



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 10 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

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 for Arrow Pipeline, LLC to Authorize Land Use for rerouting a portion of Phase 1B Gathering Pipelines 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
Jeff Hunt, Virtual One Stop Shop
Jeffrey Towner, Field Supervisor, U.S. Fish and Wildlife Service

Finding of No Significant Impact

Arrow Pipeline, LLC

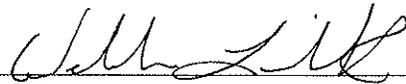
Addendum to Environmental Assessment for Arrow Pipeline, LLC, Oil and Gas Gathering System Phase 1B - Prime

The U.S. Bureau of Indian Affairs (BIA) received a proposal for an Addendum to the Environmental Assessment for Arrow Pipeline, LLC, Phase 1B - Prime Oil and gas Gathering System. Associated federal actions by BIA include determinations of effect regarding cultural resources and approvals of leases, rights-of-way and easements.

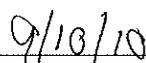
Potential of the proposed action to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined the proposed project will not significantly affect the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

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, water resources, and cultural resources. The potential for impacts was disclosed for both the proposed action 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 action was designed to avoid adverse effects to historic, archaeological, cultural, and traditional properties, sites, and practices. The Tribal Historic Preservation Officer has concurred with BIA's determination that no historic properties will be affected.
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 socioeconomic condition of the affected Indian community.



Regional Director – Great Plains Regional Office



Date

Environmental Assessment Addendum

United States Bureau of Indian Affairs

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



Arrow Pipeline, LLC

**Addendum to Environmental Assessment for
Oil and Gas Gathering System
Phase 1B - Prime**

Fort Berthold Indian Reservation

September 2010

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

TABLE OF CONTENTS

1.0 Purpose and Need for the Proposed Action 3

2.0 Authorities 3

3.0 Legal Land Descriptions of Proposed Action..... 3

4.0 Scope of Work for Proposed Action..... 3

5.0 Applicable National Environmental Policy Act (NEPA) Documents 3

6.0 NEPA Adequacy Criteria 5

7.0 Cultural Resources..... 5

Figure

Figure I Proposed Access Road Location 4

1.0 Purpose and Need for the Proposed Action

Arrow Pipeline, LLC (Arrow) is proposing to reroute a portion their Phase 1B - Prime oil, gas, and water gathering system corridor. Due to a landowner request, the pipeline will be rerouted approximately 440 feet north to avoid an allotment as described in Section 3.0 below. Development has been proposed on the Fort Berthold Indian Reservation (Reservation) on allotted land held in trust by the United States in Dunn County, North Dakota. The U.S. Bureau of Indian Affairs (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 offer substantial economic benefits to both the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation (MHA Nation) and to individual tribal members.

The purpose of the proposed action is to authorize the land use by Arrow for the construction and installation of three buried gathering pipelines. The proposed gathering lines would transport oil, gas and produced water along the Phase 1B- Prime pipeline corridor. The purpose of the reroute is relocate the pipeline north of an allottee's land holdings, per their request.

2.0 Authorities

Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United State Code [USC] 396a *et seq.*), the Gas Royalty Management Act of 1982 (30 USC 1701, *et seq.*), the Energy Policy Act of 2005 (42 USC 13522) and 25 Code of Federal Regulations (CFR) 169. BIA actions in connection with the proposed project are largely administrative and include approval of rights-of-way (ROW) and determinations regarding cultural resource effects.

3.0 Legal Land Descriptions of Proposed Action

The pipeline reroute would be located on allotted land in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, Township 148 North, Range 93 West (Figure 1). The move would relocate the pipeline approximately 440 feet to the north for about 3,000 feet.

4.0 Scope of Work for Proposed Action

Arrow proposes to construct and install one 10" steel oil pipeline, one 12" steel gas pipeline and one 6" fiberspar water pipeline within the rerouted Phase 1 B - Prime corridor. All construction disturbances would occur within a 100-foot wide temporary right-of-way (ROW) and permanent surface disturbance would occur within a 50-foot permanent ROW approved for the Phase 1 B - Prime project. The ROW has been surveyed for impacts to natural and cultural resources with no significant findings.

5.0 Applicable National Environmental Policy Act (NEPA) Documents

Environmental Assessment: Arrow Midstream Holdings, LLC, Oil and Gas Gathering System Phase 1B – Prime (June 2010).

6.0 NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Arrow Midstream Holdings, LLC, Oil and Gas Gathering System Phase 1B - Prime (June 2010)*, 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 documents.

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 stormwater 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).

Resource surveys and the supplementary assessment of the potential impacts of the proposed action were completed (April and August 2010); based on those surveys and the mitigation measures committed to by Arrow Pipeline, LLC, no significant impacts to natural and cultural resources are anticipated.

7.0 Cultural Resources

A cultural resource inventory of this pipeline route was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 19.06 acres were inventoried between August 4 and 17, 2010 (Smith and Lechert 2010). One archaeological site was located that may 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, as the pipeline has been rerouted so as to avoid the archaeological site. This determination was communicated to the THPO on August 30, 2010 and the THPO concurred on September 2, 2010.

References:

Lechert, Stephanie, Alan Hutchinson, and Norma Crumbley. 2010a. A Class I and Class III Cultural Resource Inventory of the Arrow Midstream Holdings Phase 1B Prime Pipeline, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Co

Smith, Nicholas and Stephanie Lechert. 2010b. Addendum to the Class I and Class III Cultural Resource Inventory of the Arrow Pipeline Phase 1B Prime Pipeline, on the Fort Berthold Indian Reservation, Dunn County, North Dakota, Due to Centerline Reroute. SWCA Environmental Consultants submitted to the Bureau of Indian Affairs-Great Plains Regional Office Bismarck, North Dakota.



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

AUG 30 2010

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 Arrow Pipeline Phase 1B Prime Pipeline reroute in Dunn County, North Dakota. Approximately 19.06 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed report. One archaeological site (32DU1529) was located that may 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, as the pipeline has been rerouted so as to avoid the archaeological site. Catalogued as **BIA Case Number AAO-1785/FB/10**, the proposed undertaking, location, and project dimensions are described in the following report:

Smith, Nicholas, and Stephanie Lechert
(2010) Addendum to the Class I and Class III Cultural Resource Inventory of the Arrow Pipeline Phase 1B Pipeline, on the Fort Berthold Indian Reservation, Dunn County, North Dakota, Due to Centerline Reroute. SWCA Environmental Consultants for Arrow Pipeline, 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



Carson Murdy
Great Plains Regional Office
115 Fourth Avenue S.E.
Aberdeen, North Dakota 57401

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, **BIA Case Number AAO-1785/FB/10**

Smith, Nicholas, and Stephanie Lechert.
(2010) Addendum to the Class I and Class III Cultural Resource Inventory of the Arrow Pipeline Phase 1B Pipeline, on the Forth Berthold Indian Reservation, Dunn County, North Dakota. Due to Centerline Reroute. SWCA Environmental Consultants for Arrow Pipeline, LLC, Tulsa, OK.

If you have any questions or need additional information, you can contact me at (701)862-2474 or 862-2475 or Cell Number (701) 421-0547

Sincerely,


Perry "No Tears" Brady
Director THPO
Mandan, Hidatsa, & Arikara Nation

Notice of Availability and Appeal Rights

Arrow Pipeline, LLC: Oil, Gas and Water Gathering System Phase 1B - Prime

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to the Environmental Assessment for Arrow Pipeline, LLC, Phase 1B - Prime Oil and gas Gathering System as shown on the attached map. Construction by Arrow Pipeline (LLC) is expected to begin in the Summer/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 10, 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.

Project locations

