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 2 8 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 eight Bakken and Three Forks oil and gas wells located on two well pads 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)
Wade Epperson, SWCA (with attachment)
Eric Wortman, EPA (with attachment)
Carson Hood/Fred Fox, MHA Energy Dept. (with attachment)
Jonathon Shelman, Corps of Engineers (e-mail)
Jeff Hunt, Fort Berthold Agency (e-mail)

Finding of No Significant Impact

Enerplus Resources

Environmental Assessment
Eight Exploratory Bakken and Three Forks Oil Wells Located on Two Well Pads: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF
Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

Fort Berthold Indian Reservation
Dunn County, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to authorize land use to drill eight horizontal oil and gas wells on two pads on the Fort Berthold Reservation.

One well pad would be located approximately 14.9 miles southeast of Mandaree in the NE¼ NW¼ Section 35, Township (T) 149 North (N), Range (R) 92 West (W), Dunn County, North Dakota, within a 1,280-acre spacing unit (Figures 1.1 and 1.3). This location would contain the following wells:

- Rebutia #149-92-35B-05H
- Cactus #149-92-35B-05H TF
- Ocatillo #149-92-35A-04H
- Saguaro #149-92-35A-04H TF

A second well pad would be located approximately 16.4 miles southeast of Mandaree in the SW¼ NW¼ Section 19, T148N, R92W, Dunn County, North Dakota, within a 1,280-acre spacing unit (Figures 1.2 and 1.4). This location would contain the following wells:

- Wheat #148-92-19B-20H
- Potato #148-92-19B-20H TF
- Barley #148-92-19C-20H
- Grain #148-92-19C-20H TF

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

4/22/12
Date

ENVIRONMENTAL ASSESSMENT

United States Department of the Interior
Bureau of Indian Affairs

Great Plains Regional Office
Aberdeen, South Dakota

Cooperating Agency:

Bureau of Land Management

North Dakota Field Office
Dickinson, North Dakota

Enerplus Resources (USA) Corporation

Eight Exploratory Bakken and Three Forks Oil Wells Located on Two Well Pads:

Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF
Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

Fort Berthold 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 FOR THE PROPOSED ACTION

1.1 INTRODUCTION

Enerplus Resources (USA) Corporation (Enerplus) has acquired the leases and is proposing to drill eight horizontal oil and gas wells on two pad locations on the Fort Berthold Indian Reservation (Reservation) to evaluate, and possibly develop, the commercial potential of these natural resources. Developments have been proposed on lands 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 manages lands held in title by the tribe and tribal members and subsurface mineral rights. Development has been proposed for eight exploratory wells that target specific areas in the Bakken and Three Forks geological formations, which are known to contain hydrocarbon reserves. The two well pads are located within the boundaries of the Reservation. The project areas are illustrated in Figures 1.1 and 1.2.

One well pad would be located approximately 14.9 miles southeast of Mandaree in the NE¼ NW¼ Section 35, Township (T) 149 North (N), Range (R) 92 West (W), Dunn County, North Dakota, within a 1,280-acre spacing unit (Figures 1.1 and 1.3). This location would contain the following wells:

- Rebutia #149-92-35B-05H
- Cactus #149-92-35B-05H TF
- Ocatillo #149-92-35A-04H
- Saguaro #149-92-35A-04H TF

A second well pad would be located approximately 16.4 miles southeast of Mandaree in the SW¼ NW¼ Section 19, T148N, R92W, Dunn County, North Dakota, within a 1,280-acre spacing unit (Figures 1.2 and 1.4). This location would contain the following wells:

- Wheat #148-92-19B-20H
- Potato #148-92-19B-20H TF
- Barley #148-92-19C-20H
- Grain #148-92-19C-20H TF

The new access roads with underground utility corridors to each well pad, located on allotted and tribal lands (Figures 1.1 and 1.2), would be constructed to facilitate the construction and operation of each proposed well pad. Well pads would be designed and constructed to accommodate drilling activities and well operations. All containment pits constructed for dry drill cuttings that are used during drilling operations would be reclaimed once drilling operations have ceased.

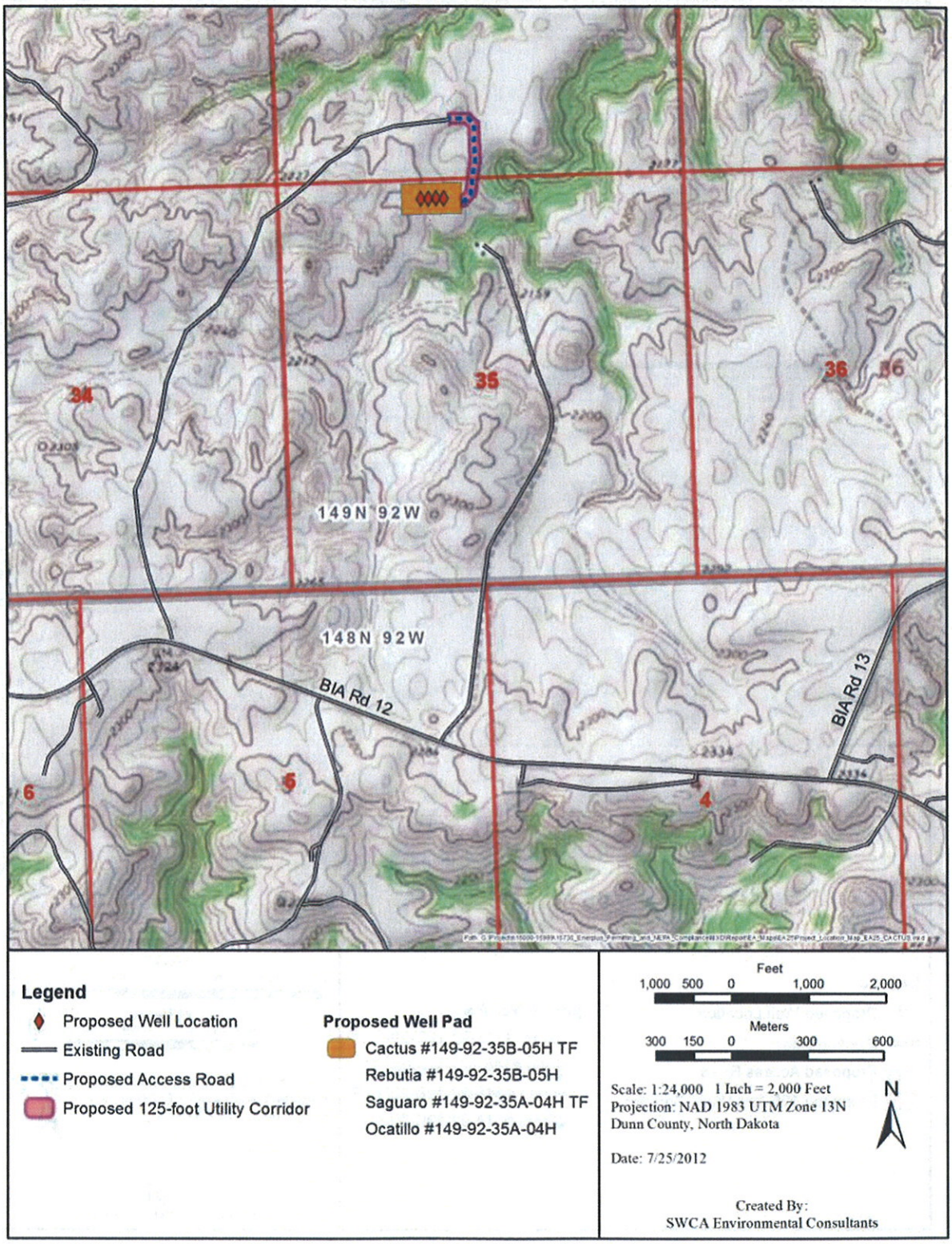


Figure 1.1. Project location for the proposed wells in the NE¼ NW¼ Section 35, T149N, R92W.

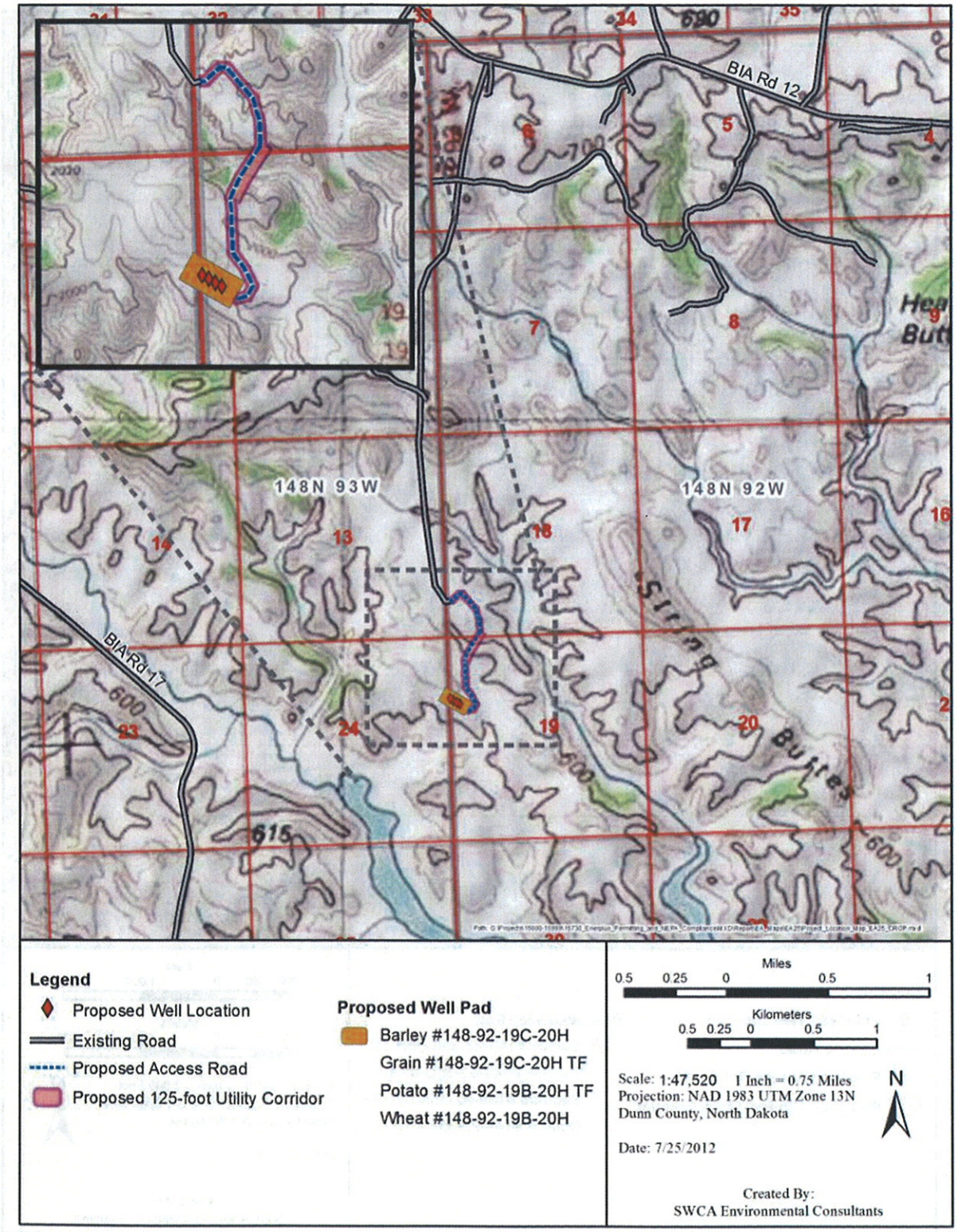


Figure 1.2. Project location for the proposed wells in the SW¼ NW¼ Section 19, T148N, R92W.

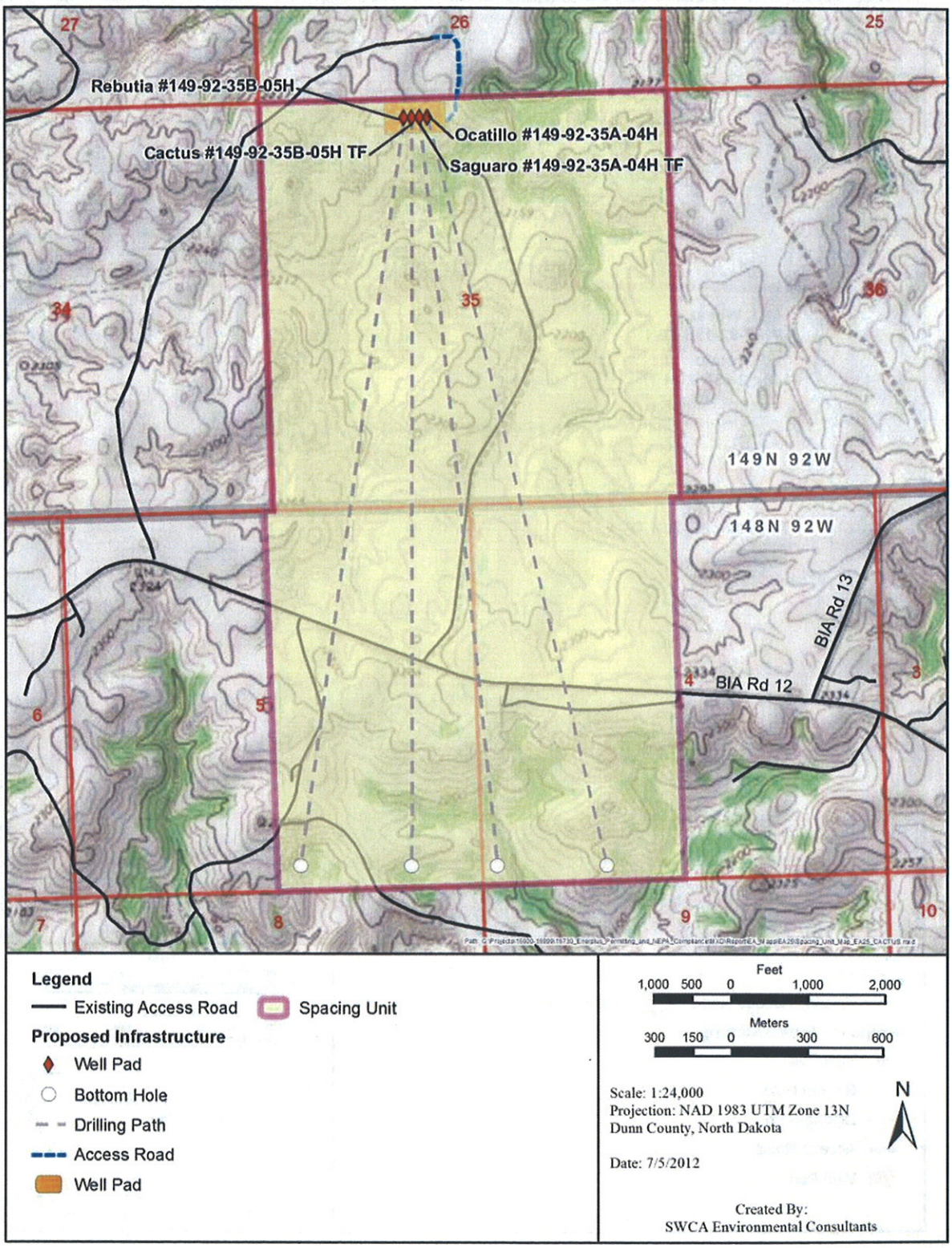


Figure 1.3. 1,280-acre spacing unit for the proposed wells located in NE¼ NW¼ Section 35, T149N, R92W, and their respective drilling targets.

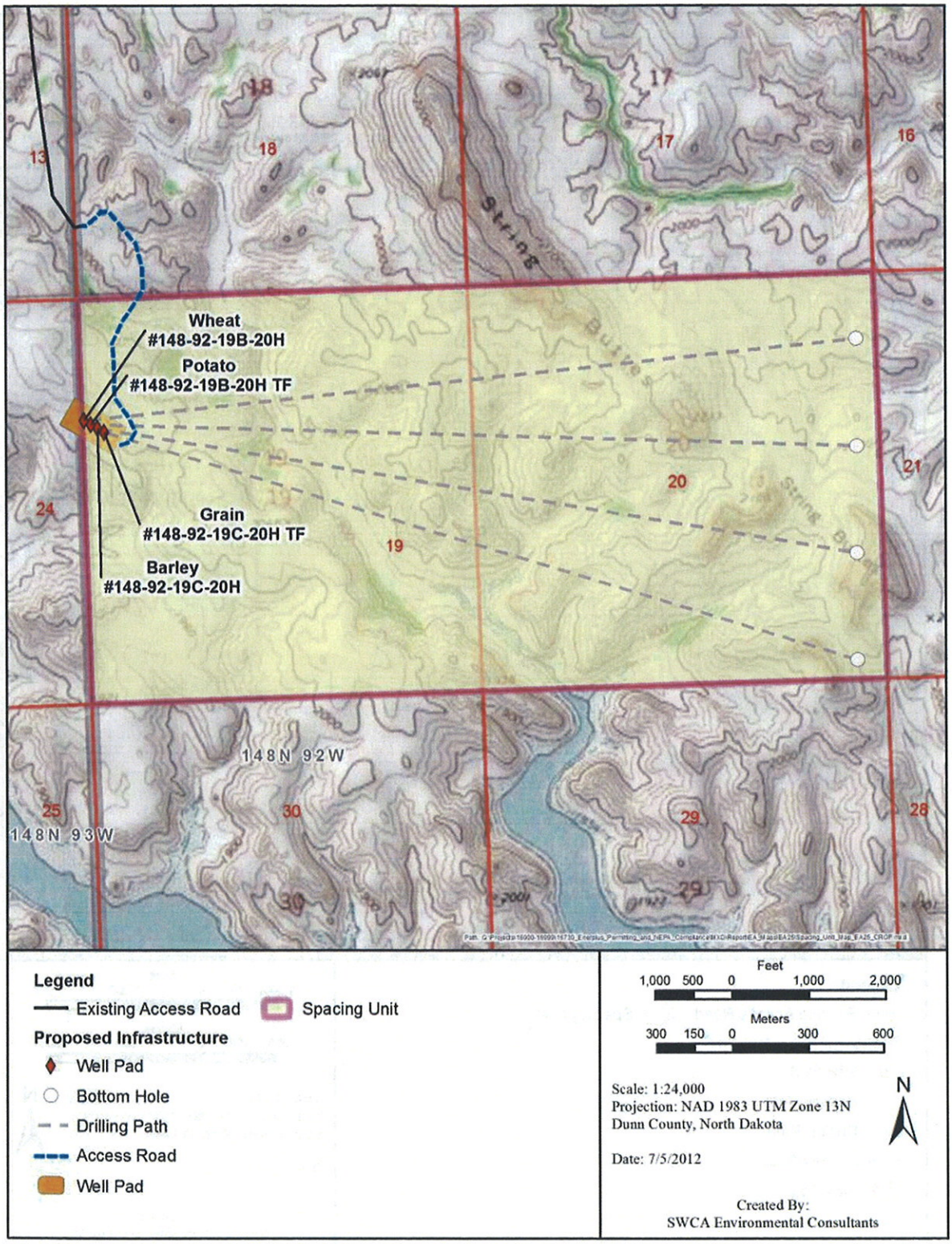


Figure 1.4. 1,280-acre spacing unit for the proposed wells located in SW¼ NW¼ Section 19, T148N, R92W, and their respective drilling targets.

Proposed well sites would also include support infrastructure or facilities; buried gathering oil, gas, and produced water pipelines; radio towers; and underground electrical and fiber optic utilities if the wells are economically feasible and completed for long-term commercial production. All surface disturbances and well site components (i.e., roads, well pads, supporting facilities) would be reclaimed upon final abandonment unless formally transferred, with federal approval, to either the BIA or the landowner. The proposed wells are exploratory; should they prove economically feasible for commercial production, further exploration of surrounding areas is possible.

This environmental assessment (EA) addresses the potential impacts associated with the construction, and possible long-term operation, of the above-listed wells and directly related infrastructure and facilities. Further oil and gas exploration and development would require additional analysis and federal action under the National Environmental Policy Act of 1969 (NEPA), as amended.

1.2 FEDERAL AND OTHER RELEVANT REGULATIONS AND AUTHORITIES

The BIA's general mission is to represent the interests, including the trust resources, of members of the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara (MHA) Nation, as well as those of individual tribal members. All members of the MHA Nation, including individual allotment owners, would benefit substantially from the development of oil and gas exploration on the Reservation. Oil and gas exploration and subsequent development are under the authority of the Energy Policy Act of 2005 (42 United States Code [USC] 15801, et seq.), the Federal Onshore Oil and Gas Royalty Management Act of 1982 (30 USC 1701, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Indian Mineral Leasing Act of 1938 (25 USC 396a, et seq.). The BIA's role in the proposed project includes approving easements, leases, and rights-of-way (ROWs) for the well pads, access roads, and gathering pipelines; determining effects on cultural resources; and making recommendations to the Bureau of Land Management (BLM).

Compliance with the NEPA, the Council on Environmental Quality (CEQ) regulations (Title 40 Code of Federal Regulations [CFR] 1500–1508), 43 CFR 3100, and Onshore Oil and Gas Order Nos. 1, 2, 6, and 7 is required due to the project's location on tribal lands. The BLM is responsible for the final approval of all Applications for Permit to Drill (APDs) after receiving recommendations from the BIA. The BLM, in coordination with the BIA, is also tasked with on-site monitoring of construction and production activities, as well as resolution of any dispute that may arise as a result of any of the aforementioned actions.

The procedures and technical practices presented in the APD supporting documents and in the EA describe potential impacts to the project area. This EA analyzes potential impacts to elements in the natural and human environments for both the No Action Alternative (described in Section 2.1) and the Proposed Action. Impacts may be beneficial or detrimental, direct or indirect, and short-term or long-term. The EA also analyzes the potential for cumulative impacts and ultimately makes a determination as to the significance of any impacts.

In the absence of significant negative consequences, the EA would result in a Finding of No Significant Impact. Should significant adverse impacts be identified as a result of the direct, indirect, or cumulative effects of the Proposed Action, then the NEPA requires the preparation of an environmental impact statement. Commercial viability of the proposed wells could result in additional exploration in the area, and any future oil/gas exploration activities and associated federal actions that are proposed wholly or partly on trust lands would require additional NEPA analysis and BIA consideration prior to implementation and/or production activities.

If a positive determination is made and a Notice to Proceed with the proposed project is issued, Enerplus would comply with all applicable federal, state, and tribal laws, rules, policies, regulations, and agreements. Enerplus also agrees to follow all best management practices (BMPs) and monitoring mitigations listed in this document. No disturbances of any kind can begin until all required clearances, consultations, determinations, easements, leases, resource surveys, and applicable permits are in place.

2.0 PROPOSED ACTION AND THE NO ACTION ALTERNATIVE

The BIA, as required by the NEPA, must "study, develop, and describe appropriate alternatives to the recommended course of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources" (NEPA Sec. 102[2][e]). Developing a range of alternatives allows for exploration of options designed to meet the purpose and need for the action. Along with the No Action Alternative, the BIA is considering the Proposed Action.

2.1 THE NO ACTION ALTERNATIVE

Under the No Action Alternative, the proposed project, including well pads, wells, access roads, and underground utility lines, would not be constructed, drilled, installed, or operated. The BIA would not approve easements, leases, or ROWs for the proposed locations and the BLM would not approve the APDs. No adverse impacts would occur as a result of this alternative to the following critical elements: air quality, public health and safety, water resources, wetland/riparian habitat, threatened and endangered species, soils, vegetation and invasive species, cultural resources, socioeconomic conditions, transportation, and environmental justice (EJ). There would be no project-related ground disturbance, use of hazardous materials, or trucking of products to collection areas. Surface disturbance, deposition of potentially harmful biological material, and traffic levels would not change from present levels. Under the No Action Alternative, the MHA Nation, tribal members, and allottees would not have the opportunity to realize potential financial gains resulting from the potential discovery of hydrocarbon resources at these well locations.

2.2 THE PROPOSED ACTION

In addition to the No Action Alternative, this document analyzes the potential impacts of eight exploratory oil and gas wells on two pad locations with varied surface and mineral estates located in the southwest portion of the Reservation in Dunn County. The proposed wells would test the commercial potential of the Bakken and Three Forks formations in these specific spacing units. Well bottom hole locations, shown in Figures 1.3 and 1.4, were chosen by Enerplus in consultation with tribal and BIA resource managers.

2.2.1 Well Pad and Infrastructure Locations and Disturbance

Well pad and infrastructure locations, shown in Figures 1.1 and 1.2 and detailed in Table 2.1, were developed in consultation with tribal and BIA resource managers during a pre-clearance process that included surveys for cultural, archaeological, and natural (i.e., biological and physical) resources. Short-term construction disturbance at the well pads would consist of all areas within the fenced perimeter around the well pad cut and fill areas, and the access roads and utility corridors. Long-term disturbance would consist of the un-reclaimed well pad areas and access roads.

Table 2.1. Proposed Well Pad and Infrastructure Locations, Disturbance, and Site-specific Owner-committed Measures.

Well Pad Location	Well Name	Short-term Disturbance	Long-term Disturbance	Site-specific Owner-committed Measures
NE¼ NW¼ Section 35, Township (T) 149 North (N), Range (R) 92 West (W), Dunn County, North Dakota	Rebutia #149-92-35B-05H Cactus #149-92-35B-05H TF Ocatillo #149-92-35A-04H Saguaro #149-92-35A-04H TF	Well pad construction area of 13.08[1] acres. 1,461-foot-long (3.76[2]-acre) access road and utility corridor.	5.26-acre un-reclaimed well pad construction area. 2.52[3]-acre un-reclaimed access road.	Use semi-closed-loop drilling system. Construct an 18-inch-tall berm around the well pad. Install matting and straw rolls on exposed slopes to inhibit erosion. Implement noxious weed control due to the presence of Canada thistle (*Cirsium arvense*) on the well pad. Round corners of well pad as needed.
SW¼ NW¼ Section 19, T148N, R92W, Dunn County, North Dakota	Wheat #148-92-19B-20H Potato #148-92-19B-20H TF Barley #148-92-19C-20H Grain #148-92-19C-20H TF	Well pad construction area of 13.58[1] acres. 3,924-foot-long (12.40[2]-acre) access road and utility corridor.	4.57-acre un-reclaimed well pad construction area. 6.76[3]-acre un-reclaimed access road.	Use semi-closed-loop drilling system. Construct an 18-inch-tall berm around the well pad. Install matting and straw rolls on exposed slopes to inhibit erosion. Round corners of well pad as needed.
Total Disturbance		Total = 42.82 acres	Total = 19.11 acres	

[1] Well pad construction area acres of disturbance include the well pad, and access road and utility corridor within the fenced well pad perimeter.
[2] Access road disturbance acreage only includes the road located outside of the fenced well pad perimeter.
[3] Un-reclaimed access road, within and outside of the fenced well pad perimeter, acreage based on maximum of a 75-foot road base.

Natural and cultural resource surveys were performed by SWCA Environmental Consultants (SWCA) on July 15 and August 1, 2011, and May 8 and 9, 2012, at the proposed project areas to assess potential impacts to resources. Interdisciplinary on-site meetings were conducted on May 10, 2012, to review the results of the resource surveys of the well pad locations, proposed access roads, and underground utility corridors. The on-site meetings were attended by the civil surveyor, the SWCA representative, the Enerplus representative, and the BIA representative. Site topography, potential drainage issues, and erosion control measures associated with well pad and road placement were discussed during the on-site meetings. Related facility locations (access roads, gathering pipelines, topsoil/subsoil stockpiles, tanks, etc.) were also discussed in order to minimize effects to natural and cultural resources.

After securing mineral leases, ROW on-site meetings were conducted with the BLM. Copies of APDs submitted to the BLM North Dakota Field Office were submitted to the BIA's office in New Town, North Dakota. Construction would begin only when the BIA completes the NEPA process and the APDs are subsequently approved by the BLM.

The combined short-term construction disturbance of the project is estimated to total approximately 42.82 acres. Approximately 26.66 acres, consisting of the constructed well pads and portions of the access roads and utility corridors, would be located within fenced perimeters. The remaining 16.16 acres would be required to construct the access roads and underground utility corridors outside of the fenced perimeters. After well completion, all areas not needed for production operations would be reclaimed during interim reclamations. The un-reclaimed area is considered long-term surface disturbance and would total approximately 19.11 acres, comprised of 9.83 acres associated with the well pads and 9.28 acres associated with the access roads. Other site-specific measures were identified during the interdisciplinary site assessments and required by BIA. These measures are identified in Table 2.1 and incorporated into the project's final designs and operator-committed measures.

2.2.2 Well Pads

Two new well pads are proposed, with four wells per pad. Perimeter fences, approximately 600 feet wide and 1,000 feet long, would be constructed to surround the pads. The pads would be used to support the drilling rig and equipment and a temporary lined cuttings pit would be excavated and used for dry drilling cuttings. The pads would be initially stripped of topsoil and vegetation and then graded to form a level pad surface. The topsoil would be stockpiled immediately adjacent to the leveled pad and stabilized with a cover crop until it could be used in interim and final reclamation. The subsoils would be used in the construction of the pads and the finished pads would be graded to ensure that water drains away from the pads. Erosion-control BMPs would be implemented and could include surface drainage controls, soil surface protection methodologies, and sediment capture features.

Cut-and-fill slopes, stockpiled topsoil, and cuttings pit backfill placed on the edge of the pads would result in some additional surface disturbance per pad. Total long-term surface disturbance not included in interim reclamation along the well pads within the fenced perimeter would total approximately 9.83 acres (Table 2.1). All proposed pads would have contoured slopes on both the cut and fill ends. Details of pad construction and reclamation can be found in the APDs.

2.2.3 Access Roads and Utility Corridors

New access roads are proposed for all locations. The access road for the well pad located in NE¼ NW¼ Section 35, T149N, R92W, would extend approximately 1,461 feet south from an existing unnamed road which connects to BIA Road 12. The access road for the well pad located in SW¼ NW¼ Section 19, T148N, R92W, would extend approximately 3,924 feet south from an existing unnamed road which connects to BIA Road 12. In total, 5,385 feet (1.02 miles) of new access roads would be constructed. A maximum disturbed ROW width of 200 feet would be used for the access roads and utility corridors. Approximately 16.84 acres of new short-term surface disturbance would result from the proposed roads and utility corridors, both within (0.68 acre) and outside (16.16 acres) the fenced perimeters surrounding the well pads. Unused ROW would be reclaimed and a maximum long-term disturbance of approximately 9.28 acres would result from the proposed roads, which would not exceed a maximum width of 75 feet. All proposed access roads would have cattle guards installed at the entrance to access spurs and pads. Signed agreements would be in place allowing road construction across affected private and allotted land surfaces, and any applicable approach permits and/or easements would be obtained prior to any construction activity.

Construction would follow road design standards outlined in the BLM Gold Book (BLM and U.S. Forest Service [USFS] 2007). At a minimum, 6 inches of topsoil would be removed from the access road corridors. This stockpiled topsoil would then be placed on the outside slopes of the ditches following road construction. The ditches would be seeded as quickly as possible using a seed mixture determined by the BIA. Care would be taken during road construction to avoid disturbing or disrupting any buried utilities that may exist along established roads, or in the vicinity of new road construction. The access roads would be surfaced with a minimum of 4 inches of aggregate prior to commencement of drilling operations and would remain in use for the life of the wells. Details of road construction are addressed in the APDs. A diagram of typical road cross sections is provided as Figure 2.1.

2.2.4 Drilling

Enerplus would use semi-closed-loop drilling systems with dry cuttings pits for the drilling of the wells. Cuttings would be contained and solidified with fly ash, placed in the pit, and buried in place following completion of drilling operations, as described in Section 2.2.11.1. In some cases, Enerplus would bury only surface cuttings (approximately 2,500 feet of the vertical hole) that are drilled using freshwater. The surface cuttings pit would be closed before drilling operations begin using invert mud. All other drilling fluids and cuttings following the drilling of the surface section would be contained in tanks and disposed of at approved locations.

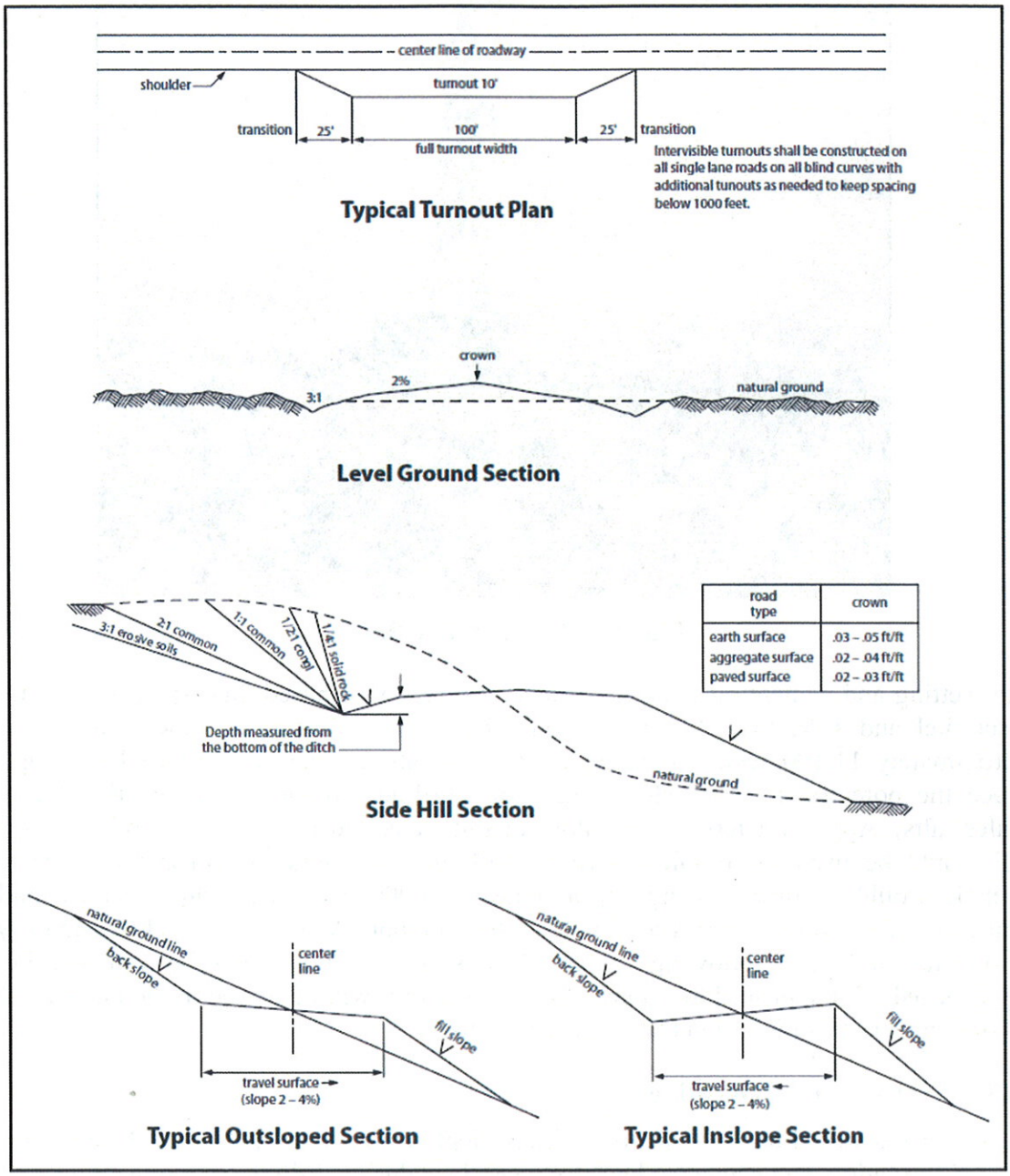


Figure 2.1. Typical road cross sections (BLM and USFS 2007).

Rig transport and on-site assembly would take approximately seven days for each well; a typical drill rig is shown in Figure 2.2. Drilling would require approximately 30 days to reach target depth, using a rotary drilling rig rated for drilling to approximately 20,000 feet. For the first 2,000 feet drilled, a freshwater-based mud system (1.26 gallons per foot of hole drilled) with non-hazardous additives would be used to minimize contaminant concerns. Water would be obtained from a commercial source for this drilling stage.

Figure 2.2. Typical drilling rig.

After setting and cementing the near-surface casing, an oil-based mud system (80% to 85% diesel fuel and 15% to 20% water) would be used to drill to a 7-inch casing point at approximately 11,100 feet, depending on the formation targeted. Oil-based drilling fluids reduce the potential for hole sloughing while drilling through water-sensitive formations (shales/salts). Approximately 3,400 gallons of salt water and 13,400 gallons of diesel fuel per well would be used to complete vertical drilling. The lateral or horizontal reach of the borehole would be drilled using approximately 63,000 gallons of salt water as mud and adding polymer sweep as necessary to clean the bore hole. With the semi-closed-loop system the drilling fluids used following drilling of the surface section would be contained in tanks and disposed of at approved locations. Only dry cuttings will be buried in the pit as per North Dakota Industrial Commission (NDIC) regulations.

2.2.5 Casing and Cementing

Surface casing would be set at an approximate depth of 2,200 to 2,400 feet, depending on the targeted formation, and cemented back to the surface during drilling, isolating all near-surface freshwater aquifers in the project area. The Fox Hills Formation and Pierre Formation, associated with localized aquifers, would be encountered at depths of approximately 1,600 to 2,200 feet. Intermediate casing would be cemented from approximately 11,100 feet (total measured depth [TMD]) deep to a depth of about 4,700 to 4,800 feet in order to isolate the hydrocarbon zone present in the Dakota Formation. Casing and cementing operations would be conducted in full compliance with Onshore Oil and Gas Order No. 2 (43 CFR 3160).

2.2.6 Completion and Evaluation

A completion rig would be moved on site following the conclusion of drilling and casing activities. Approximately 30 days are usually required, at the proposed well depths, to clean

out the well bore, pressure test the casing, perforate and fracture the horizontal portion of the bore hole, and run production tubing for commercial production. The typical procedure for fracturing a target formation to increase production includes pumping a mixture of sand and a carrier (e.g., water and/or nitrogen) downhole under extreme pressure. The resulting fractures are propped open by the sand, increasing the capture zone of the well and subsequently maximizing the efficient drainage of the field. After fracturing, the well is "flowed back" to the surface where hydraulic fracturing (HF) fluids are recovered and disposed of in accordance with NDIC rules and regulations.

2.2.7 Commercial Production

If drilling, testing, and completion support commercial production from any of the proposed locations, additional equipment would be installed, including a pumping unit at the well head, a vertical heater/treater, tanks (usually 400-barrel steel tanks), and a flare pit. A radio tower would be installed at the well pad location to allow for remote monitoring of facilities. The radio tower would be constructed to a height ranging between 20 to 50 feet.

At all locations, a 3-foot-high 12-gauge steel containment with a 24-millimeter load out liner and concrete footer would be installed under and around all tank batteries and treater/separator. A heavy screen-covered drip barrel would be installed under the outlet. A metal access staircase would protect the dike and support flexible hoses used by tanker trucks. This system is designed to hold 110% of the capacity of the largest tank plus one day's production to prevent hazardous runoff or spills. For all aboveground facilities not subject to safety requirements, the BIA would choose a paint color, recommended by the BLM or the Rocky Mountain Five-State Interagency Committee, which would blend with the natural color of the landscape.

Oil would initially be collected in tanks installed on location and periodically trucked to an existing oil terminal for sales. Any produced water would be captured in tanks and periodically trucked to an approved disposal site. The frequency of trucking activities for both oil and produced water would depend upon volumes and rates of production. Once gathering lines are installed, trucking would no longer occur. The duration of production operations cannot be reliably predicted, but some oil wells have pumped for more than 100 years. The operator estimates that each well would yield approximately 180 barrels of oil per day and 40 barrels of water during the first year of production. After the first year, the operator estimates production would decrease to approximately 40 to 60 barrels of oil per day and 10 to 15 barrels of water. Produced water is mostly recovered HF fluids and is expected to become minimal after two years.

Large volumes of gas are not expected from these locations. Until gathering pipelines are installed, small volumes would be flared in accordance with Notice to Lessees 4A and adopted NDIC regulations, which prohibit unrestricted flaring for more than the initial year of operation (North Dakota Century Code 38-08-06.4).

2.2.8 Gathering Pipelines

In the future, the operator may install a full utility corridor within the access road ROW. If the utility corridor is outside of the approved access road ROW, then additional NEPA analysis

will be needed. The utility corridor is sized to accommodate the installation of buried oil, gas, and produced water gathering pipelines and buried electric and fiber optic lines. Gathering pipelines would tie into main pipeline trunk lines.

Gathering pipelines consist of oil, gas, and produced water pipelines and are designed and sized to prevent erosion—which is an internal pipe condition caused by excessive abrasion of fine particles in the pipeline system or by excessive velocity of the transported product—by a safety factor of approximately two. Based on these criteria, the oil and gas pipelines would be constructed with new steel and 12 inches or less in diameter and the produced water pipelines would be Fiberspar® and 6 inches or less in diameter. The gathering pipelines would be coated with between 14 and 16 millimeters of fusion bonded epoxy, which helps protect the pipelines against corrosive elements in the soil. Field joints are also protected by shrink sleeves. Specialty coatings are also used, as applicable, for underground fittings and bore crossings, to provide additional levels of protection from leakage or corrosion. The coating and shrink sleeves are inspected thoroughly at the time of installation, both visually and electronically. All pipelines are clearly marked following the U.S. Department of Transportation's rules and regulations, 49 CFR Parts 192 and 195. To prevent potential erosion or rupturing of the pipeline within critical areas near Lake Sakakawea or in drainages, the type, placement, and depth of gathering pipelines is designed based on soil types, localized topography, and the catchment size of drainages. Gathering pipelines would be placed a minimum of 8 feet below the substrate surface of drainages and pipes would be coated with specialty abrasion-resistant coating that provides additional protection from large-scale erosion or flooding events. Pipelines are also equipped with check valves and manual valves between the trunk line and gathering pipeline, or lateral line, which provide connections to help limit the volume of potential spills.

After installation, the pipelines will be cleaned and inspected via internal tools (e.g., cleaning pigs and smart pigs), which help to identify integrity issues in the pipes. Hydrostatic testing is conducted to ensure that there is no leakage of the pipe. A cathodic survey using test stations, rectifier pads, and other means designed by cathodic protection specialists is also conducted. Any stress or damage issues identified in the pipelines can be quickly identified and remedied prior to backfill. Throughout the life of the gathering pipelines, an appropriate amount of cathodic active current is placed on pipeline segments and monitored in accordance with the strict pipeline safety requirements set forth in the U.S. Department of Transportation's rules and regulations. In order to assure the quality of the installation and the effectiveness of its corrosion control systems, pig launchers and receivers are also installed on the trunk lines and primary laterals to identify pipeline conditions both internally and externally, in order to maintain the integrity.

Saddle Butte Pipeline, LLC, (SBP) is one of two midstream companies currently building a pipeline infrastructure on the Reservation. SBP is the main pipeline trunk line that the proposed wells would tie into. SBP has developed a Spill Response Plan (Plan) for its pipeline construction and operation activities which includes 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. SBP is committed to adhering to the Plan as well as the procedures and requirements set forth by federal law (49 CFR Part 194). SBP has also

committed to providing the site-specific spill response plan to the BIA prior to the commencement of construction activities.

2.2.9 Field Camp

A few personnel would be housed in self-contained trailers for a very short period of time; long-term housing is not proposed. Most personnel, both construction and drilling, would commute to the site. Human waste would be collected on site in portable toilets and trailers and it would be transported off site to a state-approved wastewater treatment facility. All other solid waste would be contained in enclosed containers and transported to, and disposed of at, state-approved facilities.

2.2.10 Construction Details at Individual Sites

2.2.10.1 Well Pad in NE¼ NW¼ Section 35, T149N, R92W

This proposed well location, illustrated in Figure 1.1, is located 14.9 miles southeast of Mandaree, North Dakota. A new access road/utility corridor, approximately 1,461 feet in length, would be constructed to connect the proposed Enerplus pad to an existing unnamed road which connects to BIA Road 12 (Figure 1.1). The new access road would have a ROW width of 125 feet, and would disturb approximately 4.19 acres both within and outside of the perimeter fence. The proposed well pad construction area (which includes part of the acreage for the access road/utility corridor) would initially disturb approximately 13.08 acres within the perimeter fence, bringing the total anticipated new disturbance to 16.84 acres. Long-term disturbance associated with this location would be 7.78 acres total, including 5.26 acres of un-reclaimed well pad and 2.52 acres of un-reclaimed access road. Four wells would be drilled on this well pad.

Please see Section 3.13, Mitigation and Monitoring, for information regarding general BMPs and other protection measures. In addition, the BIA would require, and the Enerplus has committed to use, the site-specific protection measures at this well pad site, identified in Table 2.1, which would reduce effects to various environmental resources.

2.2.10.1.1 Rebutia #149-92-35B-05H

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SW¼ SE¼ Section 5, T148N, R92W (Figure 1.3). Vertical drilling to the kickoff point would be completed at approximately 10,025 feet, at which point drilling would turn roughly horizontal to an approximate total vertical depth (TVD) of 10,775 feet. The drill string would total approximately 20,975 feet at TMD, including approximately 10,200 feet of lateral reach into the Middle Bakken member. The drilling target is approximately 250 feet from the south section line and 1,980 feet from the east line, about 9,690 feet south and 1,343 feet west of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.1.2 Cactus #149-92-35B-05H TF

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SE¼ SE¼ Section 5, T148N, R92W (Figure 1.3). Vertical drilling to the kickoff point would be completed at approximately 10,085 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,835 feet. The drill string would total approximately 21,035 feet at TMD, including approximately 10,200 feet of lateral reach into the Three Forks member.

The drilling target is approximately 250 feet from the south section line and 550 feet from the east line, about 9,689 feet south and 13 feet west of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.1.3 Ocatillo #149-92-35A-04H

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SE¼ SW¼ Section 4, T148N, R92W (Figure 1.3). Vertical drilling to the kickoff point would be completed at approximately 10,025 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,775 feet. The drill string would total approximately 20,975 feet at TMD, including approximately 10,200 feet of lateral reach into the Middle Bakken member. The drilling target is approximately 250 feet from the south section line and 1,980 feet from the west line, about 9,686 feet south and 2,317 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.1.4 Saguaro #149-92-35A-04H TF

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SW¼ SW¼ Section 4, T148N, R92W (Figure 1.3). Vertical drilling to the kickoff point would be completed at approximately 10,085 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,835 feet. The drill string would total approximately 21,035 feet at TMD, including approximately 10,200 feet of lateral reach into the Three Forks member. The drilling target is approximately 250 feet from the south section line and 550 feet from the west line, about 9,688 feet south and 987 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.2 Well Pad in SW¼ NW¼ Section 19, T148N, R92W

This proposed well location, illustrated in Figure 1.2, is located approximately 16.4 miles southeast of Mandaree, North Dakota. A new access road/utility corridor, approximately 3,924 feet in length, would be constructed to connect the proposed Enerplus pad to an existing unnamed road which connects to BIA Road 12 (Figure 1.2). The new access road would have a ROW width ranging from 125 to 200 feet, and would disturb approximately 12.65 acres both within and outside of the perimeter fence. The proposed well pad construction area (which includes part of the acreage for the access road/utility corridor) would initially disturb approximately 13.58 acres within the perimeter fence, bringing the total anticipated new disturbance to 25.98 acres. Long-term disturbance associated with this location would be 11.33 acres total, including 4.57 acres of un-reclaimed well pad and 6.76 acres of un-reclaimed access road. Four wells would be drilled on this well pad.

Please see Section 3.13, Mitigation and Monitoring, for information regarding general BMPs and other protection measures. In addition, the BIA would require, and the Enerplus has committed to use, the site-specific protection measures at this well pad site, identified in Table 2.1, which would reduce effects to various environmental resources.

2.2.10.2.1 Wheat #148-92-19B-20H

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the NE¼ NE¼ Section 20, T148N, R92W (Figure 1.4). Vertical drilling to the kickoff point would be completed at approximately 10,025 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,775 feet. The drill string would total approximately 20,975 feet

at TMD, including approximately 10,200 feet of lateral reach into the Middle Bakken member. The drilling target is approximately 550 feet from the north section line and 250 feet from the east line, about 1,062 feet north and 10,024 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.2.2 Potato #148-92-19B-20H TF

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SE¼ NE¼ Section 20, T148N, R92W (Figure 1.4). Vertical drilling to the kickoff point would be completed at approximately 10,085 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,835 feet. The drill string would total approximately 21,035 feet at TMD, including approximately 10,200 feet of lateral reach into the Three Forks member. The drilling target is approximately 1,940 feet from the north section line and 250 feet from the east line, about 276 feet south and 9,943 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.2.3 Barley #148-92-19C-20H

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the NE¼ SE¼ Section 20, T148N, R92W (Figure 1.4). Vertical drilling to the kickoff point would be completed at approximately 10,025 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,775 feet. The drill string would total approximately 20,975 feet at TMD, including approximately 10,200 feet of lateral reach into the Middle Bakken member. The drilling target is approximately 1,940 feet from the south section line and 250 feet from the east line, about 1,616 feet south and 9,861 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.10.2.4 Grain #148-92-19C-20H TF

The spacing unit consists of 1,280 acres (+/-) with the bottom hole located in the SE¼ SE¼ Section 20, T148N, R92W (Figure 1.4). Vertical drilling to the kickoff point would be completed at approximately 10,085 feet, at which point drilling would turn roughly horizontal to an approximate TVD of 10,835 feet. The drill string would total approximately 21,035 feet at TMD, including approximately 10,200 feet of lateral reach into the Three Forks member. The drilling target is approximately 550 feet from the south section line and 250 feet from the east line, about 2,954 feet south and 9,780 feet east of the surface hole location. A setback of at least 200 feet would be maintained.

2.2.11 Reclamation

2.2.11.1 Interim Reclamation

Interim reclamation would consist of reclaiming all areas not needed for production operations for the life of a well. Immediately after well completion, all equipment and materials unnecessary for production operations would be removed from a location and surrounding area. As applicable, the dry cuttings pit contents would be treated, solidified, backfilled, and buried as soon as possible after well completion. Cuttings would be mixed with a non-toxic reagent resulting in an irreversible reaction to produce an inert, solid material. Any oil residue would be dispersed and captured, preventing coalescence and release to the environment at significant rates. The alkaline nature of the stabilized material also chemically stabilizes various metals that may be present, primarily by converting them

into less soluble compounds. The treated material would then be buried in the cuttings pit, and overlain by at least 4 feet of overburden as required by adopted NDIC regulations. The surface above the cuttings pit would be seeded to re-establish native/desired vegetation. Topsoil would be spread along the cut and fill slopes of a road.

If commercial production equipment is installed, the well pads would be reduced in size by approximately 35%; the portion of the well pads not needed for production would be recontoured, covered with 6 inches of topsoil, and seeded using methods and seed mixtures determined by the BIA.

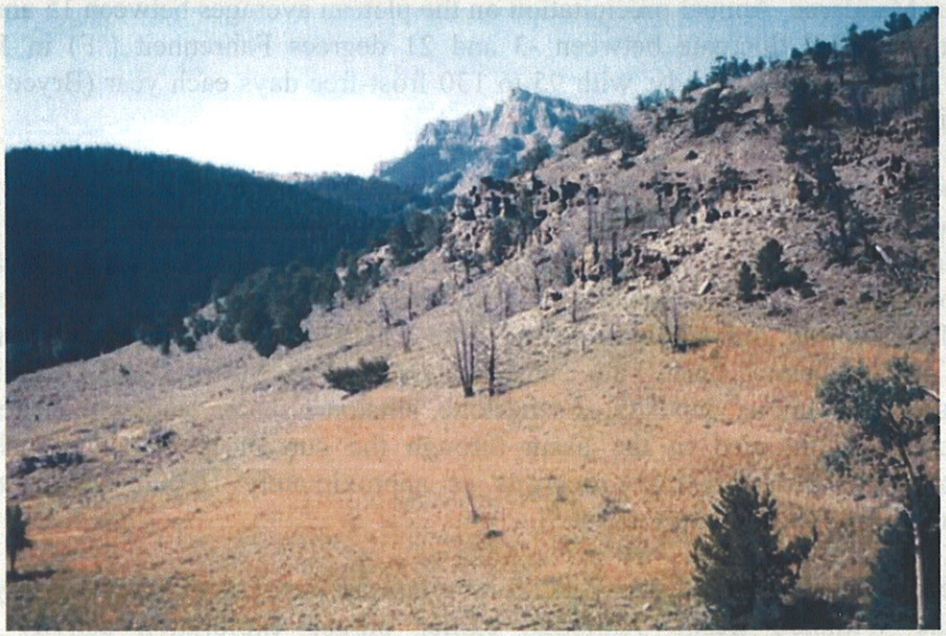
The working area of each well pad and the running surface of the access roads would be surfaced with scoria or crushed rock obtained from a previously approved location. The outslope portions of the roads would be covered with stockpiled topsoil and seeded with a seed mixture determined by the BIA, reducing the residual access-related disturbance to a width of approximately 28 feet. Enerplus would control noxious weeds within the ROW, well pads, or other applicable facilities by approved chemical or mechanical methods.

All topsoil material stockpiled after construction, and following interim reclamation, would be immediately placed in windrows no higher than 2 to 4 feet, seeded with a certified weed-free annual ryegrass (*Lolium multiflorum*) at a rate of 10 pounds per acre, and covered with fiber matting to prevent erosion and maintain soil fertility.

2.2.11.2 Final Reclamation

Final reclamation would occur either in the very short term if a proposed well is commercially unproductive, or later upon final abandonment of commercial operations. All disturbed areas would be reclaimed, reflecting the BIA view of oil and gas exploration and production as temporary intrusions on the landscape. All facilities would be removed, well bores would be plugged with cement, and dry hole markers would be set. Access roads and work areas would be leveled or backfilled as necessary, scarified, recontoured, and seeded. Exceptions to these reclamation measures might occur if the BIA approves assignment of an access road either to the BIA roads inventory or to concurring surface allottees. Figure 2.3 provides an example of reclamation (BLM and USFS 2007).

The well pad and access road are constructed to the minimum size necessary to safely conduct drilling and completion operations.



The well pad and access road have been recontoured back to the original contour, the topsoil respread, and the site revegetated.

Figure 2.3. Example of reclamation from the BLM Gold Book (BLM and USFS 2007).

2.3 BIA-PREFERRED ALTERNATIVE

The BIA-preferred alternative is to complete all administrative actions and approvals necessary to authorize or facilitate oil and gas developments at the proposed well pad locations.

3.0 THE AFFECTED ENVIRONMENT AND POTENTIAL IMPACTS

The broad definition of NEPA leads to the consideration of the following elements of the human and natural environments: air quality, public health and safety, water resources, wetland/riparian habitat, threatened and endangered species, soils, vegetation and invasive species, cultural resources, socioeconomic conditions, transportation, and EJ.

3.1 PHYSICAL AND GEOLOGICAL SETTING

The proposed well pads and spacing units are in a rural area located on the Reservation in west-central North Dakota. The Reservation is the home of the MHA Nation and encompasses more than one million acres, of which almost half, including the project area, are held in trust by the United States for either the MHA Nation or individual allottees.

The Reservation is within the northern Great Plains ecoregion, which consists of four physiographic units: 1) the Missouri Coteau Slope north of Lake Sakakawea, 2) the Missouri River trench (not flooded), 3) the Little Missouri River badlands, and 4) the Missouri Plateau south and west of Lake Sakakawea (Williams and Bluemle 1978). Much of the Reservation is on the Missouri Coteau Slope. Elevations of the glaciated, gently rolling landscape range from a normal pool elevation of 1,838 feet at Lake Sakakawea to over 2,600 feet on Phaelan's Butte near Mandaree. Annual precipitation on the plateau averages between 15 and 17 inches. Mean temperatures fluctuate between -3 and 21 degrees Fahrenheit (°F) in January and between 55°F and 83°F in July, with 95 to 130 frost-free days each year (Bryce et al. 1998; High Plains Regional Climate Center 2008).

The proposed well pads, access roads, and utility corridors are situated geologically within the Williston Basin, where the shallow structure consists of sandstones, silts, and shales dating to the Tertiary period (65 to 2 million years ago), including the Sentinel Butte and Golden Valley formations. The basin consists of deep layers of sedimentary rock deposited over time above a Precambrian geologic basement (Figure 3.1). Thick accumulations of limestone and dolomite were deposited during the Cambrian, Ordovician, Silurian, and Devonian periods, interspersed with thinner deposits of sandstone, siltstone, shales, and salts (Peterson 1995). Deposition has continued in the basin through the current geological epoch, with the maximum depth of sedimentary deposits of approximately 16,000 feet in the area of Williston, North Dakota (Peterson 1995).

The underlying Bakken and Three Forks formations are well-known sources of hydrocarbons within the Williston Basin. Although earlier oil/gas exploration activity within the Reservation was limited and commercially unproductive, recent economic changes and technological advances now make accessing oil in these formations more feasible.

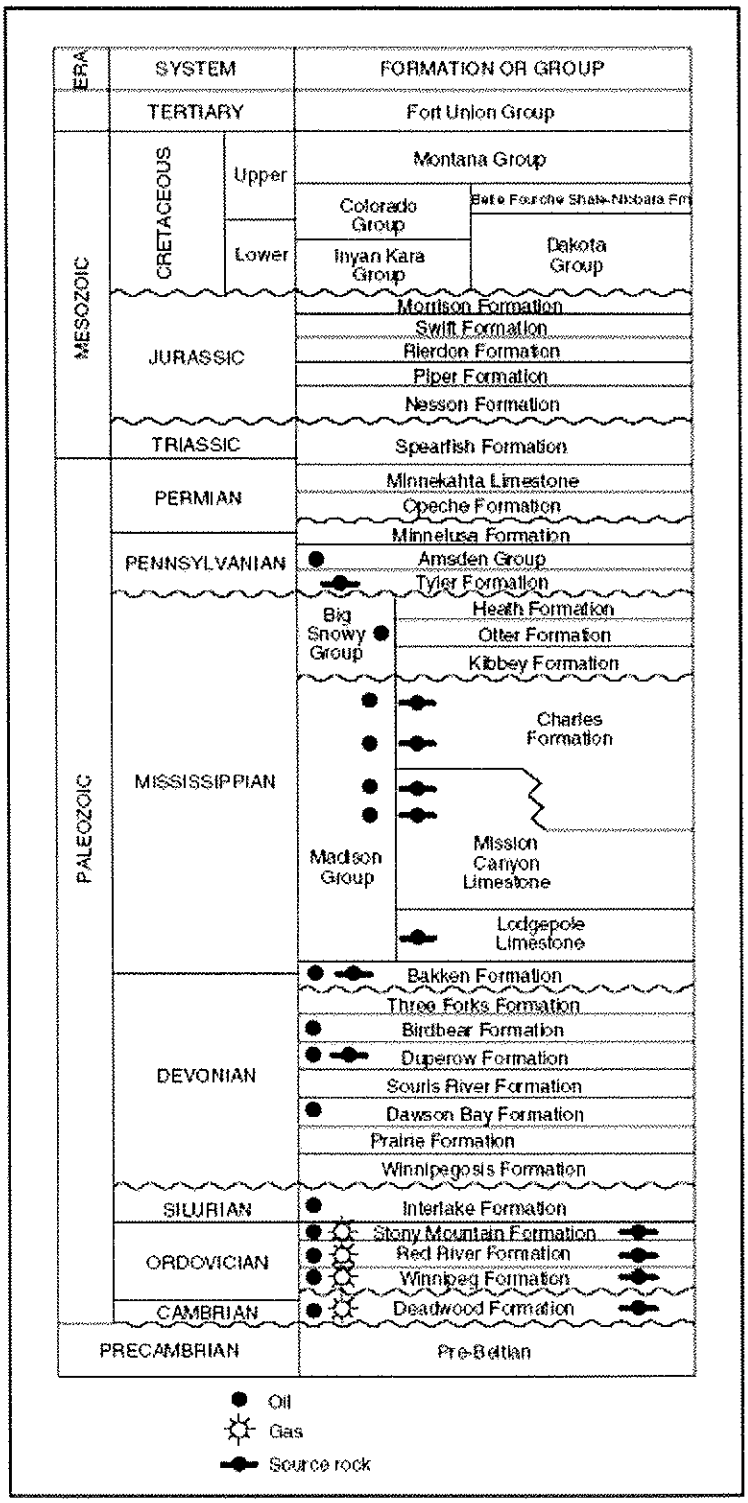


Figure 3.1. Typical stratigraphic column of the Williston Basin, with oil and gas bearing formations (Source: Peterson 1995).

The proposed new exploratory wells would target the Bakken and Three Forks formations. The Bakken Formation was deposited during the Upper Devonian and Lower Mississippian periods, ranging from 417 to 350 million years ago. It lies approximately 11,000 feet below the surface at its deepest location, and approximately 8,500 feet beneath the Reservation where the new wells are proposed. The formation is typically 158 feet thick, made up of an upper and lower member composed of marine shales, with a middle member composed of thick interbedded layers of limestone, siltstone, dolomite, and sandstone. The Bakken Formation is located between thick and exceptionally tight formations of low-permeability carbonates: the Three Forks Limestone Formation lies below the Bakken Formation and is approximately 250 feet thick, while the Lodgepole Limestone lies above the Bakken Formation and is approximately 900 feet thick. These massive limestone formations have acted as seals to the Bakken Formation hydrocarbons and contributed to the trapping and development of mature crude oil deposits (Energy Information Administration 2006).

Regional subsidence of the Williston Basin during the Cretaceous period and tectonic activity during the Laramide Orogeny produced geological anticlines that serve as traps for petroleum resources (Peterson 1995). Oil was first discovered in the Williston Basin at the Cedar Creek Anticline in the 1920s, and subsequent discoveries in North Dakota of the extensive Bakken Formation and other oil and gas producing formations resulted in the development of major oil fields since the 1950s. However, efficient oil recovery continued to be limited by technical hurdles until 2004 (Energy Information Administration 2006).

The hydrocarbon resources of the Bakken Formation are considered to be "continuous" across the entire formation, with the Middle Member of the Bakken Formation having the greatest porosity and permeability. The limestone sealing formations of the Madison Group above the Bakken serve to maintain internal pressure and thermal conditions, while preventing the petroleum from escaping (Energy Information Administration 2006). Improved horizontal well stimulation methods using advanced HF technology have greatly improved petroleum production rates and economic output of the formation's substantial oil reserves since 2004 (Energy Information Administration 2006). Current drilling and HF technology used to release oil from the Bakken Formation includes deep vertical drilling to extend the well shaft to the target formation, followed by horizontal drilling of a lateral well shaft (parallel to the surface) within the target formation. A non-perforated well shaft is installed in the vertical section, while a perforated well shaft, ranging in length from 9,000 to nearly 11,000 feet, is installed in lateral sections of the well. If adequate hydrocarbon-bearing deposits are identified, the perforated lateral well shaft is used to deliver HF fluids and small compression-resistant particles called proppants into the target formation at high pressure, and to collect oil and other fluids from the well. Further discussion of HF technology and its potential effects on groundwater is included in Section 3.3.2.3.

3.2 AIR QUALITY

3.2.1 Air Quality Standards and Criteria Pollutants

The federal Clean Air Act (CAA) (USC 7401–7671, as amended in 1990) established National Ambient Air Quality Standards (NAAQS) for criteria pollutants to protect public health and welfare. It also set standards for other compounds that can cause cancer, regulated

emissions that cause acid rain, and required federal permits for large sources. NAAQS have been established for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter, and lead (U.S. Environmental Protection Agency [EPA] 2011a). The primary NAAQS are set for pervasive compounds that are generally emitted by industry or motor vehicles. Standards for each pollutant meet specific public health and welfare criteria; thus, they are called the "criteria pollutants."

The CAA mandates prevention of significant air quality deterioration in certain designated attainment areas and has designated more stringent air quality standards, known as Secondary Standards, for these areas. Class I attainment areas have national significance and include national parks greater than 6,000 acres, national monuments, national seashores, and federal wilderness areas larger than 5,000 acres that were designated prior to 1977 (Ross 1990). The Class I regulations (40 CFR 51.307) attempt to protect visibility through a review of major new and modified sources of pollutants, and requiring strict air quality emission standards if they would have an adverse impact on visibility within the Class I area (National Park Service 2010).

The nearest designated attainment area to the project area is the Theodore Roosevelt National Park (TRNP), a Class I area that covers about 110 square miles in three units within the Little Missouri National Grassland. The TRNP is located approximately 16 miles south of Watford City, North Dakota, and approximately 30 miles west of the proposed well sites. Two air quality monitoring stations are located within the TRNP, with the North Unit monitoring most criteria pollutants (National Park Service 2010; North Dakota Department of Health [NDDH] 2011). All other parts of the state, including the Reservation, are classified as Class II attainment areas, affording them protections through the Primary NAAQS (NDDH 2012).

Some states have adopted more stringent standards for criteria pollutants, or have chosen to adopt new standards for other pollutants. For instance, the NDDH has established a standard for hydrogen sulfide (H_2S) (NDDH 2012).

Criteria pollutants and their health effects include the following.

- Sulfur dioxide (SO_2) is a colorless gas with a strong, suffocating odor. SO_2 is produced by burning coal, fuel oil, and diesel fuel, and can trigger constriction of the airways, causing particular difficulties for asthmatics. Long-term exposure is associated with increased risk of mortality from respiratory or cardiovascular disease. SO_2 emissions are also a primary cause of acid rain and plant damage (EPA 2011a).

- Inhalable Particulate Matter (PM_{10} and $PM_{2.5}$) is a class of compounds that can lodge deep in the lungs, causing adverse health problems, depending on their size, concentration, and content. Based on extensive health studies, particulate matter is regulated under two classes. PM_{10} is the fraction of total particulate matter 10 microns or smaller, and $PM_{2.5}$ is two and a half microns or smaller. Inhalable particulate matter can range from inorganic wind-blown soil to organic and toxic compounds found in diesel exhaust. Toxic compounds such as benzene often find a route into the body via inhalation of fine particulate matter (EPA 2011a).

- Nitrogen dioxide (NO_2) is a reddish-brown gas with an irritating odor. Primary sources include motor vehicles, industrial facilities, and power plants. In the summer months, NO_2 is a major component of photochemical smog. NO_2 is an irritating gas that may constrict airways, especially of asthmatics, and increase the susceptibility to infection in the general population. NO_2 is also involved in ozone smog production (EPA 2011a).

- Ozone (O_3) is a colorless gas with a pungent, irritating odor and creates a widespread air quality problem in most of the world's industrialized areas. Ozone smog is not emitted directly into the atmosphere but is primarily formed through the reaction of hydrocarbons and nitrogen oxides in the presence of sunlight. Health effects related to O_3 can include reduced lung function, aggravated respiratory illness, and irritated eyes, nose, and throat. Chronic exposure can cause permanent damage to the alveoli of the lungs. O_3 can persist for many days after formation and travel several hundred miles (EPA 2011a).

- Carbon monoxide (CO) is a colorless, odorless gas that is a byproduct of incomplete combustion. CO concentrations typically peak nearest a source, such as roadways or areas with high fireplace use, and decrease rapidly as distance from the source increases. Ambient levels are typically found during periods of stagnant weather, such as on still winter evenings with a strong temperature inversion. CO is readily absorbed into the body from the air. It decreases the capacity of the blood to transport oxygen, leading to health risks for unborn children and people suffering from heart and lung disease. The symptoms of excessive exposure are headaches, fatigue, slow reflexes, and dizziness (EPA 2011a).

The Primary and Secondary NAAQS for criteria pollutants are summarized in Table 3.1. NEPA assessments require analysis of both near-field and far-field as part of the cumulative effects of proposed projects on air quality. Therefore, the North Dakota Ambient Air Quality Standards are shown as well as federal standards.

North Dakota has separate state standards for SO_2 and H_2S that are different from the federal criteria standards. All other state criteria pollutant standards are the same as federal. North Dakota was one of 13 states that met standards for all federal criteria pollutants in 2008.

In addition, the EPA averages data from monitoring stations within each county to determine the Air Quality Index (AQI), a general measure of air quality for residents of the county. An AQI greater than 100 is indicative of unhealthy air quality conditions for the county residents, although residents may experience greater or lesser risks depending on their proximity to the sources of pollutants (EPA 2011b).

Table 3.1. NAAQS and Other Air Quality Standards.

Pollutant	Averaging Period	Primary Standard (NAAQS)	Secondary Standard (National Parks)	North Dakota AAQS
SO_2 (parts per billion [ppb])	1-hour	75	-	273
	3-hour	500	500	-
	24-hour[1]	140	-	99
	Annual (Arithmetic Average)	30	-	23
PM_{10} (micrograms per cubic meter of air [$\mu g/m^3$])	24-hour[2]	150	-	150
	Expected annual mean	50	-	50
$PM_{2.5}$ ($\mu g/m^3$)	24-hour[3]	35	35	35
	Annual (Arithmetic Average)[4]	15	15	15
NO_2 (ppb)	1-hour[3]	100	-	-
	Annual mean	53	53	53
CO (parts per million [ppm])	1-hour[1]	35	-	35
	8-hour[1]	9	-	9
O_3 (ppb)	1-hour[5]	120	120	120
	8-hour[5]	75	75	-
Lead ($\mu g/m^3$)	Rolling 3-month average	0.15	0.15	1.5 (quarterly mean)
H_2S (ppm)	Instantaneous	-	-	10
	1-hour	-	-	0.20
	24-hour	-	-	0.10
	3-month	-	-	0.02

Sources: EPA 2011a; NDDH 2012.

[1] Not to be exceeded more than once per year.

[2] Not to be exceeded more than once per year on average over 3 years.

[3] To attain this standard, the 3-year average of the 98th percentile of 24-hour concentrations at each population-oriented monitor within an area must not exceed standard.

[4] To attain this standard, the 3-year average of the weighted annual mean must not exceed the standard.

[5] To attain this standard, the 3-year average of the fourth-highest daily maximum must not exceed the standard.

3.2.2 Greenhouse Gas Emissions and Climate Change

Gases that trap heat in the atmosphere are often called greenhouse gases (GHGs). Some GHGs such as carbon dioxide occur naturally and are emitted to the atmosphere through natural processes and human activities. Other GHGs (e.g., fluorinated gases) are created and emitted solely through human activities. The EPA (2011c) identifies the principal GHGs that enter the atmosphere because of human activities as the following.

- Carbon Dioxide (CO_2): CO_2 enters the atmosphere through the burning of fossil fuels (oil, natural gas, and coal), solid waste, trees and wood products, and also as a result of other chemical reactions (e.g., manufacture of cement). CO_2 is also removed from the atmosphere (or "sequestered") when it is absorbed by plants as part of the biological carbon cycle.
- Methane (CH_4): CH_4 is emitted during the production and transport of coal, natural gas, and oil. CH_4 emissions also result from livestock and other agricultural practices and by the decay of organic waste in municipal solid waste landfills.
- Nitrous Oxide (N_2O): N_2O is emitted during agricultural and industrial activities, as well as during combustion of fossil fuels and solid waste.
- Fluorinated Gases: Hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride are synthetic, powerful GHGs that are emitted from a variety of industrial processes. Fluorinated gases are typically emitted in small quantities, but are potent GHGs thought to contribute significantly to global warming processes (EPA 2011b).

CO_2 is the primary GHG, responsible for approximately 90% of radiative forcing (the rate of energy change as measured at the top of the atmosphere; can be positive [warmer] or negative [cooler]) (EPA 2011b). To simplify discussion of the various GHGs, the term "Equivalent CO_2 or CO_2e" has been developed. CO_2e is the amount of CO_2 that would cause the same level of radiative forcing as a unit of one of the other GHGs. For example, one ton of CH_4 has a CO_2e of 22 tons; therefore, 22 tons of CO_2 would cause the same level of radiative forcing as one ton of CH_4. N_2O has a CO_2e value of 310. Thus, control strategies often focus on the gases with the highest CO_2e value.

According to the Pew Center, "Over the past 50 years, the (worldwide) data on extreme temperatures have shown similar trends of rising temperatures: cold days, cold nights, and frosts occurred less frequently over time, while hot days, hot nights, and heat waves occurred more frequently" (Pew Center 2009). Generally, the earth's temperature has increased about one degree Celsius since 1850 but some areas have seen an increase of four degrees. Sea levels are also rising, mountain glaciers are disappearing, and ocean currents, such as the Gulf Stream, are slowing (Intergovernmental Panel on Climate Change [IPCC] 2007).

Observational evidence from all continents and most oceans shows that many natural systems are being affected by regional climate changes, particularly temperature increases. The IPCC Working Group I Fourth Assessment compiles and analyzes global data on climate change, and reports that warming of the climate system is evident from global observations of increases in global average air and ocean temperatures, widespread melting of snow and ice and rising global average sea level (IPCC 2007). Globally, 11 of the 12 years between 1995 and 2007 ranked among the warmest years in the instrumental record of global surface temperature since 1850 (IPCC 2007). The National Oceanic and Atmospheric Agency monitored data indicate that 21 of the previous 30 years (1979–2009) have had above average temperatures in the contiguous United States, with departures from average temperatures occurring with increasing frequency, as shown in Figure 3.2 (National Oceanic and Atmospheric Agency 2010).

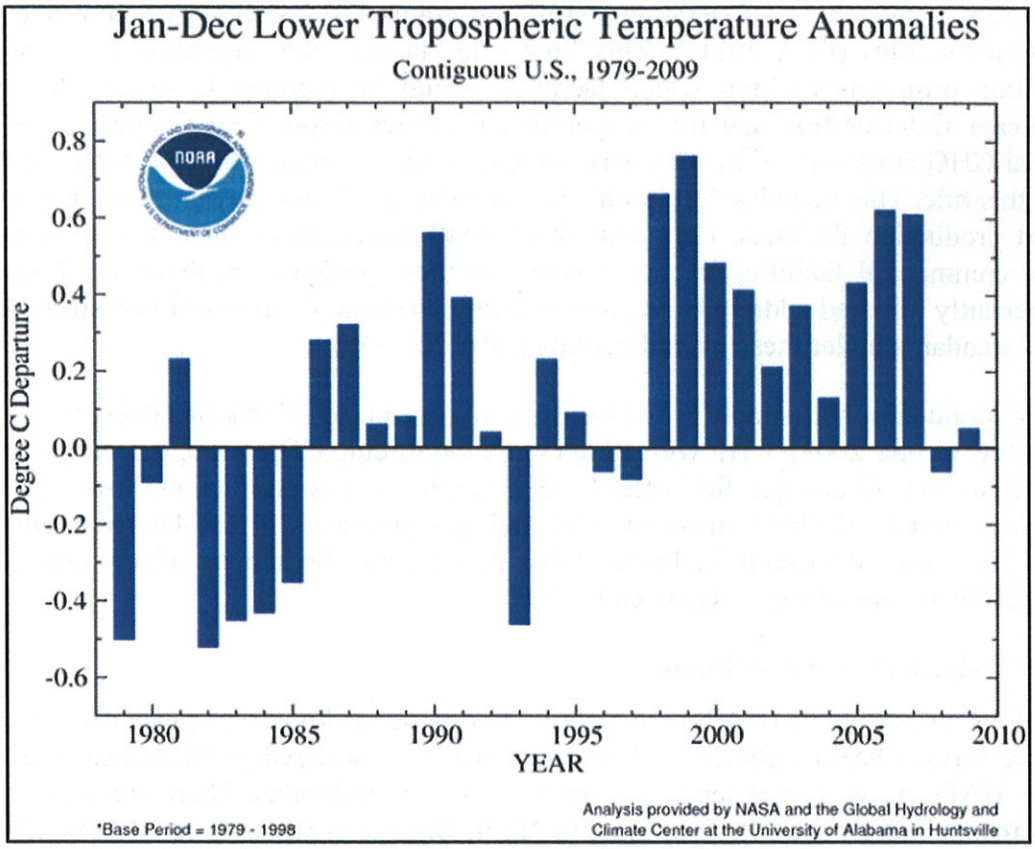


Figure 3.2. Temperature anomalies in the contiguous United States, 1979–2009.

Many physical and biological effects have been observed to correlate with trends in global warming. Sea levels are rising worldwide and along much of the United States coast (EPA 2011b). Tide gauge measurements and satellite altimetry suggest that the sea level has risen worldwide approximately 4.8 to 8.8 inches during the last century (IPCC 2007). A significant amount of sea level rise has likely resulted from the observed warming of the atmosphere and the oceans. Hydrological systems, ice pack, and permafrost are also affected by higher oceanic and atmospheric temperatures, affecting biological systems and agriculture (IPCC 2007).

IPCC experts concluded that most of the observed increase in globally averaged temperature since the mid-twentieth century is very likely due to the observed increase in anthropogenic GHG concentrations (IPCC 2007).

Therefore, the EPA collects data on and encourages limiting or reducing emissions of anthropogenic sources of GHGs to the earth's atmosphere (EPA 2011c). Many U.S. states have adopted goals and actions to reduce GHGs. The EPA and the National Highway Traffic Safety Administration have increased corporate fuel economy standards to promote national energy security and reduce GHGs. Standards would equal 35 miles per gallon by 2020, with an estimated savings to drivers of $100 billion annually (EPA 2011c).

On May 13, 2010, the EPA issued a final rule that establishes thresholds for GHG emissions that define when permits under the New Source Review Prevention of Significant

Deterioration and title V Operating Permit programs are required for new and existing industrial facilities (EPA 2011c). This final rule "tailors" the requirements of these CAA permitting programs to limit which facilities would be required to obtain Prevention of Significant Deterioration and title V permits. Facilities responsible for nearly 70% of the national GHG emissions from stationary sources would be subject to permitting requirements under this rule. This includes the nation's largest GHG emitters—power plants, refineries, and cement production facilities. Emissions from small farms, restaurants, and all but the very largest commercial facilities are not covered by these programs at this time; however, the EPA recently initiated additional hearings to help determine the types of industries to be held to new standards under these federal permits (EPA 2011c).

Energy production and supply was estimated to emit up to 25.9% of GHGs world-wide in 2004 (Pew Center 2009). CH_4, with a high radiative forcing CO_2e ratio, is a common fugitive gas emission in oil and gas fields (EPA 2011b). Oil and gas production, however, is highly variable in potential GHG emissions. Oil and gas producers in the United States are not considered large GHG emitters by the EPA, and are not the subject of any current federal proposals that would regulate GHG emissions.

3.2.3 Hazardous Air Pollutants

Hazardous air pollutants (HAPs) are a class of compounds known to cause cancer, mutation, or other serious health problems. HAPs are usually a localized problem near the emission source. HAPs are regulated separately from criteria air pollutants. There are several hundred HAPs recognized by the EPA and State of North Dakota. Health effects of HAPs may occur at exceptionally low levels; for many HAPs, it is not possible to identify exposure levels that do *not* produce adverse health effects. Major sources of toxic air contaminants include industrial processes, commercial operations (e.g., gasoline stations and dry cleaners), wood smoke, and motor vehicle exhaust. Unlike regulations for criteria pollutants, there are no ambient air quality standards for HAPs. Examples of HAPs found in gases released by oil field development and operation include benzene, toluene, xylene, and formaldehyde (BLM 2009). HAP emissions receive evaluation based on the degree of exposure that can cause risk of premature mortality, usually from cancer.

Risk assessments express premature mortality in terms of the number of deaths expected per one million persons. The NDDH typically reviews projects and either requires an applicant to prepare a risk assessment or assign the state engineers to conduct the assessment. For new sources emitting HAPs with known negative health effects, an applicant must demonstrate that the combined impact of new HAP emission does not result in a maximum individual cancer risk greater than one in one hundred thousand.

3.2.4 Existing Air Quality in the Project Area

Federal air quality standards apply in the project area, which is designated as a Class II attainment area. Although the State of North Dakota does not have jurisdiction over air quality matters on the Reservation and no air quality monitoring stations occur within the boundaries of the Reservation, monitoring efforts are being made by the state and industry in the area. The NDDH operates a network of monitoring stations around the state that continuously measure pollution levels. Industry also operates monitoring stations as required

by the state. The data from all these stations are subject to quality assurance, and when approved, it is published on the Internet and available from EPA and NDDH (NDDH 2012).

Monitoring stations providing complete data near the project site include Theodore Roosevelt National Park North Unit (TRNP-NU) (Air Quality Station # 380530002) in McKenzie County, and Dunn Center (Air Quality Station # 38025003) in Dunn County. These stations are located west and southeast of the proposed well sites, respectively. Bear Paw Energy and Amerada Hess operate site-specific monitoring stations in the region. However, these stations do not provide complete data that would be applicable to this analysis (NDDH 2012).

Criteria pollutants measured at the two monitoring stations include SO_2, PM_{10}, NO_2, and O_3. Lead and CO are not monitored by the two stations. Table 3.2 summarizes the NAAQS and the maximum levels of criteria pollutants. The highest value at either of the two monitoring locations is shown for each year from 2007 through 2010.

Table 3.2. Maximum Levels of Monitored Pollutants, 2007–2010, as Measured at Dunn Center and Theodore Roosevelt National Park North Unit Monitoring Stations.

Criteria Pollutant	Averaging Period	Primary Standard (NAAQS)	North Dakota AAQS	Maximum Reported Level from Dunn Center and TRNP-NU Monitoring Stations			
				2010	2009	2008	2007
SO_2 (parts per billion [ppb])	1-hour	75	273	25.8	20.3	20.9	22
	3-hour	500	-	16.3	13.0	13.0	10
	24-hour[1]	140	99	4.1	6.0	5.0	4
	Annual (Arithmetic Average)	30	23	0.7	0.6	0.5	1.1
PM_{10} (micrograms per cubic meter or air [$\mu g/m^3$])	24-hour[2]	150	150	32.0	54	108	57.4
	Expected annual mean	50	50	9.7	11.3	14.2	13.2
$PM_{2.5}$ ($\mu g/m^3$)	24-hour[3]	35	35	27.3	15.0	35.7	22.2
	Annual (Arithmetic Average)[4]	15	15	8.6	3.4	3.7	3.6
NO_2 (ppb)	1-hour[3]	100	-	24	15	24	26
	Annual mean	53	53	1.4	1.5	1.8	1.5
O_3 (ppb)	1-hour[5]	120	120	73	67	69	76
	8-hour[5]	75	-	70	58	63	71

Source: NDDH 2012.

[1] Not to be exceeded more than once per year.

[2] Not to be exceeded more than once per year on average over 3 years.

[3] To attain this standard, the 3-year average of the 98th percentile of 24-hour concentrations at each population-oriented monitor within an area must not exceed standard.

[4] To attain this standard, the 3-year average of the weighted annual mean must not exceed the standard.

[5] To attain this standard, the 3-year average of the fourth-highest daily maximum must not exceed the standard.

All monitored criteria pollutants are well below federal and state standards measured at the monitoring stations for all years in the study period from 2007 through 2011. In addition to the low levels of monitored criteria pollutants, the EPA reports that Dunn County had zero days in which the AQI exceeded 100 in 2007 through 2011, indicating that general air quality does not pose an unhealthy condition for residents of this county (EPA 2012).

3.2.5 Typical Project Emissions from Oilfield Development

According to EPA Emission Inventory Improvement documents (EPA 1999), oil field emissions encompass three primary areas: combustion, fugitive, and vented. Typical processes that occur during exploration and production include the following.

- Combustion emissions include SO_2, ozone precursors called volatile organic compounds (VOCs), GHGs, and HAPs. Sources include engine exhaust, dehydrators, and flaring (EPA 1999).
- Fugitive emissions include criteria pollutants, H_2S, VOCs, HAPs, and GHGs. Sources of fugitive emissions include mechanical leaks from well field equipment such as valves, flanges, and connectors that may occur in heater/treaters, separators, pipelines, well heads, and pump stations. Pneumatic devices such as gas actuated pumps and pressure/level controllers also result in fugitive emissions. Other sources of fugitive emissions include evaporation ponds and pits, condensate tanks, storage tanks, and wind-blown dust (from truck and construction activity) (EPA 1999).
- Vented emissions include GHGs, VOCs, and HAPs. Primary sources are emergency pressure relief valves and dehydrator vents (EPA 1999).

Pad and road construction, drilling activities, and tanker traffic would generate emissions of criteria pollutants and HAPs. Primary emissions sources during drilling are diesel exhaust, wind-blown dust from disturbed areas and travel on dirt roads, evaporation from pits and sumps, and gas venting. Diesel emissions are being progressively controlled by the EPA in a nationwide program (EPA 2011c). This program takes a two-pronged approach. First, fuels are improving to the ultra-low sulfur standard, and secondly manufacturers must produce progressively lower engine emissions.

3.2.6 Air Quality Best Management Practices

Under the CAA, federal land management agencies have an affirmative responsibility to protect air quality. Tribes, federal land managers, and private entities can make emission controls part of a lease agreement. BMPs can be adopted for various portions of an oil/gas well's lifecycle. BMPs fall into the following six general categories.

- Transportation BMPs to reduce the amount of fugitive dust and vehicle emissions
    - Use directional drilling to drill multiple wells from a single well pad.
    - Use centralized water storage and delivery, well HF, gathering systems.
    - Use telemetry to remotely monitor and control production.
    - Use water or dust suppressants to control fugitive dust on roads.

- Control road speeds.
- Use van or carpooling.

- Drilling BMPs to reduce rig emissions
  - Use cleaner diesel (Tier 2, 3, and 4) engines.
  - Use natural gas-powered engines.
  - Use "green" completions to recapture product that otherwise would have been vented or flared.
- Unplanned or emergency releases
  - Use high-temperature flaring if gas is not recoverable.
- Vapor recovery
  - Use enclosed tanks instead of open pits to reduce fugitive VOC emissions.
  - Use vapor recovery units on storage tanks.
- Inspection and maintenance
  - Use and maintain proper hatches, seals, and valves.
  - Optimize glycol circulation and install a flash tank separator.
  - Use selective catalytic reduction.
  - Replace high-bleed with low-bleed devices on pneumatic pumps.
- Monitoring and repair
  - Use directed inspection and maintenance methods to identify and cost-effectively fix fugitive gas leaks.
  - Install an air quality monitoring station.

3.2.7 Potential Air Quality Impacts

Based on the existing air quality of the region and the typical air emissions of similar oil field projects, and implementation of BMPs identified in Section 3.2.6, the Proposed Action would not lead to significant increases in criteria pollutants, GHGs, or HAPs.

3.3 WATER RESOURCES

This section identifies the existing water resources within the project area and potential effects of the project. Specific subjects discussed in this section include surface water and surface water quality, groundwater resources, HF, and the potential short-term and long-term impacts of the proposed project on these water resources.

3.3.1 Surface Water

The surface water resources in the project area would be managed and protected according to existing federal law and policies regarding the use, storage, and disposal of this resource during the construction and operation of the project. Surface water resource use and protection is administered under the following federal laws:

- Clean Water Act of 1972 (CWA), as amended (33 USC 1251 et seq.)
- Federal Land Policy and Management Act of 1976 (43 USC 1711–1712)
- NEPA of 1969, as amended (42 USC 4321)
- Safe Drinking Water Act of 1974, as amended (42 USC 300 et seq.)

Water quality is protected under the Federal Water Pollution Control Act (as amended), otherwise known as the CWA. The CWA has developed rules for regulating discharges of pollutants into waters of the U.S. and also regulates water quality standards for surface waters. The CWA has also made it unlawful to discharge any pollutant from a point source into any navigable waters of the U.S., unless a permit has been obtained from the National Pollutant Discharge Elimination System (NPDES) program.

The Environmental Division of the MHA Nation has had an application pending with the EPA since 1996 for delegation of authority to set federally approved water quality standards on the Reservation. In the absence of tribal surface water quality authorities, enforcement of federal environmental laws regarding surface water on the Reservation is accomplished through permitting, inspection, and monitoring activities of the NPDES, as administered by the EPA.

Surface water is abundant in the project area, as shown in Figure 3.3 (North Dakota Department of Health, Division of Water Quality 2011). The project components in NE¼ NW¼ Section 35, T149N, R92W, would be located within the Lake Sakakawea subbasin (hydrologic unit code [HUC] 10110101) and the Independence Point watershed (HUC 1011010121). Water would flow from this well pad and access road into the Skunk Creek subwatershed (HUC 101101012102) and travel north until reaching Lake Sakakawea, as shown in Figure 3.4. This proposed location is approximately 0.12 river mile from the nearest perennial stream (Skunk Creek) and 5.92 river miles from Lake Sakakawea. The well pad is 0.06 mile (320 feet) from the closest wooded draw.

The project components in SW¼ NW¼ Section 19, T148N, R92W, would be located within the Lower Little Missouri River subbasin (HUC 10110205) and the Waterchief Bay watershed (HUC 1011020506). Water would flow from this well pad and access road into the Lower Squaw Creek/Squaw Creek Bay subwatershed (HUC 101102050608) and travel south and then west until reaching Lake Sakakawea, as shown in Figure 3.5. This proposed location is 0.99 river mile from the nearest perennial stream (Squaw Creek) and 0.91 river mile from Lake Sakakawea. The well pad is 0.16 mile (830 feet) from the closest wooded draw.

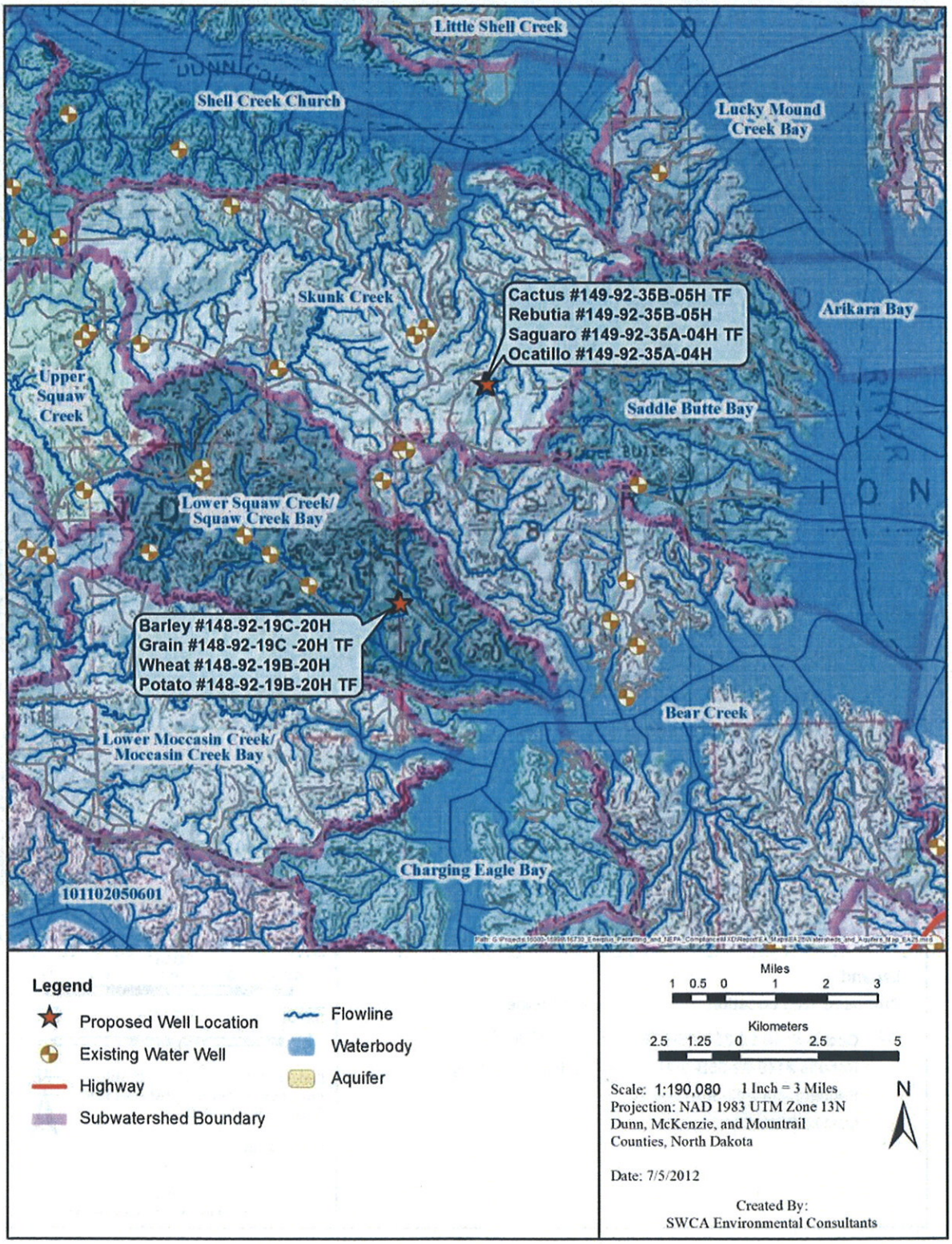


Figure 3.3. Watersheds, aquifers, and existing water wells near the project areas (North Dakota Department of Health, Division of Water Quality 2011).

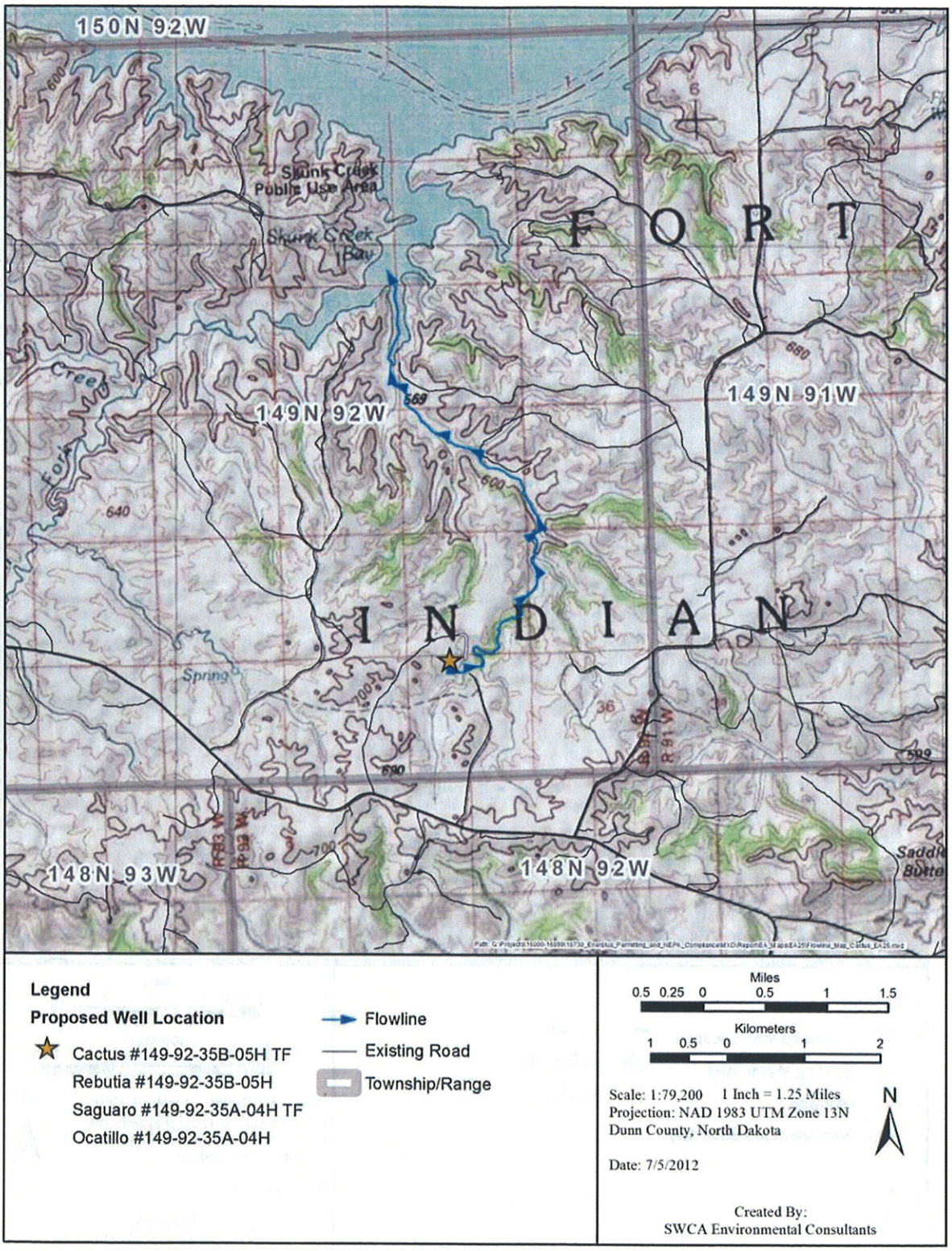


Figure 3.4. Surface runoff and drainage direction from the proposed well pad in Section 35, T149N, R92W.

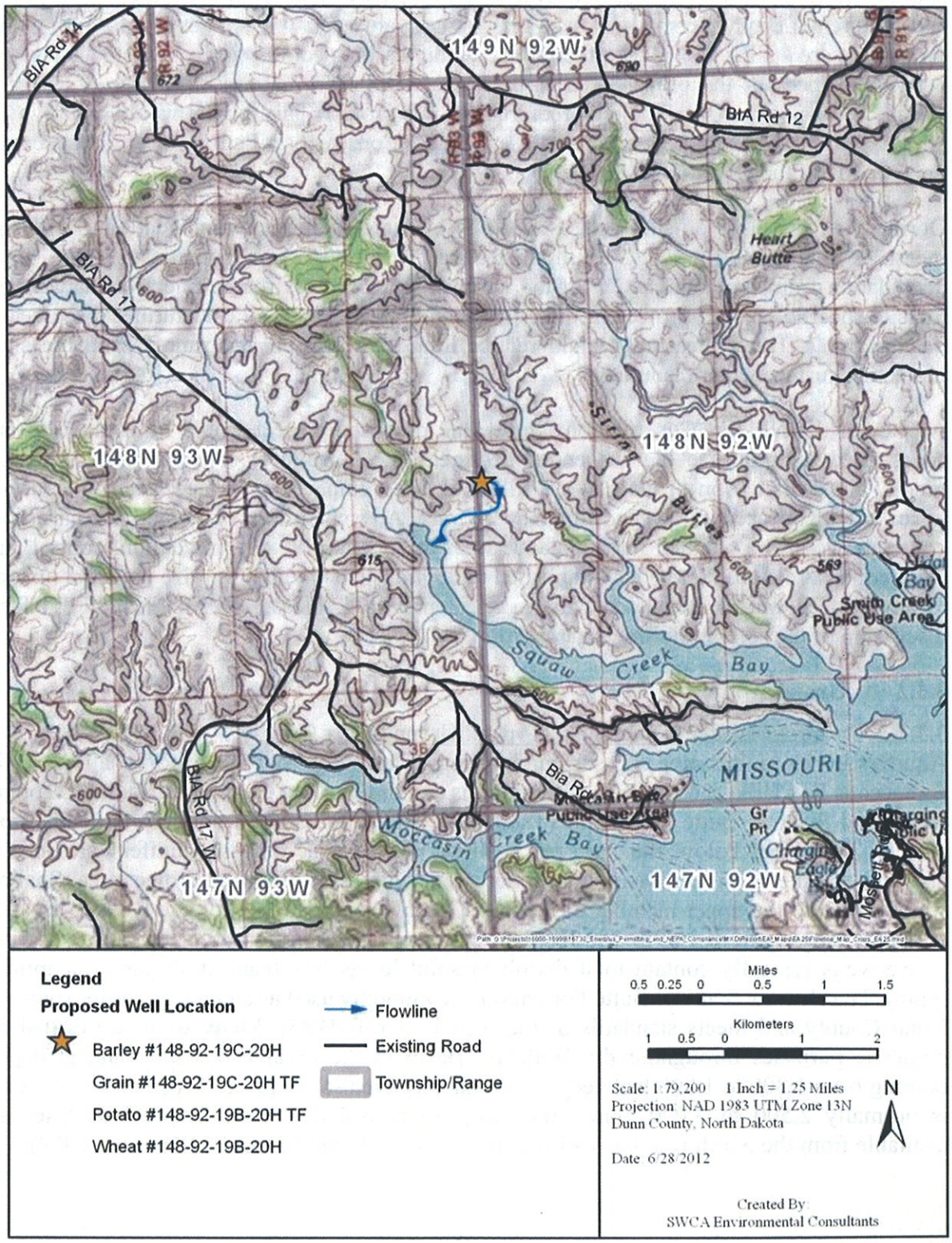


Figure 3.5. Surface runoff and drainage direction from the proposed well pad in Section 19, T148N, R92W.

A query of the EPA Storage and Retrieval Water Quality Database for the Independence Point and Waterchief Bay watersheds showed that water quality data were not available from within the project area (EPA 2011d). Furthermore, standards for specific priority pollutants have not been developed for the project area or the Reservation. No ongoing discharge of water to surface waters of the U.S. would be required for this project. This project would comply with all the specific terms and conditions of the NPDES Construction Permit, in accordance with Section 402 of the CWA (EPA 2011e).

During the May 2012 on-site visit, the BIA made site-specific recommendations for design measures that would reduce or minimize surface runoff and potential surface water degradation from the construction of the new wells and access roads. Enerplus has adopted the site-specific erosion protection measures identified in Table 2.1 and further discussed in Section 3.4.7. These measures would reduce long-term erosion and runoff from the sites, protecting surface water resources.

As part of the NPDES Construction Permit, the proposed project would be engineered and constructed to minimize the suspended sediment (i.e., turbidity) concentration of surface runoff, avoid disruption of drainages, and avoid direct impacts to surface water. No surface water would be used for well drilling operations. Any chemicals or potentially hazardous materials would be handled in accordance with the operator's spill prevention, control, and countermeasure plan. Provisions established under this plan would minimize potential impacts to any surface waters associated with an accidental spill. Please refer to Section 3.4 for a discussion of the soil erodibility hazard within the project area.

3.3.2 Groundwater

3.3.2.1 Groundwater Aquifers and Typical Groundwater Quality

Aquifers in the project area and surrounding region include, from deepest to shallowest, the Cretaceous Fox Hills and Hell Creek formations and the Tertiary Cannonball/Ludlow, Tongue River, and Sentinel Butte formations (Table 3.3). The aquifers in question lie at depths from 670 to 2,000 feet below the surface. Shallow post-glacial outwash aquifers are located elsewhere in the Williston Basin, but do not occur within the proposed project area. Shallow wells drilled to the upper member of the Fort Union Group and the Tongue River Formation at depths ranging from 100 to 750 feet below the surface are often used for cattle watering. These wells typically contain total dissolved solid levels less than 3,000 parts per million (ppm). The shallow Sentinel Butte Formation is commonly used as a domestic water source in Dunn County and meets standards of the NDDH (Croft 1985). Many wells are drilled for domestic purposes throughout the Williston Basin in the basal Fox Hills Sand at depths ranging from 1,300 to 1,800 feet deep. The total dissolved solids level of the Fox Hills aquifer is normally 2,500 to 3,000 ppm, producing good drinking water. Detailed analyses are available from the North Dakota Geological Survey, Bulletin 68, Part III (Klausing 1979).

Table 3.3. Common Aquifers in the Proposed Project Area and Surrounding Region.

Period	Formation		Depth Range (feet)	Thickness (feet)	Lithology	Water-Yielding Characteristics
Quaternary	Alluvium		0–40	40	Silt, sand, and gravel	50 gal/min from sand and gravel deposits
Tertiary	Fort Union Group	Sentinel Butte	0–670	0–670	Silt, clay, sand, and lignite	5 to 100 gal/min in sandstone. 1 to 200 gal/min in lignite
		Tongue River	140–750	350–490	Silt, clay, sand, and lignite	Generally less than 100 gal/min in sandstone
		Cannonball/ Ludlow	500–1,150	550–660	Fine- to medium-grained sandstone, siltstone, and lignite	Generally less than 50 gal/min in sandstone
Cretaceous	Hell Creek		1,000–1,750	200–300	Claystone, sandstone, and mudstone	5 to 100 gal/min in sandstone
	Fox Hills		1,100–2,000	200–300	Fine- to medium-grained sandstone and some shale	Generally less than 200 gal/min in sandstone; some up to 400 gal/min

Sources: Croft 1985; Klausing 1979.
gal/min = gallons per minute

3.3.2.2 Existing Groundwater Wells

Data from the North Dakota State Water Commission indicate that there are no existing groundwater wells within 1 mile and 20 groundwater wells within 5 miles of the proposed well pad locations (Figure 3.3) (North Dakota State Water Commission 2011).

3.3.2.3 Hydraulic Fracturing Process

HF is a well stimulation process used in North Dakota's Bakken and Three Forks formations to maximize the extraction of oil and gas. The process enhances subsurface fracture systems, allowing oil to move more freely through porous rock to production wells that bring the oil or gas to the surface (EPA 2011f). During HF, fluids, commonly made up of water and chemical additives, are pumped down the well bore into these target formations at high pressure. The HF process uses large volumes of water under high pressure to fracture rock within the target formation to increase formation porosity and allow the flow of hydrocarbons from the rock. Depending upon the characteristics of the well and the rock being fractured, a few million gallons of water can be required to complete one HF job (Arthur et al. 2008).

Only specific sections of the well within the target formation receive the full force of pumping. As pressure builds up in this portion of the well, water opens fractures, and the driving pressure extends the fractures deep into the rock unit. When pumping stops, these fractures quickly snap closed and the water used to open them is pushed back into the borehole, back up the well and is collected at the surface. The water returned to the surface is a mixture of the water injected and pore water that has been trapped in the rock unit for millions of years. The pore water is usually a brine with significant amounts of dissolved solids (Arthur et al. 2008).

When the pressure exceeds the rock strength, the fluids open or enlarge fractures that can extend several hundred feet from the well shaft, which is oriented laterally within the target formation. After the fractures are created, a propping agent is pumped into the fractures to keep them from closing when the pumping pressure is released. After HF is completed, the internal pressure of the geologic formation causes the injected HF fluids to rise to the surface where they are stored in disposal tanks (EPA 2011f).

Proppants are small compression-resistant particles added to the HF fluids to assist in holding the fractures open and creating pore space through which petroleum can flow. Sand was the original proppant but now aluminum beads, ceramic beads, sintered aluminum (aka bauxite), and other materials are being used in the wells. Over one million pounds of proppants can be used while HF a single well (Arthur et al. 2008).

In addition to proppants, a variety of chemical additives are included with the water used in HF. Some chemicals are used to thicken the water into a gel that is more effective at opening fractures and carrying proppants deep into the rock unit. Other chemicals are added to reduce friction, keep rock debris suspended in the liquid, prevent corrosion of equipment, kill bacteria, control pH, and other functions (Arthur et al. 2008). Typical chemical additives used in the HF fluids are listed in Table 3.4.

Table 3.4. Common Additives of Hydraulic Fracturing Fluid.

Additive Type	Main Compound	Common Use of Main Compound
Acid	Hydrochloric acid or muriatic acid	Swimming pool chemical and cleaner
Biocide	Glutaraldehyde	Cold sterilant in health care industry
Breaker	Sodium chloride	Food preservative
Corrosion inhibitor	N,n-dimethyl formamide	Used as a crystallization medium in pharmaceutical industry
Friction reducer	Petroleum distillate	Cosmetics including hair, make-up, nail, and skin products
Gel	Guar gum or hydroxyethyl cellulose	Thickener used in cosmetics, sauces, and salad dressings
Iron control	2-hydroxy-1,2,3-propanetricaboxylic acid	Citric acid is used to remove lime deposits; lemon juice ~7% citric acid
Oxygen scavenger	Ammonium bisulfite	Used in cosmetics
Proppant	Silica, quartz sand	Play sand
Scale inhibitor	Ethylene glycol	Automotive antifreeze and de-icing agent

Source: Arthur et al. 2008.

3.3.3 Potential Impacts to Surface Water and Groundwater Resources

Water quality of future wells in the vicinity would be protected by drilling with freshwater to a point below the base of the Fox Hills Formation, implementing proper hazardous materials management, and using appropriate casing and cementing to permanently seal the well shaft from any surrounding aquifers. Surface casing would be employed to a depth of 2,500 feet below ground surface to isolate and protect all near-surface aquifers from contamination during drilling, as described in Section 2.2.5 of this document, and to protect the potable water aquifers from any potential contamination during the drilling and operations phases.

Since the introduction of technological advances in HF, some environmental concerns have been published related to the use of chemical additives and their potential effect on groundwater resources. These concerns, reviewed in Arthur et al. (2008), include the following.

1. Fractures produced in the well might extend directly into shallow rock units that are used for drinking water supplies, or fractures produced in the well might communicate with natural fractures that extend into shallow rock units that are used for drinking water supplies.
2. The casing of a well might fail and allow fluids to escape into shallow rock units used for drinking water supplies.
3. Accidental spills of HF fluids or fluids expelled during HF might seep into the ground or contaminate surface water.

The EPA has studied the effects of coalbed methane well fracturing, publishing the results in a report entitled *Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs* (EPA 816-R-04-003) in 2004 (EPA 2004). The report has received both internal and external peer review, and public comment on its research design and incident information. Based on its research, the EPA concluded that there was negligible risk of HF fluid contaminating underground sources of drinking water during HF of coalbed methane production wells, which are significantly more shallow than the Bakken and Three Forks formations. However, the EPA continues to monitor the effects of HF in coalbed methane well completion (EPA 2004). The EPA is currently undertaking a study to evaluate the effect of oilfield HF technology, processes, and fluids on potable water aquifers. The EPA study is not expected to be completed until 2012 (EPA 2011f).

Oil-bearing formations typically occur much deeper than potable water aquifers; approximately 8,700 feet of intervening rock formations occur between the Bakken Formation and the one groundwater well within 1 mile of the proposed wells. In addition, the unique geological position of the Bakken Formation places it immediately beneath the Madison Group, as shown in Figure 3.1. The Madison group of Mississippian age includes three geological formations that have properties that greatly limit the possibility of HF fractures extending vertically into shallower geological formations containing potable water. The following characteristics of the three members of the Madison Group show extremely high resistance to fracturing or vertical transmission of fluids.

3.3.3.1 Lodgepole Limestone Sequence

This is a sequence of primarily Mississippian limestones, with scattered interbedded shales approximately 900 feet thick. It lies immediately above the Bakken Formation. This sequence of rocks is characterized as hard and very dense, requiring significant pressure to initiate fractures (Energy Information Administration 2006).

3.3.3.2 Mission Canyon Limestone

Like the Lodgepole Limestone, the Mission Canyon is a dense limestone formation with very low porosity that ranges from 500 to 800 feet thick (Figure 3.1). Any HF pressures within the Bakken Formation that might be sufficient to initiate fracturing of the Lodgepole Limestone are assumed to be greatly reduced before reaching the Mission Canyon Limestone Formation, and very unlikely to cause any fracturing or transmission of fluids.

3.3.3.3 Charles Salt

The Charles Salt is ubiquitous throughout a great portion of the Williston Basin in both Montana and North Dakota and lies immediately above the limestones described above. This salt formation is approximately 600 feet thick. At the depth below the surface and the associated pressures, this salt is ductile, and would flow slowly to fill any void created by drilling or other pressure. This "flow characteristic," although very challenging to well drilling, would serve to seal any potential fracture that might be propagated artificially through HF. The salt would flow completely around the HF fluids or proppant, thereby eliminating any opportunity for the artificially induced fracture to stay open. Further, the water from the Bakken is almost fully salt-saturated; even with water flow from the Bakken to the Charles Salt Formation, there could be almost no dissolution to enhance any fracture, and the formation would form a barrier, or cap, for any potential HR fracture.

Above the Charles Salt lie greater than 6,000 feet of limestones, siltstones, interbedded salts, sandstones, and shales, many of which tend to be soft and incompetent, providing a serious impediment to any fracture height growth and redirecting and attenuating any fracture that is started. The multiple layers encountered would also serve to dissipate any energy from a fracture stimulation resulting in very limited fracture competency.

Potable water aquifers lie approximately 4,000 feet above the Bakken Formation. In general, almost any of the intervening rock packages appear to be able to independently act as an effective impediment to fracture growth in a vertical direction. Although large volumes of sand (proppant) are used in the modern, multi-stage fracture stimulations, relatively small amounts of proppant are used per stage and are specifically designed to limit fracture growth. This technology is highly unlikely to result in fractures that could expand through the Madison Group limestones or reach the Charles Salt Formation.

No direct or indirect impacts to surface water or groundwater resources would be anticipated from drilling the proposed wells, HF completions, or operation of the proposed wells due to the following.

- The geological setting of the Bakken and Three Forks formations with extremely tight capping formations of the Madison Unit forming an impermeable barrier to upward fracturing or fluid movement.

- The use of semi-closed-loop drilling, as specified in Table 2.1, construction BMPs, and spill prevention planning during the construction phase of the project.
- Implementation of site-specific measures designed to reduce long-term erosion and runoff into nearby streams and Lake Sakakawea.
- The use of protective casings on the well shafts to protect shallow water-bearing rock formations during drilling and operation of the oil wells.

3.4 SOILS

The project area is located toward the center of the Williston Basin. The Greenhorn Formation, which consists of thin limestone and dark gray to black organic-rich shale, is found from the surface to a depth of approximately 4,000 feet. The Greenhorn is subdivided into lower and upper intervals of limestone and calcareous shale with a middle interval of shale. Near-surface sediment is of Recent, Pleistocene, or Tertiary age, and includes Sauk, Tippecanoe, Kaskaskia, Absaroka, Zuni, and Tejas sequences.

The project area consists of till plains and upland soils developed from a variety of landforms including flat alluvial fans and terraces (0 to 6 percent slopes), gentle sloping plains and rises (3 to 6 percent), and steeper hillslopes and ridges (6 to 70 percent). Textures vary from silt loams to fine sandy loams in soils derived from alluvium, residuum, and colluvium weathered from sedimentary rock and glacial deposits (Natural Resources Conservation Service [NRCS] 2012a). Mean annual precipitation found throughout the project area ranges from 13 to 18 inches and mean annual air temperature ranges from 39°F to 45°F. Vegetation common to these soils includes range and pasture grass species of the midgrass prairie and woodland vegetation on steeper, wetter slopes. Soils in and surrounding the project area are often cultivated for grain and/or hay and pasture, with frost free periods ranging from 120 to 135 days.

A vast number of soil series and components (see Appendix B) occur within the proposed project area as a result of weathering of several geomorphic features with differentiated geologic substrate, which have been categorized into three soil groups based on geomorphology: alluvial fans, pediments, and terraces; hills and ridges; and plains and rises.

3.4.1 Alluvial Fans, Pediments, and Terraces

These soils cover approximately 8.0 acres (25.9 percent) of the project area (Table 3.5). This soil group is characterized by deep, well-drained soils typically found on flat and gently rising terrain (0 to 6 percent slope). These soils formed in alluvium, residuum, and outwash derived primarily from sedimentary rock (NRCS 2012a). The soil surface layer is often very shallow and characterized by silt loams.

The soil surface of these soils is typically stable and intact, although these soils may be susceptible to water erosion. Areas of intact vegetation should exhibit slight to no evidence of rills, wind scoured areas, or pedestaled plants (NRCS 2012b). Cryptobiotic crusts are often present. These soils have very little constraints and typically good reclamation potential.

Table 3.5. Soil Groups within the Project Area.

Soil Group	Soil Map Units	Surface Runoff	Erodibility Rating	Reclamation Potential	Ecological Site	Surface Disturbance (Acres)[1]	% of Surface Disturbance
Alluvial fans, pediments, and terraces	4	Low	Low to moderate	Good	Loamy (R054XY031ND)	8.00	25.9
	4B				Loamy (R054XY031ND)		
	27B				Loamy (R054XY031ND)		
Hills and ridges	9E	Medium to high	Moderate to severe	Poor to fair	Shallow Loamy (R054XY030ND)	18.38	59.5
	30E				Shallow Sandy (R054XY043ND)		
	81C				Sandy (R054XY026ND)		
	88C				Loamy (R054XY031ND)		
	93E				Thin Loamy (R054XY038ND)		
	101C				Loamy (R054XY031ND)		
	207F				Loamy (R054XY031ND)		
Plains and rises	88B	Medium	Moderate	Good	Loamy (R054XY031ND)	4.50	14.6
					TOTAL	**30.88**	**100.0**

[1] Surface disturbance acreage does not include all lands within the fenced perimeter of the well pads. These values only include actual surface disturbance involved in the construction of the project.

3.4.2 Hills and Ridges

The most predominant geomorphic soil group in the project area is soils of hills and ridges, making up approximately 18.38 acres (59.5 percent) of the project area (Table 3.5). These well-drained soils occur in diverse topographic terrain (6 to 70 percent slopes) on hills and ridges weathered from glacial till and loamy residuum derived from mixed sources (NRCS 2012a). Soils weathered on hills and ridges are generally deep but may also include more shallow soils with restrictive layers at 10 to 40 inches. The soil surface layer is typically 2 to 7 inches thick of loam. These soils are susceptible to sheetflow erosion (slope).

The hazard of water erosion increases on slopes greater than about 15 percent (NRCS 2012b). Some flow paths, rills, and pedestaled plants may be evident on these slopes. Reclamation potential of these soils is poor to fair and is limited by slope, depth to bedrock, and texture (NRCS 2012a).

3.4.3 Plains and Rises

These soils cover approximately 4.5 acres (14.6 percent) of the project area (Table 3.5). This soil group is characterized by deep, well-drained loams typically found in gently rolling terrain (3 to 6 percent slopes). These soils formed in fine, loamy till (NRCS 2012a). The soil surface layer is often very shallow and characterized by clay loams and loams.

The soil surface of these soils is typically stable and intact, although these soils typically have an increased composition of stones and boulders. Areas of intact vegetation should exhibit slight to no evidence of rills, wind scoured areas, or pedestaled plants (NRCS 2012b). These soils have no to very few soil constraints; however, fine textures may limit reclamation.

3.4.4 Project-Specific Surface Disturbance

The overall percentage of surface disturbance for each soil series is summarized in Table 3.6 and is based on the spatial extent of soil series derived from NRCS data. The soil map units are approximations of the existing soils across the landscape acreage and, therefore, used as a best estimate to describe the soil distribution for each of the proposed project areas. A vast number of soil series occurs within the project area as a result of weathering of surfaces of several geomorphic features with differentiated geologic substrate (Figures 3.6 and 3.7). Soil component characteristics for each soil series are described in Appendix B (NRCS 2012a).

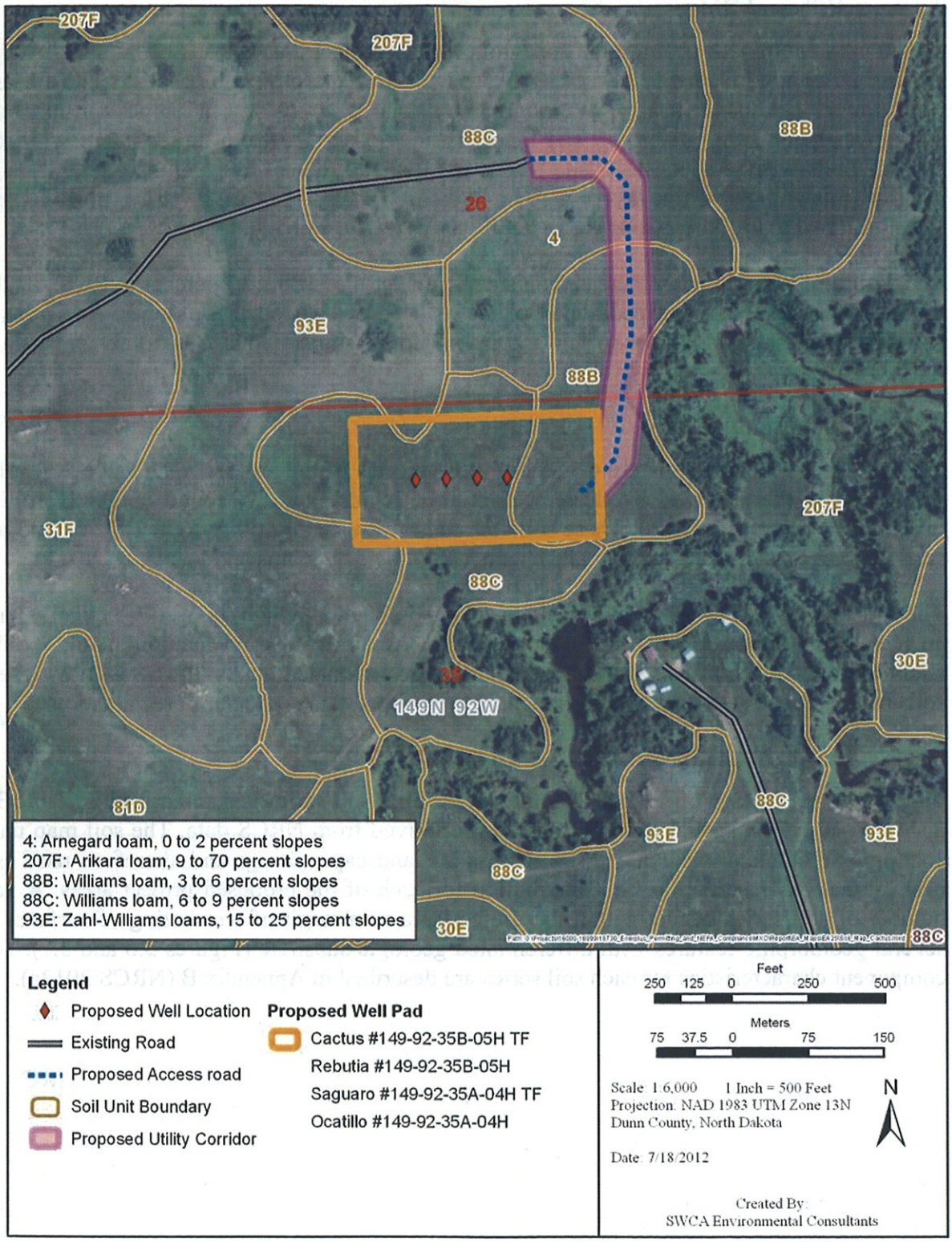


Figure 3.6. Approximate spatial extent of soil components within and around the project area located in Section 35, T149N, R92W.

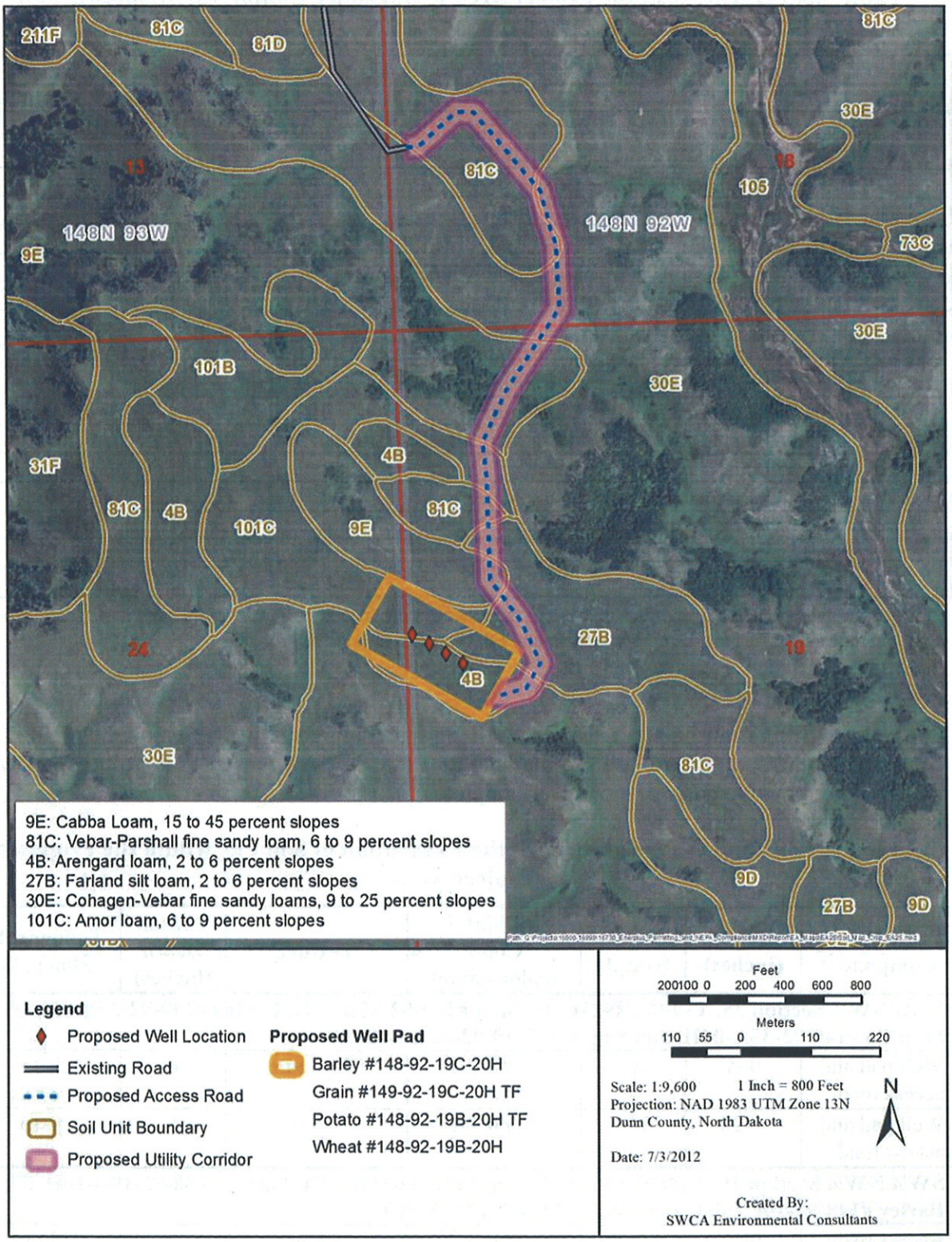


Figure 3.7. Approximate spatial extent of soil components within and around the project area located in Section 19, T148N, R92W.

Table 3.6. Percentage of the Project Area Disturbance Comprised of Specific Soil Components.

Map Symbol	Soil Series	Acres[1]	% of Project Area Disturbance
NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF			
88C	Williams loam, 6 to 9 percent slopes	5.46	49.22
88B	Williams loam, 3 to 6 percent slopes	4.50	40.56
4	Arnegard loam, 0 to 2 percent slopes	0.82	7.39
93E	Zahl-Williams loams, 15 to 25 percent slopes	0.30	2.70
207F	Arikara loam, 9 to 70 percent slopes	0.01	0.13
	TOTAL	**11.09**	**100.00**
SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF			
4B	Arnegard loam, 2 to 6 percent slopes	4.28	21.62
81C	Vebar-Parshall fine sandy loams, 6 to 9 percent slopes	3.49	17.63
101C	Amor loam, 6 to 9 percent slopes	3.15	15.91
27B	Farland silt loam, 2 to 6 percent slopes	2.91	14.70
9E	Cabba loam, 15 to 45 percent slopes	3.58	18.08
30E	Cohagen-Vebar fine sandy loams, 9 to 25 percent slopes	2.39	12.07
	TOTAL	**19.80**	**100.00**

[1]Surface disturbance acreage does not include all lands within the fenced perimeter of the well pad. These values only include actual surface disturbance involved in the construction of the project.

3.4.5 Field Descriptions

Soil data derived from on-site excavated soil pits, including the matrix value, hue, chroma, color name, and soil texture, are summarized in Table 3.7. A Munsell Soil Color Chart was used to determine the color of moist soil samples.

Table 3.7. Soil Data Obtained through the Excavation of Soil Pits within the Proposed Project Area.

Project Area Component	Depth (inches)	% of Sample	Soil Matrix Color (color name)	Texture	Topsoil Depth (inches)	Topography Slope (%)
NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF						
Well pad and access road	0–4	100	10YR 2/1	Clay loam	6	5–15
Well pad and access road	4–20	100	10YR 2/1	Clay	6	5–15
SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF						
Access road	0–8	100	10YR 3/2	Loam	8	15–45
Access road	8–18	100	10YR 4/6	Clay loam	8	15–45
Well pad	0–6	100	10YR 3/2	Loam	6	0–5
Well pad	6–18	100	10YR 4/6	Clay loam	6	0–5

3.4.6 Potential Impacts from Soil Erosion

The proposed project would involve short-term impacts on soil resources, which could result in the potential reduction of soil quality. Impacts would result from soil disturbance due to the use of heavy machinery, the removal of vegetation, and intermixing of topsoil and subsoil during grading and stockpiling. Important factors in determining the occurrence of soil impacts include the characteristics of the major soil types, vegetative cover, and slope. This section discusses potential soil impacts throughout the proposed project areas.

Sensitive soils typically include soils that have shallow depth to bedrock; minimal surface layer organic material content and structure; soil textures that are more easily detached and eroded; or are on steep slopes (greater than 25 percent) (NRCS 1998). Susceptibility to erosion may substantially increase when particular features are in combination. The soil map unit rates all soils on their susceptibility to water erosion. Wind erosion may also be a hazard, particularly when surface litter and vegetation are removed by surface-disturbing activities.

As vegetative cover is removed and the structural stability of the soil is disrupted, the potential for erosion increases. This potential degree of erosion depends upon slope, runoff probability, soil texture, and soil structure. Finely textured soils with poor structure are generally more prone to water erosion than coarse, sandy soils. Silt loams and silty clay loams are particularly vulnerable to water erosion due to their fine particle size and decreased cohesiveness. However, elevated sandy textures make soils more sensitive to wind erosion. The project area includes soils that are susceptible to erosive forces, especially in the absence of vegetative cover following grading and compaction from heavy machinery. Steep slopes can be highly susceptible to erosion regardless of soil texture.

Some potential for erosion to occur may exist in the project area, depending on surface disturbance, site-specific slope, soil type, erosion risk, and construction technique and/or long-term maintenance. Soil erodibility ratings are determined by evaluating the erosion susceptibility (i.e., wind and water erosion factors) with terrain slope and content of rock fragments (NRCS 1998). Erosion risk is described as slight, moderate, or severe (Table 3.5). Slight ratings indicate that no erosion is likely, whereas a moderate rating indicates that erosion is likely but can be controlled with simple erosion control measures. However, a severe erodibility rating indicates that significant erosion is expected and that more costly and active erosion-control measures will be necessary. Keeping in mind the general and site-specific measures identified in Table 2.1, the potential impacts from erosion are discussed in detail for each proposed well pad.

3.4.6.1 NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF

- The proposed well pad, access road, and utility corridor would occur in soils that are predominantly William loams (approximately 90 percent), soils with good reclamation potential.
- Soils in the well pad, access road, and utility corridor locations have moderate surface runoff and a moderate erosion risk, primarily due to clay content and slope.

- 11.09 acres of temporary surface disturbance would occur during construction. The topography in the project area ranges from 5 to 15 percent on and around the well pad (Table 3.7), but requires some site leveling with cut of 68,600 cubic yards of earth, and fill of 59,040 cubic yards.

3.4.6.2 SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

- The proposed well pad, access road, and utility corridor would occur in an area with diverse soil types but dominated by Arnegard loams (approximately 22 percent), soils with good reclamation potential.
- Soils in the well pad, access road, and utility corridor locations have medium to high surface runoff and a moderate to severe erosion risk, primarily due to slope and texture.
- 19.8 acres of temporary surface disturbance would occur during construction. The topography in the project area ranges from 0 to 5 percent on and around the well pad (Table 3.7), requiring site leveling with cut of 69,820 cubic yards of earth, and fill of 31,150 cubic yards.

3.4.7 Erosion Control Measures

During construction, some soils may become rutted and compacted under construction traffic. Factors that influence rutting and compaction include soil moisture, soil texture, grain size distribution, and porosity. For instance, heavily graded soils with some silt content that are not overly wet or dry tend to compact more than uniform sands. Some soils in the project area are more susceptible to compaction and it is anticipated that soil decompaction measures would be required on disturbed surfaces. To minimize the potential for rutting and compaction, the operator would avoid construction activity during periods of soil saturation in flood-prone areas, when practicable.

Soil properties that affect the growth of native grasses and shrubs include the topsoil thickness for the root zone, texture of the surface layer, available water capacity, wetness, salinity and sodicity, flood hazard, soil temperature, and slope. With the existing conditions along the project alignment, reclamation and revegetation would be limited in a number of soil types.

Most of the soils in the project area are known to support native grassland vegetation, which may substantially increase the probability for successful and permanent reclamation, provided care is taken in areas where the soils are less than ideal for vegetative growth (NRCS 2012a). Proven construction BMPs are known to significantly reduce erosion of various types of soil, including those in the project area (BLM and USFS 2007).

The project is not expected to create unmanageable erosion issues or interfere with reclamation of the area. Topsoil stripped from areas of new construction would be retained for use during reclamation. Any areas stripped of vegetation during construction would be seeded once construction activities have ceased. All construction sites would be monitored during and after construction, and BMPs would be used to prevent erosion, minimize runoff and loss of sediment, and ensure soil stabilization. The implementation of BMPs by the operator would

reduce project effects and maintain negligible levels of erosion; therefore, no significant adverse impacts to soil resources would be anticipated.

To minimize soil impacts during construction and operation activities, Enerplus would minimize disturbance areas and implement appropriate mitigation measures. To the extent possible, grading would be conducted in such a way as to limit soil disturbance and conserve existing vegetation. Grading and clearing of vegetation would be conducted to provide adequate construction and operational staging and access to the project areas.

Enerplus has committed to the following specific protective measures that would prevent or reduce erosion potential within the project area.

- All construction would include implementation of BMPs to prevent erosion, minimize runoff and loss of sediment, and ensure soil stabilization. The project location would be inspected during construction in accordance with NPDES requirements, and monitored after construction to ensure that erosion does not occur.
- The well pads are designed to be level with reclamation completed on exposed cut and fill slopes shortly following construction.
- Excess soil after interim rehabilitation would be removed from the project area and disposed of in accordance with appropriate permits.
- The access roads would be constructed with crown and ditch to direct runoff away from gravel surfaces. If applicable, appropriately sized culverts would be installed at any intermittent stream crossings, in accordance with BLM Gold Book standards. All disturbed areas except the road surface would be seeded and stabilized as soon as practical following construction.
- Erosion and sedimentation control measures would be implemented in the project area, such as installing culverts with energy dissipating devices at culvert outlets to avoid sedimentation in ditches, constructing water bars alongside slopes, and planting cover crops to stabilize soil following construction and before permanent seeding takes place.
- Any disturbance from operational maintenance actions along gathering pipelines would be followed by reclamation.

Other site-specific erosion control measures have been required by the BIA, and agreed to by Enerplus, as shown in Table 2.1.

3.5 WETLANDS

Generally, wetlands are areas where water saturation is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface (Cowardin et al. 1979). Wetlands vary widely due to regional and local differences in soils, topography, climate, hydrology, water chemistry, vegetation, and other factors. In order to be classified as a wetland under federal definition, an area must meet three requisite criteria: have a plant community dominated by hydrophytic vegetation, contain

wetland hydrology, and be composed primarily of hydric soils. Each of these criteria may be met by the area containing at least one primary indicator or two secondary indicators. Wetlands that meet all three criteria may be subject to regulation by the U.S. Army Corps of Engineers (USACE) under Section 404 of the CWA (33 CFR 1251 et seq.). The regulatory status of wetlands and other potential waters of the U.S. under the CWA is determined by the USACE and EPA.

3.5.1 Potential Impacts on Wetlands

Wetland types are classified by the U.S. Fish and Wildlife Service (USFWS), which maintains the National Wetland Inventory (NWI) database. The NWI is a general database that identifies wetland areas and categorizes them based primarily on aerial imagery interpretation. NWI developed its wetland classification system using Cowardin et al.'s (1979) classification of wetland and deepwater habitats. Common wetland types found in Dunn County are discussed in the following subsections.

3.5.1.1 Palustrine Freshwater Emergent

Palustrine freshwater emergent (PEM) wetlands are characterized by erect, rooted, herbaceous aquatic plants, excluding mosses and lichens (Cowardin et al. 1979). These wetlands are usually dominated by perennial plants, which are present for most of the growing season. Agricultural activities such as hay production and livestock grazing are common in these wetland types. Dominant species may include meadow foxtail (*Alopecurus pratensis*), obligate or facultative wet sedges (*Carex* spp.), scratchgrass (*Muhlenbergia asperifolia*), cattails (*Typha* spp.), bluegrasses (*Poa* spp.), reed canarygrass (*Phalaris arundinacea*), and bulrushes (*Scirpus* spp.).

3.5.1.2 Palustrine Freshwater Forested

The palustrine freshwater forested wetland class is characterized by woody vegetation that is at least 19 feet tall with a diameter at breast height (DBH) of greater than 3 inches and is found along hydrologic features such as rivers and streams in mountainous areas that support distinct plant compositions that are dependent on saturated soils (Cowardin et al. 1979). However, the USACE considers the tree stratum to contain woody plants exhibiting a DBH of greater than or equal to 3 inches, regardless of height (USACE 2010). Forested wetlands normally possess an overstory of trees, an understory of young trees or shrubs, and a herbaceous layer.

3.5.1.3 Palustrine Freshwater Scrub/Shrub

The palustrine freshwater scrub/shrub wetland class is typically dominated by woody vegetation less than 20 feet tall, such as shrubs, saplings, or small and stunted trees. Dominant trees and shrubs in this type of wetland habitat include cottonwoods (*Populus* sp.), willows (*Salix* spp.), tamarisk (*Tamarix* sp.), western snowberry (*Symphoricarpos occidentalis*), black hawthorn (*Crataegus douglasii*), and boxelder (*Acer negundo*). Other herbaceous species include redtop (*Agrostis alba*), Baltic rush (*Juncus balticus*), and sedges (Cowardin et al. 1979). The USACE considers the sapling/shrub stratum to contain woody-stemmed plants with a DBH of less than 3 inches (USACE 2010). This wetland class may be a successional stage leading to forested wetland or it may be a relatively stable community.

3.5.1.4 Freshwater Pond

The freshwater pond wetland class contains both natural surface impoundments and anthropogenic areas (i.e., stock ponds and other excavated areas) that maintain surface water year-round except in times of drought. Even in times of drought, the water table may remain at or very near the surface (Cowardin et al. 1979). Freshwater ponds usually have more than 30% vegetation cover of plants growing on or below the water's surface for most of the growing season. The low vegetation cover is often due to relatively deep (more than 0.5 meter) and turbid water that inhibits a higher cover of emergent or submerged plants. As water depth increases to about 0.5 meter, emergents like cattails, sedges, and bulrushes become sparse and submerged plants, including waterweeds (*Elodea* spp.) and pondweeds (*Potamogeton* spp.), become more abundant.

3.5.1.5 Lacustrine Limnetic

Lacustrine limnetic wetlands are large, deepwater habitats situated in topographic depressions or damned river channels that lack trees, shrubs, persistent emergents, and emergent mosses or lichens with greater than 30% areal coverage (USACE 2010). The total area of the wetland must exceed 20 acres to be classified as lacustrine limnetic. This wetland class is associated with open water bodies such as lakes, reservoirs, and impounded rivers.

According to the USFWS NWI database, nine palustrine freshwater emergent wetlands and one other wetland are located within 0.5 mile of the proposed project areas, as summarized in Table 3.8 and illustrated in Figures 3.8 and 3.9. Based on the NWI database, one potential wetland area runs across the west side of the proposed access road for the well pad in NE¼ NW¼ Section 35, T149N, R92W (Figure 3.10). SWCA conducted a full wetland delineation of this area and determined that it did not display the necessary hydrologic characteristics to qualify as a wetland according to USACE standards. Although hydrophytic vegetation was present, the site displayed neither hydric soil nor wetland hydrology. The proposed well pad in the SW¼ NW¼ Section 19, T148N, R92W, is located 0.16 mile from the nearest PEM wetland.

Table 3.8. Wetland Types within 0.5 Mile of the Project Area.

Proposed Well Pad and Location	Nearest Wetland (miles) (NWI type)	Number of PEM Wetlands within 0.5 Mile	Other Wetlands within 0.5 Mile
NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF	0 (PEM)	8	0
SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF	0.16 (PEM)	1	1

NWI = National Wetlands Inventory
PEM = palustrine freshwater emergent

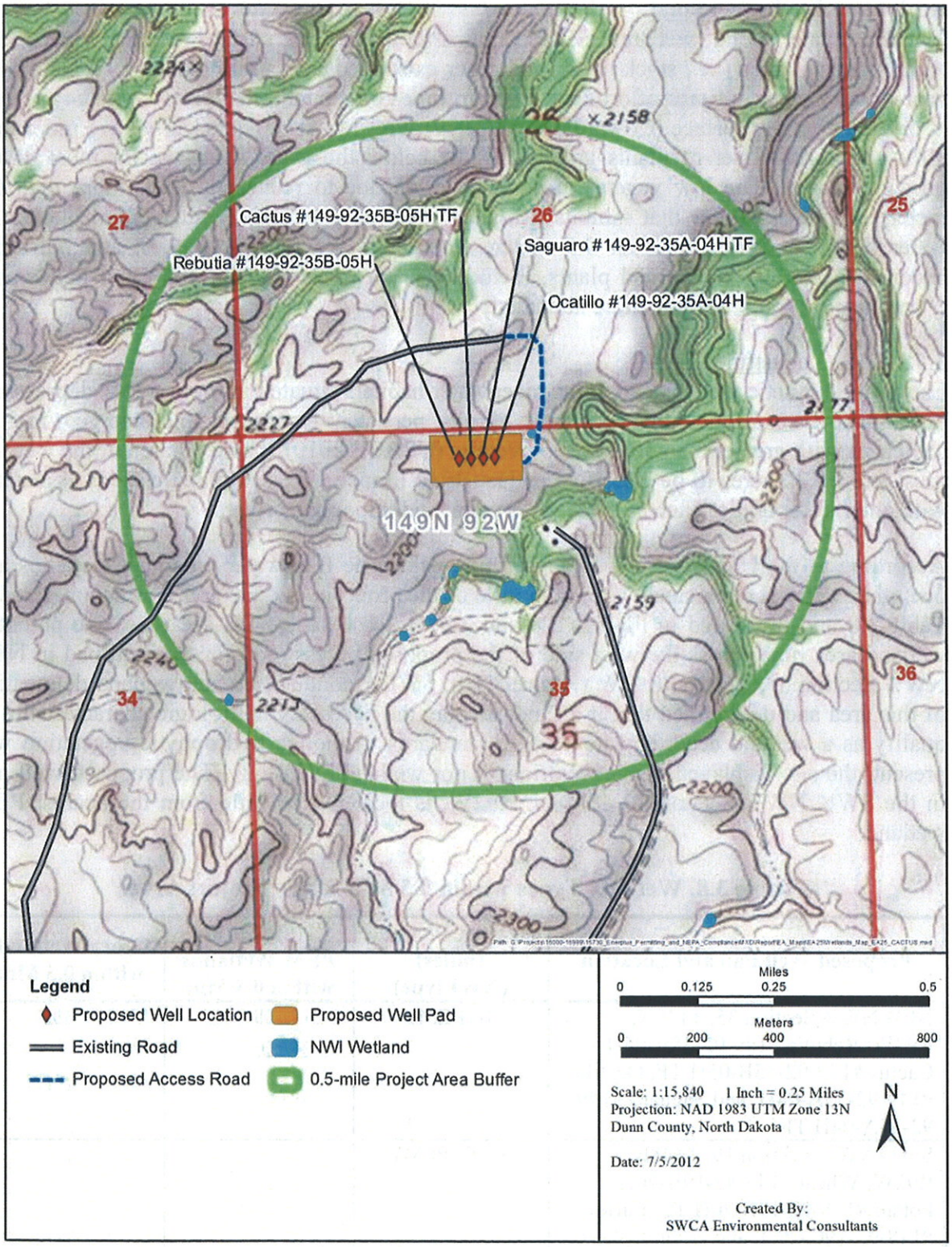


Figure 3.8. NWI-identified wetlands within 0.5 mile of the proposed project area in NE¼ NW¼ Section 35, T149N, R92W.

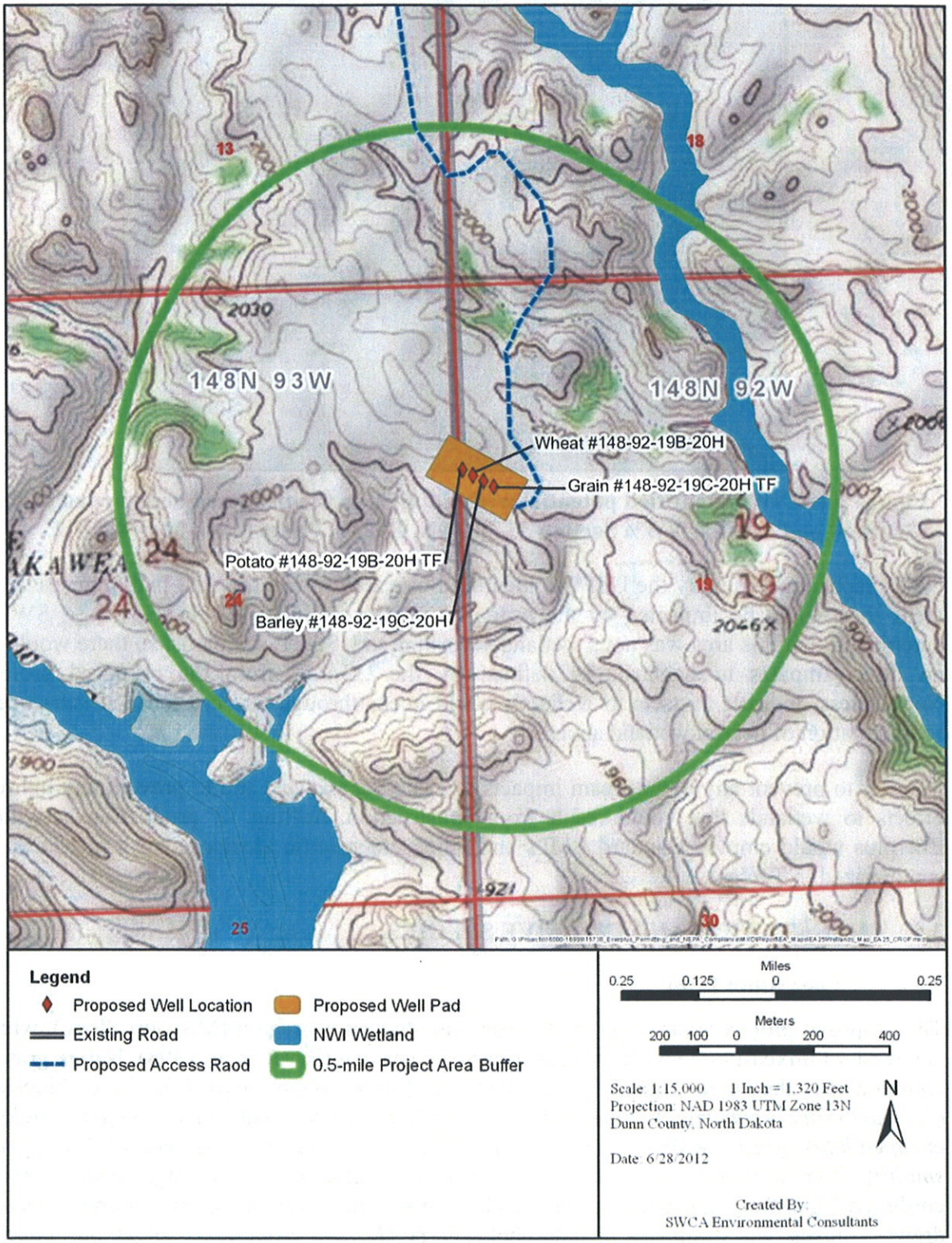


Figure 3.9. NWI-identified wetlands within 0.5 mile of the proposed project area in SW¼ NW¼ Section 19, T148N, R92W.

Figure 3.10. NWI-identified potential wetland area on the proposed access road of the well pad in NE¼ NW¼ Section 35, T149N, R92W. Photo taken May 8, 2012.

NWI maps maintained by the USFWS identified one area within the well pad or access road areas that would be impacted by the proposed project (USFWS 2011). However, SWCA determined that this area was not a wetland according to USACE standards, so there would be no direct impacts to wetlands as defined by the USACE from the proposed project. Nonetheless, indirect impacts to wetlands could occur through site erosion and subsequent sedimentation of nearby wetland areas.

In order to prevent any downstream impacts to Lake Sakakawea, and to prevent any indirect effects to wetlands that could result from construction, drilling, or production activities, Enerplus would employ standard BMPs and other site-specific erosion control measures, as summarized in Table 2.1.

3.6 VEGETATION AND INVASIVE SPECIES

3.6.1 Vegetation Data

The proposed project areas occur in the Missouri Plateau ecoregion (Missouri Slope), which is a western mixed-grass and short-grass prairie ecosystem (Bryce et al. 1998). Native grasses common to the area include big bluestem (*Andropogon gerardii*), little bluestem (*Schizachyrium scoparium*), blue grama (*Bouteloua gracilis*), side-oats grama (*Bouteloua curtipendula*), green needlegrass (*Nassella viridula*), and western wheatgrass (*Pascopyrum smithii*). Common wetland vegetation in the region includes various sedge species, prairie cordgrass (*Spartina pectinata*), bulrush, and cattails. Common plant species found in woody draws, coulees, and drainages include chokecherry (*Prunus virginiana*), silver buffaloberry (*Shepherdia argentea*), and western snowberry.

3.6.1.1 NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF

This well pad and access road would occur within upland prairie habitat. Vegetation noted at the project area includes western wheatgrass, Kentucky bluegrass (*Poa pratensis*), pasqueflower (*Pulsatilla patens*), larkspur violet (*Viola pedatifida*), crested wheatgrass (*Agropyron cristatum*), little bluestem, big bluestem, prairie junegrass (*Koeleria macrantha*), smooth bromegrass (*Bromus inermis*), and Canada thistle (Figures 3.11 and 3.12).

Figure 3.11. Vegetation in the well pad area in NE¼ NW¼ Section 35, T149N, R92W, facing southeast. Photo taken May 8, 2012.

Figure 3.12. Vegetation in the access road area in NE¼ NW¼ Section 35, T149N, R92W, facing north. Photo taken May 8, 2012.

3.6.1.2 SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

This well pad and access road would occur within upland prairie habitat. Vegetation noted at the project area includes little bluestem, western wheatgrass, green needlegrass, prairie junegrass, Kentucky bluegrass, stiff goldenrod (*Oligoneuron rigidum*), purple coneflower (*Echinacea angustifolia*), boxelder, creeping juniper (*Juniperus horizontalis*), prairie rose (*Rosa arkansana*), green ash (*Fraxinus pennsylvanica*), and western snowberry (Figures 3.13 and 3.14).

Figure 3.13. Vegetation in the well pad area in SW¼ NW¼ Section 19, T148N, R92W, facing west. Photo taken May 9, 2012.

Figure 3.14. Vegetation in the access road area in SW¼ NW¼ Section 19, T148N, R92W, facing south. Photo taken May 9, 2012.

3.6.2 Threatened and Endangered Plant Species

No plant species listed as threatened or endangered under the Endangered Species Act (ESA) (16 USC 1541 et seq.) are located in Dunn County (USFWS 2012).

3.6.3 Noxious Weeds

"Noxious weed" is a general term used to describe plant species that are not native to a given area, spread rapidly, and have adverse ecological and economic impacts. These species may have high reproduction rates and are usually adapted to occupy a diverse range of habitats otherwise occupied by native species. These species may subsequently out-compete native plant species for resources, causing a reduction in native plant populations.

Noxious weeds have the potential to detrimentally affect public health, ecological stability, and agricultural practices. North Dakota Century Code (Chapter 63-01.1) and the North Dakota Department of Agriculture (NDDA) recognize 11 species as noxious, as shown in Table 3.9 (NDDA 2012). Each county has the authority to add additional species to their list of noxious weeds, but Dunn County has not added any species to their list. In 2011, four state noxious weed species were found on 101,260 acres in Dunn County. Additionally, 3,000 acres of black henbane (*Hyoscyamus niger*) were shown to occur in Dunn County in 2009 (NDDA 2012).

During the natural resource surveys, Canada thistle was found on the proposed well pad in NE¼ NW¼ Section 35, T149N, R92W. Enerplus will implement standard noxious weed control BMPs to either remove the Canada thistle or control the population to prevent further growth.

Table 3.9. Recognized Noxious Weed Occupied Areas in Dunn County, North Dakota.

Common Name	Scientific Name	Dunn County (acres)
State Noxious Weeds		
absinth wormwood	*Artemisia absinthium*	51,900
Canada thistle	*Cirsium arvense*	41,200
diffuse knapweed	*Centaurea diffusa*	0
leafy spurge	*Euphorbia esula*	8,100
musk thistle	*Carduus nutans*	0
purple loosestrife	*Lythrum salicaria*	0
Russian knapweed	*Acroptilon repens*	0
spotted knapweed	*Centaurea stoebe*	0
yellow toadflax	*Linaria vulgaris*	0
dalmatian toadflax	*Linaria dalmatica*	60
salt cedar	*Tamarix ramosissima*	0
Additional Noxious Weeds		
black henbane	*Hyoscyamus niger*	3,000
common burdock	*Arctium minus*	0
houndstongue	*Cynoglossum officinale*	0
halogeton	*Halogeton glomeratus*	0
baby's breath	*Gypsophila muralis*	0

Source: NDDA 2012

3.6.4 Potential Impacts on Vegetation and Noxious Weeds

The Proposed Action would result in 42.82 acres of temporary disturbance and 19.11 acres of long-term loss of the native grassland vegetation and agricultural lands described above. The potential disturbance for each project component is summarized in Table 2.1.

In addition to the removal of native grasslands, removal of existing vegetation may facilitate the spread of invasive species. The APD and this EA require the operator to control noxious weeds throughout the project area. If a noxious weed community is found, it would be eradicated unless the community is too large, in which case it would be controlled or contained to prevent further growth. The services of a qualified weed control contractor would be used.

Surface disturbance and vehicular traffic would not take place outside approved ROWs for the well pads. Areas that are stripped of topsoil must be seeded and reclaimed at the earliest opportunity. Additionally, certified weed-free straw and seed must be used for all construction, seeding, and reclamation efforts. Prompt and appropriate construction, operation, and reclamation are expected to maintain minimal levels of adverse impacts to vegetation and would reduce the potential establishment of invasive vegetation species.

Rapid reclamation and the implementation of BMPs would minimize any long-term loss of soil and degradation of vegetation resources in the pipeline ROW. Construction of the proposed well pads and the access roads would result in long-term disturbance of vegetation, since these facilities would only be partially reclaimed, and would be in continuous use for the life of the project. The loss of 19.11 acres would be located in T149W, R92W and T148N, R92W. With implementation of BMPs and noxious weed management guidelines, the proposed project would result in negligible levels of vegetation disturbance and would not result in significant adverse impacts to vegetation resources.

Efforts to reduce the spread of noxious weeds would be made during the project construction and maintenance processes. The following guidelines would be followed during construction, reclamation, and maintenance stages of the project to control the spread of noxious weeds.

- Construction equipment, materials, and vehicles would be stored at construction sites or at specified construction yards.
- All personal vehicles, sanitary facilities, and staging areas would be confined to a limited number of specified locations to decrease chances of incidental disturbance and spread of weeds.
- In areas with existing noxious weed infestations, vegetation, soils, and trench spoil material would be stockpiled adjacent to the removal point and, following construction, would be returned to its original locations to prevent spreading.
- Prompt re-establishment of the desired vegetation in disturbed areas would be required. Seeding would occur during the frost-free periods after construction. Certified "noxious weed-free" seed would be used on all areas to be seeded.

3.7 WILDLIFE AND HABITAT

SWCA biologists conducted natural resource surveys for general wildlife and plants, raptor nests and habitats, and habitat assessments for threatened and endangered species on August 1, 2011, and May 8 and 9, 2012. The North Dakota Game and Fish Department golden eagle (*Aquila chrysaetos*) nest database was checked for known nests near the project areas. No documented golden eagle nests occur within 0.5 mile of the proposed project components (North Dakota Game and Fish Department 2010). The closest known nest (nest ID GE033SBSW) occurs approximately 3.13 miles from the project area, in Dunn County. A sighting was recorded for this nest in 2003; the nest status was classified as occupied. Additionally, two aerial nest surveys for bald eagles (*Haliaeetus leucocephalus*) and golden eagles were flown by SWCA biologists on March 25, 2011, and April 5, 2012, to identify any eagle nests within 0.5 mile of the project areas, per BIA recommendations. The flight survey on March 25, 2011, was conducted at the well pad location in NE¼ NW¼ Section 35, T149N, R92W (SWCA 2011). The flight survey on April 5, 2012, was conducted at the well pad location in SW¼ NW¼ Section 19, T148N, R92W (SWCA *forthcoming*). During the aerial surveys, no nests or eagles were observed in flight or roosting within the 0.5-mile buffer area around the proposed project components.

3.7.1 General Wildlife Species Occurrence and Habitat

Several species common to the northern Great Plains include, but not limited to, mule deer (*Odocoileus hemionus*), American badger (*Taxidea taxus*), eastern spotted skunk (*Spilogale putoris*), and grassland songbirds such as western meadowlark (*Sturnella neglecta*) and loggerhead shrike (*Lanius ludovicianus*).

3.7.1.1 NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF

No threatened and endangered species habitat was observed. Potential habitat for Dakota skipper (*Hesperia dacotae*) was observed. Raptor nesting habitat was observed in the project area during the natural resource survey. Nesting habitat for eagles is present within 0.5 mile of the well pad and access road. Migratory bird nesting habitat is present in the project area. A red-tailed hawk (*Buteo jamaicensis*), horned lark (*Eremophila alpestris*), and American robin (*Turdus migratorius*) were observed during the wildlife survey.

3.7.1.2 SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

No threatened and endangered species habitat was observed. Potential habitat for Dakota skipper was observed. Raptor nesting habitat was observed in the project area during the natural resource survey. Nesting habitat for eagles is present within 0.5 mile of the well pad. Migratory bird nesting habitat is present in the project area. An Eastern meadowlark (*Sturnella magna*) was observed during the wildlife survey.

3.7.2 Threatened and Endangered Species Occurrence and Habitat

Six wildlife species that may exist in Dunn County (USFWS 2012) are listed as threatened or endangered under the ESA (16 USC 1531 et seq.). According to the USFWS, listed species in Dunn County include the gray wolf (*Canis lupus*), black-footed ferret (*Mustela nigripes*),

whooping crane (*Grus americana*), piping plover (*Charadrius melodus*) and its Designated Critical Habitat, interior least tern (*Sterna antillarum*), and pallid sturgeon (*Scaphirhynchus albus*), as well as two federal candidate species, the Dakota skipper and the Sprague's pipit (*Anthus spragueii*). In addition to the ESA, the Bald and Golden Eagle Protection Act (16 USC 668–668d, 54 Sta. 250) and the Migratory Bird Treaty Act of 1918 (916 USC 703–711) protect nesting migratory bird species. The listed species and their federal status are provided in Table 3.10.

No listed threatened or endangered species or their designated critical habitats were observed within the project area. Potentially suitable habitat for Dakota skipper does occur within the project area. Eagle nesting habitat occurs within 0.5 mile of the project area.

Based on the NWI database, there is one potential wetland on the access road of the proposed location in NE¼ NW¼ Section 35, T149N, R92W. A wetland delineation was conducted by SWCA and although the area did not meet the criteria to be classified as a wetland according to USACE standards, it is recognized that whooping cranes will use isolated, intermittent or ephemeral water bodies for roosting or foraging habitat during migration (Austin and Richert 2005; Howe 1987). However, the isolated depression at this location would not be used by migrating whooping cranes because there is active development adjacent to the proposed location (USFWS 1994).

3.7.3 Potential Impacts to Wildlife

SWCA wildlife biologists have evaluated the status, life history, and potential effects of the Proposed Action on each of the listed species. The potential effects of the project on these species is described in detail in Appendix A, and summarized in Table 3.10.

Minor impacts to wildlife species and their habitats could result from the construction of the well pads and new access roads, increased vehicular traffic density, drilling activities, and long-term disturbances during commercial production. Ground clearing may impact habitat for small birds, small mammals, and other wildlife species. Fragmentation of native prairie habitat can detrimentally affect grouse species; however, due to the ratio of each project area to the total landscape area, the overall disturbance would be negligible. The proposed project may affect raptor and migratory bird species through direct mortality, habitat degradation, and/or displacement of individual birds.

Table 3.10. Summary of Potential Effects to Threatened and Endangered Species.

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Black-footed Ferret (*Mustela nigripes*)	Endangered	Species is presumed extirpated from North Dakota.	None.	No Effect
Gray Wolf (*Canis lupus*)	Endangered	Nearest known gray wolf populations exist in Minnesota, Canada, Montana, and Wyoming.	None.	No Effect
Whooping Crane (*Grus americana*)	Endangered	Birds may occasionally stopover during migration due to the presence of suitable foraging habitat near the project area.	Underground utility lines would be utilized at all proposed project areas. If whooping cranes are sighted within 1 mile of the project area, drilling or construction activity would cease and the Bureau of Indian Affairs (BIA) and U.S. Fish and Wildlife Service (USFWS) would be notified. Cuttings pits would include avian-safe coverings and be reclaimed immediately after wells are completed.	May Affect, Is Not Likely to Adversely Affect

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Piping Plover (*Charadrius melodus*)	Threatened	Birds are unlikely to be present due to lack of suitable foraging or nesting habitat.	Enerplus would implement all best management practices (BMPs), erosion control measures, and spill prevention practices required by the Clean Water Act. Enerplus would use a semi-closed-loop drilling system with a dry cuttings pit on the pads. At all locations, a 3-foot-high 12-gauge steel containment with a 24-millimeter load out liner and concrete footer would be installed under and around all tank batteries and treaters/separators. A heavy screen-covered drip barrel would be installed under the outlet. A metal access staircase would protect the dike and support flexible hoses used by tanker trucks. This system is designed to hold 110% of the capacity of the largest tank plus one day's production to prevent hazardous runoff or spills. An 18-inch-tall berm would be constructed at all well pad locations, as shown in Table 2.1. A diversion ditch would be constructed, as needed, at well pad locations to reduce sediment loss and transportation from the well pads, as shown in Table 2.1. Sediment control devices would be implemented as needed to prevent or reduce sediment transport off the well pad locations. All locations would comply with BIA's conditions of approval. Cuttings pits would include avian-safe coverings and be reclaimed immediately after wells are completed. Interior floors of the drilling pads would be sloped away from drainage ways. Cuttings pit liners would be a minimum of 20 millimeters thick.	May Affect, Is Not Likely to Adversely Affect

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Designated Critical Habitat for Piping Plover	Designated Critical Habitat	Critical Habitat occurs approximately 0.91 river mile from the project area, on the shoreline and islands of Lake Sakakawea.	See piping plover protective measures.	May Affect, Is Not Likely to Adversely Affect
Interior Least Tern (*Sterna antillarum*)	Endangered	The nearest suitable nesting and foraging habitat occurs on the shoreline and islands of Lake Sakakawea, approximately 0.91 river mile from the proposed well pads and access roads. Migrating or foraging interior least terns may transition through the project area.	See piping plover protective measures.	May Affect, Is Not Likely to Adversely Affect
Pallid Sturgeon (*Scaphirhynchus albus*)	Endangered	Suitable habitat occurs in Lake Sakakawea (Missouri River) approximately 0.91 river mile from the project area.	See piping plover protective measures.	May Affect, Is Not Likely to Adversely Affect
Sprague's Pipit (*Anthus spragueii*)	Candidate	Habitat requirements include unfragmented native grasslands of intermediate height (4 to 12 inches) with a minimum patch size of 358 acres.	See migratory bird protective measures below.	May Affect, Is Not Likely to Adversely Affect

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Dakota Skipper (*Hesperia dacotae*)	Candidate	Suitable habitat was noted within the project area. However, no adverse impact is anticipated as a result of construction activities.	Utility corridors would be co-located in road rights-of-way. Multiple wells would be constructed on each well pad. Suitable habitat would be re-established by performing interim reclamation on disturbed areas not needed for operations after construction and drilling. Final reclamation would occur on all disturbed areas either in the short term if the well is commercially unproductive or later upon final abandonment of commercial operations.	May Affect, Is Not Likely to Adversely Affect
Other Federally Protected Species				
Bald Eagle (*Haliaeetus leucocephalus*)	Bald and Golden Eagle Protection Act (BGEPA) and Migratory Bird Treaty Act (MBTA)	No known nests occur within 0.5 mile of the project area. Raptor habitat survey was conducted. No raptor nests were observed within the project area. Eagle nesting habitat occurs within 0.5 mile of the project area.	Maintain a minimum 0.5-mile buffer around all known or newly discovered active bald and golden eagle nests. Two aerial eagle nest surveys were flown by SWCA biologists for Enerplus to identify any nests within 0.5 mile of the project areas in NE¼ NW¼ Section 35, T149N, R92W, and SW¼ NW¼ Section 19, T148N, R92W, per BIA recommendations. No nests or eagles were observed during the aerial surveys flown on March 25, 2011 (SWCA 2011) and April 5, 2012 (SWCA *forthcoming*).	No Adverse Effects Anticipated

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Golden Eagle (*Aquila chrysaetos*)	BGEPA and MBTA	No known nests occur within 0.5 mile of the project area. The closest known nest is 3.13 miles southwest of well locations. Raptor habitat survey was conducted. No raptor nests were observed within the project area. Eagle nesting habitat occurs within 0.5 mile of the project area. Golden eagles may occasionally visit the project area.	See bald eagle protective measures.	No Adverse Effects Anticipated

Species	ESA Status	Habitat Suitability or Known Occurrence	Operator-Committed Measures	Effects Determination
Migratory Birds	MBTA	Suitable habitat for nesting migratory grassland birds occurs in the project area.	At all project locations, migratory bird protective measures would be implemented, as follows. • Schedule construction for late summer or fall/early winter so as not to disrupt waterfowl or other migratory birds during the breeding season (February 1–July 15). • If the construction window in the above item cannot be honored, degrade migratory bird habitat at the project site outside of the breeding season (July 16–January 31) by mowing and/or clearing and grubbing to discourage nesting, and maintain the habitat in a degraded state until construction is completed. • If construction will occur within the migratory bird nesting season and habitat degradation has not been accomplished, conduct surveys at the well pad and access road areas for migratory birds and their active nests (nests containing eggs or young) within five days of commencement of construction activities. If active nests are found during surveys, contact the USFWS and BIA with a proposal for maintaining adequate buffers around the nest or realigning the work to prevent the take of migratory birds. • Cuttings pits would include avian-safe coverings and be reclaimed immediately after wells are completed.	No Adverse Effects Anticipated

Indirect effects of the project on listed species could result from human disturbance and increases in vehicular traffic during drilling and commercial production, as well as indirectly from habitat degradation, sedimentation, or accidental release of drilling fluids or hazardous materials from the drilling, construction, or operation of the wells.

Several precautions that may limit or reduce the possible impact to all wildlife species include locating well pads over areas with existing disturbances, where possible; using avian-safe coverings on the cuttings pits and reclaiming the pits immediately after wells are completed; removing any oil found in pits and ponds; installing covers under drip buckets and spigots; and conducting interim reclamation of at least half the disturbed area.

Reclamation would begin without delay if a well is determined to be unproductive, or upon completion of commercial production. Any wildlife species inhabiting the project area are likely to adapt to changing conditions and continue to persist without adverse impacts.

With implementation of the protective measures identified above, in Table 3.10, in Section 2.2.10, Construction Details at Individual Sites, and in Section 3.13, Mitigation and Monitoring, the proposed project is unlikely to adversely affect wildlife species.

3.8 CULTURAL RESOURCES

Historic properties, or cultural resources, on federal or tribal lands are protected by many laws, regulations, and agreements. Section 106 of the National Historic Preservation Act of 1966 (16 USC 470 et seq.) requires, for any federal, federally assisted, or federally licensed undertaking, that the federal agency take into account the effect of that undertaking on any district, site, building, structure or object that is included in the National Register of Historic Places (NRHP) before the expenditure of any federal funds or the issuance of any federal license. Cultural resources is a broad term encompassing sites, objects, or practices of archaeological, historical, cultural, and religious significance. Eligibility criteria (36 CFR 60.6) include association with important events or people in our history, distinctive construction or artistic characteristics, and either a record of yielding or a potential to yield information important in prehistory or history. In practice, properties are generally not eligible for listing on the NRHP if they lack diagnostic artifacts, subsurface remains, or structural features, but those considered eligible are treated as though they were listed on the NRHP even when no formal nomination has been filed. This process of taking into account an undertaking's effect on historic properties is known as "Section 106 review," or more commonly as a cultural resource inventory.

The area of potential effect of any federal undertaking must also be evaluated for significance to Native Americans from a cultural and religious standpoint. Sites and practices may be eligible for protection under the American Indian Religious Freedom Act of 1978 (42 USC 1996). Sacred sites may be identified by a tribe or an authoritative individual (Executive Order 13007). Special protections are afforded to human remains, funerary objects, and objects of cultural patrimony under the Native American Graves Protection and Repatriation Act (25 USC 3001 et seq.).

Whatever the nature of the cultural resource addressed by a particular statute or tradition, implementing procedures invariably include consultation requirements at various stages of a federal undertaking. The MHA Nation has designated a Tribal Historic Preservation Officer (THPO) by Tribal Council resolution, whose office and functions are certified by the National Park Service. The THPO operates with the same authority exercised in most of the rest of North Dakota by the State Historic Preservation Officer. Thus, BIA consults and corresponds with the THPO regarding cultural resources on all projects proposed within the exterior boundaries of the Reservation.

3.8.1 Cultural Resource Inventories

Cultural resource inventories of these well pads and access roads were conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. For the Rebutia 149-92-35B-05H/Cactus 149-92-35B-05HTF/Ocatillo 149-92-35A-04H/Saguaro 149-92-35A-04HTF project approximately 82.92 acres were inventoried on May 8, 2012 (Cox et al. 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 13, 2012; however, the THPO did not respond within the allotted 30 day comment period. For the Wheat 148-92-19B-20H/Potato 148-92-19B-20HTF/Barley 148-92-19C-20H/Grain 148-92-19CHTF project approximately 57.01 acres were inventoried on May 9, 2012 (Schleicher and Cox 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. 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 June 29, 2012; however, the THPO did not respond within the allotted 30 day comment period.

3.8.2 Potential Impacts to Cultural Resources

If cultural resources are discovered during construction or operation, the operator shall immediately stop work, secure the affected site, and notify the BIA and the THPO. Unexpected or inadvertent discoveries of cultural resources or human remains trigger mandatory federal procedures that include work stoppage and BIA consultation with all appropriate parties. Following any such discovery, operations would not resume without written authorization from the BIA. Project personnel are prohibited from collecting any artifacts or disturbing cultural resources in the area under any circumstance. Individuals outside the ROW are trespassing. No laws, regulations, or other requirements have been waived; no compensatory mitigation measures are required.

3.9 TRANSPORTATION

3.9.1 Federal and North Dakota State Transportation Links

Transportation in the project area is predominantly by private automobiles and commercial trucks on established roads. The transportation study area includes all highways and roads that

traverse the Reservation, as well as those providing access to tribal lands. Major federal highways surrounding the project area include U.S. Highway 2, which is an east/west route to the north of the Reservation; U.S. Highway 83, a north/south route to the east of the Reservation; and U.S. Highway 85, a north/south route to the west of the project area. Interstate highways south of the project area provide access to Bismarck and other interstate transportation links. Federal highways outside of the Reservation boundaries are built and maintained through the Federal Highway Administration (FHWA) and North Dakota Department of Transportation (NDDOT) funding and guidelines.

The Reservation is bisected by North Dakota state and county roads, which link the area with the goods, services, and markets in North Dakota and beyond, as shown in Figure 3.15. State Highway 22 traverses the Reservation from north to south, passing west of Mandaree. State Highway 23 is an east/west route passing through New Town, North Dakota. State Highway 200 is an east/west route traversing the area south of the Little Missouri River. State Highway 73 provides access to the Reservation from the west, in the area south of Lake Sakakawea, and State Highway 1804 intersects State Highway 23 near New Town, providing access from the north.

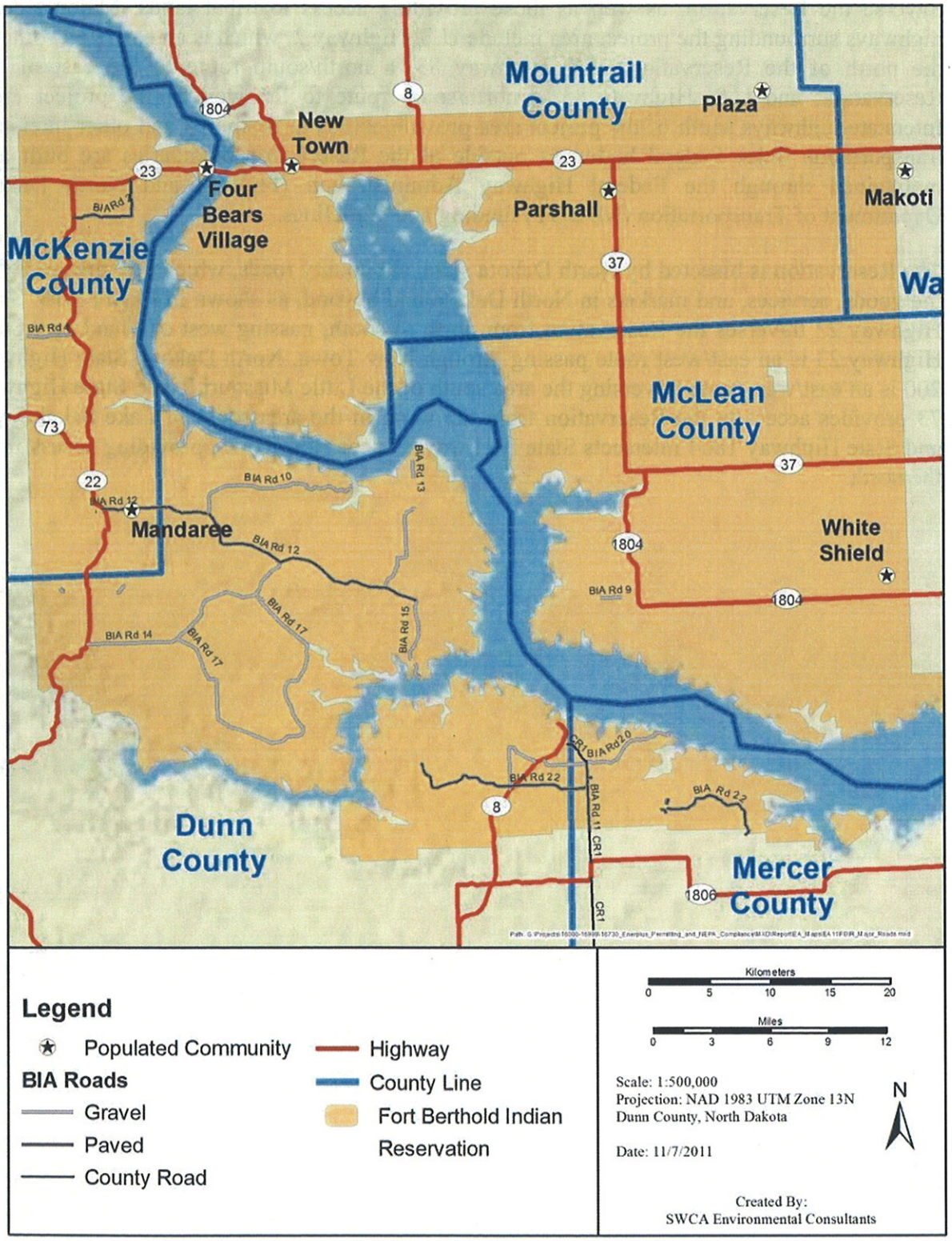


Figure 3.15. Fort Berthold Indian Reservation major roads and highways.

State Highway 22 provides the primary transportation link to the project area, which is approximately 15 miles southeast of the intersection of State Highway 22 and State Highway 73, southeast of Mandaree. In addition to providing access to the town of Mandaree, State Highway 22 is designated by North Dakota Parks and Recreation as part of the Killdeer Mountain-Four Bears Scenic Byway, known for its scenic, cultural, and historical importance to North Dakota (North Dakota Parks and Recreation 2011a). The North Dakota Scenic Byways and Backways Program encourages all development projects within the immediate and distant viewshed of State Highway 22 to conserve the visual and aesthetic quality of the area (North Dakota Parks and Recreation 2011b).

3.9.2 Indian Reservation Roads Program

Approximately 2,733.5 miles of roads within the Reservation are under the jurisdiction of the BIA Indian Reservation Roads (IRR) Program (IRR 2011). These Reservation IRR roads provide access to all areas of the Reservation with paved, all-weather roads, as well as numerous non-paved improved roads that serve as access to energy exploration and development and other activities surrounding the project area (IRR 2011). Figure 3.15 provides an overview of these primary and secondary BIA roads, but does not attempt to show the many primitive roads or well pad and pipeline access roads that occur on the Reservation.

The BIA and the MHA Nation retain planning and maintenance responsibility over this roadway system on the Reservation through the IRR Program of the FHWA. The IRR Program addresses transportation needs of tribes by providing funds for planning, design, construction, and maintenance activities. The program is jointly administered by the FHWA and the BIA. The IRRs are all public roads which provide access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaska native villages. IRR funds can be used for any type Title 23 transportation project providing access to or within federal or Indian lands and may be used for the state/local matching share for apportioned federal-aid highway funds (FHWA 2010).

The most recent IRR inventory for the Reservation roads was conducted in 2006. The 2006 inventory shows that the Reservation is bisected by approximately 6,600 road segments ranging in length from 0.01 mile to 15.00 miles. Approximately 284.63 miles of BIA roads consist of paved surface types, and 671.00 miles consist of improved gravel roads. The remaining roads are primitive or other unimproved road types.

3.9.3 Trends in Reservation Vehicular Traffic Volume

Table 3.11 provides summary information for 15 BIA road segments for which average daily traffic (ADT) measurements have been recorded since 1994. Some additional road segments had ADT data prior to 1994, but most likely would not reflect current conditions. Since the IRR data only provide the most recent ADT, it is not possible to determine if ADT is increasing on BIA roads.

Table 3.11. Summary of BIA Roads with ADT Data since 1994.

Road Name	IRR Class	Surface Type	Section Length (miles)	Road Width (feet)	ADT	% Trucks	ADT Year
BIA 1	Rural, local traffic	Gravel	3.8	25 and 26	150	15	1994
BIA 1	Rural, local traffic	Paved >2 inches thick	6.1	24	839	2	2006
BIA 1	Rural, major collector	Paved >2 inches thick	1.0	24 and 30	839	2	2006
BIA 2	Rural, major collector	Paved >2 inches thick	4.9	20	656	2	2006
BIA 6	Rural, local traffic	Paved >2 inches thick	11.2	24	139	2	2006
BIA 10	Rural, local traffic	Gravel	5.7	20	102	2	2006
BIA 12	Rural, major collector	Paved >2 inches thick	1.2	24	944	2	2006
BIA 12	Rural, major collector	Paved >2 inches thick	18.4	24	398	2	2006
BIA Route 1	Rural, local traffic	Gravel	6.5	24	100	5	2000
BIA 14	Rural, major collector	Gravel	12.3	22	198	2	2006
BIA 18	Rural, major collector	Paved <2 inches thick	8.8	30	114	2	2006
BIA 18	Rural, major collector	Paved >2 inches thick	3.0	28	114	2	2006
BIA 22	Rural, major collector	Paved >2 inches thick	2.8	28	757	2	2006
BIA 22	Rural, major collector	Paved >2 inches thick	0.2	27	504	2	2006
BIA 27	Rural, local traffic	Gravel	3.7	20	137	2	2006

Source: IRR 2011.
ADT = average daily traffic
BIA = Bureau of Indian Affairs
IRR = Indian Reservation Road

Table 3.12 provides ADT recorded at traffic counter stations along eight NDDOT highway segments within the Reservation for years in which such data were recorded between 2005 through 2010. No data were recorded within the Reservation by NDDOT during 2007. Traffic volumes vary greatly along the various NDDOT highways that pass through the Reservation. Some primary highways show consistent increases each year and have experienced increases in ADT and in truck ADT since 2005, as shown in Table 3.12. Increases ranging from more than 73% to 700% in passenger vehicle traffic volume were experienced on State Highways 22, 23, and 73, and County Road 8. The same highways experienced increases in truck traffic

volumes ranging from 344% to 2,500% over the same period, indicating that industrial activity, most likely the increased activity of oil and gas drilling, has had an effect on traffic within the Reservation. Some NDDOT highways, however, had limited data available and failed to show clear trends for traffic increase, or even showed a decrease in ADT for the period.

3.9.4 Trends in Traffic Safety on the Reservation

Traffic accident data were not available for BIA roads. Accident data were obtained for seven NDDOT highway sections on the Reservation from January 2008 through May 2011, as shown in Table 3.13. NDDOT statistics suggest that traffic accidents have increased on the approximately 141.6 miles of state roads within the boundaries of the Reservation from January 2008 to May 2011. In addition to trends in overall accidents and accidents involving fatalities or injuries on state highways, the incidence of accidents or injuries involving truck-tractors and two- or three-axle trucks were evaluated as indicators of safety issues from increased oil and gas activity within the Reservation.

The monthly average was determined for each measure and the percentage departure from the monthly average was calculated to assess the overall yearly relationship to the 41-month average. In general, 2008 and 2009 showed below average accident rates, injuries and fatalities, truck accidents, and truck accidents involving injuries compared with the 41-month average, while 2010 and the five-month period of 2011 showed above average accident and injury rates, as summarized in Table 3.13. State Highways 23, 73, and 8 each experienced increased ADT and truck ADT, and also experienced above average accidents, including truck-involved traffic accidents. State Highway 22 was an exception, since traffic volumes increased but no corresponding increase in accidents occurred. State Highway 37 was also an exception to increased traffic contributing to increased accidents, since this highway segment saw a decrease in ADT and truck ADT, but experienced above average accidents, including truck-involved accidents during 2010 and 2011.

The data suggest that a combination of overall increased passenger traffic and increased truck traffic may be contributing to above average accidents in recent years; however, it will take several additional years of data collection to establish a clear connection, and poor road repair condition, weather, and driver error may contribute to accidents as much as traffic volume.

Table 3.12. Changes in ADT along NDDOT Highways within the Reservation, 2005–2010.

NDDOT Highway	Segment	2005		2006		2008		2009		2010		% Change in Traffic	
		ADT	Truck ADT	ADT	Truck ADT	ADT	Truck ADT	ADT	Truck ADT	ADT	Truck ADT	ADT	Truck ADT
ND 22	RP 126.5–156.05	NA	NA	635	60	NA	NA	1330	305	2130	680	235.4	1033.3
South Reservation boundary north to ND 23 (29.55 miles)												Traffic increases	
ND 23	RP 35.6–80.6	2200	180	NA	NA	2450	375	2970	560	3810	800	73.2	344.4
Reservation west boundary to east boundary (45.0 miles)												Traffic increases	
ND 37	RP 0.0–30.0	715	175	NA	NA	631	85	NA	NA	NA	NA	-11.7	-51.4
ND 23 south and Reservation east boundary (30.0 miles)												Decreased traffic based on 2008 data	
ND 73	RP 7.3–11.32	NA	NA	200	30	NA	NA	680	140	1605	780	702.5	2500.0
Reservation boundary to ND 22 (4.02 miles)												Traffic increases	
ND 1804	RP 247.145–248.6	1625	205	NA	NA	1355	300	NA	NA	NA	NA	-16.6	46.3
Reservation west and north boundaries to ND 37 (1.455 miles)												Mixed result based on 2008 data	
ND 1804	RP 192.1–213.688	NA	NA	235	70	NA	NA	245	35	NA	NA	4.3	-50.0
ND 23 (New Town) to Reservation north boundary (21.588 miles)												Mixed result based on 2009 data	
ND 8	RP 123.7–132.12	NA	NA	125	15	NA	NA	170	20	NA	NA	36.0	33.3
Reservation boundary north to Lake Sakakawea (8.42 miles)												Traffic increases	
ND 8	RP 132.121–133.7	640	110	NA	NA	1440	490	1870	700	2245	1000	250.8	809.1
ND 23 north to Reservation boundary (1.58 miles)												Traffic increases	

Source: North Dakota Department of Transportation 2011.
ADT = average daily traffic
NA = not applicable

Table 3.13. 41-month Safety Trends on NDDOT Roads within the Reservation.

State Highway Number and Accident Breakdown	41-month Totals		2008		2009		2010		2011 (Jan–May)	
	Accidents	Average	Accidents	Change from Average (%)	Accidents	Change from Average (%)	Accidents	Change from Average (%)	Accidents	Change from Average (%)
ND 22: RP 126.5–156.05 (29.55 miles)										
Total	34	0.83	8	-19.61	6	-39.71	16	60.78	4	-3.53
Truck Involved	9	0.22	2	-24.07	1	-62.04	5	89.81	1	-8.89
Fatality or Injury	13	0.32	4	5.13	4	5.13	4	5.13	1	-36.92
Truck & Injury	4	0.10	1	-14.58	1	-14.58	2	70.83	0	-100.00
Year Performance			Below Average		Below Average		Above Average		Below Average	
ND 23: RP 35.6–80.6 (45 miles)										
Total	117	2.85	32	-6.55	27	-21.15	37	8.05	21	47.18
Truck Involved	28	0.68	5	-38.99	3	-63.39	15	83.04	5	46.43
Fatality or Injury	41	1.00	13	8.33	13	8.33	12	0.00	3	-40.00
Truck & Injury	11	0.27	2	-37.88	3	-6.82	4	24.24	2	49.09
Year Performance			Below Average		Below Average		Above Average		Above Average	
ND 37: RP 0.0–30.0 (30 miles)										
Total	22	0.54	4	-37.88	6	-6.82	8	24.24	4	49.09
Truck Involved	12	0.29	1	-71.53	2	-43.06	5	42.36	4	173.33
Fatality or Injury	8	0.20	1	-57.29	2	-14.58	0	-100.00	4	310.00
Truck & Injury	7	0.17	1	-51.19	1	-51.19	2	-2.38	3	251.43
Year Performance			Below Average		Below Average		Below Average		Above Average	
ND 73: RP 7.3–11.32 (4.02 miles)										
Total	6	0.15	0	-100.00	2	13.89	3	70.83	1	36.67
Truck Involved	1	0.02	0	-100.00	1	241.67	0	-100.00	0	-100.00
Fatality or Injury	2	0.05	0	-100.00	1	70.83	0	-100.00	1	310.00
Truck & Injury	0	NA	0	NA	0	NA	0	NA	0	NA
Year Performance			Below Average		Above Average		Below Average		Above Average	
ND 1804: 2 segments (RP 247.145–248.6 [1.45 miles]; RP 192.1–213.688 [21.59 miles])										
Total	13	0.32	6	57.69	2	-47.44	3	-21.15	2	26.15
Truck Involved	1	0.02	0	-100.00	0	-100.00	1	241.67	0	-100.00
Fatality or Injury	7	0.17	4	95.24	2	-2.38	1	-51.19	0	-100.00

State Highway Number and Accident Breakdown	41-month Totals		2008		2009		2010		2011 (Jan–May)	
	Accidents	Average	Accidents	Change from Average (%)	Accidents	Change from Average (%)	Accidents	Change from Average (%)	Accidents	Change from Average (%)
Truck & Injury	1	0.02	0	-100.00	0	-100.00	1	241.67	0	-100.00
Year Performance			Below Average		Below Average		Above Average		Below Average	
ND 8: 2 segments (RP 123.7–132.120 [8.42 miles]; RP 132.121–133.7 [1.58 miles])										
Total	10	0.24	0	-100.00	3	2.50	4	36.67	3	146.00
Truck Involved	5	0.12	0	-100.00	0	-100.00	2	36.67	2	228.00
Fatality or Injury	2	0.05	0	-100.00	0	-100.00	2	241.67	0	-100.00
Truck & Injury	1	0.02	0	-100.00	0	-100.00	0	-100.00	1	720.00
Year Performance			Below Average		Below Average		Above Average		Above Average	
All Reservation NDDOT Roads										
All Accidents	202	4.93	50	-15.43	46	-22.19	71	20.09	35	42.08
Truck Involved	56	1.37	8	-51.19	7	-57.29	28	70.83	12	75.71
Fatality or Injury	73	1.78	22	2.97	22	2.97	19	-11.07	9	1.10
Truck & Injury	19	0.46	4	-28.07	5	-10.09	9	61.84	6	158.95
All NDDOT Roads Year Compared to Average			Below Average		Below Average		Above Average		Above Average	

Source: North Dakota Department of Transportation 2011.

NA = not applicable

NDDOT = North Dakota Department of Transportation

3.9.5 Potential Impacts to Transportation

Transportation impacts could include any adverse visual changes to the near and distant viewshed of Killdeer Mountain-Four Bear Scenic Byway (State Highway 22), increased traffic volumes on primary and secondary highways, and resource and collector roads; an increased need for maintenance of existing roadways; or an increase in two-track and off-road vehicle travel. The NDDOT vehicle accident data for the Reservation do not necessarily indicate that there would be an increase in vehicle accidents and livestock/wildlife-vehicle collisions correlated with a temporary increase in ADT due to project activities. However, road surface condition and construction could be affected by the addition of many heavy loads associated with well drilling, dirt moving, and HF activities.

The proposed well pads and/or the radio tower locations would not be visible at a distance from State Highway 22. As an administrative BMP for visual resources, Enerplus has designed roads and facility sites to minimize visual impacts. Because the project area is not visible from State Highway 22, these facilities would not result in any long-term adverse effects on the viewshed of the Killdeer Mountain-Four Bear Scenic Byway.

Potential short-term impacts from added traffic could occur. Overall, approximately seven months of continuous construction is anticipated to complete all components of the Proposed Action. Drilling and construction of many of the components and facilities would take place concurrently. As many as 35 construction workers may be accessing the sites during certain periods of intensive construction. Following construction, wells and pipelines would receive regularly scheduled inspection and maintenance, but would not require a regular workforce.

The proposed project would add new traffic volume to State Highway 22, as well as BIA Road 12 (paved), before entering the access roads that Enerplus proposes to construct, improve, and maintain. Additional traffic would include approximately 3,000 heavy truckloads over the seven-month construction period to transport drill rigs, pipe, steel, equipment, building materials, and other miscellaneous construction materials on federal, state, and BIA roads. The proposed project would increase traffic by an average of 15 to 20 heavy trucks per day, and 15 to 40 pick-up trucks per day over the seven-month construction period. This impact to transportation would be short term and local on BIA Road 12 and State Highway 22.

3.10 PUBLIC HEALTH AND SAFETY

The Proposed Action would occur in a rural area with one residence located within 1 mile of the proposed well pad project areas. The nearest home would be 0.17 mile southeast of the proposed wells in NE¼ NW¼ Section 35, T149N, R92W.

Health and safety concerns include sour gas, natural gas, or any gas containing H_2S gas, that could be released as a result of drilling activities; hazards introduced by heavy truck traffic; and hazardous materials used or generated during construction, drilling, and/or production activities.

H_2S is extremely toxic in concentrations above 500 ppm, but it has not been found in measurable quantities in the Bakken Formation. Before reaching the Bakken, however,

drilling would penetrate the Mission Canyon Formation, which is known to contain varying concentrations of H_2S. Contingency plans submitted to the BLM comply fully with relevant portions of Onshore Oil and Gas Order No. 6 to minimize potential for gas leaks during drilling. Emergency response plans protect both the drilling crew and the general public within 1 mile of a well; precautions include automated sampling and monitoring by drilling personnel stationed at each well site.

Standard mitigation measures would be applied, and because release of H_2S at dangerous concentration levels is very unlikely, no direct impacts from H_2S are anticipated with implementation of the project.

The number and frequency of tanker trips would depend on production, but Enerplus estimates approximately two trucks per day during the initial production period. Trucks for normal production operations would use the existing and proposed access roads. Produced water would be transported to an approved disposal site. All traffic would be confined to approved routes and conform to established load restrictions and speed limits for state and BIA roadways and haul permits would be acquired as appropriate.

The EPA specifies chemical reporting requirements under Title III of the Superfund Amendments and Reauthorization Act (SARA), as amended. No chemicals subject to reporting under SARA Title III (hazardous materials) in an amount greater than 10,000 pounds would be used, produced, stored, transported, or disposed of annually in association with the Proposed Action. Furthermore, no extremely hazardous substances, as defined in 40 CFR 355, in threshold planning quantities would be used, produced, stored, transported, or disposed of in association with the Proposed Action. All operations, including flaring, would conform to instructions from BIA fire management staff.

A temporary, lined dry cuttings pit would be constructed within the disturbed areas for the well pads and constructed so as not to leak, break, or allow discharge, and in a way that minimizes the accumulation of precipitation runoff into the pit.

Spills of oil, produced water, or other produced fluids would be cleaned up and disposed of in accordance with appropriate regulations. Sewage would be contained in a portable chemical toilet during drilling. All trash would be stored in a trash cage and hauled to an appropriate landfill during and after drilling and completion operations.

3.10.1 Potential Impacts to Public Health and Safety

With the implementation of the described reporting and management of hazardous materials, no adverse impacts to public health and safety are anticipated as a result of the proposed new wells. Other potential adverse impacts to any nearby residents from construction would be largely temporary. Noise, fugitive dust, and traffic hazards would be present for about 210 days during construction, drilling, and well completion as equipment and vehicles move on and off the site, and then diminish sharply during production operations. If a well proved productive, one small pumper truck would visit the well once a day to check the pump. Bakken and Three Forks wells typically produce both oil and water at a high rate initially. Gas would be flared initially and intermittently, while oil and produced water would be stored on the well pads in tanks and then hauled out by tankers until the well could be connected to

gathering pipelines. Up to three 400-barrel oil tanks and one 400-barrel water tank would be located on each pad inside a 3-foot-high 12-gauge steel containment structure with a 24-millimeter load out liner and concrete footer. This structure would be designed to hold 110% of the capacity of the largest tank plus one day's production.

3.11 SOCIOECONOMICS

This section discusses community characteristics such as population, housing, demographics, employment, and economic trends within the analysis area. Also included are data relating to the State of North Dakota and the United States, which provide a comparative discussion when compared to the analysis area. Information in this section was obtained from various sources including, but not limited to, the U.S. Census Bureau, the U.S. Bureau of Economics, and the North Dakota State Government.

3.11.1 Socioeconomic Analysis Area

The scope of analysis for social and economic resources includes a discussion of current social and economic data relevant to the project area and surrounding communities of the Reservation and McKenzie, Dunn, McLean, and Mountrail Counties, North Dakota. These counties were chosen for analysis because their proximity to the proposed well locations and overlap with the Reservation could result in socioeconomic impacts. These communities are collectively referred to as the analysis area.

3.11.2 Population and Demographic Trends

Historic and current population counts for the analysis area, compared to the state, are provided below in Table 3.14. The state population showed little change between the previous two census counts (1990–2000); however, in 2010 the state population increased by 4.7% to 659,858 (Economic Profile System [EPS] 2012). Populations in McKenzie and Mountrail Counties have increased slightly from 2000 to 2010 while McLean and Dunn Counties had a rate of decline of -4.8% and -3.4%, respectively (EPS 2012). These declines can be attributed to more people moving to metropolitan areas, which are perceived as offering more employment opportunities. Population on the Reservation increased approximately 4.2% between 2000 and 2010 (EPS 2012). While Native Americans are the predominant group on the Reservation, they are considered the minority in all other areas of North Dakota.

As presented in Table 3.14, population growth on the Reservation (4.2% between 2000 and 2010) is consistent with the overall growth in the state of North Dakota (4.7%).

Table 3.14. Population and Demographic Trends in the Analysis Area.

County or Reservation	Population in 2010	% of State Population	% Change Between 1990–2000	% Change Between 2000–2010	Predominant Group in 2010 (%)	Predominant Minority in 2010 (Percent of Total Minority Population)
Dunn	3,477	0.53	-10.1	-3.4	Caucasian (85.2)	American Indian (9.4%)
McKenzie	6,004	0.91	-10.1	4.7	Caucasian (76.0)	American Indian (21.4%)
McLean	8,861	1.34	-11.0	-4.8	Caucasian (91.9)	American Indian (7.0%)
Mountrail	7,228	1.10	-5.6	9.0	Caucasian (66.5)	American Indian (28.4%)
Fort Berthold Indian Reservation	6,162	0.93	178.0[1]	4.2	American Indian (63.0)	American Indian (63.0)
Statewide	659,858	100	0.5	4.7	Caucasian (74.0)	Black or African American (12.5%)

Source: EPS 2012, U.S. Census Bureau 2011a.
[1] Reflects percent change between 1991 and 2001 (BIA 2001).

3.11.3 Employment

The economy in the state of North Dakota, including the Reservation and four counties in the analysis area, has historically depended on agriculture, including forestry, fishing and hunting, and grazing and farming. In 2010, the "education, health care, and social assistance" sector represented 24.2% of industry employment in the state, followed by retail trade (12.1%) (EPS 2012). Although the "agriculture, forestry, fishing and hunting, and mining" sector only represented 8.6% of employment in North Dakota, the sector has a significant role in the regional economies of Dunn, McKenzie, McLean, and Mountrail Counties, as well as the Reservation; this sector accounted for 29.1% of employment in Dunn County, 25.4% in McKenzie County, 21.5% in McLean County, 19.8% in Mountrail County, and 13.3% of employment on the Reservation (EPS 2012). The "education, health care and social assistance" sector accounted for 20.5% of employment in Dunn County, 20.7% in McKenzie County, 26.0% in McLean County, 20.8% in Mountrail County, and 24.9% of employment on the Reservation (EPS 2012). Retail trade did not represent a significant amount of employment in the analysis area in 2010 or on the Reservation; however, energy development and extraction, power generation, and services related to these activities have become increasingly important over the last several years and many service sector jobs are directly and indirectly associated with oil and gas development.

In 2010, total employment in the state of North Dakota was 352,012 (Table 3.15). In 2010, the statewide unemployment rate was 3.6% of the workforce (Table 3.15). This is the lowest

unemployment rate in the nation (Bureau of Labor Statistics 2011a). All counties in the analysis area experienced a decrease in unemployment between 2005 and 2010 (Table 3.15).

Table 3.15. 2010 Total Employment and Unemployment Rates.

Location	Total Employment	Unemployment Rate	Change in Unemployment Rate (2005–2010)
United States	141,833,331	7.9%	+4.3%
North Dakota	352,012	3.6%	+0.4%
Dunn County	1,854	3.6%	-0.1%
McKenzie County	2,964	4.0%	-1.1%
McLean County	4,510	2.6%	-1.2%
Mountrail County	3,740	5.2%	-3.6%
Fort Berthold Indian Reservation	2,618	10.4%	N/A

Sources: Bureau of Labor Statistics 2011a, 2011b; EPS 2012; U.S. Census Bureau 2010; U.S. Census Bureau 2005–2010.

In 2010, 4,411 residents of the Reservation constituted the total available workforce (over 16 years old). Unemployment on the Reservation was the highest of geographies in the analysis area at 10.4% (Table 3.15).

Residents of the Reservation are employed in similar ventures as those outside the Reservation (see discussion above for employment by industry). Typical employment includes ranching, farming, tribal government, tribal enterprises, schools, federal agencies, and recently, employment related to conventional energy development. The MHA Nation's Four Bears Casino and Lodge, located 4 miles west of New Town, employs approximately 320 people, of which 90% are tribal members (Fort Berthold Housing Authority 2008).

The Fort Berthold Community College, which is tribally chartered to meet the higher education needs of the people of the MHA Nation, had 11 full-time members and 25 adjunct members in academic year 2006–2007. Approximately 73% of the full-time faculty members are of American Indian/Alaska Native descent, approximately 88% of which are enrolled members of the MHA Nation. Additionally, 65% of the part-time faculty members are of American Indian/Alaska Native descent and all (100%) are tribal members.

3.11.4 Income

Per capita income is often used as a measure of economic performance, but it should be used with changes in earnings for a realistic picture of economic health. Since total personal income includes income from 401(k) plans and other non-labor income sources like transfer payments, dividends, and rent, it is possible for per capita income to rise even if the average wage per job declines over time. The North American Industry Classification System is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business

economy. Per capita income, median household income, and poverty rates for the analysis area and North Dakota are presented in Table 3.16.

Table 3.16. Income and Poverty in Analysis Area, 2008.

Unit of Analysis	Per Capita Income[1] (2000)	Per Capita Income[2] (2010)	Median Household Income[2] (2010)	Percent of all People in Poverty[2] (2010)
Dunn County	$21,031	$24,832	$48,707	11.2%
McKenzie County	$22,269	$27,605	$48,480	12.8%
McLean County	$23,125	$27,029	$52,922	10.3%
Mountrail County	$23,045	$25,762	$48,480	12.4%
Fort Berthold Indian Reservation	$8,855	$18,059	$41,658	N/A
North Dakota	$25,624	$25,803	$46,781	11.7%

[1] U.S. Bureau of Economic Analysis 2011a, 2011b.
[2] U.S. Census Bureau 2010.

In 2010, the per capita income for the state was $25,803, compared to $24,832 for Dunn County, $27,605 for McKenzie County, $27,029 for McLean County, $25,762 for Mountrail County, and $18,059 for the Reservation (see Table 3.16). From 2000 to 2010, per capita income changes in the state were relatively flat with a 0.7% increase; Dunn County per capita income increased by 18.1%, 24.0% for McKenzie County, 16.9% for McLean County, and 11.8% for Mountrail County. Per capita income on the Reservation increased 104% between 1999 and the 2010 Census, however was 30% to 35% lower than the four counties in the analysis area and the state.

Of the four counties in the study area, Dunn and Mountrail Counties reported a per capita income in 2010 that was below the North Dakota state average. Per capita income on the Reservation was more than 42% below the state average (see Table 3.16). Reservation residents and MHA Nation members have per capita incomes and median household incomes below the averages of the counties in the analysis area, as well as statewide; and higher unemployment (Table 3.15).

3.11.5 Housing

Workforce-related housing can be a key issue associated with oil and gas development. The effect of demand from the oil and gas industry on housing can be dramatic in terms of impacts on the availability and cost of both owner-occupied and rental units. Historical information on housing in the four counties in the analysis area was obtained from the U.S. Census Bureau (EPS 2012). The 2010 Census represents the most recent data, however even that data is now close to two years old. As a result, the existing housing situation is difficult to characterize quantitatively with any degree of certainty, since the status of the housing market and housing availability changes daily. Table 3.17 provides housing unit supply estimates for the analysis area and the Reservation. Overall, the number of owner-occupied units increased between 2000 and 2010, with the exception of McLean County; with the exception of Dunn County, the number of renter-occupied units increased between 2000 and 2010.

Table 3.17. Housing Data for the Reservation and Study Area Counties.

Region	Total Housing Units										% Change 2000–2010
	Occupied		Owner Occupied		Renter Occupied		Vacant		Total		
	2000	2010	2000	2010	2000	2010	2000	2010	2000	2010	
Dunn	1,378	1,318	1,102	1,119	276	199	587	799	1,965	2,117	+7.74
McKenzie	2,151	2,468	1,589	1,687	562	781	568	551	2,719	3,019	+11.03
McLean	3,815	3,937	3,135	3,123	680	814	1,449	1,591	5,264	5,528	+5.02
Mountrail	2,560	2,851	1,859	2,065	701	786	878	1,098	3,438	3,949	+14.86
Reservation	1,908	2,132	1,122	1,157	786	975	973	1,190	2,881	3,322	+15.31
North Dakota	257,152	276,642	171,299	184,117	85,853	92,525	32,525	36,219	289,677	312,861	+8.00

Source: U.S. Census Bureau 2011b.

The Fort Berthold Housing Authority manages a majority of the housing units within the Reservation. Housing typically consists of mutual-help homes built through various government programs, low-rent housing units, and scattered-site homes. Housing for government employees is limited, with a few quarters in Mandaree and White Shield available to Indian Health Service employees in the Four Bears Community and to BIA employees. Private purchase and rental housing are available in New Town. New housing construction has recently increased within much of the analysis area, but availability remains low.

Oil and gas development and operations have a history of affecting the availability and affordability of housing. All four counties and the Reservation had a relatively high number of vacant units, ranging from 18% to 38% of the total. The highest vacancy was reported in Dunn County (38%), followed by the Reservation (36%). The lowest was in McKenzie County (18%). The most recent data for housing starts is from 2008; while there were fewer owner-occupied units between 2000 and 2010, these four counties also ranked extremely low for both the state and national housing starts and had minimal new housing building permits between 2003 and 2008, as presented in Table 3.18.

Table 3.18. Housing Development Data for the Encompassing Counties, 2000–2008.

Housing Development	North Dakota County			
	Dunn	McKenzie	McLean	Mountrail
New private housing building permits 2003–2008	14	14	182	110
Housing starts / state rank	51 / 53	15 / 53	21 / 53	17 / 53
Housing starts / national rank	3,112 / 3,141	2,498 / 3,141	2,691 / 3,141	2,559 / 3,141

Source: U.S. Census Bureau 2009a, 2009b.

3.11.6 Potential Impacts to Socioeconomics

Impacts to socioeconomic resources of the analysis area would be minor and incremental and, therefore, would not adversely impact the local area. Short-term impacts to socioeconomic resources would generally occur during the construction/drilling and completion phase of the proposed wells. Long-term effects would occur during the production phase, should the wells prove successful.

As presented in Table 3.19, implementation of the proposed wells is anticipated to employ approximately 10 to 35 workers per well during the seven-month construction and completion phase. If the wells prove successful, Enerplus would install production facilities and begin long-term production. To ensure successful operations, production activities require between one and four full-time employees to staff operations. It is anticipated that a mixture of local and Enerplus employees would staff the proposed wells.

Table 3.19. Duration of Employment during Proposed Project Implementation.

Activity	Duration of Activity (average days per well)	Daily Personnel (average number per well)
Construction (access roads and well pads)	5–8 days	3–5
Drilling	30–35 days	8–15
Completion/Installation of facilities	Approx. 10 days	3–8
Production	Ongoing – life of well	1–4

The proposed project is unlikely to result in any measurable population increases in the analysis area. While it is possible that job seekers from other localities could relocate to the area in search of employment, existing industry expertise and services in the analysis area and on the Reservation is generally adequate to support additional oil and gas development. Further, some of these project-related jobs would be derived from existing jobs that would continue as a result of continued development and operations that would otherwise have been lost; some jobs would be newly created parallel or transitional jobs. In terms of the overall population in the analysis area (over 30,000 residents in 2010; see Table 3.14), employment-related increases would be negligible, and would not likely increase the demand for services or infrastructure on the Reservation or the communities near the project area.

Further, unemployment rates in 2010 (see Table 3.15) suggest that there is an adequate workforce available in the analysis area. As a result, employment associated with well construction and production, etc. (see Table 3.19) would likely reduce unemployment in the analysis area.

In terms of project-related housing impacts, there is adequate housing for workers. As noted above, the analysis area and the Reservation had a relatively high number of vacant units, ranging from 18% to 38% in 2010 (see Table 3.17). Additionally, housing has remained available despite the growth of the population on the Reservation specifically, and across the analysis area. The levels of available housing are therefore anticipated to be adequate to absorb any minor increase in population related to this proposed project. As such, the proposed project would not have measurable impacts on housing availability or community infrastructure in the area. The proposed project also would not result in any identifiable impacts to social conditions and structures within the communities in the project area.

Implementation of the proposed project would likely result in direct and indirect economic benefits associated with industrial and commercial activities in the area, including the Reservation, State of North Dakota, and potentially to local communities near the Reservation. Direct impacts would include increased spending by contractors and workers for materials, supplies, food, and lodging in the analysis area, which would be subject to sales and lodging taxes. Other state, local, and Reservation tax payments and fees would be incurred as a result of the implementation of the proposed project, with a small percentage of these revenues distributed back to the local economies. Wages due to employment would also impact per capita income for those that were previously unemployed or underemployed.

Indirect benefits would include increased spending from increased oil and gas production, as well as a slight increase in generated taxes from the short-term operations. Mineral severance and royalty taxes, as well as other relevant county and Reservation taxes on production would also grow directly and indirectly as a result of increased industrial activity in the oil and gas industry.

3.12 ENVIRONMENTAL JUSTICE

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*, signed in 1994 by President Clinton, requires that federal agencies advance EJ by pursuing fair treatment and meaningful involvement of minority and low-income populations. Fair treatment means such groups should not bear a disproportionately high share of negative environmental consequences from federal programs, policies, decisions, or operations. Meaningful involvement means federal officials actively promote opportunities for public participation and federal decisions can be materially affected by participating groups and individuals.

The EPA headed the interagency workgroup established by the 1994 Executive Order and is responsible for related legal action. Working criteria for designation of targeted populations are provided in *Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses* (EPA 1998). This guidance uses a statistical approach to consider various geographic areas and scales of analysis to define a particular population's status under the Executive Order.

EJ is an evolving concept with potential for disagreement over the scope of analysis and the implications for federal responsiveness. Due to the population numbers, tribal members on the Great Plains qualify for EJ consideration as both a minority and low-income population. Table 3.20 summarizes relevant data regarding minority populations for the analysis area.

Based on data for the American Community Survey estimates (EPS 2012), North Dakota's total minority population in 2010 comprised approximately 58,059 persons, or 8.80% of the state's total population. This represents an increase of 27.65% over the 2000 minority population of the state. Within the analysis area, the number of Caucasian residents decreased, while minorities in nearly all categories increased. The analysis area experienced a strong increase in the percentage of minority populations during the period from 2000 until 2010 (Table 3.20) (EPS 2012). The minority populations of Dunn, McKenzie, McLean, and Mountrail Counties increased 0.62%, 13.22%, 2.80%, and 14.35%, respectively, compared with the statewide increase of 27.65%.

Table 3.20. Minority Population Breakdown by North Dakota County and Race, 2000–2010.

Race	Dunn		McKenzie		McLean		Mountrail		North Dakota	
	2000	2010	2000	2010	2000	2010	2000	2010	2000	2010
Total Population	3,600	3,477	5,737	6,004	9,311	8,861	6,629	7,228	642,204	659,858
Non-Hispanic	3,573	3,401	5,679	5,875	9,230	8,748	6,542	7,009	634,418	646,980
Hispanic or Latino[1]	27	76	58	129	81	113	87	219	7,786	12,878
Races										
Caucasian	3,123	2,957	4,457	4,503	8,632	8,060	4,546	4,662	596,722	589,112
African American	1	4	4	14	2	15	7	35	4,157	6,778
American Indians and Alaska Natives	448	326	1,216	1,284	568	623	1,988	2,052	31,440	34,798
Asian / Pacific Islanders	8	14	4	58	12	5	17	9	3,912	6,132
Two or more races	25	141	39	74	97	55	71	286	5,973	10,351
All minorities *(sum of races other than Caucasian)*	482	485	1,263	1,430	679	698	2,083	2,382	45,482	58,059
% minority population	13.39	13.95	22.01	23.82	7.29	7.88	31.42	32.96	7.08	8.80
Change in minority population (2000–2010)	+0.62%		+13.22%		+2.80%		+14.35%		+27.65%	

[1] Hispanic or Latino may be of any race.
Sources: U.S. Census Bureau 2011c.

In 2010, the predominant minority group in each county was American Indians and Alaska Natives, ranging from 7.0% in McLean County to 28.4% in Mountrail County, compared to the state which was 5.0% (EPS 2012). As discussed earlier, American Indians represent 63% of the overall population on the Reservation (see Table 3.14). Poverty rate data for the counties in the analysis area are summarized in Table 3.21. The data show that poverty rates generally decreased in the analysis area between 2000 and 2010, with the exception of Mountrail County, which experienced a 0.8% increase in individuals living below the poverty level and exceeded the statewide poverty rate of 12.3% (Table 3.21). All counties within the analysis area have higher median household incomes than the statewide household income of $46,781; however, the median family household income on the Reservation is approximately 11% lower than the statewide figure.

Table 3.21. Individual Poverty Rates and Median Household Income for the Analysis Area.

Location	Poverty Rate		2010 Median Household Income
	2000	2010	
Dunn County	13.3%	8.6%	$48,707
McKenzie County	15.7%	10.0%	$48,480
McLean County	12.3%	9.3%	$52,922
Mountrail County	15.7%	16.5%	$48,480
Fort Berthold Indian Reservation	ND	26.0%	$41,658
North Dakota	10.4%	12.3%	$46,781

Sources: U.S. Department of Agriculture 2011; EPS 2012.

3.12.1 Potential Impacts to Environmental Justice

As demonstrated in the minority and poverty level discussions above, EJ communities are present in the analysis area. In fact, minority populations are increasing in the analysis area compared with statewide numbers, which could result in disproportionately beneficial impacts from the proposed oilfield development that would be supported by the installation of the proposed well pads. These would derive from direct and indirect economic opportunities for tribal members. Generally, existing oil and gas leasing has already benefited the MHA Nation government and infrastructure from tribal leasing, fees, and taxes. Current oil and gas leasing on the Reservation has also already generated revenue to MHA Nation members who hold surface and/or mineral interests. However, owners of allotted surface within the analysis area may not necessarily hold mineral rights. In such cases, surface owners do not receive oil and gas lease or royalty income, and their only related income would be compensation for productive acreage lost to road and well pad construction. Those with mineral interests also may benefit from royalties on commercial production if the wells prove successful. Profitable production rates at proposed locations might lead to exploration and development of additional tracts owned by currently non-benefitting allottees. In addition to increased revenue for land and mineral holders, exploration and development would increase employment on the Reservation with oversight from the Tribal Employment Rights Office, which would help alleviate some of the poverty prevalent on or near the Reservation. Tribal members without either surface or mineral rights would not receive any direct benefits, except through potential

employment, should they be hired. Indirect benefits of employment and general tribal gains would be the only potential offsets to negative impacts. Poverty rates in the analysis area have generally decreased (with the exception of Mountrail County) since oil and gas development began after 2000, as shown in Table 3.21.

Potential adverse impacts could occur to tribes and tribal members, as well, such as the potential disturbance of any traditional cultural properties and cultural resources. These potential impacts are reduced through surveys of proposed well locations and access road routes; mitigation measures required by the BIA; and thorough reviews and determinations by the BIA that there would be no effect to historic properties. The possibility of disproportionate impacts to tribes or tribal members is further reduced by the requirement for immediate work stoppage following an unexpected discovery of cultural resources of any type. Mandatory consultation would take place during any such work stoppage, affording an opportunity for all affected parties to assert their interests and contribute to an appropriate resolution, regardless of their home location or tribal affiliation.

The proposed project would not result in significant impact to any other critical element, including air quality, public health and safety, transportation, water quality, wetlands, wildlife, soils, or vegetation. Through the avoidance of such impacts, no disproportionate impact is expected to low-income or minority populations. The Proposed Action offers many positive consequences for tribal members, while recognizing EJ concerns. Procedures summarized in this document and in the APD are binding and sufficient. No laws, regulations, or other requirements have been waived; no compensatory mitigation measures are required.

3.13 MITIGATION AND MONITORING

Many protective measures and procedures are described in this document and in the APD. No laws, regulations, or other requirements have been waived; no compensatory mitigation measures are required. Monitoring of cultural resource impacts by qualified personnel is recommended during all ground-disturbing activities, as determined by the BIA. Each phase of construction and development through production could be monitored by the BLM, the BIA, and representatives of the MHA Nation to ensure the protection of cultural, archaeological, and natural resources. In conjunction with 43 CFR 46.30, 46.145, 46.310, and 46.415, a report would be developed by the BLM and the BIA that documents the results of monitoring in order to adapt the projects to eliminate any adverse impact on the environment.

Mitigation opportunities can be found in general and operator-committed BMPs and mitigation measures. BMPs are loosely defined as techniques used to lessen the visual and physical impacts of development. The BLM has created a catalog of BMPs that, when properly implemented, can assist industry in a project's design, scheduling, and construction techniques. Enerplus would implement, to the extent possible, the use of BMPs in an effort to mitigate environmental concerns in the planning phase allowing for smoother analysis, and possibly faster project approval. Many of these are required by the BLM when drilling federal or tribal leaseholds and can be found in the surface use plan in the APD.

3.13.1 General BMPs

Although largely project-specific, there are a number of BMPs that can, and should, be considered on development projects in general. The following are examples of general BMPs.

- Planning roads and facility sites to minimize visual impacts.
- Using existing roads to the extent possible, upgrading as needed.
- Reducing the size of facility sites and types of roads to minimize surface disturbance.
- Minimizing topsoil removal.
- Stockpiling stripped topsoil and protecting it from erosion until reclamation activities commence. At that time, the soil would be redistributed and seeded on the disturbed areas. The reclaimed areas would be protected and maintained until the sites are fully stabilized.
- Avoiding removal of, and damage to, trees, shrubs, and groundcover where possible. Trees near construction areas would be marked clearly to ensure that they are not removed.
- Mowing, instead of clearing, a facility or well site to accommodate vehicles or equipment.
- Maintaining buffer strips or using other sediment control measures to avoid sediment migration to stream channels as a result of construction activities.
- Planning for erosion control.
- Storing chemicals in a proper manner (including secondary containment).
- Keeping sites clean, including containing trash in a portable trash cage. The trash cage would be emptied at a state-approved sanitary landfill.
- Conducting snow removal activities in a manner that does not adversely impact reclaimed areas and areas adjacent to reclaimed areas.
- Avoiding or minimizing topographic alterations, activities on steep slopes, and disturbances within stream channels and floodplains to the extent possible.
- Maintaining buffers around work areas where there is a risk of fire as a result of construction activities.
- Keeping fire extinguishers in all vehicles.
- Planning transportation to reduce vehicle density.
- Posting speed limits on roads.
- Avoiding traveling during wet conditions that could result in excessive rutting.
- Painting facilities a color (Shale green) that would blend with the environment.
- Practicing dust abatement on roads.
- Recontouring disturbed areas to approximate the original contours of the landscape.

- Developing a final reclamation plan that allows disturbed areas to be quickly absorbed into the natural landscape.

Enerplus recognizes that there are several BMPs that can be used to mitigate environmental concerns specific to projects associated with below-ground linear alignments, such as those included in the proposed utility corridor. These include:

- following the contour (form and line) of the landscape;
- avoiding locating ROWs on steep slopes;
- sharing common ROWs;
- co-locating multiple lines in the same trench; and
- using natural (topography, vegetation) or artificial (berms) features to help screen facilities such as valves and metering stations.

Enerplus would implement these and/or other BMPs to the extent that they are technically feasible and would add strategic and measurable protection to the project area.

3.13.2 Mitigation and Safety Measures Committed to by Enerplus

3.13.2.1 Air Quality

- Transportation BMPs to reduce the amount of fugitive dust and vehicle emissions
    - Use directional drilling to drill multiple wells from a single well pad.
    - Use telemetry to remotely monitor and control production.
    - Use water or dust suppressants to control fugitive dust on roads.
    - Keep a watering truck on site during construction and water access roads as necessary, especially during periods of high winds and/or low precipitation.
    - Control road speeds.
- Vapor recovery
    - Use enclosed tanks instead of open pits to reduce fugitive VOC emissions.

3.13.2.2 Utility Lines

All utility lines, including electric lines and other lines essential to oil well operations, would be installed underground.

3.13.2.3 Wildlife

As mentioned in Section 3.7.3, Potential Impacts to Wildlife, Enerplus has committed to using a semi-closed-loop drilling system with a dry cuttings pit, ensuring that the cuttings pit would 1) be smaller than a typical pit, and 2) contain only dry cuttings, which would be solidified with fly ash and buried in place following completion of drilling operations. Additional protections committed to by Enerplus are described below.

Bald and Golden Eagle and Migratory Bird Protective Measures

- Enerplus would schedule construction for late summer or fall/early winter so as not to disrupt waterfowl or other migratory birds during the breeding season (February 1 to July 15).
- If the construction window in the above item cannot be honored, Enerplus would degrade migratory bird habitat at the project site outside of the breeding season by mowing and/or clearing and grubbing to discourage nesting, and maintain the habitat in a degraded state until construction is completed.
- If construction is to occur within the migratory bird nesting season of February 1 to July 15, and habitat degradation has not been accomplished, Enerplus would conduct surveys at the well pads for migratory birds and their active nests (nests containing eggs or young) within five days of commencement of construction activities. If active nests are found during surveys, the USFWS and BIA would be presented with a proposal for maintaining adequate buffers around the nest or realigning the work to prevent the take of migratory birds.
- Maintain a minimum 0.5-mile buffer around all known or newly discovered active bald and golden eagle nests.

ESA Protective Measures

- Piping Plover and its Designated Critical Habitat, Interior Least Tern, and Pallid Sturgeon: The following measures are designed to prevent any accidental release of drilling fluids or hazardous materials into the watersheds of Lake Sakakawea.
    - Enerplus would use a semi-closed-loop drilling system with a dry cuttings pit, as specified above and in Table 2.1.
    - At all locations, a 3-foot-high 12-gauge steel containment with a 24-millimeter load out liner and concrete footer will be installed under and around all tank batteries and treaters/separators. A heavy screen-covered drip barrel would be installed under the outlet. A metal access staircase would protect the dike and support flexible hoses used by tanker trucks. This system is designed to hold 110% of the capacity of the largest tank plus one day's production to prevent hazardous runoff or spills.
    - Enerplus would implement all BMPs, erosion control measures, and spill prevention practices required by the CWA.
    - An 18-inch-tall berm would be constructed around the well pads, as indicated in Table 2.1.
    - A diversion ditch would be constructed, as needed, at well pad locations to reduce sediment loss and transportation from the well pads, as described in Table 2.1.
    - The corners of the well pads would be rounded, as indicated in Table 2.1.
    - Cuttings pits would include avian-safe coverings and be reclaimed immediately after wells are completed.

  - Interior floor of the drilling pads would be sloped away from drainage ways. Cuttings pit liners would be a minimum of 20 millimeters thick.

- Whooping crane:
  - Install underground utility lines at all proposed project areas.
  - Cuttings pits would include avian-safe coverings and be reclaimed immediately after wells are completed.
  - If a whooping crane is sighted within 1 mile of the proposed project area, work would be stopped and the USFWS and BIA would be notified. In coordination with the USFWS and BIA, work may resume after the bird(s) leaves the area.

- Dakota skipper:
  - Co-locating utility corridors in road ROWs.
  - Constructing multiple wells per well pad.
  - Re-establishing suitable habitat by performing interim reclamation on disturbed areas not needed for operations after construction and drilling. Final reclamation would occur on all disturbed areas either in the short term if the well is commercially unproductive or later upon final abandonment of commercial operations.

- Consolidating well locations by designing multiple-well pads to minimize disturbance and habitat fragmentation.
- Fencing the dry cuttings pit.

3.13.2.4 Erosion Controls and Spill Prevention

- As described in detail in Section 2.2.7, spill prevention would be conducted. During commercial production, a 3-foot-high 12-gauge steel containment with a 24-millimeter load out liner and concrete footer would be installed under and around all tank batteries and treaters/separators. A heavy screen-covered drip barrel would be installed under the outlet. A metal access staircase would protect the dike and support flexible hoses used by tanker trucks. This system is designed to hold 110% of the capacity of the largest tank plus one day's production to prevent hazardous runoff or spills. Topsoil would be placed to divert flow away from the well pad locations to limit the possibility of surface contamination.
- See Table 2.1 for site-specific measures to reduce erosion.
- As described in Section 2.2.11.1, Interim Reclamation, all disturbed areas that are not needed for operations after construction and drilling are complete would be revegetated.
- As described in Section 2.2.8, Gathering Pipelines, design and safety measures would be implemented to maintain the integrity of the gathering pipelines and prevent pipeline failures or erosion. Check and manual shut-off valves would be installed at the connection between the trunk and gathering lines. Additionally, SBP's spill

prevention plan would be strictly adhered to and a spill prevention, control, and countermeasure plan would be implemented.

- Enerplus has committed to the erosion control measures detailed in Section 3.4.7.

3.13.2.5 Fire Control

Enerplus would implement fire prevention and control measures including, but not limited to, the following.

- Requiring construction crews to carry fire extinguishers in their vehicles and/or equipment.
- Training construction crews in the proper use of fire extinguishers.
- Contracting with the local fire district to provide fire protection.

3.13.2.6 Traffic and Roads

Cooperative efforts by operators, agencies, and the tribe are currently being developed and implemented across the Reservation. These measures include the following.

- Requiring construction personnel to stay within the ROW or follow designated access roads.
- Increasing the pipeline infrastructure, centralizing water depots, and developing salt water disposal wells to reduce overall truck traffic and road degradation.
- Using Tribal Employment Rights Office fees for oil and gas activities, MHA Nation funds, and IRR funds to increase the pace of maintenance and repair of roads impacted by increased truck traffic and unusually adverse weather conditions.

3.13.2.7 Cultural Resources

The following protocol would be adhered to by all construction personnel during construction and maintenance of the well pads or access roads.

- All project workers would be prohibited from collecting artifacts or disturbing cultural resources in any area under any circumstances.

If cultural resources are discovered during construction or operation, work shall immediately be stopped, the affected site be secured, and the BIA and the THPO notified. In the event of a discovery, work shall not resume until written authorization to proceed has been received from the BIA.

3.14 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

Removal and consumption of oil and/or gas from the Bakken and Three Forks formations would be an irreversible and irretrievable commitment of resources. Other potential resource commitments include land area devoted to the disposal of cuttings, soil lost to erosion (i.e., wind and water), unintentionally destroyed or damaged cultural resources, wildlife killed as a result of collision with vehicles (i.e., construction machinery and work trucks), and energy expended during construction and operation.

3.15 SHORT-TERM USE VERSUS LONG-TERM PRODUCTIVITY

Short-term development activities would not detract significantly from long-term productivity, and use, of the project areas. The construction of access roads and well pad areas would eliminate any forage or habitat use by wildlife and/or livestock. Any allottees to which compensation for land disturbance is owed would be properly compensated for the loss of land use. The initial disturbance area would decrease considerably once the wells are drilled and non-necessary areas have been reclaimed. Rapid reclamation of the project area would facilitate revived wildlife and livestock usage, stabilize the soil, and reduce the potential for erosion and sedimentation.

3.16 CUMULATIVE IMPACTS

Environmental impacts may accumulate either over time or in combination with similar events in the area. Unrelated and dissimilar activities may also have negative impacts on critical elements, thereby contributing to the cumulative degradation of the environment. Past and current disturbances in the vicinity of the project area include farming, grazing, roads, and other oil and gas wells. Over the past several years, exploration has accelerated over the Bakken and Three Forks formations. Most of this exploration has taken place outside the Reservation boundary on fee land, but for purposes of cumulative impact analyses, land ownership and the Reservation boundary are immaterial. The cumulative impact analysis area (CIAA) may vary depending on the particular resource under consideration, but effects may be felt as far as 20 miles from the proposed project.

Within the Reservation and near the proposed project areas, development projects remain few and widely dispersed, but off-Reservation well density is much higher, as shown in Table 3.22 and Figure 3.16. There are nine active and confidential wells within a 1-mile CIAA, as shown in Table 3.22. The cumulative total of active and confidential wells within a 5-mile CIAA is 108, 303 active and confidential wells within a 10-mile CIAA, and 920 active and confidential wells within a 20-mile CIAA, with the number of wells on the Reservation being slightly more than those that occur off the Reservation.

Reasonably foreseeable future cumulative impacts must also be considered. If the proposed new wells prove productive, it is likely that Enerplus or other operators would pursue additional development in the area. In addition to the cumulative total of 44 wells that have already been permitted for future drilling within a 20-mile radius of the current proposal (Table 3.22), Enerplus has suggested, but not yet formally proposed, that potentially greater than 100 more wells may eventually be drilled within a 20-mile radius of the proposed project. Enerplus has also submitted or will soon submit additional proposals for 40 to 45 future new wells within 20 miles of the Proposed Action. These future foreseeable new wells would occur in T148N, R93W, T149N, R94W, and T150N, R94W.

Table 3.22. Active, Confidential, and Permitted Wells within the Cumulative Impact Analysis Area.

Well Type	NE¼ NW¼ Section 35, T149N, R92W: Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF		SW¼ NW¼ Section 19, T148N, R92W: Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, Grain #148-92-19C-20H TF	
1-mile CIAA				
Reservation (on/off)	On	Off	On	Off
Active wells	4	0	0	0
Confidential wells	4	0	1	0
Permitted wells	0	0	0	0
Cumulative total active and confidential wells within 1-mile CIAA: 9*				
5-mile CIAA				
Reservation (on/off)	On	Off	On	Off
Active wells	42	0	35	0
Confidential wells	42	0	25	0
Permitted wells	0	0	2	0
Cumulative total active and confidential wells within 5-mile CIAA: 108*				
10-mile CIAA				
Reservation (on/off)	On	Off	On	Off
Active wells	115	0	120	1
Confidential wells	135	0	142	0
Permitted wells	8	0	9	0
Cumulative total active and confidential wells within 10-mile CIAA: 303*				
20-mile CIAA				
Reservation (on/off)	On	Off	On	Off
Active wells	401	85	298	185
Confidential wells	270	30	252	60
Permitted wells	41	2	31	3
Cumulative total active and confidential wells within 20-mile CIAA: 920*				
Cumulative total permitted wells within 20-mile CIAA: 44*				

*Duplicate wells have been eliminated from cumulative totals
CIAA = cumulative impact analysis area

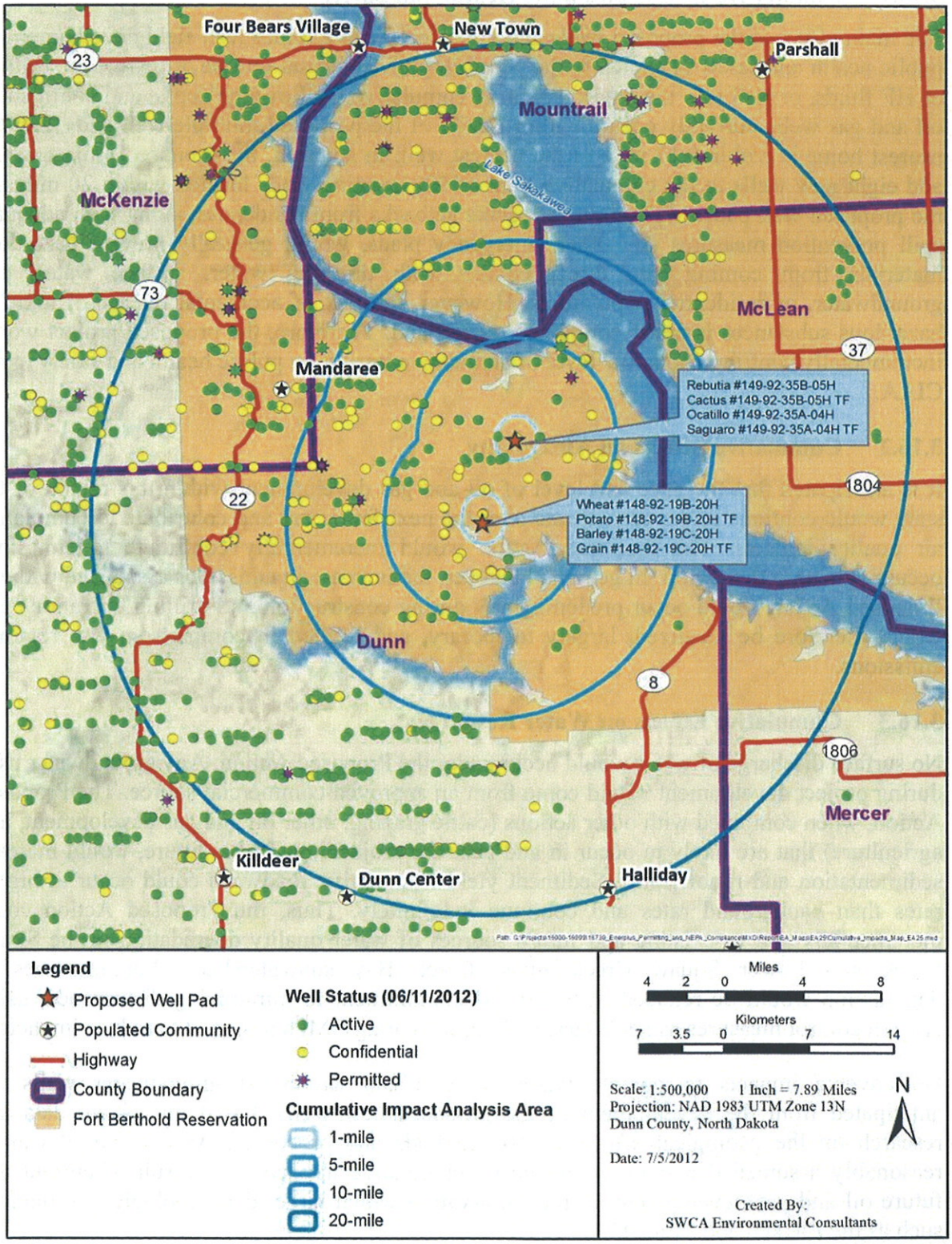


Figure 3.16. Active, confidential, and permitted wells within a 1-, 5-, 10-, and 20-mile radius of the proposed project locations.

3.16.1 Cumulative Effects on Public Health and Safety

The main effect of the proposed wells and other foreseeable future well-field development on public health and safety is related to the possibility of accidental release of petroleum, drilling or HF fluids, or H_2S into the environment. A cumulative total of nine active and confidential oil and gas wells currently occurs within 1 mile of the proposed multiple-well pads, and the nearest home is within 0.17 mile of the nearest well. In addition, the proposed project would add eight new wells to the cumulative total of 920 existing wells located within 20 miles of the proposed well pads. Maintaining adequate setbacks from residences, along with adequate spill prevention measures and other emergency plans, would generally prevent hazardous materials from coming into direct contact with drinking water, surface water, and groundwater, or residential populations. However, the risk of accidental release of toxic or hazardous substances is never completely eliminated. Therefore, the proposed project would incrementally contribute to a low level of cumulative impact on public health and safety in the CIAA.

3.16.2 Cumulative Effects on Air Quality

It is anticipated that the pace and level of oil and gas development within this region of the state would continue at the current rate over the next few years and contribute to cumulative air quality impacts. The Proposed Action would incrementally contribute to emissions occurring within the region. In general, however, the increase in emissions associated with the Proposed Action would occur predominantly during construction and drilling operations and would therefore be localized, largely temporary, and limited in comparison with regional emissions.

3.16.3 Cumulative Effects on Water Resources

No surface discharge of water would occur under the Proposed Action. Any groundwater used during project development would come from an approved commercial source. The Proposed Action, when combined with other actions (cattle grazing, other oil and gas development, and agriculture) that are likely to occur in and near the project area in the future, would increase sedimentation and runoff rates. Sediment yield from active roadways could occur at higher rates than background rates and continue indefinitely. Thus, the Proposed Action could incrementally add to existing and future sources of water quality degradation in the Skunk Creek and Lower Squaw Creek/Squaw Creek Bay subwatersheds, but increases in degradation would be reduced by Enerplus' commitment to minimizing disturbance, using erosion control measures as necessary, and implementing BMPs designed to reduce impacts.

No adverse impacts to potable water aquifers and associated groundwater wells are anticipated from the development of the proposed new wells, based on current data and research on the geological effects of HF methods and processes. As a result, it can be reasonably assumed that there would be no cumulative impacts as a result of current and future oil and gas development on the Reservation which target deep geological formations such as the Bakken and Three Forks.

3.16.4 Cumulative Effects on Soils

Soils across the project area could be affected as a result of soil loss, compaction, and disturbance of quality topsoil that has been largely undisturbed by development activities, grazing, and agriculture. The Proposed Action would result in a total of 19.11 acres of long-term disturbance associated with the well pads and access roads (Table 2.1), out of a total of 931,355 acres of land within a 20-mile radius of the project. Similar levels of soil disturbance have occurred at 920 existing wells within the 20-mile radius, and another 44 permitted wells, as indicated in Table 3.22. Existing and future foreseeable oil and gas development is estimated to result in long-term disturbance to approximately 9,640 acres (10 acres per well), or approximately 1.04% of the available surface area within the 20-mile radius. The project would result in an estimated relative incremental increase of 0.01% long-term disturbance when added to the existing surface disturbance.

The proposed project also includes the creation of 1.02 miles of additional lengths of unpaved roadway. A portion of the access road ROW would be reclaimed on either side of the active roadway. Unlike well pads, however, active gravel roadways are not typically reclaimed, thus sediment yield from roads can continue indefinitely at rates two to three times the background rate. However, Enerplus is committed to using BMPs to mitigate these effects. BMPs would include implementing erosion and sedimentation control measures, such as installing culverts with energy dissipating devices at culvert outlets to avoid sedimentation in ditches, constructing water bars alongside slopes, planting cover crops to stabilize soil following construction and before permanent seeding takes place. Additional information regarding BMPs can be found in Section 3.13, Mitigation and Monitoring.

3.16.5 Cumulative Effects on Wetlands

Wetlands in the CIAA could be affected primarily by erosion, sedimentation and spills or other indirect effects on surface water quality. Past, present, and reasonably foreseeable future oil and gas drilling activities within the area would likely lead to increased sediment loads being deposited in PEM wetlands and streams. Adherence to BMPs and site-specific erosion control measures identified for this project (Table 2.1) would prevent long-term erosion and sedimentation from the proposed project. The use of similar site-specific measures for all future permitted and proposed well drilling would provide strong protections that would keep erosion at very low levels and keep future development from adversely affecting wetland functions or quality.

3.16.6 Cumulative Effects on Vegetation and Invasive Species

Vegetation resources across the project area could be affected by various activities, including additional energy development and surface disturbance of quality native prairie areas that have been largely undisturbed by development activities, grazing, and agriculture. Indirect impacts to native vegetation may be possible due to soil loss, compaction, and increased encroachment of unmanaged invasive and noxious weed species. Continued oil and gas development within the Reservation could result in the loss, and further fragmentation, of native mixed-grass prairie habitat. As described above in the Cumulative Effects on Soils (Section 3.16.4), the project would result in an estimated relative incremental increase of less than 0.01% long-term disturbance when added to the existing surface disturbance.

3.16.7 Cumulative Effects on Wildlife and Habitat

Past, present, and reasonably foreseeable future activities within the general area have reduced, and would likely continue to reduce, the amount of available habitat for listed species as well as unique wildlife, such as migratory grassland birds. Potential cumulative impacts of the proposal plus other foreseeable future oil and gas development on the Reservation could include habitat fragmentation from construction of other well pads and roads, with potential effects on migratory grassland birds. As described above in the Cumulative Effects on Soils (Section 3.16.4), the project would result in an estimated relative incremental increase of less than 0.01% long-term disturbance when added to the existing surface disturbance. The proposed project would add only a minor cumulative effect from additional habitat fragmentation.

3.16.8 Cumulative Effects on Cultural Resources

Significant archaeological resources are irreplaceable and often unique; any destruction or damage of such resources can be expected to diminish the archaeological record as a whole. However, no such damage or destruction of significant archaeological resources is anticipated as a result of the Proposed Action, as these resources would be avoided, negating the cumulative impacts to the archaeological record.

3.16.9 Cumulative Effects on Transportation

The BIA IRR Inventory reports that there are approximately 671 miles of rural gravel roads on the Reservation, compared with only 285 miles of paved BIA roads serving local residents. While the existing major highways and paved BIA roads may be adequate to handle anticipated increases in passenger traffic volume and size (Tables 3.11 and 3.12), when this is combined with projected heavy truck traffic from hundreds of new wells previously authorized by BIA for the Reservation there is a potential for short-term adverse impacts to gravel roads. Without additional funding for road repair and improvement projects, these cumulative impacts could become prolonged for many of the state highways and BIA roads; such projects are outside the direct control of the operators or the local BIA officials, since the roads planning authorities and traditional funding sources would lie with state and federal agencies. However, operators, agencies, and the MHA Nation are developing and implementing cooperative efforts to address this issue (see Section 3.13.2.6); these efforts will address past activities and continue to minimize and mitigate potential future activities.

The proposed project would add new traffic volume to State Highway 22, as well as BIA Road 12 (paved), before entering the access roads that Enerplus proposes to construct, improve, and maintain. The proposed project would increase traffic by an average of 15 to 20 heavy trucks per day, and 15 to 40 pick-up trucks per day over the seven-month construction period. If authorized by BIA, other current proposals from Enerplus would include, approximately, an additional 60 to 75 new wells being drilled nearby and using portions of BIA Roads 12, 14, 17, and 30. The combined future foreseeable traffic and heavy loads would therefore increase by an estimated 30 heavy truck round-trips, and 30 to 60 pick-up trips spread out over a seven-month construction period. BIA Road 12 through Mandaree would potentially be affected by the cumulative increase in construction traffic. The IRR report indicates that BIA Road 12 was in good construction condition in 2006 (IRR 2011). One other

drilling permit is known to have been authorized within 1 mile of the proposed well pads (Table 3.22). Given the recent condition of BIA Road 12, this expected level of added road use may be inconvenient to the residents living in or near Mandaree along BIA Road 12, but would be unlikely to result in serious road degradation or other adverse cumulative impacts on traffic.

3.16.10 Cumulative Effects on Socioeconomics

The Proposed Action would incrementally add to existing and future socioeconomic impacts in the general area. The Proposed Action includes eight wells, which would be an additional source of revenue for some residents of the Reservation. Increases in employment would be temporary during the construction, drilling, and completion phases of the proposed project. Therefore, little change in employment would be expected over the long term.

Although oil and gas development is the dominant commercial activity in the CIAA, current impacts to the natural environment from oil and gas-related activities are still fairly dispersed, and the required and operator-committed BMPs would limit potential impacts. Current farming and ranching activities are expected to continue with little change because virtually all available acreage is already organized into range units. Undivided interests in the land surface, range permits, and agricultural leases are often held by different tribal members than those holding mineral rights. No significant negative impacts are expected to affect any critical element of the human environment; impacts would generally be low and mostly temporary.

4.0 CONSULTATION AND COORDINATION

The BIA must continue to make efforts to solicit the opinions and concerns of all stakeholders (Table 4.1). For the purpose of this EA, a stakeholder is considered any agency, municipality, or individual person to which the proposed action may affect either directly or indirectly in the form of public health, environmental, or socioeconomic issues. A scoping letter declaring the location of the proposed project areas and explaining the Proposed Action was sent in advance of this EA to allow stakeholders ample time to submit comments or requests for additional information. Additionally, a copy of this EA would be submitted to all cooperating federal agencies and also to those agencies with interests in or near the project area that could be affected by the Proposed Action.

Table 4.1. Scoping Comments.

Organization	Name	Comment	Response to Comment
Barnes County Municipal Airport	Lindemann, Larry	No Comment	
Bureau of Indian Affairs	Bercier, Marilyn	No Comment	
Dunn County	Hauck, Reinhard	No Comment	
Dunn County	Kadrmas, Ray	No Comment	
Enerplus Resources Corp	Overbey, Rachel	No Comment	
EOG Resources, Inc	Smith, Heather	No Comment	
Federal Aviation Administration	Dressler, Patricia	No Comment	
Federal Emergency Management Agency	Kyner, Dave	Recommends that Enerplus contacts the local Floodplain Manager for the Fort Berthold Reservation to receive further guidelines regarding the impact that the project might have to the regulations of the National Flood Insurance Program.	Project area is not in a flood hazard area. Please see Section 3.3, Water Resources.
Fort Berthold Agency	Yellowboy, Patti	No Comment	
Fort Berthold Rural Water Director	Danks, Marvin	No Comment	
Garrison Project Office	U.S. Army Corps of Engineers, Omaha District	No Comment	
Indian Affairs Commission	Davis, Scott	No Comment	
Killdeer, Weydahl Field Airport	Hoffman, Warren	No Comment	
McKenzie County	Cayko, Richard	No Comment	
McKenzie County	Olson, Frances	No Comment	
McLean County Board of Commissioners	Hudson-Schenfisch, Julie	No Comment	
McLean Electric Cooperative, Inc.	Rudolph, Reginald	No Comment	

Organization	Name	Comment	Response to Comment
Mercer County Board of Commissioners	Mercer County	No Comment	
Midcontinent Cable Company	Boyd, Bill	No Comment	
Minot Air Force Base	Missile Engineer, Chief	No Comment	
Montana Dakota Utilities	Dixon, Doug	No Comment	
Mountrail Board of County Commissioners	Hynek, David	No Comment	
National Park Service, Midwest Region	Chevance, Nick	No Comment	
Natural Resources Conservation Service	Podoll, Mary E.	Steven Sieler: The Farmland Protection Policy Act does not apply, no further action is needed. We recommend that impacts to wetlands be avoided.	Thank you for your comment. See Section 3.5, Wetlands.
New Town Municipal Airport	Johnson, Harley	No Comment	
NoDak Electric Cooperative, Inc.	Berg, George	No Comment	
North Dakota Department of Health	Glatt, David	Impacts minor and can be controlled by using proper construction methods.	See Site-specific Owner-committed Measures in Table 2.1, and Sections 2.2.10, Construction Details at Individual Sites, and 3.13, Mitigation and Monitoring, for site-specific details and BMPs.
North Dakota Department of Transportation	Peterson, Walter	No Comment	
North Dakota Game and Fish Department	Link, Greg	Avoid construction to the extent possible within native prairie, wooded draws, riparian corridors, and wetland areas. Conduct botanical surveys and aerial surveys for raptor nests before construction.	See Sections 3.5, Wetlands, 3.6, Vegetation and Invasive Species, and 3.7, Wildlife and Habitat.

Organization	Name	Comment	Response to Comment
North Dakota Parks and Recreation	Prchal, Doug	Kathy Duttenhefner: Recommend that the project be accomplished with minimal impacts and that all efforts be made to ensure that critical habitats not be disturbed in the project area to help secure rare species conservation in North Dakota.	See Sections 3.6, Vegetation and Invasive Species, 3.7, Wildlife and Habitat, and 3.13, Mitigation and Monitoring, for more information.
Northern Border Pipeline Company	Land Department	No Comment	
Parshall-Hankins Field Airport	Kuehn, John	No Comment	
Petro-Hunt, LLC	Herman, Jeff	No Comment	
Reservation Telephone Cooperative	Jarski, Tim	No Comment	
Sisseton-Wahpeton Sioux Tribe	Selvage, Michael	No Comment	
Southwest Water Authority	Massad, Mary	No Comment	
Spirit Lake Sioux Tribe	Pearson, Myra	No Comment	
Standing Rock Sioux Tribe	Murphy, Charles	No Comment	
State Historical Society of North Dakota	Paaverud, Merl	Requests that a copy of cultural resource site forms and reports be sent to the State Historical Society office to keep archives current.	Reports will be submitted to the required agencies. See Section 3.8, Cultural Resources.
THPO, Three Affiliated Tribes	Elgin Crows Breast	No Comment	
Three Affiliated Tribes	Brugh, V. Judy	No Comment	
Three Affiliated Tribes	Fox, Fred	No Comment	
Three Affiliated Tribes	Hall, Tex	No Comment	
Three Affiliated Tribes	NAGPRA Office	No Comment	
Three Affiliated Tribes	Natural Resources Department	No Comment	
Three Affiliated Tribes	Packineau, Mervin	No Comment	
Three Affiliated Tribes	Poitra, Fred	No Comment	
Three Affiliated Tribes	Strahs, Arnold	No Comment	
Three Affiliated Tribes	Whitcalf, Frank	No Comment	

Organization	Name	Comment	Response to Comment
Three Affiliated Tribes	Williams, Damon	No Comment	
Three Affiliated Tribes	Wolf, Malcolm	No Comment	
Turtle Mountain Band of Chippewa	Ferris, Kade	No Comment	
U.S. Army Corps of Engineers	Cimarosti, Dan	For any proposed well where the well line and/or bottom hole is under or crosses under Lake Sakakawea, regardless of depth, we require that project proponent submit a completed permit application (ENG Form 4345) to the Corps.	No project component is under or crosses under Lake Sakakawea. See Section 2.2.10, Construction Details at Individual Sites.
U.S. Army Corps of Engineers	Laux, Eric	No Comment	
U.S. Army Corps of Engineers	Sorenson, Charles	No Comment	
U.S. Army Corps of Engineers	Sellers, Randal	Coordinate with state water quality office to ensure compliance with federal and state water quality standards and regulations. Consult with USFWS and North Dakota Game and Fish Department regarding fish and wildlife resources. Proposed project does not appear to be located within Corps owned or operated lands.	Thank you for your comment. See Section 3.3, Water Resources, and Section 3.7, Wildlife and Habitat.
U.S. Bureau of Reclamation	Nelson, Richard	Kelly McPhillips: Project components would affect Bureau of Reclamation facilities (rural water pipelines). Please review enclosed map for potential adverse effects and proper pipeline crossing, should that be necessary. Coordinate with the Reclamation Rural Water Director.	See Section 2.2.3, Access Roads and Utility Corridors. Enerplus would consult with the Rural Water Director if the project components might come into contact with any Bureau of Reclamation rural water lines.
U.S. Department of Agriculture	Hecker, Ron	No Comment	
U.S. Environmental Protection Agency	Dhieux, Joyce	No Comment	
U.S. Environmental Protection Agency	Hefferman, Dan	No Comment	

Organization	Name	Comment	Response to Comment
U.S. Environmental Protection Agency	Svoboda, Larry	No Comment	
U.S. Environmental Protection Agency	Truskowski, Brent	No Comment	
U.S. Fish and Wildlife Service	Towner, Jeffrey	Comments given during USFWS scoping.	Please see Sections 3.7, Wildlife and Habitat, and 3.13, Mitigation and Monitoring.
Ward County Board of Commissioners	Erickson, Carroll	No Comment	
West Plains Electric Cooperative, Inc.	Schelkoph, David	No Comment	
Western Area Power Administration	Paulson, Gerald	No Comment	
Williams Production RMT Co.	Head, Jennifer	No Comment	
Williams Production RMT Co.	Klitzka, Nelson	No Comment	
Xcel Energy	Manager	No Comment	

5.0 LIST OF PREPARERS

An interdisciplinary team contributed to this document according to guidance provided in Part 1502.6 of CEQ regulations. This document was drafted by SWCA under the direction of the BIA. Information was compiled from various sources within SWCA.

Enerplus Resources (USA) Corporation

- Josh Ruffo, Environmental Compliance Coordinator

SWCA Environmental Consultants

- Kimberly Ip, Biologist; Laura Leslie Burckhardt and Nathan Wojcik, Ecologists
  Prepared the EA.

- David Myers, Biologist; Christi Haswell, Senior Project Manager/Regulatory Specialist
  Reviewed and edited the EA.

- David Myers and Kimberly Ip, Biologists
  Conducted natural resource surveys.

- Jolene Schleicher, Matthew Cox, and Kendy Altizer, Archaeologists
  Conducted cultural resource surveys.

- Matthew Cox, Scott Yost, Cole Wandler, Kendy Altizer, and Jolene Schleicher, Archaeologists
  Prepared cultural resource reports for well pads and access roads.

- Arjun Dongre, GIS Specialist
  Created maps and spatially derived data.

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7.0 ACRONYMS AND ABBREVIATIONS

°F	degrees Fahrenheit
ADT	average daily traffic
APD	Application for Permit to Drill
AQI	air quality index
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BMP	best management practice
CAA	Clean Air Act
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CH_4	methane
CIAA	cumulative impact analysis area
CO	carbon monoxide
CO_2	carbon dioxide
CWA	Clean Water Act
DBH	diameter at breast height
EA	environmental assessment
EJ	Environmental Justice
Enerplus	Enerplus Resources (USA) Corporation
EPA	Environmental Protection Agency
EPS	Economic Profile System
ESA	Endangered Species Act
FHWA	Federal Highway Administration
GHG	greenhouse gas
H_2S	hydrogen sulfide
HAP	hazardous air pollutant
HF	hydraulic fracturing
HUC	hydrologic unit code
IPCC	Intergovernmental Panel on Climate Change
IRR	Indian Reservation Roads
MHA Nation	Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation
N_2O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NDDA	North Dakota Department of Agriculture
NDDH	North Dakota Department of Health
NDDOT	North Dakota Department of Transportation
NDIC	North Dakota Industrial Commission
NEPA	National Environmental Policy Act
NO_2	nitrogen dioxide
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
NWI	National Wetlands Inventory
O_3	ozone

PEM	palustrine freshwater emergent
PM	particulate matter
ppm	parts per million
Reservation	Fort Berthold Indian Reservation
ROW	right-of-way
SBP	Saddle Butte Pipeline, LLC
SO_2	sulfur dioxide
SWCA	SWCA Environmental Consultants
THPO	Tribal Historic Preservation Officer
TMD	total measured depth
TRNP	Theodore Roosevelt National Park
TVD	total vertical depth
USACE	U.S. Army Corps of Engineers
USC	United States Code
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service
VOC	volatile organic compound

APPENDIX A

Threatened and Endangered Species in Dunn County

SPECIES ACCOUNTS AND EFFECTS DETERMINATIONS

ENDANGERED SPECIES ACT

Black-footed Ferret (*Mustela nigripes*)

Effects Determination: No Effect

Black-footed ferrets are nocturnal, solitary carnivores of the weasel family that have been largely extirpated from the wild primarily due to range-wide decimation of the prairie dog (*Cynomys* sp.) ecosystem (Kotliar et al. 1999). They have been listed by the U.S. Fish and Wildlife Service (USFWS) as endangered since 1967, and have been the object of extensive re-introduction programs (USFWS 2010a). Ferrets inhabit extensive prairie dog complexes of the Great Plains, typically composed of several smaller colonies in proximity to one another that provide a sustainable prey base. The *Black-footed Ferret Survey Guidelines for Compliance with the Endangered Species Act* (USFWS 1989) states that ferrets require black-tailed prairie dog (*Cynomys ludovicianus*) towns or complexes greater than 80 acres in size, and towns of this dimension may be important for ferret recovery efforts (USFWS 1988a). Prairie dog towns of this size are not found in the project area. In addition, this species has not been observed within the Fort Berthold Indian Reservation. The proposed project would have **no effect** on this species.

Gray Wolf (*Canis lupus*)

Effects Determination: No Effect

The gray wolf, listed as endangered in the United States in 1978, was believed extirpated from North Dakota in the 1920s and 1930s with only sporadic reports from the 1930s to present (Licht and Huffman 1996). The presence of wolves in most of North Dakota consists of occasional dispersing animals from Minnesota and Manitoba (Licht and Fritts 1994; Licht and Huffman 1996). Most documented gray wolf sightings that have occurred within North Dakota are believed to be young males seeking to establish territory (Hagen et al. 2005). The Turtle Mountains region in north-central North Dakota provides marginal habitat that may be able to support a very small population of wolves. The closest known pack of wolves is the Minnesota population located approximately 28 kilometers (km) from the northeast corner of North Dakota.

The gray wolf uses a variety of habitats that support a large prey base, including montane and low-elevation forests, grasslands, and desert scrub (USFWS 2010b). Due to a lack of forested habitat and distance from Minnesota and Manitoba populations, as well as the troubled relationship between humans and wolves and their vulnerability to being shot in open habitats (Licht and Huffman 1996), the re-establishment of gray wolf populations in North Dakota is unlikely. Additionally, habitat fragmentation, in particular road construction as a result of oil and gas development, may further act as a barrier against wolf recolonization in western North Dakota. Therefore, the proposed project would have **no effect** on the gray wolf.

Whooping Crane (*Grus americana*)

Effects Determination: May Affect, Is Not Likely to Adversely Affect

The whooping crane was listed as endangered in 1970 in the United States by the USFWS, and in 1978 in Canada. Historically, population declines were caused by shooting and

destruction of nesting habitat in the prairies from agricultural development. Current threats to the species includes habitat destruction, especially suitable wetland habitats that support breeding and nesting, as well as feeding and roosting during their fall and spring migration (Canadian Wildlife Service and USFWS 2007).

The July 2010 total wild population was estimated at 383 (USFWS 2010c). There is only one self-sustaining wild population, the Aransas-Wood Buffalo National Park population, which nests in Wood Buffalo National Park and adjacent areas in Canada, where approximately 83% of the wild nesting sites occur (Canadian Wildlife Service and USFWS 2007; USFWS 2010c). Dunn County, including the project area, is within the primary migratory flyway of whooping cranes.

Whooping cranes probe the soil subsurface with their bills for foods on the soil or vegetation substrate (Canadian Wildlife Service and USFWS 2007). Whooping cranes are omnivores and foods typically include agricultural grains, as well as insects, frogs, rodents, small birds, minnows, berries, and plant tubers. The largest amount of time during migration is spent feeding in harvested grain fields (Canadian Wildlife Service and USFWS 2007). Studies indicate that whooping cranes use a variety of habitats during migration, in addition to cultivated croplands, and generally roost in small palustrine (marshy) wetlands within 1 km of suitable feeding areas (Howe 1987, 1989). Whooping cranes have been recorded in riverine habitats during their migration, with eight sightings along the Missouri River in North Dakota (Canadian Wildlife Service and USFWS 2007:18). In these cases, they roost on submerged sandbars in wide, unobstructed channels that are isolated from human disturbance (Armbruster 1990).

Suitable whooping crane foraging habitat (i.e., cultivated cropland) was observed near the project area. Underground utility lines would be utilized at all proposed project areas. Additionally, project precautionary measures would be implemented if a whooping crane is sighted in or near the project area. Enerplus would cease all drilling and construction activities and notify the USFWS and Bureau of Indian Affairs (BIA) of the sighting should a crane be spotted within 1 mile of the project area. As a result, the proposed project **may affect, but is not likely to adversely affect** the endangered whooping crane.

Piping Plover (*Charadrius melodus*)
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The piping plover is a small shorebird which breeds only in three geographic regions of North America: the Atlantic Coast, the Northern Great Plains, and the Great Lakes. Piping plover populations were federally listed as threatened and endangered in 1985, with the Northern Great Plains and Atlantic Coast populations listed as threatened, and the Great Lakes population listed as endangered (USFWS 1985a).

Plovers in the Great Plains make their nests on open, sparsely vegetated sand or gravel beaches adjacent to alkali wetlands, and on beaches, sand bars, and dredged material islands of major river systems (USFWS 2002, 2010d). The shorelines of the Missouri River lakes constitute significant nesting areas for the bird. Piping plovers nest on the ground, making shallow scrapes in the sand, which they line with small pebbles or rocks (USFWS 1988b). Anthropogenic alterations of the landscape along rivers and lakes where piping plover nest

have increased the number and type of predators, subsequently decreasing nest success and chick survival (USFWS 2002, 2010d). The birds fly south by mid to late August to areas along the Texas coast and Mexico (USFWS 2002). The Northern Great Plains population has continued to decline despite federal listing, with population estimates of 1,500 breeding pairs in 1985 reduced to fewer than 1,100 in 1990. Low survival of adult birds has been identified as a factor (Root et al. 1992). Current conservation strategies include identification and preservation of known nesting sites, public education, and limiting or preventing shoreline disturbances near nests and hatched chicks (USFWS 1988b, 2010d).

Suitable shoreline habitat for breeding and nesting plovers does not occur in the project area, and Lake Sakakawea is a minimum of 0.91 river mile from the proposed well pads and access roads. Piping plover may stop-over within the project area during migration, however it is unlikely due to the limited availability of alkali wetlands in or surrounding the project area.

Potential pollution and sedimentation occurring within the project area are concerns for piping plover and their forage base. If minor tributaries and/or wooded draws are within 300 feet of proposed project components, secondary containment measures are applied by the BIA to prevent spills. Activities associated with the construction, production, or reclamation of the proposed project area are not anticipated to adversely affect water quality and subsequently the piping plover. Additionally, a semi-closed-loop drilling system with a dry cuttings pit will be used at the well pad locations. All locations will comply with BIA Conditions of Approval (COAs) and spill prevention standards; the interior floor of the drilling pads will be sloped away from drainage ways; and cuttings pit liners will be a minimum of 20 millimeters thick. Therefore, the proposed project **may affect, but is not likely to adversely affect** piping plovers.

Designated Critical Habitat of Piping Plover
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The USFWS has Designated Critical Habitat for the Great Lakes and Northern Great Plains populations of piping plover (USFWS 2002). Designated Critical Habitat for the piping plover includes 183,422 acres and 1,207.5 river miles of habitat, including areas near the proposed project, along the shoreline of Lake Sakakawea in Dunn County, North Dakota (USFWS 2002).

Suitable shoreline habitat for breeding and nesting plovers does not occur in the project area, and Lake Sakakawea is a minimum of 0.91 river mile from the proposed well pads and access roads. Activities associated with the construction, production, or reclamation of the proposed project area are not anticipated to adversely affect water quality and subsequently any Designated Critical Habitat for piping plover

All locations will comply with BIA COAs and spill prevention standards; the interior floor of the drilling pads will be sloped away from drainage ways; and cuttings pit liners will be a minimum of 20 millimeters thick. Therefore, the proposed project **may affect, but is not likely to adversely affect** Designated Critical Habitat of the piping plover.

Interior Least Tern (*Sterna antillarum*)
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The interior population of the least tern is listed as endangered by the USFWS (1985b). This bird is the smallest member of the gull and tern family, measuring approximately 9 inches in length. Terns remain near flowing water, where they feed by hovering over and diving into standing or flowing water to catch small fish (USFWS 2010e).

The interior population of least terns breeds in isolated areas along the Missouri, Mississippi, Ohio, Red, and Rio Grande River systems, where they nest in small colonies. From late April to August, terns nest in a shallow hole scraped in an open sandy area, gravel patch, or exposed flat and bare sandbars along rivers, sand and gravel pits, or lake and reservoir shorelines. The adults continue to care for chicks after they hatch. Least terns in North Dakota are often found sharing sandbars with the piping plover, a threatened species (USFWS 2010e).

Census data indicate over 8,000 least terns in the interior population. In North Dakota, the least tern is found mainly on the Missouri River from Garrison Dam south to Lake Oahe, and on the Missouri and Yellowstone Rivers upstream of Lake Sakakawea (USFWS 1990a, 2010e). Approximately 100 pairs breed in North Dakota (USFWS 2010e). Details of their migration are not known, but their winter range is reported to include the Gulf of Mexico and Caribbean Islands (USFWS 1990a, 2010e).

Loss of suitable breeding and nesting habitat for terns has resulted from dam construction and river channelization on major rivers throughout the Mississippi, Missouri, and Rio Grande River systems. River and reservoir changes have led to reduced sandbar formation and other shoreline habitats for breeding, resulting in population declines. In addition, other human shoreline disturbances affect the species (USFWS 1990a). Critical Habitat has not been designated for the species (USFWS 2010e).

Current conservation strategies include identification and avoidance of known nesting areas, public education, and limiting or preventing shoreline disturbances near nests and hatched chicks (USFWS 2010e).

Suitable shoreline habitat for breeding and nesting terns does not occur in the project area, and Lake Sakakawea is a minimum of 0.91 river mile from the proposed well pads and access roads. Terns can forage up to 40 miles from colony sites located near the Missouri River and Lake Sakakawea. Interior least terns may visit perennial streams and wetlands near the project area for foraging; however, it is unlikely that terns would visit the upland habitats present in the project area.

Potential pollution and sedimentation occurring within the project area are concerns for interior least terns and their forage base. If minor tributaries and/or wooded draws are within 300 feet of proposed project components, secondary containment measures are applied by the BIA to prevent spills. Activities associated with the construction, production, or reclamation of the proposed project area are not anticipated to adversely affect water quality and subsequently the least tern. Additionally, a semi-closed-loop drilling system with a dry cuttings pit will be used at the well pad locations. All locations will comply with BIA COAs and spill prevention standards; the interior floor of the drilling pads will be sloped away from

drainage ways; and cutting pit liners will be a minimum of 20 millimeters thick. Therefore, the proposed project **may affect, but is not likely to adversely affect** endangered least terns.

Sprague's Pipit (*Anthus spragueii*)
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The Sprague's pipit is a small passerine, 10 to 15 centimeters in length, endemic to the Northern Great Plains (USFWS 2010f). The Sprague's pipit requires large tracts of native prairie habitats, unplowed, throughout their life cycle. Because native grasslands are adapted to periodic disturbance events (i.e., fire), Sprague's pipit prefers mixed-grass prairie habitats that experience regular natural disturbance. The frequency of disturbance required for habitat maintenance depends on how quickly grasses grow to an intermediate height (4 to 12 inches) following a disturbance event. Previously cultivated non-native grassland may provide nesting habitat if the vegetation structure is appropriate (Jones 2010).

In North Dakota, Sprague's pipit has been found in areas of moderate grazing. Sprague's pipits are sensitive to patch size and avoid edges between grasslands and other habitat features (USFWS 2010f). They may avoid non-grassland features including roads, trails, oil wells, croplands, woody vegetation, and wetlands. The Sprague's pipit is reported to stay up to 350 meters away from anthropogenic features such as roads, oil wells, and wind turbines (USFWS 2010f). The USFWS has estimated that each new oil well and associated road in North Dakota results in potential impacts approximately 51 acres (21 hectares) of pipit habitat due to avoidance and habitat fragmentation (USFWS 2010f). Due to increasing habitat fragmentation, especially by energy development, throughout the Sprague's pipit range and the loss of native prairie habitat, the Sprague's pipit was listed as a Candidate Species under the ESA in 2010 (USFWS 2010f).

In North Dakota, Sprague's pipit breeds throughout the state except for the easternmost counties. During the breeding season they prefer large patches of well drained, open native grassland with a minimum size of 358.3 acres (range = 170 to 776 acres). They have not been observed in areas smaller than 71.6 acres on their breeding grounds (USFWS 2010f).

Sprague's pipits were not observed within the project area during surveys. Native prairie habitat with grasses of intermediate height does occur within the project area. However, the habitat within and surrounding the project area has been previously disturbed by agriculture, roads, and oil and gas development. The proposed project is unlikely to directly affect habitat due to lack of adequate patch sizes required by the Sprague's pipit for breeding grounds in the immediate project area, but may indirectly contribute to reduced use of any nearby suitable grassland habitat patches within 350 meters of the proposed new facilities. Therefore, the proposed project **may affect, but is not likely to adversely affect** Sprague's pipit.

Pallid Sturgeon (*Scaphirhynchus albus*)
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The pallid sturgeon was listed as Endangered in 1990 in the United States by the USFWS (1990b). The primary factor leading to the decline of this species is the alteration of habitat through river channelization, creation of impoundments, and alteration of flow regimes (USFWS 1990b). These alterations within the Missouri River have blocked movements to

spawning, feeding, and rearing areas, destroyed spawning habitat, altered flow conditions which can delay spawning cues, and reduced food sources by lowering productivity (USFWS 2007a). The fundamental elements of pallid sturgeon habitat are defined as the bottom of swift waters of large, turbid, free-flowing rivers with braided channels, dynamic flow patterns, flooding of terrestrial habitats, and extensive microhabitat diversity (USFWS 1990b).

The pallid sturgeon population which is found near the project area occurs from the Missouri River below Fort Peck Dam to the headwaters of Lake Sakakawea and the lower Yellowstone River up the confluence of the Tongue River, Montana (USFWS 2007a). This population consists of approximately 136 wild adult pallid sturgeon (USFWS 2007a). Hatchery reared sturgeon have also been stocked since 1998. The pallid sturgeon has been found to utilize the 25 km of riverine habitat that would be inundated by Lake Sakakawea at full pool (Bramblett 1996 per USFWS 2007a). Larval pallid sturgeons have also been found to drift into Lake Sakakawea. While the majority of pallid sturgeons are found in the headwaters of Lake Sakakawea, the North Dakota Game and Fish Department has caught and released pallid sturgeon in nets set in 80 to 90 feet of water between the New Town and Van Hook area. Based on this information, pallid sturgeon could be found throughout Lake Sakakawea (personal communication, email from Steve Krentz, Pallid Sturgeon Project Lead, USFWS, to Mike Cook, Aquatic Ecologist, SWCA Environmental Consultants, September 3, 2010).

Potential pollution and sedimentation occurring within the project area are concerns for downstream populations of endangered pallid sturgeon. Suitable habitat for pallid sturgeon does not occur in the project area, and Lake Sakakawea is a minimum of 0.91 river mile from the proposed well pads and access roads. If minor tributaries and/or wooded draws are within 300 feet of proposed project components, secondary containment measures are applied by the BIA to prevent spills. Activities associated with the construction, production, or reclamation of the proposed project area are not anticipated to adversely affect water quality and subsequently the pallid sturgeon. Additionally, a semi-closed-loop drilling system with a dry cuttings pit will be used at the well pad location. All locations will comply with BIA COAs and spill prevention standards; the interior floor of the drilling pads will be sloped away from drainage ways; and cutting pit liners will be a minimum of 20 millimeters thick. Therefore, the proposed project **may affect, but is not likely to adversely affect** pallid sturgeon.

Dakota Skipper (*Hesperia dacotae*)
Effects Determination: May Affect, Is Not Likely to Adversely Affect

The Dakota skipper is a small butterfly with a 1-inch wingspan and is found primarily in undisturbed native tall grass and upland dry mixed grass prairie areas with a high diversity of wildflowers and grasses (Committee on the Status of Endangered Wildlife in Canada 2003). The Dakota skipper appears to require a range of precipitation-evaporation ratios between 60 and 105 and a soil pH between 7.2 and 7.9 (McCabe 1981). Larvae feed on grasses, favoring little bluestem. Adults commonly feed on nectar of flowering native forbs such as harebell (*Campanula rotundifolia*), wood lily (*Lilium philadelphicum*), and purple coneflower (*Echinacea purpurea*). The species is threatened by conversion of native prairie to cultivated agriculture or shrublands, over-grazing, invasive species, gravel mining, and inbreeding (USFWS 2005). Dakota skippers are not known to occur within the project area; however,

suitable habitat does occur. The proposed project **may affect, but is not likely to adversely affect** this species. The use of best management practices and conservation guidelines (USFWS 2007b) during construction and operation and immediate reclamation of short-term disturbance should decrease direct, indirect, and cumulative impacts to this species.

MIGRATORY BIRD TREATY ACT / THE BALD AND GOLDEN EAGLE PROTECTION ACT

Bald Eagle (*Haliaeetus leucocephalus*)

Status: Delisted in 2007; protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act

Effects of Project: No adverse effects anticipated

Suitable nesting or foraging habitat for bald eagles includes old growth trees relatively close (usually less than 1.24 miles [Hagen et al. 2005]) to perennial waterbodies. The project area does not contain old growth trees and the proposed well pads are at least 0.5 straight-line mile from Lake Sakakawea. Two aerial nest surveys were flown by SWCA biologists on behalf of Enerplus to identify any eagle nests within 0.5 mile of the project areas in NE¼ NW¼ Section 35, T149N, R92W, and SW¼ NW¼ Section 19, T148N, R92W, per BIA recommendations. During the aerial surveys flown on March 25, 2011, and April 5, 2012, no nests or eagles were observed in flight or roosting within the 0.5-mile buffer area around the proposed project components (SWCA 2011; SWCA *forthcoming*). Therefore, no adverse effects are anticipated.

Golden Eagle (*Aquila chrysaetos*)

Status: Not Listed; protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act

Effects of Project: No adverse effects anticipated

No primary or secondary indication of golden eagle presence, including nests, was observed within or near the project areas during the field survey; however, golden eagles may occur within or near the project area. The golden eagle prefers habitat characterized by open prairie, plains, and forested areas. Usually, golden eagles can be found in proximity to badland cliffs which provide suitable nesting habitat. The closest known golden eagle nest (Nest ID GE033SBSW) is located a minimum of 3.13 miles from the proposed wells pads. Two aerial nest surveys were flown by SWCA biologists on behalf of Enerplus to identify any eagle nests within 0.5 mile of the project areas in NE¼ NW¼ Section 35, T149N, R92W, and SW¼ NW¼ Section 19, T148N, R92W, per BIA recommendations. During the aerial surveys flown on March 25, 2011, and April 5, 2012, no nests or eagles were observed in flight or roosting within the 0.5-mile buffer area around the proposed project components (SWCA 2011; SWCA *forthcoming*). Therefore, no adverse effects are anticipated.

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APPENDIX B

Natural Resources Soil Descriptions and Attributes

Part I. NRCS Map Unit Descriptions (Source: NRCS 2012[1])

Map unit: 4 - Arnegard loam, 0 to 2 percent slopes

Component: Arnegard (90%)

The Arnegard component comprises 90 percent of the map unit. Slopes are 0 to 2 percent. This component is on alluvial fans on uplands. The parent material consists of loamy alluvium derived from sedimentary rock. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 2c. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 12 percent.

Map unit: 4B - Arnegard loam, 2 to 6 percent slopes

Component: Arnegard (90%)

The Arnegard component comprises 90 percent of the map unit. Slopes are 2 to 6 percent. This component is on alluvial fans on uplands. The parent material consists of loamy alluvium derived from sedimentary rock. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 2e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 12 percent.

Map unit: 9E - Cabba loam, 15 to 45 percent slopes

Component: Cabba (80%)

The Cabba component comprises 80 percent of the map unit. Slopes are 3 to 70 percent. This component is on ridges on uplands. The parent material consists of fine-loamy residuum weathered from sedimentary rock. Depth to a root-restrictive layer, bedrock, paralithic, is 10 to 20 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is very low. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. This component is in the R054XY030ND Shallow Loamy ecological site. Non-irrigated land capability classification is 7e. This soil does not meet hydric criteria. The calcium carbonate

[1] Natural Resources Conservation Service (NRCS). 2012. Soil Data Mart. U.S. Department of Agriculture, Natural Resources Conservation Service. Soil Survey Geographic (SSURGO) Database for Dunn and McKenzie Counties, North Dakota. Available online at http://soildatamart.nrcs.usda.gov. Accessed March 5, 2012.

equivalent within 40 inches, typically, does not exceed 8 percent. The soil has a slightly sodic horizon within 30 inches of the soil surface.

Map unit: 27B - Farland silt loam, 2 to 6 percent slopes

Component: Farland (85%)

The Farland component comprises 85 percent of the map unit. Slopes are 2 to 6 percent. This component is on alluvial fans on uplands. The parent material consists of fine-silty alluvium. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is very high. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 2e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 11 percent.

Map unit: 30E - Cohagen-Vebar fine sandy loams, 9 to 25 percent slopes

Component: Cohagen (45%)

The Cohagen component comprises 45 percent of the map unit. Slopes are 9 to 25 percent. This component is on hills on uplands. The parent material consists of coarse-loamy residuum weathered from sandstone. Depth to a root-restrictive layer, bedrock, paralithic, is 10 to 20 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches is very low. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 1 percent. This component is in the R054XY043ND Shallow Sandy ecological site. Non-irrigated land capability classification is 7e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 6 percent.

Component: Vebar (39%)

The Vebar component comprises 39 percent of the map unit. Slopes are 9 to 25 percent. This component is on ridges on uplands. The parent material consists of coarse-loamy residuum weathered from calcareous sandstone. Depth to a root-restrictive layer, bedrock, paralithic, is 20 to 40 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches is low. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. This component is in the R054XY026ND Sandy ecological site. Non-irrigated land capability classification is 6e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 6 percent.

Map unit: 81C - Vebar-Parshall fine sandy loams, 6 to 9 percent slopes

Component: Vebar (60%)

The Vebar component comprises 60 percent of the map unit. Slopes are 6 to 9 percent. This component is on hills on uplands. The parent material consists of coarse-loamy residuum

weathered from calcareous sandstone. Depth to a root-restrictive layer, bedrock, paralithic, is 20 to 40 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches is low. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. This component is in the R054XY026ND Sandy ecological site. Non-irrigated land capability classification is 4e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 6 percent.

Component: Parshall (20%)

The Parshall component comprises 20 percent of the map unit. Slopes are 6 to 9 percent. This component is on hills on uplands. The parent material consists of coarse-loamy alluvium derived from sedimentary rock. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately high. Available water to a depth of 60 inches is moderate. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. This component is in the R054XY026ND Sandy ecological site. Non-irrigated land capability classification is 4e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 5 percent.

Map unit: 88B - Williams loam, 3 to 6 percent slopes

Component: Williams (85%)

The Williams component comprises 85 percent of the map unit. Slopes are 3 to 6 percent. This component is on rises on till plains. The parent material consists of fine-loamy till. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is moderate. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 2e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 15 percent.

Map unit: 88C - Williams loam, 6 to 9 percent slopes

Component: Williams (85%)

The Williams component comprises 85 percent of the map unit. Slopes are 6 to 9 percent. This component is on knolls on till plains. The parent material consists of fine-loamy till. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell-potential is moderate. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 3e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 15 percent.

Map unit: 93E – Zahl-Williams loams, 15 to 25 percent slopes

Component: Zahl (50%)

The Zahl component comprises 50 percent of the map unit. Slopes are 15 to 25 percent. This component is on ridges on till plains. The parent material consists of fine-loamy till. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is moderate. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 2 percent. This component is in the R054XY038ND Thin Loamy ecological site. Non-irrigated land capability classification is 7e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 15 percent.

Component: Williams (30%)

The Williams component comprises 30 percent of the map unit. Slopes are 15 to 25 percent. This component is on ridges on till plains. The parent material consists of fine-loamy till. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is moderate. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 4 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 6e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 15 percent.

Map unit: 101C - Amor loam, 6 to 9 percent slopes

Component: Amor (80%)

The Amor component comprises 80 percent of the map unit. Slopes are 6 to 9 percent. This component is on hills on uplands. The parent material consists of loamy residuum weathered from mudstone. Depth to a root-restrictive layer, bedrock, paralithic, is 20 to 40 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is low. Shrink-swell potential is low. This soil is not flooded and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 3 percent. This component is in the R054XY031ND Loamy ecological site. Non-irrigated land capability classification is 3e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 18 percent.

Map unit: 207F - Arikara loam, 9 to 70 percent slopes

Component: Arikara (80%)

The Arikara component comprises 80 percent of the map unit. Slopes are 9 to 70 percent. This component is on ridges on uplands. The parent material consists of loamy colluvium derived from mudstone. Depth to a root-restrictive layer is greater than 60 inches. The natural drainage class is well drained. Water movement in the most restrictive layer is moderately low. Available water to a depth of 60 inches is high. Shrink-swell potential is moderate. This soil is not flooded

and it is not ponded. There is no zone of water saturation within a depth of 72 inches. Organic matter content in the surface horizon is about 95 percent. Non-irrigated land capability classification is 7e. This soil does not meet hydric criteria. The calcium carbonate equivalent within 40 inches, typically, does not exceed 5 percent.

Part II. Soil Series within the Project Area.

Map Unit	Survey Area	Soil Series	Landform	Slope	Drainage	Depth (cm)	Restrictive Layer	Carbonate (%)	Organic Matter (%)	Sodium Adsorption Ratio	K Factor	Surface Runoff	Erodibility Rating	Reclamation Potential	Limitation	Ecological Site	Surface Disturbance (Acres)	% of Surface Disturbance
4	ND025	Arnegard loam, 0 to 2 percent slopes	Alluvial fans, pediments, and terraces	1	Well drained	> 60	<Null>	20	6.0	<Null>	0.24	Low	Moderate	Good	<Null>	Loamy (R054XY031ND)	**0.8**	**2.8**
4B	ND025	Arnegard loam, 2 to 6 percent slopes	Alluvial fans, pediments, and terraces	4	Well drained	> 60	<Null>	12	4.0	0	0.28	Low	Low	Good	<Null>	Loamy (R054XY031ND)	**4.3**	**14.4**
9E	ND025	Cabba loam, 15 to 45 percent slopes	Hills and ridges	38	Well drained	20–40	Paralithic bedrock	15	3.0	2	0.32	High	Moderate to severe	Poor	Bedrock, slope	Shallow Loamy (R054XY030ND)	**2.5**	**8.5**
27B	ND025	Farland silt loam, 2 to 6 percent slopes	Alluvial fans, pediments, and terraces	4	Well drained	> 60	<Null>	11	4.0	0	0.32	Low	Moderate	Good	<Null>	Loamy (R054XY031ND)	**2.9**	**9.7**
30E	ND025	Cohagen-Vebar fine sandy loams, 9 to 25 percent slopes	Hills and ridges	17	Well drained	20–40	Paralithic bedrock	10	1.0	<Null>	0.24	High	Moderate to severe	Poor	Bedrock, slope	Shallow Sandy (R054XY043ND)	**2.0**	**6.7**
81C	ND025	Vebar-Parshall fine sandy loams, 6 to 9 percent slopes	Hills and ridges	8	Well drained	20–40	Paralithic bedrock	6	2.0	0	0.24	Low	Moderate	Fair to good	Bedrock	Sandy (R054XY026ND)	**3.5**	**11.8**
88B	ND025	Williams loam, 3 to 6 percent slopes	Plains and rises	5	Well drained	> 60	<Null>	20	5.0	<Null>	0.28	Medium	Moderate	Good	<Null>	Loamy (R054XY031ND)	**4.5**	**15.1**
88C	ND025	Williams loam, 6 to 9 percent slopes	Hills and ridges	8	Well drained	> 60	<Null>	15	5.0	<Null>	0.28	Medium	Moderate	Good	<Null>	Loamy (R054XY031ND)	**5.5**	**18.3**
93E	ND025	Zahl-Williams loams, 15 to 25 percent slopes	Hills and ridges	20	Well drained	> 60	<Null>	15	4.0	<Null>	0.28	High	Moderate	Poor	Clay, slope	Thin Loamy (R054XY038ND)	**0.3**	**1.0**
101C	ND025	Amor loam, 6 to 9 percent slopes	Hills and ridges	8	Well drained	20–40	Paralithic bedrock	18	3.0	2	0.43	Medium	Moderate to severe	Fair	Bedrock	Loamy (R054XY031ND)	**3.5**	**11.7**
207F	ND025	Arikara loam, 9 to 70 percent slopes	Hills and ridges	40	Well drained	> 60	<Null>	5	95.0	0	0.32	High	Severe	Poor	Slope	Loamy (R054XY031ND)	**0.0**	**0.0**
																TOTAL	**29.8**	**100.0**

APPENDIX C
Scoping Responses

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

AUG 1 5 2012

Laura Burckhardt
Natural Resources Lead
SWCA Environmental Consultants
1892 South Sheridan Avenue
Sheridan, Wyoming 82801

Re: Enerplus Resources Corporation proposal for 10 exploratory oil and gas wells on three well pads, Fort Berthold Reservation, Dunn County and McKenzie County, North Dakota
In reply, please reference TAILS #2012-CPA-0671

Dear Ms. Burckhardt:

This is in response to your letter dated August 1, 2012, regarding a proposal by Enerplus Resources Corporation (Enerplus) for the development, drilling, completion, and production of 10 exploratory oil and gas wells, located on three well pads, on the Fort Berthold Reservation, North Dakota. A June 4, 2012, proposal included the Cumulus/Stratus well pad; however, that well pad is not included in this response at your request. The U.S. Fish and Wildlife Service (Service) will respond to that proposal separately.

Specific locations for the proposed well pads are:

The Ocatillo #149-92-35A-04H, Saguaro #149-92-35A-04H TF, Rebutia #149-92-35B-05H, and Cactus #149-92-35B-05H TF: T. 149 N., R. 92 W., NE ¼, NW ¼ of Sec. 35, Dunn County, ND
The Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF: T. 148 N., R. 92 W., SE ¼, NE ¼ of Sec. 24, Dunn County, ND
The Guitar #149-94-02C-01H and Cello #149-94-02C-01H TF: T. 149 N., R. 94 W., NE ¼ SE 1/4 of Sec. 3, McKenzie County, ND

The Service offers the following comments under the authority of and in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA), the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (ESA), Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) (MBTA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-

668d, 54 Stat. 250) (BGEPA), and Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds."

Threatened and Endangered Species

In an e-mail dated October 13, 2009, the Bureau of Indian Affairs (BIA) designated SWCA Environmental Consultants (SWCA) to represent the BIA for informal Section 7 consultation under the ESA. Therefore, the Service is responding to you as the designated non-Federal representative for the purposes of ESA, and under our other authorities as the entity preparing the NEPA document for adoption by the BIA.

Your letter stated that Enerplus has committed to ceasing all drilling and construction activities on the proposed site if a whooping crane(s) (*Grus americana*) is sighted within 1.0 mile of the project area and immediately contacting the Service. Work may resume in coordination with the Service after the bird(s) leaves. Enerplus plans to install all utility lines underground at all proposed project locations to prevent the potential for electrical line strikes by avian species. Additionally, as per BIA requirements, all new power lines must be buried. On June 26, 2012, David Myers of SWCA provided Heidi Riddle of my staff with information regarding wetland impacts at the Ocatillo/Saguaro/Rebutia/Cactus proposed pad. According to Mr. Myers' analysis, activities at an adjacent development would likely preclude whooping cranes from using this wetland during their migration. His analysis also included a photo of the wetland, which appears to be a very small depression displaying questionable wetland attributes. Therefore, the Service concurs with your "may affect, but is not likely to adversely affect" determination for whooping crane.

Your letter stated that the distance to a wooded draw from a well pad ranges from 100 to 1,584 feet. The distance from a well pad to potential habitat for interior least tern (*Sterna antillarum*), pallid sturgeon (*Scaphirhynchus albus*), and piping plover (*Charadrius melodus*) ranges from approximately 0.91 to 28 stream-miles and from 0.51 to 11.5 straight-line-miles. A setback distance of 1.0 stream mile from Lake Sakakawea and 300 overland feet of a wooded draw/drainage are believed to be adequate to contain most spills before product can reach the lake through draws and drainages. However, Enerplus will implement secondary containment measures including a minimum of an 18-inch high berm constructed around the entire pad to control runoff at well pad locations. The impervious dike or Sioux containment system will be of sufficient size to hold in excess of 110% of the capacity of the largest tank in the battery to prevent hazardous runoff or spills. Cuttings pits will include avian-safe coverings and will be reclaimed immediately after wells are completed.

According to your letter, Enerplus plans to implement a semi-closed loop drilling which includes the use of a cuttings pit. The Service believes that the absence of a reserve pit greatly reduces the potential of migration of fluids off the pad; however the BIA has provided information regarding reserve pits and erosion rates, stating that slow erosion rates would allow for natural bioremediation of petroleum products in the pits, present little, if any environmental harm upon exposure. Additionally, to minimize or eliminate the potential for pit leaching, the cuttings pit liners will be a minimum of 20 millimeters thick.

The Service recommends a 0.5-mile buffer from piping plover habitat to avoid disturbance during construction and operation. Predicated upon Enerplus's commitment to implement secondary containment measures and BIA's assessment regarding dry cuttings pits and erosion rates, the Service concurs with your "may affect, is not likely to adversely affect" determination for interior least tern, piping plover, pallid sturgeon and designated critical habitat for piping plover.

As a matter of policy, the Service does not concur with "no effect" determinations. However we acknowledge your determinations of "no effect" for black-footed ferret (*Mustela nigripes*) and gray wolf (*Canis lupus*).

The Dakota skipper (*Hesperia dacotae*) and Sprague's pipit (*Anthus spragueii*) are candidate species for listing under the ESA; therefore, an effects determination is not necessary for these species. No legal requirement exists to protect candidate species; however, it is within the spirit of the ESA to consider these species as having significant value and worth protecting. Although not required, Federal action agencies such as the BIA have the option of requesting a conference on any proposed action that may affect candidate species such as the Dakota skipper and Sprague's pipit.

Migratory Birds

The Migratory Bird Treaty Act prohibits the taking, killing, possession, and transportation, (among other actions) of migratory birds, their eggs, parts, and nests, except when specifically permitted by regulations. While the MBTA has no provision for allowing unauthorized take, the Service realizes that some birds may be killed during construction even if all known reasonable and effective measures to protect birds are used. The Service's Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and agencies that have taken effective steps to avoid take of migratory birds, and by encouraging others to implement measures to avoid take of migratory birds. It is not possible to absolve individuals, companies, or agencies from liability even if they implement bird mortality avoidance or other similar protective measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals, agencies, and companies that take migratory birds without identifying and implementing all reasonable, prudent and effective measures to avoid that take. Companies are encouraged to work closely with Service biologists to identify available protective measures when developing project plans and/or avian protection plans, and to implement those measures prior to/during construction or similar activities.

The letter stated that Enerplus will implement the following measures to avoid/minimize take of migratory birds:

- Construction will be completed outside of the migratory bird nesting season (Feb. 1-July 15). If construction cannot be completed outside of migratory bird nesting season, Enerplus will either:

- Conduct a pre-construction survey for migratory birds or their nests five days prior to the initiation of construction activities.
- Mow the site prior to and throughout the nesting/breeding season in lieu of the pre-construction survey.

If active nests are identified, Enerplus should cease construction, maintain a sufficient buffer around active nests to avoid disturbing breeding activities, and contact the Service. The Service recommends Enerplus implement all practicable measures to avoid all take, such as suspending construction where necessary, and/or maintaining adequate buffers to protect the birds until the young have fledged. The Service further recommends that if you choose to conduct field surveys for nesting birds with the intent of avoiding take, that you maintain any documentation of the presence of migratory birds, eggs, and active nests, along with information regarding the qualifications of the biologist(s) performing the survey(s), and any avoidance measures implemented at the project site. Should surveys or other available information indicate a potential for take of migratory birds, their eggs, or active nests, the Service requests that you contact this office for further coordination on the extent of the impact and the long-term implications of the intended use of the project on migratory bird populations.

Bald and Golden Eagle Protection Act

The BGEPA, prohibits anyone, without a permit issued by the Secretary of the Interior, from taking bald eagles, including their parts, nests, or eggs. The BGEPA provides criminal and civil penalties for persons who take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof. The BGEPA defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." "Disturb" means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagles return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

Bald and/or golden eagles may use the project area where the well pad(s) will be located. Golden eagles inhabit a wide variety of habitat types, including open grassland areas. They are known to nest on cliffs, in trees, manmade structures, and on the ground (Kochert et al. 2002). While the bald eagle tends to be more closely associated with forested areas near water (Buehler 2000), they have been found nesting in single trees several miles from the nearest water body. Therefore, there may also be potential habitat for the bald eagle at the proposed project site. Especially early in the nesting season, eagles can be very sensitive to disturbance near the nest site and may abandon their nest as a result of low disturbance levels, even from foot traffic. A buffer of at least 0.5-mile should be maintained for golden and bald eagle nests. A permit is required for any take of bald or golden eagles or their nests. Permits to take golden eagles or

their nests are available only for legitimate emergencies and as part of a program to protect golden eagles.

Your letter stated as per BIA's request, that bald and golden eagle nests surveys be conducted for each proposed well pad location prior to construction. Results of the bald and golden eagle nest survey will be provided to the BIA and the Service. Enerplus has committed to maintaining a minimum 0.5 mile buffer around all known or newly discovered active bald and golden eagle nests. The eagle nest database maintained by North Dakota Game and Fish Department does not indicate any recorded eagle nests within 0.5-mile of the project area. The Service believes the commitment to implement the aforementioned measures will assist in complying with the MBTA and the BGEPA. The Service's May 2007, National Bald Eagle Management Guidelines contains detailed information on protecting bald eagles from disturbance due to human activity. The guidelines can be accessed on the Service's website: http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf.

Thank you for the opportunity to comment on this project proposal. If you require further information, please contact Heidi Riddle of my staff at (701) 250-4481 or at the letterhead address.

Sincerely,

Jeffrey K. Towner

Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

cc: Bureau of Indian Affairs, Aberdeen, SD
(Attn: Marilyn Bercier)
Bureau of Land Management, Dickinson, ND
ND Game & Fish Department, Bismarck, ND

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

JUL 13 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 a well pad in Dunn County, North Dakota. Approximately 82.92 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 therefore have reached a determination of **no historic properties affected** for this undertaking. Catalogued as **BIA Case Number AAO-2083/FB/12**, the proposed undertaking, location, and project dimensions are described in the following report:

Cox, Matthew, Scott Yost, Cole Wandler and Kendy Altizer
(2012) A Class I and Class III Cultural Resource Inventory of the Enerplus Resources Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H and Saguaro #149-92-35A-04H TF Well Pad and Access Road/Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

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.

We also include the following report for informational purposes only, as the project discussed has been cancelled.

Baer, Sarah
(2012) A Class I and Class III Cultural Resource Inventory of the Nishu #150-94-06B-07H and Sanish #151-94-06B-07H TF Well Pad, Borrow Pit and Access Road/Utility Corridor, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources Corporation, Denver.

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

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

JUN 29 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 well pads and an access road in Dunn and McKenzie Counties, North Dakota. Approximately 153.31 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. Two historic archaeological sites (32DU1724, 32MZ2378) were located that do not 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 therefore have reached a determination of **no historic properties affected** for these undertakings. Catalogued as **BIA Case Number AAO-3015/FB/12,** the proposed undertakings, locations, and project dimensions are described in the following reports:

Schleicher, Jolene
(2012) A Class I and Class III Cultural Resources Inventory of the Enerplus Resources Cumulus #149-94-33C-28H and Stratus #149-94-33C-28H TF Well Pad and Access Road/Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

Schleicher, Jolene, and Matthew Cox
(2012) A Class I and Class III Cultural Resources Inventory of the Enerplus Resources Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H and Grain #148-92-19C-20H TF Well Pad and Access Road/Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

Witt, Thomas
(2012) A Class I and Class III Cultural Resources Inventory of the Guitar #149-94-02C-01H and Cello #149-94-02C-01H TF Well Pad and Access Road, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

Zietz, Vanesa
(2012) A Class I and Class III Cultural Resources Inventory of the Burrowing #147-94-13B-24H TF, Screech #147-94-13B-24H, Snowy #147-94-13A-24H TF and Barn #147-94-13A-24H Access Road/Utility Corridor, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

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

Notice of Availability and Appeal Rights

Enerplus: Eight Exploratory Bakken and Three Forks Oil Wells Located on Two Well Pads:
Rebutia #149-92-35B-05H, Cactus #149-92-35B-05H TF, Ocatillo #149-92-35A-04H, and Saguaro #149-92-35A-04H TF
Wheat #148-92-19B-20H, Potato #148-92-19B-20H TF, Barley #148-92-19C-20H, and Grain #148-92-19C-20H TF

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to Eight Exploratory Bakken and Three Forks Oil Wells Located on Two Well Pads on the Berthold Reservation as shown on the attached map. Construction by Enerplus Resources is expected to begin in 2012.

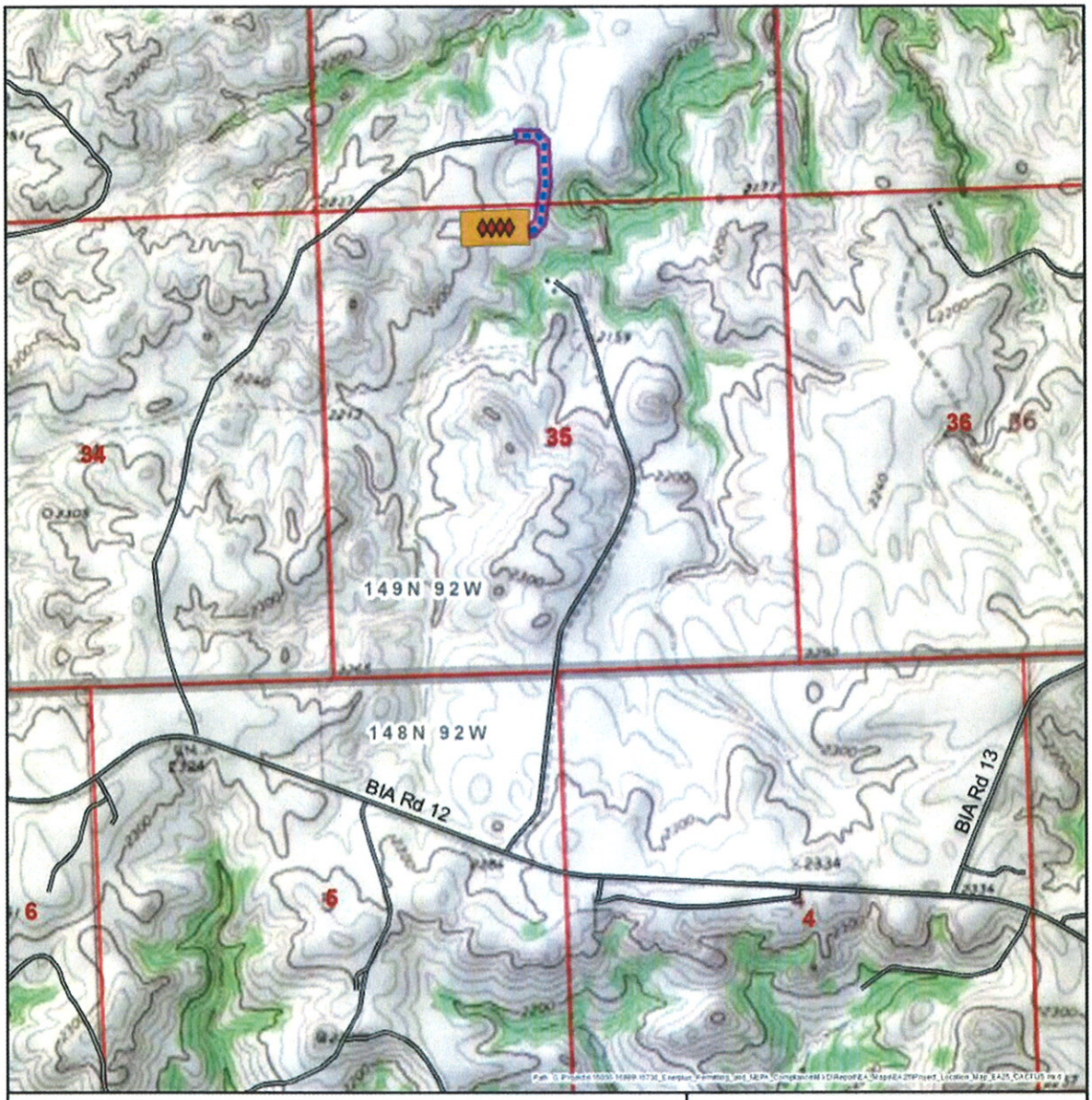
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-6570 for more information and/or copies of the EA and the Finding of No Significant 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 26, 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.



Legend

- Proposed Well Location
- Existing Road
- Proposed Access Road
- Proposed 125-foot Utility Corridor

Proposed Well Pad

- Cactus #149-92-35B-05H TF
- Rebutia #149-92-35B-05H
- Saguaro #149-92-35A-04H TF
- Ocatillo #149-92-35A-04H

Feet
1,000 500 0 1,000 2,000

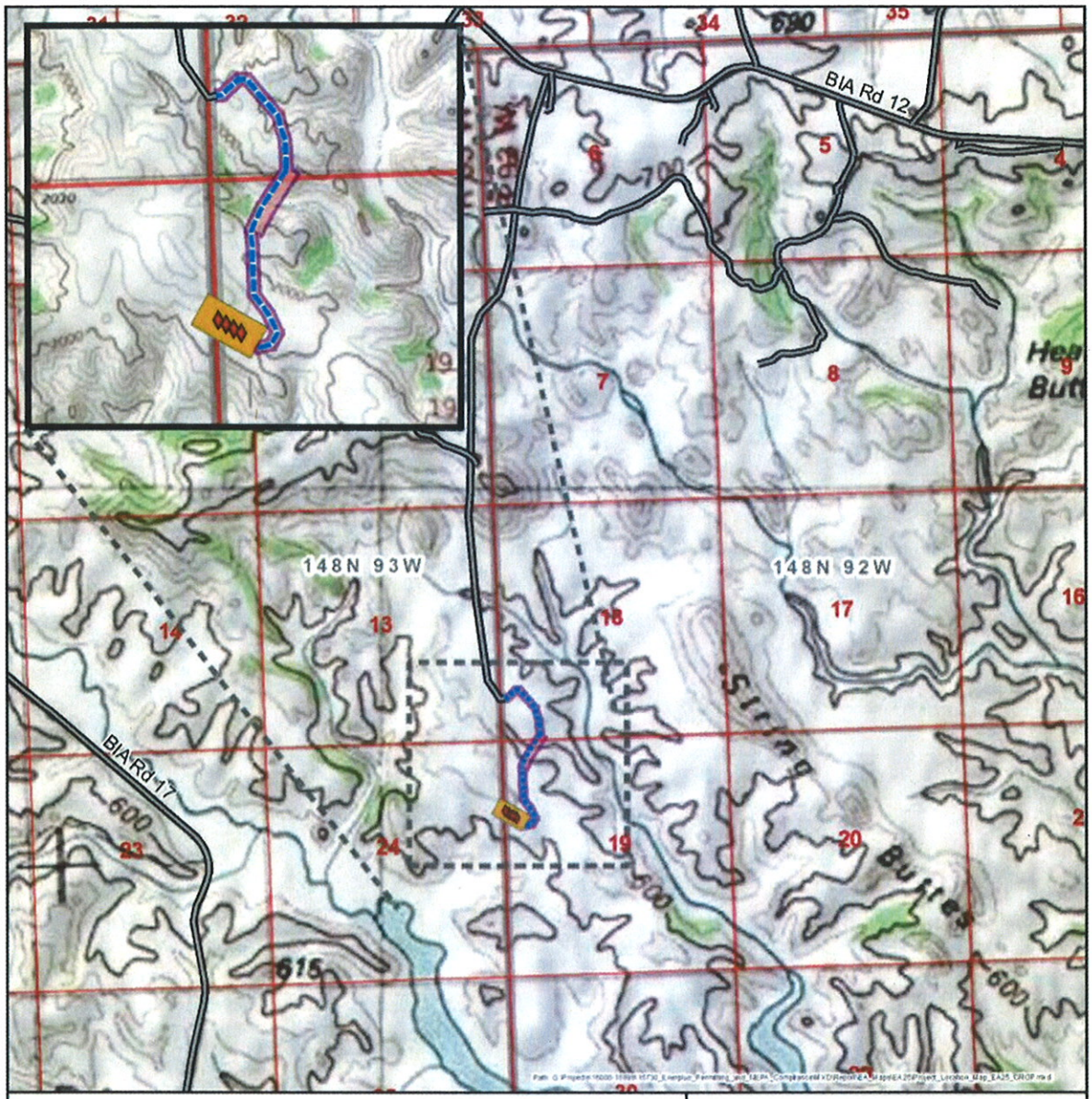
Meters
300 150 0 300 600

Scale: 1:24,000 1 Inch = 2,000 Feet
Projection: NAD 1983 UTM Zone 13N
Dunn County, North Dakota

N

Date: 7/25/2012

Created By:
SWCA Environmental Consultants



Legend

- Proposed Well Location
- Existing Road
- Proposed Access Road
- Proposed 125-foot Utility Corridor

Proposed Well Pad

- Barley #148-92-19C-20H
- Grain #148-92-19C-20H TF
- Potato #148-92-19B-20H TF
- Wheat #148-92-19B-20H

Miles
0.5 0.25 0 0.5 1

Kilometers
0.5 0.25 0 0.5 1

Scale: 1:47,520 1 Inch = 0.75 Miles
Projection: NAD 1983 UTM Zone 13N
Dunn County, North Dakota

N

Date: 7/25/2012

Created By:
SWCA Environmental Consultants