



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

**A Resolution Entitled: “Adoption of Title II, Chapter 4, Tribal Notice Requirement and Right To Intervene Statute.”**

**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 pursuant to said Act; and

**WHEREAS,** Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

**WHEREAS,** The Constitution of the Three Affiliated Tribes 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 Tribe has a compelling interest in protecting tribal sovereignty, jurisdiction and the validity of tribal laws; and

**WHEREAS,** Tribal sovereignty, jurisdiction, or the validity of tribal laws may be questioned in cases in the Tribal Court in which the tribe or any agency, officer, or employee of the Tribe is not a party; and

**WHEREAS,** With adequate, timely, and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty, jurisdiction, or the validity of tribal law, the Tribe can effectively assess whether and how to participate in such cases; and

**WHEREAS,** To ensure that the Tribe has adequate, timely and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty, jurisdiction, or the validity of any tribal law in which the Tribe or any agency, officer, or employee thereof is not a party, it is advisable and necessary to adopt the attached Notice and Right to Intervene statute.

**NOW THEREFORE BE IT RESOLVED,** that pursuant to its constitutional power and authority, the Tribal Business Council of the Three Affiliated Tribes hereby adopts the attached Notice Requirement and Right to Intervene statute Law in order to protect its sovereignty, jurisdiction, and laws, and to give the Tribe adequate, timely, and uniform notice of cases pending before the Tribal Court that

**TITLE II**  
**Chapter 4**  
**Tribal Notice and Right to Participate in Certain Actions**

**Section 2-4-1. Findings and Purpose.**

The Three Affiliated Tribes Tribal Business Council has a compelling interest in protecting the Three Affiliated Tribes sovereignty and jurisdiction and the validity of tribal laws whenever the Tribes' authority is challenged in an action in the Courts of the Three Affiliated Tribes. Tribal sovereignty and jurisdiction or the validity of tribal law may be challenged in cases in the Fort Berthold District Court in which the Tribe or any agency, officer, or employee thereof is not a party. With adequate, timely, and uniform notice of cases in the Fort Berthold District Court that challenge tribal sovereignty and jurisdiction or the validity of tribal law, the Tribes can effectively assess whether and how to participate in such cases.

The purpose of this Chapter is to provide the Three Affiliated Tribes with adequate, timely, and uniform notice of any and all cases brought before the Fort Berthold District Court that challenge tribal sovereignty and jurisdiction or the validity of any tribal law and in which the Tribes or any agency, officer, or employee thereof is not a party and to grant the Tribes the right to participate in such cases by way of intervention of as amicus curiae.

**Section 2-4-2. Notice Requirement.**

In any action or proceeding in the Fort Berthold District Court which the Tribes or any agency, officer, or employee thereof is not a party but which challenges the Tribes' sovereignty and/or jurisdiction or the validity of any tribal law, the District Court shall give notice in writing by certified mail of the action or proceeding to the Director of the Tribe's Legal Department. The District Court shall also serve all parties to the action with a copy of the notice given.

**Section 2-4-3. Manner and Timing of Notice**

Notice required under this Chapter shall be given in writing and simultaneously with any challenge to the Tribes' sovereignty and/or jurisdiction or the validity of any tribal law. The Notice shall identify the action or proceeding and shall include a brief written explanation of the grounds upon which the Tribes' sovereignty, jurisdiction, or the validity of tribal law is being challenged.

**Section 2-4-4. Tribes' Right to Participate in Action**

The Three Affiliated Tribes shall have the unconditional right to participate in any case in which it receives notice or which it has the right to receive notice under this Chapter as follows:

- a) The Tribes may intervene as a matter of right at any time in any action or proceeding to which the notice requirements of this Chapter apply. Upon intervening under this Section, the Tribes may assert any and all available claims and defenses and may present any and all admissible evidence relating to the challenge of its sovereignty, jurisdiction or the validity of any tribal law, and is entitled to the same relief, including costs, as if the Tribes had instituted a separate action or proceeding, provided that the Tribes will not be required to pay costs of litigation in any action or proceeding in which it has intervened under this Chapter. Intervention under this Chapter does not abridge, limit, or otherwise affect the right of the Tribe to commence, maintain, defend, or otherwise intervene in actions or proceedings in the District Court.
- b) Upon timely motion or application, the Tribe may appear as *amicus curiae* (friend of the court) in any action or proceeding to which the notice requirements of this chapter apply.
- c) The Tribes may timely determine that it is in the best interest of the Tribes not to intervene, appear as *amicus curiae*, or otherwise participate in an action or proceeding in the District Court to which the notice requirements of this Chapter apply.
- d) Unless the District Court orders otherwise, where timely and proper notice has been given under this Chapter, the Tribe will notify the Tribal Court and parties in writing within sixty (60) days of receipt by the Tribes of such notice of any determination to participate in any action or proceeding by way of intervention or appearance as *amicus curiae*.
- e) Notwithstanding the notice requirements of this Chapter, the Tribes shall have the right to intervene or appear as *amicus curiae* in any case pending before the District Court prior to the adoption of this Chapter for which it would have had the right to notice under this Chapter.

**Section 2-4-5. Failure to give Notice.**

The failure of the District Court to give notice as required by this Chapter shall not deprive the District Court of jurisdiction and is not a waiver or modification of any rights otherwise timely asserted by any party. Any notice given under this Code is not a substitute for, or a waiver or a modification of, any other pleading requirement under tribal law.

**Section 2-4-6. Late Notice**

If the District Court discovers that notice to the Tribes under this Chapter should have been but has not been given, the District Court will promptly give notice in writing to the Tribes as required by this Chapter. The District Court may stay the action or proceeding at any stage to allow compliance with this Chapter. If final judgment has already been

entered, the Tribes may motion or apply for rehearing as of right and the District Court shall entertain promptly any such motions or applications for rehearing by the Tribes, and in disposing of such motions the District Court, for good cause shown, may vacate a judgment or any portion thereof.

**Section 2-4-7. Sovereignty Immunity and Jurisdiction Unaffected.**

Nothing in this Chapter shall be deemed or construed to deprive, limit, or extend the jurisdiction of the District Court.

Notice required under this Chapter does not authorize a party to name the Tribes or any agencies, officers, or employees thereof as a party to any action or proceeding. Nothing in this chapter shall be deemed or construed as a waiver or limitation of the sovereign immunity from suit of the Tribes, its agencies, officers, or employees.

**This Chapter was enacted by the Three Affiliated Tribes Tribal Business Council on October \_\_\_\_, 2006 pursuant to Tribal Business Council Resolution 06-126 NH.**



challenge tribal sovereignty, jurisdiction, and laws but to which the Tribe or any agency, officer, or employee of the Tribe is not a party.

**BE IT FINALLY RESOLVED**, that the foregoing adopted statute shall be codified into the Three Affiliated Tribes Tribal Code at Title II, as Chapter 4.

**CERTIFICATION**

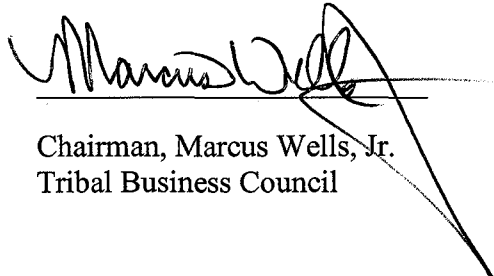
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 6 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12 day of October 2006; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 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 12<sup>th</sup> day of October 2006.

**ATTEST:**

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Secretary, Nathan Hale  
Tribal Business Council

  
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Chairman, Marcus Wells, Jr.  
Tribal Business Council