

CHAPTER 1

PURPOSE AND NEED FOR THE PROPOSED ACTION

1.0 INTRODUCTION

This Environmental Assessment (EA) has been prepared jointly between the Montana Department of Environmental Quality (MDEQ), Montana Board of Oil and Gas Conservation (MBOGC) and the Bureau of Land Management-Miles City Field Office (BLM). The site-specific analysis tiers off, and incorporates by reference the information and analyses contained in the *Montana Statewide Oil and Gas Final Environmental Impact Statement and Amendment of the Powder River and Billings RMPs* (MT FEIS) approved April 30, 2003, pursuant to 40 CFR 1508.28 and 1502.21. This project EA addresses site-specific resources and/or effects that are not covered in the MT FEIS.

Powder River Gas, LLC proposes the Coal Creek Project Plan of Development (POD) to drill and explore for coal bed natural gas (CBNG) in 8 federal and 8 private wells in an area northeast of the Tongue River Reservoir, Big Horn County of southeastern Montana, Sections 6 and 7, T. 8 S., R. 41 E., (Map 1.3-1 and Map 1.3-2). The surface for all of the proposed wells and associated infrastructure is privately owned. A more detailed description of the Plan of Development and Proposed Action are found in Chapter 2.

1.1 PURPOSE AND NEED

The purpose for the proposal is to test the CBNG potential on private and federal oil and gas mineral leases. The need is to define the economic boundaries of CBNG in this portion of the Powder River Basin.

1.2 CONFORMANCE WITH THE APPLICABLE LAND USE PLAN

The Proposed Action is considered under the requirements of the Mineral Leasing Act (MLA), the Federal Land Policy Management Act (FLPMA) and the BLM regulations at 43 CFR 3160 and other applicable laws and regulations.

As required by 43 CFR 1610.5, the Proposed Action is in conformance with the terms and the conditions of the BLM 1984 *Powder River Resource Management Plan* (RMP), as amended by the BLM 1994 Miles City District Oil and Gas EIS/Amendment and the *Montana Statewide Oil and Gas EIS/Amendment of the Powder River and Billings RMP's* (BLM, 2003).

1.2.1 Other Relevant Documents

- Montana Statewide Final Oil and Gas EIS/Amendment of the Powder River and Billings RMPs (MT FEIS), April, 2003. This EA is tiered to the MT FEIS.
- Final Environmental Impact Statement and Proposed Plan Amendment for the Powder River Basin Oil and Gas Project (WY FEIS), April, 2003.
- EAs prepared by DNRC for beneficial use of produced water at the Spring Creek and Decker Coal Mines, December, 2002 and June, 2003 respectively.

1.3 DECISIONS REQUIRED

1.3.1 Montana Department of Environmental Quality

Potential decisions to be made by the Air Resources Management Bureau of the MDEQ include making determinations as to whether a Montana Air Quality Permit would be required for the proposed activities. However, the Administrative Rules of Montana (ARM), Title 17, Chapter 8, Subchapter 7 – Permit, Construction and Operation of Air Contaminant Sources, specifically exempts certain activities from the requirement to obtain a Montana Air Quality Permit (MAQP). ARM 17.8.744(1)(b) exempts mobile emitting units, including motor vehicles, aircraft, and other such self-propelled vehicles from obtaining a MAQP. In addition, ARM 17.8.744(1)(i) exempts drilling rig stationary engines and turbines that do not have the potential to emit more than 100 tons per year of any regulated pollutant and that do not operate in any single location for more than 12 months from obtaining a MAQP.

The Air Resources Management Bureau of the MDEQ would also be responsible for making permit determinations regarding the emergency flares proposed to be used in situations where there is a safety concern. Further, any future development, such as the placement of compressor engines or turbines, would also require a permit determination from MDEQ. ARM 17.8.743 requires that a person may not construct, install, modify, or operate a new facility or emitting unit upon which construction was commenced, or that was installed after November 23, 1968, that is not specifically excluded under ARM 17.8.744, and that has the potential to emit more than 25 tons per year of any regulated airborne pollutant, other than lead, without first obtaining a MAQP.

The MDEQ administers various environmental statutes in the state of Montana, including the Water Quality Act (75-5-101 *et seq.*, MCA), Clean Air Act (75-2-101 *et seq.*, MCA), Hazardous Waste Act (75-10-401 *et seq.*, MCA), and Solid Waste Act (75-10-201 *et seq.*, MCA) and implementing regulation. In addition to these statutes, Department actions must also comply with the Montana Environmental Policy Act (MEPA) and the applicable implementing regulations.

The Department issues wastewater discharge permits under the MPDES permit program pursuant to the 75-5-402, MCA of the Montana Water Quality Act (WQA) and sections 402 and 303 of the federal CWA. Under the federal CWA the Department is delegated to issue storm water permits, permit federal facilities and issue general permits, as well, as individual permit to both public and private facilities. Pursuant to ARM 17.30.1372, the Department has issued a Public Notice (MT-040-05) stating that a draft permit (MT0030660) and fact sheet have been prepared and that a tentative decision has been made to issue to a wastewater discharge permit to Powder River Gas, LLC.

The Department is also responsible for issuing federal CWA Section 401 certification for activities that are licensed or permitted by a federal agency and may result in a discharge to state waters. The Department has adopted administrative rules for the issuance of CWA Section 401 certifications at Title 17, Chapter 30, Subchapter 1 Administrative Rules of Montana (ARM). Pursuant to ARM 17.30.105(2)(b), it is the Department's intent to waive certification for this project because any discharge to state waters from this project will require an MPDES permit (MT0030660 or MTG100000).

1.3.2 Montana Board of Oil and Gas Conservation

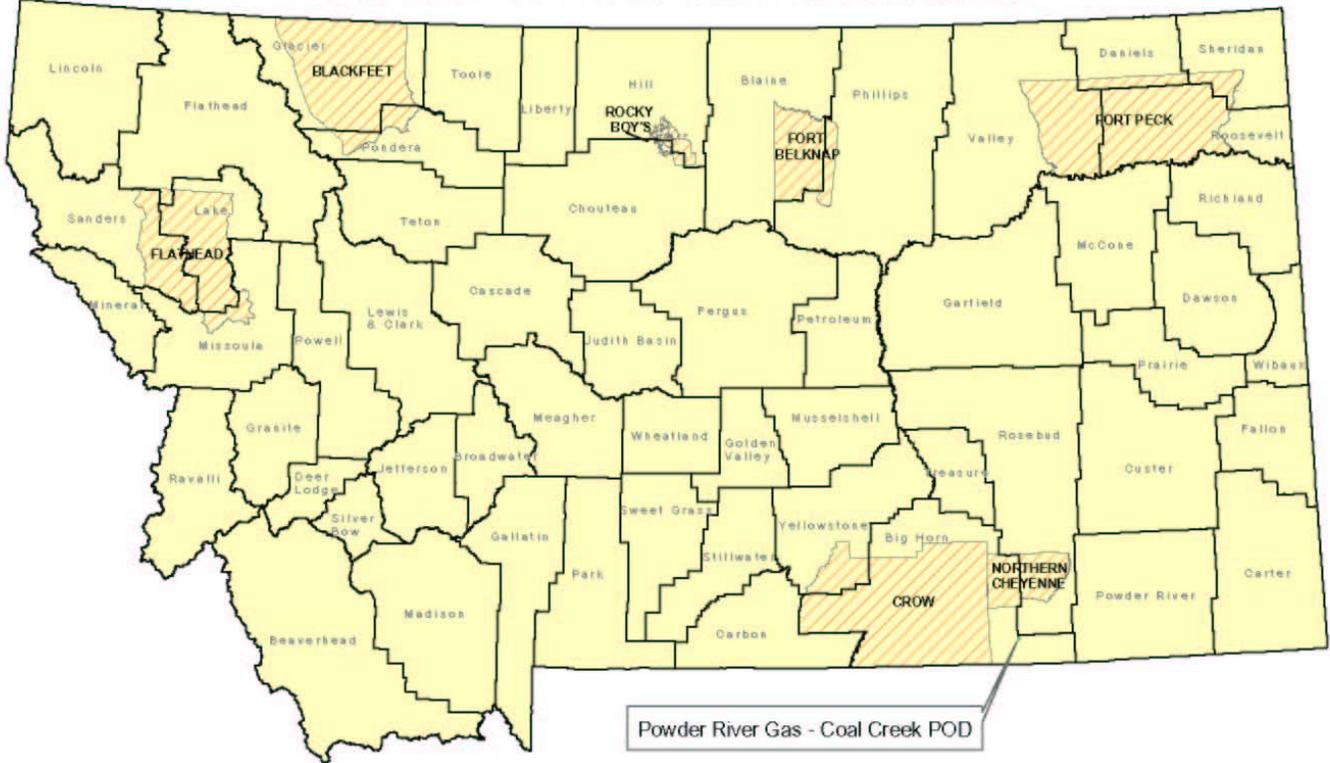
Decisions to be made by the Montana Board of Oil and Gas Conservation are whether to approve the Application(s) for Permit to Drill the fee wells of the Powder River Gas – Coal Creek POD. A hearing was conducted on October 2, 2003, concerning the spacing and location of these wells. The spacing and location was approved, thus the submittal of the APD's and the following analysis.

1.3.3 Bureau of Land Management

Decisions to be made by BLM include whether to approve the proposed action, approve individual components of the proposed action (as presented in Table 2.5-1), or modify the proposed action with mitigation measures and monitoring activities that may be necessary in addition to those proposed by the operator. It should be noted that no BLM decision is required in regard to well construction, completion or testing of any private wells, or their supporting infrastructure.

MAP 1.3-1

Powder River Gas - Coal Creek POD Vicinity Map



Legend

-  Native American Reservations
-  Powder River Gas - Coal Creek POD



1.4 ISSUE IDENTIFICATION

Relevant major issues were identified through technical staff review of the proposal, from issues already known based on the preparation of the MT EIS in 2003 and the Badger Hills POD EA in 2004, from landowner, agency and tribal consultation, and the onsite visits to the project area. The major relevant issues that have been identified as the focus of analysis in this environmental assessment include the following (arranged alphabetically, not in order of priority):

- Air quality effects from CBNG development activities (fugitive dust from construction activities, field operations and venting or flaring of the gas during testing) and compliance with all applicable ambient air quality rules and standards, including ambient air quality standards
- Cumulative Impacts (past, present and reasonably foreseeable actions) of CBNG exploration and development
- Effects to cultural resources
- Effects to soils from using reserve pits and other drilling and construction activities.
- Development of new two-track roads
- Drawdown of groundwater table and effects to springs and wells (pumping water out of coal seams)
- Habitat fragmentation and disturbance effects to wildlife habitat
- Reclamation of disturbed areas associated with construction activities
- Surface Water Quality (State & Northern Cheyenne standards)

1.5 FEDERAL, STATE AND LOCAL PERMITS OR REQUIRED CONSULTATION

Montana Air Quality Permits

This EA is being prepared in conjunction with the MDEQ, which has jurisdiction over sources of air pollution in the State of Montana. Therefore, the Air Resources Management Bureau must be consulted to make permit determinations regarding the use of air contaminant sources that would be used as part of the proposed CBNG exploration and development (drill rigs, emergency flares, etc.), as well as any future expansion of such development (installation of compressor engines/turbines).

Montana Pollutant Discharge Permit (MPDES permit)

This EA is being prepared in conjunction with the MDEQ, which has jurisdiction over surface water discharge permits in the State of Montana. As such the DRAFT MPDES Permit and the MDEQ's Statement of Basis are included in the PRG-Coal Creek-Hydrology Technical Report, Appendix C, for review. This EA addresses these permits as well as the issuance of federal and state APDs.

Federal 401 Certification

Pursuant to ARM 17.30.105, the Department may: deny certification, if the department finds that the activity will violate a state water quality standard; issue certification if the project complies with state water quality standards; certify with conditions; or waive certification if the proposed discharge will have minimal impact on states water or requires an MPDES discharge permit. Because the proposed activity requires MPDES discharge permits, it is the Department intent to waive certification for the proposed activity.

Storm Water Discharge Permit

The owner or operator of any activity, which disturbs greater than one acre of land and has the potential to discharge storm water runoff to state waters, including ephemeral drainages or intermittent tributaries, must submit a Notice of Intent under the Montana Pollutant Discharge Elimination System (MPDES) for coverage under the "*General Permit for Storm water Discharges Associated with Construction Activity*" ("General Permit" – MTG100000). The General Permit requires that the owner or operator develop a Storm Water Pollution Prevention Plan (SWPPP), including Best Management Practices, maintenance, self inspection and recording keeping procedures in order to prevent significant sediment from entering state waters and causing a violation any state water quality standard. The NOI is effective upon receipt by the Department provided that the NOI package is complete. The Department may deny coverage under the General Permit if the project does not comply with terms and condition of the permit or based on the criteria of ARM 17.30.1341(4). The operator may terminate coverage under the General Permit after the site has achieved 70 percent of the pre-disturbance vegetative coverage.

Surface Use Agreement/Water Well Agreement

The operator has certified that an agreement with the private surface owners has been reached or is undertaking mutual efforts to reach an agreement, in accordance with the requirements of Federal Oil and Gas Onshore Order No. 1. Further, the landowners within the project area are being offered a “Water Well Agreement”. BLM considers the APD’s complete since these requirements have been met. Powder River Gas, LLC. has provided certification of these agreements, dated August 15, 2003.

SHPO Consultation

BLM consulted with the Montana SHPO for the cultural resource inventories completed in 2003 for the proposed action. Consultation was conducted in September 2003 under the Case-by-Case Provision of the Montana State Protocol implementing BLM’s National Programmatic Agreement for Cultural Resources. However, due to minor proposed action modifications and Tribal concerns, SHPO is currently reviewing the cultural report for discrepancies.

The SHPO concurred in the September 2003 review, with BLM’s determination that there were no historic properties affected by the proposed undertaking being permitted as part of the Federal action. The SHPO note states “No properties listed on or eligible for NRHP appear likely to exist within project impact areas”.

Tribal Consultation

On June 28, 2004, the Northern Cheyenne tribal historic preservation officer was sent a request to comment letter concerning the Powder River Gas – Coal Creek POD. Included was the Class III Cultural Survey Report prepared by Western Land Services (Cooper and Drucker), 2003, for the POD. This letter was also sent as consultation to the Crow Cultural Commission, Fort Peck Tribes, Lower Brule Sioux Tribe, Rosebud Sioux Tribe, Pine Ridge Sioux, Cheyenne River Sioux, Eastern Shoshone Tribe, Standing Rock Sioux, Northern Arapahoe Tribe, Blackfeet Tribe, Ft. Belknap Community Council, Chippewa-Cree Tribe of the Rocky Boy’s Reservation, Montana Preservation Alliance, and National Trust for Historic Preservation.

In addition, BLM is currently contacting the Northern Cheyenne, Crow and Fort Peck, inviting them to conduct POD field visits with BLM personnel in an effort to identify tribal concerns.

FWS Consultation

Section 7 Consultation under the Endangered Species Act (50 CFR 402.14) with US Fish and Wildlife Service (FWS) is required with the proposed action. A Biological Assessment of impacts to Threatened/Endangered (T/E) species was provided to FWS by BLM (letter to FWS dated 11/02/03, BLM files). FWS provided BLM a Biological Opinion and Concurrence addressing the BLM Biological Assessment (letter dated 11/26/03) with recommendations for protection/mitigation to T/E species, which have been incorporated into the proposed action alternative.