



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

*A Resolution entitled, "A Request to OTFM to Transfer \$1,185,963 from the Principal Portfolio of the Trust Account to the Income Portfolio"*

**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,** The Three Affiliated Tribes received \$149,200,000 under the Equitable Compensation Act ("Act") for land lost as the result of the construction of the Garrison Dam; and

**WHEREAS,** This money is held in the Economic Recovery Fund under the Act and was handled by the Office of the Special Trustee For American Indians ("OST"); and

**WHEREAS,** The Economic Recovery Fund is supposed to remain at \$ 149,200,000 under the Equitable Compensation Act; and

**WHEREAS,** This account has accrued interest and earnings (capital gains) since 1994 under the management of the Office of Trust Funds Management; and

**WHEREAS,** The Office of the Special Trustee of the Interior ("OST") has taken the position that "capital gains" on the Fund are to be treated differently than interest and are not distributable to the Tribes; and

**WHEREAS,** The Tribal Business Council and Senator Conrad strongly disagree with OST's position and the Tribe has demanded that "capital gains" be treated the same as interest and be placed in the trust account's income portfolio; and

**WHEREAS,** Upon review, OST has agreed to release \$1,185,963 of the capital gains as an "amortized discount"; and

**WHEREAS,** The Tribal Business Council desires to have this money immediately transferred to the income portfolio of the Equitable Compensation Act trust account and to have OTF M to continue to amortize and accrete the investment securities in the future.



**NOW, THEREFORE, BE IT RESOLVED**, that the Tribal Business Council hereby requests OTFM to immediately transfer \$1,185,963 from the principal portfolio of the trust account to the income portfolio of the Equitable Compensation Act trust account and hereby further requests that OTF M to continue to amortize and accrete the investment securities in the future.

**BE IT FINALLY RESOLVED**, that the Tribal Business Council hereby declares that this resolution should not be interpreted as a concession on the issue of distribution of capital gains earned on the Economic Recovery Fund principal account. The Tribe maintains that capital gains should be distributed to the Tribe and treated as income in the income portfolio account. The intent of the Equitable Compensation Act was for all earnings, be it interest or capital gains, be distributed to the Tribes. Thus, the Tribes continue to demand that OTFM distribute all interest and capital gains earned.

**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 14<sup>th</sup> day of July, 2003,

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 [] Voting. [  ] Not Voting.

Dated this 14<sup>th</sup> day of July, 2003.

**ATTEST:**

Tex G. Hall  
Chairman, Tex G. Hall  
Tribal Business Council

Randy Phelan  
Executive Secretary, Randy Phelan  
Tribal Business Council