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

From: Assistant Director, Resources and Planning

Subject: Incorporating Thresholds and Responses into Grazing Permits/Leases

Program Area: Rangeland Management

Purpose: This Instruction Memorandum (IM) provides guidance for analyzing and incorporating thresholds and responses, as appropriate, into terms and conditions of grazing permits and the associated National Environmental Policy Act (NEPA) analysis. This guidance applies to Greater Sage-Grouse (GRSG) Priority Habitat Management Areas (PHMA) 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). Change 1 clarifies the relationship of the GRSG habitat objectives table, land health standards (43 CFR 4180.2), and thresholds and responses in grazing permit/lease terms and conditions.

Policy/Action: When field offices (FOs) fully process a permit within PHMA, they will develop thresholds and responses for analysis in accordance with the policy set forth below. The field offices will continue to coordinate with permittees, state agencies having lands or managing resources within the area, tribes, other appropriate federal agencies, and interested publics (e.g., local governments) during the review and processing of grazing permits including developing thresholds and responses.

Relationship with GRSG Habitat Objectives

The GRSG Plans provide a habitat objectives table¹ that contains a suite of GRSG seasonal habitat indicators and their values (desired conditions column in the table). These are collectively referred to as habitat objectives and apply to seasonal use areas within all GRSG habitat designations (e.g., PHMAs, General Habitat Management Areas, and Important Habitat Management Areas (Idaho)). The seasonal habitat indicators and values in the habitat objectives table will, in part, guide the development of thresholds for those seasonal habitats found in grazing allotments. Using a single indicator value as a threshold to modify livestock grazing management is not an appropriate use of the habitat objectives table.

Analyzing and Incorporating Thresholds and Responses

Consistent with the GRSG Plans, when a FO fully processes² a grazing permit/lease that includes lands within PHMA, the NEPA analysis covering that permit/lease will include at least one alternative that analyzes incorporation of relevant thresholds and defined responses into the terms and conditions of the grazing permit or lease. The habitat objectives table from the GRSG plans can inform the development of thresholds at the allotment and site-specific levels, but there are other factors that should be considered as well.

Thresholds specific to sage-grouse habitat in PHMA will be developed to maintain or move PHMA toward achieving the GRSG habitat objectives based upon consideration of ecological site potential,³ and relevant locally specific conditions. Thresholds are grazing use indicators that can be measured to ensure that current livestock grazing management allows an area to make progress toward achieving GRSG habitat objectives and land health standards. Percent utilization, bank alteration limits, and/or browse utilization limits are examples of thresholds that, if exceeded, could result in the authorized officer (AO) applying one or several responsive management actions. The responses will identify what changes in livestock grazing management would occur if a threshold is exceeded.

To determine when to select an alternative that incorporates thresholds and responses into permit terms and conditions, the highest priority should be PHMAs when: 1) a Land Health Standards Evaluation indicates that the area is not achieving or is not making progress towards achieving the wildlife/Special Status Species habitat standard as informed by the GRSG habitat assessment report; and 2) the AO determines that current livestock grazing is a significant causal factor for

¹ Refer to the IM “Policy on the Use and Modification of the Habitat Objectives Table from the 2015 Greater Sage-Grouse Approved Resource Management Plans and Amendments” for guidance on the use of the Habitat Objectives Table.

² A fully processed grazing permit is a grazing permit that has been issued in accordance with all applicable laws, regulation, and policy including the NEPA, Endangered Species Act (ESA), and decision processes provided in 43 CFR 4160. Permits issued under Section 402(c)(2) of FLPMA are not considered fully processed.

³ The ecological potential of a site is informed from an Ecological Site Description, associated State and Transition Models, and other pertinent data used to complete a Reference Sheet as described in *Interpreting Indicators of Rangeland Health* (M. Pellant, et. al., 2005). If an Ecological Site Description or associated State and Transition Model is not available, the process set out in *Interpreting Indicators of Rangeland Health* describes a process to identify an existing Ecological Site Description that is suitable for the soil, moisture, aspect, and slope of the site in question. If no comparable or suitable Ecological Site Description is available *Interpreting Indicators of Rangeland Health* also describes the process to develop a Reference Sheet in the absence of an Ecological Site Description.

not achieving land health standards relative to GRSG habitat.⁴ Where an AO selects an alternative that does not include thresholds and defined responses, the AO will explain in the decision how the selected livestock grazing management will achieve the desired effect, why thresholds/responses do not need to be included in the grazing permit/lease, and what indicators and metrics will be used to evaluate and document achievement or continued progress toward achievement of GRSG habitat objectives.

At the AO's discretion, they may select an alternative analyzed in an EA/EIS that includes thresholds and responses for an allotment that currently achieves the special status species land health standard in order to provide additional flexibility to the permittee to meet other resource management objectives. For example, FOs may want to incorporate thresholds and responses to ensure success of vegetation treatments, invasive species control, and/or reduction of excessive fuel loads.

The FOs will use the sage-grouse habitat suitability assessment, which is the product of the Sage-Grouse Habitat Assessment Framework (HAF) (see current HAF)⁵ associated with an allotment or group of allotments to inform the Land Health Assessments, Evaluations and Determinations.⁶ For allotments within GRSG habitat management areas where a grazing permit or lease is not fully processed under 43 CFR 4160, and a sage-grouse habitat assessment was not part of the LHE, FOs will need to update the existing Land Health Evaluation to include an assessment of sage-grouse habitat suitability before the permit can be fully processed.

NEPA Considerations for Implementing Defined Management Responses

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 a categorical exclusion (CX) is appropriate (explained below), or preparation of an EIS is necessary, as described in the NEPA Handbook (H-1790-1).

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 thresholds are exceeded. The analysis should also identify the location, timing, frequency and methodologies used for monitoring the thresholds. Monitoring results are used to determine if thresholds have been exceeded along with causal determination, and if livestock grazing was the causal factor, then apply appropriate responses.

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

⁴ Refer to the IM "Setting Priorities for Review and Processing of Grazing Authorizations and Related Livestock Grazing Monitoring."

⁵ Refer to the most current Sage-Grouse Habitat Assessment Policy for guidance on assessing suitability of sage-grouse habitat.

⁶ Land Health Assessments and Evaluations assess conditions relative to the land health standards that apply to each parcel of BLM-managed land, evaluate whether each applicable land health standard is being achieved, or whether significant progress is being made toward achieving each land health standard. When one or more land health standards are not being achieved, the BLM completes a Determination to identify the causal factor(s) in non-achievement of the land health standard(s). Refer to Handbook 4180-1 Rangeland Health Standards (Rel 4-107).

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

Incorporation of thresholds and management responses into a permit that were not included as terms and conditions in a permit may be possible where:

- The thresholds and management responses were analyzed in another alternative but not selected. A Determination of NEPA Adequacy must be prepared when selecting a previously analyzed alternative. The AO may then issue a new proposed decision selecting the alternative that analyzed the desired thresholds and management responses.
- 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. The FOs must expedite further NEPA analysis to modify the permit and incorporate the appropriate management response.

Using a Categorical Exclusion

The AO may use a 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 livestock grazing management has led to conditions which achieve 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 when Issuing a Grazing Permit or Lease*," 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. Also, the FOs are 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, expire, they can 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. 113-291,⁷ until they can be fully processed.

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.

Consultation and Coordination

As required in Title 43 Code of Federal Regulations (CFR) 4110.3-1(c); 4110.3-3(a); 4110.3-3(b); 4120.2(c) and (e); 4130.2(b) and 4130.6-2, field offices will consult and coordinate with grazing permit holders, the interested public, state agencies, tribes and other appropriate federal agencies when gathering data to compare current conditions to land health standards and objectives; developing alternatives for NEPA analysis, particularly when considering adjustments in authorized use; and developing a monitoring plan, particularly if other parties will be collecting data to determine the effectiveness of any changes in management. In addition to the consultation and coordination with the entities required by regulation, field offices will also include relevant federal, state and local government as appropriate.

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: Developing thresholds and responses is complex and often requires the consideration of many factors, which may increase the costs of processing individual permits. However, the ability to adjust management to address changing conditions without requiring additional NEPA can provide significant cost and time savings. As FOs take more time preparing thresholds and responses for fully processed permits in PHMA, this may require deferring work such as permit processing and developing range improvements in lower priority areas.

Background: Management direction within the GRSG Plans state that the NEPA analysis for renewals and modifications of livestock grazing permits/leases that include lands within PHMA will include specific management thresholds based on the Habitat Objectives table, Land Health Standards (43 CFR, Part 4180.2), ecological site potential, and one or more defined responses that will allow the AO to make adjustments to livestock grazing that has already been subjected to NEPA analysis. On August 4, 2017, the BLM delivered a Response to Secretarial Order 3353 “Greater Sage-Grouse Conservation and Cooperation with Western States” (June 7, 2017) that identified issues related to the 2015 GRSG plans and subsequent policies. This policy update is a result of the Response to SO 3353 as well as feedback from internal staff and external federal, state, and local partners.

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.

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