

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CASPER FIELD OFFICE
FINDING OF NO SIGNIFICANT IMPACT**

**CHEATGRASS TREATMENTS FOR
NATRONA AND CONVERSE COUNTIES**

WY-060- EA11-197

BACKGROUND

The Bureau of Land Management (BLM) Casper Field Office prepared an Environmental Assessment (EA) **WY-060-EA11-197** which analyzed the effects of using herbicides to control cheatgrass brome (*Bromus tectorum L.*) on public lands located in Natrona and Converse Counties .

Cheatgrass is a non-native annual grass that has become a problem on many western rangelands including Wyoming. Controlling cheatgrass will allow native perennials and shrubs to rebound and expand by removing competition and begin to re-establish the healthy ecological processes within the sagebrush-grassland vegetative communities. Healthy sagebrush grassland habitats are integral to the long-term viability and survival of sagebrush obligate wildlife. Cheatgrass is present in varying quantities throughout sagebrush-grassland communities of Natrona and Converse Counties. While native perennial plant species are present in these areas, the overall productivity and value to livestock and wildlife has been reduced due to the presence of these invasive species. The BLM, Casper Field Office, in coordination with local land owners and the Wyoming Game and Fish Department are proposing to use the herbicide imazapic (Plateau®) to treat areas infested with cheatgrass.

PROPOSED ACTION

Chemical treatments would be conducted within sagebrush-grassland communities located in Natrona and Converse Counties. Public lands administered by the BLM comprise approximately 1,124,415 acres (37%) in Natrona County and 128,611 acres (5%) in Converse County. Public lands comprise approximately 22% of the entire treatment area.

The proposed action includes applying Plateau® herbicide at eight-ounce per acre on up to 100,000 acres of known cheatgrass infestations annually. The chemical would be applied either aerially using a helicopter or fixed-wing aircraft or on the ground, using existing roads and trails to spot treat small infestations. The Plateau® application would be completed in the fall (August 1 - October 31) and would be subject to all treatment specifications.

FINDING OF NO SIGNIFICANT IMPACT

On the basis of the information contained in the EA, and all other information available to me, it is my determination that: (1) the implementation of the Proposed Action will not have significant environmental impacts beyond those already addressed in Casper Resource Management Plan (RMP), December 2007; (2) the Proposed Action is in conformance with the Casper RMP; and

(3) the Proposed Action does not constitute a major federal action having a significant effect on the human environment. Therefore, an environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and to the intensity of the impacts described in the EA or as articulated in the letters of comment.

Rationale for Finding of No Significant Impact

The primary purpose for conducting an environmental assessment (EA) is to determine whether or not a proposed action will have a significant impact on the human environment and therefore will require the preparation of an EIS. As defined in 40 CFR 1508.13, the Finding of No Significant Impact (FONSI) is a document that briefly presents the reasons why an action will not have a significant effect on the human environment. The regulations further define the term "significantly" in 40 CFR 1508.27 and require that the context and intensity of impacts be considered in analyzing significance. The following provides an analysis of the significance of impacts of the proposed water well development in terms of context and intensity as defined in the regulations.

"a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the settling of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short-term and long-term effects are relevant". (40 CFR 1508.27(a))

The proposed action is important locally for private landowners and the affected grazing lessees, but also State and Federal agencies and non-governmental organizations all working to conserve sagebrush grassland habitats. The infestation of cheatgrass not only affects the productivity of rangelands for livestock grazing, but also seriously degrades the habitat for sagebrush obligate wildlife. If left untreated these plants would continue to affect the economics of the ranch operations. Further, the presence of cheatgrass increases the risk of wildland fire in the sagebrush-grassland communities. The unmanaged expansion of cheatgrass would significantly increase the risk of wildfire and would threaten the health and continued existence of sagebrush-grassland communities found throughout the area. The value of these communities for wildlife, especially sagebrush obligate wildlife species, would diminish, resulting in population declines and potentially the local extirpation of species.

The U.S. Fish and Wildlife Service (FWS) has determined that the listing of the greater sage-grouse (*Centrocercus urophasianus*) under the Endangered Species Act (ESA) is warranted but is precluded by the need to take action on other species facing more immediate and severe extinction threats. The potential positive impacts of these treatments on sage-grouse and other Wyoming BLM listed sensitive species gives this project importance at the regional and national levels.

"(B) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluation intensity." (40 CFR 1508.27(b))

I have considered the potential intensity/severity of the impacts anticipated from the Cheatgrass Treatments decision relative to each of the ten areas suggested for consideration by the CEQ. With regard to each:

1. *Impacts that may be both beneficial and adverse.*

Chapter 4 of the EA identifies the impacts that would likely occur, and how vegetation treatments conducted under the terms and conditions of the Casper RMP, in conjunction with BLM and State of Wyoming herbicide application policies, proposed mitigation measures, and special conditions as identified in the EA would occur while not causing impacts that rise to the level of significance as defined by the Council on Environmental Quality.

2. *The degree to which the proposed action affects public health and safety.*

Treatment specifications within the proposed action include conformance with the health and safety requirements. Chapter 4 discusses the potential for limited impacts to public safety from application of herbicides. By incorporating health and safety requirements and complying with approved application rates and product label requirements it has been determined that the degree to which the proposed action affects public health and safety has been minimized and such effects are not significant.

3. *Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The only resources present meeting the above criteria as containing potential unique characteristics are riparian/wetland areas and one Traditional Cultural Property. The remaining criteria are not present.

Riparian and wetland habitats of various magnitudes are found throughout Natrona and Converse Counties. No segments of stream drainages are classified as wild and scenic rivers. Treatment specifications and mitigation measures establish buffers along all live water courses to minimize impacts and protect these values.

The Cedar Ridge Traditional Cultural Property is located within Natrona County. Treatment specifications and mitigation measures prohibit chemical treatment within any known Native American traditional cultural property or within ¼ mile of any Native American petroglyph or pictograph site. Site-specific cultural resource clearances would be completed for each individual treatment area and if sensitive sites are encountered, the action would be redesigned to avoid such sites.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

The proposed action conforms to the Casper RMP which analyzed the implementation of habitat improvements on public lands. The EA was sent the Wyoming Game and Fish Department, Wyoming Office of State Lands and Investments, and the Natrona and Converse County Weed and Pest Districts. All cooperator comments were incorporated into the EA and based on the comments received the proposed action is not considered controversial.

No anticipated effects have been identified that are considered "highly controversial".

“The term ‘highly controversial’ refers to instances in which ‘a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.’” *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998).

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

These individual treatments would be nominated and evaluated utilizing an inter-disciplinary team process (IDT), including the Wyoming Game and Fish Department, County Weed and Pest Districts, and interested publics where site specific cultural and wildlife clearances would be completed for each individual treatment area. Therefore, it has been determined that the extent and degree of uncertainty regarding impacts or unique or unknown risks is not sufficient to warrant preparation of an EIS.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed action will not establish a precedent and does not represent a decision in principal about future consideration.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

The assessed resources of concern are not approaching conditions where the additional stresses associated with the proposed action and past, present, and future foreseeable actions would have consequential cumulative effects.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.

There are a number of recorded prehistoric and historic sites within the study area. The majority of significant prehistoric sites are typically protected by soil or plant cover. While the specific effects of the application of chemical treatments over time on datable organic material are unknown, it is highly unlikely any adverse effects would occur.

Within the study area, there are no known traditional Native American plant gathering areas. However, there is at least one identified Traditional Cultural Property and several other known rock art sites. As stated under the proposed action, no chemical treatment would occur on or within ¼ mile of these site types. Further, as stated in the background section of this EA, site specific cultural resource clearances would be completed for each individual treatment area. Finally, all vehicle traffic under this action would be restricted to existing roads and trails, unless otherwise designated, which would further reduce any potential effect to any cultural resources.

Under the proposed action, the cultural resource specialist will review each action for all known sites within a specific treatment area. If sensitive site types are encountered, the action would be redesigned to avoid any sensitive cultural resources. The proposed action is not likely to affect any sensitive or significant cultural resources.

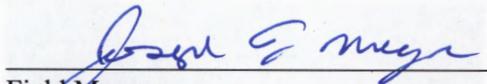
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

A database review was completed for all T&E species listed on the FWS species list dated June 2011. Based on this information, the BLM determined that no federally listed species would be affected by the proposed action. Therefore, project development will have a "No Effect" on federally listed species.

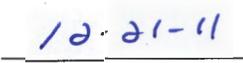
Individual treatments would be nominated and evaluated utilizing an inter-disciplinary team process (IDT) and, site specific cultural and wildlife clearances would be completed for each individual treatment area. Treatments determined to have a "may affect" on a federally listed species will not be authorized.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action is consistent with all Federal, State, and local laws.



Field Manager
Casper Field Office



Date

**Bureau of Land Management
Casper Field Office**

**DECISION RECORD
FOR**

**CHEATGRASS TREATMENTS FOR
NATRONA AND CONVERSE COUNTIES**

WY-060- EA11-197

Introduction:

Cheatgrass (*Bromus tectorum*) is an invasive annual grass species that commonly establishes into disturbed sagebrush-grassland communities. While native perennial plant species are present in Natrona and Converse counties, the overall productivity and value to livestock and wildlife has been reduced due to the presence of this invasive species. The Bureau of Land Management, Casper Field Office in coordination with Wyoming Game and Fish Department, County Weed and Pest Districts and local land owners are proposing to use herbicides to treat areas infested with cheatgrass. The Bureau of Land Management (BLM) has completed Environmental Assessment (EA) WY-060-EA11-197 to analyze the environmental effects of the proposed action.

Decision:

In accordance with 43 United States Code (U.S.C.) 315, 315a, through 315r, 43 U.S.C. 1701 *et seq.*, and 43 U.S.C. 1901 *et seq.*, it is my decision to approve the proposal for Cheatgrass Treatments for Natrona and Converse Counties as described below based on the analysis conducted in Environmental Assessment WY-060-EA11-197 and the attendant Finding of No Significant Impact (FONSI).

Conditioned through mitigation measures, I find that this action will not result in significant impacts on the human environment pursuant to Title 40 Code of Federal Regulations 1508.27 (a) and (b) (1) through (10) and that an Environmental Impact Statement is not required. I further find this action is in conformance with the Casper Resource Management Plan (2007) and the Vegetation Treatments using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement (2006), nor will it cause any unnecessary or undue degradation of resources.

Specifically, the approval action consists of use of chemical treatments to prevent, control, and manage cheatgrass (*Bromus tectorum*) invasions in Natrona and Converse counties to ensure the continued viability of sagebrush grasslands. Treatments will involve chemical application of up to 8 oz. per acre of imazapic, also known by the trade name Plateau®. Chemical applications will be applied aurally (fixed-wing aircraft or helicopter) or by ground application methods (foot or vehicle-mounted sprayer). All chemical applications will be made in accordance with label instructions. Chemical treatments will begin in 2012 and will continue as funding allows through 2025. Additionally, the following treatment specifications would be adhered to, to ensure the protection and conservation of sensitive resources.

Treatment Specifications

- Treatments would not exceed 100,000 acres per year to ensure effective implementation and monitoring.
- Vehicles would be restricted to existing roads and trails, unless otherwise designated.

- Herbicide application would be conducted only by licensed applicators.
- No chemical applications would be authorized within .25 mile of a private residence without written authorization of the landowner.
- Chemical applications would be applied in the fall between August 1 and October 31 when native herbaceous vegetation is generally dormant.
- Chemical applications would be avoided when rainfall is forecasted to occur within 48 hours.
- To control drift, aerial applications would be prohibited when winds exceed 15 mph.
- No chemical treatments or mixing would occur within a 150-foot buffer of any live water resources (e.g. springs, wetland/riparian areas, reservoirs, or streams).
- Livestock would not be present within the treatment area when applying herbicides without written consent of livestock operator.
- To protect federally listed plant species no chemical treatments will occur within 300 feet (aerial applications) or 150 feet (ground applications).
- Herbicide applications would not occur when high temperatures (over 85° Fahrenheit) can cause volatilization.
- Equipment used to apply herbicide would not be rinsed, cleaned, or drained into any water source. Excess herbicide or fluid used in cleaning equipment will be disposed of in authorized facilities.
- Applicators would be required to be certified, wear required personal protective equipment (PPE), and comply with specimen label requirements.
- To protect special status plant and animal species, implement all conservation measures present in the Vegetation Treatments on Bureau of Land Management Lands in 17 Western States Programmatic Biological Assessment (BA).
- No chemical treatment would occur within ¼ mile of any Native American petroglyph or pictograph site.
- No chemical treatment would occur within any known Native American traditional cultural property (TCP).
- Treatment areas would be assessed annually to determine treatment effectiveness.

Mitigation Measures:

The application of herbicides is tightly controlled by state and federal agencies. The Bureau of Land Management is required to follow all state and federal laws and regulations applicable to the application of herbicides. The following mitigation measures will be followed when applying herbicides:

1. Applicators will have a Commercial Pesticide Applicator License and the licensed applicator will maintain pesticide use logs. Follow all requirements on herbicide Specimen Labels and Material Safety Data Sheets.
2. Herbicide active ingredients and formulations shall be applied for uses, and at application rates, specified on the herbicide specimen label and comply with all state registration requirements.
3. Herbicide application operations will be suspended when any of the following conditions exist on the treatment areas:
 - a. Herbicide application wind velocity exceeds 6.0 miles per hour for applications of liquids or 15 miles per hour for the application of granular herbicides, or as specified on the product label
 - b. Chemical applications will be avoided when rainfall is forecasted to occur within 48 hours.
 - c. Fog significantly reduces visibility
 - d. Herbicide applications will not occur when high temperatures (over 85° Fahrenheit) can cause volatilization

4. All individuals involved in handling herbicides or application of herbicides will be instructed on safety and spill procedures by licensed applicators.
5. Equipment used to apply herbicide shall not be rinsed, cleaned or drained into any water source. Excess herbicide or fluid used in cleaning equipment will be disposed of in authorized facilities.
6. Applicators will be required to be certified, wear required personal protective equipment (PPE) and comply with specimen label requirements.
7. Applicators shall provide the BLM with a pesticide use report at the end of the season. Send the report to: Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604-2968.
8. Avoid direct spray or spills in any water sources, important wildlife features or to animals.
9. Protective buffer zones will be provided along riparian habitat and along streams, rivers, lakes and wetlands. For ground application a minimum 150 foot buffer will be established along the riparian corridors. For aerial application a minimum 300 foot buffer will be established along these corridors.
10. To protect special status raptor nesting habitats, activities or surface use will not be allowed from February 1st through July 31st.
11. Surface-disturbing and disruptive activities should be designed in a manner that avoids prairie dog towns and complexes. Where this is impractical, the disturbance will be located in a manner where it will have the least amount of impact to prairie dogs.
12. Occupied sage-grouse leks will have a 4-mile buffer. Within this buffer, surface development or wildlife disturbing activities will be restricted March 15th through July 15th.
13. No surface-disturbing and wildlife disturbing activities are allowed from November 15 through April 30 on crucial big game winter ranges. The authorized officer can grant exceptions.
14. To protect special status plant and animal species, implement all conservation measures present in the Vegetation Treatments on Bureau of Land Management Lands in 17 Western States Programmatic Biological Assessment.
15. To promote and ensure successful establishment of vegetation after treatment, livestock grazing will not be allowed for one complete growing season following treatment. This requirement may be lengthened based on environmental conditions and management objectives consistent with Wyoming's standards for healthy rangelands.
16. The area will be assessed annually to determine effectiveness of the treatment.

Public Involvement:

The BLM consulted with the following individuals and agencies during the preparation of the EA concerning the Cheatgrass Treatments for Natrona and Converse Counties:

Wyoming Game and Fish Department
 Wyoming Office of State Lands and Investments
 Natrona County Weed and Pest
 Converse County Weed and Pest

Casper BLM Wildlife Biologist
 Casper BLM Archeologist
 Casper BLM Hydrologist
 Casper BLM Rangeland Management Specialist
 Casper BLM Weed Management Specialist

Rationale for Decision:

There are no known adverse impacts for authorizing this action. The proposed action is in conformance

with the Record of Decision and Approved Casper Resource Management Plan, December 2007. Using imazapic to reduce the amount of cheatgrass that is present in the treatment area appears to be the best alternative to accomplish the management objectives identified in the environmental assessment.

When applied at recommended rates and product label specifications the chemical treatments will be effective in reducing the amount of cheatgrass while having minimal effect on native vegetation. The chemical treatments will impact the vegetative communities and will benefit the wildlife and livestock that use them. The direct effect will be a reduction in the amount of cheatgrass that is present. Indirect effects will be seen within one to two years post treatment as native vegetation, such as perennial grasses and forbs, responds to the reduction in competition and reoccupies voids previously occupied by invasive annuals.

The primary effect of treatments on wildlife will be through habitat modification. Reducing cheatgrass will likely improve the health of vegetative communities and make them less susceptible to fire. The quantity and forage quality of native vegetation is expected to improve, providing a direct benefit to greater sage grouse and other sagebrush obligate wildlife species inhabiting the area. Risk assessments have been done for imazapic. Imazapic has been found to be non-toxic to humans providing proper application rates and methods as prescribed by the Specimen Label and Material Safety Data Sheet (MSDS) recommendation are followed. Further, the risk assessment for imazapic indicates it is not highly toxic to terrestrial animals, fish or aquatic invertebrates.

If you have questions concerning this decision please contact Jim Wright, Wildlife Biologist at (307) 261-7600.

Right of Protest and/or Appeal:

Any person whose interest is adversely affected may protest a proposed decision under 43 Code of Federal Regulations (CFR) 4160.2 in person or in writing to the Field Manager, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604 within 15 days after receipt of such decision. The BLM will not consider any protests filed after 15 days of receipt. The protest, if filed, should clearly and concisely state the reason(s) why the proposed decision is in error. All reasons for error not stated in the protest shall be considered waived.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

In accordance with 43 CFR 4160.3 (b) upon a timely filing of a protest, after a review of protests received and other information pertinent to the case, the authorized officer shall issue a final decision.

In accordance with 43 CFR 4.470, any person whose interest is adversely affected by a final BLM grazing decision may appeal the decision to an administrative law judge within 30 days after receiving it or within 30 days after a proposed decision becomes final as provided in §4160.3(a) of this title. To do so, the person must file an appeal with the BLM field office that issued the decision (Attn: Field Manager, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604) and serve a copy of the appeal on any person named in the decision. The appeal must state clearly and concisely the reasons why the appellant thinks the BLM grazing decision is wrong. Any ground for appeal not included in the appeal is waived. The appellant may not present a waived ground for appeal at the hearing unless permitted or ordered to do so by the administrative law judge. Any person who, after proper notification does not appeal a final BLM grazing decision within the period provided in paragraph (a) of this section may not later challenge the matters in the final BLM decision. Filing an appeal does

not by itself stay the effectiveness of the final BLM decision. To request a stay of the final BLM decision pending appeal, see §4.471.

In accordance with 43 CFR 4.471, an appellant under §4.470 may petition for a stay of the final BLM decision pending appeal by filing a petition for a stay together with the appeal under §4.470 with the BLM field office that issued the decision (Attn: Field Manager, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604). Within 15 days after filing the appeal and petition for a stay, the appellant must serve copies on any other person named in the decision (as defined in 43 CFR 4.421(h) from which the appeal is taken and the appropriate office of the Solicitor (Rocky Mountain Region, and 755 Parfet Street Suite 151, Lakewood, Colorado, 80215), in accordance with §4.413(a) and (c).

Standards for Obtaining a Stay:

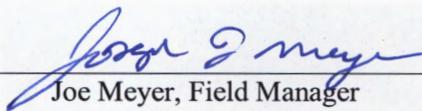
Should you wish to file a petition for a stay, you must comply with the provisions at 43 CFR 4.471. Among other things, that regulation requires that a petition for a stay show sufficient justification based on the following standards:

- (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.

The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

In accordance with 43 CFR 4.472(b), any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days, the person must serve copies of the motion to intervene and response on the appellant, the Office of the Solicitor and any other person named in the decision, as defined in 4.421(h).

Authorized Officer: _____


Joe Meyer, Field Manager

Date: _____

12-21-11

Copies sent to:

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