



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

A Resolution Entitled, "Determination of MHA Nation Clean Fuels Refinery as a Minor Source under the Clean Air Act"

WHEREAS, The Mandan, Hidatsa and Arikara Nation (Nation) having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

WHEREAS, Article III, Section 1 of the Constitution of the Nation provides that the Tribal Business Council is the governing body of the Nation; and

WHEREAS, The Constitution generally 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 Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5(j) of the Constitution specifically authorizes and empowers the Tribal Business Council to protect and preserve the property, wildlife and natural resources of the Tribes; and

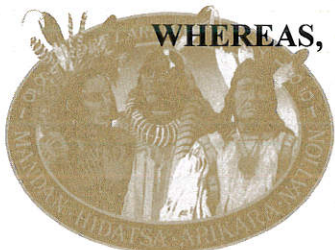
WHEREAS, since 2003, the Nation has been working to finalize the NEPA process for the MHA Nation Clean Fuels Refinery Project (Project); and

WHEREAS, the Nation has received confirmation from the U.S. Environmental Protection Agency (EPA), Region 8 office that a Record of Decision (ROD) will be issued by the end of June 2011 for the Project; and

WHEREAS, the Nation has received the final Air Quality Modeling Analysis Update submitted to the EPA on June 6, 2011, by Arcadis U.S., Inc., which demonstrates that the potential annual emissions of federally regulated criteria air pollutants from the Project would be less than 100 tons per year for each pollutant and therefore, based on the latest design for the Project, the facility would be a minor source under the Clean Air Act (CAA); and

WHEREAS, the Tribal Business Council received a determination letter on June 8, 2011, regarding the Minor Source Determination for the Clean Fuels Refinery Project from the Nation's air expert, Jerry Koblitz, Environmental Planning and Permitting Business Practice Director with Arcadis U.S., Inc., concluding that the Project is a minor source under the CAA and therefore, does not require a major prevention of significant deterioration (PSD) permit nor a minor new source review (NSR) permit as the Project is located in Indian Country; and

WHEREAS, the Tribal Business Council finds that based on the determination letter issued by Arcadis U.S., Inc., it is in the best interests of the Nation to conclude that the





Tribal Business Council
Three Affiliated Tribes
404 Frontage Road
New Town, ND 58763-9404

RE: Minor Source Determination for Clean Fuels Refinery

Tribal Business Council:

This letter presents our current findings of the air emissions inventory presented in the March 9, 2011 Air Quality Technical Report Addendum and in the air quality modeling analyses as assembled in the Air Quality Technical Report submitted to EPA on June 6, 2011.

In the Air Quality Technical Report Addendum it was demonstrated that, based on the latest design for the Clean Fuels Refinery, this facility would be a minor source relative to federal Prevention of Significant Deterioration (PSD) criteria. In other words, potential annual emissions of federally regulated criteria air pollutants from this facility would be less than 100 tons for each pollutant.

Table 2 from the Report Addendum shows the summary of the annual potential to emit (PTE) calculations for the Clean Fuels Refinery.

Table 2 Revised Estimated Potential Annual Emissions for the MHA Refinery

Pollutant	Annual Project Emission Rate (ton/yr)
NO _x	55.8
CO	83.2
SO ₂	80.5
VOC	86.2
PM	38.8

These PTE calculations for the Clean Fuels Refinery were extremely conservative and included normal operations as well as a conservative assessment of equipment startup, shutdown, and malfunction events. Actual annual operations should have emissions that are well below these levels.

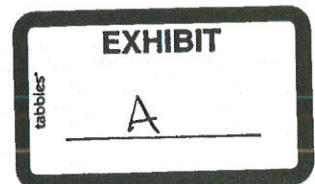
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ENVIRONMENTAL PLANNING
AND PERMITTING

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June 8, 2011

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The refinery project and surrounding area is classified as a Class II area. The total cumulative air quality impacts are shown in Table 5 from the air modeling report. The maximum ambient cumulative impacts associated with the proposed refinery are below all National Ambient Air Quality Standards (NAAQS).

Table 5 Results of Class II Modeling Analysis

Pollutant	Averaging Period	Modeled Impact ($\mu\text{g}/\text{m}^3$)	Background ($\mu\text{g}/\text{m}^3$)	Total ($\mu\text{g}/\text{m}^3$)	NAAQS ($\mu\text{g}/\text{m}^3$)	Percent of NAAQS
NO ₂	1-Hour ¹	33	41	74	188	39.5
	Annual ²	1	4	5	100	5.0
CO	1-Hour ²	56	7,980	8,036	40000	20.1
	8-Hour ²	38	3,124	3,162	10000	31.6
PM ₁₀	24-Hour ²	51	45	96	150	63.9
PM _{2.5}	24-Hour ¹	8	16	24	35	68.4
	Annual ²	1	6	7	15	49.6
SO ₂	1-Hour ¹	63	96	159	196	81.0
	24-Hour ²	16	21	37	365	10.1
	Annual ²	1	3	4	78	4.8

Notes:

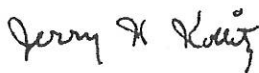
Modeled impact is High 1st High, 5 year average

Modeled impact is 5 year maximum

With the current project description and level of engineering design included in our analyses, it is our determination that the facility would be considered a minor source as defined under the Clean Air Act as implemented by EPA on Tribal Lands.

Should you have questions on this determination or need other information, please do not hesitate to let me know.

Sincerely,



Jerry Koblitz,
Environmental Planning and Permitting
Business Practice Director





Project is a minor source under the CAA and therefore, does not require a major PSD permit nor a minor NSR permit as the Project is located in Indian Country.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council hereby accepts and approves the final Air Quality Modeling Analysis Update and determination letter from Arcadis U.S., Inc., attached hereto and incorporated herein as Exhibit A regarding Minor Source Determination for the Clean Fuels Refinery Project; and

BE IT FURTHER RESOLVED, that the Tribal Business Council concludes that based on the determination letter issued by Arcadis U.S., Inc., the Project is a minor source under the CAA and therefore, does not require a major PSD permit nor a minor NSR permit as the Project is located in Indian Country; and

BE IT FINALLY RESOLVED, that the Chairman is hereby authorized to 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, 6 were present at a Regular

Meeting thereof duly called, noticed, convened and held on the 10th day of June, 2011, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 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 Voting. Not Voting.

Dated this 10th day of June, 2011.

ATTEST:



Tribal Secretary V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes



Tribal Chairman Tex G. Hall
Tribal Business Council
Three Affiliated Tribes

