



**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. FBOG100248 for the Skunk Creek 13-18 Well Pad and Consent to Amend BIA ROW No. FBOG100248 to Add Six Additional Wells on the Skunk Creek 13-18 Well Pad Submitted by RimRock Oil & Gas Williston, 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 February 9, 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. T2239 (100%





Tribal Interest) located in the E SW, Lots 3 & 4 of Section 7, Township 148 North, Range 92 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: "Access Road - Access from an existing well site access road going to the Skunk Creek #9-2-3-5H in the Northeast quarter of the Southwest quarter then going Southeasterly through the East half of the Southwest quarter of Section 1, then continuing Southeasterly through the North half of Section 12, T148N-R93W, then continuing Southeasterly through the West half of Section 7, then continuing South through the West half of Section 18 and into the Southwest Southwest of Section 18, T148N-R92W Dunn County, ND."; and

**WHEREAS,** On February 9, 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. T2041-C (100% Tribal Interest) located in Lots 1 & 2 of Section 7, Township 148 North, Range 92 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: "Access Road - Access from an existing well site access road going to the Skunk Creek #9-2-3-5H in the Northeast quarter of the Southwest quarter then going Southeasterly through the East half of the Southwest quarter of Section 1, then continuing Southeasterly through the North half of Section 12, T148N-R93W, then continuing Southeasterly through the West half of Section 7, then continuing South through the West half of Section 18 and into the Southwest Southwest of Section 18, T148N-R93W, Dunn County, ND." and

**WHEREAS,** On February 9, 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. T2239 (100% Tribal Interest) located in the E SW, Lots 3 & 4 of Section 7, Township 148 North, Range 92 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: "Access Road - Access from an existing well site access road going to the Skunk Creek #9-2-3-5H in the Northeast quarter of the Southwest quarter then going Southeasterly through the East half of the Southwest quarter of Section 1, then continuing Southeasterly through the North half of Section 12, T148N-R93W, then continuing Southeasterly through the West





half of Section 7, then continuing South through the West half of Section 18 and into the Southwest Southwest of Section 18, T148N-R92W Dunn County, ND.”; and

**WHEREAS,** On February 9, 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. T2045 (100% Tribal Interest) located in the E½ W½, Lots 1, 2, 3, & 4, of Section 18, Township 148 North, Range 92 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 - Access from an existing well site access road going to the Skunk Creek #9-2-3-5H in the Northeast quarter of the Southwest quarter then going Southeasterly through the East half of the Southwest quarter of Section 1, then continuing Southeasterly through the North half of Section 12, T148N-R93W, then continuing Southeasterly through the West half of Section 7, then continuing South through the West half of Section 18 and into the Southwest Southwest of Section 18, T148N-R92W, Dunn County, ND.”; and

**WHEREAS,** On August 31, 2011, the Bureau of Indian Affairs (“BIA”) granted ROW No. FBOG100248 for Skunk Creek 13-18-17-9H, 13-18-17-16H, and 13-18-17-16H3 Well Location and Access on the following tribal tracts on the Fort Berthold Indian Reservation (“FBIR”):

- Allotment No. T2041-C (100% Tribal Interest) located in Lots 1 & 2 of Section 7, Township 148 North, Range 92 West, the 5th Principal Meridian, Dunn County, North Dakota (0.18 acres access road);
- Allotment No. T2239 (100% Tribal interest) located in Lots 3 & 4 in the E½ SW¼ SE¼ of Section 1, Township 148 North, Range 92 West, the 5th Principal Meridian, Dunn County, North Dakota (10.09 acres access road);
- Allotment No. T2045 (100% Tribal interest) located in Lots 1, 2, 3 & 4 in the E½ W½ of Section 18, Township 148 North, Range 92 West, the 5th Principal Meridian, Dunn County, North Dakota (12.77 acres access road and 4.02 acres well pad); and

**WHEREAS** BIA ROW No. FBOG100248 is limited to and more particularly described to be an access road 17,219.10 feet in length, 100 feet in width, and a well pad 300 feet by 500 feet, and 4.02 acres in total area for the well pad, altogether comprising 6.05 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 BIA ROW No. FBOG100248 to Whiting; and
- WHEREAS,** In July 2014, by operation of law transferred the assignment of BIA ROW No. FBOG100248 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 FBIR, 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,** In December 2018, RimRock discovered that the original pad construction was larger than the original ROW, thus causing disturbance totaling 7.52 acres, exceeding the parameters of BIA ROW No. FBOG100248 on Allotment T2045 by 1.47 acres, thereby creating a trespass violation; and
- WHEREAS,** January 17, 2019, RimRock representative met with the MHA Nation Energy Division to report the trespass matter described above, and discuss resolution of said trespass; and
- WHEREAS,** On January 17, 2019, RimRock submitted a ROW application to amend BIA ROW No. FBOG100248 to add six (6) additional well bores, with no additional disturbance: (i) Skunk Creek 13-18-16H3A, (ii) Skunk Creek 13-18-17-9H3, (iii) Skunk Creek 13-18-17-9HA, (iv) Skunk Creek 13-18-17-16HA, (v) Skunk Creek 13-18-17-16HU, and (vi) Skunk Creek 13-18-20-1H3U, and continued use of the 1.47 acres not originally approved under BIA ROW No. FBOG100248 on the Skunk Creek 13-18 Pad, across certain Tribal tracts on Allotment No. T2045





(100% Tribal Interest) located in Lots 1, 2, 3, 4; E½ W½ of Section 18, Township 148 North, Range 92 West, the 5th Principal Meridian, 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 \$30,000.00 for six (6) additional well bores (\$5,000.00 for each additional well bore) and \$5,145.00 for the additional 1.47 acreage (\$3,500.00 per acre of additional disturbance) for a total of \$35,145.00, in addition to the one-time application fee; and

**WHEREAS,** The ROW application, submitted by RimRock to amend BIA ROW No. FBOG100248 to add six (6) wells on the Skunk Creek 13-18 Pad, with no additional disturbance and for the continued use of the additional 1.47 acres not approved by the original BIA ROW No. FBOG100248, and to resolve the current trespass matter, all described above, has been reviewed and recommended for approval by the MHA Nation Energy Division in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal Land; and

**WHEREAS,** On April 17, 2019, at a duly held meeting of the Energy Committee ("EC"), the MHA Nation Energy Division presented to the EC its findings regarding the trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100248, and RimRock representatives were also in attendance at the EC meeting and were given an opportunity to be heard; and

**WHEREAS,** Based on all of the facts and circumstances provided to the EC regarding the above described trespass matter, the EC imposed a \$73,500.00 (\$50,000 per acre of trespass) fine for RimRock's trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100248, and directed that RimRock 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,** Provided that RimRock remits timely payment of civil fine for the above described trespass violation of BIA ROW No. FBOG100248, the EC, at a duly held meeting on April 17, 2019, approved RimRock's ROW application and consent request to amend BIA ROW No. FBOG100248 to add six (6) additional well bores: (i) Skunk Creek 13-18-16H3A, (ii) Skunk Creek 13-18-17-9H3, (iii) Skunk Creek 13-18-17-9HA, (iv) Skunk Creek 13-18-17-16HA, (v) Skunk Creek 13-18-17-16HU, and (vi) Skunk Creek 13-18-20-1H3U, and continued use of the 1.47 acres not originally approved under BIA ROW No. FBOG100248 on the Skunk Creek 13-18 Pad, across certain tribal tracts on Allotment No. T2045





(100% Tribal interest) located in Lots 1, 2, 3, 4; E½ W½ of Section 18, Township 148 North, Range 92 West, the 5th Principal Meridian, Dunn County, North Dakota, more fully described herein, and in the attached Appendix A.1., and the EC forwarded it to the Tribal Business Council for final action.

**NOW THEREFORE BE IT FURTHER RESOLVED**, The Tribal Business Council hereby approves the action of the MHA Energy Committee to impose on RimRock Oil & Gas Williston, LLC a \$73,500.00 civil fine for a trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100248.

**BE IT FURTHER RESOLVED**, Provided that RimRock Oil & Gas Williston, LLC timely remits payment for the trespass violation of BIA ROW No. FBOG100248, described herein, and subject to RimRock'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. FBOG100248 to add six (6) additional well bores, with no additional disturbance: (i) Skunk Creek 13-18-16H3A, (ii) Skunk Creek 13-18-17-9H3, (iii) Skunk Creek 13-18-17-9HA, (iv) Skunk Creek 13-18-17-16HA (v) Skunk Creek 13-18-17-16HU, and (vi) Skunk Creek 13-18-20-1H3U, and continued use of the 1.47 acres not originally approved under BIA ROW No. FBOG100248 on the Skunk Creek 13-18 Pad, across certain tribal tracts on Allotment No. T2045 (100% Tribal Interest) located in Lots 1, 2, 3, 4; E½ W½ of Section 18, Township 148 North, Range 92 West, the 5th Principal Meridian, Dunn County, North Dakota.

**BE IT FURTHER RESOLVED**, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, amending BIA ROW No. FBOG100248 to add six (6) Additional Wells on the Skunk Creek 13-18 Well Pad will be subject to the term from the originally executed BIA ROW Grant No. FBOG100248.

**BE IT FURTHER RESOLVED**, The Tribal Business Council consents to the estimated compensation to the MHA Nation for this ROW application in the amount of \$35,145.00, in addition to the one-time application fee, which is based on the MHA Nation ROW compensation and application fees established and set forth in Resolution No. 18-212-FWF.

**BE IT FURTHER RESOLVED**, The Tribal Business Council hereby consents to the estimated compensation for this ROW application in the amount of \$35,145.00, which is based on the MHA Nation ROW compensation for the six (6) additional well bores (\$5,000.00 for each additional well bore) and continued utilization of an



additional 1.47 acres for the well pad not previously approved under BIA ROW No. FBOG100248 (\$3,500.00 per acre of additional disturbance), and in addition to the one-time application fee, pursuant to the application fees established and set forth in Resolution No. 18-212-FWF.

**BE IT FURTHER RESOLVED,** The Tribal Business Council requests Bureau of Indian Affairs to retain the original terms and conditions of the original BIA ROW No. FBOG100248.

**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. FBOG100248.

**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).

**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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9<sup>th</sup> day of May, 2019, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 9<sup>th</sup> day of May, 2019.

**ATTEST:**

Tribal Secretary, Fred W. Fox  
Tribal Business Council

Tribal Chairman, Mark N. Fox