

**United States Department of the Interior
Bureau of Land Management**

Decision

**Post-Fire Rehabilitation Categorical Exclusion
DOI-BLM-CO-S010-2013-0022-CX**

September 2013

Menefee Coal Refuse Fire

Location: sec 34, sec 35, T. 36 N, R. 13 W.,
sec 1, sec 2, sec 3, T. 35 N, R. 13 W
Montezuma County, Colorado

Applicant/Address: *BLM-Tres Rios Field Office
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DECISION
Post-Fire Rehabilitation Categorical Exclusion
DOI-BLM-CO-S010-2013-0022-CX

Menefee Coal Refuse Fire

Decision:

I have reviewed the proposed action as described in CX (DOI-BLM-CO-S010-2013-0022). After review I have decided to implement control of these coal fires, including any necessary over-the-ground vehicle access, including temporary roads. I have decided to safeguard open mine adits that were previously obscured by brush. I have decided to construct fences to replace livestock control features lost in the Weber fire.

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with Departmental categorical exclusion 1.13, and BLM categorical exclusion I.1 Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. BLM NEPA Handbook (H-1710-1) at page 153.

Rationale:

The application of this categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects which may significantly affect the environment. Cultural resource survey has been conducted, and SHPO concurrence obtained.

None of the twelve extraordinary circumstances contained in 516 DM 2, Appendix 2 apply.

I have decided to implement the control of these coal fires, including any necessary over-the-ground vehicle access, including temporary roads. I have decided to safeguard open mine adits that were previously obscured by brush. I have decided to construct fences to replace livestock control features lost in the Weber fire. These actions meet the need for action. In addition, I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

Plan Conformance and Consistency:

The proposed action have been reviewed and found to be in conformance with one or more of the following BLM Land Use Plans and the associated decision(s):

Name of Plan: San Juan/San Miguel Resource Management Plan

Date Approved: September 1985

The proposed action is in conformance with the LUP, even though it is not specifically provided for, it is clearly consistent with the following LUP decision (objectives, terms, and conditions):

Protecting resources, meeting legal requirements for visitor health and safety. (SJSM RMP at 33).

This action would be carried out in accordance with BLM's Surface Management regulations issued under authority of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.).

The Proposed Action was designed in conformance with all bureau standards and incorporates appropriate guidelines for specific required and desired conditions relevant to project activities. Since we are cooperating with Colorado Division of Reclamation, Mining and Safety, their expertise and standards will be applied to this project.

Appeal Opportunities:

In accordance with 43 CFR 4190.1 and 43 CFR Part 5003.1 this Decision is in full force and effective immediately. This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4. If an appeal is taken, your notice of appeal must be filed with the authorized officer within 30 days either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. The appellant has the burden of showing that the decision appealed from is in error. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Connie Clementson, Field Manager
Tres Rios Field Office
29211 HWY 184
Dolores, CO 81323

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time the original documents are filed with this office, copies of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to the U. S. DOI Solicitor at the following address:

Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Land Appeals
Office of Hearings and Appeals

4015 Wilson Boulevard
Arlington, VA 22203

This Decision will remain in effect during the appeal unless a petition for Stay is granted. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or by 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, and
- (4) Whether the public interest favors granting the stay.

Contact Person

For additional information concerning this decision, contact Kay Zillich, Abandoned Mine Land Program, Tres Rios Field Office, 970-385-1239

APPROVED:



 Connie Clementson
Tres Rios Field Office
Field Manager

Date

