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

A Resolution entitled, "Amendment to Resolution No. 17-117-FWF entitled 'Approval of a
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 MHA Nation Energy Division has the primary regulatory responsibility
overseeing oil and gas exploration, development 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 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
Resolution No. 18-212-FWF

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, Recognizing that 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, including, but not limited to, oil, gas, and water gathering pipelines, and other similar infrastructure ("Oil and Gas Facilities") create noise, dust, and smells that interfere with the quiet enjoyment of nearby property owners, the Tribal Business Council also established setback requirements for the siting of Oil and Gas Facilities in order to protect the property and wellbeing of all property owners on the FBIR; and

WHEREAS, Specifically, the Tribal Business Council enacted Resolution 12-103-VJB on September 27, 2012, as amended under Resolution 13-126-VJB on August 13, 2013, and further amended under Resolution 14-090-VJB on May 28, 2014, which all collectively imposed setback requirements applicable to the siting of Oil and Gas Facilities in proximity to an occupied residence, Tribal Building, school, hospital, or other structure where people are known to congregate or actually reside on lands subject to the MHA Nation’s jurisdiction; and

WHEREAS, The MHA Nation Energy Division has the primary responsibility to review and process setback variance applications for Oil and Gas Facilities located within an half mile from the Missouri River, Little Missouri River, Lake Sakakawea and designated sacred sites or villages in the Badlands and located within the setback requirements for an occupied residence, Tribal Building, school, hospital, or other structure where people are known to congregate or actually reside on lands subject to the MHA Nation’s jurisdiction; and

WHEREAS, On May 11, 2017, the Tribal Business Council passed Resolution No. 17-117-FWF entitled, “Approval of an Updated Fee Structure for the MHA Nation Energy Division to Regulate and Oversee Oil and Gas Exploration and Production Activities” which established a $500.00 application fee for setback variance requests; and

WHEREAS, The MHA Nation Energy Division expends significant staff time and resources processing setback variance applications, and seeks an amendment to Resolution No. 17-117-FWF to increase the application fee to take into consideration the review and processing of setback variance applications; and
WHEREAS, The MHA Nation Energy Division expends significant staff time and resources processing lease assignments and rights-of-way assignments, and seeks an amendment Resolution 17-117-FWF to increase the application fee to take into consideration the review and processing of lease assignments and rights-of-way assignments; and

WHEREAS, In the interest of health, welfare and safety of the environment of the FBIR and the people who work and reside on the FBIR, the MHA Nation Energy Division seeks an amendment to Resolution 17-117-FWF to establish a fine for operators who are found to have oil storage tanks without oil tank seals or with damaged oil tank seals; and

WHEREAS, A civil fine for damaged or missing oil tank seals is a customary standard in the oil and gas industry, for example, the Bureau of Land Management (BLM), per 43 CFR 3160, have defined oilfield operations oversight responsibilities and those responsibilities include ensuring the Oil Storage Tanks have physical oil tank seals to prevent theft, and when BLM periodically finds Oil Storage Tanks without or damaged Oil Tank Seals, BLM fines the responsible operator $1,000.00 per Oil Seal Incident of Non-Compliance; and

WHEREAS, On August 14, 2018, at a duly held meeting of the Natural Resources Committee (NRC), the Energy Division requested approval to increase the fee to $3,000.00 for the review and processing of setback variance applications for the siting of Oil and Gas Facilities within the existing setback requirements for Missouri River, Little Missouri River, Lake Sakakawea and designated sacred sites or villages in the Badlands and for an occupied residence, Tribal Building, school, hospital, or other structure where people are known to congregate or actually reside on lands subject to the MHA Nation’s jurisdiction; and

WHEREAS, The MHA Nation Energy Division further recommended establishing a processing fee for reviewing lease assignments in the amount of $3,500.00; and

WHEREAS, The MHA Nation Energy Division further recommended establishing a processing fee for reviewing ROW assignments in the amount of $3,500.00; and

WHEREAS, The MHA Nation Energy Division further recommended establishing for operators who are found to have Oil Storage Tanks without oil tank seals or with damaged oil tank seals, in the amount of $1,000.00 per incident of noncompliance; and

WHEREAS, The NRC accepted the Energy Division’s recommendations to amend Resolution No. 17-117-FWF, to increase the fee for processing setback variance applications from $500.00 to $3,000.00; to establish a processing fee in the amount of
$3,500.00 per lease assignment request, to establish a processing fee in the amount of $3,500.00 per ROW assignment request, and to establish a civil fine in the amount of $1,000.00 for missing or damaged oil tank seals; and

WHEREAS, The NRC forwarded the MHA Nation Energy Division’s recommendations to amend Resolution No. 17-117-FWF to the Tribal Business Council for final approval.

NOW THEREFORE BE IT RESOLVED, That the Tribal Business Council hereby approves the Energy Division’s recommendation to amend Resolution No. 17-117-FWF to increase the fee for the review and processing of setback variance applications for the siting of Oil and Gas Facilities, from $500.00 to $3,000.00, to be effective as of August 1, 2018, see the attached Amended Exhibit A; and

BE IT FURTHER RESOLVED, That the Tribal Business Council hereby approves the MHA Nation Energy Division’s recommendation to establish a processing fee for reviewing lease assignments in the amount of $3,500.00 per lease assignment request; and

BE IT FURTHER RESOLVED, That the Tribal Business Council hereby approves the MHA Nation Energy Division’s recommendation establishing a processing fee for reviewing ROW assignments in the amount of $3,500.00 per ROW assignment request; and

BE IT FURTHER RESOLVED, That the Tribal Business Council hereby approves the MHA Nation Energy Division’s recommendation to establish a civil fine for operators who are found to have Oil Storage Tanks without oil tank seals or with damaged oil tank seals, in the amount of $1,000.00 per incident of noncompliance; and

BE IT FURTHER RESOLVED, That the Tribal Business Council directs that the payment of the setback variance application fee, the lease assignment processing fee, the ROW assignment processing fee, and the civil fine for missing or damaged oil tank seals, set forth in the Amended Exhibit A shall be due and paid to the MHA Nation within fifteen (15) business days from the date the Tribal Business Council approves a respective setback variance application; and

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; and

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; and

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 15th day of August, 2018, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 15th day of August, 2018.

ATTEST:

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

Tribal Chairman Mark N. Fox
Tribal Business Council
Three Affiliated Tribes
AMENDED 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, 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
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
10. Setback Variance Requests/Applications - $3,000.00 [Effective August 1, 2018]
11. Lease Assignment Request - $3,500.00 [Effective August 1, 2018]
12. Right-of-Way Assignment Request - $3,500.00 [Effective August 1, 2018]

B. Small Interests ROWs – $1,000.00 for each right-of-way application, which consists of interest in Tribal land of 0.50 acres of 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 - $20,000.00 per incident.
E. Missing or damaged Oil Storage Tank Seals - $1,000.00 per incident. [Effective August 1, 2018]