

DECISION RECORD
Categorical Exclusion 3 (CX3), WY-070-390CX3-13-93, WY-070-390CX3-13-94, and
WY-070-390CX3-13-95 - Section 390, Energy Policy Act of 2005
Yates Petroleum Corporation, Bluebird I (3 Applications for Permit to Drill (APDs))
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. BLM approves 3 APDs from Yates Petroleum Corporation (Yates) to drill coalbed natural gas (CBNG) wells and construct their associated infrastructure. The CX3 worksheet, WY-070-390CX3-13-93, WY-070-390CX3-13-94, WY-070-390CX3-13-95, and the APDs, all of which the BLM incorporates here by reference, describes the proposal.

Compliance. This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701); DOI Order 3310.
- Mineral Leasing Act of 1920 (MLA) (30 U.S.C. 181); including the Onshore Oil and Gas Orders.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- Buffalo and Powder River Basin (PRB) Final Environmental Impact Statement (FEIS), 1985, 2003.
- Buffalo Resource Management Plan (RMP) 1985 and Amendments.

A summary of the details of the approval follows. The CX worksheet, WY-070-390CX3-13-93, WY-070-390CX3-13-94, and WY-070-390CX3-13-95, includes the project description, including site-specific mitigation measures which are incorporated by reference into that worksheet from earlier analysis. The proposed wells are approximately 20 miles southwest of Gillette, Campbell County, Wyoming. The Bluebird I (3 APDs) POD (plan of development) proposal had 3 APDs to develop and produce natural gas from the coal formations of the PRB. All wells are vertical bores proposed on an 80 acre spacing pattern with 1 well per location. Each well will produce from the Big George coal seams.

Approvals. BLM approves the following 3 CBNG APDs and associated infrastructure:

#	Well Name	Well #	Qtr	Sec	Tw	Rng	Lease #	CX #
1	Bluebird I Bluebird CS FED	11	SWNW	25	48N	75W	WYW41714	WY-070-390CX3-13-93
2	Bluebird I Bluebird CS FED	14	NESW	25	48N	75W	WYW41714	WY-070-390CX3-13-94
3	Bluebird I Cardinal CS FED COM	1	SWSW	25	48N	75W	WYW132251	WY-070-390CX3-13-95

Limitations: None; see also, 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 worksheet process and its limiting parameters. Thus a FONSI and an EIS is not required.

COMMENT OR NEW INFORMATION SUMMARY. BLM publically posted the APDs and received no comments. BLM received new information on Greater Sage-Grouse (GSG) including the 2012 population viability analysis for the Northeast Wyoming, GSG policy updates in BLM and WY Instruction Memorandums-2012-043, -044, and WY IM 2012-19, and BLM Instruction Memorandum-2013-033, on reducing direct wildlife mortalities.

DECISION RATIONALE. The approval of this project is because:

1. Mitigation measures and COAs, analyzed in the CX3 worksheet, in environmental impact statements or environmental analysis to which the CX3 worksheet tiers or incorporates by reference, will reduce environmental impacts while meeting the project'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 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 Greater Sage-Grouse (GSG) conservation strategies. There are no conflicts anticipated or demonstrated with current uses in the area. This decision approving the Bluebird I (3 APDs) 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 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).
 - Provide water analysis from a designated reference well in each coal zone.
6. The project is clearly lacking in wilderness characteristics as there is no 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. Yates certified there is a surface use access agreement with the landowners.
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.

Field Manager: *Thomas* Date: 2/28/13

**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-93, WY-070-390CX3-13-94, and
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Description of the Proposed Action.

The proposal is to explore for and develop coalbed natural gas (CBNG) reserves in geologic formations currently leased by Yates in Wyoming. Lease parcels include WYW132251 and WYW41714 (Bluebird I (3 APDs)). The proposed wells are 20 miles SW of Gillette, Campbell County Wyoming (see Table 1.1). The Bluebird I (3 APDs) proposal consists of drilling 3 vertical bore CBNG wells and constructing their associated infrastructure. These 3 APDs were originally submitted with the Bluebird I POD (plan of development) that received approval on June 8, 2012. However due to road alignment and land ownership issues these 3 APDs were not included in the approval of the original Bluebird I POD. The access road re-alignment was onsite along with the Bluebird II CBNG APDs' onsites on November 15, 2012. The access road re-alignment placed the 3 wells' (Table 1.2) access roads on Nisselius Ranch property and off the Barlow ranch. The landowners of the Barlow ranch preference is to keep Bluebird II wells on Barlow Ranch property and all associated Bluebird I wells on the Nisselius Ranch property.

All proposed wells are vertical bores on an 80 acre spacing pattern with 1 well per location. Each well will produce from the Big George coal seam which varies from 1,450 to 1,535 feet in depth. Well house dimensions are (feet): 8 wide x 8 length x 8 height.

Table 1.1. Proposed Wells

#	Well Name	Well #	Qtr	Sec	Twn	Rng	Lease #	CX #
1	Bluebird I Bluebird CS FED	11	SWNW	25	48N	75W	WYW41714	WY-070-390CX3-13-93
2	Bluebird I Bluebird CS FED	14	NESW	25	48N	75W	WYW41714	WY-070-390CX3-13-94
3	Bluebird I Cardinal CS FED COM	1	SWSW	25	48N	75W	WYW132251	WY-070-390CX3-13-95

Table 1.2. Construction Disturbance Associated with Bluebird I (3 APDs) POD

Facility	Bluebird I (3 APDs) POD Operator Proposed After Onsites miles (acres)
Number of CBNG Wells	3
Engineered Pads	0
No Pad (Per Yates requires: 150x150ft working area)	3 no pads (1.55 acres)
Template Roads (with utility corridor)	1.05 miles (9.50 acres)
Primitive Roads (with utility corridor)	0.30 miles (1.62 acres)
Stand-alone Utilities (gas, water, electric)	0.40 miles (2.20 acres)
Temporary Staging Area	1 (1.00 acres)
Total Acre Disturbance	Construction/Drilling = 15.87 Acres

Affected Surface Owners: Gib and Kyle Bell, Nisselius Ranch Company.

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 worksheet 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

proposed action conforms with the terms and conditions of the Approved Resource Management Plan (RMP) for the public lands administered by the BLM, Buffalo Field Office (BFO), 1985, the PRB FEIS, January 2003, 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 Bluebird I (3 APDs) POD is clearly lacking in wilderness characteristics as there is no 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, 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) Each 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 PODs that are within or adjacent to the Bluebird I (3 APDs) POD. This information is provided for informational use and shows the reader that BLM conducted analysis.

Table 1.3. Adjacent / Overlapping NEPA Analyses for CBNG Development

#	Project Name	NEPA Document	#of Approved or Producing Wells	Decision Date
1	Blackbird POD	WY-070-00-018	32	11/19 & 22/1999
2	North Pleasantville I	WY-070-03-069	26	2/19/2003
3	Rooster POD	WY-070-04-021	20	2/12/2004
4	North Pleasantville II	WY-070-03-121	10	2/24/2004
5	Beaver Creek POD	WY-070-05-058	158	1/13/2005
6	Beaver Creek Add II & Beaver Creek Add II SGPD	WY-070-09-065	27	5/28/2009
7	Blackbird POD Retrofit Water, Gas, and Electric Lines	WY-070-10-243	NA	7/9/2010
8	Napier Road POD	WY-070-10-280	51	7/6/2011
9	Bluebird I POD	WY-070-390CX3-12-130,133,134,135,137,138,139,140, & 141	9	6/8/2012
10	Baltimore CS Federal Com 1 POD	WY-070-390CX3-12-114	1	6/8/2012

- 2) There is an existing NEPA document (and the RMP) containing reasonably foreseeable development scenario for this action. There are several existing NEPA documents that reasonably foresaw development to spud additional wells to fill in 80 acre 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, all approved EAs tier into the PRB FEIS (2003). 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. The Napier Road project is in the foreseeable development scenario of 80 acre well-spacing in areas with similar geographic and resource conditions analyzed in EAs in Table 1.3.

- 3) The tiered NEPA document was finalized or supplemented within 5 years of spudding (drilling) the

proposed wells. The tiered NEPA documents in Table 1.3, for Napier Road and Beaver Creek Add II and Beaver Creek Add II SGPD are both within 5 years of the proposed spudding of these wells.

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 worksheet also incorporates and analyzes the implementation of committed mitigation measures contained in the MSUP, drilling plan, and WMP, in addition to the Standard COAs found in the PRB FEIS ROD, Appendix A. This CX3 worksheet also incorporates by reference the oil and gas drilling practices described and analyzed throughout the Napier Road EA, WY-070-10-280. BLM highlights sections in Table 1.4.

Table 1.4. Highlighted Sections and Pages Incorporated by Reference into this CX3

Bluebird I & Baltimore CS Fed 1 POD Sections Incorporated by Reference from	Napier Road EA WY-070-10-280	Blackbird POD EA WY-070-00-018
Soils	pp. 33-38	
Vegetation	pp. 38-40	
Wetlands/Riparian	pp. 40-41	
Invasive Species	p. 41	
Wildlife	pp. 14-25; 41-59	
Sage-grouse	pp. 16-19; 44-45	
Raptors	pp. 25; 58-59	
Water Resources	pp. 59-66	*pp. 3-5; 8

* Yates purchased the rights from Coleman Oil and Gas, Inc. in 2009 and this analysis also includes updates from the: Retrofit Utilities to Yates Infrastructure, Determination of NEPA Adequacy, WYW146792, 2009; and Blackbird POD CX01-11-263 for deepening Nisselius CS Federal 30-14L and emergency pit, 2011.

Soils, Vegetation, Wetlands/Riparian, and Invasive Species

Impacts anticipated and mitigation considered with the implementation of the proposed action will be similar to those analyzed in the Napier Road EA which is adjacent or overlapping to the Bluebird I and Baltimore CS Federal Com 1 project, see Table 1.4.

Wildlife

The wildlife biologist determined that the proposed APDs, combined with the COAs are: (1) consistent with the PRB FEIS and its supplements, to include biological opinion (ES-6-WY-02-F006), the RMP and its Amendments, and the above tiered EAs; 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. Effects to wildlife are anticipated to be similar to those analyzed in the Napier Road EA.

Greater Sage-Grouse (GSG)

New information regarding GSG includes the BLM Instruction Memorandums, 2012-043 and 044, and a 2012 BLM-contracted population viability analysis for the Northeast Wyoming GSG. That study found that there remains a viable population of GSG in the PRB; however threats from energy development and West Nile Virus (WNV) are impacting future viability (Taylor et al. 2012). The study indicated that effects from energy development, as measured by male lek attendance, are discernible out to a distance of 12.4 miles. There are 30 leks within 12.4 miles of the proposed action. All 30 leks are outside preliminary priority (core, connectivity or focus area) habitats. The Napier Road EA, has the affected environment information, contains the direct and indirect impacts information, and contains both cumulative effects, as well as, residual effects concerning GSG.

The proposed wells cumulatively contribute to the potential for local extirpation, yet this impact is acceptable because it occurs outside preliminary priority habitats (core, focus and connectivity), is within the parameters of the PRB FEIS/ROD, and is consistent with the coordinated BLM and State of Wyoming GSG conservation strategies (BLM WY-2012-19 and WY Executive Order 2011-5 respectively).

Raptors

The Bluebird I Bluebird CS FED #14 and Bluebird I Cardinal CS FED COM #1 are within 0.5 miles of known raptor nests. A timing restriction that prevents surface disturbance (construction and drilling) from February 1 to August 1, if the nest is active, will provide adequate protections. The Napier Road EA, has sufficient affected environment information, direct and indirect information, cumulative effects, and residual effects concerning raptors.

Water Resources

The historical use for groundwater in this area was for stock or domestic water. A search of the Wyoming State Engineer Office (WSEO) Ground Water Rights Database showed 3 registered stock and domestic water wells within 1 mile of the proposed wells in the project area with depths from 120 to 315 feet. Refer to the PRB FEIS for additional information on groundwater, pp. 3-1 to 3-36. The PRB FEIS predicts that one of the environmental consequences of CBNG production is possible impacts to the groundwater. “The effects of development of CBM [NG] on groundwater resources would be seen as a drop in the water level (drawdown) in nearby wells completed in the developed coal aquifers and underlying or overlying sand aquifers.” (PRB FEIS, p. 4-1) In the process of dewatering the coal zone to increase natural gas recovery rates, this project may have some effect on the static water level of wells in the area. The permitted CBNG wells produce from depths which average 1,500 feet compared to the shallower Wasatch sands in the water wells listed above. The operator committed to offer water well agreements to holders of properly permitted domestic and stock wells in the circle of influence (0.5 mile of a federal CBNG producing well) of the proposed wells.

The proposed water management plan (WMP) will tie into existing infrastructure by flowing to injection wells: Blackbird POD Nisselius CS Federal 30-14L (sundry approved June 24, 2011 for storage and retrieval deepening) (SWSW, Section 30, T48, R74W); and Bluebird Injection 22 (sundry approved July 13, 2009) for tie-in to receive federal Blackbird POD waters in Section 36 SENW, T48N, R75W. This WMP incorporates by reference the water management and its updated analysis from the Blackbird POD, Table 1.4. The Nisselius CS Federal 30-14L well is approved but not constructed and the operator has not yet submitted an underground injection control (UIC) application for converting this well to disposal. BLM requires Yates to submit a copy of the approved UIC permit prior to disposal of federal water from this project. Likewise, BLM must receive notice of the reclamation bonding for the reservoir associated with the Nisselius CS Federal 30-14 well prior to construction. Impacts anticipated and mitigation considered with the implementation of this proposal will be similar to those analyzed in the overlapping and adjacent Napier Road EA, see Table 1.4.

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 fresh water aquifers above the drilling target zone. Compliance with the drilling and completion plans and Onshore Oil and Gas Orders Nos. 2 and 7 will ensure there is no adverse impact on ground water.

Cultural

A previously reviewed and accepted Class III cultural resource inventory (BFO # 70100079) adequately covered the proposed project area. No cultural resources are in the area of potential effect. On February 25, 2013 Seth Lambert, 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.

When a project is constructed in an area with a high potential for buried cultural material, archaeological monitoring is often included as a condition of approval. Construction monitoring is performed by a qualified archeologist working in unison with construction crews. If buried cultural resources are located by the archeologist, construction is halted and the BLM consults with the SHPO on mitigation or avoidance. Due to the presence of alluvial and/or Aeolian deposits identified by the NRCS soil survey (NRCS n.d.), and areas of High to Very High Sensitivity Zones per the PUMP III Model (Eckerle 2005), the operator will be required to have an archeologist monitor all earth moving activities associated with certain construction, as described in the site specific COAs.

Decision and Rationale on Action

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 Bluebird I (3 APDs) CX3 APDs and infrastructure conform to the applicable land use plans. I reviewed the proposal to ensure the appropriate exclusion category as described in Section 390 of the Energy Policy Act of 2005 is correct. It is my determination that there is no requirement for further environmental analysis.



Field Manager

2/28/13

Signature Date

Contact Person: Andy Perez, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1100

References:

Taylor, R. L., D. E. Naugle, L. S. Mills. 2012. Viability analyses for conservation of sage-grouse populations: Buffalo Field Office, Wyoming. Final Report. February 27, 2012. University of Montana, Missoula, MT.

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, "Greater Sage-Grouse Habitat Management Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Including the Federal Mineral Estate", Instruction Memorandum No. WY-2012-019.