

Tribal Concerns and Discussion Points
Tribal and State Relations Committee

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Three Affiliated Tribes Tax Commission

Greetings Chairman Johnson and Members of the Tribal-State Relations Committee. I am providing the following information and concerns on behalf of our tribal nation in the area of taxation and water development, as well issues related to environmental and economic impact to the Fort Berthold Reservation.

Summary of Amended Tribal-State Oil and Gas Agreement.

I would like to commend members of this Committee, both previous and new, for their support and efforts in approving a new Tribal-State Oil and Gas Agreement. The Agreement's amendments will provide additional revenue to our tribal nation to meet critical demands by the recent oil and gas development in western North Dakota. As I will discuss, the additional tax revenue is helpful, yet remains insufficient to address all the needs and difficulties that we must contend with every day. Never the less, continued support by the Legislature and Governor's office to address our needs is greatly appreciated.

Continued Negative Impact of Oil and Gas Development on Fort Berthold.

Despite additional tax revenue, we still face hardship and negative impacts imposed by the rapid change to our people, land, and economy. Roads and highways continue to be in dire need of repair, given the magnitude of costs associated with either construction of new roads that will meet oil traffic demands or maintenance required to continue access on existing roadways. Damage remains constant causing danger and risk to our members, young and old alike, including children riding school buses as well as dialysis patients who face life-threatening situations without proper medical treatment. These same roads and perilous traffic has increased fatalities to a level we have never known, making it difficult for daily and necessary travel. This is compounded by the realities of the Garrison Dam and Lake Sakakawea which divides our Reservation and puts us at greater risk because of our geographical situation and the need to travel our now-dangerous roadways.

Risk to our environment remains extremely high, as unlawful waste disposal and contamination are a constant. Non-tribal entities and businesses involved with oil development have no long-term commitment or ownership to our lands and often view our Reservation as a “dump-ground”, fit only for personal economic gain, with no consideration for the future and the generations to come. Our air and land are polluted, and our most valuable resource water, is constantly under threat of contamination or misuse. It is sad to see members of our tribe change their perspective and reluctantly move away from their own land known to us for thousands of years, to escape what many see as a permanent nightmare.

An immense housing shortage also continues to grow. Compounded by a historical and pre-existing shortage on Fort Berthold, affordable housing is scarce and an increased market price provides limited options. Our tribal nation must not only deal with a need for five hundred homes that existed prior to the oil boom, but have to address a growing homeless and transient population that has come to Fort Berthold to work, but has no place to live.

Crime and victimization increases, and wrongful activity such as human-trafficking, illegal drug-trade, and violent crime are now common-place. Our tribal government expends revenue to build our law enforcement capacity and personnel, increases penalties for crime, and takes proactive measures to promote safety, but without federal and state assistance our war against increasing crime remains unfavorably lop-sided and immensely challenged.

Lack of Federal Assistance.

Despite the efforts of our Chairman and Tribal Business Council to lobby our concerns federally at great cost, we are faced with a situation where the federal government has not and will not fulfill its moral and legal obligations to assist our tribal nation with the negative impact of the oil boom. Not only do we suffer like many other tribal nations faced with reductions of federal funding and obligations, but we are often over-looked or denied any other possible federal resources because of the misperception of our tribal nation’s wealth. Very few federal officials truly understand the devastation and negative impacts unique to Fort Berthold, nor do they have an inclination to focus their efforts to understand, given what is occurring at the national and world level, with government shut-down and continued effects of a recession. Yet, we remain at the center of this nation’s policy of domestic energy development, with very little reciprocating support from the federal government.

Regulation and Understanding between the State and the MHA Nation.

In recent years, the State has asserted civil authority and jurisdiction on non-tribal fee lands and areas within our Reservation boundaries. It is the lawful and historical position of our tribal government to assert jurisdiction to all lands on Fort Berthold, subject only to limitations set or limited by federal law. Regardless of lawful interpretation yet to be resolved on matters presented by both jurisdictions, what is done on lands seen as non-tribal by the State has a direct effect and impact to lands owned by our tribes and its members whether in fee or held in trust by the United States government. We have great concern regarding activity that impacts the environment on Fort Berthold such as waste disposal, permitting of water usage, and other allowed activity that impacts our natural resources. It benefits the State of North Dakota and the MHA Nation to engage in dialogue to understand our concerns, and devise proper methods of protecting our natural resources be it memorandums of understanding or agreement.

Continued Tax Agreement Development.

As two sovereign governments who exercise their lawful authorities to tax, it behooves both entities to consider tax agreements that create standards for tax activity and lessens the negative impact of duo-taxation to the regulated business activity. Areas of tax development that still remain on Fort Berthold include but are not limited to alcohol, tobacco, bulk fuel sales, general sales and use, and possessory interest. In general, the state has a tax on most, if not all, of these areas. But attempts by our tribal nation to work with the state to develop joint tax agreements in these areas has not had success, causing us to consider implementation and enforcement of a separate tax, so that we may realize the tax revenue necessary to regulate and address issues related to business activity that impacts us. I would ask that this Committee review this concern with the various and relevant departments, and assist with the mutual development of possible tax agreements.

I would like to thank the Chairman and Members of the Tribal-State Relations Committee for allowing me to present and share this information and our concerns, and I am glad to address and questions or concerns that you may have.