



# 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)  
HMY7

**OCT 28 2013**

Dear Interested Public:

## **NOTICE OF FIELD MANAGER'S FINAL DECISION SHUMWAY FIRE ESR PLAN**

### **BACKGROUND**

During the summer of 2013, several lightning caused fires burned within the Vale District, Bureau of Land Management (BLM), including the Shumway Fire. It ignited on June 2, 2013 and was contained on July 03, 2013. The fire burned a total of 614 acres (See Map 1), all of which administered by the BLM. The burn is located approximately five miles East of Riverside, Oregon. An Emergency Stabilization and Rehabilitation (ES&R) plan was completed for the entire burn.

The entire area within the fire perimeter is currently occupied by Greater Sage-Grouse and contains Preliminary Priority Habitat (PPH) (See Map 2).<sup>1</sup> There is also one sage-grouse lek at Arrein Reservoir located in the fire area.

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 the Plan) containing several treatments necessary for the stabilization and rehabilitation of the burned area within the Vale District.

The ES&R Plan was submitted for approval and 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 August 06, 2013.

### **INTRODUCTION**

Between June 2, 2013 and June 3, 2013, the Shumway Fire burned 614 acres of public land administered by BLM. The chart below shows the amount of acres within special designated areas that burned during the Shumway Fire.

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<sup>1</sup>PPH and PGH data and maps have been developed through a collaborative effort between the BLM and the respective state wildlife agencies and are stored at the National Operations Center (NOC).

Special Designated Area	Acres Burned
Greater Sage-Grouse Preliminary Priority Habitat (PPH)	614

The Shumway Fire burned within the following grazing allotments: 614 (.5%) of the North Star Mountain allotment (#00310) (see Map 3).

ALLOT NUM	ALLOTMENT NAME	ALLOT ACRES	ACRES BURNED	ALLOTMENT % BURNED
00310	North Star Mountain	106,212	614	.5%

### COMPLIANCE

The 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 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 Plan, BLM compared the 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-OR-V040-2013-052 prior to the approval of the 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 Plan, as analyzed in the Vale District NFESRP EA, is consistent with the Southeastern Oregon Resource Management Plan/Environmental Impact Statement and Record of Decision, Sept. 2002. The 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:

- Federal Land Policy and Management Act (43 U.S.C. 1901), 1978
- The National Environmental Policy Act (42 U.S.C. 4320-4347), 1970
- Southeastern Oregon Resource Management Plan and Record of Decision (2002)
- Taylor Grazing Act (43 U.S.C. 315), 1934
- Vale District Normal Emergency Stabilization and Rehabilitation Plan (NFESRP) Environmental Assessment (EA) # OR-030-05-005.
- 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; ODFW, April 22, 2011
- 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)).
- BLM Manual 6330, Management of BLM Wilderness Study Areas, July 13, 2012
- Instruction Memorandum WO-2011-154, Requirement to Conduct and Maintain Inventory Information for Wilderness Characteristics and to Consider Lands with Wilderness Characteristics in Land Use Plans.
- Endangered Species Act (16 U.S.C. 1531-1544) , 1973

### **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 2013 Shumway wildfire. This decision is effective immediately due to the soils susceptibility to accelerated erosion due to the effects of the wildland fire. The burn area is vulnerable to the expansion or invasion by highly competitive noxious and/or invasive annuals, biennials, and perennial weeds. There has been loss or damage to habitat for Greater Sage-Grouse.

DNA # DOI-BLM-OR-V040-2013-052 addressed the treatments identified in the Plan and I have determined that it was consistent with the analysis in the NFESRP EA and FONSI. The treatments listed in the ES&R Plan are listed below.

I have determined that implementing the 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 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 listed in the Plan and summarized below.

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.

### **PLAN TREATMENTS**

Below is a table of the projects that have been identified to stabilize and rehabilitate lands affected by Shumway Fire. Maps of the treatment locations are also attached.

<b>Treatments</b>	<b>Amount or scope</b>	<b>Implementation year<sup>2</sup></b>
Noxious weed inventory	614 acres	2014-2016
Noxious weed treatment	50 acres	2014-2016
Construct temporary livestock closure fence (Map 4)	5 miles	2014

### **RATIONALE**

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

There are no weeds previously documented to occur in the fire area.

In the absence of competition, the burn area would be extremely vulnerable to expansion or invasion by any competitive noxious and/or invasive annuals, biennials, and perennial weed species. Weed control within the burn area would help prevent invasive/noxious species from establishment.

Noxious weed inventory and treatment would help to discover new populations, and reduce the risk of further establishment of noxious weeds. Initial treatments would begin in FY 2014; in FY 2015 and 2016, the noxious weeds inventory and treatment would be included as a rehabilitation treatment. Chemical treatment of noxious weed populations and closing the area to livestock would reduce the likelihood of their spread to new unoccupied areas and help to re-establish higher quality vegetation. Noxious weeds also threaten adjacent private range and agricultural lands. Furthermore, noxious weed infestations have little to no value to wildlife or livestock and are considered one of the greatest threats to loss of sage-grouse habitat.

Noxious weeds are the first plants to reestablish following a wildfire and take advantage of the vulnerability of the fire weakened and stressed desired species. The objective of the noxious weed treatment and survey is to continue treating previously known infestation sites and identify and treat new sites to halt the spread of noxious weeds in the burned area. Past treatments in the area have

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<sup>2</sup> The years in which these treatments will be implemented are subject to funding availability.

been relatively successful and by continuing to inventory and treat infestation and introductory sites the frequency of noxious weeds is expected to be reduced.

Noxious weed treatments would be consistent with the guidelines set forth in the ESR handbook (1742-1, pages 34–35), the SEORMP&ROD (page 41), 2002, the Vale District Integrated Weed Control Plan EA (1989), the Northwest Area Noxious Weed Control Program EIS 1984, and Supplement, 1987 and the Standard Operating Procedures and Mitigation Measures identified in the Vegetation Treatments Using Herbicides on BLM Lands in Oregon FEIS and ROD (2010). Pesticide Use Proposals (plans) would be prepared for weeds treatments and comply with policy (BLM Manual 9011, H-9011, and 9015).

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

This final decision does not close any burned areas to livestock grazing or otherwise affect the grazing privileges of any of the holders of livestock grazing permits. A separate grazing decision(s) or agreement(s) will be issued, as necessary, to address the exclusion of livestock as a result of the Shumway Fire. Any grazing closure decisions will have a separate and different appeal process.

### **Temporary Fences**

#### Cottonwood Basin Pasture Temporary Fence

Construction of approximately five miles of three-strand temporary protective fence within the Cottonwood Basin pasture of the North Star Mountain allotment will allow for continued grazing use by the grazing permit holders on 7,394 unburned acres in that pasture. If the five miles of temporary fence is not constructed it will be necessary to close the entire Cottonwood Basin pasture to livestock grazing which will deny the grazing permit holder access to approximately 2,916 AUMs of permitted grazing use. The temporary fence location is practical, readily accessible, and designed to enclose the burned area with the least amount of fence possible. Building the fence in this location reduces the amount of fence necessary, reduces cost and other negative factors associated with fence construction. The fence is located within 1.25 miles of a Greater Sage-Grouse lek, and will be marked with anti-strike markers and will not be located on prominent ridgelines to minimize potential for collision by sage-grouse. This is consistent with WO IM 2012-043, Greater Sage-Grouse Interim Management Policies and Procedures (page 5). The fence will be removed when it is no longer deemed necessary, which should be less than three years. Low impact Class II or III off-highway vehicles will be used where necessary to construct and remove the fence.

#### Temporary Fence Summary

All the temporary fences are being built to improve land health, promote successful reclamation, provide resource protection, and allow the unburned portion of the pasture to be grazed. WO IM 2012-043 instructs BLM to evaluate the need for proposed fences, especially those within 1.25 miles of leks that have been active within the past 5 years and in movement corridors between leks and roost locations and to consider deferring fence construction unless the objective is to benefit Greater Sage-Grouse habitat, improve land health, promote successful reclamation or provide resource protection. WO IM 2012-043 also instructs BLM to coordinate with ODFW to minimize or eliminate potential impacts to Greater Sage-Grouse. All the temporary fences have been discussed with ODFW and the actions necessary to eliminate or reduce hazards to Greater Sage-Grouse will be taken including constructing the fences greater than 1.25 miles from a lek. No fences will be built within lands with wilderness character or within a special designated area. All the temporary fences will be removed within three years unless it is determined that additional

protection is needed beyond that timeframe to meet objectives. This is consistent with WO IM 2012-043 which states this requirement on page 4 and 5 under the Grazing Permit/Leases Issuance/Grazing management section.

The construction of temporary fence is discussed under the proposed action and is adequately analyzed in the NFESRP EA. It states that the success of natural recovery or re-vegetation often depends on exclusion of grazing. Gates, cattleguards, fences, and other control features would also be repaired and/or constructed as needed to protect treatments during the recovery period.

Management actions listed to meet the SEORMP Rangeland/Grazing Use objective include using rangeland project development as necessary on a site-specific basis to provide maintaining resource values (page 59).

### **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.

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. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

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.

A notice of appeal electronically transmitted (e.g. email, facsimile, or social media) will not be accepted as an appeal. Also, a petition for stay that is electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as a petition for stay. Both of these documents must be received on paper at the office address above.

Persons named in the *Copies sent to:* sections of this decision are considered to be persons "named in the decision from which the appeal is taken." Thus, copies of the notice of appeal and petition for a stay must also be served on these parties, in addition to any party who is named elsewhere in this decision (see 43 CFR 4.413(a) & 43 CFR 4.21(b)(3)) and the appropriate Office of the Solicitor (see 43 CFR 4.413(a), (c)) at the same time the original documents are filed with this office. For privacy

reasons, if the decision is posted on the internet, the Copies sent to: section will be attached to a notification of internet availability and persons named in that section are also considered to be persons “named in the decision from which the appeal is taken.”

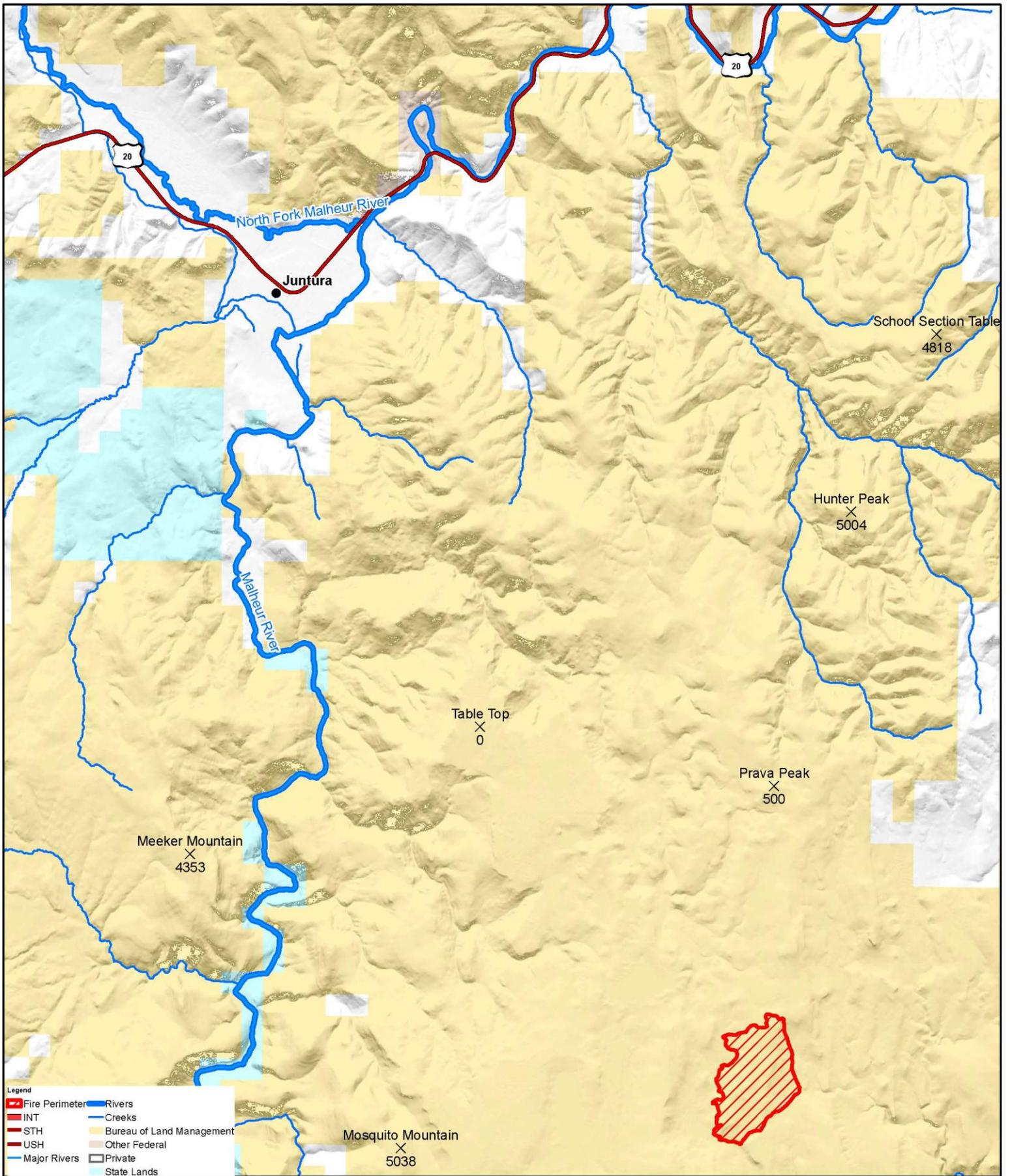
Any person named in the decision, Copies sent to: section of the decision, or who received a notification of internet availability that receives a copy of a petition for a stay and/or an appeal and wishes to respond, see 43 CFR 4.21(b) for procedures to follow.

Sincerely,

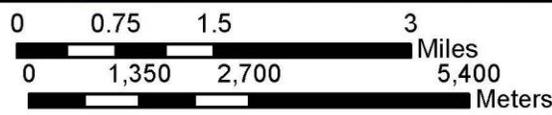


Thomas Patrick “Pat” Ryan  
Field Manager  
Jordan/Malheur Resource Areas

cc: *Copies Sent to: see Notice of Internet Availability*



**Map 1 - Vicinity**  
**Shumway Fire Acres = 614**

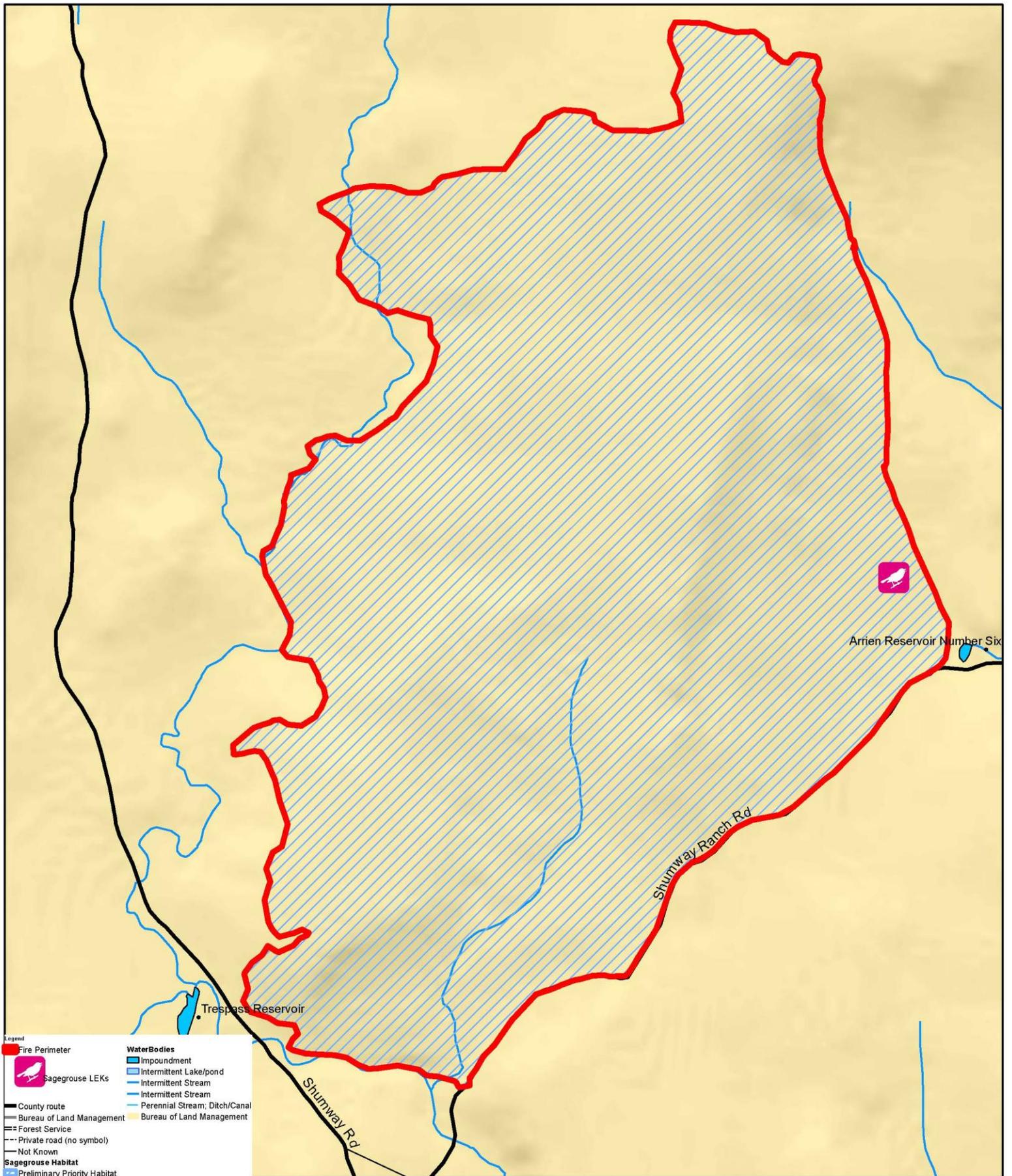


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**Map 2 - PPH/PGH & Leks**  
**Shumway Fire Acres = 614**  
**Sagegrouse Priority Habitat Burned Acres = 614**

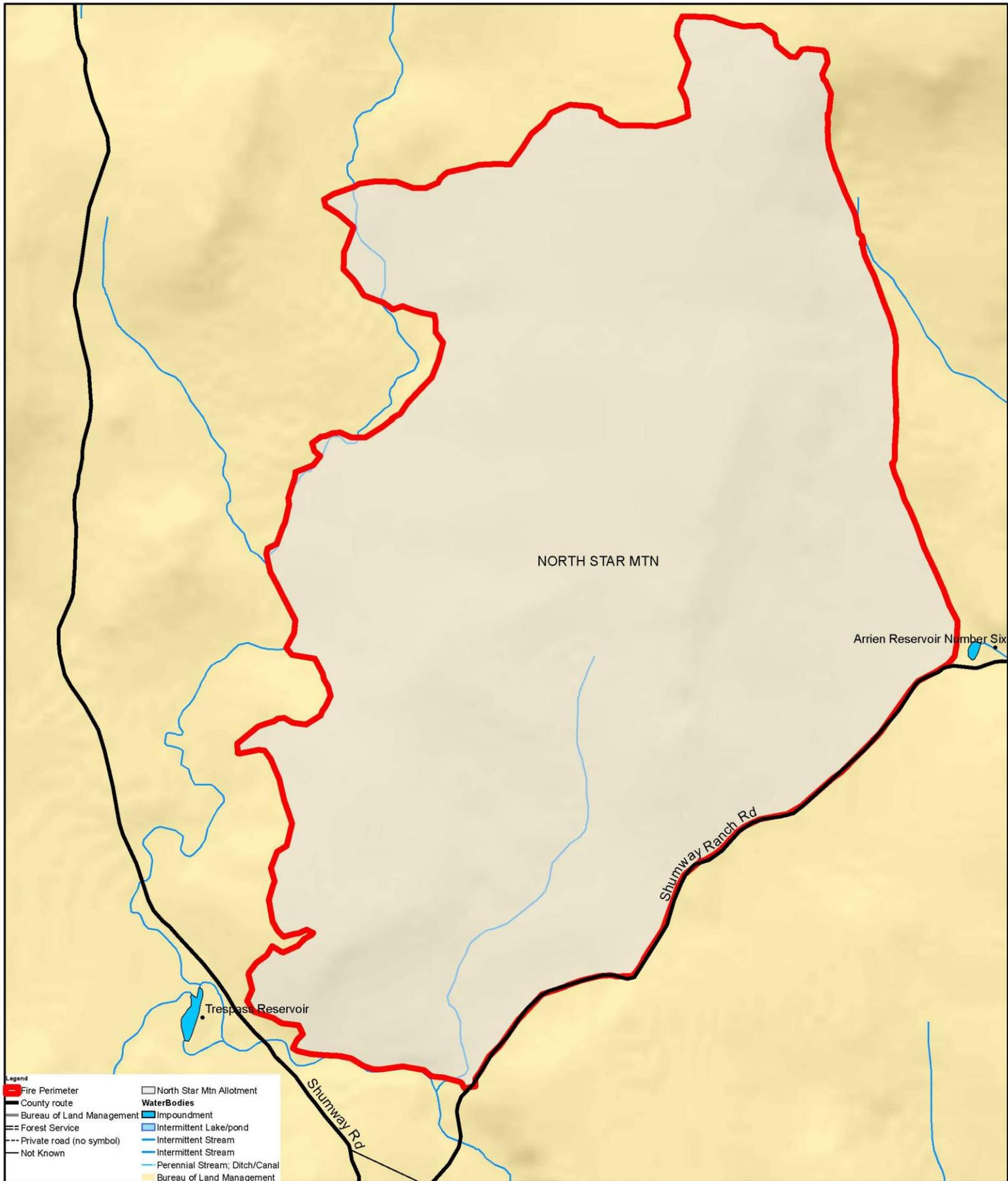


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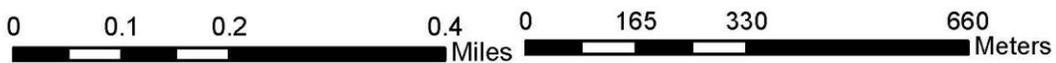


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**Map 3 - Allotments**  
**Shumway Fire Acres = 614**  
**North Star Allotment Burned Acres = 614**

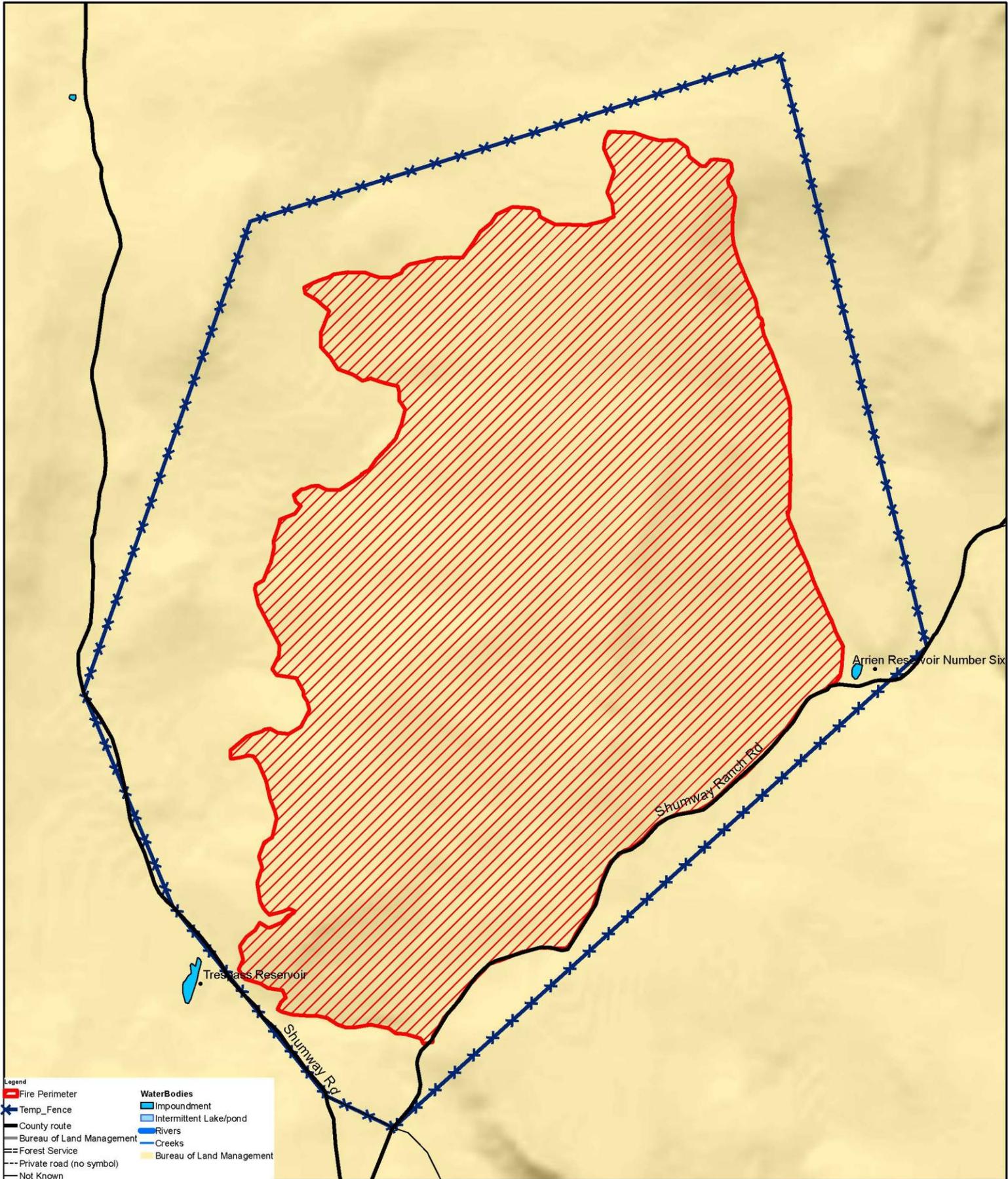


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**Map 4 - Proposed Temp Fence**  
**Shumway Fire Acres = 614**  
**Proposed Temp Fence = 5 Miles**



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