

# Montana Board of Oil and Gas Conservation

## Finding of No Significant Impact and Notice of Decision

Fidelity Exploration and Production Company  
Tongue River - Corral Creek Plan of Development Project  
Township 8 South, Range 40 East  
Township 9 South, Range 40 East  
Big Horn County, Montana

### Proposed Action

Fidelity Exploration and Production Company (Fidelity) proposes to further expand the CX field by drilling, completing and producing 23 new coalbed natural gas (CBNG) wells (6 federal, 9 fee, 8 state) in the Tongue River - Corral Creek Plan of Development (POD) area. Fidelity plans to drill these wells in the POD area and produce water and natural gas mainly from the Dietz, Monarch and Carney coals with additional exploration and production of the Smith coals, and possibly other deeper coals (e.g. Carlson, King and Roberts).

Fidelity submitted its Tongue River – Corral Creek POD to the Montana Board of Oil and Gas Conservation (MBOGC) in March 2008 as Docket No. 47-2008. The Tongue River - Corral Creek POD was approved by the MBOGC on March 27, 2008 by Order 48-2008. The Board accepted the POD and approved it subject to the environmental assessment. An additional environmental assessment will need to be performed by the Bureau of Land Management (BLM) for the wells located on the Federal estate.

Water produced by the Corral Creek POD is proposed to be (1) beneficially used for industrial purposes in the Spring Creek Mine and Decker Mine; (2) beneficially used by Fidelity for CBNG drilling, construction, dust suppression and related activities; (3) directly discharged to the Tongue River under Fidelity's existing MDEQ discharge permit (MT0030457); (4) treated and discharged to the Tongue River via the EMIT 15 and 19 plants under Fidelity's existing MDEQ discharge permit (MT0030724); and (5) provided to ranchers for stock water. The Agency preferred alternative, assumes drilling and production of all proposed wells and the associated need to manage water produced from 100% of the proposed wells; at this time, federal wells cannot be drilled pending results of an environmental assessment performed by BLM. Therefore, until such time that federal wells begin to produce, water management is expected to maximize use of existing facilities, including beneficial use, untreated water discharge, and treated water discharge.

Any well(s) would be plugged and abandoned and the surface restored if commercial quantities of gas are not discovered; partial reclamation of unused disturbed areas and disturbed utilities/flow line routes would be performed during the project life. The project area is comprised of state, private, and federal minerals with surface management administered by state, private owners and BLM.

## **Decision**

The decision to approve the project POD includes adoption of the Environmental Assessment prepared by the MBOGC-*Environmental Assessment for Fidelity Exploration & Production Company, Tongue River – Corral Creek, Plan of Development*; approval of the drilling, completion and production of 9 wells located on fee minerals, 8 wells located on state minerals; installation of roads, pipelines and associated infrastructure needed to produce the wells. The decision is effective immediately; drilling permits (Form No. 22) will be approved in the ordinary course of business following this decision.

The MBOGC's General Rules and Regulations, as well as the statutory requirements under which the rules are adopted generally apply to the proposed action. Fidelity has agreed to implement mitigation measures for any impacts of its activities as well as additional mitigation actions required by BLM for federal actions, Trust Land Management Division for state school trust lands, and the Water Resources Division for state lands not associated with the school trust lands. Mitigation measures agreed to by Fidelity include implementation of lease road speed limits to reduce wildlife mortality and dust emissions, monitoring of the quality and quantity of produced fluids, monitoring of any domestic wells or springs within the one-mile statutory radius as needed to determine potential impairment, and monitoring of reclamation and potential noxious weed invasion. It is assumed that other agencies permitting, mitigation or monitoring requirements are authorized under those agencies jurisdictional authorities; where program elements and associated requirements overlap, the MBOGC relies upon its own authority for these decisions. Some mitigation imposed by BLM are beyond the scope of jurisdiction of the MBOGC, however, cultural and paleontological resources are the property of the private surface owner and MBOGC does not assert any right to determine the disposition of any historical artifacts or fossils found; the operator however has agreed to notify and consult with the surface owner if any such resources are discovered during construction. The MBOGC cannot require the surface owner to manage private property for wildlife mitigation or to require the owner to provide access to those seeking to survey the property for cultural or wildlife resources. MBOGC defers to the surface owner for use of pesticides/herbicide on the property and does not regulate the use or possession of firearms on private property. Private owners retain the right to manage (or prohibit) general public access to the property.

## **Finding of No Significant Impact**

Based upon a review of the Environmental Assessment prepared for the project relative to state and fee wells, the voluntary mitigation proposed by the operator, compliance with the requirements for monitoring and reporting as identified in the Montana Code Annotated 82-11-175 and MBOGC Order 99-1999, and considering the scope and effect of the MBOGC's statutory and regulatory requirements, I determine that approval of the proposed action does not constitute a major state action significantly affecting the quality of the human environment, and does not require the preparation of an environmental impact statement.

<Original Signed>

Thomas P. Richmond  
Administrator, Board of Oil and Gas Conservation

July 14, 2008