

DECISION RECORD
Categorical Exclusion 3 (CX3), WY-070-390CX3-13-129, WY-070-390CX3-13-130,
WY-070-390CX3-13-131, WY-070-390CX3-13-132, WY-070-390CX3-13-133
& WY-070-390CX3-13-134
Section 390, Energy Policy Act of 2005
Ballard Petroleum Holdings, LLC, Davis Plan of Development (POD)
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. The BLM approves the proposal from Ballard Petroleum Holdings, LLC, for the drilling of 4 conventional and 2 horizontal oil and gas wells and infrastructure. See Table 1.1 for list of wells.

Compliance. This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701), Interior Order 3310.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- Energy Policy Act of 2005 (119 Stat. 748 Public Law 109-58)
- Endangered Species Act of 1974 (16 USC 1531).
- Buffalo and Powder River Basin (PRB) Final Environmental Impact Statement (FEISs), 1985, 2003.
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 2011.

A summary of the details of the approval follows. The CX3 worksheet, Categorical Exclusion 3 (CX3), includes the project description, including site-specific mitigation measures. Mitigation measures will include the conditions of approval (COAs) in Appendix A of the CX worksheet.

Table 1.1 The BLM approves the following applications for permit to drill (APDs):

#	Well Name	Well #	Qtr	Sec	Twp	Rng	Bottomhole Lease
1	Davis Federal	12-14	SWNW	14	47N	73W	WYW107781
2	Davis Federal	21-14	NENW	14	47N	73W	WYW178257
3	Davis Federal	12-21PH	SWNW	21	47N	73W	WYW178103
4	Davis Federal	43-22	NESE	22	47N	73W	WYW143541
5	Rohde Federal	21-6	NENW	6	47N	73W	WYW178102
6	Geis Federal	14-30PH	SWSW	30	48N	73W	WYW178258

THE FINDING OF NO SIGNIFICANT IMPACT (FONSI). The US Congress, Department of Interior, and BLM affirmed there was no significant impact of a like-structured project when they created this CX3 and its limiting parameters so there is no requirement for a FONSI, EIS, or EA.

DECISION RATIONALE. The approval of this project is because:

1. The project will not adversely affect public safety and does not involve any unique or unknown risks.
2. The project will not result in a violation of any federal or known state or local law, statute or ordinance, or other requirement imposed for the protection of the environment. The approved project conditioned by its design features and COAs, will not result in any undue or unnecessary environmental degradation. The PRB FEIS analyzed and predicted that the PRB oil and gas development would have significant impacts to the region’s Greater Sage-Grouse (GSG) population. The impact of this development cumulatively contributes to the potential for local extirpation yet its effect is acceptable because it is outside priority habitats and is within the parameters of the PRB FEIS/ROD and current BLM and Wyoming GSG conservation strategies. There are no conflicts anticipated or demonstrated with current uses in the area. This decision approving the WY-070-390CX3-13-129, WY-070-390CX3-13-130, WY-070-390CX3-13-131, WY-070-390CX3-13-132,

WY-070-390CX3-13-133 and WY-070-390CX3-13-134 complies with the Energy Policy Act of 2005, Section 390, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215.

3. Approval of this project conforms to the terms and the conditions of the 1985 Buffalo RMP (BLM 1985) and subsequent update (BLM 2001) and amendments (BLM 2003, 2011). This project complies with the breadth and constraints of CX3, Energy Policy Act of 2005, and subsequent policy.
4. The selected alternative will help meet the nation's energy needs, revenues, and stimulate local economies by maintaining workforces.
5. The project is clearly lacking in wilderness characteristics because it is amidst gas development.
6. This decision does not foreclose the lessee or operator to propose a new or supplementary plan for developing the federal oil and gas lease(s) in this project area, including submission of additional APDs to drain minerals in accord with lease rights and law.

ADMINISTRATIVE APPEAL. This decision is subject to administrative appeal in accord with 43 CFR 3165. Request for administrative appeal must include information required under 43 CFR 3165.3(b) (State Director Review), including all supporting documentation. Such a request must be filed in writing with the State Director, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003, no later than 20 business days after this Decision Record is received or considered to have been received. Any party who is adversely affected by the State Director's decision may appeal that decision to the Interior Board of Land Appeals, as provided in 43 CFR 3165.4.

Field Manager:  Date: 7/2/13

**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-129, WY-070-390CX3-13-130,
WY-070-390CX3-13-131, WY-070-390CX3-13-132, WY-070-390CX3-13-133
& WY-070-390CX3-13-134
Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde
Federal 21-6 & Geis Federal 14-30PH
Ballard Petroleum Holdings, LLC, Section 390, Energy Policy Act of 2005
Bureau of Land Management, Buffalo Field Office, Wyoming**

Description of the Proposal

Ballard Petroleum Holdings, LLC proposes to drill 6 oil and gas wells on 6 well pads and construct associated infrastructure as follows:

Table 1.1. Proposed Wells

#	Well Name/ Well #	QTR	Sec	TWP	RNG	Surface Lease	CX Number
1	Davis Federal 12-14	SWNW	14	47N	73W	WYW107781	WY-070-390CX3-13-129
2	Davis Federal 21-14	NENW	14	47N	73W	WYW178257	WY-070-390CX3-13-131
3	Davis Federal 12-21PH	SWNW	21	47N	73W	WYW178103	WY-070-390CX3-13-130
4	Davis Federal 43-22	NESE	22	47N	73W	WYW143541	WY-070-390CX3-13-132
5	Rohde Federal 21-6	NENW	6	47N	73W	WYW178102	WY-070-390CX3-13-134
6	Geis Federal 14-30PH	SWSW	30	48N	73W	WYW178258	WY-070-390CX3-13-133

Ballard requests approval of 6 applications for permit to drill (APDs) for Davis Federal 12-14-4773, Davis Federal 21-14-4773, Davis Federal 12-21PH-4773, Davis Federal 43-22-4773, Rohde Federal 21-6-4773 and Geis Federal 14-30PH-4873 which are 4 vertical and 2 horizontal wells drilled to the Parkman formation at a total depth of 6500, 6450, 6504, 6700, 7000 and 6601 feet respectively. The proposal is to explore by drilling for, and possibly develop, oil and gas reserves in mineral formations leased by Ballard using standard split jurisdiction rules. The proposed location is 17 miles southwest of Gillette, Wyoming, in Campbell County in T47N R73W and in T48N R73W. All 6 proposed wells will be on separate well pads. The need for this project is to determine how and under what conditions to support the Buffalo Resource Management Plan (RMP) and balance natural resource conservation with allowing the operator to exercise conditional lease rights to develop fluid minerals by drilling 2 horizontal wells, Davis Federal 12-21PH-4773 and Geis Federal 14-30PH-4873 and 4 vertical wells, Davis Federal 12-14-4773, Davis Federal 21-14-4773, Davis Federal 43-22-4773, Rohde Federal 21-6-4773, with surface hole locations on federal leases WYW107781, WYW178257, WYW178103, WYW143541, WYW178102 and WYW178258 as described in their APDs, surface use , and drilling plans, incorporated here by reference. The fluid mineral leasing programs fall under the authority of the Mineral Leasing Act of 1920, the Federal Land Policy Management Act (FLPMA), and other laws and regulations.

Reasonably foreseeable development is found in the Gaither Draw Unit Environmental Assessment (EA) (WY-070-EA11-256, 2011). This locality includes but is not limited to the approved Gaither Draw Unit wells and will fill-in to 40 acre spacing for the vertical wells and 640 acre spacing for the horizontal wells with one of the vertical wells at 41 acres. This supports the development anticipated in the PRB FEIS, (see narrative in Section 2, No Action Alternative). The surface owners are Mr. Walt Stone, Mr. Tom Davis and Mr. Gerry Geis.

The project area is in the Powder River Basin (PRB) geographic area (Wyoming Geographic Landforms Map). Topography is moderately to gently sloped terrain along ephemeral dendritic drainages. Elevations

at the wells are 4742, 4751, 4830, 4880, 4850, and 4896 feet above sea level. The landform is a combination of bedrock residuum and slope wash deposits. The Powder River is 32 miles to the west.

Ballard submitted the notices of staking (NOS) for these wells between October 24, and November 2, 2011 to the BLM. After onsite visits on February 24, April 03, and June 27, 2012, Ballard converted the NOSs to APDs that BLM received between June 1, and August 13, 2012. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to Ballard on September 5, 2012. On September 20, 2012 revised APDs were received for adjustments made at the on-sites and to correct various deficiencies.

Drilling, Construction & Production design features include:

- Construction of 3 drilling pads with dimensions of approximately 240 feet by 315 feet, 2 drilling pads with dimensions of approximately 330 feet by 400 feet and 1 drilling pad with dimensions of approximately 195 feet by 240 feet plus cut & fill, accounting for 23.30 acres of disturbance.
- Once drilling has begun, the operator anticipates drilling times of 10 - 12 days for the 4 vertical wells and 22 days for the 2 horizontal wells. The completion process for the horizontal wells will take an additional 45 days.
- Completion for the horizontal wells will include a staged fracture stimulation that may take up to 6 days to accomplish. The stimulation may require over 27,000 barrels of water and 1,800 tons of hydraulic fracturing sand. Water will be contained in 20 portable tanks on location, delivered to the site with an additional 10 truck trips per day and 15 trips for the hydraulic fracturing sand for the duration of the completion phase.
- Completion for the vertical wells will include a stimulation of smaller magnitude, requiring 1,500 barrels of water, a similarly reduced amount of sand and shorter duration for the procedure.
- Water for completion will be obtained from a permitted commercial water supply company or from the City of Wright.
- Flow back fluids after stimulation will be transported to a licensed disposal facility.
- After drilling and completion, the well pad areas will be reduced for the production phase by reclamation of disturbed areas created during construction not needed during the production phase.
- A road network consisting of existing improved roads and new construction of 3.75 miles of crown and ditch template road as access to the well pads. Approximately 1.75 miles of existing improved access used for coalbed natural gas (CBNG) and oil field traffic will be upgraded to BLM Gold Book standards. Upgrades by widening road to 16 feet (1mi.) and 14 feet (0.75mi.) running surface will be made to improve overall safety and match operator's anticipated use for larger trucks and increased traffic, accounting for 3.15 acres of disturbance. Estimated average daily traffic (ADT) on existing and improved roads during production activities is six trucks per day per well. During construction and drilling phases, truck traffic will include rig and ancillary equipment mobilization, drilling water and completion water hauling, and delivery of large production facility equipment such as 500 bbl tanks, etc.
- The operator will maintain shared roads with other oil and gas operators to ensure safe, all-weather passage. The operator commits to communicating with current road users to ensure maintenance and construction issues are timely addressed.
- Buried electrical cable from the meter drop to the pumping unit, accounting for 0.12 acres disturbance.
- There is existing 3-phase overhead power in the project area.
- The operator proposes to drill wells using water-based mud (WBM).
- If determined to be economically viable, the well would be put into production. Production facilities that would be placed on the site include a pumping unit, anchors, a 2-phase vertical separator; vertical heater-treater, (4 400-bbl production tanks and a combustor. The operator has voluntarily committed to adding "bird cones" on all appropriate equipment per BLM request as a design feature intended to avoid bird/bat mortality.

- All production facilities and buildings on these sites will be painted Covert Green within 6 months of completion.
- All 6 well pad locations will be fenced during drilling and completion operations so as to effectively keep out wildlife, livestock, unauthorized personnel, and unauthorized vehicle access.
- If a well is not found to be economically viable, all areas disturbed during construction would be reclaimed to approximate pre-disturbance condition, and the well bore would be plugged per State of Wyoming and BLM policy and regulations.
- Short term construction surface disturbance for this action is 23.45 acres, which is reduced to 17.45 acres of long term disturbance during the production phase.

For a detailed description of design features and construction practices associated with the proposed project, refer to the surface use plans (SUP) and drilling plans included with the APDs. Also see the subject APDs for maps showing the proposed well location and associated facilities described above. Total surface disturbance for the proposed action is 23.45 acres, reduced to 17.45 acres of long term disturbance after interim reclamation of the well site –within the analysis parameters of the PRB FEIS.

Table 1.2. Davis Federal 12-21PH & Geis Federal 14-30PH Surface Disturbance

Facility	Construction Disturbance (Short Term)	Interim Disturbance (Long Term)
Number of Horizontal Wells	2	2
Engineered Pads	2 (6.06 acres)	2 (4.06 acres)
New Template Roads	0.45mi (0.88 acres)	0.45 (0.88 acres)
Spot Upgrade to Existing Roads	0.75mi (1.45 acres)	0.75mi (1.45 acres)
Power Drops	2 (0.04 acres)	2 (0.04 acres)
Overhead Power	Existing	Existing
Total Acre Disturbance	8.43 Acres	6.43 Acres

Table 1.3. Davis Federal 21-14, Davis Federal 43-22, & Rohde Federal 21-6 Surface Disturbance

Facility	Construction Disturbance (Short Term)	Interim Disturbance (Long Term)
Number of Vertical Wells	3	3
Engineered Pads (co-located)	3 (5.21 acres)	3 (2.21 acres)
New Template Roads	2.8mi (5.43 acres)	2.8mi (5.43 acres)
Spot Upgrade to Existing Roads	1.0mi (1.70 acres)	1.0mi (1.70 acres)
Power Drops	3 (0.06 acres)	3 (0.06 acres)
Overhead Power	Existing	Existing
Total Acre Disturbance	12.40 Acres	9.40 Acres

Table 1.4. Davis Federal 12-14 Surface Disturbance

Facility	Construction Disturbance (Short Term)	Interim Disturbance (Long Term)
Number of Vertical Wells	1	1
Engineered Pads (co-located)	1 (1.63 acres)	1 (0.63 acres)
New Template Roads	0.5mi (0.97 acres)	0.5mi (0.97 acres)
Spot Upgrade to Existing Roads	0mi (0.00 acres)	0mi (0.00 acres)
Power Drops	1 (0.02 acres)	1 (0.02 acres)
Overhead Power	Existing	Existing
Total Acre Disturbance	2.62 Acres	1.62 Acres

BLM incorporated and analyzed the implementation of committed mitigation measures in the SUP and drilling plan, in addition to the COAs in the PRB FEIS ROD, as well as changes made at the onsite.

Plan Conformance, Compliance, and Justification with the Energy Policy Act of 2005

The Energy Policy Act of 2005, Section 390(a) subjects oil or gas exploration or development to a rebuttable presumption that the use of a categorical exclusion under the National Environmental Policy Act (NEPA) applies. Thus BLM must use an Energy Policy Act, Section 390(b), CX unless BLM rebuts the presumption. This CX worksheet is NEPA compliance categorically excluded from an EA or EIS or their analysis; it is not an exclusion from all analysis. (40 CFR 1508.4 and BLM H-1790, p. 17.) The proposed action conforms with the terms and conditions of the Approved Resource Management Plan (RMP) for the public lands administered by the BLM, BFO, 1985, the PRB FEIS, January 2003, and the Record of Decision (ROD) and Resource Management Amendments for the Powder River Oil and Gas Project, Amendments of 2001, 2011 as required by 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215. The Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 and Geis Federal 14-30PH APDs and area are clearly lacking in wilderness characteristics as they are amidst extensive natural gas development. BLM finds that the conditions and environmental effects found in the senior EA and PRB FEIS remain valid.

The applicable categorical exclusion from the Energy Policy Act of 2005, Section 390, is exclusion number (b)(3) which is *drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.*

BLM has 3 requirements to use a Section 390 CX3, (BLM H-1790, Appendix 2, #3, p. 143):

- 1) The proposed APD is in a developed oil or gas field (any field with a completed confirmation well).

Table 1.5 is a list of existing/approved Oil & Gas development that is within or adjacent to the Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 & Geis Federal 14-30PH project area. This information shows the reader that BLM conducted analysis.

Table 1.5. Adjacent or Overlapping Oil & Gas Well NEPA Analyses by Decision Date

NEPA Document Name	NEPA Document or #	# Wells	Decision Date
North Tree Phase 1	WY-070-EA13-77	18 Oil	3/26/2013
Sahara POD	WY-070-EA13-72	21 Oil	3/5/2013
Bolt Multi-well Pad Project	WY-070-EA13-16	18 Oil	3/13/2013
Bonita Federal Com 11H	WY-070-390CX3-13-41	4 Oil	1/31/2013
Federal W-67912 15-15(aka USA 15-15)	WY-3109/82-439-P	1 Oil	03/03/1982
Gaither Draw Unit	WY-070-EA11-256	35 Oil	09/07/2011
Powder River Basin FEIS	FEIS (WY-070-02-065) & Record of Decision		04/30/2003

The area had historic conventional oil and gas exploration and production, and recent CBNG development. The project area is adjacent to or inside the boundaries of 6 oil PODs that include 97 wells (see Table 1.5.). There are 415 oil and gas wells within a 1 mile radius of the area for this proposal (WOGCC as of June 21, 2013).

- 2) There is an existing NEPA document (and the RMP) containing reasonably foreseeable development scenario for this action. There are several existing NEPA documents that reasonably foresaw

development to spud additional wells to fill in 80 acre well-spacing. BLM reviewed these documents and determined they considered the potential environmental effects associated with the proposed activity at a site specific level. In addition, all approved EAs tier into the PRB FEIS (2003). The PRB EIS analyzed foreseeable development in the PRB. The PRB foreseeable development included 3,200 oil wells and drilling CBNG wells on 80 acre-spacing resulting in about 51,000 CBNG wells and 3,200 oil wells. The Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 and Geis Federal 14-30PH wells are in the foreseeable development scenario of 80 acre well-spacing that was analyzed in EAs in Table 1.5 and in the PRB FEIS's Appendix A.

Table 1.6. EAs Which Account for Reasonably Foreseeable Development Scenario

#	POD Name	Environmental Assessment #	Approved Wells	Decision Date
1	Gaither Draw Unit	WY-070-EA11-256	35 Oil	09/07/2011

- 3) The tiered NEPA document was finalized or supplemented within 5 years of spudding (drilling) the proposed well.

The Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 and Geis Federal 14-30PH CX3 tiers to the approved EAs listed in Tables 1.5, 1.6, 1.7.

Table 1.7. NEPA Document Finalized Within Anticipated Spud Date of Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 & Geis Federal 14-30PH

#	POD Name	Environmental Assessment #	Approved Wells	Decision Date
1	Gaither Draw Unit	WY-070-EA11-256	35 Oil	09/07/2011

In summary, the EAs in Tables 1.5, 1.6 and 1.7 analyzed in detail the anticipated direct, indirect, residual, and cumulative effects that would result from the approval of these APDs and associated support structure in The Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 and Geis Federal 14-30PH wells are similar to both the qualitative and quantitative analysis in the above mentioned EAs. The BFO reviewed the EA and found that the EA considered potential environmental effects associated with the proposal at a site specific level. The APD's surface use and drilling plans are incorporated here by reference and show adequate protection of surface lands and ground water, including the Fox Hills formation.

Plan of Operations

The proposal conforms to all Bureau standards and incorporates appropriate best management practices, required and designed mitigation measures determined to reduce the effects on the environment. BLM reviewed and approved a surface use plan of operations describing all proposed surface-disturbing activities pursuant to Section 17 of the Mineral Leasing Act, as amended. This CX3 worksheet also incorporates and analyzes the implementation of committed mitigation measures contained in the SUP, drilling plan, in addition to the Standard COAs found in the PRB FEIS ROD, Appendix A.

Wildlife

Western Land Services (WLS) provided a habitat assessment and wildlife inventory surveys for mountain plover, sharp-tailed grouse, Greater Sage-Grouse (GSG), raptor nests, and prairie dog colonies in 2012 (WLS 2012). WLS searched for potential Ute ladies'-tresses orchid habitat (WLS 2012). WLS conducted all surveys according to the PRB Interagency Working Group's protocols, available at: http://www.blm.gov/wy/st/en/field_offices/Buffalo/wildlife.html. BLM reviewed the proposals and determined that the proposed APDs, combined with the COAs (and design features), is: (1) consistent

with the FEIS and its supplements, the RMP and the above tiered EAs; and (2) consistent with the programmatic biological opinion (ES-6-WY-02-F006), from the PRB FEIS, Appendix K. The biologist performed onsite inspections to the project area on February 24, April 03, and June 27, 2012. The affected environment and environmental consequences for wildlife are discussed in, and anticipated to be similar to, the documents listed in Table 1.5 above. Additional information is discussed below.

Raptors

Effects to raptors from surface disturbing and disruptive activities associated with development of horizontal oil wells were analyzed in the Sahara POD EA, WY-070-EA13-72, 2013, Section 4.6.2.1, pp. 28-31, incorporated here by reference. Activities associated with development of the 6 wells listed in Table 1.1 are anticipated to be similar in nature, with the following additional site-specific information.

Davis Federal 12-14

One raptor nest (#10866) is located within 0.5 mile and out of line of sight from the well. To reduce the risk of decreased productivity or nest failure, the BLM BFO applies a 0.5-mile radius timing limitation for surface disturbance during the breeding season around active raptor nests. The visual buffer between the nests and the well pad should mitigate impacts from daily activities at the well once it is in production

Davis Federal 21-14

One raptor nest (#10866) is located within 0.5 mile and out of line of sight from the well. To reduce the risk of decreased productivity or nest failure, the BLM BFO applies a 0.5-mile radius timing limitation for surface disturbance during the breeding season around active raptor nests. The visual buffer between the nests and the well pad should mitigate impacts from daily activities at the well once it is in production.

Davis Federal 12-21PH

No known raptor nests occur within 0.5 mile of the well.

Davis Federal 43-22

No known raptor nests occur within 0.5 mile of the well.

Rohde Federal 21-6

No known raptor nests occur within 0.5 mile of the well.

Geis Federal 14-30PH

No known raptor nests occur within 0.5 mile of the well.

The cumulative effects associated with the project are within the analysis parameters and impacts described in the PRB FEIS. Refer to the PRB FEIS for details on expected cumulative impacts, p. 4-221.

Greater Sage-Grouse (GSG)

Effects to GSG from surface disturbing and disruptive activities associated with development of horizontal oil wells were analyzed in the Sahara POD EA, WY-070-EA13-72, 2013, Section 4.6.4.1, pp. 34-37, incorporated here by reference. Activities associated with development of the six wells listed in Table 1.1 are anticipated to be similar in nature, with the following additional site-specific information.

Davis Federal 12-14

No GSG leks occur within 2 miles of the well.

Davis Federal 21-14

No GSG leks occur within 2 miles of the well.

Davis Federal 12-21PH

No GSG leks occur within 2 miles of the well.

Davis Federal 43-22

No GSG leks occur within 2 miles of the well.

Rohde Federal 21-6

The well and proposed access road occurs within suitable nesting habitat for GSG. Although construction of the well pad will result in minimal removal of sagebrush, rolling topography with moderately dense sagebrush stands surround the area. The well is proposed approximately 0.7 miles from the 38-Mankin Lek. Construction, drilling, and hydraulic fracturing activities are anticipated to negatively impact GSG nesting in suitable habitat in the project area. To decrease the likelihood that GSG will avoid the project area, and increase habitat quality by reducing noise and human activities during the breeding season, the BLM recommends a 2 mile timing limitation during the breeding season (March 15-June 30).

Geis Federal 14-30PH

The well and proposed access road occurs within suitable nesting habitat for GSG. Although construction of the well pad will result in minimal removal of sagebrush, rolling topography with moderately dense sagebrush stands surround the area. The well is proposed approximately 0.5 miles from the 38-Caballo West Lek. Construction, drilling, and hydraulic fracturing activities are anticipated to negatively impact GSG nesting in suitable habitat in the project area. To decrease the likelihood that GSG will avoid the project area, and increase habitat quality by reducing noise and human activities during the breeding season, the BLM recommends a 2 mile timing limitation during the breeding season (March 15-June 30).

Migratory Birds

All 6 proposed well pads are within migratory bird habitat. Nesting season for Brewer's sparrows (a BLM SSS) typically occurs mid-May to mid-July. Some young fledge in late July. Sage thrashers (BLM sensitive species) may lay a second clutch of eggs as late as mid-July. Lark sparrows in northern latitudes lay eggs from early May to mid-July (information on breeding habits available on the Birds of North America Online website: <http://bna.birds.cornell.edu/bna>). GSG timing limitations on surface disturbing activities will mitigate impacts to nesting migratory birds from March 15 to June 30. However, several species of birds, listed above, are likely to still have eggs or nestlings into July. BLM biologists have observed active Brewer's sparrow nests containing eggs during the last week of June. Only a percentage of known nests are active any given year, so the protections for migratory birds from June 30 to July 31 will depend on how many raptor and mountain plover nests are active. The least restrictive measures (in this case only applying GSG timing limitations) are inadequate to protect all nesting migratory birds that may inhabit the project area.

To reduce the likelihood of a "take" under the MBTA, the BLM biologist recommends that pad construction (vegetation removal) occur outside of the breeding season for the greatest quantity of BLM sensitive passerines (May 1- July 31) where suitable nesting habitat for sagebrush obligates is present. This restriction would apply to habitat removal, unless a pre-construction nest search (within approximately 10 days of construction planned May 1-July 31) is completed. If surveys will be conducted, the operator will coordinate with BLM biologists to determine protocol. The nest search will consist of in areas where vegetation will be removed or destroyed. The BLM recommends all six well pads and associated infrastructure have timing limitations applied for well pad construction during the nesting season for sagebrush obligate passerines (May 1 to July 31).

Effects to migratory birds from surface disturbing and disruptive activities associated with development of 6 proposed wells listed in Table 1.1 are similar to the wells previously analyzed in the CX3, Covering Bonita Federal Com. 11H-WY-070-390CX3-13-41, Lone Moose Federal Com. 13H-WY-070-390CX3-

13-73, Cousins Federal Com. 22H-WY-070-390CX3-13-74 and Rocky Butte Federal Com. 29H-WY-070-390CX3-13-75 on pp. 6-9 (all approved under one NEPA document) referenced in Table W1.1, below. The wildlife biologist has determined that the proposal is in compliance with Instruction Memorandum No. WY-2013-005 Interim Management Guidance for Migratory Bird Conservation Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Including the Federal Mineral Estate.

Table W1.1 NEPA Analyses, Incorporated by Reference Here, for Wildlife Analysis

#	Well Name & #	Qtr	Sec	Twp	Rng	CX Number
1	Bonita Federal Com 11H	NENE	10	43N	73W	WY-070-390CX3-13-41
2	Cousins Federal Com 22H	SWSE	2	43N	74W	WY-070-390CX3-13-74
3	Lone Moose Federal Com 13H	NWNW	26	44N	74W	WY-070-390CX3-13-73
4	Rocky Butte Federal Com 29H	NENW	4	43N	73W	WY-070-390CX3-13-75

Water Resources

The historical use for groundwater in this area was for stock water or domestic purposes. A search of the WSEO Ground Water Rights Database showed 1 registered stock and domestic water wells within 1 mile of the proposed wells in the project area with depth at 300 feet. For additional information on groundwater, refer to the PRB FEIS (2003), pp. 3-1 to 3-36.

Adherence to the drilling COAs, the setting of casing at appropriate depths, following safe remedial procedures in the event of casing failure, and using proper cementing procedures should protect any fresh water aquifers above the target coal zone. This will ensure that ground water will not be adversely impacted by well drilling and completion. The operator will run surface casing to 3,000 feet, total vertical depth to protect shallow aquifers. The Fox Hills formation, another important source of groundwater in the PRB is at a depth of between 5200 and 5550 feet in this area. The drilling plans for these wells include the cementing of the casing installed across the Fox Hills above the top of the zone, providing adequate isolation of the groundwater.

At the time of permitting, the volume of water that will be produced in association with these federal minerals is unknown. The operator will have to produce the wells for a time to be able to estimate the water production. In order to comply with the requirements of Onshore Oil and Gas Order #7, Disposal of Produced Water, the operator will submit a sundry to the BLM within 90 days of first production which includes a representative water analysis as well as the proposal for water management.

Historically, the quality of water produced in association with conventional oil and gas has been such that surface discharge would not be possible without treatment. Initial water production is quite low in most cases. There are 3 common alternatives for water management: Re-injection, deep disposal or disposal into pits. All alternatives would be protective of groundwater resources when performed in compliance with state and federal regulations.

Cultural Resources

In accordance with section 106 of the National Historic Preservation Act, BLM must consider impacts to historic properties (sites that are eligible for or listed on the National Register of Historic Places (NRHP)). For an overview of cultural resources that are generally found within BFO the reader is referred to the *Draft Cultural Class I Regional Overview, Buffalo Field Office* (BLM, 2010). Class III (intensive) cultural resource inventories (BFO project nos. 70130007, 70130008, 70130009, 70130047, 70130056) were performed in order to locate specific historic properties which may be impacted by the proposed project. No cultural resources are located in the proposed project area.

BLM policy states that a decision maker's first choice should be avoidance of historic properties (BLM Manual 8140.06(C)). If historic properties cannot be avoided, mitigation measures must be applied to resolve the adverse effect. No historic properties will be impacted by the proposed project. Following the *State Protocol Between the Wyoming Bureau of Land Management State Director and The Wyoming State Historic Preservation Officer*, Section VI(A)(1), the BLM notified the Wyoming State Historic Preservation Officer (SHPO) on March 19, April 24, and May 23, 2013, that no historic properties exist in the area of potential effect (APE). If any cultural values (sites, features or artifacts) are observed during operation, they will be left intact and the Buffalo Field Manager notified. If human remains are noted, the procedures described in Appendix L of the PRB FEIS must be followed. Further discovery procedures are explained in Standard COA (General)(A)(1).

Persons and Agencies Consulted

Name	Company/Agency	Title
Scott Jawors	BLM	Wildlife Biologist
Ardeth Hahn	BLM	Archeologist
Matthew Warren	BLM	Petroleum Engineer
Sharon Soule	BLM	LIE
Warren Garrett	BLM	Geologist
John Kelley	BLM	NEPA Coordinator
Warren Garrett	BLM	Natural Resource Specialist
Casey Freise	BLM	NRS Supervisor
Kathy Brus	BLM	NRS Supervisor
Mary Hopkins	WY SHPO	State Historic Preservation Officer

Decision and Rationale on Action

The COAs provide mitigation and further the justification for this decision and may not be segregated from project implementation without further NEPA review. I reviewed the plan conformance statement and determined that the proposed The Davis Federal 12-14, Davis Federal 21-14, Davis Federal 12-21PH, Davis Federal 43-22, Rohde Federal 21-6 and Geis Federal 14-30PH APDs and infrastructure conform to the applicable land use plans. I reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 is correct. It is my determination that there is no requirement for further environmental analysis.



 Field Manager

7/2/13

 Signature Date

Contact Person, Warren Garrett, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1138

Reference:
 Western Land Services.2012. Davis Fed12-14 : Wildlife Report. Prepared for: Ballard Petroleum Holdings, LLC, Billings, Montana