

# Attachment C

## Geothermal Lease Stipulations

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The following lease stipulations have been developed as mitigating measures for geothermal leasing and other reasonably foreseeable development activities with regard to geothermal exploration and development within the Humboldt-Toiyabe National Forest.

### US Forest Service Stipulation

For leases within Forest Service lands, the lessee/operator must comply with all the rules and regulations of the Secretary of Agriculture set forth in Title 36, Chapter II of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the lease/permit. The secretary of Agriculture's rules and regulations must be complied with for:

1. all use and occupancy of the NFS lands prior to approval of an exploration plan by the Secretary of Interior;
2. uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of Interior; and
3. use and occupancy of the NFS lands not authorized by an exploration plan approved by the Secretary of Interior.

As a condition to the consent to the issuance of this lease, the Forest Service reserves the right to either consent to the approval of the surface use plan or the joint approval with the BLM of any surface operations conducted under the term of the lease.

The lands subject to these stipulation are described as all potential lease sections.

#### A. No Surface Occupancy:

##### Stipulations from 2007 Decision:

1. On lands administered by the Forest Service, no occupancy or other surface disturbance will be allowed on slopes in excess of 40 percent.
2. The lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. On lands administered by the USFS, no ground-disturbing operations would be allowed within 200 feet of eligible National Register sites, historic properties or unevaluated archeological historic sites.

Additional Stipulations—This Decision:

3. No ground-disturbing activities would be allowed within 300 feet of Lahontan Cutthroat Trout (LCT) habitat.
4. No surface occupancy would be allowed in sections 5 and 21, T5N, R28E due to multiple resource concerns.

**B. Controlled Surface Use:**

Stipulations from 2007 Decision:

1. Surveys for USFS sensitive species will be conducted prior to initiating any ground disturbing activities.
2. The Forest Service will be consulted with regarding the location of Sage Grouse strutting grounds (leks), and breeding, nesting, and brooding habitats. The distances and times that these areas will be avoided will be determined by the Forest Service.

Additional Stipulations—This Decision:

3. The lease may now or hereafter contain plants, animals or their habitat listed as threatened or endangered by the USFWS or designated by other agencies. BLM may recommend modifications to exploration and development proposals to avoid the need to list such a species or their habitat, or may require modifications to or disapprove proposed activity that is likely to jeopardize the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 USC 1531 et seq., including completion of any required procedure for conference or consultation. Restrictions include, but are not limited to:
  - a. No sage brush would be removed in known, occupied pygmy rabbit habitat.
  - b. Operations in occupied rare plant habitat would be restricted to protect species.
4. No road construction or reconstruction would be authorized in designated Inventoried Roadless Areas (IRA). Timber would not be cut or sold within the IRAs. Overland or cross country travel would be restricted to ensure a temporary road is not created.
5. Operations would be restricted to protect tribal cultural traditions and practices.

6. Operator would be held responsible for damage to cultural resource sites.

**C. Timing Limitations:**

Additional Stipulations—This Decision:

1. In areas identified as *Mono phacelia* habitat, ground-disturbing activities would be limited to periods outside of the growing season.
2. Migratory Bird Habitat – No ground disturbing activities allowed during nesting season unless a nest survey is completed prior to ground disturbance. A nest survey would be conducted by a qualified biologist within migratory bird breeding habitat prior to any surface disturbance associated with exploration activities during the avian breeding season (April 1 through Aug 30, depending on location). If nests are located, or if other evidence of nesting (e.g., mated pairs, territorial defense, carrying of nest material, transporting food) is observed, a protective buffer would be delineated and the entire buffer area avoided to prevent destruction or disturbance to nests until they are no longer active. The start and end dates of the seasonal restriction may be altered based on site-specific information such as elevation and winter weather patterns, which would affect breeding chronology and the presence of the species.

**D. Sage Grouse Stipulations:**

Additional Stipulations—This Decision:

The Forest Service would be consulted with regarding the location of Sage Grouse strutting grounds (leks), and breeding, nesting, and brooding habitats. Sage grouse restrictions would be dependent on quality and proximity to lek sites. Prior to any activities, habitat should be categorized both with remote assessments (GIS) and a field assessment to determine appropriate stipulations.

The distances and times that these areas will be avoided will be determined by the Forest Service, but at a minimum the following will apply to lease activities:

1. In category 1 or 2 habitat (high quality habitat) or within 0.5 miles of a lek, geothermal related activities may be prohibited or seasonally limited.
  - a. No surface occupancy will be permitted within 0.5 miles of any known Sage Grouse strutting grounds (leks).
  - b. No surface use will be permitted within 0.5 miles of known Sage Grouse breeding areas during the breeding season, March through May, or as determined for specific areas by the Forest Service and with input from appropriate wildlife agencies.
  - c. No surface use will be permitted within 0.5 miles of known Sage Grouse nesting and brood rearing areas between April and August, or as determined for specific areas by the Forest Service and with input from appropriate wildlife agencies.

- d. No surface use shall be permitted within 0.6 miles of known Sage Grouse winter range between October and March.
  - e. Field development construction activities within 2 miles of a sage grouse lek will require motorized equipment to have noise abatement devices to preclude excessive noise during the sage grouse strutting period.
2. In category 3-5 habitat (lower quality), stipulations would occur but will be less stringent than in category 1-2. These limitations may include seasonal restrictions on drilling and/or avoiding drilling and construction of structures near key habitat such as water resources and meadows.
  3. Potential Sage Grouse habitat shall be avoided where possible, or if not possible, off-site mitigation to create habitat at least as suitable as the lost habitat, and at a replacement ratio of 2 to 1, shall be considered.
  4. Refer to NDOW draft “Energy Guidelines for Sage Grouse” for recommendations to mitigate sage grouse impacts. These stipulations regarding sage grouse are not complete and additional stipulations may apply based on site specific analysis. As appropriate, future stipulations and mitigations may be directed by the NDOW draft guidelines.

The lands subject to these stipulations include all or part of the following lease sections:

South Aurora Lease Area

T. 5 N., R. 27 E., sections 12, 13, and 14

T. 5 N., R. 28 E., sections 05, 06, 07, 08, 11, 15, 16, 17, 18, 19, 20, 21, 22, 29, 30, 31, 32 and 33; and

T. 6 N., R. 28 E., sections 13, 14, 22, 23, 24, and 26.

North Aurora Lease Area

T. 6 N., R. 27 E., sections 4, 5, 6, 8, and 9; and

T. 7 N., R. 27 E., section 30.

**E. Contingency Rights Stipulation**

BLM has reviewed existing information and planning resources documents and, except as noted in other attached stipulations, knows of no reason why normal development, subject to the controls of applicable laws and regulations and the lease terms and conditions, cannot proceed on the leased lands. However, specific development activities could not be identified prior to lease issuance since the nature and extent of geothermal resources were not known and specific operations have not been proposed. The lessee is hereby made aware that consistent with 43 CFR 3200.4, all post lease operations will be subject to appropriate environmental review

and may be limited or denied only if unmitigatable and significant impacts on other land uses or resources would result.