



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

A Resolution entitled, "Approval of Setback Variance for the Jessica USA as Requested by ONEOK Rockies Midstream, L.L.C."

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 VI, Section 5(c) of the Constitution specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Nation and to make expenditures from available Tribal funds for public purposes for the Nation; 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, On December 18, 2012, 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 Energy Division 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 February 9, 2017, the Tribal Business Council passed Resolution No. 17-038-FWF, entitled “Amending the Missouri River, Badlands, and Sacred Sites Protection Act, Concerning Variances,” (Second Amendment) by amending the first Resolved paragraph, section 1.) of Resolution 12-139-VJB, as follows: “The Tribal Business Council may, in its discretion, grant a variance from the half mile setback provision upon the 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 showing that granting the variance would not cause an adverse environmental effect upon the Missouri River of the Little Missouri River. In no event shall a setback of less than 1000 feet be allowed” (“1,000-foot Lake setback restriction”); and

WHEREAS, Applications for setback variances within the exterior boundaries of the Fort Berthold Indian Reservation are subject to other requirements of Tribal law, including Resolution No. 15-045-LKH (Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances, and Permissions to Survey on Tribal Land), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Amending Fee Structure); and

WHEREAS, On October 21, 2020, ONEOK Rockies Midstream, LLC (“ONEOK”) submitted to the MHA Nation Energy Division a Setback Variance Request; as follows:

Jessica USA: For a pipeline and necessary and incidental facilities, equipment and appurtenances, including but not limited to valves and markers, for the transportation of oil, gas, petroleum products, water, brine, and/or any other liquids, gases, or substances which can be transported through pipelines, to connect the Jasper USA well site to existing pipeline infrastructure within one half (1/2) mile of Lake Sakakawea.

LOCATION: Allotment 301-398A, in the NW ¼ of Section 5 & Allotment 301-400A in the NE ¼ of Section 6: all in Township 150 North, Range 93 West, 5th P.M., Mountrail County, North Dakota; and

ACRES OF DISTURBANCE: 5.194 Acres

DRILLING/SPACING UNIT: N/A

DISTANCE FROM PIPELINE & PIPELINE INFRASTRUCTURE: 1,735’ ± feet (0.329 miles) to the 1854 High Water Line.



WHEREAS, ONEOK met with the MHA Nation Energy Division to review and consider all other alternatives for the construction and siting of the Jessica USA; and

WHEREAS, The MHA Nation Energy Division reviewed, processed and fully vetted ONEOK's request for a setback variance for the Jessica USA and has determined that ONEOK 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, 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 \$500.00 and a one-time application fee of \$3,000.00, which ONEOK must pay within fifteen (15) days from the passage of this Resolution.

WHEREAS, On October 27, 2020 at a duly held meeting of the Energy Committee, the MHA Nation Energy Division recommended for approval ONEOK's setback variance request for Jessica USA and the Energy Committee approved ONEOK's setback variance request for the Jessica USA.

NOW THEREFORE BE IT RESOLVED, the Tribal Business Council hereby approves the setback variance, attached as Exhibit A, submitted by ONEOK for the Jasper USA pipeline, as follows:

Jessica USA: For a pipeline and necessary and incidental facilities, equipment and appurtenances, including but not limited to valves and markers, for the transportation of oil, gas, petroleum products, water, brine, and/or any other liquids, gases, or substances which can be transported through pipelines, to connect the Jasper USA well site to existing pipeline infrastructure.

LOCATION: Allotment 301-398A, in the NW ¼ of Section 5 & Allotment 301-400A in the NE ¼ of Section 6: all in Township 150 North, Range 93 West, 5th P.M., Mountrail County, North Dakota.

ACRES OF DISTURBANCE: 5.194 Acres

DRILLING/SPACING UNIT: N/A

DISTANCE FROM PIPELINE & PIPELINE INFRASTRUCTURE: 1,735' ± feet (0.329 miles) to the 1854 High Water Line.

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 \$500.00 and a one-time application fee of \$3,000.00, which ONEOK must pay within fifteen (15) days from the passage of this Resolution.



Resolution No. 20-236-FWF

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.

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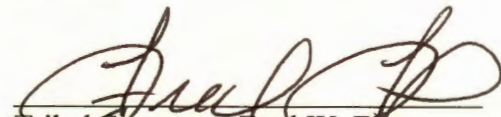
CERTIFICATION

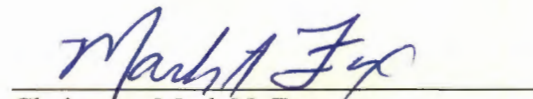
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 12th day of November, 2020, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 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 12th day of November, 2020.

ATTEST:


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


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