UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BURNS DISTRICT OFFICE

CATEGORICAL EXCLUSION ENVIRONMENTAL REVIEW AND APPROVAL

CX Number: DOI-BLM-OR-B050-2013-0037-CX **Date**: 05/16/2013
RIPS #: 714022, 714416, 714041, 716111 **Project File:** Upton Mountain Allotment File #5565
Preparer: Levi Bennington **Applicant**: BLM
Title of Proposed Action: Rehabilitation of existing range improvements (water developments) due to trespass damage.

Description of Proposed Action and Project Design Elements (if applicable):

The proposed action would be for the Bureau of Land Management Operations Crew to repair and rehabilitate existing range improvements (water developments) which were damaged due to the trespass actions of the permittee to obtain additional water. The work would be done in the fall, 2013. The range improvements (water developments) are located within the Upton Mountain Allotment (Map A- Vicinity), In the North Bartlett, South Bartlett, and Upton Pastures (Map B -Project Areas), in the Three Rivers Resource Area, Burns District, BLM.

The existing water developments had filled with silt over the years or the troughs were not functioning properly reducing the amount of water supplied by these facilities. Maintenance and rehabilitation will be completed (as described below). Disturbed areas would be seeded with plants appropriate to the location that will stabilize soil and minimize the opportunity for noxious weeds and invasive annual grasses to establish. All activity will occur within the existing area of disturbance of each range improvement. The existing disturbance was due to initial project construction, previous maintenance, and livestock and wildlife using the water developments over the decades.

The Water Resources Department for District 10 has been notified of the trespass actions and has found no issues with the trespass reservoirs because all trespass reservoirs have dams fewer than 10 feet high and hold less than 9.2 acre feet of water. Head gates do not need to be installed and annual inspections do not need to occur do to their small size.

BLM has no issues concerning water rights on these trespass reservoirs because the reservoirs are only catching overflow water from prior existing projects to hold the water longer for beneficial use to livestock and to wildlife

All equipment (excavator, dozer, and pickups) would be cleaned prior to beginning work on these range improvements to minimize opportunities for spread of weeds by seeds or other plant parts; work would be completed on each water development within three days with one to two people. These range improvements will be monitored closely for two years post-rehabilitation for noxious weeds. Any weeds found will be treated using the most appropriate methods. The proposed maintenance would be limited to the existing footprint of each water development. All proposed activities would have limited context and intensity (e.g. limited size and magnitude or short term effects).

The following is a list of the existing water developments which would be maintained and rehabilitated. The proposed maintenance would be constrained by Standard and Procedures and design elements shown in Appendix 12 Three Rivers ROD/RMP September 1992.

<u>Alkali Spring</u>

- First Developed by BLM as Fender Spring in 1970.
- Job Description Report # 4022.
- RIPS # 714022 .
- Maintenance
  - 1977 troughs installed;
  - 2010 CX for maintenance under "DOI, 1.7";

- 2011 Permittee installed new tire trough.

- Possibly first developed by BLM in 1943 as Summit Spring. Wooden troughs were found at the location showing initial development earlier than 1970.
- The trespass consists of a pond constructed at the overflow of the trough.
- The pond is approximately 30 ft. x 20ft and 2ft deep.
- The BLM would repair the exclosure fence, remove the pond, rehabilitate the pond location, and seed the area outside the exclosure with crested wheatgrass and ladak alfalfa. Overflow plumbing on the trough would be installed to be in compliance with Land Use Plan requirements; piping water to the existing overflow exclosure. An additional trough would be added to the development to supply sufficient water for livestock in the future.

Bartlett Mountain Spring

- First Developed by BLM in 1975.
- Job Description Report # 4416.
- RIPS # 714416.
- Maintenance
  - 1990 file indicates reconstruction;
  - 2012 CX replacement by the BLM.
- Development before 1975 was evident from old pipe, and pieces of a wooden trough found during reconstruction. Water rights were established in 1983.
- The trespass consists of a pond constructed at the overflow of the trough.
- The pond is approximately 90 ft. x 60 ft. and up to 10 ft. deep (deepest point) if it reaches capacity.
- The BLM would leave the pond in location, and modify the spillway to meet RMP Appendix 12 Specifications.
- Headboxes have not been fenced due to the narrowness of the canyon. Fencing would cut off access for wildlife and livestock passing through the canyon.

Miler Spring

- First Developed by BLM in 1971.
- Job Description Report # 4041.
- RIPS # 714041.
- Maintenance
  - RIPS shows reconstruction in 1996, and maintenance in 2002 and 2008. This was following wildfires.
- Water rights were established in 1918-1921 by a private individual, and a cabin was on site for many years demonstrating that use and development were long before 1971.
- The trespass consists of a pond constructed at the overflow of the trough.
- The pond is approximately 45 ft. x 75 ft. and up to 6 ft. deep (deepest point) at full capacity.
- The BLM would leave the pond in place, modify the spillway or construct an overflow pipe returning water to the existing overflow exclosure. The dam would be seeded with crested wheatgrass and ladak alfalfa.

Stinking-Upton Well Pipeline extension

- First Developed by BLM in 1988.
- Job Description Report # 5345.
- RIPS # 716111.
- Maintenance
  - 2011 permittee obtained and installed a new galvanized trough;
  - 2012 permittee obtained and installed a new galvanized trough and a tire trough;

- The original well was drilled in 1983; a new well was drilled in 1993.
- The pipeline on the Upton Mountain allotment consists of a pipeline covering approximately ½ mile from the allotment boundary with two troughs in the S. Bartlett pasture and one trough in the N. Bartlett Pasture. The trespass consists of a small pond being constructed at the overflow from each of the three troughs.
- Each pond is approximately 30 ft. x 20 ft. and up to 4 ft deep (deepest point) at full capacity.
- The BLM proposes to leave the ponds in place while constructing a proper spillway on each pond and seed the dams with crested wheatgrass and ladak alfalfa.

Unknown Maintained Reservoir

No BLM records exist for the reservoir; however, the reservoir is easily seen in 1994 aerial photos of the location. In 1980 aerial photos it appears that the pond is present, however details are hard to distinguish. The 1958 aerial photos show disturbance and a road in the location, but it is not apparent if there was a reservoir at the time, or if it was dry at the time the photo was taken. The trespass consisted of maintaining the reservoir and raising the dam with no clearances or documentation. The reservoir is approximately 45 ft. x 50 ft. and around 5 ft. deep. The BLM would leave the reservoir in place, construct a spillway, and raise the height of the dam to ensure sufficient freeboard. The top of the dam would be seeded with crested wheatgrass and ladak alfalfa.

Legal Description (attach Location Map):

Alkali Spring	W.M., T. 22 S., R. 36 E. sec. 20.
Bartlett Mtn. Spring	W.M., T. 21 S., R. 35 E. sec. 27.
Miler Spring	W.M., T. 21 S., R. 35 E. sec. 21.
Stinking Upton Pipeline	W.M., T. 21 S., R. 35 E. sec. 15, 16.
Unknown Maintained Reservoir	W.M., T. 21 S., R. 35 E. sec. 1.

B. Conformance with Land Use Plan (LUP):

The proposed action is in conformance with the applicable LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (*objectives, terms, and conditions)*:

- Three Rivers ROD/RMP September 1992, Grazing Management Program Objective and Rationale, GM 1.3, page 2-36. "*Utilize rangeland improvements, as needed, to support achievement of multiple-use management objectives for each allotment as shown in Appendix 9 and Map RM-3. Range improvements will be constrained by Standard and Procedures and design elements shown in Appendix 12.*"
  "*...Disturbed soil would be rehabilitated to blend into surrounding soil surface and reseeded as needed with a mixture of grasses, forbs, and browse as applicable to replace ground cover and reduce soil loss form wind and water erosion. Appendix 12*"

BLM Categorical Exclusion Reference (516 DM, Chapter 11): None

DOI Categorical Exclusion Reference (516 DM 2, Appendix 1): 1.7 "Routine and continuing government business, including such things as maintenance and replacement activities having limited context and intensity (e.g. limited size and magnitude or short term effects).

Screening for Exceptions: The following extraordinary circumstances (516 DM 2, Appendix 2) may apply to individual actions within the categorical exceptions. The indicated specialist recommends the proposed action does *not*:

CATEGORICAL EXCLUSION EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION
2.1 Have significant impacts on public health or safety.
Specialist (Print Name and Title): John Petty, Safety Officer Signature and Date: 6/6/13
Rationale: No significant impacts on public health or safety.
2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or

cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); flood plains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
Migratory Birds Specialist (Print Name and Title): Tomas Kamienski, Wildlife Biologist Signature and Date: 6/6/13
Rationale: Migratory birds drink and bath at these reservoirs during the spring and early summer when water is available, and may forage adjacent to reservoirs throughout the year. No new habitat would be disturbed because maintenance work would be limited to previously disturbed areas (existing reservoirs). Work would also be temporary, occurring over a relatively short period (less than a week per site). Birds in the immediate vicinity of the reservoirs may flush during project work, but birds would likely return as soon as maintenance is complete. Few birds are likely to nest in the immediate area adjacent to reservoirs due to the limited vegetative cover relative to the surrounding area. Temporary maintenance activities would not affect populations.
Historic and Cultural Resources Specialist (Print Name and Title): Scott Thomas, District Archaeologist Signature and Date: 6-19-13
Rationale: As long as the clean-out equipment stays within the original footprint of reservoir construction, no historic or cultural resources would be affected by this project.
Areas of Critical Environmental Concern/Research Natural Areas Specialist (Print Name and Title): Caryn Meinicke, NRS - Botany Signature and Date: 6-6-13
Rationale: There are no ACEC/RNAs within the proposed project areas.
Water Resources/Flood Plains Specialist (Print Name and Title): Lindsay Davies, Natural Resource Specialist/Riparian Signature and Date: 6/13/2013
Rationale: There will be no additional impacts to water resources as a result of the proposed action.
Soils, Biological Soil Crust, Prime Farmlands Specialist (Print Name and Title): Caryn Meinicke, NRS - Botany Signature and Date: 6-6-13
Rationale: Because all maintenance will take place within currently disturbed areas, impacts to soils and biological soil crusts will be negligible. Any travel off road will minimally impact soils and biological soil crusts with evidence of off road travel dissipating within two growing seasons. There are no prime farmlands within the proposed project areas.
Recreation/ Visual Resources Specialist (Print Name and Title): John Bethea, Outdoor Recreation Planner Signature and Date: 6-6-13
Rationale: The proposed actions are located in VRM Class III and VRM Class IV. All activity will occur within the original area of disturbance and are allowed under VRM Class III and IV. Rehabilitation of existing range improvements (water developments) due to trespass damage will be short term and have no significant impacts on recreation or visual resources.
Wilderness/Wild and Scenic River Resources Specialist (Print Name and Title): Tom Wilcox, Wilderness Specialist Signature and Date: 5/21/2013
Rationale: In September 2007, the BLM Burns District received a citizens proposed wilderness study area for the proposed project area. In 2012 a BLM Interdisciplinary (ID) Team found the area did not have any wilderness, WSA, WSR or Lands with Wilderness Characteristics in the project area.
2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2) (E)].
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: 05/16/2013
Rationale: There are no highly controversial environmental effects or unresolved conflicts concerning alternative uses of available resources. The range improvements are existing features on the landscape. The action is to perform maintenance on existing facilities.
2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown

environmental risks.
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: Holly Orr 05/16/2013
Rationale: There are no known highly uncertain or potentially significant environment effects or unique or unknown environmental risks. The range improvements are existing features on the landscape. The action is to perform maintenance on existing facilities.
2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: Holly Orr 05/16/2013
Rationale: Implementation would not set precedence for future actions or represent a decision in principle about future actions with potentially significant environmental effects. The BLM routinely performs range improvement maintenance and these water developments currently exist on the landscape.
2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: Holly Orr 05/16/2013
Rationale: Implementation does not have any known direct relationship to other actions with individually insignificant but cumulative significant environmental effects. The range improvements are existing features on the landscape. The action is to maintenance on existing facilities.
2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
Specialist (Print Name and Title): Scott Thomas, District Archaeologist Signature and Date: Scott Thomas 6/19/13
Rationale: See Historic and Cultural Resources
2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
Endangered or Threatened/Special Status Species-Fauna Specialist (Print Name and Title): Tomas Kamienski, Wildlife Biologist Signature and Date: 6/6/13
Rationale: There are no known Threatened or Endangered species or Designated Critical Habitat in the area around these reservoirs, and none would be affected off-site by the reservoir maintenance activity. The project(s) are located in greater sage grouse Preliminary Primary Habitat (PPH) as adopted by the BLM from the core habitat delineated and classified by the Oregon Department of Fish and Wildlife. The greater sage grouse has been placed, by the U.S. Fish and Wildlife Service, on the list of species that are candidates for protection under the Threatened and Endangered Species Act. There is an active lek approximately 2 miles to the south of the project area, located on private land. The project would take place in a previously disturbed area that provides little structural or vegetative diversity for greater sage grouse. The timing of work would occur during the end of breeding/nesting season, and into early brood rearing season. However, no vegetation capable of providing nest structures will be removed or destroyed. The project may displace some roosting sage grouse immediately next to the road and adjacent to the reservoirs; however, this disturbance would be short in duration and low in intensity. Access roads are currently used for recreation, permittee use, and BLM administrative use. No nest abandonment is expected resulting from the work related to the project(s).
Endangered or Threatened Species-Aquatic Specialist (Print Name and Title): Lindsay Davies, Natural Resource Specialist/Riparian Signature and Date: L. Davies 6/13/2013
Rationale: There are no known Endangered or Threatened Species or their Critical Habitat in the vicinity of the project area that would be affected by the implementation of the proposed action.
Endangered or Threatened Species-Flora Specialist (Print Name and Title): Caryn Meinicke, NRS - Botany Signature and Date: 6.6.13
Rationale: There are no T & E flora species or designated critical habitat within the proposed project area. There is one Special Status plant species known to exist in the area, *Stanleya confertiflora* (Oregon princesplume). If any work will take place outside of the currently disturbed areas, it will need to be surveyed for STCO prior to the work beginning. If the plant is found, the area will become an avoidance area and an alternative route or work

area will need to be established.
2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: Holly Orr 05/15/2013
Rationale: Implementation would not violate any known law or regulation imposed for the protection of the environment. The range improvements are existing features on the landscape. The action is to perform maintenance on existing facilities.
2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator Signature and Date: Holly Orr 05/15/2013
Rationale: Implementation would not have a disproportionately high or adverse effect on low income or minority populations as such populations do not exist within the project area.
2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).
Specialist (Print Name and Title): Scott Thomas, District Archaeologist Signature and Date: Scott Thomas 6-19-13
Rationale: Access to or integrity of Indian sacred sites would not be affected by this project.
2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).
Specialist (Print Name and Title): Lesley Richman, District Weed Coordinator Signature and Date: Lesley Richman 6/11/2013
Rationale: Noxious weeds are known to be present in and in close proximity to this area. Treatments are on-going. The weeds are not present in sufficient quantity to be considered a significant impact at this time.

Additional review (As determined by the Authorized Officer): None

RMP conformance and CX review confirmation:

Specialist (Print Name and Title): Holly Orr, District Planning and Environmental Coordinator

Signature: Holly Orr Date: 06/19/13

Management Determination: Based upon review of this proposal, I have determined the Proposed Action is in conformance with the LUP, qualifies as a categorical exclusion and does not require further NEPA analysis.

Authorized Officer (Print Name and Title): Richard Roy, Three Rivers Resource Area Manager

Signature: Richard Roy Date: 6/19/13

Decision: It is my decision to implement the Proposed Action with Project Design Elements (if applicable) as described above.

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 Code of Federal Regulations (CFR), Part 4 and Form 1842-1. If an appeal is filed, your notice of appeal should be mailed to the Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, within 30 days of receipt of the decision. The appellant has the burden of showing the decision appealed is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal did not include a statement of reasons for the appeal, it must be sent to the Interior Board of Land Appeals, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

Request for Stay

Should you wish to file a motion for stay pending the outcome of an appeal of this decision, you must show sufficient justification based on the following standards under 43 CFR 4.21:

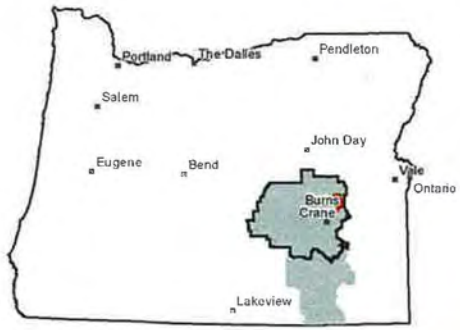
- The relative harm to the parties if the stay is granted or denied.
- The likelihood of the appellant's success on the merits.
- The likelihood of immediate and irreparable harm if the stay is not granted.
- Whether or not the public interest favors granting the stay.

As noted above, the motion for stay must be filed in the office of the authorized officer.

Richard Roy, Three Rivers Resource Area Manager

6/19/13
Date

Map A
Development Rehab area
VICINITY MAP
Three Rivers Resource Area



Drewsey
Buchanan
Hines
Riley
Lawen
Crane
New Princeton
Wagontire
Diamond

395
37
17
43
47
41
45
20
205
78

Legend

Allotment

Three Rivers Resource Area Boundary

Note: No warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data was compiled from various sources and may be updated without notification.

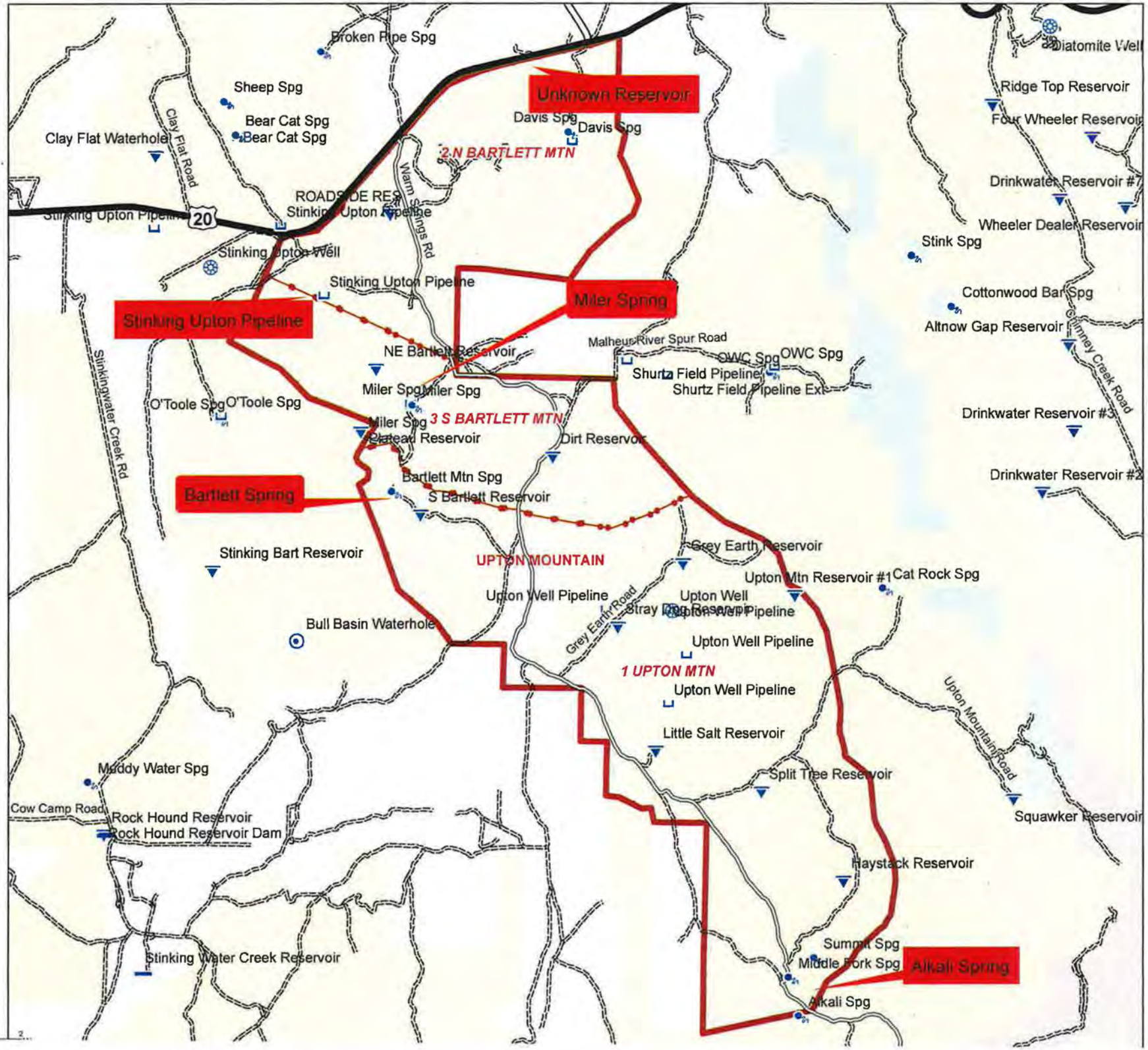
US DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Burns District, Oregon

/workarea/LeviBennington
April 30,2013

N W E S

0 5 10 20 Miles

Map B
Project Areas



Proposed Projects Highlighted In Yellow

- Pastures
- Allotments
- Bureau of Land Management
- U.S. Forest Service
- U.S. Fish and Wildlife Service
- State
- Bureau of Indian Affairs
- Other Federal
- Private/Unknown
- National Park Service
- Local Government

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US DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Burns District, Oregon

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