

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

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, The Constitution of the Three Affiliated Tribes 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 VI, Section 5(d) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to negotiate with the Federal and State governments on behalf of the Three Affiliated Tribes; and
- WHEREAS, Article VI, Section 5(j) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to protect and preserve the natural resources of the Three Affiliated Tribes; and
- WHEREAS, Via Resolution No. 84-36-S, the Tribal Business Council has heretofore formally approved the Lease Agreement to be entered into between the State of North Dakota and the Three Affiliated Tribes with the United States Army Corps of Engineers relative to the proposed Good Bear Bay Recreation Area; and
- WHEREAS, The Tribal Business Council has been informed by the Natural Resource and Legal Departments of the Three Affiliated Tribes that the Army Corps of Engineers has proposed certain modifications of the Lease Agreement herein as initially drafted and approved via Resolution #84-36-S, which modifications include, as a condition of the entry into said Agreement by the Army Corps of Engineers, a provision whereby the Three Affiliated Tribes irrevocably consent to a waiver of their immunity from suit and consent to be sued in their corporate name upon any claim or obligation arising from and incident to the terms of the proposed Lease Agreement; and
- WHEREAS, It is the considered judgment of the Tribal Business Council, based upon the recommendations made by the Natural Resource and Legal Departments, that it would be in the interest of the Three Affiliated Tribes to enter into the Lease Agreement herein as modified; and
- NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby formally approves the Department of the Army Lease for Public Park and Recreation Purposes, No. DACW45-1-84-6078, a true and correct photostatic copy of which Lease is attached hereto and made part hereof.

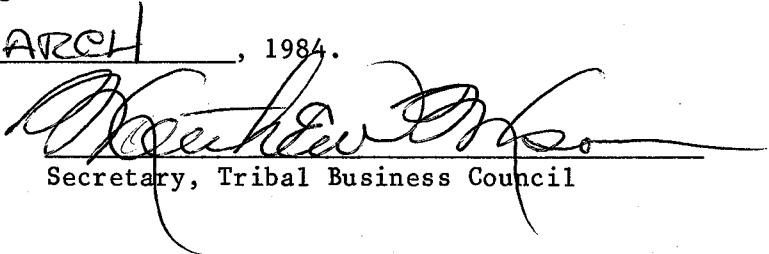
BE IT FURTHER RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes, pursuant to Chapter 1, Sections 1.2 and 3.6 (1) of the Code of Laws of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby expressly waives the Tribe's sovereign immunity from suit relative to the Lease Agreement herein and consents to be sued in its corporate name upon any claim or obligation arising from or incident to the terms of the Lease herein.

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, 9 were present at a SPECIAL Meeting, thereof duly called, noticed, convened, and held on the 29 day of MARCH 1984; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 4 members, 1 members opposed, 1 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman (voting) (~~not voting~~).

Dated this 29 day of MARCH, 1984.


Secretary, Tribal Business Council

ATTEST:


Vice-Chairman, Tribal Business Council

DEPARTMENT OF THE ARMY

LEASE

FOR PUBLIC PARK AND RECREATIONAL PURPOSES

GARRISON DAM/LAKE SAKAKAWEA, NORTH DAKOTA PROJECT AREA

No. DACW45-1-84-6078

THE SECRETARY OF THE ARMY under authority of Section 4 of the Act of Congress approved 22 December 1944, as amended (16 U.S.C. 460d), hereby grants to The North Dakota Parks and Recreation Department and The Three Affiliated Tribes of the Fort Berthold Reservation, a lease for a period of twenty-five (25) years commencing on [blank] and ending on [blank] to use and occupy approximately 80 acres of land and water areas under the primary jurisdiction of the Department of the Army in the Lake Sakakawea Project Area, hereinafter referred to as the premises as shown on attached Exhibit "A" in red numbered Part 2 Segment J, dated 4-21-1948, for public park and recreational purposes.

THIS LEASE is granted subject to the following conditions:

1. The lessee shall conform to such regulations as the Secretary of the Army may issue to govern the public use of the project area, and shall comply with the provisions of the above cited Act of Congress. The lessee shall protect the premises from fire, vandalism, and soil erosion, and may make and enforce such regulations as are necessary, and within its legal authority, in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with provisions of the above cited Act of Congress.

2. The lessee shall administer and maintain the premises in accordance with the U.S. Army Engineers' Master Plan and the implementing General Development Plan for the premises and with an Annual Management Program to be mutually agreed upon between the lessee and the U.S. Army District Engineer in charge of the administration of the project, which may be amended from time to time as may be necessary. Such Annual Management Program shall include, but is not limited to, the following:

a. Plans for management activities to be undertaken by the lessee or jointly by the U.S. Army Engineers and the lessee, including improvements and other facilities to be constructed thereon.

b. Budget of the lessee for carrying out the management activities.

c. Personnel to be used in the management of the area.

3. The lessee shall provide the facilities and services necessary to meet the public demand either directly or through concession agreements with third parties. All such agreements shall state that they are granted subject to the provisions of this lease and that the concession agreement will not be effective until approved by the District Engineer.

4. Admission, entrance or user fees may be charged by the lessee for the entrance to [blank] of the premises or any facilities constructed thereon, PROVIDED, prior written approval of the District Engineer is obtained.

5. The lessee shall be a Federally Recognized Indian Tribe organized and incorporated pursuant to Sections 16 and 17 of the Indian Reorganization Act of June 18, 1934...

5. The amount of any fees and all rates and prices charged by the lessee or its concessionaires for accommodations, food (except packaged goods), and services furnished or sold to the public shall be subject to the prior approval of the District Engineer. The lessee shall, by 15 April and 15 October of each year, submit to the District Engineer for approval a list of the fees, rates and prices proposed for the following 6 months, including justification for any proposed increase or decrease. The District Engineer will give written notice to the lessee of his approval of or objection to any proposed fee, rate or price and will, if appropriate, state an approved fee, rate or price for each item to which an objection has been made. The lessee and/or its concessionaires shall keep a schedule of such fees, rates or prices posted at all times in a conspicuous place on the leased premises.

6. All monies received by the lessee from operations conducted on the premises, including, but not limited to, entrance and admission fees and user fees and rental or other consideration received from its concessionaires, may be utilized by the lessee for the administration, maintenance, operation and development of the premises. Any such monies not so utilized, or programmed for utilization within a reasonable time, shall be paid to the District Engineer at the end of each 5-year period. The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer, except for annual or weekly entrance fees which also are honored at other recreational areas operated by the lessee. The District Engineer shall have the right to perform audits of the lessee's records and accounts, and to require the lessee to audit the records and accounts of third party concessionaires, and furnish the District Engineer a copy of the results of such an audit.

7. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the District Engineer. Further, the lessee shall not discharge waste or effluent from the premises in such a manner that such discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

8. The right is reserved to the United States, its officers, agents, and employees, to enter upon the premises at any time and for any purpose necessary or convenient in connection with river and harbor and flood control work, and to remove timber or other material required for such work, to flood the premises when necessary, and/or to make any other use of the land as may be necessary in connection with public navigation and flood control, and the lessee shall have no claim for damages of any character on account thereof against the United States or any agent, officer or employee thereof.

9. Any property of the United States damaged or destroyed by the lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the lessee to the satisfaction of the District Engineer.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the lessee, or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees or others who may be on the premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of the premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities, and the lessee shall hold the United States harmless from any and all such claims.

11. That at the time of the commencement of this lease, the lessee will obtain from a reputable insurance company, acceptable to the Government, liability or indemnity insurance providing for minimum ~~of~~ \$ per person in any one claim, and an aggregate limit of \$ of any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, and \$ for damage to property suffered or alleged to have been suffered by any person or persons resulting from the operations of the lessee under the terms of this lease.

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12. This lease may be relinquished by the lessee at any time by giving to the Secretary of the Army, through the District Engineer, at least 30 days' notice in writing.

13. This lease may be revoked by the Secretary of the Army in the event the lessee violates any of the terms and conditions of this lease and continues and persists therein for a period of 30 days after notice thereof in writing by the District Engineer.

14. On or before the date of expiration of this lease or its relinquishment by the lessee, the lessee shall vacate the premises, remove its property therefrom, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the lessee shall vacate the premises, remove its property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the lessee shall fail or neglect to remove its property and so restore the premises, then its property shall become the property of the United States without compensation therefor, and no claim for damages against the United States or its officers or agents shall be created by or made on account thereof.

15. The lessee or its concessionaires shall not discriminate against any person or persons because of race, creed, color or national origin in the conduct of its operations hereunder. The grantee furnishes as part of this contract an assurance (Exhibit) that he will comply with Title VII of the Civil Rights Act of 1964 (78 Stat. 241) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

THIS CONDITION DELETED

16. All notices to be given pursuant to this lease shall be addressed, if to the lessee, to Director, ND Parks and Recreation Dept, 1424 W. Century Ave., P.O. Box 700, Bismarck, ND 58501 and Chairman, Three if to the Government, to the Affiliated Tribes, New Town, ND 58763, if to the Government, to the District Engineer, Omaha District, Corps of Engineers, 6014 USPO & Courthouse, Omaha, NE 68102 or as may from time to time be directed by the parties. Notice shall be deemed to have been duly given if and when inclosed in a properly sealed envelope or wrapper, addressed as aforesaid and deposited postage prepaid (or, if mailed by the Government, deposited under its franking privilege) in a post office or branch post office regularly maintained by the United States Government.

17. This lease is subject to all existing easements, and easements subsequently granted, for roadways, and utilities located or to be located on the premises, provided that the proposed grant of any easement will be coordinated with the lessee and easements will not be granted which will interfere with developments, present or proposed, by the lessee.

Prior to execution of this lease, Cond. No. 5 was altered, Conds. Nos. 11, 12 & 15 were deleted, and Dept. of Interior ratification of this lease was added on p. 3a and Conds. Nos. 18-24 were added on pgs 3b & 3c, attached hereto & made a part hereof.

IN WITNESS WHEREOF I have hereunto set my hand this _____ of _____, 19 _____

The above instrument, together with the provisions and conditions thereof, is hereby accepted this _____ day of _____, 19 _____
THE THREE AFFILIATED TRIBES OF THE FORT BERTHOLD RESERVATION acting by and through The Tribal Business Council
THE NORTH DAKOTA PARKS AND RECREATION DEPARTMENT

BY: Alyce Agutter Bee

BY: _____

The undersigned acting by and on behalf of the Department of the Interior hereby ratifies the waiver of sovereign immunity in Condition No. 19 of this lease this 20th day of March, 1984.



Superintendent, Fort Berthold Agency

RECEIVED
BRANCH OF ADMINISTRATION

MAR 20 1984

FOOT BERTHOLD AGENCY
NEWTOWN, N. DAKOTA

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18. The obligations and liabilities of the North Dakota Parks and Recreation Department and the Three Affiliated Tribes of the Fort Berthold Reservation, acting as a federally recognized Indian Tribe organized and incorporated pursuant to Sections 16 and 17 respectively of the Indian Reorganization Act of June 18, 1934, shall be joint and several.

19. That this lease shall constitute an irrevocable consent by the Three Affiliated Tribes of the Fort Berthold Reservation, to be sued in its corporate name upon any claim or obligation arising from or incident to the terms of this lease, and hereby waives any immunity from suit arising from or incident to the terms of this lease which it might otherwise have.

20. That at the commencement of this lease, the North Dakota Parks and Recreation Department and the Three Affiliated Tribes, will independently obtain from a reputable insurance company, acceptable to the Government, liability or indemnity insurance providing for minimum limits of \$100,000 per person in any one claim, and an aggregate limit of \$350,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, and \$50,000 for damage to property suffered or alleged to have suffered by any person or persons resulting from the operations of the lessee under the terms of this lease.

21. That the lessee shall provide public road access to the leased premises from an established public road system. Furthermore, lessee agrees to maintain said access road in an accessible and operable condition. Said road shall, at all times, be open to free and unobstructed use by the public.

22. That the lessee shall not discriminate against nor exclude from participation in its operations any person(s) on the basis of race, color, creed, national origin, sex, age or handicap. The lessee furnishes as a part of this contract an assurance (Exhibits "B" and "C") that it will comply with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d) and Department of Defense Directive 5500.11. The lessee further agrees to comply with the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the Age Discrimination Act of 1975 (42 U.S.C. 6102).

23. That, within the limits of their respective legal powers, the parties to this lease shall protect the project against pollution of its water. The lessee shall comply promptly with any regulations, conditions or instructions affecting the activity hereby authorized if and when issued by Environmental Protection Agency and/or a state, interstate or local governmental water pollution control agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency, state, interstate or local governmental agency are hereby made a condition of this lease.

24. That the lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, vestiges, remains or objects of antiquity. In the event such items are discovered on the premises, the lessee shall immediately notify the District Engineer, Omaha District, and the site and the material shall be protected by the lessee from further disturbance until a professional examination of them can be made or until clearance to proceed is authorized by the District Engineer.

25. That the lessee shall comply with all applicable federal laws and regulations.

26. The lessee shall not conduct, or allow to be conducted, gambling on leased premises. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by nonprofit organizations under special use permits issued in conjunction with special events held on Corps lands, if permissible by state and local law. Any request to conduct a game of chance must be submitted in writing to the District Engineer.

sent

Addendum C

Resolution No. 81-36-5

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

FEB 13 1984

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

WHEREAS, The Constitution and Bylaws of the Three Affiliated Tribes Charges the Tribal Business Council of the Three Affiliated Tribes to protect and preserve the property, wildlife and natural resources of the Tribes; and

WHEREAS, The Three Affiliated Tribes and the State of North Dakota will be jointly leasing the Good Bear Bay Recreation Area, NW 1/4 SW 1/4, SW 1/4 SW 1/4, Section 25, Township 148, Range 90, from the Corps of Engineers; and

7

WHEREAS, It has been determined by the Tribal Legal and Natural Resources Department that the Tribes interest will be protected in this agreement; and

NOW THEREFORE BE IT RESOLVED, That the Three Affiliated Tribes, Tribal Council approves the Good Bear Bay Recreation Area Agreement; and

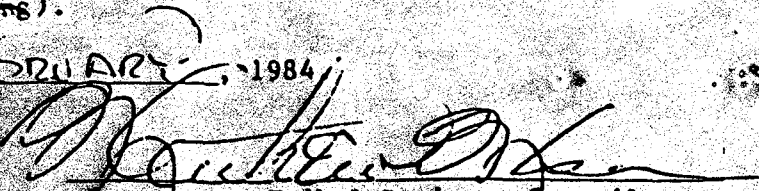
BE IT FURTHER RESOLVED, That the Three Affiliated Tribes Tribal Council approves the redesignation of the Good Bear Bay Area from Grazing status to Recreation Status.

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

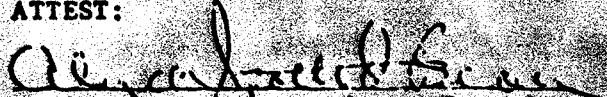
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 11 members of whom 7 constitutes a quorum, and that 11 were present at a REGULAR meeting, thereof duly called, noticed, convened and held on the 7 day of FEBRUARY, 1984; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 9 members, — members opposed, — abstained, 2 members not voting, and that said resolution has not been rescinded or amended in any way.

Chairman (voting) (~~not voting~~).

Dated this 7 day of FEBRUARY, 1984.


Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council