

**U.S. Department of the Interior
Bureau of Land Management
White River Field Office
220 E Market St
Meeker, CO 81641**

DETERMINATION OF NEPA ADEQUACY (DNA)

NUMBER: DOI-BLM-CO-110-2012-0038-DNA

PROJECT NAME: Kinder Morgan Right-of-Way Noxious Weed Pesticide Use Proposal (PUP)

LEGAL DESCRIPTION: T1S, R96W Secs. 18, 19, 29, 30, 32
T2S, R96W Secs. 3, 8, 16, 17, 21, 29, 32
T3S, R96W Secs. 5, 8, 9, 16, 22, 27, 34
T4S, R96W Sec. 3

APPLICANT: Monty Elder

DESCRIPTION OF PROPOSED ACTION: Under the terms of the right-of-ways the holder is responsible for controlling noxious species. With approval of this document and Pesticide Use Proposal (PUP), Elder Weed Spraying Company would be approved to treat rights-of-ways, associated with Kinder Morgan for knapweed, houndstongue, black henbane, thistles, and mullein. Most of the proposed treatment areas have been treated in the past with the majority of spraying being maintenance or new outbreaks.

Under this alternative cultivation and herbicide control would be used to control knapweeds, houndstongue, black henbane and mullein. All control activities would be in compliance with the Record of Decision: Vegetation Treatment on BLM Lands in Seventeen Western States (BLM 2007) and the White River Field Office (WRFO) Integrated Weed Management Plan (DOI-BLM-CO-110-2012-0005-EA).

Cultivation would be the primary control of infestations of houndstongue, black henbane, mullein and biennial knapweeds that are sparse and isolated. Russian knapweed because of its perennial character is not reasonably controlled by cultivation. Cultivation would entail pulling of the weed out of the ground or severing the tap root below the basal rosette of leaves with a hand tool. If these plants have produced seed prior to treatment, the plants would be gathered following digging, and placed at a site on which seedlings can be controlled. Cultivation activities will be limited to areas of existing disturbance (pipeline corridors, road cuts, well pads etc).

Herbicidal control would be used on dense weed patches of houndstongue, black henbane, mullein, Russian, Spotted and Diffuse Knapweed which are impractical to control by digging. Application would be by a combination of truck mounted sprayer, all-terrain vehicles (ATV) sprayer, and backpack sprayer. The method of herbicide application would be dependent on the size and location of the weeds to be treated.

The proposed herbicides are Tordon 22K and 2,4-D LV6. Tordon 22K and 2,4-D LV 6 will both be applied at 1 quart per acre. All herbicide application will be in compliance with herbicide labels and BLM guidelines. The estimated area needing chemical control is approximately 1 acre.

Decision to be Made: The WRFO will decide whether or not to approve the PUP, and if so, with what terms and conditions.

PLAN CONFORMANCE REVIEW:

Name of Plan: White River Record of Decision and Approved Resource Management Plan (ROD/RMP).

Date Approved: July 1, 1997

Decision Number/Page: 2-13

Decision Language: *"Manage noxious weeds so that they cause no further negative environmental aesthetic or economic impact."*

REVIEW OF EXISTING NEPA DOCUMENTS:

List by name and date all existing NEPA documents that cover the Proposed Action.

Name of Document: White River Resource Area Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS).

Date Approved: June 1996

Name of Document: White River Field Office Integrated Weed Management Plan (DOI-BLM-CO-110-2010-0005-EA).

Date Approved: 03/19/2010

NEPA ADEQUACY CRITERIA:

1. Is the new Proposed Action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document? If there are differences, can you explain why they are not substantial?

Documentation of answer and explanation: Yes, the proposed chemical treatments in the Proposed Action were a feature of the analysis in the White River Field Office Integrated Weed Management Plan (DOI-BLM-CO-110-2010-0005-EA), which analyzed

alternatives for doing noxious weed treatments within the field office boundary using these herbicides. The integrated weed control strategy is improving vegetation conditions.

2. Is the range of alternatives analyzed in the existing NEPA document appropriate with respect to the new Proposed Action, given current environmental concerns, interests, and resource values?

Documentation of answer and explanation: Four alternatives, the Proposed Action, the No Action Alternative, No Aerial Application of Herbicides Alternative, and the No Herbicide Use Alternative were analyzed in DOI-BLM-CO-110-2010-0005-EA. No reasons were identified to analyze additional alternatives and these alternatives are considered to be adequate and valid for the Proposed Action.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new Proposed Action?

Yes, the analysis in the EA listed above is still valid. There is no known new information or circumstances that would substantially change the analysis of the new Proposed Action.

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new Proposed Action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Documentation of answer and explanation: Yes, the direct, indirect, and cumulative effects that would result from implementation of the new Proposed Action is similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document, DOI-BLM-CO-110-2010-0005-EA.

5. Is the public involvement and interagency review associated with existing NEPA documents adequate for the current Proposed Action?

Documentation of answer and explanation: Yes, consultation occurred between the BLM and the US Fish and Wildlife Service for environmental assessment, DOI-BLM-CO-110-2010-0005-EA. In addition, lists of the current NEPA documents (projects) are available for review on the WRFO webpage.

INTERDISCIPLINARY REVIEW:

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on 01/24/2012. A complete list of resource specialists who participated in this review is available upon request from the WRFO. The table below lists resource specialists who provided additional remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Kristin Bowen	Archaeologist	Cultural Resources, Native American Religious Concerns	02/25/2012
Lisa Belmonte	Wildlife Biologist	Special Status Wildlife Species	02/02/2012
Zoe Miller	Ecologist	Special Status Plant Species	03/05/2012

REMARKS:

Cultural Resources: All treatments are proposed for rights-of-ways which should have been previously inventoried for the various developments. The normal half-life of herbicides is not expected to cause any impacts to cultural resources if they do exist in the rights-of-ways. Cultivation has the potential to disturb archeological resources as it involves ground disturbance. Therefore, cultivation shall only occur in areas of previous ground disturbance. There should be no new direct impacts to cultural resources. An indirect impact of herbicide application is the unlawful collection of artifacts and vandalism.

Native American Religious Concerns: No Native American religious concerns are known for noxious weed treatments in the WRFO. Should future consultations with Ute tribal authorities reveal concerns, and the desire to be consulted with on weed spraying actions, additional measures may be taken.

Threatened and Endangered Wildlife Species: There are no threatened or endangered animal species that are known to inhabit or derive important use from the project area. Portions of the pipeline right-of-way (T1S R96W section 32; T2S R96W sections 5 and 8; T3S R96W section 34; T4S R96W section 3) traverse ranges occupied or potentially occupied by greater sage-grouse, a BLM-sensitive species and a candidate for listing under the Endangered Species Act. An active lek is located just off the pipeline right-of-way near the southern terminus of the project area. Additionally, there are several inactive leks located in close proximity as well. This area receives considerable use by grouse during the breeding season. As such treatments should be postponed as late as possible to avoid the majority of the lekking and nesting period yet provide effective weed control. Sage-grouse involvement along the northern end of the project area is extremely limited. Although there are likely a small number of grouse that use the area, all activity is located further to the east and well removed from the proposed treatment areas.

Two small stretches (~250 – 300 m) of the pipeline right-of-way located in T3S R96W section 9 lie adjacent to the Stewart Gulch channel, which flows intermittently and likely supports riparian communities. No higher order aquatic vertebrate species are known to inhabit the channel.

Threatened and Endangered Plant Species: There is one known occupied special status plant species population within the herbicide buffer distances from terrestrial special status plant species designated in the White River Field Office Integrated Weed Management Plan (DOI-BLM-CO-110-2010-0005-EA). T2S, R96W Sec. 21 contains a roadside population of the BLM sensitive species *Lesquerella parviflora* (Piceance bladderpod). T1S, R96W Secs. 18, 19, 29, 30, 32 and T2S, R96W Secs. 16, 20, 21, 29 are within the herbicide buffer distances from potential terrestrial special status plant species habitats. This habitat is largely unsurveyed and could

potentially contain occupied populations of federally listed threatened plant species, *Physaria congesta* (Dudley Bluffs bladderpod) and *Physaria obcordata* (Dudley Bluffs twinpod).

Tordon or 2,4-D may not be used within 0.5 miles of special status plant species habitats. Glyphosate is permitted to use as spot treatments outside of 50 feet from special status plant species habitats. There are 5 maps (Figures 4-8) that show the 50 foot and 0.5 miles avoidance areas. All herbicide application must only be spot treatments within 0.5 miles of special status plant species populations.

MITIGATION: The following mitigation will be carried forward from DOI-BLM-CO-110-2010-0005-EA.

1. The applicant is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts. If archaeological materials are discovered as a result of operations under this authorization, the applicant must immediately contact the appropriate BLM representative.
2. The applicator should be aware of all SOPs (Appendix C), mitigation measures (Appendix D) and conservation measures (Appendix E) regarding terrestrial wildlife/migratory birds required in DOI-BLM-CO-110-2010-0005-EA.
3. To minimize disturbance to sage-grouse during the lekking and breeding season (March 15 – July 7), no treatment activities shall be conducted along the pipeline right-of-way from NAD 83 Zone 13, X: 229983 / Y: 4404444 to X: 229836 / Y: 4407917 in T3S R96W section 34 and 4S R96W section 3 prior to June 1.
4. Since 2,4-D poses a high risk to a variety of migratory birds and special status species, it is recommended that its use be restricted within suitable habitats for these species. Other herbicides that are not as toxic to these species could be used to treat most of the weeds (except for leafy spurge and toadflax) that can be treated using 2,4-D. Site specific proposals shall be evaluated based on the application method (i.e., spot spray or broadcast), condition of the treatment area in respect habitat requirements, and whether or not there are other effective treatment methods for the target weed. It should not be used as a matter of convenience or habit when there are other treatment methods available and site specific proposals should document the reason why the use of 2,4-D is critical to achieving objectives.
5. The applicator should be aware of all SOPs (Appendix C), mitigation measures (Appendix D) and conservation measures (Appendix E) regarding aquatic wildlife required in DOI-BLM-CO-110-2010-0005-EA.
6. Implement all conservation measures for aquatic animals developed during consultation for the BLM WRFO Programmatic Weed Management Plan Environmental Assessment.

7. Special care should be taken to follow all instructions and SOPs to avoid spill and direct spray scenarios in aquatic habitats during transport and application.
8. Use appropriate herbicide-free buffer zones for herbicides not labeled for aquatic use based on risk assessment guidance, with minimum widths of 100 feet for aerial, 25 feet for vehicle, and use of only herbicides that pose no to low risk to fish or amphibians within 10 feet of riparian areas.
9. Use appropriate buffer zones based on label and risk assessment guidance.
10. Minimize treatments near fish-bearing water bodies during periods when fish are in life stages most sensitive to the herbicide(s) used, and use spot rather than broadcast or aerial treatments.
11. Use appropriate application equipment/method near water bodies if the potential for offsite drift exists.
12. For treatment of aquatic vegetation, 1) treat only that portion of the aquatic system necessary to achieve acceptable vegetation management, 2) use the appropriate application method to minimize the potential for injury to desirable vegetation and aquatic organisms, and 3) follow water use restrictions presented on the herbicide label.
13. Limit the use of terrestrial herbicides in watersheds with characteristics suitable for potential surface runoff, and have fish-bearing streams, during periods when fish are in life stages most sensitive to the herbicide(s) used.
14. Establish appropriate herbicide-specific buffer zones for water bodies, habitats, or fish or other aquatic species of interest (see Appendix C and recommendations in individual ERAs).
15. Avoid using the adjuvant R-11® in aquatic environments and do not use glyphosate formulations containing the POEA surfactant to reduce risks to aquatic organisms.
16. Do not broadcast spray triclopyr BEE or Tordon (picloram) in upland habitats adjacent to the 100-year floodplain of the White River or riparian systems that support special status aquatic wildlife under conditions that would likely result in off-site drift.
17. Chlorsulfuron and Tordon (picloram) have not been specifically evaluated for effects on amphibians. Where feasible, avoid the use of this herbicide in occupied amphibian habitats.

COMPLIANCE PLAN: On-going compliance inspections and monitoring will be conducted by the BLM White River Field Office staff during and after construction. Specific mitigation developed in this document will be followed. The operator will 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: Matthew Dupire

NAME OF ENVIRONMENTAL COORDINATOR: Heather Sauls

CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to applicable land use plan and that the NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of the NEPA.

SIGNATURE OF AUTHORIZED OFFICIAL:



Field Manager

DATE SIGNED:

03/21/12

ATTACHMENTS:

- Figure 1: North Section of the Kinder Morgan Pipeline
- Figure 2: Middle Section of the Kinder Morgan Pipeline
- Figure 3: South Section of the Kinder Morgan Pipeline
- Figure 4: Map of Buffer along County Road 3
- Figure 5: Map 2 of Buffer Along County Road 3
- Figure 6: Map of Buffers Along County Road 76
- Figure 7: Map 3 of Buffers Along County Road 3
- Figure 8: Map 2 of Buffers Along County Road 76

Note: The signed Conclusion in this DNA Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.

Figure 1: North Section of the Kinder Morgan Pipeline

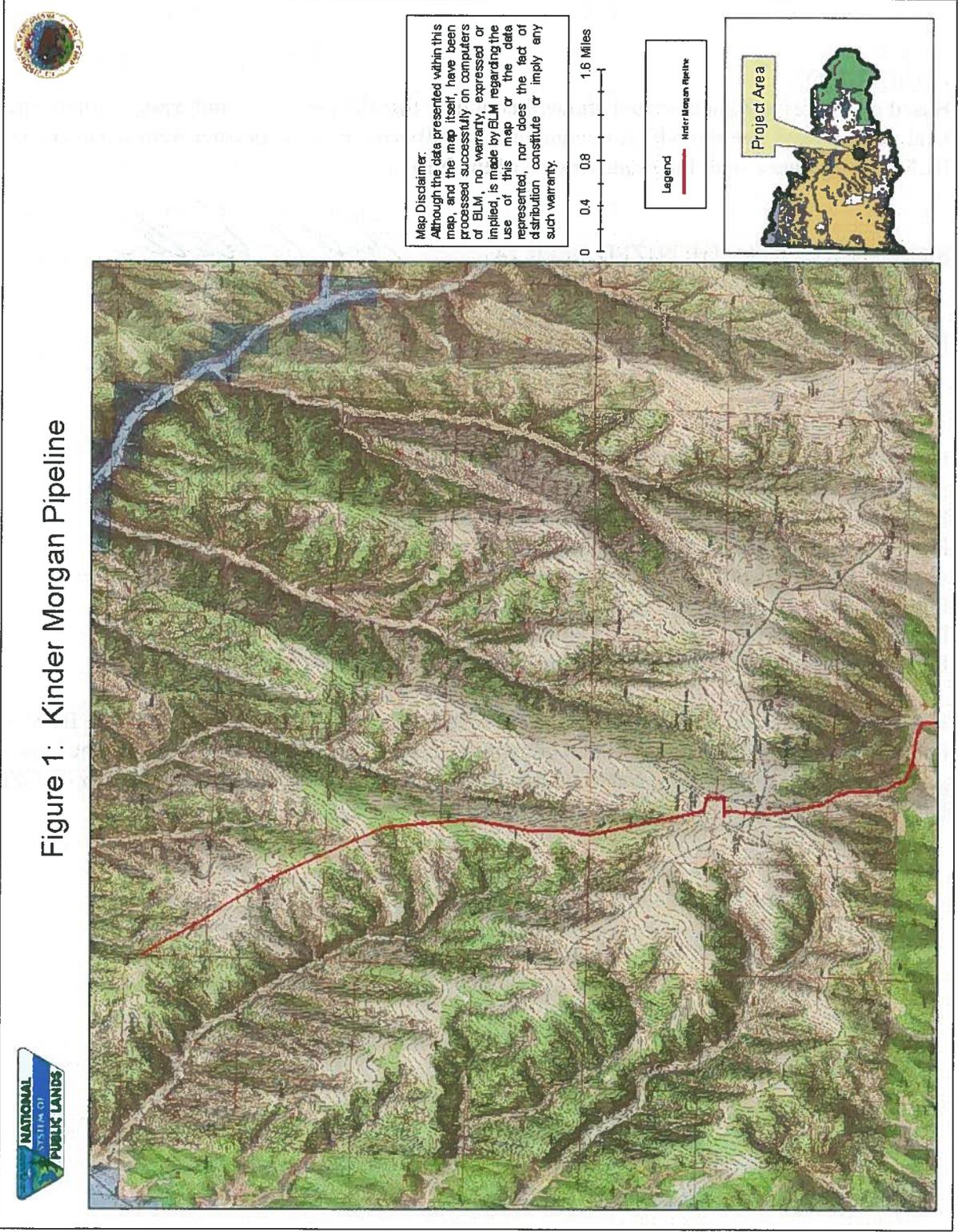


Figure 1: Kinder Morgan Pipeline

Figure 2: Middle Section of the Kinder Morgan Pipeline

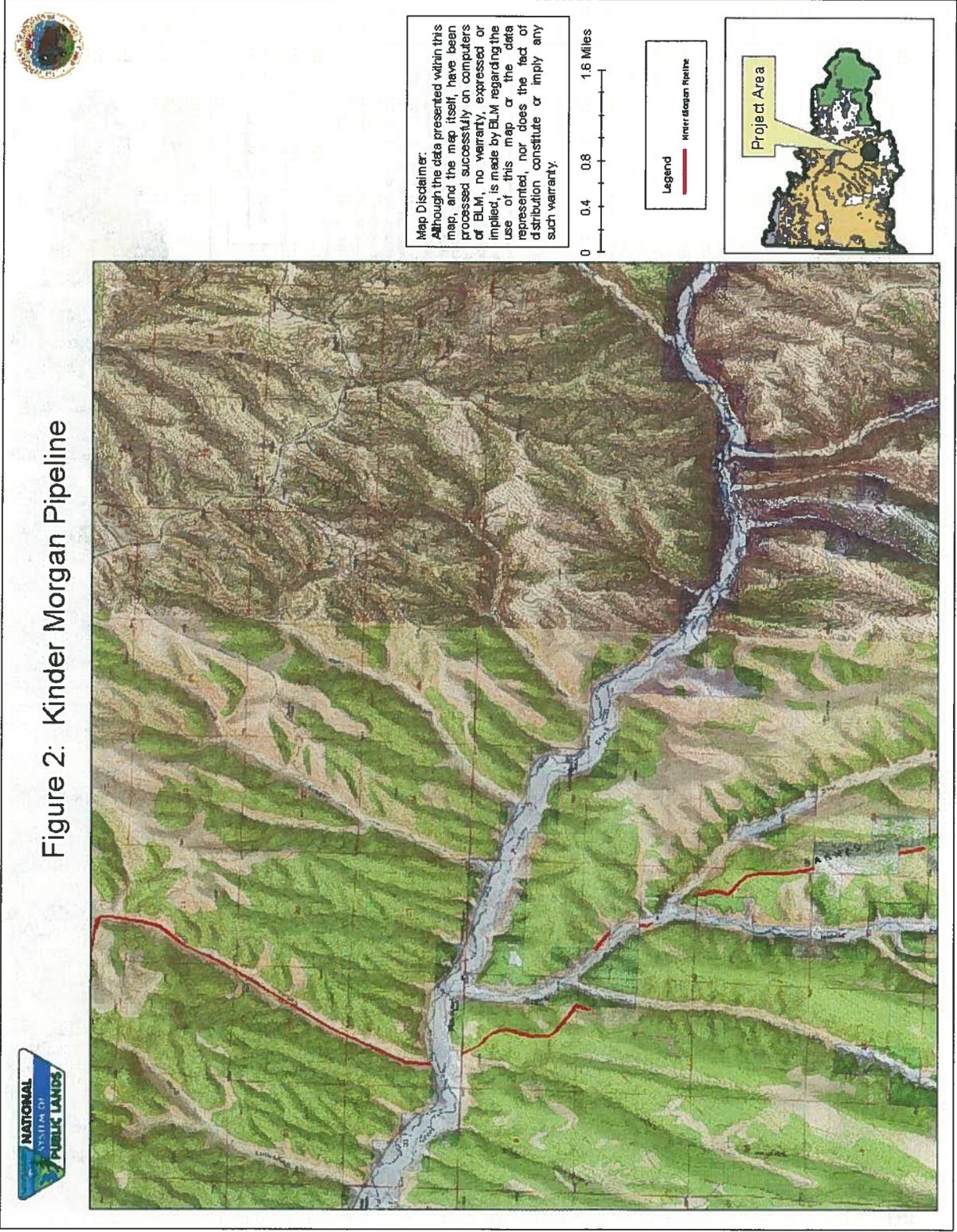


Figure 3: South Section of the Kinder Morgan Pipeline

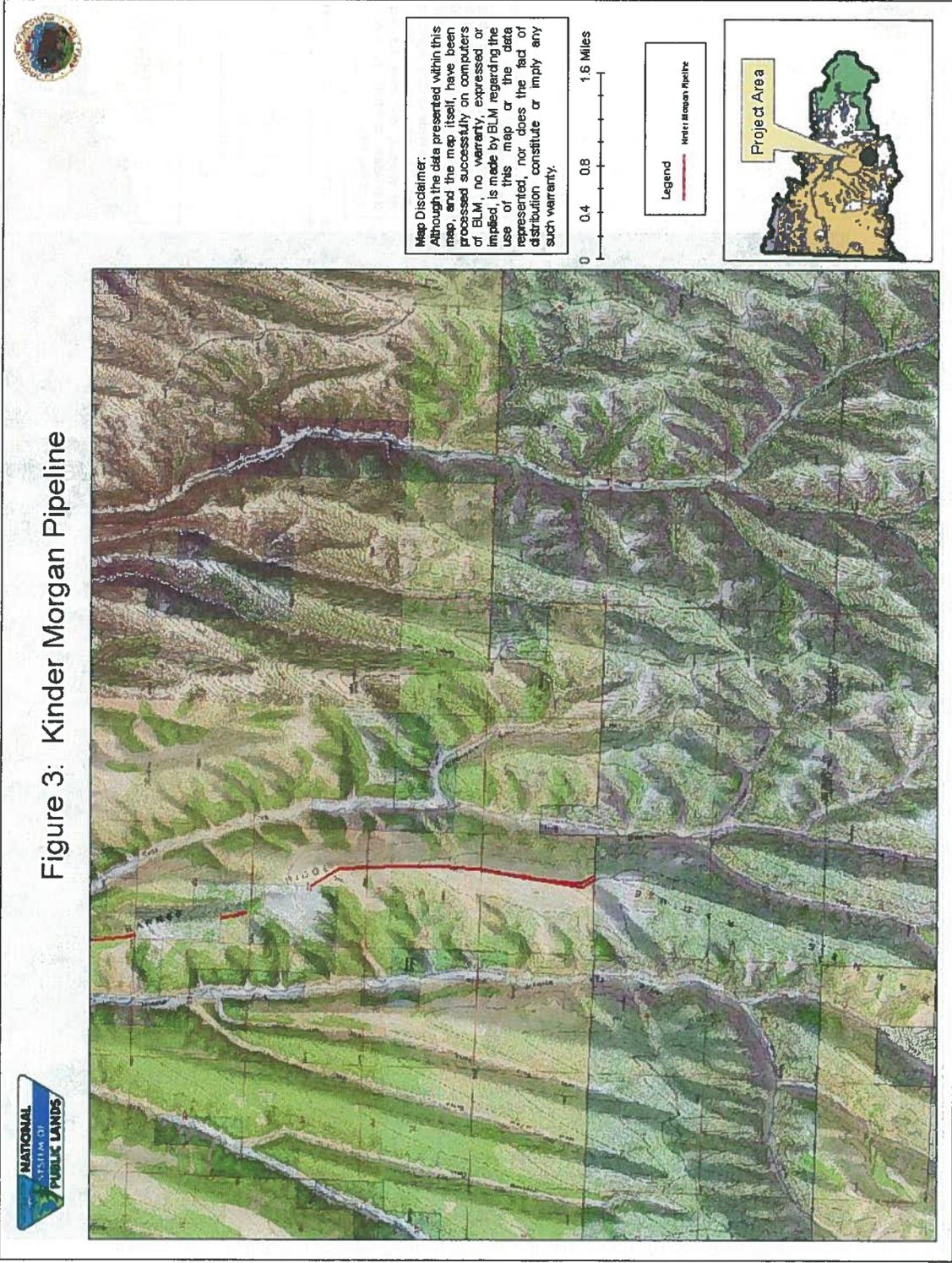


Figure 3: Kinder Morgan Pipeline

Figure 4: Map of Buffer along County Road 3

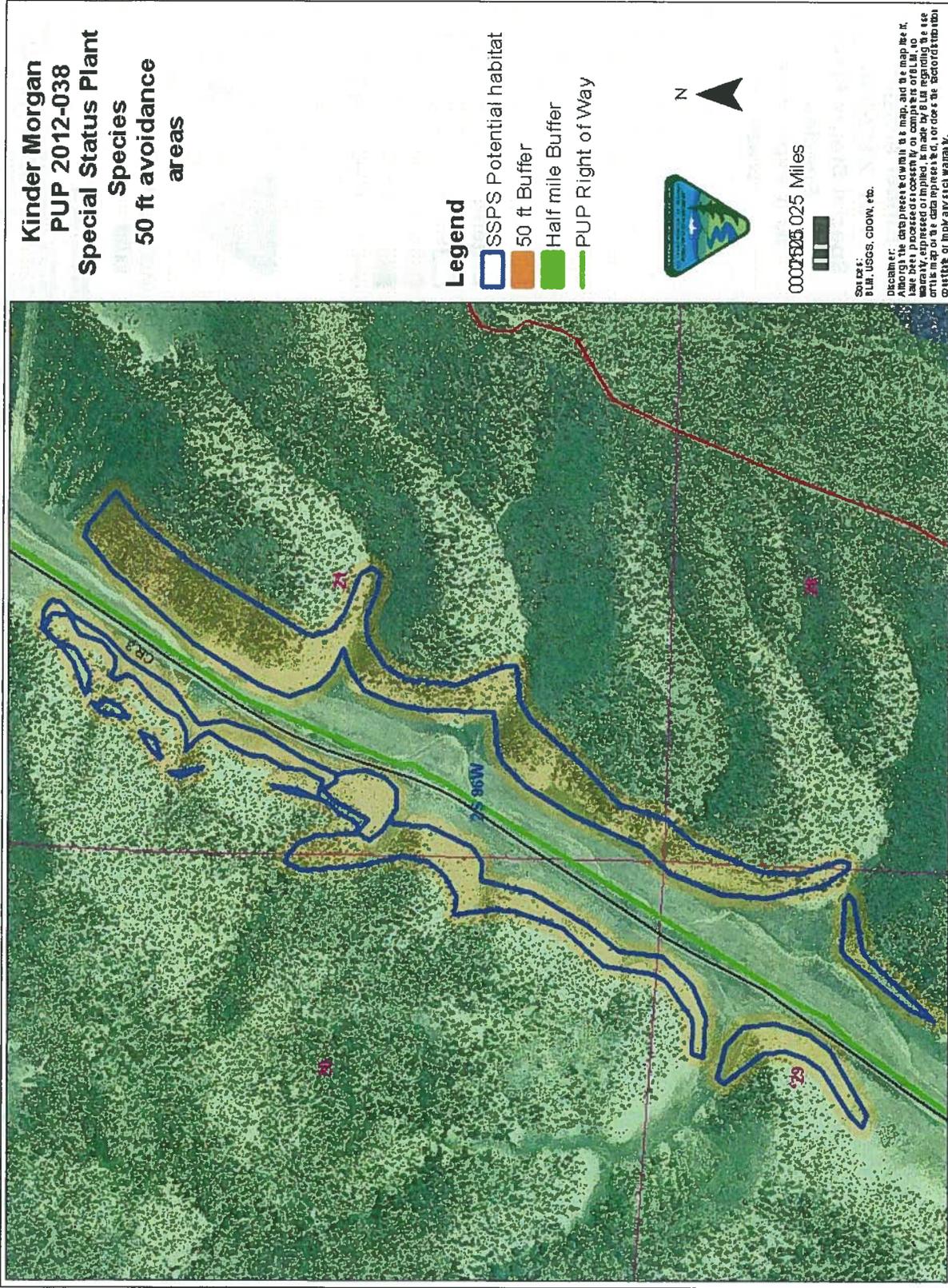


Figure 5: Map 2 of Buffer Along County Road 3

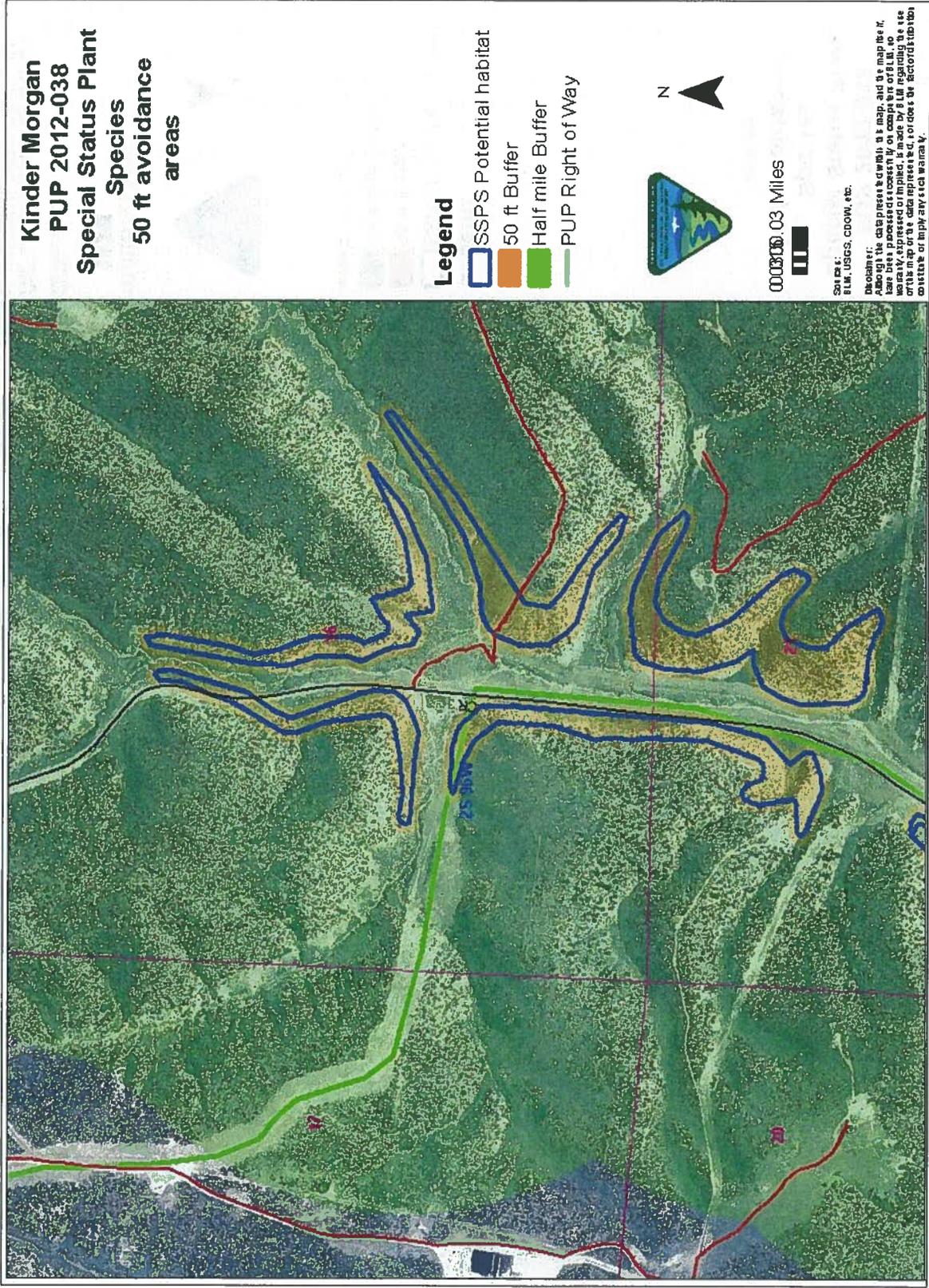


Figure 6: Map of Buffers Along County Road 76

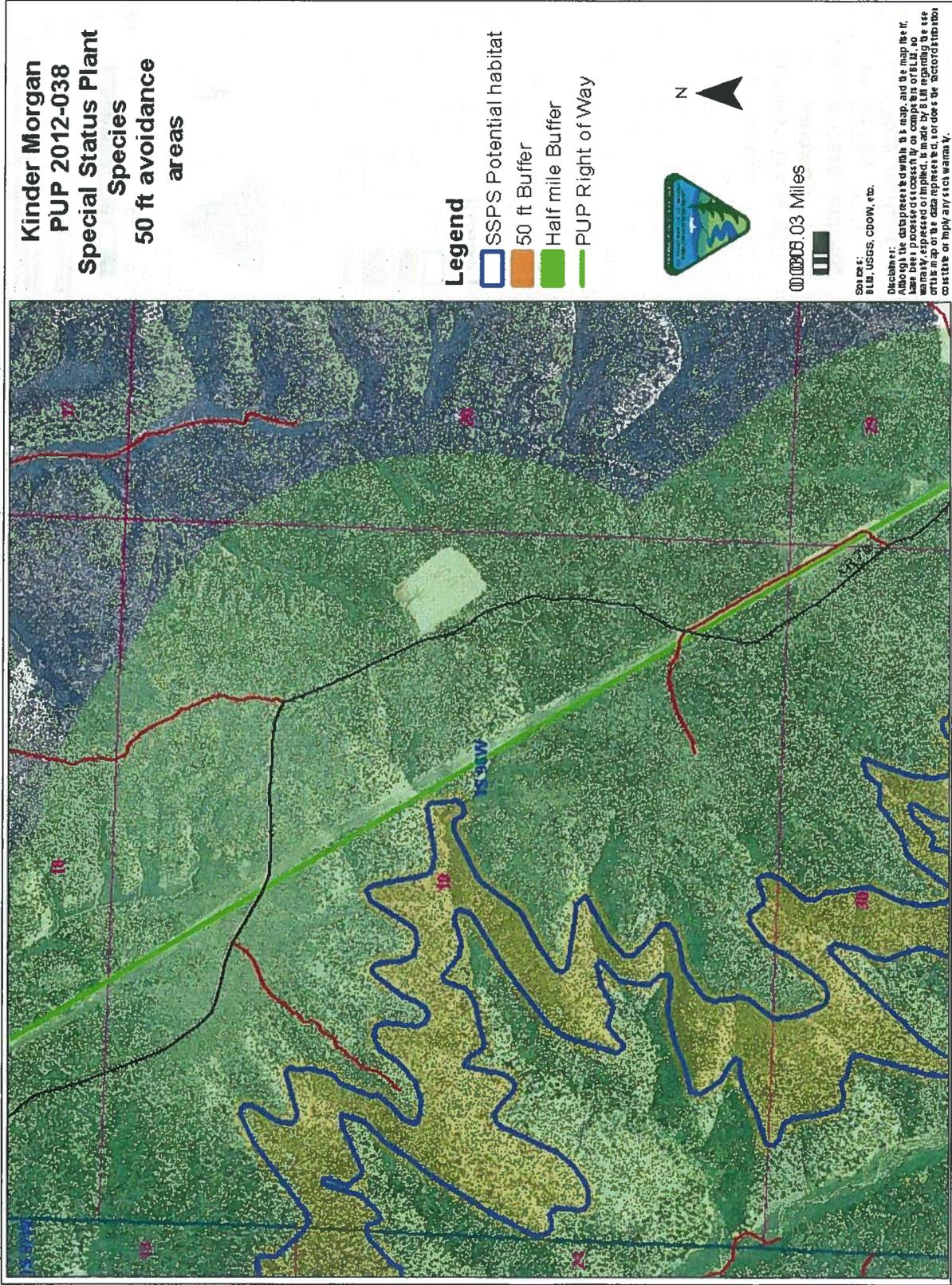


Figure 7: Map 3 of Buffers Along County Road 3

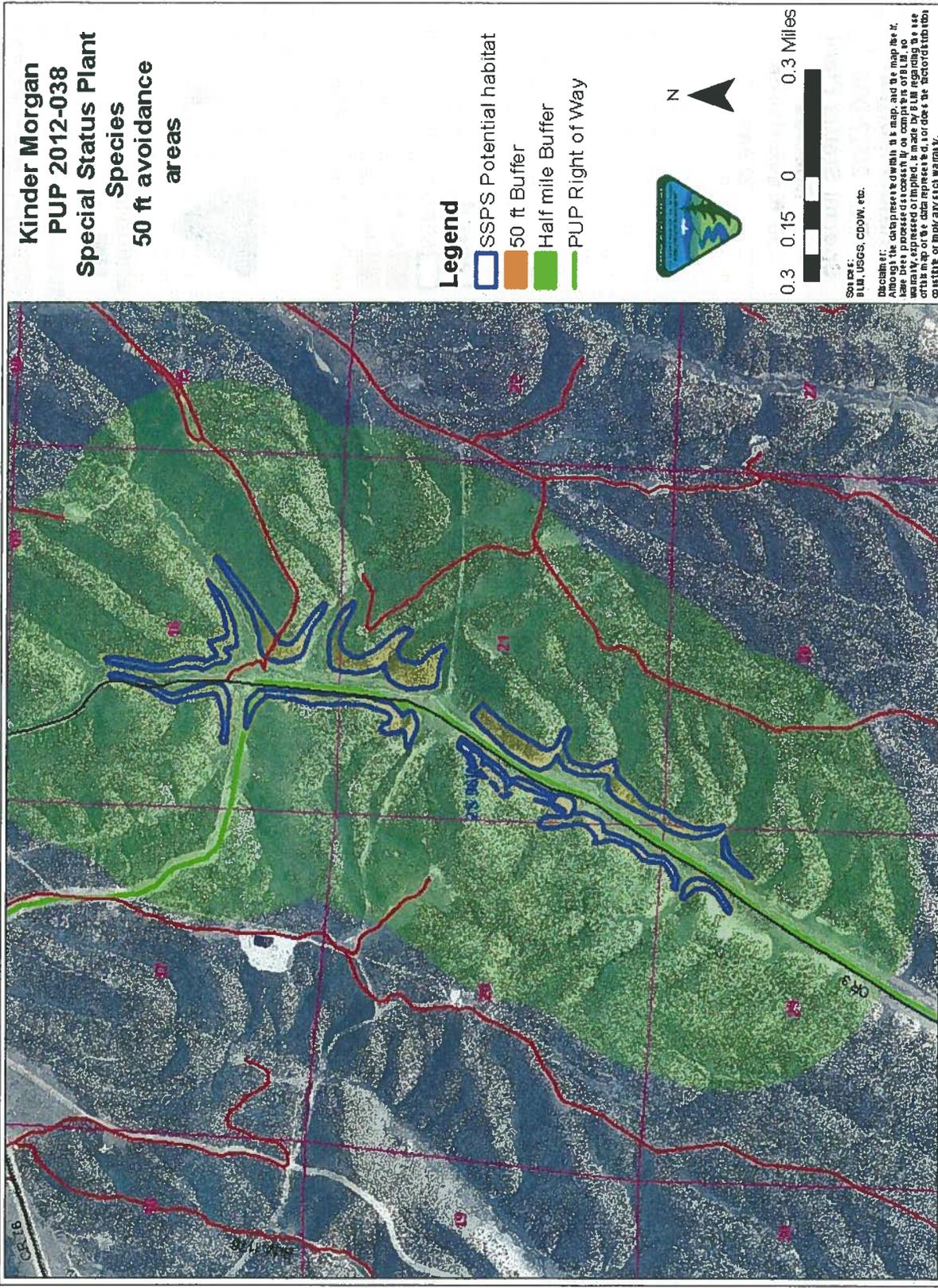
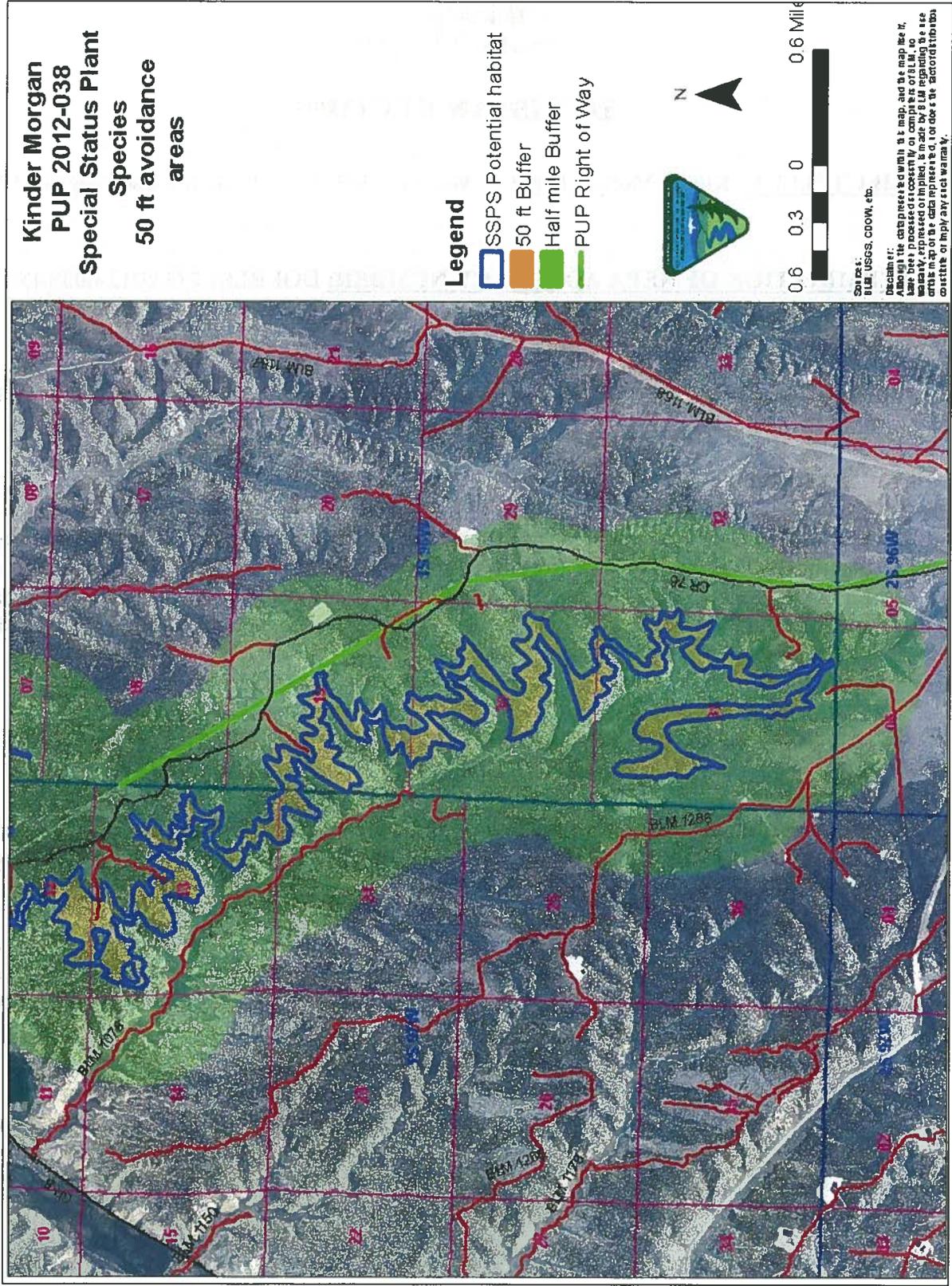


Figure 8: Map 2 of Buffers Along County Road 76



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White River Field Office
220 E Market St
Meeker, CO 81641**

DECISION RECORD

PROJECT NAME: Kinder Morgan Right-of-Way Noxious Weed Pesticide Use Proposal (PUP)

DETERMINATION OF NEPA ADEQUACY NUMBER: DOI-BLM-CO-2012-0038-DNA

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-2012-0038-DNA, authorizing the Pesticide Use Proposal (PUP).

Mitigation Measures

1. The applicant is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts. If archaeological materials are discovered as a result of operations under this authorization, the applicant must immediately contact the appropriate BLM representative.
2. The applicator should be aware of all SOPs (Appendix C), mitigation measures (Appendix D) and conservation measures (Appendix E) regarding terrestrial wildlife/migratory birds required in DOI-BLM-CO-110-2010-0005-EA.
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6. Implement all conservation measures for aquatic animals developed during consultation for the BLM WRFO Programmatic Weed Management Plan Environmental Assessment.
7. Special care should be taken to follow all instructions and SOPs to avoid spill and direct spray scenarios in aquatic habitats during transport and application.
8. Use appropriate herbicide-free buffer zones for herbicides not labeled for aquatic use based on risk assessment guidance, with minimum widths of 100 feet for aerial, 25 feet for vehicle, and use of only herbicides that pose no to low risk to fish or amphibians within 10 feet of riparian areas.
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12. For treatment of aquatic vegetation, 1) treat only that portion of the aquatic system necessary to achieve acceptable vegetation management, 2) use the appropriate application method to minimize the potential for injury to desirable vegetation and aquatic organisms, and 3) follow water use restrictions presented on the herbicide label.
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15. Avoid using the adjuvant R-11® in aquatic environments and do not use glyphosate formulations containing the POEA surfactant to reduce risks to aquatic organisms.
16. Do not broadcast spray triclopyr BEE or Tordon (picloram) in upland habitats adjacent to the 100-year floodplain of the White River or riparian systems that support special status aquatic wildlife under conditions that would likely result in off-site drift.

17. Chlorsulfuron and Tordon (picloram) have not been specifically evaluated for effects on amphibians. Where feasible, avoid the use of this herbicide in occupied amphibian habitats.

COMPLIANCE WITH LAWS & CONFORMANCE WITH THE LAND USE PLAN

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the 1997 White River Record of Decision/Approved Resource Management Plan and the WRFO Integrated Weed Management Plan.

PUBLIC INVOLVEMENT

The BLM informed the public about this project by listing it on the online WRFO NEPA Register on 01/24/2012 and a copy of the completed Documentation of NEPA Adequacy will be posted on the WRFO website.

RATIONALE

The proposal for a PUP in concert with the applied mitigation conforms to the land use plan and the NEPA documentation previously prepared fully covers the Proposed Action and constitutes BLM's compliance with the requirements of NEPA. A PUP is needed to control noxious weeds along the pipeline right-of-way as required in the NEPA documents that approved the rights-of-way and well pads.

ADMINISTRATIVE REMEDIES

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a Notice of Appeal must be filed in the office of the Authorized Officer at White River Field Office, 220 East Market St., Meeker, CO 81641 with copies sent to the Regional Solicitor, Rocky Mountain Region, 755 Parfet St., Suite 151, Lakewood, CO 80215, and to the Department of the Interior, Board of Land Appeals, 801 North Quincy St., MS300-QC, Arlington, VA, 22203. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals at the above address within 30 days after the Notice of Appeal is filed with the Authorized Officer.

SIGNATURE OF AUTHORIZED OFFICIAL:



Field Manager

DATE SIGNED:

03/21/12