

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
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Instruction Memorandum No. 2006-153

Expires: 09/30/2007

To: State Directors, Wyoming and Montana

From: Director

Subject: Policy and Guidance on Conflicts between Coalbed Natural Gas (CBNG) and Surface Coal Mine Development

**Program Area:** Coalbed natural gas development and surface coal mining Powder River Basin

**Purpose:** Provide direction concerning development conflicts between surface coal mining and CBNG operations on to clarify the actions the Bureau of Land Management (BLM) can and will take, if necessary.

**Policy/Action:** The BLM will seek to achieve the following goals in resolving development conflicts between CBNG and federal oil and gas leases. This policy supersedes all other directives on this subject.

- Optimize the recovery of both resources in an endeavor to secure the maximum return to the public in revenue.
- Prevent avoidable waste of the public's resources utilizing authority under existing statutes, regulations and LBA.
- Honor the rights of each lessee, subject to the terms of the lease and sound principles of resource conservation.
- Protect public health and safety, and mitigate environmental impacts.

It is the policy of the BLM to encourage oil and gas and coal companies to resolve conflicts between themselves and by facilitating agreements between the companies. The BLM will also exercise authority provided in the leases, applicable regulations, and statutes, to resolve conflicts between CBNG and coal development in the public's best interest.

**Conflict Resolution or Cooperative Development Agreements:** The policy set forth in this memorandum requires the Authorized Officer (AO) to review and/or approve conflict resolution or cooperative development agreements between coal and CBNG lessees or operators. The AO must advise, review and/or approve such an agreement only after reviewing all terms and conditions of the agreement to ensure it is consistent with this policy, applicable regulations, and statutes. The BLM's approval provides assurances to the parties that the agreement will not be delayed, disapproval of permits, or the issuance of operating orders inconsistent with actions required under the agreement.

**Conflict Administration Zone:** The BLM will establish a Conflict Administration Zone (CAZ) around each active coal mine that has a potential for conflict with CBNG development; in order to provide timely notice to the coal and CBNG lessees or operators and both oil and gas and coal lessees or operators as to the need for the prevention and resolution of such conflict.

- A. The BLM will establish an expected 10-year mine-out zone around each surface mine where CBNG development is occurring. This zone will be used to designate a CAZ.
- B. The BLM may include within a CAZ all or part of an approved LBA. The purpose is to anticipate and mitigate, to the extent possible, conflicts that may be leased.
- C. Each CAZ must be reviewed annually to adjust its boundary.

Once the CAZ is identified, the CBNG lessees or operators will be notified immediately that their oil and gas lease is within the CAZ. The lessee or operator will be notified of near-future mining activities, BLM's authority to require the proper and timely development of the lease, the prevention of waste and proper abandonment of wells, and the potential availability of incentives such as a royalty rate. Upon establishment of a CAZ around a coal mine, lease modification, or LBA tract, the BLM will review the status of a coal mine's development and take the following actions:

- A. For each oil and gas lease that is producing CBNG, the Authorized Officer (AO) will send a letter of notification to the lessee or operator within the CAZ.
- B. For leases that are not producing CBNG or for leases that are not being diligently developed for CBNG, the AO will require the lessee or operator to either immediately drill and produce all previously approved Applications For Permit to Drill (APDs), immediately produce the CBNG, or explain why the lessee or operator should not be required to produce the CBNG in such a manner that will maximize the removal of the coal. The letter of notification should also require the lessee or operator to provide in writing a response within the timeframe.
- C. Lessees or operators who reply that it is uneconomical to drill one or more CBNG wells on the lease and, therefore, will not produce CBNG, must supply satisfactory proof supporting their assertion to the AO. This proof must factor in a royalty rate and the value of the coal resources.
- D. Lessees or operators who do not respond within the requisite timeframe or cannot demonstrate that drilling CBNG wells, consistent with good economic operating practices, pursuant to 43 CFR 3162.2-1(b) and provisions of the lease, is in the public's best interest. Lessees or operators who fail to comply with the order to drill wells are subject to the full range of sanctions.

Prompt compliance will accelerate the recovery of the cost of drilling and operating a well and help to maximize the return. A CAZ will be given a high priority for processing. This will allow extraction of as much of the CBNG resource as possible. **Incentive to Accelerate Natural Gas Production:** To avoid the bypass of federal coal resources or to avoid waste, BLM may offer a royalty rate reduction to oil and gas lessees. This incentive is to encourage CBNG operators to drill within the time available to allow uninterrupted coal mining operations. This conflict policy does not apply to oil and gas wells in those coal seams being mined.

To qualify for a royalty rate reduction the oil and gas lessee must agree to expedite CBNG production in a manner that does not interfere with coal mining operations before required abandonment, and to cease operations and abandon wells and facilities at BLM's request prior to the abandonment of the wells. The BLM will notify the oil and gas operator at least 180 days prior to the date when the well should be abandoned. Pursuant to this policy will be in the interest of optimizing both the coal and CBNG recovery. Those oil and gas lessees who are affected are afforded the following:

- A. Any CBNG well located on a federal oil and gas lease and that is within a CAZ, including existing wells, will be eligible for a royalty rate reduction on CBNG production for the remaining life of the well. The BLM has determined that in absence of such a reduction, CBNG production within the CAZ is likely not to be produced and further that such reductions are necessary to maximize the return.
- B. To receive such a reduction the applicant must:
  1. Submit a plan acceptable to BLM for maximum efficient production of CBNG during the period preceding the commencement of coal mining operations; and
  2. Agree that, upon the order of the AO, it will cease operations to enable the commencement of coal mining operations, plug well bores, reclaim production pads, and remove production equipment as may be directed by the AO.

**Interim Abandonment/Reclamation:** Abandonment and reclamation of wells, production pads and related ancillary facilities will be coordinated with the coal lessee. In most cases, permanent reclamation of the well sites, access roads, pipeline rights-of-way, and other facilities will be stabilized sufficiently to prevent erosion or other negative environmental impacts.

**Existing Royalty Relief:** Nothing herein is intended to limit the availability of royalty reductions to either the oil and gas lessee or the coal lessee in circumstances that would qualify for such relief under existing regulations and guidance.

1. Coal Royalty Rate Reduction: Requests for royalty relief from coal lessees, as a result of costs associated with coal seam gas development conflicts, will be handled on a case-by-case basis consistent with current guidance addressing the impact of coal seam gas recovery/extension of mine life: financial test categories in BLM Manual 3485.
2. Oil and Gas Royalty Rate Reduction: Regulations and guidance for royalty relief for oil and gas under existing regulations and 43 CFR 3103.4-1.

**Background:** As development of CBNG accelerates inherent conflicts with nearby surface coal mining will continue to exist. The oil and gas leases were issued first with a reservation of the right to the government "to dispose of any resource on the land that may interfere with operations under this lease." In such cases, the coal leases were issued subject to the condition that coal mining operations under a preexisting oil and gas lease. The BLM issued an Instruction Memorandum (IM) 2000-081, February 2000, regarding this issue, however, concerns with potential and actual conflicts continue. It is important that all lessees and operators understand and exercise and enforce these authorities, up to and including lease cancellation, should lease terms and regulations not be consistent with the overriding goal of conserving the resource and maximizing the return to the public in both revenue and energy production while mitigating environmental impacts. This policy may be considered for other coal basins in the future. Conflicts will be considered in the future.

**Timeframe:** This Instruction Memorandum is effective immediately.

**Budget Impact:** Some redirection of BLM field office personnel may be required which might impact existing workloads.

**Manual/Handbook Sections Affected:** None.

**Coordination:** This was coordinated with the Wyoming and Montana BLM State Offices: the BLM Washington Offices and the Department of the Interior Office of the Solicitor.

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