



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Great Plains Regional Office
115 Fourth Avenue S.E., Suite 400
Aberdeen, South Dakota 57401



IN REPLY REFER TO:
DESCRM
MC-208

FEB 22 2012

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: ^{ACTING} Regional Director, Great Plains Region

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, an Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The addendum authorizes land use for the expansion of the existing Benson #3-9H oil and gas well pad to accommodate one additional well located on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the EA Addendum, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the (40 C.F.R. Section 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)
Elgin Crows Breast, Tribal Historic Preservation Officer (with attachment)
Derek Enderud, BLM, Bureau of Land Management (with attachment)
Eric Wortman, EPA, (with attachment)
Damien Reinhart, SWCA (with attachment)
Jonathon Shelman, Corps of Engineers
Jeff Hunt, Fort Berthold Agency

Finding of No Significant Impact

Dakota-3 E&P Company, LLC

*Addendum to Environmental Assessment to Authorize Land Use for the Expansion of
the Existing Benson #3-9H Well Pad to Accommodate One Additional Oil and Gas
Well*

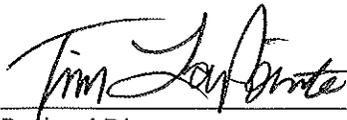
*Fort Berthold Indian Reservation
Dunn County, North Dakota*

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to increase the size of the existing Benson #3-9H well pad to accommodate one additional oil and gas well on the Fort Berthold Indian Reservation (FBIR). The well pad is located in the NE¼ NW¼ of Section 9, Township (T) 148 North (N), Range (R) 93 West (W), Dunn County, ND. The approximate location of the bottom hole is 4,506 feet south and 368 feet east of the surface location, in the SE¼ SW¼ of Section 9, T148N, R93W, Dunn County. Developments have been proposed across land held in trust by the United States in Dunn County, North Dakota. Associated federal actions by BIA include determinations of impacts and effects regarding environmental resources for developments on tribal lands.

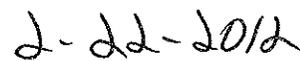
The potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing EA, as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect 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 solicited for the preceding NEPA document was sufficient to ascertain potential environmental concerns associated with the currently proposed project.
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. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.).
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



Date

ACTING

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



Dakota-3 E&P Company, LLC

**Addendum to Environmental Assessment to Authorize Land Use for the Expansion of
the Existing Benson #3-9H Well Pad to Accommodate One Additional Oil and Gas Well.**

Fort Berthold Indian Reservation

February 2012

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

1. Purpose and Need for the Proposed Action

The purpose of the proposed action is to authorize land use by Dakota-3 E&P Company, LLC (Dakota-3) for the construction and installation associated with the expansion of the existing Benson #3-9H well pad (well pad) to accommodate the addition of one oil and gas well. Developments have been proposed on land held in trust by the United States within the Fort Berthold Indian Reservation, Dunn County, North Dakota (ND).

The Bureau of Indian Affairs (BIA) is the surface management agency for potentially affected tribal lands and individual allotments and 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 Nation and to individual tribal members.

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 well pad is located approximately 8.04 miles southeast of Mandaree, ND, in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township (T) 148 North (N), Range (R) 93 West (W), Dunn County, ND (Figure 1). The approximate location of the bottom hole is 4,506 feet south and 368 feet east of the surface location, in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, T148N, R93W, Dunn County (Figure 1).

4. Scope of Work for Proposed Action

Dakota-3 proposes to increase the size of the existing well pad to accommodate one additional oil and gas well. Figure 1 and Appendix A provide a detailed project area map and plat schematics for the proposed well. The expansion of the existing well pad to accommodate the proposed well would disturb approximately 1.96 acres. The proposed Benson #3-9HA well would use a 640-acre spacing unit. The technical drilling specifications would be similar to those of the existing well, which is covered in a previous Environmental Assessment (see Section 8: Applicable NEPA Documents).

5. Resource Surveys

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for wetlands, threatened and endangered species and habitat, migratory birds and active nests, and bald and golden eagles and their nests at the well pad location and surrounding area on August 08, 2011. BIA Environmental Specialist Chris McLaughlin approved the location of the proposed expansion on August 29, 2011. No primary or secondary indications of protected species

Any potential indirect effects would be mitigated by; stockpiling and re-using topsoil for reclamation; implementing best management practices for controlling introduction of noxious weeds; and minimizing the length of time between drilling and reclamation.

Based on the resource surveys, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA documents, no significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum.

7. Reclamation

Interim Reclamation

Reclamation would continue over the life of the well pad and would include the return of topsoil, and contouring and seeding of native vegetation. Initial reclamation would be required 6 months after construction, if environmentally feasible, and then following any maintenance work or additions of infrastructure. Reclamation would be required before final abandonment of the decommissioned well pad. A successful reclamation would at all times be the responsibility of the operator.

The portions of the well pad expansion area not used for functionality would be back-filled, assuming frozen or saturated soils are not present. Topsoil piles would be stored on site during construction. If construction is to occur during winter, Dakota-3 will partially use non-frozen back-fill soil to the extent possible and cover the entire ROW with straw. Topsoil would be distributed as soon as practicable after the soil has defrosted. Topsoil piles would be covered to eliminate the potential for rill erosion and subsequent loss of soil during spring snow melt and precipitation events.

Applicable short- and long-term best management practices would be used to minimize and control erosion in disturbed areas. To reduce compaction, the well pad expansion area would be plowed before the stockpiled topsoil is distributed.

The disturbed areas would be reclaimed and contoured as soon as possible after construction is complete (fall/spring). The disturbed area outside of the working well pad would be covered with stockpiled topsoil and reseeded with a seed mixture determined by the BIA. Dakota-3 would control noxious weeds within the ROW and other applicable facilities by approved chemical or mechanical methods. If seeding of the ROW does not occur due to growing season constraints, Dakota-3 will deploy approved weed-free hay across the entire ROW. The presence of hay across the ROW will reduce the potential for excessive erosion as a result of spring snow melt and precipitation.

The entire ROW would be monitored for erosion, subsidence, or noxious weeds. In areas where problems are found to occur, reclamation efforts would continue until the BIA feels the ROW is successfully reclaimed. Reclamation is considered successful when:

- seeded areas are established;
- adjacent vegetative communities spread back into the disturbed areas; and
- noxious weeds are under control.

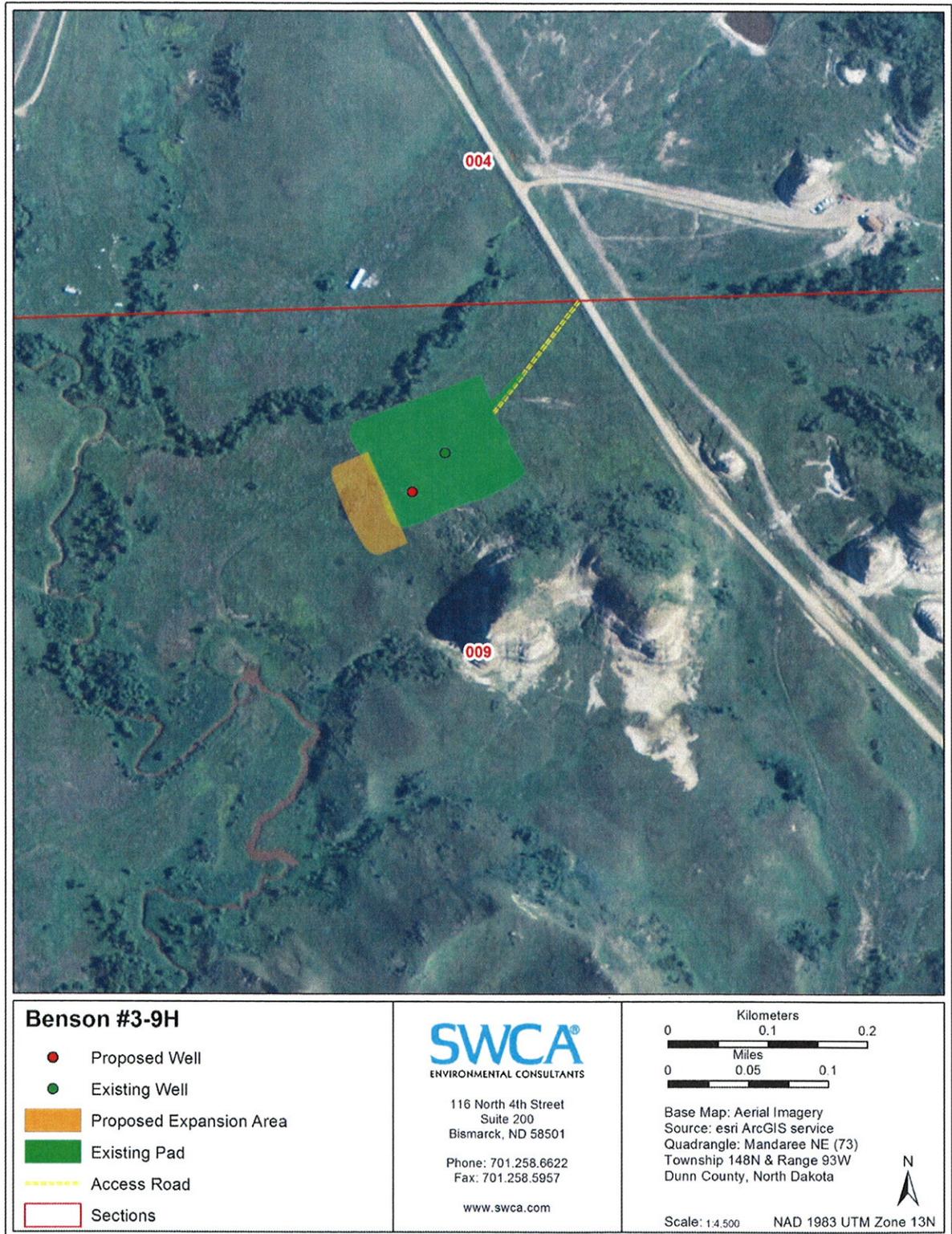
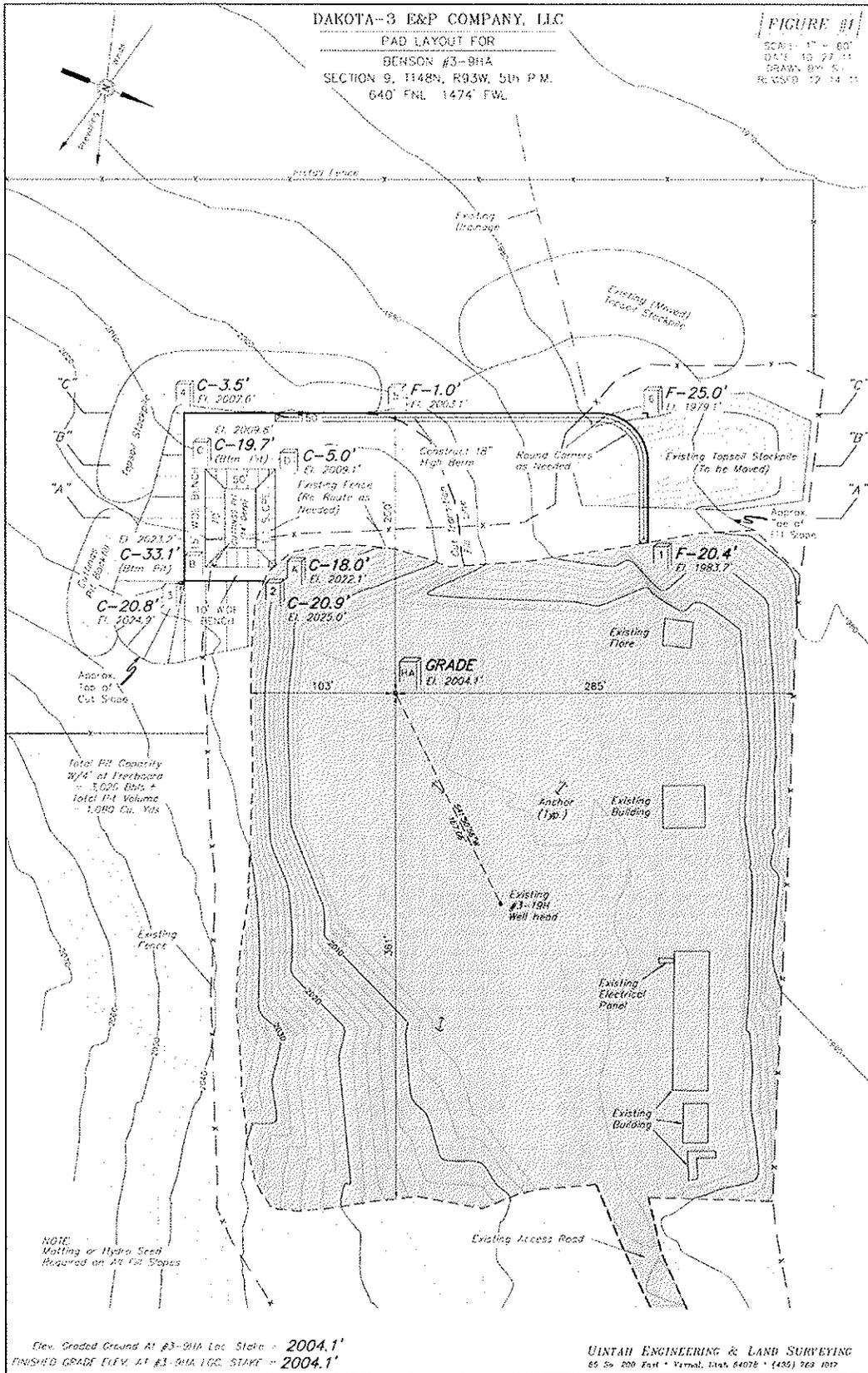


Figure 1. Map of the existing Benson #3-9H well pad location and proposed expansion area.

Addendum to Environmental Assessment to Authorize Land Use for the Expansion of the Existing Benson #3-9H Well Pad to Accommodate One Additional Oil and Gas Well (February 2012)



Notice of Availability and Appeal Rights

Dakota-3 E&P: Addendum to Environmental Assessment(s) to Authorize
for the expansion of the existing Benson #3-9H well pad to accommodate one additional well

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an the expansion of the existing Benson #3-9 well pad on the Fort Berthold Reservation as shown on the attached map. Construction by Dakota-3 E&P Resources is expected to begin in 2012.

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 Earl Silk, 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 March 22, 2012, 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.



Benson #3-9H

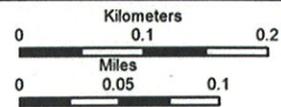
- Proposed Well
- Existing Well
- Proposed Expansion Area
- Existing Pad
- Access Road
- Sections



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Base Map: Aerial Imagery
Source: esri ArcGIS service
Quadrangle: Mandaree NE (73)
Township 148N & Range 93W
Dunn County, North Dakota



Scale: 1:4,500 NAD 1983 UTM Zone 13N