

## DECISION RECORD

### OVERFLOW WETLANDS AREA OF CRITICAL ENVIRONMENTAL CONCERN ACTIVITY PLAN AND ENVIRONMENTAL ASSESSMENT NM-060-2003-168

On October 1, 2003, the Roswell Field Office of the Bureau of Land Management (BLM) issued the finding of no significant impact (FONSI) for environmental assessment (EA) No. NM-060-2003-168 and the Activity Plan for the Overflow Wetlands Area of Critical Environmental Concern (ACEC). This opened a 45-day period for public review and comments which closed on November 14, 2003. During the comment period the Roswell Field Office received four letters which contained 21 specific comments. Those comments and responses follow.

1. The EA and Activity Plan do not conform to the 1997 Roswell Resource Management Plan (RMP) because of livestock grazing allowed within the ACEC.

The management prescription for the ACEC found in the RMP does not preclude livestock grazing. BLM has made the adjustments called for in the RMP and will continue to monitor the ACEC. Changes would be made in accordance with those shown as needed by the monitoring data.

2. The EA and Activity Plan does not meet BLM's obligation to place wildlife protection above all other uses within the ACEC.

BLM disagrees with the comment. The EA and Activity Plan implement the special management prescriptions outlined in the RMP.

3. Multiple use law does not apply in an ACEC.

BLM disagrees with this comment. Section 102(a) and Section 202(c) of the Federal Land Policy and Management Act (FLPMA) apply in this situation. BLM Manual 1613, Areas of Critical Environmental Concern, gives guidance and policy for establishing an ACEC. Neither FLPMA, nor Manual 1613 preclude any given activity within an ACEC. Instead the guidance from the manual states special management attention is required to establish an ACEC. The special management attention is found in the RMP.

4. The maximum amount of protection from human disturbance, especially off-highway vehicles, hunting, roads, and livestock grazing should be the main forms of restoration within the ACEC.

BLM Manual 1613.06, Policy, states in part, that "ACEC designation will not be used as a substitute for wilderness suitability recommendations." Maximum protection, as described by the commenter, would violate this policy.

5. The commenter questions to what extent salt cedar encroachment needs to be attacked by chemical methods.

BLM did not make clear its preferred method of salt cedar eradication in either the EA or the Activity Plan. Within the ACEC BLM prefers to remove salt cedar by mechanical means and then burn piles. A secondary treatment may be necessary to control sprouts and seedlings. The need for a secondary treatment would be based on monitoring the treated areas. Sprouts and seedlings would be treated with an approved herbicide by ground-based spraying. BLM does not anticipate the area treated with herbicide to exceed the initial mechanically treated area.

6. Displacement of salt cedar by native vegetation in the areas closed to livestock grazing should be included as a monitoring action under Objective 7 of the Activity Plan.

This suggestion would be covered by several of the action items found under Objective 7 of the Activity Plan (pages 15 and 16).

7. The BLM should close the entire ACEC to off road vehicles. The principle purpose of this ACEC is to protect wildlife, not to provide recreational opportunities.

BLM disagrees with this comment. See response to comments #3 and #4.

8. The Activity Plan does not appear to implement the 1997 RMP by excluding rights-of-way on 3,000 acres of public land to benefit wildlife. The plan includes opening new rights-of way under Objective 5.

BLM disagrees with this comment. The Activity Plan (page 3) states that major rights-of-way have been excluded on about 3,000 acres of public land with the Overflow Wetlands. The RMP defines major rights-of-way as electric transmission lines; pipelines 10 inches in diameter or larger; communication lines for interstate use; federal, state and interstate highways; and major county and private roads. Objective 5 of the Activity Plan contains no provisions for new rights-of-way within the ACEC.

9. Hunting is incompatible with the purpose of the ACEC to protect wildlife.

The management goal of the ACEC is to protect and enhance the wildlife habitat within the ACEC. This goal includes game species and non-game species. Only waterfowl hunting, under laws and regulations set by the State of New Mexico, would be allowed within the ACEC. Additionally, the ACEC provides one of the few areas of public land for waterfowl hunters. BLM believes waterfowl hunting is not incompatible with the purpose of the ACEC.

10. Page 4 of the Activity Plan states an area within one-half mile of the sandhill crane roost at the Southwest Pond would be proposed as closed to hunting to the New Mexico Department of Game and Fish. How large will this area be?

Until BLM confers and coordinates with the New Mexico Department of Game and Fish (NMDGF), the exact size of the proposed closure will not be known.

11. Due to fluctuations in water depth in the ponds and basins within the ACEC the commenter recommends deleting references to the Southwest Pond as a crane roost but retaining the proposal to close the area to hunting.

BLM accepts the recommendation. When BLM confers with NMDGF about hunting closures in the ACEC BLM will use monitoring data that represents the existing situation.

12. Precise, well-marked waterfowl hunting boundaries should be established.

BLM agrees and when other priorities have been dealt with, BLM, in cooperation with NMDGF, will establish boundaries of the waterfowl hunting area.

13. Because waterfowl hunting in other public hunting areas in southeast New Mexico is restricted to three days per week, waterfowl hunting should be allowed all days of the week during normal hours.

The setting of hunting seasons, including days and hours of hunting within a season, are the responsibility and authority of the New Mexico Game Commission. BLM will forward this comment to the Commission.

14. If possible, the special snow goose Spring hunt should not be permitted within the ACEC in order to protect roosting by north-bound cranes.

BLM will cooperate with the New Mexico Game Commission and the Department of Game and Fish to move forward with this suggestion.

15. Ban permanent waterfowl hunting blinds within the ACEC and remove existing hunting blinds.

Under current regulations, no permanent structures are allowed on public lands without authorization, including hunting blinds. BLM has taken the necessary steps to remove existing waterfowl hunting blinds within the ACEC.

16. The least shrew occurs in only three areas within New Mexico, including nearby Bitter Lake National Wildlife Refuge. A survey for this species should be made within the ACEC.

One of the action items under Objective 7 of the Activity Plan is to complete inventories of wildlife species and their habitats (page 16). The least shrew would be included in this action item.

17. Chaves County has a policy of no net loss of private property within the County and the commenter strongly suggest BLM begin to dispose of public lands identified as suitable for disposal listed in the 1997 Roswell RMP.

BLM is aware of the Chaves County no net loss policy. Other priorities within BLM slow public land disposals.

18. Any land exchanges between BLM and the New Mexico State Land Office be acknowledged to Chaves County public Lands Advisory Council (PLAC) and with the consultation of the state land grazing lessee if applicable.

BLM has a good relationship with Chaves County and the PLAC. In the event of any proposed land transactions BLM would inform Chaves County at the first opportunity. In accordance with the Secretary of the Interior's 4C's BLM would communicate, cooperate and consult with interested parties to achieve the conservation goals of the ACEC Activity Plan.

19. The EA and the Activity Plan are vague about the amount of public land that would be removed from allotment No. 65069.

Page 23 of the EA states 440 acres of public land would be removed from this allotment. Unfortunately, none of the maps included with the Plan and EA showed the Spring Pasture of this allotment. Neither document stated the 440 acres were located in Sections 9 and 10 of Township 12 South, Range 26 East. BLM will correct this oversight.

20. The commenter is concerned about the viability of the grazing lessee's operations if the public lands are removed from the allotment.

The total acreage of allotment No. 65069 is 32,703 acres, of which the 440 acres of public land in the Spring Pasture constitutes 1.3 percent of the area. Both BLM and the commenter have noted that livestock do not utilize forage in the 100-year floodplain. For a full discussion of the impacts of removing the 440 acres from this allotment, see EA No. NM-060-2002-100, Grazing Authorization on Allotment 65069, which is available on the Roswell Field Office web site.

21. The New Mexico State Land Office has concerns about trespass on State Trust Lands and offers several options for resolving the issue.

BLM is aware of the concerns of SLO and will work with SLO staff to alleviate those concerns. While the options offered by SLO fit within the ACEC Activity Plan, the options are beyond the scope of the EA. These options would best be analyzed in environmental documents subsequent to this EA.

Decision: I have reviewed this proposed action, including the environmental impacts and have determined that the proposed project is in conformance with the approved land use plan. Therefore, no further environmental analysis is required. It is my decision to implement the Overflow Wetlands ACEC Activity Plan and Environmental Assessment as modified in the above discussions.

Any person who is adversely affected by a final decision of the authorized officer may file a written appeal to the Final Decision for the purpose of a hearing before an administrative law judge under 43 CFR 4.400. A period of 30 days after the decision becomes final is provided in which to file an appeal and a petition for stay of the decision in this office.



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T. R. Kreager,  
Assistant Field Office Manager – Resources

12/8/03

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Date