

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

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally 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 Tribes and of the enrolled members thereof; and
- WHEREAS,** Article I of the Constitution of the Three Affiliated Tribes provides, in relevant part, that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands within the exterior boundaries of the Fort Berthold Reservation; and
- WHEREAS,** Article VI, Section 3 of the Constitution of the Three Affiliated Tribes provides that the people of the Three Affiliated Tribes have granted to the Tribal Business Council all necessary sovereign authority – legislative and judicial – for the purpose of exercising the jurisdiction recognized in Article I of the Constitution; and
- WHEREAS,** Article VI, Section 5(d) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to advise and consult with representatives of the Department of the Interior on all activities of the Department that may affect the Fort Berthold Reservation; and
- WHEREAS,** The Department of the Interior, Bureau of Indian Affairs recently revised its regulations set forth in a number of Parts included in Volume 25 of the Code of Federal Regulations, including specifically Part 162, titled “Leases and Permits”; and
- WHEREAS,** The Part 162 regulations govern the leasing and permitting of any tract of land in which an interest is owned by an individual Indian or tribe in trust or restricted status located within the exterior boundaries of an Indian reservation, and clearly apply to Tribal trust and allotted lands located within the exterior boundaries of the Fort Berthold Reservation; and
- WHEREAS,** Section 162.109(b) of the revised regulations included in Part 162 expressly recognizes that “(t)ribal laws generally apply to land under the jurisdiction of the tribe enacting such laws”, and, as represented hereinabove, Article I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Tribes extends to all lands within the exterior boundaries of the Fort Berthold

Reservation, including all those lands subject to the application of 25 CFR Part 162 (i.e., any tract of land in which an interest is owned by an individual Indian or by the Three Affiliated Tribes in trust or restricted status); and

WHEREAS, Notwithstanding such express recognition in Section 162.109(b) of the application of tribal law to the lands subject to the governance of Part 162, the next succeeding provision [Section 162.109(c)] incongruously provides that “(s)tate law may apply to lease disputes or define the remedies available to the Indian landowners in the event of a lease violation by the tenant, if the lease so provides and the Indian landowners have expressly agreed to the application of state law” (emphasis supplied); and

WHEREAS, The Tribal Business Council of the Three Affiliated Tribes is vehemently opposed to any potential application of state law to lease disputes and the definition by state law of the remedies available to the Indian landowners in the event of a lease violation by the tenant, particularly in view of the fact that these very regulations (in the next preceding subsection) recognize that the laws of the Three Affiliated Tribes would generally apply to the lands on the Fort Berthold Reservation that are subject to the governance of Part 162; and

WHEREAS, It is the position of the Three Affiliated Tribes that any such application of state law would significantly infringe on the inherent sovereignty of the Tribes generally and specifically on the judicially-recognized inherent right of self-government enjoyed by the Tribes; and

WHEREAS, In addition, any such application of state law in the context of leases and permits involving exclusively individual Indian or Tribal tracts of land held in trust or restricted status within the Fort Berthold Reservation would result in a confusing and burdensome patchwork application of different laws, in light of the application of the laws of the Three Affiliated Tribes to leases and permits involving other tracts of land held in fee status within the boundaries of the Reservation; and

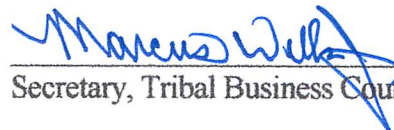
WHEREAS, It is the further position of the Three Affiliated Tribes that the Department of the Interior failed to provide for and pursue adequate consultation with Indian tribes prior to the final promulgation of the revisions of Part 162 of 25 CFR, and that this objection of the Three Affiliated Tribes to the language and intent of 25 CFR Section 162.109(c) is merely one example of objections Indian tribes may have to the final regulations promulgated by the Department in its recent trust management reform effort, as a result of the failure of the Department to provide for adequate prior consultation with tribes; in fact, the Department utterly failed to provide for any prior consultation whatsoever with tribes on this particular Section in its revision of Part 162 of 25 CFR, in violation of its well-recognized trust responsibility to Indian tribes;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation hereby respectfully requests that the Department of the Interior, Bureau of Indian Affairs forthwith take the actions necessary to remove Section 162.109(c) from 25 CFR Part 162.

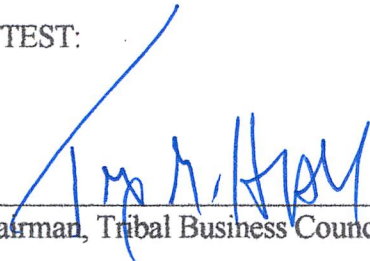
CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 3rd day of July, 2001; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 3rd day of July, 2001.


Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council