

DECISION RECORD
Devon Energy Production Company, L.P. Durham Ranches Fed 21-284571-2XPH
Categorical Exclusion 3 (CX3), WY-070-390CX3-14-196
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. The BLM approves the application for permit to drill (APD) from Devon Energy Production Company, L.P. (Devon) to drill 1 oil and gas well and construct its associated infrastructure as described in the CX3 analysis, WY-070-390CX3-14-196, all incorporated here by reference.

Compliance. This decision complies with or supports:

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

Consultation. This decision considered:

- BLM Washington Office 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-070-390CX3-14-196 includes the project description, including site-specific mitigation measures which are incorporated by reference into that CX3 from earlier analysis. The proposed wells are approximately 6 miles north of Wright, Campbell County, Wyoming.

Approvals. BLM approves the following APDs and associated infrastructure:

Well Name/ Well #	Qtr	Sec	Twp	Rng	Lease
Durham Ranches Fed 21-284571-2XPH	SESW	28	45N	71W	WYW133563

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). Congress, the 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. Thus a FONSI and an EIS is not required.

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

DECISION RATIONALE. The approval of this project is because:

1. Mitigation measures and conditions of approval (COAs), analyzed in the CX3, in environmental impact statements or environmental analysis to which the CX3 tiers or incorporates by reference, will reduce environmental impacts while meeting the BLM’s need.

2. The approved project conditioned by its design features and COAs, will not result in any undue or unnecessary environmental degradation. The impact of this development cumulatively contributes to the potential for local Greater Sage Grouse (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. There are no conflicts anticipated or demonstrated with current uses in the area. This decision approving the Durham Ranches Fed 21-284571-2XPH well 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 need, revenues, and stimulate local economies by maintaining workforces.
5. 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).
6. The project is clearly lacking in wilderness characteristics because it lacks federal surface.
7. 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.
8. Devon certified there is a surface access agreement with the landowners it posted a bond.
9. This approval is subject to adherence with all of the operating plans, design features, and mitigation measures contained in the master surface use plan of operations, drilling plan, water management 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.

for Field Manager:  Date: 4/1/14

Categorical Exclusion 3 (CX3), WY-070-390CX3-14-196
Applications for Permit to Drill (APDs), Section 390, Energy Policy Act of 2005
Devon Energy Production Company, L.P. Durham Ranches Fed 21-284571-2XPH
Bureau of Land Management, Buffalo Field Office, Wyoming

Description of the Proposed Action.

The proposal is to explore for and possibly develop oil and gas reserves in geologic formations currently leased by Devon Energy Production Company, L.P. in Wyoming, (see Table 1 for lease information). The proposal consists of drilling a horizontal oil and gas well to drain the Parkman formation. Devon proposes to drill, complete, produce, and eventually reclaim the location. Associated infrastructure will include a tank battery, access road, and a temporary water tank location for completion purposes. No gathering pipelines are proposed. Any future gathering pipelines or other infrastructure will have a sundry submitted and receive a separate NEPA analysis.

Devon submitted the Durham Ranches Fed 21-284571-2XPH as notices of staking (NOSs) on August 21, 2013 to the BLM. Onsite inspections held on November 6, 2013 evaluated the proposal and modified it as necessary to mitigate environmental impacts. An application for permit to drill (APD) was submitted February 24, 2014. The BLM sent a post-onsite deficiency letter to Devon on January 13, 2014.

Table 1. Proposed Well

Well Name/ Well #	Qtr	Sec	Twp	Rng	Lease
Durham Ranches Fed 21-284571-2XPH	SESW	28	45N	71W	WYW133563

NOTE: the well is on fee surface over fee minerals accessing federal minerals so BLM has reduced jurisdiction.

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 (2003 Amendment) 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. 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.

The BLM will decide whether or not to approve the proposed development, and if so, under what terms and conditions agreeing with the Bureau’s multiple use mandate, environmental protection, and RMP. BLM Washington Office Instruction Memorandum (IM) No. 2009-078 established policy and procedures for processing APDs for horizontal drilling into federal mineral estate from multiple well pads on non-federal locations. Drilling and producing the wells is a federal action. Construction, operation, and reclamation of infrastructure on non-federal land are not federal actions. Drilling and producing mitigation is in the Conditions of Approval for Conventional Application for Permit to Drill.

It is the BLM’s responsibility and obligation to analyze the full effects of the federal action, and identify mitigation measures, regardless of the BLM’s authority to enforce the mitigation. The BLM needs to identify mitigation measures that would reduce or eliminate the effects of a non-federal action when it is a connected action to the BLM proposed action (see the BLM NEPA handbook, section 6.8.2.1.1, Connected Non-federal Actions). Identifying mitigation outside of the BLM’s jurisdiction alerts other agencies and landowners that can implement the mitigation. The probability of the other agencies implementing the mitigation measures is likely to occur, although these agencies may vary specific parameters recommended by the BLM. Full effects of the action and recommended mitigation measures are found in the Durham Ranches 1 POD Surface Use Plan, WY-070-EA13-83 and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill.

Table 1.2. Summary of Surface Disturbance

Activity	Length	Width	Disturbed	Interim Disturbance
<i>Well Pad</i>	varies	varies	5.7 acres	3.2 acres
Access Road	2800	70	4.5 acres	

The project area is in Campbell County 6 miles north of Wright, Wyoming.

Water storage for completion processes will be via (1) 40,000 bbl tank located on the proposed pad. Water will be transported via truck. The average daily traffic (ADT) for completion purposes is approximately, 6 semi-trucks/per day for approximately 3 weeks, . For details pertaining to permitted water sources see MSUP pp. 7. If the well is a producer oil and water will be stored on location in a tank battery and trucked off location. ADT for production is approximately 1 semi-truck per day but could be more depending on production.

For more details on project area access, design features, construction practices of the proposed action, drilling/completion details and details regarding reclamation refer to the (MSUP, pp.1-23) in the POD; see, administrative record (AR). The plan was written and reviewed to ensure that environmental impacts to both surface and subsurface resources are minimized. Also see the individual APD for a map showing the proposed access road, existing roads and well location. In addition, see WY-070-EA13-83, Sections 2, 3, and 4 for specifics regarding project area, general construction/reclamation practices.

The estimated time to construct the well pad is 7-14 days, estimated time to drill the well is 30 days, and the estimated time for completion activities are set to begin 20-25 days. The affected surface owner is: Durham Ranches. For contact information refer to the Master Surface Use Plan (MSUP) p. 21, in the AR.

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 CX3 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 proposal 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, 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. This area is clearly lacking in wilderness characteristics as it lacks federal surface. 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). BLM earlier identified over 115 townships from the Montana to Converse County borders that comprise the PRB fluid mineral developed field and this proposal is in the developed field.

Table 1.3 is a list of NEPA analyses that are within or adjacent to the project area. This information shows the reader that BLM conducted analysis.

Table 1.3. Overlapping Oil & Gas NEPA Analyses, in the surrounding area, that Account for Reasonable Foreseeable Activity

POD Name	NEPA Document	# Wells / Type / # Drilled	Decision
Durham Ranches 1 POD	WY-070-EA13-83	4/oil/0	2/21/13
Cherokee Ridge POD	WY-070-EA11-265	3/oil/2	9/1/11

This CX3 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.

- 2) There are existing NEPA analyses (and the RMP) containing reasonably foreseeable activity scenario for this action. There are several existing NEPA documents that reasonably foresaw activity to spud additional wells to fill in 80 acre well-spacing (see Table 1.3). BLM’s analysis in Table 1.3 shows that of the 7 approved APDs, only 2 are drilled, leaving 5 APDs available to support this proposal’s reasonably foreseeable activity. The reasonably foreseeable development (RFD) for this and adjacent areas includes oil/gas exploration on 640 acre spacing and possible 320 acre spacing on leases surrounding the Durham Ranches 1 POD. Document WY-070-EA13-83 discusses Devon’s development (pp. 4-5) to potentially drill 2 wells to the Parkman formation and 2 wells to the Turner formation in each section of the surrounding area. In addition, all approved EAs tier into the PRB FEIS. 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.
- 3) The tiered NEPA analyses were finalized or supplemented within 5 years of spudding (drilling) the proposed well.

This CX3 tiers to the EAs listed above 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 this APD. This proposal is similar to both the qualitative and quantitative analysis in the above mentioned Durham Ranches 1 POD. The BFO reviewed the corresponding 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 analysis also incorporates and analyzes the implementation of committed mitigation measures contained in the MSUP, drilling plan, in addition to the Standard COAs found in the PRB FEIS ROD, Appendix A.

Soils/Vegetation

BLM obtained detailed soils identification and data for the project area from the North Johnson / Campbell County Survey Area, Wyoming Soil Survey Geographic (SSURGO) Database (WY719). NRCS performed the soil survey according to National Cooperative Soil Survey standards. The BLM uses county soil survey information to predict soil behavior, limitations, or suitability for a given activity or action. The agency’s long term goal for soil resource management is to maintain, improve, or restore soil health and productivity, and to prevent or minimize soil erosion and compaction. Soil management objectives are to ensure that adequate soil protection is consistent with the resource capabilities. Many of

the soils and landforms of this area present distinct challenges for development, and /or eventual site reclamation. Impacts anticipated occurring and mitigation considered with the implementation of the proposal will be similar to those analyzed in the following EA: Durham Ranches 1 POD WY-070-EA13-83, pp. 12-14.

Wetlands/Riparian

The PRB FEIS has a detailed discussion on wetland and riparian ecosystems in northeastern Wyoming, pp. 3-108 to 3-113. Wetlands and riparian areas are important water-related features in the arid landscape of northeastern Wyoming. There is small area of riparian habitat (~40 ac.) that is bisected by an access road serving a fee mineral conventional well that will be used for the proposed well. The siting of the well pad (up on a bench) is such that potential impacts to the area will be minimal to none. Also design features of pad site are such that cut and fill do not exceed nine feet and with the application of erosional/stabilization mitigation measures erosional concerns are minimal. The PRB FEIS disclosed effects to wetland and riparian areas from oil and gas development, including a discussion of direct and indirect impacts, cumulative impacts, and residual impacts, pp. 4-173 to 4-179.

Invasive Species

Impacts anticipated occurring and mitigation considered will be similar to those analyzed in the following adjacent or overlapping EA: Durham Ranches 1 POD WY-070-EA13-83, pp. 14-15.

Wildlife

BLM reviewed the APD and determined that the proposal, 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), which is an update from the PRB FEIS, Appendix K. The proposed well and infrastructure are a result of attempts by Devon and the BLM to reduce impacts to identified wildlife resources. The affected environment and environmental effects for wildlife are anticipated to be similar to the above tiered NEPA documents. Also, Grouse Mountain Environmental Consultants performed a wildlife report for the proposed action.

Raptors

One raptor nest, ferruginous hawk (BLM# 1115) is 0.16 miles from the proposed well pad. No nest was found at the onsite at or near the reported coordinates, however the Grouse Mountain biologist reported the nest as inactive and in poor condition in 2013. The nest is on the backside of a hill from the proposed well location and onsite views from the location along with ArcGIS analysis shows the proposed well and majority of the pad to be out of line-of-sight from the nest. The ArcGIS analysis used line-of-site to a 35 foot structure. The existence of a producing conventional well at the same location makes it likely that the nest location may already be compromised and will not be further impacted by this project. Two other ferruginous hawk nests, 1134 and 1140 were determined to be “gone” by Grouse Mountain Environmental Consultants. BLM will recommend measures to mitigate raptor effects.

Greater Sage-Grouse (GSG)

There are no GSG leks within 4 miles of the proposed DR1 21-284571-2XPH well pad and access road, nor are the proposed disturbances in high quality GSG nesting habitat.

Migratory Birds

The proposal is in mixed grass and sage providing poor nesting covers for sagebrush obligate migratory birds of conservation concern. Devon commits to effectively exclude migratory birds from all facilities that pose a mortality risk, including, but not limited to, heater treaters, flare stacks, and secondary containment where escape may be difficult or wildlife toxicants are present.

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 1 registered stock (depth 236 feet), 0 domestic water wells and 1 monitor well (depth 510 feet) within 1 mile of the surface hole location in the project area. For additional information on groundwater, refer to the PRB FEIS, pp. 3-1 to 3-36.

Adherence to the drilling COAs, the setting of casings at appropriate depths, following safe remedial procedures, and using proper cementing procedures should protect possible fresh water aquifers. The target formation is the Parkman Formation with total vertical depths ranging from 6141 feet to 6424 feet. Specific to protection of the Fox Hills Formation as described in the drilling plan the operator will run surface casing to 2,250 feet, total vertical depth and cement to surface to protect potential shallow aquifers. The Fox Hills Formation occurs at a depth between 4943 feet and 5000 feet. The top of cement for the intermediate casing will be isolated from the intermediate casing shoe to 2000 feet to protect potential fresh water aquifers. This will ensure that ground water will not be adversely impacted by well drilling and completion operations. A gamma ray log will be run from TVD to surface. The gamma ray log will be run either with a wire line or LWD (logging while drilling) tools. The gamma ray log will indicate the top and bottom of Fox Hills Formation. Also as described in Appendix 1 of the Drilling Plans the operator will utilize one of the following techniques to properly identify the cement top is above the Fox Hills Formation: a) Radioactive Cement Tracer and associated tools, b) Cement Bond Log, or c) Temperature Survey. This will help ensure that ground water of the fox hills formation 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 well(s) 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. Impacts anticipated occurring and mitigation considered will be similar to those analyzed in the following EA which is adjacent or overlapping to the project area and is incorporated here by reference: Durham Ranches 1 POD WY-070-EA13-83, pp. 14.

Cultural

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 found in the area, refer to the Draft Cultural Class I Regional Overview, Buffalo Field Office (BLM, 2010). A Class III (intensive) cultural resource inventory (BFO project no. 70140052) was 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 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 March 19, 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 explained in Standard COA (General)(A)(1).

Failure to abide by any or all of the recommended mitigation measures (RMMs) may result in minor impacts yet will not result in significant effects to the human environment.

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

Position/Organization	Name	Position/Organization	Name
NRS/Team Lead	Eric Holborn	Archeologist	G.L. "Buck" Damone III
Supr NRS	Casey Freise	Wildlife Biologist	Don Brewer
Petroleum Engineer	Will Robbie	Geologist	Kerry Aggen
LIE	Christine Tellock	LA	Connie Modzelewski
Soils	Arnie Irwin	Supr NRS	Bill Ostheimer
Hydrologist	NA	Assistant Field Manager	Chris Durham
Assistant Field Manager	Clark Bennett	NEPA Coordinator	John Kelley

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 Durham Ranches Fed 21-284571-2XPH CX3 APD 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.

[Handwritten Signature]
 Field Manager

4/1/14
 Signature Date

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