



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

A Resolution Entitled: "Updating Resolution 12-034-VJB - 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, the authority under said Act, and having adopted a Constitution and By-laws under said Act; and
- WHEREAS,** Articles I and VI of the Constitution of the Three Affiliated Tribes of the Mandan Hidatsa and Arikara (MHA Nation), also known as the Three Affiliated Tribes, 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 Fort Berthold Rural Water (FBRW), whose primary responsibility is to develop effective and efficient treatment and distribution systems, to deliver safe drinking water systems throughout the Reservation; and
- WHEREAS,** FBRW receives annual funding to manage, construct, operate, and maintain the Fort Berthold Rural Water System (FBRWS) through the Dakota Water Resources Act, as amended, pursuant to P.L. 93-638 Indian Self-Determination contracts with the United States, Bureau of Reclamation (Reclamation); and
- WHEREAS,** FBRW has constructed significant FBRWS raw and potable water pipelines, 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,** Tribal Resolution 08-184-VJB enacted the FBRW "Policy and Procedures for Water Service", which describes the process to apply for and receive water service from the FBRWS, including the installation of a meter to account for water use, and the rules that must be followed after service is provided; and



WHEREAS, FBRW has reason to believe individuals and/or companies are not following FBRW “Policy and Procedures for Water Service” by applying to FBRW for water service and receiving authorization from FBRW and Reclamation; and are tapping into the Facilities and/or are using FBRWS infrastructure and water without the approval, control, or knowledge of FBRW and Reclamation; and

WHEREAS, The unauthorized tapping of Facilities and/or taking of FBRWS water can cause unacceptable situations, including (1) operational issues, diminishing the ability of the Facilities to serve existing customers, (2) jeopardizing the integrity of the water system infrastructure, and (3) compromising water quality through cross-contamination, resulting in water-borne disease outbreaks causing serious illness and possible fatalities; and

WHEREAS, FBRW and Reclamation must approve connections to the FBRWS for reasons pertaining to hydraulics, water management, and water quality, ensuring compliance with the legally enforceable National Primary Drinking Water Regulations that apply to public water systems, which EPA administers under the Safe Drinking Water Act; and

WHEREAS, FBRW cannot assure safe drinking water to anyone when connections are made to the Facilities that are not authorized by FBRW and Reclamation, use unknown materials and/or construction techniques, and/or do not have proper backflow prevention devices; and

WHEREAS, Through Resolution 12-034-VJB the Tribal Business Council determined it necessary to: prohibit an individual or company from physically tapping and/or taking FBRWS water from any Facilities without first obtaining approval from FBRW, to assess a \$10,000 minimum penalty per infraction/incidence, to enforce appropriate sanctions for violations, 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 individual or company from the unauthorized tapping and/or taking of water from FBRWS Facilities without written prior approval from FBRW and Reclamation; and

BE IT FURTHER RESOLVED, that any individual or company that commissions others to physically tap or take water, and the individual/company that physically makes the tap, from the Facilities without written prior approval from FBRW and Reclamation is in violation of this Resolution and FBRW “Policy and



Procedures for Water Service,” and therefore each shall be assessed a civil penalty of a minimum of \$100,000 per infraction/incidence; and

BE IT FURTHER RESOLVED, that the penalty from the individual or company who taps into or takes water from a FBRWS Facility in violation of this Resolution shall be paid to the MHA Nation, with those funds going to FBRW. Further, if the reason the individual or company that tapped and/or took FBRWS water was to sell it, then all proceeds from the sale of such illegally taken water shall be remitted to the MHA Nation, with those funds going to FBRW; and

BE IT FURTHER RESOVLED, that any individual or company who is caught illegally tapping the FBRWS and has an unauthorized connection, or is not authorized to take water from the Facilities, then FBRW is authorized to refer those findings to the appropriate Tribal and/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, 7 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 13th day of July , 2023, 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.

Chairman [] Voting. [X] Not Voting.

Dated this 13th day of July, 2023.

ATTEST:

Tribal Secretary, Fred W. Fox
Tribal Business Council
Three Affiliated Tribes

Tribal Chairman, Mark N. Fox
Tribal Business Council
Three Affiliated Tribes