



**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. FBOG100169 for the Skunk Creek 2-8 Well Pad and Consent to Amend BIA ROW No. FBOG100169 to add Two Additional Wells on the Skunk Creek 2-8 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 10, 2010, MHA Nation Tribal Business Council Member and Chairman Marcus Levings 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. 1626



(40% Tribal Interest) located in NW¼ NE¼ of Section 8, Township 148 North, Range 93 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: "ROW (Access Road) to access oil and gas site and use of electrical lines and gathering pipelines and Well Pad(s)"; and

**WHEREAS,** On October 22, 2010, MHA Nation Tribal Business Council Member and Secretary Marcus Levings 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. 865A (2% Tribal Interest) located in NE SE, S NW SE, S SE of Section 5, Township 148 North, Range 93 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 BIA 14 in the South East quarter of Section 5, going South into the North East quarter of Section 8, T148N-R93W, Dunn County, ND"; and

**WHEREAS,** On January 5, 2011, the Bureau of Indian Affairs ("BIA") granted ROW No. FBOG100169 for construction of the Well Pad for the Skunk Creek 2-8 on the following Tribal tracts on the Fort Berthold Indian Reservation ("FBIR"):

- Allotment No. 865A (2% Tribal Interest) located in the NE¼ SE¼ S½ NW¼ SE¼ S½ SE¼ of Section 5, Township 148 North, Range 93 West, Dunn County, North Dakota (1.25 acres[of] access road); and
- Allotment No. 1626 (40% Tribal Interest) located in NW¼ NE¼ of Section 8, Township 148 North, Range 93 West, Dunn County, North Dakota (0.63 acres [of] access road and 4.58 acres of well pad); and

**WHEREAS** BIA ROW No. FBOG100169 is limited to and more particularly described to be an access road 2,902.37 feet in length, 50 feet in width, and a well pad 350 feet by 500 feet and 4.58 acres of surface disturbance for a 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. FBOG100169 to Whiting; and

**WHEREAS,** In July 2014, by operation of law transferred the assignment of BIA ROW No. FBOG100169 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 February 2019, RimRock discovered that the original pad construction was larger than the original ROW, thus causing disturbance totaling 1.26 acres for access road and 6.39 acres for well pad, exceeding the parameters of BIA ROW No. FBOG100169 on Allotment 1626 by 0.63 acres for access road and 1.81 acres for well pad, thereby creating a trespass violation; and

**WHEREAS,** March 7, 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 March 7, 2019, RimRock submitted a ROW application to amend BIA ROW No. FBOG100169 to add one (1) additional well bore: (i) You Know 2-8TFH, and continued use of the 0.63 acres of access road and 1.81 acres of well pad disturbance not originally approved under BIA ROW No. FBOG100169 on the Skunk Creek 2-8 Pad, across certain tribal tracts on Allotment No. 1626 (40% Tribal Interest) located in NW¼ NE¼ of Section 8, Township 148 North, Range 93 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 proportionate to MHA ownership (40% Tribal Interest) for this is \$5,000.00 for one (1) additional well bore (\$5,000.00 for each additional well bore) and \$8,540.00 for the additional 2.44 acreage (\$3,500.00 per acre of additional disturbance) for a total of \$13,540.00 (\$5,416.00 proportion for Tribal Interest), in addition to the one-time application fee; and



**WHEREAS,** The ROW application, submitted by RimRock to amend BIA ROW No. FBOG100169 to add one (1) well on the Skunk Creek 1-8 Pad, for the continued use of the additional 2.44 acreage approved by the original BIA ROW No. FBOG100169, 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. FBOG100169, 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 \$122,000.00 (\$50,000 per acre of trespass) fine for RimRock's trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100169 proportionate to the 40% Tribal interest equals \$48,800.00, and the EC 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 Oil & Gas Williston, LLC remits timely payment of civil fine for the above described trespass violation of BIA ROW No. FBOG100169, the EC, at a duly held meeting on April 17, 2019, approved RimRock Oil & Gas Williston, LLC's ROW application and consent request to amend BIA ROW No. FBOG100169 to add one (1) additional well bore: (i) You Know 2-8TFH, and continued use of the 2.44 acres (0.63 acres access road, 1.81 acres well pad not originally approved under BIA ROW No. FBOG100169 on the Skunk Creek 2-8 Pad, across certain Tribal tracts on Allotment No. 1626 (40% Tribal Interest) located in NW¼ NE¼ of Section 8, Township 148 North, Range 93 West, the 5th Principal Meridian, Dunn County, North Dakota, more fully described herein, and in the attached Appendix A.1., and the EC forwarded RimRock Oil & Gas Williston, LLC's application to the Tribal Business Council for final action.

**NOW THEREFORE BE IT FURTHER RESOLVED,** The Tribal Business Council hereby approves the action of the Natural Resources Committee to impose on RimRock Oil & Gas Williston, LLC a \$48,800.00 civil fine for a trespass violation of acreage disturbance exceeding the parameters of BIA ROW No. FBOG100169.



**BE IT FURTHER RESOLVED,** Provided that RimRock Oil & Gas Williston, LLC timely remits payment for the trespass violation of BIA ROW No. FBOG100169, described herein, and subject to RimRock Oil & Gas Williston, LLC'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. FBOG100169 to add one (1) additional well bore: (i) You Know 2-8TFH, and continued use of the 2.44 acres (0.63 acres access road, 1.81 acres well pad) not originally approved under BIA ROW No. FBOG100169 on the Skunk Creek 2-8 Pad, across certain Tribal tracts on Allotment No. 1626 (Tribal Interest) located in NW ¼ NE ¼ of Section 8, Township 148 North, Range 93 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. 100169 to add one (1) well on the Skunk Creek 2-8 Well Pad will be subject to the term from the originally executed BIA ROW Grant No. FBOG100169.

**BE IT FURTHER RESOLVED,** The Tribal Business Council hereby consents to the estimated compensation proportionate to MHA ownership (40% Tribal interest) for this is \$5,000.00 for one (1) additional well bore (\$5,000.00 for each additional well bore) and \$8,540.00 for the additional 2.44 acreage (\$3,500.00 per acre of additional disturbance) for a total of \$13,540.00 (\$5,416.00 proportion for Tribal Interest), 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. FBOG100169.

**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, constituent 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. FBOG100169.

**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**

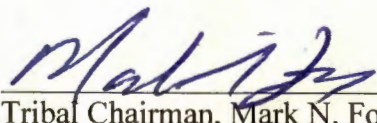
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly 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  
Tribal Business Council