



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

***A Resolution entitled, "Amendment to Resolution No. 16-137-LKH, Consenting to Approval of a Right-of-Way and Approval of a Setback Variance for the Treasure USA Well Pad and Multiuse Corridor Project, requested by Marathon Oil Company."***

**WHEREAS**, This Mandan, Hidatsa, and Arikara Nation (the "MHA Nation" or "Tribes"), 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**, Applications for setback variances on the FBIR are subject to other requirements of tribal law, including 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), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Establishing a setback variance processing fee); and

**WHEREAS**, On July 13, 2016, the Tribal Business Council passed Resolution No. 16-137-LKH, entitled "Consent to Approval of Right(s) of Way and Approval of Setback Variance Request by Marathon Oil Company for the Treasure USA Well Pad and Multiuse Corridor Project"; and

**WHEREAS**, Resolution No. 16-137-LKH consented a ROW for the Treasure USA Well Pad, as follows:

- A production pad hosting Six (6) Wells, and a Multiuse Corridor, which includes an Access Road, Fiber Optics, Flowlines, Utilities, Snow Removal,



and Routine Maintenance, across certain Tribal Lands in Allotment T2122, being the NW of Section 14, T147N-R94W, 5<sup>th</sup> P.M., Dunn County North Dakota.

- Well Pad consists of twelve (12) acres fenced-in, the Multiuse Corridor is 201.81 feet in distance, encompassing 5.478 acres of disturbance; and

**WHEREAS,** Resolution No. 16-137-LKH approved the following setback variance for the Treasure USA Well Pad, as follows:

**NAME:** Treasure USA Six (6) Well Pad and Multiuse Corridor, including Fiber Optics, Utilities, Flowlines, Access Road, Snow Removal, Routine Maintenance. The six wells include:

1. Anita USA 31-14H
2. Carolyn USA 21-14H
3. Elva USA 21-14H
4. Judith USA 31-14TFH
5. Shell USA 21-14H
6. Treasure USA 41-TFH

**LOCATION:** NW of Section 14, Township 147 North, Range 94 West of the 5<sup>th</sup> P.M., Dunn County, North Dakota.

**ACRES OF DISTURBANCE:** Well Pad is Twelve (12) acres fenced-in, the Multiuse Corridor is 201.81 feet in distance, encompassing 5.478 acres of disturbance.

**DRILLING/SPACING UNIT:** Section 14, 15, 22 and 23 of T147N-R94W

**DISTANCE FROM WELLPAD:** Seven Hundred Forty-Three Feet (743') from the High Water Mark of Lake Sakakawea; and

**WHEREAS,** Although the Tribal Business Council passed Resolution No. 16-137-LKH at the request of Marathon Oil Company (“Marathon”) more than two years ago, Marathon did not submit a ROW Application to the BIA to secure an easement, as consented to in Resolution No. 16-137-LKH; and

**WHEREAS,** On September 21, 2018, Marathon informed the MHA Nation Energy Division that it now seeks to amend Resolution No. 16-137-LKH to modify the parameters of the ROW for the Treasure USA Well Pad and Multiuse Corridor Project, as well as the setback variance for said project; and



**WHEREAS,** Accordingly, Marathon has submitted an application to amend Resolution No. 16-137-LKH to modify the parameters and legal description for the ROW for the Treasure USA Well Pad and Multiuse Corridor Project, as follows:

- Treasure USA Well Pad - Consisting of six (6) wells, and a Multiuse Corridor consisting of an access road, construction, electrical lines, fiber optic cables, temporary above-ground water lines, snow storage or removal, maintenance, and flowlines for oil, gas, produced water, fresh water and/or any other related products. Said Well Pad and Multiuse Corridor will be located on, under, and across certain Tribal land in Tract No. 1968 comprised of the N2 of Section 15, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND, for 9.067 acres of access road, multiuse corridor, and flowlines; and Tract No. T2122 comprised of the NE4, N2NW4, SW4NW4, and N2SE4NW4 of Section 14, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND, for 8.00 acres of fenced-in well pad and 5.478 acres of access road, multiuse corridor, and flowlines; and

**WHEREAS,** In addition, Marathon seeks to amend Resolution No. 16-137-LKH to modify the parameters and legal description for the setback variance approved for the Treasure USA Well Pad and Multiuse Corridor Project, as follows:

**NAME:** Treasure USA Well Pad, consisting of six (6) wells, and Multiuse Corridor, consisting of an access road, construction, electrical lines, fiber optic cables, temporary above-ground water lines, snow storage or removal, maintenance, and flowlines for oil, gas, produced water, fresh water and/or any other related products. The six (6) wells are:

1. TREASURE USA 41-14TFH
2. ANITA USA 31-14H
3. JUDITH USA 31-14TFH
4. CAROLYN USA 21-14H
5. SHELL USA 21-14TFH
6. ELVA USA 21-14H

**LOCATION:** Tract No. 1968 comprised of the N2 of Section 15, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND; and Tract No. T2122 comprised of the NE4, N2NW4, SW4NW4, and N2SE4NW4 of Section 14, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND.

**ACRES OF DISTURBANCE:** Fenced-in well pad of 8.000 acres and access road, multiuse corridor, and flowlines of 14.545 acres.

**DRILLING/SPACING UNIT:** Sections 14, 15, 22 and 23 of T147N-R94W.



**DISTANCE FROM WELL PAD:** Seven Hundred Forty-Three Feet (743') from the High Water Mark of Lake Sakakawea; and

**WHEREAS,** Upon further review of Marathon's request, several other errors exist in Resolution No. 16-137-LKH and should be corrected, namely, several references to the "Sophia Well Pad" and "Sophia ROW Application" should be changed to the "Treasure USA Well Pad" and "Treasure USA ROW Application"; and

**WHEREAS,** Pursuant to fees established and set forth in Resolution No. 17-117-FWF, the projected compensation to the MHA Nation for this ROW application is \$19,139.53, which is the difference between the amount of acreage for the modified ROW requested herein, and the amount of the ROW fees Marathon paid to the MHA Nation for the ROW consent approved by Resolution No. 16-137-LKH; and

**WHEREAS,** On November 13, 2018, at a duly held meeting of the Natural Resources Committee (the "NRC"), considered the proposed amendments to Resolution No. 16-137-LKH for the ROW consent and setback variance approved for the Treasure USA Well Pad and Multiuse Corridor Project; and

**WHEREAS,** The NRC approved Marathon's request to amend Resolution No. 16-137-LKH as set forth and detailed herein, and recommended such final action by the Tribal Business Council.

**NOW THEREFORE BE IT RESOLVED,** Subject to Marathon Oil Company's agreement to and 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 an amendment to Resolution No. 16-137-LKH (on page 4 of 5) to modify the parameters and legal description for the ROW for the Treasure USA Well Pad and Multiuse Corridor Project, as follows:

- Treasure USA Well Pad - Consisting of six (6) wells, and a Multiuse Corridor consisting of an access road, construction, electrical lines, fiber optic cables, temporary above-ground water lines, snow storage or removal, maintenance, and flowlines for oil, gas, produced water, fresh water and/or any other related products. Said Well Pad and Multiuse Corridor will be located on, under, and across certain Tribal land in Tract No. 1968 comprised of the N2 of Section 15, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND, for 9.067 acres of access road, multiuse corridor, and flowlines; and Tract No. T2122 comprised of the NE4, N2NW4, SW4NW4, and N2SE4NW4 of Section 14, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND, for 8.00 acres of fenced-in well pad and 5.478 acres of access road, multiuse corridor, and flowlines; and



**BE IT FURTHER RESOLVED**, That the Tribal Business Council hereby amends Resolution No. 16-137-LKH (on page 5 of 5) to modify the legal description of the setback variance approved for the Treasure USA Well Pad and Multiuse Corridor Project, as follows:

**NAME:** Treasure USA Well Pad, consisting of six (6) wells, and Multiuse Corridor, consisting of an access road, construction, electrical lines, fiber optic cables, temporary above-ground water lines, snow storage or removal, maintenance, and flowlines for oil, gas, produced water, fresh water and/or any other related products. The six (6) wells are:

1. TREASURE USA 41-14TFH
2. ANITA USA 31-14H
3. JUDITH USA 31-14TFH
4. CAROLYN USA 21-14H
5. SHELL USA 21-14TFH
6. ELVA USA 21-14H

**LOCATION:** Allotment No. 1968 comprised of the N2 of Section 15, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND; and Allotment No. T2122 comprised of the NE4, N2NW4, SW4NW4, and N2SE4NW4 of Section 14, Township 147 North, Range 94 West, 5<sup>th</sup> P.M., Dunn County, ND; and

**BE IT FURTHER RESOLVED**, That the Tribal Business Council hereby amends Resolution No. 16-137-LKH (on page 2 of 5) to correct two references: “Sophia Well Pad” and “Sophia ROW Application” should be changed to the “Treasure USA Well Pad” and “Treasure USA ROW Application”; and

**BE IT FURTHER RESOLVED**, This amended Resolution does not change or alter the effective date in the original Resolution No. 16-137-LKH approving the Right(s) of Way and Setback Variance Request by Marathon Oil Company for the Treasure USA Well Pad and Multiuse Corridor Project; and

**BE IT FURTHER RESOLVED**, Pursuant to Resolution No. 18-212-FWF, approval of the modified legal description for the setback variance described herein is subject to a processing fee in the amount of \$3,000.00; and

**BE IT FURTHER RESOLVED**, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the Tribal Business Council affirms its consent to the ROW for the Treasure USA Well Pad and Multiuse Corridor Project, provided that such ROW remains subject to a twenty (20) year term, from the date of the BIA’s execution of the original grant of the ROW for said project; and



**BE IT FURTHER RESOLVED,** The Tribal Business Council consents to the estimated compensation for this ROW application in the amount of \$19,139.53, which is based on the MHA Nation ROW compensation and application fees established and set forth in Resolution No. 17-117-FWF, and the difference between the amount of acreage for the modified ROW requested herein, and the amount of the ROW fees Marathon paid to the MHA Nation for the ROW consent approved by Resolution No. 16-137-LKH; and

**BE IT FURTHER RESOLVED,** In accordance with governing MHA Nation law and policy as well as applicable federal ROW regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning any ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to an assignment of the ROW for the Treasure USA Well Pad and Multiuse Corridor Project; and

**BE IT FURTHER RESOLVED,** The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security; and

**BE IT FURTHER RESOLVED,** The MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by Marathon Oil Company and the MHA Nation Energy Division, constitute a written agreement as part of the MHA Nation's consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Treasure USA Well Pad and Multiuse Corridor Project; and

**BE IT FURTHER RESOLVED,** The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA Nation Energy Division and other Tribal departments, to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Standard ROW Terms and Conditions, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.403(a); and

**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.



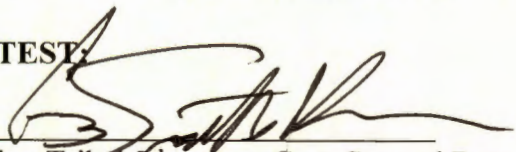
**CERTIFICATION**

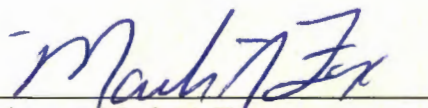
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 20<sup>th</sup> day of December 2018, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 20<sup>th</sup> day of December, 2018.

**ATTEST:**

  
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Acting Tribal Secretary, Cory Spotted Bear  
Tribal Business Council

  
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Chairman, Mark N. Fox  
Tribal Business Council