



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

A Resolution entitled, "Establishing a Procedure for the Approval of Leases, Rights of Way, Setback Variances and Permissions to Survey on Tribal Land"

- WHEREAS**, This Mandan Hidatsa and Arikara Nation (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**, There exists the need to establish a procedure for the review and approval of applications for leases, rights of way, and consents to survey on MHA Nation lands; and

NOW THEREFORE BE IT RESOLVED, the Business Council hereby adopts the following procedures which shall govern the application, review and approval of leases, rights-of-way consents, setback variances and permits to survey on MHA Nation lands:

A. Leases

1. Applications to lease tribal land for oil and gas exploration and development shall be submitted or referred to the MHA Tribal Energy Division for review and processing. All other leases shall be submitted or referred to the Natural Resources Department for review and processing. New oil and gas leases are subject to Missouri River Resources' first right of refusal pursuant to Resolution No. 11-144-VJB.



2. The reviewing Department shall, with the assistance of the Bureau of Indian Affairs (BIA) where necessary, review the lease application and make a recommendation to approve or reject the lease application based on the following checklist:
 - determine that the lease is in a form that would be acceptable to the Tribal Business Council and the BIA.
 - determine that the legal description is accurate and involves tribal land.
 - determine, in consultation with the legal department and other department heads that the land or minerals are available for lease, and that it is not subject to an existing lease, approved land use plan or other restriction or encumbrance that would prohibit the approval of the lease.
 - determine that the consideration proposed for the lease meets or exceeds fair market value taking into account existing market conditions and other appropriate factors. In cases where the proposed consideration is determined to be inadequate, the reviewing Department shall, with the assistance of the legal counsel and tribal experts, negotiate the consideration.
 - determine, after consultation with legal counsel and other relevant MHA Departments, that the applicant/lessee is financially sound and capable to perform under the lease, and able to comply with all applicable tribal and federal laws.
 - determine, based on other reasonable factors, that the lease is in the best interest of the MHA Nation. Those reasonable factors include, for example:
 - determine, in consultation with the legal department and other department heads that the land or minerals are available for lease, and that it is not subject to an existing lease, approved land use plan or other restriction or encumbrance that would prohibit the approval of the lease.
 - determine that the consideration proposed for the lease meets or exceeds fair market value taking into account existing market conditions and other appropriate factors. In cases where the proposed consideration is determined to be inadequate, the reviewing Department shall, with the assistance of the legal counsel and tribal experts, negotiate the consideration.
 - determine, after consultation with legal counsel and other relevant MHA Departments, that the applicant/lessee is financially sound and capable to



perform under the lease, and able to comply with all applicable tribal and federal laws.

3. The reviewing Department shall recommend approval or disapproval of the lease application to the Natural Resources Committee within 90 days of submission of a complete lease application which includes the proposed leases and all other information and documentation requested by the reviewing Department. If no recommendation is made within the 90-day review period, the Applicant may, upon written notice to the reviewing Department, apply for direct review and approval by the Natural Resources Committee. All applications to the Natural Resources Committee shall be sent to the Committee Chairman's office.
4. Upon receipt of an application pursuant to subsection 3, the Natural Resources Committee shall consider the lease application and, after hearing from the reviewing Department, applicant and other interested parties, make a recommendation to the Tribal Business Council that the application be approved, disapproved, remanded to the reviewing Department for additional action, or referred to the Tribal Business Council with no recommendation. The recommendation shall be set forth in written form certified as an official act of the Committee by the Committee Chairman. In the event the Natural Resources Committee fails to act upon an application within 60 days, the Applicant may, upon written notice to the Committee Chairman and the reviewing Department, apply for direct review and approval by the Tribal Business Council. All applications to the Tribal Business Council shall be sent to the offices of the Chairman and Secretary.
5. Upon receipt of an application pursuant to subsection 4, the Tribal Business Council Secretary shall place the application on the agenda for the next regular meeting or the application may be considered at a duly called special meeting. Action to disapprove an application to lease tribal land shall be final and not reviewable, although the Tribal Council may reconsider such action in its discretion. Approval of a lease shall be evidenced by a Resolution of the Council and submitted to the BIA for approval.

B. Rights of Way.

1. All applicants seeking consents to Rights-of-Way (ROW) across tribal land are required to fill out and submit to the MHA Nation Energy Division or the Natural Resources Department, the MHA Nation Application for Right of Way and Use of Rights-of-Way, pursuant to Resolution No. 14-071-VJB.



2. Applications for consents to ROW for oil and gas exploration and development activities and purposes (O&G ROWs), such as access roads and on-pad pipelines for oil, gas and produced water, and well pads shall be submitted or referred to the MHA Nation Energy Division for review and processing. Pipeline ROW applications shall be submitted to the Energy Division and the Natural Resources Department, who will continue to work cooperatively to review and process those applications. All other ROW applications shall be submitted or referred to the Natural Resources Department for review and processing.
3. For O&G ROW applications relating to oil and gas gathering pipelines, all applicants must execute the "MHA Nation Pipeline Right-of-Way Terms and Conditions," per Resolution No. 14-089-VJB and remit payment to the MHA Nation in accordance with Section D. of said Terms and Conditions entitled "Pipeline Right-of-Way Fees."
4. ROW applications shall be reviewed and acted upon in accordance with the applicable policies and procedures of the reviewing Departments.
5. Within 60 days of the submission of a completed ROW application, the reviewing Department shall recommend approval or disapproval of the ROW application to the Natural Resources Committee. The 60-day period starts when the Applicant submits a final and completed ROW application, as determined by the reviewing Department. If the reviewing Department does not make a recommendation within 60 days from the commencement of the review period, the Applicant may, upon written notice to the reviewing Department, apply for direct review and approval by the Natural Resources Committee. All applications to the Natural Resources Committee shall be sent to the Committee Chairman's office.
6. Upon receipt of a ROW application pursuant to subsection 5, the Natural Resources Committee shall consider the ROW application and, after hearing from the reviewing Department, the Applicant and other interested parties, if necessary, make a recommendation to the Tribal Business Council that the application be approved, disapproved, remanded to the reviewing Department for additional action, or referred to the Tribal Business Council with no recommendation. The recommendation shall be set forth in written form certified as an official act of the Committee by the Committee Chairman. In the event the Natural Resources Committee fails to act upon an application within 60 days, the Applicant may, upon written notice to the Committee Chairman and the reviewing Department, apply for direct review and approval by the Tribal Business Council. All applications to the Tribal Business Council shall be sent to the offices of the Chairman and Secretary.



7. Upon receipt of a ROW application pursuant to subsection 6, the Tribal Business Council Secretary shall place the ROW application on the agenda for the next regular meeting or the application may be considered at a duly called special meeting. Action to disapprove a ROW application across tribal land shall be final and not reviewable, although the Tribal Business Council may reconsider such action in its discretion. Approval of a ROW application shall be evidenced by a Resolution of the Tribal Business Council and shall be submitted to the BIA for approval.

C. Setback Variances

1. Applications for Setback Variances, pursuant to Resolution 12-103-VJB, The Oil and Gas Production Setback Act, and Resolution 12-139-VJB, Amendments to the Missouri River and Badlands Protection Act, shall be submitted to the MHA Nation Energy Division for review and processing.
2. Within 60 days of submission of a completed setback variance request, the Energy Division shall submit a recommendation to the Natural Resources Committee on whether to approve or deny the request.
3. Within 60 days of receiving the recommendation on a setback variance application, the Natural Resources Committee shall consider the application and forward to the Tribal Business Council for final action..
4. Action to disapprove a Setback Variance application shall be final and not reviewable, although the Tribal Business Council may reconsider such action in its discretion. Approval of a Setback Variance shall be evidenced by a Resolution of the Tribal Business Council and shall be submitted to the BIA for approval.

D. Permission to Survey

1. Applications for Permission, to Survey (PTS), which involve no significant land disturbance, including improvements thereon, may be approved by the reviewing Department after verification of the legal description, purpose of the survey and acceptance of consideration, if required
2. Each member of the Tribal Business Council shall be provided with written notice of all duly approved Permissions to Survey within 30 days of approval.

BE IT FURTHER RESOLVED, that the Tribal Business Council hereby directs that within 30 days of the passage of this Resolution, the respective reviewing Departments shall promulgate and publish their respective procedures, including, checklist factors, for processing the applications and requests covered by this Resolution.



BE IT FINALLY RESOLVED, that this Resolution supersedes any prior actions of the Tribal Business Council on this subject.

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 27th day of March, 2015, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, members opposed, members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] Voting. [] Not Voting.

Dated this 27th day of March, 2015.

ATTEST:

L. Ken Hall
Tribal Secretary, Lewis Ken Hall
Tribal Business Council

Mark N. Fox
Tribal Chairman, Mark N. Fox
Tribal Business Council