



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

*A Resolution entitled, "Request to the U.S. Corps of Engineers that All Lakeshore Lands Be Returned to the Tribes."*

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws under said Act; and
- WHEREAS,** Pursuant to Article III, Section 1 of the Constitution and By Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; and
- WHEREAS,** Pursuant to Article VI, Section 5 (d) of said Constitution, the Tribal Business Council has the power to negotiate with the Federal, State and local governments on behalf of the Tribes; and
- WHEREAS,** Certain lands along the Missouri River and within the exterior boundaries of the Fort Berthold Reservation were taken from the Tribes for the Garrison Dam Project (the "Project") over a half century ago; and
- WHEREAS,** The Tribes have attempted to recover the lakeshore lands that are in excess of those needed for the Project; and
- WHEREAS,** The Three Affiliated Tribes and Standing Rock Sioux Equitable Compensation Act, Public Law 102-575 (October 30, 1992) specifically provided for the return of Project lands located at or above contour elevation 1,860 feet mean sea level (msl) to the Tribe or other former land-owners but those provisions were repealed in 1994 by Section 407, Public Law No. 103-211; and
- WHEREAS,** The repealer provided, however, that "the U.S. Army Corps of Engineers should proceed with the Secretary of the Interior to designate excess lands and transfer them."; and
- WHEREAS,** Following the repeal, the Tribe sued the Secretary of the Army, the Corps of Engineers, and other federal defendants, to enforce the requirement in the repeal that the excess lands be transferred to the Tribe pursuant to *Three Affiliated Tribes of the Fort Berthold Reservation v. Brownlee*, Civ. No. 94-1086; and
- WHEREAS,** On March 10, 2004, United States District Judge Richard Roberts dismissed that suit, ruling that the Corps has discretion whether to return excess lands; and
- WHEREAS,** The Tribe has responded by seeking return of the "taking lands" under separate legislative authority – specifically the Fort Berthold Mineral Restoration Act; and
- WHEREAS,** Section 206(b) of the Fort Berthold Mineral Restoration Act, Public Law 98-602, 98 Stat. 3149, provides in pertinent part:

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The Secretary of the Army and the Secretary of the Interior may enter into agreements under which any land within the exterior boundaries of the reservation acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

**WHEREAS,** The U.S. Corps of Engineers has indicated that the Fort Berthold Mineral Restoration Act clearly provides independent authority for the Corps to transfer the lakeshore lands that are "no longer needed" for the Project to the United States Department of Interior to hold in trust for the Tribes; and

**WHEREAS,** The U.S. Corps of Engineers has requested that the Tribes indicate exactly which lands it would like for the Corps to transfer to the United States Department of Interior to hold in trust for the Tribes; and

**WHEREAS,** The Tribal Business Council would like to have all lakeshore lands above the maximum flood pool elevation (1,854 msl) returned back to the Tribes.

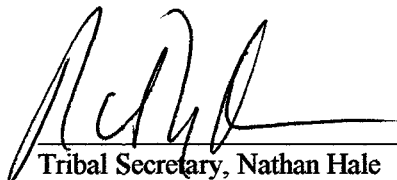
**NOW THERE FOR IT BE RESOLVED** that the Tribal Business Council hereby requests that all lakeshore lands within the exterior boundaries of the Fort Berthold Reservation above the maximum flood pool elevation (1,854 msl) be returned back to the Tribes.

**CERTIFICATION**

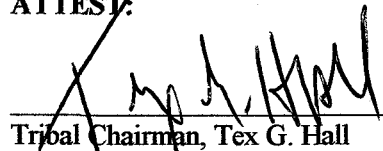
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the March 14, 2005; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 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 day of March, 2005.

  
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Tribal Secretary, Nathan Hale  
Tribal Business Council  
Three Affiliated Tribes

ATTEST:

  
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Tribal Chairman, Tex G. Hall  
Tribal Business Council  
Three Affiliated Tribes