



CALL TO ORDER:

Councilman Randy Phelan called the meeting to order at 1:20pm. at the Radisson Hotel in Bismarck N.D.

PRAYER:

Prayer by Harriette Good Iron.

ROLL CALL

Present: Councilwoman Monica Mayer, Councilman Randy Phelan, Councilman Fred Fox. *Quorum established.*

I. APPROVAL OF AGENDA

Motion: Councilwoman Monica Mayer moved to approve the agenda. Councilman Fred Fox seconded the motion. Vote: 3-0-0. Motion carried.

II. APPROVAL OF MINUTES

A. August 14, 2018 Energy Committee minutes

B. September 4, 2018 Energy Committee minutes

Item deferred.

III. NRC Chairman – Councilman Randy Phelan

A. Update

By resolution this committee is now a full committee officially named the Energy Committee from this time on. With the NRD Committee & the Energy Committees being fully separate full committees. Meetings will occur sometime early in the month Tues. or Weds. before the TBC. Asked the producers for support on the Flaring Rule. Carson Hood Jr. provided an update on amendments with clarification to the Flaring Rule with the set percentage (85%). Nov 1st it goes to 18% capture that will effect allottees. Need to determine how the State will enforce the rule on tribal & Tribal fee. Josh & Zach to relay concerns to the ND Industrial Commission. Councilwoman Monica Mayer noted the importance of this issue and the need for cooperation. The Chairman is meeting with John Rapper at the State capital this Friday so Josh & Zach would need to meet with them before the meeting. Federal & BLM will need to give us their review & interpretation of our resolution. Will need to develop a tribal gas capture plan that will be more stringent and require their review. This MHA resolution will be presented today. Josh noted that the reporting to the committee is about 2 months behind. At this time current capture is about 24.4%. The BIA also presented their numbers for flaring. Discussion on the cost effectiveness of shutting in wells over flaring gas is on the side of oil. Councilman Randy Phelan asked the producers flare & send capacity data to the tribe. Carson Hood Jr. noted Butterflies Turtle pad that 3 is tribal; trust was choked back on the tribe and causes a lot of controversy and backlash from the tribe. Councilwoman Monica Mayer noted the meeting Friday with the BLM and then the State and noted an article that presented incorrect information, so there is a need for correct information from the producers. Two issues with the flaring is bad for publicity and the tribe is losing a lot of money and posing environmental concerns. Councilman Randy Phelan noted the December Energy Committee meeting will be Dec 18th at 1pm in Bismarck (TBC Dec. 13th)

B. North Dakota Industrial Commission (NDIC) - Ron Ness, President



Ron Ness provided a report and noted FBIR production is going to raise rapidly for the year. 7.2 million / month. 82% gas capture. Also federal air quality threshold rules will also effect flaring rules that will inhibit production on FBIR. Rules will probably change to enhance investment and grow production. 99% destruction is the goal for the State for flaring. New technology in the work to provide relief. Discussed growing the employment base to get them the training they need. Legislature meets tonight to select their leaders. Recommended that the tribe meet with the new state leaders right away. Asked for support from the Tribe to loosen the Federal EPA regulations. Ron Ness noted that good data would include an emission report to show the effectiveness of current technology that allowed the State to go to 99%. Asked the TBC to reach out to the Industrial Commission this week to help operators that have projects under development. John Fredericks noted that he was more concerned with the EPA 505 issues.

IV. BIA & BLM UPDATES

A. Bureau of Indian Affairs (BIA) – *Kayla Danks, Fort Berthold Agency Superintendent*

1) Update

Provided the pending list of ROW and flaring reports. Has met with the tribe and developed a flaring taskforce to discuss capacity issues and will bring in all concerned parties. Western Dakota Workshop at the Casino to present information on ROW regulations concerning jurisdiction on the reservation and supporting tribal taxation primacy over the state. Appraisal issues still awaiting federal review.

B. Bureau of Land Management (BLM) – *Loren Wickstrom, Field Manager*

1) Update

Waste Prevention/Minimization Rule (2018 effect 11/27/2018) minimization plan, storage vessel requirements, gas capture, liquid and holding, venting opportunity for the BLM to show deference to tribal regulations to adopt the tribal resolution assuming it is don't in violation to their rules. DC Representatives (subject matter experts) to meet with the concerned parties to discuss the 2013 tribal flaring resolution. Beneficial Use allows producers make the gas marketable before it hits the meter. John Fredericks noted that the tribe was concerned about if this was allowed under the leases. He doesn't see Beneficial Use under the Tribal resolution as a big issue and that the resolution only needs minor changes. Carson noted at the time avoidable and un-avoidable (related to topography) to be able to capture gas. State regulation 3179.401 will set deference to the tribal regulation. John Fredericks informed the committee of a meeting with Don Judice, Beth Poindexter and the solicitor and that the existing tribal resolution was excitable. Gives the tribe to work our own operators to find a solution for us. Existing resolution was modeled after the state NDIC flaring regulations in 2013 before the State percentage changes 13-070-VJB. APD's back log is at 152, Oct: approved 15 and received 30. 118 approved in July utilizing new rule to approve prior. EPA has sent the BLM permit applications from EOG & Slawson Fee-Fee-Fee underground salt water injection applications have been brought to the BLM for approval. Slawson on is $\frac{3}{4}$ of a mile from trust land & the EOG one is about 6000 feet from tribal land. Loren Wickstrom is reviewing the permits for down hole, if new or the mechanical proximity to trust land. Benchmark for migration is up to the geologist and the cone of influence at 200 feet. EPA monitors pressure as opposed to volume. John Fredericks has issues with the scientific parameter used to determine cone of influence. Loren Wickstrom noted that the



Kathy Nessel report would be beneficial but was proprietary. Carson Hood Jr. noted that the UIT program needs to be developed. Region 8 and the BLM should not be accepting permits until the MHA is ready. Discussion of APDs in violation of tribal set back rule. Total of 29 APD within the setback. 7 well pads with the ½ mile. Osprey is close to the setback from the lake. One was at 575 ft. from the high water mark. Carson Hood Jr. noted a need discussion of wells before 2012 that are with the set back. Carson Hood relied to Councilwoman Monica Mayer questioned that there are 117 well pads with ½ from the lake. Councilwoman Monica Mayer expressed concerns and wanted more information on setbacks approves with the setback after the setback changes in 2017 and how many were exiting. Councilman Fred Fox explained that variances were provided with increased requirements but the Slawson Wells did not seek approval from the Tribes which is the problem. John Fredericks noted the Slawson issue was sent back to North Dakota. Carson Hood Jr. expressed that the BIA has a new policy of a Problematic Environmental Assessment/Authority and on page 3 of the Flaring Policy which was read and noted that the BIA needs input. Loren Wickstrom noted that it is not applicable under private fee. Travis Hallam noted Slawson's poor history should be considered before approval. Carson Hood Jr. brought up the fining of producers by the EPA asserting authority for both Fee & Trust. Loren Wickstrom noted that the Fee-Fee-Fed Memo is driving what he can do.

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

A. **PTS Report** – *Shawn Grady/Keith Bear*

CTS & PTS Request List: per Segment – 2018 provided to the Committee. Presented concerns of 6 salt water injection outside the reservation.

B. **Vantage Acquisition Co.-** *Carson Hood, Jr. (Closed Session)*

C. **Flaring Initiative Discussion** - *Carson Hood Jr.*

Discussion addressed previously.

D. **Setback Discussion** - *Carson Hood, Jr. (Closed Session)*

E. **½ Mile Missouri River Setback Compliance Initiative-** *Carson Hood Jr.*

Needs a setback resolution clarification for 17-037-LKH approved 2/9/2017 (1/4 mile from any structure). 8/1/2018 Fee Structure exhibit A. clarification was provided as \$3000. Requesting a change to provide an exemption for the operations where families put up homes within an existing setback as the property is developed. Carson Hood Jr. noted that any homesites approved need to take into account existing oil infrastructure such as pipelines or other scenarios. Also discussed the 1000 foot setback resolution from the lake. John Fredericks noted that the resolution would not be applied retro actively. New wells & well pad expansion could be effected or banded. Carson Hood Jr. noted that a centralized tank battery would be required for any future variances. John Fredericks noted that variances are granted on a case-by-case basis. Compliance checks completed on COA's and operators to work with Kenny Lyson to get into compliance.

F. **Pipeline Safety Code Operators Fee Contract** – *Carson Hood & Shenan R. Atcity,*

Discussion of criteria and annual fee from mid-stream companies and fee agreement presented. Crestwood Legal reviewed and was in agreement.



Motion: Councilwoman Monica Mayer moved to forward Contract to the next TBC.
Councilman Fred Fox seconded the motion. Vote: 3-0-0. Motion carried.

- G. Van Norman & Atcitty Contract- Shenan R. Atcitty & Carson Hood Jr. (Closed Session)**
H. Tallsalt Contract- Steve Gundersen & Carson Hood Jr. (Closed Session)

VI. OTHER BUSINESS

A. West Segment Regulatory Commission (WSRC) Update – Donald McKenzie, CEO

Patrolling the BIA Roads & Hwy 22. Monitoring truck track that is still going into Mandaree. Supporting and assisting the MHA entities, funerals & wakes, responding to oil field incidents and being visible in the committee. Councilman Randy Phelan would like to see a resolution give the 2000 fine to WSRC for fines from truckers going through Mandaree. Overweighed truck are going through Mandaree along with VAC truck. 90% are overweighed.

Motion: Councilman Fred Fox moved to forward Traffic Violation Fines through Mandaree to the WSRC to the next TBC. Councilwoman Monica Mayer seconded the motion. Vote: 3-0-0. Motion carried.

B. TERO Update

No Report

C. BIA 13- Lloyd Vigen (Closed Session)

D. Buffalo Ranch – Marathon & Crestwood (Closed Session)

E. Setback Discussion- XTO (Closed Session)

F. Engineering Consultant Contract- Travis Hallam (Closed Session)

1) Salary

2) Budget

G. Cook Trading Inc. Proposal- Dan Cook (Closed Session)

H. Advantage Midstream- Charles Nelson (Closed Session)

I. Missouri River Resources Operations Update - Dave Williams (Closed Session)

VII. ROW APPROVALS - 20 Applications (Closed Session)

A. Operators

1) EOG

a. Liberty 26 NENW

b. Liberty 26 SWSE 2

c. Liberty 14 NWNE 1

d. Liberty 14 NWNE 2

2) Targa

a. Axell USA CTB

3) Oneok

a. Axell Setback Variance

4) TEK Industries

a. BIA 17 Temp water line

b. BIA 14 Temp water line

5) WPX

a. Lawrence Bull Above Ground Freshwater Pipeline



- b. Lawrence Bull Above Ground Freshwater Pipeline 2
- 6) Crestwood
 - a. Iron Woman 31x10 Well Connect
 - b. North John Elk Loop Line
 - c. Station 6A
 - d. Arrow Pipeline D Loop Expansion
- 7) Bruin
 - a. Clinton Pad
 - b. Grizzly Pad
 - c. Blanca Pad
- 8) Marathon
 - a. Treasure Amendment
 - b. Four Bears USA
- 9) McKenzie Electric
 - a. MEC Arrow Station 1
 - b. Bruin-Marathon Tie Line Project

VIII. ADJOURNMENT:

Motion: Councilman Fred Fox moved to adjourn the meeting. Councilwoman Monica Mayer seconded the motion. Meeting adjourned at 6:19 PM. Vote: 3-0-0.



CERTIFICATION

I, the undersigned, as Committee Chairperson of The Three Affiliated Tribes of the Fort Berthold Indian Reservation, hereby certify that the Energy Committee 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 4th day of June, 2019; 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 4th day of June, 2019.

ATTEST:

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

Committee Chairman, Randy Phelan
Tribal Business Council
Three Affiliated Tribes