



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
VALE DISTRICT
100 Oregon Street
Vale, Oregon 97918
<http://www.or.blm.gov/Vale/>



Documentation of Land Use Plan Conformance and NEPA Adequacy Bay Duke Reservoir (721039) Maintenance DNA Determination of NEPA Adequacy (DNA)

Office: Jordan Field Office

Tracking Number: V060-2014-03

Proposed Action Title/Type: clean sediment from the impoundment area of Bay Duke Reservoir (721039)

Location: See attached map

A. Describe the Proposed Action

Background

Livestock management developments existing or under construction pre- Federal Land Policy Management Act (FLPMA) may continue to be used and maintained in the same manner and to the same degree as such use was being conducted at that time, provided this use or maintenance is consistent with land use plan objectives (BLM Manual 6330- Management of BLM Wilderness Study Areas pg. 1-16).

Bay Duke Reservoir (Vale District BLM Project Number 721039), located in the extreme southeast corner of the District, was constructed in 1958 for livestock grazing management purposes, and has been in continuous use since that time. The reservoir has an Oregon Water Resources Department water right certificate (#58235). Bay Duke Reservoir is in the North pasture of the Anderson allotment (#01401), which lies within the Owyhee River Canyon Wilderness Study Area (WSA). The BLM has determined that storage volumes in Bay Duke Reservoir have diminished due to sedimentation and normal maintenance of the project is required to return storage to the constructed volume.

Planned Actions

The permitted operator within the Anderson allotment proposes to maintain Bay Duke Reservoir by cleaning sediment out of the impoundment area. Disturbance from the proposed maintenance will be confined to the original disturbance area of the reservoir.

The operator will haul a utility style farm tractor with a loader bucket as far as Stoney Corral (T39S R47E sec. 2, see attached map). He will then drive the tractor to Bay Duke reservoir, using an existing authorized route. The equipment will be used to transfer sediment out of the reservoir to restore the reservoir to as much of the constructed storage volume capacity of five and four-hundredths (5.04) acre feet of water. The sediment will be deposited on the downstream side of the

earthen berm and contoured to blend with the natural topography so that the physical and visual impacts remain the same.

B. Land Use Plan (LUP) Conformance

LUP Name Southeastern Oregon Resource Management Plan (SEORMP) Date Approved 2002

The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

The LUP's, Management Decisions section lists the LUP objectives. On page 14 under Wilderness Study Areas it states that the continued management direction is to; "Until Congress acts on BLM's wilderness recommendations or otherwise releases WSA's for other purposes, all WSA's designated under authority of FLPMA sections 603 and 202 within the planning area will continue to be managed in accordance with BLM's "BLM Manual 6330 Management of Wilderness Study Areas", and other applicable regulations and policy.

C. Identify applicable NEPA documents and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

BLM Manual 6330 - Management of BLM Wilderness Study Areas, July, 2012
Southeastern Oregon Resource Management Plan and Record of Decision, 2002
Wilderness Study Report Volume 1, October, 1991
Final Oregon Wilderness Environmental Impact Statement, December, 1989

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

Documentation of answer and explanation:

The current proposed action is in conformance with the Southeastern Oregon Resource Management Plan and Record of Decision, (2002). *Policy of Wilderness Study Areas Continued Management Direction:* "...WSA will continue to be managed in accordance with BLM's Interim Management Policy for Lands Under Wilderness Review." (P. 14)

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, and resource values?

Documentation of answer and explanation:

The proposed action was analyzed in the alternatives in the SEORMP ROD.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, and updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Documentation of answer and explanation: There is no significant new information or circumstances that would warrant additional analysis. The SEORMP FEIS anticipated the need to maintain existing rangeland projects, including reservoir maintenance

Additionally, the following factors were specifically considered under BLM's *Greater Sage-Grouse Interim management Policies and Procedures* (IM 2012-043), and are reflected in the proposed action:

- Integrated Vegetation Management:
 - Design treatments to: promote sagebrush communities; limit the expansion of invasive species; maintain or improve soil site stability, and hydrologic function and biological integrity.
- Ongoing Authorization Activities
 - Continue to evaluate existing range improvements (e.g., fences, watering facilities) associated with grazing management operations for impacts on Greater Sage-Grouse and its habitat.

There are three developments since the SEORMP ROD was signed that were specifically considered through the interdisciplinary effort in the analysis of the proposed action. These issues are specifically described below.

Greater Sage-Grouse Management

Nationwide, BLM is undergoing amendments to existing Resource Management Plans to address the health of Greater sage-grouse. Until those amendments are completed (scheduled decisions planned for late 2014), the following interim management applies.

In March, 2010 the U.S. Fish and Wildlife Service issued its finding that Greater Sage-Grouse are "warranted but precluded" for listing under the ESA (Notice, 75 FR 13910 – 14014; 03/23/2010). Thirty-eight scientists from federal, state and nongovernmental organizations collaborated to synthesize the information and findings on Greater Sage-Grouse, and compiled in *Ecology and Conservation of Greater Sage-Grouse: a Landscape Species and its Habitats* (Monograph, 2011). Following this, in December, 2011, the BLM issued Instruction Memorandum No. 2012-043 which provides interim management policies and procedures for Greater Sage-Grouse. Also released in December, 2011 was the BLM's *A Report on National Greater Sage-Grouse Conservation Measures* developed by the BLM's National Technical Team on Greater Sage-Grouse (NTT Report). Separately, the Oregon Department of Fish and Wildlife (ODFW) published the *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (ODFW Strategy, April, 2011). These documents provide the most current information on Sage-Grouse populations and habitat requirements and were reviewed for consistency with proposed actions within the project area.

The proposed action is consistent with the above interim management in that routine maintenance of range projects is critical to effective grazing management within sage-grouse habitat.

The new information and new circumstances would not substantially change the analysis conducted through the SEORMP.

Lands found to have wilderness characteristics

The second issue arising since issuance of the SEORMP ROD, was the finalization of a Settlement Agreement between the BLM and ONDA in response to a decision of the Ninth Circuit Court of Appeals, *ONDA v. BLM*, 625 F.3d 1092 (9th Cir. 2010), which upheld ONDA's challenge to the SEORMP. In part, the Settlement Agreement identified a need to update the BLM's inventory of wilderness characteristics resources within the SEO planning area, but outside of existing WSAs and designated Wilderness. This inventory has been completed. The Settlement Agreement also required the BLM to analyze the effects of any proposed projects on the identified wilderness characteristics through "NEPA processes". Amendment of the SEORMP began with public scoping in May, 2010, but that process has been delayed due to BLM's national planning effort in response to US Fish and Wildlife Services *warranted but precluded* listing of Greater Sage-Grouse. Vale BLM will continue working on the Settlement Agreement as decisions and public input on Sage-Grouse planning is developed.

Vale BLM's agreement to analyze alternatives for management of lands with wilderness characteristics under NEPA has thus, not been completed. However, several indicators of the effect of ESR treatments on wilderness characteristic values were considered through interdisciplinary team analysis: The original wilderness inventory on all public lands in Oregon was completed between 1977 and 1989 (BLM *Oregon Wilderness Environmental Impact Statement, December, 1989*). The result of this inventory was the designation of approximately 1.3 million acres of Wilderness Study Areas within the SEORMP planning area. Those lands are managed under interim management and WSA Manual 6330 (discussed below).

The proposed action is wholly within an existing Wilderness Study Area; no units found to possess wilderness characteristics are affected.

The new information and new circumstances would not substantially change the analysis conducted through the SEORMP.

Revisions to the 6330 BLM Manual – Management of BLM Wilderness Study Areas

The BLM issued revised Manual 6330 (release 6-134), titled *Management of BLM Wilderness Study Areas* on July 13, 2012. This revised manual provides staff with general policies for the administration and management of WSAs, which are part of the BLM's National Landscape Conservation System. The manual outlines procedures that ensure the Congressional mandate to manage Wilderness Study Areas in a manner that will not impair their suitability for designation as wilderness. Unless categorized as excepted under 1.6.C.2 of the manual, all proposed uses and/or facilities must meet the non-impairment standard (i.e. must be both temporary and not create surface disturbance) until Congress acts on the WSA by either designating the area as wilderness or releasing it for other purposes.

The BLM's management policy is to continue resource use on lands designated as WSAs in a manner that will not impair the area's suitability for preservation as wilderness. However, exceptions to the non-impairment standard are allowed under the 6330 Manual. Under the exceptions, the BLM will endeavor to minimize impacts to wilderness characteristics.

Grazing is identified as an exception to the non-impairment standard under "Grandfathered Uses". Grazing lease uses and facilities that were allowed on the date of approval of the Federal Land Policy and Management Act (FLPMA October 21, 1976) or the designation date for Section 202 WSAs not reported to congress are grandfathered; allowed as a preexisting use. As provided for in FLPMA Section 603(c),

these uses and facilities may continue in the same manner and degree as on that date, even if this impairs wilderness suitability.

With regard to the proposed project, valid existing rights for the use and maintenance of Bay Duke reservoir were established at the time of WSA designation and are permitted to continue.

The new information and new circumstances would not substantially change the analysis conducted through the SEORMP.

4. Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?

Documentation of answer and explanation: The methodology and analytical approach used continue to be appropriate for the proposed reservoir maintenance.

5. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Documentation of answer and explanation: Direct and indirect impacts of the proposed action are substantially the same as those analyzed in the proposed action and SEORMP ROD. Cumulative impacts of the proposed action are substantially the same as those analyzed in the SEORMP ROD.

6. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Documentation of answer and explanation: The Final Oregon Wilderness Environmental Impact Statement and SEORMP were analysis documents reviewed by a diverse representation of publics, including federal, state and local agencies as well as private entities.

E. Interdisciplinary Analysis:

The following team members conducting or participating in the preparation of this worksheet.

Brent Grasty	NEPA Compliance and Planning
Don Rotell	Supervisory NRS/Archeologist
Lynne Silva	Weeds Specialist
Josh Travers	Recreation Management Specialist
Jon Westfall	Wildlife Biologist
Marcy Tiffany	Project lead RMS
Bill Lutjens	Rangeland Management Specialist
Susan Fritts	Botanist
Thomas "Pat" Ryan	Field Manager

F. Conclusion

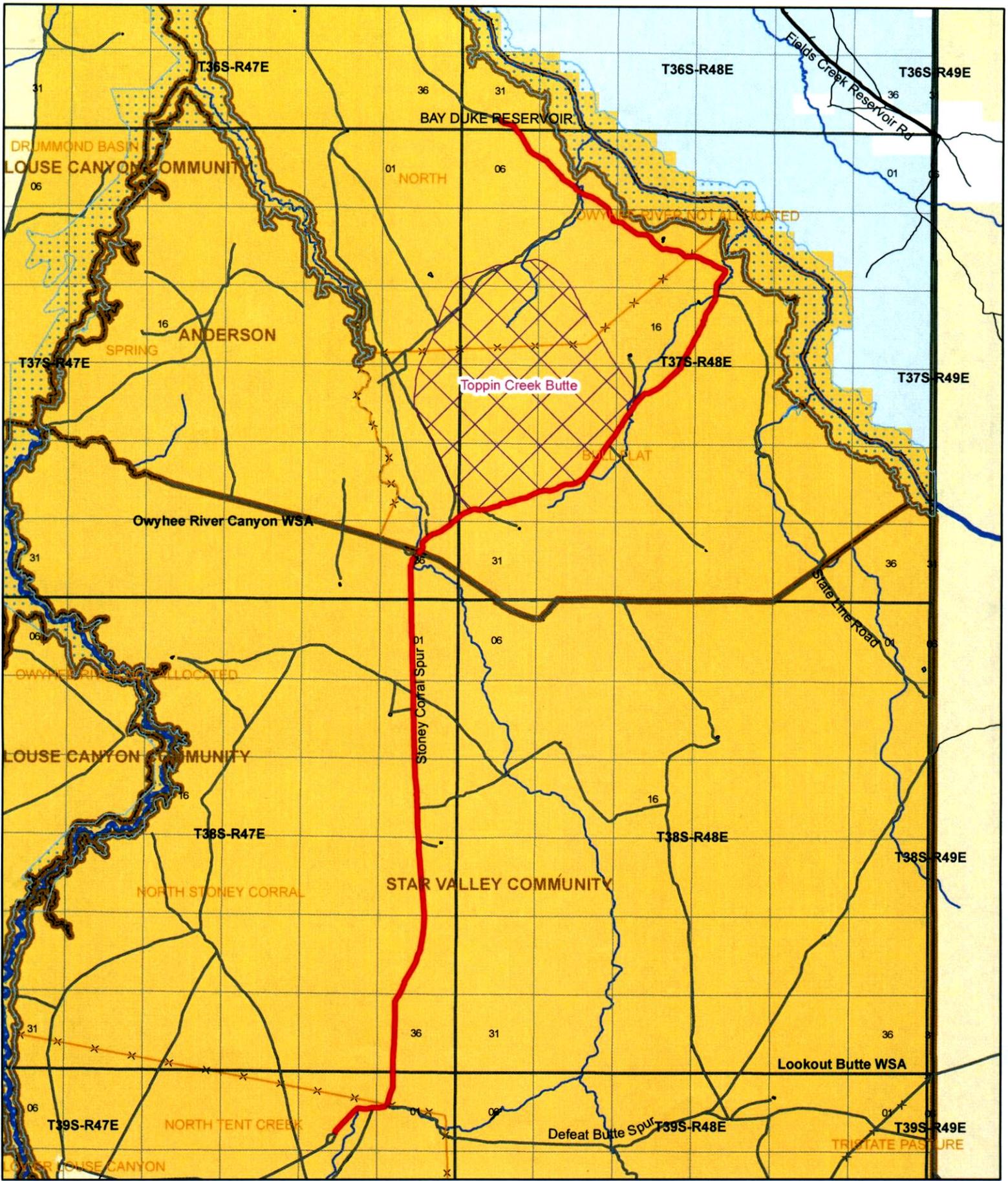
- Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan, and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.
- A letter will be sent to the operator approving maintenance on Bay Duke Reservoir.



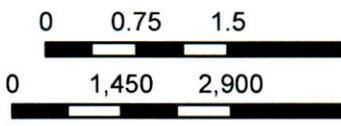
Thomas "Pat" Ryan
Malheur/Jordan Field Manager

12/4/2013
Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision.



- Travel Route - Stoney Corral Spur
- Areas of Critical Environmental Concern
- Wild and Scenic Rivers Designated
- Rivers
- Wilderness Study Area
- Creeks
- Bureau of Land Management
- Allotment
- Private
- Pasture
- State Lands
- x GRA Line



U.S. Department of Interior
 Bureau of Land Management
 Vale District
 11/07/2013

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Bay Duke Reservoir Maintenance