



United States Department of the Interior

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



JAN 28 2009

Dear Operator;

This letter is part of the Bureau of Land Management-Buffalo Field Office's (BFO) ongoing effort to monitor and adaptively manage for both wildlife resources and oil & gas activity in the Powder River Basin such that the socio-economic impacts can be reduced while maintaining wildlife objectives. This letter identifies and clarifies the activities that will be allowed and the conditions under which they will be allowed during the respective spring timing limitation periods. The limitations are identified in the operator Plan of Development (POD) conditions of approval and/or the 2003 Powder River Basin Oil & Gas EIS and ROD. The following guidance is the BFO's policy for the specific issues addressed as of the date of this letter. Issues identified in our January 29 and March 4, 2008 letter(s) remain in effect unless specifically addressed below. Previous Letter to Operators can be found at: http://www.blm.gov/wy/st/en/field_offices/Buffalo/minerals.html.

Raptor Conditions of Approval

Beginning February 1, 2009, the BLM-Buffalo Field Office will extend a pilot program to implement a species specific exception to timing restrictions for raptor nesting. This program will expand the existing periods available for activity from February 1 to March 1, 2009 in areas affected by nesting activity of the following raptor species:

1. Red-tailed hawk
2. Swainson's hawk
3. American kestrel
4. Burrowing owl
5. Northern harrier

Please note that due to increased concern for the species, ferruginous hawk is not included in the 2009 list.

This policy, developed in coordination with the US Fish and Wildlife Service and the Wyoming Game and Fish Department, and analyzed in the February, 2008 Species Specific Exception to Raptor Nesting Restrictions Environmental Assessment (WY-070-EA08-50), focuses only on the stipulation(s) or condition(s) of approval (COAs) addressing historic nesting activity of the species listed. This policy does not modify any other stipulations or COAs. Relief from other stipulations or COAs must be requested using approved processes contained in the appropriate Code of Federal Regulations, BFO RMP, the PRB Oil & Gas Project EIS, project specific NEPA documents, and/or COAs.

The Buffalo Field Office requires the following survey activities and documentation in conjunction with continuation or initiation of work within ½ mile of nests for the species indicated above:

Prior to beginning or continuing project activities on or after February 1, 2008, a contracted biologist must confirm that nests are unoccupied and that no raptors are exhibiting courtship or nesting behavior on that date. If these conditions are confirmed, work may continue.

Indications of courtship/nesting activity include the following: two raptors perched together, two raptors flying together in a non-antagonistic manner, an individual displaying indications of protecting a territory by chasing away other raptors or standing ground and vocalizing when approached by humans, or a raptor repeatedly carrying sticks, grass or similar nesting material to one location.

If work in the area continues beyond February 15, 2008, a contracted biologist must confirm that nests are unoccupied and that no raptors are exhibiting courtship or nesting behavior. If raptors are observed exhibiting courtship/nesting behavior within ½ mile of nests affecting the project area, work will stop.

While working on or after February 1, company representatives and contractors are to remain cognizant of raptor activity within ½ mile of the nests affecting the project area. If raptors are observed exhibiting courtship/nesting behavior within ½ mile of nests affecting the project area, work will stop. Company representatives should have a copy of this letter, a detailed map of nests surveyed, and a list indicating nest status available in the field to confirm policy conformance for BLM inspectors.

A report detailing the surveys must be submitted to the Buffalo Field Office **within 7 days of completion of work**, and must include survey results and the following information:

1. A detailed description of the location, activities, duration of activities, equipment and personnel.
2. Detailed project maps, identifying the locations, species observed and occupancy status of nests that affect the specific project area and access.

Reports received in 2008 varied in the quantity of information supplied by various companies and contractors. BLM requires compliance with the notification and reporting requirements in 2009. Should inconsistent reporting continue in 2009 this pilot program may be terminated.

This pilot program is for 2009 only. This program may be extended in subsequent years based upon review by the BLM to evaluate compliance with the requirements listed above. Information gathered this spring will be used to develop species specific COAs for inclusion in future permits.

Sage-grouse Conditions of Approval

We are coordinating with operators to reduce duplicative lek surveys and counts this spring. To that end, we have attached a list of leks that will be surveyed and counted by federal or state biologists. We encourage operators to coordinate in an effort to limit visits to those leks not surveyed and counted by federal or state biologists.

In order to assist industry in minimizing lek visitations we request the following: As leks are surveyed this spring, consultants or operators should immediately e-mail the survey information to the Buffalo BLM at [Courtney Frost@blm.gov](mailto:Courtney_Frost@blm.gov) and [Bill Ostheimer@blm.gov](mailto:Bill_Ostheimer@blm.gov).

We will review and post survey results daily. Therefore, at the end of each business day there will be an updated list on the BFO website:

http://www.blm.gov/wy/st/en/field_offices/Buffalo/wildlife/sagegrouse.html. If a lek has been surveyed that day, then the next survey would be a week later. Lek surveys that are posted to the BFO website will fulfill the obligation of operators to meet the following Condition of Approval found in most Plans of Development:

- a. No surface disturbing activities are permitted within 2 miles of sage grouse leks between March 1 and June 15, prior to completion of a greater sage grouse lek survey. This condition will be implemented on an annual basis for the duration of surface disturbing activities. This timing limitation will affect the following: (...POD specific...)
- b. If an active lek is identified during the survey, the 2 mile timing restriction (March 1-June 15) will be applied and surface disturbing activities will not be permitted until after the nesting season. If surveys indicate that the identified lek is inactive during the current breeding season, surface disturbing activities may be permitted within the 2 mile buffer until the following breeding season (March 1). The required sage grouse survey will be conducted by a biologist following the most current WGFD protocol. All survey results shall be submitted in writing to a Buffalo BLM biologist and approved prior to surface disturbing activities.

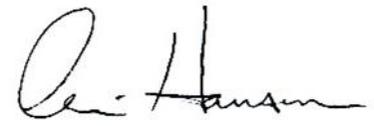
Please keep in mind that only one aerial survey is necessary for each known lek. Therefore once a lek is flown for survey, no more flights should occur.

Seeding/Reclamation COAs

Beginning February 1, 2009, 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 or roosts. 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 dirt work (e.g. backfill, recontour, 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 2009 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 for 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. In 2008 reporting improved but not all activities or impacts were reported. BLM requires compliance with the notification and reporting requirements in 2009. Should inconsistent reporting continue in 2009 the spring seeding pilot program may be terminated.

A handwritten signature in black ink, appearing to read "Lee Hansen". The signature is written in a cursive style with a large initial "L" and "H".