

**SURFACE USE PLAN OF OPERATIONS  
TABLE TOP UNIT, WELLS #3, #4, #5, and #6  
SECTION 390 DETERMINATION**

Summit County, Utah  
USDA Forest Service  
Wasatch-Cache National Forest  
Evanston Ranger District

**Authorized Officer:**

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## **Introduction**

This document has been prepared in response to an Application for Permit to Drill (APD) from Double Eagle Petroleum Company. Approval of the APD by the BLM is contingent upon acceptance of the Surface Use Plans of Operations (SUPO) by the Forest Service. The approved APD would permit the drilling of one well TTU #3, from a new well site adjacent to the existing Main Fork Road one mile NW of the existing Table Top Unit #1 well. This well site could also be used if Double Eagle submits APDs to the BLM to drill three additional wells (TTU #4, #5, and #6). The intent of Double Eagle's proposal is to exercise their lease rights through the development of the Table Top Unit #3, #4, #5, and #6 oil and gas wells. These wells would develop federal minerals located under National Forest System (NFS) lands.

This document provides background information about the proposal; documents the agency's determination regarding consistency with Section 390 of the Federal Energy Policy Act of 2005 and other various laws, regulations, and policies; and details the next steps in implementation.

## **Background**

The proposed Table Top Unit #3, #4, #5, and #6 wells are located thirty miles south of Evanston, Wyoming, on the Evanston Ranger District of the Wasatch-Cache National Forest in the Main Fork drainage of the Stillwater River within the south half of the southeast one quarter, of Section 17, T1N, R10E of SLBM, Summit County, Utah. All four wells will be drilled from the same well site.

The Surface Use Plan submitted as part of the APD on June 23, 2006, contains plans to construct the well site. The plans show the total disturbance from constructing the well site will be less than 5 acres. The existing Main Fork Road will access the well site; no new roads are needed to access the well site, as it is adjacent to the existing road. Facilities on the well site will vary depending upon the activities occurring and the stage of the drilling or production. During drilling the site would be occupied by a drilling rig and its associated facilities. If the wells are productive there would be pumping units, storage tanks, heater treaters, and a 40-foot flare stack depending on the producing zone. Any product produced would be trucked off the forest until a pipeline system can be approved and constructed. If the wells are not successful, the well site would be reclaimed to resemble the surrounding terrain and seeded using native plants seeds.

## **Regulatory Authority**

In 2005 Congress passed the Energy Policy Act. Section 390 of the Act establishes categorical exclusions under NEPA that apply to five categories of oil and gas exploration and development activities conducted pursuant to the Mineral Leasing Act (30 U.S.C. et seq., as amended). Congress established these categorical exclusions by statute, not under the Council on Environmental Quality (CEQ) procedures. Therefore, their use is not dependent on the CEQ process for approving new categorical exclusions or other Forest Service National Environmental Policy Act (NEPA) procedures.

The first of the categorical exclusions established in Section 390 is: *Individual surface disturbances of less than five (5) acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.*

Use of this category requires the Authorized Forest Officer to determine:

- 1) Individual five-acre disturbance threshold – The Authorized Forest Officer must determine and document that the action under consideration will disturb less than five acres on the site. If more than one activity is proposed for a lease (e.g., two or more wells), each activity is counted separately and each may disturb up to five acres. Similarly, the five-acre limit should be applied separately to each action requiring discrete agency action, such as each APD, even though for processing efficiency purposes the operator may submit for review a large Plan of Development (POD) addressing many wells.
- 2) 150-acre unreclaimed disturbance limit – The Authorized Forest Officer must determine and document that the current unreclaimed surface disturbance readily visible on the entire leasehold is not greater than 150 acres, including the action under consideration. This would include disturbance from previous rights-of-way issued in support of lease development. If one or more Federal leases are committed to a BLM approved unit or communitization agreement, the 150 acre threshold applies separately to each lease. For larger leases, the requirement for adequate documentation would be satisfied with a copy of the most recent aerial photograph in the file with an explanation of recent disturbance that may not be shown on the aerial photos. Maps, tally sheets, or other visuals may be substituted for aerial photographs.
- 3) Site-specific analysis of oil or gas exploration/development in a NEPA document – The Authorized Forest Officer must determine and document that a site-specific NEPA document exists that analyzes oil or gas exploration and/or development. For the purposes of this categorical exclusion, the site-specific NEPA document can be: an exploration and/or development EA/EIS, an EA/EIS for a specific plan of development (POD), a multi-well EA/EIS, or an individual permit approval EA/EIS. The NEPA document must have analyzed the exploration and/or development of oil and gas (not just leasing) and the proposed activity must be within the general boundaries of the area analyzed in the EA or EIS. The NEPA document need not have addressed the specific permit or application being considered.

### **Applicability of Table Top Unit Wells #3, #4, #5, and #6 to Category 1**

The Surface Use Plan submitted with the Application for Permit to Drill (APD) submitted on June 23, 2006, has plans to construct the well site where all four wells would be drilled. The plans show the total disturbance to the area in constructing the well site will be less than 5 acres. This is the only proposed activity for Lease (UT-54040).

Currently less than 2 acres of disturbance occur on this lease (UT-54040). The disturbance is due to the construction of the access road to Table Top Unit #1 well site (The well site for the Table Top Unit #1 well is on a different lease). The disturbance to this lease with the construction of the well site will be 7 acres (2 acres for the access road to the Table Top Unit #1 well plus 5 acres from the construction plans for Table Top Unit #3, #4, #5, and #6 wells).

A site-specific analysis was conducted in the Environmental Impact Statement for the Table Top Exploratory Oil and Gas Well (Table Top Unit #1). The Final EIS and ROD were issued on January 6, 1994, and supplemented in January 2005. The Environmental Impact Statement analyzed oil and gas exploration in the Main Fork drainage of the Stillwater River. The proposed well site is within the Main Fork drainage and adjacent to the access road to the Table Top #1 well.

Since the proposed well site will disturb less than five acres, there are less than 150 acres of unreclaimed disturbance on the lease, and a site-specific analysis exists that analyzed oil and gas exploration the proposed well site meets the criteria for an Energy Policy categorical exclusion (CE) under Section 390 of the 2005 Energy Policy Act.

### **Public Involvement**

The Utah Environmental Congress and the High Uintas Preservation Council were notified of the proposal to construct a well site for Table Top Wells #3, #4, #5, and #6.

### **Compliance with Applicable Laws, Policy and Regulations**

*Endangered Species Act of 1973* - Wildlife and botanical surveys of the well site were completed in the summers of 2005 and 2006. The biological assessment for the proposed project considered potential impacts on Threatened and Endangered (T&E) plant, wildlife, and fish species and their habitats. No threatened, endangered or candidate plant habitat or fish were present in the project area. On August 24, 2006, the U.S. Fish and Wildlife Service concurred with these determinations. The well site is consistent with the Endangered Species Act of 1973.

*National Historic Preservation Act of 1966 as amended, in 1999* - A cultural resource inventory review was completed. The State Historical Preservation office concurred in the finding of “no effect” on October 25, 2006. The well site is consistent with the National Historic Preservation Act.

*Clean Water Act* – The Clean Water Act requires each state to implement its own water quality standards. The State of Utah’s Water Quality Anti-degradation Policy requires maintenance of water quality to protect existing in-stream Beneficial Uses on streams designated as Category I High Quality Water. All surface waters geographically located within the boundaries of the Wasatch-Cache National Forest whether on public or private lands are designated as Category I High Quality Water. This means they will be maintained at existing high quality. New point sources will not be allowed and non-point sources will be controlled to the extent feasible through the implementation of Best Management Practices (BMPs) or regulatory programs. The State of Utah and the Forest Service agreed through a 1993 MOU to use Forest Plan standards and guidelines and the Forest Service Handbook (FSH) 2509.22 Soil and Water Conservation Practices (SWCPs) as BMPs. The requirement for using SWCPs meets the water quality protection elements of the Utah Non-point Source Management Plan and Non-point Source Management Plan. The proposed well site is in compliance with the Clean Water Act.

*Clean Air Act* – Based on review of the Table Top Final Environmental Impact Statement and Supplement it is not expected that construction and operation of another exploratory development pad would cause air quality standards to be exceeded. The proposed well site is in compliance with the Clean Air Act.

*Migratory Bird Treaty Act (Executive Order 13186 of January 10, 2001* - Upon review of the information regarding migratory birds and the scope of the project, the Forest Service Wildlife Biologist determined that constructing the well site in accordance the Surface Use Plan and conditions of approval will comply with this Executive Order for the Conservation of Migratory Birds.

*National Forest Management Act of 1976* – The construction of the well site and exploration for oil and gas is consistent with the intent of the 2003 Revised Forest Plan's forestwide goals, subgoals and objectives listed on pages 4-16 through 4-34 and the desired future condition of the Western Uintas Management Area on pages 4-176 through 4-191 (including maps). The project incorporates applicable forestwide standards and guidelines from Chapter 4, Section A as conditions of approval and is consistent with the management prescription direction mapped for the area (3.2D). In addition, a biological evaluation has been prepared for Forest Service sensitive species, documenting consistency with 36 CFR 219.10 and its goals for maintenance of species diversity.

*Executive Order 11990 of May 1977* – This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. No wetland are present within the project area. The proposed well site is in compliance with EO 11990.

*Executive Order 11988 of May 1977* – This order requires the Forest Service to provide leadership and take action to: (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk of flood loss; (2) minimize impacts of floods on human safety, health and welfare; and (3) restore and preserve natural and beneficial values served by floodplains. No floodplains are present within the project area. The proposed well site is in compliance with EO 11988.

*Executive Order 13112 (Invasive Species)* – This Executive Order directs that Federal Agencies should not authorize any activities that would increase the spread of invasive species. Following Forest Plan Standards and Guidelines during construction and operation of the well site will control the spread of invasive species.

*Executive Order 12898 (Environmental Justice)* - This order issued in 1994, directed federal agencies to identify and address the issues of environmental justice (i.e., adverse human health and environmental effects of agency programs that disproportionately impact minority and low income populations). During the Scoping and analysis process for the Table Top Exploratory Oil Well Environmental Impact Statement and the preparation of the Supplement, there were no comments received which raised this as a concern and there are no known effects on minority or low-income populations.

## Determination

I have reviewed the Surface Use Plans of Operations submitted by Double Eagle Petroleum Company and considered the factors required to use Categorical Exclusion #1 established by Section 390 of the Energy Policy Act. Based upon my review and the review of Forest Service resource specialists I have determined that the action proposed by Double Eagle Petroleum is consistent with applicable laws policy and regulation when implemented following additional Forest Service direction, therefore, I am approving the submitted Surface Use Plan of Operation subject to the inclusion of 17 Conditions of Approval (COAs). The Conditions of Approval are included as Appendix I and a map of the well site is included as Appendix II.

## Review and Implementation

Under Section 390 of the Energy Policy Act this decision is not subject to administrative appeal under 36 CFR 215

Pursuant to 36 CFR 251 (Subpart C), this decision is subject to appeal by the applicant. Double Eagle will be notified of their appeal rights and requirements of appeal in a separate letter.

Implementation of this project may occur after approval of the "Application for a Permit to Drill," by the Bureau of Land Management, Salt Lake Field Office. Construction may begin as early as the summer of 2007.

/s/ Stephen M. Ryberg

Dec. 14, 2006

STEPHEN M. RYBERG  
District Ranger

Date