

Resolution No. 90-95-74

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, The Tribal Business Council of Three Affiliated Tribes desires to protect the health and welfare of individuals travelling on roads within the exterior boundaries of the Fort Berthold Reservation;

WHEREAS, The condition known as open range presents a hazard to travelers on Reservation Highways.

NOW, THEREFORE, BE IT RESOLVED, That Tribal Business Council of hereby abolishes open range on the Fort Berthold Indian Reservation and adopts the attached ordinance regarding the closed range.

BE IT FURTHER RESOLVED, That any part of an ordinance or resolution in conflict with this resolution and ordinance is superseded by this resolution and ordinance.

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 Indian Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitutes a quorum, 5 were present at a Special Meeting, thereof duly called, noticed, convened, and held on the 25th day of April, 1990; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 4 members, 1 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.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).

1 Closed Range Ordinance

1.1 Purpose

The purpose of this ordinance to further protect the health and safety of the users of the roads within the exterior boundaries of the Fort Berthold Reservation. This purpose shall be accomplished in part by the orderly transition from open range to closed range.

2 Definitions

2.1 Open Range

Open range is the situation where the grazing of livestock is unrestricted.

2.2 Closed Range

Closed range is where grazing is restricted to certain lands where the grazing of livestock is controlled and does not conflict with motor vehicle traffic or other land uses.

2.3 Grazing Areas

Grazing areas are those areas in or adjacent to the following: a Range Unit, lands utilized by the landowner for grazing, lands under a farm pasture lease, or lands utilized for grazing through a private agreement.

2.4 All Weather Public Roads

All weather public roads are those roads constructed and maintained by a governmental entity for general public transportation purposes on a year round basis.

3 Conditions for Closed Range

3.1 All Weather Public Roads in Grazing Areas

In those areas where there are all weather public roads designated for general transportation through grazing lands there shall be closed range. In these areas it is the responsibility of the holder of the easement for the right-of-way to initially fence the right-of-way away from the grazing lands. After the

fence has been constructed it is the responsibility of the individual who has the rights to graze the land to maintain the fence.

3.2 Agricultural Lands

In those instances where cropland is grazed either by the individual who farms the land, or by an individual who has the permission of the landowner or if the individual cropping the land is different than the landowner, the tenant of the land, the individual who has permission to graze the land is responsible to insure that livestock grazing the land remain confined to the land which he has permission to graze.

3.3 All Other Lands

All other lands within the exterior boundaries of the Fort Berthold Reservation, in addition to those described above, shall be considered closed.

Individuals whose livestock trespasses on lands not under their control shall be considered liable for damages to land, crops, motor vehicles, or personal injury resulting from trespass livestock.

4 Unfenced Roads

Right-of-ways for roads not defined as all weather public roads are not required to be fenced in grazing areas. These roads shall include but are not limited to oil field access roads, recreation area access roads, and homesite access roads.

In grazing areas where the right of way for this type of road diverts from the right-of-way for the all weather public access road a cattle guard or a hinged metal gate shall be placed.

In these areas the owner of the motor vehicle shall be liable to damages to livestock.

5 Unlawful Acts

It shall be unlawfull to open closed gates and leave said gates open if the person opening the gate is not in the control of the grazing rights on the lands separated by the gate. This provision shall not apply when individuals are moving cattle to or from lands under their control; provided that, said gate is closed within a reasonable period of time.

It shall be unlawfull to cut fences. However, if a person has cause or permission to cut said fence for the undertaking of a specific activity, such as, but not limited to seismic exploration or gathering of stray cattle, it shall not be considered an unlawful act if the person repairs said fence immediately.

A mandatory civil penalty, in the minimum amount of one hundred dollars (\$100.00), but not to exceed five hundred dollars (\$500.00) in the descretion of the Judge, shall be assessed against person upon conviction.

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Dated this 15th day of April, 1990.

(Acting) Jim M. Mosseth
Secretary, Tribal Business Council

ATTEST:

Edward Gore Johnson
Chairman, Tribal Business Council