

**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,** Article VI, Section 3(a) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to present and prosecute claims of the Three Affiliated Tribes before any court or agency of government and to retain legal counsel for such purpose; and
- WHEREAS,** Article VI, Section 5(d) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to negotiate with the federal government on behalf of the Three Affiliated Tribes; and
- WHEREAS,** Article IX, Section 6 of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to acquire by relinquishment any lands or interests in land for and on behalf of the Three Affiliated Tribes; and
- WHEREAS,** The Three Affiliated Tribes are currently involved in both litigation against and negotiations with the Army Corps of Engineers for the purpose of securing the relinquishment and return to the Tribes of certain Lake Sakakawea shoreline tracts situated within the Fort Berthold Reservation and held by the Corps of Engineers, which are deemed "excess lands"; and
- WHEREAS,** Said "excess lands" include certain tracts situated in the area commonly known as the McKenzie Bay Area, to which tracts the McKenzie Bay Marine Club has been granted lease rights and the Watford City Park Board has been granted license rights by the Corps of Engineers and for ingress to and egress from which tracts the McKenzie Bay Marine Club has been granted an easement for right-of-way (with various short-term extensions) across Tribal trust land by the Three Affiliated Tribes; and

WHEREAS, Most recently at the request of the McKenzie Bay Marine Club, the Tribal Business Council approved a grant to the Marine Club of a twenty-five (25)-year easement for right-of-way across such Tribal trust land, on April 11, 1996, via Tribal Business Council Resolution No. 96-77-DSB; and

WHEREAS, The Tribal Business Council, however, took such action on April 11 without the benefit of (1) any legal analysis by or recommendation of the Tribes' Washington, D.C. counsel retained to represent the Tribes' interests in the pending federal court litigation against and negotiations with the Corps of Engineers, (2) knowledge of the Marine Club lease and Park Board license short-term renewal proposal (through December 31, 1998 only) set forth in the March 26, 1996 correspondence directed to the Tribes' D.C. counsel by U.S. Justice Department attorney James M. Upton, who is lead counsel for the Corps of Engineers in the pending litigation, and (3) any review of the proposed action in the context of all relevant and critical information by the attorneys in the Legal Department of the Three Affiliated Tribes; and

WHEREAS, The Tribal Business Council took such action on April 11, based on the mistaken assumption that the preparation of Resolution No. 96-77-DSB had involved direct coordination with and relevant input from the Tribes' Washington, D.C. counsel and Legal Department attorneys; and

WHEREAS, The Tribal Business Council has since discovered that the twenty-five (25)-year easement approved via Resolution No. 96-77-DSB is patently incongruous with the Corps of Engineers' March 26 proposal for short-term renewals of the Marine Club lease and the Park Board license and has been advised by the Tribes' legal counsel that the grant of long-term easements for right-of-way to, or interests in, lands at issue in the pending litigation against the Corps of Engineers is neither appropriate nor in the best interests of any party potentially involved in such grants; and

WHEREAS, It is the considered judgment of the Tribal Business Council that, based on the circumstances set forth hereinabove, the Council should reconsider the term of the easement for right-of-way approved for grant (but not perfected) to the McKenzie Bay Marine Club for ingress to and egress from the McKenzie Bay Area; and

WHEREAS, On the day immediately following the date on which the Tribal Business Council approved the grant of a twenty-five (25)-year easement via Resolution No. 96-77-DSB, the

Tribes' Legal Department informed both the principal representative of the McKenzie Bay Marine Club and the Fort Berthold Agency of the Bureau of Indian Affairs that the Council would reconsider its April 11, 1996 action embodied in said Resolution;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby rescinds Resolution No. 96-77-DSB in all respects.

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, 5 were present at a Special Meeting thereof duly called, noticed, convened, and held on the 22nd day of April, 1996; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 22nd day of April, 1996.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council