



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

*A Resolution entitled, "Approval of Setback Variance for the Jessica USA Project
Requested 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 its Constitution and By-Laws, the Tribal Business Council is the governing body of the Three Affiliated Tribes, also known as the Mandan, Hidatsa, and Arikara Nation ("Tribes" or "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 Business 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,** Pursuant to Article IX, Sections 1 and 3 of the Constitution the Tribal Business Council has the authority to manage and lease or otherwise deal with Tribal lands and resources; and
- WHEREAS,** On August 9, 2012, the Tribal Business Council passed Resolution No. 12-087-VJB entitled "The Missouri River, Badlands, and Sacred Sites Protection Act," which requires a one-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,** On December 18, 2012, 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 Energy Division 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 February 9, 2017, the Tribal Business Council passed Resolution No. 17-038 FWF, entitled "Amending the Missouri River, Badlands, and Sacred Sites



Protection Act, Concerning Variances,” (Second Amendment) by amending the first Resolved paragraph, section 1.) of Resolution 12-139-VJB, as follows:

“The Tribal Business Council may, in its discretion, grant a variance from the half mile setback provision upon the recommendation of the Tribal Energy Office. The Tribal Energy Office may recommend a variance 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. In no event shall a setback of less than 1000 feet be allowed” (“1,000 foot Lake setback restriction”); and

WHEREAS, Applications for setback variances within the exterior boundaries of the Fort Berthold Indian Reservation 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 (Amending Fee Structure); and

WHEREAS, On November 21, 2019, Marathon Oil Company (“Marathon”) submitted to the MHA Energy Division a setback variance request for the Jessica USA Project, as set forth in Exhibit A, and more specifically as follows:

JESSICA USA WELL PAD: Drilling and completing up to eight (8) wells (two (2) existing wells; six (6) new wells) within one-half (½) mile of Lake Sakakawea.

TRUST LOCATION: Lot 1, Lot 2, Lot 3, S½NE¼, and SE¼NW¼ of Section 6, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, ND.

ACRES OF DISTURBANCE: 16.00 acres of fenced well pad and 0.23 acres of access road and all-utility and multi-use corridor.

DRILLING SPACING UNITS:

- i) All of Sections 6 & 7, Township 150 North, Range 93 West of the 5th P.M., Mountrail and Dunn Counties, ND (1,280 acres, more or less).
- ii) All of Sections 6 & 7, Township 150 North, Range 93 West of the 5th P.M., and All of Sections 1 & 12, Township 150 North, Range 94 West of the 5th P.M., Mountrail, Dunn, and McKenzie Counties, ND (2,560 acres, more or less).
- iii) All of Sections 30 & 31, Township 151 North, Range 93 West of the 5th P.M., Mountrail County, ND (1,280 acres more or less).
- iv) All of Sections 30 & 31, Township 151 North, Range 93 West of the 5th P.M., and All of Sections 25 & 36, Township 151 North, Range 94 West of the 5th P.M., Mountrail and McKenzie Counties, ND (2,560 acres, more or less).



DISTANCE FROM WELL PAD: One Thousand Four Hundred Fifty feet (1,450') to the 1854 High Water Mark; and

WHEREAS, On November 21, 2019, Marathon met with the MHA Energy Division to review and consider all other alternatives for the construction and siting of the Jessica USA Project; and

WHEREAS, Pursuant to fees established and set forth in Resolution No. 18-212-FWF, the setback variance application for the Jessica USA Project is subject to the MHA Nation's \$3,000.00 processing fee; and

WHEREAS, The MHA Energy Division reviewed, processed, and fully vetted Marathon's request for a setback variance for the Jessica USA project, and has determined that Marathon 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 January 23, 2020, at a duly held meeting of the Energy Committee ("EC"), the MHA Energy Division recommended approval of Marathon's setback variance request for the Jessica USA Project, the EC approved said request, and forwarded it to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, The Tribal Business Council hereby approves Marathon's setback variance request for the Jessica USA project, as set forth in Exhibit A, and more specifically as follows:

JESSICA USA WELL PAD: Drilling and completing up to eight (8) wells (two (2) existing wells; six (6) new wells) within one-half (1/2) mile of Lake Sakakawea.

TRUST LOCATION: Lot 1, Lot 2, Lot 3, S1/2NE1/4, and SE1/4NW1/4 of Section 6, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, ND.

ACRES OF DISTURBANCE: 16.00 acres of fenced well pad and 0.23 acres of access road and all-utility and multi-use corridor.

DRILLING SPACING UNITS:

i) All of Sections 6 & 7, Township 150 North, Range 93 West of the 5th P.M., Mountrail and Dunn Counties, ND (1,280 acres, more or less).

ii) All of Sections 6 & 7, Township 150 North, Range 93 West of the 5th P.M., and All of Sections 1 & 12, Township 150 North, Range 94 West of the 5th P.M., Mountrail, Dunn, and McKenzie Counties, ND (2,560 acres, more or less).

iii) All of Sections 30 & 31, Township 151 North, Range 93 West of the 5th P.M., Mountrail County, ND (1,280 acres more or less).



iv) All of Sections 30 & 31, Township 151 North, Range 93 West of the 5th P.M., and All of Sections 25 & 36, Township 151 North, Range 94 West of the 5th P.M., Mountrail and McKenzie Counties, ND (2,560 acres, more or less).

DISTANCE FROM WELL PAD: One Thousand Four Hundred Fifty feet (1,450') to the 1854 High Water Mark; and

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

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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 13th day of February, 2020, 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 Voting. Not Voting.

Dated this 13th day of February, 2020.

ATTEST:

Tribal Secretary Fred W. Fox
Tribal Business Council

Tribal Chairman, Mark N. Fox
Tribal Business Council