

# CLARIFICATION OF POLICY CONCERNING MITIGATION FOR PERMITTED ACTIVITIES PRIOR TO DECEMBER 07, 2018 THAT REQUIRE AN EXTENDED TERM

## Finding

Under NRS 232.400-232.480, project proponents moving forward with National Environmental Policy Act (NEPA) planning for implementation of anthropogenic disturbances within the vicinity of greater sage-grouse habitat on or after December 7, 2018, are required to work with the SETT to assess potential mitigation and mitigate if necessary.

However, intent on how the Program should handle disturbances that were authorized prior to that date, but whose authorized terms have expired and require a renewal action by the authorizing agency requires clarification. These projects may encompass rights of ways (permanent or of varying lengths), easements, etc. These authorized activities are numerous and would be difficult to track, analyze effectively, and apply mitigation to consistently. Examples may include: a powerline requiring a renewal of a right of way or a state route that is authorized through a permanent easement, but still requires periodic review.

## Improvement Recommendation

### Specific Improvement Recommendation

For the sake of clarity, the SETT recommends adding the following in green within the Manual under 2.5.2 Debit Project Types:

- An activity or project which was approved by all relevant federal agencies and state agencies before December 7, 2018, so long as the activity or project maintains compliance with any condition or requirement for any such approval.
  - Authorized projects/activities that were approved prior to December 7, 2018, will not be required to mitigate if the renewal is exclusive to an extension of the term.
  - Should the project/activity require NEPA to alter the authorized project, project boundary, or propose new activity or disturbance, the project proponent may be subject to mitigation for those proposed activities.

### Rationale Supporting Recommendation Details

#### Practicality and Applicability

The number of projects that require renewals is likely to be high with potentially limited administrative effort spent on tracking or pursuing NEPA authorization by the federal land management agencies. Some project proponents may be subject to a NEPA decision for renewals, while others may not, which creates challenges in the SETT's ability to apply mitigation consistently to projects exclusively requiring an extension of their authorized term.

1 This improvement provides further clarification on the intent within the regulation for existing  
2 projects and mitigation requirements.

3 For clarification, projects authorized on or prior to December 7, 2018 that need additional NEPA  
4 authorization for any expansion, modification, or new proposed disturbance (even if associated  
5 with a ROW renewal) would be required to work with the SETT to determine whether  
6 mitigation is necessary for the newly authorized activity. NEPA authorizations include all  
7 issued decisions associated with Environmental Impact Statements, Environmental  
8 Assessments, Determination of NEPA Adequacy, and Categorical Exclusions. This policy has  
9 remained consistent and unchanged.  
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### 11 References

12 Sagebrush Ecosystem Program. Conservation Credit System Manual. Version 1.6.21. State of Nevada:  
13 Carson City, Nevada. 2021.  
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