

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

The conclusions and recommendations presented in this section are those of the FERC environmental staff. While our conclusions and recommendations were developed with input from the BLM and FWS as cooperating agencies, the BLM will present its own conclusions and recommendations in its RODs for the applicable components of the Rockies Western Phase Project.

Our review of the information provided by Rockies Express, TransColorado, and Overthrust and further developed from data requests; field investigations; scoping; literature research; alternatives analysis; and contacts with federal, state, and local agencies and individual members of the public indicates that the proposed REX-West, Blanco to Meeker, and Wamsutter Expansion Projects would result in limited adverse environmental impact during construction and operation. We conclude that if the Rockies Western Phase Project were constructed and operated in accordance with applicable laws and regulations, the Applicants' proposed mitigation, and the additional mitigation recommendations presented below, it would have limited adverse environmental impact and would be an environmentally acceptable action. Although many factors were considered in this determination, the principal reasons are:

- more than 99 percent of the REX-West facilities would be collocated with existing rights-of-way, while the Wamsutter Expansion Project would parallel existing rights-of-way for its entire length;
- the Project would be consistent with or in conformance with federal resource management plans;
- the Applicants would implement resource- or activity-specific plans, procedures, and agreements to protect natural resources, avoid or limit environmental impact, and promote restoration of all disturbed areas during construction and operation of the Project;
- Rockies Express would use an Agricultural Inspector knowledgeable in Midwestern farming practices, who would provide input and guidance during construction in agricultural areas;
- Rockies Express has developed Depth of Cover and Terrace Construction/Repair Plans that, along with our recommended revisions to these plans, would ensure that site-specific farming practices and related landowner concerns are met;
- the use of the HDD method would avoid disturbances to the beds and banks of the Missouri River (Kansas/Missouri border) and Big Creek (Missouri) and the Little Blue River (Nebraska) along the REX-West mainline and Deadman Wash (Wyoming) along the Wamsutter Expansion mainline;
- the appropriate consultations with the FWS, the SHPOs, the BLM, other affected land management agencies, and any appropriate compliance actions resulting from these consultations, would be completed before the Applicants would be allowed to begin construction in any given area; and
- an environmental inspection and monitoring program would be implemented to ensure compliance with all mitigation measures, Certificate conditions, requirements contained in

the BLM's POD, and other stipulations included in permits from other authorizing federal, state, and local agencies.

In addition, we have developed specific mitigation measures to further reduce the environmental impact that would otherwise result from construction of the various Project components. The additional studies or field investigations which we recommend typically result in site-specific mitigation and further reduction of impact; therefore, we are recommending that these mitigation measures be attached as conditions to any Certificate issued by the Commission. These mitigation measures are presented in section 5.2. We believe that the recommended mitigation measures would reduce potential environmental impacts from the Applicants' proposed actions to less than significant levels.

5.1.1 Alternatives

No Action or Postponed Action Alternatives

The No Action and Postponed Action Alternative were considered for the Rockies Western Phase Project as a whole. We also considered the No Action and Postponed Action Alternatives for each individual application¹. While the No Action or Postponed Action Alternative would eliminate the environmental impacts identified in the EIS, U.S. markets would be denied the project objective of delivering up to 1.5 Dth/d of natural gas from the supply regions in the west to meet the increasing demand in the Midwest and eastern United States. Furthermore, denying authorization of the Project could also result in more expensive and less reliable natural gas supplies for the end users and/or greater reliance on alternative fossil fuels, such as coal or fuel oil. In addition, the No Action Alternative for the BLM would result in the BLM denying the pending Right-of-way Grant applications filed by Rockies Express, Overthrust, and TransColorado. This would not preclude the Applicants from modifying their applications and re-filing a new application at a later date. Therefore, we conclude that the No Action and Postponed Action Alternatives are not preferable to the proposed action.

System Alternatives

A system alternative for Rockies Express' REX-West Project would transport large volumes of natural gas from the Rocky Mountain basins directly to markets in the Midwest and into other pipeline systems that could deliver the natural gas eastward. Currently, there are no existing pipeline systems that could take the REX-West proposed volumes of Rocky Mountain gas supply directly eastward. We are unaware of any existing pipeline systems that have expansion plans that could meet the purpose and need of the REX-West Project. Therefore, the use of existing pipeline systems is not a viable alternative.

The purpose of TransColorado's Blanco to Meeker Expansion Project is to transport gas from the Blanco Hub area to the Meeker Hub. TransColorado's proposal to reverse the flow in the existing TransColorado pipeline represents an efficient means to accomplish this objective without the environmental impacts associated with constructing new pipeline facilities; thus, no system alternatives were evaluated.

Of the existing pipelines adjacent to and in the vicinity of Overthrust's proposed route, none have the capacity to transport the additional 750,000 Dth/d of natural gas to the Rockies Express system, as proposed for the Wamsutter Expansion Project. To transport this amount of natural gas on one of the

¹ Evaluating the project components separately, we concluded that if the REX-West Project were denied, TransColorado and Overthrust's facilities would likely also be denied. If the Blanco to Meeker or Overthrust Project were denied, it would not preclude the remaining two projects from being approved. However, there would likely be some delay or need for additional or redesigned facilities to meet all of the Rockies Western Phase Project objectives.

existing interstate pipeline systems in the Wamsutter Expansion Project area, capacity on one of these systems would need to become available through expansion or some other means. We do not believe that constructing additional pipeline (whether looping or not) would present an environmental advantage over the proposed Wamsutter Expansion Project, since Overthrust's proposed route is already collocated with other utilities for the majority of its length and as such, minimizes environmental impacts.

Major Route Alternatives

Four major route alternatives were analyzed for the REX-West Project (the Railroad Corridor, Northern Route, Platte Route, and Echo Springs Route Alternatives) and one was analyzed for the Wamsutter Expansion Project (the Rock Springs Alternative) to determine if impacts could be avoided or reduced on environmentally sensitive resources, such as population centers, recreation and designated scenic areas, and wildlife and natural habitat management areas that would be crossed by a proposed pipeline (see section 3.3 of this EIS). We conclude that none of the identified major route alternatives confers a significant environmental advantage compared to the proposed action and we are not recommending them.

Route Variations

Based on issues raised during scoping and the draft EIS comment period, we analyzed six route variations for the REX-West Project to determine if impacts on specific localized features could be reduced. We have recommended that four of these variations (the Woolsoncroft, Emmendorfer-Hall, and Unternaehrer Route Variations, and a variation on the Crutchfield property) be incorporated into the final routing of the REX-West Project (see also section 3.4). We did not identify any route variations for the Blanco to Meeker or Wamsutter Expansion Projects.

Aboveground Facilities and Site Alternatives

Rockies Express

While determining alternative locations for compressor stations, Rockies Express reviewed multiple sites near the hydraulically-optimal location for each compressor station site, using a set of 13 criteria to arrive at the preferred locations. The Meeker and Wamsutter Compressor Stations are existing station locations for which no alternative sites were analyzed. Rockies Express considered several alternate sites for the Echo Springs Compressor Station; however, due to hydraulic requirements associated with the nearby Wamsutter Compressor Station, the proposed site was selected. The proposed location of the Cheyenne Compressor Station site was chosen due to the geometry of the existing pipelines at the Cheyenne Hub and the location of the Rockies Express/Entrega terminal facilities. No alternative sites were identified for this station. Numerous potential sites were pre-selected and reviewed by Rockies Express for the proposed Julesburg, Steele City, and Turney Compressor Stations. Based on Rockies Express' review and our evaluation (including site visits) of the proposed aboveground facility sites and several of the sites originally considered, we conclude that the proposed locations are environmentally acceptable.

TransColorado

Because of the nature of TransColorado's Blanco to Meeker Expansion Project, there are significant limitations on identifying alternatives to the proposed action, including potential alternate aboveground facility sites. Alternate locations for the additional compression at the Greasewood Compressor Station were considered by TransColorado but rejected based on the desire to minimize overall disturbance. Alternatives for siting the proposed Conn Creek Compressor Station are limited by

the engineering requirement for the facility to be within 1 mile of the existing interconnect at the Oxy Meter Station. The proposed locations of the Blanco Compressor Station and Blanco Hub Meter Station places the compressor station sufficiently close to existing gas facilities to minimize the length of the receipt pipeline. No alternatives were considered for the piping changes at the existing TransColorado compressor stations.

Overthrust

Overthrust considered landownership, constructability, surrounding land use, and access when siting the proposed Rock Springs and Roberson Compressor Stations. Because Overthrust's aboveground facilities would be adjacent to existing natural gas facilities and potential alternative tie-in locations do not exist within the vicinity of the project, no alternative compressor station sites were evaluated.

5.1.2 Significant Unavoidable Impacts

The Rockies Western Phase Project would result in limited adverse environmental impact. Effects on all environmental resources were evaluated to determine whether any significant impacts would remain after application of the mitigation proposed by the Applicants. We then considered practical, appropriate, and reasonable measures which would further reduce potential project-related impacts. As a result, we developed additional mitigation which we are recommending be included as specific conditions to any Certificates issued by the Commission. Our analysis indicates that with the application of the Applicants' mitigation and implementation of our recommendations below, the Rockies Western Phase Project would result in no significant impact that is unavoidable. Further, we believe that all environmental impacts would be reduced to less than significant levels if the proposed and recommended mitigation is fully implemented.

5.2 FERC STAFF'S RECOMMENDED MITIGATION

If the Commission approves each component of the Rockies Western Phase Project, we recommend that the following measures be included as specific conditions of the Certificates. We believe that these measures would further mitigate the environmental impact associated with the construction and operation of the proposed project. In the following section, "file" means to file with the Secretary of FERC.

Conditions applicable to all three Applicants

1. The Applicants shall follow the construction procedures and mitigation measures described in their respective applications, supplemental filings (including responses to staff data requests), and as identified in the EIS, unless modified by the Commission's Orders. Each Applicant must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of OEP **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Rockies Western Phase Project. This authority shall allow:

- a. the modification of conditions of the Commission's Orders; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, each Applicant shall file an affirmative statement, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EIS, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, each Applicant shall file any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Commission's Orders. All requests for modifications of environmental conditions of the Commission's Orders or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

The Applicants' exercise of eminent domain authority granted under NGA Section 7(h) in any condemnation proceedings related to the FERC Orders must be consistent with these authorized facilities and locations. Each Applicant's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipelines to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Each Applicant shall file detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally-listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by the each Applicant's Upland Erosion Control, Revegetation, and Maintenance Plan, and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and
- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. Within 60 days of the acceptance of its Certificate and **before the start of construction**, each Applicant shall file an initial Implementation Plan for the review and written approval of the Director of OEP describing how the Applicant will implement the mitigation measures required by the Commission's Order. Each Applicant must file revisions to the plan as schedules change. The plan shall identify:
- a. how the Applicant will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to on-site construction and inspection personnel;
 - b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. the training and instructions the Applicant will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - e. the company personnel (if known) and the specific portion of the Applicant's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) the Applicant will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of on-site personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Each Applicant shall file updated status reports prepared by the lead environmental inspector on a **weekly** basis **until all construction-related activities, including restoration, are complete**. These status reports shall also be provided to other federal and state agencies with permitting responsibilities upon request. Status reports shall include:
- a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspectors or the third-party compliance monitors during the reporting period (both for the conditions imposed by the FERC and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. a description of corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints that may relate to compliance with the requirements of the Commission's Order, and the measures taken to satisfy their concerns; and

- f. copies of any correspondence received by the Applicant from other federal, state, or local permitting agencies concerning instances of noncompliance, and the Applicant's response.
8. Each Applicant shall develop and implement an environmental complaint resolution procedure that remains active for at least 3 years following the completion of construction for the respective project. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, Rockies Express, TransColorado, and Overthrust shall mail the environmental complaint resolution procedures to each landowner whose property would be crossed by the respective project:
- a. In the letter to affected landowners, each Applicant shall:
 - i. provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon to expect a response;
 - ii. instruct the landowners that, if they are not satisfied with the response, they should call Rockies Express', TransColorado's, or Overthrust's Hotline, as applicable; the letter should indicate how soon to expect a response; and
 - iii. instruct the landowners that, if they are still not satisfied with the response from the Applicant's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030, or at hotline@ferc.gov.
 - b. In addition, each Applicant shall include in its weekly status reports a table that contains the following information for each problem/concern:
 - i. the identity of the caller and the date of the call;
 - ii. the identification number from the certificated alignment sheet(s) of the affected property and appropriate location by milepost;
 - iii. a description of the problem/concern; and
 - iv. an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
9. Each Applicant must receive written authorization from the Director of OEP **before commencing service of its respective project**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas of project-related disturbance are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, each Applicant shall file an affirmative statement, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions the Applicant has complied with or will comply with. This statement also shall identify any area affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Each Applicant shall file a noise survey, for each new or modified compressor station, **no later than 60 days** after placing the respective compressor station(s) into service. If the noise attributable to the operation of any of the new or modified compressor stations exceeds an Ldn of

55 dBA at any nearby NSA, the respective Applicant shall file a report on what changes are needed and shall install additional noise controls to meet that level **within 1 year** of the in-service date. The Applicant must confirm compliance with this requirement by filing a second noise survey **no later than 60 days** after it installs the additional noise controls.

12. If any of the Applicants propose weekend and/or 24-hour pile driving, that Applicant shall develop a noise mitigation plan to reduce noise levels during the weekend and/or nighttime period and document that the noise mitigation plan effectively reduces noise from construction pile driving activities at any nearby NSAs. The noise mitigation plan must be filed for the review and written approval of the Director of OEP **prior to the initiation of any weekend or nighttime pile driving activities.**
13. Each Applicant shall develop a Hydrostatic Testing Plan that includes, but is not limited to, the following information:
 - a. a list identifying the location of all waterbodies proposed for use as a hydrostatic test water source or discharge location;
 - b. the screen size proposed for use on intake hoses to prevent entrainment of fish;
 - c. documentation of consultation with appropriate federal and state agencies regarding the establishment of water withdrawal rates that would ensure that these withdrawals would have minimal impact on flows, fisheries, and downstream water users; and
 - d. documentation from private or municipal water systems regarding the proposed purchase and use of water for hydrostatic testing.

This Hydrostatic Testing Plan shall be filed for the review and written approval of the Director of OEP, **prior to initiation of any hydrostatic testing.**

Conditions applicable only to Rockies Express

14. Rockies Express shall revise its Wetland and Waterbody Construction and Mitigation Procedures to:
 - a. use a 100-foot-wide right-of-way for non-saturated emergent and scrub-shrub wetlands; and
 - b. use a 75-foot-wide right-of-way for forested and saturated wetlands.Rockies Express shall incorporate these revisions in its pre-construction planning, revising the REX-West construction alignment sheets, as necessary, to accommodate the revised work areas. For any forested or saturated wetland Rockies Express believes requires a right-of-way width greater than 75 feet, Rockies Express must file site-specific justification in its implementation plan for the project. Any such requests must be approved/disapproved on a case-by-case basis by the Director of OEP.
15. Rockies Express shall incorporate the Woolsoncroft Route Variation, as depicted in figure 3.4-3, into the final routing of the pipeline.
16. Rockies Express shall incorporate the Emmendorfer-Hall Route Variation, as depicted in figure 3.4-4, into the final routing of the pipeline.
17. Rockies Express shall incorporate the Unternaehrer Route Variation, as depicted in figure 3.4-5, into the final routing of the pipeline.

18. Rockies Express shall construct across the Crutchfield property along a route adjacent to and south of the existing single-pole electric powerline right-of-way.
19. Rockies Express shall file its Blasting Plan for the review and written approval of the Director of OEP **prior to the commencement of any project-related blasting activities**. The Blasting Plan must also contain Rockies Express' plan for rock disposal.
20. **Prior to construction**, Rockies Express shall file a site-specific plan to actively monitor depth of cover over the pipeline in the Sand Hills area (approximate MPs 191 to 217) including restoration and post-construction mitigation measures to ensure adequate depth of cover and right-of-way stability in the Sand Hills area. This plan must be filed for review and written approval by the Director of OEP.
21. **Prior to construction**, Rockies Express shall file any site-specific crossing plans and minimization measures regarding vegetation communities of special concern. This information must be filed for the review and written approval of the Director of OEP.
22. **Prior to construction**, Rockies Express shall file its noxious weed control plan, along with any applicable local agency documentation showing approval of the plan, for review and written approval of the Director of OEP.
23. **Prior to construction**, Rockies Express shall file the results of the most recent raptor nest surveys and the appropriate seasonal buffer zone for all active raptor nests in Wyoming within 1 mile of the construction right-of-way for ferruginous hawks and bald eagles and within 0.5-mile of the construction right-of-way for all other raptors. In Colorado and Nebraska, Rockies Express shall file this information for areas within 0.5 mile of the construction right-of-way for eagles, falcons, and ferruginous hawks, and within 0.25 mile of the construction right-of-way for all other raptors, as well as any additional comments and recommendations resulting from the agency consultations. Seasonal buffer zones shall be drawn on project maps and construction alignment sheets.
24. Rockies Express must file the results of consultation with the BLM regarding records of raptor nests occurring along the Echo Springs Lateral route. Rockies Express shall file this information for the review and written approval of the Director of OEP **prior to beginning construction of the Echo Springs Lateral**.
25. **Prior to construction**, Rockies Express shall file the results of its preconstruction bald eagle nest surveys. Rockies Express shall not begin construction until staff has reviewed the survey reports, completed any necessary Section 7 consultation for the bald eagle with the FWS, and the Director of OEP notifies Rockies Express in writing that construction may proceed.
26. If a previously unidentified active bald eagle nest is encountered within 1 mile of the construction right-of-way, Rockies Express shall concurrently notify the Commission staff, the BLM (if on federal land), and the FWS, and file the notification. Rockies Express shall **not continue with construction** within 1 mile of the nest until staff has reviewed the information, completed any necessary Section 7 consultation on the bald eagle with the FWS, and the Director of OEP notifies Rockies Express in writing that construction may proceed or use of mitigation may begin.
27. Rockies Express **shall not begin or continue with construction** within 0.5 mile of any bald eagle communal roost site (1 mile in Wyoming) between November 15 and March 15 until the Commission staff has reviewed the information, completed any necessary Section 7 consultation

for the bald eagle with the FWS, and the Director of OEP notified Rockies Express in writing that construction or use of mitigation may begin.

28. **Prior to construction**, Rockies Express shall file its bald eagle roosting/nesting tree assessment along with any agency comments. For any potential roost/nest tree that Rockies Express believes must be removed (*i.e.*, can not be avoided by use of HDD or by routing), Rockies Express must file a detailed justification as to why the tree must be removed, including measures considered before determining removal was necessary. Rockies Express shall not remove any potential bald eagle roosting or nesting tree until the Commission staff receives comments from the FWS regarding the proposed action, completes any necessary Section 7 consultation for the bald eagle with the FWS, and the Director of OEP notifies Rockies Express in writing that construction or use of mitigation can begin.
29. If a whooping crane is discovered within 1 mile of construction, Rockies Express shall not continue construction activities within 1 mile of the crane until the Commission staff receives comments from the FWS regarding the whooping crane, completes any necessary Section 7 consultation with the FWS, and the Director of OEP notifies Rockies Express in writing that construction or use of mitigation can begin.
30. Rockies Express **shall not construct in the 42 tracts** identified in its habitat assessment as containing suitable Indiana bat maternity roost habitat between April 1 and September 30, unless Rockies Express agrees to use the targeted survey option for the Indiana bat in coordination with the FWS.
31. Rockies Express shall file its final alternative/contingency crossing plan for the Missouri River. Rockies Express shall not begin a non-HDD crossing of the Missouri River until the Commission staff evaluates the potential impact of a non-HDD crossing of the Missouri River on the pallid sturgeon, the staff completes any required Section 7 consultation for the pallid sturgeon with the FWS, the staff determines that the alternative crossing and/or mitigation plan is acceptable, and the Director of OEP notifies Rockies Express in writing that it may proceed with the alternative river crossing method.
32. **Prior to construction of the North Elm Creek crossings**, Rockies Express shall file site-specific survey, mitigation, and crossing plans for each of the three North Elm Creek crossing locations (MPs 447.4, 450.8, and 455.1) with regard to the Topeka shiner. Rockies Express shall also file comments from the FWS and KDWP regarding the proposed seining, construction, and restoration measures. These plans and comments should be filed for the review and written approval of the Director of OEP.
33. **Prior to construction in American burying beetle habitat**, Rockies Express shall trap and relocate American burying beetles, according to FWS protocol, **if** the 2007 surveys confirm the presence of the American burying beetle **and** Rockies Express proposes to construct in occupied American beetle habitat prior to October 30, 2007. **Prior to beetle trapping**, Rockies Express must file its trapping/relocating plan for the review and approval of the Director of OEP. The plan must contain the following information:
 - a. description of specific FWS protocols and any additional methods to be followed;
 - b. name(s) and qualifications of the person(s) expected to conduct the trapping;
 - c. date(s) the trapping is expected to take place;
 - d. specific areas (by milepost) where beetles would be trapped;

- e. an analysis of potential impacts that could result from the construction of the proposed project;
 - f. confirmation that the FWS has approved the plan, including trapping and relocating methods, qualifications of the trappers, and the need for any permits; and
 - g. any additional comments from the FWS and/or state agency.
34. Rockies Express **shall not construct in those locations** where suitable habitat for the Ute ladies'-tresses or Colorado butterfly plant would be crossed by the REX-West Project until it has completed species-specific surveys to determine whether or not the plant(s) are present. If plants are present, Rockies Express must avoid the populations by either a bore or reroute, unless otherwise permitted by the FWS. Route modifications shall be filed for the review and written approval of the Director of OEP.
35. Rockies Express shall submit the results of any consultations with the WGFD and CDOW regarding the plains sharp-tailed grouse. The results of any surveys, conservation measures, and state agency correspondence (including recommendations) shall be filed **prior to construction**.
36. Rockies Express shall, in consultation with landowners who maintain agricultural terrace structures, develop site-specific construction and restoration procedures for all agricultural terrace lands crossed by the REX-West Project. These plans must include specific measures to minimize impacts on existing terrace structures. Rockies Express shall file these plans **prior to construction** for the review and written approval of the Director of OEP.
37. **Prior to construction**, Rockies Express shall file a final depth of cover table that contains each milepost stretch where Rockies Express has reached an agreement with a landowner to construct with at least 4 feet of cover. These locations must be clearly marked on the construction drawings.
38. Rockies Express shall develop and implement a post-construction monitoring program to evaluate crop productivity and the success of right-of-way restoration in active cropland for a period of 5 years following construction. Rockies Express shall also evaluate the direct effects of compression-related soil heating (including, but not limited to, soil temperature, soil moisture, and crop yield) for a distance of 5 miles (or the extent of cultivated cropland, whichever is less) downstream of the REX-West compressor stations. Rockies Express shall file quarterly reports for a period of 5 years following construction that document any problems identified by the company or landowner and describe any corrective action taken to remedy those problems. If any landowner and Rockies Express agree that crop productivity is acceptable prior to the 5-year requirement, Rockies Express must provide documentation in its quarterly reports indicating which landowners have agreed that monitoring is no longer necessary. This documentation shall include the landowner's name, the identification number from the certified alignment sheets of the landowner's property, the approximate milepost location, and the date of the agreement.
39. Rockies Express shall defer construction and use of facilities, including staging, storage, and temporary work areas and new or to be improved access roads **until**:
- a. Rockies Express files all additional required cultural resource inventory and evaluation reports, and necessary avoidance or treatment plans, as well as any additional information that State Historic Preservation Officers (SHPOs) or the BLM has requested;
 - b. Rockies Express files copies of the appropriate SHPO and BLM comments on all reports and plans;

- c. the Advisory Council on Historic Preservation (ACHP) has been provided an opportunity to comment if any historic properties would be adversely affected; and
- d. the Director of OEP reviews and approves all reports and plans and notifies Rockies Express in writing that it may proceed with treatment or construction.

All material filed with the Commission that **contains location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: “**CONTAINS PRIVILEGED INFORMATION - DO NOT RELEASE.**”

Conditions applicable only to TransColorado

- 40. **Prior to construction**, TransColorado shall file the results of any raptor surveys along with any agency comments and recommendations for the review and written approval of the Director of OEP.
- 41. TransColorado shall defer construction and use of facilities, including any staging, storage, and temporary work areas and new or to be improved access roads **until**:
 - a. TransColorado files the New Mexico SHPO’s opinion on whether or not additional cultural resource surveys are required for the proposed facilities in New Mexico;
 - b. files the New Mexico and Colorado SHPOs’ comments on the contact program with Indian tribes;
 - c. files the SHPOs’ comments on TransColorado’s Unanticipated Discovery Plans;
 - d. files any additional required cultural resource inventory and evaluation reports, and necessary avoidance or treatment plans, and the comments of the New Mexico and Colorado SHPOs on all reports and plans, not previously filed; and
 - e. the Director of OEP reviews and approves all reports and plans and notifies TransColorado in writing that it may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: “**CONTAINS PRIVILEGED INFORMATION - DO NOT RELEASE.**”