

**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 Tribes and of the enrolled members thereof; and
- WHEREAS,** The land and resources within the Fort Berthold reservation established for the benefit of the Three Affiliated Tribes are and have been managed for nearly 150 years by the United States government, acting as trustee, including the management, at present, of more than \$200 million of trust funds held for the benefit of the Three Affiliated Tribes and the management of more than 200,000 acres of trust lands and minerals underneath those lands; and
- WHEREAS,** It is well documented that the U.S. Department of Interior has grossly mismanaged the administration of trust funds and trust resources belonging to Indian tribes and individual Indians, including the Three Affiliated Tribes, as also indicated by the ongoing case *Cobell, et al., v. Norton*, now pending in Federal District Court for the District of Columbia on behalf of individuals holding funds in Individual Indian Money (IIM) accounts; and
- WHEREAS,** This mismanagement has severely undermined the sovereignty of the Three Affiliated Tribes and its ability to protect and promote the interests of its members because it has denied the Tribe a significant portion of the revenue it should have received for its trust land and trust funds over the years; and
- WHEREAS,** While the Department of Interior is claiming it is reforming that management, every outside expert that has reviewed the Department’s efforts has concluded that these efforts are seriously flawed and are designed to perpetuate the Department’s power over Indians rather than make the Department an accountable trustee; and
- WHEREAS,** In light of the factors set out above, it is clear that for real trust reform to occur, and for the Federal government to agree to a fair settlement with tribes on the losses they suffered as a result of the Government’s trust mismanagement over the years, litigation must be brought by several Tribes so that substantive discussions of fair settlement of the claims of tribes affected by the mismanagement of their resources over the past 150 years may take place within Congress and within the Executive Branch of the U.S. Government; and

WHEREAS, There remain very real questions about when such a suit must be brought, because of Statutes of Limitations that may deny the right to file a claim if the claim is not brought in a timely fashion, particularly due to the so-called "reconciliation" reports concerning trust funds held by the United States for the benefit of the Three Affiliated Tribes as completed by Arthur Andersen, an accounting firm, which were delivered to the Tribes in early 1996 and which were dated December 31, 1995 and which were prepared pursuant to the Indian Trust Fund Reform Act of 1994; and

WHEREAS, Because of the Arthur Andersen reconciliation reports, which only go back to 1972, a claim should be brought against the United States, if it is to be brought at all, prior to six years from the delivery of the Arthur Andersen report to the Three Affiliated Tribes in early 1996, which would be early in 2002, in order to avoid the running of a possible 6 year statute of limitation for claims against the United States; and

WHEREAS, The Three Affiliated Tribes believes, as documented in several reports of the General Accounting Office of the United States Government, that the Arthur Andersen reports do not adequately account for the trust funds of the Tribes which were administered by the United States government, but nevertheless, a lawsuit will need to be brought to protect against any argument by the U.S. Department of Justice regarding the tolling of the Statute of Limitations;

NOW THEREFORE BE IT RESOLVED that the Three Affiliated Tribes, acting through its Tribal Business Council, hereby authorizes litigation to be commenced on its behalf as outlined above early in 2002, prior to six (6) years from the date of delivery of the Arthur Andersen reconciliation reports to the Tribe, and that such lawsuit allege, among other things, mismanagement by the United States Government of both the trust funds and assets belonging to the Three Affiliated Tribes;

NOW, THEREFORE BE IT FURTHER RESOLVED, that such litigation be commenced on the Tribes' behalf by counsel already retained by the Tribe or by its Legal Department, as may be decided by the Legal Department, provided that such litigation be brought on a contingency fee arrangement by any firm now representing the Tribe or by the Legal Department on behalf of the Tribe, such that the Tribe will only pay for necessary expenses of the lawsuit, exclusive of attorney fees while the litigation is ongoing; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Tribal Business Council hereby rescinds and revokes in their entirety any previously enacted resolution of the Tribal Business Council involving this subject matter which is not consistent with this resolution.

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 Regular Meeting thereof duly called, noticed, convened, and held on the 11 day of Jan., 2002; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 1 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 11 day of Jan., 2002.

Marcus Wells
Secretary, Tribal Business Council

ATTEST:

[Signature]
Chairman, Tribal Business Council