DIRTY SHAME ROCKSHELTER

Decision Record

Environmental Assessment

DOI-BLM-OR-V060-2010-019-EA

Prepared By:
U.S. Department of Interior
Bureau of Land Management
100 Oregon Street
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April, 2010

BLM Vale District

NATIONAL SYSTEM OF PUBLIC LANDS

Table of Contents

Decision Record……I

1 Background Information 1

2 Purpose of and Need for the Action 2

3 Proposed Action 4

4 Conformance with the Land Use Plan and other Management Direction 5

5 Alternatives Including the Proposed Action 7

5.1 Alternative 1: No Action 7

5.2 Alternative 2: Proposed Action Limited Excavation 7

6 Affected Environment 8

6.1 Recreation and Visual Resources 8

6.2 Wilderness Study Area 9

6.3 Cultural and Paleontological Resources 9

6.3.1 Prehistoric Lifeways 9

6.3.2 Ethnohistoric and Ethnographic Lifeways 10

6.3.3 Paleontological Resources 11

6.4 Soils 11

6.5 Vegetation 12

6.6 Noxious Weeds 12

6.7 Special Status Plants 12

6.8 Wildlife and Fisheries 12

6.9 Wild Horses 12

6.10 Livestock Grazing 13

6.11 Climate/Topography 13

6.12 Mandatory Elements 13

7 Environmental Consequences 15

7.1 Alternative 1: No Action 15

7.1.1 Visual Resources 15

7.1.2 Wilderness Study Areas 15

7.1.3 Cultural and Paleontological Resources 15

7.1.4 Soil Resources 15

7.1.5 Vegetation 15

7.1.6 Noxious Weeds 15
7.1.7 Special Status Plants 16
7.1.8 Wildlife and Fish 16
7.1.9 Livestock Grazing 16

7.2 Alternative 2: (Proposed Action) Limited Excavation 16
7.2.1 Visual Resources 16
7.2.2 Wilderness Study Areas 16
7.2.3 Cultural and Paleontological Resources 17
7.2.4 Soil Resources 18
7.2.5 Vegetation 18
7.2.6 Noxious Weeds 18
7.2.7 Special Status Plants 19
7.2.8 Wildlife and Fish 19
7.2.9 Livestock Grazing 19

7.3 Best Management Practices (BMP's) 19
7.3.1 Surface-Disturbing Activities 19

7.4 Wilderness Study Area Interim Management Policy (WSA IMP) 19
7.4.1 Cultural and Paleontological Resources 19

7.5 Cumulative Effects 20
7.5.1 Past Actions 21
7.5.2 Present Actions 21
7.5.3 Reasonably Foreseeable Future Actions 21

8 Individuals, Organizations, Agencies, and Tribes Consulted 21

9 List of Preparers 22

10 List of Agencies, Organizations, and Persons to Whom Copies of the EA are Made Available 22

11 Literature Cited 22

12 Finding of No Significant Impact (FONSI) 24

12.1 "Significance" as used in NEPA requires considerations of both context and intensity (Part 40 of Code of Federal Regulations, subpart 1508.27) 24

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
JORDAN FIELD OFFICE
Decision Record
Vale District Bureau of Land Management

Dirty Shame Rockshelter
Environmental Assessment No. DOI-BLM-OR-V060-2010-019-EA

Compliance with Laws pertinent to the Decision
The Antiquities Act of 1906 provides for the protection of archaeological resources on all public lands and requires permits for those who excavate or appropriate these resources.

The Archaeological Resources Protection Act of 1979, as amended, defines and protects archaeological resources on public lands, establishes a permit system for resource users, and requires agencies to provide for public education and continuing inventory of public lands. The Antiquities Act of 1906 provides the foundational background for all stages of investigation needed for this project. Section 3 of the Antiquities Act of 1906 provides for the examination and excavation of archaeological sites and the gathering of objects of antiquity. Exploration of this area would enhance our knowledge of the chronology and prehistory of life in Malheur County and on a National level, information about life in pre-White European Contact Great Basin.

Sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, provide a national policy for historic preservation, establish a National Register of Historic Places designation for important properties, protect sites from destruction without appropriate data recovery, and require that historic properties be utilized in agency missions, when warranted. Under Section 106 of the National Historic Preservation Act, Federal Agencies are mandated to take into account the effects of their actions or undertakings on properties that may be eligible for inclusion in the National Register of Historic Places. Federal Regulations found in 36 CFR 60 provide the framework used for evaluating and nominating properties to the National Register of Historic Places.

Pursuant to Section 106 of the National Historic Preservation Act, as amended, the American Indian Freedom of Religion Act, Executive Order 13007 and other similar Federal legislation, Federal Undertakings that may affect historic properties of religious significance require the lead Federal agency to consult with affected tribe as equal partners. Consultation was conducted with the Fort McDermitt Shoshone-Paiute Tribes because the project lies within their area of interest.

Executive Order 11953 directs Federal agencies to inventory public lands and nominate eligible properties to the National Register of Historic Places.

Executive Order 13287 entitled “Preserve America” further requires Federal agencies “prepare an assessment of the current status of its inventory of historic properties” and to “ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties.” These

laws, regulations, and Executive Orders further require that such management be coordinated with appropriate American Indian tribes and individuals.

The proposed action conforms to specific management objectives in the SEORMP-ROD for cultural resources: *"protect and conserve cultural and paleontological resources"* p. 106; "*protect against illegal artifact collection, site excavation and vandalism*" p107.

Dirty Shame Rockshelter is located less than a half mile inside the boundary of the Owyhee River Canyon Wilderness Study Area (WSA, OR-3-195/ID-16-48B). Congress alone has the authority to designate public lands –including a WSA -- as Wilderness. Until such time as Congress either designates a WSA as Wilderness or releases a WSA from a Wilderness designation, a WSA is managed under the BLM's H-8550-1 handbook, *Interim Management Policy for Lands under Wilderness Review* (July 5, 1995 release; hereafter referred to as WSA IMP). There are three categories of public lands to which this policy applies: 1) Wilderness Study Areas (WSAs) identified by the wilderness review requited by Section 603 of the Federal Land Policy and Management Act (FLPMA), 2) legislative WSAs (WSAs established by Congress), and 3) WSAs identified through the land-use planning process in Section 202 of FLPMA. These categories together are referred to as "lands under wilderness review". The Owyhee River Canyon WSA was administratively designated under authority of Section 603 of FLPMA.

Decision

As Field Manager of the Jordan Resource Area, my decision to select the Proposed Action Alternative is based upon the interdisciplinary analysis as stated in Alternative 2, the Proposed Action of the EA DOI-BLM-OR-V060-2010-019. After considering all the information before me, the federal actions I have chosen to authorize are as follows:

- University of Oregon under the direction of Dr. Dennis Jenkins would operate a small research field school at Dirty Shame Rockshelter. The field school would consist of six students and three instructors. The goal of the limited field school would be to assess the damage done by illegal excavations which have contributed to the deterioration of surface and subsurface sediments. Work within the rockshelter would facilitate the stabilization and rehabilitation of sediments with the rockshelter.

- A maximum of six test units would be excavated during the site visit in 2010 with the potential of two more test units excavated in 2011. Each test unit would be 1 x 1 meter in length and width. Each unit would be excavated in 5 cm levels to a depth of two sterile levels below the last encountered cultural material, but based on topography probably no deeper than 2 meters. All excavated fill would be screened through 1/8" wire mesh. A hand auger would be used to extract a core sample to identify undisturbed subsurface components prior to the placement of the test units. The use of a hand auger would identify locations for test units and may result in the reduction of the number of units tested if suitable subsurface sediments are not located.

- Fill from excavations would be deposited adjacent to the excavations on already existing altered materials caused by past illegal digging activities and used to backfill the test units when work is completed. Temporary fencing at the location of the test units would not be necessary since students and staff would be camping close to the rockshelter at a location outside of the WSA.
- The camping location would either be on private land with the landowner's permission or on public lands administered by the Bureau of Land Management located outside of the boundaries of the WSA. Within the camp area, if on BLM administered lands, human waste disposal would be accomplished by setting up portable outhouses at the camping area during excavation. Grey water waste would be disposed of in a pit dug into the ground. Grey water would then filter down through the semi-porous bedrock. Fuel containers such as gasoline would be placed in secondary containment in order to reduce the risk of fuels spills. On private lands, the above stipulations would also apply, although an outhouse is present.
- When scientific excavations and research have concluded, the areas excavated by the field school would be backfilled and the land surface topography returned to a state simulating that of the pre-excavation state. Re-vegetation of the areas would occur on its own. Very little re-vegetation is anticipated due to the substantial inability of the project site to receive sufficient moisture because of its orientation with the drip line angle created by the cliff's overhang.
- More specifically, this research seeks to assess the condition of the site and its continuing research and heritage values following years of site vandalism caused by artifact collectors. Related research would focus on the development of a cultural chronology, investigation of site function and activity areas within the site, settlement and subsistence issues, climatic/ecological reconstruction, and cultural relations and ethnic group associations. Laboratory inventory, analysis of artifacts and samples, and curation of collections is included within this cost share project.
- Information gathered from this site would be used to assist in the determination of eligibility of Dirty Shame Rockshelter to the National Register of Historic Places

The actions allowed will meet the EA purpose and need to "establish whether or not there are undisturbed sediments below the disturbed surface of the rockshelter, retrieve information important to the prehistory and early occupation of this rockshelter from undisturbed sediments, and stabilize and rehabilitate sediments within the rockshelter to prevent further deterioration". In addition, all relevant SEORMP Record of Decision (USDI-BLM-2002) management objectives will be met because the actions will 1) protect and conserve cultural resources, 2) increase the public's knowledge of , appreciation for and sensitivity to cultural resources, 3) enhance the quality of visual resources, and 4) protect and enhance wilderness values.

My rationale found in policy and statute is as follows:

1. ***Wilderness Study Areas (WSAs)*** – Actions allowed with the Owyhee River Canyon WSA (OR-3-195/ID-16-48B) WSA will amount to a "positive or beneficial change in the state or condition of the wilderness value(s) as described, assessed or

calculated on the date of approval of the intensive inventory." (Page 10, Interim Management Policy for Lands Under Wilderness Review (WSA IMP). The limited research excavation I am allowing will enhance WSA naturalness because it will further stabilize and rehabilitate disturbed sediments to protect cultural values and improve the wilderness character. I find that this project satisfies the nonimpairment criteria because it is limited in scope and duration. The scope of the project is confined to the already disturbed rockshelter and duration is limited to a three to six week period. Finally the limited excavation, stabilization and rehabilitation actions will be substantially unnoticeable to the average Owyhee River Canyon WSA visitor and the work will conform to Visual Resource Management (VRM) Class I management objectives.

Human activities and disturbances necessary to complete the proposed action in the Owyhee River Canyon WSA will be temporary and reflect application of the minimum tool concept to accomplish the proposed action.

In summary, the entire suite of actions allowed by BLM in the Owyhee River Canyon WSA will fully comply with the BLM WSA IMP.

I have reviewed Dirty Shame Rockshelter Environmental Assessment (EA) DOI-BLM-R-V060-2010-019, which this document incorporates by reference in its entirety, dated April 19, 2010. After consideration of the environmental effects as described in the EA and incorporated herein, I have determined that the proposed action as identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required.

Public Involvement
Dirty Shame Rockshelter EA (DOI-BLM-OR-V060-2010-019) was mailed to Fort McDermitt Shoshone-Paiute Tribes, and other interested publics including Oregon State Historic Preservation Office, Oregon Natural Desert Association, Western Watersheds Project, Oregon Department Fish and Wildlife, Fish and Wildlife Service, Oregon Museum of Natural and Cultural History and adjacent private land owners.

Rationale
I find that the project's affected region is localized and the effects of implementation are relevant to compliance with existing land use plans. 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 the BMPs and conformance to WSA IMP nonimpairment criteria for the proposed project would be critical to the success of the action.

I intend to fully complete the proposed action as described and to implement the proposed action with impacts equal to or less than what has been analyzed in the EA.

Appeal Rights
This decision may be appealed 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. If an appeal is filed, your notice must be filed in the Vale District Office, 100 Oregon Street, Vale, Oregon 97918 within 30 days of receipt. The appellant has the burden of showing that the decision appealed 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.

Carolyn R Freeborn 5/21/10

Carolyn Freeborn
Field Manager
Jordan Resource Area

Date

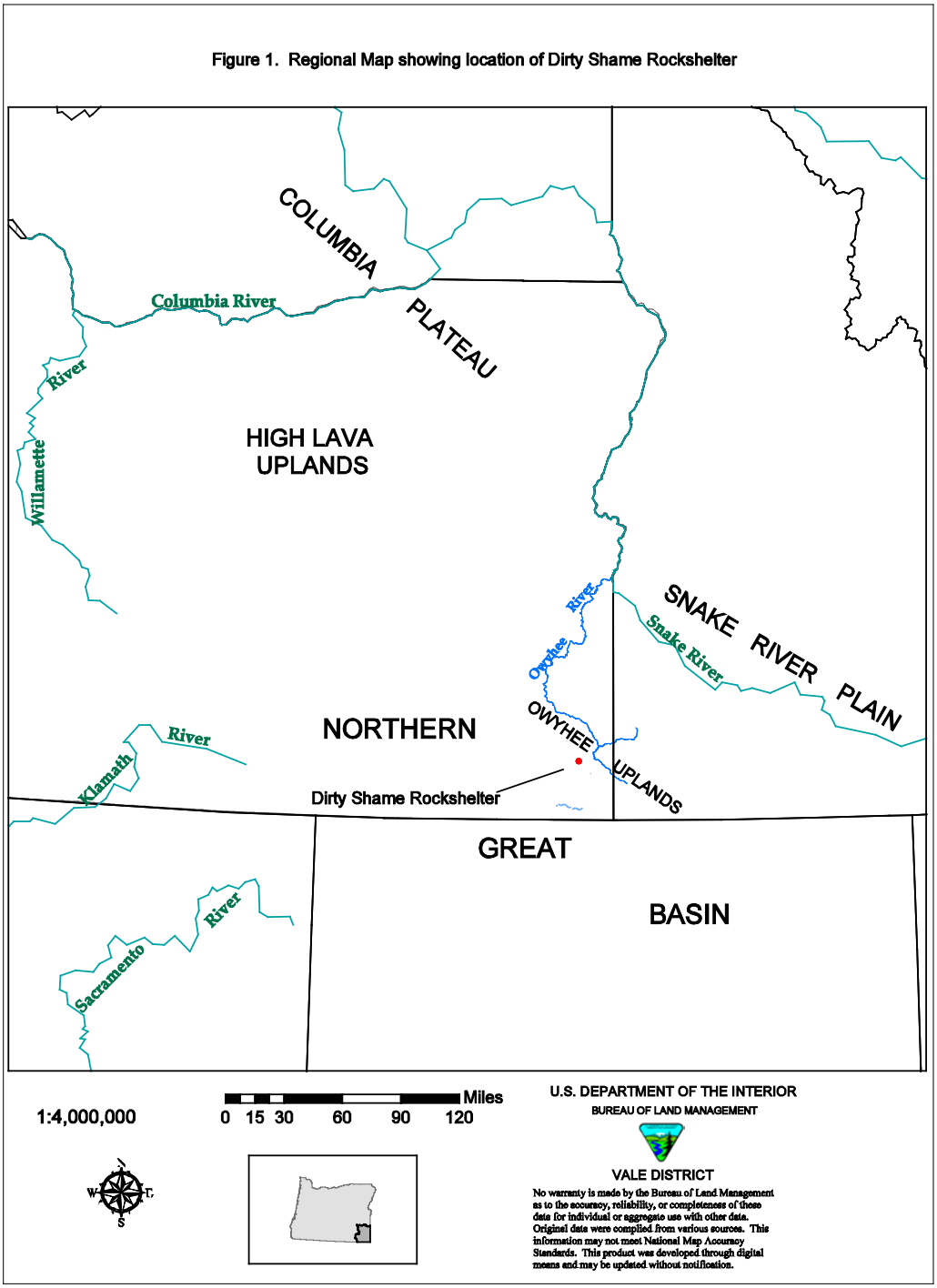
1 Background Information

Previous excavation at Dirty Shame Rockshelter (DSR) revealed a rich history of human occupation dating back 9500 years, including a large quantity of lithic and perishable materials and a number of cultural features (Hanes 1988:1). Work conducted for this project would seek to assess the condition of the site and its continuing research and heritage values following years of site vandalism caused by artifact collectors.

University of Oregon Field Camp under the direction of Dr. Dennis Jenkins would conduct research excavations at Dirty Shame Rockshelter to determine the potential of a subsurface component. Dirty Shame Rockshelter is located on BLM administered public land located in the Owyhee Uplands of the Northern Great Basin (Figure 1) within the Owyhee River Canyon Wilderness Study Area (WSA, OR-3-195/ID-16-48B).

"The Owyhee Uplands lie in the northwest corner of the Great Basin and differ from the rest of the province in that it is a flat deeply dissected plateau with little interior drainage where fault-block topography is less pronounced. The drainage basin of the Owyhee River encompasses the uplands. The Owyhee River flows northerly from Nevada through Idaho and Oregon and joins the Snake River near Adrian, Oregon (Orr and Orr, 1999).

Hanes (1988) provides a description of the climate and vegetative setting surrounding Dirty Shame Rockshelter: "Dirty Shame Rockshelter is located in the warm temperate montane desert scrub zone characterized by cold winters, hot summers and a wide fluctuation of annual temperatures. The expansive sagebrush steppe ecosystem is characterized by big and low sagebrush, rabbit brush, spiny hopsage, bunchgrasses and bitterbrush. Salt tolerant shrubs that surround small playas include shadscale, salt sage, greasewood and spiny hopsage. Within the narrow high-walled canyons along intermittent streams grasses, rushes and sedges with willow, aspen and cottonwood are present. On the slopes between the canyon bottoms and upland plateaus, Idaho Fescue and bluebunch wheatgrass are present. Catastrophic thunderstorm events can scour the canyons and side drainages from early spring through late fall, and by late fall many of the drainages retain only enough flow to maintain small pools."



2 Purpose of and Need for the Action

The purpose is three-fold: 1) establish whether or not there are undisturbed sediments below the disturbed surface of the rockshelter; 2) retrieve information important to the prehistory and early occupation of this rockshelter from undisturbed sediments: and 3) stabilize and rehabilitate sediments within the rockshelter to prevent further deterioration.

This need for the evaluation and stabilization work is intended to preserve and protect cultural resources remaining in the site, and to reestablish the intrinsic value and beauty of the site location by refilling the holes dug by archaeologists and site vandals. To accomplish all of this, the current condition of the site and its deposits must first be assessed. BLM is obligated to protect cultural sites from vandalism and/or unauthorized use. The BLM lacks relevant data from buried contexts at this rockshelter to fully assess the damage and to evaluate potential mitigation measures. This data would be reported in the form of annual preliminary reports, articles in scholarly journals, presentations at professional archaeology meetings and a final report would result from the scientific study of the site.

These documents would help form the basis for heritage education and interpretation for the "Owyhee Uplands" region of Vale District and surrounding area. Limited research at Dirty Shame Rockshelter would augment research conducted along the Owyhee River as well as research conducted at other rockshelters across Oregon.

The Archaeological Resources Protection Act of 1979, as amended requires agencies to provide for public education and continuing inventory of public lands.

The National Historic Preservation Act of 1966, as amended, provides a national policy for historic preservation, establishes National Register of Historic Places designation for important properties, and allows for the protection of sites from destruction without appropriate data recovery, and requires that historic properties be utilized in agency missions, when warranted.

Executive Order 11953 directs Federal agencies to inventory public lands and nominate eligible properties to the National Register of Historic Places.

Executive Order 13287 entitled "Preserve America" further requires Federal agencies "prepare an assessment of the current status of its inventory of historic properties" and to "ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties." These laws, regulations, and Executive Orders further require that such management be coordinated with appropriate American Indian tribes and individuals.

The early work conducted at DSR was limited by the methodology and technology available to researchers at the time. Advances in scientific methodology and analysis technology allow researchers to retrieve information that wasn't previously obtainable.

The goals of the 2010 project would be to document and collect surface artifacts within previously disturbed and undisturbed locations before any additional future potential damage/vandalism to this valuable cultural resource occurs and to attempt to answer a number of archaeological questions:

1). What were the primary site functions and activities that occurred here?

2). Are there different materials present such as charcoal, bone, coprolites or volcanic ash that can be analyzed to produce absolute dates of site use? What does the

information tell us about subsistence practices? Can we better define the cultural chronology?

3). Can we better define the cultural relations and ethnic group associations?

4).What types of prehistoric tools or debris are present or absent from the intact site deposits?

5). How does the occupation of Dirty Shame Rockshelter relate to occupations at other rockshelters across the Great Basin?

6). What is the management importance of the site in terms of BLM use categories (scientific, conservation for future use, traditional use, public use and experimental use) and eligibility for nomination to the National Register of Historic Places?

3 Proposed Action

The proposed action is to conduct limited excavations to retrieve buried sub-surface cultural materials located within Dirty Shame Rockshelter. After excavation has been completed the excavated areas would be backfilled to simulate a pre-excavation state. The area would be allowed to revegetate on its own.

Current site surface conditions would be intensively documented through site mapping and photography. The second step would be to collect information on the level of current site disturbance/destruction and to simultaneously provide an estimate of the remaining value of cultural deposits through subsurface investigations. This would be accomplished through the excavation by hand tools of a maximum of six 1 meter x 1 meter test units in 2010 and possibly two units in 2011. The number of test units would be dependent on whether shallow deposits are encountered which could force the premature abandonment of some test units and additional units that may be excavated in 2011 would be dependent on the results of the work conducted in 2010.

Excavation and refilling would be conducted by using hand tools, (hand augers, trowels, shovels, buckets) and would be done by six students and three professors from the University of Oregon, Department of Anthropology. Excavation and limited site rehabilitation would commence in June 21 and finish July 30, 2010. Dennis Jenkins, Ph.D., Staff Archaeologist for the University of Oregon Museum of Natural and Cultural History would direct the research at the site. The results of the research would be reported in annual preliminary reports and a final report at the end of the project. See the Project Location Map for the location of the research area.

Fill sediment from excavations would be screened through 1/8” mesh and stockpiled on the landward side of excavations. The stockpiled sediment would be used to refill the test units when unit investigations and recordation had been completed. The research would result in a report of the site investigations and conclusions suitable for distribution to site managers and monitors responsible for judging the condition of the site in the future. At the end of the project the site would be refilled and photographed again.

Access to the project site would be by hiking within the WSA. Support activities of the project, such as camping, would occur outside of the WSA on either nearby private or public lands.

4 Conformance with the Land Use Plan and other Management Direction

All actions approved or authorized by the BLM must conform to the existing land use plan where one exists (43 CFR 1610.5-3, 516 DM 11.5). Although it is not a National Environmental Policy Act (NEPA) requirement, the BLM includes within all its NEPA documents a statement about the conformance of the proposed action and alternatives with the existing land use plan. The BLM's planning regulations state that the term "conformity" or "conformance" means that "… a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or amendment" (43 CFR 1601.0-5(b)).

The Antiquities Act of 1906 provides for the protection of archaeological resources on all public lands and requires permits for those who excavate or appropriate these resources.

The Archaeological Resources Protection Act of 1979, as amended, defines and protects archaeological resources on public lands, establishes a permit system for resource users, and requires agencies to provide for public education and continuing inventory of public lands. The Antiquities Act of 1906 provides the foundational background for all stages of investigation needed for this project. Section 3 of the Antiquities Act of 1906 provides for the examination and excavation of archaeological sites and the gathering of objects of antiquity. Exploration of this area would enhance our knowledge of the chronology and prehistory of life in Malheur County and on a National level, information about life in pre-White European Contact Great Basin.

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laws, regulations, and Executive Orders further require that such management be coordinated with appropriate American Indian tribes and individuals.

The proposed project is also in conformance with the management objectives of the Southeast Oregon Resource Management Plan (SEORMP) Record of Decision (ROD), *General Planning Criteria* cited on Page 9 and *Program Planning Criteria* for Cultural and Paleontological Resources cited on page 13: "*Cultural and paleontological resource will be managed to maintain or enhance their scientific, interpretive, educational and American Indian values"*.

The proposed action conforms to specific management objectives in the SEORMP-ROD for cultural resources: *"protect and conserve cultural and paleontological resources"* p. 106; *"protect against illegal artifact collection, site excavation and vandalism*" p107.

Dirty Shame Rockshelter is located less than a half mile inside the boundary of the Owyhee River Canyon Wilderness Study Area (WSA, OR-3-195/ID-16-48B). Congress alone has the authority to designate public lands –including a WSA -- as Wilderness. Until such time as Congress either designates a WSA as Wilderness or releases a WSA from a Wilderness designation, a WSA is managed under the BLM's H-8550-1 handbook, *Interim Management Policy for Lands under Wilderness Review* (July 5, 1995 release; hereafter referred to as WSA IMP). There are three categories of public lands to which this policy applies: 1) Wilderness Study Areas (WSAs) identified by the wilderness review requited by Section 603 of the Federal Land Policy and Management Act (FLPMA), 2) legislative WSAs (WSAs established by Congress), and 3) WSAs identified through the land-use planning process in Section 202 of FLPMA. These categories together are referred to as "lands under wilderness review". The Owyhee River Canyon WSA was administratively designated under authority of Section 603 of FLPMA.

Lands under wilderness review are managed in accordance with Section 603(c) of FLPMA: "During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness."

Under the WSA IMP (Chapter III, subsection I): 1) cultural resource inventories, studies and research involving surface examination, and 2) salvage of archaeological sites, rehabilitation, stabilization, reconstruction and restoration work on historic structures, excavations; and extensive surface collection may be permitted if the specific project satisfies the nonimpairment criteria. The WSA IMP also states that permanent physical protection, such as fences, would be limited to those measures needed to protect resources eligible for the National Register of Historic Places and would be constructed to be substantially unnoticeable.

The WSA IMP nonimpairment criteria are as follows (Chapter I, subsection B-2 (a) (b)) : 1) the use, facility or activity must be temporary and 2) when the use, activity or facility is terminated, the wilderness values must not have been degraded so far as to significantly constrain the Congress's prerogative regarding the area's suitability for preservation as wilderness.

The WSA IMP defines five permitted exceptions to the above two rules (Chapter I, subsection 2 (b)). The second, fourth and fifth permitted exceptions would be applicable to the proposed action which, respectively, state, “Reclamation activities designed to minimize impacts to wilderness values created by IMP violations and emergencies”; “Uses and facilities that clearly protect or enhance the land’s wilderness values or that are the minimum necessary for the public health and safety in the use and enjoyment of the wilderness values”; and, “Reclamation of pre-FLPMA impacts.”

The WSA IMP states that surface disturbing activities are generally not allowed, where surface disturbance is defined as any new disruption of the soil or vegetation requiring reclamation within a WSA.

5 Alternatives Including the Proposed Action

The objective of alternative actions is to provide a comparison of environmental effects and effects to the human environment of a range of management options which could meet the purpose and need.

5.1 *Alternative 1: No Action*

The no action alternative would maintain the condition of Dirty Shame Rockshelter in its current and deteriorating state. It would also facilitate the continued illegal excavation which may be occurring and would not allow the restoration or enhancement of a site eligible to the National Register of Historic Places.

5.2 *Alternative 2: Proposed Action Limited Excavation*

The proposed action would allow University of Oregon under the direction of Dr. Dennis Jenkins to operate a small research field camp at Dirty Shame Rockshelter. The field camp would consist of six students and three instructors. The goal of the limited field camp would be to assess the damage done by illegal excavations which have contributed to the deterioration of surface and subsurface sediments. Work within the rockshelter would facilitate the stabilization and rehabilitation of sediments with the rockshelter.

A maximum of six test units would be excavated during the site visit in 2010 with the potential of two more test units excavated in 2011. Each test unit would be 1 x 1 meter in length and width. Each unit would be excavated in 5 cm levels to a depth of two sterile levels below the last encountered cultural material, but based on topography probably no deeper than 2 meters. All excavated fill would be screened through 1/8” wire mesh. A hand auger would be used to extract a core sample to identify undisturbed subsurface components prior to the placement of the test units. The use of a hand auger would identify locations for test units and may result in the reduction of the number of units tested if suitable subsurface sediments are not located.

Fill from excavations would be deposited adjacent to the excavations on already existing altered materials caused by past illegal digging activities and used to backfill the test units when work is completed. Temporary fencing at the location of the test units would

not be necessary since students and staff would be camping close to the rockshelter at a location outside of the WSA.

The camping location would either be on private land with the landowner's permission or on public lands administered by the Bureau of Land Management located outside of the boundaries of the WSA. Within the camp area, if on BLM administered lands, human waste disposal would be accomplished by setting up portable outhouses at the camping area during excavation. Grey water waste would be disposed of in a pit dug into the ground. Grey water would then filter down through the semi-porous bedrock. Fuel containers such as gasoline would be placed in secondary containment in order to reduce the risk of fuels spills. On private lands, the above stipulations would also apply, although an outhouse is present.

When scientific excavations and research have concluded, the areas excavated by the field camp would be backfilled and the land surface topography returned to a state simulating that of the pre-excavation state. Re-vegetation of the areas would occur on its own. Very little re-vegetation is anticipated due to the substantial inability of the project site to receive sufficient moisture because of its orientation with the drip line angle created by the cliff's overhang.

More specifically, this research seeks to assess the condition of the site and its continuing research and heritage values following years of site vandalism caused by artifact collectors. Related research would focus on the development of a cultural chronology, investigation of site function and activity areas within the site, settlement and subsistence issues, climatic/ecological reconstruction, and cultural relations and ethnic group associations. Laboratory inventory, analysis of artifacts and samples, and curation of collections is included within this cost share project.

Information gathered from this site would be used to assist in the determination of eligibility of Dirty Shame Rockshelter to the National Register of Historic Places.

6 Affected Environment

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

6.1 *Recreation and Visual Resources*

Antelope Creek Canyon, within which Dirty Shame Rockshelter lies, is the scene of only occasional recreational activity. Activities such as sightseeing, wildlife viewing, hiking, hunting and camping occur in the general area. Recreational access to Dirty Shame Rockshelter has been somewhat limited by the private land block ½ mile west of the rockshelter. Being located within a WSA, the public accesses the shelter area by hiking or horseback riding.

The BLM visual resources management (VRM) classification for that portion of Antelope Creek where Dirty Shame Rockshelter is located is designated as VRM Class I because of its location within the Owyhee River Canyon WSA. The objective of VRM Class I is to preserve the existing character of the landscape. This class provides for natural ecological changes and it allows limited management activity. The level of change should be very low and must not attract attention. Class I is assigned to those

areas where a management decision has been made to preserve a natural landscape. This includes areas such as wilderness, the classified "wild" sections of National Wild and Scenic Rivers and other congressionally and administratively designated areas.

6.2 *Wilderness Study Area*

Public lands within Vale District were inventoried for wilderness values between 1978 and 1980, in accordance with the Federal Land Policy and Management Act of 1976. In 1980, the inventory resulted in BLM's administrative designation of WSAs. Only subsequent congressional legislation can designate these or other public lands as Wilderness Areas. Until Congress makes a decision, WSAs are managed is accordance with the WSA IMP in order to protect known wilderness values so as not to impair the suitability of such areas for preservation as wilderness. Dirty Shame Rockshelter is located within the Owyhee River Canyon WSA (OR-3-195/ID-16-48B). The WSA per the October 1991 Study Report includes approximately 190,700 acres in Oregon. Approximately 34,980 contiguous acres in Idaho which were part of the same WSA was designated as Wilderness by Congress in 2009 (thus, presently the only remaining portion of the WSA is located fully within Oregon).

6.3 *Cultural and Paleontological Resources*

A cultural resource is generally defined by Federal agencies as any location of human activity that occurred at least 50 years ago. Cultural Resources are identified through field survey, historic documentation, or oral evidence. Prehistoric or pre-contact cultural resources in the Vale District include lithic scatters, rock shelters, pithouses, petroglyphs, pictographs, hearths and rock features (cairn, alignments). Historic cultural resources include buildings and building ruins, mine sites, wagon roads, railroad grades, irrigation ditches and associated structures, dams and archaeological deposits. American Indian traditional use areas are a special category of cultural resources. Some cultural resources may be less than 50 years old but have cultural and religious importance to American Indian tribes or paramount historic interest to the public.

6.3.1 Prehistoric Lifeways

At best, a synopsis of prehistoric lifeways is a hypothetical reconstruction. Very little archaeological work has been done in Southeast Oregon to establish the places, plants, animals and other resources and tools used by Native American peoples prior to European Contact.

The majority of information available on the prehistory of the northern Great Basin comes from data gathered during excavations at Fort Rock Cave, Roaring Springs Cave, Catlow Cave, Dirty Shame Rockshelter, and Birch Creek. The earliest dates for occupation of the northern Great Basin come from a hearth at Fort Rock dated to 13,200 B.P. (Aikens 1986:13). At Dirty Shame Rockshelter, the earliest dates come from charcoal sources dated to 9500 B.P. (Hanes 1988:40).

Overall, the prehistory of the northern Great Basin reflects a flexible culture with the ability to adapt and change in response to distinctive ecosystems during periods of climate change. The persistence of lithic and textile traditions and subsistence patterns over thousands of years supports the theory of cultural continuity throughout the northern Great Basin. The subsistence pattern was based on a broad spectrum seasonal round that utilized over 50 floral species, big and small game hunting and fishing.

Archaeological Data

Several archaeological excavation projects have generated information that establishes long-term human occupation in Malheur County. John Fagan excavated twelve stratified spring sites in southeastern Oregon, five of which are located in the Jordan Resource Area. In his report, he postulated that prehistoric use of the area occurred from 11,000 to 150 years ago (Fagan 1974). An excavation at Dirty Shame Rockshelter, on a tributary of the Owyhee River suggests occupation from 9500 to 400 years ago. Two carbon dates from an exposed hearth on a tributary of Willow Creek west of the Whitehorse Ranch in southern Malheur County gave dates of 3300 to 2300 years ago. The area was likely used as a winter camp, and people probably returned to this area over a long period of time. Radiocarbon dates from the Birch Creek site 35ML181 indicate prehistoric use from about 900 B.P. to almost 5300 B.P. (Andrefsky 2003). Artifacts have been found beneath the Mazama Ash layer, suggesting the site was occupied at least 7000 years ago.

Early excavations at Dirty Shame Rockshelter began in 1937 by Luther S. Cressman. His research showed that the site provided a long record of human occupation reflecting information also found at other rockshelters across the Great Basin. Excavations to a depth of 4.5m yielded cultural bearing strata in the uppermost 1.8m with more limited cultural deposits present below that level (Aikens 1993).

Excavations at Dirty Shame Rockshelter produced a record of human activity dated between 7500 B.C. and A.D. 1600 that supports the sequence from the Fort Rock valley and extends it up to the latest prehistoric times (Aikens, Cole and Stuckenrath 1977 cf Cressman 1986).

Cressman (1966) maintained that across the Great Basin excavated sites revealed a culture that was relatively stable and exhibited little change over long periods of time. Sandals found at Dirty Shame Rockshelter exhibit the same weave patterns as sandals that were found at Fort Rock Cave and Catlow Cave and have been dated using C^{14} to between 7500 and 3900 B.C.

At Dirty Shame Rockshelter, cone-shaped pole and thatch dwellings were documented and dated using C^{14} to between 625 B.C. and 890 B.C. Aikens, Cole and Stuckenrath (1977) suggest that these structures were similar to ethnographic Northern Paiute dwellings (cf. Wheat 1967).

As in the Fort Rock Valley, human occupation ceased at Dirty Shame Rockshelter for a long interval between 3900 B.C. and 800 B.C (Cressman 1986). This period coincides with a period of hotter and dryer climatic conditions when peoples abandoned life in rockshelters and moved to higher elevation spring sites or adapted to sedentary settlements along lakeshores or other reliable water sources.

6.3.2 Ethnohistoric and Ethnographic Lifeways

Early written observations by Euro-Americans and reports based on information from Native Americans themselves expand our knowledge of Indian lifeways before European Contact. Pre-European contact Native American hunters and gatherers living in southeast Oregon's high desert were extremely well adapted to their environment, and used it

effectively and efficiently. Tribal band names for Pre-Contact people reflected important or interesting dietary items.

The basic unit of Northern Paiute social structure was the family, a group small enough for mobility and flexible enough to adapt to many kinds of seasonal resources. Such groups were not part of any larger, marriage-regulated structure, but often cooperated temporarily with other family groups in community endeavors such as hunting, fishing, or gathering activities. Leaders of dances, antelope, rabbit, duck and mud hen (coot) drives were chosen for their experience and their selection required community approval. The settlements of the Northern Paiute were of two types: village and camps. Winter villages of up to fifty huts have been reported, but generally the winter villages consisted of small, unstable groups of about three families located near a major lake or river. Seasonal camps were located wherever there was water and food. Living structures were typically a fence-like windbreak of sagebrush for a temporary or summer camp with a tree or brush sunshade or conical-shaped wickiup for both winter and summer use. The subsistence economy of the Northern Paiute was strongly oriented toward gathering and collecting because plant foods were more abundant and dependable than fowl, fish or mammals. When mammals were available, almost all the parts could be utilized. Mammals provided skins, furs, tools and many other by-products of aesthetic and practical value. Beetles, grasshoppers, locusts, crickets, ants and caterpillars were consumed, as well as most eggs and larva. These insects provided a readily available, storable, and high protein source of food. In addition, historic documents indicated several hundred plants were used by the Indians of the Great Basin for medicinal purposes, fiber sources and food.

6.3.3 Paleontological Resources

Pioneering work in the field of paleontology was conducted by J.A Shotwell in the late 1950s and early 1960s. During several field seasons, a field crew from the Museum of Natural History, University of Oregon studied Miocene, Pliocene and Late Tertiary mammals. Fossil localities are noted for diversity and abundance bearing both small rodent specimens as well as large specimens such as camel, horse, turtle and sloth and later species such as mammoth, mastodon and bison. Diatomaceous sediments are present at several locations in quantity and quality sufficient to support active mining operations.

A site visit to Dirty Shame Rockshelter in 2007 yielded no visible paleontological resources present.

6.4 *Soils*

Soil sediments were assessed by Kittleman (1977) during the first U of O field school excavations:

“The sediment is a mixture of plant debris, rock fragments and mineral grains in a great range of grain sizes and with much variability from layer to layer. Texturally the sediments are mainly gravel silty sands. Colors are rather uniform shades of dusky yellowish brown (10YR2/2); deeper layers have lighter colors, owing to lesser organic material. Most layers are about one-third silt that, in its present dry environment is dust. The silt is roughly equal parts of organic particles, phytoliths and mineral grains. Organic matter gives the deposits a fetid odor and the phytoliths are abrasive. The concoction is remarkably irritating. The sandy portion of many layers is about one-third organic debris

and there are layers that contain nearly one-third coarse plant fragments, so taking all sizes together some layers are more than half organic debris. When the shelter was inhabited, the people brought in much plant material for food, bedding thatch and textiles, and the leftovers were burned, shredded or trampled, releasing phytoliths and other fragments of all sizes that have permeated the debris. The inorganic, sandy sediment of the rockshelter, even the sandy lowermost layers resemble talus, not alluvium. The inorganic deposits of the rockshelter are mostly talus; Antelope Creek has not washed into the shelter since the beginning of habitation (Kittleman 1977:5-6)

6.5 *Vegetation*

Upland vegetation resources are dominated by greasewood and/or sagebrush: bunchgrass communities being the potential. Impacts from historic grazing prior to their exclusion and from concentrated recreation activities at the site, have resulted in current vegetation communities dominated by greasewood and basin big sagebrush and annual herbaceous species. Remnants of native herbaceous species remain. Riparian vegetation communities include native herbaceous and shrub species, some native willows and other small trees, as well as introduced tree species from the willow family and nonnative poplars and cottonwoods.

6.6 *Noxious Weeds*

No weedy species other than cheatgrass (*Bromus tectorum*) were observed in the vicinity of the site. Care would be taken to avoid introducing white top (*Lepidium* ssp.) and perennial pepperweed (*Lepidium latifolium*) or Scotch thistle (*Onopordum acamthium*) to the area.

6.7 *Special Status Plants*

There are no known Special Status Plants present in the area.

6.8 *Wildlife and Fisheries*

The basalt and rhyolite canyons of the Owyhee River, Antelope Creek Canyon and the West Little Owyhee River provide habitat for a variety of large big game species as well as smaller game species.

One known Sage Grouse lek is located approximately 1.2 miles south of the project area but would not be affected by this project. Females lay a clutch of 7-8 eggs from mid-March to mid-June. In the summer sage-grouse depend on sagebrush for shelter from predators, while the grass and plants under the sagebrush provide materials for nesting and high-protein insects for food, a critical diet for chicks in their first month of life. In winter, over 99 percent of their diet is sagebrush leaves and buds.

6.9 *Wild Horses*

No wild horse management areas are within the vicinity of Dirty Shame Rockshelter. As a result, no further analysis of potential impacts from actions considered would be completed.

6.10 *Livestock Grazing*

Grazing by cattle is authorized annually from early spring to fall on public lands in the Campbell Allotment. The Twin Springs Middle Pasture encompasses 7166 acres. Grazing is authorized from March 1 until May 31, for 1598 AUMs.

Livestock which graze in pastures surrounding Dirty Shame Rockshelter utilize water in Big and Little Antelope Creeks.

6.11 *Climate/Topography*

Hanes (1988) provides a description of the climate and vegetative setting surrounding Dirty Shame Rockshelter: DSR is located in the warm temperate montane desert scrub zone characterized by cold winters, hot summers and a wide fluctuation of annual temperatures. The expansive sagebrush steppe ecosystem is characterized by big and low sagebrush, rabbit brush, spiny hopsage, bunchgrasses and bitterbrush. Salt tolerant shrubs that surround small playas include shadscale, salt sage, greasewood and spiny hopsage. Within the narrow high-walled canyons along intermittent streams grasses, rushes and sedges with willow, aspen and cottonwood are present. On the slopes between the canyon bottoms and upland plateaus, Idaho Fescue and bluebunch wheatgrass are present. Catastrophic thunderstorm events can scour the canyons and side drainages from early spring through late fall, and by late fall many of the drainages retain only enough flow to maintain small pools.

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	American Indian Religious	MS 8100	None known

Religious Concerns	Freedom Act of 1978 (42 USC 1996)		
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
Wetlands/Riparian Zones	E.O. 11990, Protection of Wetlands, of May 24, 1977	MS 6740	Not affected
Wild and Scenic Rivers	Wild and Scenic Rivers Act as amended (16 USC 1271)	MS 8014	Present, but not affected
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	Analyzed in this document
Environmental Justice	E.O. 12898 of February 11, 1994		Minority populations and low income populations would not be affected by actions considered.
Actions to Expedite Energy Related Projects	E.O. 13212 of May 18, 2001		The actions considered are not energy related nor would they affect production, transmission, or conservation of energy.

The following resources would not be affected by either Alternative 1 No Action or Alternative 2 Limited Excavation and are not discussed further: Recreation or Watershed Resources.

7 Environmental Consequences

Chapter 7 is organized by alternatives to illustrate the differences between Alternative 1 “no action” alternative and Alternative 2 the proposed action.

7.1 Alternative 1: No Action

7.1.1 Visual Resources

Under this alternative there would be no impacts to visual resources.

7.1.2 Wilderness Study Areas

Under this alternative, no test units or research would be conducted within the Owyhee River Canyon WSA. As a wilderness supplemental value, important scientific and educational knowledge of any existing *in situ* archaeological resources at the shelter site would continue to remain subject to loss and/or vandalism by illegally conducted activities.

7.1.3 Cultural and Paleontological Resources

Under the No Action alternative there would be no limited excavation to recover information important to understanding the cultural history of this area and human activity at Dirty Shame Rockshelter. Impacts to the site are expected to continue. Valuable important scientific and educational knowledge of any existing archeological resources at the shelter site would continue to remain subject to loss and/or vandalism by illegally conducted activities.

Paleontological Resources

Under this alternative there would be no impacts to fossil flora and/or faunal resources that might be present.

7.1.4 Soil Resources

Under this alternative continued illegal activities would subject existing soil resources to additional, cumulative and/or compounded adverse impacts, and the soils’ present ability of providing some level of protection of any existing covered cultural values would be adversely affected. Lack of soil stabilization and rehabilitation within Dirty Shame Rockshelter would continue to facilitate the erosion and destruction of the cultural values associated with the rockshelter.

7.1.5 Vegetation

The no action alternative would continue current activities within the recreation site and result in no anticipated change in vegetation communities beyond the typical naturally caused fluctuations in species dominance through time.

7.1.6 Noxious Weeds

Under the no action alternative there would be no affect to the weedy species already present, and no potential introduction of white top, perennial pepperweed or Scotch Thistle.

7.1.7 Special Status Plants

There are no special status plant species in the area

7.1.8 Wildlife and Fish

Under the no action alternative there would be no affect to wildlife populations, or movement in and around the Antelope Creek near the location of Dirty Shame Rockshelter. Also there would be no affect to fish habitat or fish in Antelope Creek.

7.1.9 Livestock Grazing

The no action alternative would continue the current situation of livestock grazing in the Campbell Allotment, Twin Springs middle pasture. Livestock management practices would be unchanged.

7.2 *Alternative 2: (Proposed Action) Limited Excavation*

7.2.1 Visual Resources

Visual resources management (VRM) classification is designated as VRM Class I because of the location within the Owyhee River Canyon Wilderness Study Area. The management objective outlined for areas designated as VRM Class I is to preserve the existing character of the landscape.

Under this alternative, impacts to visual resources would be temporary in nature while nine people work are working on-site for 2-3 weeks. There would be no permanent alteration to the landscape and/or the character of the existing landscape.

The visible impacts from the illegal excavations have created a greater impact to the Visual Resources than the visual footprint that would be created while excavations are occurring and after the excavations have been completed and test units backfilled.

7.2.2 Wilderness Study Areas

While uses and facilities necessitating reclamation (for example re-contouring of the topography, replacement of topsoil and/or restoration of native plant cover) are definitely surface disturbing generally denied, this project conforms to the IMP for the following reasons: 1) the project would not do any topographic reclamation; 2) disturbance as outlined in the proposed action would be only temporary; 3) there would be no new surface area of disturbance because the project site's surface has already been disturbed by illegal excavation and looting of subsurface components; and 4) the research conducted at Dirty Shame Rockshelter would be the minimum necessary to protect the wilderness resource and would use the minimum tool needed to complete the project (hiking to the project site and the use of hand tools, only). The wilderness values associated with this WSA would be protected and enhanced through the retrieval of buried subsurface cultural material that may reduce looting activities.

Work conducted within Dirty Shame Rockshelter, within in the WSA would conform to the nonimpairment criteria and would not impair wilderness values. The proposed action will be located less than a half mile inside the boundary of the Owyhee River Canyon Wilderness Study Area (WSA, OR-3-195/ID-16-48B). Congress alone has the authority to designate public lands –including a WSA -- as Wilderness. Until such time as

Congress either designates a WSA as Wilderness or releases a WSA from a Wilderness designation, a WSA is managed under the BLM's H-8550-1 handbook, *Interim Management Policy for Lands under Wilderness Review* (July 5, 1995 release; hereafter referred to as WSA IMP). There are three categories of public lands to which this policy applies: 1) Wilderness Study Areas (WSAs) identified by the wilderness review requited by Section 603 of the Federal Land Policy and Management Act (FLPMA), 2) legislative WSAs (WSAs established by Congress), and 3) WSAs identified through the land-use planning process in Section 202 of FLPMA. These categories together are referred to as "lands under wilderness review". The Owyhee River Canyon WSA was administratively designated under authority of Section 603 of FLPMA.

7.2.3 Cultural and Paleontological Resources

Under this Alternative, a maximum of six test units would be excavated during the site visit in 2010 with the potential of two more test units excavated in 2011. Each test unit would be 1 x 1 meter in length and width with depth based on topography probably no deeper than 2 meters. A hand auger would be used to extract a core sample to identify undisturbed subsurface components prior to the placement of the test units. The use of a hand auger would identify locations for test units and may result in the reduction of the number of units tested if suitable subsurface sediments are not located.

Hand tools, hand augers, buckets and screens used for this project would be carried to the work location. Equipment such as screens and shovels may be left on-site during the period that the work is being conducted and would then again be carried from the rockshelter. The sediment removed from the test units would be stockpiled on the landward side of the excavation and then replaced in the units after the excavation was completed.

Work within the rockshelter would facilitate the stabilization and rehabilitation of sediments with the rockshelter. Work within this site would preserve and protect artifacts and contextual information that would otherwise be lost to erosion and/or looting activities. The baseline data would also establish an elevational line from which any additional illegal surface disturbance would be measured.

Work within this site would preserve and protect artifacts and contextual information that would otherwise be lost to erosion and/or looting activities. As well as establish an elevational line from which any additional illegal surface disturbance can be measured. In this case, the location of Dirty Shame Rockshelter within a WSA has proven to be detrimental to its protection because restoration of disturbed sediments and any other means needed to protect this site would be so extensive and as such that work would not meet the nonimpairment criteria.

Reclamation activities would be designed to minimize impacts to wilderness values created by IMP violations and emergencies. The work conducted would be the minimum necessary for the public health and safety in the use and enjoyment of the wilderness values.

There would be no motorized vehicle access into the WSA at any time.

Overview of trench dug by looters and extensive backdirt piles. Photo was taken in 2007.

Paleontological Resources

It is possible that during excavation, fossil flora and fauna specimens may be located. These specimens would be collected and moved to the University of Oregon Museum of Natural and Cultural History for further study.

7.2.4 Soil Resources

Under the proposed alternative, there would be no effect to soils, except within the test units which would be backfilled with the same sediments removed from the test unit. These sediments would have been screened through a 1/8” to ¼” screen which may result in some settling.

7.2.5 Vegetation

The proposed action alternative would have no effect on the vegetation at this site. Work would be conducted within the rockshelter in sediments that are devoid of vegetation. Backdirt piles created from previous illegal excavations would not be disturbed. There would be no disturbance to vegetation at the camp location which is located on private land. The camping site will be located on public lands outside of the WSA. There would be a temporary and minor disturbance to vegetation as a result of trampling and compaction from the location of tents, and foot traffic within and around the camp site. These impacts would be minor and expected to last less than one growing season.

7.2.6 Noxious Weeds

No weedy species other than cheatgrass (*Bromus tectorum*) were observed in the vicinity of the site. Care would be taken to avoid introducing white top (*Lepidium* ssp.) and

perennial pepperweed (*Lepidium latifolium*) or Scotch thistle (*Onopordum acamthium*) to the area.

7.2.7 Special Status Plants

There are no known special status plant species in the area.

7.2.8 Wildlife and Fish

Under the proposed alternative, the limited duration of this project as proposed would not affect wildlife or fish species, except the potential for some displacement during the 2-3 weeks that this project is being conducted.

7.2.9 Livestock Grazing

The proposed action alternative would continue the current situation of livestock grazing within the Campbell Allotment, Twin Springs Middle pasture. Livestock management practices would be unchanged.

7.3 *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.

7.3.1 Surface-Disturbing Activities

- Disturbed areas should 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 should be contoured to match the original topography, where matching is defined as reproducing the original topography and eliminating form, line and color caused by the disturbance as much as possible.
- Reclamation should 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.
- 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.

7.4 *Wilderness Study Area Interim Management Policy (WSA IMP*)

Related to the proposed action under Alternative 2, the following is applicable policy for specific activities in BLM's Manual Handbook 8550, *Interim Management Policy for Lands under Wilderness Review,* (Chapter III, subsection 1):

7.4.1 Cultural and Paleontological Resources

Cultural and paleontological resource inventories, studies, and research involving surface examination may be permitted if they satisfy the nonimpairment criteria. Salvage of archaeological and paleontological sites; rehabilitation, stabilization, reconstruction and restoration work on historic structures; excavations; and extensive surface collection may be permitted if the specific project satisfies the nonimpairment criteria.

7.5 *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 area immediately within the Dirty Shame Rockshelter. All activities as analyzed in this EA would occur within the rockshelter or immediately in front of the rockshelter.

Based on periodic monitoring, it is evident that illegal excavation and looting has occurred at Dirty Shame Rockshelter. The activity would probably continue at unknown intervals by unknown people. These past and on-going actions are having a current residual adverse effect on the cultural resource.

7.5.1 Past Actions

The identifiable present effects of past actions included the designation of the area around Dirty Shame Rockshelter as a WSA. Since the WSA designation in 1980, the designation has had a detrimental effect on BLM's ability to preserve and repair damage done to this site by looters. The constraints such as nonimpairment criteria and no new surface disturbance as stated in the WSA IMP make complete restoration and preservation of the site improbable. Restoration and repair would require extensive subsurface testing to determine the interface between the disturbed and undisturbed cultural boundary as well as the use of a backhoe to return the disturbed sediments to a location and surface level approximating that of the pre-looted rockshelter floor.

The effects of the proposed action, when compared to the present effects of past actions, would result in a sum of effects less than those observed currently.

7.5.2 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.

7.5.3 Reasonably Foreseeable Future Actions

At the time this EA was written, the BLM does not propose any other projects within the geographic scope of this analysis. This area is located within the Louse Canyon Geographic Management Area (GMA). This GMA was assessed for compliance with standards of rangeland health in the summer of 2005.

8 Individuals, Organizations, Agencies, and Tribes Consulted

Fort McDermitt Paiute-Shoshone Tribes
Dennis Griffin, Oregon State Historic Preservation Office
Dennis Jenkins, PhD, University of Oregon Museum of Natural and Cultural History
Chris Hanson, Oregon Natural Desert Association

9 List of Preparers

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Carolyn Freeborn	Field Manager, Jordan Resource Area

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

Fort McDermitt Shoshone-Paiute Tribe
Dennis Griffin, Oregon State Historic Preservation Office
Oregon High Desert Association
Grazing Permittees

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12 Finding of No Significant Impact (FONSI)

The FONSI is a document that explains the reasons why an action would not have a significant effect on the human environment and why, therefore, an EIS would 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.

12.1 *"Significance" as used in NEPA requires considerations of both context and intensity (Part 40 of Code of Federal Regulations, subpart 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 Dirty Shame Rockshelter. For this reason, the analysis of effects is in the context of this site. 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 and conformance to Wilderness IMP nonimpairment criteria referenced in the EA and limiting effects to the immediate vicinity with the confines of Dirty Shame Rockshelter.

The action being proposed is to conduct limited testing and excavation within Dirty Shame Rockshelter. 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. 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 conducting short duration, limited testing of subsurface component at Dirty Shame Rockshelter.

While Dirty Shame Rockshelter does lie within a Wilderness Study Area (WSA) which is managed under the WSA Interim Management Policy for Lands under Wilderness Review until such time as Congress acts on Wilderness proposals, I find that this project satisfies the nonimpairment criteria because it is limited in scope and duration. The scope of the project is confined to with the already disturbed rockshelter and duration is limited to a three to six week period in early summer.

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 Environmental Assessment (DOI-BLM-OR-V060-2010-019) 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 existing land use plans. 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 the BMPs and conformance to WSA IMP nonimpairment criteria for the proposed project 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 park lands, prime farmlands, wetlands, or ecologically critical areas.

4. The proposed action would have no highly controversial effects.

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 does not violate any law or requirement imposed for the protection of the environment.

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

Carolyn R Freeborn

Carolyn Freeborn
Jordan Field Manager
Vale District BLM

5/21/10

Date