

DECISION RECORD

**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-348 and WY-070-390CX3-13-349
Application For Permit to Drill (APD), Wesco Operating Inc, Amkirk Federal 5-41& Federal 5-42
Bureau of Land Management, Buffalo Field Office, Wyoming**

DECISION. The BLM approves the applications for permit to drill (APDs) from Wesco Operating Inc., to drill 2 vertical oil and gas wells and construct their associated infrastructure as described in the CX3 analysis, which BLM incorporates 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.

A summary of the details of the approval follows. The consolidated CX3 analysis, including the project description, in addition to site-specific mitigation measures which are incorporated by reference into the CX3 from earlier analysis. The proposed wells are 30 miles southeast of Gillette, WY, Campbell County, Wyoming. The proposed wells are a vertical bore proposed on an 40 to 80 acre spacing pattern. These wells will produce from the Minnelusa formation.

Approvals. BLM approves the following APDs and associated infrastructure:

#	Well Name & #	Qtr	Sec	Twp	Rng	Lease	CX Number
1	Amkirk Federal 5-41	NENE	5	46N	70W	WYW117508	WY-070-390CX3-13-348
2	Amkirk Federal 5-42	SENE					WY-070-390CX3-13-349

List of Approved Rights-of-Way (ROWs). (NTE – not to exceed; distances are in feet)

ROW Grant	ROW Action	Sec	Twp	Rng	Lengths	Width
168441	Road, Water Buried Power	5	46N	70W	703'-2119'- 717'	Corridor NTE 50'
168442	Gas Pipeline and Flow Line	5	46N	70W	2,127'-726'	Corridor NTE 50'
					Acres of Disturbance	
					5.4 acres	

Limitations. Requires receipt of separate ROWs and 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 CX3 analysis process and its limiting parameters. Thus a FONSI and an EIS are not required.

COMMENT OR NEW INFORMATION SUMMARY. BLM posted the APDs for 30 days and received no comments. The BLM received a clarified policy on Greater Sage-Grouse (GSG) conservation and consulted that study in the analysis of this APD.

DECISION RATIONALE. The approval of this project is because:

1. Mitigation measures and COAs analyzed in the consolidated CX3 analysis, 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 GSG extirpation yet its effect is acceptable because it is outside preliminary priority (core) 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 these APDs complies with the Energy Policy Act of 2005, Section 390, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215.
3. To reduce the likelihood of a "take" under the Migratory Bird Treaty Act, BLM sensitive species nesting habitat removal will occur outside of the breeding season or be cleared by survey.
4. 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.
5. The selected alternative will help meet the nation's energy need, revenues, and stimulate local economies by maintaining workforces.
6. The operator, in their APD, shall:
 - Comply with all applicable federal, state, and local laws and regulations.
 - Offer water well agreements to the owners of record for permitted water wells within 0.5 mile of a federal producing well in the POD (PRB FEIS ROD, p. 7).
 - Provide water analysis from a designated reference well in each coal zone.
7. The project is clearly lacking in wilderness characteristics because it is amidst mineral 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 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.
9. Wesco certified there is a surface use access agreement with the landowners or it posted a bond.
10. 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.

Field Manager:  Date: 12/31/13

**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-348 and WY-070-390CX3-13-349
Section 390, Energy Policy Act of 2005, Application for Permit to Drill (APD)
Wesco Operating Inc., Amkirk Federal 5-41 & Amkirk Federal 5-42
Bureau of Land Management, Buffalo Field Office, Wyoming**

Description of the Proposed Action.

Wesco Operating Inc. (Wesco) proposes, via applications for permit to drill (APDs), to drill 2 vertical oil and gas wells and construct their associated infrastructure as follows:

Table 1.1. Proposed Wells

#	Well Name & #	Qtr	Sec	Twp	Rng	Lease	CX Number
1	Amkirk Federal 5-41	NENE	5	46N	70W	WYW117508	WY-070-390CX3-13-348
2	Amkirk Federal 5-42	SENE					WY-070-390CX3-13-349

The proposed wells are within historic and current oil fields. The project area is 30 miles southeast of Gillette, WY, in Campbell County. The elevation is 4,623 feet. The topography has gently sloped draws rising to mixed sagebrush and grassland uplands. An unnamed, ephemeral draw runs 1.75 miles to the Belle Fourche River, which drains the project area. 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 well surface is: federal; underlying minerals are: federal; and the targeted formation for extraction is a federal lease. The proposals are in the Amkirk field.

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.

Reasonably foreseeable activity in the Wesco Federal 5-22 APD Environmental Assessment (EA), WY-070-EA13-26, 2012 which the Wesco 5-41 and 5-42 wells will tier to, and its locality to include, but not limited to, the approved Federal 5-22 APD, will fill-in to 40-acre spacing. This supports the development anticipated in the PRB FEIS, (see narrative in Section 2, No Action Alternative). The surface owner is the BLM. The proposal is to explore by vertical drilling for, and possibly develop, oil and gas reserves in the Minnelusa Formation at 10,250 feet, total vertical distance.

The operator submitted two (2) Notices of Staking (NOSs) on June 17, 2013, to the BLM. The operator and BLM completed onsite evaluations on August 20, 2013. The operator converted the NOSs to APDs which BLM received on September 12, 2013. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to Wesco on November 7, 2013.

Full effects of the actions and recommended mitigation measures are in the operators surface use plans, this consolidated CX3, Wesco’s APDs (incorporated here by reference, the rights of way (ROWs) applications for road, water, power, gas and flow lines (incorporated here by reference), Wesco Federal 5-22 EA, WY-070-EA13-26, and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, Appendix A.

Drilling, Construction & Production design features include:

- The operator 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 the estimated drilling duration to be 4 to 5 weeks.

- A road network that will consist of existing improved all-weather roads; and a 500 foot, proposed all-weather, well access road.
- There will be a reserve pit at this oil well location during drilling and completion.
- Hydraulic fracturing operations are not planned. Completion flowback water will be held in tanks on location and trucked offsite to a disposal facility permitted by Wyoming Department of Environmental Quality (WDEQ).
- Work trailers and sleep trailers may be placed on the well pad during the drilling and completion of the well.
- If the well becomes a producer, production facilities will be located at the well site and will include a pumping unit, storage tanks, buildings, oil-water separator (heater-treater). There will be no pits at this producing oil well location.
- Water needed for the drilling and production of this well will be provided from the Fox Hills formation from the existing 1-N-9 water well located in the SESW Section 19 T47N R70W. Approximately 8,500 barrels of water will be hauled to the location on existing and proposed roads by water trucks.
- Produced water will be stored on site in tanks and then is proposed to be trucked for injection to the Amkirk 3-I-6 water injection facility.
- Dikes will be constructed completely around production facilities, i.e. production tanks, water tanks, and heater-treater. The dikes will be constructed of corrugated steel and/or dirt, and hold capacity of the largest tank plus 10%. If the load-out line is outside of the dike area. A drip barrel or “Getty-Box” will be installed under the end of all load-out lines.
- An existing above ground power line will be utilized if the well becomes a producer. It is anticipated that new construction of buried power will follow the access roads to the wells. A natural gas powered generator will be used until the power line is installed.
- Well pad disturbance during construction and drilling will be approximately 7.33 acres. Once the well is completed, any area of the well pad not needed for production will be reclaimed for interim reclamation.

The operator will use existing infrastructure for these wells as much as possible, since these wells are next to existing company facilities. For a detailed description of design features and construction practices associated with the proposals, refer to the surface use plan (SUP) and drilling plan included with the APDs and ROWs. Also see the subject APDs (administrative record (AR)), for maps showing the proposed locations and associated facilities described above. Total surface disturbance for the proposals is 7.33 acres, during the production/interim reclamation phase. The pad will be partially reclaimed, using 0.68 acres for the 5-41 well and 1.91 acres for the 5-42 well, for production use.

Table 1.2. Disturbance Summary for Wesco’s Proposed Oil wells:

Facility	Number or Miles	Factor	Disturbance
Engineered Pad	2 @ 300 ft x 400 ft	120,000 sq ft	5.5 acres
Engineered Pad Cut & Fill	2	0.13 & 0.2 acres	0.33 acres
Improved Template Roads & Utility Corridor	0.25 mile	1300 x 50 ft	1.5acres
Total Surface Disturbance			7.33 acres

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 is amidst oil and natural gas development. 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, 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 NEPA analysis that are within or adjacent to the project area. This information shows the reader that BLM conducted analysis.

Table 1.3. Adjacent or Overlapping NEPA Analysis Tiered to & Incorporated Here by Reference

#	POD / Well Name	NEPA Analysis	# / Type Wells	Decision Date
1	Wesco Federal 5-22	WY-070-EA13-26	1 oil	12/20/2012
2	Wesco Federal 5-32	WY-070-CX3-13-58	1 oil	2/6/2013

- 2) There is an existing NEPA document (and the RMP) containing reasonably foreseeable activity scenario for this action. There are existing NEPA documents that reasonably foresaw development to spud additional wells to fill in 80 acre or less well-spacing. BLM reviewed these documents and determined they considered the potential environmental effects associated with the proposed activity at a site specific level. In addition, the approved EA tiers 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 over 3,000 oil wells. The project wells are in the foreseeable activity scenario of 80 acre or less well-spacing that was analyzed in EAs in Table 1.3 and in the PRB FEIS's Appendix A.
- 3) The tiered NEPA documents were finalized or supplemented within 5 years of spudding (drilling) the proposed well. This CX3 tiers to the approved analyses listed above in Table 1.3, and incorporates them by reference. This CX3 also incorporates by reference the overlapping analyses from Hilight 2 CBM [coalbed methane] EA, WY-080-2000-080, August 1, 2000, and Hilight CBM A EA, WY-070-00-EA-200, August 11, 2000.

In summary the analyses in Tables 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 of the Federal 5-41 and 5-42 wells which are similar to both the qualitative and quantitative analysis in the above mentioned NEPA documents. The BFO reviewed these NEPA documents and found that they considered potential environmental effects associated with the proposal at a site specific level. The project well will share infrastructure in the Amkirk and Hilight oil and gas fields which include at least 198 wells from the Jason Unit and 22 wells from the Hilight field. Confirmation wells for these project wells are those wells drilled and completed in the Wesco, Federal 5-22 APD, EA WY-070-EA13-26 and the Federal 5-32, WY-070-CX3-13-58. The APDs' surface use and drilling plans 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, Appendix A.

Wildlife.

BLM reviewed the proposed APDs and ROWs, and determined that the proposals, combined with the COAs are: (1) consistent with the FEIS and its supplements, the RMP and its Amendments, and the above tiered EA; and (2) consistent with the effects analyzed in the site specific Endangered Species Act section 7 consultation and does not change the determinations in that consultation. Site-specific wildlife issues amplified here include migratory birds, and Greater Sage-Grouse (GSG) and their associated mitigation measures.

Greater Sage-Grouse (GSG)

The PRB FEIS predicted that the PRB oil and gas development would have significant impacts to the GSG population. The impact of the proposed development may cumulatively contribute 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. The BLM also analyzed and considered mitigation for the Kay Lek in the above tiered EA. The proposed project occurs within two miles of a documented GSG lek and within suitable habitat. A timing limiting stipulation will be applied to the entire proposal.

Migratory Birds

The PRB FEIS discussed direct and indirect effects to migratory birds, pp. 4-231 to 4-235. The PRB FEIS states, p. 4-231, "Surface disturbance associated with construction, operation, and abandonment of facilities, including roads, has the potential to result in direct mortality of migratory birds. Most birds would be able to avoid construction equipment; however, nests in locations subject to disturbance would be lost, as would any eggs or nestlings." Direct mortality of a bird or destruction of an active nest due to construction activities could result in a "take" as defined (and prohibited) by the MBTA (Migratory Bird Treaty Act), a nondiscretionary statute.

Suitable habitat was verified during the onsite for migratory birds. A nesting Brewer's sparrow was also documented on the proposed Amkirk Federal 5-41 well location, indicating that the immediate area is expected to be occupied in the future by nesting sagebrush obligates. An in depth analysis of for migratory birds was done in the NEPA document, Yates Bonita, WY-070-390CX3-13-41 and is incorporated by reference here.

A timing limiting stipulation for habitat removal will be applied to the Amkirk Federal 5-41 to mitigate negative impacts to migratory birds.

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 no registered stock and domestic water wells within 1 mile of the proposed wells in the project area. Refer to the PRB FEIS, pp. 3-1 to 3-36, for more information.

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. Wesco stated in their drilling plan that, "The casing will be

cemented with a two stage cement job. A stage collar will be set at 100 feet below the Fox Hills, and a centralizer will be placed on every joint above the stage collar to 100 feet above the Fox Hills. The top and base of the Fox Hills formation will be determined by wireline log correlation of the first sand above the Pierre Shale. The first stage of cement will place cement from TD of 10,452 feet up to a depth of 7,600 feet. The second stage will bring cement from 100 feet below the Fox Hills to surface, thus isolating the Fox Hills. 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 well 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.

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 generally 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. 70130115) was performed for the Amkirk Federal 5-41 and Federal 5-42 wells and the Amkirk Field Gathering System (ROWs) in order to locate specific historic properties which may be impacted by the proposals. No cultural resources are in the proposal area; however, the following resources are near the proposed undertakings.

Table 1.4. Area Cultural Resources & National Register of Historic Places (NRHP) Eligibility

Site #	Site Type	NRHP Eligibility
48CA109	Prehistoric Lithic Scatter	Unevaluated
48CA110	Prehistoric Lithic Scatter	Unevaluated
48CA111	Prehistoric Stone Circle and Lithic Scatter	Unevaluated
48CA247	Prehistoric Lithic Scatter	Unevaluated
48CA380	Multiple Component: Prehistoric Lithic Scatter & Historic Debris Scatter	Unevaluated
48CA390	Historic Debris Scatter	Unevaluated
48CA614	Historic Wooden Platform	Unevaluated
48CA615	Prehistoric Lithic Scatter and Faunal Bone	Unevaluated
48CA876	Multiple Component: Prehistoric Lithic Scatter & Historic Debris Scatter and Stone Feature	Unevaluated
48CA2428	2 Prehistoric Stone Circles	Unevaluated
48CA2469	Historic Cairn	Unevaluated
48CA2809	Historic Dump/Stockherding Camp	Unevaluated

There are no eligible sites in the area of potential effect (APE) of the proposals. Following the Wyoming State Protocol Section VI(A)(1) the BLM notified the Wyoming State Historic Preservation Officer (SHPO) on November 13, 2013 that no historic properties exist in the APE.

Proposed Rights-of-Ways (ROW). (NTE – not to exceed; distances are in feet)

ROW Grant	ROW Action	Sec	Twp	Rng	Lengths	Width
168441	Road, Water Buried Power	5	46N	70W	703'-2119'- 717'	Corridor NTE 50'
168442	Gas Pipeline and Flow Line	5	46N	70W	2,127'-726'	Corridor NTE 50'
					Acres of Disturbance	
					5.4 acres	

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

Position/Organization	Name	Position/Organization	Name
NRS/Team Lead	Dan Sellers	Archaeologist	Doug Tingwall
Supr NRS	Casey Freise	Wildlife Biologist	Chris Sheets
Petroleum Engineer	Will Robbie	Geologist	Warren Garrett
LIE	Christine Tellock	Realty Specialist	Amber Haverlock
Soils	Dan Sellers	Supr NRS	Bill Ostheimer
Hydrologist	Keith Anderson	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 APDs: Wesco Amkirk Federal 5-41, Amkirk Federal 5-42, and infrastructure conform to the applicable land use plan, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215. I reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 is correct. I determined that there is no requirement for further environmental analysis.



 Field Manager

12/30/13

 Signature Date

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