



# 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

APR 23 2012

## 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, an Environmental Assessment (EA) has been completed and a Finding of No Significant Impact (FONSI) has been issued. The EA authorizes land use for the Edward Good Bird 9H access road and utility corridor reroute 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, 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)  
Ryan Krapp, Carlson McCain (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

## **Finding of No Significant Impact**

### **WPX Energy Williston, LLC**

#### **Addendum to Environmental Assessment to Authorize Edward Good Bird 9H Access Road and Utility Corridor Reroute**

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

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to Authorize the Edward Good Bird 9H Access Road and Utility Corridor Reroute. The new access road and utility corridor (underground electric utilities and fiber optic lines) starts at BIA 13 and runs east along the south edge of Section 5 for approximately 1,200 feet. It then turns north for an additional 1,872 feet where it reconnects to the previously approved 130-foot right-of-way (ROW) for the Edward Good Bird 9H. The route then runs an additional 4,058 feet along a portion of the previously approved ROW to the well site. The potential maximum disturbance for the new portion of the access road and utility corridor (ROW) will be 100 feet to allow for the construction and operation of the rerouted access road and utilities.

Associated federal actions by BIA include determinations of effect regarding environmental resources and positive recommendations to the Bureau of Land Management regarding the Applications for Permit to Drill.

The potential of the proposed action to impact the human environment is analyzed in the following Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the EA, I have determined that the proposed project will not significantly affect the quality of the human or natural environment. No Environmental Impact Statement is required for any portion of the proposed activities.

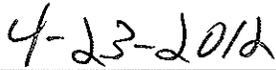
This determination is based on the following factors:

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 action and the No Action alternatives.
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 action is 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 project 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



WPX Energy Williston, LLC

Addendum to Environmental Assessment to Authorize  
Edward Good Bird 9H Access Road and Utility Corridor Reroute

Fort Berthold Indian Reservation

April 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

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## **1.0 Purpose and Need of Action**

WPX Energy Williston, LLC (WPX), formerly Dakota-3 E&P Company, LLC (Dakota-3 E&P), is proposing to drill horizontal oil and gas wells on the Fort Berthold Indian Reservation to 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 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 WPX to reroute the previously approved access road and utility corridor to the Edward Good Bird 9H well site (Figure 1). The new access road and utility corridor (underground electric utilities and fiber optic lines) starts at BIA 13 and runs east along the south edge of Section 5 for approximately 1,200 feet. It then turns north for an additional 1,872 feet where it reconnects to the previously approved 130-foot right-of-way (ROW) for the Edward Good Bird 9H. The route then runs an additional 4,058 feet along a portion of the previously approved ROW to the well site. The potential maximum disturbance for the new portion of the access road and utility corridor (ROW) will be 100 feet to allow for the construction and operation of the rerouted access road and utilities.

## **2.0 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.).

## **3.0 Legal Land Descriptions of Proposed Action**

The proposed Edward Good Bird 9H access road and utility corridor reroute is located in the south  $\frac{1}{2}$  of the southwest  $\frac{1}{4}$  of Section 5, Township 149 North, Range 91 West, in Dunn County, North Dakota.

## **4.0 Scope of Work for Proposed Action**

WPX proposes to reroute a portion the previously approved access road for the Edward Good Bird 9H well site. The proposed reroute shifts the western portion of the access road and utility corridor to the south by approximately 750-feet to accommodate the wishes of the landowner to follow section line. The entire previously approved access road access and utility corridor was 6,698 feet long with a total potential disturbance of approximately 19.0 acres. The rerouted portion is 3,080 feet in length with a reduced ROW width to 100ft. With the reduction of the ROW offsets the additional length to reduce the potential maximum disturbance to only an

additional 0.1 acre. The total access road and utility corridor route covers a total length of approximately 7,130 feet for a total maximum disturbance potential of 19.1 acres.

## 5.0 Cultural and Natural Resource Surveys

Carlson McCain, Inc (CM) was the lead for the natural resource evaluation with cultural resource surveys conducted by SWCA Environmental Consultants (SWCA). Additional resource surveys around the proposed reroute were performed on February 13, 2012. The cultural resource report summary is presented below and full report submitted to BIA under separate cover (Yost and Reinhart 2012).

A cultural resource inventory of this access road and utility corridor reroute was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 21.22 acres were inventoried on February 13, 2012 (Yost and Reinhart 2012). One archaeological site was located that may 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, as the archaeological site will be avoided. This determination was communicated to the THPO on March 20, 2012; however the THPO did not respond within the allotted 30 day comment period.

The proposed rerouted access road and utility corridor is located in an area of grassland dominated by introduced species. The pasture was currently idle at the time of on-site investigation and residual vegetative cover was high. The introduced species of intermediate wheatgrass (*Agropyron intermedium*), crested wheatgrass (*Agropyron cristatum*), and Kentucky bluegrass (*Poa pratensis*) are the dominant grass species along the proposed route. Commonly occurring forb species include sweetclover (*Melilotus spp.*), western snowberry (*Symphoricarpos occidentalis*), white sage (*Artemisia ludoviciana*), and stiff goldenrod (*Solidago rigida*). A portion of the proposed reroute runs adjacent to a wooded draw comprised of green ash (*Fraxinus pennsylvanica*), buffalo berry (*Shepherdia argentea*), and choke cherry (*Prunus virginiana*). The area of grassland found in association with the draw is characterized by the native species big bluestem (*Andropogn gerardii*), little bluestem (*Andropogon scoparius*), and Canada wildrye (*Elymus canadensis*). Mitigation options discussed and decided upon in-field was the avoidance of native wooded draw.

Wildlife species surveys conducted within a 300-foot corridor did not reveal any nesting migratory birds, likely due to the timing of survey. Suitable raptor nesting habitat is found along the route but none were identified within 0.5-mile line of sight survey. An additional raptor and migratory bird nesting survey will be conducted five-days prior to construction if surface disturbance activities are proposed between February 1 and July 15.

It is BIA policy and WPX is committed to a good faith effort towards interim reclamation started within six months of the additional disturbance. Use of BMPs (soil compaction, straw matting, wattles, fabric etc.) will be used to reduce erosion potential. Indefinite monitoring of seeding success and weed species control and maintenance will occur as needed to maintain environmental protections.

## 6.0 Applicable National Environmental Policy Act (NEPA) Document(s)

*Environmental Assessment: Dakota-3 E&P Company, LLC, Corn Stalk #20H, Edward Goodbird #9-9H, and Independence #2-35H Well Pads.* December, 2011.

## 7.0 Other Relevant Documentation

*Yost and Reinhart 2012. Addendum to the Class I and Class III Cultural Resource Inventory of the Edward Goodbird #9-9H Well Pad and Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota.* Prepared for WPX Energy Williston, LLC by SWCA Environmental Consultants, Bismarck, North Dakota. March 2012.

## 8.0 NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Dakota-3 E&P Company, LLC, Corn Stalk #20H, Edward Goodbird #9-9H, and Independence #2-35H Well Pads (December 2011)*, 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. Edward Good Bird 9H Access Road and Utility Corridor Reroute

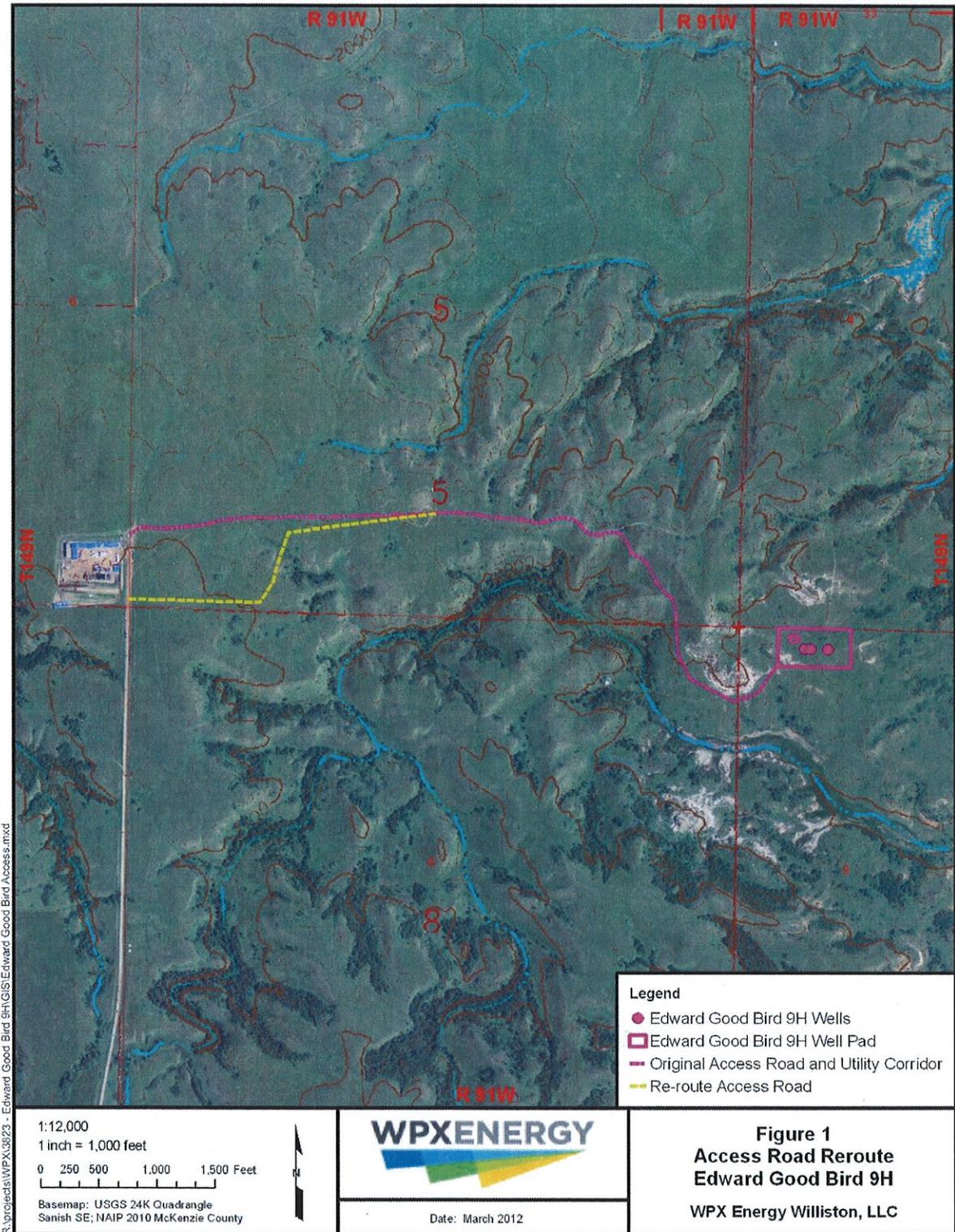




Figure 2. Proposed access road and utility corridor reroute for Edward Good Bird 9H well site. Picture of taken facing east along portion of road adjacent to the south section line.



## 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

MAR 20 2012

Elgin Crows Breast, THPO  
Mandan, Hidatsa and Arikara Nation  
404 Frontage Road  
New Town, North Dakota 58763

Dear Mr. Crows Breast:

We have considered the potential effects on cultural resources of an oil well utility corridor reroute in Dunn County, North Dakota. Approximately 21.22 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed report. One archaeological site (32DU1705) was located that may possess the quality of integrity and meet at least one of the criteria (36 CFR 60.4) for inclusion on the National Register of Historic Places. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (42 USC 1996).

As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no historic properties affected** for this undertaking, as the archaeological site will be avoided. Catalogued as **BIA Case Number AAO-2079/FB/12**, the proposed undertaking, location, and project dimensions are described in the following report:

Yost, Scott, and Damien Reinhart  
(2012) Addendum to the Class I and Class III Cultural Resource Inventory of the Edward Goodbird #9-9H Well Pad and Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for WPX Energy Williston, LLC, Tulsa, OK.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. We will adhere to the Standard Conditions of Compliance.

If you have any questions, please contact Dr. Carson N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely,

Regional Director

Enclosure

cc: Chairman, Three Affiliated Tribes  
Superintendent, Fort Berthold Agency

## APPENDIX A

### Plats, Drawings, and Diagrams for the Revised Edward Good Bird 9H Access Road and Utility Corridor

WPX ENERGY WILLISTON, LLC  
Van Hook Gathering System

Road, Pipeline, Utility, Fiber Optic and above ground Appurtenances  
RIGHT-OF-WAY

Tract #: 122

Sections: S1/2 SW1/4, Sec 5, Twp. 149N, Rge 91W

TOTAL RIGHT-OF-WAY ON TRIBAL LANDS

Total length of RIGHT-OF-WAY is 3,080.45 feet or 0.58 miles. Width of RIGHT-OF-WAY is 100.00 feet (50.00 feet perpendicular on each side of centerline unless otherwise shown). Contains 6.97 acres more or less.

ENGINEER'S AFFIDAVIT

STATE OF MINNESOTA        )  
  ) SS  
COUNTY OF ANOKA         )

Kurt M. Kisch, Being first duly sworn deposes and states that he is the Registered Land Surveyor for WPX ENERGY WILLISTON, LLC. That these surveys were made by him (or under his direct supervision): That he has examined the field notes of the surveys of the RIGHT-OF-WAY as described and shown on this map. That this map was prepared under his direction from said field notes; and that said RIGHT-OF-WAY, 0.58 miles in length, beginning and ending as shown on this map is accurately represented.



*Kurt M. Kisch*  
Kurt M. Kisch  
REGISTERED LAND SURVEYOR  
REGISTRATION NO. L.S. 4597  
STATE OF NORTH DAKOTA

APPLICANT'S CERTIFICATE

I, Josh Walker, Do hereby certify that I am the agent for WPX ENERGY WILLISTON, LLC, hereinafter designated the applicant; that Kurt M. Kisch who subscribed to the foregoing affidavit, is employed by the applicant as a Land Surveyor and that he was directed by the applicant to survey the location of this RIGHT-OF-WAY, 0.58 miles in length, that said RIGHT-OF-WAY are accurately represented on this map; that such survey as represented on this map has been adopted by the applicant as the definite location of the RIGHT-OF-WAY thereby shown; and that the map has been prepared to be filed with the Secretary of Interior or his duly appointed representative as part of the application for said RIGHT-OF-WAY to be granted the applicant, its successors and assigns, with the right to construct, maintain, and repair improvements, thereon and thereover, for such purposes, and with the further right in the applicant, its successors and assigns to transfer this RIGHT-OF-WAY by assignment, grant, or otherwise.

*Josh Walker*  
APPLICANT

*OT's supervisor*  
TITLE



ENVIRONMENTAL • ENGINEERING • LAND SURVEYING

WPX ENERGY WILLISTON, LLC  
Van Hook Gathering System

Road, Pipeline, Utility, Fiber Optic and above ground Appurtenances  
RIGHT-OF-WAY

Tract # : 122

Sections: S1/2 SW1/4 , Sec 5, Twp. 149N, Rge 91W

RIGHT-OF-WAY Description:

A 100.00 foot wide right-of-way for Road, Pipeline, Utility, Fiber Optic, and above ground Appurtenances purposes lying over, under and across the South Half of the Southwest Quarter of Section 5, Township 149N, Range 91W, the centerline of said right-of-way to be described as follows:

Commencing at the Southwest Corner of said South Half of the Southwest Quarter; thence on an assumed bearing of North 01 degrees 05 minutes 52 seconds West, along the west line of said South Half of the Southwest Quarter, 57.68 feet to the point of beginning of said centerline to be described; thence South 88 degrees 29 minutes 01 seconds East, 1130.98 feet; thence North 32 degrees 22 minutes 42 seconds East, 215.92 feet; thence North 13 degrees 53 minutes 04 seconds East, 99.09 feet to a point hereinafter referred to as Point 'A' and said centerline there terminating.

Together With:

A 64.00 foot wide right-of-way for Road, Pipeline, Utility, Fiber Optic, and above ground Appurtenances purposes lying over, under and across the South Half of the Southwest Quarter of Section 5, Township 149N, Range 91W, lying 14.00 feet northwesterly and 50.00 feet southeasterly of the following described line:

Beginning at the aforementioned Point 'A'; thence North 13 degrees 53 minutes 04 seconds East, 50.83 feet; thence North 19 degrees 03 minutes 07 seconds East, 71.22 feet to a point hereinafter referred to as Point 'B' and said line there terminating.

Together With:

A 100.00 foot wide right-of-way for Road, Pipeline, Utility, Fiber Optic, and above ground Appurtenances purposes lying over, under and across the South Half of the Southwest Quarter of Section 5, Township 149N, Range 91W, the centerline of said right-of-way to be described as follows:

Beginning at the aforementioned Point 'B'; thence North 19 degrees 03 minutes 07 seconds East, 224.74 feet; thence North 82 degrees 34 minutes 53 seconds East, 1287.67 feet to the east line of said South Half of the Southwest Quarter and said centerline there terminating.

Sidelines of said right-of-way shall be prolonged or shortened to meet the grantor's property lines.

Tract # 122

248 Apollo Drive, Suite 100 • Lino Lakes, MN 55014 • Tel 763-489-7900 • Fax 763-489-7959 • www.carlsonmccain.com

# ~ WPX ENE

## PARCEL DESCRIPTION

Tract No. 122  
 The South Half of the South  
 of Section 5, Township 149N  
 Dunn County, North Dakota.

## Road, Utility, Electric, Fiber Additional RIGHT-OF-WAY

A 100.00 foot wide right-of-way for  
 over, under and across the South H  
 of said right-of-way to be describe

Commencing at the Southwest Corner  
 North 01 degrees 05 minutes 52 se  
 feet to the point of beginning of a  
 1130.98 feet; thence North 32 degr  
 04 seconds East, 99.09 feet to a p

Together With:

A 84.00 foot wide right-of-way for  
 over, under and across the South H  
 feet northwesterly and 50.00 feet s

Beginning at the aforementioned Poi  
 North 19 degrees 03 minutes 07 se  
 there terminating.

Together With:

A 100.00 foot wide right-of-way for  
 over, under and across the South H  
 of said right-of-way to be describe

Beginning at the aforementioned Poi  
 North 82 degrees 34 minutes 53 se  
 Quarter and said centerline there to

Sidelines of said right-of-way shall

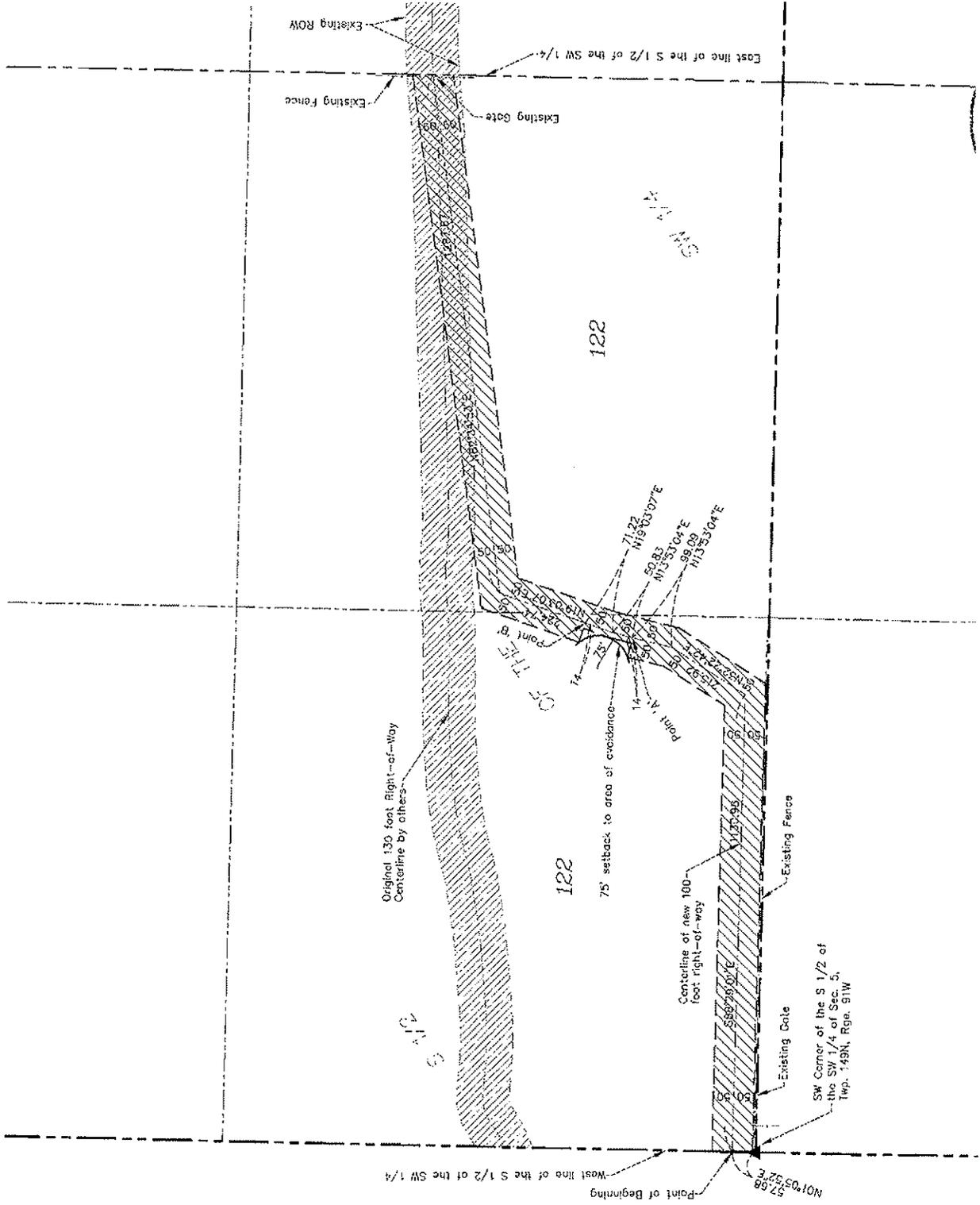
**Total right-of-way an  
 Centerline length of 11**



Additional right-of-way

## CERTIFICATE

I hereby certify that this pl  
 supervision and is true and  
 Dated: 2/24/12





# **Notice of Availability and Appeal Rights**

WPX Energy: Addendum to Environmental Assessment to Authorize  
Edward Good Bird 9H Access Road and Utility Corridor Reroute

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals to Authorize the Edward Good Bird 9H Access Road and Utility Corridor Reroute on the Fort Berthold Reservation as shown on the attached map. Construction by WPX Energy 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 May 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.

