



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Buffalo Field Office
1425 Fort Street
Buffalo, Wyoming 82834-2436



MAK 04 2008

Dear Operator;

The Bureau of Land Management-Buffalo Field Office (BFO) has worked with representatives of the oil & gas industry in meetings on December 7 and 19, 2007 to identify solutions associated with the conflicts that have arisen between spring wildlife restrictions and development of oil & gas resources in the Powder River Basin (PRB). The objective of this effort is to identify actions or processes that BFO could change within the bounds of existing authority and the PRB Environmental Impact Statement (EIS) that reduce the socio-economic impact(s) of spring wildlife restrictions and maintain wildlife objectives.

These meetings resulted in the identification of 20 issues that were discussed. The issues were prioritized with 10 that could be implemented for spring, 2008 and 10 that would require long-term resolution. This letter addresses the 10 issues identified for implementation in spring, 2008 as well as three long term issues. These issues are categorized into the following areas:

- Raptor Conditions of Approval (COAs)
- Sage Grouse COAs
- Seeding/Reclamation COAs
- Clarification of Allowable Pre and Post-Production Activities
- Scheduling of Pre-Construction Meetings
- Access to Fee/State Well Locations
- BFO Management Actions to Improve COAs and POD Processing

The following guidance is the BFO's policy and/or response on the above identified issues relative to spring wildlife restrictions as of the date of this letter. The issues are addressed in the order presented above.

Raptor Conditions of Approval

Issue(s):

- Provide a raptor COA policy, both prospectively and retrospectively, that is more species specific and considers "abandoned" nests.
- Reconsider language in 2003 PRB EIS/ROD regarding sage grouse and raptor buffer areas that pertain to lease stipulations, not necessarily COA's for all areas.
- Create a "soft door" in implementing wildlife restriction periods in lieu of "hard door" approach...i.e. "buffer" front and back ends of timing periods.

BFO Response/Action: On January 29, 2008, the BFO issued a Letter to Operators (http://www.blm.gov/pgdata/etc/medialib/blm/wy/bfo/operator_letters.Par.33802.File.dat/2008_0129.pdf) addressing the spring2008 policy and pilot effort regarding raptor conditions of approval. Therefore, that policy is incorporated into this document by reference and is attached. The BFO believes that the current exception process provides a “soft door” approach for implementing wildlife restrictions that is consistent with the existence of wildlife species in the area. In addition, the transition toward a “species specific” COA approach as identified in our letter dated January 29, 2008 would also contribute to the “soft door” approach.

Sage Grouse COAs

Issue(s):

- Provide exceptions to the two-mile buffer in sage grouse areas with poor habitat that looks both prospectively and retrospectively at POD's.
- Reconsider language in 2003 PRB EIS/ROD regarding sage grouse and raptor buffer areas that pertain to lease stipulations, not necessarily COAs for all areas.
- Create a “soft door” in implementing wildlife restriction periods in lieu of “hard door” approach...i.e. “buffer” front and back ends of timing periods.

BFO Response/Action: The issue of sage grouse management relative to oil & gas development in the PRB continues to evolve. The BLM-Washington, D.C. and Wyoming State Offices are currently developing policy guidance on this issue. In light of this, BFO will continue to evaluate exception requests to the two-mile sage grouse buffer on a case-by-case basis until further guidance is received. In addition, the BFO has reaffirmed that POD teams are to consider the quality of the habitat in the field when considering COA's for POD's in the PRB. The BFO believes that the current exception process provides a “soft door” approach for implementing wildlife restrictions that is consistent with the existence of wildlife species in the area.

Seeding/Reclamation COAs

Issue(s): BLM should consistently apply “performance based” seeding COAs. Consider reclamation activities for blanket exemption to timing restrictions and build them into approvals rather than requiring an exception.

BFO Response/Action: Beginning February 1, 2008, the BLM-Buffalo Field Office will resume a voluntary pilot spring seeding program. This program has been requested by the oil & gas industry to reduce costs, hasten reclamation, stabilize recently disturbed soils and promote reclamation success. This program will expand the existing planting periods in areas more than ¼ mile from sage grouse leks and/or raptor nests. Seeding operations in these areas must occur between the hours of 9 a.m. and 5 p.m. This program does not apply to seeding activities within one mile of bald eagle nests. The Buffalo Field Office will require 48 hours notification of specific locations prior to starting seeding activities. Seeding operations are limited to planting and seed bed preparation activities and should move along as quickly as possible. This does not include large scale dirtwork (e.g. backfilling, leveling, etc.).

To facilitate this pilot project, the presence and/or occupancy of raptor nests prior to and after seeding activities will need to be documented by a qualified wildlife biologist. The continuation of this pilot program is for 2008 only. However, the program may be extended in subsequent years based upon the findings of the inventories carried out before and after the seeding activities and compliance with the guidelines of the pilot program. If you participate in the pilot program, you will need to furnish a report to this office on the results of the raptor inventories conducted by your company within 30 days of completion of your seeding activities. The report should document the activity of the nests and any impacts to those nests as a result of the seeding activities. In 2006, few pre-notifications were given to BLM and no reports were received. Should this continue to be the case in 2008, the spring seeding pilot program may be terminated.

Within the last two years, BLM has moved towards performance based COAs. Specifically, seeding timeframes have been removed from the seeding COAs. It is BLM's policy that there are varying times of year where seeding can be successful. Please use this policy for all old PODs that have specific seeding timeframes included in the COAs.

Clarification of Allowable Pre and Post-Production Activities

Issue(s):

- Allow specific segmented activities during wildlife restriction periods.
- Clarify "disruptive" and "surface disturbing" activities with respect to existing approvals.

BFO Response/Action: In the Powder River Basin, activities that are generally subject to the wildlife timing restrictions (other than Threatened & Endangered species) and are included in COAs issued by this office include road, pipeline and other linear facility construction; construction, reconstruction or restoration of well pads (excluding seeding operations); and well drilling & completion activities prior to the point that the well is capable of production. Production related activities, including routine well and road maintenance and well visits are not subject to this restriction. In addition, other short duration actions that can occur during daylight hours associated with well completion activities (e.g. posting signs, work inside existing structures, and wiring of panels) are not subject to this restriction. Exceptions to the general application of this restriction will be considered on a case-by-case basis. Operators should plan well workovers, recompletions and well tests to avoid the spring restriction period whenever possible.

The term, "disrupt" is used to describe habitat loss in the Biological Opinion for the PRB EIS. Habitat loss is further defined as the permanent or temporary alteration of habitat in such a way as to displace a species into unsuitable areas or impair/disrupt or prevent normal behavioral patterns such as breeding, feeding or sheltering." The BFO's use of the term "disruptive" activities has been limited and associated primarily with COAs for Threatened & Endangered species (primarily Bald Eagles) and is subject to the specific language identified in the applicable COA.

“Disruptive” and “surface disturbing” activities have been recently defined in BLM’s statewide Information Bulletin No. WY-2007-029 as follows which will be applied by this office on a site specific basis when necessary:

- “Disruptive Activities”-Those Public Land resource uses/activities that are likely to alter the behavior, displace, or cause excessive stress to existing animal or human populations occurring at a specific location and/or time.
- “Surface Disturbing Activities”-An action that alters the vegetation, surface/near surface soil resources, and/or surface geologic features beyond natural site conditions and on a scale that affects other Public Land values.

Scheduling of Pre-Construction Meetings

Issue:

- Schedule pre-construction meetings during restricted periods to maximize use of non-restricted periods.

BFO Response/Action: The BFO has discussed this approach with the Natural Resource Specialist (NRS) leads that will do this whenever feasible.

Access to Fee/State Well Locations

Issue(s): Provide access to Fee/State well locations during the spring wildlife restriction period.

BFO Response/Action: The BFO will not restrict access to non-Federal well locations during the spring wildlife restriction period provided that the access across BLM administered surface is already improved and in existence at the beginning of the restricted period. BLM does not have the authority to restrict development on private surface associated with non-Federal mineral development. Where development of the Federal minerals is associated with split-estate private surface, surface disturbing activities will be subject to the COAs that apply to the BLM authorized actions within the POD or APD.

BFO Management Actions to Improve COAs and POD Processing

Issue(s):

- BFO should develop quarterly APD targets to insure relative equity in processing of Sundry Notices.
- BFO should improve consistency of COAs between PODs.
- Develop process to insure consistency in COA development and enforcement.

BFO Response/Action: The BFO has implemented quarterly targets that are intended to spread the workload across the entire fiscal year, but also recognizes the reality of Wyoming field seasons. More specifically, these quarterly targets also provide for monthly accountability of NRS’ POD workload that require more active project management, including the returning of PODs that are significantly deficient.

The BFO has initiated several actions that should improve the consistency of COAs as follows:

1. Three additional supervisors have been added to the BFO in the operations, permitting and resources staffs to provide more on-ground mentoring and training for BFO staff. This will provide a greater level of experience to be shared with new personnel and afford industry well trained supervisors for industry to contact if concerns do arise.
2. The permitting and inspection/enforcement staffs have regular meeting where field observations and inconsistencies are discussed and resolved. The resource, operations, permitting and inspection/enforcement staffs, as well as management, attend these meetings to insure maximum consistency within the BFO.
3. BFO has contracted with Premier Data Services to develop an automated system that will provide a common set of COAs to be generated in coordination with the Environmental Assessment that is written for each POD/APD. This will improve the consistency of the wording in the COAs and provide a consistent data set for surface compliance.
4. BFO requires that all specialists discuss any new COAs with industry representatives, that they be discussed with their supervisor and that they be exposed to their peers in the BFO.
5. BFO is currently conducting a Pilot program that provides "draft" COAs to industry representatives in advance of approving the POD/APD. This program was initially established with three (3) companies for 90 days ending on December 31, 2007. However, by copy of this letter, that limited initial program is extended on "pilot" basis through June 30, 2008 to determine if it should be expanded to all POD/APD approvals in the BFO.
6. The responsibilities within BFO management have been expanded to require that there are multiple levels of review of the COAs prior to POD/APD approval. The initial responsibility lies with the lead NRS with review by the BFO planning and environmental coordinator. Following that, the Assistant Field Manager-Resources and Associate Field Manager review the COAs for consistency prior to final approval by the Field Manager.

Chris Hanson



Field Manager
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