



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

MAR 02 2011

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region 

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 an Environmental Assessment to authorize land use for a Right-of-Way width increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H access roads 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 for a Right-of-Way Width Increase for the
Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and
Fort Berthold #148-94-29B-32-1H Access Roads**

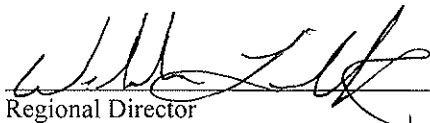
**Fort Berthold Indian Reservation
Dunn County, North Dakota**

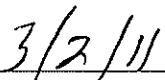
The U.S. Bureau of Indian Affairs (BIA) has received a proposal to increase the approved Right-of-Way (ROW) width from 66 feet to 100 feet for the shared access road to the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H well pads. Associated federal 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.


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 for a Right-of-Way Width Increase for the
Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and
Fort Berthold #148-94-29B-32-1H Access Roads**

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) has been approved to drill three exploratory oil and gas wells 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 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 the land use by Petro-Hunt to increase the approved right-of-way (ROW) width from 66 feet to 100 feet for the shared access road to the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H well pads.

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

The proposed access road would be constructed on trust land trending south from its origination point with BIA Road 14, approximately 8.7 miles south of Mandaree, North Dakota, in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township (T) 148 North (N), Range (R) 94 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota.

A portion of the proposed access road would diverge from the shared access road (Figure 1) and terminate at the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H dual well pad in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, T148N, R94W, 5th P.M., Dunn County, North Dakota.

The access road would continue south until its termination at the Fort Berthold #148-94-29B-32-1H well pad in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T148N, R94W, 5th P.M., Dunn County, North Dakota.

4. Scope of Work for Proposed Action

Approximately 8,400 feet of approved access road would be constructed resulting in a maximum disturbance of approximately 19.3 acres. This ROW increase represents an addition of approximately 6.6 acres of disturbance from that originally proposed. 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 Gold Book (Bureau of Land Management 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. The ditches would be reseeded as quickly as possible using a seed mixture determined by the BIA. Care would be taken during road construction to avoid disturbing or disrupting any buried utilities that may exist near BIA Road 14. 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 wells. Access road plats are 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 May 12 and June 25, 2010. BIA Environmental Specialist Jeff Desjarlais approved the location of the access road. SWCA observed no protected species during the natural resource surveys.

On May 12 and June 25, 2010, SWCA inventoried approximately 44.12 acres for cultural resources, using an intensive pedestrian methodology (Lechert, Markman, and Cooper 2010²; Lechert et al. 2010³). Two previously recorded archaeological sites were revisited, one of which was redefined as a series of isolated finds and the other may possess the quality of integrity and meet at least one of the criteria (Title 36 Code of Federal Regulations [CFR] 60.6) for inclusion on the National Register of Historic Places. 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 potentially eligible site is outside the Area of Potential Effect of these projects. This determination was communicated to the Tribal Historic Preservation Officer on October 20, 2010, and the Tribal Historic Preservation Officer concurred on October 25, 2010. An additional ROW Onsite was conducted on January 21, 2011 to approve the additional access road width by the BIA (Jeff Desjarlais) and BLM (Derek Endrude).

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.

² Lechert, Stephanie, Jon Markman, and Judith Cooper. 2010. A Class I and Class III Cultural Resource Inventory of the Petro-Hunt Fort Berthold #148-94-19D-18-1H and Fort Berthold #148-94-30A-31-1H Dual Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants for Petro-Hunt, LLC. Bismarck, North Dakota.

³ Lechert, Stephanie, Jon Markman, Nelson Klitzka, and Judith Cooper. 2010. A Class I and Class III Cultural Resource Inventory of the Petro-Hunt Fort Berthold #148-94-29B-32-1H Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants for Petro-Hunt, LLC. Bismarck, North Dakota.

6. Potential Effects

Potential impacts to cultural resource sites would occur as a result of direct disturbance and/or the loss of sites eligible for the National Register of Historic Places. Further, potential impacts to natural resources may include the loss of native vegetation and wildlife habitats; soil removal and mixing; and erosion during construction. However, potential impacts as a result of the proposed action were mitigated via field survey and subsequent avoidance of any eligible cultural resource sites within the proposed ROW; implementing a stormwater pollution prevention plan and best management practices; completing reclamation of the unused portions of the ROW with native grasses and other appropriate native vegetation; and stockpiling and re-using topsoil for reclamation.

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, and implementing best management practices to control the introduction of noxious weeds. These mitigation measures are consistent with the approved National Environmental Policy Act (NEPA) document, which received a finding of no significant impact (FONSI) (November 2010).

Resource surveys and the supplementary assessment of the potential impacts of the proposed action were completed in May and June 2010. Based on those surveys and the mitigation measures committed to by Petro-Hunt, no significant impacts to natural and cultural resources are anticipated.

7. Applicable NEPA Document(s)

Environmental Assessment: Petro-Hunt, LLC, Two Three Forks Exploratory Oil Wells: Fort Berthold #148-94-19D-18-1H, Fort Berthold #148-94-30A-31-1H, and Fort Berthold #148-94-29B-32-1H (November 2010).

8. NEPA Adequacy Criteria

This document has identified one previously prepared NEPA document, *Environmental Assessment: Petro-Hunt, LLC, Two Three Forks Exploratory Oil Wells: Fort Berthold #148-94-19D-18-1H, Fort Berthold #148-94-30A-31-1H, and Fort Berthold #148-94-29B-32-1H* (November 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.

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Roads (February 2011)

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.

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Roads (February 2011)

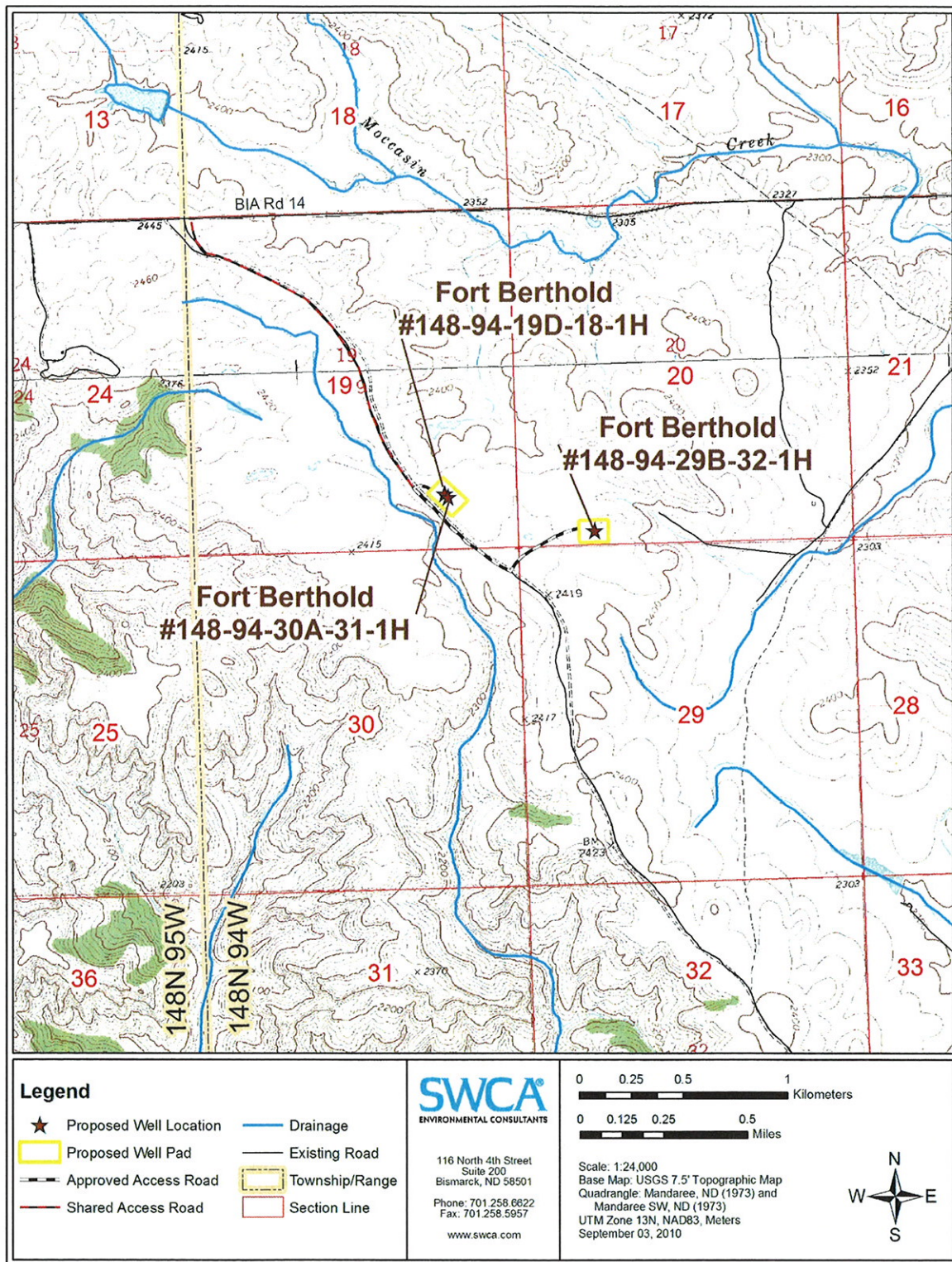
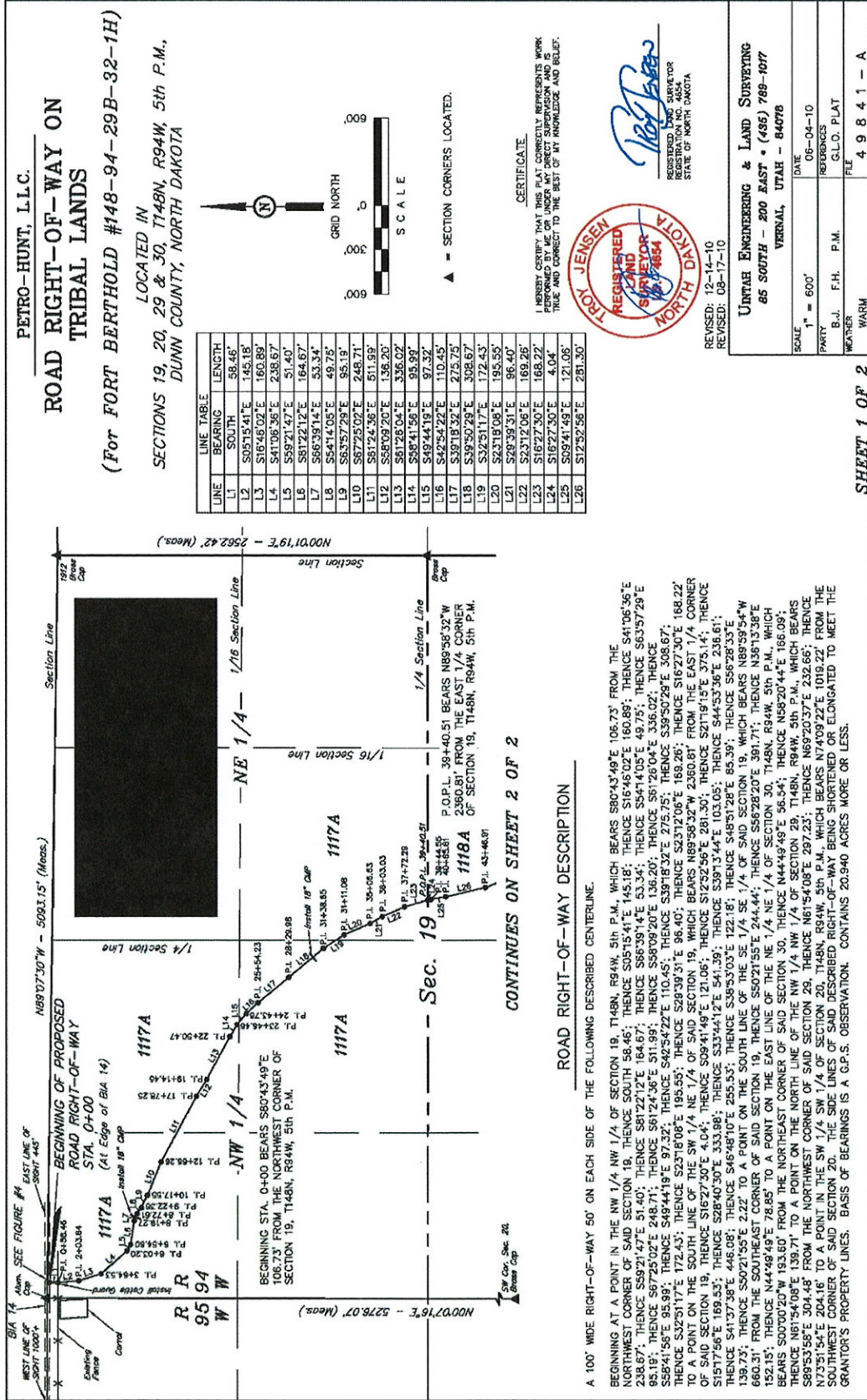


Figure 1. Proposed Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Road Right-of-Way.

APPENDIX A

**Access Road Right-of-Way
for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H
and Fort Berthold #148-94-29B-32-1H Well Pads**

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Roads (February 2011)



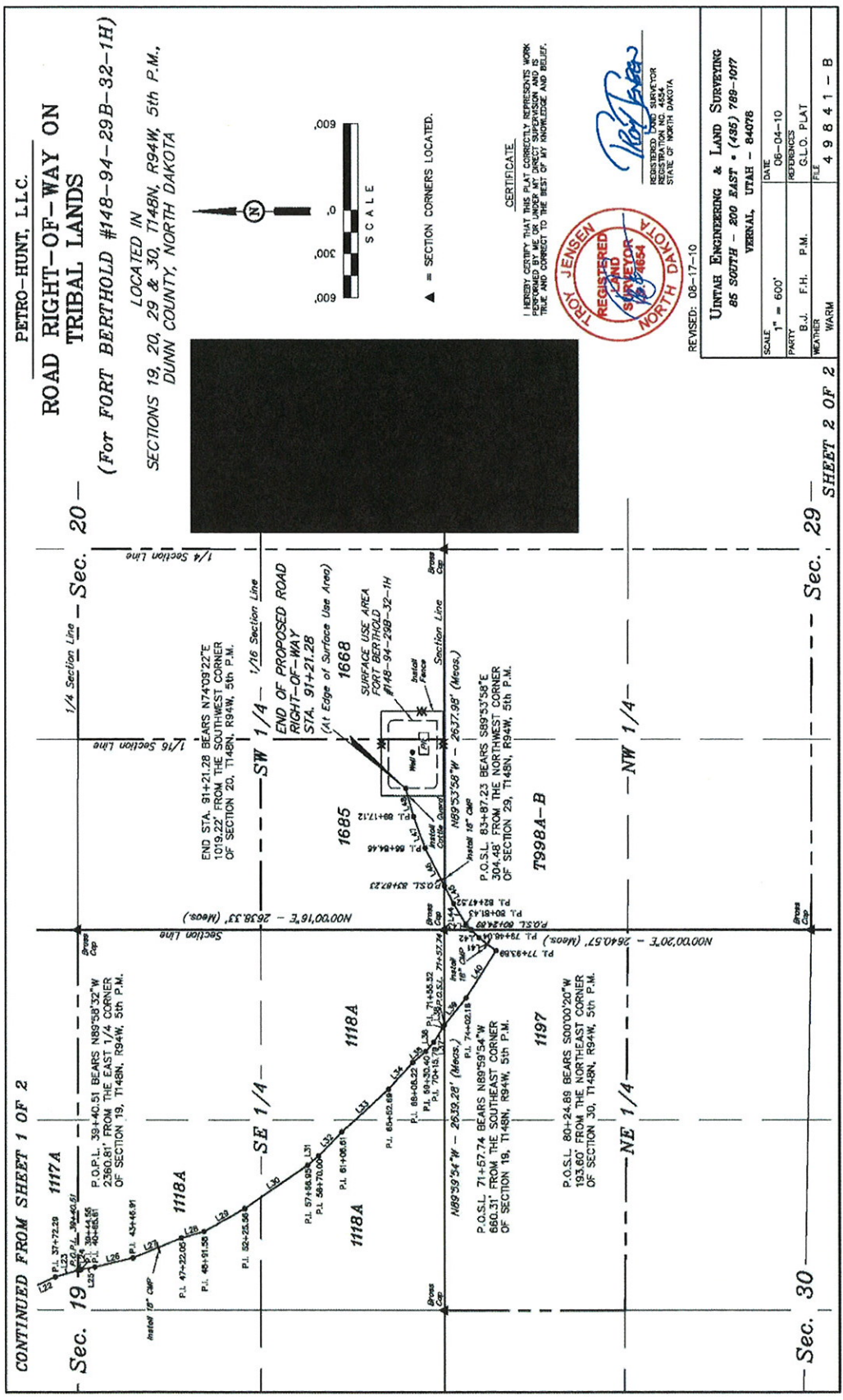
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ROAD RIGHT-OF-WAY DESCRIPTION

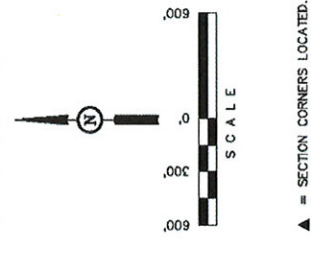
A 100' WIDE RIGHT-OF-WAY 50' ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE.

BEGINNING AT A POINT IN THE NW 1/4 NW 1/4 OF SECTION 19, T148N, R94W, 5th P.M., WHICH BEARS S80°43'49" 106.73' FROM THE NORTHWEST CORNER OF SAID SECTION 19, THENCE SOUTH 58.46'; THENCE S16°45'02" 160.89'; THENCE S41°05'36" 238.67'; THENCE S59°21'47" 51.40'; THENCE S81°22'12" 164.67'; THENCE S66°39'14" 53.34'; THENCE S54°14'05" 49.75'; THENCE S63°57'29" 95.19'; THENCE S67°25'02" 248.71'; THENCE S91°24'36" 511.99'; THENCE S58°09'20" 136.20'; THENCE S61°28'04" 336.02'; THENCE S58°41'56" 95.99'; THENCE S49°44'19" 97.32'; THENCE S42°54'22" 110.45'; THENCE S39°50'29" 276.75'; THENCE S32°51'17" 172.43'; THENCE S23°18'08" 195.55'; THENCE S20°39'31" 96.40'; THENCE S23°12'06" 169.26'; THENCE S16°27'30" 168.22'; THENCE S16°27'30" 4.04'; THENCE S03°44'49" 121.06'; THENCE S12°32'56" 281.30'; THENCE S44°53'36" 236.61'; THENCE S41°37'38" 446.08'; THENCE S46°48'10" 255.53'; THENCE S38°53'03" 122.18'; THENCE S48°51'28" 85.39'; THENCE S66°28'33" 139.73'; THENCE S02°21'55" 2.22' TO A POINT ON THE SOUTH LINE OF THE SE 1/4 SE 1/4 OF SAID SECTION 19, WHICH BEARS N89°59'54"W 660.31' FROM THE SOUTHEAST CORNER OF SAID SECTION 19, THENCE S02°15'55" 244.44'; THENCE S56°28'20" 391.71'; THENCE N38°13'38" 152.15'; THENCE N44°48'49" 78.85' TO A POINT ON THE EAST LINE OF THE NE 1/4 NE 1/4 OF SECTION 30, T148N, R94W, 5th P.M., WHICH BEARS S00°30'20"W 193.60' FROM THE NORTHEAST CORNER OF SAID SECTION 30, THENCE N44°48'49" 56.94'; THENCE N06°20'44"E 156.09'; THENCE N61°54'08"E 139.71' TO A POINT ON THE NORTH LINE OF THE NW 1/4 NW 1/4 OF SECTION 29, T148N, R94W, 5th P.M., WHICH BEARS S85°53'58"E 304.16' FROM THE NORTHWEST CORNER OF SAID SECTION 29, THENCE N61°54'08"E 122.18'; THENCE N69°59'54"W 660.31' FROM THE NORTHWEST CORNER OF SAID SECTION 29, THENCE S85°53'58"E 304.16' TO A POINT ON THE SW 1/4 SW 1/4 OF SECTION 20, T148N, R94W, 5th P.M., WHICH BEARS N03°27'27"E 102.92' FROM THE SOUTHWEST CORNER OF SAID SECTION 20, THE SIDE LINES OF SAID DESCRIBED RIGHT-OF-WAY BEING SHORTENED OR ELONGATED TO MEET THE GRANTOR'S PROPERTY LINES. BASIS OF BEARINGS IS A G.P.S. OBSERVATION. CONTAINS 20.940 ACRES MORE OR LESS.

*Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the
Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and
Fort Berthold #148-94-29B-32-1H Access Roads (February 2011)*



PETRO-HUNT, L.L.C.
**ROAD RIGHT-OF-WAY ON
TRIBAL LANDS**
(For Fort Berthold #148-94-29B-32-1H)
*LOCATED IN
SECTIONS 19, 20, 29 & 30, T148N, R94W, 5th P.M.,
DUNN COUNTY, NORTH DAKOTA*



I HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS WORK
PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND IS
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



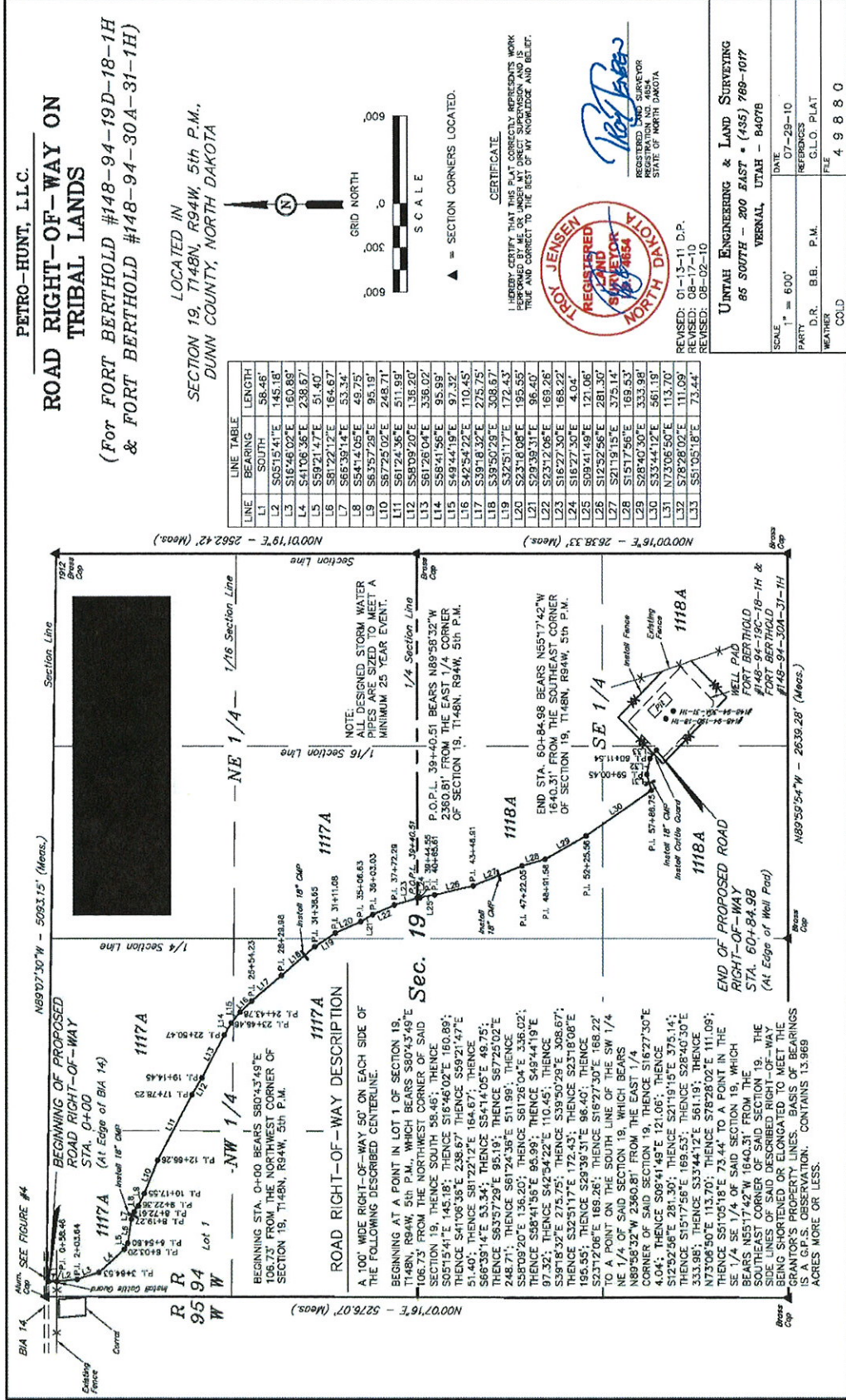
REVISED: 08-17-10

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|---|------------------------|
| UNTAEH ENGINEERING & LAND SURVEYING 85 SOUTH • (405) 769-1077 VERNAL, UTAH • 84076 | |
| SCALE: 1" = 600' | DATE: 08-04-10 |
| PART: B.J. | REFERENCE: S.L.C. PLAT |
| MEASUREMENT: F.H. | P.L. NO.: 49841-B |
| WARRANTY: WARM | |

CONTINUED FROM SHEET 1 OF 2 — **Sec. 19** — **1/16 Section Line** — **Sec. 20** —
SE 1/4 — **1/16 Section Line** — **SW 1/4** — **1/16 Section Line** — **NE 1/4** — **1/16 Section Line** — **NW 1/4** —
Sec. 29 — **Sec. 30** — **1/16 Section Line** — **Sec. 29** — **1/16 Section Line** — **Sec. 30**

SHEET 2 OF 2

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Roads (February 2011)



Notice of Availability and Appeal Rights

**PetroHunt: Addendum to Environmental Assessment to
Authorize Land Use for a Right-of-Way Width Increase for the
Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and
Fort Berthold #148-94-29B-32-1H Access Roads**

The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Fort Berthold #148-94-19D-18-1H/Fort Berthold #148-94-30A-31-1H and Fort Berthold #148-94-29B-32-1H Access Roads as shown on the attached map. Construction by Petro-Hunt 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 April 1, 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.

