



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

AUG 23 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 Environmental Assessment Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The Addendum authorizes land use for the reroute to the Van Hook Gathering System - 29th Street Route 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)
Miranda Meehan, Carlson McCain (with attachment)
Carson Hood/Fred Fox MHA Energy (with attachment)
Jonathon Shelman, Corps of Engineers (e-mail)
Jeff Hunt, Fort Berthold Agency (e-mail)

Finding of No Significant Impact

WPX Energy Williston, LLC

*Addendum to Environmental Assessment to Authorize
Reroute to the Van Hook Gathering System - 29th Street Route*

*Fort Berthold Indian Reservation
Mountrail County, North Dakota*

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to authorize land use for the Reroute to the Van Hook Gathering System - 29th Street Route on the Fort Berthold Reservation. The reroute starts west of the Van Hook R/S well pad in Section 4 and will divert southeast under the existing access road and proceed east along the north ditch of 29th Street into Section 9. The total length of the proposed reroute is approximately 780 feet, of which 700 feet within Section 4 is privately owned and the remaining approximate 80 feet of the route is on Tribal allotted property (Tract 1435) in Section 9. Associated federal actions by BIA include determinations of impacts and effects regarding environmental resources for developments on tribal lands.

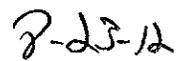
The potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing EA, as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that the proposed project will not significantly affect 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

ACTING


Date

Notice of Availability and Appeal Rights

WPX Energy: Reroute to the Van Hook Gathering System - 29th Street Route

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to the Reroute to the Van Hook Gathering System - 29th Street Route on the Berthold Reservation as shown on the attached map. Construction by WPX Energy is expected to begin in 2012.

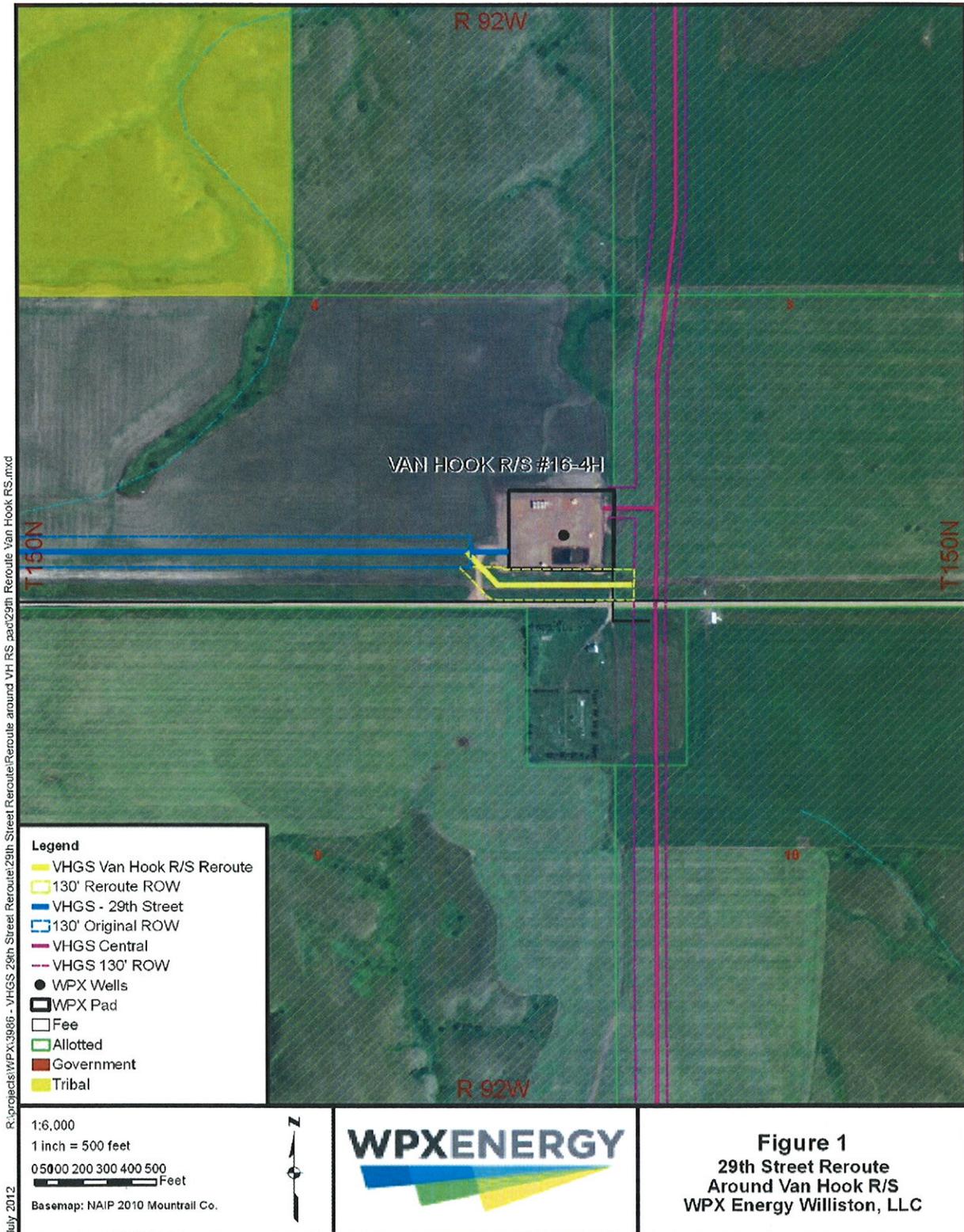
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-6570 for more information and/or copies of the EA and the Finding of No Significant 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 September 21, 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 701-627-6570.

Project locations.



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
Reroute to the Van Hook Gathering System - 29th Street Route

FortBerthold Indian Reservation

August 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) is proposing to reroute a portion of the Van Hook Gathering System (VHGS) known as the 29th Street Route on the Fort Berthold Indian Reservation (FBIR) due to a conflict with the location of facilities on the Van Hook R/S well pad. Developments have been proposed across land held in trust by the United States in Mountrail County, North Dakota. 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 substantial economic benefits to the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nations and to individual tribal members.

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 VHGS 29th Street Reroute (Project) traverses Fee and Tribal allotted lands located on the Sanish Peninsula of the FBIR in Mountrail County, North Dakota. Tribal allotted lands affected by the proposed action are located in Sections 4 and 9; Township 150 North, Range 92 West.

4.0 Scope of Work for Proposed Action

The purpose of the proposed action is to authorize WPX to reroute a portion of the VHGS 29th Street Route to allow connection to the VHGS and avoid crossing the Van Hook R/S well pad (Figure 1).

The reroute starts west of the Van Hook R/S well pad in Section 4 and will divert southeast under the existing access road and proceed east along the north ditch of 29th Street into Section 9. The total length of the proposed reroute is approximately 780 feet, of which 700 feet within Section 4 is privately owned and the remaining approximate 80 feet of the route is on Tribal allotted property (Tract 1435) in Section 9. Installed within the 130-foot purchased ROW will be oil, gas and produced water pipelines from existing and proposed wells. Fresh water pipelines as well as utility (electrical and fiber optic) lines will also be installed to the well sites. The reroute will result in a total disturbance of 2.0 acres, with 0.2 acres on Tribal allotted lands.

5.0 Resources Surveys

Carlson McCain, Inc. (Carlson McCain) performed the natural resource evaluation. Metcalf Archaeological Consultants, Inc. (MAC) performed the cultural resource survey. The proposed route expansion was “soft” staked and was evaluated to determine potential affects to cultural and natural (i.e., biological and physical) resources such as topography, natural drainage and erosion control, location of topsoil and subsoil stockpiles, flora, fauna, and wildlife habitat. Site-specific mitigation measures were discussed and incorporated into the final project design to minimize impacts to evaluated resources, as discussed below. The cultural resource report summary is presented below. The entire report was submitted to the BIA under separate cover (Kinsey, 2012).

5.1 Natural Resource Survey

The natural resource survey was conducted on July 10, 2012, within an approximate 300-foot-wide corridor. The 80-foot portion that will cross allotted lands has been previously disturbed by the recent installation of a rural water pipeline. The area has been reclaimed and is in early succession of reestablishing grassland cover (Figure 3). The newly reclaimed area was dominated by Kochia (*Bassia scoparia*) and sowthistle (*Sonchus oleraceus*). Oats (*Avena sativa*), Japanese brome (*Bromus japonicus*), annual sunflower (*Helianthus annuus*), crested wheatgrass (*Agropyron cristatum*) and Canada thistle (*Cirsium arvense*) was also found scattered in the area.

A ground survey for cliff, tree, and ground raptor nests was conducted within ½ mile of the proposed project ROW during the on-site evaluation. No raptors nests were observed during the on-site survey.

The ROW was also reviewed to identify the presence of migratory bird species as well as nests located within the ROW. No nests were found within the ROW, although blackbirds and vesper sparrows were observed in the area. Surface disturbance and installation of the multiple pipelines and buried utilities is anticipated to be done all at once. If the ROW surface will be disturbed during the spring nesting season (February 1–July 15), ground and/or aerial surveys for migratory birds (including raptors) and nests will be conducted within five days of construction. No additional T&E species effect determinations were made that were not originally addressed in the previous VHGS EAs.

5.2 Cultural Resource Surveys

A cultural resource inventory of this pipeline reroute was conducted by personnel of Metcalf Archaeological Consultants, Inc., using an intensive pedestrian methodology. Approximately 4.2 acres were inventoried on July 6, 2012 (Kinsey 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 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 July 18, 2012; however the THPO did not respond within the allotted 30 day comment period.

6.0 Mitigation

The original natural resource considerations, mitigation and commitments outlined in the original EA were discussed at the on-site evaluation and will be adhered to. Specific mitigation requirements such as pre-determined ROW access points and seeding, planting, and mulching and mixing during interim reclamation of ROW will be carried out.

7.0 Applicable National Environmental Policy Act (NEPA) Document(s)

Environmental Assessment: Zenergy Operating Company, LLC, Phase 1, Van Hook Gathering System, July 2010. Finding of No Significant Impact: Zenergy Operating Company, LLC, Phase 1, Van Hook Gathering System. July 30, 2010.

Addendum to: Zenergy Operating Company, LLC, Phase 1, Van Hook Gathering System. Right-of-Way Expansion and Reroute to the Van Hook Gathering System: December, 2011. Finding of No Significant Impact: Dakota-3 E&P Company, LLC, Addendum to Environmental Assessment to Authorize Right-of-Way Expansion and Reroute to the Van Hook Gathering System: December 29, 2011.

Environmental Assessment: Dakota-3 E&P Company, LLC, West Van Hook Gathering System, January 2012. Finding of No Significant Impact: Dakota-3 E&P Company, LLC, West Van Hook Gathering System. February 16, 2012.

Addendum to Environmental Assessment: Reroute of the Van Hook Gathering System, June 2012. Finding of No Significant Impact: WPX Energy Williston, LLC, Reroute of the Van Hook Gathering System. June 8, 2012.

8.0 Other Relevant Documentation

Kinsey, Matt. 2012. *WPX Energy's VanHook Gathering System 29th Street Reroute: A Class III Cultural Resource Inventory, Fort Berthold Reservation, Mountrail County, North Dakota.* Metcalf Archaeological Consultants, Inc., Bismarck, ND. Submitted to the BIA: May 3, 2012.

D-3, 2011. *Van Hook Gathering System - Emergency Spill Contingency Plan.* Prepared by Dakota-3 E&P Company, LLC (a subsidiary of Williams). 1801 Burdick Expressway West, Minot, ND 58701. November, 2011.

9.0 NEPA Adequacy Criteria

This document has identified the previously prepared NEPA document(s), *Environmental Assessment: Dakota-3 E&P Company, LLC, West Van Hook Gathering System*, and the *Addendum to Environmental Assessment to Authorize Dakota-3 E&P Company, LLC: Right-of-Way Expansion and Reroute to the Van Hook Gathering System and Addendum to Environmental Assessment: Reroute of the*

Van Hook Gathering System, 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. 29th Street Reroute around Van Hook R/S

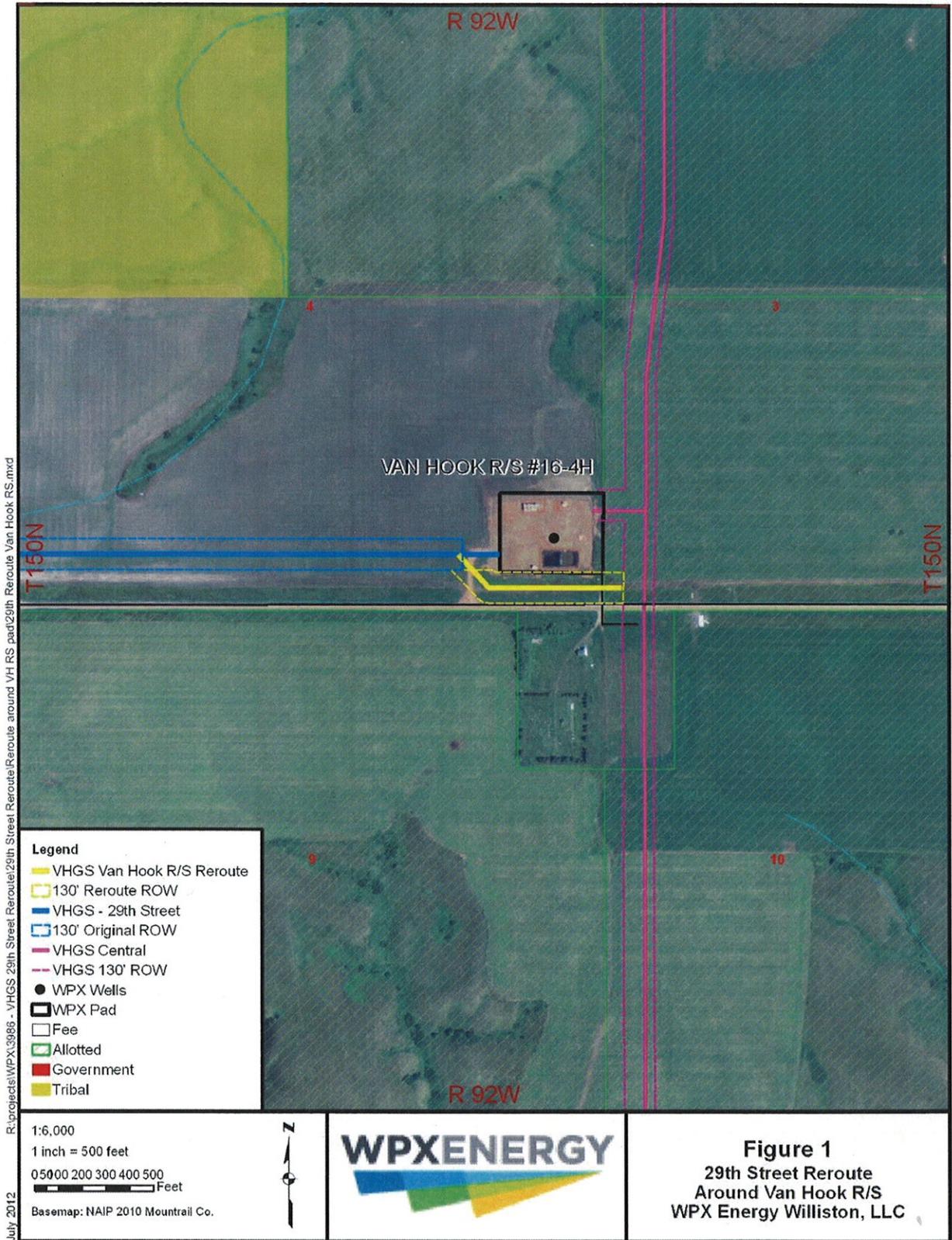


Figure 2. Photograph of connection area looking west toward the Van Hook R/S well pad. Reroute will cross the section line two-track trail and continue 80 feet, connecting to the existing VHGS (bottom of photo exposed dirt).





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

IN REPLY REFER TO:
DESCRM
MC-208

JUL 18 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 three oil well pad projects and a pipeline reroute in Dunn, McKenzie and Mountrail Counties, North Dakota. Approximately 166.3 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. One archaeological site (32MZ2056) was revisited and two archaeological sites (32MZ2391, 32MZ2392) were located that may possess the quality of integrity and meet at least one of the criteria (36 C.F.R. § 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 U.S.C. § 1996 [1994]).

As the surface management agency, and as provided for in 36 C.F.R. § 800.5 (2005), we have reached a determination of **no historic properties affected** for these undertakings, as the archaeological sites will be avoided. The proposed undertakings, locations, and project dimensions are described in the following reports:

Kinsey, Matt

(2012) WPX Energy's Van Hook Gathering System 29th Street Reroute Addendum: A Class III Cultural Resource Inventory, Ft. Berthold Reservation, Mountrail County, North Dakota. Metcalf Archaeological Consultants, Inc. for WPX Energy, Minot, ND. Ms. on file (AAO-2086/FB/12)

Livers, Michael

(2012a) WPX Energy's Sarah Brown 9H (#203) Well Pad: A Class III Cultural Resource Inventory, Ft. Berthold Reservation, Dunn County, North Dakota. Metcalf Archaeological Consultants, Inc. for WPX Energy, Minot, ND. Ms. on file (AAO-3011FB/12)

(2012b) WPX Energy's Daniel Chase Jr. 15-22H (#135) Well Pad: A Class III Cultural Resource Inventory, Ft. Berthold Reservation, McKenzie County, North Dakota. Metcalf Archaeological Consultants, Inc. for WPX Energy, Minot, ND. Ms. on file (AAO-3011FB/12)

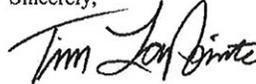
Livers, Michael, and Matt Kinsey

(2012) WPX Energy's Bird Bear 15-26H (#201) Well Pad: A Class III Cultural Resource Inventory, Ft. Berthold Reservation, McKenzie County, North Dakota. Metcalf Archaeological Consultants, Inc. for WPX Energy, Minot, ND. Ms. on file (AAO-3011FB/12)

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

Enclosures

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

APPENDIX A

VHGS Right-of-Way Construction Typical

RIGHT-OF-WAY TYPICAL

PROPOSED VAN HOOK GATHERING
NO ACCESS ROAD
NO EXISTING PIPELINE

ROW BOUNDARY

WORKING SPACE

DITCH 2-3' WIDE

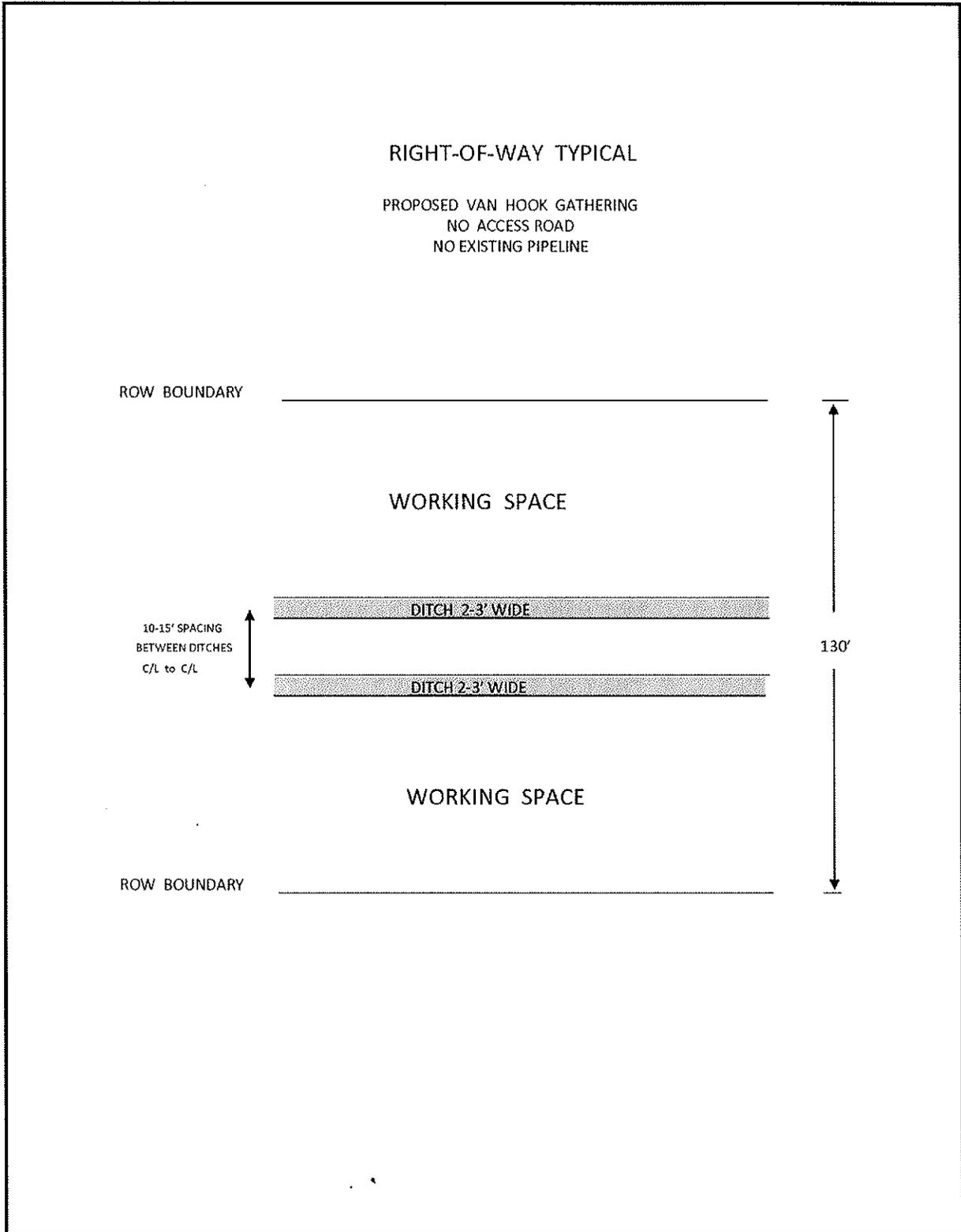
10-15' SPACING
BETWEEN DITCHES
C/L to C/L

DITCH 2-3' WIDE

WORKING SPACE

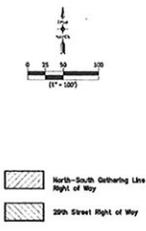
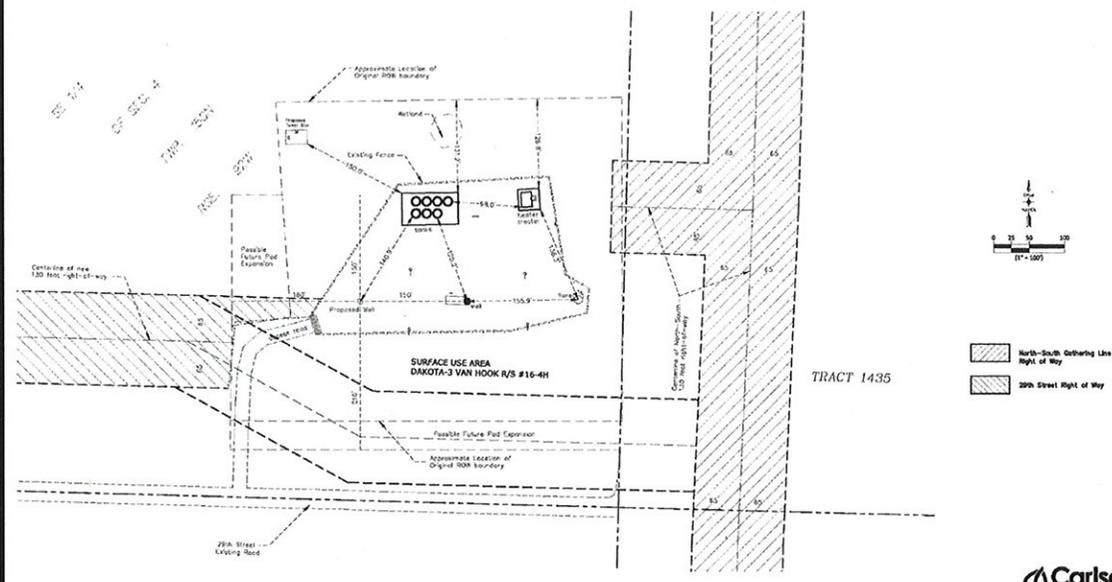
ROW BOUNDARY

130'



APPENDIX B
Exhibit Van Hook R/S ROW

~ DAKOTA-3 E & P COMPANY, LLC ~
Exhibit Van Hook R/S ROW



PROJECT NO. 3540
FIELD CREW: PUCH/CARLSON
DATE: 8/15/13
REVISIONS:
TRACT: 374A, 410A-A, & BUCK-1

▲ = SECTION CORNERS LOCATED
Distances shown hereon are GROUND DISTANCES.

**Carlson
McCain**
ENGINEERS, ARCHITECTS & PLANNERS
248 Apple Dr., Suite 100, One Lake, NY 13824
Phone: 603-889-7100 Fax: 603-889-7910