

APPENDIX B

TRIBAL AND AGENCY CONSULTATION

TRIBAL CONSULTATION



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240
<http://www.blm.gov>



APR 18 2013

In Reply Refer To:
1793 (220)

Dear Tribal Leader:

The Bureau of Land Management (BLM) would like to extend an invitation to you for Government-to-Government consultation to exchange information on the proposed use of three new herbicides to treat vegetation on BLM-administered lands. We are currently preparing a Programmatic Environmental Impact Statement (PEIS) on this proposed action.

This letter includes information about the three new herbicides and how they would be used, if approved. It also briefly discusses the risks and possible impacts associated with using them. A "Frequently Asked Questions" sheet and a map of the potentially affected areas are attached to this letter to provide further information about the project.

Herbicides are one part of a larger vegetation treatment program that has a goal of conserving and restoring native vegetation, watersheds, and fish and wildlife habitat. As you may know, in 2007 the BLM completed a PEIS that discussed possible impacts to plants, fish, wildlife, and other resources from the use of 18 different herbicides to control unwanted vegetation. The document considered paleontological resources, cultural resources, subsistence resources, and the health of Native Americans that may be exposed to these herbicides.

http://www.blm.gov/wo/st/en/prog/more/veg_eis.html

The BLM has recently decided that it would like to use three additional herbicides to treat vegetation. These chemicals are aminopyralid, fluroxypyr, and rimsulfuron. A new PEIS is being prepared to discuss the possible impacts of using these three to treat vegetation.

Aminopyralid is a reduced-risk herbicide that controls numerous weed species, including mustard species, knapweeds, starthistles, and thistles. It also can help control cheatgrass, also known as downy brome. Aminopyralid is registered under the U.S. Environmental Protection Agency's reduced risk initiative, indicating that it poses less risk to human health and the environment than other herbicides. Aminopyralid may be used instead of picloram in certain BLM treatment projects.

Fluroxypyr is used to control annual and perennial broad-leaved weeds (such as marehail and cocklebur), and can be used to control weeds while maintaining grass forage species. The BLM has indicated that this herbicide can help reduce the amount of other herbicide products used in treatments. It can also be tank-mixed with other herbicides to improve their effectiveness.

Rimsulfuron is used to control winter annual grasses. The BLM has identified rimsulfuron as a useful addition to its list of herbicides because of its effectiveness against cheatgrass and medusahead rye, if the treated site is rested from livestock grazing for a year to allow desirable species to become established. Rimsulfuron has been observed to be more effective than imazapic in certain areas.

An assessment of the risks to humans, terrestrial wildlife, aquatic species, and non-target plants from using these chemicals has been completed. Based on the results of these assessments, aminopyralid, fluroxypyr, and rimsulfuron are relatively low risk chemicals. They do not pose unacceptable health risks to humans under exposure scenarios involving contact with treated plant materials or water, or ingestion of treated water, berries, or fish. The herbicides pose low risks to terrestrial wildlife and aquatic species, but can impact non-target plants under various scenarios.

Vegetation treatments with the three new herbicides could occur anywhere on BLM-administered lands in Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming (see attached map). This is approximately the same area that was considered in the 2007 PEIS.

The BLM recently completed public scoping and is in the process of reviewing the comments that were received and identifying alternatives to the proposed action. It is anticipated that a Draft PEIS will be completed this summer.

The BLM appreciates our relationship and will continue to consult with you throughout the PEIS process, and as more specific treatment projects in your geographic area are developed and implemented. We will continue to keep you informed, and are always open to any feedback you may have. In the meantime, we hope to hear from you during the PEIS process through one of the many avenues available for communication with us, including a written or telephone response to this letter, or through contact with the local BLM field or state office. We are particularly interested in three issues: 1) specific concerns that you have about the use of aminopyralid, fluroxypyr, and rimsulfuron on public lands; 2) potential impacts on subsistence plants and animals, and on traditional cultural properties; and 3) potential impacts on resources associated with reserved rights under treaty, where they exist. Please let us know whether you would like to provide information and if you would like to receive review copies of the documents that we produce.

Thank you for your participation in the PEIS process. We look forward to exchanging information with you about the proposed project. If submitting written comments, please send your comments to Stuart Paulus, AECOM Project Manager, 710 Second Avenue, Suite 1000, Seattle, WA 98104. If you have any questions or concerns, or would like additional information, please feel free to call the PEIS Team Leader, Gina Ramos, at (202) 912-7226

Sincerely,

A handwritten signature in cursive script, appearing to read "Edwin L. Roberson", followed by a horizontal line extending to the right.

Edwin L. Roberson
Assistant Director
Renewable Resources and Planning

Enclosures

BUREAU OF LAND MANAGEMENT

VEGETATION TREATMENTS PROGRAMMATIC EIS FOR USE OF THREE NEW HERBICIDES ON PUBLIC LANDS IN THE WESTERN U.S., INCLUDING ALASKA

FREQUENTLY ASKED QUESTIONS



Q. What is the Bureau of Land Management (BLM) proposing to do?

A. The BLM is proposing to prepare a programmatic Environmental Impact Statement (PEIS) to evaluate the viability of using aminopyralid, fluroxypyr, and rimsulfuron herbicides as part of BLM vegetation treatment programs. The new EIS will comply with National Environmental Policy Act (NEPA) regulations. In 2007, the BLM prepared the *Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement (17-States PEIS)*. Under the Record of Decision for the 17-States PEIS, the BLM is allowed to use 18 herbicides. If approved for use, up to three new herbicides will join the list of EIS-approved herbicides currently in use on BLM lands. The purpose of vegetation treatment programs includes the conservation and restoration of vegetation, fish, and wildlife habitat; improvement of watershed functions; fuels and fire management; invasive and noxious weeds management; and soil stabilization.

Q. Where would the proposed actions occur?

A. If approved, the new herbicides could be utilized on public lands administered by the BLM in the western U.S. and Alaska. The majority of these lands are in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Field offices and personnel would not be required to use the three herbicides unless they deem it appropriate.

Q. Will the EIS include National Monuments and National Conservation Areas?

A. Yes, since the 2007 17-States PEIS included these lands in its analysis. These units are already included as part of the broad programmatic treatment area to the extent that conservation and restoration project work, including invasive and noxious weed treatments, are allowed by the individual National Landscape Conservation System proclamations.

EIS Development Process

Q. Why is the BLM developing this programmatic EIS?

A. The BLM is preparing a programmatic EIS to evaluate the potential for use of three new herbicides for the conservation and restoration of vegetation, watershed functions, and fish and wildlife habitat on surface lands administered by the BLM in the western U.S., including Alaska.

BLM Vegetation Treatments EIS

Q. Is this EIS a land-use plan?

A. No, this EIS is not a land-use plan. The scope of this EIS is restricted to assessing the viability of incorporating treatments with the three new herbicides into existing vegetation treatment strategies.

Q. What is the difference between a programmatic EIS and project-specific EIS?

A. A programmatic EIS is designed to look at the broad, general impacts associated with a decision to fully implement a program or additional treatment. A programmatic EIS also allows for the tiering of more site-specific NEPA documents, such as land-use plans, eliminating the need for repetitive discussions of the same issues. A project-specific EIS looks at impacts associated with a site-specific project, such as vegetation treatment activities on 1,000 acres of BLM-administered lands.

Q. Who is developing the EIS?

A. The BLM Office of Forest, Range, Riparian and Plant Conservation in Washington, D.C., is leading the project, supported by BLM technical resource specialists in BLM offices throughout the western U.S. and Alaska.

Q. How much has been done so far, and what is the next step?

A. The Notice of Intent to develop the EIS was published in the Federal Register on Friday, December 21, 2012, and a news release was distributed to the media, interested groups, and state agencies by the BLM at the same time. The schedule for scoping meetings was also published in the Federal Register, and this "Questions and Answers" information sheet was made available through the BLM website at www.blm.gov/3kvd. Three public scoping meetings will be held throughout the western U.S. in January 2013 during the 60 day public scoping process.

Potential Issues to Be Examined in the EIS

Q. Does this EIS involve controversial issues?

A. It is anticipated that most public scrutiny will focus on issues associated with the use of new herbicides to control noxious weeds and other vegetation. Specific issues to be addressed in the EIS include the effects of the three new herbicides on human and environmental health, on threatened and endangered species, and on resources used by Native Americans and Alaska Native groups.

BLM Vegetation Treatments EIS

Q. Will there be an assessment of risks to the public and the environment from the use of herbicides?

A. Ecological and human health risk assessments were done to determine the likely risks to humans, plants, and fish and wildlife from the treatments involving the three new herbicides proposed for use by the BLM. The EIS will not evaluate the risks from herbicides presently being used by the BLM, which have already been evaluated in the earlier EISs, unless new information has become available to suggest that these herbicides require further evaluation.

Q. Will there be a process developed to determine which new chemicals the BLM can use to control vegetation?

A. The 2007 17-States PEIS already includes protocols that the BLM follows to evaluate new chemicals that may be developed in the future, prior to their use by the agency. New herbicides could only be used if they are: (1) registered for use by the EPA; (2) used for treatment of appropriate vegetation types and at application rates specified on the label directions; and (3) determined by the BLM to be safe to humans and the environment, based on an analysis of their potential toxicological and environmental impacts.

Public Involvement

Q. When will the public be able to make comments on the project?

A. NEPA regulations require federal agencies to seek public input during development of the EIS. The public will have several opportunities to discuss this project with the BLM and to make comments by:

1. Attending any of the scoping meetings listed in the table below:

Location	Date	Meeting Time
Worland Field Office, 101 South 23 rd , Worland, WY (307) 347-5100	January 7, 2013	7 pm local
Hyatt Place Reno Airport, 1790 East Plumb Lane, Reno, NV (775) 826-2500	January 9, 2013	7 pm local
Albuquerque District Office, 435 Montano Road NE, Albuquerque, NM (505) 761-8700	January 10, 2013	7 pm local

BLM Vegetation Treatments EIS

2. Submitting comments on issues identified in the scoping process within 60 days of the Federal Register's Notice of Intent published on December 21, 2012. The closing date for submission of comments is February 19, 2013.
3. Submitting comments during additional public comment periods associated with the Draft EIS and Final EIS.

Q. How can the public comment on the program?

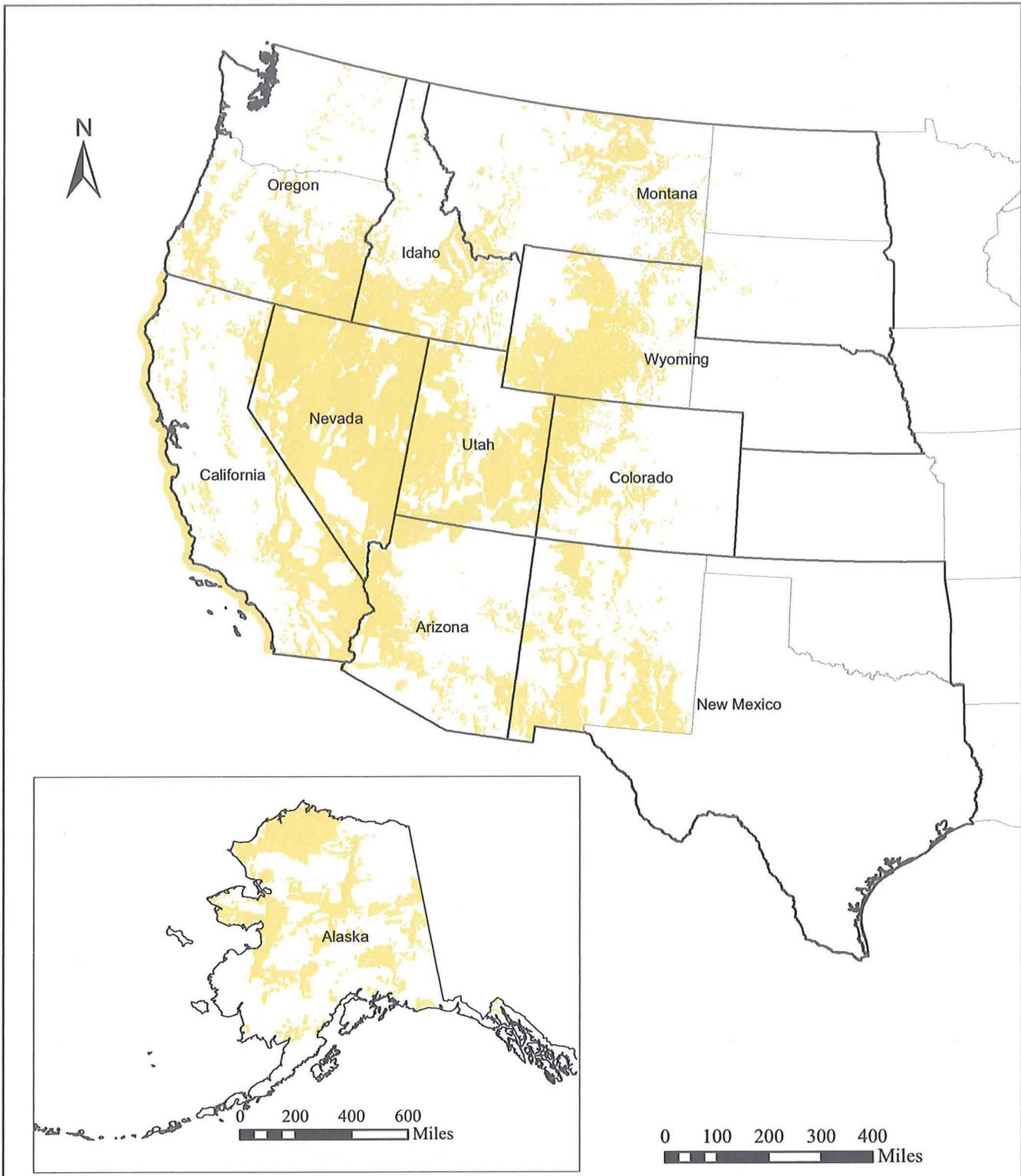
A. The public can provide formal comments to the court reporter who will be available during each scoping meeting. Forms to submit written comments will also be available during scoping meetings, and at local BLM offices, and may be turned in to the BLM at the scoping meeting or local office. These forms can also be emailed to VegEIS@blm.gov.

Q. What will be done with these comments?

A. The comments will be compiled and summarized by major resource areas and issues in a scoping summary report. Public comments and the scoping summary report will be used to evaluate issues and concerns associated with the proposed program, and to develop alternative programs to treat vegetation using the new herbicides on BLM-administered lands. The scoping summary report will be made available to the public in late spring.

Q. How can I find out more information and follow the progress of the new EIS?

A. Interested individuals can visit <http://www.blm.gov/wo/st/en/prog/more/vegeis.html> for regular updates on the EIS process. The website will be available throughout the public scoping process.



- BLM-Administered Lands
- Administrative Boundaries

Note: Coverage for BLM-administered lands is not available for Texas, Nebraska, or Oklahoma.
 Source: National Atlas Federal Lands GIS Data

**Vegetation Treatments Using Aminopyralid,
 Fluroxypyr, and Rimsulfuron on BLM Lands in 17
 Western States PEIS**

Map 1
 PEIS Study Area



Chickaloon Village Traditional Council (Nay'dini'aa Na')

October 30, 2013

Chief Gary Harrison,
Chairman

Edwin L. Roberson
Assistant Director

Rick Harrison,
Vice-Chairman

Renewable Resources and Planning
U.S. Department of the Interior

Penny Westing,
Secretary/Elder

Bureau of Land Management

Albert Harrison,
Treasurer/Elder

Dear Mr. Roberson,

Burt Shaginoff,
Elder Member

Thank you for the invitation to initiate government-to-government consultation concerning the proposed use of three new herbicides to treat vegetation on BLM-administered lands. Although this letter serves as a beginning to a government-to-government consultation, we must emphasize that this correspondence does not fulfill your obligation to consult and engage fully and in person with the Chickaloon Village Traditional Council prior to and regarding any decisions about the use of herbicides on BLM-administered lands, lands traditionally used by our Tribal Citizens.

Doug Wade,
Elder Member

Larry Wade,
Elder Member

Shawna Larson,
Member

Lisa Wade,
Member

Jennifer Harrison,
Executive Director

Background and Short History

Chickaloon Native Village is a vibrant, innovative, and culturally rich Ahtna Athabascan Tribe based in Sutton in south-central Alaska. As a response to the environmental and social injustice suffered by Chickaloon Village Tribal Citizens, coupled with the passing of the Alaska Native Claims and Settlement Act (ANCSA) of 1971, our Elders re-established the Chickaloon Village Traditional Council (CVTC) in 1973, to reassert the Tribe's identity, cultural traditions, economic self-sufficiency and to reunify our citizens. The mandate for the Council was: *To restore our traditional worldview by rejuvenating our traditional Athabascan culture, values, oral traditions, spirituality, language, songs, and dance.* Chickaloon Native Village gained federal recognition in 1973 and on November 24, 1982, according to Federal Register Vol. 58, No. 202. We are governed by a nine-member Traditional Council (CVTC), tasked to reassert the Tribes identity and cultural traditions, and create economic self-sufficiency for the Tribe. It is the vision of our Tribe's Land Use Committee to have land, water and air that is cleaner and healthier than it is today, to sustain our community's life needs, balancing stewardship of the natural world and economic development for our current and future generations. It is our mission to educate, guide, advocate for and develop policy that protects the integrity of natural habitats while supporting development that respects ecological limits.

Findings Concerning the Proposed Use of New Herbicides

Chickaloon Village Traditional Council exercises powers of self-government by reason of its original tribal sovereignty as passed down from our ancestors since time immemorial with a responsibility to protect the health and well-being of our Tribal Citizens. The Council has responsibility to prevent contamination that may harm present or future

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BLM-R&P-W0200

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generations and to ensure that we pass on a world with water that is pure to drink, as well as lands and waters that support our customary and traditional way of life. Our Chickaloon Tribal Citizens depend on the harvest of berries, medicinal plants, fish and wildlife for our spiritual, cultural and physical sustenance. We depend on the lands and waters of the watersheds in our region for the safe harvest of our traditional subsistence foods. The people of the Native Village of Chickaloon are concerned about the proposed use of any herbicides, including the proposed new herbicides by the BLM and potential harm to our health. Herbicide applications are designed to destroy the growth of plant life and are toxic to the environment because they adversely affect non-target plants, animals, and people. The use of herbicides, including aminopyralid, fluroxypyr, and rimsulfuron, will have detrimental effects to non-target plants, wildlife and people. Herbicide chemical treatments will have a detrimental effect on the lands, waters, and air as well as fish and wildlife resources that Native people rely on for hunting, fishing, and gathering for their daily food. These herbicides may harm the health of the Native people who use our traditional lands and waters. The use of herbicides violates Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples to ensure that disposal of hazardous materials shall not take place in the lands and territories of our Indigenous peoples without their free, prior and informed consent. We believe that there are effective and viable alternatives to the use of herbicides for vegetation management. The Chickaloon Village Traditional Council finds as a matter of tribal policy that the use of herbicides is detrimental to land, waters, and air resources as well as fish and wildlife that Alaska Native people use in our daily lives and that the use of herbicides will have a detrimental effects on the health of our people. Therefore, our Council opposes the use of herbicides for vegetation management and calls upon BLM to adopt a policy of prohibiting the use of herbicides. We find that BLM does not provide justification for the use of the proposed new herbicides nor does the agency discuss non-chemical vegetation management options.

There is very little information or studies available in the open scientific and peer-reviewed literature on the ecological and human health consequences of the use of aminopyralid because it is a relatively new pesticide. What little information exists is based almost exclusively on studies submitted to the U.S. EPA by the chemical corporation Dow AgroSciences in support of the registration of aminopyralid. Non-target plants, particularly dicots (broadleaf plants) are sensitive to the herbicide and will be adversely affected by applications of aminopyralid¹. Studies have shown that exposure of non-target plants to aminopyralid causes damage including deformed leaves and stems, as well as reduced fruit production at low concentrations². It is quite persistent in soils, with demonstrated half-lives of 32-533 days. Compost and manure contaminated with residues of aminopyralid causes damage to and economic losses of crops on which the compost or manure have been applied. Research also show that aminopyralid altered native plant communities³. In a study of the effects of aminopyralid, crops were injured by the herbicide at soil concentrations less than the limit of quantitation ($0.2 \mu\text{g kg}^{-1}$)⁴. Developmental studies involving gavage administration in adult female rabbits documented signs of incoordination upon exposure. In the rabbit study, developmental toxicity was shown by a decrease in fetal body weights. Effects on the nervous system are not well documented. "It seems reasonable to assume the most sensitive effects in wildlife mammalian species will be the same as those in experimental mammals (e.g., changes in the gastrointestinal tract, weight loss, and incoordination)."⁵ EPA issued a

conditional registration for aminopyralid in 2005 and it is not scheduled for review until 2020. It should not be categorized by BLM as a "reduced risk" herbicide because its evaluation is incomplete. To our knowledge, there have not been studies of this herbicide on subsistence resources, including medicinal plants, herbs, berry plants, fish or wildlife, particularly in our traditional use areas. It is likely that aminopyralid is more persistent in our colder environment and may cause more damage to northern species and ecosystems. For the other two herbicides, fluroxypyr and rimsulfuron, we find that there is also insufficient information in the peer-reviewed literature with which to make reasoned assessments concerning the ecological and human health implications of their use. Therefore, we are opposed to their use as a precautionary measure.

Non-chemical methods exist that are effective and economical. New technologies and products have been developed that provide safe, economical alternatives to the use of herbicides. For example, the provincial government of British Columbia recommends the use of ecological vegetation management rather than the use of herbicides. The government's Integrated Pest Management Program notes that "repeated herbicide applications to keep sites bare, such as around electrical substations, along a fence lines or railroad tracks, will encourage the growth of weeds. The herbicides create a disturbance, both in the vegetation, and, depending on the herbicide, in the soil--which then encourages weed invasion. This disturbance is not limited to the area of application, but may be felt in the vegetation for some distance away...Minimizing herbicide use can reduce weed growth and result in cost effective vegetation management systems."⁶ Integrated pest management includes cultural methods, mechanical removal, cultivation, mulching, flaming, hot water, controlled burning, or a variety of non toxic herbicides based on corn meal gluten, vinegar, or microbial agents.

Several forms of alternative herbicides have recently come on the market and are currently a very active research subject in Canada. Corn meal gluten applied to mature grass over multiple seasons acts as a pre-emergent herbicide to suppress clover, dandelion and other weed growth by up to 90%. Vinegar (acetic acid) effectively kills many weeds when applied directly to the shoots, and *Cirsium arvense*, the invasive thistle targeted by this permit application, is particularly susceptible according to USDA tests. The Environmental Protection Agency recently approved at least one commercial vinegar-based mixture; a vinegar-based product would be an excellent choice for weed control as vinegar degrades quickly into nontoxic components.⁷

Herbicide applications are likely to result in higher economic and ecological costs over the long term, as plants develop resistance to herbicide applications. Despite earlier claims that glyphosate resistance was unlikely, at least 19 weed species have developed glyphosate-resistant strains in agricultural areas worldwide⁸. Field studies in Washington state showed that star thistle repeatedly treated with picloram developed resistance to not only the herbicide actually uses, picloram, but to other herbicides (including chlorpyralid) with the same mode of action.⁹ The use of herbicides will perpetuate resistance of the vegetation to treatment and will not be effective in vegetation management in the future. Herbicide-resistant weeds may also spread into areas beyond the application sites, thereby increasing the problem and cost of weed control. We assert that there are new and proven methods and technologies that preclude the need for synthetic herbicides, including new acetic acid-based products, improved infrared steam

technology, cultural and biological control methods. We maintain that an integrated non-chemical approach would be highly effective and preferable to threatening environmental and community health.

On August 1, 2006 the Attorney General of Alaska announced that Alaska "joined with 13 other states and the U.S. Virgin Islands to petition the Environmental Protection Agency (EPA) to require pesticide manufacturers to disclose on the label of their product all hazardous ingredients...The EPA currently requires that pesticide labels disclose only the product's "active" ingredients that contain toxic materials intended to kill insects, weeds, or other target organisms. Pesticide products also contain many other "inert" ingredients, which are intended to preserve or improve the effectiveness of the pesticides' active ingredients. These "inert" ingredients may be toxic themselves..." The news release further states that "people who use or who are impacted by the use of a pesticide should have notice of all that product's potential health risks." Thus, it would be wrong for BLM to apply herbicides for which the manufacturers do not disclose ingredients that may harm human health.

Dr. Warren Porter, Professor of Environmental Toxicology at the University of Wisconsin, Madison, completed a review of the literature concerning the environmental health effects of low-dose chemical mixtures of pesticides.¹⁰ He concluded:

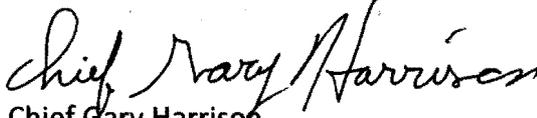
- Pesticides have interactive effects and ultra low-level effects that are below EPA allowable levels. These effects include adverse neurological, endocrine, immune, reproductive and developmental health outcomes.
- EPA assessments of biological risk can be off by a factor of 10,000 at ultra low doses. Scientists call for a new type of risk assessment in the open literature because of the inadequacies of the current EPA pesticide registration system.
- Pesticides have broad biological effects that are unintended and often unpredictable because of physicochemical properties engineered into their molecules.
- Pesticides of different classes can have similar impacts on endocrine disruption and sexual development. Chemicals affect development at levels in the tenths of a part per billion range.

In the preeminent peer-reviewed environmental health journal published by the National Institute for Environmental Health Sciences, *Environmental Health Perspectives*,¹¹ the authors warn: "Inert ingredients may be biologically or chemically active and are labeled inert only because of their function in the formulated product...Inert ingredients can increase the ability of pesticide formulations to affect significant toxicological endpoints, including developmental neurotoxicity, genotoxicity, and disruption of hormone function. They can also increase exposure by increasing dermal absorption, decreasing the efficacy of protective clothing, and increasing environmental mobility and persistence. Inert ingredients can increase the phytotoxicity of pesticide formulations, as well as toxicity to fish, amphibians, and microorganisms." In the case of this permit application, the active ingredients cannot be used without an adjuvant and/or surfactant. The scientific literature supports the fact that the use of surfactants/adjuvants increases the

bioavailability, toxicity, persistence, and bioaccumulation of the active ingredient.

For the reasons stated above, Chickaloon Village Traditional Council firmly opposes the use of these and other herbicides because of the hazards posed to ecological and human health. We are particularly vulnerable to the effects of these chemicals due our reliance on medicinal plants and traditional foods. We anticipate that BLM will initiate formal government-to-government consultation with our Tribe as mandated.

May Creator Guide Our Footsteps,



Chief Gary Harrison,
Chairman

1

┆ Human Health and Ecological Risk Assessment Final Report for Aminopyralid. 2007. Prepared for the USDA/Forest Service and National Park Service. SERA TR-052-04-04a.

2

┆ Aminopyralid, Chemical Watch Fact Sheet. Beyond Pesticides, 2011.

3

┆ Almquist TL and RG Lym. 2010. Effect of aminopyralid on Canada thistle and the native plant community in a restored tallgrass prairie. *Invasive Plant Science and Management* 3(2):155-168.

4

┆ Fast BJ et al. 2011. Aminopyralid soil residues affect rotational vegetable crops in Florida. *Pest Management Science* 67(7):825-830.

5

┆ Human Health and Ecological Risk Assessment Final Report for Aminopyralid. 2007. Prepared for the USDA/Forest Service and National Park Service. SERA TR-052-04-04a.

6

┆ Provincial Government of British Columbia Integrated Pest Management Programme—B.C. Pest Monitor Newsletter: http://www.env.gov.bc.ca/epd/ipmp/publications/pest_monitor/vol5_1.htm. Accessed September 14, 2009.

7

┆ Quarles, W. 2010. Alternative herbicides in turfgrass and organic agriculture. *The IPM Practitioner: Monitoring the Field of Pest Management*. 22(5/6) May/June 2010.

8

7 A. J. Price, K. S. (2011). Glyphosate-resistant Palmer amaranth: A threat to conservation tillage. *Journal of Soil and Water Conservation* , 66 (4), 265-275.
x Provincial Government of British Columbia Integrated Pest Management Programme—B.C. Pest Monitor Newsletter: http://www.env.gov.bc.ca/epd/ipmp/publications/pest_monitor/vol5_1.htm. Accessed September 14, 2009.

9

7 Sabba, R.P. et al. 2003. Inheritance of Resistance to Clopyralid and Picloram in Yellow Starthistle (*Centaurea solstitialis* L.) Is Controlled by a Single Nuclear Recessive Gene. *Journal of Heredity*. 94(6):523–527

10

7 Porter, W. 2005. Report as an expert witness.

11

7 Cox, C. and M. Sorgan. 2006. Unidentified inert ingredients in pesticides: implications for human and environmental health. *Environmental Health Perspectives* www.ehponline.org/docs/2006/9374/abstract.pdf



Kashia Band of Pomo Indians
of the Stewarts Point Rancheria

May 3, 2013

Please note that there have been changes to our Tribal Council and Administration.

Emilio Valencia, Tribal Chairman
Sandy Pinola, Tribal Vice-Chairman
Violet Wilder, Tribal Secretary
Glenda Jacob-McGill, Tribal Treasurer
Elayne May-Muro., Member-At-Large
Angelique Lane, Member-At-Large
Dino Franklin, Member-At-Large
Teresa Romero, Tribal Administrator
Jerry Rice, Fiscal Officer
Otis Parrish, THPO
Jan Guthrie, Housing Director
Nina Hapner, Environmental Director

Please note that we have moved and our new address is: **1420 Guerneville Road, Suitet 1, Santa Rosa, CA 95403**. Please address further correspondence to the current Chairperson above.

If you have any questions, please contact our office at (707) 591-0580.

Sincerely,

Lenora Vigil-Moya
Front Office Receptionist

cc: file

AECOM

AECOM
710 Second Avenue
Suite 1000
Seattle, WA 98104

SEATTLE WA 980

29 APR 2013 PM 1 L



Emilio Valencia

Ralph Sepulveda, Chairman
Kashia Band of Pomo Indians of the
Stewarts Point Rancheria
3535 Industrial Drive, Suite B-2
Santa Rosa, CA 95403

980 N7F 1 612T 00 04/29/13
NOTIFY SENDER OF NEW ADDRESS
KASHIA BAND OF POMO INDIANS OF THE S
1420 GUERNEVILLE RD STE 1
SANTA ROSA CA 95403-4124

BC: 95403412401 *3026-21775-29-30



954034124

95403@4124



Koi Nation Information Update

This is the current information for the Koi Nation of Northern California (formerly Lower Lake Rancheria Koi Nation)

Chairman: Darin F. Beltran

Office Phone #: (707)575-5586

Office Fax #: (707)575-5506

Address: P.O. Box 3162
Santa Rosa, CA 95402

Email Address: kn@koination.com

Website: koination.com

Please update your contact information.

Thank you very much,

Tribal Council of the Koi Nation of Northern California

NAKNEK NATIVE VILLAGE

P.O. BOX 210 • Naknek, Alaska 99633
Phone: 907.246.4210 • Fax: 907.246.3563

Naknek Native Village Council
PO Box 210
Naknek, AK, 99633
Phone: 1-907-246-4210
Fax: 1-907-246-3563
nnavcpresident@gmail.com

AECOM
710 Second Avenue, Suite 100
Seattle, WA 98104

To Whom It May Concern:

The Naknek Native Village Council is writing to inform AECOM that Leon Kiana is no longer the Naknek Native Village Council Administrator. Please direct all mail, questions/concerns and correspondence to Mr. Patrick Patterson Jr., Naknek Village Council President until further notice.

The Naknek Native Village Council would like to also request an update in address and contact information. Our current contact information is as listed on the top of this letter.

Naknek

*

Sincerely,

Patrick Patterson Jr.
Naknek Village Council President



Native Village of Unalakleet
PO Box 270
Unalakleet, AK 99684
(907) 624-3622

June 14, 2013

Stuart Paulus, AECOM Project Manager
710 Second Avenue, Suite 1000
Seattle, WA 98104

RE: Proposed Use of three new herbicides to treat vegetation on BLM-administered lands

Dear Mr. Stuart Paulus:

The Native Village of Unalakleet (NVU) received an invitation for a government-to-government consultation to exchange information on the proposed use of three new herbicides to treat vegetation on BLM-administered lands. The NVU Tribal Council respectfully requests that BLM not spray these herbicides on the Unalakleet River. The Tribal Membership of Unalakleet harvests berries, greens, fish and game from the Unalakleet River and everywhere in its vicinity.

Please forward any pertinent information about immediate or perceived threats to the natural flora and fauna caused by invasive plant species that you would like to target. The Native Village of Unalakleet Tribal Council will meet again on June 20, 2013 and can notify you of future dates if need be.

Please do not hesitate to call us if you have questions or need more information.

Sincerely:

Kermit Ivanoff Sr, President

CC: file
NVU Tribal Council

**PALA TRIBAL HISTORIC
PRESERVATION OFFICE**



PMB 50, 35008 Pala Temecula Road
Pala, CA 92059
760-891-3510 Office | 760-742-3189 Fax

PALA THPO

May 7, 2013

Stuart Paulus, Project Manager
AECOM
710 Second Avenue, Suite 1000
Seattle, WA 98104

Re: Government-to-Government Consultation on the Proposed Use of Three New Herbicides to Treat Vegetation on BLM-Administered Lands

Dear Mr. Paulus,

We are in receipt of a letter from Edwin L. Roberson, Assistant Director, Renewable Resources and Planning of the Bureau of Land Management regarding a proposal to approve three new herbicides for use on BLM-administered public lands. This letter constitutes our response on behalf of Robert Smith, Chairman of the Pala Band of Mission Indians.

At this time, we do not request formal government-to-government consultation on the proposed action. Further, we do not have any specific concerns about the proposed herbicides, nor do we have any reserved rights under treaty. However, we would like to comment that consultation on the use of new herbicides should be specific to the Indian nations that may be impacted by their use. That is, as herbicide applications are scheduled for specific areas, the local tribes should be contacted so they are aware that native plant resources might be affected, and they can plan accordingly. They should also be contacted for information regarding TCPs and other significant areas that may be impacted by scheduled applications.

Thank you for the opportunity to comment.

Sincerely,

Shasta C. Gaughen, PhD
Tribal Historic Preservation Officer
Pala Band of Mission Indians

**STATE HISTORIC PRESERVATION
OFFICE CONSULTATION**

6425 SW 6th Avenue
Topeka, KS 66615



phone: 785-272-8681
fax: 785-272-8682
cultural_resources@kshs.org

Kansas Historical Society

Sam Brownback, Governor
Jennie Chinn, Executive Director

May 1, 2013

Stuart Paulus
AECOM Project Manager
710 Second Avenue, Suite 1000
Seattle WA 98104

RE: Herbicide Treatments
1793(220)
Statewide

Dear Mr. Paulus,

Our staff has reviewed the materials received April 26, 2013, regarding the above referenced project in accordance with 36 CFR 800. The SHPO has determined the proposed project will not adversely affect any property listed or eligible for listing in the National Register of Historic Places. Please refer to the Kansas State Review & Compliance number (KSR&C#) listed above on any future correspondence.

If you have any questions regarding this review, please contact Kim Gant (785) 272-8681 ext. 225.

Sincerely,
Jennie Chinn
State Historic Preservation Officer

A handwritten signature in blue ink that reads "Patrick Zollner". The signature is written in a cursive style.

Patrick Zollner
Director, Cultural Resources Division
Deputy State Historic Preservation Officer

STUART PAULUS
AECOM MANAGER
710 SECOND AVE
SUITE 1000
SEATTLE WA 98104

RE: PEIS for Aminopyralid, Fluroxypyr and Rimsulfuron Herbicides

Mr. Paulus:

We know of no direct or indirect effect potential to Historic Properties as a result of application of these herbicides. We recommend eliciting tribal comments or concerns regarding potential impacts resulting from use of culturally important plants which might be treated as either target or non-target plants.

Thank you for providing us an opportunity to comment.



Stan Wilmoth, Ph.D.
State Archaeologist/deputy, SHPO



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

Jack Dalrymple
Governor of North Dakota

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Parks and Recreation
Department*

Grant Levi
*Acting Director
Department of Transportation*

Merlan E. Paaverud, Jr.
Director

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of Museums since 1989*

April 30, 2013

Mr. Stuart Paulus
AECOM Project Manager
710 Second Avenue, Suite 1000
Seattle, WA 98104

ND SHPO Ref: 13-0822 BLM 1793 (220) PEIS on adding three herbicides to list of approved active ingredients for use in vegetation treatments on public lands

Dear Mr. Peters,

We reviewed ND SHPO Ref: 13-0822 BLM 1793 (220) PEIS on adding three herbicides to list of approved active ingredients for use in vegetation treatments on public lands and would like to comment that some herbicides can have a negative impact on historic buildings, monuments and cemetery stones if applied too close to or on the structures. This can be due to salt crystallization, discoloration, change in pH, pitting of surfaces, and accelerated deterioration.

Please see:

<http://www.scribd.com/doc/37784733/The-Effects-of-Herbicide-on-Stone-and-Masonry>

Thank you for the opportunity to review this PEIS document. Please include the ND SHPO Reference number listed above in further correspondence for this specific project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576, or squinnell@nd.gov

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)

**ENVIRONMENTAL PROTECTION AGENCY
CONSULTATION**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

APR 12 2013

AECOM
Attn. Stuart Paulus
710 Second Avenue, Suite 1000
Seattle, WA 98104

Dear Mr. Paulus:

The Environmental Protection Agency (EPA) has reviewed the Bureau of Land Management's (BLM) Notice of Intent (NOI), dated December 21, 2012, to prepare an Environmental Impact Statement (EIS) to evaluate the use of aminopyralid, fluroxypyr, and rimsulfuron herbicides as part of the its vegetation treatment programs on public lands in 17 Western States.

According to the NOI, BLM will assess environmental impacts associated with use of the proposed herbicides on all surface estate public lands under its administration in 17 Western States. The need for the proposed action is to expand the existing vegetation treatment program and increase flexibility and options when designing herbicide treatments.

We understand that the use of herbicides is a necessary strategy to control noxious weeds in light of the scope and severity of noxious weed invasions. Therefore, we support the overall purpose of the proposed action to treat vegetation on public lands. The NOI identifies a preliminary list of resources and issues to address in the EIS analysis, including, but not limited to, the effects of the herbicides and their inert ingredients on human, vegetation, fish and wildlife, livestock, water quality, tribal resources; and cumulative impacts.

We offer the following comments for your consideration.

Impacts to Water Resources

We recommend that the EIS analyze potential adverse impacts of the proposed action to water quality and aquatic resources. In particular, we are concerned about the unintended consequences that may result from applications of herbicides such as drift, effects on non-target species, persistence in soils that may erode into waterways. If buffers exist around waterways, EPA recommends that the EIS include information explaining the treatment of invasive plants within buffer zones, as well as information about aquatic invasive plant infestations and how they would be treated to prevent deterioration of water quality within waterbodies found on the analysis area.

Section 303(d) of the Clean Water Act (CWA) requires each state to identify waterbodies that are not meeting or not likely to CWA water quality standards and to develop water quality restoration plans or Total Maximum Daily Loads for these waters. We recommend the EIS demonstrate that there would be no net degradation of water quality to Section 303(d) listed waters. Also, please indicate how use of the proposed herbicides would meet anti-degradation provisions of the CWA that prohibit degrading water quality standards within water bodies that are currently meeting water quality standards.

The proposed chemical treatment may also impact waters that serve as sources of drinking water. The 1996 amendments to the Safe Drinking Water Act require federal agencies that manage lands that drain to drinking water sources to protect these source waters. EPA recommends that the analysis of impacts identify all drinking water sources, any potential contamination of these sources that may result from the proposed action, and measures that would be taken to protect these sources.

EPA is aware that aminopyralid has been detected in surface and groundwater in Montana. The contamination in groundwater has been anecdotally linked to impacts on irrigated plants/crops. Thus, we recommend the EIS explicitly address these groundwater concerns in the water resources section.

Chemical Treatments

We recommend the BLM analyze herbicides to determine whether they: 1) are registered for the intended use, 2) will achieve the desired results, and 3) will have minimal adverse effects on the environment.

Providing the best available information on chemicals is essential in evaluating chemical use in invasive plant control and eradication. If other alternatives such as prevention and mechanical control are not feasible, use of herbicides may provide less environmental impact than the establishment of invasive plants. Issues such as sub-lethal effects on wildlife, reduced breeding/survival of sensitive species, secondary cumulative effects, and unintended effects need to be discussed. Liquid and granular herbicides can be applied broadcast, banded, as spots, or directed to specific plants using appropriate application technology such as mechanized ground equipment, or manual applicators such as backpack sprayers or tree injectors. Use of global positioning systems, specialized application equipment and careful attention to weather conditions can enhance application accuracy and minimize off-site chemical movement. Models can also be used to assess the effectiveness of alternative drift control practices and predict the environmental fate of chemicals before their use.

Since chemical treatment is one of several available vegetation management alternatives, we recommend the BLM discuss the screening process used in deciding whether chemical applications are necessary given other weed treatments are already in use on BLM lands. The BLM must ensure that its use of registered pesticides is consistent with all labeling requirements and coordinate with individual state programs to make sure the new herbicides are registered for the intended use in each state.

Landscape Approach and Cumulative Effects

EPA recommends that the EIS assess the effects of the proposed herbicide applications using a landscape approach because BLM administered lands are often intertwined with a mix of other privately, state, and federally owned lands.

Where infestations cross jurisdictional boundaries, a coordinated effort will increase the likelihood of bringing the invasive population to a manageable level. It is recommended that the EIS process use a landscape approach in assessing cumulative effects and identify what assumptions will be used with respect to adjacent non-BLM lands, as well as the mechanisms for cooperating with other landowners to disclose the sum of individual effects of all projects on local environment. We recommend that BLM consider EPA's *Consideration of Cumulative Impacts in EPA Review of NEPA Documents*¹ when preparing this EIS.

Public Participation and Environmental Justice

We recommend that the EIS disclose what efforts were taken to ensure effective public participation. Also, consistent with Executive Order 12898 (*Federal Actions to Address Environmental Justice in Minority and Low-Income Populations*) the EIS should include an environmental justice analysis to identify low-income and minority populations in the project area and disclose what efforts were taken to avoid, minimize, reduce or mitigate impacts to these communities if these populations will be impacted by the proposed project.

Restoration

EPA recommends that the EIS evaluate options for restoration activities following invasive plant removal to prevent their re-establishment.

We recommend including an evaluation of restoring natural processes to assist in the return of stressed natural communities and creating high quality habitats. For example, restoring hydrology to a wetland or riparian site, returning a stream to its natural channel, reintroducing fire, and creating conditions that allow natural processes (large woody debris, carbon storage, nutrient cycling) to occur are all activities that have great potential for restoration success.

Climate Change Effects

EPA recommends that the EIS evaluate whether changes in plant growth, resulting from increased CO₂ in the atmosphere, could affect herbicide efficiency either through uptake rates of the active ingredient or by increased biomass that enables plants to withstand herbicides' effectiveness.

¹ EPA's *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* is located at <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf>

We also recommend that the EIS quantify the greenhouse gas emissions from the project activities and discuss mitigation measures to reduce emissions.

Monitoring

We recommend that the proposed project be designed to include an effective feedback element, which includes both implementation and effectiveness monitoring.

Specifically, it is recommended that the EIS include information and assurances regarding adequate monitoring and evaluation to determine if application rates are effective, buffers are sufficient, off-target drift is minimized, and specific goals and endpoints are being met. We recommend there be a commitment in using the best available techniques for monitoring, evaluating, and mitigating impacts from those herbicides that are known to be persistent and that migrate through soil into groundwater.

Monitoring is a necessary and crucial element in identifying and understanding the consequences of actions. For the proposed project, monitoring would show whether the proposed treatments would be effective in managing invasive plant populations and in minimizing environmental impacts. This information would also be helpful in planning future land management activities.

Other

We recommend the EIS document assess the effects of composting operations and how treated plants will be disposed of (left in place, mulched, composted, etc) particularly those treated with either aminopyralid or fluroxypyr. Aminopyralid and fluroxypyr are in the group of pyridine-based herbicides that have been causing problems in compost. They persist through composting cooperations, and then when the compost is used on sensitive plants, as in right-of-way use, the plants die.

We appreciate the opportunity to review the NOI and look forward to reviewing the draft EIS related to this project. The staff contact for the review is Julie Roemele. She can be reached at (202) 564-5632.

Sincerely,



Susan E. Bromm

Director

Office of Federal Activities

**U.S. FISH AND WILDLIFE SERVICE AND
NOAA NATIONAL MARINE FISHERIES
SERVICE CONSULTATION**



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, DC 20240
<http://www.blm.gov>



MAR 3 2015

In Reply Refer To:
6842 (WO-230)

Memorandum

To: Craig W. Aubrey
Chief, Division of Environmental Review Ecological Services Program

From: Shelley J. Smith
Acting Deputy Assistant Director, Resources and Planning

Subject: Section 7 Consultation for Draft Vegetation Treatments Using Aminopyralid, Fluroxypyr, and Rimsulfuron on the Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement EIS (PEIS)

The Bureau of Land Management (BLM) is requesting initiation of consultation under the Endangered Species Act (ESA) on the Draft Vegetation Treatments Using Aminopyralid, Fluroxypyr, and Rimsulfuron on the BLM lands in 17 Western States Programmatic Environmental Impact Statement (PEIS). Attached is final Biological Assessment (BA) used to complete the BLM's effects analysis for Threatened, Endangered and Proposed (TEP) species and their designated or proposed critical habitat, pursuant to the ESA, Essential Fish Habitat, and the Magnuson-Stevens Fishery Conservation and Management Act. The analyses in the BA and PEIS incorporate the best scientific and commercial data available to the BLM. The BLM analysis addresses a total of 341 species, subtotaled by species' type below.

Type of Species	Number of Species
Plant	163
Mollusk	11
Arthropod	16
Fish	83
Amphibian	11
Reptile	7
Bird	21
Mammal	29
*Total	341

***Includes subspecies and populations that are treated separately.**

The PEIS assesses, on the national level, the BLM's proposed use of the active ingredients aminopyralid, fluroxypyr, and rimsulfuron. If approved, the BLM will add these three herbicides to the BLM's list of approved active ingredients and integrate them into the BLM Vegetation Management Program. Herbicide treatments using all approved active ingredients would occur on the BLM-administered lands in 17 western states, including Alaska. The prescribed treatments would take place on no more than 932,000 acres annually, which is the same acreage limit that was analyzed in the PEIS and BA released in 2007. The BLM plans to continue to treat vegetation on the BLM-administered lands using an integrated pest management approach, utilizing a variety of vegetation management tools, including herbicides, prescribed fire, and mechanical, manual, and biological control methods. With the exception of the three new herbicides, use of all of the vegetation management tools by the BLM have been previously analyzed at the EIS level and approved through Records of Decision.

As part of the PEIS analysis of herbicide use, ecological risk assessments (ERAs) were prepared by the BLM to assess the risks of these herbicides to fish and wildlife, including TEP species and their designated or proposed critical habitat. The ERA methodology was developed in collaboration with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Environmental Protection Agency for the 2007 PEIS and BA.

During development of the current PEIS and BA, standard operating procedures (SOPs) and conservation measures were developed to minimize potential effects to plants and animals from treatments using aminopyralid, fluroxypyr, and rimsulfuron. SOPs and conservation measures specific to TEP species and their designated or proposed critical habitat are included in the BA. Additionally, the BLM would continue to follow all SOPs and conservation measures identified in the 2007 PEIS and BA. These measures are conservative and designed to apply across all public lands. During project planning, local field offices have the opportunity to identify additional appropriate local SOPs and conservation measures to reduce further potential effects at the project scale. All subsequent actions implemented are subject to the National Environmental Policy Act analysis and consultation under the ESA, if it is determined that they "May Affect" TEP species and/or their designated or proposed critical habitat.

The BLM's proposed use of the active ingredients aminopyralid, fluroxypyr, and rimsulfuron would require field offices to comply with all SOPs and conservation measures contained in the PEIS, BA and in the ERAs for TEP species and their designated or proposed critical habitat that could be affected by a site-specific proposed action. The proposed action also requires consultation at the project-level if it is determined that the project actions "May Affect" a TEP species or their designated or proposed critical habitat.

The scale of the proposed action is the 17 states evaluated in the PEIS. Although herbicide treatments using the three new herbicides could occur anywhere on the 245 million acres of public lands administered by the BLM; actual treatment locations and levels are determined by Congressional direction and funding. With current funding levels, the BLM is treating an average of 315,000 acres per year using herbicides (about one tenth of one percent of BLM-administered lands). For the purposes of evaluating the effects of herbicide treatments with

aminopyralid, fluroxypyr, and rimsulfuron on TEP species and/or their designated or proposed critical habitat, the estimate of 932,000 acres treated annually using all herbicides (about four tenths of one percent of BLM-administered lands) was carried over from the 2007 PEIS.

Outside of one, no effect determination found on a fish species within the federal mineral estate, the BLM has determined, through the effects analysis that the proposed action may affect but is **Not Likely to Adversely Affect** all species analyzed in the BA. The effects determination assumes that the BLM will protect TEP species through the use of conservation measures identified for various species groups in the 2007 and current BA, additional conservation measures developed by local field offices (primarily for spot treatments near TEP plants), and SOPs identified in the 2007 and current PEIS. Subsequent site-level actions that do not conform to these standards may not result in a determination of **Not Likely to Adversely Affect**. Regardless, all subsequent actions remain subject to consultation if a “May Affect” determination is made at the local level.

The BLM appreciates the opportunity to work with you and your staff to clarify the information about the PEIS and the consultation. If you have any questions regarding the PEIS, please contact Gina Ramos, Division of Forest, Riparian, and Rangeland Resources (WO-220) at (202) 912-7226. If you have any questions regarding consultation or essential fish habitat, please contact Kim Tripp, Senior Specialist, Threatened, and Endangered Species Program (WO-230) at (202) 912-7237.

Attachment



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Washington, DC 20240
<http://www.blm.gov>



MAR 3 2015

In Reply, Refer To:
6842 (WO-230)

Donna Wieting
Director, Office of Protected Resources (F/PR)
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Ms. Wieting:

The Bureau of Land Management (BLM) is requesting initiation of consultation under the Endangered Species Act (ESA) on the Draft Vegetation Treatments Using Aminopyralid, Fluroxypyr, and Rimsulfuron on BLM lands in 17 Western States Programmatic Environmental Impact Statement (PEIS). Please find enclosed, the final Biological Assessment (BA) used to complete the BLM effects analysis for Threatened, Endangered, and Proposed (TEP) species and their designated critical habitat, pursuant to the ESA, and Essential Fish Habitat pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The analyses in the BA and PEIS incorporate the best scientific and commercial data available to the BLM.

The BLM analysis addresses a total of 341 species, subtotaled by species' type below.

Type of Species	Number of Species
Plant	163
Mollusk	11
Arthropod	16
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*Total	341

***Includes subspecies and populations that are treated separately.**

The PEIS assesses, on the national level, the BLM's proposed use of the active ingredients aminopyralid, fluroxypyr, and rimsulfuron. If approved, the BLM will add these three herbicides to its list of approved active ingredients and integrate them into the BLM Vegetation Management

Program. Herbicide treatments using all approved active ingredients would occur on BLM-administered lands in 17 western states, including Alaska. The prescribed treatments would take place on no more than 932,000 acres annually, which is the same acreage limit that was analyzed in the PEIS and BA released in 2007. The BLM plans to continue to treat vegetation on the BLM administered lands using an integrated pest management approach, utilizing a variety of vegetation management tools, including herbicides, prescribed fire, and mechanical, manual, and biological control methods. With the exception of the three new herbicides, use of all of the vegetation management tools by the BLM have been previously analyzed at the EIS level and approved through Records of Decision.

As part of the PEIS analysis of herbicide use, ecological risk assessments (ERAs) were prepared by the BLM to assess the risks of these herbicides to fish and wildlife, including TEP species and their designated or proposed critical habitat. The risk assessment methodology was developed in collaboration with the U.S. Fish and Wildlife Service, National Marine Fisheries Service (NMFS), and the U.S. Environmental Protection Agency for the 2007 PEIS and BA.

During development of the current PEIS and BA, standard operating procedures (SOPs) and conservation measures were developed to minimize potential effects to plants and animals from treatments using aminopyralid, fluroxypyr, and rimsulfuron. SOPs and conservation measures specific to TEP species are included in the BA. Additionally, the BLM would continue to follow all SOPs and conservation measures identified in the 2007 PEIS and BA. These measures are conservative and designed to apply across all public lands. During project planning, local field offices have the opportunity to identify additional appropriate local SOPs and conservation measures to reduce further potential effects at the project scale. All subsequent actions implemented are subject to the National Environmental Policy Act analysis and consultation under the ESA, if it is determined that they “May Affect” TEP species or their designated or proposed critical habitat.

The BLM’s proposed use of the active ingredients aminopyralid, fluroxypyr, and rimsulfuron would require field offices to comply with all SOPs and conservation measures provided in the PEIS, BA, ERAs for TEP species, and their designated or proposed critical habitat that could be affected by a site-specific herbicide treatment project. The proposed action also requires consultation at the project-level if it is determined that the project actions “May Affect” TEP species or their designated or proposed critical habitat.

The scale of the proposed action is the 17 states evaluated in the PEIS. Although herbicide treatments using the three new herbicides could occur anywhere on the 245 million acres of public lands administered by the BLM; actual treatment locations and levels are determined by Congressional direction and funding. With current funding levels, the BLM is treating an average of 315,000 acres per year (about one-tenth of one percent of BLM-administered lands) using herbicides. For the purposes of evaluating the effects of herbicide treatments with aminopyralid, fluroxypyr, and rimsulfuron on TEP species and their designated or proposed critical habitat, the estimate of 932,000 acres treated annually using all herbicides (about four tenths of one percent of BLM-administered lands) was carried over from the 2007 PEIS.

The proposed action does not fund or carryout any subsequent program or on-the-ground action that could cause a direct or indirect effect to TEP species or their designated or proposed critical habitat.

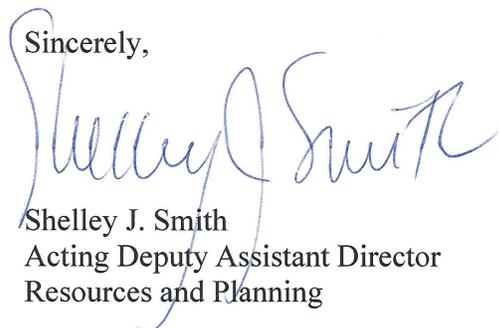
Subsequent decisions which authorize, fund or carry out actions that may affect TEP species or their designated or proposed critical habitat, or result in adverse effects to Essential Fish Habitat (EFH), will be subject to consultation at the local level.

Outside of one, no effect determination found on a fish species within the federal mineral estate, the BLM has determined, through the effects analysis that the proposed action may affect but is Not Likely to Adversely Affect all species analyzed in the BA. The effects determination assumes that the BLM will protect TEP species through the use of conservation measures identified for various species groups in the 2007 and current BA, additional conservation measures developed by local field offices (primarily for spot treatments near TEP plants), and SOPs identified in the 2007 and current PEIS. Subsequent site-level actions that do not conform to these standards may not result in a determination of Not Likely to Adversely Affect. Regardless, all subsequent actions remain subject to consultation if a "May Affect" determination is made at the local level.

The BLM conducted an analysis of potential impacts to EFH in the BA and concluded the proposed action does not adversely affect EFH (it does not fund, authorize, or undertake any on-the-ground actions that could impact EFH). Consultation under MSA on EFH is not required for actions which would not cause an adverse effect (50 CFR 600.920). If, based on the information contained in the administrative record, NMFS disagrees with our finding, NMFS may issue advisory conservation recommendations if you conclude there are adverse effects. Per the NMFS policy and guidelines, actions subject to ESA consultation which are determined to be NLAA, by definition do not cause an adverse impact to EFH. This proposed action creates a common standard for project or site-level implementation regardless of the presence of ESA-listed species or presence of EFH.

Thank you for the productive meeting and agreeing to initiate consultation. If you have any questions regarding the PEIS, please contact Gina Ramos, Division of Forest, Riparian, and Rangeland Resources (WO-220) at (202) 912-7226. If you have any questions regarding consultation or essential fish habitat, please contact Kim Tripp, Senior Specialist, Threatened, and Endangered Species Program (WO-230) at (202) 912-7237. The BLM looks forward to completing this programmatic consultation in an expeditious manner and as close to the time frames defined by the regulations as possible, given no further delays.

Sincerely,



Shelley J. Smith
Acting Deputy Assistant Director
Resources and Planning

Enclosure