



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

***A Resolution Entitled: "Interim Regulation governing the disposal of Waste and other Hazardous substances Associated with the Exploration or Production of Oil and Gas on 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,** Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies; and

**WHEREAS,** Article VI, Section 5 (j) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to protect and preserve the property, wildlife and natural resources of the Tribes; and

**WHEREAS,** The rapid development of the oil industry on the Fort Berthold Indian Reservation due to oil exploration and production has resulted in a myriad of environmental concerns including the disposal of wastes associated with oil and gas exploration and production on tribal and allotted lands; and

**WHEREAS,** there are currently no tribal or federal regulations that prohibit dumping, disposing or discharge of waste associated with the exploration or production of oil and gas on the Reservation; and

**WHEREAS,** certain companies doing business on the Reservation have engaged in the improper disposal of such wastes; and







**WHEREAS,** The United States Supreme Court held in *Montana v. United States* 450 U.S. 544, 1980, that Indian Tribes have inherent power to exercise civil authority over the conduct of non- Indians on fee lands within a reservation when that conduct threatens or has some direct effect on the political integrity, the economic security or the health and welfare of the Tribe; and

**WHEREAS,** The Tribes' Environmental Division is the process of developing a Solid and hazardous waste management and remediation code for the Tribes however, those codes are in the preliminary stage of development; and

**WHEREAS,** The Tribal Business Council has determined that an interim regulation governing the disposal of waste associated with the exploration and production of oil and gas on the Fort Berthold Reservation should be adopted.

**NOW THEREFORE BE IT RESOLVED,** that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the following interim regulations governing the disposal of waste associated with the exploration and production of oil and gas on the Fort Berthold Reservation:

1. DEFINITIONS: the following definitions apply to this regulation:

Authorized facility: means a waste management, storage, transfer or disposal site or facility which meets the requirements of applicable federal, tribal or state regulations and is approved by the Tribal Council as the place for such management or disposal of waste covered by this regulation.

Discharge: means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, injecting or dumping of waste into or on any land or water.

Disposal: means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any soil, air or water, intentional or otherwise.

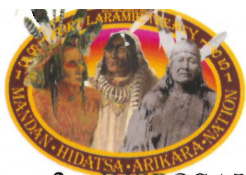
Hazardous substances: means any substance which, because of its quantity, concentration or physical, chemical or infectious characteristics may pose a substantial present or future hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise mismanaged.

Remediate: means to abate, contain, or remove a hazardous substance from the environment.

2. DISPOSAL OF WASTE. All waste or other hazardous substances associated with the exploration or production of oil and gas on the Fort Berthold Reservation must be disposed of in an authorized facility in accord with all tribal, local, state and federal laws and regulations.







3. DISPOSAL ON RESERVATION LANDS PROHIBITED. The willful, negligent or accidental disposal of any waste associated with the exploration or production of oil and gas on any lands within the boundaries of the Fort Berthold Reservation that is not in compliance with section 1 of this regulation is strictly prohibited and shall result in civil penalties as set forth in section 6.
4. AUTHORITY TO AUDIT RECORDS. In order to ensure compliance with this regulation the compliance officers within the Tribes Energy Department and Environmental Department and Tribal Employment Rights Office (“TERO”) are hereby authorized to audit the records of companies who are in the business of removing, hauling and disposing of oil field waste to ensure that such companies are complying with the requirements of this regulation. Compliance audits shall be made upon 24 hour notice to the company provided however if the Tribe receives a report of any willful violation of this regulation, the audit shall be done immediately. Audits shall include checking records for the receipt of oil field waste against the records of the receipt of the authorized disposal site.
5. ENFORCEMENT. Enforcement of this Regulation shall be the joint responsibility of the Tribes’ Energy Department, Environmental Department, law enforcement services, TERO, Fire Management, and Game and fish Departments all of which are hereby authorized to issue citations for violations of this regulation. The Tribal Court shall have jurisdiction to hear all complaints and appeals of any citations issued pursuant to this regulation.
6. PENALTIES FOR VIOLATIONS. Any individual or company found to be in violation of this regulation shall be cited and fined as follows:
  - a. Willful violations:  
First violation- \$10,000.00  
Second violation: 25,000.00  
Subsequent violation- \$1,000,000.00
  - b. Negligent violations  
First violation: - \$5,000.00  
Second violation: \$10,000.00  
Subsequent violations: \$50,000.00
7. OTHER PENALTIES: in addition to the fines assessed above any individual or company found to be in violation of this Regulation shall be subject to the following remedies:
  - a. Suspension or revocation of the individual or company’s TERO license by the TERO Commission for repeated violations of this regulation, for failure to pay any fine assessed under Section 6 or for failure to comply with the remediation provisions of this regulation.







b. Any company or individual found to be in violation of this Regulation shall be required to remediate or pay for the cost of remediation of lands affected by the violation in order to prevent or minimize any environmental damages and minimize the risk to public health or to the environment. Remediation will be completed in accordance with standards set and determined by the Tribes.

**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, 7 were present at a regular Meeting thereof duly called, noticed, convened and held on the 14 day of July, 2011, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

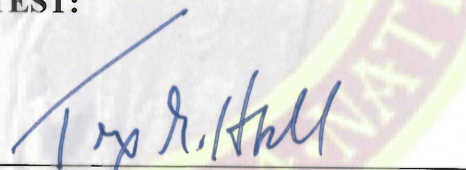
Chairman [ ] Voting. [ ] Not Voting.

Dated this 14 day of July 2011.

ATTEST:



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



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

