

Interim Procedures for Processing Coal Bed Natural Gas Applications for Permit to
Drill (APDs)/Plans of Development (PODs) Prior to the
Record of Decision for the Supplement to the Montana Statewide Oil and Gas
Environmental Impact Statement (SEIS) and Amendment of the
Powder River and Billings Resource Management Plans
January 2008

The Miles City Field Office will use the following procedures to process individual APDs and PODs for coal bed natural gas wells in accordance with the District Court Order dated April 5, 2005 until the Record of Decision is signed for the Supplemental EIS. These procedures will apply to the entire BLM planning area covered by the 2003 Statewide Final EIS/Amendment (Powder River and Billings RMP Areas). All Onshore Oil and Gas Order Number 1 processing times and applicant notification requirements will be followed. After completion of the NEPA analysis for individual APDs or PODs, MCFO will approve, approve with modifications or deny the APDs or POD. The NEPA analysis will be tiered to the 2003 Statewide Final EIS/Amendment and include review to insure proposed actions are processed consistent with the management objectives of the Preferred Alternative being considered in the SEIS.

The District Court Order included instructions to BLM for approving CBNG APDs during preparation of the SEIS. The following is the exact content of the April 5, 2005 District Court Order, except for the footnote related to water mitigation agreements. In the original Court Order this footnote appeared as footnote number 2, because footnote number 1 appeared in an earlier portion of the Order that is not related to these procedures.

1. BLM is directed to prepare a SEIS that addresses a phased development alternative for CBM production in the Billings and Powder River Resource Areas of Montana.
2. While the SEIS is being prepared, BLM is enjoined from approving production-related CBM APDs outside of the following defined geographic area: Townships 7½, 8, 9, and 10 South; Ranges 39, 40 41, 42, 43 and 44 East.
3. Within the geographic area defined in paragraph 2, BLM shall limit the number of production-related APDs to a number that keeps the total number of federal, state, and private wells to maximum of 500 new wells per year beginning on the date of this order.
4. BLM will restrict Water Management Plans for federal wells to prohibit:
 - a. Surface discharge of “untreated” produced water, except for the one existing MPDES permit which allows for untreated discharge (MT-0030457, including any modifications/renewals);
 - b. Discharge of produced water into unlined impoundments (as defined by Onshore Order #7), except where already approved; and
 - c. Discharge of produced water into “on-drainage” impoundments.
5. BLM shall not approve an APD unless the operator has certified that water mitigation agreements are in place for all wells and springs located within one mile of federal wells. BLM shall require each agreement to include measures to remedy methane-related impacts. BLM shall require operators to conduct baseline and periodic monitoring of all water wells and springs covered by the agreement.

6. If a water well or spring is adversely affected by a CBM well, BLM shall require the operator to offer a water well mitigation agreement to owners of any water well or spring within one-half mile of the adversely affected well.¹
7. BLM shall require operators to retain an archaeologist holding a valid BLM Cultural Resources Permit. The archaeologist must be available to conduct monitoring during construction at BLM specified sites on federal leases. BLM shall require operators to provide an opportunity for a Northern Cheyenne Tribal cultural resources specialist to monitor construction at BLM specified sites on federal leases. Monitoring by a Tribal specialist shall only be conducted with the consent of the surface owner.
8. All exploration-only APDs shall be subject to the management requirements of paragraphs 4 through 7.
9. This injunction shall remain in place until 15 days after the BLM issues its Record of Decision adopting the SEIS.
10. The court shall retain jurisdiction over this action for the purpose of enforcing this injunction.

¹ This is an additional condition imposed by the Court designed to address groundwater drawdowns that may occur beyond the immediate area of production.