RECORD OF PLAN CONFORMANCE AND CATEGORICAL EXCLUSION (CX) DETERMINATION
Bureau of Land Management (BLM)

Project Name**: Klamath County Spencer Creek Stockpile Site (OROR 66927)**
CX #: DOI-BLM-OR-L040-2012-004
Project Location: Stockpile site along Spencer Creek Hookup Road; T38S., R6E., Sec 35., NW1/4SE1/4
Lease or Serial #: (OROR 66927)
BLM Office: Lakeview District, Klamath Falls Resource Area County: Klamath County, Oregon

A. Background

Description of Proposed Action:
Klamath County Public Works is requesting a Right-of-Way to stockpile and store 1,900 cubic yards of rock chip material at the stockpile area next to the Spencer Hookup Road for use in upcoming road maintenance. The material will be stockpiled starting in the fall or spring of 2012 and remain until used in the summer of 2013. The area needed is 90 X 80 feet encompassing 0.17 +/- acres located at MDM 33., T.38E, R6E., Sec 35, NW1/4SE1/4, in the most southern area of the existing stockpile site. The material will come from a certified weed free material source. There will be no additional ground disturbance.

Purpose and Need for the Project:
The purpose of the proposed action is for the BLM to grant a ROW to Klamath County Public Works order to meet the need to provide road maintenance for the community.

Proposed Implementation:
This is an existing area that has been used in the past for the same purpose. Stockpiling and removal activities will not occur during periods when the adjacent Spencer Creek Environmental Education Area is in use, typically the second or third week of September).

B. Land Use Plan Name: Klamath Falls Resource Management Plan

Date Approved/Amended: December 2008
The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s): (Refer to page 50) Provide needed rights-of way, permits, leases, and easements over BLM administered lands in a manner that is consistent with federal and state law.

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 6, Appendix 5.4 E Realty (19) Issuance of short term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

The proposed action is categorically excluded from further analysis or documentation under the National Environmental Policy Act (NEPA) provided none of the Extraordinary Circumstances listed in 516 Departmental Manual 2, Appendix 2 (5/27/04) are met.

CX Extraordinary Circumstances Documentation		
Will the proposed categorical exclusion action:	**YES**	**NO**
2.1 Have significant impacts on public health or safety.		X
Rationale: No issues to public health or safety will arise from this action.		
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); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.		X

Rationale: None of these resources are present or would be affected.		
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].		X
Rationale: This is an action which is not unusual and would not result in highly controversial effects or unresolved conflicts.		
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
Rationale: This action is not unusual and would not result in highly controversial effects or unresolved conflicts.		
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
Rationale: Allowing this ROW will not set a precedent for future action.		
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
Rationale: The proposed ROW would not result in significant impacts when considered with other actions.		
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.		X
Rationale: Project falls within an area with previous survey information; no sites are present.		
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.		X
Rationale: No Threatened or Endangered species occur or will be affected by this ROW.		
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.		X
Rationale: The proposed action will be completed in accordance with all applicable laws and regulations.		
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		X
Rationale: There will not be any different effect on low income or minority population than on other segments of the population.		
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).		X
Rationale: Access to areas of significance will not be limited as a result of this project.		
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native 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).		X
Rationale: Exhibit A of this document addresses weed mitigation measures. The proposed action would limit disturbance and therefore the spread of noxious weeds because no large machinery will be used.		

The proposed action would not meet any of the above extraordinary circumstances, or fail to comply with Executive Order 13212 (Actions to Expedite Energy-Related Projects) – to avoid direct or indirect adverse impact on energy development, production, supply, and/or distribution.

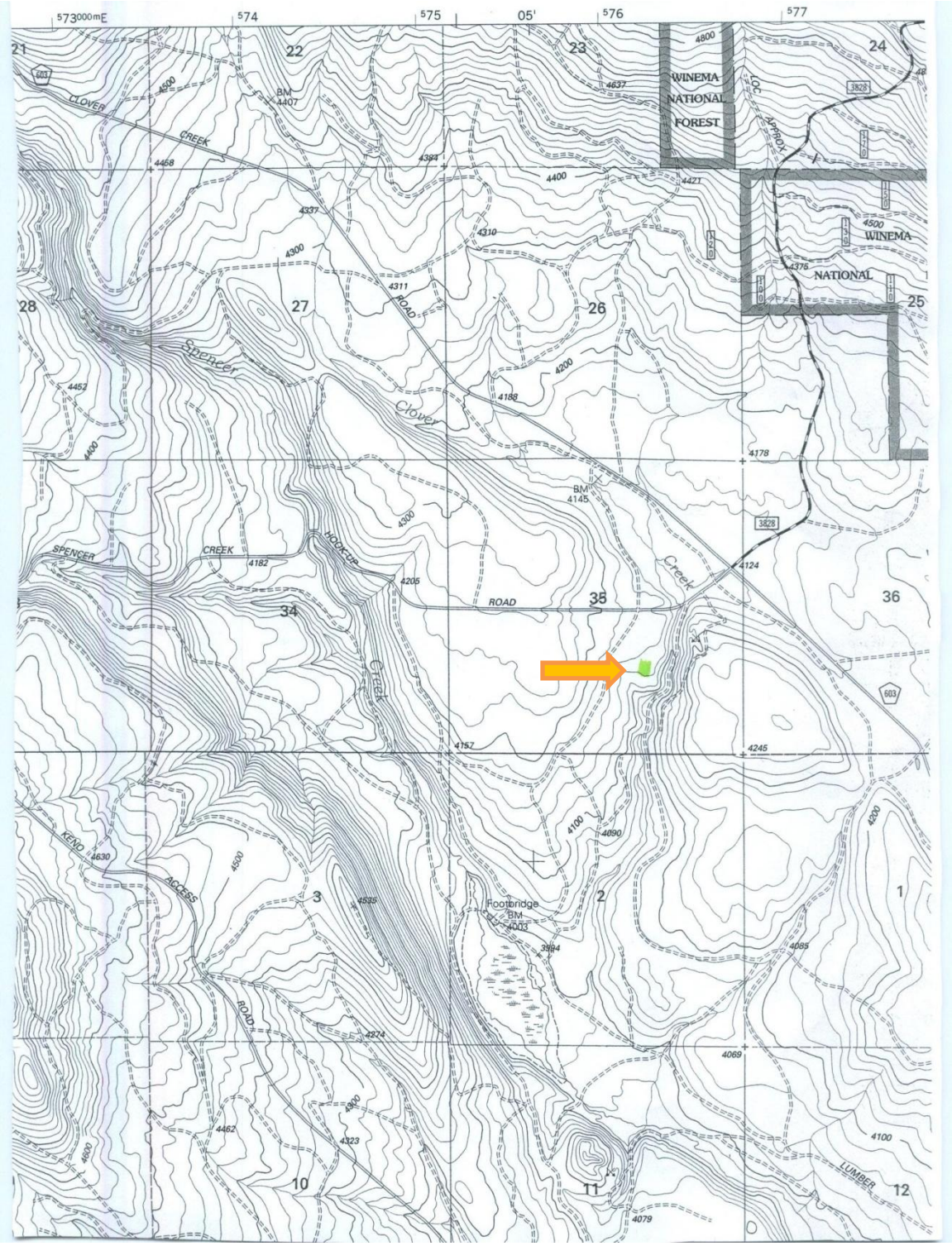
D. Surveys and Consultation

Surveys and/or consultation may be needed for special status plants and animals, for cultural resources, and other resources as necessary (appropriate fields are Initialed and Dated by responsible resource specialist):

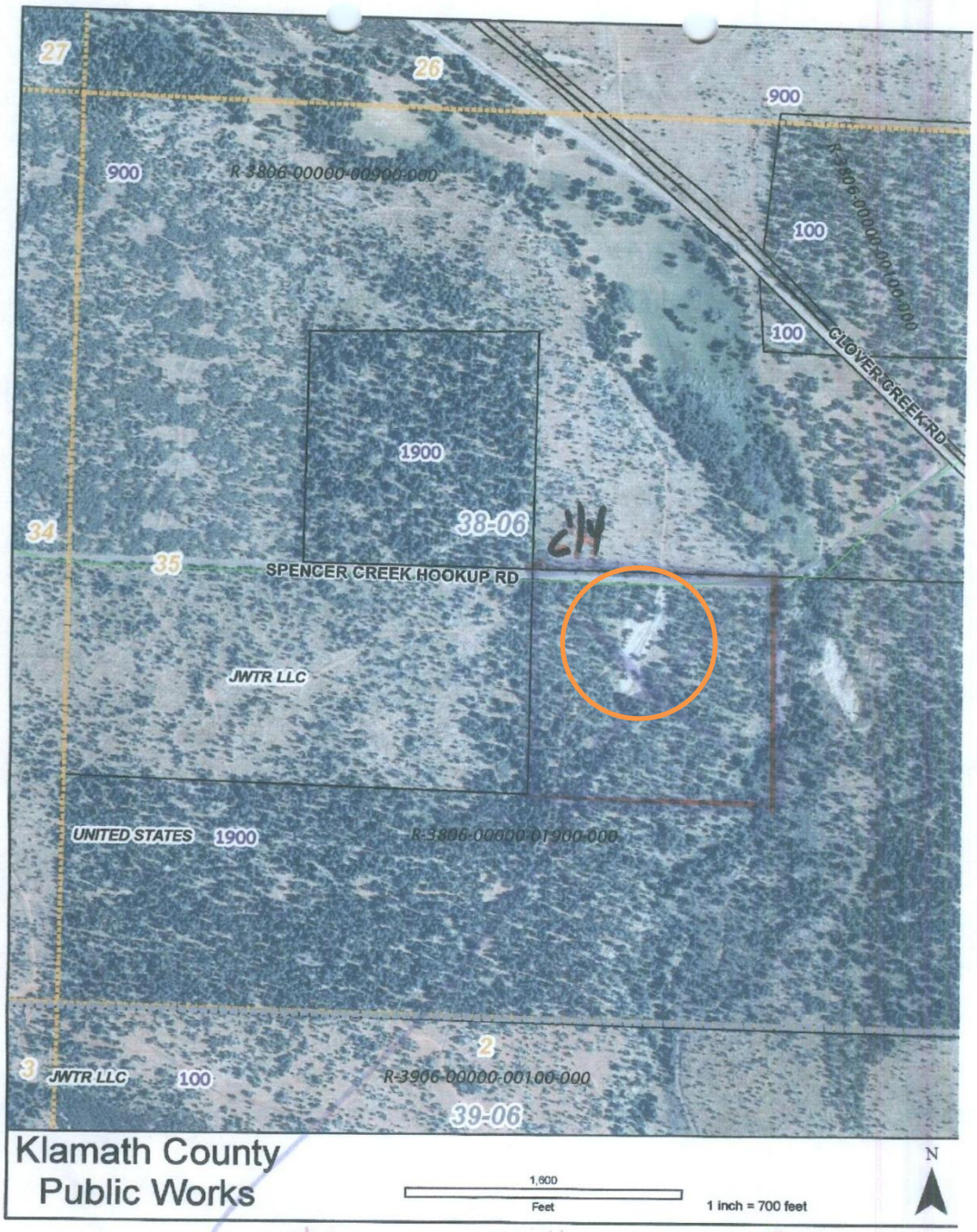
Surveys	Are Completed	Will Be Completed	Are Not Needed
SS Animals			SGH 02/22/12
SS Plants			JLF 02/22/12
Cultural Resources	BMB 2/13/12		
Consultation			
SS Animal Consultation*			SGH 02/22/12
Botanical Consultation			JLF 02/22/12
Cultural Consultation			BMB 2/13/12
*(SS = Special Status)			

E. Contact Person
For additional information concerning this CX review, contact:

Debora Boudreau, Klamath Falls Resource Area, 2795 Anderson Avenue, Building 25, Klamath Falls, Oregon 97603-7891 or telephone: 541-885-4150



T.38E, R6E., Sec 35, NW1/4SE1/4 (USGS Topographical map, Scale: 1:24,000)



NW1/4 of the SE1/4 SEC 35 T38S R6E

EXHIBIT A

STIPULATIONS

By accepting a grant, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

1. To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and state laws and regulations applicable to the authorized use.

2. Rebuild and repair roads, fences, and established trails destroyed or damaged by the project and or use by row holder.

3. Build and maintain suitable crossings for existing roads and significant trails that intersect the project.

4. Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area.

5. Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate.

6. Pay monitoring fees and rent described in 43 CFR Sec. 2805.16 of this subpart and subpart 2806 of this part.

7. If BLM requires, obtain, and/or certify that you have obtained, a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant.

8. Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see 43 CFR Sec. 2807.12 of this part).

9. Comply with project-specific terms, conditions, and stipulations.

10. Restore, re-vegetate, and curtail erosion or conduct any other rehabilitation measure BLM determines necessary.

11. Ensure that activities in connection with the grant comply with air and water quality standards or related facility citing standards contained in applicable Federal or state law or regulations.

12. Control or prevent damage to Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat; Public and private property; and Public health and safety.

13. Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant.

14. Notify the Authorized officer of any maintenance or repairs prior to taking any action on the right of way.

15. When the state standards are more stringent than Federal standards, comply with state standards for public health and safety, environmental protection, and citing, constructing, operating, and maintaining any facilities and improvements on the right-of-way.

16. Grant BLM an equivalent authorization for an access road across your land if BLM determines the reciprocal authorization is needed in the public interest and the authorization BLM issues to you is also for road access.

17. Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared.

18. Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant.

19. Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 et seq., when you receive, assign, renew, amend, or terminate your grant.

20. Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material.

21. Comply with all liability and indemnification provisions and stipulations in the grant.

22. As BLM directs, provide diagrams or maps showing the location of any constructed facility.

23. Comply with all other stipulations that BLM may require.

24. Conditions of Approval to Protect Cultural Values:

    If subsurface cultural resources are unearthed during operations, activity in the vicinity of the cultural resource will cease and a BLM representative notified immediately. Pursuant to 43 C.F.R. 10.4 the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, the project leader/operator/permittee/etc. must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The holder will be

responsible for the cost of evaluation and any decision as to proper mitigation measures that are made by the authorized officer (BLM).

The project leader/operator/permittee/etc. is responsible for informing all persons associated with this project that they will be subject to prosecution for knowingly disturbing Native American Indian shrines, historic and prehistoric archaeology sites, or for collecting artifacts of any kind, including historic items and/or arrowheads from Federal lands pursuant to the 1906 American Antiquities Act (P.L. 59-209; 34 Stat. 225; 16 U.S.C. 432, 433), the Archaeological Resources Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 47Oee as amended), and/or other federal laws.

25. Conditions of Approval to Protect Wildlife

    If construction activities need to occur during the bird nesting season (May 15 through August 15), a pre-construction site survey by a qualified Biologist would be required. If it is determined that nesting birds are present, a buffer zone (100 feet is recommended for migratory birds) would be established and maintained until the young birds have fledged.

    Raptor Nests

    For Bald Eagles and Golden Eagles use the Fish and Wildlife Service Bald Eagle Management guidelines. Seasonal Restriction period would occur from Jan 1- August 31. These guidelines can be found at the following web site;
    http://www.fws.gov/pacific/eagle/NationalBaldEagleManagementGuidelines.pdf

    For all other raptors use the latest information of the critical nesting period for the raptor species and implement seasonal restrictions from human caused disturbance that may result in nest failure or abandonment.

26. The Lessee or Right-of-Way (ROW) Holder shall post the lease or ROW Serial Number on all structures authorized by the lease or grant where practical.

27. Weeds

    All vehicles and equipment will be cleaned off prior to operating on BLM lands. Removal of all dirt, grease, and plant parts that may carry noxious weed seeds or vegetative parts is required and may be accomplished with a pressure hose.

    High concentrations of noxious weeds in the immediate area of mechanical operations shall be mowed to ground level prior to the start of project activities.

    All equipment and vehicles operating off of main roads shall be cleaned off prior to leaving the job site when the job site includes noxious weed populations. Removal of all dirt, grease, and plant parts that may carry noxious weed seeds or vegetative parts is required and may be accomplished with a pressure hose.

28. Schedule stockpiling and removal activities to not occur during periods when the adjacent Spencer Creek Environmental Education Area is in use, typically around the third week of September. User will only use the road when it is frozen or dry and will not use the road in wet conditions. If the road is damaged by holder, holder will be required to pay for road

maintenance and/or make adequate repairs to road surface and drainage features. This is necessary to keep roads in satisfactory condition, prevent excessive erosion, and to protect the road from winter and spring road use damage. Except in emergency situations, grantor may suspend the use of roads during periods when the forests are closed by lawful authority. Grantor may also suspend the use of such roads when, due to weather conditions, unrestricted use would cause excessive damage to the roads.

29. You are required to contact the Authorized officer in the event of a name change or address change.

30. All of Holder's controlled equipment or equipment under contract to Holder operating upon such roads shall be maintained in a good and safe operating condition and shall be operated cautiously so as to minimize accident hazards. All truck drivers shall have a valid Oregon Truck Operators license. Holder shall abide by all regulations posted along the roads by the Grantor.

Determination for Klamath County Spencer Creek Stock Pile
CX # DOI-BLM-OR-L040-2012-004-CX

I have determined that it is appropriate to proceed with the issuance of Material site Right-of-Way (#OR OR 66927) as described in the Categorical Exclusion (CX), including implementation of stipulations as Exhibit A in the right-of-way grant, and shown on the attached map(s).

Rationale

The proposed action has been reviewed by the Klamath Falls Resource Area staff and appropriate Project Design Features, as specified, will be incorporated into the proposal. The proposed action would not create adverse environmental effects, meet any of the above extraordinary circumstances, or fail to comply with Executive Order 13212 (Actions to Expedite Energy-Related Projects) – to avoid direct or indirect adverse impact on energy development, production, supply, and/or distribution.

Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the human environment and no further environmental analysis is required.

Signature

Authorizing Official: /S/ Donald J. Holmstrom Date: 3/14/12
(Signature)

Name: Donald J. Holmstrom

Title: Manager, Klamath Falls Resource Area