



**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 for the Clinton-Shavano Flowlines, Fiber Optics, and Associated Appurtenances Submitted by Enerplus Resources (USA) Corporation.”*

- WHEREAS,** The Mandan Hidatsa and Arikara Nation (the “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 Tribes; 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 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 and 21-082-FWF (Amending Fee Structure); and



**WHEREAS,** Enerplus Resources (USA) Corporation submitted a ROW application for the Clinton-Shavano Flowlines, Fiber Optics, and Associated Appurtenances Project, across certain Tribal tract, Allotment T 998A-B (100.00% Tribal Interest), located in Section 29, of Township 148 North, Range 94 West, in Dunn County, North Dakota as more particularly described in Appendix A.1.; and , Allotment 998A-A (20.0000% Tribal Interest), located in Section 29, of Township 148 North, Range 94 West, in Dunn County, North Dakota as more particularly described in Appendix A.1; and

**WHEREAS,** The ROW for this application consists of 0.667 Acres for Permanent Pipeline Right of Way (30 foot wide) and an additional 1.558 Acres for Temporary Construction Right-of-Way (70 foot wide, being 100 foot wide total including the permanent width), **Allotment T 998A-B:** being, 0.166 permanent acres, and an additional 0.388 acres of temporary surface disturbance during construction, and **Allotment 998A-A:** being, 0.501 permanent acres, and an additional 1.170 acres of temporary surface disturbance during construction (See Survey Plat Map for Details) for the construction, maintenance, and repair, for up to Six (6) oil and/or gas flowlines up to four inches (4”) in diameter for constructing, reconstructing, operating, maintaining, installing gates, inspecting, repairing, replacing, changing the size of, re-laying, or removing pipelines together with such valves, fittings, meters, corrosion control devices, wires, cables, electronic telemetry, communications equipment, pipelines operating control devices, and other equipment, and associated appurtenances, (referred to collectively as “associated appurtenances”) Pipeline Right-of-Way, Fiber Optics, and Associated Appurtenances; and

**WHEREAS,** The ROW application, 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 the MHA Nation Standard Terms and Conditions for Right-of-Ways, and payment of applicable ROW fees, the Tribal Business Council hereby approves the ROW application, attached as Appendix A.1, and consents to the following ROW:

- Enerplus Resources (USA) Corporation – the Clinton-Shavano Flowlines, Fiber Optics, and Associated Appurtenances Project:
  - The ROW for this project consists of 0.667 Acres for Permanent Pipeline and Fiber Optic Right of Way (30 foot wide) and an additional 1.558 Acres for Temporary Construction Right-of-Way (70 foot wide, being 100 foot wide total including the permanent width), Allotment T 998A-B: being, 0.166 permanent acres, and an additional 0.388 acres of temporary surface disturbance during construction, and Allotment



998A-A: being, 0.501 permanent acres, and an additional 1.170 acres of temporary surface disturbance during construction.

- For up to Six (6) oil and/or gas flowlines up to four inches (4”) in diameter and Fiber Optic Lines.
- Total Disturbance for this project is 2.225 acres.

Across certain tribal tracts in Allotment T 998A-B in Section 29, of Township 148 North, Range 94 West, in Dunn County, North Dakota, with 100.00% Tribal Interest, and Allotment 998A-A in Section 29, of Township 148 North, Range 94 West, in Dunn County, North Dakota, with 20.00% Tribal Interest.

**BE IT FURTHER RESOLVED**, the ROW term Twenty (20) Years.

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

**BE IT FURTHER RESOLVED**, The MHA Nation Standard Terms and Conditions for Rights-of-Way are incorporated into this consent to approval of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests the Bureau of Indian Affairs to incorporate these terms and conditions into the grant of the ROW.

**BE IT FURTHER RESOLVED**, The Tribe retains the authority to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of the applicable MHA Nation Standard Terms and Conditions for Rights-of-Way, and further requests the Bureau of Indian Affairs to defer to these remedies, in accordance with the intent and notice provisions, as provided in 25 CFR §169.403(a).

**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.

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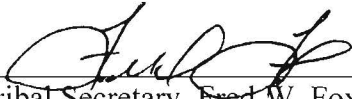
**CERTIFICATION**


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, 6 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 10<sup>th</sup> day of January, 2024, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ ] Voting. [ X ] Not Voting.

Dated this 10<sup>th</sup> day of January, 2024.

**ATTEST:**

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

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