

**MODIFIED DECISION RECORD FOR  
Williams Production RMT Company, 2 Deferred Applications for Permit to Drill (APD)  
Kingwood 3 Federal 34-26 and Kingwood 3 Federal 41-35, Kingwood 3 POD  
ENVIRONMENTAL ASSESSMENT –WY-070-EA09-148**

This is a modified decision record; it is not a new decision record (DR). This modified DR augments the Kingwood 3 plan of development (POD) DR, dated September 29, 2009 to resolve that earlier deferral of 2 applications to drill (APDs). The new information, analysis, and rationale here augment and complete the environmental record of review for the Kingwood 3 POD and its APDs.

**Compliance.** This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701).
- Mineral Leasing Act of 1920 (30 U.S.C. 181) and as prescribed in 43 CFR Part 3160 to include On Shore Order No. 1.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- National Historic Preservation Act of 1966 (NHPA) (16 USC 470).
- Migratory Bird Treaty Act (16 USC 703).
- Interior Department Order 3310.
- Buffalo Final Environmental Impact Statement (FEIS) (1985, 2001); Powder River Basin Final Environmental Impact Statement (PRB FEIS) (2003).
- Buffalo Resource Management Plan 1985, Amendments 2001, 2003.
- Greater Sage-Grouse Habitat Management Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands including the Federal Mineral Estate, (WY-IM-2010-012), Jan 2010.
- Wyoming Executive Order, 2011-005.

**Deferral Resolution.**

BLM’s September 29, 2009 decision approved a combination of Alternatives C and D as described in the EA<sup>1</sup>. BLM approved Williams Production RMT Company (Williams) Kingwood 3 coalbed natural gas (CBNG) PODs comprised of 33 APDs (see EA WY-070-EA09-148) while deferring the following wells. I approve the following APDs due to resolution of the deferral condition and justification.

**Approved APDs**

Well Name	Well #	QTR/QTR	Sec	TWP	RNG	Lease
KINGWOOD 3 FEDERAL	34-26	SWSE	26	46N	77W	WYW40634
KINGWOOD 3 FEDERAL	41-35	NENE	35	46N	77W	WYW128464

**Limitations.** The Kingwood 3 POD conditions of approval (COAs) (September 29, 2009) and Amendment 1 to the Kingwood 3 POD COAs (July 2011) are limitations on the above 2 APDs.

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<sup>1</sup> Environmental Assessment, WY-070-09-148, occurred during a period of shifting policy for sage-grouse conservation at federal, department, bureau, and state levels. Subsequent decisions and refined policy provided clarification for updated analysis, findings, and decisions. The BFO considered, approved, and issued the vast bulk of over 1,000 APDs received during that time period. About 90 APDs were denied (two-thirds of which were in two proposed developments).

**THE MODIFIED FINDING OF NO SIGNIFICANT IMPACT (FONSI).** The FONSI, dated September 29, 2009 found no significant impacts, thus an EIS was not required. The Modified FONSI, WY-070-09-148, considered the new information, analysis, and rationale and found no significant impact on the human environment aside from those revealed in the PRB FEIS (2003).

**COMMENT OR NEW INFORMATION SUMMARY.**

Items of new information became available that addressed the justification and rationale for deferring the aforementioned 2 APDs. BLM uses a modified FONSI, modified DR, and Amendment 1 to the Kingwood POD COAs to document and disseminate the decision of how and why to clear the earlier APD deferrals. This modified DR comports to the BLM NEPA Handbook, 8.5.1, Documenting the Decision, and web guide examples (last updated July 29, 2010). The most important new information was receipt of sage-grouse policy<sup>1</sup>. BLM also received Interior Department Order 3310.

Receipt of this new information guided the augmented analysis – an analysis that allowed decisions that approved 2APDs. The new information, the analysis, and decision rationale follow.

**DECISION RATIONALE.**

The imperative new information is the sage-grouse policy in WY-IM-2010-012.

BLM deferred the 2 APDs in the Kingwood 3 POD decision record (DR), dated September 9, 2009. The justification for the deferral was to preclude, “fragmentation of high quality sage-grouse habitat.” DR. pp. 2-3. The deferral also, “incorporate[d] components of the Wyoming Governor’s Sage Grouse [sic] Implementation Team’s “core population area” strategy and executive order and local research to provide appropriate protections for sage-grouse, while meeting the purpose and need for the . . . Project.” DR, p.3. Subsequently the U.S. Fish and Wildlife Service found listing the sage-grouse as a threatened species was warranted but precluded for higher priorities. Two Wyoming Gubernatorial administrations, in conjunction with the Wyoming BLM, settled on a sage-grouse conservation policy embodied in Wyoming Executive Order, 2011-005, and WY BLM Instructional Memorandum, 2010-012. As a matter of these policies the BLM no longer defers or denies APDs solely due to sage-grouse habitat fragmentation outside of core area or connective area habitats. Current sage-grouse conservation measures include, but are not limited to, timing limitations, and controlled surface use within 0.25 miles of a lek outside of sage-grouse core or connectivity habitat. Given the clarification in the policy for sage-grouse conservation, the approval of the above 2 APDs conforms to this policy. I approve releasing Williams from the deferral condition to provide mitigation for sage-grouse or sage-grouse habitat for these 2 APDs under these site-specific circumstances.

The construction of these 2 APDs conforms to the Wyoming BLM policy to manage sage-grouse seasonal habitats and maintain habitat connectivity to support population objectives set by the Wyoming Game and Fish (WGFD).

**RATIONALE:** The approval of the 2 APDs, described above and in EA WY-070-EA-0-148, is based on:

1. The additional infrastructure will not result in any undue or unnecessary environmental degradation. This area is clearly lacking wilderness characteristics as it is amidst gas field development.
2. The selected alternative will help meet the nation’s energy needs, and help stimulate local economies by maintaining workforce stability.
3. The Operator, in their POD, committed to:
  - Comply with all applicable federal, state and local laws and regulations.
  - Obtain the necessary permits from other agencies for the drilling, completion and production of

- these wells including water rights appropriations, the installation of water management facilities, water discharge permits, and relevant air quality permits.
- Offer water well agreements to the owners of record for permitted water wells within 0.5 mile of a federal CBNG producing well in the POD.
  - Provide water analysis from a designated reference well in each coal zone.
4. Williams certified it has a surface use agreement with the landowners or it posted bond.
  5. Since the 2 APDs were earlier deferred, the WY BLM sage-grouse management strategy solidified (BLM Instruction Memorandum WY-2010-012) and aligned with the State of Wyoming's Greater Sage-grouse Core Area Protection (WY EO 2011-05). As such, these 2 APDs do not occur in sage-grouse key habitats (Wyoming core, BLM focus and connectivity), and it conforms to the Wyoming BLM policy to manage sage-grouse seasonal habitats and maintain habitat connectivity to support population objectives set by the Wyoming Game and Fish (WGFD). The proposed infrastructure will not affect the current WGFD development thresholds for leks within key habitats. The Buffalo RMP and its COAs are in agreement with and support this new sage-grouse policy.
  6. This modified DR negated Alternative D, WY-070-EA09-148, (September 29, 2009) because the substantive difference between Alternatives C and D was the deferral of these 2 APDs. The approval of these 2 APDs renders Alternative D moot; thus Alternative C is approved.
  7. The COAs for Kingwood 3 POD (2009) remains in full force and effect for the Kingwood POD and for APDs Kingwood 3 Federal 34-26 and Kingwood 3 Federal 41-35. Amendment 1 to Kingwood 3 POD COAs also applies to APDs Kingwood 3 Federal 34-26 and Kingwood 3 Federal 41-35.

**ADMINISTRATIVE REVIEW AND APPEAL:** This decision is subject to administrative review in accordance with 43 CFR 3165. Any request for administrative review of this decision must include information required under 43 CFR 3165.3(b) (State Director Review), including all supporting documentation. Such a request must be filed in writing with the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, no later than 20 business days after this Decision Record is received or considered to have been received.

Any party who is adversely affected by the State Director's decision may appeal that decision to the Interior Board of Land Appeals, as provided in 43 CFR 3165.4.

Field Manager: \_\_\_\_\_



Date: \_\_\_\_\_

11 AUGUST 2011

**MODIFIED FINDING OF NO SIGNIFICANT IMPACT FOR  
Williams Production RMT Company, 2 Deferred Applications for Permit to Drill (APD)  
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**FINDING OF NO SIGNIFICANT IMPACT:**

On the basis of the information contained in the EA and all other information available to me, I find that: (1) Approving the 2 APDs previously onsited in the Williams Production RMT Company (Williams), as part of the earlier approved Kingwood 3 coalbed natural gas (CBNG) plan of development (POD) will not have significant environmental impacts beyond those already addressed in Powder River Basin Final Environmental Impact Statement (PRB FEIS) to which the EA is tiered; (2) Approving the 2 APDs conforms to the Buffalo Field Office Resource Management Plan (RMP) (1985, 2001, 2003); and (3) Approving the 2 APDs, cumulative with the approvals for this POD's other 33 APDs does not constitute a major federal action having a significant effect on the human environment. Therefore there is no requirement for an environmental impact statement. This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), with regard to the context, cumulative effects, and to the intensity of the impacts described in the EA, WY-070-EA09-148, which is incorporated here by reference, and on Interior Department Order 3310..

**CONTEXT:**

Mineral development is a long-standing land use in the PRB. More than 42% of the nation's coal comes from the PRB. The PRB FEIS reasonably foreseeable development predicted and analyzed the development of 51,000 CBNG wells and 3,200 oil wells (PRB FEIS ROD p. 2). The additional CBNG development of approving 2 APDs is insignificant within the national, regional, and local context.

BLM deferred the 2 APDs in a Kingwood 3 POD decision record (DR), dated September 29, 2009. The justification for the deferral was to preclude, "fragmentation of high quality sage-grouse habitat. DR. pp. 2-3. The deferral also, "incorporate[d] components of the Wyoming Governor's Sage Grouse [sic] Implementation Team's "core population area" strategy and executive order and local research to provide appropriate protections for sage-grouse, while meeting the purpose and need for the . . . Project." DR, p.3. Subsequently the U.S. Fish and Wildlife Service warranted the listing the sage-grouse as a threatened species but precluded the listing for higher priorities. Two Wyoming Gubernatorial administrations, in conjunction with the Wyoming BLM settled on a sage-grouse conservation policy embodied in Wyoming Executive Order, 2011-005, and WY BLM Instructional Memorandum, 2010-012. As a matter of these policies the BLM no longer defers or denies APDs solely due to sage-grouse habitat fragmentation. Current sage-grouse conservation measures include, but are not limited to, timing limitations, and controlled surface use within 0.25 miles of a lek outside of sage-grouse core or connectivity habitat. Given the clarification in the policy for sage-grouse conservation I find the approval of the above 2 APDs conforms to this policy. I find that in the circumstances limited to these 2 APDs and, as the sage-grouse policy applies to these 2 APDs; that Williams is released from the deferral condition to provide mitigation for sage-grouse or sage-grouse habitat.

**INTENSITY:**

The implementation of Alternative C results in beneficial effects in the forms of energy and revenue production however; there will also be adverse effects to the environment. Design features and mitigation measures included in Alternative C minimize adverse environmental effects.

The preferred alternative does not pose a significant risk to public health and safety. The geographic area of the POD does not contain unique characteristics identified within the 1985 RMP, 2003 PRB FEIS, or

other legislative or regulatory processes, including Interior Department Order 3310. This area clearly lacks wilderness characteristics as is amidst gas field developments.

BLM used relevant scientific literature and professional expertise in preparing the EA. The scientific community is reasonably consistent with their conclusions on environmental effects relative to oil and gas development. Research findings on the nature of the environmental effects are not highly controversial, highly uncertain, or involve unique or unknown risks.

CBNG development of the nature proposed with this POD and similar PODs was predicted and analyzed in the PRB FEIS; the selected alternative does not establish a precedent for future actions with significant effects.

There are no cultural or historical resources present that will be adversely affected by the selected alternative. No species listed under the Endangered Species Act or their designated critical habitat will be adversely affected. The selected alternative will not have any anticipated effects that would threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment.

**ADMINISTRATIVE REVIEW AND APPEAL:** This finding is subject to administrative review in accordance with 43 CFR 3165. Any request for administrative review of this decision must include information required under 43 CFR 3165.3(b) (State Director Review), including all supporting documentation. Such a request must be filed in writing with the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, no later than 20 business days after this Decision Record is received or considered to have been received.

Any party who is adversely affected by the State Director's decision may appeal that decision to the Interior Board of Land Appeals, as provided in 43 CFR 3165.4.

Field Manager. 

Date: 11 AUGUST 2011