

CORPORATE SOCIAL RESPONSIBILITY

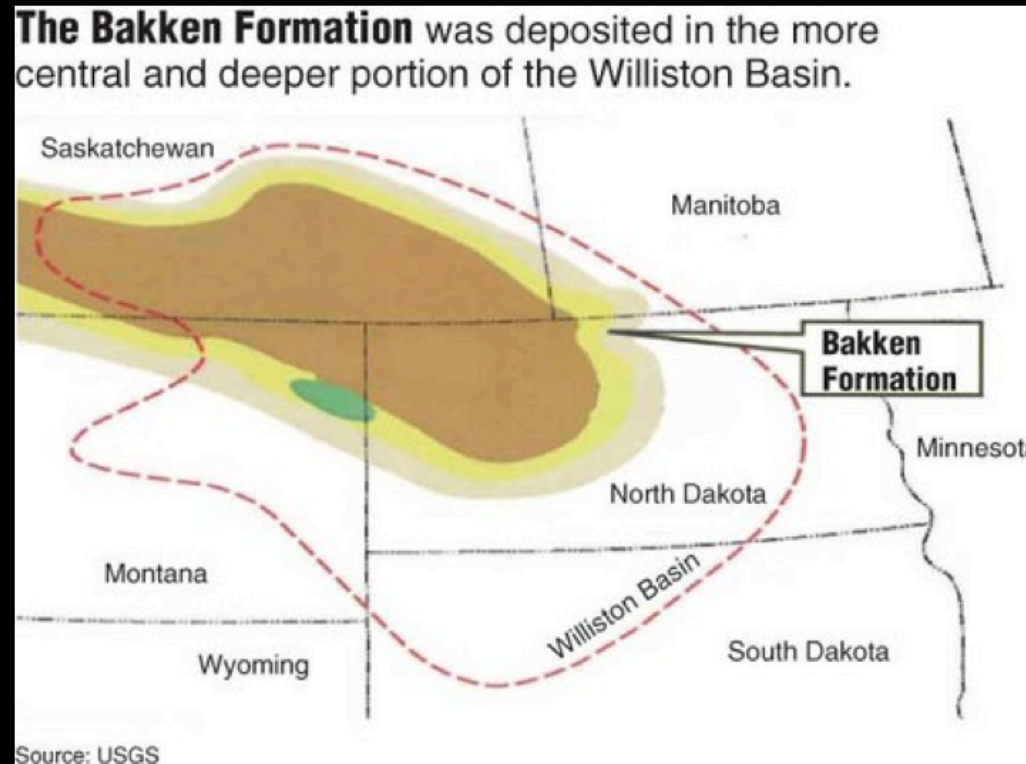


This Boom Will Be Sustainable

MHA Nation

by A.L. Parlow©, 2011

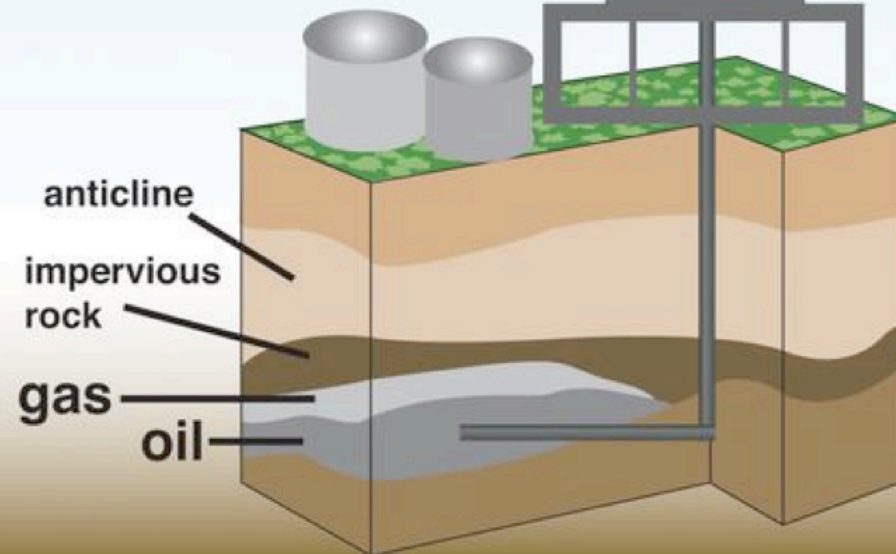
“America’s Premier Oil Play”



162 wells operating in North Dakota require “fracking” to free and oil and gas from the barely permeable shale. This method requires careful attention to impacts, particularly on water.

Horizontal drilling

Unlike a directional well that is drilled to position a reservoir entry point, a horizontal well is commonly defined as any well in which the lower part of the well bore parallels the oil zone. The angle of inclination used to drill the well does not have to reach 90° for the well to be considered a horizontal well. Applications for horizontal wells include the exploitation of thin, oil-rich reservoirs, avoidance of drawdown-related problems such as water/gas coning and extension of wells by means of multiple drain holes.



Source: horizontaldrilling.org

News & Eagle graphic / Pamela Gumaer

A BOOM AND HOUSING SHORTAGES

In a nation burdened by 9.5% unemployment, and far higher at the MHA nation, this oil boom has a reported 2,000 jobs waiting to be filled.

While this is straining infrastructure, the challenge is to leave the land and people better – or at least as good – than the time when the “clean winds swept across without interruptions by the fire and smoke.”



ROAD INVESTMENTS NEEDED TO SUPPORT OIL AND GAS
PRODUCTION



Oil Production in North Dakota more than doubled during the past 10 years. The ND Oil and Gas Commission reported 3,300 wells prior to 2005. As for November 2010, the number has risen to 5,200.

That number is expected to increase to a total of 21,250 wells in the next two decades.

At 1,500 wells per year, it would take 14 years to drill that number.



Many landholders and tribal members at the MHA Nation look forward to a remarkable increase in both tribal and individual wealth generated from the thus far 7 wells that operate on trust land and 20 on fee lands. (April 24, 2010).

With 174 permits pending as of same date) and many more to come, the MHA Nation could be facing its most prosperous moment.

Yet, some caution to slow down and move with care.



CSR and Sustainability

INTERNATIONAL LAW

Announcing The Global Compact
January 31, 1999

- CSR
 - Labor Rights
 - Human Rights
 - Environment
 - Community



THE BASIC FRAMEWORK OF CSR: INTERNATIONAL LAW

KEY COVENANTS, TREATIES, CONVENTIONS

- Universal Declaration of Human Rights
- Covenant on Social, Economic and Cultural Rights
- Covenant on Civil and Political Rights
- International Labor Organization Conventions (ILO)
- UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises
- Convention on the Rights of the Child
- Convention on the Elimination of Discrimination Against Women
- Equator Principles (Environment)
- Kyoto Protocol
- United Nations Declaration on the Rights of Indigenous Peoples

THREE MAJOR CATEGORIES OF CSR

- Labor
- Environment
- Human Rights (Economic, Social, Cultural, Speech, Assembly)

CORPORATE CODES OF CONDUCT

- Begin with issues of greatest potential interest to critics
- Build from corporate priorities

CERTIFICATION PROGRAMS

- Global Reporting Initiative (GRI)
- ISO Standards

MHA NATION GOVERNANCE OF RESOURCE:
EXISTING AND PENDING

ASSESS ALL TRIBAL LAW AND CODES TO PRODUCE A GOVERNANCE SYSTEM THAT BEST
DEFINES AND SHAPES THE ENVIRONMENTAL, CULTURAL, SOCIAL, FINANCIAL AND
DEVELOPMENT ASPIRATIONS OF THE MHA NATION.

STATE: TAX DISTRIBUTIONS

N.D. is on track to bring in more than \$ 1 billion in oil extraction and gross production taxes during
2009-2011

Oil Companies pay the state a 6.5 % extraction tax and a 5% gross production tax.
The Money is used, for the most-part in the following ways:

1. RESOURCES TRUST FUND

2. COMMON SCHOOLS TRUST FUND

3. FOUNDATION AID STABILIZATION FUND (Can Be Transferred to the General Fund.)

4. Oil and Gas Research Fund

5. General Fund

6. Permanent Oil Tax Fund

7. Tribal Funds:

- a. On trust lands, the MHA Nation keeps 50%
 - b. The balance goes through the State distribution formula
 - c. On non-trust lands, 20 % of gross production tax revenue goes to the MHA Nation
 - d. The balance through the State distribution formula
 - e. New wells are exempt from oil extraction tax for 5 years.
- d. During fiscal 2010 the MHA Nation is reported to have received nearly \$11 million in oil taxes.

8. Oil and Gas Impact Fund

9. Oil-impacted cities

10. Cities, counties, schools and townships.

Contemporary Environmental Standards
"Not another Boom and Bust"

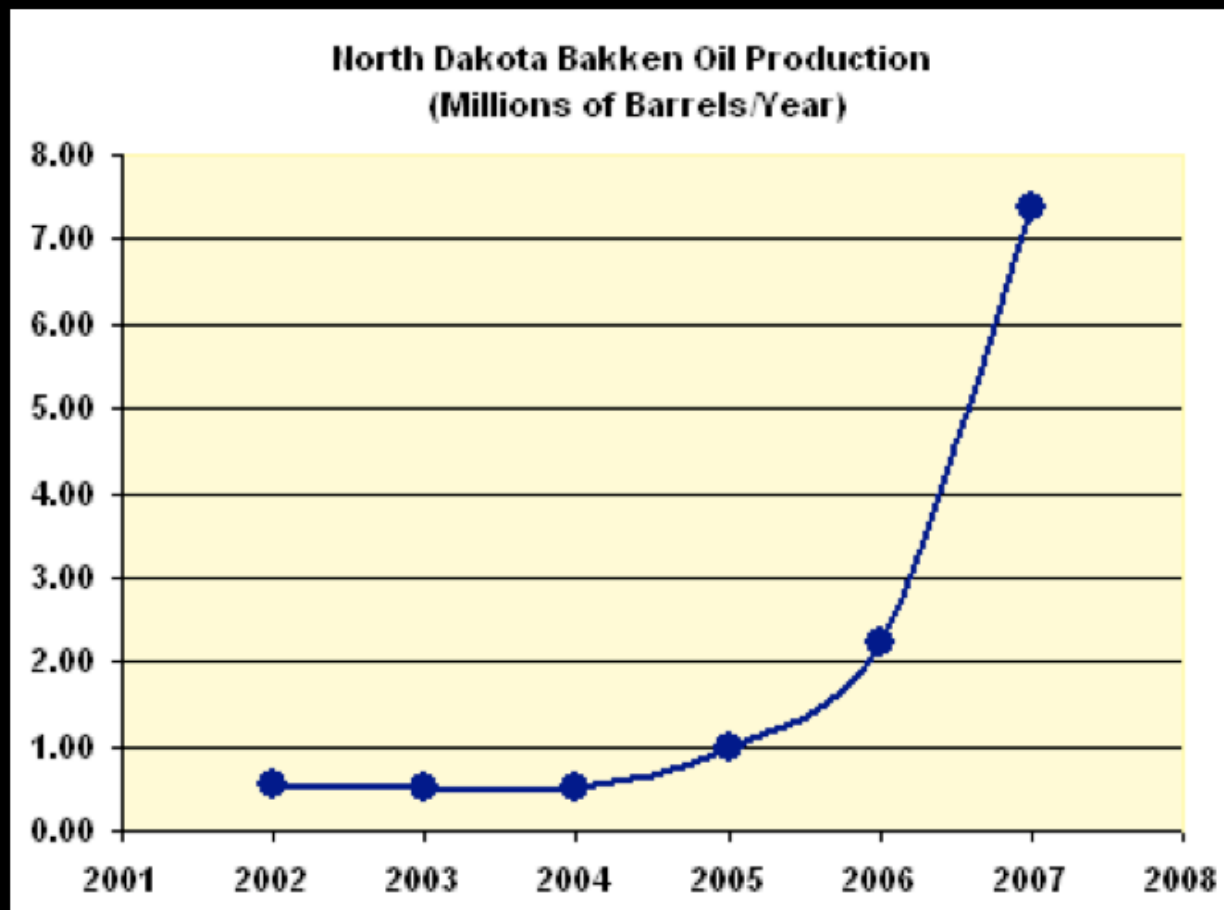


R e v e n u e s T r a n s f e r r e d O f f - R e s e r v a t i o n



State Historical Society of North Dakota

Production Continues to Skyrocket



SAMPLE SPECIFICS: LONG-TERM STRATEGY TO BE DEVELOPED IN DISCUSSION WITH MHA NATION
ENERGY DEPARTMENT, OIL PRODUCERS
AND OTHER RELEVANT PLAYERS

A. ESTABLISH A BASELINE

1. Identify all oil and oil-related companies operating or planning to operate on MHA lands, including fee lands.
2. Assess all contracts and agreements, written and verbal, with same companies – particularly those whose time frame would soon expire.
3. Compile all tribal codes.
4. Compile all relevant BIA/Interior Regulations governing tribes and oil companies.
5. Identify all BIA regulatory activities governing oil operations.
6. Identify brushfires or emergency situations that require immediate response. Rapid Response Teams.
7. Anticipate long-term impacts:

a. ENVIRONMENTAL STEWARDSHIP

- i. Air quality
- ii. Water quality
- iii. Eco-systems
- iv. Land use and protection
- v. Restoration
- vi. Climate change
- vii. Roads and traffic
- viii. Congestion and housing
- ix. Water
- x. Waste
- xi. Closure

b. SOCIAL STEWARDSHIP and LONG-TERM GOALS

c. CULTURAL STEWARDSHIP AND GOALS

8. Monitoring
9. Social and Environmental Audits

B. IDENTIFY KEY PRIORITIES

1. Standards
2. Strategies
3. Strategic Risk
4. Community Views

C. NEGOTIATE FROM STRENGTH WITH OIL COMPANIES TO ACHIEVE

MUTUAL SHORT-MEDIUM AND LONG-TERM GOALS

BEST PRACTICES

A FOLLOW UP TO THIS ENERGY SUMMIT MIGHT BE A SERIES OF SPECIFIC EXPLORATIONS AMONGST THE KEY PARTIES: THE COMPANIES, MHA NATION, LANDHOLDERS, LABOR AND OTHERS TO DEFINE THE SHAPE, DIRECTION AND MEASUREABLE ACHIEVEMENTS TO CONTINUOUSLY IMPROVE HOW BUSINESS IS DONE.

THIS MIGHT INCLUDE AN AUDIT OF EXISTING LAWS, REGS, STANDARDS AND CODES OF CONDUCT.

With New Production Records set each month, North Dakota legislators promise to break through bureaucratic tape that impedes development.



CSR DRIVERS

- Community and MHA
Nation expectations
- Litigation potential
- Media
- Regulatory standards
- Market Requirements
- MHA Nation Codes
and Law
- Domestic law
- Bank Requirements

NEW TERRAIN

The Bakken Development will Shape
Approaches in Oklahoma and other Locations



COMPETITIVE ADVANTAGE

- Improve reputation
- Improve ability to borrow money from banks that subscribe to the CSR Standards
- Attract and maintain a high quality and loyal work force
- Cost-efficiencies regarding environmental practices
- Improve ability to meet existing and evolving trade and market standards
- Improve ability to forge joint ventures and partnerships with other sugar and ethanol companies that seek to meet the evolving international standards

CALCULATING COSTS

- Difficult to calculate cost–benefits with any degree of certainty, however,
 - Generally accepted that while preparatory costs can be significant, maintenance costs are generally far less so
- Methods for approaching a cost-benefit analysis
 - Calculate anticipated cost–benefits for each CSR element
 - Prioritize components
 - Develop a detailed plan for implementation of prioritized CSR elements
 - Include reputation and other intangibles
 - Include estimated gains from increased market share due to implementation



Stress on Infrastructure:
Housing

L A K E S A K A K A W E A

The MHA Nation is more than a million acres.

Allottees own about 320,000 acres and the tribe owns some 210,000 acres of nearly all trust land with some US Army Corps of Engineers.

But most of the MHA's mineral interests lie under water, in the lake bed of Lake Sakakawea, a man-made reservoir on the Missouri.



1. Why might CSR be useful to MHA Nation's Strategic Approach to Oil Development?

CSR provides a tool to shape possibility, strategic thinking and vision in the context of evolving generally accepted principles in the natural resources industry worldwide. This would count amongst the first efforts in Indian Country in the U.S.

2. A key point is to build trust amongst the MHA Nation, the State of South Dakota, the Oil and Oil-related Companies, the US Government and landowners.

Each of the key players would be invited to discuss their key priorities, finding common ground in both the process and the specific issues.

3. Backdrop: Sustainability and the Boom

The Bakken Play offers an opportunity to cut through the 'boom and bust' cycle and develop a strategic approach to long-term sustainable development.

4. More backdrop: American Economy, National Energy Self-Sufficiency and the MHA Nation

5. What is Corporate Social Responsibility (CSR)

Although CSR can be viewed in ethical terms, it is actually built upon principles of international law as it applies to large-scale transnational corporations (energy, agriculture, textiles) often doing business in countries with smaller GDP than the corporations. The point of CSR is to help level the playing field. CSR is well received and relatively well practiced in much of the energy industry worldwide.

- Company and those who criticized its operations in the Caribbean, the US and Europe.

BP: US Gulf Coast

- Major lessons learned was that the oil industry (not only BP) must prepare for eventualities considered unlikely to occur. And to develop a response and recovery strategy that includes local resources.

6. Examples:

A. Caribbean Sugar–Ethanol Production

Company viewed as “modern day slaveholders.”

My work, included as assessment of labor, working and community conditions on 42 cane communities. Assisted with the development of a CSR initiative. The company moved from having never heard of CSR to developing and implementing CSR strategies from management structure to field–levels.

My job was to bridge field conditions with international and domestic law. Building a bridge between a multi-billion company and those who criticized its operations in the Caribbean, the US and Europe.

B. BP: US Gulf Coast

Major lesson learned was that the oil industry (not only BP) must prepare for eventualities considered unlikely to occur. And to develop a response and recovery capability that incorporates local resources into the emergency and recovery phases.

7. To the Best of my knowledge, CSR is not yet practiced by and with energy–producing tribes in Indian Country. The closest example might be Southern Ute. The MHA Nation is indeed headed in the right direction.

8. The basic architecture of CSR is International Human Rights, Environment and Labor Law.

9. THE BASIC ARCHITECTURE OF CSR as it would apply to Indian Nations in the US includes:

- a. Relevant Federal Law
- b. State Law
- c. Tribal Law and Codes
- c. Corporate Codes of Conduct
- d. Industry Standards

10. KEY ISSUES: Finding Common Ground

1. State Disbursements of Tax Revenues on road, environment and other areas of state distribution formulas – with specific discussion of state-tribal relation.
2. Federal Trust and Fiduciary Obligation with respect to MHA Nation as it might both improve and impede the MHA Nation's ability to move toward more full expression of sovereignty in its development of energy resources. This would include the potential for joint venture, leases and operating its own production or refining company.
3. Corporate Codes of Conduct: With particular focus on environmental protections, cultural protections and appropriate revenue streams.
4. MHA Nation decision of whether to adopt provisions that would serve as a waiver of contract enforcement in some instances with respect to some contracts with oil companies. Or waiver to seek redress against the BIA for failing to deploy its trust obligation in certain circumstances.

SEQUENCING STRATEGIES TO IMPROVE CSR

- Exploration–Initial Planning
- Develop Sustainability Plan
- Social and Environmental Due Diligence
- Build corporate capacity at all management and labor levels
- Create a CSR/Sustainability agenda
- Operational Roadmap: Create an Action Plan
- Partnerships with Stakeholders: Corporate, State, Landholders, Federal
- Mechanism for Formal Communication
- Code of Conduct
- Benchmark and Monitor
- Crisis Management and Response Capabilities
- Financial Literacy Strategies for “best practices” management of individual profits.

KEY INITIAL CHALLENGES

- Assess the state of play: Environment, Social and Financial Due Diligence
- Define the corporate vision
- Define the MHA Nation vision
- Build a bridge between the desired outcome, normative standards and law, and facts on the ground.
- Implement, monitor, benchmark and assess.

Build on What You've Already Done



REALWORLDIMAGES ©

CREDITS

PRODUCED

by

A. L. Parlow ©, 2011

PHOTOGRAPHS

web-collected

except as noted below:

UN Sec'Gen. Kofi Annan and President Jacques Chirac, UN/DPI, Sergey Bermeniev ©