

**Decision on Action and Application for Categorical Exclusion
For Activities Associated with Oil and Gas Development
Section 390, Energy Policy Act of 2005**

Highline Add I & II (Associated with the approved Kenai POD)
Comet Energy
CX 070-08-3-069, 070, 071, 072, 073, 074, 075, 076, 077, 078, 079, 080, 081, 082, 083
Bureau of Land Management
Buffalo Field Office

Description of the Proposed Action:

Comet Energy proposes to drill (in the following 2 PODs) 15 additional wells and construct the associated infrastructure (see legal descriptions below). These wells will be tied into the operator's, approved Kenai POD.

Highline Additions I

	Well Name	Well #	QTR	Sec	TWP	RNG	Lease
1	HIGHLINE ADDITION I SPELLMAN	A3-22*	NWNE	22	54N	75W	WYW132260
2	HIGHLINE ADDITION I SPELLMAN	B4-22	SENE	22	54N	75W	WYW132260

Highline Additions II

	Well Name	Well #	QTR	Sec	TWP	RNG	Lease
1	HIGHLINE ADD II BLM	B4-34	SENE	34	54N	75W	WYW130616
2	HIGHLINE ADD II BLM	C4-34	NESE	34	54N	75W	WYW130616
3	HIGHLINE ADD II BLM	A3-35	NWNE	35	54N	75W	WYW130616
4	HIGHLINE ADD II BLM	B4-35	SENE	35	54N	75W	WYW130616
5	HIGHLINE ADD II BLM	C2-35	NESW	35	54N	75W	WYW130616
6	HIGHLINE ADD II BLM	C4-35	NESE	35	54N	75W	WYW130616
7	HIGHLINE ADD II BLM	D1-35	SWSW	35	54N	75W	WYW130616
8	HIGHLINE ADD II BLM	D3-35	SWSE	35	54N	75W	WYW130616
9	HIGHLINE ADD II CRUMP	B2-34	SENW	34	54N	75W	WYW127796
10	HIGHLINE ADD II CRUMP	C2-34	NESW	34	54N	75W	WYW130616
11	HIGHLINE ADD II CRUMP	D3-34	SWSE	34	54N	75W	WYW130616
12	HIGHLINE ADD II SPELLMAN	B1-34*	SWNW	34	54N	75W	WYW127796
13	HIGHLINE ADD II SPELLMAN	D1-34	SWSW	34	54N	75W	WYW130616

Water from these additional wells will be managed with existing full-containment reservoirs and sub-surface drip irrigation facilities constructed as part of the Kenai POD, and they are adequately sized to receive the additional flow rates.

The following rights-of-way will be amended adding additional footages:

Grant	ROW Action	SEC.	T.	R.	Length	Width
WYW-169793	Amend	035	54	75	2,224	30
WYW-169794	Amend	035	54	75	2,224	40

The total proposed surface disturbance for this action consists of:

- R-O-W = 3.53 Acres
- Access roads with utility corridors = 27.5
- Utility corridors not within accesses = 5.7
- Well locations - One engineered pad, 13 slot locations and 1 typical location (i.e. dig out pits) = 3.3 acres.

Total Proposed Disturbance = approximately 40 acres.

Plan Conformance

The proposed action is in conformance with the terms and the conditions of the Approved Resource Management Plan for the Public Lands Administered by the Bureau of Land Management, Buffalo Field Office (BFO), April 2001 and the PRB FEIS, as required by 43 CFR 1610.5

Plan of Operations

The proposal is designed in conformance with all bureau standards and incorporates appropriate best management practices, required and designed mitigation measures determined to reduce the effects on the environment.

A surface use plan of operations describing all proposed surface-disturbing activities has been reviewed and is approved pursuant to Section 17 of the Mineral Leasing Act, as amended.

Compliance with the Energy Policy Act of 2005

The proposed activity has been determined to be statutorily categorically excluded from NEPA documentation in accordance with Section 390 of the National Energy Policy Act of 2005.

The applicable Categorical Exclusion reference in Section 390 of the Energy Policy Act of 2005 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.*

These documents, Kenai POD, EA # WYW-070-07-166 and this CX, have been reviewed and have been determined to consider potential environmental effects associated with the proposed activity at a site specific level.

The environmental assessment for Kenai POD was approved on August 30th, 2007 and identifies the “proposed action” as reasonably foreseeable.

Persons and Agencies Consulted

A previously reviewed and accepted Class III cultural resource inventory (BFO # 7007093) adequately covered a portion of the proposed project area. A current Class III inventory was conducted for the remaining portions, prior to on-the-ground project work (BFO project # 70080123). Buck Damone, BLM

Archaeologist, reviewed the report for technical adequacy and compliance with Bureau of Land Management (BLM) standards, and determined it to be adequate. The following cultural resources are located in or near the area of potential effect.

Site Number	Site Type	Eligibility
48CA4627	Prehistoric lithic scatter	Not Eligible
48CA5938	Historic Middle Prong Road	Not Eligible

There are no eligible sites within the APE of the proposed project. Following the Wyoming State Protocol Section VI (A)(1) the Bureau of Land Management electronically notified the Wyoming State Historic Preservation Officer (SHPO) on 9/2/08 that no historic properties exist within the APE.

The wildlife biologist has reviewed the proposal and determined that the project is consistent with the Final Environmental Impact Statement (WY-070-02-065) and programmatic biological opinion (ES-6-WY-07-F012) from the Powder River Basin Oil and Gas Project.

Decision and Rationale on Action

I have decided to implement Comet Energy's proposal to drill 15 additional wells and construct the associated infrastructure. These wells will be tied into the operator's, approved Kenai POD.

The following Conditions of Approval (COAs) Apply:

1. Company will adhere to the approved Kenai POD and the associated COAs, as well as the following Highline Add I & II PODs and their associated COAs.
2. All changes made at the onsite will be followed. They have all been incorporated into the operator's plan of development.
3. Well B2-34, maintain 20' undisturbed vegetative buffer. Use proposed well pad design if slot design will not work.
4. Well B4-34, use slot design.
5. Well C2-34, maintain undisturbed vegetative buffer.
6. Well C4-34, use slot design.
7. Well D3-34, use slot design.
8. Well A3-35, no pad needed.
9. Well D1-35, slot may be needed.
10. Well D3-35, use slot design and limit access and utility corridor disturbance to 25'.

Wildlife

1. For any surface-disturbing activities proposed in sagebrush shrublands, the Companies will conduct clearance surveys for sage grouse breeding activity during the sage grouse's breeding season before initiating the activities. The surveys must encompass all sagebrush shrublands within 0.5 mile of the proposed activities.
2. All overhead powerlines shall be built to protect raptors, including bald eagles from accidental electrocution using the most recent "suggested practices for raptor protection" by the Avian Power Line Interaction Committee (current version 2006) and any additional practices provided by the US Fish and Wildlife Service. It should be noted that raptor protection can be achieved through insulation and or wire spacing and that there are multiple configurations capable of protecting raptors (CM5 Biological Opinion 2007).
3. Power poles within 0.5 mile of any sage grouse breeding ground will be raptor-proofed to prevent raptors from perching on the poles.
4. Containment impoundments will be fenced to exclude wildlife and livestock. If they are not fenced, they will be designed and constructed to prevent entrapment and drowning.
5. All stock tanks shall include a ramp to enable trapped small birds and mammals to escape. See Idaho BLM Technical Bulletin 89-4 entitled Wildlife Watering and Escape Ramps on Livestock Water Developments: Suggestions and Recommendations.

Threatened, Endangered, or Sensitive Species

Bald Eagle

1. Special habitats for raptors, including wintering bald eagles, will be identified and considered during the review of Sundry Notices.
2. Surveys for active bald eagle nests and winter roost sites will be conducted within suitable habitat by a BLM approved biologist. Surface disturbing activities will not be permitted within one mile of suitable habitat prior to survey completion.
3. A disturbance-free buffer zone of 0.5 mile (i.e., no surface occupancy) will be established year-round for all bald eagle nest sites. A seasonal minimal disturbance buffer zone of one mile will be established for all bald eagle nest sites (February 1 – August 15).
4. A disturbance-free buffer zone of 0.5 mile (i.e., no surface occupancy) will be established year-round for all bald eagle winter roost sites. A seasonal minimal disturbance buffer zone of 1 mile will be established for all bald eagle winter roost sites (November 1 – April 1). These buffer zones and timing may be adjusted based on site-specific information through coordination with, and written approval from, the USFWS.
5. Within ½ mile of bald eagle winter roost sites additional measures such as remote monitoring and restricting maintenance visitation to between 9:00 and 3:00 may be necessary to prevent disturbance (November 1 – April 1).
6. Additional mitigation measures may be necessary if the site-specific project is determined by a BLM biologist to have adverse effects to bald eagles or their habitat.

Black-footed Ferret

1. Prairie dog colonies will be avoided wherever possible.
2. If any black-footed ferrets are located, the USFWS will be consulted. Absolutely no disturbance will be allowed within prairie dog colonies inhabited by black-footed ferrets.
3. Additional mitigation measure may be necessary if the site-specific project is determined by a BLM biologist to have adverse effects to black-footed ferrets or their habitat. In the event that a mountain plover is located during construction or operation, the USFWS' Wyoming Field Office (307-772-2374) and the USFWS' Law Enforcement Office (307-261-6365) will be notified within 24 hours.

Mountain Plover

1. A mountain plover nesting survey following U.S. Fish and Wildlife Service protocol is encouraged prior to construction initiation, as project modifications can be made if necessary to protect nesting plovers and natural gas production. If requested in writing, then authorization may be granted for construction activities to occur between August 1 and March 15, outside the mountain plover breeding season. A mountain plover nesting survey following U.S. Fish and Wildlife Service protocol shall be conducted during the first available survey period (May 1 – June 15). Additional measures such as monitoring and activity restrictions may be applied if mountain plovers are documented.
2. A disturbance-free buffer zone of 0.25 mile will be established around all occupied mountain plover nesting habitat between March 15 and July 31.
3. Project-related features that encourage or enhance the hunting efficiency of predators of mountain plover will not be constructed within ½ mile of occupied mountain plover nesting habitat.
4. Construction of ancillary facilities (for example, compressor stations, processing plants) will not be located within ½ mile of known nesting areas. The threats of vehicle collision to adult plovers and their broods will be minimized, especially within breeding aggregation areas.
5. Where possible, roads will be located outside of plover nesting areas.
6. Work schedules and shift changes will be set to avoid the periods from 30 minutes before to 30 minutes after sunrise and sunset during June and July, when mountain plovers and other wildlife are most active.
7. Creation of hunting perches or nest sites for avian predators within 0.5 mile of identified nesting areas will be avoided by burying power lines, using the lowest possible structures for fences and other structures and by incorporating perch-inhibiting devices into their design.
8. When above ground markers are used on capped and abandoned wells they will be identified with markers no taller than four feet with perch inhibiting devices on the top to avoid creation of raptor hunting perches within 0.5 mile of nesting areas.
9. Reclamation of areas of previously suitable mountain plover habitat will include the seeding of vegetation to produce suitable habitat for mountain plover.

Ute Ladies'-tresses Orchid

1. Suitable habitat will be avoided wherever possible.

2. If suitable habitat for Ute ladies'-tresses cannot be avoided, surveys will be conducted in compliance with USFWS standards (USFWS 1995) by a BLM approved biologist or botanist. Surveys can only be conducted between July 20 and August 31.
3. Moist soils near wetlands, streams, lakes, or springs in the project area will be promptly revegetated if construction activities impact the vegetation in these areas. Revegetation will be designed to avoid the establishment of noxious weeds.
4. Companies operating in areas identified with weed infestations or suitable Ute ladies'-tresses orchid habitat will be required to submit an integrated pest management plan prior to APD approval. Mitigation will be determined on a site-specific basis and may include such measures as spraying herbicides prior to entering areas and washing vehicles before leaving infested areas. Infestation areas of noxious weeds have been identified through the county Weed and Pest Districts and are available at the Buffalo BLM office.

The above COAs and/or terms and conditions provide justification for this decision and may not be segregated from project implementation without further NEPA review. In addition, I have reviewed the plan conformance statement and have determined that the proposed activity is in conformance with the applicable land use plan(s). Further, I have reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 has been correctly applied. It is my determination that no further environmental analysis is required.

The above described action must be completed by August 30th, 2013.

Implementation Date

This project will be implemented on or after the below date.

Chris E. Hanson
Field Manager

Date

Administrative Review or Appeal Opportunities

This decision is subject to administrative review in accordance with 43 CFR 3165. Any request for administrative review of this decision 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.

Contact Person

For additional information concerning this decision, contact
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