

Bjornsen, Alan

From: Bob Budd [bbudd@state.wy.us]
Sent: Sunday, June 13, 2010 9:25 PM
To: Brian Rutledge; Bill Hill; Chris Keefe; Mark Winland; Jonathan Madill; Paul Ulrich; Clint McCarthy; Peter McDonald; Brian Kelly; Pat Deibert; Rene Braud; Doug Thompson; Helen Jones; Jason Fearneyhough; Ryan Lance; John Andrikopoulos; Donna Wichers; John Emmerich; Penny Bellah; Xavier Montoya; Carol Bilbrough; John Corra; Susan Child
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Subject: Fwd: Final Draft, Mining Stips
Attachments: MineStips 5-20-10 UraniumBentonite Mods (06-08-10) Final Draft.docx

These are the comments and suggestions from the mining folks.....

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>>> "Donna Wichers (USA - Casper)" <Donna.Wichers@uranium1.com> 6/8/2010 8:30 PM >>>
Bob,

Attached is the final draft of the mine stips. I believe that I have everyone's comments incorporated. Please let me know what the next step is prior to next week's meeting. Again, the industry offers to discuss these stips during a conference call with you, WDEQ, WGFD, etc. to gain some sort of consensus prior to next week's meeting. We can always agree to disagree on any issues we cannot work out, and will leave those to you and the SGIT.

Thanks for everyone's input and solid advice. If there is something that I missed, let me know.

Donna

Donna L. Wichers
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6/57

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EX 6

TOPIC	MINING STIPULATIONS INSIDE CORE AREAS
No Surface Occupancy definition (WGFD definition)	No Surface Occupancy" (NSO), as used in these recommendations, means no surface facilities including roads shall be placed within the NSO area. Other activities may be authorized with the application of appropriate seasonal stipulations, provided the resources protected by the NSO are not adversely affected. For example, underground utilities may be permissible if installation is completed outside periods specified in applicable seasonal stipulations and significant resource damage does not occur. Similarly, geophysical exploration may be permissible in accordance with seasonal stipulations.
1. Grandfathered	Areas already disturbed or approved for disturbance in mine plans approved prior to the Governor's Executive Order, dated August 1, 2008, are not subject to new sage-grouse stipulations, except that these mine operations may not initiate activities resulting in new surface occupancy within 0.6 mile of the perimeter of a sage-grouse lek.
2. Areas within 0.6 mile of an occupied lek	No new surface occupancy may occur within 0.6 miles of the perimeter of an occupied sage-grouse lek. Exceptions may be considered by the LQD, in consultation with WGFD, on a case by case basis.
3. Overhead lines	New overhead lines must be located at least 0.6 mile from the perimeter of a sage-grouse lek. New lines should be buried where possible and raptor proofed where not buried.
4. Exploration	Exploration activities in core areas may occur from July 1 to March 14. Exploration activities in unsuitable habitat may also be approved for year-round exploration (including March 15-June 30) on a case by case basis.
5. Development drilling & /Ore body delineation	For development drilling or ore body delineation drilled on tight centers (less than 100' x 100'), the disturbance area will be delineated by the external limits of the development area.
6. Initial annual disturbance	All topsoil stripping and vegetation removal (initial disturbance) will occur between July 1 and March 14 in areas that are within 4.0 miles of an occupied lek. Initial disturbance in unsuitable habitat between March 15 and June 30 may be approved on a case by case basis. <u>If an approved survey conducted immediately prior to topsoil stripping or vegetation removal indicates that there is no evidence of nests or brood rearing in the proposed disturbance area, then initial disturbance may occur between March 15 and June 30. If nests or broods are found during the survey, then initial disturbance will not occur until after June 30.</u>
7. Rollover criteria for new authorizations	Disturbed areas can be removed from the disturbance cap when they have been reclaimed through seeding, the reclamation has been in place for at least two full growing seasons, and agency inspection (LQD) verifies that there is expression of the seed mix, that plants are establishing, and invasive plants are controlled. Reclamation that fails subsequent to verification will be placed back into the disturbance cap. On those acres where sagebrush establishment is prescribed, a temporary rollover release can be achieved based on grass and forb establishment <u>if the permanent reclamation seed mix for the mine plan includes sagebrush. Adequacy of permanent reclamation will follow statutory requirements for mine permits.</u>
9. New permits and other authorizations	The disturbance cap acreage for new permit actions must be less than or equal to 5% of suitable habitat within the permit area plus any approved adjacent lands the permittee controls. Larger disturbance acreage may be considered, but in no case shall exceed 5% of the suitable habitat within the Project Impact Assessment Area (PIAA). Additionally, the acreage approved for the disturbance cap plus all existing disturbance in the PIAA cannot exceed 5% of suitable habitat within the PIAA. Unsuitable habitat occurring within the project area will not be counted toward the disturbance cap. Applies to: New permits, amendments that are not contiguous with the existing permit.
10. Suitable sage-grouse habitat	Suitable sage-grouse habitat will be identified and mapped using baseline surveys and the WGFD sage-grouse habitat maps. <u>Any habitat that is not suitable sage-grouse habitat is considered unsuitable habitat.</u>

Modified May 20, 2010 (clean) and modified 06-07-10 by Uranium, Benicérite

Comment [dlw1]: We recommend removal of this section. The 1 pad concept is not necessarily consistent with the PIAA concept, and there are no definitions of "nonfunctional"; nor "surrounding projects/activities".

Deleted: ASSUMPTIONS from SGIT

Deleted: 1. Project area is considered analogous to 1 pad.
2. Habitat rendered nonfunctional due to surrounding projects/activities are considered disturbance.

Comment [dlw2]: This is a definition. If we are going to have definitions, there should be a section below the stipulations entitled definitions.

Comment [dlw3]: This section discusses grandfathered mine plans. There is no need to go into new proposed activities.

Deleted: Any existing disturbance will be counted toward the calculated disturbance cap for a new proposed activity.

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Deleted: WGFD and

Comment [dlw4]: WGFD has no regulatory or enforcement power over mining operations. This is a WDEQ responsibility by statute.

Comment [dlw5]: We assume that due to the nature of exploration drilling (a very small, temporarily disturbed area that is immediately ... [2]

Deleted: Assuming a widely-spaced disturbance pattern, the actual footprint will be considered ... [1]

Deleted:

Comment [LB6]: This was a key concept in the stip previously agreed to by WYGF, LQD, and ... [3]

Comment [LB7]: As indicated in other sections, WYGF has no regulatory authority. Leaving ... [4]

Deleted: or WGF

Comment [LB8]: This can be a very subjective opinion, particularly in only two years.

Comment [dlw9]: We are going against established state law ... there are no shrub sta ... [5]

Deleted:

Deleted: However, sagebrush establishment

Deleted: must be achieved within 10 5 years to achieve permanent credit. Acres where sageb ... [6]

Comment [dlw10]: This stipulations is NOT consistent with the Grandfathering stipulation ... [8]

Deleted: 8. Disturbance caps for existing permits and authorizations

Deleted: Once grandfathered activity is completed, a disturbance cap will be applied to new distu ... [7]

Comment [dlw11]: Exploration drilling, licenses to explore dozing (who does this anymore???) ... [9]

Deleted: , new drilling notifications, and new licenses to explore by dozing

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Deleted: 11. Unsuitable habitat

Deleted: Unsuitable habitat should be analyzed in a seasonal and landscape context, on a case ... [10]

12. Sage-grouse, conservation plan	The project proponent will work with <u>LQD</u> , during the permitting process to establish a sage grouse monitoring, protection, and habitat enhancement plan, in coordination with <u>WGFD</u> . This plan will be submitted by the operator for inclusion in the permit. Modifications to the Plan will be coordinated through <u>LQD and WGFD</u> .
13. Monitoring	The mine operator will coordinate with <u>LQD and WGFD</u> to develop a monitoring plan. The monitoring plan will be included in the sage-grouse protection plan, and will be incorporated into the mine permit. Monitoring results will be reported annually in the mine permit annual report to <u>LQD and to WGFD</u> . Pre-disturbance surveys will be conducted for at least two years. The second year of the survey may be conducted concurrent with <u>LQD permit review</u> .
14. Adaptive response	If monitoring results show a decline in number of male grouse attending <u>monitored leks</u> , using a three-year running average during any five-year period, <u>that is not consistent with statewide or regional results</u> , the operator will review the results to evaluate possible causes. <u>If declines are determined to be caused by the operation, the operator will propose adaptive management responses to increase the number of birds.</u> If the operator cannot demonstrate a restoration of bird numbers to baseline levels established by the two-year pre-disturbance surveys, <u>reference surveys and taking into account regional and statewide trends, within three years, operations will cease until such numbers are achieved.</u>
15. Seed mixes	Reclamation seed mixes will be tailored to benefit sage-grouse and to replace or enhance sage-grouse habitat to the degree that environmental conditions are conducive to support those seed mixes. Landowners will be consulted on seed mixes on private lands.
16. Credit	<u>Average credit may be given on an acre-for-acre basis for completion of habitat enhancements, or restoration of previously reclaimed lands to functional sage grouse habitat, as detailed in the sage grouse conservation plan. These habitat enhancements or restorations may be used as credit for reclamation that is slow to establish in order to maintain the disturbance cap.</u>
17. Exceptions	Exceptions to above stipulations will be considered by the WGFD and LQD on a case by case basis. The company requesting the exception to the stipulation bears the responsibility to demonstrate the exception will not cause declines in sage-grouse populations.

Deleted: protection

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Deleted: LQD

Comment [dlw12]: Again, WGFD has no legal authority through statutes to regulate mining. Statutory authority is provided to WDEQ, LQD. LQD may consult, coordinate and accept WGFD recommendations, and mining companies may ask WGFD to help with advice for the plan, but the permitting activity must be done through LQD.

Deleted: G&F and

Comment [dlw13]: This is NOT consistent with Stipulation No. 1: grandfathering, where any existing permits within core are not subject to the sage grouse stipulations. We do not see this requirement for oil and gas, or other developments that are permitted.

Deleted: Operators with existing permits will work with WGFD to establish a sage-grouse monitoring, protection, and habitat enhancement plan to verify that sage-grouse counts are not declining, and to evaluate the permit with the objective of minimizing impact on sage-grouse.

Deleted: and propose adaptive management responses to increase the number of birds.

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Deleted: and/or reference area surveys

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Deleted: or to improve nearby sage-grouse habitat.

Comment [dlw14]: Are measuring noise levels at the perimeter of a lek during this breeding period a good idea? Where does this standard come from? We have NSQ within 0.6 miles of the perimeter of a lek, and setting up noise monitors at the edge of a lek does not seem to be consistent with the stipulations. Furthermore, we cannot control noise from other operators in the area such as traffic on county roads, nearby coal bed methane compressors, or wind operations (if ever allowed in core). Also, we question which leks (those within the PIAA, or outside the PIAA) which leks?

Deleted: 18. Noise Restrictions

Deleted: Limit noise to 10 dBA above natural ambient noise (approx. 39 dBA) measured at the perimeter of a lek from March 1 to May 15

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Page 1: [1] Deleted 6/5/2010 8:40:00 PM

Assuming a widely-spaced disturbance pattern, the actual footprint will be considered the disturbance area

Page 1: [2] Comment [dlw5] 6/7/2010 4:05:00 PM

We assume that due to the nature of exploration drilling (a very small, temporarily disturbed area that is immediately reclaimed after drilling) that a disturbance area and PIAA is not required. If this statement remains, we would recommend that "widely spaced disturbance pattern be defined as greater than 100' x 100', consistent with Stipulation No. 5.

Page 1: [3] Comment [LB6] lbuch 6/7/2010 4:05:00 PM

This was a key concept in the stipulations previously agreed to by WYGF, LQD, and bentonite producers. Forcing all topsoil stripping between July 1 and March 14 encourages unintended consequences of taking larger blocks of vegetation out of production for longer periods of time and compromises reclamation success by stockpiling soil rather than live-spreading. An operator should have the option of taking the extra steps to minimize impacts to the bird

Page 1: [4] Comment [LB7] lbuch 6/7/2010 4:05:00 PM

As indicated in other sections, WYGF has no regulatory authority. Leaving both agencies in this document will inevitably lead to a need to "consult and agree" bureaucracy.

Page 1: [5] Comment [dlw9] 6/7/2010 4:05:00 PM

We are going against established state law ... there are no shrub standards for non-coal operations, but there are for coal. We highly recommend that the SGIT approve stipulations that are consistent with current state law.

Page 1: [6] Deleted 6/5/2010 8:58:00 PM

must be achieved within 10 5 years to achieve permanent credit. Acres where sagebrush does not establish will be placed back into the disturbance cap.

Page 1: [7] Deleted 6/5/2010 9:12:00 PM

Once grandfathered activity is completed, a disturbance cap will be applied to new disturbance in existing permits so that acres of suitable habitat disturbed by mining activities is maintained at a constant level. The pace of reclamation is maintained to balance the initiation of new activities. The number of acres approved for rollover are applied to new disturbance. These rollover acres constitute the allowable acreage for future disturbance.

Applies to: Existing Permits, Drilling Notifications, and Licenses to Explore by Dozing

Page 1: [8] Comment [dlw10] 6/7/2010 4:05:00 PM

This stipulations is NOT consistent with the Grandfathering stipulation above. If you have an approved mine plan that takes you through 20 years of mining, that plan is approved and a company should NOT be limited. The grandfathering stipulation clearly states that areas that are disturbed or approved for disturbance are NOT subject to the sage grouse stipulations.

Page 1: [9] Comment [dlw11] 6/7/2010 4:05:00 PM

Exploration drilling, licenses to explore dozing (who does this anymore???) require immediate, permanent reclamation after drilling and logging the holes. If the spacing for exploration drilling is the "footprint", then how do you determine the 5% suitable habitat? This will not work for exploration drilling.

Page 1: [10] Deleted 6/5/2010 9:25:00 PM

Unsuitable habitat should be analyzed in a seasonal and landscape context, on a case by case basis, outside the 0.6 mile buffer around leks. The primary focus should be on protection of suitable habitats