



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

EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Date: 11/27/2009

Project: Supplemental to Environmental Assessment D-3 Brady #4-12H, D-3 Brunsell #16-9, D-3 FBIR #3-13H D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H and D-3 Wolf #4-18H, October 2009, to authorize new bottom hole location and 1,280-acre spacing unit for Dakota-3 Mason #2-11H formerly D-3 Mason #3-2H.

Nature of Proposed Action: The purpose of the proposed action is to authorize Zenergy to drill a new bottom hole location which will increase the well spacing from 640 to 1,280 acres for the Mason #2-11H well. No new surface disturbances will be associated with the spacing change.

Exclusion category and number: 516 DM 10.5G(3)

Evaluation of Exceptions to use of Categorical Exclusion:

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

Regional Archeologist Concurrence with Item 7 Conson M. Munday

Concur: Marilyn Bercier Date: 11/27/09
Regional Office/Agency Environmental Coordinator

Concur: [Signature] Date: 12/1/09
Regional Director/Superintendent

Notification for the Documentation of NEPA Adequacy (DNA)

Supplemental to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mason #2-11H (formerly D-3 Mason #3-2H)

U.S. Bureau of Indian Affairs (BIA) Office: Great Plains Regional Office, Division of Environment, Safety, and Cultural Resource Management

Applicant: Zenergy Operating Company, LLC (Zenergy)

Project Name: D-3 Mason #2-11H

Purpose and Need of 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 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 Zenergy to drill a new bottom hole location which will increase the well spacing from 640 to 1,280 acres for the Mason #2-11H.

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.).

Legal Land Descriptions of Proposed Action: Dakota-3 Mason #2-11H, formerly Dakota-3 Mason #3-2H, well pad is located approximately 11.7 miles south of the New Town, in the NE¼ NW¼ of Section 2, Township 150 North, Range 92 West, Mountrail County (Figure 1). The surface location will be 275 feet FNL and 1881 feet FWL of Section 2. The bottom hole will be located 550 feet FSL and 2,640 feet FEL of Section 11, Township 150 North, Range 92 West, Mountrail County (Figure 1).

Scope of Work for Proposed Action: Zenergy proposes to change the well pad spacing from the original 640 acres of the Mason #3-2H to 1,280 acres and change the name to the Mason #2-11H. The new bottom hole location will be approximately 9,744 feet south and 765 feet east of the well. The spacing change will not change proposed surface disturbance of the previously approved Dakota-3 Mason #3-2H.

Applicable National Environmental Policy Act (NEPA) Document(s): *Environmental Assessment: Zenergy Operating Company, LLC, D-3 Brady #4-12H, D-3 Brunsell #16-9H, D-3 FBIR #3-13H, D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H, and D-3 Wolf #4-18H.* October, 2009.

Other Relevant Documentation: *Field Report: Zenergy Operating Company, LLC, D-3 Brady #4-12H, D-3 Brunsell #16-9H, D-3 FBIR #3-13H, D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H, and D-3 Wolf #4-18H.* Drafted by McCain and Associates, Inc. submitted to BIA on behalf of Zenergy Operating Company, LLC. August, 2009.

NEPA Adequacy Criteria: This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, D-3 Brady #4-12H, D-3 Brunsell #16-9H, D-3 FBIR #3-13H, D-3 Mason #3-2H, D-3 North Segment #4-6H, D-3 Olson #4-1H, and D-3 Wolf #4-18H* (October, 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.

Figure 1. Dakota-3 Mason #2-11H Location.

