

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-110-2013-0054-DNA

PROJECT NAME: Maralex Resources, Inc. Pesticide Use Proposals

LEGAL DESCRIPTION:

Township	Range	Sections, Lots, or Portions thereof
3 South	100 West	All
3 South	101 West	All
4 South	100 West	All
4 South	101 West	All

APPLICANT: Maralex Resources Inc.

ISSUES AND CONCERNS: Special Status Plants

DESCRIPTION OF PROPOSED ACTION: Maralex Resources, Inc has hired Paul Burgell of Rocky Mountain Weed Management, applicator number 00857, to apply noxious weed treatments on well pads and production facilities controlled by Maralex Resources. Noxious weed treatments are targeted for Colorado listed noxious weeds that occur on or around well pads, access roads, and facilities. Species that are known to occur in the area are houndstongue, spotted knapweed, Canada thistle, bull thistle, common mullein, and black henbane. Noxious weed treatments will be spot-spray treatments using back-pack or ATV mounted sprayers with hand-guns. Travel with ATVs and trucks will take place on existing roads and trails. Hi-lite spray indicator dye will be used to identify treated areas and prevent double treatment, and Activator 90, a non-ionic surfactant, will be used to improve spray efficacy. It is estimated 3.5 acres will be treated for noxious weeds. Herbicides that will be used and rates are outlined in Table 1.

Table 1: Chemicals Proposed for Use and Application Rates

Trade Name	Active Ingredient	Type Treatment	Rate
Escort XP	Metsulfuron Methyl	Noxious Weeds	2 oz/acre
2,4-D Amine 4	2,4-D	Noxious Weeds	1 qt/acre

Decision to be Made: BLM WRFO will decide whether 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 White River Field Office interdisciplinary team on 03/05/2013. 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	04/02/2013
Lisa Belmonte	Wildlife Biologist	Special Status Wildlife Species	04/08/2013
Baili Foster	Ecologist Intern	Special Status Plant Species	03/27/2013

REMARKS:

Cultural Resources: All treatments are proposed for ground that has been previously disturbed, and that should have been surveyed for cultural resources prior to the various developments. There should be no new direct impacts to cultural resources eligible to the National Register of Historic Places. Indirect impacts 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 wildlife species that are known to inhabit or derive important use from the project area. Approximately 215 acres of preliminary general sage-grouse habitat (extreme periphery of mapped habitat) is located within the project area (T4S R100W sections 30 and 31). The greater sage-grouse is a candidate for listing under the Endangered Species Act and considered a sensitive species by the BLM. Mapped habitat within the project area is comprised of higher elevation aspen/spruce/fir with sagebrush parks intermixed. The nearest known active lek is located nearly seven miles from the project boundary and there has been no evidence of use by grouse in recent decades. Weed treatments on previously disturbed well pads and facilities would not be expected to have any influence on grouse populations nor habitats supporting grouse.

Nearly all of the project area is located within the East Douglas ACEC which was established for Colorado River cutthroat trout (CRCT), a BLM sensitive species and associated riparian communities. East Douglas is the only stream supporting CRCT within the project area. Northern leopard frog, another BLM sensitive species have also been document along East Douglas Creek. Weed treatments will be confined to areas of existing disturbance (e.g., well pads and facilities) and when coupled with mitigation measures listed below should provide adequate protection to aquatic wildlife and associated habitats.

Threatened and Endangered Plant Species: The effects of the Proposed Action on special status plant species (SSPS) within the White River Field Office (WRFO) resource area were comprehensively analyzed in DOI-BLM-CO-110-2010-0005-EA. Design features found in DOI-BLM-CO-110-2010-0005-EA should be followed carefully. Operators should abide by the SSPS buffers detailed in Table 2 and additional consultation with the Fish and Wildlife Service should occur when treatment is needed within these buffers. All herbicide application is limited to spot treatments within 0.5 miles of special status plant species populations located in Figures 2-5. Within these areas, targeted weed spraying should occur, and spraying should be avoided on

any windy days. The largest herbicide buffer requires that any spraying occur at least one half mile from special status plant species habitats. This buffer refers to 2,4-D and Metsulfuron Methyl; any herbicide that contains either of these ingredients respectively cannot be sprayed within one half mile of any special status plant species habitat. Within these buffers, the use of Imazapic or Glyphosate is permitted for spot treatments outside of 25 and 50 feet (respectively) from white shale outcrops.

Table 2. Herbicide Buffer Distances from Terrestrial Special Status Plant Species 1

Active Ingredient	Buffer Width	Method(s) to Which Applied
2,4-D	0.5 mile	All
Metsulfuron Methyl	900 feet	Ground typical rate

1 Source: BLM 2007a

MITIGATION:

The following applicable mitigation from DOI-BLM-CO-110-2010-0005-EA has been carried forward:

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. Terrestrial Wildlife: 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.
4. Aquatic Wildlife: 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.
5. Implement all conservation measures for aquatic animals developed during consultation for the BLM WRFO Programmatic Weed Management Plan Environmental Assessment.
6. 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.
7. 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.

8. 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.

9. Use appropriate application equipment/method near water bodies if the potential for offsite drift exists.

10. 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.

COMPLIANCE PLAN: On-going compliance inspections and monitoring will be conducted by the BLM White River Field Office staff during and after herbicide application. 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:

04/23/13

ATTACHMENTS:

- Figure 1: Map of Maralex Project Area
- Figure 2: General Map of Herbicide Buffers
- Figure 3: Map of Buffers in Douglas Creek
- Figure 4: Map of Buffers in Middle Creek
- Figure 5: Map of Buffers on Razor Back Ridge

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.

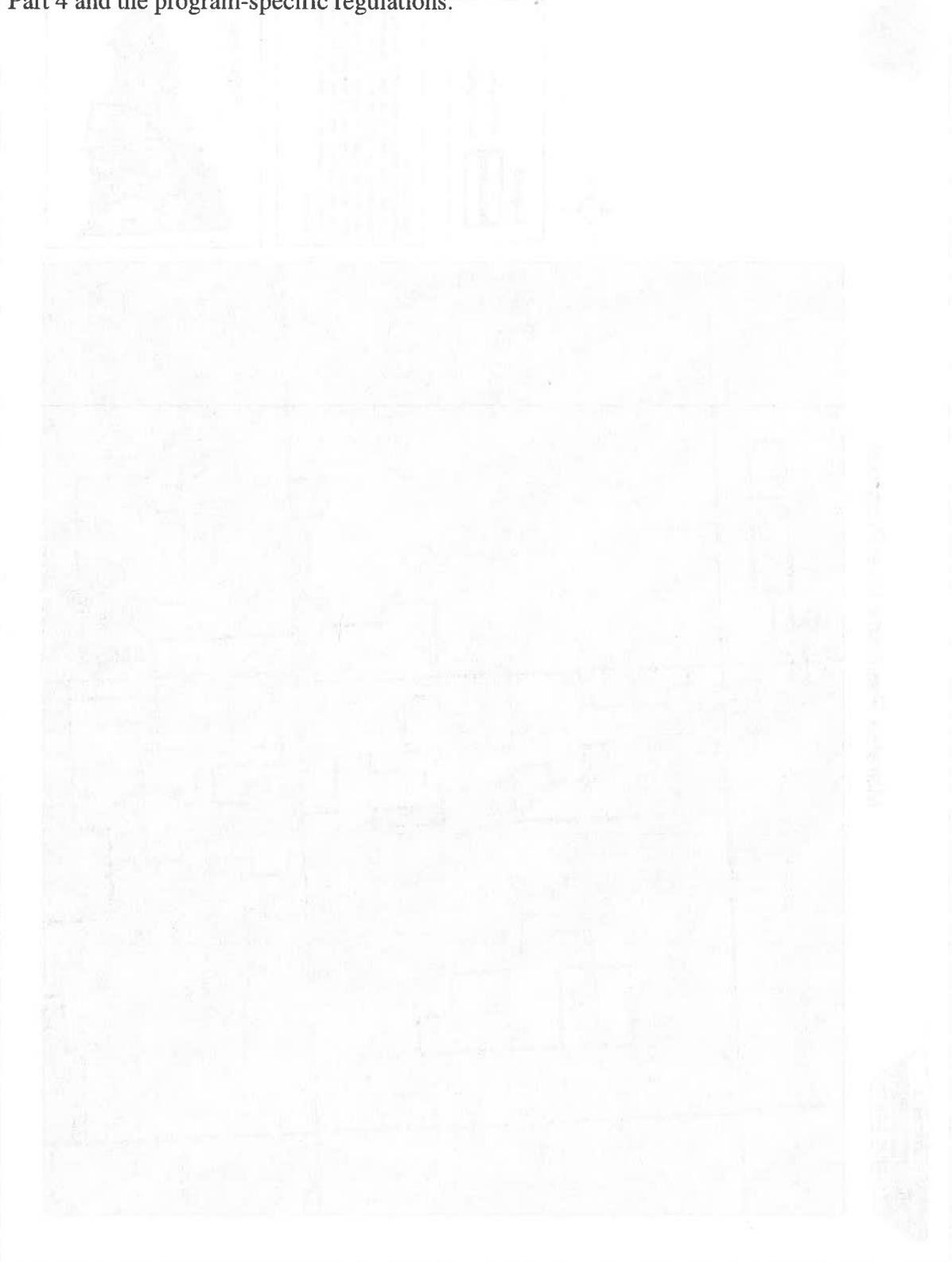


Figure 1: Map of Maralex Project Area

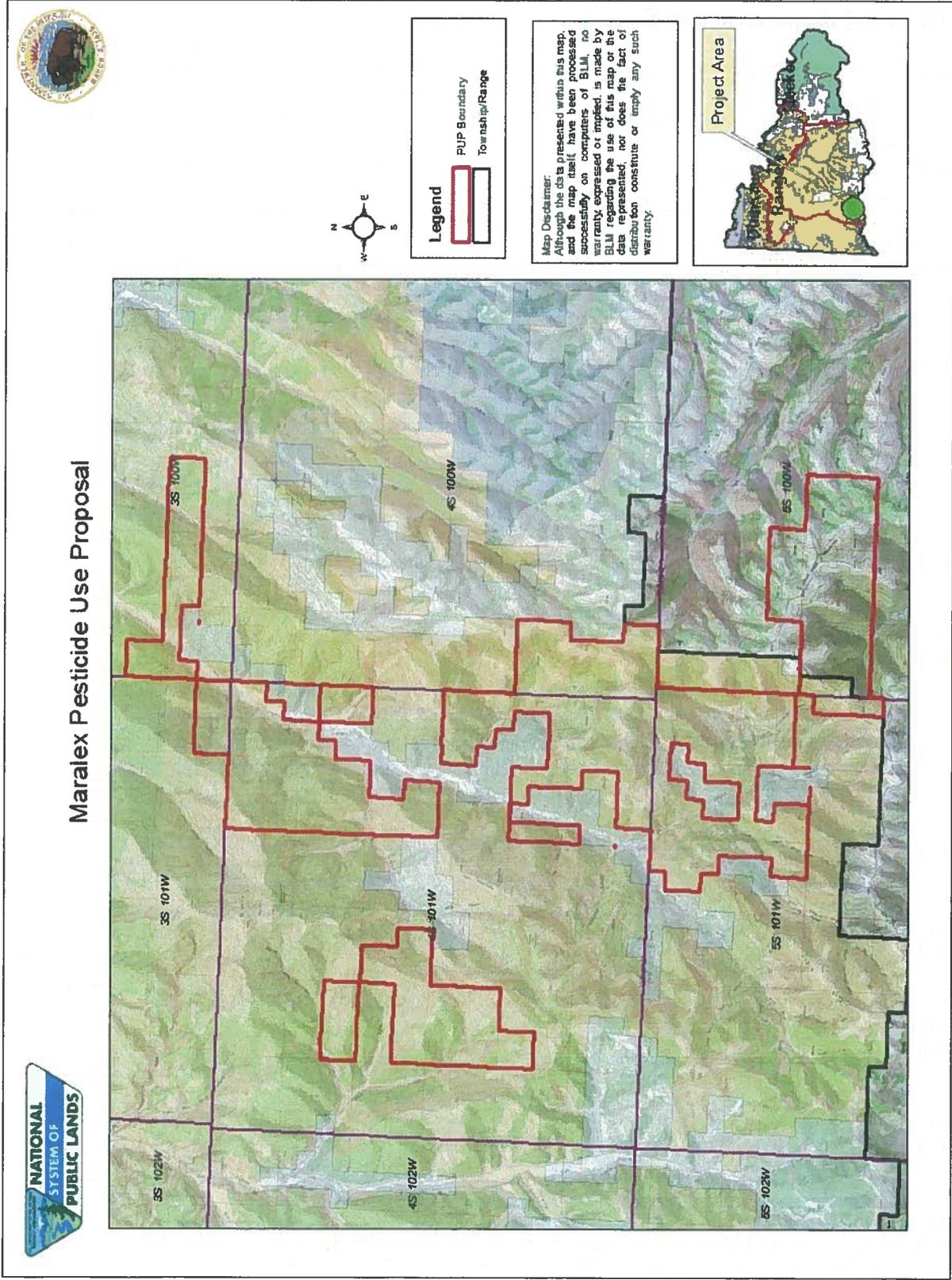


Figure 2: General Map of Herbicide Buffers

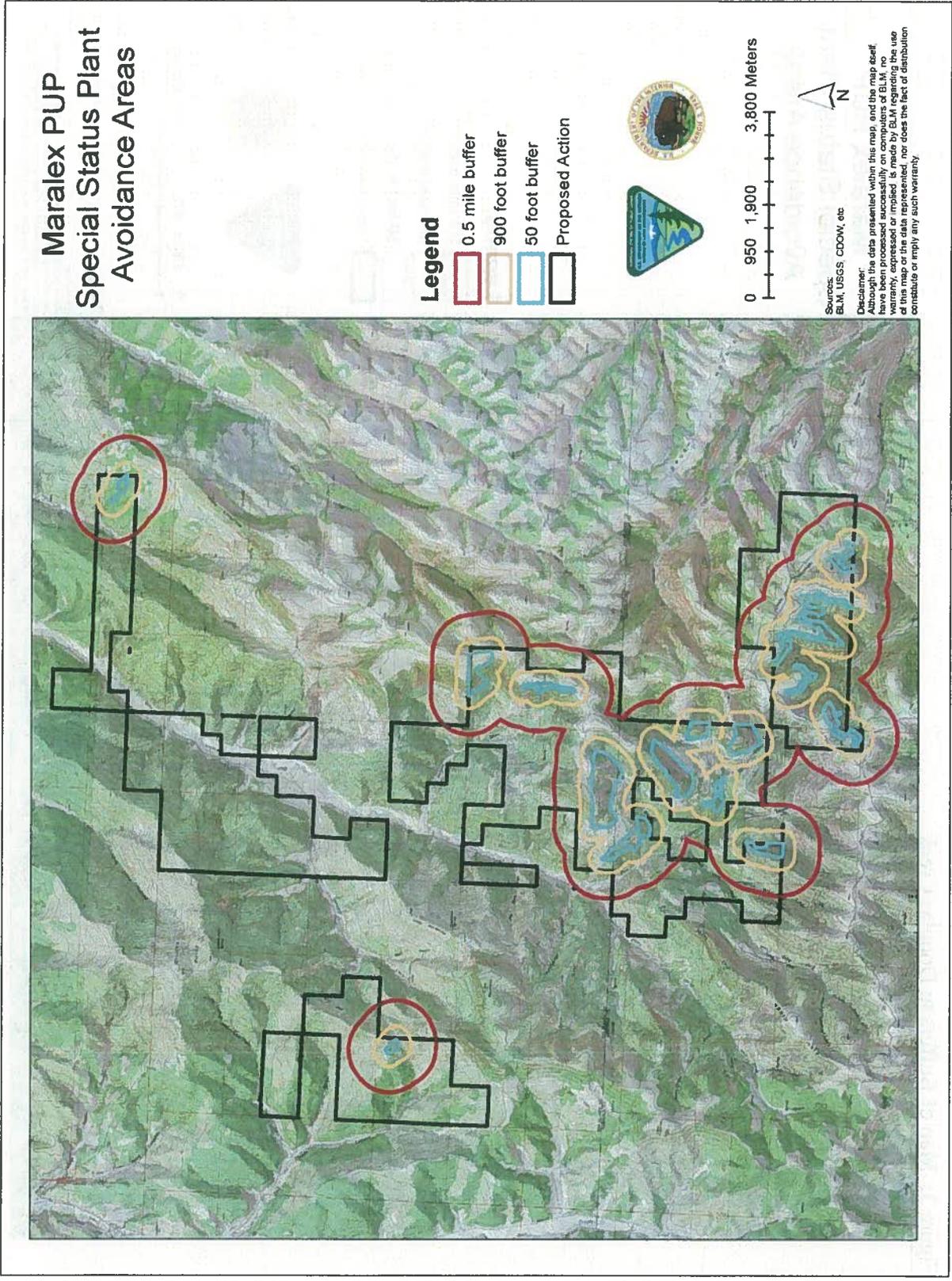


Figure 3: Map of Buffers in Douglas Creek

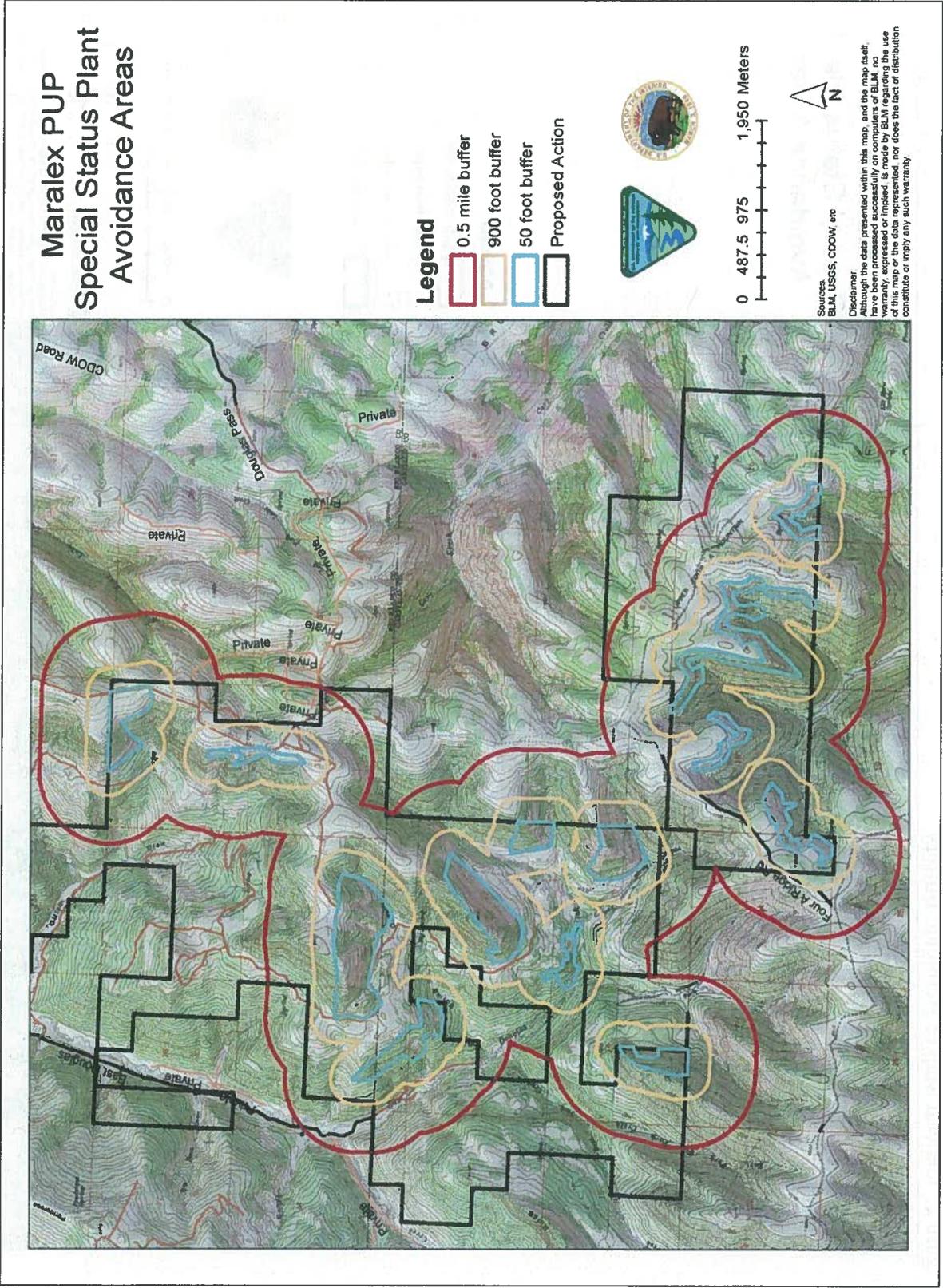


Figure 4: Map of Buffers in Middle Creek

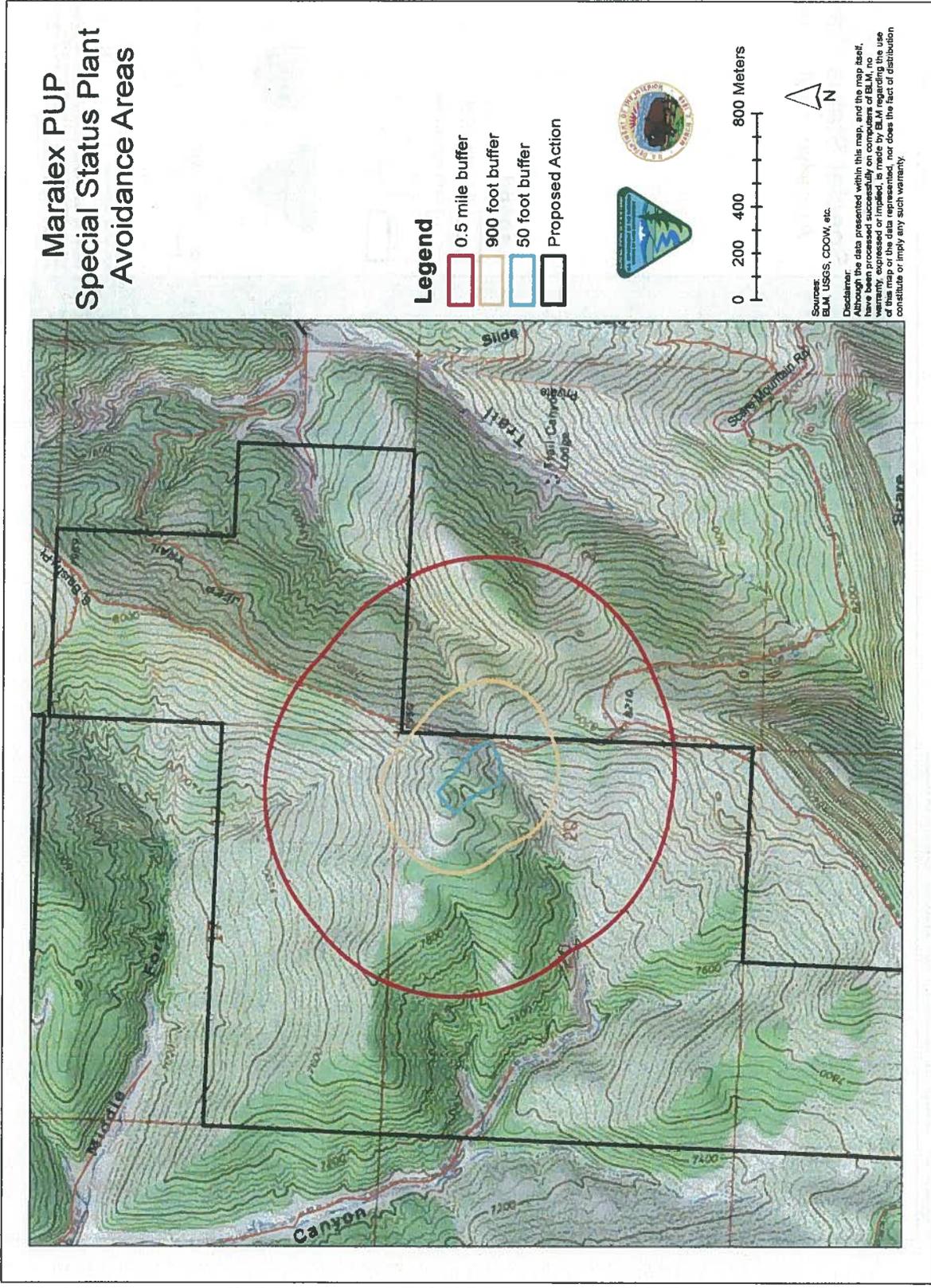
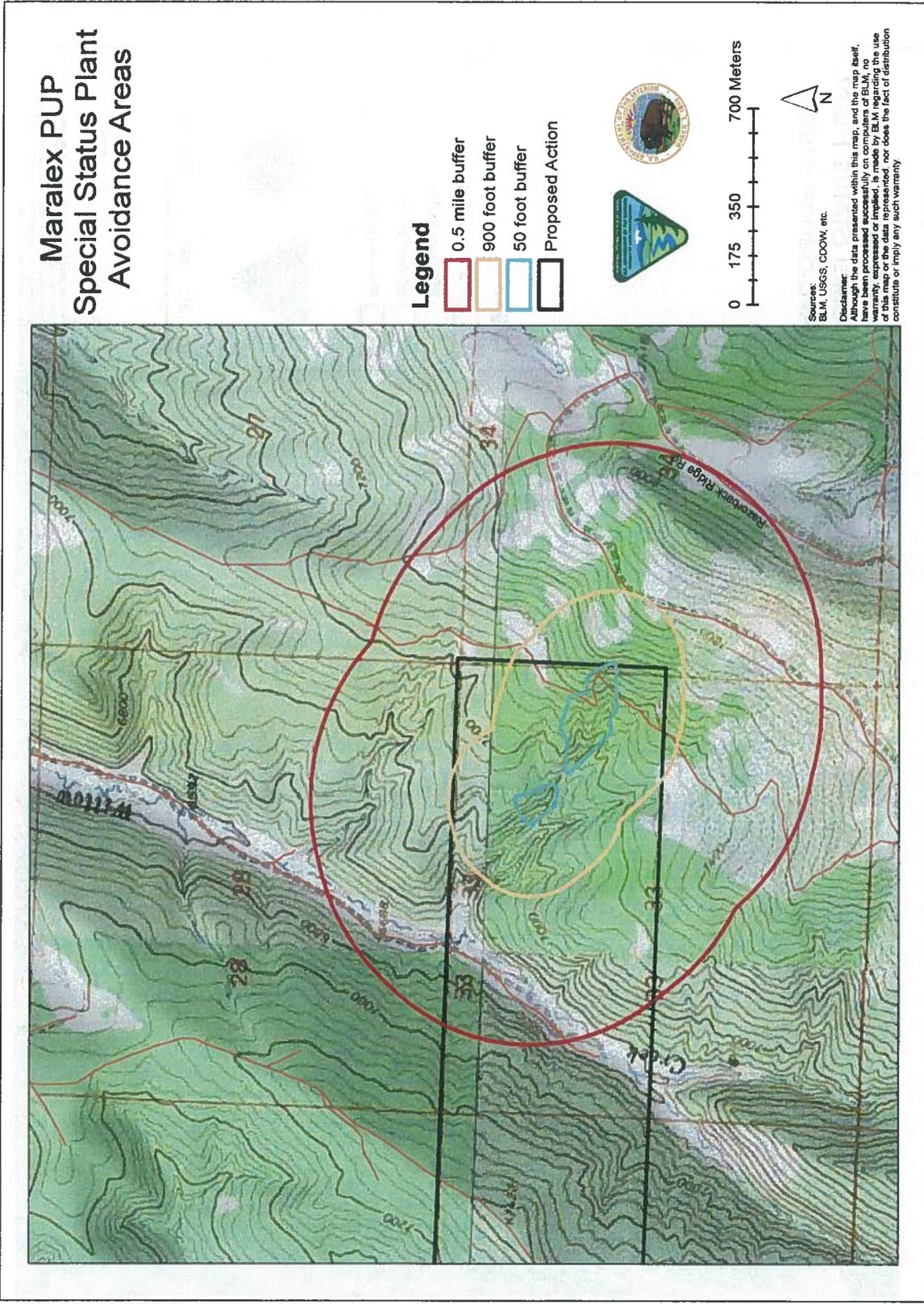


Figure 5: Map of Buffers on Razor Back Ridge



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DECISION RECORD

PROJECT NAME: Maralex Resources, Inc. Pesticide Use Proposals

DETERMINATION OF NEPA ADEQUACY NUMBER: DOI-BLM-CO-110-2012-0054-DNA

DECISION

It is my decision to implement the Proposed Action, as mitigated in DOI-BLM-CO-110-2012-0054-DNA, authorizing the Pesticide Use Proposal

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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5. Implement all conservation measures for aquatic animals developed during consultation for the BLM WRFO Programmatic Weed Management Plan Environmental Assessment.
6. 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.

7. 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.
8. 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.
9. Use appropriate application equipment/method near water bodies if the potential for offsite drift exists.
10. 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.

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.

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 05/22/2012 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 in the White River Field Office.

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:

04/23/13