

**United States Department of the Interior
Bureau of Land Management**

Decision Record

**Environmental Assessment
DOI-BLM-UT-W010-2016-0007-EA**

Rich County Water Pipeline UTU-090224

May 2016

Location: Township 8 North, Range 6 East, NW¹/₄NW¹/₄, Rich County Utah

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It is my decision to select the proposed action alternative from the U.S. Department of Agriculture, Natural Resources Conservation Service Environmental Assessment I.D. # 748D43130J0, (DOI-BLM-UT-W010-2016-0007-EA).

This action will authorize the Rich County Water Pipeline Right-of-Way Grant UTU-090224.

This decision approves the installation of a 2-inch High-density polyethylene pipe crossing lands administered by the Bureau of Land Management. The new pipeline right-of-way will be 10 feet wide by 1,050 feet long and will contain approximately 0.24 acres more or less. No permanent access road is approved by this action. The holder of the grant will be allowed to access the right-of-way only for maintenance purposes if a leak of the water pipeline should occur. The ROW is shown on the attached map.

The project includes the following:

- The proposed system will tie into an existing livestock watering system on private and state owned lands. Placement of this new portion of the system will allow 5 troughs at 1,000 gallons each and one 20,000 gallon storage tank to be installed on the private lands.
- The water will be pumped from an existing well on private land using a diesel powered pump.
- The pipeline will be installed using a pipe ripper pulled by a bulldozer. No blading of the right-of-way on BLM will occur and no permanent access road would be allowed.
- Access along the pipeline route will only be needed occasionally for inspection and maintenance.
- Protective measures will be applied for dust abatement, monitoring and treatment of noxious weeds, seasonal/spatial wildlife habitat protection, utilizing certified weed free seed mix, and fire prevention.

Authorities: My authority for authorizing right-of-way UTU-090224 is provided under the authority of Title V of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (90 Stat. 2776 43 U.S.C. 1761) and the regulations thereunder at 43 CFR Part 2800. The right-of-way grant will contain standard stipulations for FLPMA grants and the additional Special Stipulations which were included as mitigation measures identified by the BLM interdisciplinary team as a result of independent evaluation of the information contained in the EA for the proposed action.

Compliance and Monitoring: Compliance for the right-of-way will be conducted by the Salt Lake Field Office Realty staff or other field office staff, at least twice during construction or shortly thereafter. These compliance inspections will be made to determine compliance with grant stipulations. If non-compliance is determined during the initial inspections then additional compliance checks may be necessary until compliance is deemed satisfactory. Compliance will thereafter be conducted at 5 year intervals unless misuses of the right-of-way are reported by other staff or the holders apply for termination of the grants.

Terms / Conditions / Stipulations:

Applicable Laws

1. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State.
3. The holder shall meet Federal, State, and local emission standards for air quality.
4. The holder of Right-of-Way No. UTU-090224 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
5. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

Wildlife Restrictions

6. Installation of the pipeline on public land would not occur during the greater sage grouse brood rearing season from April 15- August 15.

Seasonal restrictions are applied to the construction activity. Construction could occur prior to August 15 because the construction activities would not disturb the Greater sage-grouse at the population level, and the development is designed to facilitate long-term livestock distribution across the grazing allotment. The project would take approximately 7 days and the actual time needed across BLM land would be less than 1 hour. The project would have a neutral effect on greater sage-grouse.

7. No off road travel, surface use or otherwise disruptive activity would be allowed within 300 feet of occupied pygmy rabbit habitat. This notice may be waived, accepted, or modified by the BLM authorized officer if either the resource values change or the grantee/operator demonstrates that adverse impacts can be mitigated. The grantee/operator must request in writing an exception for off road travel, surface use, or otherwise disruptive activity during this time frame. The request for an exception must include activity duration (exact start and end dates when the action is needed) and activity description (including number of people, equipment). The grantee/operator will coordinate the request with the BLM authorized officer to conduct required protocol level surveys. The completed survey reports will be submitted to the BLM authorized officer for review. The BLM authorized officer will determine current conditions and potential impacts to occupied pygmy rabbit habitat before an exception can be granted.

Pygmy rabbit burrows have been found in the area. Exception has been granted for this project. Impacts to pygmy rabbits will be mitigated with the following measures.

- No constructions would occur during the pygmy rabbit breeding season in Rich County from February 1 to July 15.
 - Minimize construction foot print.
 - No off road travel except on the project foot print would be allowed.
8. If construction, maintenance or reclamation activities occur within the migratory bird breeding seasons (raptors: January 1 to August 31 and Neotropical migrant birds: March 1 to July 15), migratory bird surveys would be conducted within 0.5 mile radius of the Project Area no more than 7-10 days prior to project initiation.
 - a. If no migratory birds are found nesting in the Project Area, then project activities may proceed as planned.
 - b. If migratory birds are present and nesting in the Project Area, the following measures must be incorporated during the project construction phase:
 - i. Neotropical bird nests would be flagged and avoided by 100 feet from March 1 to July 15 or until birds have fledged.
 - ii. If occupied, raptor nests would be avoided by the spatial and temporal buffers, 0.5 miles, specified in the U.S. Fish and Wildlife Utah Field Office's Guidelines for Raptor Protection From Human and Land Use Disturbances (Romin and Muck 2002).
 - c. If nests cannot be avoided or if take as defined by the Migratory Bird Treaty Act, and Bald and Golden Eagle Protection Act, is likely to occur, the project proponent must contact the U.S. Fish and Wildlife Service's Utah Field Office (801.975.3330) or the Migratory Bird Permit Office (303.236.8171) for guidance on appropriate avoidance, minimization, and mitigation measures. Any exceptions to this requirement must have prior written approval from the authorized officer.
 9. Limit activities in mule deer winter crucial habitat between November 15 and April 30. No off road travel, surface use or otherwise disruptive activity would be allowed from November 15 through May 30 within identified crucial winter mule deer and habitat.

This notice may be waived, accepted, or modified by the BLM authorized officer if either the resource values change or the grantee/operator demonstrates that adverse impacts can be mitigated. The grantee/operator must request in writing an exception for construction, ground disturbance, or otherwise disruptive maintenance activities during this time frame. The request for an exception must include duration of activity (exact start and end dates when the action is needed) and specific activity (including number of people, equipment). The BLM authorized officer will review the request to determine current conditions and potential impacts to wintering deer/elk. If construction/activities are authorized, implementation would cease when snow depth is > 6" and/or temperatures are < 10° F.

10. Trees with raptor nests will not be removed.
11. Minimize understory vegetation removal.
12. Use native seeds for restoration based on availability, adaptation (ecological site potential), and probability of success.
13. Monitor for and treat noxious weeds and invasive species where needed, associated with the pipeline installation.

Miscellaneous

14. The holder shall survey and clearly mark the centerline and/or exterior limits of the right-of-way.
15. The holder shall conduct all activities associated with the construction, operation, maintenance and termination of the right-of-way within the authorized limits of the right-of-way. Use of vehicles or equipment outside of the established boundary of the right-of-way is strictly prohibited. Any violations of this stipulation shall be grounds for termination of the right-of-way.
16. The holder shall designate a representative who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.
17. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
18. The holder shall remove only the minimum amount of vegetation necessary for the construction of structures and facilities. Only those areas where safety, absolute need for construction or other regulations may warrant the use of topsoil removal by blading or scalping. This right-of-way clearing shall be limited to the limits of the right-of-way. Suitable topsoil material removed in conjunction with clearing and stripping shall be conserved in stockpiles within the right-of-way. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate re-growth of vegetation.
19. The holder shall cover construction holes to be left open overnight. Covers shall be secured in place and shall be strong enough to prevent livestock or wildlife from falling through and into a hole.
20. The holder shall re-contour all disturbed areas and obliterate all earthwork by removing embankments, backfilling excavations, and grading to re-establish the approximate original

contours of the land in the right-of-way.

21. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations). Equipment shall be cleaned of all caked mud, dust and plant material before entering the right-of-way area.
22. If during any phase of the construction, operation, or termination any oil or other pollutant should be discharged from containers or vehicles and impact Federal lands, the control and total removal, disposal, and cleanup of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of holder to control, cleanup, or dispose of such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the authorized officer may take such measures as he deems necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic environment and fish and wildlife habitats, at the full expense of the holder. Such action by the authorized officer shall not relieve the holder of any liability or responsibility.
23. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
24. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
25. The holder or its contractors will notify the BLM of any fires and comply with all rules and regulations administered by the BLM concerning the use, prevention and suppression of fires on federal lands, including any fire prevention orders that may be in effect at the time of the permitted activity. The holder or its contractors may be held liable for the cost of fire

suppression, stabilization and rehabilitation. In the event of a fire, personal safety will be the first priority of the holder or its contractors. The holder or its contractors will:

- a. Operate all internal and external combustion engines on federally managed lands per 36 CFR 261.52, which requires all such engines to be equipped with a qualified spark arrester that is maintained and not modified.
- b. Carry shovels, water, and fire extinguishers that are rated at a minimum as ABC - 10 pound on all equipment and vehicles. If a fire spreads beyond the suppression capability of workers with these tools, all will cease fire suppression action and leave the area immediately via pre-identified escape routes.
- c. Initiate fire suppression actions in the work area to prevent fire spread to or on federally administered lands.
- d. Notify the Northern Utah Interagency Fire Center (801) 495-7600 (or 911) immediately of the location and status of any escaped fire.

Maintenance

27. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four inches deep, the soil shall be deemed too wet to adequately support construction equipment.
28. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
29. The holder shall contact the authorized officer to arrange a pre-termination conference 180 days prior to termination of the right-of-way. This conference will be held to review the termination provisions of the grant.
30. Site reclamation and rehabilitation shall include seed bed preparation and seeding of the following utilizing certified weed free seed mix:

| Seed, Common Name | Seed, Scientific Name | Lbs/acres |
|-----------------------|-----------------------------------|-----------|
| Western Wheatgrass | Agropyron smithii | 2 |
| Thickspike Wheatgrass | Agropyron dasystachyum | 2 |
| Bluebunch Wheatgrass | Agropyron spicatum | 2 |
| Blue Flax | Linum perenne | 0.5 |
| Alfalfa | Medicago sativa | 1 |
| Canby Bluegrass | Poa canbyi | 0.5 |
| Saifoin | Onobrychis viciifolia | 2 |
| Small Burnet | Sanguisorba minor | 2 |
| Western Yarrow | Achillea millefolium | 0.1 |
| Sagebrush, Wyoming | Artemisia tridentata wyomingensis | 1 |
| Great Basin Wildrye | Elymus cinereus | 2 |

Plan Conformance and Consistency: Although the proposed action is not specifically mentioned in the Randolph Management Framework Plan (MFP) 1980 (as amended), it is consistent with its objectives, goals, and decisions as they relate to the Lands program. The MFP does not include any specific language regarding water pipeline right-of-way grants. However, it does remain consistent with the goals and objectives ensuring that uses of public lands are authorized by the appropriate authority and of other programs such as cultural, soils, and wildlife referred to within the MFP. The proposed action is also in conformance with the Utah Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA) dated September 15, 2015. The ARMPA allows for construction to occur prior to August 15 because the construction activities would not disturb the Greater sage-grouse at the population level, and the development is designed to facilitate long-term livestock distribution across the grazing allotment. The project would have a neutral effect on greater sage-grouse.

Alternatives Considered: The No Action Alternative was the only alternative to the proposed action evaluated in EA. The BLM did not consider other action alternatives in our review of the project. The alternatives carried forward represent those necessary for a reasoned choice (40 CFR 1502.14) and are based on the issues that were identified by the interdisciplinary team.

The No Action Alternative was not selected because the stated goals and benefits of the Proposed Action are consistent with the provisions of the FLPMA and analysis of the project provided no viable justification as required by 43 CFR §2804.26 for denying the applicant's legitimate use of the Public Land.

Rationale for Decision: The CEQ Guidance regarding NEPA Regulations, 48 Fed. Reg. 34263 (July 28, 1983) allow BLM to use another agency's environmental assessment for a BLM Finding of No Significant Impact. The BLM Interdisciplinary Team evaluated the Natural Resources Conservation Service EA to ensure it adequately addressed environmental impacts of the proposed action.

The decision to authorize the right-of-way has been made in consideration of the environmental impacts of the proposed action. It was determined that this beneficial use of public lands could be accommodated with minimal impacts to the environment due to the application of special stipulations identified for the subject grant.

An evaluation of this project's effect on the Priority Sage Grouse Habitat (PHMA) concludes that the amount of impact to the habitat will likely be less than a two-track road, which is not counted against the disturbance cap. The pipeline would show a beneficial long-term effect within greater sage-grouse habitat by improving livestock grazing distribution. General access to the area would be from an existing two-track road. The operator would be accessing this area periodically for routine or emergency maintenance only. There would be no regular travel along the right-of-way, and all pertinent avoidance and minimization measures associated with right-of-ways, as identified in the Utah Greater Sage-Grouse Approved Resource Management Plan Amendment, will be applied as noted above in the Terms/Conditions/Stipulations Section. The rationales used to show compliance with specific ARMPA decisions relative to this project are attached.

As part of the process, notice of this pending project was provided on the BLM's NEPA Register on 02/03/2016. The Public Lands Policy Coordination Office, the Jemez Pueblo, Northwestern

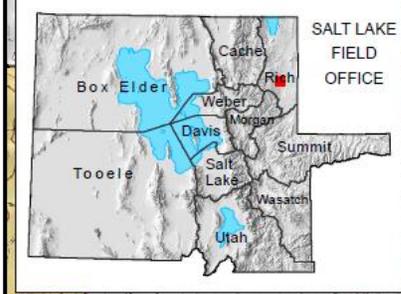
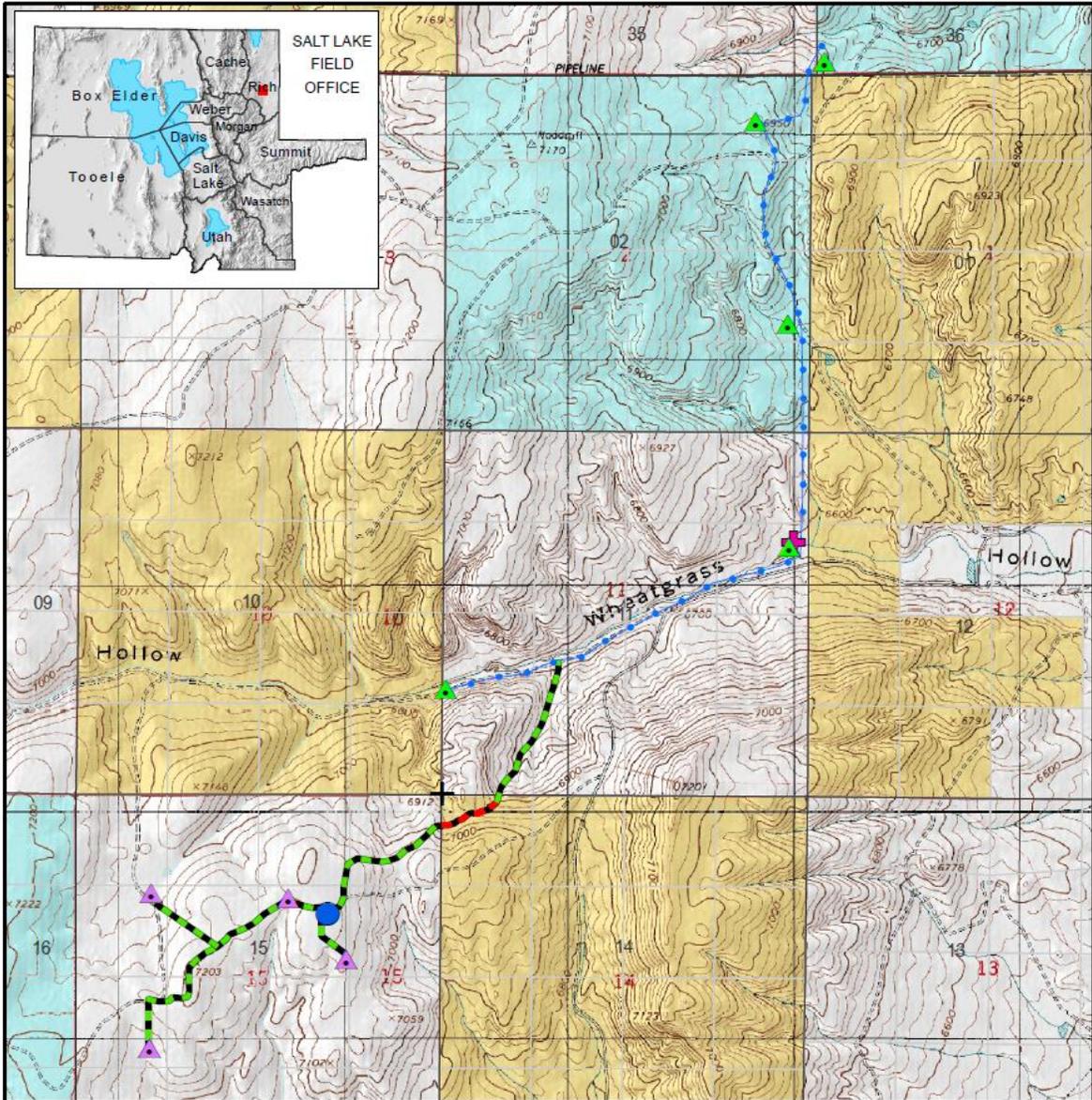
Rich County Water Pipeline

UTU-090224

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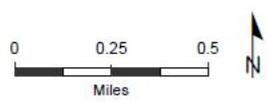
T 9 N

T 8 N



- ▲ Existing Trough
- New Tank
- ▲ Proposed Trough
- + Well and Pump
- Existing Pipeline
- Proposed Pipeline BLM
- Proposed Pipeline Private
- + Found Section Corner

- Land Status**
- + Bureau of Land Management
 - + Private
 - + State



January 21, 2016

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.



| GRSG Decision | Application |
|---|--|
| <p>MA-SSS-3: In PHMA, apply the following management to discretionary disturbances or activities that are not otherwise excluded or closed to minimize and mitigate effects on GRSG and its habitat from the project/activity:</p> <p>G. Seasonal Restrictions</p> | <p>Seasonal restrictions are applied to the construction activity. Construction could occur prior to August 15 because the construction activities would not disturb the Greater sage-grouse at the population level, and the development is designed to facilitate long-term livestock distribution across the grazing allotment. The project would take approximately 7 days and the actual time needed across BLM land would be less than 1 hour. The project would have a neutral effect on greater sage-grouse.</p> |
| <p>MA-Veg-5: In PHMA, prioritize the use of native seeds for restoration based on availability, adaptation (ecological site potential), and probability of success. Where probability of success or adapted seed availability is low, desirable non-native seeds may be used as long as they support GRSG habitat objectives. Re-establishment of appropriate sagebrush species/subspecies and important understory plants, relative to site potential, should be the principle objective for rehabilitation efforts.</p> | <p>The seed mix was developed in consultation with the UDWR. It includes native and introduced plant species that have shown to be successful in establishing on local sites and rangeland conditions. The seed mix does include sagebrush.</p> |
| <p>MA-Veg-12: In PHMA, integrated Vegetation Management will be used to control, suppress, and eradicate noxious and invasive species per BLM Handbook H-1740-2.</p> | <p>The proponent would be responsible for weed control within the ROW as stipulated.</p> |
| <p>MA-Veg-14: Treat areas that contain cheatgrass and other invasive or noxious species to minimize competition and favor establishment of desired species.</p> | <p>Same as MA-Veg-12.</p> |
| <p>MA-LG-14: In PHMA, design new structural range improvements to have a neutral effect or conserve, enhance, or restore GRSG habitat through an improved grazing management system relative to GRSG objectives. Structural range improvements, in this context, include but are not limited to: cattle guards, fences, exclosures, corrals or</p> | <p>Same as MA-SSS-3, MA-Veg-12 and 14.</p> <p>The trough locations on private land facilitate livestock dispersal in greater sage-grouse habitat within the allotment.</p> <p>Weed control measures would be the responsibility of the proponent.</p> |

| GRSG Decision | Application |
|--|----------------------------------|
| <p>other livestock handling structures; pipelines, troughs, storage tanks (including moveable tanks used in livestock water hauling), windmills, ponds/reservoirs, solar panels and spring developments. Potential for invasive species establishment or increase following construction must be considered in the project planning process and monitored and treated post-construction.</p> | |
| <p>MA-LG-17: In PHMA, monitor for and treat noxious weeds and treat invasive species where needed, associated with existing range improvements.</p> | <p>Same as MA-Veg-12 and 14.</p> |