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-04-16 Lease or Serial #: N/A County: Klamath County
Project Name: **Klamath County Community Service Work Force –Muddy Tom Project**
Location:

Project Name	Legal Location	Acres	Type Work
Muddy Tom #1	40-5-23	326	PCT Pile
Muddy Tom #2	40-5-25	657	PCT Pile
Muddy Tom #3	40-5-35	641	PCT Pile

Total= 1624

BLM Office: Lakeview District, Klamath Falls Resource Area Phone #: 541-883-6916

Description of the Proposed Action: The purpose of the proposed action is to hand pile and burn fuels to reduce areas of hazardous fuel conditions` located in post harvest timber sale projects. The Purchaser has met the requirements of the sale contract. The purpose of this second treatment is to abate the fuels that existed prior to the harvest operation. The National Fire Plan and the BLM 9214 handbook are very specific regarding the use of fire/fuels funds to treat areas impacted by harvest projects. This project is funded by Title II funds. The specific objectives for the project are to:

- Reduce hazard fuels by hand piling, paper covering and burning of piled fuels. This will be accomplished with 70-100% consumption of piles.
- Reintroduce fire through burning of hand 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.
- Portions of these units are used as deer winter range, to mitigate this issue no activity will occur with in 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 are owl nests in the area. In order to comply with our programmatic consultation with the USFWS for fuels activities, there will be no activity within certain portions of the project area during spotted owl breeding season (March 1 to September 30).
- Avoid Cultural sites and known special status species locations.
- Consume targeted fuels with NO burned acres tolerated on the adjacent private lands.
- Total acreage for treatment is not to exceed 1000 acres.
- Boles suitable for firewood may be sold or utilized prior to burning of the piles.

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)

G. Standards for Land Health for Lands Administered by the Bureau of Land Management in the States of Oregon and Washington (1998)

H. Interior Columbia Basin Strategy Scientific Documentation (2003)

I. Northwest Forest Plan (1994)

J. 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 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 wild land-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 WSA's 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 13112 (Invasive Species)?	( )(X)
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 and Project Design Features below are applied to prevent the adverse conditions discussed in the exceptions: See Appendix **A** for Project Design Features
See Appendix **B** for Project Mitigation Measures

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	SLA 8/9/04		
Cultural Resources	TC 8/5/04		
Other Surveys			DKH 8/17/04
SS Animal Consultation	SLA 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 found 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 above address) 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 RRs 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. Riparian Reserves are located in the Muddy Tom units 2 and 3. There is a fish bearing stream, Tom Creek, that runs through the NW corner of unit 2 and the NE corner of unit 3. Also in unit 2 there are tributaries to Hayden Creek, which is a fish bearing stream. All of these Riparian areas will need to be assessed and have the appropriate boundaries identified.

Hand fuels treatments in riparian reserves:

- There will be no piling in bottoms of wet or dry drainages and gullies.
- If there are materials piled in drainages or gullies they will not be burned.

Ignitions within the riparian reserves:

- There will be no refueling of drip torches, saws, or vehicles in the Riparian Reserves.

Roads and temporary fire trail access in riparian reserves:

- No new roads will be constructed within the RR.
- No vehicles in the RR.

The following are Project Design Features from the Fuels Programmatic Consultation that are applicable to this project.

There are two spotted owl pairs that nests in and around the BLM ownership in T40S, R6E, Sect. 31, and T40S, R5E, Sect. 35. These pairs use several nest locations and the actual nest sites vary from year to year. In order to avoid noise and smoke disturbance to these spotted owl pairs I recommend that no chainsaws or fire be used in the following areas during the spotted owl breeding season (March 1-Sept. 30). This restriction could be lifted on a year by year basis for most of or all of the restricted areas when it is determined if and where the owl pairs are nesting in any particular year.

NE1/4 of NE ¼ of Section 35
S1/2 of SW1/4 and SE1/4 of SE ¼ of Section 25

For units adjacent to or containing spotted owls, NRF habitat, or in areas of designated critical habitat:

- No fuels treatments will be planned within the core area (as identified by the BLM biologist) of a nesting spotted owl during the nest season. The core area will normally be the 100-acre reserve as required under the Northwest Forest Plan (NFP) but may be expanded due to potential disturbance to the nest.
- Smoke management will be considered during prescribed fire activities to try to reduce the effects of residual smoke on nest sites adjacent to burn units

- In areas containing spotted owls, a BLM biologist will monitor spotted owl use of the area before the fuel treatment is initiated to ensure that the owl situation is closely monitored.
- A biologist/designee will monitor the nest area during the burns to ensure objectives and PDFs are met (smoke management, fire intensity, etc).
- Burn prescriptions will require proper fuel moisture and atmospheric conditions so adequate large woody debris will be retained for prey habitat.
- General objective for burn would be to create a mosaic of burned and unburned habitat in the unit to maintain some habitat for prey production.
- No more than 50% of the core would be treated during a single season (for example, spring 2000, or fall 2001).
- In NRF habitat maintain a diversity of understory brush (islands of undisturbed brush), while still reducing the continuity of the fuel.
- In NRF habitat maintain visual screening along open roadways to minimize disturbance
- In northern spotted owl NRF habitat, maintain the understory structure by retaining a diversity of the sub-merchantable understory conifer trees (Douglas -fir, white-fir, sugar pine, cedar, ponderosa pine). In mechanical treatment areas this would be done by site-specific designs described in the individual task orders. During prescribed fire activities the overall objective is to create a mosaic of burned and unburned areas. Ignition techniques and pull back on smaller trees may also be used to maintain the understory structure.

Appendix B

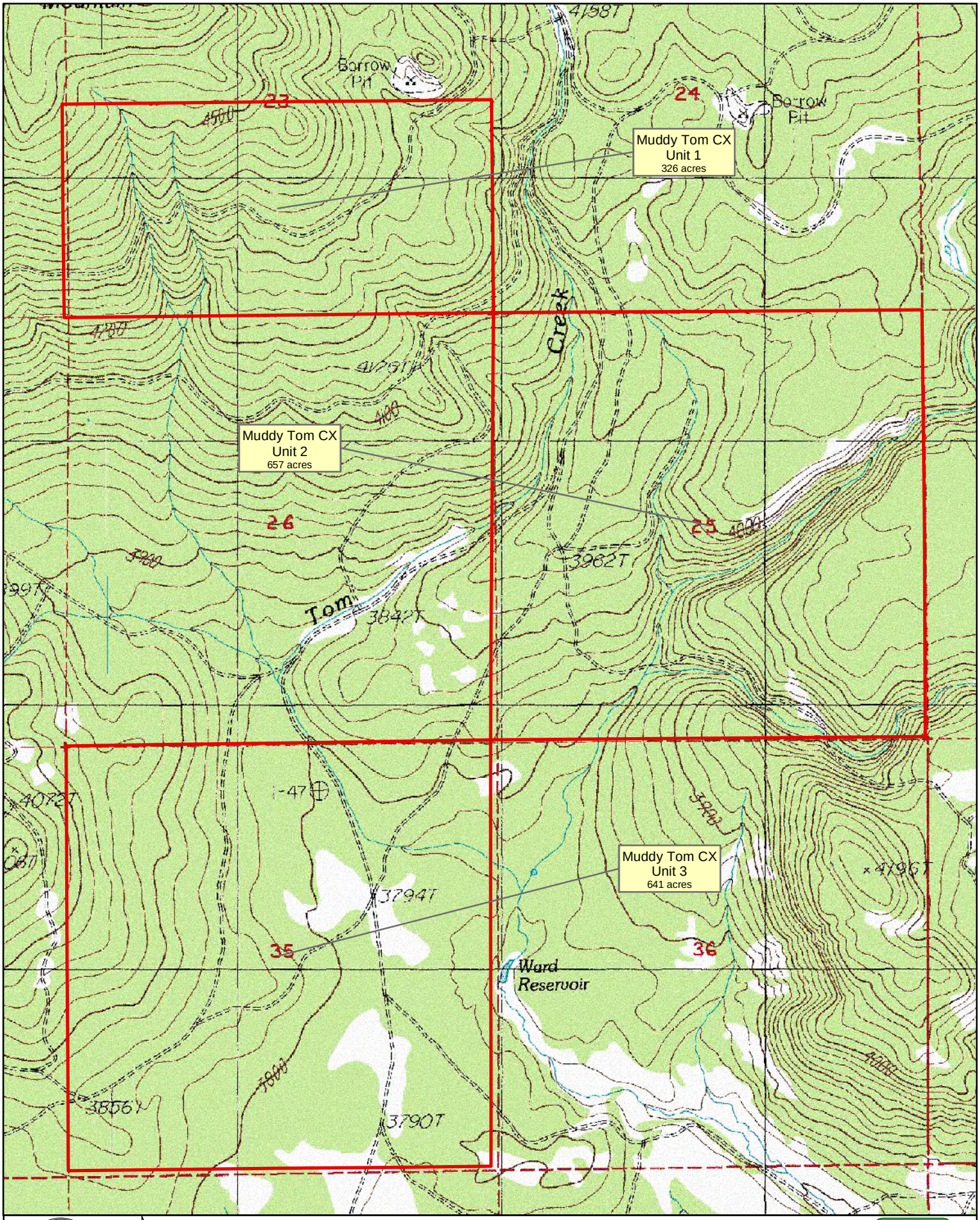
Weed Mitigation Measures

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.



Muddy Tom Cx Units

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Karl Krauter
KFRA
09/15/2003