



# 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

**MAR 04 2010**

## 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 Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location 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)  
John Shelman, US Army Corps of Engineers

## **Finding of No Significant Impact**

### **Zenergy Operating Company, LLC (Zenergy)**

#### **Addendum to Environmental Assessment to Authorize Land Use for Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location**

#### **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 by Zenergy for the construction and installation associated with the expansion of the Dakota-3 Mandaree #24-13H well pad into a dual pad format (i.e., two surface locations working from one enlarged well pad). This action would constitute a name change of the current Dakota-3 Mandaree #24-13H well pad to Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H located in Section 30, Township 150 North, Range 93West, Dunn County, North Dakota. 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

3/4/10  
\_\_\_\_\_  
Date

**ENVIRONMENTAL ASSESSMENT  
Addendum**

**United States Bureau of Indian Affairs**

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



**Zenergy Operating Company, LLC**

**Addendum to Environmental Assessment to Authorize Land Use for  
Expansion of Dakota-3 Mandaree #24-13H Well Pad to  
Accommodate an Additional Surface Location**

**Fort Berthold Indian Reservation**

**March 2010**

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

# **Notice of Availability and Appeal Rights**

Zenergy: Addendum to Environmental Assessment to Authorize Land Use for Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location.

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to the Addendum to Environmental Assessment to Authorize Land Use for Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location as shown on the attached map. Construction by Zenergy is expected to begin in the Spring of 2010.**

**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).**

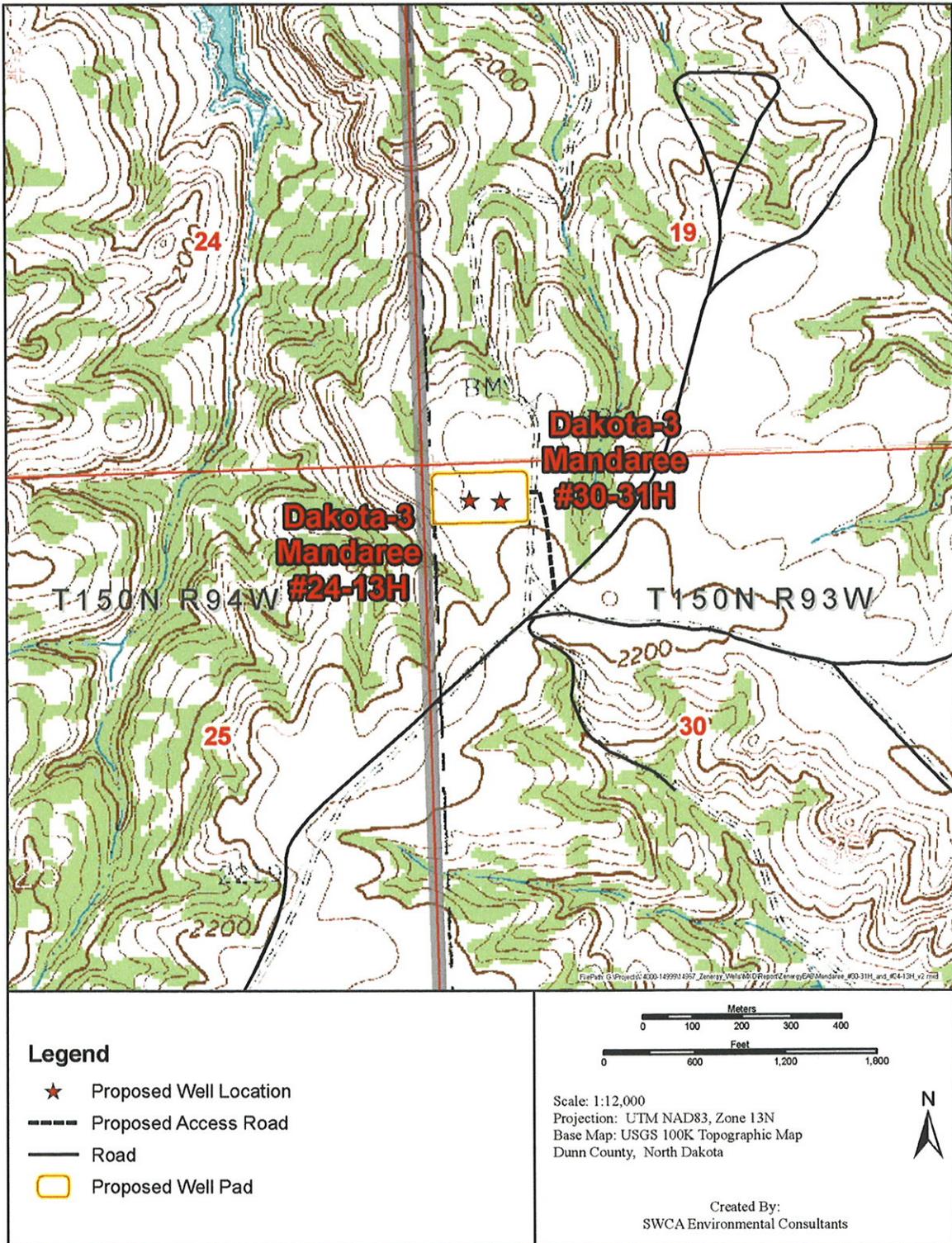
**The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA’s decision to proceed with administrative actions *can* be appealed until April 4, 2010, by contacting:**

**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. Proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad.



**ENVIRONMENTAL ASSESSMENT  
Addendum**

**United States Bureau of Indian Affairs**

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



**Zenergy Operating Company, LLC**

**Addendum to Environmental Assessment to Authorize Land Use for  
Expansion of Dakota-3 Mandaree #24-13H Well Pad to  
Accommodate an Additional Surface Location**

**Fort Berthold Indian Reservation**

**March 2010**

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

## TABLE OF CONTENTS

1.	Purpose and Need for the Proposed Action .....	1
2.	Authorities .....	1
3.	Legal Land Description of Proposed Action .....	1
4.	Scope of Work of Proposed Action .....	1
5.	Applicable National Environmental Policy Act (NEPA) Document(s) .....	1
6.	NEPA Adequacy Criteria .....	1
7.	Cultural Resources .....	2-3

### **Figure**

1	Map of Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H.....	4
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### **Appendix**

A	Facility Layout and Piping Layout.....	5-7
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## **1. Purpose and Need for the Proposed Action**

Zenergy is proposing to drill exploratory oil and gas wells 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 land use by Zenergy for the construction and installation associated with the expansion of the Dakota-3 Mandaree #24-13H well pad into a dual pad format (i.e., two surface locations working from one enlarged well pad). This action would constitute a name change of the current Dakota-3 Mandaree #24-13H well pad to Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H.

## **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**

The Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad would be located in NW1/4 NW1/4 of Section 30, Township 150 North (N), Range 93 West (W), Dunn County, North Dakota. (Figure 1).

## **4. Scope of Work for Proposed Action**

Zenergy proposes to increase the size of the Dakota-3 Mandaree #24-13H well pad to a size which would accommodate an additional oil well (i.e., Dakota-3 Mandaree #30-31H). Construction of the proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual pad will disturb approximately 7.535 acres of surface area. This amount represents approximately 3.8 acres of new surface disturbance relative to the original 3.7 acres proposed for the Dakota-3 Mandaree #24-13H well pad. The Dakota-3 Mandaree #30-31H oil well will utilize a 1,280-acre spacing unit with the bottom hole located approximately 9,748 feet south and 1,466 feet east of the surface location in the SE1/4 SE1/4 of Section 31, Township 150N, Range 93W, Dunn County, North Dakota. Technical drilling specifications will be similar to those of Dakota-3 Mandaree #24-13H, which is covered in a previous Environmental Assessment (see Applicable National Environmental Policy Act Documents below).

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

*Environmental Assessment: Zenergy Operating Company, LLC, Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, Dakota-3 Patricia Charging #4-15H (August 2009) & Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mandaree #24-13.*

## **6. NEPA Adequacy Criteria**

This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, Dakota-3 Patricia Charging #4-15H (August 2009) & Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mandaree #24-13*, 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 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 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.

## **7. Cultural Resources**

A cultural resource inventory for this well pad expansion was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 6.36 acres were inventoried on October 2, 2009 (Markman 2010). 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 January 26, 2010; however, no response was received from the THPO within the allotted 30 day comment period.

Markman, Jon M.

(2010) Addendum to the Class III Cultural Resource Inventory of the Mandaree 16-24H Well Pad and Access Road on the Fort Bethold Indian Reservation, Dunn County, North Dakota, to Authorize Land Use for Well Pad Expansion and Access Road Changes to Create the Mandaree 30-31H and Mandaree 24-13H Dual Well Pad. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.



## United States Department of the Interior

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Great Plains Regional Office  
115 Fourth Avenue S.E.  
Aberdeen, South Dakota 57401



IN REPLY REFER TO:  
DESCRM  
MC-208

JAN 26 2010

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 well pad expansion and access road reroute in Dunn County, North Dakota. Approximately 6.36 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 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 (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-1602/FB/09**, the proposed undertaking, location, and project dimensions are described in the following report:

Markman, Jon M.  
(2010) Addendum to the Class III Cultural Resource Inventory of the Mandaree 16-24H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota, to Authorize Land Use for Well Pad Expansion and Access Road Changes to Create the Mandaree 30-31H and Mandaree 24-13H Dual Well Pad. 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

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

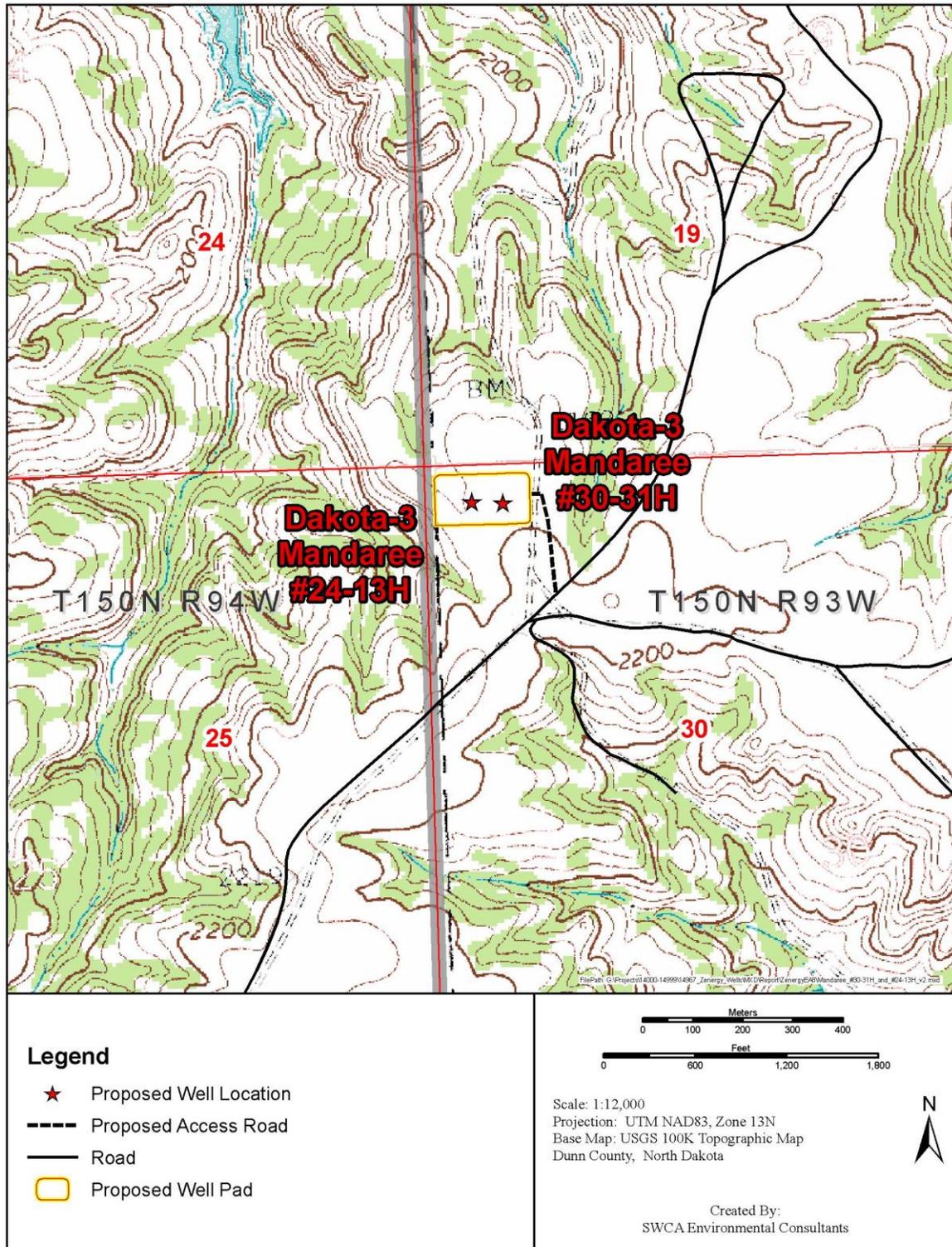


Figure 1. Proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad.

**APPENDIX A**

**WELL PAD LAYOUT AND ADDITIONAL PLATS FOR  
DAKOTA-3 MANDAREE #24-13H/ DAKOTA-3 MANDAREE #30-31H**



## **Notification for the Documentation of NEPA Adequacy (DNA)**

### **Addendum to Environmental Assessment to Authorize Land Use for Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location.**

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**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:** Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H Dual Well Pad

**Purpose and Need of Action:** Zenergy is proposing to drill exploratory oil and gas wells 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.

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**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:** The Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad would be located in NW1/4 NW1/4 of Section 30, Township 150 North (N), Range 93 West (W), Dunn County, North Dakota.

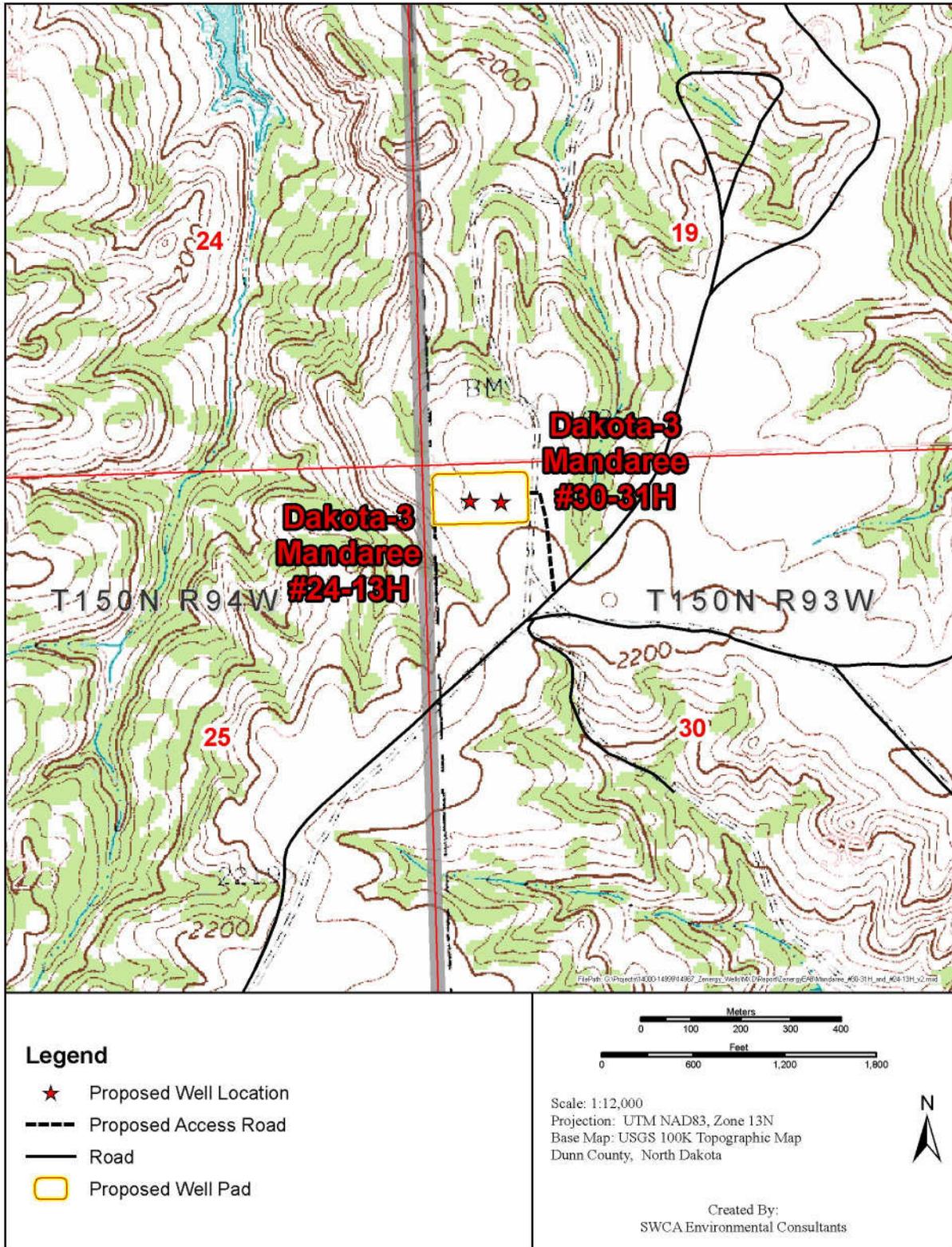
**Scope of Work for Proposed Action:** Zenergy proposes to increase the size of the Dakota-3 Mandaree #24-13H well pad to a size which would accommodate an additional oil well (i.e., Dakota-3 Mandaree #30-31H). Construction of the proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual pad will disturb approximately 7.535 acres of surface area. This amount represents approximately 3.8 acres of new surface disturbance relative to the original 3.7 acres proposed for the Dakota-3 Mandaree #24-13H well pad. The Dakota-3 Mandaree #30-31H oil well will utilize a 1,280-acre spacing unit with the bottom hole located approximately 9,748 feet south and 1,466 feet east of the surface location in the SE1/4 SE1/4

of Section 31, Township 150N, Range 93W, Dunn County, North Dakota. Technical drilling specifications will be similar to those of Dakota-3 Mandaree #24-13H, which is covered in a previous Environmental Assessment (see Applicable National Environmental Policy Act Documents below).

**Applicable National Environmental Policy Act (NEPA) Document(s):** *Environmental Assessment: Zenergy Operating Company, LLC, Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, Dakota-3 Patricia Charging #4-15H (August 2009) & Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mandaree #24-13.*

**NEPA Adequacy Criteria:** This document has identified previously prepared NEPA documents, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, Dakota-3 Patricia Charging #4-15H (August 2009) & Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Mandaree #24-13*, which adequately describe 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 documents.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA documents, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA documents. 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 documents 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 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.



**Figure 1. Proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad.**



**APPENDIX A**

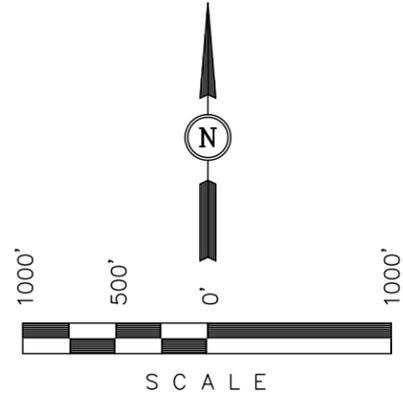
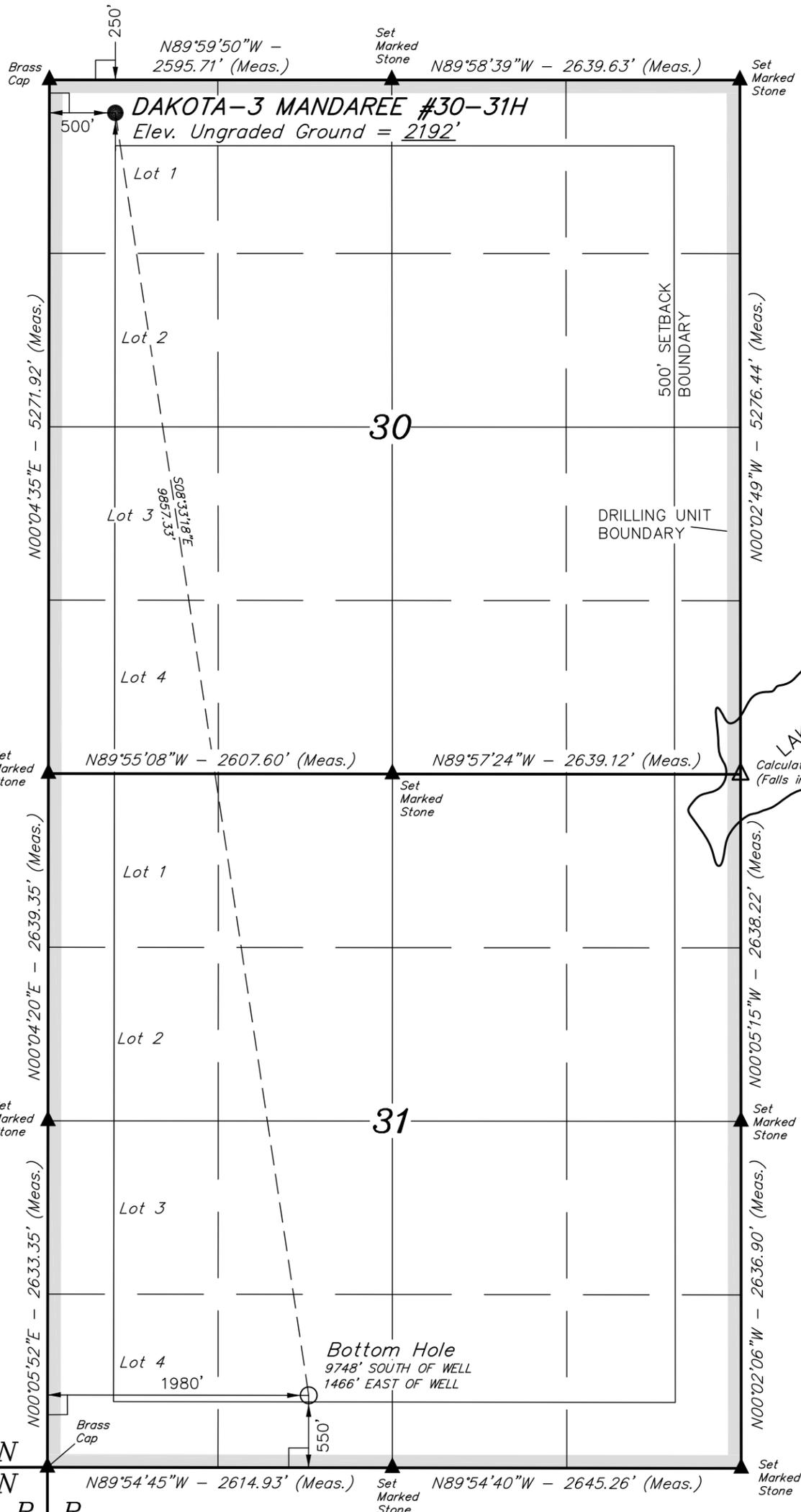
**WELL PAD LAYOUT AND ADDITIONAL PLATS FOR  
DAKOTA-3 MANDAREE #24-13H/ DAKOTA-3 MANDAREE #30-31H**

ZENERGY OPERATING COMPANY, LLC

WELL LOCATION PLAT  
T150N, R93W, 5th P.M.

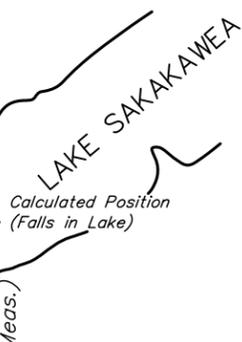
Well location, DAKOTA-3 MANDAREE #30-31H, located as shown in LOT 1 of Section 30, T150N, R93W, 5th P.M., Dunn County, North Dakota.

VERTICAL CONTROL DATUM: NAVD88



SURFACE LOCATION

(NAD 83)  
 LATITUDE = 47°47'20.59" (47.7899053)  
 LONGITUDE = 102°38'26.43" (102.640675)  
 (NAD 27)  
 LATITUDE = 47°47'20.54" (47.789039)  
 LONGITUDE = 102°38'24.75" (102.640208)  
 [derived from: N.G.S. O.P.U.S. Solution REF FRAME:  
 NAD\_83(CORS96)(EPOCH: 2002.0000)]



LEGEND:

- └─┘ = 90° SYMBOL
- = PROPOSED WELL HEAD.
- ▲ = SECTION CORNERS LOCATED.
- △ = SECTION CORNERS RE-ESTABLISHED. (Not Set on Ground)

T150N  
T149N  
R R  
94 93  
W W

CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS WORK PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



*Troy Jensen*  
 REGISTERED LAND SURVEYOR  
 REGISTRATION NO. 4654  
 STATE OF NORTH DAKOTA

<b>UINTAH ENGINEERING &amp; LAND SURVEYING</b> 85 SOUTH 200 EAST - VERNAL, UTAH 84078 (435) 789-1017		
SCALE 1" = 1000'	DATE SURVEYED: 11-13-09	DATE DRAWN: 12-03-09
PARTY T.G. F.H. P.M.	REFERENCES G.L.O. PLAT	
WEATHER COLD	FILE ZENERGY OPERATING COMPANY, LLC	

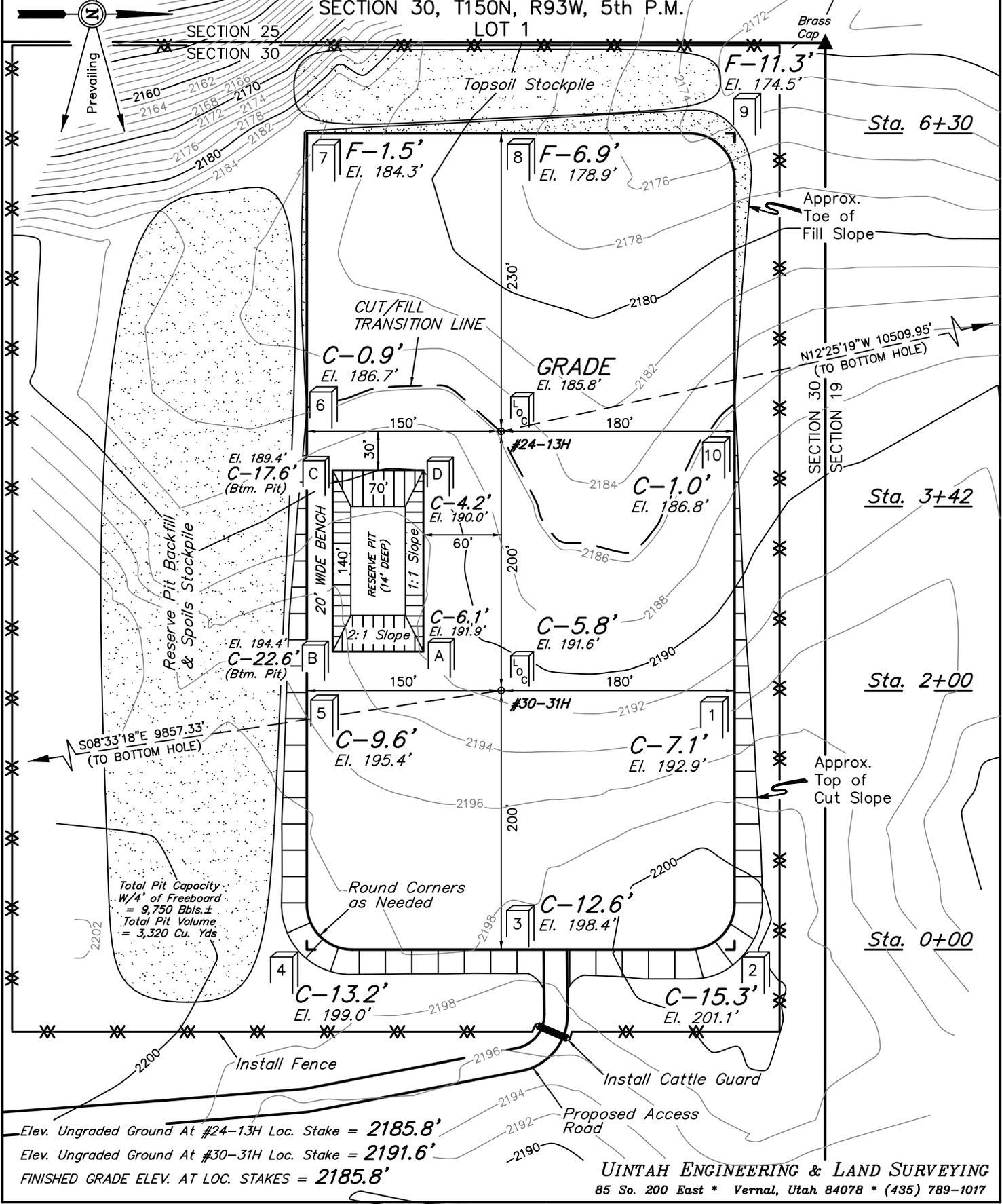
# ZENERGY OPERATING COMPANY, LLC

FIGURE #1

## PAD LAYOUT FOR

DAKOTA-3 MANDAREE #30-31H &  
DAKOTA-3 MANDAREE #24-13H  
SECTION 30, T150N, R93W, 5th P.M.  
LOT 1

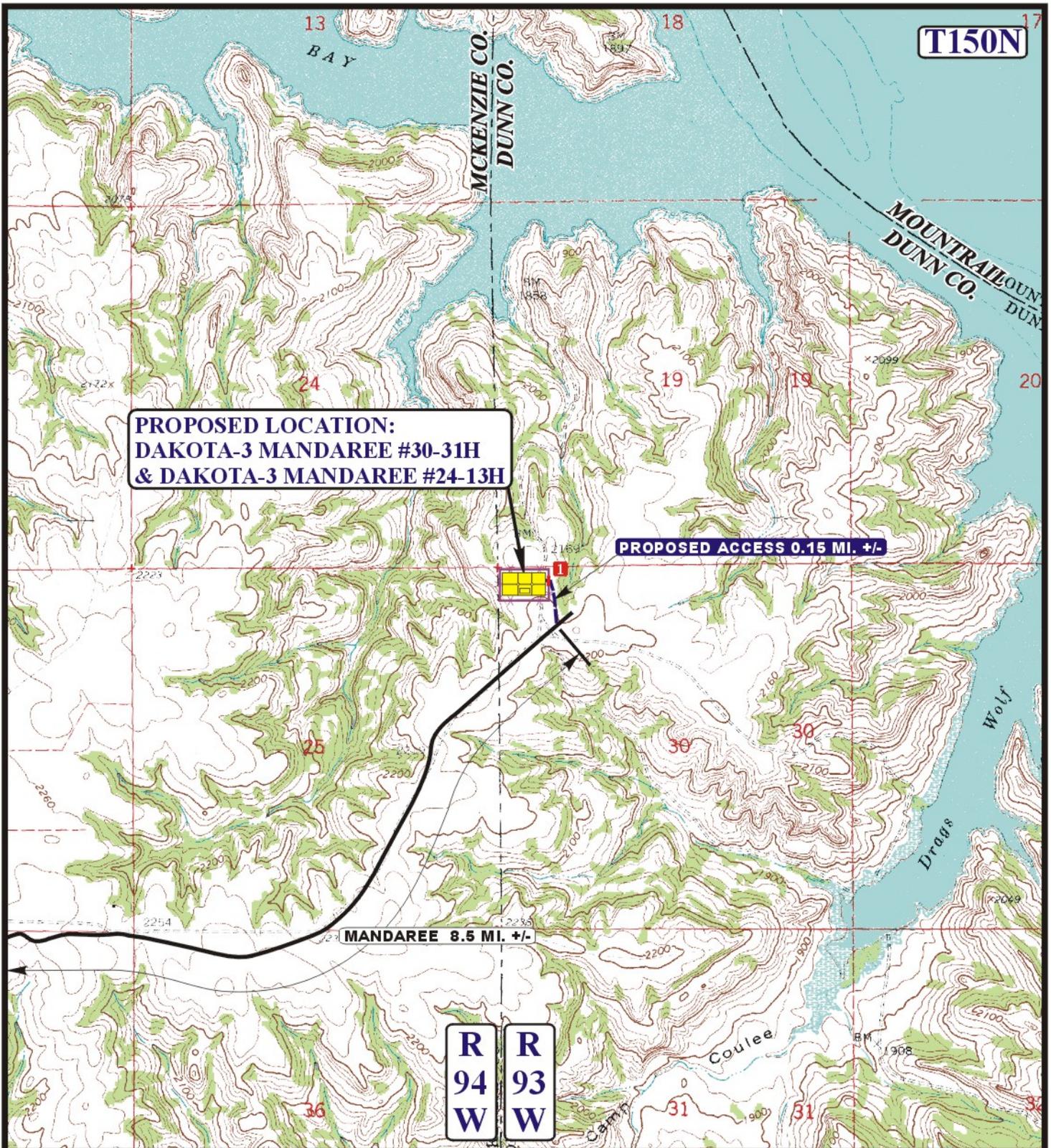
SCALE: 1" = 100'  
DATE: 12-03-09  
DRAWN BY: P.M.



Total Pit Capacity  
W/4' of Freeboard  
= 9,750 Bbls.±  
Total Pit Volume  
= 3,320 Cu. Yds

Elev. Ungraded Ground At #24-13H Loc. Stake = 2185.8'  
Elev. Ungraded Ground At #30-31H Loc. Stake = 2191.6'  
FINISHED GRADE ELEV. AT LOC. STAKES = 2185.8'

UINTAH ENGINEERING & LAND SURVEYING  
85 So. 200 East \* Vernal, Utah 84078 \* (435) 789-1017



**PROPOSED LOCATION:  
DAKOTA-3 MANDAREE #30-31H  
& DAKOTA-3 MANDAREE #24-13H**

**PROPOSED ACCESS 0.15 MI. +/-**

**MANDAREE 8.5 MI. +/-**

**R 94 W**   **R 93 W**

**LEGEND:**

- EXISTING ROAD
- - - PROPOSED ACCESS ROAD
- \* \* \* \* \* EXISTING FENCE
- \* \* \* \* \* EXISTING FENCE
- I INSTALL CATTLE GUARD

**ZENERGY OPERATING COMPANY, LLC**

**DAKOTA-3 MANDAREE #30-31H  
& DAKOTA-3 MANDAREE #24-13H  
SECTION 30, T150N, R93W, 5th P.M.  
LOT 1**

**U E L S**  
**Utah Engineering & Land Surveying**  
 85 South 200 East Vernal, Utah 84078  
 (435) 789-1017 \* FAX (435) 789-1813



**TOPOGRAPHIC MAP**   **12 04 09**  
 MONTH   DAY   YEAR  
 SCALE: 1" = 2000'   DRAWN BY: J.H.   REVISED: 00-00-00

**B**  
**TOPO**