

DECISION RECORD
Pat Simon Oil, Dever 1 (Re-entry) Plan of Development (POD)
Categorical Exclusion 1 (CX1), WY-070-390CX1-14-231
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. The BLM approves the application for permit to drill (APD) from Pat Simon Oil (Simon), to drill (re-enter) 1 well and construct its associated infrastructure as described in this CX1 analysis, all of which the 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 Statements (FEISs), 1985, 2003, (2011).
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 2011.

A summary of the details of the approval follows. This CX1 analysis includes the project description, including site-specific mitigation measures which are incorporated by reference into this CX1 from earlier analysis. The proposed well is 16 miles SE of Kaycee, Johnson County, Wyoming. The proposed POD has 1 APD to develop and produce oil and gas from the Tensleep Formations of the PRB. All wells are vertical bores proposed on a 40 acre spacing pattern with 1 well per location. This company and possibly other oil and gas companies plan to drill/re-enter more wells in the area.

Approvals. BLM approves the following APD/POD and associated infrastructure:

Well Name & #	Qtr	Sec	Twp	Rng	Lease	CX Number
Dever 1	SWSW	23	41N	81W	WYW159664	WY-070-390CX1-14-231

Limitations. See the 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, EA, and an EIS are not required.

COMMENT OR NEW INFORMATION SUMMARY. BLM received policy clarification on bond review via Wyoming BLM IM-2014-009, and on tiering / incorporating by reference via 184 IBLA 307.

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. 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 GSG extirpation yet its effect is acceptable because it is outside priority habitats and is within the parameters of the Powder River Basin (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 this POD 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 CX1, 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 as 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. The company certified there is a surface access agreement with the landowners or 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.

Acting Field Manager:



Date:

4/17/14

Categorical Exclusion 1 (CX1), WY-070-390CX1-14-231
Section 390, Energy Policy Act of 2005, Application for Permit to Drill (APD)
Pat Simon Oil, Dever 1 (Re-entry) Plan of Development (POD)
Bureau of Land Management, Buffalo Field Office, Wyoming

Description of the Proposed Action.

Pat Simon Oil (Simon) proposes to drill (re-enter) 1 vertical oil and gas well and construct associated infrastructure as follows:

Table 1.1. Proposed Well

Well Name/ Well #	Qtr	Sec	Twp	Rng	Lease	CX #
Dever 1 (re-entry)	SWSW	23	41N	81W	WYW159664	WY-070-390CX1-14-231

The proposed well is within the lease boundaries (which includes at least 5 wells), which cover an area of 320 acres. This proposed re-entry well is approximately 350 feet away from the Dever #3 (re-entry) well, on its separate pad. There will be no production facilities needed at this proposed well, due to this well's using the existing production facilities at the Dever #3 location. The project area is 16 miles SE of Kaycee, Johnson County, Wyoming. The project elevation is 5,690 feet. The topography has scattered pine tree covered ridges and draws rising to mixed sagebrush-grassland uplands. Ephemeral tributaries of Wall Creek drain the project area. The area climate is semi-arid, averaging 10-14 inches of precipitation annually, about 60% of which occurs between April and September. The well is in standard split jurisdiction (federal lands) with fee surface over lying federal minerals, and the targeted formation for extraction is a federal lease. The surface owners are Kaycee Land and Livestock.

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 CX1, 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.

Reasonably foreseeable activity in the Dever # 3 POD Environmental Assessment (EA), WY-070-EA12-60, approved 2012 and its locality to include but not limited to the Dever # 1 POD, will fill-in to 80 acre spacing. This supports the reasonably foreseeable activity and development anticipated in the PRB FEIS, (see narrative in Section 2, No Action Alternative and Appendix A).

The company submitted an APD/POD on October 28, 2013, to the Buffalo Field Office (BFO). The company and BFO completed onsite inspections on December 19, 2013. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to the company on January 7, 2014.

Full effects of this action and recommended mitigation measures are in the Dever #3 project surface use plan, EA-WY-070-EA12-60 and this Dever #1 project and their associated, BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, Appendix A.

Drilling, Construction & Production design features include:

- The company anticipates completing drilling and construction in 2 years. Drilling and construction is year-round in the region. Weather may cause delays, but delays rarely last multiple weeks. Timing

limitations in the form of COAs and/or agreements with surface owners may impose longer temporal restrictions. The operator anticipates that estimated drilling duration will be 30 to 45 days.

- A road network that will consist of existing improved all-weather roads; existing primitive (2-track) road to be upgraded to an all-weather improved road, connecting the Dever #1 well to the Dever #3 well.2 wells. The operator will maintain roads associated with access to this/these wells in as required by the BLM.
- Anticipated traffic will be approximately 60 semi-trucks, 60 water trucks and 3 pickup trucks for the construction, drilling and completion of this well. During the production phase, vehicle traffic would be greatly reduced due to the fact that the well house is only 350 feet away from the existing Dever 3 well, where all of the produced water and fluid minerals will flow to.
- There will be a closed loop system at this oil well location during drilling and completion.
- No off-site ancillary facilities are planned for this project. No staging areas, man camps/housing facilities are anticipated to be used off-site. Working trailers and sleeping trailers will be placed on the well pad during the drilling and completion of the well if needed.
- If the well becomes a producer, production facilities will be located at the existing, Dever #3 well site and will include storage tanks, buildings and an oil-water separator (heater-treater). Dever #1 well will only have a well pump, inside a well house at the location. There will be no pits at this producing oil well location.
- Power will be buried from the existing Dever #3 well.
- Well pad disturbance during construction and drilling will minimal, since it is a re-drill on an existing location. Once the well is completed, any area of the well pad not needed for production will be reclaimed for interim reclamation.

Additionally, the proposed well will use existing infrastructure for the Dever #3 POD. For a detailed description of design features and construction practices associated with the proposed project, refer to the surface use plan (SUP) and drilling plan included with the APD; all incorporated here by reference. Also see the APD for maps showing the proposed well location and associated facilities described above. Total surface disturbance for the proposal is 0.74 acres. Historically, the wells in this lease were all permitted in a unit allowing 40 acre spacing. This unit is no longer in effect. The wells in this lease were all plugged and abandoned (PA) years ago. Simon is re-entering these wells, and will produce them if profitable. If not, Simon will reclaim the disturbance. Since this proposal will be on the existing well pads, little new pad construction is needed. So far, for the Dever #3 and this proposed Dever #1 well, the well pad sizes have been less than 1acre, which is within the PRB FEIS analysis parameter of 5.5 acres of surface disturbance per deep well, p. 4-312.

Table 1.2. Disturbance Summary For Dever #1 Oil well Re-entry:

Facility	Number or Miles	Factor	Disturbance
Pad	1 @ 100 ft x 150 ft	15,000 sq ft	0.34 acres
Improved Template Roads with Utility Corridor	0.14 mile	50 ft	0.40 acres
Total Surface Disturbance			0.74 acres

Off Well Pad

The company will install a buried flow line and buried power line, back to the existing Dever #3.

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 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. The project area is clearly lacking in wilderness characteristics as it lacks federal surface. BLM finds that the conditions and environmental effects found in the senior EA and PRB FEIS remain valid. The applicable categorical exclusion from the Energy Policy Act of 2005 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. Here, this proposal will result in 0.74 acres of surface disturbance – well within the 5.0 acre parameter.
- 2) The current unreclaimed surface disturbance readily visible on the entire leasehold must not be greater than 150 acres, including this proposed project. This includes previous disturbances supporting lease development. The 150-acre limit applies separately to each federal lease supporting the development. Here, the additional surface disturbance of 0.74 acres is well within the parameters for 150 acres of surface disturbance on the lease; see the AR for Dever 3 (re-entry), WY-070-EA12-60, also noting p. 3, of that EA.
- 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 EA/EIS; it may be part of a specific master development plan, a multi-well EA/EIS, or an individual permit approval EA/EIS. 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. Here, as discussed above and below, the Dever 3 (re-entry) EA, WY-070-EA12-60 thoroughly analyzed the activity anticipated by this proposal and the analysis area of this proposal.

This CX1 tiers to the following approved EA in Table 1.3.

Table 1.3.

POD/ Well Name	NEPA Document #	# / Type Well	Decision Date
Dever #3 (re-entry)	WY-070-EA-12-61	1 Oil	8/3/12

In summary the EA in Table 1.3 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 this proposal is similar to both the qualitative and quantitative analysis in the above EA. The BFO reviewed the EA and found that the EA considered potential environmental effects associated with the proposal at a site specific level. The project well will share infrastructure for the Dever #3 POD. The APD's surface use and drilling plans are incorporated here by reference and show adequate protection of surface lands and ground water.

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.

Water Resources.

The historic use for groundwater in this area was for stock or domestic water. A search of the WSEO Ground Water Rights Database showed no registered stock and domestic water wells within 1 mile of the proposed wells 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 casing at appropriate depths, following safe remedial procedures in the event of casing failure, and using proper cementing procedures should protect any fresh water aquifers above the target coal zone. This will ensure that ground water will not be adversely impacted by well drilling and completion operations.

The operator intends to dispose of any produced water through facilities approved under the Dever #3 EA, WY-070-EA-12-61. At the time of permitting, the volume of water that will be produced in association with these federal minerals is unknown. However it is anticipated that it will be within the volumes projected for the Dever #3 well which is discharged to tributaries of the South Fork Powder River under WYPDES permit #WY0025071. 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.

Wildlife.

BLM reviewed the proposal and determined that it, combined with the COAs (and design features), is: (1) consistent with the FEIS and its supplements, the RMP and the above tiered EAs; and (2) consistent with the programmatic biological opinion (ES-6-WY-02-F006), from the PRB FEIS, Appendix K. The affected environment and environmental effects for wildlife are discussed in, and anticipated to be similar to the Dever #3 EA, WY-070-EA-12-61.

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 in BFO 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. 70140053) was performed to locate specific historic properties which may be impacted by the proposal. No cultural resources are in or near the proposal area.

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 3/28/2014, 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).

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

Position/Organization	Name	Position/Organization	Name
NRS/Team Lead	Dan Sellers	Archaeologist	Clint Crago
Supr NRS	Casey Freise	Wildlife Biologist	Darci Stafford
Petroleum Engineer	M. Thomason/M. Warren	Geologist	Kerry Aggen
LIE	Karen Klasshsen	Grazing Management	Dan Sellers
Soils	Dan Sellers	Supr NRS	Bill Ostheimer
Hydrologist	Brent Sobotka	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 projects CX1, 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.


 Acting Field Manager


 Signature Date

Contact Person, Dan Sellers, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1100