

**United States Department of the Interior
Bureau of Land Management
Vale District Office
Malheur/Jordan Field Office
Vale, Oregon**

**NOTICE OF FIELD MANAGER'S FINAL DECISION
Jaca Reservoir Fire Emergency Stabilization and Rehabilitation Plan**

Background

The Jaca Reservoir Fire was started by lightning on June 28, 2015. The fire burned approximately 12,991 acres on Vale District Bureau of Land Management (BLM) lands and approximately 440 acres of privately owned land. The Jaca Reservoir Fire burned area is entirely within the Willow Creek grazing allotment and impacted six separate pastures. Portions of the Horse Ridge, Dry Lake, Arritola FFR, Groundhog, Jaca Seeding West, and the Rim Basin Seeding were affected by the fire.

An Interdisciplinary Team (IDT) from the Vale District BLM prepared the Jaca Reservoir Emergency Stabilization and Rehabilitation (ESR) Plan to submit to the BLM Washington Office (WO) for funding approval. This plan includes all of the proposed treatments for the Jaca Reservoir Fire burned area to be analyzed.

To comply with the National Environmental Policy Act (NEPA), the same IDT reviewed a Determination of NEPA Adequacy (DNA) checklist (DNA OR-V060-2015-044) and determined that the 2014 Buzzard Complex Emergency Stabilization and Rehabilitation Plan Environmental Assessment (OR-V040-2014-076-EA) was an adequate analysis of identical treatments that were proposed for the Jaca Reservoir Fire. Issues related to invasive annual grass expansion, noxious weeds, and sage-grouse habitat present on the Jaca Reservoir fire are many of the same issues considered in the Buzzard Complex ESR EA. Also, the EA analyzes effects of a proposed action that includes all of the same stabilization and rehabilitation actions proposed in the Jaca Reservoir Fire ESR Plan. The Buzzard Complex ESR Environmental Assessment (EA), Finding of No Significant Impact (FONSI) and Decision Record (DR) are available upon request to the Vale BLM District Office or at:

<http://www.blm.gov/or/districts/vale/plans/plans-details.php?id=2976>.

If you wish to obtain hard copies of these documents, they are available upon request to the Vale District BLM office at (541) 473-3144.

Compliance

The Jaca Reservoir Emergency Stabilization and Rehabilitation (ESR) plan was prepared under the guidance of and is consistent with the Burned Area Emergency Stabilization and Rehabilitation Handbook H-1742-1. All of the treatments in the plan are described and analyzed in the Buzzard Complex Emergency Stabilization and Rehabilitation Plan Environmental Assessment (EA BLM-OR-V040-2014-076). The EA was completed in 2014. The EA analyzed the impacts of implementing the proposed action, a no action alternative, and eliminated two alternatives from detailed analysis. It resulted in a Finding of No Significant Impacts (FONSI) and a decision to implement the proposed action constrained by project design elements.

The treatments described in the Jaca Reservoir ESR Plan, as analyzed in the Buzzard Complex ESR EA, are consistent with the Southeast Oregon Resource Management Plan/Environmental Impact

Statement and Record of Decision, Sept. 2002. The treatments have been designed to conform to the following documents which direct and provide the framework for management of BLM lands within Vale District:

- Taylor Grazing Act (43 U.S.C. 315), 1934
- The National Environmental Policy Act (42 U.S.C. 4320-4347), 1970
- Draft (1998), Final (2001), and Record of Decision (2002) Environmental Impact Statement prepared for the Southeastern Oregon Resource Management Plan
- Vale District Normal Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (EA) # OR-030-05-005.
- Federal Land Policy and Management Act (43 U.S.C. 1901), 1978
- August 12, 1997 Standards for Rangeland Health and Guidelines for Livestock Management for Public Lands, Administered by the BLM in the States of Oregon and Washington
- 2007 Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States ROD
- 2010 Vegetation Treatments Using Herbicides on BLM Lands in Oregon ROD
- Greater Sage-grouse and Sagebrush-steppe Ecosystems Management Guidelines (BLM-2000)
- National Historic Preservation Act (16 U.S.C. 470)
- Programmatic Agreement Among USDI BLM, the Advisory Council on Historic Preservation and the Oregon State Historic Preservation Officer Regarding the Identification, Evaluation, and Treatment of Historic Properties Managed by the BLM, Oregon State Office, Throughout the State of Oregon
- Executive Order 12372, Intergovernmental Review
- Executive Order 13112, Invasive Species
- BLM National Sage-grouse Habitat Conservation Strategy (2004) Decision
- Instruction Memorandum WO-2012-043, Greater Sage-Grouse Interim Management Policies and Procedures issued December 22, 2011
- A Report on National Greater Sage-grouse Conservation Measures, Produced by: Sage-grouse National Technical Team, December 21, 2011
- Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A plan to Maintain and Enhance Populations and Habitat; ODF&W 4/22/2011
- SEORMP Settlement Agreement (Case 05-35931, June 10, 2010) between Vale District BLM and Oregon Natural Desert Association (ONDA) resulting from Ninth Circuit Court of Appeals decision (*ONDA v. BLM*, 625 F.3d 1092 (9th Cir. 2010)).
- Oregon Greater Sage-Grouse Proposed Resource Management Plan Amendment FEIS (2015).

FINAL DECISION

I have determined that the vegetation, soil and other resources on the public lands are at immediate risk of erosion and other damage due to the effects of the Jaca Reservoir Fire.

DNA # DOI-BLM-OR-V060-2015-044 addressed the treatments identified in the Jaca Reservoir ESR Plan and I have determined that the treatments have been adequately analyzed in the Buzzard Complex ESR EA. The treatments listed in ESR Plan (below) are a subset of the treatments proposed in the Buzzard Complex ESR Plan and I have determined that the DNA is sufficient.

I have determined that implementing the proposed Jaca Reservoir Fire ESR treatments would have similar or the same effects as described in the Buzzard Complex ESR EA (DOI-BLM-OR-V040-2014-

076), does not constitute as a major Federal action that will not adversely impact the human environment and does not require the preparation of an environmental impact statement, as set out in the FONSI.

Based on analysis and input from my staff, it is my final decision to implement the treatments as listed in the Jaca Reservoir ESR plan below.

SUMMARY OF PROPOSED ACTIONS

Emergency stabilization actions would include:

- 1) **Aerial Application of Pre-Emergent Herbicide for Invasive Annual Grass Control.** Approximately 13,669 acres of the Jaca Reservoir burned area would be treated with a pre-emergent herbicide to control invasive annual grass expansion (See Map 5). Treatments would be applied by aircraft and would focus on roadsides and areas considered as high risk for invasion by medusahead wildrye or cheatgrass.

This treatment would use the approved herbicide imazapic, at 6oz/acre rate along with appropriate adjuvants to achieve the most effective control at the time of application. All herbicide applications would be in conformance with label instructions and the 2010 Vegetation Treatments Using Herbicides on BLM Lands in Oregon Record of Decision. All design elements, mitigations, and SOPs described in the ROD would be used.

- 2) **Noxious Weed Herbicide Treatments.** Noxious weeds would be inventoried and treated with herbicide to prevent their establishment in the burned area.

Any use of herbicides would be in conformance with label instructions. Only treatments allowable on Oregon BLM lands in conformance with standard operating procedures and mitigation measures would be used. Herbicides would be applied aerially or using ground-based sprayers.

- 3) **Construction of Temporary Protective Fence and Reconstruction of Existing Fence.** Approximately three miles of temporary protective fencing would be constructed to protect seeded areas from domestic livestock grazing within the fire perimeter (See Map 6). Temporary fences would remain in place until rangeland monitoring indicates resource objectives have been attained. Approximately 16 miles of 4-wire fence would be reconstructed as needed within the burned area (See Map 8). Fence reconstruction may be as minimal as replacing H-braces and rock cribs but may be as large as full fence replacement, depending on the severity of the damage caused by the fire.

- 4) **Stabilization of Known Archaeological Sites.** Approximately two known cultural resources within the boundaries of the Jaca Reservoir fire perimeter would be assessed to determine immediate stabilization measures and record fire effects. If necessary, low impact seeding would be implemented to minimize erosion of archaeological deposits and decrease visibility as protection against illegal artifact collection.

- 5) **Monitoring.** Effectiveness monitoring would be implemented to determine success of the treatments applied.

Rehabilitation actions would include:

- 1) **Ground Seeding.** Approximately 360 acres within the Jaca Reservoir fire perimeter (See Map 3) that is considered high risk for expansion of medusahead wildrye would be drill seeded with desirable native perennial grass species.

Drilling would occur in the fall of 2015. BLM personnel or contracted consultants would conduct any necessary resource inventories prior to the drilling. Any potentially significant cultural resource identified in the treatment areas would be avoided by rangeland drills. Equipment used in the burned areas would be cleaned prior to use on the site and would be cleaned following use to eliminate the potential to disseminate weed seeds.

- 2) **Seedling Planting.** Approximately 1000 acres of Wyoming big sagebrush and antelope bitterbrush would be hand planted at locations within the Jaca Reservoir burned area (See Map 4). When possible, locally adapted sagebrush and bitterbrush seedlings would be planted. Seedlings would be planted with hand tools, by BLM staff, volunteers, and/or contractors in the spring.

This decision is effective immediately due to the immediate risk of erosion and damage to wildlife, specifically:

The likelihood of the conversion of greater sage-grouse habitat to invasive annual grasses if they are not treated this fall;

My decision is issued under 43 Code of Federal Regulations (CFR) § 4190.1(a), which states:

Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision.

Rationale

Implementation of the proposed action as described in the Jaca Reservoir Fire ESR Plan will protect soils in the burned area, including preventing potential loss of soil due to wind and water erosion; reduce potential invasion and establishment of noxious weeds and invasive annual grass species; prevent degradation of greater sage-grouse habitat and increase its rate of recovery. Greater sage-grouse is a candidate species for Endangered Species Act listing and it is a high priority for protection within the BLM in Oregon and across the western United States. Seeding would likewise help meet established rangeland health standards in accordance with guidelines for livestock grazing and integrated vegetation management.

Areas to be seeded were identified by examining the pre-fire plant community and the burn severity. Areas where the herbaceous vegetation was influenced by invasive annuals or noxious weeds were targeted for seeding. Other areas were evaluated and BLM determined that the pre-burn plant community was resistant to invasive species and resilient enough to recover without the disturbance from seeding. Seeding will provide for soil stabilization and will reduce the potential invasion of greater sage-grouse habitat by introduced annual grass species and noxious weeds.

Application of herbicides described in the 2010 Vegetation Treatments Using Herbicides on BLM Lands in Oregon Record of Decision would decrease the risk of medusahead wildrye and cheatgrass expanding within the Jaca Reservoir fire perimeter.

Planting shrub seedlings will increase the rate of recovery for sage-grouse habitat and provide future cover and browse for other wildlife species.

The proposed temporary fences will be used in conjunction with existing fences to protect treatment areas from grazing. This fencing and subsequent rest from grazing will allow for plants to recover from the effects from the fire. Vegetation establishment will help reduce the risk that invasive annual grasses pose to critical greater sage-grouse habitat and provide for soil stabilization.

Control of noxious weeds is consistent with the management plans for the resource and will help protect the ecological integrity, biodiversity, and site productivity of this shrub-steppe plant community. Working cooperatively with local weed management groups and private landowners will achieve better weed management.

Seeding will help stabilize and reduce visibility on cultural resources that were previously documented in the burned area.

Livestock grazing may not occur for a minimum of two growing seasons in pastures that burned. The amount of rest is dependent upon monitoring results of fire intensity, vegetation recovery, and percentage of pasture burned.

Agreements or separate grazing decisions will be issued to close areas to livestock grazing when necessary.

AUTHORITY

Authority for the stabilization and rehabilitation wildfire decisions is found under 43 Code of Federal Regulations (CFR) 4190.1 Effect of wildfire management decision (a) Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately. Wildfire management includes but is not limited to: (1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and, (2) Projects to stabilize and rehabilitate lands affected by wildfire. Under these regulations, implementation of projects to stabilize and rehabilitate lands such as seeding (aerial and drilling), planting, weed treatments (aerial and ground), erosion control, road maintenance and protection, fence maintenance and reconstruction, and range improvement reconstruction will be effective upon the date of the authorized officer's signature.

This wildfire management decision is issued under 43 CFR 4190.1 and is effective immediately. The BLM has made the determination that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire. Thus, notwithstanding the provisions of 43 CFR 4.21(a) (1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. Appeal of this decision may be made to the Interior Board of Land Appeals in accordance with 43 CFR 4.410. The Interior Board of Land Appeals must decide an appeal of this decision within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed as contained in 43 CFR 4.416.

RIGHT OF APPEAL

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.

Filing an appeal does not by itself stay the effectiveness of a final BLM decision. If you wish to file a petition for a stay of the effectiveness of this decision, pursuant to 43 CFR 4.21, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for stay is required to show sufficient justification based on the standards listed below.

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.

A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will not be accepted as an appeal. Also, a petition for stay that is electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as a petition for stay. Both of these documents must be received on paper at the office address above.

Persons named in the *Copies sent to:* sections of this decision are considered to be persons "named in the decision from which the appeal is taken." Thus, copies of the notice of appeal and petition for a stay must also be served on these parties, in addition to any party who is named elsewhere in this decision (see 43 CFR 4.413(a) & 43 CFR 4.21(b)(3)) and the appropriate Office of the Solicitor (see 43 CFR 4.413(a), (c)) **Office of the Solicitor, US Department of the Interior, Pacific Northwest Region, 805 SW Broadway, Suite 600, Portland, Oregon 97205**, at the same time the original documents are filed with this office. For privacy reasons, if the decision is posted on the internet, the *Copies sent to:* section will be attached to a notification of internet availability and persons named in that section are also considered to be persons "named in the decision from which the appeal is taken."

Any person named in the decision, *Copies sent to:* section of the decision, or who received a notification of internet availability that receives a copy of a petition for a stay and/or an appeal and wishes to respond, see 43 CFR 4.21(b) for procedures to follow.

If you have any questions regarding this project, please contact the Project Lead, Don Rotell at the Vale District Office at 541-473-3144.


Thomas Patrick "Pat" Ryan
Malheur/Jordan Field Office Manager


Date