



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

A Resolution entitled: Approval of a Memorandum of Agreement with the North Dakota Industrial Commission”

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, Article III, Section 1 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 (d) of the Constitution provides that the Tribal Business Council has the power to negotiate with the federal, state and local governments on behalf of the Tribes; and

WHEREAS, Article VI, Section 5 (J) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to protect and preserve the property, wildlife and natural resources 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 North Dakota Industrial Commission Department of Mineral Resources Oil and gas Division (NDIC) has proposed a Memorandum of Agreement with the tribe for the purpose of promoting and providing intergovernmental consultation and cooperation related to well permitting activities associated with oil and gas activity on the Fort Berthold Reservation in certain watch areas; and

WHEREAS, The Tribal Business Council recognizes that the NDIC and the Tribe have concurrent jurisdiction over oil and gas drilling on fee lands within the exterior boundaries of the Fort Berthold Reservation; and

WHEREAS, The Tribal Business Council finds that is in the best interests of the Tribes and the Tribal environment that the proposed MOA with NDIC be approved and entered into.

Memorandum of Agreement (MOA)

between the

Three Affiliated Tribes (TAT)

And the

**North Dakota Industrial Commission
Department of Mineral Resources
Oil and Gas Division (NDIC)**

I. Preface

The NDIC and TAT have concurrent jurisdiction over oil and gas drilling within the exterior boundaries of Fort Berthold Reservation. This agreement is entered into to provide and promote intergovernmental consultation and cooperation as they relate to well permitting activities associated with the oil and gas industry.

II. Effective Date

This agreement is made and entered into upon the date both parties indicate acceptance by affixing the appropriate signatures and shall remain in effect until terminated pursuant to article VI.

III. Authority

NDIC regulates the oil and gas industry pursuant to North Dakota Century Code (NDCC) Chapter 38-08, Control of Gas and Oil Resources. The regulatory authority of NDIC includes approval of applications for permits to drill.

TAT, through its Tribal Business Council, is the governing body of the Fort Berthold Reservation. TAT has the authority and jurisdiction to execute an intergovernmental Memorandum of Agreement with the State of North Dakota to promote non-degradation of the environment pursuant to the Constitution and By-Laws of the Three Affiliated Tribes of the Fort Berthold Reservation.

IV. Notification and Response Actions

To promote the intergovernmental relationship through consultation and cooperation, efficient use of state and tribal funding, and non-degradation of the environment, the

NDIC and TAT agree to respond to applications for permit to drill within the Fort Berthold Reservation in the following manner:

- a. A General Notification shall be made by NDIC to TAT through its designated contact of all applications to drill where the well location lies within the exterior boundaries of the Fort Berthold Reservation through biweekly or monthly notice.
- b. All applications for permit to drill within the exterior boundaries of Fort Berthold Reservation will be evaluated by NDIC to determine if the surface location of the proposed well lies within the designated Watch Areas in the Fort Berthold Reservation listed in paragraph V below.
- c. The NDIC shall specifically inform the designated TAT contact of any application to drill when the proposed well location lies within a designated Watch Area within 48 hours of that determination by NDIC.
- d. For proposed well locations within a designated watch area, the NDIC shall require the applicant to discuss the proposed well location with a designated TAT contact. Permits to drill should not be issued until consultation between the applicant and TAT is confirmed by NDIC.
- e. After contact from the operator of the proposed well in a designated Watch Area, if the TAT identifies the proposed location as a significant threat to non-degradation of the local environment, the TAT shall work with the well operator and the NDIC to implement appropriate assessment and corrective action activities.
- f. NDIC and TAT retain the right to pursue appropriate regulatory remedies against the well operator either in a cooperative manner or separately.

V. Watch List Areas

The following areas are identified for protection of communities within the exterior boundaries of Fort Berthold Reservation:

152N 89W – sections 19, 30, and 31
152N 90W – sections 24, 25, and 36
152N 92W – sections 16, 17, 18, 19, 20, and 21
152N 93W – sections 13, 14, 15, 16, 21, 22, 23, and 24
149N 94W – sections 1, 2, 11, 12, 14, 15, 16, 21, and 22
148N 88W – sections 1, 2, 11, and 12
147N 91W – sections 26, 27, 34, and 35

VI. Termination of Agreement

This agreement shall remain in effect until terminated. A party desiring to terminate this agreement must give written notice of its intention ninety (90) days prior to the date of cancellation setting forth the reasons and conditions of said termination.

VII. Acceptance of Agreement

The parties to this agreement are aware of all conditions herein and do hereby agree to in good faith carry out the terms of this agreement.

VIII. Sovereign Immunity

Nothing in this Agreement shall be interpreted as diminishing or enhancing the sovereign rights of the parties, including the sovereign immunity of the parties, except as may be specifically provided herein, nor shall this Agreement be permitted to be used for any purpose in litigation brought by any person including the parties to this Agreement. In the event of a conflict with any other provision of this Agreement, Part VIII shall prevail and control.

For the NDIC:
Lynn D. Helms
Director, Oil and Gas Division

For the TAT:
Tex G. Hall
Chairman, Three Affiliated Tribes

/s/ Lynn D. Helms
Signature

Signature

Date

Date



NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby approves the proposed Memorandum of Agreement between The Three Affiliated Tribes and the North Dakota Industrial Commission Department of Mineral Resources Oil and Gas Division which is herewith attached.

BE IT FINALLY RESOLVED, that the Tribal Business Council authorizes Tribal Chairman Tex G. Hall to sign said MOA.

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CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Forth 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 12th day of July, 2012, 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 12th day of July, 2012.

ATTEST:



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



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