

**Habitat Mitigation Fund Administration  
& Habitat Improvement Team  
By-Laws**

**1. Purpose**

The purpose of these By-Laws are to establish the expectations, roles and responsibilities, and communication protocols for the administration of the Habitat Mitigation Fund of Southeast Idaho (hereafter referred to as “Habitat Fund”), and the associated Habitat Improvement Team (hereafter referred to as “HIT”). This Fund has been established in order to fulfill the mitigation plan of Nu-West Industries, Inc., doing business as Agrium Conda Phosphate Operations (Agrium) and/or its successors (Itafos, LLC) related to the Rasmussen Valley Mine project. This fund may be extended to support future mitigation plans for other operations or operators.

The goal of the HIT is to select, fund, implement, and assess the effectiveness of approved projects. These projects serve to mitigate residual wildlife habitat impacts from the mine. These By-Laws may be modified at any time with a majority vote of the HIT members, contingent upon review and approval of the Idaho Falls District Manager of the Bureau of Land Management (BLM).

**2. Overview**

Agrium is seeking federal approval to develop the Rasmussen Valley Mine and has agreed to contribute funds to offset predicted residual impacts to wildlife and to wildlife habitat resulting from the development of the mine. The habitats which will primarily be affected by this operation include quaking aspen, high elevation shrubland, and sagebrush steppe habitat. These impacts have been thoroughly analyzed through the permitting process for the mine.

Agrium desires to implement plans to deliver wildlife habitat mitigation to offset the residual deficit to habitat identified as set forth in Agrium’s “Conceptual Wildlife Habitat Mitigation Approach” technical memorandum (Great Ecology 2015) for mining operations on federal, state, and private lands in southeast Idaho. This will include a financial donation to the newly created Habitat Fund as a payment from Agrium in-lieu of Agrium performing an actual project.

The in-lieu payment is to be utilized to benefit wildlife habitat in such a way as to meet landscape-scale wildlife habitat mitigation mandates from the Bureau of Land Management (BLM). These mandates are part of the approval of the Rasmussen Valley Mine Project (Record of Decision – ROD). The BLM mandates in the ROD originated from the Department of Interior, Public Lands Policy:

Implementing Mitigation at the Landscape Scale (600-DM-6) issued on 10/23/2015 (Attachment 1); Secretary of the Interior Order: Improving Mitigation Policies and Practices of the Department of the Interior, dated October 31, 2013 (SO 3330); and the National Environmental Policy Act (40 CFR 1508.20(e) (Attachment 2).

The in-lieu payment is meant, among other things, to comply with the BLM and United States

Forest Service (USFS) mitigation policies and guidelines that are still under development. If a conflict arises after the release of these agencies' final mitigation documents, then these By-Laws may need to be amended.

The Habitat Fund will be managed by an independent, non-profit organization that will convene a group of natural resource management agency professionals and stakeholders from within southeastern Idaho as outlined in this document.

The Habitat Fund will be used to fund projects that protect, conserve, and/or enhance wildlife habitat within southeast Idaho, with emphasis on projects in the vicinity of the Rasmussen Valley Mine project.

Sagebrush Steppe Land Trust (SSLT) will act as the independent, non-profit organization that will oversee implementation of the Habitat Fund of Southeast Idaho. This organization has extensive experience working with federal, state, nonprofit, and private and public landowners to enhance wildlife habitat at the landscape-scale. SSLT operates exclusively in the seven southeastern Idaho counties nearest to the proposed mine development and is a public charity qualified under section 501(c)(3) of the Internal Revenue Code (Code). SSLT is qualified to hold tax-deductible conservation easements pursuant to section 170(h)(3) of the Federal Tax Code, and is qualified to hold conservation easements under the provisions of Idaho Code Section 55-2101 et seq (the Idaho Uniform Conservation Easement Act). A separate Memorandum of Agreement has been developed outlining the contractual obligations between Agrium and SSLT to transfer money into the Fund and pay for SSLT's direct work necessary to oversee implementation of the Habitat Fund.

Although these By-Laws and the funding provided by Agrium are specific to the development of the Rasmussen Valley Mine Project, the Habitat Fund of Southeast Idaho may be further developed by SSLT and other partners to meet other phosphate mine wildlife habitat mitigation needs, landscape-scale wildlife habitat improvement and other conservation initiatives.

### **3. Definitions**

Action Area: The area in the vicinity of the Rasmussen Valley Mine in which projects funded by the Habitat Fund of Southeast Idaho will be prioritized (Attachment 3). In general, this area will be within the wildlife cumulative effects area as described in the EIS. This will be defined more precisely by the HIT prior to the first submission of RFP's by the Project Coordinator.

Alternate: Specified substitute(s) for each HIT member who shall be knowledgeable and authorized to act in the place of the HIT member and acting on behalf of the agency.

Conflict of Interest: Any action, decision or recommendation by a person acting in a capacity as a decision maker that could have the effect of which to provide pecuniary benefit to the person or a member of the person's household, or a business with which the person or a member of the person's household is associated. See Section 4 for further description.

Habitat Fund of Southeast Idaho (Habitat Fund): An established account that will be used to fund habitat improvement projects selected by the HIT. Agrium will provide a one-time, non-refundable contribution to the Habitat Fund to offset predicted impacts to wildlife habitat from the Rasmussen Valley Mine as presented in Agrium's "Conceptual Wildlife Habitat Mitigation Approach." (Attachment 4). The Habitat Fund may elect, under separate Agreements, to receive monies from other mining project proponents in the future.

Habitat Improvement: Actions taken to benefit wildlife habitat through protection, conservation, and/or enhancement, including but not limited to stream restoration, revegetation with native and/or culturally significant plant species, removal or control of non-native species, land acquisition, conservation easements, and creation of ecologically important habitat for wildlife, plants and other (e.g., wetlands).

Habitat Improvement Team (HIT): A defined group of authorized officials from each governmental natural resource management group, as outlined in Section 4. The HIT's function is to implement the objectives of Habitat Fund allotment, participate in meetings, and evaluate and vote on habitat improvement project funding.

Landscape: An area encompassing an interacting mosaic of ecosystems and human systems characterized by a set of common management concerns. The landscape is not defined by the size of the area, but rather by the interacting elements that are relevant and meaningful in a management context. The term "landscape" is not exclusive of areas described in terms of aquatic conditions, such as watersheds, which may represent the appropriate landscape-scale.

Landscape-Scale Mitigation: Identifying and facilitating the implementation of mitigation projects at the landscape scale on Federal, Tribal, State and Private Lands.

Project Coordinator: An individual designated by the SSLT who will serve as the primary point of contact for facilitating the HIT. This individual carries the responsibilities of ensuring the tasks outlined in these By-Laws are completed, funds are appropriately disbursed, and approved mitigation projects are satisfactorily implemented, but may delegate tasks to other individuals.

Project Scoring Form (PSF): A form that the HIT may choose to utilize to score proposed projects against a consistent scale. This form contains categories for scoring based on the mitigation goals of the agencies to off-set residual wildlife impacts from the Rasmussen Valley Mine, and allows the HIT members to input a score for each of these categories for each project proposal. (Attachment 5). The PSF is simply a guidance tool that may be disregarded or modified by the HIT to better meet the need for scoring and selecting appropriate mitigation projects.

Project Proposal: An application from an interested party who is proposing a project for funding which fulfills the goals of the Habitat Fund.

Project Ranking Sheet: A spreadsheet which allows the Project Coordinator to input all of the scores assigned to a project from each HIT member PSF, combine them, and rank all project proposals. This is intended to serve as a guidance tool in facilitating HIT discussion (not dictate decisions), and may be utilized at the discretion of the HIT. (Attachment B)

Project Recipient: An entity that is selected by the HIT to receive funding from the Habitat Fund through the process outlined in this document.

Record of Decision (ROD): The decision document that was prepared for the Rasmussen Valley Mine project and issued by the U.S. Bureau of Land Management after considering a Final Environmental Impact Statement prepared under the National Environmental Policy Act. The ROD documents the selected alternative and any accompanying mitigation measures.

Stakeholder: Individuals or groups of people who are affected by environmental decisions and actions, who have the power to influence the outcomes of environmental decisions relating to ecosystem or landscape wildlife habitat management.

#### **4. Habitat Improvement Team**

The core HIT will consist of one member from:

- Bureau of Land Management – to ensure that projects meet the mitigation requirements of the applicable Record of Decision (ROD) approving the Rasmussen Valley Mine, and any other future mine approvals that may result in mitigation funds being deposited with SSLT.
- Idaho Department of Fish and Game
- United States Forest Service
- United States Fish and Wildlife Service
- Shoshone-Bannock Tribes
- Idaho Department of Environmental Quality
- Idaho Department of Lands

In order to keep the HIT team focused, any agency official from this group of HIT members will recuse themselves from voting in any decisions and discussion of project proposals for which they have a personal direct financial

Conflict of Interest. If an agency official HIT member has a direct financial Conflict of Interest, then their alternate will exercise the vote and discuss projects for that agency.

Each agency with a position on the HIT must select an authorized official and alternate to participate on the HIT. These authorized officials may be replaced at any time, with formal notice to the Project Coordinator. If the authorized official cannot attend a HIT meeting, they may assign an alternate. If an alternate is necessary, the authorized official must notify the Project Coordinator prior to the vote in which the alternate is necessary.

If the authorized official or their alternate does not attend a meeting, then that agency or tribal representative may cast their project votes in absentia. If the authorized official or their alternate does not attend the meeting, nor provide an absentee project vote within five working days after the official meeting, then that agency has automatically forfeited their voting position for decisions made within the meeting they have failed to attend. However, as the BLM serves a unique position in ensuring that the HIT fulfill specific agency requirements under their authorization, the authorized official (or their alternate) from the BLM must be present in order for any vote to take place.

After project funding has been granted and disbursed, the HIT will be responsible for conducting annual tours and inspections of projects. The BLM and the IDFG will compile an annual Habitat Performance Report for the HIT from this tour and inspection which will summarize how well the funded project(s) have met project specific mandates. This will be done at the agencies own expense.

The HIT may choose to evoke a period of “hibernation” at any point in time. Reasons for hibernation may include waiting for a high potential project to come on line, experiencing low proposal response, or any other reason agreed to by the HIT. In order to go into hibernation, a vote to go into hibernation must be held that meets the decision making protocols outlined in Section 10. A period of hibernation will not exceed a period of three years from the date of the vote to hibernate.

Each member of the HIT will participate at their own expense.

## **5. Stakeholder and Public**

All Non-Government Organizations, other stakeholders and any interested member of the public will be encouraged to attend all HIT meetings, tours and functions.

Although other groups, individuals, and the general public may participate in activities associated with the Habitat Fund, official HIT members (or their alternate) are the only individuals authorized to perform the roles of the HIT outlined herein. It is the intention of the HIT to ensure a transparent and open dialog of considerations and decisions regarding the Habitat Fund, and receive feedback and comments from the public continuously throughout this process.

Specific stakeholders who will be encouraged to attend include:

- Industry Representative (Agrium)
- SSLT

- Environmental Organizations (e.g., Greater Yellowstone Coalition, Idaho Conservation League, Trout Unlimited)
- Land/resource management or environmental agencies who are not on the HIT, or who have recused themselves from voting
- General public

## **6. Administering Organization Role (SSLT)**

The SSLT shall coordinate and support the work of the HIT including selection of a Project Coordinator. The Project Coordinator responsibilities are outlined below in Section 7.

In order to facilitate the work load associated with the outlined responsibilities of SSLT staff provided in this document, Agrium has committed to providing an additional sum directly to the SSLT as outlined in the Memorandum of Agreement between SSLT and Agrium. This figure has been derived from a detailed cost estimate developed by SSLT based on the tasks outlined in this document. This money will be directly transferred to SSLT concurrently with the deposit into the Habitat Fund. Costs associated with administering these By-Laws for the Habitat Fund will be provided to the SSLT as per a Memorandum of Agreement between Agrium and SSLT, and are considered to be separate from any potential Project Proposal.

Should the HIT change the scope of SSLT's role in administering these tasks such that this amount is no longer adequate to cover SSLT costs, then the HIT may agree to pay SSLT from the Habitat Fund itself if agreed to by vote. This amount is not to exceed 1.5% of Agrium's contribution plus interest.

SSLT will be allowed to present a project for funding. As the SSLT does not have a voting seat, they will only be required to disclose their involvement and interests in the project to the HIT.

## **7. Overview of Project Coordinator Responsibilities**

To support the implementation of the By-Laws, the SSLT will designate a Project Coordinator and staff responsible for the following duties:

- Provide administrative support to the HIT including the scheduling of meetings, capturing meeting minutes (to include attendance record), and distributing written meeting minutes to the HIT;
- BLM and the Project Coordinator will develop and circulate an agenda for each meeting that describes the current status for the Project Recipient selection process and report on status of past expenses and current amount of the Habitat Fund;
- Chair and facilitate all HIT meetings to keep team focused on the mission, agenda, and agreed-upon tasks;
- Encourage participation of all HIT members;

- 225 • Coordinate project consideration advice between the HIT and advisory groups/individuals;
- 226 • Communicate between meetings with HIT members, and assist in the free movement of ideas
- 227 between members;
- 228 • Manage the requests for Project Proposals;
- 229 • Compile Project Proposals when received, distribute them to the HIT, and coordinate the
- 230 project selection and funding process;
- 231 • Provide overall Habitat Fund management and reporting;
- 232 • Complete other tasks determined necessary to ensure fulfillment of the terms of these By-
- 233 Laws;
- 234 • Use e-mail lists and press releases. Build and maintain a web site specific to the Habitat Fund
- 235 of Southeast Idaho. This web site will be the primary source of information for interested parties
- 236 and shall be
- 237 updated frequently to include notification of upcoming meetings, as well as other relevant
- 238 information regarding the Habitat Fund as agreed to by the HIT. This web site for the Habitat
- 239 Fund will be linked to the BLM's phosphate web page and;
- 240 • Organize annual tours of projects which have been previously funded and constructed. This
- 241 will include the logistical planning of the tour only.

#### 240 Anticipated Flow of Activities:

241 Within 30 days of the deposit of funds from Agrium into the Habitat Fund, the SSLT shall invite  
242 each of the entities identified in Section 4 to send their designated authorized official and  
243 alternate to a Kickoff Meeting. The HIT, with the help of SSLT, shall invite interested  
244 stakeholders and the public to attend the meetings. A web site with relevant information will be  
245 developed by the SSLT in order to keep all interested members of the public informed of  
246 meeting dates, times and other relevant information. At the Kickoff Meeting the Project  
247 Coordinator will:

- 248 • Present the purpose and goals of the Habitat Fund;
- 249 • Provide an overview/definition of schedule proposed for the HIT including request for
- 250 Project Proposals, review of Project Proposals, and timing for the funding of accepted
- 251 Project Recipient(s). The Project Coordinator will make any necessary adjustments to
- 252 the schedule and planned activities based on HIT decisions made during the kickoff
- 253 meeting.

254 After the kickoff meeting, the general flow of activities and meetings to be organized and  
255 facilitated by the Project Coordinator is outlined below; however, this may be adjusted as needed  
256 by the HIT at any time to meet the current needs.

- 257 • Project Coordinator will develop draft Request for Project Proposal notice and plan for
- 258 advertisement, distribute draft Request for Project Proposal documents to the HIT and
- 259 interested stakeholders and, give a due date for comment;
- 260 • Project Coordinator will re-distribute final draft Request for Project Proposal;
- 261 • Project Coordinator will publish the Request for Project Proposal for projects including
- 262 items outlined in Section 8. The Request for Project Proposal will be posted in the
- 263 newspaper of record and posted on the HIT web site;

- Project Coordinator will collect all Project Proposals, review each, and remove any that do not meet the minimum requirements outlined in Section 8;
- Project Coordinator will deliver all complete Project Proposals to the HIT for their review at least 15 days prior to the HIT meeting. These will also be posted on the HIT web site at least 15 days prior to the HIT meeting;
- Project Coordinator will schedule and coordinate a Project Proposal meeting, inviting all submitters who provided a complete Project Proposal to provide a detailed project proposal presentation for the HIT;
- Upon completion of the presentations, Project Coordinator will facilitate an open forum discussion to review the project proposals, and ensure that there are no remaining unresolved questions from HIT members regarding any project;
- At a follow-up meeting of the HIT, the group will make final determinations on the project awards. Decision making protocols as outlined in Section 10 will be followed; and
- SSLT will issue project awards as determined by the HIT.

This process may be repeated multiple times if necessary until the Habitat Fund has been disbursed or meets a balance as outlined in Section 13.

## **8. Request for Project Proposals - Protocols**

The Project Coordinator will develop a request for proposals (RFP), which the HIT will be given an opportunity to review prior to issuance. The RFP will disclose the purpose of the Habitat Fund, and outline the following minimum requirements to be included in every Project Proposal:

- Information regarding the applicant organization and point of contact: Must be an established entity that has demonstrated or can demonstrate their ability to complete projects that protect, conserve, and/or enhance wildlife habitat. Examples must be provided of similar successful project completion within the past 10 years. Information on how many similar projects have been successfully completed by entity must also be provided;
- Location of Project: Project map, legal description, and location in relationship to the Rasmussen Valley Mine Project;
- Wildlife Enhancement: Details regarding how the proposed project will benefit wildlife;
- Proposed Project Details: Restoration/enhancement plan, conservation values, wildlife habitat improvement goals that the project will accomplish, management objectives, and how the project will restore and protect those objectives. Include information regarding:
  - Proximity to the Rasmussen Valley Mine
  - Matching funds or in-kind services that are a part of the proposed project
  - Habitat type which will be enhanced
  - Details regarding ways the proposed project will enhance, conserve or protect wildlife habitats.
  - Estimated effectiveness of the proposed project
  - Landscape-scale connectedness (will the project “connect” valuable wildlife habitats that would otherwise not be connected)

- Durability of expected benefits
- Follow-up Monitoring and Reporting: Proposal must include details of follow-up monitoring and/or reporting included in their proposal. Project funding will require that each recipient commit to submitting a “post-construction” report within two months of the project completion date affirming that they have completed the project. An outline of verification monitoring, photo-logging and reporting planned for the project must also be included;
- Durability: A discussion of how long the proposed project would be anticipated to remain in the landscape bringing the anticipated benefit to wildlife. This discussion must also include the nature of land ownership and ability for long-term management of the land’s resources, e.g. state managed lands or conservation easements;
- Demonstrated Intent: Inclusion of a Letter of Intent or equivalent instrument from the property owner stating agreement that the project can proceed on these lands;
- Planning Status: Description of current design status, including a description of the current status of any required permitting for the proposed project;
- Schedule: Project completion schedule, including post-monitoring; and
- Budget: Project budget displaying all anticipated direct and indirect costs including administrative, overhead, monitoring, and contingency, and whether any matching funds will be requested or secured.

All reasonable efforts shall be made by the Project Coordinator to circulate this call for proposals to ensure that potential recipients are able to respond in a reasonable timeframe.

## **9. Evaluation and Selection Process**

The Project Coordinator will review all project submittals for compliance with the RFP process and remove projects that do not meet minimum requirements. A reasonable level of outreach to applicants who submitted incomplete proposals for missing components may be conducted at the Project Coordinator’s discretion.

The Project Coordinator will distribute all complete proposals to the HIT at least 15 days prior to Project Proposal Meeting. The Project Coordinator will work to facilitate a thorough discussion of project proposals among the HIT. It is anticipated that the team will be able to use their institutional knowledge and expertise in land and resource management, including wildlife habitat goals and objectives for the region to identify and select worthy projects to fund. The HIT can also use the Project Scoring Form, or an agreed upon variation to screen and select projects. If used, the Project Coordinator will prepare the Project Scoring Forms for each of the HIT members, pre-populating information known from the Project Proposal.

Agency HIT officials may remove project proposals from consideration that do not comply with their regulations, land management plans, policies, or with the mandate and intent of the BLM Rasmussen Valley Mine ROD. It is anticipated that if an issue exists with any project proposal, that this issue is brought

to the HIT’s attention and discussed within an open-forum discussion during a meeting of the HIT.

## 10. Decision Making Protocols

### Decision Scope

A decision can include, but is not limited to, establishing priorities for implementing projects or actions, allocating funds, approving or modifying the implementation schedule, approving written products of the HIT or Habitat Fund, or other actions of the HIT.

- Decisions of the HIT will not usurp the authority of the individual parties;
- HIT members’ decisions will not be arbitrary, but will be based on the best available science and information;
- The HIT members cannot increase the monetary, resource, or other commitments made by Agrium in their Rasmussen Valley Mitigation Plan, override other limitations set forth in that plan, or require Agrium to decommission or modify project facilities;
- The HIT will endeavor to conduct its business by consensus of the Members. Each member will have one (1) vote of equal weight that can be cast during the meeting or within five business days. If a HIT member or alternate does not cast a vote within five business days, the organization foregoes their right to vote on the decision (with the exception of the BLM) but will be allowed to cast votes on future HIT considerations.

### First goal of decision making: Consensus

The first goal of HIT members in making any decision will be consensus. Consensus is defined in terms of agreement along a continuum. Committee members will communicate the degree of their agreement with language from the first four columns:

Consensus Continuum Table

5 Endorse	4 Endorse w/ minor reservations	3 Neutral	2 Major Reservation	1 Formal Disagreement
“I like it and it represents my interests”	“I have a few points of reservations but I can live with it”	“I can live with it”	“I don’t like this and want my objection noted in writing, but I’ll support the decision”	“This decision does not represent any of my interests and I can’t live with it”

- If all official voting members of the HIT choose their position on the decision within any of the left four columns (2 or higher), this will be considered “agreement by consensus”;
- The purpose of the position statements in the first four columns is to share information with other HIT members about the degree of support;
- “Major Reservation” (2) is a position intended to note a HIT member’s dissent with the

371 decision, yet allow it to concede that the decision is the best way to proceed. The  
372 rationale for the major reservation will be put into writing by the Project Coordinator in  
373 the meeting minutes;

- 374 • “Formal Disagreement” (1) is not acceptable for consensus and requires that the HIT  
375 revisit the language of the proposed decision to attempt to meet the interests of the party  
376 voicing disagreement.

#### 377 Second Goal of decision making: Majority Voting

378 When consensus may not be reasonably reached by revisiting the language of the proposed  
379 decision, decisions of the HIT shall require a majority vote (51%) of the HIT officials present at a  
meeting or casting their vote within five working days of the meeting.

- 380 •
- 381 •

383 In the case of a tie vote, the issue at hand will be brought to the Idaho Falls District Manager of  
384 the BLM who will cast the tie breaking vote.

#### 386 **11. Project Awards and Reporting**

387 The Project Coordinator shall prepare an annual report by March 1 of the following calendar  
388 year detailing the activities and status of the Habitat Fund. This report shall include, but not be  
389 limited to:

- 390 • A complete financial report detailing expenses for the preceding year and current status  
391 of the Habitat Fund;
- 392 • Meeting minutes from the meetings held throughout the year;
- 393 • And summary of projects which were awarded in the given year.

394 The Project Coordinator shall distribute the report to the HIT for review 30 days before the  
395 report is finalized.

396 Recipients of project funding are required to provide a final report within two months of their  
397 project completion date to the HIT. This report must affirm that they have completed the project  
398 with a summary of activities. In the next meeting convened by the HIT after having received this  
399 report, HIT members will vote to accept the final report as evidence that the project was  
400 completed as funded. Annual field visits to visit completed projects will be conducted by the  
401 HIT to verify the project success. If the HIT determines that the project was not completed as  
402 funded, HIT members may vote on an appropriate course of action, through a grant agreement or  
403 similar document, such as requesting a return of funds from the organization.

#### 405 **12. Residual and Combined Funding**

406 The mitigation fund may be augmented, but not co-mingled, with any matching contributions  
407 from other sources or from contributions from other future southeast Idaho phosphate mining

projects. The HIT will work to identify and fund worthy projects without delay. However, the team may postpone utilizing Rasmussen Valley funds in order to combine with any additional funds anticipated to be deposited or otherwise become available. This allows for consideration of larger or more beneficial mitigation projects to be implemented.

At such time the Habitat Fund has been functionally depleted (\$5,000) as determined by the HIT and it is anticipated that additional funds will not be deposited, the HIT may allow SSLT to utilize the remaining funds as they see fit for the promotion of conservation goals of their organization.

### **13. Communications Protocol and Public Information**

HIT members will act in good faith at all times, working towards understanding and agreement for HIT tasks. Good faith includes making the effort to resolve differences, disclosing problems or issues early in the process, following through on commitments, sharing information on related matters, and characterizing individual or caucus viewpoints fully and accurately.

The intent of the HIT is to have unrestricted discussion and information sharing (both written and verbal) between members of the HIT.

- The purpose of HIT discussions is to find agreement among the members. HIT members will respect the interests of all parties and will try to incorporate the goals of all parties into its recommendations.
- Discussions of substance and development of solutions will focus on interests and concerns rather than positions and demands. HIT members will respect the concerns and interests of others, whether or not they are in agreement. Members will work in the spirit of giving the same priority to solving the problems of others as their own.
- HIT members will seek commonalities in their respective views and will seek to identify convergences of mission, opinion, and values.
- Members will state their own concerns and interests clearly, listen carefully to others, and explore issues from all points of view before forming conclusions.
- Members agree that successful collaboration depends upon individuals who refrain from speaking independently or characterizing the process.
- With regard to internal written material, members agree not to characterize the motivations or positions of any other participant.

### **Communication with constituents**

- HIT members are responsible to keep the other members of their organization regularly informed by relaying information, presenting ideas in a fair manner and communicating decisions.

- Decisions will be made by the HIT in a manner that allows time to communicate within constituencies. However, once a decision is made, HIT members do not have to wait for approval from the group to communicate with their constituents.

#### Communication with the Public

- If contacted by members of the public or the media, participants agree to speak only for his or her organization on specific elements of implementation, and to forward to the administrating group (SSLT) and other parties inquiries that affect other members of the HIT.
- Members will not attempt to influence the public, lobbyists, or the media unless requested to do so by the HIT. Members agree not to reach out as individuals or individual agencies to the public or the media in an effort to influence the Habitat Fund process, but to approach the public and media as a collective, collaborative entity.
- Members agree to only represent positions of the HIT that have been agreed upon and to present those positions fully and accurately, including any formal dissent.
- If determined necessary, a communications subcommittee will be designated as needed by the HIT. This subcommittee's responsibility will be to communicate information to the public and media. However, any member of the HIT may speak to the public regarding group decisions if they feel comfortable and able to do so.

**Attachment 1**

600-DM-6

**DEPARTMENTAL MANUAL****TRANSMITTAL SHEET**

PART 600 DM 6	SUBJECT PUBLIC LANDS Public Land Policy Landscape-Scale Mitigation Policy	RELEASE NUMBER 4026
FOR FURTHER INFORMATION, CONTACT Office of Policy Analysis		DATE OCT 23 2015

**EXPLANATION OF MATERIAL TRANSMITTED:**

This Departmental Manual Release, Landscape-Scale Mitigation Policy (600 DM 6), is a new chapter that provides policy and guidance for implementing landscape-scale mitigation associated with regulatory responsibilities and the management of Federal lands, waters and other resources under the administrative jurisdiction of the Department. The chapter is in response to Secretary's Order 3330, Improving Mitigation Policies and Practices of the Department of the Interior, dated October 31, 2013 (SO 3330).

The new chapter reaffirms the Department's authority to require and determine the scope of compensatory mitigation; establishes a goal for the conservation outcomes of mitigation investments; enumerates standards when implementing landscape-scale mitigation approaches, and; outlines responsibilities of bureaus and offices in fulfilling the goals established in SO 3330.

Principal Deputy Assistant Secretary – Policy, Management and Budget

**FILING INSTRUCTIONS:**

Remove:

None

Insert:

New  
600 DM 6 (5 Sheets)

**Department of the Interior**  
**Departmental Manual**

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**Effective Date:** 10/23/2015

**Series:** Public Lands

**Part 600:** Public Land Policy

**Chapter 6:** Implementing Mitigation at the Landscape-scale

**Originating Office:** Office of Policy Analysis

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**600 DM 6**

**6.1 Purpose.** This chapter establishes Departmental policy and provides guidance to bureaus and offices to best implement mitigation measures associated with legal and regulatory responsibilities and the management of Federal lands, waters, and other natural and cultural resources under the jurisdiction of the Department of the Interior, including use of the best available science and landscape-scale approaches. This policy is intended to improve permitting processes and help achieve beneficial outcomes for project proponents, impacted communities, and the environment. In doing so, the Department will effectively avoid, minimize, and compensate for impacts to Department-managed resources and their values, services, and functions; provide project developers with added predictability, efficient, and timely environmental reviews; improve the resilience of our Nation's resources in the face of climate change; encourage strategic conservation investments in lands and other resources; increase compensatory mitigation effectiveness, durability, transparency, and consistency; and better utilize mitigation measures to help achieve Departmental goals.

**6.2 Scope.**

A. This chapter applies to all bureaus and offices responsible for managing water, lands, air quality, infrastructure, and natural, scenic, recreational, and cultural resources under the jurisdiction of the Department.

B. This chapter does not apply:

- (1) where the Secretary does not have discretionary control over, or otherwise lacks authority to manage, the resources in furtherance of this chapter;
- (2) when implementation costs are reimbursable under Reclamation laws; and
- (3) to the Office of the Inspector General.

10/23/2015 # 4026

New

6.3 **Authorities.** This chapter is consistent with Federal laws and other authorities, including the following:

- A. National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. § 4321 et seq.
- B. Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 et seq.
- C. Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.
- D. Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 181 et seq.
- E. Clean Water Act, 33 U.S.C. § 1251 et seq.
- F. National Landscape Conservation Systems (NLCS, Organic Act) – 16 U.S.C. § 7201 et seq.
- G. National Historic Preservation Act (NHPA) – 54 U.S.C. § 300101 et seq.
- H. Archaeological Resources Protection Act of 1979 (Public Law 96-95; 16 U.S.C. § 470aa-mm).
- I. Clean Air Act – 42 U.S.C. § 7401, et seq.
- J. Native American Graves Protection and Repatriation Act, 25 U.S.C. 3000-3013.
- K. Protection of Historic Properties, 36 CFR Part 800.
- L. National Park Service (NPS) Organic Act of 1916 and General Authorities Act of 1970, as amended – 54 U.S.C. § 100101.
- M. Paleontological Resources Preservation Act (PRPA) – 16 U.S.C. § 470aaa, et seq..
- N. Federal Power Act, 16 U.S.C. § 791-828c.
- O. Fish and Wildlife Conservation Act (16 U.S.C. § 2901-2912).
- P. Fish and Wildlife Coordination Act (FWCA)[16 U.S.C § 661-667(e), as amended].
- Q. Migratory Bird Treaty Act (16 U.S.C. § 703-7120) (MBTA).
- R. Bald and Golden Eagle Protection Act of 1940, as amended (16 U.S.C. § 668-668c) (BGEPA).

- S. The Wyden Amendment, 16 U.S.C. § 1011.
- T. Council on Environmental Quality (CEQ) NEPA Regulations, 40 CFR § 1500-1508.
- U. Department of the Interior (DOI) NEPA Regulations, 43 CFR Part 46.
- V. Bureau of Land Management Planning Regulations, 43 CFR Part 1600.
- W. Executive Order 13604, *Improving Performance of Federal Permitting and Review of Infrastructure Projects*, issued March 22, 2012.
- X. Executive Order 13186, *Responsibilities of Federal Agencies to Protect Migratory Birds*, issued January 17, 2001.
- Y. Executive Order 13653, *Preparing the United States for the Impacts of Climate Change*, issued November 6, 2013.
- Z. Presidential Memorandum – *Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures*, issued May 17, 2013.
- ZZ. Presidential Memorandum – *Transforming Our Nation's Electric Grid Through Improved Siting, Permitting, and Review*, issued June 7, 2013.

#### 6.4 Definitions.

A. Mitigation. The Council on Environmental Quality (CEQ) defined mitigation in its regulations at 40 CFR 1508.20 to include: avoiding impacts, minimizing impacts, rectifying impacts, reducing or eliminating impacts over time, and compensating for remaining unavoidable impacts. Mitigation as enumerated by CEQ is compatible with this policy, however, as a practical matter, the mitigation elements are categorized into three general types that form a sequence: avoidance, minimization, and compensatory mitigation for remaining unavoidable (also known as residual) impacts.

B. Mitigation Hierarchy. The elements of mitigation, summarized as avoidance, minimization, and compensation, provide a sequenced approach to addressing the foreseeable impacts to resources and their values, services, and functions. First, impacts should be avoided by altering project design, location, or declining to authorize the project; then minimized through project modifications and permit conditions; and, generally, only then compensated for remaining unavoidable impacts after all appropriate and practicable avoidance and minimization measures have been applied. This policy affirms this hierarchical approach, while recognizing that in limited situations, specific circumstances may exist that warrant an alternative from this sequence, such as when seeking to achieve the maximum benefit to impacted resources and their values, services, and functions.

C. Compensatory Mitigation. Compensatory mitigation means to compensate for remaining unavoidable impacts after all appropriate and practicable avoidance and minimization measures have been applied, by replacing or providing substitute resources or environments (See 40 C.F.R. § 1508.20.) through the restoration, establishment, enhancement, or preservation of resources and their values, services, and functions. Impacts are authorized pursuant to a regulatory or resource management program that issues permits, licenses, or otherwise approves activities. While the term “mitigation” can be used as shorthand for “compensatory mitigation,” in this chapter, “mitigation” is a deliberate expression of the full mitigation hierarchy and “compensatory mitigation” describes only the last phase of that sequence.

D. Landscape. For the purposes of this policy and related Departmental efforts, a “landscape” is as an area encompassing an interacting mosaic of ecosystems and human systems characterized by a set of common management concerns. The landscape is not defined by the size of the area, but rather by the interacting elements that are relevant and meaningful in a management context. The term “landscape” is not exclusive of areas described in terms of aquatic conditions, such as watersheds, which may represent the appropriate landscape-scale.

E. Landscape-Scale Approach. For the purposes of this policy and related Departmental efforts, the landscape-scale approach applies the mitigation hierarchy for impacts to resources and their values, services, and functions at the relevant scale, however narrow or broad, necessary to sustain, or otherwise achieve established Departmental goals for those resources and their values, services, and functions. A landscape-scale approach should be used when developing and approving strategies or plans, reviewing projects, or issuing permits. The approach identifies the needs and baseline conditions of targeted resources and their values, services and functions, reasonably foreseeable impacts, cumulative impacts of past and likely projected disturbance to those resources, and future disturbance trends. The approach then uses such information to identify priorities for avoidance, minimization, and compensatory mitigation measures across that relevant area to provide the maximum benefit to the impacted resources and their values, services, and functions, with full consideration of the conditions of additionality and durability.

F. Landscape-Scale Strategies and Plans. For the purposes of this policy and related Departmental efforts, landscape-scale strategies and plans identify clear management objectives for targeted resources and their values, services, and functions at landscape-scales, as necessary, including across administrative boundaries, and employ the landscape-scale approach to identify, evaluate, and communicate how mitigation can best achieve those management objectives. Strategies serve to assist project applicants, stakeholders, and land managers in pre-planning as well as to inform NEPA analysis and decisionmaking, including decisions to develop and approve plans, review projects, and issue permits. Land use planning processes provide opportunities for identifying, evaluating, and communicating mitigation in advance of anticipated land use activities. Consistent with their statutory authorities, land management agencies may develop landscape-scale strategies through the land use planning process, or incorporate relevant aspects of applicable and existing landscape-scale strategies into land use plans through the land use planning process.

G. Additionality. A compensatory mitigation measure is “additional” when the benefits of a compensatory mitigation measure improve upon the baseline conditions of the impacted resources and their values, services, and functions in a manner that is demonstrably new and would not have occurred without the compensatory mitigation measure.

H. Durability. A compensatory mitigation measure is “durable” when the effectiveness of the measure is sustained for the duration of the associated impacts (including direct and indirect impacts) of the authorized action. To be durable, mitigation measures effectively compensate for remaining unavoidable impacts that warrant compensatory mitigation, use long-term administrative and legal provisions to prevent actions that are incompatible with the measure, and employ financial instruments to ensure the availability of sufficient funding for the measure’s long-term monitoring, site protection, and management.

6.5 **Policy**. It is the policy of the Department to use the principles in paragraph 6.6 when evaluating and implementing mitigation when carrying out its legal and regulatory responsibilities and in the management of Federal lands, waters, air quality, and other resources and infrastructure under its jurisdiction. Consistent with applicable legal authorities, the Department affirms its authority to identify and plan for the extent, nature, and location of mitigation, including compensatory mitigation, and to require the implementation of effective mitigation. With this policy, and consistent with applicable authorities, for resources and their values, services, and functions that are considered by the Department as important, scarce, sensitive, or otherwise suitable to achieve established goals, or that have a protective legal mandate, each bureau and office should seek to achieve, through application of the mitigation hierarchy, a no net loss outcome for impacted resources and their values, services, and functions, or, as required or appropriate, a net benefit in outcomes.

6.6 **Principles**. In carrying out the policies set forth in paragraph 6.5 and consistent with applicable authorities and regulations, it is the Department’s policy to use the following set of principles when implementing mitigation:

A. Authorities. Make maximum use of applicable authorities to develop and apply policies that utilizes the full mitigation hierarchy to achieve the goals for Departmental managed resources and their values, services, and functions. Such use includes authority to decline authorization of projects if applicants cannot adequately mitigate impacts to levels required to achieve established goals and legal mandates for Departmental managed resources and their values, services, and functions.

B. Avoidance and Minimization. To avoid and minimize impacts to resources and their values, services, and functions across landscapes and over time, apply best management practices as identified in regulation, policy, plans, strategies, and project-level NEPA analysis. Seek to avoid authorizing activities that adversely impact units of the National Park System, National Wildlife Refuge System, National Landscape Conservation System, Areas of Critical Environmental Concern, and other special status areas. Avoidance should also be sought for resources and their values, services, and functions with protective legal mandates and those

considered important, scarce, sensitive, or otherwise suitable to achieve goals as identified through landscape-scale strategies, plans, and approaches.

C. Compensatory Mitigation. Consistent with the mitigation hierarchy, compensatory mitigation measures generally should not be considered until after all appropriate and practicable avoidance and minimization measures have been applied.

(1) When compensatory mitigation is necessary, the Department denotes a preference for compensatory mitigation measures that: (a) maximize the benefit to impacted resources and their values, services, and functions; (b) are implemented and earn credits in advance of project impacts; and (c) reduce risk to achieving effectiveness, such as through the use of a performance-based credit release.

(2) Compensatory mitigation measures should be derived from transparent methodologies that are consistent with methods used to determine impacts.

(3) To implement effective and consistent compensatory mitigation measures, bureaus and offices should: (a) hold all mechanisms for compensatory mitigation (e.g. mitigation banks, in-lieu fee programs, permittee-responsible mitigation, and others) to high, and equivalent standards; (b) clearly identify the party or parties responsible and liable for all aspects of the implementation and performance of compensatory mitigation measures; and (c) establish monitoring requirements to determine the effectiveness of compensatory mitigation measures in meeting identified performance standards.

D. Use of Landscape-Scale Approaches. Bureaus and offices should utilize landscape-scale approaches when developing, approving, and implementing strategies and plans, reviewing projects, and issuing permits. In doing so, bureaus and offices should produce NEPA documents that implement the policy (paragraph 6.5) and principles (paragraph 6.6) in this chapter.

E. Use of Landscape-Scale Strategies and Plans. Whenever possible, landscape-scale strategies and plans should be developed and utilized. When such strategies or plans are being developed, they should be established in coordination with Federal and state partners, tribes, and stakeholders, such as through Landscape Conservation Cooperatives and other multi-partied entities. Strategies and plans should be developed with meaningful, strategic, and deliberate engagement from stakeholders in advance of impacts, and wherever possible use existing plans, assessments, tools, models, and data.

F. Addressing Climate Change Impacts and Resilience. Identify and promote mitigation measures that help address the effects of climate change and improve the resilience of our Nation's resources and their values, services, and functions. Such efforts include:

(1) Protecting diversity of habitat, communities, and species, with specific consideration to conditions of topography and elevation;

- (2) Protecting and restoring core, unfragmented habitat areas, and the key habitat linkages among them;
- (3) Anticipating and preparing for shifting wildlife movement patterns;
- (4) Maintaining key ecosystem services;
- (5) Monitoring, preventing, and slowing the spread of invasive species (defined in Executive Order 13112 as alien species whose introduction does or is likely to cause economic, environmental or other harm to human health);
- (6) Focusing development activities in ecologically disturbed areas when possible, and avoiding ecologically sensitive landscapes, culturally sensitive areas, sensitive viewsheds, and crucial wildlife corridors.
- (7) Considering greenhouse gas emission in project design, analysis, and development of alternatives;
- (8) Protecting and restoring habitats and ecosystems that store carbon; and
- (9) Developing, analyzing, and using mitigation measures that account for uncertainty and risk, as needed, particularly when considering change agents such as climate change.

G. Timely and Transparent Processes. With appropriate public participation, use timely and transparent processes that provide predictability and uniformity through consistent application of standards, protocols, and metrics for avoidance and minimization measures, to register impacts, consider compensatory mitigation measures for remaining unavoidable impacts, and establish clear and measurable mitigation outcomes.

H. Durability and Additionality. Use compensatory mitigation measures that are durable and additional to existing conditions, as defined in this policy, and employ rigorous monitoring, adaptive management, and site protection measures to make certain that mitigation measures achieve their intended outcomes.

I. Budgetary and Financial Assurances. Confirm the availability and use of sufficient budgetary and financial assurances (whether the responsibility of the project developer, bureau, office, or third party) to make certain, with a high degree of confidence, the durability and effectiveness of mitigation measures.

J. Best Available Science. Incorporate best-available science into mitigation decisions, and continually seek better information in areas of greatest uncertainty. Develop and utilize scientific information and tools necessary to best determine baseline and future conditions, how to convert remaining unavoidable impacts to compensatory mitigation measures, and monitor and evaluate mitigation effectiveness.

K. Monitoring and Evaluation. Use rigorous compliance and effectiveness monitoring and evaluation to make certain that mitigation measures achieve their intended outcomes, or that necessary changes are implemented to achieve them.

#### 6.7 Equivalency Principles.

A. As denoted in the principles (paragraph 6.6.), when requiring compensatory mitigation measures for remaining unavoidable impacts, bureaus and offices should hold all mechanisms for compensatory mitigation (e.g. mitigation banks, in-lieu fee programs, permittee-responsible mitigation, and others), including internal compensatory mitigation mechanisms of the Department and its bureaus and offices, to high, and equivalent standards. This includes, but is not limited to, confirming that the following is identified in decision documents or formal and binding agreements with compensation mitigation providers (e.g. mitigation banking instruments): (1) type of resource(s) and/or its values(s), service(s), and function(s), and amount(s) of such resources to be provided (usually expressed in acres or some other physical measure), the method of compensation (restoration, establishment, preservation, etc.), and the manner in which a landscape-scale approach has been considered; (2) factors considered during the site selection process; (3) site protection instruments to ensure the durability of the measure; (4) baseline information; (5) the mitigation value of such resources (usually expressed as a number of credits or other units of value), including a rationale for such a determination; (6) a mitigation work plan including the geographic boundaries of the measure, construction methods, timing, and other considerations; (7) a maintenance plan; (8) performance standards to determine whether the measure has achieved its intended outcome; (9) monitoring requirements; (10) long-term management; (11) adaptive management commitments; (12) financial assurance provisions that are sufficient to ensure, with a high degree of confidence, that the measure will achieve and maintain its intended outcome, in accordance with the measure's performance standards, and; (13) potentially additional information as necessary to determine appropriateness, practicability, and equivalency of compensatory mitigation projects, particularly as they relate to the principles (paragraph 6.6) in this chapter.

B. Additional conditions may apply to third party compensatory mitigation providers (e.g., mitigation banks, in-lieu fee programs, and others) as they can provide compensation for multiple impacting projects, and because they assume the legal responsibility for providing compensatory mitigation. These additional requirements include, but are not limited to, credit release schedules, service areas, accounting procedures, provisions assuming mitigation responsibility, default and closure provisions, and supplemental reporting protocols.

6.8 **Implementation.** The Department and its bureaus and offices will implement existing policies and practices and, when necessary, institute new policies and practices to:

A. Develop, or better utilize existing geospatial information systems that permit identification of existing and potential conservation priorities and development opportunities at the landscape-scale, and the tools and training necessary to promote their effective use in the development of landscape-scale mitigation strategies and plans.

B. Establish guidance for bureaus and offices and interested parties to develop landscape-scale strategies and plans that effectively implement the mitigation hierarchy to achieve the policy (paragraph 6.5) and employ the principles (paragraphs 6.6 and 6.7) in this chapter when developing and approving strategies and plans, reviewing projects, and issuing permits, particularly for major development activities such as energy and infrastructure, mineral, timber, and water resources extraction, among others.

C. Develop a template to inform future compensatory mitigation efforts. The purpose of this template will be to ensure that compensatory mitigation advances landscape-scale mitigation strategies and plans; provides effective means for addressing the remaining unavoidable impacts associated with development or use; frames the management of compensatory mitigation funds; set criteria for the certification of mitigation and/or conservation banks and others; and provides for periodic reporting on the effectiveness of completed mitigation measures.

D. Develop a monitoring and evaluation framework to determine the effectiveness of mitigation measures and progress toward the goals and objectives established by landscape-scale strategies and plans, and to direct adjustments when necessary to correct mitigation reversals and adapt to changing conditions.

E. Utilize the policy (paragraph 6.5) and principles (paragraphs 6.6 and 6.7) of this chapter when developing and approving strategies or plans, reviewing projects, and issuing permits that impact Departmental-managed resources and their values, services, and functions.

F. Support the concept and practice of mitigation and restoration banking as tools to expedite restoration implementation pursuant to Natural Resource Damage claims.

G. Conduct a periodic review of the execution of mitigation measures in existing land, air quality, and water management, permitting, environmental review activities and science and data investments, along with corresponding regulations and guidance, in order to fully implement the policy (paragraph 6.5) and principles (paragraphs 6.6 and 6.7) in this chapter.

## 6.9 Responsibilities.

A. Deputy Secretary. Oversees the Department's compliance with this chapter.

B. Assistant Secretary – Policy, Management and Budget. Provides support staff to monitor implementation of this chapter.

C. Program Assistant Secretaries. Confirm that their bureaus and offices comply with this chapter.

D. Heads of Bureaus and Offices.

(1) Report to their respective Program Assistant Secretary on the implementation of this chapter.

(2) Designate a Program Manager for advancing the goals of this chapter and overseeing program implementation.

D. Program Managers.

(1) Review and update existing regulations, policy, guidance, processes, and plans to confirm consistency with this chapter.

(2) Work collaboratively across bureaus and offices and with the Department to develop, use, and institutionalize policies and practices to implement this chapter, including efforts to conduct a periodic review of the execution of mitigation activities to confirm consistency with the policy (paragraph 6.5), principles (paragraphs 6.6 and 6.7), and implementation (paragraph 6.8) in this chapter.

(3) Confirm that persons conducting mitigation activities, including non-Federal persons, have the appropriate experience and training in mitigation best practices, and where appropriate, include measures in employee performance appraisal plans or other personnel or contract documents, as necessary; and coordinate with the Office of Acquisition and Property Management with regard to experience and training for contractors.

(4) Develop rigorous, clear, and consistent guidance, suitable for field staff to implement this chapter.

(5) Establish guidance for denying authorizations in decision documents when impacts to resources and their values, services, and functions are not acceptable.

**7.0 Legal Effect.** This policy is intended to improve the internal management of the Department. It does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any person against the United States, its agencies, its officers or employees, or any other person. It does not alter or affect any existing duty or authority of individual bureaus or offices.

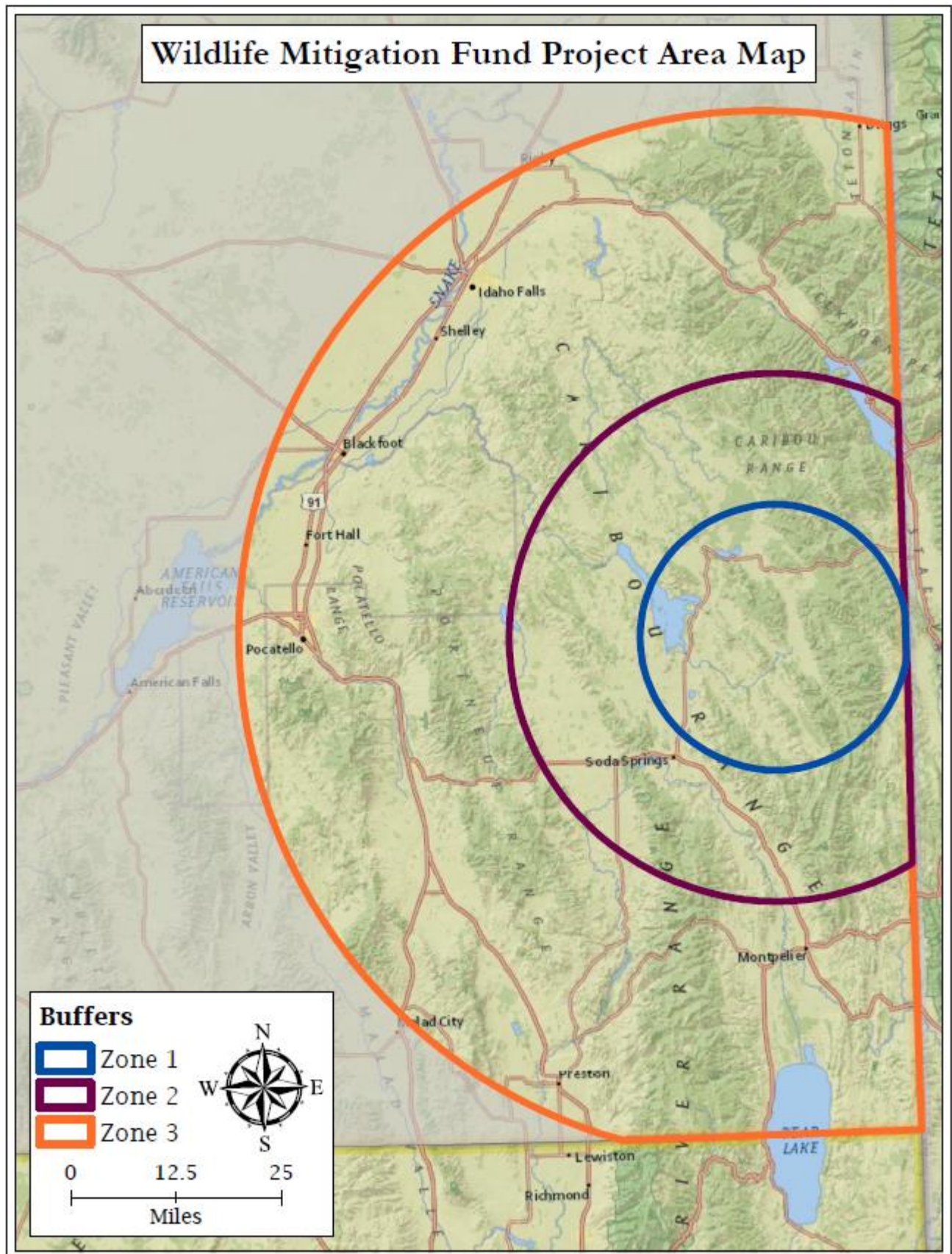
## Attachment 2

40 CFR1508.20(e)

*§1508.20 Mitigation. "Mitigation" includes: (a) Avoiding the impact altogether by not taking a certain action or parts of an action. (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation. (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment. (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action. (e) Compensating for the impact by replacing or providing substitute resources or environments.*

### Attachment 3

#### Action Area Project Map



**Attachment 4**

**Conceptual Wildlife Habitat Mitigation Approach**



March 26, 2015

Mr. Bill Volk  
Planning and Environmental Coordinator (Minerals)  
Bureau of Land Management, Pocatello Field Office  
4350 South Cliffs Drive  
Pocatello, ID 83204

File #RV-15-002

**Re: Rasmussen Valley Wildlife Habitat Conceptual Mitigation Approach- Proposed Action Addendum**

Dear Mr. Volk:

Nu-West Industries, Inc., doing business as Agrium Conda Phosphate Operations (Agrium), submitted the Rasmussen Valley Mine Project Mine and Reclamation Plan (Project) to the Bureau of Land Management (BLM) in January 2011. The BLM posted a NOI to prepare an EIS for the Project in the Federal Register on March 1, 2011. Please find the following attachment as an addendum to that original submittal of our plan.

The attached document titled, "Addition to the Proposed Rasmussen Valley Mine Project: Conceptual Wildlife Habitat Mitigation Approach" includes our planned approach to mitigate impacts to wildlife habitat that have been measured and more fully understood through the development of BLM's Environmental Impact Statement (EIS) process. The attached approach outlines our intentions to fully or partially mitigate impacts to wildlife habitat, as well as the details and timeline for inclusion of the mitigation approach in the EIS development process, which will lead to the fine tuning of our commitment to offer wildlife habitat mitigation following the receipt of the Record of Decisions from the BLM and the Forest Service for this project.

Please feel free to contact myself at (208) 547-4688 or Chris Guedes at (208) 547-1890 with any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink that reads "Katy Bergholm".

Katy Bergholm  
Mine Permitting Manager



**GREATEcology**  
ENVIRONMENT + DESIGN

## **AGRIUM**

### **TECHNICAL MEMORANDUM**

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**ADDITION TO THE PROPOSED RASMUSSEN VALLEY MINE PROJECT:  
CONCEPTUAL WILDLIFE HABITAT MITIGATION APPROACH**

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Submitted to:  
**Agrium**  
**95 E Hooper Ave**  
**Soda Springs, ID 83276**

Date:  
**March 27, 2015**

Prepared by



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## CONCEPTUAL WILDLIFE HABITAT MITIGATION APPROACH

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### INTRODUCTION

In 2011, Nu-West Industries, Inc., doing business as Agrium Conda Phosphate Operations (Agrium), submitted the Rasmussen Valley Mine Project Mine and Reclamation Plan (Mine Plan) proposing open pit mining of phosphate on Federal Phosphate Lease I-05975 and other National Forest Service System (NFS) lands, State of Idaho lands, and private lands located in Caribou County, Idaho, approximately 18 miles northeast of Soda Springs, Idaho (Agrium 2011). The Bureau of Land Management (BLM) is the lead agency administering proposed actions on Federal Phosphate Leases in southeastern Idaho under the National Environmental Policy Act (NEPA). The BLM and cooperating and participating federal and state agencies, including the United States Forest Service (USFS), the U.S. Army Corps of Engineers (USACE), the Idaho Department of Environmental Quality (IDEQ), the Idaho Department of Lands (IDL), and the Idaho Department of Fish and Game (IDFG) comprise the RVMP Interdisciplinary Team, or ID Team (Brown and Caldwell 2014). The proposed Mine Plan will disturb approximately 420.4 acres inside the Lease and 110.0 acres outside of the Lease (Agrium 2011). The purpose of this Technical Memorandum is to describe Agrium's conceptual approach to mitigation for potential impacts to wildlife habitat from the Rasmussen Valley Mine Project (RVMP).

Together with Agrium, the RVMP ID Team evaluates impacts to wildlife habitat from the RVMP for disclosure in an Environmental Impact Statement (EIS). The EIS will include evaluations of wildlife habitat services lost and gained through the proposed Mine Plan and any mine plan alternatives (Alternatives). As part of this process, the ID Team developed a site-specific Habitat Equivalency Analysis (HEA) to predict: (1) potential wildlife habitat services lost from the proposed Mine Plan and its Alternatives; (2) wildlife habitat services gained from proposed onsite reclamation; and (3) wildlife habitat services gained from a mitigation project, which refers to either any voluntary implementation of offsite wildlife habitat creation or enhancement, or the provision of an in-lieu fee to a conservation organization that Agrium may choose to propose for evaluation in the NEPA process (ARCADIS 2014a). The BLM and their consultants will present HEA results for impacts from the proposed Mine Plan and Alternatives and gains in wildlife habitat services from reclamation and a hypothetical mitigation project in a HEA Report to be discussed in the Draft EIS (DEIS). The details of Agrium's chosen mitigation plan will be included in the Final EIS (FEIS) and the Record of Decision (ROD) (ARCADIS 2014a).

To mitigate for potential residual impacts to wildlife habitat from the proposed RVMP, Agrium intends to provide an in-lieu fee to a third party to use for the benefit of wildlife habitat. This Technical Memorandum describes the process Agrium will undertake to:

1. Develop a hypothetical project;
2. Calculate baseline values of habitats;
3. Calculate costs;
4. Provide that amount to a third party for projects that benefit wildlife; and
5. Report on the final mitigation plan for reference in the FEIS and ROD.

## BACKGROUND

There are six steps in the HEA process for the RVMP EIS. The first step is identification of the existing habitat types that provide wildlife habitat services within an Area of Analysis around the RVMP mine footprint and the selection of a service function and metric that quantify the relative service value of each habitat type. The subsequent five steps include quantifying baseline wildlife habitat service value of these habitat types, estimating service acres lost and gained over time, and preparing a HEA spreadsheet model first with the Proposed project, then with any project Alternative selected by the BLM. The model calculates the losses from mining and the habitat gains from onsite reclamation in discounted service acre-years (DSAYs); any residual DSAY debit can be further offset by implementing offsite mitigation or providing an in-lieu fee to a third-party conservation organization.

The RVMP ID Team agreed on two service metrics to quantify the value of wildlife habitat. One metric, RICHCOVWET, is based on vegetation species richness, cover, and wetness for each habitat type. Within the RICHCOVWET metric, the contribution of each species to the richness measure in each habitat type is weighted based on its nativity, known use by wildlife, and the structure it provides. The second metric, within-aspen overstory (WAO), captures the varying wildlife habitat value based on aspen stand age class evenness, proportion of conifers, and snag density. The WAO values are then converted to RICHCOVWET values for comparison to other habitat types. Both metrics are calculated on a scale of 0 (low habitat value) to 1.0 (highest habitat value).

In HEA, the loss of wildlife habitat is dependent on when the impact occurs, its areal extent, the degree to which its RICHCOVWET value falls below its pre-injury value, and how long that value is lost. Similarly, gains in habitat from onsite reclamation or offsite mitigation are dependent upon when the reclamation or restoration begins, its areal extent, and the annual recovery of RICHCOVWET relative to the impacted habitat's baseline value over time. For the proposed RVMP HEA, the rate of recovery for each habitat was based on either empirical data from similar projects in the region or on trajectories reported in literature.

At any time during the HEA process, Agrium has the option to propose a mitigation project for evaluation to compensate for the predicted residual impact to wildlife habitat services. The mitigation project can either be a real or hypothetical project, the estimated cost of which Agrium could provide in part or in full to a third-party conservation organization. That party would then be obliged to use those funds for the benefit of wildlife habitat in the region. In either case, the mitigation project will be evaluated in the HEA using the RICHCOVWET and WAO metrics, as appropriate. Agrium will provide the HEA inputs for baseline, predictive assumptions, and DSAY values for the mitigation actions for review by the ID Team. The resulting DSAY gain from the HEA evaluation of the real or hypothetical mitigation project will then be disclosed in the FEIS (ARCADIS 2014d).

## MITIGATION APPROACH

Agrium has elected to submit a mitigation plan to offset any DSAY debit from the proposed RVMP. Agrium will develop a hypothetical mitigation project and calculate a corresponding in-lieu fee amount. This fee will be transferred to a third-party conservation organization and used to benefit wildlife habitat in the local region through activities that may or may not include the implementation of a project similar to the hypothetical mitigation project. The details of the mitigation plan will be described in a Technical Memorandum entitled, *Wildlife Habitat Mitigation Plan for the Rasmussen Valley Mine Project Technical Memorandum (Wildlife Habitat Mitigation Plan TM)*. Agrium will complete this memorandum and submit to the BLM for inclusion in the FEIS.

## WILDLIFE HABITAT MITIGATION PLAN TM COMPONENTS

The Wildlife Habitat Mitigation Plan TM will include five components: (1) a detailed hypothetical mitigation project, (2) baseline DSAY values and assumptions, (3) a calculation of per-acre cost of mitigation and cost to offset DSAY debit, (4) description of provision of the corresponding in-lieu fee to a third party and the selection of wildlife mitigation plans, a process in which Agrium may choose to be involved, and (5) fulfillment of the voluntary mitigation. The Wildlife Habitat Mitigation Plan TM will describe, in detail, the following information:

### HYPOTHETICAL MITIGATION PROJECT

- Agrium will develop a hypothetical mitigation project that illustrates habitat enhancement on a local parcel;
- Agrium will provide a description of hypothetical mitigation actions that restore primarily in-kind habitat, as preferred by the BLM (BLM 2013, Section D.10, Page 9), to offset the residual DSAY impact partially or fully;
- The hypothetical actions will be assumed to occur within the U.S. Geological Survey (USGS) Level 4 Blackfoot Hydrological Unit Code (HUC) 17040207, the same HUC as the RVMP site; and
- Agrium will use data from the literature, a similar project, or a representative site in this area from which to estimate baseline values of habitats.

### CALCULATION OF BASELINE VALUES

- Agrium will provide the baseline value of the hypothetical mitigation habitat(s) in terms of RICHCOVWET and WAO service metrics estimated from aerial photographs and/or data taken from similar habitats;
- Agrium also will develop and use habitat recovery trajectories to calculate DSAY values of the hypothetical mitigation actions as specified in the HEA Study Plan (ARCADIS 2014a); and
- Agrium will provide details regarding all assumptions used to support development of baseline and mitigation improvement value calculations.

### CALCULATION OF PER-ACRE COSTS AND DSAY OFFSET

- Agrium will provide an estimate of the per-acre cost to complete the hypothetical mitigation actions;
- Cost will include planning, design, and implementation;
- This estimate will be based on communications with local restoration contractors, other similar projects completed in the region, and current industry cost data; and
- Agrium will also calculate the DSAY offset of the hypothetical mitigation actions, as well as the cost to offset any DSAY debit. This estimate will be used to define the approximate amount of the in-lieu fee that Agrium will provide a third party to satisfy their voluntary mitigation.

### **PROVIDING IN-LIEU FEE TO A THIRD PARTY**

- Agrium will provide the in-lieu fee to a third-party conservation organization of its choosing;
- The third party's objectives will align with the wildlife habitat enhancement objectives of the HEA as per ARCADIS 2014d;
- After Agrium provides the in-lieu fee, the third party will be required to assemble an interdisciplinary/stakeholder board to make decisions on how the funds will be spent;
- The organization will spend the funds within the Blackfoot River watershed or the USGS Level 4 Blackfoot or Willow HUCs 17040207 and 1704025, respectively; and
- Agrium and the BLM will coordinate with the third party to direct the use of the funds primarily to benefit wildlife habitat in alignment with BLM goals.

### **MITIGATION FULFILLMENT**

- This component of the Wildlife Habitat Mitigation Plan TM will describe the timeline and the fulfillment of Agrium's voluntary mitigation via an in-lieu fee;
- Agrium will provide the mitigation fee to the third party following the signing of the ROD; and
- Agrium's voluntary mitigation will be fulfilled and will not be obligated to perform any monitoring or other tasks related to wildlife habitat work performed by the third-party organization.

### **TIMELINE OF MITIGATION APPROACH**

The mitigation approach described in this document will be submitted to the BLM to be discussed in the DEIS. Concurrent to finalizing this mitigation approach document, Agrium will internally develop the first three components of the Wildlife Habitat Mitigation Plan TM. Following the finalization of any RVMP Alternatives analysis and the completion of the DEIS, Agrium will finalize the analysis of the mitigation plan's hypothetical mitigation actions to scale them to offset the final DSAY debit in part or in full, and will calculate the cost of the final hypothetical mitigation actions in coordination with the ID Team. During this time, Agrium will also identify a recipient of the in-lieu fee and coordinate with the BLM and the third-party in confirming that the fee will be spent in accordance with the HEA objectives. Once the use of the fee is agreed upon, Agrium will develop the Wildlife Habitat Mitigation Plan TM that will detail the mitigation approach, which will be submitted to the BLM for discussion in the FEIS. After the ROD is signed, Agrium will provide the in-lieu fee to the third party.

## REFERENCES

- Agrium Conda Phosphate Operations (Agrium). 2011. Rasmussen Valley Mine Project Mine and Reclamation Plan (Revision 1). January 2011.
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## Attachment 5

### Project Scoring Form (PSF) / Project Ranking Sheet (PRS)

<b>1)</b>	<b>Proximity to the Rasmussen Valley Mine Project (20 points)</b>	
	Project located outside the Project Area.....	0 points
	Project located within 100 km: Project Area-Zone 3.....	10 points
	Project located within 50 km: Project Area-Zone 2.....	15 points
	Project located within 25 km: Project Area-Zone 1.....	20 points
<b>2)</b>	<b>Matching partnership funds (% of project funded from other sources) (20 points)</b>	
	No financial and/or in-kind support.....	0 points
	Financial and/or in-kind support is 1-25% of project costs.....	5 points
	Financial and/or in-kind support is 26-50% of project costs.....	10 points
	Financial and/or in-kind support is 51-75% of project costs.....	15 points
	Financial and/or in-kind support exceeds 75% of project costs.....	20 points
<b>3)</b>	<b>Habitat Enhancement (20 points)</b>	
	No habitat restoration, enhancement or protection proposed.....	0 points
	Project includes habitat protection only.....	5 points
	Project focus on wetland and riparian restoration and enhancement.....	10 points
	Project focus on sagebrush steppe restoration and enhancement.....	15 points
	Project focus on aspen restoration and enhancement.....	20 points
<b>4)</b>	<b>Urgency: Habitat Protection from development (20 points)</b>	
	Project does not protect land; or land is already protected from development & habitat conversion.....	0 points
	Project protects land possibly threatened by development or habitat conversion within 30 years.....	5 points
	Project protects land moderately threatened by development or habitat conversion within 20 years.....	10 points
	Project protects land likely threatened by development or habitat conversion within 10 years.....	15 points
	Project protects land imminently threatened by development or habitat conversion within 5 years.....	20 points
<b>5)</b>	<b>Track record of project success (10 points)</b>	
	Proponent does not demonstrate successful completion of similar projects in last 10 years.....	0 points
	Proponent has demonstrated successful completion of 1-2 similar projects in last 10 years.....	5 points
	Proponent has demonstrated successful completion of 3+ similar projects in last 10 years.....	10 points
<b>6)</b>	<b>Project promotes landscape-scale connectivity (20 points)</b>	
	Isolated project without landscape-scale components, connectivity or complementary projects.....	0 points
	Project supports limited wildlife use.....	5 points
	Project connects to protected lands (public land or private land held in conservation easements).....	10 points
	Project directly connects to 1-2 existing project(s) or is surrounded by protected lands.....	15 points
	Project directly connects to 3+ existing projects or is in a migration corridor.....	20 points
<b>7)</b>	<b>Lifespan (durability) of expected benefits (20 points)</b>	
	Lifetime of project benefits to wildlife are minimal.....	0 points
	Lifetime of project benefits to wildlife are expected to last 2-5 years.....	5 points
	Lifetime of project benefits to wildlife are expected to last 6-25 years.....	10 points
	Lifetime of project benefits to wildlife will last >25 years.....	20 points
<b>8)</b>	<b>Monitoring (15 points)</b>	
	No monitoring included as part of the project proposal.....	0 points
	Project proponent includes some monitoring as part of the project proposal.....	5 points
	Project proponent includes robust monitoring program with acceptable metrics.....	15 points
<b>9)</b>	<b>Wildlife benefit versus cost (10 points)</b>	
	Project cost exceeds benefits.....	0 points
	Project benefits about equal to cost.....	5 points
	Project benefits high relative to cost.....	10 points
<b>10)</b>	<b>Stakeholder preference (20 points)</b>	
	Provide a score between 1-20 reflecting your preference for this project and its ability to meet the goals of the stakeholder group you represent	0-20 points
<b>Total</b>		<b>0</b>