

MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
AND THE
U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
PLANT PROTECTION AND QUARANTINE

ARTICLE 1 - PURPOSE

The purpose of this Memorandum of Understanding (MOU) is for suppression of Grasshoppers and Mormon Crickets on lands subject to the jurisdiction of the Bureau of Land Management (BLM).

ARTICLE 2 - BACKGROUND

Cultivated crops and range plants in most Western States are periodically damaged by grasshoppers and Mormon crickets (GH&MC). Destructive GH&MC outbreaks occur on rangelands and croplands of all ownerships including public lands administered by the BLM. Some outbreaks are of local concern only, while others may serve as focal points from which pests spread to adjacent rangelands or croplands. The Plant Protection Act (PPA) of 2000 in Section 417 (7 U.S.C. 7717) authorizes the Secretary of Agriculture to control GH&MC on croplands and rangelands across all ownerships. Administration of the entire PPA is delegated to the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS) at 7 CFR 2.80 (a) (51).

The BLM is responsible for the protection and management of BLM-managed public lands, which contain natural resources such as forests, wilderness, rangeland, and wildlife. The BLM manages these lands under the multiple use and sustained yield mandate to protect natural resources and provide opportunities for recreational use, livestock grazing, timber harvest, energy development, and other uses. Because dense populations of GH&MC have the potential to negatively impact resources on public lands, the BLM supports cooperative and coordinated efforts for an integrated pest management approach for addressing GH&MC populations.

This MOU describes how the BLM and APHIS will coordinate with one another with respect to the detection, evaluation, and suppression components of GH&MC management on BLM-managed lands.

ARTICLE 3 – AUTHORITIES

Under the Plant Protection Act (PPA), as amended, (7 U.S.C §§ 7701 et. seq.), the Secretary of Agriculture is authorized to issue regulations and orders to prevent, detect, control, eradicate, suppress, or retard the spread of plant pests or noxious weeds into or within the United States and

to cooperate with other federal agencies or entities, states or political subdivisions of states, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out the purposes of the PPA.

The BLM is authorized to enter into this MOU by Section 307 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1737.

ARTICLE 4 - MUTUAL RESPONSIBILITIES

The BLM and APHIS mutually agree to/understand that:

- a. GH&MC suppression project(s) initiated under this MOU will conform to APHIS and BLM policies and will be approved by appropriate BLM and APHIS line officers.
- b. All questions pertaining to the cooperative work of the BLM and APHIS arising in the field will be discussed by the local representatives of APHIS and the BLM, and that areas of disagreement will be referred to the BLM contact and to the appropriate APHIS State Plant Health Director for resolution.
- c. Either party may furnish needed equipment, which is otherwise unavailable and will retain its ownership.
- d. Although this MOU addresses the role of APHIS for GH&MC management, there are specific circumstances where it is more economical and efficient for county weed and pest districts or private contractors to conduct GH&MC control activities on BLM-administered lands. Examples of these circumstances may include, but are not limited to:
 1. Treatment areas that are predominantly private land intermixed with small acreages of BLM-managed lands.
 2. Linear strip treatments of BLM-managed land that is adjacent to private croplands.
 3. Small and dispersed BLM acres in remote areas.

In these situations, the BLM may provide funding for treatments to contractors or other government agencies.

ARTICLE 5 - BLM RESPONSIBILITIES

The BLM agrees to/that:

- a. Designate Ms. Gina Ramos, Senior Weed Specialist, Washington, DC, 202-912-7226 as its authorized representative who shall be responsible for collaboratively administering the activities conducted under this MOU.

- b. The local BLM contact will send survey maps and GH&MC population data received from APHIS to the appropriate BLM contacts and provide the APHIS State Plant Health Director with current BLM personnel names for follow-up contacts.
- c. The BLM will assist in evaluating and selecting GH&MC suppression techniques that will meet the management needs of both the BLM and APHIS. Although APHIS has lead responsibility for compliance with environmental laws and statutes for the GH&MC program and for recommending the technology to be used in the program, the BLM will serve as a cooperating agency, provide required resource information, and participate in the review process of environmental documents.
- d. If requested by APHIS in a timely fashion, the BLM will provide expertise to APHIS interdisciplinary teams to complete, site-specific environmental analyses for projects that propose to control GH&MC populations on BLM-managed lands. The BLM will generally be a cooperating agency in the preparation of environmental analyses, prepare a pesticide use proposal (PUP) for APHIS to treat GH&MC infestations on BLM-managed lands, and authorize APHIS to implement treatments.
- e. The local BLM contact will forward both biological opinions received from APHIS and APHIS prepared site-specific environmental documents, if needed, to all affected field and district BLM contacts.
- f. Thoroughly consider APHIS responsibilities and integrated pest management needs on intermingled and adjacent lands when receiving GH&MC management programs on BLM-managed lands.
- g. The BLM official will request, in writing, the inclusion of the appropriate lands in the APHIS GH&MC suppression project when treatment for GH&MC is necessary on BLM-managed lands. This request will be made in advance of any treatment to provide time for APHIS to plan and implement treatment. Requests should include information on the location and any resource protection stipulations within the treatment area and recommendation to APHIS concerning the requirements of the Endangered Species Act of 1973, as amended.
- h. Assist APHIS with GH&MC suppression operations, when feasible, by providing personnel, available transportation, and temporary storage of equipment and supplies; approving use of airstrips; supplying land ownership maps; and providing information about the location of GH&MC populations and access routes. Such use of BLM personnel will be held at the minimum necessary to accomplish the GH&MC suppression project(s).
- i. Notify the APHIS State Plant Health Director when any new or potentially threatening infestation is discovered, and request follow-up evaluations and pest management recommendations.
- j. When connected to the USDA, APHIS network, comply with the security guidelines as outlined in the USDA Cyber Security Manual Series 3500; including USDA Departmental Manual (DM) 3515, "Privacy Requirements", and USDA DM 3525, "USDA Internet Use and E-Mail Security". The BLM will not download any material

(i.e., pictures, movies, or music files) bearing a copyright nor access any material defined as inappropriate in these regulations and directives. The BLM agrees that any of its personnel that are given access to the APHIS network, any systems on the APHIS network, or any personnel using APHIS owned computer equipment will take APHIS required security and privacy training.

- k. Work with the appropriate APHIS Program Unit's Information Systems Security Manager to ensure compliance with National Institute of Standards and Technology (NIST) system requirements and APHIS' Certification and Accreditation (C&A) standards. Specifically, the BLM will comply with NIST SP 800 – 37, "Guide for the Security Certification and Accreditation of Federal Information Systems"; NIST SP 800 – 53, "Recommended Security Controls for Federal Information Systems"; APHIS C&A Manual including APHIS C&A Templates; and any other relevant NIST and APHIS guides. Refer to the NIST website at <http://csrc.nist.gov/publications/nistpubs/index.html> to obtain copies of the NIST C&A publications.

ARTICLE 6 - APHIS RESPONSIBILITIES

APHIS agrees to/that:

- a. Designate Mr. Charles L. Brown, Policy Program Manager, Riverdale, MD, 301-851-2119, as its Authorized Departmental Officer's Designated Representative who shall be responsible for collaboratively administering the activities conducted under this MOU.
- b. Provide the BLM with statewide maps of potential GH&MC populations. The maps will be based on annual field surveys of GH&MC populations.
- c. If fall surveys indicate high GH&MC numbers on BLM-managed lands, APHIS will consult with the BLM on the best management approach. Should that approach involve pesticides, and in conjunction with available funding, APHIS will:
 - 1. Provide for pesticide applications.
 - 2. Identify sources for the purchase and storage of insecticides. Storage of insecticides on BLM-managed lands will be in accordance with respective BLM policies. Any excess pesticides, pesticide containers, or mixed, but unused pesticide, will be disposed of by APHIS.
- d. Prepare and issue to the public environmental documents that provide an appropriate level of analysis for the affected environment under consideration for suppression treatments. These documents will be in compliance with the National Environmental Policy Act (NEPA). For most situations, this will include site-specific Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI). These documents will be prepared under the APHIS NEPA implementing regulations with cooperation and input from the BLM.

- e. Develop statements of work and identify available resources to apply a pesticide that will suppress GH&MC population outbreaks.
- f. When requested by the BLM, provide an estimate of the area (acreage that may require treatment), cost estimates, a recommendation as to whether a suppression program is appropriate, and APHIS capabilities based on available funding and resources.
- g. To prepare a work plan for, and implement a GH&MC suppression project on BLM-managed lands, upon receipt of a written request from the BLM for efficacious and cost effective treatments. Such projects will adhere to mitigation measures and operational procedures described by APHIS and BLM in the EA and FONSI. Protective measures and other relevant decisions will also be implemented for Threatened and Endangered Species as required by the U.S. Fish and Wildlife Service, National Marine Fisheries Services, and Land and Resource Management Plans.
- h. Coordinate GH&MC Program activities and meet with stakeholders including representatives of the BLM, other agencies, state departments of agriculture, and private landowners who have an interest in GH&MC Program activities.
- i. To gather information and document the acres treated, location, pesticide, and amount used, treatment effectiveness, and pertinent comments regarding project operations, problems that arose, and the need for follow-up action.

ARTICLE 7 - DATA SHARING AND RESPONSIBILITIES

- a. Data to be Shared: The Parties agree to provide plant protection and quarantine data to each other. The data to be provided to each Party by the other Party includes, but is not limited to, plant protection and quarantine surveys, diagnostic information, detection activities, inspection reports, and pest interception data. Each Party is responsible for transmitting the provided data to its own authorized employees, cooperators, and contractors as applicable and necessary, in order to carry out responsibilities under their respective plant health authorities. Each Party agrees that it will ensure, to the extent provided by applicable laws and regulations that data provided by the other Party is not released to anyone that is not authorized to receive it.
- b. Data Utilization: The Parties agree that the provided data will only be used in the administration and enforcement of each Party's respective plant health laws and regulations. Data provided by the Parties under this Agreement may be used to ensure compliance with their respective plant health laws and regulations; to respond to domestic plant pest and disease emergencies, interceptions, and trace backs; to enhance delivery of pest exclusionary programs and activities; to support pest surveying activities; to develop quarantines and other appropriate measures for pest management and mitigation; to implement or improve international pre-clearance and/or pest eradication programs and activities, pest risk assessments, phytosanitary trade support, and the issuance of plant protection and quarantine permits; and to develop, in cooperation with federal research agencies, new and improved methods, techniques and procedures for use in cooperative plant protection and quarantine programs and activities. Each party agrees that it will

ensure that the provided data is used only for purposes specified in this Agreement and only in a manner consistent with the provisions of the Plant Protection Act.

- c. Data Restrictions: The Cooperator agrees and acknowledges that the data provided by APHIS pursuant to this Agreement is solely APHIS data and as such is or may be subject to the confidentiality provisions of Section 1619 of the Food, Conservation, and Energy Act of 2008, 7 U.S.C. §8791, (Section 1619) and the Privacy Act of 1974. The Cooperator also agrees to safeguard such confidentiality and prohibit any unauthorized access to the data provided by APHIS as required by section 1619. The Cooperator further agrees and acknowledges that if section 1619 does apply to some or all of the APHIS provided data, that pursuant to section 1619, the Cooperator is bound to and will comply with section 1619 (copy attached as Appendix A) and related APHIS guidance. The Cooperator understands that it may not release any of the data provided by APHIS since it is Federal Government data and it agrees to refer any and all requests for the data provided by APHIS, not otherwise authorized to be released under this Agreement and applicable federal laws and regulations, to:

USDA, APHIS
Legislative and Public Affairs
Freedom of Information and Privacy Act Office
4700 River Rd. Unit 50, Riverdale, MD 20737
Telephone: (301) 851-4102

The Parties agree that in some instances it may be appropriate to enter into a separate written agreement to describe procedures relating to the release of data governed by section 1619.

ARTICLE 8 - STATEMENT OF NO FINANCIAL OBLIGATION

Signature of this MOU does not constitute a financial obligation on the part of the Parties. Each signatory Party is to use and manage its own funds in carrying out the objective of this MOU. Transfers of funds or items of value are not authorized under this MOU.

ARTICLE 9 - LIMITATIONS OF COMMITMENT

This MOU and any continuation thereof shall be contingent upon the availability of funds appropriated by the Congress of the United States.

ARTICLE 10 - CONGRESSIONAL RESTRICTION

In accordance with 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of the MOU or to any benefit to arise there from.

ARTICLE 11 - NON-DISCRIMINATION CLAUSE

The United States Department of Agriculture and the Department of the Interior prohibit discrimination in all their programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. Not all prohibited bases apply to all programs.

ARTICLE 12 - LIABILITIES

APHIS assumes no liability for any actions or activities conducted under this Agreement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), 2671-2680).

ARTICLE 13 - AMENDMENTS

This MOU may be amended in writing at any time by mutual agreement of the Parties.

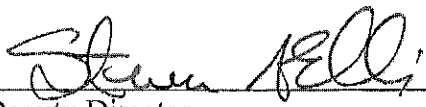
ARTICLE 14 - TERMINATION

This MOU may be terminated in writing at any time by mutual agreement of the Parties or by either Party with sixty (60) days' notice in writing to the other party.

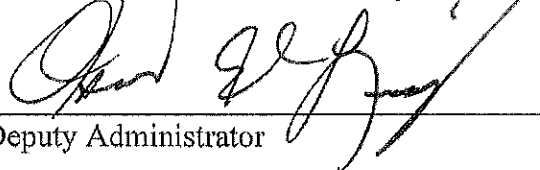
ARTICLE 15 - EFFECTIVE DATE AND DURATION

This MOU will become effective upon the date of the final signature and will continue in effect for five years unless terminated.

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT


Deputy Director 10/5/15
Date

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
PLANT PROTECTION AND QUARANTINE


Deputy Administrator 10/15/15
Date