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To: State Directors (California, Colorado, Idaho, Montana/Dakotas, Nevada, Oregon/Washington, Utah and Wyoming), and Center Directors

From: Deputy Director *Steven A. Ellis*

Subject: Incorporating Thresholds and Responses into Grazing Permits/Leases

**Program Area:** Rangeland Management

**Purpose:** This Instruction Memorandum (IM) provides guidance for incorporating and analyzing thresholds and responses, as appropriate, into terms and conditions of grazing permits and the associated National Environmental Policy Act (NEPA) analysis within designated Greater Sage-Grouse (GRSG) Habitat as described in the Records of Decision for the Approved Resource Management Plan Amendments for the Great Basin and Rocky Mountain GRSG Regions and nine Approved Resource Management Plans in the Rocky Mountain GRSG Region (collectively referred to as the GRSG Plans).

**Policy/Action:**

Grazing Authorization (Permit/Lease) Terms and Conditions

Consistent with the GRSG Plans, when a Field Office (FO) fully processes<sup>1</sup> a grazing permit/lease that includes lands within Sagebrush Focal Areas (SFA) or Priority Habitat Management Areas (PHMA) and prepares an Environmental Assessment (EA) or Environmental Impact Statement (EIS), that NEPA analysis will include at least one alternative that analyzes incorporation of thresholds and defined responses into the terms and conditions of the grazing permit or lease.

When analyzed, FOs will incorporate thresholds and defined responses into grazing permits in accordance with the policy set forth below. Inclusion of defined management responses in

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<sup>1</sup> A fully processed grazing permit is a grazing permit that has been issued in accordance with all applicable laws, regulation, and policy including the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and decision processes provided in 43 CFR 4160.

permits will allow more timely adjustments to livestock grazing as those adjustments (responses) will have already been subjected to NEPA analysis and will have been incorporated after a full administrative review. FOs will continue to coordinate with permittees, state agencies having lands or managing resources within the area, tribes and other appropriate federal agencies, and interested publics (e.g. local governments) during the review and processing of grazing permits including developing thresholds and responses.

### Use of GRSG Habitat Objectives

The GRSG Plans provide a Habitat Objectives table that contains a suite of GRSG seasonal habitat indicators and associated desired conditions (or habitat objectives) that apply to seasonal use areas within all GRSG habitat designations (i.e. SFAs, PHMAs, General Habitat Management Areas (GHMAs), and Important Habitat Management Areas (IHMAs) (Idaho)). The indicators and desired conditions in the Habitat Objectives table, which will be adjusted, as appropriate, to take into account local site potential, will guide the development of thresholds identified for seasonal habitats found in grazing allotments. Ecological site potential will be taken into account when assessing and evaluating monitoring data such as when analyzing sampling locations and interpreting the habitat measures during sage-grouse habitat assessments. In assessing habitat condition, no one single habitat indicator value alone will define whether the suite of habitat objectives or land health standards is or is not met. Instead, the weight of evidence from all indicators within that seasonal habitat must be considered when assessing the seasonal habitat suitability under the Habitat Assessment Framework (HAF)<sup>2</sup> and monitoring of the sage-grouse habitat objectives and land health standards.

### Incorporating Thresholds and Responses

When fully processing a grazing permit/lease that includes lands within SFA or PHMA, FOs will analyze the incorporation of thresholds/responses in at least one alternative in the NEPA analysis (EA/EIS). Thresholds and responses will also be developed for at least one alternative when preparing an EA/EIS for adjustments to permits/leases due to events affecting allotments in SFA and PHMA such as wildland fire or drought. In determining when to select for implementation of an alternative that incorporates thresholds and responses into permit terms and conditions, the highest consideration will be in SFAs and PHMAs when: 1) a Land Health Evaluation (LHE) incorporates the results of a Sage-Grouse Habitat Assessment; and 2) the results of the Habitat Assessment indicates that habitat is marginal or unsuitable; and 3) the Authorized Officer (AO) determines that current livestock grazing is a significant causal factor for not meeting standards relative to GRSG habitat.<sup>3</sup> Thresholds and responses may not need to be included in a grazing permit or lease within an allotment in SFA or PHMA if the allotment meets or makes significant progress towards meeting all land health standards relative to GRSG habitat or changes to grazing management would not improve habitat condition. Where an AO selects an alternative that does not include thresholds and defined responses, the AO will include in the grazing decision rationale why the selected management will achieve the desired effect, why

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<sup>2</sup> A Habitat Assessment may be supplemented with other measurements and/ or modeling information.

<sup>3</sup> Refer to the IM "Setting Priorities for Review and Processing of Grazing Authorizations in Greater Sage-Grouse Habitat" for guidance on prioritizing the review and processing of grazing permits/leases in GRSG habitat.

thresholds/responses do not need to be included in the grazing permit/lease, and what indicators and metric(s) will be used to evaluate and document achievement of land health.

As described above, the GRSG plans identify sage-grouse seasonal habitat indicators and associated desired conditions or objectives. Thresholds will be developed at the site specific or allotment level and identified based on the GRSG habitat objectives, land health standards (LHSs) (43 CFR 4180.2), ecological site potential, and current condition.<sup>4</sup> FOs will identify standards. Indicator(s) will identify one or more grazing use thresholds that, if exceeded, would not allow for meeting, or making progress towards meeting habitat objectives. The response(s) will identify what changes in livestock grazing management could occur if a threshold is exceeded. Percent utilization, bank alteration limits, and/or browse utilization limits are examples of threshold measurements that, if exceeded, would result in the AO applying one or several responsive management actions.

The AO may select an alternative within an EA/EIS that includes thresholds and responses for an allotment that currently meets land health standards for GRSG for other reasons. For example, FOs may want to incorporate thresholds and responses if recent changes in grazing management have been implemented or to ensure success of vegetation treatments.

FOs will use the Habitat Assessment Summary Report associated with an allotment or group of allotments within the habitat assessment area to inform the Land Health Assessments, Evaluations and Determinations<sup>5</sup> in accordance with the Sage-Grouse Habitat Assessment Policy<sup>6</sup>. To be consistent with the GRSG Plans, FOs will need to review existing data, or collect additional data, to complete habitat suitability ratings, and update existing Land Health Evaluations that were completed prior to the completion of the GRSG Plans in September 2015, for allotments where a grazing permit or lease is being processed but BLM has not issued a grazing permit or lease under 43 CFR 4160.

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<sup>4</sup> When existing Ecological Site Descriptions (ESD) have not been developed, are too general, or are not correct to serve adequately as benchmarks, do the following in order as numbered: 1) check with the Natural Resource Conservation Service (NRCS) to see if there are provisional ESDs; 2) consult with regional soils experts to identify if external ecological sites are similar enough to use for management decisions; or 3) use an interdisciplinary team to develop a site reference sheet for determining current site state, potential future states (desired and undesired). Based on this input an AO can select a management course to reach one of those desired future states, with sufficient and appropriate monitoring to track site vegetative cover trajectories. (Refer to Section 6.3 in the GRSG Implementation Guide)

<sup>5</sup> Land Health Assessments and Evaluations assess conditions relative to the land health standards and guidelines that apply to each parcel of BLM-managed land, evaluate whether each applicable standard is being met, or whether significant progress is being made towards meeting each standard. When one or more standards are not being met, the BLM completes a Determination to identify the causal factor(s) in failure to meet the standard(s). Refer to Handbook 4180-1 Rangeland Health Standards (Rel 4-107).

<sup>6</sup> Refer to the Gunnison and Greater Sage-Grouse Habitat Assessment Policy for guidance on applying GRSG habitat objectives and the Habitat Assessment Framework (HAF) to assess Greater Sage-Grouse habitat. FOs will use the Habitat Assessment Summary Report to inform the Land Health Assessments and Land Health Standard(s) as it pertains to GRSG.

## NEPA Review and Alternative Development

When fully processing grazing permits/leases, the FOs will complete the appropriate level of NEPA analyses on an allotment or multiple allotment basis. In most instances, FOs will prepare an EA; however, there may be instances where preparation of an EIS is necessary, as described in the NEPA Handbook (H-1790-1).

Thresholds and responses will be developed and identified for at least one of the BLM-developed action alternatives in the NEPA analysis in SFA and PHMA, although they may be developed for allotments containing other GRSG habitat designations. For any alternative that includes thresholds and responses, multiple responses should be evaluated in the NEPA document that will allow the BLM and permittees a suite of options for responding more quickly when exceeding thresholds or responding to habitat requirement needs. The analysis should also identify the location, timing, frequency and methodologies used for monitoring the thresholds. Monitoring results will be used to determine if alternative management responses are required.

If thresholds and responses analyzed in a NEPA document are incorporated into the grazing decision and grazing permit as terms and conditions, the following criteria will help guide whether the selected response(s) can be implemented immediately or will require an additional decision:

- If the response(s) are within the existing terms and conditions of a grazing permit, the response can be implemented immediately without an additional decision. If the AO wants to be able to implement responses to thresholds during the life of a given grazing permit/lease without issuing a new decision, he/she should make that intent clear in both the NEPA document and final grazing decision.
- If the response requires a modification to a grazing permit, an additional grazing decision (either Proposed/Final or Full Force and Effect) will need to be issued.

Incorporation of management responses that were not included as terms and conditions in a permit is possible where:

- A management response was analyzed in another alternative in the NEPA document for the authorization, but was not included in the original decision, then the FOs will follow the decision processes provided in 43 CFR 4160. The grazing decision will identify the response described in one of the other NEPA-compliant alternatives. A Determination of NEPA Adequacy should be prepared when selecting a previously analyzed approach for the authorization and issuing a proposed/final grazing decision.
- Monitoring determines that a different management response is needed, but the response was not analyzed in the NEPA analysis for the authorization, then the FOs should implement interim measures that are within the terms and conditions of the existing permit (and covered in an existing NEPA analysis) to minimize impacts to GRSG habitat. FOs must expedite further NEPA analysis to modify the permit and implement the appropriate management response.



## Using a Categorical Exclusion

The AO may use a categorical exclusion (CX) to satisfy NEPA requirements before issuing a grazing permit in accordance with Section 402(h)(1) of FLPMA, as amended by Public Law No. 113-291 where current grazing management has led to conditions which meet land health standards. Washington Office IM 2015-121, Implementing Amended Section 402(h) (1) of Federal Land Policy and Management Act - Using a Categorical Exclusion, provides guidance for issuing a grazing permit or lease using this CX authority including requiring a review of the 12 extraordinary circumstances listed in 43 CFR 46.215. The FOs are also required to document the rationale as to why the CX applies.

## Issuing Permits/Leases Under Section 402(c) (2) of FLPMA

When lower-priority permits, as described in the IM on prioritizing the review and processing of grazing permits/leases in GRSG habitat, expire, they will be reissued with the same terms and conditions and operate under authority of Section 402(c) (2) of FLPMA, as amended by Public Law No. 113-291,<sup>7</sup> until they can be fully processed.

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

**Manual/Handbook Sections Affected:** Handbook 4180-1 Rangeland Health Standards (Rel 4-107), and Authorizing Grazing Use Handbook 4130-1, rel. 4-75.

**Budget Impact:** Implementing the provision for incorporating thresholds and responses into the NEPA analysis for grazing permits will require the BLM to: (1) collect and/or gather data at multiple scales; (2) complete the Habitat Assessments; (3) develop appropriate thresholds and responses; (4) coordinate with permittees, state agencies, interested public, local governments, etc.; and (5) analyze thresholds/responses in the associated NEPA document. Analyzing and selecting management thresholds and responses under NEPA allow the BLM to make adjustments to livestock grazing to ensure progress toward meeting GRSG Habitat Objectives without necessarily undertaking multiple grazing program decisions with multiple NEPA analysis. Issuing grazing decisions increases the BLM's workload associated with grazing management. Additional funding and capacity will be required for monitoring and compliance. While the BLM has requested additional funds to implement the GRSG Plans, the FOs will focus resources to the highest value habitat areas, which will require deferring work such as permit processing and developing range improvements in lower priority areas.

**Background:** The BLM initiated the National Greater Sage-Grouse Planning Strategy in 2011 in response to the U.S. Fish and Wildlife Service's (FWS) March 2010 "warranted, but precluded" Endangered Species Act (ESA) listing petition decision. The BLM, in coordination with the U.S. Department of Agriculture, Forest Service, developed a targeted, multi-tiered, coordinated, collaborative landscape-level management strategy, based on the best available science, which offers the highest level of protection for GRSG in the most important habitat

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<sup>7</sup> Under 43 U.S.C. 1752(c)(2), the BLM shall replace permits or leases that have expired or have been terminated due to preference transfer and have not been fully processed by a new permit or lease that contains the same terms and conditions of the expired permit or lease pending their full processing.

areas. The Rocky Mountain Region Greater Sage-Grouse ROD approved a total of eight Resource Management Plan (RMP) revisions and four RMP amendments. The Great Basin Region Greater Sage-Grouse ROD approved four RMP amendments. These RODs and Approved Resource Management Plans and Amendments were signed on September 21, 2015.

**Coordination:** This IM was coordinated with the Division of Decision Support, Planning and NEPA, Division of Fish and Wildlife Conservation, Solicitor's Office and State Directors within GRSg habitat.

**Contact:** If you have any questions regarding these matters, please contact Kimberly Hackett, Senior Natural Resource Specialist, Division of Forest, Rangeland, Riparian and Plant Conservation (WO-220) at 202-912-7216 or by email at [khackett@blm.gov](mailto:khackett@blm.gov).