

DECLARATION OF ROBERT L. ELDERKIN

I, Robert L. Elderkin, do hereby declare as follows:

1. The facts set forth in this affidavit are based on my personal knowledge. As to matters that reflect opinion, they reflect my personal opinion and best judgment on the matter.
2. From 1963 to 1974, I worked as a Range Conservationist and Wildlife Biologist for the United States Forest Service on two National Grassland Districts and one National Forest District. During the last three years of this time I was heavily involved with surface inspections of oil operations. The development of the Little Thunder Oil Field in Wyoming required the full attention of the United States Geological Survey (USGS), who managed on-shore oil and gas operations at that time. Because I was going by old “stripper” wells on a daily basis, I had the USGS teach me how to conduct surface inspections. I then routinely did these inspections and turned the results into the USGS who did the required notifications for remedial actions. I also began trying to develop methods of reclaiming abandoned bentonite pits. This was before there were laws requiring reclamation and before there were retail outlets for native plant germ plasm. I corresponded with and experimented under the guidance of Dr. Perry Plummer, who wrote “Restoring Big Game Winter Ranges in Utah.” This was one of the first books on reclamation written.
3. From 1975 to 1986, I was employed as a Reclamation Specialist and Wildlife Biologist for the Area Oil Shale Office (AOSO) in Grand Junction, CO. In this position I was responsible for developing methods and techniques for the reclamation and revegetation of processed oil shale.
4. Following the closure of the AOSO, I was reassigned to the BLM office in Glenwood Springs, CO. For several years I supervised the Mineral Specialist in this office who was responsible for administration of the oil and gas program. He processed Applications for Permits to Drill (APDs) and also did all the field inspections. At my insistence, we radically changed the standard method of revegetation to reseeding all disturbed surfaces with broad cast seeding of native species. This seeding was done the same day that earth work ceased irrespective of the time of year or season. This began to markedly improve revegetation for valid reasons. After reorganization of the office I was reassigned to the field and began to process APD’s as well as handle field inspections of these operations. I also was responsible for drafting the reseeding plans for all large wildland fires.

5. I am, and have been a member of the Society for Range Management for over 46 years. I was a member of the group that pushed for and helped establish the Upper Colorado Plant Materials Center in Meeker, Colorado. I have been designated a Certified Wildlife Biologist by the National Wildlife Society. I am currently on the State Board of Directors of the Colorado Mule Deer Association (CMDA). The CMDA has drafted a set of Ten Management Guidelines that we are trying to get the Colorado Oil & Gas Conservation Commission (COGCC) and the BLM to adopt. These guidelines are not aimed at stopping exploration for natural gas. Rather they were developed to make the COGCC and the BLM begin to manage, mitigate, and reduce the surface effects of natural gas exploration.

6. Within the Glenwood Field Office Area, there is a requirement for the oil and gas industry to revegetate all disturbed land on a drill pad, access road, and pipeline. In response to new BLM policy, the revegetation is now required to be done with species considered native to the area. This requirement was reflected in the environmental assessment for each APD. Unfortunately there is not a specific penalty system in place that would serve as an incentive to companies to achieve reclamation in difficult cases. An operator might or might not be asked to continue reseeding. If alkali occurred on a drill site, effectively stopping revegetation, usually nothing further was required.

7. The use of seed from native species is more expensive than seed from introduced species. In one documented case, the subcontractor doing the revegetation work elected to use a pasture mix from the local CO-OP which contained all introduced species. The company was not required to redo the revegetation work and apparently continues to use this same species mixture with no objections from the BLM.

8. Control of introduced noxious weeds, is a stipulation in virtually all environmental assessments involving surface disturbance and in the ensuing permits. Enforcement of this stipulation is still considered to be voluntary by the BLM. If a company does not control the weeds on their project, there are no fines levied for not doing it. While most companies currently practice some weed control, there still is no set of fines or penalties that are levied for poor or incomplete work.

9. There are no requirements for the companies to employ common agronomic practices for aiding reclamation. For example, the use of a common soil analysis before disturbance would identify the presence of alkali within the soil profile. This could then trigger specific agronomic

practices to counter the alkali from rising to the surface during the period prior to revegetation. Once the alkali has risen to the surface, the agronomic practices that would be needed to control alkali while reestablishing vegetation are never required.

10. When other industries, like a coal mining, are established on public land, there are very stringent requirements for reclamation. Specific performance standards for reclamation are set that the company must meet before they can be considered for bond release. These standards are numeric and require specific monitoring practices with specified accuracy levels to measure. The company must pay for the monitoring to be done by their specialists or by subcontractors. The oil and gas industry is faced with no such stipulations. The customary practice in the oil and gas industry is for BLM personnel to look at the site visually and arbitrarily decide the work is good enough.

11. When a company submits a Geographic Area Plan (GAP) for drilling, the plan tells how many wells the company plans to drill over a given time frame. This is not the total number of wells that the company will drill within the GAP boundaries but simply those it will drill first. The plan does not contain the final down hole well spacing and does not contain all of the planned drill pads. Thus the company is the only one that knows what the final planned surface spacing is. Without this information, the environmental assessment for the GAP cannot be considered complete or authoritative.

12. In the BLM, units of accomplishment are primarily given for the issuance of a permit. Enforcement of the stipulations within this permit is seldom a priority. This is because units of accomplishment in work load planning are seldom given for compliance checking with permit stipulations.

13. In my professional opinion, the WORC, NRDC, et al petition will result in better management of the surface disturbances by both industry and the BLM. The industry now has specific reclamation goals that it knows it must meet. It also knows what the final numeric values for determining final reclamation now are. These costs can be budgeted into the cost of each drilling location. Now that the final reclamation objectives for success are quantified industry can begin planning for the use of agronomic techniques early on that will help insure final success. When the BLM inspects a location for reclamation they know what the final reclamation must look like and have an early warning of impending problems.

14. Increasing the amount of the bond now makes it in the industry's best interests to use prudent management in planning reclamation of a location from the first disturbance. The additional costs of the bond make it cost effective to achieve interim and final reclamation as quickly as possible. This saves the BLM in reducing time spent trying to get companies to complete reclamation and benefits the Nation's waterways by reducing the silt load from erosion.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May __, 2006.

Robert L. Elderkin