



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

A Resolution entitled, "Consent to Amend BIA ROW No. FBIG090013 to add Four Wellbores and Expand Well Pad Acreage for the TAT #2-1H Pad Submitted by Enerplus Resources (USA) Corporation."

- WHEREAS,** This Mandan Hidatsa and Arikara Nation, also known as the Three Affiliated Tribes (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 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 3, 2008, then-MHA Nation Tribal Business Council Chairman Marcus Wells, Jr. executed the Bureau of Indian Affairs ("BIA") "Consent of Owner's - Grant of Right-of-Way" form across certain trust lands on Allotment No.



T 714A (100% Tribal interest), located in the Section 1 of Township 148 North, Range 95 West, in 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 and pipeline right-of-way. Access road will be built East off of Hwy 22 into the North West North East Quarter of Section 1 – T148N-R95W; and

WHEREAS, On March 4, 2009, the Bureau of Indian Affairs ("BIA") granted to Zenergy Inc., its successors and assigns, BIA ROW No. FBOG090013 for the following purposes, specifically: TAT (714A) #2-1H WELL LOCATION AND ACCESS over land embraced within a right-of-way situated on the following described lands located in the County of Dunn, North Dakota:

Township 148 North, Range 95 West, Fifth P.M.

Allotment #T714A – NW¼ NE¼ of Section 1

(3.85 acres well pad and .15 acres access road)

- Said ROW is limited to and more particularly described to be an access road 132.45 feet in length, 50 feet in width, and a well pad 300 feet by 400 feet and 4.00 acres in total area; and

WHEREAS, On November 20, 2010, Zenergy Inc. and Zenergy Properties 6 Ft. Berthold Allottee, LLC assigned certain oil and gas leases to Dakota-3 E&P Company, LLC, including Leases (No. 7420A48671 and No. 7420A41155), entered into with the Three Affiliated Tribes on the Fort Berthold Indian Reservation; Exhibit A to this Assignment contains a list of the specific Oil and Gas Leases assigned to Dakota-3 E&P Company, LLC; and

WHEREAS, Although BIA ROW No. FBOG090013 is not cited in either the November 20, 2010 Assignment of Oil and Gas Leases from Zenergy to Dakota-3 E&P or in the accompanying Exhibit A to said Assignment, and Enerplus does not have specific documentation showing that BIA ROW No. FBOG090013 was included as part of said Assignment, the Assignment itself provides that it is "subject to the terms of any agreements under which it may have been acquired by Assignor" and Enerplus maintains that this language applies to BIA ROW No. FBOG090013; and

WHEREAS, On December 31, 2011, Dakota-3 E&P Company, LLC, filed a corporate amendment with the Secretary of State of the State of Delaware, changing its name to WPX Energy Williston, LLC, and therefore, by operation of law, BIA ROW No. FBOG090013 transferred from Dakota-3 E&P Company, LLC to WPX Energy Williston, LLC; and



- WHEREAS,** On September 29, 2016, WPX Energy Williston, LLC executed an Assignment of Oil and Gas Leases (including Lease No. 7420A48671 dated October 18, 2007 entered into with the Three Affiliates Tribes on the Fort Berthold Indian Reservation) to Enerplus Resources (USA) Corporation December, to be effective on October 1, 2016; and
- WHEREAS,** On September 30, 2016, WPX Energy Williston, LLC assigned to Enerplus Resources (USA) Corporation of BIA ROW No. FBOG090013; and
- WHEREAS,** The transfer of BIA ROW No. FBOG090013 was completed under 25 CFR § 169.207(c) when BIA reviewed a copy of the assignment conveyance agreement and supporting documentation provided by Enerplus and recorded said documentation in the Land Title and Records Office on August 14, 2019; *see* BIA Title Status Report dated August 14, 2019 for Tract No. T 714A, Appendix “C” on page 4 of 6, which reflects Enerplus Resources (USA) Corporation as the owner/holder of BIA ROW No. FBOG090013; and
- WHEREAS,** 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, however, Zenergy, Inc. apparently did not obtain the consent of the MHA Nation in the assignment of BIA ROW No. FBOG090013 to Dakota-3 E&P, and WPX Energy Williston, LLC apparently did not obtain the consent of the MHA Nation in the assignment of BIA ROW No. FBOG090013 to Enerplus Resources (USA) Corporation; and
- WHEREAS,** On August 9, 2018, Enerplus Resources (USA) Corporation submitted a ROW application to amend BIA ROW No. FBOG090013 to add four (4) Additional Well Bores and 1.329 acres of additional disturbance for the total well site area of 5.329 acres, across certain Tribal tract in Allotment T714A (100% Tribal interest), in Section 1 of Township 148 North, Range 95 West, in 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 \$24,651.50 [\$20,000.00 for four (4) additional well bores (\$5,000.00 for each additional well bore) and \$4,651.50 (\$3,500.00 X 1.329) for expansion of the well pad from 4.00 acres to 5.329 acres], in addition to the one-time application fee; and
- WHEREAS,** The ROW application, submitted by Enerplus Resources (USA) Corporation to amend BIA ROW No. FBOG090013, 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 ROWs on Tribal Land; and

WHEREAS, On September 4, 2018 at a duly held meeting of the Natural Resources Committee ("NRC"), the MHA Nation Energy Division recommended for approval of Enerplus Resources (USA) Corporation ROW application to amend BIA ROW No. FBOG090013 to add four (4) Additional Well Bores and 1.329 acres of additional disturbance for the total well site area of 5.329 acres, across certain Tribal tract in Allotment T714A (100% Tribal interest), in Section 1 of Township 148 North, Range 95 West, in Dunn County, North Dakota, and the NRC approved Enerplus Resources (USA) Corporation's application and forwarded it to the Tribal Business Council for final action; and

WHEREAS, To clear up any issues regarding the chain of title/ownership of BIA ROW No. FBOG090013, Enerplus Resources (USA) Corporation seeks the formal consent of the MHA Nation for the following prior assignments: (i) November 20, 2010, assignment by Zenergy, Inc. to Dakota-3 E&P Company, LLC of certain oil and gas leases which may include BIA ROW No. FBOG090013; and (ii) September 30, 2016 assignment by WPX Energy Williston, LLC to Enerplus Resources (USA) Corporation of BIA ROW No. FBOG090013.

NOW THEREFORE BE IT RESOLVED, Subject to Enerplus Resources (USA) Corporation 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:

- Enerplus Resources (USA) Corporation- To amend BIA ROW No. FBOG090013 to add four (4) Well Bores and 1.329 acres of additional disturbance for the total well site area of 5.329 acres, across certain Tribal tract in Allotment T714A (100% Tribal interest), in Section 1 of Township 148 North, Range 95 West, in Dunn County, North Dakota.

BE IT FURTHER RESOLVED, In accordance with the MHA Nation Standard Terms and Conditions for Right-of-Ways, the Tribal Business Council consents to amending BIA ROW No. FBOG090013, as described herein, and will be subject to the term from the originally executed BIA ROW Grant No. FBOG090013.

BE IT FURTHER RESOLVED, The Tribal Business Council consents to the estimated compensation for this ROW application in the amount of \$24,651.50 [\$20,000.00 for four (4) additional well bores (\$5,000.00 for each additional well bore) and \$4,651.50 (\$3,500.00 X 1.329 acres) for expansion of the well pad from 4.00 acres



to 5.329 acres], 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, In the interest of addressing and clarifying the chain of ownership of BIA ROW No. FBOG090013, the Tribal Business Council hereby provides the consent of the MHA Nation for the following prior assignments: (i) November 20, 2010, assignment by Zenergy, Inc. to Dakota-3 E&P Company, LLC of certain oil and gas leases which may include BIA ROW No. FBOG090013; and (ii) September 30, 2016 assignment by WPX Energy Williston, LLC to Enerplus Resources (USA) Corporation of BIA ROW No. FBOG090013.

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 any other assignment of the BIA ROW No. FBOG090013.

BE IT FURTHER RESOLVED, The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security.

BE IT FURTHER RESOLVED, The MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by Enerplus Resources (USA) Corporation and the MHA Nation Energy Division, constitutes 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. FBOG090013.

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.



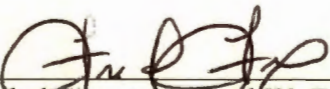
CERTIFICATION

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 12th day of September 2019, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 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 [X] Voting. [] Not Voting.

Dated this 12th day of September, 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 >