



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 23 2009

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 to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Birdsbill #14-16H, Dakota-3 Clara #14-17H, and Dakota-3 Clark Fox #16-17H to Arrow Trunk Pipeline by Zenergy 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)

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



Zenergy Operating Company, LLC

**Addendum
to**

**Addendum to Environmental Assessment to Authorize Land Use for
Gathering Pipelines Connecting Dakota-3 Birdsbill #14-16H,
Dakota-3 Clara #14-17H, and Dakota-3 Clark Fox #16-17H to
Arrow Trunk Pipeline**

Fort Berthold Indian Reservation

November 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 Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Birdsbill #14-16H, Dakota-3 Clara #14-17H, and Dakota-3 Clark Fox #16-17H to Arrow Trunk Pipeline

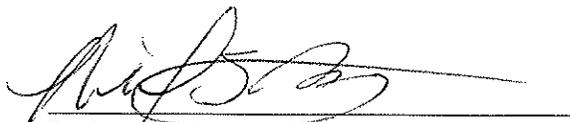
Fort Berthold Indian Reservation Dunn County North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize land use for a gathering pipeline connecting three exploratory oil/gas wells and related infrastructure to the Arrow Trunk Pipeline on the Fort Berthold Indian Reservation, to be located in Section 16, Township 149 North, Range 93 West and Section 17, Township 149 North, Range 93 West, 5th P.M. Associated federal actions by BIA include a determination of effect regarding cultural resources, and approvals of leases, rights-of-way and easements.

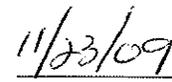
The potential of the proposed action to impact the human environment is analyzed in the attached addendum to an existing Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project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

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 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.
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 project will improve the socio-economic condition of the affected Indian community.



Regional Director



Date

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1. Purpose and Need for the Proposed Action

Zenergy is proposing the construction and installation of buried gathering pipelines 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 Dunn 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 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: one 4-inch-diameter water line and one each 6-inch-diameter oil line and gas line to transport produced water, oil, and gas 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 Birdsbill #14-16H gathering lines would be located on federal land off of the northeast side of the well pad. The well pad is located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, Township (T) 149 North (N), Range (R) 93 West (W) (Figure 1).

Dakota-3 Clara #14-17H gathering lines would be located on federal land off of the southwest side of the well pad. The well pad is located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 17, T149N, R93W (Figure 1).

Dakota-3 Clark Fox #16-17H gathering lines would be located on federal land off of the southwest side of the well pad. The well pad is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 17, T149N, R93W (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 each well into the existing Arrow Trunk Pipeline. The Clara #14-17H and Clark Fox #16-17H gathering lines would tie into the Birdsbill #14-16H gathering lines which would tie into the Arrow Trunk Pipeline. Oil, gas, and water pipelines would be buried in two 2.5 foot wide trenches located 5 feet apart. Oil and gas pipelines would be 6 inches in diameter and constructed of steel. Water pipelines would be 4 inches in diameter and constructed of Fiberspar[®].

Approximately 812 feet of oil, gas, and water line would be needed to connect the Clara #14-17H well pad, and 620 feet of lines to connect the Clark Fox #16-17H well pad, to the Birdsbill #14-16H gathering lines, respectively (Appendix A). Approximately 7,147 feet of oil, gas, and water line would be needed to connect the Birdsbill #14-16H well pad to the Arrow Trunk Pipeline (Appendix A).

All construction disturbances would occur within the 50-foot rights-of-way centered on the gathering lines (Figure 1) between the well pads and the Birdsbill #14-16H gathering lines or Arrow Trunk Pipeline. The rights-of-way have been previously surveyed for impacts to natural and cultural resources with no significant findings. The construction disturbances associated with the 50-foot rights-of-way account for 0.93, 0.71, and 8.20 acres, respectively, for the Clara #14-17H, Clark Fox #16-17H, and Birdsbill #14-16H gathering lines. There will be no

permanent disturbances associated with the pipelines; all disturbances within the pipeline rights-of-way will be reclaimed.

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

Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Mandan #3-13H, Dakota-3 Brugh #15-32H, Dakota-3 TAT (694A) #3-11H, Dakota-3 Clara #14-17H. July 2009. Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Birdsbill #14-16H, Dakota-3 Clark Fox #16-17H, Dakota-3 Birdsbill (894A) #4-35H, Dakota-3 Wolf #3-27H. September 2009.

6. Other Relevant Documentation:

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

7. NEPA Adequacy Criteria

This document has identified previously prepared NEPA documents, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Mandan #3-13H, Dakota-3 Brugh #15-32H, Dakota-3 TAT (694A) #3-11H, Dakota-3 Clara #14-17H (July 2009)* and *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Birdsbill #14-16H, Dakota-3 Clark Fox #16-17H, Dakota-3 Birdsbill (894A) #4-35H, Dakota-3 Wolf #3-27H (September 2009)*, which adequately describe the environmental consequences of the newly proposed action described herein, and meet the following NEPA Adequacy Criteria.

1. The proposed action is substantially the same action and at the sites 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 consider and analyze current environmental concerns, interests, and resource values.
3. The existing analyses and conclusions are adequate in the existing NEPA documents. The analyses are still valid in light of new studies or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA documents continue 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.

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 19.7 acres were inventoried on September 18, 2009 (Delmas 2009). No historic properties were located within these project areas 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 these undertakings. This determination was communicated to the THPO on October 20, 2009.

Delmas, Michelle

(2009) Class I and Class III Cultural Resource Inventory of the Gathering Pipelines Connecting Birdsbill #14-16H, Clara #14-17H, and Clark Fox #16-17H to Arrow Trunk Pipeline, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.



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

OCT 20 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 an oil gathering pipeline in Dunn County, North Dakota. Approximately 19.7 acres 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 which 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 (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. Catalogued as **BIA Case Number AAO-1705/FB/10**, the proposed undertaking, location, and project dimensions are described in the following report:

Delmas, Michelle
(2009) Class I and Class III Cultural Resource Inventory of the Gathering Pipelines Connecting Birdsbill #14-16H, Clara #14-17H, and Clark Fox #16-17H to Arrow Trunk Pipeline, Dunn County, North Dakota. 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

Enclosure

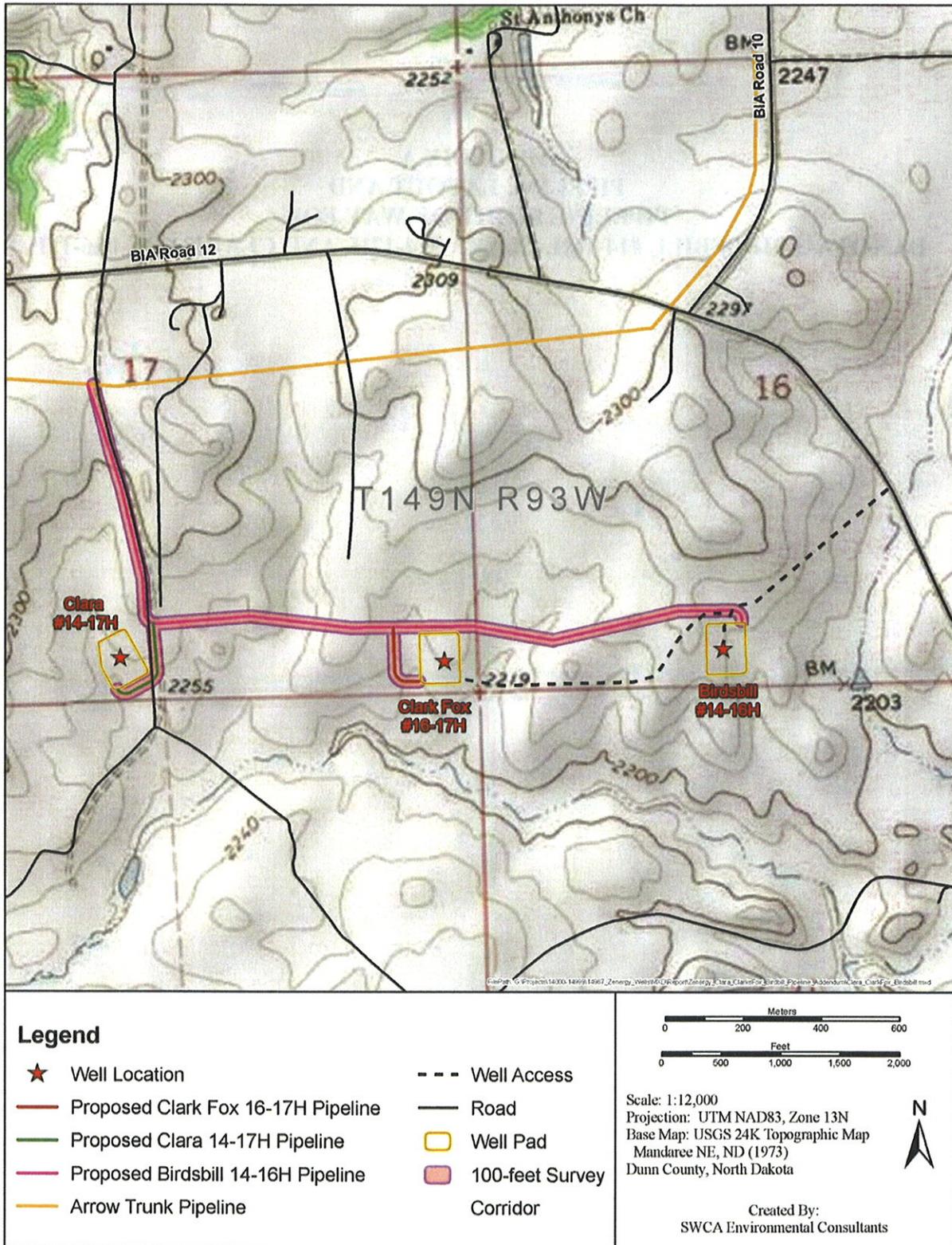


Figure 1. Map of Dakota-3 Birdsbill #14-16H, Clara #14-17H, and Clark Fox #16-17H.

**APPENDIX A
PIPELINE LAYOUT AND
PIPELINE RIGHT-OF-WAY FOR
DAKOTA-3 BIRDSBILL #14-16H, CLARA #14-17H, AND CLARK FOX #16-17H**

Notice of Availability and Appeal Rights

Zenergy: Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Birdsbill #14-16H, Dakota-3 Clara #14-17H, and Dakota-3 Clark Fox #16-17H to Arrow Trunk Pipeline

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum for the Pipelines as shown on the attached map. Construction by Zenergy is expected to begin in 2009.

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 23, 2009, 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

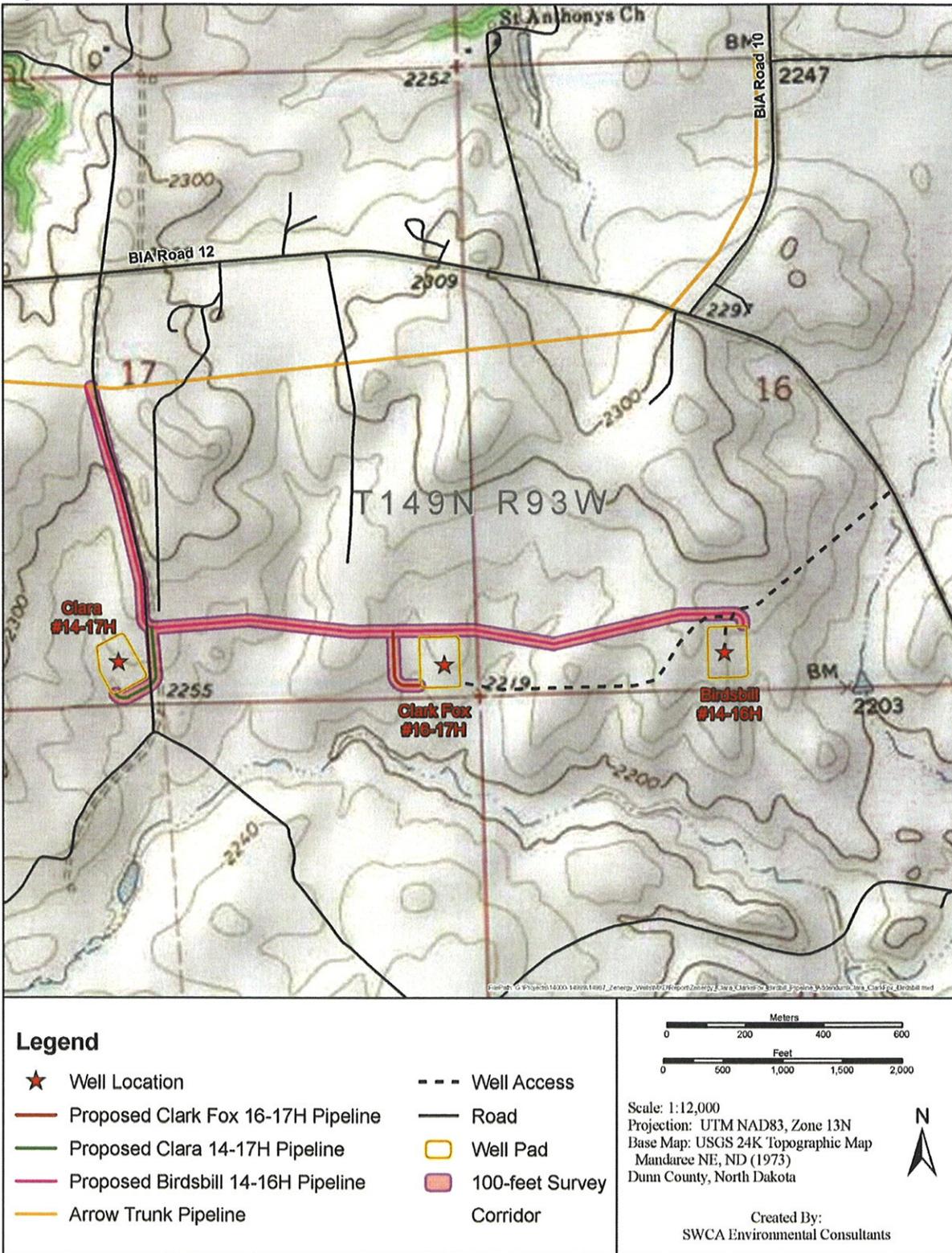


Figure 1. Map of Dakota-3 Birdsbill #14-16H, Clara #14-17H, and Clark Fox #16-17H.