



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

DEC 06 2010

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region

SUBJECT: Supplemental to Environmental Assessment

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for the proposed Supplemental for information tiering off of existing Environmental Assessment for Zenergy Operating Company, to drill new bottom hole and increase spacing unit from 640 to 1280 acres for the Maggie Old Dog #19-18H, formerly TAT (751A) #14-19H, no new surface disturbances will be associated with the spacing change, a Categorical Exclusion has been completed.

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: Tex Hall, Three Affiliated Tribes (with attachment)
Elgin Crows Breast, THPO (with attachment)
Derek Enderud, BLM, Dickenson, ND (with attachment)
Jeffrey Hunt, Virtual One Stop Shop



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EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Date: 12/6/2010

Project: Supplemental to Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, Dakota-3 Ethan Hall #2-14H, January 2009, to authorize new bottom hole location and 1,280-acre spacing unit for Dakota-3 Maggie Old Dog #19-18H formerly TAT (751A) #14-19H, well pad.

Nature of Proposed Action: The purpose of the proposed action is to authorize Zenergy to drill a new bottom hole location which will increase the well spacing from 640 to 1,280 acres for the Maggie Old Dog #19-18H, formerly TAT (751A) #14-19H. No new surface disturbances will be associated with the spacing change.

Exclusion category and number: 516 DM 10.5G(3)

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: Marilyn Bercier, Regional Environmental Scientist

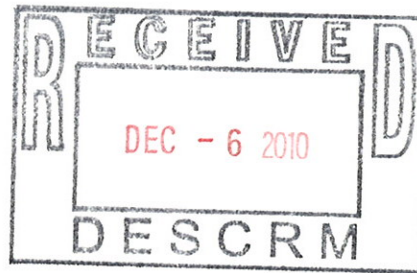
Regional Archeologist Concurrence with Item 7 Carson M. Munda

Concur: Jeffrey E. Davis Date: 12/6/2010
Regional Office/Agency Environmental Coordinator

Concur: [Signature] Date: 12/6/10
Regional Director/Superintendent



Bismarck Office
116 North 4th Street, Suite 200
Bismarck, North Dakota 58501
Tel 701.258.6622 Fax 701.258.5957
www.swca.com



December 3, 2010

Marilyn Bercier
Bureau of Indian Affairs
115 4th Avenue SW
Aberdeen, South Dakota 57401

RE: Zenergy Operating Company, LLC: Maggie Old Dog #19-18H Categorical Exclusion and Kate Soldier #23-14H & Bear Den #24-18H (Nathan Hale #4-25H) Environmental Assessment Addendum

Ms. Bercier,

Enclosed are hardcopies of the Zenergy Operating Company, LLC Maggie Old Dog #19-18H Categorical Exclusion and Kate Soldier #23-14H & Bear Den #24-18H (Nathan Hale #4-25H) Environmental Assessment Addendum for your review. Please feel free to call or email (nklitzka@swca.com) me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "N Klitzka". The signature is stylized and fluid.

Nelson Klitzka

Notification for the Documentation of NEPA Adequacy (DNA)

Addendum to Environmental Assessment to Authorize New Bottom Hole Location and 1,280-acre Spacing Unit for Dakota-3 Maggie Old Dog #19-18H

U.S. Bureau of Indian Affairs (BIA) Office: Great Plains Regional Office, Division of Environment, Safety, and Cultural Resource Management

Applicant: Zenergy Operating Company, LLC (Zenergy)

Project Name: Dakota-3 Maggie Old Dog #19-18H

Purpose and Need of Action: Zenergy is proposing to drill an exploratory oil and gas well on the Fort Berthold Indian Reservation to evaluate and possibly develop the commercial potential of natural resources. 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 the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nations and to individual tribal members.

The purpose of the proposed action is to authorize Zenergy to drill a new bottom hole location which will increase the well spacing from 640 to 1,280 acres for the Dakota-3 Maggie Old Dog #19-18H.

Authorities: Oil and gas exploration and development activities are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 United States Code [USC] 396a, et seq.), the Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.).

Legal Land Descriptions of Proposed Action: The Dakota-3 Maggie Old Dog #19-18H, formerly TAT (751A) #14-19H, well pad is located approximately 4.75 miles northeast of the Mandaree, North Dakota and 15 miles southwest of New Town, in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, Township 150 North, Range 93 West, Dunn County (Figure 1). The bottom hole will be located approximately 9,813.81 feet northwest of the well in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 18, Township 150 North, Range 93 West, Dunn County (Figure 1).

Scope of Work for Proposed Action: Zenergy proposes to change the well pad spacing from 640 to 1,280 acres for the existing Maggie Old Dog #19-18H, formerly TAT (751A) #14-19H, well pad. The new bottom hole location will be approximately 9,813.81 feet northwest of the well pad. No new surface disturbances will be associated with the spacing change.

Applicable National Environmental Policy Act (NEPA) Document(s): Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Nathan Hale #4-25H, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, Dakota-3 Ethan Hall #2-14H, January 2009.

NEPA Adequacy Criteria: This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Nathan Hale #4-2, Dakota-3 TAT (751A) #14-19H, Dakota-3 Cross #2-13H, Dakota-3 Ethan Hall #2-14H, January 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. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA document.

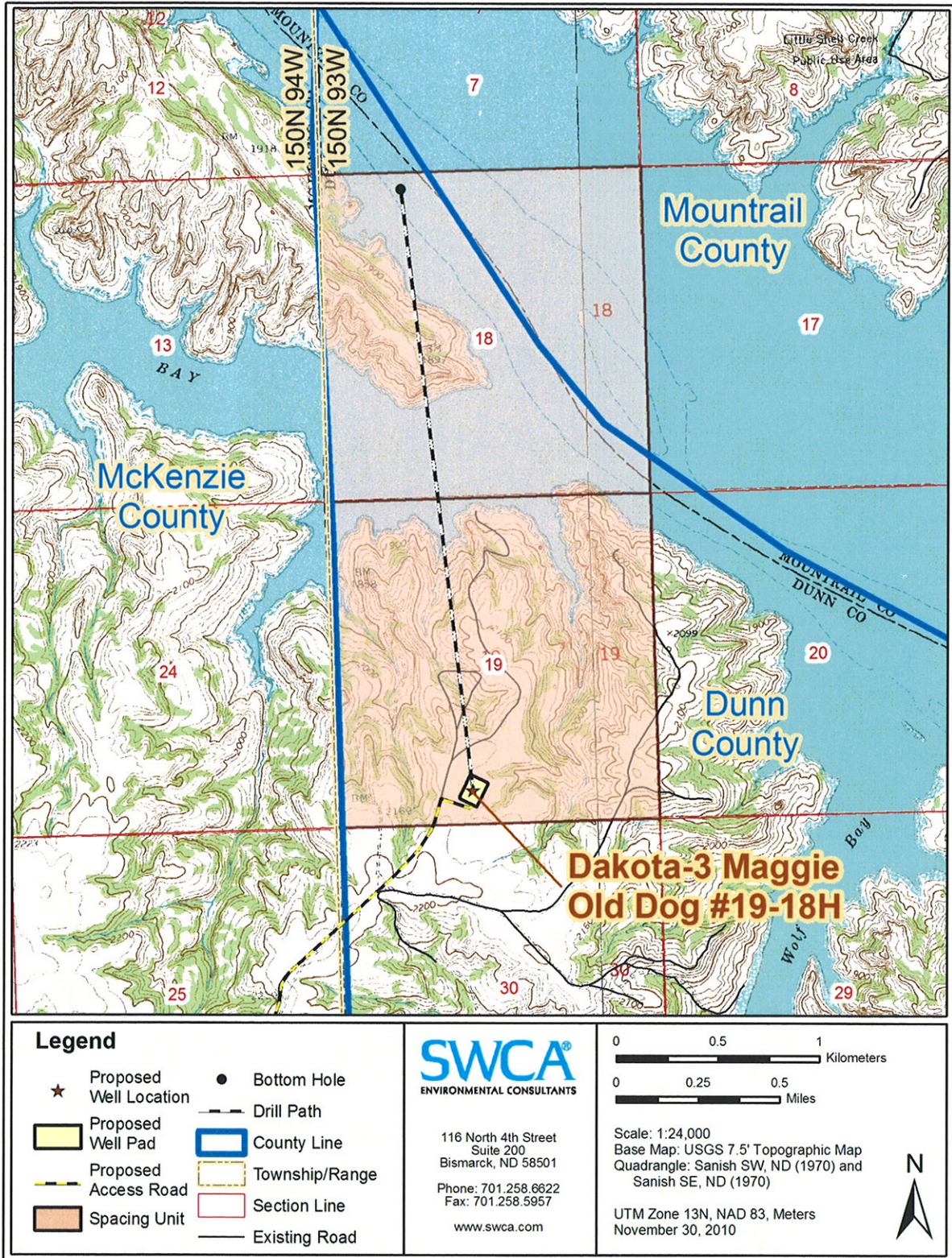


Figure 1. Map of Dakota-3 Maggie Old Dog #19-18H.

Notification for the Documentation of NEPA Adequacy (DNA)

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U.S. Bureau of Indian Affairs (BIA) Office: Great Plains Regional Office, Division of Environment, Safety, and Cultural Resource Management

Applicant: Zenergy Operating Company, LLC (Zenergy)

Project Name: Dakota-3 Maggie Old Dog #19-18H

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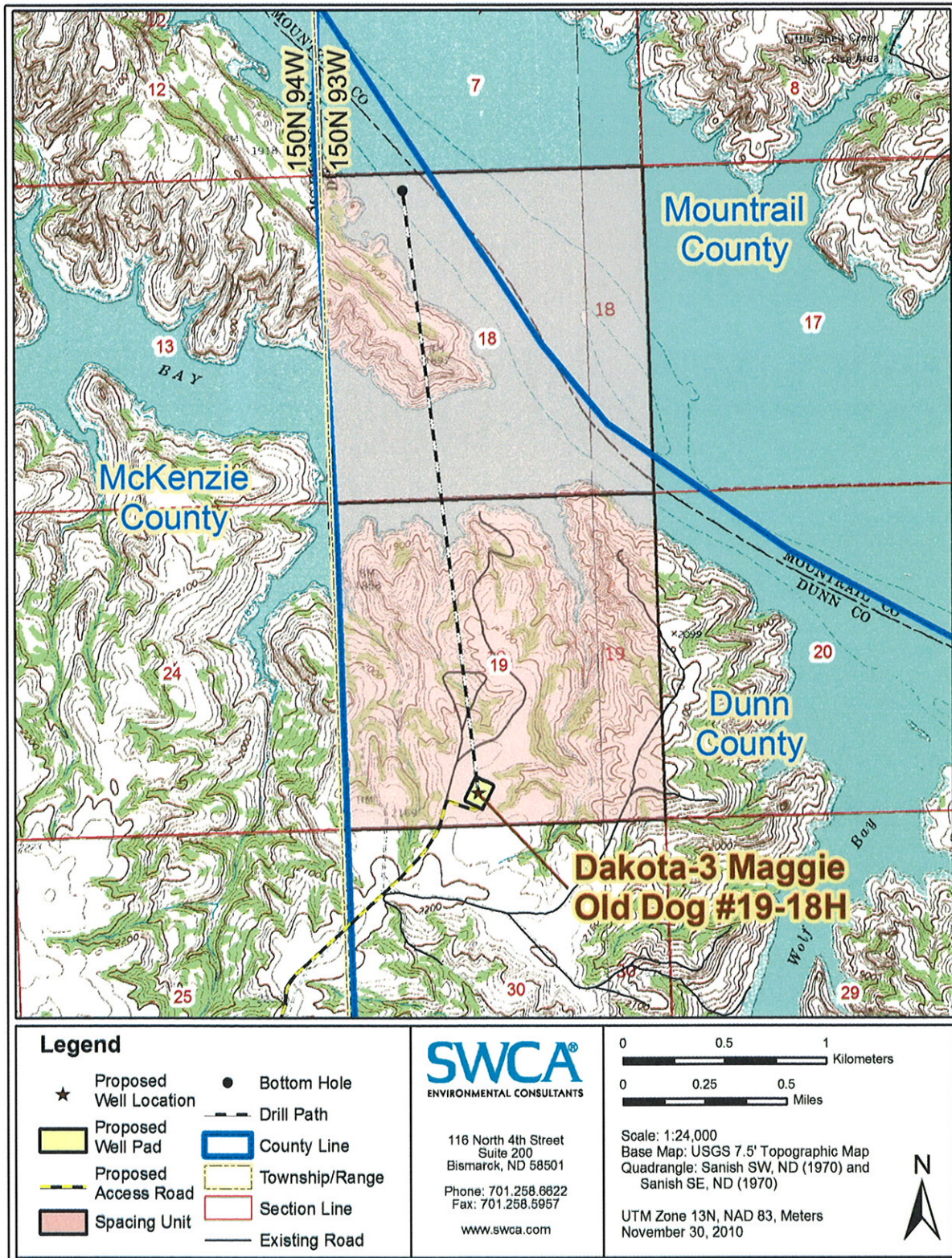


Figure 1. Map of Dakota-3 Maggie Old Dog #19-18H.