



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

*A Resolution entitled, "Regulation of Flaring of Gas, Imposition of Tax, Payment of Royalties and Other Purposes"*

**WHEREAS,** This 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,** The Constitution of the Three Affiliated Tribe 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 III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** The Bureau of Land Management ("BLM") has failed to adequately enforce NTL-4a "Notice to Lessees and Operators of Onshore federal and Indian Oil and Gas Leases: Royalty or Compensation for Oil and Gas Lost" which covers the flaring of gas; and

**WHEREAS,** The Business Council finds it in the best interest of the MHA Nation to regulate the flaring of gas on the Forth Berthold Indian Reservation (the "Reservation") due to the lack of enforcement by the BLM, and due to the fact that flaring is wasteful and contributes to air pollution.

**NOW THEREFORE BE IT RESOLVED,** that the Business Council hereby adopts the following regulations for the flaring of gas on the Reservation:

**FLARING OF GAS RESTRICTED – IMPOSITION OF TAX – PAYMENT OF ROYALTIES – MHA NATION ENERGY DEPARTMENT AUTHORITY.**

As permitted under this rule, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well. Thereafter, flaring of gas from the well must cease and the well must be capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well.

An electrical generator and its attachment units to produce electricity from gas must be considered to be personal property for all purposes. For a well operated in violation of this rule, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under Federal law. The MHA Nation Energy Department may enforce this rule and, for each well operator found to be in violation of this rule,



may determine the value of flared gas for purposes of payment of royalties under this rule and its determination is final.

A producer may obtain an exemption from this rule from the MHA Nation Energy Department upon application and a showing that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas is economically infeasible.

#### FLARING EXEMPTION

The connection of a well to a natural gas gathering line is "economically infeasible" under this rule, if the direct costs of connecting the well to the line and the direct costs of operating the facilities connecting the well to the line during the life of the well, are greater than the amount of money the operator is likely to receive for the gas, less production taxes and royalties, should the well be connected.

In making this calculation, the applicant may add ten percent to the amount of the cost of connecting the well and of operating the connection facilities used to determine whether a connection is economically infeasible. This ten percent may be added in consideration of the cost of money and other overhead costs that are not figured in the direct costs of connecting the well and operating the connecting facilities.

An applicant for an exemption under this rule must, at the minimum, present evidence covering the following areas:

1. Basis for the gas price used to determine whether it is economically infeasible to connect the well to a natural gas gathering line;
2. Cost of connecting the well to the line and operating the facilities connecting the well to the line;
3. Current daily rate of the amount of gas flared; and
4. The amount of gas reserves and the amount of gas available for sale.

#### SPECIAL PROCEDURES FOR FLARING EXEMPTION

1. Applications flaring exemption under this rule, must be signed by the applicant or the applicant's representative. The application must contain or refer to attachments that contain all the information required by this rule as well as the information the applicant wants the MHA Nation Energy Department to consider in deciding whether to grant the application. The application must designate an employee or representative of the applicant to whom the MHA Nation Energy Department can direct inquiries regarding the application.



2. The application will be advertised and scheduled for hearing. The applicant, however, unless required by the Director, MHA Nation Energy Department, need not appear at the hearing scheduled to consider the application, although additional evidence may be submitted prior to the hearing. Any interested party may appear at the hearing to oppose or comment on the application. Any interested party may also submit written comments on or objections to the application no later than five (5) p.m. on the last business day prior to the hearing date. Such submissions may be part of the record in the case if allowed by the hearing examiner.
3. The Director is authorized, on behalf of the MHA Nation, to grant or deny the application.
4. In any proceeding under this section, the applicant, at the hearing, may supplement the record by offering testimony and exhibits in support of the application.
5. In the event the applicant is not required by the Director to appear at the hearing and an interested party does appear to oppose the application or submits a written objection to the application, the Director shall continue the hearing to a later date, keep the record open for the submission of additional evidence, or take any other action necessary to ensure that the applicant, who does not appear at the hearing as the result of subsection 2, is accorded due process.

**BE IT FURTHER RESOLVED,** Royalties and/or taxes collected under this regulation shall be deposited in a special account for the exclusive use for the maintenance, repair and construction of tribal roads within the exterior boundaries of the Reservation.

**BE IT FURTHER RESOLVED,** that the Business Council finds it in the best interest of the MHA Nation to regulate the flaring of gas on the Fort Berthold Indian Reservation as provided above, due to the lack of enforcement by the Bureau of Land Management of NTL-4a "Notice to Lessees and Operators of Onshore federal and Indian Oil and Gas Leases: Royalty or Compensation for Oil and Gas Lost" which covers the flaring of gas on Indian lands.

**BE IT FURTHER RESOLVED,** that any royalties or taxes collected by the MHA Nation pursuant to this rule shall be deposited in a special account for the maintenance, repair and construction of roads.

**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



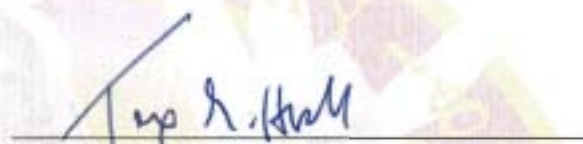
of seven (7) members of whom five (5) constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9 day of May, 2013, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 4 members, 0 members opposed, 1 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 9 day of May 2013.

ATTEST:

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

  
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Tribal Chairman, Tex Hall  
Tribal Business Council  
Three Affiliated Tribes

