

DECISION RECORD

**Categorical Exclusion 3 (CX3) WY-070-390CX3-14-94 to WY-070-390CX3-14-97
Tuit Draw Federal 34-3 TH, Tuit Draw Federal 24-33 TH, Porcupine Federal 31-17 TH, Porcupine
Federal 31-17 SXH, Applications for Permit to Drill (APDs), Charger Resources, LLC
Section 390, Energy Policy Act of 2005
Bureau of Land Management, Buffalo Field Office, Wyoming**

DECISION. The BLM approves the proposal from Charger Resources (Charger) for the drilling of 4 oil and gas wells, the Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH. Charger plans to apply to drill and produce more wells in the future in the project area, as noted in the consolidated CX3 analysis, WY-070-390CX3-14-94 to WY-070-390CX3-14-97, which BLM incorporates here by reference.

Compliance. This decision complies with and supports:

- 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 Final Environmental Impact Statement (FEISs), 1985, 2003 (2011).
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 2011.

Consultation. This decision considered:

- BLM Instruction Memorandum No. 2009-078, Processing Oil and Gas Application for Permit to Drill for Directional Drilling into Federal Mineral Estate from Multiple-Well Pads on Non-Federal Surface and Mineral Locations, 2009.
- Wyoming BLM State Director Review, SDR No. WY-2011-010, EOG Resources, Inc. v. Pinedale Field Office, 2011.
- Wyoming BLM State Director Review, SDR No. WY-2013-025, Yates Petroleum v. BLM, 2013.

A summary of the details of the approval follows. The CX3 analysis, WY-070-390CX3-14-94 to WY-070-390CX3-14-97 includes the project description, including site-specific mitigation measures. Mitigation measures will include the conditions of approval (COAs) in Appendix A, B, and C of the CX.

The BLM approves the following APDs:

Well Name/ Well #	Qtr	Sec	Twp	Rng	Surface Lease	CX Number
Tuit Draw Federal 34-3 TH	SWSE	3	42N	72W	Fee	WY-070-390CX3-14-97
Tuit Draw Federal 24-33 TH	SESW	33	43N	72W	WYW124459	WY-070-390CX3-14-96
Porcupine Federal 31-17 TH	NWNE	17	42N	71W	WYW7526A	WY-070-390CX3-14-95
Porcupine Federal 31-17 SXH	NWNE	17	42N	71W	WYW7526A	WY-070-390CX3-14-94

Limitations. There are no denials or deferrals; see the conditions of approval (COAs) and recommended mitigation measures (RMMs).

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.

COMMENT OR NEW INFORMATION SUMMARY. Since receipt of these APDs, BLM also received clarified policies on bond review, WY Instruction Memorandum (IM)-2013-009.

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.
3. 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 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. There are no conflicts anticipated or demonstrated with current uses in the area. This decision approving the WY-070-390CX3-14-94 to WY-070-390CX3-14-97 complies with the Energy Policy Act of 2005, Section 390, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215.
5. Approval of this project conforms to the terms and the conditions of the 1985 Buffalo RMP (BLM 1985), 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.
6. The selected alternative will help meet the nation's energy needs, revenues, and stimulate local economies by maintaining workforces.
7. The project is clearly lacking in wilderness characteristics because it is amidst gas development.
8. This decision does not foreclose the lessee or operator to propose a new or supplementary plan for developing the federal oil and gas leases in this project area, including submission of additional APDs to drain minerals in accord with lease rights and law.
9. For Tuit Draw Federal 34-3 TH, the operator provided the BLM a true and complete copy of a document in which the owner of the surface authorizes the operator to drill a federal well from non-federal lands, and in which the surface owner or representative guarantees the Department of the Interior, including BLM, access to the non-federal lands to perform all necessary surveys and inspections. (See also, Instruction Memorandum No. 2009-078, p. 2, para 6).

ADMINISTRATIVE APPEAL. This decision is subject to administrative appeal per 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

11/29/14

Date

**Categorical Exclusion 3 (CX3), WY-070-390CX3-14-94 to WY-070-390CX3-14-97
Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine
Federal 31-17 SXH, Charger Resources, LLC
Applications for Permit to Drill (APDs), Section 390, Energy Policy Act of 2005
Bureau of Land Management, Buffalo Field Office, Wyoming**

Description of the Proposal

Charger Resources, LLC (Charger), proposes to drill 4 wells and associated infrastructure as depicted in Table 1.1 below.

Table 1.1. Proposed Wells

#	Well Name/ Well #	Qtr	Sec	Twp	Rng	Surface Lease	CX Number
1	Tuit Draw Federal 34-3 TH	SWSE	3	42N	72W	Fee	WY-070-390CX3-14-97
2	Tuit Draw Federal 24-33 TH	SESW	33	43N	72W	WYW124459	WY-070-390CX3-14-96
3	Porcupine Federal 31-17 TH	NWNE	17	42N	71W	WYW7526A	WY-070-390CX3-14-95
4	Porcupine Federal 31-17 SXH	NWNE	17	42N	71W	WYW7526A	WY-070-390CX3-14-94

The proposed horizontal oil and gas wells are 47 miles southwest of Gillette, Wyoming, Campbell County. The project area is in the Powder River Basin (PRB) geographic area (Wyoming Geographic Landforms Map) in the undulated uplands, north of Reno Flats. Topography is moderate relief, moderately drained, silt deposition, surrounded by rolling uplands with highly eroded drainages. The average elevation is 4,895 feet above sea level. The climate in the area is semi-arid, averaging 10-14 inches of precipitation annually, about 60% of which occurs between April and September. The jurisdiction for the Tuit Draw Federal 24-33 TH, Porcupine Federal 31-17 TH, and Porcupine Federal 31-17 SXH wells is private surface with underlying federal mineral leases (WYW130049, WYW9584, and WYW139639). The jurisdiction for the Tuit Draw Federal 34-3 TH is private surface over private minerals with the targeted formation into federal mineral lease, WYW139639.

Tuit Draw Federal 34-3 TH, Tuit Draw Federal 24-33 TH, and Porcupine Federal 31-17 TH will be drilled to the Turner Formation at a depth of 9,914, 9,930, and 9,572 feet respectively. Porcupine Federal 31-17 SXH, which is co-located on the same well pad as Porcupine Federal 31-17 TH, will be drilled to the Sussex Formation at a depth of 7,822 feet.

The BLM's need for this project is to determine whether, and if so, and under what conditions to support the Buffalo Resource Management Plan's (RMP) goals, objectives, and management actions with permitting the operator's exercising of conditional lease rights to develop federal fluid minerals. APD information is an integral part of this EA, which BLM incorporates here by reference; see administrative record (AR). Conditional fluid mineral development supports the RMP, the Mineral Leasing Act of 1920, the Federal Land Policy Management Act (FLPMA), and other laws and regulations.

Reasonably foreseeable activity is found in the Longbow Multi-Well Project Environmental Assessment (EA), WY-070-EA13-13, and the Wilkinson EA, WY-070-EA11-34. This locality includes but is not limited to the Longbow Multi-Well Project and the Wilkinson plan of development (POD) location, and will fill-in to 80 acre spacing. This supports the development anticipated in the PRB FEIS, (see narrative in Section 2, No Action Alternative). The surface owners are Harry Underwood Trust, and Richard W. Leavitt Trust, Jerry J. Dilts Family LP 1, and United States Forest Service.

Charger submitted notices of staking (NOSSs) on May 9, 2013, to the BFO. Charger and BFO completed onsite evaluations on June 25, 2013. Present at the onsite were Debby Green and Scott Jawors, BLM; Keith Dana, Permit Agent; Eric Wright, Charger Resources, and Brandon Dilts, surface owner. The

onsites evaluated the proposal and modified it to mitigate environmental impacts. Charger filed applications for permit to drill (APDs) on August 27, 2013. The BLM sent a post-on-site deficiency letter to Charger on September 26, 2013. BLM received revisions from Charger on December 9, 2013.

Full effects of the action and recommended mitigation measures are in the surface use plans and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, or in the Recommended Mitigation Measures; see, Appendix A, Appendix B, and Appendix C of this consolidated CX3.

Drilling, Construction & Production design features include:

- Construction of 3 (2 wells co-located on one pad) engineered drilling pads, accounting for 25.99 acres of disturbance during construction and drilling, reduced 7.54 acres of long term disturbance during production.
- Once drilling has begun, the operator anticipates drilling and completion of the well for 32 days.
- A road network consisting of existing improved roads with upgrades and new construction of 1.21 miles of crown and ditch all-weather template road as access onto the well pad.
- There is existing overhead power within approximately 0.5 miles of proposed wells in the project area; electrical cable will be installed from the meter drop to the production equipment. If the landowner requires that power be buried, the operator will submit a revised map showing buried powerlines and resulted disturbance. Power will be constructed and operated by a 3rd party provider.
- If determined to be economically viable, the well would be put into production. Production facilities may vary according to the actual reservoir discovered but may include a pumping unit, a vertical separator; vertical heater-treater; and various production tanks. The facilities and site would be operated and maintained for the life of the well.
- The operator voluntarily committed to adding a “bird cone” design feature on production equipment, such as heater-treaters, to avoid bird/bat mortality.
- The operator will drill all wells with a closed-loop system. Reserve pits will not be necessary.
- No pipelines (oil, gas, water) are proposed for this project. Providing these items become necessary, the operator will submit a sundry notice to the BLM to gain approval prior to construction.
- For the Turner formation, it is anticipated that 10,814 bbls of water will be needed for drilling and completion activities. Water will be transported by truck from either the Wright Water & Sewer District, or a permitted commercial source.
- Completion fluids will flow to tanks located on site for hauling to an approved disposal facility.
- During construction, drilling, and completion, the average daily traffic varies from 7 trucks daily to 18 trucks daily. Drilling and completion of the well is expected to be finished in 32 days. During production phases, average daily traffic will be 4 trucks per day.
- The well location will be fenced so as to effectively keep out wildlife and livestock.

Table 1.2. Surface Disturbance Totals for Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH

Facility	Construction Disturbance (Short Term)	Interim Disturbance (Long Term)
Number of Well Pads (2 wells co-located on 1 pad)	3 Well Pads (4 wells)	3 Well Pads (4 wells)
Engineered Pads with fill slopes, topsoil, spoils	3 (19.90 acres)	3 (1.45 acres)
Proposed Template Roads	2,608 feet (2.39 acres)	2,608 feet (2.39 acres)
Upgrade of Existing Template Roads (Turnouts)	4,033 feet (3.70 acres)	4,033 feet (3.70 acres)
Overhead Power	Existing	Existing
Total Acre Disturbance	25.99 Acres	7.54 Acres

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; see AR. 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 25.99 acres, reduced to 7.54 acres of long term disturbance after interim reclamation of the well sites. BLM incorporated and analyzed the implementation of committed mitigation measures in the SUPs and drilling plans, 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 analysis 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 to the terms and conditions of the Approved Resource Management Plan (RMP) for the public lands administered by the BLM, BFO, 1985, the PRB FEIS, 2003 (2011), 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 Tuit Draw Federal 24-33 TH, Tuit Draw Federal 34-3 TH, Porcupine Federal 31-17 TH, and Porcupine Federal 31-17SXH APDs and area are clearly lacking in wilderness characteristics as they are amidst natural gas development. BLM finds that the conditions and environmental effects found in the senior EAs 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 1.3 is a list of existing/approved oil and gas development that is within or adjacent to the Tuit Draw Federal 24-33 TH, Tuit Draw Federal 34-3 TH, Porcupine Federal 31-17 TH, and Porcupine Federal 31-17SXH project area. This information shows the reader that BLM conducted analysis.

Table 1.3. Overlapping Oil & Gas Well NEPA Analyses that Account for Reasonable Foreseeable Activity and Completed within 5 Years of Spudding the Tuit & Porcupine Proposals

POD Name	NEPA Document	Well # / Type / # Drilled	Approval
Bolt Multi-Well Pad Project	WY-070-EA13-16	18 Oil / 4	3/12/2013
Wilkinson	WY-070-EA11-34	28 CBNG / 1	11/12/2011

This project also incorporates by reference the descriptions and analysis of horizontal drilling and hydraulic fracturing from Crazy Cat East EA, WY-070-EA13-028 and Barlow Ranch Federal EA, WY-070-EA12-173.; and the surface conditions (soil, water, development, wildlife, and cultural resources) from the adjacent and overlapping projects: East Litton EA, WY-070-EA04-237, 2004; Antelope Federal EA, WY-070-EA04-028, 2004; and Rochelle Hills EA, WY-070-EA04-235, 2004.

The area had historic conventional oil and gas exploration and production, and recent coalbed natural gas (CBNG) development. The project area is adjacent to or inside the boundaries of 3 CBNG plans of

development (PODs) that include 40 wells; see Table 1.3.). There are 18 oil wells within a 4 mile radius of an analysis area for this proposal (WOGCC as of January 8, 2014).

- 2) There are an existing NEPA analyses (and the RMP) containing reasonably foreseeable activity or development scenarios, respectively, for this action. There are existing NEPA analyses that reasonably foresaw activity to spud additional wells to fill in 80 acre well-spacing. BLM also notes from Table 1.3, above, that of the 46 analyzed APDs, only 5 are drilled; thus 41 undrilled, analyzed APDs contribute to the available reasonably foreseeable activity. BLM reviewed these EAs 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 (2011). 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 Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH wells are in the foreseeable development activity of 80 acre well-spacing that was analyzed in EAs in Table 1.3, it's footnote, and in the PRB FEIS's Appendix A reasonably foreseeable development.
- 3) The tiered NEPA document was finalized or supplemented within 5 years of spudding (drilling) the proposed well.

The Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH CX3 tiers to the approved EAs listed in Table 1.3.

In summary, the EAs in Table 1.3 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 Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH wells are similar to both the qualitative and quantitative analysis in the above mentioned EAs. The BFO reviewed the EAs and found that the EAs considered potential environmental effects and cumulative 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 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, Appendices A, B and C.

Wildlife

BLM consulted several resources to identify wildlife species that may occur in the proposal area; resources include the wildlife database compiled and managed by the BLM Buffalo Field Office (BFO), the PRB FEIS, the Wyoming Game and Fish Department (WGFD) big game and Greater Sage-Grouse (GSG) maps, and the Wyoming Natural Diversity Database (WYNDD).

BLM reviewed the proposed APDs and determined that the proposals, combined with the COAs (design features and recommended mitigation measures (RMMs)), are: (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), which is an update from the PRB FEIS, Appendix K. The biologist performed onsite visits to the project area on June 25, 2013. The affected environment and environmental

effects, including cumulative effects for wildlife are discussed in, and anticipated to be similar to the Sahara POD EA, WY-070-EA13-72. Site specific information is described below for known species suspected to occur in the project area as depicted in Table W.1.(Summary of Sensitive Species Habitat and Project Effects) and Table W.2. (Summary of Threatened and Endangered Species Habitat and Project Effects) located in the project file.

Tuit Draw Federal 34-3 TH

Note: Operator prefers to drill the well during the fall season.

Migratory Birds:

The proposed well pad is in migratory bird habitat for sage-brush obligate species. Nesting season for Brewer’s sparrows (a BLM Special Status Species (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>). Greater Sage Grouse (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 recommends that habitat 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 the well pad 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 the proposed well 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 consolidated CX3 NEPA analysis) referenced in Table W1.1, below. The BLM 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.

BLM recommends taking measures to ensure excluding migratory birds from facilities posing 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.

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

#	Well Name & #	Qtr	Sec	Twp	Rng	CX Number
4	Rocky Butte Federal Com 29H	NENW	4	43N	73W	WY-070-390CX3-13-75

Tuit Draw Federal 24-33 TH

Note: Operator prefers to drill the well during the fall season.

Raptors:

One ferruginous hawk nest (BLM # 2295) is within 0.4 mile from the proposed well and outside the biological buffer (a biologic buffer is a combination of distance and visual screening providing nesting raptors with security such that they will not be flushed by routine activities). Impacts anticipated to occur toward the nesting pairs of raptors and mitigation will be similar to those analyzed in the Sahara POD EA, WY-070-EA13-72 and this analysis is incorporated here by reference: Affected Environment (Section 3.7.2.1 (p. 15-16)); Direct and Indirect Effects (Section 4.6.2.1.1.(pp. 28-30)); Cumulative Effects (Section 4.6.2.1.2. (pp. 30)); Mitigation (Section 4.6.2.1.3. (p. 30); Residual Effects (Section 4.6.2.1.4. (p. 30)).

To reduce the risk of decreased productivity or nest failure, the BLM BFO recommends a 0.5-mile radius timing limitation during the breeding season (February 1 – July 31) around active raptor nests for surface disturbing activities associated with construction and drilling of the proposed well pad and access road.

Migratory Birds:

The proposed well pad is in migratory bird habitat for sage-brush obligate species. Nesting season for Brewer’s sparrows (a BLM Special Status Species (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 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 the well pad 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 the proposed well 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 consolidated CX3 NEPA analysis) referenced in Table W1.1, below. The BLM 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.

BLM recommends taking measures to ensure excluding migratory birds from facilities posing 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.

Table W1.2. 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

Porcupine Federal 31-17 TH and Porcupine Federal 31-17 SXH (both wells are on the same pad)

No raptors nest within 0.5 mile. No GSG leks are within 2 miles and there is no sage-brush on location.

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 3 registered stock and domestic water wells within 1 mile of the proposed wells in the project area with depths from 80 to 160 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 targeted formation. This will ensure that ground water will not be adversely impacted by well drilling and completion. Tuit Draw Federal 34-3 TH, Tuit Draw Federal 24-33 TH, and Porcupine Federal 31-17 TH will be drilled to the Turner Formation at a depth of 9,914, 9,930, and 9,572 feet respectively. Porcupine Federal 31-17 SXH, which is co-located on the same well pad as Porcupine Federal 31-17 TH, will be drilled to the Sussex Formation at a depth of 7,822 feet. The operator will run casing to 1,130 feet to protect shallow aquifers. The Fox Hills formation (water-bearing formation) is expected at 5,873 feet. The Fox Hills, the deepest penetrated fresh water zone in the PRB lies well above the target formation. The operator will verify that there is competent cement across the zone, from 100 feet above to 100 feet below the Fox Hills formation. 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.

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Cultural Resources

Per 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 found in the area refer to the *Draft Cultural Class I Regional Overview, Buffalo Field Office* (BLM, 2010). Class III (intensive) cultural resource inventories (BFO project no. 70130111, 70130117, 70130119) were performed to locate specific historic properties which may be impacted by the proposals. The following resources are in or near the proposals: site number 48CA7182, historic debris scatter type of site, and it is not eligible for the National Register of Historic Places.

No historic properties will be impacted by the proposals. 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 January 13, 2014, 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 in Standard COA (General)(A)(1).

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.

Persons and Agencies Consulted

Name	Company/Agency	Title	Name	Company/Agency	Title
Scott Jawors	BLM	Wildlife Biologist	Keith Dana	Dana Consultants	Consultant
Clinton Crago	BLM	Archeologist	Eric Wright	Charger Resources	SAGA Rep.
Amber Haverlock	BLM	Realty Specialist	John Kelley	BLM	NEPA Coordinator
Matthew Warren	BLM	Petroleum Engineer	Debby Green	BLM	NRS
Kristine Phillips	BLM	LIE	Casey Freise	BLM	NRS Supervisor
Warren Garrett	BLM	Geologist	Kathy Brus	BLM	NRS Supervisor
Clark Bennett	BLM	Asst Field Manager	Duane Spencer	BLM	Field Manager
Mary Hopkins	WY SHPO	WY SHPO			

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 Tuit Draw Federal 34-3 TH; Tuit Draw Federal 24-33 TH; Porcupine Federal 31-17 TH; Porcupine Federal 31-17 SXH TH 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

1/29/14

 Signature Date

Contact, Debby Green, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1100