



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

A Resolution Entitled: *“Approval of Joint Settlement Agreement in Appeal of MHA Nation, IBLA No. 2006-92”*

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, Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, On October 12, 2005 the Bureau of Land Management (BLM) conducted a competitive oil and gas lease sale for three parcels of federal property owned by the Corps of Engineers located within the boundaries of the Fort Berthold Indian Reservation for oil and gas exploration which were ultimately awarded to Black Rock Resources, LLC; and

WHEREAS, in 2005 the Tribes filed a protest with the (BLM) regarding the BLM’s October 12th 2005 competitive oil and gas lease sale on the basis that the BLM did not follow the proper consultation process regarding the impact of the oil and gas lease sales on historic properties of cultural and religious significance to the Tribes under Section 106 of the National Historic Preservation Act (NHPA) when it issued the competitive oil and gas lease sales; and

WHEREAS, The BLM dismissed the Tribes protest on the grounds that the actual leasing of federal lands was not a federal undertaking requiring Section 106 consultation with the Tribe under the NHPA, taking the position that the actual federal



undertaking would occur at the time of issuing a permit to drill at which time it would be required to consult with the Tribe pursuant to the requirements of NHPA; and

WHEREAS, The Tribe subsequently appealed the BLM's dismissal of the Tribe's protest to the Interior Board of Land Appeals, which appeal is entitled *Appeal of MHA Nation IBLA No. 2006-92* which is still pending before the IBLA and;

WHEREAS, on October 14th 2006, the IBLA issued an order directing the Tribe and the BLM to enter into direct negotiations to settle the Tribes' appeal; and

WHEREAS, Negotiations with the BLM were delayed by the Tribes negotiation with Black Rock Resources who intended to enter into an MOU with the Tribe for protection of cultural resources on federal lands as well as on lands that Black Rock Resources leased from the Tribe pursuant to an IMDA with the Tribe, however no such MOU was ever reached and the parties need to settle the appeal consistent with the order of the IBLA; and

WHEREAS, the parties through their attorneys have reached the following terms for a Joint Settlement Agreement as follows:

Upon receipt of lease nominations for federally owned oil and gas mineral parcels within the exterior boundaries of the Fort Berthold Reservation, the Bureau of Land Management (BLM), North Dakota Field Office, will notify by letter the Mandan, Hidatsa and Arikara Nation Tribal Chairperson and Tribal Historic Preservation Officer. Each notice will contain a legal description of the parcel nominated and request that the Nation provide any information regarding concerns it may have in leasing the parcel. If, after 30 days, the Tribal Chairperson or the Tribal Historic Preservation Officer has not brought any issues to the attention of the BLM North Dakota Field Office, the BLM shall proceed with processing the lease nomination, and consultation for the lease phase shall be considered complete. The BLM shall attach the following cultural resource stipulation to all leases of federally owned oil and gas mineral parcels within the exterior boundaries of reservation:

"This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA or other authorities. The BLM may



require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided minimized or mitigated."

The BLM shall resume section 106 consultation in accordance with 36 C.F.R. Part 800 upon receipt of an application for a permit to drill (APD) in a manner consistent with 36 C.F.R. Part 800 and the foregoing cultural resources stipulation.

WHEREAS, The Tribal Business Council finds that the language set forth in the Joint Settlement Agreement is acceptable and believes it is in the best interest of the Tribes to settle the Tribes' Appeal; and

NOW, THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby approves the Joint Settlement Agreement in *Appeal of the MHA Nation*, IBLA NO. 2006-92 and authorizes Tribal Chairman Marcus Wells Jr. to execute said Joint Settlement Agreement.

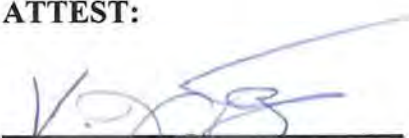
CERTIFICATION

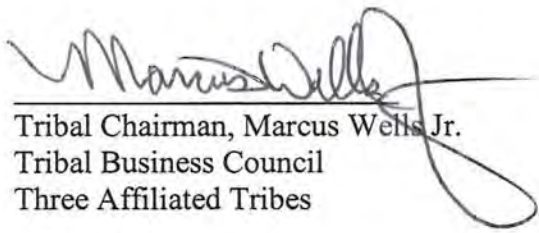
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 15th day of May 2008; 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 15th day of May 2008.

ATTEST:


Tribal Secretary, V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes


Tribal Chairman, Marcus Wells Jr.
Tribal Business Council
Three Affiliated Tribes