



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Vale District Office  
100 Oregon Street  
Vale, Oregon 97918

IN REPLY REFER TO:  
4190 (ORV000)

DEC 07 2012

## NOTICE OF FIELD MANAGER'S FINAL DECISION TEN MILE COMPLEX FIRE G5TU

Dear Interested Public:

### BACKGROUND

During the summer of 2012, several lightning caused fires burned within the Jordan Resource Area, Vale District, Bureau of Land Management (BLM). Two such fires make up the Ten Mile Complex. The Ten Mile Complex includes the area burned by Ten Mile and Banana Lake fires. Both were started by lightning on August 10th, 2012 and were contained on August 18, 2012 after burning a total of 14,996 acres. The Ten Mile Fire burned 65 acres of private land, 6,827 acres of public land administered by BLM and 3,138 acres of land administered by the Bureau of Indian Affairs (BIA). All lands burned by the Banana Lake fire (4,960 acres) were public lands administered by the BLM. The Ten Mile fire is located five miles northeast of McDermitt, Nevada and the Banana Lake fire is located 30 miles northeast of McDermitt, Nevada in southeast Oregon.

Within a week of the containment date of the fire, the Vale District assembled an interdisciplinary (ID) team of specialists and within 21 days of containment, this ID team developed an Emergency Stabilization and Rehabilitation Plan (hereafter referred to as ES&R Plan) containing treatments necessary for the stabilization and rehabilitation of the burned area.

The ES&R Plan was submitted for funding to the BLM's Washington Office (WO) through the Emergency Stabilization and Rehabilitation System (ESRS). The ES&R Plan was approved by the WO on 9/24/2012. However, based on limited funds, no funding was granted at the time. Later, the Vale District was partially funded for the ES&R Plan to purchase seed. Native seed availability was limited and all the seed prices were higher than they had previously been earlier in the year. As a result, BLM Vale District revised the Ten Mile Complex ES&R Plan. This document will serve as the final emergency stabilization and rehabilitation plan, hereafter referred to as the Revised Plan. The final decision or revised plan will supersede the treatments identified in the original ES&R Plan that was submitted through the ESRS.

In development of the ES&R plan and the Revised Plan, BLM consulted<sup>1</sup> with the livestock grazing permittees, Oregon Natural Desert Association, Oregon Department of Fish and Wildlife (ODFW), Natural Resource Conservation Service (NRCS), Agricultural Research Service (ARS), United States Fish and Wildlife Service (USFW), Oregon Department of Transportation (ODOT), United States Geological Survey (USGS), Oregon Cattleman’s Association (OCA), Vale County Court, the Trout Creek Mountain Work Group and Western Watersheds Project (WWP). Based on BLM’s field work, the consultation with agencies and interested entities, seed availability and cost, and funding limitations, the size and scope of some of the treatments have been adjusted from the ES&R Plan.

### INTRODUCTION

The Ten Mile Complex fire burned: 1,806 acres of the Lookout Butte Wilderness Study Area; 3,066 acres of the Owyhee River Canyon Wilderness Study Area; 6,900 acres of lands found to contain wilderness characteristics; 14,361 acres of greater sage-grouse Preliminary Priority Habitat (PPH); and 14 acres of greater sage-grouse Preliminary General Habitat (PGH). The chart below shows the amount in acres of the special designated areas that burned.

SPECIAL DESIGNATED AREA	ACRES BURNED
Lookout Butte Wilderness Study Area	1,806
Owyhee River Canyon Wilderness Study Area	3,066
Lands with wilderness character	6,900
Greater Sage-grouse Preliminary Priority Habitat (PPH)	(11,223 BLM) 14,361
Greater Sage-grouse Preliminary General Habitat (PGH)	14

The Ten Mile Complex Fire burned within the following grazing allotments: 5,498 acres (37%) of the Albisu-Alcorta allotment (#01304); 263 acres (trace %) of the Campbell allotment (#11306); 1,030 acres (0.8%) of the Louse Canyon Community allotment (#01307); 42 acres (trace %) of the Sherburn allotment (#11303); and 4,960 acres (2.6%) of the Star Valley Community allotment (#01402). The chart below shows the amount in acres of the allotments that burned.

ALLOT NUM	ALLOTMENT NAME	ALLOT ACRES	ACRES BURNED	ALLOTMENT % BURNED
<b>Rattlesnake Geographical Management Area</b>				
01304	ALBISU-ALCORTA	14,905	5,498	37
11306	CAMPBELL	161,492	263	Trace.2
11303	SHERBURN	48,876	42	Trace.1
<b>Louse Canyon Geographical Management Area</b>				
01307	LOUSE CANYON COMM	135,187	1,030	0.8
01402	STAR VALLEY COMM.	190,328	4,960	2.6
*Total includes all acres burned; BLM, Private, and BIA			14,996	

<sup>1</sup> The Plan was also discussed at community meetings held at Jordan Valley and Rome, Oregon and McDermitt, Nevada where opportunities to comment were provided.

## COMPLIANCE

The Revised Plan was prepared under the guidance of and is consistent with the Burned Area Emergency Stabilization and Rehabilitation Handbook H-1742-1. The treatments in the Revised Plan are the same as the proposed actions described in the Vale District Normal Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (EA) # OR-030-05-005. The EA was completed in 2005. The EA analyzed the potential impacts to implementing the proposed action and alternatives and determined there would not be a significant impact to the human environment and prepared a Finding of No Significant Impacts (FONSI) Decision Record.

Because the treatments analyzed in the NFESRP EA are the same as the Revised Plan, BLM compared the Revised Plan with the analysis found in the NFESRP EA and determined that the analysis was sufficient and new NEPA analysis was not necessary. BLM documented this review and prepared a Determination of NEPA Adequacy (DNA) # DOI-BLM- V060-2012-043 prior to the approval of the Revised Plan and the issuance of this decision. The NFESRP EA and FONSI and the DNA documents can be viewed at: <http://www.blm.gov/or/districts/vale/plans/index.php>. If you wish to receive hard copies of these documents, they are available upon request at the Vale District Office, (541) 473-3144.

The treatments described in the Revised Plan, as analyzed in the Vale District NFESRP EA, is consistent with the Southeast Oregon Resource Management Plan/Environmental Impact Statement and Record of Decision, Sept. 2002. The Revised Plan's treatments have been designed to conform to the following documents which direct and provide the framework for management of BLM lands within Vale District:

- Taylor Grazing Act (43 U.S.C. 315), 1934
- The National Environmental Policy Act (42 U.S.C. 4320-4347), 1970
- Vale District Normal Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (EA) # OR-030-05-005.
- Federal Land Policy and Management Act (43 U.S.C. 1901), 1978
- August 12, 1997 Standards for Rangeland Health and Guidelines for Livestock Management for Public Lands, Administered by the BLM in the States of Oregon and Washington
- 2007 Vegetation Treatments Using Herbicides on BLM Lands in 17 Western States ROD
- 2010 Vegetation Treatments Using Herbicides on BLM Lands in Oregon ROD
- Greater Sage-grouse and Sagebrush-steppe Ecosystems Management Guidelines (BLM-2000)
- National Historic Preservation Act (16 U.S.C. 470)
- Programmatic Agreement Among USDI BLM, the Advisory Council on Historic Preservation and the Oregon State Historic Preservation Officer Regarding the Identification, Evaluation, and Treatment of Historic Properties Managed by the BLM, Oregon State Office, Throughout the State of Oregon
- Executive Order 12372, Intergovernmental Review
- Executive Order 13112, Invasive Species
- BLM National Sage-grouse Habitat Conservation Strategy (2004)
- Instruction Memorandum WO-2012-043, Greater Sage-grouse Interim Management Policies and Procedures issued December 22, 2011

- A Report on National Greater Sage-grouse Conservation Measures, Produced by: Sage-grouse National Technical Team, December 21, 2011
- Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A plan to Maintain and Enhance Populations and Habitat; ODF&W 4/22/2011
- Southeastern Oregon Resource Management Plan and Record of Decision (2002)
- State, local, and Tribal laws, regulations, and land use plans
- SEORMP Settlement Agreement (Case 05-35931, June 10, 2010) between Vale District BLM and Oregon Natural Desert Association (ONDA) resulting from Ninth Circuit Court of Appeals decision (*ONDA v. BLM*, 625 F.3d 1092 (9<sup>th</sup> Cir. 2010)).

## **FINAL DECISION**

I have determined that the vegetation, soil and other resources on the public lands are at immediate risk of erosion and other damage due to the 2012 Ten Mile Complex wildfire.

DNA # DOI-BLM- V060-2012-043 addressed the treatments identified in the ES&R Plan and I have determined that it was consistent with the analysis in the NFESRP EA and FONSI. The treatments listed as the Revised Plan (below) are less than the treatments proposed in the ES&R Plan and I have determined that the DNA is sufficient.

I have determined that implementing the Revised Plan's treatments as analyzed in the NFESRP EA did not require the preparation of an environmental impact statement, as set out in the FONSI.

I have determined that implementation of the treatments described in the Revised Plan does not constitute a major Federal action that will adversely impact the quality of the human environment. Therefore, an Environmental Impact Statement is not necessary and will not be prepared.

Based on analysis, comments from the public and input from my staff, it is my final decision to implement the treatments as listed in the Revised Plan below.

This decision is effective immediately due to the immediate risk of erosion and damage to wildlife, specifically, the likelihood of the conversion of rangelands to invasive annual grasses if they are not treated this fall.<sup>2</sup>

My decision is issued under 43 Code of Federal Regulations (CFR) § 4190.1(a), which states:  
 Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision.

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<sup>2</sup> Rangelands converted to invasive annual grasses are more prone to wildfire and often resulting in larger and more frequently occurring wildfires. Wildfires (even low intensity ones) readily kill sagebrush which is an important forage and cover component for sagebrush obligate wildlife species, particularly the Greater Sage-Grouse. Rangelands converted to invasive annual grasses also have lower species diversity both plant and animal. Lower plant species diversity results in higher probability of soil erosion and a higher susceptibility to invasion of noxious weeds.

## REVISED PLAN TREATMENTS

Below is a table of the projects needed to stabilize and rehabilitate lands affected by the 2012 Ten Mile Complex wildfire. Maps of the treatment locations are also attached.

Treatments	Amount	Implementation year <sup>3</sup>
Ground or drill seeding with rangeland drills	900 acres	2012
Plant sagebrush seedlings and/or lop & scatter seedheads	4,960 acres	Beginning in 2013
Noxious weed inventory	3,400 acres	Beginning in 2013
Noxious weed treatment	1 acre	Beginning in 2013
Repair fences	16 miles	Beginning in 2012

## RATIONALE

### Drill seeding

BLM evaluated the entire burned area to determine the suitability for seeding from field going personnel with personal knowledge of the pre-burn condition. All of the areas selected for treatment were determined to be suitable for seeding based on the high probability of conversion to cheatgrass dominated communities, should no treatment occur, and also had a high probability of seeding success or establishment. The seeding would be done in those areas that, prior to the fire, were dominated by sagebrush.

At the formation of the ES&R Plan, the ID team had chosen a wide range of multiple grass species and cultivated varieties of those species in hopes of increasing the odds of at least one or more varieties successfully establishing. However, at the BLM's consolidated seed buy, the cost of the seed on average was three times higher than they were earlier in the year due to the increased demand for seed. This increase in price reduced the amount of seed BLM was able to purchase with the funding available. Also, due to the number of wildfires in the western US the demand for seed far exceeded the supply on the open market.

As a result, BLM was able to purchase enough non-native grass seed<sup>4</sup> to plant the 900 acres recommended suitable for planting.

While deciding on where to plant the non native grasses, close consideration was given to the National Technical Team (NTT) recommendations listed in "A Report on National Sage-grouse Conservation Measures". The NTT recommended prioritizing native seed allocation for use in sage-grouse habitat in years when preferred native seed is in short supply. This may require reallocation of native seed from ES&R projects outside of priority sage-grouse habitat to those inside it. Use of native plant seeds for ES&R seedings is required based on availability, adaptation (site potential), and probability of success. Where probability of success or native seed availability is low, non-native seeds may be used as long as they meet sage-grouse habitat conservation objectives (page 28). All the available native seed is directed to the Long Draw fire in greater sage-grouse PPH where probability of success is greater than the Ten Mile burn due to the higher elevation and subsequent higher precipitation that falls in that area.

<sup>3</sup> The year in which these treatments will be implemented is subject to funding availability.

<sup>4</sup> The non-native seed mix is Siberian wheatgrass 5.8 lbs/ac and crested wheatgrass 4.3 lbs/ac or a total of 10.1 lbs/ac.

Close consideration was also given to BLM national policy memo WO IM 12-043 which states that, “When necessary, analyze the use of non-native species that do not impede long-term reestablishment goals of native plant communities and Greater Sage-Grouse habitat. BLM knows that post burn recovery, in low and mid-seral condition Wyoming sage-brush sites, quickly becomes dominated by non-native invasive annual grasses such as cheatgrass. Cheatgrass dominated rangelands do not allow for native plant communities nor do they meet the Greater Sage-Grouse habitat needs. BLM is also aware that non-native perennial bunchgrass such as the various species of wheatgrasses to be in the Revised Plan compete well against cheatgrass, offer the rangelands a surrogate for the native deep rooted perennial grasses and when planted with sagebrush, does serve as habitat for the Greater Sage-Grouse. Introduced grasses with a shrub component (crested wheatgrass and shrubs) is considered preferable than taking no rehabilitation action at all (SEORMP page F-10).

Close consideration was given to ODFW’s 2011 Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A plan to Maintain and Enhance Populations and Habitat, which states if native plant and sagebrush seed is unavailable crested wheatgrass can be planted in lieu of native species or as a mixture with native species, because it is readily available, and successfully competes with cheatgrass, and establishes itself more readily than natives (pg. 101).

#### **Planting sagebrush seedlings or lop and scatter seedheads**

Of the 11,793 acres of public land administered by the BLM that burned in the Ten Mile Complex fire, 11,222 acres have been designated as sage-grouse Preliminary Priority Habitat (PPH) and an additional 14 acres have been designated as sage-grouse Preliminary General Habitat (PGH).

The Ten Mile Complex fire, especially in the southern portion of the Ten Mile fire, sagebrush burned nearly completely but some islands of unburned areas exist within the burn perimeter. Also, adjacent to areas where the fire completely burned the sagebrush were areas of large unburned fingers of sagebrush. In the Banana Lake fire the sagebrush did not burn completely and there were many small unburned islands or a burn characterized as a patchy mosaic burn. BLM will treat 4,960 acres of sage-grouse PPH by either planting seedlings or by lop and scattering sagebrush seedheads to enhance the habitat for greater sage-grouse. Broadcast seeding sagebrush with a dribble seeder followed by a cultipacker<sup>5</sup> may also occur if sagebrush seed and funding are available. BLM will treat approximately 44 percent of the greater sage-brush PPH within the Ten Mile Complex fire because at the Banana Lake fire enough sagebrush remained unburned within the perimeter of the burn and adjacent to the burn to provide a seed source for natural regeneration. Also, much of the Ten Mile fire is characterized as being very steep mountainous country that is inaccessible and unlikely to be greater sage-grouse nesting habitat.

Management of the big sagebrush cover in seedlings and on native rangelands to meet the life history requirements of sagebrush-dependent wildlife is consistent with and described on page 40 of the SEORMP. Managing shrub overstory for multiple-use has significant benefits for wildlife. The character of the upland vegetation influences wildlife habitat quality and productivity. This treatment is further provided for on page 50 under the wildlife and wildlife habitat objectives.

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<sup>5</sup> The exact technique for planting sagebrush seed may vary based upon availability of equipment. In general it is BLM’s intent to broadcast the sagebrush seed and then press it into the soil which will incorporate the seed into the soil as well as firm up the seed bed.

WO IM 12-043 instructs BLM to prioritize re-vegetation projects in ES&R plans to: (1) maintain and enhance unburned intact sagebrush habitat when at risk from adjacent threats; (2) stabilize soils; (3) reestablish hydrologic function; (4) maintain and enhance biological integrity; (5) promote plant resiliency; (6) limit expansion of dominance of invasive species; and (7) reestablish native species.

The broadcast treatment and hand planting are discussed under the proposed action section and are adequately analyzed in NRESRP EA. On page 8 of this document it states under the section, Seedbed Preparation and Seeding, “Hand planting riparian and upland tree and shrub seedlings would be used when it is desirable to establish specific species quickly.

The SEORMP rangeland vegetation decision objective is to: Restore, protect, and enhance the diversity and distribution of desirable vegetation communities including perennial native and desirable introduced plant species and provide for their continued existence and normal function in nutrient, water, and energy cycles (page 38 &39). Management actions authorized or implemented by BLM will influence future vegetation composition. These actions may include...emergency fire rehabilitation.

### **Survey and treat noxious weeds**

The areas disturbed by fire suppression activities as well as the burned area will be surveyed for Oregon Department of Agriculture Class A and B listed weeds and Malheur County Class A listed weeds. A known noxious weed, globe-podded whitetop (*Lepidium appelianum*), will be treated on 1 acre within the burn in the first year following the fire. If additional populations of noxious weeds are discovered, they will be treated in accordance with national and district guidelines for noxious weed treatment. Noxious weed treatments will also be consistent with the guidelines set forth in the ESR handbook (1742-1, pgs. 34-35) using approved chemicals appropriate for the target species.

This population will be visited and treated as needed because, in the absence of competition, the burn area would be extremely vulnerable to expansion of invasion by any this as well as many other highly competitive noxious and /or invasive species. Weed control within the burn area will help prevent invasive/noxious species from dominating the site and causing the loss of soil, habitat and forage.

### **Repairing livestock management fence**

Approximately 16 miles of livestock management fences were damaged by the fire. Most of these fences were constructed of steel posts and barbed wire that were not damaged by the fire. However, many of the corners, stretch panels and gate posts were constructed of wood. Many of these wooden posts burned in the fire and will be replaced. Instead of using wood, they will be replaced with steel posts or something similar such as angle iron or rock cribs.

The repair of livestock management fences is a proposed action (page 12) and adequately analyzed in NFESRP EA. The Proposed Action, Repair/Replace Minor Facilities Essential to Public Health and Safety section, states that repair or replacement of minor facilities such as structural damage to recreational facilities, fences, gates, watering troughs, wildlife guzzlers and livestock handling facilities that were damaged by fire may be repaired under rehabilitation. On page 11 of the NFESRP EA under the Proposed Action, Protective Fence section, it states that the success of natural recovery or re-vegetation often depends on exclusion of grazing. Also, gates, cattleguards, fences and other control features would be repaired and /or constructed as needed to protect

treatments during the recovery period. Management fences in good working order are necessary to keep livestock from entering the burn area.

The SEORMP Rangeland/Grazing Use objective is to: Provide for a sustained level of livestock grazing consistent with other resource objectives and public land use allocations. Management actions listed to meet this objective include maintaining existing structural rangeland projects where beneficial to livestock and other resource values (page 59).

Based on recommendations from ODFW, the NTT report and WO IM 12-043, in addition to marking new temporary protective fences that are identified as collision risk fences, BLM will also mark the existing fences that are within the burned area and within 1.25 miles of a lek that has been active the last five years, which are determined to be a collision risk in coordination with ODFW. This will be done in conjunction with repairing the existing 16 miles of livestock management fences.

### **Closing the burned area to livestock**

A separate grazing decision or rangeland agreement <sup>6</sup> will be issued to address the exclusion of livestock as a result of the Ten Mile Complex Fire.

## **RIGHT OF APPEAL**

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is filed, your notice must be filed in the Vale District Office, 100 Oregon Street, Vale, Oregon 97918 within 30 days of receipt. The appellant has the burden of showing that the decision appealed is in error. A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will not be accepted as an appeal. A notice of appeal must be on paper.

Filing an appeal does not by itself stay the effectiveness of a final BLM decision. If you wish to file a petition for a stay of the effectiveness of this decision, pursuant to 43 CFR 4.21, the petition for stay must accompany your notice of appeal.

A petition for stay is required to show sufficient justification based on the standards listed below.

### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

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.
4. Whether or not the public interest favors granting the stay.

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<sup>6</sup> Consistent with 43 CFR §4110.3-2 and §§ 4110.3-3

Finally, copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision, to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

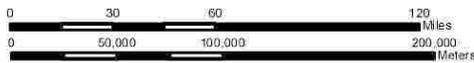
Sincerely,

A handwritten signature in black ink, appearing to read 'Pat Ryan', written over a horizontal line.

Pat Ryan  
Field Manager  
Jordan/Malheur Resource Areas



- Ten Mile Complex
- Vale District
- State of Oregon



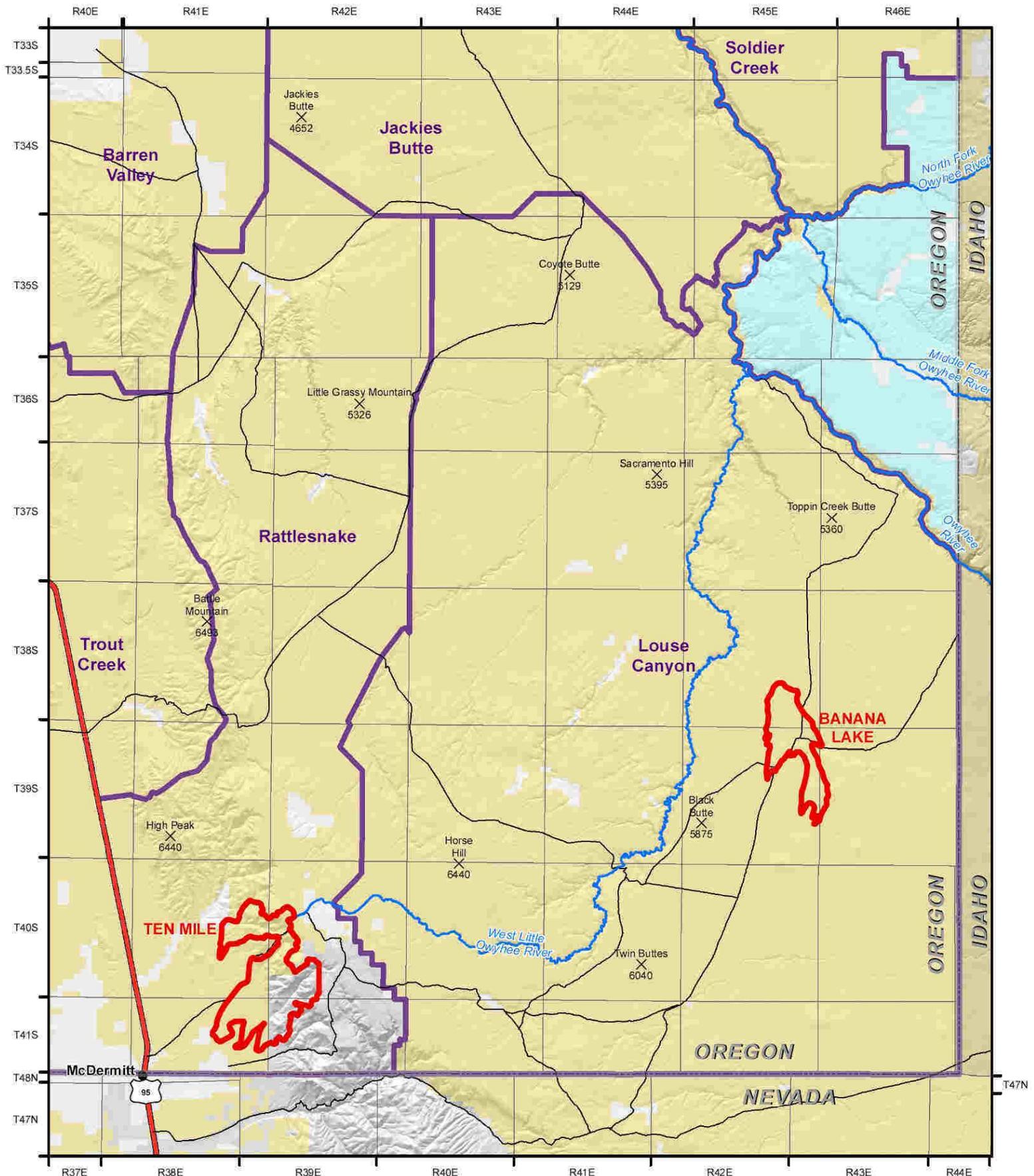
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Bureau of Land Management



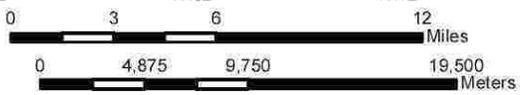
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December 6, 2012

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**Map 1**  
**Location**  
**Ten Mile Complex (G5TU) - Emergency Stabilization & Rehabilitation**



- ▬ Ten Mile Complex Perimeter
- ▬ Geographic Management Areas
- BLM
- Private
- State Lands
- ▬ Highways
- ▬ Primary Routes

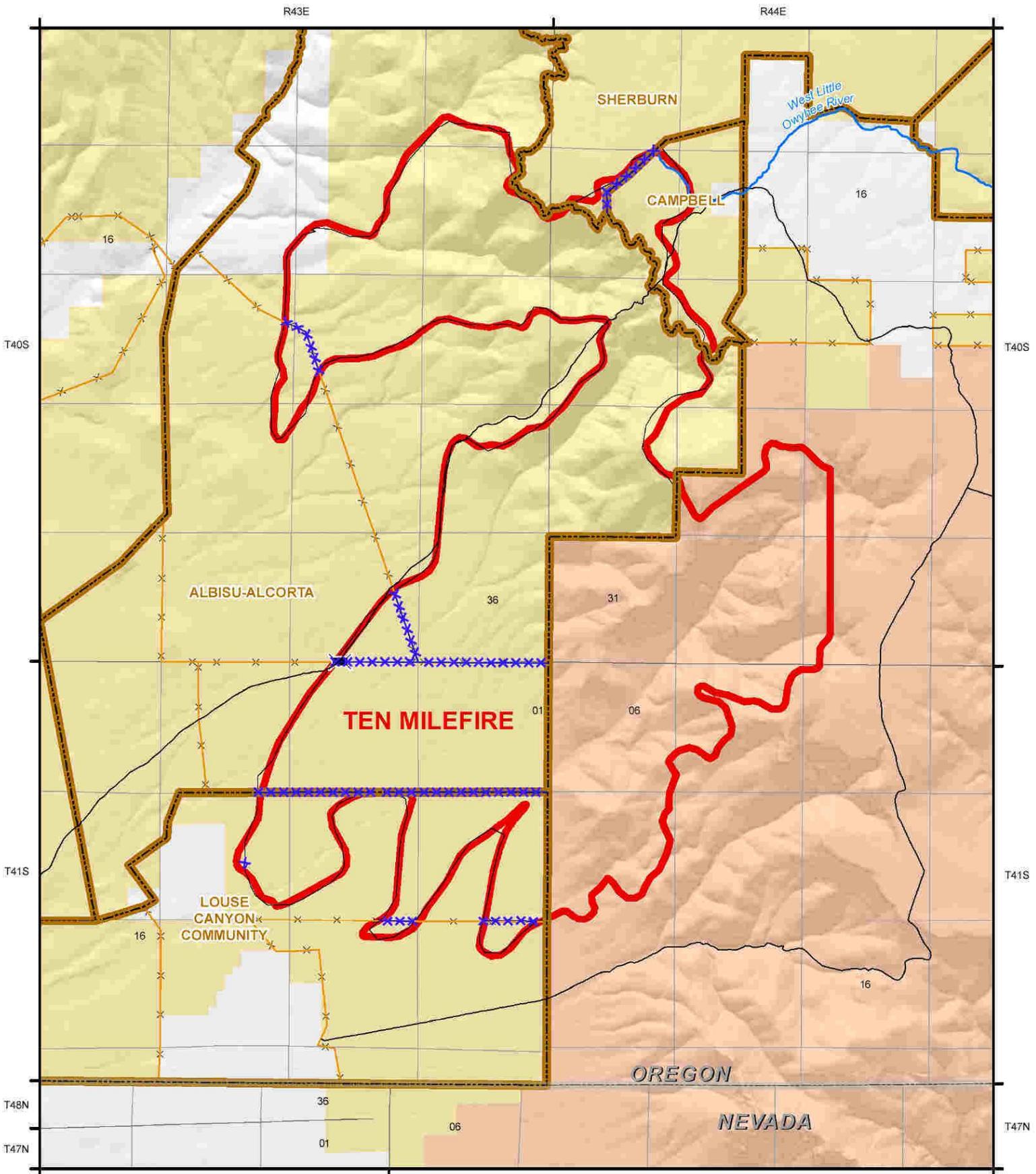


### Map 2 Ownership

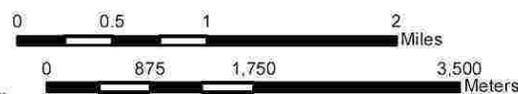
## Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation

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- Ten Mile Perimeter
- ✕ Interior Fenceline Repair
- Allotment
- Pasture



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December 6, 2012

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**Map 3A**  
**Repair of Minor Facilities and Allotments**  
**Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation**

R47E

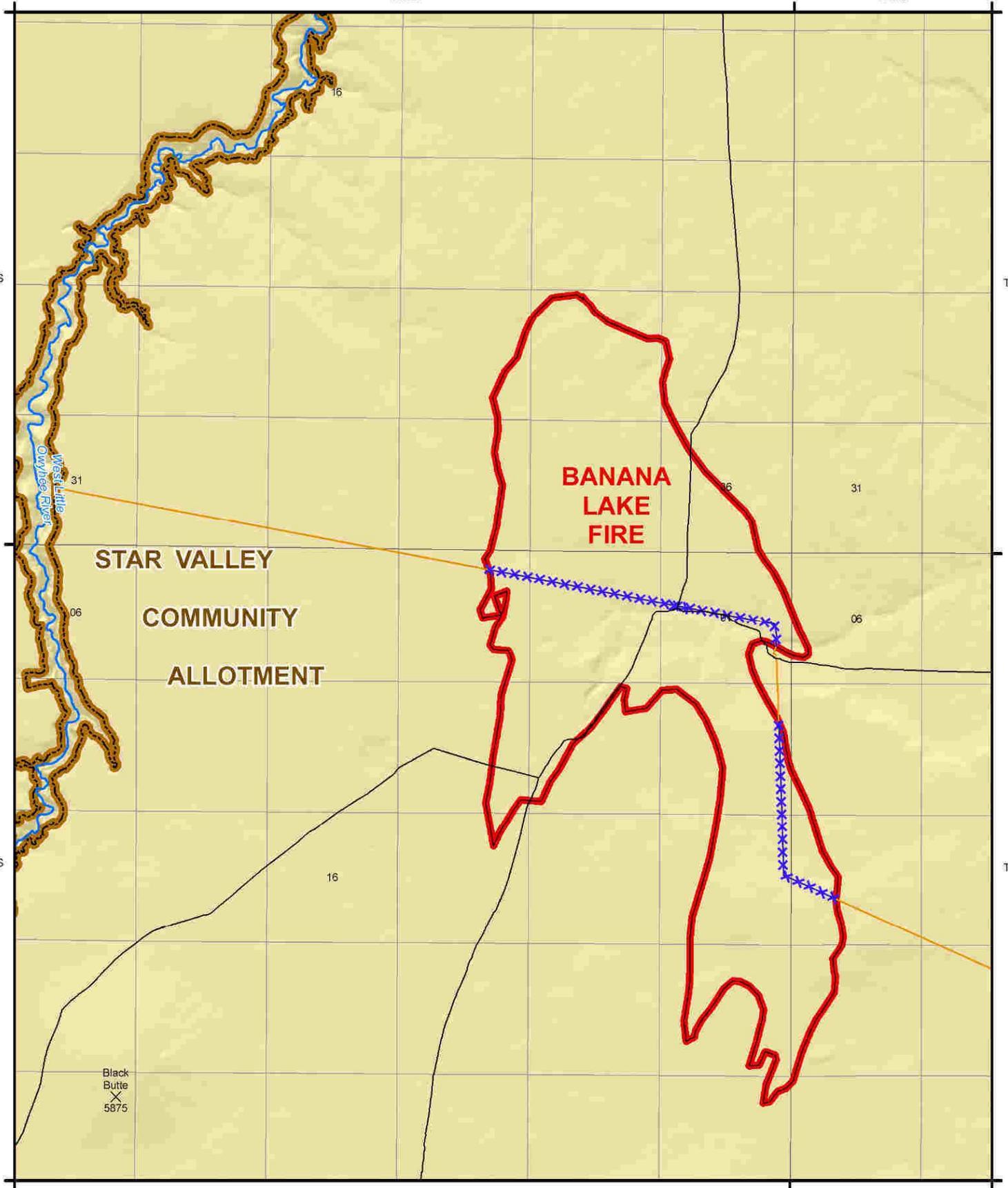
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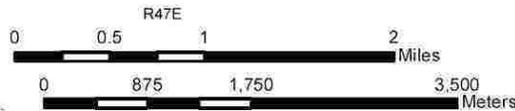
T38S

T39S

T39S



- Banana Lake Perimeter
- Interior Fence Line Repair
- Allotment
- Pasture



R47E

R48E

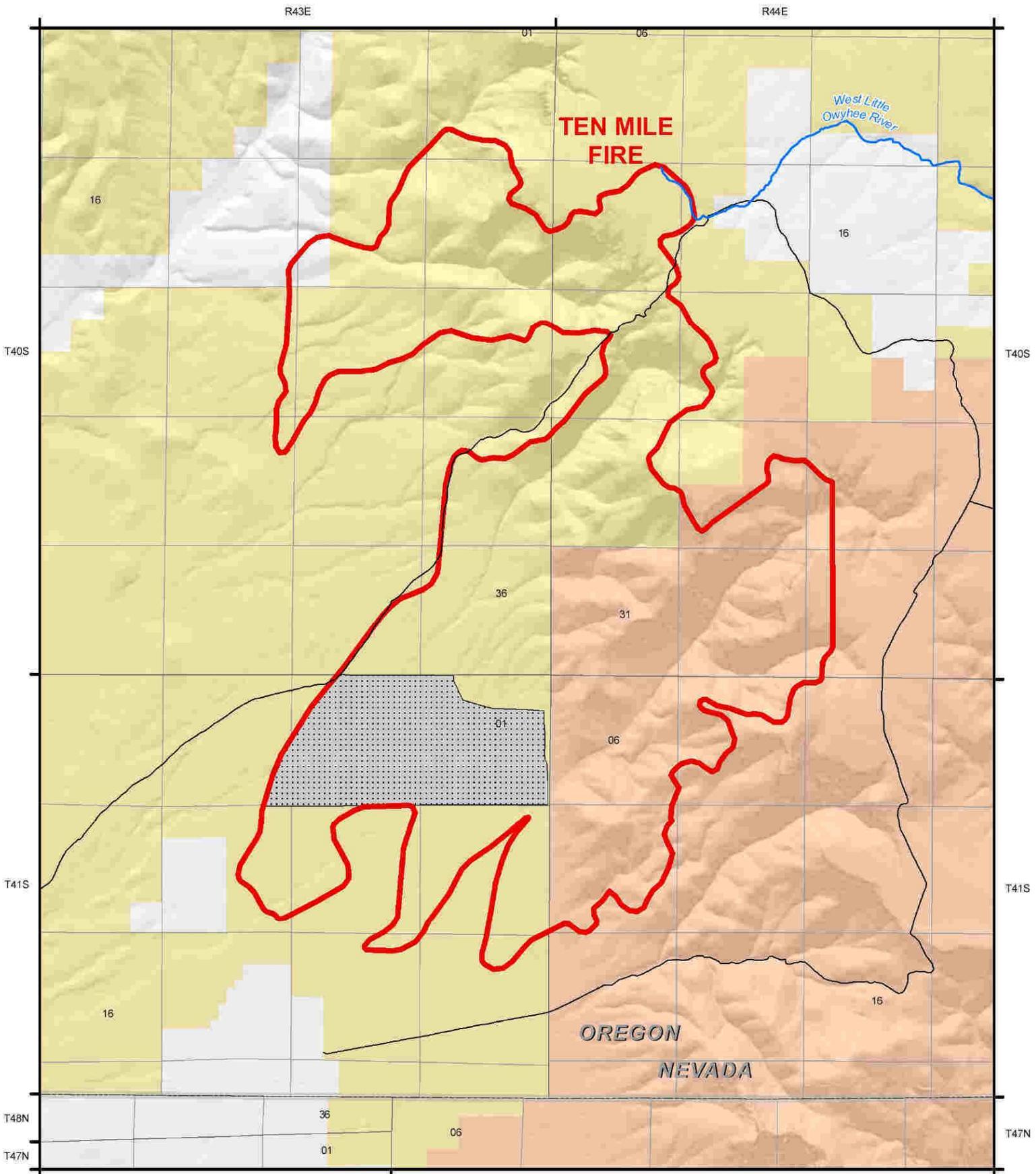
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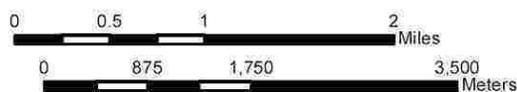
December 6, 2012

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**Map 3B**  
**Repair of Minor Facilities and Allotments**  
**Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation**



- ▬ Ten Mile Perimeter
- Non-native Drill Seeding



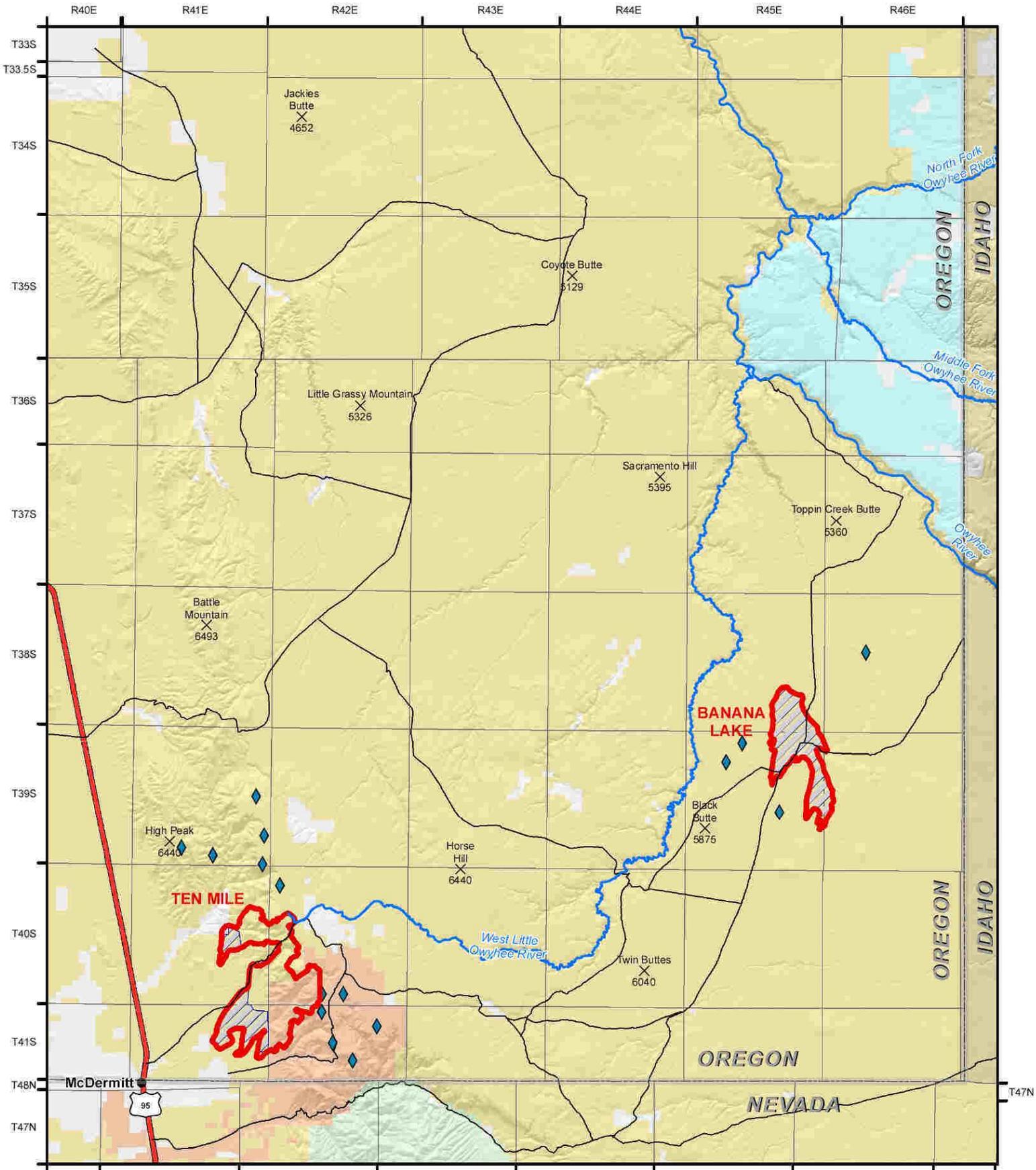
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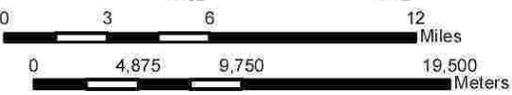
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**Map 4**  
**Drill Seeding Area**  
**Ten Mile Complex (G5TU) - Emergency Stabilization & Rehabilitation**



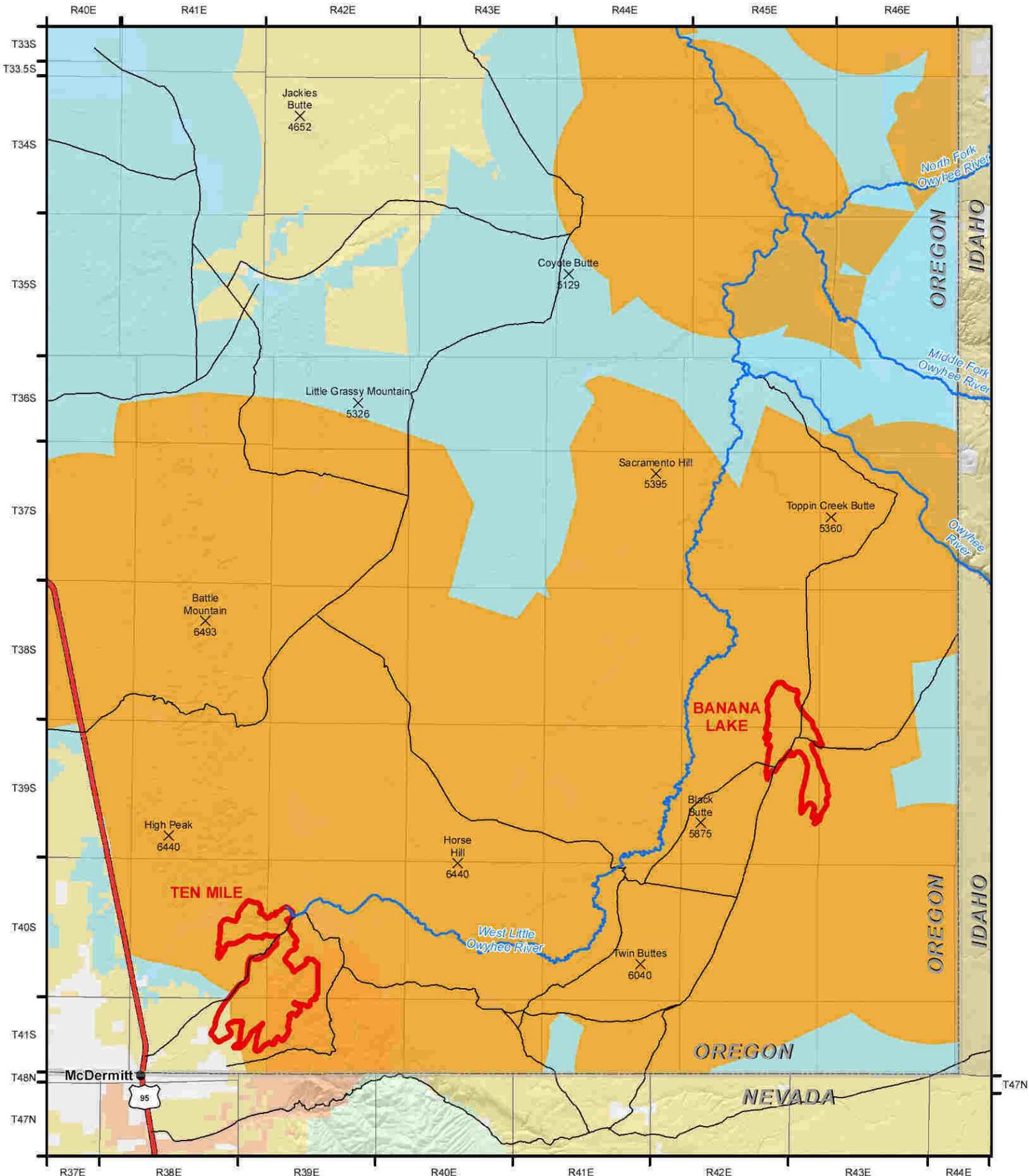
- ▬ Ten Mile Complex Perimeter
- ◆ Recorded Sage-grouse Lek Locations w/in 5 Miles
- Sage Brush Seed Scatter
- Primary Routes



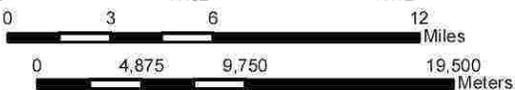
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December 6, 2012

**Map 5**  
**Sage Brush Treatments**  
**Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation**

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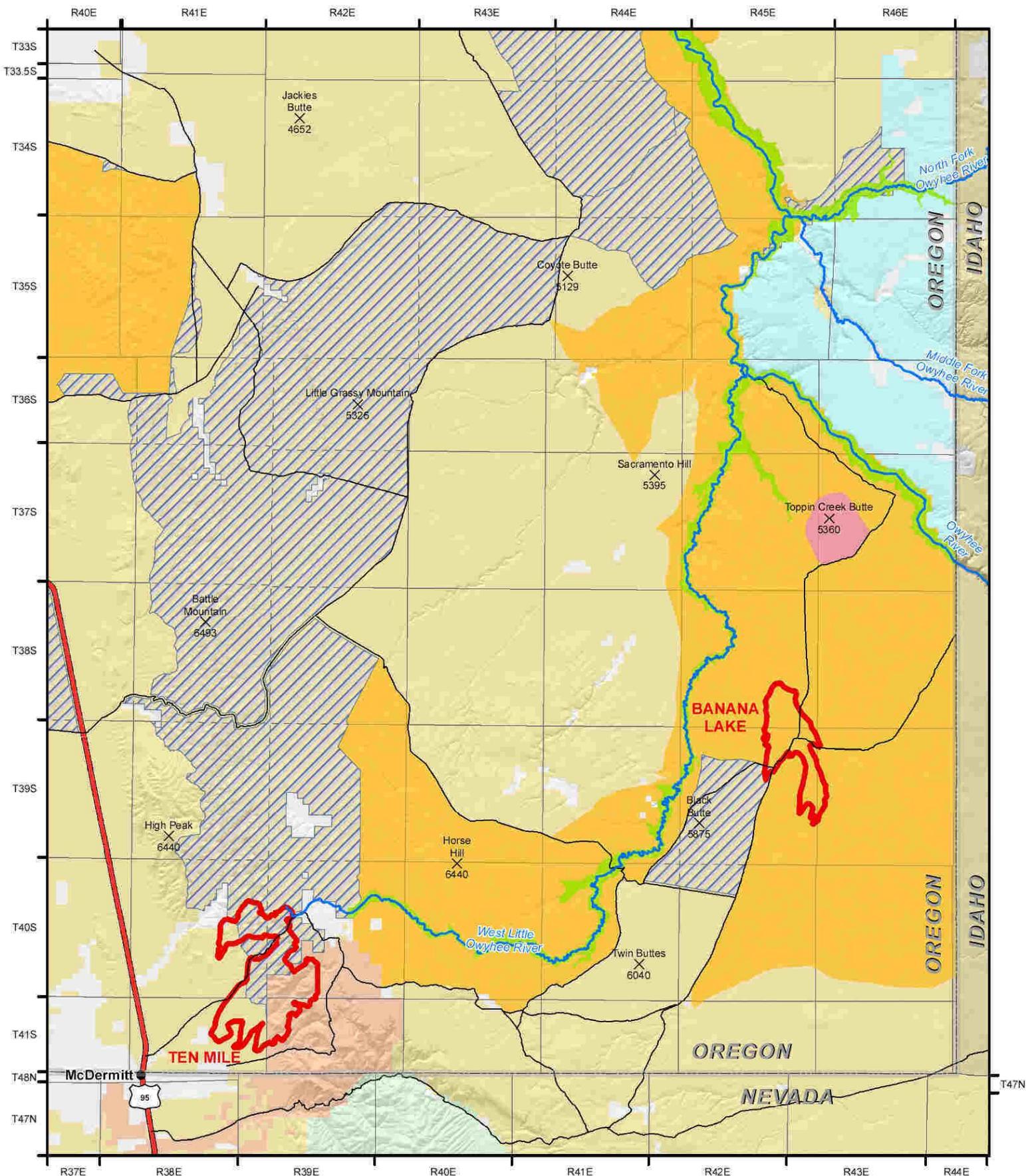
- ▭ Ten Mile Complex Perimeter
- Preliminary Priority Habitat
- Preliminary General Habitat



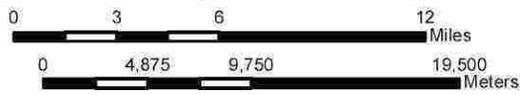
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Vale District  
December 6, 2012

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**Map 6**  
**Oregon Sage Grouse Habitat**  
**Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation**



- ▬ Ten Mile Complex Perimeter
- ▬ Wild and Scenic Rivers
- Wilderness Study Area
- Areas of Critical Environmental Concern
- Lands with Wilderness Characteristics
- Primary Routes



U.S. Department of Interior  
Bureau of Land Management  
Vale District  
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**Map 7**  
**Special Management Areas**  
**Ten Mile Complex (G5TU)- Emergency Stabilization & Rehabilitation**