

APPENDIX L—MINERAL LEASING SURFACE USE STIPULATIONS

MINERAL LEASING SURFACE USE STIPULATIONS

Apply only to mineral leasing.

Definitions:

No Surface Occupancy (NSO) = Closed to placement of surface facilities or any surface disturbing activity

Controlled Surface Use (CSU) = Activity is only subject to restraints specified in the stipulation description

Timing Limitation (TL) = Activity is subject to restraints during the time period specified in the stipulation description (i.e., seasonal).

Exception = One-time exemption

Modification = Change to the language or provisions

Waiver = Permanent exemption

Stipulation	Protected Resource	Acres	Description
NSO-1	ACEC, WSA, Wild and Scenic Rivers	29,669	<p><i>Stipulation:</i> Surface occupancy is prohibited within all ACECs to protect natural processes and historic, cultural, scenic, fisheries, and wildlife resources; or to protect the public from natural hazards; and within WSAs to protect wilderness characteristics; and within 0.25-mile of river segments identified as suitable for inclusion in the NWSRS to protect Outstandingly Remarkable Values.</p> <p><i>Exception:</i> The authorized officer may grant an exception if an environmental analysis of a proposed action reveals that these values would not be impacted, or that impacts could be adequately mitigated to protect the resource values identified for the designation.</p> <p><i>Modification:</i> The boundaries of the stipulated area may be modified if the ACEC or suitable river corridor boundaries are modified.</p> <p><i>Waiver:</i> The stipulation may be waived if the ACEC designation is lifted, or a WSA is released by Congress for multiple uses.</p>
NSO-2	Fisheries, Special Status Fish, Aquatic Species, Riparian and Wetland Vegetation	16,303	<p><i>Stipulation:</i> Surface occupancy is prohibited within:</p> <ul style="list-style-type: none"> • 300 feet of fish-bearing streams • 150 feet of permanently flowing non-fish bearing streams • 150 feet of ponds, lakes, reservoirs, and wetlands greater than one acre • 100 feet of intermittent streams, landslide prone areas, and wetlands less than one acre <p>Surface occupancy is prohibited when implementation of the proposed action would result in a “may affect” determination for listed species and/or “may impact” determination for BLM sensitive species.</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species and/or for proposed or designated critical habitat. The authorized officer</p>

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			<p>may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “no effect” or “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. RCAs may change based on site specific Watershed Analysis, and appropriate inventory, monitoring and scientific research. If needed, re-initiation of consultation will also take place with National Marine Fisheries Service and USFWS.</p> <p><i>Waiver:</i> None.</p>
NSO-3	Wildlife, Special Status Species and Habitats	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited when implementation of the proposed action would result in a “may affect” determination for listed species and/or “may impact” determination for BLM sensitive species. These areas are determined at the project level for site specific areas.</p> <p>Surface occupancy is prohibited within one mile of critical habitat niches for listed species (i.e., nest site, den site).</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, the determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species and for proposed or designated critical habitat. The authorized officer may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. As needed, supporting rationale would include updated inventory, monitoring, and scientific research. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p><i>Waiver:</i> None.</p>

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			<p>may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “no effect” or “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. RCAs may change based on site specific Watershed Analysis, and appropriate inventory, monitoring and scientific research. If needed, re-initiation of consultation will also take place with National Marine Fisheries Service and USFWS.</p> <p><i>Waiver:</i> None.</p>
NSO-3	Wildlife, Special Status Species and Habitats	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited when implementation of the proposed action would result in a “may affect” determination for listed species and/or “may impact” determination for BLM sensitive species. These areas are determined at the project level for site specific areas.</p> <p>Surface occupancy is prohibited within one mile of critical habitat niches for listed species (i.e., nest site, den site).</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, the determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species and for proposed or designated critical habitat. The authorized officer may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. As needed, supporting rationale would include updated inventory, monitoring, and scientific research. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p><i>Waiver:</i> None.</p>

Stipulation	Protected Resource	Acres	Description
NSO-4	Special Status Plant Species and rare plant communities	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited when implementation of the proposed action would result in a “may affect” determination for listed species and/or “may impact” determination for BLM sensitive species. These areas are determined at the project level for site specific areas.</p> <p>Surface occupancy is prohibited within the population perimeter of listed and BLM sensitive plant populations.</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, the determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species and for proposed or designated critical habitat. The authorized officer may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. As needed, supporting rationale would include updated inventory, monitoring, and scientific research. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p><i>Waiver:</i> None.</p>
NSO-5	Raptor Nests	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited within a quarter mile of identified nests. These areas are determined at the project level for site specific areas.</p> <p><i>Exception:</i> The authorized officer may grant an exception if concurrence is obtained from USFWS (through applicable provisions of the Endangered Species Act, Eagle Protection Act, or Migratory Bird Treaty Act), to interrupt active nesting attempts and/or cause short or long term adverse modification of suitable nest site characteristics. An exception may also be granted by the authorized officer if environmental analysis of a proposed action reveals that it would not impair the function or utility of the nest site for current or subsequent nest activities or occupancy.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of</p>

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NSO-4	Special Status Plant Species and rare plant communities	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited when implementation of the proposed action would result in a “may affect” determination for listed species and/or “may impact” determination for BLM sensitive species. These areas are determined at the project level for site specific areas.</p> <p>Surface occupancy is prohibited within the population perimeter of listed and BLM sensitive plant populations.</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, the determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species and for proposed or designated critical habitat. The authorized officer may also grant an exception if a Biological Evaluation or environmental assessment concludes a determination of “may impact individuals or habitat, but will not likely lead to a trend toward federal listing or cause a loss of viability of the population or species” for BLM sensitive species. The appropriate coordination and consultation will take place with USFWS.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment, Biological Evaluation, and environmental assessment. As needed, supporting rationale would include updated inventory, monitoring, and scientific research. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p><i>Waiver:</i> None.</p>
NSO-5	Raptor Nests	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited within a quarter mile of identified nests. These areas are determined at the project level for site specific areas.</p> <p><i>Exception:</i> The authorized officer may grant an exception if concurrence is obtained from USFWS (through applicable provisions of the Endangered Species Act, Eagle Protection Act, or Migratory Bird Treaty Act), to interrupt active nesting attempts and/or cause short or long term adverse modification of suitable nest site characteristics. An exception may also be granted by the authorized officer if environmental analysis of a proposed action reveals that it would not impair the function or utility of the nest site for current or subsequent nest activities or occupancy.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of</p>

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			<p>appropriate Biological Assessment, Biological Evaluation, and environmental assessment. As needed, supporting rationale would include updated inventory, monitoring, and scientific research. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p>The area of application of the NSO may be modified pending determination that a portion of the NSO area is not essential to nest site functions or utility; or that the nature or conduct of the activity, as proposed or conditioned, would not impair the function or utility of the nest site for current or subsequent nest activities or occupancy. The stipulation may also be modified if the proponent, BLM, and where necessary, other affected interests, negotiate compensation that satisfactorily offsets anticipated impacts on raptor breeding activities and/or habitats. Modifications could also occur if sufficient information is provided that supports the contention that the action would not contribute to the suppression of breeding population densities or the population's production or recruitment regime from a Geographic Reference Area perspective. If a species status is downgraded, or delisted, the NSO buffer area may be modified to an appropriate level.</p> <p><i>Waiver:</i> A waiver may be granted if the site conditions change or the nest site has not been occupied for a minimum of two years.</p>
NSO-6	Cultural Resources	TBD*	<p><i>Stipulation:</i> Surface occupancy is prohibited within areas of cultural or spiritual value to Native American Tribes. These areas are determined at the project level for site specific areas.</p> <p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis and tribal consultation on a proposed action reveals that these values would not be impacted, or that impacts could be adequately mitigated.</p> <p><i>Modification:</i> Through tribal consultation, the boundaries of these areas may be changed.</p> <p><i>Waiver:</i> This stipulation may be waived with written approval from the concerned Native American Tribal Council.</p>
NSO-7	Public—from Hazardous Materials	20	<p><i>Stipulation:</i> No surface occupancy will be allowed in areas where hazardous materials are known to exist.</p> <p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis of a proposed</p>

Stipulation	Protected Resource	Acres	Description
			<p>action reveals that it would not further expose the public or the environment to hazardous materials.</p> <p><i>Modification:</i> The area of application for this stipulation may change based on discovery or removal of hazardous materials.</p> <p><i>Waiver:</i> This stipulation will be waived if all hazardous materials are removed from the area.</p>
NSO-8	Developed Recreation Sites, Administrative Sites	537	<p><i>Stipulation:</i> No surface occupancy will be allowed within the vicinity of developed recreation sites or sites used for agency administrative purposes.</p> <p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis of a proposed action reveals that it would not adversely impact the use of the site.</p> <p><i>Modification:</i> The area of application for this stipulation may change based on future site development.</p> <p><i>Waiver:</i> This stipulation will be waived if the site is no longer used for recreational or administrative purposes.</p>
NSO-9	VRM Class I	31	<p><i>Stipulation:</i> No surface occupancy will be allowed within areas designated VRM Class I.</p> <p><i>Exception:</i> The authorized officer may grant an exception if an environmental analysis of a proposed action reveals that these values would not be impacted, or that impacts could be adequately mitigated to protect the resource values identified for the designation.</p> <p><i>Modification:</i> None</p> <p><i>Waiver:</i> This stipulation may be waived if the authorized officer determines that there is no longer VRM Class I within the area of application.</p>
CSU-1	VRM Class II	38,938	<p><i>Stipulation:</i> All surface-disturbing activities, semi-permanent and permanent facilities in VRM class II areas may require special design including location, painting, and camouflage to blend with the natural surroundings and meet the visual quality objectives of the area.</p>

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			<p><i>Exception:</i> None.</p> <p><i>Modification:</i> None.</p> <p><i>Waiver:</i> This stipulation may be waived if the authorized officer determines that there is no longer VRM Class II within the area of application.</p>
CSU-3	SRMAs, Wild and Scenic River (Scenic, Recreational designation) SRMA with plans only and streams with designation 0.25-mile buffer.	23,404	<p><i>Stipulation:</i> No surface-disturbing activities semi-permanent and permanent facilities will be authorized which may adversely impact the use of these areas for recreation purposes.</p> <p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis indicates that a proposed action would not adversely impact recreational use.</p> <p><i>Modification:</i> None.</p> <p><i>Waiver:</i> None.</p>
TL-1	Deer and Elk Winter Range	TBD*	<p><i>Stipulation:</i> No construction or development activities will be allowed within important deer or elk winter range between December 15 and March 31. These areas will be determined at the project level for site specific areas.</p> <p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis indicates that a proposed action would not adversely impact use of this habitat.</p> <p><i>Modification:</i> Area of application for this stipulation may change based on monitoring and scientific research.</p> <p><i>Waiver:</i> None</p>
TL-2	Deer and Elk Fawning and Calving Areas	TBD*	<p><i>Stipulation:</i> No construction or development activities will be allowed within key deer or elk fawning or calving areas between May 15 and June 15. These areas will be determined at the project level for site specific areas.</p>

Stipulation	Protected Resource	Acres	Description
			<p><i>Exception:</i> The authorized officer may grant an exception if environmental analysis indicates that a proposed action would not adversely impact fawning or calving.</p> <p><i>Modification:</i> Area of application for this stipulation may change based on monitoring and scientific research.</p> <p><i>Waiver:</i> None</p>
TL-3	Bald Eagle Winter Feeding Area	TBD*	<p><i>Stipulation:</i> No ground-disturbing activity is allowed within winter feeding areas between November 1 and March 1. These areas will be determined at the project level for site specific areas.</p> <p><i>Exception:</i> The authorized officer may grant an exception if though Section 7 consultation (Endangered Species Act) and preparation of a Biological Assessment, the determination concludes that the proposed action has a determination of “may affect—not likely to adversely affect” for federally listed species.</p> <p>An exception may be granted by the authorized officer if concurrence is obtained from USFWS (through applicable provisions of the Endangered Species Act, Eagle Protection Act, or Migratory Bird Treaty Act), to interrupt feeding activities and/or cause short or long term adverse modification of suitable roost site characteristics. The Field Manger may also grant an exception if an environmental analysis (Biological Assessment and environmental assessment.) indicates that the nature or conduct of the action, as proposed or conditioned, would not impair the function or utility of the site for current or subsequent feeding activities.</p> <p><i>Modification:</i> As needed, the area of application may be modified based on preparation of appropriate Biological Assessment and environmental assessment. If warranted, re-initiation of consultation will also take place with USFWS.</p> <p><i>Waiver:</i> The stipulation may be waived if the area is not used for winter range in the future. This applies to areas adjacent to mainstem rivers and other large water bodies.</p>
Total NSO		46,561	Total NSO
Total CSU		62,342	Total CSU

Stipulation	Protected Resource	Acres	Description
Total TL		TBD*	

*TBD = To be determined upon project-specific application of the stipulation.