



# 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

MAY 10 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 the installation of a utility corridor connecting the Fettig #6-7H wells to the existing TAT #2-1H gathering pipeline system 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 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)  
Michael Madson, SWCA (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

**Finding of No Significant Impact  
Dakota-3 E&P**

**Addendum to Environmental Assessment to Authorize Land Use for the Installation of a  
Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering  
Pipeline System Fort Berthold Indian Reservation**

**Dunn County, North Dakota**

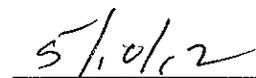
The U.S. Bureau of Indian Affairs (BIA) has received a proposed Addendum to authorize land use for the installation of a utility corridor connecting the Fettig #6-7H wells to the existing TAT #2-1H gathering pipeline system on the Fort Berthold Indian Reservation. The proposed pipelines and utilities would be installed on trust land originating from the southeast side of the well pad in the NE¼ NW¼ of Section 6, Township (T) 148 North (N), Range (R) 94 West (W), 5<sup>th</sup> Prime Meridian (P.M.), Dunn County, ND, and run south, terminating at the existing tie-in in the NE¼ NW¼ of Section 6, T148N, R94W, 5<sup>th</sup> 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.

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.

  
Regional Director

  
Date

# **Notice of Availability and Appeal Rights**

WPX Energy: Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor  
Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals to Addendum to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System 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 June 8, 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.**



**Fettig #6-7H**

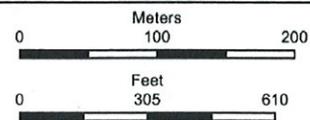
-  Existing Access Road
-  Existing Well Pad
-  Proposed Utility Corridor



116 North 4th Street  
Suite 200  
Bismarck, ND 58501

Phone: 701.258.6622  
Fax: 701.258.5957

[www.swca.com](http://www.swca.com)



Base Map: Bing Aerial Maps  
Source: esri ArcGIS service  
Quadrangle: Mandaree (1973)  
T149N, R94W and T148N, R94W  
Dunn County, North Dakota



Scale: 1:4,000 NAD 1983 UTM Zone 13N

**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 Land Use for the Installation of a  
Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H  
Gathering Pipeline System**

**Fort Berthold Indian Reservation**

**May 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

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
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. Materials Information and Corrosion Rates.....	2
6. Spill Response Plan .....	2
7. Pipeline Marking Procedures.....	3
8. Quality Control/Quality Assurance Measures .....	3
9. Valve Locations .....	3
10. Reclamation.....	3
11. Resource Surveys .....	4
12. Potential Effects to Cultural and Natural Resources.....	5
13. Applicable National Environmental Policy Act (NEPA) Document(s).....	6

**LIST OF FIGURES**

<b><u>Figure</u></b>	<b><u>Page</u></b>
1. Fettig #6-7H well pad, access road, and proposed utility corridor location.....	7

**LIST OF APPENDICES**

**Appendix**

- A. Layout Plats for the Proposed Fettig #6-7H Gathering Pipeline System within the Utility Corridor

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*

## **1. Purpose and Need for the Proposed Action**

The purpose of the proposed action is to authorize land use by WPX Energy Williston, LLC (WPX) for the construction and installation of three pipelines, including one oil pipeline, one natural gas pipeline, and one produced water pipeline, as well as underground electric and fiber optic lines, that will cohabitate within a single utility corridor to complete the connection between the existing Fettig #6-7H wells and the existing TAT #2-1H Gathering Pipeline System (tie-in). As proposed, the utility corridor would transport oil, natural gas, produced water, and electric and fiber optic transmissions within the approved right-of-way (ROW).

Developments have been proposed on land held in trust by the United States in Dunn County, North Dakota (ND). The Bureau of Indian Affairs (BIA) is the surface management agency for potentially affected tribal lands and individual allotments. The economic development of available resources and associated BIA actions are consistent with BIA's general mission. Leasing and development of mineral resources offers economic benefits to the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nations 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 proposed pipelines and utilities would be installed on trust land originating from the southeast side of the well pad in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 6, Township (T) 148 North (N), Range (R) 94 West (W), 5<sup>th</sup> Prime Meridian (P.M.), Dunn County, ND, and run south, terminating at the existing tie-in in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 6, T148N, R94W, 5<sup>th</sup> P.M. (Figure 1). This location is approximately 5 miles southwest of Mandaree, ND.

## **4. Scope of Work for Proposed Action**

Oil, natural gas, and produced water pipelines would be buried in two 2.5-foot-wide trenches, spaced 5.0 feet apart, or one 5.0-foot-wide trench. Oil and natural gas pipelines would be no greater than 8 inches in diameter and constructed of steel. The water pipeline would also be no greater than 8 inches in diameter and constructed of Fiberspar<sup>®</sup> or similar material. Technical descriptions for the materials, corrosion rates, spill response plans, pipeline marking procedures, quality assurance/control, valve locations, boring locations, and reclamation plans are specific to Arrow Pipeline, LLC (Arrow). Approximately 382.51 feet of oil, natural gas, and produced water pipe would be needed to complete the connection from the existing wells to the tie in. All construction disturbances would occur within a 130-foot-wide ROW, which has been surveyed for impacts to natural and cultural resources with no significant findings. In

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System*  
(May 2012)

total, approximately 1.14 acre will be disturbed as a result of activities associated with the construction of the proposed utility corridor. Construction plats are provided in Appendix A.

## **5. Materials Information and Corrosion Rates**

WPX proposes to construct the oil, natural gas, and produced water pipelines according to the specifications used by Arrow. These specifications may vary if WPX uses different materials and methods to install the pipelines. If the technical specifications of the materials vary from those contained herein, WPX will provide the BIA with a revised technical specification explanation that contains the same or similar information as disclosed below.

### **Steel Pipe**

Oil and natural gas pipelines would be constructed using new steel pipe rated by the American Petroleum Institute (API) as 5L X52. Each steel pipe segment is coated with approximately 14 to 16 millimeters of fusion bonded epoxy coating. Further, an active cathodic protection system would be installed for all steel pipes, further reducing the likelihood of external corrosion. Each steel pipe segment would be allotted a 1/16-inch corrosion allowance; however, because of the non-corrosive nature of Bakken crude and the low concentrations of hydrogen sulfide, WPX does not anticipate any external or internal corrosion during the operating lifetime of the pipe, which, at a minimum, is estimated to be 50 years.

### **Fiberspar® or Similar Pipe**

Produced water pipelines would be constructed using a material known as Fiberspar or one with the same corrosion resistant characteristics as Fiberspar. This type of material is not subject to internal or external corrosion.

## **6. Spill Response Plan**

Arrow has developed a Spill Response Plan (Plan) (Middick 2011<sup>1</sup>) for the Phase 3 Southwest pipeline. The spill preventative measures and monitoring protocols, notification procedures, spill detection and on-scene spill mitigation procedures, response activities, contacts, training and drill procedures, and response plan review and update procedures, as referenced in the plan, apply to the proposed pipelines, so long as Arrow remains the operator. A copy of the plan has been filed with the BIA and Arrow has legally committed to adhering to the procedures and requirements as defined by federal law (Title 49 Code of Federal Regulations [CFR] 194). A project specific spill response plan would be submitted to the BIA prior to the commencement of construction activities.

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<sup>1</sup> Middick, Andy. 2011. *Operations Monitoring and Spill Response Plan*. Blackshare Environmental Solutions. Oklahoma City, Oklahoma.

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*

## **7. Pipeline Marking Procedures**

Pipeline markers would be placed within 1,000 feet of one another, at all public road crossings, railroad crossings, creek crossings, fence crossings, and at all points of major direction change.

## **8. Quality Control/Quality Assurance Measures**

New steel pipe, rated as API 5L X52, would be purchased and inspected at the mill to ensure quality. Quality control inspectors ensure that external epoxy coating is applied to a minimum thickness of 14 millimeters on all purchased steel pipe. During construction, all welds are visually inspected for quality and completeness by qualified professionals. Once welds have passed visual inspection, they are subjected to 100 percent Non Destructive Testing. After passing these tests, the weld areas are covered for corrosion protection. After the weld areas have been covered, the external coating of the pipe is inspected using a jeepmeter to detect holes and cracks. Prior to being put into service, the steel pipe is hydrotested to approximately 1.5 times the minimum design pressure of 1,180 pounds per square inch gauge (psig). The produced water pipe is designed to sustain a minimum pressure of 750 psig and is hydrotested to approximately 900 psig prior to being approved for service.

## **9. Valve Locations**

Two valves would be installed at each end of the proposed pipelines. One valve would be installed at the well pad location while the second valve would be installed at the proposed tie-in. The installation of two valves would allow the proposed gathering pipelines to be isolated if required.

## **10. Reclamation**

### **Interim Reclamation**

Reclamation would continue over the life of the utility corridor 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 gathering line. A successful reclamation would at all times be the responsibility of the operator.

The portions of the corridor 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, non-frozen back-fill soil will be used to the extent possible and the ROW will be covered 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.

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*

Applicable short- and long-term best management practices would be used to minimize and control erosion in disturbed areas. To reduce compaction, the utility corridor ROW 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 utility corridor ROW would be covered with stockpiled topsoil and reseeded with a seed mixture determined by the BIA. Noxious weeds would be controlled within the ROW by approved chemical or mechanical methods. If seeding of the ROW does not occur due to growing season constraints, approved weed-free hay will be distributed 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, and 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.

If after two growing seasons the new seeding is not successful, the BIA may require additional efforts to establish vegetation. The BIA has developed a weed management plan to treat known or likely to occur noxious weed species.

### **Final Reclamation**

Final reclamation would occur when the pipelines are decommissioned. All disturbed areas would be reclaimed, reflecting the BIA's view of oil and gas exploration and production as temporary intrusions on the landscape. All facilities would be removed and work areas would be leveled or backfilled as necessary, scarified, recontoured, and seeded.

## **11. Resource Surveys**

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for noxious weeds, wetlands, threatened and endangered species habitat, migratory birds and active nests, and bald and golden eagles and their nests for the proposed Fettig #6-7H utility corridor location on February 22, 2012. Onsite meetings with the BIA, WPX, SWCA, and land surveyors were held to discuss impact mitigation on February 29, 2012. Both migratory bird and potential golden eagle foraging habitat were observed in this area.

A cultural resource inventory of this pipeline route was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 6.48 acres were inventoried on August 1, 2011 (Nagra and Hutchinson 2012). No historic properties were located 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

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*

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 April 11, 2012; however the THPO did not respond within the allotted 30 day comment period.

Nagra, Jenny, and Alan Hutchinson

(2012) A Class I and Class III Cultural Resource Inventory of Enerplus Resources Proposed Extension of the Pipeline/Utility Corridor for the Grassy Knoll #2-11H and Banjo #149-94-02B-01H TF Well Pad, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

## **12. Potential Effects to Cultural and Natural Resources**

Potential direct impacts to cultural resources would be as a result of disturbance and/or the loss of sites eligible for the NHPA. All 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.

Potential direct impacts to natural resources may include the loss of native vegetation and wildlife habitat, soil disturbance, and erosion during construction that may adversely affect air and water quality. Impacts would be mitigated by using best management practices, such as using secondary containment on areas where there are steep inclines and drainages, and using matting and straw waddles on those steep areas during construction to minimize erosion. In addition to a 24" berm added as standard BMP, secondary containment in the form of fill would be placed to prevent any event from moving off site.

In total, construction activities would disturb approximately 1.14 acres. Potential indirect effects of the proposal could include release of sediment or fluids from the well pad, construction noise or traffic disturbance of general wildlife, and possible introduction of noxious weeds. Potential cumulative impacts of the proposal plus other foreseeable future oil and gas development on the Fort Berthold Indian Reservation could include habitat fragmentation from construction of other well pads and roads. The cumulative effect of the changed action is anticipated to be negligible. Any potential direct effects would be mitigated by surveying for and avoiding any eligible cultural resource sites; implementing an approved stormwater pollution prevention plan and erosion control devices; avoiding any wetlands and any federally listed threatened or endangered species or designated critical habitat; avoiding nesting migratory birds; and completing reclamation using appropriate native vegetation.

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

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*

impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum.

**13. Applicable National Environmental Policy Act (NEPA) Document(s)**

*Environmental Assessment: Five Bakken Exploratory Oil Wells; Dakota-3 Fast Dog #14-5H, Dakota-3 Fettig #3-6H, Dakota-3 Patricia Charging 2 #2-15H, Dakota-3 Pauline Grady #4-19H, Dakota-3 TAT (1800) #2-4H; Zenergy Operating Company, LLC (FONSI October 2010).*

*Environmental Assessment: Arrow Midstream Holdings Phase 1B-HWY 22 Oil, Gas, and Water Gathering System (FONSI December 2009)*

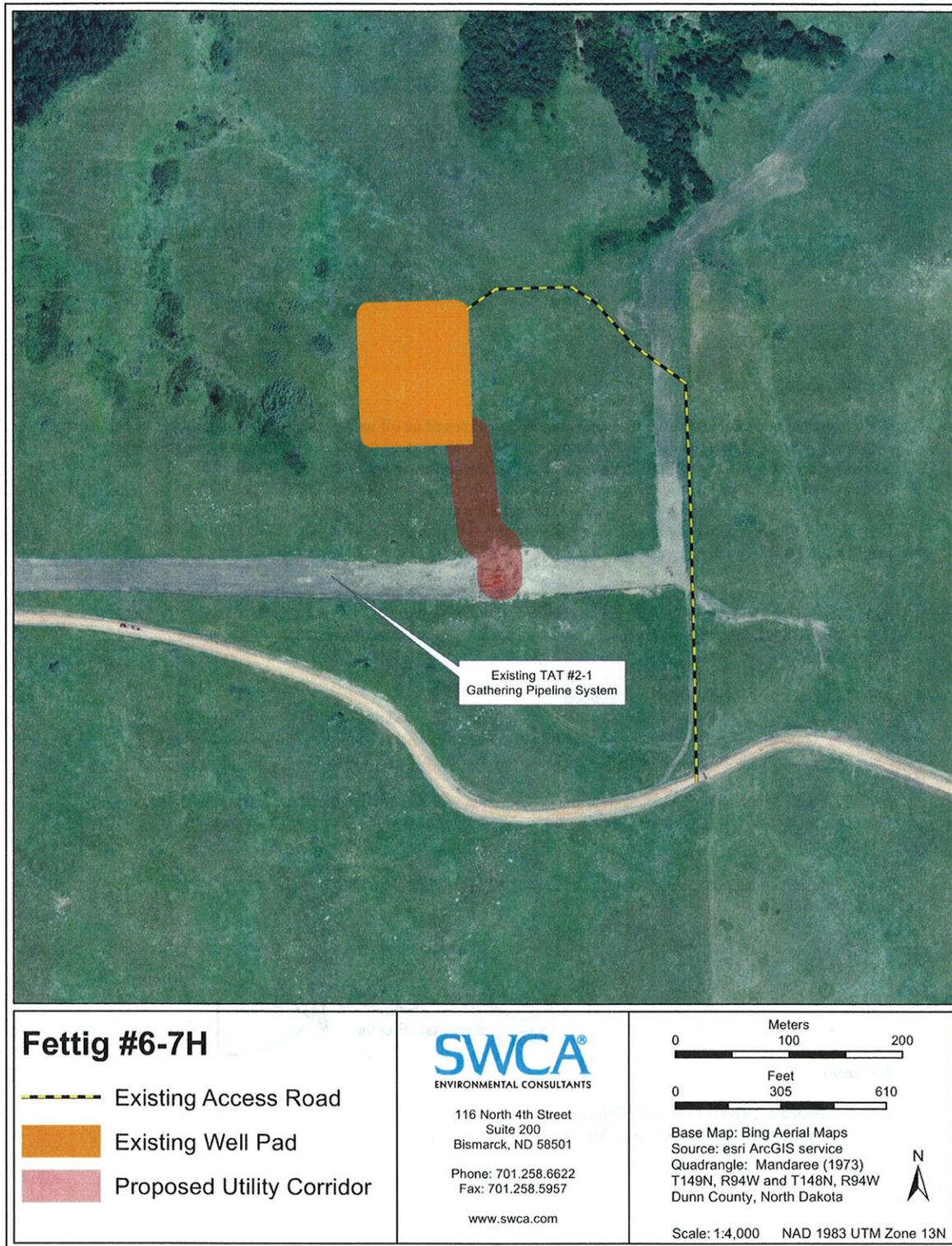
*Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 TAT (714A) #2-1H to Arrow Phase 1B-HWY 22 Pipeline (2009)*

**NEPA Adequacy Criteria**

This document has identified one previously prepared NEPA document, 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.

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System*  
 System  
 (May 2012)



**Figure 1. Fettig #6-7H well pad, access road, and proposed utility corridor location.**

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility Corridor Connecting the Fettig #6-7H Wells to the Existing TAT #2-1H Gathering Pipeline System  
(May 2012)*



IN REPLY REFER TO:  
DESCRM  
MC-208

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



APR 11 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 gathering line and utility corridor in Dunn County, North Dakota. Approximately 2.44 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area depicted in the enclosed report. No historic properties were located that appear to 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).

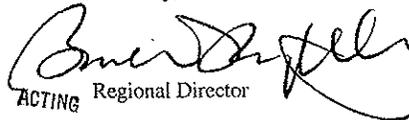
As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no historic properties affected** for this undertaking. Catalogued as **BIA Case Number AAO-2079/FB/12**, the proposed undertaking, location, and project dimensions are described in the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

Reinhart, Damien S., and Chandler S. Herson  
(2012) A Class I and Class III Cultural Resource Inventory of the Fettig #6-7H Utility Corridor and Gathering Pipeline, 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,

  
ACTING Regional Director

Enclosure

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

*Addendum to Environmental Assessment to Authorize Land Use for the Installation of a Utility  
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System  
(May 2012)*

**APPENDIX A**

Layout Plats for the Proposed Fettig #6-7H Gathering Pipeline System within the  
Utility Corridor

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