



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

***A Resolution entitled, "Approval of Assessment of Civil Fine on RimRock Oil & Gas Williston, LLC for Trespass of BIA ROW No. FBOG100223 for the Skunk Creek 9-2 Well Pad and Consent to Amend BIA ROW No. FBOG100223 to add Two Additional Wells on the Skunk Creek 9-2 Well Pad."***

**WHEREAS,** This Three Affiliated Tribes having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

**WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

**WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** Article VI, Section 5 (d) of the Constitution of the Three Affiliated Tribes empowers the Tribal Business Council to negotiate with the Federal government on behalf 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 , R and as amended by Resolution No. 18-212-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 July 27, 2010, MHA Nation Tribal Business Council Member and Secretary V. Judy Brugh executed the Bureau of Indian Affairs (“BIA”) “Consent of Owner’s - Grant of Right-of-Way” application submitted by Kodiak Oil and Gas (USA) (“Kodiak”) across certain Trust lands on Allotment No. T3141, located on the S NE of Section 2, Township 148 North, Range 93 West, Dunn County, North Dakota (100% Tribal Interest); and

**WHEREAS,** The Consent of Owner’s – Grant of Right-of-Way described above includes the following description of easement: “Access road [ROW] to well site pad (Skunk Creek #9-2-3-5H[.] Access from existing BIA road 12 going South on existing trail road through the Southwest of Section 33, T149N-R92W, continue South through the Northeast of Section 1, then going Southwesterly through the Northwest Southeast of Section 1, then West through the North half Southwest of Section 1 and into the Southeast Northeast and Northeast Southeast of Section 2, T148N-92W Dunn County, ND” and

**WHEREAS,** On February 10, 2011, MHA Nation Tribal Business Council Member and Secretary V. Judy Brugh executed the Bureau of Indian Affairs (“BIA”) “Consent of Owner’s - Grant of Right-of-Way” application submitted by Kodiak Oil and Gas (USA) (“Kodiak”) across certain Trust lands on Allotment No. T2089 and Allotment T3141 (100% Tribal interest), located in the SE1/4 and NE1/4 of Section 2, Township 148 North, Range 93 West, Dunn County, North Dakota; and

**WHEREAS,** The Consent of Owner’s – Grant of Right-of-Way described above includes the following description of easement: “Well site and Access road[.] [A]ccess from BIA road 12, then going South through the South half Southeast of Section 33, T149N-R92W, continue South into the Northeast of Section 1, T148N-R93W and continue going South and then West through the Southeast corner of the Northwest of Section 1, continue through the North half Southwest of Section 1 and into the Northeast Southeast and the Southeast Northeast of Section 2, T148N-92W Dunn County, ND”; and

**WHEREAS,** On August 31, 2011, the Bureau of Indian Affairs (“BIA”) granted ROW No. FBOG100223 for construction of the Well Pad for the Skunk Creek 9-2 on the following Tribal tracts on the Fort Berthold Indian Reservation (“FBIR”):

- Allotment No. T2089, SE1/4 of Section 2 and Allotment No. T3141 NE1/4 of Section 2 of Township 148 North, Range 93 West, the 5th Principal Meridian, Dunn County, North Dakota (8.02 acres of surface disturbance inside barbed





wire fence for well pad and 0.75 acres of access road for a total of 8.77 acres of surface disturbance); and

**WHEREAS** ROW No. FBOG100223 is limited to and more particularly described to be an access road 7,648.62 feet in length, 100 feet in width, and a well pad 658 feet by 345 feet, and 6.35 acres in total area for the well pad, altogether comprising 8.02 acres of surface disturbance inside barbed wire fence for well pad; and

**WHEREAS,** On December 10, 2014, Kodiak amended its corporate articles changing its name to Whiting Resources Corporation ("Whiting") and through operation of law assigned the ROW No. FBOG100223 to Whiting; and

**WHEREAS,** In July 2014, by operation of law transferred the assignment of ROW No. FBOG100223 from Kodiak to Whiting; and

**WHEREAS,** Effective September 1, 2017, RimRock Oil & Gas Williston, LLC ("RimRock") acquired, through a Purchase Agreement and Assignment, Bill of Sale and Conveyance, all of Whiting's assets on the Fort Berthold Indian Reservation, including but not limited to leaseholds, equipment, records, permits, rights-of-way, and pending rights-of way, and on a contractual basis, Whiting continued to operate said assets for RimRock until January 1, 2018; and

**WHEREAS,** On March 6, 2018, RimRock provided the BIA supporting documentation regarding the assignment of BIA rights-of-way from Whiting to RimRock, as a result of the September 1, 2017 Purchase Agreement and Assignment, Bill of Sale and Conveyance, including detailed lists of all approved rights-of-way and rights-of-way "in process" and requested BIA to transfer all BIA ROWs on both lists from Whiting to RimRock; and

**WHEREAS,** The transfer of the approved ROWs and ROWs in process from Whiting to RimRock was completed under 25 CFR § 169.207(c) when BIA reviewed a copy of the assignment conveyance agreement and supporting documentation provided by RimRock and recorded said documentation in the Land Title and Records Office on September 17, 2018; and

**WHEREAS,** On August 14, 2018, RimRock Oil & Gas Williston, LLC submitted a ROW application to amend BIA ROW No. FBOG100223 to add two (2) additional well bores: (i) Skunk Creek 9-2-3-9H, and (ii) Skunk Creek 9-2-3-9H3, and continued use of the 2.63 acres not originally approved under BIA ROW No. FBOG100223 on the Skunk Creek 9-2 Pad, across certain Tribal tracts on Allotment No. T2089 (100% Tribal Interest), located in SE1/4 of Section 2, Township 148 North, Range 93 West, and Allotment No. T3141 (100% Tribal Interest), located in the NE1/4 of Section 2, Township 148 North, Range 93 West, the 5th Principal





Meridian, Dunn County, North Dakota as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW application, submitted by RimRock Oil & Gas Williston, LLC for the addition of two (2) wells on the Skunk Creek 9-2 Pad, 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,** In March 2018, RimRock Oil & Gas Williston, LLC discovered that the original pad construction was larger than the original ROW, thus causing disturbance totaling 11.40 acres, exceeding the parameters of BIA ROW No. FBOG100223 by 2.63 acres, thereby creating a trespass violation; and

**WHEREAS,** July 23, 2018, RimRock Oil & Gas Williston, LLC met with the MHA Nation Energy Division to report the trespass matter described above, and discuss resolution of said trespass; and

**WHEREAS,** On September 4, 2018, at a duly held meeting of the Natural Resources Committee ("NRC"), the MHA Nation Energy Division presented to the NRC its findings regarding the trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100223, and RimRock Oil & Gas Williston, LLC representatives were also in attendance at the NRC meeting and were given an opportunity to be heard; and

**WHEREAS,** Based on all of the facts and circumstances provided to the NRC regarding the above described trespass matter, the NRC imposed a \$131,500.00 (\$50,000 per acre of trespass) fine for RimRock Oil & Gas Williston, LLC's trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100223, and directed that RimRock Oil & Gas Williston, LLC must pay the fine within three (3) weeks; and

**WHEREAS,** Alternative resolution of ROW violations is consistent with intent and spirit of BIA Right-of-Way Regulations codified at 25 C.F.R. 169 Subpart F, which recognizes deference to Tribal decision-making and negotiated remedies; 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 \$10,000.00 for two (2) additional well bores (\$5,000.00 for each additional well bore) and \$9,205.00 for the additional 2.63 acreage (\$3,500.00 per acre of additional disturbance) for a total of \$19,205.00; and

**WHEREAS,** Provided that RimRock Oil & Gas Williston, LLC remits timely payment of civil fine for the above described trespass violation of BIA ROW No. FBOG100223,





the NRC, at a duly held meeting on September 4, 2018, approved RimRock Oil & Gas Williston, LLC's ROW application and consent request to amend BIA ROW No. FBOG100223 to add two (2) additional well bores: (i) Skunk Creek 9-2-3-9H, and (ii) Skunk Creek 9-2-3-9H3, and continued use of the 2.63 acres not originally approved under BIA ROW No. FBOG100223 on the Skunk Creek 9-2 Pad, across certain Tribal tracts on Allotment No. T2089 (100% Tribal Interest), located in the SE1/4 of Section 2, Township 148 North, Range 93 West, and Allotment No. T3141 (100% Tribal Interest), located in the NE1/4 of Section 2, Township 148 North, Range 93 West, the 5th Principal Meridian, Dunn County, North Dakota, more fully described herein, and in the attached Appendix A.1., and the NRC forwarded RimRock Oil & Gas Williston, LLC's application to the Tribal Business Council for final action; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, That the Tribal Business Council hereby approves the action of the Natural Resources Committee to impose on RimRock Oil & Gas Williston, LLC a \$131,500.00 civil fine for a trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100223; and

**BE IT FURTHER RESOLVED**, Provided that RimRock Oil & Gas Williston, LLC timely remits payment for the trespass violation of BIA ROW No. FBOG100223, described herein, and subject to RimRock Oil & Gas Williston, LLC's 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:

- RimRock Oil & Gas Williston, LLC – To amend BIA ROW No. FBOG100223 to add two (2) additional well bores: (i) Skunk Creek 9-2-3-9H, and (ii) Skunk Creek 9-2-3-9H3, and continued use of the 2.63 acres not originally approved under BIA ROW No. FBOG100223 on the Skunk Creek 9-2 Pad, across certain Tribal tracts on Allotment No. T2089 (100% Tribal Interest), located in the SE1/4 of Section 2 of Township 148 North, Range 93 West, and Allotment No. T3141 (100% Tribal Interest), located in the NE1/4 of Section 2 of Township 148 North, Range 93 West, the 5th Principal Meridian, Dunn County, North Dakota; and

**BE IT FURTHER RESOLVED**, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the ROW for the two (2) Additional Wells on the Skunk Creek 9-2 Well Pad 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 Tribal Business Council hereby consents to the estimated compensation for this ROW application in the amount of \$19,205.00, which is based on the MHA Nation ROW compensation for the two (2) additional well



bores (\$5,000.00 for each additional well bore) and continued utilization of an additional 2.63 acres for the well pad not previously approved under BIA ROW No. FBOG100223 (\$3,500.00 per acre of additional disturbance), pursuant to the application fees established and set forth in Resolution No. 17-117-FWF; and

**BE IT FURTHER RESOLVED**, In accordance with governing MHA Nation law and policy as well as applicable federal ROW regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning any ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to an assignment of the BIA ROW No. FBOG100223 granted to RimRock Oil & Gas Williston, LLC; and

**BE IT FURTHER RESOLVED**, The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security; and

**BE IT FURTHER RESOLVED**, The MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by RimRock Oil & Gas Williston, LLC and the MHA Nation Energy Division, constitute 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 amended BIA ROW No. FBOG100223; 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 §169.403(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.

*(SIGNATURE PAGE TO FOLLOW)*





**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 20<sup>th</sup> day of December 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 December, 2018.

**ATTEST:**

Acting Tribal Secretary, Cory Spotted Bear  
Tribal Business Council

Chairman, Mark N. Fox  
Tribal Business Council