



United States Department of the Interior

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

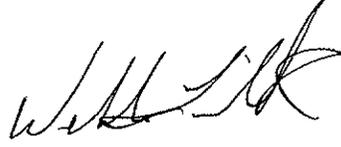


IN REPLY REFER TO:
DESCRM
MC-208

NOV 30 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region 

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for an Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Dakota-3 Packineau #15-32H Well and the Dakota-3 Skunk Creek #1-12H Well to the Arrow Phase 1B Prime Pipeline by Zenergy on the Fort Berthold Reservation, an Environmental Assessment (EA) Addendum 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: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)
Elgin Crows Breast, THPO (with attachment)
Derek Enderud, BLM, Dickenson, ND (with attachment)
John Shelman, US Army Corps of Engineers
Jeffrey Hunt, Virtual One Stop Shop

Finding of No Significant Impact

Zenergy Operating Company, LLC

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Dakota-3 Packineau #15-32H Well and the Dakota-3 Skunk Creek #1-12H Well to the Arrow Phase 1B Prime Pipeline

Fort Berthold Indian Reservation Dunn County, North Dakota

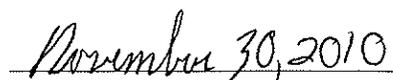
The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize the land use by Zenergy for to construct and install oil, gas, and water gathering pipelines on tribal land originating from the west side of the Dakota-3 Skunk Creek #1-12H well pad and the west side of the Dakota-3 Packineau #15-32H well pad to join the existing Arrow Phase 1B Prime Pipeline. The proposed gathering pipelines would transport oil, gas, and produced water from productive wells to markets and disposal facilities on the Fort Berthold Indian Reservation. Associated federal actions by BIA include determinations of effect regarding cultural resources, approvals of leases, rights-of-way and easements, and a positive recommendation to the Bureau of Land Management regarding the Applications for Permit to Drill.

Potential of the proposed actions 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 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, public safety, water resources, and cultural resources. The remaining 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 actions are designed to avoid adverse effects to historic, archeological, 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 projects will improve the socio-economic condition of the affected Indian community.


Regional Director


Date

**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 the Dakota-3 Packineau #15-32H Well and the Dakota-3
Skunk Creek #1-12H Well to the Arrow Phase 1B Prime Pipeline**

Fort Berthold Indian Reservation

November 2010

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

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Appendix

- A Pipeline Layout and Pipeline Right-of-Way for the Dakota-3 Skunk Creek #1-12H and the Dakota-3 Packineau #15-32H Gathering Lines

1. Purpose and Need for the Proposed Action

Zenergy Operating Company, LLC (Zenergy) is proposing to drill an exploratory oil and gas well (Dakota-3 Packineau #15-32H well) on the Fort Berthold Indian Reservation to evaluate and possibly develop the commercial potential of natural resources. Zenergy is currently drilling on the Dakota-3 Skunk Creek #1-12H well site. Developments have been proposed on land held in trust by the United States in Dunn County, North Dakota. The 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 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 6-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 Description for Proposed Action

The Dakota-3 Skunk Creek #1-12H and the Dakota-3 Packineau #15-32H gathering lines would be located on tribal land originating from the west side of each well pad, approximately 10 miles southeast of Mandaree, North Dakota, in the NW¹/₄ of Section 1, Township (T) 148 North (N), Range (R) 93 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota, and terminating in the NE¹/₄ SW¹/₄ of Section 1, T148N, R93W, 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 Skunk Creek #1-12H well pad and the west side of the Dakota-3 Packineau #15-32H well pad to join the existing Arrow Phase 1B Prime 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 no greater than 6 inches in diameter and constructed of steel. Water pipelines would be no greater than 6 inches in diameter and constructed of Fiberspar[®] or similar material. Approximately 3,707 feet of oil, gas, and water line would be needed to connect the Dakota-3 Skunk Creek #1-12H

well pad and the Dakota-3 Packineau #15-32H well pad to the Arrow Phase 1B Prime 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 Skunk Creek #1-12H well pad, the Dakota-3 Packineau #15-32H well pad, and the Arrow Phase 1B Prime Pipeline, which has been surveyed for impacts to natural and cultural resources with no significant findings. In total, approximately 17 acres will be disturbed as a result of activities associated with the construction of the proposed gathering pipelines. Pipeline plats are provided in Appendix A. Note that a reroute of the Arrow Phase 1B Prime Pipeline was surveyed and used after the plats were finalized for the proposed gathering line alignment. The revised Phase 1B Prime Alignment has shifted the proposed tie-in point directly north approximately 226.4 feet, maintaining the originally surveyed corridor. Figure 1 illustrates the revised tie-in point to the Phase 1B Prime Pipeline.

5. Applicable National Environmental Policy Act (NEPA) Documents(s)

Environmental Assessment: Zenergy Operating Company, LLC, Three Bakken Exploratory Oil Wells: Dakota-3 Adam Good Bear #15-22H, Dakota-3 Mandan #13-14H, Dakota-3 Skunk Creek #1-12H (December 2009).

6. Other Relevant Documentation

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

7. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Zenergy Operating Company, LLC, Three Bakken Exploratory Oil Wells: Dakota-3 Adam Good Bear #15-22H, Dakota-3 Mandan #13-14H, Dakota-3 Skunk Creek #1-12H* (December 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 for these gathering lines was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 17 acres were inventoried on April 7, May 17, and May 18, 2010 (Lechert 2010¹).

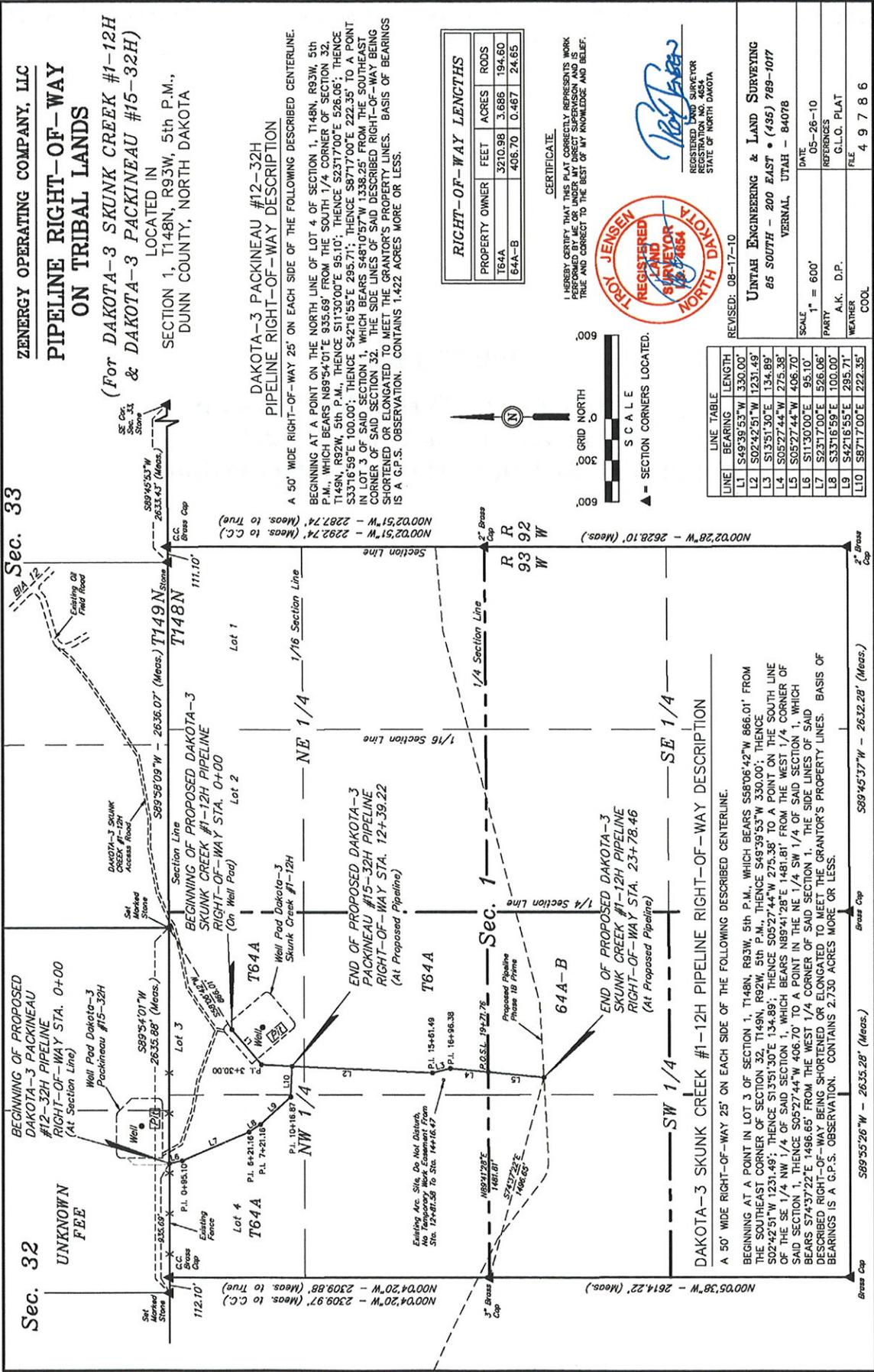
¹ Lechert, Stephanie

2010 Addendum to the Class III Cultural Resource Inventory of the Arrow Phase 1B Prime Pipeline on the Fort Berthold Indian Reservation, Dunn County, North Dakota, to Authorize Land Use for the Dakota-3 Packineau #15-32H/Dakota-3 Skunk Creek #1-12H Gathering Pipelines. Submitted to the Bureau of Indian Affairs-Great Plains Regional Office. Prepared by SWCA Environmental Consultants, Bismarck, North Dakota.

APPENDIX A

Pipeline Layout and Pipeline Right-of-Way for Dakota-3 Skunk Creek #1-12H and Dakota-3 Packineau #15-32H Gathering Lines

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Dakota-3 Packineau #15-32H Well and the Dakota-3 Skunk Creek #1-12H Well to the Phase 1B Prime Pipeline (November 2010)





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

NOV 03 2010

Elgin Crows Breast T.H.P.O.

Nov 19, 2010

Elgin C.B.

~~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 an oil gathering line route in Dunn County, North Dakota. Approximately 17.02 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area depicted in the enclosed report. One archaeological site (32DU1536) was located which 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 archaeological site will be avoided by rerouting the access road and fencing. Catalogued as **BIA Case Number AAO-1823/FB/10**, the proposed undertaking, location, and project dimensions are described in the following report:

Lechert, Stephanie, Nelson Klitzka and Judith Cooper
(2010) A Class I and Class III Cultural Resource Inventory of the Arrow Phase 1B Prime Pipeline on the Fort Berthold Indian Reservation, Dunn County, North Dakota, to Authorize Land Use for the Dakota-3 Packineau #15-32H/Dakota-3 Skunk Creek #1-12H Gathering Pipelines. SWCA 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 N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely,

Regional Director

concurrency: *Elgin Crows Breast*
T.H.P.O.

Enclosure

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

Notice of Availability and Appeal Rights

**Zenergy: Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines
Connecting the Dakota-3 Packineau #15-32H Well and the Dakota-3 Skunk Creek #1-12H Well to
the Arrow Phase 1B Prime Pipeline**

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Dakota-3 Packineau #15-32H Well and the Dakota-3 Skunk Creek #1-12H Well to the Arrow Phase 1B Prime Pipeline as shown on the attached map. Construction by Peak is expected to begin in the Winter 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 December 30, 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.

