
APPENDIX O

**WINNEMUCCA DISTRICT
RIGHTS-OF-WAY - SPECIAL STIPULATIONS/
TERMS OR CONDITIONS**

Winnemucca District Rights-of-Way - Special Stipulations/Terms or Conditions

Introduction: This appendix lists stipulations applicable to surface-disturbing activities and long term surface occupancy associated with land use authorizations for rights-of-way (ROWs) issued within delineated avoidance areas on public lands administered by the BLM Winnemucca District. Terms and conditions applicable to grants for all ROWs are identified in the “Rights of Way under the Federal Land Policy and Management Act (FLPMA) regulations,” Subparts 2805 §2805.10 and 2805.12. The Winnemucca Resource Management Plan has identified lands where ROWs should be avoided or may be available for location of ROWs with special stipulations to minimize adverse impacts to important and sensitive wildlife habitat areas. These areas are identified as ROW avoidance areas (See Appendix A, Figure 2-60). The following stipulations and/or terms and conditions apply to ROW proposals and existing ROWs within delineated avoidance areas. In addition, BLM has developed a number of best management practices and standard operating procedures identified in Appendix B which may be applied to ROW authorizations.

Winnemucca District

Rights-of-Way – Special Stipulations and /or Terms and Conditions within Delineated Avoidance Areas

Stipulation	Protected Resource
<ol style="list-style-type: none"> 1. Apply stipulations and mitigation measures within avoidance areas on a case-by-case basis as determined through site specific NEPA analysis. 	All resources
<ol style="list-style-type: none"> 2. No location of ROWs within recognized well head protection zones or within 1,000 feet of a municipal well head. 	Municipal Watersheds - To protect public water supplies, water quality and human health
<ol style="list-style-type: none"> 3. General migratory bird timing limitation - Surface disturbing activities during the migratory bird nesting season (approximately March 1 through August 31 (as dependent on species) shall not be conducted in order to avoid potential violation of the Migratory Bird Act of 1918. Should ground-disturbing activities be necessary during this period of time, appropriate inventories for migratory birds shall be conducted prior to site development, as described below. This survey would identify either breeding adult birds or nest sites within the areas to be disturbed. If active nests are present, the proponent will coordinate with the BLM to develop appropriate protection measures for these sites, which may include avoidance, construction constraints, and/or establish buffers. 	Migratory birds

Stipulation	Protected Resource
<p>4. On a case-by-case basis apply seasonal use restrictions or distance buffers as appropriate by wildlife species to protect habitat, provide continuity of migration corridors, and protect seasonal use areas (e.g., lambing, nesting, or winter habitat areas).</p>	<p>This stipulation will be applied to protect the continuity of migration corridors and important habitat, as recognized and designated by BLM and Nevada Department of Wildlife (NDOW)</p>
<p>5. No location of ROWs within designated or proposed critical habitat for listed species under the Endangered Species Act of 1973 (as amended) would be applied if ROW activities would be likely to adversely modify the habitat for the long term. For listed or proposed species without designated habitat, apply special mitigation measures to the extent necessary to avoid jeopardy.</p>	<p>Protection of critical habitat for listed species under the Endangered Species Act</p>
<p>6. No location of ROWs in areas containing National Register of Historic Places (NRHP) eligible, listed and unevaluated sites and TCPs. To accomplish this, any quarter-quarter-quarter section (10-acre parcel) within or intersected by the site would be subject to this restriction. Location of ROWs may be limited to a specific distance or precluded at hot springs, pending conclusion of the National Historic Preservation Act (NHPA) requirements and Native American consultation process. Additional lands outside the designated boundaries of sites may be added to the restriction to the extent necessary to protect values where the setting and integrity is critical to their designation or eligibility.</p>	<p>Protection of National Register eligible sites.</p>
<p>7. No location of ROWs on congressionally designated historic trails and additional lands bordering the trails to the extent necessary to protect values where the integrity of setting is critical to their designation or eligibility. This applies specifically within a mile of the NHT. To accomplish this, any quarter-quarter-quarter section (10-acre parcel) within or intersected by the NHT or the one-mile buffer line would be subject to this restriction.</p>	<p>Protection of congressionally designated historic trails.</p>
<p>8. No location of ROWs within the limits of identified paleontological resource occurrences classified by WO-IM-2008-009 (Potential Fossil Yield Classification [PFYC] System for Paleontological Resources on Public Lands) as PFYC 5 (being of scientific or educational interest). To accomplish this, any quarter-quarter-quarter section (10-acre parcel) within or intersected by the limits of the site are subject to NSO. A field survey by a qualified paleontologist, at the lessee's expense, will be required prior to surface disturbing</p>	<p>Protection of Potential Fossil Yield Classification 5: Very High Potential</p>

Stipulation	Protected Resource
<p>activities. Data recovery or avoidance may be required. On site monitoring may be necessary during construction activities.</p>	
<p>9. Implement appropriate time-of-day and/or time-of year restrictions for future construction and/or maintenance activities in known sage-grouse habitat to avoid adverse impacts.</p>	<p>Protection of sage-grouse habitat</p>
<p>10. In evaluations of land and realty actions, consider off-site mitigation on a case-by-case basis.</p>	<p>Protection of sage-grouse habitat</p>
<p>11. Avoid authorizing ROWs that would result in significant habitat loss, habitat fragmentation, or population disturbance.</p>	<p>Protection of sage-grouse habitat</p>
<p>12. Reseed all areas requiring reclamation with a seed mixture appropriate for the soils, climate, and landform of the area to ensure recovery of the ecological processes and habitat features of the potential natural vegetation, and to prevent the invasion of noxious weeds or other exotic invasive species.</p>	<p>Protection of sage-grouse habitat</p>
<p>13. Work with existing ROWs holders in an attempt to install perch guards on all poles where existing utility poles are located within 3 miles of known leks, where necessary. Stipulate these requirements at grant renewal.</p>	<p>Protection of sage-grouse habitat</p>
<p>14. Authorize new ROWs at least 2 miles or other appropriate distances (based on features such as type of project, topography, etc.) from leks.</p>	<p>Protection of sage-grouse habitat</p>
<p>15. Use existing utility corridors and consolidate ROWs to reduce habitat loss, degradation, and fragmentation. Whenever possible, install new power lines within existing utility corridors. Otherwise power lines should be located at least 3 miles from breeding, nesting, brood-rearing and winter habitat.</p>	<p>Protection of wildlife habitat</p>
<p>16. Where greater sage-grouse conservation opportunities exist, BLM field offices should work in cooperation with rights-of-way holders to conduct maintenance and operation activities, authorized under an approved ROW grant, to avoid and minimize effect on greater sage-grouse habitat.</p>	<p>Protection of sage-grouse habitat</p>
<p>17. When renewing or amending ROWs, assess the impacts of ongoing use of the ROW on greater sage-grouse habitat and minimize such impacts to the extent allowed by law.</p>	<p>Protection of sage-grouse habitat</p>
<p>18. Work with applicants to minimize habitat loss, fragmentation, and direct and indirect effects on greater sage-grouse and its habitat.</p>	<p>Protection of sage-grouse habitat</p>

Stipulation	Protected Resource
<p>19. Conduct pre-application meetings for all new ROW proposals consistent with the ROW regulations (43 CFR 2804.10) and consistent with current renewable energy ROW policy guidance (WO-IM-2011-061, issued February, 2011). Assess the impact of the proposed ROW on greater sage-grouse and its habitat, and implement the following:</p> <ul style="list-style-type: none"> • Ensure that reasonable alternatives for siting the ROW outside of sage-grouse habitat or within a BLM designated utility corridor are considered and analyzed in the NEPA document. • Identify technically feasible best management practices, conditions, (e.g., siting, burying power lines) that may be implemented in order to eliminate or minimize impacts. 	<p>Protection of sage-grouse habitat</p>
<p>20. For ROWs where the total project disturbance for the ROW and any connected action is less than 1 linear mile, or 2 acres of disturbance, develop mitigation measures related to construction, maintenance, operation, and reclamation activities that as determined in cooperating NDOW, would cumulatively maintain or enhance greater sage-grouse habitat.</p>	<p>Protection of sage-grouse habitat</p>
<p>21. For ROW applications where the total project disturbance from the ROW and any connected action is greater than 1 linear mile or 2 acres of disturbance, the Winnemucca District will determine that it is appropriate to authorize a ROW, using the following process.</p> <ul style="list-style-type: none"> • The BLM will document the reasons for its determination and require the ROW holder to implement measures to minimize impacts on sage-grouse habitat. • In addition to considering opportunities for onsite mitigation, the BLM will, to the extent possible, cooperate with the project proponents to develop and consider implementing appropriate offset mitigation that the BLM, coordinating with NDOW, determines would avoid or minimize habitat and population-level effects (Refer to WO-IM 2008-204, Off-Site Mitigation). When developing such mitigation, the BLM should consider compensating for the short-term and long-term direct and indirect loss of greater sage-grouse and its habitat. 	<p>Protection of sage-grouse habitat</p>
<p>22. Bald and/or golden eagles may now or hereafter be found to use the project area. The BLM will not issue a notice to proceed for any project that is likely to result in take of bald eagles and/or golden eagles until the applicant completes its</p>	<p>Protection of raptors and their habitat</p>

Stipulation	Protected Resource
<p>obligation under applicable requirements of the Bald and Golden Eagle Protection Act, including completion of any required procedure for coordination with the US Fish and Wildlife Service or any required permit. The BLM hereby notifies the applicant that compliance with the Eagle Act is a dynamic and adaptable process which may require the applicant to conduct further analysis and mitigation following assessment of operational impacts. Any additional analysis or mitigation required to comply with the Eagle Act will be developed with the US Fish and Wildlife Service and coordinated with the BLM (WO-IM-2010-056).</p> <p>23. Construction and siting of new power lines or maintenance (retro-fitting) of existing power lines will be done in accordance with the Avian Power Line Interaction Committee (APLIC) standards. Stipulate these requirements at grant renewal.</p>	<p>Protection of raptors and their habitat</p>