



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

A Resolution entitled, “Consent to an Assignment to Targa Badlands, LLC of the MHA Nation’s interest in BIA ROW No. FBOG101023, a Right-of-Way for the Greek Gods East Pipeline Project, granted to Enerplus Resources (USA) Corporation Company.”

- 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 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 June 14, 2014, the Bureau of Indian Affairs (“BIA”) issued a Proposed Rule to update the “Right-of-Way on Indian Land” regulations, codified at 25 CFR Part 169, *see* 79 FR 34455-34474, and issued the Final Rule on November 19, 2015, *see* 80 FR 72492-72549; and
- WHEREAS,** Under the Final Rule, if a ROW is granted on or after December 21, 2015, the new regulations apply, *see* 25 CFR § 169.7, but, if the ROW application was



submitted before December 21, 2015, the grantee has the option of withdrawing the application and resubmit it under the new regulations, or proceed without withdrawing and said application will be processed under the prior ROW regulations, *see* 25 CFR § 169.7(a) & (c)(2)(i); and

WHEREAS, In accordance with the new regulations, for a ROW that was processed under the former regulations, the procedural provisions of the new rule apply except if the new rule conflicts with an explicit provision of the ROW grant or the statute authorizing the ROW document, in which case, the provisions of the ROW grant or authorizing statute apply instead, *see* 25 CFR § 169.7(c)(2)(ii); and

WHEREAS, On December 11, 2015, Enerplus Resources (USA) Corporation Company (“Enerplus”) submitted an ROW application, for pipeline across 0.385 acres of Tribal tracts in Allotment 1133A (6.666666666666666% Tribal interest), in Lot 1 of Section 1 Township 149 North, Range 94 West, and Allotment 2146 (0% Tribal interest), in the SE¼ of Section 33, Township 149 North, Range 94 West, both in Dunn County, North Dakota; and

WHEREAS, On June 15, 2017, the Bureau of Indian Affairs (“BIA”) approved Enerplus’s ROW application, described above, and granted to Enerplus BIA ROW No. FBOG101023 for the following purposes: HERA #149-93-28A-33H, APOLLO #149-93-28A-33H, HOMER #149-93-28A-33H TF, ZEUS #149-93-28A-33H, and ATHENA #149-93028A-33H-TF-LL PIPELINE (referred to as the “Greek Gods East Pipeline Project”) across the following described lands located in the Dunn, North Dakota, as follows:

Township 148 North, Range 94 West, Fifth Principle Meridian

Tribal Tract #1133A – Lot 1 of Section 1
(558.45 Feet and 0.385 acres of pipeline disturbance)

Township 148 North, Range 94 West, Fifth Principle Meridian

Tribal Tract #2146, SE¼ of Section 33
(478.29 feet and 0.329 acres of pipeline disturbance)

- Said ROW is limited to and more particularly described to be a pipeline 1036.74 feet in length, 30 feet in width, comprising of 0.714 acres of disturbance
- Said easement is for the installation of two (2) oil and gas pipelines constructed of new steel pipe no greater than 12” in diameter excavated to a depth sufficient to maintain a minimum of 48 inches of ground coverage over the pipeline; and



WHEREAS, In accordance with the former ROW regulations in effect prior to December 21, 2015, Enerplus was required to obtain a majority consent of the owners of Allotment 1133A and Allotment 2146, and was able to secure such majority consent without having to obtain the MHA Nation's consent for its 6.6666666666% interest in Allotment 1133A; and

WHEREAS, On March 12, 2018, Enerplus submitted an application to the MHA Nation Energy Division seeking the MHA Nation's consent to assign its interest in ROW No. FBOG101023 for the Greek Gods East Pipeline Project to Targa Badlands, LLC; and

WHEREAS, The ROW Assignment application, submitted by Enerplus for the Greek Gods East Pipeline 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, The MHA Nation's processing fee for this ROW assignment application is \$3,000.00; and

WHEREAS, On May 2, 2018 at a duly held meeting of the Natural Resources Committee ("NRC"), Enerplus requested the MHA Nation's consent to assign its interest in ROW No. FBOG101023 for the Greek Gods East Pipeline Project to Targa Badlands, LLC, and the NRC forwarded Enerplus's request to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, That the Tribal Business Council hereby approves Enerplus Resources (USA) Corporation Company's request for the MHA Nation to consent to the assignment its interest in ROW No. FBOG101023 to Targa Badlands LLC, as follows:

- The Greek Gods East Pipeline ROW - HERA #149-93-28A-33H, APOLLO #149-93-28A-33H, HOMER #149-93-28A-33H TF, ZEUS #149-93-28A-33H, and ATHENA #149-93028A-33H-TF-LL PIPELINE, across 0.385 acres of Tribal tracts in Allotment 1133A (6.6666666666% Tribal interest), in the following described lands located in the Dunn, North Dakota:

Township 148 North, Range 94 West, Fifth Principle Meridian

Tribal Tract #1133A – Lot 1 of Section 1
(558.45 feet and 0.385 acres of pipeline disturbance)



- Said ROW is limited to and more particularly described to be a pipeline 1036.74 feet in length, 30 feet in width, comprising of 0.714 acres of disturbance; and
- Said easement is for the installation of two (2) oil and gas pipelines constructed of new steel pipe no greater than 12" in diameter excavated to a depth sufficient to maintain a minimum of 48 inches of ground coverage over the pipeline; and

BE IT FURTHER RESOLVED, That the MHA Nation's consent to Enerplus's assignment of the MHA Nation's interest in BIA ROW No. FBOG101023 for the Greek Gods East Pipeline Project to Targa Badlands, LLC is subject to Targa's agreement to the execution of the MHA Right-of-Way application and the MHA Pipeline Right-of-Way Terms and Conditions, and payment of the MHA Nation's ROW assignment fee of \$3,000.00; and

BE IT FURTHER RESOLVED, In accordance with the MHA Nation Pipeline Terms and Conditions for Right-of-Ways, the assignment of the ROW for the Greek Gods East Pipeline Project will be subject to a twenty (20) year term; and

BE IT FURTHER RESOLVED, That the MHA Nation's consent to an assignment of its interest in ROW No. FBOG101023 to Targa Badlands, LLC, described above, is subject to the MHA Nation Standard Terms and Conditions for Right-of-Ways, which constitutes a written agreement as part of the MHA Nation's consent to the assignment 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. FBOG101023; and

BE IT FURTHER RESOLVED, That 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 pertinent Tribal Business Council Resolutions, 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 FURTHER RESOLVED, That any future assignment of the MHA Nation's interest in BIA ROW No. FBOG101023 requires the prior written consent of the MHA Nation, via a duly passed Resolution of the Tribal Business Council; 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.



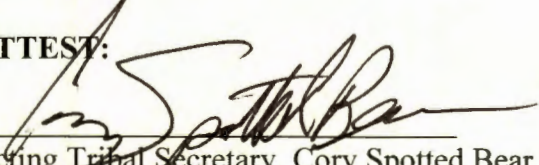
CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold 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 20th 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.

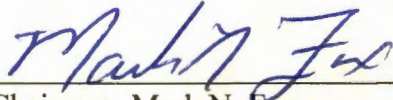
Chairman [] Voting. [X] Not Voting.

Dated this 20th day of December, 2018.

ATTEST:



Acting Tribal Secretary, Cory Spotted Bear
Tribal Business Council



Chairman, Mark N. Fox
Tribal Business Council