

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BURNS DISTRICT OFFICE

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-B050-2010-0014-CX

Date: 12-07-2009

File Code (Project/Serial Number): 711149

Preparer: Travis Miller, Range Management Specialist

Title of Proposed Action: Crow's Nest Brush Spray Seed Maintenance

Description of Proposed Action: Crow's Nest Brush Spray Seed Project #711149 Maintenance, located in Dry Lake Allotment (#5303) and Crow's Nest Allotment (#5305) would rehabilitate the original seeding with a Siberian wheatgrass, forage kochia, and bitterbrush seed mix. This seeding is on Bureau of Land Management (BLM) administered land, and was seeded with crested wheatgrass in 1964 as a livestock forage base. The need for this maintenance project is to improve forage quality, stabilize soil, prevent invasion by exotic noxious weeds, and increase diversity and structure within the plant community for wildlife habitat. Rangeland drill/s would be used to create a seed bed for the seed mix. Within Dry Lake Allotment the Siberian wheatgrass would be seeded as early as October 1 and no later than November 15 at 8 pounds/acre using rangeland drill/s with the tubes pulled, tubes attached, and tubes removed on 219 acres. Each method would be used to monitor treatment success in plant establishment for Siberian wheatgrass and forage kochia. Methods with tubes pulled or removed would replicate broad cast seeding. The forage kochia would be seeded at 1 pound/acre or less depending on seed costs (less than \$2,500.00) within the maintenance areas, and would be either mixed with the Siberian wheatgrass or broadcast seeded separate during a warming period in the winter when viable seed is more available. The permittee would provide labor and tractor in a cooperative agreement to assist in treatment implementation and cost.

Within Crow's Nest Allotment treatment methods would be the same as stated above, but a seed mix of forage kochia and bitterbrush would be seeded to improve plant community diversity, winter browse for mule deer, and increase structure for migratory birds on 2,500 acres. Seed rate per acre would be bitterbrush 2 lbs/acre in rock and soil profiles that would increase the probability for establishment and forage kochia 1 lb/acre. Seeding would occur as early as October 1st and possibly extend to mid March. The permittee would provide half or all the kochia seed, labor, and tractor in a cooperative agreement to assist in treatment implementation and cost. If needed Bartlett seed mix would be provided as a binder to improve seed distribution of the forage kochia and bitterbrush. This seed mix consists of crested wheatgrass (4 lbs), Siberian wheatgrass (2 lbs), bluebunch wheatgrass (1 lb), western wheatgrass (3 lbs), Sandberg bluegrass (1 lb), and flaxseed (1/8 lb) per acre that is leftover from a previous project.

The ecological site (see Legal Description) would have a low probability to support bitterbrush. However, there is bitterbrush seed available in the BLM warehouse that is declining in viability with no projects assigned for its use, and bitterbrush did exist south near the town of Diamond before a wildfire. Seeding bitterbrush would be an attempt to establish a critical deer winter browse shrub at lower elevations, and to address a public concern for mule deer winter habitat and available winter browse. Associated with this maintenance would be a study with the Eastern Oregon Agricultural Research Center (EOARC) addressing seedling establishment for native grasses (Blue Bunch Wheatgrass, Squirrel Tail, and Thurber's needlegrass), Siberian wheatgrass, forage kochia, and crested wheatgrass.

Legal Description: Crow's Nest Brush Spray Seed Maintenance is located in the Dry Lake Allotment and Crow's Nest Allotment. These allotments are a crested wheatgrass seeding located 30 miles Southeast of Burns. See Map A (Allotment Vicinity), Map B (Dry Lake and Crow's Nest Allotment Boundaries), Map C (Project Maintenance Area #1), and Map D (Project Maintenance Area #2). Both allotments are east of the Malheur Refuge, and sit at approximately 4,200 feet in elevation. The ecological site description of this area includes: potential native plant community was historically dominated by Thurber's needlegrass and Wyoming big sagebrush, mean annual precipitation 10 to 12 inches, soil type Loamy, and temperature regime Frigid.

- Dry Lake Allotment Project Area #1, acreage 219; Location: W.M., T.28S., R.32E., sec. 6, SE1/4
- Crow's Nest Allotment Project Area #2, acreage 2500; Location: W.M., T.28S., R.31E., sec. 1, 2, 11, and 12.

B. Conformance with Land Use Plan (LUP) (name):

Date Approved/Amended: Three Rivers RMP, September 1992

The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (*objectives, terms, and conditions*):

"...seedings should be properly managed and monitored to ensure that resource objectives are accomplished." Appendix 12. Standard Procedures and Design Elements for Range Improvements, pp. 179.

BLM Categorical Exclusion Reference (516 DM, Chapter 11):

DOI Categorical Exclusion Reference (516 DM 2, Appendix 1): 1.7 – Routine and continuing government business, including such things as ... maintenance... activities.

1.6 – Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

Screening for Exceptions: The following extraordinary circumstances (516 DM 2, Appendix 2) may apply to individual actions within the categorical exceptions. The indicated specialist recommends the proposed action does *not*:

CATEGORICAL EXCLUSION EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION	
2.1	Have significant impacts on public health or safety.
Specialist – John Petty, Safety Officer	
Signature and Date:	<i>John Petty</i> 1-20-10
Rationale: No impacts on health and safety.	
2.2	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); flood plains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
<u>Migratory Birds</u>	
Specialist – Jason Brewer, Wildlife Biologist	
Signature and Date:	<i>Jason Brewer</i> 1/20/2010
Rationale: The project would take place in a previously disturbed area (converted non-native crested wheatgrass seeding) that provides little structural or vegetative diversity and low quality habitat for most migratory birds. The timing of seed drilling would occur in late fall (generally between October and mid-November) when few migratory birds are in the area. However, forage kochia could be drill seeded separately anytime from October to mid-March. Project activity in February or early March may temporarily displace some early arriving migratory bird species in the immediate area, but would be complete prior to critical nesting periods. The seasonal timing of the disturbance, short duration of the disturbance, and marginal migratory bird habitat potentially affected suggests few birds would be displaced. Once established, the maintenance seed mix would provide additional structural and vegetative diversity, and may improve the quality of habitat for migratory birds.	
Long-billed curlews utilize grazed, non-native seedings in the project area for nesting and brood rearing, and the original vegetation conversion likely created habitat for this species. The proposed project would maintain the current mix of native and non-native species that are present on the site, but would also incorporate forage kochia (a non-native, perennial forb with a sub-shrub appearance) and bitterbrush. It is unknown if the additional diversity and structure provided by forage kochia and bitterbrush would decrease the quality of nesting habitat for long-billed curlews. Based on the historical vegetation and site description, bitterbrush may have a poor success rate in this area, and if established would only survive at low densities. Pampush and Anthony (1993) reported curlews nesting in Oregon in open low shrub vegetation and even bitterbrush and greasewood; however, nest densities were lower at these sites than native bunchgrass or dense forb sites. The proposed project comprises a small percentage of the overall area converted to crested wheatgrass, and long-billed curlews potentially displaced from the project area may find suitable nesting and brood rearing habitat immediately adjacent to this area.	
<u>Historic and Cultural Resources</u>	
Specialist – Scott Thomas, District Archeologist	
Signature and Date:	<i>Scott Thomas</i> 1-20-10
Rationale: No cultural resources would be affected by this action.	
<u>Areas of Critical Environmental Concern/Research Natural Areas</u>	
Specialist – Doug Linn, Natural Resource Specialist (Botany)	
Signature and Date:	<i>Doug Linn</i> 1-25-10
Rationale: No impacts to ACECs or RNAs would occur as a result of implementation of the proposal.	
<u>Water Resources/Flood Plains</u>	
Specialist – Lindsay Davies or Lisa Grant, Natural Resource Specialists (Riparian and Fisheries)	
Signature and Date:	<i>Lisa Grant</i> 1/18/10
Rationale: No water resources or floodplains affected by the proposed action.	
<u>Soils, Biological Soil Crust, Prime Farmlands</u>	
Specialist – Doug Linn, Natural Resource Specialist (Botany)	
Signature and Date:	<i>Doug Linn</i> 1-25-10
Rationale: Temporary non-significant surface disturbances would occur as a result of drilling activities. Site stabilization effects would be enhanced as structural diversity of vegetative systems returned. Introducing shrub components would (in the limited success predicted for bitterbrush seeding) provide unique conditions for biological soil crust communities. Lower elevation	

bitterbrush populations in arid systems provide a unique micro-habitat for late seral biological soil crust communities.

In general the proposal would not have a significant effect on soils or biological soil crusts. Long term changes would be positive in nature.

Recreation/ Visual Resources

Specialist – Michelle Franulovich, Outdoor Recreation Specialist

Signature and Date: *Michelle Franulovich* 1-20-10

Rationale: There are no known impacts to recreation.

Wilderness/Wild and Scenic River Resources

Specialist – Eric Haakenson, Outdoor Recreation Specialist

Signature and Date: *Eric Haakenson* 1/20/10

Rationale: No wilderness, WSA's or WSRs in the project area.

2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2) (E)].

Specialist – Rhonda Karges, District Planning and Environmental Coordinator

Signature and Date: *Rhonda Karges* 1/20/10

Rationale: There are no known highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources.

2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Specialist - Rhonda Karges, District Planning and Environmental Coordinator

Signature and Date: *Rhonda Karges* 1/20/10

Rationale: There are no known highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.

2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Specialist – Rhonda Karges, District Planning and Environmental Coordinator

Signature and Date: *Rhonda Karges* 1/20/10

Rationale: Maintenance of an old seeding would not set a precedence for future actions or represent a decision in principle about future actions with potentially significant environmental effects.

2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

Specialist – Rhonda Karges, District Planning and Environmental Coordinator

Signature and Date: *Rhonda Karges* 1/20/10

Rationale: There are no known individually insignificant but cumulative significant environmental effects within the project area. The proposed project is to maintain an existing seeding.

2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

Specialist – Scott Thomas, District Archeologist

Signature and Date: *Scott Thomas* 1-20-10

Rationale: No N.R. eligible or listed properties would be affected by this action.

2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Endangered or Threatened Species-Fauna

Specialist – Jason Brewer, Wildlife Biologist

Signature and Date: *Jason Brewer* 1/20/2010

Rationale: No listed species or designated Critical Habitat are present in or near the project area.

Endangered or Threatened Species-Aquatic

Specialist – Lindsay Davies or Lisa Grant, Natural Resource Specialists (Riparian and Fisheries)

Signature and Date: *Lisa Grant* 1/20/2010

Rationale: There are no T&E Aquatic Species effected by the proposed action.

Endangered or Threatened Species-Flora

Specialist – Doug Linn, Natural Resource Specialist (Botany)

Signature and Date: *Doug Linn* 1-25-10

Rationale: No T&E species of flora or associated Critical Habitat are within the proposed seeding area. The area has potential for *Astragalus tegetarioides* (a Species of Concern); proposed activities would not trend this species toward listing under the ESA.

2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Specialist – Rhonda Karges, District Planning and Environmental Coordinator Signature and Date: <i>Rhonda Karges</i> 1/20/10
Rationale: No known law or requirement imposed for the protection of the environment would be violated.
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
Specialist – Rhonda Karges, District Planning and Environmental Coordinator Signature and Date: <i>Rhonda Karges</i> 1/20/10
Rationale: Implementation would not result in a disproportionately adverse effect on minority or economically disadvantaged populations as such populations do not occur in or near the project area.
2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
Specialist – Scott Thomas, District Archeologist Signature and Date: <i>Scott Thomas</i> 1/20/10
Rationale: No access to or sacred sites would be affected by this action.
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).
Specialist – Lesley Richman, Natural Resource Specialist (Weeds) Signature and Date: <i>Lesley Richman</i> 1/25/2010
Rationale: Noxious weeds are known to present in close proximity to these seedings. They are not present in sufficient quantity to be considered significant at this time.

RMP conformance and CX review confirmation:

Specialist – Rhonda Karges, District Planning and Environmental Coordinator
Signature and Date: *Rhonda Karges*

Management Determination: Based upon review of this proposal, I have determined the Proposed Action is in conformance with the LUP, qualifies as a categorical exclusion and does not require further NEPA analysis.

Authorized Officer – Richard Roy, Three Rivers Field Manager
Signature and Date: *Richard Roy* 1/25/10

Decision: It is my proposed decision to implement the Proposed Action as described above.

Protest

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee or other interested public may protest the Proposed Decision under 4160.1 of this title, in person or in writing to the authorized officer, Richard Roy, BLM 28910 HWY 20 W, Hines, OR 97738 within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (a), in the absence of a protest, the Proposed Decision will become the Final Decision of the authorized officer without further notice

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve his Final Decision on the protestant and the interested public.

In accordance with 43 CFR 4160.3 (c) & (f), a period of 30 days following receipt of the Final Decision or 30 days after the date the Proposed Decision becomes final is provided for filing an appeal and petition for stay of the decision pending final determination on appeal.

Appeal

In accordance with 43 CFR 4160.4, any person whose interest is adversely affected by a final decision of the authorize officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final. Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer, see Protest above. Additionally the person appealing must serve a copy on any person named in the decision as listed at the

end of this decision and the Office of the Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890 within 15 days of filing the appeal and petition for stay.

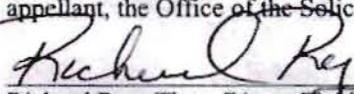
In accordance with 43 CFR 4.470, the appeal shall state the reason, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error.

A petition for stay, if filed, must show sufficient justification based on the following standards (43 CFR 4.471(c)):

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

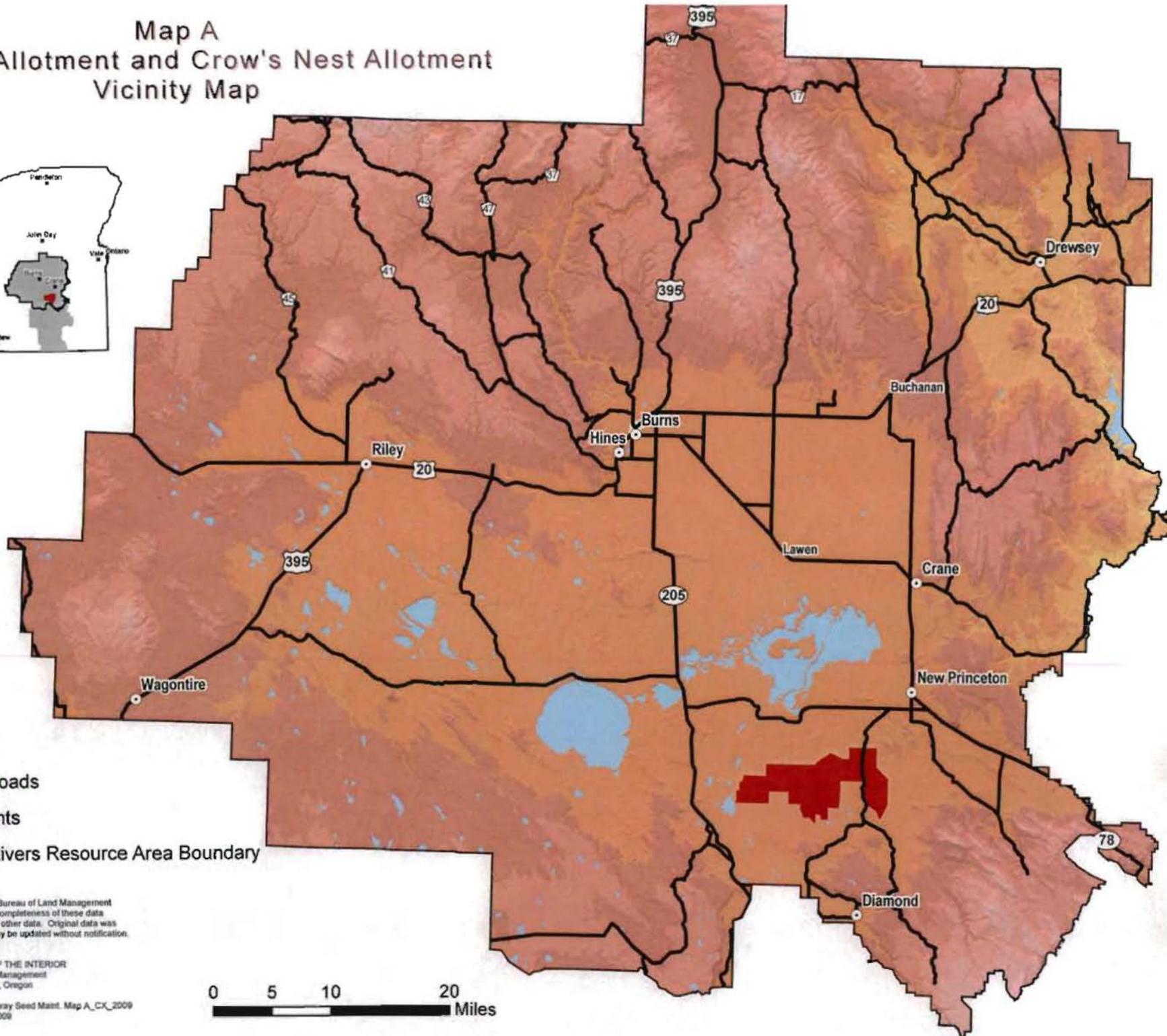
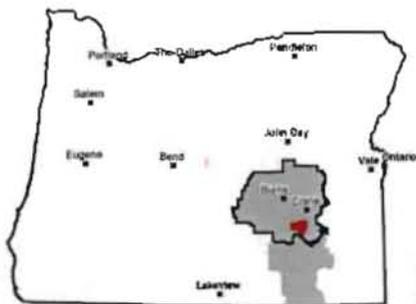
The appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

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


Richard Roy, Three Rivers Field Manager

1/25/10
Date

Map A Dry Lake Allotment and Crow's Nest Allotment Vicinity Map



Legend

- Major Roads
- Allotments
- Three Rivers Resource Area Boundary

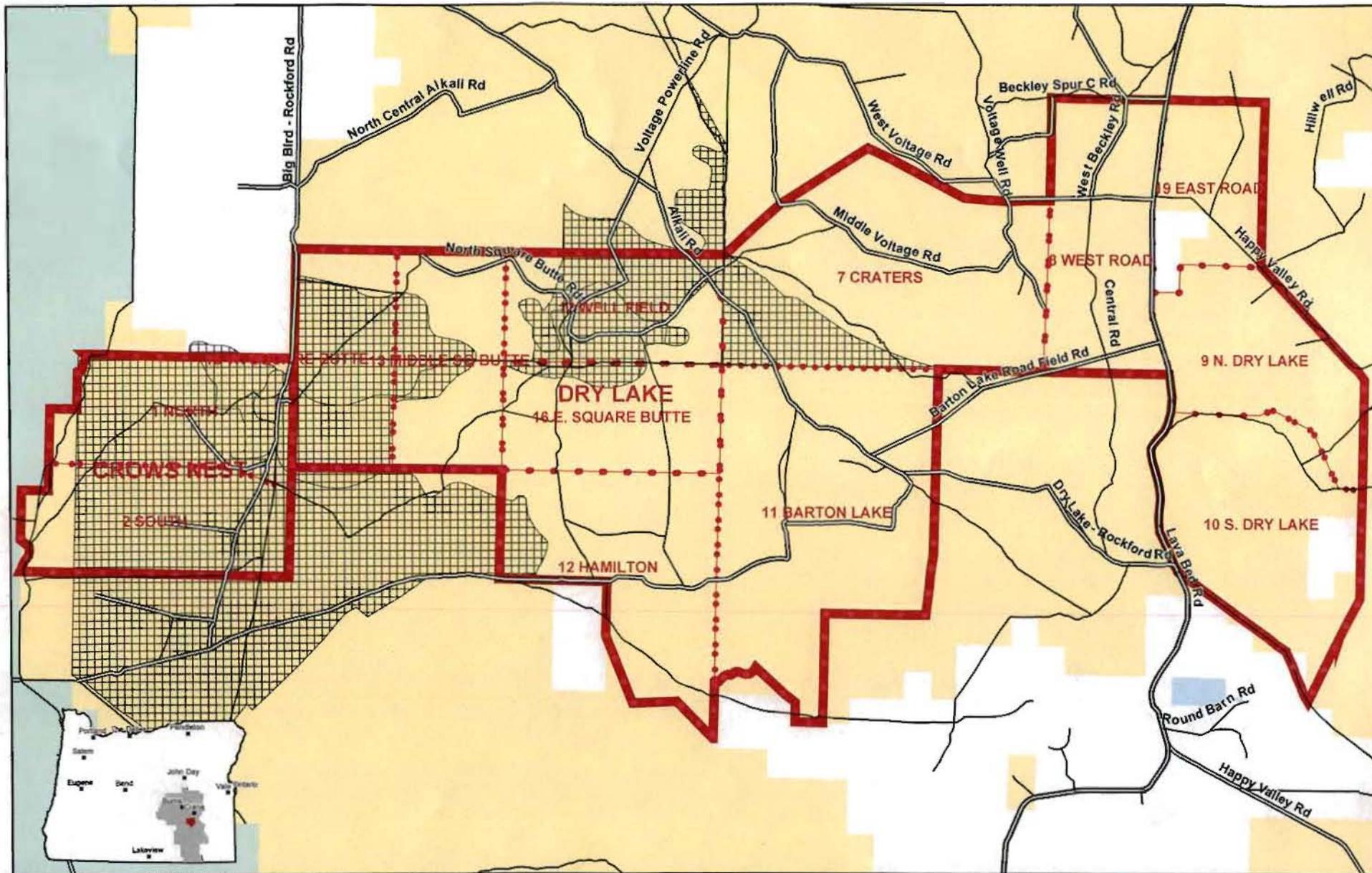
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Bureau of Land Management
Burns District, Oregon

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Map B Dry Lake and Crow's Nest Allotments



Legend

- | | |
|--|---------------------------|
| | Bureau of Land Management |
| | BLM Wilderness |
| | Wilderness Study Area |
| | Private (White) |
| | State |
| | U. S. Fish and Wildlife |



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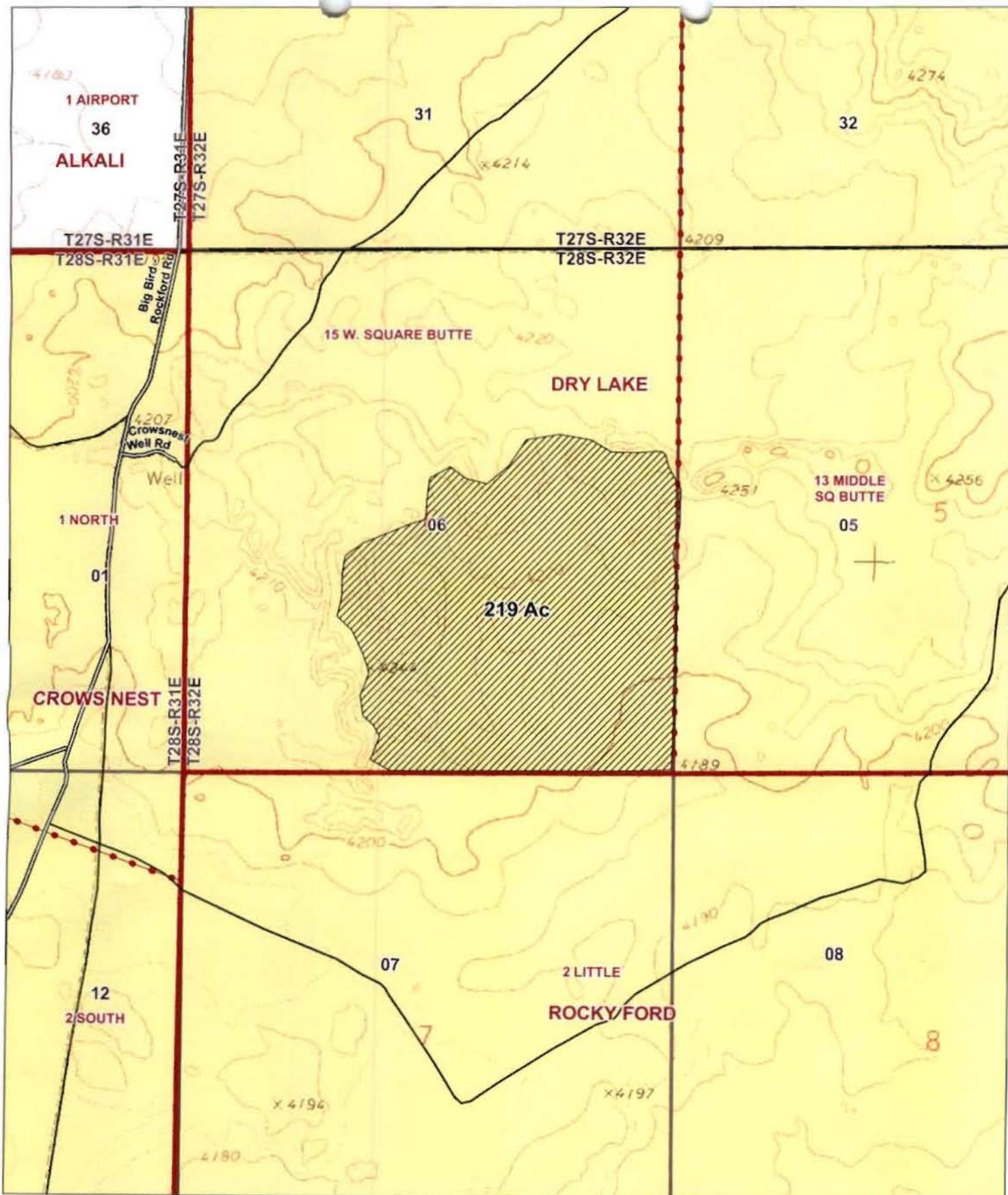
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Burns District, Oregon





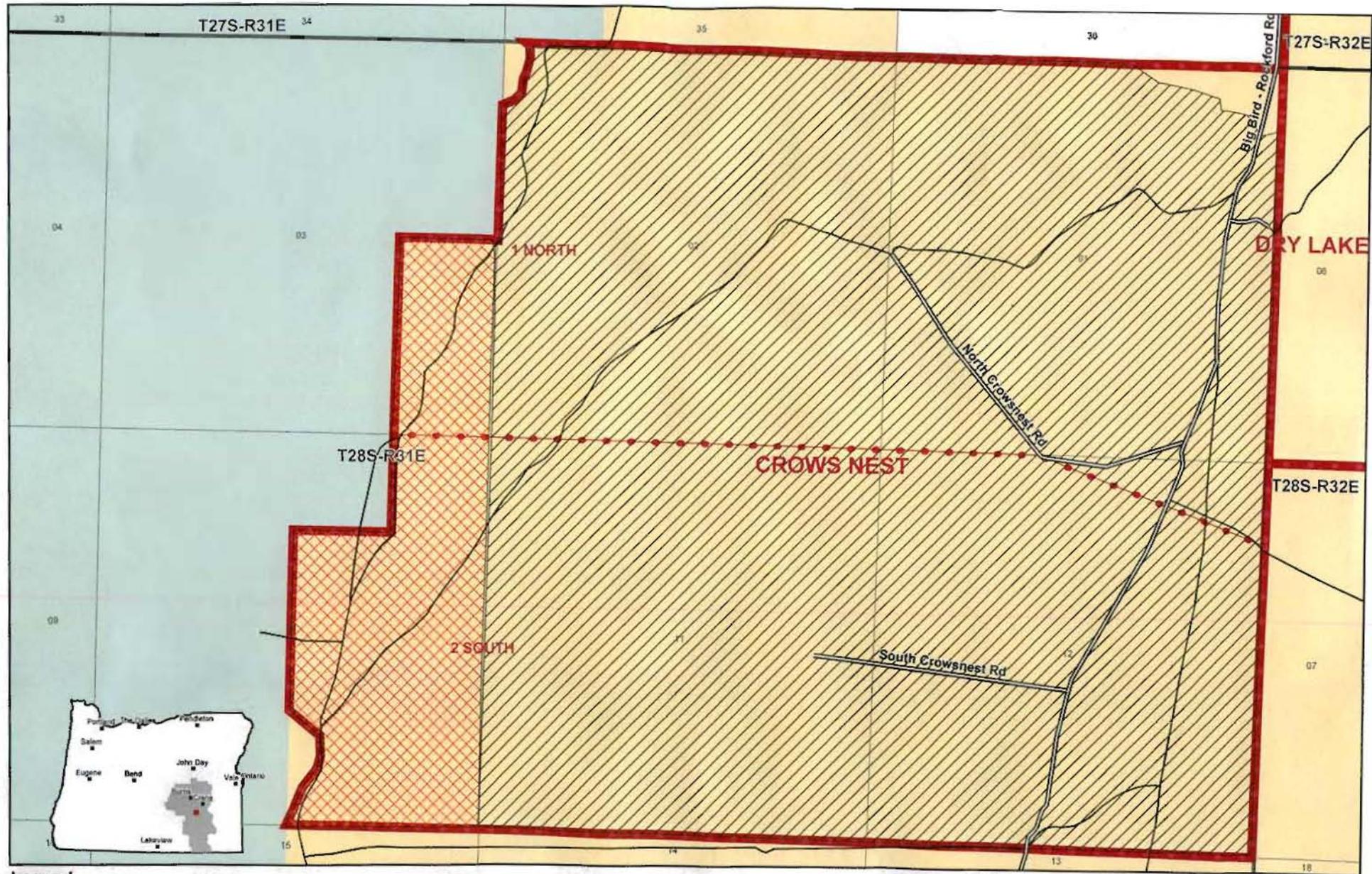
Map C: Project Maintenance Area #1

- Legend**
-  Seedings - Proposed
 -  Non-Paved Improved Road
 -  Allotments
 -  Bureau of Land Management
 -  Primitive or Unknown Road Surface
 -  Pasture Boundary
 -  Private (White)



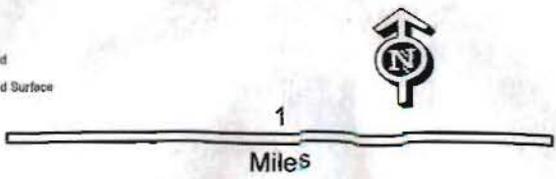
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Bureau of Land Management
Bureau Project Origin
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Map D Project Maintenance Area #2



Legend

- Section Boundary
- Pasture Boundary
- Arch. Clearance outside of Project Area 2
- Project Maint. Area #2
- Bureau of Land Management
- BLM Wilderness
- Wilderness Study Area
- Private (White)
- Slate
- U. S. Fish and Wildlife
- Paved Road
- Non-Paved Improved Road
- Primitive or Unknown Road Surface



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