



# 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

JAN 25 2012

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>ACTING</sup> 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, an Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The addendum authorizes land use for the access and utility Right-of-Way reroute to the Dora Smith #5-8H well pad on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA Addendum, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the (40 C.F.R. Section 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, Tribal Historic Preservation Officer (with attachment)  
Derek Enderud, BLM, Bureau of Land Management (with attachment)  
Ryan Krapp, Carlson/McCain (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

***Finding of No Significant Impact***

***Dakota-3 E&P Company, LLC)***

***Addendum to:  
Environmental Assessment to Authorize Reroute of Access and Utility  
Right-of-Way to the Dora Smith #5-8H***

***Fort Berthold Indian Reservation  
Mountrail County, North Dakota***

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to Authorize Reroute of Access and Utility Right-of-Way to the Dora Smith #5-8H pad site located in the NW¼ of the NE¼ of Section 5, Township 150 North, Range 92 West, Mountrail County, on the Fort Berthold Reservation. Associated federal actions by BIA include determinations of impacts and effects regarding environmental resources for developments on tribal lands.

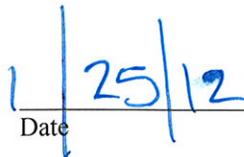
The potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing EA, as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect 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 solicited for the preceding NEPA document was sufficient to ascertain potential environmental concerns associated with the currently proposed project.
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.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.).
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 projects will improve the socio-economic condition of the affected Indian community.

  
Regional Director

ACTING

  
Date

**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 Reroute of Access and Utility  
Right-of-Way to the Dora Smith #5-8H**

**Fort Berthold Indian Reservation**

**January 2012**

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 reroute an oil and gas well access road on the Fort Berthold Indian Reservation to assist in the development of 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 reroute the Dora Smith #5-8H well access road and utility right-of-way (ROW) to avoid an expansion of the Mary R. Smith #5-8H well pad. The Dora Smith access road has not been built and will stay directly adjacent to the previous disturbance of the Mary R. Smith pad.

## **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 and access road 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 reroute the Dora Smith #5-8H well ROW to avoid a proposed expansion of the Mary R. Smith #5-8H well pad. The Dora Smith access road has not been built and will stay directly adjacent to the previous disturbance of the Mary R. Smith pad. Figure 1 depicts the previously approved ROW and the new proposed route. 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 Dora Smith site on April 15, 2011 and a Categorical Exclusion (CATEX) for right-of-way (ROW) expansion was issued on November 3, 2011.

The reroute is approximately 960-feet or approximate 2.9 acres of additional disturbance completely within a cultivated agricultural field. The total disturbance for the Dora Smith ROW will now be approximately 9.5 acres. The proposed a 130ft construction and permanent

ROW will include gas, oil, produced water, and fresh water pipelines along with underground electrical and fiber optic utilities in the same access road corridor. Additional information not previously included in EA on pipeline and utility construction and environmental protections is included below.

## 5.0 Cultural and Natural Resource Surveys

The area of the proposed reroute was previously surveyed during the Mary R. Smith proposed pad expansion. Carlson McCain, Inc. was the lead for the natural resource evaluation with cultural resource surveys conducted by SWCA Environmental Consultants (SWCA). Resource surveys of the proposed expanded site and West Van Hook Gathering System (West VHGS) utility corridor ROW were performed on July 7, 2011.

SWCA conducted a Class III archaeological resources inventory of a 40-acre survey block for the proposed Mary R. Smith #5-8H well pad expansion (Lechert 2011). No cultural resources were identified during the course of the inventory. A representative from the Three Affiliated Tribes' Tribal Historic Preservation Office (THPO) was present. SWCA recommended that the project be granted a determination of No Historic Properties Affected and clearance to proceed as planned. No additional resource surveys needed to be conducted at the site.

The original Dora Smith 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). One cultural resource was newly recorded during investigations. The site is recommended to remain unevaluated for the 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.

Carlson McCain biologists conducted a natural resource survey within 300-feet of the proposed Mary R. Smith well pad expansion area and ROW expansion with BIA natural resource officers in attendance. The expansion was located in an agricultural field that was fallow at the time of the survey with canola residue being the dominant cover. Wildlife surveys conducted did not reveal any nesting migratory birds or raptors at this time due to limited habitat and timing of survey. BIA natural resource officers were consulted and it was agreed that suitable raptor and migratory bird nesting habitat is very limited to non-existent in the expansion area. Additionally the immediate adjacent area is currently disturbed by original pad construction and drilling activity. Based upon these factors it was agreed that an additional migratory bird or raptor survey would not be necessary.

Based on the resource surveys of the Dora Smith and the Mary R. Smith, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA

document, no new significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the proposed actions in this addendum.

## **6.0 Pipeline System Design**

All pipelines and utilities will be installed underground within the 130-foot right-of-way. The natural gas pipelines are polyethylene, 8-inch in diameter for trunk lines and 3-inch in diameter for well lateral connections. The proposed oil pipelines will be constructed of 8-10 inch diameter welded steel for trunk lines and 6-8 inch diameter for well lateral connections. Produced water pipelines will consist of 4-8 inches in diameter polyethylene pipe. Fresh water delivery pipelines will also be polyethylene pipe, 4-6 inches in diameter. Underground electrical and fiber optic utilities are planned to be installed at time of pipeline installation. If utilities are not able to be installed at that time they may be installed at a later date by utilizing the spider-plow method. Spider-plowing has very minimal impact to the ground surface and will be within the previously disturbed surface.

## **7.0 Pipeline Construction Procedures**

Natural gas and oil pipelines will be installed in one trench and produced water and fresh water pipelines will be installed in a separate trench. Trenches will be approximately 2.5 feet wide and will be placed 10-15 feet apart. All pipelines are installed at a minimum depth of six feet except as needed at road and stream crossings or as needed for safety considerations. Electrical and fiber optic utilities will be installed at the same time or at a later date by utilizing the spider-plow method. The pipelines and utilities will all be installed within the same 130-foot right-of-way.

The pipelines will be designed, assembled, and installed in accordance with U.S. Department of Transportation (DOT) regulations (DOT Title 49 CFR Parts 195 and 192) and other standards as applicable.

Pipeline materials will be staged at storage facilities, at existing oil/gas well sites along the route and/or trucked directly to the construction ROW. County, state, private, BIA roads, field approaches and well pad will be used to access the ROW during construction and will be maintained in the same or better condition as existed prior to the start of the operations. Off-road driving, other than within the ROW, will be strictly prohibited. Signs may be installed on approved access roads and will be used to identify roads where access is prohibited. Excessive rutting or other surface disturbing activities will be avoided or immediately repaired.

## **8.0 Interim Reclamation**

Reclamation will be continuous throughout the gathering systems lifespan. Reclamation is required within 6-months after the initial construction, after any maintenance work or addition of auxiliary infrastructure, and before final abandonment of the decommissioned system. Successful reclamation will remain the obligation and responsibility of the system operator.

Trenches will be backfilled immediately after pipe and utility installation and testing, waiting only if soils are overly wet or frozen. Appropriate temporary and long-term measures will be applied to all disturbed areas to minimize and control erosion. Field practices will conform with prescribed Best Management Practices (BMP's) and may include:

- 1) installing silt fences and erosion fabric, mats or logs;
- 2) construction of ditches and/or water bars;
- 3) seeding, planting, mulching and creation of buffer strips; and
- 4) other measures identified at onsite meetings by BIA and during construction to minimize erosion and soil loss.

When ditching is implemented with a trenching machine, the topsoil will first be stripped and stored on the far side of the spoil side of the right-of-way. If construction occurs during winter months, this topsoil will likely have chunks of frozen soil within. Trenching will occur and the finer subsoil will be stored closest to the open ditch. Pipeline installation and subsoil backfilling will be performed as soon as possible dependent on weather conditions. If the topsoil is excessively frozen the topsoil will not be re-spread and appropriate BMP's along the entirety of the ROW will be implemented to reduce the potential for excessive erosion as a result of spring snow melt. In areas where the spring thaw will likely bring considerable amounts of running water, trench breakers or surface breakers, along with temporary surface matting may be implemented to further minimize erosion potential on slopes. Monitoring and any maintenance of erosion along the ROW will be ongoing and responsibility of Dakota-3 E&P.

Re-contouring and reclamation of disturbed areas will be accomplished within six-months after construction is completed, and no later than by the next appropriate planting season (fall or spring). After subsoil is scarified to alleviate compaction, the stockpiled topsoil will be redistributed over the ROW. Topsoil redistribution and final grading will be done in the spring following complete frost thaw and required drying of the right-of-way. Weather conditions will determine final reclamation timing. The ROW on non-tilled land will be re-seeded with certified, weed-free seed mixtures established by BIA. Native species will be used to the extent possible and seeding and planting will comply with BIA directions to ensure successful reclamation.

The ROW will be monitored to identify areas of excessive erosion, subsidence, or invasion of noxious weeds. Periodic monitoring will be performed and repeated reclamation efforts will be undertaken in problem areas until BIA has certified the ROW as successfully reclaimed. Successful reclamation is defined by the BIA to include the following observable factors: 1) reproduction of seeded and re-established species; 2) natural invasion of plants from undisturbed adjacent communities; and 3) control or exclusion of noxious weeds.

The BIA has developed a weed management plan to facilitate the treatment of known and likely noxious/invasive weed species. If seeding is not successful within two growing seasons, BIA may require extra efforts to stabilize the site, such as matting the entire affected area, or using a

mix of rapidly growing forbs and annual grasses, followed by reseeding with grasses, forbs, and shrubs with rapidly expanding, deep root systems.

## **9.0 Final Reclamation**

Decommissioning of the pipeline will result in mandatory final reclamation of the ROW. All facilities would be removed. All disturbed areas would be reclaimed, reflecting the BIA's view of oil and gas exploration and production as temporary intrusions on the landscape. Due to economic costs and additional environmental disturbance associated with excavation and removal, pipelines will be purged with water to remove hydrocarbons, and then abandoned in place. Long term monitoring will be required to ensure successful reclamation and implementation of any necessary remedial efforts.

## **10.0 Operations and Maintenance**

Maintenance of access road, pipelines and underground utilities will be confined to the 130-foot permanent ROW. Annual surveys of the pipeline system will be conducted to assure the pipeline integrity and cathodic protection system is functioning adequately. In the likely event of corrosion detection or leak, replacement of system sections may be required. Loss of products or waste products may require excavation of contaminated soils and other remedial projects. Applicable regulations, including immediately notifying BIA and BMP's, will be implemented aggressively to minimize waste of resources and environmental damage.

## **11.0 Spill Response Plan**

Dakota-3 E&P has developed an Emergency Spill Contingency Plan (Plan) for the VHGS (Dakota-3 E&P, 2011). The spill preventative measures and monitoring protocols, notification procedures, spill detection and on-scene spill mitigation procedures, response activities, contacts, training and drill procedures, and response plan review and update procedures, as referenced in the Plan, apply to the proposed pipelines, so long as Dakota-3 E&P remains the operator. A copy of the Plan has been filed with the BIA and Dakota -3 E&P has committed to adhering to the procedures and requirements as defined by federal law (Title 49 Code of Federal Regulations [CFR] 194).

## **12.0 Pipeline Marking Procedures**

Dakota -3 E&P will adhere to the requirements of 49 CFR 192.707 with regard to the marking of buried pipelines. Specifically, Dakota -3 E&P would place pipeline markers within 1,000 feet of one another, at all public road crossings, railroad crossings, creek crossings, fence crossings, and at all points of major direction change.

## **13.0 Quality Control/Quality Assurance Measures**

Dakota -3 E&P would purchase steel pipe that is rated as API 5L X-42/52 and will inspect to ensure quality. Dakota -3 E&P would ensure that external epoxy coating is applied to a minimum thickness of 14 millimeters. During construction, all welds are visually inspected for quality and completeness by qualified professionals. Once welds have passed visual inspection,

they are subjected to 20 percent Non Destructive Testing. After passing these tests, the weld areas are covered for corrosion protection. After the weld areas have been covered, the external coating of the pipe is inspected using a jeepmeter to detect holes and cracks. The pipe is lowered into the trench and buried. Prior to being put into service, the steel pipe is pressurized air tested to approximately 115% of the maximum design pressure of 720 pounds per square inch gauge (psig). A cathodic protection system will be installed on the steel pipe to protect against corrosion of the pipe.

The natural gas and produced water pipelines will be constructed with high density polyethylene pipe resin 4710. The polyethylene material is not subject to corrosion from reaction with the water so no external or internal coating is required for water service. The produced water pipe is designed to sustain a maximum pressure of 255 psig and will be air pressure tested to approximately 115% of 255 psig prior to being approved for service. The natural gas pipe is designed to sustain a maximum pressure of 255 psig and will be air pressure tested to approximately 115% of 255 psig prior to being approved for service.

Annual surveys of the pipeline system will be conducted to assure the pipeline integrity and cathodic protection system is still functioning adequately.

#### **14.0 Valve Locations**

Above ground isolation valves will be constructed on each well pad site and at intervals of approximately 1-1.5 miles on new oil, gas and produced water pipelines. Foremost this will allow for sections to be isolated to minimize potential for large spills and also for repair or service of the lines. The line valve placement is determined by permanent ROW accessibility and ability to quickly access to shutdown during winter months.

#### **15.0 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.

*Addendum to Environmental Assessment to Authorize Additional Wells and Expanded Right-of-Way on the Approved Dora Smith #5-8H.* October , 2011. Categorical Exclusion (CATEX) issued November 3, 2011.

#### **16.0 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, 2011a) Alan Hutchinson, Stephanie Lechert, Michael Retter and Judy Cooper.

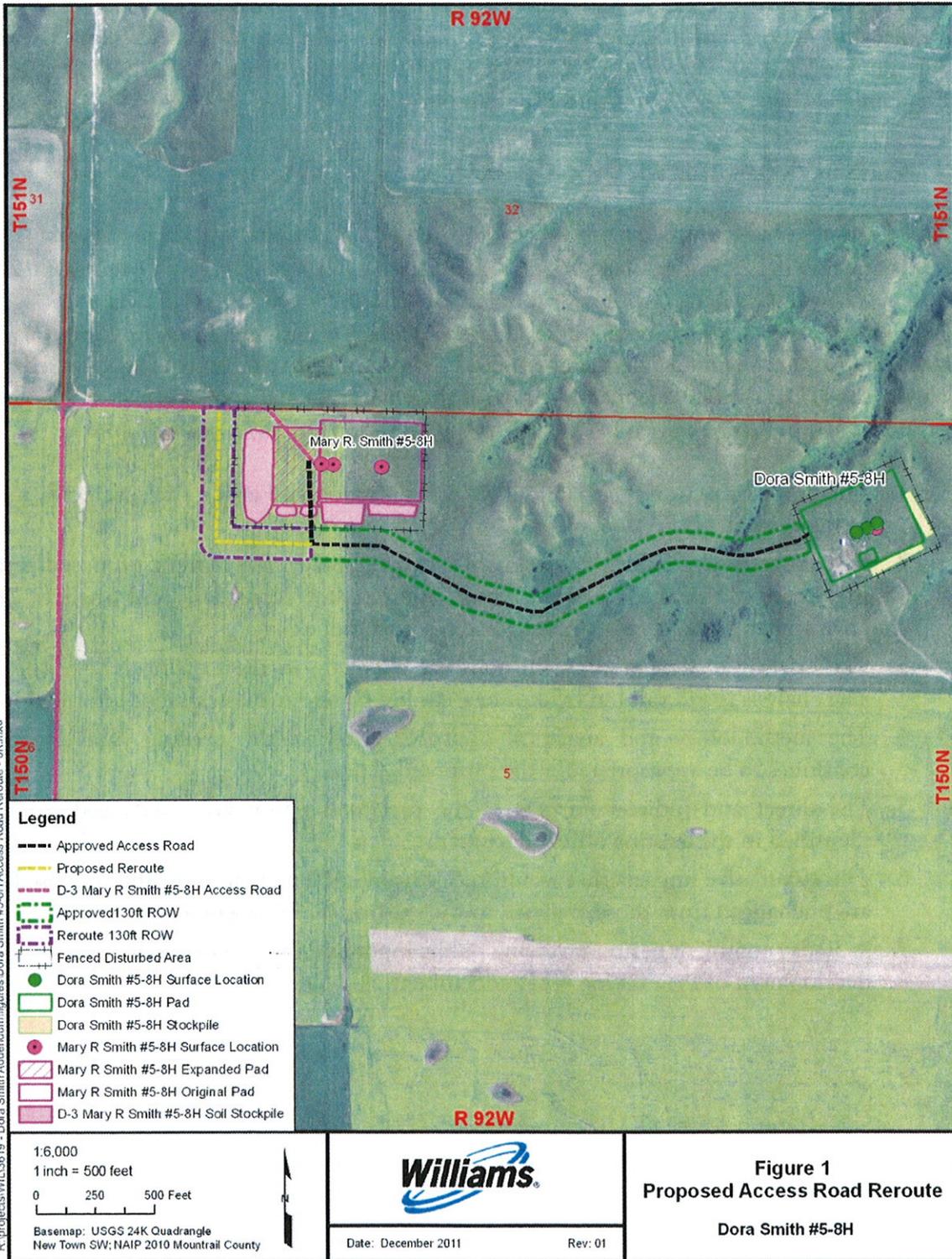
*Class I and Class III Cultural Resources Inventory of the Zenergy Dakota-3 Mary R. Smith #5-8H Well Pad Expansion, Fort Berthold Indian Reservation, Mountrail County, North Dakota. Report submittal to BIA: November 11, 2011. SWCA Environmental Consultants. (SWCA, 2011b) Stephanie Lechert, Judy Cooper and Erin Salisbury.*

## **17.0 NEPA Adequacy Criteria**

This document has identified a previously prepared 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* and; *Addendum to Environmental Assessment to Authorize Additional Wells and Expanded Right-of-Way on the Approved Dora Smith #5-8H*. October, 2011. Categorical Exclusion (CATEX) issued November 3, 2011 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 Access Road Reroute



**Figure 2. Photograph of proposed ROW reroute area looking south.**  
The ROW will connect to the current Mary R. Smith access road through a cultivated field south and west of the Mary R. Smith expansion area.



# **Notice of Availability and Appeal Rights**

Dakota-3 E&P: Addendum to Environmental Assessment to Authorize Reroute of Access and Utility Right-of-Way to the  
Dora Smith #5-8H

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to Environmental Assessment to Authorize Reroute of Access and Utility Right-of-Way to the Dora Smith #5-8H on the Fort Berthold Reservation as shown on the attached map. Construction by Dakota-3 E&P Resources is expected to begin in 2012.**

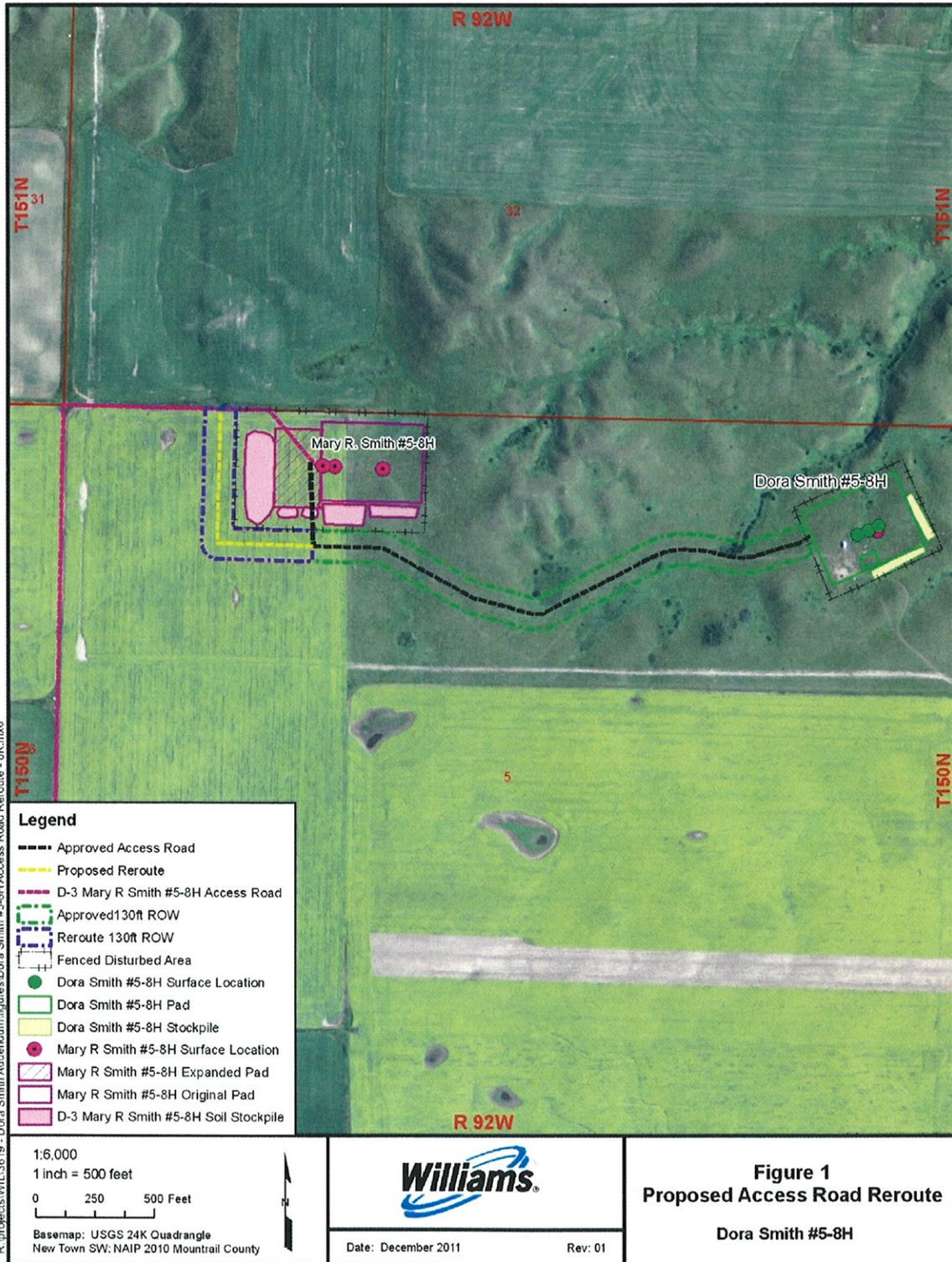
**An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant 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 February 23, 2012, 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.



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