

Montana Board of Oil and Gas Conservation

Finding of No Significant Impact and Notice of Decision

Fidelity Exploration and Production Company
Tongue River-Badger Hills CBM Project (Amended)
Township 9 South, Ranges 40 and 41 East

Proposed Action

Fidelity Exploration and Production Company (Fidelity) proposes to drill, complete and produce 103 new wells (38 Fee, 29 State, 36 Federal) in this Plan of Development (POD) amendment of the existing Badger Hills POD for the CX Ranch CBM Field. The Badger Hills POD amendment was approved by the Board of Oil and Gas Conservation on June 15, 2006 by Order 237-2006. The Board accepted the plan of development and approved it relative to Fee and State wells and subject to environmental assessment in said Order. An additional environmental assessment will need to be performed by the U.S. Bureau of Land Management (BLM) for the wells on Federal lands. The amendment is to increase density to 2 wells per 160 acre spacing units in all sections of the POD except 26, 34, 35 and 36. For sections 26 and 35 an amendment from the original pattern of four (4) wells per coal bed for each section to eight (8) wells per coal bed per section and for sections 34 and 36 to allow up to three (3) wells per coal bed for each 160-acre governmental quarter section spacing unit was requested.. The project area covers approximately 6,765 acres, and proposes to drill and produce the wells drilled to the Dietz, Monarch, and Carney coal zones with additional exploration of the Smith and Wall coals and possibly other deeper coals (e.g., Carlson, King and Roberts).

Water produced by the Badger Hills 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 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 to be located 2.5 miles south-southeast of Decker in Bighorn County. The treatment facility project area lies on the east side of the Tongue River, in the Badger Creek drainage Township 9 South, Range 40 East, Sections 33 and 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 private, federal and State owned minerals. Surface is managed by private owners, BLM, and Trust Land Management Division of DNRC.

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 – Badger Hills Project, Plan of Development (Amended, 2006)*; approval of the drilling, completion, and production of an additional 38 wells located on fee minerals, 29 wells located on State minerals; installation of roads, pipelines and associated infrastructure needed to produce the wells; and the location construction and operation of three field compressor sites. 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 may be 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
Thomas P. Richmond
Administrator, Board of Oil and Gas Conservation

July 12, 2006