



# 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 13 2011

## MEMORANDUM

TO: Superintendent, Fort Berthold Agency

FROM: <sup>Acting</sup> Regional Director, Great Plains Region

SUBJECT: Supplemental to Environmental Assessment

A Categorical Exclusion has been completed in compliance with the regulations of the National Environmental Policy Act (NEPA) of 1969, as amended. The proposed Supplemental Categorical Exclusion is for information tiering off of an existing Environmental Assessment for Enerplus Resources (USA) Corporation and authorizes land use for an access road segment on the east lateral pipeline within the existing rights-of-way.

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)  
Joey Sheeley, SWCA (with attachment)  
John Shelman, US Army Corps of Engineers  
Jeffrey Hunt, Fort Berthold Agency



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## EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS

Project: East Lateral Pipeline Access Road

Date: 10/11/2011

Nature of Proposed Action: Authorize land use by Enerplus for the construction of an access road segment on the East Lateral gathering pipeline system. No additional surface disturbance would occur outside the ROW beyond that which was approved. The proposed action is in conformance with the categorical exclusion defined under Department of Interior Manual 516 DM 10.5(F) (1) Rights-of-Way: "Rights-of Way inside another right-of-way, or amendments to rights-of-way where no deviations from, or additions to, the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area." Additionally, no extraordinary circumstances (516 DM 2, Appendix 2) are anticipated to occur, resulting in impacts that would require analysis. This document is tiered to the Environmental Assessment Saddle Butte Pipeline, LLC, Saddle Butte Trunk Lines (September 2010).

Exclusion category and number: 516 DM 10.5 (F) (1)

Evaluation of Exceptions to use of Categorical Exclusion:

1. This action would have significant adverse effects on public health or safety. No X 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 X Yes \_\_\_\_\_
3. The action will have highly controversial environmental effects. No X Yes \_\_\_\_\_
4. The action will have highly uncertain environmental effects or involve unique or unknown environmental risks. No X Yes \_\_\_\_\_
5. This action will establish a precedent for future actions. No X Yes \_\_\_\_\_
6. This action is related to other actions with individually insignificant, but cumulatively significant environmental effects. No X Yes \_\_\_\_\_

7. This action will affect properties listed or eligible for listing in the National Register of Historic Places. No X Yes \_\_\_\_\_

8. This action will affect a species listed, or proposed to be listed as endangered or threatened. No X 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: Mark Herman, Environmental Engineer

Regional Archeologist Concurrence with Item *Robert M. Murphy*

Concur: *Mark P. Davis*  
Regional Office/Agency Environmental Coordinator

Date: 10-11-2011

Concur: *Tim LaPorte*  
Acting Regional Director/Superintendent

Date: 10-13-2011

# **ENVIRONMENTAL ASSESSMENT Supplement**

**United States Bureau of Indian Affairs**

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



**Enerplus Resources (USA)**

**Supplement to Environmental Assessment to Authorize Land Use for an Access Road  
Segment on the East Lateral Pipeline**

**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

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
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 .....	1
6. Potential Effects.....	2
7. Applicable National Environmental Policy Act Document(s) .....	2
8. Other Relevant Documentation .....	2
9. NEPA Adequacy Criteria .....	2

**LIST OF FIGURES**

<b><u>Figure</u></b>	<b><u>Page</u></b>
1 Proposed East Lateral Gathering Pipeline System and associated well pads. ....	4

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

The purpose of the proposed action is to authorize the land use by Enerplus for the construction of an access road segment on the East Lateral gathering pipeline system (oil, gas, and water) from the compressor station to a private driveway.

## **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 access road segment on the East Lateral gathering pipeline system would be located on trust land originating from the approved compressor station location, in Lot 4 and SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 7, Township (T) 149 North (N), Range (R) 93 West (W), 5<sup>th</sup> Prime Meridian (P.M.), Dunn County, North Dakota.

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

Enerplus proposes to construct an access road that would share the 100-foot ROW with the approved gathering pipeline system and would travel east approximately 1,519 feet from the compressor station to an existing driveway (Figure 1). No additional surface disturbance would occur outside the ROW beyond that which was approved.

## **5. Surveys**

SWCA Environmental Consultants (SWCA) conducted natural resource surveys for threatened and endangered species, migratory birds, bald and golden eagles, and wetlands for the gathering pipelines on June 9, 2011. BIA Environmental Specialist Jeff Desjarlais approved the locations and the proposed alignment of the gathering pipelines. No threatened and endangered species, migratory birds or nests, or bald/golden eagles were observed during any of the natural resource surveys. No wetland areas are anticipated to be impacted by the construction of the proposed gathering pipelines.

A Class III cultural resource inventory for the gathering pipelines, including original centerline and reroutes, was conducted by SWCA personnel, using an intensive pedestrian methodology, on June 9 and 21, 2011. A total of 13 reroutes consisting of an additional 1.92 miles (46.5 acres) were inventoried in order to avoid new and previously recorded cultural resources within the project area resulting in 10.82 total miles (332.8) surveyed for the project. The final pipeline centerline, incorporating reroutes, is 9.3 miles long. During the inventory, two previously recorded sites, eight newly recorded sites, and two isolated finds were documented. (Hutchinson 2011)<sup>1</sup>. The BIA recommends that all eight newly recorded

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Hutchinson, Alan. 2011. A Class I and Class III Cultural Resource Inventory of Enerplus Resources East Lateral Pipeline, Fort Berthold Indian Reservation, Dunn County, North Dakota. Prepared by SWCA Environmental Consultants

sites should be avoided in order to mitigate any potential impacts related to construction of the pipeline.

## **6. Potential Effects**

Potential direct impacts to cultural resource sites would occur as a result of disturbance and/or the loss of sites eligible for the National Register of Historic Places. All potential impacts as a result of the proposed action were mitigated via field survey and subsequent avoidance or recommending fencing and monitoring during construction of any eligible or register listed cultural resource sites within the proposed ROW.

Potential direct impacts to natural resources may include the loss of native vegetation and wildlife habitat, soil disturbance, and erosion during construction that may adversely affect air and water quality. Impacts would be mitigated by using best management practices during construction to minimize disturbance. Once construction activities are completed, reclamation would take place and would include the return of topsoil and contouring, and seeding of native vegetation.

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).

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

*Addendum to Saddle Butte Pipeline, LLC August 2010 Environmental Assessment for Approval of Saddle Butte Trunk Lines (October 2010).*

*Addendum to Environmental Assessment to Authorize Land Use for the East Lateral Pipeline Connecting to the Saddle Butte Pipeline (August 2011).*

## **8. Other Relevant Documentation**

*Environmental Assessment: Saddle Butte Pipeline, LLC, Saddle Butte Trunk Lines (September 2010).*

## **9. NEPA Adequacy Criteria**

This document has identified one previously prepared NEPA document, *Addendum to Environmental Assessment to Authorize Land Use for the East Lateral Pipeline Connecting to the Saddle Butte Pipeline (August 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 documents.
2. The range of alternatives is reasonable with respect to the current proposed action in the existing NEPA documents, which appropriately consider and analyze current environmental concerns, interests, and resource values.
3. The existing analysis and conclusions are adequate in the existing NEPA documents. 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 documents 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 documents.
6. The cumulative impacts that would result from implementation of the proposed action are unchanged from those analyzed in the existing NEPA documents.
7. A 30-day comment period involving public input and interagency review was used in the development of the existing NEPA documents.

The proposed action is in conformance with the categorical exclusion defined under Department of Interior Manual 516 DM 10.5(F) (1) Rights-of-Way: “Rights-of Way inside another right-of-way, or amendments to rights-of-way where no deviations from, or additions to, the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area.” Additionally, no extraordinary circumstances (516 DM 2, Appendix 2) are anticipated to occur, resulting in impacts that would require analysis.



