



**THREE AFFILIATED TRIBES  
TRIBAL BUSINESS COUNCIL  
NATURAL RESOURCE COMMITTEE  
07-17-BB  
OCTOBER 16, 2007**

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**I. CALL TO ORDER:**

Meeting called to order at 8:45 A.M.

**II. ROLL CALL:**

Present: Councilman Whitecalfe, Councilman Hale, and Committee Chairman Benson. A quorum is established. Councilwoman Brugh arrived at 10:35 A.M. Councilman Packineau arrived at 11:10 A.M.

**III. APPROVAL OF MINUTES**

September 25, 2007

Councilman Hale moved to approve of September 25, 2007 minutes with amendments, seconded by Councilman Whitecalfe.

Discussion: To add Whitecalfe on to the roll call.  
VOTE: 3 Ayes 0 Nays Motion carried.

**IV. APPROVAL OF THE AGENDA**

Councilman Whitecalfe moved to approve of the agenda, seconded by Councilman Hale.

Discussion: No discussion.  
VOTE: 3 Ayes 0 Nays Motion carried.

**V. Lorry Little Swallow/Jack Rabbithead/Farm Pasture Leases**

**a. Chad Pennington-Renewal**

Councilman Whitecalfe moved to approval of Allot. No. T3063 for Chad Pennington described as cropland only with W ½ NE ¼, Sec. 22, Twp. 150, Rge. 92 W., Fifth Principal Meridian, North Dakota, containing 52.2 acres for the cash rent of \$1,983.60 @ \$38.00 per acre for a period 5 years. RENEWAL seconded by Councilman Hale.

Discussion: No discussion.  
VOTE: 3 Ayes 0 Nays Motion carried.

**b. Lynn Billadeau-New Lease**

Councilman Whitecalfe moved to approval of Allot. No. T3090 for Lynn Billadeau described as cropland only with NW ¼ SE ¼, Sec. 6, Twp. 147, Rge. 88 W., Fifth Meridian, North Dakota, containing 37 cultivated acres for the cash rent of \$1,480.00 @ \$40.00 per acre for a period of 5 years. NEW LEASE seconded by Councilman Hale.

Discussion:

Term is from 2008 to 2012.

VOTE:

3 Ayes 0 Nays Motion carried.

VI. **Edward Fox-Exchanges/Landsales/Homesites**

**a. Dwight Davis Wounded Face-Land Exchange**

Councilman Whitecalfe made a motion to approve the land exchange between the Tribe, Tribal Allot. No. T1093A-B described as NW ¼ SW ¼ NE ¼, Sec. 36, Twp. 151, Rge. 95 W., Fifth Principal Meridian, North Dakota, containing 10.0 acres of grassland valued @ \$3,000.00 and Dwight Davis Wounded Face Allot. No. 121 described as N ½ NE ¼, Sec. 36 Twp. 151, Rge. 95 for 1.77 acres, Allot. No. 1586 described as E ½ SE ¼, Sec. 2, Twp. 151, Rge. 94 for 4.00 acres, Allot. No. 1588 described as L3, Sec. 2, Twp. 151, Rge. 94 for .98 acres, Allot. No. 1589 described as SE ¼ NW ¼, Sec. 2, Twp. 151, Rge. 94 for 1.00 acres, Allot. No. 238A-B described L4 & 5, Sec. 6, Twp. 148, Rge. 89 for 1.23 acres, & Allot. No. 543A described as L4, 5, & 6; Sec. 1, Twp. 151, Rge. 94 for 3.00 acres, seconded by Councilman Hale.

Discussion:

Old Jim Hall place west of the Blue Buttes. This is recommended by the Natural Resource department.

VOTE:

3 Ayes 0 Nays Motion carried.

**b. Curtis Hall-Homesite**

This is tabled until Ed Fox can talk to Ted Lonefight, III. It is located within the boundaries of the Buffalo Pasture. Across the road from Joann Young Birds place. It would have to be fenced off and taken out of the Range Unit. It is close to the road and close to the power.

**c. Jason White Owl-Home site**

Councilman Hale move for approval for a home site for Jason White Owl for 50 x 100 feet on Dakota Drive for 50 years @ \$50.00 per month, whatever the case maybe, for Tribal Fee described as Lot 3, block 12 sec. 18, Twp. 152, Rge. 92, Fifth

Principal Meridian, North Dakota, seconded by Councilman Whitecalfe.

Discussion: This will begin October 2007 and end on December 31, 2057. If Jason leaves it, then it can be leased to someone else.

VOTE: 3 Ayes 0 Nays Motion carried.

**d. Joe Bear-Water Sewer Application**

Councilman Whitecalfe moved to approve of I.H.S. water sewer application for Joe Bear, seconded by Councilman Hale.

Discussion: It is on fee patent land. This is based on Indian Health service regulations.

VOTE: 3 Ayes 0 Nays Motion carried.

**VII. Fred Poitra-Game and Fish Director**

**a. Deer Proclamation**

Councilman Whitecalfe moved to approve of an increase in deer license from \$300 to \$500 dollars and the change of the date/year of the season start date from November 3, 2006 to November 2, 2007 to end on November 24, 2007; seconded by Councilman Hale.

Discussion: There were 50 licenses, only 10 left to sell. The only thing added was 225 buck tags, 25 doe tags for each segment. For the Shell Creek area, 50 buck tags and 50 doe tags were added. For non-residence that live on the reservation, 50 tags were added @ \$50.00 each. The season was extended in 2006.

VOTE: 3 Ayes 0 Nays Motion carried.

**b. Proposal-Elbowoods Works**

Update.

**c. Access to Blue Buttes**

Discussion: If you have a range unit in this area, there is still access to it for hunting. Paddle locks have to come down. Tress passing signs have to be removed. A letter was sent out in regards to this by BIA. On October 2, 2007 the BIA will send someone out and if not, then Game and Fish will take care of it. Mr. Tom Wilkinson is the only one that permission has to be received by and Fred Poitra is unable to contact him. Tom is to make an agreement with

the tribe to get gain access across his fee patent land to range unit #96. Natural Resource Chairman Benson will get a list from Mary Fredericks at BIA to find out which range units will still have cattle on them due to extensions.

VIII. **Fred Fox- Natural Resource Director**

**a. Dakota 3-Marietta Jake**

Councilman Whitecalfe moved to approve Marietta Jake to be hired by TAT and detailed to work along side the BIA on Dakota 3's IMDA, there will be a memorandum of agreement between Three Affiliated Tribes and Dakota 3 regarding Marietta's salary; seconded by Councilman Hale.

Discussion: When Natural Resource Director, Fred Fox visited with Mr. Neumiller; he suggested that it be open for any oil company to have their own person be hired by the tribe to then be detailed to the BIA to handle the oil companies own leases to ensure they are processed more quickly. There will have to be a memorandum of agreement between the oil companies and the Three Affiliated Tribes regarding the salary of the person being detailed and an administrative fee charged. A percentage would also have to go to the Three Affiliated Tribes. For these positions, a former BIA employee would be ideal for their knowledge. BIA security clearances would have to be met. Mr. Newmiller, the acting superintendent of the BIA; wants approval from the Tribal council to make sure that this is even across the board and known that the BIA is in agreement with this. Fred Fox will write it up, to the BIA.

VOTE: 3 Ayes 0 Nays Motion carried.

**b. Horace Pipe**

Camie Gosnell and Fred Fox to work it out with Horace Pipe as a consultant and to bring it back to the Natural Resource committee on the final decision.

IX. **Ted Lonfight, III-MHA Ranch and Lodge 2008 Budget**

Councilman White moved to forward to full tribal business council the 2008 Budget of #482, 386.20 and a supplement of \$291,12.52 of Tribal funds, seconded by Councilman Hale.

X. **Dan Press, Attorney-Conference call w/Committee @ 9:30 a.m.**

Discussion: On the telephone is; Dan Press, Joe Nelson, and Ivy Anderson. They will summarize their findings and give their

conclusions. Based on what Dan was able to find, the tribe has a strong winters doctrine water rights on the Missouri river. Dan's recommendation is to seek to enter into negotiations with the governor to see if the tribe can negotiate a cooperative friendly quantification of those water rights. Right now to Dan's knowledge, no tribe on the Missouri has quantified their water rights. Dan believes down the road, the water in the Missouri is going to be extremely valuable and it is important to get the tribes water quantified. The normal principle for quantification is the number of practicable; irrigate able acres on the reservation. Back in 1984 the substantial amount of work was done in terms of analyzing such things as acreage and some of the other rights the tribes have. Other factors that would go into determining how many acre feet of water the tribe would be entitled to under quantification. So a lot of the work has already been done. The fact that Dan believes is so compelling, is that it should not be an adversarial negotiation with the state. The state and the tribe have common interest in keeping as much of the water as possible in the state of North Dakota and having the ability to limit what goes down to Missouri and the lower states. The state of North Dakota needs the tribes in the state because the tribes have the oldest and strongest water rights (before North Dakota became a state). Because there is no shortage of water right now in the Missouri, it would not be as if the tribe would be in a fight with non-Indian water users over a limited resource. Right now there is more water then its use. Quantification would really be nailing down the tribes rights for future opportunities in terms of selling the water. It would also give the tribe an increased role in activities such as Red River Valley Pipe line being developed which would take water out of Lake Sacagawea. Dan's understanding is the state went ahead and negotiated that without ever really involving the tribe. If the tribe had quantified rights on the Missouri River they would be a player in those kinds of activities and be in the position to protect the tribal interests.

Joe Nelson says there was a fair amount of work that had gone into doing an initial assessment of the Tribes potential water rights in the late seventies, early eighties for development for potential negotiations with the governor's office. It never got off the ground back in the mid-eighties. If we look at the materials that have been put together and made an assessment with respect to case law and what has happened since 1984. With stating the law in what has happened since 1984 when the Tribes really had did their last push on this, is really just a crystallization of what Tribal water rights quantifications can

be. The uses for the water rights on the reservation the basis upon which you can make a quantification. There aren't so many questions as to what your rights really are and how you quantify those rights as there were back in the mid-eighties. As a matter of fact if you look at the materials in the report, one of the questions that had come out of the governor's office back in the mid-eighties was "well here is your claim some how beyond the purposes of the reservation and beyond what winters doctrine rights are meant to cover". Joe believes this is a generic, philosophical/obstruction type arguments have really fallen by the wayside since that time. Most or all states now have really stopped dropping their basic objections to quantification of reserved water rights and have found them to actually be, for a variety of reasons with the increasing stress and demands of water on the systems; North Dakota's governor may be in the position to actually need or desire to quantify the Tribal water rights because it provides additional certainty on the systems as to what the Tribes rights are and also provides for a means to sell a lot of other basin wide type of disputes that are on going for one reason or another. Some of the things that will need to be looked at obviously as part of the report we noted that if you move forward you will need a hydrologist. A consulting engineer that can come in and put together an estimate of what the Tribe could claim with respect to your reserved rights. There are some other issues that you would want to think about and consider the ground water resources. You have a lot of ground water resources on the reservation. That is one area that there is not a lot of defined law on quantification of ground water rights.

XI. **Texx Lone Bear/Felicia Felix- Fort Berthold Rural Water**

**a. Negotiations with State of North Dakota**

Councilman Whitecalfe moved to approve Texx Lone Bear to start negotiations with the State of North Dakota to receive construction funding from the Red River Valley grant to be appropriated to the Fort Berthold Rural Water project, seconded by Councilman Hale.

Discussion:

No discussion.

VOTE:

3 Ayes 0 Nays Motion carried.

**b. Indirect Cost Pool**

Informational.

**c. McKenzie County**

Councilman Whitecalfe moved to approve of an increase from \$1.00 to \$2.00 per 1000 gallons of water for water sales to McKenzie County Rural Water, seconded by Councilman Hale.

Discussion: No discussion.

VOTE: 3 Ayes 0 Nays Motion carried.

**d. Memorandum of Agreement-Parshall**

Discussion: Parshall is looking for funding not just from the Three Affiliated Tribes but from the State of North Dakota. After receiving funding then to bring back the contract.

**XII. Judy Young Bear-Letter of Support**

Councilman Whitecalfe moved to approve of a letter of support from the Three Affiliated Tribes to the BIA to look into trespassing issues, seconded by Councilman Hale.

Discussion: The letter is to be drafted by Annette young Bird for Judy Young Bear and signed by Natural Resource Committee Chairman Barry Benson. Issues are cutting fence to let black cows in, Mary Fredericks not doing her job, Artisan well being used by others, no rangers, logs chopped that should be paid for, and where are the people that work for the tribe that should be taking care of these things.

VOTE: 3 Ayes 0 Nays Motion carried.

**XIII. Daylon Spotted Bear-Nueta Nation**

Councilman Whitecalfe moved to approve of Nueta Nation Builders to have access to certain tribal records maintained by the United States with the Bureau of Indian Affairs, seconded by Councilman Hale.

Discussion: Clean up and change the language to approach the Bureau of Reclamations.

VOTE: 3 Ayes 0 Nays Motion carried.

**XIV. Next NRC meeting**

Will be chaired by other Committee member. No set date. Frank Whitecalfe or Malcolm Wolf is to chair the meeting in November.

**XV. Councilman Wolf-Les Burr Well out of Williston**

Discussion: Les Burr is looking to expand to New Town. To collaborate with Elbowoods Works to keep Elbowoods Works going. Les Burr has an introduction letter. Les Burr to meet with Darren Morsette to come up with a plan. The TAT needs to keep Elbowoods Works.

**XVI. ADJOURNMENT**

Councilman Hale move to adjourn the meeting, seconded by Councilman Whitecalfe.

**Meeting adjourned at 11:45 P.M.**





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**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's Natural Resource Committee is composed of three (3) members of whom three (3) constitute a quorum \_\_\_\_\_ were present at the Meeting thereof duly called, notice, convened and held on the \_\_\_\_ day of \_\_\_\_\_, 2007; that the foregoing Minutes were amended and duly adopted at such meeting by the affirmative vote of \_\_\_\_\_ members; \_\_\_\_\_ members opposed; \_\_\_\_\_ members abstained; \_\_\_\_\_ Members not voting.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2007.

**ATTEST:**

\_\_\_\_\_  
Carmen Halvorson/Committee Secretary

\_\_\_\_\_  
Barry Benson, Chairman of Natural Resource Committee