

**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 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 Tribe's right to impose a tax and employment preference for its tribal members in the area commonly referred to as the Northeast Quadrant has been challenged in Federal District Court in the case entitled Duncan Energy Company, NBB Oil & Gas Partners (USA), Amerada Hess Corporation, Tyrex Oil Company and Turtle Mountain Gas & Oil, Inc., Plaintiffs, v. The Three Affiliated Tribes of the Fort Berthold Reservation; Three Affiliated Tribes Tribal Business Council; Three Affiliated Tribes Tax Commission; Wilbur D. Wilkinson, Chairman, Tribal Business Council; Joseph J. Walker, Tax Commissioner; and Marcus Wells, Jr., Director, Tribal Employment Rights Office, Defendants (Civil Action Case Number: A1-91-222),
- WHEREAS,** The Tribe and the other named defendants filed a motion to dismiss on the grounds of sovereign immunity and the failure of the plaintiffs to exhaust their tribal remedies;
- WHEREAS,** On the 28th day of September 1992, Judge Patrick A. Conmy dismissed the Tribe and the Tribal Business Council from the suit based upon sovereign immunity, but denied dismissal as to the individually named defendants based upon this same doctrine, and
- WHEREAS,** He denied defendant's motion for dismissal on the grounds of failure to exhaust tribal remedies;
- WHEREAS,** Judge Conmy's decision strongly hinted that the tax being imposed by the Tribe was not valid, and further that the Tribal Employment Preference was valid only if limited to contracts wherein the Tribe is a party or a guarantor;

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WHEREAS, The Tribe is appealing Judge Conmy's decision to the Eighth Circuit Court of Appeals,

WHEREAS, The Tribe's right to impose a tax has been challenged in Federal District Court in the case entitled Reservation Telephone Cooperative, Consolidated Telephone Cooperative, West River Telecommunications Cooperative, and Mountrail-Williams Electric Cooperative, Plaintiffs, v. Three Affiliated Tribes of the Fort Berthold Reservation; Three Affiliated Tribes Tribal Business Council; Three Affiliated Tribes Tax Commission; Wilbur D. Wilkinson, Chairman, Tribal Business Council; and Joseph J. Walker, Director, Tax Commission, Defendants (Case No. A1-92-111),

WHEREAS, The above-referred to litigation is resurrecting the issue of the Tribe's jurisdiction in the Northeast Quadrant; laid to rest in the case entitled City of New Town v. United States, 454 F2d 121 (1972).

WHEREAS, This same issue has arisen in a criminal case entitled, United States of America v. Neil D. Standish (Criminal Case No. C4-92-22-02);

WHEREAS, The Tribe is being attacked on three fronts;

WHEREAS, The United States of America, as trustee has a fiduciary duty to the Three Affiliated Tribes, including the protection of the Tribe's rights to govern within the exterior boundaries of the Fort Berthold Reservation, and the protection and maintenance of the Reservation boundaries as established and reaffirmed in the above cited New Town case.

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council, in a duly convened and held meeting, respectfully requests the United States of America to intervene and/or file amicus curiae in the above entitled litigation, exclusive of the Standish case.

FURTHER BE IT RESOLVED, That a copy of this resolution be forthwith delivered to the Superintendent of the Fort Berthold Indian Agency for his review and recommendation.

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 comprised of 7 members, of whom 5 constitute a quorum, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 29th day of October, 1992; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 29th day of October, 1992.

John J. Ralivthead Jr.
Secretary, Tribal Business Council

ATTEST:
William S. Williams
Chairman, Tribal Business Council