

**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 (the “Tribe”) 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 Tribe and of the enrolled members thereof; and
- WHEREAS,** Pursuant to the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act of 1992, (Title XXXV of P.L. 102-575), hereinafter the “Act”, the Three Affiliated Tribes was provided with a permanent Economic Recovery Fund created in an amount of \$149.2 million derived from proceeds obtained from the sale of electricity generated by dams along the Missouri River that are part of what is known as the Pick-Sloan Project; and
- WHEREAS,** The Tribe first became eligible to receive interest earned from the Economic Recovery Fund created by the Act on October 1, 1997; and
- WHEREAS,** The Act, in Section 3504(a)(4), also requires that interest income from the Fund be deposited into a “separate account” ; and
- WHEREAS,** The Act provides that the Tribe may receive the “interest which accrues on deposits to the Three Affiliated Tribes Economic Recovery Fund” in “payments” from the Secretary of Interior, for use in “educational, social welfare, economic development and other programs” upon approval by the Secretary of the proposed uses of the payments by the Three Affiliated Tribes; and
- WHEREAS,** The Act specifically says that the maximum amount to be deposited to the Fund is \$149.2. million, and there is nothing in the Act which specifies how the fund is to be invested or that authorizes the Secretary of Interior to deposit any amounts earned from the Economic Recovery Fund, whether denominated “capital gains” or “interest” or something else, to the permanent Economic Recovery Fund; and
- WHEREAS,** The Office of the Special Trustee from time to time provides an accounting of the Economic Recovery Fund and the income derived from the fund, a copy of which is attached hereto dated September 30, 2001, the end of the Tribe’s Fiscal Year, which accountings provide, among other matters, information about the amount of the principal in the Economic Recovery Fund, the interest earned, and the present total value of the accounts; and

WHEREAS, The accounting for September 30, 2001, as an example, indicates that the “Principal Portfolio Value” of the Economic Recovery Fund to be \$151,129,400.78, an amount that is \$1,870,599.22 greater than the original Principal amount of \$149.2 million authorized by the Act, and subsequent accountings of the Economic Recovery Fund since September 30, 2001, indicate increases to the “cost” of the “Principal Portfolio Total” of the Economic Recovery Fund; and

WHEREAS, The Three Affiliated Tribes does not believe that there exists any authority in the Act or elsewhere for additional amounts of income from the investments of the Economic Recovery Fund to be added to the principal amount of that fund, thus denying in perpetuity the use of those additional funds by the Three Affiliated Tribes; and

WHEREAS, The Office of Trust Funds Management (OTFM), has stated to the Three Affiliated Tribes that the additional amounts above \$149.2 million included as a part of the principal of the Economic Recovery Fund and identified as the cost of the “Principal Portfolio Total” can be attributed to “capital gains” realized in the sale of the various securities purchased by the Fund that earn income that is then made available to the Tribe;

NOW, THEREFORE, BE IT RESOLVED, that the Three Affiliated Tribes, acting through its Tribal Business Council, hereby demands that an adjustment be shown to the accounting of the Economic Recovery Fund to reflect the actual Principal Amount of the Fund to be \$149.2 million, and a further adjustment be made to the amount available for distribution to reflect all amounts that have been attributed to “capital gains” or other investment income that have been placed into the permanent Economic Recovery Fund; and

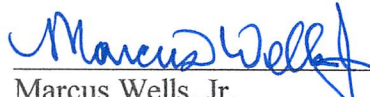
NOW, THEREFORE, BE IT FURTHER RESOLVED, that should the OTFM not make the adjustments to the Economic Recovery Fund demanded, that the OTFM seek the opinion of the Solicitor for the Department of Interior at the earliest possible opportunity to determine the exact nature of the authority, if any, that would permit the OTFM to retain additional amounts from the income derived from the Economic Recovery Fund and to add such amounts to the principal of the Fund as retained “capital gains”; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Tribal Business Council hereby authorizes such further action, including legal action, that may be necessary to resolve the issue of the exact nature and amount of the principal of the Economic Recovery Fund as created by the Act.

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, 6 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 22nd day of October, 2001; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 22nd day of October, 2001.



Marcus Wells, Jr.
Secretary, Tribal Business Council

ATTEST:



Tex G. Hall
Chairman, Tribal Business Council