

Montana Board of Oil and Gas Conservation

Finding of No Significant Impact and Notice of Decision

Fidelity Exploration and Production Company
Tongue River-Deer Creek North CBM Project (Amended 2005)
Township 9 South, Ranges 40 and 41 East

Proposed Action

Fidelity Exploration and Production Company (Fidelity) proposes to drill, complete and produce 184 new coalbed natural gas (CBNG) wells (112 fee, 4 state, 68 federal) in this Plan of Development (POD) amendment of the existing Deer Creek North Plan of Development, the amendment is to increase well density with 1 to 5 wells drilled on each well site with 2 wells per 160 acre well spacing (1 well per coal seam per 80 acres). Separate vertical wells would be drilled into the Carney, Monarch and Dietz coal seams and possibly additional coal seams (e.g., Smith, Wall, Carlson, King and Roberts).

The Deer Creek North POD amendment of the CX Field was approved by the Board of Oil and Gas Conservation (MBOGC) on December 8, 2005 by Orders 508-2005. The Board accepted the plan of development and approved it subject to environmental assessment. An additional environmental assessment will need to be performed by the U.S. Bureau of Land Management (BLM) for the wells on Federal lands.

Water produced by the Deer Creek North POD is proposed to be (1) beneficially used for industrial uses (dust suppression) in the Spring Creek and Decker Coal Mines; (2) beneficially used by Fidelity for CBNG drilling, construction, and dust suppression; (3) beneficially used by livestock and wildlife; (4) discharged to the Tongue River using Fidelity's existing MDEQ direct discharge permit (MT0030457), including modifications; (5) treated via ion exchange and discharged to the Tongue River using Fidelity's proposed MDEQ discharge permit for treated water (MT0030724); (6) stored in the existing off drainage impoundments; and (7) during the irrigation season, applied via managed irrigation. The ion exchange water treatment facility is proposed to be located 2.5 miles south-southeast of Decker in T. 9. S., R. 40 E, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34. 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 current litigation and 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, managed irrigation and untreated water discharge. For the purposes of this record of decision, the use of treated water discharge as a management option is assumed to be supplemental to existing management options on an as needed basis.

Any well(s) would be plugged and abandoned and surface restored if commercial quantities of gas are not discovered; partial reclamation of unused disturbed areas and utilities/flow line disturbed areas would be required during the project life. The project

area is comprised of state, private and federal minerals. Surface is managed by state, private owners and BLM.

Decision

The decision to approve the project plan of development includes adoption of the Environmental Analysis prepared by the Montana Board of Oil and Gas Conservation (MBOGC)- *Environmental Assessment for Fidelity Exploration & Production Company, Tongue River –Deer Creek North Project, Plan of Development (Amended 2005)*; approval of the drilling, completion, and production of an additional 112 wells located on fee minerals, 4 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 Board of Oil and Gas Conservation's General Rules and Regulations, as well as the statutory requirements under which the Rules are adopted generally apply to the proposed action. Additional mitigation is required by BLM for federal actions and Trust Land Management Division for State lands and the operator has agreed to implement other actions to mitigate any impacts of its activities. Those mitigating measures include implementation of lease road speed limits to reduce wildlife mortality and dust emissions, monitoring of the quantity of produced fluids and monitoring of any domestic wells or springs within the one-mile statutory radius as needed to determine potential impairment from the project. Monitoring of reclamation and potential noxious weed invasion are also required and agreed to by the operator. It is assumed that other agencies permitting requirements, mitigation requirements or monitoring are authorized by those agencies jurisdictional authorities; where program elements and associated requirements overlap, the MBOGC relies upon its own authority for this decision. Some mitigation imposed by BLM is 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 resources 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 associated 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 by _____
Thomas P. Richmond
Administrator, Board of Oil and Gas Conservation

January 18, 2006