



**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 Targa Badlands LLC for the Ness USA CTB Pipeline 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, 2017, 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 August 15, 2018, the Tribal Business Council passed Resolution No. 18-212-FWF entitled, "Amendment to Resolution No. 17-117-FWF entitled 'Approval of a Fee Structure for the MHA Nation Energy Division to Regulate and Oversee Oil and Gas Exploration and Production Activities,'" which established a processing fee in the amount of \$3,000.00 for all setback variance requests approved by the Tribal Business Council, as of August 1, 2018; and

**WHEREAS,** On July 16, 2018, Targa Badlands LLC ("Targa") 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 Targa Badlands LLC is, as follows:

**PAD/PROJECT NAME:** For Ness USA CTB Pipeline.

**LOCATION:** Section 8, Township 151 North, Range 93 West, Mountrail County, ND

**ACRES OF DISTURBANCE:** N/A

**DRILLING/SPACING UNIT:** N/A

**DISTANCE FROM WELLPAD/Pipe:** 1,706 ± feet to the 1854 High Water Line; 1,963 ± feet to the 1854 High Water Line.

**WHEREAS,** On July 20, 2018, Targa met with the MHA Nation Energy Division to review and consider all other alternatives for the construction and siting of the Axell USA CTB Pipeline; and

**WHEREAS,** The MHA Nation Energy Division reviewed, processed and fully vetted Targa Badlands LLC's request for a setback variance for Ness USA CTB Pipeline and has determined that Targa Badlands LLC 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 August 14, 2018, at a duly held meeting of the Natural Resources Committee, the MHA Nation Energy Division recommended for approval Targa Badlands LLC's setback variance request for Ness USA CTB Pipeline, and the Natural Resources Committee approved Targa Badlands LLC's setback variance request for Ness USA CTB Pipeline.

**NOW THEREFORE BE IT RESOLVED,** the Tribal Business Council hereby approves the setback variance, attached as Exhibit A, submitted by Targa Badlands LLC for Ness USA CTB Pipeline, as follows:



**PAD/PROJECT NAME:** For Ness USA CTB Pipeline.

**LOCATION:** Section 8, Township 151 North, Range 93 West, Mountrail County, ND.

**ACRES OF DISTURBANCE:** N/A

**DRILLING/SPACING UNIT:** N/A

**DISTANCE FROM WELLPAD/Pipe:** 1,706 ± feet to the 1854 High Water Line; 1,963 ± feet to the 1854 High Water Line.

**BE IT FURTHER RESOLVED,** Pursuant to Resolution No. 18-212-FWF, approval of the setback variance described herein is subject to a processing fee in the amount of \$3,000.00; and

**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.

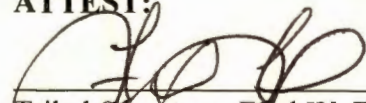
### CERTIFICATION

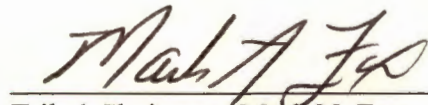
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 21<sup>st</sup> day of September, 2018, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 21<sup>st</sup> day of September, 2018.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council

  
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Tribal Chairman, Mark N. Fox  
Tribal Business Council