

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

Storm POD
Yates Petroleum Corporation
WY-070-CX10-327-330
Bureau of Land Management
Buffalo Field Office

Description of the Proposed Action

Yates Petroleum Corporation proposes to develop four CBNG wells submitted in the Storm Plan of Development (POD). The wells encompass four separate leases and have no proposed infrastructure (water, gas, electric) associated with them. The wells are being drilled as a pilot/test to determine if the project area is feasible. The water management plan consists of 400 bbl temporary water storage tanks. The wells will be temporarily plumbed to the tanks with isolation valves for the purpose of storing production water during the pilot test. The proposed well location and leases are listed below.

CX#	Well Name	Well #	Qtr	Sec	TWP	RNG	Lease #
WY-070-CX10-327	Storm Tempest CS	1	NENW	3	44N	77W	WYW134239
WY-070-CX10-328	Storm Monsoon NS	4	NESE	5	45N	77W	WYW130106
WY-070-CX10-329	Gust	3	NESE	20	45N	77W	WYW140157
WY-070-CX10-330	Squall CS	2	SWNW	28	45N	77W	WYW134241

The following ROW is associated with drilling all 4 wells and is also being approved with this POD;

A right-of-way, WYW-170085, granted under the Federal Land Policy and Management Act of 1976, for an existing crown & ditch road and a proposed improved road, to access four Storm POD wells and state wells in Sec. 16, on public lands described as follows:

6th PM, Johnson County, Wyoming,

T. 45 N., R. 77 W.,

sec. 20: lots 1, 8, 9, 16;

sec. 21: lot 4;

sec. 28: lots 5, 12-15;

sec. 29: lots 1, 8, 9;

sec. 33: lots 1, 2, 8, 9;

sec. 34: lots 11, 12, 14;

T. 46 N., R. 77 W.,

sec. 32: lot 15.

The right-of-way was inspected and is required in association with the Master Surface Use Plan for the Storm POD. It will fall within the constraints of the appropriate stipulations and conditions of approval of the POD and the Plan of Development filed with the SF-299 ROW application filed on April 9, 2010 and revised July 15, 2010:

Estimated surface disturbance for the proposed action is shown in the summary Table 1 below.

Table 1- Summary of Disturbance

Facility	Number or Miles	Factor	Acreage of Disturbance
Nonconstructed Pad	3	0.5/acre	1.5
Constructed (Slot) Pad	1	Site Specific	.5
Improved Roads Associated with (ROW WYW-170085)			
Existing	4.5	40' Width	21.5 (existing)
Proposed	.3		1.5
2-Track Roads No Corridor	.08	20' Width	.2
Total Surface Disturbance			3.7

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.*

The document Vista POD EA WY-070-EA08-34 has been reviewed and has been determined to consider potential environmental effects associated with the proposed activity at a site specific level.

The environmental assessment Vista POD was approved on 2/07/2008 and identifies the Vista POD as reasonably foreseeable.

A Class III cultural resource inventory was performed for the Storm POD prior to on-the-ground project work (BFO project no. 700100070). ACR Consultants Inc., conducted a block class III cultural resource inventory following the Archeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines (48CFR190) and the *Wyoming State Historic Preservation Office Format, Guidelines, and Standards for Class II and III Reports*. Clint Crago, 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 resources are located in or near the project area.

Site Number	Site Type	Eligibility
48JO4023	Historic Feature and Artifact Scatter	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 9/1/2010 that no historic properties exist within the APE.

The wildlife biologist has reviewed the proposal and determined that the Conditions of Approval from the Vista POD are (1) consistent with the Final Environmental Impact Statement (WY-070-02-065) and programmatic biological opinion (ES-6-WY-07-F012) for the Powder River Basin Oil and Gas Project; and (2) effects to listed species have not changed from those analyzed in the Vista POD consultation. Since the Vista POD was approved, the US Fish and Wildlife Service listed Blowout Penstemon (*Penstemon haydenii*) as endangered. The BLM Biologist assessed the project area for suitable habitat at the onsite. No suitable habitat exists in the project area and therefore the proposed action will not affect Blowout Penstemon.

Decision and Rationale on Action

I have decided to implement the following Conditions of Approval (COAs):

Site Specific COAs

1. Prior to construction of production facilities not specifically addressed in the POD, the operator shall submit a Sundry Notice to the BLM Authorized Officer for approval.
2. Noise from the proposed generators at any nearby sage grouse or sharp-tailed grouse display grounds will not exceed 49 decibels (10 dBA above background noise) at the display ground.
3. No surface disturbing activity shall occur within 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 condition will be implemented on an annual basis for the duration of surface disturbing activities.** This timing limitation will affect the following proposed wells, infrastructure, and associated ROW WYW-170085.

Township/Range	Section	Affected Wells and Infrastructure
T45NR77W	4	4MONS
	20, 21	3GUST
	28	2SQUA
T44NR77W	3	1TEMP

- a. Surveys to document nest occupancy shall be conducted by a biologist following BLM protocol, between April 15 and June 30. All survey results shall be submitted in writing

to a Buffalo BLM biologist and approved prior to disturbance activities. Surveys outside this window may not depict nesting activity. If a survey identifies active raptor nests, a ½ mile timing buffer will be implemented. The timing buffer restricts disturbance activities within ½ mile of occupied raptor nests from February 1 to July 31.

- b. 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.
4. The following conditions will reduce impacts to sage grouse:
 - a. No surface disturbing activities are permitted within 2 miles of the following leks; Irrigary, IrrigaryII, between March 15 and June 30, prior to completion of a greater sage-grouse lek survey. **This condition will be implemented on an annual basis for the duration of surface disturbing activities.** This timing limitation will affect **the following wells: 1TEMP, 2SQUA, 3GUST and ROW WYW-170085 specifically, Sec. 20: lots 1, 8, 9, 16; and Sec. 21: lots 4.** If an active sage grouse lek is identified during the survey, the 2 mile timing restriction will be applied and disturbance activities will not be permitted until after the nesting season. The required sage grouse survey will be conducted by a biologist following the most current WGFDF protocol. All survey results shall be submitted in writing to a Buffalo BLM biologist and approved prior to surface disturbing activities.
 - b. Creation of raptor hunting perches will be avoided within 0.5 mile of documented sage grouse and sharp-tailed grouse lek sites. Perch inhibitors will be installed to deter avian predators from preying on sage grouse.
 5. 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. Suitable bald eagle habitat for the Storm POD is found along Willow Creek in association with the **4MONS** well.

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). These buffer zones and timing may be adjusted based on site-specific information through coordination with, and written approval from, the USFWS.

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.

Within 1 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).

Programmatic COA from the 2003 ROD:

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. See attached Standard Conditions of Approval located in Appendix A.

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 2/07/2012.

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

607 Paul Beels
Duane W. Spencer
Field Manager

8/31/10
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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