



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

FEB 02 2011

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: ^{Acting} Regional Director, Great Plains Region *Marilyn Bercier*

SUBJECT: Environmental Assessment Addendum and Finding of No Significant Impact

In compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended, for an Addendum to Environmental Assessment to authorize land use to connect an existing access road to the Fort Berthold #151-94-26B-35-1H well pad by Petro-Hunt, LLC 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: Tex Hall, Chairman, Three Affiliated Tribes (with attachment)
Elgin Crows Breast, THPO (with attachment)
Derek Enderud, BLM, Dickenson, ND (with attachment)
John Shelman, US Army Corps of Engineers
Jeffrey Hunt, Virtual One Stop Shop

**Finding of No Significant Impact
Petro-Hunt, LLC**

**Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing
Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad**

**Fort Berthold Indian Reservation
McKenzie County, North Dakota**

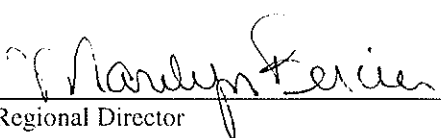
The U.S. Bureau of Indian Affairs (BIA) has received a proposal to construct an access road connecting an existing Marathon access road to the Fort Berthold #151-94-26B-35-1H well pad. Approximately 5,003.50 feet of new access road would be constructed of which 3,900.43 feet are on trust land. A maximum disturbed ROW width of 100 feet for the access road would result in approximately 8.95 acres of new surface disturbance on trust land. 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.

The 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 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 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. This guidance includes the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (MBTA), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.) (NEPA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) (BGEPA), Executive Order 13186 "Responsibilities of Federal Agencies to Protect Migratory Birds", and the Endangered Species Act (16 U.S.C. 1531 et seq.) (ESA).
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


Date

**ENVIRONMENTAL ASSESSMENT
Addendum**

United States Bureau of Indian Affairs

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



Petro-Hunt, LLC

**Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing
Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad**

Fort Berthold Indian Reservation

February 2011

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. Purpose and Need for the Proposed Action

Petro-Hunt, LLC (Petro-Hunt) is proposing to drill an exploratory oil and gas well on fee surface within the exterior boundaries of the Fort Berthold Indian Reservation to evaluate and possibly develop the commercial potential of natural resources. However, to access the Fort Berthold #151-94-26B-35-1H well pad, an access road is proposed to be constructed on land held in trust by the United States in McKenzie County, North Dakota. The Bureau of Indian Affairs (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 land use by Petro-Hunt for the construction of an access road connecting an existing access road, constructed by Marathon Oil Corporation (Marathon), to the Fort Berthold #151-94-26B-35-1H well pad. This access road will have a permanent right-of-way (ROW) of 100 feet.

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 Indian Mineral Development Act of 1982 (25 USC 2101, et seq.), and the Energy Policy Act of 2005 (42 USC 15801, et seq.).

3. Legal Land Description for Proposed Action

A portion of the proposed access road would be located on trust land originating from the Marathon access road in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, Township (T) 151 North (N), Range (R) 94 West (W), 5th Prime Meridian (P.M.), McKenzie County, North Dakota (Figure 1). The proposed access road would trend east-southeast then northeast until the west line of Section 26, T151N, R94W, 5th P.M., McKenzie County, North Dakota. The proposed access road would subsequently travel east-northeast on fee surface until it reached the Fort Berthold #151-94-26B-35-1H well pad, also located on fee surface, in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26, T151N, R94W, approximately 12.5 miles north of Mandaree, North Dakota.

4. Scope of Work for Proposed Action

Petro-Hunt proposes to construct an access road connecting an existing Marathon access road to the Fort Berthold #151-94-26B-35-1H well pad. Approximately 5,003.50 feet of new access road would be constructed of which 3,900.43 feet are on trust land. A maximum disturbed ROW width of 100 feet for the access road would result in approximately 8.95 acres of new surface disturbance on trust land. 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 Bureau of Land Management (BLM) Gold Book (BLM and U.S. Forest Service 2007¹). 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 and must be contained within the 100-foot ROW. The ditches would be reseeded as quickly as possible using a seed mixture determined by the BIA. The access road would be surfaced with a minimum of 4 inches of aggregate if the site were to be established as a commercial production site. Also, the roadway would remain in use for the life of the well. The access road plat is provided in Appendix A.

5. Surveys

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for threatened and endangered species, migratory birds, bald and golden eagles, and wetlands on July 26, 2010. BIA Environmental Specialist Jeff Desjarlais approved the location of the access road on July 26, 2010. No threatened and endangered species, migratory birds or nests, or bald/golden eagles were observed during the natural resource survey. No wetland areas are anticipated to be impacted by the construction of the proposed access road.

A cultural resource inventory of this pad and access route was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 57.31 acres were inventoried on October 14, 2010 (Herson *et al.* 2010). One archaeological site was located that may 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, as the access road has been relocated so as to avoid the archaeological site. This determination was communicated to the THPO on December 27, 2010; however the THPO did not respond within the allotted 30 day comment period.

Herson, Chandler S., Nicholas Smith and Judith Cooper (2010) A Class I and Class III Cultural Resource Inventory of the Petro-Hunt Fort Berthold #151-94-26A-35-2H and Fort Berthold #151-94-26B-35-1H Well Pads and Access Roads, McKenzie County, North Dakota. SWCA Environmental Consultants for Petro-Hunt, LLC, Bismarck.

6. Potential Effects

Potential direct impacts to cultural resource sites would occur as a result of disturbance and/or the loss of sites eligible for the NRHP. All potential impacts as a result of the proposed action

¹ Bureau of Land Management and U.S. Forest Service
2007 Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development.
BLM/WO/ST-06/021+3071/REV 07. Bureau of Land Management. Denver, Colorado. 84 pp.

were mitigated via field survey and subsequent avoidance of any eligible cultural resource sites within the proposed ROW.

Potential direct impacts to natural resources may include the loss of native vegetation and wildlife habitats, soil disturbance, and erosion during construction that may adversely affect air and water quality. Impacts would be mitigated by using best management practices during construction to minimize disturbance. When construction activities are concluded, reclamation would take place and would include the return of topsoil and contouring, and seeding of native vegetation.

Potential indirect impacts include noise and other disturbances to wildlife during construction and the introduction of noxious weeds. Impacts would be mitigated through avoidance of any federally listed threatened or endangered species or wetlands, avoidance of nesting migratory birds, implementation of best management practices to control the introduction of noxious weeds, and by minimizing the length of time between initial construction and reclamation of the ROW. These mitigation measures are consistent with the approved National Environmental Policy Act (NEPA) document, which received a finding of no significant impact (April 2010).

Based on the completion of resource surveys, the supplementary assessment of the potential impacts of the proposed action, and the mitigation measures committed to by Petro-Hunt, no significant impacts to natural and cultural resources are anticipated.

7. Applicable and Associated NEPA Document(s)

Environmental Assessment: Marathon Oil Company, Drilling of Crow Flies High – USA #31-4H, Danks – USA #11-3H, and TAT – USA #34-22H Exploratory Oil and Gas Wells (April 2010).

8. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Marathon Oil Company, Drilling of Crow Flies High – USA #31-4H, Danks – USA #11-3H, and TAT – USA #34-22H Exploratory Oil and Gas Wells (April 2010)*, 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.

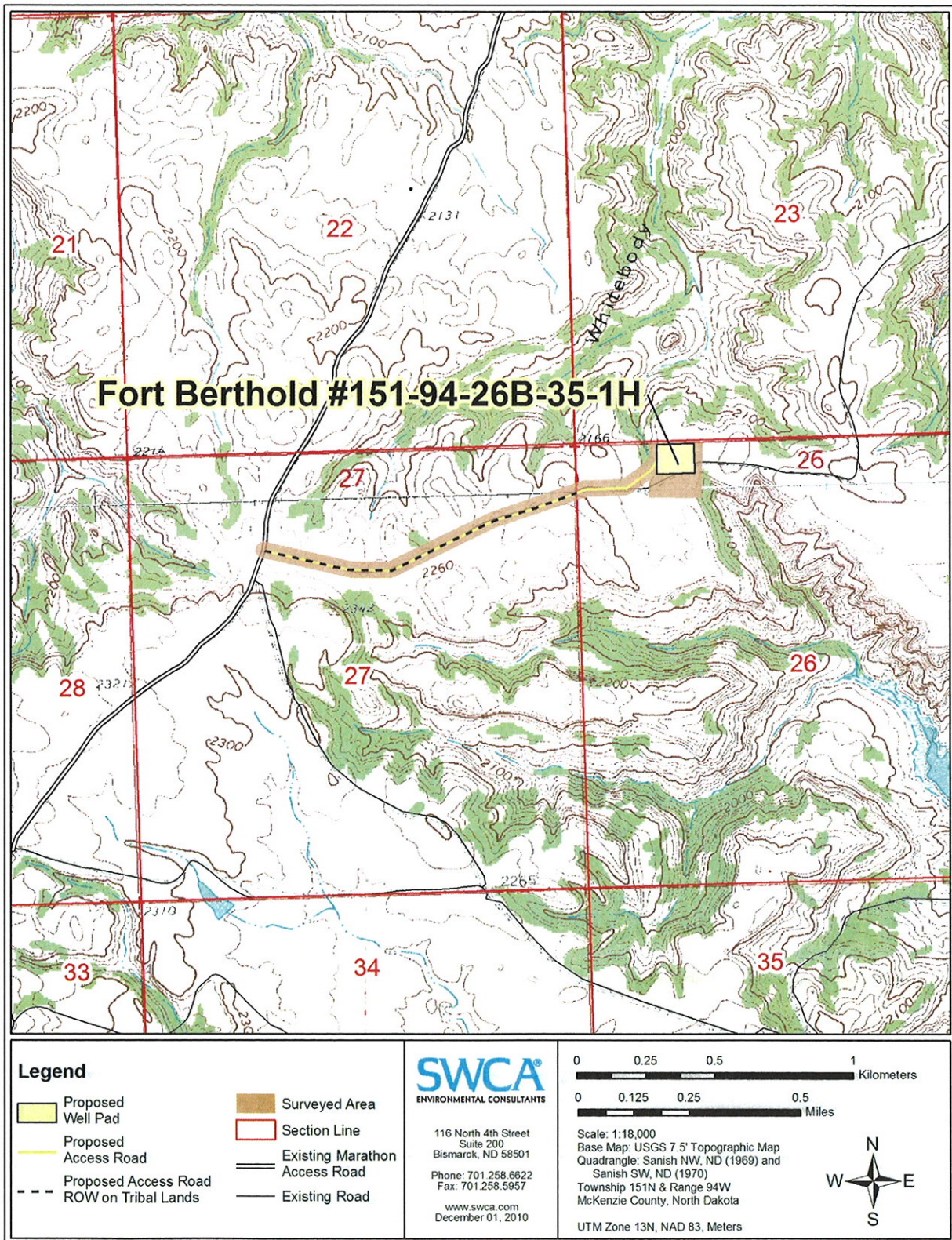


Figure 1. Proposed access road connecting existing Marathon access road to the Fort Berthold #151-94-26B-35-1H well pad.

Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad (February 2011)



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 27 2010

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 two proposed oil well pads and access roads in McKenzie County, North Dakota. Approximately 57.31 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area depicted in the enclosed report. One archaeological site (32MZ1784) was located that may 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 have therefore reached a determination of **no historic properties affected** for these undertakings, as the archaeological site will be avoided. Catalogued as **BIA Case Number AAO-1888/FB/11**, the proposed undertakings, locations, and project dimensions are described in the following report:

Herson, Chandler S., Nicholas Smith and Judith Cooper
(2010) A Class I and Class III Cultural Resource Inventory of the Petro-Hunt Fort Berthold #151-94-26A-35-2H and Fort Berthold #151-94-26B-35-1H Well Pads and Access Roads, McKenzie County, North Dakota. SWCA Environmental Consultants for Petro-Hunt, LLC, Bismarck.

If your office concurs with this determination, consultation will be completed under the National Historic Preservation Act and its implementing regulations. The Standard Conditions of Compliance will be adhered to.

If you have any questions, please contact Dr. Carson N. Murdy, Regional Archaeologist, at (605) 226-7656.

Sincerely,


ACTING Regional Director

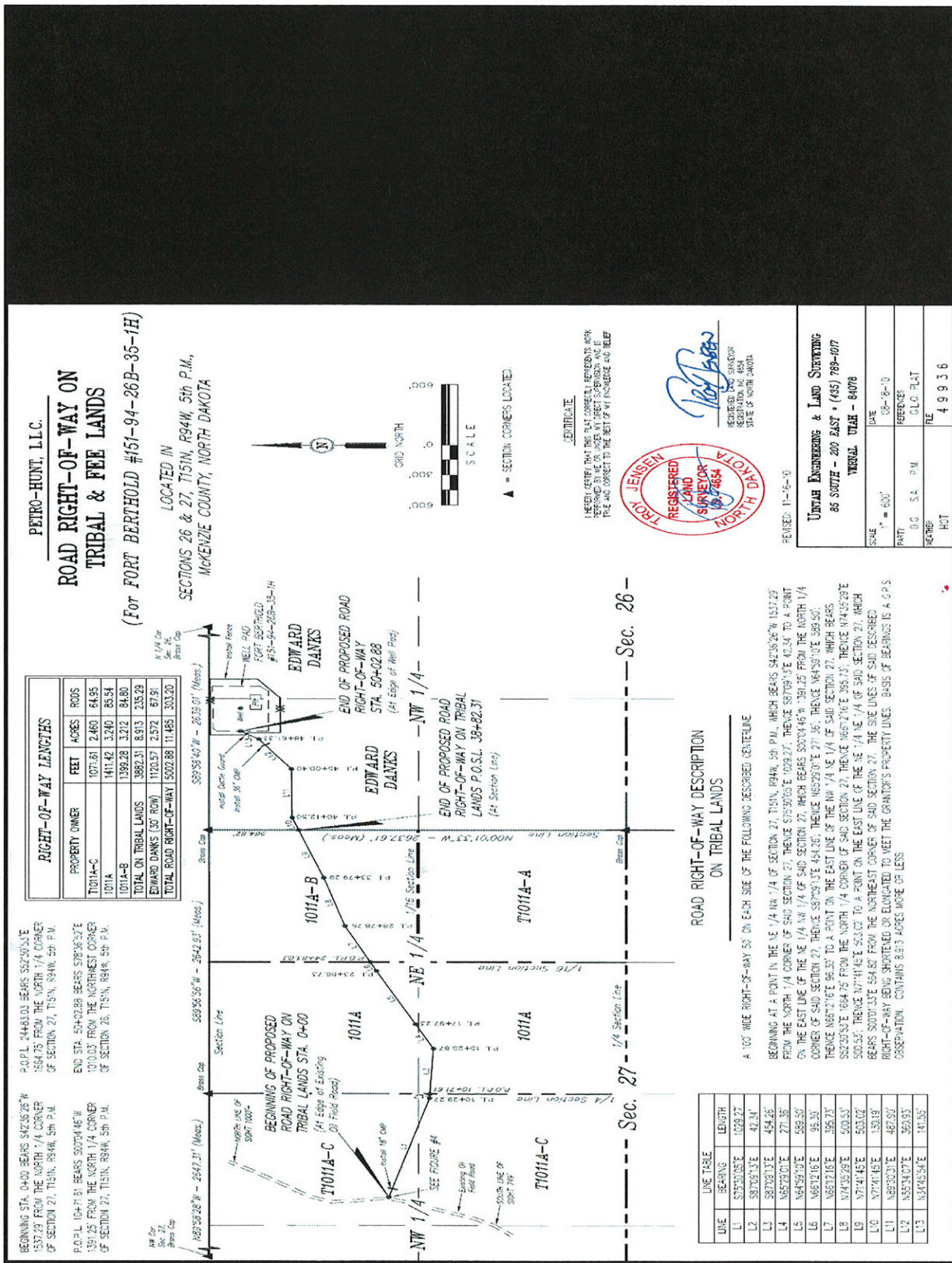
Enclosure

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

APPENDIX A

**Right-of-Way for the Access Road Connecting
Existing Marathon Access Road to the Fort Berthold #151-94-26B-35-1H
Well Pad**

Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad (February 2011)



PETRO-HUNT, L.L.C.

ROAD RIGHT-OF-WAY ON TRIBAL & FEE LANDS

(For Fort Berthold #151-94-26B-35-1H)

LOCATED IN SECTIONS 26 & 27, T15N, R94W, 5th P.M., MCKENZIE COUNTY, NORTH DAKOTA



GRID NORTH



SCALE

▲ = SECTION CORNERS LOCATED

CENTRIFUGAL

I HEREBY CERTIFY THAT THE PLAT CORRECTLY REPRESENTS WORK REFERRED TO BY ME ON THESE MY DEEDS IN ACCORDANCE WITH THE ACT AND CONSENT TO THE BEST OF MY KNOWLEDGE AND BELIEF



TROY JENSEN
REGISTERED LAND SURVEYOR
NO. 1078654
STATE OF NORTH DAKOTA

REVISED: 11-16-10

UNDAH ENGINEERING & LAND SURVEYING
85 SOUTH - 200 EAST • (435) 789-0707
VERNAL, UTAH - 84078

SCALE	DATE
1" = 600'	08-18-10
PART	REVISED
O.G. S.A. P.M.	G.L.O. P.L.T.
REVISION	FILE
HOT	49936

Notice of Availability and Appeal Rights

PetroHunt: Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to Addendum to Environmental Assessment to Authorize Land Use to Connect an Existing Access Road to the Fort Berthold #151-94-26B-35-1H Well Pad as shown on the attached map. Construction by Peak is expected to begin in the Spring 2011.

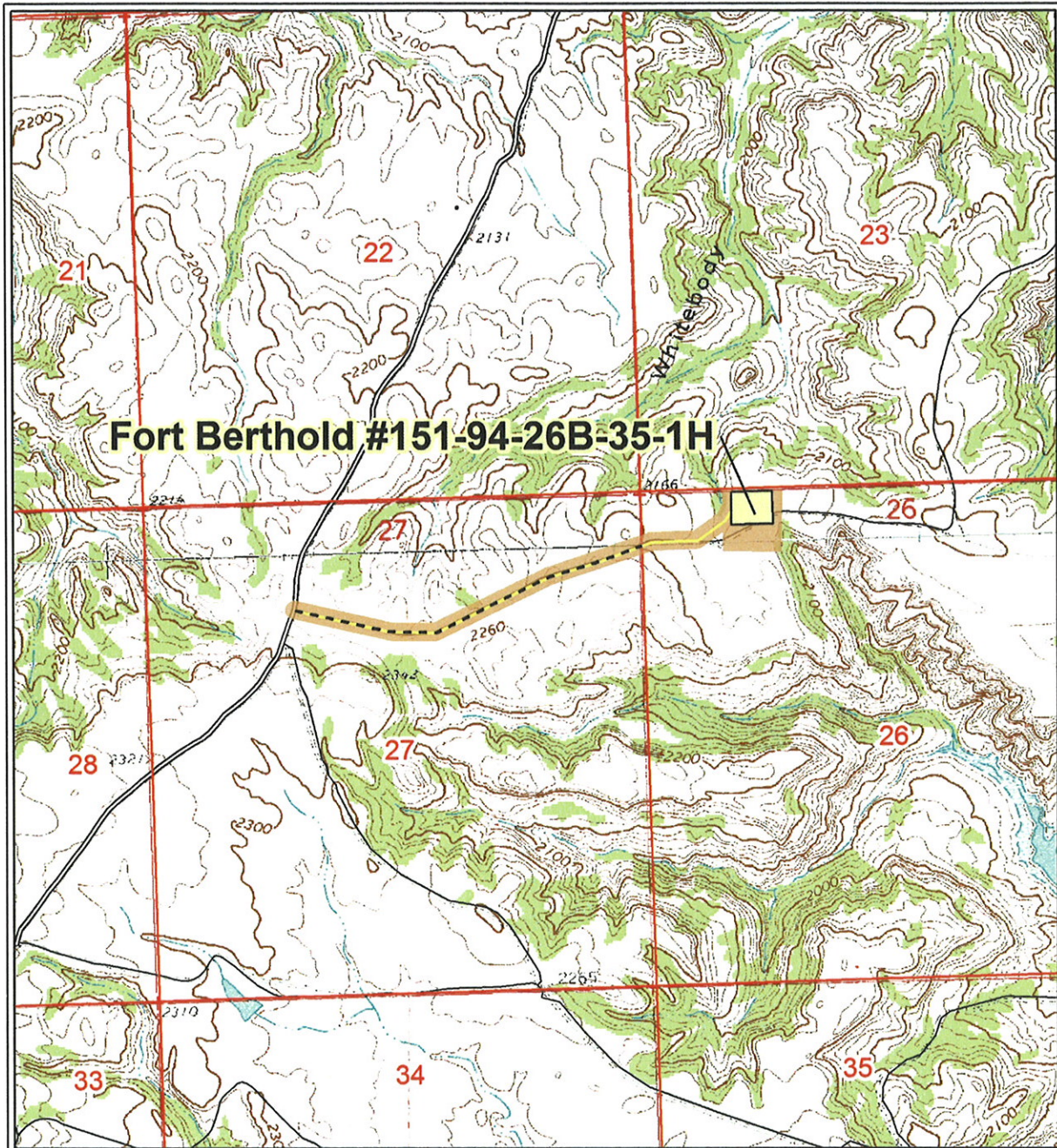
An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Howard Bemer, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No 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 March 3, 2011, 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.

Project locations.



- Legend**
- Proposed Well Pad
 - Proposed Access Road
 - Proposed Access Road ROW on Tribal Lands
 - Surveyed Area
 - Section Line
 - Existing Marathon Access Road
 - Existing Road

SWCA
 ENVIRONMENTAL CONSULTANTS

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 Bismarck, ND 58501
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 Fax: 701.258.5957
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 December 01, 2010

0 0.25 0.5 1 Kilometers
 0 0.125 0.25 0.5 Miles

Scale: 1:18,000
 Base Map: USGS 7.5' Topographic Map
 Quadrangle: Sanish NW, ND (1969) and
 Sanish SW, ND (1970)
 Township 151N & Range 94W
 McKenzie County, North Dakota
 UTM Zone 13N, NAD 83, Meters