

DECISION RECORD & CATEGORICAL EXCLUSION REVIEW

Project Name: Shale City Salvage Project

(DOI-BLM-OR-M060-2010-0021-CX)

BLM Office: Ashland R.A., Medford District. **Contact Person:** Craig Brown, Forester @ (541) 618-2292

DESCRIPTION AND LOCATION OF THE PROPOSED ACTION:

The Ashland Resource Area of the Medford District Bureau of Land Management (BLM) proposes to remove trees that are dead or dying as a result of heavy Douglas-fir dwarf mistletoe infection. The proposed action would treat 12 units (38 acres total) scattered along roads accessed by the Shale City road. All units are located within 200 feet on either side of open road systems, except for one 6-acre unit (Unit #1) which would require equipment to leave the roadside. The trees described above would be removed and sold commercially. The logging method would be tractor yarding with cable winch and self-loading log truck. Equipment would only be allowed off of the main road on designated skid trails approved by the authorized officer.

The Shale City Salvage project area is located on BLM-administered lands in the Ashland Resource Area along sections of the 37-2E-7.2 road in T. 37 S, R. 2 E, Section 33, and along sections of roads 38-2E-8, 38-2E-8.1, 38-2E-9.7, 38-2E-9.9, and 38-2E-16 in T. 38 S., R 2 E, in Sections 7, 8, 9, and 16, Willamette Meridian, Jackson County, Oregon (see attached maps).

The following project design features (PDF's) are required conditions for this project:

For Watershed Protection (Soils, Water Quality, Hydrological Functions, Riparian Reserves):

- Directional felling will be utilized to minimize off road disturbance to the extent possible.
- Suspend activities when the road surface is wet, during precipitation events, or when resource damage is occurring.
- Maintain all drainage features on existing roads.
- Tractor logging in Unit #1 will be restricted to June 1 to October 15 to insure the soils are dry and to avoid excessive soil disturbance.

For the Protection of Cultural Resources:

- If during project implementation the contractor encounters or becomes aware of any objects or sites of cultural value on federal lands, such as historical or pre-historical ruins, graves, grave markers, or artifacts, the contractor shall immediately suspend all operations in the vicinity of the cultural value and notify the Contract Officer Representative (COR) so the site can be evaluated by a BLM archaeologist.

*For the Protection of Special Status Plant: *Chenopodium subroscida* (pin lichen) located in T38S R2E Section 16:*

- The individual trees on which the population is known to occur will not be harvested or disturbed as a result of project activity as a measure to ensure a minimal loss of population individuals.
- Directional falling will be used to avoid disturbance or damage to protected trees.
- Trees with species individuals will be clearly marked with plant site signs and flagging for identification purposes.

To minimize the spread of noxious weeds:

- To prevent the spread of noxious weeds, all mechanized equipment is to be pressure-washed to remove all dirt and debris prior to entry onto BLM lands.
- All heavy equipment must stay within the designated road corridors, turnouts, and skid trails to avoid contamination in areas currently considered to be free of weeds.
- Known noxious weed sites will be treated (manually, chemically, or a combination of both) prior to the start of project activities.
- Budget and personnel permitting, monitoring and follow-up chemical treatment (if needed) will continue for 3 years beyond the completion of the hazard tree removal.

Maintain Coarse Woody Material

- Existing down coarse woody material is not targeted for removal and will be retained. Three snags per acre greater than 17 inches will be retained.

Fuels treatments and road maintenance

- Concentrated areas of slash will be lopped and scattered (post harvest evaluation would determine if additional treatment would be necessary). Ditch lines and road surfaces would be cleaned by the operator. Roads will be temporarily closed to public travel during removal operations.

PLAN CONFORMANCE

The proposed action is in compliance with the 1995 Medford District Record of Decision and Resource Management Plan (RMP). The 1995 Medford District Resource Management Plan incorporated the Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl and the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl (Northwest Forest Plan) (USDA and USDI 1994). The 1995 Medford District Resource Management Plan was later amended by the 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines*. On July 25, 2007, the *Record of Decision To Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans Within the Range of the Northern Spotted Owl* amended the 1995 Medford District Resource Management Plan by removing the Survey and Manage Mitigation Measure Standards and Guidelines.

On December 17, 2009, the U.S. District Court for the Western District of Washington issued an order in *Conservation Northwest, et al. v. Rey, et al.*, No. 08-1067 (W.D. Wash.) (Coughenour, J.), granting Plaintiffs’ motion for partial summary judgment and finding a variety of NEPA violations in the BLM and USFS 2007 Record of Decision eliminating the Survey and Manage mitigation measure. Judge Coughenour deferred issuing a remedy in his December 17, 2009 order until further proceedings, and did not enjoin the BLM from proceeding with projects (including timber sales).

This project may proceed even if the District Court sets aside or otherwise enjoins use of the 2007 Survey and Manage Record of Decision. This is because this meets the provisions of the last valid Record of Decision, specifically the 2001 Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines (not including subsequent Annual Species Reviews).

The proposed action is also in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937 (O&C Act), Federal Land Policy and Management Act of 1976 (FLPMA), the Endangered Species Act (ESA) of 1973, the Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act, and the Archaeological Resources Protection Act of 1979.

CATEGORICAL EXCLUSION REVIEW

Department of the Interior Regulations (43 CFR § 46.205(c)) require that any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances listed in 43 CFR § 46.215. An action would meet one of the extraordinary circumstances if the action may:

<u>Yes</u>	<u>No</u>	<u>Categorical Exclusion Exception</u>
()	(X)	1. Have significant adverse effects on public health or safety.
()	(X)	2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; 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) 3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)] not already decided in an approved land use plan.
 - () (X) 4. Have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.
 - () (X) 5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
 - () (X) 6. Have a direct relationship to other actions with individually insignificant, but significant cumulative environmental effects. (40 CFR 1508.7 and 1508.25(a)).
 - () (X) 7. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.
 - () (X) 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.
Comment: This project has been consulted on with the USFWS under consultation document: Fall 09 FY 10-11 NLAA BA. The BLM concluded that this project “may affect and will not likely adversely affect” (NLAA) northern spotted owls and northern spotted owl critical habitat. A letter of concurrence (LOC) has been received from the USFWS (TAILS#:13420-2010-I-0025).
 - () (X) 9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
 - () (X) 10. Have disproportionate significant adverse impacts on low income or minority populations (Executive Order 12898).
 - () (X) 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) 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).

COMPLIANCE WITH NEPA

In accordance with 43 CFR §§ 46.205 (c) and 46.215, the proposed action has been reviewed against the above twelve criteria, and I have determined that none of the extraordinary circumstances described in 43 CFR § 46.205 (c) apply to this project. The Proposed Action is categorically excluded from further documentation under the NEPA in accordance with the Department of the Interior Manual Section 516 DM 11.9 C, 8(d) and as follows:

“Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 miles of temporary road construction...

a. May include incidental removal of trees for landings, skid trails, and road clearing....

d. a dying tree is defined as standing tree that has been severely damaged by forces such as fire, wind, ice, insects or disease....and is likely to die within a few years.”

DOCUMENT PREPARATION AND REVIEW

<u>Craig Brown</u>	<u>Forester</u>	<u>2-1-2010</u>
Prepared by	Title	Date

<u>Stephanie Larson</u>	<u>Assistant Environmental Coordinator</u>	<u>9-27-2010</u>
<u>Kristi Mastrofini</u>	<u>Environmental Coordinator</u>	<u>9/28/10</u>
Reviewed/Edited by	Title	Date

DECISION

Based on this NEPA CATEGORICAL EXCLUSION REVIEW, I have determined that the proposed action involves no significant impact to the human environment and that no further environmental analysis is required. The project design features included in this Categorical Exclusion Documentation will further protect those resources from the potential for significant impacts resulting from implementation of the Proposed Action. Implementing the Shale City Salvage project enables the BLM to timely recover some economic value of the damaged and dying timber and reduce potential insect infestation danger. It is my decision to authorize the Shale City Salvage Timber Sale.



John Gerritsma
Field Manager; Ashland Resource Area

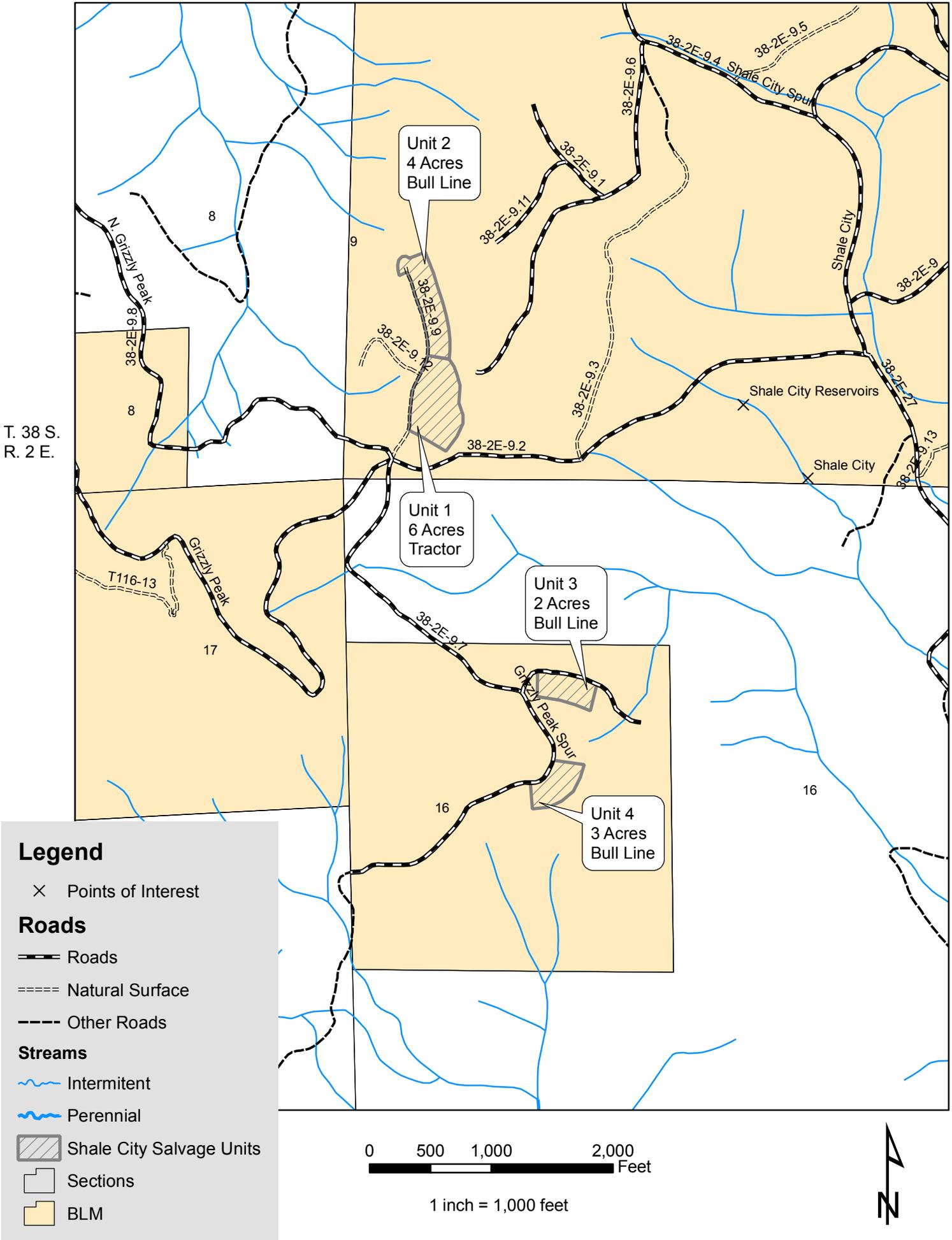
9/28/10

Date

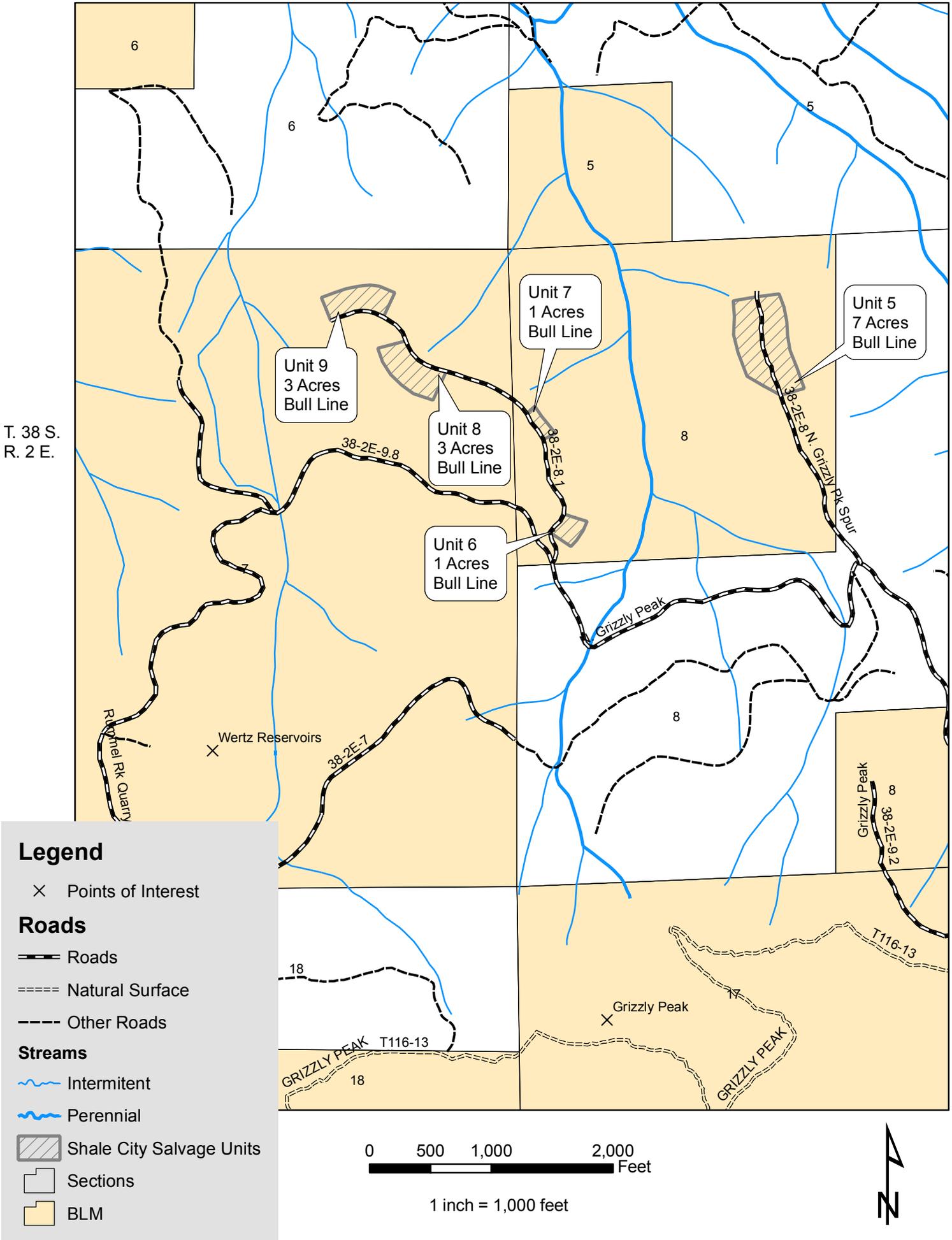
ADMINISTRATIVE REVIEW

This decision is a Forest Management Decision. Administrative remedies are available to persons who believe that they will be adversely affected by this decision. When timber is offered for sale, a Notice of Sale will be published in Medford's *Mail Tribune* newspaper. Publication of the first Notice of Sale establishes the effective date of the decision and the date initiating the protest period provided for in accordance with 43 CFR 5003.3. Any protests of the timber sale must be filed with the Authorized Officer (the Responsible Official signing this Decision) within 15 days of the publication of the Notice of Sale in Medford's *Mail Tribune* newspaper. The regulations do not authorize the acceptance of protests in any form other than a signed, written hard copy that is delivered to the physical address of the advertising BLM office. No e-mail or fax protests will be accepted. A statement of reasons for protesting the decision must also accompany the protest. All parties considering protest of this decision are encouraged to review the aforementioned newspaper to ensure accurate knowledge of the exact publication date of the Notice of Sale.

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