

Director's Protest Resolution Report

**Jarbidge (Idaho) Proposed
Resource Management Plan
& Final Environmental
Impact Statement**

September 2, 2015



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Reader's Guide

How do I read the Report?

The Director's Protest Resolution Report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the Bureau of Land Management's (BLM) response to the summary statement.

Report Snapshot

Issue Topics and Responses
NEPA

Topic heading

Submission number

Issue Number: PP-ID-Jarbidge-15-10-11- **Protest issue number**

Organization: The Forest Initiative **Protesting organization**

Protester: John Smith **Protester's name**

Issue Excerpt Text: **Direct quote taken from the submission**

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

Summary **General statement summarizing the issue excerpts (optional).**

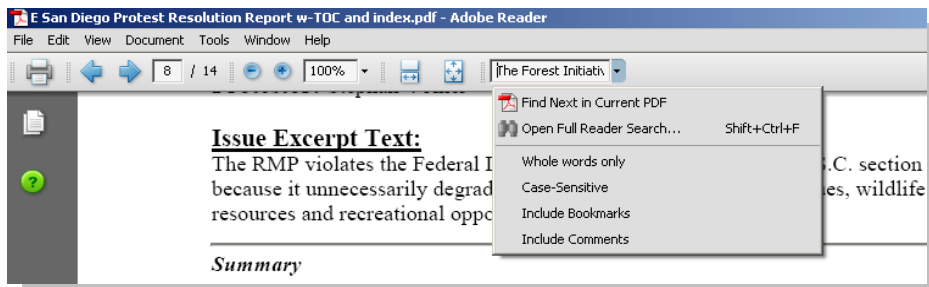
There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

Response **BLM's response to the summary statement or issue excerpt if there is no summary.**

Specific renewable energy projects are implementation-level decisions rather than RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a site-specific NEPA analysis of the proposal before actions could be approved (FEIS Section 2.5.2, p. 2-137). Project specific impacts would be analyzed at that time (including impacts to surrounding properties), along with the identification of possible alternatives and mitigation measures.

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



List of Most Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	IM	Instruction Memorandum
BA	Biological Assessment	KOP	Key Observation Points
BLM	Bureau of Land Management	LRMP	Land and Resource Management Plan
BMP	Best Management Practice	MOU	Memorandum of Understanding
BO	Biological Opinion	NEPA	National Environmental Policy Act of 1969
CAA	Clean Air Act	NHPA	National Historic Preservation Act of 1966, as amended
CEQ	Council on Environmental Quality	NOA	Notice of Availability
CFR	Code of Federal Regulations	NOI	Notice of Intent
COA	Condition of Approval	NRHP	National Register of Historic Places
CSP	Concentrated Solar Power	NSO	No Surface Occupancy
CSU	Controlled Surface Use	NTT	National Technical Team
CWA	Clean Water Act	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
DEIS	Draft Environmental Impact Statement	ORV	Outstandingly Remarkable Value
DM	Departmental Manual (Department of the Interior)	PA	Preliminary Assessment
DOI	Department of the Interior	PPA	Power Purchase Agreement
EA	Environmental Assessment	RFDS	Reasonably Foreseeable Development Scenario
EIR	Environmental Impact Report	RMP	Resource Management Plan
EIS	Environmental Impact Statement	ROD	Record of Decision
EO	Executive Order	ROW	Right-of-Way
EPA	Environmental Protection Agency	SO	State Office (BLM)
ESA	Endangered Species Act	T&E	Threatened and Endangered
FEIS	Final Environmental Impact Statement	USC	United States Code
FEIS	Final Environmental Impact Statement	USGS	U.S. Geological Survey
FLPMA	Federal Land Policy and Management Act of 1976	VRM	Visual Resource Management
FO	Field Office (BLM)	WA	Wilderness Area
FWS	U.S. Fish and Wildlife Service	WFRHBA	Wild and Free Ranging Horse and Burro Act
GIS	Geographic Information Systems	WSA	Wilderness Study Area
HRV	Historic Range of Variability	WSR	Wild and Scenic River(s)
IB	Information Bulletin		

Protesting Party Index

Protester	Organization	Submission Number	Determination
Jeff C. Harper	Flying H Land, LLC	PP-ID-Jarbidge-14-01	Denied – Issues and Comments
Suzanne Roy	American Wild Horse Preservation Campaign, The Cloud Foundation	PP-ID-Jarbidge-14-02	Denied – Issues and Comments
Jerry Hoagland, Kelly Aberasturi, and Joe Merrick	Owyhee County (ID) Board of Commissioners	PP-ID-Jarbidge-14-03	Denied – Issues and Comments
Darcy A. Jelmick	Simplot Livestock Company	PP-ID-Jarbidge-14-04	Denied – Issues and Comments
Katie Fite	Western Watersheds	PP-ID-Jarbidge-14-05 and 08	Denied – Issues and Comments
Nada Culver	The Wilderness Society	PP-ID-Jarbidge-14-06	Denied – Issues and Comments
Ronda and Mike Macaw	Devil Creek Ranch, Inc.	PP-ID-Jarbidge-14-07	Dismissed – Comments Only

Issue Topics and Responses

NEPA Range of Alternatives

Issue Number: PP-ID-Jarbidge-14-2-21

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: The FEIS states, “Constant human presence associated with the development of private agricultural lands and some conversion of public lands to private land beginning in the 1960s slowly eliminated access to natural water at the Snake River, resulting in the herd’s total dependence on developed livestock water systems”. The FEIS considers a number of alternatives for maintaining artificial water sources for wild horses, which would be required whether the Saylor Creek horse population is reproducing or non-reproducing, but does not explore any alternatives for restoring the horses' access to their natural and historic water source at the Snake River. Among the alternatives that should have been considered (and indeed were requested in AWHPC comments) are creation of wildlife corridors in the HMA leading to natural water sources as well as minimizing human disturbance, livestock grazing, mineral/oil/gas extraction activities, transmission lines, and similar activities in this district's one and only HMA, and creating buffer zones between the HMA and such activities.

Issue Number: PP-ID-Jarbidge-14-8-11

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The BLM did not consider an alternative that removed grazing and any portion of the infrastructure footprint from lands of a proposed Sagebrush Sea landscape alternative to

conserve GRSG, despite GRSG being a landscape species. It did not even consider an alternative that removed grazing from half or Y4 of the Sagebrush Sea alternative while significantly reducing the footprint of livestock grazing disturbance and infrastructure in areas of the Jarbidge.

Issue Number: PP-ID-Jarbidge-14-8-19

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: In Scoping, WWP submitted an Alternative in a format template style that the BLM required at the time. We submitted many comments that relied on both active and passive restoration and a conservation-centered management paradigm. Yet our concerns were not fully considered in the limited and industry-centered, near status quo alternatives of the flawed and inadequate DEIS.

Issue Number: PP-ID-Jarbidge-14-8-20

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: At the time we tried to submit an Alternative, the BLM made us follow the sparse Alternative framework that Jarbidge BLM had provided. The BLM then sent one request for clarification that seemed designed to further limit and whittle down an already exceedingly sparse framework. Then, the BLM did not even deign to analyze WWP’s Alternative as an Alternative, and asked for no further clarification.

Issue Number: PP-ID-Jarbidge-14-8-36

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The BLM analyzed no alternatives that removed grazing disturbance (and all the problems it brings-from cows eating eggs, flushing birds from

nest resulting in increased predation, stripping nesting cover, impairing quality and health of native vegetation during active and critical growing period use, etc.) during the spring GRSG and other sensitive species nesting/birthing/young bearing and early brood rearing/young rearing periods. The BLM did not analyze a reasonable range of alternatives for removal of livestock from areas of considerable conflict with GRSG or other sensitive species or resource depletion/damage needs, while continuing use on others to provide for passive restoration while grazing continued with conservative and effective measurable standards in others.

Issue Number: PP-ID-Jarbidg-14-8-9
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM was required to consider a “No Grazing” and other Alternatives. The BLM has failed to evaluate a No Grazing Alternative in the FEIS, not even as a comparison with its severe grazing disturbance alternatives so

Summary:

The Jarbidg PRMP/FEIS violates NEPA because it fails to analyze an alternative that:

- restores access to the Snake River as a water source for wild horses;
- makes the entire Jarbidg planning area unavailable to grazing; and
- relies on both active and passive restoration.

The Jarbidg PRMP/FEIS violates NEPA because it fails to analyze a reasonable range of alternatives with regard to greater sage-grouse management, including an alternative that removes grazing, and its associated infrastructure, from areas used by sage-grouse and other sensitive species.

Response:

When an agency is preparing an EIS, NEPA requires the agency to rigorously explore and objectively evaluate all reasonable alternatives (40 CFR 1502.14(a)). When there are potentially a very large number of alternatives, the BLM may only analyze a reasonable number to cover the full spectrum of alternatives (BLM Handbook H-1790-1, Section 6.6.1 quoting Question 1b, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981).

the agency could properly gauge how harmful its grazing load really was.

Issue Number: PP-ID-Jarbidg-14-8-35
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The FEIS violates NEPA, the SSA and BLM’s own often-repeated conservation promises for sage-grouse including the NTT, and the sensitive species policy by failing to assess a reasonable range of alternatives, and by failing to take a hard look at all the serious adverse direct, indirect and cumulative effects (based on current science) of the meager range of alternatives it does consider (Braun 2006, Knick and Connelly 2009/2011, USFWS GRSG WBP Finding, Resiner et al. 2013, Beschta et al. 2012/2014; Manier et al. 2013). NEPA requires accurate scientific analysis, and that the agency disclose and discuss responsible opposing views and take a hard look at all environmental consequences of the proposed action.

The BLM developed a reasonable range of alternatives that meet the purpose and need of the Jarbidge PRMP/FEIS and that address resource issues identified during the scoping period. The Jarbidge PRMP/FEIS analyzed seven alternatives, which are summarized in Section 2.10. The alternatives analyzed in the Jarbidge PRMP/FEIS cover the full spectrum by varying in: 1) degrees of protection for each resource and use; 2) approaches to management for each resource and use; 3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and 4) levels and methods for restoration.

The Jarbidge PRMP/FEIS considers alternatives that would emphasize active and passive restoration. As described in the Jarbidge PRMP/FEIS: “Alternative III focuses on restoring the resiliency of ecosystem structure and function through intensive management of fuels and enhanced fire suppression capabilities throughout the planning area. Alternative IV focuses on actively restoring the resiliency of ecosystem structure and function through restoration projects and managing uses. Alternative V focuses on the restoration of habitats toward historic vegetation communities. In native plant communities, passive restoration approaches would be preferred. Active restoration would take place in non-native perennial and annual communities. Alternative VI (Proposed RMP) focuses on actively restoring the resiliency of sagebrush steppe ecosystem structure and function through restoration projects and enhanced fire management while balancing resource protection and uses within the planning area” (Jarbidge PRMP/FEIS, pp. 2-10 - 2-15).

Agencies are allowed to dismiss an alternative from detailed analysis, provided that the agency briefly discusses the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14). An alternative may be eliminated from detailed study if it is determined not to meet the proposed action’s purpose and need; determined to be unreasonable given the BLM mandates, policies, and programs; it is substantially similar in design to an alternative that is analyzed; its implementation is speculative or remote; or it is technically or economically infeasible (BLM Handbook H-1790-1, Section 6.6.3).

The BLM considered a “no grazing” alternative, which would close the entire Jarbidge planning area. The BLM dismissed this alternative from detailed analysis. The BLM discussed the reasons for having dismissed this alternative in Section 2.1.4.1 of the Jarbidge PRMP/FEIS. The BLM determined that a “no grazing” alternative would not meet the purpose and need and would be unreasonable (Jarbidge PRMP/FEIS, p. 2-17). Additionally, no issues or conflicts were identified that would require the complete elimination of any uses, including grazing, within the planning area (Jarbidge PRMP/FEIS, p. 2-17, Clarification Letter, p. 2)

The BLM can only designate Herd Management Areas (HMA) in Herd Areas (HA) (BLM Handbook H-1601-1, p. Appendix C-7). HAs are limited to areas of the public lands identified as habitat used by wild horses and burros at the time that the Wild and Free Ranging Horse and Burro Act (WFRHBA) passed (December 15, 1971) (BLM Handbook H-4700-1, p. 7). The Saylor Creek HA boundary correctly portrays habitat used by wild horses in 1971. Wild horses were no longer using the benches of the Snake River by 1971. The Jarbidge PRMP/FEIS proposes to designate the entire Saylor Creek HA as the Saylor Creek HMA. The BLM did not analyze an alternative that would extend the Saylor Creek HMA to the Snake River, as it would

expand the HMA beyond the HA boundary, and therefore not conform to BLM mandates and policies.

NEPA Impacts Analysis (Vegetation)

Issue Number: PP-ID-Jarbidge-14-8-23
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: FEIS Table 4-323 shows 125,000 annual acres, 60,000 non-native understory, but is this based on the old 2006 ESI? If so, the non-native understory has expanded. What is the baseline, and the amount of cheatgrass that triggers its detection here? The BLM must

provide current and adequate mapping of cheatgrass, which is known to be expanding greatly in the Owyhee uplands (See Peterson 2006, for example; also across arid sagebrush lands see Comer et al. 2012, Reisner Diss. 2010, Reisner et al. 2013). The percentage composition the BLM used is also not provided. We protest the lack of current valid baseline info on cheatgrass and other exotic understory species.

Summary:

The Jarbidge PRMP/FEIS violates NEPA because it fails to adequately analyze impacts to vegetation. The Jarbidge PRMP/FEIS relies on inaccurate baseline information regarding cheatgrass and other exotic understory species.

Response:

CEQ regulations require that EISs “shall succinctly describe the environment of the area(s) to be affected...by the alternatives under consideration” (40 CFR 1502.15). BLM guidance directs that the description of the affected environment should “be quantitative wherever possible, and of sufficient detail to serve as a baseline against which to measure the potential effects of implementing an action” (BLM Handbook H-1790-1, Sec. 6.7.1).

The Jarbidge PRMP/FEIS discloses the data used to describe the baseline vegetation condition: “Vegetation in the planning area was initially mapped in 2006 using field observation, field cover data, and 2004 National Agriculture Imagery Program (NAIP) imagery. The vegetation map was updated in 2012 using 2011 field observations and 2011 NAIP imagery” (Jarbidge PRMP/FEIS, p. 3-16).

All vegetation was mapped at a sufficient detail to serve as a baseline against which to measure the potential effects: “Vegetation communities were mapped using a minimum mapping unit of 20 acres. The 20-acre map units are appropriate for landscape-level planning through aggregation into broader vegetation groups” (Jarbidge PRMP/FEIS, p. 3-17).

The Jarbidge PRMP/FEIS relied on a “vegetation sub-group” (VSG) approach to describe the vegetation present in the planning area: “Vegetation communities were grouped into VSGs based on dominant vegetation and community structure, since communities with similar dominant vegetation and community structure were expected to have similar management objectives” (Jarbidge PRMP/FEIS, p. 3-17).

Cheatgrass and other exotic understory species are the primary components of the Annual VSG: “The Annual VSG includes vegetation communities that are primarily dominated by cheatgrass (*Bromus tectorum*), Russian thistle (*Salsola kali*), tumble mustard (*Sisymbrium altissimum*), or a combination of the three non-native species” (Jarbidge PRMP/FEIS, p. 3-18).

Large wildland fires occurred in 2007 and 2010 in the Jarbidge planning area. In order to facilitate analysis of proposed management on upland vegetation communities, the BLM resource staff projected post-fire recovery vegetation composition in 2016, which served as the baseline vegetation condition for the analysis (Jarbidge PRMP/FEIS, p. 3-19, 3-20). Vegetation composition following wild land fires through 2011 (post-fire) and the 2016 projected vegetation composition (baseline) of the planning area by VSG is presented in Table 3-7 of the Jarbidge PRMP/FEIS.

The BLM determined that the Annual VSG is the baseline vegetation composition for 9% of the Jarbidge planning area (Jarbidge PRMP/FEIS, p. 3-20). The Jarbidge PRMP/FEIS also displays geospatially the location of the Annual VSG throughout the planning area in 2011, and its projected location in 2016 (Jarbidge PRMP/FEIS, Maps 9 and 10).

The Jarbidge PRMP/FEIS adequately describes the baseline condition of cheatgrass and other exotic understory species, including using quantitative and geospatial methods, in the planning area.

NEPA Impacts Analysis (Wild Horses)

Issue Number: PP-ID-Jarbidge-14-2-12

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: In addition to violating the WHA, the decision to change the Saylor Creek HMA to a non-reproducing herd violates NEPA because the FEIS does not disclose or analyze how altering the reproductive capabilities of an entire wild horse herd will impact the “wild” and “free-roaming” nature of the individual horses or the dynamic behaviors of the entire herd. Converting the Saylor Creek HMA to a non-reproducing herd will invariably involve the permanent alteration of the entire herd, i.e. spaying mares and/or gelding stallions. Yet, all the FEIS says is that the action will involve “[t]reating all wild horses surgically or chemically to eliminate reproduction

capability” (Jarbidge FEIS at 2-357). For such a drastic management option, this one-line sentence is patently insufficient under NEPA.

Issue Number: PP-ID-Jarbidge-14-2-14

Organization: American Wild Horse Preservation Campaign/The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: The FEIS fails to even acknowledge the well-documented fact that a reproductively altered wild horse is a different animal that does not exhibit the same behaviors and characteristics that a reproductively healthy wild horse does. All the FEIS does is briefly acknowledge that altering the reproductive capabilities of the Saylor Creek herd “may reduce the instinct of males to breach fences to intermingle and challenge for control of neighboring bands”

(Jarbidge FEIS at 4-550). On the current FEIS, if BLM changes the Saylor Creek HMA to a non-reproducing herd it will constitute myriad violations of NEPA.

Issue Number: PP-ID-Jarbidge-14-2-16

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protector: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Any attempts to manage the Saylor Creek horses as non-reproducing will no doubt involve spaying mares, a dangerous, invasive surgical procedure that carries with it serious risks of infection and bleeding. The fact that BLM has failed to analyze these serious risks and impacts to wild horses in Saylor Creek is a serious deficiency of the FEIS and violation of NEPA.

Issue Number: PP-ID-Jarbidge-14-2-18

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protector: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: This clearly indicates that the BLM believes that the impacts of releasing sterilized horses to the range may be significant. This is precisely the kind of uncertainty about environmental impacts that require not only analysis in an EIS (See *Fund for Animals v. Norton*, 281 F. Supp. 2d at 234), “uncertainty as to the impact of a proposed action on a local population of a species, even where all parties acknowledge that the action will have little or no effect on broader populations is a basis for finding that there will be a significant impact and setting aside as FONSI” (quoting *Anderson*, 314 F.3d at 1018-2).

Issue Number: PP-ID-Jarbidge-14-2-19

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protector: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: It is clear from the above that converting the Saylor Creek wild horse population to a non-reproducing herd would have profound impacts on the horses themselves and potentially on the environment as well. Yet not only does the FEIS fail to analyze these significant impacts, but also it does not even disclose the methods by which the BLM intends to achieve a non-reproducing herd in Saylor Creek. This is a gross violation of NEPA as explained above.

Issue Number: PP-ID-Jarbidge-14-2-8

Organization: American Wild Horse Preservation Campaign / The Cloud Foundation

Protector: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: There is no evidence in the FEIS establishing that the Saylor Creek HMA is not currently a self-sustaining herd with sufficient genetic diversity. In fact, in 2010, the BLM conducted genetic testing that showed “strong genetic viability and no evidence to indicate the Saylor Creek horses suffer from reduced genetic fitness” (Jarbidge FEIS at 3-78). The statement in the FEIS that “[m]anaging the Saylor Creek wild horses as a non-reproducing herd would result in a negligible loss of genetic diversity” is an inherent contradiction (Jarbidge FEIS at 4-550). If the Saylor Creek HMA is managed as a non-reproducing herd, the genetic diversity of that herd will be lost forever. This should at least be disclosed and examined in the FEIS, especially considering the document itself noted that “[b]ecause wild horses are restricted to the Saylor Creek HMA, the analysis only

considers actions that would result in effects to the wild horses or the HMA; effects of actions that would occur outside the HMA were not included” (Jarbidge FEIS at 4-545). According to the FEIS, “this is a genetically diverse herd and removing this herd’s ability to reproduce will result in a complete loss of that genetic diversity. BLM’s conclusion that loss of genetic

diversity would not be significant due to the lack of Spanish bloodlines in the Saylor Creek herd’s genetics is flawed, as the Wild Horse Act protects all free-roaming wild horses and burros in designated HMAs, not merely those with pure Spanish colonial bloodlines.”

Summary:

The Jarbidge PRMP/FEIS violates NEPA because it fails to adequately analyze the impacts of managing a non-reproducing herd in the Saylor Creek Herd Management Area (HMA). The Jarbidge PRMP/FEIS does not analyze the impacts to:

- the “wild” and “free roaming” nature of wild horses and other behavioral dynamics;
- the physical health of mares;
- genetic diversity; and
- rangeland health.

Response:

NEPA requires that the BLM take a “hard look” at potential environmental impacts of managing a non-reproductive herd in the Saylor Creek HMA, as proposed in the Jarbidge PRMP/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). As the decisions to manage a non-reproducing herd is programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level.

For example, the Jarbidge PRMP/FEIS discloses that behavioral effects may occur in general from managing a non-reproducing herd: “Maintaining a non-reproducing wild horse herd may reduce the instinct of males to breach fences to intermingle and challenge for control of neighboring bands” (Jarbidge PRMP/FEIS, p. 4-550).

Additionally, the Jarbidge PRMP/FEIS discloses the general effects of managing of a non-reproducing herd on rangeland health: “Maintaining a non-reproducing wild horse herd may reduce the instinct of males to breach fences to intermingle and challenge for control of neighboring bands. Maintaining dispersal of bands of wild horses throughout allotments in the HMA would help prevent the bands from reforming into large herds and would decrease localized effects of wild horse grazing relative to alternatives managing for reproducing wild horse herds” (Jarbidge PRMP/FEIS, p. 4-550).

However, NEPA does not require that the BLM speculate about all conceivable impacts, but that the BLM must evaluate the reasonably foreseeable significant effects of the proposed action (*Sierra Club v. Marsh*, 976 F.2d at 767).

In the Proposed Alternative of the Jarbidge PRMP/FEIS, the BLM establishes a land use plan objective of managing a non-reproducing herd in the Saylor Creek HMA. The Jarbidge PRMP/FEIS does not decide which specific population management tools will be undertaken to achieve the objective of managing a non-reproducing herd. There are many possible fertility management tools that the BLM could use to meet the Jarbidge PRMP/FEIS's objective of managing a non-reproducing herd (e.g. ovariectomy, immunocontraceptives, intrauterine devices, castration, and vasectomy).

Each fertility management tool has unique and different impacts to individual and herd behavioral dynamics and the physical health of individual horses (see Chapter 4 of *Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward*, The National Academies Press, 2013 for a comprehensive evaluation of the effects of possible fertility management tools). Impacts would vary largely based on the fertility management tool selected by the BLM. At the RMP-level, it is speculative to analyze all conceivable impacts of managing a non-reproducing herd, because the fertility management tool that will be used is not known at this time.

For example, castration has a “potentially profound effect” on the behavior of male horses, while “normal male behaviors” are maintained with chemical vasectomy (*Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward*, The National Academies Press, 2013, p. 131-132). Likewise with regard to physical health, immunocontraceptives have generally acceptable impacts to physical health, while more invasive methods, such as intrauterine devices and ovariectomy, have impacts that make these methods inadvisable for field application (*Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward*, The National Academies Press, 2013, p. 130).

The specific impacts to rangeland health would vary largely based on the fertility management tool selected by the BLM, since impacts to rangeland health would primarily be related to behavioral changes. The analyses in previous Environmental Assessments cited by the protestor are with regard to the impacts of geldings on rangeland health, and are not applicable to all non-reproducing herds.

At the time that a specific fertility management tool is selected for use in the Saylor Creek HMA, the BLM would fully analyze the specific effects of that fertility management tool on rangeland health and the wild horses present in the Saylor Creek HMA in a site-specific NEPA document.

The Jarbidge PRMP/FEIS properly determined that managing a non-reproducing herd in the Saylor Creek HMA “would result in a negligible loss of genetic diversity” (Jarbidge PRMP/FEIS, p. 4-550) across the range. This is because a “test found that the genetic makeup is average” for horses in the Saylor Creek HMA (Jarbidge PRMP/FEIS, p. 4-550). Thus, the genetic makeup of the wild horses in the Saylor Creek HMA could be maintained by introducing horses from other HMAs in Idaho and other states.

The BLM complied with the NEPA “hard look” requirement, and adequately analyzed the impacts of managing a non-reproducing herd in the Saylor Creek HMA.

NEPA Impacts Analysis (Grazing)

Issue Number: PP-ID-Jarbidge-14-4-2
Organization: Simplot Livestock Company
Protestor: Darcy Helmick

Issue Excerpt Text: Proposed Management Action LG-VI-A-1: This action states the canyons associated with the Bruneau and Jarbidge Rivers and Salmon Falls Creek would not be available for grazing.

Issue Number: PP-ID-Jarbidge-14-4-4
Organization: Simplot Livestock Company
Protestor: Darcy Helmick

Issue Excerpt Text: The Final EIS has no impacts analysis of this proposed management action and carrying it forward as any Record of Decision will be irrational and arbitrary.

Issue Number: PP-ID-Jarbidge-14-8-18
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM failed to conduct valid carrying capacity and suitability analyses balance conflicts and competing uses, and then allocate land and resource uses and ensure that they are sustainable. Forage is just one part of the analysis. The FEIS fails to provide any clarity at on how it arrived at the very high levels of allocations for livestock grazing

Summary:

The Jarbidge PRMP/FEIS violates NEPA because it fails to adequately analyze the impacts of livestock grazing decisions. The Jarbidge PRMP/FEIS:

- does not analyze the impacts from making the canyons associated with the Bruneau River, Jarbidge River, and Salmon Falls Creek unavailable for grazing;
- does not conduct valid carrying capacity and suitability analyses for livestock grazing; and

and other extractive uses across these alternatives. See Table FEIS ES-5, pages 38 to 45. WWP submitted lengthy comments based on carrying capacity and suitability determinations, including a detailed paper during the Scoping process, and they have been ignored.

Issue Number: PP-ID-Jarbidge-14-8-22
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM artificially constrained analysis of grazing effects and alternatives development. FEIS 4-661 shows that the BLM only considered two factors as “Indicators” in its analysis of livestock grazing effects: Availability of Forage and Restrictions on Infrastructure. This ignores the serious habitat disturbance and chronic degradation caused by grazing in GRSG and other sensitive species habitats (nest and egg disturbance, increasing mesopredators due to carrion, artificial upland water, etc.). It ignores the adverse impacts of livestock grazing and the RMP allocation on the quality and composition of the habitat for GRSG, pygmy rabbit, riparian species, migratory birds, bighorn sheep, and a host of other values of the public lands (See Braun 1998, Connelly et al. 2000, Connelly et al. 2004, Brawl 2006, Knick and Connelly 2009/2011; and Manier et al. 2013).

- does not use proper indicators to analyze livestock grazing impacts.

Response:

Canyon Areas Unavailable to Livestock Grazing

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. Although the BLM realizes that more data could always be gathered, the baseline data provides the necessary basis to make informed land use plan-level decisions. As decisions regarding the availability of land to grazing and allocation of forage are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving a livestock grazing permit), the scope of the analysis was conducted at a regional, programmatic level.

The Jarbidge PRMP/FEIS used the availability of forage for livestock grazing as an indicator for analyzing livestock grazing decisions, including making lands available or unavailable for livestock grazing (Jarbidge PRMP/FEIS, p. 4-661). The Table 4-322 of the Jarbidge PRMP/FEIS analyzed the number of acres available and unavailable for livestock grazing in terms of forage available to livestock. With regard to the Proposed Alternative, the Jarbidge PRMP/FEIS disclosed that: “Alternative VI would initially allocate between 216,000 and 316,000 AUMs and potentially decrease to between 186,000 and 279,000 AUMs following full implementation of the plan. Forage availability would decrease over the life of the plan” (Jarbidge PRMP/FEIS, p. 4-668)

The BLM need not speculate about all conceivable impacts; it must only evaluate the reasonably foreseeable significant effects of the proposed action. It is not possible to determine the specific effects of closing the canyons associated with the Bruneau River, Jarbidge River, and Salmon Falls Creek to grazing in terms of forage available to livestock at the RMP-development stage. It is likely that the effects would be minor since the canyon areas unavailable to livestock grazing constitute a very small percentage by area of the respective grazing allotments (Jarbidge PRMP/FEIS, Map 59).

Ultimately, the effects would vary by allotment depending upon resource objectives and actions such as changes in vegetation through treatments to restore native vegetation communities (Jarbidge PRMP/FEIS, p. 4-668). The specific impacts and the actual number of AUMs available would be analyzed in detail at the time of grazing permit renewal.

The Jarbidge PRMP/FEIS disclosed that “[T]he Bruneau and Jarbidge Canyons are not contained within grazing allotments administered by the Jarbidge Field Office. However, portions of the planning area within the Bruneau River Canyon are currently being grazed within the Bruneau Canyon Allotment administered by the Bruneau Field Office, Boise District. Future management of lands administered by the Jarbidge Field Office will be resolved following appropriate administrative processes (43 CFR 4130) and will comply with direction of the Jarbidge RMP” (Jarbidge PRMP/FEIS, p. 3-84). The Jarbidge RMP does not allocate animal unit months (AUMs) to the Bruneau Canyon Allotment.

The Jarbidge PRMP/FEIS also discloses many beneficial effects to other resources from making the canyon areas associated with the Bruneau River, Jarbidge River, and Salmon Falls Creek unavailable to livestock grazing. For example: “Research shows that riparian areas quickly improve when they are fenced to exclude grazing. A 10-year riparian grazing study on a cold mountain meadow riparian system in central Idaho found that stream channels narrowed, stream width-to-depth ratios were reduced, and channel substrate embeddedness decreased under a no grazing, light grazing (20% to 25%), and medium grazing (35% to 50%) system (Clary, 1999). Stream bank stability increased, and streamside willow communities increased in both height and cover under all three grazing treatments. Virtually all stream channel measurements improved when pastures were not grazed” (Jarbidge PRMP/FEIS, p. 4-222)

Carrying Capacity and Suitability Analyses

The BLM determined the total amount of forage (as measured in AUMs) available for livestock in the Jarbidge PRMP/FEIS. This determination is the equivalent of a “carrying capacity” or “suitability analysis”, as it determines the level of livestock use that can be sustained.

As described in the Jarbidge PRMP/FEIS: “AUMs available for livestock at initial implementation of the plan were calculated for each alternative based on the vegetation allocation, areas available for livestock grazing for that alternative, and the 2006 vegetation production data (the most recent year for which production data are available). Calculations of AUMs available at full implementation of the plan for each alternative were based on the vegetation composition of the planning area if the alternative’s vegetation treatment objectives are achieved. These AUM calculations are provided solely for analysis purposes. The actual number of AUMs allowed will be determined for each allotment during the permit renewal process. (Jarbidge PRMP/FEIS, p. 4-661 – 4-662)

Based on the total amount of forage available in the Jarbidge planning area, the BLM allocated forage to specific resources and uses. As stated in the Jarbidge PRMP/FEIS: “when allocating forage, priority is given to watershed, wildlife, wild horses, and livestock, in that order” (Jarbidge PRMP/FEIS, p. 4-662).

Indicators

“Availability of forage for livestock grazing” and “restrictions on infrastructure for livestock grazing” were indicators used to analyze the impacts of land use plan decisions *to livestock grazing*. The impacts of livestock grazing decisions *to other resources and uses* were analyzed using each resource and uses’ respective indicators. For example, “the following indicators were used to analyze the impacts of Livestock Grazing actions on wildlife habitat:

- Change in upland acres of wildlife group habitats,
- Miles of riparian areas meeting or planned to be restored and managed to achieve proper functioning condition (PFC),
- Acres with management emphasis (available or unavailable for grazing, associated infrastructure and human disturbance), and
- Relative change in the amount of cover for wildlife.”

(Jarbidge PRMP/FEIS, p. 4-275)

NEPA Purpose and Need

Issue Number: PP-ID-Jarbidg-14-8-2

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: It is a great concern that FEIS ES-1 (Purpose and Need) places minerals, food, timber and fiber as the first part of the purpose and need for this RMP. FLPMA was the BLM's Organic Act. It was enacted for the purposes of establishing a coherent, comprehensive and systematic

approach to management and protection of the public lands. These lands are to be managed in a way that protects...“the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values.” Why isn't this the Purpose and Need, and not the food, fiber, timber, i.e. public subsidies for private extractive interests? The FEIS resoundingly fails to protect these values, as required under FLPMA.

Summary:

The Jarbidg PRMP/FEIS violates NEPA because its purpose and need focuses on extractive resources rather than protecting the natural environment.

Response:

In accordance with NEPA, the BLM has discretion to establish the purpose and need for action (40 CFR 1502.13). The BLM must construct its purpose and need to conform to existing decisions, policies, regulation, or law (BLM Handbook H-1790-1, Section 6.2).

The BLM established the purpose and need for the Jarbidg PRMP/FEIS, which is described at p. 1-1, to meet its land use planning mandate under FLPMA. The purpose and need provided the appropriate scope to allow the BLM to analyze a reasonable range of alternatives that represent substantially different approaches for managing the public lands in the planning area.

The “multiple use” mandate in FLPMA directs the BLM to examine an array of management options in plans. Resource values and resource uses in BLM plans strive for a balance in areas “...including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values...” (FLPMA, Section 103(c)). The purpose and need statement in the Jarbidg PRMP/FEIS does not explicitly focus on extractive resources over natural resources. Rather, the Jarbidg PRMP/FEIS stated that the Jarbidg Field Office will “maintain consistency with FLPMA, which includes” acknowledging the need for domestic resources from public lands, as well as promoting the “diversity and resilience of biological resources including special status species” and cultural, historical, and physical resources (Jarbidg PRMP/FEIS, p. 1-1 – p. 1-2). The purpose of the Jarbidg PRMP/FEIS is to manage all of the resource values and resources uses in the planning area, not prioritize a few select resources.

The BLM properly established the purpose and need for the Jarbidg PRMP/FEIS.

FLPMA - Consistency with Local Plans

Issue Number: PP-ID-Jarbidg-14-3-2

Organization: Owyhee County Board of Commissioners

Protestor: Jerry Hoagland/Kelly Aberasturi/Joe Merrick

Issue Excerpt Text: Owyhee County protests the plan as being inconsistent with the consistency requirements of FLPMA. Owyhee County disputes that the previous manager completed the requested consistency analysis with the corresponding explanation as to why inconsistencies could not be avoided. Even if such consistency analysis was completed by a former Jarbidge Field Office (JFO) manager and staff, the time of such action would have preceded the selection of a Draft Preferred Alternative and the subsequent edits and revisions of such a Draft in order to produce the current Proposed Plan. If done, such an analysis would not be in the spirit and intent or the FLPMA consistency requirement to make the adopted BLM plan consistent with existing county plans. Owyhee County Protests the inconsistencies which remain between the Proposed JFO Plan and the County's plans as evidenced by the

inconsistency statements provided by county to BLM in 2008 and 2010 which are attached as enclosures to this protest.

Issue Number: PP-ID-Jarbidge-14-3-3

Organization: Owyhee County Board of Commissioners

Protestor: Jerry Hoagland/Kelly Aberasturi/Joe Merrick

Issue Excerpt Text: Under FLPMA, BLM was required to make itself knowledgeable of existing County plans and to make BLM plans consistent with those county plans unless prevented from doing so by federal law. Under the provisions of the Protocol for Coordination signed by Owyhee County and JFO Field Manager, we met regularly with the BLM in an attempt to identify and resolve inconsistencies; however, the BLM failed to provide their required identification of inconsistencies and reasons for such. In addition, this failing by the BLM occurred during the development of the early drafts and continued uncorrected to the production of the Proposed Plan which has been published.

Summary:

The Jarbidge PRMP/FEIS violates FLPMA by not fully identifying inconsistencies with existing county plans.

Response:

Section 202 (c)(9) of FLPMA requires that “land use plans of the Secretary under this section shall be consistent with state and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act”. However, BLM land use plans may be inconsistent with officially approved or adopted resource related state, local, and Tribal plans where it is necessary to meet the purposes, policies, and programs associated with implementing FLPMA and other Federal laws and regulations applicable to public lands (43 CFR 1610.3-2(a)).

In accordance with this requirement the BLM has given consideration to state, local, and Tribal plans that are germane to the development of the Jarbidge PRMP/FEIS. BLM has worked with state, local, and Tribal governments during preparation of the Jarbidge PRMP/FEIS, as discussed in Chapter 5 of the document, specifically, Section 5.4, “Coordination with State and Local Government Agencies”. In addition, the BLM reviewed local plans, as listed in Section 1.6 of

the Jarbidge PRMP/FEIS, page 1-18, “Related Plans”, which lists the Owyhee County Comprehensive Plan, 2002, and the Owyhee County Natural Resources Plan, 2009.

Although the BLM is not required to review or identify inconsistencies in the PRMP/FEIS, it will discuss why any remaining inconsistencies between the Jarbidge PRMP/FEIS and existing Owyhee County plans cannot be resolved in the Record of Decision (ROD).

The BLM satisfied FLPMA’s consistency requirement in preparation of the Jarbidge PRMP/FEIS by considering, to the maximum extent possible, the Owyhee County Comprehensive Plan of 2002 as well as the Owyhee County Natural Resources Plan of 2009.

FLPMA – Multiple Use Mandate

Issue Number: PP-ID-Jarbidge-14-6-2

Organization: The Wilderness Society

Protestor: Nada Culver

Issue Excerpt Text: In the proposed RMP, BLM would not manage any of these 104,000 acres for protection of their wilderness characteristics. This proposed action would negate BLM’s multiple use mission established by FLPMA. By prioritizing development over the conservation of any LWC units, BLM fails to balance resource protection with all other resource-uses in the planning area.

Issue Number: PP-ID-Jarbidge-14-8-3

Organization: Western Watersheds Project

Summary:

The Jarbidge PRMP/FEIS violates FLPMA by not adequately protecting lands with wilderness characteristics and not expanding ACECs.

Response:

Section 102(a)(7) of FLPMA declares that it is the policy of the United States that management of the public lands be on the basis of “multiple use” and “sustained yield”. Section 103(c) of FLPMA defines “multiple use” as the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.

FLPMA’s multiple use policy does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses which involves tradeoffs between competing uses. Rather, the BLM has wide latitude to allocate the public lands to particular uses, and to employ the mechanism of land

Protestor: Katie Fite

Issue Excerpt Text: FLPMA lays out a goal of preserving and protecting public lands in their natural condition to the extent possible. Instead, the RMP with its massive livestock grazing allocation load, uncapped TNR, vegetation manipulation schemes (the livestock forage projects of the old RMP have been replaced with “fuels” projects in the new RMP, with the same outcomes). Failure to greatly expand ACECs (only designating 5% of the ACEC-eligible lands; see FEIS 2-459), will further destroy natural values and public lands environmental conditions.

use allocation to protect for certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary and undue degradation.

All alternatives considered in the Jarbidge PRMP/FEIS, as described in Chapter 2 of the Jarbidge PRMP/FEIS, provide an appropriate balance of uses on the public lands in a manner that is consistent with applicable statutes, regulations, and BLM policy.

Please see the ACEC and Lands with Wilderness Characteristics sections of this Director's Protest Report for more specific information related to ACECs and Lands with Wilderness Characteristics.

The Jarbidge PRMP/FEIS satisfies FLPMA's multiple use mandate.

Public Participation

Issue Number: PP-ID-Jarbidge-14-1-2
Organization: Flying H Land LLC/Flying H Farms Partnership
Protestor: Jeff Harper

Issue Excerpt Text: Pursuant to FLPMA's principles and authorities supporting public involvement and multiple use in the development of land use plans, the BLM should not have summarily re-buffed Flying H's efforts to participate more fully in the Jarbidge RMP/FEIS planning process and should have substantively addressed Flying H's repeated requests during the planning process to identify certain lands for disposal in the Jarbidge RMP/FEIS.

Issue Number: PP-ID-Jarbidge-14-1-5
Organization: Flying H Land LLC/Flying H Farms Partnership

Summary:

The Jarbidge PRMP/FEIS violates FLPMA because the BLM did not engage and listen to stakeholder concerns during preparation of the plan.

Response:

Under FLPMA, the BLM is required to establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and opportunity to comment on and participate in the development and execution of plans or programs on public lands (FLPMA, Section 309(e)).

Protestor: Jeff Harper

Issue Excerpt Text: Further, each fiscal year that a resource management plan is in preparation, the BLM is required to publish a "planning schedule advising the public of the status of each plan" 43 CFR § 1610.2(b). This annual report requirement which appears in the "public participation" section of the regulations appears geared to ensuring on-going public involvement throughout the planning process. Thus, the Field Office's refusal to consider Flying H's requests during the planning process that certain lands be identified in the Jarbidge RMP/EIS for disposal violated the BLM's regulations and was unjustified.

The Jarbidge Field Office (JFO) provided sufficient opportunities for the public to comment on the Jarbidge plan during scoping and after the release of the Draft RMP/EIS. Sections 5.5 and 5.6 of the Jarbidge PRMP/FEIS detailed the collaboration efforts and public participation opportunities throughout the plan's progression. Scoping meetings were held in May 2006, and open houses following the release of the draft RMP/EIS were conducted in September and October 2010. Further, the public comment period on the Draft RMP/EIS was extended from 90 days to 150 days.

The lands identified by the protestor were determined not to meet the FLPMA Section 23 criteria for disposal and thus are not identified as such in the PRMP/FEIS.

The BLM adequately engaged the public and partners on the Jarbidge PRMP/FEIS.

Wild Horses

Issue Number: PP-ID-Jarbidge-14-2-10

Organization: American Wild Horse Preservation Campaign/The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Neither is there anything in the FEIS that shows that an acceptable wild horse population cannot be maintained within the Saylor Creek HMA because of "habitat limitations." The preferred alternative establishes an upper limit of 200 wild horses as appropriate and sustainable for the Saylor Creek HMA (See Jarbidge FEIS at 4-550). A wild horse herd of 200 animals fits within BLM's recommended population size of the approximately 150 to 200 animals needed to maintain genetic diversity. In fact, even with Alternative III, which suggested an AML of 200-600 wild horses - the highest AML of all the alternatives - only noted that "[a]s the wild horse population approaches 600, localized over-grazing would increase in areas resulting in destabilizing soils, decreasing vigor of vegetation, and potentially decreasing forage production over the life of the plan" (Jarbidge FEIS at 4-548).

Issue Number: PP-ID-Jarbidge-14-2-11

Organization: American Wild Horse Preservation Campaign/The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Thus, all the evidence in the FEIS reveals that the Saylor Creek HMA currently supports and could continue to support the small herd of wild horses that currently reside there. Because BLM has not needed to intervene in managing the wild horse population within this HMA since the 1980s, there is absolutely no rationale set forth by the FEIS that BLM should start aggressively managing this herd now. Changing a stable, self-sustaining, and genetically diverse wild horse population into a non-reproducing herd that must be constantly repopulated with wild horses from other HMAs is not scientifically sound and violates the express dictates of the WHA, its implementing regulations, and the BLM's Handbook.

Issue Number: PP-ID-Jarbidge-14-2-2

Organization: American Wild Horse Preservation Campaign/The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: The WHA requires BLM to protect “wild free-roaming horses and burros” and to consider wild horses “as an integral part of the natural system of the public lands” (16 USC § 1331. To accomplish these goals, the WHA demands that “[a]ll management activities shall be at the minimal feasible level” 16 USC 1333. The Act’s implementing regulations further require that wild horses “shall be managed as self-sustaining populations of healthy animals,” 43 CFR §4700.0-6(a), and that “[m]anagement activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior” 43 CFR § 4700.0-6(c). A non-reproductive herd is by definition not self-sustaining. Indeed, the FEIS even states “[s]elf-sustaining refers to the process whereby established populations are able to persist and successfully produce viable offspring” (Jarbidge FEIS at 3-77). Thus, by changing the Saylor Creek HMA to a non-reproducing herd, BLM will act in direct violation of the WHA implementing regulations that requires “self-sustaining populations” (43 CFR § 4700.0-6(a)).

Issue Number: PP-ID-Jarbidge-14-2-3
Organization: American Wild Horse Preservation Campaign/The Cloud Foundation
Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Moreover, rounding up an entire herd of wild horses and permanently altering their reproductive capabilities, in a manner which has not been disclosed or analyzed in the FEIS, most certainly does not comply with the WHA mandate that “[a]ll management activities shall be at the minimal feasible level” (16 USC 1333). In fact, by stripping the Saylor Creek herd of its ability to reproduce, the FEIS acknowledges that the HMA would need to be constantly “repopulated with wild

horses” (Jarbidge FEIS at 4-549). This flies in the face of the WHA, particularly when there are far less intrusive ways to control the populations of these herds according to leading wild horse experts.

Issue Number: PP-ID-Jarbidge-14-2-5
Organization: American Wild Horse Preservation Campaign/The Cloud Foundation
Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Neither does the proposed action in any way maintain the free-roaming behavior of these wild horses, which is what many members of the public most value in observing, studying, and otherwise enjoying wild horses in Saylor Creek. Based on the best available scientific literature and opinions of the leading wild horse experts, it is well understood that a non-reproducing herd will essentially behave as tame or domesticated horses- a stark difference from the wild free- roaming horses currently residing within Saylor Creek.

Issue Number: PP-ID-Jarbidge-14-2-7
Organization: American Wild Horse Preservation Campaign/The Cloud Foundation
Protestor: Suzanne Roy/Ginger Kathrens

Issue Excerpt Text: Even if managing an HMA as a non-reproducing herd did not violate the WHA and its implementing regulations - which it clearly does – the BLM has not complied with its own Handbook when arbitrarily deciding to change the Saylor Creek HMA into a non-reproducing herd. To begin, BLM’s Handbook explains that a “minimum population size of 50 effective breeding animals (i.e., a total population size of about 150-200 animals) is currently recommended to maintain an acceptable level of genetic

diversity within reproducing WH&B populations” (Cothran, 2009) (BLM Handbook at 4.4.6.3 (emphasis added)). Only if this recommended population size “cannot be maintained due to habitat limitations (e.g., insufficient forage, water, cover and/or space)” should BLM consider options such as adjusting sex ratios and introducing wild horses from other herds in order to maintain a self-sustaining herd with sufficient genetic diversity. *Id.* Only if none of these options are feasible should BLM manage an HMA as a non-reproducing herd. *Id.* (“If wild horse herd size in small, isolated HMAs is so low that mitigation is not feasible, consideration should be given to managing the HMA for non-reproducing wild horses or to removing the area's designation as an HMA through LUP.”) (Emphasis added).

Issue Number: PP-ID-Jarbidge-14-2-9

Organization: American Wild Horse Preservation Campaign/The Cloud Foundation

Protestor: Suzanne Roy/Ginger Kathrens

Summary:

The Jarbidge PRMP/FEIS violates the Wild and Free-Roaming Horses and Burros Act of 1971 (WFRHBA), its implementing regulations, and BLM Handbook H-4700-1 by proposing to manage a non-reproducing herd in the Saylor Creek Herd Management Area (HMA).

Response:

BLM policy is that “[wild horses] shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat”, as required at 43 CFR 4700.0-6(a) (BLM Handbook H-4700-1, p. 16). However, managing for self-sustaining populations of wild horses and burros throughout the range does not require that wild horses in each HMA be self-sustaining. Under the WFRHBA (16 USC 1333(b)(1)), the authorized officer may determine whether Appropriate Management Level (AML) should be achieved by removal of excess animals, or if options such as sterilization or natural population controls should be implemented. Consistent with this authority, some selected HMAs may be managed for non-reproducing wild horses to aid in controlling on the range population numbers (BLM Handbook H-4700-1, p. 26).

BLM regulations require that “management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior” (43 CFR 4700.0-6(c)). Free-

Issue Excerpt Text: Nor does the FEIS establish that there are significant concerns with current wild horse population numbers or reproduction rates within the HMA. BLM’s 2014 inventory documented that the Saylor Creek HMA currently has 51 wild horses. According to the FEIS, BLM has only conducted two roundups within the Saylor Creek HMA to bring wild horse numbers within AML, and both occurred in the 1980s (Jarbidge FEIS at 3-76). Aside from these two roundups, the FEIS does not identify any other time that BLM has determined that it needed to reduce wild horse populations within this HMA (*Id.*). Since that time, the BLM has only conducted two emergency roundups (in 2005 and 2010) because of devastating wildfires. Jarbidge FEIS at 3-77. However, the majority of the wild horses rounded up during these emergency actions were eventually released back onto the HMA after the range recovered.

roaming behavior means that “[wild horses] are able to move without restriction by fences or other barriers within a HMA” (BLM Handbook H-4700-1, p. 57). Establishing the goal of managing a non-reproducing herd in the Saylor Creek HMA would not restrict the movement of wild horses in the Saylor Creek HMA, and thus does not conflict with the BLM’s goal of maintaining “free-roaming” behavior.

BLM regulations also require that “management [of wild horses] shall be at the minimum level necessary to attain the objectives identified in approved land use plans...” (43 CFR 4710.4). The “minimal feasible level of management” requirement does not apply to *land use plan objectives*, but rather it applies to the *implementation actions* necessary to attain land use plan objectives (BLM Handbook H-4700-1, p. 58).

In the Proposed Alternative of the Jarbidge PRMP/FEIS, the BLM establishes a *land use plan objective* of managing a non-reproducing herd in the Saylor Creek HMA. The Jarbidge PRMP/FEIS does not decide which specific population management tools or actions will be undertaken to achieve the objective of managing a non-reproducing herd. All specific management actions undertaken to meet the objective of managing a non-reproducing herd will be at the minimal feasible level.

The Jarbidge PRMP/FEIS establishes concerns with the impacts resulting from the current management of the Saylor Creek HMA. Currently, wild horses avoid large portions of the Saylor Creek HMA and concentrate their use heavily in two areas: “Over the past two decades, increased human activities associated with private lands and motorized recreation in the northeastern portion of the HMA has resulted in avoidance of portions of the HMA by wild horses. The horses have developed a strong affinity to preferred areas, or home ranges, within the Twin Butte and Dove Springs Allotments. Within the West Pasture of the Twin Butte Allotment, the horses spend the majority of their time in one of two favored areas that make up their home range” (Jarbidge PRMP/FEIS, p. 3-76).

Efforts to maintain dispersal of wild horses throughout the Saylor Creek HMA have not been successful: “Within approximately one year, the studs had breached the allotment division fence between the Grindstone and Thompson Allotments and joined the herd in the Thompson and Black Mesa Allotments. Early in 2007, the majority of the wild horses in the Thompson and Black Mesa Allotments (all but five horses) breached the allotment division fence and joined the horse herd in the home range of the West Pasture of the Twin Butte Allotment” (Jarbidge PRMP/FEIS, p. 3-77).

In addition, despite an application of the contraceptive vaccine Porcine zona pellucida (PZP), “between 2006 and 2010 the wild horse herd had an average annual growth rate of 18%” (Jarbidge PRMP/FEIS, p. 3-77).

BLM Handbook H-4700-1 provides examples of criteria that could be used to select HMAs for management of non-reproducing herds, which include “no special or unique herd characteristics, low ecologic condition, limited public land water, and reliance on private water” (BLM Handbook H-4700-1, p. 8).

These criteria apply to the Saylor Creek HMA, as detailed below.

The herd does not possess special or unique characteristics: “A DNA test of the Saylor Creek wild horse herd was performed following the 2010 emergency gather. The test found the genetic makeup is average for feral wild horse herds with no trace back to Spanish decent. Managing the Saylor Creek wild horses as a non-reproducing herd would result in a negligible loss of genetic diversity” (Jarbidge PRMP/FEIS, p. 4-550).

There is limited public land water in the Saylor Creek HMA and the Saylor Creek herd relies solely on pipeline systems installed to facilitate livestock management and support the horse herd. “Constant human presence associated with the development of private agricultural lands and some conversion of public lands to private land beginning in the 1960s slowly eliminated access to natural water at the Snake River, resulting in the herd’s total dependence on developed livestock water systems” (Jarbidge PRMP/FEIS, p. 3-76).

Managing a non-reproducing herd in the Saylor Creek HMA would improve ecologic condition. Maintaining a non-reproducing herd may reduce the instinct of males to breach fences to intermingle and challenge for control of neighboring bands (Jarbidge PRMP/FEIS, p. 4-550). Thus, managing a non-reproducing herd would allow the BLM to maintain “dispersal of bands of wild horses throughout allotments in the HMA [which] would help prevent the bands from reforming into large herds and would decrease localized effects of wild horse grazing relative to alternatives managing for reproducing herds” (Jarbidge PRMP/FEIS, p. 4-550).

The Jarbidge PRMP/FEIS complies with the WFRHBA, its implementing regulations, and BLM Handbook H-4700-1.

Climate Change

Issue Number: PP-ID-Jarbidge-14-8-27

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: Sec. Order 3289A1 requires BLM address actions to prevent and mitigate climate change effects, but instead of developing a suitable range of alternatives to mitigate these effects, the BLM increases the likelihood of adverse effects of climate change by increasing livestock disturbance, gutting ACECs which enables integrated and priority management to prevent natural resources from environmental harm, provides minimal actions to recover damaged riparian areas, forsakes protective annual measurable use standards to limit annual grazing harms and ensure progress is

being made under the FRH, etc. (See Steinfeld et al. 2006; Beschta et al. 2012, 2014; Comer et al. 2012; Manier et al. 2013). The BLM has failed to describe in detail how its actions will reverse the depletion and desertification trajectory in the JFO that feed into and worsen climate change effects. For example, cheatgrass is known to be advancing in hotter, drier sites (See Peterson (2007) Great Basin Ecoregional analysis, now the Comer et al. 2012 REA).

Issue Number: PP-ID-Jarbidge-14-8-38

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The BLM merely recites adverse effects of climate change and does not analyze them or develop any suitable alternatives to ameliorate and buffer these effects. The BLM ignores the information on desertification that we

provided and analysis that is required, including of the degree to which lands are diversified feeds into climate change (See Sheridan CEQ Report, Steinfeld et al. 2006).

Summary:

The Jarbidge PRMP/FEIS violates Secretarial Order 3289A1. The Jarbidge PRMP/FEIS mentions that climate change can change adverse impacts to the planning area, but it does not adequately analyze, nor provide sufficient measures for mitigating, the impacts from climate change.

Response:

DOI Secretarial Order 3289 and DOI Secretarial Order 3226 require that the BLM “consider[s] and analyze[s] potential climate change impacts when undertaking long-range planning exercises...developing multi-year management plans, and making major decisions regarding potential use of resources”. The BLM applies these Orders to the preparation of RMP revisions and amendments.

The BLM did disclose that global climate change has potential impacts on resources, but the time scale at which changes could occur will be “several decades to a century”, which “may not be measurably discernable over the life of the plan” (Jarbidge PRMP/FEIS, p. 4-41). However, the Jarbidge PRMP/FEIS considered and analyzed the potential impacts from climate change on the public lands in Section 4.3.1.2 of the PRMP/FEIS. Under the same section, the Jarbidge PRMP/FEIS also considered and analyzed the potential for public land management to contribute to climate change. The PRMP/FEIS examined the direct and indirect impacts to climate change from upland vegetation actions, wildland fire ecology and management actions, livestock grazing actions, land use authorization actions, and leasable minerals actions (Jarbidge PRMP/FEIS, p. 4-41 – p. 4-55), as these resources may have the potential for the greatest impact to climate change. Mitigation measures for the potential impacts on these resources from climate change are incorporated into management actions in Chapter 2 (Jarbidge PRMP/FEIS, p. 4-14). For example, in the management actions for upland vegetation actions common to all vegetation management areas (VMAs), UN-CA-MA-2 states that drought management guidelines, in Appendix F, will be implement to maintain or achieve long-term resource productivity (Jarbidge PRMP/FEIS, p. 2-63).

Alternative VI (Proposed RMP) included actions that addressed desertification concerns through restoration and vegetation change. The goals and objectives in the Upland Vegetation section focused on moving annual communities towards a more native shrub community over the life of the RMP (Jarbidge PRMP/FEIS, p. 4-174).

The BLM complied with Secretarial Order 3289 in developing the Jarbidge PRMP/FEIS.

Grazing

Issue Number: PP-ID-Jarbidge-14-4-6

Organization: Simplot Livestock Company

Protestor: Darcy Helmick

Issue Excerpt Text: Proposed Management Action UV-VI-MA-28: We protest these specific actions because management of soil crusts should be done on an allotment level, and should consider serial stages of ecologic potential, not just current status. 43 CFR 1610.5-2(a)(2)(iv): We protested this issue through comments made by Intermountain Range Consultants (Robert N. Schweigert)

on January 28, 2011. Per 43 CFR 1610.5-2(a)(2)(v): Specific actions, such as changing management actions or timing of activities and authorized uses should be addressed at the allotment level on a case by case basis, not at the RMP level. Activities other than authorized or permitted use, such as, but not limited to, wildland fire, must be taken into consideration at the allotment level prior to management decisions. This proposed management action should be removed from the RMP.

Summary:

The Jarbidge PRMP/FEIS cannot make allotment-level decisions regarding managing biological crusts in an RMP.

Response:

As part of the land use planning process, the BLM “must identify the actions anticipated to achieve desired outcomes, including actions to maintain, restore, or improve land health” (BLM Handbook H-1601-1, p. 13).

The Jarbidge PRMP/FEIS proposes to apply management action UV-VI-MA-28: “Assess biological soil crusts and manage them to move toward site potential by modifying levels and timing of BLM management activities and authorized uses during periods when soil crusts are most vulnerable to damage” (Jarbidge PRMP/FEIS, p. 2-342). Decision UV-VI-MA-28 would apply to all BLM management activities and authorized uses, not just to livestock grazing. Decision UV-VI-MA-28 establishes management actions that will be applied to future activities and authorizations, and does not change the terms and conditions of any current authorized use on public lands.

Any specific changes to livestock grazing in order to protect biological soil crusts would be done at the allotment level following a site-specific environmental review.

Greater Sage-Grouse

Issue Number: PP-ID-Jarbidge-14-6-6

Organization: The Wilderness Society

Protestor: Nada Culver

Issue Excerpt Text: Although the Proposed RMP delineates a Sage Grouse Management Area, the area is lacking in both specific management prescriptions and a clear, durable designation. The Proposed RMP fails to clearly define and delineate the management prescriptions for the Sage Grouse Management Area. It is not listed as a land-use allocation or special designation in the Proposed Alternative, but rather, is loosely mentioned throughout the management policies for right-of-way avoidance, land use constraints, and seasonal restrictions for mineral activity. Priority sage-grouse management areas should be formally designated using a special designation in the final plan. Whether as an area of critical environmental concern (ACEC) or an alternative type of administrative designation, specific management prescriptions should be applied to designated areas. When developing or amending a land use plan such as the Jarbidge RMP or the GRSG EIS, FLPMA specifically mandates that BLM “give priority to the designation and protection of areas of critical environmental concern” (43 USC § 1712(c)(3) (Emphasis added)). ACECs are areas “where special management is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes” (*Id.* § 1702(a)). Thus, the special management required for sage grouse protection justifies the inclusion (or partial inclusion) of the Sage Grouse Management Area as an ACEC. However,

the BLM could also use a different designation, such as the already named “Sage Grouse Management Area”, or the designation approaches incorporated in the HiLine (Montana) Draft RMP that are used to protect sage grouse and minimize habitat fragmentation: Grassland Bird/Greater Sage-Grouse Priority Areas and Greater Sage-Grouse Protection Priority Areas.

Issue Number: PP-ID-Jarbidge-14-6-8

Organization: The Wilderness Society

Protestor: Nada Culver

Issue Excerpt Text: In addition, we would recommend the following policy ambiguities be clarified for the Sage Grouse Management Area in the Jarbidge RMP:

- The specific size and boundaries of the Sage Grouse Management Area: The Proposed RMP lists the size as 990,000 acres (3-60); 988,000 acres (Proposed RMP at 4-423), and 893,000 acres (Proposed RMP at 4-470);
- The area of key sage-grouse habitat: The Proposed RMP lists total acres of key sage-grouse habitat as approximately 311,000 acres (Proposed RMP at 3-60) and 305,000 acres (Proposed RMP at 4-423);
- The length of the seasonal closures and its rationale: The Proposed RMP notes that there would be seasonal restrictions for the Sage-Grouse Management Area from March through June (Proposed RMP at 2-380). We note that the NSO period for sage grouse-habitat was decreased from Mid-February through mid-June to March through June from the Draft to Proposed RMP. There needs to be clarification on seasonal closures and scientific rationale behind such management decisions.
- Management for herbaceous cover: Chapter 4 of the Proposed RMP states that, “within this area residual herbaceous cover

would be managed to provide for four inches or more cover for sage-grouse nesting within three miles of occupied or unknown leks” (Proposed RMP at 4-470). There is no such management prescription listed in the proposed alternative in Chapter 2.

Issue Number: PP-ID-Jarbridge-14-8-28

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The BLM claims that April-June grass growth will result in acceptable nesting conditions. Connelly said residual cover, not hypothetical new growth. Grouse are gray and brown--not green. Residual dried grass cover conceals nesting birds. There will not be adequate early nesting cover, and grazing while birds are nesting heightens nest and egg damage, predation and even includes egg eating by cows (USFWS WBP GRSG Finding, recent Curlew Coates et al. USGS Report).

Issue Number: PP-ID-Jarbridge-14-8-30

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The BLM’s Special Status Species Policy, BLM Manual, Section 6840, requires that “BLM managers obtain and use the best available information deemed necessary to evaluate the status of special status species in areas affected by land use plans...” (Policy at 6840.22A.) BLM has a 2004 National Sage-Grouse Habitat Conservation Strategy, which BLM adopted “to guide future actions for conserving sage-grouse and associated sagebrush habitats” and...”help BLM ensure that it successfully incorporates sage-grouse conservation measures into all of its ongoing programs and activities”.

Issue Number: PP-ID-Jarbridge-14-8-31

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: The RMP has no real analysis range and controls on harmful seasons and manner of livestock use, as required by the NTT and IMs. It increases stocking even potentially above actual use, lacks any rest or non-use except in tiny or inaccessible areas, and would impose massive and unknown amounts of concentrated TNR and other harmful use without mandatory measurable controls.

Issue Number: PP-ID-Jarbridge-14-8-32

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: BLM is to “Evaluate existing structural range improvements ... to make sure they conserve, enhance or restore sage-grouse habitat.” *Id.* at 17 (Emphasis added). BLM has not done this. It did not carefully assess the impacts of the existing battery of projects.

Issue Number: PP-ID-Jarbridge-14-8-33

Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: IM 2012-043 carries through the NTT concerns. See e.g., IM 2012-043 at p. 5 (Grazing Permit/Leases Issuance/Grazing Management) (“Evaluate the potential risk to Greater Sage-Grouse and its habitats from existing structural range improvements. Address those structural range improvements identified as posing a risk during the renewal process.”) BLM did not adequately evaluate the overall and cumulative risk posed by the EIS alternative actions to important seasonal habitats. It did not evaluate risk of construction disturbance and impacts. It did not evaluate the depletion and disturbance risks posed by the projects.

Issue Number: PP-ID-Jarbidge-14-8-34
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: Timely and pertinent monitoring methods are necessary to understand impacts of RMP actions on sagebrush habitats, and the need for significant change and mitigation measures. Yet the RMP proposes only spotty, meager and minimal monitoring at cherry-picked sites. As the NTT describes: “Sage-grouse select habitats at multiple scales across large landscapes, which monitoring strategies for sage-grouse habitats must reflect. At the project level, a truly effective monitoring strategy will include measures as to how plant communities respond, how that relates to structural and other sage-grouse habitat requirements, and how sage-grouse populations respond demographically. Quantitative data for habitat measurements should be collected that are sensitive to the land use change being proposed, [and] monitoring must occur over the proper time frames to evaluate temporal variation of important components of sage grouse habitats” (*Id.* at 29 (citing literature)).

Issue Number: PP-ID-Jarbidge-14-8-37
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The NTT also recommended “Disturbance Thresholds”. Note in the highly fragmented Jarbidge, we do not believe these thresholds are sufficient. The habitats and populations are at the point where they can withstand no additional disturbance. However, we stress that BLM rejects its own science in its greatly deficient Alternatives, BMPs, SOPs, etc. The thresholds are as follows:
Disturbance thresholds recommended by the

NTT include:

- 3% surface disturbance cap
- one well per section cap
- 4-mile no surface occupancy buffers
- noise limited to less than 10 decibels above 20-24 dBA.

The NTT and IM were released in late 2011-early 2012.

Issue Number: PP-ID-Jarbidge-14-8-39
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: Key Sage Grouse Habitat PPH and PGH ignored. The Key Habitat mapping the DEIS alternatives were developed under was inaccurate and omitted important occupied habitats and leks. WWP repeatedly brought this to BLM's attention, and BLM refused to provide mapping of all key sage-grouse habitat in important land areas grazed by permittees Simplot and Brackett. (71 Desert and Poison Creek area). Showing the stranglehold that livestock interests and efforts by the agency's own range cons maintain on the FO habitat. BLM must clearly define what Key Habitat means, and how this relates to PPH/PGH.

Issue Number: PP-ID-Jarbidge-14-8-16
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The SSA stated that “BLM acknowledges and agrees that protecting and restoring sage-grouse and their habitat on the JFO is a high priority and consistent with FLPMA and other laws”. Yet the BLM failed to analyze an adequate range of protective measures and mitigations in the FEIS alternatives.

Summary:

The Jarbidge PRMP/FEIS violates FLPMA, BLM Manual Section 6840, and Washington Office Instruction Memorandum 2012-044. With regard to GRSG, the Jarbidge PRMP/FEIS:

- does not formally designate (e.g. ACEC) a priority greater sage-grouse management area;
- contains inconsistent and ambiguous acreage figures regarding greater sage-grouse management;
- is inaccurate regarding the species' early nesting cover needs;
- does not analyze existing structural range improvements;
- does not provide necessary controls for livestock grazing;
- does not provide an adequate monitoring plan;
- does not establish disturbance thresholds; and
- does not incorporate Preliminary Priority Habitat and Preliminary General Habitat.

Response:

While the Jarbidge PRMP includes some conservation/protective management for the GRSG habitat, the Idaho/SW Montana Resource Management Plan Amendment (RMPA) EIS and the Nevada/NE California RMPA EIS are also considering amendments to the Jarbidge RMP. The GRSG Amendments fully analyzed a range of alternatives for GRSG conservation, including recommendations from the December 2011 National Technical Team (NTT) Report consistent with BLM Instruction Memorandum No. 2012-044, and evaluated ACEC nominations for GRSG habitat. The RMPA EISs also identified priority and general habitat and addressed nesting cover needs, structural range improvements, livestock grazing, monitoring, and disturbance thresholds.

The BLM expects to make a comprehensive set of decisions for managing the GRSG on land administered by the Jarbidge Field Office in the RODs for the Idaho/SW Montana GRSG RMPA and the Nevada/NE California GRSG RMPA. The expected dates for approval of the RODs for the Idaho/SW Montana RMPA and the NV/NE California RMPA will closely follow approval of the ROD for the Jarbidge RMP revision.

Lands with Wilderness Characteristics

Issue Number: PP-ID-Jarbidge-14-6-4

Organization: The Wilderness Society

Protestor: Nada Culver

Issue Excerpt Text: Manual 6320 requires BLM to ensure that “wilderness characteristics inventories are considered and that, as warranted, lands with wilderness characteristics are protected in a manner consistent with this manual in BLM planning processes” (Manual 6320 at § .04(C)(2)). BLM found eighteen units to possess wilderness characteristics, but under the Proposed RMP, would not manage any

of those units to protect those wilderness characteristics. Importantly, BLM did not adequately document its rationale for not protecting any of the wilderness characteristics in the eighteen identified units.

BLM Manuals 6310 and 6320 require BLM to both maintain an inventory of lands with wilderness characteristics and document its consideration and decision-making regarding whether BLM manages identified LWC for the protection of those characteristics. With regard to the final

planning decision in an RMP on protection of lands with wilderness characteristics, Manual 6320 specifically requires documentation of, “the reasons for its determination regarding management of lands with wilderness characteristics”.

Asserting that, “all comprehensive and activity-based planning efforts and

implementation of such plans can serve to protect wilderness characteristics generally over the long term”, is not an adequate rationale for a complete absence of management (Jarbidge Proposed RMP at 4-659). Without specific management prescriptions, these lands are open to varying resource uses, regardless of actual or potential impacts, or protection needs.

Summary:

The Jarbidge PRMP/FEIS violates BLM Manual Section 6320. The Jarbidge PRMP/FEIS does not adequately protect lands with wilderness characteristics, and does not adequately document its rationale for not protecting lands with wilderness characteristics.

Response:

BLM Manual Section 6320.06 states that “the BLM will use the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM’s multiple-mandate. The BLM will consider a full range of alternatives for such lands when conducting land use planning.” BLM Manual Section 6320.06 specifically allows “emphasizing other multiple uses as a priority over protecting wilderness characteristics”. Thus, BLM policy does not require that the BLM protects certain lands with wilderness characteristics through the land use planning process; it merely requires that the BLM consider a full range of alternatives for managing lands with wilderness characteristics.

The Jarbidge PRMP/FEIS considers a full range of alternatives for managing lands with wilderness characteristics. The Jarbidge PRMP/FEIS analyzed alternatives that protected no wilderness characteristics (Alternatives II, III, and VI), some wilderness characteristics (Alternatives I and IV), and all wilderness characteristics (Alternatives V) on lands with wilderness characteristics in the Jarbidge planning area. This is consistent with the Manual.

BLM Manual Section 6320.06.A.2.g directs the BLM to “document the reasons for its determination regarding management of lands with wilderness characteristics”. The BLM considers many factors regarding the management of lands with wilderness characteristics (BLM Manual Section 6320.06.A.1), and ultimately must “consider both the resources that would be forgone or adversely affected, and the resources that would benefit under each alternative” in making the final land use plan decision regarding the management of lands with wilderness characteristics (BLM Manual Section 6320.06.A.2.g).

The Jarbidge PRMP/FEIS analyzes the impacts to other resources and uses from lands with wilderness characteristics management (see Jarbidge PRMP/FEIS, Chapter 4), and analyzes the impacts to lands with wilderness characteristics from management related to a variety of resources and uses (see Jarbidge PRMP/FEIS, Section 4.3.14). Based on this impacts analysis, the BLM determined that Alternative VI represents the best management of lands with wilderness characteristics in relation to all other resources and uses in the Jarbidge planning area. Further rationale will be presented in the Jarbidge ROD.

The Jarbidge PRMP/FEIS fully complies with BLM Manual Section 6320.

Stipulated Settlement Agreement

Issue Number: PP-ID-Jarbidge-14-8-13
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM was to establish reference areas. BLM consistently ignored WWP input that tiny little fenced-off areas near fence corners were not sufficient reference areas and should not be considered viable alternatives, because they would add even more of a burden of fencing to the region and its antelope, sage-grouse and migratory birds that have serious problems with fences. Plus they would not be large enough for meaningful comparisons including for wildlife use.

Issue Number: PP-ID-Jarbidge-14-8-15
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM was to establish guidelines for drought. While there is a section on drought, there remain no clear and guaranteed actions to control grazing impacts during drought. Plus BLM used this as an excuse to sneak in consideration of more harmful “temporary” livestock facilities.

Issue Number: PP-ID-Jarbidge-14-8-24
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: Despite the SSA, BLM has provided no mapping and coherent planning for conserving sage-grouse yet has laid out mapping identifying habitats for both winter range and restoration for mule deer. BLM then uses this planning to overlay more restrictive mineral leasing,

geothermal and other actions on mule deer habitats than for grouse.

Issue Number: PP-ID-Jarbidge-14-8-25
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM stated in the DEIS at 2-143: “the purpose of allocating vegetation is to determine the total AUMs available for livestock grazing”. We again stress that the huge livestock disturbance footprint conflicts with TES species, recreation, etc., and the need for recovery of native components must be factored into any RMP grazing allocation, and it has not been. This is also necessary to comply with the SSA.

Issue Number: PP-ID-Jarbidge-14-8-4
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: Under the SSA, BLM was required to establish protocols and develop data necessary to evaluate current populations and habitats for BLM-designated sensitive species across the Jarbidge. BLM has not provided substantive current data in the RMP to base the RMP FEIS analysis on, and there are large gaps in data on current habitats and populations of sensitive species.

Issue Number: PP-ID-Jarbidge-14-8-40
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM is required by the Settlement Agreement to “make determinations for future management of the

Jarbidge FO consistent with the requirements of FLPMA and NEPA implementing regulations, and BLM's Planning Manual and Handbook". By developing alternatives with provisions, and in the case of II, II, VI, and portions of IV and the poison-pilled Alt V, which are not consistent with FLPMA and NEPA in the context of the severely altered JFO, BLM has violated the SSA. BLM is also required to consider that info including science is submitted. Many components of the Alternatives are NOT consistent with current ecological science in the context of the large-scale habitat losses and population declines for sagebrush species in the Jarbidge that WWP has submitted throughout this process.

Issue Number: PP-ID-Jarbidge-14-8-41
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The Settlement requires that BLM "establish appropriate protocols and develop data necessary to evaluate current populations and habitats for BLM-designated 'sensitive' species on the Jarbidge FO...". The RMP fails to do this for sage-grouse, pygmy rabbit, bull trout and other rare, declining and imperiled species.

Issue Number: PP-ID-Jarbidge-14-8-9
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM was required to consider a "No Grazing" alternative and other alternatives. BLM has failed to evaluate a No Grazing alternative in the FEIS, not even as a comparison with its severe grazing disturbance alternatives so the agency could properly gauge how harmful its grazing load really was.

Issue Number: PP-ID-Jarbidge-14-8-6
Organization: Western Watersheds Project

Protestor: Katie Fite

Issue Excerpt Text: BLM was required by the SSA to consider utilization, trends, and other monitoring data. Yet the Affected Environment section of the EIS is minimal and presents information in a manner that favors the limited near-status quo or increased stocking/continued largely full throttle exploitation alternatives. It is particularly deficient, providing hardly any concrete analysis of any component of the environment.

Issue Number: PP-ID-Jarbidge-14-8-7
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM was to address desired outcomes, allowable uses, and management actions. Current ecological science and necessary data is not used in assessing desired outcomes, there is no certainty what levels of allowable use will be, management actions are loose, uncertain, and often mere platitudes.

Issue Number: PP-ID-Jarbidge-14-8-8
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM was required to consider lands available and not available to livestock grazing considering factors including other uses of the land, terrain characteristics, soil, vegetation, and watershed characteristics, the presence of undesirable vegetation including significant weed infestations, and the presence of other resources that may require special management or attention such as special status species, special recreation areas, or areas of critical environmental concern. BLM has failed miserably. It has ignored conducting any kind of valid conflict analysis, capability, suitability or other

similar analyses. It has downplayed the adverse effects of livestock grazing at location/load, grazing disturbance adverse effects, the astonishing amount of roading and livestock infrastructure, energy development, minerals, that would be imposed to an extraordinary degree (FEIS 2-445 to 2-459), made nearly all grazable lands available to livestock, ignored the myriad competing public uses of the public land other than livestock, ignored grazing weed expansion risk- from the adverse

effects to soils including causing cheatgrass by trampling crusts, creating hoof pocks in wet soils where weeds germinate and also tearing apart crusts, degradation of the proper composition, function and structure of native vegetation communities (Fleischner 1994, Connelly et al. 2004, Manier et al. 2013).

Summary:

The Jarbidge PRMP/FEIS violates the Stipulated Settlement Agreement between Western Watersheds Project and the BLM. The Jarbidge PRMP/FEIS:

- does not adequately establish reference areas;
- does not establish guidelines for drought;
- does not analyze a range of protective measures, mitigation, and maps for the greater sage-grouse and its habitat;
- does not analyze a “no grazing” alternative;
- does not establish criteria for issuing new livestock grazing permits;
- does not consider livestock disturbance and resource conflicts when establishing livestock grazing allocations;
- does not establish protocols and develop necessary data with regard to sensitive species and their habitats;
- does not consider science submitted by Western Watersheds Project;
- does not adequately address desired outcomes, allowable uses, and management actions; and
- does not consider utilization, trends, and other monitoring data.

Response:

The BLM’s actions have been consistent with the provisions of the 2005 SSA.

Reference Areas

Appendix O of the Jarbidge PRMP/FEIS describes the experimental and sampling design the BLM employed for establishing upland and riparian reference areas.

The BLM analyzed three different size options for reference areas: pasture-sized (average of 4,700 acres), 160 acres, and 40 acres. The BLM compared the reasonableness, benefits, and impacts of each size (Jarbidge PRMP/FEIS, p. A-388—A-389). The BLM determined that 40 acres was the smallest feasible size for a reference area: “The smallest reference area size considered was 40 acres. The 40-acre size was identified as the smallest size where edge effects due to fencing (e.g., weed accumulation, moisture accumulation) would not affect the majority of the reference area and would still be large enough to be used by wildlife in the same ways the higher acreage areas would provide” (Jarbidge PRMP/FEIS, p. A-389).

Therefore, the Jarbidge PRMP/FEIS proposes to establish up to 52 upland reference areas, which would each be up to 40 acres in size: “UV-VI-MA-25. Establish up to 52 ungrazed upland reference areas in annual, non-native perennial, non-native understory, native grassland, and native shrubland communities (Map 15). Each upland reference area could be up to 40 acres in size and would be paired with an adjacent grazed area in a similar vegetation type and condition to monitor the effects of livestock grazing on a variety of plant communities.” (Jarbidge PRMP/FEIS, p. 2-342)

The BLM determined that reference areas for riparian areas needed to be larger than reference areas for upland areas, because “the linear nature of riparian areas does not lend itself well to strict 160- and 40-acre size restrictions” (Jarbidge PRMP/FEIS, p. A-392). Accordingly, the BLM proposes to establish up to 10 riparian reference areas, which would cover up to 3,000 acres in total: “RI-VI-MA-4. Establish up to 10 ungrazed riparian reference areas (up to 3,000 acres total; Map 15). Each riparian reference area would be paired with an adjacent grazed area in a similar vegetation type and condition to monitor the effects of livestock grazing on a variety of plant communities” (Jarbidge PRMP/FEIS, p. 2-344).

The Jarbidge PRMP/FEIS establishes reference areas of adequate size to allow comparisons for future evaluation of livestock grazing impacts on public lands of the Jarbidge Field Office.

Drought Guidelines

The Jarbidge PRMP/FEIS establishes guidelines for drought management in Appendix F. Appendix F provides clear actions that the BLM could take during a drought if necessary to meet resource objectives (see Jarbidge PRMP/FEIS, p. A-192).

Sage-Grouse Protective Measures

While the Jarbidge PRMP/FEIS includes some conservation/protective management for Greater Sage- Grouse (GRSG) habitat, the Idaho/SW Montana and the Nevada/SE California Greater GRSG Plan Amendments and EIS’ are also considering amendments to the Jarbidge RMP. The GRSG Amendments will fully analyze a range of alternatives for GRSG conservation, including recommendations from the December 2011 National Technical Team (NTT) Report consistent with BLM Instruction Memorandum No. 2012-044.

This IM provides guidance on the protection of unfragmented habitats, minimization of habitat loss and fragmentation, and management of habitats in order to maintain, enhance or restore conditions that meet GRSG life history needs. Specifically, this policy provides interim conservation policies and procedures to be applied to ongoing and proposed authorizations and activities that affect the GRSG and its habitat.

In the GRSG regional planning efforts, the BLM considered all applicable conservation measures from the National Technical Team Report as directed by Instruction Memo No. 2012-044. The completion dates of the RODs for the Idaho/SW Montana RMPA and the NV/NE California RMPA will follow approval of the Jarbidge RMP ROD. At the completion of these regional planning efforts, the Jarbidge RMP’s GRSG protective measures will be amended to conform to national policy to protect the continued existence of the GRSG.

“No Grazing” Alternative

The BLM’s consideration of a “No Grazing” alternative is addressed in the “NEPA-Range of Alternatives” section of this Director’s Protest Resolution Report.

Criteria for Grazing Permits

The Jarbidge PRMP/FEIS establishes various management actions that the BLM will undertake as part of the Proposed Alternative (Jarbidge PRMP/FEIS p. 2-363—2-365). These management actions serve as criteria that the BLM will consider when issuing new livestock grazing permits. Example of management actions are provided below:

- Management Action LG-CA-MA-1 sets forth an adaptive management framework that would be applied through the permit renewal process that relies on using grazing use indicators, such as utilization and soil alternation, to meet resource objectives.
- Management Action LG-CA-MA-11 establishes criteria for modifying, discontinuing, or relocating grazing activities.
- Management Action LG-VI-MA-2 establishes criteria for determining utilization limits.

Considerations when Establishing Livestock Grazing Allocations

The BLM did consider livestock disturbance and resource conflicts when establishing grazing allocations in the Jarbidge PRMP/FEIS. Through Chapter 3 and 4, the Jarbidge PRMP/FEIS discloses the manner in which livestock grazing impacts other resources.

For example, the Jarbidge PRMP/FEIS discusses adverse impacts from livestock grazing to riparian areas: “Research shows that riparian areas quickly improve when they are fenced to exclude grazing. A 10-year riparian grazing study on a cold mountain meadow riparian system in central Idaho found that stream channels narrowed, stream width-to-depth ratios were reduced, and channel substrate embeddedness decreased under a no grazing, light grazing (20% to 25%), and medium grazing (35% to 50%) system (Clary, 1999). Stream bank stability increased, and streamside willow communities increased in both height and cover under all three grazing treatments. Virtually all stream channel measurements improved when pastures were not grazed” (Jarbidge PRMP/FEIS, p. 4-222)

Similarly, the Jarbidge PRMP/FEIS discusses adverse impacts from livestock grazing to wildlife. For example, the Jarbidge PRMP/FEIS discloses the impacts of livestock grazing on residual herbaceous cover, which is utilized by wildlife, particularly ground-nesting birds: “Livestock grazing reduces seasonally herbaceous cover (DeLong et al., 1995; Loft et al., 1987; Medin and Clary, 1989) and may influence plant species composition and abundance in riparian areas (Dobkin et al., 1998) and uplands (Reynolds and Trost, 1980). The degree of impact is dependent on historic grazing, plant species, stocking rate, season of use, use levels, and other management practices. In general as the number of animal unit months (AUMs) increase, the amount of residual herbaceous cover would be reduced because of increased consumption and trampling by livestock” (Jarbidge PRMP/FEIS, p. 4-273).

Another example of a resource conflict discussed in the Jarbidge PRMP/FEIS is the impact from livestock grazing to watershed function: “Livestock grazing can directly impact water infiltration into the soil due to trampling, soil compaction, and loss of vegetation cover in both upland and riparian areas. This can accelerate surface erosion and increase the amount of fine sediment and

nutrients introduced to streams. Accelerated erosion results in an increase in erosion of surface fecal wastes, which can increase bacterial concentrations in streams through direct introductions to water or riparian areas” (Jarbidge PRMP/FEIS, p. 4-119)

The BLM developed alternatives for livestock grazing to resolve the resource conflicts from livestock disturbance documented in the Jarbidge PRMP/FEIS and partially described above. For example, all alternatives would make some riparian areas unavailable to livestock grazing. Alternative V would substantially reduce grazing through the Jarbidge planning area, by making sensitive areas such as canyons and riparian corridors, some ACECs, and the Brown’s Bench/China Mountain area unavailable to grazing (Jarbidge PRMP/FEIS, p. 2-412 –2-413).

Alternatives IV and V analyzed in the Jarbidge PRMP/FEIS would also substantially reduce the percentage of vegetation production allocated to livestock, which would reduce the level of livestock use and benefit watershed function and wildlife. For example, Alternative V would only allocate 10-20% of perennial grass production to livestock grazing, and would allocate no annual grass or shrub and forb production to livestock grazing. Whereas, Alternative V would allocate 80-90% of perennial grass production to watershed and wildlife purposes, and would allocate 100% of annual grass production and shrub and forb production to watershed and wildlife purposes (Jarbidge PRMP/FEIS, p. 2-412 –2-413).

Special Status Species

The BLM’s consideration of Special Status Species is addressed in the “Special Status Species” section of this Director’s Protest Resolution Report.

Consideration of Science Submitted by the Public

NEPA regulations require the BLM to “insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24). The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, Section 6.8.1.2).

The BLM considered all scientific information submitted by the public, and it included the information as appropriate in the Jarbidge PRMP/FEIS. The BLM relied on peer-reviewed science to the extent that it was available. Please see the “Works Cited” section of the Jarbidge PRMP/FEIS (p. WC-1 – WC-43) for a complete list of all scientific information referenced in the Jarbidge PRMP/FEIS.

Desired Outcomes, Allowable Uses, and Management Actions

The Jarbidge PRMP/FEIS does address desired outcomes, allowable uses, and management actions in the Jarbidge planning area. As stated in the Jarbidge PRMP/FEIS: “Each alternative includes guidance for achieving desired future conditions based on the following components:

- Resource management goals and objectives,
- Management actions to meet goals and objectives, and
- Allocations of land and resources to facilitate multiple resource management” (Jarbidge PRMP/FEIS, p. 2-1)

Utilization, Trends, and other Monitoring Data

NEPA regulations require that EISs “succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The description shall be no longer than is necessary to understand the effects of the alternatives” (40 CFR 1502.15).

The BLM considered utilization, trend, and other monitoring data throughout the description of the affected environment (Chapter 3) in the Jarbidge PRMP/FEIS. For example, Table 3-51 documents monitoring data about the effects of current livestock utilization on rangeland health (Jarbidge PRMP/FEIS, p. 3-86). The description of the affected environment was sufficient to support the impacts analysis presented in Chapter 4 of the Jarbidge PRMP/FEIS.

The management proposed in the Jarbidge PRMP/FEIS is consistent with FLPMA, NEPA, implementing regulations, and BLM Handbooks H-1600-1 and H-1790-1.

Areas of Critical Environmental Concern Policy

Issue Number: PP-ID-Jarbidge-14-8-12
Organization: Western Watersheds Project
Protestor: Katie Fite

ACECs, and instead guts the B-J bighorn sheep ACEC -which contains some of the only unseeded and intact Wyoming big sage and salt desert shrub inclusion communities remaining in the FO. Yet FLPMA requires that BLM give priority to ACECs.

Issue Excerpt Text: In the FEIS, BLM would not even consider any additional

Summary:

The Jarbidge PRMP/FEIS violates FLPMA by failing to give priority to ACECs. The Jarbidge PRMP/FEIS does not consider additional ACECs and reduces protections for the Bruneau-Jarbidge ACEC.

Response:

Section 202(c)(3) requires that the BLM shall “give priority to the designation and protection of areas of critical environmental concern” when revising RMPs. As stated in BLM Manual Section 1613.06: “FLPMA requires that priority shall be given to the designation and protection of ACEC's...Therefore, BLM managers will give precedence to the identification, evaluation, and designation of areas which require ‘special management attention’ during resource management planning.” However, the BLM is not required to designate all potential ACECs as ACECs and consequently is not required to provide special management attention to areas not designated. For example, “situations in which no special management attention would be prescribed (and therefore no designation) include those in which the allowable uses being prescribed for the vicinity could not result in harmful effects to the important and relevant resources values and those in which the alternative would necessitate the sacrifice of the potential ACEC values to achieve other purposes” (BLM Manual Section 1613.22.B.1).

During preparation of the Jarbidge PRMP/FEIS, precedence was given to the identification, evaluation, and designation of ACECs. The BLM evaluated all areas internally and externally nominated for ACEC designation in the Jarbidge planning area. The BLM documented which nominated ACECs met both the relevance and importance criteria in Appendix M of the Jarbidge

PRMP/FEIS, and analyzed designating all areas meeting both the relevance and importance criteria as an ACEC in at least one alternative in both the Draft Jarbidge RMP/EIS and PRMP/FEIS.

Portions of the Bruneau-Jarbidge ACEC area that are not proposed for designation in the PRMP/FEIS are adequately protected. The BLM determined that relevant and important values in the Bruneau-Jarbidge ACEC are adequately protected by management prescriptions established for the Bruneau-Jarbidge Rivers Wilderness Area, the Upper Bruneau Canyon ACEC, wild and scenic river corridors, and sage-grouse management areas (all of which overlap the Bruneau-Jarbidge ACEC).

The Jarbidge PRMP/FEIS complies with FLPMA and BLM policy regarding ACECs.

Visual Resource Management

Issue Number: PP-ID-Jarbidge-14-8-21
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM has not even provided the public with its obviously flawed and biased Visual Report. It continues to be absent in the RMP FEIS appendices.

Summary:

The Jarbidge PRMP/FEIS does not sufficiently disclose or discuss the visual resource inventory (VRI).

Response:

Section 201(a) of FLPMA requires that the BLM “Prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values” and that “this inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.”

Section 202(c)(4) of FLPMA requires that “in the development and revision of land use plans, the Secretary shall...rely, to the extent it is available, on the inventory of the public lands, their resources, and other values.”

Section 3.3.13 of the Jarbidge PRMP/FEIS stated that the visual resource management (VRM) system is designed to assist with identifying visual values of the landscape, and to minimize the visual impacts on public lands. For the Jarbidge PRMP/FEIS, a visual resource inventory (VRI) was conducted between October 2007 and March 2008 for the planning area (Jarbidge PRMP/FEIS, p. 3-81). Map 40 illustrates the visual resource inventory classes in the Jarbidge planning area (Jarbidge PRMP/FEIS, p. M-40). A reference to the 2008 inventory (last updated in 2013) was contained in the Work Cited chapter of the plan. The Visual Resource Inventory Technical Report used for the VRM analysis in the Jarbidge PRMP/FEIS can be obtained from the BLM upon request (Jarbidge PRMP/FEIS, p. A-617), and is available for public review at the Jarbidge Field Office.

The Jarbidge PRMP/FEIS adequately utilized and referenced the VRI information.

Fire

Issue Number: PP-ID-Jarbidge-14-8-26
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: The BLM points to its ever-changing planning handbook. Nothing

in FLPMA, which should provide the overarching basis for understanding Land Use Planning, refers to artificial, often arbitrary and ever-changing FRCC categories layered with complicated modeling as the basis for managing this landscape.

Summary:

The Jarbidge PRMP/FEIS violates FLPMA because it uses Fire Regime Condition Class (FRCC) categories for wildland fire management.

Response:

Appendix C of the BLM Land Use Planning Handbook refers to DOI and BLM Fire Management Manuals and Handbooks for further guidance on wildland fire management (BLM Handbook H-1601-1, p. 11 – p. 12). The BLM Fire Planning Handbook states that one of the goals and objectives requires “use of the FRCC or similar concept to describe current and desired conditions. Land-Use Planning must incorporate the FRCC concept by presenting the historic fire regime, current condition class, and desired future conditions” (BLM Handbook H-9211-1, p. 2-6).

Fire Regime Condition Class (FRCC) measures the departure from historical vegetation seral classes and fire frequency. Section 3.3.9 of the Jarbidge PRMP/FEIS briefly discussed the use of FRCC (Jarbidge PRMP/FEIS, p. A-656).

The Jarbidge PRMP/FEIS is consistent with BLM policy for wildland fire ecology and management.

Special Status Species

Issue Number: PP-ID-Jarbidge-14-8-29
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: It is inappropriate for the BLM to rely on lumping so many important species, often with specific and differing habitat needs, into “guilds”. The BLM cannot comply with its sensitive species policy, the Migratory Bird Treaty Act, with such cursory analysis.

Issue Number: PP-ID-Jarbidge-14-8-5
Organization: Western Watersheds Project
Protestor: Katie Fite

Issue Excerpt Text: BLM’s EIS lumps sensitive species into guilds/groups, and provides old, stale info and minimal to no analysis for many important sensitive species particular survival needs. For the few species that get a few sentences of specific mention, the BLM provides only the most censored, limited and often slanted analysis fraught with omissions.

Summary:

The Jarbidge PRMP/FEIS violates BLM's Special Status Species policy and the Migratory Bird Act. The Jarbidge PRMP/FEIS does not adequately analyze the impacts to important species by only analyzing impacts to 'guilds' of species.

Response:

A primary objective of the BLM Special Status Species policy is to initiate proactive conservation measures that reduce or eliminate threats to Bureau sensitive species to minimize the likelihood of and need for listing of a species under the ESA (BLM Manual Section 6840.02 B).

The BLM has discretion in succinctly describing "the environment of the area(s) to be affected or created by the alternatives under consideration" (40 CFR 1502.15). The BLM disclosed in Chapter 3 of the Jarbidge PRMP/FEIS that species were placed into groups by habitat to efficiently analyze the impacts on the diverse number of special status wildlife (Jarbidge PRMP/FEIS, p. 3-59). The Affected Environment chapter of the PRMP/FEIS continued to give a brief description of the habitat for species that fall into specific groups. Furthermore, in Appendix P of the PRMP/FEIS, the response to comments from the draft RMP/EIS notes that the "Final EIS replaced the term guild with group to be more accurate. The adoption of groups was intended to simplify the analyses for the general public and help reduce document length" (Jarbidge PRMP/FEIS, p. A-690). These groups align with the habitats that are outlined in both Idaho and Nevada State wildlife conservation plans. The Idaho Department of Fish and Game was a cooperating agency and believed the groups were appropriate (Jarbidge PRMP/FEIS, p. A-690).

With regard to the Migratory Bird Treaty Act concern, the BLM responded to this in Appendix P of the Jarbidge PRMP/FEIS: "Alternative VI (Proposed RMP) in the Final EIS contained an updated management action specific to eagles including a nest buffer (WI-CA-MA-5). The project proponent would develop an Eagle Conservation Plan and Avian Protection Plan in coordination with and approval of the US Fish and Wildlife Service. The BLM does not develop or approve either plan. Design features from the Records of Decision for the Implementation of a Wind Energy Development Program and Associated Land Use Plan Documents (BLM, 2005) and the Solar Energy Development in six (6) Southwestern States (BLM and DOE, 2012) Records of Decision were adopted for projects regarding siting, data collection prior to development for bats, raptors, and songbirds and other species, data collection during all seasons and post development monitoring needed for adaptive management to reduce impacts for raptors, bats, and songbirds" (Jarbidge PRMP/FEIS, p. A-585).

The management proposed in the Jarbidge PRMP/FEIS complies with BLM's Special Status Species policy and the Migratory Bird Act.