
Appendix D

Stipulations Applicable to Fluid Mineral Leasing and
Land Use Authorizations

APPENDIX D

STIPULATIONS APPLICABLE TO MINERAL LEASING AND LAND USE AUTHORIZATIONS

This appendix lists the stipulations for fluid mineral leasing (e.g., oil, gas, and geothermal) referred to throughout this Proposed LUPA/Final EIS. Stipulations outlined in this appendix also apply to fluid mineral leasing on lands overlying federal mineral estate, which includes federal mineral estate underlying BLM/Forest Service lands, privately owned lands, and state-owned lands.

Upon completion of the EIS and Proposed LUPA, the list of stipulations that are included in the decision would supersede the relevant stipulations attached to the existing LUPs. Those program areas/stipulations that are not considered in this Proposed LUPA/Final EIS (not relevant to GRSG and GRSG habitat) would continue in full force and effect where they apply (within individual BLM field offices or the Routt National Forest). The stipulations would not apply to activities and uses where they are contrary to laws, regulations, or specific program guidance.

DESCRIPTION OF STIPULATIONS

Three types of stipulations could be applied to leasing authorizations and would also be applied as terms and conditions for land use authorizations: 1) No Surface Occupancy (NSO); 2) Controlled Surface Use (CSU); and 3) Timing Limitations (TL). Notice to Lessees (NTLs), Lease Notices (LNs) and Conditions of Approval (COAs), which are applied to existing leases, are also described below.

No Surface Occupancy (NSO)

Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect GRSG and GRSG habitat. In areas open to fluid mineral leasing with NSO stipulations, fluid mineral leasing activities are permitted, but surface-disturbing activities cannot be conducted on the surface of the land unless an exception, modification, or waiver is granted. Access to

fluid mineral deposits would require drilling from outside the boundaries of the NSO stipulation.

Controlled Surface Use (CSU)

A CSU stipulation is a category of moderate constraint that allows some use and occupancy of public land while protecting identified resources or values. A CSU stipulation allows the BLM to require additional conditions be met to protect a specified resource or value in addition to standard lease terms and conditions.

Timing Limitations (TL)

Areas identified for TLs, a moderate constraint, are closed to fluid mineral exploration and development during identified time frames. Construction, drilling, completions, and other operations considered to be intensive in nature are not allowed. Intensive maintenance, such as workovers on wells, is not permitted. Administrative activities are allowed at the discretion of the BLM Authorized Officer.

Notice to Lessees (NTL)

A notice to lessee is a written notice issued by the BLM Authorized Officer. Notices to lessees implement regulations and operating orders, and serve as instructions on specific item(s) of importance within a state, district, or area.

Lease Notice (LN)

A Lease Notice provides more detailed information concerning limitations that already exist in law, lease terms, regulations or operational orders. An LN also addresses special items that the lessee should consider when planning operations.

Condition of Approval (COA)

Conditions of Approval are enforceable conditions or provisions under which an Application for Permit to Drill (APD) is approved.

EXCEPTIONS, MODIFICATIONS, AND WAIVERS

An exception exempts the holder of the lease from the stipulation on a one-time basis. A modification changes the language or provisions of a stipulation due to changed conditions or new information either temporarily or for the term of the lease. A modification may or may not apply to all other sites within the leasehold. A waiver permanently exempts the surface stipulation for a specific lease, planning area, or resource based on absence of need, such as a determination that protection of winter use is unnecessary for maintenance or recovery of a species.

Exception, Modification, or Waiver Process

An exception, modification, or waiver may be granted at the discretion of the BLM Authorized Officer if the specific criteria described below are met. In order to implement an action that would not normally be allowed because of a

stipulation, the proponent must submit a written request for an exception, modification, or waiver and provide the data necessary to demonstrate that specific criteria have been met. Prior to any modification or waiver of a lease stipulation, a 30-day public notice and comment period may be required.

STIPULATIONS APPLICABLE TO LAND USE AUTHORIZATIONS

Restrictions on land use authorizations (e.g., rights-of-way [ROWs]) are administered through the identification of exclusion and avoidance areas. Exclusion areas are unavailable for location of ROWs under any conditions. Avoidance areas are to be avoided when practicable due to identified resource values but may be available with special stipulations. Those ROW terms and conditions that would be attached to authorizations sited in areas identified as avoidance areas are described below.

Management Action #46	Proposed LUPA	Stipulation Type: No Surface Occupancy (NSO)
<p>Objective: Manage fluid minerals to avoid, minimize, and compensate for: 1) direct disturbance, displacement, or mortality of GRSG; 2) direct loss of habitat, or loss of effective habitat through fragmentation; and 3) cumulative landscape-level impacts.</p>		
<p>Management Action</p>	<p>No Surface Occupancy in PHMA</p>	
<p>Stipulation Description</p>	<p>Apply NSO-46e(1) stipulation to leases in PHMA.</p> <p>Include the following notification for limits on surface disturbance and disruption:</p> <p><i>This lease is subject to NSO and does not guarantee the lessee the right to occupy the surface of the lease for the purpose of producing oil and natural gas. In areas open to fluid mineral leasing with NSO stipulations, fluid mineral leasing activities are permitted, but surface-disturbing activities cannot be conducted on the surface of the land unless an exception, modification, or waiver is granted.</i></p> <p><i>Surface occupancy or use will be restricted to no more than 1 disruptive facility per 640 acres, and the cumulative value of all applicable surface disturbances, existing or future, must not result in greater than 3 percent loss of the sagebrush habitat within PHMA (as measured by Colorado Management Zone).</i></p> <p>Waivers, modifications, and exceptions:</p> <p>No waivers or modifications to fluid mineral lease NSO stipulation will be granted. The BLM Authorized Officer may grant an exception to this NSO stipulation only where the proposed action:</p>	

	<ul style="list-style-type: none"> (i) Would not have direct, indirect, or cumulative effects on GRSG or its habitat; or (ii) Is proposed to be undertaken as an alternative to a similar action occurring on a nearby parcel, and would provide a clear conservation gain to GRSG. <p>Exceptions based on conservation gain (ii) may only be considered in: (a) PHMA of mixed ownership where federal minerals underlie less than 50 percent of the total surface; or (b) areas of BLM-administered lands where the proposed exception is an alternative to an action occurring on a nearby parcel subject to a valid federal fluid mineral lease existing as of the date of this RMP [revision or amendment]. Exceptions based on conservation gain must also include measures, such as enforceable institutional controls and buffers, sufficient to allow the BLM to conclude that such benefits will endure for the duration of the proposed action’s impacts.</p> <p>Any exceptions to this lease stipulation may be approved by the BLM Authorized Officer only with the concurrence of the BLM State Director. The BLM Authorized Officer may not grant an exception unless the applicable state wildlife agency, USFWS, and BLM unanimously find that the proposed action satisfies (i) or (ii). Such finding shall initially be made by a team of one field biologist or other GRSG expert from each respective agency. In the event the initial finding is 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 is not unanimous, the exception will not be granted. Approved exceptions will be made publically available at least quarterly.</p>
Management Action	No Surface Occupancy within 2 miles of active leks in GHMA
Stipulation Description	<p>Apply NSO-46e(2) stipulation within 2 miles of active leks in GHMA</p> <p>Waivers, modifications, and exceptions:</p> <p>Waiver: No waivers are authorized unless the area or resource mapped as possessing the attributes protected by the stipulation is determined during collaboration with the State of Colorado to lack those attributes or potential attributes. A 30-day public notice and comment period is required before waiver of a stipulation. Waivers would require BLM State Director approval.</p> <p>Exception: In consultation with the State of Colorado, an exception to occupancy of the surface associated with GRSG</p>

	<p>NSO-46e(2) in GHMA could be granted on a one-time basis (any occupancy must be removed within 1 year of approval) based on an analysis of the following factors:</p> <ul style="list-style-type: none"> • Location of proposed lease activities in relation to critical GRSG habitat areas as identified by factors including, but not limited to, average male lek attendance and/or important seasonal habitat • An evaluation of the potential threats from proposed lease activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation (see Chapter 2, Alternatives, Section 2.6.3, Regional Mitigation) • An evaluation of the proposed lease activities in relation to the site-specific terrain and habitat features. For example, in the vicinity of leks, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors. <p>Modification: In consultation with the State of Colorado, a modification (changes to the stipulation either temporarily or for the term of either part of or the entire lease) to GRSG NSO-46e(2) could be granted based on an analysis of the following factors:</p> <ul style="list-style-type: none"> • Location of proposed lease activities in relation to critical GRSG habitat areas as identified by factors including, but not limited to, average male lek attendance and/or important seasonal habitat • An evaluation of the potential threats from proposed lease activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation (see Chapter 2, Alternatives, Section 2.6.3, Regional Mitigation) • An evaluation of the proposed lease activities in relation to the site-specific terrain and habitat features. For example, in the vicinity of leks, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors.
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Management Action	<p>Limit surface disturbance to 3 percent of PHMA</p> <p>Limit density of infrastructure to 1 per 640 acres</p>	
Stipulation Description	<p>Apply Lease Notice (GRSG LN-46e) for leases in PHMA:</p> <p>Include the following notification for limits on surface disturbance and disruption:</p> <p><i>This lease is subject to NSO and does not guarantee the lessee the right to occupy the surface of the lease for the purpose of producing oil and natural gas. In areas open to fluid mineral leasing with NSO stipulations, fluid mineral leasing activities are permitted, but surface-disturbing activities cannot be conducted on the surface of the land unless an exception, modification, or waiver is granted.</i></p> <p><i>Surface occupancy or use will be restricted to no more than 1 disruptive facility per 640 acres, and the cumulative value of all applicable surface disturbances, existing or future, must not result in greater than 3 percent loss of the sagebrush habitat within PHMA (as measured by Colorado Management Zone).</i></p>	
Management Action #46	Proposed LUPA	Stipulation Type: TL
Management Action	<p>No activity associated with construction, drilling, or completions within 4 miles from active leks during lekking, nesting, and early brood-rearing (March 1 to July 15)</p>	
Purpose	<p>Manage fluid minerals to avoid, minimize, and compensate for direct disturbance, displacement, or mortality of GRSG during lekking, nesting, and early brood-rearing</p>	
Stipulation Description	<p>Apply Timing Limitation (GRSG TL-46e) within 4 miles of active leks during lekking, nesting, and early brood-rearing (March 1 to July 15).</p> <p>Waiver: No waivers are authorized unless the area or resource mapped as possessing the attributes protected by the stipulation are determined during collaboration with Colorado Parks and Wildlife to lack those attributes or potential attributes. A 30-day public notice and comment period is required before waiver of a stipulation. Waivers would require BLM State Director approval.</p> <p>Exception/Modification: In consultation with the State of Colorado, a modification or an exception to GRSG TL-46 could be granted based on an analysis of the following factors:</p>	

	<ul style="list-style-type: none"> • Location of proposed lease activities in relation to critical GRSG habitat areas as identified by factors including, but not limited to, average male lek attendance and/or important seasonal habitat • An evaluation of the potential threats from proposed lease activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation (see Chapter 2, Alternatives, Section 2.6.3, Regional Mitigation) • An evaluation of the proposed lease activities in relation to the site-specific terrain and habitat features. For example, within 4 miles of a lek, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors 	
Management Action #47	Proposed LUPA	Condition of Approval
Management Action	<p>On existing leases within 1 mile of active leks, disturbance, disruptive activities, and occupancy are precluded.</p> <p>If it is determined that this restriction would render the recovery of fluid minerals infeasible or uneconomic, considering the lease as a whole, or where development of existing leases requires that disturbance density exceeds 1 disruptive facility per 640 acres, and/or 3 percent disturbance cap, use the criteria below to site proposed lease activities to meet GRSG habitat objectives and require mitigation as described in Appendix G (Greater Sage-Grouse Mitigation Strategy).</p> <p>In PHMAs and within 4 miles of an active lek, the criteria below would be applied to guide development of the lease or unit that would result in the fewest impacts possible to GRSG.</p> <p>Based on site-specific conditions, prohibit construction, drilling, and completion within PHMA within 4 miles of a lek during lekking, nesting, and early brood-rearing (March 1 to July 15). In consultation with the State of Colorado, this timing limitation may be adjusted based on application of the criteria below.</p> <p>Criteria (see Chapter 2 for additional detail on these criteria):</p> <ul style="list-style-type: none"> • Location of proposed lease activities in relation to critical GRSG habitat areas as identified by factors 	

	<p>including, but not limited to, average male lek attendance and/or important seasonal habitat</p> <ul style="list-style-type: none"> • An evaluation of the potential threats from proposed lease activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation (see Chapter 2, Section 2.6.3, Regional Mitigation) • An evaluation of the proposed lease activities, including design features, in relation to the site-specific terrain and habitat features. For example, within 4 miles of a lek, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors. This is particularly likely in Colorado Management Zone 17, which has an atypical GRSG habitat featuring benches with GRSG habitat interspersed with steep ravines. <p>To authorize an activity based on the criteria above, the environmental record of review must show no significant direct disturbance, displacement, or mortality of GRSG.</p>	
Management Action #10	Proposed LUPA	Avoidance criteria
<p>GRSG PHMA ROW Avoidance GRSG GHMA ROW Avoidance</p>	<p>In GRSG PHMA or GHMA managed as avoidance, ROWs/Special Use Authorizations may be issued after documenting that the ROWs/Special Use Authorizations would not adversely affect GRSG populations based on the following criteria:</p> <ul style="list-style-type: none"> • Location of proposed activities in relation to critical GRSG habitat areas as identified by factors including, but not limited to, average male lek attendance and/or important seasonal habitat • An evaluation of the potential threats from proposed activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation (see Chapter 2, Section 2.6.3, Regional Mitigation) • An evaluation of the proposed activities in relation to the site-specific terrain and habitat features. For example, within 4 of from a lek, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors. 	

	<p>Any new projects within PHMA would be subject to the 3 percent disturbance cap as described in Appendix H, Guidelines for Implementation. If the 3 percent disturbance cap is exceeded in PHMA in any Colorado Management Zone, no new ROW would be authorized in PHMA within that Colorado Management Zone, unless site-specific analysis documents no impact on GRSG.</p>
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