



# United States Department of the Interior

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



FEB 07 2011

IN REPLY REFER TO:  
DESCRM  
MC-208

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region *William L. McKelvey*

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, to authorize expanding the access road right-of-way to the Red Feather USA #21-17H/Red Feather USA #31-17H by Marathon 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**

### **Marathon Oil Company (Marathon)**

**Addendum to:**

#### **Marathon Oil Company December 2010 Environmental Assessment for Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells**

#### **Fort Berthold Indian Reservation Mountrail County, North Dakota**


The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize expanding the access road right-of-way to the Red Feather USA 21-17H/Red Feather USA #31-17H a total of 54 feet. Currently, the access road right-of-way is currently 66 feet and would total 120 feet with the additional right-of-way expansion. The right-of-way expansion is requested to accommodate snow clearing operations when necessary. All road construction and infrastructure-related surface disturbance would remain within the original 66-foot road right-of-way footprint. The access road corridor is 1.42-miles long, beginning along the north section line of Section 5, Township 150 North, Range 93 West and ending in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 8, Township 150 North, Range 93 West. This access road connects with 30<sup>th</sup> Street NW.

The potential of the proposed action to impact the human environment is analyzed in the following Environmental Assessment (EA), as required by the National Environmental Policy Act (NEPA). Based on the EA, I have determined that the proposed project will not significantly affect the quality of the human or natural 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 action and the No Action alternatives.
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 action is 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 project will improve the socio-economic condition of the affected Indian community.

  
\_\_\_\_\_  
Regional Director

2/9/11  
\_\_\_\_\_  
Date

# **ENVIRONMENTAL ASSESSMENT**

## **Addendum**

**United States Bureau of Indian Affairs**

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



**Marathon Oil Company**

**Addendum to:**

**Marathon Oil Company December 2010 Environmental Assessment for Drilling of  
Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells**

**Fort Berthold Indian Reservation**

**January 2011**

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

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## 1. Purpose and Need for the Proposed Action

Marathon Oil Company (Marathon) proposes to increase the right-of-way from 66 feet to 120 feet on a 1.42-mile long access road corridor to accommodate ongoing snow removal and storage efforts. The road is located in Sections 5 and 8, Township 150 North, Range 93 West, 5<sup>th</sup> P.M. The previously-acquired right-of-way of 66 feet does not allow adequate space to pile the snow, which narrows the road surface and creates hazardous driving conditions. *Please refer to Figure 1, Project Location Map and Figure 2, Site Overview Map.*

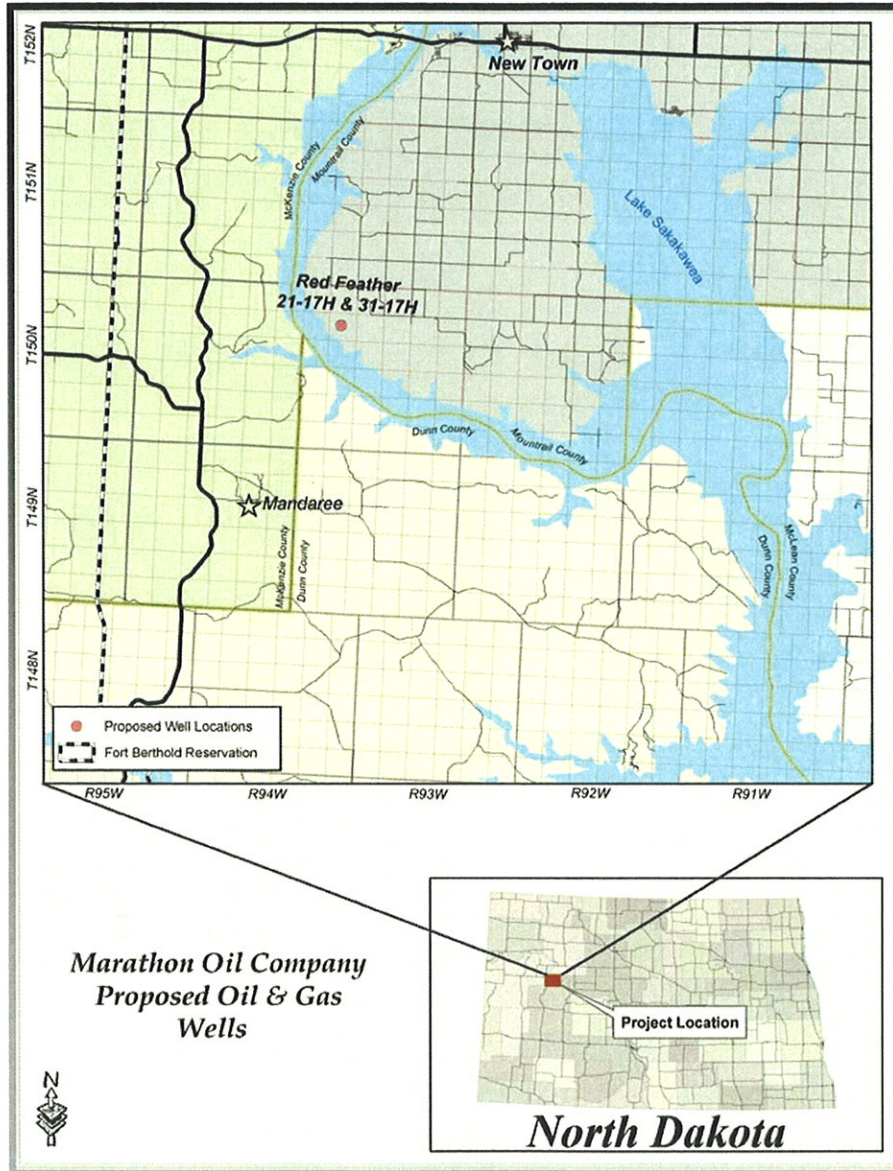


Figure 1, Project Location Map





**Figure 2, Site Overview Map**

## **2. Authorities**

Activities associated with oil and gas exploration and development are conducted under authority of the Indian Mineral Leasing Act of 1938 (25 USC [United States Code] 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 of Proposed Action**

The proposed right-of-way increase of the access road corridor would begin on the quarter line in the N½ Section 5, then travel through the SW¼ of Section 5, Township 150 North, Range 93 West, 5<sup>th</sup> P.M. The access road would continue through the NW ¼ of Section 8, Township 150 North, Range 93 West, 5<sup>th</sup> P.M. and end at the well pad located SE¼NW¼ of Section 8, Township 150 North, Range 93 West, 5<sup>th</sup> P.M.

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

The Red Feather USA 21-7H and Red Feather USA 31-17H access road right-of-way would be increased from 66 feet to 120 feet to accommodate snow clearing operations when necessary. The previously-acquired right-of-way of 66 feet does not allow adequate space to pile the snow, which narrows the road surface and creates hazardous driving conditions. Due to the amount of snowfall, the increased right-of-way is necessary to maintain the access route. All road construction and infrastructure-related surface disturbance would remain within the original 66-foot road right-of-way footprint.

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

Environmental Assessment: Marathon Oil Company December 2010 Environmental Assessment for Drilling of Red Feather USA 21-17H and Red Feather USA 31-17H Oil & Gas Wells.

- FONSI issued December 3, 2010.

## **6. Assessment of Environmental Impacts**

### **A. Wildlife**

Site visits to the project area were completed in consultation with the BIA Environmental Protection Specialist in July 2010. A 200-foot corridor was surveyed during the on-site assessment. The purpose of these visits was to assess the project area for potential wildlife habitat and impacts. The results of these assessments confirmed that no threatened or endangered species would be impacted in the 200-foot survey corridor. The proposed right-of-way increase would be located within the area surveyed as part of the July 2010 on-site assessments and is not expected to result in additional impacts to wildlife.



## B. Cultural Resources

The proposed project area has been surveyed for cultural resources as part of the NEPA processes discussed above. The increased right-of-way would fall within a 150-foot corridor that was previously surveyed. No cultural resources were identified during that survey. Therefore, the proposed right-of-way expansion is not anticipated to result in impacts to cultural resources.

## 7. NEPA Adequacy Criteria

This document has identified one previously prepared NEPA documents, *Marathon Oil Company December 2010 Environmental Assessment for Drilling of Red Feather USA 21-7H and Red Feather USA 31-17H Oil & Gas Wells*, which adequately describe the environmental consequences of the newly proposed action described herein, and meets the following NEPA Adequacy Criteria:

1. The proposed actions are substantially the same actions and at the sites specifically analyzed in the existing NEPA document.
2. The range of alternatives is reasonable with respect to the current proposed actions 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 and/or resource assessment information.
4. The methodology and analytical approach used in the existing NEPA document continues to be appropriate for the proposed actions.
5. The direct and indirect impacts of the proposed action are unchanged from those identified in the existing NEPA document or described in this EA Addendum.
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.

# **Notice of Availability and Appeal Rights**

Marathon: EA Addendum expanding access road Right-of-Way

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to expand access road ROW to the Red Feather USA 21-17H/Red Feather USA #31-17H as shown on the attached map. Construction by Marathon 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 9, 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.**

