



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

JUN 14 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: ^{Acting} 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 Environmental Assessment Addendum to Authorize Land Use for Road Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Dual Well Pad on the Fort Berthold Reservation, an Environmental Assessment (EA) Addendum 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
Dawn Charging, Virtual One Stop Shop, Fort Berthold Agency

Finding of No Significant Impact

Petro Hunt, LLC

Addendum to Environmental Assessment to Authorize Land Use for Road Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Dual Well Pad

Fort Berthold Indian Reservation Dunn County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an Addendum to Environmental Assessment to Authorize Land Use for Road Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Dual Well Pad. Associated federal actions by BIA include a determination of effect regarding cultural resources, and approvals of leases, rights-of-way and easements.

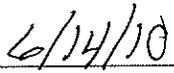
The potential of the proposed action to impact the human environment is analyzed in the attached addendum to an existing Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project 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.

Acting


Regional Director


Date

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



Petro Hunt, LLC

Addendum

to

**Environmental Assessment to Authorize Land Use for Road
Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold
#148-95-27A-34-1H Dual Well Pad**

Fort Berthold Indian Reservation

June 2010

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

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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 Nations and to individual tribal members.

The purpose of the proposed action is to authorize the land use by Petro-Hunt for the construction and installation of an approximately 563-foot long access road. The proposed access road would create an access point for goods and services related to the construction and operation of the Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H oil wells.

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 Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H access road would be located on tribal land off of the northwest corner of the well pad, approximately 8.7 miles southwest of Mandaree, North Dakota. The access road would originate in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township (T) 148 North (N), Range (R) 95 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota and terminate in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, T148N, R95W, 5th P.M., Dunn County, North Dakota (Figure 1).

4. Scope of Work for Proposed Action

Petro-Hunt proposes to construct an access road originating from the eastside of State Highway 22. In total, the access road would disturb approximately 0.85 acres of surface area. The length of the proposed access road would total approximately 563 feet with a maximum width of 66 feet. The access road would be constructed to follow road design standards outlined in the BLM Gold Book. A minimum of 6 inches of topsoil would be removed from the access road corridor. The stockpiled topsoil would then be placed on the outside slopes of the ditches following road construction. The access road would be surfaced with a minimum of 4 inches of aggregate if the site were to be established as a commercial production site.

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

Environmental Assessment: Petro-Hunt, LLC Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H (March 2010)

6. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Petro-Hunt, LLC Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H (March 2010)*, 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.

7. Cultural Resources

A cultural resource inventory was conducted of the proposed access road reroute by personnel of SWCA Environmental Consultants using an intensive pedestrian methodology. This inventory was conducted on March 30, 2010, and covered approximately 3.41 acres (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 May 6, 2010; however, the THPO did not respond within the allotted 30-day comment period.

Markman, Jon M.

(2010) Addendum to the Class I and Class III Cultural Resource Inventory of the Fort Berthold 148-95-22D-15-1H and Fort Berthold 148-95-27A-34-1H Dual Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota, Due to Access Road Changes. SWCA Environmental Consultants for Petro-Hunt, LLC, Bismarck.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E.
Aberdeen, South Dakota 57401



MAY 06 2010

IN REPLY REFER TO:
DESCRM
MC-208

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 access road reroute for a dual oil well pad in Dunn County, North Dakota. Approximately 3.41 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-1744/FB/10**, the proposed undertaking, location, and project dimensions are described in the following report:

Markman, Jon M.

(2010) Addendum to the Class I and Class III Cultural Resource Inventory of the Fort Berthold 148-95-22D-15-1H and Fort Berthold 148-95-27A-34-1H Dual Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota, Due to Access Road Changes. SWCA Environmental Consultants for Petro-Hunt, LLC, Bismarck.

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

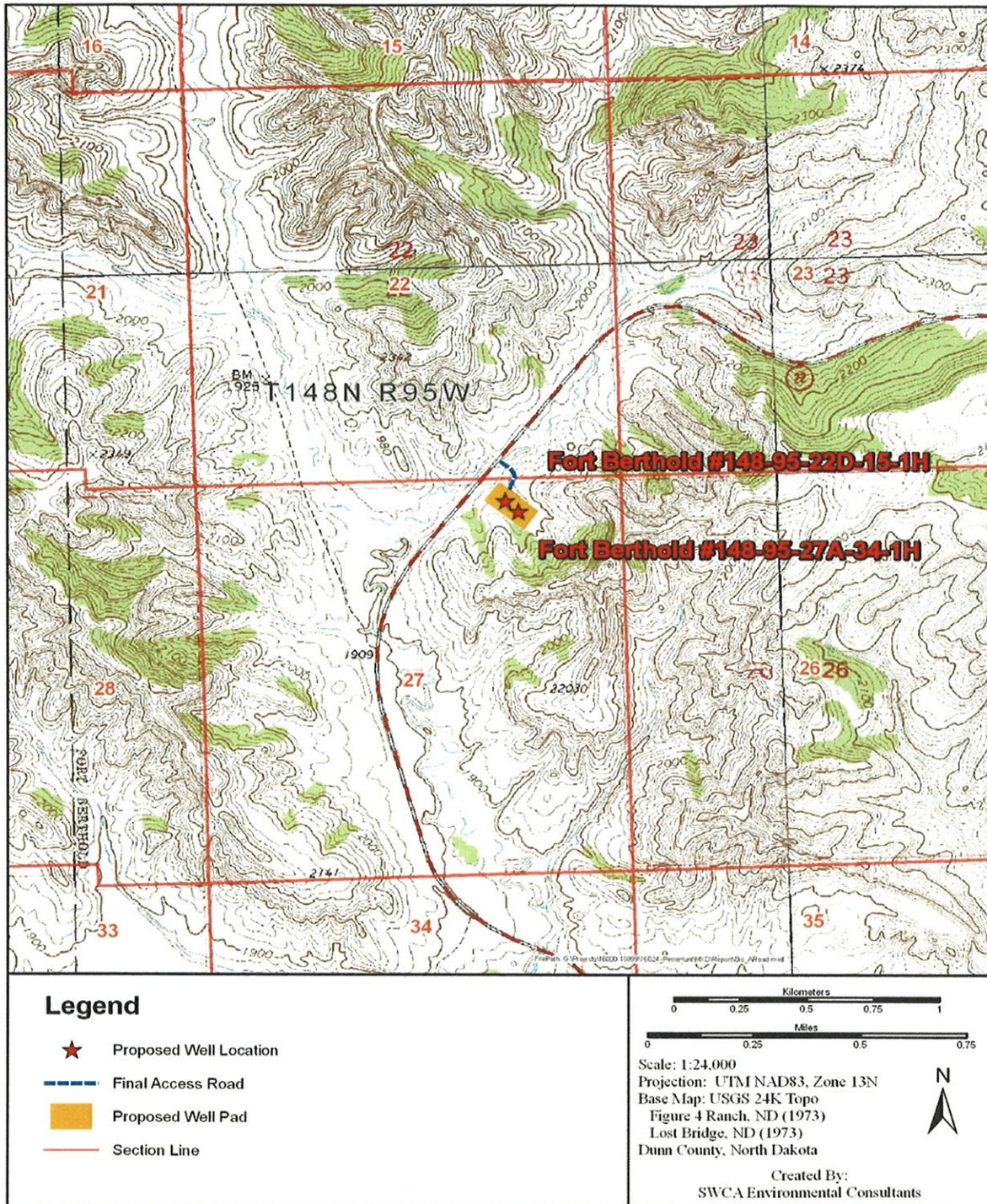


Figure 1. Petro-Hunt, LLC Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Access Road

APPENDIX A

**ACCESS ROAD
RIGHT-OF-WAY PLAT FOR
PETRO-HUNT, LLC FORT BERTHOLD #148-95-22D-15-1H AND FORT BERTHOLD
#148-95-27A-34-1H Dual Well Pad**

Notice of Availability and Appeal Rights

Petro Hunt: Addendum to Environmental Assessment to Authorize Land Use for Road Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Dual Well Pad

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to Environmental Assessment to Authorize Land Use for Road Accessing Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Dual Well Pad as shown on the attached map. Construction by Petro Hunt, LLC is expected to begin in the Summer 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 July 11, 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

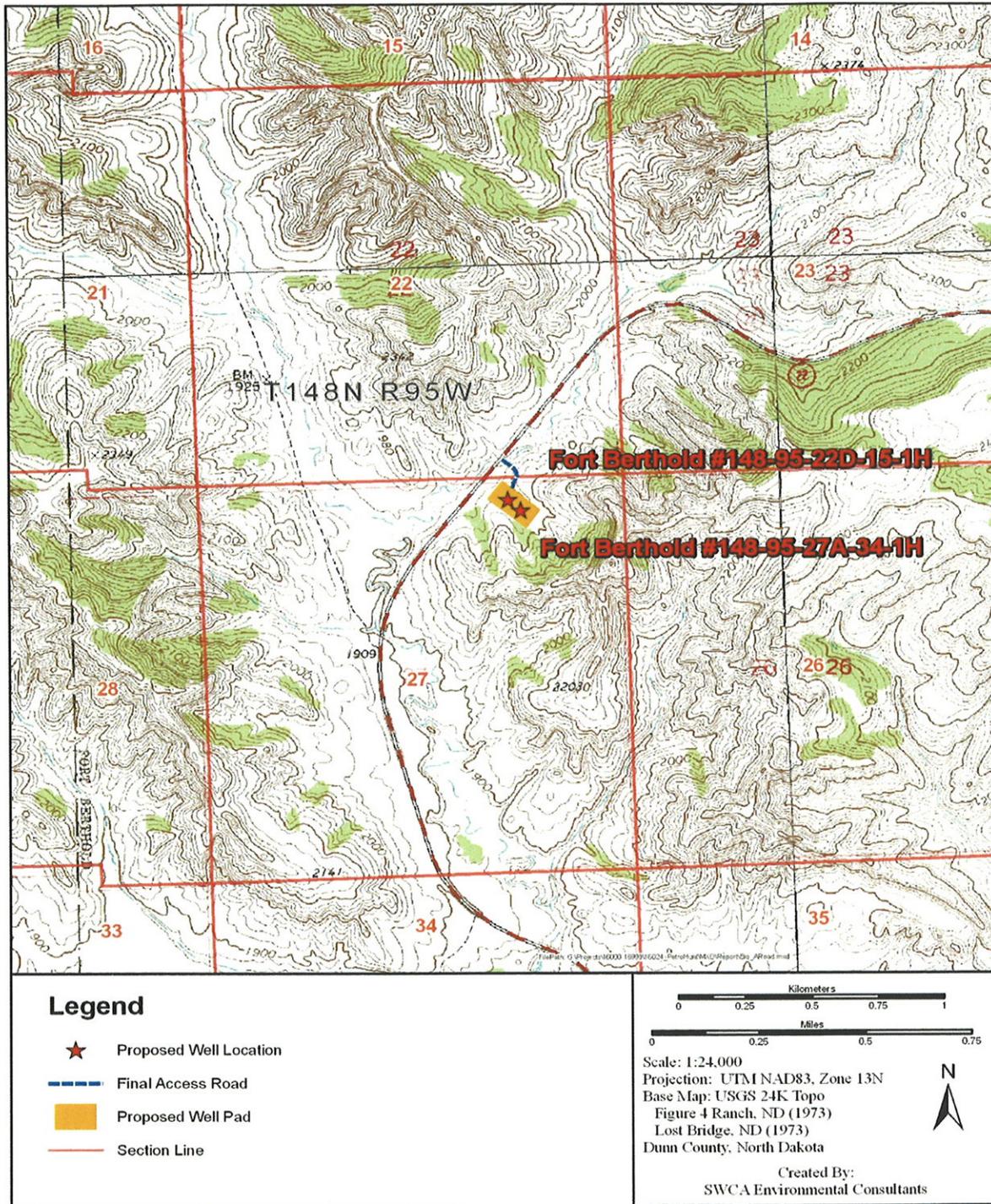


Figure 1. Petro-Hunt, LLC Fort Berthold #148-95-22D-15-1H and Fort Berthold #148-95-27A-34-1H Access Road