

PECOS DISTRICT CONDITIONS OF APPROVAL

OPERATOR'S NAME:	BTA OIL PRODUCERS, LLC
LEASE NO.:	NM100335
WELL NAME & NO.:	OGDEN #1H
SURFACE HOLE FOOTAGE:	1980' FNL & 1830' FEL, SEC 29
BOTTOM HOLE FOOTAGE:	2310' FNL & 1650' FEL, SEC 32
LOCATION:	Sections 29 & 32, T. 23 S., R 28 E., NMPM
COUNTY:	Eddy County, New Mexico

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Standard Conditions of Approval (COA) apply to this APD. If any deviations to these standards exist or special COAs are required, the section with the deviation or requirement will be checked below.

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I. GENERAL PROVISIONS

The approval of the Application For Permit To Drill (APD) is in compliance with all applicable laws and regulations: 43 Code of Federal Regulations 3160, the lease terms, Onshore Oil and Gas Orders, Notices To Lessees, New Mexico Oil Conservation Division (NMOCD) Rules, National Historical Preservation Act As Amended, and instructions and orders of the Authorized Officer. Any request for a variance shall be submitted to the Authorized Officer on Form 3160-5, Sundry Notices and Report on Wells.

II. PERMIT EXPIRATION

If the permit terminates prior to drilling and drilling cannot be commenced within 60 days after expiration, an operator is required to submit Form 3160-5, Sundry Notices and Reports on Wells, requesting surface reclamation requirements for any surface disturbance. However, if the operator will be able to initiate drilling within 60 days after the expiration of the permit, the operator must have set the conductor pipe in order to allow for an extension of 60 days beyond the expiration date of the APD. (Filing of a Sundry Notice is required for this 60 day extension.)

III. ARCHAEOLOGICAL, PALEONTOLOGY & HISTORICAL SITES

Any cultural and/or paleontological resource discovered by the operator or by any person working on the operator's behalf shall immediately report such findings to the Authorized Officer. The operator is fully accountable for the actions of their contractors and subcontractors. The operator shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery shall be made by the Authorized Officer to determine the appropriate actions that shall be required to prevent the loss of significant cultural or scientific values of the discovery. The operator shall be held responsible for the cost of the proper mitigation measures that the Authorized Officer assesses after consultation with the operator on the evaluation and decisions of the discovery. Any unauthorized collection or disturbance of cultural or paleontological resources may result in a shutdown order by the Authorized Officer.

IV. NOXIOUS WEEDS

The operator shall be held responsible if noxious weeds become established within the areas of operations. Weed control shall be required on the disturbed land where noxious weeds exist, which includes the roads, pads, associated pipeline corridor, and adjacent land affected by the establishment of weeds due to this action. The operator shall consult with the Authorized Officer for acceptable weed control methods, which include following EPA and BLM requirements and policies.

V. SPECIAL REQUIREMENT(S)

Communitization Agreement

A Communitization Agreement covering the acreage dedicated to this well must be filed for approval with the BLM. The effective date of the agreement shall be prior to any sales. Operator to supply NMOCD order or description of pool which details the vertical and horizontal extent of pool to verify that requested communitization is within an approved and established pool.

Cave/Karst Subsurface Mitigation

The following stipulations will be applied to protect cave/karst and ground water concerns:

Rotary Drilling with Fresh Water:

Fresh water will be used as a circulating medium in zones where caves or karst features are expected. SEE ALSO: Drilling COAs for this well.

Directional Drilling:

Kick off for directional drilling will occur at least 100 feet below the bottom of the cave occurrence zone. SEE ALSO: Drilling COAs for this well.

Lost Circulation:

ALL lost circulation zones from the surface to the base of the cave occurrence zone will be logged and reported in the drilling report.

Regardless of the type of drilling machinery used, if a void of four feet or more and circulation losses greater than 70 percent occur simultaneously while drilling in any cave-bearing zone, the BLM will be notified immediately by the operator. The BLM will assess the situation and work with the operator on corrective actions to resolve the problem.

Abandonment Cementing:

Upon well abandonment in high cave karst areas additional plugging conditions of approval may be required. The BLM will assess the situation and work with the operator to ensure proper plugging of the wellbore.

Pressure Testing:

Annual pressure monitoring will be performed by the operator on all casing annuli and reported in a sundry notice. If the test results indicated a casing failure has occurred, remedial action will be undertaken to correct the problem to the BLM's approval.

VI. CONSTRUCTION

A. NOTIFICATION

The BLM shall administer compliance and monitor construction of the access road and well pad. Notify the Carlsbad Field Office at (575) 234-5972 at least 3 working days prior to commencing construction of the access road and/or well pad.

When construction operations are being conducted on this well, the operator shall have the approved APD and Conditions of Approval (COA) on the well site and they shall be made available upon request by the Authorized Officer.

B. TOPSOIL

The operator shall stockpile the topsoil of the well pad. The topsoil to be stripped is approximately 6 inches in depth. The topsoil shall not be used to backfill the reserve pit and will be used for interim and final reclamation.

C. Closed Loop System

Although this is a closed loop system and no reserve pits will be utilized and this is a re completion into an already existing well bore on private land, there will be no new disturbance. The v-door will be on the east side of the location.

Tanks are required for drilling operations: No Pits.

The operator shall properly dispose of drilling contents at an authorized disposal site.

D. FEDERAL MINERAL MATERIALS PIT

If the operator elects to surface the access road and/or well pad, mineral materials extracted during construction of the reserve pit may be used for surfacing the well pad and access road and other facilities on the lease.

Payment shall be made to the BLM prior to removal of any additional federal mineral materials from any site other than the reserve pit. Call the Carlsbad Field Office at (575) 234-5972.

E. WELL PAD SURFACING

Surfacing of the well pad is not required.

If the operator elects to surface the well pad, the surfacing material may be required to be removed at the time of reclamation.

The well pad shall be constructed in a manner which creates the smallest possible surface disturbance, consistent with safety and operational needs.

F. ON LEASE ACCESS ROADS

Road Width

The access road shall have a driving surface that creates the smallest possible surface disturbance and does not exceed fourteen (14) feet in width. The maximum width of surface disturbance, when constructing the access road, shall not exceed thirty (30) feet.

Surfacing

Surfacing material is not required on the new access road driving surface. If the operator elects to surface the new access road or pad, the surfacing material may be required to be removed at the time of reclamation.

Where possible, no improvements should be made on the unsurfaced access road other than to remove vegetation as necessary, road irregularities, safety issues, or to fill low areas that may sustain standing water.

The Authorized Officer reserves the right to require surfacing of any portion of the access road at any time deemed necessary. Surfacing may be required in the event the road deteriorates, erodes, road traffic increases, or it is determined to be beneficial for future field development. The surfacing depth and type of material will be determined at the time of notification.

Crowning

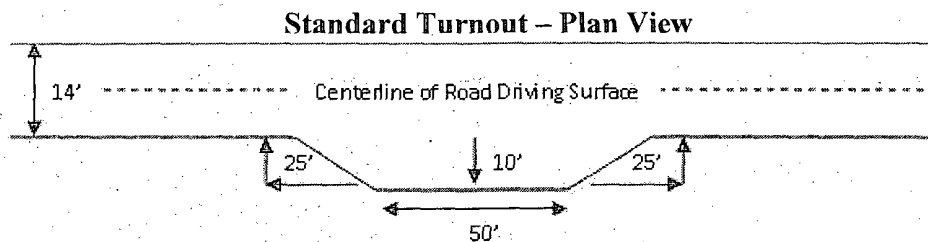
Crowning shall be done on the access road driving surface. The road crown shall have a grade of approximately 2% (i.e., a 1" crown on a 14' wide road). The road shall conform to Figure 1; cross section and plans for typical road construction.

Ditching

Ditching shall be required on both sides of the road.

Turnouts

Vehicle turnouts shall be constructed on the road. Turnouts shall be intervisible with interval spacing distance less than 1000 feet. Turnouts shall be constructed on all blind curves. Turnouts shall conform to the following diagram:

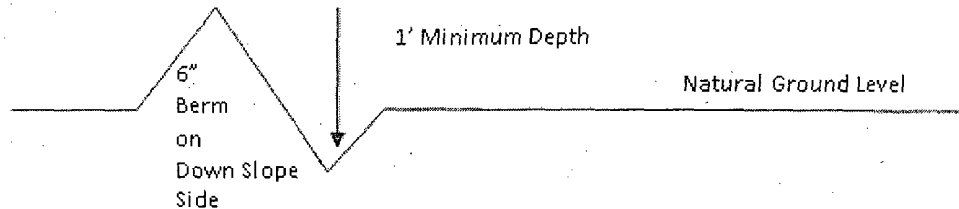


Drainage

Drainage control systems shall be constructed on the entire length of road (e.g. ditches, sidehill outslowing and insloping, lead-off ditches, culvert installation, and low water crossings).

A typical lead-off ditch has a minimum depth of 1 foot below and a berm of 6 inches above natural ground level. The berm shall be on the down-slope side of the lead-off ditch.

Cross Section Of Typical Lead-off Ditch



All lead-off ditches shall be graded to drain water with a 1 percent minimum to 3 percent maximum ditch slope. The spacing interval are variable for lead-off ditches and shall be determined according to the formula for spacing intervals of lead-off ditches, but may be amended depending upon existing soil types and centerline road slope (in %);

Formula for Spacing Interval of Lead-off Ditches

Example - On a 4% road slope that is 400 feet long, the water flow shall drain water into a lead-off ditch. Spacing interval shall be determined by the following formula:

$$400 \text{ foot road with } 4\% \text{ road slope: } 400/4\% + 100' = 200' \text{ lead-off ditch interval}$$

Culvert Installations

Appropriately sized culvert(s) shall be installed at the deep waterway channel flow crossing.

Cattleguards

An appropriately sized cattleguard(s) sufficient to carry out the project shall be installed and maintained at fence crossing(s).

Any existing cattleguard(s) on the access road shall be repaired or replaced if they are damaged or have deteriorated beyond practical use. The operator shall be responsible for the condition of the existing cattleguard(s) that are in place and are utilized during lease operations.

A gate shall be constructed and fastened securely to H-braces.

Fence Requirement

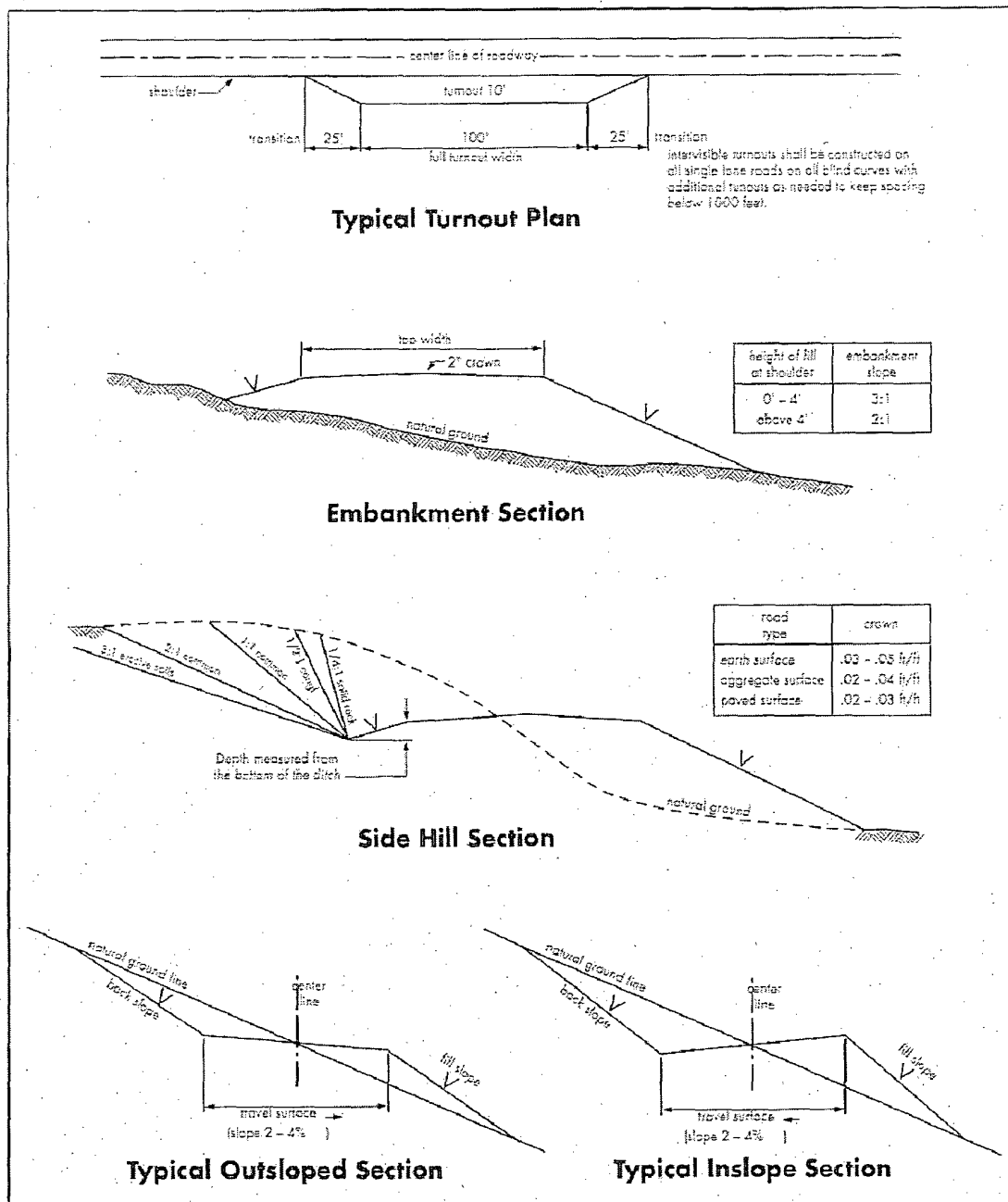
Where entry is required across a fence line, the fence shall be braced and tied off on both sides of the passageway prior to cutting.

The operator shall notify the private surface landowner or the grazing allotment holder prior to crossing any fence(s).

Public Access

Public access on this road shall not be restricted by the operator without specific written approval granted by the Authorized Officer.

Figure 1 – Cross Sections and Plans For Typical Road Sections



VII. DRILLING – RE-ENTRY & ADDITION OF HORIZONTAL LEG

A. DRILLING OPERATIONS REQUIREMENTS

The BLM is to be notified a minimum of 4 hours in advance for a representative to witness:

- a. BOPE test
- b. CIT test
- c. Tag plug

☒ **Eddy County**

Call the Carlsbad Field Office, 620 East Greene St., Carlsbad, NM 88220,
(575) 361-2822

1. **Although Hydrogen Sulfide has not been reported in this section, it is always a potential hazard. If Hydrogen Sulfide is encountered, please report measured amounts and formations to the BLM.**

B. CASING – Re-entry

Changes to the approved APD casing and cement program require submitting a sundry and receiving approval prior to work. Failure to obtain approval prior to work will result in an Incident of Non-Compliance being issued.

Wait on cement (WOC) time for a primary cement job will be a minimum 18 hours for a water basin, 24 hours in the potash area, or 500 pounds compressive strength, whichever is greater for all casing strings. Provide compressive strengths including hours to reach required 500 pounds compressive strength prior to cementing each casing string. See individual casing strings for details regarding lead cement slurry requirements.

Medium cave/karst

The plug at +/- 8660 feet must be tagged and a CIBP is to be set at +/- 8490 feet and place cement on top – 35' if bailed, 25 sx if pumped. A CIT is to be performed on the 7-5/8" casing per Onshore Oil and Gas Order 2.III.B.1.h after setting the CIBP at +/- 6650 feet. A whipstock is to be set on the CIBP and a window will be milled to drill the lateral portion and run the 5-1/2" x 4-1/2" production casing string.

1. **The 16" surface casing is set at 405 feet with cement circulated to surface.**
2. **The 10-3/4" 1st intermediate casing is set at 2490 feet with cement circulated to surface.**

3. The 7-5/8" 2nd intermediate casing is set at 9595 feet with TOC at 5710 feet. A CBL shall be run from 6000 feet to surface by the operator to verify TOC. This will also add to information that will be required when the well is plugged. BLM is to review the CBL prior to setting new production casing.
4. The minimum required fill of cement behind the 5-1/2 x 4-1/2 inch production casing is:
 - ☒ Cement should tie-back at least 490 feet into the 10-3/4" 1st intermediate casing string. Operator shall provide method of verification.

C. PRESSURE CONTROL

1. All blowout preventer (BOP) and related equipment (BOPE) shall comply with well control requirements as described in Onshore Oil and Gas Order No. 2 and API RP 53 Sec. 17.
2. Minimum working pressure of the blowout preventer (BOP) and related equipment (BOPE) required for drilling the lateral leg shall be **3000 (3M)** psi.
3. The appropriate BLM office shall be notified a minimum of 4 hours in advance for a representative to witness the tests.
 - a. The tests shall be done by an independent service company.
 - b. The results of the test shall be reported to the appropriate BLM office.
 - c. All tests are required to be recorded on a calibrated test chart. A copy of the BOP/BOPE test chart and a copy of independent service company test will be submitted to the appropriate BLM office.
 - d. The BOP/BOPE test shall include a low pressure test from 250 to 300 psi. The test will be held for a minimum of 10 minutes if test is done with a test plug and 30 minutes without a test plug.

D. DRILL STEM TEST

If drill stem tests are performed, Onshore Order 2.III.D shall be followed.

RGH 071709

VIII. PRODUCTION (POST DRILLING)

A. WELL STRUCTURES & FACILITIES

Placement of Production Facilities

Production facilities should be placed on the well pad to allow for maximum interim recontouring and revegetation of the well location.

Containment Structures

The containment structure shall be constructed to hold the capacity of the entire contents of the largest tank, plus 24 hour production, unless more stringent protective requirements are deemed necessary by the Authorized Officer.

Painting Requirement

All above-ground structures including meter housing that are not subject to safety requirements shall be painted a flat non-reflective paint color
Shale Green, Munsell Soil Color Chart # 5Y 4/2

IX. INTERIM RECLAMATION & RESEEDING PROCEDURE

A. INTERIM RECLAMATION

If the well is a producer, interim reclamation shall be conducted on the well site in accordance with the orders of the Authorized Officer. The operator shall submit a Sundry Notices and Reports on Wells (Notice of Intent), Form 3160-5, prior to conducting interim reclamation.

During the life of the development, all disturbed areas not needed for active support of production operations should undergo interim reclamation in order to minimize the environmental impacts of development on other resources and uses.

Operators should work with BLM surface management specialists to devise the best strategies to reduce the size of the location. Any reductions should allow for remedial well operations, as well as safe and efficient removal of oil and gas.

During reclamation, the removal of caliche is important to increasing the success of revegetating the site. Removed caliche may be used for road repairs, fire walls or for building other roads and locations. In order to operate the well or complete workover operations, it may be necessary to drive, park and operate on restored interim vegetation within the previously disturbed area. Disturbing revegetated areas for production or workover operations will be allowed. If there is significant disturbance and loss of vegetation, the area will need to be revegetated. Communicate with the appropriate BLM office for any exceptions/exemptions if needed.

B. RESEEDING PROCEDURE

Once the well has been drilled, all completion procedures are accomplished, and all trash removed, reseed the location and all surrounding disturbed areas as follows:

Due to this location being in the middle of a alfalfa hay field and on private surface, there will be no seed mix added. However, all equipment will be removed from the location, a flush mounted dry hole marker will be installed and reclamation will be to the discretion of the private landowner.

X. FINAL ABANDONMENT & REHABILITATION REQUIREMENTS

Upon abandonment of the well and/or when the access road is no longer in service the Authorized Officer shall issue instructions and/or orders for surface reclamation and restoration of all disturbed areas.

On private surface/federal mineral estate land the reclamation procedures on the road and well pad shall be accomplished in accordance with the private surface land owner agreement.

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

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UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington, D. C. 20240
<http://www.blm.gov>

February 20, 2009

In Reply Refer To:
3160 (310) P

EMS TRANSMISSION 02/25/2009
Instruction Memorandum No. 2009-078
Expires: 09/30/2010

To: All Field Officials
From: Assistant Director, Minerals and Realty Management
Subject: Processing Oil and Gas Applications for Permit to Drill for Directional Drilling into Federal Mineral Estate from Multiple-Well Pads on Non-Federal Surface and Mineral Estate Locations

Program Areas: Oil and Gas Exploration and Operations.

Purpose: This Instruction Memorandum (IM) establishes policy and procedures for processing Federal Applications for Permit to Drill (APD) for directional drilling into Federal mineral estate from multiple-well pads on non-Federal locations.

Policy/Action: The following policy and procedures shall apply to the three situations (Attachment 1) described below for processing APDs for directionally or horizontally drilled well bores that extend into Federal mineral estate from multiple-well pads that are located entirely on non-Federal surface not subject to Federal mineral estate ownership. In each situation, at least one of the wells drilled from the same pad is intended to access oil or gas outside of the Federal mineral estate.

This policy does not apply to the management of split estate (Non-Federal Surface/Federal Minerals). Policy directives regarding management of split-estate lands do not apply to the situations discussed in this IM.

For the purpose of this IM, the term "Federal" includes Indian trust surface or minerals, and "non-Federal" does not include Indian trust surface or minerals. "Multiple-well pad" refers to well pads with at least two wells.

For All Three Situations Under This Instruction Memorandum:

Unlike the surface owner in the case of split estate, the non-Federal surface owner over private minerals is not under an obligation to allow access to its surface for the production of Federal minerals. Under the three situations described below, the BLM does not have an obligation to ensure that disturbances of the surface are reasonable and necessary. For purposes of Federal environmental law, when private and Federal wells are to be drilled on the same pad on non-Federal land, drilling the Federal well and producing from the Federal well is a Federal action; however, construction, operation, and reclamation of the infrastructure on non-Federal land, in this situation, is not a Federal action. The obligation for protecting the surface, environment, and the interests of the surface owner in these cases remains with the surface owner, the lessee/operator, and the state. However, the BLM may have a responsibility to consider the direct, indirect, and cumulative effects of construction and operation of the infrastructure. The circumstances that determine these analytical responsibilities are the subject of this IM.

The Bureau of Land Management (BLM) field office will require, at a minimum, the submission of an APD form, drilling plan, well plat, operator certification, and evidence of bond coverage. No other APD submission provisions of Onshore Order No. 1 or corresponding portions of 43 CFR 3162.3-1(c) will apply. (For example, there is no requirement for a bond to protect surface owner interests for operations on non-Federal surface/non-Federal mineral lands.) The APD will be posted for all three situations.

The Mineral Leasing Act does not require a Surface Use Plan of Operations or an onsite predrill inspection for wells drilled under situations 1, 2, and 3 described below. However, the BLM may require a pre-drilling onsite inspection and additional information similar to portions of a Surface Use Plan of Operations in order to complete its responsibilities under the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA).

Compliance with Section 7 of the ESA will be required if the BLM determines that the Federal action "may affect" listed species or adversely modify critical habitat (for example, the noise from drilling the Federal well might interfere with nesting of a listed species). A conference under the ESA will be required if the BLM determines that the Federal action "may affect, likely to adversely affect" a proposed species or adversely modify proposed critical habitat. Further guidance on ESA section 7 compliance is provided in BLM Manual 6840. This manual also provides guidance for treatment of federally designated candidate species and BLM-sensitive species.

The approval of an APD is a Federal undertaking under Section 106 of the NHPA, even when the resulting impacts are on non-Federal land. Actions that intentionally, significantly, and adversely affect a historic property with the intent to avoid the requirements of NHPA Section 106 are in violation of NHPA Section 110(k) and require the field office to deny the APD. Further guidance is provided in BLM manual 8140.

Regarding inspection and enforcement and disposition of Federal production, the BLM retains full authority and responsibility for inspections, such as measurement and handling of production from a communitization agreement or for health and safety inspections. Inspection and enforcement is limited to the Federal portion of the action and would not apply to drilling non-Federal wells or handling and storage of non-Federal production off lease. The BLM's inspection and enforcement authority and responsibility would include compliance with any mitigation or other conditions established for approval of the APD as a result of the NHPA and ESA consultation process.

As a condition of approval of an APD in any of the three situations discussed in this IM, the operator must provide the BLM a true and complete copy of a document in which the owner of the surface or that owner's representative authorizes the operator to drill a Federal well from the non-Federal lands, and in which the surface owner or representative guarantees the Department of the Interior (Department), including BLM, access to the non-Federal lands to perform all necessary surveys and inspections. If access for any bureau of the Department to the operations and surrounding area for official business related to the approved operations is denied or impeded in any way, the BLM may order the federally approved operations halted and the Federal well or wells shut in.

The BLM may require and inspect for proper plugging and abandonment of a well into the Federal mineral estate to prevent the Federal minerals from migrating through the abandoned well or to prevent materials from migrating into or otherwise endangering the Federal land or resources. Interim reclamation, abandonment, and plugging beyond that required to protect the Federal land would be subject to state or local regulation and to any private contract of the operator with the surface owner or state law applicable to private surface estates.

The BLM does not have authority to issue an Incident of Noncompliance for cultural or environmental resource damage occurring on non-Federal lands prior to

approval of a Federal APD but may, of course, penalize a party who drills or otherwise conducts activities on Federal lands without approval.

To determine how to comply with Federal laws such as the NEPA, NHPA, and ESA, the field office shall first determine which one of the following three situations apply:

Situation 1: Pre-existing Surface Well Pad and Access Road:

The following procedure will apply when the operator submits an APD for drilling a new Federal well bore or horizontal leg into Federal minerals from an existing multiple-well pad constructed entirely on non-Federal surface and minerals, where no additional surface disturbance is planned, and state and/or private wells have already been permitted by the state for that well pad.

- The BLM's approval of drilling the well or wells into the Federal minerals is the Federal action that requires NEPA, NHPA, and ESA compliance, not the already existing well pad, access road, pipeline, power line, etc.
- Cultural, non-special status species, or other related surveys are typically not required unless the act of drilling, completing, and/or operating the Federal well(s) has the potential to have an impact on the protected resource.
- A NEPA analysis may be categorically excluded using the statutory Categorical Exclusion (CX) No. 2 *Drilling an oil or gas location or well pad at a site at which drilling has occurred within five (5) years prior to the date of spudding the well*, from Section 390 of the Energy Policy Act of 2005. If the action does not qualify for CX No. 2 due to the 5-year limitation, and if no other categorical exclusion applies, an environmental assessment (EA) or other NEPA document will ordinarily be required. The NEPA analysis may be limited to a discussion of environmental effects of the downhole operations to be approved, such as protection of aquifers and other subsurface resources; the potential for petroleum migration; and the effects related to drilling and operating the well, such as the effect of noise generated by the Federal well drilling. The NEPA analysis is not required to consider a range of alternatives in siting surface facilities because the actual location (and, therefore, more specific, site-determined effects), is not based on the Federal wells. This rationale must be explained in the environmental document. The analysis of the cumulative effects on the resources affected by the action (approving the APD) must include the environmental effects of the existing well pad (including operations related to non-Federal drilling in the vicinity), access roads, pipelines, or other infrastructure, as appropriate.
- Mitigation measures identified by the BLM will be limited to addressing the effects of the downhole operations and of drilling, completing, and operating the Federal well(s).
- In Situation 1, if field office personnel discover an existing or under construction pad or access road, the field office will not cite operators with an Incident of Noncompliance for initiating pad and road construction without approval of an APD. The field office will, however, cite an operator with an Incident of Noncompliance if Federal wells are drilled prior to APD approval (43 CFR 3162.3-1).

Situation 2: Proposed Surface Well Pad Where Surface Location is Not Determined by Access to the Federal Oil and Gas:

The following procedure will apply when the operator submits an APD for drilling a new Federal well bore or horizontal leg into Federal minerals from a proposed multiple-well pad to be constructed entirely on non-Federal surface and minerals and the location of the pad is not based on the downhole location of the Federal wells.

Situation 2 may apply if, for example:

- It is apparent that the well pad will be constructed close to the center of the private or state minerals reached by the multiple-wells on the pad. The pad will not be placed closer to the boundary of the Federal minerals to shorten the drilling distance to the Federal minerals.
- The well pad is selected to achieve the most efficient development of the targeted reservoir in accordance with applicable spacing unit(s).
- The operator has not stated that the well location was selected to improve access to the Federal minerals.

In Situation 2, the field manager will apply the same process as described under Situation 1, except as follows:

Drilling on a proposed private well pad is not covered by Section 390 CX No. 2. If another CX is not applicable, an EA or other NEPA documentation will be required. The NEPA analysis will be limited to a discussion of the environmental effects of the downhole operations to be approved, such as protection of aquifers and other subsurface resources; the potential for petroleum migration; and effects related to drilling and operation of the Federal well or wells, such as the effect of noise or air emissions generated by drilling and operating those wells. The NEPA analysis will consider the effects of the siting and construction of the private well pad and infrastructure, drilling and operation of the private wells, and other activities related to the private well pad as those are connected actions under NEPA. The NEPA document will include an explanation of why it contains only a general description of the effects of those actions (i.e., that while siting and construction of the private well pad and infrastructure is necessary for drilling the Federal well, the decision of where and how to construct and operate the well pad and infrastructure is beyond the BLM's control). The cumulative impacts analysis for the proposed action will also include analysis of the effects of those connected actions.

Situation 3: Proposed Surface Well Pad Where Surface Location is Determined by Downhole Location of Proposed Federal Wells:

The following procedure will apply when the operator submits an APD for drilling a new Federal well bore or horizontal leg into Federal minerals from a proposed multiple-well pad to be constructed entirely on non-Federal surface and minerals and the location of the pad is based on the downhole location of the Federal wells.

Situation 3 may apply if, for example:

- The Federal lease contains a No Surface Occupancy lease stipulation for the adjoining BLM land.
- It is apparent that the well pad will be constructed close to the boundary of the Federal minerals to shorten the drilling distance to the Federal minerals.
- The operator has stated that the well location was selected to improve access to the Federal minerals.

If the field manager concludes that the location of the proposed well pad is based on the proposed downhole location of the proposed Federal wells,^[1] the following requirements will apply:

- The NEPA, ESA, and NHPA analyses must consider the direct, indirect, and cumulative effects of siting and construction of the well pad and adjacent access road, utilities, pipelines, and other related activities, such as drilling, operation, and plugging of the wells, as well as reclamation of the site. Unlike in situations 1 and 2, above, in this situation the location of the well pad is an indirect effect of the approval of the Federal APD.
- For NEPA compliance, while all of the effects in the preceding bullet must be considered, the only adjacent infrastructure to be fully analyzed are those facilities that differ in type, size, or location from those that would have been constructed to service a well pad in a location that a reasonable operator would have chosen to reach only non-Federal minerals because the effects of the infrastructure are only analyzed as an indirect effect of the Federal wells. Note that the NEPA does not give the BLM substantive authority, and the BLM lacks authority under the Federal Land Policy and Management Act and the Mineral Leasing Act to require mitigation of surface impacts on non-Federal land or to enforce agreements between the surface owner and the operator. An operator could, however, voluntarily commit to undertake mitigation of impacts on non-Federal lands, in which case BLM could inspect for compliance with the terms of the approved permit. Mitigation required in state or local permits would be considered an obligation of the operator enforceable by the government involved.
- For the NHPA analysis, the field manager would apply the rule of reason principles described in BLM Manual 8140.06D to determine the scope of the BLM's responsibility for inventory, evaluation, and protection. If there might be an effect on a listed or eligible property, the field manager must comply with the consultation requirements of Section 106 of the NHPA, including resolution of adverse effects through mitigation, as appropriate.
- For the ESA analysis, the field manager will determine whether additional information is required, such as a wildlife survey, or whether the ESA analysis can proceed with the existing information. If approving the Federal APD may affect a listed species or critical habitat, the field manager will comply with the ESA section 7 regulations and may address any adverse effects through avoidance or minimization procedures, such as seasonal restrictions on drilling activity. (See BLM Manual section 6840).

Timeframe: Implement immediately.

Background: Application of directional/horizontal drilling technology is increasing. The BLM strongly supports this environmental Best Management Practice as a means of providing substantial reductions in surface disturbance and overall impacts from oil and gas development.

These policy clarifications do not reflect a change in overall policy but are designed to eliminate unnecessary permitting and review requirements and inconsistencies where the BLM has a limited authority. These clarifications also reduce the cumulative environmental impacts within oil or gas fields by encouraging the use of multi-well pads and directional and horizontal drilling.

Budget Impact: This IM may result in minor cost savings when processing APDs for drilling into Federal minerals from non-Federal surface and non-Federal minerals.

Manual/Handbook Sections Affected: None. The BLM shall continue to follow existing policy on compliance with NEPA, NHPA, and ESA, including the 8100 manual series, H-8120-1 General Procedural Guidance for Native American Consultation, and H-1790-1 National Environmental Policy Act.

Coordination: This IM was coordinated with the Department of the Interior; Office of the Solicitor; BLM State Offices; and the BLM Washington Office Divisions of Fluid Minerals; Fish, Wildlife, and Plant Conservation; **Decision Support, Planning and NEPA**; and Cultural, Paleontological Resources, and Tribal Consultation.

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Signed by:
Bob Anderson
Acting, Assistant Director
Minerals and Realty Management

Authenticated by:
Robert M. Williams
Division of IRM Governance, WO-560

1 Attachment
1 - Drilling Situations (3 pp)

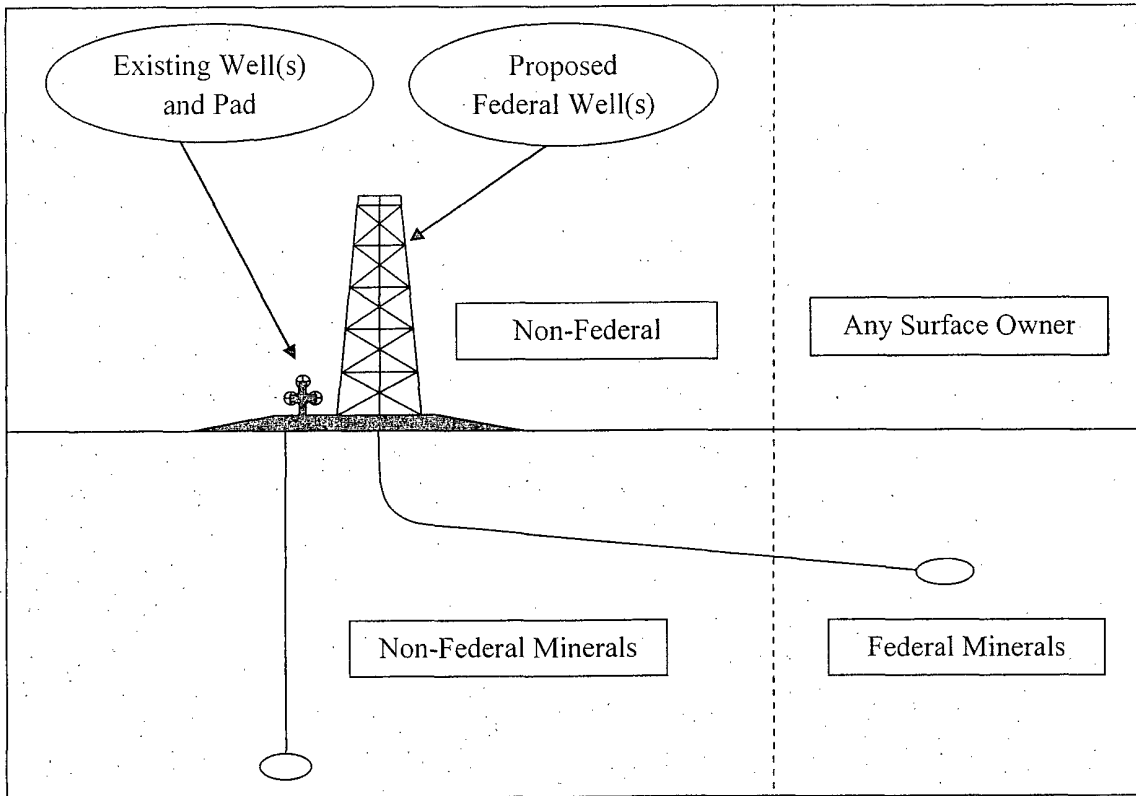
[1] The analysis in situation 3 would apply in large part to a single-well pad on non-Federal surface/non-Federal minerals proposed to drill into Federal minerals, or to a multiple-well pad from which all wells were to drill into Federal minerals. The difference would be that the effects of approving the APD would not be measured against those of a hypothetical non-Federal well pad and infrastructure.

Last updated: 02-25-2009

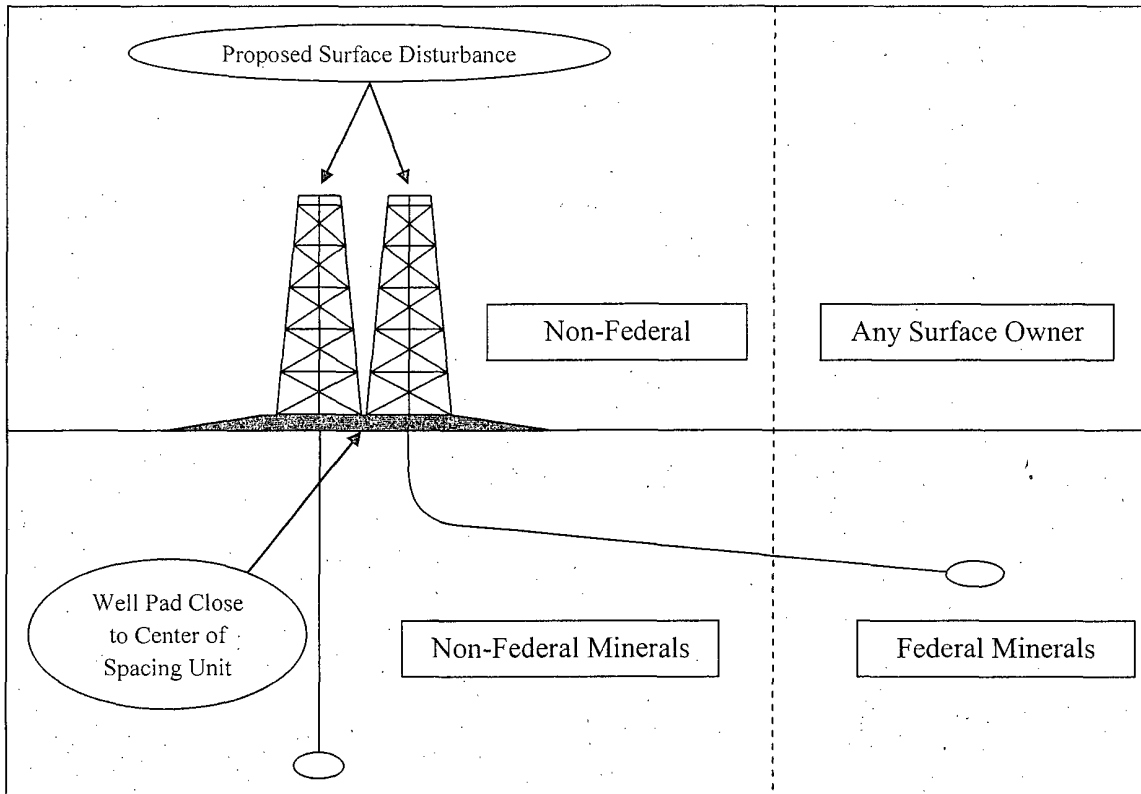
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Drilling Situations 1 – 3

Situation 1: Pre-existing Surface Well Pad and Access Road



**Situation 2: Proposed Surface Well Pad Where Surface Location is Not Determined by
Access to the Federal Oil and Gas**



**Situation 3: Proposed Surface Well Pad Where Surface Location is Determined by
Downhole Location of Proposed Federal Wells**

