

DECISION RECORD
Categorical Exclusion 3 (CX3), WY-070-390CX3-14-12 to -14, & WY-070-390CX3-14-50
Section 390, Energy Policy Act of 2005
Yates Petroleum Corporation, Applications for Permit to Drill (APDs)
Bureau of Land Management, Buffalo Field Office, Wyoming

DECISION. The BLM approves 4 applications for permit to drill (APDs) from Yates Petroleum Corporation (Yates) to drill 4 horizontal oil and gas wells and construct their infrastructure in the Fleetwing Plan of Development (POD); see the consolidated CX3 analysis, incorporated 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 (FEIS), 1985, 2003 (2011).
- Buffalo Resource Management Plan (RMP) 1985, Amendments 2001, 2003, 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 CX3 analysis, WY-070-390CX3-14-12 to -14 & -50, for these oil and gas wells, includes the project description, including site-specific mitigation measures which are incorporated by reference into that CX3 analysis from earlier analysis. The proposed wells are 41 miles SW of Gillette, in Campbell County, Wyoming. This Yates proposal has 4 APDs, along with associated infrastructure, to develop and produce oil and gas from the Shannon B Formation. These wells are a horizontal bore proposed on a 640 acre spacing pattern with 1 well per location.

Approvals. BLM approves the following APDs and associated infrastructure:

#	Well Name & #	Qtr	Sec	Twp	Rng	Lease	CX Number
1	Fleetwing Federal 28H	SESW	20	44N	76W	WYW144536	WY-070-390CX3-14-12
2	Fleetwing Federal 29H	SESW	29	44N	76W	WYW144536	WY-070-390CX3-14-13
3	Fleetwing Federal 30H	SESE	29	44N	76W	WYW144536	WY-070-390CX3-14-14
4	Fleetwing Federal 31H	SESW	30	44N	76W	WYW144536	WY-070-390CX3-14-50

Limitations. See 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 is not required.

COMMENT OR NEW INFORMATION SUMMARY. Since implementation of this CX3 proposal BFO received updated policies on Greater Sage-Grouse (GSG) and migratory bird conservation.

DECISION RATIONALE. The approval of this project is because:

1. Mitigation measures and COAs, analyzed in the 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 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 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 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. 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 APD/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).
6. The project is clearly lacking in wilderness characteristics because it is amidst mineral development.
7. 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.
8. The operator certified there is a surface access agreement with the landowners or it posted a bond.
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, all incorporated here by reference.

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.

Acting Field Manager:



Date:

2/12/14

Categorical Exclusion 3 (CX3), WY-070-390CX3-14-12 to -14, & WY-070-390CX3-14-50
Section 390, Energy Policy Act of 2005
Yates Petroleum Corporation, Applications for Permit to Drill (APDs)
Bureau of Land Management, Buffalo Field Office, Wyoming

Description of the Proposed Action. Yates Petroleum Corporation (Yates) submits 4 applications for permit to drill (APDs) for 4 horizontal oil and gas wells and construct associated infrastructure in the Fleetwood Plan of Development (POD) as follows:

Table 1.1. Proposed Well

#	Well Name & #	Qtr	Sec	Twp	Rng	Lease	CX Number
1	Fleetwing 28H	SESW	20	44N	76W	WYW144536	WY-070-390CX3-14-12
2	Fleetwing Federal 29H	SESW	29	44N	76W	WYW144536	WY-070-390CX3-14-13
3	Fleetwing Federal 30H	SESE	29	44N	76W	WYW144536	WY-070-390CX3-14-14
4	Fleetwing Federal 31H	SESW	30	44N	76W	WYW144536	WY-070-390CX3-14-50

The proposed horizontal wells are within historic and current oil and gas and coalbed natural gas (CBNG) development. These wells are on private surface over federal minerals then horizontally draining federal minerals. The project area is between the towns of Gillette and Kaycee, in Johnson County, Wyoming. Elevation of this project is about 4900 feet. The topography has gently to steep sloped draws rising to mixed sagebrush and grassland uplands, with some areas of developed farming and ranching lands. Ephemeral tributaries are common in the area. Main drainages in the area are the Belle Fourche River, All Night and Fourmile Creeks. The climate is semi-arid, averaging 10-14 inches of precipitation annually, about 60% of which occurs between April and September. The proposal targets draining minerals from the Shannon B Formation. The surface owner is John Christensen.

The proposals are to explore by horizontal drilling for, and possibly develop oil and gas in the Shannon B Formation at approximately 10,300 feet, total vertical depth (TVD). The bottom hole locations are about 1 mile away from the vertical bores (See well maps and APDs (all incorporated here by reference) for locations and footages). The horizontal bores terminate at the bottom holes.

Yates submitted the APDs on November 9, 2012 and January 31, 2013. Yates and BLM completed onsite inspections on June 12 and November 21, 2013. The onsites evaluated the proposal and modified it to mitigate environmental impacts. The BLM sent a post-onsite deficiency letter to Yates on June 25, 2013.

Full effects of the proposals and recommended mitigation measures are in the proposed project APDs and surface use plans, as listed in Table 1.1 above and BLM Conditions of Approval (COAs) for Conventional Application for Permit to Drill, in Appendices 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 that estimated drilling duration will be 60 days and 90 day for completion, depending on circumstances.
- 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 roads. The operator will use existing roads as much as possible, whether public or private.
- There will be a reserve pit at this oil well location during drilling and completion.

- Hydraulic fracturing (HF) operations are planned as a ‘plug & perf’ operation done in stages. The process is anticipated require 14 days to complete. Drilling and completion water will come from either municipal water supplies from Wright or Gillette, Wyoming, permitted water wells, produced water directly from a CBNG well or treated water collected in lined pits or reservoirs. The water will be contained in either a lined pit or 400-500 bbl HF tanks. No additional well pad disturbance is anticipated for HF operations. Completion flowback water will be held in either the lined reserve pit or in tanks on location, until it can be either trucked or piped 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.
- 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 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.
- An existing and/or above ground power line will be used if the well becomes a producer. Power will be provided by 3rd party contactor. Generators will be used for power until permanent power is obtained. It is anticipated that new construction of power will begin at existing 3-phase overhead lines or buried power lines closest to the well and continue adjacent to the well pad.
- Well pad disturbance during construction and drilling will be approximately 6 acres (this includes cut and fill and soil stock pile areas). Once the well is completed, any area of the well pad not needed for production will be reclaimed, reducing the pad area by 0.86 acres, for interim reclamation.
- Typically 170 500-bbl HF tanks are spotted, taking 2 weeks to fill (approx.12 tanker loads/day), prior to pumping the stimulation. All HF 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).

The following narrative explains why the operator requests 400 x 400 foot well pads, which are 3.67 acres for the bladed and level pad site. The well pad will be reduced to 2.81 acres, when interim reclamation is complete, in the production phase of the well. Total disturbance for pad cut and fill, road and utility disturbance will also be reduced with interim reclamation of the road ditches, pipelines and cut and fill areas. 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. This proposed well pad surface disturbances are within the PRB FEIS analysis parameters; see description and analysis in Crazy Cat East EA, WY-070-EA13-028, incorporated here by reference, along with its analysis of HF, its effects on water, and traffic.

Additionally, the proposed wells will use existing infrastructure from existing disturbances as much as possible. 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.

Off Well Pad

Yates will 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 consist of 6 to 24 inch HDPE buried lines of at least 125 psi rating. Yates will install an above ground and or 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. Electric power to the wells will be buried from existing power drops nearest the wells.

Table 1.2. Disturbance Summary for the 4 well projects:

Proposed Facility	# or Miles	Factor	Disturbance
Engineered Pad	4 well Pads	400 ft. x 400 ft. per Pad	14.8 acres
Engineered Pad Cut & Fill (additional to the Engineered Pad acres)	4	varies	9.2 acres
Proposed Buried Power Along Existing Roads	0.47	30ft. wide	1.71 acres
Improved Roads with Corridor	2.21 miles	70 ft. wide	17.25 acres
Improved Roads no Corridor	0.48 miles	45 ft. wide	2.6 acres
Temporary Surface Water Pipeline	0.45 miles	25ft. wide	1.38 acres
Borrow Area	0.03 miles	25ft. wide	1.38 acres
Total Existing & Proposed Surface Disturbance Before Interim Reclamation			48.32 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 CX3 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 to 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, 43 CFR 46.215, and the Federal Land Policy and Management Act (FLPMA). The projects areas are clearly lacking in wilderness characteristics as they are amidst extensive oil and gas development. BLM finds that the conditions and environmental effects found in the senior EAs 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 APDs are in a developed oil or gas field (any field with a completed confirmation well).

Table 1.3 is a list of existing NEPA analyses for APDs/PODs that overlap these proposals and to which this consolidated CX3 analysis tiers. This information shows the reader that BLM conducted analysis.

Table 1.3. Overlapping Oil & Gas Well NEPA Analyses that Account for Reasonable Foreseeable Activity and Completed within 5 Years of Spudding the Fleetwing APDs/POD Proposals

#	POD / Well Name	NEPA Document #	# / Type Wells / # Drilled	Decision Date
1	WPX Ridgeline	WY-070-EA09-150	19/CBNG/19	9/15/2011
2	Yates Congaree	WY-070-EA10-195	30/CBNG/16	9/30/2011

The Fleetwing POD has 22 oil and 91 CBNG wells within its sections and its bordering sections - measured out to 1 mile from this POD. The Fleetwing POD overlaps or is adjacent to 7 CBNG PODs.

BLM incorporates by reference here the Porsche 3H & 4H EA, WY-070-EA14-85, 2014, for its descriptions, analyses, and effects of surface disturbances, drilling, HF, traffic, water use and disposal which are similar to Yates and the industry standards envisioned for use in this POD.

- 2) There are an existing NEPA analyses (and the RMP) containing reasonably foreseeable activity or development scenarios, respectively, for these proposals. There are existing NEPA analyses that reasonably foresaw activity to spud additional wells to fill in 80 acre well-spacing. BLM also notes from Table 1.3, above, that of the 49 analyzed APDs, only 35 are drilled; thus 14 undrilled, analyzed APDs contribute to the available reasonably foreseeable activity. BLM reviewed these EAs 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 (2011). 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 3,200 oil wells. The Fleetwing 28H, Fleetwing Federal 29H, Fleetwing Federal 30H, and Fleetwing Federal 31H wells are in the foreseeable development activity of 80 acre well-spacing that was analyzed in EAs in Table 1.3 and in the PRB FEIS's Appendix A reasonably foreseeable development.
- 3) The tiered NEPA analyses were finalized or supplemented within 5 years of spudding (drilling) the proposed wells. The proposed wells tier to the NEPA analyses listed in Table 1.3, and the Crazy Cat East EA, WY-070-EA13-028, 2013. BLM finds the Crazy Cat EA analysis occurred in materially similar sage brush – short grass prairie habitats, analyzed similar industry standard drilling practices, and will yield materially similar environmental effects resultant from this POD's development.

In summary the EAs 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 proposed wells' projects. These oil well projects are similar to both the qualitative and quantitative analysis in the above EAs, in Table 1.3. The BFO reviewed the EAs and found that the EAs considered potential environmental effects associated with the proposals at a site specific level. The project wells will share existing infrastructure where possible. Confirmation wells for this project are those wells drilled and completed in the APDs/PODs in Table 1.3. The 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.

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 contained in the SUP, drilling plan, in addition to the Standard COAs found in the PRB FEIS ROD, Appendix A.

Wildlife

BLM reviewed the proposals and determined that the proposed APDs, combined with the COAs (and design features), is: (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 biologist performed onsite inspections to the project area on June 12 and November 27, 2013. The affected environment and environmental effects for wildlife are discussed in, and anticipated to be similar to, the documents listed in Table 1.3 above. See additional information, below.

Raptors

Effects to raptors 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 4.6.2.1, pp. 28-31, incorporated here by reference due to having similar sage brush, rolling short grass prairie habitats and similar project effects. Activities associated with development of Yates' 4 wells listed in Table 1.1 are anticipated to be similar in nature, with the following additional site-specific information.

Fleetwing 28H

There are no known raptor nests within 0.5 miles of the Fleetwing 28H well.

Fleetwing Federal 29H

There are 3 raptor nests within 0.5 miles of the proposed well pad. BLM nest #12670 was active with an American kestrel in 2011. The nest is 0.29 miles from the proposed pad and should not be impacted. Nest #s 12496 and 12670 were active in 2012 and 2013. From the reports in the database and observation at the June 12, 2013 onsite, it appears the active nest is at a location between the 2 recorded nests about 0.21 miles from the well pad. Relocation of the pad was not possible due to lease ownership and topography constraints. The disruptive activities associated with operation of the well may impact hawks using the nest. To reduce the risk of decreased productivity or nest failure, the BLM BFO will apply a 0.5-mile radius timing limitation for surface disturbance during the breeding season around active raptor nests.

Fleetwing Federal 30H

One raptor nest, #6197, a red-tailed hawk nest is 0.39 miles from the well pad and 0.25 mile from the access. The nest has not been active in more than 3 years and is reported as gone.

Fleetwing Federal 31H

Raptor nest #s10396 and 10917 are right at 0.5 miles from the well. These nests may be duplicates. They were active with red-tailed hawks in 2012. Because of the distance, operation of the proposed well is not expected to impact the nests. The timing limitation is recommended to reduce the risk of decreased productivity or nest failure during the construction/drilling phase.

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. Activities associated with development of Yates' 4 wells listed in Table 1.1 are anticipated to be similar in nature, with the following additional site-specific information. All wells in this project are within 2-miles of Christensen Ranch 1 Lek.

Fleetwing 28H

The Fleetwing 28H well and proposed access road occurs within suitable nesting habitat for GSG. Construction of the well pad and access road will result in the removal of sagebrush. The surrounding area is comprised of dense sagebrush stands. The well is proposed approximately 1.0 miles to the east of the Christensen Ranch 1 Lek. Construction, drilling, and HF activities are anticipated to negatively impact GSG nesting in suitable habitat in the project area. 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 will apply a 2 mile timing limitation for surface disturbance (construction and drilling) during the breeding season (March 15-June 30).

Fleetwing Federal 29H

The Fleetwing 29H well and proposed access road occurs within suitable nesting habitat for GSG. Construction of the well pad will result in removal of sagebrush. Rolling topography with dense sagebrush stands surround the area. Construction, drilling, and hydraulic fracturing activities are

anticipated to negatively impact GSG nesting in suitable habitat in the project area. 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 will apply a 2 mile timing limitation during the breeding season (March 15-June 30).

Fleetwing Federal 30H

The Fleetwing 30 H well is located on a slope with good sagebrush cover. BLM will apply a 2 mile timing limitation during the breeding season (March 15-June 30).

Fleetwing Federal 31H

The original location of the 31H well was within the 0.25 mile controlled use buffer of the Christensen Ranch 1 Lek perimeter. Yates moved the location approximately 1 mile to the south to avoid disturbing the lek. The well location is in dense sage cover approximately 1.2 miles south of the lek. BLM will apply a 2 mile timing limitation during the breeding season (March 15-June 30).

Migratory Birds

The PRB FEIS discussed direct and indirect effects to migratory birds, pp. 4-231 to 4-235. Additional analysis for BML sensitive sage-brush obligates is found in the Sahara POD EA, WY-070-EA13-72, 2013, pp. 16-17 and 31-33, incorporated here by reference. Site specific information follows:

During the onsite, the BLM biologist identified suitable nesting habitat present for several BLM sensitive sagebrush obligates at all 4 well locations. A Brewer's sparrow was observed at the Fleetwing Federal 29H well and a Brewer's sparrow nest was located at the Fleetwing Federal 30H well. Brewer's sparrows and sage thrashers both nest in sagebrush shrubs and occur in the area. Construction of the pads and associated infrastructure will remove sagebrush habitat and could result in a "take" (as described above) of BLM sensitive migratory birds if removal occurs during the nesting season.

If a restriction on occupied habitat removal (May 1-July 31) is applied, it is unlikely that active nests (of BLM sensitive species) will be destroyed, as most nestlings will have fledged by the beginning of August. Nests initiated after the first week in July may be destroyed by construction after August 1st. Migratory birds nesting adjacent to the well pad or road may be displaced, abandon nests, or suffer reduced reproductive success due to construction and production activities. Suitability of the project area for migratory birds will be negatively affected due to habitat loss and fragmentation and proximity of human activities associated with oil and gas development.

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 as presented in the operators' MSUP showed 13 permitted water wells within a 9 section area of the Fleetwing Federal proposed wells vertical bore shafts. Depths of the permitted wells range from 22 ft to 829 ft 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. Yates proposes that 40,000 bbls of water will be used for the drilling and development of the well. For more detailed information refer to the MSUP for each proposed well.

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 9 5/8" surface casing will be installed from surface to 2,050ft for the 28-30H wells and 2,200ft for the 31H well. The anticipated depths of the Fox Hills Formation are

between 7,189 to 7,435 ft bgs for the Fleetwing #28H-31H 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. The operator 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 WOGCC monitor and regulate 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 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 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 information, refer to the MSUP for each proposed well.

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 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. 70130014) was performed to locate specific historic properties which may be impacted by the proposals. The following resources are in or near the proposals’ area.

Cultural Resources Near the Proposals and National Register of Historic Places (NRHP) Eligibility

Site #	Site Type	NRHP Eligibility	Site #	Site Type	NRHP Eligibility
48CA1570	Bozeman Trail	Listed on NRHP	48JO704	Prehistoric Site/Destroyed	Not Eligible
48JO702	Prehistoric Site	Not Eligible	48JO705	Prehistoric Site	Not Eligible
48JO703	Prehistoric Site	Not Eligible	48JO706	Prehistoric Site	Not Eligible

Site 48CA1570 (Bozeman Trail) is listed on the National Register of Historic Places (NRHP). No contributing portions of this site are present in the project area; therefore the project will have no effect to the Bozeman Trail.

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. Non eligible sites 48JO702, 48JO703, and 48JO705 will be impacted by the proposed project. No historic properties will be impacted by the proposed project. 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 February 12, 2014, that no historic properties exist in the area of potential effect (APE). 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 and ROD must be followed. Further discovery procedures are explained in Standard COA (General)(A)(1).

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

Position/Organization	Name	Position/Organization	Name
NRS/Team Lead	Dan Sellers	Archaeologist	Ardeth Hahn
Supr NRS	Casey Freise	Wildlife Biologist	Darci Stafford
Petroleum Engineer	Will Robbie	Geologist	Warren Garrett
LIE	Kristine Phillips	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
WY SHPO	Mary Hopkins	Archaeologist	Doug Tingwall

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 project, covered in this 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.

Acting


 Field Manager

2/12/14

 Signature Date

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