



**Colorado Wildlife Federation • Colorado Mule Deer Association
National Wildlife Federation**

December 18, 2007

Dave Neslin
DNR Assistant Director, COGCC Acting Director

Via electronic submission

Re: Comments on initial pre-draft rulemaking proposal to implement HB 1298 and HB 1341

Dear Dave:

The following are the comments of the Colorado Wildlife Federation, National Wildlife Federation, and Colorado Mule Deer Association on the initial, pre-draft rulemaking proposal prepared by the Colorado Oil and Gas Conservation Commission (COGCC) to implement House Bills 1298 and 1341. These comments are based on the November 27, 2007, memorandum describing the pre-draft proposal, as well as comments made by COGCC and other State officials at the conservation and wildlife stakeholder briefing. These comments are directed principally at the pre-draft proposal's measures dealing with the implementation of HB 1298, the Colorado Habitat Stewardship Act.

CWF, NWF, and CMDA are non-profit conservation organizations with thousands of members and supporters who live, hunt, fish, and view wildlife in Colorado. The Colorado Wildlife Federation (CWF) is a statewide tax exempt 501(c)(3) nonprofit, membership based, mainstream wildlife conservation organization. Formed in 1953, CWF is Colorado's oldest wildlife conservation organization. CWF's mission is to promote the conservation, sound management, and sustainable use of Colorado's wildlife and wildlife habitat through education and advocacy. Conservation of wildlife habitat is essential to sustaining Colorado's economy as well as its unique wildlife, hunting and fishing heritage and wildlife viewing opportunities. These wildlife-related recreation pursuits enrich the well-being of Colorado's residents and out-of-state visitors and form a substantial segment of Colorado's economy.

The National Wildlife Federation (NWF) is a national member-supported non-profit conservation, education, and advocacy organization. NWF is associated with conservation organizations in 47 states and territories, including CWF in Colorado. NWF is dedicated to conserving wildlife and other natural resources, and believes that hunting, fishing, and trapping are legitimate recreational pursuits and useful wildlife management practices. NWF works to promote responsible management of wildlife on public lands.

The Colorado Mule Deer Association is a statewide tax exempt 501(c)(3) nonprofit organization dedicated to the welfare of the Colorado mule deer. The Association actively seeks to increase mule deer populations in Colorado through habitat improvements and acquisitions public education and restoring the biological balance among predators and mule deer. Public comments on management activities affecting mule deer and their habitat are solicited. The general public and governmental agencies are lobbied, advised and educated on which herd management practices are recommended. All funds generated by the Association are used in Colorado for Colorado mule deer.

CWF, NWF, and CMDA commend the COGCC, the Colorado Department of Public Health and Environment, and the Colorado Division of Wildlife for the enormous amount of high-quality work the agencies have devoted, in a short time period, towards implementing the Legislature's mandates in HB 1298 and 1341. These comments are based on the Federations' role as advocates for fish and wildlife and their habitats, and our experience in developing guidelines for oil and gas development. They are intended to assist the agencies in better developing effective measures that will fulfill the legislative intent of HB 1298 and 1341.

Wildlife Management Guidelines for Oil and Gas Development

As an initial matter, we would like to draw the Commission's attention to the history, text, and purpose of the Habitat Stewardship Act. NWF and CWF were strong supporters of this legislation, the principles of which are directly based on the Wildlife Management Guidelines (Wildlife Guidelines) for Oil and Gas Development developed by the Colorado Mule Deer Association and Colorado Wildlife Federation and endorsed by a broad coalition of wildlife, sporting, conservation, and environmental organizations. The Wildlife Guidelines are based on the professional experience and judgment of former public agency wildlife and oil and gas managers, as well as extensive scientific literature addressing the effects of oil and gas development on wildlife populations. As the Guidelines note:

Colorado is renowned for its awe-inspiring natural landscapes, its abundant fish and wildlife resources, and the diverse cultural and traditional heritage associated with these natural resources. In addition to many non-commodity benefits, these resources generate billions of dollars in recreation revenue and positive spillover effects for Colorado's economy. While oil and gas development offers benefits and helps address our nation's energy needs, such development can negatively affect Colorado's fish and wildlife habitats and its sensitive lands and

natural landscapes, potentially resulting in extensive and enduring damage to those highly valued natural resources.

Wildlife Guidelines 1. The Guidelines represent a widely-endorsed, consensus-based approach to identifying practicable means for minimizing adverse impacts to air and water quality and fish and wildlife resources for lands that have been selected for oil and gas development. The Guidelines identify ten key principles for ensuring the minimization of adverse impacts from energy development; these principles are laid out in detail in the Guidelines and summarized here:

1. *Maximize the distance between drilling sites, maximize the use of directional drilling, and minimize the length and impact of new roads, in order to minimize habitat destruction.* “The Colorado Oil and Gas Conservation Commission (COGCC) should determine the appropriate spacing of the downhole drilling in a particular area, not the companies applying for drilling permits.”
2. *Land management agencies should set well locations and numbers under geographic area plans following consultation with the Colorado Division of Wildlife.* As discussed below, HB 1298 extends the geographic area planning process to State and private lands.
3. *Public land leasing should be conducted in large blocks that coincide with objective of maximum surface spacing and minimization of habitat fragmentation.*
4. *Drilling on a given pad should continue until all necessary wells are completed, and the practice of drilling a few wells and returning later should not be permitted.*
5. *All applicable Best Management Practices should be required to minimize and mitigate surface habitat and groundwater impacts.* As discussed below, we endorse the pre-draft rules’ idea of requiring mandatory Standard Operating Practices, and believe that protective measures should be classified as voluntary only where necessary to permit flexibility designed to protect surface and water resources from degradation.
6. *State and Federal agencies should collaborate to collect data on development effects and use of hazardous chemicals, and should review research and data collection plans by industry, which should be responsible for the collection of baseline and monitoring data.*
7. *A study of the effectiveness of abandoned well bore reclamation should be commenced.*
8. *A reclamation system that guarantees sufficient funding for each well, regardless of ownership changes, should be established.*
9. *Rigorous control of noxious weeds should be required.*
10. *Timely inspection and enforcement should be made a high priority.*

The pre-draft rulemaking proposal makes significant steps towards implementation of several of these guidelines; below, we offer specific comments on how the Guidelines principles might be more fully realized.

History and Purpose of H.B. 1298

House Bill 07-1298 (“HB 1298”) is based closely on the principles of the Wildlife Guidelines, and passed with broad, bipartisan support and praise from both conservation and

industry. HB 1298 both mandates the promulgation of rules to establish standards for minimizing adverse impacts to fish and wildlife and ensuring proper reclamation, and specifically codifies into law several important principles that should guide this rulemaking process:

- The Act recognizes “the State’s obligation to protect wildlife resources and the hunting, fishing, and recreation traditions they support, which are an important part of Colorado’s economy and culture,” and specifies the State’s policy “that wildlife and the environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors.
- The Act defines “minimizing adverse impacts,” according to the three-tiered mitigation principles of the Guidelines: first, avoid adverse impacts on wildlife resources; second, minimize the extent and severity of those impacts that cannot be avoided; and third, only if there are remaining impacts that cannot be avoided, mitigate the effects of those impacts. Colo. Rev. Stat. 34-60-103(5.5).
- The Act requires the establishment of a timely and efficient consultation procedure for obtaining the expert input of the Division of Wildlife on decision-making that impacts wildlife resources.
- The Act mandates that the Commission, under its pre-existing statutory power to set conditions on the siting and manner of oil and gas development to protect the environment, “implement, wherever reasonably practicable, best management practices and other reasonable measures to conserve wildlife resources.”
- The Act further specifies minimum requirements for these regulations, including:
 - Development of a CDOW consultation process;
 - Encouraging the use of comprehensive drilling plans and geographic area analysis strategies;
 - “Minimizing surface disturbance and fragmentation in important wildlife habitat by incorporating appropriate best management practices,” in various COGCC regulatory capacities, including drilling unit orders or rules, approval of unitization agreements, and, as conditions of approval on permits to drill.

The principles underlying the Guidelines and HB 1298 recognize that case-by-case permit review is not the most effective or efficient means for ensuring minimization of adverse wildlife impacts. Thus, both the Guidelines and the Act explicitly contemplate the use of larger-scale planning efforts to anticipate impacts and site facilities accordingly at a scale larger than that of the individual drilling permit approval. We appreciate the Commission’s inclusion of measures for both multi-well/multi-operator plans and larger, basin-scale planning efforts, but have substantial questions as to whether the voluntary CPDs and discretionary Geographic Area Planning efforts will be implemented in practice.

Comprehensive Development Plans and Geographic Area Plans

The core of the Guidelines, as codified in HB 1298, is the idea that regulatory agencies should prescribe the maximum extent, density, and siting of development prior to drilling. We

believe that the proposed Form 34 process represents a useful tool for addressing surface impacts at the individual surface site or multi-site level. Conditions of approval at the individual Form 34 level, however, are not sufficient to address the landscape-scale decisions about avoidance, density, and siting necessary to fully implement the Act and its mandate to minimize disturbance and fragmentation in important habitats. We would like to note, as a matter of consistency, that in federal agency practice, geographic area plans refer to multi-well but discrete area plans along the lines of what the pre-draft document envisions as Comprehensive Development Plans; to avoid confusion, we use the terms as they are employed in the pre-draft rulemaking proposal (i.e., comprehensive development plans are approximately 5-year plans for one operator's group of wells, and geographic area plans are longer-term, multi-operator, basin- or drainage-based plans initiated by the COGCC).

We have substantial questions as to whether the proposed rule would provide sufficient incentive for operators to adopt comprehensive development plans. Under the pre-draft proposal, "operators would be encouraged to submit Comprehensive Development Plans early in the process and on the broadest geographic scale on which reasonable forecasts of specific surface activities might be made." The submission of such plans would, however, be strictly voluntary. The principal question that arises is whether the incentive for submission of such plans – a standard set of practices and conditions to be applied to Form 34 applications – will be sufficient incentive for operators to engage in the planning process, as opposed to simply filing Form 34 applications individually for all activities. There are substantial questions as to whether, in the absence of strong mandatory and generally-applicable conditions of approval governing density and siting as well as simply operational methods, there is a sufficient incentive for operators to enter in the comprehensive development plans. In addition, we feel that a comprehensive development plan should be presumptively required for Form 34 issuance, absent a demonstration that such a plan is not necessary, in situations where: (a) more than one well pad is reasonably foreseeable; (b) sage-grouse breeding or nesting habitat will be impacted; or (c) important mule deer wintering habitat could be adversely affected. In addition, we recommend that Form 34 approvals absent a comprehensive development plan should be valid for only one year, with approval of a comprehensive development plan conferring a five-year horizon on Form 34 approvals, with an option for an additional five-year renewal. Limiting stand-alone Form 34 applications only to immediate (one-year) projects would provide a more substantial incentive (in the form of long-term certainty and flexibility) for operators to enter into comprehensive development plan.

Comments on Specific Proposals

Form 34 Applications

We support the proposed Form 34 process as a useful method of creating a regulatory process focused on addressing surface impacts (as opposed to down-hole spacing). We agree with the principle that the Form 34 process may address multiple sites and facilities, but strongly recommend that stronger incentives be used to encourage a larger-scale planning process once more than one well pad is anticipated or important habitats affected. We strongly support

efforts, such as posting of all Form 34 applications on a publicly-accessible website with opportunity for comment, to foster transparency and public input in the process.

Consultation with CDOW is a key requirement of HB 1298, and we recognize the difficult task facing both the COGCC and CDOW given the huge annual volume of drilling permit applications and the agencies' existing workload. We believe at least a 60-day consultation period is reasonable, with the addition that CDOW should be able to request an extension when unanticipated circumstances arise, new information becomes available, or unresolved conflicts between CDOW recommendations and operator proposals exist. We support the concept that a shorter consultation deadline would be applicable when a comprehensive development plan exists, as such a plan would already have established presumptively-applicable mitigation measures.

Identification of what areas would require consultation for protection of wildlife values is key to striking an appropriate balance between ensuring adequate CDOW review and avoiding repetitive, inefficient processes or overwhelming volume of consultation requirements. We support the development of guidelines, but believe strongly that the designation of areas or species of significance for consultation is a scientific and policy decision for CDOW that should not be subject to contest by operators, which already would have the opportunity to seek review of Form 34 decisions. We understand that CDOW is developing a mapping system that will inform operators whether a proposed location will require consultation.

With regard to the definition of high-density development for purposes of triggering agency consultation, we recommend including in the definition of high-density development those areas where drilling will increase background noise levels affecting occupied residences or other buildings above pre-development background noise levels by more than 45 decibels.

We note that the proposed rule would allow CDOW to appeal Form 34 permits only "where consultation was required or where it occurred." This definition should be expanded to include all situations where CDOW identifies a significant adverse impact on wildlife resources (including surface habitat and water quality), to permit review in situations where consultation was not required but should have been due to unanticipated factors.

With regard to permit duration, as noted above, we believe a one-year deadline, for a single location, is appropriate if no comprehensive development plan exists. For longer-duration or multiple-location scenarios, a development plan should be strongly encouraged or required, not simply allowed. Similarly, we believe that facility inventories should be mandatory.

The proposed Form 34 rules envision self-certification by operators of compliance with conditions of approval. Under Guideline 10, encouraging stronger enforcement of conditions, we believe that such a self-certification process should be accompanied by supporting documentation demonstrating compliance with all Standard Operating Procedures and Best Management Practices, including interim reclamation requirements.

Comprehensive Development Plans

As noted above, we are concerned about the adequacy of the incentives for adopting such plans. We would also encourage expanding the definition of comprehensive development plans to include multi-operator plans for multiple companies operating in a given geographic area. The Guidelines encourage resource protection through avoidance of redundant infrastructure, and encouraging operators to reach agreement on multi-operator plans could help avoid unnecessary and inefficient habitat loss and fragmentation due to redundant facilities. With regard to the assertion that Comprehensive Development Plans may be unnecessary for small-scale operations, we note that a small operation can be just as damaging as a larger one if sited incorrectly, and that “wildcat wells” are more likely to see abandonment without adequate reclamation.

Comprehensive Development Plans should identify all reasonably foreseeable development and necessary infrastructure in the area, and work with the COGCC and consulting agencies where appropriate to identify potential impacts and develop avoidance, minimization measures that address these impacts. By collaboratively identifying cumulative impacts and determining mitigation tactics on a larger geographic scale, CDPs would provide operators with both certainty and flexibility by relieving operators of the requirement to develop and justify individualized mitigation measures for each Form 34 application.

With regard to the content of CDPs, the rules should permit some flexibility depending on the nature of the resource concerns at issue, but should nevertheless be more prescriptive than proposed in specifying the content of plans. A description of the baseline environment and proposed development appears the minimum necessary for any rational plan. This should generally include baseline water quality data for perennial water within the geographic area, and baseline vegetative data on species composition and plant density required for monitoring of reclamation success. Such data should be from pre-disturbance vegetation, or, if a different vegetative type is proposed for reclamation, targets for success should be stated at this initial stage.

In the “Procedure for Development of Comprehensive Development Plans,” we recommend that mitigation measures subject to consideration be expanded to include, where appropriate: limiting the number of drill pads operating at any given time; determining the order in which drill pads become active; and requiring that all wells be drilled necessary for maximum resource recovery before rigs are moved off a drill pad, to prevent repeat disruption from returning to an existing pad.

In specifying the informal consultation process for development of CDPs, we strongly believe that this is an effective and important stage in the process for the Division of Wildlife to identify practical means of avoiding and minimizing impacts to identified core fish and wildlife habitats. These means include not only timing and operational practices but the setting of maximum surface densities and identification and protection of core habitat areas. One important principle of conservation biology, particularly for at-risk species such as greater sage-

grouse, is the identification and protection of core areas of undisturbed habitat sufficient to permit population viability. Case-by-case permit adjudication is not an effective means of identifying and conserving such areas; rather, the CDP and GAP processes should be used to identify those areas that should have maximum disturbance thresholds or be designated no surface occupancy (permanently where necessary, or temporarily as part of a long-term phased development scenario). Similarly, it should be noted that offsite mitigation or habitat restoration should be considered only once all practicable avoidance and minimization techniques have been exhausted, and that any such mitigation should show demonstrable correspondence to the resource or value being degraded. We support the idea that a CDP should facilitate faster and smoother permit approval, but strongly disagree that it should provide a rebuttable presumption that mitigation will be sufficient unless the operator has actually agreed to mitigation measures recommended by the consulting agencies (CDPHE and CDOW). We do have concerns about footnote 7, which would apparently place a burden of proof on the consulting agency to demonstrate a CDP's measures are insufficient; this should be clarified if its intent is only to apply to challenges after a CDP has been endorsed and adopted. While we recognize the role of a CDP in conferring certainty, there does need to be sufficient flexibility to revisit these plans in the light of substantial new scientific information, or, for example, substantial changes in species status or distribution.

Recognizing the Commission's desire to promote voluntary development of CDPs, we nevertheless believe that there needs to be some degree of public disclosure and opportunity to comment on CDPs; to the extent that these documents will create presumptions in the issuance of subsequent Form 34 permits, there should be public disclosure and an appropriate opportunity for comment.

Geographic Area Plans

We strongly support the use of longer-term, larger-scale geographic area plans for entire gas fields or geologic basins. The use of such large-scale plans is specifically mandated by HB 1298, which also clarifies the Commission's obligation and authority to incorporate measures minimizing adverse impacts into rules and orders for drilling units (such as the basin-specific rules for the Wattenberg Field). Such rules should be available to address not only unique geologic or hydrologic features, but also unique environmental features (e.g., a unique ecosystem or habitat for a unique population of fish or wildlife) to enable assessment and reduction of cumulative impacts to important wildlife habitat and populations. The scope of Geographic Area Plans should include parameters for both minimum down-hole spacing required for maximizing resource recovery, and maximum surface spacing density consistent with minimizing habitat disruption.

We support the idea that large-scale plans would be initiated and promulgated by the Commission, but also think it is necessary to include a process whereby the public (or other agencies) could petition the Commission to initiate such a process by providing reasons why such a process is necessary for a particular area. We are concerned that key concepts such as designation of units, adoption of spacing orders, and requiring consolidation of facilities are

envisioned only under these discretionary (and presumably time-consuming) plans; under the Guidelines and HB 1298, these should be means available to avoid impacts from all development, whether or not a large-scale plan has been initiated and completed. As a general matter, the most successful mitigation is mitigation for properly functioning habitat developed and implemented prior to adverse impacts—this is the only means of ensuring that lost habitat functions are replaced in a timely manner. By apparently confining the use of spacing control or consolidation of facilities only after a full GAP rulemaking, the proposed rule could potentially forego the opportunity to employ this type of particularly effective mitigation, as required by Colo. Rev. Stat. 34-60-103(5.5)(a). We are deeply concerned by suggestions that the development of GAPs may be uncertain and subject to the vagaries of available budget and staff. GAPs are too important to a comprehensive, basin-wide approach to understanding and addressing development impacts to make them optional. We recognize the constraints on the Commission's time, attention, and resources, but believe strongly that the rules should provide for a goal of eventually developing GAPs for all major basins, with the possible exception of the Denver Basin.

Specific Rule Changes

In the 200 series, we believe that the rules should state that producers “shall,” not “may,” be required to maintain chemical inventories and correct labeling of storage vessels.

With regard to the 500 series rules, we support the inclusion of CDPHE and CDOW participation in hearing processes for drilling and spacing orders and increased well density. We would also strongly encourage the updating of the COGCC's fine schedule to ensure that economic incentives for compliance are strong enough to promote increased responsiveness to COGCC rules for protection of habitat and the environment.

We have serious concerns with regard to the proposed changes to the 700 series on financial assurances, which we believe do not adequately update financial assurances sufficiently to ensure proper reclamation, closure, and abandonment of facilities. As stated in Guideline 8, we believe that reclamation bond amounts should be established based on an independent technical assessment of necessary reclamation measures and demonstration of adequate financial resources to implement those measures. In particular, we are very concerned that the proposed amounts for statewide assurances are inadequate to ensure meaningful regulation, and would suggest that if statewide bonds are to be allowed, they be tiered to an operator's number of wells in the State and increased to a level consistent with independent engineering estimates for closure, abandonment, and reclamation needs.

We strongly support the changes to the 900 series rules on waste management.

With regard to the 1000 Series, dealing with reclamation standards, we believe that under HB 1298 the Commission should consider additional rules dealing with interim reclamation. Interim reclamation should take place **immediately** after completion of construction of roads and pads. All areas must be seeded even if they might be used again in the future (e.g. for parking).

To ensure effective and timely reclamation, once initial earthmoving is completed, disturbed areas should be seeded with either a final seed mixture or another approved seed mix within five days to control erosion and surface runoff. Initial reclamation would be considered complete for drilling locations when all areas outside the “deadman” have been recontoured and revegetated and the vegetation of desirable and seeded species has reached a plant density of 80% of predisturbance levels for the designated replacement vegetative type, for two complete growing seasons. Interim reclamation within the “deadman” would be considered complete when construction is complete, the surface hardened or stabilized, and erosion reduced to background levels.

We strongly support use of performance standards for interim and final revegetation, but note that final reclamation should meet the standard of at least 80% plant cover as compared to nearby healthy habitat. Meeting 70% of what was there before is not acceptable. Interim reclamation should promote habitat enhancement and clean-up of past problems as operators move through a field, and represents a reasonable expense in light of the scale of the economic resource being extracted. No revegetation with nonnative/invasives should be authorized.

The proposed 1200 series of Wildlife Operating Standards is, of course, the core of the Commission’s HB 1298 obligation. We strongly support the use of Standard Operating Practices for wildlife protection that would be applicable to all facilities or all facilities within certain geographic areas. We strongly agree that any exception to a SOP should require a demonstration that it is unnecessary or equivalent protection should be required. Requests for exceptions should certainly require consultation with resource agencies (CDOW and/or CDPHE), but we feel that a very high burden of proof should be required if the operator is unable to reach agreement on an appropriate substitute for the waived SOP. We also believe that HB 1298 encourages the use of Best Management Practices in all situations, not just those that involve a formal consultation. We strongly support the inclusion of a “menu” of recommended Best Management Practices, consideration of which should be required even when they are not mandated following a formal consultation.

Appendix A – Form 34 Requirements

In addition to the requirements proposed in this Appendix, we would recommend including a description of on-site impact minimization efforts, and, if off-site mitigation is proposed, justification for why on-site mitigation is not feasible and why off-site mitigation will be effective.

Description of the facility location should include human-occupied buildings within 800 meters.

The vegetative analysis should also include a narrative description of species present and density by species, and, where a different vegetation type will be established per Surface Owner Agreement, the desirable percentage of plant density to be achieved by revegetation.

In the Operation and Maintenance Plan, operators should include a plan for traffic management to reduce impacts from vehicular traffic and disturbance.

The determination of whether a Form 34 application entails “high-density development” or affects “environmentally sensitive areas” should include areas flagged by CDOW, under the consultation rules, as containing important wildlife values. COGCC and its consulting agencies should provide operators with clear maps and/or guidelines for identification of environmentally sensitive areas.

Appendix B – Wildlife Operating Standards

The CDOW’s determination of the content of the operating standards and best management practices for wildlife will constitute the substantive core of this rulemaking effort. We appreciate the considerable expertise and effort the agency brings to bear on the development of the SOPs and BMPs, and would offer the following suggestions at this preliminary stage:

The measures available for certain Standard Operating Procedures—i.e., for specific habitats of unique, sensitive or high-value species—should include restrictions on maximum surface disturbance and/or road density, or presumptive areas of no surface disturbance for specifically-identified core habitats. In some habitats, adverse impacts may be avoidable if practicable technology is used to minimize number of pads, roads, pipelines, and human activity (e.g., through use of remote telemetry) below a scientifically-substantiated threshold. In other cases, timing stipulations combined with traffic management and remote monitoring for the operation and maintenance phase may be sufficient to avoid loss of function for seasonal habitats. CDOW should set, in the habitat-specific Standard Operating Practices, both spacing and timing thresholds adequate to protect those species and habitats it identifies as at risk from development. Waiver of timing stipulations should be considered only where CDOW and the operator can agree on an impact minimization plan, in a CDP, that provides an equal or greater level of benefit for the species.

The additional Standard Operating Procedures listed—tracking operations and reclamation, mapping critical habitats, stabilizing roads, preventing noxious weed spread, managing food and waste, and reclaiming roads—are all consistent with the Guidelines and should be adopted. We would also favor the development of detailed and comprehensive SOPs for weed control. Gates should be required on new roads to control unauthorized access.

We similarly support the inclusion of recommended Best Management Practices, and further recommend that these BMPs be subject to being made mandatory, with monitoring of their implementation, in applicable comprehensive development plans. We are concerned that voluntary practices may be insufficient for certain important and readily practicable measures. These include eliminating open pit storage of drilling fluids to the maximum degree practicable, and mandating interim reclamation at the earliest possible juncture. “Completed development” for purposes of interim reclamation should be defined to mean initial drilling and construction,

not completion of resource extraction. Strong efforts to encourage reclamation as soon as possible are key to effectively preventing dominance by invasive species.

The proposed BMPs include monitoring programs to assess effects of development and mitigation. We believe monitoring and reporting should not merely be a voluntary measure, but should be incorporated wherever appropriate into comprehensive development plans, and issuance of future Form 34 permits conditioned on full implementation of required monitoring activities.

Finally, as stated above, to the extent that BMPs may contemplate offsite mitigation efforts, it is essential to require that such offsite mitigation should be completed prior to development wherever possible, should demonstrate a correspondence with the habitat values and functions impacted, and be located within the same USGS sub-basin or CDOW game management unit.

Thank you for the opportunity to comment on these proposed principles for rulemaking. We look forward to a continued dialogue as the process moves forward over the coming months.

Sincerely,



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