

MHA NATION ENERGY DEPARTMENT FORT BERTHOLD INDIAN RESERVATION CONDITIONS OF APPROVAL (COA'S)

Additional Provisions included as per Missouri River, Badlands and Sacred Sites Protection Act Resolution: 12-087-VJB

A. OPERATIONS

1. Protection of Property: The Operator will conduct all operations with due regard for proper land management and environmentally friendly practices; avoiding unnecessary damage to vegetation, timber, crops or other cover, and improvements (such as roads, bridges, cattle guards, telephone lines, etc.) shall be constructed to avoid and minimize impacts to the environment. The Operator will control soil erosion resulting from the operation, to prevent pollution of soil and water resources; and whatever methods deemed appropriate by authorized representatives of the Bureau of Indian Affairs/MHA Nation Energy Dept.

2. Area of Operations: The area of operations shall be maintained in a neat and safe manner and in accordance with the conditions herein regardless of well status. The Area of Operations during the production phase is the working area of the well pad which has not been reclaimed and which includes but is not limited to, the production facilities, all diked areas, fifteen (15) feet outside of the anchors (dependent upon anchor spacing), and any area used by vehicles regardless of frequency. During the drilling phase, the area of operations includes the entire disturbed or fenced area of the well pad and ancillary facilities.

SPCC Plan will be stored on Location. (Emergency Facility Area).

SPCC Plan will include:

- **Spill Response Plan will include sufficient hose lay to reach catch basins and any other spills on site to be temporarily store in production tanks by recirculation pump if necessary.**
- **Storm water drainage will be addressed by individual location assessment as necessary.**
- **Well Pad containment berm will be no less that 24in., all other berms designated by MHA Nation Energy will be "Gold Book" minimum.**
- **An Onsite Emergency Facility Area. (store clean-up equipment)**
- **Develop a tertiary berm at the "toe of slope" to establish a catch basin (24in.)**
- **Provisions will be taken at the access point to be raised up sufficiently to maintain containment consistent with the 24in. berm requirement.**
- **Low Profile Productions Tanks**
- **Location will be void of any pits**

- **Metal containment will be used on well pad facilities. (Tank Batteries, Treater, LACT unit)**
- **All locations must have a minimum of 30 ft. of bare ground around flare.**
- **Second egress stairway off of tanks**
- **All locations will comply with Video Surveillance Resolution and Amendments.**
- **Any other conditions deemed necessary by MHA Nation Energy.**

B. CHEMICALS AND STORAGE

1. Chemicals: Upon request, the Operator will, within five (5) days, provide the Bureau of Indian Affairs with an inventory of the kinds, amounts, and hazards of all chemicals, additives, mud materials, and/or any other substances used during drilling and/or production of the well. The request may include hazardous/universal waste manifests, straight bill of lading, chemical inventories, disposal records or any other information deemed necessary by the BIA/MHA Nation Energy Dept.

2. Storage: All containers used for chemical storage during production will be properly labeled with chemical name and hazards (MSDS sheet). The maximum number of chemical containers on location shall not exceed two (2) per chemical type unless authorized by the BIA/MHA Nation Energy Dept. prior to use or storage on-site. Excess containers shall be neatly stored and empty containers shall be properly labeled and promptly removed. Chemical containers laid or turned on their side shall be supported off the ground in a sturdy cradle or stand equipped with a drip pan or catch basin to include secondary containment that will hold 100% of the liquids stored. A mesh screen will be placed over the top of the drip pan or catch basin to deter wildlife from falling into.

C. CULTURAL RESOURCES

If, prior to or during any disturbance activity, items of archaeological, paleontological, or historic value are reported or discovered, or an unknown deposit of such items is disturbed, the Operator will immediately cease disturbance activities in the affected area and notify the BIA/MHA Nation Energy Dept. and Tribal Historical Preservation Office. Disturbance activities will not resume until the BIA Regional Archeologist gives approval. If cultural/historic/archaeological or paleontological items are discovered during the environmental review an archeologist must be present during construction to prevent the damage to these resources. BIA/MHA Nation Energy Dept. will be contacted immediately.

D. DIKES/BERMS

Each and every vessel containing production fluids of any kind must be surrounded on all four sides by an impermeable dike/berm of sufficient capacity to adequately contain the contents of the largest vessel within the dike plus one day's production. Dike material shall be free of oil, saltwater and/or other waste materials. Dike capacity will be calculated at the lowest point on the dike. Metal walkway(s) over the dike are encouraged to prevent the wearing down or beating down of the dike walls. Vessel containing facilities include but are not limited to individual tanks, tank batteries, heater treaters, separators, line heaters, etc. Dikes shall be kept bare of all living and/or dead vegetation. All well locations will have at least an 18 inch berm around location as to not let any fluids leave the location.

E. ELECTRIC LINES

All electric lines will be buried a minimum of forty-eight (48) inches. No new overhead lines will be allowed to the well locations unless approved by the BIA/MHA Nation Energy Dept. Existing overhead lines may

be upgraded utilizing overhead installation as long as bird diverters are installed on the upgraded line. All right of ways for electrical lines that service well locations will be secured by the Oil Company.

F. EROSION CONTROL

The Operator shall prevent and control soil erosion. Soils and topsoil stockpiles shall be stabilized and vegetated with approved native species. The Operator shall take prompt action to stabilize, repair, and vegetate eroded or washed areas and prevent gulying. If erosion control measures taken prove to be ineffective, the BIA/MHA Nation Energy Dept. may impose additional requirements at any time to stabilize the affected area. Appropriate measures will be used, to include but not limited to hydro-seeding, drill-seeding or a protective erosion blankets will be used on sites with the potential for erosion. Additional measures may be required based on information obtained during the on-site selections process. Bureau of Indian Affairs approval of right-of-way is required prior to any earth disturbing activity. All ground will be covered over winter either by cover crops or by spreading straw that will be crimped into place.

G. PRODUCTION FACILITIES

1. Production Facilities on Fill: It is undesirable to locate production facilities on fill material because of potential settling issues. However, in the event that the tank battery or heater treater(s) cannot be located on the cut portion of the pad, the fill material beneath must be compacted to 95% of Standard Proctor (ASTM D698/AASHTO T180). Compaction generally cannot be achieved between freeze-up through spring thaw, therefore placing permanent production facilities on frozen or excessively wet fill will not be allowed, unless approved by the BIA/MHA Nation Energy Dept. in writing. Spacing of production facilities must be kept to a minimal distance, as prescribed in Bureau of Land Management Gold Book Standards to achieve optimal interim reclamation.

2. Changes to Production Facilities: Facility changes on Indian Leases shall be submitted on a Bureau of Land Management Sundry Notice, Form 3160-5 and submitted to the Bureau of Land Management, who will forward it to the BIA/MHA Nation Energy Dept. The Operator can also request an electronic Sundry Form from the Bureau of Land Management.

3. Excessive Equipment (Facilities): Facilities (equipment) not approved, and on location, are excessive facilities (equipment) and shall be promptly removed from the location.

4. Condition and Maintenance: All facilities (equipment and associated accessories) shall be functional and kept maintained to prevent resource damage or shall be promptly removed from the location. Equipment shall be visually inspected daily for leaks and all leaks shall be repaired to avoid unnecessary impacts to the environment.

5. Animal Protection: All facilities shall be designed, maintained and properly fenced to ensure, to the greatest extent possible, that wildlife and domestic animals cannot be harmed from facilities and/or equipment.

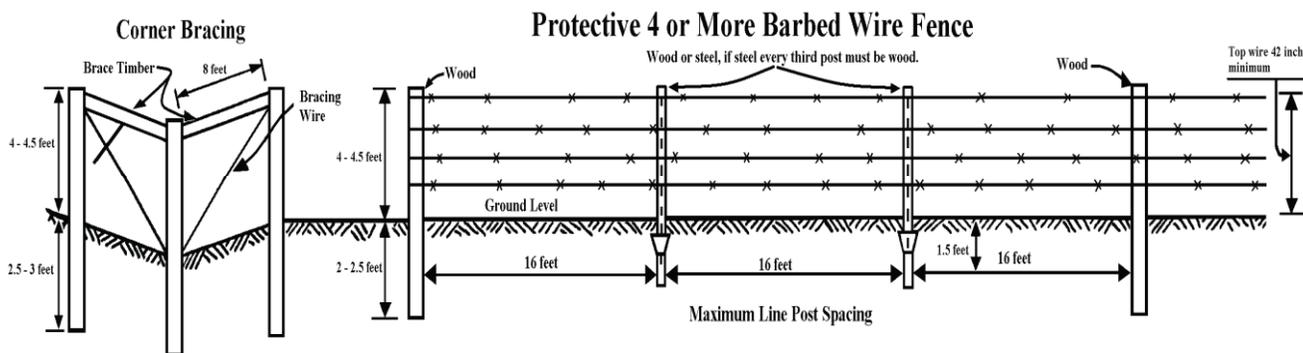
H. FENCES, GATES, AND CATTLEGUARDS

1. General: The entire well location will be fenced and maintained by the operator. Once the vegetation has been re-established under interim reclamation and determined to be satisfactory by the BIA/MHA Nation Energy Dept., the fenced area shall be reduced in size to accommodate remaining operations.

2. Cattle guards: Operator will construct cattle guards with wings at all fence crossings. Cattle guards shall not be less than 16 feet wide by 8 feet across and shall be set on concrete sills not less than 24 inches high by 16 inches wide. Fence braces shall be installed on each side of the cattle guards. Fence braces shall be constructed of like quality material and installed in like style and form as the fence braces currently constructed on the land. Cattle guards shall be constructed approximately 6 inches above the existing grade of the road so that water does not run into the cattle guard. Operator shall be responsible for maintenance and repair of all cattle guards used by the Operator, to include wings and braces.

3. Pad Fences & Gates: Repair and replacement shall be completed in kind as needed to include: wire, posts and braces.

Brace posts will be a minimum of 8' long and 6" in diameter, bracing material will be a minimum of 4"x4"x8' with diagonal bracing wire. Line posts (steel or wood) will be spaced a maximum distance of 16'. By-pass gates shall be a minimum fourteen (14) feet wide. Wire gates shall be maintained the same as a fence. Swing gates, if allowed, shall swing easily. Hinges or latches shall be repaired if not operating properly. All gates shall be kept closed.



I. FIRE PREVENTION AND SUPPRESSION REQUIREMENTS

The Operator will do all in its power to prevent and suppress forest, brush or grass fires on its leased acreage.

The Operator shall build or construct fire lines or do such clearing around the well location as is necessary for forest, brush and grass fire prevention and shall maintain such fire tools at such locations as are deemed necessary by the BIA Superintendent and or, MHA Nation Energy Dept.

J. Lines: Load Lines, Vent Lines, Valves, and Catch Basins

Any open-ended line or valve on any production facility (equipment or accessory) will have catch basins installed at the point of hook-up or where the line is open or beneath the valve to capture drips and spills. Catch basins will have a mesh installed to discourage wildlife and to protect them from falling into. Spill prevention containers shall be adequately secured and sized to ensure releases to the environment are avoided. A scheduled inspection of all such secondary containment systems/containers by the operator

must be completed to ensure all collected product is removed and properly disposed of before reaching its designed capacity.

Load (truck) lines must terminate within the diked area unless approved in writing by the BIA/MHA Nation Energy Dept.

Tank battery vent lines must terminate within the diked area and be designed so that no liquids can flow out of the vent lines or outside of the dikes.

If constructed, secondary gas containment lines from the production tanks to the flare pit used to capture gas from the tanks and to contain minor spills must be constructed so liquids flow into the pit.

K. NOISE CONTROL (MUFFLERS)

All internal combustion engines associated with production facilities will be equipped with functional noise-reducing mufflers. BMP's may be used to reduce noise (trees, fences, retaining walls, etc.) these practices will be determined in field.

L. NOXIOUS WEEDS AND INVASIVE PLANTS

The Operator is responsible for the prevention and control of noxious weeds, to include minimizing the spread of invasive species on the surface areas.

1. Integrated Noxious Weed/Fire Management Program: The plans may include mechanical, and/or chemical treatments or a combination of the two. The contractor will conduct noxious weed inventories on each well site twice a year (spring and fall). To help prevent the spread of fire, spills, and noxious weeds, the Operator must keep the area of operations bare of all living and/or dead vegetation. A combination of both mechanical and chemical methods may produce the most effective results.

2. Mechanical Methods- hand pulling noxious weeds and disposing of them in an approved container.

3. Chemical Methods- Includes ground application of herbicides. A noxious weed report will be filed with the BIA form.

4. Existing Weeds- Annual treatment is required if noxious weed species are present on the Oil Companies Right of Way.

M. PAD CONSTRUCTION

All well locations will have a minimum 24 inch impermeable berm containment system designed so no fluid runoff can leave the well pad location. No fluids will be allowed to flow off of a well location into a drainage system. The operator is responsible for the pumping and maintenance of the pit as needed. All well pads shall be kept to a minimum distance of 75 feet from any ephemeral drainage, 150 feet from any perennial drainage and 300 feet from Lake Sakakawea. Best Management Practices (BMP's) identified during the environmental assessment on-site inspection such as matting, hydro-seeding top soil piles, tree grinding, and others will be employed during the construction phase.

N. PAINT

All above ground facilities, equipment, and accessories (including propane tanks) shall be painted as specified by the BIA/MHA Nation Energy Dept. during the right-of-way on-site inspection to match the surrounding landscape. All paints must be flat. NO gloss and semi-gloss paints are allowed unless approved in writing by the BIA/MHA Nation Energy Dept.

O. PESTICIDES

Any application of a hazardous or potentially hazardous substance to control insects and rodents will not be used without the prior written approval of the BIA/MHA Nation Energy Dept. Further defined as any substance requiring an applicators license for commercial purposes will not be applied without written approval of the BIA/MHA Nation Energy Dept.

P. PIPELINES

1. Construction: The Operator is responsible for locating and protecting existing underground pipelines and power lines and adhering to other pipeline companies rules when there within the other company's right of way.

All oil and gas pipelines, including connecting lines, shall be buried a sufficient depth below the surface as not to interfere with cultivation.

Whenever the line is laid under a road or highway, its construction shall be in compliance with applicable Federal and State laws; during the period of construction, at least one-half the width of the road shall be kept open to travel; and upon completion, the road or highway shall be restored to its original condition and all excavations shall be backfilled and compacted. On BIA roads an approved Permit to Occupy Right-of-Way is required.

All jurisdictional type wetlands will be bored on the Ft Berthold Indian Reservation. Major roadways will be bored; driveways/entrances can be trenched if the operator gets an affidavit from the owner.

Settling/maintenance will be the operator's responsibility on the trenched driveways and entrances. When trenching these areas the operator will notify the owners when the trenching will take place and provide an emergency route across trench.

The operators will contact the tenants (renters) of the land they are crossing to provide access for their cattle and farming equipment. All open trenches will be protected from livestock. Fences will be fixed immediately as to not mix different owners livestock, fences will be repaired back to original or better. If land cannot be accessed by the tenant it will be up to the operator to reimburse that tenant for the nonuse of the land.

The on-site Bureau of Indian Affairs/MHA Nation Energy Dept. official will determine any other areas to be bored in the field.

Trees that are destroyed during the construction phase can be chipped on-site and added and mixed to the topsoil for biomass, tree chips will not be placed on top of the soil.

Appropriate erosion control devices must be installed, which may include but not limited to, Hydro-seeding, drilled or broadcast seeding. If broadcast seeding is utilized it must be applied at twice the normal seed rate.

Before any construction begins a pre-construction meeting will take place in order to review BMP's for the project with the contractor, sub-contractors and consultants.

All bare ground within the company's r/w will be covered over winter either by planting a cover crop or by spreading straw that will be crimped into place.

2. Completion & Final Inspection: The owner/operator shall contact the BIA/MHA Nation Energy Dept. when the construction activity is completed. The BIA/MHA Nation Energy Dept. will then conduct a final inspection and prepare a punch list for items that need to be addressed by the owner/operator.

3. Valves & Risers: All above ground infrastructure associated with pipelines shall be protected with fences or other appropriate means approved by the BIA/MHA Nation Energy Dept. to prevent harm to livestock and wildlife.

4. Maintenance: The Operator shall maintain lines so as to prevent and/or repair settling, washouts, erosion, and loss of vegetative cover. The borrowing of fill or replacement materials from Trust lands is not allowed, removal of materials from trust land must be evaluated through the NEPA process, permits/ROW completed and appropriate compensation to the owner. Field visits will consist of the Operator and a BIA official, a minimum of 2 field visits a year for compliance issues.

5. Abandonment: Prior to abandonment, the Operator shall notify the BIA/MHA Nation Energy Dept. of the need for abandonment and shall provide an Abandonment Plan, which specifies how the Operator intends to flush and/or purge the line of all products, intends to cap or seal the line, plans for removal of all surface facilities, and plans for reclamation of all disturbed areas. The Abandonment Plan shall be approved by the BIA/MHA Nation Energy Dept. prior to any abandonment activity.

Q. Pits

1. Flare Pits: Flare pits will not be constructed in coal seams and all flare pits will be constructed with dikes so that any discharge from the flare stack will be contained within the pit. Flare pit igniters shall be functional at all times and inspected on a schedule.

The Operator must maintain vegetative and weed control on the area of operations including a (30) thirty-foot minimum bare ground area around the flare stack.

During drilling, temporary flare pits will be constructed so that all liquids flow into the pit. Pits shall be diked.

2. Drilling Pits: On the Ft Berthold Indian Reservation there will be two (2) different drilling systems allowed. The first will be a Closed-Loop system (see definition below); this type of system will be used in very sensitive areas within the reservation boundary. The second type of drilling system will be a Semi-Closed Loop system (see definition below); this system will be utilized on the remaining portion of the reservation.

Closed Loop Systems: No cuttings pit constructed on the well location. All drill cuttings must be transported off the well location to an approved offsite facility. All drilling fluids will be contained in tanks, fluid levels shall be continually monitored and excess fluids shall be hauled off to a proper disposal facility. Upon completion of the drilling of the well, the Operator shall remove and properly dispose of the fluids at an approved facility. Requirements regarding installation of closed loop systems will be determined during the on-site selection process.

Modified Closed Loop Systems or Semi-Closed Loop Systems: A cuttings pit may be located on location; all drilling fluids will be contained in tanks. It is encouraged to add fly ash to drill cuttings as they are dumped into the pit. Fluid levels shall be continually monitored and excess fluids shall be hauled off to a proper disposal facility. Upon completion of the drilling of the well, the Operator shall remove and properly dispose of the fluids at an approved facility.

Other Requirements for drilling and pits

2a. Liner(s): All pits must be lined. The pit liner must be installed so that they will not leak and must be composed of materials compatible with all substances to be placed in the pit. Synthetic liners with a minimum thickness of 12 mils and resistance to ultraviolet radiation, weathering chemicals, punctures and tearing will be used. Suitable bedding material, such as sand, clay, or felt liners must be used in areas where the base rock might puncture the liner.

2b. Drilling Fluid Levels: All drilling fluids shall be contained in tanks. Upon completion of the drilling of the well, the Operator shall remove and properly dispose of the drilling fluids. Produced Fracturing water will not be deposited in the cuttings pit; it must be disposed of at an approved disposal facility.

2c. Trenching: "Trenching" of the cuttings pit during the pit reclamation phase is prohibited.

2d. Solidification: "Solidification" of the cuttings pit during the pit reclamation phase shall be as specified under Reclamation. It is encouraged to add fly ash to drill cuttings as they are deposited into the cuttings pit. Something new may be coming that we can add to pits.

2e. Netting: The cuttings pit must be netted with mesh and continuously anchored to the ground, in the interval between drilling and reclamation of the pit to prevent migratory birds from entering the cuttings pit. Flagging may be used on cuttings pits during the drilling process and then netted immediately after the drilling process. If active drilling is not occurring, reserve pits must have nylon netting placed over the entire pit to prevent migratory birds and other wildlife from entering the pit. A maximum mesh size of 1.5 inches will allow for snow loading and will exclude most birds. The netting must be placed at least 5 feet from the top surface of pit fluids to prevent the mesh from sagging into the fluids during snow loading events or high winds.

2F. Fencing: As per Gold Book standards, reserve pits should be appropriately fenced to prevent access by persons, wildlife, or livestock. Livestock will rarely be an issue due to exterior fence around pad but human and wildlife health can easily be an issue. Many pads I have seen have either no fence around pit, flagging, or flagging laying in the pit; and there are good ones that are solid with three strand smooth wire. A fence should be solid, not weak. The fence shall remain in place until pit reclamation begins.

Regardless if dry cuttings pit or not, proper fencing shall be addressed.

2G. Production Pits: Production pits are prohibited.

R. Reclamation

Earthwork for interim and final reclamation must be completed within 6 months of well completion or plugging (weather permitting). The Bureau of Land Management will be notified of all reclamation that includes the solidifying of the cuttings pit to moving of the soil back to its original location. The BLM then will schedule the appropriate personnel and set up a meeting on the well location to design the reclamation plan.

1. **Reclamation Plan(s):** Plans for surface reclamation must be designed to return the disturbed area to productive use and to meet the objectives of the Surface Use Plan of Operations. Reclamation is required of any disturbed surface that is not necessary for continued production operations. Such plans must include, as appropriate: Configuration of the reshaped topography, drainage systems, segregation of spoil materials (stockpiles), surface disturbances, backfill requirements, proposals for pit/sump closures, redistribution of topsoil, soil treatments, seeding or other steps to reestablish vegetation, weed control, and practices necessary to reclaim all disturbed areas, including any access roads and pipelines.

2. Interim (Production) Reclamation: Interim reclamation consists of minimizing the footprint of disturbance by reclaiming all portions of the well site not needed for production operations.

The portions of the cleared well site not needed for operational and safety purposes must be contoured to a final or intermediate contour that blends with the surrounding topography as much as possible, with sufficient level areas remaining for setup of a work-over rig and to park equipment. When practical, the Operator should spread topsoil over the entire location and vegetate to within a few feet of the production facilities, unless an all-weather, surfaced, access route or turnaround is needed.

The Operator should set aside sufficient topsoil for final reclamation of the reclaimed area. Any topsoil pile set aside should be vegetated to prevent it from eroding and to help maintain its biological viability.

The number of the production facilities (i.e. tanks, treaters, pumps, etc.) affects the size of the pad needed for production and the amount of the pad that can be reclaimed during interim reclamation. All areas not needed for production shall be reclaimed, stabilized, and seeded until final reclamation occurs.

3. Final Reclamation: During final reclamation the entire area including the pad and the areas reclaimed under interim reclamation shall be reclaimed, stabilized, and seeded during final reclamation. Vegetation alone does not constitute successful reclamation. The well site must be contoured to original contour or a contour that blends with the surrounding landform, stockpiled topsoil evenly redistributed, and the site vegetated. Salvaged topsoil must be spread evenly over the surfaces to be vegetated. The topsoil site should be prepared to provide a seedbed for reestablishment of desirable vegetation. Site preparation may include gouging, scarifying, dozer track-walking, mulching, fertilizing, seeding, and planting.

4. Cuttings Pits. All pits must be reclaimed to a safe and stable condition and restored to a condition that blends with the rest of the reclaimed pad area.

4a. Stabilization: Mud's & cuttings will be solidified in place and buried as specified below. The Operator shall take all precautions so as to minimize damage to the pit liner when mixing in the ash and/or cement. Class C fly ash and/or cement are the only two materials approved for solidification. Use of any other material must be approved in writing by the BIA prior to use. It is encouraged to add fly ash to drill cuttings as they are deposited into the cuttings pit.

4b. Burying: As a general guideline under normal weather conditions, the six (6) month timetable will allow two (2) months for the mud to settle in the reserve pit, two (2) months for backfill settling upon pit closure, and two (2) months to complete final contouring and top soiling. Pits will not be allowed to air dry.

The drilling materials must remain within the pit liner with a minimum of four (4) feet of fill or cap. The allowable distance between the top of the drilling material to the top of the liner depends upon the amount of backfill material that will be replaced over the pit during reclamation. The amounts of backfill material are determined from the cut and fill plats at the lowest point of the backfill.

5. Contouring: All disturbed areas in the course of construction, reconstruction, or heavy maintenance will be reclaimed and vegetated. All slopes and contours will be shaped and smoothed near the original contour, avoiding to the extent possible as to not concentrate water on disturbed areas. Care will be taken to eliminate all potential concentrations of water on the disturbed area.

6. Drainage/Water Bars: Water bars should divert water to the opposite sides of the disturbed area to avoid concentrations of water. Water bars should not be constructed in locations that will divert water to fill slopes.

7. Contaminated Soils: Upon request, the Operator shall sample areas that have been subject to previous spills and/or saturation from wastes to determine hydrocarbon and salt concentrations, chemical additives, minerals, and/or other substances with the potential for contamination. A sampling analysis plan and the results of this plan will be provided to the BIA/MHA Nation Energy Dept. A plan of operations to remove contaminated soils will be provided to the BIA/MHA Nation Energy Dept. Contaminated soils will be hauled offsite to an approved facility before reclamation starts. Treatment methods and/or plans must be approved prior to treatment/removal.

8. Topsoil: During production reclamation, not all topsoil may be used. Excess topsoil is not to be stock piled any taller than 4 feet and will be seeded and protected until final reclamation occurs. Excess topsoil will not be removed from the site for any other uses. When final reclamation occurs, the topsoil used during production reclamation will be stripped and used with the excess topsoil for final reclamation.

All topsoil will be stripped from the general construction right-of-way for pipelines and/or flow lines. Topsoil shall be stripped from areas requiring excavation for level working surface such as side slopes.

During final reclamation, if the site is short of topsoil, the Operator shall import an adequate amount of certified weed seed free clean topsoil to meet the reclamation requirements

9. Roads: During construction after grading is completed and before applying vegetation measures, areas to be vegetated shall be raked or otherwise cleared of sticks, stumps, stones, and other debris, which might interfere with sowing of seed, growth of grasses, or subsequent maintenance of grass covered areas. If any damage by erosion or other causes occurs after the completion of grading and before beginning the vegetation work, the Operator shall repair such damages. This shall include filling gullies, smoothing irregularities, and repairing other incidental damage. Immediately in advance of the seeding, any crusted surface shall be scarified at right angles to the slope plane.

10. Pipelines: Reclamation outside the Area of Operations must be completed by the end of the next suggested seeding or planting season. As a general guideline under normal weather conditions this timetable will allow adequate time for the line and berm to settle. The line shall then be reworked to repair erosion, settling, washouts, gullies, etc. The berm shall be reduced and spread to blend with natural contours, and the area seeded with native seed.

11. Time Frames For Releasing Reclamation: The reclamation shall be monitored for 2+ years/growing seasons to assure that it is successful (e.g. vegetation returns).

S. Road(s)

The placement of the access roads will be determined in the field. The Construction and maintenance of roads will be done according to the BLM Gold Book standards. All access roads will have a speed limit, cows on roadway, and other signs necessary for safety. Operators are responsible for the welfare of the livestock grazing within the road right-of way. In the case of an animal being hit on an access road it will be up to the operator to make restitution to the livestock owner. It is the responsibility of the operator to minimize dust on all access roads and to assist the TAT tribal road department on all BIA roads to control dust. If two (2) companies share the same access road, a road sharing agreement will be in submitted to the BIA prior to the BIA approving the second company's right of way.

All operators shall perform snow removal activities as not to destroy or alter the landscape. All activities will be confined to approved ROWs, to include removal and stockpiling. All activities will be conducted with rubber tire equipment; no tracked vehicles will be utilized for removal activities, tracked vehicles generally result in a greater potential for disturbance of the landscape.

If a Company wants to remove snow from an area outside of their approved ROW a revocable permit will need to be issued by the BIA. The permit will contain the permissions from the landowners by tract. The permit will show where the Company can stockpile or push snow off of their ROW. If a stockpiling area is needed, the area will need to be staked out prior to any snow piling. All snow removal equipment outside of the approved ROW will need to have 6 inches of clearance above the ground. No trucks will be used to haul snow to the stockpiling area.

All areas within the approved ROW and approved locations outside of the ROW shall be reclaimed after spring melt. This reclamation shall include removal of all deposited debris, reshaping if necessary and reseeding of any disturbed areas, as needed. Final reclamation clearance for any disturbed areas resulting from snow removal activities will be approved in writing by BIA Agency staff.

Companies can use a snow blower to remove snow from there ROW without a permit. This practice can only occur on the approved ROW. All debris will be cleaned up in the spring. Snow fence can be temporarily constructed with the approval of the BIA to eliminate drifting.

T. Safety

The Operator shall maintain structures, facilities, improvements, and equipment in a safe and neat manner and must take appropriate measures to protect the public from hazardous sites or conditions resulting from the operations.

U. Seed Mixtures & Seeding

1. Mixtures: The native seed mixture shown in the chart below shall be used for seeding all reclamation work completed within one (1) year of completion of this well, unless additional mixtures are approved by the BIAMHA Nation Energy Dept. The Operator shall request from the Bureau of Indian Affairs updated seed mixtures for any seeding accomplished after the one-year period. Approved cover crops are wheat, barley and oats at the rate of 10lbs per acre.

2. Report of Seeding & Certification: The mixture shall be lab tested to identify the noxious and invasive weed seed present and certified weed free by the Seed Company. A copy of the certification including the purity and viability of the seed mix shall be supplied to the Bureau of Indian Affairs. Upon completion of the planting, a report of Seeding from the Operator or the seeding contractor shall be submitted to the Bureau of Indian Affairs verifying that the seeding is completed.

3. Seeding and/or Planting Dates: The best success rates for seeding or planting are normally from the end of spring thaw to May 15 or from October 1 to freeze-up. Seeding will be repeated annually until such areas are accepted in writing by the BIA as being satisfactorily vegetated (3-5 years average but may take longer) and stabilized.

4. Seeding Methods: Seeding shall be completed with grass seeders or small rangeland drills. Large grain drills are not allowed. Rangeland drills are designed to seed the larger diameter seed and seed mixes that are uniform in size. Rangeland drills should be and typically are equipped with a broadcast (dribble) box that drops the smaller diameter seed if applicable, onto the surface. A drag implement attached will provide a light soil cover over the small diameter seed. All planting will be parallel to contours and use of criss-cross patterns to prevent erosion.

When broadcast seeding, by hand or by hand held spreaders or with ATV mounts, twice the normal seed mixture rate will be used. Areas broadcasted shall be raked or dragged to ensure a minimum of half-inch soil coverage over the seed.

5. Seed Beds: The seedbed should be thoroughly worked, firm, and free of clods. Drill row spacing should be about two (2) inches. Seeding depths vary from ¼ to ½ inch deep and should be no deeper than one half (½) inch. Seeding deeper than one (1) inch will result in a poor stand.

6. Mulches: A variety of mulching techniques may be required on disturbed slopes to hold seed. These sites will be mulched using certified weed free clean straw. When disturbed areas will be bare over winter mulch will be evenly distributed to hold soil until vegetation can be established. Trees that are destroyed during construction can be chipped and mixed into the topsoil to serve as biomass; chips will not be placed on top of soil.

Species of Seed	App. Rate PLS (lbs./ac)
Western Wheatgrass	2.4
Green Needle grass	1.2

Blue Grama	0.2
Side oats Grama	0.6
Little Bluestem	0.4
Slender Wheatgrass	0.5
Prairie June grass	0.1
	Total: 5.4

Use certified seed when available.

Origin of non-varietal ('common') grass seed of both native and introduced species for pasture and hay land planting is limited to North Dakota, South Dakota, Nebraska, Montana, Wyoming, Minnesota, Alberta, Saskatchewan, and Manitoba.

No noxious weed amounts are allowed on any seed tags.

V. Signs

- 1. Well Sign:** The Operator shall install and maintain a legible and durable well sign showing the well number, name of Operator, lease serial number, surveyed location (quarter/quarter, section, township, range). The sign shall be legible under normal conditions at a minimum distance of fifty feet (15.24 meters).
- 2. Signs Other:** A sign containing the well name, operator name, no trespassing, and emergency contact information will be installed before drilling of the well commences. The sign will be posted at the cattle guard entering the well site and maintained for the life of the well site. The sign shall be legible under normal conditions at a minimum distance of fifty feet (15.24 meters).
- 3. Hydrogen Sulfide (H₂S):** The Operator shall provide signs warning of the dangers of hydrogen sulfide around developed oil production sites that have the potential to produce H₂S.

W. Storage (Bone) Yards

The Operator shall obtain an approved commercial lease from the BIA for any Bone yards or areas of storage placed on trust lands.

X. Wastes

- 1. Trash, Garbage, Junk, Debris, etc.:** During drilling, portable dumpsters will be used for all trash. All trash will be hauled off site; no burning or burying will be allowed. No trash will be disposed of in the reserve pit. Doors, covers, and/or lids will be kept closed.

During production of the well, all debris, garbage, trash, junk, etc., shall be removed from the site and properly disposed of at an approved EPA certified landfill and/or permitted by the State of North Dakota.

2. Sewage: During the life of the well, sewage will be disposed of and/or treated according to county and state requirements in portable chemical toilets and/or approved facilities.

3. Production Fluids: During drilling, testing, and establishing production, all fluids shall be contained in tanks. All cuttings pit fluids shall be properly disposed of in an approved facility.

4. Equipment Fluids: Motor oil, hydraulic fluids, brake fluids, antifreeze, etc. will be properly disposed in an approved facility. Disposal of these types of fluids in the reserve pit(s) is prohibited. Soils contaminated by these fluids will be disposed of in an approved facility.

5. Leaks and Spills: All leaks and spills will be handled in accordance with the Gold Book standards and specifications. For reference see Gold Book pages 39-40 on reporting procedures.

Y. Wildlife

1. Compliance with the Migratory Bird Treaty Act

Avoidance – All avenues to move the access road or well pad away from a discovered nest or sensitive habitats shall be undertaken.

February 1 to July 15 is considered nesting season and construction activities during this time need to be considered as take, however, if construction needs to occur in the spring the following approach may occur:

Options:

Areas Identified as migratory bird nesting habitat shall be mowed or grubbed in the fall and early spring to minimize nesting of ground nesting birds. A Right of Way will need to be in place before any disturbance occurs.

An avian bird survey will be implemented five (5) days prior to construction during the nesting season to determine if active nest are present. If Active nests are discovered one of two avenues can occur; **First**, allow construction to be delayed until birds have hatched and abandon nest and or moved. **Second**, allow construction to occur and take birds and operator will pay a permit fee to TAT Game and Fish mitigation fund to take birds. (Compensate)

All other Wildlife species will also be considered a valuable resource and mitigated appropriately.

2. Concurrence with Endangered Species Act

A 0.5 mile buffer from piping plover critical habitat will be maintained for the well pad sites, unless intervening topographical features provide a visual barrier.

Whooping Cranes

During construction, work must stop within one (1) mile of any whooping crane(s) sighted from the proposed project area, and the Ecological Services Office will be contacted immediately at (701) 250-4402. In coordination with the service, work may resume after the crane(s) have left the area.

Underground power lines are the standard. Any installation of above ground power lines will be evaluated by the Ft Berthold Environmental staff as to the applicability of an exception to the standard. If an exception is granted based on site conditions by the Environmental staff, all new lines will utilize approved visual marking devices within the whooping crane migration corridor.

3. Compliance with the Bald and Golden Eagle Protection Act

Maintain a minimum 0.5 mile buffer around all known bald and golden eagle nests.

A survey of the proposed project area will be conducted between March 1 and May 15, before leaf-out so nests are clearly visible. Any active and inactive nests discovered should be reported to the Bismarck Ecological Services Office, and the Oil Company must maintain a minimum 0.5 mile buffer.

The information gathered from these surveys will be shared with the Bismarck Ecological Services Office.

Z. Water

Control & Drainage: The Operator shall control water run-off so as to control soil erosion and prevent damage to facilities. During the production phase of the well, drainage ditches will be established and maintained on the pad to divert water away from the reserve pit and off the area of operations. Standing water and/or puddles will not be allowed.

Adequate clinker/scoria or gravel will be used on the area of operations to prevent muddy or soft ground conditions causing vehicles to rut or sink. The taking or borrowing of clinker/scoria or gravel from Trust lands is not allowed.

Pad drainage devices such as valves, pipes, etc. will not be allowed. No water shall runoff the production pad, a containment system will need to in place and maintained by the operator.

SPECIAL CONDITIONS:

The Operator shall protect the Indian grazing rights, water rights, and other Indian rights to the surface of the lands.

The operator may install steel locked gates to deter trespassing on their locations. Operators will furnish the BIA and BLM with the combinations to these locked locations.

All trespasses by the oil company will be assessed a penalty double of what the original negotiations were made on the right-of-way. This penalty will be determined after the as-built is turned into the BIA.

Dust control will be the responsibility of the Oil Company.

A weekly report will sent to the BIA on the statuses of each Oil Companies wells on the Ft Berthold Indian Reservation. A excel spreadsheet will be given to each Oil Company.

The BIA will be notified a minimum of one (1) week prior to the start of construction of the access road and well location.

Communitization Agreements will be submitted before a Right-of Way and Concurrence Letter for the APD is issued to the Oil Company.

The Right-of-way will be paid by the Oil Company before construction begins on the access road and well location.

Road sharing agreements will be signed and submitted to the BIA prior to any company using another company's access road.

Emergency contact information for each well will be turned into the BIA after the well is put into production. Form will be provided by the BIA.

All rights of Ways that are associated with a well location are the responsibility of the Oil Company. (Access roads, well location, electrical, pipelines, etc.)