



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

***A Resolution entitled, "Consent to Approval of a half-mile Lake Setback Variance for
Axell USA CTB Project Submitted by Targa Badlands LLC."***

- 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,** 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,** Applications for setback variances on the FBIR are subject to other requirements of tribal law, including 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 (Establishing a setback variance processing fee); and

WHEREAS, On July 23, 2018 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 is, as follows:

PAD/PROJECT NAME: Axell USA CTB, to construct a crude oil pipeline up to twelve (12) inches in diameter.

LOCATION: Sections 20, 29 and 30, all in Township 151 North, Range 93 West, Mountrail County, North Dakota

ACRES OF DISTURBANCE: 6.3 acres.

DISTANCE PIPELINE: 947.28' & 833.02' from the 1854 High Water Line; (See Map “C.2” 1854 High Water Map, in Exhibit A); and

WHEREAS, The half-mile Lake Setback Variance application, submitted by Targa for the Axell USA CTB 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 Lake Setback Variances on the Fort Berthold Reservation; and

WHEREAS, On August 20, 2018, during the environmental and right-of-way on-sites, 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 Project; and

WHEREAS, The MHA Nation Energy Division reviewed, processed and fully vetted Targa’s request for a setback variance for the Axell USA CTB Project and has determined that Targa 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 (“NRC”), the MHA Nation Energy Division recommended approval of Targa Badlands LLC half-mile Lake Setback Variance application for the Axell USA CTB Project, more fully described herein, and in the attached Appendix A.1., and the NRC approved Targa Badlands LLC’s application and forwarded it to the Tribal Business Council for final action.



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

PAD/PROJECT NAME: Axell USA CTB, to construct a crude oil pipeline up to twelve (12) inches in diameter.

LOCATION: Sections 20, 29 and 30, all in Township 151 North, Range 93 West, Mountrail County, North Dakota

ACRES OF DISTURBANCE: 6.3 acres.

DISTANCE PIPELINE: 947.28' & 833.02' from the 1854 High Water Line; (See Map "C.2" 1854 High Water Map, in Exhibit A); and

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 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 >