

# **Notice of Availability and Appeal Rights**

**Enerplus: Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust CDP Site**

**The Bureau of Indian Affairs (BIA) is planning to issue an Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust CDP Site as shown on the attached map. Construction by Enerplus is expected to begin in 2011.**

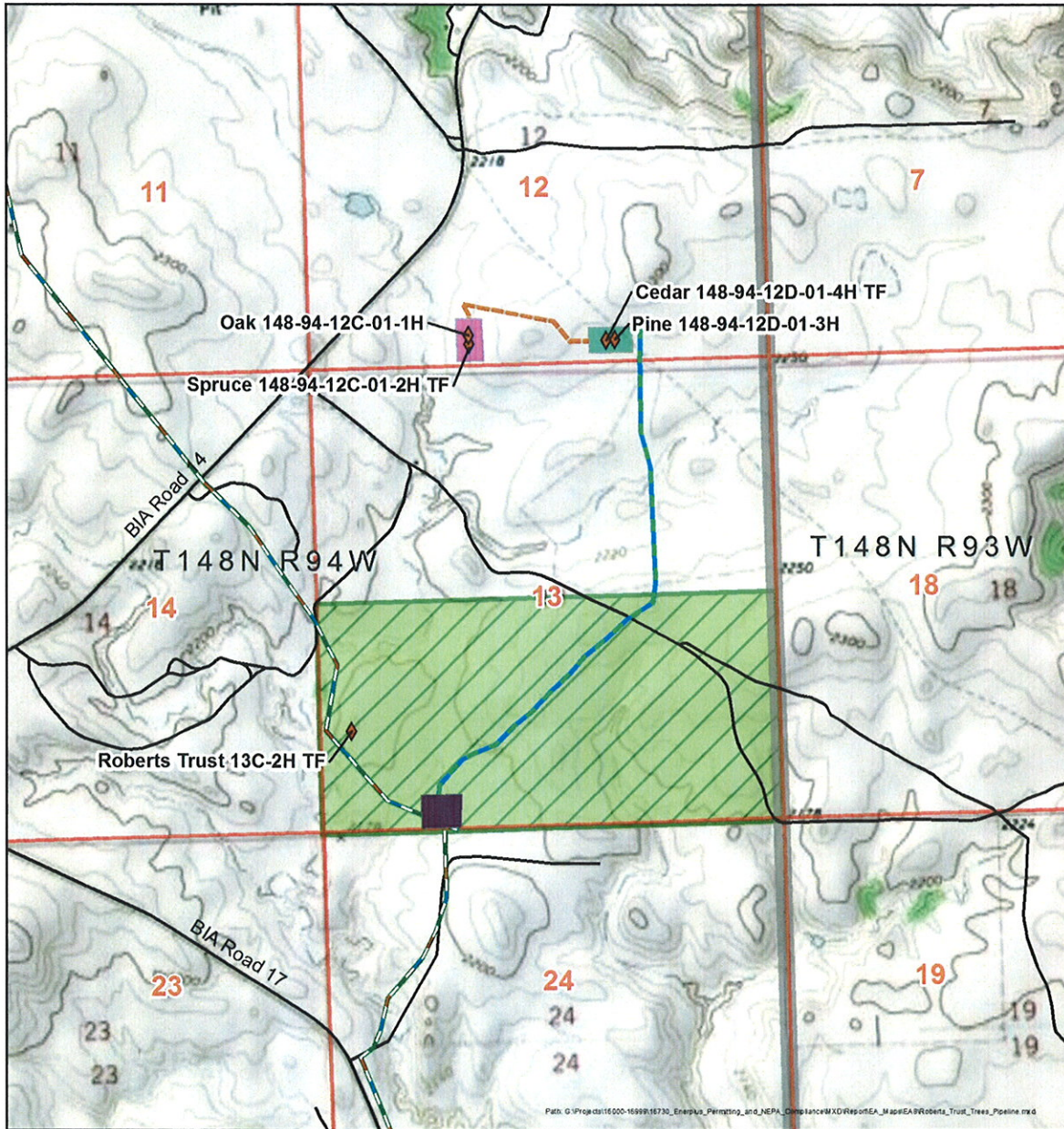
**An environmental assessment (EA) determined that proposed activities will not cause significant impacts to the human environment. An environmental impact statement is not required. Contact Earl Silk, Superintendent at 701-627-4707 for more information and/or copies of the EA and the Finding of No Significant 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 November 11, 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.**

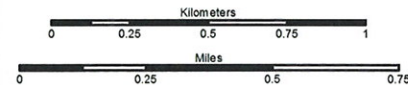
**Project locations:**



Path: G:\Projects\16000-16999\16730\_Energy\_Permitting\_and\_NEPA\_Compliance\XD\Report\EA\_Map\EA\Roberts\_Trust\_Trees\_Pipeline.mxd

**Legend**

- Well Location
- Trees Pipeline
- Existing Pipeline
- Existing ROW
- Road
- Section Line
- Township/Range Line
- Existing CDP
- Fee
- Well Pad**
- Cedar 148-94-12D-01-4H TF & Pine 148-94-12D-01-3H
- Oak 148-94-12C-01-1H & Spruce 148-94-12C-01-2H TF



Scale: 1:24,000  
 Projection: UTM NAD83, Zone 13N  
 Base Map: USGS 24K Topo  
 Mandaree, ND (1973)  
 Mandaree NE, ND (1973)  
 Dunn County, North Dakota



Created By:  
 SWCA Environmental Consultants



# 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

OCT 12 2011

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: Regional Director, Great Plains Region *Tim Laforte*

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, an Environmental Assessment has been completed and a Finding of No Significant Impact (FONSI) has been issued. The environmental assessment authorizes land use for gathering pipelines connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF wells to the Roberts Trust CDP Site 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)  
Joey Sheeley, SWCA (with attachment)  
Jonathon Shelman, Corps of Engineer  
Jeff Hunt, Fort Berthold Agency

## **Finding of No Significant Impact**

### **Enerplus Resources (USA) Corporation**

#### **Environmental Assessment Addendum:**

**To Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust CDP Site**

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

The U.S. Bureau of Indian Affairs (BIA) has received a proposal to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust CDP Site on the Fort Berthold Indian Reservation in Dunn County, North Dakota. 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.

Potential of the proposed actions to impact the human environment is analyzed in the attached addendum to an existing Environmental Assessment (EA), as required by the National Environmental Policy Act. Based on the recently completed addendum to the EA, I have determined that 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, 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, archeological, 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 projects will improve the socio-economic condition of the affected Indian community.



Regional Director

10-12-11

Date

**ENVIRONMENTAL ASSESSMENT  
Addendum**

**United States Bureau of Indian Affairs**

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



**Enerplus Resources (USA) Corporation, LLC**

**Addendum to Environmental Assessment to Authorize Land Use for Gathering  
Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak  
148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust CDP Site**

**Fort Berthold Indian Reservation**

**October 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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**Appendix**

A Plats Showing the Gathering Line Corridor Layout and Right-of-Way	
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## **1. Purpose and Need for the Proposed Action**

The purpose of the proposed action is to authorize the land use by Enerplus Resources (USA) Corporation (Enerplus) for the construction and installation of three gathering pipelines that would transport oil, gas, and produced water from four producing wells on two well pads to markets and disposal facilities. A buried electrical line may be installed in the future.

## **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 gathering lines would be installed on tribal and fee land, beginning on the east side of the Cedar 148-94-12D-1-4H TF/Pine 148-94-12D-1-3H well pad (Well Pad), approximately 6.8 miles southeast of Mandaree, North Dakota, in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 12, Township (T) 148 North (N), Range (R) 94 West (W), 5<sup>th</sup> Prime Meridian (P.M.), Dunn County, North Dakota, and terminating, on fee land, at the Roberts Trust Central Delivery Point site (CDP) in the SW $\frac{1}{4}$  of Section 13, T148N, R94W, 5<sup>th</sup> P.M., Dunn County, North Dakota (Figure 1). The Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF well pad is connected to the Cedar 148-94-12D-1-4H TF/Pine 148-94-12D-1-3H well pad by an approved access road and utility corridor.

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

Enerplus proposes to install oil, gas, and water gathering pipelines on tribal land originating from the east side of the Well Pad and terminating at the existing CDP. 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 not exceed 12 inches in diameter and would be constructed of steel. Water pipelines would not exceed 12 inches in diameter and would be constructed of Fiberspar<sup>®</sup> or similar material. Approximately 3,150 feet of oil, gas, and water line would be needed across tribal and allotted lands. The remaining 3,577 feet in the south half of Section 13 is located on fee lands; a landowner agreement is in place to connect the wells to the CDP (Appendix A). All construction disturbances would occur within a 100-foot temporary right-of-way (ROW); the permanent ROW would be reduced to 50 feet. The corridor has been surveyed for impacts to natural and cultural resources with no significant findings on June 29, 2011. In total, approximately 7.23 acres would be disturbed as a result of activities associated with the construction of the proposed gathering pipelines. Pipeline plats are provided in Appendix A.

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 and follow-up surveys along the lateral line corridor.

## **5. Cultural Resources**

A cultural resource inventory, on the tribal and allotted surface, for these gathering lines was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 18 acres were inventoried on June 29, 2011 (Hutchinson and Kohler 2011<sup>1</sup>).

SWCA newly identified and documented one site during the inventory. The site was left unevaluated for nomination to the National Register of Historic Places, pending further research and Native American consultation. Given the unevaluated status of this site, the BIA recommends avoidance of the site by all ground-disturbing activities. Through consultation between SWCA, Three Affiliate Tribes Tribal Historic Preservation Office representatives, Bureau of Indian Affairs representatives, and project surveyors, the proposed gathering line center line was rerouted 175 feet west of the original proposed alignment. With this rerouted alignment, the site will be avoided by the pipeline construction right-of-way and construction activities will be at least 120 feet from the site boundary.

A cultural resource inventory of this pipeline route was conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. Approximately 18 acres were inventoried on June 29, 2011 (Hutchinson and Kohler 2011). One archaeological site was located that may 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, as the archaeological site will be avoided. This determination was communicated to the THPO on September 8, 2011; however the THPO did not respond within the allotted 30 day comment period.

Hutchinson, Alan, and Todd Kohler

(2011) A Class I and Class III Cultural Resource Inventory for Three Gathering Pipelines Connecting the Cedar 148-94-12D-1-4H TF/Pine 148-94-12D-1-3H Well Pad to the Roberts Trust CDP Site, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources Corporation, Denver.

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

Environmental Assessment: *Enerplus Resources (USA) Corporation, LLC, Environmental Assessment for 16 Bakken and Three Forks Oil Wells (February 2011).*

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<sup>1</sup> Hutchinson, A. and T. Kohler. A Class I and Class III Cultural Resources Inventory for Three Gathering Pipelines Connecting the Cedar 148-94-12D-1-4H TF/Pine 148-94-12D-1-3H Well Pad to the Roberts Trust CDP Site, Fort Berthold Indian Reservation, Dunn County, North Dakota



## **7. Other Relevant Documentation**

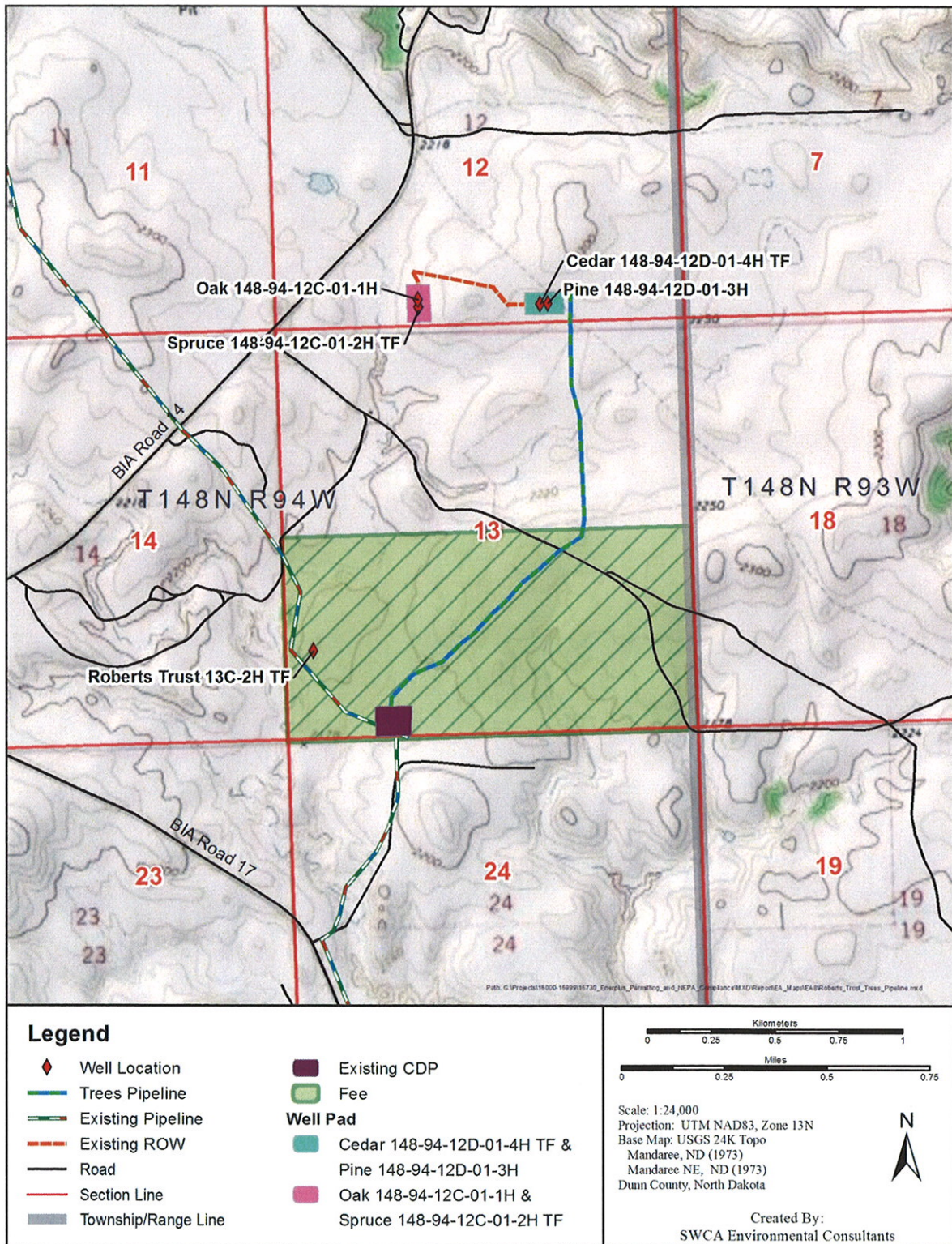
None.

## **8. NEPA Adequacy Criteria**

This document has identified one previously prepared NEPA document, *Enerplus Resources (USA) Corporation, LLC, Environmental Assessment for 16 Bakken and Three Forks Oil Wells (February 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.

*Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust Site (October 2011)*



**Figure 1. Proposed gathering line and associated well pads.**

*Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust Site (October 2011)*



IN REPLY REFER TO:  
DESCRM  
MC-208

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

SEP 08 2011



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 proposed oil well pads and access roads and a gathering line in Dunn and McKenzie Counties, North Dakota. Approximately 62.96 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the areas depicted in the enclosed reports. Two archaeological sites (32DU1633, 32MZ2231) were located which may 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, as the archaeological sites will be avoided. Catalogued as BIA Case Number AAO-1981/FB/11, the proposed undertakings, locations, and project dimensions are described in the following reports:

Hutchinson, Alan, and Todd Kohler

(2011) A Class I and Class III Cultural Resource Inventory for Three Gathering Pipelines Connecting the Cedar 148-94-12D-1-4H TF/Pine 148-94-12D-1-3H Well Pad to the Roberts Trust CDP Site, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources Corporation, Denver.

Johnson, Sarah

(2011a) A Class I and Class III Cultural Resources Inventory of the Earth #151-94-16CH, Sky #151-94-16CH TF, Carbon #151-94-21B-28H and Air #151-94-21B-28H TF Well Pad and Access Road, Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, Denver.

(2011b) A Class I and Class III Cultural Resources Inventory of the Enerplus Resources Bobbin #149-93-04C-03H and Thread #149-93-04C-03H Well Pad and Access Road, Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Enerplus Resources, 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.

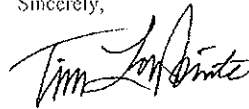
*Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust Site (October 2011)*

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

Sincerely,



ACTING Regional Director

Enclosures

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

## **APPENDIX A**

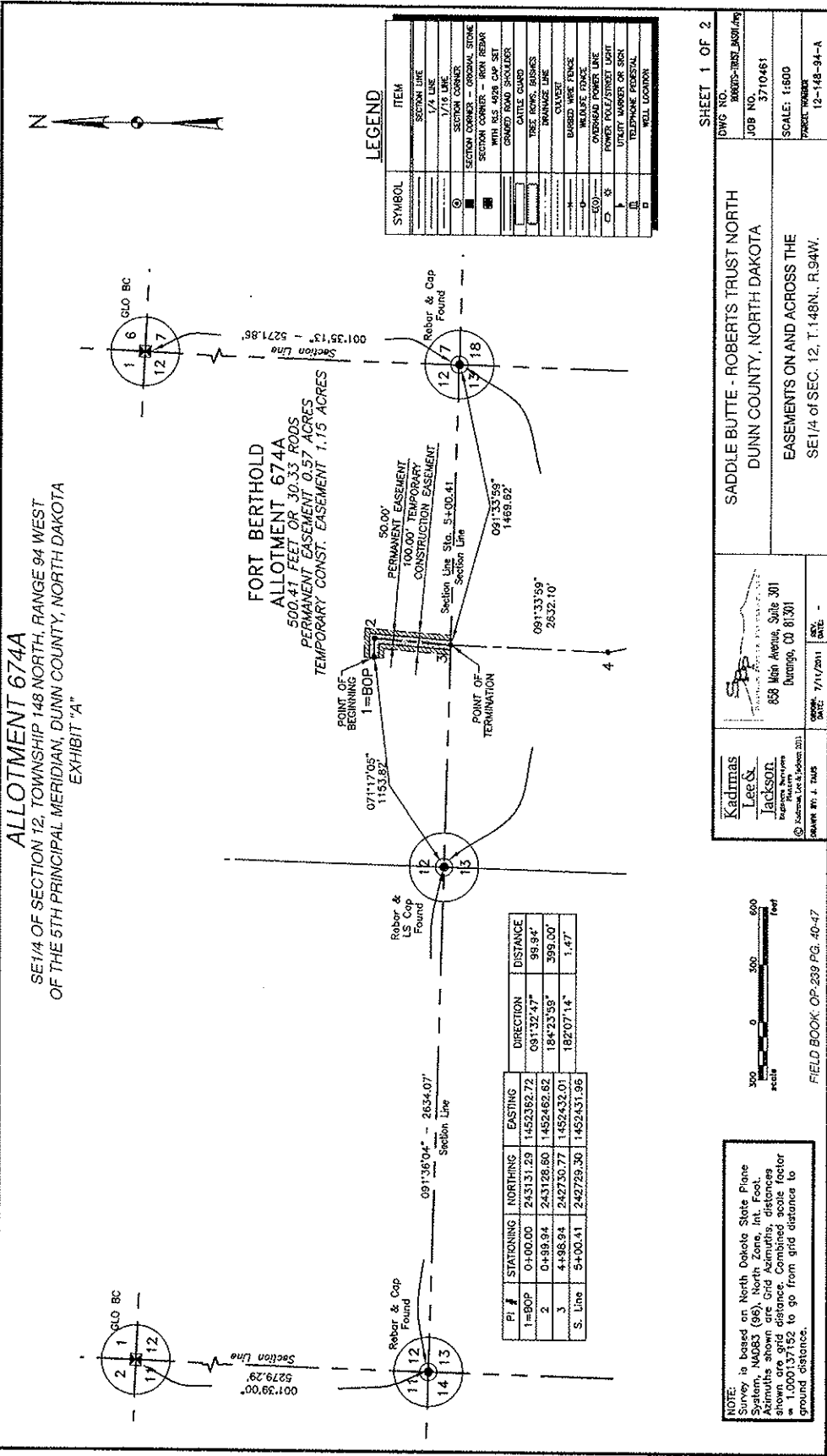
### **Plats Showing the Gathering Line Corridor Layout and Right-of-Way**

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust Site (October 2011)

ALLOTMENT 674A

SE1/4 OF SECTION 12, TOWNSHIP 148 NORTH, RANGE 94 WEST  
OF THE 5TH PRINCIPAL MERIDIAN, DUNN COUNTY, NORTH DAKOTA

EXHIBIT "A"



NOTE: Survey is based on North Dakota State Plane System, NAD83 (95), North Zone, Int. Foot. Azimuths shown are Grid Azimuths, distances shown are grid distance. Combined scale factor = 1.000137152 to go from grid distance to ground distance.

FIELD BOOK: OP-239 PG. 40-47  
JUL 12, 2011 - 9:53am - J:\GIS\64\Saddle Butte Pipeline\A\1710461\Roberts Trust North\Case\ROBERTS-TRUST\_LB601.dwg

LEGEND

SYMBOL	ITEM
(---)	SECTION LINE
(---)	1/4 LINE
(---)	1/16 LINE
(---)	SECTION CORNER
(---)	SECTION CORNER - ORIGINAL STONE
(---)	SECTION CORNER - IRON REBAR WITH 5/8" 4928 CAP SET
(---)	GRADED ROAD SHOULDER
(---)	DITCH CURB
(---)	TREE TAMP, BUSHES
(---)	DRAINAGE LINE
(---)	UTILITY POLE
(---)	WELDED FENCE
(---)	OVERHEAD POWER LINE
(---)	POWER POLE/STREET LIGHT
(---)	UTILITY MARKER OR SIGN
(---)	TELEPHONE POST/STAKE
(---)	WELL LOCATION

SHEET 1 OF 2

DWG NO. 12-148-94-A (1)

JOB NO. 3710461

SCALE: 1:800

PROJECT NUMBER 12-148-94-A

SADDLE BUTTE - ROBERTS TRUST NORTH  
DUNN COUNTY, NORTH DAKOTA

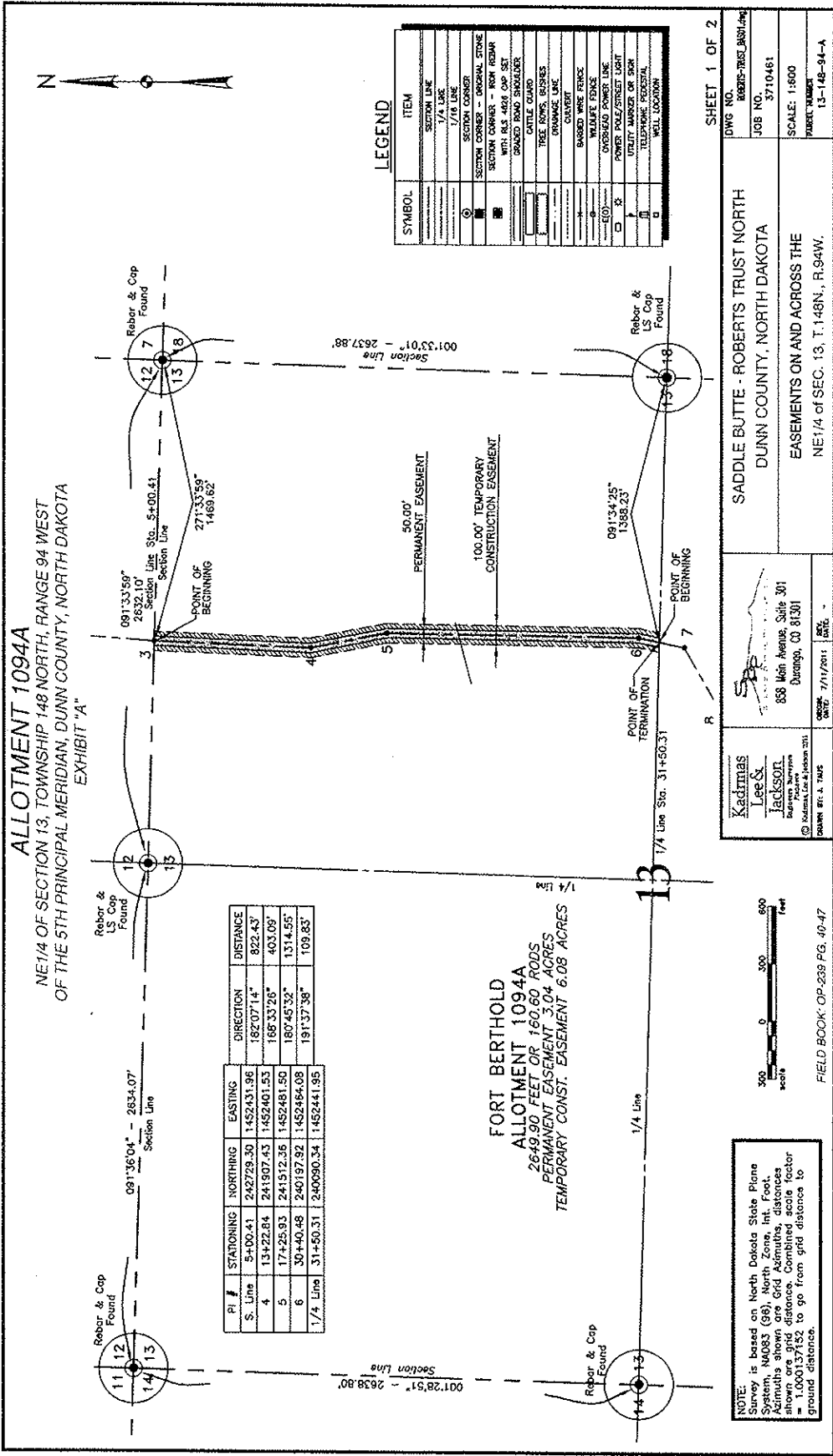
EASEMENTS ON AND ACROSS THE  
SE1/4 OF SEC. 12, T. 148N., R. 94W.

Lee S. Jackson  
Professional Engineer  
689 Main Avenue, Suite 301  
Dunsmuir, CO 81301

DATE: 7/17/2011

FIELD BOOK: OP-239 PG. 40-47

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting the Cedar 148-94-12D-01-4H TF/Pine 148-94-12D-01-3H and Oak 148-94-12C-01-1H/Spruce 148-94-12C-01-2H TF Wells to the Roberts Trust Site (October 2011)



ALLOTMENT 1094A  
 NE1/4 OF SECTION 13, TOWNSHIP 148 NORTH, RANGE 94 WEST  
 OF THE 5TH PRINCIPAL MERIDIAN, DUNN COUNTY, NORTH DAKOTA  
 EXHIBIT "A"

PI #	STATIONING	NORTHING	EASTING	DIRECTION	DISTANCE
S. Line	5+00.41	242729.30	1452431.96	182°07'14"	822.43'
4	13+22.84	241907.43	1452401.53	166°33'26"	403.09'
5	17+25.93	241512.36	1452481.50	180°45'32"	1314.55'
6	30+40.48	240197.92	1452464.08	191°37'38"	109.83'
1/4 Line	31+50.31	240090.34	1452441.95		

LEGEND

SYMBOL	ITEM
---	SECTION LINE
---	1/4 LINE
---	1/8 LINE
○	SECTION CORNER
○	SECTION CORNER - ORIGINAL STONE
○	SECTION CORNER - NEW SET
○	WPI 8.5 402 04P SET
○	GRADED ROAD SHOULDER
○	CATTLE GUARD
○	TREE ROWS, BUSHES
○	DRAINAGE LNK
○	CHABERT
○	BARBED WIRE FENCE
○	WILDLIFE FENCE
○	OVERHEAD POWER LINE
○	UTILITY MARKER OR SIGN
○	TELEPHONE PEDestal
○	WELL LOCATION

**Kadimas Lee & Jackson**  
 Surveyors & Engineers  
 858 Main Avenue, Suite 301  
 Durango, CO 81301  
 PHONE: 970/251-2111 FAX: 970/251-2112  
 EMAIL: info@kadimaslee.com

**SADDLE BUTTE - ROBERTS TRUST NORTH**  
 DUNN COUNTY, NORTH DAKOTA  
 EASEMENTS ON AND ACROSS THE  
 NE1/4 OF SEC. 13, T. 148N., R. 94W.

JOB NO. 3710461  
 SCALE: 1:6000  
 SHEET NUMBER 13-148-94-A  
 LAYOUT: 13-148-94-A (1)

NOTE:  
 Survey is based on North Dakota State Plane System, NAD83 (96), North Zone, Int. Foot. Azimuths shown are Grid Azimuths, distances shown are 7/162 distances. Combined scale factor 0.99997152 to go from grid distance to ground distance.

Jul 12, 2011 11:46am - H:\field\Saddle Butte Pipeline\3710461\Roberts Trust North\Cad\ROBERTS--TRUST--BAS01.dwg