

THREE AFFILIATED TRIBES

IN DISTRICT COURT

FORT BERTHOLD RESERVATION

NEW TOWN, NORTH DAKOTA

Terrance Fredericks and Carol Good Bear,	)	
	)	
Plaintiffs,	)	Case No. CV -2024-0357
	)	
vs.	)	
	)	PROPOSED AMENDED
	)	COMPLAINT
Mark N. Fox, as Three Affiliated Tribes'	)	
Tribal Chairman, Cory Spotted Bear, as	)	
Three Affiliated Tribes' Vice-Chairman, Fred	)	
Fox, as Three Affiliated Tribes' Executive	)	
Secretary, Mervin Packineau, as Three	)	
Affiliated Tribes' Treasurer, Robert White,	)	
as Three Affiliated Tribes' Councilman,	)	
Sherry Turner-Lone Fight, as Three Affiliated	)	
Tribes' Councilwoman, Monica Mayer, as Three	)	
Affiliated Tribes' Councilwoman, and The	)	
Three Affiliated Tribes' Tribal Business	)	
Council,	)	
	)	
Defendants.	)	

1. Plaintiffs Terrance Fredericks (Fredericks) and Carol Good Bear ("Good Bear"), by and through their Tribal Court advocate, for their Complaint state and will show as follows:

**I. PARTIES**

2. Plaintiff Fredericks is an enrolled member of the Three Affiliated Tribes, residing in Halliday, North Dakota 58636.

3. Plaintiff Carol Good Bear is an enrolled member of the Three Affiliated Tribes, residing in New Town, North Dakota 58763.

4. Defendant Mark N. Fox is the Chairman of Three Affiliated Tribes Tribal Business Council ("the Council").

5. Defendant Cory Spotted Bear is the Vice-Chairman of the Council.

6. Defendant Mervin Packineau is the Northeast Segment and is the Treasurer of the Council.
7. Defendant Fred Fox is the Executive Secretary of the Council.
8. Defendant Robert White is the Councilman for the Four Bears Segment.
9. Defendant Sherry Turner-Lone Fight is the Councilwoman for the West Segment.
10. Defendant Monica Mayer is the Councilwoman for the North Segment.

## **II. JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this matter by virtue of Title I, Sections 2.1, 2.2, 3.1, 3.2, and 3.3 of the Fort Berthold Code of Law.
12. This Court has personal jurisdiction over the parties by virtue of Title I, Sections 2.1, 2.2, 3.1, 3.2, and 3.3 of the Fort Berthold Code of Law.
13. This Court has jurisdiction over the members and officers of the Council by virtue of exceptions to the doctrine of Sovereign Immunity, namely an exception providing authority for suits requesting injunctive relief against officials acting outside the scope of their authority. *See, e.g., Ex parte Young*, 209 U.S. 123 (1908).
14. This Court also has jurisdiction over this complaint under Article VI, Section 3(b) of the Constitution of the Three Affiliated Tribes as it provides this Court authority to adjudicate Tribal violations of the Indian Civil Rights Act (“ICRA”), specifically actions seeking injunctive relief against the Council.
15. Venue is proper in this Court because the events and actions/inactions arose within Three Affiliated Tribes, and it is where the Council resides.

## **III. ALLEGATIONS**

16. The Three Affiliated Tribes of Fort Berthold (“the Tribe”) is a federally recognized Indian Tribe organized under the Constitution and Bylaws of the Three Affiliated Tribes of the Fort

Berthold Reservation (“Constitution” or “Bylaws,” respectively), which were ratified by a vote of Tribal members on May 15, 1936.

17. The Constitution provides the consent of the Tribe to suits for violations of ICRA. Specifically, Article VI, Section 3(b) provides:

The people of the Three Affiliated Tribes, in order to achieve a responsible and wise administration of this sovereignty delegated by this Constitution to the [Council], hereby specifically grant to the Tribal Court the authority to enforce the provisions of the Indian Civil Rights Act, 25 U.S.C. 1301, et seq., including the award of injunctive relief only against the [Council] if it determines through an adjudication that the [Council] has in a specific instance violated the Act.

18. ICRA, 25 U.S.C. § 1301 provides that in exercising powers of self-government, no Indian tribe shall deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.

19. The Constitution also enumerates powers and duties of the Council. Article VI, Section 3 grants the Council “all necessary sovereign authority – legislative and judicial – for the purpose of exercising the jurisdiction granted by the people in Article I of this Constitution.”

20. Article VI, Section 5 states that the Council shall have the powers enumerated therein, “but that the exercise of those powers shall be subject to popular referendum”.

21. Article VI, Section 5(c) of the Constitution provides that the Council has the following responsibilities:

To administer any funds or property within the exclusive control of the Tribes to make expenditures from available Tribal funds for public purposes of the Tribes, including salaries or other remuneration of Tribal officials or employees. Such salaries or remuneration shall be paid only for services actually rendered. All expenditures from the Tribal Business Council fund shall be by resolution duly passed by the council to such effect, and the amounts so paid shall be matters of public record at all times.

(Emphasis added).

22. Article VIII of the Constitution reserves the right of Tribal members to demand a referendum “on any proposed or enacted ordinance or resolution of the [Council].”

23. Article I of the Bylaws provides additional duties applicable to particular officers of the Council.

24. Article I, Section 2 of the Bylaws imposes upon the Secretary the duty to “keep all records, minutes of meetings, and an accurate roll of members by communities.” The Secretary shall also “receive all petitions, applications, and other papers, and prepare them for the action of the council.”

25. Article I, Section 3 of the Bylaws requires a resolution to be passed in order for the Treasurer to “expend or otherwise disburse any funds in his possession or in the possession of the or custody of the Tribal Business Council.

26. This Constitutionally mandated process requiring the Council to pass formal resolutions ensures the participation of Councilmen and Tribal members the decision-making process so that the Council may make informed decisions.

#### **A. The “People’s Fund.”**

27. The Council established the *Nuxbaaga Iidaa Uuh Waa Zaah, Salmis waaplsis, Aki numuk aki tawatesh sha geddish* (“the People’s Fund”) pursuant to Resolution No. 13-004-VJB. The People’s Fund is funded by revenue from the Tribe’s non-renewable oil and gas assets.

28. The Council established an account for the People’s Fund with the Bureau of Trust Fund Administration (“BTFA”) known as “Proceeds of Labor Account PL10017014”.

29. A department to administer the People’s Fund was also established under Resolution No. 13-004-VJB (“the People’s Fund Department”). Pursuant to Resolution No. 13-004-VJB, the People’s Fund Department was to establish a distribution and eligibility plan. Resolution No. 13-

004-VJB identified that at the time of its passage in January 2013, the People's Fund contained over \$100,000,000.00.

30. Resolution No. 13-004-VJB also requires the Council to take the Distribution and Eligibility Plan to the people for a referendum vote:

**“BE IT FURTHER RESOLVED**, that the Distribution Plan shall not be implemented until it is presented to and approved by the Tribal Business Council and thereafter submitted to a referendum vote in accordance with Article VIII of the Constitution.

Resolution No. 13-004-VJB. (Emphasis added.) The Distribution and Eligibility Plan has never been submitted to referendum vote. (Resolution No 13-004-VJB is attached as “Exhibit A”).

31. In 2014, under Resolution No. 14-112-VJB, the Council approved a Distribution and Eligibility Plan put forth by the People's Fund Department. Section 3 of the distribution and eligibility plan recommended “allocating eighty percent (80%) of the Tribe's non-renewable oil and gas resource revenues to The People's Fund and has limited the use of the principal amount of investment except as may be authorized by the Business Council in the future.” (A copy of Resolution No. 14-112-VJB is attached as “Exhibit B”)

32. Since the inception of the People's Fund, the TBC has paid out approximately \$600 million or more to tribal members. Upon information and belief, no monies, other than distributions to tribal members, have been paid out of trust account PL PL10017014.

33. The Council never submitted the Distribution and Eligibility Plan to the people for a referendum vote.

34. The Council generally does not provide adequate notice of its meetings in regard to the agenda items to be considered at the meetings before the meetings occur, which is a due process violation of the members of the Three Affiliated Tribes. The meetings themselves also violate due process because, among other things, the Council has closed session meetings as a rule— only

Tribal members that are presenting an agenda item are generally allowed into the meeting. Because they are closed out, Tribal members are not given an opportunity to be involved or heard in those discussions. The notices and meetings are inadequate and violate due process.

35. On or about August 6, 2024, the Council illegally passed Resolution No. 24-248-FWF in a closed session. The people of the Three Affiliated Tribes were not given an opportunity to comment, ask questions or otherwise participate in the decision-making process concerning this resolution. (A copy of Resolution NO. 24-248-FWF is attached as “Exhibit C”). This resolution purports to be an “investment” only but Chairman Mark Fox stated the partnership with TWG Global, LLC also involved a \$250,000,000 loan to the Tribe to cover the shortfalls in the Tribe’s special building projects. There is nothing in Resolution No. 24-248-FWF that even hints the partnership included a loan expenditure.

36. Furthermore, the agenda for the August 6, 2024, meeting did not put tribal members on any meaningful notice whatsoever that the Council was going to act on the People’s Fund or withdraw \$250,000,000 from it. The agenda was intentionally vague on these points so that the Council would not have to answer any questions or tolerate any comments on the matter. The Council’s actions were underhanded and intended to approve the \$250,000,000 withdrawal from the People’s Fund as quietly as possible and without any opposition from Tribal members.

37. The Council called a “special meeting” to reconsider Resolution 24-248-FWF in a closed meeting. However, the Council again acted discreetly in order to avoid participation of tribal members as there was never any notice of the special meeting published and the meeting was held 25 miles away from the Tribal Headquarters at the office of the Northeast Segment Representative in Parshall, North Dakota.

38. All actions taken by the Tribal Council are “subject to a popular referendum as provided by this Constitution. Constitution, Article VI, Powers, Section 1.

39. Article VI, Section 5 of the Constitution similarly states “The Tribal Council shall have the following powers, the exercise of which shall be the subject to popular referendum as hereinafter provided in this Constitution. Constitution, Article VI, Powers, Section 5 (emphasis added).

40. Article VIII of the Constitution governs referendums. This article provides:

#### **ARTICLE VIII – REFERENDUM**

Upon a petition signed by at least 10 percent of the qualified voters of each community, demanding a referendum on any proposed or enacted ordinance or resolution of the Tribal Business Council, the Council shall call an election and the vote of the majority of the qualified voters voting in such referendum shall be binding upon the Tribal Business Council, provided at least 30 percent of the eligible voters shall vote in such referendum.

41. The right to referendum is an absolute, fundamental right that the people of the Three Affiliated Tribes reserved onto themselves. It is their check and balance on the Council.

42. The Plaintiffs and various tribal members have taken it upon themselves to draft and present a petition for a referendum vote to rescind Resolution No. 24-248-FWF (“the Petition” is attached hereto as “Exhibit D”).

43. The Petition was carried by circulators in all Segments of the Reservation over Labor Day weekend, and they were able to obtain approximately 248 signatures from fellow Tribal members upset about the Council’s action to withdraw \$250,000,000 from the People’s Fund without any meaningful notice, or any real opportunity to be heard and participate in the decision-making process.

44. When the People learned the \$250,000,000 had been transferred out of the People’s Fund, they stopped signing the Petition because they believed the Petition was moot. The Plaintiffs do not believe the Petition is moot and they desire to continue obtaining signatures and pursue a

referendum vote to rescind Resolution No. 24-248-FWF as rescission of this resolution will send a message to the Tribal Business Council that they must abide by the Constitution & Bylaws of the Tribe in passing resolutions. However, the Plaintiff's need to assure future signatories that their efforts are not futile. Thus, the Plaintiffs seek temporary injunctive relief from the Tribal Court prohibiting the Council from withdrawing any more funds from the People's Fund so that they may obtain the necessary signatures for the Petition and ultimately vote on a referendum to rescind Resolution No. 24-248-FWF.

45. The Plaintiffs desire to take the Distribution and Eligibility Plan to a referendum vote as required by the Plan itself. Thus, the Plaintiffs have prepared another Petition for a referendum vote asking the People to vote for the following:

#### **PROPOSED REFERENDUM**

*"Effective immediately, the people of the MHA Nation hereby ratify and approve the "People's Fund and Eligibility Plan" (the "Plan") passed by Resolution No. 14-112-VJB provided Paragraph 3 of the Plan is amended by striking Paragraph 3 in its entirety and replacing it with the following language:*

3. *The Allocation of Tribal Non-renewable Oil and Gas Resource Revenue.*

*The monies in the People's Fund (PL 10017014) shall be dedicated to distributions to the people and shall not be used for any other purpose. Furthermore, the monies from the People's Fund shall not be taken out of trust status. These mandates may only be amended by another referendum vote of the people."*

A copy of this Petition is attached hereto as Exhibit A.

46. The TBC has a history of ignoring prior petitions that have been submitted to them. For instance, Tribal member Dorreen Lyons had collected signatures and submitted them to the Tribe's Secretary for a referendum vote. Her Petition was ignored. On July 20, 2018, Marilyn Cross and Ed Danks submitted a petition to the Tribal Secretary signed by 330 enrolled adult tribal members. The petition requested a referendum vote to be held to consider the repeal of the



tribal election ordinance concerning non-resident's requirement to "return to the Reservation to vote." Neither Marilyn Cross or Ed Danks ever received a response from the Secretary of the Tribe – not even an acknowledge it was received. See, Ray Cross; Marilyn Hudson v. Mark Fox et. al. Complaint dated November 1, 2018, ¶ 11.

47. Any withdrawals from the People's Fund before the Plaintiffs can exercise their referendum rights under Article VIII would render their right to referendum concerning the People's Fund meaningless.

48. Furthermore, all actions exercised by the Council "shall be subject to" a popular referendum – meaning the passing of a resolution is not final action if the referendum process is invoked by the Plaintiffs. Thus, it behooves the Tribe, and all involved in a referendum process is the "status quo" is maintained pending the circulation of a petition and subsequent referendum vote if any.

49. The Council had a duty under ICRA to refrain from depriving any persons of property without due process of law.

50. Plaintiffs and all Tribal members have a vested shareholder interest in the money contained in the Fund as they all receive annual disbursements pursuant to Paragraph 3 of the Corporate Charter of the Three Affiliated Tribes of the Fort Berthold Reservation which provides:

"The Three Affiliated Tribes shall be a membership corporation. Its members shall consist of all persons now or hereafter members of the Tribe, as provided by its duly ratified and approved Constitution and Bylaws."

And Paragraph 8 which states:

"The Tribe may issue to each of its members a non-transferable certificate of membership evidencing the equal share of each member in the assets of the Tribe and may distribute per capita, among the recognized members of the Tribe . . . ."

51. The Constitution and Bylaws explicitly outline the procedural due process required before making expenditures from the People's Fund, with both expressing that no expenditure may be made absent a resolution duly passed by the Council to such effect. *See* Constitution, Article VI, Section 5(c); Bylaws, Article I, Section 3.

52. The Council's attempt at withdrawing \$250,000,000 from the People's Fund in passing Resolution No. 24-248-FWF was completely devoid of any meaningful notice and intentionally prevented tribal members from participating in the decision-making process concerning this resolution as the actions of the Council concerning this resolution were illegally taken in a closed meeting and a "secret" special meeting 25 miles away from Council chambers where it normally conducts its business. In passing Resolution No. 24-248-FWF, the Council directly violated Article VI, Section 5(c) of the Constitution and Article I, Section 3 of the Bylaws. Said violations constitute deprivation of communal property without procedural due process of law. As evidenced by these actions and past inaction concerning petitions that have been presented to them, the TBC cannot be trusted to refrain from withdrawing funds from the People's Fund while Plaintiff pursues their Petitions concerning the People's Fund.

#### **IV. FIRST CAUSE OF ACTION DUE PROCESS VIOLATIONS ICRA**

53. Plaintiffs incorporate by reference the foregoing allegations as if fully stated here.

54. As set forth above, each of the Defendants' actions constitute violations of the Constitution, Bylaws, Charter, and ICRA, and permanently impact the Plaintiffs' vested interests in the People's Fund and the annual disbursements from it.

55. Because the Defendants' actions permanently impact the Plaintiffs' vested interests in Tribal funds and property, in addition to Plaintiffs' due process rights under the Constitution,

Bylaws, Charter, and ICRA, Defendants continued illegal actions will cause irreparable harm to Plaintiffs and the Tribe.

56. Given the explicit commands, duties, and obligations laid out by the Constitution, Bylaws, Charter, and ICRA, and the Defendants' failure to obey those commands, duties, and obligations, the Plaintiffs have a substantial likelihood of success on the merits before this Court.

57. Additionally, because Defendants' illegal actions contravene duties and obligations set forth in constitutional and other legal documents explicitly passed by enrolled Tribal members, the public interest factor strongly favors Plaintiffs.

58. As noted above, Defendants continued illegal actions will result in continued and further permanent and irreparable harm to Plaintiffs. In contrast, enjoining Defendants from continuing to engage in their illegal actions and/or reversing harm done by said illegal actions simply returns Defendants to the status quo – that is, fulfilling the obligations and duties set forth by the Constitution, Bylaws, Charter, and ICRA. Thus, the balance of the harms strongly favors Plaintiffs as well.

59. Plaintiffs' need for immediate relief based upon the above factual allegations is clear.

## **V. PRAYER FOR RELIEF**

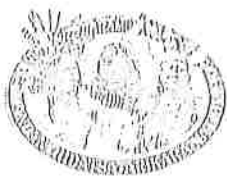
60. WHEREFORE, Plaintiffs request judgment as follows:

- a. An Order enjoining the TBC from prohibiting tribal members and the public from attending Tribal Council Meetings unless they go into an actual closed session;
- b. An Order enjoining the TBC from passing any resolutions that involve Tribal expenditure in a closed session.

- c. An Order temporarily restraining the TBC from withdrawing any more funds from the People's Fund for 120 days so that the Plaintiffs may circulate a petition for a referendum vote as required by Resolution No. 13-004-VJB.

Dated this \_\_\_\_\_ day of November, 2024.

By \_\_\_\_\_  
Steven A. Kelly  
720 Western Ave., Suite 204  
Minot, North Dakota 58701  
Tribal Court Advocate for Plaintiff



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

*A Resolution entitled, "Establishment of a Department to Administer the Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish"*

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 (MHA Nation) 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 MHA Nation 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, Pursuant to Article VI, Section 5(c) of the MHA Nation's Constitution, the Tribal Business Council is authorized administer and make expenditures from available tribal funds for public purposes of the MHA Nation; and

WHEREAS, Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish (the People's Fund) was established for the benefit of the members and future generations of the MHA Nation, consisting of revenue saved from the development of the MHA Nation's nonrenewable oil and gas resources; and

WHEREAS, Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish has grown to over one hundred million dollars and now requires day-to-day administration and an administrative plan to provide distributions from the fund to eligible tribal members; and

WHEREAS, Currently no system exists for the administration, expansion, and distribution of Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish; and

WHEREAS, The Tribal Business Council believes it is necessary to establish a tribal governmental Department staffed by individuals with skills to administer the Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish.



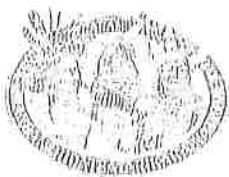
NOW, THEREFORE, BE IT RESOLVED that the Tribal Business Council of the Three Affiliated Tribes hereby creates a separate Department which is tasked with the day-to-day administration of the Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aki tawatesh sha geddish.

BE IT FURTHER RESOLVED, the affairs of the Department shall be managed by a Director, who shall be advised by an Advisory Board composed of seven persons, including the Chairman of the Board and six members from each of the following segments of the Reservation: (1) Four Bears; (2) Mandaree; (3) New Town/Little Shell; (4) Parshall/Lucky Mound; (5) Twin Buttes; and (6) White Shield. The Chairman of the Board shall be nominated by the Tribal Chairman, subject to approval by the Tribal Council. The remaining Board members shall be nominated by the Council member for their respective segments, subject to approval by the Council.

BE IT FURTHER RESOLVED that each Board member shall have the following qualifications: (1) knowledge of the Fort Berthold Reservation and its people, (2) financial management or planning experience, and (3) a reputation for trustworthiness and honesty. The initial advisory Board is appointed as follows:

1. Chairman: Michael Cunningham
2. Four Bears: Genetic Young Blood
3. Mandaree: Bodie Johnson
4. New Town/Little Shell: Wendy Anderson
5. Parshall/Lucky Mound: Cathy Peterson
6. Twin Buttes: Allyr Spotted Bear
7. White Shield: Theresa Long

BE IT FURTHER RESOLVED, the Advisory Board's term of office shall be four years commensurate with the term of office for each segment's Council representative and, in the case of the Chairman of the Board, commensurate with the term of office of the Tribal Chairman. Each member of the Board shall hold office until his/her successor has been appointed and has qualified.



**BE IT FURTHER RESOLVED**, the Board should meet within 30 days of all members being appointed to establish by-laws and elect officers.

**BE IT FURTHER RESOLVED**, the Tribal Council shall appoint a Director to administer the day-to-day affairs of the Department.

**BE IT FURTHER RESOLVED**, that the Director shall be responsible for administering Nuxbaaga Iidaa Uuh Waa Zaah on a day-to-day basis. The Director shall; (1) with the assistance of the Advisory Board or its representative members hold public meetings in each Community for the purpose of developing and presenting to the Tribal Council a Distribution and eligibility Plan to govern the distribution of funds from Nuxbaaga Iidaa Uuh Waa Zaah to eligible members of the MHA Nation, which shall include procedures for offsetting distributions against liquidated debts owed by the payee to the MHA Nation or any of its agencies, (2) develop a set of criteria for the initial eligibility and continuing eligibility to receive funds, (4) coordinate with the Enrollment Office in order to maintain an up to date list of enrolled members and their addresses, (5) Provide a direct telephone number for members to obtain information on the fund, and (6) assist the Tribal Council or its authorized delegates in the development of a comprehensive Financial Plan for the preservation, investment and expansion of the Nuxbaaga Iidaa Uuh Waa Zaah.

**BE IT FURTHER RESOLVED**, that the Distribution Plan shall not be implemented until it is presented to and approved by the Tribal Business Council and thereafter submitted to a referendum vote in accordance with Article VIII of the Constitution.

**BE IT FINALLY RESOLVED**, that the Chairman is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this Resolution.



Resolution No. 13-004-VJB

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#### 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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 24<sup>th</sup> day of January, 2013, 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 24<sup>th</sup> day of January, 2013.

  
Tribal Secretary, Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

ATTEST:

  
Tribal Chairman, Tex Hall  
Tribal Business Council  
Three Affiliated Tribes





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

A Resolution entitled, "Approval of the People's Fund Distribution and Eligibility Plan for the Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aji tawatesh sha geddish"

WHEREAS, The Three Affiliated Tribes (the "MHA 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 MHA Nation 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 MHA Nation 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

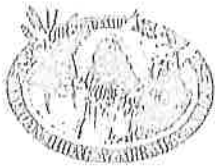
WHEREAS, Pursuant to Article VI, Section 5(c) of the MHA Nation's Constitution, the Tribal Business Council is authorized administer and make expenditures from available tribal funds for public purposes of the MHA Nation; and

WHEREAS, Nuxbaaga Iidaa Uuh Waa Zaah, Sahnis waaplsis, Aki numuk aji tawatesh sha geddish (the "People's Fund") was established as a way to promote the general welfare of the Tribe and its members through the fair and equitable distribution to duly enrolled tribal members of revenues derived from the MHA Nation's nonrenewable oil and gas resources, while preserving a revenue base for future generations; and

WHEREAS, The Tribal Business Council, by Resolution No. 13-004-VJB established a tribal governmental Department (the "Department") to provide day-to-day administration and to develop an administrative plan to provide distributions from the Fund to eligible members; and

WHEREAS, The Department has prepared an administrative plan entitled "People's Fund Distribution and Eligibility Plan" which establishes the rules of eligibility and a framework for making distributions from the People's Fund to eligible tribal members.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Business Council of the Three Affiliated Tribes hereby approves the People's Fund Distribution and Eligibility Plan; and

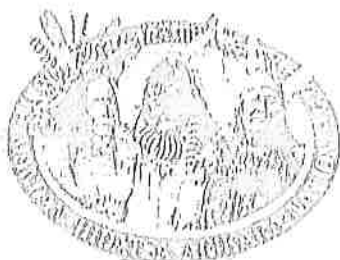


Resolution No. 14-112-YJB

BE IT FURTHER RESOLVED, that the Tribal Business Council authorizes and directs the administrator of the People's Fund to make the first distribution under the Plan in the amount of \$500.00 to each eligible MHA Nation Tribal member by August 1, 2014; and

BE IT FINALLY RESOLVED, that the Tribal Business Council is hereby authorized to take such further actions as are necessary to carry out the terms and intent of this Resolution.

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THREE AFFILIATED TRIBES  
MANDAN, HIDATSA, ARIKARA NATION  
People's Fund Distribution and Eligibility Plan

DRAFT

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1. Narrative.

Nuxbaaga Ildaa Uuh Waa Zaah, Sahnis waapsis, Aki numuk aki taywatesh sha geddish, The People's Fund, ("The People's Fund"), was established for the benefit of the members and future generations of the MHA Nation from now until time in memorial. The Three Affiliated Tribes Tribal Business Council ("Business Council") recognizes the opportunity to give to the members of the MHA Nation The People's Fund from the oil and gas development on the Fort Berthold Reservation. The People's Fund will provide revenue for the membership long after the last barrel of oil is taken from our lands. We have been blessed with this natural resource that has taken millions of years for Mother Nature to prepare and The People's Fund will extend the benefits of this resource perpetually into the future.

## 2. Statement of Plan.

In order to promote the general welfare of the Tribe and its members, this plan is intended to provide for fair and equitable distribution to duly enrolled tribal members revenue generated from the development of the MHA Nation's nonrenewable oil and gas resources and set aside by the MHA Nation Business Council.

## 3. Allocation of Tribal Nonrenewable Oil and Gas Resource Revenue.

The Business Council, by Resolution No. 13-004-VJB, established a Tribal Department and Advisory Board to administer the Peoples' Fund. The Advisory Board recommends allocating eighty percent (80%) of the Tribe's nonrenewable oil and gas resource revenues to The People's Fund and has limited the use of the principal amount of investment except as may be authorized by the Business Council in the future.

## 4. Criteria for Eligibility.

a. All members of the Mandan, Hidatsa and Arikara Nation that are on the Tribal rolls shall be eligible to receive The People's Fund distributions. Such distributions shall be made in an equal amount of money to each Tribal member eligible to receive a distribution pursuant to this Plan.

b. Membership in the Mandan, Hidatsa and Arikara Nation shall be determined by the Enrollment Department pursuant to the Enrollment Ordinance and the MHA Nation Constitution.

c. In order to provide for orderly review and consideration, applications approved within sixty (60) days or less of a scheduled distribution date shall not be found eligible for distribution until the next scheduled distribution.

d. Address Verification. Members shall be responsible for providing address changes to the Enrollment Office as they occur.

e. Deceased Members. In the event that the eligible member has died on or after the fifteenth day of the month prior to the date of distribution, the decedent will still be eligible to receive that year's distribution with the following exceptions: (i) minors funds for those that have not reached distribution age will be deposited into their Individual Indian Monies (IIM) account which will then be handled by their estate; (ii) distribution for all other decedents beyond distribution age may be released to the estate.

## 5. Minors and Other Legal Incompetents.

a. The interests of minors and other legally incompetent members shall be disbursed as follows. An IIM account will be established with the Office of Special Trustee for each minor member eligible for The People's Fund distributions. Distributions to minor members will be released to them upon reaching the age of twenty-one (21). Other legally incompetent member's distributions will be released to their Power of Attorney, Legal Guardian, Estate or other designated individual or entity.

b. Education Criterion.

(1) The trust assets of each such account maintained for a minor shall be disbursed in equal amounts at the end of each academic term to the member-beneficiary thereof upon the earlier of (i) said member-beneficiary meeting the dual criteria of (a) reaching the age of eighteen (18) and (b) the following academic disbursement requirements are met:

(i) All member-beneficiaries are required to submit Letter of Acceptance to an accredited college or university,

(ii) All member-beneficiaries are required to submit grades/transcripts at the end of each academic term as justification that the continued disbursement requirements have been met.

(iii) All member-beneficiaries must complete twelve (12) academic transferable credit hours, maintain a grade point average of 2.0 each academic term and maintain a cumulative grade point average of 2.0 in order to receive continued disbursements.

(2) Exception Rule. This exception rule only provides for the early release of IIM accounts to a Tribal member that is eighteen (18) and enlisted in the United States Armed Forces or National Guard and is on active duty.

#### 6. Payments.

Annual Distributions. The Annual Distribution Date for The People's Fund shall be July 31<sup>st</sup> of each calendar year ("Annual Distribution Date"). For those members eligible pursuant to Section 5 of this Plan, annual distributions shall be made to the eligible member's IIM account on the Annual Distribution Date. Annual distributions shall be made until such time as the individual member's distribution amount exceeds \$2,000.00. Distributions exceeding \$2,000 per year shall be disbursed in equal amounts on July 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year ("Biannual Distribution Dates"). For those members eligible pursuant to Section 5 of this Plan, distributions shall be made to the eligible member's IIM account on the Biannual Distribution Dates.

c. Address of Eligible Member. Payments shall be mailed to the member's current address as annually verified or changed by the member per policy stated in paragraph 3d.

d. Effect of Indebtedness to Tribe on Distributions. Unless there is an approved loan and repayment schedule in effect prior to the distribution close out date of July 1 of the distribution year when distributions are under \$2,000.00 and June 1 and November 1 of the distribution year when distributions are over \$2,000.00 and the member is not in default on that schedule, any monies owed to the Tribe, to any Tribal Enterprise or to the Tribal Court, shall be deducted from any members distribution at the rate of one half (1/2) of annual and semi-annual distribution amount/s until such debt and/or obligation to the Tribe is paid in full per Resolution No. 13-004-VJB January 24, 2013.

e. 2013 Distribution. The Business Council, in the exercise of its legislative authority, hereby authorizes a onetime utilization of principal to complete the 2013 annual distribution as proposed by the Department and its Advisory Board.

7. Amendments.

This plan may be amended by the action of the Three Affiliated Tribes Tribal Business Council, in a meeting at which a quorum is present, but only upon the affirmative vote of a majority of the members.

Comment (A1): This would allow the Business Council to amend the plan or eliminate it upon the vote of a simple majority. It was my understanding the BE was not supposed to have that type of influence over this fund.




Resolution No. 14-112-VJB

### 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, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 10<sup>th</sup> day of July, 2014, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 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 10<sup>th</sup> day of July, 2014.

  
Executive Secretary, V. Judy Brugh  
Tribal Business Council  
Three Affiliated Tribes

ATTEST:

  
Chairman, Tex G. Hall  
Tribal Business Council  
Three Affiliated Tribes



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

***A Resolution Entitled, "Authorization to Withdraw \$250,000,000 from the MHA Nation Trust Fund Account PL10017014 in Order to Purchase Protected Common Units in TWG Global LLC"***

- WHEREAS,** The Mandan Hidatsa and Arikara Nation (MHA Nation), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the Constitution) under said Act, and
- WHEREAS,** Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the MHA Nation; and
- WHEREAS,** The Constitution 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 MHA Nation and of the enrolled members thereof; and
- WHEREAS,** Article VI, Section 5(c) of the Constitution specifically authorizes and empowers the Tribal Business Council to administer funds within the exclusive control of the Nation and to make expenditures from available Tribal funds for public purposes for the Nation; and
- WHEREAS,** The MHA Nation currently has funds invested through various sources, and desires to repurpose a portion of those funds in a manner that will generate a greater return on investment; and
- WHEREAS,** The MHA Nation currently has over \$891 million invested in proceeds of Labor (PL) account PL10017014 with the Bureau of Trust Funds Administration (BTFA); and
- WHEREAS,** BTFA has been investing the MHA Nation's funds, but because Federal regulations allow the BTFA to invest only in lower yield securities such as government backed bonds, debt obligations or instruments guaranteed or insured by the federal government, the income on the investment has not been satisfactory, yielding a total return of approximately 3.2% as of July 30, 2024, over the holding period of each security which ranges between 6 months and 10 years; and
- WHEREAS,** The Tribal Business Council has determined it appropriate to withdraw or transfer a portion of the funds in BTFA account PL10017014 in order to diversify and generate a higher return on its assets; and





**WHEREAS,** The MHA Nation has been offered a unique opportunity to become an equity partner in TWG Global LLC, a diversified financial services holding company with estimated 2024 net earnings exceeding \$4.5 billion and estimated value of \$32 billion; and

**WHEREAS,** After conducting its due diligence, the Tribal Business Council has been advised that:

1. TWG Global is estimating annual total returns of over 20%, including annual dividends of approximately 5-6%. These returns represent a higher expected rate of return than the portfolio managed by the BTFA which is invested entirely in government bonds;
2. The purchase of TWG Global shares diversifies the Nation's assets, providing broad exposure to the financial services sector through a holding company of successful companies and direct investments.
3. The prospective purchase of TWG Global shares has strategic value for the MHA Nation. The MHA Nation's relationship with TWG Global provides enhanced/preferred access to TWG Global's businesses which can result in several tangible future benefits, including access to capital for the Nation's developments, access to favorable investments, and visibility and access to the broader investment and financial services industry; and

**WHEREAS,** The Tribal Business Council finds it appropriate to withdraw a portion of the funds currently invested in PL10017014 pursuant to 25 CFR Part 115 in order to purchase \$250 million worth of protected common units in TWG Global LLC.

**NOW THEREFORE BE IT RESOLVED,** That the Tribal Business Council authorizes and directs the immediate withdrawal of \$250 million (\$250,000,000.) from PL10017014, all of which amount shall be used for the purchase of protected common units in TWG Global LLC.

**BE IT FURTHER RESOLVED,** The Chairman is authorized to work directly with the BTFA to accomplish the withdrawal in the most efficient manner possible, through liquidation, sale or transfer of securities, or by other appropriate means, and to execute such documents and take such actions as are necessary to accomplish the withdrawal of funds.

**BE IT FURTHER RESOLVED,** The Chairman is authorized, subject to legal review, to execute such documents or agreements as necessary to purchase \$250 Million worth of protected common units of TWG Global LLC, and to utilize if necessary the federal corporate charter of the MHA Nation to accomplish the purchase.



**Resolution No. 24-248-FWF**

**BE IT FURTHER RESOLVED,** All revenue earned from the purchase of units in TWG Global LLC shall be used for the same purposes for which funds from PL10017014 are used, and for such other purposes as are authorized by the Tribal Business Council.

**BE IT FURTHER RESOLVED,** In accordance with 25 CFR section 115.813, the Tribal Business Council acknowledges that funds in PL10017014 are invested in securities that may not have matured, that the securities must be sold, a penalty may be incurred if the security is sold, and the security may lose value if it is sold prior to maturity.

**BE IT FURTHER RESOLVED,** This Resolution supersedes any prior Resolutions related to the withdrawal or use of funds in PL10017014.

**BE IT FINALLY RESOLVED,** The Chairman is authorized to take such further action as is necessary to carry out the terms and intent of the Resolution.




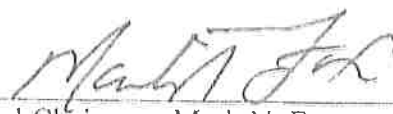
### CERTIFICATION

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, 6 were present at a Regular meeting thereof duly called, noticed, convened and held on the 6<sup>th</sup> day of August, 2024, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 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 6<sup>th</sup> day of August, 2024

  
Tribal Secretary, Fred Fox  
Tribal Business Council  
Three Affiliated Tribes

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

**PETITION FOR REFERENDUM VOTE TO THE THREE AFFILIATED TRIBES'  
TRIBAL BUSINESS COUNCIL TO RATIFY AND APPROVE THE PEOPLE'S FUND AND DISTRIBUTION PLAN  
WITH AMENDMENTS LIMITING THE USE OF THE FUND TO DISTRIBUTIONS TO THE PEOPLE**

We, the undersigned, hereby petition the Tribal Business Council to conduct a referendum vote on the proposed referendum herein pursuant to Article VIII of the Constitution and Bylaws of the Three Affiliated Tribes. By signing this petition, we certify that we are enrolled members of the Three Affiliated Tribes and eighteen (18) years of age or older and reside in the community indicated (New Town, Four Bears, Mandaree, Twin Buttes, White Shield, or Parshall).

**SUBJECT OF THE REFERENDUM**

The Tribal Business Council ("TBC") withdrew \$250,000,000 out of the People's fund according to Resolution No. 24-248-FWF. The TBC withdrew this money without any real notice to the people or for an opportunity for the people to be heard. It is estimated that the People's Fund still has a balance of approximately \$611,000,000. If the people do not prohibit any more withdrawals from the Peoples Fund and restrict the use of this money, there is a real possibility the TBC will withdraw all of the money out People's Fund. If this happens, all the distributions we enjoy now will no longer be available for distributions to the people. Consequently, a referendum vote, as originally required by Resolution No. 13-004-VJB, is necessary in order to ensure the People's Fund: (1) remains in trust account PL10017014; and (2) the use of these funds be strictly limited to distributions to the People.

By signing your name below, you are petitioning the TBC to conduct a referendum vote to approve the "People's Fund Distribution and Eligibility Plan" passed by Resolution No. 14-112-VJB with an amendment restricting the use of the People's Fund to distributions to the people only and expressly prohibiting the TBC from using the funds for any other purpose.

**PROPOSED REFERENDUM**

*"Effective immediately, the people of the MHA Nation hereby ratify and approve the "People's Fund and Eligibility Plan" (the "Plan") passed by Resolution No. 14-112-VJB provided Paragraph 3 of the Plan is amended by striking Paragraph 3 in its entirety and replacing it with the following language:*

3. *The Allocation of Tribal Non-renewable Oil and Gas Resource Revenue.*

*The monies in the People's Fund (PL 10017014) shall be dedicated to distributions to the people and shall not be used for any other purpose. Furthermore, the monies from the People's Fund shall not be taken out of trust status. These mandates may only be amended by another referendum vote of the people."*

*Exhibit D*

## SIGNATURES FOR PETITION

PRINT NAME

DATE (mm/dd/yy)

FULL ADDRESS

SIGNATURE

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