



**RESOLUTION OF THE GOVERNING BODY OF THE
THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Approval of a Fine Structure for the MHA Nation Energy Division to Regulate and Oversee Oil and Gas Exploration and Production Activities in the Oil Field, On Pad and Facilities, and ROW/Access Roads, and Approving a Memorandum of Understanding Between the Energy Division and the Environmental Division for Coordination and Shared Regulation of Oil and Gas Activities."

WHEREAS, This Mandan Hidatsa and Arikara Nation (the "MHA Nation"), having accepted the Indian Reorganization Act of June 18, 1934 and the authority under said Act, and having adopted a Constitution and By-laws under said Act, and

WHEREAS, Pursuant to Article III, Section 1 of its Constitution and By-Laws, the Tribal Business Council is the governing body of the MHA Nation; and

WHEREAS, Pursuant to Article VI, Section 5(1) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and

WHEREAS, The Tribal Business Council has authority to engage in activities on behalf of and for the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, The Tribal Business Council Article IX Sections 1 and 3 of the Constitution provides that the Tribal Business Council has the authority to manage and lease or otherwise deal with tribal lands and resources; and

WHEREAS, In January 2012, the Tribal Business Council enacted the SOLID AND HAZARDOUS WASTE MANAGEMENT AND REMEDIATION CODE (referred to herein as "SHWMRC"), codified as Title 15, Chapter 15.1 of the MHA Nation Environmental Code, to establish a comprehensive regulatory system to manage and regulate the storage, collection, transportation, handling, treatment and disposal of solid waste, including the remediation of any releases of a hazardous substance, pollutant or contaminant, anywhere within the exterior boundaries of the Fort Indian Berthold Reservation ("FBIR"), in order to protect the health, safety, and well-being of residents as well as the public sanitation, environment, and general aesthetics of the FBIR; and

WHEREAS, The SHWMRC contains provisions that apply to disposing and handling Special or Industrial Wastes relating to oil and gas exploration and production activities, such as, for example:



- Section 2.01, defines “Industrial waste” includes residues or spills from oil and gas exploration and extraction;
- Section 8.02.14, defines as Special or Industrial Waste, includes waste from crude and conventional oil and natural gas exploration or production including contaminated soils, contaminated drilling cuttings, produced water or other fluids accumulated, stored or treated at or near the point of generation in pits or tanks;
- Sections 8.02.14 & 8.02.15, requires compliance with the Permit-by-Rule provisions in Section 13 for the management, storage or disposal of oil and gas exploration or production wastes, including petroleum or crude-oil contaminated soils or produced water or fluids, accumulated, stored or treated at or near the point of generation in pits or tanks, and further provides the Environmental Division Director permit waiver authority; and

WHEREAS, The SHWMRC Section 3.03.15 authorizes the Environmental Division Director, as the “responsible agent” to ensure compliance with and enforcement of this Act and any permits or orders issued pursuant to this Act; and

WHEREAS, The SHWMRC Section 3.03.15 authorizes the Environmental Division Director, to ensure compliance with the notification and response requirements in the SHWMRC, “in the event of an accidental release or spill of a hazardous substance, pollutant or contaminant to the air, land or waters or groundwater of the Reservation resulting in a potential threat to the public health, welfare or the environment within the boundaries of the Reservation”; and further requires the Environmental Division Director to ensure the appropriate entity addresses the immediate and long term impacts of the release or spill to include all necessary containment, remediation, assessment of impacts and long term monitoring”; and

WHEREAS, The SHWMRC Section 3.03.16 authorizes the Environmental Division Director to ensure compliance with the remediation requirements of this law by owners, operators, or other parties responsible for releases of hazardous substances, pollutants or contaminants on or from a property or site resulting in contamination; and

WHEREAS, The SHWMRC Sections 18.01 & 18.01.1 authorize the Environmental Division Director to impose civil fines and penalties, in addition to seeking other available remedies, upon any person who violates any provision of the SHWMRC, and provides the authorized fine structure:

- ✓ Up to \$25,000.00 each day for each violation,
- ✓ Up to a maximum per incident of \$500,000 for negligent violations, and



- ✓ \$1,000,000 for willful violations assessed by the Environmental Division Director with the concurrence of the Tribal CEO, the Tribal Chairman or the Tribal Courts; and

WHEREAS, The SHWMRC Section 17.16 authorizes the Environmental Division Director to negotiate a Memorandum of Understanding (“MOU”) with other Tribal departments to establish areas of cooperation and coordination and to provide authority for specific field staff of those agencies or departments to issue citations to persons found to be in violation of the SHWMRC; and

WHEREAS, The MHA Nation Energy Division was established since the inception of oil and gas development on the FBIR, and for nearly a decade has developed the expertise and the staff to regulate oil and gas exploration and production activities emanating on-site, at and on the well pad, including production facilities, oil field operations and right-of-way (“ROW”) access roads, pursuant to applicable tribal law and regulations and in accordance with applicable federal law and regulations, including requirements and conditions set forth in the respect environmental assessment (“EA”) documents and the application to drill (“APD”) documents; and

WHEREAS, The SHWMRC does not specifically address or incorporate the authority of the Energy Division to regulate on-site, well pad discharges, releases, spills, leaks and other similar occurrences, even though the Energy Division staff is often the first responders who immediately evaluate and coordinate the tribal response to these occurrences and supervises well pads and production facilities, oil field operations, and ROW access roads; and

WHEREAS, The Energy Division is in need of an additional source of revenue to offset the costs of regulating oil and gas exploration and production activities and responding to emergency discharges, releases, spills, leaks, and related occurrences of hazardous substances, pollutants or contaminants emanating from well pads, production facilities, oil field operations and ROW access roads on the FBIR; and

WHEREAS, On June 26, 2017, at a duly held meeting of the Natural Resources Committee (“NRC”), the MHA Nation Energy Division provided the NRC a draft MOU between the Energy Division and the Environmental Division designating regulatory responsibilities between these divisions for discharges, releases, spills, leaks, and related occurrences of hazardous substances, pollutants or contaminants emanating from well pads, production facilities, oil field operations and ROW access roads on the FBIR; and

WHEREAS, The MHA Nation Energy Division also discussed with the NRC a proposed fee



Resolution No. 17-194-FWF

and fine structure, attached as Exhibit A, applicable to its ongoing regulation of oil and gas exploration and production activities of well pads, production facilities, oil field operations and ROW access roads on the FBIR, and further recommended that all fines and fees, or a portion thereof, collected under this schedule be set aside to the Energy Division to defray its costs of regulating oil and gas exploration and production activities and responding to emergency discharges, releases, spills, leaks, and related occurrences of hazardous substances, pollutants or contaminants emanating from well pads, production facilities, oil field operations and ROW access roads on the FBIR; and

WHEREAS, The NRC approved the MHA Energy Division's recommendations and approved its proposed fine structure, and the NRC forwarded the matter to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, the Tribal Business Council hereby approves the Energy Division's proposed Fine Structure, attached as Exhibit A.

BE IT FURTHER RESOLVED, the Tribal Business Council directs the Energy Division and Environmental Division to enter into a Memorandum of Understanding ("MOU") to designate respective regulatory roles and responsibilities with respect to oil and gas exploration and production activities on the FBIR, with the Energy Division having primary regulatory responsibility for all inspections, operations and equipment related to oil field operations and in the oil field and/or emanating from the well pad, production facilities and ROW access roads, and with the Environmental Division having the primary authority to regulate all issues that are related to the environmental impact to air pollution from general operations off the well pad and access roads, as well as industrial waste emanating from the road traffic that are off site and into waterways or other locales on the FBIR.

BE IT FURTHER RESOLVED, that the Tribal Business Council authorizes the Energy Division to promulgate rules and guidelines on implementation of the Fine Structure, and further directs that the Fine Structure shall apply to applicable events and occurrences that have not been addressed or fully remediated within one year prior to the effective date of this MOU.

BE IT FURTHER RESOLVED, the Tribal Council directs the Energy Division and the Environmental Division to work together in coordination with the Executive Director of the MHA Nation Natural Resources Department to draft amendments to the SHWMRC, new Code provisions and/or additional Tribal Council Resolutions, to implement the intent and directives of this Resolution, and to present such proposals to the Natural Resources Committee and the Judicial Committee within six (6) months after the passage of this Resolution.



BE IT FINALLY RESOLVED, that the Chairman is hereby to take such further actions as are necessary to carry out the terms and intent of this Resolution.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at a **Special Meeting** thereof duly called, noticed, convened and held on the 29th day of **August**, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [X] Voting. [] Not Voting.

Dated this 29th day of August, 2017.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council

Tribal Chairman, Mark N. Fox
Tribal Business Council

SEE ATTACHED – EXHIBIT A

EXHIBIT A

MHA NATION ENERGY DIVISION OIL AND GAS FIELD OPERATIONS, WELL PADS AND FACILITIES FINE STRUCTURE EFFECTIVE AUGUST 2017

I. APPLICATION, SCOPE AND EFFECTIVE DATE.

- A. Application. This Fine Structure shall apply to oil and gas operators or owners of operating rights (herein, “responsible operator or owner”) conducting oil and gas exploration and production activities on the Fort Berthold Indian Reservation pursuant to duly approved leases, rights-of-way agreements and related instruments, agreements, etc.
- B. Scope. The Energy Division is authorized to impose civil fines and penalties, in addition to seeking other available remedies, upon a responsible operator or owner who refuses or fails to comply, or causes non compliance, with a provision or requirement of a duly approved Oil and Gas Lease, Right-of-Way Grant, including MHA Nation ROW term and conditions, or applicable federal and tribal regulations relating to Oil Field Operations and in the Oil Field, specifically located on and emanating from Well Pads and Production Facilities, as well as related ROW Access Roads, including but not limited to Discharges, Releases, Spills, Leaks emanating from the Well Pad, Failure to Maintain Berms on Well Pad, Pipeline Leaks, Spills, Releases, Discharges.
- C. Effective Date. This Fine Structure shall become effective upon the date of approval by the Tribal Business Council and shall apply to applicable events and occurrences that have not been addressed or fully remediated within one year prior to the effective date of this Fine Structure.

II. NOTIFICATION

- A. Warning Letter. The Energy Division shall notify the responsible operator or owner, via written warning letter, of on pad or other violations listed herein, where such Minor violations do not pose an imminent risk to public health or the environment or are not habitual, in nature to include a written Warning Letter. The Energy Division will provide the responsible operator or owner an opportunity to take immediate corrective action.
- B. Notice of Violation (NOV). The Energy Division shall, upon discovery of a violation listed here, provide a Notice of Violation (NOV) that sets forth the relevant acts or omissions of the responsible operator or owner. The NOV and all accompanying documents shall be delivered personally or by certified or registered mail, return receipt requested to the responsible operator or owner, a copy provided to the NRC. Such NOV shall include a time frame for abatement of compliance and may also include a remediation plan to address said violation.

EXHIBIT A

C. Civil Fines and Penalties.

1. Minor Violation. The Energy Division may issue a fine or penalty may be issued for a Minor non-repetitive violation of an on pad or other violation listed herein, where such violations do not pose an imminent risk to public health or the environment. Failure to timely abate and/or complete compliance with remediation requirements for a Minor violation, or where such violations are habitual in nature, the Energy Division may issue civil fines and penalties consistent with the Fine Structure set forth below.
2. Major Violation. The Energy Division may also issue a fine or penalty for a major violation of an on pad or other violation listed herein. Major violation means noncompliance that causes or threatens immediate, substantial, and adverse impacts on public health and safety, the environment, production accountability, or royalty income. In addition, failure to timely abate and/or complete compliance with remediation requirements for a Major violation, or where such violations are habitual in nature, the Energy Division may issue civil fines and penalties consistent with the Fine Structure set forth below.

III. FINE AND PENALTY STRUCTURE

- A. Minor Violation Penalty - If a Minor Violation is abated or not corrected as specified by the Energy Division of such a NOV notice or report, or such longer time as the Energy Division may agree to in writing, the responsible operator or owner, shall be liable for a civil penalty of up to \$2,000.00 per violation for each day such violation continues, dating from the date of such NOV notice or report of failing to timely complete compliance.
- B. Major Violation Penalty - If a Major Violation is not abated or corrected within as specified by the Energy Division of such NOV notice or report, or such longer time as the Energy Division may agree to in writing, the responsible operator or owner, shall be liable for a civil penalty of up to \$10,000.00 per violation for each day such violation continues, dating from the date of such NOV notice or report of failing to timely complete compliance.
- C. Continuing Violation Penalty. If the violation specified in paragraph (A) or (B) above is not abated or corrected within as specified by the Energy Division of such NOV notice or report, or a longer period as agreed to in writing by the Energy Division, the responsible operator or owner, shall be liable for a civil penalty of up to \$10,000.00 per violation for each day the violation continues, not to exceed a maximum of thirty (30) days, dating from the date of such NOV notice or report.
- D. Minor Violation Fine. A responsible operator or owner shall be liable for a civil fine of up to \$2,000.00 per day for each day of violation, not to exceed a maximum of thirty (30) days, dating to the date of such NOV notice or report.

EXHIBIT A

- E. Major Violation Fine. A responsible operator or owner shall be liable for a civil fine of up to \$10,00.00 per day for each day of violation, not to exceed a maximum of thirty (30) days, dating to the date of such NOV notice or report.
- F. Abatement Extension. In cases where the Energy Division agrees to an abatement period of more than fourteen (14) days, the date of notice shall be deemed to be fourteen (14) days prior to the end of such longer abatement period for the purpose of calculating civil fines and penalties.
- G. Immediate Assessments. Certain instances or conduct of noncompliance are violations of such a serious nature as to warrant the Energy Division to impose immediate assessments upon discovery. For example, such conduct would include the failure to install blowout preventer or other equivalent well control equipment. Upon discovery such following violations shall result in immediate assessments, which may be retroactive, in the following specified amounts per violation, in an amount not to exceed \$10,000.00.
- H. On a case-by-case basis, the Energy Division may compromise or reduce civil penalties under this section for good cause. In compromising or reducing the amount of a civil penalty, the Energy Division shall state on the record the reasons for such determination and shall secure the concurrence of the Natural Resources Committee.

IV. APPEALS

Fines and penalties assessed by the Energy Division Director may be appealed to the Natural Resources Committee, within fifteen (15) business days upon date of receipt. The Final decisions of the NRC may be appealed to the Tribal Court of the Three Affiliated Tribes, which has final jurisdiction over all violations, fines and penalties.

V. OTHER

- A. Civil fines and penalties provided herein shall be supplemental to, and not in derogation of, any other penalties or assessments for noncompliance in any other provision of law.
- B. If the violation continues beyond the maximum periods specified in Paragraph III (A) – (F), the Energy Division may forward a recommendation to the Natural Resources Committee that the MHA Nation contact the Bureau of Indian Affairs to pursue lease cancellation and bond forfeiture proceedings and/or to obtain other relief to address the ongoing violations.
- C. Where actual loss or damage has occurred as a result of the responsible operator or owner's noncompliance, the actual amount of such loss or damage shall be charged to the responsible operator or owner.

Caleb Dogeagle

Sent: Tuesday, September 26, 2017 2:29 PM

To: Edmund Baker

Cc: Carson Hood, Jr.

Mr. Hood and Mr. Baker,

I have reviewed the MOU and it is ready for signatures.

Thanks,

Caleb Dogeagle
Three Affiliated Tribes Supervising Attorney
404 Frontage Road
New Town, ND 58763
701-627-8263 office
701-627-3626 fax
701-421-8177 cell
cdoeagle@mhanation.com

On Sep 21, 2017, at 2:36 PM, Edmund Baker <edmundbaker@mhanation.com> wrote:

Carson and Caleb,

I've read the MOU and Reso and I understand and agree to the MHA Energy Division's outlined agreement (MOU). I also understand that the shared authority shall apply to a specific scope (ROW's or leased industrial properties, access roads). I will have a signed copy ready in the morning.

Edmund Baker, J.D.
Three Affiliated Tribes
Environmental Director
Office: 701.627.4569
Ext. 6127
Fax: 701.627.2917
Cell: 701.421.6873

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE MHA NATION ENERGY DIVISION AND
THE MHA ENVIRONMENTAL DIVISION
REGARDING OIL AND GAS WELL PAD AND FACILITIES INSPECTIONS,
DISCHARGES, SPILLS, LEAKS, ETC.
OCTOBER 2017**

This **MEMORANDUM OF UNDERSTANDING** (“MOU”), is made and entered into this ___ day of October, 2017, by and between the Mandan, Hidatsa and Arikara Nation’s Energy Division, located at 305 4th Ave, Suite 3100, New Town, ND 58763, and Environmental Division, located at 305 4th Ave, Suite 1100, New Town, ND 58763, in order to effectively and efficiently coordinate their respective roles and responsibilities for discharges, spills, leaks and other activities arising from oil and gas well pads, facilities and oil field operations that could pose environmental and contamination threats to the lands, resources and people on the Fort Berthold Indian Reservation (“FBIR”).

WHEREAS, in January 2012, the Tribal Business Council pursuant to its authority under the Constitution and By-laws of the MHA Nation, enacted the SOLID AND HAZARDOUS WASTE MANAGEMENT AND REMEDIATION CODE (referred to herein as “SHWMRC”), codified as Title 15, Chapter 15.1 of the MHA Nation Environmental Code; and

WHEREAS, the SHWMRC (also referenced as “the Act”) contains provisions that specifically apply or could be applied to disposing and handling wastes relating to oil and gas exploration and production activities on the Fort Berthold Indian Reservation, including:

- **Section 1.04. Findings** - Promoting development and production of oil and gas resources on the FBIR while minimizing and preventing any adverse impacts to public health or the environment);
- **Section 1.08. Scope** - Applying the Act to all oil and gas development and other types of mineral extraction activities on the FBIR).
- **Section 2.01. Definitions** (*see e.g.*, Emergency Response; Hazardous Wastes; Industrial Wastes; Mine-scarred lands; Oil Product; Petroleum-Contaminated Soils; Pollutant or Contaminant; Pollution; Reserve pit; Sludge; Solid Waste; Tribal Response Program).
- **Section 6. Prohibited Practices or Activities:**
 - **Sec. 6.02** (Hazardous Waste Disposal).
 - **Sec. 6.08** (Illegal Dumping and Littering).
 - **Sec. 6.09** (Maintaining a Public Nuisance).
 - **Sec. 6.10** (Polluting Streams or Waters).
- **Section 8. Special and Industrial Wastes:**
 - **Sec. 8.01** (requiring every person, commercial establishment, government agency or facility or industrial facility who generates or stores special or industrial waste as described below within the boundaries of the FBIR to comply with the Act).
 - **Sec. 8.02.14** (designating special or industrial waste to include “petroleum or crude-oil contaminated soils, contaminated drilling cuttings, produced water or other fluids from an oil or gas exploration o[r] production well petroleum” and further providing that “Oil and gas exploration or production wastes, to include petroleum or crude-oil contaminated soils or produced water or fluids, accumulated, stored or treated at or near the point of generation in

pits or tanks must obtain and comply with a Permit-by-Rule pursuant to Section 13 of the Act”).

- **Sec. 8.02.15** (requiring any solid waste management facility which accepts petroleum-contaminated soils, to comply with the Permit-by-Rule requirements of Section 13, and allows the Environmental Division Director to waive such requirements under certain circumstances).
- **Sec. 8.02.16** (authorizing the Environmental Director to inspect and monitor well sites on surface owner's land for hydrogen sulfide, to be designed as Industrial Waste, and requiring the Environmental Director to take appropriate action under the Act).

WHEREAS, pursuant to Section 17 of the SHWMRC, the Environmental Division Director has the duty and responsibility to ensure compliance with the Act, include seeking compliance of enforcement permits and orders, and enforcing compliance with applicable mitigation measures or enforcing response/remediation measures required by the Act; and

WHEREAS, pursuant to Section 18 of the SHWMRC, the Environmental Division Director is authorized to impose civil fines and penalties, in addition to seeking other available remedies, upon any person who violates any provision of the Act; the authorized fine structure includes:

- ✓ Up to \$25,000.00 each day for each violation,
- ✓ Up to a maximum per incident of \$500,000 for negligent violations, and
- ✓ \$1,000,000 for willful violations assessed by the Environmental Division Director with the concurrence of the Tribal CEO, the Tribal Chairman or the Tribal Courts; and

WHEREAS, Section 19 of the SHWMRC sets forth a Tribal Response and Remedial Action Program under which the Environmental Division Director is authorized to investigate, assess, respond and remediate or require a responsible party to investigate, assess or remediate a release, or threat of release, of a hazardous waste, substance, pollutant, contaminant, petroleum product, controlled substance or mining or oil and gas exploration or production activity materials that may pose a threat to public health, welfare or the environment; and further authorizes the Environmental Division to recover from the responsible party the cost of remediation; and

WHEREAS, pursuant to its Mission Statement, the MHA Nation Energy Division “manage[s] all Natural Resources through professional mentorship, responsible development, communication, and education; while committing to environmental awareness and cultural values that ensure sovereignty for generations to come”; and

WHEREAS, in accordance with its Vision Statement, the MHA Nation Energy Division “promote[s] accountability and responsibility to the members of the MHA Nation and environment through transparency and professional development while adhering to traditional values in order to protect and safeguard natural resources”; and

WHEREAS, the MHA Nation Energy Division has historically regulated oil and gas exploration and production activities on-site, at and on the well pad, in the oil field operations, and on Right-of-Way access roads, pursuant to applicable tribal law and regulations and in accordance with applicable federal law and regulations, including requirements and conditions set forth in the respect environmental assessment (“EA”) documents and the application to drill (“APD”) documents; and

WHEREAS, the Energy Division and Environmental Division agree that coordination between the divisions is necessary to properly oversee and regulate on-site oil and gas exploration and production activities, specifically located on Well Pads and Production Facilities, Oil Field Operations, and Right-of-Way (“ROW”) Access Roads, in order to immediately respond to spills, discharges, leaks and similar occurrences on and from Well Pads and Production Facilities, Oil Field Operations, and ROW Access Roads; and

WHEREAS, Section 17.16 of the SHWMRC authorizes the Environmental Division Direction to negotiate a Memorandum of Understanding (MOU) with other Tribal departments to establish areas of cooperation and coordination to provide authority for specific field staff of those agencies or departments to issue citations to persons found to be in violation of the SHWMRC.

NOW, THEREFORE, in consideration of the historic roles and responsibilities of the MHA Nation Energy Division and the Environmental Department, and pursuant to Section 17.16 of the Solid and Hazardous Waste Management and Remediation Code (“SHWMRC”), as well as other resolutions and regulations, the Energy Division and the Environmental Department agree as follows:

1. Designation of Primary Regulatory Authority.
 - a. MHA Nation Energy Division. The Energy Division will have the primary regulatory responsibility for all inspections, operations and equipment related to Oil Field Operations and in the Oil Field, specifically located on and emanating from Well Pads and Production Facilities, as well as related Access Road ROWs, except specific designations, for example, to be assigned to the MHA Nation Pipeline Authority.
 - b. MHA Nation Environmental Department. The Environmental Department shall have primary authority to regulate all issues, other than those related to Oil and Gas Field Operations, on Well Pads and Production Facilities, and Access Road ROWs, that are related to the Environmental Impact to air pollution emanating from road traffic, pipeline spills and discharges, and other related activities which threaten waterways or other locales on the Reservation, except specific designations, for example, to be assigned to the MHA Nation Pipeline Authority.
2. Warnings, Citations, Fines and Fees.
 - a. Energy Division – In regulating discharges, spills, leaks and other occurrences from Oil Field Operations, in the Oil Field, and on Well Pad and Production Facilities, and Access Road ROWs, the Energy Division will apply the fines and citations, as authorized by Resolution of the Tribal Business Council.
 - b. Environmental Department – The Environmental Department shall continue to apply and implement applicable provisions of the SHWMRC related to its responsibilities, other than those related to Oil and Gas Filed Operations, on Well Pads and Production Facilities, and Access Road ROWs.
3. Effective Date and Implementation.

- a. This MOU shall be in effect upon execution by the undersigned Divisions Directors, along with the concurrence of the Chairman, the respective Tribal Business Council authorizing Committees and the Executive Director of the Natural Resources Department.
- b. The Energy Division shall utilize the citation and fine structure authorized by the Tribal Business Council through Resolution No. 17-194-FWF, or any other subsequent action by the Tribal Business Council.
- c. This MOU, upon becoming effective, shall apply to applicable events and occurrences that have not been addressed or fully remediated within one year prior to the effective date of this MOU.

4. Updating Existing Law. The Energy Division and the Environmental Department will work together in coordination with the Executive Director of the MHA Nation Natural Resources Department to draft amendments to the SHWMRC, and/or to propose additional Tribal Council Resolutions and Code provisions, to implement the intent and directives of this MOU. The Energy Division and the Environmental Department shall present such proposals to the Natural Resources Committee within six (6) months after the execution of this MOU.

IN WITNESS WHEREOF, the MHA Nation Energy Division and the Environmental Department have caused this Memorandum of Understanding to be signed by their respective and duly authorized representatives on this ___ day of OCTOBER, 2017.

MHA NATION ENERGY DIVISION

By: Carson Hood Jr.
Carson Hood, Jr., Director

MHA NATION ENVIRONMENTAL DEPARTMENT


By: Edmund Baker
Edmund Baker, Director

CONCURRENCE:

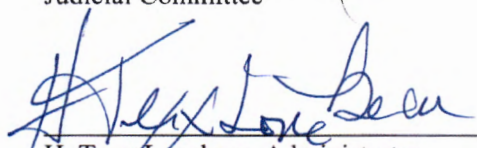
Mark N. Fox
Mark N. Fox, Chairman



Randy Phelan, Chairman
Natural Resources Committee



Fred Fox, Chairman
Judicial Committee



H. Texx Lonebear, Administrator
Natural Resources Department



Three Affiliated Tribes

MHA Nation Energy Division

305 4TH Ave, Suite 3100

New Town, ND 58763

Phone: 701.627.5154

Fax: 701.627.5105



MEMORANDUM

To: Chairman Mark Fox
Vice Chairman Randy Phelan, Chair, Natural Resources Committee
Tribal Secretary Fred Fox, Chair, Judicial Committee
H. Texx Lonebear, Administrator, Natural Resources Department

From: Carson Hood Jr., MHA Nation Energy Division Director

Date: October 6, 2017

RE: Execution of Memorandum of Understanding between the Energy Division and the Environmental Division

On August 29, 2017, the Tribal Business Council passed Resolution No. 17-194-FWF, which approves a new fine structure for the MHA Nation Energy Division in overseeing and regulating on-pad and oil field activities. This Resolution also authorizes the Energy Division and the Environmental Division to enter in a Memorandum of Understanding (MOU) to coordinate their shared regulatory authorities over oil and gas related activities. The TBC also expressed its view that the MOU should address and define existing and ongoing regulatory activities of the respective departments. The TBC approved the Resolution and draft MOU subject to coordination between the departments, make any revisions that may be needed, and final legal review.

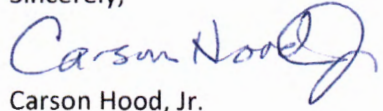
The Energy Division sent the MOU to the Environmental Division for review. I met with Edmund Baker regarding the MOU, and on September 21, 2017, Edmund Baker confirmed by email: "I understand and agree to the MHA Energy Division's outlined agreement (MOU). I also understand that the shared authority shall apply to a specific scope (ROW's or leased industrial properties, access roads)." On September 21, 2017, Texx Lonebear and I met with Caleb Dogeagle to discuss and go over the MOU. On September 26, 2017, Caleb Dogeagle sent an email to the Energy Division and the Environmental Division informing that he completed legal review of the MOU and that the document "is ready for signature." (See attached copy of emails)

The Energy Division, the Environmental Division and the Legal Department have fulfilled the conditions set forth by the TBC in approving the MOU. Accordingly, Edmund Baker and I have

signed the MOU, and I respectfully request your respective signatures in order to fully execute the MOU. As soon as the MOU is fully executed, we will post on the Energy Division's website.

Thank you for your attention to this matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Carson Hood, Jr." with a stylized flourish at the end.

Carson Hood, Jr.
MHA Energy Director

Cc: Edmund Baker, Director of the Environmental Division
Caleb Dogeagle, Supervising Attorney, Legal Department