From:	Noreen Walsh
To:	Michael Thabault; Matt Kales; pat deibert X226
Subject:	Fwd: BLM buffer proposal
Date:	Monday, January 12, 2015 7:21:08 AM
Attachments:	Lek Buffer Screen 1.9.15.JRL comments.docx Lek Buffer Screen 1.9.15.JRL clean 2.0.docx

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Good morning. I did not receive this from BLM prior. See Jim's comments. Please provide a consolidated recommendation to me by 130 pm. Sorry for the short notice - apologies for the timing

Sent from my iPhone

Begin forwarded message:

From: "Lyons, James" <james_lyons@ios.doi.gov>
Date: January 12, 2015 at 6:01:06 AM PST
To: Sarah Greenberger <sarah_greenberger@ios.doi.gov>, Michael Bean <michael_bean@ios.doi.gov>, Steven Ellis <sellis@blm.gov>, Edwin Roberson <eroberso@blm.gov>, Noreen Walsh <noreen_walsh@fws.gov>, Chris Iverson <Civerson@fs.fed.us>, Janice Schneider <janice_schneider@ios.doi.gov>
Subject: BLM buffer proposal

I reviewed and suggest revisions to the most recent buffer proposal from the BLM.

In brief, I stayed with the overall direction provided by the BLM:

1. kept this as a screening process -- rather than a "Required Design Feature;
2. required that projects in a PHMA meet the interpreted minimum for the relevant type of disturbance
3. provided for avoidance, minimization, or compensatory mitigation for projects in a GHMA that did not meet the minimum but could proceed if they produced a net conservation gain, but
4. required relocation of the project outside habitat or denial of the project of relocation could not occur.

However, I believe that the process as described goes well beyond determining if the proposed project meets the buffers identified in the USGS report by including screening for LUP conformance and density CAP conformance, which is irrelevant to the buffer issue.

So, what I layed out would walk through a process that only addresses the question of compliance with the USGS buffer report (reason ref to LUPs and density are struck). The steps then simply make clear:

1. What the buffer requirements are for proposed projects per the USGS report;
2. If in PHMA, interpreted minimum is the required minimum
3. If in GHMA, and not at the minimum, first, seek to avoid
4. If can't avoid, minimize or use compensatory mitigation measures
5. If mitigation cannot achieve net conservation gain, then relocate outside of habitat or deny.

In doing it this way, I attempted to focus screening solely on the buffer issue and make clear that minimum interpreted range is required in PHMA, is sought in GHMA although achieving a net conservation gain was also permissible. If neither can be achieved, move the project to outside SG habitat or deny.

Glad to discuss before we meet later in the day.

Please contact me with your thoughts.

Redline and revised, clean attached (note that the clean version has some added edits for clarification).

Jim

--
Jim Lyons
Deputy Assistant Secretary
Land and Minerals Management
Jim_Lyons@ios.doi.gov
202-208-4318 (direct)
202-815-4412 (mobile)

Issue: **Use of Buffers in ADPPs**

Direction: The ADPPs will include a required screening process for new BLM-authorized anthropogenic disturbances in both GHMA and PHMA (see Attachment X) and drop-in Chapter 2 language:

"In authorizing third-party actions, consistent with valid existing rights and applicable law, ~~undertaking BLM management actions, and consistent with valid and existing rights and applicable law in authorizing third-party actions~~, the BLM will ensure that in PHMA, management actions are, at a minimum, consistent with the interpreted range – lower for lek buffer distances identified in ~~complete the~~ the "Screening Process for New Anthropogenic Disturbances" for the type of disturbance likely to occur due to the proposed action, and, in GHMA, meets this standard or generates a net conservation gain through appropriate mitiation measures consistent with ~~to ensure that only activities which meet~~ the goals and objectives for GRSG habitat as established in the ADPPs ~~will be approved~~."

Along with other criteria, the lek buffers identified in the USGS Report *Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review* (Open File Report 2014-1239) will be used to assess impacts and determine conditions of approval for actions requiring NEPA analysis. As determined through the buffer screening process, the BLM will only approve a proposed action that: 1) in PHMA, meets, at least, the interpreted range – lower buffer distance for the relevant type of disturbance for the proposed project or ~~conforms to the LUP;~~ 2) in GHMA, through avoidance, minimization, or compensatory actions, generates a net conservation gain. ~~does not exceeds the density and disturbance cap in PHMA; and 3) maintains or increases GRSG abundance and distribution.~~

Attachment X
Screening Process for New Anthropogenic Disturbances

ADPPs may expand the Screening Process as necessary, but at a minimum, ~~it~~ must include:

- ~~Step 1: *Determine LUP Conformance*~~
  ~~Determine if the proposed action conforms to the LUP, including the land use allocations and GRSG goals and objectives.~~

- ~~Step 2: *Determine Density and Disturbance Cap Conformance*~~
  ~~If the proposed action occurs within PHMA, determine whether the disturbance from the activity exceeds the density and disturbance cap limitations.~~

- Step 1~~3~~: *Evaluate Consistency with Required Lek Buffers ~~Impacts to GRSG Populations and Habitat~~*
  ~~Evaluate impacts from the proposed action to GRSG populations and habitat through the NEPA process.~~
  In addition to any other criteria determined to be appropriate (e.g. State wildlife agency plans), the BLM will, at a minumum, ~~assess and address impacts from the following activities using~~ require the following ~~the~~ lek buffer-distances (interpreted range – lower) identified in the USGS Report

Comment [JRL1]: All of this is already required in the land use plan and has nothing to do with buffers. To simplify, I suggest this be dropped.

Comment [JRL2]: Again, this is understood to apply to all activities as a matter of process.

Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review (Open File Report 2014-1239) be applied to the proposed project, as appropriate for the type of project and nature of disturbance that is likely to result:

- linear features (roads) within 3.1 miles of leks
- infrastructure related to energy development within 3.1 miles of leks.
- tall structures (e.g., communication or transmission towers, transmission lines) within 2 miles of leks.
- low structures (e.g., fences, rangeland structures) within1.2 miles of leks.
- surface disturbance (continuing human activities that alter or remove the natural vegetation) within 3.1 miles of leks.
- noise and related disruptive activities including those that do not result in habitat loss (e.g., motorized recreational events) at least 0.25 miles from leks.

The USGS report recognized "that because of variation in populations, habitats, development patterns, social context, and other factors, for a particular disturbance type, there is no single distance that is an appropriate buffer for all populations and habitats across the sage-grouse range". The USGS report also states "Various protection measures have been developed and implemented… [which have] the ability (alone or in concert with others) to protect important habitats, sustain populations, and support multiple-use demands for public lands". Justifiable departures from these distances, based on local data, best available science, landscape features, and other existing protections (e.g., land use allocations, state regulations) may be used as necessary in GHMA.

~~Within PHMA, the restrictive LUP allocations were designed to provide the greatest protection to sage-grouse habitat and the above activities will be restricted within the buffer distances.~~

In determining lek locations, the BLM will use the most recent active or occupied lek data available from the state wildlife agency.

Comment [JRL3]: Definition of a "lek" needs to be resolved among the NPT. Should apply for all ADPPs, and not just be a factor here.

- Step 2: If in PHMA, will, at a minimum, meet the lek buffer-distances (interpreted range – lower) identified in the USGS Report *Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review* (Open File Report 2014-1239)meet outside lek buffer… proceed, if NOT, go to Step 3…
- Step 3: For projects in GHMA, will seek to meet the interpreted range lower buffer distance first, by relocating the project to a distance, at a minimum, outside the lek buffer. If cannot, then to go step 4
- Step 4: Minimize project impact and compensate to produce a net conservation gain. If cannot, then go to step 5.
- Step 5: Deny the proposed project or relocate outside of habitat.

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- ~~Step 4: *Determine Necessary Conditions of Approval (Apply Mitigation Hierarchy)*~~

~~The BLM will apply Conditions of Approval to fully mitigate the impacts identified in the NEPA analysis.~~

~~4a. Avoid impacts by locating projects outside of GRSG habitat.~~

~~4b. Minimize impacts, if it is not possible to locate the project outside of GRSG habitat.~~

~~4c. If unavoidable impacts remain, apply compensatory mitigation measures.~~

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- ~~Step 5: *Approve, Defer, or Deny the Proposed Action*~~
- ~~The BLM will only approve a proposed action that: 1) conforms to the LUP; 2) does not exceed the density and disturbance cap; and 3) maintains or increases GRSG abundance and distribution.~~

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Issue: **Use of Buffers in ADPPs**

Direction: The ADPPs will include a required screening process for new BLM-authorized anthropogenic disturbances in both GHMA and PHMA (see Attachment X) and drop-in Chapter 2 language:

"In authorizing third-party actions, consistent with valid existing rights and applicable law, the BLM will ensure that in PHMA, management actions are, at a minimum, consistent with the interpreted range – lower for lek buffer distances identified in the "Screening Process for New Anthropogenic Disturbances" for the type of disturbance likely to occur due to the proposed action, and, in GHMA, meets this standard or generates a net conservation gain through appropriate mitigation measures consistent with the goals and objectives for GRSG habitat as established in the ADPPs."

Along with other criteria, the lek buffers identified in the USGS Report *Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review* (Open File Report 2014-1239) will be used to assess impacts and determine conditions of approval for actions requiring NEPA analysis. As determined through the buffer screening process, the BLM will only approve a proposed action that: 1) in PHMA, meets, at least, the interpreted range – lower buffer distance for the relevant type of disturbance for the proposed project or 2) in GHMA, meets this standard or, through avoidance, minimization, or compensatory actions, generates a net conservation gain.

Attachment X
Screening Process for New Anthropogenic Disturbances

ADPPs may expand the Screening Process as necessary, but at a minimum, must include:

- **Step 1: *Evaluate Consistency with Required Lek Buffers***
  In addition to any other criteria determined to be appropriate (e.g. State wildlife agency plans), the BLM will, at a minimum, require the following lek buffer-distances (interpreted range – lower) identified in the USGS Report *Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review* (Open File Report 2014-1239) be applied to the proposed project, as appropriate for the type of project and nature of disturbance that is likely to result:
  - linear features (roads) within 3.1 miles of leks
  - infrastructure related to energy development within 3.1 miles of leks.
  - tall structures (e.g., communication or transmission towers, transmission lines) within 2 miles of leks.
  - low structures (e.g., fences, rangeland structures) within1.2 miles of leks.
  - surface disturbance (continuing human activities that alter or remove the natural vegetation) within 3.1 miles of leks.
  - noise and related disruptive activities including those that do not result in habitat loss (e.g., motorized recreational events) at least 0.25 miles from leks.

  The USGS report recognized "that because of variation in populations, habitats, development patterns, social context, and other factors, for a particular disturbance type, there is no single distance that is an appropriate buffer for all populations and habitats across the sage-grouse range". The USGS report also states "Various protection measures have been developed and implemented… [which have] the ability (alone or in concert with others) to protect important habitats, sustain populations, and support multiple-use demands for public lands". Justifiable departures from these distances, based on local data, best available science, landscape features, and other existing protections (e.g., land use allocations, state regulations) may be used as necessary in GHMA.

  In determining lek locations, the BLM will use the most recent active or occupied lek data available from the state wildlife agency.

- **Step 2: *If the proposed project is in a PHMA***
  For proposed projects in a PHMA, the BLM will, at a minimum, require that the proposed project meet the lek buffer-distances (interpreted range – lower) identified in the USGS Report *Conservation Buffer Distance Estimates for Greater Sage-Grouse – A Review* (Open File Report 2014-1239). If not, the project will be denied or relocated outside of PHMA.
- **Step 3: *If the proposed project is in a GHMA, meets the relevant lek buffer or can be relocated to do so***
  If the proposed project is in a GHMA, the BLM will, at a minimum, require that the proposed project meet the relevant interpreted range lower buffer. If the proposed project does not meet this standard, the BLM should first seek to relocate the project at a distance that is, at a minimum, outside the relevant lek buffer. If this cannot be achieved through relocation, then to go step 4.
- **Step 4: *If the proposed project is in a GHMA, cannot be relocated to meet the relevant lek buffer but can result in net conservation gain through minimization or compensatory mitigation***
  For proposed projects in a GHMA for which avoidance cannot meet the relevant lek buffer, the BLM will seek to minimize project impacts or require compensatory mitigation sufficient to produce a net conservation gain. If net conservation gain cannot be achieved, then go to step 5.
- **Step 5: *If the project cannot meet the relevant lek buffer or achieve a net conservation gain***
  Deny the proposed project or relocate outside of habitat.

Comment [JRL1]: All of this is already required in the land use plan and has nothing to do with buffers. To simplify, I suggest this be dropped.

Comment [JRL2]: Again, this is understood to apply to all activities as a matter of process.

Comment [JRL3]: Definition of a "lek" needs to be resolved among the NPT. Should apply for all ADPPs, and not just be a factor here.