

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



Zenergy Operating Company, LLC

**Addendum to
One Bakken Formation Exploratory Well at One Location:**

Cross #2-13H

Fort Berthold Indian Reservation

September 2009

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

Finding of No Significant Impact

Zenergy Operating Company, LLC (Zenergy)

Addendum to Cross #2-13H

Fort Berthold Indian Reservation McKenzie County North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to one exploratory oil/gas well, access road and related infrastructure on the Fort Berthold Indian Reservation to be located in Section 13, Township 149N, Range 94W. 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 Application 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.
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.


ACTING Regional Director

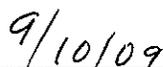

Date

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1. Purpose and Need for the Proposed Action

Zenergy is proposing to drill an exploratory oil and gas well on the Fort Berthold Indian Reservation to evaluate and possibly develop the commercial potential of natural resources. Developments have been proposed on land held in trust by the United States in McKenzie 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 Nation 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 buried gathering pipelines to transport product and waste from productive wells. Installation would include three pipelines, each 4 inches in diameter, to transport oil, gas, and produced water from wells to markets and disposal facilities.

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 Descriptions of Proposed Action:

Dakota-3 Cross #2-13H gathering lines would be located on federal land off of the south side of the well pad approximately 1 mile east of Mandaree, North Dakota, in the NW¹/₄NE¹/₄ of Section 13, Township 149N, Range 94W, 5th P.M. (Figure 1).

4. Scope of Work for Proposed Action

Zenergy proposes to construct and install oil, gas, and water gathering pipelines on federal land to tie one well into existing Arrow Trunk Pipelines. Oil, gas, and water pipelines would be buried together in one trench. Oil and gas pipelines would be 4 inches in diameter and constructed of steel. Water pipelines would be 4 inches in diameter and constructed of Fiberspar[®]. Approximately 987 feet of oil line, 607 feet of gas line, and 1,027 feet of water line would be needed for the Cross #2-13H location (Appendix A). In addition to well pad disturbance, surface disturbance for Dakota-3 Cross #2-13H gathering pipelines would be approximately 1.1 acres of construction disturbance and 0.57 acre of permanent disturbance (Figure 1). Gathering pipelines would be installed south of the well pad. All construction and permanent surface disturbance would occur within a 100-foot right-of-way between the Cross #2-13H well pad and Arrow Trunk Pipelines, which has been previously surveyed for impacts to natural and cultural resources with no significant findings.

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

Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, and Dakota-3 Ethan Hall #2-14H. January 2009.

6. Other Relevant Documentation

1) Environmental Assessment: Arrow Midstream Holdings Pipelines and Utilities. March 2009.

2) Amended Right-of-Way Permit 299 for Zenergy Dakota-3 Cross #2-13H.

Cooper, Judith R.

(2009) Addendum to the Class III Cultural Resource Inventory of the Dakota-3 Cross #2-13H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota, to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Cross #2-13H to Arrow Trunk Pipeline. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

Ferris, Kade M.

(2009) A Cultural Resource Inventory of the Dakota-3 Cross #2-13H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Zenergy, Inc., Tulsa, OK. Ms. on file (AAO-1602/FB/09)

Markman, Jon M., Kade M. Ferris, Erin Salisbury and Scott Slessman

(2009) A Class I and Class III Cultural Resource Inventory of the Proposed Arrow Pipeline and Compressor Station in McKenzie and Dunn Counties, North Dakota. SWCA Environmental Consultants for Arrow Midstream Holdings LLC, Tulsa, OK. Ms. on file (AAO-1607/FB/09)

7. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, and Dakota-3 Ethan Hall #2-14H (January 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 of this well pad and access road were conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 10.19 acres were intensively inventoried on November 3, 2008 (Ferris 2009). No historic properties were located within the project area 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 February 4, 2009, however, the THPO did not respond within the allotted 30-day comment period. Likewise, the tie-in from the Dakota-3 Cross #2-13H well pad is to the Arrow Midstream Pipeline, for which a cultural resource inventory was conducted by personnel of SWCA Environmental Consultants on November 17-25, 2008 (Markman *et al.* 2009). A **no adverse effect** determination was communicated to the THPO for this project on February 18, 2009, with which the THPO concurred on that same day. The proposed gathering line project additions covered in this EA Addendum were inventoried by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 1.15 acres were intensively inventoried on June 11, 2009 (Cooper 2009). No historic properties were located within the project area 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 1, 2009. The THPO concurred on September 9, 2009.



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 01 2009

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 a gathering pipeline project in McKenzie County, North Dakota. Approximately 1.15 acres (500 linear feet) were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area 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 (16 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-1602/FB/09**, the proposed undertaking, location, and project dimensions are described in the following report:

Cooper, Judith R.
(2009) Addendum to the Class III Cultural Resource Inventory of the Dakota-3 Cross #2-13H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota, to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Cross #2-13H to Arrow Trunk Pipeline. 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,

(sgd) Michael S. Black

Regional Director

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

FILE COPY	
OFFICE	
TAKEN IN AMERICA	208
SURNAME	BRady
DATE	8/27/09
OFFICE	
SURNAME	208
DATE	Murdy
OFFICE	226
SURNAME	MBUCE
DATE	8/27/09
OFFICE	102
SURNAME	AMB
DATE	8/27/09
OFFICE	102
SURNAME	WJ
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SURNAME	MBUCE
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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 9, 2009

Carson Murdy
Regional Archeologist
Bureau of Indian Affairs
Great Plains Regional Office
115 Fourth Avenue SE
Aberdeen, SD, 57401

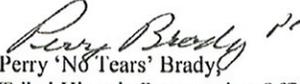
RE: Project # AAO-1602/FB/09
Addendum to Dakota 3 Cross 02-13H well pad & access road.
Land use for gathering of pipeline connection

Dr. Murdy:

After review of the documentation provided, the Mandan Hidatsa Arikara Nations Tribal Historic Preservation Office concurs with the determination of 'No Adverse Affect'/No Historic Properties Affected' to any pre and post-historic relics, artifacts or sacred and cultural resources in the proposed land use area.

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

Sincerely,


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

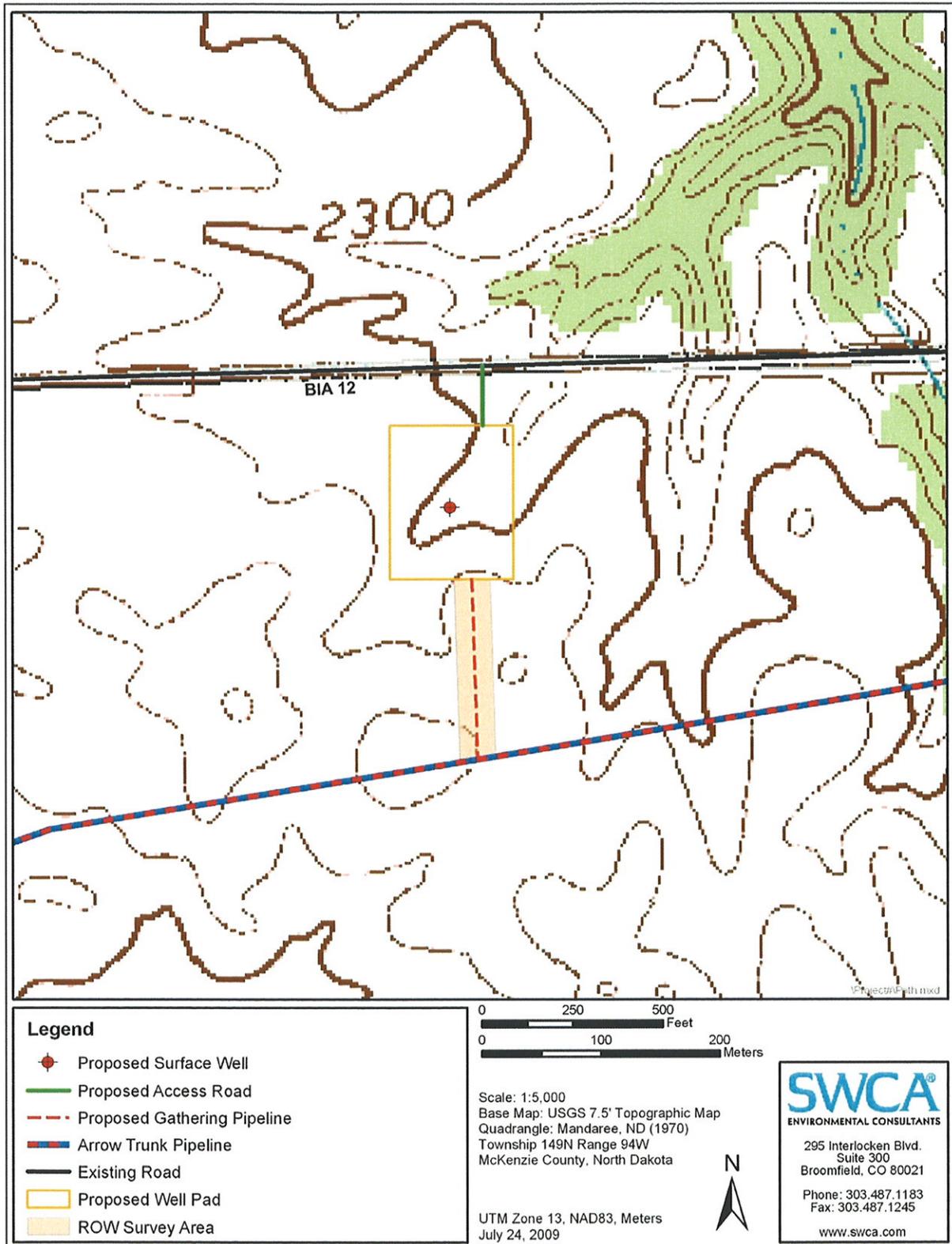
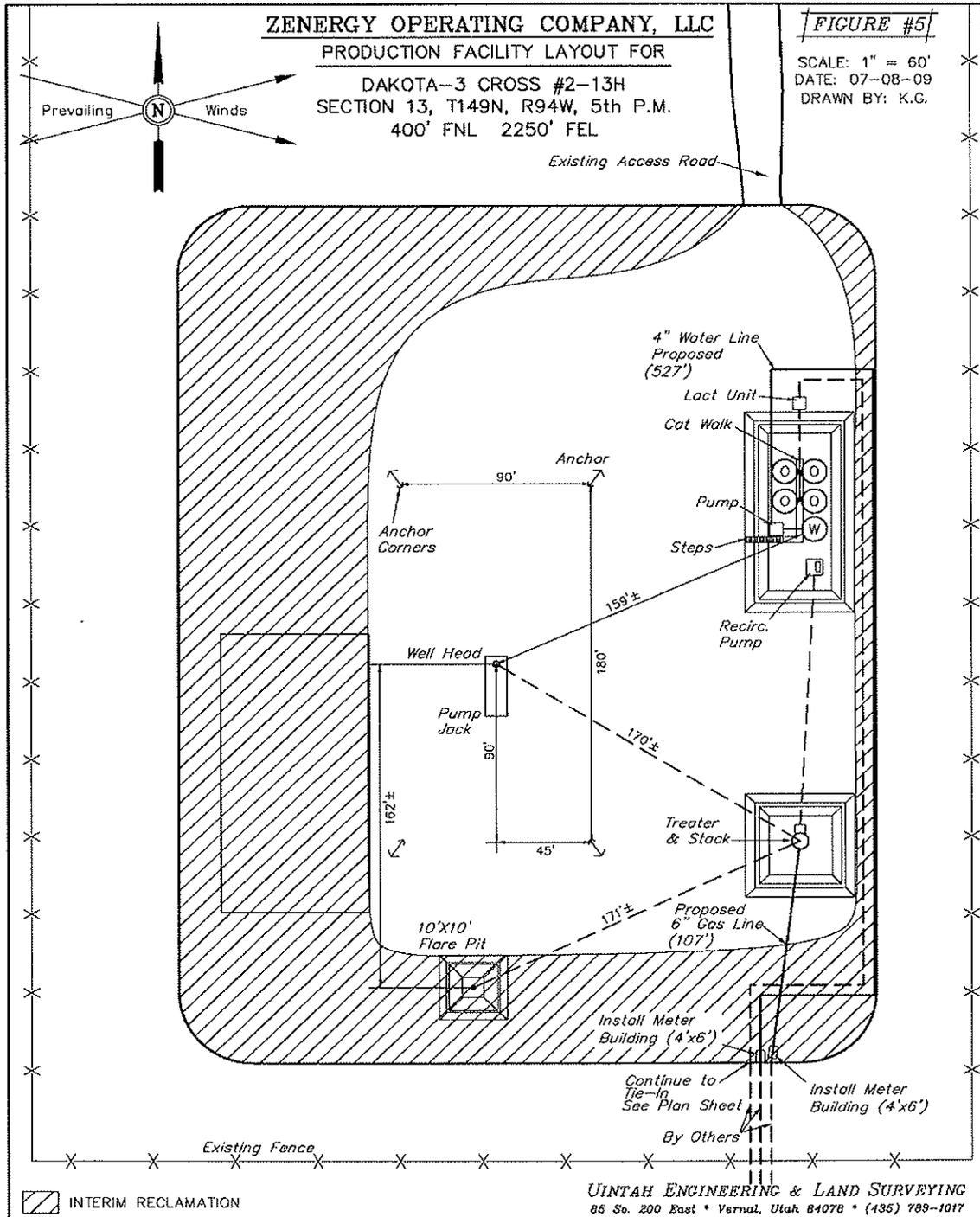
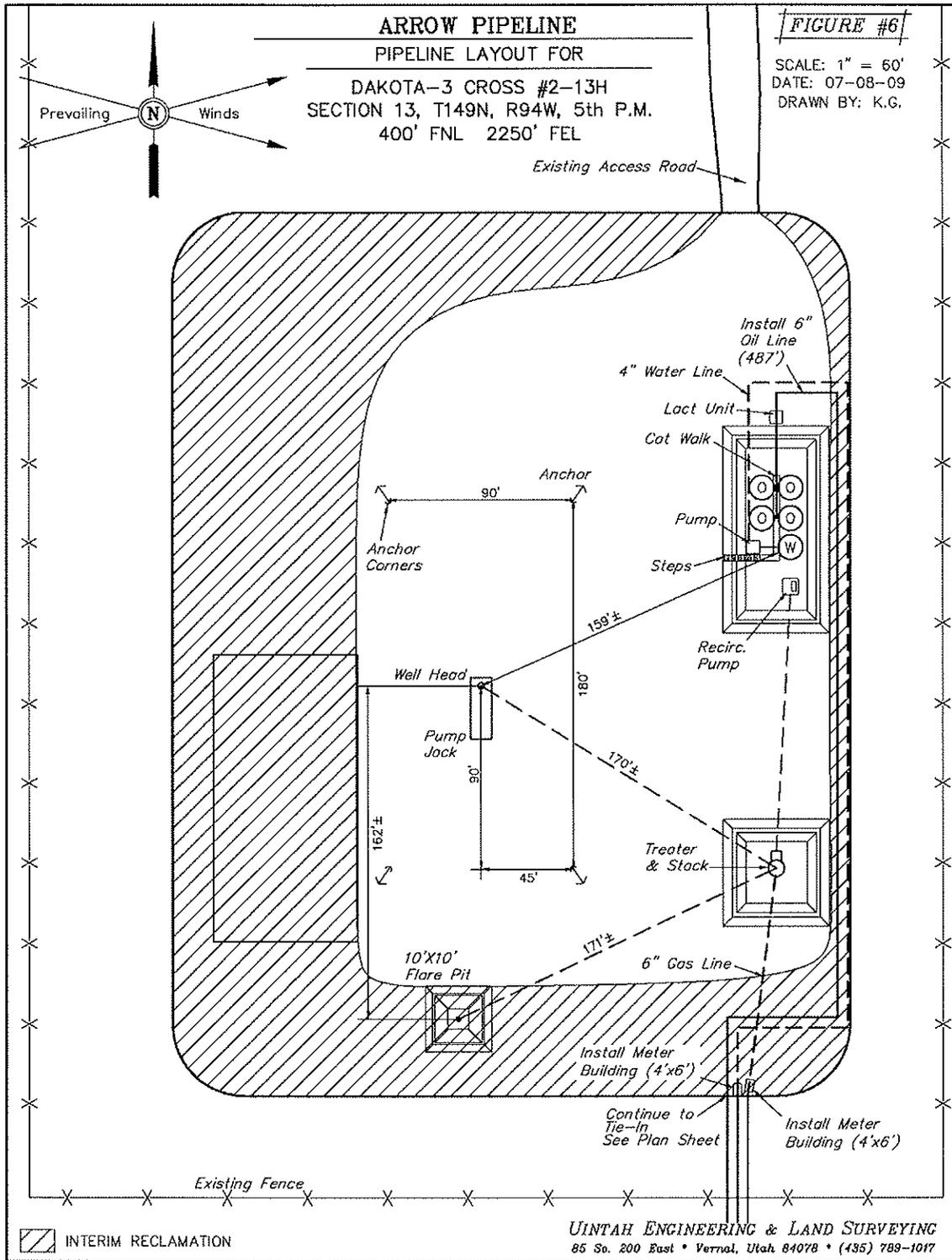


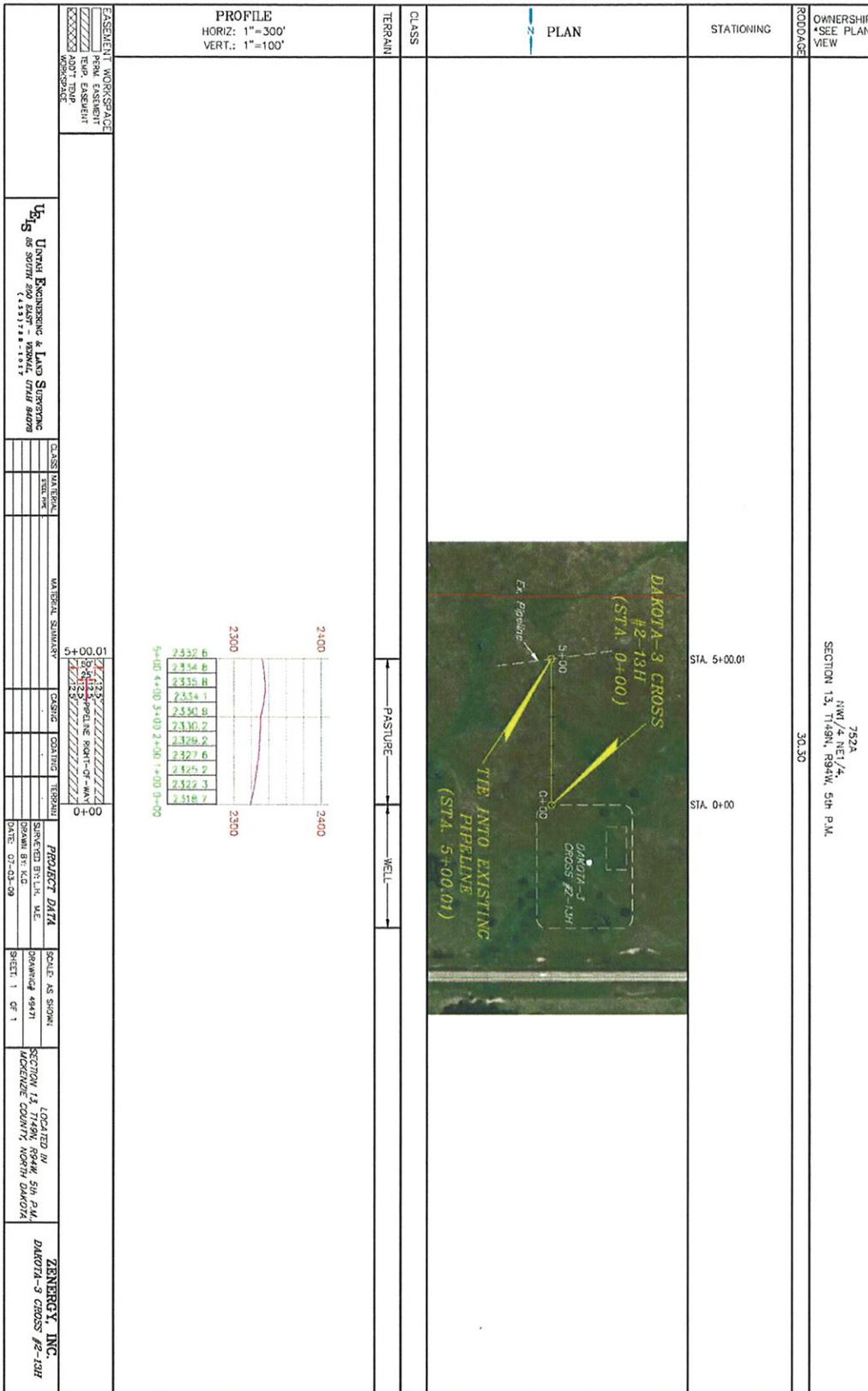
Figure 1. Map of Dakota-3 Cross #2-13H.

APPENDIX A PIPELINE LAYOUT AND PIPELINE RIGHT-OF-WAY FOR DAKOTA-3 CROSS #2-13H





Environmental Assessment Addendum: Zenergy Exploratory Oil Wells - Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, and Dakota-3 Ethan Hall #2-14H September 2009.



NOTICE OF AVAILABILITY

THE BUREAU OF INDIAN AFFAIRS (BIA) AND THE THREE AFFILIATED TRIBES HAVE ISSUED AN ADDENDUM TO THE *Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, and Dakota-3 Ethan Hall #2-14H Environmental Assessment* ON THE FORT BERTHOLD RESERVATION. CONSTRUCTION IS SCHEDULED TO BEGIN IN THE FALL OF 2009.

BASED ON THE ENVIRONMENTAL ASSESSMENT (EA), IT HAS BEEN DETERMINED THAT THE ACTION WILL NOT RESULT IN SIGNIFICANT IMPACTS TO THE QUALITY OF THE HUMAN ENVIRONMENT; THEREFORE, AN ENVIRONMENTAL IMPACT STATEMENT IS NOT REQUIRED.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND EA, CONTACT HOWARD BEMER, SUPERINTENDENT AT THE FORT BERTHOLD AGENCY AT 701-627-4707.

THE FONSI IS A FINDING ON ENVIRONMENTAL EFFECTS, NOT A DECISION TO PROCEED WITH AN ACTION, THEREFORE CANNOT BE APPEALED.