



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

JUL 20 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Acting Regional Director, Great Plains Region



SUBJECT: Categorical Exclusion

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, a Categorical Exclusion has been issued for the proposed action to authorize Peak North Dakota, LLC to drill a new well, the Audrey Rabbithead Hall #33-11H, from an existing well pad, the Red Tipped Arrow #33-11H. There will be no new surface disturbance associated with this action.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files is a copy of the Categorical Exclusion.

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, THPO (with attachment)
Roy Swalling, BLM, Dickenson, ND (with attachment)
John Shelman, US Army Corps of Engineers
Jeff Hunt, Virtual One Stop Shop



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EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Date: 7/20/2010

Project: Supplemental to Environmental Assessment for Peak North Dakota, LLC; Sherwood #28-44H, Red Tipped Arrow #33-11H, Baker #15-44H, and Fredericks #23-31H, dated April 2009 (FONSI dated July 2009), to authorize new surface drilling for the Audrey Rabbithead Hall #33-11H on the well pad previously authorized for the Red Tipped Arrow #33-11H.

Nature of Proposed Action: The purpose of the proposed action is to authorize Peak North Dakota, LLC to drill a new well, the Audrey Rabbithead Hall #33-11H, approximately 30 feet north of the previously approved Red Tipped Arrow #33-11H well. The proposed new well would share the Red Tipped Arrow #33-11H well pad, and no new surface disturbances outside the well pad would be associated with the new well.

Exclusion category and number: 516 DM 10.5A

Evaluation of Exceptions to use of Categorical Exclusion:

1. This action would have significant adverse effects on public health or safety. No X Yes _____
2. This action would have an adverse effect on unique geographical features, such as wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on nationwide river inventory, or prime or unique farmlands. No X Yes _____
3. The action will have highly controversial environmental effects. No X Yes _____
4. The action will have highly uncertain environmental effects or involve unique or unknown environmental risks. No X Yes _____
5. This action will establish a precedent for future actions. No X Yes _____
6. This action is related to other actions with individually insignificant, but cumulatively significant environmental effects. No X Yes _____

- 7. This action will affect properties listed or eligible for listing in the National Register of Historic Places. No X Yes _____
- 8. This action will affect a species listed, or proposed to be listed as endangered or threatened. No X Yes _____
- 9. This action threatens to violate federal, state, local or tribal law or requirements imposed for protection of the environment. No X Yes _____
- 10. This action will have a disproportionately high and adverse effect on low income or minority populations. No X Yes _____
- 11. This action will limit access to, and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites. No X Yes _____
- 12. This action will contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or may promote the introduction, growth, or expansion of the range of such species. No X Yes _____

A "yes" to any of the above exceptions will require that an EA be prepared.

NEPA Action - - - CE X EA _____

Preparer's Name and Title: Charlotte Brett, Environmental Planner

Regional Archeologist Concurrence with Item 7 Sebastian C. LeBoan

Concur: Marilyn Bercie Date: 7/20/10
Regional Office/Agency Environmental Coordinator

Concur: Don J. P... Date: 7/20/2010
Regional Director/Superintendent

WELL LOCATION PLAT

Peak North Dakota, LLC
1910 Main Avenue, Durango, Colorado 81301
Audrey Rabbithead Hall #33-11H

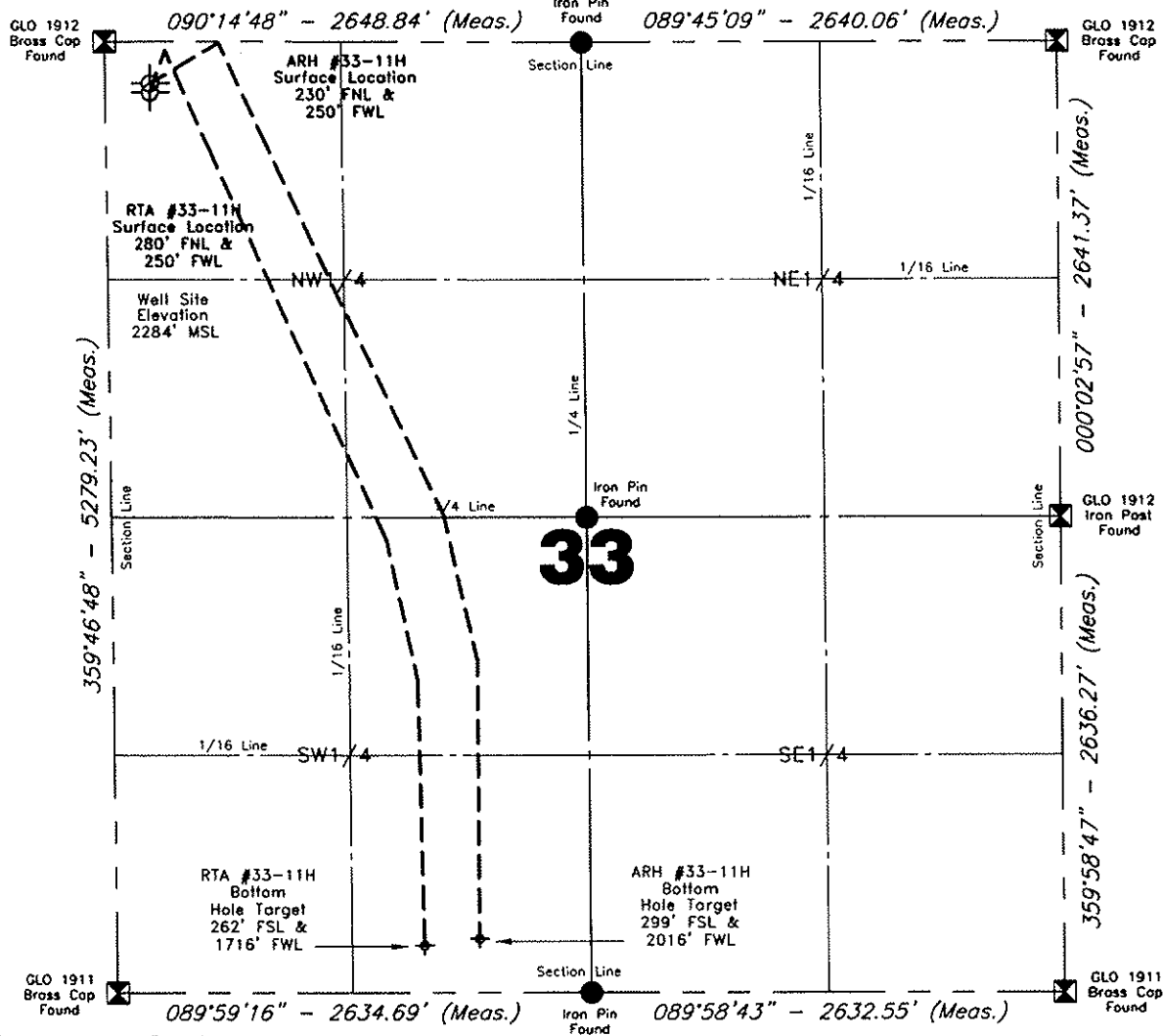
230 feet from the north line and 250 feet from the west line (ARH #33-11H surface location)
299 feet from the south line and 2016 feet from the west line (ARH #33-11H bottom hole location)
280 feet from the north line and 250 feet from the west line (RTA #33-11H surface location)
262 feet from the south line and 1716 feet from the west line (RTA #33-11H bottom hole location)

Section 33, T. 150 N., R. 94 W., 5th P.M.
McKenzie County, North Dakota

Surface owner @ well site - US Department of Interior

Latitude 47°46'28.76" North; Longitude 102°43'39.10" West (ARH #33-11H surface location)
Latitude 47°45'41.89" North; Longitude 102°43'12.99" West (ARH #33-11H bottom hole location)
Latitude 47°46'28.27" North; Longitude 102°43'39.09" West (RTA #33-11H surface location)
Latitude 47°45'41.53" North; Longitude 102°43'17.37" West (RTA #33-11H bottom hole location)

[Derived from OPUS Solution NAD-83(CORS96)]



Confidentiality Notice: The information contained on this plat is legally privileged and confidential information intended only for the use of recipients. If you are not the intended recipients, you are hereby notified that any use, dissemination, distribution or copying of this information is strictly prohibited.

NOTE: All land corners are assumed unless otherwise noted. The well location shown hereon is not an os-built location.

Scale 1"=1000'

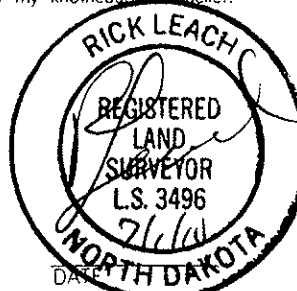
I, Rick Leach, Professional Land Surveyor, N.D. No. 3496, do hereby certify that the survey plat shown hereon was made by me, or under my direction, from notes made in the field, and the same is true and correct to the best of my knowledge and belief.

Mathias A. Krebs 7/24/2008

Surveyed By N.D.P.L.S. # 3214 Date Revised 7/1/2010

Vertical Control Datum Used
Sea-Level Datum of NAVD 88
Based on elevation derived from OPUS Solution on GPS-Mondaree Tow (iron rebar) Located a distance of 7902.77' on an azimuth of 179°04'59" from the S1/4 corner of Section 33, T.150N., R.94W., 5th P.M. being at 2417.17' Elevation MSL.

Professional Consulting Engineers and Surveyors
Registered in
North Dakota, South Dakota
Montana, Wyoming & Minnesota
Tele-Fax No. 701-483-2795
Bus. Phone No. 701-483-1284
P.O. Box 290
677 27th Ave. E.
Dickinson, North Dakota 58602
Certificate of Authorization JC-061



Kadmas
Lee &
Jackson
Engineers Surveyors
Planners

Project No. 3710246
Book OW-191 Pg. 13-18 Staking

Finding of No Significant Impact

Peak North Dakota, LLC Four Horizontal Bakken Exploratory Wells

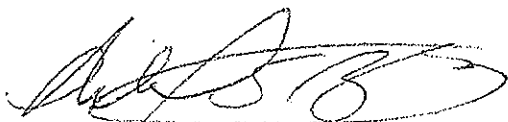
Fort Berthold Indian Reservation, North Dakota

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for six oil/gas wells, access roads and related infrastructure on the Fort Berthold Indian Reservation, named and located as follows:

- Sherwood #28-44H E ½ of Section 28, T151N, R94W
- Red Tipped Arrow #33-11H W ½ of Section 33, T150N, R94W
- Baker #15-44H E ½ of Section 15, T148N, R93W
- Fredericks #23-31H E ½ of Section 23, T148N, R92W

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 Application for Permit to Drill. Potential of the proposed actions to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined that the four proposed projects will not significantly affect the quality of the human environment. No Environmental Impact Statement is required for any portion of the proposed activities. This determination is based on the following factors:

1. Agency and public involvement was solicited for many similar projects and environmental issues related to oil and gas development 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, archeological, 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

COPY

7/21/09

Date