

The slickspot peppergrass populations in the NCA are relevant and important. These nominations meet the relevance requirement as a significant wildlife resource because they involve the protection of habitat for a sensitive species and a natural process (BLM manual 1613.1A). As described in detail above, the red tie area of the OTA and the northwest portion of the NCA, south of Kuna are considered to have some of the best known populations of this endemic species. The future of the population is in jeopardy, especially given the small geographic range and very specific habitat requirements of slickspot peppergrass.

This nomination meets the importance requirement for ACEC nominations because of the crucial role the slickspot peppergrass populations in the OTA and near Kuna have in ensuring the future survival of this species. Significant documentation exists proving that grazing disrupts and destroys the seed banks that are vital to the survival of slickspot peppergrass. Because slickspot peppergrass is easily damaged from grazing, and because its habit range is so small, the future of the species warrants cause for concern.

Current management has not and will not provide for adequate protection of slickspot peppergrass. While the enabling legislation for the NCA does provide for the protection of raptors, their habitat and the habitat of their prey, of which slickspot peppergrass is a part, the legislation still allows for grazing and off-road vehicle use, which are some of the major threats to *L. papilliferum*.

Because current management practices have failed to address the problems associated with grazing and slickspot peppergrass, and because there is a documented negative effect associated with grazing and *L. papilliferum*, there is a need for a more protective management scheme beyond the current measures being used to protect the species. In addition, this nomination meets the relevance and importance requirement as described in detail above. In order to ensure that the best known populations of this rare plan species are protected, the areas identified on the attached map should be protected from all grazing activity. The best and most effective means to accomplish this is to build an enclosure surrounding the areas.

Recommendations: BLM should designate the OTA Slickspot Peppergrass Concentrations ACEC and Kuna Butte Slickspot Peppergrass Concentrations ACEC and impose the following management prescriptions in order to protect these slickspot peppergrass populations from adverse impacts:

- **Construct enclosures:** Contrary to the statement on page 4-38 of the RMP that states that enclosures will have limited affect at the species level for SSPs, an enclosure for slickspot peppergrass will prevent one of the largest threats to its survival besides fire. An enclosure alone will not ensure the vitality of the species, but because the NCA has some of the best populations of *L. papilliferum*, an enclosure in conjunction with fire suppression and other measures certainly will benefit the species at all levels. As of yet, there is no existing evidence that would suggest grazing provides anything but a negative impact on slickspot peppergrass. On the contrary, the research that has been done suggests grazing is a serious threat to slickspot peppergrass. See U.S. Fish and Wildlife; Meyers et. al. Since the BLM cannot allow any actions that will reduce the likelihood of survival or destroy designated critical habitat of a species that is managed as "listed," the BLM is obligated to discontinue grazing in all known slickspot



peppergrass habitat because of the threat it poses to the survival of the species and its habitat. Therefore, we recommend an enclosure be built around occupied slickspot peppergrass habitat in the OTA and Kuna Butte area (please see attached maps). As part of this enclosure, a fence should not be located within 100 yards of an occupied slickspot because of the threat debris build up poses to slickspots.

- **Exclude Off-Road Vehicles:** Off-road vehicle traffic should only be allowed on established roads that are necessary for research purposes within the ACECs and within the greater slickspot management area. Allowing the construction or use of any other roads is contrary to the purposes for which the ACEC was designated. Roads deemed necessary for research purposes should only be those that have traditionally been used by researchers to access slickspot peppergrass populations and whose continued use would not harm the species. The ACECs should also be closed to all OHV recreation including the closure of all non-designated routes. When a comprehensive TMP is completed, it should identify ACECs as closed to recreational OHV use.
- **Limit seeding use after fires:** The study done by Meyers et al. identified that the use of *Kochia prostrata* and other non-native species, as well as the use of pre-emergent herbicides were threats to slickspot peppergrass. Because re-seeding efforts outside of the ACEC nomination areas can affect slickspot peppergrass populations within the ACECs, the use of non-native species for re-seeding anywhere in the NCA should be prohibited. In addition, any herbicide or pesticide demonstrated as having or with the potential to demonstrate a negative effect on slickspot peppergrass should not be used within the ACECs.

B. New Giant Fairy Shrimp RNA Nomination

In the Spring of 2005, a new species of giant fairy shrimp was discovered by biologists at the IDARNG in the Snake River Birds of Prey NCA.³ The fairy shrimp species known as *B. raptor* was discovered in Tadpole Lake, near the south east end of Bigfoot Butte in the OTA, and in Armadillo Lake. Tadpole Lake and Armadillo Lake are two of several seasonal ponds in the NCA that accumulate water during the spring and can hold water into the summer months.

While we recognize that this species was discovered only a little over a year ago, the Draft RMP failed to mention the new giant fairy shrimp species, let alone address necessary management protections for this species. This species was not identified or evaluated for consideration as a species that requires special management in the Draft RMP despite the fact it is only known to exist in two locations in the world, both of which are located in the NCA. Both areas are less than five acres in size. This glaring omission in the Draft RMP indicates that BLM failed to meet its obligations under FLPMA (43 U.S.C. § 1702(a)).

The discovery of this species provides a unique opportunity for the designation of a Research Natural Area (RNA). An RNA is a type of ACEC focusing on the protection of natural resource values of scientific interest and managed primarily for research and educational purposes. An RNA is established for its significant biological and physical features, located on "public lands

³ Rogers, D. Christopher, D. Quinney, J. Weaver and J. Olesen. 2006. "A New Giant Species of Predatory Fairy Shrimp from Idaho, USA (Branchipoda: Anostraca). *Journal of Crustacean Biology* 26(1): 1-12. Attached and incorporated by reference.



that have ecological or other natural history values of scientific interest," and managed so that natural conditions are maintained and reserved for research and education. 43 C.F.R. §§ 8223.0-1, 8223.0-5. To be designated as an RNA (per 43 C.F.R. § 8223.0-5), an area must have one or more of the following five characteristics:

- (1) a typical representation of a common plant or animal association;
- (2) an unusual plant or animal association;
- (3) a threatened or endangered plant or animal species;
- (4) a typical representation of common geologic, soil, or water features; or
- (5) outstanding or unusual geologic, soil, or water features.

Because this new species of giant fairy shrimp has thus far only been found to be present within the NCA, this population certainly meets the definition of unusual provided for in the criteria for RNA designation. Given the lack of information about this species it may also be endangered, particularly if appropriate actions are not taken to protect it. There is so little known about this species that it is difficult to know what it requires and what the threats to its existence are. However, since there are only two known seasonal "playas" where this species is known to exist, the logical and prudent approach would be to protect these locations so that researchers can be allowed to gather more information on this species and hopefully determine the best management scheme for *B. raptor*. This level of protection and focus on research is consistent with designating the area as a new RNA, to permit it to be "maintained for the primary purpose of research and education" in accordance with BLM's policy and legal guidance. See, 43 C.F.R. § 8223.0-5.

The new species of giant fairy shrimp meets the relevance and importance criteria for an ACEC/RNA. This new RNA designation meets the relevance criteria as a fish and wildlife resource because the protection of *B. raptor*'s habitat is crucial not only to maintaining the species, but to maintaining species diversity. Since this species has only been found in two small locations, any loss of habitat will have dramatic effects on this species. This is consistent with BLM Manual 1613.1A2.

Manual 1613.1B2 states that a species must have "qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, threatened, or vulnerable to adverse change" in order for it to have importance. *B. raptor* certainly meets this requirement because by the very nature of its known existence, it is extremely rare and irreplaceable.

Current management has not and will not provide for adequate protection of the giant fairy shrimp. The enabling legislation for the NCA provides for the protection of raptors, their habitat and the habitat of their prey, but does not address the giant fairy shrimp, which was not discovered at the time of the creation of this NCA. The Draft RMP fails to mention this new species and, therefore, does not provide any protective management for the two locations in which it has been located. Without special management attention, the habitat and the species, are not likely survive.



Recommendations: The BLM should designate a new Giant Fairy Shrimp RNA encompassing the two locations, Armadillo and Tadpole Lakes, at which the species was identified, are within the NCA boundaries.⁴ The BLM should also specify management prescriptions for the RNA that will protect the giant fairy shrimp habitat from adverse impacts, including:

- **Closure to off-road vehicle use.** Since we do not know what the threats to the species are, it is important that OHVs not be allowed to drive on any playas. As we learn more about this species, the BLM should take further management steps as necessary to address any concerns regarding *B. raptor*'s future.
- **Limiting activity in the RNA to nondestructive activities in order to foster further research.** Per BLM's regulations (43 C.F.R. § 8223.1),
 - No person shall use, occupy, construct, or maintain facilities in a research natural area, except as permitted by law;
 - No person shall use, occupy, construct, or maintain facilities in a manner inconsistent with the purpose of the research natural area;
 - Scientists and educators shall use the area in a manner that is nondestructive and consistent with the purpose of the research natural area.
- **Protection from future threats.** The RNA designation should explicitly state that as more information is gathered on this species, and as new threats to its existence are identified, appropriate measure will be taken to mitigate against those threats.

IV. Wild and Scenic River Suitability Determination

The various portions of the Draft RMP addressing Wild and Scenic River (WSR) suitability do not adequately address the criteria for suitability determinations outlined in BLM Manual 8351. According to this manual, BLM "must carefully describe all analyses and determinations made" and a "narrative and rationale must be a part of the planning record and included as part of the RMP/EIS."

WSR suitability determination decisions are included as part of the discussions of "Recreation" throughout the Draft RMP. However, the agency's rationale for these decisions is not provided as part of the Draft RMP. In order to comply with the Wild and Scenic Rivers Act and BLM Manual 8351, BLM must provide a rationale and supporting documentation for its decisions regarding Wild and Scenic River suitability determinations and provide the public an opportunity to comment on this analysis prior to making formal suitability determinations in the context of the RMP.

Further, while we are encouraged that the Draft RMP adheres to BLM Manual 8351's directive to consider at least one alternative in which all eligible segments are determined to be suitable (Alternative C), we disagree with BLM's decision that 0 miles of the 49 miles of Snake River analyzed within the Snake River Birds of Prey NCA are suitable for WSR recommendation (Alternative D). We recommend BLM adopt Alternative C as its preferred alternative.

⁴ See, Rogers, D. Christopher, D. Quinney, J. Weaver and J. Olesen. 2006. "A New Giant Species of Predatory Fairy Shrimp from Idaho, USA (Branchipoda: Anostraca). *Journal of Crustacean Biology* 26(1): 1-12; additional information is available from the IDARNG Environmental Resources Department.



Again, without the benefit of being able to review BLM's rationale to support its decision to recommend zero miles as suitable for WSR status, it is impossible to determine if BLM conducted this determination in accordance with the criteria outlined in BLM Manual 8351. The 49 miles of the Snake River within the planning area that have been found eligible (free-flowing and containing outstandingly remarkable values) and therefore were analyzed for suitability in the Draft RMP/EIS are divided into four free-flowing segments. These eligible segments are the Swan Falls, Jackass Butte, Grand View, and the Indian Cove. BLM Manual 8351 provides 13 criteria that must be considered and analyzed prior to BLM making a suitability determination. By failing to provide the public with the analysis it conducted in making suitability determinations within the framework of these 13 criteria, BLM has severely restricted the public's ability to provide the agency with significant new information or to provide an alternative analysis. Further, without the benefit of reviewing the BLM's analysis, it appears the BLM's suitability determinations are arbitrary and unsupported by an evidentiary record.

Finally, while BLM readily admits that these four river segments are free-flowing and contain outstandingly remarkable values, BLM fails to explain how Alternative D will continue to protect these values in light of the BLM's determination that these segments are not suitable for recommendation to Congress for WSR consideration. Instead of providing a detailed description of the management prescriptions BLM will use to protect the outstandingly remarkable values present on the 49 eligible miles of the Snake River within the planning area, the Draft RMP/EIS simply states, "The existing NCA legislation provides protection for the outstandingly remarkable values associated with the Snake River Canyon" (pg. 3-58). Further, the Draft RMP/EIS states that the environmental consequences of recommending that no segment of the Snake River as suitable for WSR designation would be the same as keeping the current management prescriptions in place, "provided that outstandingly remarkable values and free flowing conditions would continue to be protected on 49 miles of the Snake River" (pg. 4-107). BLM must provide specific and detailed descriptions of the management prescriptions it will use to protect outstandingly remarkable values and free flowing conditions of the Grand View, Indian Cove, Jackass Butte, and Swan Falls segments of the Snake River.

Recommendations: BLM should adopt Alternative C in which all 49 eligible miles of the Snake River are recommended as suitable for WSR study as the agency preferred alternative. Regardless of the agency's preferred alternative, prior to making final suitability determinations, BLM must provide the analysis it used in making its suitability determinations and provide the public with an opportunity to comment on the preferred alternative and the supporting analysis prior to the Final RMP/EIS. If, after providing the public with an opportunity to review and comment on its suitability determination analysis, BLM fails to recommend the 49 miles of eligible river segments as suitable, it must provide detailed analysis of the management prescriptions it will implement to protect the outstandingly remarkable values present in Snake River Canyon.

V. Restoration

The RMP should not only set out goals for restoration, but also specify how these goals will be accomplished, including a requirement that only native species will be used in restoration efforts. The preferred alternative in the Draft RMP sets admirable goals for



restoration. Page 3-32 states, "approximately 130,000 acres of degraded small mammal habitat would be restored in areas deemed most beneficial to raptor populations." While we commend BLM for making restoration of raptor habitat an important goal in the RMP, the RMP does not provide specific criteria, targets, or management prescriptions outlining what species will be used for restoration, or how the BLM will ensure that restoration work is successful.

The study mentioned above conducted by Meyers et al., notes that the seeding of non-native invasive species, such as *Kochia prostrata* (forage kochia), is one of the biggest threats to slickspot peppergrass. Pursuant to the discussion above, BLM Manual 6840 obligates the BLM not to make any management decisions that will harm slickspot peppergrass, because it is a proposed endangered species/type 1 BLM species. Since *Kochia prostrata* is a known threat, it should not be used in any restoration efforts.

As the BLM is likely aware, restoration efforts in the NCA are extremely fragile. A number of important variables must be addressed in order for restoration efforts to be successful. It is important that surface disturbing activities including livestock trampling and recreational OHV use are not allowed until vegetation has reached a level that can withstand some level of disturbance; and then these activities must be actively managed to prevent damage to restored areas. Not discontinuing these activities in areas undergoing restoration is financially and ecologically irresponsible. Surface disturbing activities such as grazing and OHV use can jeopardize the time and money spent on restoration. In addition, effective restoration will play a crucial role in slowing and perhaps eventually halting the spread of invasive species and noxious weeds throughout the NCA.

Recommendations: In order to accomplish the restoration goals that the BLM has set forth, it is extremely important that only native species be used in all restoration efforts and that *Kochia prostrata* be specifically excluded from use, since it is a threat to slickspot peppergrass. The Final RMP should provide a list of native species that will be used in restoration efforts and all implementation plans must also use only seed mixtures containing these approved species. Also, the Final RMP needs to provide specific restoration efforts and methodologies BLM will use to ensure that restoration will be successful. BLM must also describe its plan to manage surface disturbing activities in restoration areas.

VI. Military Boundaries

In general, we support the preferred alternative for boundary changes to the IDARNG training area, however, we believe that Alternative D can be improved.

Our concern with the military boundary changes lie with the impact this boundary change will have on the IDARNG's ability to both monitor slickspot peppergrass and to protect its habitat from fire.

As was discussed earlier in our comments, U.S. Fish and Wildlife has recognized that the "the Idaho Army National Guard (IDARNG) at the Orchard Training Area (OTA) has conducted monitoring of slickspots and *Lepidium papilliferum* longer than any other agency, since 1990." IDARNG has done more extensive and in depth monitoring than any other agency and have



contributed a majority of the data used for slickspot peppergrass studies within the NCA. The IDARNG's participation and continued ability to monitor slickspot peppergrass is crucial to ongoing efforts aimed at determining the impacts of threats to the future of the species. It is unclear in the preferred alternative if the IDARNG will be allowed to continue monitoring those populations of *Lepidium papilliferum* that occur in the excluded military training area if it is removed from military training. Management decisions must ensure that the agency that has contributed the greatest amount of knowledge to slickspot peppergrass be allowed to continue monitoring the species.

Not only has the IDARNG contributed more knowledge about the species in the OTA than any other agency, but they have also consistently been the first responders to fires in the OTA. *L. papilliferum* is a sagebrush obligate species, and the bravo area boasts some of the best and last remaining in tact stands of sagebrush in the OTA. Fire is recognized as one of the major threats to the existence of *L. papilliferum*, and if a fire were to destroy those sagebrush stands, it is likely that what are currently regarded as some of the best known populations of *L. papilliferum* will be imperiled. U.S. Fish and Wildlife regards fire as a major threat to the species, and even posts fire fighters twenty four hours a day during the driest parts of the year when the area is most susceptible to fire. Without the IDARNG's ability to quickly respond to fire in the Bravo area and other areas in the OTA, there will undoubtedly be a serious threat posed to the future of *L. papilliferum*.

As a species that is being proposed for the endangered species list, and as a BLM sensitive species, the BLM is required to "ensure that BLM actions will not reduce the likelihood of survival and recovery of any listed species or destroy or adversely modify their designated critical habitat (BLM Manual 6840.06A2)." If BLM were to implement a management scheme that reduced the ability of the IDARNG to monitor *L. papilliferum* within the OTA, or reduced the ability of the IDARNG to respond to fire within this area, BLM would be in violation of its obligation for management of proposed endangered and sensitive species. As it currently stands, the preferred alternative does not ensure the likelihood of survival for slickspot peppergrass.

Recommendation: In order to ensure that management actions do not violate BLM policy on special status and endangered species, we recommend that BLM enter into a Memorandum of Understanding (MOU) with the IDARNG. This MOU would ensure that the IDARNG continued to monitor slickspot peppergrass habitat and populations in the Bravo area that are excluded from the training area. In addition, the MOU should specify that the IDARNG will continue to receive adequate funding in order to have the capability to quickly respond to all fires that threaten slickspot peppergrass habitat.

VII. Recreation and Transportation

In general, we support the preferred alternative as it addresses both Recreation and Transportation with the exceptions addressed below. Before addressing our concerns we would first like to commend the BLM for listing specific route designation criteria, using habitat fragmentation metrics and setting road density targets in the Draft RMP (although we have recommendations for improving these criteria which will be discussed below). Further, BLM's



designation of all areas as either closed or limited to OHV use in the preferred alternative is consistent with the NCA's enabling language.

A. The RMP should complete a comprehensive travel management plan or, at a minimum, commit to completing such a plan within one year.

The updated version of BLM's *Land Use Planning Handbook*, H-1601, Appendix C, Section II.D (Comprehensive Trails and Travel Management) states that BLM should:

Complete a defined travel management network (system of areas, roads and/or trails) during the development of the land use plan, to the extent practical. If it is not practical to define or delineate the travel management network during the land use planning process, a preliminary network must be identified and a process established to select a final travel management network. (emphasis added)

While the BLM has already divided the planning area into OHV designations and listed route designation criteria, the RMP does not identify a defined travel management network, which would be most consistent with the NCA legislation's requirements to manage these lands to protect habitat for raptors and their prey. Motorized use can pose a major threat to restoring and maintaining habitat, so management of OHVs is an important part of this RMP. If BLM cannot complete a comprehensive travel management plan (TMP) in this RMP, then completion of this plan should be the first implementation plan priority. Timely implementation of travel management decisions are especially important given the increasing population of the Treasure Valley. Boise and the surrounding area is one of the fastest growing areas in the country. As a result, the NCA, which has historically existed a considerable distance from any large scale human inhabitation, is now being increasingly encroached upon by sprawl from surrounding cities. As the surrounding population grows, the number of people seeking a proximate destination for motorized recreation increases. The NCA will undoubtedly draw an increasing number of motorized vehicle users in the future. In anticipation of this inevitable occurrence, the future travel management plan and the route designation criteria will play an important role in directing future motorized use.

It is imperative that the RMP recognize the risk of increased pressure from recreational motorized use in the near future and be designed to manage this use in a manner that complies with its overriding obligation to protecting the values for which the NCA was established. It is equally important that the RMP and subsequent TMP provide for regulation of where motorized travel will be allowed and for active enforcement. Unauthorized cross-country travel and continued OHV use in sensitive areas have the potential to severely damage the landscape, so route designation must occur in a timely manner.

Recommendations: The RMP should include a comprehensive travel management plan for the NCA. Should BLM determine that completion of the TMP will be delayed, then the RMP should include a commitment to complete a comprehensive travel management plan as the first priority for implementation plan and to complete the plan within one year of completion of the RMP.

