
Appendix E

Mitigation

APPENDIX E

MITIGATION

GENERAL

In undertaking BLM management actions, and, consistent with valid existing rights and applicable law, in authorizing third party actions that result in habitat loss and degradation, the BLM will require and ensure mitigation that provides a net conservation gain to the species including accounting for any uncertainty associated with the effectiveness of such mitigation. This will be achieved by avoiding, minimizing, and compensating for impacts by applying beneficial mitigation actions. Mitigation 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. If impacts from BLM management actions and authorized third party actions that result in habitat loss and degradation remain after applying avoidance and minimization measures (i.e. residual impacts), then compensatory mitigation projects will be used to provide a net conservation gain to the species. Any compensatory mitigation will be durable, timely, and in addition to that which would have resulted without the compensatory mitigation (see glossary).

The BLM, via the WAFWA Management Zone Greater Sage-Grouse Conservation Team, will develop a WAFWA Management Zone Regional Mitigation Strategy that will inform the NEPA decision making process including the application of the mitigation hierarchy for BLM management actions and third party actions that result in habitat loss and degradation. A robust and transparent Regional Mitigation Strategy will contribute to greater sage-grouse habitat conservation by reducing, eliminating, or minimizing threats and compensating for residual impacts to greater sage-grouse and its habitat.

The BLM's Regional Mitigation Manual MS-1794 serves as a framework for developing and implementing a Regional Mitigation Strategy. The following sections provide additional guidance specific to the development and implementation of a WAFWA Management Zone Regional Mitigation Strategy.

DEVELOPING A WAFWA MANAGEMENT ZONE REGIONAL MITIGATION STRATEGY

The BLM, 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 for BLM management actions and third party actions that result in habitat loss and degradation. The Strategy should consider any State-level greater sage-grouse mitigation guidance that is consistent with the requirements identified in this Appendix. The Regional Mitigation Strategy should be developed in a transparent manner, based on the best science available and standardized metrics.

As described in Chapter 2, the BLM will establish a WAFWA Management Zone Greater Sage-Grouse Conservation Team (hereafter, Team) to help guide the conservation of greater sage-grouse, within 90 days of the issuance of the Record of Decision. The Strategy will be developed within one year of the issuance of the Record of Decision. BLM Oregon will ensure that coordination within with ODFW, USFWS, NRCS, and local government occurs through participation in the State of Oregon's consistency review or similar process. This will occur prior to participation at the Team level to facilitate a coordinated proposal from Oregon to the Team.

The Regional Mitigation Strategy should include mitigation guidance on avoidance, minimization, and compensation, as follows:

- Avoidance
 - Include avoidance areas (e.g. right-of-way avoidance/exclusion areas, no surface occupancy areas) already included in laws, regulations, policies, and/or land use plans (e.g. Resource Management Plans or State Plans); and,
 - Include any potential, additional avoidance actions (e.g. additional avoidance best management practices) with regard to greater sage-grouse conservation.
- Minimization
 - Include minimization actions (e.g. required design features, best management practices) already included in laws, regulations, policies, land use plans, and/or land-use authorizations; and,
 - Include any potential, additional minimization actions (e.g. additional minimization best management practices) with regard to greater sage-grouse conservation.

- Compensation
 - Include discussion of impact/project valuation, compensatory mitigation options, siting, compensatory project types and costs, monitoring, reporting, and program administration. Each of these topics is discussed in more detail below.
 - Residual Impact and Compensatory Mitigation Project Valuation Guidance
 - A common standardized method should be identified for estimating the value of the residual impacts and value of the compensatory mitigation projects, including accounting for any uncertainty associated with the effectiveness of the projects.
 - This method should consider the quality of habitat, scarcity of the habitat, and the size of the impact/project.
 - For compensatory mitigation projects, consideration of durability (see glossary), timeliness (see glossary), and the potential for failure (e.g. uncertainty associated with effectiveness) may require an upward adjustment of the valuation.
 - The resultant compensatory mitigation project will, after application of the above guidance, result in proactive conservation measures for Greater Sage-grouse (consistent with BLM Manual 6840 – Special Status Species Management, section .02).
 - Compensatory Mitigation Options
 - Options for implementing compensatory mitigation should be identified, such as:
 - Utilizing certified mitigation/conservation bank or credit exchanges.
 - Contributing to an existing mitigation/conservation fund.
 - Authorized-user conducted mitigation projects.
 - For any compensatory mitigation project, the investment must be additional (i.e. additionality: the conservation benefits of compensatory

mitigation are demonstrably new and would not have resulted without the compensatory mitigation project).

- Compensatory Mitigation Siting
 - Sites should be in areas that have the potential to yield a net conservation gain to the greater sage-grouse, regardless of land ownership.
 - Sites should be durable (see glossary).
 - Sites identified by existing plans and strategies (e.g. fire restoration plans, invasive species strategies, healthy land focal areas) should be considered, if those sites have the potential to yield a net conservation gain to greater sage-grouse and are durable.
- Compensatory Mitigation Project Types and Costs
 - Project types should be identified that help reduce threats to greater sage-grouse (e.g. protection, conservation, and restoration projects).
 - Each project type should have a goal and measurable objectives.
 - Each project type should have associated monitoring and maintenance requirements, for the duration of the impact.
 - To inform contributions to a mitigation/conservation fund, expected costs for these project types (and their monitoring and maintenance), within the WAFWA Management Zone, should be identified.
- Compensatory Mitigation Compliance and Monitoring
 - Mitigation projects should be inspected to ensure they are implemented as designed, and if not, there should be methods to enforce compliance.
 - Mitigation projects should be monitored to ensure that the goals and objectives are met and that the benefits are effective for the duration of the impact.

- Compensatory Mitigation Reporting
 - Standardized, transparent, scalable, and scientifically-defensible reporting requirements should be identified for mitigation projects.
 - Reports should be compiled, summarized, and reviewed in the WAFWA Management Zone in order to determine if greater sage-grouse conservation has been achieved and/or to support adaptive management recommendations.
- Compensatory Mitigation Program Implementation Guidelines
 - Guidelines for implementing the State-level compensatory mitigation program should include holding and applying compensatory mitigation funds, operating a transparent and credible accounting system, certifying mitigation credits, and managing reporting requirements.

INCORPORATING THE REGIONAL MITIGATION STRATEGY INTO NEPA ANALYSES

The BLM will include the avoidance, minimization, and compensatory recommendations from the Regional Mitigation Strategy in one or more of the NEPA analysis' alternatives for BLM management actions and third party actions that result in habitat loss and degradation and the appropriate mitigation actions will be carried forward into the decision.

IMPLEMENTING A COMPENSATORY MITIGATION PROGRAM

The BLM needs to ensure that compensatory mitigation is strategically implemented to provide a net conservation gain to the species, as identified in the Regional Mitigation Strategy. In order to align with existing compensatory mitigation efforts, this compensatory mitigation program will be managed at a State-level (as opposed to a WAFWA Management Zone or a Field Office), in collaboration with our partners (e.g. Federal, Tribal, and State agencies).

To ensure transparent and effective management of the compensatory mitigation funds, the BLM will enter into a contract or agreement with a third-party to help manage the State-level compensatory mitigation funds, within one year of the issuance of the Record of Decision. The selection of the third-party compensatory mitigation administrator will conform to all relevant laws, regulations, and policies. The BLM will remain responsible for making decisions that affect Federal lands.

OREGON SUB-REGION MITIGATION PROCEDURES

Introduction

The steps below identify a sequential screening process for review of proposed anthropogenic activities. This process applies to all BLM authorizations including those proposed by applicants, as well as BLM originated proposals. The goal of the process is to provide a consistent approach regardless of the administrative location of the project and to ensure that authorization of these projects will not contribute to the decline of GRSG.

Step 1

For applicant proposals: the screening process is initiated upon formal submittal of a proposal for authorization for use of BLM-administered lands. The actual documentation would include, at a minimum, a description of the location, size of the project, and timing of the disturbance and would be consistent with existing protocol and procedures for the specific type of use. BLM anticipates that third parties (e.g. rural electric cooperatives) would be submitting the proposals.

For BLM proposals: the screening process would be incorporated into the NEPA analysis for the proposal.

Step 2

Evaluate whether the proposal could be allowed as prescribed in the applicable RMP. For example, certain activities are prohibited in PHMA such as wind or solar energy development. If the proposal is an activity that is specifically prohibited, inform the submitter that the proposal is rejected since it is not consistent with the applicable RMP, regardless of the project design.

In addition to consistency with program allocations, the GRSG RMP amendment identifies a limit on the amount of new discretionary disturbance that is allowed within an Oregon Priority Area for Conservation (Oregon PAC). If current disturbance within the affected unit exceeds this threshold, the project would be deferred until the amount of disturbance within the area has been reduced to the identified level. Similarly, if a population or habitat adaptive management trigger is reached; the proposed project may be deferred.

Step 3

Determine if the project would have a direct or indirect impact on population or habitat (regardless of ownership). This can be done by:

1. Reviewing habitat maps.
2. Reviewing the Summary of science, activities, programs, and policies that influence the rangewide conservation of Greater Sage-Grouse (Manier, 2013) which identifies the area of direct and indirect effects for various anthropogenic activities.

3. Consultation with, USFWS, or State Agency wildlife biologist.
4. Reviewing the decisions in the plan amendments (such as required design features for the proposed activity).
5. Other methods acceptable to the BLM/authorized officer.

If the proposal will not have a direct or indirect impact on either the habitat or population, proceed with the appropriate process for review, decision, and implementation of the project.

Step 4

If the project could have a direct or indirect impact to sage-grouse habitat or population, evaluate whether the proposal can be relocated to not have the impact and still achieve the intent of the proposal. If the project can be relocated so as to not have an impact on sage-grouse and still achieve objectives of the proposal, inform applicant and proceed with the appropriate process for review, decision, and implementation of the relocated project.

Step 5

For applicant proposals: If the preliminary review of the proposal concludes that there may be impacts to sage-grouse habitat and/or population, and the project cannot be effectively relocated to eliminate these impacts; evaluate whether the agency 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 process (decision) and include appropriate mitigation requirements that minimize impacts to sage-grouse habitat and populations. Mitigation (to achieve a net conservation gain to sage-grouse) would be the financial responsibility of the applicant and could include a combination of actions such as timing of disturbance, design modifications of the proposal, site disturbance restoration, and compensatory mitigation actions.

Step 6

If this is a BLM originated proposal or the agency has the discretionary authority to deny the applicant proposed project and after careful screening of the proposal (Steps 1-4) has determined that direct and indirect cannot be eliminated, evaluate the proposal to determine if the adverse impacts can be mitigated with a net conservation gain. If the impacts cannot be effectively mitigated to a net conservation gain, select the no action alternative for BLM proposals; for applicant proposals, reject or defer the proposal. The criteria for determining this situation would include but are not limited to:

- Disturbance within the Oregon PAC is substantial and allowing additional activities within the area would adversely impact the species (See habitat and population triggers in the adaptive management strategy).

- The population or habitat trend within the Oregon PAC is down and allowing additional impacts, whether mitigated or not, could lead to further decline of the species or habitat (See habitat and population triggers in the adaptive management strategy).
- Monitoring or current research indicates the proposed mitigation is ineffective, insufficient, or unproven.
- The additional impacts, after applying effective mitigation, would exceed the disturbance threshold for the Oregon PAC.
- The project would impact habitat that has been determined, through monitoring, to be a limiting factor for species sustainability within the Oregon PAC.
- Other site-specific criteria that determined the project would lead to a downward trend to the current species population or habitat with the Oregon PAC.

If the project can be mitigated to provide for a net conservation gain to the species, as determined through coordination with ODFW and FWS, proceed with the design of the mitigation plan and authorization (through NEPA analysis and decision) of the project. The authorization process could identify issues that may require additional mitigation or denial/deferring of the project based on site specific impacts to the Greater Sage-grouse.

GLOSSARY TERMS

Additionality: The conservation benefits of compensatory mitigation are demonstrably new and would not have resulted without the compensatory mitigation project. (adopted and modified from BLM Manual Section 1794).

Avoidance mitigation: Avoiding the impact altogether by not taking a certain action or parts of an action. (40 CFR 1508.20(a)) (e.g. may also include avoiding the impact by moving the proposed action to a different time or location.)

Compensatory mitigation: Compensating for the (residual) impact by replacing or providing substitute resources or environments. (40 CFR 1508.20)

Compensatory mitigation projects: The restoration, creation, enhancement, and/or preservation of impacted resources (adopted and modified from 33 CFR 332), such as on-the-ground actions to improve and/or protect habitats (e.g. chemical vegetation treatments, land acquisitions, conservation easements). (adopted and modified from BLM Manual Section 1794).

Compensatory mitigation sites: The durable areas where compensatory mitigation projects will occur. (adopted and modified from BLM Manual Section 1794).

Durability (protective and ecological): The maintenance of the effectiveness of a mitigation site and project for the duration of the associated impacts, which includes resource, administrative/legal, and financial considerations. (adopted and modified from BLM Manual Section 1794).

Minimization mitigation: Minimizing impacts by limiting the degree or magnitude of the action and its implementation. (40 CFR 1508.20 (b))

Residual impacts: Impacts that remain after applying avoidance and minimization mitigation; also referred to as unavoidable impacts.

Timeliness: The lack of a time lag between impacts and the achievement of compensatory mitigation goals and objectives (BLM Manual Section 1794).

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