



# 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 06 2012

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>ACTING</sup> 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 Environmental Assessment Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The Addendum authorizes land use for installation of the Luther and Red Feather gas pipelines 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)  
Grady Wolf, KLJ (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

*Finding of No Significant Impact*

**ONEOK Rockies Midstream, LLC (ONEOK)  
Luther and Red Feather Gas Pipelines**

*Addendum to:*

**Marathon Oil Company Drilling of Luther – USA 11-16H, and Luther – USA 31-16H June 2010 Environmental Assessment and Marathon Oil Company Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells November 2010 Environmental Assessment (Installation of Gathering Lines)**

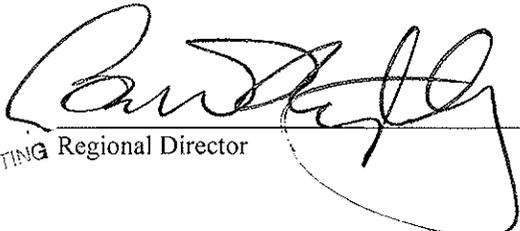
**Fort Berthold Indian Reservation  
Mountrail County, North Dakota**

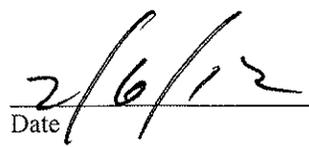
The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to the above referenced Environmental Assessments (EA). The proposal is to acquire a 75-foot right-of-way (ROW) corridor (50 feet of temporary ROW and 25 feet of permanent ROW) for construction of approximately 2.5 miles of high density poly ethylene natural gas pipelines up to 6-inches in diameter in Mountrail County, North Dakota, on Fort Berthold Reservation Tribal trust lands. The Luther Pipeline would be approximately 5,686 feet long and the Red Feather Pipeline would be approximately 7,593 feet long. The Luther Pipeline would connect the Marathon Luther – USA 11-16H and Luther – USA 31-16H well pad to an existing natural gas line. The Red Feather Pipeline would connect the Marathon Red Feather USA 21-17H and Red Feather USA 31-17H well pad to an existing natural gas line. 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.

  
ACTING Regional Director

  
Date

# ENVIRONMENTAL ASSESSMENT

## *Addendum*

United States Bureau of Indian Affairs

Great Plains Regional Office  
Aberdeen, South Dakota



ONEOK Rockies Midstream, LLC

### ***Luther and Red Feather Gas Pipelines***

**Addendum to:**

**Marathon Oil Company Drilling of Luther – USA 11-16H, and Luther – USA 31-16H June 2010 Environmental Assessment and Marathon Oil Company Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells November 2010 Environmental Assessment (Gathering Line Installation)**

Fort Berthold Indian Reservation

February 2012

*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

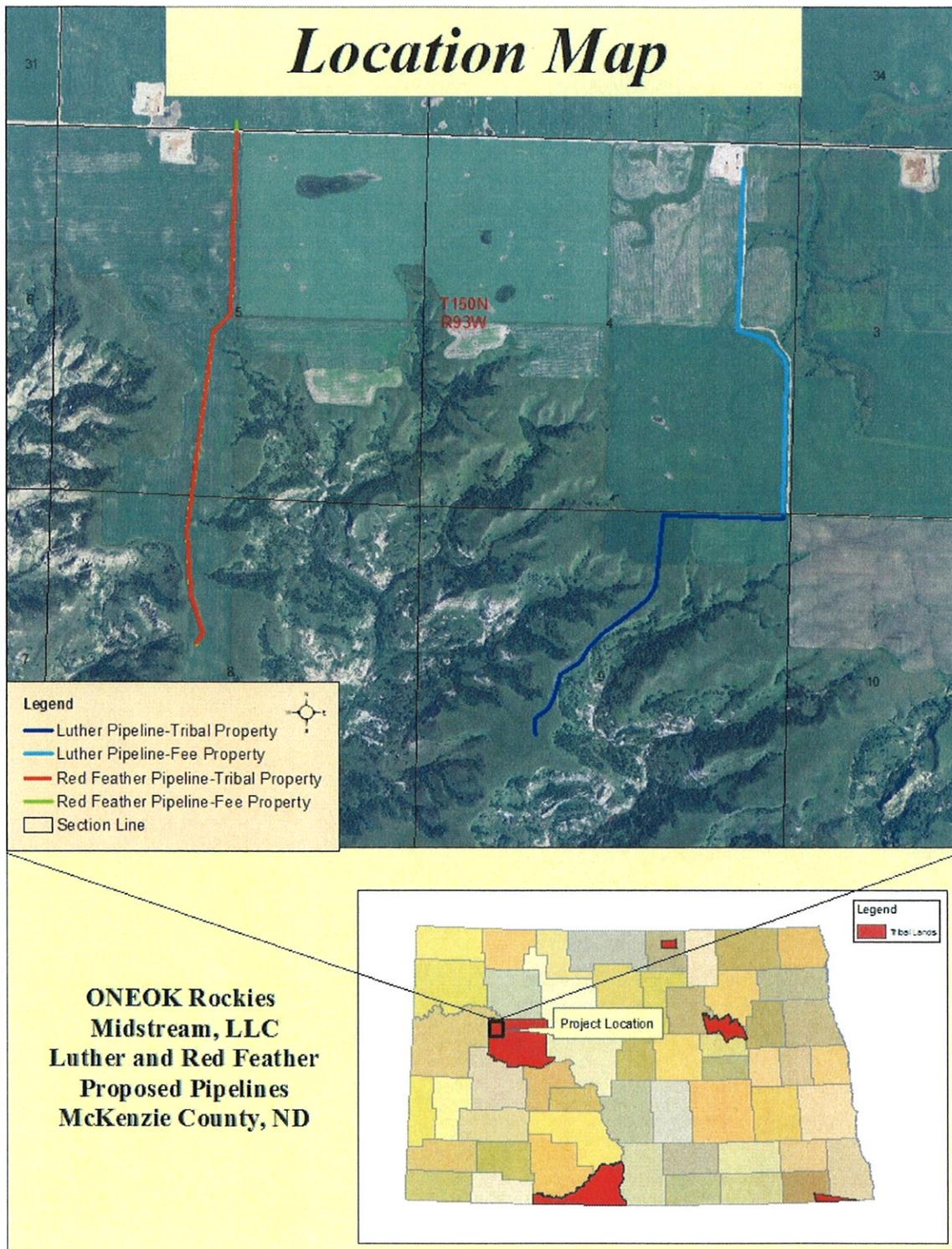
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ONEOK Rockies Midstream, LLC (ONEOK) proposes to construct approximately 2.5 miles of high density poly ethylene natural gas pipelines within a 75-foot right-of-way (ROW) corridor (50 feet of temporary ROW and 25 feet of permanent ROW) in McKenzie County, North Dakota on Fort Berthold Indian Reservation Tribal trust land. The pipelines would consist of two new pipeline segments connecting the Marathon Luther – USA 11-16H and Luther – USA 31-16H well pad and the Marathon Red Feather USA 21-17H and Red Feather USA 31-17H well pad to an existing natural gas pipeline.

The purpose of the proposed action is to allow ONEOK to install the proposed pipelines to transport gas from the previously approved Marathon wells to a previously approved gas pipeline, which then would transport the gas to a central facility for further transport to markets. Installation of the proposed pipelines would further support important benefits associated with oil and gas development to the Three Affiliated Tribes. It would also aid in providing individual members of the tribes with needed employment and income.

Installation of the proposed pipelines would reduce waste of valuable resources associated with continued flaring of produced gas.

Please refer to **Figure 1, Project Location Map**.



**Figure 1, Project Location Map**

## 2 AUTHORITIES

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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 OF PROPOSED ACTION

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The proposed gas pipelines would be located in the following locations:

- Luther Pipeline: T150N, R93W, Section 9
- Red Feather Pipeline: T150N, R93W, Sections 5 and 8

## 4 SCOPE OF WORK FOR PROPOSED ACTION

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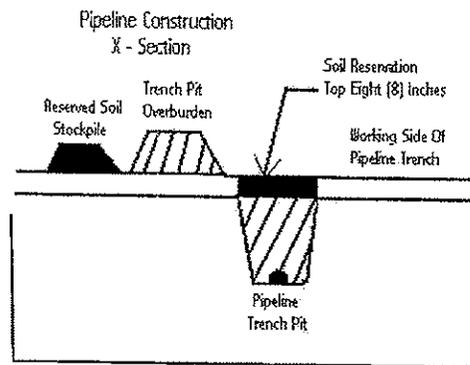
The proposed action includes authorization by the BIA to install natural gas pipelines and other appurtenances above or below ground to move gas to a suitable processing location.

The proposed pipeline corridors would allow for installation of high density poly ethylene gas pipelines up to 6-inches in diameter for transporting gas, as well as above or below ground appurtenances such as installation of valve sets, launchers, receivers and cathodic protection equipment.

The proposed project would require approval for the associated ROW acquisition consisting of 25 feet of permanent ROW and 50 feet of temporary ROW for construction. Please refer to **Appendix A, Pipeline Plats**. Installation of the pipelines would require clearing and grading within the 75-foot ROW along the entire pipeline corridor. Every effort would be made to minimize surface disturbance during the construction process. Topsoil would be separated and stockpiled along either side of any disturbed cross section to be used for prompt reseeding and reclamation of the disturbed area. If construction occurs during the winter months, reclamation would be completed to the best of the ability of the contractor immediately following construction along with spreading and crimping straw over disturbed areas in order to hold soil in place. Remaining reclamation activities would be completed the following spring as soon as conditions allow. All existing roadways, utilities or pipelines encountered would be bored under. Potential impacts to standing crops would be negotiated with the respective producer. Trenches would be excavated using a trencher or trackhoe to a depth sufficient to maintain a minimum of 48 inches of ground coverage over the pipeline. Coverage would be increased to 72 inches of burial depth at roadway crossings and at any driveway crossings. Please refer to **Figure 2, Typical 75' ROW Cross Section**. It is understood that other utilities may be present in the project area and would need to be located prior to construction as well as coordinating potential crossings with the appropriate utilities. The proposed natural gas pipelines would be

marked with above ground signs near all road and fenceline crossings. A trace wire would be buried alongside the proposed pipelines for locating purposes. Existing valve installations on the existing natural gas line and at the well connect would control the proposed pipeline segments in case of potential spills. These valve installations are typically installed every 4-5 miles along pipeline segments. ONEOK has committed to developing a spill response plan that would be submitted to the BIA prior to the commencement of construction activities.

#### PIPELINE CONSTRUCTION



*Figure 2, Typical 75' ROW Cross Section*

It is anticipated that the oil and gas field on Fort Berthold Reservation will remain active for 30 to 40 years. The proposed high density poly ethylene pipe is anticipated to have a design life extending well beyond 40 years. No maintenance of the pipeline segments due to deterioration during the life of the field is anticipated.

Quality control procedures for new pipeline segment include pressure testing each line to 1½ times the actual maximum pressure of the proposed line. This series of pressure tests occurs for eight straight hours and is recorded and documented for each new gathering line segment.

## **5 APPLICABLE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)/CLEARANCE DOCUMENTS**

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The following NEPA/Clearance documents have been previously approved by BIA for the proposed action:

- Marathon Oil Company Drilling of Luther – USA 11-16H, and Luther – USA 31-16H June 2010 Environmental Assessment
- Marathon Oil Company Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells November 2010 Environmental Assessment

## **6 FIELD RESOURCE SURVEYS**

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An intensive, pedestrian resource survey of the proposed pipeline corridor was conducted on November 16, 2011 by Kadrmas, Lee & Jackson (KL&J). The purpose of these surveys was to gather site-specific data and photos with regards to botanical, biological, threatened and endangered species, eagles and water resources. A 200-foot wide pipeline corridor was evaluated for these sites. In addition, a 0.50 mile wide buffer around all areas of project disturbance was used to evaluate the presence of eagles and eagle nests. Resources were evaluated using visual inspection and pedestrian transects across the site.

The BIA EA on-site assessments of the pipeline corridors were also conducted on November 16, 2011. The BIA Environmental Protection Specialist, ONEOK and KL&J participated in these assessments. During these assessments, construction suitability with respect to topography, stockpiling, drainage, erosion control, and other surface issues were considered. Those present at the on-site assessments agreed that the chosen locations, along with the minimization measures ONEOK plans to implement, are positioned in areas which would minimize impacts to sensitive wildlife and botanical resources.

A Class I Literature Review for the Red Feather USA 21-17H and Red Feather USA 31-17H well pad and access road was conducted by KL&J on July 21, 2010. A Class III Cultural Resources Survey was conducted on July 27, 2010. The Area of Potential Effect (APE), or area surveyed, consisted of approximately 45 acres and completely covered the area of the pipeline proposed in this addendum.

A Class I Literature Review for the Luther USA 11-16H and Luther USA 31-16H well pad and access road was conducted by KL&J on April 19, 2010. A Class III Cultural Resources Survey was conducted on April 20, April 29, May 4 and May 18, 2010. The Area of Potential Effect (APE), or area surveyed, consisted of approximately 10 acres and completely covered the area of the pipeline proposed in this addendum.

## 7 ASSESSMENT OF ENVIRONMENTAL IMPACTS

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The following discussion addresses environmental and social impacts as a result of the extension of the pipeline corridor previously mentioned in EA's or ROW easements. Impacts are only discussed if the extension of the project has changed the impact assessment reflected in the June and November 2010 environmental assessments or to note why the impact assessment has not changed.

### A. Air Quality

Gas currently produced by the four wells is being flared on-site. The proposed project would collect gas from each site and transport it to markets for use. The proposed project would have a beneficial impact on air quality due to the anticipated reduction in gas flaring.

### B. Cultural Resources

Class I Literature Reviews and Class III Cultural Resources Surveys were performed at both sites. The field surveys revealed no new or previously recorded cultural resources within the survey corridor at the proposed Red Feather site. At the proposed Luther site, the field surveys revealed three new pre-contact sites and no previously recorded cultural resources within the survey corridor.

The BIA made a determination of *No Historic Properties Affected*, provided that if cultural resources are discovered at any site during construction or operation, work shall immediately be stopped, the affected site secured and BIA and THPO notified. In the event of a discovery, work shall not resume until written authorization to proceed has been received from the BIA. All project workers are prohibited from collecting artifacts or disturbing cultural resources in any area under any circumstances. An archaeological monitor was also requested to be present during construction at the proposed Luther site.

### C. Land Use

The proposed project area is located within a predominantly rural area; land use consists primarily of cultivated land (59 percent) and grassland (38 percent). Please refer to **Figure 3, Luther Pipeline Proposed Site** and **Figure 4, Red Feather Pipeline Proposed Tie-in Location** for a depiction of the landscape along the routes. The proposed project would temporarily convert approximately 23.0 acres of land not previously cleared through a NEPA document from its existing use into a pipeline corridor. The pipelines would be buried underground and the majority of existing land uses would resume following construction and reclamation activities. Some activities, such as those associated with developed lands, may be restricted within the permanent 25-foot ROW. No mitigation is proposed.



***Figure 3, Luther Pipeline Proposed Site***



***Figure 4, Red Feather Pipeline Proposed Tie-in Location***

#### D. Public Health and Safety

Third-party intrusions are one of the biggest contributing factors to spills. To aid in the prevention of such intrusions, ONEOK would fully comply with the marking requirements specified in the US Department of Transportation's rules and regulations, specifically contained in 49 CFR Parts 192 and 195. To ensure such compliance, ONEOK developed construction specifications to delineate the requirements for pipeline marking in accordance with applicable laws, rules, and regulations, including the locations of such markings (e.g., road crossings, waterbody crossings, line of sight, etc.) and the manner of marking such pipelines (e.g., height of markings and signage on the markings).

ONEOK has committed to developing a spill response plan that would be submitted to the BIA prior to the commencement of construction activities. The response plan will include procedures that specifically address making the appropriate contacts, isolating the incident, protecting waterways and providing contact information for all the appropriate contractors and experts necessary to facilitate a rapid response.

#### E. Surface Water

No significant impacts to surface water are expected to result from the proposed pipelines. The proposed project has been sited to avoid direct impacts to surface water and to minimize the disruption of drainage patterns across the landscape. Several drainages were located along the proposed Luther pipeline route. Construction activities occurring in the drainages would be completed within a 24-hour period to minimize disturbances or ONEOK may choose to bore the locations. Implementation of BMPs to control erosion would mitigate runoff of sediment downhill or downstream.

## 8 COMMITMENTS

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ONEOK has committed to following the avoidance and minimization measures described below:

- Straw wattles, silt fences, fiber matting and/or other BMPs would be placed on all slopes greater than 5 percent along with drainage areas.
- 24-hour construction restrictions through all drainages and draws along the proposed Luther Pipeline corridor.
- Pipeline construction would be limited to within the road ROW at the proposed Luther Pipeline site as much as possible.
- Archaeologists would be present at the proposed Luther Pipeline site during construction.
- Woody vegetation would be shredded and mixed with topsoil during reclamation.
- Topsoil would be segregated and stored on-site to be used in the reclamation process. All disturbed areas would be re-contoured to original elevations as part of the reclamation process.
- BMPs would be implemented to minimize wind and water erosion of soil resources.

- Disturbed vegetation would be re-seeded with an approved seed mixture from the BIA Environmental Protection Specialist upon completion of the project. The seeding would be maintained until such time that the vegetation is consistent with surrounding undisturbed areas and the area is free of noxious weeds.
- If cultural resources are discovered during construction or operation, work would immediately be stopped, the affected site secured, and BIA and THPO notified. In the event of a discovery, work would not resume until written authorization to proceed has been received from the BIA.
- All project workers are prohibited from collecting artifacts or disturbing cultural resources in any area under any circumstances.
- Prior to construction, ONEOK would coordinate with the Fort Berthold Water Authority Director to ensure minimization of impacts to existing water distribution pipelines.
- Utility modifications would be identified during design and coordinated with the appropriate utility company.
- Disposal areas and trenches would be properly fenced to prevent human or animal access.
- Suitable mufflers would be put on all internal combustion engines and certain compressor components to mitigate noise levels.
- No construction activities would take place between February 1 and July 15 in order to avoid potential impacts to raptors and migratory bird breeding and nesting; unless mowing/grubbing of the ROW area occurs prior to the breeding/nesting season. Instead of mowing, ONEOK may also choose to have a preconstruction survey conducted by a qualified biologist five days prior to project construction in order to identify any birds or nests within the construction area.
- If a whooping crane is sighted within one-mile of a well site or associated facilities while it is under construction, that all work cease within one-mile of that part of the project and the USFWS be contacted immediately. In coordination with USFWS, work may resume after the bird(s) leave the area.
- During reclamation, slopes would be roughened where possible to reduce erosion.

## 9 NEPA ADEQUACY CRITERIA

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This document has identified two previously prepared NEPA documents: Marathon Oil Company Drilling of Luther – USA 11-16H, and Luther – USA 31-16H June 2010 Environmental Assessment and Marathon Oil Company Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells November 2010 Environmental Assessment, which adequately describe the environmental consequences of the newly proposed actions described herein, and meets the following NEPA Adequacy Criteria:

1. The proposed actions are substantially the same actions and at the sites specifically analyzed in the existing NEPA documents.
2. The range of alternatives is reasonable with respect to the current proposed actions 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 and/or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA documents continues to be appropriate for the proposed actions.
5. The direct and indirect impacts of the proposed actions are unchanged from those identified in the existing NEPA documents.
6. The cumulative impacts that would result from implementation of the proposed actions 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.

# **Notice of Availability and Appeal Rights**

Oneok Rockies Midstream: Luther and Red Feather Gas Pipelines

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to an Environmental Assessment to Authorize Land Use for the Installation of 2.5 miles of pipeline connecting two wells to existing pipelines on the Fort Berthold Reservation as shown on the attached map. Construction by Oneok is expected to begin in 2012.**

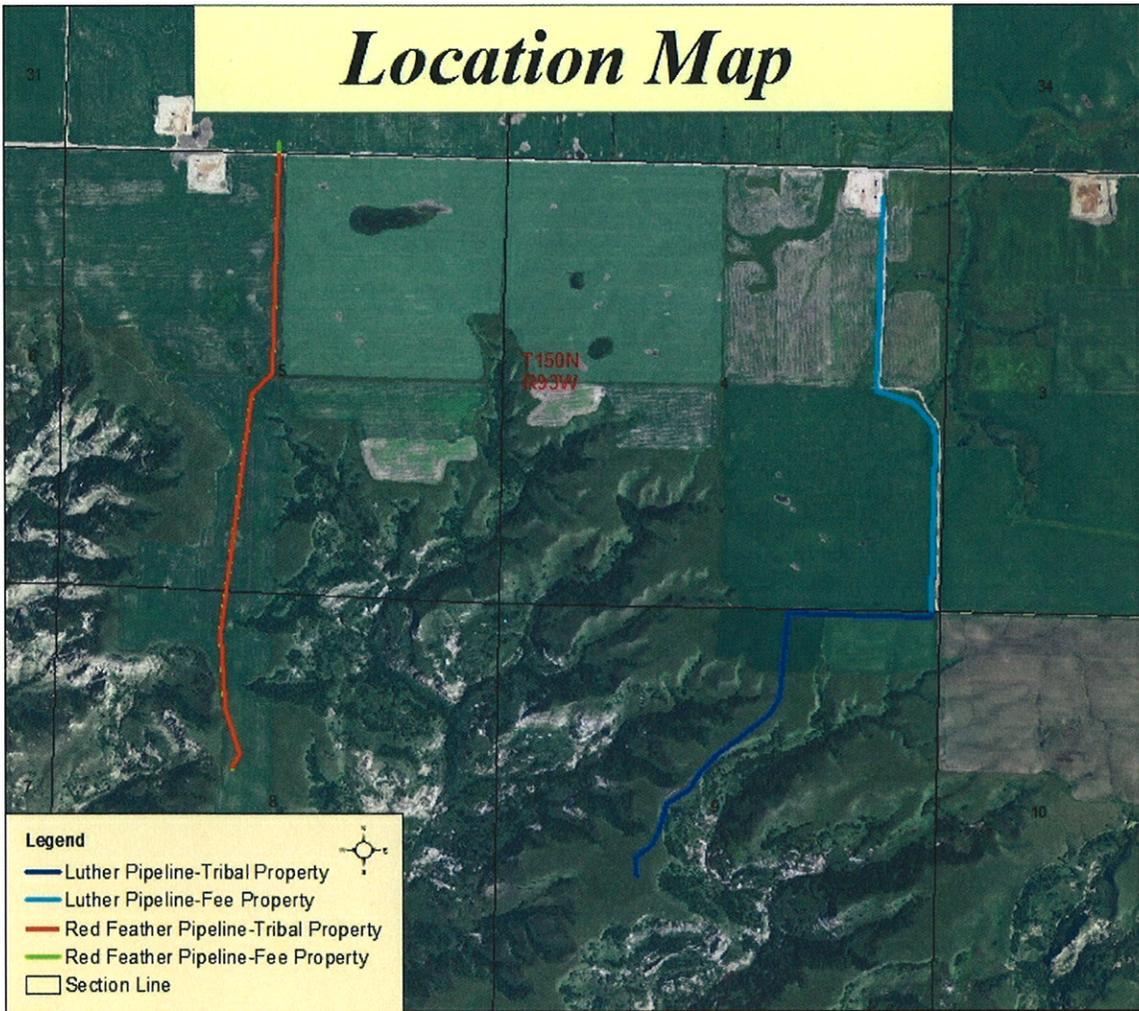
**An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant 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 6, 2012, by contacting:**

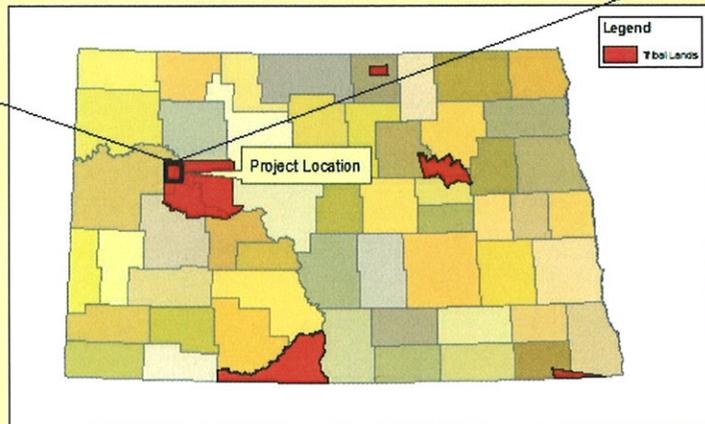
**United States Department of the Interior  
Office of Hearings and Appeals  
Interior Board of Indian Appeals  
801 N. Quincy Street, Suite 300, Arlington, Va 22203.**

**Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.**

# Location Map



**ONEOK Rockies  
Midstream, LLC  
Luther and Red Feather  
Proposed Pipelines  
McKenzie County, ND**



Project locations.