

**ORDER – WILDLIFE HABITAT AREAS**

**2-407 to 2-434**

**Grizzly Bear – Chilliwack Forest District**

This order is given under the authority of sections 9(2) and 10(1) of the *Government Actions Regulation* (B.C. Reg. 582/2004) (GAR).

1. The Deputy Minister of Natural Resource Operations, being satisfied that
  - i. the following area contains habitat that is necessary to meet the habitat requirements for Grizzly Bear (*Ursus arctos*);orders that
  - a) the areas shown in the map set out in the attached Schedule A (2-407 to 2-434) and contained in the wildlife habitat area (WHA) spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY) are established as wildlife habitat areas 2-407 to 2-434 for Grizzly Bear. The centre point of the line on the attached Schedule A is what establishes the WHA boundary;
  - b) if there is a discrepancy between the areas shown in the map set out in the attached Schedule A and the WHA spatial layer stored in the Geographic Warehouse (WHSE\_WILDLIFE\_MANAGEMENT.WCP\_WILDLIFE\_HABITAT\_AREA\_POLY), the areas as detailed in the WHA spatial layer will take precedent; and
  - c) pursuant to section 7(3) of the *Forest Planning and Practices Regulation* the person(s) required to prepare a forest stewardship plan are hereby exempted from the obligation to prepare results or strategies in relation to the objective set out in section 7(1) of the *Forest Planning and Practices Regulation* for Grizzly Bear in the Chilliwack Forest District.
2. The Deputy Minister of Natural Resource Operations, being satisfied that
  - i. the general wildlife measures (GWMs) described below are necessary to protect and conserve the habitat of Grizzly Bear; and
  - ii. GAR or another enactment does not otherwise provide for that protection or conservation;orders that
  - a) the GWMs outlined in Schedule 1 are established for WHAs 2-407 to 2-434.
3. The general wildlife measures outlined in Schedule 1 do not apply for the purposes of exploration, development and production activities when these activities have been authorized for the purpose of subsurface resource exploration, development or production by the *Mineral Tenure Act*, the *Coal Act*, or the *Geothermal Resources Act*.

## Definitions:

Words and expressions not defined in this order have the meaning given to them in the *Forest and Range Practices Act* (FRPA) and the regulations made under it, unless context indicates otherwise.

**incursion** means new timber harvesting or road construction that is located within a wildlife habitat area boundary where no harvesting or road building is otherwise permitted to occur.

**productive forest area** means forest included as either contributing, partial contributing or non-contributing as per Timber Supply Review 2 planning

**director** means the Director, Resource Management, South Coast Region of the Ministry of Natural Resource Operations

**traditional and cultural activities** is as defined in the *Free Use Permit Regulation*.

## Schedule 1 – General Wildlife Measures:

### *Access, harvesting and silviculture*

1. Do not harvest timber or construct roads in the WHA.
2. Provided the Director is notified prior to the commencement of activities, GWM 1 does not apply if future road reconstruction and road extension is required through WHA 2-429 to access timber beyond the WHA.
3. GWM 1 does not apply if:
  - a) timber harvesting within the WHA is necessary to create guyline tiebacks for timber harvesting associated with landings/cutblocks adjacent to the WHA boundary, provided trees that fall within the WHA boundary are retained on-site to function as coarse woody debris; or
  - b) cutting of trees is for the purposes of traditional and cultural activities, as authorized under a Free Use Permit.
4. Where timber harvesting or road construction are planned immediately adjacent to any WHA with >30 ha productive forest area, GWM 1 does not apply to the area of an incursion along the WHA boundary if:
  - a) the incursion is required to provide for a logical harvesting boundary or a logical road or trail location that utilizes a physical feature or administrative boundary;
  - b) the area of the incursion, or multiple incursions cumulatively, do not exceed:
    - i. 1 ha of productive forest area in WHAs with >30 ha and ≤50 ha productive forest area; or


- ii. 2 ha of productive forest area in WHAs with >50 ha to ≤100 ha productive forest area; or
  - iii. 3 ha or 1% of productive forest area, whichever is greater, in WHAs with >100 ha productive forest area;
- c) the incursion exceeds 0.5 ha, and the area of the incursion is replaced with an equivalent or greater area of equal or better habitat contiguous to the WHA such that there is no net loss; and the incursion does not affect the intent or integrity of the WHA; and
  - d) the incursion as per GWM 4 a) or b), and any replacement habitat as per GWM 4 c) are provided to the Director (via ESRI shape files) prior to the commencement of primary forest activities associated with the incursion.

*Pesticides*

- 5. Do not use pesticides in the WHA, except for:
  - a) the use of *Bacillus thuringiensis* var *kurstaki* for the control of western spruce budworm;
  - b) the use of beetle pheromones for the control of bark beetles; and
  - c) the application of herbicides to control invasive plants or noxious weeds.

*Recreation*

- 6. Do not develop recreational structures, trails, or facilities.



Signed this 8 day of March, 2011  
Doug Konkin, Deputy Minister  
Ministry of Natural Resource Operations

## Appendix 1:

The following information is provided by the Ministry of Natural Resource Operations and Ministry of Environment (MoE) as background information and support to the order establishing WHAs 2-407 to 2-434. This appendix is not part of the order.

### 1. **Activities to which the order does not apply:** Section 2(2) of the *Government Actions Regulation* states

An order under any of sections 5 to 15 does not apply in respect of

(a) any of the following entered into before the order takes effect:

(i) a cutting permit;

(ii) a road permit;

(iii) a timber sale licence that does not provide for cutting permits;

(iv) a forestry licence to cut issued by a timber sales manager under section 47.6 (3) of the *Forest Act*;

(v) subject to subsection (3), a minor tenure,

(b) a declared area,

(c) areas described in section 196 (1) of the Act, and

(d) areas referred to in section 110 of the *Forest Planning and Practices Regulation* (FPPR).

2. Authority to consider an exemption from these GWMs is provided in section 92(1) of the FPPR, and section 79(1) of the *Woodlot License Planning and Practices Regulation*. An exemption may be provided if the Minister's delegate is satisfied that the intent of the GWM will be achieved or that compliance with the provision is not practicable, given the circumstances or conditions applicable to a particular area.

An exemption application should be submitted to the Minister's delegate with a rationale describing the nature of the problem and options to integrate WHA conservation with proposed forest and/or range practices. This submission will assist in timely consideration of the matter, and will inform the conditions, if any, of the exemption that may be granted prior to commencement of activities. Upon receipt of a complete exemption application, a determination will normally be made within 14 calendar days of arrival. Incomplete packages will be returned to the proponent for re-submission. A template for exemption requests is available at:

<http://www.env.gov.bc.ca/wld/frpa/index.html>

3. For GWM 1, exemptions would only normally be considered to restore or enhance degraded habitat, as determined by the Director, or for roads or trails where there are no other practicable options.
4. GWM 1 does not apply to road maintenance, road deactivation or brushing within the right-of-way on existing roads or trails in the WHA, provided these activities are carried out in a manner that will not affect the intent or integrity of the WHA.
5. The intent of GWM 4 is to facilitate pre-authorized boundary exemptions for those WHAs with >30 ha productive forest area provided that MOE is notified prior to the incursion taking place. Examples of incursions include a cut-block, road, trail or landing that overlaps a WHA boundary

and: a) that the intent of the WHA boundary was to follow a creek/road and in some areas the boundary extends slightly beyond the creek/road due to a GIS mapping error and creates the overlap; or b) unintentional overlap occurs with an engineered primary forest activity that becomes evident when comparing map scales (e.g. 1:20000 vs 1:5000 often at final design stage); or c) *Forest Act* agreement holders can demonstrate that the block, road, trail or landing are located in a logical location and the incursion does not exceed the amount allowed.

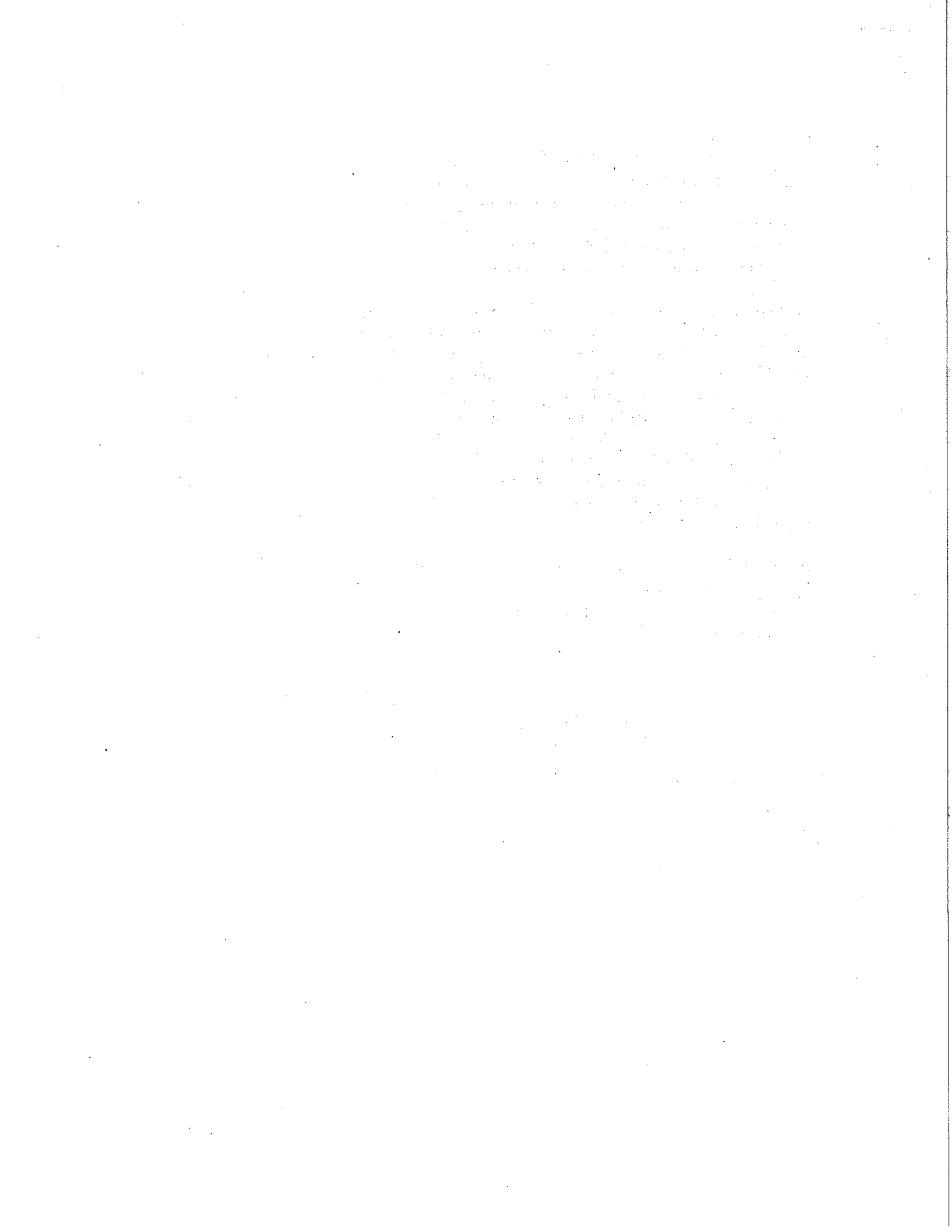
In almost all instances the amount of incursion is anticipated to affect a small area. No replacement area is required when the discrepancy is: a) caused by GIS boundary mapping error since the intent of the WHA has not been altered; or b) the cumulative overlap is <0.5 ha. In other situations, the intended result is that where a boundary amendment is suggested by a *Forest Act* agreement holder and when the reduction is measurable ( $\geq 0.5$  and  $\leq 3$  ha or <1% measured cumulatively in any WHA), it will result in no net loss to habitat in the WHA. Delineation of equal or better grizzly bear habitat, in quantity and quality, will be required contiguous to the WHA. Any biological assessment to replace habitat should be conducted by a qualified professional with appropriate training and experience for the work being completed. If replacement habitat is required and equal or better habitat is not available contiguous to the WHA in question then the incursion cannot proceed under this GWM.

Boundary amendments meeting the conditions identified in GWM 4 will be periodically reviewed by MoE and the WHA boundary officially amended under the *Government Actions Regulation*. In any instances where the conditions in GWM 4 cannot be met, proposed primary forest activities will require an exemption as outlined under section 2 in this Appendix.

WHAs with <30 ha of productive forest area (i.e. WHA 2-410, 2-411, 2-414, 2-418, 2-421, 2-425, 2-430), are excluded from GWM 4 (b)(i) because of potential adverse impacts to the small amount of security cover from an incursion. An exemption request for any incursions in these WHAs should be submitted to the Regional Manager, as outlined under section 2 in this Appendix.

In addition to reporting incursions to the Director prior to commencement of timber harvesting or road construction as per GWM 4 (d), it is the proponent's responsibility to keep accurate records of each occurrence. Records must also be made available to a MoE, Ministry of Forests, Mines & Lands or Ministry of Natural Resource Operations official upon request.

6. Where roads in the WHA are temporary and no longer required, they should be permanently deactivated. Proponents must notify the Director when deactivation of temporary roads is complete.
7. When reforesting areas within the WHA reduced stocking standards should be used as outlined in the document titled: *Grizzly Bear Habitat in Managed Forests - Silviculture Treatments to Meet Habitat and Timber Objectives*.
8. These GWMs do not apply to persons who must comply with the *Worker's Compensation Act* and the regulations under that Act (e.g. danger tree felling).



**Rationale – Approval of WHAs 2-407 to 2-434  
Grizzly Bear (*Ursus arctos*)**

In approving these wildlife habitat areas (WHAs) 2-407 to 2-434 each of the tests under the *Government Actions Regulation* (GAR) was considered.

*GAR 2 – Limitations on Actions*

1. *The order is consistent with established objectives.*

In my review of objectives established by government under the *Forest and Range Practices Act* (FRPA), the *Forest Planning and Practices Regulation* (FPPR), the *Government Actions Regulation* (GAR), as well as Orders made under the *Land Act* and the GAR, I find that there are no elements of this order that would be inconsistent with established objectives applicable to forest and range practices and planning within the Chilliwack Forest District (DCK).

2. *The order would not unduly reduce the supply of timber from British Columbia's forests.*

The WHAs established by this order encompass a gross area of 4,747 ha in the DCK. The timber supply impact is estimated to be 93 ha timber harvesting land base (THLB), based on Timber Supply Review 2; approximately 83 ha of that is mature THLB. The Species At Risk Section 7 Notice for grizzly bears includes an amount of 234 ha of mature THLB. These 28 WHAs poses no risk of exceeding the 1% THLB budget remaining for grizzly bears within the DCK.

*Forest Act* agreement holders are in agreement with the impacts of these WHAs, with the provision that the Ministry of Environment (MoE) remove the requirement given under the authority of section 7(2) of the FPPR (B.C. Reg. 14/04) and 9(3) of the *Woodlot Licence Planning and Practices Regulation* (B.C. Reg. 21/04) (Section 7 Notice) to prepare a result or strategy for Grizzly Bear in the DCK. Upon establishment of these WHAs, the Section 7 Notice for Grizzly Bear in the DCK will remove the requirement for licensee to prepare a result or strategy for Grizzly Bear in the DCK.

As such, I find this order to be consistent with government's timber supply impact policy that pertains to establishment of WHAs. This order will not unduly reduce the supply of timber from British Columbia's forests.

3. *The benefits to the public derived from the order would outweigh any material adverse impact of the order on the delivered wood costs of a holder of any agreement under the Forest Act that would be affected by the order.*

The information I have considered, including comments from affected *Forest Act* agreement holders, does not indicate that this order would create a material adverse impact on delivered wood costs. The three *Forest Act* agreement holders with overlapping tenures did not raise concerns or issues with respect to the delivered wood costs associated with the WHAs established by this order. WHA boundaries and general wildlife measures (GWMs) were designed to take into account operational issues identified by the licensees.

4. *The benefits to the public derived from the order would outweigh any undue constraint on the ability of a holder of an agreement under the Forest Act or the Range Act that would be affected by the order to exercise the holder's rights under the agreement.*

The information I have considered, including comments from affected *Forest Act* agreement holders, does not indicate that this order would constrain the ability of a holder of an agreement under the *Forest Act* or the *Range Act* to exercise the holder's rights under the agreement. None of *Forest Act* agreement holders indicated any undue constraint to exercise their rights with the establishment of the WHAs by this order.

There are no *Range Act* agreement holders affected by the establishment of this order, as there are no range tenure holders with overlapping tenures and there are no associated range GWMs.

In addition to considering the potential for this order to unduly constrain the ability of an agreement holder to exercise their rights, I have considered the public benefits that would be derived from this order. Grizzly bear is provincially blue-listed and is considered a species of special concern by COSEWIC. The provincial Conservation Framework ranking lists the Grizzly Bear as a species of high priority<sup>1</sup>. The Grizzly Bears in this population unit (Stein-Nahatlatch) are considered threatened, and their recovery is mentioned as an objective in the Cabinet approved Sea To Sky LRMP. Considering the information available to me, I find the public benefit of this order to be compelling relative to the lack of an indication of undue constraint on the ability of an agreement holder to exercise the holder's rights under the agreement.

### *GAR 3 – Consultations and Reviews*

1. *An opportunity for review and comment was provided to the holders of agreements under the Forest Act or the Range Act that would potentially be affected by the order.*
2. *Consultation was carried out with holders on whom the order may have a material adverse effect.*

Between September 20, 2010 and December 1, 2010 numerous letters, emails and phone conversations have been conducted with stakeholders. Concerns identified regarding proposed WHA boundaries and GWMs were responded to and all issues have been resolved.

Due diligence was exercised to ensure that:

- a) any holder of an agreement under the *Forest Act* or *Range Act* that would potentially be affected by this order was given an opportunity to review and comment on the proposed order;
- b) consultation was carried out with any holder on whom the order may have a material adverse effect.

All comments received by the MoE/MNRO during review and comment or consultation were made available for my consideration.

### *GAR 9 - General Wildlife Measures*

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<sup>1</sup> Ranked out as highest priority "2" for Goal 2 – preventative conservation.



1. *The general wildlife measures are necessary to protect or conserve the species at risk.*

I am satisfied that the GWMs established by this order are necessary to protect or conserve the species at risk. The measures are consistent with current standards and are supported by the current best available science.

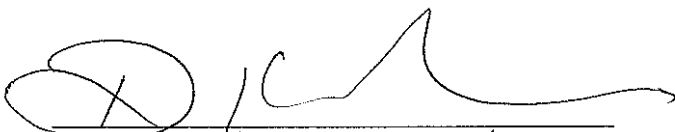
2. *The regulations under the Forest and Range Practices Act or another enactment do not otherwise provide for that protection or conservation.*

While other regulations or enactments may deliver some of the special management required for the protection or conservation of the candidate WHAs, these restrictions are not specific to Grizzly Bear and there is no certainty that the mechanism will provide ongoing protection to the species. The GWMs established by this order are necessary and I am satisfied that the regulations under the *Forest and Range Practices Act* or another enactment do not otherwise provide for protection or conservation of the areas and species addressed by this order.

#### *GAR 10 – Wildlife Habitat Areas*

1. *The wildlife habitat area is necessary to meet the habitat requirements of a category of species at risk.*

I am satisfied that the WHAs approved by this order contain habitat that is necessary to meet the habitat requirements of Grizzly Bear. Suitability of these WHAs has been confirmed through air photo interpretation, field work and helicopter reconnaissance. Grizzly Bear seasonal habitat importance was confirmed in 2005 during Grizzly Bear DNA work (hair snags).



Signed this 8 day of March, 2011

Doug Konkin, Deputy Minister

Ministry of Natural Resource Operations

