



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E. Suite 400  
Aberdeen, South Dakota 57401



IN REPLY REFER TO:  
DESCRM  
MC-208

NOV 03 2011

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>Acting</sup> Regional Director, Great Plains Region

SUBJECT: Supplemental to Environmental Assessment

A Categorical Exclusion has been completed in compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended. The proposed Supplemental Categorical Exclusion is for information tiering off of an existing Environmental Assessment for Dakota-3 E & P Company, LLC, and authorizes two additional wells on the approved Dora Smith #5-8H pad and expands the rights-of-way. No new surface disturbances will be associated with the proposed action.

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: Tex Hall, Three Affiliated Tribes (with attachment)  
Elgin Crows Breast, THPO (with attachment)  
Derek Enderud, BLM, Dickinson, ND (with attachment)  
Ryan Krapp, Carlson McCain, Inc. (with attachment)  
Jeffrey Hunt, Fort Berthold Agency



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## EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Project: Supplement to Environmental Assessment to Authorize Additional Wells and Expanded Rights-of-Ways on the Approved Dora Smith #5-8H

Date: October 31, 2011

Nature of Proposed Action: Is to authorize Dakota-3 E&P Company, LLC (D-3 E&P) to add two wells to the previously approved well pad without addition any additional disturbances and expand the 100 ft construction ROW to a 130 ft construction and permanent ROW. There will be no additional surface disturbance to the well pad or access road as the result of drilling two additional wells from previous approved location. This document is tiered to an Environmental Assessment: Zenergy Operating Company, LLC, D-3 Dancing Bull #16-21H, D-3 Dora Smith #5-8H, D-3 Mandan South #24-25H, D-3 Mabel Evans #10-3H & D-3 Norman Eagle #15-22H. (January 2011)

Exclusion category and number: 516 DM 10.5 F (1)

Evaluation of Exceptions to use of Categorical Exclusion:

1. This action would have significant adverse effects on public health or safety. No  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  Yes
3. The action will have highly controversial environmental effects. No  Yes
4. The action will have highly uncertain environmental effects or involve unique or unknown environmental risks. No  Yes
5. This action will establish a precedent for future actions. No  Yes
6. This action is related to other actions with individually insignificant, but cumulatively significant environmental effects. No  Yes
7. This action will affect properties listed or eligible for listing in the National Register of Historic Places. No  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: Jeffrey Davis, Environmental Protection Specialist

Regional Archeologist Concurrence with Item 7 Careen B. Munday

Concur: Jeffrey Davis Date: 10-31-2011  
Regional Office Agency Environmental Coordinator

Concur: Bruce D. [Signature] Date: 11/3/11  
Acting Regional Director/Superintendent

*[Handwritten mark]*

**ENVIRONMENTAL ASSESSMENT**  
Addendum

United States Bureau of Indian Affairs

Great Plains Regional Office  
Aberdeen, South Dakota



Dakota-3 E&P Company, LLC

Addendum to Environmental Assessment to Authorize Additional Wells and Expanded  
Right-of-Way on the Approved  
Dora Smith #5-8H

Fort Berthold Indian Reservation

October 2011

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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## 1.0 Purpose and Need of Action

Dakota-3 E&P Company, LLC (Dakota-3 E&P), a subsidiary of Williams, is proposing to drill additional horizontal oil and gas wells on the Fort Berthold Indian Reservation to develop the commercial potential of natural resources. Developments have been proposed on land held in trust by the United States in Mountrail 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 Dakota-3 E&P to add two additional wells to the previously approved drilling plan of one well on the Dora Smith #5-8H pad site, for a total of three wells.

## 2.0 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.).

## 3.0 Legal Land Descriptions of Proposed Action

The Dora Smith #5-8H pad site is located in the NW¼ of the NE¼ of Section 5, Township 150 North, Range 92 West, Mountrail County.

## 4.0 Scope of Work for Proposed Action

The purpose of the proposed action is to authorize Dakota-3 E&P to add two additional wells to the previously approved well pad without adding any additional disturbance and expand the 100ft construction ROW to a 130ft construction and permanent ROW. Figure 3 depicts the previously approved well pad and access corridor for the Dora Smith #5-8H, for which an Environmental Assessment (EA) was prepared in accordance with the National Environmental Policy Act (NEPA). A Finding of No Significant Impact (FONSI) was issued for the site on April 15, 2011.

The original EA proposed a 100ft construction ROW, the proposal is now to expand to a 130ft construction and permanent ROW to install gathering pipelines (gas, oil, produced water, fresh water and utilities) in the same access road corridor not originally planned by former developer (Zenergy, Inc.). Resource surveys of the existing site and access corridor were performed as recorded in the original EA and Cultural Resource report (10-acre well pad survey and 200-foot-wide survey corridor). The surveyed area did cover the areas of additional requested 30ft (15ft

both sides) of ROW. The site has not been built and will remain the same construction dimensions and orientation. A total of three well heads is now proposed to be drilled on the site and gathering pipelines and utilities will now follow original access road corridor connecting the near Mary R. Smith pad site.

## 5.0 Cultural and Natural Resource Surveys

Since the physical dimensions of the pad will not be modified, no additional resource surveys have been conducted at the site. The original surveys were conducted on August 26, 2010 and included a 10-acre survey parcel centered on the proposed 5-acre staked well pad and a 200-foot-wide survey corridor along the proposed 2,615.70-foot-long access road, located in the N½ of Section 5, Township 150 North, Range 92 West (SWCA, 2011). An additional 0.72 acre was surveyed along the southern portion of the access road to allow for alignment revisions around a cultural site discovered during survey. Total acreage of disturbance for the complete well site (4.510 acres) and access road (3.927 acres) is 8.437 acres. Acreage surveyed for the project includes 10.03 acres for the well pad and 12.77 acres for the proposed access road. In total, 22.8 acres were inventoried for the project.

One cultural resource was newly recorded during investigations. The site is recommended to remain unevaluated for National Register of Historic Places nomination under Criteria A and D. The access road was restaked and is now approximately 128 feet northeast of the re-staked access reroute centerline; therefore, in its revised location, the construction corridor avoids the site by approximately 95 feet. No further work is recommended. With these stipulations, it was recommended that a determination of No Historic Properties Affected be granted for the project to proceed as planned.

D-3 E&P will comply with the mitigation measures specified in the original EA. All other conditions and findings of the original EA will remain in effect.

## 6.0 Applicable National Environmental Policy Act (NEPA) Document(s)

*Environmental Assessment: Zenergy Operating Company, LLC, D-3 Dancing Bull #16-21H, D-3 Dora Smith #5-8H, D-3 Mandan South #24-25H, D-3 Mabel Evans #10-3H & D-3 Normal Eagle #15-22H.* January, 2011. *Finding of No Significant Impact: Zenergy Operating Company, LLC, D-3 Dancing Bull #16-21H, D-3 Dora Smith #5-8H, D-3 Mandan South #24-25H, D-3 Mabel Evans #10-3H & D-3 Normal Eagle #15-22H.* April, 2011.

## 7.0 Other Relevant Documentation

*Class I and Class III Cultural Resources Inventory of the Zenergy Dakota-3 Dora Smith #5-8H Well Pad and Access Road, Fort Berthold Indian Reservation, Mountrail County, North Dakota.* Report submittal to BIA: March 1, 2011. SWCA Environmental Consultants. (SWCA, 2011) Alan Hutchinson, Stephanie Lechert, Michael Retter and Judy Cooper.

## 8.0 NEPA Adequacy Criteria

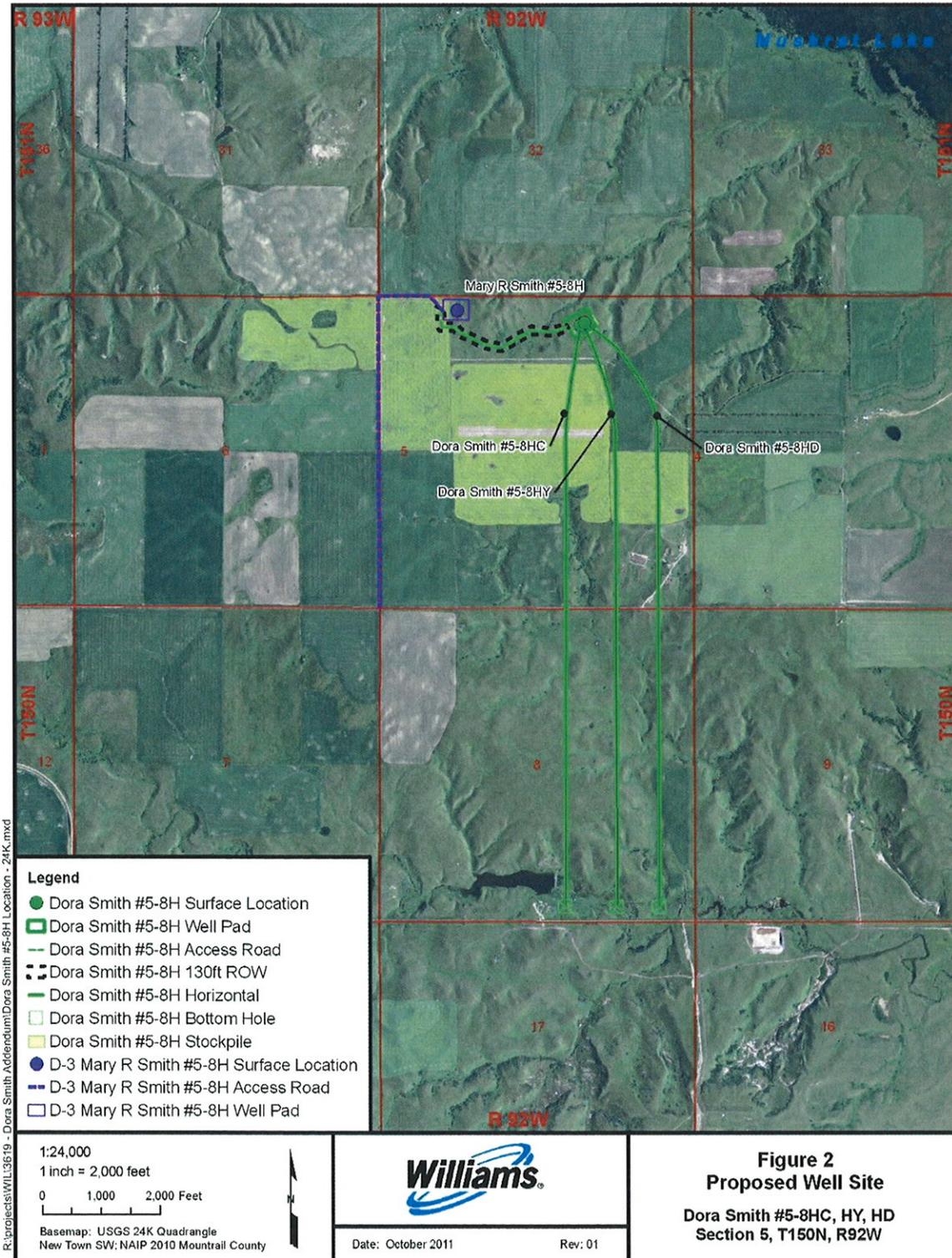
This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, D-3 Dancing Bull #16-21H, D-3 Dora Smith #5-8H, D-3 Mandan South #24-25H, D-3 Mabel Evans #10-3H & D-3 Normal Eagle #15-22H* which adequately describes the environmental consequences 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.

Figure 1. Dora Smith #5-8H Location Map



Figure 2. Dora Smith #5-8H Revised Drilling Plan Map



R:\projects\WILL3619 - Dora Smith Addendum\Dora Smith #5-8H Location - 24K.mxd

Figure 3. Dora Smith #5-8H Original Drilling Plan Map

