Decision Memorandum on Action and for Application of:
Categorical Exclusion 516 DM2, Appendix 1, 1.12 – Hazardous Fuel Reduction
(PLAN CONFORMANCE AND CATEGORICAL EXCLUSION DETERMINATION)

CX Log #: CX-04-12 Lease or Serial #: N/A County: Klamath County
Project Name: **South Bly WUI Mechanical Shearing, Piling and Pile Burning Project**
Location: **T. 37 S., R. 14 E., Sections 9 & 10, approximately 470 acres between the Old Keno Springs Rd. and the FS #3752 Rd.**
BLM Office: Lakeview District, Klamath Falls Resource Area Phone #: 541-883-6916

Description of the Proposed Action: The proposed action is to mechanically pile then burn fuels to reduce areas of hazardous conditions and reduce the risk of wildfire in the wild land urban interface south of the town of Bly, Oregon. This will be achieved by the use of mechanical shearing, piling and burning of Western Juniper. Utilization of the larger severed tree boles for public firewood will be allowed where feasible. The specific objectives for the South Bly WUI unit are to:

- Reduce hazard fuels by burning of piled severed juniper fuels in a jackpot configuration. This will be accomplished with 80-100% consumption of piles.
- Reintroduce fire through burning of shear piles into areas in which fire has had a profound biological influence on ecosystem composition, structure and function, but has been excluded for multiple natural fire return intervals.
- Reduce major losses of sustainable ecosystem resources from catastrophic wildfire, which results from heavy fuel loadings and vegetation changes in the ecosystem.
- Reduce the population of western juniper in fuel models 2 and 9, as well as sub-merchantable ponderosa pine 7 DBH and below with 16 by 16 ft spacing in scattered pine stringers as needed reducing the potential for loss of homes and other structures in case there ever be a wildland fire.
- Portions of these units are used as deer winter range, to mitigate this issue no activity will occur within the units from December 1st until March 31st. Big game browse is not a target of this action and to the extent possible should remain untouched.
- There is one eagle nest in Section 10 near the northeast corner of the unit. In order to comply with our programmatic consultation with the USFWS for fuels activities, there will be no activity within ¼ mile or within ½ mile line of sight of this nest during the breeding season (Jan 1- Aug 15).
- Avoid Cultural sites and historic garbage concentrations near the old and new county dumps.
- Consume targeted fuels with NO burned acres tolerated on the adjacent private lands.
- Total acreage for treatment unit is not to exceed 475 acres.
- Juniper boles suitable for firewood may be sold or utilized prior to burning of the piles. Where utilization has taken place a Bobcat tractor or like equipment would be used to clean up discarded chunks and limbs.

PLAN CONFORMANCE

The above project has been reviewed and found to be in conformance with one or more of the following BLM plans or NEPA analyses:

A. Klamath Falls Resource Area Record of Decision and Resource Management Plan (1995), as amended (1999).
B. Vegetation Treatment on BLM Lands in Thirteen Western States FEIS and ROD (1991)

C. Northwest Area Noxious Weed Control Program FEIS and ROD (1985) and Supplement (1987)

D. Integrated Weed Control Plan (IWCP) 1993

E. Lakeview District Fire Management Plan - Phase 1 (1998)

F. Wildland and Prescribed Fire Management Policy (1998)

H. Interior Columbia Basin Strategy Scientific Documentation (2003)

I. National Fire Plan (A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation plan) (2001)

LIMITATIONS DESCRIBED IN THE NATIONAL FIRE PLAN

There are a number of limitations on the use of this hazardous fuels reduction CX. The project:

a) **Shall not exceed 1,000 acres for mechanical methods** (crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing) and shall not exceed 4,500 acres for prescribed fire,

b) **Shall be conducted in wild land-urban interface** or in Condition Classes 2 or 3 in Fire Regime Groups I, II, or III outside the wildland-urban interface,

c) **Shall be identified through a collaborative framework** as described in *A Collaborative Approach for Reducing Wild land Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan*,

d) **Shall be conducted in accordance with BLM and DOI procedures** and applicable land/resource management plans (refer to Plan Conformance section above),

e) **Shall not be conducted in wilderness** areas or where it would impair the suitability of WSAs for preservation as wilderness,

f) **Shall not include the use of herbicides or pesticides**,

g) **Shall not involve the construction of new permanent roads** or other new permanent infrastructure,

h) **May include the sale of vegetative materials if the primary purpose is hazardous fuels reduction.**

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

The proposed action is categorically excluded from further analysis or documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM2, Appendix 1, 1.12 if it does not meet any of the following Exceptions (listed in 516 DM 2, Appendix 2; IM No. OR-2002-130).

Will the proposed action meet the following Exceptions?

Exception	**Yes No**
1. Have significant adverse effects on public health or safety?	( ) (X)
2. Have adverse effects on such unique geographic characteristics or features, or on special designation areas such as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; sole or principal drinking water aquifers; prime farmlands; or ecologically significant or critical areas, including those listed on the National Register of Natural Landmarks. This also includes significant caves, ACECs, National Monuments, WSAs, RNAs.	( ) (X)
3. Have highly controversial environmental effects (40 CFR 1508.14)?	( ) (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. Be directly related to other actions with individually insignificant, but significant cumulative environmental effects? This includes connected actions on private lands (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? This includes Native American religious or cultural sites, archaeological sites, or historic properties.	( ) (X)
8. Have adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or have adverse effects on designated critical habitat for these species? This includes impacts on BLM-designated sensitive species or their habitat. When a Federally listed species or its habitat is encountered, a Biological Evaluation (BE) shall document the effect on the species. The responsible official may proceed with the proposed action without preparing a NEPA document when the BE demonstrates either 1) a "no effect" determination or 2) a "may effect, not likely to adversely effect" determination.	( ) (X)
9. Fail to comply with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act (water resource development projects only)?	( ) (X)
10. Violate a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment, where non-Federal requirements are consistent with Federal requirements?	( ) (X)
11. Involve unresolved conflicts concerning alternative uses of available resources (NEPA section 102(2)(E)) not already decided in an approved land use plan?	( ) (X)
12. Have a disproportionate significant adverse impacts on low income or minority populations; Executive Order 12898 (Environmental Justice)?	( ) (X)
13. Restrict access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites; Executive Order 13007 (Indian Sacred Sites)?	( ) (X)
14. Have significant adverse effect on Indian Trust Resources?	( ) (X)
15. Contribute to the introduction, existence, or spread of: Federally listed noxious weeds (Federal Noxious Weed Control Act); or invasive non-native species; Executive Order	( ) (X)

13112 (Invasive Species)?	
16. Have a direct or indirect adverse impact on energy development, production, supply, and/or distribution; Executive Order 13212 (Actions to Expedite Energy-Related Projects)?	( )(X)

The proposed action would not create adverse environmental effects or meet any of the above exceptions.

DOCUMENTATION OF RECOMMENDED MITIGATION

Note: although none of the conditions for the above exceptions are met, the resources discussed are potentially affected. Mitigation measures below are applied to prevent the adverse conditions discussed in the exceptions:

Item	Can Be Mitigated	Cannot Be Mitigated	Mitigation Measures
-No.15	-Yes		-See Appendix **B** for weed mitigation measures -See Appendix **A** for Project design features

SURVEYS AND CONSULTATION

Surveys and/or consultation may be needed for special status plants and animals, for cultural resources, and other resources as necessary: (Initial and Date appropriate fields)

Surveys:	1) are completed	2) will be completed	3) are not needed
SS Plants	JW 8/5/04		
SS Animals			SMA 8/9/04
Cultural Resources		TC 8/5/04	
Other Surveys			DKH 8/13/04
SS Animal Consultation	SMA 8/9/04		
Botanical Consultation			JW 8/5/04
Cultural Consultation		TC 8/5/04	

(SS = Special Status)

Remarks:

SUMMARY OF FINDINGS and CX DETERMINATION

Based on the available information and a review by the interdisciplinary team, it is my determination that the proposed action does not constitute a significant impact affecting the quality of the human environment greater than those addressed in the:

- Final - Klamath Falls Resource Area Resource Management Plan and EIS.

The proposed action would not create adverse environmental impacts or require the preparation of an environmental assessment (EA) or environmental impact statement (EIS). The proposed action has been reviewed against the criteria for an Exception to a categorical exclusion (listed above) as identified in 516 DM 2, Appendix 2, and does not meet any Exception. The application of this categorical exclusion is appropriate, as there are no extra ordinary circumstances potentially having effects that may significantly affect the environment. The proposed action is, therefore, categorically excluded from additional NEPA documentation.

Prepared By: (Signature)	Name: Dave Cantrell	Title: Assistant Fuels Module Leader	Date: 8/9/04
Reviewed By: (Signature)	Name: Don Hoffheins	Title: Planner/ Environmental Coordinator	Date: 8/13/04
Approved By: (Signature)	Name: Jon Raby	Title: Resource Area Manager	Date: 8/16/04

IMPLEMENTATION DATE

This project is expected to be implemented in the next 3-5 years.

ADMINISTRATIVE REVIEW OPPORTUNITY

Appeal

Any party that is adversely affected and determined to be a party to the case, may appeal the implementation of the proposed action to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. A notice of appeal must be filed in this office (at the address below) within 30 days of receipt of this decision. The appellant has the burden of showing that the decision is in error.

An appellant may also file a petition for a stay (suspension) of this decision during the time that the appeal is being reviewed by the Board pursuant to Part 4, Subpart B, 43 CFR Part 4.21. The petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the Interior Board of Land Appeals, and the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. The appellant has the burden of proof of demonstrating that a stay should be granted.

Standards for Obtaining a Stay

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

a) The relative harm to the parties if the stay is granted or denied,

b) The likelihood of the appellant's success on the merits,

c) The likelihood of immediate and irreparable harm if the stay is not granted, and

d) Whether the public interest favors granting the stay.

CONTACT PERSON

For additional information concerning this project, contact:

Joe Foran, Klamath Falls Resource Area, 2795 Anderson Avenue, Building 25, Klamath Falls, Oregon 97603-7891 or telephone: 541-883-6916.

APPENDIX A

Wildlife Project Design Features (PDFs) From the Fuels Programmatic Consultation

For units adjacent to or containing fish habitats or riparian areas:

Fuel treatment objectives within the RR's are to protect the overhead canopy from catastrophic fire and increase the productive vigor of trees and plants within the riparian areas. At the same time retain and protect the CWD and overhead cover important to stream function and aquatic habitats. The described buffer that's used for various PDFs is not necessarily biologically based but rather used to set a minimum standard that both protects aquatic habitat and simplifies designing treatment units. For example, in areas where a 50-foot boundary does not make practical sense, and some other boundary is more appropriate, there should be an opportunity on a case-by-case basis to assess the affect of the new boundary on aquatic species and habitats.

Mechanical fuels treatments in riparian reserves:

- Treatments methods that would disturb the least amount of soil (yarding over snow or frozen ground, limiting activities to the dry season, pulling line to each tree, and minimizing skid trails) would be used in the Riparian Reserves. No ripping, piling, or mechanical site preparation (except for designated skid trails crossings, roads, or yarding corridors) would occur in RRs.
- To protect the thermal regime adjacent to streams and to maintain stream bank stability a no-mechanical-entry spacing for treatments would occur from the natural topographic break to the stream. In areas where a topographic break is not evident the following guidelines would be implemented: On intermittent streams with slopes less than 10 percent a 50 foot no entry buffer would be established on each side of the stream.
- On slopes greater than 10 percent an 80 foot no entry buffer would be established.
- On perennial and/or fish bearing streams with less than 10 percent slopes a minimum 100 foot no entry buffer would be established.
- On perennial and/or fish bearing streams with slopes greater than 10 percent a no entry buffer 160 of foot would be established.
- Hand treatments would be recommended within the no-mechanical-entry zones in order to meet fuel management objectives.

Ignitions within the riparian reserves:

- In general terms, ignition of broadcast fires should not occur within a minimum of 50 feet from the stream channel within the riparian reserves. The specific distance for lighting fires within the RR will depend on topography, habitat, ignition methods, and fuel moisture.
- Ignition line location nearest the stream should be based on topography and ignition methods and should be sufficient to protect water quality, CWD, and stream overhead cover. If it's wet don't pour fuel on it. If CWD directly touches the high water mark of the stream, or the CWD may be affected by high flows, don't ignite it. If there is a thick vegetation cover that extends out from the stream to the line of ignition then move the line of ignition into the forest stand, away from the stream.

- Mobile ignition methods, i.e. ping-pong ball ignition, recommend an increased ignition distance from the stream of at least 50 feet on slopes of 35 percent or less. On slope greater than 35 percent increase ignition distance to 100 feet.
- Recommend the ignition line location near large open meadows, associated with the stream channels, be located at the toe of the slope above the meadow elevation as much as possible in order to protect meadow vegetation.
- When igniting fuels on the lower end of the window of moisture content, increased ignition spacing from streams would be recommended to further protect CWD and overhead cover components.

Roads and temporary fire trail access in riparian reserves:

- No new roads will be constructed within the RR unless they replace an existing road that is causing more resource damage. If possible use new technology construction methods for building temporary roads into treatment units (including but not limited to wood chip constructed roads)
- Use of existing roads and landings within the RR will be reviewed and approved by the resource advisor.
- Minimal or no grading of the existing roads will be done to maintain the existing ground cover and vegetation and to decrease sediment movement.

Steps that will trigger re-initiation or further discussions with USFWS:

- If an eagle nest is occupied, then spring burning will not be allowed until site-specific discussions/consultations are completed with FWS.
- Construction of fire lines directly adjacent to or crossing a stream occupied by fish, especially suckers.
- Emergency situations that go outside planned operations (e.g. escaped fire in eagle or owl areas, retardant spill near riparian zones, newly discovered nest sites near or in burn units).
- If the level or rate of habitat modification or disturbance exceeds any of the levels described in the BA and associated BO.

For fuel treatment units adjacent to or containing Bald Eagle nest sites:

- No fuel treatments will be planned within the core area (as identified by the BLM wildlife biologist) of a bald eagle nest site during the nest season. Nesting season is considered January 1st – August 15th. The wildlife biologist may adjust these dates if the young have fledged prior to Aug. 15th (usually the fledging date plus 2 weeks). The core area will consist of the withdrawn area around the nest and the disturbance area around the nest. Generally the disturbance area is considered ¼-mile or ½ mile line-of sight. This distance may vary depending on topography and site-specific information.
- Smoke management will be planned in such a way to avoid adverse effects of residual smoke on nest sites adjacent to burn units.
- A BLM wildlife biologist will be consulted about eagle use of the area before the fuel treatments are initiated to ensure the eagle situation is closely monitored.
- A biologist/designee will monitor the nest area during the burns to ensure that objectives and PDFs are met (smoke management, fire intensity, etc).

- In areas where prescribed fire activities are being planned, remove the brush, ladder fuels and large down woody debris within the dripline (approximately 30+ ft.) of the eagle nest trees and potential or identified perch/roost trees to reduce ladder fuel. The brush would be piled away from the nest and burned.
- So fire activity will be reduced immediately adjacent to the nest trees during the broadcast burning of the area, personnel will be required to complete one or more of the following:
    a) Pull back of 10 and 100 hour fuels 30' from the base of the nest trees/ perch trees
    b) Construct fire line around the nest trees/perch trees
    c) Use foam, water, or other retardants to protect the nest tree (foam would not be allowed if the nest tree is in a riparian zone).
    d) Ladder fuels would be removed from the dripline (30ft.)

  Fuel treatments can proceed in the core area, if no nesting has occurred by May 6 (last date documented for initiation of incubation, Frank Isaacs, personal communication)
- If the nest is occupied or spring burning is preferred because of excess fuel loading or to meet other resource objectives, then spring burning will not be allowed until site-specific discussions/consultations are completed with USFWS on this matter.
- Aircraft used during prescribed fire operations would maintain a buffer >1/2 mile distance from the nest during the nesting season (this distance may vary if topographical features allow). No buffer would be necessary outside the nesting season.
- In instances when verifying nesting status was necessary prior to activities taking place, survey protocols used by Oregon Eagle Foundation annual bald eagle survey flights would be followed.

Appendix B

Weed Mitigation Measures

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

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

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

Road graders used for road construction or maintenance would grade towards any known noxious weed infestations. If no good turn around area exists within one half mile that would allow the operator to grade towards the noxious weed infestation, then the operator would leave the material that is being moved within the boundaries of the noxious weed infestation