
Appendix G

Fluid Mineral Stipulations, Waivers, Modifications,
and Exceptions

APPENDIX G

FLUID MINERAL STIPULATIONS, WAIVERS, MODIFICATIONS, AND EXCEPTIONS

This appendix lists by alternative surface use stipulations for new fluid mineral (oil and gas and geothermal) leases referred to through ARMPA. In addition to fluid mineral leases, these surface use stipulations would also apply, where appropriate and practical, to other surface-disturbing activities (and occupancy) associated with land use authorizations, permits, and leases issued on BLM-administered or National Forest System lands. Subject to valid existing rights and applicable law and policy, the stipulations would apply to uses and activities other than fluid mineral leasing. The intent is to manage other activities and uses in the same manner as fluid mineral leasing.

Surface-disturbing activities are those that normally result in more than negligible disturbance to public lands. These activities normally involve disturbance to soils and vegetation to the extent that reclamation is required. They include the following:

- The use of mechanized earth-moving and truck-mounted drilling equipment
- Certain geophysical exploration activities
- Off-road vehicle travel in areas designated as limited or closed to OHV use
- Placement of surface facilities, such as utilities, pipelines, structures, and geothermal and oil and gas wells
- New road construction
- Use of pyrotechnics, explosives, and hazardous chemicals

Surface-disturbing activities do not include livestock grazing, cross-country hiking, driving on designated routes, and minimum-impact filming.

DESCRIPTION OF SURFACE STIPULATIONS

Table G.1 shows the stipulations for the ARMPA, including exceptions, modifications, and waivers. All stipulations for other resources, besides GRSG, included in the existing land use plans would still be applicable.

Areas identified as NSO would not allow surface-disturbing activities.

Areas identified as CSU would require proposed actions to be authorized in accordance with the controls or constraints specified. The controls would be applicable to all surface-disturbing activities.

Areas identified as TL would not allow surface-disturbing activities during identified time frames. TL areas would remain open to operations and maintenance, including associated vehicle travel, during the restricted period, unless otherwise specified in the stipulation.

RELIEF FROM STIPULATIONS

With regards to fluid minerals, surface use stipulations could have exceptions, modifications, or waivers applied with approval by the authorized officer. **Table G.1** specifies the types of habitat where these stipulations would/not apply:

Exception

An exception to this stipulation may be granted by the authorized officer, in consultation with the appropriate state agency (NDOW, SETT, or CDFW), if the operator submits a plan that demonstrates that impacts from the proposed action meet the net conservation gain threshold, are minimal, or have no direct, indirect, or cumulative effects on GRS habitat.

For those leases on National Forest System lands, the Forest Service Authorized Officer would consult with the appropriate state agency to determine if the submitted plan demonstrates that impacts from the proposed action meet the net conservation gain threshold, are minimal, or have no direct, indirect, or cumulative effects on GRS habitat. The Forest Service Authorized Officer would recommend that the BLM Authorized Officer deny or accept the proposed exception.

Modification

The boundaries of the stipulated area may be modified if the Authorized Officer, in consultation with the appropriate state agency (NDOW, SETT, or CDFW), determines that portions of the area can be occupied without adversely affecting GRS population or habitat or that the area no longer contains GRS use and habitat. The dates for timing limitations may be modified if new information indicates the dates are not valid for the leasehold.

For those leases on National Forest System lands, the Forest Service Authorized Officer would consult with the appropriate state agency to determine if portions of the area can be occupied without adversely affecting GRS population or habitat, or the area no longer contains GRS use and habitat. The Forest Service Authorized Officer would recommend that the BLM Authorized Officer deny or accept the proposed modification.

Waiver

The stipulation may be waived if the Authorized Officer, in consultation with the appropriate state agency (NDOW, SETT, or CDFW), determines that the entire leasehold no longer contains suitable habitat nor is used by GRS.

For those leases on National Forest System lands, the Forest Service Authorized Officer would consult with the appropriate state agency to determine that the entire leasehold no longer contains suitable

habitat nor is used by GRSG. The Forest Service Authorized Officer would recommend that the BLM Authorized Officer deny or accept the proposed waiver.

Inclusion in Environmental Analysis

The environmental analysis document prepared for site-specific proposals such as for fluid minerals (oil and gas and geothermal) development (i.e., operations plans for geothermal drilling permit or master development plans for applications for permit to drill or sundry notices) also would need to address proposals to exempt, modify, or waive a surface use stipulation.

On National Forest System lands, this process would follow regulatory requirements at 36 CFR, Part 228.104. This process includes ensuring compliance with NEPA and assessing if the action would be consistent with applicable federal laws, the current land and resource management plan, and meet management objectives.

On BLM-administered lands, to exempt, modify, or waive a stipulation, the environmental analysis document would have to show that (1) the circumstances or relative resource values in the area had changed following issuance of the lease, (2) less restrictive requirements could be developed to protect the resource of concern, and (3) operations could be conducted without causing unacceptable impacts.

With respect to granting relief from stipulations on other types of authorizations, such as solid mineral leases and land use authorizations, any changes to the contractual nature of these instruments would require environmental review and coordination with the lessee, permittee, or authorization holder. This would be the case when specific surface-disturbing activities are proposed via an operation plan, permitting action, or similar instrument.

STANDARD TERMS AND CONDITIONS

All surface-disturbing activities are subject to standard terms and conditions. These include the stipulations that are required for proposed actions in order to comply with the Endangered Species Act. Standard terms and conditions for fluid mineral leasing provide for relocating proposed operations up to 200 meters and for prohibiting surface-disturbing operations for a period not to exceed 60 days. The stipulations addressed in **Table G.1** that are within the parameters of 200 meters and 60 days are considered open to fluid mineral leasing, subject to standard terms and conditions.

Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat

Language from land use plan amendment	Stipulation SG-01-NSO: Sagebrush focal areas (SFA)—Managed as no surface occupancy (NSO), without waiver, exception, or modification, for fluid mineral leasing (oil, gas, and geothermal).
Objective	To protect GRSG habitat within the SFA.
Stipulation type	Major constraint
Stipulation	NSO
Exception	None
Modification	None
Waiver	None
Language from land use plan amendment	Stipulation SG-02-NV-OG-NSO: Priority habitat management areas (PHMA) outside of SFA—Manage oil and gas resources in Nevada as NSO, with two exceptions.
Objective	To protect GRSG in PHMA
Stipulation Type	Major constraint
Stipulation	NSO
Exception	<p>The Authorized Officer may grant an exception to an oil and gas lease NSO stipulation only where the proposed action is as one of the following:</p> <ul style="list-style-type: none"> (i) Would not have direct, indirect, or cumulative effects on GRSG or its habitat (ii) Is proposed to be undertaken as an alternative to a similar action occurring on a nearby parcel and would provide a clear net conservation gain to GRSG and its habitat <p>Exceptions based on conservation gain (ii) may only be considered in (a) PHMA of mixed ownership where federal minerals underlie less than fifty percent of the total surface or (b) areas of the public lands where the proposed exception is an alternative to an action occurring on a nearby parcel subject to a valid federal oil and gas lease existing as of the date of this ARMPA. Exceptions based on conservation gain must also include such measures as enforceable institutional controls and buffers, sufficient to allow the BLM to conclude that such benefits would endure for the duration of the proposed action's impacts.</p> <p>Any exceptions to this lease stipulation may be approved by the Authorized Officer only with the concurrence of the State Director. The Authorized Officer may not grant an exception unless the applicable state wildlife agency, the USFWS, and the BLM unanimously find that the proposed action satisfies (i) or (ii). Such finding initially would be made by a team of one field biologist or other GRSG expert from each respective agency. In the event the initial finding were not unanimous, the finding may be elevated to the appropriate BLM State Director, USFWS State Ecological Services Director, and state wildlife agency head for final resolution. In the event their finding were not unanimous, the exception would not be granted. Approved exceptions would be made publicly available at least quarterly.</p>
Modification	None
Waiver	None

Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat

Language from land use plan amendment	Stipulation SG-02-CA-NSO: PHMA outside of SFA—Manage fluid mineral resources (oil, gas, and geothermal) in California as NSO, with two exceptions.
Objective	To protect GRSG in PHMA
Stipulation Type	Major constraint
Stipulation	NSO
Exception	<p>The Authorized Officer may grant an exception to an oil and gas lease NSO stipulation only where the proposed action is as one of the following:</p> <ul style="list-style-type: none"> (i) Would not have direct, indirect, or cumulative effects on GRSG or its habitat (ii) Is proposed to be undertaken as an alternative to a similar action occurring on a nearby parcel, and would provide a clear net conservation gain to GRSG and its habitat <p>Exceptions based on conservation gain (ii) may only be considered in (a) PHMA of mixed ownership where federal minerals underlie less than fifty percent of the total surface or (b) areas of the public lands where the proposed exception is an alternative to an action occurring on a nearby parcel subject to a valid federal oil and gas lease existing as of the date of this ARMPA. Exceptions based on conservation gain must also include such measures as enforceable institutional controls and buffers, sufficient to allow the BLM to conclude that such benefits would endure for the duration of the proposed action's impacts.</p> <p>Any exceptions to this lease stipulation may be approved by the Authorized Officer only with the concurrence of the State Director. The Authorized Officer may not grant an exception unless the applicable state wildlife agency, the USFWS, and the BLM unanimously find that the proposed action satisfies (i) or (ii). Such finding initially would be made by a team of one field biologist or other GRSG expert from each respective agency. In the event the initial finding were not unanimous, the finding may be elevated to the appropriate BLM State Director, USFWS State Ecological Services Director, and state wildlife agency head for final resolution. In the event their finding were not unanimous, the exception would not be granted. Approved exceptions would be made publicly available at least quarterly.</p>
Modification	None
Waiver	None
Language from land use plan amendment	Stipulation SG-02-NV-GEOT-NSO: PHMA outside of SFA—Manage Nevada geothermal resources as NSO, with one exception.
Objective	To protect GRSG habitat in PHMA
Stipulation type	Major constraint
Stipulation	NSO

Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat

Exception	Geothermal projects within portions of the Nevada PHMA outside of SFA may be considered for authorization, if all of the following conditions are met: <ul style="list-style-type: none"> • A team composed of BLM, USFWS, and NDOW specialists advises the BLM State Director on appropriate mitigation measures for the project and its ancillary facilities, including lek buffer distances using the best available science • Mitigation actions are consistent with this ARMPA's mitigation strategy, such as the Nevada Conservation Credit System • The footprint of the project is consistent with the Disturbance Management Protocols identified in this Plan (see Action SSS 2 and Appendix I).
Modification	None
Waiver	None
Language from land use plan amendment	In PHMA in California only, limit the density of energy and mining facilities during project authorization to an average of one type of energy per mineral facility per 640 acres.
Objective	To protect PHMA and the life history needs of GRSG from habitat loss and GRSG populations from disturbance and limit fragmentation in PHMA. This would be implemented as a lease notice associated with new leases, in addition to the NSO stipulations. This would be applicable only to new oil and gas leases if the exception criteria identified for the NSO stipulation above were granted.
Stipulation type	Lease notice
Stipulation	Lease notice
Exception	None
Modification	None
Waiver	None
Language from land use plan amendment	Stipulation SG-03-TL: Seasonal protection within 4.0 miles of active or pending GRSG leks in General Management Habitat Areas (GHMA)—Manage fluid mineral resources with timing limitations.
Objective	To protect GRSG lekking habitat.
Stipulation Type	Timing limitation.
Stipulation	NSO would be allowed within 4.0 miles of active or pending GRSG leks from March 1 through May 15.
Exception	The Authorized Officer may grant an exception where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat. An exception may also be granted if the proponent, the BLM, and the appropriate state agency negotiate mitigation that would provide a clear net conservation gain to GRSG and its habitat.

**Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat**

Modification	The Authorized Officer may modify the size and shape of the restricted area or the period of limitation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat.
Waiver	The Authorized Officer may waive the stipulation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the described lands do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG and therefore no longer warrant consideration as a component necessary for their protection.
Language from land use plan amendment	Stipulation SG-04-TL: Seasonal protection of GRSG winter habitat from November 1 through February 28 in GHMA.
Objective	To protect GRSG winter habitat.
Stipulation Type	Timing limitation
Stipulation	NSO would be allowed in GRSG winter habitat from November 1 through February 28.
Exception	The Authorized Officer may grant an exception where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat. An exception may also be granted if the proponent, the BLM, and the appropriate state agency negotiate mitigation that would provide a clear net conservation gain to GRSG and its habitat.
Modification	The Authorized Officer may modify the size and shape of the restricted area or the period of limitation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat.
Waiver	The Authorized Officer may waive the stipulation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the described lands do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG and therefore no longer warrant consideration as a component necessary for their protection.

Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat

Language from land use plan amendment	Stipulation SG-05-TL: Seasonal protection of GRSG early brood-rearing habitat from May 15 through June 15 in GHMA.
Objective	To protect GRSG early brood rearing habitat.
Stipulation type	Timing Limitation.
Stipulation	NSO would be allowed in GRSG early brood-rearing habitat from May 15 through June 15.
Exception	The Authorized Officer may grant an exception where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat. An exception may also be granted if the proponent, the BLM, and the appropriate state agency negotiate mitigation that would provide a clear net conservation gain to GRSG and its habitat.
Modification	The Authorized Officer may modify the size and shape of the restricted area, or the period of limitation, where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat.
Waiver	The Authorized Officer may waive the stipulation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the described lands do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG and therefore no longer warrant consideration as a component necessary for their protection.
Language from land use plan amendment	Stipulation SG-06-TL: Seasonal protection of GRSG late brood-rearing habitat from June 15 through September 15 in GHMA.
Objective	To protect GRSG late brood-rearing habitat.
Stipulation type	timing limitation
Stipulation	NSO would be allowed in GRSG late brood rearing habitat from June 15 through September 15.
Exception	The Authorized Officer may grant an exception where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat. An exception may also be granted if the proponent, the BLM, and the appropriate state agency negotiate mitigation that would provide a clear net conservation gain to GRSG and its habitat.

**Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat**

Modification	The Authorized Officer may modify the size and shape of the restricted area, or the period of limitation, where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the action, as proposed or otherwise restricted, does not adversely affect GRSG or its habitat.
Waiver	The Authorized Officer may waive the stipulation where an environmental review and consultation with the appropriate state agency (Nevada Department of Wildlife, Sagebrush Ecosystem Technical Team, California Department of Fish and Wildlife) determines that the described lands do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG and therefore no longer warrant consideration as a component necessary for their protection.
Language from land use plan amendment	Stipulation SG-08-CSU: Authorizations/permits would limit noise from discretionary activities (during construction, operation, or maintenance) to not exceed 10 decibels above ambient sound levels at least 0.25 mile from active and pending leks from 2 hours before to 2 hours after sunrise and sunset during the breeding season from March 1 through May 15.
Objective	To protect GRSG lek sites
Stipulation type	Controlled surface use
Stipulation	Authorizations/permits would limit noise from discretionary activities (during construction, operation, or maintenance) to not exceed 10 decibels above ambient sound levels at least 0.25 mile from active and pending leks from 2 hours before to 2 hours after sunrise and sunset during the breeding season from March 1 through May 15.
Exception	None
Modification	None
Waiver	None
Language from Land Use Plan Amendment	Stipulation SG-9-CSU: In all GRSG habitat, the BLM will apply lek buffer distances, as recommended in the United States Geological Service Report Conservation Buffer Distance estimates for Greater Sage Grouse—A Review Open File- Report 2014-1239 (Manier et al. 2014; see Appendix B).
Objective	To protect GRSG leks
Stipulation type	Controlled surface use
Stipulation	The BLM will apply lek buffer distances specified as the lower end of the interpreted range in the report unless justifiable departures are determined to be appropriate (see below). The lower end of the interpreted range of the lek buffer distances is as follows: <ul style="list-style-type: none"> • Linear features (roads) within 3.1 miles of leks • Infrastructure related to energy development within 3.1 miles of leks • Tall structures (e.g., communication or transmission towers and transmission lines) within 2 miles of leks • Low structures (e.g., fences and rangeland structures) within 1.2 miles of leks

Table G.1
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	<ul style="list-style-type: none"> • Surface disturbance (continuing human activities that alter or remove the natural vegetation) within 3.1 miles of leks • Noise and related disruptive activities, including those that do not result in habitat loss (e.g., motorized recreational events) at least 0.25 mile from leks
Exception	Justifiable departures to decrease or increase from these distances, based on local data, best available science, landscape features, and other existing protections (e.g., land use allocations and state regulations) may be appropriate for determining activity impacts. The USGS report recognized “that because of variation in populations, habitats, development patterns, social context, and other factors, for a particular disturbance type, there is no single distance that is an appropriate buffer for all populations and habitats across the sage-grouse range.” The USGS report also states that “various protection measures have been developed and implemented... [which have] the ability (alone or in concert with others) to protect important habitats, sustain populations, and support multiple-use demands for public lands.” All variations in lek buffer distances will require appropriate analysis and disclosure as part of activity authorization.
Modification	None
Waiver	None
Language from land use plan amendment	Stipulation SG-NV-10-CSU: Nevada 3% Disturbance Cap Protocol—New development/activity would not exceed the 3% disturbance cap protocol at either the biologically significant unit (BSU) or project scale in PHMA, unless a technical team (described under the exception) determines that new or site-specific information indicates the project could be modified to result in a net conservation gain at the BSU level.
Objective	To create a net conservation gain at the project and BSU level.
Stipulation type	Controlled surface use
Stipulation	New development/activity would not exceed the 3% disturbance cap protocol at either the BSU or project scale, unless a technical team (described under the exception) determines that new or site-specific information indicates the project could be modified to result in a net conservation gain at the BSU level.
Exception	Nevada lands only—Any exceptions to the disturbance cap may be approved by the Authorized Officer only with the concurrence of the State Director. The Authorized Officer may not grant an exception unless the NDOW, the USFWS, and the BLM unanimously find that the proposed action satisfies the conditions stated in the stipulation. Initially, the technical team would make such finding; the team consists of a field biologist or other GRSG expert from each respective agency. In the event the initial finding were not unanimous, the finding may be elevated to the BLM State Director, USFWS State Ecological Services Director, and NDOW Director for final resolution. In the event their recommendation were not unanimous to grant the exception, the exception would not be granted.
Modification	None
Waiver	None

Table G.1
Fluid Mineral Stipulations for Greater Sage-Grouse Habitat

Language from land use plan amendment	Stipulation SG-CA-11-CSU: California 3% Disturbance Cap—New development/activity would not exceed the 3% disturbance cap at either the BSU or project scale in PHMA.
Objective	To create a net conservation gain at the project and BSU level.
Stipulation type	Controlled surface use
Stipulation	New development/activity would not exceed the 3% disturbance cap at either the BSU or project scale.
Exception	None
Modification	None
Waiver	None

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