



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

NOV 16 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: ^{Acting} Regional Director, Great Plains Region *Marilyn Bercier*

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for an Addendum to Environmental Assessment to authorize land use for an access road connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H 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: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)
Perry "No Tears" Brady, THPO (with attachment)
Derek Enderud, BLM, Dickenson, ND (with attachment)
John Shelman, US Army Corps of Engineers
Jeffrey Hunt, Virtual One Stop Shop

**Finding of No Significant Impact
EOG Resources, Inc.**

**Addendum to Environmental Assessment to Authorize Land Use for an Access Road
Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad**

**Fort Berthold Indian Reservation
McKenzie County, North Dakota**

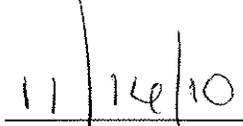
The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an Addendum to Environmental Assessment to Authorize Land Use for an Access Road Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad. Associated federal actions by BIA include determinations of effect regarding 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.

The potential of the proposed actions to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined that the proposed projects 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. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (MBTA), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) (NEPA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) (BGEPA), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.) (ESA).
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


Date

Notice of Availability and Appeal Rights

EOG: Addendum to Environmental Assessment to Authorize Land Use for an Access Road Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to Addendum to Environmental Assessment to Authorize Land Use for an Access Road Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad as shown on the attached map. Construction by Peak is expected to begin in the Fall 2010.

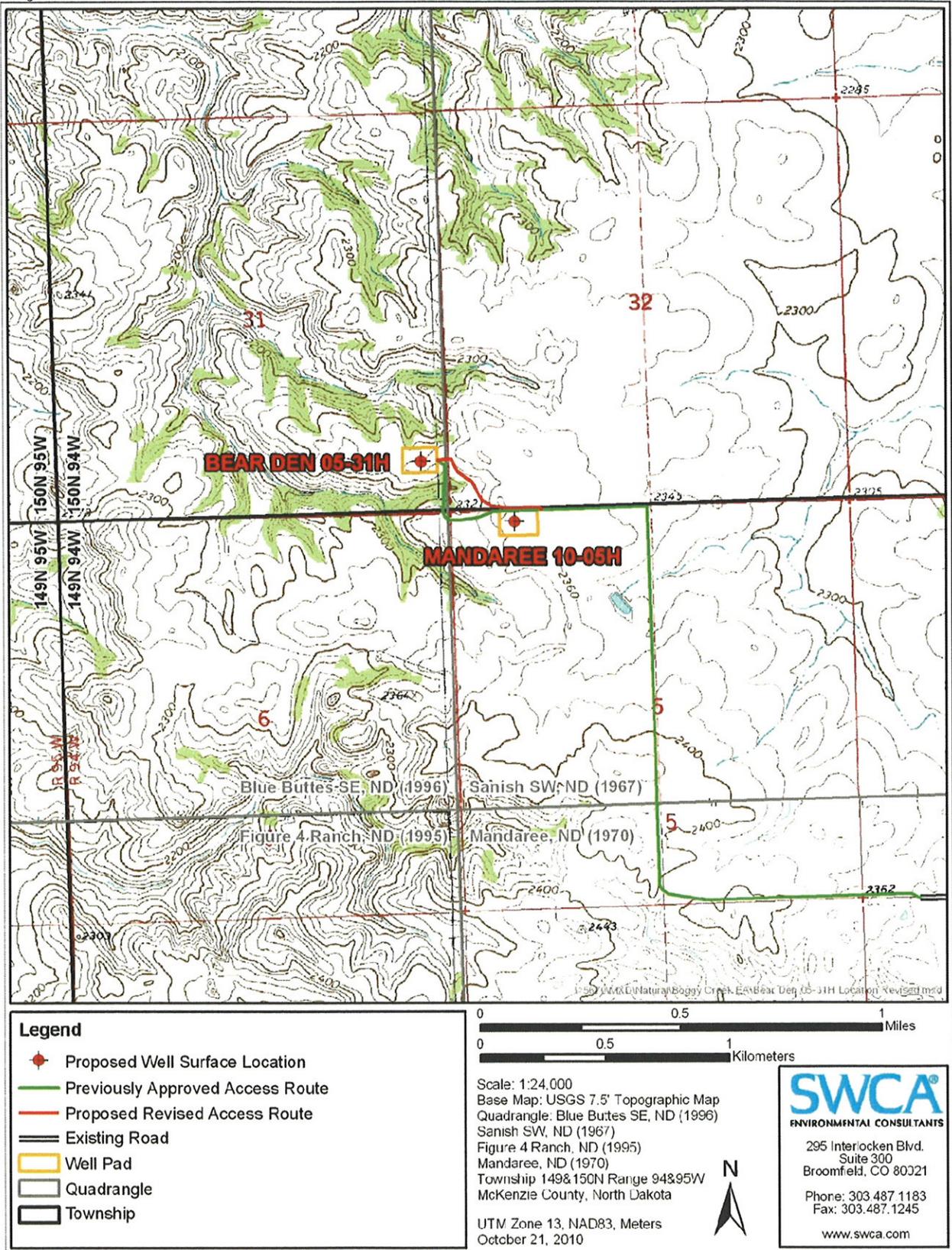
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Howard Bemer, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No 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 December 16, 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.



**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



EOG Resources, Inc.

**Addendum to Environmental Assessment to Authorize Land Use for an Access Road
Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad**

Fort Berthold Indian Reservation

November 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

	<u>Page</u>
1. Purpose and Need for the Proposed Action	1
2. Authorities.....	1
3. Legal Land Description for Proposed Action	1
4. Scope of Work for Proposed Action	1
5. Surveys.....	2
6. Potential Effects	2
7. Applicable NEPA Document(s).....	3
8. Other Relevant Documentation.....	3
9. NEPA Adequacy Criteria.....	3

LIST OF FIGURES

<u>Figure</u>	<u>Page</u>
1 Proposed access road connecting the Mandaree 10-05H access road to the Bear Den 05-31H well pad.	4

LIST OF APPENDICES

<u>Appendix</u>	
A Right-of-Way for the Access Road Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad	

1. Purpose and Need for the Proposed Action

EOG Resources, LLC (EOG) is drilling 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 Bureau of Indian Affairs (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 EOG for the construction of an access road connecting the Mandaree 10-05H access road to the Bear Den 05-31H well pad. This access road will be constructed within a requested right-of-way (ROW) of 100 feet.

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 proposed access road connecting the Mandaree 10-05H access road to the Bear Den 05-31H well pad would be located on tribal land originating from the access road near the northeast corner of the well pad, approximately 4 miles northwest of Mandaree, North Dakota. More specifically, the proposed access road would be located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, Township (T) 150 North (N), Range (R) 94 West (W), 5th Prime Meridian (P.M.), McKenzie County, North Dakota, and end at the Bear Den 05-31H well pad in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, T150N, R94W, 5th P.M., McKenzie County, North Dakota (Figure 1).

4. Scope of Work for Proposed Action

EOG proposes to construct an access road connecting the Mandaree 10-05H access road to the Bear Den 05-31H well pad. Approximately 1,680 feet of new access road would be constructed. A 100-foot ROW is requested to accommodate construction of an all-weather, 24-foot-wide running surface, double-lane access road with a 40-foot subgrade, and future underground oil, gas, and water gathering pipelines, waterlines, fiber optic lines, and utility lines. The 24-foot road width is necessary to ensure safe passage of oil tanker trucks. The 100-foot width is necessary to build ditches appropriate to handle large volumes of snow and runoff and is consistent with county and township roads in North Dakota. A maximum disturbed ROW width of 100 feet for the access road would result in approximately 3.9 acres of new surface disturbance. Signed agreements would be in place allowing road construction across affected private and allotted land surfaces, and any applicable approach permits and/or easements would be obtained prior to any construction activity.

Construction would follow road design standards outlined in the Bureau of Land Management (BLM) Gold Book (BLM and U.S. Forest Service 2007¹). At a minimum, 6 inches of topsoil would be removed from the access road corridors. This stockpiled topsoil would then be placed on the outside slopes of the ditches following road construction. The ditches would be reseeded as quickly as possible using a seed mixture determined by the BIA. 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. Also, the roadway would remain in use for the life of the well. The access road plat is provided in Appendix A.

5. Surveys

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for threatened and endangered species, migratory birds, bald and golden eagles, and wetlands on November 3 and 23, 2009. BIA Environmental Specialist, Jeff Desjarlais, approved the location of the access road on October 7, 2010. No protected species were observed during the survey.

On November 3 and 23, 2009, SWCA inventoried approximately 39.09 acres of potentially disturbed areas for cultural resources, using an intensive pedestrian methodology (Rose and Higgins²). No historic properties were located that appear to possess the quality of integrity and meet at least one of the criteria (Title 36 Code of Federal Regulations 60.6) for inclusion on the National Register of Historic Places.

6. Potential Effects

Potential impacts to cultural resource sites would occur as a result of direct disturbance and/or the loss of sites eligible for the National Register of Historic Places. Further, potential impacts to natural resources may include the loss of native vegetation and wildlife habitats; soil removal and mixing; and erosion during construction. However, potential impacts as a result of the proposed action were mitigated via field survey and subsequent avoidance of any eligible cultural resource sites within the proposed ROW, implementing erosion control features, completing reclamation of the ROW corridors with native grasses and other appropriate native vegetation, and stockpiling and re-using topsoil for reclamation.

Potential indirect impacts to natural resources include noise and other disturbances to wildlife during construction and the introduction of noxious weeds. Impacts would be mitigated through avoidance of any federally listed threatened or endangered species or wetlands, avoidance of nesting migratory birds, implementing best management practices to control the

¹ Bureau of Land Management and U.S. Forest Service
2007 Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development.
BLM/WO/ST-06/021+3071/REV 07. Bureau of Land Management. Denver, Colorado. 84 pp.

² Rose, Victoria, and Courtney Higgins
2009 A Class III Cultural Resource Inventory of the Bear Den 05-31H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota. Prepared by SWCA Environmental Consultants for EOG Operating Company, LLC.

introduction of noxious weeds, and minimizing the length of time between initial construction and reclamation of the temporary ROW. These mitigation measures are consistent with the previously approved National Environmental Policy Act (NEPA) EA document for the Bear Den 05-31H well, which received a finding of no significant impact on March 30, 2010.

Based on resource survey findings, the supplementary assessment of the potential impacts of the proposed action, and the mitigation measures committed to by EOG, no significant impacts to natural and cultural resources are anticipated.

7. Applicable NEPA Document(s)

Environmental Assessment: EOG Resources, Inc., Three Bakken Exploratory Oil Wells: Bear Den 04-20H, Bear Den 05-31H, and Bear Den 07-17H (January 2010).

8. Other Relevant Documentation

Environmental Assessment: EOG Resources, Inc., Proposed Access Road Upgrade Township 150 North, Range 94 West, Sections 29 and 32 (November 2009).

9. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: EOG Resources, Inc., Three Bakken Exploratory Oil Wells: Bear Den 04-20H, Bear Den 05-31H, and Bear Den 07-17H (January 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.

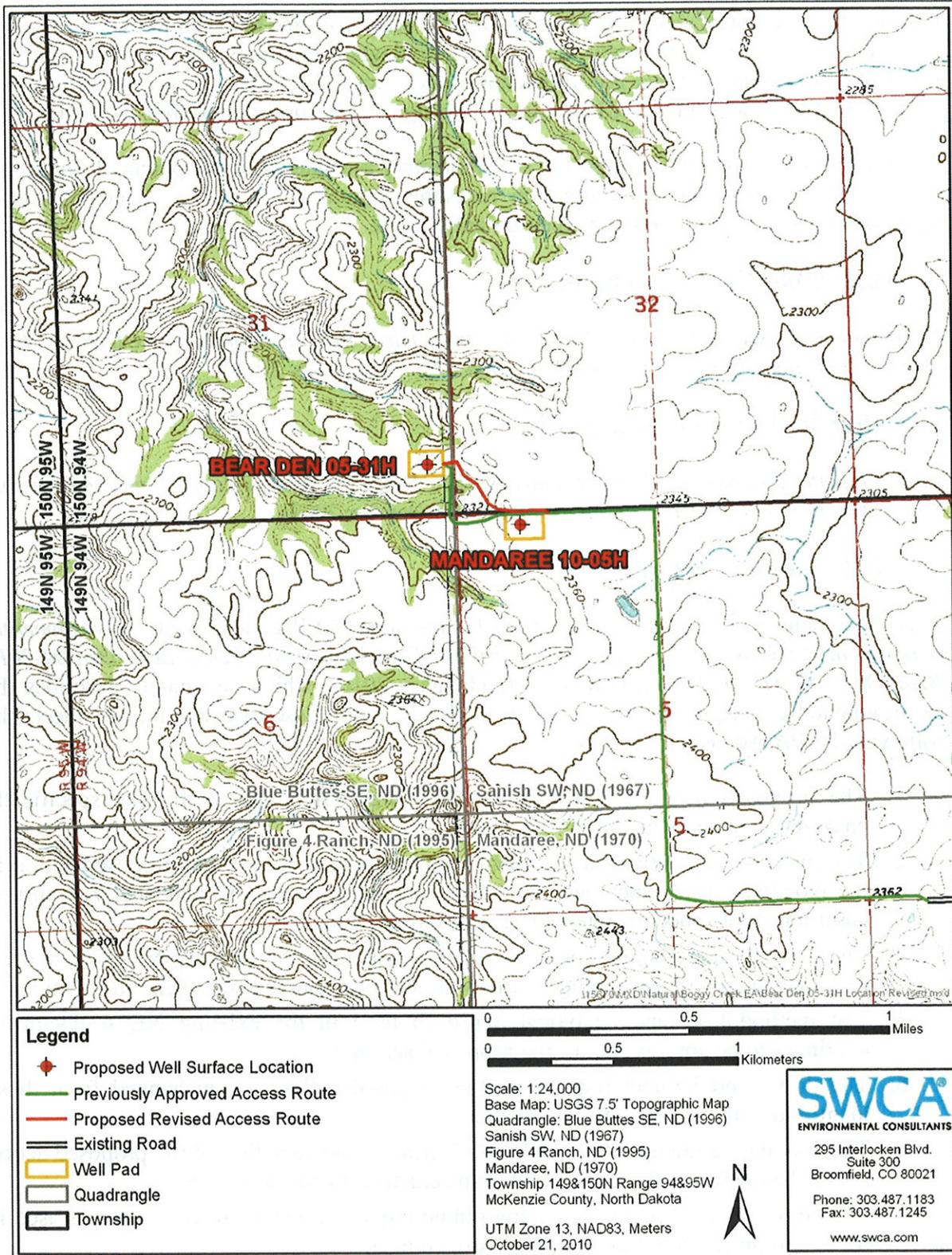


Figure 1. Proposed access road connecting the Mandaree 10-05H access road to the Bear Den 05-31H well pad.

APPENDIX A

**Right-of-Way for the Access Road Connecting
the Mandaree 10-05H Access Road
to the Bear Den 05-31H Well Pad**

Addendum to Environmental Assessment to Authorize Land Use for an Access Road Connecting the Mandaree 10-05H Access Road to the Bear Den 05-31H Well Pad (November 2010)

