



**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 (871A) For the Enerplus Racing Pad Submitted by Enerplus Resources (USA) Corporation.”

WHEREAS, The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the Constitution) under said Act, and

WHEREAS, Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the MHA Nation; and

WHEREAS, The Constitution authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the MHA Nation and of the enrolled members thereof; and

WHEREAS, Pursuant to Article VI, Section 5(1) of the Constitution, the Tribal Business Council has the power to adopt Resolutions regulating the procedures of the Tribal Business and resources; 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, Enerplus Resources (USA) Corporation submitted a ROW application for the Racing Pad Project as follows:



- a 9.842 Acre Well Pad with 5 wells and a multi-use corridor/access road 537 ft +/- in length, 125 ft +/- in Width, 1.386 acres in size (the “well pad project”) and an assignment of the utility portion of the ROW to McKenzie Electric Co-operative, across certain tribal tracts in Allotments 871A in Section 36, Township 149 North, Range 93 West, in Dunn County, North Dakota., with 32.38095238% tribal interest, and

WHEREAS, The ROW application, has been reviewed and recommended for approval in accordance with the MHA Nation’s approved procedure for authorizing ROWs on Tribal Land.

NOW THEREFORE BE IT RESOLVED, Subject to the MHA Nation Standard Terms and Conditions for Right-of-Ways, and payment of applicable ROW fees, the Tribal Business Council hereby approves the ROW application, attached as Appendix A.1, and consents to the following ROW:

- Enerplus Resources (USA) Corporation – the Racing Pad Project, totaling 11.228 acres including:
 - A Well Pad with 5 wells consisting of 9.842 acres of disturbance; and
 - A multi-use corridor/access road with above ground appurtenances being 537 ft +/- in length, 125 ft +/- in Width, 1.386 acres in size, and consent to assignment thereof.

across a certain tribal tract in Allotment(s) 871A, with 32.38095238% tribal interest, in Section 36, Township 149 North, Range 93 West, in Dunn County, North Dakota.

BE IT FURTHER RESOLVED, The ROW shall have a 20 year term, from the date of the BIA’s grant of the ROW.

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 are incorporated into this 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 grant.

BE IT FURTHER RESOLVED, The MHA Nation retains the authority 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 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 MHA Nation hereby consents to an assignment of the Utility portion for the Enerplus Racing Pad project to McKenzie Electric Co-Op.

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.

[THIS SPACE INTENTIONALLY LEFT BLANK. CERTIFICATION FOLLOWS.]



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, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 9th day of September, 2020, 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 [X] Voting. [] Not Voting.

Dated this 9th day of September, 2020.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council
Three Affiliated Tribes

Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes