

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

Cat/Shadow Add 2
Yates Petroleum Corp
CX-070-08-3-051, 052 and 053
Bureau of Land Management
Buffalo Field Office

Description of the Proposed Action

Develop 3, water injection wells and their associated infrastructure, for the Cat/Shadow POD. Two of the wells will be re-entry into abandoned oil wells. Proposed wells are: HAUNT INJ #17 in T47N R76W Section 19, DUSK INJ #8 in T47N R76W Section 21 and the GOBLIN INJ #5 in T47N R76W Section 31. The operator has committed that coal bearing zones will not be targeted for injection.

The total surface disturbance for this action consists of 4.4 total acres.

1. Well locations = Approximately 1 acre each for a total of 3 acres.
2. 2 track road and utility corridor = 30 feet wide for a total of 1acre.
3. Overhead electric = 0.123 miles for a total of 0.4 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, this CX and the approved Cat/Shadow POD, 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 Cat/Shadow POD was approved on May 5th, 2005 and identifies the drilling and construction of the proposed, 3 “water injection wells” and their associated infrastructure as reasonably foreseeable.

Previous inventory:

Previously reviewed and accepted Class III cultural resource inventories (BFO # 70000118, 70050030 and 70050030A) adequately covered the proposed project area. On 3/03/08, BJ Earle, BLM Archaeologist, electronically notified the Wyoming State Historic Preservation Office (SHPO) following section VI(A)(1) of the Wyoming State Protocol, of a finding of no effect for the proposed project (DBU_WY_2008_563).

The following cultural resources are located in or near the area of potential effect. The Goblin #5 well was originally planned for a previously approved, but unconstructed location, within the boundaries of site 48 JO 1651. That location has since been moved outside the site boundaries to a location on the north side of the access road, with better connection to existing and proposed infrastructure.

Site Number	Site Type	Eligibility
48 JO 1651	Prehistoric site	Not eligible

The project area is mapped as Tertiary Wasatch, with a Paleontological sensitivity rating of 3, a moderate ranking. No Paleontological localities are reported in the area, due to lack of research. No paleontological inventory is recommended for this project. No resources of interest to Native American cultural groups or Traditional Cultural Properties are known to occur in the project area.

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 the drilling and construction of the proposed, 3 “water injection” wells and their associated infrastructure with the following Conditions of Approval (COAs):

Site Specific mitigation measures

Surface Use

1. Operator must adhere to the approved Cat/Shadow POD and the associated COA's.
2. Haunt 17 well; maintain at least a 20 foot, undisturbed vegetative buffer near the draw on the north side of the location.
3. Redistribute topsoil and reseed areas not needed for production on all locations as soon as construction is complete.

Wildlife

1. The company will conduct clearance surveys for Greater sage-grouse and raptors prior to commencing activities associated with the POD. If new sage-grouse strutting grounds are found within 2 miles of the proposed actions or a new raptor nest is found within a ¼ mile of the proposed actions, the Buffalo Field Office (307-684-1100) shall be notified within 24 hours, and timing stipulations will apply.
2. The Record of Decision for the PRB FEIS includes a programmatic mitigation measure that states, "The companies will conduct clearance surveys for threatened and endangered or other special-concern species at the optimum time". The measure requires companies to coordinate with the BLM before November 1 annually to review the potential for disturbance and to agree on inventory parameters. Should this project not be completed by November 15, and surface disturbance is planned for that and the following year, Yates Petroleum will coordinate with the BLM to determine if additional surveys will be required.
3. No surface disturbing activity shall occur within a ½ mile of all identified raptor nests from February 1 through July 31, annually, prior to a raptor nest occupancy survey for the current breeding season. This will affect all wells proposed for this POD.
4. Nest occupancy and productivity checks shall be completed for nests within a ½ mile of any surface disturbing activities (e.g., well drilling, pipeline installation, or road improvements) across the entire POD for as long as the POD is under construction. Once construction of the POD has ceased, nest occupancy and productivity checks shall continue for the first five years on all nests that are within a ½ mile of locations where any surface-disturbing activities took place. Productivity checks shall be completed only on those nests that were verified to be occupied during the initial occupancy check. The productivity checks shall be conducted no earlier than June 1 or later than June 30 and any evidence of nesting success or production shall be recorded. Survey results will be submitted to a Buffalo BLM biologist in writing no later than July 31 of each survey year.
5. If an undocumented raptor nest is located during project construction or operation, the Buffalo Field Office (307-684-1100) shall be notified within 24 hours.

6. If an active lek is identified during the survey, the 2 mile timing restriction (March 1-June 15) will be applied and surface disturbing activities will not be permitted until after the nesting season. If surveys indicate that the identified lek is inactive during the current breeding season, surface disturbing activities may be permitted within the 2 mile buffer until the following breeding season (March 1). The required sage grouse survey will be conducted by a biologist following the most current WGFD protocol. All survey results shall be submitted in writing to a Buffalo BLM biologist and approved prior to surface disturbing activities.
7. Creation of raptor hunting perches will be avoided within a ½ mile of documented sage grouse lek sites. Perch inhibitors will be installed to deter avian predators from preying on sage grouse.
8. The Company will locate facilities so that noise from the facilities at any nearby sage grouse or sharp-tailed grouse display grounds does not exceed 49 decibels (10 dBA above background noise) at the display ground.
9. The Company will locate aboveground power lines, where practical, at least ½ mile from any sage grouse breeding or nesting grounds to prevent raptor predation and sage grouse collision with the conductors. Power poles within a ½ mile of any sage grouse breeding ground will be raptor-proofed to prevent raptors from perching on the poles.

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, April 4th, 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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