

# Bjornsen, Alan

**From:** Bob Budd [bbudd@state.wy.us]  
**Sent:** Friday, April 30, 2010 11:10 PM  
**To:** Bob Harshbarger; Charley Dein; Dave Applegate; Tom Clayson; Gregg Bierei; Wendy Hutchinson; Sandy DaRif; Barbara Dilts; Barbara Chase; Bruce Lawson; Bob Green; Jessica Baldwin; Lyndon Buckler; Nick Agopian; Sandy Tinsley; Nate Ferguson; Alan Edwards; Lauren Furtney; Scott Benson; Jennifer Hartman; Lesley Roth; Jack Palma; Alan Rabinoff; Bill Vetter; Karyn Coppinger; Jackie King; Johnnie Burton; Bjornsen, Alan; Mark Tallman; Matt Grant; Cheryl Sorenson; Mike Smith; Dave Lockman; Jay Jerde; Jon Kehmeier; Garry Miller; Renee Taylor; Bobbie Frank; Charles Kelsey; Wayne Heili; Paul Goss; Marion Loomis; Lynn Welker; Richard Zander; Daryl Lutz; Mary Flanderka; Tom Christiansen; Brian Reilly; Hollis Wold; Ken Hamilton; Christy Hemken; Don McKenzie; Dick Loper; Jim Magagna; Scott Streeter; Mike Fraley  
**Subject:** Fwd: Process and Stipulation Recommendations  
**Attachments:** SGIT RECOMMENDED PROCESS FOR PERMITTING V3.docx; SGIT STIPULATIONS FINAL.docx

FYI

Bob Budd, Executive Director  
State of Wyoming  
Wildlife and Natural Resource Trust  
500 East Fremont  
Riverton, Wyoming 82501  
(307) 856-4665 (OFFICE)  
(b)(6) (CELL)  
(b)(6) (HOME)  
[bbudd@state.wy.us](mailto:bbudd@state.wy.us)

9.13

>>> Bob Budd 4/30/2010 9:09 PM >>>  
Good Evening,

I apologize for the late hour of this message. I am attaching the recommendations from the subgroup asked to look at the 5% issue, stipulations for development in core areas (primarily mining), and the process recommended for project approval. The process recommendation can be considered additive to other stipulations already approved by the SGIT, and agencies such as State Lands. It is my hope that we can complete some of the unknowns that are in current stipulations by addressing these issues (see current stipulations re oil-and-gas, wind, etc.).

The stipulations are the result of numerous meetings between the subgroup, industry representatives, and others. These are in a "final" draft form at this time, and should be considered Monday in that context. If we cannot get through this part of the charge from the Governor on Monday, we can revisit it as a group, but there is a limited amount of time to do so.

Thanks to the working group for your efforts to bring this to the team. Have a good weekend!

Bob Budd, Executive Director  
State of Wyoming  
Wildlife and Natural Resource Trust  
500 East Fremont  
Riverton, Wyoming 82501  
(307) 856-4665 (OFFICE)  
(b)(6) (CELL)  
(b)(6) (HOME)

9.13

G  
42

bbudd@state.wy.us

**RECOMMENDED PROCESS FOR PERMITTING  
IN SAGE GROUSE CORE POPULATION AREAS  
DRAFT 05/03/10**

The following is intended to outline the most efficient process for permitting of activities within Sage Grouse Core Population Areas:

1. **POINT OF CONTACT:** The first point of contact will be the Wyoming Game and Fish Department. It is assumed that project advocates will have a sound idea of where their project may have potential effects on Sage-grouse, and will participate in a review of the project with the department. It is understood the Game and Fish Department has a role of consultation, recommendation, and facilitation, and has no authority to either approve or deny the project.
2. **MAXIMUM DISTURBANCE:** All activities should be evaluated within the context of maximum allowable disturbance of suitable sage grouse habitat within the area affected by the project. The maximum disturbance allowed will be 5% of the Project Impact Analysis Area (PIAA).
3. **PROJECT IMPACT ANALYSIS AREA DELINEATION:**
  - a. Determine all leks that may be affected by the project by placing a four-mile buffer around the project boundary. All leks located within the buffer will be considered affected by the project.
  - b. Within the affected area, a four-mile buffer will be placed around the perimeter of each affected lek. The area within the boundary of affected leks creates the PIAA for each individual project. Disturbance will be analyzed for the PIAA and each individual affected lek within the PIAA.
4. **DISTURBANCE ANALYSIS:** Total disturbance within the PIAA will be reviewed, including:
  - a. Existing disturbance (sage grouse habitat that is nonfunctional due to anthropogenic activity and wildfire).
  - b. Approved permits not implemented
5. **HABITAT ASSESSMENT:** A habitat assessment will be made to determine, as much as possible:
  - a. Suitable and unsuitable habitat within the PIAA
  - b. Sage grouse use of suitable habitat (seasonal, densities, etc.)
  - c. Priority restoration areas (which could reduce 5% cap)

- i. Areas where plug and abandon and restoration will create functional habitat
    - ii. Areas where old reclamation has not produced functional habitat.
  - d. Invasive species analysis
  - e. Other assurances in place (CCAA, easements, habitat contracts, etc.)
6. **MONITORING/ADAPTIVE RESPONSE:** Sage-grouse monitoring will be put in place to evaluate response of the affected populations to the activity (if any). Monitoring will be conducted on the affected leks, and on reference leks (control areas) outside the PIAA. In the event there is a decline in numbers on the affected leks that exceeds trends on reference leks in any three-year period of data collection (within a five-year window), a review will be conducted and the activity may be precluded, pending determination of cause of the decline.
7. **PERMITTING:** The complete analysis package will be forwarded to the appropriate permitting agency, including recommendations from Wyoming Game and Fish Department.

| TOPIC   | MINING STIPULATIONS INSIDE CORE AREAS   |
|---|---|
| ASSUMPTIONS from SGIT                                       | 1. Project area is considered analogous to 1 pad.<br>2. Habitat rendered nonfunctional due to surrounding projects/activities are considered disturbance.   |
| No Surface Occupancy definition (WGFD definition)           | No Surface Occupancy <sup>1</sup> (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. Any existing disturbance will be counted toward the calculated disturbance cap for a new proposed activity.  |
| 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 WGFD and LQD 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. Assuming a widely-spaced disturbance pattern, the actual footprint will be considered the disturbance area.  |
| 5. Development drilling & Ore body delineation              | For development drilling or ore body delineation drilled on tight centers, 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.  |
| 7. Rollover criteria  | 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, WGF) 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. Sagebrush where appropriate should be included in the expression of the seed mix.   |
| 8. Disturbance caps for existing permits and authorizations | A disturbance cap will be applied to 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.<br>Applies to: existing Permits, Drilling Notifications, and Licenses to Explore by Dozing   |
| 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.<br>Applies to: New permits, amendments that are not contiguous with the existing permit, new drilling notifications, and new licenses to explore by dozing. |
| 10. Suitable sage-grouse habitat                            | Suitable sagebrush habitat will be identified and mapped using baseline surveys and the WGFD sage-grouse habitat maps.  |
| 11. Unsuitable habitat                                      | 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 and protecting from habitat fragmentation.  |
| 12. Sage-grouse protection plan | The project proponent will work with WGFD during the permitting process to establish a sage grouse monitoring, protection, and habitat enhancement plan, in coordination with LQD. This plan will be submitted by the operator for inclusion in the permit. Modifications to the Plan will be coordinated through G&F and LQD.<br>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. |
| 13. Monitoring                  | The mine operator will coordinate with WGFD 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 and to WGFD. Pre-disturbance surveys will be conducted for at least two years.  |
| 14. Adaptive response           | If monitoring results show a decline in number of male grouse attending leks using a three-year running average during any five-year period, the operator will review the results to evaluate possible causes and propose adaptive management responses to increase the number of birds. If the operator cannot demonstrate a restoration of bird numbers to baseline levels within three years, operations will cease until such numbers are achieved.   |
| 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                      | Some credit may be given for completion of habitat enhancements as detailed in the plan. These habitat enhancements may be used as credit for reclamation that is slow to establish in order to maintain the disturbance cap or to improve nearby sage-grouse habitat.  |
| 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.  |