

**DECISION RECORD**  
**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-176 and WY-070-390CX3-14-47**  
**Section 390, Energy Policy Act of 2005**  
**Yates Petroleum Corporation, Green Federal Com 9H and Green Federal Com 10H**  
**Bureau of Land Management, Buffalo Field Office, Wyoming**

**DECISION.** The BLM approves the proposal from Yates Petroleum Corporation, for the drilling of 2 horizontal oil and gas wells, as analyzed in the consolidated CX3, WY-070-390CX3-13-176, (and WY-070-390CX3-14-47), incorporated here by reference. See Table 1.1 for details. The BLM’s jurisdiction for Green Federal Com 9H is limited, due to the pad being on fee surface, draining fee minerals, then horizontally draining federal minerals in 2 leases (the federal action). The BLM’s jurisdiction for Green Federal Com 10H is standard split jurisdiction, as the fee surface pad overlies federal minerals (federal lands per the Federal Land Policy Management Act (FLPMA)).

**Compliance.** This decision complies with:

- Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1701), Interior Order 3310.
- National Environmental Policy Act of 1969 (NEPA) (42 USC 4321).
- Energy Policy Act of 2005 (119 Stat. 748 Public Law 109-58)
- Endangered Species Act of 1974 (16 USC 1531).
- Buffalo and Powder River Basin (PRB) Final Environmental Impact Statement (FEISs), 1985, 2003.
- Buffalo Resource Management Plan (RMP) 1985, and Amendments.

**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.

**A summary of the details of the approval follows.** The CX3 analysis includes the project description, plus site-specific mitigation measures. Mitigation measures will include the conditions of approval (COAs) in Appendix A of the CX3 analysis.

**Table 1.1.** The BLM approves the following APDs:

#	Well Name	Well #	Qtr	Sec	Twp	Rng	Lease
1	Green Federal Com	9H	NENE	26	43N	73W	WYW103274 WYW135591
2	Green Federal Com	10H	NWNW	1	42N	73W	WYW135591

**Limitations.** See conditions of approval (COAs).

**THE FINDING OF NO SIGNIFICANT IMPACT (FONSI).** The US Congress, 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 so there is no requirement for a FONSI, EIS, or EA.

**Summary of New Information.** BLM posted the APDs for 30 days and received no public comments. Since BLM received these APDs it also received clarified policies on migratory bird conservation and on using the Greater Sage-Grouse (GSG) Density and Disturbance Calculation Tool.

**DECISION RATIONALE.** BLM bases the decision authorizing the selected project on:

1. BLM and Yates included mitigation measures to reduce environmental impacts while meeting the BLM's need. For a complete description of all site-specific COAs see the COAs. The PRB FEIS analyzed and predicted that the PRB oil and gas development would have significant impacts to the region's Greater Sage-Grouse (GSG) population. 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 and ROD and current BLM and Wyoming GSG conservation strategies.
2. Yates will conduct operations to minimize adverse effects to surface and subsurface resources, prevent unnecessary surface disturbance, and conform to currently available technology and practice.
3. BLM sensitive species migratory bird nesting habitat removal for specified planned surface disturbances, see COAs, will occur outside of the breeding season or will receive a pre-disturbance clearance survey to reduce the likelihood of a "take" contrary to the Migratory Bird Treaty Act.
4. The selected alternative will help meet the nation's energy needs, and help stimulate local economies by maintaining workforce stability.
5. Yates committed to:
  - Comply with the approved APD, applicable laws, regulations, orders, and notices to lessees.
  - Obtain necessary permits from agencies.
  - Offer water well agreements to the owners of record for permitted wells.
  - Incorporate several measures to alleviate resource impacts into their submitted surface use plan and drilling plan.
6. Yates certified it has a surface access agreement or posted a 43 CFR 3814.1 bond.
7. The project is clearly lacking in wilderness characteristics as there is no federal surface.

**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:  Date: 12/13/13

**Categorical Exclusion 3 (CX3), WY-070-390CX3-13-176 & WY-070-390CX3-14-47**  
**Green Federal Com 9H & Green Federal Com 10H**  
**Yates Petroleum Corporation, Section 390, Energy Policy Act of 2005**  
**Bureau of Land Management, Buffalo Field Office, Wyoming**

**Description of the Proposal**

Yates Petroleum Corporation (Yates) filed applications for permit to drill (APDs) 2 oil and gas wells on 2 well pads and construct associated infrastructure as follows:

**Table 1.1. Proposed Wells**

#	Well Name/ Well #	Qtr	Sec	Twp	Rng	Lease	CX3 Number
1	Green Federal Com 9H	NENE	26	43N	73W	WYW103274 WYW135591	WY-070-390CX3-13-176
2	Green Federal Com 10H	NWNW	1	42N	73W	WYW135591	WY-070-390CX3-14-47

Yates' Green Federal Com 9H and Green Federal Com 10H are proposed horizontal wells drilled to the Turner formation, leased by Yates, at a depth of 10,395 and 10,589 feet total vertical depth (TVD). The proposed locations are about 7 miles south-west of Wright, Wyoming, in Campbell County. The BLM's jurisdiction for Green Federal Com 9H is limited, due to the pad being on fee surface, draining fee minerals, then horizontally draining federal minerals in 2 leases (the federal action). The BLM's jurisdiction for Green Federal Com 10H is standard split jurisdiction, as the fee surface pad overlies federal minerals (federal lands per the Federal Land Policy Management Act (FLPMA)).

BLM's need for this project is supporting the management goals of the Buffalo Resource Management Plan (RMP) determining whether, and if so, under what conditions to balance natural resource conservation with allowing the operator to exercise conditional lease rights to develop fluid minerals by drilling the 2 horizontal wells, as described in their APDs, surface use, and drilling plans, all incorporated here by reference. The fluid mineral leasing programs fall under the authority of the Mineral Leasing Act of 1920, the Federal Land Policy Management Act (FLPMA), and other laws and regulations.

Reasonably foreseeable development is found in the House Creek Sandy POD Environmental Assessment (EA), WY-070-EA11-144, 2011, and the Wilkinson POD EA, WY-070-EA11-34, 2010. This locality includes but is not limited to the approved House Creek Sandy POD and Wilkinson POD wells and will fill-in to 640 acre spacing. This supports the development anticipated in the PRB FEIS, (see narrative in Section 2, No Action Alternative). The surface owners are Mrs. Bernice Groves, and Mr. Richard Leavitt.

The project area is in the Powder River Basin (PRB) geographic area (Wyoming Geographic Landforms Map). Topography is gently sloped terrain along ephemeral dendritic drainages. Elevation at the well site is 5,037 and 5,097 feet above sea level. The land is a combination of bedrock residuum and slope-wash deposits. The Powder River is 38 miles west of the proposal.

Yates submitted the APDs for these wells on November 13, 2012 and May 10, 2013 to the BLM. BLM conducted onsite inspections on February 28, and July 17, 2013. The on-sites evaluated the proposals and modified them to mitigate environmental impacts. The BLM sent post-onsite deficiency letters to Yates on September 19, 2013. BLM received revised APDs on October 18, 2013 and September 13, 2013 for adjustments made at the on-sites and to correct various deficiencies.

Drilling, Construction & Production design features include:

- Construction of 2 drilling pads with dimensions of approximately 400 feet by 400 feet plus cut & fills

- and topsoil/spoil piles, accounting for 14.00 acres combined well location disturbance.
- After drilling and completion, the well pad areas will be reduced for the production phase by reclamation of disturbed areas created during construction not needed during the production phase.
- The operator will maintain shared roads with other oil and gas operators to ensure safe, all-weather passage. The operator commits to communicating with current road users to ensure maintenance and construction issues are timely addressed.
- There is existing 3-phase overhead power in the project area.
- The operator proposes to drill using water-based mud (WBM).
- Production facilities and buildings will be painted Covert Green.
- Flowback water during the completion phase will be stored on-site in the reserve pit. The pit will be emptied as needed using water tanker trucks. Produced water will be disposed of in accordance with Wyoming Department of Environmental Quality (WDEQ) guidelines using multiple permitted sites in the area which are detailed in the surface use plan submitted for this well.
- It is anticipated that 40,000 bbls of water per well will be needed for drilling and completion operations. The fresh water will be trucked in from various nearby sources detailed in the surface use plans submitted for these wells or from a temporary surface line as detailed on the submitted project map. Some examples of these sources include the Water Co load out facility in Gillette, coalbed natural gas (CBNG) water reservoirs, and municipal sources.
- If a well is not found to be economically viable, all areas disturbed during construction would be reclaimed to approximate pre-disturbance condition, and the well bore would be plugged per State of Wyoming and BLM policy and regulations.

**Typical Drilling and Completion Operations**

- Hydraulic fracturing (HF) operations are planned as a ‘plug & perf’ operation done in stages. All fresh water will be contained in 400-500 bbl rental HF tanks and no surface pits will be used to hold this water. No additional well pad disturbance is anticipated for HF operations. Completion flow back water will be held in tanks on location and trucked offsite to a disposal facility permitted by Wyoming Department of Environmental Quality (WDEQ).
- 170 500-bbl HF tanks are spotted, taking 2 weeks to fill, prior to pumping the stimulation. All HF water, including excess, is present before starting.
- Flow back 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).
- Sand is continuously brought on site in semi-truck loads during pumping. It is necessary to have a safe turning radius available for these trucks. Pumping water may require heating in the winter months.

**Table 1.2. Anticipated Drilling and Completion Sequence and Timing (per well)**

<b>Drilling and Completion Step</b>	<b>Approximate Duration</b>
Build Location (roads, pad, and other initial infrastructure)	30 days
Mob Rig	2-4 days <sup>1</sup>
Drilling (24/7)	30 days <sup>2</sup>
Schedule/logistics	30 days
Completion (setup, completion, demobilization)	5-8 days
<sup>1</sup> Depending on distance and needed to add supplemental drilling equipment, such as skidding plates.	
<sup>2</sup> By comparison, approximately 2 days are required to drill a CBNG well. ICF 2012	

For a detailed description of design features and construction practices associated with the proposed project, refer to the surface use plans (SUP) and drilling plans included with the APDs. Also see the subject APDs for maps showing the proposed well locations and associated facilities described above.

**Table 1.3. Surface Disturbance Summary for Green Federal Com 9H and Green Federal Com 10H**

Facility	Number or Miles	Factor	Disturbance
Engineered Pad Including Cut & Fill and Topsoil/Spoil Piles	2 pads (400ft x 400ft) (ea. pad surface)	320,000 sq ft (pad surface total) + 289840 sq ft (topsoil/spoil piles)	14.00 acres (pad surface disturbance and topsoil/spoil piles)
Proposed Improved Roads	(904 ft x 50 ft) (368 ft x 75 ft)	72,800 sq ft	1.67 acres
Proposed Improved Road w/ Buried Electric	(3,436 ft x 75 ft)	257,700 sq ft	5.92 acres
Proposed Buried Electric	(212 ft x 30 ft) (5,361 ft x 30 ft)	167,190 sq ft	3.84 acres
<b>Total Surface Disturbance</b>			<b>25.43 acres</b>

Proposed surface disturbances are within analysis parameters of the PRB FEIS, especially in light of industry practices to drill multiple wells from a producing pad, to use existing disturbances as practicable, and perform interim reclamation.

BLM incorporated and analyzed the implementation of committed mitigation measures in the SUPs and drilling plans, in addition to the COAs in the PRB FEIS ROD, as well as changes made at the onsite.

**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 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 proposed action conforms with the terms and conditions of the Approved RMP for the public lands administered by the BLM, 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 proposal area is clearly lacking wilderness characteristics as it has no federal surface. BLM finds that the conditions and environmental effects found in the senior EAs, below, and the Powder River Basin Final Environmental Impact Statement (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).  
Table 1.4, is a list of existing/approved oil and gas development that is within or adjacent to the Green Federal Com 9H and 10H project areas. This information shows the reader that BLM conducted analysis.

**Table 1.4. Tiered Adjacent or Overlapping Oil & Gas Well NEPA Analyses by Decision Date**

NEPA Document Name	NEPA Document #	# Wells	Decision Date
House Creek Sandy POD	WY-070-EA11-144	5 oil	02/11/2011
Wilkinson POD	WY-070 EA11-34	28	11/12/2010

BLM incorporates by reference here the description and analysis of hydraulic fracturing, water, and traffic from the Crazy Cat East EA, WY-070-EA13-028.

The area had historic conventional oil and gas production. The project area is adjacent to or inside the boundaries of 1 oil development and 1 coalbed natural gas (CBNG) development that include 33 wells, see Table 1.4. There are 377 oil and gas wells within a 1 mile radius of each of the 7 wells for this proposal (Wyoming Oil and Gas Conservation Commission, June 18, 2013).

- 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 and 3,200 oil wells. The Green Federal Com 9H well is in the foreseeable development scenario of 80 acre well-spacing that was analyzed in EAs in Table 1.4 and in the PRB FEIS's Appendix A.
- 3) The tiered NEPA documents were finalized or supplemented within 5 years of spudding (drilling) the proposed well. Green Federal Com 9H CX3 tiers to the approved EAs listed in Table 1.4.

In summary, the EAs in Table 1.4 analyzed in detail the anticipated direct, indirect, residual and cumulative effects that would result from the approval of these APDs and associated support structure for the Green Federal Com 9H and Green Federal Com 10H wells is similar to both the qualitative and quantitative analysis in the above mentioned EAs. The BFO reviewed the EA and found that the EA considered potential environmental effects associated with the proposal at a site specific level. The APD's 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**

A BLM wildlife biologist reviewed the proposed APD and determined that the proposed APD, 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), which is an update from the PRB FEIS, Appendix K. The biologist performed onsite visits to the project area on November 25, 2013. The affected environment and environmental effects for wildlife are discussed in, and anticipated to be similar to the Sahara POD EA, WY-070-EA13-72. Site specific information is described below for known species suspected to occur in the project area as depicted in Table W.1.(Summary of Sensitive Species Habitat and Project Effects) and Table W.2.(Summary of Threatened and Endangered Species Habitat and Project Effects) located in the project file.

**Green Federal Com 9H**  
**Greater Sage-Grouse (GSG)**

One known lek (Porcupine) is within 2 miles of the proposed project. BLM analyzed and considered mitigation for 2 leks in the Sahara POD EA, WY-070-EA13-72 and this analysis is incorporated here by reference: Affected Environment (Section 3.7.4.1 (p.18-19)); Direct and Indirect Effects (Section 4.6.4.1.1.( p. 34-39)); Cumulative Effects (Section 4.6.4.1.2. (pp.49-50)); Mitigation (Section 4.6.4.1.3. (p. 37)); Residual Effects (Section 4.6.4.1.4. (p. 37)).

In order to reduce the likelihood that noise, construction, and human disturbance impact nesting GSG, BLM will implement a timing limitation on all surface-disturbing activities (March 15-June 30) within 2 miles of an occupied lek. The intent of this timing restriction is to decrease the likelihood that GSG will avoid these areas and increase habitat quality by reducing noise and human activities during the breeding season. The proposed well will cumulatively contribute to the potential for local GSG 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).

**Migratory Birds**

The proposed well pad is in migratory bird habitat for sage-brush obligate species. Nesting season for Brewer's sparrows (a BLM Special Statues Species (SSS)) typically occurs mid-May to mid-July. Some young fledge in late July. Sage thrashers (BLM sensitive species) may lay a second clutch of eggs as late as mid-July. Lark sparrows in northern latitudes lay eggs from early May to mid-July (information on breeding habits available on the Birds of North America Online website: <http://bna.birds.cornell.edu/bna>). GSG timing limitations on surface disturbing activities will mitigate impacts to nesting migratory birds from March 15 to June 30. However, several species of birds, listed above, are likely to still have eggs or nestlings into July. BLM biologists have observed active Brewer's sparrow nests containing eggs during the last week of June. Only a percentage of known nests are active any given year, so the protections for migratory birds from June 30 to July 31 will depend on how many raptor and mountain plover nests are active. The least restrictive measures (in this case only applying GSG timing limitations) are inadequate to protect all nesting migratory birds that may inhabit the project area.

To reduce the likelihood of a "take" under the MBTA, the BLM biologist recommends that pad construction (vegetation removal) occur outside of the breeding season for the greatest quantity of BLM sensitive passerines (May 1- July 31) where suitable nesting habitat for sagebrush obligates is present. This restriction would apply to habitat removal, unless a pre-construction nest search (within approximately 10 days of construction planned May 1-July 31) is completed. If surveys will be conducted, the operator will coordinate with BLM biologists to determine protocol. The nest search will consist of in areas where vegetation will be removed or destroyed. The BLM recommends the well pad and associated infrastructure have timing limitations applied for well pad construction during the nesting season for sagebrush obligate passerines (May 1 to July 31).

Effects to migratory birds from surface disturbing and disruptive activities associated with development of the proposed well are similar to the wells previously analyzed in the CX3, Covering Bonita Federal Com. 11H-WY-070-390CX3-13-41, Lone Moose Federal Com. 13H-WY-070-390CX3-13-73, Cousins Federal Com. 22H-WY-070-390CX3-13-74 and Rocky Butte Federal Com. 29H-WY-070-390CX3-13-75 on pp. 6-9 (all approved under one consolidated CX3 NEPA document) referenced in Table W1.1, below. The BLM determined that the proposal is in compliance with Instruction Memorandum No. WY-2013-005 Interim Management Guidance for Migratory Bird Conservation Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Including the Federal Mineral Estate.

BLM recommends taking measures to ensure excluding migratory birds from facilities posing 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.

**Table W1.1 NEPA Analyses, Incorporated by Reference Here, for Wildlife Analysis**

#	Well Name & #	Qtr	Sec	Twp	Rng	CX Number
1	Bonita Federal Com 11H	NENE	10	43N	73W	WY-070-390CX3-13-41
2	Cousins Federal Com 22H	SWSE	2	43N	74W	WY-070-390CX3-13-74
3	Lone Moose Federal Com 13H	NWNW	26	44N	74W	WY-070-390CX3-13-73
4	Rocky Butte Federal Com 29H	NENW	4	43N	73W	WY-070-390CX3-13-75

### **Raptors**

One golden eagle nest (BLM# 855) is within 0.4 mile from the proposed well location and outside the biological buffer (a biologic buffer is a combination of distance and visual screening that provides nesting raptors with security such that they will not be flushed by routine activities). Impacts anticipated to occur toward the nesting pairs of raptors and mitigation will be similar to those analyzed in the Sahara POD EA, WY-070-EA13-72 and this analysis is incorporated here by reference: Affected Environment (Section 3.7.2.1 (p.15-16)); Direct and Indirect Effects (Section 4.6.2.1.1.( p. 2830)); Cumulative Effects (Section 4.6.2.1.2. (pp.30)); Mitigation (Section 4.6.2.1.3. (p. 30)); Residual Effects (Section 4.6.2.1.4. (p. 30)).

To reduce the risk of decreased productivity or nest failure, the BLM BFO recommends a 0.5-mile radius timing limitation during the breeding season (February 1 – July 31) around active raptor nests for surface disturbing activities associated with construction of the proposed well pad and access road.

### **Green Federal Com 10H**

#### **Greater Sage-Grouse (GSG)**

One known lek (Spring Creek) is within 2 miles of the proposed project. BLM analyzed and considered mitigation for two leks in the Sahara POD EA, WY-070-EA13-72 and this analysis is incorporated here by reference: Affected Environment (Section 3.7.4.1 (p.18-19)); Direct and Indirect Effects (Section 4.6.4.1.1.( p. 34-39) ); Cumulative Effects (Section 4.6.4.1.2. (pp.49-50)); Mitigation (Section 4.6.4.1.3. (p. 37)); Residual Effects (Section 4.6.4.1.4. (p. 37)).

In order to reduce the likelihood that noise, construction, and human disturbance impact nesting GSG, BLM will implement a timing limitation on all surface-disturbing activities (March 15-June 30) within 2 miles of an occupied. The intent of this timing restriction is to decrease the likelihood that GSG will avoid these areas and increase habitat quality by reducing noise and human activities during the breeding season. The proposed well will cumulatively contribute to the potential for local GSG 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).

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nestlings into July. BLM biologists have observed active Brewer’s sparrow nests containing eggs during the last week of June. Only a percentage of known nests are active any given year, so the protections for migratory birds from June 30 to July 31 will depend on how many raptor and mountain plover nests are active. The least restrictive measures (in this case only applying GSG timing limitations) are inadequate to protect all nesting migratory birds that may inhabit the project area.

To reduce the likelihood of a “take” under the MBTA, the BLM recommends that pad construction (vegetation removal) occur outside of the breeding season for the greatest quantity of BLM sensitive passerines (May 1- July 31) where suitable nesting habitat for sagebrush obligates is present. This restriction would apply to habitat removal, unless a pre-construction nest search (within approximately 10 days of construction planned May 1-July 31) is completed. If surveys will be conducted, the operator will coordinate with BLM biologists to determine protocol. The nest search will consist of in areas where vegetation will be removed or destroyed. The BLM recommends the well pad and associated infrastructure have timing limitations applied for well pad construction during the nesting season for sagebrush obligate passerines (May 1 to July 31).

Effects to migratory birds from surface disturbing and disruptive activities associated with development of the proposed well are similar to the wells previously analyzed in the CX3, Covering Bonita Federal Com. 11H-WY-070-390CX3-13-41, Lone Moose Federal Com. 13H-WY-070-390CX3-13-73, Cousins Federal Com. 22H-WY-070-390CX3-13-74 and Rocky Butte Federal Com. 29H-WY-070-390CX3-13-75 on pp. 6-9 (all approved under one consolidated CX3 NEPA document) referenced in Table W1.1, below. The BLM determined that the proposal is in compliance with Instruction Memorandum No. WY-2013-005 Interim Management Guidance for Migratory Bird Conservation Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Including the Federal Mineral Estate.

BLM recommends taking measures to ensure excluding migratory birds from facilities posing 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.

**Table W1.1 NEPA Analyses, Incorporated by Reference Here, for Wildlife Analysis**

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**Water Resources**

The historical use for groundwater in this area was for stock or domestic water. A search of the Wyoming State Engineer Office Ground Water Rights Database showed 2 registered stock water wells within 1 mile of the proposed wells in the project area with depths from 138 to 243 feet. For additional information on groundwater, refer to the PRB FEIS (2003), pp. 3-1 to 3-36.

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 coal zone. This will ensure that ground water will not be adversely impacted by well drilling and completion. The operator will run surface casing to a depth between 2,000 and 2,500 feet, total vertical depth to protect shallow aquifers including coal zones. The Fox Hills formation in this area occurs at a depth of between 6238 and 6520 feet below ground surface. The operator included additional protection for this aquifer in the casing program. The casing will be

centralized to insure concentric annular space and cemented to a point above the top of the formation to insure isolation. The cement top will be logged to insure proper protection.

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.

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. There are 3 common alternatives for water management: Re-injection, deep disposal or disposal into pits. All alternatives would be protective of groundwater resources when performed in compliance with state and federal regulations.

**Cultural Resources**

Class III cultural resource inventories were performed for the Green Federal Com 9H and Green Federal Com 10H wells prior to on-the-ground project work (BFO project no. 70130013 and 70130087). Yates provided BLM with Class III cultural resource inventories following the Archeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines (48CFR190) and the *Wyoming State Historic Preservation Office Format, Guidelines, and Standards for Class II and III Reports*. Seth Lambert, BLM Archaeologist, reviewed the reports for technical adequacy and compliance with BLM standards, and determined them adequate. No cultural resources are in the areas of potential effect. On April 22 and November 22, 2013 BLM 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 proposals.

**Persons and Agencies Consulted**

Name	Agency	Position	Name	Agency	Position
Scott Jawors	BLM	Wildlife Biologist	John Kelley	BLM	NEPA Coordinator
Seth Lambert	BLM	Archeologist	Warren Garrett	BLM	Natural Resource Specialist
Kristine Phillips	BLM	LIE	Casey Freise	BLM	NRS Supervisor
William Robbie	BLM	Petroleum Engineer	Kathy Brus	BLM	NRS Supervisor
Clark Bennett	BLM	Asst. Field Manager	Chris Durham	BLM	Asst. Field Manager
Warren Garrett	BLM	Geologist	Duane Spencer	BLM	Field Manager

**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 Green Federal Com 9H and Green Federal Com 10H 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 Signature

12/13/13  
 \_\_\_\_\_  
 Date

Contact Person, Warren Garrett, Natural Resource Specialist, Buffalo Field Office, 1425 Fort Street, Buffalo WY 82834, 307-684-1138