



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

*A Resolution entitled, "Consent to Approval of a Right-of-Way across Tribal land (607A)  
submitted by McKenzie Electric Cooperative Inc."*

- 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 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,** Leases and Rights-of-Way ("ROWS") across Tribal Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; and
- WHEREAS,** Applications for Rights-of-Way ("ROWS") on Tribal Land are subject to the requirements of tribal law, including Resolution No. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements), Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Right-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), and 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,** McKenzie Electric Cooperative Inc. submitted a ROW application for the Petroshale Tahu Pad for a Proposed Underground Powerline, across Tribal tracts 607A in Section 29 Township 152N Range 94W;

**HEREAS,** The ROW application, submitted by McKenzie Electric Cooperative Inc. for the WPX Petroshale Tahu Pad, described below, has been reviewed and recommended for approval in accordance with the MHA Nation's approved procedure for authorizing ROWs on Tribal land.

**NOW THEREFORE BE IT RESOLVED,** Subject to McKenzie Electric Cooperative Inc.'s agreement to the execution of the MHA Right-of-Way Application and Terms and Conditions, as listed therein, and payment of ROW fees, the Tribal Business Council hereby approves the following ROW application, attached as Appendix A.1, and ROW consent, as follows:

- McKenzie Electric Cooperative Inc.—Petroshale Tahu Pad
  - Powerline being 130.18 feet in length, temporary construction easement of 0.209 acres and permanent 0.090 acres Allotment 607A, Section 29, Township 152 North, Range 94 West, in McKenzie County, 5<sup>th</sup> Principle Meridian with a 0.4871031746 Tribal Interest,
  - For a total disturbance of 0.299 acres.

**BE IT FURTHER RESOLVED,** The ROW shall have a thirty (30) year term, from the date of the BIA's execution of the grant of the ROW for said project.

**BE IT FURTHER RESOLVED,** The Tribe does not consent to waive any bond, insurance, or alternative form of security; and

**BE IT FURTHER RESOLVED,** The MHA Nation Standard Terms and Conditions for Right-of-Ways, executed by McKenzie Electric Cooperative Inc. and the MHA Nation Energy Division, constituent a written agreement as part of the MHA Nation's consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant for the Enerplus Strings North Pad.

**BE IT FURTHER RESOLVED,** The Tribal Business Council retains the authority, as well as the delegation of authority to the MHA Nation Energy Division and other Tribal departments, to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Standard ROW Terms and Conditions, and further



requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.403(a).

**BE IT FURTHER RESOLVED,** In accordance with governing MHA Nation law and policy, as well as applicable federal regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning a ROW that contains any Tribal interest, and therefore, the Tribal Business Council does not pre-consent to any assignment of the ROW; 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.

[THIS SPACE INTENTIONALLY LEFT BLANK. CERTIFICATION FOLLOWS.]





**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 8<sup>th</sup> day of April, 2021, 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  Voting.  Not Voting.

Dated this 8<sup>th</sup> day of April, 2021.

**ATTEST:**

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

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