

MODIFIED DECISION RECORD

Categorical Exclusion 3 (CX3), Applications for Permit to Drill (APDs)

Yates Petroleum Corporation’s Plans of Development (PODs) for Projects:

Antler Deep I POD (2 APDs): (Antler Federal Com. 22H, WY-070-390CX3-14-353 & Antler Federal Com. 23H, WY-070-390CX3-14-354); Bunn Federal Com. 26H, WY-070-390CX3-14-346; Bunn Federal Com 27H, WY-070-390CX3-14-347; Cousins Federal Com. 23H, WY-070-390CX3-14-348; Look Com 3H, WY-070-390CX3-14-343; and Wright Deep I POD (5 APDs): (Monte Federal 61H, WY-070-390CX3-14-358; Monte Federal Com. 62H, WY-070-390CX3-14-359; Kelly Butte Federal Com. 1H, WY-070-390CX3-14-357; Hoagie Federal Com. 2H, WY-070-390CX3-14-356 and Buster Federal Com. 8H, WY-070-390CX3-14-355

Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. This is a modified decision record; it is not a new decision record.

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 (PRB) Final Environmental Impact Statement (FEIS), 1985, 2003.
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 2011.

Consultation. This decision considered:

- BLM Washington Office Instruction Memorandum No. 2009-078, Processing Oil and Gas Application for Permit to Drill for Directional Drilling into Federal Mineral Estate from Multiple-Well Pads on Non-Federal Surface and Mineral Locations, 2009.
- Wyoming BLM State Director Review, SDR No. WY-2011-010, EOG Resources, Inc. v. Pinedale Field Office, 2011.
- Wyoming BLM State Director Review, SDR No. WY-2013-025, Yates Petroleum v. BLM, 2013.

A summary of the details of the approval follows. The consolidated CX3 analysis for this 11 well project, includes the project description, including site-specific mitigation measures which are incorporated by reference into that analysis from earlier analysis. The proposed wells are south of Gillette, in Campbell County, Wyoming. All wells are horizontal proposed on a 640 acre spacing pattern with 1 well per location. Each well will produce from the Turner Formation.

Approvals: BLM approves the following 10 APDs and associated infrastructure:

Antler Deep I POD (2 APDs), Top hole locations:

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
1	Antler Federal Com 22H	SESW	2	44N	74W	Fee/Fee/WYW133605
2	Antler Federal Com 23H	SWSW	2	44N	74W	Fee/Fee/WYW133605

Single APDs (3):

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
3	Bunn Federal Com 26H	SWSE	13	43N	73W	WYW103274 & WYW129519
4	Bunn Federal Com. 27H	SWSW	12	43N	73W	Fee/Fee/WYW103274
5	Cousins Federal Com 23H	NENW	2	43N	74N	WYW141655

Wright Deep I POD (5 APDs):

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
7	Monte Federal Com 61H	NENW	2	43N	73W	WYW105947
8	Monte Federal Com 62H	NENW	3	43N	73W	WYW105947
9	Kelly Butte Federal Com 1H	NENE	4	43N	73W	WYW120439
10	Hoagie Federal Com 2H	NENE	11	43N	73W	WYW105947 & WYW145121
11	Buster Federal Com. 8H	NWNE	4	43N	73W	Fee/Fee/WYW139622

Limitations. See the modified conditions of approval (COAs).

Deferred APD (1 APD):

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
6	Look Com 3H	SWSW	33	42N	74W	WYW139669

The left column administrative numbers remain consistent in the CX3, DR, COAs, and RMMs.

BLM defers making a decision for this 1 APD due to the absence of a surface access agreement (SAA) with the landowner and pending BLM’s receipt of a well pad design or other means that establishes a biological, spatial buffer between ferruginous hawk nest, BLM # 1011, and the proposed Look Com 3H well pad – all as agreed to by the BLM and Yates.

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 and its limiting parameters. Thus a FONSI and an EIS is not required.

COMMENT OR NEW INFORMATION SUMMARY. BLM publically posted the APDs for 30 days and received no comments.

DECISION RATIONALE.

1. The Antler Federal Com 22H and 23H apds were issued the incorrect conditions of approval (COA)s due to the limited authority fee/fee/fed jurisdiction. This modified decision provides the correct (COA)s for the apds.
2. Mitigation measures and COAs analyzed in the CX3, in environmental impact statements or environmental analysis to which the CX3 tiers or incorporates by reference, will reduce environmental impacts while meeting the project’s need.
3. 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 greater sage-grouse (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. There are no conflicts anticipated or demonstrated with current uses in the area. This decision approving this/these PODs complies with the Energy Policy Act of 2005, Section 390, 43 CFR 1610.5, 40 CFR 1508.4, and 43 CFR 46.215.
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 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).

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 leases 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. Yates certified that there is a surface access agreement with the landowners or it posted a bond, except as applies to the Look Com 3H well, noted above.
10. The operator will provide the BLM a true and complete copy of a document in which the owner of the surface authorizes the operator to drill a federal well from non-federal lands, and in which the surface owner or representative guarantees the Department of the Interior, including BLM, access to the non-federal lands to perform all necessary surveys and inspections. (See clarification in BLM Instruction Memorandum No. 2009-078, p. 2, para 6). This applies only to APDs: Bunn Federal Com. 27H and Buster Federal Com. 8H.
11. 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: _____/s/Duane W. Spencer_____

Date: _____ 9/12/14 _____

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Federal Com. 23H, WY-070-390CX3-14-354); Bunn Federal Com. 26H, WY-070-390CX3-14-346;
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61H, WY-070-390CX3-14-358; Monte Federal Com. 62H, WY-070-390CX3-14-359; Kelly Butte
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Buster Federal Com. 8H, WY-070-390CX3-14-355
Bureau of Land Management, Buffalo Field Office, Wyoming**

Description of the Proposed Action.

Yates Petroleum Corporation (Yates) proposes to drill 11 oil and gas wells and construct associated infrastructure, see Table 1, below. The jurisdiction for the wells is fee surface; the underlying minerals are fee and/or federal and the targeted formation for extraction are in fee and federal leases. BLM has reduced jurisdiction for APDs having fee surface over non-federal minerals: Antler Federal Com 22H, Antler Federal 23h, Bunn Federal Com 27H and Buster Federal Com 8H. BLM has split jurisdiction (private surface/federal minerals) over the other 7 APDs.

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. BLM Washington Office Instruction Memorandum (IM) No. 2009-078 established policy and procedures for processing federal applications for permit to drill (APDs) for horizontal drilling into federal mineral estate from multiple well pads on non-federal locations. Drilling and producing the subject wells is a federal action. Construction, operation, and reclamation of infrastructure on non-federal land are not federal actions. Drilling and producing mitigation is in the Conditions of Approval for Conventional Application for Permit to Drill.

**Table 1. Proposed Wells
Antler Deep I POD (2 APDs), Top Hole Locations:**

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
1	Antler Federal Com 22H	SESW	2	44N	74W	Fee/Fee/WYW133605
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Single APDs (4 APDs):

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
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5	Cousins Federal Com 23H	NENW	2	43N	74N	WYW141655
6	Look Com 3H	SWSW	33	42N	74W	WYW139669

Wright Deep I POD (5 APDs):

#	Well Name #	Qtr	Sec	Twp	Rng	Surface Hole Lease #
7	Monte Federal Com 61H	NENW	2	43N	73W	WYW105947
8	Monte Federal Com 62H	NENW	3	43N	73W	WYW105947
9	Kelly Butte Federal Com 1H	NENE	4	43N	73W	WYW120439
10	Hoagie Federal Com 2H	NENE	11	43N	73W	WYW105947 & WYW145121
11	Buster Federal Com. 8H	NWNE	4	43N	73W	Fee/Fee/WYW139622

The left column administrative numbers remain consistent in the CX3, DR, COAs, and RMMs.

The project area is nearest the town of Wright, Campbell County, Wyoming. Elevation at the proposals is approximately 5,000 feet. The topography has gently sloped draws rising to relatively flat, mixed sagebrush/grassland uplands and gently rolling hills. Intermittent and ephemeral tributaries drain 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 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 (2003 Amendment) with permitting the operator's exercising of conditional lease rights to develop federal fluid minerals. APD information is an integral part of this CX, 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.

Fred Oedekoven, Richard Leavitt Trust, Ted Cosner Trust, Nolene Wright, Timothy Moore, Diamond T Ranch, Nine Mile Land Co., Sunbursts Ranch and James and Edra Drake are surface owners at the proposals. Yates is pending receipt of a surface access agreement for the Look Com 3H APD.

The proposal is to explore by horizontal drilling for, and possibly develop oil and gas reserves in the Turner Formation at approximately 10,500 feet, total vertical distance (TVD), see AR. The horizontal drilling sections are approximately 1 mile long. Federal leases involved are in Table 1, above. The horizontal bores terminate at the bottom hole in the federal oil and gas mineral estates, except for one well, which terminates in fee minerals, see administrative record (AR). Yates submitted APDs to BLM on November 18, 2013 and on January 17, 18, 28, March 27, 27, 28, and May 15, 2014. Yates and BLM completed onsite inspections on March 14 and May 28, 2014. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to Yates on March 24 and June 11, 2014. Full effects of the action and recommended mitigation measures for these proposed projects are in the surface use plans, and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, Appendices A and B.

Drilling, Construction & Production design features include:

- Yates 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 for each well will be 60 days.
- A road network that will consist of existing improved all-weather roads; existing primitive (2-track) roads to be upgraded to all-weather improved roads; and a proposed improved well access road. The operator will use existing infrastructure such as roads as much as possible.
- Hydraulic fracturing (HF) operations are planned as a 'plug & perf' operation done in stages. The process is anticipated require 14 days to complete. All water used for HF will come from municipal water supplies from Wright or Gillette, Wyoming or approved water wells. All fresh water will be contained in 400-500 bbl HF tanks and/or surface pits. Pits will be closed during production phase. 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).
- Temporary, surface water lines for drilling and completion may be used. The surface lines will be removed when all wells have been drilled and completed, usually within 3 months.
- 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 the well becomes a producer, production facilities will be located at the well and will include a pumping unit, storage tanks, buildings, oil-water separator (heater-treater). There will be no pits at the producing oil well location.
- Dikes will be constructed completely around production facilities, i.e. production tanks, water tanks, and heater treater. The dikes will be constructed approximately 3 feet high, and hold capacity of the largest tank plus 10%. If load-out lines will be outside of the dike area, a drip barrel or “Getty-Box” will be installed under the end of all load-out lines.
- An existing and proposed above ground powerline will be used if the well becomes a producer. Power will be provided by 3rd party contractor. It is anticipated that new construction of power will begin at the existing 3-phase overhead lines that are closest to the wells, and will be buried to the well pad.
- Typically 170 500-bbl HF tanks are spotted, taking 2 weeks to fill, prior to pumping the stimulation. All fracturing water, including excess, is present before starting.
- Flowback equipment and tanks are spotted 2-3 days before pumping. Sand silos are spotted and filled 2-3 days prior to pumping.
- Next pump trucks and chemical mixing equipment arrives and, when ready, operations continue for 36-48 hours or 3-5 days depending on the type of stimulation stage isolation (i.e. packers/sleeves or plug/perf respectively).

Yates requests about 7 acres of disturbance, per well, to construct a 400’ x 400’ bladed and level pad site. Multi-stage horizontal completions require all equipment and materials to be present before beginning operations. Necessary space must be available to work safely around all the equipment. If the well is a producer, interim reclamation of the pad will be reduced by approximately 0.5 acres. Total disturbance of road and utility disturbance will also be reduced with interim reclamation of the road ditches, pipelines and cut and fill areas. Additionally, these projects will use existing infrastructure whenever possible from existing PODs and development. 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. Also see the subject APD for maps showing the proposed well location and associated facilities described above. Total surface disturbance for the proposed actions is 165 acres.

Table 2. Proposed Disturbance Summary:

Facility	Number or Miles	Factor	Disturbance
Engineered Pad	11 @ 400 ft. x 400 ft.	160,000 sq. ft./pad	40.7 acres
Engineered Pad Cut & Fill	varies	varies	36.3 acres
Improved Template Roads No Corridor	6.2 miles	40 to 65ft.	48.46 acres
Improved Template Roads w/Utility Corridor	1.91 miles	75 to 80 ft.	17.92 acres
Pipelines(water, gas & buried power)	3.7 miles	25 to 75 ft.	18.64 acres
Temporary Surface Water Line	13.45 miles	1 ft.	1.63 acres
Frac Pit	1 @ 240 ft. x 240ft.	57,600ft.	1.5 acres
Total Surface Disturbance			165 acres

Off Well Pad

Yates, if feasible, may install a buried 3 to 6 inch high-density polyethylene (HDPE) gas gathering pipeline of at least 125 psi rating from the producing well to transport natural gas from the well to a gas gathering trunkline and on to a compressor facility. Gas gathering trunklines will typically be 6 to 24 inch HDPE buried lines of at least 125 psi rating. Yates may install a buried 2 to 6 inch corrosion resistant water gathering pipeline of at least 150 psi rating from the well to transport water to a water gathering trunkline and/or to an approved water disposal well in the area, or it will be hauled off by trucks.

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 consolidated 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 proposals conform 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, 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 proposed projects and the surrounding area are clearly lacking in wilderness characteristics as they are amidst extensive natural gas development. BLM finds that the conditions and environmental effects found in the senior NEPA analyses 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.*

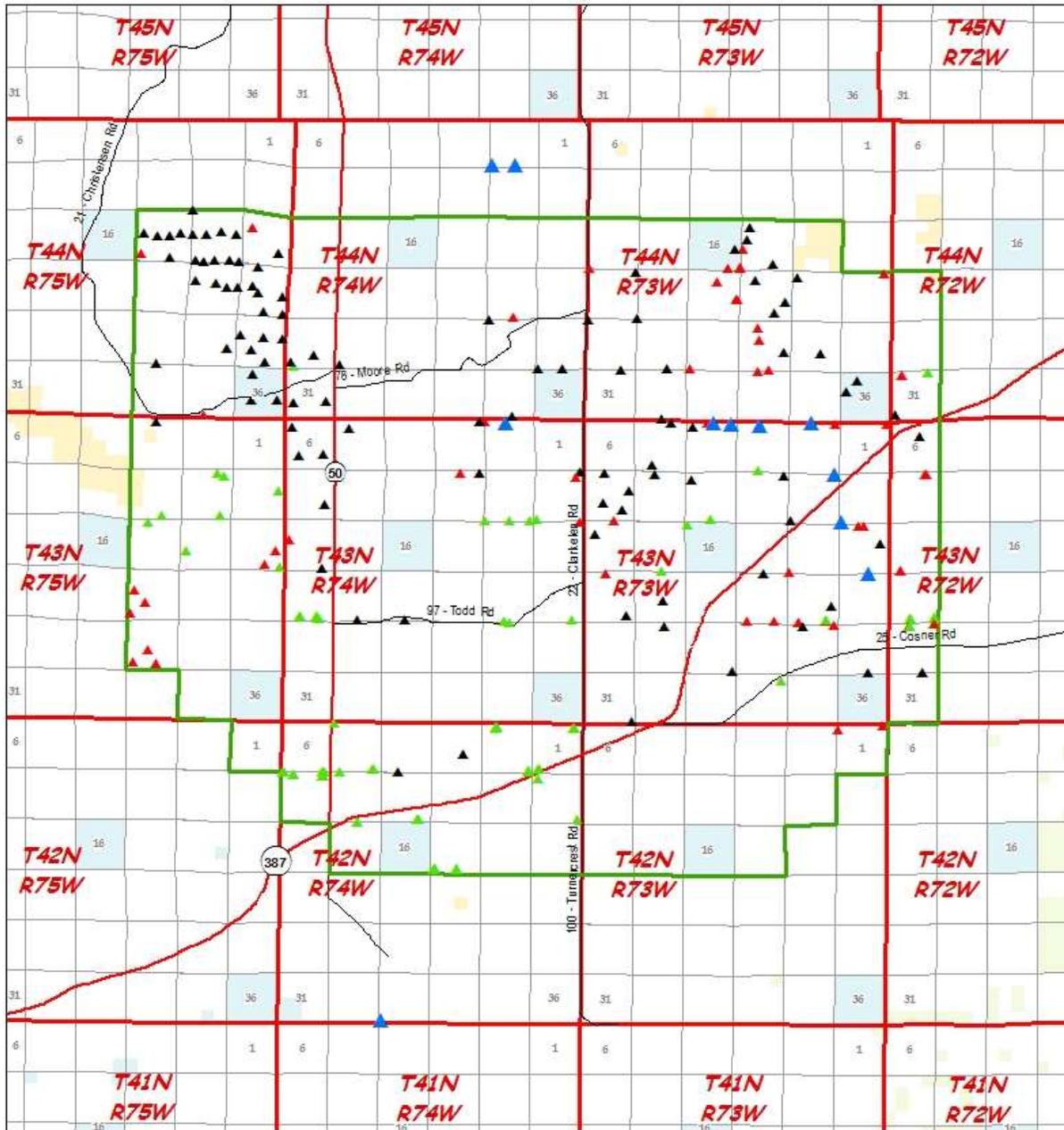
BLM has 3 requirements to use a Section 390 CX3, (BLM H-1790, Appendix 2, #3, p. 143):

- 1) The proposed APD is in a developed oil or gas field (any field with a completed confirmation well). BLM earlier identified over 115 townships from the Montana to Converse County borders that comprise the PRB fluid mineral developed field and this proposal is in the developed field. Table 3, below, lists approved NEPA analyses that are overlapping to this Yates' project area. This information shows that BLM conducted analysis and BLM incorporates these here by reference.
- 2) There is an existing NEPA document (and the RMP) containing reasonably foreseeable development scenario for this action. Reasonably foreseeable activity (RFA) is found in the Baker 8H Environmental Assessment (EA), WY-070-EA14-224, 2014, p. 6 and Table 2.3. BLM also notes from the Baker 8H EA analysis that of the 95 analyzed reasonably foreseeable wells, none are drilled; thus 95 undrilled, analyzed reasonably foreseeable wells contribute to the available RFA for this CX3 analysis. Approximately 60 days passed from the time of the Baker 8H analysis and this Yates Antler Deep 1 POD, Wright Deep 1 POD, and 4 other APDs CX3, contributing to the lack of additional drilling in the current scenario. The RFA for this analysis area includes oil/gas exploration on 640 acre, and possible 320 acre spacing for horizontal wells and 80 acre spacing for vertical wells. (This does not preclude the spacing analysis in the PRB FEIS further reducing the surface disturbance per well.) The project analysis area is the area within 4 miles of the proposed wells and includes only those federal projects approved within 5 years, as of July 2014.

The APDs in this proposal were included in the RFA scenario in the Baker 8H EA, WY-070-EA14-224, p. 6 and Table 2.3, though minor shifting of locations occurred and does not change the earlier analysis.

- 3) The tiered NEPA document was finalized or supplemented within 5 years of spudding (drilling) the proposed well. This Yates Antler Deep 1 POD, Wright Deep 1 POD, and 4 other APDs proposal CX3 tiers to the NEPA analyses in the Baker 8H EA WY-070-EA14-224. BLM also here incorporates by reference the NEPA analysis in Table 3, below.

Baker 8H EA, WY-070-EA14-224 RFA Analysis Area



Explanation:

- ▲ Yates 11 APD's
- ▲ APD/NOS
- ▲ AAPD
- ▲ POW
- Baker 8H EA Analysis Boundary

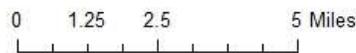


Table 3. Overlapping NEPA Analyses by Decision Date

#	POD / Well Name	NEPA Analysis #	#/Type Well/# Drilled	Decision
1	Baker 8H, Fourmile 20H, Jeanne 5H, Starlight 30H, Strangler 1H*	WY-070-EA14-224	5/Oil/1 (RFA 95 wells/0 drilled)	5/2014
2	Cosner Wright 2	WY-070-EA14-191	18/Oil/6	2/2014
3	Iberlin 1-9H & 1-9TH	WY-070-EA13-224	2/Oil/2	8/2013
4	Porsche 3H and 4H	WY-070-EA14-85	2/Oil/0	2/2014
5	Challenger	WY-070-390CX3-14-101 to 105	5/Oil/0	4/2014
6	Raging Bull	WY-070-EA12-207	1/Oil/0	9/2012

See also: SDR WY-2013-005, particularly noting pp. 2-3, incorporating the entirety here by reference.

* Referenced here in this CX3 as the Baker 8H EA, WY-070-EA14-224.

In summary, the analyses in Table 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 in the proposed 11 Yates wells is similar to both the qualitative and quantitative analysis in the Table 3 tiered-to and incorporated NEPA analyses. The BLM reviewed the analyses and found that the analyses considered potential environmental effects associated with the proposal at a site specific level. The 11 Yates' APDs' surface use and drilling plans are incorporated here by reference and show adequate protection of surface lands and ground water, including the Fox Hills Formation. The proposal's acres of surface disturbances are within the analysis parameters of the PRB FEIS.

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 analysis also incorporates and analyzes the implementation of committed mitigation measures in the SUP, drilling plan, in addition to the Standard COAs found in the PRB FEIS ROD, Appendix A.

Water Resources

The historical use for groundwater in this area was for stock or domestic water. A search of the WY State Engineer Office (WSEO) Ground Water Rights Database as presented in Yates' MSUP showed a total of 54 permitted water wells within a 1 mile radius of the proposed wells' vertical bore shafts. Depths of the permitted wells range from 30 to 692 feet below ground surface. For additional information on groundwater, refer to the PRB FEIS, pp. 3-1 to 3-36. Yates proposed several sources for their water needed to drill and develop the well. The water will either be trucked or piped via temporary surface lines to the well pad and stored in tanks and/or a pit to be used as needed. They propose that 40,000 bbls per well will be used for the drilling and development of the well. For more detailed information refer to the MSUP for each proposed well, AR.

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 zone. The anticipated depths of the Fox Hills Formation are between 6,322 to 7,272 feet below ground surface for the 11 proposed wells. The operator will use centralizing stabilizers on each casing joint through the depths of the Fox Hills Formation to insure the cementing encapsulates the casing and seals the formation off from contamination. The cementing off of the formation will extend 50 feet above and below the formation. To protect shallow groundwater sources, the surface casing will be cemented to depths of 2,000 to 2,300 ft bgs depending upon the well of discussion. Yates committed in the MSUP to abide to the state and federal regulations for the drilling and production of the well. Therefore, no direct or indirect adverse effects are anticipated. 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 wells 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.

The WY Oil and Gas Conservation Commission (WOGCC) monitors and regulates the chemicals for drilling and completion as well as Class II underground injection disposal. “BLM may rely on the actions of state regulators. The IBLA and federal courts recognized it is appropriate for BLM to assume a proposed action complies with state permitting requirements, and rely on state analysis when evaluating the significance of effects. *Wyo. Outdoor Council v. U.S. Army Corps of Eng'rs*, 351 F. Supp. 2d 1232, 1244 (D. Wyo. 2005); PRBRC, 180 IBLA 32, 57 (2010); *Bristlecone Alliance*, 179 IBLA 51, 74-77 (2010).” In *Wyoming Outdoor Council*, the District Court held the Corps may rely on the WDEQ permitting process to “ameliorate any concerns that impacts to water quality will be significant.” *Id.*

During construction and subsequent production of these wells, Yates committed to stabilize the constructed area to reduce the risk of sediment transport due to erosion. This and complying with WY Department of Environmental Quality (WDEQ) Storm Water Pollution Prevention criteria will minimize impacts to surface water resources in the area.

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. Yates has proposed to dispose of the produced and flow back water to state permitted facilities by either deep re-injection (7,534-8,762 ft. below ground surface) or storage and evaporation in lined pits. Either alternative would be protective of groundwater resources when performed in compliance with state and federal regulations. The water will either be trucked or piped via underground water lines to the locations from the storage tanks and/or reserve pit located on the well pad. For more detailed information, refer to the MSUP for each proposed well.

Wildlife

BLM reviewed the proposals and determined that the proposed APDs, combined with the COAs (and design features), are: (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 documents listed in Table 3, above. Additional information follows.

Raptors

Effects to raptors from surface disturbing and disruptive activities associated with development of horizontal wells were analyzed in the Sahara POD EA, WY-070-EA13-72, 2013, Section 4.6.2.1, pp. 28-31, and Section 4.7.4 pp. 38, incorporated here by reference since the habitats are similar. Activities from the development of Yates' 11 proposed wells are anticipated to be similar, with the following additional site-specific information.

Antler Federal Com 23H

Two ferruginous hawk nests are within 0.5 mile of the proposed well and its infrastructure. From the well pad, both nests are out of line of sight. It is presently unknown what the ferruginous hawk activity is in the area due to the lack of consistent (yearly) survey data. The surrounding area is being developed for oil and gas by several operators on both fee and federal leases. To reduce the risk of decreased productivity or nest failure, the BLM will require a 0.5 mile radius timing limitation for surface disturbing activities during the breeding season (February 1-July 31) around active/biologically important raptor nests.

Look Com 3H

The proposed well and access road is within 0.5 mile of 2 ferruginous hawk nests. Both nests were discovered during the 2014 survey season. The proposed well pad corner is about 0.2 miles and in direct line of sight of a ferruginous hawk nest (BLM #11011) and out of line of sight from the other ferruginous hawk nest (BLM #11012). Currently, 5 existing coalbed natural gas (CBNG) wells are within 0.25 miles and within line of sight of nest #11011. During the May 28, 2014 onsite, the BLM recommend that the proposed well pad to be moved outside the biological buffer from nest #1011. An additional onsite occurred on July 8, 2014 to look at alternative locations and project designs for placement of the well pad outside the biological buffer. Currently, Yates is in the process of submitting a well pad diagram and design features to allow human activities associated with the proposal to be out of line of sight of the ferruginous hawk nest. To reduce the risk of decreased productivity or nest failure, the BLM would require a 0.5 mile radius timing limitation for surface disturbing activities during the breeding season (February 1-July 31) around active/biologically important raptor nests – thus with the agreement of Yates, will defer approving this APD pending resolution of the spatial buffer via design feature changes or any other method Yates may recommend that precludes a taking, the Migratory Bird Treaty Act (MBTA).

Bunn Federal Com 27H

The surrounding area is currently being developed for conventional oil by several operators on both fee and federal leases. The proposed well location and access road is within 0.5 mile of a ferruginous hawk nest (BLM #13525). From the well pad, the nest is out of line of sight. The nest was discovered during the 2014 survey season. It is presently unknown what the ferruginous hawk activity is in the area due to the lack of consistent (yearly) survey data. Because of the close proximity between the nests and the proposed well, the BLM would recommend a 0.5 mile radius timing limitation for surface disturbing activities during the breeding season (February 1-July 31) around nest #13525 to reduce the risk of decreased productivity or nest failure to preclude a taking per the MBTA.

Greater Sage-Grouse (GSG)

Effects to GSG from surface disturbing and disruptive activities associated with development of horizontal oil wells were analyzed in the Sahara POD EA, WY-070-EA13-72, 2013, Section 4.6.4.1, pp. 34-37, incorporated here by reference due to having similar habitats. Activities associated with development of Yates' 11 wells listed in Table 1 are anticipated to be similar in nature, with the following additional site-specific information.

Bunn Federal Com 26H

The proposed well pads and access roads are within suitable nesting habitat for GSG, as well as, within 2 miles of the Porcupine Creek Lek. To decrease the likelihood that GSG will avoid the project area, and increase habitat quality by reducing noise and human activities during the breeding season, the BLM would apply a 2 mile timing limitation for surface disturbance (construction and drilling) during the breeding season (March 15-June 30).

Bunn Federal Com 27H

The proposed well pads and access roads are within suitable nesting habitat for GSG, as well as, within 2 miles of the Porcupine Creek Lek. To decrease the likelihood that GSG will avoid the project area, and increase habitat quality by reducing noise and human activities during the breeding season, the BLM would recommend a 2 mile timing limitation for surface disturbance (construction and drilling) during the breeding season (March 15-June 30).

Monte Federal Com 61H, Monte Federal Com 62H, and Kelly Butte Federal Com 1H

The proposed well pads and access roads are within suitable nesting habitat for GSG, as well as, within 2 miles of the Billie Creek Lek. To decrease the likelihood that GSG will avoid the project area, and increase habitat quality by reducing noise and human activities during the breeding season, the BLM

would apply a 2 mile timing limitation for surface disturbance (construction and drilling) during the breeding season (March 15-June 30).

Migratory Birds

Effects to migratory birds from surface disturbing and disruptive activities associated with development of horizontal oil wells were analyzed in the Sahara POD EA, WY-070-EA13-72, 2013, Section 4.6.2.2, pp. 31-33, and in the Bonita Federal Com 11H CX, WY-070-390CX3-13-41, incorporated here by reference due to having similar habitats here. Activities associated with development of Yates’ 11 proposed wells are anticipated to be similar in nature. During the onsite, the BLM biologist identified suitable nesting habitat present for several BLM sensitive sagebrush obligates on all proposed wells (except for the Antler Federal Com 22H and Antler Federal Com 23H) listed in Table 1.

To reduce the likelihood of a “take” under the MBTA, the BLM recommends pad construction (vegetation removal) occur outside of the breeding season for the greatest quantity of BLM sensitive migratory birds (May 1- July 31). The timing limitation would apply to habitat removal, unless a pre-construction clearance survey (within approximately 10 days of construction planned May 1-July 31) is completed. If surveys will be conducted, Yates will conduct surveys according to the BLM protocol: (<http://www.blm.gov/style/medialib/blm/wy/field-offices/buffalo/wildlife.Par.66916.File.dat/2013sage-survey-protocol.pdf>). A timing limitation does nothing to mitigate loss and fragmentation of habitat. Suitability of the project area for migratory birds will be negatively affected due to habitat loss and fragmentation of habitat.

Yates proposes heater treaters in the production phase of the 11 wells. Heater treaters, and similar facilities with vertical open-topped stacks or pipes, can attract birds. Facilities without exclusionary devices pose a mortality risk. The BLM would recommend measures are taken to ensure that migratory birds are excluded from all facilities that pose a mortality risk, including, but not limited to, heater treaters, flare stacks, secondary containment, and standing water or chemicals where escape may be difficult or hydrocarbons or toxic substances are present.

Cultural

Per Section 106 of the National Historic Preservation Act, BLM must consider impacts to historic properties (sites eligible for or listed on the National Register of Historic Places (NRHP)). For an overview of cultural resources found in the area, refer to the *Draft Cultural Class I Regional Overview, Buffalo Field Office* (BLM, 2010). Class III (intensive) cultural resource inventories (BFO project no. 70140035, 70140039, 70140044, 7014048 and 70140073) were performed to locate specific historic properties which the proposals may impact. Previously accepted Class III inventories: 70990332, 70030048 and 70130031 cover the remaining proposals. The following resources are in the proposal area.

Project Area Cultural Resources & National Register of Historic Places (NRHP) Eligibility

Site #	Site Type	NRHP Eligibility	Site #	Site Type	NRHP Eligibility
48CA5507	Historic Trash	Not Eligible	48CA7184	Historic Trash	Not Eligible
48CA7109	Historic Trash	Not Eligible	48CA7191	Historic Homestead	Not Eligible

BLM policy states that a decision maker’s first choice should be avoidance of historic properties (BLM Manual 8140.06(C)). If historic properties cannot be avoided, mitigation measures must be applied to resolve the adverse effect. No historic properties will be impacted by the proposals. Non-eligible sites 48CA5507 and 48CA7191 will be impacted by the proposals. 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

May 7, 8, and July 11, 2014 that no historic properties exist in the area of potential effect. 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 must be followed. Further discovery procedures are explained in Standard COA (General)(A)(1).

Summary. The absence of applying the recommended mitigation measures may cause some effects such as increased erosion, yet proposal effects will not have a significant impact on the human environment.

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

Position/Organization	Name	Position/Organization	Name
NRS/Team Lead	Dan Sellers	Archaeologist	Seth Lambert and G.L. "Buck" Damone III
Supr NRS	Casey Freise	Wildlife Biologist	Scott Jawors
Petroleum Engineer	Will Robbie & Mark Thomason	Geologist	Warren Garrett & Kerry Aggen
LIE	Karen Klaahsen, Sharon Soule and Christine Tellock	Grazing Management	Dan Sellers
Soils	Dan Sellers	Supr NRS	Bill Ostheimer
Hydrologist	Keith A. Anderson	Assistant Field Manager	Chris Durham
Assistant Field Manager	Clark Bennett	NEPA Coordinator	John Kelley
SHPO/Wyoming SHPO	Mary Hopkins		

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 CX3 APDs 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: _____ /s/Duane W. Spencer _____ Date: _____ 9/11/14 _____

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