integrated management, coordination, and monitoring (Chapter 2, *Background – Invasive Plant Management*, EA:28-31). Both alternatives also include the Standard Operating Procedures summarized in the PEIS and accompanying Environmental Report, the mitigation measures adopted by the PEIS and the Oregon EIS to which the EA tiers, best management practices from the Lakeview Resource Area Resource Management Plan, and conservation measures resulting from threatened and endangered species consultation for the PEIS applicable to BLM Special Status species (Appendix A, EA:278-315). These measures and protections are assumed in the analysis and apply to all control activities as needed to accomplish their intended protections.

Both EA alternatives seek to control existing documented noxious weed infestations (currently estimated at about 44,000 acres), future spread from those infestations, and new invaders not currently known on the Lakeview Resource Area. For both alternatives, treatment levels in these three categories would be about the same. Past funding has limited control treatments to an average of less than 5,000 acres per year.

The No Action Alternative was presented to examine the environmental effects and control effectiveness of continuing the control methods authorized in the existing noxious weed management program. Control methods include hand pulling, hoeing, prescribed burning, mechanical activities such as mowing, biological controls including the use of insects, pathogens, and grazing animals, and the use of four herbicides (glyphosate, 2,4-D, dicamba, and picloram). None of these herbicides is selective for invasive annual grasses, nor may they be used on invasive plants not listed as noxious weeds. The Resource Area has been unable to conduct few control projects targeting cheatgrass and most other invasive annual grasses.

The Proposed Action differs from the No Action Alternative by increasing the number of herbicides available from 4 to 14, and making those herbicides available for the control of any invasive plant, not just legally designated noxious weeds. The additional herbicides are generally more target (species)-specific, and are capable of selectively controlling plants not readily controlled with the four herbicides authorized for use by the 2004 Decision Record. In particular, this alternative includes herbicides (notably imazapic) that will control cheatgrass and other invasive annual grasses currently infesting hundreds of thousands of acres on the Resource Area, including in Greater Sage Grouse habitat and other shrub steppe ecosystems. With this capability, implementation of the Proposed Action could treat as many as 20,000 additional acres of invasive annual grasses per year, thereby preventing their spread following wildfire, reducing their abundance or preventing their spread in key Greater Sage-Grouse management areas and at other locations.

The Decision

It is my decision to select the Proposed Action, as described herein and on pages 50 to 61 of the EA. The Resource Area currently controls noxious weeds using a range of methods including manual, mechanical, biological controls (mostly insects), targeted grazing, prescribed fire, and herbicides (2,4-D, dicamba, glyphosate, and picloram). My decision expands this program by increasing the kinds of plants controlled from noxious to all invasive plants and by increasing the number of herbicides that may be used from 4 to 14.

My decision does not include the Warner Basin Action Area, where formal consultation with the U.S. Fish and Wildlife Service has not yet been completed. Figure 1 shows the area that would be covered by this decision. Further information can be found in the *Endangered Species Act Consultation* section below.

Figure 1. Decision Area.



Rationale for the Decision

The selected alternative best meets the *Need* for a more effective invasive plant control program, in part, because:

- It will reduce the spread of the 44,000 acres of existing documented invasive plants on the Resource Area by an estimated 68,000 acres over 15 years when compared to the No Action Alternative.
- It will allow the use of additional herbicides that are more effective at controlling invasive plants, while reducing potential risks to applicators, the

public and tribes, and surrounding resources.

- It will allow the use of herbicides that can be used on invasive annual grasses currently infesting hundreds of thousands of acres on the Resource Area. These invasive grasses are degrading or endangering key habitats and increasing the risk of wildfire.

Further, the analysis indicates the selected alternative best meets the five *Purposes* identified in Chapter 1 of the EA, as described below:

- *Control invasive plants to protect native ecosystems and the flora and fauna that depend on them.*

The *Invasive Plants* section in Chapter 3 of the EA concludes that the spread of noxious weeds will be slowed by adoption of the Proposed Action. The *Native Vegetation*, *Wildlife*, and other sections in Chapter 3 indicate those resources would benefit, while not experiencing significant adverse effects.

- *Manage invasive plants to reduce the risk that large-scale high-intensity fires would unacceptably damage resources and human developments.*

The *Fire and Fuels Management* section in Chapter 3 of the EA describes an increased ability to protect the wildland-urban interface around certain Lake County communities. Successfully decreasing the presence of invasive annual grasses is expected to decrease the likelihood key habitats will burn.

- *Cooperatively control invasive plants so they do not infest or re-infest adjacent non-BLM-administered lands.*

The *Socioeconomics* section in Chapter 3 of the EA indicates furtherance of this Purpose: by reducing invasive plant spread rate, by more closely matching existing private land treatments, and by allowing the BLM to be a more effective partner with the Lake County Weed Management Area (EA:235). In addition, as noted in the public comment letter from the Oregon Department of Fish and Wildlife, the BLM will have the ability to more effectively work with the Department to improve winter range quality for mule deer.

- *Prevent control treatments from having unacceptable adverse effects to applicators and the public, to desirable flora and fauna, and to soil, air, and water.*

The analysis of other resources / issues in the EA, including *Human Health and Safety*, indicates low or no measurable risk to these resources or human health when project design features are followed. These conclusions are based in large part on risk assessments conducted or funded by the BLM and U.S. Forest Service, which examined available research pertinent to wildland uses (EA:240-248 and Appendix D). The examination significantly exceeds that required for EPA registration. Further, the actual product formulations (brands) and adjuvants used must be on the BLM National list of approved herbicides and adjuvants (EA Appendix C) to ensure only analyzed materials are included.

- *Minimize treatment costs and improve treatment effectiveness, so resource and economic losses from invasive plants are reduced and more of the Need can be met within expected funding.*

The *Implementation Costs* section of the EA (EA:235-239) indicates, in part because of improved efficiency of the Proposed Action, that the cost of effectively treated (controlled) acres would decrease about 30 percent when compared to the No Action Alternative. For this reason, more acres could be treated annually under current program funding levels.

Consistency with Other Plans and Laws

As described in the EA in Chapter 1, several laws require the BLM to control invasive plants, and this decision is consistent with, and helps facilitate, the objectives of those laws (EA:24). Further, as required by the Federal Land Policy and Management Act (FLPMA), my decision conforms to the 2003 Lakeview Resource Area Resource Management Plan and specifically to its direction to control noxious weeds and other invasive plants (EA:24-25). My decision is consistent with applicable laws, policies, and the Lakeview Resource Management Plan relative to the management of Wilderness and other Special Management Areas. In such areas, my decision directs that control activities be carried out in a manner that does not conflict with the purposes for which the area was designated (EA:24-25).

My decision specifically conforms to existing Resource Management Plan direction for Greater Sage Grouse and BLM Interim Management direction for Greater Sage Grouse. In fact, parts of the Proposed Action are specifically designed to further the objectives of these direction documents by providing tools necessary to protect and restore habitat from invasion by cheatgrass and other invasive annual grasses (EA:26).

My decision is consistent with a June 7, 2010 Settlement Agreement with the Oregon Natural Desert Association to identify lands with wilderness characteristics and manage those parcels to protect those values until a Resource Management Plan amendment can be completed that decides how to manage those areas. The *Lands with Wilderness Characteristics* section in Chapter 3, and additional discussion in Appendix B, were included in the EA to specifically address this issue and comply with the agreement (EA:26, 214-219).

My decision to authorize the use of the 14 herbicides on invasive plants is consistent with the Oregon EIS and the subsequent modification of the 1984 and 1987 court orders that previously restricted herbicide use (EA:26).

My decision is consistent with the requirements of the Endangered Species Act. As is discussed in the section entitled *Endangered Species Act Consultation* below, the BLM has initiated formal consultation with the U.S. Fish and Wildlife Service regarding three listed species potentially affected by this action. Further, my decision requires protection of BLM Special Status Species, so that treatment actions do not contribute to a need to list them under ESA in the future. Conservation Measures included in Appendix A specifically apply to Special Status Species, as needed.

My decision is consistent with the National Historic Preservation Act. Clearance surveys are required prior to conducting ground-disturbing actions that may potentially affect historic and prehistoric resources. My decision adopts project design features that lay out a consultation process with affected tribes, and specifies providing an Annual Treatment Plan, and other measures designed (in whole or part) to protect historic and prehistoric resources.

Public Involvement and Consultation

Scoping

External scoping for the EA was conducted June 13 through July 12, 2011. In addition to a news release in the *Lake County Examiner* and the Klamath Falls *Herald and News* newspapers, scoping letters were sent to 273 individuals, groups, and agencies. Reply letters were received from Oregon Wild, Northwest Environmental Defense Center, and Oregon Department of Fish and Wildlife. These letters, along with other pertinent information, were used to help develop the *Purposes* and *Issues* listed in Chapter 1 of the EA.

EA and Finding of No Significant Impact (FONSI) Public Review

The EA and draft FONSI were made available for 30-day public review beginning August 6, 2014. On that date, the documents were posted to the Lakeview Resource Area website, a legal notice was published in the *Lake County Examiner*, and notices were mailed to all individuals and local, state, and federal agencies on the Lakeview Resource Area mailing list who had previously indicated an interest in such analyses, who were known to be interested, and persons who had contributed scoping comments for this EA.

Two comment letters were received: one from the Oregon Department of Fish and Wildlife and the other from Oregon Wild. Neither contained substantive information that indicated a need to substantially revise the analysis already included in the EA. However, individual response letters will be sent to each commenter.

Endangered Species Act Consultation

There are no listed anadromous fish potentially affected by my decision. For three listed resident fish species, the EA analysis included aquatic buffers designed to reduce or eliminate effects to listed fish species. These buffers are based on buffer distances included in previous consultation for the 2013 Aquatic Restoration Biological Opinion (ARBO II). The Lakeview Resource Area has initiated more site-specific formal consultation with the U.S. Fish and Wildlife Service and submitted a Biological Assessment. Pending completion of the consultation process, BLM intends to move forward implementing treatments under this decision in those portions of the Lakeview Resource Area where a “no effect” determination has been made by the BLM in their biological assessment for the three ESA-listed species. Until such time as consultation is completed, BLM will not conduct any new herbicide or targeted livestock grazing treatments specifically within the Section 7 consultation “Action Area” (see Figure 1). This phased implementation would not result in any irreversible or irretrievable commitments of resources by the BLM that would prevent the implementation of a reasonable and prudent alternative or otherwise violate Section 7(a)(2) of the ESA (see 50 CFR Part 402.09). Once consultation is completed, BLM will sign a new Decision Record for the Section 7 consultation Action Area (see Figure 1-2 in the EA).

Consultation with Potentially Affected Tribes

There are four potentially affected Native American tribes with rights in the Lakeview Resource Area. These are the Klamath Tribes, the Confederated Tribes of Warm Springs, the Burns Paiute Tribe, and the Fort Bidwell Indian Community. These tribes were sent letters in June 2011 and again in August 2013 describing the EA and inviting them to enter into Government-to-Government consultation. A fifth tribe (Fort McDermitt Paiute-Shoshone) with an interest in the area was also contacted.

Informal discussions between tribal staff and Resource Area staff identified several potential tribal concerns. These concerns and their relationship to the alternatives are discussed in the *Native American Interests, Resources, and Concerns* section of the EA in Chapter 3 (EA:205). That section, and the *Cultural Resources and Native American Interests* project design features included in this decision and describe future actions that would be undertaken by the BLM annually to help ensure that resources important to the tribes are protected. Conversations with interested tribes are continuing. All five tribes received the EA during the public comment period and were again invited to comment on the EA or consult.

Appeal Procedures

This decision constitutes my final decision. Any adversely affected party may appeal my decision to the Interior Board of Land Appeals (IBLA), in accordance with 43 C.F.R. Part 4. If an appeal is made, your notice of appeal must be filed in this office (Lakeview Resource Area Manager, BLM, 1301 South G Street, Lakeview, OR 97630), within 30 days from receipt of this decision. The notice of appeal should include a clear statement of reasons. The notice of appeal must be in written paper form and sent via certified mail. A notice of appeal transmitted electronically (e.g. email, facsimile, or social media) will not be accepted.

If you choose to file a statement of reasons separately from your notice of appeal, you must file it with the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203, within the same 30-day appeal period. You have the burden of showing that the decision being appealed is in error.

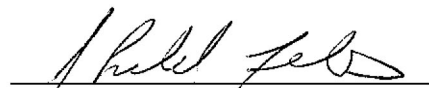
If you wish to file a petition for a stay (suspension) of this decision (pursuant to 43 C.P.R. 4.21) during the time that your appeal is being reviewed by the IBLA, this petition must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, VA 22203. A copy of your petition for stay must also be submitted to me (Lakeview Resource Area Manager, BLM, 1301 South G Street, Lakeview, OR 97630).

Copies of the notice of appeal and petition for a stay must also be served with the Department of the Interior Solicitor (U.S. Department of Interior, Office of the Regional Solicitor, 805 SW Broadway, Suite 600, Portland, OR 97205) (see 43 C.F.R. 4.413) at the same time the original documents are filed with this office.

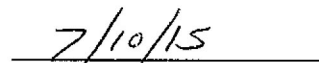
If you request a stay, you have the burden of proof to demonstrate that a stay should be granted, based on the following standards:

- 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.

Signature



J. Todd Forbes
Field Manager
Lakeview Resource Area



Date