

Sage-Grouse Lek Guideline Review Report

MAY 2011



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Sage-Grouse Leks Guideline Review Report

INL Land Use Committee

May 2011

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EXECUTIVE SUMMARY

On April 21, 2011, an Idaho National Laboratory (INL) Land Use Committee meeting was convened to support a Department of Energy Idaho Operations Office (DOE-ID) unofficial request to obtain Land Use Committee comments pertaining to the proposed Sage-Grouse Breeding Habitat Regulations. Two documents were provided from DOE-ID pertaining to the proposed regulations: “Guidelines for INL Site Activities within Sage-grouse Breeding Habitat” and “Guidelines for New Infrastructure Development and Future Activities on the INL Site.”

The INL Land Use Committee agreed to conduct this unofficial review in the spirit of collaboration between DOE-ID and the INL Land Use Committee. However, through this cursory review, significant concerns were raised regarding the guidelines, INL financial obligations, and the draft Candidate Conservation Agreement, which was not part of the requested review but is referred to by the guideline.

Therefore, it is the position of the INL Land Use Committee, based on the issues raised in its cursory review, that DOE-ID request INL (through contractual channels) to conduct a formal review of the draft Candidate Conservation Agreement and guidelines. A formal review would allow ample time to thoroughly review the extensive draft regulations, identify areas of concern, and establish impacts (e.g., cost and project delays).

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INL Land Use Committee Sage-Grouse Leaks Guideline Review Report

1. INTRODUCTION

Per the request of the Department of Energy Idaho Operations Office (DOE-ID), the Idaho National Laboratory (INL) Land Use Committee reviewed two draft guideline documents that were presented at the April 21, 2011, meeting. DOE-ID requested the INL Land Use Committee to develop comments pertaining to the proposed Sage-Grouse Breeding Habitat regulations.

1.1 Overview

Jack Depperschmidt from DOE-ID attended the INL Land Use Committee meeting and discussed the history and drivers for the proposed “Guidelines for INL Site Activities within Sage-grouse Breeding Habitat” and “Guidelines for New Infrastructure Development and Future Activities on the INL Site.” Committee members posed questions for clarification and discussed concerns and possible impacts to current and proposed INL projects and activities and requested a minimum of 2 weeks to review the draft guidelines.

2. SAGE-GROUSE LEKS GUIDELINES AND CANDIDATE CONSERVATION AGREEMENT REGULATIONS

Sage-grouse have been placed on the list of candidate species for Endangered Species Act protection. U.S. Fish and Wildlife Service reviews the status of candidate species annually and, if sage-grouse become classified as endangered, the resulting regulations could delay INL activities and projects that have a potential impact on sage-grouse habitat. In order to prevent unnecessary delays and perhaps the institution of stricter guidelines, DOE is prepared to put in place a voluntary agreement with U.S. Fish and Wildlife, outlining how INL will preserve and protect sage-grouse breeding habitat. As a result, DOE-ID has prepared “Guidelines for INL Site Activities within Sage-grouse Breeding Habitat” and “Guidelines for New Infrastructure Development and Future Activities on the INL Site,” and has informally requested the INL Land Use Committee to review the guidelines. To show mutual cooperation the INL Land Use Committee agreed to conduct a quick informal review of the draft guidelines. Through this cursory review, significant issues were raised, not only with the guidelines, but with the draft Candidate Conservation Agreement (CCA) that is referred to in the guidelines. The draft CCA has never been formally submitted to the INL Land Use Committee for review and comment and the majority of the INL Land Use Committee members were not even aware of the draft CCA’s existence.

The following excerpts from the draft CCA report cause concern for added processes that increase scope to the current infrastructure maintenance activities. Cost associated is undetermined until the requirements are formally detailed and transmitted for implementation.

- *Infrastructure development is considered one of the highest threats to sage-grouse persistence on the INL Site, throughout Idaho, and across their range (Idaho Sage-grouse Advisory Committee 2006; Federal Register 2010).*
 - *Restrict travel on unimproved roads in areas occupied by native plant communities.*
 - *Restrict foot travel in remote areas of the INL Site.*
 - *Activities conducted in areas with natural or naturalized vegetation require a survey for ecological resources.*
 - *Identify, and where possible, remove artificial vertical structures or render them useless to ravens and raptors, especially within 3.0 km (1.7 miles) of important seasonal habitat.*

- *Avoid establishing new gravel pits and landfills within sage-grouse breeding or winter habitat. Where possible, avoid active leks by at least 3.2 km (2 miles).*
- *If the placement of new gravel pits and landfills in or near breeding habitat is unavoidable, ensure that reclamation plans incorporate the appropriate seed mix and seeding technology to restore suitable breeding habitat characteristics.*
- *During activities associated with the exploration, operation, and maintenance of gravel pits or landfills ensure that adequate measures are implemented to control invasive plant species.*
- *Ensure adequate weed control measures are implemented during the life of the operation.*
- *Habitat fragmentation resulting from infrastructure likely poses a significant threat to this species. It has been suggested that pygmy rabbits are reluctant to cross roads or other shrubless areas due to their reliance on dense shrub canopy for predator avoidance (Bradfield 1975, Weiss and Verts 1984).*
- *Active restoration is required to recover sagebrush habitat degraded by crested wheatgrass so that it can support sagebrush-obligate wildlife. Because most of the known invasions originated along roads and facilities where crested wheatgrass was deliberately planted, the potential for future invasions can be significantly reduced by altering management policies and practices to reflect the current scientific understanding of crested wheatgrass ecology.*
- *.... will facilitate a more accurate assessment of pygmy rabbit occurrence when performing NEPA surveys. ESER biologists will collaborate with the Natural Resource Conservation Service to produce an updated soil map for the INL Site.*
- *DOE-ID and the FWS agree that an adaptive management style will be most effective for implementing conservation measures described herein.*
- *DOE-ID requires companies granted right-of-way access to re-establish native vegetation on lands disturbed by their activities. Before planting, the grantee must obtain a list of appropriate native species from the ESER contractor. Apart from this stipulation, each company controls its rights-of-way and is responsible for establishing limiting conditions and mitigation for activities in these areas.*
- *To offset unavoidable alteration and loss of sage-grouse habitat, mitigation will be conducted in areas that ESER biologists have identified as high priority for improvement, restoration, or revegetation (2 acres mitigated for each acre disturbed). Ideally, the mitigation measures should be designed to complement DOE-ID conservation priorities for sage-grouse.*
- *INL Site security will increase enforcement of road closures along boundaries most likely to have prohibited entrance.*
- *Isolated leks should be a high priority for habitat restoration and mitigation projects.*

2.1 Land-Use Committee Comments

The following are the unofficial/informal comments by the INL Land Use Committee regarding the proposed draft guidelines for Sage Grouse Leaks and the draft CCA:

1. Overlying an additional program with stringent requirements like the Endangered Species Act on top of the current contract requirements and associated National Environmental Policy Act requirements will have a perceived impact on all existing infrastructure and program activities. Impacts, however small, associated with implementation of the proposed CCA sage-grouse and pygmy rabbit policy at INL will alter the current business processes for performing work.

Infrastructure activities currently include maintenance of roads, railroads, power distribution systems, communication systems, guard posts, training facilities, pump houses, utility systems that serve and connect facility areas, inspection wells, contaminated areas, unexploded ordinance areas, firing ranges, cultural areas, ecological areas, easements, hunting areas, and grazing areas and landfill

support structures. It also consists of offsite facilities, including Howe Peak and East Butte. Also five counties border and routinely interface with INL personnel; Butte, Clark, Jefferson, Bonneville, and Bingham counties regularly monitor weed management on and around the site to State of Idaho and county laws and regulations.

Activities mostly affected would be as follows:

- Maintenance of unpaved evacuation and security essential roads to seasonal and time-of-day restrictions will increase operator time and equipment costs. Optimum time for this activity is as soon as the snow leaves while there is still moisture in the roads, within the March to May window.
 - Maintenance of Priority 3, Wildland Fire Access, roads for inspections (dump and run), and mowing activities would require additional ecological surveys to the CCA-referenced requirements.
 - Weed spraying would be impacted due to seasonal and time-of-day restricted access and additional scope as identified in the CCA. This activity is performed from the time the sun comes up to approximately noon, based on wind conditions. Requirements to stay within the current width of existing roads and not travel on unimproved roads would significantly affect the survey and abatement of weeds before germination and increase return travel time.
 - Management of borrow sources to seasonal and time-of-day (in after 9:00 a.m., out before 6:00 p.m.) restrictions along with the CCA recommendation to not expand or establish new pits would significantly impact all sitewide contractors. Contractor cost of additional surveys, pit access, or having to truck material from offsite would be astronomical. Battelle Energy Alliance, LLC (BEA) currently has requests for expansion of pits by 4.2M yd³ from other site contractors. T-12 and Adams Boulevard and one area held in reserve for future use, Spreading Area A.
 - Flood control dikes and gates maintenance that requires heavy equipment would be impacted by the additional permitting evaluations and surveys, including the activity restrictions from those surveys. Gates currently exist on the Big Lost River and Birch creek drainages that require annual maintenance with access by unimproved roads.
 - Maintenance, rebuild/replace/repair, and inspection of high-voltage transmission lines and structures would be affected, with increased permitting evaluations and surveys. Some basic activities of this function are as follows:
 - Travel on unimproved roads and open areas occupied by native plant communities for line and structure access with bucket trucks, auger trucks, and pole trailers. This is a restricted activity in the CCA.
 - Pole testing that could lead to digging around a pole and placement of anti-fungal wrap.
 - Travel to fiber optic cables with bucket trucks and a splicing trailer.
2. The additional INL Site security required by the CCA for enforcement of road closures along boundaries to ensure prohibited entrance would be added scope. Policing of sitewide activities for compliance to the CCA also would increase scope.
 3. Along the east border of INL near the intersection of T-4 and T-7, the 1-km area includes one of our field locations for testing. In order to eliminate the conflict, National and Homeland Security would need to determine an acceptable alternative location in the area and complete the process for approval of the new location and relocate any existing equipment (typically ground rods and possibly small antennas).
 4. East of the Materials and Fuels Complex near the intersection of T-4 and T21 are several testing capabilities that are within 1 km of leks. Because there are about 5 leks in this area, National and Homeland Security would have to move a bit farther away and find an acceptable location to utilize. Again, any improvements would need to be relocated.

5. North of the Critical Infrastructure Test Range Complex, there is a lek that overlays part of the accelerator fan area. This appears to be something that could be evaluated and possibly acceptable to coexist.
6. South of the Radioactive Waste Management Complex, near the intersection of the railroad and Faragut Boulevard, our location for operations is on the edge of the 1-km lek area. This may be another candidate for relocation.
7. West of RWMC along T-12 is another National and Homeland Security operations location that is within the 1-km lek area. This may be another candidate for relocation or accept with restrictions within the gravel pit.
8. It appears that an approach that would provide the most flexibility for National and Homeland Security operations in the future would be to evaluate the possibility of relocating the field testing locations with interferences and determine if there are alternate locations possible. If so, relocate the capability outside of the 1-km lek areas. This would be a one-time expense, unless lek locations changed.
9. It may be beneficial to include in the facility list the Critical Infrastructure Test Range Complex area bounded by the radiation control boundary fence, because National and Homeland Security does a significant amount of work there.
10. Any future significant expansion of the wireless test bed would be challenging to avoid the 1-km lek areas.
11. The “Seasonal restrictions within 8-km of active leks” indicates that all of the National and Homeland Security field work between March 15 and June 30 would require U.S. Fish and Wildlife Service review, with the exception of ongoing operations. This involves some additional risk based on not knowing the basis for review and having to commit to work for others customers prior to this review. The additional review at the time of the environmental checklist submittal would be workable as long as it did not add significant time to the process.

3. CONCLUSION

In summary, based on the cursory review conducted by the INL Land Use Committee, there are significant concerns regarding the draft sage grouse guidelines and CCA document with undocumented impacts. The new guidelines and regulations that treat sage-grouse as endangered species, when not currently listed, may have a significant impact across INL. The draft CCA identifies significant additional scope to the current ESER (Stoller) contract for biological involvement, which in turn translates to additional scope for INL. Activities that could add scope to current processes include the following:

- Updating BEA land use National Environmental Policy Act permitting documentation
- Additional permits, based on new requirements
- Biological evaluation and compliance direction provided by ESER biologists for their potential to impact sage-grouse, pygmy rabbits, or their habitats
- Additional environmental checklists for ancillary activities to current scope
- Additional personnel time to process documentation with offsite agencies
- Reschedule activities to time-of-day restrictions
- Added equipment and resources to perform work
- Policing adherence to the new requirements by facility management
- Miscellaneous field worker approvals required not currently covered

- All activities reviewed and evaluated by ESER biologists for impact.

Therefore, it is the position of the INL Land Use Committee, based on the issues raised in its cursory review, that DOE-ID request INL, through contractual channels, to conduct a formal review of the draft CCA and guidelines. A formal review would allow ample time to thoroughly review the extensive draft regulations, identify areas of concern, and establish impacts (e.g., cost and project delays).

Appendix A

Land Use Committee Meeting Attendees

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Land Use Committee Meeting Attendees

Name	Organization	Phone
John Reisenauer, Chair	BEA, Project Management	6-0304
Bruce Angle	BEA, H500	6-1841
Julie Braun Williams	BEA, B320	6-0926
Julie Brizzee	BEA, B320	6-8440
Mike Connolly	BEA, B000	6-0238
Jack Depperschmidt	DOE-ID	6-5053
Jim Graham	BEA, H130	6-7741
Bob Henderson	BEA, Power Management	6-1619
Chris Ischay	BEA, J020	6-4382
Brett Gamett	Bechtel BWXT Idaho, LLC	557-7361
Randy Lee	BEA, B320	6-0120
Darcie Martinson, Facilitator	SRMG	521-3066
Kurt Myers	BEA, B220	6-5022
Cal Ozaki	BEA, Campus Development Office, J020	6-3248
Mark Permann	BEA, Specific Manufacturing Capability, E000	6-8133
Wayne Ridgway	BEA, National and Homeland Security	6-4790
Wendy Savkranz	CH2M-WG Idaho, LLC, Environmental, 2620	3-0029
Dan Shirley	DOE-ID	6-9905
Jason Sturm	DOE-ID	6-2493
Ken Tuck	BEA, Facilities and Site Services	6-2970