



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
<http://www.blm.gov>



In Reply Refer To:
3100 (310) P

SEP 1 2016

Instruction Memorandum No. 2016-143
Expires: 09/30/2019

To: State Directors (California, Colorado, Idaho, Montana/Dakotas, Nevada, Oregon/Washington, Utah, and Wyoming), and Center Directors

From: Deputy Director *Steven A. Ellis*

Subject: Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization

Program Areas: Oil and Gas Leasing and Operations, Land Use Planning, National Environmental Policy Act (NEPA) Compliance, and Wildlife – Greater Sage-Grouse.

Purpose: This Instruction Memorandum (IM) provides guidance on prioritizing implementation decisions for Bureau of Land Management (BLM) oil and gas leasing and development, to be consistent with the Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin GRSG Regions and nine Approved Resource Management Plans in the Rocky Mountain GRSG Region (collectively referred to as the GRSG Plans). This IM applies to activities in the areas covered by both the Rocky Mountain (RM) and Great Basin (GB) Regions Records of Decision (RODs), issued by the BLM in September 2015.¹ This IM also contains reporting requirements for communication between State Offices and the Washington Office.

The objectives of this IM are: to ensure consistency across BLM offices when implementing the GRSG Plans decisions aimed at avoiding or limiting new surface disturbance in Priority Habitat Management Areas (PHMAs), including Sagebrush Focal Areas (SFAs), and minimizing surface disturbance in General Habitat Management Areas (GHMAs); and to provide clarity to the BLM Field Offices on how to move forward with oil and gas leasing and development activities within designated GRSG habitats². This IM provides guidance on how the BLM will exercise the

¹ These Records of Decision are accessible through links on the BLM webpage for Sage-Grouse and Sagebrush Conservation, at <http://www.blm.gov/wo/st/en/prog/more/sagegrouse.html>.

² In addition to PHMAs, SFAs (a subset of PHMA), and GHMAs, other designations were made in the GRSG Plans. These include: “Important Habitat Management Areas” (IHMAs – only applicable to the State of Idaho), “Linkage Connectivity Habitat Management Areas” (LCHMA – applicable only in Colorado), “Restoration Habitat Management Areas” (RHMA – applicable only in the Billings and Miles City Field Offices), and “Other Habitat Management Areas”

Secretary of the Interior's discretion with regard to leasing activities in order to fulfill the conservation commitments in the GRSB Plans, to facilitate efforts to reduce the costs to project proponents and the BLM from the potentially extended time it may take for leasing and permitting within GRSB habitat, and to demonstrate that the GRSB Plans are being implemented consistently and transparently. BLM offices are encouraged to work collaboratively with relevant state and federal agencies as well as stakeholders to develop strategies and incentives to encourage and prioritize leasing and development outside of GRSB habitats.

Policy/Action: The BLM's Authorized Officer, acting under the delegated authority of the Secretary of the Interior, has discretion to determine which public lands will be offered at a lease sale. The Mineral Leasing Act of 1920 (MLA), as amended, provides that lands subject to disposition under the Act "which are known or believed to contain oil or gas deposits may be leased by the Secretary." (30 U.S.C. § 226(a) (emphasis added)). When evaluating Expressions of Interest (EOIs) to lease particular parcels, pursuant to the Competitive Leases Handbook (H-3120-1), the BLM will plan for leasing and development in accordance with the objectives and provisions in the GRSB Plans.

This IM does not prohibit leasing or development in GHMA or PHMA as the GRSB Plans will allow for leasing and development by applying prioritizing sequencing, stipulations, required design features, and other management measures to achieve the conservation objectives and provisions in the GRSB Plans. If the Authorized Officer determines that the potential environmental impacts could be significant while preparing the NEPA document, then the Authorized Officer will prepare an Environmental Impact Statement.

This guidance is not intended to direct the Authorized Officer to wait for all lands outside GRSB habitat areas to be leased or developed before allowing leasing within GHMAs, and then to wait for all lands within GHMAs to be leased before allowing leasing or development within the next habitat area (PHMA, for example). Rather it is intended to ensure consideration of the lands outside of GHMAs and PHMAs for leasing and development before considering lands within GHMAs and, thereafter, to ensure consideration of lands within GHMAs for leasing and development before considering any lands within PHMAs for leasing and development in an effort to focus future surface disturbance outside of the most important areas for sage-grouse conservation consistent with the conservation objectives and provisions in the GRSB Plans. This guidance is also intended to ensure careful consideration of the factors identified below when making any leasing and development decisions.

The BLM does not manage leasing on Tribal Trust or allotted lands and the GRSB Plans do not apply to such lands. Therefore, the policy in this IM does not apply to leasing on Tribal Trust or allotted lands. However, the BLM does review Applications for Permit to Drill (APDs) and other permitting actions related to development on Tribal Trust and allotted lands. As noted

(OHMAs – only applicable to Nevada and Northeastern California, which contain no GRSB habitat). The BLM State Offices will consider leasing in these areas as is appropriate in accordance with the applicable RMP. Wyoming's "Core Areas" are generally designated PHMAs. IHMA are a level of protection in-between PHMA and GHMA; therefore, prioritization for processing development proposals will be implemented in this sequence: outside of GRSB habitat, then in GHMA, next in IHMA, and lastly in PHMA. Refer to the approved RMP, as revised or amended.

below, to the extent the BLM receives a request for such a permitting action within PHMA, including an SFA, GHMA, or other GRSG habitat area (as described in footnote 2, the BLM will consult with the appropriate tribe(s) on a case-by-case basis as a part of its permitting decision-making process.

This policy applies to leasing of federal mineral estate and development on lands managed by the BLM and other federal surface management agencies.³ This policy also applies to split estate lands in which the mineral estate is reserved to the United States.

The GRSG Plans include decisions to prioritize geothermal resources; however, due to varying workloads and processes this IM focuses on prioritization of oil and gas leasing and permitting and does not address the prioritization within the geothermal program. State offices will address prioritization and associated factors for geothermal resources on a case-by-case basis.

A. Leasing: Sequential Prioritization of Oil and Gas Leasing in Proximity to PHMAs and GHMAs

The GRSG Plans include a decision to “prioritize oil and gas leasing and development outside of identified PHMAs and GHMAs.” (Rocky Mountain ROD at page 1-25, GB ROD at page 1-23).⁴

Therefore, based on the GRSG Plans’ conservation objectives and provisions, the BLM will prioritize the leasing of oil and gas resources in accordance with the following *prioritization sequence*, in order to minimize further fragmentation and impacts to GRSG habitat or populations, and to seek greater certainty that project development can move forward expeditiously. Generally, areas open for leasing in the approved Plans will be prioritized as follows:

Prioritization Sequence for Leasing in or near GRSG Habitats

In accordance with the BLM’s discretion in offering lands for leasing, BLM State Offices will use the following prioritization sequence for considering leasing in or near GRSG habitat, while also considering the “Factors to Consider While Evaluating EOIs in Each Category” as described on the following page.

³ For National Forest System Lands, this IM adheres to Section 226 (h) of the MLA, under which “The Secretary of the Interior may not issue any lease on National Forest System

Lands reserved from the public domain over the objection of the Secretary of Agriculture, and the 2006 Memorandum of Understanding (MOU) Between US Dept. of Interior BLM and US Dept. of Agriculture Forest Service Concerning Oil and Gas Leasing and Operations, “to insure coordination and consistency of lease stipulations and that the responsible agency heed the development process per the MOU.”

⁴ Although the Lander (Wyoming) ROD and Approved RMP do not include this objective, the procedures in this IM will be followed in the areas covered by that RMP in order to ensure consistency in the BLM’s oil and gas leasing and development activities throughout the GRSG range. The prioritization of leasing and development is an administrative function, not an allocation decision, and so the Lander RMP does not need to be maintained or amended to adopt this approach to leasing and development.

1. Lands outside of GHMAs and PHMAs: BLM State Offices will first consider leasing EOIs for lands outside of PHMAs and GHMAs. These lands should be the first priority for leasing in any given lease sale.
2. Lands within GHMAs: BLM State Offices will consider EOIs for lands within the GHMAs, after considering lands outside of both GHMAs and PHMAs. When considering the GHMA lands for leasing, the BLM State Office will ensure that a decision to lease those lands would conform to the conservation objectives and provisions in the GRSG Plans (e.g., Stipulations).
3. Lands within PHMAs: BLM state offices will consider EOIs for lands within PHMAs after lands outside of GHMAs and PHMAs have been considered, and EOIs for lands within GHMA have been considered. When considering the PHMA lands for leasing, the BLM State Offices will ensure that a decision to lease those lands would conform to the conservation objectives and provisions in the GRSG Plans (e.g., Stipulations) including special consideration of any identified SFAs.

Factors to Consider While Evaluating EOIs in Each Category

In accordance with the BLM's leasing discretion, the BLM will consider individual parcels within each of the categories in accordance with the *Prioritization Sequence* described above, and only thereafter consider, as appropriate, a combination of what applies from the following prioritization factors. These parcel specific factors are not presented in any particular order of importance:

- Parcels immediately adjacent or proximate to existing oil and gas leases and development operations or other land use development should be more appropriate for consideration before parcels that are not near existing operations. This is the most important factor to consider, as the objective is to minimize disturbance footprints and preserve the integrity of habitat for conservation.
- Parcels that are within existing Federal oil and gas units should be more appropriate for consideration than parcels not within existing Federal oil and gas units.
- Parcels in areas with higher potential for development (for example, considering the oil and gas potential maps developed by the BLM for the GRSG Plans) are more appropriate for consideration than parcels with lower potential for development. The Authorized Officer may conclude that an area has "higher potential" based on all pertinent information, and is not limited to the Reasonable Foreseeable Development (RFD) potential maps from Plans analysis.
- Parcels in areas of lower-value sage-grouse habitat or further away from important life-history habitat features (for example, distance from any active sage-grouse leks) are more appropriate for consideration than parcels in higher-value habitat or closer to important life-history habitat features (i.e. lek, nesting, winter range areas). At the time the leasing priority is determined, when leasing within GHMA or PHMA is considered, BLM should consider, first, areas determined to be non-sage-grouse habitat and then consider areas of lower value habitat.

- Parcels within areas having completed field-development Environmental Impact Statements or Master Leasing Plans that allow for adequate site-specific mitigation and are in conformance with the objectives and provisions in the GRSG Plans may be more appropriate for consideration than parcels that have not been evaluated by the BLM in this manner.
- Parcels within areas where law or regulation indicates that offering the lands for leasing is in the government's interest (such as in instances where there is drainage of Federal minerals, 43 CFR § 3162.2-2, or trespass drilling on unleased lands) will generally be considered more appropriate for leasing, but lease terms will include all appropriate conservation objectives and provisions from the GRSG Plans.
- As appropriate⁵, use the BLM's Surface Disturbance Analysis and Reclamation Tracking Tool (SDARTT) to check EOI parcels in PHMA, to ensure that existing surface disturbance does not exceed the disturbance and density caps and that development of valid existing rights (Solid Minerals, ROW) for approved-but-not-yet-constructed surface disturbing activities would not exceed the caps.

BLM state offices will use this *Prioritization Sequence*, these parcel-specific factors, and the BLM's workload capacity and other workload priorities as they determine work Plans for the oil and gas leasing program. If the state office does not offer a specific parcel identified in an EOI at the next regularly scheduled sale the BLM should inform the applicant of the reason the parcel was not included in the sale.

Pending EOIs and Leases Sold But Not Issued

The following addresses the parcels that have been nominated in the past, and leases sold but not yet issued. BLM state offices should consider these parcels, using the *Prioritization Sequence* above, and this additional guidance.

- **Deferred Expressions of Interest:**
For parcels located within identified PHMAs or GHMAs that were identified via EOIs and were deferred during the development of the GRSG Plans, the BLM State Office may decide if the deferred EOI in a PHMA or GHMA would need to be identified again through a new EOI. The BLM State Office will contact the applicant who submitted the EOI to inform them of the *Prioritization Sequence* and to find out if the applicant is still interested in these previously identified tracts. If the BLM receives a new EOI for the parcel, the BLM will inform the applicant that the BLM will consider the parcel using the prioritization factors above.
- **Leases Sold Prior to GRSG Plans – But Not Issued⁶**

⁵ All new leases issued under the GRSG land use plans will have the stipulation for no surface occupancy (NSO) in PHMA (except WY); therefore, this exercise may not be necessary. In WY, leases issued within the PHMA Core habitat will have the controlled surface use (CSU) stipulation WL-4024, but BLM WY may want to use SDARTT to calculate existing and approved disturbance in parcels before they are offered.

⁶ For example, Wyoming has approximately 170,000 acres in this status. Colorado has a few leases that were "sold but not issued." Most states do not have any leases that were "sold but not issued."

This category refers to leases that were sold in previous BLM lease sales, but were not issued. Because all leases issued after the approval of the GRSB Plans must conform to the approved Plans, the BLM will not issue leases sold prior to the approval of the GRSB Plans unless the leases are consistent with the sequential prioritization approach described above and in conformance with the GRSB Plans and with the appropriate stipulations outlined in the GRSB Plans. Consistent with the sequential prioritization approach, the Authorized Officer may issue these leases (in accordance with all laws, regulations, and policies), after a 45-day public notice period declaring the revised stipulations.⁷ If the successful bidder does not consent to the revised lease stipulations, the Authorized Officer will refund the bonus bid, the first year's rental payment, and the administrative fee to the successful bidder, and close the case. Refer to BLM Handbook H-3120-1 (*Competitive Leases*) for additional guidance.

Other Tools for Reducing Impacts to PHMAs and GHMAs

The following provides a number of other tools to reduce impacts to PHMA, including SFAs, and GHMA habitat:

- **Mitigation:** To encourage leasing and development in the areas with the least GRSB conflicts, and in consideration of the DOI's and the BLM's policies regarding landscape-scale mitigation,⁸ the Authorized Officer should consider whether the mitigation (avoidance, minimization, rectify, reduce, and compensate) will be sufficient to achieve the net conservation gain mitigation standard for any adverse impacts to GRSB habitat, as identified in the GRSB Plans.⁹ One compensatory mitigation tool for achieving the net conservation gain mitigation standard, in addition to other restoration and preservation actions, that BLM might consider using is to request the record title owner(s) of existing Federal oil and gas leases located in SFAs, PHMAs, or other sensitive GRSB habitats to relinquish those leases as an offset to the potential impacts to GRSB and their habitats from activities arising from other implementation decisions or activities on valid existing leases located on the public lands. Lease relinquishment as a compensatory mitigation tool is a form of protection and is generally only appropriate for those leases in priority habitat with high-value GRSB habitat that also has a high potential and likelihood for development. The BLM is working on a manual and handbook on mitigation that are expected to address mitigation, including compensatory mitigation, in more detail.

⁷ 30 U.S.C. § 226 (A) ("Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year.")

⁸ See Department Manual 600 DM 6, "Implementing Mitigation at the Landscape-scale" (October 23, 2015). See also Presidential Memorandum entitled "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment" (November 3, 2015).

⁹the BLM will require and ensure mitigation that provides a net conservation gain (the actual benefit or gain above baseline conditions) to the species. This would include accounting for any uncertainty associated with the effectiveness of such mitigation in PHMAs and GHMAs (except for the Wyoming, where this requirement only applies in PHMAs). (Rocky Mountain Region ROD, page 1-27; and as described in *Wyoming ARMPA, MD GMD 2*, page 26). Furthermore, the Wyoming RMP requires a net conservation gain for sage-grouse populations and habitats, consistent with the *State of Wyoming Core Area Strategy*. (see Wyoming ARMP, page 20.)

The GRSG Plans also provide guidance on appropriate mitigation. (See Mitigation Appendix in your Plans). BLM state offices will work with WO-310 as relinquishments are implemented until additional guidance is finalized.

- **Lease Suspensions:** The BLM is authorized to suspend all operations and production by direction or consent in the interest of conservation of natural resources. Accordingly, the Authorized Officer may consent to or direct lease suspensions where it is determined to be in the interest of the conservation of GRSG populations and habitats.¹⁰ For example, a lease suspension might be considered if disturbance and density caps have been exceeded within a lease or to allow for the satisfactory restoration of existing surface disturbances within a PHMA before considering new operations in the PHMA that may meet or exceed a surface disturbance limitation under the approved Plans.
- **Lease Reinstatements:** When deciding whether to approve or deny a request for lease reinstatements, the Authorized Officer will consider the *Prioritization sequence*, whether the land is open to leasing under the approved Plans, whether it is in a PHMA or GHMA, and if the existing lease terms will remain in compliance with the conservation objectives and provisions of the GRSG Plans. If a lease reinstatement is approved, the stipulations of the GRSG Plans must be applied. If a lease reinstatement is denied, those lands may or may not be precluded from later consideration for leasing, in accordance with the authorizing officer's discretion to determine which public lands will be offered at a lease sale, but will be subject to the prioritization sequence policy described above.
- In GRSG habitat it is especially important to continue to follow the standard operating procedure in H-3101-7 when inspecting wells and verifying drilling diligence on leases potentially eligible for a lease extension¹¹ before the date of potential lease expiration¹².

¹⁰ See 30 U.S.C. § 209 (“In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this Act”); see also 43 CFR § 3103.4-4(a) (“A suspension of all operations and production may be directed or consented to by the Authorized Officer only in the interest of conservation of natural resources.”). Federal courts have recognized that the phrase “in the interest of conservation,” as used in Section 39 of the Mineral Leasing Act (30 U.S.C. § 209), includes the prevention of environmental harm. See *Copper Valley Machine Works, Inc. v. Andrus*, 653 F.2d 595, 602 (D.C. Cir. 1981); see also *Hoyl v. Babbitt*, 129 F.3d 1377, 1380 (10th Cir. 1997).

¹¹ Lease extension by drilling is only authorized for actual drilling operations that were commenced prior to and being **diligently** conducted over the expiration date of the primary term of the lease. See 43 CFR § 3107.1.

¹² (1) review the well drilling program to confirm it is designed to test and produce from at least one potentially productive oil and/or gas formation, (2) conduct a field inspection of the drilling location before the lease expiration date to verify actual drilling, and (3) ensure the well meets the criteria established in H 3107-1.

- Where a lease in PHMA or GHMA has expired because the primary term has elapsed and no drilling has occurred (or where the lease is not held by production¹³), the BLM will not re-offer these parcels, and may only consider offering such lands if and when an EOI is submitted and the BLM determines it is appropriate to lease the lands if located in areas open to leasing under the approved Plans. Future leasing of the lands will be considered under the sequential prioritization approach described above, including the *Factors to be Considered While Evaluating EOIs* and provided that the new stipulations from the GRSG land use Plans are attached to the lease.
- In GRSG habitat, when making a decision to cancel a lease for failure to comply with lease terms, the bond must remain in force and effect until all rents and royalties have been paid and final abandonment of all wells, including reclamation, has been approved. (H3108-1, H-3104 pg107, and 43 CFR § 3100).

Configuration of Quarterly Lease Sales from BLM-Identified Lands and EOIs

BLM state offices will take into account the EOIs, the GRSG plan decisions and goals, this prioritization sequence policy, other resource values, and workload capacity in configuring quarterly lease sales. This approach will allow for quarterly sales consistent with the conservation objectives and provisions in the GRSG Plans.

Required Coordination when Leasing within a PHMA or GHMA is Proposed

Prior to NEPA Comment Period

For each lease sale that includes parcels intersecting PHMAs or GHMAs, State Directors will provide a *Preliminary Lease Sale Summary* to WO-300 (cc WO-310) as soon as is feasible and at least 15 days prior to the date the first NEPA documentation for the lease sale is posted or released for public comment. A template with the information necessary for State Directors to include in the *Preliminary Lease Sale Summary* is included in Attachment 1.

Prior to Holding a Lease Sale

In addition, after any protests are received and as soon as is feasible, but at least 15 days before a lease sale is held, State Directors will provide a briefing memo to the WO-300 (cc WO-310) contact that includes a summary of any lease sale parcel protests related to GRSG (including protests addressing plan conformance and NEPA compliance when related to GRSG decisions, habitats, and populations). A briefing paper template is included in Attachment 2.

B. Development: Sequential Prioritization of Permit Processing for Oil and Gas Development and Operations in Proximity to PHMAs and GHMAs

¹³ Includes primary term leases, as well as, suspension of operations and production on leases with wells capable of production. See 43 CFR § 3103.4-4.

As described above, an objective of this policy is to sequentially prioritize the leasing and development of oil and gas resources on public lands outside of GRSG habitat based on the GRSG Plans' conservation goals to avoid or limit new surface disturbance in Priority Habitat Management Areas (PHMAs) and minimize surface disturbance in General Habitat Management Areas (GHMAs). Similar to the way that leasing is handled above, BLM field offices will process Notices of Staking (NOSs)/Applications for Permit to Drill (APDs) or Sundry Notices that involve ground disturbance (referred to collectively as "permits" in this section) for wells that are proposed to be located outside of GHMAs and PHMAs first, then within GHMAs, then within PHMAs, and lastly, within PHMAs that may contain SFAs.

Prioritization Sequence for Permits for Oil and Gas Development and Operations in or near GRSG Habitats

When processing permits for oil and gas development and operations in or near GRSG habitat, follow this prioritization sequence:

1. Lands outside PHMAs/GHMAs: The BLM will encourage development outside of PHMAs/GHMAs by working with operators to focus their development proposals away from GRSG habitats.
2. Lands in GHMAs: Authorized Officers will use the prioritization sequence to meet the conservation objectives and provisions in the GRSG land use Plans by encouraging development in GHMA before development in PHMA, by taking into consideration the factors and existing prioritizations (as detailed below) GRSG land use Plans when processing permits for well locations.
3. Lands in PHMA: Authorized Officers will use the prioritization sequence to meet the conservation objectives and provisions in the GRSG land use Plans by encouraging development, first outside of GHMA/ PHMA, and then in GHMA, before development in PHMA, while taking into consideration the factors and existing prioritizations (as detailed below) when processing permits for well locations.

Prioritization Factors to Consider (but not limited to and not in any particular order):

- Well locations in an area with existing production facilities and surface disturbance should be more appropriate for consideration before well locations that are not immediately adjacent or proximate to existing operations.
- Well locations within a Federal oil and gas unit should be more appropriate for consideration than well locations not within existing Federal oil and gas units.
- Well locations within areas having completed field-development Environmental Impact Statements or Master Development Plans that allow for adequate site-specific mitigation and conformance with the GRSG land use Plans may be more appropriate for consideration than well locations that have not been evaluated by the BLM in this manner.

- Well locations in areas of lower-value GRSG habitat or distant from important life-history habitat features (for example, distant from any active GRSG leks) may be more appropriate for consideration than well locations in higher-value habitat or closer to important life-history habitat features.
- Well locations anticipated to result in a net conservation gain may be more appropriate for consideration . Approval of a permit may also occur in response to applicable law or regulations (including drainage cases or to ensure that the BLM honors valid existing rights). Conditions of Approval (COAs) attached to the permit should include all appropriate conservation objectives and mitigation requirements, such as required design features (RDF) from the GRSG land use Plans.¹⁴
- As appropriate, use SDARTT to check “project analysis areas”¹⁵ in PHMA and SFA, to ensure that existing surface disturbance does not exceed the disturbance and density caps and that development of valid existing rights (Solid Minerals, Rights-Of-Way, etc.) for approved-but-not-yet-constructed surface disturbing activities would exceed the caps.

Existing Prioritizations:

BLM field offices should integrate the above prioritization sequence in their processing of pending permits as they consider the overall workload to fairly and objectively address their permitting prioritization. Only insofar as they are consistent with the prioritization approach described in this IM, BLM field offices may also take into consideration other prioritization considerations, such as considering permitting on a first-in/first-out basis to the extent possible, unit obligation wells, the efficiency to be gained in processing the easiest to complete first, the operator’s drilling Plans, workload capacities, and other resource values.

Development and Restoration within PHMAs/GHMAs

Where a proposed fluid mineral development project on an existing lease could adversely affect GRSG populations or habitat, the BLM will work with appropriate stakeholders, including the U.S. Fish and Wildlife Service, relevant State agencies, lessees, operators, or other project proponents to avoid, minimize, and compensate for unavoidable adverse impacts to sage-grouse or its habitat. The BLM will ensure that the best information about the GRSG and its habitat informs and guides development of such Federal leases to the extent compatible with lessees’ rights to drill and produce fluid mineral resource with proper application of stipulations and conditions of approval.

When considering an NOS/APD or Sundry Notice involving ground disturbance activities proposed in PHMA and/or GHMA (even for leases issued prior to finalization of the GRSG land use Plans), the Authorized Officer will consider the BLM’s environmental record of review. See 43 CFR § 3162.5-1(a). The environmental record of review includes appropriate documentation of NEPA compliance, alternatives that would implement the conservation measures described in the GRSG land use Plans, and applicable Best Management Practices (BMP) and Required

¹⁴ Refer to footnote #9.

¹⁵ Methodologies may vary from state to state. For example, Colorado uses Management Zones and Oregon uses Priority Areas for Conservation

Design Features (RDF); consistent with applicable regulations. If the Authorized Officer determines that the potential environmental impacts could be significant, the Authorized Officer will prepare an Environmental Impact Statement. In all cases, as the GRSB Plans decisions acknowledge (see RM ROD at page 2-2, GB ROD at page 2-2), the BLM must honor valid existing rights, such as in cases where the BLM issued a lease prior to the GRSB land use plan with terms and stipulations that may be different from those provided for in the GRSB land use plan. In addition, the BLM also has the authority to apply reasonable conditions of approval. 43 CFR § 3101.1-2.

The Authorized Officer will continue to work with all operators to plug idle wells, timely restore well sites with appropriate GRSB habitat seed mixes, reclaim roads, and enhance habitat (e.g., reduce fragmentation), with a restoration emphasis in GRSB habitat areas to support conservation goals. In addition, the Authorized Officer will be cognizant of sundry notices of operations that may be considered disruptive activities within GRSB habitats.

When the BLM receives an APD involving a well that is within a GRSB habitat area, but on Tribal Trust or allotted lands under BIA jurisdiction, the BLM will coordinate with the BIA and affected tribe(s).

Timeframe: This IM is effective immediately.

Budget Impact: Given the conservation challenges and the land management responsibilities, this policy will result in additional costs for increased planning, coordination, NEPA review, GIS, responding to administrative challenges, and associated program costs. It is anticipated that performance targets/units of accomplishment for the resource programs will adjust to reflect the added complexities and responsibilities. Timelines for wells within GRSB habitat may take longer to permit; however wells outside of habitat will be prioritized for processing.

Background: On September 21, 2015, the Department of the Interior and the BLM approved the GRSB RODs. Concurrently, the BLM amended or revised the Plans in GRSB habitat to provide conservation measures protective of GRSB and their habitats.

Along with other guidance being issued and prepared by the BLM, this IM serves to provide policy direction for the implementation of the GRSB land use Plans. This IM also satisfies the BLM's commitment in the GRSB ROD's to provide policy direction based on the objective of prioritizing oil and gas leasing and development outside of PHMAs and GHMAs. (See, e.g., Rocky Mountain ROD at page 1-40, GB ROD at page 1-41, "...additional guidance will be provided to clarify how the BLM will implement the objective of prioritizing future oil and gas leasing and development outside of GRSB habitat.") The final Approved Plans also included a decision that provided:

Priority will be given to leasing and development of fluid mineral resources, including geothermal, outside of PHMAs and GHMAs. When analyzing leasing and authorizing development of fluid mineral resources, including geothermal, in PHMAs and GHMAs, and subject to applicable stipulations for the conservation of GRSB, priority will be given to development in non-habitat areas first and then in

the least suitable habitat for GRSG. The implementation of these priorities will be subject to valid existing rights and any applicable law or regulation, including, but not limited to, 30 U.S.C. 226(p) and 43 C.F.R. 3162.3-1(h).¹⁶

This IM and its attachments provide guidance to BLM Authorized Officers and field personnel to facilitate consistent implementation of these Plans decisions.

Manual/Handbook Sections Affected: None.

Coordination: This IM was coordinated with the U.S. Department of the Interior, Office of the Solicitor; BLM State Offices; the Renewable Resources and Planning Directorate; and the Energy, Minerals and Realty Management Directorate.

Contact: If there are any questions concerning this IM, please contact Michael D. Nedd, Assistant Director, Energy, Minerals and Realty Management (WO-300), at 202-208-4201. Your staff may also contact Steven Wells, Division Chief, Division of Fluid Minerals (WO-310), at 202-912-7143 or s1wells@blm.gov.

2 Attachments

- 1- *Preliminary Lease Sale Summary* Template (1p)
- 2- *Lease Sale in Greater Sage-Grouse Habitats Briefing Paper* Template (1p)

¹⁶ For example, see the BLM-Utah's Approved RMP Amendment – Attachment 4 to the GB ROD at page 2-25, Objectives MR-1 and MR-2. Similar language can be found in each of the RMPs.

Attachment 1 – *Preliminary Lease Sale Summary* Template - Prior to NEPA Comment Period

The *Preliminary Lease Sale Summary* will include:

- ✓ State Office/planning area(s) and date of lease sale
- ✓ Anticipated date that the NEPA documentation (EA or DNA) will be posted for public review
- ✓ Total number and acreages of parcels considered in the lease sale
- ✓ Total number and acreages of parcels intersecting Greater Sage-Grouse habitat, General Habitat Management Areas (GHMAs), and Priority Habitat Management Areas (PHMAs) in the lease sale
- ✓ Anticipated date that the Notice of Competitive Lease Sale will be published and posted for public review
- ✓ Date the protest period ends
- ✓ Map(s) illustrating the location of all parcels, with the following overlays:
 - GHMAs and PHMAs
 - Pertinent surface disturbance and reclamation data as available.
 - If available, existing Federal oil and gas leases (differentiating those held by production) and wells. If available, please include information related to non-BLM administered oil and gas leases and wells.
 - For Federal wells, which can be numerous, we are requesting locations of active oil and gas wells that have been constructed or spud; this would not include plugged and abandoned wells.
 - Federal oil and gas unit boundaries
 - Field-development Environmental Impact Statement boundaries
 - Master Leasing Plan boundaries
 - Oil and gas development potential maps
 - Locations of known sage-grouse leks protective buffers
 - State Offices should use scale(s) that will allow the maps to be viewed and understood.

**BRIEFING MEMORANDUM FOR THE ASSISTANT DIRECTOR – ENERGY,
MINERALS, AND REALTY MANAGEMENT**

DATE: [Date memo submitted to AD300 and AD310]

FROM: Applicable State Director [Name, title, and applicable state]

SUBJECT: [Insert state] State Office [Insert scheduled date of sale] Oil and Gas Lease Sale
Statement of purpose: Inform AD300 and AD310 about the upcoming oil and gas lease sale in relation to protests that involve Greater Sage-Grouse and Greater Sage-Grouse habitat.

BACKGROUND

Summarize key information from the *Preliminary Lease Sale Summary*. For example: *On September 28, 2015, the XXX State Office posted the environmental assessment (EA) for the February 11, 2016 oil and gas lease sale for public review and comment. The EA analyzed the offering of up to 50 parcels totaling approximately 112,500 acres as part of the sale. Of this, 20 parcels totaling approximately 45,000 acres intersect Greater Sage-Grouse General Habitat Management Areas and 10 parcels totaling approximately 22,500 acres intersect Greater Sage-Grouse Priority Habitat Management Areas. Parcels that will be offered at the sale fall within the X, Y, and Z Plans planning areas for which applicable oil and gas lease stipulations from these Plans were attached to the appropriate parcels. The protest period for the lease sale ended on December 28, 2015.*

DISCUSSION

In the briefing memo, please identify potential sage-grouse related impacts and controversies associated with the parcels listed in the Sale Notice. The discussion should address the following:

- a) Has the proposed sale generated any controversy with the State/Governor or the public?
- b) Provide a hyperlink to the BLM external website with the BLM's NEPA compliance documentation for the lease sale (EA or DNA).
- c) How many parcels (and acres) have been protested because of sage-grouse issues?
- d) Who filed these protests?
- e) What are the protester(s) main arguments related to sage-grouse issues?

NEXT STEPS

Describe how the State Office anticipates answering the protests.

ATTACHMENTS

N/A. However, please feel free to attach additional maps (other than what has already been provided through the *Preliminary Lease Sale Summary*).