



NOTICE

Notice for Public Comment
From The MHA Nation Energy Division

The MHA Nation Energy Division is seeking comments from the public regarding the approved Resolution No. 14-090-VJB Entitled "The Second Amended Oil and Gas Pipeline Mid-Stream Structure Setback Act".

The public is invited to submit comments by email to: mturner@mhanation.com or by US Postal Service
Addressed to:

Carson Hood Jr., Acting Administrator
MHA Nation Energy Division
PO Box 1407
New Town, ND 58763

All comments must be received by the close of business July 20, 2014.

Document is available at:
<http://www.mhanation.com/mhaenergydivision.html>



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

A Resolution Entitled, “The Second Amended Oil and Gas Pipeline Mid-Stream Structure Setback Act

WHEREAS, This 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 pursuant to said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribe generally 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 Tribes and of the enrolled members thereof; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The construction and operation of well pads, well heads, waste pits, reserve pits, oil storage tanks, oil pumping units, and other oil and gas production facilities (“Oil and Gas Facilities”) creates noise, dust, and smells that interfere with the quiet enjoyment of nearby property owners; and

WHEREAS, It is in the best interest of the Nation to protect the property and wellbeing of all property owners Pipeline and related Pipeline Facilities by imposing a setback requirement for such Oil and Gas Facilities; and

WHEREAS, The Tribal Business Committee enacted Resolution 12-103-VJB on September 27, 2012, as Amended under Resolution 13-126-VJB on August 13, 2013 to impose Pipelines (including risers, marker and launchers) and related Pipeline Facilities (including, but not limited to compressors and pumps) setback requirements applicable to lands subject to the Nation’s jurisdiction (the “Initial Setback Resolution”); and

WHEREAS, The Nation also recognizes the need for balanced laws that protect both the interests of property owners and the property and business interests of operators of Pipelines and related Pipeline Facilities; and

WHEREAS, In recognition of the need to protect the interests of property owners and of the operators of Pipelines and related Pipeline Facilities, the Tribal Business Committee has determined that it is in the Nation’s best interest to repeal the Initial Setback Resolution and to replace the same with the Pipeline and related Pipeline Facilities setback requirements contained herein; and



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WHEREAS, The Tribal Energy Office has the expertise to determine when a variance may be granted and still comply with the purpose of the Act.

WHEREAS, According to the policies and procedures of the Tribal Business Council, this amendment will be published in the M.H.A. Times for thirty (30) days for public comment before becoming effective; and

NOW THEREFORE BE IT RESOLVED, that the Initial Setback Resolution 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 or 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 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."



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3. "That notwithstanding the foregoing, a real property owner, or as the case may be, a majority of the interests owning real property containing an occupied residence, Tribal building, school, hospital or other structure where people are known to congregate or actually reside, and the operator of Pipeline and related Pipeline Facilities may contract to locate any of the above-mentioned Pipeline and related Pipeline Facilities within said setback footages of such a structure upon commercially reasonable terms as may be mutually agreed upon and memorialized in a writing signed by the parties; *provided that*, in the event the operator of Pipeline and related Pipeline Facilities and the effected real property owner(s) have entered into an oil and gas lease or other surface use agreement prior to the enactment of this Resolution that allows for the placement of Pipeline and related Pipeline Facilities within said footages of an occupied residence, Tribal Building, school, hospital or other structure where people are known to congregate or actually reside, the terms of the pertinent oil and gas lease or surface use agreement shall control, and the operator of such Oil and Gas Facilities shall be deemed to have acquired the real property owner's consent to placement of Pipeline and related Pipeline Facilities closer than said footages to such structures."

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

BE IT FURTHER RESOLVED that any company found to be in violation of this Resolution may be fined up to One Million Dollars (\$1,000,000) under the Nation's Civil Code in addition to possible revocation of its Tribal Employment Rights Office License and any such other Tribal licenses the company may hold.

BE IT FINALLY RESOLVED, that the Tribal Business Council is hereby authorized 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, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 28th day of May, 2014, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

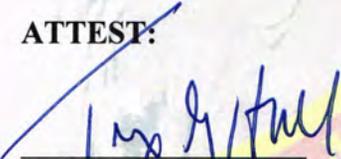
Chairman Voting. Not Voting.

Dated this 28th day of May, 2014.



Executive Secretary, V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes

ATTEST:



Chairman, Tex G. Hall
Tribal Business Council
Three Affiliated Tribes