

**AMENDED**

11/22/95; R# 95-234-DSB.

1 of 6

Resolution No. 94-40-DSB

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, Title 25 Code of Federal Regulations Part 166 allows the Tribes and the Bureau of Indian Affairs to jointly develop grazing regulations; 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 and fifty cents (\$6.50) 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, 1994 and terminating November 30, 1999. In addition: see Page 6, No. 12.

- 2) Qualified applicants can secure an allocation of grazing privileges; provided, the applicant owns 40% of the livestock to be grazed on the unit with an approved plan to reach 80% ownership of a carrying capacity within three (3) years.
  - a) Applications 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 dispute the Tribal Business Council shall determine who is eligible and its decision shall be final.
  - c) Permittees receiving an allocation will be required to pay the Area Directors minimum rate for all non-member owned livestock grazing on Tribal land. A Livestock Pasturing Authorization is required for all livestock that are not owned by permittee.
  - d) All allocations shall not exceed 300 animal units year long. The Permittee must bid on those animal units in excess of 300 animal units and shall have first preference in that same unit to meet the high bid.(see Section 15 on page 6)
  - e) Satisfactory proof must be established as follows by the applicant with copies provided to the Natural Resources Department and the Bureau of Indian Affairs as to the percentage of ownership of livestock:
    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 agreements must be executed by a duly licensed lending institution such as a bank, Farmers Home Administration (FmHA), Production Credit Association (PCA), the Three Affiliated Tribes Small Loan Department, etc..., and are required for consideration. Proper security agreements between individuals are acceptable. (see: e) 1. of this page)

3. Agreements should be submitted to the Natural Resources Department and the Bureau of Indian Affairs on all livestock owned on shares.
  4. In case of dispute, the Bureau of Indian Affairs, the Natural Resources Department and the Tribal Business Council will make a determination and its decision shall be final.
  5. The Permittees shall submit official duly executed affidavits from the North Dakota Brand Inspector.
  6. The Permittees will consent to an inspection of livestock, by authorized personnel, if ownership is questionable.
- f) If an applicant has filed false or misleading information, his/her application will be immediately rejected and will not be eligible for an allocation for a two (2) year period.
- g) In the event two or more Indian applicants apply for allocations for the same range unit the following order of consideration shall prevail:
1. Applicant has been a satisfactory permittee and has met all contractual obligations during the past permit period.
  2. The applicant with his residency headquarters and located within the segment closest to the Range Unit applied for shall have preference.
  3. The applicant owning the largest interest of land within the range unit will have preference.
  4. An enrolled member of the Three Affiliated Tribes, on the Fort Berthold Indian Reservation shall have preference over a non-resident enrolled member. Residency will be determined in accordance with the Tribal Residency Ordinance.
  5. If the above requirements have not established the recipient of a range unit then the Tribal Business Council shall determine which applicant will be awarded the allocation.

- h) Superintendent shall advertise by sealed bids, the sale of grazing privileges which are surplus to the allocated needs of the Tribe and its members, in accordance with 25 CFR-166.11(a). In any advertisement or sale of grazing privileges the Superintendent shall provide Indian preference in meeting the high sealed bid. In the case of more than one preference bid an oral auction shall be held between the preference bidders.
- 3) Cattle, sheep, horses, buffalo, or any combination thereof, will be permitted on all range units. All stock within the boundaries of a range unit will be counted by the B.I.A. and NRD personnel against the authorized permitted capacity and pasturing authorizations. 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) animal unit (A.U.) and 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.
- 5) The Superintendent may revoke or withdraw all or any part of a grazing permit by cancellation or modification on 180 days' written notice for allocated Indian use or for grazing exempt from permit.
- 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 \$3.50 per acre minimum for tribal lands. All hay cut without prior authorization from the Superintendent will be charged at twice the annual rate. Haycutting permits must be obtained from the Agency.
- 7) All persons who graze livestock 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 livestock entering the Reservation must have valid health certificates (See Resolution 84-1065-S). The USDA Animal & Plant Health Inspection Service (APHIS)

Veterinary Services will be contacted for verification of health certificates. Failure to comply with these requirements shall be cause for cancellation of the grazing permit.

- 8) Any individual moving livestock on or off the range units must notify the Bureau of Indian Affairs or the Three Affiliated Tribes prior to moving the livestock. BIA Range Technicians, Tribal Rangers, or the Natural Resources Department must verify health certifications, brands, and head counts prior to off-reservation livestock entering or leaving Range Units.
- 9) Permittees shall pay grazing fees by certified check, money order or bank draft. All grazing fees are due December 1st of each year and will be considered delinquent if not paid prior to or on that date. **NO PERMITS SHALL BE ISSUED TO APPLICANTS WHO ARE IN A DELINQUENT STATUS.** 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 an interest rate as determined by the Treasury. 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 period, by making payment in full, including any interest charges which have accrued prior to cancellation, plus an additional penalty charge of 10% of the annual rental.
- 10) A Range Improvement Form must be on file with the BIA prior to making any improvements. 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. However, the time period shall not exceed one (1) year. 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 a reasonable period of time, the official shall take into consideration the time of the year and the next permit period.
- 11) The permittees shall maintain 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 fences.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
FORT BERTHOLD AGENCY  
P.O. BOX 370  
NEW TOWN, NORTH DAKOTA 58763



IN REPLY REFER TO:

Range and Soils Office  
(701) 627-3734

February 23, 1995

Chairman Russell Mason  
Three Affiliated Tribes  
HC 3 Box 2  
New Town, ND 58763

Dear Chairman Mason:

We have reviewed Tribal Grazing Resolution 94-40-DSB for the permit period December 1, 1994 through November 30, 1999. We concur with the eligibility requirements for allocation of grazing privileges prescribed by the Tribal Business Council. In accordance with 25 CFR 166.10, the allocation of grazing privileges on individually owned land is authorized since Tribal and individual land ownership interests are intermingled within range units.

We will provide the Aberdeen Area Office with a copy for their review and comment.

For additional information feel free to contact Carey L. Dreher, Range Conservationist at 627-3734.

Sincerely,

Acting Superintendent

cc Tribal Business Council

- 12) Should the permittee participate in a program which requires the permittees to maintain the practice or improvement for a time period longer than the permit period. Pursuant to CFR 166.14 (a) The Superintendent may extend the contract period of the applicable permit to facilitate the placing of the improvements required by the program. Such an extension shall not extend past November 30, 2004. The Superintendent can take similar action if an individual is utilizing his own funds or funds borrowed by him to make improvements on Range Unit land not owned by him.
- 13) Allotted or Tribal lands being removed from a Range Unit by enrolled members must be fenced by the individual removing the land in accordance with the Tribal ordinances.
- 14) Hunting on Tribal lands located within a range unit will be accessible by foot only. Absolutely no vehicles of any kind will be allowed for hunting purposes within the range units.
- 15) The Allocation of a Unit for grazing shall also reflect the land base owned by the allocatee. Provided the land is not within a range unit. The price of Tribally Managed Land, will be increased to the going rate.

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

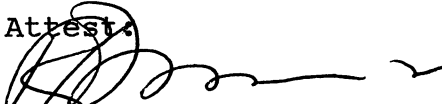
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitutes a quorum, 7 were present at a Special Meeting, thereof duly called, notice, convened, and held on the 22<sup>nd</sup> day of December 1994; 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 any way.

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

Dated this 22<sup>nd</sup> day of December 1994.

Daylon Spotted Bear  
Secretary, Tribal Business Council

Attest:

  
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Chairman, Tribal Business Council