



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

***A Resolution entitled, "Consent to Modification of ROW No. FBOG100095 to Expand the Luther Well Pad and Access Road Right-of-Way and Inclusion of a Multiuse Corridor, and Payment of Trespass Fines," Submitted by Marathon Oil Company.***

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, 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 the Constitution and By-Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; 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,** 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,** Leases and Rights-of-Way ("ROWS") across Tribal Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; and
- WHEREAS,** Applications for Rights-of-Way ("ROWS") on Tribal Land are subject to the requirements of tribal law, including Resolution No. 17-117-FWF, Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Right-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), and Resolution No. 15-045-LKH (Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land); and
- WHEREAS** Marathon Oil Company ("Marathon") submitted a ROW application to modify the existing Luther USA #11-16H and Luther USA 31-16H Well Pad and Access Road, approved by ROW No. FBOG100095, dated July 26, 2010, to add five (5) wells and up to four (4) acres, and expanding the width of the existing Access Road ROW by an additional One Hundred feet (100') to include a Multiuse Corridor for access road, snow removal, electrical lines, fiber optics, water



transfer lines, construction, and maintenance, across Allotment 383A (65.278% Tribal Interest in the Surface Estate), more particularly described as the W/2 of Section 9, Township 150 North, Range 93 West, of the 5<sup>th</sup> p.m., Mountrail County, North Dakota, as more particularly described in Appendix A.1.; and

**WHEREAS,** Marathon overbuilt the existing Luther Well Pad, ROW No. FBOG100095, by Seventy Five Hundredths (0.75) of an acre and brought this trespass to the attention of the MHA Nation sought resolution of such trespass; and

**WHEREAS,** The ROW application, submitted by Marathon for the Luther Pad and Road Modification Project, described above, has been reviewed and recommended for approval by the MHA Natural Resources Department and the MHA Nation Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal Land; and

**WHEREAS,** The projected compensation to the MHA Nation for this ROW application is \$37,111.68; and

**WHEREAS,** On August 30, 2017, at a duly held meeting of the Natural Resources Committee ("NRC"), the MHA Nation Energy Division recommended approval of Marathon Oil Company's ROW application and consent request for the Luther Pad and Road Modification Project, more fully described herein, and in the attached Appendix A.1.;

**WHEREAS,** The NRC approved Marathon Oil Company's application and forwarded it to the Tribal Business Council for final action, subject to Marathon's payment of a fifty thousand dollar (\$50,000.00) fine to address Marathon's seven (7) year trespass action caused by its overbuilding of the Luther Well Pad, approved by ROW No. FBOG100095 dated July 26, 2010; and

**WHEREAS,** During the August 30, 2017 NRC meeting, Marathon also discussed another trespass action involving the Jones Road ROW No. FBOG100124 granted by the Bureau of Indian Affairs to Marathon on September 20, 2010, pursuant to Resolution No.17-021-FWF & 16-219-LKH Expansion, for a fifty foot (50') access road; and

**WHEREAS,** Marathon explained that it has been in trespass on the Jones Road ROW No. FBOG100124 for the past seven years by 0.17 acres, and to address this ongoing trespass action, Marathon agreed to the payment of a \$10,000.00 fine payable to the MHA Nation.

**NOW THEREFORE BE IT RESOLVED,** Subject to Marathon Oil Company's agreement to the execution of the MHA Right-of-Way Application and Terms and Conditions, as listed therein, and payment of ROW fees, the Tribal Business Council hereby



approves the following ROW application, attached as Appendix A.1, and ROW consent, as follows:

- Marathon Oil Company – the Luther Pad and Road Modification Project, to add five (5) wells and up to four (4) acres, and expanding the width of the existing Access Road ROW by an additional One Hundred feet (100'), utilizing up to six (6) acres, to include a Multiuse Corridor for access road, snow removal, electrical lines, fiber optics, water transfer lines, construction, and maintenance, across Allotment 383A (65.278% Tribal Interest in the Surface Estate), more particularly described as the W/2 of Section 9, Township 150 North, Range 93 West, of the 5<sup>th</sup> p.m., Mountrail County, North Dakota. ↻

**BE IT FURTHER RESOLVED**, the consent and approval of Marathon's ROW application for the Luther Pad and Road Modification Project, described herein, is specifically conditioned on Marathon's payment of the following trespass fines:

(1) \$50,000.00 for exceeding ROW No. FBOG100095 dated July 26, 2010 for the Luther Pad; and

(2) \$10,000.00 for exceeding ROW No. FBOG100124 dated September 20, 2010 for the Jones Road.

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

(SIGNATURE PAGE TO FOLLOW)



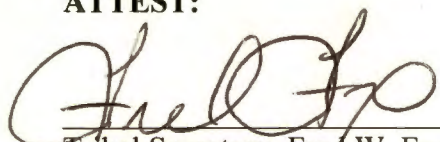
## CERTIFICATION


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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 11<sup>th</sup> day of October, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 11<sup>th</sup> day of October, 2017.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council

  
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Chairman, Mark N. Fox  
Tribal Business Council

## APPENDIX A.1

< Attach: (1) Application Form, (2) Approval Form signed by Department Head and Chairman of NRC per Resolution 15-045-LKH, (3) signed ROW terms and Conditions per Resolution No. 14-089-VJB, (4) map, and (5) other necessary information >