



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

***A Resolution entitled, "Consent Nunc pro Tunc to BIA ROW No. FBOG090023
across Tribal land (T437A-A and 371A) for the Fisher USA 21 Project
Submitted by Marathon Oil Company"***

- WHEREAS,** The Mandan, Hidatsa, and Arikara Nation (the "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 Tribe; 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 land require the consent of the Tribal Business Council pursuant to federal and Tribal law; and
- WHEREAS,** Applications for ROWs on Tribal land are subject to the requirements of Tribal law, including Resolution No. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonuses, 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 Rights-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,** The Tribe previously consented to the approval of the ROW for the Fisher USA 21 Project; and



WHEREAS, On July 31, 2009, the BIA granted ROW No. FBOG090023 to Marathon Oil Company for the Fisher USA 21-5H Well Location and Access; and

WHEREAS, The Fort Berthold Agency is unable to locate the original application packet for ROW No. FBOG090023 and, therefore, Tribal consent nunc pro tunc is necessary to record ROW No. FBOG090023 at the Land Title Records Office; and

WHEREAS, Marathon Oil Company submitted a ROW application for consent nunc pro tunc to ROW No. FBOG090023 for the Fisher USA 21 Project, which includes 3.02 acres of access road across Allotment No. T437A-A in Lot 3 and Lot 4 of Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, with 100.00000000% Tribal interest, and 3.04 acres of access road across Allotment No. 371A in Lot 1, Lot 2, and S½NE¼ of Section 5, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, with 50.00000000% Tribal interest; and

WHEREAS, The ROW application has been reviewed and recommended for approval in accordance with the MHA Nation's procedure for authorizing ROWs on Tribal land; and

NOW THEREFORE BE IT RESOLVED, Subject to the MHA Nation Standard Terms and Conditions for Rights-of-Way, and payment of applicable ROW fees, the Tribal Business Council hereby approves the ROW application, attached as Appendix A.1, and consents nunc pro tunc to the following ROW:

- Marathon Oil Company – ROW No. FBOG090023 for the Fisher USA 21 Project, which includes 3.02 acres of access road across Allotment No. T437A-A in Lot 3 and Lot 4 of Section 4, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, with 100.00000000% Tribal interest, and 3.04 acres of access road across Allotment No. 371A in Lot 1, Lot 2, and S½NE¼ of Section 5, Township 150 North, Range 93 West of the 5th P.M., Mountrail County, North Dakota, with 50.00000000% Tribal interest; and

BE IT FURTHER RESOLVED, The ROW shall have the same term as the original ROW No. FBOG090023; and

BE IT FURTHER RESOLVED, The Tribe does not consent to waive any bond, insurance, or alternative form of security; and

BE IT FURTHER RESOLVED, The MHA Nation Standard Terms and Conditions for Rights-of-Way are incorporated into this consent to approval 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 grant of the ROW; and

BE IT FURTHER RESOLVED, The Tribe retains the authority to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of the applicable MHA Nation Standard 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, as provided in 25 CFR §169.403(a); and

BE IT FURTHER RESOLVED, In accordance with Tribal law and policy, as well as applicable federal regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning a ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to any further assignment of the ROW for the Fisher USA 21 Project; and

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.

[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 8th day of April, 2021, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [X] Voting. [] Not Voting.

Dated this 8th day of April, 2021.

ATTEST:

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

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