



**RESOLUTION OF THE GOVERNING BODY
OF THE
THREE AFFILIATED TRIBES
OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution Entitled: “The Set Aside of All Future Income Derived From the Tribe’s Natural Resources and All Other Sources Of Revenue that Flow Through The Tribe’s Trust Accounts at the Bureau of Trust Funds Administration for the *Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waapllsis, Aki numuk aki tawtesh has geddish, The People’s Fund*, and further Prohibiting the Future Use or Encumbrance Thereof Except for Distributions to Tribal Members From Eighty Percent (80%) of the Annual Interest Earned on The Tribe’s Trust and Settlement Accounts Managed By the Bureau of Trust Funds Administration.”

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-Laws pursuant to 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 III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Article IV, Section 5(1) of the Constitution of the Three Affiliated Tribes provides the Tribal Business Council authority to adopt resolutions regulating the procedure of the Tribal Council and other Tribal Agencies and Tribal Officials of the Reservation; and

WHEREAS, Article VI, Section 1 of the Constitution of the Three Affiliated Tribes provides “any power exercised through that Council shall be subject to a popular referendum as provided by this Constitution”; and

WHEREAS, the Tribal Business Council established the *Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waapllsis, Aki numuk aki tawtesh has geddish, The People’s Fund*, pursuant to Resolution 13-004-VJB for the benefit of our Tribal members and future generations of the MHA Nation to provide a fund to generate a continuing source of revenue for the future from the finite oil and gas resource development of the Fort Berthold Reservation; and



WHEREAS, the Tribal Business Council also approved the “People’s Fund Distribution and Eligibility Plan” for the *Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waapllsis, Aki numuk aki tawtesh has geddish, The People’s Fund*, pursuant to Resolution No. 14-112-VJB on July 10, 2014; and

WHEREAS, Section 3 of the People’s Fund Distribution and Eligibility Plan indicates that the “Tribal Department and Advisory Board recommends allocating eighty percent (80%) of the Tribe’s non-renewable oil and gas resource revenues to “The People’s Fund and has the limited use of the principal amount of investment except as may be authorized by the Business Council in the future.”; and

WHEREAS, this language concerning the allocation of funds from the Tribe’s non-renewable oil and gas resources does not appear to be a mandate but simply a recommendation and our Tribal members do not know what has actually been allocated to the People’s Fund as the Tribe’s Treasurer does not inform our Tribal members of what is deposited in the Peoples fund as required by Section 3 of the Tribe’s Bylaws; and

WHEREAS, our Tribal members desire to strictly mandate the funds allocated to the People’s Fund and to prohibit any use of or encumbrance of the funds in order to secure a revenue base for future generations; and

WHEREAS, our Tribal members note the State of North Dakota’s Treasurer website reveals the Tribe has received the following amounts in oil & gas taxes for each year indicated:

<u>Year</u>	<u>Oil & Gas Taxes Received By the Tribe</u>
2010	\$ 16,392,732.11
2011	\$ 43,912,362.87
2012	\$ 91,658,624.41
2013	\$177,839,365.17
2014	\$260,301,687.37
2015	\$145,353,589.29
2016	\$ 94,655,160.03



<u>Year</u>	<u>Oil & Gas Taxes Received By the Tribe</u>
2017	\$141,338,411.01
2018	\$252,293,505.52
2019	\$245,895,446.13
2020	\$172,669,609.09
2021	\$279,025,213.03
2022	\$385,797,459.76

For a total of \$2,307,133,165.79 (2.307 Billion Dollars) of oil & gas taxes collected by the Tribe from 2010 through 2022; and

WHEREAS, in addition, the Tribal members note that, according to information taken from Tribal Resolutions, the Tribal Business Council has also made the following drawdowns on the Tribe's "Proceeds of Labor" account (PL 228700), Docket Funds Account, Economic Recover Fund and People's Fund held with the Bureau of Trust Funds Administration in Albuquerque, New Mexico in each of the following years:

<u>Year</u>	<u>Drawdowns By Year</u>
2010	\$ 23,020,200.00
2011	\$ 3,800,000.00
2012	\$ 60,676,843.00
2013	\$ 103,855,000.00
2014	\$ 203,855,000.00
2015	\$ 118,183,000.00
2016	\$ 67,121,271.00
2017	\$ 106,803,688.44
2018	\$ 154,888,000.00
2019	\$ 199,750,000.00
2020	\$ 101,237,000.00
2021	\$ 188,409,000.00
2022	\$ 247,500,000.00



For a total of \$1,579,079,002.00 (1.579 Billion Dollars) drawdowns from the Tribe's Trust Accounts and expended by the Tribal Business Council from 2010 through 2022; and

WHEREAS, the total oil & gas taxes collected by the Tribe (\$2,307,133,166) plus the amounts drawn on the Tribe's Trust Accounts (\$1,579,079,002) total \$3,886,212,168 (3.886 billion dollars); and

WHEREAS, Tribal membership notes that none of these amounts include other revenues received by the Tribe such as the revenue from the Section 17 Corporation for water sales, funding for federal programs, funds received by Tribal programs such as TERO, Tribal Court, or any funds received by any of the Tribe's many businesses such as the 4Bears Casino and Make Cents Businesses; and

WHEREAS, it is not clear to Tribal membership whether the amounts drawn down from the Tribe's PL Accounts include JTAC Funds, settlement funds, pasture and grazing lease funds, funds received for right-of-ways or any other trust resource as the Tribal Business Council does not provide this information as required by our Constitution & Bylaws; and

WHEREAS, the Tribe's budget resolutions from 2010 through 2022 show the Tribe spent the following from the accounts listed in the years indicated:

Year	General Fund Operating Budget	Special Projects Budget	Investments Budget	Disbursements Budget	Segment Operating & Development Budget	Total Expended Per Budget Resolution
2010	\$40,000,000	\$0	\$0	\$0	\$0	\$40,000,000
2011	\$40,000,000	\$0	\$0	\$0	\$0	\$40,980,370
2012	\$48,105,000	\$107,395,000	\$0	\$0	\$0	\$155,500,000
2013	\$56,732,000	\$248,708,000	\$0	\$0	\$0	\$305,440,000
2014	\$82,321,837	\$448,931,163	\$0	\$0	\$0	\$531,253,000
2015	\$99,250,000	\$114,300,000	\$125,000,000	\$29,000,000	\$78,000,000	\$445,550,000
2016	\$72,145,000	\$107,265,000	\$15,000,000	\$29,500,000	\$60,000,000	\$283,910,000
2017	\$67,728,500	\$113,021,500	\$13,250,000	\$33,000,000	\$51,000,000	\$278,000,000
2018	\$90,735,000	\$157,115,000	\$58,750,000	\$38,000,000	\$65,400,000	\$410,000,000
2019	\$97,401,000	\$197,802,000	\$76,000,000	\$39,000,000	\$72,000,000	\$482,203,000
2020	\$152,385,000	\$245,506,000	\$92,500,000	\$49,500,000	\$72,000,000	\$611,891,000
2021	\$150,355,000	\$172,095,000	\$63,600,000	\$50,250,000	\$42,000,000	\$478,300,000
2022	\$180,650,000	\$271,600,000	\$195,000,000	\$50,750,000	\$66,000,000	\$764,000,000
Totals	\$1,177,808,337	\$2,183,738,663	\$639,100,000	\$319,000,000	\$506,400,000	\$4,827,027,370



WHEREAS, these figures reveal a discrepancy of \$940,815,202 between the amount of taxes taken in and money drawn down out of the Tribe's trust accounts since 2010 (\$3,866,212,168) and the amount expended by the Tribe during the same period of time (\$4,827,027,370); and

WHEREAS, this \$940,815,202 discrepancy demonstrates the need for transparency, annual accountings as required by our Constitution & Bylaws and transparency and a need for an accounting of all funds received and expended from 2010 through 2022; and

WHEREAS, these figures also reveal the TBC spends everything it collects and more thereby demonstrating a serious need for Tribal membership to restrict the funds available to the Tribe and dedicate revenues to the People's Fund to set aside for future generations; and

WHEREAS, Tribal membership finds it would be prudent and the best interest of the Tribe to commit the collection and receipt of funds from all trust resources (including water sales from the Section 17 Corporation), settlement funds/accounts including all present and future settlements (including but not limited to JTAC funds and any funds in escrow as a result of the Tribe's dispute with the State of North Dakota over the riverbed minerals) to the People's fund and to restrict these funds from the use of the Tribal Business Council and reserve these funds in perpetuity; and

WHEREAS, Tribal membership notes that the Tribe's trust accounts earn interest and tribal membership desires to commit eighty percent of the annual interest earned for distributions to Tribal members in accordance with the People's Fund Distribution Plan.

THEREFORE, BE IT RESOLVED, the *Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waapllsis, Aki numuk aki tawtesh has geddish, The People's Fund* shall include the following sources and/or accounts that are presently managed by or that flow through by the Bureau of Trust Funds Administration:

1. All income from the Tribe's lands and natural resources including but not limited to all royalties and bonuses from oil and gas leases including any future bonus or leases that may be realized as a result of the Tribe's riverbed dispute with the State of North Dakota;
2. All net income from farm and pasture leases;
3. All net income from grazing leases;
4. All net income from water sales by the Tribe or the Tribe's Section 17 Corporation. All future income from water sales shall be deposited in an account with the office of



Bureau of Trust Funds Administration. If the Bureau of Trust Funds Administration refuses to accept these funds, then in a separate account set up to hold these funds as part of *The People's Fund*;

5. All settlement accounts existing now or in the future;
6. All income from right-of-ways; and
7. Any and all other accounts and or income managed by or that flows through the Bureau of Trust Funds Administration.

THEREFORE, BE IT RESOLVED, all future distributions to the people shall be paid from eighty percent (80%) of the annual interest earned from *The People's Fund*.

BE IT FURTHER RESOLVED, these funds shall be held in perpetuity for our people now and future generations and may not be used by or encumbered by the Tribal Business Council for any purpose.

BE IT FURTHER RESOLVED, the Tribal Business Council shall amend the *Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waapllsis, Aki numuk aki tawtesh has geddish, The People's Fund* and any existing resolution, ordinance or agreement to reflect the will of the people as provided herein.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, ____ were present at a Regular Meeting thereof duly called, noticed, convened and held on the ____ day of _____, 2023, that the foregoing Resolution was duly ☐ adopted ☐ rejected at such meeting by the affirmative vote of ____ members, ____ members opposed, ____ members abstained, ____ members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman ☐ Voting. ☐ Not Voting.

Dated this ____ day of _____, 2023.

ATTEST:

Executive Secretary Fred Fox
Tribal Business Council
Three Affiliated Tribes

Tribal Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes