



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

A Resolution Entitled, *“Request to the Department of Interior to Initiate Shut-In Actions and Cancel Certain Oil and Gas Leases Due to Failure to Pay Royalties Owed”*

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, The Tribe has various oil and gas leases, including Lease Nos. 7420A42664 and 7420A42637 with Missouri River Resources (MRR), and Lease No. 7420A49001 with WPX Energy Williston, LLC, all of which are included in a communitized area as described in proposed Communitization Agreement Contract No. NDM 108753 (the CA) that also includes leases with tribal member allottees and the federal government on and near the Fort Berthold Reservation; and

WHEREAS, Oil and gas has been produced from wells drilled in the communitized area for over seven years without the operator paying any royalties owed to the Tribe or tribal member allottees on behalf of the respective lessees in the unit; and

WHEREAS, In failing to ensure payment of royalties owed, the lessees for the leases described above are in breach of their lease agreement(s) with the Tribe; and

WHEREAS, The Tribe has worked for years with its federal partners at the U.S. Department of the Interior, the lessees and the operator for the communitized area to propose reasonable solutions that would provide for the Tribe and tribal member allottees to be paid the royalties owed; and

WHEREAS, In February, 2023 The Tribe finally reached an agreement with the Department of Interior on revised language of the CA that would allow for the collection of outstanding royalties and at the same time protect mineral owners in areas within the unit that are unleased or where title is disputed; and



- WHEREAS,** In March 2023 representatives from the Tribe and Department of Interior presented the CA to operators and lessees, it has since been signed by 2 lessees, MRR and XTO Holdings, LLC, but the operator, Enerplus Resources (USA) Corporation, and lessee WPX Energy Williston, LLC have failed to sign; and
- WHEREAS,** Because the CA remains unsigned, mineral owners continue to be deprived of royalties owed, which have been owed for over seven years and which continue to accrue as production continues each day; and
- WHEREAS,** The U.S. Department of the Interior’s Bureau of Land Management (BLM) has authority pursuant to 43 C.F.R. § 3163.1 to immediately shut down operations by initiating a shut-in action when a person fails to comply with lease terms and “where continued operations could result in immediate, substantial, and adverse impacts on...royalty income”; and
- WHEREAS,** The Secretary of the Interior (Secretary) has authority pursuant to 25 C.F.R. § 225.36 to issue notices of non-compliance or proposed cancellation when an “operator has failed to comply with...the terms of the minerals agreement” and if “an operator fails to take corrective action...the Secretary may issue an order of cessation”; and
- WHEREAS,** The U.S. Department of the Interior has a responsibility to protect Indian oil and gas trust resources (see Secretarial Order No. 3335) and under 25 C.F.R. § 225.1 the Secretary is responsible for “ensuring the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any minerals agreement...”; and
- WHEREAS,** In order to prevent the further exploitation of Indian minerals the federal government should order a suspension of production from the wells in the communitized area until such time as all outstanding royalties and other amounts have been paid, and initiate cancellation of tribal leases identified, except for those lessees that have signed the CA.
- NOW THEREFORE BE IT RESOLVED,** The Tribal Business Council hereby requests the U.S. Department of the Interior to take immediate action to suspend operations for all wells within the communitized area due to the unit operator’s failure to pay royalties owed to the Tribe.
- BE IT FURTHER RESOLVED,** The Chairman of the Tribal Business Council further requests that the Secretary of the Interior initiate proposed cancellation actions for Lease No. 7420A49001 with WPX Energy Williston, LLC covering lands leased by the Tribe within the communitized area.



BE IT FINALLY RESOLVED, The Chairman of the Tribal Business is authorized to take such actions as necessary to carry out the terms and intent of this Resolution.

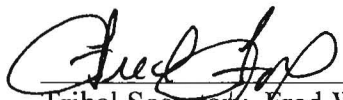
CERTIFICATION

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 8th day of June, 2023, 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 [X] Voting. [] Not Voting.

Dated this 8th day of June, 2023.

ATTEST:



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



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