



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

**A Resolution entitled, “Approval of Setback Variance Requested by Marathon Oil Company for the Axell USA Pad and Flowline Project.”**

**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,** 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,** The Tribal Business Council passed Resolution No. 12-087-VJB, entitled, “The Missouri River, Badlands and Sacred Sites Protection Act” which requires a half mile setback for well sites/drilling pads from the Missouri River, Little Missouri River, and designated sacred sites or villages in the Badlands; and

**WHEREAS,** The Tribal Business Council passed Resolution No. 12-139-VJB, entitled, “Amending the Missouri River and Badlands Protection Act to Allow Variances upon Recommendation by the Tribal Energy Office,” which authorizes the MHA Nation Tribal Energy Office to consider setback variance requests and make recommendations to the Tribal Business Council to approve such requests “when minerals would be stranded due to the setback provisions or where the applicant has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River”; and

**WHEREAS,** On March 27, 2015, the Tribal Business Council passed Resolution No. 15-045-LKH entitled, “Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land”; and



**WHEREAS,** At the request of and in consultation with the MHA Nation Energy Division, Marathon Oil Company (“Marathon”) has submitted to the MHA Nation Energy Division a request for a Setback Variance for the Axell USA Well Pad and Flowline Project, in accordance with the Best Management Practices set forth below; and

**WHEREAS,** The specific Setback Variance requested by Marathon is, as follows:

**NAME:** AXELL USA WELL PAD and FLOWLINE for the following wells:

1. Axell USA 34-19TFH
2. McDonald USA 44-19H
3. Rue USA 44-19TFH
4. Sibyl USA 44-19TFH

**LOCATION:** SENE of Section 30, Township 151 North, Range 93 West of the 5<sup>th</sup> P.M., Dunn County, North Dakota.

**ACRES OF DISTURBANCE:** Ten (10) acres fenced-in.

**FLOWLINE DISTURBANCE:** 1,344’ of distance, 150’ width, being 4.63 acres.

**DISTANCE FROM WELLPAD:** One Thousand Forty Five Feet (1,045’) from the High Water Mark of Lake Sakakawea; and

**WHEREAS,** On June 21,2017, during the environmental and on-site review processes, Marathon met with the MHA Nation Energy Division to review and consider all other alternatives for the construction and siting of the Axell USA Well Pad and Flowline Project; and

**WHEREAS,** Marathon, in developing the Axell USA 34-19TFH Well Pad and Flowline Project pursuant to the Setback Variance herein described, has agreed to adhere to the “MHA Nation Energy Department Fort Berthold Indian Reservation Conditions of Approval (COAs),” and to abide by the following Best Management Practices:

1. Prior to construction the pad, Marathon will dig test holes deeper than the anticipated cut depth, and analyze native material for clay content, and to ensure no shallow water table or other issues could impact construction of the pad.
2. Marathon will construct the pad with a clay liner to ensure impermeability.



## Resolution No. 17-289-FWF

3. Marathon has designed the pad so that the sides closest to the lake are in cut and any accidental releases would be likely to flow to the east and away from the lake into a drainage that is approximately 2 miles from entering lake.
4. Marathon will construct production facility dikes utilizing clay base, followed by impermeable synthetic liner, and utilize steel containment for the production facility berms.
5. Marathon will construct 3' berm around top of cut and fill slopes to ensure containment of accidental release, and prevent any freshwater run-on.
6. During production operations, Marathon utilizes stuffing box containment system to ensure no leakage from polish rods or stuffing box seals leak.
7. Marathon will have production facilities and the wells tied into a SCADA communications system. This system has Electronic Shut Down valves (ESD's) to allow for remote shut down of individual wells in the event of an issue with any of the wells or the production facilities. This system allows Marathon the ability to continuously monitor wells on a cycle time of two minutes.
8. Marathon has developed a tactical response plan (detailed spill response) and has spill response materials located in Marathon's nearby New Town warehouse/office facility located south of New Town, approximately 15 minutes away from this location.
9. In the unlikely event of an off pad release into downstream ephemeral drainages, Marathon has developed a tactical response that allows for containment in at least 3 areas easily accessible by Marathon via Township Roads to shut off any flow in and to those ephemeral drainages.
10. In addition to Marathon's own spill response materials, Marathon is also a member of the Sakakawea Area Spill Response Group (SASR), which is a group of operators and pipeline companies that have pooled spill and other emergency response materials and logistical information in order to protect the lake. SASR's nearest spill response trailer is also located at Marathon's New Town Office complex and available for immediate use should an issue arise; and



**WHEREAS,** The MHA Nation Energy Division reviewed, processed and fully vetted Marathon's request for a setback variance for the Axell USA Well Pad and Flowline Project and has determined that Marathon has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River; 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's setback variance request for the Axell USA Well Pad and Flowline Project, and the NRC approved Marathon's setback variance request and forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** the Tribal Business Council hereby approves the setback variance requested by Marathon Oil Company, as follows:

**NAME:** AXELL USA WELL PAD and FLOWLINE for following wells:

1. Axell USA 34-19TFH
2. McDonald USA 44-19H
3. Rue USA 44-19TFH
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**FLOWLINE DISTURBANCE:** 1,344' of distance, 150' width, being 4.63 acres.

**DISTANCE FROM WELLPAD:** One Thousand Forty-Five Feet (1,045') from the High Water Mark of Lake Sakakawea.

**BE IT FURTHER RESOLVED,** the Tribal Business Council hereby approves Marathon Oil Company's set back variance request for the Axell USA Well Pad and Flowline Project, and acknowledges Marathon's agreement to abide by the following Best Management Practices:

1. Prior to construction the pad, Marathon will dig test holes deeper than the anticipated cut depth, and analyze native material for clay content, and to ensure no shallow water table or other issues could impact construction of the pad.
2. Marathon will construct the pad with a clay liner to ensure impermeability.



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3. Marathon has designed the pad so that the sides closest to the lake are in cut and any accidental releases would be likely to flow to the east and away from the lake into a drainage that is approximately 2 miles from entering lake.
4. Marathon will construct production facility dikes utilizing clay base, followed by impermeable synthetic liner, and utilize steel containment for the production facility berms.
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8. Marathon has developed a tactical response plan (detailed spill response) and has spill response materials located in Marathon's nearby New Town warehouse/office facility located south of New Town, approximately 15 minutes away from this location.
9. In the unlikely event of an off pad release into downstream ephemeral drainages, Marathon has developed a tactical response that allows for containment in at least 3 areas easily accessible by Marathon via Township Roads to shut off any flow in and to those ephemeral drainages.
10. In addition to Marathon's own spill response materials, Marathon is also a member of the Sakakawea Area Spill Response Group (SASR), which is a group of operators and pipeline companies that have pooled spill and other emergency response materials and logistical information in order to protect the lake. SASR's nearest spill response trailer is also located at Marathon's New Town Office complex and available for immediate use should an issue arise.



**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.

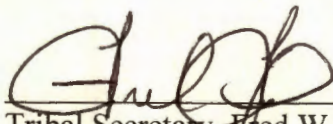
**CERTIFICATION**

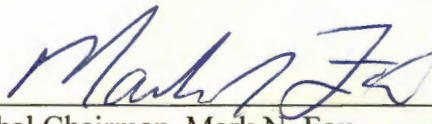
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 15<sup>th</sup> day of November, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 1 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman  Voting.  Not Voting.

Dated this 15<sup>th</sup> day of November, 2017.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council

  
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Tribal Chairman, Mark N. Fox  
Tribal Business Council