



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E.  
Aberdeen, South Dakota 57401



IN REPLY REFER TO:  
DESCRM  
MC-208

JUN 24 2010

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>Acting</sup> 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, for the proposed Addendum to the Environmental Assessment for Eleven Exploratory Wells at Four Locations named Moccasin Creek 13-34-3H, 13-34-28-1H and 13-34-28-2H Two Shields Butte 2-24-12H and 2-24-25H Two Shields Butte 3-24-12H and 3-24-25H Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H and 14-21-33-16H3, for the install gathering and electric lines by Kodiak Oil and Gas (USA) Inc. on the Fort Berthold Reservation, an Environmental Assessment (EA) has been completed and a Finding of No Significant Impact (FONSI) has been issued.

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 FONSI (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: Marcus Levings, Chairman, Three Affiliated Tribes (with attachment)  
Perry "No Tears" Brady, Tribal Historic Preservation Officer (with attachment)  
Roy Swalling, Bureau of Land Management (with attachment)  
Jonathon Shelman, Corps of Engineers (with attachment)

## Finding of No Significant Impact

### Kodiak Oil & Gas (USA) Inc. - (Kodiak)

**Addendum to  
Moccasin Creek 13-34-3H, 13-34-28-1H and 13-34-28-2H  
Two Shields Butte 2-24-12H and 2-24-25H  
Two Shields Butte 3-24-12H and 3-24-25H  
Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H and 14-21-33-16H3**

### Fort Berthold Indian Reservation Dunn County North Dakota

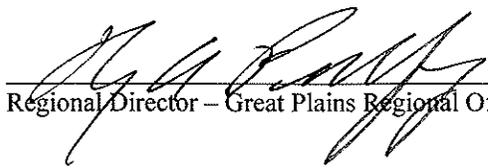
The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to eleven exploratory oil/gas wells, access roads and related infrastructure on the Fort Berthold Indian Reservation, located in Section 34, Township 148N - Range 93W, Section 24, Township 149N - Range 93W, and Section 21, Township 149N - Range 92W, 5<sup>th</sup> P.M. Associated federal actions by BIA include determinations of effect regarding cultural resources, approvals of leases, rights-of-way and easements, and a positive recommendation to the Bureau of Land Management regarding the Applications for Permit to Drill.

Potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing Environmental Assessment (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 was solicited and environmental issues related to the proposal were identified.
2. Protective and prudent measures were designed to minimize impacts to air, water, soil, vegetation, wetlands, wildlife, public safety, water resources, and cultural resources. The remaining potential for impacts was disclosed for both the proposed action and the No Action alternative.
3. Guidance from the U.S. Fish and Wildlife Service has been fully considered regarding wildlife impacts, particularly in regard to threatened or endangered species.
4. The proposed actions are designed to avoid adverse effects to historic, archaeological, cultural and traditional properties, sites and practices. Compliance with the procedures of the National Historic Preservation Act is complete.
5. Environmental justice was fully considered.
6. Cumulative effects to the environment are either mitigated or minimal.
7. No regulatory requirements have been waived or require compensatory mitigation measures.
8. The proposed projects will improve the socio-economic condition of the affected Indian community.

Acting

  
Regional Director – Great Plains Regional Office

6/24/10  
Date

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**ENVIRONMENTAL ASSESSMENT  
ADDENDUM**

**United States Bureau of Indian Affairs**

**Great Plains Regional Office  
Aberdeen, South Dakota**



**Kodiak Oil & Gas (USA) Inc.**

**Addendum to  
Eleven Exploratory Wells at Four Locations:**

**Moccasin Creek 13-34-3H, 13-34-28-1H and 13-34-28-2H  
Two Shields Butte 2-24-12H and 2-24-25H  
Two Shields Butte 3-24-12H and 3-24-25H  
Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H  
and 14-21-33-16H3**

**Fort Berthold Indian Reservation**

**June 2010**

For information contact:  
Bureau of Indian Affairs, Great Plains Regional Office  
Division of Environment, Safety and Cultural Resources  
115 4th Avenue SE  
Aberdeen, South Dakota 57401  
605-226-7656

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

The Bureau of Indian Affairs issued a Finding of No Significant Impact (FONSI) on August 31, 2009, regarding Kodiak's Environmental Assessment for eight Bakken exploratory wells at four locations. In that document, Kodiak proposed to drill eight exploratory oil and gas wells, from four surface locations, on the Fort Berthold Indian Reservation, to evaluate and possibly develop the commercial potential of natural resources. The BIA also later issued three Categorical Exclusions, approving a total of three additional wellbores. This brings the total number of exploratory wells approved by BIA to eleven. Developments have been proposed on land held in trust by the United States in Dunn County, North Dakota. The BIA is the surface management agency for potentially affected tribal lands and individual allotments. The BIA also holds title to subsurface mineral rights. The economic development of available resources and associated BIA actions are consistent with BIA's general mission. Leasing and development of mineral resources offers substantial economic benefits to both the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation and to individual tribal members.

The purpose of the proposed action is to authorize the installation and use of gathering lines and electrical lines, to follow previously approved access roads, as further described in Section 3 of this document.

## **2. Authorities**

Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Gas Royalty Management Act of 1982 (30 USC 1701, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), the Energy Policy Act of 2005 (42 USC 15801, et seq.), and 25 Code of Federal Regulations (CFR) 169. BIA actions in connection with the proposed project are largely administrative and include approval of rights-of-way (ROW) and determinations regarding cultural resource effects.

## **3. Legal Land Descriptions of Proposed Action**

The Moccasin Creek 13-34-3H, 13-34-28-1H, and 13-34-28-2H wells have a surface location in the SWSW of Section 34, T148N-R93W. The access road to the site for these three wells starts at BIA 17, in the N2 of Section 3 (T147N-R93W) and continues through the SWSW Quarter of Section 34, totaling approximately 5,479 feet with a width of 50 feet. The well location and access road are detailed in Figure 1. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

The Two Shields Butte 2-24-12H and 2-24-25H wells have a surface location in the NWNE of Section 24, T149N-R93W. The access road to the site for these two wells starts at the access road for Two Shields Butte 3-24-12H and 3-24-25H (detailed below), in the NE Quarter of Section 24 and totals approximately 1,147 feet with a width of 50 feet. The well location and access road are detailed in Figure 2. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

The Two Shields Butte 3-24-12H and 3-24-25H wells have a surface location in the NENW of Section 24, T149N-R93W. The access road to the site for these two wells starts at BIA 12, in the NW Quarter of Section 25 and continues through the S2 of Section 24, then through the N2 of Section 24, totaling approximately 10,150 feet with a width of 50 feet. The well location and access road are detailed in Figure 3. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

The Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H and 14-21-33-16H3 wells have a surface location in the SESW of Section 21, T149N-R92W. The access road to the site for these four wells starts at BIA 12, in the SW Quarter of Section 33, and continues through the E2 of Section 33, then through the NW Quarter of Section 34, then through the W2 of Section 27, then through the NE Quarter of Section 28, totaling approximately 14,554 feet with a width of 50 feet. The well location and access road are detailed in Figure 4. There will be no additional surface disturbance in the constructing and use of gathering and electrical lines as proposed in this document, as these lines will follow the path of the previously approved right-of-way.

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

Kodiak proposes to install and use gathering and electrical lines, which will follow previously approved access roads, at its Moccasin Creek 13-34-3H, 13-34-28-1H, and 13-34-28-2H well site, in addition to its Two Shields Butte 2-24-12H and 2-24-25H well site, in addition to its Two Shields Butte 3-24-12H and 3-24-25H well site, and its Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H, and 14-21-33-16H3 well site. These actions will require no additional surface disturbance at any of the four locations. These actions are proposed with the intent to reduce cumulative impacts to the areas surrounding both locations. By installing gathering and electrical lines, Kodiak can minimize the amount of truck traffic in the area, for the transport of both oil and water. In addition, Kodiak will no longer flare natural gas produced from these wells, as this will be captured in the gathering lines as well, therefore improving air quality in the surrounding areas.

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

Environmental Assessment: Kodiak Eight Bakken Exploratory Wells at Four Locations. August 2009.

Categorical Exclusion: Two Shields Butte 14-21-33H3 (now known as 14-21-33-15H). March 2010.

Categorical Exclusion: Two Shields Butte 14-21-16-2H. March 2010.

Categorical Exclusion: Moccasin Creek 13-34-28H3 (now known as 13-34-28-1H). January 2010.

#### **6. NEPA Adequacy Criteria**

This document has identified a previously prepared NEPA document, *Environmental Assessment: Kodiak Eight Bakken Exploratory Wells at Four Locations (August 2009)*, which adequately describes the environmental consequences of the newly proposed action described herein, and meets the following NEPA Adequacy Criteria:

1. The proposed action is substantially the same action and at the site specifically analyzed in the existing NEPA document.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA document, which appropriately considers and analyzes current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA document. The analysis is still valid in light of new studies or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA document continues to be appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are unchanged from those identified in the existing NEPA document.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA document.

## **7. Cultural Resources**

The proposed gathering and electrical lines will not increase surface disturbance, nor will it impact any additional cultural resources. Cultural resource inventories of these well pads and access roads were conducted by personnel of Earthworks, using an intensive pedestrian methodology. For the Moccasin Creek 13-34H project, approximately 10 acres were inventoried on June 30, 2009 (Harty and Rabe, 2009). For the Two Shields Butte 2-24H project approximately 10 acres were inventoried on July 29, 2009 (Harty, 2009). For the Two Shields Butte 3-24H project approximately 10 acres were inventoried on July 29, 2009 (Harty and Rabe, 2009). For the Two Shields Butte 14-21H project, approximately 10 acres were inventoried on November 19, 2008 (Harty, 2009). No historic properties were located within these project areas 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 August 1<sup>st</sup>, 2009, and the THPO did not respond within the 30-day concurrence/objection period, resulting in tacit concurrence under the NHPA guidelines.

Harty, Jennifer and Rabe, Angie

(2009) Class III Cultural Resource Inventory of Kodiak's Moccasin Creek 13-34H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Earthworks, Environmental Consultants for Kodiak. Bismarck, ND.

Harty, Jennifer

(2009) Class III Cultural Resource Inventory of Kodiak's Two Shields Butte 2-24H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Earthworks, Environmental Consultants for Kodiak. Bismarck, ND.

Harty, Jennifer and Rabe, Angie

(2009) Class III Cultural Resource Inventory of Kodiak's Two Shields Butte 3-24H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Earthworks, Environmental Consultants for Kodiak. Bismarck, ND.

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(2009) Class III Cultural Resource Inventory of Kodiak's Two Shields Butte 14-21H Well Pad and Access Road, on the Fort Berthold Reservation, Dunn County, North Dakota. Earthworks, Environmental Consultants for Kodiak. Bismarck, ND.

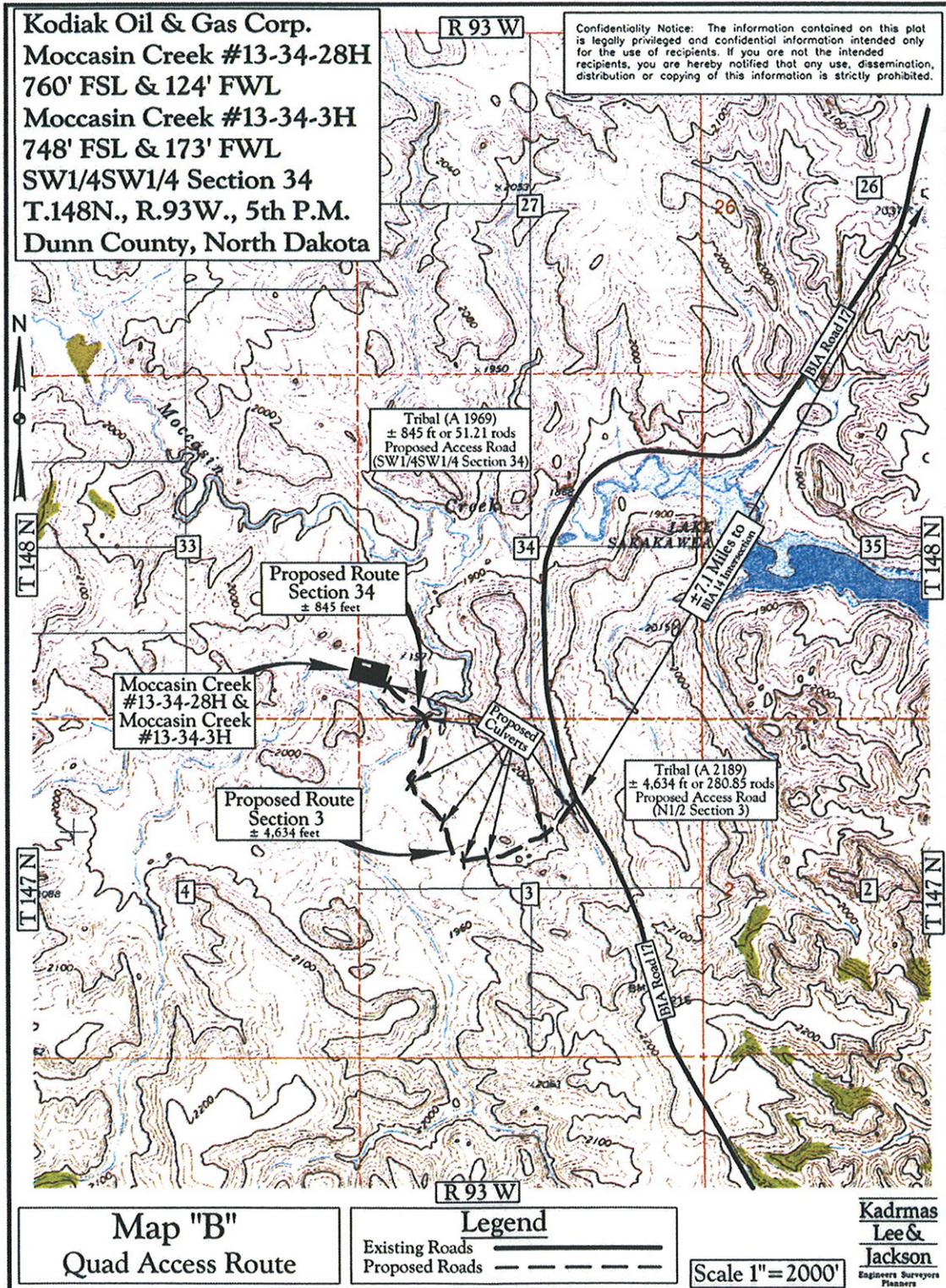
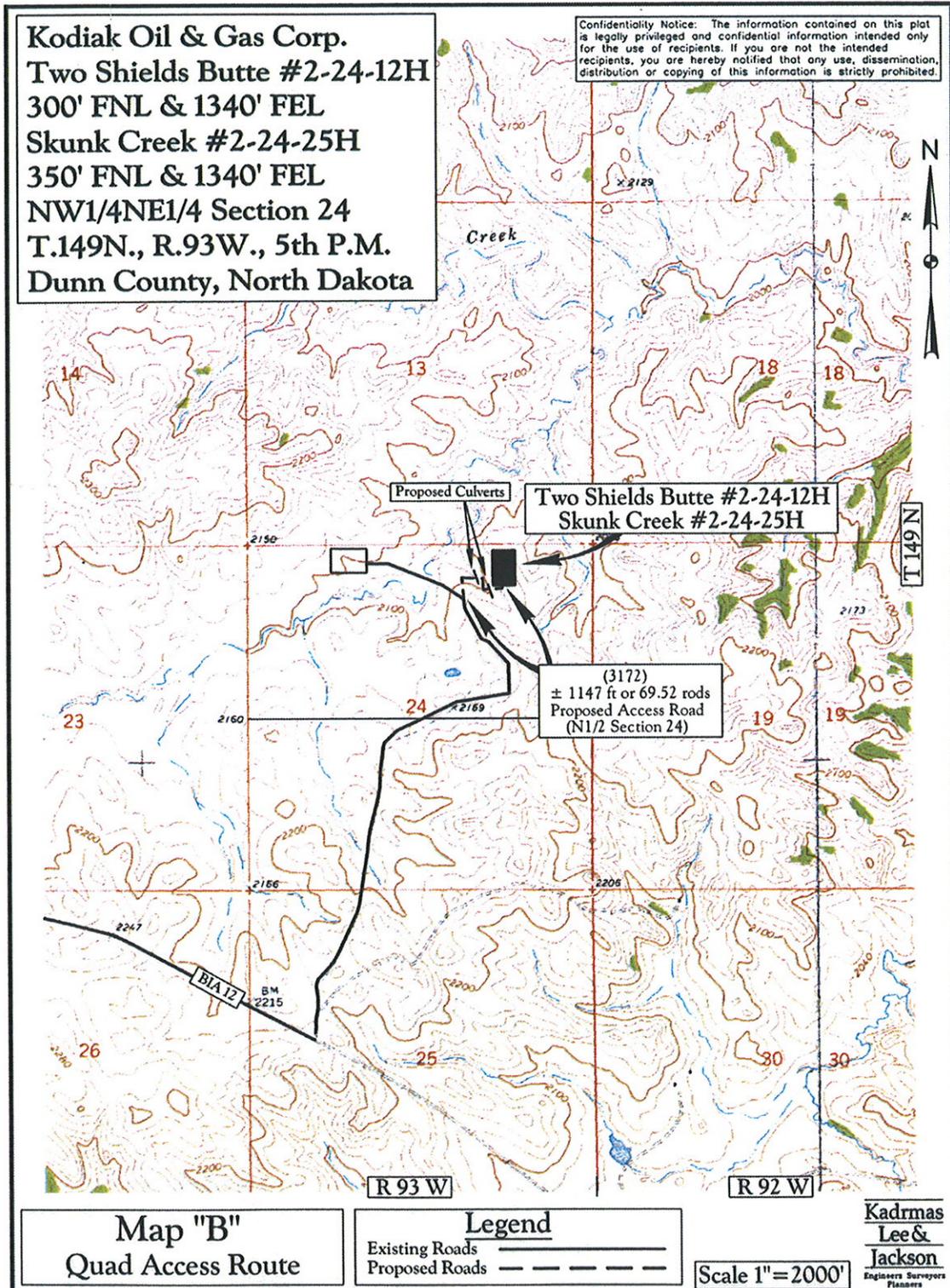
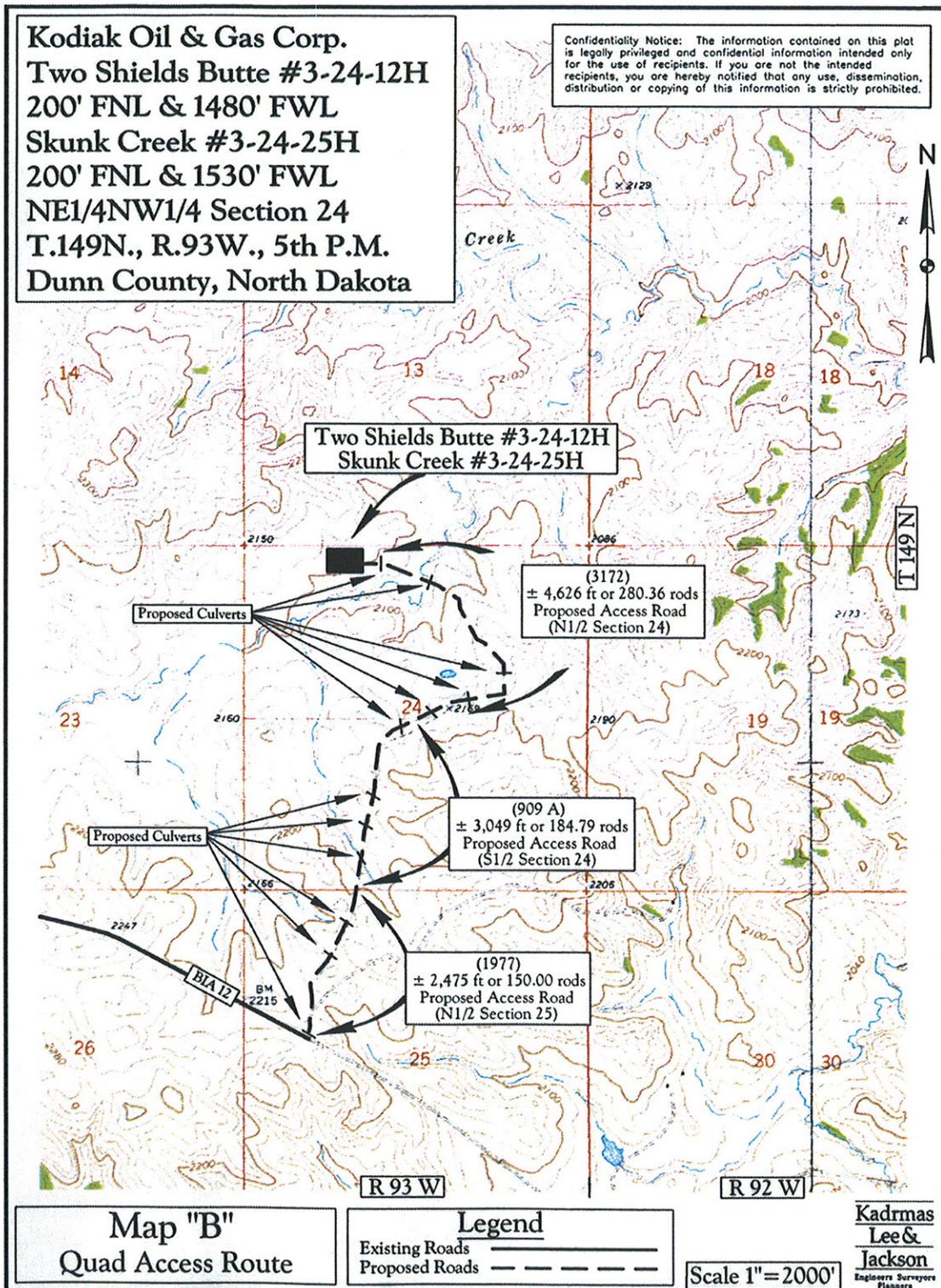


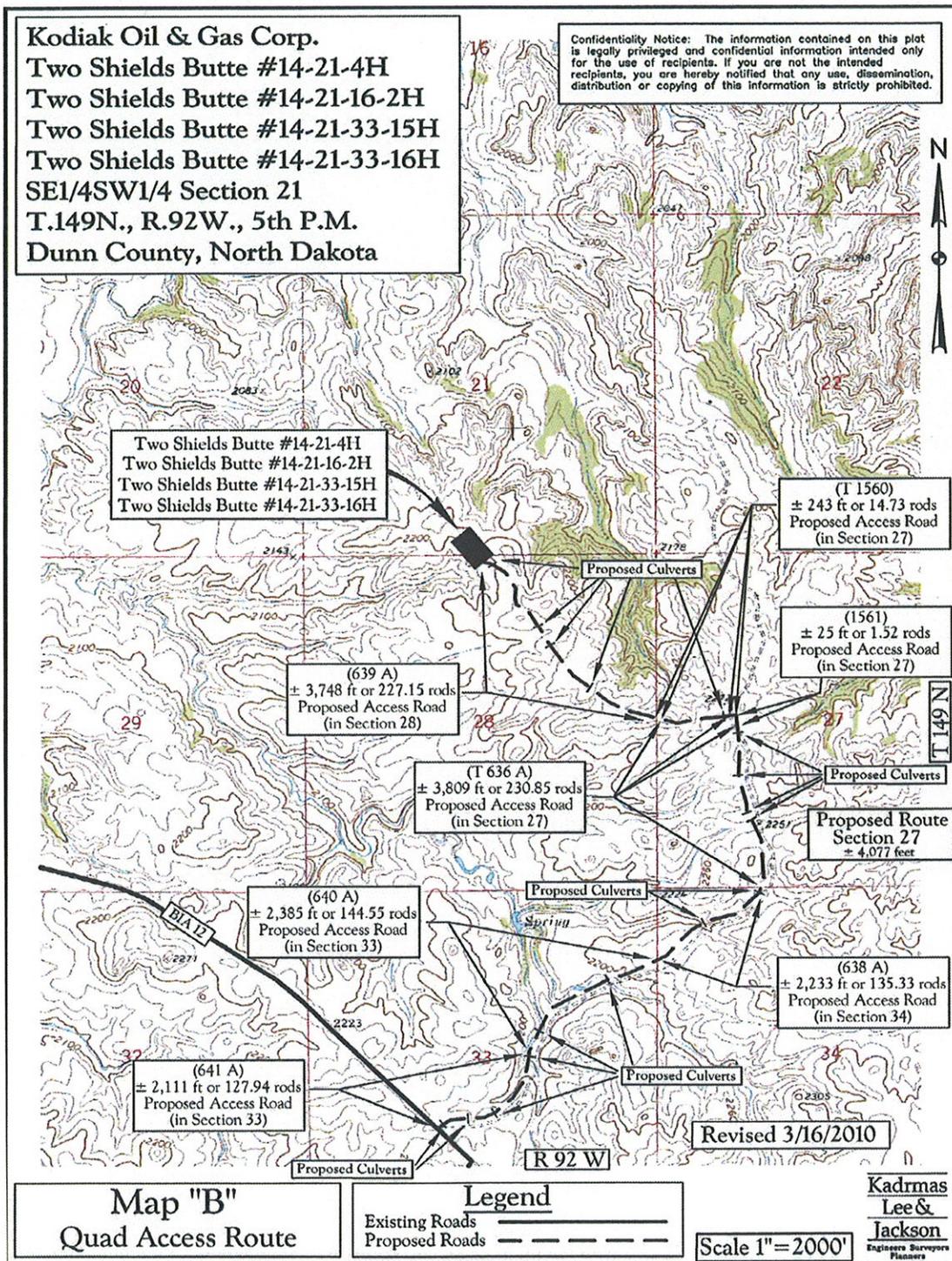
Figure 1: Moccasin Creek 13-34-3H, 13-34-28-1H, and 13-34-28-2H Location and Access Road  
 Gathering and electrical lines will follow previously approved Access Road



**Figure 2: Two Shields Butte 2-24-12H and 2-24-25H Location and Access Road**  
 Gathering and electrical lines will follow previously approved Access Road



**Figure 3: Two Shields Butte 3-24-12H and 3-24-25H Location and Access Road**  
 Gathering and electrical lines will follow previously approved Access Road



**Figure 4: Two Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H, and 14-21-33-16H3 Location and Access Road**  
 Gathering and electrical lines will follow previously approved Access Road

# **Notice of Availability and Appeal Rights**

Kodiak: Addendum to Eleven Exploratory Wells at Four Locations:  
Moccasin Creek 13-34-3H, 13-34-28-1H and 13-34-28-2H Two Shields Butte  
2-24-12H and 2-24-25H Two Shields Butte 3-24-12H and 3-24-25H Two  
Shields Butte 14-21-4H, 14-21-16-2H, 14-21-33-15H and 14-21-33-16H3

**The Bureau of Indian Affairs (BIA) is to issue the administrative approvals related to the installation and use of gathering lines and electrical lines as shown on the attached map. Construction by Kodiak is expected to begin in the Summer of 2010.**

**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 Howard Bemer, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant Impact (FONSI).**

**The FONSI is only a finding on environmental impacts – it is not a decision to proceed with an action and *cannot* be appealed. BIA's decision to proceed with administrative actions *can* be appealed until July 24, 2010, by contacting:**

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

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

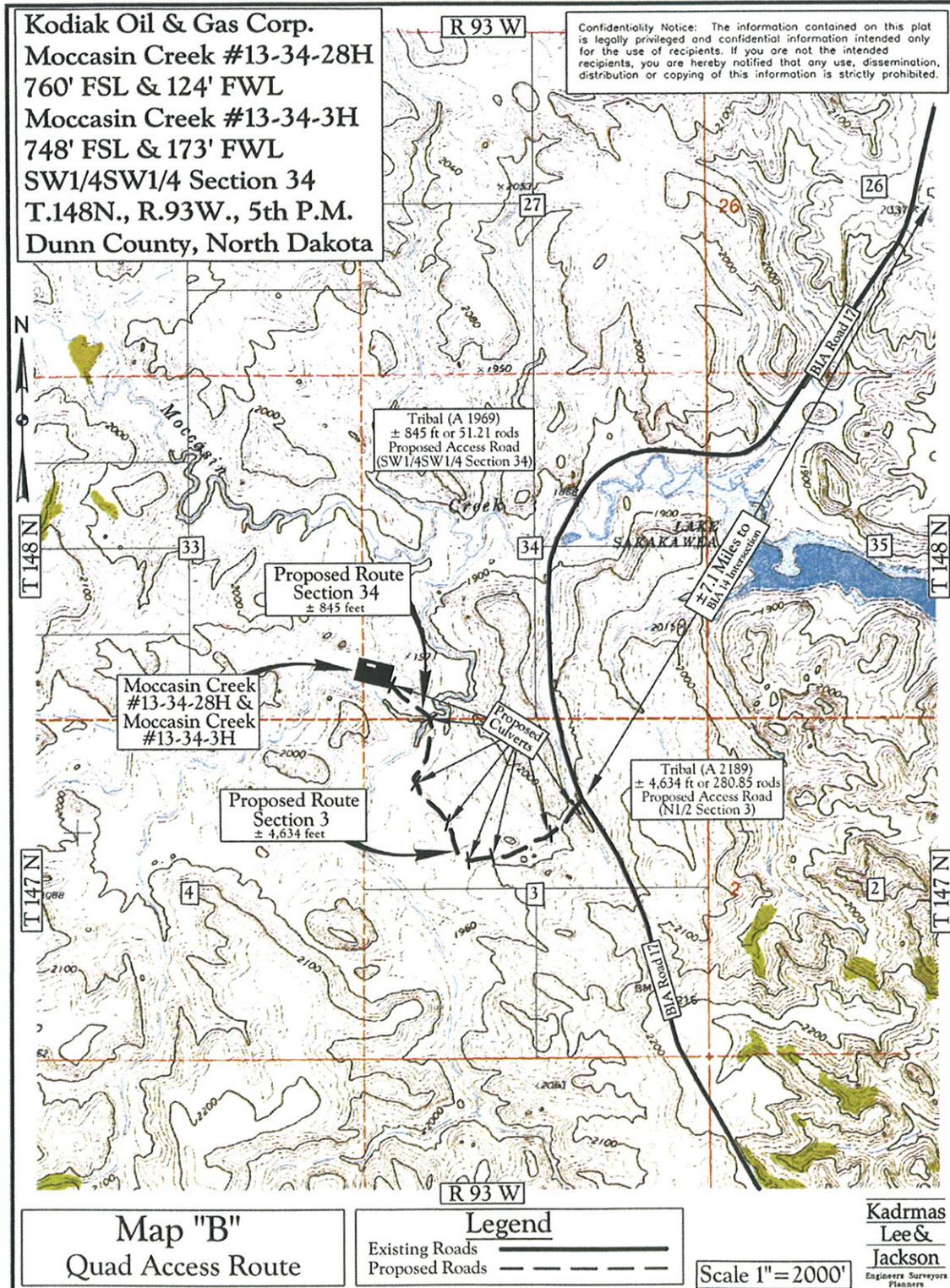


Figure 1: Moccasin Creek 13-34-3H, 13-34-28-1H, and 13-34-28-2H Location and Access Road  
 Gathering and electrical lines will follow previously approved Access Road

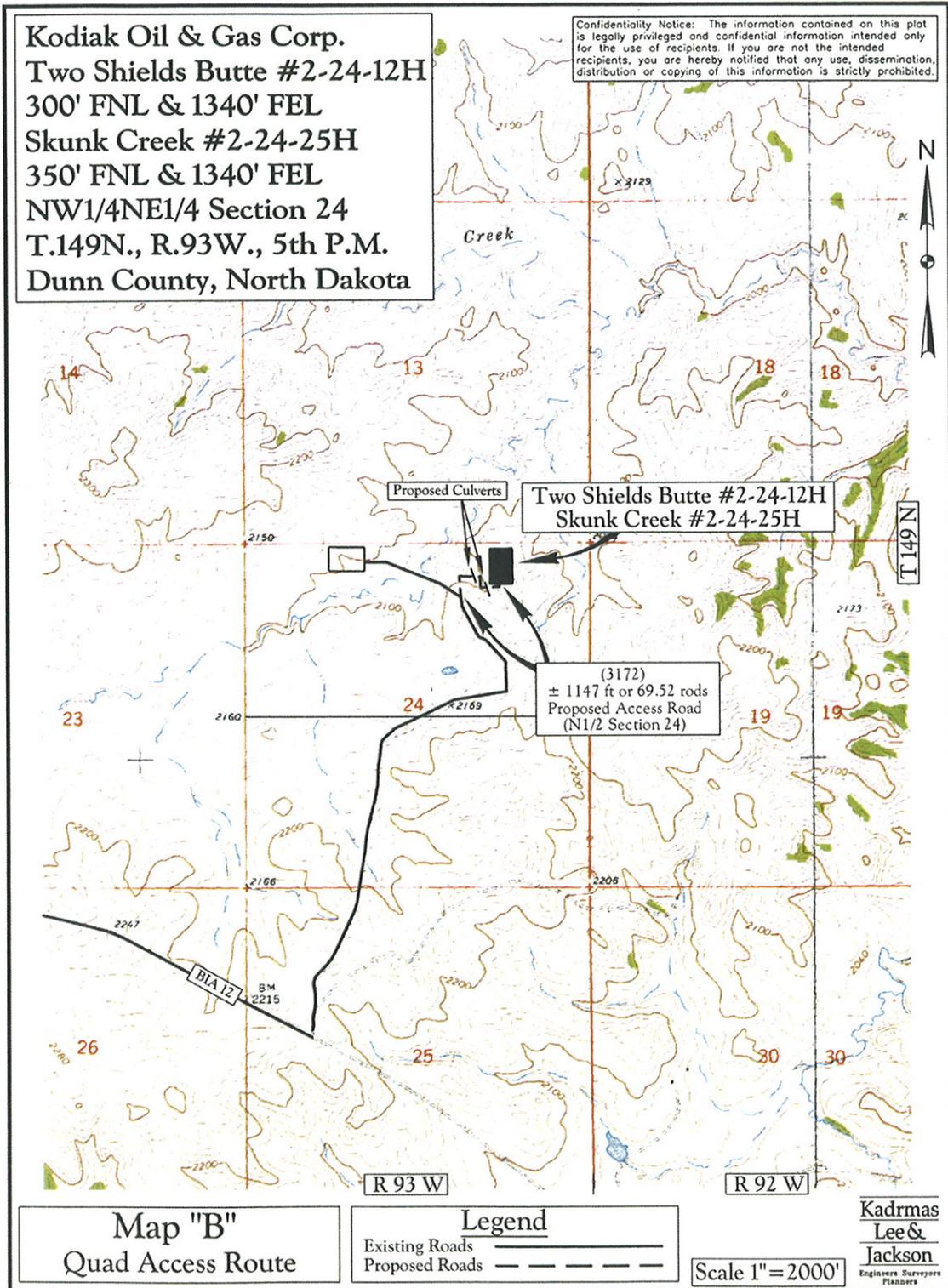


Figure 2: Two Shields Butte 2-24-12H and 2-24-25H Location and Access Road  
 Gathering and electrical lines will follow previously approved Access Road

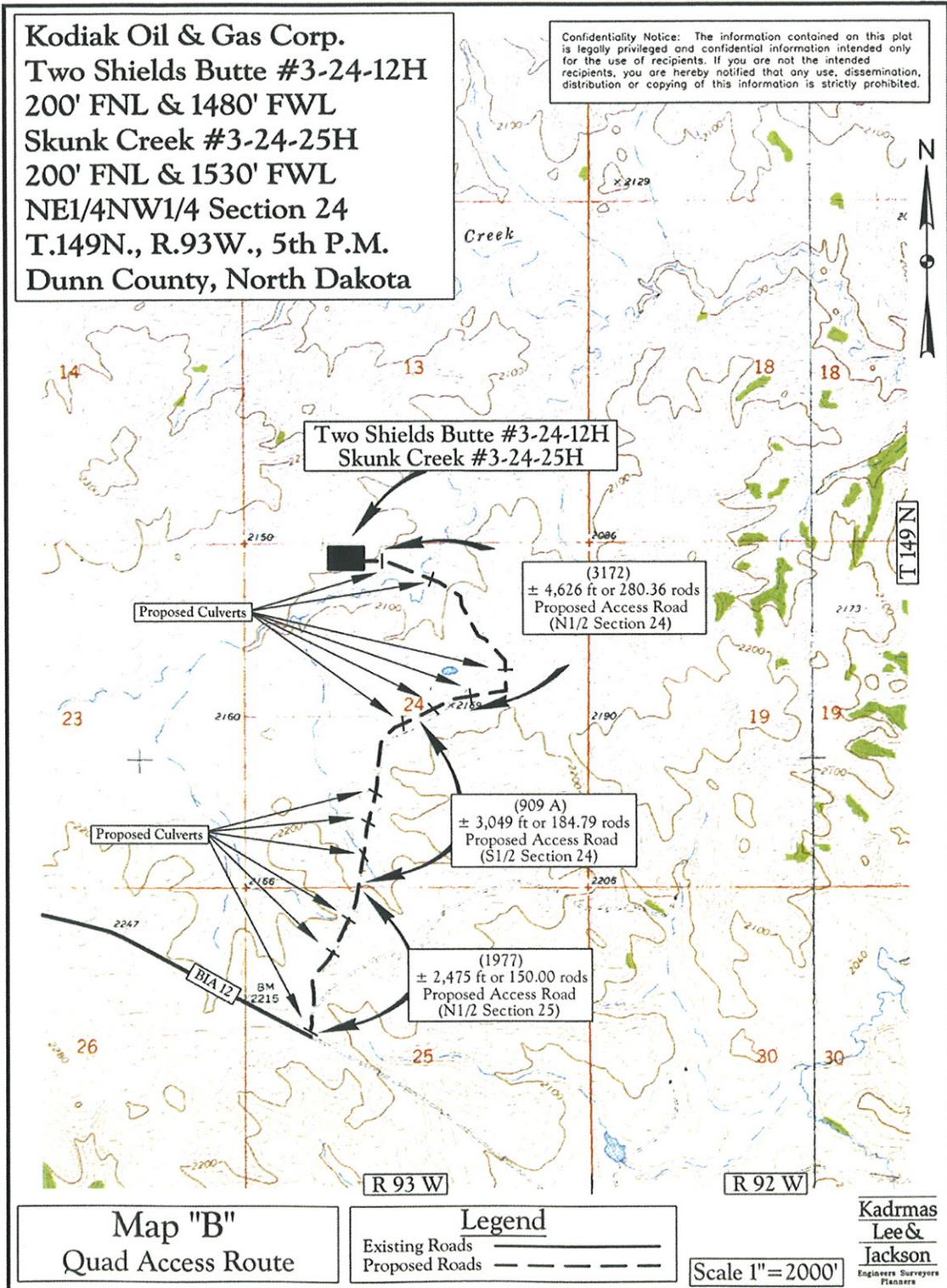


Figure 3: Two Shields Butte 3-24-12H and 3-24-25H Location and Access Road  
 Gathering and electrical lines will follow previously approved Access Road

