



CALL TO ORDER:

Councilman Randy Phelan called the meeting to order at 1:50 pm.

ROLL CALL:

Present: Councilman Frank Grady, Councilman Fred Fox, & Councilman Randy Phelan. *Quorum established.*

I. APPROVAL OF AGENDA

Motion: Councilman Fred Fox moved to approve the agenda. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

II. APPROVAL OF MINUTES

• April 11th, 2018 NRC Oil & Gas Committee Minutes

Motion: Councilman Fred Fox moved to approve the April 11th, 2018 Natural Resources Oil & Gas Committee minutes subject to minor corrections. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

III. NRC Chairman – Councilman Randy Phelan

A. Update

Thanked industry for attending conducted a roll call of those in attendance. Councilman Randy Phelan spoke to the oil companies about the problem of snow melt on pads and noted one that he sees every day at Wounded Face's on BIA 14 just before BIA 17 and asked them to figure out a solution. Carson Hood Jr. noted that his 638 program has authority to handle on tribal land they work with tribal lands and would need to get approval from surface owners for other owner types. Councilman Randy Phelan noted that the whole pad was full of water.

FTR: Next Oil & Gas Committee Meeting June 6th at 1:00pm. Rig Friendly Meeting is June 21st at the Ramkota in Bismarck.

B. MHA Oil & Gas Conference – Scott Wilson

Scott Wilson provided an update for the event planning that is scheduled for the July 16th – 18th at the Event Center. The event was moved from Mandaree to the Casino. Councilman Randy Phelan asked that son PR work be done to advertise the event. The point person will also put together a working committee. Councilman Randy Phelan would like to invite Secretary Zienke, Department of Energy, Ron Ness, Assistant Secretary Tara Sweeny, the Governor, Scott Davis, Darryl LaCount, & oil company big shots. Councilman Fred Fox suggests working with Carson Hood Jr. on entertainment. Carson Hood Jr. will start working with a planning committee. Oil companies will be put on the flyer, and are welcome to set up at the Expo. Tourism to help decorate. Sponsorship tier discussed.

IV. BIA & BLM Updates

A. Kayla Danks, BIA Superintendent

1) Update

Submitted handouts that included ROW numbers, oil & gas numbers, 23 pending ROW's., running consistently around 23. April 25th attending a meeting with the State of North Dakota. Scott Davis, Chairman Fox, the Governor where information on gas



capturing. Also met with BLM and had discussion on approval of APD's and pilot project. [inaudible] . North Dakota Industrial commission report on capacity. NIAGEMS software upgrade to version 4.

2) **Temporary Water Lines**

Comments are pretty much the same as reported last committee meeting. These line are approve just like any other ROW according to 25 CFR 169. Sometime they receive a request for a water line that allows for assignment and some they don't, so they look at them on a case by case basis. They process lease assignments without consent if the lease provides for without consent otherwise the company has to go out and get one. They generally process allot of lease assignment before the process the CA's for royalty payments. Councilman Fred Fox asked for clarification of a lease clause and the difference between tribal leases and allottee lease in this situation. It was not if the wording in the IMDA that it requires Lessor consent the tribe is the lessor on tribal lands and that carries on through the life of the contract. Kayla Danks reiterated that it is on a case by case basis. She also noted that an IMDA that doesn't authorize assignment without the tribe consent, that in order to assign it, it has to before the TBC to negotiate. Councilman Fred Fox asked the Superintendent if they could negotiate compensation at that point. Kayla Danks expressed that any rights that the tribe gives they have the right to ask for fair market or anything above it, whatever you want to negotiate. Allottees can also negotiate. Wilbur Wilkinson, expressed an issue with RimRock Whitting, & Kodiak when a superintendent approves an assignment and if that assignment is appealed they have to let the oil companies know. There are a significant number of appeals before the Regional Director. They involve EnerPlus, Kodiak, Whitting, & RimRock that are all being contested. CFR 25.6 the superintendent signed is invalid until the appeal is resolved. They have filed a criminal complaint the Securities & Exchange Commission. The publically traded companies of Whitting, EnerPlus and they have been notified who the investigator is because it effects Wells Fargo Bank. Another criminal complaint is currently being files against the BIA staff, Regional Director, EnerPlus, Whitting, Kodiak & RimRock. Mr. Wilkinson just wanted those present to aware of the this situation and to know what was important was for these oil companies to understand that when the BIA Superintendent makes a decision and it is appealed it is held at bay until it is resolved. There are appeals that are hanging at 2 years and need to be resolved fairly. Asked on behalf of the allottees to set up a meeting to get these issues resolved. Spoke about Tesoro and noted that the authority from 25 CFR 81 used was not and should have been approved by the Superintendent. Eventually it will put the allottees against the tribe. 34 allottee tracks that are being trespassed on. Kayla Danks noted that there have been issues 10 day Show Cause. Kayla Danks states it goes by tracts and the company can be negotiated in good faith. Letter issued to the land owners to see if that is happening. It was noted that you cannot approve a ROW without majority consent. We are working hard with the land owners to make sure they can negotiate in good faith. Councilman Randy Phelan corrected Mr. Wilkinson as to his comment and stated that the TBC has authority to represent the tribe's interests and no authority to represent the allottees interests. Wilber Wilkinson noted that with the election year coming up there are 3100 allottee voters and asked the TBC to step up and support them and put some money in their pocket. Councilman Randy Phelan noted that he is not running for Chairman. Wilbur Wilkinson expressed that there are 6 pending court. Ted Lone Fight



III discussed flaring issues and requests the council to make a motion of brief to the court. Caleb Dog Eagle, TAT Attorney expressed that we could file an amicus brief on of the allottees.

Motion: Councilman Fred Fox moved for council to send amicus brief to Burr v. XTO. and forward to next Tribal Business Council. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

B. Bureau of Land Management (BLM) – Diane Friez

1) Update

Carson Hood Jr. had a conference call with Diane, Loren Wickstrom's boss. Briefed her on what happened at the previous Oil Gas Committee meeting. She wants to set an internal meeting to discuss the events that occurred.

V. MHA Energy Division - Carson Hood Jr., Director

A. Update

Charlie Vigen gave update on BIA Route 13. Talked about re-routing the road as an option but if the existing route is use the grade of the road would need to be increased which would entail allot of work. Pipeline issue discussed and ROW noted that all but one track secured of the 57 owners. Project is only 2 ½ miles but thinking about splitting the project up into two separate contracts. Also need to address BIA funding and met with Ron Hall and Tiger funding and make the decision to continue with fixing or paving. Carson Hood Jr. had a meeting with Tiger grant and would hope they can help support us with our roads. Road agreement, not the tribe and BIA monies. Hope to have a interim shared roads agreement done by next week/month. Need to look at the 51/49% with the tribe taking the 51%. Carson Hood Jr. believes the tribe should only be responsible for the portion of the road that the operators don't use. Working with QEP & WPX to cost share. There is no total cost yet, hopefully will have one within the next couple days. On BIA 10 road, they put some flags that represent well pads near the old buffalo project headquarters so Brandon Harris, WPX will look into it. Councilman Randy Phelan stated we need to continue to work hand and hand with industry. There would need to separate agreement for maintenance and or paving. Charlie Vigen noted Crestwood needs to be brought into this agreement.

B. BIA Roads Comprehensive 5 year plan

Carson Hood Jr. informed the committee that he is currently working with Bonnie, Allan Nygard. That there is Tiger grant money at 2 million with a 1 million dollar match for the BIA roads plan. Stoney Williams to secure grants to complete the 5 year plan and move it forward. Had their first meeting and plan to have bi-weekly meetings. West Segment Regulatory noted Enerplus recently registered 36 employees and Targa has 47 employees as requested.

FTR: Councilman Fred Fox stepped out of the meeting, & Chairman Mark N. Fox sat joined the meeting at 3:00pm.

C. BIA 2 Road Update

Marathon & Enerplus They are grinding up the road right now to fix up that area. Should be done in a week. Marathon is currently purchasing gravel from the 4 Bears Segment gravel pit. They were originally putting down a gravel asphalt ix but Councilman Frank Grady requested



purchasing from the segment. Chairman Mark N. Fox noted that when we are said and done with the project we don't want to be redoing the project 2-3 years down the road. Brandon Harris noted that we wanted to lay down a higher mixture of product for higher compaction than what we can get at the 4Bears pit. Councilman Frank Grady expressed the need to reconstruct the road and that members are very upset to have to drive on the dangerous road. Chairman Mark Fox noted that we need to look at the costs and plan for a plan B and get the engineering done to see the cost.

FTR: Councilman Fred Fox returned to the meeting at 3:08pm.

D. PTS Clarification

Carson Hood Jr. provided an update. There have been some questions and concerns for which departments have permission to survey under resolution 15-045-LKH (*A Resolution entitled, "Establishing a Procedure for the Approval of Leases, Rights of Way, Setback Variances and Permissions to Survey on Tribal Land"*) addresses permission to survey. Which approves our authority. Allows the operators step foot on our lands. I have not been signing off on surveys unless THPO conducted the cultural survey due to sacred sites. Carson Hood Jr. noted that he is being pressured to sign off on these but he hasn't. Keith Bear is our Reality Officer but does get the go ahead from THPO if they are not available.

E. PTS Report – Shawn Grady / Keith Bear

Keith Bear provided a quick update and expressed that he works closely with THPO to ensure compliance.

VI. OTHER BUSINESS

A. Mark Van Norman Update

Item deferred.

B. East Weight Scale Resolution

Motion: Councilman Fred Fox moved to approve \$500,000 to come out of fund code 380. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

C. Expo

Item deferred.

D. Crestwood

1) Blue Buttes Re-Route Project

Resolution entitled, "*Consent to Approval of a Right-of-Way across Tribal land for the Blue Buttes Re-Route Project Submitted by Crestwood*".

Motion: Councilman Fred Fox moved to forward the resolution to next Tribal Business Council meeting subject to Legal review. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

2) Station 4-7 Loop Line Project



Resolution entitled, *Consent to Approval of a Right-of-Way across Tribal land for the Station 4-7 Loop Line Project Submitted by Crestwood*”.

Motion: Councilman Fred Fox moved to forward the resolution to next Tribal Business Council meeting subject to Legal review. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

3) North John Elk Loop Line Project

Resolution entitled, *Consent to Approval of a Right-of-Way across Tribal land for the North John Elk Loop Line Project Submitted by Crestwood*”.

Motion: Councilman Fred Fox moved to forward the resolution to next Tribal Business Council meeting subject to Legal review. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

E. Copper Shield – Zak, Carlos and Andrew Ebona

Tribally owned company based out of Alaska. Brought together a number of Canadian tribal companies. The company uses micros to conduct hydrocarbon remediation. The company also works with Hydro Carbon Spill Clean Up Response & Prevention, and High Salinity Produced Water Clean Up Response & Prevention. Power point presentation. Councilman Randy Phelan asked if they would be interested in a pilot project and will work with Carson Hood Jr.

F. Fort Berthold Rural Water (FBRW)– Pem J. Hall, Interim Director

1) Twin Buttes Raw Water Line Contract – Change Order

Abbott, Arne, Schwindt was the contractor for the Twin Buttes Water Treatment Plant Project FBRW Contract 2017-2 Sch. 2. Reclamation dollars, Bureau dollars. Contract Price incorporating this Change Order: \$964,093.60.

Motion: Councilman Fred Fox moved to forward contract to next Tribal Business Council meeting. Councilman Frank Grady seconded the motion. Vote: 3-0-0. Motion carried.

2) Program Update

Twin Buttes project is completed. Mandaree intake will be wrapped up next week. Water. Hooked up 62 users last year. Councilman Randy Phelan stated Mavis Young Bear has no running water. Alva Rose trying to work with us, her easements are done. Councilman Randy Phelan also wants included the new school into their plans. Talked about the two ponds in Mandaree to assist with water, they aren't even going to be enough to supply the work. Al Nygard noted that Section 17 is currently going thru an audit, once finished, Chairman Fox will share and update with Council. Submitted a summary of all changes in contract quantities and costs. Also submitted for the record construction ups on; Twin Buttes Area 2 Distribution Project, Mandaree Intake Landslide Stabilization, Reservation Wide Water Service Connection, Twin Buttes Water Treatment Plant, and the Twin Buttes Raw Water Line Project. Also provided the O&M Update by Segment. Retirement announced of long time employee Elizabeth Morsette. Carson Hood Jr. mention Tech Industries has a fresh water line and would be selling water on BIA 14. Bruin will be requesting temp water near Lost Bridge but with the new rule will affect them.



G. Utilizing Flare Gas to mine Bitcoin to the Crypto to Currency – Chuck Brown (Conference Call)

Item deferred.

H. Brandi Fox

Car was frozen to the ground by a water break up the hill from her house. She reported the break with no one coming out to shut of the water main. The water ran all night and the next morning Brandi Fox found her vehicle frozen up to the bottom of the car. It will cost over \$500 to get the towed and she doesn't have the money for that service. She was told they can't put a tent around it and melt the ice but that never happened. Pem Hall (FBRW) states it came from an abandon home and wasn't a pipe with FBRW. Pem Hall will work with insurance and with Brandy Fox to resolve the issue. The car will have to be assessed to see what the damage was done and we will know more after that. She owes \$12,000 on the car yet, if it's totaled she wants the car replaced. Al Nygard will also assist.

VII. ROW APPROVALS (CLOSED SESSION)

A. Operators

- 1) OneOK
 - a. Ness USA Setback Variance
- 2) Missouri River Resources (MRR)
 - a. LMR B2
- 3) Bruin
 - a. Bonita Pad
 - b. Bonita Setback Variance
- 4) WPX
 - a. Bison 27-34H
 - b. North Mabel 2-35H
- 5) EOG
 - a. Mandaree 7 SESW Pad
- 6) Enerplus
 - a. Clouds West
 - b. Cranes Pad – Utility Assignment
 - c. Greek Gods East – Pipeline & Utility Assignment
- 7) McKenzie Electric
 - a. Mandaree Water Intake Line

VIII. CLOSED SESSION

- A. Carson Hood Jr. & Kenny Lyson
- B. Budget Modification
- C. Carson Hood Jr. Update

IX. ADJOURNMENT

Motion: Councilman Fred Fox moved to adjourn the meeting. Councilman Frank Grady seconded the motion. Meeting adjourned at 4:50 pm.



CERTIFICATION

I, the undersigned, as Committee Chairperson of The Three Affiliated Tribes of the Fort Berthold Indian Reservation, hereby certify that the Natural Resources Committee Oil & Gas is composed of three (3) members and of whom three (3) constitutes a quorum 3 were present at the meeting thereof duly called, notice, convened and held on the 2nd day of May, 2018; that the foregoing minutes were duly adopted at such meeting by the affirmative vote of 3 members; 0 members opposed; 0 members abstained; 0 members not voting.

Dated this 14th day of August, 2018.

ATTEST:

Executive Secretary, Fred W. Fox
Tribal Business Council,
Three Affiliated Tribes

Committee Chairman, Randy Phelan
Tribal Business Council
Three Affiliated Tribes