

Office of the Governor

May 7, 2010

Don Simpson
Director, BLM Wyoming State Office
5353 Yellowstone Road
Cheyenne, WY 82009

Dear Director Simpson:

I write to you concerning oil and gas development in the Powder River Basin. In particular, I write to inquire about the status of over 2,600 Applications for Permit to Drill (APDs), which are currently the subject of varying stages of National Environmental Policy Act (NEPA) analysis in 75 pending Plans of Development (PODs).

Recent research findings indicate that some of these PODs are located, in whole or part, in potential sage grouse “connectivity habitats”. The remaining APDs are the subject of ongoing NEPA analysis in the Fortification Creek area. Knowing that “connectivity” has proven to be a difficult concept to incorporate into state and federal planning, I have asked my Sage Grouse Implementation Team (Team), in conjunction with the state’s sage grouse Local Working Groups (LWGs), to provide recommendations on the subject and finally address one of the remaining issues raised by the US Fish and Wildlife Service in its endorsement of the Core Area Strategy. In the meantime, however, I would ask that you process those PODs that are clearly located outside of the “connectivity” zone and Fortification Creek Planning Area as soon as possible. Following my receipt of the Team’s and LWG’s recommendations, both in terms of what constitutes “connectivity” and what should be done in terms of management to protect these migration routes (i.e. spacing, density and other restrictions), the BLM should move expeditiously to issue the remaining APDs consistent with those recommendations.

The enclosed map identifies habitat that the BLM and Wyoming Game and Fish Department believe to constitute “connectivity” areas. For my part, I will say that it seems overly expansive, particularly on the northeastern edge of the sage grouse Core Area, which is commonly referred to as the “key-shaped” Core Area (particularly with the inclusion of certain

portions of T51N R79W, T51N R78W, T50W R79W and T49N R79W). I appreciate the BLM's efforts to protect sage grouse leks in that area, as they may prove to be essential to precluding Endangered Species Act listing in the future. This said, I cannot support any de facto expansion of core area protections in the name of "connectivity protection." In this regard, I understand that density limitations could be set as low as three well pads per section to protect "connectivity." Given the nature of the well densities needed for effective coal bed natural gas production and the ineffectiveness of directional drilling in this sort of play, drawing the line for "connectivity" protection could practically expand the core area simply as a function of geology and hydrology. While this may be the intent of some, the BLM should be deliberate in whatever decision is made. The history of this "key shaped" core area dictates thoughtfulness from both industry and BLM and I have great confidence that a workable solution can be achieved.

In terms of timing, I would hope that the BLM could start issuing APDs and approving PODs outside of the identified interim "connectivity zone," with standard sage grouse and other stipulations where appropriate, as soon as is practicable. For those APDs within the interim zone, I have asked the Team, and by extension the LWGs, to have recommendations to me no later than July 1, 2010 in terms of mapping and interim management. Following my receipt of those recommendations, BLM should be able to proceed with the immediate processing – consistent with these recommendations - of all remaining APDs located outside of the Fortification Creek planning area. In any case, the interim mapping of connectivity zones should not be cemented in any way, including in any drafts of the Buffalo Resource Management Plan, until the final recommendations from the Team and LWG are available. Even then, I would hope that an adaptive approach could be adopted.

As I understand the current status of the Fortification Creek Environmental Assessment, a draft should be released sometime this Fall, which should add some clarity to the status of those APDs that have been requested in that area. I will say that I have very little sympathy for industry with regard to development within Fortification Creek. Had industry taken heed of my early requests and guidance to complete an Environmental Impact Statement – as opposed to an Environmental Assessment – I dare say those APDs would have been issued long ago.

As efforts proceed to approve PODs and APDs within and outside of the interim "connectivity" zone, I would ask that BLM continue to press industry to identify those APDs that have already been issued but that are not likely to be drilled. Once these permits have been identified, I would hope that arrangements could be made to encourage industry to forego drilling – whether through the return of the APD fee or some other incentive. In the same vein, I would ask that industry be actively encouraged to accelerate its plug and abandon program in those areas of the Powder River Basin that are no longer in active production. By foregoing the development of APDs that are no longer essential to industry operations, and placing a premium

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on thoughtful reclamation, we can start to achieve some degree of equilibrium in the Basin and hopefully start into a phase where we are adding more habitat than we are taking away. Until industry can see its plug and abandon program as an avenue to enhance certainty with regard to future permitting and development, we will continue to experience apathy in capital allocation toward the effort. I would offer the support of the University of Wyoming College of Agriculture Reclamation and Restoration Center, in terms of providing scientific and technical assistance, as we collectively move into this new phase of coal bed natural gas development in the Powder River Basin.

Thank you for your time and attention to this important matter. I look forward to continue working with the BLM to advance both sage grouse conservation and natural gas production. Going forward, I hope that the BLM will work with industry to review the APDs that have been requested and seek voluntary measures that will maximize sage grouse protections, beyond those required to protect "connectivity," while still observing the overt policy directives of the Core Area Strategy to protect core areas and enhance development outside of these core populations.

Best regards,

A handwritten signature in black ink, appearing to read "Dave Freudenthal", written in a cursive style.

Dave Freudenthal
Governor

DF:pjb

Stephanie Connolly, High Plains District Manager
Duane Spencer, Buffalo BLM Field Manager
Director Steve Ferrell, Wyoming Game and Fish
Dean Frank Galey, UW College of Ag & Nat Resources