

House Bill 1385

Turtle Mountain Band of Chippewa Indians

Tribal Chairman Jamie Azure

Senate Energy and Natural Resources Committee

Senator Dale Patten Committee Chairman

March 08, 2023

Chairman Patten and members of the Energy and Natural Resources Committee, I regret that I am unable to appear in person today. I am Tribal Chairman Jamie Azure of the Turtle Mountain Band of Chippewa Indians and I stand in support of House Bill 1385, which pertains to allowing the Department of Water Resources to cooperate and coordinate with federally recognized Indian tribes .

As we know the natural resources enjoyed by the State of North Dakota and the Turtle Mountain Band are intrinsically interwoven. Water does not recognize the jurisdictional limits devised by governments. The state has long sought to encourage and even incentivize cooperation among the many political subdivisions of the state, to create efficiency while putting resources to beneficial use. At times the state has even taken active roles in the construction, and operation of systems that serve multiple jurisdictions, such as the Northwest Area Water Supply (NAWS) Project. These collaborations have resulted in improved services and a better quality of life for many people.

The Federally recognized Indian Tribes are not political subdivisions of the State. The current law provides for the DWR to cooperate with other states and even Canada. This demonstrates the understanding that government to government relationships are necessary when addressing this vital resource, WATER. It does not currently allow for enjoyment of that benefit for Tribes and their agencies within the boundary of the state. This bill is a significant opportunity for the state to participate in meaningful ways as an ally to the many tribal citizens within the state boundary.

The Turtle Mountain Band has 32,910 enrolled members, of which 13,383 reside in Rolette County, on or around, our Reservation that was first established by Executive Order in 1882, seven years prior to statehood for North Dakota.

You may know that the Turtle Mountain Band is the owner of a public utility that draws water from the Shell Valley Aquifer (SVA) to provide for the needs of these individuals living on and around our Reservation. In addition, we service others who are not enrolled members of our tribe.

We, like the other tribes in the state, have not yet adjudicated our federally reserved Indian Water rights, and as such, we have utilized state appropriation permits for the water drawn from our Aquifer. The State has now deemed the SVA to be fully appropriated. This presents new and unique challenges. Had TMBCI been invited to cooperate and coordinate on the development of the NAWS project, there would have been an opportunity for the project to fully provide an appropriate quantity of water to serve as a secondary source sufficient for the future needs of the Tribe. As this project, and others by various political subdivisions, continue to be built out without ongoing cooperation and coordination, we continue to lose opportunities to secure and protect a water source that could be vital to future needs that extend far beyond the needs of our tribe.

Let us take the first step together on establishing a culture of cooperation.

Thank you very much for the opportunity to testify in support of House Bill 1358. I am also submitting TMBC 66-01-23 a written Resolution of Support from the Turtle Mountain Tribal Council, and Resolution Number 02-07-23-1 from the Trenton Indian Service Area Council for the record. Miigwetch.

RESOLUTION NUMBER **TMBC66-01-23** OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with Federal, State, and Local Governments and with private persons; and

WHEREAS, Title 30 the Tribal Water Act Section 30.0103 Findings declares " *Water has cultural, spiritual, social, environmental, health, and economic values that require protection and we must guide the appropriate use and management of all resources affecting the watershed and drainage basins of the reservation and its allotted lands*"; and

WHEREAS, the Tribe bears a right and a responsibility to protect and provide a healthy water supply to all forms of creation within our area of responsibility based on our federal reserved water rights dating back to the Treaties and the Agreements with the United States; and

WHEREAS, it is the policy of the Tribe to preserve and protect in perpetuity the quantity and quality of tribal water resources and to exercise the self determination of the tribe through the use, administration, protection and management of Tribal water resources; and

WHEREAS, it is the Tribes intent to provide long term planning and investment to enable the delivery and use of water to individual water users both on Reservation and on Tribal lands bordering the Reservation; and

WHEREAS, unfunded needs for water infrastructure exist and the Tribe, in certain defined instances, supports efforts by the Tribe or its designated agency to cooperate and coordinate with the State Water Commission to investigate, plan, conserve, utilize, develop and handle water; now

THEREFORE BE IT RESOLVED that the Tribe supports proposed legislation in the State of North Dakota that provides for the State, through the Water Commission to cooperate and coordinate with federally recognized Indian tribes, or any agency, department, or officer thereof.

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of **nine (9) members** of whom **seven (7)** constituting a quorum were present at a meeting duly called, convened and held on the **24th day of January, 2023**, that the foregoing resolution was adopted by an affirmative vote of **six (6) in favor**-Representatives Elmer Davis Jr., Jon Jon Keplin, Ron Trottier Sr., Lynn Gourneau, Kenneth Malaterre and Craig Lunday; two (2) absent Representatives-Blaine Davis and Chad Counts; none (0) opposed; with the Tribal Chairman not voting.


Jolean A. Morin, Tribal Secretary *1/31/23*

SIGNED INTO LAW/Dated this 31st day of January, 2023
 VETOED/Dated this _____ day of _____, 2023


Jamie Azure, Tribal Chairman



TRENTON INDIAN SERVICE AREA

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Resolution Number 02-07-23-1 of the Duly Elected And
Certified Governing Body of the Trenton Indian Service Area

Whereas, the Trenton Indian Service Area, (TISA) pursuant to the Act of April 21, 1904, 58 P.L. 125 (1904); Snyder Act, 25 U.S.C. §§ 452-457 (1934); S. Rep. No. 93-1069, at 16 (1974); 25 U.S.C. § 1680e (1976) Indian Self Determination and Education Assistance Act, 93 Pub. L 638, 88 Stat. 2203 (1975); 25 U.S.C 450b (e) & (l) organized & authorized to contract for funds the Secretary receives to be administered to Indians because of their status as Indians;

Whereas, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with federal, state, and local governments and with private persons: and

Whereas, Title 28 allows for the Trenton Indian Service Area (TISA) to be managed by a Board of Directors and provides for the Board to exercise powers subject to limitations; and

Whereas, The TISA Board of Directors acting as provided for in Title 28, bears a right and a responsibility to protect and provide a healthy water supply to all forms of creation within the TISA area; and

Whereas, it is the policy of TISA Board of Directors' to preserve and protect in perpetuity the quantity and quality of Tribal water resources and to exercise the self determination of the Tribe through the administration, protection, and management of Tribal water resources; and

Whereas, it is the TISA Board of Directors intent to provide long term planning and investment to enable the delivery and use of water to individual water users on TISA owned lands and allotments; and

Whereas, Unfunded needs for water infrastructure exist and the Tribe, in certain defined instances, supports efforts by the Tribe or its designated agency to cooperate and coordinate with the State Water Commission to investigate, plan, conserve, utilize, develop and handle water, now

Therefore Be It Resolved, the TISA Board of Directors supports proposed legislation in the State of North Dakota that provides for the State, through the Water Commission to cooperate and coordinate with federally recognized Indian tribes, or any agency, department, or officer thereof.

CERTIFICATION

I, the undersigned Secretary/Treasurer of the Trenton Indian Service Area, do hereby certify that the Board of Directors is composed of seven (7) members of whom 6 constituting a quorum were present at a meeting duly called, convened and held on the 7th day of February, 2023 that the foregoing resolution was adopted by an affirmative vote of 6 members in favor, to 0 members opposing, and the Chairperson (voting, not voting).

2-7-23
Albert Zaste, Secretary/Treasurer

Date [Signature]

CONCUR: [Signature]

Duane Rabbe, Chairperson
Trenton Indian Service Area

Date 2-7-23