

Resolution No. 89-197-7h

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(j) empowers the Tribes to protect and preserve the natural resources of the Fort Berthold Indian Reservation; and

WHEREAS, The Tribal Business Council desires to do all things possible to promote beneficial economic activities and the Fort Berthold Reservation and properly manage the natural resources of the Reservation.

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes establish their grazing rate at six dollars (\$6.00) per animal unit month, provided that, the grazing rate and carrying capacities shall be reviewed on an annual basis by the Tribes and Bureau of Indian Affairs and any annual adjustment be made by September 15;

BE IT FURTHER RESOLVED, That the following provisions be adopted for the permitting of grazing privileges on Tribal and government lands, recommended for allotted lands, and made a part of each grazing permit:

- 1) That grazing permits shall be issued for a five (5) year contract period beginning December 1, 1989 and terminating November 30, 1994.
- 2) There shall be three methods available to qualified applicants to secure an allocation of grazing privileges. A Class I allocation shall be for those individuals who own a minimum of sixty percent (60%) of the livestock to be grazed on the Range Unit. A class I allocation can not be allocated to another

individual unless the grazing permit is cancelled. A Class II allocation shall be available for those individuals who own between sixty percent (60%) and twenty percent (20%) of the livestock to be grazed on the Range Unit. A Class II allocation can be either upgraded to a Class I allocation or if the prescribed procedures are followed allocated to an individual who qualifies for a Class I allocation. A Class III allocation shall be available to those individuals who own less than twenty percent (20%) of the livestock to be grazed on the Range Unit. The A Class III allocation can be either upgraded to a Class II allocation or if the prescribed procedures are followed allocated to an individual who qualifies for a either a Class II or Class I allocation.

- a) Application for allocation shall be filed with the agency at least seven (7) months prior to December 1st of the year in which the allocation is sought with the exception of the first year of the permit period.
- b) Applicants for allocation must be: (1) not less than 18 years of age; (2) an enrolled member of the Three Affiliated Tribes. In case of doubt or dispute the Tribal Business Council or their authorized representative shall determine who is eligible and its decision is final.
- c) All allocations shall not exceed 275 animal units. The livestock operator must bid on those animal units in excess of 275 animal units which he wishes to graze. The livestock operator holding an allocation in a range unit shall have first preference in that same unit to meet the high bid.
- d) Applications shall be accompanied by satisfactory proof to establish that the applicant owns the percentage of livestock prescribed in paragraph (a) above. This proof shall include:
 1. Bill of Sale or any agreement relating to the application of the livestock or otherwise providing ownership. Cash purchases will require an affidavit under penalty of prosecution for fraud or perjury.

2. Security agreement. Must be executed by a duly licensed lending agency such as a bank, FmHA, PCA, insurance company, the Credit Office, etc., and are required for consideration. Security agreements between individuals are not acceptable.
 3. Promissory note.
 4. Financing statement.
 5. A duly executed affidavit that livestock are or will be branded with applicants registered North Dakota brand. The owner will consent to an inspection of livestock, by authorized personnel, if ownership is questionable.
- e) All statements of material fact in support of the application must be true and correct. If any material statement is false, the application shall be subject to rejection, or if any allocation is authorized pursuant to an application containing a false statement of material fact, then the allocation will be set aside as of no force or effect. If an applicant has filed false or misleading information he will not be eligible for an allocation application for a one (1) year period.
- f) In the event two or more Indian livestock operators apply for allocations in the same range unit the following order of priorities will prevail:
1. Has been a satisfactory permittee and met all contractual obligations during the past permit period from the range unit for which the application is made and therefore will have preference. Within this category those individuals who acquired the grazing rights through allocation shall have priority over those individuals who acquired the rights through bidding.
 2. Largest landowner within the range unit will have preference.
 3. The applicant with his headquarters closest to Range Unit applied for shall have preference.

4. A resident of the segment the Range Unit is located in shall have preference over a non-resident. The definition of residency shall be as defined by the Constitution and Bylaws of the Three Affiliated Tribes.
 5. A resident of the Fort Berthold Indian Reservation shall have preference over a non-resident.
 6. If the above requirements have not established the recipient of a range unit then the Natural Resources Committee shall determine which applicant is awarded the allocation.
- g) Superintendent will advertise for sealed bids, the sale of grazing privileges which are surplus to the allocated needs of the Tribe and its members, in accordance with 25 C.F.R.-166.11(a).
- 3) Cattle, sheep, horses, or any combination thereof, will be permitted on all range units. All stock within the boundaries of a range unit will be counted against the authorized permitted capacity. The ratio shall be one (1) animal unit (A.U.) for a cow and calf, one and one half (1 1/2) A.U. for a horse, five (5) sheep for one (1) yearling steer for 3/4 A.U..
 - 4) All grazing permits issued to competitive bidders shall be revocable in whole or in part during the contract period to provide range for eligible tribal members seeking an allocation of grazing privileges without competitive bidding. All new or expanding allocations shall exhaust all possibilities to obtain allocated grazing privileges from advertised range units. Such withdrawal shall be effective only at the end of the permitted annual grazing season. If range is withdrawn from the grazing permit contract of a competitive bidder for allocation purposes, the price per head shall remain the same for that particular range unit, during the contract period.
 - 5) Range unit permits will be modified only on the annual anniversary date of the permit or at the discretion of the Superintendent.
 - 6) Grazing permits do not authorize the cutting of native hay. Separate authorizations must be obtained in advance from the Superintendent at a minimum rate for allotted land to be established annually by the

Superintendent and \$2.50 per acre minimum for tribal lands. All hay cut without prior authorization from the Superintendent will be charged at twice the annual rate.

- 7) All persons who graze cattle on the Fort Berthold Reservation will be required to participate in the Federal and State Brucellosis Eradication Program and any other Livestock Disease Prevention Program. Any cattle entering the Reservation must have valid health certificates (See Resolution 84-1065-S). Failure to comply with these requirements shall be cause for cancellation of the grazing permit. Any individual moving livestock on or off the Fort Berthold Reservation must notify the Bureau of Indian Affairs or the Three Affiliated Tribes prior to moving the livestock. BIA Range Technicians, Tribal Rangers, or others designated must verify health certifications, brands, and head counts prior to off-reservation livestock entering or leaving Range Units.
- 8) Participate in Predator Control.
- 9) Permittee shall pay grazing fees by certified check, cash, money order or bank draft. All grazing fees are due December 1 of each year and will be considered delinquent if not paid prior to or on that date. No permits will be issued to anyone when they are in a delinquent status on the payment of Bill of Collection relative to grazing permits. A performance bond satisfactory to the Superintendent may be required in an amount that will reasonably assure performance of the contractual obligations. Delinquent fees will be subject to a an interest rate prescribed by law. Should an operator bring in payment after cancellation of a permit, the permit can be reissued to the operator, for the balance of the permit, by making payment in full plus an additional penalty charge of 10% of the annual rental. An operator will be required to reapply for the permit at the time payment is made and can only be reissued the permit, under these provisions, until the time of bid letting.
- 10) A reasonable period of time shall be allowed for the previous permittee to remove all declared removable improvements placed in the Range Unit at his own expense. Removable improvements include fences, pumping equipment, tanks, corrals and like

improvements. Confirmation of removable improvements must be provided to the Bureau of Indian Affairs. In determining what a reasonable period of time is, the determining official shall take into consideration such things as the time of the year and when the Range Unit will next be utilized.

- 11) The permittee shall be responsible for maintaining fences within the Range Unit and external boundary fences. In the case of shared boundary fences both permittees shall be responsible for the repair and maintenance of the fence.
- 12) The permittee shall participate in any conservation programs made available.

BE IT FURTHER RESOLVED, That the Tribal Council hereby approves a plan for the use of lease and permit preparation fees for the time period which coincides with this permit period.

CERTIFICATION

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 7 members of whom 5 constitutes a quorum, 6 were present at a Special Meeting, thereof duly called, noticed, convened, and held on the 31st day of August, 1989; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 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)

Dated this 31st day of August, 1989.

Neil Yone
Secretary, Tribal Business Council

ATTEST:

Chairman, Tribal Business Council