



# 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




IN REPLY REFER TO:  
DESCRM  
MC-208

AUG 16 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, an Addendum has been completed and a Finding of No Significant Impact (FONSI) has been issued. The addendum authorizes land use for gathering pipelines connecting the Rubia #16-24H well pad to the Joseph Eagle #2-19H gathering pipelines on the Fort Berthold Indian Reservation.

All the necessary requirements of the National Environmental Policy Act have been completed. Attached for your files are copies of the EA Addendum, FONSI and Notice of Availability. The Council on Environmental Quality (CEQ) regulations require that there be a public notice of availability of the FONSI (40 C.F.R. Part 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, Tribal Historic Preservation Officer (with attachment)  
Derek Enderud, BLM, Bureau of Land Management (with attachment)  
Nelson Klitzka, KLJ, (with attachment)  
Jonathon Shelman, Corps of Engineers  
Jeff Hunt, Fort Berthold Agency

**Finding of No Significant Impact  
Arrow Pipeline, LLC**

**Addendum to Environmental Assessment Authorizing Land Use for Gathering Pipelines  
Connecting the Rubia #16-24H Well Pad to the Joseph Eagle #2-19H Gathering Pipelines**

The U.S. Bureau of Indian Affairs (BIA) received a proposal to authorize the land use for gathering pipelines connecting the Rubia #16-24H well pad to the Joseph Eagle #2-19H gathering pipelines on the Fort Berthold Reservation. Associated federal actions by BIA include determinations of effect regarding cultural resources and approvals of leases, rights-of-way and easements.

Potential of the proposed action 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 addendum to the EA, I have determined the proposed project 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, water resources, and cultural resources. The 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 action was designed to avoid adverse effects to historic, archaeological, cultural, and traditional properties, sites, and practices. The Tribal Historic Preservation Officer has concurred with BIA's determination that no historic properties will be affected.
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 socioeconomic condition of the affected Indian community.

  
\_\_\_\_\_  
Regional Director – Great Plains Regional Office

8-16-11  
Date

**ENVIRONMENTAL ASSESSMENT  
Addendum**

**United States Bureau of Indian Affairs**

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



**Arrow Pipeline, LLC**

**Addendum to Environmental Assessment Authorizing Land Use for Gathering Pipelines  
Connecting the Spotted Horn #26-35H Well Pad to the Lucy Lone Fight #16-22  
Gathering Pipelines**

**Fort Berthold Indian Reservation**

**August 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

Addendum to Environmental Assessment Authorizing Land Use for Gathering Pipelines  
Connecting the Rubia #16-24H Well Pad to the Lucy Lone Fight #16-22H Gathering  
Pipelines (August 2011)

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

Dakota-3 E&P is proposing to construct 1,496.87 feet (0.28 mile) of gathering pipelines that would connect the Spotted Horn #26-35H well pad to the Lucy Lone Fight #16-22H gathering pipelines, and ultimately connect to the Arrow Pipeline System on the Fort Berthold Indian Reservation. 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 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 Dakota-3 E&P for the construction and installation of a gathering pipeline system that consists of one oil pipeline, one gas pipeline, and one water pipeline, all of which will not individually exceed a diameter of 8 inches. The proposed gathering pipeline system would transport oil, gas, and produced water from productive wells to markets and disposal facilities. If warranted, a buried electrical line may be installed in the future within the currently proposed ROW.

## **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 Spotted Horn #26-35H gathering line would be located on trust land originating from the south side of the existing well pad in the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 26, Township (T) 149 North (N), Range (R) 94 West (W), 5<sup>th</sup> Prime Meridian (P.M.), McKenzie County, North Dakota, and terminating in the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 22, T149N, R94W, 5<sup>th</sup> P.M., McKenzie County, North Dakota. This location is approximately 2 miles south of Mandaree, North Dakota.

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

Dakota-3 E&P proposes to construct and install a total of 1,496.87 feet (0.283 mile) of oil, gas, and water gathering pipelines on tribal land originating with connecting lines linking the Spotted Horn #26-35H well pad to the existing Lucy Lone Fight #16-22H gathering pipelines. Oil, gas, and water pipelines would be buried in either two 2.5-foot-wide trenches, spaced 5.0 feet apart, or one 5.0-foot-wide trench. Oil and gas pipelines would be no larger than 8 inches in diameter and constructed of steel. The water pipeline would also be no larger than 8 inches in diameter and constructed of Fiberspar<sup>®</sup> or similar material (Appendix A).

All construction disturbances would occur within a 66-foot temporary right-of-way (ROW), consisting of 33 feet on either side of the centerline. The temporary ROW has been surveyed

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for impacts to natural and cultural resources with no significant findings. Dakota-3 E&P will maintain a 50-foot-wide permanent ROW after construction has been completed. In total, approximately 1.72 acres would be disturbed as a result of activities associated with the construction of the proposed gathering pipelines.

## 5. Surveys

On April 26, 2011 SWCA Environmental Consultants (SWCA) conducted cursory vegetation, threatened and endangered species habitat, migratory bird, and raptor surveys, including a 0.5 mile line-of-sight survey for bald and golden eagles and their nests, within a 200-foot survey corridor located between the Spotted Horn #26-35H well pad and the Lucy Lone Fight #16-22H gathering pipelines. Additionally, SWCA conducted a wetland determination and ordinary high water mark delineation to determine the potential for temporary impact to wetlands and waterbodies concurrently with the aforementioned surveys.

No protected species including threatened and endangered species, migratory birds, or bald/golden eagles were observed during the natural resource survey. Additionally, no wetland areas were observed in the project area.

A cultural resource inventory of this pipeline route was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 6.87 acres were inventoried on April 23, 2011 (Herson and Cooper 2011). No historic properties were located that appear to 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. This determination was communicated to the THPO on June 16, 2011; however the THPO did not respond within the allotted 30 day comment period.

Herson, Chandler S., and Judith Cooper  
(2011) A Class I and Class III Cultural Resource Inventory of the Spotted Horn #26-35H Gathering Pipeline, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Dakota-3 E & P Company, LLC, Denver.

## 6. Potential Effects

An environmental assessment onsite was held on April 26, 2011. Jeff Desjarlais of the BIA was present and gave approval of the gathering line alignment.

Both soils and vegetation were consistent with previous NEPA documents. The sites consisted of loamy soils. Vegetation was typical of rolling prairie grassland ecosystems, consisting predominantly of grass species including smooth brome (*Bromus inermis*) and western wheatgrass (*Pascopyrum smithii*). Woody stemmed vegetation observed included western snowberry (*Symphoricarpos occidentalis*). As indicated in Figure 1, two occurrences of Canada thistle (*Cirsium arvense*) were observed within the surveyed area (NR-NX1 and NR-NX2).

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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. Soils observed in the project area are known to support native grassland vegetation, which may substantially increase the probability for successful and permanent reclamation, provided land reclamation takes place immediately after construction has ceased. Best management practices (BMPs) would be used to prevent erosion, minimize runoff and loss of sediment, and ensure soil stabilization. The implementation of BMPs by the operator would reduce project effects and maintain negligible levels of erosion; therefore, no significant adverse impacts are anticipated to soil resources or long-term impacts on vegetation or wildlife resources.

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 minimization of 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 (March 2011).

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. Any 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, Resource surveys and the supplementary assessment of the potential impacts of the proposed action were completed (April 2011). Based on the surveys and the mitigation measures committed to by Dakota-3 E&P, no significant impacts to natural and cultural resources are anticipated.

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

*Bureau of Indian Affairs 2010. Environmental Assessment: Two Bakken Exploratory Oil Wells: Dakota-3 Plenty Sweet Grass #18-19H and Dakota-3 Spotted Horn #26-35H (March 2011).*

## **8. Other Relevant Documentation**

*Bureau of Indian Affairs 2010. Environmental Assessment: Five Bakken Exploratory Oil Wells: Dakota-3 Benson #3-9H, Dakota-3 High Hawk #4-9H, Dakota-3 Joseph Eagle #16-19H, Dakota-3 Fettig (860 A-B)#16-22\*, and Dakota-3 Morsette #35-26H (January 2010).*

\*Lucy Lone Fight #16-22H is formerly known as Dakota-3 Fettig (860A-B) #16-22H

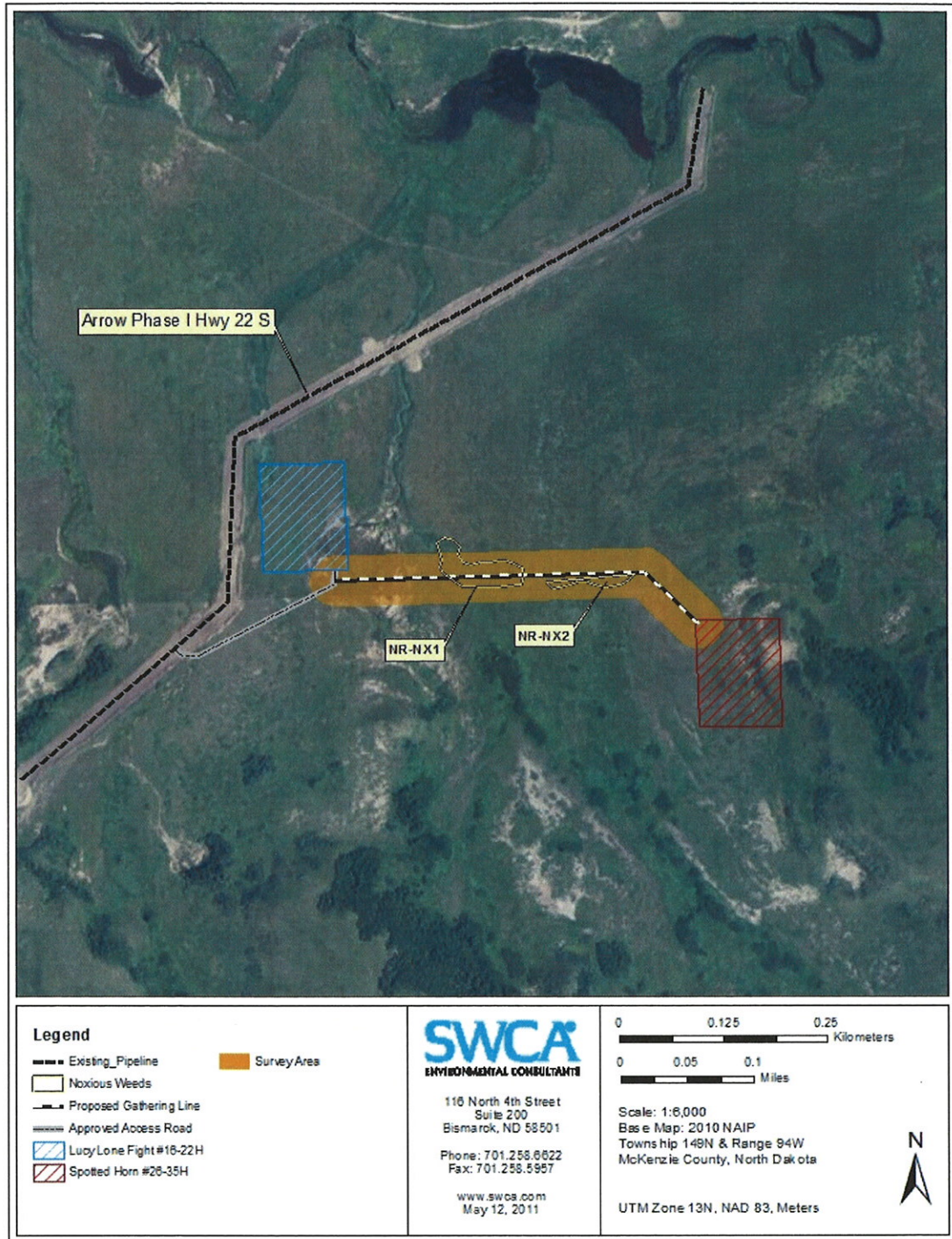
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## 9. NEPA Adequacy Criteria

This document has identified one previously prepared NEPA document, *Environmental Assessment: Two Bakken Exploratory Oil Wells: Dakota-3 Plenty Sweet Grass #18-19H and Dakota-3 Spotted Horn #26-35H* (March 2011), 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.
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**Figure 1. Spotted Horn #26-35H Well Pad and Proposed Gathering Pipeline.**



## 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 16 2011

IN REPLY REFER TO:  
DESCRM  
MC-208

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 gathering pipelines in Dunn and McKenzie Counties, North Dakota. Approximately 46.97 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. No historic properties were located which appear to 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. Catalogued as **BIA Case Number AAO-1948/FB/11**, the proposed undertakings, locations, and project dimensions are described in the following reports:

Herson, Chandler S., and Judith Cooper  
(2011) A Class I and Class III Cultural Resource Inventory of the Spotted Horn #26-35H Gathering Pipeline, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Dakota-3 E & P Company, LLC, Denver.

Smith, Nicholas  
(2011) A Class I and Class III Cultural Resources Inventory of the Rubia #16-24H Gathering Pipeline, Fort Berthold Indian Reservation, Dunn and McKenzie Counties, North Dakota. SWCA Environmental Consultants for Dakota-3 E&P Company, LLC, Denver.

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

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

Sincerely,

Regional Director

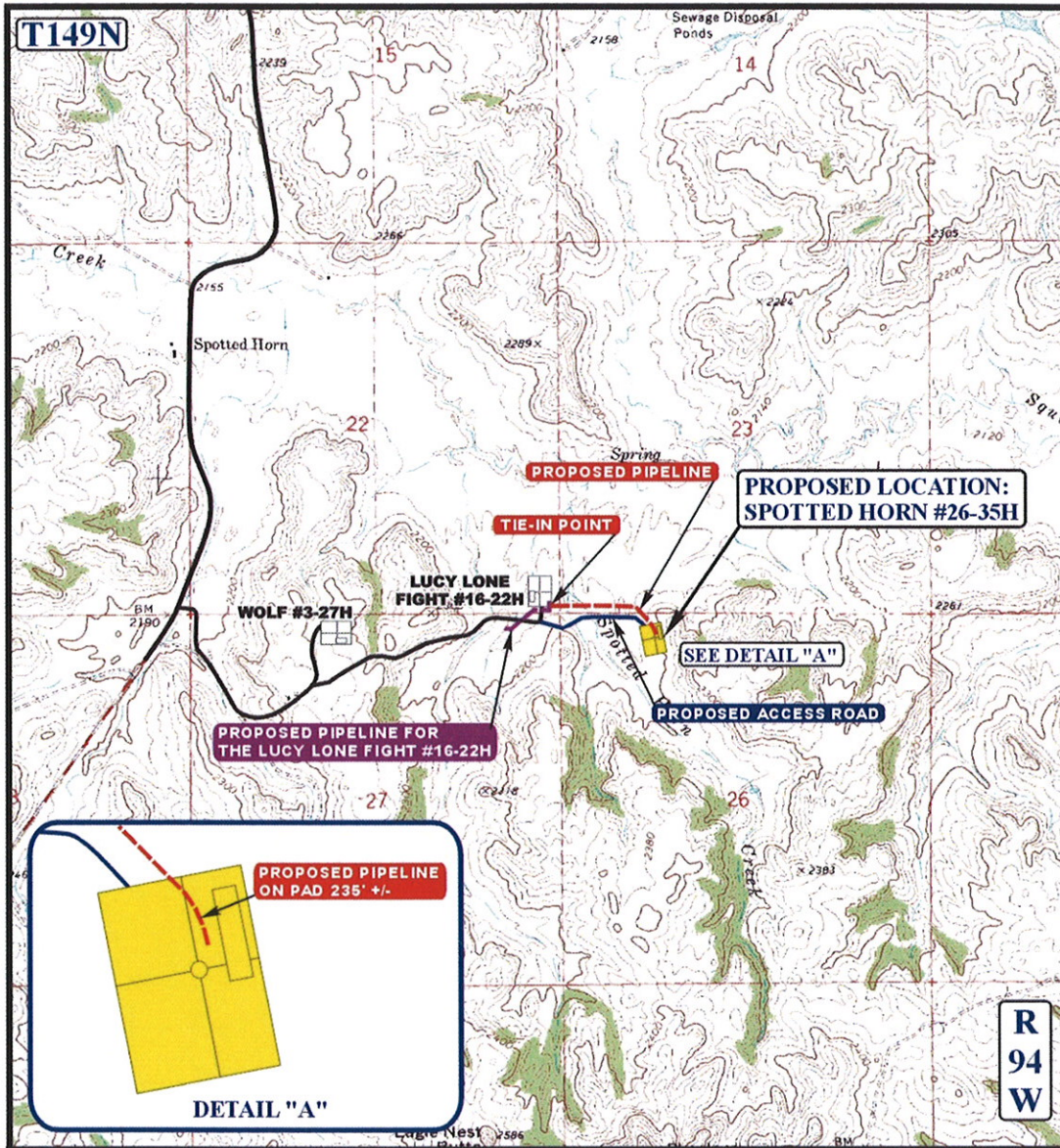
Enclosures

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

**APPENDIX A**

**Pipeline Layout and Pipeline Right-of-Way  
for the Dakota-3 Spotted Horn #26-35H**





**LEGEND:**

- PROPOSED ACCESS ROAD
- EXISTING PIPELINE
- PROPOSED PIPELINE
- PROPOSED PIPELINE (SERVICING OTHER WELLS)

**U&L S** Uintah Engineering & Land Surveying  
 85 South 200 East Vernal, Utah 84078  
 (435) 789-1017 \* FAX (435) 789-1813



**DAKOTA-3 E&P COMPANY, LLC**

**SPOTTED HORN #26-35H**  
**SECTION 26, T149N, R94W, 5th P.M.**  
**340' FNL 1320' FWL**

**TOPOGRAPHIC MAP** 04 28 11  
 MONTH DAY YEAR  
 SCALE: 1" = 1000' DRAWN BY: S.F. REVISED: 05-23-11





# **Notice of Availability and Appeal Rights**

Arrow Pipeline: Addendum to Environmental Assessment Authorizing Land Use for Gathering Pipelines Connecting the Rubia #16-24H Well Pad to the Joseph Eagle #2-19H Gathering Pipelines

**The Bureau of Indian Affairs (BIA) is planning to issue administrative approvals related to an Addendum to Environmental Assessment Authorizing Land Use for Gathering Pipelines Connecting the Rubia #16-24H Well Pad to the Joseph Eagle #2-19H Gathering Pipelines on the Fort Berthold Reservation as shown on the attached map. Construction by Arrow Pipeline, LLC 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 Earl Silk, 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 September 14, 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

