

The Miles City Field Office (MCFO) posted the federal APDs on its website when Fidelity originally filed the Coal Creek POD on April 15, 2004. In accordance with procedures plainly stated on the MCFO APD website, the subject APDs were subsequently updated under "Applications With Final Determinations" once they were approved on January 19, 2005 (Enclosure 1) and posted to the website on January 21, 2005 (Enclosure 2). The intent of posting the approved APD's on the website is to notify the public of the Decision to approve such APD's by the BLM. On January 21, 2005, Mark Fix, Chairman of the NPRC's Coal Bed Methane Task Force, picked up two copies of the Coal Creek POD EA and Decision Record/Finding of No Significant Impact (DR/FONSI) as shown on the MCFO Coal Creek POD EA distribution list (Enclosure 3).

Receipt of the Decision under review is considered to be January 21, 2005; the day the MCFO posted its Decision to approve the Coal Creek POD APDs on its website. A timely filed SDR for this Decision should have been filed by the close of business on February 18, 2005, to meet the 20 business day regulatory requirement found at 43 CFR 3165.3(b). The SDR request filed by the NPRC was date stamped in the MSO on February 22, 2005 (Enclosure 4); 21 business days after the Decision was available on the MCFO website; and 21 business days after the NPRC's Coal Bed Methane Task Force Chairman received copies of the documents supporting approval of Fidelity's APDs.

Because the SDR request was untimely received pursuant to 43 CFR 3165.3(b), we hereby dismiss the SDR filed by NPRC.

This Decision may be appealed to the Board of Land Appeals Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 5). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from, is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 3165.4(c), the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in this Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

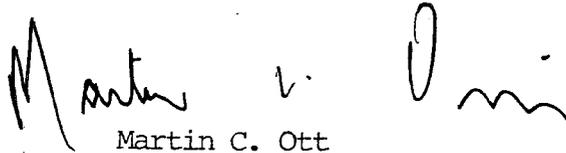
- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,

(3) The likelihood of immediate and irreparable harm if the stay is not granted, and

(4) Whether the public interest favors granting the stay.

In case of an appeal, the adverse parties to be served are:

Mr. Bruce Williams
Fidelity Exploration & Production Company
1842 Sugarland Drive, Suite 103
Sheridan, Wyoming 82801


Martin C. Ott
State Director

5 Enclosures

- 1-APD Log (12 pp)
- 2-Website Posting Documentation (1 p)
- 3-Coal Creek POD EA Distribution List (1 p)
- 4-NPRC SDR Request (Page 1) (1 p)
- 5-Form 1842-1 (1 p)

cc: (w/encls.)

Miles City Field Office

Fidelity Exploration & Production Company, Attn: Bruce Williams, Vice
President of Operations, 1842 Sugarland Drive, Suite 103, Sheridan, Wyoming
82801

cc: (w/o encls.)

WO-300, MIB, Rm. 3222

WO-310, LS, Rm. 501

WO-200, MIB, Rm. 5650

WO-240, LS, Rm. 204

North Dakota Field Office

Great Falls Field Station

AKSO, ARSO, CASO, COSO, ESO, IDSO, NVSO, NMSO, ORSO, UTSO, WYSO

MT-923

MT-924