



**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 Lillian 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 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:

**LILLIAN USA PROJECT:** For the purpose of drilling, completing, and producing up to thirteen (13) wells within one-half (½) mile of Lake Sakakawea; including well pad, access road, all-utility corridor, and pipelines.

**FEE LOCATION:** S½S½ of Section 33, Township 152 North, Range 93 West of the 5th P.M., and Lot 1, Lot 2, and S½NE¼ of Section 4, Township 151 North, Range 93 West of the 5th P.M., in Mountrail County, North Dakota.

**ACRES OF DISTURBANCE:** Approximately 20.00 acres of well pad, access road, all-utility corridor, and pipelines.

**DRILLING/SPACING UNIT:** All of Sections 28, 29, 32, and 33, Township 152 North, Range 93 West of the 5th P.M., in Mountrail and McKenzie Counties, North Dakota.

**DISTANCE FROM WELL PAD:** ± One Thousand, Three Hundred, and Seventy (1,370’) feet to the 1854 High Water Line; ± One Thousand, Seven Hundred, and Thirty-Two (1,732’) feet to the 1854 High Water Line; and, ± Two Thousand and Four (2,004’) feet to the 1854 High Water Line (*See Map “D” Lake Sakakawea 1/2 Mile Setback Map, in Exhibit A*); and



**Resolution No. 23-232-FWF**

**WHEREAS,** The MHA Nation Energy Division reviewed, processed, and fully vetted Marathon Oil’s request for a setback variance for the Lillian 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 Lillian USA Project, and the Energy Committee approved Marathon Oil’s setback variance request for the Lillian 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 Lillian 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 WPX 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 13<sup>th</sup> 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 13<sup>th</sup> day of July, 2023.

**ATTEST:**

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

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