



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 15 2011

MEMORANDUM

TO: Superintendent, Fort Berthold Agency

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

SUBJECT: Environmental Assessment 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 for a right-of-way width increase for the Baker 20-34H and Baker 29-31 access road and to authorize and additional well by Peak North Dakota, 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

**Finding of No Significant Impact
Peak North Dakota, LLC**

**Addendum to Environmental Assessment to Authorize Land Use for a
Right-of-Way Width Increase for the Baker 20-34H and Baker 29-31 Access Road and to
Authorize and Additional Well on the Pad**

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

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to authorize land use by Peak to increase the approved Baker 20-34H and Baker 29-31H dual well pad access road right-of-way (ROW) width from 40 feet to 100 feet to allow for road construction and a utility corridor that would include pipelines and to authorize third well (Biron 20-24) to the well pad. 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.

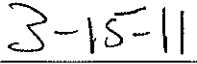
The potential of the proposed actions to impact the human environment is analyzed in the attached Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed EA, I have determined that the proposed projects will not significantly affect the quality 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**



Peak North Dakota, LLC

**Addendum to Environmental Assessment to Authorize Land Use for a
Right-of-Way Width Increase for the
Baker 20-34H and Baker 29-31 Access Road and to Authorize and Additional Well on
the Pad**

Fort Berthold Indian Reservation

March 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

TABLE OF CONTENTS

	<u>Page</u>
1. Purpose and Need for the Proposed Action	1
2. Authorities.....	1
3. Legal Land Description for Proposed Action	1
4. Scope of Work for Proposed Action.....	1
5. Surveys.....	2
6. Potential Effects	2
7. Applicable NEPA Document(s).....	3
8. NEPA Adequacy Criteria.....	3

LIST OF FIGURES

<u>Figure</u>	<u>Page</u>
1 Proposed Baker 20-34H, Baker 29-31H, and Biron 20-24H Access Road Right-of-Way.....	4

LIST OF APPENDICES

<u>Appendix</u>	
A Access Road Right-of-Way for the Fort Berthold #150-94-3B-10-1H and Fort Berthold #151-94-34C-27-1H Dual Well Pad	

1. Purpose and Need for the Proposed Action

Peak North Dakota, LLC (Peak) is drilling two 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 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 the land use by Peak to increase the approved the Baker 20-34H and Baker 29-31H dual well pad access road right-of-way (ROW) width from 40 feet to 100 feet to allow for road construction and a utility corridor that would include pipelines (8" gas, 6" oil, 4" water) and fiber optic and electric lines, all will be installed underground. Peak is also requesting authorization to add a third well (Biron 20-24) to the well pad.

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 Baker 20-34H and Baker 29-31H access road would be located on tribal land originating from BIA 12, approximately 11.7 miles southeast of Mandaree, North Dakota, in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township (T) 149 North (N), Range (R) 92 West (W), 5th Prime Meridian (P.M.), Dunn County, North Dakota. The proposed access road would terminate at the dual well pad in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, T149N, R92W, 5th P.M., Dunn County, North Dakota.

4. Scope of Work for Proposed Action

In total, approximately 5,955 feet of new access road would be constructed with a maximum disturbed ROW width of 100 feet. The total disturbance as a result of the ROW width increase would be no greater than 13.7 acres, an increase of approximately 8.2 acres from the previously analyzed 40-foot-wide ROW. 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 12. 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. The roadway is proposed to remain in use for the life of the wells.

There would be no further disturbance to the well pad as a result of the addition of a third well; the wells currently approved for the location would be moved within the pad to accommodate the new well. Access road and well plats are provided in Appendix A.

5. Surveys

Kadmas, Lee & Jackson (KLJ) conducted natural resource surveys for threatened and endangered species, migratory birds, bald and golden eagles, and wetlands on September 29 and 30, 2009. Although suitable habitat was identified, KLJ did not observe protected species, including bald or golden eagle individuals and nests.

A Class III Cultural Resource Inventory was conducted in October of 2008 by Earthworks Archaeology and Environmental Investigative Services. The area surveyed included a 10-acre block around the well pad and approximately 24.2 acres (150-foot-wide corridor) along the access road. A second Class II Cultural Resource Inventory was conducted in July, October, and November, 2009 by Beaver Creek Archaeology for several locations, including the Baker wells. The area surveyed included a 40-acre block around the well site and approximately 11 acres (100-foot-wide corridor) along the proposed access road. No cultural resources were identified within the project areas.

6. Potential Effects

Potential impacts to cultural resource sites could 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 pipeline corridors with native grasses and other appropriate native vegetation; and stockpiling and re-using topsoil for reclamation.

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.

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, implementing best management practices to control the introduction of noxious weeds, and minimizing the length of time between trenching, pipeline burial, and reclamation. These mitigation measures are consistent with the approved National Environmental Policy Act (NEPA) document, which received a finding of no significant impact (FONSI) (October 2010).

Resource surveys and the supplementary assessment of the potential impacts of the proposed action were completed on February 8, 2011. Based on those surveys and the mitigation measures committed to by Peak, no significant impacts to natural and cultural resources are anticipated.

7. Applicable NEPA Document(s)

Environmental Assessment: Drilling of Baker, Brugh-Bear, Danks, Eagle's Nest, and Fox Ridge Exploratory Oil and Gas Wells (January 2010).

8. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Drilling of Baker, Brugh-Bear, Danks, Eagle's Nest, and Fox Ridge Exploratory Oil and Gas Wells* (January 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.

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for Baker 20-34H and Baker 29-31H Access Road and to Authorize an Additional Well on the Pad (March 2011)

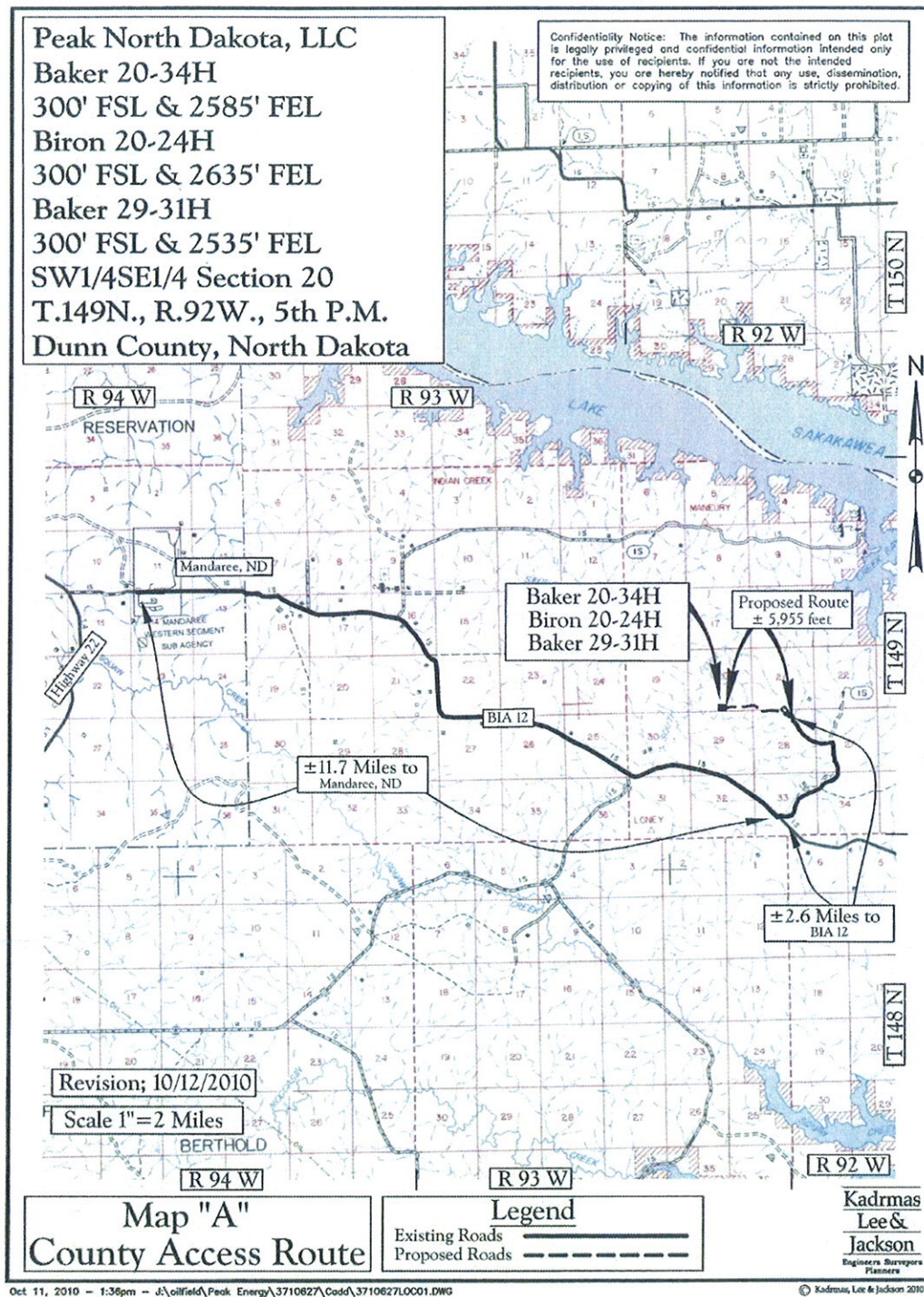
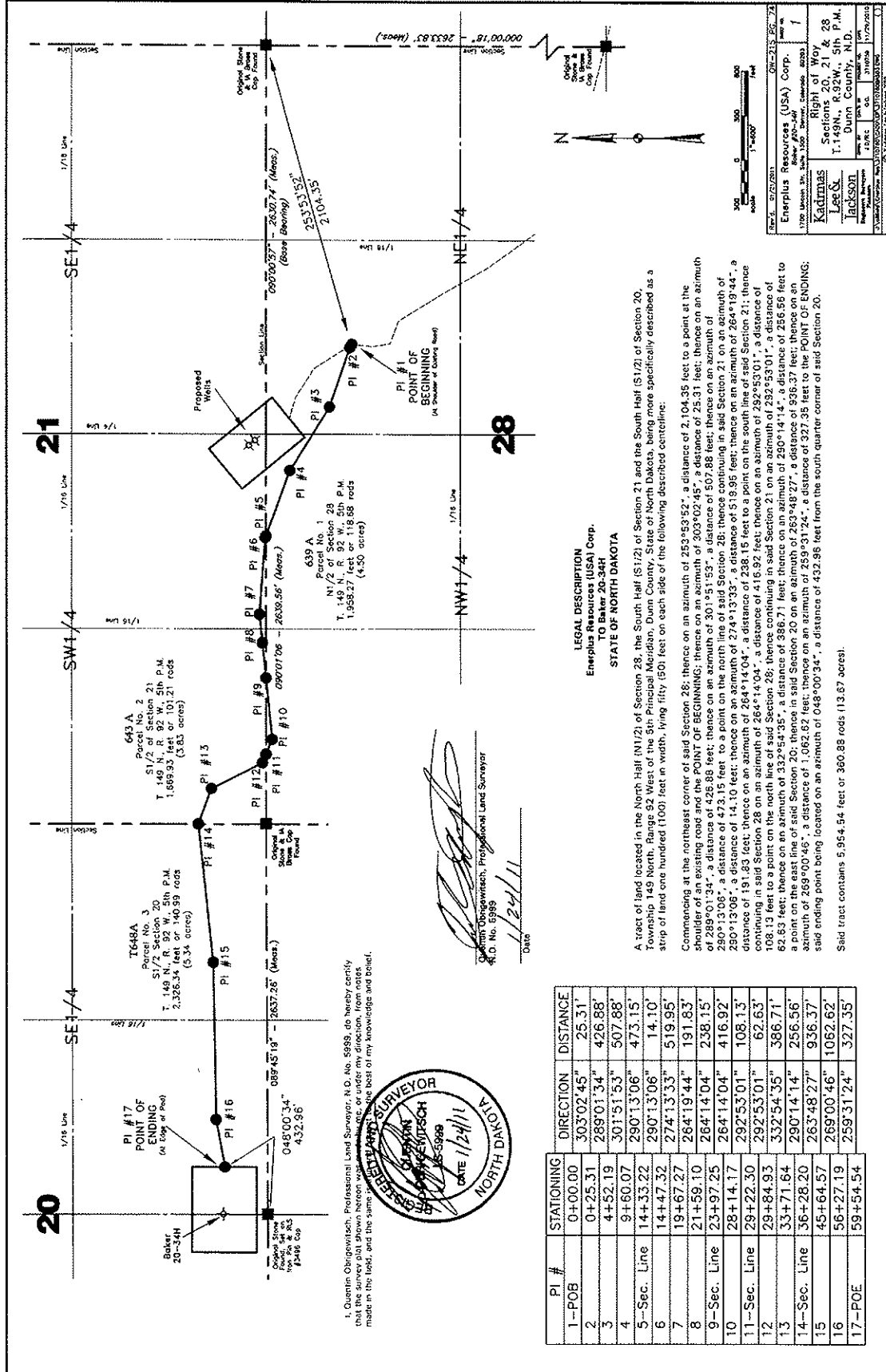


Figure 1. Proposed Baker 20-34H, Baker 29-31H, and Biron 20-24H Access Road Right-of-Way.

APPENDIX A

**Access Road Right-of-Way and Well Plats for the
Baker 20-34H, Baker 29-31H, and Biron 20-24H Well Pad**

Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Increase for Baker 20-34H and Baker 29-31H Access Road and to Authorize and Additional Well on the Pad
(March 2011)



I, Quentin Obrowski, Professional Land Surveyor, N.D. No. 5989, do hereby certify that the survey plat shown herein was made, or under my direction, from notes made in the field, and this same, to the best of my knowledge and belief.



Quentin Obrowski, Professional Land Surveyor
N.D. No. 5989
1/24/11

PI #	STATIONING	DIRECTION	DISTANCE
1-POB	0+00.00	303°02'45"	25.31'
2	0+25.31	289°01'34"	426.88'
3	4+52.19	301°51'53"	507.88'
4	9+60.07	290°13'06"	473.15'
5-Sec. Line	14+33.22	290°13'06"	14.10'
6	14+47.32	274°13'33"	519.95'
7	19+67.27	264°19'44"	191.83'
8	21+59.10	264°14'04"	238.15'
9-Sec. Line	23+97.25	264°14'04"	416.92'
10	28+14.17	292°53'01"	108.13'
11-Sec. Line	29+22.30	322°53'01"	62.63'
12	29+84.93	292°53'01"	386.71'
13	33+71.64	290°14'14"	256.56'
14-Sec. Line	36+28.20	263°48'27"	936.37'
15	45+64.57	269°00'46"	1062.62'
16	56+27.19	259°31'24"	327.35'
17-POE	59+54.54		

LEGAL DESCRIPTION
Enerplus Resources (USA) Corp.
TO Baker 20-34H
STATE OF NORTH DAKOTA

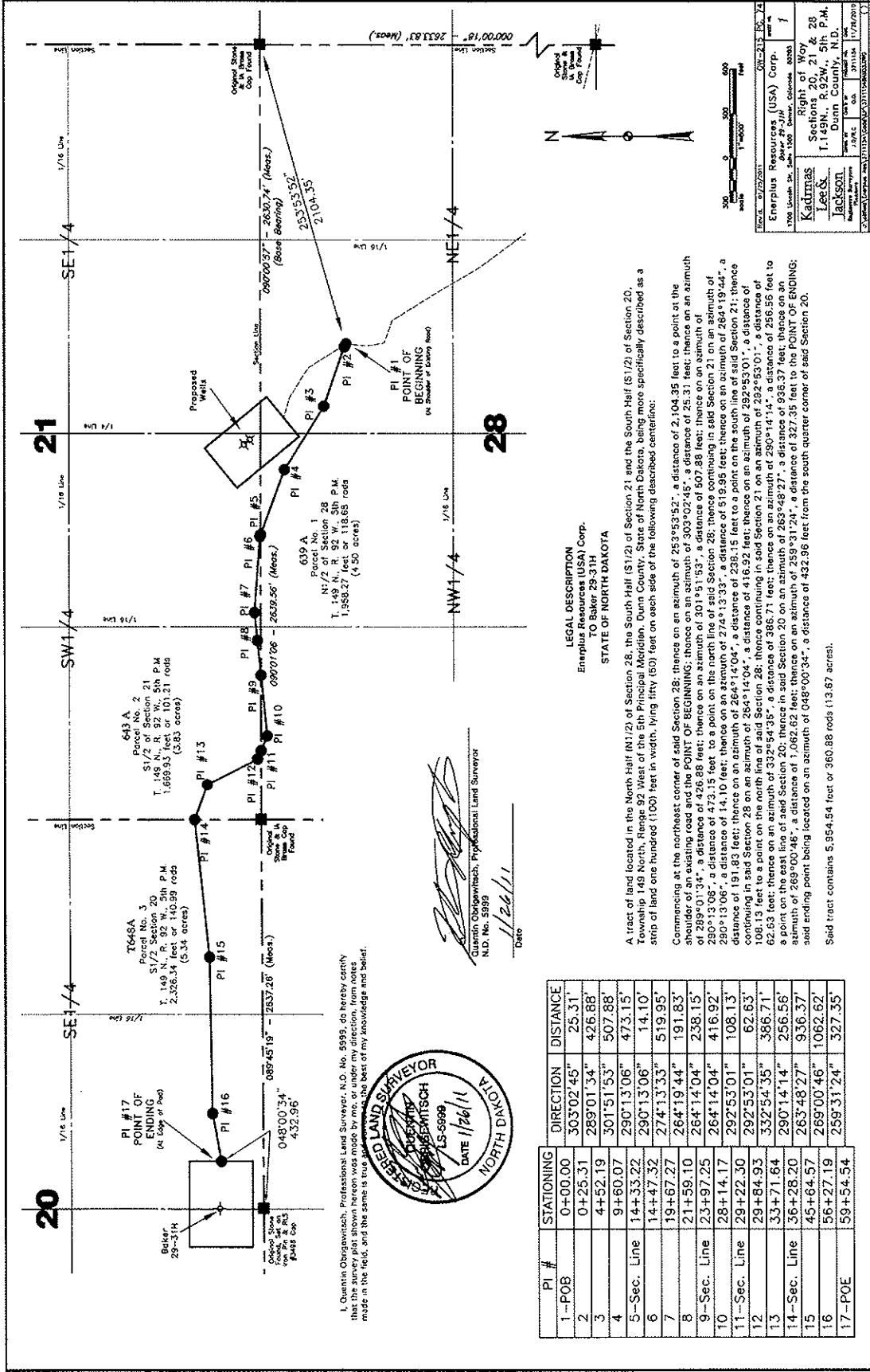
A tract of land located in the North Half (N1/2) of Section 28, the South Half (S1/2) of Section 21 and the South Half (S1/2) of Section 20, Township 149 North, Range 92 West of the 5th Principal Meridian, Dunn County, State of North Dakota, being more specifically described as a strip of land one hundred (100) feet in width, lying fifty (50) feet on each side of the following described centerline:

Commencing at the northeast corner of said Section 28; thence on an azimuth of 253°53'52", a distance of 2,104.35 feet to a point at the shoulder of an existing road and the POINT OF BEGINNING; thence on an azimuth of 303°02'45", a distance of 25.31 feet; thence on an azimuth of 289°01'34", a distance of 426.88 feet; thence on an azimuth of 301°51'53", a distance of 507.88 feet; thence on an azimuth of 290°13'06", a distance of 473.15 feet to a point on the north line of said Section 28; thence continuing in said Section 21 on an azimuth of 290°13'06", a distance of 519.95 feet; thence on an azimuth of 274°13'33", a distance of 191.83 feet to a point on the south line of said Section 21; thence on an azimuth of 264°19'44", a distance of 238.15 feet to a point on the south line of said Section 21; thence on an azimuth of 264°14'04", a distance of 416.92 feet to a point on the east line of said Section 20; thence on an azimuth of 292°53'01", a distance of 108.13 feet to a point on the east line of said Section 20; thence on an azimuth of 322°53'01", a distance of 62.63 feet to a point on the east line of said Section 20; thence on an azimuth of 290°14'14", a distance of 256.56 feet to a point on the east line of said Section 20; thence on an azimuth of 263°48'27", a distance of 936.37 feet to the POINT OF ENDING; thence on an azimuth of 269°00'46", a distance of 1,062.62 feet; thence on an azimuth of 259°31'24", a distance of 327.35 feet to the POINT OF ENDING; said ending point being located on an azimuth of 048°00'34", a distance of 432.98 feet from the south quarter corner of said Section 20.

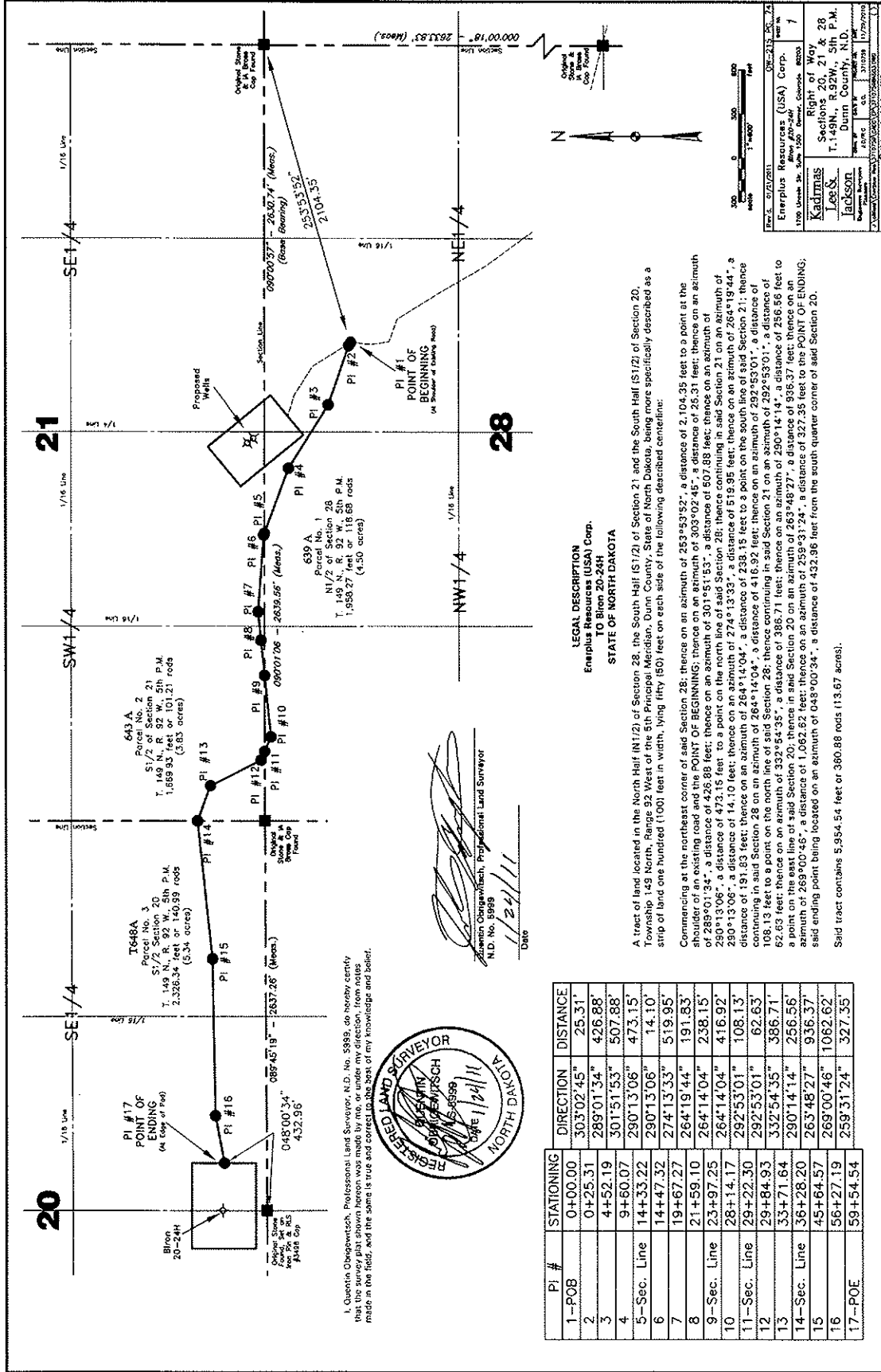
Said tract contains 5,354.54 feet or 360.88 rods (13.67 acres).

Map No. 27/27/2011 Date: 03-23-2011
Enerplus Resources (USA) Corp. Plot: 1
1700 Mission St., Suite 1500 Denver, Colorado 80202
Kadmas
Lee O. Jackson
Right of Way
Sections 20, 21 & 28
T. 149N., R. 92W., 5th P.M.
Dunn County, N.D.
Professional Land Surveyor
N.D. No. 31787A
11/29/2010
27/27/2011
27/27/2011
27/27/2011

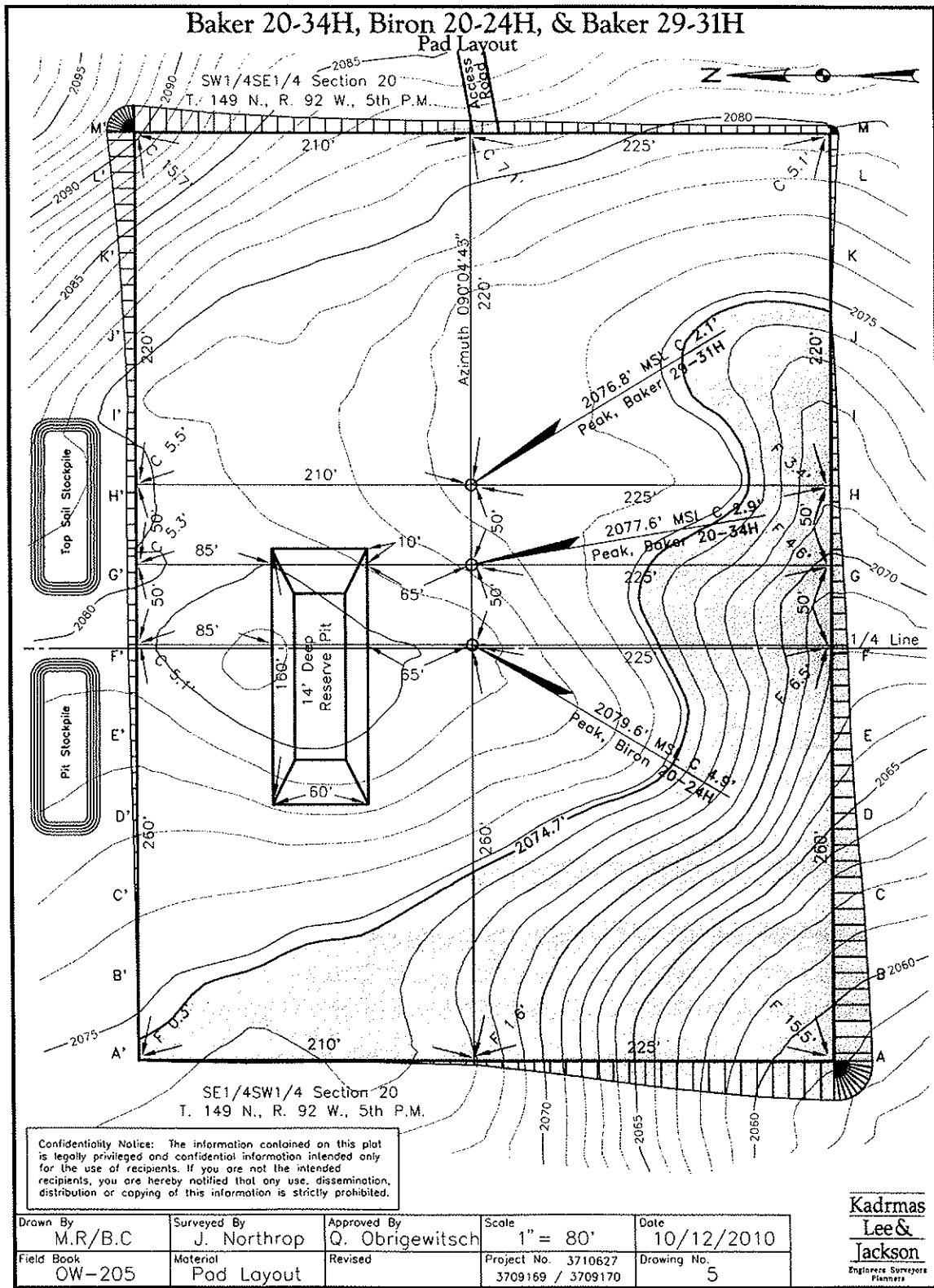
Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for Baker 20-34H and Baker 29-31H Access Road and to Authorize and Additional Well on the Pad
(March 2011)



Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for Baker 20-34H and Baker 29-31H Access Road and to Authorize and Additional Well on the Pad
(March 2011)



Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for Baker 20-34H and Baker 29-31H Access Road and to Authorize an Additional Well on the Pad (March 2011)



Notice of Availability and Appeal Rights

Peak: Addendum to Environmental Assessment to Authorize Land Use for a Right-of-Way Width Increase for the Baker 20-34H and Baker 29-31 Access Road and to Authorize and Additional Well on the Pad

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 Baker 20-34H and Baker 29-31 Access Road and to Authorize and Additional Well on the Pad as shown on the attached map. Construction by Peak is expected to begin in 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 13, 2011, by contacting:

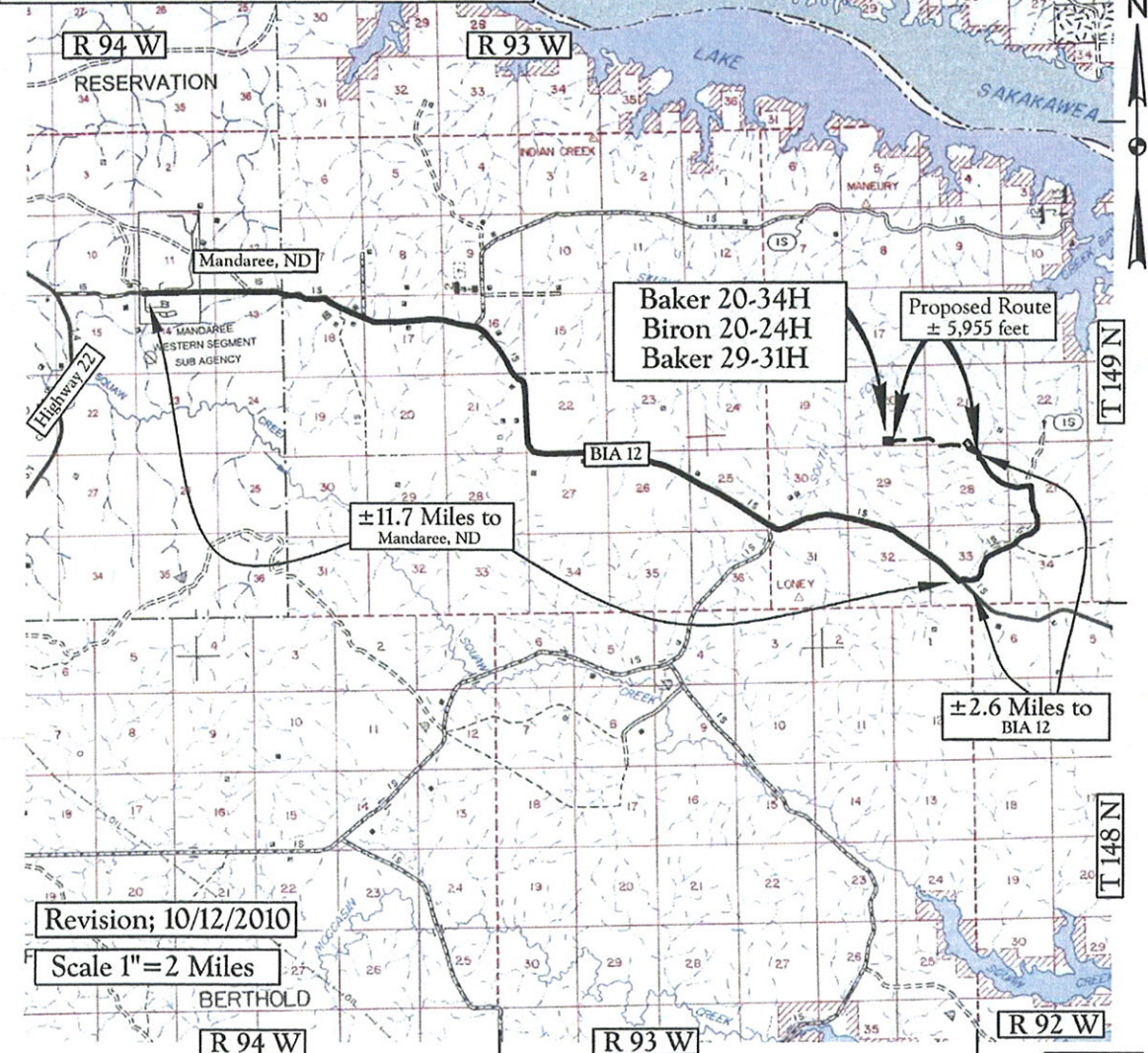
United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Indian Appeals
801 N. Quincy Street, Suite 300, Arlington, Va 22203.

Procedural details are available from the BIA Fort Berthold Agency at 701-627-4707.

Project locations.

Peak North Dakota, LLC
 Baker 20-34H
 300' FSL & 2585' FEL
 Biron 20-24H
 300' FSL & 2635' FEL
 Baker 29-31H
 300' FSL & 2535' FEL
 SW1/4SE1/4 Section 20
 T.149N., R.92W., 5th P.M.

Confidentiality Notice: The information contained on this plot 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.



Baker 20-34H
 Biron 20-24H
 Baker 29-31H

Proposed Route
 ± 5,955 feet

± 11.7 Miles to
 Mandaree, ND

± 2.6 Miles to
 BIA 12

Revision; 10/12/2010

Scale 1" = 2 Miles

Map "A"
 County Access Route

Legend
 Existing Roads —————
 Proposed Roads - - - - -

Kadmas
 Lee &
 Jackson
 Engineers Surveyors
 Planners