

**DECISION RECORD**  
**Berenergy Corporation, Zysk Federal #1A Application for Permit to Drill (APD)**  
**Categorical Exclusion 1 (CX1), WY-070-390CX1-14-207**  
**Bureau of Land Management, Buffalo Field Office, Wyoming**

**DECISION.** The BLM approves the application for permit to drill (APD) from Berenergy Corporation (BEC) to drill 1 horizontal oil and gas well and construct its associated infrastructure as described in the Section 390, Energy Policy Act of 2005 Categorical Exclusion 1 (CX1), WY-070-390CX1-14-207, which BLM incorporates here by reference.

**Compliance.** This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701); DOI Order 3310.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- National Historic Preservation Act of 1966 (16 USC 470).
- Endangered Species Act of 1974 (16 USC 1531).
- Buffalo and Powder River Basin Final Environmental Impact Statement (FEIS), 1985, 2003 (2011).
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 2011.

**A summary of the details of the approval follows.** The CX1 analysis for the 1 oil and gas well, above, includes the project description, including site-specific mitigation measures which are incorporated by reference into this CX1 from earlier analysis. The proposed well is 40 miles southwest of Gillette, in Campbell County, Wyoming. This BEC proposal has 1 APD along with associated access road and infrastructure, to develop and produce oil and gas from the Ferguson and Parkman Formations.

**Approvals.** BLM approves the following APDs and associated infrastructure:

| Well Name/ Well # | Qtr  | Sec | Twp | Rng | Lease     |
|-------------------|------|-----|-----|-----|-----------|
| Zysk Federal #1A  | SWNE | 9   | 47N | 76W | WYW32267B |

**Limitations.** See conditions of approval (COAs).

**THE FINDING OF NO SIGNIFICANT IMPACT (FONSI).** Congress, the Department of Interior and BLM affirmed there was no significant impact of a like-structured project when they created this CX1 and its limiting parameters. Thus a FONSI and an EIS is not required.

**Summary of New Information.** BLM posted the APD for 30 days and received no public comments. Since BLM received this APD it did not receive any new applicable policy clarifications.

**DECISION RATIONALE.** The approval of this project is because:

1. Mitigation measures and COAs, analyzed in the CX1, in environmental impact statements or environmental analysis to which the CX1 tiers or incorporates by reference, will reduce environmental impacts while meeting the BLM’s need.
2. Berenergy will conduct all surface disturbing and disruptive activities outside of the raptor breeding/nesting season (February 1 – July 31) within 0.5 miles of active raptor nests. (SUPO, p. 10).
3. The impact of this development cumulatively contributes to the potential for local GSG 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.
4. The approved project conditioned by its design features and COAs, will not result in any undue or unnecessary environmental degradation. There are no conflicts anticipated or demonstrated with

current uses in the area. This decision approving the Blade Federal wells complies with the Energy Policy Act of 2005, Section 390, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215.

5. To reduce the likelihood of a “take” under the Migratory Bird Treaty Act, BLM sensitive species nesting habitat removal will occur outside of the breeding season or be cleared by survey.
6. 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.
7. The selected alternative will help meet the nation’s energy need, revenues, and stimulate local economies by maintaining workforces.
8. The operator, in their POD, shall:
  - Comply with all applicable federal, state, and local laws and regulations.
  - Offer water well agreements to the owners of record for permitted water wells within 0.5 mile of a federal producing well in the POD (PRB FEIS ROD, p. 7).
  - Provide water analysis from a designated reference well in each coal zone.
9. The project is clearly lacking in wilderness characteristics because it is amidst mineral development.
10. 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. This decision does not foreclose the lessee or operator to propose using external pumping units via a sundry application process.
11. This approval is subject to adherence with all of the operating plans, design features, and mitigation measures contained in the surface use plan of operations, drilling plan, and information in individual APDs.

**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:  //s// Duane W. Spencer

Date:  5/13/14

**Categorical Exclusion 1 (CX1), WY-070-390-CX1-14-207**  
**Section 390, Energy Policy Act of 2005**  
**Berenergy Corporation, Zysk Federal #1A Application for Permit to Drill (APD)**  
**Bureau of Land Management, Buffalo Field Office, Wyoming**

**Description of the Proposal**

Berenergy Corporation (BEC) requests the BLM to approve 1 application for permit to drill (APD). BLM incorporates the APD here by reference; see the administrative record (AR). BEC proposes to drill the vertical oil and gas well and construct associated infrastructure at the location listed in Table 1.1. The well will be drilled from a pad on federal surface, into underlying federal minerals on the lease number listed in Table 1.1. The proposal is to explore for, and possibly develop oil and gas reserves in the Ferguson and Parkman Formations at depths found in the AR.

The need for this project is to determine whether, how, and under what conditions to support the Buffalo Resource Management Plan’s (RMP) goals, objectives, and management actions (2003 Amendment) with allowing the exercise of the operator’s conditional lease rights to develop fluid minerals on federal leases. APD information is an integral part of this EA, which BLM incorporates here by reference. Conditional fluid mineral development supports the RMP and the Mineral Leasing Act of 1920, the Federal Land Policy Management Act (FLPMA), and other laws and regulations.

Operations would occur 40 miles southwest of Gillette, Campbell County, Wyoming. The proposed surface hole (drill site) are in Table 1.1. The well elevation is 4,543 feet. The topography has gently sloped draws rising to mixed sagebrush and grassland uplands. Ephemeral tributaries of Lower Beaver Creek, in the Powder River watershed, drain the area. The area climate is semi-arid, averaging 10-14 inches of precipitation annually, about 60% of which occurs between April and September. BLM is the surface owner.

**Table 1.1. Proposed Well**

| Well Name/ Well # | Qtr  | Sec | Twp | Rng | Lease     |
|-------------------|------|-----|-----|-----|-----------|
| Zysk Federal #1A  | SWNE | 9   | 47N | 76W | WYW32267B |

BEC submitted a notice of staking (NOS) on April 29, 2013. BEC and BFO completed onsite inspections on July 23, 2013. BBC converted its NOS to an application for permit to drill (APD) which BLM received on November 8, 2013. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to BEC on November 27, 2013. BEC responded on January 28, 2014. After subsequent correspondence, the BLM considered the deficiencies complete on May 9, 2014.

Full effects of the action and recommended mitigation measures are in the Zysk Federal #1A surface use plan (SUP), Veranda POD Environmental Assessment (EA), WY-070-EA09-039, Napier Road POD EA, WY-070-EA10-280, Zysk Federal #1A CX1, WY-070-390CX1-14-207, and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, Appendix A.

**Drilling, Construction & Production design features include:**

**Access**

- Primary access for the proposed well is via WY HWY 50 and the Black and Yellow Road.
- A road network will consist primarily of existing improved all-weather crown and ditch roads. Disturbances are listed in Table 1.3.
- Spot graveling will be done on portions of the existing improved access road.

**Well Location**

- The well pad cuts and fill slopes will be constructed at 2:1.
- There will be a reserve pit on location for drilling and completion operations.
- If the well becomes a producer the production facilities will be on the southwest corner of the pad.
- Water for drilling and completions operations will be trucked onto location.
- For a detailed description of the proposal’s design features and construction practices, refer to the Zysk Federal #1A SUP, Reclamation, and Drilling plans included with the APD package. Also see the APD for maps showing the proposed well locations, access routes, and associated facilities.
- The well location is located on an existing conventional well location. The existing equipment will be removed and some of the equipment will be refurbished and reused on the new location.
- The well location disturbance will be minimal due to the existing disturbance. See Table 1.3 for disturbances.
- If well is not found to be economically viable, all areas disturbed during construction would be reclaimed to the pre-disturbance condition, and the well bore would be plugged per State of Wyoming and BLM policy and regulations.

The total new surface disturbance for this action consists of: 2.7 acres for the entire project.

**Drilling and Completion Operations**

- Hydraulic fracturing (HF) operations are planned as a ‘plug and perf’ operation done in stages. The process is anticipated require 14 days. Water used for HF will come from municipal water supplies from Wright or Gillette, Wyoming or permitted wells listed in the SUP. All fresh water will be contained in 400-500 bbl rental HF tanks and no surface pits will be used to hold this water. No additional well pad disturbance is anticipated for HF operations. Completion flowback water will be held in tanks on location and trucked offsite to a disposal facility permitted by Wyoming Department of Environmental Quality (WDEQ).
- For completion (HF) phase, the operator intends use above ground tanks for onsite water storage at the pad. The above-ground tanks do not require a separate location or additional disturbance.
- Typically 170 500-bbl fracturing tanks are spotted, taking 2 weeks to fill, prior to pumping the stimulation. All fracturing water, including excess, is present before starting.
- Total truck traffic to fill HF tanks during completion operations is estimated to be approximately 500 roundtrips per well.

**Table 1.2. Anticipated Drilling and Completion Sequence and Timing**

| Drilling and Completion Step                                  | Approximate Duration |
|---|----------------------|
| Build Location (roads, pad, and other initial infrastructure) | 14 days              |
| Mob Rig   | 4 days               |
| Drilling (24/7)   | 15-18 days           |
| Demobilize Rig  | 3 days               |
| Dress Location for Completion                                 | 1 day                |
| Completion (setup, completion, demobilization)                | 10-15 days           |
| Construct Tank Battery and Install Artificial Lift            | 10-15 days           |

**Table 1.3. Disturbance Summary Zysk Federal #1AWells:**

| Proposed Action                  | Dimension           | Square Feet            | Disturbance      |
|----------------------------------|---------------------|------------------------|------------------|
| Engineered Pad                   | 375 ft x 200 ft     | 75,000 ft <sup>2</sup> | 2.2 acres        |
| Topsoil/Spoil Piles              | 110 ft x 50 ft      | 5,500 ft <sup>2</sup>  | 0.13 acres       |
| Existing Access Upgrades         | 25 ft x 80 ft (x 8) | 2,000 ft <sup>2</sup>  | 0.37 acres       |
| <b>Total Surface Disturbance</b> |                     |                        | <b>2.7 acres</b> |

**Plan Conformance.** The proposal conforms to the terms and the conditions of the Buffalo Resource Management Plan (RMP), 1985, amended 2001, 2003, and 2011. The development area is clearly lacking wilderness characteristics as it is in the midst of extensive oil and gas development. The Energy Policy Act of 2005 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 CX unless BLM shows such CX is inapplicable. This CX analysis is a form of NEPA compliance categorically excluded from the analysis that occurs in an EA or EIS. BLM H-1790, p. 17. BLM finds that the conditions and environmental effects found in the senior EA and Powder River Basin Final Environmental Impact Statement (PRB FEIS), 2003 (2011), remain valid.

The applicable categorical exclusion from the Energy Policy Act of 2005 is exclusion number (b)(1) which is *individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.*

There are 3 requirements for a Section 390 CX1 (BLM NEPA Handbook, Appendix. 2):

- 1) The project must disturb less than 5 acres on the site. If more than 1 action is proposed for a lease (for example 2 or more wells), each activity is counted separately, and each may disturb up to 5 acres. Similarly, the 5-acre limit applies separately to each activity requiring discrete BLM action, such as each APD, even though for processing efficiency purposes the operator submits for BLM review a large master development plan addressing many wells.
  - BEC submitted the proposal in which the total surface disturbance for all federal action is 2.7 acres. The 2.7 acres is less than the 5 acre limit which applies separately to each activity requiring discrete BLM action. See Table 1.3 for disturbances.
- 2) The current unreclaimed surface disturbance readily visible on the entire leasehold must not be greater than 150 acres, including this proposal. This includes previous disturbances supporting lease development. The 150-acre limit applies separately to each federal lease supporting the development.
  - There is 1 mile of existing access road on lease, WYW32267B. Using a 50 foot width of disturbance, the existing access disturbance is approximately 6 acres. There are 7 existing producing and plugged and abandoned (P&A) wells on the lease. Assuming 0.5 acres of disturbance per well, there is approximately 17.5 acres of existing well pad disturbance. (This is worst-case as it does not credit those P&A wells which are reclaimed.) The total existing disturbance on the lease is 23.5 acres. The proposed well will add 2.7 acres of disturbance. The total disturbance, including the existing and proposed disturbance, is less than 26.2 acres. The 26.2 acres of disturbance is less than the overall 150 acre limit which applies separately to each federal lease, supporting the development.
- 3) There must be a site-specific NEPA analysis (not just leasing) covering the proposal area. This NEPA document may be an exploration or development analysis; it may be part of a specific master development plan, a multi-well analysis, or an individual permit approval analysis. The NEPA document must have analyzed the type of activity or project being considered; yet it need not have addressed the specific permit or application being considered.

In summary the NEPA analyses in Table 1.4. analyzed in detail the anticipated direct, indirect, residual, and cumulative effects that would result from the approval of this APD and associated support structure in Zysk Federal #1A well is similar to both the qualitative and quantitative analysis in the above mentioned analyses. The BFO reviewed the analyses and found that they 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. This agrees with the PRB FEIS which analyzed the reasonably foreseeable development rolling across the PRB of 51,000 CBNG and 3,200 natural gas and oil wells.

**Table 1.4. Overlapping Oil & Gas Well NEPA Analyses Tiered to by Decision Date**

| # | POD / Well Name           | NEPA Analysis #             | # / Type Wells | Decision Mo/Yr   |        |
|---|---------------------------|-----------------------------|----------------|------------------|--------|
| 1 | Stroud Mankin Fed         | WY-070-390CX3-12-179 & 180  | 2 Oil          | 5/2012           |        |
| 2 | Schoonover Road 4 & Add 1 | WY-070-390CX3-11-220        | 35 CBNG        | 6/2011           |        |
|   |                           | WY-070-390CX3-11-218        |                | 5/2011           |        |
|   |                           | WY-070-390CX3-10-333 to 367 |                | 2/2011           |        |
|   |                           | WY-070-EA09-049             |                | 7/2009           |        |
| 3 | YPC Veranda               | WY-070-EA08-179             | 29 CBNG        | 9/2008           |        |
|   |                           | WY-070-EA09-039             | 32 CBNG        | 7/2009 & 10/2010 |        |
| 4 | BEC Empire Federal POD    | WY-070-CX09-3-022           | 15 CBNG        | 9/2009           |        |
|   |                           | WY-070-CX09-1-008           |                | 11/2008          |        |
|   |                           | WY-070-EA08-110             |                | 8/2008           |        |
| 5 | YPC Cat Shadow Add 1 & 2  | WY-070-CX09-1-039           | 3 CBNG         | 4/2009           |        |
|   |                           | WY-070-CX09-1-064           |                | 2/2009           |        |
|   |                           | WY-070-CX08-3-051 to 053    |                | 4/2008           |        |
|   |                           | WY-070-CX06-3-002           |                | 1 CBNG           | 5/2006 |
|   |                           | WY-070-EA05-200             |                | 98 CBNG          | 5/2005 |
| 6 | Pumpkin Creek POD         | WY-070-EA07-53              | 17 CBNG        | 3/2007           |        |
|   |                           | WY-070-EA06-221             | 3 CBNG         | 5/2006           |        |

**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 CX1 analysis 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.

**Soil, Ecological Sites, and Vegetation****Table 1.5. Dominant Soils by Map Unit Symbol (MUS)**

| MUS | Map Unit Name         | Percent of Project Area |
|-----|-----------------------|-------------------------|
| 124 | Cushman-Shingle Loams | 64.6%                   |
| 233 | Ustic Torriorthents   | 35.4%                   |

Soils, ecological sites, and vegetation found at the Zysk Federal #1A well are similar to those occurring in Veranda POD EA, WY-070-EA09-039 and Napier Road POD EA, WY-070-EA10-280, incorporated here by reference. Impacts anticipated occurring and mitigation considered with the implementation of the proposal will be similar to those analyzed in the EA sections below, which are adjacent, overlapping, or have similar characteristics to the Zysk Federal #1A well and are incorporated here by reference: Veranda POD EA, WY-070-EA09-039, Affected Environment, pp. 8-10; and Direct and Indirect, Cumulative, Residual Effects, pp. 27-29 and Napier Road POD EA, WY-070-EA10-280, Affected Environment, pp. 10-14; and Direct and Indirect, Cumulative, Residual Effects, pp. 33-38.

**Water Resources**

The historical use for groundwater in this area was for stock or domestic water. A search of the WSEO Ground Water Rights Database showed 4 registered stock and domestic water wells within 1 mile of the proposed well in the project area with depths ranging from 400 to 500 feet. For additional information on groundwater, refer to the PRB FEIS, 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. The operator will run surface casings to 1,500 feet, total vertical depth (TVD) to protect shallow aquifers. The top of cement for the intermediate casing string will be calculated to isolate at a minimum 100 feet above to a minimum of approximately 1,400 feet below the Fox Hills formation, located at 6,389 feet TVD. This will ensure that ground water will not be adversely impacted by well drilling and completion operations.

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 three 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.

### **Wildlife**

BLM reviewed the proposals and determined that the proposed APD, combined with the COAs (and design features), is: 1) consistent with the FEIS and its supplements, the RMP and the above tiered NEPA analyses; and 2) consistent with the programmatic biological opinion (ES-6-WY-02-F006), from the PRB FEIS, Appendix K. The affected environment and environmental effects for wildlife are discussed in, and anticipated to be similar to the Empire POD EA, WY-070-EA08-110, 2008. 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. Even though it is not a horizontal well, activities associated with development of the Zysk Federal 1A well are anticipated to be similar in nature regarding wildlife, with the following additional site-specific information. Three known raptor nests occur within 0.5 miles of the proposed Zysk Federal 1A well: BLM #s 4600, 13403, and 13404. Nest 13403 is occupied by red-tailed hawks and approximately 0.2 miles, and within line of sight, of the proposed well pad. The U.S. Fish and Wildlife Service (FWS) recommends a 0.25 mile spatial buffer to protect red-tailed hawk nests. The well is on an existing pad for a CBNG well, so the pair of hawks nesting in 13403 may be acclimated to some sporadic vehicle traffic. The nest is likely far enough from the pad that production activities will not cause the nest to fail, in turn causing a violation of the Migratory Bird Treaty Act (MBTA). Construction, drilling, and hydraulic fracturing activities are anticipated to negatively impact raptors nesting in the project area due to the increased human disturbance, traffic, noise, and timelines associated with these activities. To reduce the risk of decreased productivity or nest failure, BEC committed to conduct all surface disturbing and disruptive activities associated with development of the well outside of the breeding/nesting season for raptors (February 1 – July 31) within 0.5 miles of active nests (SUPO, p. 10).

### **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. Even though it is not a horizontal well, activities associated with development of the Zysk Federal 1A well are anticipated to be similar in nature regarding wildlife, with the following additional site-specific information. The Zysk Federal 1A well and proposed access road

occurs in suitable nesting habitat for GSG. Construction of the well pad and access road will not result in the removal of habitat because both are existing and will receive minimal upgrades. The surrounding area has slight to moderately dense sagebrush stands and rolling to breaking topography. The well is proposed 1.5 miles from the Beaver Creek Lek, discovered in 2005. 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 applies a 2 mile timing limitation for surface disturbance (construction and drilling) during the breeding season (March 15-June 30).

### **Migratory Birds**

The PRB FEIS discussed direct and indirect effects to migratory birds, pp. 4-231 to 4-235. During the onsite, the BLM identified sagebrush uplands/grasslands and exposed creek banks that provide suitable nesting habitat for several migratory birds adjacent to the existing pad and infrastructure. The pad design submitted with the APD indicates that BEC may intend to use a heater treater in the production phase of the Zysk Federal 1A project. Heater treaters, and similar facilities with vertical open-topped stacks or pipes, can attract birds. Facilities without exclusionary devices pose a mortality risk. Once birds crawl into the stack, escape is difficult and the bird may become trapped (*U.S. v. Apollo Energies Inc.*, 611 F.3d 679 (10th Cir. 2010); see also Colorado Oil and Gas Commission, Migratory Bird Policy, accessed February 13, 2012). The BLM recommends that measures are taken to ensure that migratory birds are excluded from all facilities that pose a mortality risk, including, but not limited to, heater treaters, flare stacks, secondary containment, and standing water or chemicals where escape may be difficult or hydrocarbons or toxic substances are present at the Zysk Federal 1A well.

### **Cultural Resources**

A paleontology survey was completed; no site or objects were found. BEC completed a Level III cultural resources survey in the project area. The survey revealed no cultural properties and the project affects no heritage sites. This project will have no effect on any property eligible for nomination to the National Register of Historic Places (NRHP). The BLM consulted with the Wyoming State Historic Preservation Officer (SHPO) and received concurrence to proceed. The Scenic Integrity Objective (SIO) for the project area is low. The effect of the project on scenery management and attaining the Grassland Plan scenery objective will be negligible. No above ground power lines will be built, and constructed gas well site will appear subordinate in the landscape. Facilities and landscape modifications are visible but are reasonably mitigated to blend and harmonize with natural features. Reclamation activities will restore the area to a reasonable level of its pre-development condition. The effects on the soil, vegetation, and watershed components will be minimal with the application of mitigation measures, of the Surface Use Plan of Operation.

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 NRHP. For an overview of cultural resources found in the area, refer to the Draft Cultural Class I Regional Overview, Buffalo Field Office (BLM, 2010). A previous Class III (intensive) cultural resource inventory (BFO project no. 70070113) exists for part of the project area and an additional project specific inventory (BFO project no. 70140011) was performed locate specific historic properties which may be impacted by the proposal, see Table below.

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 proposal. 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 November 15, 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 and ROD must be followed. Further discovery procedures are explained in Standard COA (General)(A)(1).

**Cultural Resource Near the Proposal & National Register of Historic Places (NRHP) Eligibility**

| Site #   | Site Type  | NRHP         | Site #   | Site Type  | NRHP         |
|----------|--|--------------|----------|--|--------------|
| 48JO836  | Historic Debris Scatter                                | Not eligible | 48CA6240 | Prehistoric Lithic Scatter                             | Not eligible |
| 48JO2225 | Historic Debris Scatter                                | Not eligible | 48CA6248 | Historic Cairns (2)                                    | Not eligible |
| 48JO2226 | Prehistoric Lithic Scatter                             | Not eligible | 48CA6250 | Prehistoric Lithic Scatter                             | Not eligible |
| 48JO2227 | Prehistoric Lithic Scatter                             | Not eligible | 48CA6251 | Historic Debris Scatter                                | Not eligible |
| 48JO2545 | Shepherd Camp/<br>Prehistoric Lithic Scatter           | Not eligible | 48CA6252 | Historic Debris Scatter/<br>Prehistoric Lithic Scatter | Not eligible |
| 48JO2546 | Historic Debris Scatter                                | Not eligible | 48CA6253 | Prehistoric Lithic Scatter                             | Not eligible |
| 48JO2547 | Historic Debris Scatter/<br>Prehistoric Lithic Scatter | Not eligible | 48CA6257 | Historic Debris Scatter/<br>Prehistoric Lithic Scatter | Not eligible |
| 48JO2645 | Historic Debris Scatter                                | Not eligible | 48CA6258 | Historic Debris Scatter                                | Not eligible |
| 48JO2646 | Historic Debris Scatter and<br>Cairn                   | Not eligible | 48CA6259 | Historic Debris Scatter/<br>Prehistoric Lithic Scatter | Not eligible |
| 48CA6235 | Prehistoric Lithic Scatter                             | Not eligible | 48CA6260 | Prehistoric Lithic Scatter                             | Not eligible |
| 48CA6236 | Historic Debris Scatter/<br>Prehistoric Lithic Scatter | Not eligible |          |  |              |

**List of Preparers: Persons and Agencies Consulted (BFO unless otherwise noted)**

| Position/Organization   | Name          | Position/Organization   | Name                   |
|-------------------------|---------------|-------------------------|------------------------|
| NRS/Team Lead           | Dustin Hill   | Archaeologist           | Doug Tingwall          |
| Supr NRS                | Casey Freise  | Archaeologist           | G.L. "Buck" Damone III |
| Petroleum Engineer      | Will Robbie   | Wildlife Biologist      | Darci Stafford         |
| LIE                     | Sharon Soule  | Geologist               | Warren Garrett         |
| Assistant Field Manager | Clark Bennett | Supr NRS                | Kathy Brus             |
| NEPA Coordinator        | John Kelley   | Assistant Field Manager | Chris Durham           |

**Decision and Rationale on the Proposal**

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 Zysk Federal #1A CX1 proposal and infrastructure conform to the applicable land use plan, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215. I reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 is correct. I determined that there is no requirement for further environmental analysis.

Field Manager:           //s// Duane W. Spencer                                Date:           5/13/14          

Contact Person, Dustin Hill, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1100.