



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

SEP 27 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Acting 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 an Alternative Pipeline Route for the Zenergy, Inc. Van Hook Gathering System connecting Dakota-3 Mason #2-11 and Dakota-3 Olson #4-1 well sites 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 requires 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
Jeff Hunt, Virtual One Stop Shop

Finding of No Significant Impact

Zenergy Operating Company, LLC (Zenergy)

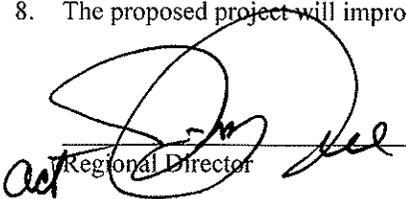
Fort Berthold Indian Reservation Mountrail County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an Addendum to Environmental Assessment to Authorize an Alternative Pipeline Route for the Zenergy, Inc. Van Hook Gathering System. The purpose of the proposed action is to authorize Zenergy to construct an alternative route location for the gathering line connecting the Dakota-3 Mason #2-11 and Dakota-3 Olson #4-1 well sites located in Sections 1, 2, and 3, Township 150 North, Ranges 92, Mountrail County, North Dakota. 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. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (MBTA), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) (NEPA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) (BGEPA), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.) (ESA).
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

9/27/10
Date

Notification for the Documentation of NEPA Adequacy (DNA)

Addendum to Environmental Assessment to Authorize an Alternative Pipeline Route for the Zenergy, Inc. Van Hook Gathering System

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

Applicant: Zenergy Operating Company, LLC (Zenergy)

Project Name: Phase 1 - Van Hook Gathering System

Purpose and Need of Action: Zenergy Operating Company, LLC (Zenergy) is proposing to construct and operate an oil, natural gas and water gathering system on the Fort Berthold Indian Reservation (Reservation), herein referred to as the Van Hook Gathering System. Underground electrical utility lines may also be constructed in the same right-of-way (ROW). Initially the first phase (Phase 1) of the Van Hook Gathering System will gather just natural gas from existing and proposed oil wells located on the Sanish Peninsula of the Reservation; located in Township 150 North, Ranges 91, 92, and 93 West; and Township 151 North, Ranges 91 and 92 West; Mountrail County, North Dakota.

The purpose of the proposed action is to authorize Zenergy to construct on an alternative route location for the gathering line connecting the Dakota-3 Mason #2-11 and Dakota-3 Olson #4-1 well sites.

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 alternative pipeline ROW is located in Sections 1, 2, and 3, T150N, R92W (Figure 1, attached).

Scope of Work for Proposed Action: Zenergy proposes to change the pipeline ROW as described above. The alternative ROW, construction width and methods will be the same as described in the original Environmental Assessment. The well pad locations do not change.

Resource surveys were conducted to determine potential impacts to cultural and natural (i.e., biological and physical) resources. Potential impacts to cultural resource sites are the result of direct disturbance, and/or the loss, of sites eligible for the National Register of Historic Places; disturbance and loss of native vegetation and wildlife habitats; soil removal and mixing; and erosion during construction. However, potential impacts as a result of the proposed action would be mitigated by surveying for and avoiding any eligible cultural resource sites within the proposed ROW, implementing a storm water pollution prevention plan and best management practices, completing reclamation of the pipeline corridors with native grasses and other appropriate native vegetation, and stockpiling and re-using topsoil for reclamation.

Potential indirect impacts include noise and other disturbances to wildlife during construction and the introduction of noxious weeds. Impacts would be mitigated by avoidance of any federally listed threatened or endangered species or wetlands, avoidance of nesting migratory birds, implementing best management practices to control the introduction of noxious weeds,

and minimizing the length of time between trenching, pipeline burial, and reclamation. These mitigation measures are consistent with the approved National Environmental Policy Act (NEPA) document, which received a FONSI (July 2010).

The majority of the proposed alternative is located on agricultural fields. Two intermittent drainages appear on the USGS topographic quadrangle map (Figure 1). The drainage in the NW ¼ of Section 2 is a shallow grassed swale. No water was present at the time of the resource survey. The drainage in the NE ¼ of Section 2 is cultivated. Directional drilling of these drainages is not required. Pictures of the proposed alternative route are attached.

Resource surveys and the supplementary assessment of the potential impacts of the proposed action were completed on August 12, 2010. Based on those surveys and the mitigation measures committed to by Zenergy, no significant impacts to natural and cultural resources are anticipated. Those in attendance included: Environmental Specialist - Daryl Turrcotte (BIA); Adam Kearl (Uintah Surveyors); Wade Burns (Beaver Creek Archeology); a Tribal Historic Preservation Office (THPO) monitor; and Todd Hartleben and Ryan Krapp (McCain and Associates, Inc.).

A cultural resource inventory of this alternate pipeline route was conducted by personnel of Beaver Creek Archaeology, Inc., using an intensive pedestrian methodology. Approximately 57.2 acres were inventoried between July 19 and August 12, 2010 (Burns 2010). No historic properties were located 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 September 15, 2010 and the THPO concurred on September 17, 2010.

Burns, Christina

(2010) Revised Revised (*sic.*) Van Hook Gathering Line: A Class III Cultural Resource Inventory, Mountrail County, North Dakota. Beaver Creek Archaeology, Inc. for Zenergy Operating Company, LLC, Tulsa, OK.

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

Environmental Assessment: Zenergy Operating Company, LLC, Phase 1, Van Hook Gathering System, July 2010.

Other Relevant Documentation:

Environmental Assessment: Zenergy Operating Company, LLC, D-3 Elk #16-21H and D-3 Olson #1-12H, November 2009.

Field Report: Zenergy Operating Company, LLC, D-3 Brady #4-12H, D-3 Brunsell #16-9H, D-3 FBIR #3-13H, D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H, and D-3 Wolf #4-18H, August 2009.

Environmental Summary: Zenergy Operating Company, LLC, D-3 Brady #4-12H, D-3 Brunsell #16-9H, D-3 FBIR #3-13H, D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H, and D-3 Wolf #4-18H, August 2009.

Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mason #2-11H (formerly D-3 Mason #3-2H), November 2009.

NEPA Adequacy Criteria: This document has identified a previously prepared NEPA documents as listed above, 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 documents.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA documents, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA documents. 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 documents 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 documents.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA documents.
7. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA document.



United States Department of the Interior

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Great Plains Regional Office
115 Fourth Avenue S.E.
Aberdeen, South Dakota 57401



SEP 15 2010

IN REPLY REFER TO:
DESCRM
MC-208

Perry 'No Tears' Brady, THPO
Mandan, Hidatsa and Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Mr. Brady:

We have considered the potential effects on cultural resources of the proposed revisions to the Van Hook Gathering Line in Mountrail County, North Dakota. Approximately 55 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas 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 800.5, we have therefore reached a determination of **no historic properties affected** for this undertaking. Catalogued as **BIA Case Number AAO-1770/FB/10**, the proposed undertaking, locations, and project dimensions are described in the following report:

Burns, Christina
(2010) Revised Revised (*sic.*) Van Hook Gathering Line: A Class III Cultural Resource Inventory, Mountrail County, North Dakota. Beaver Creek Archaeology, Inc. 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 N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely,

Regional Director

Enclosure

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

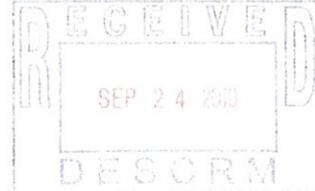


TRIBAL HISTORIC PRESERVATION

Mandan Hidatsa Arikara
Perry 'No Tears' Brady, Director.
404 Frontage Road,
New Town, North Dakota 58763
Ph/701-862-2474 fax/701-862-2490
pbrady@mhanation.com

September 17, 2010

Dr. Carson Murdy



After review of the documentation provided by your Office, the Mandan Hidatsa Arikara Nations Tribal Historic Preservation Office determines there will be 'No Adverse Affect/No Historic Properties Affected in regard to any pre and post-historic relics, artifacts or sacred In addition, cultural resources in the proposed Project area with that this office **concurs**.
BIA Case Number AAO-1770/FB/10

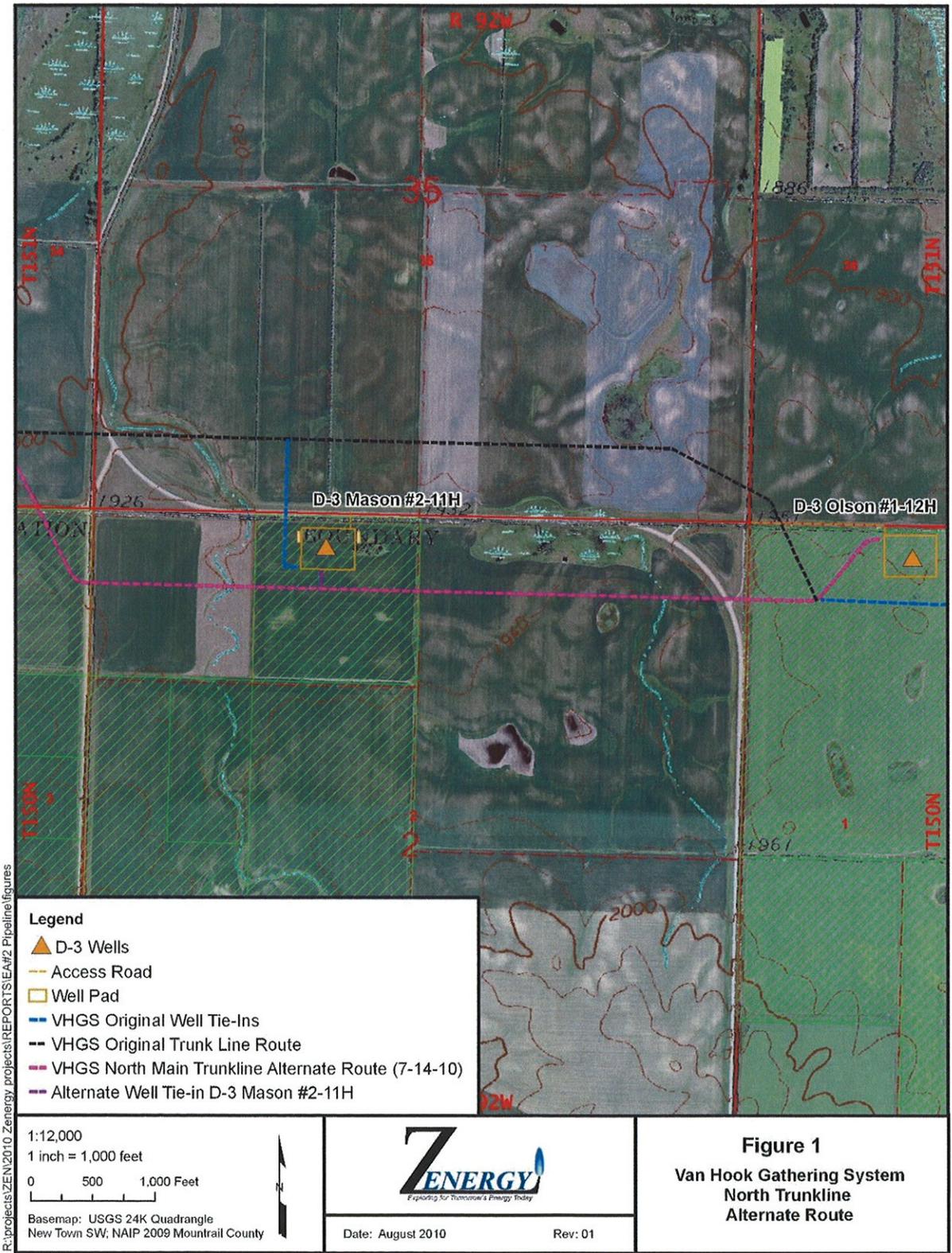
Burns, Christina
(2010) Revised Revised (sic.) Van Hook Gathering Line: A Class III Cultural Resource Inventory, Mountrail County, North Dakota. Beaver Creek Archaeology, Inc. for Zenergy Operating Company, LLC, Tulsa, OK.

We respectfully request to be notified should any cultural/tribal issue or others arise as the Project progresses.

Sincerely,

Perry "No Tears" Brady,
Tribal Historic Preservation Officer,
Mandan Hidatsa Arikara Nations.

Figure 1. Alternative Route Location.



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Photo 1. View of proposed alternative route facing east across Section 2.



Photo 2. View of proposed alternative route facing southeast across Section 3.



Notice of Availability and Appeal Rights

Addendum to Environmental Assessment to Authorize an Alternative Pipeline Route for the Zenergy, Inc. Van Hook Gathering System. Alternate Route for Dakota-3 Mason #2-11 and Dakota-3 Olson #4-1 well site gathering lines.

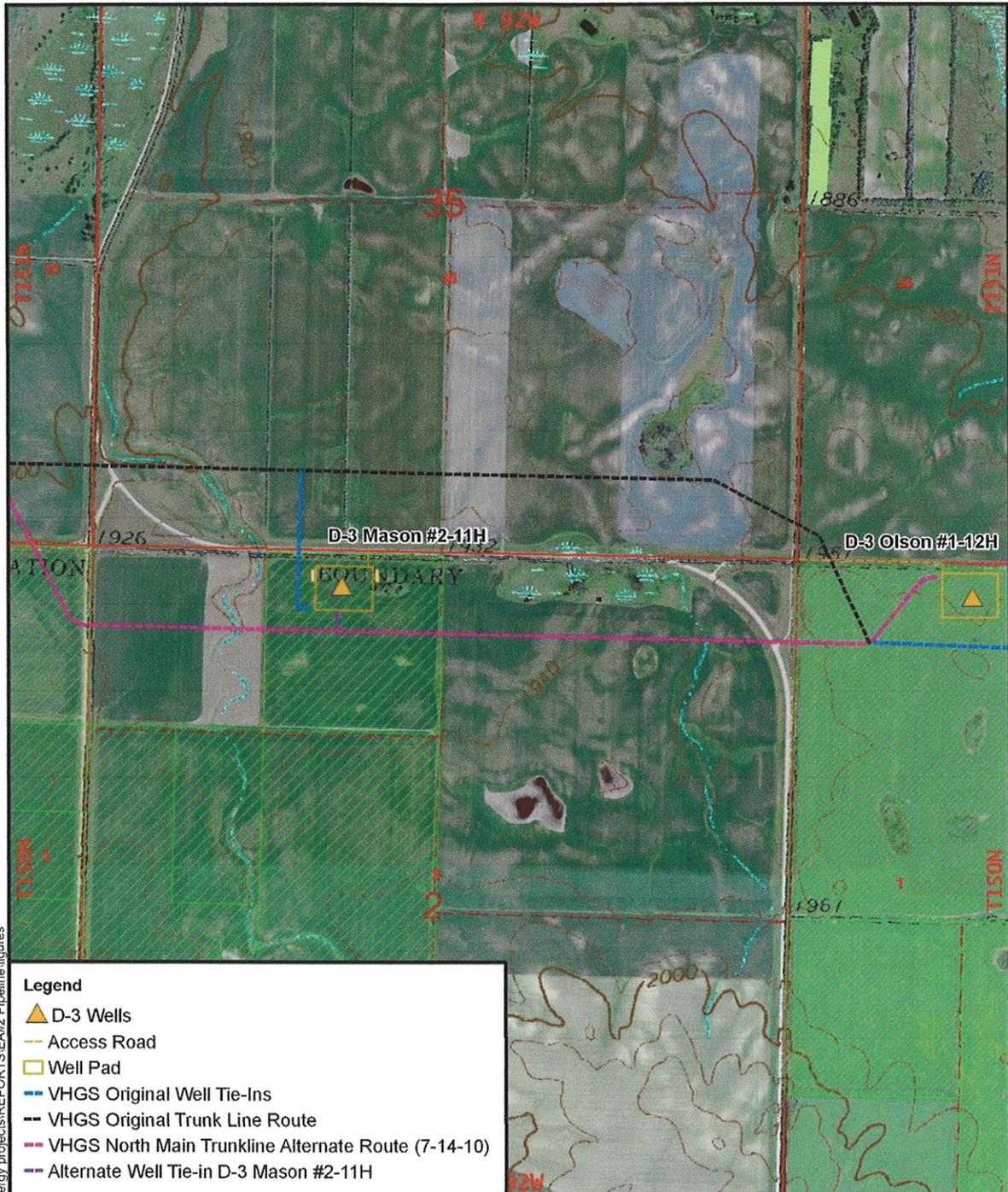
The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to an Environmental Assessment to Authorize an Alternative Pipeline Route for the Zenergy, Inc. Van Hook Gathering System connecting the Dakota-3 Mason #2-11 and Dakota-3 Olson #4-1 well sites, as shown on the attached map. Construction by Zenergy is expected to begin in the Fall of 2010.

An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Howard Bemer, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).

The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA’s decision to proceed with administrative actions *can* be appealed until October 27, 2010, by contacting:

**United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 N. Quincy Street, Suite 300, Arlington, Va 22203.**

Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.



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- Legend**
- ▲ D-3 Wells
 - Access Road
 - Well Pad
 - - - VHGS Original Well Tie-Ins
 - - - VHGS Original Trunk Line Route
 - - - VHGS North Main Trunkline Alternate Route (7-14-10)
 - - - Alternate Well Tie-in D-3 Mason #2-11H

1:12,000
 1 inch = 1,000 feet
 0 500 1,000 Feet

Basemap: USGS 24K Quadrangle
 New Town SW; NAIP 2009 Mountrail County



ZENERGY
Expecting for Tomorrow's Energy Today

Date: August 2010 Rev: 01

Figure 1
 Van Hook Gathering System
 North Trunkline
 Alternate Route