



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

A Resolution entitled: “Request to the United States Army Corps of Engineers to Refrain from Issuing Permits for the Use or Taking of Surplus Water from Lake Sakakawea for Commercial or Industrial Purposes within the Exterior Boundaries of the Fort Berthold Indian Reservation”

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 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, 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, The Tribal Business Council opposes the Army Corps of Engineers (the “Corps”) plan to sell surplus water from Lake Sakakawea for any purpose, and also opposes any interim action by the Corps to authorize permits for the taking of water from the Lake for commercial or industrial purposes within the boundaries of the Reservation; and

WHEREAS, The Corps failed to consult with the Tribes regarding the sale of surplus water from Lake Sakakawea or any interim authorization to take water from the Lake, as required by federal law; and

WHEREAS, The Corps’ proposal to sell or allow the taking of water from Lake Sakakawea is in in derogation of the Tribes’ treaty rights and federally reserved water rights; and

WHEREAS, The Corps’ proposed action, particularly as it relates to the proposed sale or interim taking of surplus water to the oil and gas industry, would directly conflict with the Tribes’ inherent sovereign authority to regulate and tax the use and sale of water within the exterior boundaries of the Fort Berthold Indian Reservation; and

WHEREAS, The Corps’ proposal to sell or allow the taking of water from Lake Sakakawea for use in the oil and gas industry will undermine the Tribes’ current plans to market and sell water to the oil and gas industry and thereby raise needed revenue consistent with the congressional policy to promote tribal economic development on the Reservation; and



WHEREAS, Allowing permits to take water from the lake for oil and gas related purposes will undoubtedly increase truck traffic, and the associated environmental issues that come with it, including dust and damage to the Tribes' Indian reservation roads and infrastructure, and the Tribal Business Council has not been assured that the Corps has complied with the National Environmental Policy Act and considered these effects prior to allowing the issuance of any permits to take water from the lake for use by or in support of the oil and gas industry.

WHEREAS, The Corps has failed to consult with the MHA Nation in accordance with Executive Order 13175, and has failed to comply with its own policy regarding Tribal Consultation in that it has not "engaged in pre-decisional consultation" regarding the sale or taking of surplus water from Lake Sakakawea or the issuance of permits for the use of water for commercial or industrial purposes that benefit the oil and gas industry; and

WHEREAS, Pursuant to the Corps' Tribal Policy Principles the "[T]he U.S. Army Corps of Engineers will involve Tribes in collaborative processes designed to ensure information exchange, consideration of disparate viewpoints before and during decision making, and utilize fair and impartial dispute resolution" and

WHEREAS, Based on these reasons the Tribal Business Council determines that the Corps should refrain from issuing any permits for the use/taking of water from Lake Sakakawea within the exterior boundaries of the Fort Berthold Indian Reservation for commercial or industrial purposes.

NOW THEREFORE BE IT RESOLVED, The Tribal Business Council formally requests that the United States Army Corps of Engineers refrain from and cease and desist issuing permits for the use/taking of water from Lake Sakakawea for commercial or industrial purposes until it has engaged in meaningful consultation as required by federal law; and

BE IT FURTHER RESOLVED, That the Tribal Business Council formally requests that the United States Army Corps of Engineers follow its Tribal Policy Principles and consult with the MHA Nation regarding its proposed actions which will affect the trust resources of the MHA Nation; and

BE IT FURTHER RESOLVED, That this Resolution supersedes all prior Resolutions related to said subject matter; and **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.**




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 14th day of May, 2012, 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 14th day of May, 2012.

ATTEST:



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



Tribal Chairman, Tex Hall
Tribal Business Council
Three Affiliated Tribes