



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

*A Resolution entitled, "Consent to Approval of a Right-of-Way across Tribal land for the Whales Loop 1/Peppers 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,** 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 December 6, 2018, Targa Badlands LLC ("Targa") submitted a ROW application for the Whales Loop 1/Peppers Project for a ROW consent to construct up to four (4) oil and/or gas pipelines up to sixteen inches (16") in diameter, two separate surface sites and a permanent access road on an easement, across certain Tribal tracts in Allotment 1848-A (4.55% Tribal interest), Allotment 1316 (9.23% Tribal interest), Allotment T1746 (100% Tribal interest),



and Allotment 1094A (61.36% Tribal interest) in Sections 11, 14 & 13, Township 148 North, Range 94 West, in Dunn County, North Dakota as more particularly described in Appendix A.1.; and

**WHEREAS,** The ROW for this application consists of 7,799.76 feet in length and 19.28 total disturbed acres, encompassing 17.87 acres for the pipelines (5.37 permanent acres; 12.5 temporary acres), 0.19 acres for two separate surface sites (0.06 for the fifty foot by fifty foot (50' x 50') and 0.13 for the seventy-five by seventy-five (75' x 75)'), 1.11 acres for additional temporary workspace, and 0.11 acres for the access road; and

**WHEREAS,** The compensation to the MHA Nation for this ROW application is authorized by and set forth in Resolution No. 15-080-LKH, "Approval of Global Settlement Agreement with Targa Badlands, LLC, and Resolution No. 17-258-FWF, "Approval of Amended Global Settlement with Targa Badlands, LLC"; and

**WHEREAS,** The ROW application, submitted by Targa for the Whales Loop 1/Peppers 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 Targa's ROW application and consent request for the Whales Loop 1/Peppers Project, more fully described herein, and in the attached Appendix A.1., and the NRC approved Targa's application and forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** Subject to Targa'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:

- Targa Badlands LLC – The Whales Loop 1/Peppers Project, to construct up to four (4) oil and/or gas pipelines up to sixteen inches (16") in diameter, two separate surface sites and a permanent access road on an easement, across certain Tribal tracts in Allotment 1848-A (4.55% Tribal interest), Allotment 1316 (9.23% Tribal interest), Allotment T1746 (100% Tribal interest), and Allotment 1094A (61.36% Tribal interest) in Sections 11, 14 & 13, Township 148 North, Range 94 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 for the Whales Loop 1/Peppers Project 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 and Targa entered into negotiated agreements, approved by Resolution No. 15-080-LKH and Resolution No. 17-258-FWF, under which Targa remitted a one-time payment for certain ROW acreage, which includes and covers compensation for the ROW project approved by this Resolution; 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 Whales Loop 1/Peppers 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 Targa 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 for the Whales Loop 1/Peppers 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)*



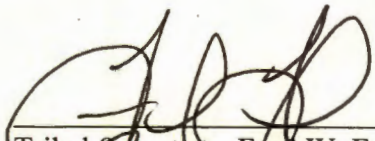
**CERTIFICATION**

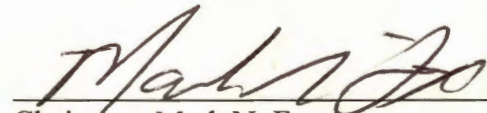
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 14<sup>th</sup> 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 14<sup>th</sup> day of February, 2019.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council

  
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Chairman, Mark N. Fox  
Tribal Business Council

**APPENDIX A.1**

For a pipeline easement that shall allow for the installation of up to four (4) oil and/or gas pipelines, up to sixteen inches (16") in diameter, and associated above and below ground appurtenances, associated infrastructure, and pipeline markers as required by law.