



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

A Resolution entitled: "Prohibiting the Tapping or Taking of Water from Fort Berthold Rural Water Facilities without Proper Authorization"

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, Articles I and VI of the Constitution of the Three Affiliated Tribes of the Mandan Hidatsa and Arikara (MHA Nation) grants the MHA Nation jurisdiction over all lands and persons within the Fort Berthold Indian Reservation, and 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 MHA Nation 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 MHA Nation; and

WHEREAS, The Tribal Business Council has established the Fort Berthold Rural Water Program (FBRW) whose primary responsibility is to develop effective, efficient and safe, drinking water systems for residents of the Reservation; and

WHEREAS, The Fort Berthold Rural Water Program receives the majority of its annual funding to construct water facilities for the members of the Tribe through the Dakota Water Resources Act pursuant to a PL 93-638 Indian Self-Determination Contract (with the United States Bureau of Reclamation and an Annual Funding Agreement under said Contract; and

WHEREAS, The Fort Berthold Rural Water (FBRW) has constructed significant pipeline, treatment and intake facilities (collectively the "Facilities") throughout the Fort Berthold Reservation for the delivery of potable water to residents of the Reservation; and

WHEREAS, The constructed Facilities are managed by the FBRW under an Operation, Maintenance and Repair (OMR) agreement with the United States Bureau of Reclamation (BOR); and

WHEREAS, FBRW has established procedures whereby new or potential users of the system apply to the FBRW for acceptance into the system and such new users are mapped and provided with a meter and accounted for; and



WHEREAS, FBRW has reason to believe that certain private individuals or companies are not following FBRW procedures for applying for FBRW or obtaining FBRW water; and

WHEREAS, FBRW has reason to believe that these private individuals or companies are tapping into the Facilities without notifying FBRW of such activity and are using water without control or knowledge of FBRW; and

WHEREAS, This activity of using FBRW water without permission or accounting for such water use is causing operational issues for FBRW and diminishing the ability of FBRW to market any excess water to approved water users; and

WHEREAS, The Tribal Business Council has determined it necessary to prohibit anyone from tapping into or taking water from any FBRW Facilities without first obtaining approval from FBRW, and to adopt penalties for violations thereof.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation hereby prohibits any person or company from tapping into or taking water from FBRW Facilities without prior approval from FBRW; and

BE IT FURTHER RESOLVED, that any individual or company who taps into or takes water from an FBRW Facility in violation of this Resolution shall be assessed a civil penalty of a minimum of \$10,000 per infraction/incidence; and

BE IT FURTHER RESOLVED, that any individual or company who taps into or takes water from an FBRW Facility in violation of this Resolution shall pay restitution to the MHA Nation and remit all proceeds from the sale of such illegally taken water to the Nation; and

BE IT FURTHER RESOVLED, that any individual or company who is caught illegally tapping into or taking water from an FBRW Facility will be referred to the appropriate Tribal or Federal authorities for criminal prosecution; 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 20th day of April, 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 20th day of April, 2012.

ATTEST:

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

Tribal Chairman, Tex Hall
Tribal Business Council
Three Affiliated Tribes