



United States Department of the Interior

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



JUN 03 2010

IN REPLY REFER TO:
DESCRM
MC-208

MEMORANDUM

TO: Superintendent, Fort Berthold Agency
ACTING
FROM: Regional Director, Great Plains Region
SUBJECT: Environmental Assessment and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for the proposed Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines connecting Dakota-3-High Hawk #4-9H to the Arrow East Mandaree Gathering Pipeline on the Fort Berthold Reservation, an Environmental Assessment (EA) has been completed and a Finding of No Significant Impact (FONSI) has been issued.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the FONSI (1506.6(b)). Please post the attached notice of availability at the agency and tribal buildings for 30 days.

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, ND (with attachment)
John Shelman, US Army Corps of Engineers
Dawn Charging, Virtual One Stop Shop

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

**Great Plains Regional Office
Aberdeen, South Dakota**



Zenergy Operating Company, LLC

Addendum

to

**Environmental Assessment to Authorize Land Use for Gathering
Pipelines Connecting Dakota-3 High Hawk #4-9H to Arrow East
Mandaree Gathering Pipeline**

Fort Berthold Indian Reservation

June 2010

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Environment, Safety and Cultural Resources
115 4th Avenue SE
Aberdeen, South Dakota 57401
605-226-7656

Finding of No Significant Impact

Zenergy Operating Company, LLC (Zenergy)

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 High Hawk #4-9H to Arrow East Mandaree Gathering Pipeline

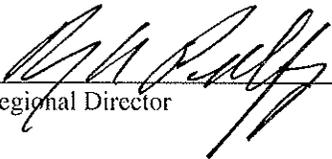
Fort Berthold Indian Reservation
Dunn County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize land use for a gathering pipeline connecting one exploratory oil/gas well (Dakota-3 High Hawk #4-9H) and related infrastructure to the Arrow East Mandaree Gathering Pipeline. Associated federal actions by BIA include a determination of effect regarding cultural resources, and approvals of leases, rights-of-way and easements.

The potential of the proposed action to impact the human environment is analyzed in the attached addendum to an existing Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activity.

This determination is based on the following factors:

1. Agency and public involvement was solicited and environmental issues related to the proposal were identified.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, public safety, water resources, and cultural resources. The remaining potential for impacts was disclosed for both the proposed actions and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service has been fully considered regarding wildlife impacts, particularly in regard to threatened or endangered species.
4. The proposed actions are designed to avoid adverse effects to historic, archaeological, cultural and traditional properties, sites and practices. Compliance with the procedures of the National Historic Preservation Act is complete.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed project will improve the socio-economic condition of the affected Indian community.


Regional Director

6/3/10
Date

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1. Purpose and Need for the Proposed Action

Zenergy 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 McKenzie 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 tribal members.

The purpose of the proposed action is to authorize the land use by Zenergy for the construction and installation of three buried 4-inch-diameter gathering pipelines. The proposed gathering pipelines would transport oil, gas, and produced water from productive wells to markets and disposal facilities. A buried electrical line may be installed in the future.

2. 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.).

3. Legal Land Descriptions of Proposed Action

Dakota-3 High Hawk #4-9H gathering lines would be located on tribal land off of the west side of the well pad, approximately 9.8 miles east of the Mandaree, North Dakota, in the NW¹/₄ NW¹/₄ of Section 9, Township (T) 149 North (N), Range (R) 92 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota and terminating in the NW¹/₄ NW¹/₄ of Section 9, T149N, R92W, 5th P.M., Dunn County, North Dakota (Figure 1).

4. Scope of Work for Proposed Action

Zenergy proposes to construct and install oil, gas, and water gathering pipelines on tribal land originating from the west side of the Dakota-3 High Hawk #4-9H well pad and joining the existing Arrow East Mandaree Gathering Pipeline. Oil, gas, and water pipelines would be buried in either two 2.5-foot wide trenches, spaced 5 feet apart or one 5-foot wide trench. Oil and gas pipelines would be 4 inches in diameter and constructed of steel. Water pipelines would be 4 inches in diameter and constructed of Fiberspar[®] or similar material. Approximately 620 feet of oil, gas, and water line would be needed to connect the Dakota-3 High Hawk #4-9H well pad to the Arrow East Mandaree Gathering Pipeline (Appendix A). All construction disturbance would occur within a 100-foot temporary right-of-way and permanent surface disturbance would occur within a 50-foot right-of-way between the Dakota-3 High Hawk #4-9H well pad and the Arrow East Mandaree Gathering Pipeline, which has been surveyed for impacts to natural and cultural resources with no significant findings. In total, approximately 1.42 acres will be disturbed as a result of activities associated with the construction of the proposed gathering pipeline. Pipeline plats can be located in Appendix A.

5. Applicable National Environmental Policy Act (NEPA) Document(s):

Environmental Assessment: Environmental Assessment: *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Benson #3-9H, Dakota-3 High Hawk #4-9H, Dakota-3 Joseph Eagle #16-19H, Dakota-3 Fettig (860 A-B) #16-22H, and Dakota-3 Morsette #35-26H (November 2009).*

Other Relevant Documentation:

Environmental Assessment: Arrow Midstream Holdings East Mandaree Oil, Gas, and Water Gathering System (December 2009).

7. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Benson #3-9H, Dakota-3 High Hawk #4-9H, Dakota-3 Joseph Eagle #16-19H, Dakota-3 Fettig (860 A-B) #16-22H, and Dakota-3 Morsette #35-26H (November 2009)*, which adequately describes the environmental consequences of the newly proposed action described 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.

8. Cultural Resources

A cultural resource inventory was conducted of the proposed gathering line route by personnel of SWCA Environmental Consultants using an intensive pedestrian methodology. This inventory was conducted in two phases on February 16 and March 30, 2010, and covered approximately 2.73 acres (Higgins and Cooper 2009). No historic properties were located within the project area that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.6) for inclusion on the National Register. As the lead federal agency, and as provided for in 36 CFR 800.5, on the basis of the information provided, BIA reached a determination of **no historic properties affected** for this undertaking. This determination was communicated to the THPO on May 15, 2010; the THPO responded and concurred in correspondence dated May 21, 2010.

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2010-05-27 15:47:00 BIA Preservation

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Oscar Howe Regional Office
418 Fourth Avenue S.E.
Albuquerque, New Mexico 87102



MAY 05 2010

RECEIVED
DESCRM
MC-308

Perry 'No Tears' Brady, TFFPO
Member, Hixson and Artokeo Nation
404 Frazzler Road
New Town, North Dakota 58763

Dear Mr. Brady:

We have considered the potential effects on cultural resources of an oil gathering pipeline in Dunn County, North Dakota. Approximately 2.73 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area depicted in the enclosed report. No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (36 CFR 60.4) for inclusion on the National Register of Historic Places. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (42 USC 1996).

As the surface management agency, and as provided for in 36 CFR 802.5, we have therefore reached a determination of no historic properties affected for this undertaking. Catalogued as BIA Case Number AAO-37041-8010, the proposed undertaking, location, and project descriptions are described in the following report:

Kivshinon, Alea, and Jon Mackman
(2010) Addendum to the Class I and Class III Cultural Resource Inventory of the Dakota-3 High Hawk #4-9H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota, to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 High Hawk #4-9H to Arrow East Mandaree Pipelines. RWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. The Standard Conditions of Compliance will be adhered to.

If you have any questions, please contact Dr. Carson M. Mandy, Regional Archaeologist, at (805) 228-7656.

Sincerely,
AEMND
Regional Director

Enclosure

cc: Chairman, Three Affiliated Tribes
Superintendent, Fort Berthold Agency

05/24/2010 15:17 7a12585957
2010-05-21 15:17 TAT Preservation

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P 1/9



TRIBAL HISTORIC PRESERVATION
Mandan Hidatsa Arikara
Patsy 'No Tears' Brady, Director
404 Frontage Road,
New Town, North Dakota 58763
Ph: 701-862-2474 Fax: 701-862-2490
pbrady@tribalhistory.com

May 21, 2010

Joshua Ruffo
Bismarck Office
115 North 4th Street, Suite 1
Bismarck, ND 58501

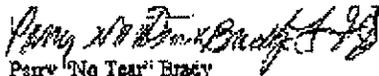
RE: Recommendation and Concurrence:

As Director of the Tribal Historic Preservation Office and the Tribal Historical Preservation Officer representing the Mandan, Hidatsa, Arikara Nation, I Concur With the findings that the Proposed "no adverse effect" BIA Case Number AA-170-003310, Have no Historical Cultural Properties affected.

Furthermore, I am authorizing continuation with the construction activity of the Oil Well, Pads/Sites.

If you have any questions or need additional information, you can contact me at (701) 862-2474 or 862-2475 or Cell number (701) 421-0067

Sincerely:


Patsy 'No Tears' Brady
Director
Mandan, Hidatsa, & Arikara Nation

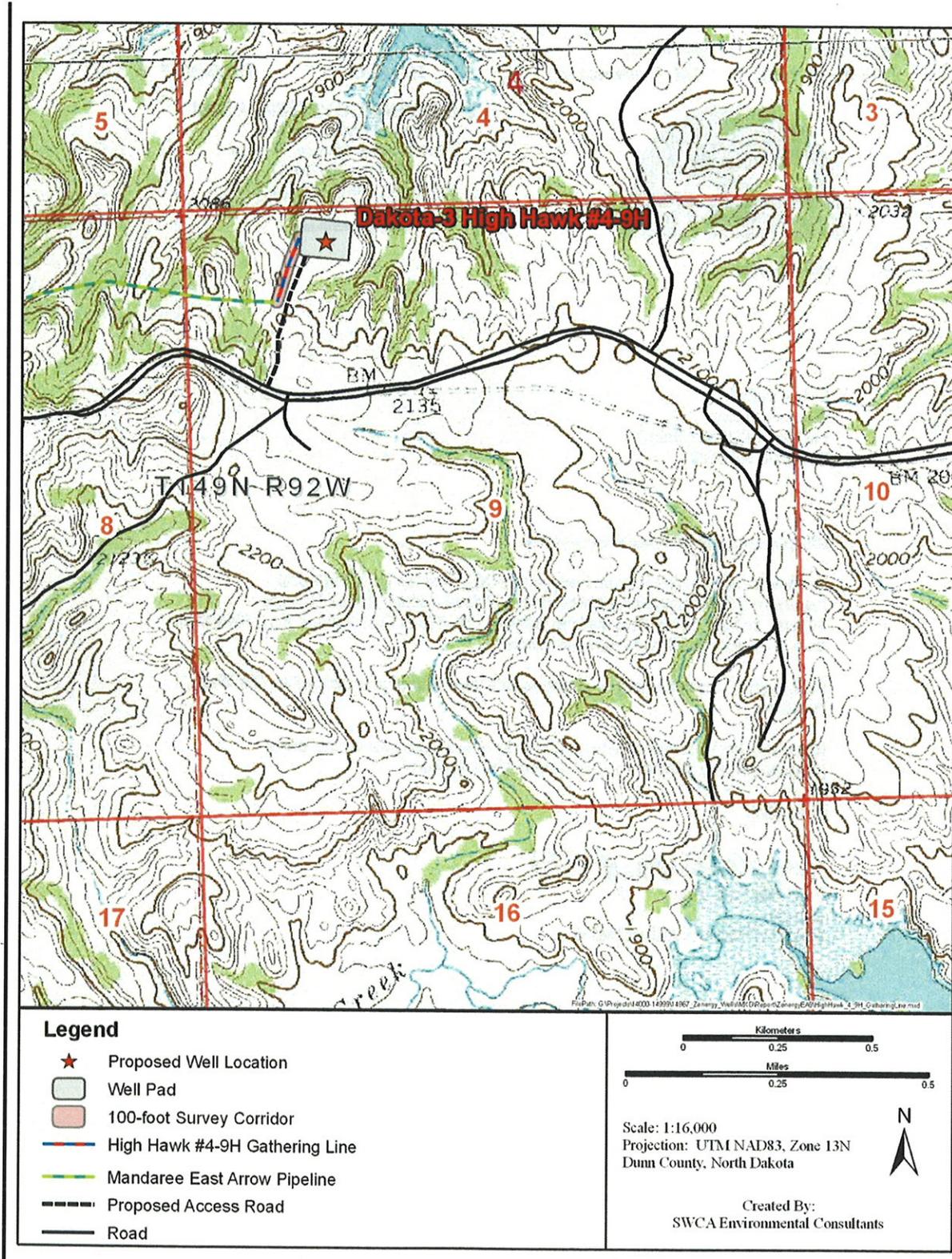


Figure 1. Proposed Dakota-3 High Hawk #4-9H gathering line and associated well pad.

APPENDIX A

**PIPELINE LAYOUT AND
PIPELINE RIGHT-OF-WAY FOR
DAKOTA-3 HIGH HAWK #4-9H**

ZENERGY OPERATING COMPANY, LLC
DAKOTA-3 HIGH HAWK #4-SH
PIPELINE RIGHT-OF-WAY
SECTION 9, T149N, R92W, 5th P.M.

TOTAL PIPELINE RIGHT-OF-WAY ON TRIBAL LANDS

TOTAL LENGTH OF RIGHT-OF-WAY IS 855.36' OR 0.124 MILES. WIDTH OF RIGHT-OF-WAY IS 50' (25' PERPENDICULAR ON EACH SIDE OF THE CENTERLINE). CONTAINS 0.732 ACRES MORE OR LESS.

ENGINEER'S AFFIDAVIT

STATE OF MONTANA }
COUNTY OF RICHLAND } SS

TROY JENSEN, BEING FIRST DULY SWORN DEPOSES AND STATES THAT HE IS THE REGISTERED LAND SURVEYOR, FOR ZENERGY OPERATING COMPANY, LLC, THAT THESE SURVEYS WERE MADE BY HIM (OR UNDER HIS SUPERVISION); THAT HE HAS EXAMINED THE FIELD NOTES OF THE SURVEYS OF THE PIPELINE RIGHT-OF-WAY AS DESCRIBED AND SHOWN ON THIS MAP, THAT THIS MAP WAS PREPARED UNDER HIS DIRECTION FROM SAID FIELD NOTES; AND THAT SAID RIGHT-OF-WAY, 0.124 MILES IN LENGTH BEGINNING AND ENDING AS SHOWN ON THIS MAP IS ACCURATELY REPRESENTED.



Troy Jensen
REGISTERED LAND SURVEYOR
REGISTRATION NO. 2634
STATE OF NORTH DAKOTA

APPLICANT'S CERTIFICATE

I, KELLEY BRYAN, DO HEREBY CERTIFY THAT I AM THE WILLISTON BASIN LAND MANAGER FOR ZENERGY OPERATING COMPANY, LLC, HERINAFTER DESIGNATED THE APPLICANT; THAT TROY JENSEN WHO SUBSCRIBED TO THE FOREGOING AFFIDAVIT, IS EMPLOYED BY THE APPLICANT AS A LAND SURVEYOR AND THAT HE WAS DIRECTED BY THE APPLICANT TO SURVEY THE LOCATION OF THIS PIPELINE RIGHT-OF-WAY, 0.124 MILES IN LENGTH BEGINNING AT STA. 0+00 AND ENDING AT STA. 0+85.36, THAT SAID PIPELINE RIGHT-OF-WAY IS ACCURATELY REPRESENTED ON THIS MAP; THAT SUCH SURVEY AS REPRESENTED ON THIS MAP HAS BEEN ADOPTED BY THE APPLICANT AS THE DEFINITE LOCATION OF THE RIGHT-OF-WAY THEREBY SHOWN; AND THAT THE MAP HAS BEEN PREPARED TO BE FILED WITH THE SECRETARY OF THE INTERIOR OR HIS DULY AUTHORIZED REPRESENTATIVE AS PART OF THE APPLICATION FOR SAID RIGHT-OF-WAY TO BE GRANTED THE APPLICANT, ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO CONSTRUCT, MAINTAIN, AND REPAIR IMPROVEMENTS, THEREON AND THEREOVER, FOR SUCH PURPOSES, AND WITH THE FURTHER RIGHT IN THE APPLICANT, ITS SUCCESSORS AND ASSIGNS TO TRANSFER THIS RIGHT-OF-WAY BY ASSIGNMENT, GRANT, OR OTHERWISE.

APPLICANT

WILLISTON BASIN LAND MANAGER
TITLE

