



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

A Resolution entitled, “Approval of a Setback Variance Requested by Marathon Oil Company for the Ashley USA Project.”

WHEREAS, The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the Constitution) under said Act, and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the MHA Nation; and

WHEREAS, The Constitution authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the MHA Nation and of the enrolled members thereof; and

WHEREAS, Pursuant to Article VI, Section 5(1) of the 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, 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, Leases and Rights-of-Way (“ROWS”) across Tribal Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; 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 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, 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 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, 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, 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 of the Little Missouri River; and

WHEREAS, On May 17, 2023, Marathon Oil Company (“Marathon Oil”) submitted to the MHA Nation Energy Division a request for a Setback Variance, as set forth in Exhibit A; and

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

ASHLEY USA PROJECT: For the purpose of drilling, completing, and producing up to seven (7) wells within one-half (½) mile of Lake Sakakawea; including well pad, CTB pad, access roads, all-utility corridor, and pipelines.

FEE LOCATION: SW¼ of Section 4 and NW¼ of Section 9, Township 151 North, Range 93 West of the 5th P.M., in Mountrail County, North Dakota.

ACRES OF DISTURBANCE: Approximately 40.00 acres of well pad, CTB pad, access roads, all-utility corridor, and pipelines.

DRILLING/SPACING UNIT: All of Sections 5 and 6, Township 151 North, Range 93 West of the 5th P.M., and the E½ of Section 1, Township 151 North, Range 94 West of the 5th P.M., in Mountrail and McKenzie Counties, North Dakota.

DISTANCE FROM WELL PAD: ± One Thousand, One Hundred, and Four (1,104’) feet to the 1854 High Water Line (See Map “D.1” Lake Sakakawea 1/2 Mile Setback Map, in Exhibit A); Access Road ± Five Hundred and Seven (507’) feet to the 1854 High Water Line (See Map “D.2” Lake Sakakawea 1/2 Mile Setback Map, in Exhibit A); Pipelines ± Five Hundred and Forty (540’) feet to the 1854 High Water Line (See Map “D.3” Lake Sakakawea 1/2 Mile Setback Map, in Exhibit A); and CTB Pad ± Two Thousand and Four (2,004’) feet to the 1854 High



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Water Line (See Map “D.4” Lake Sakakawea 1/2 Mile Setback Map, in Exhibit A);
and

WHEREAS, The MHA Nation Energy Division reviewed, processed, and fully vetted Marathon Oil’s request for a setback variance for the Ashley USA Project and has determined that Marathon Oil 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 June 1, 2023, at a duly held meeting of the Energy Committee, the MHA Nation Energy Division recommended approval of Marathon Oil’s setback variance request for the Ashley USA Project, and the Energy Committee approved Marathon Oil’s setback variance request for the Ashley USA Project.

NOW THEREFORE BE IT RESOLVED, the Tribal Business Council hereby approves the setback variance request, attached as Exhibit A, submitted by Marathon Oil for the Ashley USA Project.

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, which Marathon Oil must pay within fifteen (15) days from the passage of this Resolution.

BE IT FINALLY RESOLVED, the Chairman is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this Resolution.

[THIS SPACE INTENTIONALLY LEFT BLANK. CERTIFICATION FOLLOWS.]




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 July, 2023, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.


Chairman [] Voting. [X] Not Voting.

Dated this 13th day of July, 2023.

ATTEST:



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



Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes