



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

A Resolution entitled, “Consent to an Assignment to McKenzie Electric Cooperative of Right-of-Way No. FBOG101104 and FBOG101104 Amendment #1, per Resolution 16-277-FWF, granted to Enerplus Resources (USA) Corporation Company for Utilities and Associated Above Ground Appurtenances.”

- 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,** On November 22nd, 2016, the Tribal Business Council approved Resolution No. 16-277-FWF entitled, “Consent to Approval of a Right-of-Way across Tribal land Submitted by Enerplus Resources for the Cranes Pad Project” Submitted by Enerplus Resources (USA) Corporation, for “well pad, five (5) well bores, access road, utilities, fiber optics and appurtenances and temporary water line”, across 14.475 acres of tribal tracts in Allotment 706A-B (.3238095238% tribal interest), in Section 4, Township 149 North, Range 94 West, in McKenzie County, North Dakota; and



WHEREAS, The Tribal Business Council approved Resolution No. 16-277-FWF subject to Enerplus Resources (USA) Corporation's agreement to the execute the MHA Right-of-Way Application, Terms and Conditions, and payment of the MHA Nation ROW fees; and

WHEREAS, On March 24th, 2017 the Bureau of Indian Affairs ("BIA") approved Enerplus Resources (USA) Corporation's ROW application, described above, and granted to Enerplus Resources (USA) Corporation BIA ROW No. FBOG101104 for a term of twenty (20) years for a well pad, five (5) well bores, access road, utilities, fiber optics and appurtenances and temporary water line and across the following described lands located in the McKenzie County, North Dakota, as follows:

Township 149 North, Range 94 West, Fifth Principle Meridian

Tribal Tract #706A-B – Lots 3 and 4 of Section 4

(3.546 acres of access road/utility corridor/temporary above ground water line disturbance)

WHEREAS, Said ROW is limited to and more particularly described to be 1235.77 feet in length, (125 feet in width), comprising 3.546 acres of disturbance; and subsequently amended to 2,576.58 feet in length and 59 feet in width, comprising of 3.546 acres; and

WHEREAS, Paragraph 10 of ROW No. FBOG101104 provides that "This grant may not be assigned without applicable consent and BIA approval" citing 25 CFR 169.207; and

WHEREAS, Enerplus Resources (USA) Corporation submitted an application to the MHA Nation Energy Division to assign ROW No. FBOG101104 to McKenzie Electric Cooperative; and

WHEREAS, The ROW Assignment application, submitted by Enerplus Resources (USA) Corporation for the Consent to an Assignment to McKenzie Electric Cooperative of Right-of-Way No. FBOG101104 and FBOG101104 Amendment #1, per Resolution 16-277-FWF granted to Enerplus Resources (USA) Corporation Company for Utilities and associated Above Ground Appurtenances," 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, The projected compensation to the MHA Nation for this ROW application is \$0.00 and



WHEREAS, On May 2, 2018, at a duly held meeting of the Natural Resources Committee (“NRC”), Enerplus Resources (USA) Corporation requested the MHA Nation’s consent to assign ROW No FBOG101104 and subsequent Amendment #1 to McKenzie Electric Cooperative for Utilities and Associated Above Ground Appurtenances; and the NRC forwarded Enerplus Resources (USA) Corporation’s request to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, Subject to Enerplus Resources (USA) Corporation 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 Enerplus Resources (USA) Corporation request to consent to the assignment of ROW No. *FBOG101104 and subsequent Amendment #1* to McKenzie Electric Cooperative for:

- Utilities and Associated Above Ground Appurtenances and temporary water line, across 3.546 acres of tribal tracts in Allotment 706A-B (.3238095238% tribal interest), in Section 4, Township 149 North, Range 94 West, in McKenzie County, North Dakota.

BE IT FURTHER RESOLVED, The MHA Nation’s Consent to an Assignment to McKenzie Electric Cooperative of Right-of-Way No. FBOG101104 and FBOG101104 Amendment #1, per Resolution 16-277-FWF granted to Enerplus Resources (USA) Corporation Company for Utilities and associated Above Ground Appurtenances will continue to 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, in accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways.

BE IT FURTHER RESOLVED, The MHA Nation’s Consent to an Assignment to McKenzie Electric Cooperative of Right-of-Way No. FBOG101104 and FBOG101104 Amendment #1, per Resolution 16-277-FWF granted to Enerplus Resources (USA) Corporation Company for Utilities and associated Above Ground Appurtenances is subject to the MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by Enerplus Resources (USA) Corporation and the MHA Nation Energy Division, which constitutes 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 any assignment of the ROW No. FBOG101104 and FBOG101104 Amendment #1.

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 §169.403(a).

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 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 12th day of June, 2018, 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 12th day of June, 2018.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council
Three Affiliated Tribes

Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes

APPENDIX A.1



Resolution No. 18-157-FWF

< 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 >