

**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 the enrolled members thereof; and

WHEREAS, The Tribal Business Council of the Three Affiliated Tribes grants numerous rights of ways over tribal, trust lands, especially to public utility companies providing service within the boundaries of the Fort Berthold Reservation; and

WHEREAS, The Tribal Business Council has granted numerous rights-of-ways over the years oftentimes at no charge to public utility companies that service the Fort Berthold Reservation; and

WHEREAS, Tribal programs also provide various types of services to the residents of the Fort Berthold Reservation and whenever there is a need to expand utility services which oftentimes requires the removal and relocation of utility lines, the utility companies have required that the Tribal programs bear the expense for the removal and relocation of their utility lines; and

WHEREAS, The Three Affiliated Tribes through their respective tribal programs have incurred substantial sums of money within their budget(s) for the removal and relocation of utility lines; and

WHEREAS, The United States Supreme Court, in 1997, decided the case of *Strate vs. A-1 Contractors*, and held, in part, that the Three Affiliated Tribes failed to retain any type of governmental authority over the rights-of-way granted to the State of North Dakota for state highway No. 8 that traverses trust land in the Twin Buttes segment of the Fort Berthold Reservation; and

WHEREAS, The United States Supreme Court stated that as a result of such failure of the Three Affiliated Tribes to reserve no right to exercise dominion or control over its grants of rights-of-way to the State, that such rights-of-way granted by the Tribe constituted an alienation of the land; more

specifically, the U.S. Supreme Court stated the following with respect to rights-of-way constituting an alienation of land:

*"We therefore align the right-of-way, for the purpose at hand, with land alienated to non-Indians.";*and

WHEREAS, It is the considered judgment of the Tribal Business Council that in order to preserve the governmental authority of the Three Affiliated Tribes it is necessary to reserve its rights in any and all future grants of rights-of-way; and

NOW, THEREFORE BE IT RESOLVED, The Tribal Business Council of the Three Affiliated Tribes hereby directs its tribal programs; including, any federal or state agencies, to insert a provision reserving the Tribe's right to exercise dominion and control over all rights-of-way granted by the Three Affiliated Tribes commencing upon the approval of this Resolution.

BE IT FURTHER RESOLVED, The Tribal Business Council hereby directs that any tribal programs engaged in providing services within the Fort Berthold Reservation, that require the removal and relocation of utility lines, to require the appropriate utility company to pay for such expenses.


CERTIFICATION

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 Regular Meeting thereof duly called, noticed, convened, and held on the 14th day of August, 1998; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 1 members abstained, 1 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 14th day of August, 1998.

Duylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council