



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E.  
Aberdeen, South Dakota 57401



IN REPLY REFER TO:  
DESCRM  
MC-208

JAN 25 2010

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region 

SUBJECT: Supplemental to Environmental Assessment

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for the proposed Supplemental tiering off of an existing Environmental Assessment for Kodiak Oil & Gas (USA) Inc, *Moccasin Creek 13-34, Two Shields Butte 2-24, Two Shields Butte 3-24, and Two Shields Butte 14-21, (August 2009)* on the Fort Berthold Reservation, a Categorical Exclusion has been completed.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the Categorical Exclusion.

If you have any questions, please call Marilyn Bercier, Regional Environmental Scientist, Division of Environment, Safety and Cultural Resources Management, at (605) 226-7656.

Attachment

cc: Marcus Levings, Chairman, Three Affiliated Tribes (with attachment)  
Perry "No Tears" Brady, THPO (with attachment)  
Roy Swalling, BLM, Dickenson (with attachment)  
John Shelman, US Army Corps of Engineers (with Attachment)



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## EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Date: 1/22/2010

Project: Supplemental to Environmental Assessment to Authorize New Bottom Hole Location Moccasin Creek 13-34-28H3

Nature of Proposed Action: The purpose of the proposed action is to authorize Kodiak to drill a new bottom hole location for the Dakota-3 Moccasin Creek #13-34-28H3. No new surface disturbances will be associated with the spacing change.

Exclusion category and number: 516 DM 10.5G(3)

Evaluation of Exceptions to use of Categorical Exclusion:

1. This action would have significant adverse effects on public health or safety. No X Yes \_\_\_\_\_
2. This action would have an adverse effect on unique geographical features, such as wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on nationwide river inventory, or prime or unique farmlands. No X Yes \_\_\_\_\_
3. The action will have highly controversial environmental effects. No X Yes \_\_\_\_\_
4. The action will have highly uncertain environmental effects or involve unique or unknown environmental risks. No X Yes \_\_\_\_\_
5. This action will establish a precedent for future actions. No X Yes \_\_\_\_\_
6. This action is related to other actions with individually insignificant, but cumulatively significant environmental effects. No X Yes \_\_\_\_\_
7. This action will affect properties listed or eligible for listing in the National Register of Historic Places. No X Yes \_\_\_\_\_
8. This action will affect a species listed, or proposed to be listed as endangered or threatened. No X Yes \_\_\_\_\_

9. This action threatens to violate federal, state, local or tribal law or requirements imposed for protection of the environment. No X Yes \_\_\_\_\_

10. This action will have a disproportionately high and adverse effect on low income or minority populations. No X Yes \_\_\_\_\_

11. This action will limit access to, and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites. No X Yes \_\_\_\_\_

12. This action will contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or may promote the introduction, growth, or expansion of the range of such species. No X Yes \_\_\_\_\_

A "yes" to any of the above exceptions will require that an EA be prepared.

NEPA Action - - - CE X EA \_\_\_\_\_

Preparer's Name and Title: Marilyn Bercier, Regional Environmental Scientist

Regional Archeologist Concurrence with Item 7 *Concurrence M. Bercier*

Concur: *[Signature]* Date: 1/22/2010  
Regional Office/Agency Environmental Coordinator

Concur: *[Signature]* Date: 1/25/10  
Regional Director/Superintendent

## Notification for the Documentation of NEPA Adequacy (DNA)

### Addendum to Environmental Assessment to Authorize New Bottom Hole Location Moccasin Creek 13-34-28H3

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**US Bureau of Indian Affairs (BIA) Office:** Great Plains Regional Office, Division of Environment, Safety, and Cultural Resource Management

**Applicant:** Kodiak Oil & Gas (USA) Inc. (Kodiak)

**Project Name:** Moccasin Creek 13-34-28H3

**Purpose and Need of Action:** Kodiak is proposing to drill an exploratory oil and gas well on the Fort Berthold Indian Reservation to evaluate and possibly develop the commercial potential of natural resources. Developments have been proposed on land held in trust by the United States in Dunn County, North Dakota. The BIA is the surface management agency for potentially affected tribal lands and individual allotments. The BIA also holds title to subsurface mineral rights. The economic development of available resources and associated BIA actions are consistent with BIA's general mission. Leasing and development of mineral resources offers substantial economic benefits to the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nations and to individual tribe members.

The purpose of the proposed action is to authorize Kodiak to drill a new bottom hole location, the Moccasin Creek 13-34-28H3, from a previously approved well pad on previously approved 1280 acre spacing.

**Authorities:** Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.)

**Legal Land Descriptions of Proposed Action:** The Moccasin Creek 13-34-28H3 will be drilled from an existing well pad (Moccasin Creek 13-34-3H and Moccasin Creek 13-34-28H), located approximately 12 miles southeast of Mandaree and approximately 2-3 miles west of Moccasin Creek Bay. The location is in the SWSW of Section 34 in Township 148 North, Range 93 West in Dunn County, North Dakota (Figure 1).

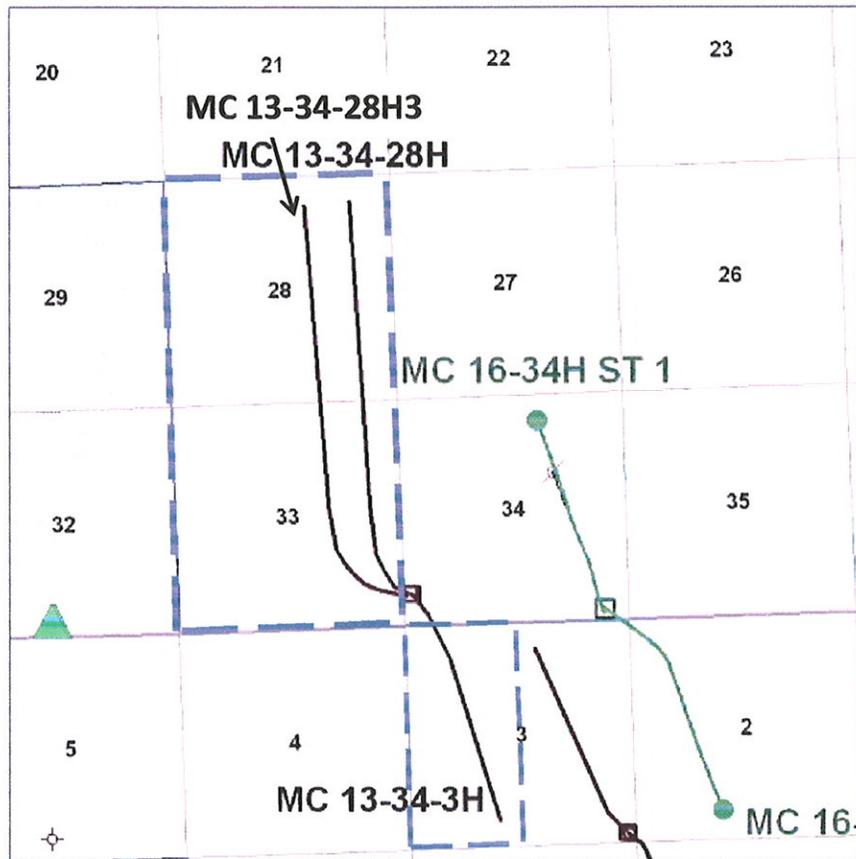
**Scope of Work for Proposed Action:** The well pad and access road will remain the same, with no additional surface disturbance. The spacing will also remain the same, a 1280 acre spacing unit including Sections 28 and 33, as approved by the NDIC. The new bottom hole, for the Moccasin Creek 13-34-28H3, will be approximately 9405' north and 1573' west of the surface location. This will be approximately 401' FNL and 1352' FEL in Section 28.

**Applicable National Environmental Policy Act (NEPA) Document(s):** Environmental Assessment: Kodiak Oil & Gas (USA) Inc: Moccasin Creek 13-34, Two Shields Butte 2-24, Two Shields Butte 3-24, and Two Shields Butte 14-21, August 2009.

NEPA Adequacy Criteria: This document has identified a previously prepared NEPA document, *Environmental Assessment: Kodiak Oil & Gas (USA) Inc: Moccasin Creek 13-34, Two Shields Butte 2-24, Two Shields Butte 3-24, and Two Shields Butte 14-21, (August 2009)*, which adequately describes the environmental consequences of the newly proposed action herein, and meets the following NEPA Adequacy Criteria:

1. The proposed action is substantially the same action and at the site specifically analyzed in the existing NEPA document.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA document, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA document. The analysis is still valid in light of new studies or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA document continues to be appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are unchanged from those identified in the existing NEPA Document.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA document.
7. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA document.

**Proposed Moccasin Creek 13-24-28H3**  
Township 148 North, Range 93 West  
Sections 28 & 33  
Dunn County, North Dakota



**KODIAK**  
OIL & GAS CORP.

Figure 1