

**U.S. Department of the Interior
Bureau of Land Management
Kremmling Field Office
P O Box 68
Kremmling, CO 80459**

CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-LLCON02000-2014-0002-CX

CASEFILE/PROJECT NUMBER: Project # 203977

PROJECT NAME: Tupps Well Maintenance

LEGAL DESCRIPTION: T. 1 S., R. 81W, Section 30, 6th P.M.

APPLICANT: BLM

DESCRIPTION OF PROPOSED ACTION: The Permittee, BLM, and the Owl Mountain Partnership are proposing to maintain the Tupps Well in Allotment 07562 (See project map, Attachment #1). If approved, the Permittee would remove the existing windmill structure from the allotment. An appropriate contractor would replace the windmill with a solar panel and pump. The existing livestock tank would be removed due to corrosion. The permittee would install two new 10' Bul-Tuf livestock tanks and construct a new post and pole protective fence. The solar panel would be mounted on a 6' to 8' high pole and would be protected by post and rail to prevent damage from cattle. All construction would occur in areas of existing disturbance from cattle congregation. A backhoe would be used to remove the windmill and maintain the post and rail structure around the associated tanks. Access to the windmill is along an existing two track road and does not require cross country travel. Maintenance would be implemented between May 1 and November 1, 2014-2016 and or as budget allows.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5-3, BLM 1601.08) the following plan:

Name of Plan: Record of Decision for the Kremmling Resource Management Plan

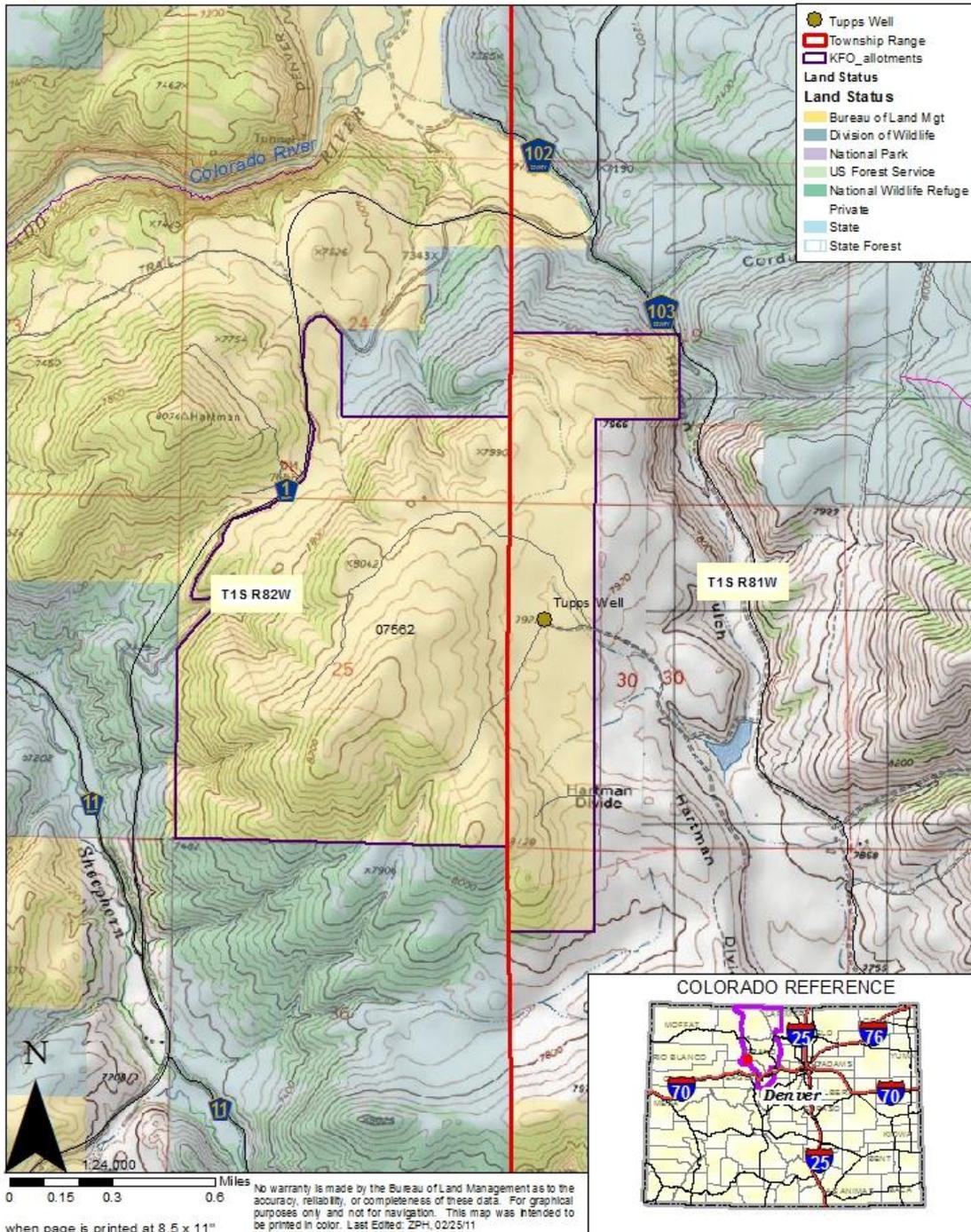
Date Approved: 1984 and updated in 1999

Decision Number/Page: Livestock Grazing, pages 6 through 8, as revised

Decision Language: Investing in cost-effective range improvements (primarily through public investment) to implement grazing systems and meet the specific objectives of AMP's.



Tupps Well Maintenance



CATEGORICAL EXCLUSION REVIEW: The Proposed Action qualifies as a categorical exclusion under **516 DM 11.9, J(9&10)**: “Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study areas”. “Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.”

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

Extraordinary Circumstance	YES	NO
a) Have significant adverse effects on public health and safety.		X
b) 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; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by either the bureau of office.		X
h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.		X
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X
j) Have a disproportionately high and adverse effect on low income or minority populations		X
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.		X

INTERDISCIPLINARY REVIEW:

The Proposed Action was presented to, and reviewed by, the Kremmling Field Office interdisciplinary team on 12/2/2013. A complete list of resource specialists who participated in this review is available upon request from the Kremmling Field Office. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Bill B. Wyatt	Archaeologist	Cultural Resources, Native American Religious Concerns Paleontology	02/18/2014
Megan McGuire	Wildlife Biologist	Special Status Plant and Wildlife Species	12/13/13
Paula Belcher	Hydrologist	Soil, Water, Air, Riparian	2/19/2014

REMARKS:

Cultural Resources: A Class I file search (CR-14-15) was conducted. The project is a no effect, there are no historic properties that would be affected.

Native American Religious Concerns: Tribal consultation was initiated on March 26, 2013, and to date no tribe has identified any area of traditional cultural or spiritual concern.

Paleontology: Geologic formations sensitive for fossil resources are present, but would not be impacted by the proposed project. BLM standard “discovery” stipulation is part of the environmental assessment and is to be attached to any authorization allowing project to proceed.

Special Status Plant and Wildlife Species: The Tupps Well is a water depletion within the Colorado River Basin. In July 2008, BLM prepared a Programmatic Biological Assessment (PBA) that addresses water depleting activities in the Colorado River Basin. In response to BLM’s PBA, the FWS issued a Programmatic Biological Opinion (PBO)(#ES/GJ-6-CO-08-F-0010) on February 25, 2009, which determined that water depletions from the Colorado River Basin resulting from BLM actions described in the PBO are not likely to jeopardize the continued existence of the Colorado pikeminnow, humpback chub, bonytail, and razorback sucker or result in the destruction or adverse modification of their critical habitat. The PBO addresses internal and external BLM projects including impoundments, diversions, water wells, pipelines, and spring developments. The FWS determined that projects that fit under the umbrella of the PBA would avoid the likelihood of jeopardy and/or adverse modification of critical habitat for depletion impacts to the Upper Colorado River Basin if they deplete relatively small amounts of water (less than 100 AF) and BLM makes a one-time contribution to the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River

Basin (Recovery Program) in the amount equal to the average annual acre-feet depleted by each project. The PBO instructed BLM to make an annual payment to the National Fish and Wildlife Foundation (NFWF) to cover all BLM authorized actions that result in water depletions. The Tupps Well depletes 0.4 AF per year, based on the permittee grazing 65 cows for 122 days. The depletion fee for this project is \$7.24 for FY14. When the proposed maintenance is completed, the Kremmling Field Office will include it in their water depletion log, and submitted to the Colorado State Office at the end of that Fiscal Year. The State Office is responsible for paying depletion fees based on the annual statewide BLM total depletion.

MITIGATION: None

COMPLIANCE PLAN: On-going compliance inspections and monitoring will be conducted by the BLM Kremmling Field Office staff during and after construction. The operator would be notified of compliance related issues in writing, and depending on the nature of the issue(s), will be provided 30 days to resolve such issues.

NAME OF PREPARER: Zach Hughes

NAME OF ENVIRONMENTAL COORDINATOR: Susan Cassel

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, J(9&10). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Susan Cassel
Associate Field Manager

DATE SIGNED: 3/3/14

ATTACHMENT: Cultural/Paleo Discovery Stipulation

Attachment:

1. The holder is responsible for informing all persons in the area who are associated with this project that they shall be subject to prosecution for disturbing historic or archaeological sites, or for collecting artifacts.

The holder shall immediately bring to the attention of the Authorized Officer any and all antiquities, or other objects of historic, paleontological, or scientific interest including but not limited to, historic or prehistoric ruins or artifacts DISCOVERED as a result of operations under this authorization (16 U.S.C. 470.-3, 36 CFR 800.112). The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until written approval to proceed is obtained from the Authorized Officer. Approval to proceed shall be based upon evaluation of the object(s). Evaluation shall be by a qualified professional selected by the Authorized Officer from a Federal agency insofar as practicable (BLM Manual 8142.06E). When not practicable, the holder shall bear the cost of the services of a non-Federal professional.

Within five working days the Authorized Officer shall inform the holder as to:

- whether the materials appear eligible for the National Register of Historic Places;
- the mitigation measures the holder shall likely have to undertake before the site can be used (assuming in situ preservation is not necessary); and,
- a timeframe for the Authorized Officer to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the Authorized Officer are correct and that mitigation is appropriate.

If the holder wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the Authorized Officer shall assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the holder shall be responsible for mitigation costs. The Authorized Officer shall provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the Authorized Officer that the required mitigation has been completed, the holder shall then be allowed to resume construction.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest that are outside of the authorization boundaries but directly associated with the impacted resource shall also be included in this evaluation and/or mitigation.

Antiquities, historic, prehistoric ruins, paleontological or objects of scientific interest, identified or unidentified, that are outside of the authorization and not associated with the resource within the authorization shall also be protected. Impacts that occur to such resources that are related to the authorizations activities, shall be mitigated at the holder's cost.

2. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4 (c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
3. If paleontological materials (fossils) are discovered during construction activities, the operator is to immediately stop activities that might further disturb such materials and contact the authorized officer. The operator and the authorized officer shall consult and determine the best option for avoiding or mitigating the paleontological site.

**U.S. Department of the Interior
Bureau of Land Management
Kremmling Field Office
P O Box 68
Kremmling, CO 80459**

DECISION RECORD

PROJECT NAME: Tupps Well Maintenance

CATEGORICAL EXCLUSION NUMBER: DOI-BLM-LLCON02000-2014-002-CX

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-LLCON02000-2014-002 CX, authorizing the removal of an existing windmill structure and replacing the windmill with a solar panel and pump. An existing livestock tank would be removed and two new 10' Bul-Tuf livestock tanks would be installed with a new post and pole protective fence constructed.

Mitigation Measures

COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN

This decision is in compliance with the Federal Land Management and Policy Act, the Endangered Species Act, and the National Historic Preservation Act. It is also in conformance with the December 19, 1984; Updated February 1999 Kremmling Resource Management Plan (RMP).

PUBLIC INVOLVEMENT The Tupps well maintenance CX was listed in the Kremmling Field Office NEPA register on .

RATIONALE

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, J(9&10). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

ADMINISTRATIVE REMEDIES

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with

the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Rocky Mountain Region, U.S. Department of Interior, 755 Parfet Street, Suite 151, Lakewood, CO 80215.

The effective date of this decision (and the date initiating the appeal period) will be the date this notice of decision is posted on BLM's Kremmling Field Office internet website.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Susan Cassel_____
Associate Field Manager

DATE SIGNED: 3/3/14

