

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

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution and By-laws of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities for the welfare and benefit of the Tribes and Tribal members; and

WHEREAS, High unemployment exists on the Fort Berthold Reservation and the recent development of mineral resources provides an important opportunity to help alleviate this condition and provide employment to qualified Indian workers and contractors; and

WHEREAS, It shall be a policy of the Three Affiliated Tribes that each motor carrier servicing mineral leases on the Reservation shall comply with the Fort Berthold Tribal Employment Rights Ordinance as a condition to entering the Reservation and obtain an Access Permit; and

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council hereby adopts the Fort Berthold Access Permit Ordinance (attached).

C E R T I F I C A T I O N

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 11 members of whom 7 constitutes a quorum, 7 were present at a Regular meeting, thereof duly called, noticed, convened and held on the 11 day of March, 1982; 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vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said resolution has not been rescinded or amended in anyway.

Chairman (Voting) (~~Not voting~~).

DATED THIS 11 DAY OF MARCH, 1982.

Ellie Walker
SECRETARY, TRIBAL BUSINESS COUNCIL

ATTEST:

CHAIRMAN, TRIBAL BUSINESS COUNCIL

FORT BERTHOLD
ACCESS PERMIT ORDINANCE

SECTION 1. POLICY

The Fort Berthold Reservation is an area of serious and chronic unemployment, and the recent development of mineral resources on the Reservation provides an important opportunity to help alleviate this condition, and provide employment to qualified Indian workers and contractors. To this end it is the policy of the Tribes that each motor carrier servicing Mineral Leases on the Reservation shall comply with the Fort Berthold Tribal Employment Rights Ordinance (TERO) as a condition to entering the Reservation, and shall obtain an Access Permit which shall be valid as long as the carrier is in compliance.

SECTION 2. DEFINITIONS

- (1) Commission - means the Fort Berthold Transportation Commission.
- (2) Indian Land - means land on the Fort Berthold Reservation owned by an Indian or the Tribes or held in trust by the United States for the benefit of an Indian or of the Tribes.
- (3) Mineral Leases - means a lease of Indian Land for oil, gas, coal or other minerals.
- (4) Motor Carrier - means any person engaged in the transportation by motor vehicle of the property of others for hire, if such transportation is intended to enter Indian Land on the Fort Berthold Reservation.
- (5) Motor Vehicle - means any automobile, truck, trailer, semi-trailer, tractor or other motor-driven vehicle used to transport property.
- (6) Person - includes an individual, firm, partnership, company or association.
- (7) Reservation - means the Fort Berthold Reservation, North Dakota.
- (8) Tribal Court - means the Tribal Court of the Three Affiliated Tribes.
- (9) Tribes - means the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

SECTION 3. EXEMPTIONS

The provisions of this Ordinance shall apply only to Motor Carriers servicing Mineral Leases on the Reservation.

SECTION 4. PERMIT REQUIRED

It shall be unlawful for any Motor Carrier to enter Indian Land within the Reservation unless such Motor Carrier:

- (1) Has obtained a permit and identification tags as required by this Ordinance.
- (2) Has complied with all other provisions of this Ordinance and of the permit.

SECTION 5. TRANSPORTATION COMMISSION

(1) There is hereby established the Fort Berthold Transportation Commission, to consist of three (3) Commissioners appointed by the Tribal Business Council, and to hold office during the pleasure of the Council. At least one Commissioner shall be a member of the Tribal Business Council. The Commission shall not be compensated, but shall be reimbursed for any expenses incurred in connection with carrying out duties under this Ordinance.

(2) The Commission shall be responsible for issuing and revoking Access Permits, and for holding hearings under this Ordinance.

(3) Decisions of the Commission may be appealed within thirty (30) days to the Tribal Court.

(4) There shall be an Executive Director of the Commission, to be appointed by the Tribal Business Council to hold office for such time and for such compensation as the Tribal Business Council may specify. The Commission shall have such other staff as the Tribal Business Council may authorize.

(5) The Commission shall meet at least monthly with the Executive Director.

SECTION 6. PERMIT - APPLICATION AND HEARING

(1) Any Motor Carrier desiring to enter Indian Land within the Reservation may file an application with the Commission containing relevant information on the service to be offered, the area(s) to be covered and the type of equipment to be used. The application shall be accompanied by the following.

- (A) A statement from the Executive Director of the Tribal Employment Rights Commission indicating that the applicant has complied with or is in the process of complying with the Fort Berthold Tribal Employment Rights Ordinance; and
- (B) A declaration signed by the chief executive officer of the Motor Carrier stating that the Motor Carrier will comply with the Tribal Employment Rights Ordinance and the Indian preference clause in leases to be serviced, as long as the Motor Carrier does business on Indian Land within the Reservation; and
- (C) A declaration signed by the chief executive officer of the Motor Carrier stating that the Motor Carrier will submit to the jurisdiction of the Tribal Court for purposes of enforcement of this Ordinance.

The Commission shall make such additional regulations for the filing of such applications as may be required from time to time.

(2) Upon filing of an application for an Access Permit, the Commission shall give public notice of a hearing to be held within twenty (20) days after public notice, at which the applicant and other interested persons may give their views on whether the Access Permit should be granted. A temporary permit may be issued for up to twenty (20) days for good cause in the discretion of the Commission.

SECTION 7. FACTORS TO BE CONSIDERED BY COMMISSION IN ISSUANCE OF A PERMIT

Before granting an Access Permit to an applicant, after a hearing, the Commission shall take into consideration:

- (1) The fitness and ability of the applicant to provide the contemplated service.
- (2) Whether applicant is complying or in the process of complying with all Indian preference requirements (I) in any lease under which the applicant would operate as a subcontractor, or (II) in the Tribal Employment Rights Ordinance.

- (3) The need for service proposed by the applicant.
- (4) The effect on other existing transportation facilities.
- (5) The adequacy of the existing service.
- (6) The effect of granting the Access Permit on the economic security and the health or welfare of the Tribes.
- (7) Such other information as the Commission may deem appropriate.

If the Commission finds that the transportation service to be authorized by the Access Permit is not consistent with the Tribal public convenience and necessity, the Commission shall not grant such Access Permit.

SECTION 8. ISSUANCE OF A PERMIT

(1) If the Commission finds from the evidence that the Tribal public convenience and necessity require the proposed service or any part thereof, it may issue the Access Permit as requested or may issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by the Access Permit such terms and conditions as in its judgement the Tribal public convenience and necessity may require.

(2) The Access Permit issued to applicant shall state on its face that the permittee agrees to comply with Indian preference terms and leases to be served and the Tribal Employment Rights Ordinance.

SECTION 9. PERMIT - DURATION AND TRANSFER

Access Permits issued to carriers by the Commission shall remain in force and effect subject to the regulatory and annual fee provisions of this Ordinance. The Commission, at any time, for good cause, may suspend and, upon not less than five (5) days notice to the Permittee, and on opportunity to be heard, may revoke or amend any Access Permit. Such Access Permit shall be transferable only upon approval by the Commission, after opportunity for hearing, giving notice to all parties.

SECTION 10. FEE

Every Motor Carrier shall, at the time of making an application for an Access Permit and annually thereafter, on or before April 15th of each calendar year, pay a fee of Two Hundred Fifty Dollars (\$250.00).

SECTION 11. IDENTIFICATION TAG

Every Motor Carrier who is required to obtain an Access Permit under this Ordinance, at the time of securing a permit and annually thereafter, on or before April 15th of each calendar year, shall secure from the Tribal Business Council an identification tag for each vehicle that the Motor Carrier intends to operate on Indian Land within the Reservation. The fee shall be Fifty Dollars (\$50.00) for each identification tag.

SECTION 12. VIOLATION; ENFORCEMENT

The Access Permit of any Motor Carrier who violates the provisions of this Ordinance or of the Access Permit shall be revoked, and said Motor Carrier shall be excluded from entering Indian Land on the Reservation. Any Motor Carrier who does not possess a valid Access Permit shall be excluded from Indian Land until a valid Access Permit has been obtained. Revocation or exclusion shall be by order of the Tribal Court, after notice and hearing.

SECTION 13. SCOPE OF ORDINANCE

An Access Permit issued under this Ordinance is not intended to be in lieu of any permit or certificate required by the laws or regulations of the United States, the State of North Dakota, or any other state.