Treatment of Anthro. Disturbances Resulting from Land Use Allocation Exceptions within the CCS

Sagebrush Ecosystem Council Meeting

May 18th, 2018

Objective

- To determine if otherwise unallocated projects with direct, indirect, or cumulative impacts to GRSG habitat should be treated differently within the CCS when exceptions by Federal Land Management Agencies authorize them to move forward.

Background

- Land uses not allocated in GHMA or PHMA may be authorized by Federal Land Management Agencies through exceptions.
- The State Plan:
  - Lacks “exceptions” but features a robust “Avoid” process to gain an exemption in Section 3.1.2 Conservation Policies – “Avoid, Minimize, Mitigate”, but this has yet to be implemented.
  - Despite this strong platform for avoidance to be granted an exemption within the State Plan, it did not feature exclusion areas or land use allocations.
  - Instead, it implies that when the avoidance and exemption process is implemented & mitigation is conducted through the CCS, exclusion areas are not necessary.

Table 3-1. The Avoid Process for Proposed Anthropogenic Disturbances within the Service Area

Anthropogenic disturbances should be avoided in habitats within the Service Area. If project proponents wish to demonstrate that a disturbance cannot be avoided, exemptions will be granted if the criteria listed in the table can be met for the applicable management category.

Priority Habitat Management Areas (PHMA, "best of the best")	General Habitat Management Areas (GHMA)	Other Habitat Management Areas (OHMA)	Non-Habitat Areas
• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location, or that locating the project elsewhere is not technically or economically feasible; • Demonstrate that the individual and cumulative impacts of the project would not result in habitat fragmentation or other impacts that would cause sage-grouse populations to decline through consultation with the SETT; • Demonstrate that sage-grouse population trends within the PMU are stable or increasing over a ten-year rolling average; • Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible; • Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and, • Mitigate unavoidable impacts through compensatory mitigation via the Conservation Credit System. Mitigation rates will be higher for disturbances within this category.	• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location, or that locating the project elsewhere is not technically or economically feasible; • Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible. If co-location is not possible, siting should reduce individual and cumulative impact to sage-grouse and their habitat; • Demonstrate that the project should not result in unnecessary and undue habitat fragmentation that may cause decline in sage-grouse populations within the PMU through consultation with the SETT; • Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and, • Mitigate unavoidable impacts through compensatory mitigation via the Conservation Credit System.	• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location, or that locating the project elsewhere is not technically or economically feasible; • Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible; • Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and, • Mitigate unavoidable impacts through compensatory mitigation via the Conservation Credit System.	• Demonstrate that the project will not have indirect impacts to sage-grouse and their habitats. If it cannot be demonstrated, the project proponent will be required to develop Site Specific Consultation Based Design Features to minimize impacts and compensatory mitigation will be required.

Background

- Certain land uses not allocated by the BLM within GHMA or PHMA due to reduced site dependence and the ability to avoid in most cases.

Table 2-1
(from Draft Amendment)

Comparative Summary of Alternatives		No Action Alternative	Management Alignment, Preferred Alternative*
Comparative Summary of Habitat Management Areas (Acres)			
Priority Habitat Management Area (PHMA) (see Figures 2-1a and 2-1b)		9,309,800 acres (2,797,400 portion of PHMA that is designated as SFA)	9,265,800 acres
General Habitat Management Area (GHMA) (see Figures 2-1a and 2-1b)		5,720,700 acres	5,748,000 acres
Other Habitat Management Area (OHMA) (see Figures 2-1a and 2-1b)		5,876,500 acres	4,868,900 acres
Comparative Summary of Land Use Plan Allocations			
Land Tenure (see Figures 2-12a and 2-12b)	Retain	PHMA, GHMA, OHMA	PHMA, GHMA, OHMA
	Dispose	OHMA	OHMA
Solar (see Figures 2-9a and 2-9b)	Open	-	-
	Avoidance	-	-
	Exclusion	PHMA, GHMA, OHMA	PHMA, GHMA, OHMA
Wind (see Figures 2-8a and 2-8b)	Open	OHMA	OHMA
	Avoidance	GHMA	GHMA
	Exclusion	PHMA	PHMA
Minor ROWs (see Figures 2-11a and 2-11b)	Open	OHMA, GHMA	OHMA, GHMA
	Avoidance	PHMA	PHMA
	Exclusion	-	-
Major ROWs (see Figures 2-10a and 2-10b)	Open	OHMA	OHMA
	Avoidance	PHMA, GHMA	PHMA, GHMA
	Exclusion	-	-
Fluid Minerals (Oil, Gas, and Geothermal) (see Figures 2-4a and 2-4b)	Open with Standard Stipulations	OHMA	OHMA
	Open with Minor Stipulations	GHMA	GHMA
	Open with Major Stipulations	PHMA	PHMA
Locatable Minerals (see Figures 2-5a and 2-5b)	Open	PHMA, GHMA, OHMA	PHMA, GHMA, OHMA
	Recommended for Withdrawal	Portion of PHMA that is SFA is Recommend for Withdrawal	-
Salable Minerals (see Figures 2-6a and 2-6b)	Open	GHMA, OHMA	GHMA, OHMA
	Closed	PHMA	PHMA
Non-Energy Leasable Minerals (see Figures 2-7a and 2-7b)	Open	GHMA, OHMA	GHMA, OHMA
	Closed	PHMA	PHMA
Comprehensive Travel Management (see Figures 2-13a and 2-13b)	Open	OHMA	OHMA
	Limited	PHMA, GHMA	PHMA, GHMA
	Closed	-	-
Livestock Grazing (see Figure 2-3a and 2-3b)	Available	PHMA, GHMA, OHMA	PHMA, GHMA, OHMA
	Not Available	-	-

Background

The BLM language on exceptions to land use allocations in the draft amendment on p. 2-11 to 2-13 follows:

*"In PHMA and GHMA, the State Director may grant an exception to the land use plan allocations and stipulations described in Section 2-5 if **one** of the following applies (in coordination with NDOW, SETT, and/or CDFW):*

***i.** The location of the proposed authorization is determined to be unsuitable (by a qualified biologist with GRSG experience using methods based on Stiver et al 2015); lacks the ecological potential to become marginal or suitable habitat; and would not result in direct, indirect, or cumulative impacts on GRSG and its habitat. Management allocation decisions would not apply to those areas determined to be unsuitable because the area lacks the ecological potential to become marginal or suitable habitat;*

***ii.** Impacts from the proposed action could be offset through use of the mitigation hierarchy (avoid, minimize, mitigate) to achieve a net conservation gain and demonstrate that the individual and cumulative impacts of the project would not result in habitat fragmentation or other impacts that would cause GRSG populations to decline.*

Background

The BLM language on exceptions to land use allocations in the draft amendment on p. 2-11 to 2-13 follows:

*"In PHMA and GHMA, the State Director may grant an exception to the land use plan allocations and stipulations described in Section 2-5 if **one** of the following applies (in coordination with NDOW, SETT, and/or CDFW):*

***iii.** The proposed action would be authorized to address public health and safety concerns, specifically as they relate to local, state, and national priorities.*

***iv.** Renewals or re-authorizations of existing infrastructure in previously disturbed sites or expansions of existing infrastructure that have de minimis impacts or do not result in direct, indirect, or cumulative impacts on GRSG and its habitat.*

Background

The BLM language on exceptions to land use allocations in the draft amendment on p. 2-11 to 2-13 follows:

*"In PHMA and GHMA, the State Director may grant an exception to the land use plan allocations and stipulations described in Section 2-5 if **one** of the following applies (in coordination with NDOW, SETT, and/or CDFW):*

***v.** The proposed action would be determined a routine administrative function conducted by State or local governments, including prior existing uses, authorized uses, valid existing rights and existing infrastructure (i.e. rights-of-way for roads) that serve such a public purpose.*

***vi.** Exceptions to lands that are identified for retention in Figure 2-12b would be considered for disposal or exchange if they were identified for disposal through previous planning efforts, either as part of the due process of carrying out Congressional Acts (e.g., the respective Lincoln and White Pine County Conservation, Recreation, and Development Acts) and the agency can demonstrate that the disposal, including land exchanges, would have no direct or indirect **adverse** impact on conservation of the GRSG or can achieve a net conservation gain through the use of compensatory mitigation."*

Discussion

- These land uses that were not allocated tend to lack valid existing rights, and as we understand, mitigation can be required when actions impact GRSG habitat.
- Although many actions likely to impact GRSG habitat were allocated for authorization on BLM and USFS lands, certain land uses were to be closed, excluded, or avoided within GHMA or PHMA. However, the exceptions process drafted by the BLM can potentially allow any project to move forward, provided that mitigation is accomplished when GRSG habitat is likely to be impacted.
- State agency personnel recently met and a discussion developed about the potential need for further deterrence based on the avoidable and less site dependent nature of actions that were not allocated. This may be necessary to ensure they are appropriately avoided at a level equivalent with the intent of the exemptions process within the State Plan.

Discussion

One Option:

- 0.1 increase in the debit site management importance factor being applied on impacts from exceptions to PHMA or GHMA.

Category	Current Factor Value
PHMA	1.25
GHMA	1.15

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Category	Recommended Factor Value
PHMA	1.35
GHMA	1.25

Rationale

- Support additional avoidance, deterrence, and co-location through higher debit results.
- Projects that ultimately move forward would generate greater conservation gain.
- This change may also be viewed as a greater regulatory assurance in future listing decisions. If a policy were to be adopted, it should be considered for implementation regardless of which exceptions process is used by federal land management agencies.

Discussion

- <u>If additional policy were to be adopted, similar language could be added to the State Plan in Section 3.1.2 Conservation Policies – "Avoid, Minimize, Mitigate":</u>

  When the BLM or USFS grant an exception to land use allocations that are generally to be avoided, excluded, or closed that lead to anthropogenic disturbances in GRSG habitat, the Habitat Quantification Tool (HQT) will be used to assess the impacts of actions considered anthropogenic disturbances in the CCS. Routine maintenance will often be considered de minimus within the CCS, but at the least reviewed in consultation with the SETT. Local government projects related to public safety, emergencies, and projects mandated by a regulatory authority may also be deemed as de minimus activities. Federal land use allocations planned for exclusion or avoidance that are authorized through an exceptions process will be calculated with a 0.1 increase in the debit site management importance factor applied to PHMA or GHMA...

Discussion

- If new policy is adopted by the SEC, other significant changes are likely necessary in this section (3.1.2) of the State Plan and may be necessary regardless. As stated, some of the existing policies discussed in this section of the State Plan have yet to be fully implemented as outlined.

Discussion

If new policy is adopted, the following are examples of changes that could be added to the CCS Manual in Section 2.2.2 Mitigation and Proximity Ratios:

Modifications to Debit Site Management Importance Factors

When the BLM or USFS grant an exception to land use allocations that are generally to be avoided, excluded, or closed that lead to anthropogenic disturbances and impacts to GRSG habitat, impacts will be assessed and quantified with a 0.1 increase in the debit site management importance factor applied on impacts to PHMA and GHMA.

Table 7: Modified Debit Site Management Importance Factor Values
When Exceptions to Land Use Allocations are Granted by Federal Agencies

Category	Factor Value
PHMA	1.35
GHMA	1.25

The language and table will be added to Section 2.2.2 of the CCS Manual under the existing table shown below (current mitigation factor values).

Debit Site Management Importance Factor Values

Category	Factor Value
PHMA	1.25
GHMA	1.15
OHMA	1.05