

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 Tribal Business Council has for some time considered the matter of the rights of the Tribes and Tribal members to lands which are adjacent to or near the "take" line of Lake Sakakawea, created by the Garrison Dam which by 1958 had flooded more than 150,000 acres of land which remain, submerged, as a part of the Fort Berthold Indian Reservation of the Three Affiliated Tribes; and
- WHEREAS, The Tribal Business Council has considered for some time the matter of providing public or private access across lands owned by Tribal members or by the Tribes to certain land owners and owners of cabins on land adjacent to Mahto Bay, a feature located along the shore of Lake Sakakawea within the boundaries of the Fort Berthold Indian Reservation; and
- WHEREAS, Since it was discovered more than 20 years ago that neither the public nor the land owners and Mahto Bay cabin owners possess a permanent legal right to an easement providing a right of way leading to Mahto Bay across lands owned by Tribal members or the Tribes, a problem of access for the land owners and cabin owners of Mahto Bay has existed; and
- WHEREAS, There now exists an access road to Mahto Bay which goes through various parcels of land which are owned by Tribal members and by the Tribes; and
- WHEREAS, During the past 20 years travel over the present access route and nearby lands has resulted in trespass over lands privately owned by Tribal members, which the BIA has done little or nothing to prevent; and
- WHEREAS, During the past 20 years various attempts to negotiate an easement across lands owned by Tribal members and the Tribes to provide access to the cabin owners and land owners on Mahto Bay have been made and have not succeeded for various reasons; and

- WHEREAS,** Certain potential routes of access to Mahto Bay which are alternates to the present route have been defined and developed by the cabin owners, land owners and the Tribes; and
- WHEREAS,** The primary responsibility for constructing a permanent access road and securing the necessary easements for such a road belongs to the Bureau of Indian Affairs, which has responsibility for some roads within the boundaries of the Fort Berthold Indian Reservation, to Mercer County, in which county the area in question is located and which has responsibility for county roads, and to the U.S. Army Corps of Engineers, which constructed the Garrison Dam and which has taken jurisdiction over much of the shoreline along Lake Sakakawea and the Lake itself; and
- WHEREAS,** The BIA, Mercer County, and the U.S. Army Corps of Engineers have some funds available for acquiring the necessary easements or land necessary for an access road to Mahto Bay, and also have some funds available for the construction and maintenance of such a road; and
- WHEREAS,** The Tribal Business Council of the Three Affiliated Tribes is committed to providing and preserving public access to Lake Sakakawea and to privately held property along the lake shore and wishes to resolve the long-standing issue of access to Mahto Bay; and
- WHEREAS,** The Tribal Business Council would prefer to avoid any legislative solution to the problem of access being imposed on the Tribes by the United States Congress; and
- WHEREAS,** The Tribal Business Council has delegated responsibility to the Natural Resources Committee of the Three Affiliated Tribes to determine various alternatives to provide access to Mahto Bay that best protect Tribal interests and the interests of the affected Tribal members; and
- WHEREAS,** The Natural Resources Committee, at its August 29, 1995 regularly scheduled meeting, considered presentations given by Tribal land owners, Mahto Bay cabin owners and employees of the Natural Resources Department of the Three Affiliated Tribes; and
- WHEREAS,** It is the recommendation of the Natural Resources Committee that if, after 180 days, negotiations between the Tribal land owners and the Mahto Bay cabin owners to

secure a permanent access route are unsuccessful, or sooner if negotiations reach an impasse, the Three Affiliated Tribes should waive any objections it may have to the access route crossing any lands controlled or owned directly by the Tribes; and

WHEREAS, It is the recommendation of the Natural Resources Committee that any amounts paid to the Tribes as compensation for the right-of-way across Tribally controlled or owned lands obtained to provide access to Mahto Bay shall be divided pro-rata among Tribal land owners through whose land the final right-of-way chosen also travels; and

WHEREAS, The Three Affiliated Tribes Business Council believes that it is in the best interests of the Tribes and Tribal members to accept the recommendations of the Natural Resources Committee as stated above;

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council accepts the recommendations of the Natural Resources Committee concerning access to Mahto Bay, and therefore requests the Mahto Bay cabin owners and the Tribal members who own land through which the present access route travels to continue to negotiate for a permanent access route for the Mahto Bay cabin owners; and

THEREFORE BE IT FURTHER RESOLVED, that if, after 180 days, or sooner if such negotiations reach an impasse and the Tribal government is notified of the impasse in writing from one or both of the parties, the Tribes will waive any objection they may have a right to make to any agency or political subdivision of the State or Federal government concerning the access route going through or traversing any lands controlled or owned by the Tribes, other than objections as may lawfully be made to the amount of compensation provided for such right-of-way, whether along the present access route or along Alternate Route #2 as has been designated by the Natural Resources Department; and

THEREFORE BE IT FURTHER RESOLVED, that any amounts paid to the Tribes as compensation for the right-of-way across Tribally controlled or owned lands obtained to provide access to Mahto Bay shall be divided pro-rata among Tribal land owners through whose land the final right-of-way chosen also travels; and

THEREFORE BE IT FURTHER RESOLVED, that the Tribes reserve unto themselves any and all rights to Tribally controlled or owned lands through which the access road will travel, other than those specifically needed for the right-of-way across those Tribally owned or controlled lands as may be necessary to provide access to Matho Bay.


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 constitute a quorum, 7 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 27th day of September, 1995; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 1 members opposed, 1 members abstained, not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 27th day of September, 1995.

Dayton Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council