



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

*A Resolution entitled, "Approval of Dwelling Setback Variance Requested by Targa Badlands LLC for the Riverview 30 Surface Site."*

**WHEREAS,** This Mandan, Hidatsa, and Arikara Nation (the "MHA Nation" or "Tribes"), having accepted the Indian Reorganization Act of June 18, 1934 and 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 its Constitution and By-Laws, the Tribal Business Council is the governing body of the MHA Nation; 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 Business Council, its Agencies, and Officials; and

**WHEREAS,** The Tribal Business Council has authority to engage in activities on behalf of and for the welfare and benefit of the Tribes and of the enrolled members thereof; 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,** On September 27, 2012, the Tribal Business Council passed Resolution No. 12-103-VJB, entitled, "The Oil and Gas Production Structure Setback Act" which requires that well pads, well heads, waste pits, reserve pits, oil storage tanks, and oil pumping units shall not be located within 2,640 feet (1/2 mile) of an occupied residence, tribal building, school, hospital, or other structures where people are known to congregate; and

**WHEREAS,** Resolution No. 12-103-VJB permits a property owner and an Oil and Gas Company to contract to locate any of the above mentioned oil production structures within 2,640 feet (1/2 mile) of an occupied residence, tribal building, school, or hospital *provided that* the Oil and Gas Company provide adequate compensation to the property owner for the close proximity of the oil production structure, and *provided further* that the interests of other property owners are not encroached by a distance less than the setback requirement; and

**WHEREAS,** On May 28, 2014, the Tribal Business Council passed Resolution No. 14-090-VJB, entitled, "The Second Amended Oil and Gas Pipeline Midstream Structure



Setback Act” which established the following Pipeline and related Pipeline Facilities setback requirements:

The Initial Setback Resolution (No. 12-103-VJB) is hereby amended by adding the following two paragraphs, and that effective as of the date set forth below, Pipelines and related Pipeline Facilities shall observe and be sited in accordance with the requirements of this Resolution:

1. "Pipeline and related Pipeline Facilities on-sited after August 13, 2013, shall not be located as follows: for Pipelines within 700 feet of an occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside; and for Pipeline Facilities within 1,100 feet of an occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside. This setback requirement shall not apply to any Pipeline and related Pipeline Facilities, whether or not additional wells or components may be constructed at such locations, nor to rights-of-way and surface use agreements which were on-sited prior to August 13, 2013."
2. "The Tribal Business Council Natural Resources Committee may, in its discretion, grant a variance from the Pipeline and related Pipeline Facilities setback footages herein provided for above as it relates to occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside, upon recommendation of the Tribal Energy Office. The Tribal Energy Office may recommend a variance when minerals would be stranded due to the setback provisions or where the applicant has made a clear case showing that granting the variance [would not be harmful] to the economic, environmental and/or safety benefit of the community, and would not cause an adverse environment effect upon the occupied residence, Tribal building, school, hospital, or other structure where people are known to congregate or actually reside."

**WHEREAS,** On February 9, 2017, the Tribal Business Council passed Resolution No. 17-037-FWF, entitled, “Amending the Oil and Gas Production Pipeline Structure Setback Act” so that well pads, well heads, waste pits, reserve pits, oil storage tanks, and oil pumping units shall not be located within *1,320 feet (¼ mile)* of an occupied residence, tribal building, school, hospital, or other structures where people are known to congregate (emphasis added); and

**WHEREAS,** Resolution No. 17-037-FWF permits a property owner and an Oil and Gas Company to contract to locate any of the above mentioned oil production structures within *1,320 feet (¼ mile)* of an occupied residence, tribal building,



school, or hospital *provided that* the Oil and Gas Company provide adequate compensation to the property owner for the close proximity of the oil production structure, and *provided further* that the interests of other property owners are not encroached by a distance less than the setback requirement (emphasis added); and

**WHEREAS,** Applications for setback variances within the exterior boundaries of the Fort Berthold Indian Reservation 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 (Amending Fee Structure); and

**WHEREAS,** On February 4, 2019, Targa Badlands LLC (“Targa”) submitted to the MHA Nation Energy Division a request for a dwelling Setback Variance, as set forth in Exhibit A; and

**WHEREAS,** The specific dwelling Setback Variance requested by Targa is, as follows:

**(PAD/PROJECT NAME):** Riverview 30 Surface Site.

**LOCATION:** Allotment 567A-A (0% Tribal interest), Section 30, Township 152 North, Range 94 West, McKenzie County, North Dakota.

**ACRES OF DISTURBANCE:** 0.63 acres.

**DRILLING/SPACING UNIT:** N/A.

**DISTANCE FROM WELLPAD/Pipe:** Habitable Structures within 650.38 feet of the surface site, located in Section 30, Township 152 North, Range 94 West, McKenzie County, North Dakota.

**WHEREAS,** On December 13, 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 Riverview 30 Surface Site; and

**WHEREAS,** The MHA Nation Energy Division reviewed, processed and fully vetted Targa’s request for a dwelling setback variance for Riverview 30 Surface Site and has determined that Targa has made a clear showing that granting the variance would not be harmful to the economic, environmental and/or safety benefit of the community, and would not cause an adverse environment effect upon the habitable structure; and



**WHEREAS,** Targa has made a showing that it has contracted with the property owners of Allotment No. 5677A-A to locate any of the above described surface site within 1,320 feet (¼ mile) of the habitable structure and has compensated the property owner for the close proximity of the Riverview 30 Surface Site; and

**WHEREAS,** On April 17, 2019, at a duly held meeting of the Energy Committee, the MHA Nation Energy Division recommended approval of Targa Badland's dwelling setback variance request for Riverview 30 Surface Site, and the EC approved Targa Badlands LLC's setback variance request for Riverview 30 Surface Site.

**NOW THEREFORE BE IT RESOLVED,** The Tribal Business Council hereby approves the dwelling setback variance, attached as Exhibit A, submitted by Targa Badlands LLC for Riverview 30 Surface Site, as follows:

**(PAD/PROJECT NAME):** Riverview 30 Surface Site.

**LOCATION:** Allotment 567A-A (0% Tribal interest), Section 30, Township 152 North, Range 94 West, McKenzie County, North Dakota.

**ACRES OF DISTURBANCE:** 0.63 acres.

**DRILLING/SPACING UNIT:** N/A.

**DISTANCE FROM WELLPAD/Pipe:** Habitable Structures within 650.38 feet of the surface site, located in Section 30, Township 152 North, Range 94 West, McKenzie County, North Dakota.

**BE IT FURTHER RESOLVED,** Pursuant to Resolution No. 18-212-FWF, approval of the setback variance request described herein is subject to a processing fee in the amount of \$3,000.00.

**BE IT FINALLY RESOLVED,** That the Chairman is hereby to take such further actions as are necessary to carry out the terms and intent of this Resolution.



**CERTIFICATION**

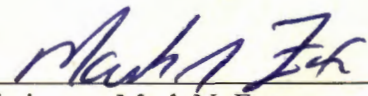
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 12<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, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 12<sup>th</sup> day of May, 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