



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

A Resolution Entitled: "Request for BIA to Proceed with Review of Land into Trust Application for proposed Refinery Property"

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, The Constitution of the Three Affiliated 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, 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, Article VI, Section 5 (I) 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

WHEREAS, Article VI, Section 5(i) of the Constitution specifically authorizes and empowers the Tribal Business Council to manage Tribal lands, interests in Tribal lands, and property upon such lands, in conformity with Article IX of the Constitution; and

WHEREAS, Article VI, Section 5(j) of the Constitution specifically authorizes and empowers the Tribal Business Council to protect and preserve the property, wildlife and natural resources of the Tribes; and

WHEREAS, on March 13, 2003, the Tribal Business Council formally requested that the Bureau of Indian Affairs (BIA) approve a fee-to-trust application for 468.39-acres of land located in the northeast corner of the Fort Berthold Indian Reservation to construct, own, operate, and maintain the MHA Nation Clean Fuels Refinery Project (Project), a petroleum refinery on 190 acres and use the remaining acres to grow forage for buffalo; and

WHEREAS, the fee lands consist of three tracts with the following legal descriptions:

N1/2 of Section 19, Township 152 North, Range 87 West, 5th Principal Meridian, Ward County, North Dakota, containing 320.00 acres more or less [Parcel #1 and #2]; and

NW1/4, Section 20, Township 152 North, Range 87 West, 5th Principal Meridian, Ward County, North Dakota, containing 148.39 acres more or less [Parcel #3]; and





WHEREAS, the Tribe also submitted an application for an NPDES permit under the Clean Water Act for discharges from the Project with the U.S. Environmental Protection Agency (EPA); and

WHEREAS, on April 3, 2008, the Assistant Secretary of Indian Affairs removed the authority for decision-making on the fee-to-trust application from the Regional Office to BIA – Headquarters in Washington, D.C.; and

WHEREAS, since the BIA – Headquarters assumed control over the fee-to-trust application, the BIA has not been actively involved with this Project and has failed to keep the Tribe apprised of the status of the fee-to-trust application; and

WHEREAS, since 2003, the Tribe has worked diligently with EPA to finalize the NEPA process for the Project; and

WHEREAS, on June 26, 2011, the Tribe began actual construction at the Project site and poured the foundation for the flare stack; and

WHEREAS, the Tribe has since ceased all further construction at the Project pending acquisition of a Stormwater Permit with EPA and Wetlands Permit with the Army Corps of Engineers; and

WHEREAS, the Tribe received confirmation from the EPA, Region 8 office that a Record of Decision (ROD) will be published in the Federal Register on August 12, 2011, for the Project concluding EPA’s NEPA review for the Project; and

WHEREAS, the Tribe had hoped that the BIA would have worked along-side EPA in a unified effort to keep this Project moving forward and that a ROD would have been issued by BIA concerning the Nation’s fee-to-trust application at this juncture; however, nothing further has been done by BIA to proceed with the fee-to-trust application; and

WHEREAS, the Tribe was recently notified that BIA – Headquarters has transferred the authority for decision-making on the fee-to-trust application back to the Great Plains Regional Office in Aberdeen, South Dakota; and

WHEREAS, the Tribe is available and eager to assist the Regional Office in finalizing the BIA’s NEPA process; and

WHEREAS, the Tribe requests that the Regional Office proceed with the review of its fee-to-trust application and issue a ROD on this matter as soon as possible; and





WHEREAS, the Tribal Business Council has determined that it is in the best interest of the Tribes for the 468.39-acres of land be taken into trust for the benefit of the Tribes.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby requests that the BIA to proceed with the review of the Tribes fee -to-trust application submitted to BIA in 2003 and to issue a ROD on this matter as soon as possible and take the 468.39-acres of land into trust; and

BE IT FURTHER RESOLVED, that the Tribal Business Council hereby requests that BIA issue a decision on this matter in a timely manner as the Nation is actively proceeding with financing this Project and will be expending considerable amounts of money on this Project; and

BE IT FURTHER RESOLVED, that the Tribal Business Council hereby authorizes, approves and directs the Nation's Energy Department, and its experts and attorneys to work with the BIA to finalize the NEPA process and provide all necessary information and assistance to the BIA upon request; and

BE IT FINALLY RESOLVED, that the Chairman is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this resolution, including informing Congressional delegation and relevant subcommittees of BIA's progress on taking this land into trust.





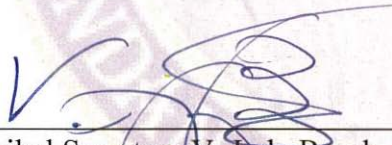
CERTIFICATION

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, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 11 day of August, 2011. 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.

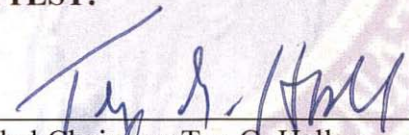
Chairman Voting. Not Voting.

Dated this 11 day of August 2011.

ATTEST:



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



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

