



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

A Resolution entitled, “*Consent to Approval of a Right-of-Way across Tribal land for the Blue Buttes Re-Route Project Submitted by Crestwood.*”

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, 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 the Constitution and By-Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; 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,** 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 Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; and
- WHEREAS,** Applications for Rights-of-Way (“ROWS”) on Tribal Land are subject to the requirements of tribal law, including Resolution No. 17-117-FWF, Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Right-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), and 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); and
- WHEREAS,** In recognition of that the construction and operation of well pads, well heads, waste pits, reserve pits, oil storage tanks, oil pumping units, and other oil and gas production facilities, including, but not limited to, oil, gas, and water gathering pipelines, and other similar infrastructure (“Oil and Gas Facilities”) create noise, dust, and smells that interfere with the quiet enjoyment of nearby property owners, the Tribal Business Council established setback requirements for the siting of Oil and Gas Facilities in order to protect the property and wellbeing of all property owners on the Fort Berthold Indian Reservation (“FBIR”); and



WHEREAS, Specifically, the Tribal Business Council enacted Resolution 12-103-VJB on September 27, 2012, as amended under Resolution 13-126-VJB on August 13, 2013, and further amended under Resolution 14-090-VJB on May 28, 2014, which all collectively imposed setback requirements applicable to lands subject to the MHA Nation's jurisdiction; and

WHEREAS, In accordance with Resolution 14-090-VJB, effective May 28, 2014, the following setback requirements and exemptions are in effect:

"Pipelines and related Pipeline Facilities on-sited after August 13, 2013, shall not be located as follows: for Pipelines within 700 feet of an occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside, and for Pipeline Facilities within 1,100 feet of an occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside. ***This setback requirement shall not apply to any Pipeline and related Pipeline Facilities, whether or not additional wells or components may be constructed as such locations, not to rights-of-way and surface agreements which were on-sited prior to August 13, 2013.***" (Emphasis added); and

WHEREAS, On April 22, 2009, the Bureau of Indian Affairs ("BIA") granted to Arrow Midstream Holding, LLC (Crestwood's predecessor) BIA ROW No. FBOG 090016 for the construction and installation of Crestwood's Phase I gathering pipelines, for a term of twenty (20) years, for one twelve inch (12") diameter steel gas pipeline, one ten inch (10") diameter steel oil pipeline, and one six inch (6") diameter water pipeline, all covered with approximately sixty-six inch (66") backfilled soil, to be 66,055 feet in length and covering 151.64 acres across a number of Tribal tracts, including but not limited to: Allotment 742A in Section 9, Township 149 North, Range 94 West; Allotment 1932 in Sections 6 and 8, Township 149 North, Range 94 West; and Allotment T743A in Section 9, Township 149 North, Range 94 West, located in the McKenzie County, North Dakota; and

WHEREAS, Crestwood's Phase I gathering pipeline, described above, were installed and constructed prior to August 13, 2013; and

WHEREAS, After the original construction and installation of Crestwood's Phase 1 pipelines, a structure where people are known to congregate or actually reside was constructed within seven hundred feet (700') of the already constructed Phase 1 pipelines; and

WHEREAS, In February 2018, Crestwood submitted a ROW application for the Blue Buttes Re-Route Project, for one (1) flexsteel produced water pipeline, one (1) gas



pipeline for additional capacity, one (1) 50'x50' launcher along a portion of the main system to allow for additional drilling and completion of customers along this route across certain Tribal tracts on the following Allotments, all in McKenzie County, North Dakota:

- Allotment 742A (19.04 Tribal interest), in Section 9, Township 149 North, Range 94 West;
- Allotment 1932 (5.56% Tribal interest), in Section 8, Township 149 North, Range 94 West;
- Allotment T743A (100% Tribal interest), in Sections 9, Township 149 North, Range 94 West; and

WHEREAS, The Blue Buttes Re-Route Project is an addition or modification to the construction and installation of the Phase 1 gathering pipelines, authorized by BIA ROW FBOG090016 and sited prior to August 13, 2013, will be located within the previously approved said ROW, and will increase the diameter size of the existing natural gas pipeline facilities to service new WPX wells in the Bear Den Bay area, which will decrease gas flaring from these new wells; and

WHEREAS, The Blue Buttes Re-Route Project will be located further away from the existing structure where people are known to congregate or actually reside, than the existing Phase 1 pipelines; and

WHEREAS, Pursuant to fees established and set forth in Resolution No. 17-117-FWF, the projected compensation to the MHA Nation for this ROW application is \$21,345.29; and

WHEREAS, The ROW application, submitted by Crestwood for the Blue Buttes Re-Route Project, described above, has been reviewed and recommended for approval by the MHA Natural Resources Department and the MHA Nation Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal Land; and

WHEREAS, On February 28, 2018, at a duly held meeting of the Natural Resources Committee ("NRC"), the MHA Nation Energy Division recommended approval of Crestwood's ROW application and consent request for the Blue Buttes Re-Route Project, more fully described herein, and in the attached Appendix A.1., and the NRC approved Crestwood's application and forwarded it to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, Subject to Crestwood agreement to the execution of the MHA Right-of-Way Application and Terms and Conditions, as listed therein, and payment of ROW fees, the Tribal Business Council hereby approves the



following ROW application, attached as Appendix A.1, and ROW consent, as follows:

- Crestwood – The Blue Buttes Re-Route Project, for one (1) flexsteel produced water pipeline, one (1) gas pipeline for additional capacity, one (1) 50'x50' launcher along a portion of the main system to allow for additional drilling and completion of customers along this route, across certain Tribal lands on the following Allotments, all in McKenzie County, North Dakota:
 - Allotment 742A (19.04 Tribal interest), in Section 9, Township 149 North, Range 94 West;
 - Allotment 1932 (5.56% Tribal interest), in Section 8, Township 149 North, Range 94 West;
 - Allotment T743A (100% Tribal interest), in Sections 9, Township 149 North, Range 94 West; and

BE IT FURTHER RESOLVED, The Blue Buttes Re-Route Project will be located further away from the existing structure where people are known to congregate or actually reside, than the existing Phase 1 pipelines which are collocated adjacent to the Blue Buttes Re-Route Project; and

BE IT FURTHER RESOLVED, The Blue Buttes Re-Route Project is an addition to the Phase 1 gathering pipelines, authorized by BIA ROW FBOG090016 and constructed and installed prior to August 13, 2013, and therefore, the Blue Butte Re-Route Project qualifies for the setback exemption set forth in Resolution 14-090-VJB; and

BE IT FURTHER RESOLVED, The Tribal Business Council hereby approves the above referenced ROW application and consent for the Blue Buttes Re-Route Project, subject to Crestwood's continued cooperation in adhering to and meeting the conditions of concurrence to address or resolve outstanding or unresolved issues, set forth by the MHA Natural Resources Department, including the MHA Nation Energy Division, the MHA Game & Fish Division, and the Environmental Department; and

BE IT FURTHER RESOLVED, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, and/or the MHA Nation Standard Terms and Conditions for Pipeline Right-of-Ways, the ROW for the Blue Buttes Re-Route Project will be subject to a twenty (20) year term, from the date of the BIA's execution of the grant of the ROW for said project; and

BE IT FURTHER RESOLVED, The MHA Nation Standard Terms and Conditions for Right-of-Ways, and/or the MHA Nation Standard Terms and Conditions for Pipeline Right-of-Ways executed by Crestwood and the MHA Nation Energy Division,



constituent a written agreement as part of the MHA Nation's consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Blue Buttes Re-Route Project; and

BE IT FURTHER RESOLVED, The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA Nation Energy Division and other Tribal departments, to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Standard ROW Terms and Conditions, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.408(a); 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.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 10th day of May 2018; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 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 10th day of May 2018.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council

Tribal Chairman, Mark N. Fox
Tribal Business Council



APPENDIX A.1

< Attach: (1) Application Form, (2) Approval Form signed by Department Head and Chairman of NRC per Resolution 15-045-LKH, (3) signed ROW terms and Conditions per Resolution No. 14-089-VJB, (4) map, and (5) other necessary information >