

DRAFT

DISCRETIONARY ACTION CRITERIA AND MITIGATION PROCESS

The BLM/USFS will ensure that any activities or projects in greater sage-grouse habitats would: 1) only occur in compliance with [insert plan name] greater sage-grouse goals and objectives for priority and general management areas; and 2) maintain neutral or positive greater sage-grouse population trends and habitat by avoiding, minimizing, and offsetting unavoidable impacts while striving for net conservation gain at the scale of this land use plan and within greater sage-grouse population areas, State boundaries, and WAFWA Management Zones through the application of mitigation for implementation-level decisions. The mitigation process will follow the regulations from the White House Council on Environmental Quality (CEQ) (40 CFR 1508.20; e.g. avoid, minimize, and compensate), hereafter referred to as the mitigation hierarchy, while also following Secretary of the Interior Order 3330 and consulting BLM, FWS and other current and appropriate mitigation guidance . If it is determined that residual impacts to greater sage-grouse from implementation-level actions would remain after applying avoidance and minimization measures to the extent possible, then compensatory mitigation projects will be used to offset residual impacts, or the project may be denied if necessary to achieve the goals and objectives for priority and general management areas in the [insert plan name].

To ensure that impacts from activities proposed in sage-grouse priority and general management areas are appropriately mitigated, the BLM will apply mitigation measures and conservation actions and potentially modify the location, design, construction, and/or operation of proposed land uses or activities to comply with statutory requirements for environmental protection. The mitigation measures and conservation actions [reference RDF/BMP appendix] for proposed projects or activities in these areas will be identified as part of the National Environmental Policy Act (NEPA) environmental review process, through interdisciplinary analysis involving resource specialists, project proponents, government entities, landowners or other Surface Management Agencies. Those measures selected for implementation will be identified in the Record of Decision (ROD) or Decision Record (DR) for those authorizations and will inform a potential lessee, permittee, or operator of the requirements that must be met when using BLM-administered public lands and minerals to mitigate, per the mitigation hierarchy referenced above, impacts from the activity or project such that sage-grouse goals and objectives are met. Because these actions create a clear obligation for the BLM to ensure any proposed mitigation action adopted in the environmental review process is performed, there is assurance that mitigation will lead to a reduction of environmental impacts in the implementation stage and include binding mechanisms for enforcement (CEQ Memorandum for Heads of Federal Departments and Agencies 2011).

To achieve the goals and objectives for priority and general management areas in the [insert plan name], the BLM will assess all proposed land uses or activities such as road, pipeline, cell tower, or powerline construction, fluid and solid mineral development, range improvements, and recreational activities proposed for location in sage-grouse priority and general management areas in a step-wise manner. The following steps identify a screening process for review of proposed activities or projects in these areas. This process will provide a consistent approach regardless of the administrative location of the project and ensure that authorization of these projects, if granted, will appropriately mitigate impacts and be consistent with the LUP goals and objectives for sage-grouse. The following steps provide for a sequential screening of proposals. However, Steps 2-6 can be done concurrently.

Step 1 – Determine Proposal Adequacy

This screening process is initiated upon formal submittal of a proposal for authorization for use of BLM lands. The actual documentation of the proposal would include at a minimum a description of the

¹Impacts to Greater Sage-Grouse could include loss or disturbance of nesting or wintering habitat as well as disruption of breeding activities at the lek site.

location, scale of the project and timing of the disturbance. The acceptance of the proposal(s) for review would be consistent with existing protocol and procedures for each type of use.

Step 2 – Evaluate Proposal Consistency with LUP Prescriptions

This initial review should evaluate whether the proposal would be allowed as prescribed in the Land Use Plan. For example, some activities are prohibited (e.g., excluded, closed, withdrawn, etc.) in sage-grouse habitat, such as wind developments in priority management areas. If the proposal is for an activity that is specifically prohibited, the applicant should be informed that the application is being rejected since it would not be allowed, regardless of the design of the project. Otherwise, proceed to Step 3.

Step 3 – Determine Projected Sage-Grouse Population and Habitat Impacts

Determine if the project will have a direct, indirect, or cumulative impact on sage-grouse population or habitat (priority or general management areas). This will include:

- Reviewing greater sage-grouse management area and habitat delineation maps.
- Reviewing current science / literature.
- Reviewing the sage-grouse effects analysis in the LUP EIS, and similar effects analyses
- Reviewing USGS Open File Report 2013-1098 (the ‘Baseline Environment Report’) which identifies areas of direct and indirect effects for various anthropogenic activities.
- Consultation with State Wildlife Agency biologists.
- Evaluating consistency with (at a minimum) State sage-grouse regulations, Executive Orders, etc.
- Or other methods needed to provide an accurate assessment of impacts.

If the proposed project or activity would not have a negative direct or indirect impact on either the habitat or population, document the findings in the NEPA analysis and proceed with the appropriate process for review, decision and potential implementation of the project. Otherwise, proceed to Step 4.

Step 4 – Determine Proposal Consistency with Disturbance Limitations

If the proposed activity could have a direct or indirect impact on sage-grouse habitat or population, evaluate whether the projected disturbance from the activity would exceed the limit on the amount of disturbance allowed within the activity or project area (DDCT process). If current disturbance within the activity area or the anticipated disturbance from the proposed activity exceeds this threshold, the project should be deferred until such time as the amount of disturbance within the area has been reduced below the threshold through completed, monitored and verified restoration or management actions. If the project can be relocated so as to not have an impact on sage-grouse habitat or population, not exceed the disturbance cap, and still achieve objectives of the proposal, relocate the proposed activity and proceed with the appropriate process for review, decision and potential implementation. This step does not consider redesign of the project to reduce or eliminate direct and indirect impacts, but rather authorization of the project in a physical location that will not impact greater sage-grouse habitat or population.

Step 5 – Determine Authority and Apply Avoidance and Minimization Measures to Comply with Sage-Grouse Goals and Objectives

If the preliminary review of the proposal concludes that there may be impacts to sage-grouse habitat or population and the project cannot be effectively relocated to avoid these impacts, evaluate whether the agency, within agency’s rules and/or regulations, has the authority to modify or deny the project. If the

agency does not have the discretionary authority to modify or deny the proposal, proceed with the authorization evaluation process (NEPA) and work with the proponent to include appropriate mitigation elements that minimize impacts to sage-grouse habitat and populations and achieve compliance with sage-grouse objectives to the maximum extent possible under existing authority, including application of offset mitigation (Step 6) as allowable. Where the agency has the discretionary authority to modify or deny the proposal, proceed with the authorization evaluation process (NEPA) and include appropriate mitigation requirements that minimize impacts to sage-grouse habitat and populations to the extent possible and achieve compliance with sage-grouse objectives. Mitigation measures will often include a combination of several items such as lek buffers and timing of disturbance, noise restrictions, design modifications of the proposal, site disturbance restoration, post project reclamation, etc.

Step 6 – Apply Compensatory Mitigation or Reject / Defer Proposal

If the agency has the discretionary authority to deny the project and after careful screening of the proposal (Steps 1-5) has determined that direct and indirect impacts cannot be eliminated through avoidance or minimization, evaluate the proposal to determine if compensatory mitigation can be used to fully offset the remaining adverse impacts (while striving for conservation gain) and achieve sage-grouse goals and objectives. If the impacts cannot be effectively mitigated to these standards, reject or defer the proposal. Conditions resulting in this situation could include but are not limited to:

- The current population or habitat trends within the [insert appropriate scale of measurement] is downward and additional impacts, whether offset or not, could lead to further decline of the species population or habitat.
- The proposed offset mitigation is inadequate in scope or duration, has proven to be ineffective or is unproven (e.g., high risk) in terms of science-based approach.
- The project would impact habitat that has been determined to be a limiting factor for species sustainability.
- Other site specific information and analysis that determined the project would lead to a downward or negative change in the current species population trend or habitat and not comply with sage-grouse goals and objectives.

If, following application of available impact avoidance and minimization measures the project can be mitigated to fully offset (while striving for conservation gain) impacts to the species and comply with sage-grouse goals and objectives, proceed with the design of the mitigation plan, and NEPA analysis for the project.

The BLM/USFS, via the WAFWA Management Zone Greater Sage-Grouse Conservation Team, will develop a WAFWA Management Zone Regional Mitigation Strategy to guide the application of the mitigation hierarchy to address greater sage-grouse impacts within that Zone. The WAFWA Management Zone Regional Mitigation Strategy will be applicable to the States/Field Offices/Forests within the Zone's boundaries. Subsequently, the BLM [name of Field Office]/USFS [name of Forest]'s NEPA analyses for implementation-level decisions, which have the potential to impact greater sage-grouse, will include analysis of mitigation recommendations from the relevant WAFWA Management Zone Regional Mitigation Strategy(ies).

Implementation of the Regional Mitigation Strategy may involve managing compensatory mitigation funds, implementing compensatory mitigation projects, certifying mitigation/conservation banks, and reporting on the effectiveness of those projects. These types of mitigation implementation actions may be most effectively managed at the State-level, in collaboration with partners. BLM State Office/USFS

Region may find it most effective to enter into an agreement with a State-level program administrator (e.g. a NGO, a State-level entity) to help manage these aspects of mitigation. The BLM/USFS will remain responsible for making decisions that affect Federal lands.

The BLM's Regional Mitigation Manual MS-1794 serves as a framework for developing and implementing a Regional Mitigation Strategy. The Appendix [X] provides additional guidance specific to the development and implementation of a WAFWA Management Zone Regional Mitigation Strategy.