



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Great Plains Regional Office  
115 Fourth Avenue S.E., Suite 400  
Aberdeen, South Dakota 57401




JUN 03 2011

IN REPLY REFER TO:

DESCRM  
MC-208

## 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 an existing Environmental Assessment for Enerplus Resources (USA) Corporation to add an underground utility corridor and bore a portion of the rights-of-way to tie the wells to the gas, oil, and produced water gathering lines on the J.M. Hall I-19H/Jupiter 148-93-19B-2H TF well pad on the Fort Berthold Reservation, 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, 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, Fort Berthold Agency



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## EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Date: 5/31/2011

Project: Supplemental to Environmental Assessment for: Simray Three Bakken Formation Exploratory Wells at Three Locations: Soward 1-05H, Levings Estate 1-08H, J.M. Hall 1-19H (October 2009) to Authorize Enerplus to add an underground utility corridor.

Nature of Proposed Action: The purpose of the proposed action is to authorize Enerplus Resources (USA) Corporation to add an underground utility corridor and bore a portion of the ROW to tie the wells to the gas, oil, and produced water gathering lines on the J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF well pad. There would be no additional surface disturbance to the well pad or along the access road/utility corridor.

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  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  Yes
3. The action will have highly controversial environmental effects. No  Yes
4. The action will have highly uncertain environmental effects or involve unique or unknown environmental risks. No  Yes
5. This action will establish a precedent for future actions. No  Yes
6. This action is related to other actions with individually insignificant, but cumulatively significant environmental effects. No  Yes
7. This action will affect properties listed or eligible for listing in the National Register of Historic Places. No  Yes
8. This action will affect a species listed, or proposed to be listed as endangered or threatened. No  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 N. [Signature]

Concur: [Signature] Regional Office/Agency Environmental Coordinator Date: 6/3/2011

Concur: [Signature] Regional Director/Superintendent Date: 6/2/11

**ENVIRONMENTAL ASSESSMENT  
Addendum**

**United States Bureau of Indian Affairs**

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



**Enerplus Resources (USA) Corporation**

**Addendum to Environmental Assessment to Authorize the Addition of a Utility  
Corridor and a Pipeline Bore Along the ROW to the J.M. Hall 1-19H/Jupiter 148-93-  
19B-2H TF Well Pad**

**Fort Berthold Indian Reservation**

**May 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. Applicable National Environmental Policy Act (NEPA) Document(s) .....	1
6. Other Relevant Documentation .....	2
7. NEPA Adequacy Criteria.....	2
8. Surveys for Proposed Action .....	2
9. Potential Effects .....	3

<u>Figure</u>	<u>Page</u>
Figure 1. Map of J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF Location.....	4

**Appendix**

A Plats, Drawings, and Diagrams for the Proposed Utility Corridor to the J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF ROW

## **1. Purpose and Need for the Proposed Action**

The purpose of the proposed action is to authorize Enerplus add an underground utility corridor to the J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF well pad. Enerplus plans to bore the utility corridor along the existing ROW to the well pad. This action is similar to, but not the same as, the action discussed in the original EA but the level of disturbance and associated impacts would remain the same.

## **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 existing well pad and access ROW are located in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 19, T148N, R93W in Dunn County, North Dakota (Figure 1).

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

Enerplus proposes to add an underground utility corridor and bore a portion of the ROW to tie the wells to the gas, oil, and produced water gathering lines on the J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF well pad. The pipelines would include one 8-inch nominal diameter or smaller natural gas pipeline, one 8-inch nominal diameter or smaller crude oil pipeline, and one 6-inch nominal diameter produced water pipeline. The bore would travel along the southern edge of the access road; there would be no additional surface disturbance to the well pad or along the access road/utility corridor. The majority of the access road and Saddle Butte pipeline corridor are located on fee lands. However, the 1,104 feet of the access road and proposed underground utility corridor fall on allotted lands on the Fort Berthold Indian Reservation.

Enerplus would continue to hold the ROW, but would grant Saddle Butte the right to enter and use the ROW for purposes of pipeline installation and maintenance. Saddle Butte agrees to comply with the terms and provisions of the ROW and would not do anything to adversely affect the grant of the ROW held by Enerplus or to compromise the effects analysis conducted in the environmental assessment.

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

Environmental Assessment: *Simray Three Bakken Formation Exploratory Wells at Three Locations: Soward 1-05H, Levings Estate 1-08H, J.M. Hall 1-19H* (October 2009).

## **6. Other Relevant Documentation**

An additional onsite was conducted on February 8, 2011 by the BIA, SWCA, and Enerplus representatives to inspect well pad expansion plans. The expanded pads do not extend beyond the area surveyed for cultural resources. Jeff Desjarlais approved the plans at that time and the *Addendum to Environmental Assessment to Authorize Land Use for Expansion of the Soward 1-05H, Levings Estate 1-08H, and J.M. Hall 1-19H Well Pads to Accommodate the Pluto 149-93-05C-2H TF, Mars 149-93-08D-2H TF, and Jupiter 148-93-19B-2H TF Wells* was prepared by SWCA. The document received a FONSI on February 17, 2001.

## **7. NEPA Adequacy Criteria**

This document has identified the above-mentioned previously prepared NEPA document, 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.

## **8. Surveys for Proposed Action**

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for threatened and endangered species, migratory birds, bald and golden eagles, and wetlands at the location on October 20, 2008. A second site visit was conducted on August 13, 2009, to reroute the access road to the J.M. Hall 1-19H location to avoid an ephemeral drainage. No primary or secondary indications of protected species occurrences were observed during the field surveys.

On September 22 and 29, 2008, SWCA personnel conducted a cultural resource inventory using an intensive pedestrian methodology; a second survey for the rerouted access road was conducted on August 13, 2009. Mitigation measures including fencing and monitoring were

put in place at the site identified on the J.M. Hall 1-19H location, allowing for a determination of *No Historic Properties Affected* (Ferris 2008a<sup>1</sup>, 2008b<sup>2</sup>; Cooper 2009<sup>3</sup>).

As discussed in Section 6, an additional onsite at the J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF location was conducted on February 8, 2011 by the BIA, SWCA, and Enerplus representatives to inspect well pad expansion plans. Jeff Desjarlais approved the plans at that time.

## **9. 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. 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 right-of-way and boring, rather than trenching, the ROW to install the gathering lines.

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. These mitigation measures are consistent with the approved National Environmental Policy Act (NEPA) document, which received a finding of no significant impact (FONSI) (October 2009).

Based the resource surveys, evaluation of potential effects and mitigation measures, and consistency with the applicable NEPA document, no new, significant direct, indirect, or cumulative impacts to natural and cultural resources are anticipated as a result of the changes proposed in this addendum.

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<sup>1</sup> Ferris, Kade

2008a A Class I and Class III Cultural Resource Inventory of the Lonestar/Simray Soward 1-05H Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants for Lonestar/Simray Production Company, LLC, Richardson, TX.

<sup>2</sup> Ferris, Kade

2008b A Class I and Class III Cultural Resource Inventory of the Lonestar/Simray Levings Estate 1-08H Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants for Lonestar/Simray Production Company, LLC, Richardson, TX.

<sup>3</sup> Cooper, Judith

2009 A Class I and Class III Cultural Resource Inventory of the Simray J.M. Hall 1-19H Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants for Simray Production Company, LLC, Richardson, TX.



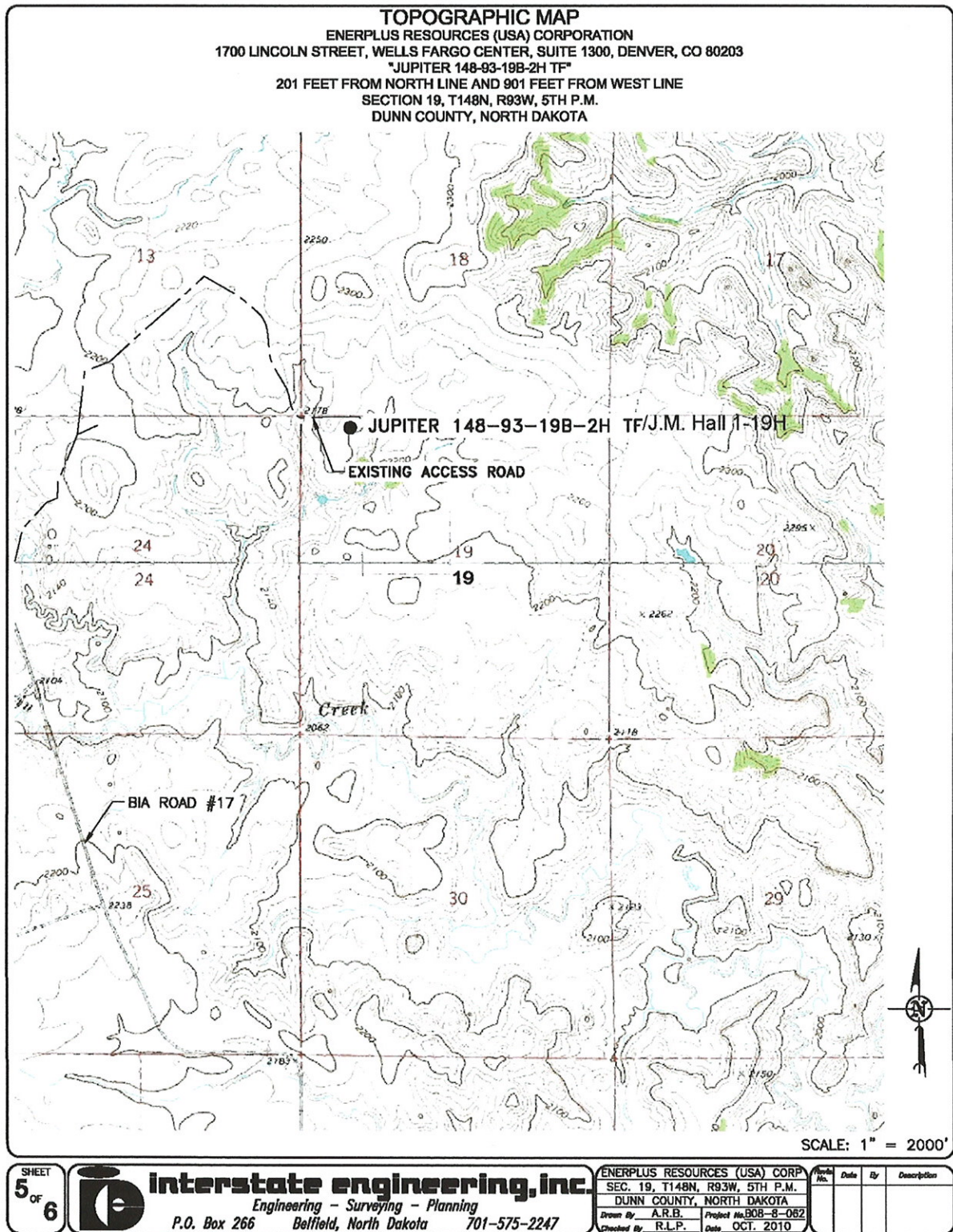
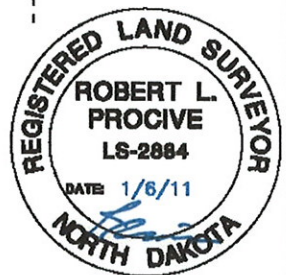
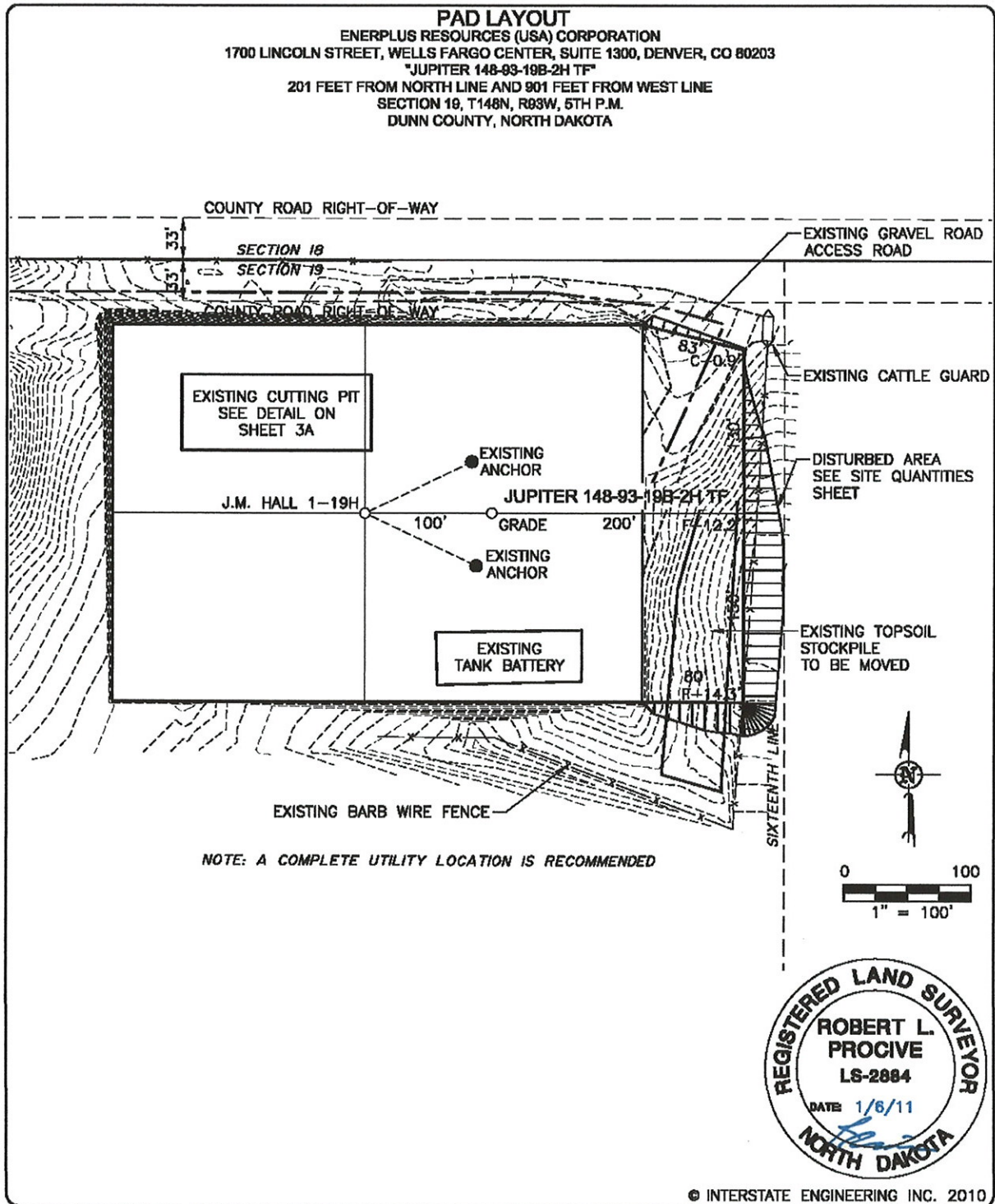


Figure 1. Map of J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF Location.

**APPENDIX A**

**Plats, Drawings, and Diagrams for the Proposed Utility Corridor to the  
J.M. Hall 1-19H/Jupiter 148-93-19B-2H TF ROW**

Addendum to Environmental Assessment to Authorize the Addition of a Utility Corridor and a Pipeline Bore Along the ROW to the J.M. Hall 1-19H/ Jupiter 148-93-19B-2H TF Well Pad (May 2011)



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SHEET <b>3</b> OF <b>6</b>	<b>Interstate engineering, Inc.</b> Engineering - Surveying - Planning P.O. Box 266 Balfield, North Dakota 701-575-2247	ENERPLUS RESOURCES (USA) CORP SEC. 19, T148N, R93W, 5TH P.M. DUNN COUNTY, NORTH DAKOTA Drawn By: A.R.B. Project No: 808-B-082 Checked By: R.L.P. Date: OCT. 2010	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Date</th> <th style="width: 10%;">By</th> <th style="width: 80%;">Description</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1/6/11</td> <td style="text-align: center;">R.L.P.</td> <td style="font-size: x-small;">CUT/PAZ. SLIPER REV.</td> </tr> </tbody> </table>	Date	By	Description	1/6/11	R.L.P.	CUT/PAZ. SLIPER REV.
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