

**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 of the enrolled members thereof; and
- WHEREAS,** The Three Affiliated Tribes has and its members lost more than 155,000 acres of prime bottom lands along the Missouri River as a result of the construction of Garrison Dam in the early 1950's, forcing its members onto much less desirable lands away from the Missouri River, and which also meant the loss of immediate access by Tribal members to the good water of the Missouri River; and
- WHEREAS,** As documented in the Joint Tribal Advisory Committee (JTAC) report issued in 1986, as a result of the Garrison Dam and the flooding of their prime lands, the Three Affiliated Tribes and its members were promised a water distribution system to allow all rural residents free access to the water of Lake Sakakawea, the reservoir behind the Garrison Dam; and
- WHEREAS,** The Garrison Reformulation Act of 1986 [P.L. 99-294] authorized approximately \$20 million, later adjusted for inflation, for Indian municipal, rural and industrial (MR&I) water projects for the Standing Rock Sioux, Devil's Lake Sioux (now Spirit Lake Nation) and the Three Affiliated Tribes, which authority expired and was exhausted in Fiscal Year 1996, and,
- WHEREAS,** In December, 2000, Congress enacted into law the Dakota Water Resources Act of 2000, which authorizes an additional \$70 million for MR&I projects on the Fort Berthold Reservation of the Mandan, Hidatsa and Arikara Nation and \$200 million over all for all Indian MR&I projects within the State of North Dakota, along with \$400 million in additional authorized funding for the State of North Dakota, which amounts will allow substantial completion of a rural water system serving all of the Tribal members residing on the Fort Berthold Reservation; and
- WHEREAS,** As previously stated in Resolution No. _____, enacted in March of this year, the Tribe is ready to spend an additional \$6 million towards the completion of its rural water projects, also known as Municipal, Rural and Industrial (MR&I) water projects, which are very much needed on the Fort Berthold Reservation; and

Three Affiliated Tribes
Mandan, Hidatsa, and Arikara Nation

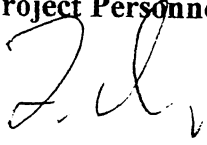
LEGAL DEPARTMENT

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MEMORANDUM

To: Tribal Business Council, MR&I Water Project Personnel

From: Tom Disselhorst, Staff Attorney 

Date: August 8, 2001

Subject: Dakota Water Resources Act Appropriations for FY 2002

Yesterday I spoke in person with Curt Johnson of Senator Kent Conrad's staff in Bismarck about the MR&I funding levels for FY 2002. The state has sent delegations several times this year to Washington, D.C. to seek funding for state projects being funded under the 1986 Garrison Reformulation Act, for which the state still has more than \$100 million in authority, and under the Dakota Water Resources Act of 2000, under which the State has an additional \$400 million of authority, and the four tribes in North Dakota have a collective \$200 million in authority, \$70 million of which is allocated to the Three Affiliated Tribes.

The numbers approved for the Department of Interior's Bureau of Reclamation FY 2002 budget for the Dakota Water Resources Act and the Garrison Reformulation Act so far are:

\$27 million (House)

\$28 million (Senate)

These amounts will have to be reconciled in a conference committee, which will likely act on this matter sometime in September. Mr. Johnson indicated that there is a good possibility that in part because of Senator Conrad's position as Chairman of the Senate Budget Committee the numbers will go somewhat higher in the conference committee.

The above amounts have NOT been broken down in the appropriation bills stating how much of the appropriation will be for the Tribes and how much will be for the state. I suggested to Mr. Johnson that the appropriations ought to be broken down roughly as the Dakota Water Resources Act breaks down the authorization, with 1/3 to the Tribes and 2/3 to the State.

In response, Mr. Johnson said that the Bureau of Reclamation now recognizes that the Three Affiliated Tribes will likely be ready to spend in FY 2002 far more than the \$2 million

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preliminary budget proposed in part by BOR. BOR had made it plain in previous meetings with the Tribe that the Tribe would have to be ready to spend the funds it wanted for FY 2002 in FY 2002, including funds for design and construction of various projects in order for those funds to be allocated to the Tribe. The Tribe has proposed a \$6 million budget for FY 2002, including upgrades to existing water treatment plants, the New Town water treatment plant effort, design work for the rural water distribution system, and other improvements.

I asked Mr. Johnson who would make the decision as to how the funds, once appropriated, will be allocated between the State and the Tribes. He said it might be stated in the appropriation language, but that in any event, he did not think that the BOR would be allowed to allocate the funds and that the North Dakota delegation would have a large say in this matter.

I have prepared a resolution for consideration by the Tribal Business Council urging that our Congressional Delegation urge the adoption of language in the appropriations bill that would allocate 1/3 of the funds appropriated for FY 2002 to the Tribes. This resolution also recognizes that in previous hearings concerning the Dakota Water Resources Act, both Democrats and Republicans on the Committee hearing the testimony urged North Dakota to put the Tribes first when it came time to appropriate the funds for MR&I projects.

WHEREAS, It is understood by the Tribe that something more than \$27 million will be appropriated by Congress for FY 2002 for water projects in North Dakota pursuant to the Dakota Water Resources Act; and

WHEREAS, Based on the needs and the amounts authorized in the Dakota Water Resources Act, the Tribes in general should be allocated approximately 1/3 (one-third) of the total funds appropriated for water projects in North Dakota, which will allow the Three Affiliated Tribes to begin most of its essential projects for water delivery to its members.

WHEREAS, The projects include, in the order of their priority, include: 1) a new water treatment plant to serve the New Town area; 2) an expanded water treatment plant to serve the Parshall/Lucky Mound area; 3) an expanded water treatment plant to serve the Twin Buttes area; 4) an expanded water treatment plant to serve the Four Bears area; and other assorted upgrades to the water systems served by all of the water treatment plants that serve the people of the Fort Berthold Reservation, including, in addition to those stated above, the water systems for the Mandaree area and the White Shield area.

NOW, THEREFORE, BE IT RESOLVED, That the Three Affiliated Tribes, acting through its duly elected Tribal Business Council, hereby requests that our Congressional delegation inserts language in the appropriations bill that provides that at least 1/3 (one-third) of the Fiscal Year 2002 appropriated funds for North Dakota water projects be provided to the Tribes eligible for such funds under the Dakota Water Resources Act, without fiscal year restriction, so that if the Tribes are unable to spend all of the funds this year, they may carry over the funds to the next fiscal year and plan ahead appropriately; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Tribal Business Council hereby continues to authorize the Tribal Chairman to coordinate lobbying efforts with those law firms that have been hired by the Tribe and through the Tribal Legal Department to seek an appropriation of at least \$6,000,000 from the Dakota Water Resources Act for FY 2002 for the MR&I projects of the Three Affiliated Tribes to allow such projects to be commenced so that all of the residents living with the Fort Berthold Reservation may benefit from water from the Missouri River.

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 9th day of July, 2001;

that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 9th day of Aug., 2001.

ATTEST:

[Signature]
Chairman, Tribal Business Council

[Signature]
Secretary, Tribal Business Council