



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

OCT 30 2009

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 the proposed Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Patricia Charging #4-15H to Alisia Fox #16-9H to Arrow Trunk Pipeline by Zenergy 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

cc: Marcus Levings, Chairman, Three Affiliated Tribes (with attachment)

ENVIRONMENTAL ASSESSMENT
Addendum

United States Bureau of Indian Affairs

Great Plains Regional Office
Aberdeen, South Dakota



Zenergy Operating Company, LLC

**Addendum to Environmental Assessment to Authorize Land Use for
Gathering Pipelines Connecting Dakota-3 Patricia Charging #4-15H
to Alisia Fox #16-9H to Arrow Trunk Pipeline**

Fort Berthold Indian Reservation

October 2009

For information contact:
Bureau of Indian Affairs, Great Plains Regional Office
Division of Environment, Safety and Cultural Resource Management
115 4th Avenue SE
Aberdeen, South Dakota 57401
605-226-7656

Finding of No Significant Impact

Zenergy Operating Company, LLC (Zenergy)

Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Patricia Charging #4-15H to Alisia Fox #16-9H to Arrow Trunk Pipeline

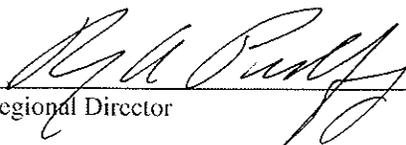
**Fort Berthold Indian Reservation
Dunn County North Dakota**

The U.S. Bureau of Indian Affairs (BIA) has received a proposal for an addendum to authorize land use for a gathering pipeline connecting two exploratory oil/gas wells and related infrastructure to the Arrow Trunk Pipeline on the Fort Berthold Indian Reservation, to be located in Section 15, Township 149 North, Range 93 West, 5th P.M. Associated federal actions by BIA include a determination of effect regarding cultural resources, and approvals of leases, rights-of-way and easements.

The potential of the proposed action 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 actions 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.
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 project will improve the socio-economic condition of the affected Indian community.

AKK

Regional Director

10/30/09
Date

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1. Purpose and Need for the Proposed Action

Zenergy is proposing to construct and install oil, gas, and water gathering pipelines 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 Dunn County, North Dakota. The 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 Zenergy for the construction and installation of buried gathering pipelines to transport product and waste from productive wells. Installation would include three pipelines: one each 4-inch-diameter water line, oil line, and gas line to transport produced water, oil, and gas from wells to markets and disposal facilities.

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 Descriptions of Proposed Action

Dakota-3 Patricia Charging #4-15H gathering lines would be located on federal land off the southwest side of the well pad. The well pad is located approximately 4.52 miles east of the Mandaree Indian community and approximately 17.65 miles south of New Town, North Dakota, in the NW¼NW¼ of Section 15, Township 149 North, Range 93 West, 5th P.M. (Figure 1).

4. Scope of Work for Proposed Action

Zenergy proposes to construct and install oil, gas, and water gathering pipelines on federal land to tie one well into the existing Alisia Fox #16-9H gathering lines which connect to the Arrow Trunk Pipeline. Oil, gas, and water pipelines would be buried in two 2.5 feet wide trenches located 5 feet apart. Oil and gas pipelines would be 4 inches in diameter and constructed of steel. Water pipelines would be 4 inches in diameter and constructed of Fiberspar®.

Approximately 1,243 feet of oil, gas, and water lines would be needed to connect the pipelines on the well pad to the Alisia Fox #16-H gathering line (Appendix A). Gathering pipelines would be installed south of the well pad parallel to the access road. All construction disturbances would occur within the existing 100-foot right-of-way centered on the access road (Figure 1) between the well pad and the Arrow Trunk Pipeline. The right-of-way has been previously surveyed for impacts to natural and cultural resources with no significant findings. The pipelines are expected to be placed within a 50-foot right-of-way, or 1.4 acres, within the existing 100-foot right-of-way. There will be no permanent disturbance associated with the pipeline; all disturbances within the pipeline right-of-way will be reclaimed.

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

Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, and Dakota-3 Patricia Charging #4-15H. May 20, 2009.

6. Other Relevant Documentation:

1) Environmental Assessment: Arrow Midstream Holdings Pipelines and Utilities. March 2009. 2) Amendment to Addendum to Environmental Assessment to Authorize Land Use for Gathering Pipelines Connecting Dakota-3 Nathan Hale #3-18H, Dakota-3 Alisia Fox #16-9H. October 2009

7. NEPA Adequacy Criteria

This document has identified a previously prepared NEPA document, *Environmental Assessment: Zenergy Operating Company, LLC, Dakota-3 Benson (709A) #16-3H, Dakota-3 TAT (2177) #15-1H, Dakota-3 Mandaree #16-24H, and Dakota-3 Patricia Charging #4-15H (May 2009)*, 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. Cultural Resources

Cultural resource inventories of these well pads and access roads were conducted by personnel of SWCA Environmental Consultants, using an intensive pedestrian methodology. For the Patricia Charging #4-15H well pad and access road project approximately 12.58 acres were intensively inventoried on April 16, 2009 (Slessman 2009). For the Alisia Fox #16-9H well pad and access road project approximately 15.88 acres were inventoried on July 14, 2008 (Ferris 2008). No historic properties were located within these project areas 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 determinations of **no historic properties affected** for these undertakings. For the Alisia Fox #16-9H project this determination was communicated to the THPO on September 17, 2008, and the THPO concurred on October 6, 2008. For the Patricia Charging #4-15H project this determination was communicated to the THPO on June 3, 2009 and the THPO concurred on June 12, 2009 (see below). The project additions covered in this EA Addendum are within the areas covered by these cultural resource inventories. Likewise, the tie-in from the Alisia Fox #16-9H well pad is to the Arrow Midstream Pipeline, for which a cultural resource inventory was conducted by personnel of SWCA Environmental Consultants on November 17-25, 2008 (Markman *et al.* 2009). A **no adverse effect** determination was communicated to the THPO for this project on February 18, 2009, with which the THPO concurred on that same day.

References

Ferris, Kade M.

(2008) CR Inventory of the Zenergy Incorporated Alicia Fox 16-9H Well Pad on the Fort Berthold Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Inc. Tulsa, OK.

Markman, Jon M., Kade M. Ferris, Erin Salisbury and Scott Slessman

(2009) A Class I and Class III Cultural Resource Inventory of the Proposed Arrow Pipeline and Compressor Station in McKenzie and Dunn Counties, North Dakota. SWCA Environmental Consultants for Arrow Midstream Holdings LLC, Tulsa, OK.

Slessman, Scott A.

(2009) A Cultural Resource Inventory of the Dakota-3 Patricia Charging #4-15H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.



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



IN REPLY REFER TO:
DESCRM
MC-208

SEP 17 2008

Perry No Tears Brady, THPO
Mandan, Hidatsa and Arikara Nation
PO Box 429
Parshall, North Dakota 58770

Dear Mr. Brady:

We have considered the potential effects on cultural resources of three oil well pads and access roads in Dunn County, North Dakota. Approximately 76.77 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 that 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 resources are known to be present that appear to qualify for protection under the American Indian Religious Freedom Act (16 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-1562/FB/08**, the proposed undertakings, locations, and project dimensions are described in the following reports:

- (2008) CR Inventory of the Zenergy Incorporated Nathan Hale 3-18H Well Pad on the Fort Berthold Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Inc., Tulsa, OK.
- (2008) CR Inventory of the Zenergy Incorporated Alicia Fox 16-9H Well Pad on the Fort Berthold Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Inc., Tulsa, OK.
- (2008) CR Inventory of the Zenergy Incorporated Nathan Hale 4-25H Well Pad on the Fort Berthold Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Inc., Tulsa, OK.

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

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

Sincerely,

A handwritten signature in black ink, appearing to be 'A. N. Murdy', written over a horizontal line.

Regional Director

Enclosures

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

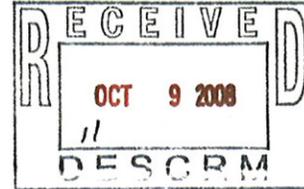


TRIBAL HISTORIC PRESERVATION

Mandan Hidatsa Arikara
Perry 'No Tears' Brady, Director.
404 Frontage Road,
New Town, North Dakota 58763
Ph/701-862-2474 fax/701-862-3401
pbrady@mhanation.com

October 6, 2008

Mr. Carson Murdy
Archaeologist
Bureau of Indian Affairs
115 4th Avenue SE
Aberdeen, South Dakota 57401



RE: BIA Case Number AAO-1562/FB/08

Dear Mr. Murdy:

As per the Three Affiliated Tribes Tribal Historic Preservation Office,(THPO) Policies and Procedures, regarding BIA Case Number AAO-1562/FB/08, we are in receipt of your letter dated September 17, 2008 and have had the opportunity to review it.

The MHA Nation THPO has also reached a determination of **no historic or cultural properties affected** for these undertakings.

The Tribal Historic Preservation Office will conduct a short public Ceremonial at the construction site prior to any drilling/construction activity in order to bless and ask forgiveness from Mother Earth. The THPO request one week advance notice in order to prepare for said ceremony.

Therefore, the THPO concurs with this determination and the project is ready to proceed. If you have any questions or need additional information, please contact me at (701) 862-2474

Sincerely:

Perry "No Tears" Brady
Director

Mandan, Hidatsa, & Arikara Nation Tribal Historic Preservation Office



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:
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MC-208

TAKE PRIDE
IN AMERICA

JUN 03 2009

Perry 'No Tears' Brady, THPO
Mandan, Hidatsa and Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Mr. Brady:

We have considered the potential effects on cultural resources of three oil well pads and access roads in Dunn and McKenzie Counties, North Dakota. Approximately 51.03 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 that 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 (16 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-1602/FB/09**, the proposed undertakings, locations, and project dimensions are described in the following reports:

Slessman, Scott A.

- (2009) A Cultural Resource Inventory of the Dakota-3 Benson (709A) #16-3H Well Pad and Access Road on the Fort Berthold Indian Reservation, McKenzie County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.
- (2009) A Cultural Resource Inventory of the Dakota-3 Patricia Charging #4-15H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.
- (2009) A Cultural Resource Inventory of the Dakota-3 Mandaree #16-24H Well Pad and Access Road on the Fort Berthold Indian Reservation, Dunn County, North Dakota. SWCA Environmental Consultants for Zenergy Operating Company, LLC, Tulsa, OK.

Page 2

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

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

Sincerely,



ACTING Regional Director

Enclosures

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



TRIBAL HISTORIC PRESERVATION

Mandan Hidatsa Arikara
Perry 'No Tears' Brady, Director.
404 Frontage Road,
New Town, North Dakota 58763
Ph/701-862-2474 fax/701-862-2490
pbrady@mhanation.com

June 12, 2009

Mike Black
Regional Director
Bureau of Indian Affairs
Great Plains Regional Office
115 Fourth Avenue SE
Aberdeen, SD, 57401

RE: Project # AAO-1602/FB/09
Dakota 3 - Benson (709A) 16-3H well pad & access road
Dakota 3 - Patricia Charging 4-15H well pad & access road
Dakota 3 - Mandaree 16-24H well pad & access road

Mr. Black:

After review of the documentation provided by your Office, the Mandan Hidatsa Arikara Nations Tribal Historic Preservation Office concurs with the determination of 'No Adverse Affect'/No Historic Properties Affected' to any pre and post-historic relics, artifacts or sacred and cultural resources in the proposed Project area.

We respectfully request to be notified should any NAGPRA issue or others arise as the Project progresses.

Sincerely,

A handwritten signature in cursive script that reads "Perry Brady".

Perry 'No Tears' Brady,
Tribal Historic Preservation Officer,
Mandan Hidatsa Arikara Nations.



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

FEB 13 2009

Perry 'No Tears' Brady, THPO
Mandan, Hidatsa and Arikara Nation
PO Box 429
Parshall, North Dakota 58770

Dear Mr. Brady:

We have considered the potential effects on cultural resources of an oil pipeline in McKenzie and Dunn Counties, North Dakota. Approximately 330.74 acres were intensively inventoried using a pedestrian methodology. Potential surface disturbances are not expected to exceed the area depicted in the enclosed report. No historic properties were located that 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, although site 32DU87 had previously been recorded as eligible within the project area. No properties were located that appear to qualify for protection under the American Indian Religious Freedom Act (16 USC 1996).

As the surface management agency, and as provided for in 36 CFR 800.5, we have therefore reached a determination of **no adverse effect** for this undertaking, as the supposed site area will be monitored. Catalogued as **BIA Case Number AAO-1607/FB/09**, the proposed undertaking, location, and project dimensions are described in the following report:

Markman, Jon M., Kade M. Ferris, Erin Salisbury and Scott Slessman
(2009) A Class I and Class III Cultural Resource Inventory of the Proposed Arrow Pipeline and Compressor Station in McKenzie and Dunn Counties, North Dakota. SWCA Environmental Consultants for Arrow Midstream Holdings LLC, Tulsa, OK.

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

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

Sincerely,

Regional Director

Enclosure

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



TRIBAL HISTORIC PRESERVATION

Mandan Hidatsa Arikara
Perry 'No Tears' Brady, Director.
404 Frontage Road,
New Town, North Dakota 58763
Ph/701-862-2474 fax/701-862-2490
pbrady@mhanation.com

February 18, 2009

Dr. Carson N. Murdy
Regional Archeologist
Bureau of Indian Affairs
Great Plains Regional Office
115 Fourth Ave. S.E.
Aberdeen, SD, 57401

RE: Project #AAO-1607/FB/09

Dr. Murdy:

Thank you for your letter in which you notified our Nation of the proposed Project;

Arrow Pipeline & compressor Station, Dunn/McKenzie Counties, ND.

After review of the documentation provided by your office, the Mandan Hidatsa Arikara Nations THPO concurs with the determination of 'No Adverse Affect'/No Historic Properties Affected' to any pre and post-historic relics, artifacts or sacred and cultural resources in the proposed Project area. We respectfully request to be notified should any NAGPRA issues arise as the Project progresses.

We look forward to further opportunities to participate in any future consultations.

Sincerely,

Perry 'No Tears' Brady 

Perry 'No Tears' Brady,
Tribal Historic Preservation Officer,
Mandan Hidatsa Arikara Nations.

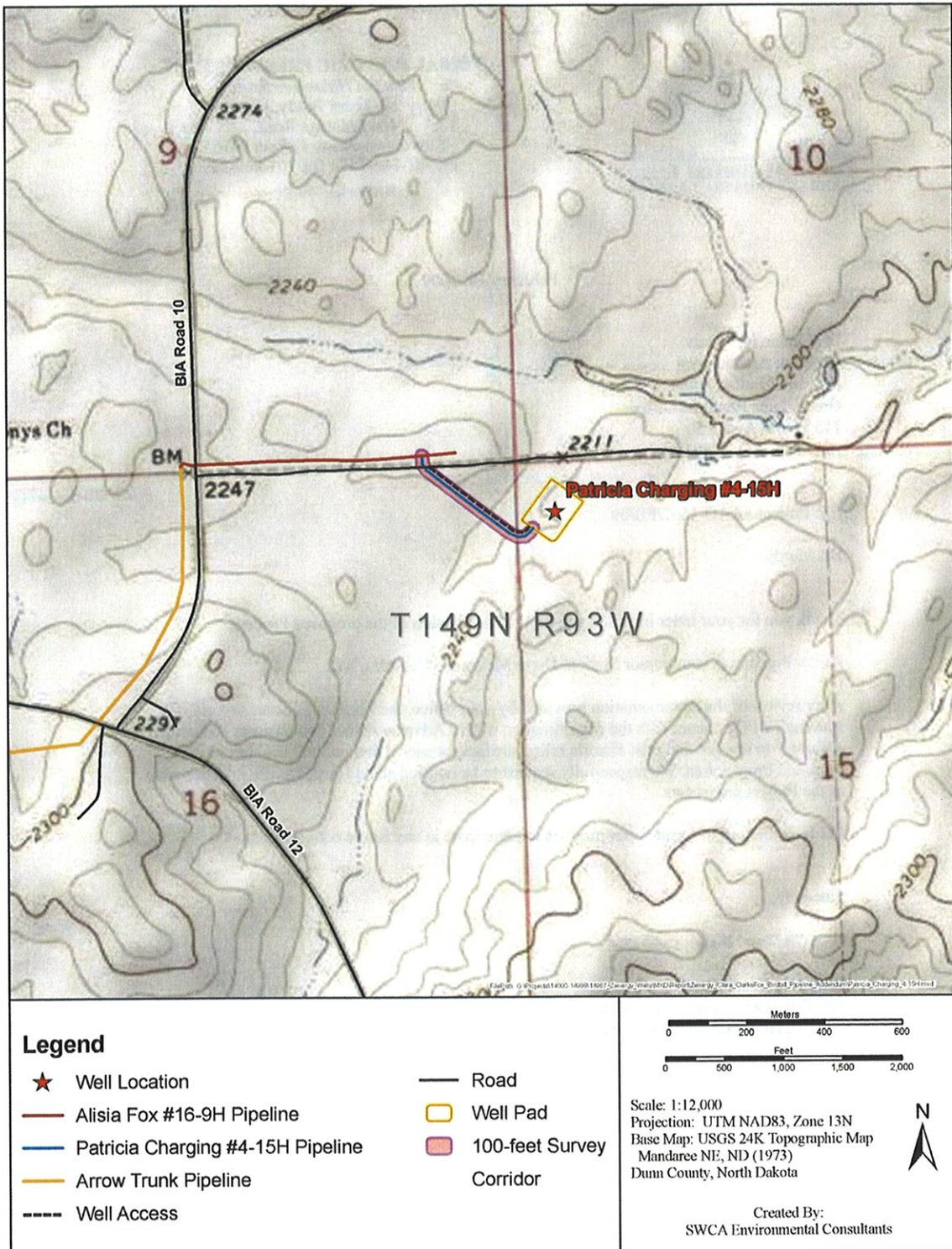


Figure 1. Map of Dakota-3 Patricia Charging #4-15H.

**APPENDIX A
PIPELINE LAYOUT AND
PIPELINE RIGHT-OF-WAY FOR
DAKOTA-3 PARTRICIA CHARGING #4-15H**

