

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-110-2012-0091-DNA

PROJECT NAME: Blue Mountain Energy Pesticide Use Proposal (PUP)

LEGAL DESCRIPTION:

| TOWNSHIP | RANGE | SECTIONS, LOTS OR PORTIONS THEREOF |
|----------|----------|------------------------------------|
| 2 North | 101 West | 3, 4 |
| 2 North | 103 West | 6, 7 |
| 2 North | 104 West | 12-15 |
| 3 North | 100 West | 30, 31 |
| 3 North | 101 West | 20, 21, 22, 27, 28, 32, 33, 34 |
| 3 North | 102 West | 7, 8, 9, 10, 11, 12, 18 |
| 3 North | 103 West | 13, 14, 15, 16, 20, 21, 30, 31 |

APPLICANT: Blue Mountain Energy

DESCRIPTION OF PROPOSED ACTION: Blue Mountain Energy has submitted a Pesticide Use Proposal (PUP) to use chemicals to promote bareground around mining facilities and railroad tracks used for mining operations. The chemicals to be analyzed in this document are Sahara DG, Roundup Pro, and Roundup PROMAX. Mining regulations require that a 30' buffer be maintained around all mining facilities and electrical substations, and an 8-10' buffer will be maintained on each side of the railroad bed. The chemicals to be used and rates are outlined in Table 1.

Table 1: List of Herbicides and Application Rates

| Trade Name | Common Name | Rate |
|----------------|-----------------|-------------|
| Sahara DG | Imazapyr+Diuron | 5-10 lbs |
| Roundup Pro | Glyphosate | 2 qts/acre |
| Roundup PROMAX | Glyphosate | 1.5 qt/acre |

Application would be by handgun off of a truck mounted sprayer. Use of motorized vehicles will be restricted to existing disturbance around production facilities. All spraying will be under the control of a certified herbicide applicator and it is anticipated 62 acres will be treated annually. All

methods have been previously analyzed in the White River Field Office (WRFO) Integrated Weed Management Plan (DOI-BLM-CO-110-2010-0005-EA).

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 Integrated Weed Management Plan (BLM 2010).

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?

Documentation of answer and explanation: 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 WRFO interdisciplinary team on 05/30/2012. A complete list of resource specialists who participated in this review is available

upon request from the White River Field Office. 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 | 05/16/2012 |
| Lisa Belmonte | Wildlife Biologist | Threatened and Endangered Wildlife Species | 07/24/2012 |
| Amber Shanklin | Biological Technician - Plants | Special Status Plant Species | 06/21/2012 |

REMARKS:

Cultural Resources: All treatments are proposed for areas that should have been previously inventoried prior to the developments. The normal half-life of herbicides is not expected to cause any impacts to cultural resources. There should be no new direct impacts to cultural resources. Indirect impact of herbicide application are human impacts such as unlawful collection of artifacts, inadvertent damage, and intentional vandalism.

Native American Religious Concerns: No Native American religious concerns are known for pesticide use 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. The project area is broadly encompassed by general sage-grouse habitat as mapped by Colorado Parks and Wildlife (CPW). The greater sage-grouse is a candidate for listing under the Endangered Species Act and is considered sensitive by the BLM. The nearest known active lek is approximately 12 miles from the project area. This area serves as winter habitat and currently supports a limited number of grouse. Treatments around existing facilities would not be expected to influence grouse populations or impair important habitat.

Small, discontinuous white-tailed prairie dog (BLM-sensitive species) colonies ranging in size from 4 to 100 acres (avg. ~26 acres) are scattered throughout the project area, with a continuous but narrow band running along the northern edge of the project area. Prairie dogs and their burrow systems provide a source of food and shelter for several species including black-footed ferret (federally endangered), burrowing owl and ferruginous hawk (both BLM-sensitive). Due to the small size and limited extent, these colonies would not be capable of supporting ferrets. There are two burrowing owl nests (last known to be active in 2009) located within the project area. There are several historic ferruginous hawk nest sites scattered throughout the project area. Aerial surveys were conducted in 2009 and 2011 however none of these nests were determined to be active.

Approximately 2.8 miles of the White River flow through the southeast corner of the project area. All of this is located on private with the exception of roughly 0.40 miles of BLM-administered channel. The White River and its 100-year flood plain between Rio Blanco Lake

and the Utah state line is designated critical habitat for the endangered Colorado pikeminnow, although present occupation is confined to the reach below Taylor Draw dam (approximately 4 river miles downstream from the project area). In addition, several BLM sensitive fish species inhabit the White River including roundtail chub, bluehead sucker, and flannelmouth sucker. Northern leopard frog, another BLM sensitive species, is also common along the White River.

Threatened and Endangered Plant Species: The railroad right-of-way travels through the Raven Ridge ACEC, where several BLM sensitive species occur. Herbicide treatment in the Raven Ridge ACEC should be limited to spot treatments with glyphosate rather than broadcast spraying to protect Special Status Plant Species (SSPS) (Figure 2). Special Status species in this area could include *Penstemon grahamii* (Graham’s beardtongue), *Cryptantha rollinsii* (Rollins’ cryptanth), and *Parthenium ligulatum* (Colorado feverfew). These species can be found throughout T2N R104W Section 13.

The BLM sensitive species *Astragalus detritalis* (Debris milkvetch) is found within T3N R100W Section 31. Herbicide treatment in this area should be limited to spot treatments with glyphosate rather than broadcast spraying to protect SSPS (Figure 3).

The southern portion of the Proposed Action contains the White River ACEC, which is designated for biologically diverse plant communities. Herbicide treatment in the White River ACEC should be limited to spot treatments with glyphosate rather than broadcast spraying to protect biologically diverse plant communities (Figure 4). The White River ACEC can be found throughout T2N R101W Sections 10, 11, and 12.

Operators should follow the buffers described in Table 7 from DOI-BLM-CO-110-2010-0005-EA when SSPS are found. A simplified version of Table 7 with applicable herbicides can be found at the end of this section.

Table 7. Herbicide Buffer Distances from Terrestrial Special Status Plant Species^{1,2}

| Active Ingredient | Buffer Width | Method(s) to Which Applied |
|-------------------|--------------|----------------------------|
| Diuron | 1,100 feet | All |
| Glyphosate | 50 feet | Ground, typical rate |
| | 300 feet | Ground, maximum rate |
| Imazapyr | 900 feet | Ground, typical rate |
| | 0.5 mile | Ground, maximum rate |

¹ Source: BLM 2007a

² See Appendix C for information related to aquatic species and other specific situations (e.g., areas vulnerable to wind erosion of treated soil).

MITIGATION:

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. Pursuant to 43 CFR 10.4(g), the applicant must notify the AO, by telephone and 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), the applicant must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
3. All SSPS buffer distances will be conformed to during application of any herbicides in special status plant habitat.
4. Herbicide applicators should be familiar with the sensitive species and should leave a 10 meter buffer around any SSPS plant occurrence.
5. 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.
6. 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.
7. Implement all conservation measures for aquatic animals developed during consultation for the BLM WRFO Programmatic Weed Management Plan Environmental Assessment.
8. 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.
9. 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.
10. Use appropriate buffer zones based on label and risk assessment guidance.
11. 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.
12. Use appropriate application equipment/method near water bodies if the potential for offsite drift exists.

13. 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.

14. 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.

15. 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). 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 use terrestrial formulations of Sahara DG (glyphosate) to treat aquatic vegetation within the 100-year floodplain of the White River or within riparian systems that support special status aquatic wildlife.

17. Do not broadcast spray terrestrial formulations of Sahara DG (glyphosate) 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.

COMPLIANCE PLAN: On-going compliance inspections and monitoring will be conducted by the BLM WRFO staff during spraying operations. 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.

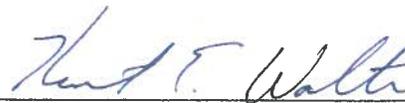
NAME OF PREPARER: Matthew Dupire

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:

01/31/13

ATTACHMENTS:

Figure 1: Map of Treatment Areas

Figure 2: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#1).

Figure 3: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#2).

Figure 4: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#3).

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: Map of Treatment Areas

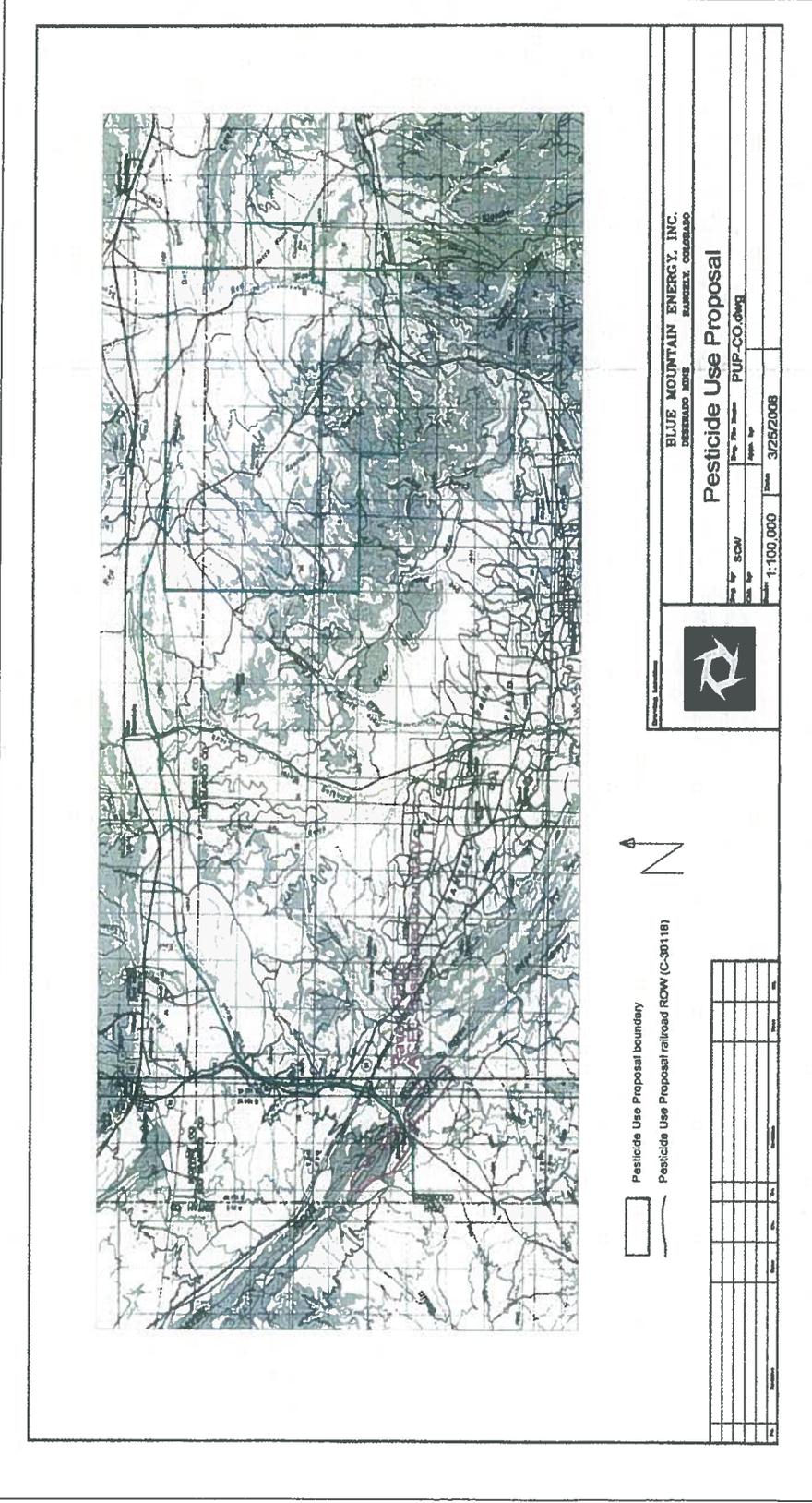


Figure 2: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#1).

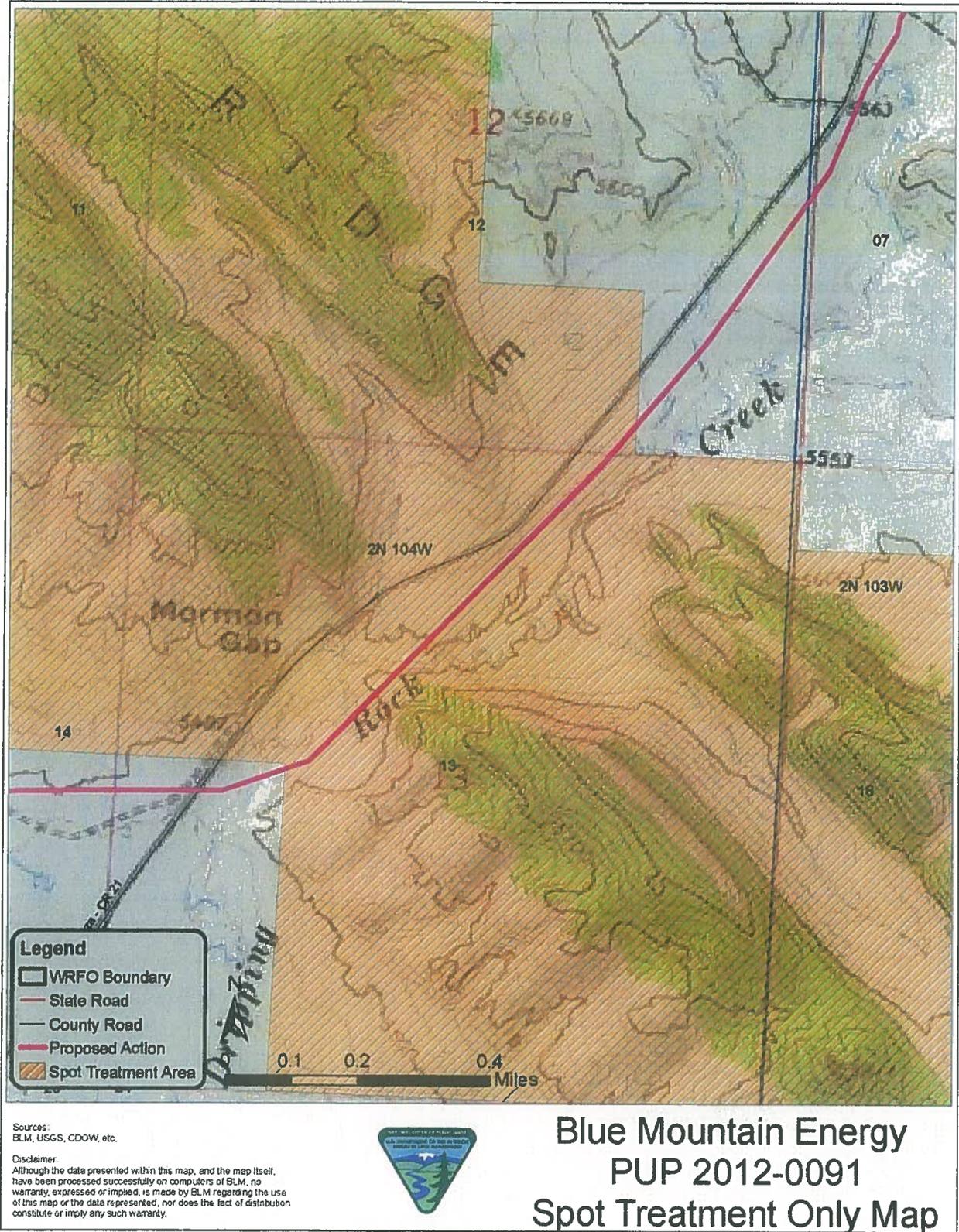


Figure 3: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#2).

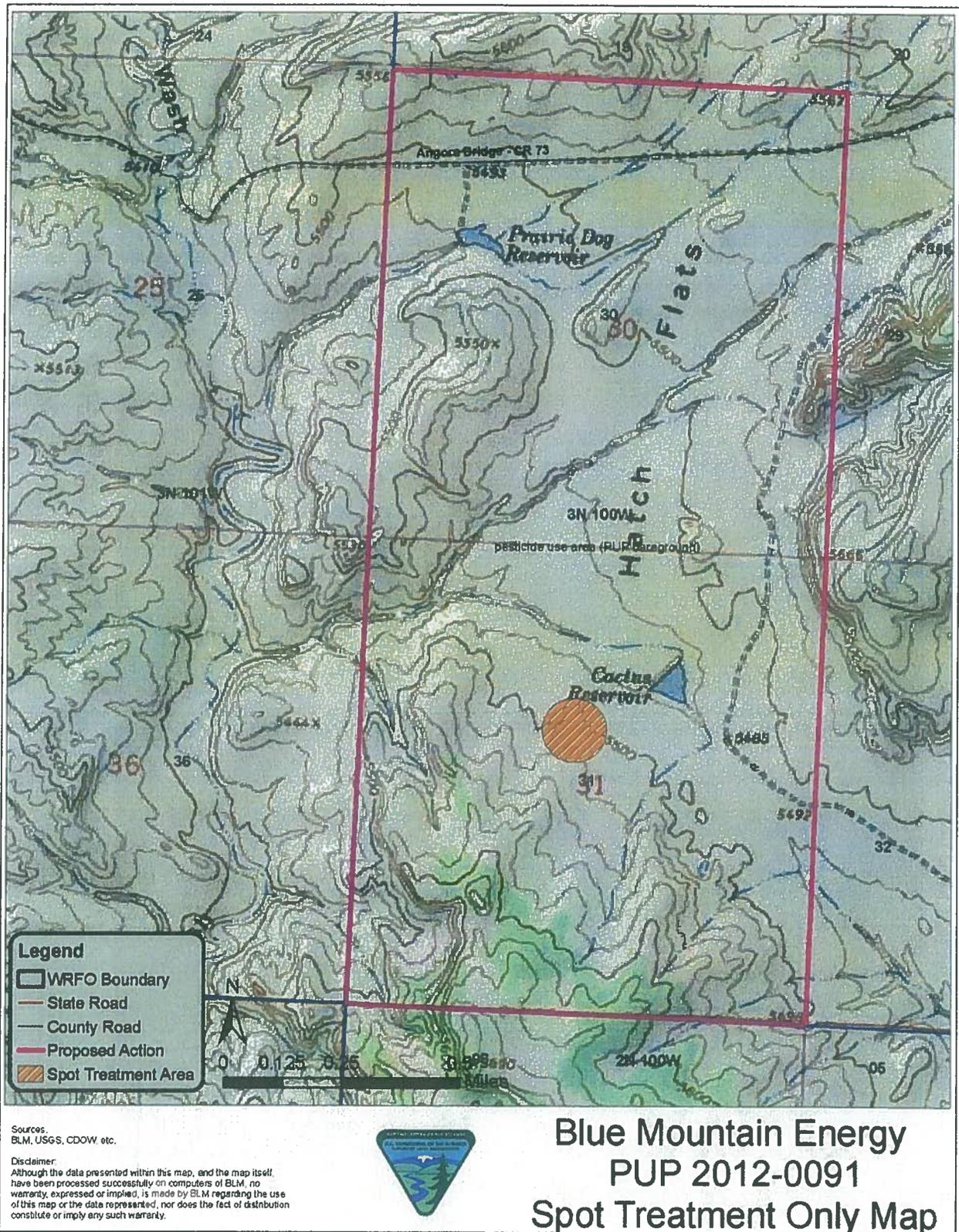
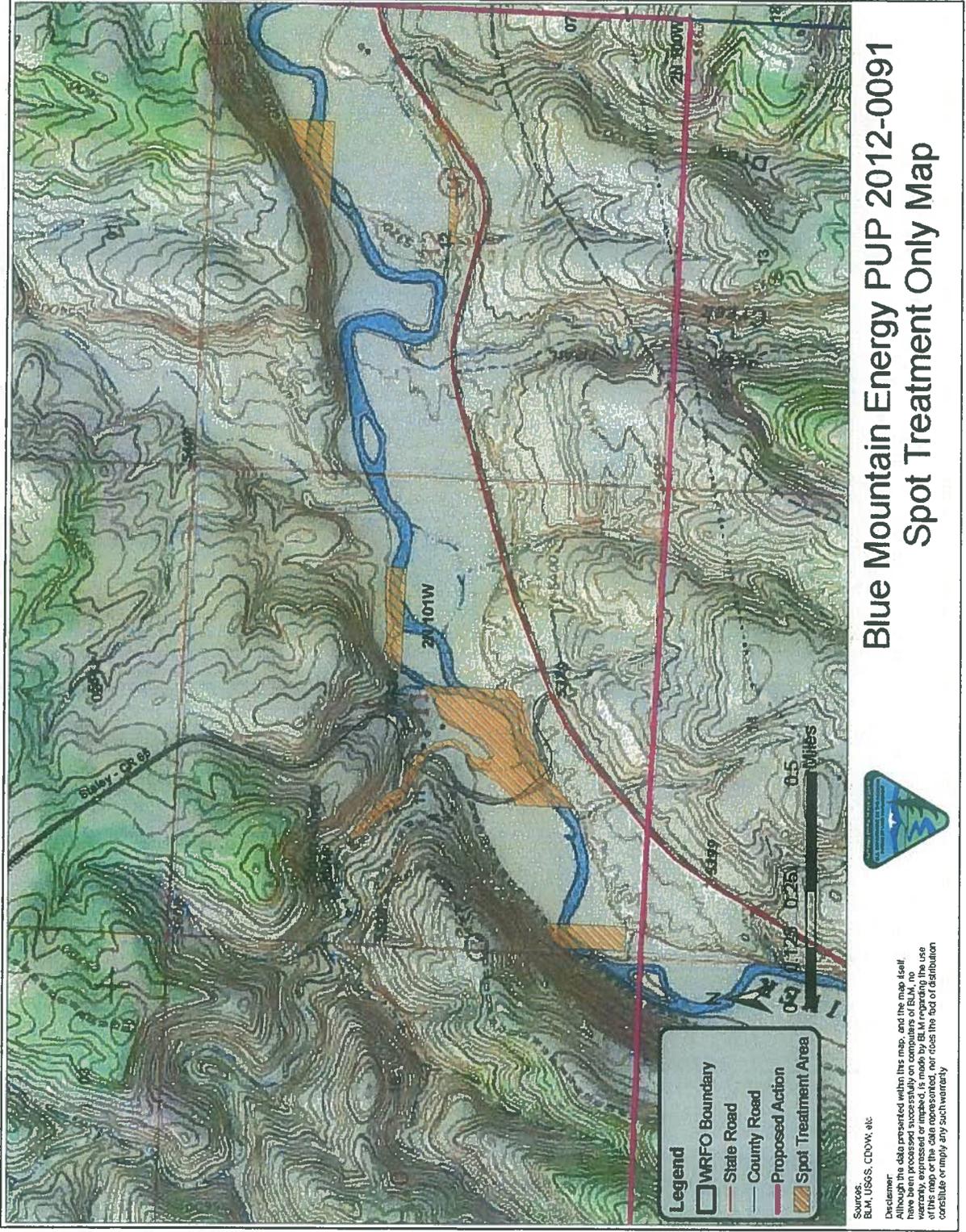


Figure 4: Map showing areas that need to be spot treated within the Blue Mountain Energy Project Area (#3).



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

DECISION RECORD

PROJECT NAME: Blue Mountain Energy Pesticide Use Proposal (PUP)

DETERMINATION OF NEPA ADEQUACY NUMBER: DOI-BLM-CO-110-2012-0091-DNA

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-110-2012-0091-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. Pursuant to 43 CFR 10.4(g), the applicant must notify the AO, by telephone and 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), the applicant must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
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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 White River Field Office (WRFO) Integrated Weed Management Plan.

PUBLIC INVOLVEMENT

The BLM informed the public about this project by listing it on the online White River Field Office National Environmental Policy Act Register on 05/09/2012 and a copy of the completed Documentation of NEPA Adequacy will be posted on the WRFO website.

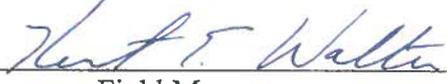
RATIONALE

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. Mining regulations require that a 30' buffer be maintained around all mining facilities and electrical substations, and an 8-10' buffer will be maintained on each side of the railroad bed.

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:

01/31/13