



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 24 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 for Gathering Pipelines Connecting Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H to Arrow Phase 1A – Northern Extension Gathering Pipeline by Zenergy Operating Company, LLC 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, Tribal Historic Preservation Officer (with attachment)
Roy Swalling, Bureau of Land Management (with attachment)
Jonathon Shelman, Corps of Engineers (with attachment)

Finding of No Significant Impact

Zenergy Operating Company, LLC

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H to Arrow Phase 1A – Northern Extension Gathering Pipeline

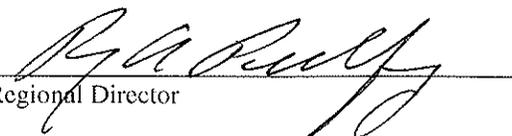
Fort Berthold Indian Reservation Dunn County North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize the land use by Zenergy for the construction and installation of three gathering pipelines: one 4-inch-diameter oil line, one 4-inch-diameter gas line, and one 4-inch-diameter water line. The proposed gathering pipelines would transport oil, gas, and produced water from productive wells to markets and disposal facilities on the Fort Berthold Indian Reservation. 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 Applications 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.


Regional Director

6/24/10
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 Gathering
Pipelines Connecting Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H to
Arrow Phase 1A – Northern Extension Gathering Pipeline**

Fort Berthold Indian Reservation

June 2010

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

TABLE OF CONTENTS

1. Purpose and Need for Proposed Action 1

2. Authorities 1

3. Legal Land Description of Proposed Action 1

4. Scope of Work for Proposed Action 1

5. Applicable National Environmental Policy Act (NEPA) Document(s) 2

6. Other Relevant Documentation 2

7. NEPA Adequacy Criteria 2

Figure

1 Map of Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H gathering
line and associated well pad 4

Appendix

A Facility Layout and Piping Layout 6

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 the land use by Zenergy for the construction and installation of three gathering pipelines: one 4-inch-diameter oil line, one 4-inch-diameter gas line, and one 4-inch-diameter water line. The proposed gathering pipelines would transport oil, gas, and produced water from productive wells to markets and disposal facilities. A buried electrical line may be installed in the future.

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 Description for Proposed Action

The Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H gathering lines would be located on tribal land off of the southwest side of the well pad, approximately 4.3 miles northeast of the Mandaree, North Dakota, in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township (T) 150 North (N), Range (R) 93 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota (Figure 1).

4. Scope of Work for Proposed Action

Zenergy proposes to construct and install oil, gas, and water gathering pipelines on tribal land originating from the southwest side of the Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad and joining the existing Arrow Phase 1A-Northern Extension Pipeline. Oil, gas, and water pipelines would be buried in either two 2.5-foot wide trenches, spaced 5 feet apart or one 5-foot wide 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[®] or similar material. Approximately 754 feet of oil, gas, and water line would be needed to connect the Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad to the Arrow Phase 1A-Northern Extension Pipeline (Appendix A). All construction disturbance would occur within a 100-foot temporary right-of-way and permanent surface disturbance would occur within a 50-foot

right-of-way between the Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H dual well pad and the Arrow Phase 1A-Northern Extension Pipeline, which has been surveyed for impacts to natural and cultural resources with no significant findings. In total, 1.9 acres will be disturbed as a result of activities associated with the construction of the proposed gathering pipeline. Pipeline plats can be located in Appendix A.

5. Applicable National Environmental Policy Act (NEPA) Documents(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 #24-13H (December 2009)

Addendum to Environmental Assessment to Authorize Land Use for Expansion of Dakota-3 Mandaree #24-13H Well Pad to Accommodate an Additional Surface Location (March 2010)

6. Other Relevant Documentation

Environmental Assessment: Arrow Midstream Holdings East Mandaree Oil, Gas, and Water Gathering System (December 2009)

7. NEPA Adequacy Criteria

This document has identified previously prepared NEPA documents, *Environmental Assessment: Zenergy Operating Company, LLC, Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, and Dakota-3 Patricia Charging #4-15H (August 2009)*, 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.

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 12.58 acres were inventoried on April 16, 2009 (Slessman 2009).

Slessman, Scott A.

(2009) A Cultural Resource Inventory of the Dakota-3 Benson (709A) #16-3H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

(2009) A Cultural Resource Inventory of the Dakota-3 Patricia Charging #4-15H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

(2009) A Cultural Resource Inventory of the Dakota-3 Mandaree #16-24H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

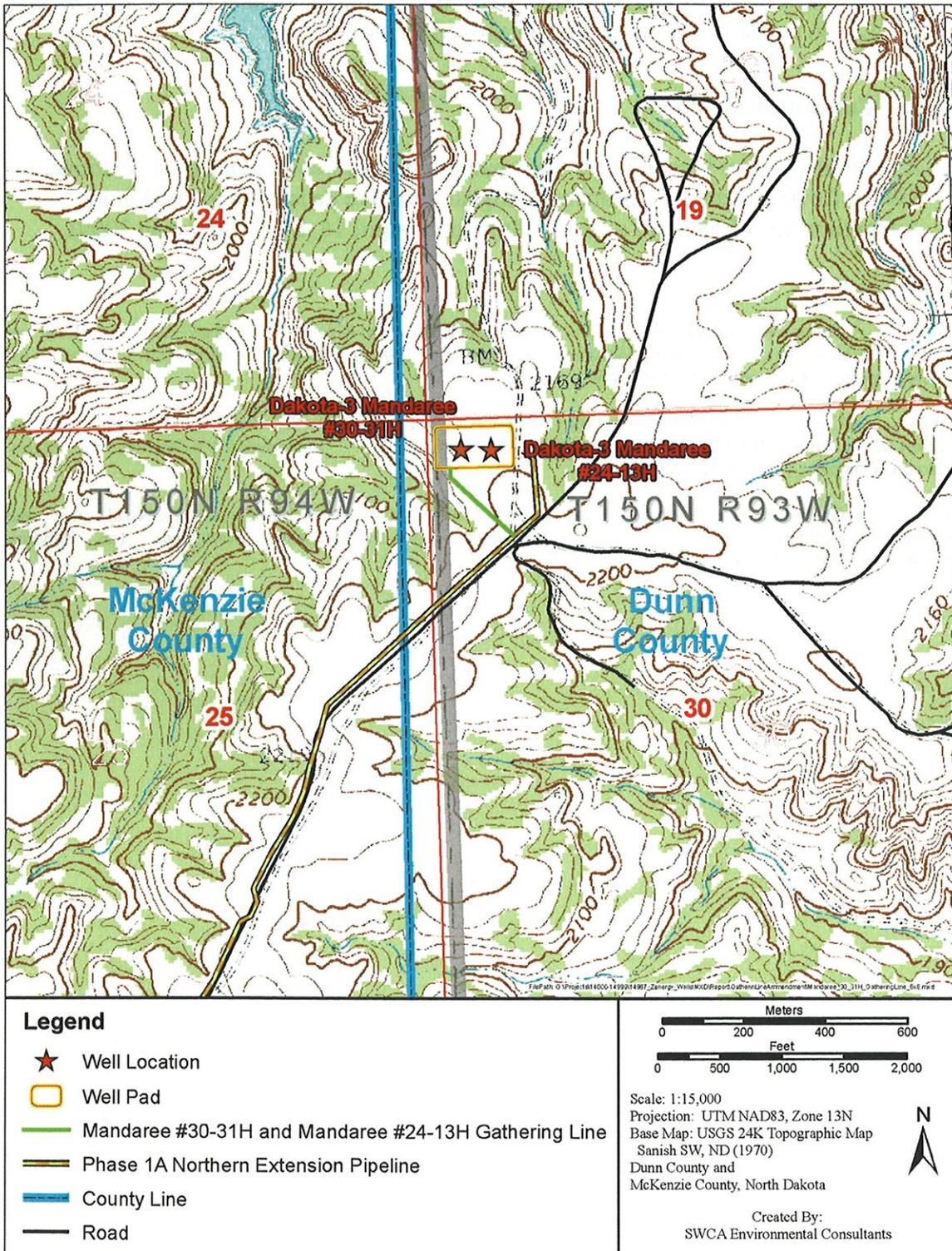
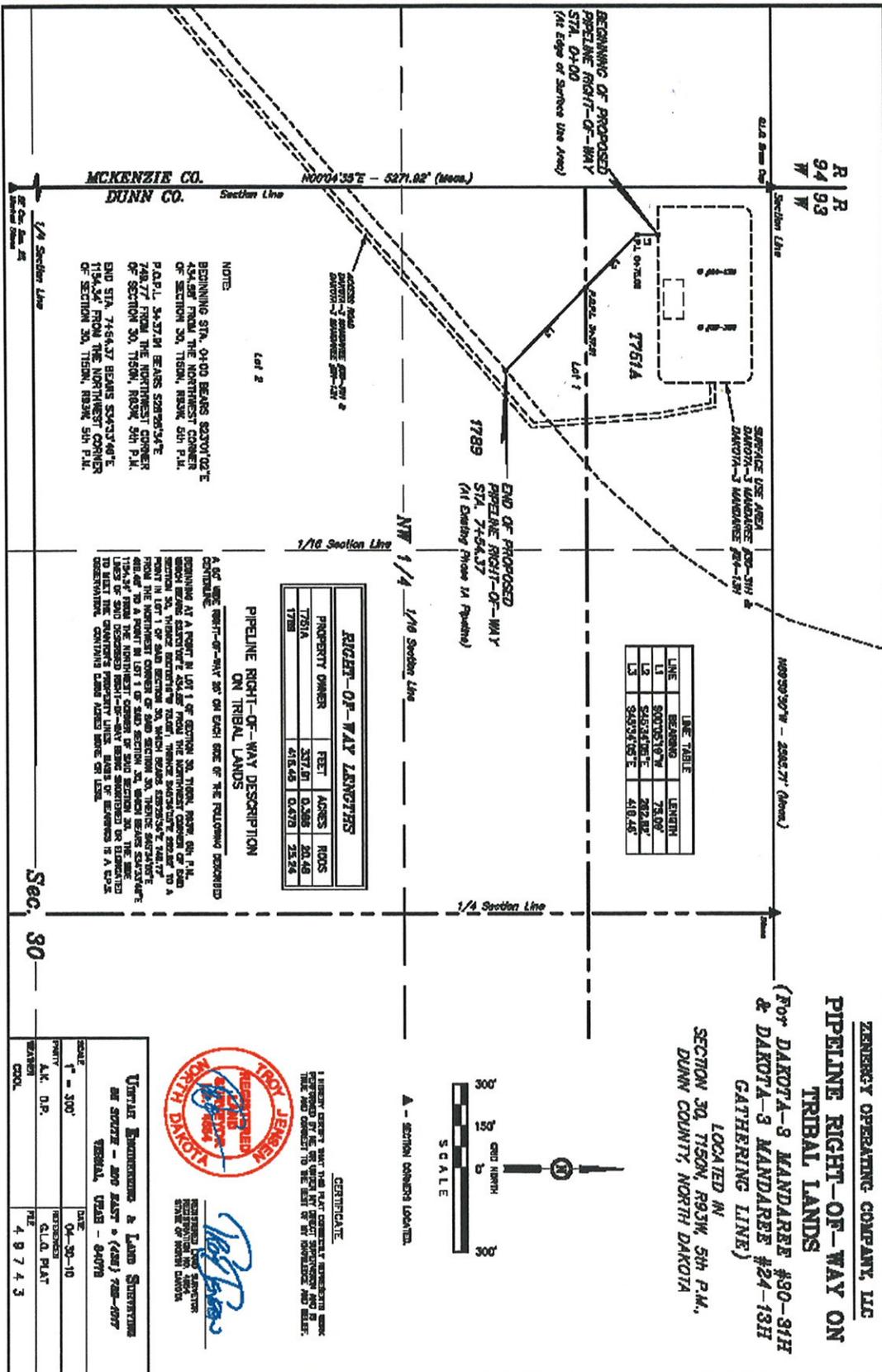


Figure 1. Proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H gathering line and associated dual well pad.

APPENDIX A

**PIPELINE LAYOUT AND
PIPELINE RIGHT-OF-WAY FOR
DAKOTA-3 MANDAREE #24-13H/
DAKOTA-3 MANDAREE #30-31H**



LINE TABLE

LINE	BEARING	LENGTH
L1	S00°03'07\"/>	

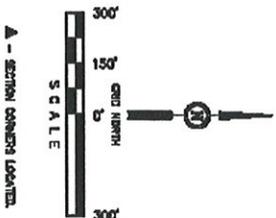
RIGHT-OF-WAY LENGTHS

PROPERTY OWNER	FEET	ACRES	RODS
1751A	327.61	0.588	20.48
1789	418.45	0.672	25.54

NOTE:
 Lot 2
 BEGINNING STA. 0+00 BEARS S20°10'21\"/>

PIPELINE RIGHT-OF-WAY DESCRIPTION ON TRIBAL LANDS
 A 60' WIDE RIGHT-OF-WAY 30' ON EACH SIDE OF THE FOLLOWING DESCRIBED CONTIGUOUS:
 BEGINNING AT A POINT IN LOT 1 OF SECTION 30, T150N, R93W, 54th P.M., BEING BEARS S20°10'21\"/>

ZENERGY OPERATING COMPANY, LLC
PIPELINE RIGHT-OF-WAY ON TRIBAL LANDS
 (For DAKOTA-3 MANDAREE #30-31H & DAKOTA-3 MANDAREE #24-13H GATHERING LINE)
 LOCATED IN SECTION 30, T150N, R93W, 54th P.M., DUNN COUNTY, NORTH DAKOTA



CERTIFICATE
 I HEREBY CERTIFY THAT THE PLAT CORRECTLY REPRESENTS THE INFORMATION PROVIDED BY THE SURVEYOR AND THAT THE SAME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
 TROY JENSEN
 NOTARY PUBLIC FOR THE STATE OF NORTH DAKOTA

UNITED ENGINEERS & LAND SURVEYORS
 201 STATE - 2ND EAST • (252) 728-1077
 VERMILION, WYOMING - 824018

SCALE	DATE
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WATER	FILE
CNO.	4 9 7 4 3

Notice of Availability and Appeal Rights

**Zenergy: Addendum to Environmental Assessment to Authorize Land Use
for Gathering Pipelines Connecting Dakota-3 Mandaree #24-13H/
Dakota-3 Mandaree #30-31H to Arrow Phase 1A – Northern
Extension Gathering Pipeline**

The Bureau of Indian Affairs (BIA) is planning to issue the administrative approvals to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H to Arrow Phase 1A – Northern Extension Gathering Pipeline as shown on the attached map. Construction by Zenergy 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 24, 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:

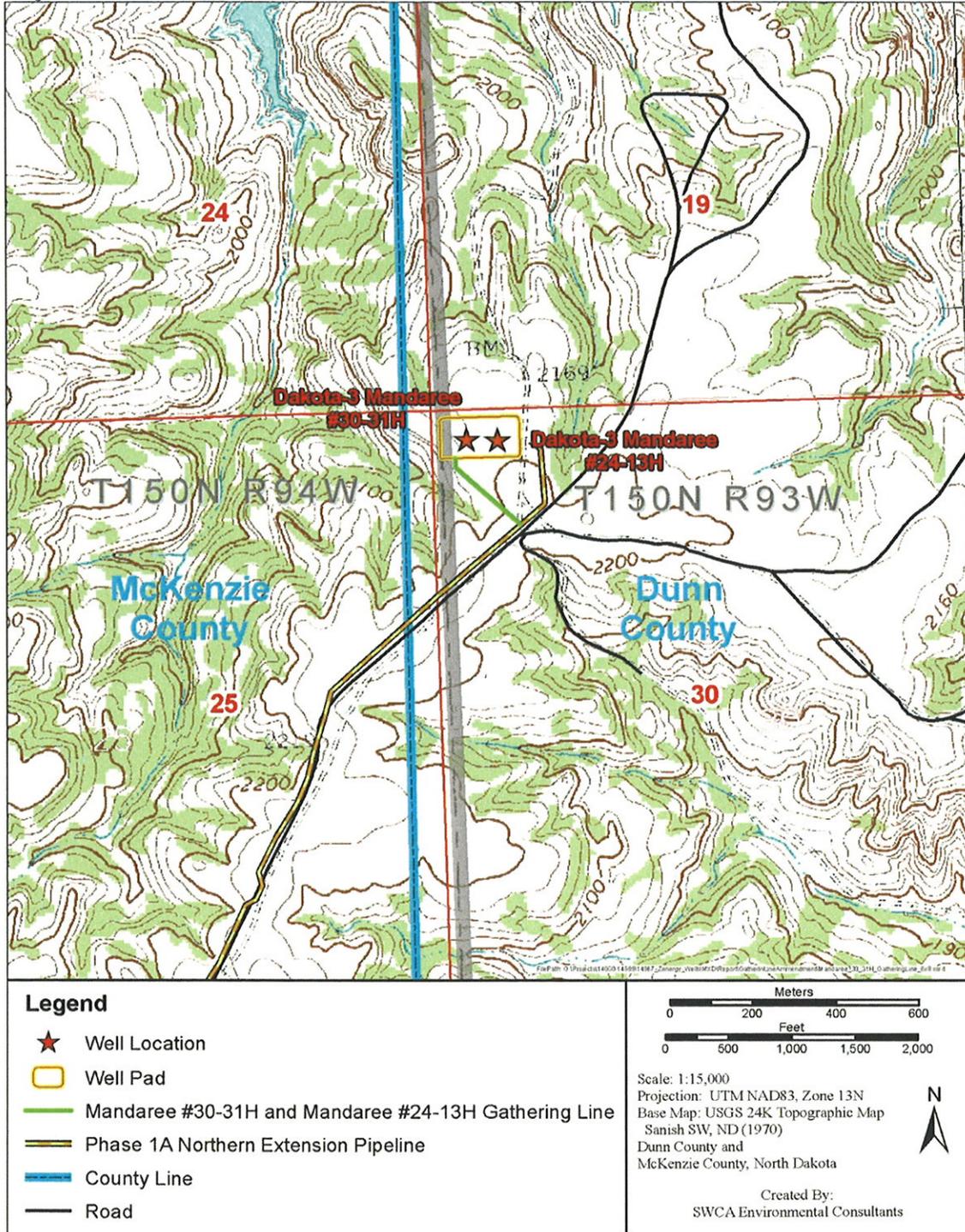


Figure 1. Proposed Dakota-3 Mandaree #24-13H/ Dakota-3 Mandaree #30-31H gathering line and associated dual well pad.