

October 28, 2008

Moxa Arch Drilling Project Comments  
Attn: Michele Easley  
Bureau of Land Management  
Kemmerer Field Office  
312 Highway 189 North  
Kemmerer, Wyoming 83101

**Re: Supplemental Air Quality Comments on the Moxa Arch Area Infill Gas Development Project Draft Environmental Impact Statement**

Dear Ms. Easley:

Please accept these comments on behalf of the Wyoming Outdoor Council with respect to the above-referenced draft environmental impact statement (hereinafter “Moxa Arch DEIS”). These comments supplement our prior comments with respect to air quality issues and mitigation.

We urge the Bureau of Land Management (BLM) to fully consider and adopt as mitigation the provisions the BLM has just adopted for the Pinedale Anticline Project for application to the Moxa Arch Area Infill Project as well. The BLM published the Record of Decision [ROD] Final Supplemental Environmental Impact Statement for the Pinedale Anticline Oil and Gas Exploration and Development Project on September 12, 2008. The Pinedale Anticline ROD makes a number of provisions for air quality impact mitigation that we feel are related to and applicable to the air quality impacts and issues implicated by the Moxa Arch Area Infill Project, and thus those same mitigation measures should be adopted in the ROD for the Moxa Arch Area Infill project. Among other things, the Pinedale Anticline ROD provides for date-certain achievement of zero days of visibility impairment in Class I areas and a provision that BLM will “implement emission control strategies and/or operating limitations necessary to ensure compliance with the applicable ambient air quality standards for ozone.” A requirement for operators to install a liquids gathering system is provided, which will greatly reduce air pollution. Since the Moxa Arch Area Infill Project is essentially part of the same airshed as the Pinedale Anticline project and since many of the same air quality impacts and concerns are present, it is appropriate that similar decisions relative to air quality impact mitigation be put in place.

In addition, we would note that on July 21, 2008 the Wyoming Department of Environmental Quality (DEQ) adopted an interim policy for regulating precursors of ozone formation that establishes an offsets policy relative to volatile organic compounds and nitrogen oxides in Sublette County. That policy is enclosed. We ask the BLM to fully consider this policy, including seeking to extend this decision by DEQ to the Moxa Arch Area Infill Project as a provision in the Moxa Arch Area Infill ROD. The DEQ is also moving to extend its Oil and Gas Chapter 6, Section 2 Permitting Guidance provisions that are currently applicable to the Pinedale Anticline and Jonah fields to include other “concentrated development areas.” These expanded requirements will surely include the Moxa Arch field. Consequently we ask the BLM to seek to advance adoption of these expanded requirements as a specific component of the ROD for the Moxa Arch field. Drafts of this expanded guidance are anticipated by December, 2008.

As things stand at this point, the Moxa Arch Area Infill Project cannot be approved as envisioned in the Moxa Arch DEIS given the EPA’s adoption of the new ozone 8-hour National Ambient Air Quality Standard (NAAQS) of 75 parts per billion (ppb) on March 27, 2008. 73 Fed. Reg. 16,436 (March 27, 2008). The Moxa Arch DEIS is clear, the current background level of ozone in this area already is essentially at the level of the new NAAQS, 74.9 ppb. See Moxa Arch DEIS at 3-6 (Table 3-3) (147  $\mu\text{g}/\text{m}^3$  converts to 74.9 ppb). Thus, essentially no increase in ozone precursors can be permitted or the ozone NAAQS will likely be violated. Moreover, the Moxa Arch DEIS predicted that ozone levels would reach 76.6 to 83.8 ppb if the project were implemented as contemplated. Moxa Arch DEIS at 4-12 (Table 4-1) (showing predicted ozone levels will exceed the new NAAQS). Thus, the BLM is on record that implementing the Moxa Arch Area Infill Project as initially contemplated will violate the law, and actual monitored ozone levels show the new NAAQS is virtually violated already.

BLM cannot permit this. BLM’s regulations provide that “[e]ach land use authorization shall contain terms and conditions which shall . . . [r]equire compliance with air and water quality standards established pursuant to applicable Federal or State law.” 43 C.F.R. § 2920.7(b)(3). See also 43 U.S.C. § 1712(c)(8) (BLM land use plans shall “provide for compliance with applicable pollution control laws”). Thus, the BLM must modify the means that will be used to implement the Moxa Arch Area Infill Project from those discussed in the Moxa Arch DEIS in a way that ensures these violations of the law do not occur. It could do this by adopting the provisions discussed above and by adopting many of the provisions we urged in our initial comments submitted on the Moxa Arch DEIS on January 4, 2008.

Thank you for considering these comments and we look forward to remaining involved in the development of the Moxa Arch Area Infill Project.

Sincerely,

Bruce Pendery