



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

*A Resolution entitled, "Requesting the U.S. Corps of Engineers to Conserve Water in the Main Stem Reservoir and to Support Legislation for Funding To Construct Improved Tribal Water Intake Systems."*

- 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 under said Act; and
- WHEREAS,** pursuant to Article III, Section 1 of the Constitution and By Laws of the Three Affiliated Tribes, the Tribal Business Council is the governing body of the Tribes; and
- WHEREAS,** pursuant to Article VI, Section 5 (l) of said Constitution, the Tribal Business Council has the power to adopt resolutions regulating the procedures of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and
- WHEREAS** the Three Affiliated Tribes is interested in the maximum beneficial use of Missouri River water: and
- WHEREAS** drought monitor data shows that the Missouri River basin will experience below normal runoff at the headwaters and in the upstream basin for 2005 (the sixth such year of below normal conditions) and
- WHEREAS** the 2004 Missouri River Main Stem Reservoir System Master Water Control Manual "Master Manual" (Section 7-03.2) would require continued releases for navigation (albeit 6000 cfs less than full service levels) from Gavins Point dam during the period from March 23 to September 23 2005, such releases would cause a corresponding lack of water stored in the main stem reservoirs in 2005 and 2006, and
- WHEREAS** continued low runoff conditions and drought in the Missouri River basin would increase the likelihood of reaching the navigation preclude on March 15, 2006 (as outlined in the Master Manual at Section 7-03.3) and such preclude and attendant low water conditions would cause adverse economic consequences both upstream and downstream in the Missouri River basin, and
- WHEREAS** continued releases in 2005 under the conditions set forth above would adversely affect or threaten several project purposes including wildlife and recreation, irrigation, public water supplies, and lower basin thermal power production (in addition to the navigation preclude described above), and

**WHEREAS** Indian tribes on the Missouri River have reserved water rights and rely on water intake systems in the drought-depleted Missouri River to supply safe, clean and abundant drinking water to hospitals, schools, tribal government offices, law enforcement facilities, businesses, and the homes of tribal members and others residing within their Indian Reservations, and

**WHEREAS** the U.S. Army Corps of Engineers' management of the Upper Missouri River system continues to threaten these tribal water intakes systems due to historically low pool levels, which - in November 2003 - resulted in a disastrous water outage and public health emergency on the Standing Rock Sioux Reservation and the water intake systems of the reservation communities of Parshall, Mandaree, Twin Buttes and White Shield are also in danger, and

**WHEREAS** the Master Manual, Section 7-03.04 and other provisions authorize conservation of water stored in the System "to extend availability of water-in-storage in the case of an extended drought," and conditions are such that conservation measures are necessary, and

**WHEREAS** the Tribal Business Council agrees that maximum efforts should be undertaken to mitigate the effect of the continued drought and low runoff conditions in the Missouri River basin and

**WHEREAS** the Missouri River Basin states and the Three Affiliated Tribes are currently engaged in litigation regarding the priority of purposes for Missouri River Management, and

**WHEREAS** the Army Corps of Engineers has committed to undertaking its best efforts to conserve water in the Main Stem reservoirs to the extent legally permissible, including (a) consulting with the United States Fish and Wildlife Service regarding the use of the least water-intensive method for protecting least tern and piping plover habitat (up to and including captive rearing of piping plover and least tern in this drought) and avoiding steady water releases to require birds to move to higher habitat during nesting season, (b) attempting to hold releases from Gavins Point Dam to 25,000 cfs or less as long into the 2005 navigation season as possible, with concentrated efforts to examine downstream tributary inflows as they relate to navigation targets during summer months and maximize the ability to use those inflows rather than water from the mainstem reservoirs, (c) examining whether navigation support above Kansas City is required during all or any part of the navigation season then adjust support levels accordingly.

**NOW, THEREFOR, BE IT RESOLVED** that conservation of water in Missouri River reservoirs is necessary in 2005 in order to avoid more severe consequences during 2006 for both upstream and downstream interests.

**BE IT FURTHER RESOLVED** that although litigation is currently pending regarding the Master Manual, necessary water conservation measures can and should be undertaken with the understanding that no party to the litigation sacrifices or forfeits its current litigation position.

**BE IT FURTHER RESOLVED** to support tribal efforts to seek from the United States Congress additional authorizing legislation and funding through the U.S. Army Corps of Engineers to construct improved tribal water intake systems and supporting infrastructure to provide a long-term, safe, secure and dependable water supply to the tribal rural water systems located on the Missouri River Basin.

**BE IT FURTHER RESOLVED**, that such U.S. Army Corps of Engineers authorizing legislation and funding should be in addition to, not in derogation of, continued support for federal funding to complete the currently authorized Dakota Water Resources Act tribal water supply projects.

**BE IT FURTHER RESOLVED**, that the Army Corps of Engineers is urged to vigorously pursue its commitment to undertake its best efforts to conserve water in the Main Stem reservoirs to the extent legally permissible as outlined above.

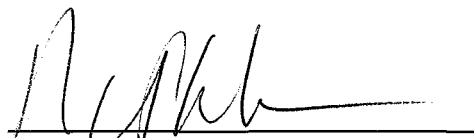
**BE IT FINALLY RESOLVED**, to support the granting of reasonable variances by EPA from thermal standards in National Pollutant Discharge Elimination System permits on discharges from power plants using Missouri River water during drought conditions.

**CERTIFICATION**

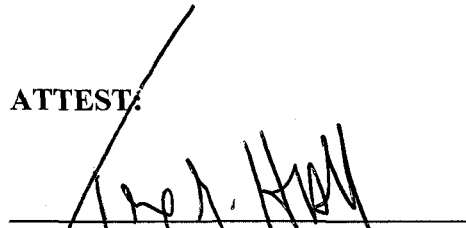
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Forth Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the February 16, 2005; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 0 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 16 day of February, 2005.

  
Tribal Secretary, Nathan Hale  
Tribal Business Council  
Three Affiliated Tribes

ATTEST:

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