

Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA)

U.S. Department of the Interior
Bureau of Land Management (BLM)
Salem District, Oregon
Tillamook Field Office

The 2013 CWD Creation Project(s) DOI-BLM-OR-S060-2013-0011-DNA

A. Locations of Proposed Action:

- The Wildlife Habitat Enhancement (WHE) units within the Headwaters Nestucca 6th Field watershed totaling 151 acres are located in T.3S. R.6W. sections 16, 17, 19 and 20 (Willamette Meridian)
- The WHE units within the Bear Creek 6th Field watershed totaling 39 acres are located in T.3S. R7W. Section 20.
- The felling of 30 trees into headwater stream areas within the Headwaters Nestucca 6th field watershed is located in T.3S. R.6W Sections 17, 18, 19 and 20.
- The felling and topping of dead Douglas fir trees to minimize identified safety hazards near Camp Cooper) in T.4S. R.7W. Section 1.

Description of the Proposed Action:

The 2013 CWD (Coarse Woody Debris) Creation Project is actually composed of several projects or portions of projects analyzed under two different NEPA documents that are being implemented via a single Task Order on a USFS/BLM Service First IDIQ Contract. The projects were planned and funding was procured in FY '13 but the projects will be implemented in FY '14

- A total of approximately 190 acres of Wildlife Habitat Enhancement (WHE) which involves CWD Creation within both the Headwaters Nestucca and Bear Creek 6th field watersheds of the Nestucca River 5th field watershed. *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion (CX # DOI-BLM-OR-S000-2013-0001-CX)*
- Felling about 30 trees into selected headwater stream areas within the Headwaters Nestucca 6th field watershed that have been identified as potential source areas for large wood recruitment into coho salmon critical habitat. *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment and Finding of No Significant Impact (EA # OR-S0000-2012-0001-EA)*
- Felling seven dead Douglas fir hazard trees and topping one dead Douglas fir hazard tree to minimize identified safety hazards near the Camp Cooper Boy Scout Camp while maintaining and/or creating habitat for wildlife. *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion (CX # DOI-BLM-OR-S000-2013-0001-CX)*

Note: The felling of seven dead Douglas fir trees near Camp Cooper occurred on May 30, 2013 as it was determined they posed an immediate safety hazard to the visitors of Camp Cooper Boy Scout Camp as well as a risk of damage to the facilities of the camp. The felled trees were retained on site as CWD habitat. It was also determined that the remaining dead Douglas fir to be topped did not constitute an immediate hazard because it had only recently died and limb and bark structures were still sound; it is planned to be topped via the upcoming Task Order between September 1, 2013 and June 1, 2014.

Design Features

- Archeology: If any cultural and/or paleontological resource (historic or prehistoric site or object) is

discovered during project activities all operations in the immediate area of such discovery shall be suspended until an evaluation of the discovery can be made by a professional archaeologist to determine appropriate actions to prevent the loss of significant cultural or scientific values.

The project area occurs in the Coast Range Physiographic Province. Survey techniques are based on those described in Appendix D of the *Protocol for Managing Cultural Resource on Lands Administered by the Bureau of Land Management in Oregon*. Post-disturbance survey, when conducted, follows standards based on slope as defined in the Protocol appendix. These standards only mandate post-disturbance survey on slopes of 10% or less, or if professional judgment prompts such efforts due to topographic features or existence of nearby cultural resources. Ground disturbing work should be suspended if cultural material is discovered during project work until an archaeologist can assess the significance of the discovery.

- The trees to be felled into selected headwater streams within the Headwaters Nestucca 6th filed watershed were selected jointly by a fisheries and wildlife biologist to minimize any potential negative impacts to aquatic and terrestrial resources.

Conformance with the Land Use Plan (LUP) and Consistency with Related Subordinate Implementation Plans:

The 2013 CWD Creation Project is consistent with the Nestucca Watershed Analysis (USDA and USDI 1995) and *Late-Successional Reserve Assessment for Oregon's Northern Coast Range Adaptive Management Area* (USDA and USDI 1998).

The 2013 CWD Creation Project conforms to management objectives found in the *Salem District Record of Decision and Resource Management Plan* (RMP) (USDI 1995). The project is in conformance with the land use plan, because it is specifically provided for in the RMP as follows:

- In LSRs design projects to improve conditions for wildlife if they provide late successional habitat benefits, or if their effect on late-successional species is negligible (RMP, p. 25).
- Study, maintain, or restore community structure, species composition, and ecological processes of special status plant and animal habitat (RMP, p. 28).
- Install nesting platforms, nest boxes and other structures to enhance habitat (RMP, p. 26).

The *Salem District Record of Decision and Resource Management Plan* (USDI 1995), as amended, incorporated the Aquatic Conservation Strategy, a component of the Northwest Forest Plan, to guide the District in meeting watershed restoration objectives, including but not limited to:

- Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations.
- Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems. Water quality must remain in the range that maintains the biological, physical, and chemical integrity of the system and benefits survival, growth, reproduction, and migration of individuals composing aquatic and riparian communities.
- Maintain and restore the sediment regime under which an aquatic ecosystem evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.
- Maintain and restore habitat to support well distributed populations of native plant, invertebrate, and vertebrate riparian dependent species.
- Maintain and restore the species composition and structural diversity of plant communities in riparian zones and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and

distributions of coarse woody debris sufficient to sustain physical complexity and stability (1995 RMP, p. 5-6).

The portion of the 2013 CWD Creation Project involving the felling of trees into selected headwater stream areas within the Headwaters Nestucca 6th field watershed that have been identified as potential source areas for large wood recruitment has been specifically designed to address meeting the objectives of the Aquatic Conservation Strategy.

Survey and Manage Species Review

The 2013 CWD Creation Project(s) are consistent with court orders relating to the Survey and Manage mitigation measure of the Northwest Forest Plan, as incorporated into the Salem District Resource Management Plan.

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. Plaintiffs and Defendants entered into settlement negotiations that resulted in the 2011 Survey and Manage Settlement Agreement, adopted by the District Court on July 6, 2011.

The Ninth Circuit Court of Appeals issued an opinion on April 25, 2013, that reversed the District Court for the Western District of Washington's approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid.

Previously, in 2006, the District Court (Judge Pechman) had invalidated the agencies' 2004 RODs eliminating Survey and Manage due to NEPA violations. Following the District Court's 2006 ruling, parties to the litigation had entered into a stipulation exempting certain categories of activities from the Survey and Manage standard (hereinafter "Pechman exemptions").

Judge Pechman's Order from October 11, 2006 directs: "Defendants shall not authorize, allow, or permit to continue any logging or other ground-disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:

- A. Thinning projects in stands younger than 80 years old;*
- B. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;*
- C. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and*
- D. The portions of project involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging will remain subject to the survey and management requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph."*

Following the District Court's December 17, 2009 ruling, the Pechman exemptions still remained in place. Activities associated with the felling of trees into selected headwater stream areas within the Headwaters

Nestucca 6th field watershed that have been identified as potential source areas for large wood recruitment into coho salmon critical habitat are consistent with one of the Pechman Exemptions:

C. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions.

The Proposed Action elements that involve CWD Creation within the Headwaters Nestucca and Bear Creek 6th field watersheds and the felling seven dead Douglas fir hazard trees and topping one dead Douglas fir hazard tree to minimize identified safety hazards near Camp Cooper are not covered by Pechman exemptions and are therefore subject to 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 CWD Creation within the Headwaters Nestucca and Bear Creek 6th field watersheds is consistent with 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*, as incorporated into the Salem District Resource Management Plan because surveys for potentially affected Survey and Manage botanical species were completed to protocol. Several Survey and Manage species were found within the Headwaters Nestucca project area. The management recommendations for these species require the protection of the substrate that they reside on (bark of individual trees) which will be done by not allowing the known site trees to be treated or allow them to be damaged by treatment of other trees nearby. Based on the nature of the project including incorporated design features and/or the habitats to be impacted, these portions of the project did not trigger the need for Survey and Manage terrestrial mollusk or red tree vole surveys. The previous felling of hazard trees and the planned topping of the remaining hazard tree at Camp Cooper are consistent with 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* because falling of hazard trees is considered routine maintenance and therefore not considered a habitat disturbing activity which would require surveys (S&M ROD S&G's p. 22).

B. Identify the applicable NEPA document(s) and other related documents that cover the proposed action.

Applicable NEPA Documents:

Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment and Finding of No Significant Impact (EA # OR-S0000-2012-0001-EA)

Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion (CX # DOI-BLM-OR-S000-2013-0001-CX)

C. NEPA Adequacy Criteria

1. Is the current proposed action substantially the same action (or is a part of that action) as previously analyzed?

Yes, the portion of the project involving the felling of trees into headwater stream areas was specifically considered to be a routine restoration action within the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* (EA # OR-S0000-2012-0001-EA); it included set annual maximums for both the District and at the 5th field watershed level.

Portion of Table 1. Pg 13. Salem District Aquatic and Riparian Habitat Restoration EA		
Restoration Category	Typical Year	Annual Maximum
Instream structure and gravel placement - excavator-type placement (this category includes the direct felling of trees into streams)	2 projects in two 5 th fields for a total of 3 miles	<i>District:</i> 10 stream miles <i>5th Field Watershed:</i> 4 stream miles

There are projected to be three Aquatic and Riparian Habitat Restoration projects occurring in the Nestucca Watershed in 2014; the first two are located on streams containing habitats for ESA listed or Bureau Sensitive fish species. The third is not located on streams containing habitat for ESA listed or Bureau Sensitive fish species but rather is planned to occur on tributaries to streams containing habitat for ESA listed fish. The expected number of projects for the 5th field watershed would exceed the typical year number but be considerably less than the typical year mileage (as noted below) which is the real indicator of potential impacts.

- 1) Walker Creek Instream restoration (1/2 mile in length).
- 2) East Beaver Creek instream restoration (1 mile in length)
- 3) Felling of trees into headwater stream areas within the Headwaters Nestucca 6th field watershed (approximately ¼ mile in length)

Based on discussions with the Salem District lead fisheries Biologist, the District Annual Maximum would also be well below the annual maximum considered for the entire Salem District.

The portion of the project involving Wildlife Habitat Enhancement is well within the description of proposed action in the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion (CX # DOI-BLM-OR-S000-2013-0001-CX)*:

- The purpose of this project is to create structures suitable for use by cavity nesting wildlife. This is done by treating standing trees in a variety of methods to create live and dead wildlife trees or snags, or by creating coarse woody material by falling standing trees. This project consists of creating wildlife trees to provide or maintain nesting structure for marbled murrelets, spotted owls and spotted owl prey such as flying squirrels and red tree voles, other raptors, woodpeckers, and other cavity dependent species. The project also includes the creation of coarse woody debris (down wood) to improve habitat for amphibians, rodents (spotted owl prey), and other ground dwelling animals. In general, the wildlife structures would be created by using a chainsaw to girdle, top, create cavities, or fell individual trees within a forest stand. Overall the stand would retain its characteristics. No ground disturbance would occur.

The *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion* set an upper limit of approximately 4,500 acres to be treated with wildlife tree and down wood creation over a five-year period (2013 thru 2017); this equates to approximately 1,500 acres per each of the three Resource Areas within the Salem District. To date, no acres have been treated within the Tillamook Resource Area under this Categorical Exclusion; the total of 190 acres of Wildlife Habitat Enhancement within the Headwaters Nestucca and Bear Creek 6th field watersheds and the felling or topping of dead Douglas fir hazard trees near Camp Cooper while maintaining habitat for wildlife are well within the upper limits of the treatments analyzed within the Categorical Exclusion.

2. **Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values, and circumstances?**

Yes. Pursuant to Section 102 (2) (E) of the National Environmental Policy Act (NEPA) of 1969, as amended, Federal agencies shall "...study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

During the development of the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* no unresolved conflicts concerning alternative uses of available resources (section 102(2) (E) of NEPA) were identified. No alternatives were identified that would meet the purpose and need of the project and have meaningful differences in environmental effects from the Proposed Action. Therefore, the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* analyzed the effects of the "Proposed Action" and the "No Action Alternative" in this project area.

The portions of the 2013 CWD Creation Project which involve Wildlife Habitat Enhancement within the Headwaters Nestucca and Bear Creek 6th field watersheds and the felling or topping of dead Douglas fir hazard trees near Camp Cooper were analyzed under the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion*. The analysis for projects which are categorically excluded from a detailed environmental analysis does not include a range of alternatives. Given the current environmental concerns, interests, and resource values this is appropriate.

3. **Is the existing analysis adequate and are the conclusions adequate in light of any new information or circumstances (including, for example, riparian proper functioning condition [PFC] reports; inventory and monitoring data; most recent Fish and Wildlife Service lists of threatened, endangered, proposed, and candidate species; most recent BLM lists of sensitive species)? Can you reasonably conclude that all new information and all new circumstances are insignificant with regard to analysis of the proposed action?**

Yes. New circumstances have arisen since the publication of the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* (EA # OR-S0000-2012-0001-EA) on May 22, 2012.

- On November 21, 2012, in compliance with an order from a U.S. District Court, the USFWS finalized the 2012 designation of Critical Habitat for the spotted owl. The final rule was published in the Federal Register on December 3, 2012 and became effective on January 3, 2013. All of the project areas in the 2013 CWD Creation Project are located within Spotted Owl Critical Habitat; they were also located within the 1992 Spotted Owl Critical Habitat designation. This project is fully consistent with management of Spotted Owl Critical Habitat.
- The Ninth Circuit Court of Appeals issued an opinion on April 25, 2013, that reversed the District Court for the Western District of Washington's approval of the 2011 Survey and Manage Settlement Agreement. The case is now remanded back to the District Court for further proceedings. This means that the December 17, 2009, District Court order which found National Environmental Policy (NEPA) inadequacies in the 2007 analysis and records of decision removing Survey and Manage is still valid. See detailed discussion of Survey and Manage in the *Survey and Manage Species Review* section above.

No new circumstances have arisen since the publication of the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion* (CX # DOI-BLM-OR-S000-2013-0001-CX) on May 30, 2013.

4. **Do the methodology and analytical approach used in the existing NEPA document(s) continue to be appropriate for the current proposed action?**

Yes. The methodology and analytical approach used for the analysis contained in the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* continue to be appropriate in respect to the current proposed action – that portion of the 2013 CWD Creation Project which involves felling of trees into selected headwater stream areas identified as potential source areas for large wood recruitment into coho

salmon critical habitat. (1) There are no new standards or goals for managing resources; (2) There are no changes in resource conditions since the Salem District Aquatic and Riparian Habitat Restoration EA was published in 2012; (3) Changes in resource related plans, policies or programs, include the recent change in survey and manage discussed above; and (4) There are no new land designations in the Headwaters Nestucca 6th field planning areas.

The portions of the 2013 CWD Creation Project which involve Wildlife Habitat Enhancement within the Headwaters Nestucca and Bear Creek 6th field watersheds and the felling or topping of dead Douglas fir hazard trees near Camp Cooper were analyzed under the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion*. An Interdisciplinary Team of specialists has given the proposal a site-specific review and have identified no significant impacts (direct, indirect, and cumulative) of the proposed action on the relevant elements of the environment. Given the nature of these portions of the project and the fact that projects of this type are categorically excluded from a detailed environmental analysis, this methodology and analytical approach continues to be appropriate.

5. Are the direct and indirect impacts of the current proposed action substantially unchanged from those identified in the existing NEPA document(s)? Does the existing NEPA document sufficiently analyze site-specific impacts related to the current proposed action?

Yes. The *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* adequately addressed the impacts (direct, indirect, and cumulative) of the proposed action on the relevant elements of the environment. Project design features are described on pp. 17-26 of the EA. The EA described impacts to Endangered Species Act (ESA) listed wildlife species and habitat, water quality and quantity, invasive and non-native plant species, soil resources, Bureau Sensitive and Special Attention plant and animal species and habitats. Impacts from implementing the in-stream large wood projects would fall within those analyzed in the EA, and were anticipated in the EA.

Those portions of the 2013 CWD Creation Project that were analyzed under the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion* are excluded from a detailed environmental analysis. An Interdisciplinary Team of specialists have given the proposal a site-specific review and have identified no significant impacts (direct, indirect, and cumulative) of the proposed action on the relevant elements of the environment.

Also see section D(3) of this DNA for further discussion.

6. Can you conclude without additional analysis or information that the cumulative impacts that would result from implementation of the current proposed action are substantially unchanged from those analyzed in the existing NEPA document(s)?

Yes. The cumulative effects considered in the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment* adequately address those that may be associated with implementation of this project.

The *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion* identified no cumulative effects associated with wildlife tree and down wood creation. The Interdisciplinary Team of specialists which gave this proposal a site-specific review identified no past, present or reasonably foreseeable future projects which cumulatively would change this conclusion. Due to the limited scope and duration of this project, no other actions planned in the area will have effects that would be considered cumulative.

7. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes. There have been opportunities for public involvement and interagency review associated with the

completion of the *Salem District Aquatic and Riparian Habitat Restoration, Environmental Assessment*. External scoping (seeking input from people outside of the BLM) was conducted by means of a scoping letter. 41 copies of this letter went out to federal, state municipal government agencies, tribal authorities, and interested parties on the Salem District on May 13, 2011. One comment in support of these types of projects was received from Oregon Wild.

Those portions of the 2013 CWD Creation Project that were analyzed under the *Salem District Wildlife Tree and Down Wood Creation Categorical Exclusion* are excluded from a detailed environmental analysis including extensive public involvement processes. Given the nature of these portions of the project and the fact that based on past experiences the public has demonstrated little interest in these types of projects, this continues to be appropriate.

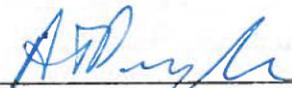
D. Interdisciplinary Analysis: Identify those team members conducting or participating in the preparation of this worksheet.

<u>Name</u>	<u>Resource Represented</u>
Matt Walker	Fisheries/ hydrology
Steve Bahe	Wildlife
Kurt Heckeroth	Botany/weeds
Heather Ulrich	Archeology
Andy Pampush	NEPA

E. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and approved in relevant LUPs and existing NEPA document(s). List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

No Mitigation Measures were identified or required. Project Design Features consistent with the analysis of the appropriate NEPA documents have been incorporated into the projects. This project also incorporates additional site-specific design features (see proposed action above).

REVIEWED BY



Planning and Environmental Coordinator



Date

CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA.

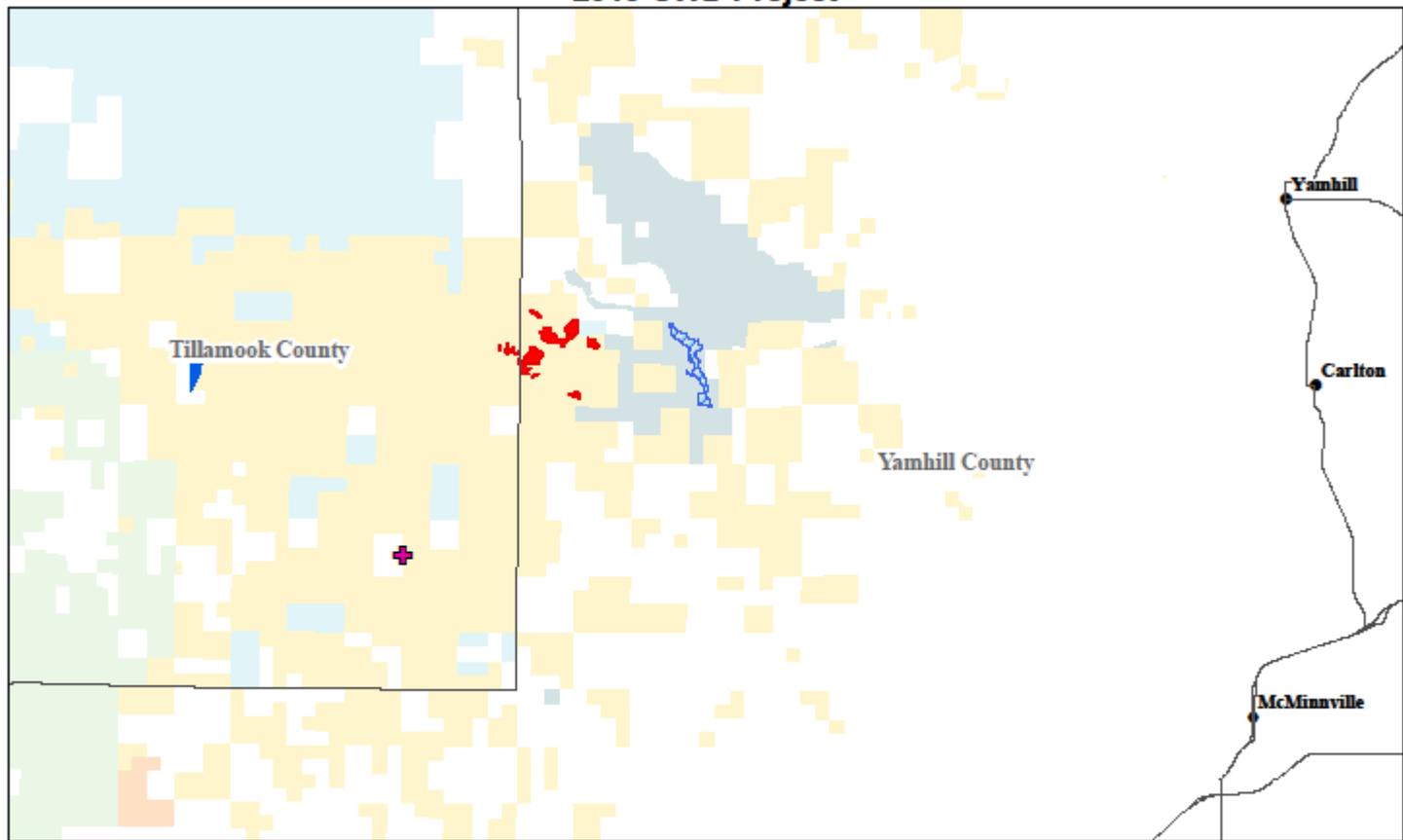


Karen M. Schank
Tillamook Resource Area Field Manager



Date

2013 CWD Project



- Legend**
- Middle River Reservoir
 - Oregon State Highway
 - Hazard Tree
 - Near CWD
 - Water Creek CWD
 - Local Ownership
 - Bureau of Land Management
 - U.S. Forest Service
 - Bureau of Indian Affairs
 - State
 - Local Government
 - Private Land



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