



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

***A Resolution entitled, "Consent to Amend BIA ROW No. FBOG100508 for the
Horses East Well Pad Modification Project Submitted by Enerplus Resources (USA)
Corporation."***

- 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. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements), 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), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Amending Fee Structure); and
- WHEREAS,** On October 26, 2011, then 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" for an ROW application submitted by Enerplus Resources (USA) Corporation across certain trust lands on Allotment



No. 686A (53.472222% Tribal interest), located in the N½ of Section, Township 149 North, Range 93 West, in Dunn County, North Dakota; and

WHEREAS, The October 26, 2011 Consent of Owner's – Grant of Right-of-Way includes the following description of easement: "PINTO #149-93-29A-32H TF" and "MUSTANG #149-93-29A-32H"; Access to and well pad for drilling location 250 feet from North line and 1220 feet from East line (PINTO) and 250 feet from North line and 1320 feet from East line (MUSTANG) of Section 29, Township 149 North, Range 93 West, 5th P.M., the proposed well pad being approximately 360 feet by 575 feet with accompanying topsoil stockpile comprising a total disturbed area of 9.227 acres, more or less. (Road right-of-way is contained in total disturbed area); Total Disturbed Area: 9.227 acres, more or less; and

WHEREAS, On July 10, 2012, the Bureau of Indian Affairs ("BIA") granted to Enerplus Resources (USA) Corporation, BIA ROW No. FBOG100508 for the following purposes, specifically: "PINTO #149-93-29A-32H TF" and "MUSTANG #149-93-29A-32H" WELL LOCATION (referred to as "Horses East Well Pad") over the land embraced within this ROW situated the following described lands located in the County of Dunn, North Dakota:

Township 149 North, Range 93 West, Fifth P.M.

Allotment #686A, N ½ of Section 29 (9.227 acres well pad disturbance)

- Said ROW is more particularly described to be a well pad 360 feet by 575 feet and 9.227 acres in total area;
- Said easement is granted for the purpose of drilling an oil and gas well;
- The construction of a dual well pad is hereby granted across the aforementioned trust property with 9.227 acres of surface disturbance;
- Said right-of-way shall exist as long as oil and gas is produced in paying quantities or if [the] well is a dryhole or abandoned, the entire well site and roadway must be properly reclaimed by grantee and released by the Bureau of Land Management and the Bureau of Indian Affairs; and

WHEREAS, On November 29, 2018, Enerplus Resources (USA) Corporation submitted a ROW application and consent request to amend BIA ROW No. FBOG100508 for the Horses West Well Pad Modification Project to add two (2) wellbores, with NO additional disturbance, across certain Tribal tracts in Allotment 686A (53.47% Tribal interest), in Section 29 of Township 149 North, Range 93 West, in Dunn County, North Dakota as more particularly described in Appendix A.1.; and

WHEREAS, Pursuant to fees established and set forth in Resolution No. 18-212-FWF, the projected compensation to the MHA Nation for this ROW application is \$10,694.00; and



WHEREAS, The ROW application, submitted by Enerplus Resources (USA) Corporation for the Horses East Well Pad Modification Project, described above, has been reviewed and recommended for approval by the MHA Nation 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, On January 17, 2019 at a duly held meeting of the Energy Committee ("EC"), the MHA Nation Energy Division recommended approval of Enerplus Resources (USA) Corporation's ROW application and consent request for the Horses East Well Pad Modification Project, more fully described herein, and in the attached Appendix A.1., and the EC approved Enerplus Resources (USA) Corporation's application and forwarded it to the Tribal Business Council for final action.

NOW THEREFORE BE IT RESOLVED, Subject to Enerplus Resources (USA) Corporation'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:

- Enerplus Resources (USA) Corporation – The Horses East Well Pad Modification Project, to amend BIA ROW No. FBOG100508 to add four (4) wellbores to the Horses East Well Pad, with NO additional disturbance, across certain Tribal tracts in Allotment 686A (53.472222% Tribal interest), in Section 29 of Township 149 North, Range 93 West, in 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 modification to add four (4) additional wellbores to the Horses East 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 modification for the Horses East Well Pad Modification Project; and

BE IT FURTHER RESOLVED, The Tribal Business Council consents to the estimated compensation for this ROW application in the amount of \$10,694.00, which is based on the MHA Nation ROW compensation and application fees established by and set forth in Resolution No. 18-212-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 ROW for the Horses East Well Pad Modification Project; 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 Enerplus Resources (USA) Corporation 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 the Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Horses East Well Pad Modification Project; 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, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 14th day of February, 2019, 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 [X] Voting. [] Not Voting.

Dated this 14th day of February, 2019.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council

Chairman, Mark N. Fox
Tribal Business Council

APPENDIX A.1

< 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 >