



Office of the Governor

January 10, 2008

Moxa Arch Drilling Project Comments
Attn: Michele Easley
Bureau of Land Management
Kemmerer Field Office
312 Highway 189 North
Kemmerer, WY 83101

RE: Moxa Arch Area Infill Gas Development Project Draft Environmental Impact Statement

Dear Ms. Easley:

I appreciate the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the Moxa Arch Area Infill Gas Development Project (Moxa Project). I have several concerns with the DEIS which I want to bring to your attention.

First, I have heard complaints regarding procedural issues which are of concern. EOG Resources and other operators contend that their proposed action has actually been modified in the DEIS analysis without their consent. I also understand that an intentional decision was made to not identify a Preferred Alternative in the DEIS. Both of these procedural decisions are problematic to the NEPA review process and will likely lead to legal challenge and appeal of any final decision unless they are corrected prior to the ultimate Record of Decision being issued.

The DEIS also falls short in providing sufficient protections for resources other than natural gas development. While natural gas development is important to both Wyoming and the nation, there are other coexisting resources which are also very important to the long term welfare of Wyoming and its citizens. It is imperative to the future planning and implementation of the Moxa Project that all resources in the development area be given due consideration to minimize and offset negative impacts. It is through these additional mitigation strategies that all resource amenities can be appropriately balanced and conserved.

To help ensure appropriate protections, a performance-based approach needs to be outlined in the preferred alternative and the ultimate Record of Decision (ROD). While some protection measures are outlined in the DEIS, negative impact limits are not identified. Performance-based objectives, and the necessary monitoring to determine if those objectives are being met, provide the direction and information necessary to both develop the natural gas resources and protect the other resources in the development area. Currently, little mention is made in the DEIS of monitoring to determine if Best Management Practices (BMPs) and mitigation efforts are adequately addressing development issues. The DEIS needs to identify impact thresholds which determine that specific mitigation actions are required and when they

should begin. Also, the DEIS should provide a comprehensive list of options available to mitigate all significant impacts.

One of the subject areas of significant concern to the State is the air quality analyses contained in the DEIS. The Wyoming Department of Environmental Quality/Air Quality Division has identified numerous inconsistencies, omissions and a general lack of adequate documentation with regard to the air analyses conducted for this project. The most serious, overarching issue is that potential impacts to air quality have not been thoroughly or appropriately analyzed for each of the alternatives, thereby violating the requirements for complete analysis in the National Environmental Policy Act. Those alternatives need to be revisited to ensure the air impacts are accurately modeled and evaluated.

I ask that you carefully consider the comments provided by the Air Quality Division when deciding how to proceed with the next step of the EIS process and, most importantly, that you take time to confer with the Air Quality Division staff before any additional air quality impact analysis is proposed. I make this request in response to the frustration expressed by the Air Quality Division staff. They spent significant time reviewing and commenting on the air quality impact analysis protocol and various iterations of the preliminary draft air quality technical support document only to find that many of their comments were repeatedly ignored.

I expect more thorough efforts on the part of the Kemmerer Field Office and the consultants hired to assist with the development of the Moxa Arch EIS. It's imperative that a more cooperative relationship be created and maintained during further deliberations regarding air quality impact analyses.

Surface disturbance and reclamation are additional areas that need attention. Both wildlife resources and livestock grazing operations could be jeopardized by the Moxa Project development. The past record of failed reclamation efforts needs to be reversed, so that functional post-development habitat and forage are available as soon as possible for wildlife and livestock. Surface disturbance caps need to be specified to identify maximum acceptable vegetation impact limits. The Reclamation Plan in the DEIS does not adequately assure re-vegetation of disturbed areas. Success standards and time frames need to be measurable and verifiable through effective monitoring, and the ROD needs to be written to ensure successful reclamation and mitigation. This safety net is imperative to ensure state vegetation resources are maintained at acceptable levels in order to preserve multiple resource uses for the benefit of Wyoming and its citizens.

The Moxa Arch development area is large and has a complex array of lease ownership and operational logistics. While resource impacts need to be evaluated from a broad, "landscape" perspective, I recommend a change from the more traditional approach of evaluating operations for the entire project development from such a broad, landscape perspective. To ensure equitable development and operations accountability for all operators, the development plan should treat each operator equally and independently and require each of them to comply with the performance parameters of the approved plan, regardless of the size of the company or their operational footprint. The preferred alternative and ROD should require reporting and compliance checks for all operators. Most of the Moxa Arch development occurs on lands in the checkerboard ownership pattern. I am especially interested in avoiding the sacrifice of State resources on either public or private lands in order to provide operator benefits. In the long run, an uneven approach based on land ownership is detrimental to public resources. I urge you to

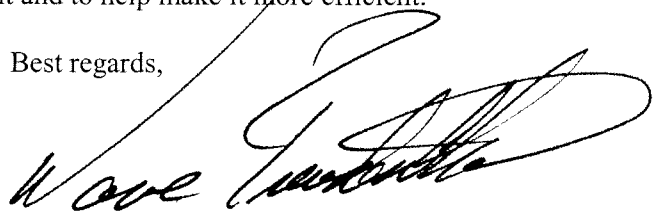
engage all strategies possible to assure that the development is done in a balanced fashion regarding both operator responsibilities and land ownership patterns.

In order to appropriately monitor and evaluate impacts on State resources, State Cooperators need to play a continuing active and integral role throughout the implementation of this project development. The implementation process identified in the DEIS needs to provide for the inclusion of state cooperator agencies in review meetings to be held no less frequently than annually. This will provide state cooperators the opportunity to review both development activities and impacts from the previous year, and plans for development and monitoring in the subsequent year. This periodic (at least annual) review process will provide a regular opportunity to determine any changes in monitoring, reclamation, and mitigation which may be necessary to correct for unanticipated or unintended impacts. The annual review should provide an opportunity for adequate response time before the drilling and operations begin for the next year. Minimizing the negative effects of development and emphasizing the successful reclamation and mitigation of those effects needs to continue throughout the life of the Moxa Project. Reclamation and mitigation must share an importance that is equal with natural gas resource development.

State cooperating agencies are providing their own detailed comments on the Moxa Project DEIS and I encourage you to carefully consider their respective comments and incorporate their recommendations into the EIS documents as appropriate.

As cooperating agency partners the State looks forward to our continuing work on the Moxa Project and to assisting with the process of developing an improved Environmental Impact Statement and project development plan. Please advise our agencies of any assistance they can provide to advance the existing cooperative spirit and to help make it more efficient.

Best regards,



Dave Freudenthal
Governor

DF:SF:pjb

c Bob Bennett, State Director, Wyoming BLM
Jane Darnell, Deputy State Director for Resource Policy and Management,
Wyoming BLM