
APPENDIX A — BLM STANDARD STIPULATION/ MITIGATION REQUIREMENTS

A.1 WYOMING BUREAU OF LAND MANAGEMENT (BLM) MITIGATION GUIDELINES FOR SURFACE-DISTURBING AND DISRUPTIVE ACTIVITIES

Introduction

These guidelines are primarily for the purpose of attaining statewide consistency in how requirements are determined for avoiding and mitigating environmental impacts and resource and land use conflicts. Consistency in this sense does not mean that identical requirements would be applied for all similar types of land use activities that may cause similar types of impacts. Nor does it mean that the requirements or guidelines for a single land use activity would be identical in all areas.

There are two ways the mitigation guidelines are used in the resource management plan (RMP) and environmental impact statement (EIS) process: (1) as part of the planning criteria in developing the RMP alternatives, and (2) in the analytical processes of both developing the alternatives and analyzing the impacts of the alternatives. In the first case, an assumption is made that any one or more of the mitigations will be appropriately included as conditions of relevant actions being proposed or considered in each alternative. In the second case, the mitigations are used (1) to develop a baseline for measuring and comparing impacts among the alternatives; (2) to identify other actions and alternatives that should be considered, and (3) to help determine whether more stringent or less stringent mitigations should be considered.

The EIS for the RMP does not decide or dictate the exact wording or inclusion of these guidelines. Rather, the guidelines are used in the RMP EIS process as a tool to help develop the RMP alternatives and to provide a baseline for comparative impact analysis in arriving at RMP decisions. These guidelines will be used in the same manner in analyzing activity plans and other site-specific proposals. These guidelines and their wording are matters of policy. As such, specific wording is subject to change primarily through administrative review, not through the RMP EIS process. Any further changes that may be made in the continuing refinement of these guidelines and any development of program-specific standard stipulations will be handled in another forum, including appropriate public involvement and input.

Purpose

The purposes of the "Wyoming BLM Mitigation Guidelines" are (1) to reserve, for the BLM, the right to modify the operations of all surface and other human presence disturbance activities as part of the statutory requirements for environmental protection, and (2) to inform a potential lessee, permittee, or operator of the requirements that must be met when using BLM-administered public lands. These guidelines have been written in a format that will allow for (1) their direct use as stipulations, and (2) the addition of specific or specialized mitigation following the

submission of a detailed plan of development or other project proposal, and an environmental analysis.

Those resource activities or programs currently without a standardized set of permit or operation stipulations can use the mitigation guidelines as stipulations or as conditions of approval, or as a baseline for developing specific stipulations for a given activity or program.

Because use of the mitigation guidelines was integrated into the RMP EIS process and will be integrated into the site-specific environmental analysis process, the application of stipulations or mitigation requirements derived through the guidelines will provide more consistency with planning decisions and plan implementation than has occurred in the past. Application of the mitigation guidelines to all surface and other human presence disturbance activities concerning BLM-administered public lands and resources will provide more uniformity in mitigation than has occurred in the past.

Mitigation Guidelines

1. Surface Disturbance Mitigation Guideline

Surface disturbance will be prohibited in any of the following areas or conditions. Exception, waiver, or modification of this limitation may be approved in writing, including documented supporting analysis, by the Authorized Officer.

- Slopes in excess of 25 percent.
- Within important scenic areas (Class I and II Visual Resource Management Areas).
- Within 500 feet of surface water and/or riparian areas.
- Within either one-quarter mile or the visual horizon (whichever is closer) of historic trails.
- Construction with frozen material or during periods when the soil material is saturated or when watershed damage is likely to occur.

Guidance

The intent of the SURFACE DISTURBANCE MITIGATION GUIDELINE is to inform interested parties (potential lessees, permittees, or operators) that when one or more of the five (1a through 1e) conditions exist, surface-disturbing activities will be prohibited unless or until a permittee or his designated representative and the surface management agency (SMA) arrive at an acceptable plan for mitigation of anticipated impacts. This negotiation will occur prior to development.

Specific criteria (e.g., 500 feet from water) have been established based upon the best information available. However, such items as geographical areas and seasons must be delineated at the field level.

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

2. Wildlife Mitigation Guideline

To protect important big game winter habitat, activities or surface use will not be allowed from November 15 to April 30 within certain areas encompassed by the authorization. The same criteria apply to defined big game birthing areas from May 1 to June 30.

- Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.
- Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer.

To protect important raptor and/or greater sage-grouse and sharp-tailed grouse nesting habitat, activities or surface use will not be allowed from February 1 to July 31 within certain areas encompassed by the authorization. The same criteria apply to defined raptor and game bird winter concentration areas from November 15 to March 14.

- Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.
- Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer.

No activities or surface use will be allowed on that portion of the authorization area identified within (legal description) for the purpose of protecting (e.g., greater sage-grouse/sharp-tailed grouse breeding grounds, and/or other species/activities) habitat.

- Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer.

Portions of the authorized use area legally described as (legal description), are known or suspected to be essential habitat for (name) which is a threatened or endangered species. Prior to conducting any onsite activities, the lessee/permittee will be required to conduct inventories or studies in accordance with BLM and U.S. Fish and Wildlife Service guidelines to verify the presence or absence of this species. In the event that (name) occurrence is identified, the lessee/permittee will be required to modify operational plans to include the protection requirements of this species and its habitat (e.g., seasonal use restrictions, occupancy limitations, facility design modifications).

Guidance

The WILDLIFE MITIGATION GUIDELINE is intended to provide two basic types of protection: seasonal restriction (2a and 2b) and prohibition of activities or surface use (2c). Item

2d is specific to situations involving threatened or endangered species. Legal descriptions will ultimately be required and should be measurable and legally definable. There are no minimum subdivision requirements at this time. The area delineated can and should be defined as necessary, based upon current biological data, prior to the time of processing an application and issuing the use authorization. The legal description must eventually become a part of the condition for approval of the permit, plan of development, and/or other use authorization.

The seasonal restriction section identifies three example groups of species and delineates three similar time frame restrictions. The big game species including elk, moose, deer, antelope, and bighorn sheep, all require protection of crucial winter range between November 15 and April 30. Elk and bighorn sheep also require protection from disturbance from May 1 to June 30, when they typically occupy distinct calving and lambing areas. Raptors include eagles, accipiters, falcons (peregrine, prairie, and merlin), buteos (ferruginous and Swainson's hawks), osprey, and burrowing owls. The raptors and greater sage-grouse and sharp-tailed grouse require nesting protection between February 1 and July 31. The same birds often require protection from disturbance from November 15 through April 30 while they occupy winter concentration areas.

Item 2c, the prohibition of activity or surface use, is intended for protection of specific wildlife habitat areas or values within the use area that cannot be protected by using seasonal restrictions. These areas or values must be factors that limit life-cycle activities (e.g., greater sage-grouse strutting grounds, known threatened and endangered species habitat).

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

3. Cultural Resource Mitigation Guideline

When a proposed discretionary land use has potential for affecting the characteristics which qualify a cultural property for the National Register of Historic Places (National Register), mitigation will be considered. In accordance with Section 106 of the *Historic Preservation Act*, procedures specified in 36 CFR 800 will be used in consultation with the Wyoming State Historic Preservation Officer and the Advisory Council on Historic Preservation in arriving at determinations regarding the need and type of mitigation to be required.

Guidance

The preferred strategy for treating potential adverse effects on cultural properties is "avoidance." If avoidance involves project relocation, the new project area may also require cultural resource inventory. If avoidance is imprudent or unfeasible, appropriate mitigation may include excavation (data recovery), stabilization, monitoring, protection barriers and signs, or other physical and administrative measures.

Reports documenting results of cultural resource inventory, evaluation, and the establishment of mitigation alternatives (if necessary) shall be written according to standards contained in BLM Manuals, the cultural resource permit stipulations, and in other policy issued by the BLM. These reports must provide sufficient information for Section 106 consultation. Reports shall be reviewed for adequacy by the appropriate BLM cultural resource specialist. If cultural properties on, or eligible for, the National Register are located within these areas of potential impact and

cannot be avoided, the Authorized Officer shall begin the Section 106 consultation process in accordance with the procedures contained in 36 CFR 800.

Mitigation measures shall be implemented according to the mitigation plan approved by the BLM Authorized Officer. Such plans are usually prepared by the land use applicant according to BLM specifications. Mitigation plans will be reviewed as part of Section 106 consultation for National Register eligible or listed properties. The extent and nature of recommended mitigation shall be commensurate with the significance of the cultural resource involved and the anticipated extent of damage. Reasonable costs for mitigation will be borne by the land use applicant. Mitigation must be cost effective and realistic. It must consider project requirements and limitations, input from concerned parties, and be BLM approved or BLM formulated.

Mitigation of paleontological and natural history sites will be treated on a case-by-case basis. Factors such as site significance, economics, safety, and project urgency must be taken into account when making a decision to mitigate. Authority to protect (through mitigation) such values is provided for in FLPMA, Section 102(a)(8). When avoidance is not possible, appropriate mitigation may include excavation (data recovery), stabilization, monitoring, protection barriers and signs, or other physical and administrative protection measures.

4. Special Resource Mitigation Guideline

To protect (resource value), activities or surface use will not be allowed (i.e., within a specific distance of the resource value or between date to date) in (legal description).

Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.

Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer.

Example Resource Categories (Select or identify category and specific resource value):

- Recreation areas.
- Special natural history or paleontological features.
- Special management areas.
- Sections of major rivers.
- Prior existing rights-of-way.
- Occupied dwellings.
- Other (specify).

Guidance

The SPECIAL RESOURCE MITIGATION GUIDELINE is intended for use only in site-specific situations where one of the first three general mitigation guidelines will not adequately address

the concern. The resource value, location, and specific restrictions must be clearly identified. A detailed plan addressing specific mitigation and special restrictions will be required prior to disturbance or development and will become a condition for approval of the permit, plan of development, or other use authorization.

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

5. No Surface Occupancy Guideline

No Surface Occupancy will be allowed on the following described lands (legal description) because of (resource value).

Example Resource Categories (Select or identify category and specific resource value):

- Recreation Areas (e.g., campgrounds, historic trails, national monuments).
- Major reservoirs/dams.
- Special management area (e.g., known threatened or endangered species habitat, areas suitable for consideration for wild and scenic rivers designation).
- Other (specify).

Guidance

The NO SURFACE OCCUPANCY (NSO) MITIGATION GUIDELINE is intended for use only when other mitigation is determined insufficient to adequately protect the public interest and is the only alternative to "no development" or "no leasing." The legal description and resource value of concern must be identified and be tied to an NSO land use planning decision.

Waiver of, or exception(s) to, the NSO requirement will be subject to the same test used to initially justify its imposition. If, upon evaluation of a site-specific proposal, it is found that less restrictive mitigation would adequately protect the public interest or value of concern, then a waiver or exception to the NSO requirement is possible. The record must show that because conditions or uses have changed, less restrictive requirements will protect the public interest. An environmental analysis must be conducted and documented (e.g., environmental assessment, environmental impact statement, etc., as necessary) in order to provide the basis for a waiver or exception to an NSO planning decision. Modification of the NSO requirement will pertain only to refinement or correction of the location(s) to which it applied. If the waiver, exception, or modification is found to be consistent with the intent of the planning decision, it may be granted. If found inconsistent with the intent of the planning decision, a plan amendment would be required before the waiver, exception, or modification could be granted.

When considering the "no development" or "no leasing" option, a rigorous test must be met and fully documented in the record. This test must be based upon stringent standards described in the land use planning document. Since rejection of all development rights is more severe than the most restrictive mitigation requirement, the record must show that consideration was given to

development subject to reasonable mitigation, including "no surface occupancy." The record must also show that other mitigation was determined to be insufficient to adequately protect the public interest. A "no development" or "no leasing" decision should not be made solely because it appears that conventional methods of development would be unfeasible, especially where an NSO restriction may be acceptable to a potential permittee. In such cases, the potential permittee should have the opportunity to decide whether or not to go ahead with the proposal (or accept the use authorization), recognizing that an NSO restriction is involved.

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A.2 LEASE NOTICE NO. 1 (This notice applies to all parcels)

Under Regulation 43 CFR 3101.1-2 and terms of the lease (BLM Form 3100-11), the authorized officer may require reasonable measures to minimize adverse impacts to other resource values, land uses, and users not addressed in lease stipulations at the time operations are proposed. Such reasonable measures may include, but are not limited to, modification of siting or design of facilities, timing of operations, and specification of interim and final reclamation measures, which may require relocating proposed operations up to 200 meters, but not off the leasehold, and prohibiting surface disturbance activities for up to 60 days.

The lands within this lease may include areas not specifically addressed by lease stipulations that may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/or other resources. Possible special areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled or, if absolutely necessary, prohibited. Appropriate modifications to imposed restrictions will be made for the maintenance and operation of producing wells.

1. Slopes in excess of 25 percent
2. Within 500 feet of surface water and/or riparian areas.
3. Construction with frozen material or during periods when the soil material is saturated or when watershed damage is likely to occur.
4. Within 500 feet of Interstate highways and 200 feet of other existing rights-of-way (i.e., U.S. and State highways, roads, railroads, pipelines, powerlines).
5. Within ¼ mile of occupied dwellings.
6. Material sites.

Guidance

The intent of this notice is to inform interested parties (potential lessees, permittees, operators) that when one or more of the above conditions exist, surface disturbing activities will be prohibited unless or until the permittee or the designated representative and the surface management agency (SMA) arrive at an acceptable plan for mitigation of anticipated impacts. This negotiation will occur prior to development and become a condition for approval when authorizing the action.

Specific threshold criteria (e.g., 500 feet from water) have been established based upon the best information available. However, geographical areas and time periods of concern must be delineated at the field level (i.e., “surface water and/or riparian areas” may include both intermittent and ephemeral water sources or may be limited to perennial surface water).

The referenced oil and gas leases on these lands are hereby made subject to the stipulation that the exploration or drilling activities will not interfere materially with the use of the area as a materials site/free use permit. At the time operations on the above lands are commenced, notification will be made to the appropriate agency. The name of the appropriate agency may be obtained from the proper BLM Field Office.

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A.3 SUMMARY TABLE BY SPECIES OF STANDARD STIPULATIONS FOR ALL SURFACE-DISTURBING ACTIVITIES THAT APPLY IN THE JONAH INFILL DRILLING PROJECT AREA

Affected Areas/Species	Restriction	Restricted Dates	Restricted Area
Greater Sage-grouse Leks	No surface occupancy	Year-round	Within ¼ mile of occupied lek boundary
Greater Sage-grouse Leks	No surface-disturbing activity	March 1-May 15	Within ¼ mile of occupied lek boundary
Greater Sage-grouse Nesting Habitat	No surface-disturbing activity	March 15-July 15	Up to 2-mile radius of active lek OR within suitable nesting habitat
Winter Greater Sage-grouse Habitat	No surface-disturbing activity	Nov. 15-March 14	Within identified winter habitat
Greater Sage-grouse Leks/Strutting Grounds	Surface occupancy or use restricted or prohibited	March 1-May 15 between 8pm and 8am	Within 0.25 mile of lek/strutting ground boundary
Mountain Plover	No surface-disturbing activity (including reclamation activities) until 2 surveys (done no earlier than 4/20 and 5/4) show no nesting activity; activity must begin within 72 hours after surveys completed	April 10-July 10	Within potential mountain plover habitat
Bald Eagle Nest	No surface occupancy	Year-round	Within 0.5 mile of active nest
Bald Eagle Nest	No surface-disturbing activity	February 1-August 15	Within 1-mile radius
Bald Eagle Winter Use Areas	No surface disturbing activity; disruptive activities restricted	November 15-April 30	Within 1-mile radius
Ferruginous Hawk Nest	No surface occupancy	Year-round	Within 1000 feet of active nest
Ferruginous Hawk Nest	No surface-disturbing activity	February 1-July 31	Within 1.0-mile radius
Other Raptors	No surface occupancy	Year-round	Within 825 feet of active nest
Other Raptors	No surface-disturbing activity	February 1-July 31	Within 0.5-mile radius
National Register of Historic Places Cultural Resource Sites	No surface occupancy	Year-round	Within site boundaries
Riparian Areas	No surface occupancy	Year-round	Within 500 feet
HUD-designated Zone A (100-yr flood hazard area) on intermittent watercourses	Surface occupancy or use restricted or prohibited	Year-round	Within Zone A boundaries

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A.4 INSTRUCTION MEMORANDUM NO. WY-2004-057, STATEMENT OF POLICY REGARDING SAGE-GROUSE DEFINITIONS AND USE OF PROTECTIVE STIPULATIONS AND CONDITIONS OF APPROVAL



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Wyoming State Office
P.O. Box 1828
Cheyenne, Wyoming 82001-1828

In Reply Refer To:
6500 (930) P

August 16, 2004

Instruction Memorandum No. WY-2004-057
Expires: 9/30/05

To: Field Managers and Deputy State Directors
From: State Director, Wyoming
Subject: Statement of Policy Regarding Sage-Grouse Management Definitions, and Use of Protective Stipulations, and Conditions of Approval (COAs)

The management of the greater sage-grouse (sage-grouse) and its habitat on western rangelands has become a matter of high public interest in recent years. Since much of the sage-grouse's habitat occurs on Public Lands managed by the Bureau of Land Management (BLM), this species' welfare and management is also of significant concern to our agency. The purpose of this Instruction Memorandum is to provide general guidance and consistency for BLM (Wyoming) Field Offices for the conservation of sage-grouse and their habitats on Public Lands administered by the BLM in Wyoming.

BASIC SAGE-GROUSE HABITAT COMPONENTS AND TERMINOLOGY

To effectively manage for sage-grouse and their habitat it is necessary to have a basic, common, understanding of general sage-grouse biology and their habitat needs.

The following seasonal use periods and habitat components have been identified as important to sage-grouse and contribute to their productivity and conservation. The policy described herein relies heavily on these sage-grouse habitat components and definitions. Breeding and wintering habitats have been identified as limiting factors in sage-grouse populations across their range.

BREEDING HABITATS – Breeding habitats are composed of leks, nesting and early brood rearing habitats.

Leks - A lek (also known as a strutting, or breeding ground) is a traditional courtship display area attended by male sage-grouse in, or adjacent to, sagebrush dominated habitat, and is the location where breeding of females occurs. The lek is typically an open area surrounded by potential nesting habitat. The common feature is that leks have less shrub and herbaceous cover than surrounding habitats. The sagebrush cover that

surrounds the lek provides important hiding cover from predators for both the male sage-grouse and particularly the hen while attending the lek. Sagebrush cover immediately adjacent to the lek may, or may not, meet the following definition of productive, high quality, nesting habitat. The currently accepted Wyoming lek definitions can be found in Attachment I.

Nesting/Early Brood-Rearing Habitat - Nesting habitat for sage-grouse in Wyoming is generally described as sagebrush that has canopy cover between 15 and 30 percent and heights between 11 and 32 inches. Herbaceous plant height (6 inches or greater) and canopy cover (>15 percent) provide important cover and food for sage-grouse using these habitats. Early brood-rearing habitat generally has 10 to 25 percent sagebrush canopy cover and has slightly higher canopy cover of grasses and forbs than nesting habitat. Early brood-rearing habitat is generally used by sage-grouse hens with chicks when chicks range in age from 1 to 21 days of age.

WINTER HABITATS – During winter, sage-grouse feed almost exclusively on sagebrush leaves and buds. Suitable winter habitat requires sagebrush above snow. Sage-grouse tend to select wintering sites where sagebrush is 10-14 inches above the snow. Sagebrush canopy cover utilized by sage-grouse above the snow may range from 10 to 30 percent. Foraging areas tend to be on flat to generally southwest facing slopes and windswept ridges.

BACKGROUND

Sage-grouse were once abundant and widespread throughout western North America and are highly dependant upon sagebrush habitats. These populations have decreased significantly range wide, including in Wyoming, during the past 40 years. Land use or habitat management decisions made by BLM directly influence the future of sage-grouse.

Sage-grouse are considered a high priority management species for the Wyoming Game and Fish Department (WGFD) in Wyoming. They are also listed as a sensitive species by BLM (Wyoming). The intent of the BLM (Wyoming) sensitive species designation is to ensure that actions on BLM administered lands consider the welfare of these species and do not contribute to the need to list any sensitive species under the provisions of the Endangered Species Act. This includes avoiding or minimizing adverse impacts and maximizing potential benefits to the species. During the past 5 years, seven petitions have been submitted to the U.S. Fish and Wildlife Service to list sage-grouse as threatened or endangered.

In 1976, the Western Association of Fish and Wildlife Agencies (WAFWA) directed the Sage-Grouse Working Group of this association to establish guidelines for vegetation manipulation of sage-grouse habitat throughout the sage-grouse's range. One of the guidelines promulgated by the group identified the need to protect nesting habitat within 2 miles (3.2 km) of a lek. This

assumption was based on studies that indicated between 59 and 87 percent of sage-grouse nests were located within 2 miles (3.2 km) of a lek. These studies were conducted in Montana and Idaho. These guidelines also identified that some sage-grouse nested further than 2 miles from the lek.

Following the development of the 1977 WAFWA Sage Grouse Working Group sage-grouse guidelines, BLM (Wyoming) originally identified a 2-mile radius circle as a flagging device to identify potential sage-grouse nesting habitat that may be impacted by surface disturbance and disruptive activities occurring on public land. This flagging device resulted in the placement of stipulations on oil and gas leases or became part of the COAs of a permit, plan of development, and/or other use authorization that occurred on public lands administered by the BLM in Wyoming. These same use restrictions eventually were incorporated into Land Use Plans (LUPs). This procedure was standardized and directed in BLM (Wyoming) with the adoption of the "Wyoming BLM Mitigation Guidelines for Surface-Disturbing and Disruptive Activities" through the development and maintenance of LUPs since 1990. The BLM (Wyoming) mitigation guidelines also allow for other mitigation to be applied for sage-grouse and other species following a site-specific NEPA analysis, if found appropriate.

BLM Field Offices have normally utilized No Surface Occupancy (NSO), Controlled Surface Use (CSU), and Timing Limitation (TLS) lease stipulations, or COAs on specific actions to protect sage-grouse and their habitat within ¼ mile of leks for above ground facilities such as power lines, oil and gas wells, storage tanks, fences, etc. Some disturbances such as low-traffic roads, pipelines, seismic activity, etc., may have been granted exceptions, depending upon site-specific characteristics and type of activity.

Since its inception, many BLM Field Offices in Wyoming have applied conditions of approval to the permit, plan of development, and/or other use authorization for sage-grouse nesting habitat only within the 2-mile radius circle of a lek, regardless of the suitability of nesting habitat both within and outside of that circle. This has usually occurred due to lack of adequate knowledge of sage-grouse nesting habitat requirements, or simply lack of time or manpower to gather onsite information.

Some BLM Field Offices have utilized CSU and TLS lease stipulations or COAs for the protection of winter habitats.

In 1998, the Wyoming Audubon and another individual appealed to the Interior Board of Land Appeals (IBLA) contesting the BLM's use of the ¼ mile NSO or no surface disturbance restrictions for protection of sage-grouse leks. The administrative law judge ruled affirming the BLM's use of the ¼ mile restrictions in the absence of any better compelling science which would warrant other protective measures.

Studies since 1977 indicate that many populations of sage-grouse contained birds nesting much further than 2 miles from the lek of breeding. Studies conducted in Wyoming since 1994 indicate 52 percent of sage-grouse hens nest within 2 miles (3.2 km) of the lek, 67 percent nest

within 3 miles (4.8 km), and 78 percent of nests are located within 4 miles (6.4 km) of the lek. Nests are placed independent of lek location, and nest location is based on availability of suitable nesting habitat.

Based on this more recent information, the sage-grouse population and habitat management guidelines were reexamined and revised by the WAFWA in the late 1990s. The newly revised *Guidelines for Management of Sage-grouse Populations and Habitats* (Connelly et al. 2000) also identify the need to determine if sage-grouse populations are migratory or non-migratory in nature. These guidelines also recommend the need to determine if suitable nesting habitat is generally distributed uniformly or irregularly around the lek. As habitats become distributed less uniformly around the lek, sage-grouse hens travel greater distances from the lek to locate nests within suitable nesting habitat. In the event of migratory populations, sage-grouse hens may nest up to 12 to 15 miles (18 to 25 km) from the lek.

STATEMENT OF POLICY

Based on the last 4 decades of research, management experience, and legal outcomes and trends, it has become necessary for BLM (Wyoming) to establish some consistent policy and management direction for sage-grouse management on BLM administered Public Lands in the state. For this reason, the following policy is now presented:

- 1.) Identification and refined mapping of sagebrush ecosystems and sage-grouse seasonal habitats are a high priority for Field Offices to complete. Coordination with the WGFD is critical in the identification of seasonal habitats.
- 2.) Coordination with WGFD biologists shall be utilized to determine if sage-grouse populations are migratory or non-migratory.
- 3.) The definitions found in Attachment 1 are adopted by BLM Wyoming to standardize terminology associated with sage-grouse leks in Wyoming. These definitions have also been adopted by the WGFD and should result in improved consistency and communication between the two agencies.
- 4.) Field Offices shall incorporate recommended management practices from the Wyoming Greater Sage-Grouse Conservation Plan, as appropriate into their LUPs. LUPs should also address the outcome of future local sage-grouse working group plans that are expected to commence this year, to the extent possible. LUPs will develop objectives for maintenance and improvement of sage-grouse habitats and habitats for other BLM (Wyoming) sensitive species. These objectives and associated management practices will be designed to limit loss, degradation, and fragmentation of habitats. Monitoring of sage-grouse habitats and effectiveness of habitat conservation measures will also be addressed in LUPs.
- 5.) Field offices will continue to utilize the "NSO", "CSU", and "TLS" lease stipulations, where appropriate, as identified in the *Wyoming BLM Mitigation Guidelines for Surface-Disturbing and Disruptive Activities*.

6.) The following distances, and timeframes will hereafter be utilized in all new land use and activity plan development (including revisions), and other resource management implementation actions (authorizations and projects) that involve activities that may impact sage-grouse or their habitats on BLM administered Public Lands in Wyoming. These distances and timeframes are based on current information, and may be subject to change in the future based upon new information.

Sage-grouse leks: 1) Avoid surface disturbance or occupancy within ¼ mile of the perimeter of occupied sage-grouse leks. 2) Avoid human activity between 8 p.m. and 8 a.m. from March 1 – May 15 within ¼ mile of the perimeter of occupied sage-grouse leks.

Sage-grouse nesting/early brood-rearing habitat: Avoid surface disturbing and disruptive activities in suitable sage-grouse nesting and early brood-rearing habitat within two miles of an occupied lek, or in identified sage-grouse nesting and early brood-rearing habitat outside the 2-mile buffer from March 15 – July 15.

Sage-grouse winter habitat: Avoid disturbance and disruptive activities in sage-grouse winter habitat from November 15 – March 14.

Disruptive activities will include, but not be limited to, the following examples: resource surveys that require that personnel be in nesting habitats for longer than 1 hour (e.g., excavation of cultural sites, land surveys, project construction, geophysical activities, permitted or organized recreational activities, prescribed fires, noise, etc.). Field Offices should determine if these guidelines apply to future maintenance and operation of facilities and clearly address maintenance and operation in their LUPs.

Exceptions to control surface use and timing restrictions will continue to be considered on a case-by-case basis. Exception criteria will be established and included in new LUPs and revisions.

7.) BLM (Wyoming) offices will continue to utilize the 2-mile radius circle as a flagging device for applying stipulations or COAs to all disturbance and disruptive activities, where appropriate. Not all sagebrush habitats within this 2-mile radius circle may be suitable as nesting habitat or other seasonal habitats for sage-grouse. Biologists and resource specialists should make management recommendations on sage-grouse habitat characteristics both inside and outside the 2-mile radius circle that involves these seasonal habitats. Upon identification and mapping of nesting habitat, Field Offices will apply appropriate stipulations or conditions of approval for these habitats beyond the 2-mile radius. Site specific evaluations will be conducted. Field Offices will strive to delineate these seasonal habitats regardless of distances from leks. Upon completion of site specific evaluations of projects affecting nesting and early brood-rearing habitats beyond 2 miles from leks, biologists and other resource specialists shall identify and recommend protective and conservation measures for sage-grouse populations and their habitat. These protective and conservation measures may include timing restrictions and reduction, relocation, or elimination of disturbances. These types of protective measures will also be considered for winter habitats.

8.) Biologists and other resource specialists will also work with the project proponents (including those within BLM) to relocate site-specific activities that may be detrimental to leks, nesting/early brood-rearing and winter habitats. These activities should be located to less sensitive habitats wherever necessary and possible. It should be noted that in some circumstances a project may not be re-locatable due to the uniformity of the habitat. In these situations the project should be located in the least sensitive habitat as possible.

9.) Other mitigation/conservation measures should be developed, if appropriate. This effort should be accomplished in conjunction with the WGFD. These measures should be developed to protect, conserve, improve, or mitigate impacts to productive sage-grouse habitat.

10.) All recommendations/mitigation/conservation measures will be analyzed in a site-specific NEPA document, and be incorporated, as appropriate, into conditions of approval of the permit, plan of development, and/or other use authorizations including distances and timeframes identified in item number 6 above for all resource authorizations and actions.

11.) Rehabilitation of surface disturbance activities in nesting/early brood-rearing habitats and winter habitats will include sagebrush (including locally adapted species and subspecies) for rehabilitation activities. Field Offices will include a minimum of one to two species of appropriate forb species in seed mixtures for nesting and early brood-rearing habitats. Appropriate amounts and species will be determined by site potential.

If you have questions concerning this issue or this memorandum, please contact Tom Rinkes of at (307) 332-8404.

Literature Cited: Connelly, J. W., M. A. Schroeder, A. R. Sands, and C. E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. Wildlife Society Bulletin 28:1-19.



1 Attachment:

1 – Sage-Grouse Lek Definitions (2 pp.)

Distribution

Director (230), Room 204, LS

1 (w/o atch.)

CF

2 (w/atch.)

Sage-Grouse Lek Definitions

Lek. A traditional courtship display area attended by male sage-grouse in or adjacent to sagebrush dominated habitat. Designation of the site as a lek requires observation of two or more male sage-grouse engaged in courtship displays. In addition new leks must be confirmed by a survey conducted during the appropriate time of day and during the strutting season. Observation of sign of strutting activity can also be used to confirm a suspected lek.

Lek Complex. A group of leks in close proximity between which male sage-grouse may be expected to interchange from one day to the next. A specific distance criteria does not yet exist.

Lek Count. A census technique that documents the actual number of male sage-grouse observed on a particular lek or complex of leks using the methods described below.

Lek Survey. A monitoring technique designed primarily to determine whether leks are active or inactive and obtaining accurate counts of the numbers of males attending is secondary.

Annual status – Each year a lek will be determined to be in one of the following status categories:

Active. Any lek that has been attended by male sage-grouse during the strutting season. Presence can be documented by observation of birds using the site or by signs of strutting activity.

Inactive. Leks where it is known that there was no strutting activity through the course of a strutting season. A single visit, or even several visits, without strutting grouse being seen is not adequate documentation to designate a lek as inactive. This designation requires either an absence of birds on the lek during multiple ground visits under ideal conditions throughout the strutting season or a ground check of the exact lek site late in the strutting season that fails to find any sign (droppings/feathers) of strutting activity.

Unknown. Leks that have not been documented either active or inactive during the course of a strutting season.

Based on annual status a lek may be put into one of the following categories for management purposes:

Occupied Lek. A lek that has been active during at least one strutting season within the last 10 years. Management protection will be afforded to occupied leks.

Unoccupied Lek. (Formerly termed “historical lek”). There are two types of unoccupied leks, “destroyed” or “abandoned”. Management protection will not be afforded to unoccupied leks.

Destroyed lek: A formerly active lek site and surrounding sagebrush habitat that has been destroyed and no longer capable of supporting sage-grouse breeding activity. A lek site that has been strip-mined, paved, converted to cropland or undergone other long-term habitat type conversion is considered destroyed. Destroyed leks do not require monitoring unless the site is reclaimed to suitable sage-grouse habitat.

Abandoned lek: A lek in otherwise suitable habitat that has not been active during a consecutive ten-year period. Before a lek is designated "abandoned" it must be confirmed as "inactive" (see above criteria) in at least four non-consecutive strutting seasons spanning the 10 years. Once designated "abandoned," the site should be surveyed at least once every 10 years to determine whether or not the lek has been reoccupied.

Undetermined Lek. Any lek that has not been documented as being active in the last 10 years but does not have sufficient documentation to be designated unoccupied. Management protection will be afforded to undetermined leks until their status has been documented as unoccupied.