

Buffalo Field Office Application for Permit to Drill Processing

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1. What is the Application for Permit to Drill (APD) backlog within the Buffalo Field Office (BFO)?

Application for Permit to Drill (APD) Summary

2125 total Approved APDs and undrilled

2405 total pending APDs including 53 deferred permits

From 10/1/06 to 10/1/08 there were 2842 wells spudded

From 10/1/08 to 2/23/10 there were 890 wells spudded

Yates Petroleum Corporation specifics

235 Approved APDs and undrilled

271 total pending APDs including 24 deferred permits

78 wells have been drilled but not completed

From 10/1/06 to 10/1/08 Yates spudded 299 wells

From 10/1/08 to 2/23/10 Yates spudded 32 wells of which 16 have not been completed

2. Why is it taking so long to process APDs? Why is there a backlog?

BFO APD processing procedures are a combination of the requirements outlined in Onshore Order No. 1 as well as those contained in the Powder River Basin Oil and Gas project Final Environmental Impact Statement and Record of Decision (PRBFEIS/ROD). The PRBFEIS/ROD required that coalbed natural gas (CBNG) projects be submitted as a plan of development (POD) which contains a group of wells and their supporting infrastructure such as roads, pipelines, power lines, water management plan, etc. Processing a POD takes more time than processing a single APD, as envisioned in Onshore Order No. 1, because a POD covers a larger geographic area and BLM must address multiple resource issues during the review and preparation of the NEPA document. Complex natural resource issues require more in-depth evaluation and assessment, resulting in longer processing time for the National Environmental Policy Act (NEPA) document. Some of these issues are:

- Slopes in excess of 25 percent;
- Areas with sensitive and highly erosive soils which results in low probability of reclamation;
- Elk in the Fortification Creek area;
- Greater-sage grouse issues both inside and outside state identified core areas.

These complex resource issues take longer to address during onsite inspections, deficiency correction, mitigation identification and preparation of the required NEPA documents. As a result, backlogs have increased.

3. How is the Buffalo Field Office working with Oil and Gas Operators on the backlog?

The field office has a good working relationship with most operators and recognizes the overall development slowdown in the Powder River Basin. BFO coordinates with operators to prioritize work on APDs and PODs based on operator priorities. BLM has stopped work on other APDs and PODs at the operators' request when operators are unprepared to work on those PODs or APDs. As a result of this flexibility, BLM has allowed



APDs and PODs to remain as a backlog versus returning them, as provided for in Onshore Order No. 1. Operators appreciate this flexibility, but it does result in what appears to be a large backlog. At the current rate it will take Industry 2 years 5 months to drill all approved APDs.

4. Does BLM consider and understand the socioeconomic impacts?

Through the NEPA process, the BLM is required to analyze all impacts to the human environment. One of the major components of this analysis is the section called Socioeconomics. This section delves into the economic impacts to various social groups. Every NEPA document is required to examine this issue and analyze the socioeconomic impacts.

5. Can BLM control activities on private property?

The BLM is responsible for regulating activities on private surface only when those activities are connected to developing the federal mineral estate. Law provides that the publicly-owned mineral rights may be developed underneath lands possessed by a different entity. Mineral estate is the “dominant” estate, according to common law. In most cases where the federal mineral estate was segregated from the surface estate, the surface owner was provided the surface through homesteading acts, such as the Stock-Raising Homestead Act of 1916; the act under which the surface estate was patented reserved the right for the federal government to develop the mineral rights. In the BLM’s permitting of federal mineral rights development in split-estate situations, the BLM will (by practice and regulation) coordinate with the private surface estate owners, and consider their views. The BLM’s regulations require that a federal lessee negotiate with the surface owner to reach an agreement on protection of the surface resources affected by their operations or, if an agreement cannot be reached, that the lessee submit a bond held for the benefit of the landowner. The BLM is not a party to the negotiations between the federal lessee and the surface owner. The BLM requires engineering and safety standards, environmental protection measures, and permitting requirements on split-estate only for operations directly related to the development of the publicly-owned mineral estate, in fulfillment of the agency’s obligations to comply with current laws and regulations.

http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/split_estate.html

6. How Many APDs in Fortification Creek are being processed?

BLM is currently working on a revised draft Fortification Creek Area Resource Management Plan Amendment Environmental Assessment (RMPA/EA) which will include another public comment period. It is anticipated that a Decision Record on the Fortification Creek RMPA would be issued before Oct. 1, 2010. No APDs within the planning area can be processed until this effort is complete. This represents 308 pending APDs within the Fortification Creek Planning Area (FCPA) in six PODs. Yates has one POD in the Fortification Creek Planning Area. Once the RMP amendment is complete, specific plans of development (PODs) within the planning area will require site specific NEPA. BLM moved forward to process PODs outside the FCPA, but within the elk yearlong range. As a result of the Augusta Unit Zeta SDR findings, the BFO was directed to prepare a modification to the POD EA which specifically addresses two issues outlined in that decision, 1) A cumulative impact assessment which covers the Fortification elk herd range and 2) Impacts to the Fortification elk herd for each alternative in the Augusta Unit Zeta EA. A public review of the modification, ended January 15, 2010. The BFO reviewed public comments and issued a decision on Feb 10, 2010.

7. Why do operators have to pay \$6,500 per APD?

The President signed the 2010 Interior Appropriations Act on October 30, 2009. This Act established an increase in the APD processing fee. The fee was increased from \$4,000 to \$6,500 per APD effective November 2, 2009 and applies to all operators. Please also refer to Washington Office Instruction Memorandum No. 2010-021, Increased Fee for Processing Applications for Permit to Drill in Fiscal year 2010.