



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

*A Resolution entitled, “Approval of Setback Variance Requested by WPX Energy Williston, LLC for the Missouri River 25-26H Pad.”*

- 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 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,** The Tribal Business Council passed Resolution No. 12-087-VJB, entitled, “The Missouri River, Badlands and Sacred Sites Protection Act” which requires a half mile setback for well sites/drilling pads from the Missouri River, Little Missouri River, and designated sacred sites or villages in the Badlands; and
- WHEREAS,** The Tribal Business Council passed Resolution No. 12-139-VJB, entitled, “Amending the Missouri River and Badlands Protection Act to Allow Variances upon Recommendation by the Tribal Energy Office,” which authorizes the MHA Nation Tribal Energy Office to consider setback variance requests and make recommendations to the Tribal Business Council to approve such requests “when minerals would be stranded due to the setback provisions or where the applicant has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River”; and



**WHEREAS,** On March 27, 2017, the Tribal Business Council passed Resolution No. 15-045-LKH entitled, “Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land”; and

**WHEREAS,** On August 29, 2023, WPX Energy Williston, LLC (“WPX”) submitted to the MHA Nation Energy Division a request for a Setback Variance, as set forth in Exhibit A; and

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

**MISSOURI RIVER 25-26H PAD:** For Pad & Wells

**LOCATION:** NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 24, T150N R93W, 5<sup>th</sup> P.M., Mountrail County, North Dakota

**ACRES OF DISTURBANCE:** 8.996 acres of Pad disturbance lying within the 2640’ lake setback

**DISTANCE FROM WELLPAD/Pipe:** 1529 ± feet to the 1854 High Water Line from the Pad; 1709 ± feet to the 1854 High Water Line from the bores;

**WHEREAS,** On 06/28/2023, during the environmental and right-of-way on-sites, WPX met with the MHA Nation Energy Division to review and consider all other alternatives for the construction and siting of the Missouri River 25-26H Pad Project ; and

**WHEREAS,** The MHA Nation Energy Division reviewed, processed and fully vetted WPX request for a setback variance for Missouri River 25-26H Pad and has determined that WPX has made a clear showing that granting the variance would not cause an adverse environmental effect upon the Missouri River or the Little Missouri River; and

**WHEREAS,** On September 12, 2023 at a duly held meeting of the Natural Resources Committee, the MHA Nation Energy Division recommended for approval WPX’s setback variance request for Missouri River 25-26H Pad, and the Energy Committee approved WPX’s setback variance request for Missouri River 25-26H Pad.

**NOW THEREFORE BE IT RESOLVED,** the Tribal Business Council hereby approves the setback variance, attached as Exhibit A, submitted by WPX for Missouri River 25-26H Pad.

**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, which WPX must pay within fifteen (15) days from the passage of this Resolution.



**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 13<sup>th</sup> day of September, 2018, 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 13<sup>th</sup> day of September, 2023.

**ATTEST:**

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

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