



# United States Department of the Interior



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## EMS TRANSMISSION

Instruction Memorandum: No. 2016-038  
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**To:** All Bureau of Land Management (BLM) Employees, Nevada

**From:** State Director

**Subject:** Direction for Reporting a Proposed Activity within Greater Sage-Grouse Habitat Management Areas; and Requesting a Disturbance Cap Variance and/or a No Surface Occupancy Stipulation Exception, as described in the Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment.

**Purpose:** This Instruction Memorandum (IM) provides direction to the Bureau of Land Management (BLM) Nevada Field Offices (FOs) and District Offices (DOs) on reporting proposed activities in Greater Sage-Grouse (*Centrocercus urophasianus*) (GRSG) habitat management areas. This direction will also outline the process for pursuing variances to the no surface occupancy (NSO) stipulation and the disturbance cap management protocols outlined in the Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (SGPA).

Notifying the BLM Nevada State Office (NVSO) of proposed activities in GRSG habitat management areas is required to assist with tracking the implementation and effectiveness of the SGPA.

**Policy/Action:** FOs/DOs must notify the Nevada State Office (NVSO) of all proposed activities that may require NEPA compliance on BLM managed lands within GRSG Habitat Management Areas, including Priority Habitat Management Areas (PHMA), Sagebrush Focal Areas (SFA) (a subset of PHMA), General Habitat Management Areas (GHMA), and Other Habitat Management Areas (OHMA). FOs/DOs are also required to notify the NVSO when they reject or deny a proposed activity due to non-conformance with the land use plan decisions of the SGPA.

FOs/DOs must notify the NVSO by submitting a completed *Form for Proposed Activities in Greater Sage-Grouse (GRSG) Habitat Management Areas* (hereafter referred to as the "GRSG form"). Along with the submission of the GRSG form, FOs/DOs must provide a PDF map of the

In order for the FO/DO to determine if the proposed activity is in conformance with the SGPA, the FO/DO will need to interpret the calculation at the project area and BSU scales. These disturbance calculations will also inform the NEPA analysis process for the proposed activity. Therefore, the FO/DO may need to submit multiple maps and shapefiles with their GRSG form to account for each alternative that contains modifications to the proposed activity's boundaries. This will allow the NVSO to run the disturbance cap calculation for all the alternatives at one time.

Completion of the GRSG form follows these sequential steps:

**Step 1:** Complete the header section (the six rows above SECTION I of the GRSG form).

**Step 2:** Complete SECTION I. Proposed Activity Information.

- **Part A:** Provide a brief description of the proposed activity.
- **Part B:** Check the appropriate habitat management area type(s) where the activity is proposed.

FOs/DOs will determine if a proposed activity occurs in a habitat management area using the SGPA GRSG habitat GIS data in ArcGIS. A GIS layer file for the habitat, titled "Sage-Grouse Management Categories - All Ownership.lyr XXXX.lyr", can be found in EGIS at

T:\ReferenceState\NV\CorporateData\wildlife\Sage Grouse\GRSG\FEIS.

- **Part C:** Document the results of the FO/DO's determination if the proposed activity is or is not in compliance with the SGPA.

If the answer to Part C is "no," the proposed activity is not in conformance with the SGPA and the proposed activity has been denied/rejected by the FO/DO, the FO/DO will need to list the applicable SGPA Management Decision(s) (found in Table 2-1 in the SGPA) that prohibited the proposed activity from moving forward. FOs/DOs can then skip to Section I, Part J of GRSG form.

If the proposed activity is a fluid mineral project (including geothermal activities) proposed in PHMA within the State of Nevada, the proponent or the BLM may request a variance to the No Surface Occupancy (NSO) stipulation, following the procedures outlined in SGPA, MD MR 3 and MD MR 4a. If a variance is requested, this should be noted in Part C and the Variance Request (SECTION II).

If the answer to Part C is "yes" and the proposed activity may contribute to habitat loss and degradation within PHMA – including SFA, complete the remainder of Part C and upload the shapefiles of the proposed activity into the EGIS NEPA Project Geodatabase located at:

T:\NV\GIS\_Reference\NV\_state\_data\_user.sde\ilmnvedt.ILMNVDDBO.NEPA

(Directions on uploading to the EGIS NEPA Project Geodatabase are provided in IM-NV-2011-030 NEPA Project Geodatabase.)



If compensatory mitigation is likely needed for the proposed activity, the FOs/DOs will identify potential mitigation mechanisms that will be analyzed in the alternatives of the NEPA document that would likely achieve a net conservation gain to the species in PHMA and GHMA (SGPA MD SSS 2b and MD SSS 3a). The proposed activity with potential associated compensatory mitigation mechanism (s), such as the State of Nevada Conservation Credit System (CCS), must result in an overall net conservation gain to GRSG. FOs/DOs will coordinate with the Sagebrush Ecosystem Technical Team (SETT) regarding use of the CCS when the BLM determines that a proposed activity will likely require compensatory mitigation. BLM will analyze the CCS mitigation recommendations in at least one alternative of the NEPA document. The specifics of the coordination are outlined in *Memorandum of Understanding Among the US DOI BLM, NVSO, USDA Forest Service, Humboldt-Toiyabe National Forest, Nevada Department of Conservation and Natural Resources Sagebrush Ecosystem Technical Team* (April 2016). Avoidance and minimization measures will be determined and analyzed through NEPA and should be incorporated into the proposed action and alternatives. Compensatory mitigation mechanisms will also be identified and analyzed in the Mitigation and Residual Effects section of the NEPA document.

For some proposed activities with associated habitat loss or degradation, a combination of on- and off-site mitigation will be employed to meet the net conservation gain standard. Minimization of disturbance that contributes to achieving a net conservation gain will be determined through NEPA. Compensatory mitigation actions also will be analyzed through NEPA—as specified in the MOU, at least one alternative will include the use of the CCS.

- Part H: Document the minimization efforts, including buffer distances, applied and considered by BLM and the proponent around leks for proposed activities that are defined as linear features, infrastructure related to energy development, tall and low structures, surface disturbance activities, and activities that may involve noise disruptions to GRSG. If the proposed activity does not apply the lek buffer distances (SGPA Appendix B), the FO/DO will need to provide a brief explanation that justifies the decrease or increase from these lek buffer distances, based on local data, best available science, landscape features, and/or other existing protections.
- Part I: State whether all general and applicable program-specific required design features (RDFs) (SGPA Appendix C) have been documented in the proposed activity's NEPA document. If the response to this question is "no" or "not applicable", the FO/DO is required to complete Attachment 2 (RDF Worksheets by Program Area) of this IM. The worksheet is intended to state the rationale as to why certain RDFs were not documented in the proposed activity's NEPA document. The completed attachment will be submitted with the completed GRSG form to the NVSO. A General RDF Worksheet should be completed for all proposed activities, in addition to any other RDF worksheets specific to the proposed activities' program area (i.e. Fluid Minerals).
- Part J: The authorizing official (DO/FO manager) will complete Part J, which verifies: 1) that the form is completed to the best of their knowledge; 2) that the PDF map of the proposed activity and the completed Attachment 2 - RDF Worksheet is attached to the form; and 3) that the proposed activity's GIS data has been uploaded to the GIS NEPA



**Step 7:** Email the FO/DO that the NVSO's processing of the GRSG Form is completed. At this time, the FO/DO can continue processing the proposed activity. If the NVSO has not responded within 10 business days from receipt of the email notifying the FO/DO that the GRSG form has been received, the FO/DO is encouraged to contact Kim Dow or Matthew Magaletti to request an update and expected date of notification.

**Timeframe:** This policy is effective immediately.

**Budget Impact:** The effect on the budget should be minimal as the additional documentation required tracks closely with what is required for compliance with BLM's planning requirements, NEPA analysis, and existing BLM sensitive species management.

**Background:** On September 21, 2015, the BLM signed the Record of Decision for the *Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (SGPA)*. Nevada BLM lands in the planning area are managed by five Nevada BLM district offices (Battle Mountain, Carson City, Elko, Ely, and Winnemucca). This land use plan amendment is the result of the March 2010 US Fish and Wildlife Service (USFWS) 12-Month Finding for Petitions to List the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered (75 *Federal Register* 13910, March 23, 2010). In that finding, the USFWS concluded that GRSG was "warranted, but precluded" for listing as a threatened or endangered species. The USFWS reviewed the status of and threats to the GRSG in relation to the five listing factors provided in Section 4(a)(1) of the ESA. Of the five listing factors reviewed, the USFWS determined that Factor A, "the present or threatened destruction, modification, or curtailment of the habitat or range of the GRSG," and Factor D, "the inadequacy of existing regulatory mechanisms," posed "a significant threat to the GRSG now and in the foreseeable future" (75 *Federal Register* 13910, March 23, 2010). The USFWS identified the principal regulatory mechanisms for the BLM and Forest Service as conservation measures in Land Use Plans. The SGPA identifies and incorporates appropriate conservation measures to conserve, enhance, and restore GRSG habitat by reducing, minimizing, or eliminating threats to that habitat. Changes in land allocations and conservation measures in the SGPA provide a means to implement regulatory mechanisms to address the inadequacy identified by the USFWS. In October 2015 the USFWS released a subsequent 12-Month Finding on a Petition To List Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered (80 *Federal Register* 59858, October 2, 2015) which concluded that listing was not warranted as threats were ameliorated by conservation efforts implemented by federal, state, and private landowners, including specific reference to the regulatory mechanisms provided by the BLM land use plan amendments including the SGPA.

The GRSG SGPA created three habitat classifications: Priority Habitat Management Areas (PHMA) including Sagebrush Focal Areas (SFAs), General Habitat Management Areas (GHMA), and Other Habitat Management Areas (OHMA). PHMAs are lands identified to be managed as having the highest value to maintaining sustainable GRSG populations. GHMAs are lands identified requiring special management to sustain GRSG populations. OHMAs are lands that contain seasonal or connectivity habitat areas (SGPA Executive Summary page ES-4) that are not considered to be PHMA or GHMA, but where GRSG use has been observed or suspected (see SGPA page 1-4 through 1-6).

The GRSG SGPA provides a layered management approach. Protective land use allocations limit or eliminate new surface disturbance in PHMA, while minimizing disturbance in GHMAs. For disturbance not excluded or closed, screening criteria and a suite of management tools, such as