



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

A Resolution entitled: “Approval of Assessment of a Civil Fine on Marathon Oil Company for a Trespass Violation of BIA ROW No. FBOG100284 for the MHA USA Project and Consent to Grant of Right-of-Way across Tribal lands for the Harrington USA Project Submitted by Marathon Oil Company.”

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-Laws under said Act; and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution and By-Laws of the Three Affiliated Tribes, also known as the Mandan, Hidatsa, and Arikara Nation (“Tribes” or “MHA Nation”), the Tribal Business Council is the governing body of the Tribes; 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, Pursuant to Article IX, Sections 1 and 3 of the Constitution, 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 across Tribal lands require the consent of the Tribal Business Council pursuant to federal and Tribal law; and

WHEREAS, Applications for Rights-of-Way (“ROWS”) on Tribal lands are subject to the requirements of Tribal law, including Resolution No. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements), Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Rights-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), Resolution No. 15-045-LKH (Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Amending Fee Structure); and

WHEREAS, On October 6, 2011, MHA Nation Tribal Business Council Member Judy Brugh executed the Bureau of Indian Affairs (“BIA”) “Consent of Owner’s - Grant of Right-of-Way” application submitted by Marathon Oil Company across Tribal



Tract No. T437A-A (100% Tribal Interest) comprised of Lot 3 and Lot 4 located in Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota; and

WHEREAS, The Consent of Owner's – Grant of Right-of-Way for Tribal Tract No. T437A-A (100% Tribal interest), described above, includes the following description of easement:

1. A strip of land 100 feet in width and 61.94 feet long in Lot 4 of Section 4, T150N, R93W, encompassing approximately 0.14 acres of disturbed area.
2. A piece of land approximately 400' wide and 500' long running in Lot 4 of Section 4, T150N, R93W, encompassing approximately 6.24 acres of disturbed area within the barbed wire fence; and

WHEREAS, On October 27, 2011, the Bureau of Indian Affairs ("BIA") granted to Marathon Oil Company, its successor and assigns, BIA ROW No. FBOG100284 for the following purposes, specifically: MHA USA #11-4H & MHA USA #11-4TFH WELL LOCATION AND ACCESS over land embraced within a right-of-way situated on the following described lands located on the Fort Berthold Indian Reservation ("FBIR"), in the County of Mountrail, North Dakota:

Township 150 North, Range 93 West, Fifth Principal Meridian

Tribal Tract No. T437A-A (100% Tribal Interest), Lot 3 & 4, of Section 4
(0.14 acres access road and 4.59 acres well pad); and

WHEREAS BIA ROW No. FBOG100284 is limited to and more particularly described to be an access road 61.94 feet in length, 100 feet in width, and a well pad 400 feet by 500 feet and 4.59 acres (6.24 acres disturbance); and

WHEREAS, BIA ROW No. FBOG100284 provides that a one hundred-foot wide right-of-way is granted for an access road across the aforementioned trust property along with 6.24 acres of surface disturbance for a well pad; and

WHEREAS, On October 17, 2018 and May 8, 2019, Marathon conducted on-site reviews, with the Energy Division and the BIA, for a new wellsite that would overlap with the MHA USA well pad easement, and

WHEREAS, In the timeframe between these two on-sites, Marathon discovered that while the MHA USA well pad was constructed within the parameters of BIA ROW No. FBOG100284, the fence erected around the wellsite location was built 1.22 acres outside the parameters of that easement grant, as evidenced by the plat drafted for



the on-site on May 3, 2019 showing the trespass, which was finalized and signed on May 22, 2019; and

WHEREAS, During the May 8, 2019 onsite, the trespass matter (i.e., the discovery that the fence erected around the MHA USA wellsite was outside the parameters of BIA ROW No. FBOG100284) was discussed among Marathon, Energy Division and BIA representatives, and the Energy Division and BIA representatives requested Marathon to apply for a new ROW for the Harrington USA pad, rather than seeking to modify BIA ROW No. FBOG100284, the existing easement for MHA USA wellsite, so that the two pads (MHA USA and Harrington USA) will overlap and be sited in one fenced-in location; and

WHEREAS, On November 15, 2019, Marathon Oil Company submitted a ROW application and consent request for the Harrington USA Project to construct, install, operate, maintain, and manage a well pad for two (2) new wells (adjacent to and overlapping the existing MHA USA wellsite), an access road, and an all-utility and multi-use corridor for electrical lines and appurtenances, fiber optic cables, snow storage or removal, temporary above-ground water transfer lines, and maintenance, in, on, over, and across Tribal Tract No. T437A-A (100% Tribal interest), comprised of Lot 3 and Lot 4 located in Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, as more particularly described in Appendix A.1.; and

WHEREAS, The ROW requested in this application consists of 12.00 acres of fenced well pads and 0.21 acres of access road and all-utility and multi-use corridor; and

WHEREAS, Pursuant to fees established and set forth in Resolution No. 18-212-FWF, the projected compensation to the MHA Nation for this ROW application is \$31,785.00, in addition to the one-time application; and

WHEREAS, The ROW application and consent request submitted by Marathon for the Harrington USA Project, described above, has been reviewed and recommended for approval by the MHA Natural Resources Department and the MHA Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal lands; and

WHEREAS, Marathon also requested in its ROW application for the Harrington USA Project to settle and resolve its trespass of 1.22 acres at the existing MHA USA location, which will become part of the Harrington USA grant of right-of-way; and

WHEREAS, On January 23, 2020, at a duly held meeting of the Energy Committee, the MHA Energy Division recommended approval of Marathon's ROW application and consent request for the Harrington USA project, more fully described herein, and in the attached Appendix A.1., on Tribal Tract No. T437A-A (100% Tribal



interest), comprised of Lot 3 and Lot 4 located in Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota; and

WHEREAS, With respect to the Marathon's request to settle and resolve its trespass of 1.22 acres at the existing MHA USA wellsite, described above, Marathon and the Energy Committee agree to resolve said trespass subject to Marathon's payment of a \$75,000.00 civil fine, that such payment will include compensation for the continued use of the 1.22 acres, not originally approved under BIA ROW No. FBOG100284, and that the 1.22 acres shall become part of the easement granted for the Harrington USA Project; and

WHEREAS, Alternative resolution of ROW violations is consistent with the intent and spirit of BIA Right-of-Way Regulations codified at 25 C.F.R. 169 Subpart F, which recognizes deference to Tribal decision-making and negotiated remedies; and

WHEREAS, The Energy Committee approved Marathon's application and forwarded it to the Tribal Business Council for final action, subject to payment of a civil fine in the amount of \$75,000.00 for the trespass of 1.22 acres at the existing MHA USA location.

NOW THEREFORE BE IT RESOLVED, The Tribal Business Council hereby affirms the action of the Energy Committee to impose on Marathon Oil Company a \$75,000.00 civil fine for a trespass violation of building a fence around the MHA USA wellsite exceeding the parameters of BIA ROW No. FBOG100284 by 1.22 acres on Tribal Tract No. T427A-A.

BE IT FURTHER RESOLVED, Subject to Marathon Oil Company's agreement to the execution of the MHA Rights-of-Way Application and Terms and Conditions, as listed therein, and payment of ROW fees, the Tribal Business Council hereby approves the following ROW application, attached hereto as Appendix A.1, and consent request, as follows:

- Marathon Oil Company – The Harrington USA project to construct, install, operate, maintain, and manage a pad for two (2) new wells (adjacent to and overlapping the existing MHA USA wellsite), an access road, and an all-utility and multi-use corridor for electrical lines and appurtenances, fiber optic cables, snow storage or removal, temporary above-ground water transfer lines, and maintenance, in, on, over, and across Tribal Tract No. T437A-A (100% Tribal interest), comprised of Lot 3 and Lot 4 located in Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, for 12.00 acres of fenced well pads and 0.21 acres of access road and all-utility and multi-use corridor.

BE IT FURTHER RESOLVED, Approval of Marathon Oil Company's ROW application and consent request for the Harrington USA Project is subject to Marathon's payment



to the MHA Nation within three weeks from the passage of the Resolution of the \$75,000.00 civil fine for the trespass of 1.22 acres at the existing MHA USA location.

BE IT FURTHER RESOLVED, Payment of the \$75,000.00 civil fine also includes compensation for the continued use of the 1.22 acres, not originally approved under BIA ROW No. FBOG100284, and that 1.22 acres shall become part of the easement granted for the Harrington USA Project.

BE IT FURTHER RESOLVED, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the ROW for the Harrington USA Project will be subject to a twenty (20) year term, from the date of the BIA's execution of the grant of the ROW for said project.

BE IT FURTHER RESOLVED, The Tribal Business Council consents to the estimated compensation for the ROW application for the Harrington USA project in the amount of \$31,785.00, which is based on the MHA Nation ROW compensation and application fees established by and set forth in Resolution No. 18-212-FWF.

BE IT FURTHER RESOLVED, In accordance with governing MHA Nation law and policy as well as applicable federal ROW regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning any ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to an assignment of the ROW for the Harrington USA project.

BE IT FURTHER RESOLVED, The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security.

BE IT FURTHER RESOLVED, The MHA Nation Standard Terms and Conditions for Rights-of-Way, executed by Marathon Oil Company and the MHA Nation Energy Division, constitutes a written agreement as part of the MHA Nation's consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests the Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Harrington USA project.

BE IT FURTHER RESOLVED, The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA Energy Division and other Tribal departments, to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Terms and Conditions for Rights-of-Way, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.403(a).



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

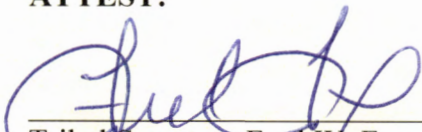
CERTIFICATION

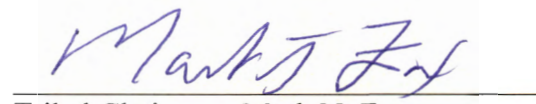
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 13th day of February, 2020, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [X] Voting. [] Not Voting.

Dated this 13th day of February, 2020.

ATTEST:


Tribal Secretary Fred W. Fox
Tribal Business Council


Tribal Chairman, Mark N. Fox
Tribal Business Council



APPENDIX A.1

< Attach: (1) Application Form, (2) Approval Form signed by Department Head and Chairman of NRC per Resolution No. 15-045-LKH, (3) signed ROW Terms and Conditions per Resolution No. 14-089-VJB, (4) map, and (5) other necessary information >