Jennifer McQueen
Crescent Point Energy U.S. Corp
555 17th Street, Suite 1800
Denver, Colorado 80202
303.308.6285 / jmcqueen@crescentpointenergy.com

Crescent Point

October 15, 2019

Director
Air and Toxics Technical Enforcement Program
Office of Enforcement, Compliance and Environmental Justice Mail Code 8ENF-AT
1595 Wynkoop Street
Denver, Colorado 80202-1129

**RE: OIL AND NATURAL GAS MINOR SOURCE REGISTRATION PART 1**
**CRESCENT POINT ENERGY U.S. CORP**
**UTE TRIBAL 1-1-4-2E**

Dear Director:

Crescent Point Energy U.S. Corp (Crescent Point) is submitting Part 1 of the Oil and Natural Gas Minor Source Registration for the Ute Tribal 1-1-4-2E production facility, in accordance with the United States (U.S.) Environmental Protection Agency (EPA) Federal Implementation Plan (FIP) for the Indian Country Minor New Source Review Program for the Oil and Natural Gas Industry, §49.151(c)(iii)(B). The attached documents satisfy requirements of §§49.101 through 49.105 under §49.151(c)(iii)(B), the following depicting prior completion of Endangered Species Act (ESA) and National Historic Preservation Act (NHPA) assessments by the respective federal agencies in connection with the specific oil and natural gas activity.

In accordance with §49.104(a)(1), Crescent Point is providing a copy of the documentation demonstrating that prior ESA and NHPA compliance has been completed by another federal agency to Mike Natchees, Ute Indian Tribe, Energy & Minerals Department, Air Quality.

If you have any questions or need additional information, please do not hesitate to contact me at 303.308.6285 or via email jmcqueen@crescentpointenergy.com.

Sincerely,

Jennifer McQueen
Air Quality Specialist

EPA Form No. 5900-39
EPA ICR No. 1230.2
OMB Control No. 2060-000
Approval expires 4/30/201

United States Environmental Protection Agency
http://www.epa.gov/air/tribal/tribalnsr.html

**Part 1: Submit 30 Days Prior to Beginning Construction -- General Facility Information**

# FEDERAL IMPLEMENTATION PLAN FOR TRUE MINOR SOURCES IN INDIAN COUNTRY IN THE OIL AND NATURAL GAS PRODUCTION AND NATURAL GAS PROCESSING SEGMENTS OF THE OIL AND NATURAL GAS SECTOR

**Registration for New True Minor Oil and Natural Gas Sources and Minor Modifications at Existing True Minor Oil and Natural Gas Sources**

Air and Toxics Technical Enforcement Program
Office of Enforcement, Compliance and Environmental Justice
Mail Code 8ENF-AT
1595 Wynkoop Street

**A. GENERAL SOURCE INFORMATION (See Instructions Below)**

| | |
|---|---|
| **1. Company Name**<br>Crescent Point Energy U.S. Corp | **2. Source Name**<br>Ute Tribal 1-1-4-2E |
| **3. Type of Oil and Natural Gas Operation**<br>Oil Wellsite | **4. New Minor Source?** [X] Yes [ ] No<br>**5. Minor Source Modification?** [ ] Yes [X] No |
| **6. NAICS Code**<br>211111 | **7. SIC Code**<br>1311 |
| **8. U.S. Well ID(s) or API Number(s) [if applicable]**<br>4304754811 | |

| 9. Area of Indian Country | 10. County | 11a. Latitude | 11b. Longitude |
|---|---|---|---|
| Ute & Ouray Reservation | UINTAH | 40.16969703 | -109.7105647 |

**B. CONTACT INFORMATION (See Instructions Below)**

| | |
|---|---|
| **1. Owner Name**<br>Crescent Point Energy U.S. Corp | Title<br>N/A |
| Mailing Address<br>555 17th St, Suite 1800 Denver, CO 80202 | |
| Email Address<br>jmcqueen@crescentpointenergy.com | |
| Telephone Number<br>(720) 880-3610 | Facsimile Number<br>(303) 292-1562 |
| **2. Operator Name** (if different from owner)<br>Crescent Point Energy U.S. Corp | Title<br>N/A |
| Mailing Address<br>555 17th St, Suite 1800 Denver, CO 80202 | |
| Email Address<br>jmcqueen@crescentpointenergy.com | |
| Telephone Number<br>(720) 880-3610 | Facsimile Number<br>(303) 292-1562 |
| **3. Source Contact**<br>Jennifer McQueen | Title<br>Air Quality Specialist |
| Mailing Address<br>555 17th St, Suite 1800 Denver, CO 80202 | |
| Email Address<br>jmcqueen@crescentpointenergy.com | |
| Telephone Number<br>(303) 308-6285 | Facsimile Number<br>(303) 292-1562 |

| **4. Compliance Contact** Jennifer McQueen | Title Air Quality Specialist |
|---|---|
| Mailing Address 555 17th St, Suite 1800 Denver, CO 80202 | |
| Email Address jmcqueen@crescentpointenergy.com | |
| Telephone Number (303) 308-6285 | Facsimile Number (303) 292-1562 |

**C. ATTACHMENTS**

Include all of the following information as attachments to this form:

[X] Narrative description of the operations.

[X] Identification and description of all emission units and air pollution generating activities (with the exception of the exempt emissions units and activities listed in §49.153(c).

[X] Identification and description of any air pollution control equipment and compliance monitoring devices or activities that are expected to be used at the facility.

[X] Estimated operating schedules.

[X] If satisfying the requirements under §49.104(a)(1), documentation that another federal agency has complied with its requirements under the Endangered Species Act (ESA) and the National Historic Preservation Act (NHPA) when authorizing the activities for the facility/activity covered under this registration. The appropriate documents shall clearly show that the other federal agency had met its obligations under both the ESA and NHPA. A simple reference to a Record of Decision or other final decision document will not be acceptable. Examples of acceptable documentation would be a letter from the U.S. Fish and Wildlife Service field office (for ESA) or a historic preservation office (for NHPA) stating they agree with the assessment conducted by the other federal agency for the subject project and that the requirements of those statutes have been met. The documentation shall be submitted within the Part 1 registration.

[ ] If satisfying the requirements under §49.104(a)(2), the letter provided by the Reviewing Authority indicating satisfactory completion of the specified screening procedures to address threatened and endangered species and historic properties. The documentation shall be submitted under the Part 1 registration. (The procedures are contained in the following document: "Procedures to Address Threatened and Endangered Species and Historic Properties for the Federal Implementation Plan for True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector," http://www.epa.gov/air/tribal/tribalnsr.html).

[ ] Other.

**Crescent Point Energy U.S. Corp**
**Ute Tribal 1-1-4-2E**

**Identification and description of any air pollution control equipment and compliance monitoring devices or activities that are expected to be used at the facility.**

**Air Pollution Control Equipment Installed Onsite**

Combustor(s), when required by Federal, State or local regulation

Catalyst(s), when required by Federal, State or local regulation

**Compliance Monitoring Devices or Activities**

Emission sources will comply with all of the applicable provisions of the standard as written at the time Crescent Point Energy U.S. Corp begins construction on the new true minor source or on the minor modification at an existing true minor source. Crescent Point Energy U.S. Corp will comply with any true minor oil and gas sources and associated equipment subject to applicable provisions under 40 CFR Parts 60 and 63.

When applicable, tank combustor(s) will be installed, operated, and maintained according to the requirements of NSPS Part 60 Subpart OOOO or Subpart OOOOa. Storage tanks and well site fugitive emissions will be monitored and managed as per the requirements of NSPS Subpart OOOOa.

When applicable, any operated engines (compressors, pumpjacks, and/or generators) will be installed, operated, and maintained according to the requirements of NSPS Part 60 Subpart JJJJ or MACT Part 63 Subpart ZZZZ.

**Estimated Operating Schedule**

24 hours per day, 7 days per week, 52 weeks per year

**Crescent Point U.S. Corp**
**Ute Tribal 1-1-4-2E**

Crescent Point

## Narrative Description

Produced fluids are pumped from the well, the Ute Tribal 1-1-4-2E, using a 301-hp Doosan D11.1L engine, or a 449-hp Doosan D14.6L engine, or a 203-hp Caterpillar G3306 TA, or an equivalent engine. The produced fluids are routed to a heater-treater. From the dedicated heater-treater, the oil phase is directed to up to three 1,000-bbl atmospheric aboveground storage tanks. The water phase is piped to one 1,000-bbl atmospheric aboveground storage tank. Hydrocarbon vapors are vented from the oil storage tanks to the combustor(s) when required by Federal, State or local regulation; combustor may be removed at such time as oil production and resultant tank emissions allow. Crude oil and produced water are transferred from the storage tanks to tanker trucks for transportation from the site. Gas from the heater-treater is routed into the fuel line to be used by the heaters, the combustor pilot light, or engine or it is routed to a sales gas pipeline. Fugitive emissions are emitted from the various components (flanges, connectors, etc.) at the site.

## Identification and Description of All Emission Units and Air Pollution Generating Activities

| | Description |
|---|---|
| 1) | Three 1,000-bbl Crude Oil Tanks |
| 2) | One 1,000-bbl Produced Water Tank |
| 3) | One 1.25 MMBtu/hr Heater Treater |
| 4) | Four Tank Heaters (0.75 MMBtu/hr each) |
| 5) | Oil Tank Truck Loading |
| 6) | Fugitive Emissions |
| 7) | Engine(s) |
| 8) | One 55-gallon Glycol Drum Tank |
| 9) | One 55-gallon Methanol Drum Tank |
| 10) | Up to 2,000 gallons of Miscellaneous Chemical Stored |
| 11) | Combustors |

**Procedures to Address Threatened and Endangered Species and Historic Properties for the Federal Implementation Plan for True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector**

## Section 1: Contact Information

| | |
|---|---|
| Business name:<br>Crescent Point Energy U.S. Corp | Site address:<br>Ute Tribal 1-1-4-2E<br>NENE Sec. 1 T4S-R2E |
| Send all correspondence regarding this evaluation to (mailing address):<br>555 17th St, Suite 1800<br>Denver, CO 80202 | Contact for this notification:<br>Name: Jennifer McQueen<br>Phone: (303) 308-6285<br>Email: jmcqueen@crescentpointenergy.com |

## Section 2: Evaluation of Threatened and Endangered Species and Historic Properties

**1. Threatened or Endangered Species**

Please indicate under which criterion in Appendix A you satisfy after evaluating the effects on threatened or endangered species as a result of your construction, modification or operation of your new or modified minor source of air pollutants. Be sure to include all documentation identified in Appendix A with this evaluation.

☐ A ☐ B ☐ C ☒ D ☐ E

**2. Historic Properties**

Please indicate under which criterion in Appendix B you satisfy after evaluating the effects to historic properties as a result of your construction, modification or operation of your new or modified minor source of air pollutants? Be sure to include all documentation identified in Appendix B with this evaluation.

☒ No historic properties affected ☐ No adverse effects ☐ Adverse effects

## Section 3: Signature

Name: _____ (Signature) Name: Jennifer McQueen (Print or Type)

Title: Air Quality Specialist Date: 10/15/2019

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
UINTAH AND OURAY AGENCY
P.O. Box 130
7002 East 1400 South
Fort Duchesne, Utah 84026
Phone (435) 722-4300 Fax (435) 722-2323


TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
Natural Resources – MS 460

**Decision Record and Finding of No Significant Impact**
**Environmental Assessment No. U&O-FY15-003**

**Crescent Point Energy's**
***Randlett 11-Well Exploration and Leasing Project Environmental Assessment***

## DECISION

I have reviewed the final Environmental Assessment of Crescent Point Energy's (Crescent Point) Randlett *11-Well Exploration and Leasing Project Environmental Assessment* (EA), No. U&O-FY15-003.

Based upon my review of the EA and the Administrative Record, I have decided to approve and implement the Proposed Action, together with Crescent Point's Applicant-committed Environmental Protection Measures (ACEPMS), as identified in § 2.1.11, and the general Bureau of Indian Affairs (BIA) mitigation measures, as identified in Chapter 4, both of which are outlined in the EA.

The Proposed Action, as mentioned in § 2.1 of the EA, sets out a proposal for right-of-way (ROW) approval, construction, drilling, completion, operation and ultimate reclamation of the following 11 well bores and associated access road/ pipeline corridors:

- **Ute Eggleston 1-13-4-2E**
- **Ute Tribal 2-13-4-2E**
- **Ute Tribal 1-1-4-2E**
- **Ute Tribal 1-2-4-2E**
- **Ute Tribal 1-11-4-2E**
- **Ute Tribal 9-33-3-2E**
- **Ute Tribal 16-33-3-2E**
- **Ute Tribal 9-1-4-2E**
- **Ute Tribal 11-7-4-3E**
- **Ute Tribal 11-12-4-2E**
- **Ute Tribal 15-22-3-2E**

Approval and implementation of the Proposed Action would include the following primary components and estimated surface damages, which would occur on lands owned by the Tribe, federal lands, and private lands:

- Issuance of BIA Grants of Easement for 11 oil and gas well ROWs, which would consist of approximately 31.1 acres more or less of surface disturbance on lands owned by the Tribe;
- Issuance of 11 BIA access road ROWs, which would consist of approximately 16.5 acres more or less of surface disturbance, approximately 13.2 acres of which would occur on Tribal lands, and approximately 3.3 acres of which would cross Federal lands;
- Issuance of 11 BIA pipeline ROWs, which would consist of approximately 33.3 acres more or less of surface disturbance, approximately 29.6 acres of which would occur on

Tribal lands, approximately 0.7 acres of which would occur on federal lands, and approximately 3.0 acres would cross Privately owned lands;

- Construction, drilling, and completing the proposed 11 well bores and associated access roads and pipelines would result in approximately 70.7 acres of short-term surface disturbance and 29.4 acres of long-term disturbance after successful interim reclamation activities.

## REASONS FOR THE DECISION

I have decided to implement the Proposed Action and concur with Crescent Point's *Randlett 11-Well Exploration and Leasing Project Environmental Assessment* because of the following:

1. It meets the intent of the Indian Mineral Development Act (25 *United States Code* [U.S.C.] Section 2102).
2. Agency and Tribal input were obtained and the environmental issues related to the Proposed Action were identified and analyzed.
3. The EA disclosed the environmental consequences of the Proposed Action and No Action alternatives.
4. Compliance will be met with all relevant federal, state, and local laws, as well as county and Tribal regulations and policies. Crescent Point will follow strict procedures during construction, operation and maintenance activities.
5. The EA provides for protection of affected resources before, during, and after the planned construction, drilling, operation, and reclamation activities associated with the Proposed Action.
6. The Proposed Action allows for the continued exploration and production of natural gas and oil activities in the surrounding fields, which in turn keeps Crescent Point, the Tribe, and BIA in compliance with their approved Randlett Exploration and Development Agreements and associated Tribal leases.
7. The project will contribute to the economic development of Indian land and will assist in the self-determination objectives of the Tribe through job opportunities, lease revenue, and fees.
8. The project will contribute to the economy of the Uintah Basin through the purchase of goods and services.
9. The project has Tribal concurrence and recommendation for approval.

## SCOPING AND PUBLIC INVOLVEMENT

Onsite meetings were conducted on July 15 and 16, 2014 and August 12, 13, 14, and 26, 2014, and field evaluations of potentially affected resources were conducted. Participants at the onsite meeting are listed in the table below.

**List of Participants at the July and August Onsite Meetings**

| Name | Representing | Responsibility | Date of Attendance |
|---|---|---|---|
| Audie Appawoo | Ute Indian Tribe – Energy and Minerals Department | Compliance Officer | August 12, 13, 14, and 26, 2014 |
| Leroy Cesspooch | Ute Indian Tribe – Energy and Minerals Department | Compliance Officer | July 15 and 16, 2014 |
| Lonnie Favel | Ute Indian Tribe – Energy and Minerals Department | Compliance Officer | August 26, 2014 |
| Brock Chapoose | Ute Indian Tribe – Cultural Rights Department | Cultural Rights Protection Specialist | August 13, 14, and 26, 2014 |
| Brad Wazaney | Bureau of Indian Affairs – Uintah and Ouray Agency | Environmental Protection Specialist | July 16; August 12, 13, 14, and 26, 2014 |
| Ataya Cesspooch | Bureau of Indian Affairs – Uintah and Ouray Agency | Environmental Protection Specialist | July 15 and 16; August 12, 13, 14, and 26, 2014 |
| Chuck MacDonald | Bureau of Land Management – Vernal Field Office | Natural Resource Specialist | July 15 and 16; August 12, 2014 |
| Tyler Cox | Bureau of Land Management – Vernal Field Office | Natural Resource Specialist | August 12, 13, 14, and 26, 2014 |
| Lori Browne | Crescent Point Energy U.S. Corp | Senior Regulatory Specialist | July 15 and 16; August 12, 13, 14, and 26, 2014 |
| Lauren MacMillan | Crescent Point Energy U.S. Corp | Regulatory Specialist | July 15 and 16, 2014 |
| Christopher Noonan | Crescent Point Energy U.S. Corp | Consultant | August 12, 13, 14, and 26, 2014 |
| Mark Hecksel | Crescent Point Energy U.S. Corp | Field Scouting Coordinator | July 15 and 16; August 13, 14, and 26, 2014 |
| Greg Harris | Crescent Point Energy U.S. Corp | Lead Operator | July 15, 2014 |
| Don Hamilton | Star Point Enterprises, Inc. | Permitting Agent | July 15 and 16; August 12 and 13, 2014 |
| Whitney Szabo | Star Point Enterprises, Inc. | Permitting Agent | August 14 and 26, 2014 |
| Trevor Anderson | Timberline Engineering & Land Surveying, Inc. | Surveyor | July 15 and 16; August 12, 13, and 14, 2014 |
| Christian Karren | Timberline Engineering & Land Surveying, Inc. | Surveyor | July 15 and 16, 2014 |
| Mitch Batty | Timberline Engineering & Land Surveying, Inc. | Engineer | August 12, 13, 14, and 26, 2014 |
| Scott Bonner | DR Griffin & Associates, Inc. | Surveyor | August 13, 14, and 26, 2014 |
| Ed Adamski | William H. Smith & Associates | Surveyor | August 14, 2014 |
| Will Dolinar | William H. Smith & Associates | President | August 14, 2014 |

**List of Participants at the July and August Onsite Meetings**

| Name | Representing | Responsibility | Date of Attendance |
|---|---|---|---|
| Dayton Slaugh | Tri State Engineering & Land Surveying | Surveyor | August 14, 2014 |
| Paul Murphey | Rocky Mountain Paleo Solutions | Principal Investigator | August 12, 2014 |
| Geraldine L. Aron | Rocky Mountain Paleo Solutions | Principal Investigator | August 13 and 14, 2014 |
| Kate Zubin-Stathopoulos | Rocky Mountain Paleo Solutions | Field Supervisor | August 12, 13, and 26, 2014 |
| John Bird | Uinta Paleontological Associates, Inc. | Project Paleontologist | August 12, 13, 14, and 26, 2014 |
| Sarah Baer | SWCA | Project Archaeologist | August 12, 13, 14, and 26, 2014 |
| Kelly Beck | SWCA | Principal Investigator | August 12, 13, and 14, 2014 |
| Dave Darlington | Western Archaeological Services, Inc. | Project Archaeologist | July 15 and 16; August 13, 14, and 26, 2014 |
| Keith Montgomery | Montgomery Archaeological Consultants, Inc. | Principal Investigator | August 13 and 14, 2014 |
| Dan Hamilton | Grasslands Consulting, Inc. | Senior Biologist | July 15 and 16; August 12, 13, 14, and 26, 2014 |
| Jean Sinclear | Kleinfelder, Inc. | Senior NEPA Analyst | July 15 and 16; August 26, 2014 |
| Cale Wharry | Kleinfelder, Inc. | NEPA Analyst | July 15 and 16, 2014 |
| Ashley Smith | Kleinfelder, Inc. | NEPA Project Manager | August 12 and 13, 2014 |
| Elyssa Figari | Kleinfelder, Inc. | NEPA Analyst | August 12, 13, and 14, 2014 |

A public review period was conducted from May 12 through June 11, 2015 via a public notice in local newspapers. No comments were received.

## OTHER ALTERNATIVE CONSIDERED IN DETAIL

### No Action Alternative

The No Action Alternative was considered and evaluated. Under the No Action alternative the proposed 11 well bores would not be authorized. Lacking Federal approval, the purpose and need of the BIA, Tribe, and Crescent Point for the Proposed Action would not be realized, and therefore, the proposed project would not be realized.

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## FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have considered both the beneficial and potential adverse effects of concurring with the approval of The Proposed Action. Based on experience and the results of the conceptual analyses contained in the EA, I have determined that the effect of implementation will be limited in scope and intensity. Any effect that may occur will be within an acceptable range, in and of themselves, or by using the mitigation measures described in the *Randlett 11-Well Exploration and Leasing Project* (U&O-FY15-003), and the ACEPMs of the Proposed Action if applicable, will result in no significant adverse environmental impact(s) either individually or cumulatively, to the physical or biological components of the environment, as defined in 40 *Code of Federal Regulations* (C.F.R.) 1508.27. My finding is based on the following determination:

1. Both beneficial and adverse effects were considered, and this action will not have a significant effect on the quality of the human environment.
2. The project will not adversely affect any unique characteristics of the geographic area (historic, heritage resources, prime farm lands, wetlands, etc.).
3. Based on the lack of information received from public participation, the scientific, social, and economic effects on the quality of the human environment are not likely to be highly controversial by implementing the Proposed Action.
4. There are no known effects on the human environment that are highly uncertain, involve unique or unknown risks.
5. The actions in this decision will not establish a precedent for future actions with significant effects, nor do they represent a decision in principle about a future consideration.
6. There are no known significant local cumulative effects from this project and other projects implemented or planned on areas separated from the affected area of this project.
7. The actions planned will not adversely affect any sites listed in, or eligible for listing on, the National Register of Historic Places, nor will they cause the loss or destruction of any other significant scientific, cultural, heritage, historic, or prehistoric resources. This finding is based upon the commitment to survey all areas and to satisfactorily complete the Section 106 Consultation process prior to surface disturbance in all areas to be disturbed.
8. The decided actions are not likely to adversely affect any listed or proposed endangered, threatened, or sensitive plant or animal species, critical habitats, or unique natural communities.
9. The actions do not constitute, nor will they lead to, a violation of any federal, state, or local law, ordinance, or requirement imposed for the protection of the environment.

**Authority**: This finding and decision is made in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and the Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary-Indian Affairs (209 DM 8) to the Director of Indian Affairs (230 DM 1) to Regional Directors (3 IAM 4) to Agency Superintendents (10 BIAM).

Any questions regarding this Decision Record and Finding of No Significant Impact, please contact Ataya Cesspooch, Environmental Protection Specialist, at (435)722-4354 or Ataya.Cesspooch@bia.gov.

**Responsible Official:**

Superintendent
Uintah and Ouray Agency

9-28-15
Date

# United States Department of the Interior
FISH AND WILDLIFE SERVICE
UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119


April 29, 2015

In Reply Refer To:
FWS/R6
ES/UT
06E23000-2015-F-0069

Memorandum

To: Superintendent, Bureau of Indian Affairs, Uintah and Ouray Agency, Fort Duchesne, Utah

From: Utah Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, West Valley City, Utah

Subject: Conclusion of formal section 7 consultation Crescent Point Energy's Randlett 11-well Exploration and Leasing Project

In accordance with section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), and the Interagency Cooperation Regulations (50 CFR 402), this transmits our final biological opinion (BO) based on our review of Crescent Point Energy's (hereafter, Crescent Point) proposed Randlett 11-well Exploration and Leasing Project (hereafter, Project) and its effects on Pariette cactus (*Sclerocactus brevispinus*) and Uinta Basin hookless cactus (*Sclerocactus wetlandicus*), hereafter referred to as *Sclerocactus* for both species. This BO is based on information provided in your December 18, 2014 biological assessment (BA), and related email and phone communications.

Ute ladies'-tresses (*Spiranthes diluvialis*), western yellow-billed cuckoo (*Coccyzus americanus*), Colorado pikeminnow (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), bonytail (*Gila elegans*), and razorback sucker (*Xyrauchen texanus*) and their designated critical habitat were also analyzed in the BA. Based on surveyor information, the potential Ute ladies'-tresses habitat identified on the map is not suitable habitat for the species. The habitat adjacent to the Project area is an irrigation ditch with steep sides, and without emergent vegetation. Due to the absence of suitable habitat we concur that the Project may affect, but is not likely to adversely affect Ute ladies'-tresses.

The Project does not impact proposed critical habitat for the western yellow-billed cuckoo. Based on Crescent Point's commitment to the conservation measures listed in the Applicant Committed Conservation Measures section of this BO we concur that this project may affect, but is not likely to adversely affect the western yellow-billed cuckoo.



ED_004016P_00013366-00014

The Project will require approximately 27.5 acre-feet of water for drilling and completion (22 acre-feet) of the wells and for dust abatement (5.5 acre-feet) throughout the lifetime of the Project. Water will be provided by the Duchesne County Water Conservancy District (Water Right 47-1817). Water rights filed and developed prior to January 1988 are classified as historical depletions under the Upper Colorado River Endangered Fish Recovery Program's (Recovery Program) 1993 section 7 agreement and do not require further consultation. Our office agrees that the water depletion for this Project will come from a historical water source. Because the water depletion is considered historical, the Recovery Program and its activities will serve as the conservation measures necessary to minimize adverse effects to listed fish. In addition, the Project commits to strict adherence to Spill Prevention, Control, and Countermeasure Plan measures to avoid having any direct or indirect effects on listed Colorado River fishes as stated in the BA.

**Consultation History**

- December 23, 2014: We received the BA.
- February 2, 2015: We sent an email the Bureau of Indian Affairs (BIA) questions and comments on the BA.
- February 3, 2015: We talked via phone with the BIA about calculating mitigation fee recommendations based on *Sclerocactus* Core 1 or suitable habitat polygons. We requested further information regarding shape files for cactus surveys in order to calculate mitigation fee recommendations.
- February 4, 2015: We received GIS data from Grasslands Consulting, including survey data, and the amount of disturbance within 300 feet (ft) of cactus to assist with calculating mitigation fee recommendations.
- February 5, 2015: We talked and emailed with BIA about discrepancy in the disturbance width used for pipelines (20 ft versus 30 ft). We also requested clarification regarding the total area of disturbance for the Project.
- February 9, 2015: We received revised GIS data from Grasslands for the amount of disturbance within 300 ft of cactus which we used to calculate the recommended payment for the cactus mitigation fund.
- February 17, 2015: We received the Ute ladies'-tresses survey reports from BIA. We received Crescent Point's floodplain mitigation measures as proposed to the Ute Indian Tribe.
- March 9, 2015: We met with Crescent Point to discuss questions involving all projects under consultation.
- March 19th, 2015: We received written comments, your noise reduction proposal, and partial acceptance of proposed Applicant Committed Conservation Measures. We also received GIS data from Grasslands for the amount of disturbance within 100 ft of cactus in order to calculate the amount for the mitigation fund.

## Biological Opinion

### I. Description of the proposed action

Crescent Point's Project area for the Randlett 11-Well Exploration and Leasing Project is located



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five miles south of Fort Duchesne within the Randlett Exploration and Development Agreement (Randlett EDA) area of the Uintah and Ouray Indian Reservation in northeastern Utah. The proposed 11-well Project would result in surface disturbance on Ute Indian Tribe (Tribal) lands, Bureau of Land Management (BLM) lands, and private or allotted lands. Tribal lands in the proposed Project area are held in trust by the U.S. Government and managed by the BIA Uintah and Ouray Agency.

Crescent Point proposes to construct, drill, and reclaim eleven exploratory oil and natural gas wells, construct nine associated well pads and access roads, and install surface and horizontally directionally drilled (HDD) pipelines. The total surface disturbance for the action area includes the installation of access roads (31.1 acres), surface natural gas and oil pipelines co-located with new roads (33.3 acres), and new roads not co-located with pipelines (6.1 acres) for a total of approximately 70.7 acres of surface disturbance. Four acres of disturbance will occur on BLM land, 3 acres on private land, and 63.9 acres on Tribal land. All surface disturbances in the Project area occurs within the *Sclerocactus* suitable habitat polygon.

Existing roadways will be used where possible, and new roads will be constructed where needed. Access roads and pipelines will be co-located where possible to minimize disturbance. Ute Tribal 11-7- 4-3E is the only well in the proposed action without co-located access roads and pipelines. Construction of proposed roads will conform to standards described in the BLM publication Surface Operating Standards for Oil and Gas Exploration and Development "Gold Book" (4th Edition) (BLM & United States Forest Service [USFS] 2007). Roads will be crowned, ditched, and constructed with an 18 foot travel surface within the right-of-way (ROW). Low-water crossings or metal culverts may be installed and maintained at all ephemeral channels as directed by the Tribe. Dry drainage crossings will be designed to prevent the accumulation of silt or debris and will not be blocked by the roadbed. Water will be diverted from the roadway at frequent intervals.

Drilling operations will be conducted in a manner that complies with all relevant federal oil and gas orders and regulations; Utah Division of Oil, Gas and Mining (UDOGM) rules and regulations; and Tribal rules and regulations. Closed-loop drilling techniques will be used for four wells (Ute Tribal 1-11-4-2E, 9-33-3-2E. 16-33-3-2E, and 9-1-4-2E) in potentially sensitive environmental areas.

Two segments of the pipeline that would connect Ute Tribal 11-12-4-2E to Crescent Point's pipeline gathering network will be installed via HDD to avoid *Sclerocactus* habitat. While the surface pipeline will consist of a polyethylene pipe with an eight-inch diameter, the two horizontally drilled pipeline segments will consist of one casing pipe surrounding three high-density polyethylene carrier pipes. The first horizontally bored pipeline segment will be 442 ft in length and the second horizontally bored segment will be 1,340 ft in length. In addition, four temporary workspaces would be constructed, which include pull-back areas necessary for the HDD boring operations at Ute Tribal 11-12-4-2E. These workspaces will be approximately 100 ft by 150 ft. Floodplain development/modification is allowed only if there are no other feasible alternatives. In accordance with Executive Order (EO) Number 11988, where pipelines would cross washes, floodplains, or other areas prone to flooding, construction methods would follow recommendations in the Utah BLM guidance document "Hydraulic Considerations for Pipeline Crossings of Stream Channels" (Fogg and Hadley 2007).



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The productive life of each proposed well is estimated to be 20 years. As long as the wells remain in production, the access routes and the pipeline corridors are needed for long-term operations and maintenance activities. Associated facilities and infrastructure required by the proposed action would include roads, gas pipelines, separation, dehydration, and metering facilities, and produced fluid storage facilities.

Reclamation procedures include interim reclamation, which will follow the drilling of a well to quickly stabilize disturbed areas and protect those areas not needed for production from unnecessary degradation. Within six months of finalizing the well construction, drilling, and completion phases of the proposed wells, all surfaces not needed during the production phase would undergo interim reclamation, weather permitting. Reserve pits, where present will be reclaimed within 12 months after completion operations are finished. Final reclamation, which will occur following the life of the well, will return the vegetation and soils in areas of surface disturbance as near as practicable to their original state.

The construction, drilling, completion, and production elements of the Project include the following primary components:

- Development of up to 7 vertical and 4 directional wells from 9 proposed new well pads;
- Construction of approximately 3.7 miles of new road with a 30 ft right-of-way on Tribal land and potentially containing co-located surface pipeline;
- Construction of approximately 0.5 miles of new road with a 50 ft right-of-way on BLM land and potentially containing co-located surface pipeline;
- Construction of approximately 8.2 miles of surface pipeline with a 30 ft right-of-way on Tribal land;
- Construction of approximately 0.1 miles of pipeline with a 50 ft right-of-way on BLM land;
- Construction of approximately 0.4 miles of pipeline with a 30 ft right-of-way on private land; and
- Construction of up to four temporary workspaces, each up to 100 ft by 150 ft;
- Surface facilities for each pad would generally comprise a wellhead; separator; gas meter; one 400-gallon methanol tank; one 400-gallon glycol tank; two 400-barrel oil tanks; one 400-barrel water tank; one 400-barrel test tank; a pumping unit with natural gas-fired motor; solar panels; solar chemical and methanol pumps; and one trace pump; and
- Two 400-barrell tanks for frac fluid and well cuttings will be installed at each closed loop drilling sites, one of which will be located in 100-year floodplain.

Action Area

The action area is defined in 50 CFR 402 to mean "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." For the purposes of this consultation, we define the action area to encompass all of the Project area.

Applicant Committed Conservation Measures

Several Applicant Committed Conservation Measures will be implemented throughout the Project area by Crescent Point to reduce the potential short-term, long-term, and cumulative



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impacts within the action area.

*Project Wide*

1. All subcontractors associated with this Project will be notified of the appropriate conservation measurements associated with this Project.
2. Dust abatement practices will be implemented for any surface disturbing activities over the life of the Project and will consist of only water.
3. The size of disturbance on the well pad will be reduced to the minimum size needed to meet safety requirements.
4. Any noxious/invasive weeds present within 50 ft of the edge of surface disturbance will be controlled using mechanical or spot treatment methods. Our office will be notified prior to any noxious weed control activities other than mechanical methods.
5. All disturbed areas would be reclaimed with native plant species, or seed mixtures approved by the BIA, Ute Tribe, and our office.

*Uinta Basin Hookless Cactus and Pariette Cactus*

1. Pre-construction threatened and endangered plant surveys were completed throughout 2013 and 2014 for the federally listed Uinta Basin hookless cactus and Pariette cactus. These surveys concluded that 767 individuals were documented within 300 ft and 140 individuals were documented within 100 ft of proposed surface disturbance associated with the well pads, access roads, and pipelines.
2. Vehicle users associated with this Project will travel at low speeds (15 miles per hour) and will remain on existing roads and proposed ROWs at all times for the life of the Project.
3. Noxious weeds within *Sclerocactus* habitat may be controlled with herbicides, in accordance with the BLM Herbicide PEIS (http://www.blm.gov/wo/st/en/prog/more/veg_eis.html) Guidelines and the BLM's Standard Operating Procedures for Threatened and Endangered Plant Species.
4. Application for a Pesticide Use Permit will include provisions for mechanical removal, as opposed to chemical removal, for Utah Class A, B, and C noxious weeds within 50 ft of individual/populations of *Sclerocactus*.
5. Erosion control measures (e.g., silt fencing) will be implemented to minimize sedimentation to *Sclerocactus* plants and populations located down slope of proposed surface disturbance activities, and should only be implemented within the area proposed for disturbance.
6. All vehicles would be pressure washed at a designated washing station and inspected to ensure no noxious weeds are transported into the Project area.
7. Any proposed well that does not meet the standards set forth above will not tier to this BO and will require separate section 7 consultation, as appropriate.
8. Ground disturbing activities in suitable *Sclerocactus* habitat, and within 100 ft of individual *Sclerocactus* plants and/or populations, must occur outside of the flowering period, April 1 - May 30.
9. Access roads, buried pipelines, well pads, and other facilities requiring removal of vegetation (e.g., compressor stations) will be located a minimum distance of 100 ft from individual *Sclerocactus* plants and/or populations where feasible (except for surface pipeline which is 50 ft).
10. Limits of surface disturbing construction would be flagged or fenced to avoid disturbance



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outside of the construction area during construction of well pads, access roads, and pipelines.

11. A qualified botanist will be present to monitor the proposed facility installation and other ground-disturbing activities to avoid impacts to the *Sclerocactus* identified within 100 ft of proposed surface disturbance. Qualifications are defined in the U.S. Fish and Wildlife (USFWS) Utah Field Office Guidelines for Conducting and Reporting Botanical Inventories and Monitoring of Federally Listed, Proposed and Candidate Plants, http://www.fws.gov/utahfieldoffice/SurveyorInfo.html. Qualified botanists must also attend our Uinta Basin Rare Plant Workshop, http://www.fws.gov/utahfieldoffice/UBRarePlants.html.
12. Along the road north of Ute well #1-2-4-2E the surface pipeline follows the road and crosses through a dense cactus population north of the wash. The following measures will be applied in this section of the project:
    a. Crescent Point will bury the pipeline within the existing county road travel surface where the pipeline crosses both the 100-year floodplain and occupied Sclerocactus habitat, for a distance of approximately 1,018 ft;
    b. Foot and vehicle traffic will be limited to the existing county road travel surface;
    c. A qualified botanist will be present to monitor pipeline installation;
    d. Dirt piles produced from trenching will be located on the road itself or off site to avoid direct impacts to Sclerocactus;
    e. Straw waddles will be placed around and dirt piles left overnight or during a rain event;
    f. Any excess dirt will be removed from the site and disposed of at an approved facility offsite; and
    g. Shut off valves will be installed on both sides of the wash crossing the 100-year floodplain.
13. Reinitiation of section 7 consultation with the Service would be sought immediately if any loss of *Sclerocactus* plants is anticipated as a result of Project activities.
14. Based on 1.45 acres of disturbance within the *Sclerocactus* habitat polygon valued at $2,550 per acre (Service 2014b), Crescent Point will pay $3,698 into the Tribal Sclerocactus Conservation Fund to assist in implementing recovery actions.

| Acres Disturbed | Cost per Acre Sclerocactus habitat | Total |
|---|---|---|
| 1.45 | $2,550 | $3,698 |

15. All previously listed conservation measures will apply to future maintenance and repairs to infrastructure.
16. Payment for mitigation will be made prior to construction commencing for this Project. Funds will be paid to:
    Ute Tribe Treasury
    c/o Ute Indian Tribe Cactus Conservation Fund
    P.O. Box 190
    Ft. Duchesne, UT 84026

*Western yellow-billed Cuckoo*



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For those wells within ½ mile of the floodplain (15-22-3-2E, 16-33-3-2E, 9-33-3-2E, 1-2-4-2E, 11-12-4-2E, 2-13-4-2E and 11-7-4-3E):

1. Apply a seasonal disturbance buffer of June 1 – August 31 for activities including site preparation, construction of pad, and drilling activities.
2. Implement noise reduction practices by installing the buried muffler system as proposed in an email from CPE received on March 9th 2015.
3. Noise level monitoring will be developed with our biologists and implemented by Crescent Point in order to verify the level of noise reduction achieved using the buried muffler system.

*Water Resources, Including Floodplains, Wetlands, and Waters of the United States*

1. Detailed site-specific plans for construction and reclamation activities would be prepared by Crescent Point for surface disturbance proposed within 100-year floodplains and would include site-specific drainage components and sediment and erosion controls that would be utilized to address control of sedimentation of surface waters in the Project area. These construction and reclamation plans would be submitted to the BIA prior to construction and reclamation activities, respectively.
2. In accordance with EO 11988, where pipelines cross washes, floodplains, or other areas prone to flooding, construction methods would follow recommendations in the Utah BLM guidance document "Hydraulic Considerations for Pipeline Crossings of Stream Channels" (Fogg and Hadley 2007).
3. No installation activities would be performed during periods when the soil is too wet to adequately support installation equipment. If such equipment creates ruts in excess of three inches deep in straight line travel routes, the soil would be deemed too wet to adequately support the equipment, and installation would cease until drier or frozen conditions are encountered.
4. Use of erosion control measures, including proper grading to minimize slopes, diversion terraces and ditches, mulching, terracing, riprap, fiber matting, temporary sediment traps, and broad-based drainage dips or low water crossings would be employed as necessary and appropriate to minimize erosion and surface runoff during well pad construction and operation.
5. Diversion ditches will be constructed, if necessary, around the well sites to prevent surface waters from entering the well sites.
6. Closed loop drilling methods will be used within floodplains and near wetlands. Therefore, there will be no reserve pit within the floodplain.
7. There will be remote shut-off capability for wells within the floodplain.
8. Well pads will be built on compacted fill to provide a stable foundation for well activities and infrastructure
9. All tanks must be surrounded with hardened berms made of steel, or similarly engineered protections, and not of earthen barriers and liners will be used.
10. All permanent equipment must be anchored to the ground. Anchors must be engineered to support the tank and separation equipment and to resist flotation, collapse, lateral movement, or subsidence.
11. Facilities will be constructed as far away from waterways as practicable and will be built to align with the stream flow.

12. An up to date emergency response plan will be kept on site and all workers at the site will be made aware of the emergency response procedures, Spill Prevention, Control, and Countermeasure Plan, location of those plans and spill response equipment.
13. Maintain current list of on-site chemicals and emergency removal plan in case of flood event.
14. Maintain agency notifications of well status and emergency action plan in cases of flood event.
15. Shut of valves will be installed on both sides of the wash crossing the 100-year floodplain.
16. Shut off valves will be installed along flow lines containing fluids, other than clear water, within the floodplain.

**II. Status of the species**

The purpose of this section is to summarize the best available information regarding the current range wide status of the listed plant species. Additional information regarding listed species may be obtained from the sources of information cited for these species.

*Sclerocactus glaucus* (Uinta Basin hookless cactus; hereafter *S. glaucus*) was listed as a threatened species in 1979 (44 FR 58870). However, based on more recent genetic studies (Porter et al. 2000), common garden experiments (Welsh et al. 2003), and morphological characteristics (Heil and Porter 2004), we currently recognize *S. glaucus* as three distinct species: *S. brevispinus*, *S. wetlandicus* and *S. glaucus* (Colorado hookless cactus). These three species retain their threatened status (74 FR 47112, September 15, 2009).

Pariette cactus grows on fine soils in clay badlands derived from the Uinta geologic formation (Service 1990). It is found on "stoney, gravelly, hilly terrain", and is frequently, although not always, associated with desert pavement (soil with a high percentage of thin rock fragments covering the surface). Pariette cactus habitat is a sparsely vegetated desert shrubland dominated by saltbush (*Atriplex* spp.), rabbit brush (*Chrysothamnus* spp.), and horse brush (*Tetradymia* spp.) species (Service 1990).

Uinta Basin hookless cactus is generally found on coarse soils derived from cobble and gravel stream terrace deposits, or rocky surfaces on mesa slopes at 1,350 to 1,900 meters (4,400 to 6,200 ft) elevation (Service 1990; Heil and Porter 2004). However, the habitat type for Uinta Basin hookless cactus has expanded with recent reports of individual cacti found in atypical habitat.

Both of these *Sclerocactus* are outcrossing species, meaning they require pollen from the flower of a different plant to produce viable seed (Tepedino et al. 2010). Flowers of both *Sclerocactus* species typically open in mid-day and close late in the afternoon for three to five days (Tepedino et al. 2010). A broad assemblage of native, ground-nesting bees, mostly from the family Halictidae (Tepedino et al. 2010), pollinate Pariette cactus and Uinta Basin hookless cactus. These bees can travel from 0.4 to 1 kilometer (km) between plants (Tepedino pers. Comm. 2010). Other insects, including ants and beetles, may also pollinate Pariette cactus and Uinta Basin hookless cactus (Service 1990). Both cactus species are predominately pollinated by ground-nesting bees (Tepedino et al. 2010). Limiting the amount of fragmentation and disturbance within the habitats of Pariette cactus and Uinta Basin hookless cactus is important to



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maintain adequate pollinator habitats and healthy cactus populations.

Approximately four to five weeks after flowering, the fruits of these cacti species reach maturity, each containing approximately 20 seeds (Tepedino et al. 2010). The fruits open and fall away, leaving the seeds on the apex of the plant where they are washed to the ground and dispersed by rain (Tepedino et al. 2010). The life history and population dynamics of these species are poorly known, but they are thought to be long-lived perennials, usually flowering after 3 or 4 years.

We have early population trend data for Uinta Basin hookless cactus and Pariette cactus that show an observed decline in population size and growth rate over a three year period from 2012-2014 (SWCA 2015). Population viability analysis also shows a negative population growth vital rate of 0.89 and 0.82 for Uinta Basin hookless cactus and Pariette cactus, respectively. Modeled data out to 10-years also shows a decline in population growth rate and population size (SWCA 2015). We recognize that this data covers a short period of time and that long-term data are required in order to fully understand the population trends. Information from this study will be updated as it becomes available.

Additional information on these species' life histories, population dynamics, status, and distribution is described in detail within the "Recovery Plan for the Uinta Basin Hookless Cactus" (Service 1990d) and the more recent recovery outlines (Service 2010a; Service 2010b).

## III. Environmental Baseline

Regulations implementing the Act (50 CFR 402.02) define the environmental baseline as follows:

- The past and present impacts of all Federal, State, or private actions and other human activities in the action area;
- The anticipated impacts of all proposed State or Federal projects in the action area that have already undergone formal or early section 7 consultation; and
- The impact of State or private actions which are contemporaneous with the consultation process.

Status of the Species within the Action Area

In April 2010, we developed recovery outlines for Uinta Basin hookless cactus and Pariette cactus (Service 2010a; Service 2010b). In 2013, we developed core conservation area 1 (CCA 1), core conservation area 2 (CCA2), and suitable habitat polygons to better assess possible impacts to the species within their range (Service 2013). Core areas were based on pollinator travel distance and were designed to provide habitat connectivity between populations and individuals (Tepedino 2010). CCA1 polygons include the densest concentrations of cactus locations and the most restrictive management recommendations. CCA1 polygons were developed using a 400-meter buffer around plants to allow for pollinator travel. CCA2 polygons include less-dense cactus areas and less restrictive management recommendations, while still maintaining a minimum amount of undisturbed habitat to protect Sclerocactus species. CCA2 polygons were developed using a 1,000-meter buffer around plants. These polygons are adjusted annually as more known locations are documented. Although both *Sclerocactus* species' populations can be found outside of these habitat polygons, they tend to occur in greater numbers and at higher densities within the polygons. The CCAs were developed to guide the protection



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of important population areas of high cactus density and maintain connectivity across the range of both species (Service 2013).

The total area of potential Pariette cactus and Uinta Basin hookless cactus habitat is 537,565 acres (Service 2013 *Sclerocactus* Habitat Polygon), which includes 421,665 acres of Uinta Basin hookless cactus habitat, and 115,900 acres of Pariette cactus habitat. As described above, available information indicates that *Sclerocactus* are declining rangewide (see Status of the Species).

The entire action area (70.7 acres) is within the *Sclerocactus* suitable habitat polygon. Although the area is not within a *Sclerocactus* CCA, more recent survey information for this area, submitted after development of the *Sclerocactus* CCAs, indicates that *Sclerocactus* density within the Project area is equivalent to that of Core 1 conservation areas, and therefore important for the long-term viability of the species.

Factors Affecting the Species within the Action Area

Ongoing and proposed oil and gas development are the primary threats to *Sclerocactus* species from the combined impacts of road and well pad development fugitive dust, erosion, isolation of populations due to habitat fragmentation, impacts to pollinators and seed dispersers, increased access by off-road vehicles and illegal collectors due to an expanded road network, and pesticide and herbicide use (BLM 2008). Both cactus species are also sought by cacti and succulent collectors around the world (Service 2010 a, b).

Habitat loss associated with energy development is a major threat to these species across their known range. We used available GIS data (UDOGM 2015) to estimate the approximate amount of surface disturbance in the action area. There are 8,726 existing oil and gas well locations within the *Sclerocactus* habitat polygon. We estimate 5 acres of surface disturbance for each well, which includes associated roads and pipelines. Thus, we calculated that 43,630 acres (8.11%) of the *Sclerocactus* habitat polygon are already disturbed by oil and gas development.

Surface disturbance can lead to increased dust, erosion and storm water runoff that can impact *Sclerocactus* species. Construction activities, access roads, and vehicular traffic within and near occupied habitats increases fugitive dust and particulates. Dust accumulation is higher near roads, with fugitive dust depositing up to 984 ft from the source (Everett 1980). Dust accumulation may adversely impact photosynthesis, respiration, transpiration, water use efficiency, leaf conductance, growth rate, gas exchange, and growth (Eller 1977; Spatt and Miller 1981; Thompson et al. 1984; Farmer 1993; Sharifi et al. 1997; Trombulak and Frissell 2000; Hobbs 2001). Erosion and runoff from Project activities can have direct impacts to cacti from burying to direct removal of individuals. Erosion and runoff can be natural events, but are often worsened by human activities such as vegetation removal and alteration of stream courses, making these events more catastrophic. These augmented events can lead to greater damage to native ecosystems through additional scour and burial of soils and plants. Increases in dust, erosion, and storm water runoff interact cumulatively with other negative effects to further fragment and disturb *Sclerocactus* populations.

Accidental loss occurs when a cactus is kicked, stepped on, or driven over by humans inadvertently. As roads and pipelines increase within occupied habitat, the chance for accidental



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loss increases. Other factors, such as livestock grazing, may exacerbate this situation by focusing impacts within the remaining interspaces between roads and wells, leading to further accidental loss.

Illegal collection of *Sclerocactus* historically was one of the primary threats to the conservation and recovery of this species (BLM 2008). The increase in the number of access roads within and near occupied habitats will allow greater access to rare plant populations. This potentially could increase illegal collection of the species.

Habitat fragmentation could occur as a result of the increased number of access roads, pipeline and other utility ROWs, and long-term surface disturbance from well pads and associated facilities. The anthropogenic fragmentation of plant habitats can decrease species density (Mustajarvi *et al.* 2001) and result in isolated, smaller populations that are more prone to extinction. Decreased species density has the potential to adversely impact pollination and reproductive success of *Sclerocactus* (Mustajarvi *et al.* 2001).

Noxious and invasive plant species directly compete for resources with native species such as *Sclerocactus wetlandicus* and alter habitat making it more difficult for the species to survive and thrive. Seeds from invasive species are often carried by vehicles and spread via vehicle-caused air turbulence (Forman and Alexander 1998). Within the Project area, noxious and invasive species are often present in the soil seed bank, and once an area is disturbed, these species can quickly establish. In addition, competition from noxious and invasive species can further reduce special status species' population size. Invasive plants spread more easily when other land uses such as livestock grazing are concentrated within the remaining interspaces between roads and wells. The cumulative pressures of energy development and grazing can lead to more invasive plants in *Sclerocactus* habitat.

The spread of noxious and invasive plants may change species composition within native plant communities. This may lead to increased livestock grazing on native grasses and shrubs that act as "nurse" plants for immature cacti. Nurse plants create an environment that is more favorable for successful establishment of immature cacti by providing shade, moisture, and protection from trampling.

Pollinators and their nesting sites are directly disturbed by oil and gas activities. Additionally, habitat alteration from invasive species can alter pollinator composition in the area, thereby possibly reducing the effectiveness of pollination within the native community. All of these connected actions reduce the ability of *Sclerocactus* to thrive within its native habitat.

## IV. Effects of the Action

The effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action that will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.



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Crescent Point proposes to construct and drill eleven exploratory oil and natural gas wells (vertical and directional), construct nine associated well pads and access roads, and install surface and HDD pipelines within the *Sclerocactus* suitable habitat polygon. The total surface disturbance for the action area includes the installation of access roads (31.1 acres), surface natural gas and oil pipelines co-located with new roads (33.3 acres), and new roads not co-located with pipelines (6.1 acres) for a total of approximately 70.7 acres of surface disturbance. A total of 4 acres of disturbance will occur on BLM land, 3 acres on private land, and 63.9 acres on Tribal land.

Tribal Resolution number 11-211 and BIA administration of this policy addresses the management of *Sclerocactus* on Tribal Lands, and specifies that the effects of Project actions will be analyzed within 100 ft of *Sclerocactus* within the *Sclerocactus* habitat polygon. New surface disturbance will be minimized by drilling from the same well pads, and by maximizing the use of existing roads and infrastructure. Despite these positive minimization measures, an estimated 70.7 acres of new disturbance will occur within the *Sclerocactus* habitat polygon, increasing the total surface disturbance from oil and gas within the *Sclerocactus* polygon by 0.01% to 8.12%.

Based on species survey data, there are 112,357 *Sclerocactus* within the *Sclerocactus* habitat polygon, and 0.84% of the total surveyed populations of cacti occur in the action area. Based on the proposed Project infrastructure, 767 cacti will be within 300 ft of the new disturbance, 140 known cacti will be within 100 ft, and 36 cacti will be within 20 ft. Where *Sclerocactus* are within 100 ft of new disturbance in the *Sclerocactus* habitat polygon, Crescent Point has agreed to contribute to the Tribal Sclerocactus Conservation Fund to assist in implementing recovery actions (see Applicant Committed Conservation Measures, above).

Impacts to *Sclerocactus* species individuals from this action include an increase in the types of impacts mentioned in "Factors Affecting the Species within the Action Area" above. Particularly, we expect increases in fugitive dust, pollinator disturbance, weed invasion, accidental damage to individuals, and overall habitat fragmentation. Many of these impacts to individuals and populations resulting from oil and gas development will be minimized through site-specific project design and conservation measures. Although these conservation measures will minimize the impacts of the action to *Sclerocactus* species, larger landscape-level changes such as increased habitat fragmentation and habitat loss, pollinator disturbance, changes in erosion and water runoff, and increased weed invasion cannot be entirely canceled. These disturbances will continue to negatively affect *Sclerocactus* species throughout the action area.

## V. Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local or private actions that are reasonably certain to occur in the action area.

Declines in the abundance or range of many special status species are attributable to various human activities on Federal, state, and private lands, such as human population expansion and associated infrastructure development; energy development and associated infrastructure; construction and operation of dams along major waterways; water retention, diversion, or dewatering of springs, wetlands, or streams; recreation, including off-road vehicle activity; expansion of agricultural or grazing activities, including alteration or clearing of native habitats



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for domestic animals or crops; and introductions of non-native plant, wildlife, or fish or other aquatic species, which can alter native habitats or out-compete or prey upon native species. Many of these activities are expected to continue on State and private lands within the range of various federally protected wildlife, fish, and plant species, and could contribute to cumulative effects to the species within the action area. Species with small population sizes, endemic locations, or slow reproductive rates will generally be more susceptible to cumulative effects.

Non-federal activities have the potential to cumulatively affect *Sclerocactus* species, as a significant portion of this species' range occurs on state, private, and tribal lands without federal mineral leases or federal surface rights. Quantified data on the future extent of these activities are difficult to obtain, but we must assume, for the purposes of this assessment, that some level of these activities are reasonably certain to occur, particularly energy and mineral exploration and development, livestock grazing, stone collecting, off-highway vehicle use, and illegal cactus collecting. Where these future activities intersect *Sclerocactus* species populations or habitats, they may cumulatively add to the existing and future impacts of activities authorized by federal agencies.

## VI. Conclusion

After reviewing the current status of the Uinta Basin hookless cactus and Pariette cactus; the environmental baseline for the action area; the effects of the proposed action; and the cumulative effects, it is our biological opinion that this Project, as described in this biological opinion, is not likely to jeopardize the continued existence of Uinta Basin hookless cactus and Pariette cactus.

We base our conclusion on the following:

- The Project does not overlap any *Sclerocactus* CCAs.
- The applicant committed to conservation measures for the Uinta Basin hookless cactus and Pariette cactus as previously stated in this BO (see Applicant Committed Conservation Measures, above).

## VII. Incidental Take Statement

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR § 17.3). Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR § 17.3). Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.



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Sections 7(b)(4) and 7(o)(2) of the ESA generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the ESA prohibits the removal and reduction to possession of Federally listed endangered plants or the malicious damage of such plants on areas under Federal jurisdiction, or the destruction of endangered plants on non-Federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law.

The incidental take statement provided in this biological opinion satisfies the requirements of the ESA, as amended. This statement does not constitute an authorization for take of listed migratory birds under the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, or any other Federal statute.

## VIII. Reporting Requirements

In order to be exempt from the prohibitions of section 9 of the Act, the BIA must comply with all Recovery Program activities and the monitoring proposed below.

The implementing regulations for incidental take require that Federal agencies must report the progress of the action and its impact on the species (50 CFR 402.14(i)). To meet this mandate, the BIA will monitor and report the progress of their action as follows:

1. Submit to our office an annual report of water depletions associated with oil and gas development, including the following information:

    - Project name and/or applicant name
    - Permit number and/or special use authorization
    - General location and legal description
    - Depletion amount in acre-feet
    - Timing of depletion
    - Identify if new or historic depletion
    - Sub-total water depletion (acre-feet) for each applicant
    - Total depletion for the entire year in acre-feet
    - Total number of APDs approved
    - Total number of wells spudded

Reports shall be due to our office on a yearly basis by October 31. The address for the Utah Fish and Wildlife Service Field Office is:

2369 West Orton Circle, Suite 50
West Valley City, Utah 84119

Any annual cactus monitoring reports associated with the proposed actions must be submitted to us and the BIA by January 31 each year following monitoring.

Upon locating dead, injured, or sick listed species, immediate notification must be made to the Service's Salt Lake City Field Office at (801) 975-3330 and the Service's Division of Law Enforcement, Ogden, Utah, at (801) 625-5570. Pertinent information including the date, time,



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location, and possible cause of injury or mortality of each species shall be recorded and provided to the Service. Instructions for proper care, handling, transport, and disposition of such specimens will be issued by the Service's Division of Law Enforcement. Care must be taken in handling sick or injured animals to ensure effective treatment and in handling dead specimens to preserve biological material in the best possible state.

## IX. Conservation Recommendations

Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

The applicant-committed measures and proposed mitigation measures minimize impacts from the Project to the *Sclerocactus* species, western yellow-billed cuckoo, floodplains, and waterways within the Project area. However, to ensure that Federal agencies can meet their requirements under Section 7(a)(1) and work toward recovery of listed species, we recommend the following measures in addition to applicant-committed conservation measures.

*Uinta Basin Hookless and Pariette Cactus*

- We recommend that all Applicant Committed Conservation Measures listed previously in this biological opinion for *Sclerocactus* should be applied using a 300 ft buffer area from the edge of disturbance. Indirect effects (i.e., fugitive dust and pollinator impacts) can impact Sclerocactus 300 ft from surface disturbance (USFWS 2014c).
- We recommend that mitigation payments appropriate to the 300 foot buffer and Core 1 mitigation costs be applied. This amount based on 18.2 acres of disturbance within 300 ft of *Sclerocactus* multiplied by the Core 1 mitigation cost ($7,510/acre) would be $136,307. This amount should be paid into the Tribal Sclerocactus Conservation fund.
- BIA should work with Crescent Point, the Tribe, and our office to develop a habitat restoration plan once wells are no longer in production. The restoration plan should specify habitat reclamation techniques that will restore the associated plants and their ecosystems.
- We recommend that the Ute Tribe consider establishing reserves for the protection of the *Sclerocactus* species as part of a Tribal Management Plan.
- Adaptive management of the cacti and cacti habitat should remain a priority if it is determined they are being adversely impacted within the 100 ft buffer zone.
- Given the likelihood that many wells will be in production for several decades, at least annual monitoring of all *Sclerocactus* present within the 100 ft buffer should be initiated prior to surface disturbing activities. Additionally, we recommend monitoring cactus outside of the 100-ft buffer zone at each well pad to serve as a control. Tracking the status of individuals within the zone of likely disturbance will allow for adaptive protection measures if it is determined that cacti are being negatively impacted.
- Although there is no federal nexus to protect *Sclerocactus* species for non-federal projects, we recommend that Crescent Point apply the same conservation measures that they practice on federal lands across all of their project areas that contain *Sclerocactus* habitat.



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*Western Yellow-billed Cuckoo*

- We recommend compensatory mitigation in the form of habitat enhancement based on acres of disturbance within the floodplain. Crescent point can identify appropriate areas for mitigation on tribal lands within one of the proposed critical habitat units for Western yellow-billed cuckoo on the Green or Lake Fork rivers. Acreage that is low quality cuckoo habitat because of tamarisk monoculture and little tree canopy, and is within proposed critical habitat units is preferred for enhancement. Habitat enhancement may include removal of non-native vegetation and replacement with native herbaceous, shrubby, and tree revegetation.
- We recommend that mitigation for direct and permanent habitat loss occurs at a 3:1 ratio, or a 2:1 ratio if there is an associated 3-year monitoring plan for mitigation success.

*Water Resources, Including Floodplains, Wetlands, and Waters of the United States*

- Floodplain development/modification should only occur if there are no other feasible alternatives.
- We recommend against the building of permanent structures, such as roads, pipelines, oil and gas wells and associated infrastructure within the 100-yr floodplain. While construction is not proposed within designated critical habitat, the 100-yr floodplain of the Duchesne River is considered habitat for the razorback sucker, and feeds into the Green river basin system. The proposed well pad Ute Tribal 1-11-4-2E is 3.7 miles upstream from designated critical habitat for the razorback sucker and is 5.6 miles upstream from the junction of the Duchesne and Green River, where there is designated critical habitat for the razorback sucker and Colorado pikeminnow.
- Any staging areas should be located outside of the 100-year floodplain.
- The contractor should remove all construction material from the floodplains at the end of the Project.
- Imported and site source materials should be stored in the staging area. The contractor or responsible representative should provide watertight tanks or barrels for the storage and disposal of chemical pollutants, including those that are produced as byproducts of the construction activities, such as drained lubricating or transmission fluids, grease, or soaps. Upon completion of construction work, these containers should be removed from the action area and their contents disposed of at a designated disposal location.
- Machinery should be fueled offsite or in a confined, designated area to prevent spillage into any surface water. Refueling should not occur within the 100 year floodplain.

In order for us to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, we request notification of the implementation of any conservation recommendations.

**X. Reinitiation - Closing Statement**

This concludes formal consultation on the action outlined in your request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action was retained (or is authorized by law) and if: (1) new information reveals effects of the agency action that may affect listed species or critical habitat in



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a manner or to an extent not considered in this opinion; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (3) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

We appreciate your commitment in the conservation of endangered species. If the Project changes or it is later determined that the Project affects listed species differently than identified above; it may become necessary to reinitiate section 7 consultation. If you require further assistance or have any questions, please contact Rita Reisor at (801)975-3330, extension 135.



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## XII. LITERATURE CITED


Bureau of Land Management. 2008. Record of Decision and Approved Resource Management Plan. BLM-UT-PL-09-003-1610. Vernal Field Office, Vernal, Utah. October 2008.

Everett, K. R. (1980). Distribution and properties of road dust along the northern portion of the haul road. In Environmental Engineering and Ecological Baseline Investigations along the Yukon River--Purdhoe Bay Haul Road, ed. J. Brown & R. Berg. US Army Cold Regions Research and Engineering Laboratory, CRREL Report 80-19, pp. 101-28.

Eller, B. M. (1977). Road dust induced increase of leaf temperature. Environmental Pollution, 13, 99-107.

Farmer, A.M. 1993. The effects of dust on vegetation-a review. Environmental Pollution 79:63-75.

Fogg, J. and H. Hadley. 2007. Hydraulic considerations for pipelines crossing stream channels. Technical Note 423. BLMIST/ST-07/007+2880. U.S. Department of the Interior, Bureau of Land Management,National Science and Technology Center, Denver, CO. 20 pp. http://www.blm.gov/nstc/library/techno2.htm.

Forman, R.T.T., and L.E. Alexander. 1998. Roads and Their Major Ecological Effects. Annual Review of Ecology and Systematics. V(29). 207–231pp.

Heil, K.D., and J.M. Porter. 2004. *Sclerocactus*. In: Flora of North America Editorial Committee, eds. 1993+. Flora of North America North of Mexico. 15+ vols. New York and Oxford. Vol. 4, pp. 197-207.

Hobbs, M.L. 2001. Good practice guide for assessing and managing the environmental effects of dust emissions. Published September 2001 by Ministry for the Environment. P.O. Box 10-362, Wellington, New Zealand. 58 pp.

Miller, R.R. 1961. Man and the changing fish fauna of the American Southwest. Papers of the Michigan Academy of Science, Arts, and Letters 46:365-404.

Mustajarvi, K. P. Siikamaki, S. Rytkonen, and A. Lammi. 2001. Consequences of Plant Population Size and Density for Plant-pollinator Interactions and Plant Performance. Journal of Ecology 89:80-87.

Porter, J.M., J. Cruse-Sanders, L. Prince, and R. Lauri. 2007. An assessment of genetic relationships among *Sclerocactus* brevispinus, S. wetlandicus, and S. Glaucus. Report to the U.S. Fish and Wildlife Service, Salt Lake City, Utah. 30pp.

Romin L. and J. Muck. 2002. Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances. U.S. Fish and Wildlife Service. Salt Lake City, Utah. 42 pp.

Sharifi, M.R., A.C. Gibson, and P.W. Rundel. 1997. Surface Dust Impacts on Gas Exchange in




ED_004016P_00013366-00031

Mojave Desert Shrubs. Journal of Applied Ecology 34:837-846.

Spatt, P. D. & Miller, M. C. (1981). Growth conditions and vitality of Sphagnum in a tundra community along the Alaska pipeline haul road. Arctic, 34, 48-54.

SWCA Environmental Consultants. 2015. *Sclerocactus wetlandicus* (Uinta Basin Hookless Cactus) and *Sclerocactus brevispinus* (Pariette Cactus) Range-Wide Demographic and Habitat Monitoring: Year 3 (2014) Report. Salt Lake City, Utah. 56 pp.

Tepedino, V.J., T.L. Griswold, and W.R.Bowlin. 2010. "Reproductive biology, hybridization, and flower visitors of rare *Sclerocactus* taxa in Utah's Uinta Basin." Western North American Naturalist 70(3):377-386.

Thompson, J. R., Mueller, P. W., Fluckiger, W. & Rutter, A. J. (1984). The effect of dust on photosynthesis and its significance for roadside plants. Environmental Pollution (Ser. A), 34, 171-90.

Trombulak, S.C., and C.A. Frissell. 2000. Review of ecological effects of roads on terrestrial and aquatic communities. Conservation Biology. 14(1):18-30.

U.S. Bureau of Indian Affairs. 2014. Biological Assessment No. U&O-FY15-003 Crescent Point's Proposed Randlett 11-Well Project. Uintah and Ouray Agency Fort Duchesne, Utah. November 2014.

U.S. Bureau of Land Management and United States Forest Service (BLM & USFS). 2007. Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development (The Gold Book). United States Department of the Interior, Bureau of Land Management and the United States Department of Agriculture, Forest Service. Access online at http://www.blm.gov/wo/st/en /prog/energy/oilandgas/best management practices/gold book.ht mi.

U.S. Fish and Wildlife Service. 1987. Recovery implementation program for endangered fish species in the upper Colorado River basin. Final Report, U.S. Fish and Wildlife Service, Denver, Colorado. 82 pp.

_____. 1990. Recovery Plan for the Uinta Basin Hookless Cactus. U.S. Fish and Wildlife Service, Region 6, Denver, Colorado. 26 pp.

_____. 2010a. Recovery outline for the *Sclerocactus* wetlandicus (Uinta Basin hookless cactus). Utah Ecological Services Field Office, West Valley City, Utah. Available at: http:/www.fws.gov/mountain-prairie/species/plants/uintabasinhooklesscactus/Recovery/OutlineApril 2010.pdf.

_____. 2010b. Recovery outline for the *Sclerocactus* brevispinus (Pariette cactus). Utah Ecological Services Field Office, West Valley City, Utah. Available at; http:/www.fws.gov/mountain-prairie/species/plants/pariettecactus/Recovery/OutlineApril 2010.pdf.



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_____. 2013. Draft Energy Development Management Guidelines for *Sclerocactus wetlandicus* and *Sclerocactus brevispinus* Core Conservation Areas. Utah Ecological Services Field Office, West Valley City, Utah. March 2013.

_____. 2014a. Endangered and threatened wildlife and plants: Determination of threatened status for the western distinct population segment of the yellow-billed cuckoo (*Coccyzus americanus*); final rule. Federal Register 79(192):59992-60038.

_____. 2014b. 2014 Ecological Restoration Mitigation Calculation Guidelines for impacts to *Sclerocactus* wetlandicus and *Sclerocactus* brevispinus Habitat. Utah Ecological Services Field Office, West Valley City, Utah. December 2014.

_____. 2014c. Ecological Effects of Ground Disturbance and Roads on Plants and Recommended Buffer Distances, with Emphasis on the Uinta Basin, Utah. Utah Ecological Services Field Office, West Valley City, Utah. March 2014.

Utah Division of Oil, Gas and Mining. 2015. GIS Dataset from Utah Division of Oil, Gas and Mining website (https://fs.ogm.utah.gov/pub/Oil&Gas/Database/). March 2015.

Welsh, S. L., N. D. Atwood, S. Goodrich, and L. C. Higgins. 2003. A Utah Flora, 3rd Edition, revised. Brigham Young University, Provo, Utah. 912 pp.



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United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WESTERN REGIONAL OFFICE
2600 North Central Avenue
Phoenix, Arizona 85004-3008

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
Environmental Quality Services
MS620-EQS

JUN 12 2014

Mr. P. Bradford Westwood
State Historic Preservation Officer
Utah State Historical Society
300 Rio Grande
Salt Lake City, Utah 84101

Dear Mr. Westwood:

As Agency Official for purposes of Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), the Bureau of Indian Affairs (BIA) wishes to consult with you pursuant to 36 CFR 800.3(g) about the proposed undertaking, **approval of leases for well pads and grants of easement for associated access routes, pipelines, and power lines (Project No. 2014-184)**, on the Uintah and Ouray Indian Reservation.

In consultation with the Ute Indian Tribe as identified at 36 CFR 800.3(d), we have made a reasonable and good faith effort to carry out appropriate identification efforts as prescribed at 36 CFR 800.4 and have gathered sufficient information to evaluate the eligibility of the identified properties for the National Register of Historic Places (National Register). Documentation of this finding is provided in the following enclosed report:

U-14-W6-0049i; *Class III Inventory Report for the Crescent Point Energy Ute Tribal 1-1-4-2E, 3-1-4-2E, 9-1-4-2E, 1-11-4-2E, and 3-12-4-2E Well Pads, Access Roads, and Pipelines, Uintah County, Utah* (Darlington, May 2014).

The properties are not identified for purposes of Section 110(a)(2) of the NHPA, as this agency neither owns nor controls the properties.

It is our opinion that application of the National Register criteria has the following result:

| Site Designation | Eligible | Criteria | Effect |
|---|---|---|---|
| 42Un581<br>Historic House | Yes | A & D | No Historic Property Affected |
| 42Un2214<br>Ft. Duchesne Wagon Road | Yes | A | No Adverse Effect |
| 42Un8358<br>Wissiup Ditch | Yes | A | No Historic Property Affected |

We conclude that a determination of "No Adverse Effect" pursuant to 36 CFR 800.5(a)(1) is appropriate for the undertaking involving the access and pipeline easement for well pad 3-1-4-2E. This easement crosses the Fort Duchesne Wagon Road, but construction of the access road and pipeline will be contained within a location of existing disturbance and will not alter the characteristics of the historic property that make it eligible for the National Register. Similarly, the access and pipeline easements for well pads 1-11-4-2E and 3-1-4-2E will intersect with that portion of the Fort Duchesne Wagon Road (42Un2214) which has been fully superimposed by the construction and improvement of a county road.

We conclude that a determination of "No Historic Properties Affected" pursuant to 36 CFR 800.4(d)(1) is appropriate for the undertakings involving 42Un581 and 42Un8358 (Ute Tribal 3-1-4-2E and Ute Tribal 1-11-4-2E well pads, respectively), as both will be avoided by project design and implementation.

This determination will be included as part of the National Environmental Policy Act (NEPA) documentation associated with the proposed undertaking, which is anticipated to be an Environmental Assessment. As part of the NEPA review process, we will employ corresponding BIA and tribal notification procedures for addressing our responsibilities as defined at 36 CFR 800.2(d).

As required at 36 CFR 800.5(c), we are submitting documentation of this finding and await your response within thirty days of receipt. We trust you will agree with this finding and seek your concurrence that the Section 106 consultation process has been successfully completed for the subject undertaking.

If there are any questions, please contact Mr. Garry J. Cantley, Regional Archeologist, at (602) 379-6750 extension 1256.

Sincerely,

/s/John Philbin

ACTING Deputy Regional Director - Trust Services

Enclosure

cc: Superintendent, Uintah & Ouray Agency
Attn: Environmental Coordinator
Chairman, Ute Tribal Business Committee
Director, Cultural Rights & Protection, U&O Tribe
Oil & Gas Archeologist, Vernal Field Office, BLM

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WESTERN REGIONAL OFFICE
2600 North Central Avenue
Phoenix, Arizona 85004-3008

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
Environmental Quality Services
MS620-EQS

SEP 11 2014

Memorandum

To: Superintendent, Uintah & Ouray Agency
Attention: Environmental Coordinator

From: Deputy Regional Director – Trust Services /s/ Rodney McVey

Subject: Section 106 of NHPA, Well Pads, Uintah and Ouray Indian Reservation

You are hereby advised that the consultation process with the Utah State Historic Preservation Office (SHPO) has been completed for the proposed undertakings, **approval of leases for well pads and grants of easement for associated access roads and pipelines (Project No. 2014-184)**, on the Uintah and Ouray Indian Reservation. The SHPO has concurred with our determination of No Adverse Effect by receipt of the attached letters dated June 20, August 18, and August 27, 2014.

We have determined that the following reports are accurate for purposes of compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA):

U-14-W6-0049i; *Class III Inventory Report for the Crescent Point Energy Ute Tribal 1-1-4-2E, 3-1-4-2E, 9-1-4-2E, 1-11-4-2E, and 3-12-4-2E Well Pads, Access Roads, and Pipelines, Uintah County, Utah* (Darlington, May 2014);

U-14-W6-0455i; *Class III Inventory Report for the Crescent Point Energy Ute Tribal 1-1-4-2E Access and Pipeline Corridor Reroute and the Ute Tribal 3-1-4-2E Well Pad Expansion, Uintah County, Utah* (Darlington, June 2014);

U-14-W6-0621i; *Class III Inventory Report for the Crescent Point Energy Ute Tribal 3-12-4-2E Well Pad Expansion and Access & Pipeline Corridor Reroute, Uintah County, Utah* (Darlington, July 2014).

The consultation process for these wells was extended in order to include the later expansion of well pads to accommodate additional facilities and minor realignment of originally proposed access and pipeline corridors.

We find that four properties eligible for the National Register of Historic Places (National Register) are present within the area of potential effects (APE). Our responsibilities under the NHPA are complete with adherence to the following stipulations:

1) Three of the historic properties shall be avoided by project design and implementation: 42Un580 (historic house), 42Un581 (historic house), and 42Un8358 (Wissiup Ditch);

2) The proposed access and pipeline easement for well pad 3-1-4-2E crosses a portion of the original alignment of 42Un2214 (Fort Thornburgh/Fort Duchesne Wagon Road), but construction of the access road and pipeline shall be contained within a location of existing disturbance so as not to alter the characteristics of the historic property that make it eligible for the National Register. Similarly, it is understood that the access and pipeline easements for well pads 1-11-4-2E and 3-1-4-2E will intersect with that portion of 42Un2214 which has been fully superimposed by the construction and improvement of County Road #2450, and thus the proposed easement will not alter the characteristics of the historic property that make it eligible for the National Register;

3) Should unrecorded cultural material be encountered in the course of construction, work shall cease at that location and the Director, Cultural Rights and Protection, and the BIA Regional Archeologist be notified immediately.

This determination should be included as part of the National Environmental Policy Act (NEPA) documentation associated with the proposed action to demonstrate compliance with Federal responsibilities under Section 106 of NHPA.

If you have any questions, please contact Mr. Garry J. Cantley, Regional Archeologist, at (602) 379-6750 extension 1256.

Attachments

cc: Chairman, Ute Business Committee
Director, Cultural Rights & Protection, U&O Tribe (w/attach)
Oil & Gas Archeologist, Vernal Field Office, BLM (w/attach)

GARY R. HERBERT
*Governor*

SPENCER J. COX
*Lieutenant Governor*

Julie Fisher
*Executive Director*
*Department of*
*Heritage & Arts*

Utah Division of
State History

Brad Westwood
*Director*

June 20, 2014

Mr. Garry J. Cantley
Regional Archaeologist
Bureau of Indian Affairs
Western Regional Office
2600 North Central Avenue
Phoenix Arizona 85004-3008

RE: BIA Project NO. 2014-184 U-14-W6-0049i

For future correspondence, please reference Case No. 14-0737

Dear Mr. Cantley:

The Utah State Historic Preservation Office received your request for our comment on the above-referenced undertaking on June 19, 2014.

We concur with your determinations of eligibility and effect for this undertaking.

This letter serves as our comment on the determinations you have made, within the consultation process specified in §36CFR800.4. If you have questions, please contact me at 801-245-7263 or Lori Hunsaker at 801-245-7241 *lhunsaker@utah.gov*.

Sincerely,

Chris Merritt, Ph.D.
Senior Preservation Specialist
*cmerritt@utah.gov*

JUN 2014
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GARY R. HERBERT
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Julie Fisher
*Executive Director*
*Department of*
*Heritage & Arts*

Utah Division of
State History

Brad Westwood
*Director*

August 18, 2014

Mr. Garry J. Cantley
Regional Archaeologist
Bureau of Indian Affairs
Western Regional Office
2600 North Central Avenue
Phoenix Arizona 85004-3008

RE: Project No. 2014-184

For future correspondence, please reference Case No. 14-0737

Dear 14-0737

The Utah State Historic Preservation Office received your request for our comment on the above-referenced undertaking on August 14, 2014.

We concur with your determinations of eligibility and effect for this undertaking.

This letter serves as our comment on the determinations you have made, within the consultation process specified in §36CFR800.4. If you have questions, please contact me at 801-245-7263 or Lori Hunsaker at 801-245-7241 *lhunsaker@utah.gov*.

Sincerely,

Chris Merritt, Ph.D.
Senior Preservation Specialist
*cmerritt@utah.gov*

AUG 2014
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GARY R. HERBERT
*Governor*

SPENCER J. COX
*Lieutenant Governor*

Julie Fisher
*Executive Director*
*Department of*
*Heritage & Arts*

Utah Division of
State History

Brad Westwood
*Director*

August 27, 2014

Mr. Garry J. Cantley
Regional Archaeologist
Bureau of Indian Affairs
Western Regional Office
2600 North Central Avenue
Phoenix Arizona 85004-3008

RE: BIA Project No. 2014-184 U-14-W6-0621

For future correspondence, please reference Case No. 14-0737

Dear Mr. Cantley:

The Utah State Historic Preservation Office received your request for our comment on the above-referenced undertaking on August 26, 2014. From the information you provided, it appears that no cultural resources were located in the undertaking's Area of Potential Effects. We concur with your determination of No Historic Properties Affected, §36CFR800.4(d)(1) for the undertaking.

This letter serves as our comment on the determinations you have made, within the consultation process specified in §36CFR800.4. If you have questions, please contact me at 801-245-7263 or Lori Hunsaker at 801-245-7241 *lhunsaker@utah.gov*.

Sincerely,

Chris Merritt, Ph.D.
Senior Preservation Specialist
*cmerritt@utah.gov*

SEP 2014
WESTERN REGIONAL OFC
ENVIRONMENTAL
SERVICES

*Western Archaeological Services, Inc.*

*Contract Archaeological and Historical Cultural Resource Consulting*

May 19, 2014

Lori Browne
Crescent Point Energy U.S. Corp
555 17th Street, Ste. 1800
Denver, CO 80202

RE: Ute Tribal 1-1-4-2E, 3-1-4-2E, 9-1-4-2E, 1-11-4-2E, and 3-12-4-2E Well Pads, Access Roads, and Pipelines, Class III cultural resource inventory (14-WAS-017)

Dear Lori:

Enclosed is the Class III cultural resource inventory report for the proposed Ute Tribal 1-1-4-2E, 3-1-4-2E, 9-1-4-2E, 1-11-4-2E, and 3-12-4-2E Well Pads, Access Roads, and Pipelines in Uintah County, Utah. Based on the results of the findings, a recommendation of "no adverse effect for historic properties" is recommended for the project pursuant to Section 106, CFR 800.

If you have any questions concerning this report or if we can be of further assistance, please call our office.

Sincerely,

Stacy R. Goodrick
Principal Investigator

SRG:djc

Enclosures

cc: Gary Cantley - Bureau of Indian Affairs (2 copies)
Irene Thompson - Ute Indian Tribe Energy & Mineral Dept (pdf)
Betsey Chapoose - Ute Tribe (pdf)
Brad Wazaney - Uintah and Ouray Agency (pdf)
Danielle Gavito - Crescent Point Energy (pdf)
Lauren Macmillan - Crescent Point Energy (pdf)
Chris Noonan - Crescent Point Energy (pdf)

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