



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

***A Resolution entitled, "Approval of Setback Variance Requested by Enerplus Resources
(USA) Corporation for the Bugs Pad Project."***

- WHEREAS,** This Mandan Hidatsa and Arikara Nation (the "MHA 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 under said Act, and
- WHEREAS,** Pursuant to Article III, Section 1 of its Constitution and By-Laws, the Tribal Business Council is the governing body of the MHA Nation; and
- WHEREAS,** Pursuant to Article VI, Section 5(1) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and
- WHEREAS,** The Tribal Business Council has authority to engage in activities on behalf of and for the welfare and benefit of the Tribes and of the enrolled members thereof; 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,** The Tribal Business Council passed Resolution No. 12-087-VJB, entitled, "The Missouri River, Badlands and Sacred Sites Protection Act" which requires a half mile setback for well sites/drilling pads from the Missouri River, Little Missouri River, and designated sacred sites or villages in the Badlands; and
- WHEREAS,** The Tribal Business Council passed Resolution No. 12-139-VJB, entitled, "Amending the Missouri River and Badlands Protection Act to Allow Variances upon Recommendation by the Tribal Energy Office," which authorizes the MHA Nation Tribal Energy Office to consider setback variance requests and make recommendations to the Tribal Business Council to approve such requests "when minerals would be stranded due to the setback provisions or where the applicant has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River"; and
- WHEREAS,** On March 27, 2015, the Tribal Business Council passed Resolution No. 15-045-LKH entitled, "Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land"; and



WHEREAS, On June 11, 2015, the Tribal Council passed Resolution No. 15-102-LKH entitled “Approval of Consents for Certain Rights-of-Way on Tribal Land” which included approval of Enerplus Resources (USA) Corporation’s (“Enerplus”) Bugs Pad located on Section 11, Township 150N, Range 94W; Allotment T2246 (100% tribal interest); and

WHEREAS, On April 13, 2016, Enerplus submitted to the MHA Nation Energy Division a request for a Setback Variance, as set forth in Exhibit A; and

WHEREAS, The specific Setback Variance requested by Enerplus Resources (USA) Corporation includes the following:

Name of Project/Description: Bugs Pad

LOCATION: T150N, R94W, Sec. 11: N/2

ACRES OF DISTURBANCE: 11.055 acres of disturbance

DRILLING/SPACING UNIT: T150N, R94W, Sec. 11 & 12

DISTANCE FROM WELLPAD: *2458 feet to the 1854 High Water Line* (Refer to map or other showing set forth in company’s application for the setback variance); and

WHEREAS, On April 6, 2016, Enerplus met with the MHA Nation Energy Division to review and consider all other alternatives for the construction and siting of the Bugs Pad; and

WHEREAS, No structures or residences are located within a half mile of the proposed Bugs Pad and all relevant and applicable consents have been secured; and

WHEREAS, Enerplus agrees to place a steel containment around the tank battery, to build a 24 inch earthen berm around the perimeter of the well location, to provide a spill containment trailer onsite at all times and to utilize a SCADA system; and

WHEREAS, The MHA Nation Energy Division reviewed, processed and fully vetted Enerplus’s request for a setback variance for the Bugs Pad and has determined that Enerplus has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River; and

WHEREAS, On April 13, 2016, at a duly held meeting of the Natural Resources Committee (“NRC”), the MHA Nation Energy Division recommended for approval Enerplus’s setback variance request for the Bugs Pad and the NRC approved



Enerplus's setback variance request for the Bugs Pad and forwarded it to the Tribal Business Council for final approval.

NOW THEREFORE BE IT RESOLVED, the Tribal Business Council hereby approves the setback variance, attached as Exhibit A, submitted by Enerplus Resources (USA) Corporation for the Bugs Pad on Section 11, Township 150 North, Range 94 West, McKenzie County, North Dakota).

BE IT FINALLY RESOLVED, that the Chairman is hereby 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 9th day of June, 2016, 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 9th day of June, 2016.

ATTEST:



Acting Tribal Secretary, Cory Spotted Bear
Tribal Business Council



Tribal Chairman, Mark N. Fox
Tribal Business Council



APPENDIX A.1

< Attach: (1) Application Package submitted to the MHA Nation Energy Division requesting the Setback Variance, (2) Recommendation Form and/or concurrence form signed by Department Head and Chairman of NRC per Resolution 15-045-LKH, (3) map, and (4) other necessary information >