



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

**A Resolution entitled, “*Approval of an Updated Fee Structure for the MHA Nation Energy Division to Regulate and Oversee Oil and Gas Exploration and Production Activities.*”**

- WHEREAS,** This Mandan Hidatsa and Arikara Nation (the "MHA Nation"), 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 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,** 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,** The Tribal Business Council passed Resolution No. 13–109–VJB (July 11, 2013), entitled, “Establishment of the Three Affiliated Tribes Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements”, which requires all tribal oil and gas leases shall have a minimum bonus bid rate of \$6,000.00 per acre for up to a maximum five (5) year term; sets a minimum royalty rate of 22%; establishes a right-of-way (“ROW”) easement rate for roads, pipelines, and access ways at a minimum of \$2,000.00 per acre; and establishes rates for each well pad at \$20,000.00 per the first well and \$5,000.00 minimum for each successive well; and
- WHEREAS,** The Tribal Business Council passed Resolution No. 14–071–VJB (April 10, 2014), entitled “Approval of the MHA Nation Application for Right-Of-Way and Use of Right of Way, the MHA Nation Pipeline Right-Of-Way Terms and Conditions, and the Section D on Pipeline Right-Of-Way Fees,” which establishes a yearly charge of fees \$5,000.00 per acre of MHA Nation Tribal land tracts for a twenty (20) year term; and



**WHEREAS,** The Tribal Business Council passed Resolution No. 14-089-VJB (May 28, 2014), entitled “Approval of the Revised MHA Nation Pipeline Right-Of-Way Terms and Conditions, and the Section D. on Pipeline Right-Of-Way Fees,” which amended Resolution No. 14-071-VJB, establishing an upfront ROW fee based on \$6,000.00 an acre, and an annual payment based on \$2,000.00 per acre of MHA Nation Tribal land tracts for a twenty (20) year term; and

**WHEREAS,** The MHA Nation Energy Division has historically regulated oil and gas exploration and production activities on the Ft. Berthold Indian Reservation (FBIR), including on-site at and on the well pad, in the oil field operations, and has been the lead tribal department that processes related ROW applications, pursuant to applicable tribal law and regulations and in accordance with applicable federal law and regulations, including requirements and conditions set forth in the respect environmental assessment documents and the application to drill documents; and

**WHEREAS,** The MHA Nation Energy Division conducted a review of its existing fee structure for ROWs and Setback Variance requests with comparable regulatory oversight fees, and prepared an updated fee structure; and

**WHEREAS,** In accordance with applicable Federal Regulations governing approval of ROWs on Indian lands, codified at 25 C.R.F. Part 161, an Indian tribe must affirmatively approve consents for ROWs on tribal lands for all easements, no matter how small the interest may be; and

**WHEREAS,** Many of the ROW applications submitted by oil and gas companies doing business on the FBIR involve small interests that consists of 0.50 acres or less; and

**WHEREAS,** The MHA Nation expends a significant amount of time, energy and resources processing ROW applications regardless of small acreage or fractionated acreage involved; and

**WHEREAS,** On March 1, 2017, at a duly held meeting of the Natural Resources Committee (NRC), the NRC directed the Energy Division to prepare a Resolution to be presented at to the Tribal Business Council establishing a minimum fee of \$1,000.00 for each ROW application that consists of a Tribal interest of 0.50 acres or less; and

**WHEREAS,** On April 5, 2017, at a duly held meeting of the Natural Resources Committee (“NRC”), the Energy Division presented the updated fee structure, attached as



**Resolution No. 17-117-FWF**

Exhibit A, which includes a minimum fee of \$1,000.00 for each ROW application that consists of a Tribal interest of 0.50 acres or less; and

**WHEREAS,** The NRC accepted the updated fee structure, attached as Exhibit A, developed by the Energy Division, and forwarded this matter to the Tribal Business Council for final action.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council hereby approves the Energy Division's proposed Fee Structure, attached as Exhibit A, to be effective as of March 1, 2017.

**BE IT FURTHER RESOLVED,** that the Tribal Business Council directs that the payment of ROW fees set forth in Exhibit A shall be due and paid to the MHA Nation within fifteen (15) business days from the date the Tribal Business Council approves the respective ROW application.

**BE IT FURTHER RESOLVED,** that the Tribal Business Council establishes said minimum ROW fee of \$1,000.00 provided that each such ROW application complies with all applicable environmental, conditions of approval, safety, set back requirements and other applicable federal and tribal laws, rules and regulations.

**BE IT FURTHER RESOLVED,** the Tribal Business Council requests the Bureau of Indian Affairs to use and enforce the standardized rate of \$1,000.00 established by this Resolution to be a minimum rate for approving similar small interest ROW applications for individually owned Indian allotted lands which share interests in tracts of land which also have Tribally owned interests.

**BE IT FURTHER RESOLVED,** the Tribal Business Council reserves the ability to grant a waiver or modification of the fees established by this Resolution, in cases where the MHA Nation has negotiated specific agreements or where other extenuating circumstances may arise.

**BE IT FINALLY RESOLVED,** this Resolution supersedes any prior actions of the Tribal Business Council on this subject, and shall be part of the laws of the MHA Nation and the MHA Nation Energy Office shall be responsible for carrying out the mandates of this Resolution.

**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 20<sup>th</sup> day of April, 2017, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 member not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 11<sup>th</sup> day of May, 2017.

**ATTEST:**

Tribal Secretary, Fred W. Fox  
Tribal Business Council

Tribal Chairman, Mark N. Fox  
Tribal Business Council



**EXHIBIT A**

**MHA NATION ENERGY DIVISION  
FEE STRUCTURE  
Oversight and Regulatory of  
Oil & Gas Exploration and Production on  
EFFECTIVE MARCH 1, 2017**

- I. APPLICATION FEE** - One time fee of \$500.00 for processing an application per project for Right-of-Way, Setback Variance Waiver Request, Well Pad siting, and other access approvals relating to oil and gas exploration and production on MHA Nation tribal lands. This application fee shall be non-refundable.
- II. FEES**
- A. Fees – Shall be due and paid within 15 business days upon approval by the Tribal Business Council.
1. Well Pad plus initial well - \$25,000.00 per well pad
  2. Additional Wells - \$5,000 per additional well
  3. Additional Acreage to Expand Well Pad - \$3,500.00 per acre
  4. Gathering Pipelines – One time upfront fee ROW Fee equal to \$6,000.00 per acre for permanent disturbance (20 years), and \$2,500 per acre for temporary disturbance, and an annual rental fee of \$2,000.00 per acre
  5. Access Road - \$2,500.00 per acre
  6. Utilities - \$2,500.00 per acre
  7. Produced Water Pipeline – (same as gathering)
  8. Temporary Pipelines for Freshwater Water - Based on a fifteen (15) foot width, charges are equal to five thousand dollars (\$5,000.00) per acre for a twelve (12) month period or prorated for a portion of a year. The money BIA bills and collects goes directly back to the Energy Division.
  9. Multiuse Corridors – \$3,500.00 per acre
- B. Small Interests ROWs – \$1,000.00 for each right-of-way application, which consists of interest in Tribal land of 0.50 acres or less, to be effective for all ROW applications approved by the Tribal Council as of March 1, 2017.
- C. Gas Sniffer Checks - \$2,000.00 per event when leak is detected.
- D. Tank Hatch Open - \$20,000 per incident.