



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: 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 Addendum to the Environmental Assessment for Four Exploratory Wells at Two Locations named Charging Eagle 1-22-10H and 1-22-23H Moccasin Creek 16-34H and 16-34-2H to install gathering and electric lines by Kodiak Oil and Gas (USA) Inc. 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

Kodiak Oil & Gas (USA) Inc. - (Kodiak)

**Addendum to
Charging Eagle 1-22-10H and 1-22-23H
Moccasin Creek 16-34H and 16-34-2H**

**Fort Berthold Indian Reservation
Dunn County North Dakota**

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to four exploratory oil/gas wells, access roads and related infrastructure on the Fort Berthold Indian Reservation, located in Section 34, Township 148N - Range 93W and Section 22, Township 147N - Range 92W, 5th P.M. 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.

Acting


Regional Director – Great Plains Regional Office

Date


6/24/10

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**ENVIRONMENTAL ASSESSMENT
ADDENDUM**

United States Bureau of Indian Affairs

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



Kodiak Oil & Gas (USA) Inc.

**Addendum to
Four Exploratory Wells at Two Locations:**

**Charging Eagle 1-22-10H and 1-22-23H
Moccasin Creek 16-34H and 16-34-2H**

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

1. Purpose and Need for the Proposed Action

The Bureau of Indian Affairs issued a Finding of No Significant Impact (FONSI) on September 10, 2008, regarding Kodiak's Environmental Assessment for four Bakken exploratory wells at two locations. In that document, Kodiak proposed to drill four exploratory oil and gas wells, from two surface locations, 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 both the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation and to individual tribal members.

The purpose of the proposed action is to authorize the installation and use of gathering lines and electrical lines, to follow previously approved access roads, as further described in Section 3 of this document.

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 Gas Royalty Management Act of 1982 (30 USC 1701, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), the Energy Policy Act of 2005 (42 USC 15801, et seq.), and 25 Code of Federal Regulations (CFR) 169. BIA actions in connection with the proposed project are largely administrative and include approval of rights-of-way (ROW) and determinations regarding cultural resource effects.

3. Legal Land Descriptions of Proposed Action

The Charging Eagle 1-22-10H and 1-22-23H wells have a surface location in the NENE of Section 22, T147N-R92W. The access road to the site for these two wells starts at an existing road, in the SW Quarter of Section 22 (T147N-R92W) and continues through the N2 of Section 22, totaling approximately 2,300 feet with a width of 40 feet. The well location and access road are detailed in Figure 1. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

The Moccasin Creek 16-34H and 16-34-2H wells have a surface location in the SESE of Section 34, T148N-R93W. The access road to the site for these two wells starts at BIA 17, in the SE Quarter of Section 3 in T147N-R93W, and continues through the NE Quarter of Section 3, and totals approximately 4,200 feet with a width of 40 feet. The well location and access road are detailed in Figure 2. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

4. Scope of Work for Proposed Action

Kodiak proposes to install and use gathering and electrical lines, which will follow previously approved access roads, at its Charging Eagle 1-22-10H and 1-22-23H well site, in addition to its Moccasin Creek 16-34H and 16-34-2H well site. These actions will require no additional surface disturbance at either of the locations. These actions are proposed with the intent to reduce cumulative impacts to the areas surrounding both locations. By installing gathering and electrical lines, Kodiak can minimize the amount of truck traffic in the area, for the transport of both oil and water. In addition, Kodiak will no longer flare natural gas produced from these wells, as this will be captured in the gathering lines as well, therefore improving air quality in the surrounding areas.

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

Environmental Assessment: Kodiak Four Bakken Exploratory Wells at Two Locations: Moccasin Creek 16-34 and Charging Eagle 1-22. September 2008.

6. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Kodiak Four Bakken Exploratory Wells at Two Locations: Moccasin Creek 16-34 and Charging Eagle 1-22 (August 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. Cultural Resources

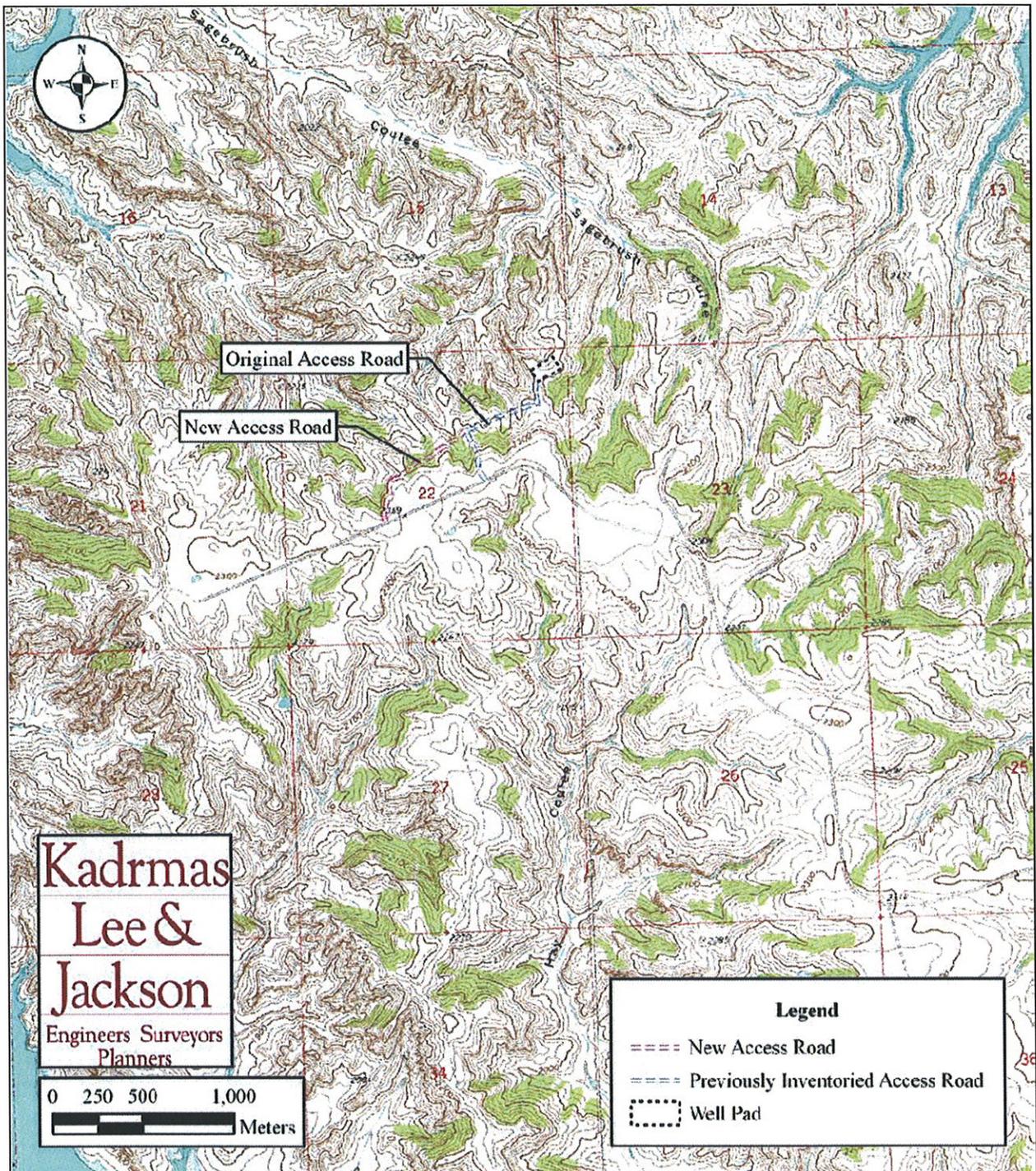
The proposed gathering and electrical lines will not increase surface disturbance, nor will it impact any additional cultural resources. Cultural resource inventories of these well pads and access roads were conducted by personnel of Metcalf Archaeology, using an intensive pedestrian methodology. For the Charging Eagle 1-22 project, approximately 10 acres were inventoried on July 25, 2008 (Stine, 2008). For the Moccasin Creek 16-34H project, approximately 10 acres were inventoried on June 6, 2008 (Bleumle, 2008). 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 this undertaking. This determination was communicated to the THPO on July 11th and August 7th, 2008, and the THPO did not respond within the 30-day concurrence/objection period, resulting in tacit concurrence under the NHPA guidelines.

Stine, Ed

(2008) Class III Cultural Resource Inventory of Kodiak's Charging Eagle 1-22H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Metcalf Archaeology, Environmental Consultants for Kodiak. Bismarck, ND.

Bleumle, William

(2008) Class III Cultural Resource Inventory of Kodiak's Moccasin Creek 16-34H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Metcalf Archaeology, Environmental Consultants for Kodiak. Bismarck, ND.



**Figure 1: Charging Eagle 1-22-10H and 1-22-23H Location and Access Road
Gathering and electrical lines will follow previously approved Access Road**

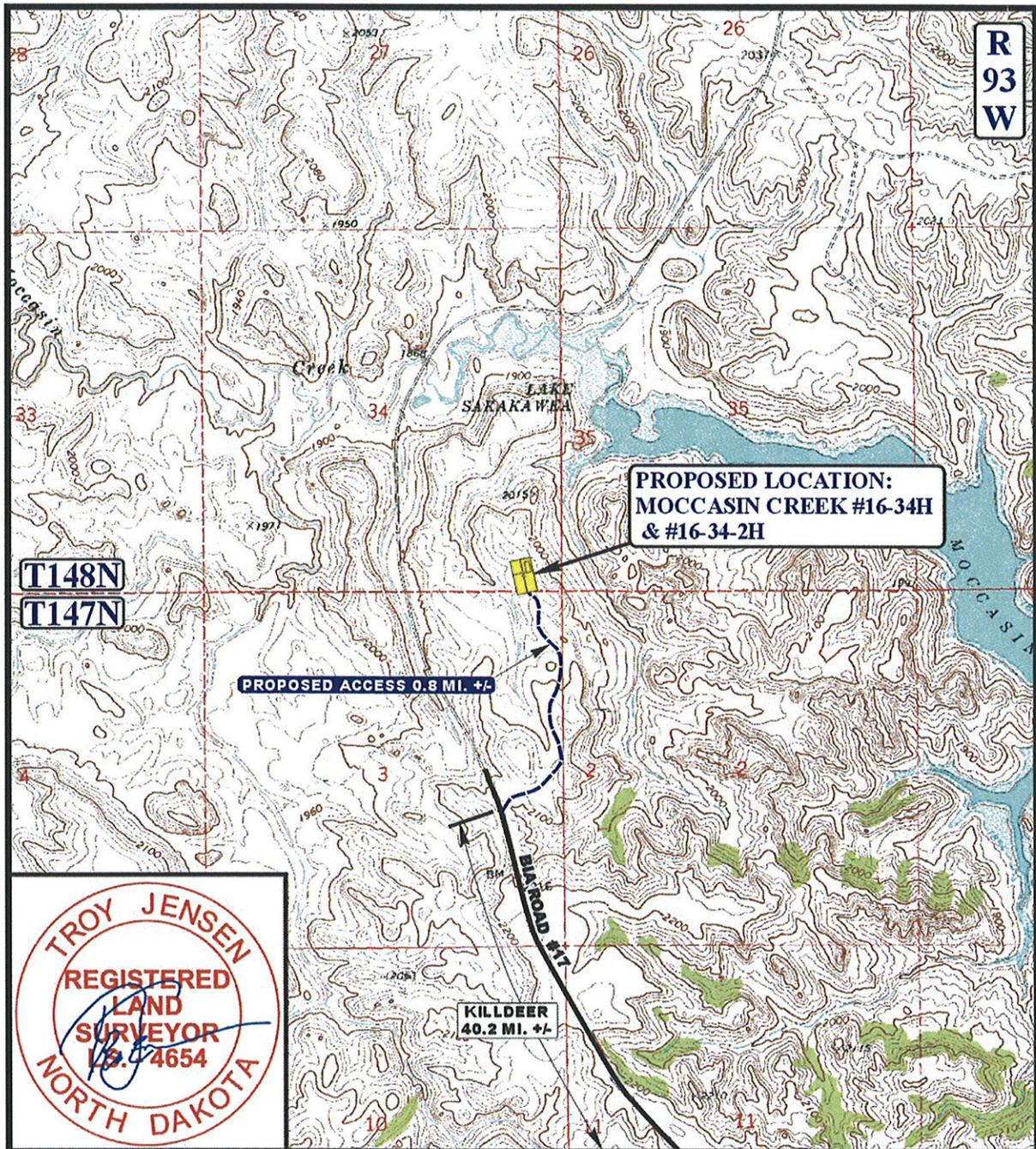


Figure 2: Moccasin Creek 16-34H and 16-34-2H Location and Access Road
Gathering and electrical lines will follow previously approved Access Road

Notice of Availability and Appeal Rights

**Kodiak: Addendum to Charging Eagle 1-22-10H and 1-22-23H and Moccasin
Creek 16-34H and 16-34-2H**

The Bureau of Indian Affairs (BIA) is planning to issue the administrative approvals related to the installation and use of gathering lines and electrical lines as shown on the attached map. Construction by Kodiak 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:

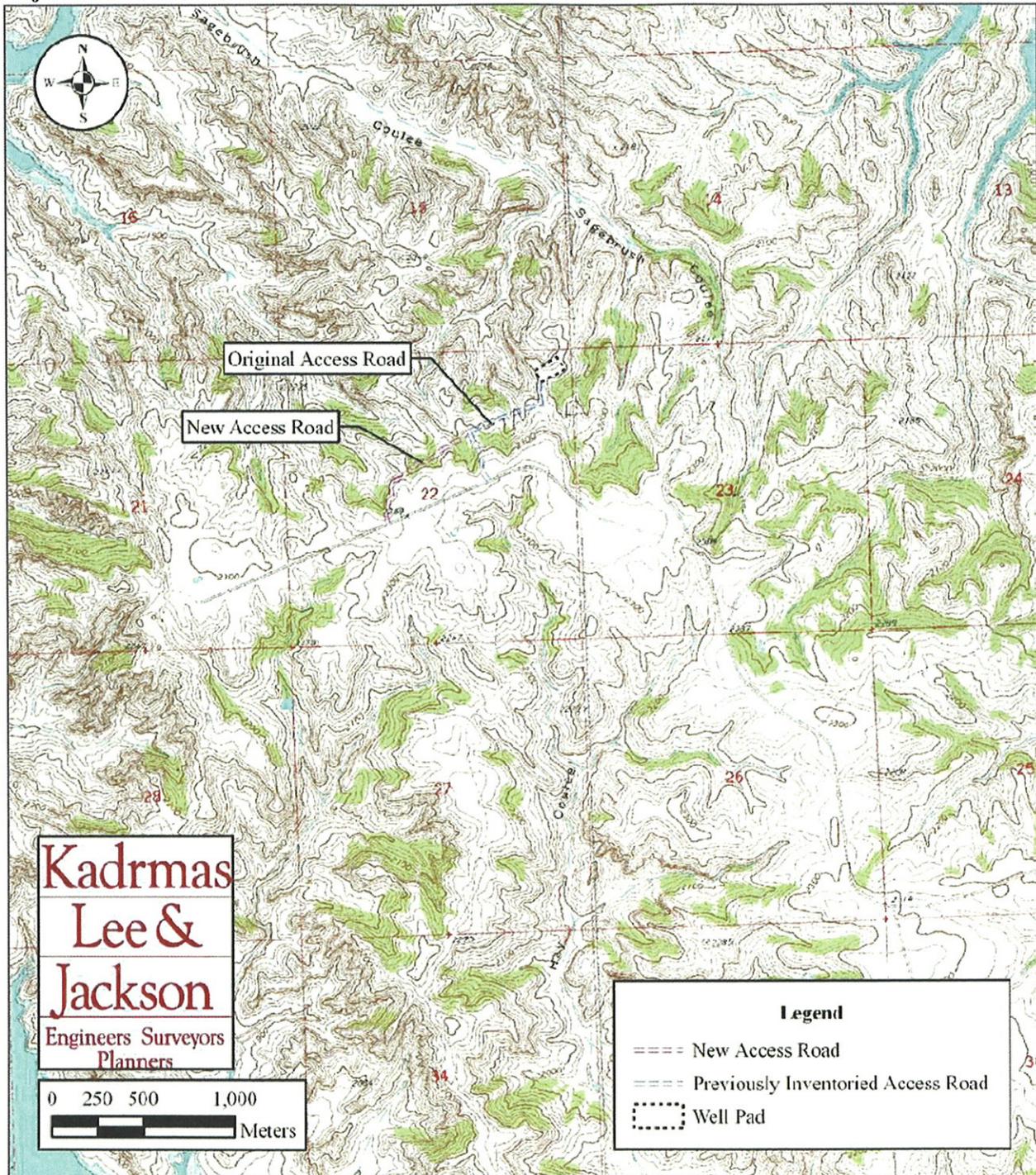


Figure 1: Charging Eagle 1-22-10H and 1-22-23H Location and Access Road
Gathering and electrical lines will follow previously approved Access Road

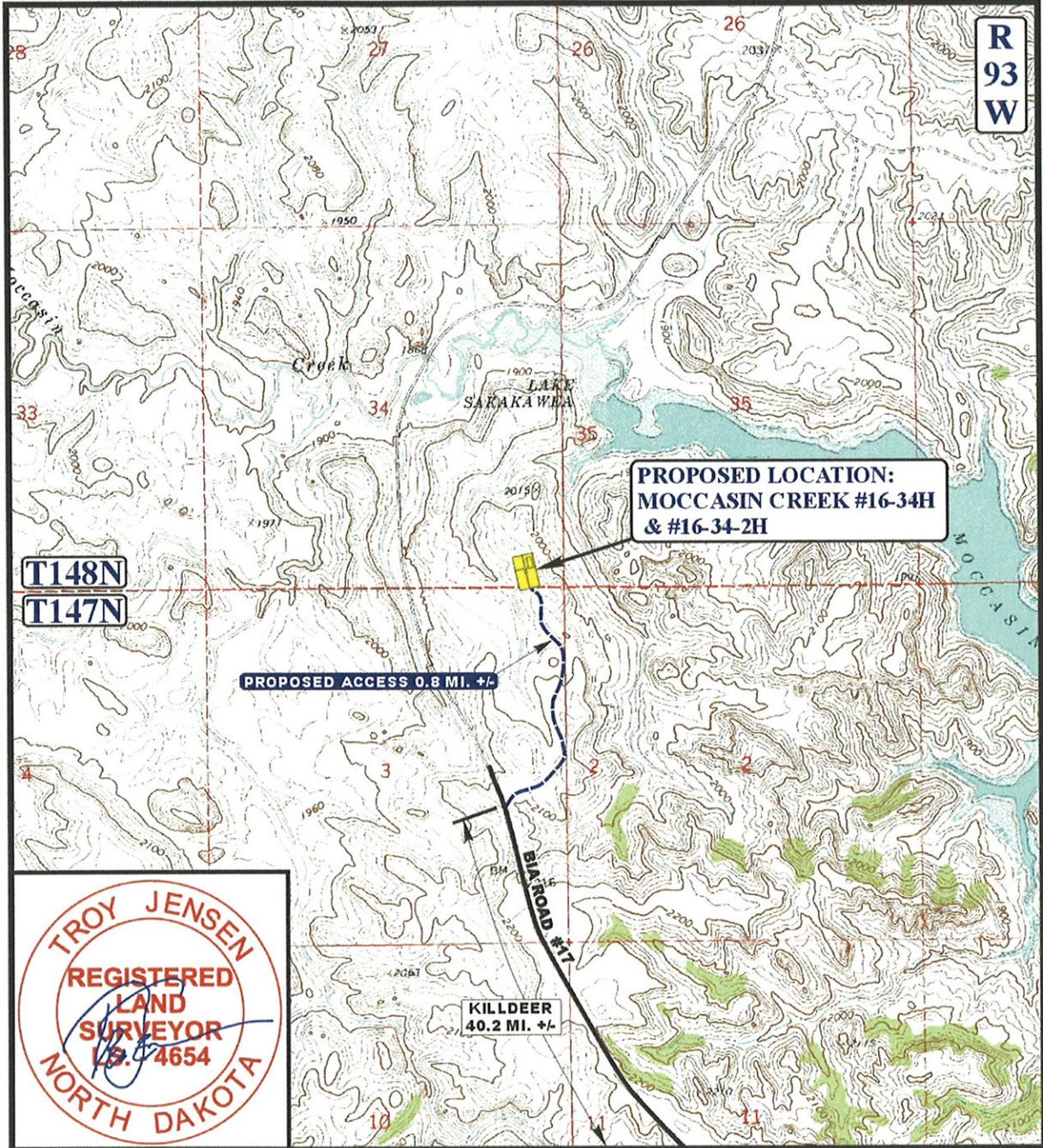


Figure 2: Moccasin Creek 16-34H and 16-34-2H Location and Access Road
 Gathering and electrical lines will follow previously approved Access Road