



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

**A Resolution Entitled, *“Approval of Amendment to Oil and Gas Lease Number  
7420A42653 and Authorizing Assignment”***

- WHEREAS,** The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, 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 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 Business Council, its agencies and officials; and
- WHEREAS,** The Tribal Business Council created Missouri River Resources (MRR) to participate in and profit from the oil and gas exploration on Reservation lands, and to ensure the MHA Nation receives the benefits of the natural resources that lay beneath its land; and
- WHEREAS,** On April 10, 2014 the MHA Nation executed an oil and gas lease with MRR, which was approved by the Secretary of the Interior, through the Bureau of Indian Affairs (BIA) on November 4, 2015 and assigned BIA lease number 7420A42653 (the Lease); and
- WHEREAS,** The leased lands included the Little Missouri River within sections 28 and 33, Township 147N Range 93W 5<sup>th</sup> PM; and
- WHEREAS,** On May 14, 2017 the BIA executed an administrative amendment to the Lease which excluded the north half of the Little Missouri river from the leased premises pending the BIA’s determination of ownership of the north half, which resulted in the north half being considered unleased Indian land; and
- WHEREAS,** The Lease is included within a 1280 acre Drilling Spacing Unit (DSU) that covers land on both sides of the Little Missouri river and which includes other leased acreage whose term will expire in 2019; and
- WHEREAS,** The Bureau of Land Management will not approve an Application for a Drilling Permit (APD) in a DSU that includes unleased federal or Indian land, thereby



precluding development of the DSU and the Lease while the north half of the Little Missouri remains unleased; and

**WHEREAS,** MRR has entered into an agreement with Enerplus Resources (USA) Corporation (Enerplus) to trade the Lease for an equivalent Enerplus lease on the Fort Berthold Reservation in order to allow for the timely development of the DSU by Enerplus and allow MRR to obtain acreage of equal value that is held by production; and

**WHEREAS,** MRR is requesting the Tribal Business Council to approve the assignment of the Lease and any rights of way and set back variances associated with the Lease to Enerplus in order to allow MRR to accomplish the lease trade for the Enerplus acreage, a trade which MRR considers beneficial to MRR's interest; and

**WHEREAS,** MRR's inability to obtain an APD to develop the DSU while the north half of the Little Missouri River is considered unleased is interfering with MRR's plan to accomplish the lease trade with Enerplus and to develop the DSU; and

**WHEREAS,** The Tribal Business Council finds it appropriate to amend the Lease to again include the north half of the Little Missouri River, subject to the condition that 100% of the revenue from any production of oil and gas from the north half will be preserved in a separate account until such time as ownership of the north half is finally determined; and

**WHEREAS,** The Tribal Business Council finds it appropriate to approve the assignment of the Lease and any rights of way and set back variances associated with the Lease to Enerplus in order to allow MRR to accomplish the lease trade and promote the development of the DSU with wells within the Reservation.

**NOW THEREFORE BE IT RESOLVED,** The Tribal Business Council authorizes and approves the following amendment to Section 1 of the Lease:

**1. (a) Lessor, in consideration of royalties to be paid, and the covenants to be observed as herein set forth, does hereby grant and lease to the Lessee the exclusive right and privilege to drill for, extract, remove, and dispose of all the oil and gas deposits, or participate in the same, in or under the following-described tracts of land situated in the County of Dunn, State of North Dakota, and more particularly described as follows:**

**Township 147N Range 93 W 5th P.M.**

**Section 28: The area lying within the Little Missouri Riverbed**

**Allotment MT 1753**



**Section 28: S/2N/2NW/4, SW/4NE/4, W/2SE/4NE/4, Lots 4, Lot 5, and Lot 7**

**Allotment MT 1754-A**

**Section 28: Lot 6**

**Township 147N Range 93 W 5th P.M.**

**Section 33: The area lying within the Little Missouri Riverbed**

Containing 311.85 acres more or less, together with the right to construct and maintain thereupon such structures necessary for the development and operation of the leased substances for the term of seven (7) years, herein referred to as the primary term, from and after the approval hereof by the Superintendent, and for a period of twenty five (25) years, herein referred to as the ultimate term, as long as oil and gas is produced in paying quantities from said land. There must be actual production in paying quantities of any of the aforesaid minerals prior to the expiration of said primary term in order for this Lease to continue beyond said primary term. Production in paying quantities means sufficient production to produce income in an amount necessary to (a) operate and maintain the well, (b) maintain the Lease, (c) market the product, and (d) result in a reasonable profit. If a producing well stops producing, for any reason, after the primary term has ended the Lease shall thereupon cease unless diligent continuous efforts are actually commenced by the Lessee within 60 days to restore production in paying quantities and unless production in paying quantities is restored within a time acceptable to the Superintendent.

(b) The parties acknowledge that the Secretary of Interior has not yet made a final determination of ownership of the north half of the Little Missouri River within the leased premises. Until such time as ownership is finally determined, one hundred percent (100%) of any revenue derived from oil and gas production from the north half of the Little Missouri River shall be set aside and preserved in a separate account approved by the Secretary, to be distributed in accordance with the ownership interests once determined.

**BE IT FURTHER RESOLVED**, That the Tribal Business Council authorizes and approves the assignment of the Lease and any rights of way and set back variances associated with the Lease to Enerplus, and requests the Secretary to immediately approve the assignment; and

**BE IT FINALLY RESOLVED**, That the Chairman is authorized to execute such documents and take such action as is 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 Special Meeting thereof duly called, noticed, convened and held on the 20<sup>th</sup> day of September, 2018, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 20<sup>th</sup> day of September, 2018.

**ATTEST:**

Tribal Secretary, Fred W. Fox  
Tribal Business Council

Tribal Chairman, Mark N. Fox  
Tribal Business Council