

FINDING OF NO SIGNIFICANT IMPACT & DECISION RECORD
for the
FORTIFICATION CREEK PLANNING AREA
RESOURCE MANAGEMENT PLAN AMENDMENT
ENVIRONMENTAL ASSESSMENT –WY-080-135

DECISION:

Based on the analysis of potential environmental impacts in the attached environmental assessment (EA) and consideration of the significance criteria in 40 CFR 1508.27, my decision is to approve Alternative III as described in the EA with modifications. A draft elk monitoring plan is included as an appendix to this EA. The monitoring plan identifies management thresholds. The selected management actions are expected to keep environmental impacts below these thresholds. Monitoring will be a continuous process allowing for management adaptation if an indicator is trending towards a threshold. If any of the thresholds are exceeded, then BLM shall cease further CBNG authorizations, re-examine our management actions, and revise our management to reduce the impacts to acceptable levels. A summary of the modified Alternative III (preferred alternative) is as follows:

Coalbed natural gas (CBNG) development will be performance based, phased sequentially in three geographic areas, moving from one area to the next after one-year of successful interim reclamation.

Rationale: Phased development should hold elk impacts below the significance level while allowing for CBNG development. Development shall be restricted to approximately one-third of the Fortification Creek Planning Area at any one time, thereby providing the elk with two-thirds of the area relatively disturbance-free.

Secondary compressors, CBNG reservoirs, water treatment facilities, and other facilities (except wells) will be located outside the elk crucial winter range and calving areas.

Rationale: The Fortification Creek elk exhibit a strong fidelity to the crucial ranges at all times of the year; 86 and 87 percent of the 2005-2006 collared elk observations were within the crucial ranges during the winter (December and January) and calving (May and June) seasons respectively while collared elk use of the crucial ranges averaged 80 percent during the remainder of the year. Prohibiting facility locations within the crucial ranges avoids potential human activities not only during the winter and calving seasons when elk are most sensitive to disturbance and susceptible to stress but throughout the year. Limiting these facilities to outside the yearlong range places an unfair burden on private landowners, since there are a higher percentage of private surface lands outside the yearlong range (80%) than within (44%). There is an expectation since the federal government manages 79% of the fluid mineral estate within the FCPA, the federal surface should also receive more of the associated facilities and their surface impacts.

Elk security habitat loss shall not exceed 20% from 2005 conditions as measured from roads.

Rationale: Impacts to elk habitat are held below the significance level while allowing for greater CBNG production than Alternative II.

Drilling and construction activities may occur during the elk crucial winter range timing limitation, November 15 through April 30.

Rationale: Drilling and construction activities would be permitted during the crucial winter timing limitation to expedite phased development and decrease the overall length of development. In other words, by extending the within year drilling window the number of years required to develop the CBNG resources would be reduced shortening the overall duration of elk impacts.

CBNG operators will provide summer water sources for livestock and wildlife if current sources become unavailable. Water will be provided until traditional sources are once again available.

Rationale: Water is a determining factor for elk distribution during the arid summer as indicated by the WGFD and BLM studies in the Fortification Creek area. An important water source is water wells for domestic livestock use. Thirty-one of the domestic wells are free-flowing, where the pressure is sufficient to bring water to the surface without pumping. Many of the domestic water wells, including sixteen of the flowing wells were completed within or just above coal seams being targeted for CBNG (Anderson, Cook, and Wall). Ground water draw down resulting from CBNG development could result in the loss of water from these wells affecting elk distribution during the summer months.

Overhead power lines will be authorized on BLM managed surface; overhead power lines associated with federal minerals shall be constructed alongside roads.

Rationale: The FCPA has a mixed ownership pattern, maintaining an overhead power prohibition on BLM surface would only protect the viewshed around approximately 50 percent of the WSA; the percentage of BLM surface surrounding the WSA. Also, prohibiting overhead lines on BLM surface places an unfair burden on private landowners. There is an expectation since the federal government manages 79% of the fluid mineral estate within the FCPA, the federal surface should also receive more of the associated facilities and their impacts.

Surface disturbing activities will be controlled and may be excluded on areas of highly erosive soils and/or slopes greater than or equal to 25%. Factors to be considered in authorizing surface disturbing activities on areas of highly erosive soils and/or slopes greater than or equal to 25% are as follows:

- **Surface disturbance will not be authorized on slopes >35%.**
- **Only linear features (roads, pipelines, electric lines, etc.) will be considered.**
- **An engineered reclamation plan acceptable to the authorized officer must be submitted with the project proposal.**
- **On slopes 25-30%, a maximum of 0.5 acre (21,780 sq. ft.) total disturbance would be allowed per feature.**
- **On slopes 30-35%, a maximum of 0.25 acres (10,890 sq. ft.) total disturbance would be allowed per feature.**

Rationale: Areas with highly erosive soils and slopes of 25 percent and greater are difficult to reclaim and therefore it is appropriate to control surface disturbing activities in these areas. Limiting the disturbance to small areas, 0.5 acres or less, increases the probability for successful reclamation. In many instances a small area of highly erosive soils or slope of greater than 25 percent must be crossed to access a much larger area where soils are not a limiting factor; the factors identified above increase the accessible area for CBNG development while continuing to protect fragile soil resources.

Modifications

CBNG metering, monitoring, and maintenance visitation will be restricted to once per week within elk crucial winter range (November 15 through April 30) and elk calving areas (May 1 through June 30). Exceptions would be allowed for emergencies. Further minimization of visitation is encouraged through incorporation of one or more of the following recommended management practices (Alternative II):

- limiting metering and monitoring visitation to once per month or less,
- rotating metering and monitoring visitation amongst operators (one operator per week),
- one operator performs all metering and monitoring,
- use of similar vehicles (type, size, and color) for all metering and monitoring visitation, to encourage elk habituation with a familiar vehicle.

Rationale: Elk are sensitive to human activities and tend to avoid areas associated with people. Operators have taken measures to reduce human visitation such as metering wells with radio-telemetry. Remote metering technologies do not eliminate the need for human visitation, some level of human activity is required; the remote-systems need to be checked, well adjustments need to be made, etc. Alternative III, prohibiting well visitation within the crucial winter ranges and calving areas during the sensitive seasons, is too restrictive. Wells should be visited and adjustments made more frequently than Alternative III allows for.

Grazing management will be a required component of interim reclamation, although grazing rest is recommended it is not a requirement (modification of Alternative III).

Rationale: Reclamation should be performance based and not prescription based. Reclamation may be achievable through methods other than grazing rest such as deferral until after the vegetation growing season, temporary fencing of reclamation areas, active cattle management to facilitate distribution and rotation. Operators will be required to submit a performance based reclamation plan that includes a grazing management approach that supports successful interim and final reclamation.

BLM will authorize produced water to be discharged into ephemeral and intermittent drainages, with subsequent monitoring and mitigation of on-lease downstream effects (Alternative II).

Rationale: The Wyoming Department of Environmental Quality (DEQ) regulates effluent discharge through the Wyoming Pollution Discharge Elimination System in compliance with the Federal Water Pollution Control Act and the Wyoming Environmental Quality Act. BLM reviews the DEQ permits and may require additional measures for the protection of surface resources but does not regulate the method of discharge. The DEQ has already permitted surface discharge within the FCPA. Downstream monitoring will enable mitigation of any impacts.

Neither an area of critical environmental concern (ACEC) nor a wildlife habitat management area (WHMA) will be designated (Alternative I).

Rationale: The identified management actions are geographically tied to sensitive resources (i.e. elk ranges) and are sufficient to manage the relevant and important resources without a special designation. A special designation does not increase the manageability of resource objectives in the Fortification Creek area.

FINDING OF NO SIGNIFICANT IMPACT: Based on the analysis of the potential environmental impacts, I have determined that NO significant impacts are expected from the implementation of the preferred alternative and therefore an environmental impact statement (EIS) is not required.

The combination of management actions identified above is those that are best able to balance sensitive environmental resources with CBNG production while avoiding significant impacts. The final decision and a signed FONSI will be released after consideration of public comments and completion of the EA.

ADMINISTRATIVE REVIEW AND APPEAL: Under BLM regulations, this decision is subject to administrative review in accordance with 43 CFR 3165. Any request for administrative review of this decision must include information required under 43 CFR 3165.3(b) (State Director Review), including all supporting documentation. Such a request must be filed in writing with the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, no later than 20 business days after this Decision Record is received or considered to have been received.

Any party who is adversely affected by the State Director's decision may appeal that decision to the Interior Board of Land Appeals, as provided in 43 CFR 3165.4.

Field Manager: _____ Date: _____
Chris E. Hanson, Buffalo Field Office Manager